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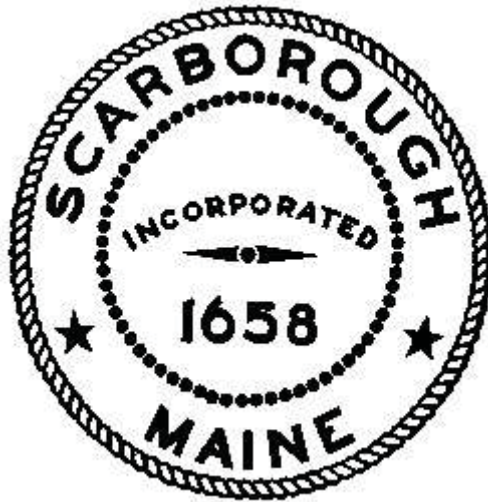
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CHAPTER 607

TOWN OF SCARBOROUGH

ALARM SYSTEMS ORDINANCE



ADOPTED FEBRUARY 15, 1989
AMENDED NOVEMBER 15, 1989
EFFECTIVE DECEMBER 1, 1989
AMENDED AUGUST 15, 1990
EFFECTIVE AUGUST 16, 1990
AMENDED SEPTEMBER 6, 1995
AMENDED NOVEMBER 1, 2017

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CHAPTER 607
TOWN OF SCARBOROUGH
ALARM SYSTEMS ORDINANCE

ARTICLE ALARM SYSTEMS ORDINANCE. [Adopted effective December 1, 1989, under 30-A, M.R.S.A., Chapter 141, Section 3001; Revised August 1, 1990].

Title. This ordinance shall be known and may be cited as the “Alarm Systems Ordinance of the Town of Scarborough, Maine.”

SECTION I. Purpose.

This ordinance recognizes the need for regulation of the installation and use of Alarm Systems in order to assure compatibility of equipment with the facilities of the Public Safety Communications Center, to avoid use of improper equipment, to assure adequate installation of equipment, to minimize false alarms and to compensate for the inappropriate use of municipal resources in response to false alarms, and to clarify the rights and responsibilities of the property owner and of the Town.

SECTION II. Definitions.

As used herein, the following terms shall have the following meanings:

(a) “Alarm System”

Means any mechanism, equipment or device designed to automatically transmit a signal, message or warning indicating fire, burglary, health emergency or like need for public safety assistance, from any mode, telephone, dialer, private third party monitors, Municipal Fire Alarm, etc., directly or indirectly to the Scarborough Public Safety Communications Center.

(b) “Appropriate Departments”

Means the Fire Department for fire or rescue alarms and the Police Department for alarms of unlawful entry, theft or other criminal activity.

(c) “Appropriate Chief”

Means the Chief of the Appropriate Department.

(d) “Center”

Means the Public Safety Communications Center of the Town of Scarborough.

SECTION III. Permit Required.

No person shall install, operate, maintain, alter, or replace an Alarm System within the Town of Scarborough after December 1, 1989, without holding an effective permit from the Chief of the Appropriate Department. Upon receipt of a completed application, the Chief of the Appropriate

Department will issue a permit to the owner. Owners of premises served by an existing Alarm System on December 1, 1989 shall have until January 1, 1990 to obtain a permit.

SECTION IV. Application Procedure.

Application for an Alarm System permit shall be made to the Appropriate Department by the owner of the premises to be protected or by the owner's authorized agent upon forms prepared by the Town, accompanied by a signed, dated receipt acknowledging that the owner or owner's authorized agent has received a copy of this ordinance and is aware of its terms.

The application form shall require the name, telephone number, and address of the owner of the premises to be protected, of her/his designated agent and of the proposed installer of the Alarm System. The proposed installer must have the capacity to maintain and service such Alarm System from a point within the State of Maine. The application form shall also require a description of the principal use of the premises to be protected, a description of the proposed system and, in case of the Fire Department, the location of its installation [except that said location shall not be required for single family or two family homes], and such other data as the Fire Chief may reasonably require in order to assure the use of appropriate equipment in responding to and combating a fire or other emergency. [amended 11/01/17]

The Chief of the Appropriate Department shall issue a permit upon receipt of a fully completed application form.

SECTION V. Prohibited Systems.

No system shall be permitted which automatically transmits to the Center telephone lines except to a number designated by the Chief of the Appropriate Department. Each alarm shall be reported individually, and no system shall be permitted which uses a constant signal for one type of alarm and a pulsating signal for another.

SECTION VI. Alarm Response.

The property owner or her/his designated agent, as kept on file at the Center, shall respond to each alarm at the request of the Appropriate Department for the purpose of securing the premises. [amended 11/01/17]

SECTION VII. False Alarms.

Any alarm system whose alarm system causes the transmittal of a non-emergency alarm more than three (3) times in any calendar year, after a 30-day start-up period for new installations, shall pay a fee as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council, for each instance of a non-emergency alarm in excess of that number, upon demand by the Chief of the Appropriate Department. The Chief of the Appropriate Department shall give suitable written warning to any permit holder, or to her/his designated agent, whose alarm system sends a third non-emergency alarm in any calendar year. Non-emergency alarm means any alarm transmitted to the Center when there is no actual emergency or no other circum-

stances requiring response from the appropriate department; it shall include, but shall not be limited to, false alarms caused by malfunctioning equipment, accidental or negligent activation of the alarm, or improperly monitored equipment. In the event an alarm is activated as a result of a natural or unnatural event beyond the property owner's control (i.e. disruption of the electrical service due to storm, motor vehicle accident, and the like); no fee shall be imposed at the discretion of the Chief of the Appropriate Department. [amended 11/01/17]

Not only does this apply to alarm systems which transmit directly to the Public Safety Communications Center but it shall include reports received by the Center from private alarm companies which monitor alarm systems installed within a private residence or business.

SECTION VIII. Permit Revocation.

The Chief of the Appropriate Department may revoke the permit for any Alarm System in the event that:

- (a) Payment of any penalty fee is not made within sixty (60) days after the due date therefore,
- (b) Any deficiency therein reported to the owner is not corrected within 48 hours, or such longer time as the Chief of the Appropriate Department may permit,
- (c) Such Alarm System causes the transmittal of more than 3 non-emergency alarms in any 24-hour period or more than 6 non-emergency alarms in any 7-day period or otherwise persistently interferes with the orderly operation of the Center,
- (d) Any data provided in the application form for such system is found to have been falsified willfully or through gross negligence of the applicant.

Such revocation shall not be effective until the Chief of the Appropriate Department has given the permit holder or her/his designated agent actual notice of the reason therefor and reasonable opportunity to justify the same. [amended 11/01/17]

SECTION IX. Appeal.

In the event of the refusal to issue or the revocation of any permit hereunder, the permit holder may appeal to the Town Manager within twelve (12) business days after actual notice of such decision is given to the permit holder or her/his designated agent. The Town Manager may affirm, modify or rescind such decision, and her/his action thereon shall be final and conclusive without right of further appeal. [amended 11/01/17]

SECTION X. Civil Violations.

In addition to the foregoing grounds for revocation of a permit hereunder, the following events shall each constitute a civil violation, punishable in proceedings before the District Court by a fine not exceeding \$300:

- (a) The installation, operation, maintenance, alteration, or replacement of an Alarm System in the absence of an effective permit therefore signed by the Chief of the Appropriate Department;
- (b) The falsification of any data provided on an application form for an Alarm System, done willfully or through gross negligence;
- (c) The release of any information concerning any Alarm System to one not concerned with the maintenance or operation thereof or with the enforcement of this ordinance.

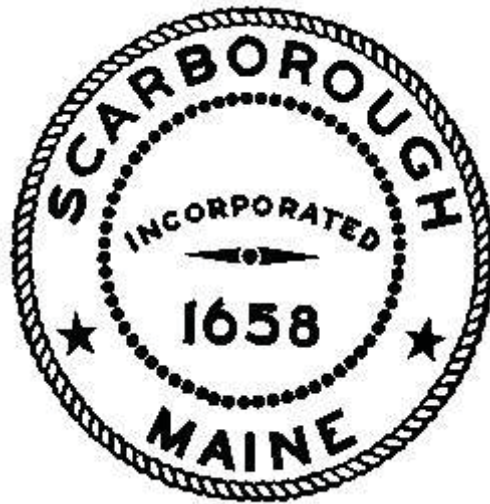
SECTION XI. No Enlargement of Liability.

Neither the issuance of a permit under this Ordinance nor the installation of an alarm system pursuant to such a permit shall create any obligation, duty, or liability on the part of the Town of Scarborough, its officers, agents or employees which obligation, duty or liability would not exist in the absence of such a permit or installation.

CHAPTER 604

TOWN OF SCARBOROUGH

ANIMAL CONTROL ORDINANCE



Adopted 02/16/2000
Amended 05/19/2004
Amended 04/20/2011
Amended 05/07/2014

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**CHAPTER 604
TOWN OF SCARBOROUGH
ANIMAL CONTROL ORDINANCE**

604-1 Purpose

The purpose of this ordinance is to require that all animals in the Town of Scarborough be kept under the control of their owner or keeper at all times so that they will not injure persons or other animals, damage property or create a public health threat.

The provisions of this ordinance that apply to the owner of an animal apply equally to any person keeping, or having control, custody, or possession of that animal.

604-2 Definitions

1. ABANDONED ANIMAL:

An animal that has been deserted by its owner or keeper.

2. ANIMAL:

Every living, sentient creature not a human being.

3. ANIMAL CONTROL:

Control of dogs, cats and domesticated or undomesticated animals.

4. ANIMAL CONTROL OFFICER:

Any person appointed by the Town of Scarborough to enforce animal control laws.

5. ANIMAL SHELTER:

A facility that includes a physical structure, or part of a physical structure, that provides temporary or permanent shelter to stray, abandoned, abused or owner-surrendered animals.

6. AT LARGE:

off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the dog.

7. BEACH:

Any beach area within the Town of Scarborough which is used by the general public.

8. DOG:

Any of large and varied groups of domesticated animals in the canine family.

9. LEASH:

Hand held device, 30 feet or less in length, which can be used to restrain a dog if the dog fails to respond to voice commands or if the owner or responsible party is ordered by the Animal Control Officer and a law enforcement officer to leash the dog and at all times when this Ordinance requires dogs to be leashed. A leash of a length no longer than 12 feet shall be used at all time on Beaches of Scarborough from April 1 to Labor Day, unless otherwise stated herein. A failure to comply with this definition shall constitute a violation of this ordinance. (amended 05/19/2004; amended 05/07/2014)

10. OWNER:

Owner or any person or persons, firm, association or corporation owning, keeping or harboring an animal or any person having custody, possession, or control of an animal.

11. RESTRICTED AREAS: Restricted Areas are beach areas that may be designated for special protection for piping plovers or other endangered species based upon scientific and historical data. The following are Restricted Areas and restrictions applying thereto from April 1st to the day after Labor Day [Adopted 05/07/2014]:

- a) **Higgins Beach** – The Restricted Area is defined as that part of the beach from Champion Street to the Spurrwink River-**no dogs allowed**. See aerial map appended hereto for further details. [Exhibit A]
- b) **Ferry/Western Beach** – The Restricted Area is defined as that portion of the beach commonly known as Ferry Beach, beginning at the southerly end of the municipal parking lot and extending south to Ferry Rock and thence southeast the full length of the beach commonly known as Western Beach – **no dogs allowed**. See aerial map appended hereto for further details. [Exhibit B]
- c) **Pine Point Beach** – The Restricted Area is defined as that portion of the beach from the main beach access path at Hurd Park north to the Scarborough River-**dogs on leash only**. See aerial map appended hereto for further details. [Exhibit C]

12. RESPONSIBLE DOG OWNER: Is an individual who has possession or custody of a dog and has read and affirmed [at the time of licensure], that they will 1) Maintain control of their dog(s) at all times; 2) They will not allow the dog(s) to charge, chase or display aggression towards any person, other dogs or wildlife; and, 3) Behave in any way that a reasonable person would find disturbing or harassing. Except for hunting purposes a Responsible Dog Owner shall not have more than two dogs under Voice and Sight Control at the same time. A responsible party shall have a leash in his or her possession for each dog off leash. A failure to comply with this definition shall constitute a violation of this ordinance.

13. RESPONSIBLE PARTY:

As used in this ordinance, the term “responsible party” means any person who has possession or custody of a dog. If a dog is present on a beach in violation of the restrictions of this section, the owner of the dog and the responsible party are jointly and severally liable for the violation. (amended 05/19/2004)

14. VOICE AND SIGHT CONTROL:

As used in this ordinance, the term “voice control” means that the dog returns immediately to and remains by the side of the responsible party in response to the responsible party’s verbal command. “Sight Control” means that a dog is always within sight of the Responsible Party and the dog is capable of complying with Voice Control. A violation of this Ordinance occurs upon a failure to comply with the definition of either Voice Control or Sight Control. If a dog approaches or remains within 10 feet of any person other than the responsible party, that dog is not under voice control and a violation of this Ordinance occurs unless such person (or in the case of a minor child, an adult present with the child) has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog. (amended 05/19/2004)

604-3 Animal Control Officer

A qualified person shall be employed by the police department who shall be known as and perform the duties of Animal Control Officer. The Animal Control Officer shall be principally responsible for the enforcement of all laws related to dogs, cats, and other domesticated animals and also to undomesticated animals.

604-4 At Large Dogs

Dogs shall be considered at-large unless leashed or under Voice and Sight Control. It is unlawful for any dog, licensed or unlicensed, to be at large, except when used for hunting. The owner of any dog found at large shall be subject to the civil penalties provided in this ordinance.[Amended 05/07/2014]

604-5 Impoundment or Return of At Large Dogs

All dogs found at large in violation to Title 7, M.R.S.A., Section 3911 may be impounded at the animal shelter or returned to the owner, at the discretion of the Animal Control Officer. If the Animal Control Officer returns the dog to its owner, the owner shall pay a \$15.00 (fifteen dollars) return fee to the Town of Scarborough before the dog is returned. The payment must be made at the police dispatch center, which shall issue a receipt therefor.

604-6 Disposition of Impounded Animal

An owner is entitled to resume possession of any impounded animal provided that all provisions of this ordinance have been met, and that all impoundment fees due under the provisions of this ordinance have been paid. Any animal not claimed after the owner has been notified may be classified as an abandoned animal, and the animal's owner may be subjected to all civil penalties authorized by this ordinance.

604-7 Impoundment Fee

An owner may reclaim an impounded animal by first paying to the Town of Scarborough at the Town Clerk's Office, a fee of \$30.00 (thirty dollars) for each animal impounded. If the Town Clerk's Office is closed, the fee shall be paid at the Police Dispatch Center. Fees must be paid and a receipt from the Town must be presented to the animal shelter before the release of an animal. All fees will be deposited in the separate account required by Title 7, M.R.S.A. 3945.

604-8 Animal Noise

- a. Except as provided in subparagraph (b) and (c) below, no owner shall permit or allow any animal to bark, howl or make other sounds common to its species if such sounds recur in steady, rapid succession for 20 minutes or more or recur intermittently for one hour or more.
- b. Section 604-8(a) shall not apply if any animal is provoked by trespassing people or animals on private property on which the animal is situated or by other legitimate cause for provocation.
- c. Section 604-8(b) shall not apply to farm animals kept on a property located in the R-F or R-F-M Districts under the Scarborough Zoning Ordinance. In all other zoning districts, Section 604-8(a) shall not apply to farm animals kept on a property [the principal use of which is] [a use of which is] the commercial production of farm products and is either a conforming use or a lawful nonconforming use under the Scarborough Zoning Ordinance. For purposes of this exception, dogs are not "farm animals" and kennels are not "farms."

604-9 Control of Animal Waste

An owner must remove and dispose of any feces left by his/her animal on any sidewalk, street, beach, public property or private property (other than the property of the owner of the animal or of a person who has consented to the presence of the animal on his or her property) and deposit such feces into appropriate litter receptacle. An owner whose animal is present on any property from which the animal's feces is required to be removed pursuant to this section must have in his or her possession a plastic bag or similar utensil not part of the human body for collecting and removing the feces. This regulation shall not apply to any person who, by reason of physical handicap, is unable to comply with the requirement.

604-10. Public Beaches and Shores (amended 05/19/2004; [Amended 05/07/2014])

The following restrictions apply to dogs on beaches:

The following restrictions apply to dogs on beaches:

- a. From April 1 to Labor Day dogs shall be restricted in the Restricted Areas of each Beach as set forth in Section 604.2(11).
- b. From May 15th to Labor Day (i) no dogs on any Beach from 9:00 a.m. to 5:00 p.m.; and (ii) dogs on leash from 5:00 p.m. to dusk.
- c. From the day after Labor Day to May 14th dogs on leash from 1:00 p.m. to 3:00 p.m.
- d. If directed by the Animal Control Officer or a law enforcement officer a Responsible Party may be required to leash their dog.
- e. No dogs on any beach from 30 minutes after sunset (dusk) to 30 minutes before sunrise (dawn).
- f. Whenever a portion of a beach has been roped off, fenced off or otherwise demarcated or posted as a protected area in order to protect the nesting site of a piping plover or of any other endangered species protected under federal law, no dog shall approach within 200 feet of such protected area.
- g. Dogs shall be on leash while entering or exiting vehicles and the Beach.
- h. At all times not otherwise addressed above, dogs shall be under Voice and Sight Control.

604-11 Dangerous Dogs

Any person who is assaulted by a dog or any person witnessing an assault against a person or domesticated animal or a person with knowledge of an assault against a minor, within thirty days of the assault, may make a written complaint to the Animal Control Officer that the dog is a dangerous dog. The Animal Control Officer may issue a civil violation citation for keeping a dangerous dog pursuant to 7 M.R.S.A. §3952. After issuing the citation and before hearing in court, if the dog poses an immediate or continuing threat to the public, the Animal Control Officer shall order the owner of the dog to muzzle, restrain or confine the dog to the owner's premises or to have the dog at the owner's expense at a place determined by the Animal Control Officer. If the owner fails to comply with such order, the Animal Control Officer may apply to the District Court, Superior Court or a Justice of the Peace pursuant to 7 M.R.S.A. §3952 for an ex parte order for authorization to take possession of the dog that poses an immediate or continuing threat to the public.

604-12 Trespass

An owner of an animal may not allow that animal to enter onto the property of another after the owner has been warned by the property owner or a representative of the property owner or by the Animal Control Officer or a law enforcement officer that the animal was found on the property of another.

The owner of an animal is responsible, at the owner's expense, for removing such animal found trespassing. The Animal Control Officer, may, at the owner's expense, remove and control the animal if:

the owner fails to remove the animal after having been notified by the Animal Control Officer that the animal was trespassing; or the animal is an immediate danger to itself, to persons or to another's property.

Any animal so removed shall be subject to the provisions of Sections 604-5, 604-6 and 604-7 in the same manner as an at large dog.

604-13 Licenses[Amended 04/20/2011; Amended 05/07/2014]

No dog shall be kept within the limits of the Town of Scarborough unless such dog is licensed by its owner in accordance with Maine Law and has acknowledged receipt and affirmation of the requirements of a "Responsible Dog Owner" as defined in Section 604-2-11. The Town Clerk shall provide with each new license issued for a dog a tag indicating the year the license is issued and such other information as may be required under Title 7 M.R.S.A. Part 9 - Chapter 721. Dog Licensing.

604-14 Rabies Tags

Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to a collar of leather, metal or material of comparable strength that must be worn by the dog for which the tag was issued except when the dog is hunting, in training or in an exhibition or on the premises of the owner. When the dog is hunting, in training or in an exhibition, its owner shall produce proof of licensure and proof of rabies immunization within twenty-four hours upon request for the Animal Control Officer.

604-15 Violations/Penalties

Any persons who violates Section 604-8 (Animal Noise) or Section 604-9 (Control of Animal Waste) shall be subject to civil penalties for each violation, as follows:

First violation: not less than \$50.00 and not more than \$100.00, plus costs.

Second violation: not less than \$100.00 and not more than \$250.00, plus costs.

Third and subsequent violations: not less than \$250.00 and not more than \$500.00, plus costs.

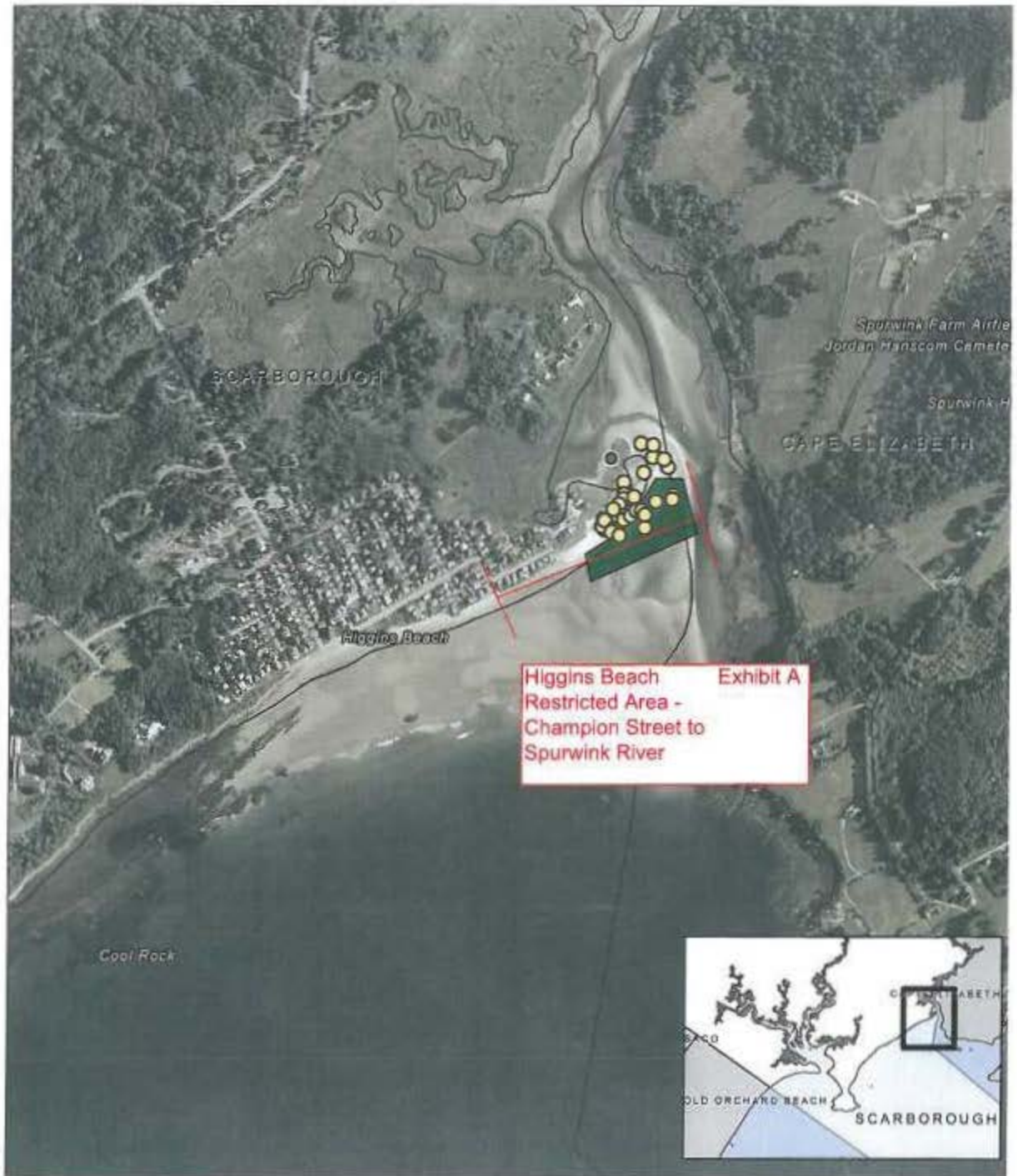
Any person who violates any other Section of this ordinance shall be subject to a civil penalty of not less than \$100.00 and not more than \$500.00 plus costs for each offense.

All civil penalties collected pursuant to this Ordinance shall be recovered to the use of the Town of Scarborough and deposited in the separate account required by 7 M.R.S.A. Section 3945.

A person issued a civil violation citation for violating this Ordinance may elect to pay the minimum penalty specified above for each violation alleged in the citation, in lieu of appearing in court to answer the citation. Such payment must be received at the Office of the Town Clerk in the amount specified by the Animal Control Officer by the seventh day prior to the court appearance date specified in the citation. Upon receipt of such payment by the Clerk, the Animal Control Officer shall cause the citation to be dismissed. However, the violations alleged in the citation shall be deemed admitted for purposes of assessing any future penalties under this section.

604-16 Severability Clause

If any part of this ordinance shall be held valid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.



Piping Plover Nest Locations - Town of Scarborough (Higgins Beach)




- Piping Plover Nest Locations: 2000-2013
- Piping Plover Brood Locations: 2011 & 2012
- Historic Piping Plover Nest Locations





Piping Plover Nest Locations - Town of Scarborough (Ferry Beach & Western Beach)


Maine Department of
Inland Fisheries and Wildlife

-  Piping Plover Nest Locations 2000-2013
-  Piping Plover Brood Locations 2011 & 2012
-  Historic Piping Plover Nest Locations

0 0.1 0.2 0.3 0.4 0.5 Miles

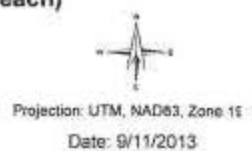

Projection: UTM, NAD83, Zone 19
Date: 9/11/2013



Piping Plover Nest Locations - Town of Scarborough (Pine Point Beach)



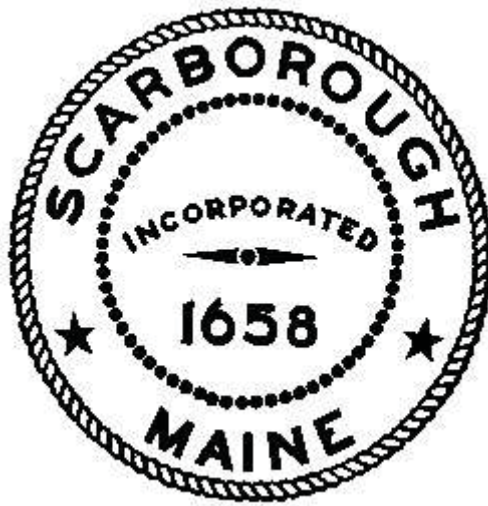
- Piping Plover Nest Locations: 2000-2013
- Piping Plover Brood Locations: 2011 & 2012
- ⊙ Historic Piping Plover Nest Locations



CHAPTER 606

TOWN OF SCARBOROUGH

ALL TERRAIN VEHICLE ORDINANCE



ADOPTED 11/05/1986
Amended 11/01/2017

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CHAPTER 606
TOWN OF SCARBOROUGH
ALL-TERRAIN VEHICLE ORDINANCE

The Town Council of the Town of Scarborough, Maine ordains as follows:

Section 1. Title.

This Ordinance shall be known and may be cited as the “ATV Ordinance of the Town of Scarborough, Maine.”

Section 2. Purpose and Preamble.

The increasing use of all terrain vehicles within the municipal boundaries of the Town of Scarborough has generated safety, recreational and environmental issues which it is the responsibility of the Town of Scarborough to address. The purpose of this Ordinance is to regulate the use of all-terrain vehicles to protect the environment, to ensure that the recreational use of all-terrain vehicles is compatible with other recreational uses within municipal boundaries, to promote the health and safety of the operators and the general public by requiring adherence to certain rules and regulations designed to ensure the safe operation of such vehicles, and to restrict the use of all-terrain vehicles to areas where such use is appropriate and permitted.

Section 3. Authority.

This Ordinance is enacted pursuant to the authority granted to home rule municipalities by 30 M.R.S.A. Sections 1917 and 2151.

Section 4. Definitions.

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings:

1. ATV.

“ATV” means all-terrain vehicle.

2. Accompanied by an adult.

“Accompanied by an adult” means within visual and voice contact and under the effective control of a child’s parent or guardian or another person 21 years of age or older.

3. All-terrain vehicle.

“All-terrain vehicle” means a motor driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-track, multi-wheel or low pressure tire vehicle; a motorcycle or related 2-wheel, 3-wheel or belt-driven vehicle; an amphibious machine; or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this Ordinance, “all-terrain” does not include a snowmobile; an

airmobile; a construction of logging vehicle used in performance of its common functions; a farm vehicle used for farming purposes; a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

4. Alpine Tundra.

“Alpine Tundra” means high elevation treeless areas beyond the timberline which are dominated by low herbaceous or shrubby vegetation and, specifically, areas which are designated as alpine tundra by the Department of Conservation by rule pursuant to Title 5, chapter 375, subchapter ii.

5. Freshwater marshes and bogs.

“Freshwater marshes and bogs” means naturally occurring open areas with saturated soils or peat, often associated with standing water and dominated by low herbaceous vegetation, grasses, weeds and shrubs and including wetlands, as shown on the Freshwater Wetlands Map Series, Maine Geological Survey, or zoned as a Wetland Protection Subdistrict, P-WL, by the Maine Land Use Regulation Commission, of the Maine Revised Statutes Annotated.

6. Operate.

“To operate” in all its moods and tenses when it refers to an ATV, means to use an ATV in any manner within the jurisdiction of the Town of Scarborough, whether or not the vehicle is moving.

7. Owner.

“Owner” for the purposes of registration, means any person holding title to an ATV.

8. Protective headgear.

“Protective headgear” means helmets which conform with minimum standards of construction and performance as prescribed by the American National Standards Institute specification Z90.1 or by the Federal Motor Vehicle Safety Standards No. 218.

Section 5. Administration.

The Town Clerk shall be the designated municipal agent to issue ATV registrations pursuant to 12 M.R.S.A. Section 7854, Subsection 1-A, as amended. The Town Clerk shall charge a service fee of \$1.00 for each ATV registration issued, which shall be retained by the Town of Scarborough and credited to the General Fund, and shall collect the registration fee due to the State. The Town Clerk shall report to the Commissioner of the Department of Inland Fisheries and Wildlife on or before the fifteenth day of each calendar month as required by 12 M.R.S.A. Section 7854, Subsection 1-A.

Section 6. Operating on the Land of Another.

1. Except as specified in subsection 3 of this section, no person shall go on or cross the land of another to operate an ATV without the written permission of the landowner, which written permission shall be carried on the person of the operator.

2. Any person operating an ATV upon the land of another shall stop and identify herself/himself and shall produce her/his written permission to operate on the land upon the request of the landowner or her/his duly authorized representative or a law enforcement officer. [Amended 11/01/17]

3. Members of an ATV club or other organization may operate ATV's on all or any portion of the land of another without carrying on their persons the written permission of the owners, provided that the club or organization has obtained written authorization from the landowner allowing members to operate ATV's upon all or designated portions of her/his land. The written authorization, when filed with the Town's Police Chief, shall constitute notice to law enforcement officers that members need not carry on their persons the written permission of the landowner to operate an ATV on her/his property. [Amended 11/01/17]

Section 7. Operating on Municipal or School Property.

No person may operate an ATV on property owned by the Town of Scarborough or on any school property.

Section 8. Prohibited Acts.

1. Operating an unregistered ATV.

Except as provided in subsection 24, paragraphs A and B, no person may operate an ATV which is not registered in accordance with 12 M.R.S.A. Section 7854.

2. Unlawfully operating an ATV on a snowmobile trail.

No person may operate any 4-wheel drive vehicle, dune buggy, ATV, motorcycle or any other motor vehicle, other than a snowmobile and appurtenant equipment, on snowmobile trails which are financed in whole or in part with funds from the Snowmobile Trail Fund, unless that use has been authorized by the landowner or her/his agent, or unless the use is necessitated by an emergency involving safety of persons or property. [Amended 11/01/17]

3. Unlawfully operating an ATV on a private road.

No person may operate an ATV upon any private road after having been forbidden to do so by the owner thereof, the owner's agent or a municipal official, either personally or by appropriate notices posted conspicuously on that road.

4. Operating an ATV on a public way.

Except as provided in subsection 24, paragraph C, no person may operate an ATV upon any portion of a public way maintained or utilized for the operation of conventional motor vehicles or upon the sidewalks of any public way.

A. This subsection does not apply to ATV's registered with the Secretary of State under Title 29.

5. Failing to stop an ATV before entering a public way.

No person who operates an ATV may enter a public way without first bringing the ATV to a complete stop.

6. Failing to yield right-of-way while operating an ATV.

Any person who operates an ATV on a public way shall yield the right-of-way to all other types of vehicular traffic.

7. Crossing a closed bridge, culvert, overpass or underpass with an ATV.

No person may cross with an ATV a bridge, culvert, overpass or underpass closed to ATV's by the Commissioner of Transportation and posted by appropriate notices.

8. Reckless operating on an ATV.

No person may operate an ATV in such a way as to recklessly create a substantial risk of serious bodily injury to another person.

9. Operating an ATV to endanger.

No person may operate any ATV so as to endanger any person or property.

10. Operating an ATV at greater than reasonable and prudent speed.

No person may operate any ATV except at a reasonable and prudent speed considering the existing conditions.

11. Unlawfully operating an ATV while under age.

No person is under the age of 15 years of age may operate an ATV across any public way maintained for travel or operate an ATV while unaccompanied by an adult, except as provided in subsection 24, paragraph D. Notwithstanding this subsection, persons over the age of 12 years, who have successfully completed a training course approved by the Department of Inland Fisheries and Wildlife pursuant to 12 M.R.S.A. section 7853, may cross public ways as permitted under subsection 24, paragraph D, subparagraph (1).

12. Operating an ATV without a certificate of training.

Except as provided in subsection 24, paragraph D, no person under 18 years of age may operate an ATV without having successfully completed a training course approved by the Department of Inland Fisheries and Wildlife pursuant to 12 M.R.S.A. section 7853.

13. Operating an ATV without protective headgear.

Notwithstanding 29 M.R.S.A. section 1376, no person under 18 years of age may operate an ATV without protective headgear.

14. Permitting an unaccompanied child to operate an ATV.

Except as provided in subsection 24, paragraph D, no person may permit a child under 15 years of age to operate any ATV, unless the child is accompanied by an adult.

15. Operating an ATV without a muffler.

Except as provided in subsection 24, paragraph B, no person may operate an ATV that is not equipped at all times with an effective and suitable muffling device on its engine to effectively deaden or muffle the notice of the exhaust.

A. Each ATV shall meet noise omission standards of the United States Environmental Protection Agency, and in no case exceed 82 decibels of sound pressure at 50 feet on the "A" scale as measured by the SAE standards J-192.

B. Each ATV shall be equipped with a working spark arrestor.

C. No person may modify the exhaust system of any ATV in any manner which will increase the noise emitted above the emission standard provided in paragraph A.

16. Operating an ATV with insufficient lights.

Except as provided in subsection 24, paragraphs B and D, no person may operate an ATV unless the ATV is equipped as follows:

A. Every ATV shall have mounted on the front at least one headlight capable of casting a white beam for a distance of at least 100 feet directly ahead of the ATV.

B. Every ATV shall have mounted on the rear at least one lamp capable of displaying a red light which shall be visible at a distance of at least 100 feet behind the ATV.

17. Failure to use ATV lights.

Except as provided in subsection 24, paragraph B, no person may operate an ATV except when using the lights required under subsection 16 as follows:

A. During the period from ½ hour after sunset to ½ hour before sunrise; and

B. At any time when, due to insufficient light or unfavorable atmospheric conditions caused by fog or otherwise, other persons, vehicles and other objects are not clearly discernible for a distance of 500 feet ahead.

18. Operating an ATV on railroad tracks.

No person may operate an ATV along or adjacent and parallel to the tracks of any railroad within the limits of the railroad right-of-way without written permission from the railroad.

19. Operating too close to certain buildings.

Except as provided in subsection 24, paragraph F, no person may operate an ATV within 200 feet of any dwelling, hospital, nursing home, convalescent home or church.

20. Unlawfully permitting operation.

A person unlawfully permits the operation of an ATV, if he/she owns an ATV which is operated by another person in violation of any section of this Ordinance. A person unlawfully permits the operation of an ATV if he/she is the parent or guardian responsible for the care of a minor under 18 years of age who operates an ATV in violation of this Ordinance. [Amended 11/01/17]

21. Failure to report accident.

Any person shall report an ATV accident if:

A. He/She is the operator of an ATV involved in any accident resulting in injuries requiring the services of a physician, in death of any person or in property damage

to the estimated amount of \$200 or more; if he/she is some person acting for such an operator; or if he/she is the owner of the involved ATV and he/she has knowledge of the accident, should the operator of the ATV be unknown; and [Amended 11/01/17]

B. Notice of the accident shall be provided by the quickest means of communications to a law enforcement officer available nearest to the place where the accident occurred.

22. Operating an ATV in a prohibited area.

No person may operate an ATV in any prohibited area, which areas are defined as any salt marsh, intertidal zone, sand dune or any cemetery, burial place or burying ground, on alpine tundra or on a freshwater marsh or bog, other than on a trail designated for ATV use by the Department of Conservation, when the ground is not frozen and sufficiently covered with snow to prevent direct damage to the vegetation.

23. Operating an ATV on cropland or pastureland.

No person may operate an ATV on any cropland or pastureland without the written permission of the owner or lessee. As used in this subsection, cropland means acreage in tillage rotation, land being cropped and land in bush fruits. Pastureland means acreage devoted to the production of forage plants used for animal production.

24. Exceptions.

The following exceptions apply to the operation of an ATV.

A. Notwithstanding the provisions of subsection 1:

(1) No registration is required for an ATV operated on land on which the owner lives or on lands on which he/she is domiciled, provided that the ATV is not operated elsewhere within the jurisdiction of this State;

(2) No registration is required for an ATV operated by a commercial ski area for the purpose of packing snow or for rescue operation thereof, unless the ATV is required to cross a public way during that operation; and

(3) ATV's owned and operated in this State by the Federal Government, the State or a political subdivision of the State shall be exempt from registration fees, but shall be registered and required to display numbers.

B. Notwithstanding subsections 1, 15, 16 and 17, ATV's used exclusively for scheduled racing meets and operated solely on predefined race courses are exempt from the provisions of this subchapter concerning registration, mufflers and lights during the time of operation at these meets and at all prerace practices at the location of the meet.

C. Notwithstanding the provisions of subsection 4:

(1) Properly registered ATV's may operate on a public way only the distance necessary, but in no case to exceed 300 yards, on the extreme

right of the traveled way for the purpose of crossing, as directly as possible, a public way, sidewalk or culvert;

(2) Properly registered ATV's may operate on a public way only the distance necessary, but in no case to exceed 500 yards, on the extreme right of the traveled way for the sole purpose of crossing, as directly as possible, a bridge, overpass or underpass, provided that operation can be made in safety and that it does not interfere with traffic approaching from either direction on the public way;

(3) ATV's may be operated on any portion of public ways when the public way has been closed in accordance with 23 M.R.S.A. Section 2953 of the Maine Revised Statutes;

(4) ATV's may be operated on streets and public ways during a period of emergency when the emergency has been so declared by a public agency having jurisdiction and when travel by conventional motor vehicles is not practicable; and

(5) ATV's may be operated on a public way which is not maintained or utilized for the operation of conventional motor vehicles, except that operation on the left side of the way shall be prohibited during the hours from sunset to sunrise; and

(6) ATV's may be operated on streets and public ways in special events of limited duration conducted according to a prearranged schedule, under a permit from the governmental unit having jurisdiction.

D. Notwithstanding subsections 11, 12 and 14, those subsections do not apply on land which is owned by the parent or guardian of the operator.

E. Notwithstanding subsection 16, ATV's manufactured without a headlight or taillight are exempt from the provisions of that subsection while being operated between the hours of sunrise and sunset.

F. Notwithstanding subsection 19, that subsection does not apply in the following situations:

(1) When operating on public ways in accordance with subsections 4, 5, 6, and 7.

(2) When operating on the frozen surface of any body of water; and

(3) When operating on land which the operator owns or is permitted to use.

Section 9. Violations

Any person who engages in any act prohibited by this Ordinance commits a civil violation and shall be liable for a civil penalty not to exceed \$25.00 and each day such activity occurs shall constitute a separate violation. All fines collected shall inure to the benefit of the Town of Scarborough.

Section 10. Impoundment.

Any ATV operated in violation of this Ordinance by a minor under eighteen (18) years of age may be impounded for up to 24 hours and shall be released only to the parent or guardian of the minor operating the impounded vehicle. The parent or guardian may claim the impounded vehicle upon payment of cost of the impoundment.

Section 11. Severability.

If any section, subsection or portion of this ordinance is declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

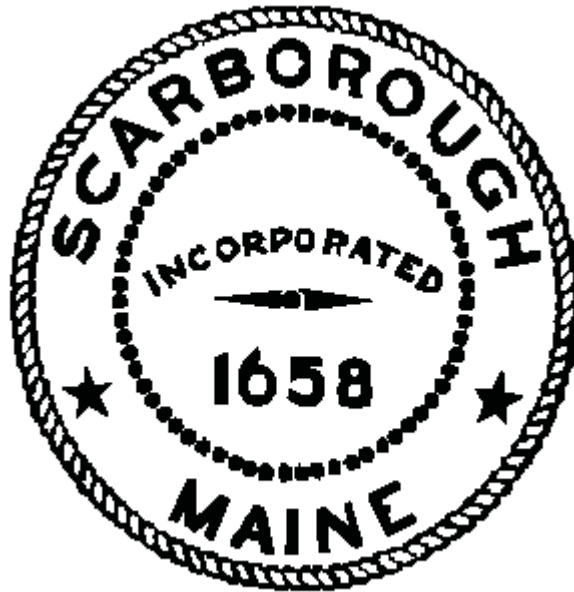
Section 12. Effective Date.

This Ordinance shall take effect and be in full force and effect from and after the date of its official adoption. Adopted November 5, 1986.

CHAPTER 615

TOWN OF SCARBOROUGH

BLASTING ORDINANCE



Adopted September 21, 2016
Amended November 1, 2017

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CHAPTER 615
TOWN OF SCARBOROUGH
BLASTING ORDINANCE

Adopted September 21, 2016
Amended November 1, 2017

SECTION I. Purpose

This ordinance recognizes the need for regulation of blasting within the Town of Scarborough to assure the safety of the blasting company employees, property owners, abutters, citizens, and visitors of the Town of Scarborough.

SECTION II. Regulations & Codes

Blasting and transportation of explosives are regulated through laws, codes and standards including:

- a) NFPA 495 Explosive Materials Code
- b) Title 49 CFR, Federal Regulation for Transport
- c) Title 27 CFR, Part 181 Commerce in Explosives
- d) Title 25 Chapter 318 Explosives and Flammable liquids §2471
- e) Title 38, MRS § 490-Z (14)(H), Performance standard for quarries

SECTION III. Permit Required

No person shall possess, store, arrange, or conduct blasting operations within the Town of Scarborough without holding a valid Blasting Permit issued by the Scarborough Fire Department.

SECTION IV. Permit Application Procedure

Application for a Blasting Permit and request for an on-site inspection shall be made to the Scarborough Fire Department by the responsible party at least five (5) days prior to the blasting date as outlined below:

- a) Prior to applying for a Scarborough Fire Department Blasting Permit the applicant must have a valid State of Maine Explosives User Permit issued by the State Fire Marshal's office.
- b) At time of application the applicant must provide:
 - i. A valid certificate of liability insurance with a policy limit of not less than \$2,000,000 which includes a statement clearly indicating that blasting and use of explosives is covered under the policy.
 - ii. A scaled map denoting the general blasting location(s) and identifying all structures located within 500 feet of the blast area.
 - iii. A list of all properties within the 500 foot pre-blast survey and notification range including the address, owner's name, and a phone number.
 - iv. The proper fee as outlined in the current Town of Scarborough Schedule of License, Permit, and Application Fees.

SECTION V. Notifications

All property owners within 500 feet must be notified either by phone, in person, or in writing, of the dates, approximate times, and estimated number of blasts that will occur.

- i. Notification of property owners within 500 feet must be made no more than four (4) days prior to the blasting date.

- ii. A letter certifying that pre-blast surveys were offered to be conducted at each structure on a property located within 500 feet of the detonation point, and that oral and/or written notification has been made to all abutters within 500 feet must be sent to the Scarborough Fire Department prior to the issuance of the permit.
- iii. The applicant shall notify the Scarborough Public Safety Communications Center via phone (207-883-6361) before the first blast and after the last blast each day.
- iv. The applicant shall also sound the required warning horn prior to each blast as outlined in NFPA 495 Explosive Materials Code.

SECTION VI. Hours of Detonation

Blasting must occur during daylight hours and no earlier than 8:00 AM or later than 6:00 PM. No blasting is allowed on Saturdays, Sundays and Town observed holidays. Production blasting may not occur more frequently than ten (10) times per day. There is no daily limit for micro or cushion blasts.

SECTION VII. Other Requirements

- a) A calibrated seismograph must be on-site and operating during all blasts. All data obtained from those measurements must be made available upon request by the Town of Scarborough. Seismograph data must be maintained for no less than six (6) years.

SECTION VIII. Violation and Enforcement

- a) **PENALTY FOR VIOLATION:** Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than One Hundred (\$100.00) Dollars per day or more than Two Thousand Five Hundred (\$2,500.00) per day as per Title 30-A M.R.S.A, Section 4452. Each day such violation occurs or continues to occur shall constitute a separate violation.
- b) **PENALTY FOR WILLFUL VIOLATION:** Any person who violates the provisions of this ordinance after having been informed by any officer, employee, or agent of the Town of Scarborough has conducted a willful violation of this ordinance and shall be fined the maximum daily amount of Two Thousand Five Hundred (\$2,500.00) Dollars.
- c) **ENFORCEMENT.** This Ordinance shall be enforced by the Town of Scarborough Police Department.
- d) **INJUNCTION:** In addition to any other remedies available at law or equity, the Town of Scarborough, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

SECTION IX. Severability

In the event that any section, subsection or portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.



SCARBOROUGH FIRE DEPARTMENT

246 U. S. Route One
Scarborough, ME 04074
Tel. (207) 883-4542 FAX: (207) 730-4270



APPLICATION FOR BLASTING PERMIT

APPLICANT MUST FILL OUT ALL REQUIRED INFORMATION BELOW

NAME OF APPLICANT: _____ TEL: _____

MAILING ADDRESS: _____

CITY/TOWN: _____ STATE: _____ ZIP: _____

BLASTING SITE INFORMATION

NAME OF PROJECT/OWNER: _____

PROPERTY ADDRESS: _____

SPECIFIC LOCATION: _____

CONTACT PERSON WHO KNOWS WHERE THE FIRING POINT WILL BE: _____

TELEPHONE NUMBERS: _____

THE APPLICATION SHALL BE ACCOMPANIED BY AN ACCURATE AND DETAILED SITE DIAGRAM.

Including:

1. COPY OF TAX MAP WITH LOTS IDENTIFIED
2. MAP INDICATING STRUCTURE LOCATIONS IN REFERENCE TO BLAST LOCATION
3. COPY OF LIABILITY INSURANCE WITH 2,000,000 MINIMUM COVERAGE
4. PRE-BLAST SURVEY INCLUDING ALL ABUTTERS AND RESIDENCES WITHIN A 500 FOOT RADIUS.

BY SIGNING THE APPLICANT ATTESTS ALL BLASTING WILL BE CARRIED OUT IN ACCORDANCE WITH NFPA 495 EXPLOSIVE MATERIALS CODE AND ALL OTHER APPLICABLE STANDARDS AND LAWS. THE APPLICANT IS RESPONSIBLE FOR ANY BLASTING RELATED DAMAGES THAT MIGHT OCCUR AS A RESULT OF BLASTING ACTIVITIES UNDERTAKEN. THIS PERMIT IS REVOCABLE AT ANY TIME IF IT IS FOUND THAT BLASTING IS BEING CONDUCTED IN VIOLATION OF APPLICABLE LAWS, RULES, AND STANDARDS OR IN A MANNER UNSAFE OR UNSUITABLE AS DETERMINED BY THE FIRE CHIEF OR HER/HIS DESIGNEE. THE APPLICANTS SIGNATURE ON THIS FORM CONSTITUTES AN UNDERSTANDING AND ACCEPTANCE OF THESE TERMS.

PRINTED NAME OF APPLICANT: _____

(SIGNATURE AND TITLE OF APPLICANT)

BLASTING INFORMATION

NAME OF LICENSED TECHNICIAN: _____

CITY/TOWN: _____ STATE: _____

TELEPHONE: _____

DATE OF BLAST: _____ TIME OF BLAST: _____

☐ ABUTTERS & UTILITIES NOTIFIED

ESTIMATED NUMBER OF BLASTS: _____

EST. CUBIC YARDS TO BE REMOVED: _____

☐

STATE FIRE MARSHAL'S PERMIT FOR EXPLOSIVES
USER RECEIVED

NOTES:



SCARBOROUGH FIRE DEPARTMENT USE ONLY

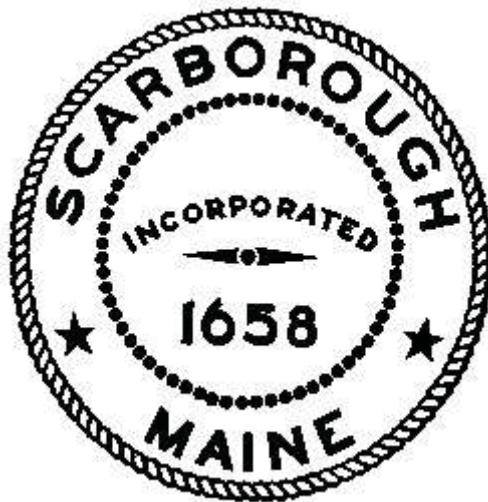


APPLICATION REC'D:	INSPECTED:	PERMIT FEE PAID:	PERMIT ISSUED:	NOTES:
DATE:	DATE:	DATE:	DATE:	
BY:	BY:	AMOUNT:	BY:	

CHAPTER 1007

TOWN OF SCARBOROUGH

CABLE TV ORDINANCE



Adopted August 4, 1976
Approved as Amended May 6, 1992
Amended September 6, 1995
Amended November 1, 2017

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**CHAPTER 1007
CATV ORDINANCE
AMENDMENT TO TOWN OF SCARBOROUGH
CABLE TELEVISION ORDINANCE**

CATV ORDINANCE

Section 1. ESTABLISHMENT AND PURPOSE

An Ordinance providing for Town regulation and use of the community antenna television system including its construction, operation and maintenance in, along, upon, across, above, over and under the streets, alleys, public ways, and public places now laid out or dedicated, and all extensions thereof and additions thereto in the Town of Scarborough, including poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary for the maintenance and operation in the Town of Scarborough of the community antenna television system and to provide conditions accompanying the grant of franchise; and providing for the Town regulation of CATV Operation.

There shall be a Scarborough Cable Television System, the head of which shall be the Scarborough Cable Television Committee, the members of which shall be appointed by the Scarborough Town Council. As of June 1985, the Cable Television Committee was placed directly under the Department of Community Services of the Town Government.

The Scarborough Cable Television Committee is responsible for providing the citizens of Scarborough with such coverage of civil and public events, as the interest of the public and the availability of equipment and citizen volunteers permits.

Section 2. DEFINITIONS

(a) "C.A.T.V."

Shall mean any community antenna television system or facility that, in whole or in part, receives directly or indirectly, over the air, and amplifies or otherwise modifies signals transmitting programs broadcast by one or more television or radio stations, or originates its own signal or signals produced through any of its community access channels and distributes such signals by wire or cable to subscribing members of the public who pay for such services, but such term shall not include any such facility that serves only the residents of one or more apartment dwellings under common ownership, control or management.

(b) "Cable Television Co."

Shall mean any person, firm or corporation owning, controlling, operating, managing or leasing a CATV system within the Town of Scarborough, sometimes hereinafter referred to as "the company".

(c) "Town"

Shall mean the Town of Scarborough organized and existing under the laws in the State of Maine and the area within its territorial limits.

Section 3. MEMBERS APPOINTED BY THE TOWN COUNCIL

(a) The Scarborough Cable Television Committee shall consist of seven (7) members of the public appointed at large who shall be responsible to the Town Council for the legal and proper management of Scarborough's Cable Television System.

(b) The initial appointments shall be: three members to serve until June 30, 1985; two members to serve until June 30, 1986; and two members to serve until June 20, 1987.

(c) All subsequent appointments, other than those required to fill unexpired terms of office, shall be for a term of three years.

Section 4. ADVISORY MEMBERS

One advisory non-voting member each shall be designated by the Town Manager and the Superintendent of Schools, such members to serve until replaced by the designating authority concerned.

Section 5. PUBLIC INVOLVEMENT

The Scarborough Cable Television Committee is authorized and responsible for the establishment, modification, supervision, and disestablishment of such subordinate committees, groups, and teams as that committee may deem necessary; to appoint and remove volunteers to and from such committees, groups and teams; and to perform the foregoing functions in accordance with the By-laws to be adopted by the Scarborough Cable Television Committee as approved by the Town Council.

Section 6. FINANCIAL PROCEDURE

The Committee is authorized to receive donations and contributions for the purpose of operating, maintaining, and expanding the television system of Scarborough. Recognition may be given by appropriate acknowledgments of the sources of partial funding, providing that all receipts and expenditures shall be included within the budget approved by the Scarborough Town Council within the fiscal year of the Town of Scarborough.

Section 7. VOLUNTEER PERSONNEL

No member of the Committee shall, without Town Council approval, receive compensation or reimbursement for his/her services nor shall the Committee, without Town Council approval, hire paid employees.

Section 8. OWNERSHIP OF PROPERTY

All equipment, materials and supplies procured or received by the Committee shall, upon receipt, become the property of the Town of Scarborough.

Section 9. ANNOUNCEMENTS

Announcements regarding municipal business shall be reviewed by the Town Manager, the Superintendent of Schools, the Chair of the elective or appointive committee or board, as appropriate in each case. [amended 11/01/17]

Section 10. FRANCHISE REQUIRED

No person, firm or corporation shall install, maintain or operate within the Town or any of its public streets or other public areas any equipment or facilities for the operation of a CATV system unless a franchise authorizing the use of said public streets or areas has first been obtained pursuant to the provisions of this Ordinance and unless said franchise is in full force and effect.

Section 11. FRANCHISE CONTRACT AUTHORITY AND PROCEDURE

(a) The Municipal Officers of the Town may contract on such terms, conditions and fees as are in the best interests of the municipality and its residents with one or more Cable Television Companies for the operation of a CATV system throughout the Town, including the granting of a franchise or franchises for the operation thereof for a period not to exceed fifteen (15) years. All franchises shall be non-exclusive.

(b) Applicants for a franchise shall pay a non-refundable filing fee to the Town as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council, to defray the cost of public notice, and advertising expenses relating to such application, and must sign a document, in a form satisfactory to the town manager, committing the applicant to payment of legal fees associated with the contract negotiations. The applications shall be filed with the Town Clerk and shall contain such information as the Town may require, including but not limited to a general description of the applicant's proposed operation, a schedule of proposed charges, a statement detail its business or corporate organization with a financial stated for the two previous fiscal years, an estimated fifteen (15) year financial projection of its proposed system and its proposed annual Town franchise fee or the basis for same, and a statement detailing the prior operational experience of the applicant in both CATV and Microwave service including that of its officers, management and staff to be associated with the proposed operation.

(c) Said Franchise Contract may be revoked by the Municipal Officers for good and sufficient cause after due notice to the company and a public hearing thereon; with the right to appeal to the Cumberland County Superior Court under Rule 80-B of the Maine Rules of Civil Procedure in accordance with due process.

(d) Prior to the preparation by the Town of requests for proposals for franchises or renewals thereof the Town shall hold a public hearing with at least seven days notice by

publication in a newspaper of general circulation within the Town, to solicit public comment regarding special local needs and interests with respect to cable television services.

(e) Applications for a franchise to operate a CATV system in the Town and related documents are public records to be filed with and maintained by the Town Clerk pursuant to the State Freedom of Access Law (1 Maine Revised Statutes Annotated (“M.R.S.A.”) section 401 et seq. as amended from time to time). Reasonable notice must be given to the public of their right to inspect and copy such applications and documents during the regular business hours of the Scarborough Town Clerk’s Office.

(f) Before authorizing the issuance of any such franchise contract or contracts the Municipal Officers shall review the applicant’s character, financial and technical qualifications and the adequacy and feasibility of its qualifications to operate a CATV system throughout the Town, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing.

(g) Upon the execution of any such franchise contract the Cable Television Company shall file a surety company performance bond in the amount of \$200,000 conditioned upon the faithful performance of the contract and full compliance with any laws, ordinances, or regulations governing the franchise, and also evidence of such public liability insurance coverage as the Municipal Officers may require. The performance bond shall be reduced to \$100,000 upon the completion of the installation of the system as per the contract.

Section 12. FRANCHISE CONTRACT CONTENTS

Each franchise contract between the Town and any Cable Television Company shall contain, but is not limited to, the following provisions:

- (a) A statement of the area or areas to be served by the Cable Television Company;
- (b) A line extension policy;
- (c) A provision for renewal, the term of which may not exceed 15 years;
- (d) Procedures for the investigation and resolution of complaints by the Cable Television Company;
- (e) An agreement to comply with the requirements of 30-A M.R.S.A. section 3010 regarding Consumer rights and protection and any amendments thereto;
- (f) Any other terms and conditions that are in the best interests of the Town; and
- (g) Provide for access to, and facilities to make use of, one or more local public, educational and governmental access channels subject to the definitions and requirements of the Cable Communications Policy Act of 1984, Public Law 98-549.

Section 13. RULES, REGULATIONS AND PROCEDURES

The Municipal Officers of the Town of Scarborough shall:

- (a) Adopt such rules and regulations as it any deem necessary for monitoring and regulating the operation of a CATV system.

- (b) Make recommendations to the Cable Television Company concerning educational and local interest programming.
- (c) Resolve complaints, disputes or disagreements between subscribers and the Company.
- (d) Have the authority to conduct public hearings and issue such appropriate orders as it may deem necessary to correct any deficiencies in the operation of the system. The Municipal Officers' decisions and findings shall be final and binding upon all parties including the Company, except such decision or finding may be appealed to the Cumberland County Superior Court under Rule 80-B.
- (e) All such rules, regulations and orders of the Municipal Officers shall not be in conflict with those that have been or may be adopted by the Federal Communications Commission for the operation of such systems.

Section 14. COMPLIANCE WITH ALL LAWS

Cable Television Companies shall at all times comply with all applicable federal, state, and local laws, statutes, rules, regulations, ordinances, codes and orders.

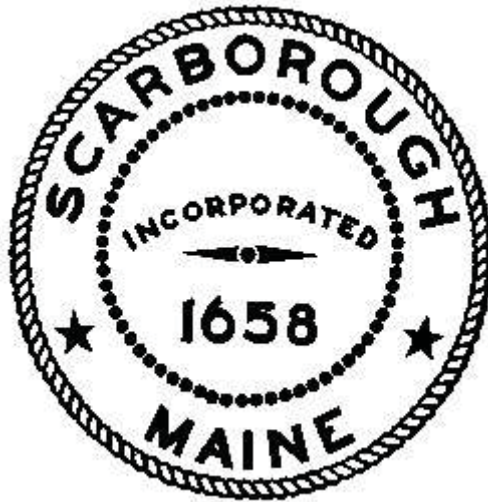
Section 15. SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

CHAPTER 307

TOWN OF SCARBOROUGH

CAPITAL EXPENDITURE ORDINANCE



ADOPTED OCTOBER 6, 1993

CHAPTER 307
TOWN OF SCARBOROUGH
ORDINANCE PERTAINING TO ASSESSMENTS FOR
CAPITAL EXPENDITURES

Section 1. Purpose. This ordinance is intended to provide notice to property owners within the Town of Scarborough prior to any decision by the Scarborough Town Council to fund a capital expenditure in whole or in part by an assessment against property benefited by the improvement proposed. This notice is required by Article II, Section 216 of the Scarborough Town Charter.

Section 2. Notice Required. Before approving a capital expenditure that may be funded in whole or in part by an assessment of property benefited, the Town shall give notice to each property owner who may be affected thereby. Notice shall be mailed to each owner of property that may be subject to an assessment by certified mail return receipt requested at least twenty-one days prior to the Council meeting at which the expenditure is scheduled to be considered. The owner of record shall be assumed to be the person or persons identified as owner(s) in the records of the Tax Assessor. The notice must include:

1. The date, time and place of the town council meeting;
2. A description of the proposed improvement(s) to be funded;
3. The total amount of the capital expenditure, including interest if any, under consideration and the total amount of the capital expenditure estimated to be funded from an assessment on real property; and
4. A map or description of the area(s) within which properties potentially subject to assessment are located.

Once notice has been given as required in this section, the Town shall not be required to re-notify owners (individually) of the town council's continued consideration of the proposed capital expenditure unless the amount of the capital expenditure, or the portion to be funded through an assessment on real property, increases or the properties potentially subject to assessment are changed.

CHAPTER 1014

TOWN OF SCARBOROUGH

ORDINANCE GOVERNING CLOSING-OUT SALES

ADOPTED – FEBRUARY 7, 2001

CLOSING-OUT SALES

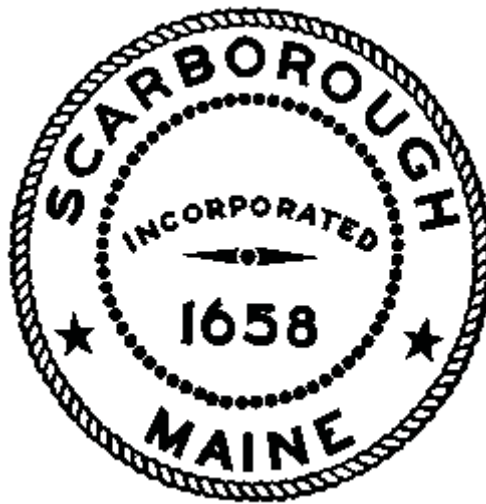
1. For the purpose of regulating “closing-out sales” under subchapter II of Chapter 183 of Title 30-A of the Maine Revised Statutes, the Town Clerk shall be the licensing authority and shall exercise the powers and duties which said subchapter II assigns to the municipal officers.
2. An applicant for a license or a licensee who is aggrieved by a written decision of the Town Clerk under this ordinance may appeal to the Town Council within thirty (30) days after the date of such decision.

CHAPTER 1401

TOWN OF SCARBOROUGH

COASTAL WATERS AND HARBOR

ORDINANCE



ADOPTED APRIL 20, 1994
Amended September 6, 1995
Amended May 7, 2003
Amended April 4, 2007
Amended February 18, 2009
Amended February 1, 2012
Amended February 20, 2013
Amended November 1, 2017
Amended December 19, 2018

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CHAPTER 1401
COASTAL WATERS AND HARBOR ORDINANCE FOR THE
TOWN OF SCARBOROUGH, MAINE

Article I - General Provisions

Section 1. Purpose and Authority.

This ordinance is to establish regulations for marine activities within the harbors, waterways and tidal waters of the Town of Scarborough, Maine in order to ensure safety to persons and property, to promote availability and use of a valuable public resource, and to create a fair and efficient framework for the administration of that resource. This ordinance shall be subordinate to existing Federal and State Laws governing the same matters and is not intended to preempt other valid laws.

This Ordinance is enacted pursuant to the authority granted by Subchapter I of Chapter 1 of Title 38 of the Maine Revised Statutes, by 30-A M.R.S.A. §3001 and by Article VIII, Part 2, Section 1 of the Maine Constitution.

Section 2. Harbor Limits.

“Harbors and waterways”

Shall include the entire navigable portion of the Spurwink River, Libby River, Nonesuch River, Scarborough River, and Dunstan River located within the Town of Scarborough.

“Tidal waters”

Shall include all waters which ebb and flow between high tide and mean low water within the harbors and waterways of the Town of Scarborough.

For the purpose of this ordinance, high tide shall be considered as an elevation of 8.8 feet above mean low water. This is based upon the mean tidal range of 8.8 feet as established by the U.S. Corps of Army Engineers. The high tide limit shall be any point along the shore at an elevation of 8.8 feet above mean low water.

For the purpose of this ordinance, “Harbor” shall include waterways.

Section 3. Channels.

The entrance channel shall be determined and marked annually by the United States Coast Guard and/or the Harbormaster. The approximate location of the channel is as follows: 200 feet wide beginning at the entrance buoy (Can #1) and shall extend to a point between the jetty and Ferry Rock where it narrows to 50 feet and then continues to the anchorage of the Public Landing. The entire channel extends some 2400 feet from the entrance buoy to the anchorage. [amended 04/04/2007]

Other channels may be established by the Corps of Engineers and/or the Town of Scarborough from time to time.

Section 4. Anchorage.

The anchorage shall include all harbors and waterways, as defined in Section 2, located outside channels as defined in Section 3. The approximate location of the anchorage is as follows: an irregularly shaped polygon of approximately 14 1/2 acres located at the terminus of the entrance channel off the public landing.

Other anchorages may be established by the Corps of Engineers and/or the Town of Scarborough from time to time.

Section 5. Other areas.

The Town of Scarborough may from time to time include other tidal areas under this ordinance as necessary to promote and regulate this public resource.

Section 6. Harbormaster.

The Harbormaster shall be appointed annually by the Town Manager for a term of twelve months commencing on January 3, 1994. Certain duties and responsibilities of this office are prescribed by Title 38, M.R.S.A. The Harbormaster has the additional duty to administer and enforce the provisions of this ordinance with the authority granted by law and through her/his appointment as harbor master. [amended 11/01/17]

An Assistant Harbormaster may be appointed annually by the Town Manager for the same term as the Harbormaster.

The compensation for the Harbormaster and the Assistant Harbormaster shall be established by the Town Council.

In addition to the duties prescribed under Title 38 M.R.S.A., the Harbormaster and the Assistant Harbormaster shall be the overseers of the Town's waterfront facilities such as moorings, floats, docks, ramps and channels. They shall make recommendations to the Town Council for maintenance and improvements to all town-owned waterfront facilities. They shall have full authority to enforce all harbor regulations affecting the waterfront to the fullest extent permitted by law.

Section 7. Invalidity Provisions.

If any provisions of this ordinance are held invalid or inoperative, the remainder shall continue in full force and effect as though such invalid or inoperative provisions had not been made.

Article II - Definitions

1. Anchorage:

Shall mean an area of the harbor set aside for permanent moorings or for the temporary anchoring of boats and vessels. See Article I, Section 4.

2. Auxiliary:

Shall mean any vessel having both sails and either an inboard or outboard motor and which may be propelled by its sails or its motor, or both.

3. Basin:

Shall mean a naturally or artificially enclosed or nearly enclosed body of water where small craft may lie.

4. Beach:

Shall mean a public or private beach area bordering the waters of Scarborough harbor.

5. Boat:

Shall mean any floating objects or vessel designed for self-propelled navigation on the water.

6. Commercial Fisherman: [adopted 02-20-2013]

A commercial fisherman who derives more than 50% of his/her annual income from lobstering, fishing or clamming, or any other marine fishery and who has legally obtained all necessary permits, licenses and approvals. At the Town of Scarborough's request, an individual must present proof of income prior to being considered a commercial fisherman.

7. Commercial Vessel:

Shall mean any vessel used or engaged for any type of commercial venture, including but not limited to fishing or the carrying of cargo and/or passengers for hire.

8. Committee:

Shall mean the Coastal Waters and Harbor Advisory Committee.

9. Distress:

Shall mean a state of disability or a present or obviously imminent danger which is unduly prolonged could endanger life or property.

10. Emergency:

Shall mean a state of imminent or proximate danger to life or property in which time is of the essence.

11. Float:

Shall mean any floating structure normally used as a point of transfer for passengers and goods and/or for mooring purposes.

12. Headway Speed:

Shall mean the minimum speed necessary to maintain steerage and control of the watercraft while the watercraft is moving.

13. Houseboat: [adopted 02-20-2013]

A raft, hull, barge or vessel, designed primarily to be used as living quarters, and providing living, sleeping, cooking and sanitary facilities, whether temporarily or permanently.

14. Mooring:

Shall mean any appliance used by a craft for anchoring purposes and which appliance is not carried aboard such craft when underway as regular equipment.

15. Non-resident:

Shall mean any person who is not a resident.

16. Resident:

Shall mean a person who has been domiciled in the Town of Scarborough for at least three months prior to the time his or her claim of residence is made.

17. Riparian Owner:

Shall mean an owner of a parcel of land located in the Town of Scarborough which borders upon the harbor as described in Article I, Section 2.

18. Shore:

Shall mean that part of the land in immediate contact with a board of water, including the area between the high and low water lines.

19. Shall and May:

“Shall” is mandatory, “May” is permissive.

20. State:

Shall mean the State of Maine.

21. Stray Vessel:

Shall mean (1) an abandoned vessel; (2) a vessel the owner of which is unknown; or (3) a vessel underway without a competent person in command.

22. To Anchor:

Shall mean to secure a vessel to the bottom within a body of water by dropping an anchor or anchors or other ground tackle.

23. Underway:

Shall mean the condition of a vessel not at anchor; without moorings; and not made fast to the shore nor aground.

24. Waterway, (fairway):

Shall mean any water area providing access from one place to another, principally a water area providing a regular route for water traffic.

Article III - General Boating and Traffic Control Regulations

Section 1. Traffic Control Authority.

The Harbormaster shall have the authority to control water-borne traffic in any portion of the waters of a harbor or maritime facility under her/his jurisdiction by use of authorized State regulatory markers, signal, orders or directions any time preceding, during and after any race, regatta, parade or other special event held in any portion of the waters of a harbor or maritime facility or at any time when the Harbormaster deems it necessary in the interest of safety of persons and vessels or other property, and it shall be unlawful for any person to willfully fail or refuse to comply with any authorized State regulatory marker utilized by the Harbormaster, or with any signal, orders of direction of the Harbormaster. [amended 11/01/17]

Section 2. Basic Speed Law.

The operation of any vessel within the Anchorage Area in excess of headway speed, shall constitute a violation of this Ordinance; however, the Harbormaster may grant special written permission to exceed headway speed in connection with water sports and regattas in specific areas designated by the Harbormaster.

Article IV - General Regulations

Section 1. Liability.

(a) Boat Owner:

Any person using the facilities within the limits of a harbor or maritime facility shall assume all risk of damage or loss to her/his property and the Town of Scarborough assumes no risk on account of fire, theft, Act of God, or damages of any kind to vessels within the harbor or maritime facility. [amended 11/01/17]

(b) Marine Facility Owner and/or Operator:

It shall be the responsibility of the owner, licensee, lessee, or operator of any marina, anchorage, repair yard, or other marine facility, located within the harbor, waterway or other maritime facility, to maintain the physical improvements under her/his jurisdiction in a safe, clean, and visually attractive condition at all times, to provide adequate security and fire prevention measures and appropriate fire fighting equipment as may be directed by the Town Manager. Failure to initiate activity within 30 days of receipt of written notice from the Town Manager to correct unsafe or otherwise unsatisfactory conditions and to pursue same to completion to the satisfaction of the Town Manager shall be a violation of this section. [amended 11/01/17]

Section 2. Launching and Recovery of Vessels.

(a) None other than the driver may occupy a motor vehicle while it is present upon the area known as a launching ramp located within the Town of Scarborough. It is recommended [2/22/94] all motor vehicles using said ramp should securely block at least one wheel of the said motor vehicle while it is standing upon said ramp.

(b) No person shall use a boat launching facility owned or operated by the Town of Scarborough without first obtaining an annual boat launching permit or a one-day boat launching permit from the Town. Annual permits shall be valid from April 1st of the year of issuance until March 31st of the following year, and one-day permits shall be valid for the calendar day specified on the permit. Fees for the boat launching permits shall be as specified in the Schedule of License, Permit and Application Fees established by the Town Council. [amended 05/07/03]

Section 3. Permits, Suspensions or Revocations.

(a) Mooring permits granted under Article V of this Ordinance shall be valid from April 1 of the year of issuance to March 31 of the following year. Other permits granted by the Harbormaster shall be valid for the period of time specified on the permit. The fees shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council.

(b) If the Harbormaster finds that a holder of a permit under this Ordinance has violated any of the provisions of this ordinance, the Harbormaster may suspend or revoke the permit. The Harbormaster shall notify the permit holder of the suspension or revocation in writing. The suspension or revocation shall take effect as soon as the Harbormaster (1) delivers the notice in person to the permit holder, (2) posts a copy of the notice on the permit holder's vessel or (3) mails a copy of the notice to the permit holder at the most recent address which the permit holder has provided to the Harbormaster. The permit holder may appeal a suspension or revocation under this paragraph as provided in Article X of this Ordinance.

(c) If the Harbormaster finds that a mooring has not been used for at least thirty days between April 1 and October 1 of the year in which the permit was issued or if the Harbormaster finds that the

holder of the permit no longer owns the vessel specified in the mooring permit application, the Harbormaster shall give notice to the permit holder of the Harbormaster's intent to revoke the permit. Notice shall be given and shall take effect as specified in paragraph (b) above. Unless, within fifteen days of the effective date of such notice, the permit holder demonstrates extenuating circumstances to the Harbormaster, the Harbormaster shall revoke the permit using the procedure set forth in paragraph (b) above. "Extenuating circumstances" means circumstances which make it impossible or impractical to have a boat in the water during the boating season, such as, but not limited to loss or destruction of the vessel, mechanical breakdowns or unexpected repairs, and death or serious illness of the permit holder. Decisions of the Harbormaster under this paragraph (c) may be appealed as provided in Article X of this Ordinance.

(d) A person whose permit is revoked under paragraph (b) or (c) above shall be treated as a new applicant for purposes of placement on any waiting list in the next permit year.

Section 4. Damage to Harbor or Other Property.

It shall be unlawful to willfully or carelessly destroy, damage, disturb or interfere with any public or private property in the Harbor area.

Section 5. Tampering with or Boarding Vessels without Permission.

It shall be a violation of this Ordinance for any person willfully to board, break in, enter, damage, move or tamper with any vessel or part thereof, located within the harbor unless authorized by the rightful owner of such vessel.

Section 6. Obstruction of Facilities.

It shall be a violation of this Ordinance for any person willfully to prevent any other person from the use and enjoyment of the harbor facilities.

Section 7. Signs, Placement and Maintenance.

The Town of Scarborough may place and maintain, or cause to be placed and maintained, either on land or water, such signs, notices, signal buoys or control devices as the Harbormaster deems necessary to carry out the provisions of this Ordinance, or to secure public safety and the orderly and efficient use of the harbor or maritime facility.

Section 8. Securing Permission for Debarkations.

It shall be a violation of this Ordinance to disembark passengers or discharge cargo from a commercial vessel onto any public or privately owned float, pier or wharf within the harbor, without the consent of the owner thereof or of the Harbormaster, as the case may be, except at piers and wharfs expressly designed for such purposes.

Section 9. Protected Swimming Areas.

It shall be a violation of this Ordinance to operate or navigate any vessel within a designated swimming area. The Town of Scarborough may identify swimming areas by signs, buoys, or other means.

Section 10. Shellfish Areas.

Shellfish regulations are contained in the Town of Scarborough's Shellfish Conservation Ordinance.

Section 11. Marking of Boats Left on Shores or Flats. [adopted 02-18-09][amended 02-20-13]

Any boat that is left on the shores or flats of the Town of Scarborough must have owner information attached to the inside of its stern. If the owner is a mooring holder, the boat must also have the mooring number attached as well. Skiffs in violation of this section will be impounded and stored at the owner's expense.

Article V - Regulations Concerning Anchoring, Mooring and Security of Vessels

Section 1a. Placement of Private Moorings.

It shall be a violation of this Ordinance to place any mooring in the harbor without a permit from the Harbormaster issued in accordance with 38 M.R.S.A. Sections 3, 7-A and 8. Proof of boat registration and insurance, in the same name as the mooring applicant, must be shown prior to a mooring permit being issued. No more than two (2) moorings will be issued to the same household. No more than three (3) moorings will be issued to the same commercial entity. A person whose application for a mooring permit is denied may appeal as provided in Article X of this Ordinance. There shall be no appeal from the issuance of a permit. [Amended 12-19-18]

The sale of a recreational boat does not include the sale of the mooring locations. The mooring permit holder must notify the Harbormaster immediately upon the sale of their boat. Commercial moorings may be transferrable with the approval of the Harbormaster.

Section 1b. Minimum Mooring Requirements. [amended 02-20-13][Amended 12-19-18]

All mooring gear shall be inspected and/or serviced by a mooring service company, or by the owner with Harbor Master approval, at least once bi-annually to determine the condition of gear and to ensure compliance with minimum standards set forth by this ordinance.

All mooring owners or mooring service companies shall notify the Harbormaster's office in writing of all inspections and service completed to mooring gear.

The Town of Scarborough recommends a 2.5 to 1 ratio for permanent moorings with the following minimum specifications:

Mushroom, Granite Block, or Pyramid (of ample size/weight) - see chart below

Heavy Chain	1.0 times maximum water depth plus one foot
Light chain or Nylon line (not floating line)	1.0 times maximum water depth
Pennant	1.5 times the distance from chock to waterline

Buoy (white poly ball preferred)

Must have assigned number and blue band painted 3" (or larger) on buoy

Total scope = Heavy chain + light chain and/or nylon line + Pennant

Example: 25 ft. cruiser;

20 ft. maximum water depth;

Distance from chock to waterline = 3 ft.

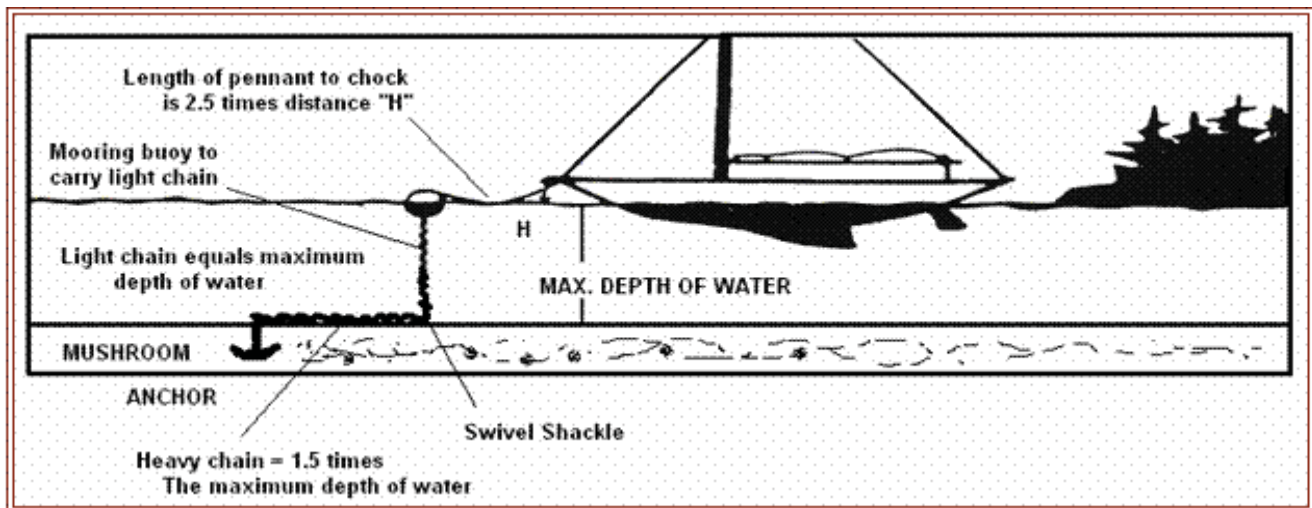
Requires: 1.05 x 20 = 30 ft. of heavy chain plus one foot
 1.0 x 20 = 20 ft. of light chain or equivalent nylon line
 1.5 x 3 = 4.5 ft. pennant

The following chart contains the minimum requirements for seasonal moorings in sheltered waters. Vessels moored year-round and/or in open areas should upgrade 1-3 steps.

Boat Length	Boat Weight	Mushroom Weight	Block Weight	Chain Size (Bottom)	Chain Size (Top)
22'	1,500 lbs	75lbs	300 lbs	1/2"	3/8"
26'	5,000 lbs	150 lbs	500 lbs	3/8"	3/8"
30'	8,000 lbs	200 lbs	1,000 lbs	5/8"	3/8"
35'	12,000 lbs	250 lbs	2,000 lbs	3/4"	1/2"
40'		500 lbs	3,000 lbs	3/4"	1/2"
50'+ over	Reviewed on an individual Basis.				

For the safety of his/her boat and that of adjacent boats, mooring permit holders are responsible for having their mooring set and making any required adjustments or repairs.

Boats must have been moored by July 1 of the permitted year or the mooring permit shall be revoked subject to the Harbormaster's discretion. The denied applicant may appeal the Harbormaster's decision to the Coastal Waters and Harbor Committee.



The Harbormaster may permit variations from these specifications, if in his or her judgment, the proposed mooring has holding power equivalent to that which would be provided by a mooring meeting these specifications.

All moorings that are to be placed up river from the day marker in Scarborough must be built using granite block only and cannot be any higher than 24 inches in overall height.

Marker Buoys to show at all tides. All chains to be at least one foot above high water mark. All moorings to be inspected every two years - no later than July 1st.

The Harbormaster shall maintain a plot plan of the anchorage area indicating locations of moorings, size of boats, and areas to be used as waterways. A copy of this map will be kept on file at the Town Office.

Subletting of Mooring Space:

The owner of any vessel having mooring space shall not sublet said mooring or mooring space to another user or boat owner; however another boat owner may use the mooring, provided the original owner pays the fee or fees and has requested permission from the Harbormaster to moor such vessel through a completed notice of intent form that can be found on the Town of Scarborough website, scarborougmaine.org.

Section 1c. Creation and Maintenance of a Mooring Waitlist

Two mooring waitlists shall be maintained by the Town Clerk and available for inspection in the Town Clerk's office. The first shall be for commercial applicants and the second for recreational applicants. Commercial applicants will be verified by the Harbormaster and shall provide proof of a commercial State license or a Federal permit. Commercial applicants will, if requested by the Harbormaster, provide proof of commercial waterfront activity equaling 20% of their annual household income. Applicants seeking a mooring shall be placed on the waitlist in order of date and time of application. No one household shall be allowed to hold more than two (2) spots on the waitlist at any one time. When a mooring becomes available the Town Clerk will first consult the commercial waitlist which will be given priority. If the next name on either waitlist is unable to accept the mooring they may request to stay on their respective waitlist until the next mooring becomes available. If, at the time of the second mooring becoming available, the applicant again is unable to accept the mooring their name shall be removed from the waitlist and the applicant would need to reapply if they wished to again be listed. If an applicant on the waitlist has died their spot may be reassigned to a legal heir providing the Town of Scarborough has been notified within six (6) months of the applicant's death. [adopted 12-19-18]

Section 2. Obstructing Channels.

It shall be a violation of the ordinance to knowingly or willfully obstruct the free use of any channel or waterway within the harbor or to fail to report to the Harbormaster any collision between vessels or other accident or incident causing damage to persons or property.

Section 3. Abandoned Vessels.

When, in the opinion of the Harbormaster, a vessel has been abandoned in the harbor, he/she may take custody and control of such vessel and remove it, store it or otherwise dispose of it, all at the expense and sole risk of the vessel owner. Reasonable notice of such disposal shall be publicly given. The vessel owner may appeal the action of the Harbormaster under this Section 3 as provided in Article X of this Ordinance. [amended 11/01/17]

Section 4. Vessels Making Fast.

No person shall make fast or secure a vessel to any mooring already occupied by another vessel, or to a vessel already moored except a rowboat, dinghy or yacht tender regularly used by such a larger vessel. If tied within a slip, such rowboat, dinghy, or tender shall not extend into the fairway beyond the larger vessel if such larger vessel is also occupying the slip, or otherwise beyond the slip itself.

Section 5. Secure Berthing and Anchoring of Vessels.

The owner of any vessel moored or anchored within Scarborough Harbor or maritime facility shall be responsible for causing such vessel to be tied and secured or anchored with proper care and equipment and in such manner as may be required to prevent breakaway and resulting damage, and shall thereafter provide for periodic inspection maintenance, replacement and adjustment of anchor, mooring or tie lines at reasonable intervals.

Section 6. Unseaworthy Vessels Prohibited in Harbor.

A person shall not moor or permit to be moored in any harbor a vessel of any kind whatsoever which is unseaworthy or in a badly deteriorated condition or which is likely to sink or to damage docks, wharves, floats or other vessels or which may become a menace to navigation, except in cases of emergency.

Section 7. Correcting an Unsafe Berthing.

If any vessel shall be found in the judgment of the Harbormaster to be anchored or moored within any harbor or maritime facility in an unsafe or dangerous manner, or in such a way as to create a hazard to other vessels or to persons or property, the Harbormaster shall order and direct necessary measures to eliminate such unsafe or dangerous condition. Primary responsibility for compliance with such orders and directions shall rest with the owner of the improperly anchored or moored vessel or her/his authorized agent; in the absence of such owner or agent, said responsibility shall rest with the authorized operator of the facility at which the vessel is anchored or moored. In an emergency situation and in absence of any such responsible person, the Harbormaster shall forthwith board such vessel and cause the improper situation to be corrected, and the owner of the vessel shall be liable for any costs incurred by the Town of Scarborough in effecting such correction. The responsible person under this Section 7 may appeal the action of the Harbormaster as provided in Article X of this Ordinance. [amended 11/01/17]

Section 8. Removal and Custody of Illegally Berthed or Abandoned Vessels.

In any unattended vessel shall be found to be anchored or moored illegally within a harbor or maritime facility, or if the Harbormaster has reasonable grounds to believe that a vessel has been abandoned within a Scarborough Harbor or maritime facility, the Harbormaster may assume custody of such vessel and cause it to be removed and held or placed in storage. The Town of Scarborough or its officials shall not be held liable for any damage to such vessel or liable to its owners before or after assuming custody. Vessels so taken into custody shall be released to the owner by the Town Manager only after satisfactory proof of ownership has been presented and full reimbursement made to the Town for all costs incident to recovery, movement and storage. The vessel owner may appeal the action of the Harbormaster under this Section 8 as provided in Article X of this Ordinance.

Section 9. Obstruction of Fairways, Channels, Launch Ramps or Berthing Spaces, and Removal of Sunken Vessels.

(a) It shall be unlawful to tie up or anchor a vessel in Scarborough Harbor or maritime facility in such a manner as to obstruct the fairways, launch ramps or channels or to prevent or carelessly sink or allow to be sunk any vessel in any channel, fairway, berthing space; or to float loose timbers, debris, logs or piles in any channel, fairway, or berthing space in such a manner as to impede navigation or cause damage to vessels therein. Wrecked or sunken vessels within a harbor are subject to the published rules and regulations of the United States Coast Guard and any applicable State law, rules or regulations.

(b) Whenever the navigation of any waters within a Scarborough Harbor or maritime facility, including anchorages and berths therein, shall be obstructed or endangered by any sunken vessel or other obstruction or danger has existed for a period of more than ten (10) days, the vessel or obstruction shall be subject to removal, sale or other disposition. The owner or owners of such vessel or other property causing said obstruction or danger shall be liable to the Town of Scarborough for all costs incident to said removal and disposition, and the Town of Scarborough, its employees, agents, and officers, shall not be liable for damages of any nature whatsoever arising out of or in any way connected with removal, sale or disposition of such vessel or other property. The vessel or property owner may appeal the action of the Harbormaster under this Section 9(b) as provided in Article X of this Ordinance.

Section 10. Houseboats. [adopted 02-20-13]

Notwithstanding any other provision of this article to the contrary, houseboats are prohibited from mooring or anchoring in the anchorage except at marinas which provide the following:

- (1) A permanent float, dock or slip from which the houseboat may be directly boarded from land;
- (2) Connection to a public water supply by means of an individual anti-backflow valve;
- (3) A sewer connection to a public sewage system;
- (4) A year-round, all weather supply of electricity;
- (5) Parking as required by the codes and ordinances of the municipality where the marina is located; and
- (6) Compliance with the applicable land use codes.

Article VI - Regulations Concerning Commercial Activity

Section 1. Vessels for Hire - Passenger Information.

The owners, master or person in charge of or operating any vessel using Scarborough Harbor or maritime facility shall be required to furnish to the Harbormaster information regarding the number of passengers carried. Failure to provide such information to the Harbormaster on demand shall be a violation of this article.

Article VII - Sanitation Regulations

Section 1. Discharge of Refuse.

It shall be a violation of this Ordinance to discharge or permit the discharge into the waters of the harbor of any refuse or waste matter, petroleum or petroleum matter, paint, varnish or any other foreign matter, including dead animals, fish and bait.

Section 2. Responsibility for Sanitation of Facilities.

The owner, lessee, agent, manager or person in charge of a facility or water area adjacent to or within Scarborough Harbor shall at all times maintain the premises under her/his charge in a clean, sanitary condition, free from malodorous materials and accumulations of garbage, refuse, debris and other waste materials. Should the Harbormaster find that any facility or water area is not so maintained, he/she shall in writing notify said owner, lessee, agent, manager or other person in charge of said facility or area to immediately commence and diligently prosecute to completion of the necessary correction of the unsanitary condition to the satisfaction of the Harbormaster. Failure to do so with

reasonable dispatch shall be a violation of this Article, and the Harbormaster may then cause condition to be corrected and the cost of such correction shall be charged to said owner, lessee, agent, manager or person in charge. The owner, lessee, agent, manager or person in charge may appeal actions of the Harbormaster under this Section 2 as provided in Article X of this Ordinance. [amended 11/01/17]

Article VIII - Safety and Maintenance

Section 1. Welding and Burning.

Except at specially designated areas, open fires are prohibited within the harbor, except for stoves or fireplaces permanently installed on board and below decks on vessels or hibachis or barbecues [sic] used for cooking and/or heating purposes. Major repairs to vessels requiring welding or other open flame devices may be performed only upon special authorization by the Harbormaster and within the time period stipulated in such authorization. In the case of extreme emergencies notification is waived.

Section 2. Flammable and Combustible Liquids and/or Materials.

Within a Scarborough Harbor or Maritime facility no person shall sell, offer for sale, or deliver in bulk any class of flammable liquid or combustible material, nor dispense any flammable or combustible liquids into the fuel tanks of a vessel except when in compliance with all requirements of the N.F.P.A. Fire Code and any other laws or regulations applicable thereto.

Section 3. Obstruction to Docks and Walkways.

Obstructing docks and walkways within the harbor by mooring lines, water-hoses, electrical cables, boarding ladders, permanently fixed stairs or any other materials is strictly prohibited. Dinghies may not be left on the launch ramp, floats and piers, but may be stored only in areas designated for that purpose.

Section 4. Motor Vehicles. [adopted 02-20-13]

Motor vehicles are not to be left unattended on launch ramps or on the Public Pier. All motor vehicles are to be parked only in designated areas and motor vehicle operators are to comply with all parking regulations as posted by the Town of Scarborough.

Section 5. Defective or Dangerous Conditions.

Whenever any buildings, structures or floating facilities within or adjacent to Scarborough Harbor or a maritime facility either on land or water are found to be defective or damaged so as to be unsafe or dangerous to persons or property, it shall be the duty of the owner, agent, lessee, operator or person in charge thereof to immediately post a proper notice and/or fence or barricade and at night to adequately light such unsafe area or areas, and such unsafe area or areas shall be kept posted and lighted and/or fenced or barricaded until the necessary repairs are made. In the event and owner, agent, lessee, operator or person in charge fails or neglects to repair or to put up fences or other barriers to prevent persons from using or going upon the unsafe area or areas, the Harbormaster may then take such measures as he/she may deem necessary for the protection of the public and charge the cost of same to such owner, lessee, agent, person or persons having charge of the buildings, structures, or floating facilities that are defective or dangerous. The owner, lessee, agent, operator or person in charge may appeal actions of the Harbormaster under this Section 5 as provided in Article X of this Ordinance. [amended 11/01/17]

Article IX – Pier [Adopted 02-01-2012]

Section 1. Permit Required.

All users of the pier shall obtain a permit for use by the Harbormaster. There shall be a fee established for the permit, the proceeds of which shall be used to defray the costs of operation and provide for regular maintenance on the pier and related infrastructure.

Section 2. Establishment of Policies and Procedures.

- a) The Harbormaster, in consultation with the Committee, shall establish operating guidelines, policies and procedures relating to proper use and operation of the pier to ensure safety of users and to avoid damage to pier infrastructure.
- b) Such policies and procedures shall balance the needs of commercial and recreational use of the pier.

Section 3. Regulations Relating to Use.

- a) No vessel other than a permitted skiff shall be made fast to the town wharf except for twenty (20) minutes as required for loading or unloading. There shall be no overnight tie-ups. Exceptions may be made in emergencies only by permission of the harbormaster. No vessel other than the harbormaster's patrol boat shall tie up to the town wharf in the space marked for use by the harbormaster.
- b) No person shall store traps, bait, fishing gear, boats or waste materials on the float at Pine Point at any time. Traps, gear, etc., may be loaded and unloaded only.
- c) No person shall store any traps, bait, fishing gear, or waste material on floats for more than 24 hours for loading and unloading purposes throughout the year.
- d) The Town Council may make any and all other reasonable rules for the proper maintenance and use of any floats or wharves, which rule or regulation shall be in writing and shall be posted on the wharf and filed in the office of the Town Clerk.
- e) Rules and Regulations pertaining to all piers, floats and wharves controlled by said Town of Scarborough shall be posted in a conspicuous place on or adjacent to said piers, floats and wharves.
- f) Skiff's or Dinghy's may be left tied in designed areas of the float's provided they are used more than twice a week for the purpose of getting back and forth from there mooring.
- g) No boat or vessels at any time are to be left unattended in the area of the cranes on the front of the dock or floats.

Article X – Coastal Waters and Harbor Advisory Committee

[Adopted 02-01-2012]

Section 1. Establishment

There is hereby established a Coastal Waters and Harbor Advisory Committee consisting of five (5) voting members and two (2) alternate members serving without pay, to be appointed by the Town Council for staggered three (3) year terms. The Harbormaster shall attend and serve as staff support at all meetings of the Committee. A member of the Town Council shall serve as liaison to the Committee.

Section 2. Duties

The Committee shall:

- (a) Exist for the general purpose of studying and evaluating public usage of and boating access to coastal waters under the jurisdiction of the Town of Scarborough, working closely with the Harbormaster to advise the Town Council on all matters pertaining to the Coastal Waters and Harbor Ordinance;
- (b) Make recommendations for balancing the enhancement of harbor facilities with the conservation of natural, cultural and aesthetic resources for the long-term benefit for all stakeholders;
- (c) Propose regulations and policies on the use of waterways, navigational lanes, anchorage areas, town docking facilities and mooring areas, such regulations and policies shall be consistent with federal and state law;
- (d) Regularly inform the Town Council and other boards, committees, commissions or officials of the Town, as is appropriate, of its activities. Will present an annual report to the Town Council in December.

Section 3. Organization and Procedure.

The Committee shall adopt rules and regulation for the transaction of its business, which shall be subject to Town Council approval. The Committee shall maintain a permanent record of its proceedings and correspondence. All records maintained or prepared are deemed public and shall be filed in the Town Clerk's Office.

Article XI - Enforcement

This Ordinance may be enforced by the Harbormaster, assistant Harbormaster or any law enforcement officer vested with the authority to carry a weapon and make arrests. Violations shall be prosecuted as provided in 38 M.R.S.A. §12 (which incorporates the enforcement mechanism of 30-A M.R.S.A. §4452) and, where applicable, 38 M.R.S.A. §13.

Article XII - Appeals

Any action or decision of the Harbormaster as to which this ordinance expressly provides a right of appeals may be appealed to the Town Manager pursuant to this Article X. No other action, non-action, decision or determination of the Harbormaster is appealable under this Ordinance.

An appeal must be submitted in writing to the Town Manager no later than thirty (30) days after the action or decision appealed from. Upon receipt of a written appeal, the Town Manger shall promptly schedule an appeal hearing, giving notice to the applicant and to the Harbormaster of the date, time and place of the hearing. The appellant and the Harbormaster each shall have an opportunity to be heard and to present written and oral evidence. After the hearing the Town Manager shall promptly issue a written decision. There is no appeal under this ordinance from the decision of the Town Manager.

Article XIII - Repeal of Previous Regulations

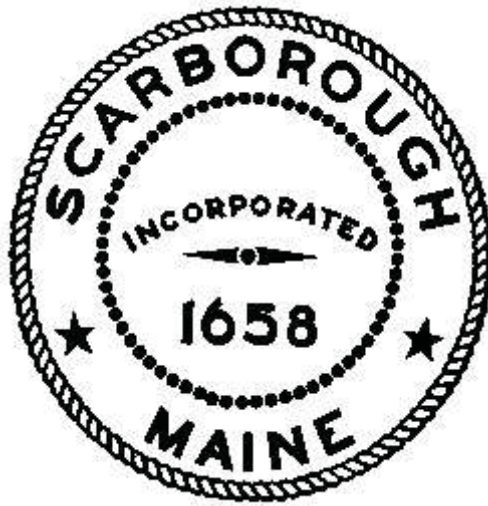
This Ordinance repeals and replaces the Ordinance Establishing Harbor Rules and Regulations for the Town of Scarborough and any other prior ordinances, rules or regulations inconsistent herewith.

CHAPTER 1009

TOWN OF SCARBOROUGH

COIN-OPERATED GAME MACHINES

ORDINANCE



Amended 11/2/83
Amended 09/06/95
Amended 09/05/01
Amended 06/21/06
Amended 11/01/17

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CHAPTER 1009
TOWN OF SCARBOROUGH
COIN-OPERATED GAME MACHINES ORDINANCE

Section 1. Title.

This Ordinance shall be known as the “Town of Scarborough Coin-Operated Game Machines Ordinance” and may be referred to by short title as the “Coin-Operated Machine Ordinance.” (amended 06/21/2006)

Section 2. Findings and Purposes.

The Town Council finds that the location of coin-operated game machines, as defined herein, can create problems for pedestrian and vehicular traffic; may create public safety problems with the congregation of minors; and may result in late hours and noisy conditions by minors to the detriment of surrounding residentially zoned properties, churches, and schools. Consequently, the Council determines that the regulation of coin-operated game machines as defined herein, by the issuance of annual licenses is necessary to promote the health, safety, and general welfare of the citizens of Scarborough. (amended 06/21/2006)

Section 3. Definitions.

Arcade:

A place or facility that is used primarily for playing coin-operated game machines for amusement and entertainment. Arcades shall only be allowed within campgrounds (camping and tenting areas) as an accessory use, subject to the licensing requirements of this Ordinance. (06/21/2006)

Coin-operated game machines:

Those machines normally denominated as such including, but not limited to, so called pinball, video, coin-operated or electronic games which, upon the insertion of a coin, slug, token, plate, or disc, may be operated by the public generally for use as a game or entertainment, whether or not registering a score. This definition shall include those machines, which would otherwise come within the meaning of this term except that they have been manufactured or modified to be operated by remote control. This definition does not include jukeboxes, bingo games, gambling devices, pool tables, or other similar machines. (06/21/2006)

Minor:

Any individual fifteen (15) years of age or younger, unaccompanied by his or her parent(s) or legal guardian(s).

Person:

Any individual, firm, corporation, association, partnership or organization.

Section 4. License Required.

No person shall keep, maintain, operate, lease or otherwise establish a coin-operated game machine or machines, or an arcade, as defined herein, in any premises, building, apartment, or place without having first obtained a non-transferable license from the Town Council for each such machine or arcade, and paying an annual license fee as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council. The Town Council shall grant the license(s) only if it finds the applicant is in strict compliance with the requirements of this article, all applicable Town ordinances, and all other requirements of law. A copy of the license shall be posted in a conspicuous manner near the coin-operated game machines or within the arcade facility. All licenses shall expire on June 30th of each year. (amended 06/21/2006)

No license shall be issued until the matter has first been advertised for public hearing, the cost of which shall be borne by the applicant, and a public hearing thereon has been held by the Town Council. No license shall be issued for any premises within 1000 feet of any school, or any area zoned residential under the terms of the Town's zoning ordinance; provided, however, that based upon a showing by the applicant that relaxation of the distance restriction contained in this section would not be detrimental to the public health, safety and general welfare and would not be inconsistent with the general purposes of this ordinance, the Town Council may waive said restriction; provided, further, at least five (5) affirmative votes shall be required for such a waiver. The 1000 feet distance shall be measured from the main entrance of the licensed premises and from the main entrance of any school by the ordinary course of travel and from the edge of the residential zoning boundary line.

Section 5. Notice of Hearing.

The Town Clerk shall give public notice of the public hearing on coin-operated game machine or arcade applications by publishing a notice in a newspaper of general circulation in the Town indicating the time and place of the public hearing, the nature of the matter to be heard, and the address or location or the property on which the coin-operated machine(s) or arcade is to be located. Notices shall also be sent to the owners of all property located within 500 feet of said property. For the purpose of this section, the owners of property shall be considered to be persons listed by the Town Assessor as those against whom municipal real estate taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing nor invalidate any action of the Town Council on such application. (amended 06/21/2006)

Section 6. Application and Information.

Every applicant for a coin-operated game machine or arcade license shall:

- (a) Complete and file an application on a form prescribed by the Town Clerk;
- (b) Deposit the prescribed license fee in with Town Clerk;
- (c) Submit the completed application to the Town Clerk, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation, or

- articles of association and bylaws, if the applicant is an association, as well as a list of all officers and directors; and
- (d) File an affidavit which will identify all owners, officers, managers, or partners of the applicant and their places of residence at the time of the application or false or misleading information in an application for a license shall be a violation of this article and shall be grounds for denial of the application or revocation of any licenses previously granted;
 - (e) Pay the required processing and application fee and the costs of publishing and mailing notices.

If an applicant should be denied or withdrawn, the license fee shall be refunded to the applicant except for an amount sufficient to cover the cost of any advertising or mailing of notice. (amended 06/21/2006)

Section 7. Qualifications of Officers.

No applicant nor any owner, officer, manager, or partner of an applicant shall have been convicted of a crime involving moral turpitude, nor of violating any of the gambling, drug or prohibitive liquor laws of either the United States or the State of Maine or any other state within the five (5) years immediately preceding the date of application. Each such applicant or officer, owner, manager or partner shall file the release authorized by 16 M.R.S.A. Section 620(6) (Criminal History Record Information Act) with the application. Failure to provide such release shall be grounds for denial of the application.

Section 8. Investigation of Applicant.

Upon receipt of each application for a coin-operated game machine license, or arcade license or notice of a change of owners, officers, managers or partners of the applicant:

- (a) The Code Enforcement Officer shall verify that the premises at which the coin-operated game machine(s) or arcade is to be located complies with all applicable ordinances of the town including, but not limited to, the building code, electrical code, plumbing code and zoning ordinance and shall report her/his findings in writing to the Town Council; [amended 11/01/17]
- (b) The Town Clerk shall review the application and other documents and determine whether such documents comply with all of the requirements of this article and shall report such findings in writing to the Town Council;
- (c) The Fire Chief or her/his agent shall inspect the proposed location to determine if all laws, ordinances or regulations concerning fire and safety have been satisfied and shall submit her/his report in writing to the Town Council; and [amended 11/01/17]
- (d) The Police Chief or her/his agent shall investigate the application, including the criminal history record information required under this Ordinance, and shall report herhis findings in writing to the Town Council. [amended 11/01/17]

All reports required under this article shall be filed with the Town Clerk who shall forward them to the Town Council. (amended 06/21/2006)

Section 9. Age Restrictions.

No person, firm, corporation or association holding a license under this article shall permit or allow any minor, as defined herein, to play or operate any such coin-operated game machine in or on the licensed premises during time(s) of public school sessions in the Town or after 9:00 o'clock P.M., prevailing time, on evenings prior to such public sessions. It shall be the responsibility of the applicant to ensure compliance with the terms of this section, and failure to do so shall be grounds for license revocation. (amended 06/21/2006)

Section 10. Maximum Number of Machines.

(a) There shall be no more than three (3) machines at a single business premises (excluding an arcade), provided, however, that based upon a showing by the applicant that an increase in the maximum number of coin-operated game machines at a single business premises would not be detrimental to the public health, safety, and general welfare and would not be inconsistent with the purposes of this Ordinance. The Town Council may increase the maximum number of coin-operated game machines on a case by case basis, but any such waiver shall require at least five (5) affirmative votes.

(b) The maximum number of coin-operated game machines at an arcade shall be twenty-five (25). The Town Council may increase the maximum number of coin-operated game machines within an arcade on a case-by-case basis, but any such waiver shall require at least five (5) affirmative votes. (amended 06/21/2006)

Section 11. Suspension or Revocation of License.

A license to operate coin-operated game machines may be denied, suspended or revoked by the Town Council for either violation of, or failure to comply with, any of the provisions of this article or with the provisions of any other applicable ordinance of the Town. Determination of the severity of the violation and whether a denial, suspension, or revocation is warranted shall be made by the Town Council after notice and hearing. (amended 06/21/2006)

Section 12. Appeals.

An appeal from any final decision of the Town Council may be taken by any party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

Section 13. Penalty.

In addition to any action which the Town Council may take, violation of any provision of this article shall be a civil offense and a fine not exceeding One Hundred Dollars (\$100.00) may be imposed. Each day that a violation continues shall be treated as a separate offense.

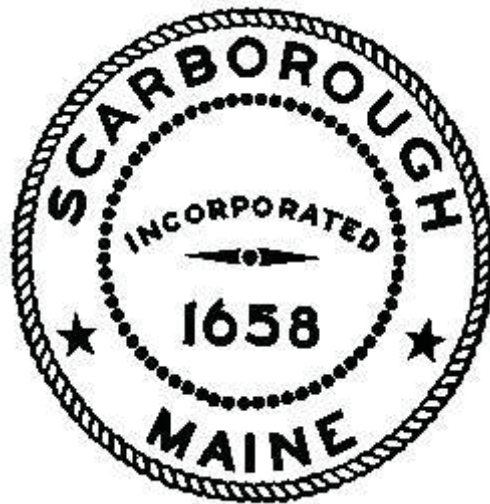
Section 14. Renewals. (amended 09/05/2001)

Licenses issued under this ordinance must be renewed annually. Renewal licenses may be issued by the Town Clerk, provided that the holder of the existing license makes application for renewal on or before June 30th. If the holder applies for renewal on or before June 30th, the existing license shall remain in effect until final action on the renewal application. Otherwise, the existing license shall expire on June 30th and an application for a new license must be filed. The Clerk shall process and issue renewal licenses in the same manner as the Town Council processes and issues new licenses, except that no public hearing is required for a renewal. The Clerk may renew a license only if the Clerk is satisfied that the application meets all the requirements of this ordinance. If the Clerk is not satisfied that the application meets all the requirements of this ordinance, the Clerk shall refer the application to the Town Council, which shall process the application in the same manner as an application for a new license.

CHAPTER 608A

TOWN OF SCARBOROUGH

CONSUMER FIREWORKS ORDINANCE



ADOPTED MARCH 7, 2012
AMENDED JUNE 21, 2017 & EFFECTIVE JULY 20, 2017

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RESPECT YOUR NEIGHBORS CONSUMER FIREWORKS GUIDELINES	
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**CHAPTER 608A
TOWN OF SCARBOROUGH
CONSUMER FIREWORKS ORDINANCE**

SECTION I: Purpose

This Ordinance regulates the use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Scarborough and of the general public.

SECTION II: Title and Authority

This Ordinance shall be known as the "Town of Scarborough Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. § 3001, and the provisions 8 M.R.S.A. § 223-A.

SECTION III: Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer Fireworks – "Consumer fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:

- A. Missile-type rockets, as defined by the State Fire Marshal by rule;
- B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- C. Sky rockets and bottle rockets. For purposes of this definition, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

SECTION IV: Use of Consumer Fireworks Restricted

A person shall not use, display, fire, or cause to be exploded (collectively, "Setting Off") consumer fireworks within the Town of Scarborough or in or from any watercraft within waters of the Town except upon the following conditions:

- a) Upon submission of a Notification of Intent to the Scarborough Fire Department in the form appended hereto as Appendix A or through the town's website at www.scarboroughmaine.org/fireworks
- b) Only during the following days and times:
 - i. July 3rd and 4th and December 31st and January 1st, beginning at 9:00 a.m. and ending at 10:00 p.m.

SECTION V: Violation and Enforcement

- a) **PENALTY FOR VIOLATION:** Any person who violates the provisions of this Ordinance and the owner of any property upon which any violation of the ordinance occurs, shall commit a civil violation punishable by a penalty of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) plus attorney's fees and costs to be recovered by the Town of Scarborough for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.
- b) **ENFORCEMENT:** This Ordinance shall be enforced by the Town of Scarborough Police Department.
- c) **INJUNCTION:** In addition to any other remedies available at law or equity, the Town of Scarborough, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.
- d) **SEIZURE & DISPOSAL OF CONSUMER FIREWORKS:** The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

SECTION VI: Exceptions

This Ordinance does not apply to a person or group of persons issued a fireworks display permit by the Town of Scarborough pursuant to the Town of Scarborough Fireworks Display Ordinance, Chapter 608, and/or the State of Maine in accordance with 8 M.R.S.A. §§ 227-A to 237.

The regulation of the display of fireworks shall otherwise be as provided for in the Town of Scarborough Fireworks Display Ordinance, Chapter 608, and any other applicable state or federal law or regulation.

SECTION VII: Severability

In the event that any section, subsection or portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

SECTION VIII: Notice

Any authorized retailer for the sale of Consumer Fireworks in the Town of Scarborough shall provide written notice at the time of sale to all purchasers of Consumer Fireworks at their Scarborough retail stores that Notification of Intent, as set forth in SECTION IV above is required for use of Consumer Fireworks in the Town of Scarborough.

Appendix A

Consumer Fireworks Notification of Intent

Name: _____ Date: _____

Address: _____ Phone: _____

Email Address: _____ [Optional]

Location Requested: _____

Dates Requested: _____

I understand that this Notification of Intent applies only to the dates listed and may be made null by the Scarborough Fire Department if weather conditions so warrants.

If the location is other than a property owned by me, I have permission of the owner of the property.

I have liability insurance for any bodily injury or property damage that may result from fireworks use.

If have read the Respect Your Neighbors Guidelines of the Town of Scarborough, attached hereto and agree to follow its terms.

Signature of Applicant

=====

Official Use Only

Date Received: _____

Authorized Signature

Date signed

Town of Scarborough
Respect Your Neighbors Consumer Fireworks Guidelines

- Use fireworks strictly in accordance with the submitted notification.
- Do not use fireworks after 10:00 p.m. on the days allowed.
- Do not use fireworks in any way that could unreasonably infringe upon your neighbors' safety or peaceful enjoyment of their property.
- Inform your neighbors in advance where and when you are planning to use fireworks.
- Do not use fireworks near animals or livestock that may become frightened.
- Only set off fireworks in areas where no fireworks debris will fall on your neighbors' property or any environmentally sensitive areas (e.g., beaches, marshes or wetlands).
- Do not permit anyone under the age of 21 to use fireworks.
- Carefully follow the safety instructions provided by the Seller of the fireworks.

CHAPTER 1001
TOWN OF SCARBOROUGH
ORDINANCE REPEALING THE
“TOWN OF SCARBOROUGH DANCE HALL ORDINANCE”
ENACTED OCTOBER 14, 1994

Be it hereby ordained by the Town Council of the Town of Scarborough, Maine, in Town Council Assembled, as follows:

The Ordinance entitled “Town of Scarborough Dance Hall Ordinance,” as the same, has been enacted by the Town Council of the Town of Scarborough, is hereby repealed.

CHAPTER 1001
TOWN OF SCARBOROUGH
DANCE HALL ORDINANCE

Section 1. As used in this Ordinance, unless the context otherwise indicates:

“Public dance hall” shall mean:

- (a) Any building, room, hall or other public place which is kept or used for public dancing;
- (b) Space for dancing in a tavern or in a restaurant where there is sale or service of food to the public;
- (c) Space for dancing in a hotel or motel where there is sale or service of food to the public;
- (d) A school where dances are held under the direct supervision of the school authorities.

Section 2.

(a) No person, firm or corporation shall conduct or maintain a public dance hall as defined in Section 1 hereof until a license therefor shall have been granted by the Municipal Officers.

(b) The Municipal Officers shall not grant a public dance hall license for any tavern; nor shall they grant any public dance hall license to any restaurant, motel or hotel unless the restaurant, hotel or motel is a reputable place operated by responsible persons of good reputation, equipped for preparing and serving food on the premises, and doing a minimum of \$50,000 per year in sale and service of food to the public on the premises. If the restaurant is operated on a part time basis, no public dance hall license shall be granted or issued unless the restaurant does a minimum of \$30,000 per year in sale and service of food to the public on the premises. The Municipal Officers in case of an applicant for a public dance hall license in a restaurant, hotel or motel are authorized to and shall exercise their judgment as to the applicant's probable qualifications with the food income provisions during the applicant's initial license period. If the judgment of the Municipal Officers is that the applicant would probably qualify with respect to the food income provisions, then a public dance hall license may be issued to the applicant. In no case shall the Municipal Officers renew any public dance hall license unless they are furnished with satisfactory sworn and audited proof that the previous year's business conformed to the food income requirements.

Section 3.

Application for a public dance hall license shall contain the name of the owner or person in control of the building, the location of the public dance hall, a plan of such public dance hall giving in detail the dimensions and diagram of the space to be used for dancing, check rooms, toilet rooms,

entrances, exits, stairways and fire escapes. The fee for a public dance hall license shall be \$10.00 and such license shall expire on December 31 of each year.

Section 4.

Before an application for a public dance hall license is acted upon by the Municipal Officers, the Building Inspector, Chief of the Fire Department, and Chief of Police shall inspect the premises and file with the Town Clerk to be attached to said application a written report indicating whether such premises conforms to the applicable ordinances of the Town of Scarborough.

Section 5.

Dances shall not be held in any public dance hall on Sunday, and at each dance police supervision satisfactory to the Chief of Police shall be provided at the sole cost and expense of the licensee.

Section 6.

The Municipal Officers are specifically authorized to make such rules and regulations not inconsistent with the provisions of this Ordinance or any State Statute, as they deem necessary for carrying out the purposes of this Ordinance. Such rules and regulations shall be filed with the Town Clerk and shall be given to each licensee when the license is issued.

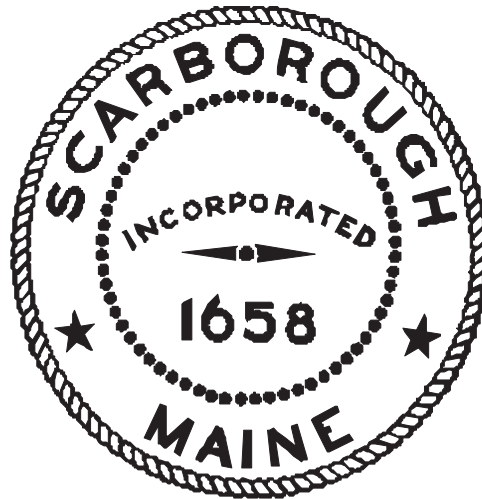
Section 7.

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), to be recovered on complaint to the use of the Town of Scarborough. Each day such violation occurs or continues shall constitute a separate offense.

CHAPTER 415

TOWN OF SCARBOROUGH

IMPACT FEE ORDINANCE



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

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

CHAPTER I - General Provisions

1. Authority.

This ordinance is enacted pursuant to the authority of 30-A M.R.S.A. § 4354 and 30-A M.R.S.A. § 3001.

2. Purpose.

The Scarborough Town Council, having commissioned and reviewed an Impact Fee Feasibility Analysis dated September 2001, has determined that new development creates demands on municipal government to provide new public facilities and to expand, improve or replace existing public facilities. The Town Council concludes that in order to provide an equitable source of funding for such new, expanded, improved or replacement facilities, it is appropriate to establish a program of development impact fees and to charge a proportionate share of the costs of new, expanded, improved or replacement facilities to the developers and/or occupants of the developments which make the new, expanded, improved or replacement infrastructure necessary.

3. Definitions.

Unless otherwise defined in this ordinance, terms used in this ordinance shall have the same meanings as defined terms in Zoning Ordinance of the Town of Scarborough, Maine ("Zoning Ordinance"). The following terms shall have the following meanings:

Affordable Housing Unit: A dwelling unit developed by a governmental agency or by a non-profit housing corporation (as defined in 30-A M.R.S.A. § 5002) which is permanently restricted by recorded deed restriction or covenant and/or regulatory restriction to occupancy only by lower income households, as that term is defined in 30-A M.R.S.A. § 5002.

4. Use of Impact Fees.

Impact fees collected by the Town pursuant to this ordinance may be used only for financing facility improvements which the Town Council has determined are made necessary by new development. The Town Council has determined that fees imposed by schedules in subsequent chapters of this ordinance are reasonably related to the demands created by new development and are reasonably related to the portion or percentage of existing infrastructure used by new development. Impact fees collected pursuant to this ordinance shall be used exclusively for capital improvements, and shall not be used for operational expenses. The Town of Scarborough shall expend funds collected from impact fees solely for the purposes for which they were collected.

5. Segregation of Impact Fees from General Revenues.

Impact fees collected pursuant to this ordinance shall be maintained by the Town Treasurer in a separate impact fee account and shall be segregated from the Town's general revenues. The

Town Treasurer shall deposit impact fees in special non-lapsing accounts dedicated for funding of the improvements for which the fee is collected.

6. Collection of Impact Fees.

a. Payment of Impact Fees

The Code Enforcement Officer of the Town of Scarborough shall not issue any building permit required under the Zoning Ordinance until the applicant has paid any impact fees required by this ordinance or has recorded an agreement for deferral of impact fees pursuant to Chapter 1, Section 6, Subsection (b) below. Upon collecting such impact fee, the Code Enforcement Officer shall remit the funds to the Town Treasurer who shall deposit the funds as required in Section 5 above. The Code Enforcement Officer shall make a record of the name and mailing address of the applicant paying the impact fee, the tax map and lot numbers of the property for which the impact fee is collected, the amount collected, and the date the impact fee is received, and shall maintain such record in the files relating to the property for which the impact fee was paid.

b. Deferral of Impact Fees

Where the applicant for a building permit is over 55 years of age, has owned and occupied an existing single-family dwelling in Scarborough at any time during the previous 12 months and seeks the building permit in order to construct a new single-family dwelling which the applicant will own and occupy in place of the existing dwelling, the Town treasurer may enter into an agreement to defer collection of all or part of the impact fees imposed by this ordinance until such time as ownership of the new dwelling is transferred to any person except a person who is a surviving joint tenant or heir of the applicant and is both over 55 years of age and a resident of the dwelling at the time of the transfer. Such agreement shall be in writing, shall be joined by all owners of the property, including mortgagees and lien holders of record at the time of execution of the agreement, shall by its terms create a consensual lien on the property, shall be binding on the applicant's heirs, successors and assigns, and shall be recorded in the Cumberland County Registry of Deeds by the applicant prior to the issuance of the building permit.

7. Refund of Unused Impact Fees.

Impact fees collected pursuant to this ordinance shall be utilized by the Town according to the schedules specified in subsequent chapters of this ordinance for the completion of specific capital improvements, but in no event later than ten years after the date upon which the impact fee was collected. Any impact fees which are not so utilized and any impact fees collected which exceed the Town's actual costs of implementing the infrastructure improvements for which such fees were collected shall be refunded. Refunds shall be paid to the owner of record of the property for which the impact fee was collected, determined as of the date the refund is made.

8. Amendment of Fees.

The impact fees established in this ordinance are based upon the Town Council's best estimates of the costs of the construction of the facilities for which the fees are collected and, where appropriate, upon estimates of state and/or federal funding contributions. The Council may, by amendments to

this ordinance, change the amounts of the impact fees from time to time as warranted by new information or changed circumstances.

8.A. Inflation Adjustment.

The impact fees established by the Town Council in this ordinance shall be adjusted annually by the Town Treasurer to account for inflation. Commencing on February 1, 2003 and on each February 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. [March 3, 2003]

9. Impact Fee Not Required for Replacement Dwelling Units.

An impact fee shall not be required for:

- (a) the placement or construction on a lot of a dwelling unit which replaces a dwelling unit which was located on the same lot at any time between January 3, 2000 and January 3, 2002;
- (b) the placement on a mobile home park site of a mobile home which replaces a mobile home which was located on the same site at any time between January 3, 2000 and January 3, 2002;
- (c) the placement or construction on a lot of a dwelling unit which replaces a dwelling unit which is or was located on the same lot and for which an impact fee has already been paid under this ordinance; or
- (d) the placement on a mobile home park site of a mobile home which replaces an existing mobile home which is or was located on the same site and for which an impact fee has already been paid under this ordinance.

10. Severability.

Should any section or provision of this ordinance be determined in a court to be unconstitutional, invalid or unenforceable, such determination shall not affect the validity of any other portion of the ordinance or of the remainder of the ordinance as a whole.

CHAPTER II - School Impact Fees

1. Use of School Impact Fees.

The fees collected under this chapter of this ordinance shall be used to fund one or more of those projects identified in the major capital improvement applications submitted to the Maine Department of Education, dated July 26, 2001, for the Scarborough Middle School, the Scarborough High School, the Wentworth Intermediate School and the primary schools, the Town Council having determined that a portion of the costs of such school projects is made necessary by the projected increases in enrollment due to anticipated new residential housing construction. Those improvements are scheduled to be completed by January 3, 2012, unless the completion dates are extended by order of the Town Council.

2. Calculation and Collection of School Impact Fees.

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

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

3. Exemptions.

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

4. Impact Fees to Terminate Upon Completion of Projects.

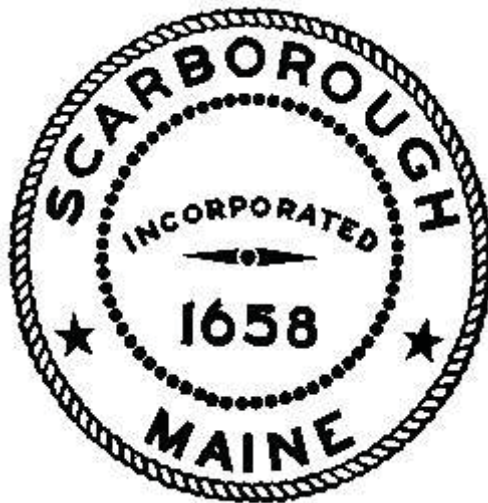
When the school projects identified in Chapter II, Section 1 above have been completed and all debt incurred in connection therewith has been repaid, the Town Council shall amend this ordinance either by repeal of this chapter, or by amendment of this chapter if circumstances at the time warrant the continuation of school impact fees.

CHAPTER 900

TOWN OF SCARBOROUGH

PUBLIC AND PRIVATE DUMP

ORDINANCE



Reference, Council Book 8 - August 3, 1988
Amended November 1, 2017

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**CHAPTER 900
TOWN OF SCARBOROUGH
PUBLIC AND PRIVATE DUMPS**

Section 1. PUBLIC DUMPS ESTABLISHED; WASTE MATTER NOT TO BE DUMPED ELSEWHERE.

The Supervisor of Public Works, with prior approval of Municipal Officers and Health Officer, shall designate certain places as public dumping grounds for the dumping or depositing of any refuse, rubbish, or other waste material. The dumping or depositing of any refuse, rubbish, or other waste material by any person at any other place than at such designated public dumping grounds, except as hereinafter provided, shall be unlawful and a violation of the provision of this Ordinance.

Section 2. PERMIT MAY BE ISSUED FOR FILL PURPOSES.

The Supervisor of Public Works, upon written application therefor, may grant a permit to the owner of any lot, or to any other person with the consent of such owner, to dump or deposit refuse, rubbish or other waste material of a similar nature upon such lot for filling in purposes. It shall be unlawful and a violation of the provisions of this Ordinance for an owner of any lot, to dump or deposit on her/his own lot any refuse, rubbish, or other waste material, or permit any other person so to do, without a written permit from the Supervisor of Public Works. [amended 11/01/17]

Section 3. USE OF PUBLIC DUMPS.

Any public dump established or designated under Section 1, of this Ordinance shall be for the use of the citizens of Scarborough and such refuse, rubbish, or other waste material shall originate in said Town of Scarborough or be the result of commercial or industrial processing within the Town of Scarborough.

Section 4. ENFORCEMENT.

The Supervisor of Public Works shall notify the Chief of Police of the location of any public dumping ground designated by her/him, and of every private fill for which he/she has issued a permit, and it shall be the duty of the Chief of Police to order the removal of every deposit or accumulation of refuse, rubbish, or waste material upon private property other than those made in conformity with the provisions of this Ordinance. [amended 11/01/17]

Section 5. FAILURE TO REMOVE.

Every owner or occupant of any premises, and every landlord or agent of a landlord having general charge of the same, or any other person, who shall throw, dump, or deposit any refuse, rubbish or waste matter of a similar nature upon any such premises without the permit hereinbefore specified shall, after order by the Chief of Police, remove such refuse, rubbish or waste material and matter, so thrown, dumped or deposited on such premises to a designated dumping ground within forty-eight hours after receiving such order.

Section 6. DUMPING ON PREMISES OF OTHERS.

It shall be unlawful for any person who, without authority from the owner of the premises, dumps or deposits upon such premises, not his/her own, any refuse, rubbish, or other waster material of a similar nature, or any ashes, cinders, rock, concrete, asphalt or other similar matter. [amended 11/01/17]

Section 7. DUMP PICKING PROHIBITED.

It shall be unlawful for any person to take, remove, or carry away any refuse, rubbish or other waste material of any kind or nature from or about any public dumping ground so designated above without a permit from the Supervisor of Public Works.

Section 8. PENALTY.

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than one hundred (\$100.00) dollars plus costs which shall be recovered on complaint to the use of the Town of Scarborough. Each day in which a violation occurs shall be deemed to constitute a separate offense.

**Rules and Regulations of Private Dumping Permits
Issued by Supervisor of Public Works**

1. Locations of dumping or fill area shall be maintained in accordance with state statutes as to Forest Fire Regulations.
2. Dumping or fill area must be maintained in a manner to prevent debris from escaping from area by the means of solid fill at necessary intervals.
3. When dumping or fill area is complete or discontinued it shall be left in a level manner with a clean solid type fill to level grade of surrounding area.
4. Compliance with above rules and regulations is the responsibility of the owner of property.

TOWN OF SCARBOROUGH

I, _____, being the owner of property located at (describe property and particularly the area to be filled) in Scarborough, Maine, do hereby apply to the Supervisor of Public Works for a permit to dump or deposit refuse, rubbish, or other waste material of a similar nature upon said property for filling in purposes.

Dated at Scarborough this _____ day of _____, 19__.

PERMIT

I, _____, Supervisor of Public Works for the Town of Scarborough, Maine, do hereby grant a permit to _____ to dump or deposit, or to permit others to dump or deposit with her/his consent, refuse, rubbish or other waste material of a similar nature upon property of the said _____ located in Scarborough, Maine, and described above, for filling in purposes. Said dumping shall be in accordance with such rules and regulations as may be required or established by the Supervisor in order to maintain sanitary conditions in the dump and surrounding area. Said permit shall expire _____ months from the date hereof, unless previously revoked because of violations or refusal to comply with the rules and regulations.

Dated at Scarborough, Maine, this _____ day of _____, 19__.

Supervisor of Public Works

CHAPTER 1102
TOWN OF SCARBOROUGH
ORDINANCE FOR CONTROL OF DUTCH ELM DISEASE

Reference: Record Book #12 - Regular Town Meeting, March 13, 1965, page 40, Article 44.

1. The Municipal Officers or their designated agents, may enter private grounds, with or without the owner's permission, to make inspection thereon for the purposes of determining the presence of Dutch Elm Disease and of determining the necessary control measures and sanitation measures to prevent the infection and spread of Dutch Elm Disease.

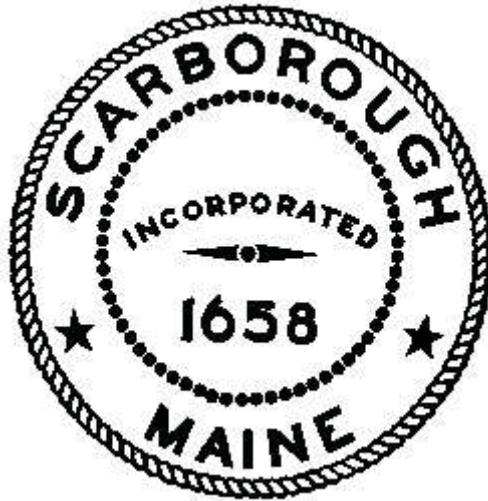
2. When said Municipal Officers, or their designated agents, shall find it necessary to order the removal of trees on private premises or to order sanitation work to correct a condition not complying to the standards of elm tree programs as set forth by the State Forestry Service, they shall serve a written notice upon the owner, operator, occupant or other person in charge of such private premises that the Town intends to correct the condition.

- a. By making personal delivery of such notice to such owner, operator occupant, or other person in charge of said premises.
- b. By leaving the notice with some person of suitable age and discretion upon said premises.
- c. By affixing a copy of the order upon any building or structure located on said premises.
- d. By mailing a copy of the notice to the owner of said premises as contained on the tax records of the Town of Scarborough.

3. The Municipal Officers, or their designated agents, shall have the authority, with or without permission, to enter upon the premises and remedy the condition, or shall have the authority to contract with others for such purpose. Any person, firm, or corporation having any such contract shall also have authority, with or without permission, to enter upon the premises for the purpose of remedying the condition.

4. The Town of Scarborough, its Municipal Officers, agents, servants, and or employees exercising authority under the foregoing sections shall be liable for no damages except those occasioned by negligence.

CHAPTER 613
TOWN OF SCARBOROUGH
EMERGENCY MANAGEMENT
ORDINANCE



Adopted December 21, 2005
Amended November 1, 2017

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CHAPTER 613

TOWN OF SCARBOROUGH

EMERGENCY MANAGEMENT ORDINANCE

Purpose

It is the intent and purpose of this Ordinance to establish an Emergency Management Agency in compliance and in conformity with the provisions of Title 37-B, MRSA, Section 781 et seq., to ensure the complete and efficient utilization of the Town's facilities and resources to combat disaster as defined herein.

Definitions

The following definitions shall apply in the interpretation of this ordinance:

Emergency Management Agency. “Emergency Management Agency” means the agency created under this ordinance for the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, in order to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy or terrorist attacks, sabotage, riots or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, firefighting, police, medical and health, emergency welfare, rescue, engineering, public warning and communications services; evacuation of persons from stricken areas; allocation of critical materials in short supply; emergency transportation; other activities related to civilian protection and other activities necessary to the preparation for the carrying out of these functions.

Emergency Management Agency Forces. “Emergency Management Agency Forces” shall mean the employees, equipment and facilities of all town departments, boards, institutions and commissions; and in addition, it shall include all volunteer persons, equipment and facilities contributed by or obtained from volunteer persons or agencies.

Director. “Director” means the director of the Town of Scarborough Emergency Management Agency, appointed as prescribed in this ordinance.

Disaster. “Disaster” means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, critical material shortage, infestation, explosion or riot.

Organization

The Town Manager shall be responsible for the agency's organization, administration and operation. The Town Manager may employ such permanent or temporary employees as he/she deems necessary and prescribe their duties. [amended 11/01/17]

The Town Council shall review the existing operational organization to ascertain the agency's ability to cope with its responsibilities and shall approve the Town's Emergency Operations Plan.

Appointment of Director; Duties and Responsibilities

The Town Council shall appoint an Emergency Management Director, who shall coordinate the activities of all town departments, organizations and agencies for civil emergency preparedness within the town and maintain a liaison with other emergency management agencies, public safety agencies, and have such additional duties as prescribed by the Town Manager.

Rules and Regulations

The Emergency Management Director shall prepare, under the direction of the Town Manager, such policies as may be deemed necessary for the administration and operational requirements of the agency, which policies must be approved by the Town Council prior to becoming effective.

Emergency Proclamation

The Town Manager shall have the power and authority, after consultation with the Chairperson of the Town Council, to issue a proclamation that an emergency exists whenever a disaster or civil emergency exists or appears imminent. The proclamation may declare that an emergency exists in any or all sections of the town. If the Town Manager is temporarily absent from the town or otherwise unavailable, the person designated by the Town Manager under Section 305 of the Town Charter may issue the proclamation that an emergency exists. If neither the Town Manager nor the person designated to act in the Town Manager's absence is available, then the following persons shall have the power and authority to issue a proclamation that an emergency exists, in the following order of succession: the Emergency Management Director, the Fire Chief, the Police Chief, and the Public Works Director. A copy of such proclamation shall be filed within twenty-four (24) hours in the office of the town clerk.

Notwithstanding the above, when consultation with the chairperson of the Town Council would result in a substantial delay in an effective response in alleviating or preventing an emergency or disaster, the Town Manager, or her/his successor as outlined above, is authorized to take whatever actions are necessary to prevent the loss of life and property in the town. [amended 11/01/17]

The Town Manager and the Emergency Management Director shall be responsible for submitting a full report to the Town Council of all actions taken as a result of the declared emergency as soon as the Town Council can be convened.

Termination of Emergency

When the Town Manager or his successor as outlined above is satisfied that a disaster or civil emergency no longer exists, he/she shall terminate the emergency proclamation by another proclamation affecting the sections of the Town covered by the original proclamation, or any part thereof. Said termination of emergency shall be filed in the office of the town clerk. [amended 11/01/17]

No state of emergency may continue for longer than five (5) days unless renewed by the Town Council.

Town Manager's Duties and Emergency Powers

During any period when an emergency proclamation is in effect, the Town Manager may promulgate such regulations as he/she deems necessary to protect life and property and to preserve critical resources within the purposes of this ordinance. Such regulations may include, but are not limited to, the following: [amended 11/01/17]

1. Regulations prohibiting or restricting the movement of vehicles in areas within or without the town;
2. Regulations facilitating or restricting the movement of persons within the town;
3. Regulations pertaining to the movement of persons from hazardous areas within the town;
4. Such other regulations necessary to preserve public peace, health and safety.

Nothing in this section shall be construed to limit the authority or responsibility of any department to proceed under powers and authority granted to them by state statute, town ordinance or the charter of the Town of Scarborough.

The Town Manager or her/his designee may order the evacuation of persons from hazardous areas within the town. [amended 11/01/17]

The Town Manager or her/his designee shall be authorized to request aid or assistance from the state or any political subdivision of the state and may render assistance to other political subdivision under the provisions of Title 37-B, M.R.S.A. [amended 11/01/17]

The Town Manager may obtain vital supplies, equipment and other items found lacking and needed for the protection of health, life and property during an emergency without following normal purchasing or formal bid procedures.

The provisions of this section will terminate at the end of the declared emergency.

Emergency Operational Plans

The Emergency Management Director shall prepare an all hazard emergency operational plan for the town, which shall be submitted to the Town Council for approval.

It shall be the responsibility of all municipal departments and agencies to perform the functions assigned and to maintain their portions of the plan in a current state of readiness. The town plan shall be reviewed periodically by the Town Manager in conjunction with all the town department heads and the Emergency Management Director.

Immunity from Liability

All Emergency Management Agency Forces, while engaged in Emergency Management Agency activities, shall be immune from liability, as set forth in Title 37-B, Section 822 M.R.S.A.

Compensation for Injuries

All of Emergency Management Agency Forces shall be deemed to be employees of the state when engaged in training or on duty and shall have all of the rights of state employees under the Workmen's Compensation Act, as set forth in Title 37-B, Section 823 M.R.S.A.

Violation of Regulations

It shall be unlawful for any person to violate any provisions of this ordinance or of the regulations or plans issued pursuant to the authority contained herein, or to obstruct, hinder or delay any Emergency Management Agency Forces as herein defined in the enforcement of the provisions of this ordinance or any regulation or plan issued hereunder.

Penalty

Any person, firm or corporation violating any provision of this ordinance or any rule or regulation promulgated hereunder, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) and the costs of prosecution.

Severability

Should any provisions of this ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions or of this ordinance as a whole, it being the legislative intent that the provisions of this ordinance shall be severable and remain valid notwithstanding such declaration.

Conflicting Ordinances, Orders, Rules and Regulations Suspended

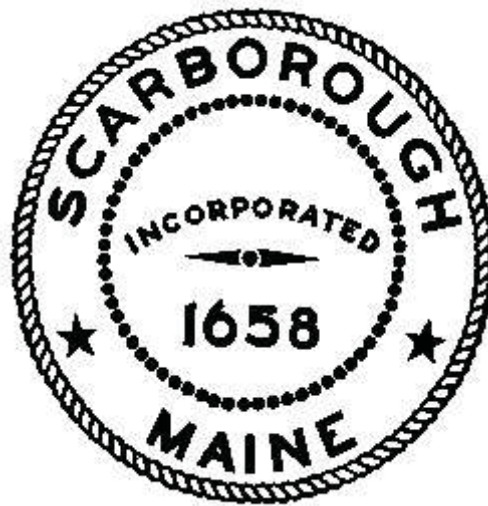
At all times when an emergency proclamation is in effect, the orders, rules and regulations made and promulgated pursuant to this ordinance shall supersede all existing ordinances, orders, rules and regulations, insofar as the latter may be inconsistent herewith.

CHAPTER 408

TOWN OF SCARBOROUGH

EXTRACTIVE INDUSTRY

AND LAND RECLAMATION ORDINANCE



Adopted July 5, 1978
Amended September 6, 1995
Amended May 1, 1996
Amended November 3, 2004
Amended November 16, 2005
Amended November 1, 2017

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CHAPTER 408
TOWN OF SCARBOROUGH
EXTRACTIVE INDUSTRY AND LAND RECLAMATION ORDINANCE

Section 1. TITLE

This ordinance shall be known and may be cited as the "Extractive Industry and Land Reclamation Ordinance of the Town of Scarborough, Maine."

Section 2. PURPOSE AND INTERPRETATION

This ordinance regulates the operation of extractive industries and land reclamation projects; defines extractive industry and land reclamation, requires approval by the Planning Board of Extractive Industries and land reclamation projects before any work may commence, and establishes procedures therefore; establishes the minimum standards for project design and operation; and prescribes penalties for the violation of its provisions. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Nothing in this ordinance shall prohibit the Planning Board from imposing stricter standards when deemed necessary to accomplish the purpose of the ordinance.

Section 3. DEFINITIONS

For the purpose of this ordinance, certain terms used herein are defined as follows:

Extractive Industry:

The removal of top soil, rock, sand, gravel, and similar earth materials, or mining operations except as is incidental to any other activity conducted pursuant to receipt of a permit issued by the Town of Scarborough.

Land Reclamation:

Any action which restores land to its natural state or allows full utility of land, except as is incidental to any other activity conducted pursuant to a permit issued by the Town of Scarborough.

Active Status:

Active status for extractive industries shall mean the operation of an extractive industry for remuneration for at least six months per year for the three year period immediately preceding the effective date of this ordinance. The board shall require evidence which may include cash receipts, affidavits, verbal testimony, photographs, or other information to be presented on which to grant active status.

Rehabilitation Plans:

Rehabilitation plans shall be plans that identify the intent of the owner of any extractive industry to rehabilitate the site of an extractive industry to a natural state by filling, landscaping, or other

means acceptable to the Planning Board. Such plans shall conform to the requirements contained herein.

Section 4. EXTRACTIVE INDUSTRIES

4.1 Within ninety days from the effective date of this ordinance all owners of extractive industries operating within the Town of Scarborough must formally declare to the Planning Board in writing whether they are actively functioning or whether they have become inactive. Failure to file such a declaration within the specified period shall constitute a declaration of inactive status. Substantiating evidence must accompany any claim of active status, and the Board shall in each instance determine whether active status has been demonstrated.

4.2 Any inactive extractive industry shall not resume active status, nor shall it be the site of a land reclamation project until it has complied fully with this ordinance and all other state and local regulations.

4.3 Within ninety days of a claim of active status, the owner of any extractive industry shall file the necessary plans and reports to comply with the provisions of this ordinance unless otherwise provided for herein. Failure to file the necessary plans and reports within the specified time period shall nullify the active status and constitute a declaration of inactive status.

4.4 The removal or deposit of any material at the site of an inactive extractive industry is strictly prohibited except in conformance with the terms of this ordinance.

Section 5. LAND RECLAMATION PROJECTS

5.1 Land reclamation projects may be undertaken only in conformance with this ordinance.

5.2 The reclamation of inactive gravel pits for open space, tree farming, or conservation purposes which comply with the requirements of the Tree Growth Tax Law or Farm and Open Space Land Law shall be encouraged and no fee shall be charged to an applicant for such a project.

Section 6. ADMINISTRATION

6.1 The Planning Board of the Town of Scarborough, herein after called the Board, shall administer this ordinance.

6.2 Before any extractive industry or land reclamation, sometimes hereinafter called project, is proposed or before any permit for the erection of any structures within such projects shall be granted, or before any utility installations, ditching, grading, construction of roads, or excavating shall be done on any project, the project owner shall apply formally to the Board for approval of a plan of such project, which plan shall be in conformance with the standards and specifications as set forth in this ordinance.

6.3 As to any intended project, the owner shall prepare and formally submit to the Board both a preliminary plan for study, and modification where required and a final plan. The final plan shall

not be prepared until the owner has received from the Board written notice that a majority of the Board has approved the preliminary plan of such a project.

6.4 No proposal for an extractive industry or reclamation project shall be approved by the Planning Board until after the Board shall have held a public hearing thereon. Public Notice of the hearing shall be made at least ten (10) days prior to such hearing, and shall be advertised in at least one newspaper in general circulation in the Town.

Section 7. GENERAL REQUIREMENTS

7.1 Any proposed project shall be in conformity with the comprehensive plan of the Town of Scarborough, and with the provisions of all pertinent state and local codes and ordinances.

7.2 Any proposed project shall be reviewed by the Board with regard to its impact upon the natural environment, and shall not adversely affect or destroy the ecological balance of any area.

In order to approve an application, the Board must find based upon the information presented to it by the applicant and other interested parties that the proposed project:

- a. will not result in unsafe or unhealthful conditions;
- b. will not result in erosion or sedimentation;
- c. will not result in water pollution;
- d. will conserve vegetation;
- e. will conserve natural beauty;
- f. will avoid problems associated with flood plain development and use;
- g. will avoid hazards due to steep slopes;
- h. will avoid problems due to standing water; and
- i. will avoid problems due to gas generation.

The Planning Board may at the owner's expense engage a certified engineer of its choice to develop detailed plans in accordance with the provisions of this ordinance.

7.3 Any project proposal shall be accompanied by a report regarding site geology, hydrology, and soil conditions; source and pertinent engineering properties of fill and cover materials; types and numbers of equipment to be used for excavating, earth moving, spreading, compacting, and other purposes, persons responsible for the actual operation and maintenance of the site, and intended operating procedures, and the ultimate plan and proposed use of the completed site.

7.4 Any proposed project shall be reviewed by the Board with respect to its impact on existing land uses.

7.5 Any proposed project shall be reviewed by the Board with respect to its impact on existing transportation facilities.

7.6 Sufficient top soil or loam shall be retained to cover all areas, or other provisions must be made to the Board's satisfaction within the rehabilitation plans.

7.7 If any portion of the site has been identified as containing historic or archaeological resources, the Board will require appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

7.8 The plan review by the Planning Board shall take into consideration, but is not limited to the following items:

- a. fencing, landscaping buffer strips, public safety;
- b. advertising signs and lighting;
- c. parking space, loading and unloading areas;
- d. entrances and exists;
- e. time period for operation;
- f. hours of operation;
- g. methods of operation;
- h. weight and loading limit of trucks;
- i. sand and gravel spillage upon public streets;
- j. rehabilitation plans (per Section 11 below); and
- k. ecological and other natural consideration.

7.9 The Board shall impose such conditions as necessary to safeguard the health, safety and welfare of the community. No new project shall be approved that involves excavating below the seasonal high water table, or that result in, standing water.

Section 8. PRELIMINARY PLAN REQUIREMENT AND PROCEDURES

8.1 A request for approval of any project shall be made to the Board in writing, and shall be accompanied by a preliminary plan which shall be drawn at no smaller scale than 100 feet to the inch. The preliminary plan shall be accompanied by a location map showing the relationship of the proposed project to adjacent properties.

8.2 When practical a standard sized sheet 24" X 36" shall be used for all plans and shall contain at least the following information:

- a. Name of project; owner(s) and engineer(s) or surveyor(s);
- b. Graphic scale, date and north point;
- c. Existing zoning;
- d. Ownership and location of abutting properties;
- e. Type, location, profile and cross section of all existing and/or proposed surface water; drainage;
- f. Location of all existing and/or proposed utilities (water, gas, electricity, and other);
- g. Existing and proposed topography at no less than five foot contour intervals, unless otherwise prescribed by the Board;
- h. Proposed use of property at completion of the project;
- i. Provisions must be made to avoid hazards from excessive slopes and to avoid standing water. Where an embankment must be left upon completion of operations at a location within the project, it shall be at a slope not steeper than 1 foot vertical to 4 feet horizontal;
- j. The operation must be shielded from surrounding property with adequate screening and create no disturbance of water sources;
- k. The operation when terminated shall not detract from the appearance or value of nearby property;
- l. The edge of all workings shall be set back from the property lines a minimum of 200 feet. When encroachment has been made within 200 feet of a property line, the Board shall require corrective measures to protect adjacent properties;
- m. No excavation shall be extended below the grade of adjacent streets unless two hundred feet from the street line.

8.3 In addition to the preliminary plan the Board may require the owner or others to undertake studies where it is deemed necessary or desirable by the Board. Said studies are to be undertaken at the owner's expense.

8.4 An application for approval of a Preliminary Plan shall be considered at a regular meeting of the Board within 30 days of receipt of such application.

8.5 The final plan shall be submitted by the owner to the Board for review within 60 days from the granting of preliminary approval. Failure to do so shall constitute a withdrawal of the application.

8.6 The Preliminary Application shall be accompanied by an engineering opinion, in form and content satisfactory to the Planning Board, and other technical information required by the Board to make the necessary findings under Section 7.2. The cost of obtaining this information shall be borne by the owner.

Section 9. FINAL PLAN REQUIREMENTS AND PROCEDURES

9.1 A request for final approval of a project shall be made to the Board in writing and shall be accompanied by a final plan of such project legibly drawn in black ink on permanent transparency material together with three dark lined copies. The plan shall be drawn at no smaller scale than 100 feet to the inch or as otherwise prescribed by the Board as being adequate to show all details clearly.

9.2 The plan shall be presented on one or more sheets of standard 24" X 36" size and shall contain the following information:

- a. All information required in the Preliminary Plan and amendments thereto requested by the Board;
- b. Existing and final proposed lines of streets, easements for utilities and drainage and any areas to be dedicated to the public;
- c. Sufficient data to determine the exact location, direction, and length of every street line, easement, property line drainage facility, reproduce these lines upon the ground;
- d. Location of all permanent monuments existing and/or proposed wherever in the opinion of the Board, such monuments are necessary to properly determine the location on the ground of any street line easement, property line or drainage facility;
- e. Designation of the location, size, planting and landscaping of such areas as may be proposed or prescribed as necessary to the prevention of erosion or sedimentation, to provide appropriate visual screens or buffer strips, and to enhance the final appearance and utility of the site;
- f. The seal of the registered engineer, surveyor, planner or other professional person responsible for the preparation of the plans, application, and supporting documentation.

9.3 The final plan shall be accompanied by certification from authorized local public officials and/or agencies, and appropriate state officials and/or agencies that the design of facilities, drainage, streets, and utilities, and overall project designs conform to the requirements of all pertinent state and local codes and ordinances. The cost of certification and/or inspection shall be borne by the owner.

9.4 The Board shall consider a final plan at a regular meeting within 30 days of submission of such final plan.

9.5 The approval of a final plan shall be attested to on the original tracing cloth and three copies by the signature of a legal majority of the Board.

9.6 A tracing of the final plan as approved shall be retained by the Board. The owner shall record the approved final plan with the Cumberland County Registry of Deeds within 30 days of its approval by the Board.

Section 10. REHABILITATION PLANS

10.1 All extractive industries which apply for and are granted active status as provided for in this ordinance shall submit a rehabilitation plan to the Board for approval. Such a rehabilitation plan may with the Board's approval be incorporated into the preliminary and final plans. The rehabilitation plans shall include as a minimum the following:

- (1) A vegetative plan, which shall meet the minimum requirement established by the Maine Soil and Water Conservation Commission as specified in the "Maine Erosion and Sediment Control, On Commercial, Industrial, Residential, Recreation, and Governmental Construction Sites Environmental Quality Handbook", dated June 1974.
- (2) All surface areas affected shall be graded and slopes shall not be steeper than 1 foot vertical to 4 feet horizontal.
- (3) All grubblings shall be removed from the site or buried.
- (4) All loamed, seeded, and planted areas shall be guaranteed for eighteen months during which time the performance guarantee required under Section 11 shall remain in full force and effect.
- (5) Provisions must be made to provide trees for a visual and acoustical buffer between the project and adjacent properties. The number and location of the trees shall be approved by the Board.
- (6) All exposed slopes shall be graded and where practical, as determined by the Board, planted, loamed, seeded, or otherwise landscaped. Sufficient top soil or loam shall be retained to cover all areas or other provisions made to the Board's satisfaction within the rehabilitation plan. Such provisions shall be shown in the vegetative plan. (Item 1 above).
- (7) Where standing water is present the following requirements shall be met
 - (a) The water supply shall be from natural springs or natural streams, brooks, or rivers, but in no event from storm drains or intermittent surface drainage ditches;
 - (b) All storm drains or intermittent surface drainage ditches shall be diverted away from areas rehabilitated by means of natural water fill;

- (c) An outlet may be required by the Board to assure a proper cycling of the water supply in the rehabilitated area;
 - (d) The Board may require testing of the water in the rehabilitated area for the purpose of detecting unsanitary, unsightly, or odoriferous conditions. Should such conditions be detected the Board may require the owner to take appropriate corrective measures.
 - (e) The owner shall file evidence of insurance with the Town Clerk annually against liability arising from the use of the extractive industry areas rehabilitated by means of natural water fill in an amount of not less than \$50,000 for as long as the site remains a water filled area; and
 - (f) Grading and restoration shall be completed in such a manner that will insure proper natural drainage and prevent erosion.
 - (g) In instances where standing water is present grades left under the high water level shall be at a slope not steeper than one foot vertical to eight feet horizontal for the first ten feet (measured horizontally), and one foot vertical to four feet horizontal for the next thirty feet (measured horizontally).
- (8) Access to the site of the project shall be controlled by the installation of gates and signs. Gates shall be located on all access roads and driveways, and shall be closed and locked whenever the owner or her/his authorized agents are not present on the premises. Signs shall be posted advising that the property is the site of a rehabilitated extractive industry and hazards may be encountered by trespassers; and [amended 11/01/17]
- (9) The owner shall be responsible for the continued maintenance of the area and compliance with the rehabilitation plans.

Section 11. PERFORMANCE STANDARDS

11.1 In order to insure compliance of the project in conformance with the approved plans the owner shall furnish to the Town Treasurer at the time of submission of the final plan, a performance guarantee. Said performance guarantee may be in the form of cash, certified check payable to the Town of Scarborough, or a performance bond, naming the Town of Scarborough as obligee, issued by a corporate surety licensed to do business within the State of Maine. The amount of such performance guarantee shall be approved by the Board and the Town Treasurer and shall be in an amount at least equal to the total cost of completing all site work and rehabilitation in conformance with the approved plans within five years of the date of approval of the final plan.

11.2 The Board may grant an extension not to exceed 12 months beyond the guaranteed performance period when the owner can demonstrate to the satisfaction of the Board, cause for such extension provided however, that the performance guarantee shall remain in full force and effect.

11.3 Before the owner may be released from any obligation required by her/his guarantee of performance, the Board shall require certification from the various departments and agencies concerned to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, state and local codes and ordinances. [amended 11/01/17]

11.4 Any project which is proposed to operate for a period of time in excess of five years shall be designed to operate in phases. The applicant shall provide a performance guarantee for each phase of the work. No work shall commence on additional phases until the Planning Board has been satisfied that the completed phase conforms fully with the approved plans, and a new performance guarantee is presented.

Section 12. FEES

12.1 Prior to the submission of a preliminary plan the applicant shall pay to the Town Treasurer a fee for the review of the plan. Said fee shall be non-refundable and shall be computed as follows:

12.2 A fee as specified in the Schedule of License, Permit and Application Fees established by the Town Council, shall be paid.

12.3 No fee shall be charged to projects enumerated under Section 5.2.

Section 13. VALIDITY AND CONFLICT OF ORDINANCES

13.1 In the event that any section, subsection or any portion of this ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or other portion of requirement shall prevail.

13.2 In the event that any provision of this ordinance is in conflict with any other federal, state, or local statute, ordinance or regulations, the provisions which establish the most stringent requirement shall prevail.

Section 14. EXEMPTIONS

14.1 The provisions of this ordinance do not apply to individuals reclaiming lands where the volume to be filled or reclaimed is less than five hundred (500) cubic yards. Further, the provisions of this ordinance shall not apply to extraction or filling incidental to or associated with activities in conformance with and undertaken pursuant to a valid permit issued by the Town of Scarborough.

14.2 Owners of extractive industries existing at the effective date of this ordinance who apply for and are granted active status shall be exempt from the provisions of Section 7, 8, and 9 of this Ordinance.

14.3 The provisions of this ordinance do not apply to projects undertaken by the Town of Scarborough.

Section 15. EFFECTIVE DATE

This ordinance shall take effect and be in force from and after the date of its official adoption by the Town of Scarborough. Adopted July 5, 1978.

Section 16. PENALTIES

16.1 Any person, firm or corporation being the owner of or having control or use of any building or premises who violates any of the provisions hereof, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than \$500.00 or more than \$5,000.00 each thereof shall constitute a separate offense. All fines collected hereunder shall inure to the Town of Scarborough.

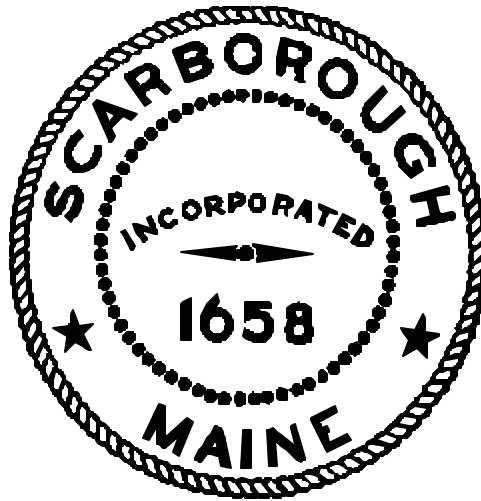
16.2 As an additional remedy, any violation of this ordinance, or any of the provisions or regulations incorporated herein, shall be deemed and are declared to be a nuisance and may be subject to abatement by restraining order or injunction issued by a court of competent jurisdiction.

Section 17. TOWN ENGINEER PERMITS FOR EXCHANGE OF EARTH MATERIALS [November 16, 2005] [Repealed June 30, 2006]

CHAPTER 603

TOWN OF SCARBOROUGH

FIREARMS ORDINANCE



Adopted 03/16/68
Amended 12/17/75
Amended 09/15/93
Amended 11/06/02

CHAPTER 603
TOWN OF SCARBOROUGH
FIREARMS ORDINANCE

Definition:

“Firearm” means any weapon which is designed to expel a projectile by the action of an explosive and includes any such weapon commonly referred to as a pistol, revolver, rifle, gun, machine gun or shotgun. Any weapon which can be made into a firearm by the insertion of a firing pin, or other similar thing, or by repair, is a firearm. (11/06/02)

Section 1.

It shall be unlawful for any person to shoot or discharge any firearm on land owned by the Town of Scarborough. (Amended 11/06/02)

Section 2.

It shall be unlawful for any person to shoot or discharge any firearm in the Town of Scarborough within 100 yards of a dwelling or occupied building or structure without having received the prior consent of the owner or the occupants of said dwelling or occupied building or structure. (Amended 11/06/02)

Section 3.

It shall be unlawful for any person to shoot or discharge any firearm in the Town of Scarborough which causes or permits the bullet or projectiles from such firearm to pass or results in the bullet or projectile from such firearm passing within 100 yards of a dwelling or occupied building or structure without having received the prior consent of the owner or occupants of said dwelling or occupied building or structure. (Amended 11/06/02)

Section 4.

It shall be unlawful for any person to shoot or discharge any firearm except for shotguns, muzzle loader/black powder guns, revolvers, or pistols within the Town of Scarborough. (Amended 11/06/02)

- (a) This section shall not apply to any person who has prior consent from the owner of the premises upon which said firearms are to be discharged.

Section 5.

The provisions of Section 2, Section 3 and Section 4 shall not apply on an approved firing range. An approved firing range is defined as an area set up for the safe discharge of firearms with adequate protection in the form of a backstop and/or a proper field of fire and so arranged as to prevent any danger to neighboring property or persons, which has been approved under Sections 8 through 11 or under Section 12 below. (Amended 11/06/02)

Section 6.

A firing range committee is hereby established to consist of the following: (Amended 11/06/02)

- one member of the Scarborough Gun Club who is certified by the National Rifle Association, to be designated by the Gun Club;
- one member of the Scarborough Fish and Game Association who is certified by the National Rifle Association, to be designated by the Scarborough Fish and Game Association;
- one member at large, who is a certified National Rifle Association Firearms Instructor to be appointed by the Town Council;
- the Chief of Scarborough Police;
- and one member of the Scarborough Town Council to be appointed by the Scarborough Town Council and who will serve as Chairman of this Committee.

In the event that any organization fails to designate a member of their organization within 30 days after having received a written request to do so, the Scarborough Town Council shall have the right to make such designation. All members shall be residents of the Town of Scarborough. (Amended 11/06/02)

Section 7.

The above Committee shall present rules and regulations for the establishment and operation of approved firing ranges to the Scarborough Town Council. Upon approval of these rules and regulations by the Scarborough Town Council, such rules and regulations shall become effective and shall be placed on file in the office of the Scarborough Town Clerk. (Amended 11/06/02)

Section 8.

No person shall establish or operate a firing range in the Town of Scarborough, unless the firing range has been approved by the Firing Range Committee under this Ordinance. Initial application for an approved firing range shall be made on forms provided by the Scarborough Police Department. The owner of the property on which the firing range is to be located shall return the completed application along with proof that the owner or the person who will operate the firing range, if different from the owner, has completed an approved firearms safety course. (11/06/02)

Section 9.

Upon receipt of an application for a firing range, the Scarborough Police Department will conduct a criminal records check on the owner of the property on which the firing range is to be located and on the person designated by the owner to operate the firing range, if different from the owner. (11/06/02)

Section 10.

Upon completion of the criminal records check, the Police Department will forward the application and certification of firearms course to the Firing Range Committee. (11/06/02)

Section 11.

Upon receipt of the materials forwarded from the Police Department, the Firing Range Committee will inspect the proposed firing range. The Committee shall issue a certificate of approval if the firing range meets the rules and regulations approved by the Scarborough Town Council under Section 7 above. Such certificate will be valid until June 15th of the following year. Prior to June 15th of every year thereafter, the firing range will be re-inspected by the Firing Range Committee. (11/06/02)

Section 12.

Within 30 days of November 6, 2002, the Firing Range Committee will inspect each existing firing range. The Committee shall issue a certificate of approval if the firing range meets the rules and regulations approved by the Scarborough Town Council under Section 7 above. Such certificate will be valid until June 15th of the following year. Prior to June 15th of every year thereafter, the firing range will be re-inspected by the Firing Range Committee. A firing range existing on November 6, 2002 may continue to operate without a certificate of approval only until inspected by the Firing Range Committee under this paragraph. (11/06/02)

Section 13.

In the event that any firing range, either new or existing, is found to be in noncompliance with the rules and regulations or deemed by the Firing Range Committee to be unsafe, no new certificate of approval will be issued and any existing certificate of approval will be declared void. (11/06/02)

Section 14.

In the event that the Firing Range Committee determines not to issue or to void a certificate of approval, the property owner or operator of the firing range may appeal that determination to the Scarborough Town Council. Such appeal must be filed in the office of the Town Clerk no later than 30 days after the date on which the Firing Range Committee makes its determination. (11/06/02)

Section 15.

Any person violating any part of the preceding sections shall be subject to a fine of not less than \$50.00 and not more than \$5,000.00 plus costs. The said fine on the complaint shall be recovered for the use of the Town of Scarborough. (11/06/02)

Section 16.

A list of certified firing ranges, including the location and authorized contact personnel for each, will be kept at the Town Hall and at the Scarborough Police Station from this date forward. (11/06/02)

Section 17.

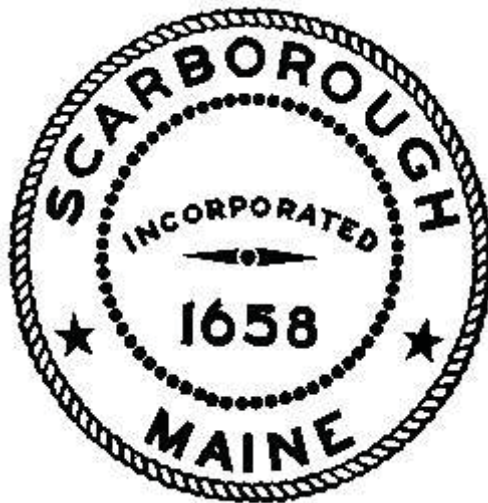
Issuance of a certificate of approval by the Firing Range Committee constitutes a determination that the firing range is in compliance with the requirements of this Ordinance at the time of issuance. It does not constitute a determination of compliance with the requirements of any other applicable town ordinance, and any firing range approved under this Ordinance must also comply with all other applicable town ordinances, including, without limitation, the Scarborough Zoning Ordinance. (11/06/02)

CHAPTER 607A

TOWN OF SCARBOROUGH

FIRE SUPPRESSION & DETECTION

ORDINANCE



ADOPTED JULY 17, 1991
AMENDED NOVEMBER 1, 2017

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**CHAPTER 607A
TOWN OF SCARBOROUGH
ORDINANCE REGULATING FIRE DETECTION, SUPPRESSION
AND SUPERVISORY ALARM SYSTEMS**

1. Definitions.

“Fire Detection, Suppression and Supervisory Alarm System” or “System”

Means any system of electrical or mechanical devices which, upon the detection of fire or conditions which could produce fire, activates fire suppression mechanisms or alarms, which “supervises” the detection, suppression or alarm functions by generating data about the location and type of mechanism which has been activated, and which transmits an alarm, either directly through electrical means or indirectly through third-party monitoring, to receiving apparatus at the communications center of the Scarborough Fire Department.

“Mode”

Means a particular component of a System, such as, but not limited to, a smoke detector, heat detector, tamper switch, water flow sensor, or manual pull switch.

2. Applicability.

This Ordinance shall apply to any System which is:

- (a) Required to be installed by any law, code, or ordinance and is installed after the effective date of this Ordinance;
- (b) Installed voluntarily after the effective date of this Ordinance; or
- (c) Replaced, modified, enlarged or updated after the effective date of this Ordinance;
- (d) an existing System which was installed, replaced, modified, enlarged or updated after June 1, 1988 but before the effective date of this Ordinance and which serves a health care occupancy (other than ambulatory care facilities) as defined in Section 4-1.4 of the 1988 Life Safety Code published by the National Fire Protection Association, Inc. or a hotel as defined in Section 16-1.3.1 of the 1988 Life Safety Code with more than fifty (50) sleeping accommodations for hire. Any such existing system shall be brought into compliance with the requirements of this Ordinance no later than June 1, 1996.
- (e) an existing System which was installed, replaced, modified, enlarged or updated prior to June 1, 1988 and which serves as a health care occupancy (other than ambulatory care facility) as defined in Section 4-1.4 of the 1988 Life Safety Code published by the National Fire Protection Association, Inc. or a hotel as defined in Section 16-1.3.1 of the 1988 Life Safety Code with more than fifty (50) sleeping accommodations for hire. Any

such system shall completely be brought into compliance with the requirements of this Ordinance no later than June 1, 1993.

3. Transmission by Mode Required.

Any System subject to this Ordinance shall, for each alarm transmitted to the Scarborough Fire Department, identify in the transmission the Mode which has activated the System.

4. On-Site Display of Data Required.

Any System subject to this Ordinance shall provide on-site display, through an annunciator panel or similar device readily apparent to responding Fire Department personnel, of the Mode which has been activated and its location on the site.

5. Inspection and Approval Required.

No System subject to this Ordinance shall transmit any alarm to the Scarborough Fire Department unless such system has first been inspected and approved by the Scarborough Fire Department.

6. Violations and Penalties.

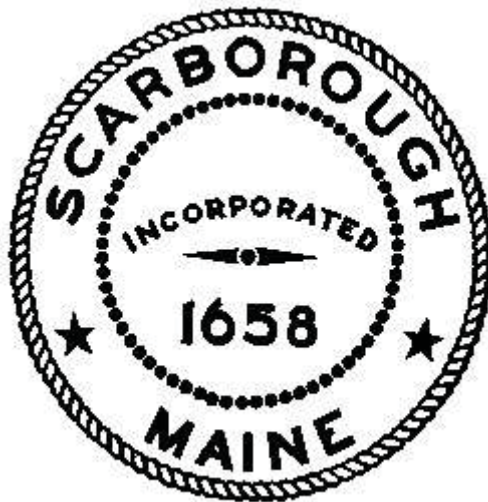
Any person who installs or operates a System in violation of the provisions of this Ordinance and any owner of property who permits the installation or operation on her/his property of a System in violation of the terms of this Ordinance commits a civil violation, punishable by a civil penalty not to exceed \$300.00 for each violation. Each day a violation is allowed to continue after notice from the Fire Department to correct the violation shall constitute a separate violation. [amended 11/01/17]

Effective Date - Midnight August 7, 1991

CHAPTER 608

TOWN OF SCARBOROUGH

FIREWORKS DISPLAY ORDINANCE



ADOPTED OCTOBER 5, 1988
AMENDED JUNE 15, 2005
AMENDED MARCH 7, 2012
AMENDED JUNE 21, 2017
AMENDED NOVEMBER 1, 2017

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CHAPTER 608
TOWN OF SCARBOROUGH
FIREWORKS DISPLAY ORDINANCE

SECTION I Purpose & Title

This ordinance recognizes the need for regulation of the display of fireworks to assure the safety of the spectators, property owners, citizens, and visitors of the Town of Scarborough. This Ordinance shall be known as the “Town of Scarborough Fireworks Display Ordinance.” [amended 03/07/2012]

SECTION II Definitions

Display Fireworks - Any combustible or explosive composition or substance; any combination of such compositions or substances; or any other article which was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including any device containing any explosive substance or flammable compound. Display fireworks are classed as Explosives, 1.3G and described as Fireworks, UN0335 by the U. S. Department of Transportation. For the purpose of this Ordinance Display Fireworks may include consumer fireworks as defined in 8 M.R.S.A§221-A. [amended 03/07/2012]

Consumer Fireworks – Consumer Fireworks” has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd party testing laboratory as conforming with United States Consumer Product Safety Commission Standards, in accordance with 15 United States Code, Chapter 47, “Consumer Fireworks” does not include the following products:

- A. Missile-type rockets, as defined by the State Fire Marshal by rule;
- B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and,
- C. Sky rockets and bottle rockets. For purposes of this definition “sky rockers and bottle rockets” means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

Proximate Audience – An audience closer to pyrotechnic devices than permitted by NFPA 1123, Code for Fireworks Displays.

Pyrotechnic Device – Any device containing pyrotechnic materials and capable of producing visual or audible effects by combustion, deflagration, or detonation.

SECTION III Regulations & Codes

Fireworks storage, transportation, and displays are regulated through laws, codes and standards including:

- a) State of Maine Laws for the Fire Service, 1997 edition, Title 8, section 222-227
- b) NFPA 1123 Code for Fireworks Displays
- c) NFPA 1126 Use of Pyrotechnics before a proximate audience
- d) Title 49 CFR, Federal Regulation for Transport

- e) Title 27 CFR, Part 181 Commerce in Explosives

All display fireworks shows permitted under this Ordinance shall be technicians licensed by the State of Maine Fire Marshal's Office.

SECTION IV Permit Required

No person shall possess, store, arrange, or detonate Display Fireworks or pyrotechnic devices before a proximate audience within the Town of Scarborough after the effective date of this ordinance without holding a valid permit from the Scarborough Fire.

The Scarborough Fire Department may issue a seasonal permit for outdoor pyrotechnic displays before a proximate audience that are regularly scheduled, are detonated from an approved location, and are similar in size and effect.

Any person applying for a Scarborough Fireworks Permit for a show containing display explosives (1.3G) must first possess a valid permit from the Maine State Fire Marshal's Office.

SECTION V Application Procedure

Application for a fireworks display permit shall be made to the Scarborough Fire Department by the responsible party for the display at least ten (10) days prior to the event as outlined below:

- a) Prior to applying for a Scarborough Fire Department Fireworks Permit the applicant must have a valid State of Maine permit issued by the State Fire Marshal's Office when required.
- b) A copy of the State Fire Marshal's permit application and written State Fire Marshal's permit shall accompany the local permit application form.
- c) Written permission from the local landowner of the property from where the fireworks will be detonated shall accompany the local permit application form.
- d) The proper fee as outlined in the current Town of Scarborough Schedule of License, Permit, and Application Fees shall be paid prior to the issuance of a local fireworks display permit.

SECTION VI Fire Protection Coverage

The Chief of the Scarborough Fire Department, or her/his designee, shall determine what, if any, fire department resources will be required to stand by during the event based on the size of the display, the current weather conditions, and other safety factors. The Fire Chief or is designee shall make the final decision as to the safety of the scene and weather conditions, and will either grant or deny permission for the display to proceed after evaluating the current conditions at the proposed time for the event. [amended 11/01/17]

SECTION VII Permit, Apparatus, & Manpower Fees

The Scarborough Fire Department shall collect a reasonable permit fee that is sufficient to offset the cost of administration and inspection of the site. The applicant shall also be responsible for reimbursing the Town of Scarborough for the required fire apparatus and manpower coverage to

assure safety during the display as specified in Section VI and deemed appropriate by the Scarborough Fire Chief, or her/his designee. The permit amount and the rates for apparatus and manpower are published in the current Town of Scarborough Schedule of License, Permit, and Application Fees. [amended 11/01/17]

SECTION VIII Notifications

The applicant must submit a written notification plan that addresses how they intend to notify the neighbors and general public of the proposed event. This notification plan must be approved by the Police Chief, or her/his designee, prior to the issuance of a Fireworks Permit. Evidence that the notifications were made according to the approved plan must be presented before permission to proceed with the show will be given as outlined in Section VI. [amended 11/01/17]

SECTION IX Hours of Detonation

No person shall detonate or discharge or cause to be detonated or discharged or permit to be detonated or discharged on her/his property any fireworks within the Town of Scarborough after the hour of 10:30 P.M. daily, prevailing time. [amended 11/01/17]

SECTION X Violation and Enforcement

- a) **PENALTY FOR VIOLATION:** Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than \$100.00 and not more than \$500.00 to be recovered on complaint to the use of the Town of Scarborough. Each day such violation occurs or continues to shall constitute a separate violation.
- b) **PENALTY FOR WILLFUL VIOLATION:** Any person who violates the provisions of this ordinance after having been informed by any officer or employee or agent of the Town of Scarborough that a planned or anticipated detonation or discharge of fireworks would violate this Ordinance shall be fined \$10,000.00.
- c) **ENFORCEMENT:** This Ordinance shall be enforced by the Town of Scarborough Police Department.
- d) **INJUNCTION:** In addition to any other remedies available at law or equity, the Town of Scarborough, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

SECTION XI Severability

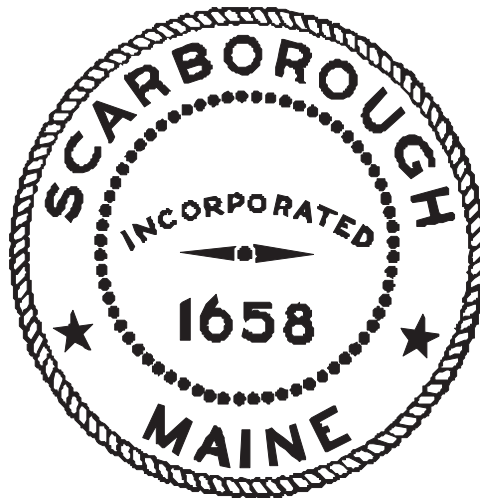
In the event that any section, subsection or portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

SECTION XII Consumer Fireworks.

The regulation of consumer fireworks used without a licensed technician is as enumerated in the Town of Scarborough Consumer Fireworks Ordinance, Chapter 608A, and any other applicable state or federal law or regulation. [adopted 03/07/2012]

CHAPTER 405A

TOWN OF SCARBOROUGH FLOODPLAIN MANAGEMENT ORDINANCE



**Enacted on March 7, 2007
Amended October 17, 2007**

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**CHAPTER 405A
TOWN OF SCARBOROUGH
FLOODPLAIN MANAGEMENT ORDINANCE**

ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Scarborough, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Scarborough, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Scarborough, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Scarborough has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Scarborough having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Scarborough, Maine.

The areas of special flood hazard, Zones A, A1-30, AO, and V1-30, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Scarborough, Maine, Cumberland County," dated December 19, 1984 with accompanying "Flood Insurance Rate Map" dated April 2, 1992, which are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer except as provided in Article VII. This permit shall be in addition to any other permits, which may be required pursuant to the codes and ordinances of the Town of Scarborough, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;
[Items H-K.3. apply only to new construction and substantial improvements.]
- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones A1-30, AO, and V1-30, from data contained in the "Flood Insurance Study - Town of Scarborough, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and IX.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form 81-65, 02/06, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI; (amended 10/17/2007)
 - 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zones V1-30, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
 - 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 - 4. a certified statement that bridges will meet the standards of Article VI.M.;
 - 5. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee for all minor development and for all new construction or substantial improvements as set forth in the Schedule of Fees shall be paid to the Town Clerk or Code Enforcement Officer and a copy of a receipt for the same shall accompany the application. (amended 10/17/2007)

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1. the base flood and floodway data contained in the "Flood Insurance Study - Town of Scarborough, Maine," as described in Article I.;
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
 - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
 - 1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the

elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. All Development - All development shall:
 1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. use construction materials that are resistant to flood damage;
 3. use construction methods and practices that will minimize flood damage; and,

4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. Water Supply - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
 - C. Sanitary Sewage Systems - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into floodwaters.
 - D. On Site Waste Disposal Systems - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
 - E. Watercourse Carrying Capacity - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
 - F. Residential - New construction or substantial improvement of any residential structure located within:
 1. Zones A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 2. Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
 3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified.
 4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
 5. Zones V1-30 shall meet the requirements of Article VI.P.
 - G. Non Residential - New construction or substantial improvement of any non-residential structure located within:
 1. Zones A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

- c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
 - 2. Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
 - 3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; or,
 - c. together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Article VI.G.1.
 - 4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or
 - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.
 - 5. Zones V1-30 shall meet the requirements of Article VI.P.
- H. Manufactured Homes - New or substantially improved manufactured homes located within:
- 1. Zones A1-30 shall:
 - a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

- (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.
2. Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
3. Zone AO shall have the lowest floor (including basement) of the manufactured home elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; and,
 - c. meet the anchoring requirements of Article VI.H.1.c.
4. Zone A shall:
 - a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and
 - b. meet the anchoring requirements of Article VI.H.1.c.
5. Zones V1-30 shall meet the requirements of Article VI.P.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A1-30 shall either:
 - a. be on the site for fewer than 180 consecutive days,
 - b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
 - c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.
2. Zones V1-30 shall meet the requirements of either Article VI.I.1.a. or b., or Article VI.P.

J. Accessory Structures - Accessory Structures, as defined in Article XIV, located within Zones A1-30, AO, and A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
4. be located outside the floodway;
5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.
- K. Floodways -
1. In Zones A1-30 riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 2. In Zones A1-30 and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/ January 1995, as amended).
 3. In Zones A1-30 and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- L. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any structure in Zones A1-30, AO, and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
1. Enclosed areas are not "basements" as defined in Article XIV;
 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:

- (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
 3. The enclosed area shall not be used for human habitation; and,
 4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. Bridges - New construction or substantial improvement of any bridge in Zones A1-30, AO, A, and V1-30 shall be designed such that:
1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
 2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- N. Containment Walls - New construction or substantial improvement of any containment wall located within:
1. Zones A1-30, A, and V1-30 shall:
 - a. have the containment wall elevated to at least one foot above the base flood elevation;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.
 2. Zone AO shall have adequate drainage paths around containment walls on slopes, to guide floodwater away from the proposed walls.
 3. Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,

- b. at least three feet if no depth number is specified; and,
 - c. shall meet the requirements of Article VI.N.1.b. & c.
- O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A1-30, AO, A, and V1-30, in and over water and seaward of the mean high tide if the following requirements are met:
 - 1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
 - 2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.
- P. Coastal Floodplains -
 - 1. All new construction located within Zones A1-30, A, and V1-30 shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
 - 2. New construction or substantial improvement of any structure located within Zones V1-30 shall:
 - a. be elevated on posts or columns such that:
 - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
 - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
 - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
 - b. have the space below the lowest floor:
 - (1) free of obstructions; or,
 - (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
 - (3) constructed with non-supporting breakaway walls, which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
 - c. require a registered professional engineer or architect to: (amended 10/17/2007)
 - (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55/June, 2000); and,

- (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.
3. The use of fill for structural support in Zones V1-30 is prohibited.
4. Human alteration of sand dunes within Zones V1-30 is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:
 - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
 - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
 - d. The structure shall have unfinished interiors and shall not be used for human habitation.
 - e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
 - f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

Article VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

- A. Review Procedure for a Conditional Use Flood Hazard Development Permit.
 1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
 2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.

3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure, which is constructed or substantially improved, shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:
 1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,
 2. for structures in Zones V1-30, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
 1. review the required certificate(s) and the applicant's written notification; and,
 2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the Town of Scarborough may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and,
 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article X and Article VI.K. are met; and,
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
1. the development meets the criteria of Article X, paragraphs A. through D. above; and,
 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;

2. such construction below the base flood level increases risks to life and property; and,
3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. **Appeal Procedure for Administrative and Variance Appeals**

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE XI - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure:

Means a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade:

Means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Shallow Flooding:

Means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard:

Means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood:

Means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement:

Means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall:

Means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building:

See Structure.

Certificate of Compliance:

A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer:

A person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances. (amended 10/17/2007)

Conditional Use:

Means a use that because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Development:

Means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. (*The new wording of this definition is directly from the FEMA regulations at 44 CFR 59.1*) (amended 10/17/2007)

Elevated Building:

Means a non-basement building

- a. built, in the case of a building in Zones A1-30, A, or AO, to have the top of the elevated floor, or in the case of a building in Zones V1-30 to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A1-30, A, or AO, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Zones V1-30, Elevated Building also includes a building otherwise meeting the definition of elevated

building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

Elevation Certificate:

An official form (FEMA Form 81-31, 02/06, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

Flood or Flooding:

Means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters.
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study:

Means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM):

Means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study:

See Flood Elevation Study.

Floodplain or Flood-prone Area:

Means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management:

Means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations:

Means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing:

Means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway:

See Regulatory Floodway.

Floodway Encroachment Lines:

Mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard:

Means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use:

Means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure:

Means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior, or
2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum:

Means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor:

Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this Ordinance.

Manufactured Home:

Means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision:

Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level:

Means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development:

Means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD):

Means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)."

New Construction:

Means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

100-year flood:

See Base Flood.

Recreational Vehicle:

Means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway:

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine:

Means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area:

See Area of Special Flood Hazard.

Start of Construction:

Means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or

modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure:

Means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage:

Means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement:

Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

Variance:

Means a grant of relief by a community from the terms of a floodplain management regulation.

Violation:

Means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XV - ABROGATION

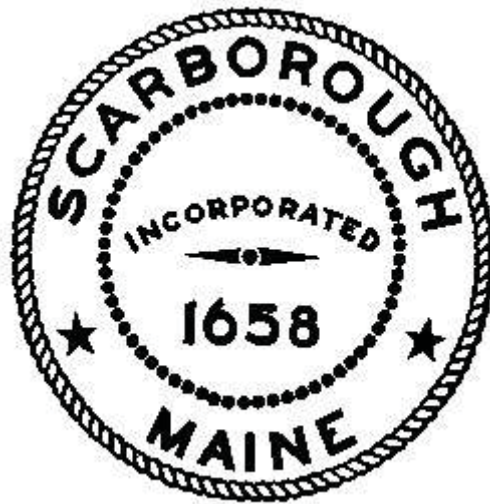
This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

CHAPTER 1015

TOWN OF SCARBOROUGH

FOOD, FOOD HANDLERS AND FOOD

ESTABLISHMENTS ORDINANCE



Adopted June 21, 2006
Amended November 1, 2017

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CHAPTER 1015
TOWN OF SCARBOROUGH
FOOD, FOOD HANDLERS AND FOOD ESTABLISHMENTS ORDINANCE

Section 1. Purpose

The purpose of this Ordinance is to regulate the establishments offering for sale prepared and/or processed food in the Town of Scarborough. The regulations are essential to insure that all establishments selling prepared or processed foods are in compliance with the State of Maine Food Code 2001, all local ordinances and building regulations and that local property taxes and local fees are paid in full for the year prior to the issuance or renewal of a license.

Section 2. Definitions

Food Code:

The State of Maine Food Code 2001 adopted by the Maine Department of Human Services and the Maine Department of Agriculture, Food and Rural Resources.

Section 3. License Required

Any person who operates any place where food or drink is prepared and/or processed or served to the public for consumption on or off the premise shall be licensed annually in order to operate within the Town of Scarborough.

Section 4. Exceptions

Any Public or private school; any booster group raising funds for school activities or sports programs; any non-profit organization selling food or drink to raise funds for charitable causes, educational activities or public agency programs; or any food sold only through vending machines shall be exempt from the provision of this ordinance.

Section 5. Application Process

A. New Applications

New applicants may apply at any time during the year. Applications for a license shall be procured from the Town Clerk, completed and signed by the applicant and filed with the Town Clerk, and when submitted to the Town Council shall bear the recommendation for approval or disapproval with reasons noted by the Code Enforcement Officer, the Police Chief, the Fire Chief and the Tax Collector.

A license shall be granted if the property in question complies with all Federal, State and local laws and the applicant demonstrates that the premises will be conducted in a healthful and sanitary manner in accordance with the Food Code so as not to jeopardize the public health, safety and welfare and that the applicant is not delinquent in the payment of any taxes

or fees owed to the Town of Scarborough. A new license, when granted, shall be valid until June 30th, immediately following said granting of license.

B. Renewal Licenses

An existing license may be renewed by the Town Clerk, provided that the holder of the existing license makes application for renewal on or before June 30th. If the holder applies for renewal on or before June 30th, the existing license shall remain in effect until final action on the renewal application. Otherwise, the existing license shall expire on June 30th and an application for a new license must be filed. For renewal applications filed on or before June 30th, the Clerk shall process and issue renewal licenses in the same manner as the Town Council processes and issues new licenses, except that no public hearing is required for a renewal. The Clerk may renew a license only if the Clerk is satisfied that the application meets all the requirements of this ordinance. If the Clerk is not satisfied that the application meets all the requirements of this ordinance, the Clerk shall refer the application to the Town Council, which shall process the application in the same manner as an application for a new license.

C. Public Hearing

The Town Council shall hold a public hearing on all new applications for licenses under this Ordinance. Notice of the hearing shall be advertised in a local daily newspaper, at least seven (7) days prior to the meeting at the expense of the applicant.

Section 6. Investigation of Applicant

Upon receipt of each application request for a Food, Food Handler and Food Establishment License the following shall occur:

- (a) The Code Enforcement Officer, or her/his designee, shall verify that the premises comply with all applicable ordinances of the town including, but not limited to, the building code, electrical code, plumbing code and zoning ordinance and shall report her/his findings in writing to the Town Clerk; and, [amended 11/01/17]
- (b) The Fire Chief or her/his designee shall inspect the proposed location to determine if all laws, ordinances or regulations concerning fire and safety have been satisfied and shall submit her/his report in writing to the Town Clerk; and, [amended 11/01/17]
- (c) The Police Chief or her/his designee shall investigate the application and shall report her/his findings in writing to the Town Clerk; and, [amended 11/01/17]
- (d) The Tax Collector shall submit a report to the Town Clerk on any delinquencies or payments due the Town at the time the license is requested or renewed; and,
- (e) The Town Clerk shall review the application and other documents and determine whether such documents comply with all of the requirements of this article and shall report such findings in writing to the Town Council.

Section 7. License Fees

Fees for this Ordinance shall be set forth as specified in Chapter 311, *Schedule of License, Permit and Application fees*.

Section 8. Suspension, Revocation of License

A Food, Food Handler and Food Establishment license may, after notice and public hearing, be suspended or revoked by the Town Council for non-compliance with the ordinances, statutes, and regulations of the Town of Scarborough and the State of Maine.

Section 9. Reinstatement of License

A licensed Food, Food Handler and Food Establishment may, at any time after the suspension of the license, make an application in writing for the reinstatement of the license to the Town Clerk and such application shall be submitted to the Town Council as per Section 5 above.

Section 10. Penalty

Any violation of this ordinance shall be punishable by a fine of not less than three hundred dollars (\$300) for the first offense and not less than five hundred dollars (\$500) for the second and subsequent violation, which shall be recovered for the use of the Town of Scarborough. Each day that such unlawful act or violation continues shall be considered a separate offense. In addition, the Town may seek recovery of costs and any other legal and equitable remedies as may be available to the Town.

Section 11. Severability

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining.

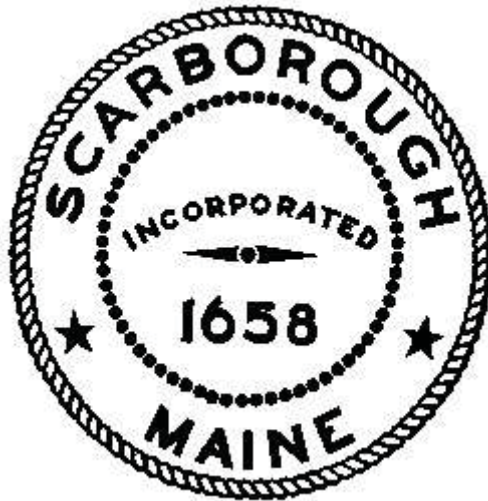
Section 12. Repeal of Prior Ordinances

This Ordinance repeals and replaces the ordinance entitled "Fee for Innkeepers or Victualer's License Ordinance" enacted by special town meeting, May 3, 1947 and amended through September 6, 1995.

CHAPTER 1016

TOWN OF SCARBOROUGH

GARAGE/YARD SALE ORDINANCE



Adopted March 21, 2007
Amended June 19, 2019

**CHAPTER 1016
TOWN OF SCARBOROUGH
GARAGE/YARD SALE ORDINANCE**

PERMIT REQUIRED FOR GARAGE/YARD SALES.

No person shall conduct a garage/yard sale or similar sale of in excess of three (3) items of personal property without first having obtained from the Town Clerk a permit to conduct such sale. The Town Clerk may issue such permit, at a cost of five dollars (\$5.00), to any person proposing to conduct such sale provided that such permit and any sale conducted thereunder shall not be lawful and valid for more than three (3) consecutive days. Signs may be utilized to advertise such sale; provided, however, no such signs shall obstruct or intrude onto any public right-of-way, block the sight vision of any public right-of-way for vehicular or pedestrian traffic, be placed upon any public utility pole, or be placed upon the property of others without their prior consent. Such signs may not be erected or allowed to remain either more than twenty-four (24) hours prior to or more than twenty-four (24) hours after such sale.

The Town Clerk may issue only six (6) garage/yard sale permits for such sale, whether conducted indoors or out-of-doors, to any person or for a sale on any given residence within a consecutive twelve-month period. Any sale of this type conducted more frequently than three (3) consecutive days for each twelve (12) consecutive month period, or any sale conducted without permit, shall be considered a use of land, which must comply with the Scarborough Zoning Ordinance and all licensing ordinances of the Town of Scarborough.

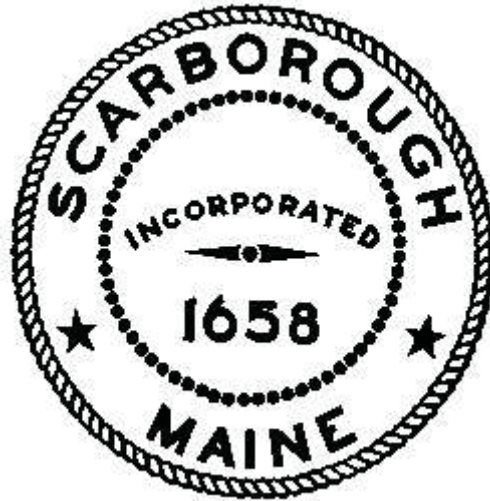
ATTACHING ADVERTISING MATERIAL TO VEHICLES; PLACING MATERIALS IN VEHICLES.

No person shall attach any advertising material of any kind, such as handbills, cards or papers, to the door handle, windshield wiper or any portion of any motor vehicle parked or standing in any street or public place, nor shall any person deposit any such material or samples of any kind within or upon any such vehicle so parked or standing.

PENALTY

The first offense would be a warning; thereafter, any person who shall violate any provision of this ordinance shall be punished by a fine of not less than ten dollars (\$10.00) and not more than fifty dollars (\$50.00) may be imposed. Each day that such violation continues to exist shall constitute a separate offense.

CHAPTER 901
TOWN OF SCARBOROUGH
Garbage and Recycling Collection and
Disposal Ordinance



Adopted August 20, 2008
Amended October 18, 2017 [Effective April 18, 2018]
Amended November 1, 2017 - Amended March 6, 2019

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ARTICLE I. GENERAL PROVISIONS

Section 1.01 PURPOSE

The purpose of this Ordinance is to protect the health, safety and general well-being of the citizens of Scarborough: enhance and maintain the quality of the environment, conserve natural resources and prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the disposal of solid waste in the Town of Scarborough in accordance with the provisions of Title 38 M.R.S.A. §§ 1304-B and 1305, as amended.

Section 1.02 DEFINITIONS

1. CART:

”Cart” means a wheeled receptacle distributed by the Town of Scarborough to Scarborough residents for the purpose of facilitating the collection of garbage and recyclable materials at the curb.

2. CONSTRUCTION OR DEMOLITION DEBRIS:

”Construction or demolition debris” means solid waste resulting from construction, remodeling, repair, and demolition of structures. It includes but is not limited to: building materials, discarded furniture, asphalt, wall board, pipes, and metal conduits. It excludes: partially filled containers of glues, tars, solvents, resins, paints, or caulking compounds; friable asbestos; and other special wastes.

3. CONTAINERS:

”Containers” means items including glass bottles and jars, plastic bottles and jugs, and metal cans.

4. DISPOSAL:

”Disposal” means the discharge, deposit, dumping or placing of any solid waste into or on any land.

5. ECOMAINE DISPOSAL FACILITY

”**ecomaine** Disposal Facility” means any land or structure or combination of land area and structures, including dumps and transfer stations, owned or operated by **ecomaine**, or any other site designated by **ecomaine**, used for storing, salvaging, reducing, incinerating or disposing of solid wastes.

6. GARBAGE:

”Garbage” means solid waste which the Town Public Works Director and/or his/her designee shall designate on a list of items that are acceptable for garbage collection posted on the Town web page.

7. HAZARDOUS WASTE:

“Hazardous waste” means a waste substance or material, in any physical state, designated as hazardous by the Board of Environmental Protection under 38 MRSA section 1319-O or by the terms of a certain Waste Handling Agreement between the Town and **ecomaine**. It does not include waste resulting from normal household or agricultural activities. The fact that a hazardous waste or a part or a constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

8. OVERFLOW:

“Overflow” means garbage set out for collection that exceeds the amount contained in the Town-provided collection cart; applies only to those solid wastes considered acceptable in the curbside collection program.

9. PERSON:

“Person” means any person, firm, partnership, corporation, association, company, or organization of any kind.

10. RECYCLABLE MATERIALS or RECYCLABLES:

“Recyclable Materials” or “Recyclables” means solid waste designated by the Town Manager or his/her designee as suitable for inclusion in the Town’s recycling program. These items are as follows: newspapers, magazines, office paper, paperboard, cardboard, glass bottles, glass jars, #1-7 plastics, aluminum cans, aluminum foil, tin cans, steel cans and milk and juice cartons. These items are subject to change and are in reference to the materials accepted by **ecomaine**. [amended 11/01/17]

11. RECYCLING VEHICLE:

“Recycling vehicle” means a vehicle utilized by the Town of Scarborough or its designated agent to collect recyclable materials at the curb from all residential uses on a Town-maintained public way.

12. RESIDENTIAL USES:

“Residential uses” means, for the purpose of providing solid waste collection, single-family, duplex and multifamily dwellings (up to and including five units) on public ways. Residential uses may include home occupations as defined in the Town Zoning Ordinance, but not other mixed commercial and residential uses.

13. SOLID WASTE:

“Solid waste” shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitations, rubbish, garbage, scrap materials, junk, inert fill material and landscaping refuse, and including material that may have value or other use or may be sold or exchanged, but not including septage tank sludge nor agricultural or hazardous wastes.

14. SOLID WASTE DISPOSAL FACILITY or DISPOSAL FACILITY:

“Solid Waste Disposal Facility” or “Disposal Facility” means any land or structure or combination of land area and structures, including dumps and transfer stations and any other site used for storing, salvaging, reducing, incinerating or disposing of solid wastes, including the **ecomaine** disposal facility.

15. TOWN:

“Town” means the Town of Scarborough, Maine.

16. UNIVERSAL WASTE:

“Universal waste” means any waste listed in section 3.A(13)(b) of Chapter 850, the Maine Hazardous Waste Management Rules, including but not limited to cathode ray tubes; mercury-containing lamps; mercury-containing thermostats; and totally enclosed, non-leaking polychlorinated biphenyl (PCB) ballasts.

17. WOOD WASTES:

“Wood wastes” means brush, stumps, lumber, bark, wood chips, shavings, slabs, edgings, slash, sawdust and wood from production rejects, that are not mixed with other solid or liquid waste. For the purposes of this definition, “lumber” is entirely made of wood and is free from metal, plastics and coatings.

18. YARD WASTE:

“Yard waste” means earthen fill, soil, sand, grass clippings, leaves, and other vegetal matter other than wood wastes and land clearing debris.

Section 1.03 INSPECTION

The Public Works Director and/or the Chief of the Fire Department, or their designated agents, shall have the right to enter at all reasonable times upon private property, excluding dwellings, for the purpose of inspecting and investigating conditions relating to the enforcement and observance of the provisions of this Ordinance.

Section 1.04 DUTY TO GIVE NOTICE OF VIOLATIONS: NOTICE TO BE IN WRITING AND DESCRIBE VIOLATION

Whenever the Director of Public Works or the Chief of the Fire Department, or their designated agents, determine that there has been a violation of any provision of this Ordinance, he shall give notice of such alleged violation to the person or persons responsible therefore. Such notice shall be in writing, describe the violation, and state the corrective action required to conform to the provisions of this Ordinance.

Section 1.05 AUTHORITY TO PROVIDE FOR COLLECTIONS: WHERE COLLECTIONS PROHIBITED

The Town may provide for the regular collection of garbage as its Town Manager may direct pursuant to the provisions of this Ordinance. Such garbage shall be collected from all residences, including apartments of five (5) units or less, but shall not be collected from any business or commercial establishments. Special arrangements will be made for condominiums and private roads where applicable.

Section 1.06 AUTHORITY TO REFUSE COLLECTIONS: OWNER'S DUTY TO DISPOSE

The Town may refuse to accept collection of any garbage, which has been put out for collection in a manner which does not comply with the requirements of this Ordinance or which is too large to fit into the provided carts. The owner of such garbage shall be responsible for promptly disposing of all garbage so refused.

Section 1.07 RESPONSIBILITY TO MAINTAIN PREMISES IN SANITARY CONDITION

The owner and occupant of any premises within the Town shall be jointly responsible for maintaining said premises in a sanitary and healthful condition, all in accordance with the Ordinances of the Town.

Section 1.08 UNLAWFUL TO PLACE, DEPOSIT GARBAGE IN VIOLATION OF ORDINANCE

It shall be unlawful for any person to place, deposit or allow to be placed or deposited on his premises any garbage, except in the manner permitted by the provisions of this Ordinance.

Section 1.09 TOWN TO PROVIDE CARTS [Amended 10/18/17-Effective 04/18/18]

A. All garbage and recycling carts required by this Article shall be designated, provided and owned by the Town of Scarborough; all residences receiving Town solid waste collection services are required to use only the Town-provided carts for weekly garbage collection. The standard carts hold a capacity of up to 65 gallons and shall not be filled to a gross weight of more than 150 pounds each. Each residential unit will be allowed one Town-designated cart per pickup. Decisions to permit a second cart will be made on a case-by-case basis for exceptionally large households, and in those cases, only after a solid waste inspection by a Scarborough Public Works staff member to determine that the need remains when maximum recycling is being done.

Residents may choose to mark their cart with the street address that the cart was assigned to for identification purposes. Under no other circumstances should the carts be defaced by the use of markers, stickers or paint. A cart that has been defaced will be replaced at the cost to the resident to whom the cart was assigned and may be subject to further penalties under Article VI.

B. All residential buildings of 6 or more units, nonresidential or commercial users shall provide adequate carts for the weekly garbage generated by the business conducted on the

premise. At a minimum, the owner shall provide a secured container or containers with closable covers to minimize the stacking and spreading of the garbage generated by the subject business. The cost of collecting commercial waste is the Property Owner's responsibility.

Section 1.10 CARTS REQUIRED; HOURS FOR PLACEMENT AND REMOVAL; REPLACEMENT OR ADDITIONAL CARTS; OVERFLOW WASTE [Amended 10/18/17-Effective 04/18/18]

A. It shall be the responsibility of the Town to provide and make available suitable and sufficient carts as described by §1.09 to receive the accumulation of weekly household waste. Each cart shall be placed as instructed by the Town or its designated garbage collector along the street, sidewalk or roadside for automated collection. Town-designated garbage carts may be set out for collection the evening or day before, but must be set out by 7:00A.M. the morning of collection, and shall be removed from the Town's right of way the day of collection.

B. Should a Town-owned cart be damaged, defaced or lost by a household, the Town will make another such cart available for replacement at a fee.

C. Residents who have "overflow waste," defined as garbage set out for collection that exceeds the amount contained in the Town-provided collection cart, may take it to the Department of Public Works for disposal.

Section 1.11 ASHES

No hot ashes shall be placed for collection by the Town.

Section 1.12 UNLAWFUL TO PUT ANY YARD WASTE OR WOOD WASTE INTO STREETS OR TOWN RIGHTS OF WAY

It shall be unlawful to put any yard waste or wood waste into any paved street or the Town's right of way.

ARTICLE II. MANDATORY RECYCLING PROGRAM

Section 2.01 PURPOSE

The purposes of this article are to protect the health, safety and general well-being of the residents of the Town and provide a solid waste disposal option that does not require the incineration or burial of valuable raw materials. By establishing a mandatory recycling program affecting all residents of the Town of Scarborough, the Town will save money currently being spent on the disposal of solid waste, will generate revenues from the sale of recyclable materials and will reduce the impact on the environment from the generation, processing, manufacturing and sale and distribution of goods made from virgin materials.

Section 2.02 APPLICABILITY; SEPARATION OF RECYCLABLE MATERIALS REQUIRED

1) This article shall apply to all persons receiving the Town solid waste collection services.

2) All recyclable materials generated within the Town shall henceforth be separated from the daily waste stream and, for residential uses, placed at the curb in accordance with the provisions of this article. The Town may provide curbside collection of recyclables for all residential uses located on a public road. Nonresidential buildings, i.e., businesses, offices, retail, hotels, apartments, mobile home parks, motels and bed-and-breakfast establishments, shall not receive curbside collection services from the Town. Buildings that contain both business and residential uses shall be classified by the majority use within the building, based on square footage.

Section 2.03 PROPERTY RIGHTS

Any and all recyclable materials placed at the curb become the sole property of the Town or its designated agent. No one may salvage, remove or carry off any such material without prior approval of the Town Council.

Section 2.04 COLLECTION PROCEDURES

- 1) The Town may provide weekly curbside collection of recyclable materials to all residential uses within the Town. Collection of recyclables shall be on the same day as the regular garbage collection.
- 2) Recyclable materials shall be placed at the curb, separate from the regular garbage. All items shall be prepared as directed by the Town Manager or his/her designee. Items not prepared as directed by the Town Manager will be left at the curb.

Section 2.05 CONTRACTED SERVICES

The Town, at its discretion, may enter into contracts for the collection of recyclable materials or other solid wastes with residential uses that do not meet the strict definition of residential uses in this article. Such additional residential uses would include but not be limited to condominium associations. Each contract shall be negotiated individually.

ARTICLE III. COLLECTION AND REMOVAL

Section 3.01 ACCUMULATION OF GARBAGE PROHIBITED

- 1) Each household or business is responsible for preventing accumulation of garbage. On the designated day of pickup, all residential garbage must be set out in a Town designated cart for garbage collection. Each household unit should contain its waste in carts as described in § 1.10. Pursuant to § 1.10, each cart shall be placed as instructed by the garbage collector along the street, sidewalk or roadside for automated collection. Town-designated garbage carts may be set out for collection the evening or day before, and shall be removed from the street or roadside on the day of collection, in no event more than 24 hours thereafter. No person shall cause or permit any accumulation of garbage which, in the opinion of the Health Officer or Health Inspector, is unsanitary or hazardous to the health of the public or, in the judgment of the Fire Chief of the Fire Department, constitutes a fire hazard.

- 2) Dumping prohibited. No person shall throw or place any garbage; recyclable materials, including paper, glass, nails, wire, bottles, and cans; yard waste, including, brush, branches, and earthen fill; construction or demolition debris; garbage carts; litter or other debris in any ditch, stream, river or retention basin that regularly or periodically carries surface water runoff. Any person who deposits any of the above shall remove it or cause it to be removed immediately. The Code Enforcement Officer, the Public Works Director or any one else designated by either shall be responsible for the enforcement of this provision.

Section 3.02 PICKUP SCHEDULE

The Town may provide one scheduled garbage pickup and one recyclable pickup per week per route for all residential uses. The collection of recyclables and garbage shall be on the same day. The Town reserves the right to change the pickup schedule.

Section 3.03 PICKUP PROCEDURE

The occupants of every residential building shall place carts for the removal of the contents by the persons authorized to collect the same, and no person other than the occupant, the owner of the premises or an authorized collector shall remove, take or otherwise disturb this garbage or any portion thereof so placed for removal. Carts placed in the public way on the regularly scheduled collection day shall be considered as being intended for collection, and as such shall be collected by no one other than authorized persons. Carts shall be covered to prevent the ingress of flies, rats or other animals.

Section 3.04 ABUSE OF CARTS

No person shall willfully remove, destroy, mutilate or utilize for another purpose other than the holding of garbage or recyclables carts which have been provided in accordance with this article. If a cart is damaged due to uncontrollable circumstances the Town will replace that cart.

Section 3.05 STOLEN CARTS

If a cart is stolen the homeowner shall call the Public Works Department and obtain the serial number for the missing cart. Then the homeowner shall file a police report stating that the cart has been stolen. Once a police report has been filed the Town will replace the stolen cart.

Section 3.06 TOWN EQUIPMENT ON PRIVATE PROPERTY

No Town equipment, or equipment contracted by the Town, shall leave public-used and Town-maintained roads, streets, lanes, alleys, highways, etc., to go on private property to pick up garbage, unless otherwise provided for herein. Within subdivisions approved by the Planning Board with private alleyways designed to accommodate garbage collection operations and vehicles, such carts shall be placed within the approved locations along the alleyways specifically designated for such carts.

Section 3. 07 NOTICE TO REMOVE WASTE

Any owner, agent or occupant of land upon whose premises any unlawful accumulation of garbage may be found shall, within 24 hours after receiving written notification from the Chief of Police or Health Officer, cause the same to be removed and the nuisance abated in a manner satisfactory to the Health Officer and the Chief of Police.

ARTICLE IV. SOLID WASTE DISPOSAL

Section 4.01 Designation

In accordance with the provisions of Title 38 M.R.S.A. §1304-B, the Town hereby designates the **ecomaine** disposal facility on Congress Street in Portland, Maine, as its public solid waste disposal facility for the purposes cited in this Ordinance. The dumping or depositing of any solid waste, including recyclable materials, generated within the Town by any person, including, but not limited to, any garbage hauler licensed under Article V of this Ordinance, at any place other than at the designated disposal facility is prohibited, provided, however, that this Ordinance does not prevent the depositing or dumping of inert substances such as earth, rocks, concrete or similar material for fill purposes only on a lot by the owner of such lot, or any other person with the permission of the lot owner, if such depositing or dumping is otherwise allowed under applicable Town ordinances and state laws.

Section 4.02 Restrictions

- 1) No person shall permanently dispose of solid waste upon any land within the corporate limits of the Town, unless such land has been designated by the Town as a solid waste disposal facility.
- 2) The Town shall establish rules and regulations governing the availability and use of the designated disposal facilities. Certain materials may be excluded by regulation from those solid waste materials which may be deposited at a designated solid waste disposal facility. These excluded materials may include junk automobile bodies and similar bulky waste which may require special processing prior to disposal, trees and tree trunks and limbs, burning materials or materials containing hot or live coals; hazardous wastes; and other materials which the Town deems necessary to exclude. Hazardous wastes shall be handled in accordance with all applicable Federal, State and Local Regulations.
- 3) Except for licensed disposal of hazardous wastes, it shall be unlawful for any person, firm or corporation to burn or incinerate any solid waste within the Town other than trees, tree limbs, leaves and other wood waste.
- 4) The availability and use of the designated disposal facility shall be limited to residents of the Town, and to those residents of any other municipality which may, by mutual agreement, be authorized to use the disposal facility. As a means of user control, the Town shall distribute vehicle permits to authorized users which shall be affixed to user vehicle(s). Failure to exhibit such permit shall result in denial of use of the facility.
- 5) Any solid waste deposited within the designated disposal facility shall become the property of the Town or **ecomaine** pursuant to the terms of the Waste Handling Agreement between the Town and **ecomaine**. No one shall salvage, remove, or carry off any such deposited solid waste without prior approval of the Town.

ARTICLE V. GARBAGE HAULING LICENSE

Section 5.01 LICENSE REQUIRED

Effective July 1, 2003, no person engaged in the business of hauling of solid waste, including but not limited to garbage or recyclables, shall collect or transport solid waste generated within the Town without obtaining a refuse collection license from the Town and paying the required licensing fee.

Section 5.02 LICENSE FEES

Fees for licenses under this Ordinance shall be established as specified in the Schedule of License, Permit and Application Fees by order of the Town Council.

Section 5.03 APPLICATION FOR LICENSE

In order to acquire a license for the collection or transport of solid waste within the Town, the applicant shall submit to the Town Manager or the Manager's designee the following information, together with the required license fee:

- a. The name and business address of the applicant.
- b. The applicant's business telephone number.
- c. A listing of the make, model, year and size of vehicles that will be utilized for the collection or transport of solid waste within the Town.

Section 5.04 TERM OF LICENSE AND TIME FOR APPLICATION

Licenses issued under this Ordinance shall be coterminous with the fiscal year of the Town, which is July 1 through June 30. Applications for licenses for the fiscal year commencing July 1, 2003, shall be filed with the Town Manager or the Manager's designee no later than 45 days after the date of adoption of this Ordinance by the Town Council. For fiscal years commencing on and after July 1, 2004, applications shall be filed no later than March 1st of the preceding fiscal year. If an application is filed after the dates specified in this Section, any license issued in response to such application shall be valid only until the end of the fiscal year, in which the application is filed, with no proration of license fees. If after March 1st the completed application and fee are not received, a late fee will be assessed, according to the schedule of fees. [amended 05/03/2006]

Section 5.05 EXEMPTIONS

These license and fee provisions of this Ordinance shall not apply to a person or business that exclusively hauls solid waste generated by that person or business.

Section 5.06 REGULATION OF LICENSEES

Any person licensed under this Ordinance shall:

- a. operate all vehicles lawfully and safely and utilize only holders of current Maine drivers' licenses to operate such vehicles;

- b. not deliver loads containing both commercial and residential solid waste to **ecomaine**;
- c. cover and secure all loads; and
- d. comply with any agreement between the Town and **ecomaine** for disposal of solid waste.

Section 5.07 VIOLATIONS

Any failure to comply with the requirements of this Article shall be considered a violation. In addition to the penalty provisions set forth in Article VI, the Town Manager may suspend a refuse collection license for up to 30 days for a first violation of this Article and may suspend a refuse collection license for up to 60 days for a second violation. The Town Manager may suspend a refuse collection license for any period of time for any subsequent violation or may revoke the license for the remainder of the fiscal year. The Town Manager may deny a license to any person who received two or more suspensions during the prior fiscal year or whose license was revoked during the prior fiscal year.

The Town Manager shall notify a licensee of any violation that could result in a suspension or revocation and shall hold a hearing prior to taking any action on a potential suspension or revocation.

ARTICLE VI. PENALTIES

Any person who violates any provision of this Ordinance commits a civil violation, punishable by a civil penalty of not less than \$200 and not more than \$2,500 for each violation. Penalties shall be recovered upon complaint made by the Town. Each day upon which a violation continues shall be considered a separate violation. The Town shall be entitled to recover its attorney's fees and court costs in any action in which the court finds that a violation has occurred. In addition to penalties, the Town may seek injunctive relief to prevent the continuance of an ongoing or recurring violation.

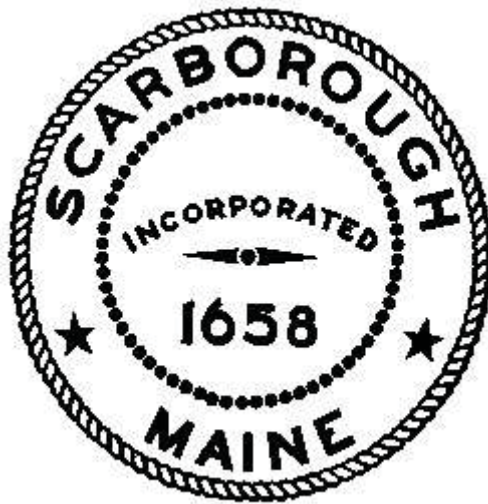
ARTICLE VII. SEPARABILITY

In the event that any article, section, sub-section or any portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, sub-section, or any other portion of this Ordinance.

ARTICLE VIII. REPEAL OF PRIOR ORDINANCE

This Ordinance, as amended on August 29, 2008, repeals and replaces the ordinance entitled "Ordinance Relating to the Disposal of Solid Waste within the Town of Scarborough, Maine, Prescribing Rules and Regulations Therefore: Providing Penalties for Violations Thereof" adopted July 1985.

CHAPTER 1301
TOWN OF SCARBOROUGH
GENERAL ASSISTANCE ORDINANCE



Amended November 7, 2017

CHAPTER 1301
TOWN OF SCARBOROUGH
GENERAL ASSISTANCE ORDINANCE
Amended September 20, 2017

The Municipality of Scarborough enacts the following General Assistance Ordinance This Ordinance are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed this the 7th day of November 2018, by the Municipal Officers:

/s/ Shawn A. Babine, Councilor

/s/ Christopher J. Caiazzo, Councilor

/s/ Jean-Marie Caterina, Councilor

/s/ William J. Donovan, Council Chair

/s/ Kathleen M. Foley, Councilor

/s/ Peter F. Hayes, Councilor

/s/ Robert W. Rowan, Councilor

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ARTICLE I - Statement of Policy

The Town of Scarborough administers a program of general assistance (GA) available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided within this ordinance, Department of Health and Human Services (DHHS) GA policy and in 22 M.R.S.A. § 4301 et seq.

Every effort will be made to recognize the dignity of the applicant while encouraging self-reliance. The program will strive to help eligible persons achieve self-maintenance by promoting the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services.

The general assistance program will place no unreasonable restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on sex, age, race, religion, sexual orientation or disability. The Town of Scarborough is committed to including qualified individuals with disabilities, in municipal services, programs, and activities. As a result the municipality will promote a GA program that when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. GA applicants with physical or mental disabilities that require a reasonable accommodation in order to access and/or utilize the municipal GA program are encouraged to provide the municipality with advance notice regarding the accommodation request.

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. GA applicants will be provided information regarding their rights and responsibilities under the GA program. Within 24 hours of receiving an application, the administrator will give the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also give the applicant written notice that the applicant may appeal to the municipal fair hearing authority if dissatisfied with the decision. When an applicant is determined to be eligible, assistance appropriate to the need will be furnished within 24 hours after the completed application is submitted except when the administrator issues non-emergency assistance conditionally on the successful completion of a workfare assignment (*see section 5.6 of this ordinance*).

The administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential as a matter of law (*see 22 MRSA § 4306*).

The administrator will post notice stating the day(s) and hours the administrator will be available. The administrator, or other designated person/entity, will be available to take applications in the event of an emergency at all other times. A copy of this ordinance and Maine General Assistance law will be readily available to any member of the public upon request. Notice to this effect will be posted.

ARTICLE II - DEFINITIONS

Section 2.1 – Common Meaning of Words

Unless otherwise apparent or defined, all words in this ordinance will have their common meaning.

Section 2.2 – Special Definitions

Applicant.

A person who has submitted, either directly or through an authorized representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application. In addition, all persons on whose behalf an authorized application has been submitted or on whose behalf benefits have been granted shall be considered applicants.

Application Form.

A standardized form used by the general assistance administrator for the purpose of allowing a person to apply for general assistance and confirming the fact that a person has made application. The application form must be signed by the applicant to be considered complete.

Basic Necessities.

Food, clothing, shelter, fuel, electricity, non-elective essential medical services as prescribed by a physician, non-prescription drugs, basic telephone service where it is necessary for medical reasons, property taxes when a tax lien placed on the property threatens the loss of the applicant's place of residence, and any other commodity or service determined essential by the municipality. "Basic necessities" do not include:

- Phone bills
- Cable or satellite dish television
- Mail orders
- Vehicle payments
- Credit card debit
- Furniture
- Loan re-payments
- Cigarettes
- Alcohol
- Pet care costs
- Vacation costs
- Legal fees
- Late fees
- Key deposits
- Security deposits for rental property (*except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full (22 M.R.S.A. §4301(1)).*)

Case Record.

An official file containing application forms; correspondence; narrative records and all other communications pertaining to an applicant or recipient; written decisions regarding eligibility including reasons for those decisions as well as the types and amounts of assistance provided; and all records concerning an applicant's request for fair hearing and those fair hearing decisions.

Categorical Assistance.

All State and Federal income maintenance programs.

Claimant.

A person who has requested a fair hearing.

Deficit.

An applicant's deficit is the appropriate overall maximum level of assistance for the household as provided in Section 6.8 of this ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the appropriate overall maximum level of assistance, the household has no deficit.

Disabled Person.

A person who is presently unable to work or maintain a home due to physical or mental disability that is verified by a physician or qualified mental health provider.

Dwelling Unit.

A building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit (22 M.R.S.A. §4301(2)).

Eligible Person.

A person who is qualified to receive general assistance from the municipality according to the standards of eligibility set forth in this ordinance (22 M.R.S.A. § 4301(3)).

Emergency.

Any life-threatening situation or situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person. At the municipality's option, a situation which is imminent and which may result in undue hardship or unnecessary cost to the individual or municipality if not resolved immediately. (22 M.R.S.A. §§4301(4), 4308(2), 4310).

General Assistance Program.

A service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person is in need and is found to be otherwise eligible to receive general assistance (22 M.R.S.A. §4301(5)).

General Assistance Administrator.

A municipal official designated to receive applications, make decisions concerning an applicant's right to receive assistance, and prepare records and communications concerning assistance. He or she may be an elected overseer or an authorized agent such as a town manager, welfare director, or caseworker (22 M.R.S.A. §4301(12)).

Household.

"Household" means an individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The income of household members not legally liable shall be considered as available to the applicant only when there is a pooling of income (22 M.R.S.A. §4301(6)).

Income.

"Income" means any form of income in cash or in kind received by the household including:

- Net remuneration for services performed
- Cash received on either secured or unsecured credit
- Any payments received as an annuity, retirement or disability benefits
- Veterans' pensions and or benefits
- Retirement accounts or benefits
- Workers' compensation
- Unemployment benefits
- Federal and/or state tax returns
- Benefits under any state or federal categorical assistance program such as TANF, Supplemental Security Income, Social Security and any other payments from governmental sources (*unless specifically prohibited by any law or regulation*)
- Court ordered support payments e.g., child support
- Income from pension or trust funds
- Household income from any other source, including relatives or unrelated household members
- Student loans
- Rental Income

The following items shall not be considered as income or assets that must be liquidated for the purposes of deriving income.

- 1) Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;
- 2) Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or
- 3) Earned income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need, the period of time used as a basis for the calculation shall be a 30-day period commencing on the date of the application. This prospective calculation shall not disqualify an applicant who has exhausted income to purchase basic necessities, provided that the income does not exceed the income standards established by the municipality (22 M.R.S.A. § 4301(7)).

- 4) Certain public benefit programs are specifically exempt from being counted as income for the purposes of GA. These programs include:
- Food Stamps (7 USCS § 2017(b))
 - Li-Heap (42 USCS § 8624)
 - Family Development Accounts (22 MRSA § 3762)
 - Americorp VISTA program benefits (42 USCS § 5044 (f))
 - Property tax rebates issued under the Maine Residents Property Tax Program (AKA “Circuitbreaker” Program) (36 MRSA § 6216)
 - Aspire Support Service Payments (10-144 CMR Chapter 323)

Initial Applicants.

A person who has not applied for assistance in this or any other municipality are considered initial applicants.

Just Cause.

A valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility or from attending a scheduled fair hearing (22 M.R.S.A. §§ 4301(8), 4316-A(5)).

Lump Sum Payment.

A one-time or typically non-recurring sum of money issued to an applicant or recipient. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers’ compensation payments, unemployment benefits, disability income, veterans’ benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a non-liquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for any other necessary expenses. (22 M.R.S.A. § 4301(8-A)).

Material Fact.

A material fact is a fact that necessarily has some bearing on the determination of an applicant’s General Assistance eligibility, and which would, if disclosed to the administrator, have some determinable effect on the calculation of eligibility or the issuance of a grant of assistance.

Maximum Levels of Assistance.

The amount of financial assistance for a commodity or service as established in section 6.8 of this ordinance or the actual cost of any such basic necessity, whichever is less.

Misconduct.

For the purpose of the GA work requirement (22 MRSA § 4316-A) misconduct shall have the same meaning as misconduct defined in 26 MRSA § 1043(23). (*See Appendix I of this ordinance for the official definition of misconduct*). Generally, employees are guilty of misconduct when the employee violates his or her duties or obligations to the employer. Employees who engage in a pattern of irresponsible behavior to the detriment of the employer's interest may also be found guilty of misconduct.

Municipality.

Any city, town or plantation administering a general assistance program.

Municipality of Responsibility.

The municipality which is financially liable for the support of an eligible person at the time of application (22 M.R.S.A. §§ 4301(9), 4307).

Need.

The condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the individual's family are less than the maximum levels of assistance (22 M.R.S.A. §§ 4301(10), 4308).

Net General Assistance Costs.

Those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program (22 M.R.S.A. §§ 4301(11), 4311).

Period of Eligibility.

The time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance provided, however, in no event shall this period extend beyond one month (22 M.R.S.A. § 4309(1)).

Pooling of Income.

"Pooling of income" means the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumption of pooling of income.

Real Estate.

Any land, buildings, homes, mobile homes and any other things affixed to the land (22 M.R.S.A. § 4301(13)).

Recipient.

A person who has applied for and is currently receiving general assistance.

Repeat Applicants.

All applicants for general assistance that are not initial applicants are repeat applicants. For purposes of this ordinance repeat and subsequent shall have the same meaning.

Resident.

A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the municipality where the person first applies. That municipality *must take an application* and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (22 M.R.S.A. § 4307).

Resources.

Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources; “available” and “potential”. Potential resources are programs, services, non-liquid assets, or trusts which typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released.

Potential resources include but are not limited to any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support payments, and jointly held resources where the applicant or recipient share may be available to the individual (22 M.R.S.A. § 4317). Potential resources include the TANF (previously known as AFDC) program, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for which the applicant does not have to take any unreasonable steps to secure (e.g., relocation beyond the immediate region). At the discretion of the GA Administrator a necessary minimum balance required by a financial institution in order to obtain free checking or in order to maintain the account shall not be considered an available resource.

The municipal GA administrator reserves the right to inform GA clients of services, commodities or facilities made available by private organizations or charities. Although GA applicants/recipients may be informed of the existence of a charitable resource and/or organization, GA eligibility shall not be based or conditioned on the use of a private charitable resource(s).

30-Day Need.

An applicant’s 30-day need is the sum of the household’s prospective 30-day costs, from the date of application, for the various basic necessities. For the purpose of this calculation, the 30-day cost for any basic need shall be the household’s actual 30-day cost of the basic necessity or the maximum 30-day cost for the basic necessity as established by this ordinance, whichever is less.

Unforeseen Repeat Applicants.

Are repeat applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source and who have unexpectedly become unemployed through no fault of their own or whose benefits (e.g., through an available resource) have ceased through no fault of their own.

Unmet Need.

An applicant's unmet need is the household's 30-day need as established by Section 6.6 of the ordinance less the household income as calculated pursuant to Section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the household's 30-day need, the household does not have an unmet need.

Work Requirements.

Work requirements are those obligations the municipal administrator places on applicants for general assistance as directed and/or authorized by 22 M.R.S.A. § 4316-A to the extent such obligations ensure a continuing potential eligibility for general assistance when complied with, result in disqualification when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, maintaining employment, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

ARTICLE III - Administrative Rules and Regulations

The following are rules and regulations for the administration of general assistance.

Section 3.1 – Confidentiality of Information**Case records.**

Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released (22 M.R.S.A. § 4306).

Release of Information.

Applicants, recipients and their legal representatives have the right to review their case records. No record will be released to a third party, however, unless the administrator receives a consent form signed by the applicant expressly authorizing the release of his or her records to the specified parties. Whenever the administrator releases any information, he/she will make a notation in the applicant's file stating to whom the record was released and the date. The administrator may charge a reasonable fee for the reproduction of any records when appropriate.

Information from Other Sources; Penalty.

Information furnished to the municipality by the Department of Health and Human Services or any other agency or institution pursuant to 22 M.R.S.A. §4314, is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of vital statistic records such as those concerning birth, marriage and death (22 M.R.S.A. § 2706).

Any representative of a financial institution (except national banks) or any employer of a general assistance applicant who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100. Any person, including the applicant, who knowingly and willfully makes a false representation of a material fact to the administrator is committing a Class E crime (22 M.R.S.A. §§ 4314, 4315).

Misuse of Information.

Misuse of any information relating to an applicant or recipient is a punishable offense (22 M.R.S.A. § 42(2)).

Section 3.2 – Maintenance of Records

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S.A. § 4306). These records are necessary to:

- a) provide a valid basis of accounting for municipal expenditures;
- b) document and support decisions concerning an applicant or recipient; and
- c) ensure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator

Case Records.

The administrator will establish and maintain a separate case record, either in paper format or digital format for each applicant or recipient. Each case record will include at least:

- household applications
- budget sheets
- information concerning the types and amounts of assistance provided
- narrative statements describing the nature of the emergency situation whenever general assistance is granted in amounts greater than the applicant's mathematical eligibility (i.e., deficit or unmet need, whichever is less)
- written decisions
- requests for fair hearings and the fair hearing authority decisions
- workfare participation records
- narrative writings documenting the need for general assistance, the results of home visits, collateral information, referrals, changes in status
- Client authorization(s) for the release of GA information and/or reason(s) for the release of confidential information
- adjustments in aid and suspension or termination of eligibility
- physician's documentation
- Supplemental Security Income (SSI), interim assistance reimbursement authorization forms
- Vendor forms

Case records will not include information or material that is irrelevant to either the applicant's or recipient's application or to the general assistance administrator's decisions.

Retention of Records.

General assistance records shall be retained for a *minimum of three full years*. The three year period shall coincide with the State's fiscal year which begins July 1 and ends on the following June 30. Records may be destroyed after three years by one of the two preferred methods of destruction for confidential records, i.e., supervised shredding, burning or appropriate digital deletion/destruction process. In the event a client's records contain SSI reimbursement forms, the client's records should be maintained so that the municipality may seek reimbursement.

ARTICLE IV - Application Procedure

Section 4.1 – Right to Apply

Who May Apply.

Anyone may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative must apply in person, except in special emergency situations as provided in Section 4.9 of this ordinance or except when the applicant is a resident of an emergency shelter and the municipality has made an agreement with that emergency shelter to presume shelter residents to be eligible for general assistance (22 M.R.S.A. section § 4304(3)). In such cases, the administrator may require a representative to present a signed statement documenting that he/she is in fact authorized to apply for general assistance on behalf of the named applicant. The applicant or representative must complete a written application and any other required forms so that the administrator can determine eligibility (22 M.R.S.A. §§ 4305, 4308). With notice, all members of the household receiving general assistance may be required to physically present themselves to the administrator.

Application Via Telephone.

When a person has an *emergency* but is unable to apply in person due to illness, disability, lack of childcare, lack of transportation or other good cause, and he/she cannot send an authorized representative, the administrator will accept an application by telephone. The telephone application process will include the administrator receiving written verification via mail and visiting the applicant's home with his or her permission (22 M.R.S.A. §4304).

Written Application Upon Each Request.

Each request for assistance will be administered in accordance with these guidelines. The administrator will make an independent determination of eligibility for general assistance each time a person applies (22 M.R.S.A. §§ 4308, 4309).

Applications Accepted; Posted Notice.

Application forms will be available during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance and the name of the administrator available to take emergency applications at all other times. In addition, the posted notice shall include the fact that the municipality must issue a written decision on all applications within 24 hours, and the DHHS toll-free telephone numbers for reporting alleged violations.

Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator. In an emergency, however, the administrator or his or her designee will be available to accept applications for assistance whenever necessary (22 M.R.S.A. § 4304).

Section 4.2 – Application Interview

Except when it is impractical, the general assistance administrator will interview each applicant personally before making a decision. The interview will be conducted in private, although the applicant may be accompanied by a legal representative, friend or family member.

Section 4.3 – Contents of the Application

At a minimum, the application will contain the following mandatory information:

- (a) applicant's name, address, date of birth, Social Security number or appropriate United States Customs and Immigration Services (USCIS) documentation, and phone number;
- (b) names, date(s) of birth, and Social Security number(s) or appropriate USCIS documentation of other household members for whom the applicant is seeking assistance;
- (c) total number of individuals living with the applicant;
- (d) employment and employability information;
- (e) all household income, resources, assets, and property;
- (f) household expenses;
- (g) types of assistance being requested;
- (h) penalty for false representation;
- (i) applicant's permission to verify information;
- (j) signature of applicant and date.

In the event an initial applicant is unable to provide identification records (e.g., Social Security card/number) because the record may have been lost, stolen or misplaced, the initial applicant may be provided a reasonable amount of time, e.g., five working days, in order to obtain the item/record sought. GA required to cure an immediate and/or emergency need shall not be withheld. In such cases the municipality may elect to provide only a prorated amount of GA, e.g., five day's worth, while the applicant proceeds to obtain the required information.

Section 4.4 – General Assistance Administrator's Responsibilities at the time of the Application.

The administrator will make every effort to inform all applicants of their rights and responsibilities as well as the general program requirements associated with applying for and receiving general assistance, including application requirements, eligibility guidelines, applicant rights, and applicant reimbursement obligations.

Application Requirements.

The administrator will help the applicant fill out the application form as described in the preceding section. The administrator will inform the applicant of any other information or

documentation that the applicant will have to provide in order for the administrator to evaluate the applicant's eligibility for assistance. The administrator will fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

Eligibility Requirements.

The administrator will inform, either verbally or in writing, the applicant of the eligibility requirements of the program, including:

- the income standard of need;
- the applicant's ongoing use-of-income, work-related, and resource-related responsibilities, as described in the section immediately below;
- the financial reduction in assistance that is the consequence of spending household income on non-basic necessities; and
- the disqualification penalties associated with committing fraud, failing to perform work-related assignments without just cause, or failing to make a good faith effort to secure potential resources when the requirement to attempt to obtain those resources have been explained to the applicant in writing.

Applicant Rights.

The administrator will inform all applicants of their rights to:

- review the municipal General Assistance ordinance and Maine General Assistance law;
- apply for assistance;
- receive a written decision concerning eligibility within 24 hours of applying for assistance;
- confidentiality;
- contact the DHHS;
- challenge the administrator's decision by requesting a fair hearing.

Reimbursement/Recovery.

The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. The municipality may also, as appropriate, contact the client's legal representative to inform him or her of the client's obligation to repay the municipality under the GA program. In addition to seeking repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for the applicant's support (*spouses, parents of persons under the age of 25, see Article VII, "Recovery of Expenses"*) (22 M.R.S.A. §§ 4318, 4319). Whenever applicable, the administrator will explain the various liens a municipality may place against a recipient's real or personal property, such as the mortgage or capital improvement lien, the Workers' Compensation lump sum payment lien, or the SSI "interim assistance agreement" lien, as these liens are described in Article VIII, "*Recovery of Expenses*".

Section 4.5 – Responsibilities of the Applicant at the Time of Application.

The applicant has the responsibility at the time of *each application* to provide accurate, complete and current information and verifiable documentation concerning his or her:

- Income
- Resources
- Assets
- Household employment
- How the applicant has spent his or her income
- The names and addresses of any relatives legally liable for the applicant's support
- Any change in this information from a previous application that would affect his or her eligibility (22 M.R.S.A. § 4309);

In addition, the applicant must accurately report and provide verifiable documentation that shows that the applicant:

- a. has remained employed, if previously employed, and not quit work without just cause or been discharged from employment for misconduct;
- b. has been seeking employment, if previously unemployed or employed on a part-time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;
- c. has made use of all available and potential resources when directed in writing to such a program by the administrator, including, but not limited to, other government benefit programs or the assistance of liable relatives of sufficient means; and
- d. has participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the administrator, in order to diminish the applicant's need for general assistance (22 M.R.S.A. §§ 4316-A, 4317).

Section 4.6 – Action on Applications

Written Decision.

The general assistance administrator will give a written decision to the applicant concerning his or her eligibility *within 24 hours after the applicant submits a **written** application*. Assistance will be furnished to eligible applicants within that period except when the municipality is permitted by law (and pursuant to section 5.6 of this ordinance) to issue assistance conditionally on the successful completion of a workfare assignment (22 M.R.S.A. §§ 4305, 4316-A, 4321). A written decision will be given *each time* a person applies, whether assistance is granted, denied, reduced or terminated.

Content.

The written decision will contain the following information:

- (a) the type and amount of aid the applicant is being granted or the applicant's ineligibility;
- (b) the period of eligibility if the applicant is eligible for assistance;
- (c) the specific reasons for the decision;
- (d) the applicant's right to a fair hearing; and
- (e) the applicant's right to notify the DHHS if he/she believes the municipality has acted illegally (22 M.R.S.A § 4321).

Section 4.7 – Withdrawal of an Application

An application is considered withdrawn if:

- (a) the applicant requests in writing, that his or her application be withdrawn; or
- (b) the applicant refuses to complete or sign the application, or any other form needed by the general administrator.

Section 4.8 – Temporary Refusal to Accept Application

Under special circumstances, the general assistance administrator may temporarily refuse to accept applications. Such circumstances may include, but are not limited to, the following:

- (a) When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will only be accepted when his or her conduct is under control.
- (b) If the administrator believes that an applicant's behavior presents a threat to the health or safety of the public or to a municipal employee, or if such behavior is violent, or if an applicant has engaged in abusive, disruptive or harassing behavior and has been required to leave on more than one occasion, then the applicant may be required to designate a third party to apply for assistance on his or her behalf and the applicant may be prohibited from entering the municipal building.
- (c) When a third person applies for assistance on behalf of the applicant that person may be required to provide written verification that he/she has been duly authorized to act as a representative for the applicant (22 M.R.S.A. § 4308).

Section 4.9 – Emergencies

An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which if not alleviated immediately could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household (22 M.R.S.A. §4301(4)). Although they may be considered otherwise ineligible to receive general assistance, people who apply for assistance to alleviate an emergency may be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency (22 M.R.S.A. §4308).

A municipality may provide emergency assistance when the municipality determines that an emergency is imminent and that failure to provide assistance may result in undue hardship and unnecessary costs to either the client or the municipality.

Disqualification.

A person who is currently disqualified from receiving General Assistance due to a violation of Sections 5.5, 5.6, 5.7, or 6.4 or this ordinance is ineligible to receive emergency assistance (22 M.R.S.A. § 4308(2)(A)). However, dependents of a disqualified person may be eligible for assistance. For the purposes of this section, “dependents” are defined as: 1) a dependent minor child; 2) an elderly, ill or disabled person; or 3) a person whose presence is required to provide care for any child under the age of 6 years or any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents is will be calculated as though the household is comprised of the dependents only, except that all household income will be considered available to them.

Assistance Prior to Verification.

Whenever an applicant informs the administrator that he/she needs assistance immediately, the administrator will grant, pending verification, the assistance within 24 hours, provided that:

- (a) after interviewing the applicant the administrator has determined that the applicant will probably be eligible for assistance after a verification of information is completed; and
- (b) the applicant submits documentation when possible, to verify his or her need. The administrator may contact at least one other person to confirm the applicant’s statements about needing emergency assistance. No further assistance will be authorized until the applicant’s eligibility is confirmed (22 M.R.S.A. § 4310).

Telephone Application.

If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, lack of child care, or other good cause, and if there is no authorized representative who can apply for the applicant, the administrator will accept an application over the telephone (22 M.R.S.A. § 4304).

The administrator will not grant any assistance as the result of a telephone application if the applicant refuses to allow the administrator to verify the information either by visiting his or her home or by mail and the administrator cannot determine his or her eligibility through any other means.

Limitation on Emergency Assistance.

Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace the misspent money (22 MSRA §§ 4308(2) & 4315-A).

All applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert the emergency situation. According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the

emergency and the amount of income available to the household during the application time period.

- (a) The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.
- (b) The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his or her basic necessities for the applicable time period, including evidence of all income and resources received over that period of time.
- (c) The administrator shall compute all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this ordinance for the specific basic necessity or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.
- (d) From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.
- (e) The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in sub-section (d), even when such a grant will not totally alleviate the emergency situation.
- (f) The administrator may waive this limitation on emergency assistance in life threatening situations or for initial applicants; that is, persons who have never before applied for general assistance.
- (g) Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

Section 4.10 – Residence

The administrator shall provide general assistance to all eligible persons applying for assistance who are residents of this municipality. A resident is a person who has ***no other residence and is physically present in this municipality and who intends to remain here and establish a household.***

The municipality also recognizes its responsibility to provide assistance to eligible persons who apply here and who are not residents of this municipality or any other municipality. If a person who is not a resident of any municipality applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until he/she establishes a residence in another municipality (22 M.R.S.A. § 4307).

Moving/Relocating.

The municipality will not consider moving or transporting an applicant or recipient into another municipality unless the person requests assistance to relocate to another municipality. If the administrator determines the applicant is eligible and grants financial assistance to help the applicant relocate, this municipality will be responsible for providing assistance to the applicant for **30 days** after he/she moves provided the recipient remains eligible.

Institutions.

If a resident of this municipality enters an institution located in another municipality (such as a group home, shelter, rehabilitation center, nursing home, or hospital) and requests assistance while at the institution, he/she will be the responsibility of this municipality for **up to 6 months** after he/she enters the institution if the conditions of 22 M.R.S.A. § 4307 and 4313 are met. The municipality thereafter retains responsibility for an applicant in an institution only if the applicant has maintained a home in this municipality to which he/she intends to return. The municipality also recognizes its responsibility for applicants residing in an institution in this municipality if such an applicant had no residence prior to entering the institution (22 M.R.S.A. § 4307(4)).

Temporary Housing.

Hotels/motels and similar places of temporary lodging are considered institutions (see above) if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging.

***Note:** Municipalities which **illegally deny** housing assistance and, as a result of the denial, the applicant stays in temporary lodging are responsible for the applicant for **up to 6 months** and may be subject to other penalties (22 M.R.S.A. § 4307(4)).*

Disputes.

When the administrator believes that an applicant is a resident of another municipality but that municipality disputes its responsibility the administrator will notify the DHHS in Augusta (**287-3654 or 1-800-442-6003**). If the applicant applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, *will grant assistance* until the DHHS has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the DHHS will recover the amount due from the other municipality (22 M.R.S.A. §§ 4307(5), 4307(6)).

ARTICLE V - Eligibility Factors

A person will be eligible for general assistance if he/she is in need and has complied with the eligibility requirements set forth below.

Section 5.1 – Initial application

Initial Application.

For initial applicants, except as provided immediately below, need will be the *sole condition of eligibility*. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment

without just cause or for being discharged from employment for misconduct (22 M.R.S.A. §1043(23)) (*see section 5.5 of this ordinance*). An initial applicant is a person who has never before applied for general assistance in any municipality in Maine (22 M.R.S.A. § 4308(1)).

“Need” means that the applicant’s income (including pro-rated income, where applicable), property, credit, assets, or other resources are less than the overall maximum level of assistance contained in section 6.8 of this ordinance or the actual 30-day costs, whichever is less, and he/she does not have adequate income or other resources available to provide basic necessities.

Subsequent Applicants.

Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they *must be in need **and** meet all other eligibility requirements*. The eligibility of repeat applicants may also be adversely affected to the extent they have not used their income and resources to secure basic necessities.

Section 5.2 – Eligibility for Categorical Assistance

Receipt of categorical assistance will not disqualify a person from receiving general assistance, if the applicant is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of Food Stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S.C. § 2017(b)).

In addition, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income or a resource; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his or her fuel needs (42 U.S.C. § 8624(f)). The calculation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under “*Types of Income*” at section 6.7 of this ordinance.

Applicants or recipients ***must** apply for other program benefits within 7 days* after being advised in writing to do so by the general assistance administrator. Persons who, without just cause, make no good faith effort to receive a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S.A. § 4317).

Section 5.3 – Personal Property

a) Liquid assets.

No person owning assets easily convertible into cash including, but not limited to, bank deposits, stocks, bonds, certificates of deposit, retirement accounts, life insurance policies and other marketable security will be eligible for general assistance unless and until he or she uses these assets to meet his or her basic needs and thereby exhausts them.

b) Tangible assets.

No person owning or possessing personal property, such as but not limited to: a motor vehicle, or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household, will be eligible for general assistance. Exceptions may be made when a person is making an initial application or is an unforeseeable repeat applicant as defined in Section 2.2 or when reasonable efforts to convert assets to cash at fair market value are unsuccessful.

Tools of trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.

c) Automobile ownership.

Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment or for seeking employment, obtaining medical care, rehabilitation or training facilities, or for any other reason the GA administrator determines reasonable for the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater of **\$8,000** may be required, with written 7-day notice, to make a good faith effort to trade that automobile for an automobile with a market value of less than **\$8,000**. Any income received by the applicant by virtue of such a trade down must be used for his or her basic necessities. Failure to liquidate or trade down the excess value of an automobile asset can result in disqualification (22 M.R.S.A. § 4317).

The municipality will neither pay nor consider as necessary any car payment or vehicle maintenance cost including insurance for which the applicant is responsible. However, provided the vehicle value is \$8,000 or less and the applicant is utilizing the vehicle for any of the above-mentioned reasons, the municipality in its discretion may choose to not consider reasonable car payments, reasonable car insurance and reasonable associated costs of maintenance as "misspent" income. General assistance for travel-related needs shall be computed in accordance with Section 6.8(f)(6 and 7) *Travel/work related expenses*.

d) Insurance.

Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may, at the discretion of the GA administrator, be considered as a tangible asset.

e) Transfer of property.

Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of the asset is fraudulently misrepresented, in which case a 120-day disqualification will issue. There will be a presumption that the applicant transferred his or her assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of a good faith transaction.

Section 5.4 – Ownership of Real Estate

a) Principal Residence.

For purpose of General Assistance solely, the applicant's principal residence, including any adjoining land, is considered an exempt resource, even if temporarily unoccupied because of employment, job training, education, illness or disaster, provided there is demonstrated an intent to return. If the applicant owns land in excess of the minimum lot size for the zone or district in which the home is located, then that land may be considered a potential resource if:

1. The applicant has received General Assistance for the *last 120 consecutive days*; and,
2. The applicant has the legal right to sell the land (e.g., any mortgagee will release any mortgage, any co-owners agree to the sale, zoning or other land use laws do not render the sale illegal or impracticable); and,
3. The applicant has the financial capability to put the land into a marketable condition (e.g., the applicant can pay for any necessary surveys); and,
4. The land is not utilized for the maintenance and/or support of the household; and,
5. A knowledgeable source (e.g., a realtor) indicates that the land in question can be sold at fair market value, for an amount which will aid the applicant's financial rehabilitation; and,
6. No other circumstances exist which cause any sale to be unduly burdensome or inequitable.

If the above conditions are met, then the administrator *may condition the receipt of future assistance* on the applicant's good faith efforts to sell, or render saleable, land which could be used to provide necessary support for the applicant (e.g., the applicant owns 100 "excess" acres. Sale of 10 of the acres would provide for the necessary support and therefore not all the land need be sold at the present time).

Assistance shall not be denied during the time that the applicant is making a good faith effort to sell or render saleable the land in question.

Once the applicant ceases to receive assistance the obligations under this section shall also cease.

b) Other Property.

If the applicant or dependents own real property other than that occupied as the principal residence, *continued eligibility* will depend on the applicant making a reasonable effort to:

1. Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or
2. Obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to a third party in order to become eligible for general assistance will be ineligible.

If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the municipal may claim a lien against the property. The lien shall not be enforceable until the time of sale of the property or upon death of the recipient (*see also section 6.8 of this ordinance*) (22 M.R.S.A. § 4320).

Section 5.5 – Work Requirement

All general assistance recipients are required to work, look for work, work to the extent of available employment, and otherwise fulfill the work requirements, unless the applicant is exempt as provided below.

Employment; rehabilitation.

All unemployed applicants and members of their households who are 16 years of age or older and who are not attending primary or secondary school full-time will be required to accept any suitable job offer and/or meet with job counselors, attend employment workshops and for rehabilitative services, except as provided below (*see “Exemptions”*). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

A “suitable job” means any job, which the applicant is mentally and physically able to perform. “Available for work” means that applicants must make themselves available for work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.

Verification.

Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. “Pursuit of employment” means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers.

For the duration of any repeat applicant’s period of unemployment or partial employment, the administrator will establish the number of employers per week to whom each non-exempt applicant shall be required to apply in order to fulfill his or her work search requirements. The number of weekly employer contacts required by the administrator shall be reasonably related to the number of potential employers in the region and the number of hours in the week the applicant has available for work search activities after considering all time the applicant has available for work search activities after considering all time the applicant must devote to existing employment obligations, workfare obligations, and required classroom or on-site participation in job training, educational, or rehabilitation programs. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.

Ineligibility.

After being granted assistance at the time of initial application, applicants will be considered *ineligible for further assistance for 120 days* if they, without just cause:

- a. refuse to register for employment with the Maine Job Service;
- b. refuse to search diligently for employment when the search is reasonable and appropriate; recipients who unreasonably seek work at the same places repeatedly

will not be considered to be performing a diligent work search and will be disqualified;

- c. refuse to accept a suitable job offer;
- d. refuse to participate in an assigned training, education or rehabilitation program that would assist the applicant in securing employment;
- e. fail to be available for work;
- f. refuse to participate or participate in a substandard manner in the municipal work program (*See Section 5.6*).

Ineligibility Due to Job Quit or Discharge for Misconduct.

No applicant, *whether an initial **or** repeat applicant*, who has quit his or her full-time or part-time job without just cause or who has been discharged from employment for misconduct (see 26 MRSA § 1043(23) for the definition) will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment (22 M.R.S.A. §§ 4301(8), 4316-A(1-A)).

Just Cause.

Applicants will be *ineligible for assistance for **120 days*** if they refuse to comply with the work requirements of this section without just cause. Just cause will be considered to exist when there is reasonable and verifiable evidence that:

- a. the applicant has a physical or mental illness or disability, which prevents him/her from working;
- b. the work assignment pays below minimum wages;
- c. the applicant was subject to sexual harassment;
- d. the applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;
- e. the applicant has no means of transportation to or from work or a training or rehabilitation program;
- f. the applicant is unable to arrange for necessary child care or care of ill or disabled family members;
- g. any reason found to be good cause by the Maine Department of Labor or any other verifiable reason which the administrator considers reasonable and appropriate will be accepted as just cause (22 M.R.S.A. § 4316-A(5)).

Applicant's Burden of Establishing Just Cause.

If the administrator finds that the applicant has violated a work-related rule without just cause, it shall be the *responsibility of the applicant* to establish the presence of just cause (22 M.R.S.A. § 4316-A).

Eligibility Regained.

Persons who are disqualified for 120 days because they violated a work requirement may regain their eligibility *if and only* when they become employed or otherwise satisfy the administrator that they are complying with the work requirement by fulfilling the work requirement they violated.

For the purpose of regaining eligibility by becoming employed, “employment” shall mean employment by an employer as defined in 26 M.R.S.A. §§ 1043 et seq., or the performance of a service for an employer who withholds from the employee a social security tax pursuant to federal law.

The special provisions regarding the opportunity to regain eligibility after a disqualification for workfare violations are detailed in section 5.6 of this ordinance, under “*Eligibility Regained*”.

Dependents.

Failure of an otherwise eligible person to comply with the work requirements shall not affect the eligibility of any member of the person’s household who is not capable of working, including:

- a. a dependent minor child;
- b. an elderly, ill or disabled person; and
- c. a person whose presence is required in order to provide care for any child under the age of 6 years or for any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one (or more) member(s) of a household are disqualified and assistance is requested for those remaining members of the household who are dependents, the eligibility of those dependents will be calculated as though the household is composed of the dependents only, except that all household income will be considered as available to them.

Exemptions.

The above requirements do not apply to any person who is elderly, physically or mentally ill or disabled. Any person whose presence is required to care for any pre-school age child or for any ill or disabled member of the household is also exempt from these requirements.

The requirements of this section will not be imposed so as to interfere with an applicant’s existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, classroom participation in a training program which is either approved by the Department of Labor or determined by the Department of Labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Labor.

Section 5.6 – Municipal Work Program

Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a nonprofit organization, *as a condition of receiving assistance* (22 M.R.S.A. § 4316-A(2)).

As part of the municipal work program, the municipality can require recipients to participate in training, education, or rehabilitative programs that will assist the recipient in securing employment. The work requirement provisions found in Section 5.5. regarding *just cause*, *dependents*, and *exemptions* also apply to the municipal work program.

Consent.

Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

Subtracting Value of Workfare Performed from Client's GA Debt.

Pursuant to 22 MRSA §4318 individuals owing the municipality funds for general assistance provided to them are obligated to repay the municipality when and if they become able (*see Article VIII*). However, persons performing workfare shall have the value of the workfare performed deducted from any and all GA debt including GA liens, (e.g., Workers' Compensation Settlement, SSI Retroactive Payment, Capital Improvement, Home Mortgage) that might exist against their settlements, payments or other such property.

Limitations.

The work requirement is subject to the following limitations (22 M.R.S.A. § 4316-A(3)).

1. No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance the value of which is computed at a rate of at least the prevailing minimum wage under state or federal law at the time the workfare was performed.
2. No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs.
3. In no case shall eligible persons performing work under this subsection replace regular municipal employees.
4. In no case will work performed under this subsection interfere with an eligible person's:
 - a) existing employment;
 - b) ability to follow up on a bona fide job offer;
 - c) attendance at an interview for possible employment;
 - d) classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
 - e) classroom participation in a training program which is approved by the Department of Labor or determined by the Department of Labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree granting program administered by the DHHS or the Department of Labor.
5. In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full or part-time employment shall be exempt from the

work requirement to the extent that the work requirement in combination with his or her regular employment would result in the person working more than 40 hours per week.

6. In no case will an eligible person be required to perform work beyond his or her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309). If the administrator requires a doctor's statement to verify an applicant's illness or disability and the applicant is not currently under the care of a provider, the municipality may pay for the doctor's evaluation if the applicant has no means to pay for the exam. However in such a case the administrator will choose the doctor. If there is a no-cost or low-cost health care option, the municipality may elect to refer the client to such a resource. The administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S.A. § 4316(5)).
7. In no case may an eligible person with an immediate need (i.e., a person in an emergency situation who has not been disqualified from receiving assistance for committing a program violation) be required to perform work under this subsection prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the eligible person that he/she is willing to work for the assistance received. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following "workfare first" policy.

"Workfare First" Policy.

Under the authority of 22 M.R.S.A. § 4316-A(2)(D), the administrator may, in accordance with the following guidelines, require a recipient of general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.

1. In no circumstance will *emergency* general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.
2. All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:
 - (a) a specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;
 - (b) the period of eligibility for which the general assistance grant is being issued (in days or weeks, but not to exceed 30 days);
 - (c) the rate, at a dollar-per-hour basis (but not less than the prevailing minimum wage), upon which the duration of the workfare assignment is being calculated;
 - (d) the actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;

- (e) the specifics of the workfare assignment(s), including the general nature of the type of work being assigned, location(s) of work-site, date(s) and time(s) of assigned workfare, workfare supervisor's names and contact telephone numbers, and
 - (f) any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.
- 3. As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.
- 4. If a portion of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with section 6.10 of this ordinance.
- 5. Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just cause shall be reassigned or excused at the discretion of the GA administrator.

Work-Related Expenses.

A participant's expenses related to work performed under this section will be added to and the amount of net general assistance to be provided to the person (22 M.R.S.A. § 4316(2)(E)). The municipality will provide any special clothes or equipment the recipient needs to perform his or her work assignment.

Disqualification.

Any person who either willfully fails to perform or willfully performs below average standards the work assigned by the municipality, will be ineligible for assistance for 120 days (22 M.R.S.A. § 4316-A(1)). As soon as the administrator knows that a recipient failed to fulfill the work assignment the administrator will notify the recipient that he/she is disqualified for 120 days starting from the last date of authorized assistance unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

Eligibility Regained.

Recipients who are disqualified from receiving assistance because they have violated the requirements of the municipal work program may regain their eligibility under the following conditions.

Recipients who fail to complete the first municipal work assignment they have been given will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible (*see Section 5.5, "Dependents"*).

If during the 120-day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause, failed to perform, the disqualified recipient will be given one opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible.

If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency. However, the provision of such emergency assistance will not bar the administrator from subsequently enforcing the previously issued 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

Recipients who have asked for the opportunity to regain their eligibility during a 120 day disqualification period and who agreed to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the administrator will enforce the 120-day disqualification for the term of its initial duration.

If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial 120-day period of disqualification for failing to comply with the municipal work program, that participant will be ineligible for a new 120-day period beginning with the new disqualification date, but will be provide no opportunity to re-qualify.

Any recipient who intentionally causes damage to property, harasses or harms other employees or who otherwise conducts themselves in a disruptive manner and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

Reports.

The administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the DHHS (22 M.R.S.A. §4316-A(2)).

Section 5.7 – Use of Resources

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource that may reduce his or her need for general assistance (*see section 2.2 definition of “Resources”*). People who refuse or fail to make a good faith effort to secure a potential resource *after receiving written notice* to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S.A. § 4317).

Minors.

A minor under the age of 18 who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance *only* if the minor is residing in the home of his or her parent, legal guardian or

other adult relative, in which case the entire household will be evaluated for eligibility. Exceptions to this limitation on eligibility will be made when:

1. the minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or
2. the minor has no living parent or the whereabouts of the both parents is unknown; or
3. no parent will permit the minor to live in the parent's home; or
4. the minor has lived apart from both parents for at least one year before the birth of any dependent child; or
5. the DHHS determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
6. the DHHS determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility (22 M.R.S.A. § 4309(4)).

Any person under the age of 25 who is applying independently from his or her parents for general assistance will be informed that until he or she reaches the age of 25, the applicant's parents are still legally liable for his or her support and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to the minor, at least to the extent his or her parents are financially capable or repaying the municipality (22 M.R.S.A. § 4319).

With regard to such application, the municipality may seek verification of the applicant's need for general assistance by contacting his or her parents. If the applicant's parents declare a willingness to provide the applicant with his or her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his or her parents for basic needs, the administrator may find the applicant to be in no need for general assistance for the reason that his or her needs can be provided by a legally liable relative.

Mental or Physical Disability.

Any applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been recommended by a physician, psychologist or other professional retraining or rehabilitation specialist when the services are available to the applicant and would not constitute a financial burden or create a physical risk to the individual.

Written Notice; Disqualification.

The administrator will give each applicant written notice that he/she is required to utilize any potential resources. Any applicant who refuses to utilize potential resources, without just cause, after receiving a written 7-day notice will be ineligible for further assistance until he/she has made a good faith effort to utilize or obtain the resources. General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

Forfeiture of Benefits.

Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, or a knowing or intentional violation of program rules or a refusal to comply with that program's rules without just cause will be

ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture.

To the extent the forfeited benefits were provided not in the form of income but, rather, in the form of a specific, regularly issued resource of a calculable value, that resource, up to its forfeited value, need not be replaced with general assistance for a period of 120 days from the date of the forfeiture unless the municipality is prohibited by federal or state law from considering the forfeited resource as available with respect to local public assistance programs (22 M.R.S.A. § 4317).

Section 5.8 – Period of Ineligibility

No one will have his or her assistance terminated, reduced, or suspended prior to being given written notice and an opportunity for a fair hearing (22 M.R.S.A. § 4321-4322). Each person will be notified in writing of the reasons for his or her ineligibility, and any person disqualified for not complying with the ordinance will be informed in writing of the period of disqualification.

Work Requirement.

People who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility) (*see Sections 5.5, 5.6*). If an applicant/recipient is provided assistance does not comply with the work requirement the applicant/recipient shall be disqualified for 120 days following the end of the period covered by the grant of assistance.

The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of ineligibility.

Fraud.

People who commit fraud are *disqualified from receiving assistance for a period of 120 days* (*see section 6.4 “Fraud”*). The administrator shall give recipients *written notice* that they are ineligible as soon as the administrator has sufficient knowledge and information to render a decision. If a disqualification for fraud is issued before the expiration of a grant of assistance, the period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of ineligibility.

ARTICLE VI - Determination of Eligibility

Section 6.1 – Recognition of Dignity and Rights

Any determination or investigation into an applicant’s eligibility will be conducted in a manner that will not violate the applicant’s privacy or personal dignity or violate his or her individual rights.

Section 6.2 – Determination; Redetermination

The administrator will make an individual, factual determination of eligibility *each time* a person applies or reapplies for general assistance. The administrator will make a redetermination of eligibility *at least monthly* but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis, but may elect to disburse that applicant's assistance periodically, e.g., weekly, throughout a 30-day period of eligibility pursuant to that initial eligibility determination.

The administrator may re-determine a person's eligibility at any time during the period he or she is receiving assistance if the administrator is notified of any change in the recipient's circumstances that may alter the amount of assistance the recipient may receive. Once a recipient has been granted assistance, the administrator *may not reduce or rescind the grant without giving prior written notice* to the recipient explaining the reasons for the decision and offering the recipient an opportunity to appeal the decision to the fair hearing authority (22 M.R.S.A. § 4309).

Section 6.3 – Verification

Eligibility of Applicant; Duration of Eligibility.

The overseer shall determine eligibility each time a person applies or reapplies for general assistance. The period of eligibility will not exceed one month. At the expiration of this period applicants/recipients may reapply for assistance and the person's eligibility will be re-determined.

Applicant's Responsibility.

Applicants and recipients for general assistance are responsible for providing to the overseer all information necessary to determine eligibility. If further information or documentation is necessary to demonstrate eligibility, the applicant must have the first opportunity to provide specific information or documentation required by the overseer. When information required by the overseer is unavailable, the overseer must accept alternative available information, which is subject to verification.

Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her:

- Need
- Income
- Employment
- Use of income
- Expenses
- Assets & liabilities
- Use of available resources
- Household composition

Initial Applicants.

A person who has not applied for assistance in this or any other municipality are considered initial applicants and must have their eligibility determined solely on the basis of need. Initial

applicants are not subject to eligibility conditions placed on repeat applicants (see below). However, such applicants are still responsible for providing the GA administrator with reasonably obtainable documentation adequate to verify that there is a need for assistance. In addition, initial applicants must also comply with both lump sum and relevant work rules (i.e. job quit).

Repeat Applicants.

All applicants for general assistance that are not initial applicants are repeat applicants. The eligibility of repeat applicants must be determined on the basis of need and all other conditions of eligibility established by the law and this municipal ordinance.

The administrator will require documentation of a repeat applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities. In addition, repeat applicants instructed to seek employment shall verify their work search results, e.g., provide a list of employers contacted, the date and time of the application contact, and the name of the employer representative contacted, as required by the GA administrator.

Repeat applicants are also responsible for providing any changes of information reported on previous applications including changes in his/her household or income that may affect his/her eligibility.

Unforeseen Repeat Applicants.

Unforeseen repeat applicants are applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source and who have unexpectedly become unemployed through no fault of their own or whose benefits (e.g., through an available resource) have ceased through no fault of their own. Such unforeseen repeat applicants may be considered initial applicants for purposes of verification requirements and misspent income if the administrator finds that imposing the general verification requirements and misspent income rules imposed on repeat applications would be unreasonable or inappropriate.

Overseer's Responsibilities.

In order to determine an applicant's eligibility for general assistance, the overseer must seek information and documentation from the applicant. Once the applicant has presented the necessary information, the overseer is responsible for determining eligibility, the overseer may contact sources other than the applicant for verification only with the specific knowledge and consent of the applicant, except that the overseer may examine public records without the applicant's knowledge or consent.

Appropriate sources, which the overseer may contact, include, but are not limited to:

- DHHS and any other department/agency of the state or non-profit organization
- financial institutions
- creditors
- utility companies
- employers
- landlords

- physicians
- persons with whom the applicant/recipient is a cohabitant
- legally and non-legally liable relatives

Assistance will be denied or terminated if the applicant is unwilling to supply the overseer with necessary information, documentation, or permission to make collateral contacts, or if the overseer cannot determine that eligibility exists based on information supplied by the applicant or others.

Redetermination of Eligibility.

The overseer may re-determine a person's eligibility at any time during the period that person is receiving assistance if the overseer is informed of any change in the recipient's circumstances that may affect the amount of assistance to which the recipient is entitled or that may make the recipient ineligible, provide that once a determination of eligibility has been made for a specific time period, a reduction in assistance for that time period may not be made without prior written notice to the recipient with the reasons for the action and an opportunity for the recipient to receive a fair hearing upon the proposed change.

Penalty for Refusing to Release Information.

Any person governed by 22 M.R.S.A. § 4314 who refuses to provide necessary information to the administrator after it has been requested must state in writing the reasons for the refusal within 3 days of receiving the request. Any person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than \$25 nor more than \$100 which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the administrator is guilty of a Class E crime (22 M.R.S.A. §§ 4314(5), 4314(6), 4315).

Section 6.4 – Fraud

It is unlawful for a person to make knowingly and willfully a false representation of a material fact to the administrator in order to receive general assistance or cause someone else to receive general assistance (22 M.R.S.A. § 4315). False representation shall consist of any individual knowingly and willfully:

- a. making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;
- b. concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant's household is not entitled;
or
- c. using general assistance benefits for a purpose other than that for which they were intended.

No person may be denied assistance solely for making a false representation *prior* to being given an opportunity for a fair hearing.

Period of Ineligibility.

When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making himself or herself eligible for general assistance, the administrator shall notify that applicant in writing that he or she has been disqualified from receiving assistance for 120 days. For the purpose of this section, a material misrepresentation is a false statement about an eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted.

The notification of ineligibility issued by the administrator shall inform the applicant of his or her right to appeal the administrator's decision to the fair hearing authority (FHA) within 5 working days of receipt. The period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of ineligibility, whichever is later.

Right to a Fair Hearing.

Any recipient who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority (FHA) in accordance with Article VII of this ordinance. No recipient shall have his or her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the FHA may appeal that decision to the Superior Court pursuant to Rule 80-B of the Maine Rules of Civil Procedure (22 M.R.S.A. § 4309(3)).

Reimbursement.

If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, the recipient will be required to reimburse the municipality for any assistance received to which he/she was not entitled.

Dependents.

In no event will the disqualification of a person under this section serve to disqualify any eligible dependent in that household (22 M.R.S.A. § 4309(3)). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that the entire household income will be considered available to them.

Section 6.5 – Period of Eligibility

The administrator will grant assistance to all eligible persons for a period that is sufficient to meet their need but in no event may a grant of assistance cover a period in excess of one month (22 M.R.S.A. § 4309). Upon receiving a completed and signed application the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis.

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator shall render a notice of "ineligibility" and advise the applicant that he or she has a right to reapply as soon as he or she has the necessary information and/or as soon as is practicable for the applicant. Although eligibility is determined on a 30-day basis, for reasons of administrative efficiency the administrator may elect to disburse an applicant's assistance for shorter periods of time, such as

weekly, throughout the 30-day period of eligibility. When the administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that 30-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a redetermination of eligibility.

Section 6.6 – Determination of Need

The period of time used to calculate need will be the *next 30-day period* from the date of application (22 M.R.S.A. § 4301(7)). The administrator will calculate applicant's expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in section 6.8, whichever is less. The sum of these expenses, as calculated for a prospective 30-day period, is the applicant's *30-day need*. Applicants will not be considered eligible if their income and other resources exceed this calculation except in an emergency (22 M.R.S.A. § 4308(2)) (*see section 4.9 of this ordinance*).

Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the beginning of section 6.8 (22 M.R.S.A. §§ 4301(10), 4305(3-B)). The difference between the applicant's income/resources and the overall maximum levels of assistance established by this ordinance is the applicant's *deficit*.

Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity (see Appendixes A-H of this ordinance) shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency (22 M.R.S.A. § 4305(3-A)).

Income for Basic Necessities.

Applicants are *required* to use their income for *basic necessities*. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the 30-day period prior to the application on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective 30-day income for the purposes of computing eligibility (22 M.R.S.A. § 4315-A). Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities *will not* be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum level of assistance.

Use-of-Income Requirements.

The administrator may require that anyone applying for general assistance provide documentation of his or her use of income. This documentation can take the form of canceled checks and/or receipts which demonstrate that the applicant has exhausted all household income received over the last 30-day period. Except as is deemed appropriate by the GA administrator for "unforeseen" repeat applicants (*See Section 6.3 of this ordinance*), any repeat applicants may

be required to verify that expenditure of income was for basic necessities. Income expended that cannot be verified will generally be considered available and in such case will be added to the 30-day prospective income.

Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, and food *up to the ordinance maximums*; telephone costs at the base rate *if* the household needs a telephone for medical reasons, the costs of non-elective medical services as recommended by a physician which are not otherwise covered by medical entitlement or insurance; the reasonable cost of essential clothing and non-prescription drugs, and the costs of any other commodity or service determined essential by the administrator.

Items not considered to be basic necessities and thus will not be allowed in the budget computation include:

- Internet services
- Cable or satellite television
- Cellular Phones
- Cigarettes/alcohol
- Gifts purchased
- Pet care costs
- Costs of trips or vacations
- Paid court fines
- Repayments of unsecured loans
- Legal fees
- Late fees
- Credit card debt

The municipality reserves the right to apply specific use-of-income requirements to any applicant, other than an initial applicant, who fails to use his or her income for basic necessities or fails to reasonably document his or her use of income (22 M.R.S.A. § 4315-A). Those additional requirements will be applied in the following manner:

1. The administrator may require the applicant to use some or all of his or her income, at the time it becomes available toward *specific* basic necessities. The administrator may prioritize such required expenditures so that most or all of the applicant's income is applied to housing (i.e. rent/mortgage), energy (i.e. heating fuel, electricity), or other specified basic necessities.
2. The administrator will notify applicants in writing of the specific use-of-income requirements placed on them.
3. If upon subsequent application it cannot be determined how the applicant's income was spent, or it is determined that some or all of applicant's income was not spent as directed and was also not spent on basic necessities, the applicant will not be eligible to receive either regular or emergency general assistance to replace that income.
4. If the applicant does not spend his or her income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.

Computation of Income and Expenses.

When determining eligibility the administrator will subtract the applicant's net income from the overall maximum level of assistance found at the beginning of section 6.8. If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (*see section 4.9*). If income is less than the overall maximum level of assistance, the applicant has a deficit.

The municipality will provide assistance in an amount up to the deficit to the extent the applicant is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in section 6.8 of this ordinance, except in an emergency or when the administrator elects to consolidate the applicant's unmet need, as provided immediately below.

Consolidation of Deficit.

As a general rule and to the extent of their deficit, applicants will be eligible for assistance for any basic necessity up to, but not exceeding, the maximum amount allowed for that necessity in this ordinance or the actual 30-day cost of the necessity, whichever is less. Under certain circumstances, however, and in accordance with the following conditions, the administrator may consolidate the applicant's deficit and apply it toward a basic necessity in an amount greater than the ordinance maximum for that necessity.

1. The practice of consolidating the deficit and applying it toward a basic necessity in amounts greater than the ordinance maximum shall be the exception rather than the rule;
2. The total general assistance grant cannot exceed the total deficit unless the applicant is in an emergency situation; and
3. The need for the application of the recipient's consolidated deficit toward a basic necessity was not created by the recipient mispending his or her income or resources in violation of the use-of-income requirements of this ordinance

Section 6.7 – Income

Income Standards.

Applicants whose income exceeds the overall maximum levels of assistance provided in section 6.8 shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant's income and expenses each time they apply.

Calculation of Income.

To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30-day period commencing on the date of application and identify any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was not spent during the previous 30-day period on basic necessities, as well as any income that was spent on basic necessities in unreasonable excess of the ordinance maximums for specific basic necessities. If a household's income exceeds the amount of the household's need for basic

necessities, up to the maximum levels contained in section 6.8, applicants will not be considered in need.

Exceptions will be made in emergency situations, which may necessitate that the maximum levels be exceeded (22 M.R.S.A. § 4308) (*see section 4.9 of this ordinance*). To calculate weekly income and expenses, the administrator will use actual income received or actual anticipated income.

Types of Income.

Income which will be considered in determining an applicant's need includes:

a. Earned Income.

Income in cash or in kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee is considered earned income. If a person is self-employed, total income will be computed by subtracting reasonable and actual business expenses from gross income. When income consists of wages, the amount computed will be the income available after taxes, social security and other payroll deductions required by state, federal and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income.

***NOTE:** Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will not be considered available income and will be deducted (22 M.R.S.A. § 4301.7).*

b. Income from Other Assistance or Social Services Programs.

State/federal categorical assistance benefits, SSI payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits Food Stamps and fuel assistance payments made by the Home Energy Assistance Program (HEAP and ECIP) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive. Although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/ECIP benefit has sufficiently credited their account or otherwise prevented the fuel-related costs for the prospective 30-day period.

The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his or her total fuel costs. Accordingly, in such cases, the administrator will budget for the households' heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his or her utility

company. The municipality is not obligated to divert any recipient's heating energy allowance toward non-heating purposes solely on the basis of the recipient's receipt of HEAP/ECIP.

Other programs whose income cannot be counted for purposes of GA eligibility include:

- a. Family Development Accounts (22 MRSA § 3762)
- b. Americorp VISTA program benefits (42 USCS § 5044(f))
- c. Property tax rebates issued under the Maine Residents Property Tax Program (so-called "Circuitbreaker" program) (36 MRSA § 6216)

c. Court-Ordered Support Payments.

Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the State Department of Health and Human Services' Child Support Enforcement Unit. In order to be eligible for future GA, applicants being referred to DHHS for such enforcement services shall be required to follow-through with such services. Because child support payments are considered a resource, applicants must make a good faith effort to secure such payments.

d. Income from Other Sources.

Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S.A. § 4301(7)).

e. Earnings of a Son or Daughter.

Earned income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.

f. Income from Household Members.

Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool or share their income and expenses as a family or intermingle their funds so as to provide support to one another.

g. The Pooling or Non-Pooling of Income.

When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income (22 M.R.S.A. § 4301(12-A)).

One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable documentation affirmatively demonstrating a pattern of non-pooling for the duration

of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, canceled checks, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his or her pro-rata share of household costs.

If the applicant is unable to successfully rebut the municipality's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his or her income and his or her pro-rata share of actual household expenses.

h. Lump Sum Income.

A lump sum payment received by any GA applicant or recipient prior to the date of application for general assistance will be considered as income available to the household. However, verified required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of bills earmarked for the purpose for which the lump sum payment was made) and any amount of the lump sum payment which the applicant can document was spent on basic necessities, as described below, *will not* be considered available income.

Where a household receives a lump sum payment at any time prior to the date of application for general assistance, the administrator will assess the possibility of prorating an applicant's eligibility for general assistance according to the criteria (22 M.R.S.A. § 4301(7), (8-A)):

- 1) identify the date the lump sum payment was received;
 - 2) subtract from the lump sum payment all required payments;
 - 3) subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities as defined by the general assistance program such as: reasonable payment of funeral or burial expenses for a family member; any reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day to day living necessities. Repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payments of bills earmarked for the purpose of which the lump sum is paid must also be subtracted. (22 M.R.S.A. § 4301(7), (8-A));
 - 4) add to the remainder all income received by the household between the date of receipt of the lump sum payment and the date of application for general assistance; and
 - 5) divide the sum created by subsection (4) by the greater of the verified actual monthly amounts for all of the household's basic necessities or 150% of the applicable federal poverty guidelines. 22 M.R.S.A. §4305.3-B
- This dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment.

The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period or proration, whichever is less.

The household of an initial applicant that is otherwise eligible for emergency assistance may not be denied emergency assistance to meet an immediate need solely on the basis of the proration of a lump sum payment. (22 MRSA § 4308).

Section 6.8 – Basic Necessities; Maximum Levels of Assistance

Overall Maximum Levels of Assistance.

Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in Appendix B-H of this ordinance, an applicant's eligibility for general assistance will be first determined by subtracting his or her income from the overall maximum level of assistance designated in Appendix A for the applicable household (22 M.R.S.A. §4305(3-B)). The difference yielded by this calculation shall be the applicant's deficit.

Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain themselves or their families. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to section 4.9 of this ordinance.

Maximum Levels of Assistance for Specific Basic Necessities.

The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance set forth below. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit toward assistance with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to unless the administrator determines that there are exceptional circumstances and an emergency is shown to exist, in which case these absolute levels will be waived in order to meet immediate needs. In all cases either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need.

In roommate situations, the applicant's need for common living expenses for food, rent, fuel, etc. will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person. In addition, as a general rule the municipality will not provide a benefit toward a basic need by paying a bill that is issued to a person not living with the applicant's household or that has otherwise been incurred by a person who has not been found eligible to receive assistance.

Temporary exceptions to this general rule may be made by the administrator in the following circumstances: (1) a recent, unplanned separation has occurred in the household resulting in the sustained or permanent absence of a former household member in whose name the bill was customarily issued; (2) the applicant and members of the applicant's household were or will be the sole recipients of the commodities or services covered by any bill to be paid or partially paid with general assistance; and (3) the applicant will make a good faith effort to direct the vendor to

issue future bills in the name of the applicant or other responsible person residing in the household.

a. Food.

The administrator will provide food assistance to eligible persons up to the allowed maximum amounts designated by the U.S.D.A. *Thrifty Food Plan* for the appropriate household size.

For this purpose, the municipality hereby incorporates by reference the U.S.D.A. *Thrifty Food Plan*, as distributed by the Maine Department of Health and Human Services on or about October of each year. See Appendix B of this ordinance for the current year's food maximums. [as amended 04-01-2009]

In determining need for food the administrator will not consider the value of the food stamps an applicant receives as income (22 M.R.S.A. § 4301(7)(A); 7 U.S.C. § 2017(b)). The municipality will authorize vouchers to be used solely for approved food products.

The administrator will exceed the maximums when necessary for households having members with special dietary needs. The administrator may require a doctor's statement verifying there is a special dietary need requiring an expenditure for food which is greater than the ordinance maximums.

b. Housing.

The administrator will provide assistance with rent or mortgage payments that are reasonable within the allowed maximum levels and in accordance with the housing assistance limits and exceptions provided in Title 22, section 4308, subsections 1-A and 1-B. See Appendix C of this ordinance for the current year's housing maximums. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his or her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed.[amended 06/20/2012]

Rental Payments to Relatives.

The municipality *may elect to not issue* any rental payment to an applicant's relative *unless* the rental relationship has existed for at least three months *and* the applicant's relative(s) rely on the rental payment for their basic needs. For the purpose of this section, a "relative" is defined as the applicant's parents, grandparents, children, grandchildren, siblings, parent's siblings, or any of those relative's children (22 M.R.S.A. § 4319(2)).

Rental Payments to Non-Relatives.

When applicants living in private homes with the owner or sharing dwelling units with people who are not pooling income or who are not legally liable relatives, the amount allowed as the applicant's shelter expense will be the applicant's pro-rata share of the actual, total shelter cost, up to the ordinance maximum (22 M.R.S.A. § 4301(6)).

Any housing assistance issued to a recipient in such a circumstance will be issued, whenever reasonably possible, to the landlord or property owner with most superior legal or equitable interest in the property; i.e., to a landlord before a tenant, or to a mortgagee before a mortgagor.

When the municipality issues in aggregate more than \$600 in rental payments to any landlord in any calendar year, a 1099 from declaring the total amount of rental payments issued during the calendar year will be forwarded to the Internal Revenue Service (IRS) pursuant to IRS regulation (*see section 6041(a) of Internal Revenue Code*).

Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, make a good faith effort to obtain a lodging license from the Department of Health and Human Services, Division of Health Engineering, pursuant to 10-144A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

Mortgage payments.

In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In making this determination, the administrator will consider the extent and liquidity of the applicant's propriety interest in the housing. Factors to consider in making this determination include:

- (1) the marketability of the shelter's equity,
- (2) the amount of equity,
- (3) the availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs,
- (4) the extent to which liquidation may aid the applicant's financial rehabilitation,
- (5) a comparison between the amount of mortgage obligations and of anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing,
- (6) the imminence of the applicant's dislocation from owned housing because of his or her inability to meet the mortgage payments,
- (7) the likelihood that the provision of housing assistance will prevent such dislocation, and
- (8) the applicant's age, health, and social situation.

These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide.

The administrator shall consider issuing a benefit in response to the applicant's request for mortgage assistance to the extent the applicant is otherwise eligible for general assistance if after reviewing the above criteria the administrator determines that:

- (1) the mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size;
- (2) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or re-amortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and
- (3) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continued right of possession of the property.

If a mortgage payment is necessary, the administrator will pay the actual amount due, up to the amount allowed according to the maximum levels listed below, whichever is less. After an initial application, assistance with such payments will be given only after the applicant has made all reasonable efforts to borrow against the equity of his or her home. If there is not sufficient equity in the home with which to secure a loan, and if the monthly mortgage payments are not realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he/she is responsible for finding alternative housing within his or her ability to pay and will be obligated to make all reasonable efforts to secure such housing.

Liens.

The municipality may place a lien on the property in order to recover its costs of granting assistance with mortgage payments. In addition, a municipality may claim a lien against the owner of real estate for the amount of money spent by it to make capital improvements to the real estate. (22 MRSA § 4320). No lien may be enforced against a recipient except upon his or her death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance or who would again become eligible for general assistance if the lien were enforced.

If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment or capital improvement it must file a notice of the lien with the county registry of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality's or the state's interest in an amount equal to the sum of that mortgage or capital improvement payment and all subsequent mortgage or capital improvement payments made on behalf of the same eligible person, plus interest and costs.

Not less than 10 days prior to filing the lien in the registry, the municipal officers must send notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested, that a lien notice is going to be filed with the registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of additional

mortgage payment. This notice must include the same information that appeared on the original intent-to-file notice sent to the recipient.

The municipality may charge interest on the amount of money secured by the lien. The municipal officers will establish the interest rate not to exceed the maximum rate of interest allowed by the State Treasurer to be charged against delinquent taxes. The interest will accrue from the date the lien is filed.

Property Taxes.

In the event an applicant requests assistance with his or her property taxes, the administrator will inform the applicant that there are two procedures on the local level to request that relief: the poverty abatement process (36 M.R.S.A. § 841(2)) and General Assistance. If the applicant chooses to seek property tax assistance through General Assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

- a) the property tax in question is for the applicant's place of residence;
- b) there is a tax lien on the property which is due to mature within 60 days of the date of application;
- c) as a matter of policy or practice, or on the basis of information obtained from the applicant's mortgagee, if any, it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and
- d) the applicant, with sufficient notice applies for property tax relief through the Maine Resident Property Tax Program, when available.

Housing Maximums.

The maximum levels of housing assistance contained in this ordinance have been derived either from a locally accomplished fair market rental survey or the fair market rental values developed by the United State Department of Housing and Urban Development (HUD). If the maximum levels of housing are derived from the HUD values made effective as of every October 1, and adjusted to disregard the current and averaged utility allowances as developed by the Maine State Housing Authority, those levels are hereby incorporated by reference. See Appendix C of this ordinance for the current year's housing maximums.

If and when the maximum levels of housing contained in this ordinance are derived from a locally developed fair market rental survey, a record of that survey will be submitted to the DHHS, General Assistance Unit, and the maximum levels of housing assistance will be incorporated into this ordinance pursuant to the ordinance adoption and amendment procedures found at 22 M.R.S.A. § 4305.

c. Utilities.

Expenses for lights, cooking, and hot water will be budgeted separately if they are not included in the rent. Applicants are responsible for making arrangements with the utility company regarding service, including entering into a special payment arrangement if necessary.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not obligated to pay back bills or utility security deposits. Exceptions may be made in emergency situations pursuant to Section 4.9.

Disconnection of utility service will not be considered an emergency in all cases. The administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The administrator will consider the household composition, the time of year, the health of the household members, and other appropriate factors in reaching a decision. Applicants who had sufficient income, money, assets or other resources to pay their utility bill when it was received, but who spent all or part of their income on items which were not basic necessities, will not be eligible to receive general assistance to replace those funds.

Applicants have the burden of providing evidence of their income and use of income for the applicable time period (22 M.R.S.A. § 4308(2)) (*see section 4.9 and 6.3*). The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicant's responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

Electricity Maximums for Households Without Electric Hot Water.

See Appendix *Utilities* of this ordinance for the current year's electricity maximums.

Electricity Maximums for Households With Electrically Heated Hot Water.

See Appendix D of this ordinance for the current year's electricity maximums.

Non-electric Utilities.

The allowed amount for water and sewer utility service will be budgeted at a 30-day reasonable usage rate.

d. Fuel.

Expenses for home heating will be budgeted according to the actual need for fuel during the heating season (September through May) provided such expenses are reasonable, and at other times during the year when the administrator determines the request for fuel assistance is reasonable and appropriate.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in section 4.9. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just case for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicant's control, and process the emergency request accordingly, pursuant to section 4.9 of this ordinance. See Appendix E of this ordinance for the current year's fuel maximums.

e. Personal Care and Household Supplies.

Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items. Personal and household supplies

include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags, and light bulbs and supplies for children under 5 years of age. See Appendix F *Personal Care & Household Supplies* of this ordinance for the current year's personal care and household supplies maximums.

f. Other Basic Necessities.

Expenses falling under this section will be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.

1. Clothing.

The municipality may assist a household with the purchase of adequate clothing. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. In some circumstances, clothing will be a postponable item. Exceptions to this would be, for example, if fire or unusually cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment, or a household member is without adequate clothing.

2. Medical.

The municipality will pay for essential medical expenses, other than hospital bills (*see below*), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devices, treatments, or services that are determined to be 'medically necessary' by a licensed physician. The municipality will grant assistance for medical service only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program that will diminish his or her need to seek general assistance for medical expenses. The municipality will grant assistance for non-emergency medical services only if a physician verifies that the services are essential. Provided there is no cost to the applicant, the administrator may require a second medical opinion from a physician designated by the municipality at the municipality's expense to verify the necessity of the services.

Generally, the municipality will issue general assistance at the established Medicaid rates for all medical services, prescriptions, or other medical expenses. Before authorizing general assistance for any medical expenses, the administrator will inform the pharmacy or medical service provider of the municipality's intention to pay for the medical service at the Medicaid rate, and ask to be billed accordingly.

Ordinary medical supplies/non-prescription drugs will be budgeted at the actual amount when the applicant can demonstrate a need for such items. Allowable supplies include bandages, aspirin, cough syrup, and other generic brand, non-prescription medicines. In addition, the basic monthly rate for telephone service will be budgeted when a telephone is essential to the health and safety of the household. In order for telephone service to be

considered an allowable expense the applicant must provide a written statement from physician certifying that the telephone is essential.

3. Hospital Bills.

In the event of an emergency admission to the hospital, the hospital must notify the administrator within 5 business days of the admission. Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a hospital fails to give timely notice to the administrator the municipality will have no obligation to pay the bill.

Any person who cannot pay his or her hospital bill must apply to the hospital for consideration under the *Hospital's Free Care Program* as provided in Title 22 M.R.S.A. §396-F(1). Anyone who is not eligible for the hospital's free care program may apply for general assistance. Applicants must apply for assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that they are not eligible for the hospital's free care program.

Before the municipality will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he/she applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at section 6.6 of this ordinance.

4. Dental.

The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full month extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.

5. Eye Care.

In order to be eligible to receive general assistance for eyeglasses, an applicant must have his or her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources and generally only at the Medicaid rate.

6. Telephone Charge.

Payment for basic telephone will only be allowed if a telephone is necessary for medical reasons as verified by a physician. At the discretion of the GA administrator,

minimum/basic telephone services may be allowed for households with children, for households where job service or job related reasons exist and/or for any other reasons the administrator deems necessary.

7. Work-related Expenses.

In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include childcare costs, work clothes, supplies and transportation at the actual costs not to exceed the ordinance maximum (see Appendix G for this year's maximum mileage allotment. The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.

8. Travel Expenses.

In determining need, necessary travel which is not work-related will be budgeted if the applicant can satisfy the administrator that the prospective need for travel is necessary. For applicants in rural areas, weekly transportation to a supermarket will be considered, as will any medically necessary travel. See Appendix G for the current rate at which such necessary travel will be budgeted. This rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.

9. Burial, Cremations.

Under the circumstances and in accordance with the procedures and limitations described below (*see section 6.9*), the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons. See Appendix H for the current maximums.

10. Capital Improvements.

The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when:

- 1) the failure to do so would place the applicant(s) in emergency circumstances;
- 2) there are no other resources available to effect the capital repair; and
- 3) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation.

In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 MRSA § 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished in the same manner as for mortgage payments, as described in (B) "Liens," above.

Section 6.9 – Burials; Cremations

Funeral Director Must Give Timely Notice:

In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator *prior to the burial or by the end of the next business day following the funeral director's receipt of the body*, whichever is earlier (22 M.R.S.A. § 4313(2)). This contact by the funeral director shall begin the process of developing an application for burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to make a good-faith effort to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses, and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact to the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.

Application for Assistance Shall be Created on Behalf of the Deceased:

For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be created by the administrator on behalf of the deceased.

With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under section 4.10 of this ordinance.

Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will *not* be construed as an application for general assistance inasmuch as living persons are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

The Financial Responsibility of Certain Family Members:

Grandparents, parents, siblings, children and grandchildren of the deceased, who live in Maine or own property in Maine, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator with any reasonable requested information regarding their income, assets, and basic living expenses.

Consideration of the Financial Responsibility of Family Members:

Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the

municipality will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.

Proration of Familial Responsibility:

A proration of familial responsibility will be used when no legally liable relative possesses an obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found to have a financial capacity to make a partial financial contribution, or the administrator is unable to determine the financial capacity of one or more said relatives.

Under these circumstances, each legally liable relative is considered to be responsible for his or her pro-rata share of the total municipal contribution that would exist if no legally liable relatives had a financial capacity to contribute. Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit the aggregate of all prorata shares less the share of any legally liable relative who refuses to cooperate with the administrator by providing information or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can financially contribute or partially contribute toward the burial or cremation to the extent of that relative's share.

Ten Days to Determine Eligibility:

*The administrator may take up to **10 days** from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation. The 10-day eligibility determination period from the date of contact by the funeral director shall be used as necessary to make third-party collateral contacts, verify the listing of legally liable family members and determine their respective financial capacities to contribute to the burial or cremation, contact the personal representative of the deceased's estate, if any, and other related administrative tasks. The administrator shall not use this 10-day period allowed by law to unreasonably delay the municipality's decision.*

The Municipal Obligation to Pay When Legally Liable Relatives or Others Can Contribute:

The figures provided in this section are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source. To the extent any legally liable relatives of the deceased have a financial capacity to pay for the burial or cremation, that financial capacity shall be deducted from the maximum burial costs allowed by this section. In addition, any other benefits, or resources that are available, such as Social Security burial benefits, veterans' burial benefits, or contributions from other persons, will be deducted from the maximum amount the municipality will pay, except there will be no deduction from the municipal benefit level with respect to any contribution provided for the purpose of publishing an obituary notice up to an aggregate contribution limit for this purpose of \$75 when a paid receipt demonstrating the purchase of an obituary notice is provided to the administrator.

Burial Expenses.

The administrator will respect the wishes of the family members with regard to whether the deceased is interred by means of burial or cremated. See Appendix H for the maximum amount of assistance granted for the purpose of burials.

Cremation Expenses.

In the absence of any objection by any family members of the deceased, or when neither the administrator nor the funeral director can locate any family members, the administrator will issue general assistance for cremation services. See Appendix H for the maximum levels of assistance granted for the purpose of cremations.

Section 6.10 – Notice of Decision**Written decision.**

The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving completed and signed application (22 M.R.S.A. § 4305(3)) (see Article IV, section 4.6).

When an applicant submitted an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator may decide to render a notice of “ineligibility” and provide the applicant with another application to submit as soon as is practicable for the applicant.

In order to ensure that applicants understand their rights, it is the responsibility of the general assistance administrator to explain the applicants’ right to a fair hearing in the written notice of decision.

Contents.

After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. In addition to the contents of a written decision listed in section 4.6 of this ordinance, the notice will state that the applicants:

- (a) have the right to a fair hearing and the method by which they may obtain a fair hearing;
- (b) have the right to contact the DHHS if they believe the municipality has violated the law. The decision will state the method for notifying the department.

Disbursement of General Assistance.

Except when determined impractical by the administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the administrator shall document the circumstances for issuing general assistance in the form of cash (22 M.R.S.A. § 305(6)).

ARTICLE VII - The Fair Hearing

Section 7.1 – Right to a Fair Hearing

Within 5 working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his or her authorized representative has the right to request a fair hearing (22 M.R.S.A. § 4322). The right to review a decision of the general assistance administrator is a basic right of the applicant to a full evidentiary hearing and is not limited solely to a review of the decision.

Section 7.2 – Method of Obtaining a Fair Hearing

Upon receiving notification of the decision of the general assistance administrator, all claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the general assistance administrator. If the client is satisfied with the adjustment or explanation, the administrator will make an entry in the case record and file any correspondence involved.

Written Request.

To obtain a fair hearing, the claimant, or his or her authorized representative, must make a written request within 5 working days of receiving the administrator's decision to grant, deny, reduce or terminate assistance, or within 10 working days after any other act or failure to act. The administrator will make available a printed form for requesting a fair hearing and will assist the claimant in completing it if necessary. On the printed form, the claimant will give the following information:

- a) the decision on which review is sought;
- b) the reason(s) for the claimant's dissatisfaction and why he/she believes he/she is eligible to receive assistance; and
- c) the relief sought by the claimant.

The administrator *cannot deny or dismiss* a request for a hearing unless it has been withdrawn (in writing) by the claimant.

Scheduling the Fair Hearing.

Upon receipt of the completed written request the fair hearing authority must meet and hold the hearing within 5 working days. The administrator will notify the claimant in writing when and where the hearing will be held (22 M.R.S.A. § 4322). In addition to the date, time and place of the hearing, the notice of fair hearing sent to the claimant shall include, at a minimum, the claimant's rights to:

- a. be his or her own spokesperson at the fair hearing, or be represented by legal counsel or other spokesperson at the hearing, at the claimant's own expense;
- b. confront and cross-examine any witnesses presented at the hearing against the claimant;
- c. present witnesses on his or her own behalf.

Arrangements for the date, time and place of the hearing will take into consideration the convenience of the claimant and the hearing authority. The claimant will be given notice early enough to allow preparation and will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case.

Section 7.3 – The Fair Hearing Authority

The municipal officers will appoint a fair hearing authority (FHA) that will determine, based on all the evidence presented at the fair hearing, whether the claimant(s) were eligible to receive assistance at the time they applied for GA. The FHA is charged with the responsibility of ensuring that general assistance is administered in accordance with the state law and local ordinance.

The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as FHA, or, if designated, the board of appeals created under 30-A M.R.S.A. § 2691 (22 M.R.S.A. § 4322). In determining the organization of the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as FHA must:

- (a) not have participated in the decision which is the subject of the appeal;
- (b) be impartial;
- (c) be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination;
- (d) be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the administrator operated, and interpreting to the administrator any evidence of unsound, unclear, or inadequate policies, practices or actions.

Section 7.4 - Fair Hearing Procedure.

When a claimant requesting a fair hearing is notified of the date, time and place for the hearing in writing, he/she will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case. The claimant shall be permitted to review his or her file prior to the hearing. At a minimum, the claimant will be told the following information, which will govern all fair hearings. All fair hearings will:

- a) be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, his or her agents, counsel and witnesses;
- b) be opened with a presentation of the issue by the fair hearing authority;
- c) be conducted informally, without technical rules of evidence, but subject to the requirements of due process;
- d) allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;
- e) give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses presented at the hearing; and examine all evidence presented at the hearing;

- f) result in a decision, based exclusively on evidence or testimony presented at the hearing; and
- g) be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing authority must be made available to the claimant or his or her representative. The claimant will be responsible for preparing a written transcript if he/she wishes to pursue court action.

The fair hearing authority shall admit all evidence if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs (22 M.R.S.A. §4322).

Claimant's Failure to Appear.

In the event the claimant fails to appear, the FHA will send a *written notice* to the claimant that the GA administrator's decision was not altered due to the claimant's failure to appear. Furthermore, the notice shall indicate that the claimant has **5 working days from receipt of the notice** to submit to the GA administrator information demonstrating "just cause", for failing to appear.

For the purposes of a claimant's failure to appear at a fair hearing, examples of "just cause" include:

- a. a death or serious illness in the family;
- b. a personal illness which reasonable prevents the party from attending the hearing;
- c. an emergency or unforeseen event which reasonably prevents the party from attending the hearing;
- d. an obligation or responsibility which a reasonable person in the conduct of his or her affairs could reasonable conclude takes precedence over the attendance at the hearing; or
- e. lack of receipt of adequate or timely notice; excusable neglect, excusable inadvertence, or excusable mistake.

If the claimant (or their attorney) establishes just cause, the request for the hearing will be reinstated and a hearing rescheduled.

In the event a claimant who is represented by legal counsel fails to appear at a fair hearing, legal counsel shall not testify in place of the claimant on matters of "fact" but may cross examine witnesses and make 'legal' arguments on behalf of the claimant.

Section 7.5 – The Fair Hearing Decision

The decision of the fair hearing authority, will be binding on the general assistance administrator, and will be communicated in writing to the claimant within 5 working days after completion of the hearing. Written notice of the decision will contain the following:

- a) a statement of the issue;
- b) relevant facts brought out at the hearing;

- c) pertinent provisions in the law or general assistance ordinance related to the decision;
- d) the decision and the reasons for it.

A copy of the notice of the decision will be given to the claimant. The hearing record and the case record will be maintained by the general assistance administrator.

The written notice of the decision will state that if the claimant is dissatisfied with the fair hearing decision, he/she has a further legal right to appeal the decision pursuant to the Maine Rules of Civil Procedure, Rule 80B. To take advantage of this right, the claimant must file a petition for review with the Superior Court within 30 days of receipt of the fair hearing decision.

When the decision by the fair hearing authority or court authorizes assistance to the claimant, that assistance will be provided *within 24 hours*.

ARTICLE VIII - Recovery of Expenses

Recipients.

The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or his or her executors or administrators in a civil action. However, prior to recovering assistance granted, the municipality shall “offset” the value of any workfare performed by a GA recipient, at a rate of not less than minimum wage.

Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him/her in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the person would again become eligible for general assistance (22 M.R.S.A. § 4318).

Recipients Anticipating Workers’ Compensation Benefits.

The municipality shall claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the Workers’ Compensation Act or similar law of any other state (22 M.R.S.A. § 4318, 39-A M.R.S.A. § 106). After issuing any general assistance on behalf of a recipient who has applied for or is receiving Workers’ Compensation the municipality shall file a notice of the municipal lien with the general assistance recipient and the Office of the Secretary of State, Uniform Commercial Code division.

The notice of lien shall be filed on a UCC-1 form which must be signed by the recipient of general assistance who *has applied for or is receiving Worker’s Compensation*. Any general assistance applicant who has applied for or who is receiving Worker’s Compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible for receive general assistance until he or she provides the required signature. The municipality shall also send a photocopy of that filing to the recipient’s Worker’s Compensation attorney, if known, the applicant’s employer or the employer’s insurance company, and, at the administrator’s discretion, to the Worker’s Compensation Board. The lien shall be enforced at the time any lump sum Worker’s Compensation benefit is issued.

Recipients of SSI.

All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim

Assistance form distributed by the DHHS that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied or may be applying for SSI or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317 and who refuses to sign the Interim Agreement SSI Authorization form will be found ineligible for general assistance until he or she provides the required signature (22 M.R.S.A. § 4318).

Relatives.

The spouse of an applicant, the parents of an applicant under the age of 25, are liable for the support of the applicant (22 M.R.S.A. § 4319). In addition, grandchildren, children, siblings, parents and grandparents are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility. (22 M.R.S.A. § 4319).

ARTICLE IX - Severability

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the ordinance.

2018-2019 GA Overall Maximums

Metropolitan Areas

Persons in Household					
COUNTY	1	2	3	4	5*
Bangor HMFA: Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	733	814	1,032	1,294	1,748
Penobscot County HMFA: Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	693	697	908	1,137	1,297
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	669	736	932	1,193	1,461
Portland HMFA: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	1,058	1,159	1,483	1,986	2,303
York/Kittery/S.Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York	989	1,039	1,382	1,749	2,433
Cumberland County HMFA: Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	784	831	1,091	1,593	1,820

COUNTY	1	2	3	4	5*
Sagadahoc HMFA: Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	786	875	1,017	1,345	1,636
York County HMFA: Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro, Wells	766	884	1,098	1,487	1,515

***Note: Add \$75 for each additional person.**

Non-Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Aroostook County	622	662	773	1,016	1,112
Franklin County	650	680	807	1,005	1,431
Hancock County	698	798	1,009	1,274	1,397
Kennebec County	727	756	944	1,241	1,326
Knox County	759	765	944	1,210	1,344
Lincoln County	788	845	1,004	1,259	1,503
Oxford County	694	699	839	1,221	1,426
<u>Piscataquis County</u>	615	81	843	1,115	1,238
Somerset County	679	714	859	1,156	1,219
Waldo County	696	761	903	1,231	1,389
Washington County	679	683	840	1,062	1,212

*** Please Note: Add \$75 for each additional person.**

Appendix B
Effective: 10/01/18 to 09/30/19

2018-2019 FOOD MAXIMUMS

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. As of October 1, 2017, those amounts are:

<u>Number in Household</u>	<u>Weekly Maximum</u>	<u>Monthly Maximum</u>
1	44.65	192.00
2	82.09	353.00
3	117.44	505.00
4	149.30	642.00
5	177.21	762.00
6	212.56	914.00
7	235.12	1,011.00
8	268.60	1,155.00

Note: For each additional person add \$144 per month.

Appendix C
Effective: 10/01/18 to 09/30/19

2018-2019 GA HOUSING MAXIMUMS

(Heated & Unheated Rents)

NOTE: NOT ALL MUNICIPALITIES SHOULD ADOPT THESE SUGGESTED HOUSING MAXIMUMS! Municipalities should ONLY **consider** adopting the following numbers, if these figures are consistent with local rent values. If not, a market survey should be conducted and the figures should be altered accordingly. The results of any such survey must be presented to DHHS prior to adoption. **Or, no housing maximums should be adopted and eligibility should be analyzed in terms of the Overall Maximum—Appendix A. (See Instruction Memo for further guidance.)**

Non-Metropolitan FMR Areas

<u>Aroostook County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	112	483	131	565
1	115	496	140	600
2	133	572	163	700
3	180	776	217	932
4	192	826	236	1,016
<u>Franklin County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	119	511	138	593
1	120	514	144	618
2	141	606	171	734
3	178	765	214	921
4	266	1,145	310	1,335

Hancock County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	124	535	147	633
1	140	602	169	726
2	183	788	215	924
3	230	988	273	1,175
4	246	1,058	299	1,285
Kennebec County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	131	564	154	662
1	131	564	159	684
2	168	724	200	859
3	222	955	266	1,142
4	230	987	282	1,214

Non-Metropolitan FMR Areas

Knox County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	139	596	161	694
1	139	596	161	694
2	168	724	200	859
3	215	924	258	1,111
4	234	1,005	287	1,232
Lincoln County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	145	625	168	723
1	151	649	180	773
2	182	783	214	919
3	226	973	270	1,160
4	271	1,164	323	1,391
Oxford County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	123	528	146	629
1	123	528	146	629
2	140	600	175	754
3	218	935	261	1,122
4	253	1,087	306	1,314
Piscataquis County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	110	474	130	559
1	119	512	144	619
2	149	640	179	771
3	203	871	240	1,032
4	220	946	266	1,142

<u>Somerset County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	120	517	143	614
1	121	519	149	642
2	147	631	180	774
3	202	870	246	1,057
4	205	880	257	1,107

Non-Metropolitan FMR Areas

<u>Waldo County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	123	530	147	620
1	131	565	160	689
2	159	683	190	818
3	220	945	263	1,132
4	244	1,050	297	1,277

<u>Washington County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	119	513	143	614
1	119	513	143	614
2	140	601	176	755
3	181	776	224	963
4	203	873	256	1,100

Metropolitan FMR Areas

<u>Bangor HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	132	567	155	668
1	144	618	173	742
2	185	793	220	947
3	234	1,008	278	1,195
4	328	1,409	380	1,636

<u>Penobscot Cty. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	123	527	146	628
1	123	527	146	628
2	156	669	191	823
3	198	851	241	1,038
4	223	958	276	1,185

<u>Lewiston/Auburn MSA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	117	503	140	604
1	125	540	154	664
2	165	711	197	847
3	211	907	254	1,094
4	261	1,122	314	1,349

Metropolitan FMR Areas

<u>Portland HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	208	892	231	993
1	224	963	253	1,087
2	289	1,244	325	1,398
3	395	1,700	439	1,887
4	457	1,964	510	2,191

<u>York/Kittery/ S. Berwick HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	192	824	215	924
1	196	843	225	967
2	266	1,143	302	1,297
3	340	1,463	384	1,650
4	487	2,094	540	2,321

<u>Cumberland Cty. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	144	618	167	719
1	148	635	177	759
2	202	868	234	1,006
3	304	1,307	347	1,494
4	344	1,481	397	1,708

<u>Sagadahoc Cty. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	145	623	168	721
1	158	679	187	803
2	185	795	217	932
3	246	1,059	290	1,246
4	302	1,297	354	1,524

<u>York Cty. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	140	600	163	701
1	160	688	189	812
2	203	875	236	1,013
3	274	1,201	323	1,388
4	274	1,201	326	1,403

Appendix D
Effective: 10/01/18 to 09/30/19

2018-2019 – ELECTRIC UTILITY MAXIMUMS

NOTE: For an electrically heated dwelling also see “Heating Fuel” maximums below. But remember, an applicant is *not automatically* entitled to the “maximums” established—applicants must demonstrate need.

1) Electricity Maximums for Households Without Electric Hot Water: The maximum amounts allowed for utilities, for lights, cooking and other electric uses *excluding* electric hot water and heat:

<u>Number in Household</u>	<u>h.</u>	<u>Weekly</u>	<u>Monthly</u>
1		\$14.00	\$60.00
2		\$15.70	\$67.50
3		\$17.45	\$75.00
4		\$19.90	\$86.00
5		\$23.10	\$99.00
6		\$25.00	\$107.00

NOTE: For each additional person add \$7.50 per month.

2) Electricity Maximums for Households With Electrically Heated Hot Water: The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses *excluding* heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$20.65	\$89.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$38.75	\$167.00
6	\$41.00	\$176.00

NOTE: For each additional person add \$10.00 per month.

NOTE: For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum for heating fuel as provided below.

Appendix E
Effective: 10/01/18 to 09/30/19

2018-2019 HEATING FUEL MAXIMUMS

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

NOTE: When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

Appendix F
Effective: 10/01/18 to 09/30/19

2017-0218 PERSONAL CARE & HOUSEHOLD SUPPLIES MAXIMUMS

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

NOTE: For each additional person add \$1.25 per week or \$5.00 per month.

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<u>Number of Children</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.30	\$100.00
4	\$27.90	\$120.00

Appendix G

Mileage Rate

This municipality adopts the State of Maine travel expense reimbursement rate as set by the Office of the State Controller. The current rate for approved employment and necessary medical travel etc. is 44 cents (44¢) per mile.

Funeral Maximums

Burial Maximums

The maximum amount of general assistance granted for the purpose of burial is **\$1,125.00**. Additional costs may be allowed by the GA administrator, where there is an actual cost, for:

- the wholesale cost of a cement liner if the cemetery by-laws require one;
- the opening and closing of the grave site; and,
- a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery or in a cemetery under municipal control, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to:

- removal of the body from a local residence or institution
- a secured death certificate or obituary
- embalming
- a minimum casket
- a reasonable cost for necessary transportation
- other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator

Cremation Maximums

The maximum amount of assistance granted for a cremation shall be **\$785.00**. Additional costs may be allowed by the GA administrator where there is an actual cost, for;

- a cremation lot in the least expensive section of the cemetery
- a reasonable cost for a burial urn not to exceed \$50
- transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

26 MRSA §1043 (23)

Misconduct. "Misconduct" means a culpable breach of the employee's duties or obligations to the employer or a pattern of irresponsible behavior, which in either case manifests a disregard for a material interest of the employer. This definition relates only to an employee's entitlement to benefits and does not preclude an employer from discharging an employee for actions that are not included in this definition of misconduct. A finding that an employee has not engaged in misconduct for purposes of this chapter may not be used as evidence that the employer lacked justification for discharge.

A. The following acts or omissions are presumed to manifest a disregard for a material interest of the employer. If a culpable breach or a pattern of irresponsible behavior is shown, these actions or omissions constitute "misconduct" as defined in this subsection. This does not preclude other acts or omissions from being considered to manifest a disregard for a material interest of the employer. The acts or omissions included in the presumption are the following:

- (1) Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;
- (2) Unreasonable violation of rules that are reasonably imposed and communicated and equitably enforced;
- (3) Unreasonable violation of rules that should be inferred to exist from common knowledge or from the nature of the employment;
- (4) Failure to exercise due care for punctuality or attendance after warnings;
- (5) Providing false information on material issues relating to the employee's eligibility to do the work or false information or dishonesty that may substantially jeopardize a material interest of the employer;
- (6) Intoxication while on duty or when reporting to work or unauthorized use of alcohol while on duty;
- (7) Using illegal drugs or being under the influence of such drugs while on duty or when reporting to work;
- (8) Unauthorized sleeping while on duty;
- (9) Insubordination or refusal without good cause to follow reasonable and proper instructions from the employer;
- (10) Abusive or assaultive behavior while on duty, except as necessary for self-defense;
- (11) Destruction or theft of things valuable to the employer or another employee;
- (12) Substantially endangering the safety of the employee, coworkers, customers or members of the public while on duty;
- (13) Conviction of a crime in connection with the employment or a crime that reflects adversely on the employee's qualifications to perform the work; or

(14) Absence for more than 2 work days due to incarceration for conviction of a crime. [1999, c. 464, §2 (NEW).]

B. "Misconduct" may not be found solely on:

(1) An isolated error in judgment or a failure to perform satisfactorily when the employee has made a good faith effort to perform the duties assigned;

(2) Absenteeism caused by illness of the employee or an immediate family member if the employee made reasonable efforts to give notice of the absence and to comply with the employer's notification rules and policies; or

(3) Actions taken by the employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment. [1999, c. 464, §2 (NEW).]

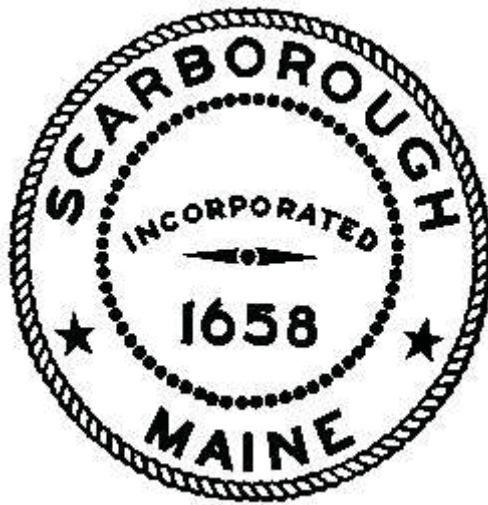
Dates Adopted and Amended:

Adopted October 15, 2003
Amended January 5, 2005
Amended October 19, 2005
Amended January 18, 2006
Amended February 15, 2006
Amended November 1, 2006
Amended October 17, 2007
Amended November 5, 2008
Amended April 1, 2009
Amended October 21, 2009
Amended October 20, 2010
Amended November 2, 2011
Amended June 20, 2012
Corrected July 18, 2012
Amended September 18, 2013
Amended February 4, 2015
Amended October 7, 2015
Amended September 21, 2016
Amended September 20, 2017
Amended November 7, 2018

CHAPTER 616

TOWN OF SCARBOROUGH

GOOD NEIGHBOR ORDINANCE



ADOPTED MAY 3, 2017

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TOWN OF SCARBOROUGH

Good Neighbor Ordinance

1. PURPOSE.

The Scarborough Town Council recognizes certain basic standards that allow residents to enjoy their homes and property, preserve peace and quiet in our neighborhoods, help maintain property values and prevent disputes among neighbors. The purpose of this ordinance is to promote these standards and allow for enforcement of violations.

2. CREATION OF NOISE NUISANCES

- (a.) **Purpose.** The Scarborough Town Council finds that excessive noise on the public ways may cause distraction to other drivers and preclude the safe operation of motor vehicles to the detriment of the health, welfare and safety of Scarborough's citizens. Accordingly, it is the policy of the Town of Scarborough to prohibit unnecessary, excessive, annoying and distracting noise on the public right-of-way within the Town of Scarborough. The Town Council also finds that people have a right to the peaceful enjoyment of their property and that excessive or continuous noise may limit that enjoyment. Accordingly, it is the policy of the Town of Scarborough to discourage the creation of unnecessary and unpleasant noise when such noise negatively affects surrounding residents.

- (b.) **Definitions.** For the purpose of this article, the following words and phrases shall have the following meanings:

Town means the Town of Scarborough, Maine.

Noise-creating devices means any electrical, mechanical or chemical device or instrument, or combination thereof that creates noise during its operation by a person.

Motorcycle means an unenclosed motor vehicle, having a saddle for the use of the operator, with two or three wheels in contact with the ground, including, but not limited to, motor-scooters and mini-bikes.

Operation means actual control by a person.

Public right-of-way means any street, roadway, alley, sidewalk, or other area deeded or dedicated for public travel or transportation purposes.

Straight pipe exhaust system means any straight through muffler that does not contain baffles, including, but not limited to, glass packs, steel packs and straight pipes.

A. Noise Upon Public Right-of-Way.

(1.) **Creation of Certain Noises upon Public Right-of-Way Prohibited.**

- (a.) No person, while occupying any public right-of-way in the Town, shall operate any noise-creating device in such a manner that the public's attention is drawn to the source of the noise.
- (b.) The prohibition of this section shall include, but not be limited to, the following activity or conduct:

- i. Discharging fireworks or any exploding device,
- ii. Firing a starter pistol, air gun, BB gun or a firearm,
- iii. Sounding a bell or whistle for so extended a period of time as to cause annoyance to others,
- iv. Rapid throttle advance and/or revving of an internal combustion engine resulting in increased noise from the engine,
- v. Operations of a motor vehicle, as defined in 29-A M.R.S.A. §101 (42), including but not limited to a motorcycle, with a straight pipe exhaust system, an exhaust system with a cutout, bypass or similar device or an exhaust system that does not meet the requirements of Maine law, including, but not limited to, 29-A M.R.S.A §1912.

(2.) Exceptions. The provisions of this section shall not apply to the following activity or conduct:

- (a.) Expression or communication protected by the United State’s Constitution, including the First Amendment, or the Maine Constitution.
- (b.) Any activity or conduct the regulation of which has been preempted by Maine Statute.
- (c.) Any noise created by a governmental entity in the performance of an official duty.
- (d.) Any noise for which a permit has been issued by an authority having jurisdiction to issue the permit.
- (e.) The sounding of any signaling device permitted by law.

(3.) Engine Brake. A person operating a motor vehicle in the Town of Scarborough shall not use an unmuffled engine brake to slow the vehicle except in an emergency situation for the purpose of avoiding a collision with a vehicle, object, person or animal. As used in this section, “engine brake” means a device that retards the motion of a motor vehicle by using the compression of the engine of the motor vehicle and “unmuffled” means that the engine brake is not equipped with a muffler which complies with the requirements of 29-A M.R.S.A. section 1912. This section does not apply to emergency response vehicles operated by a governmental entity or licensed provider of emergency medical services.

B. Noise Abatement.

(1.) Loud, offensive noises prohibited.

No person shall make, continue, or cause to be made or continued any loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others.

(2.) Definitions.

For the purpose of this article, the following words and phrases shall have the following meanings:

Daytime hours means the hours between 7:00 a.m. and 9:00 p.m. Monday through Thursday; between 7:00 a.m. and 10 p.m. Friday through Saturday; and between 9:00 a.m. and 9:00 p.m. on Sunday.

Domestic power equipment means but is not limited to power saws, drills, grinders, lawn and garden tools, and other domestic power equipment intended for use in residential areas by a homeowner.

Nighttime hours means the hours between 9:00 p.m. and 7:00 a.m. Sunday evening through Friday morning; between 10:00 p.m. and 7:00 a.m. Friday evening through

Saturday morning; and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning.

Property line means that line along the ground surface and its vertical extension which:

- (1.) Separates real property owned or controlled by any person from contiguous real property owned or controlled by another person; or
- (2.) Separates real property from the public right-of-way.

(3.) Exclusions.

This ordinance shall not apply to noise emitted by or related to:

- (1.) Any bell or chime from any building clock, school, or church.
- (2.) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation; provided, however, that burglar alarms or car alarms not terminating within 30 minutes after being activated shall be unlawful.
- (3.) Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.
- (4.) Farming equipment or farming activity.
- (5.) Noise from domestic power equipment, such as but not limited to power saws, sanders, grinders, lawn and garden tools, or similar devices operated during daytime hours.
- (6.) Timber harvesting (felling trees and removing logs from the woods).
- (7.) Noise generated by any construction or demolition equipment which is operated during daytime hours. Emergency construction or repair work by public utilities shall also be exempted. The police department may allow construction during nighttime hours if it is demonstrated that the extenuating circumstances disallow construction during the daytime hours.
- (8.) Noise created by refuse and solid waste collection.
- (9.) Municipal, public works, or utility projects.
- (10.) Using, displaying, firing, or exploding consumer fireworks within the Town of Scarborough in accordance with the Consumer Fireworks Ordinance, Chapter 608A and any other applicable law or regulation.

(4.) Specific prohibitions.

The following acts, among others, are declared to be loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others in violation of this ordinance, but such enumeration shall not be deemed to be exclusive:

- (a.) Excessive animal noise shall be regulated by the provisions in Chapter 604 – Animal Control Ordinance section 604-8 Animal Noise.
- (b.) The using or operating or the permitting to be played, used, or operated of any radio, receiver, electronically amplified musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of music or sound which is audible outside of any structure during the nighttime hours or which broadcasts the sound in a loud and unreasonable manner during day-time hours which is audible a minimum of 200 feet from the source of the noise except as otherwise permitted, licensed or sponsored by the Town.
- (c.) The use of any automobile, motorcycle or other vehicle, nonessential to safe and reasonable operation, in one or more of the following ways:
 - i. Revving of motor vehicle engines.

- ii. Squealing of tires.
- iii. Accelerating or braking unnecessarily so as to cause a harsh, objectionable or unreasonable noise.
- iv. Operating audio equipment clearly audible beyond the confines of a motor vehicle.

C. Enforcement.

This section of the ordinance may be enforced by any officer of the Scarborough Police Department. No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this ordinance while such person is engaged in the performance of her/his duty.

Violations of this ordinance shall be prosecuted in the same manner as other civil violations; provided, however, that for an initial violation of this ordinance, a written notice shall be given to the alleged violator which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken on the initial violation if the cause of the violation has been removed or the condition abated or fully corrected within the time period specified in the written notice. If the cause of the violation is not removed or the condition abated or fully corrected within the time period specified in the written notice, or if the same person commits a subsequent violation of the same provision or provisions, of this ordinance specified in the written notice, then no further action is required prior to prosecution of the civil violation.

If the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at her/his last known address or at the place where the violation occurred, in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice.

3. CREATION OF LIGHTING NUISANCES.

A. Purpose. The purpose of this ordinance is to provide reasonable restrictions on the use of lighting in or near the residential zones of the Town so as to prevent lighting from creating a nuisance to residents within residential zones. It is recognized that lighting is essential to the conduct of many commercial and industrial enterprises for advertising and security. It is further recognized that protective security lighting in residential zones constitutes a deterrent to crime and contributes to the safety of residents. Further, properly controlled lighting in residential areas for landscaping and highlighting architectural features of buildings and structures enhances the aesthetics of properties and neighborhoods. However, it is equally recognized that lighting, by virtue of its intensity, brightness, direction, duration, and hours of operation, can constitute a nuisance to adjacent residential dwellers. It is hereby the intent of the Town in adopting this ordinance to encourage the appropriate use of lighting as set forth herein, but to regulate it in a manner to avoid any public nuisance in residential areas.

B. Exceptions. All properties covered by the Town of Scarborough Site Plan Review Ordinance, 405b, are exempt from this ordinance.

C. Outdoor light restrictions

- (1.) **Light confinement.** All outdoor lights shall, to the greatest extent possible, be allowed for safety, security, operational needs, and decorative purposes but must confine emitted light to the property on which the light is located, by means of shielded or hooded lighting elements

and shall not be directed upwards except where the light is directed away from neighboring properties and limited to the greatest extent possible to avoid urban sky glow.

- (2.) **Spillover light.** Spillover light on to residential property shall not exceed one-tenth (0.1) of one (1) foot-candle at the residential property line.

D. Outdoor light prohibitions

- (1.) Any unhoused light source.
- (2.) Any light that creates glare observable within the normal range of vision of any public right-of-way or glare that creates a safety hazard.
- (3.) Any light that resembles an authorized traffic sign, signal or device, or that interferes with, misleads, or confuses vehicular traffic as determined by the Chief of Police or designee.

E. Enforcement

- (1.) This section of the ordinance may be enforced by any Code Enforcement or Law Enforcement officer.
- (2.) No person shall interfere with, oppose, or resist any authorized person charged with the enforcement of this ordinance while such person is engaged in the performance of her/his duty.
- (3.) Violations of this ordinance shall be prosecuted in the same manner as other civil violations; provided, however, that for an initial violation of this ordinance, a written notice of violation may be given to the alleged violating homeowner/responsible party which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken on the initial violation if the cause of the violation has been removed or the condition abated or fully corrected within the time period specified in the written notice of violation. If the cause of the violation is not removed nor the condition abated or fully corrected within the time period specified in the written notice of violation, or if the same homeowner/responsible party commits a subsequent violation of the same provision or provisions, of this ordinance specified in the written notice, then no further action is required prior to prosecution of the civil violation. If the alleged violating homeowner/responsible party cannot be located in order to serve the notice of intention to prosecute, the notice as required shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violating homeowner/responsible party at her/his last known address or at the place where the violation occurred, in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice.

4. PENALTIES.

A. Noise Violations

Violation of the noise sections of this ordinance are a civil violation punishable by the following civil penalties:

- | | |
|-------------------------------------|----------|
| (1) First Offense: | \$50.00 |
| (2) Second Offense: | \$100.00 |
| (3) Third Offense: | \$200.00 |
| (4) Fourth and Subsequent Offenses: | \$500.00 |

B. Lighting Violations

Any person found to be in violation of the lighting section of this ordinance or who fails to obey any lawful order of any officer charged with the enforcement of the provisions contained therein commits a civil violation and shall be fined between \$100 to \$2,500 for each day such violation continues after the time for correction of the violation specified in the written notice of violation under Section E (3) has expired.

5. SEVERABILITY.

Should any section or provision of this ordinance be determined in a court of law to be unconstitutional, invalid or unenforceable, such determination shall not affect the validity of any other portion of the ordinance or of the remainder of the ordinance as a whole.

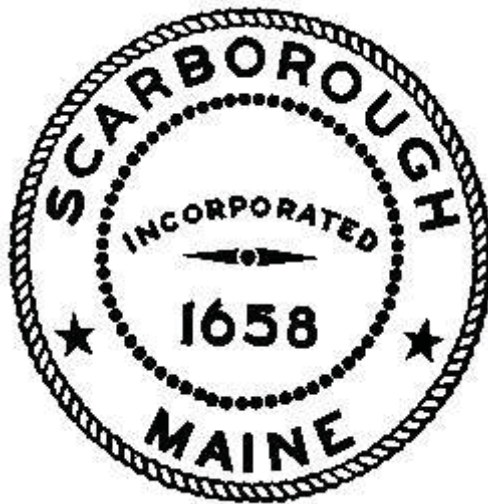
6. EFFECTIVE DATE AND REPEAL OF PRIOR ORDINANCE

This ordinance repeals Chapter 614, Noise Abatement Ordinance, adopted on November 7, 2007 and amended March 7, 2012 and repeals and replaces Chapter 611, Noise Ordinance, adopted August 20, 2003.

CHAPTER 413

TOWN OF SCARBOROUGH

GROWTH MANAGEMENT ORDINANCE



ADOPTED FEBRUARY 27, 2001
AMENDED NOVEMBER 20, 2002
AMENDED DECEMBER 18, 2002
AMENDED JUNE 13, 2003 - EFFECTIVE JANUARY 1, 2005
AMENDED NOVEMBER 17, 2004 – EFFECTIVE JANUARY 1, 2005
AMENDED JULY 16, 2008 – EFFECTIVE JANUARY 1, 2009
AMENDED NOVEMBER 1, 2017

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**CHAPTER 413
TOWN OF SCARBOROUGH
GROWTH MANAGEMENT ORDINANCE**

1. TITLE

This ordinance shall be known as the “Growth Management Ordinance of the Town of Scarborough, Maine” and shall be referred to herein as the “Ordinance.”

2. LEGAL AUTHORITY (Amended 07/16/2008 – Effective 01/01/2009)

This Ordinance is adopted pursuant to the home rule powers as provided for in VIII-A of the Maine Constitution and 30-A M.R.S.A. § 3001, 30-A M.R.S.A. § 4323, and 30-A M.R.S.A. § 4360.

3. PURPOSE (Amended 07/16/2008 – Effective 01/01/2009)

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of Scarborough through placing reasonable and appropriate limitations on residential development in accordance with the 2006 Update of the Comprehensive Plan, more specifically:

- a. to provide for the immediate housing needs of the existing residents of the Town of Scarborough.
- b. to ensure fairness in the allocation of building permits.
- c. to plan for continued residential population growth in Scarborough which will be not limited to, education, public safety, transportation infrastructure, waste disposal and health services.
- d. to avoid circumstances in which the rapid development of new residences, potentially housing many families with school age children, would outpace the Town’s capability to expand its schools and other necessary services soon enough to avoid serious school overcrowding and a significant reduction in the level and quality of other municipal services.

4. DEFINITIONS (Amended 07/16/2008 – Effective 01/01/2009)

Terms not specifically defined in this Ordinance shall have the same meaning as in the Zoning Ordinance.

A. Affordable housing:

A dwelling unit that may be purchased or leased by a household with low or moderate income. As used in this ordinance, the term “affordable housing” has the same meaning as in the Zoning Ordinance.

B. Building Inspector:

Code Enforcement Officer.

C. Building permit:

A permit issued by the Building Inspector pursuant to Section IV(D) of the Zoning Ordinance.

D. Code Enforcement Officer:

The Town of Scarborough Code Enforcement Officer, an assistant code enforcement officer or an authorized agent of either.

E. Dwelling unit:

A dwelling unit as defined in Section VI of the Zoning Ordinance.

F. Family gift lot:

A lot which is not within a subdivision and which has been created by a gift from a parent to a child (including an adopted child or stepchild) or from a child to a parent (including an adoptive parent or stepparent).

G. Gift:

The conveyance of property for which the grantor receives no money, property or any other value as consideration for the conveyance.

H. Growth permit:

A permit, issued in accordance with the provisions of this Ordinance, which allows the issuance of a building permit for the construction, creation or placement of one new dwelling unit within the Town of Scarborough.

I. Multiplex:

A multiplex dwelling as defined in Section VI of the Zoning Ordinance, except that, for purposes of this Ordinance only, the term multiplex includes two family dwellings in a subdivision which also contains multiplex buildings. (Amended 12/18/02).

J. Subdivision:

A subdivision as defined in 30-A M.R.S.A. § 4401, as such may be amended from time to time, and approved by the Scarborough Planning Board pursuant to the Town of Scarborough Subdivision Regulations on or after August 18, 1971.

K. Zoning ordinance:

The Zoning Ordinance of the Town of Scarborough, Maine, as such may be amended from time to time.

5. APPLICABILITY

Except as provided in Section 6 below, this Ordinance shall apply to the construction, creation or placement of any new dwelling unit within the Town of Scarborough.

6. EXEMPTIONS (Amended 06/18/2003; Amended 11/17/2004 – Effective 01/01/2005; Amended 07/16/2008 – Effective 01/01/2009)

This Ordinance shall not apply to:

- a. the repair, replacement, reconstruction or alteration of an existing dwelling unit.
- b. a dwelling unit on a family gift lot, provided that no person may obtain more than one building permit pursuant to this exemption during the time this ordinance is in effect.

7. ADMINISTRATION (Amended 06/18/2003; Amended 11/17/2004 – Effective 01/01/2005; Amended 07/16/08 – Effective 01/01/09)

A. Share of growth permit required per dwelling unit.

- 1) The creation of each new dwelling unit shall require one (1) growth permit except as provided for in 2.
- 2) If the dwelling unit is located in a two-family dwelling, multifamily dwelling, or mixed use building, the creation of a new dwelling unit shall require a fraction of a growth permit in the same proportion as the density requirement for the type and size of unit set forth in Section VII C. A. Residential Density of the Zoning Ordinance regardless of whether the density provision applies to the dwelling unit (For example, a unit that could be counted as half a dwelling unit for density purposes requires half of a growth permit).
- 3) If any dwelling unit that was constructed based upon receiving a fraction of a growth permit in accordance with 2) is subsequently expanded such that the dwelling unit after expansion would require a larger fraction of a growth permit, the owner shall obtain a fractional permit for the difference between the pre-and post expansion requirements.

B. Two sources of growth permits.

Growth permits are available from two sources, from an annual allocation of growth permits, and from a reserve pool of growth permits.

- 1) The number of growth permits allocated annually and the process for the issuance of growth permits from this annual allocation are set forth in sub-sections C, D, and E.
- 2) The operation of the reserve pool of growth permits is set forth in sub-sections F and G.

C. Annual allocation of growth permits per calendar year.

- 1) Commencing on January 1, 2005, the maximum number of growth permits issued between January 1st and December 31st each year shall be one hundred thirty-five (135). Any growth permits from the annual allocation that are not issued in the calendar year shall expire and shall not be carried forward to the next year.
- 2) During each calendar year, no more than fifty (50) growth permits shall be issued from the annual allocation for dwelling units located in the Rural Residence and Farming District R-F and the Rural Residence, Farming, and Manufactured Housing District R-F-M west of the Maine Turnpike in the area designated as a Limited Growth Area in the 2006 Update of the Comprehensive Plan.
- 3) During each calendar year, no more than twenty percent (20%) of the growth permits available from the annual allocation shall be issued for dwelling units within any one subdivision or other development.

D. Application procedure for growth permits.

- 1) A growth permit application must be completed and signed by a record owner of the lot for which the growth permit is sought, on a Growth Permit Application form provided by the Code Enforcement Officer.
- 2) The growth permit application shall be accompanied by: (i) a nonrefundable application fee as specified in the Schedule of License, Permit and Application Fees established by order of the Town Council, which shall be credited toward the building permit fee if the growth permit is replaced by a building permit under Section 7(E)(2) below; (ii) a deed or other instrument establishing the applicant's ownership interest in the property; and (iii) either a copy of the completed subsurface wastewater disposal system application (Form HHE-200) for the lot for which the growth permit application is sought or evidence that the lot will be served by public sewer.
- 3) The growth permit application shall be submitted to the Code Enforcement Officer either by mail or in hand during normal business hours at the Town Office. The Code Enforcement Officer shall endorse each application with the date and time of receipt. In the event two or more growth permit applications are received simultaneously, the Code Enforcement Officer shall determine their order by random selection.
- 4) The Code Enforcement Officer shall review growth permit applications for completeness and accuracy in the order in which they are received. If an application is incomplete, the Code Enforcement Officer shall notify the applicant of the additional information or material needed to complete the application and shall resume review of the application only when such additional information or materials are provided. Once the Code

Enforcement Officer determines that an application is complete, he/she shall approve the application as complete, endorsing the date and time of such approval on the application. [amended 11/02/17]

- 5) A separate growth permit application is required for each dwelling unit.
- 6) No growth permit application shall be accepted by the Code Enforcement Officer until the effective date of this Ordinance.

E. Issuance procedure for growth permits from the annual allocation.

- 1) Growth permits from the annual allocation shall be issued on a first-come, first-served basis according to the dates and times the applications are approved as complete by the Code Enforcement Officer under Section 7(D)(4) above. If a growth permit is available under Section 7(C ~~A~~) on the date the Code Enforcement Officer approves an application as complete, the Code Enforcement Officer shall issue the growth permit by endorsing the date of issuance on the application and mailing a copy to the applicant at the address provided by the applicant on the application. If no growth permit is available from the annual allocation at the time the application is approved as complete, the application shall remain pending, and as growth permits subsequently become available, the Code Enforcement Officer shall issue permits in the order in which the applications were approved as complete, mailing the issued permits to the applicants as provided above.
- 2) Once issued, a growth permit must be replaced by a building permit for construction, placement or creation of the dwelling unit or units authorized by the growth permit on the specific lot for which the growth permit was issued, no later than 180 days after the date of issuance. A growth permit which is not replaced by a building permit within such 180 day period shall expire, except that the Code Enforcement Officer may approve one extension for one additional period of 90 days if a request for the extension is made prior to the expiration of the original 180 day period. If a growth permit expires, a subsequent application for a growth permit on the same lot shall be processed and ranked as a new application pursuant to Section 7(D) above. Expired growth permits shall not be counted in determining the maximum number of permits which may be issued during any calendar year.
- 3) At the end of each calendar year, if the number of approved applications for growth permits from the annual allocation exceeds the number of permits available for issuance, such approved applications shall remain pending into the next calendar year and shall retain their ranking according to the order in which they were approved as complete.

F. Establishment of the reserve pool of growth permits.

- 1) Un-issued growth permits as of December 31, 2007 that were carried forward to 2008 shall be placed in a reserve pool and shall be allocated in accordance with the provisions of subsection G below.
- 2) Each growth permit for a single-family dwelling that was carried forward to 2008 shall be counted as one growth permit under the amended system.
- 3) Each growth permit for a multi-plex that was carried forward to 2008 shall be counted as five (5) growth permits under the amended system.
- 4) The growth permits in the reserve pool shall remain available until used and un-issued permits shall carry over from year-to-year.
- 5) Twenty (20) of the growth permits in the reserve pool at the beginning of each calendar year shall be set aside for affordable housing units and may be used during the year as set forth in subsection G. If any of these growth permits are not used during the year they shall not be carried forward but the affordable housing set aside for the following year shall be reset at twenty (20) growth permits.
- 6) The Town Council may add growth permits to the reserve pool by formal vote of the Council following public hearing as part of its periodic review of the Ordinance or if the number of units in the reserve pool drops below fifty (50) or if the available growth permits are not adequate to allow the construction of a project in accordance with subsection G below.
- 7) If the number of growth permits in the reserve pool at the end of a calendar year is less than twenty (20), additional growth permits shall be automatically be added to the pool so that a minimum of twenty (20) growth permits are available and these twenty (20) permits shall be set aside for affordable housing units.

G. Allocation of growth permits from the reserve pool.

- 1) The Code Enforcement Officer may issue up to five (5) growth permits from the reserve pool each calendar year for detached single family dwellings that are located on lots that are not part of a subdivision provided that there are no growth permits available from the annual allocation.
- 2) Except as provided in 1 above, the Planning Board shall be responsible for determining if a subdivision or other development is eligible for the allocation of growth permits from the reserve pool.
- 3) A property owner or his/her representative may request that the project be designated as eligible to receive growth permits from the reserve pool at the time of subdivision or site plan review for new or expanded projects. An approved subdivision or project as of the date of adoption of this provision may also be determined to be eligible to receive growth permits

from the reserve pool. This request shall be in writing on forms provided by the Code Enforcement Officer and shall demonstrate how the project conforms to the requirements of this subsection.

- 4) If the Planning Board determines that a subdivision or other development is eligible to receive growth permits from the reserve pool, it shall notify the Code Enforcement Officer in writing of this determination.
- 5) The Planning Board shall determine that a subdivision or other development is eligible to receive growth permits from the reserve pool only if it finds that at least one of the following are met:
 - a) The dwelling units to which the growth permits may be allocated are part of a contract zone in which the provisions of the zoning provide for some or all of the growth permits needed for the project to come from the reserve pool.
 - b) The dwelling units to which the growth permits may be allocated are part of an affordable housing project in which at least fifty (50) percent of the dwelling units are affordable housing.
 - c) The dwelling units to which the growth permits may be allocated are part of a housing project or mixed-use development that will use either the affordable housing density bonus provisions or the development transfer provisions of the Zoning Ordinance.
 - d) The dwelling units to which the growth permits may be allocated are part of an approved subdivision or other project as of the date of adoption of this provision and will be located in two-family, multifamily, or mixed-use buildings.
- 6) The growth permits in the reserve pool are intended to allow the construction of housing that is not easily accommodated within the annual allocation or that could unreasonably reduce the availability of growth permits to other property owners because of the scale or type of development. Therefore, in considering requests for the eligibility of projects to receive growth permits from the reserve pool, the Planning Board shall approve such requests only if it finds that the use of growth permits from the annual allocation (see subsection C above) may not permit the dwelling units to be constructed in a timely and efficient manner or that the use of the growth permits from the annual allocation may unreasonably reduce the availability of growth permits to other property owners due to the scale of the project and the number of permits available through the annual allocation.
- 7) If a project is determine to be eligible to receive growth permits from the reserve pool, the record owner of the property shall apply for a growth permit for each dwelling unit in accordance with subsection D above.

- 8) The Code Enforcement Officer shall process the application for a growth permit(s) in accordance with subsection E above except as follows:
- a) If no growth permits from the annual allocation are available at the time of application, the Code Enforcement Officer shall issue the growth permits from the reserve pool.
 - b) If the subdivision or development has not previously received twenty percent (20%) of the available growth permits from the annual allocation during the current calendar year, the Code Enforcement Officer shall issue the growth permits from the annual allocation until the twenty percent (20%) limit is reached and any additional growth permits shall be issued from the reserve pool.
 - c) The issuance of growth permits for a subdivision or other project that is subject to contract zoning shall occur in accordance with these provisions unless the contract zoning contains specific alternative provisions. In this case, the Code Enforcement Officer shall issue the growth permit in accordance with the terms of the contract zone.
 - d) If the subdivision or other project utilizing growth permits from the reserve pool is an affordable housing project or includes affordable housing units, the growth permits for the affordable units shall first be taken from the twenty (20) permit set aside for affordable housing. If the growth permits available in the affordable housing set aside are not adequate to allow construction of the project, the balance of the growth permits shall be taken from the permits in the reserve pool that are not set aside for affordable housing.

H. Transferability.

Growth permits are issued only for the specific lot identified in the growth permit application. A growth permit may be transferred to a new owner of the lot, provided notice of the transfer of ownership is given in writing to the Code Enforcement Officer before the growth permit is replaced by a building permit. Transfer of ownership does not change the date of issuance or the ranking of an issued growth permit. An application for a growth permit is not transferable.

8. PERIODIC REVIEW OF ORDINANCE (Amended 06/18/2003; Amended 11/17/2004 – Effective 01/01/2005; Amended 07/16/08 – Effective 01/01/09)

The Town Council shall conduct a periodic review of this Ordinance to evaluate whether the rate of residential growth remains consistent with the Town's ability to absorb the growth, and shall determine whether the number of growth permits available under this Ordinance should be adjusted by amendment to this Ordinance. The Town Council shall conduct a review at least once every three (3) years. The Town Council may seek

assistance or advice from the Planning Board in connection with such review. This section does not limit the Council's authority to review and/or amend the Ordinance at any other time.

9. VIOLATION, PENALTIES AND ENFORCEMENT

Any person who constructs, creates or places a dwelling unit within the Town of Scarborough without a growth permit required by this Ordinance or who owns or occupies a dwelling unit constructed, created or placed within the Town of Scarborough without a growth permit required by this Ordinance commits a civil violation and is subject to the fines, penalties and remedies provided in 30-A M.R.S.A. § 4452. Each day a violation continues to exist after notice of the violation constitutes a separate violation. This Ordinance shall be enforced by the Town of Scarborough Code Enforcement Officer in the manner provided for enforcement of violations of the Zoning Ordinance under Section IV, subsections (A) and (B) of the Zoning Ordinance.

10. APPEALS (Amended 07/16/08 – Effective 01/01/09)

An applicant for a growth permit who is adversely affected by a decision or action of the Code Enforcement Officer in the administration of this Ordinance may appeal to the Scarborough Board of Appeals under the provisions governing administrative appeals in Section 5 of the Zoning Ordinance. Decisions of the Code Enforcement Officer to approve a growth permit application as complete or to issue a growth permit are not appealable.

An applicant requesting that a subdivision or other development be determined to be eligible to receive growth permits from the reserve pool who is adversely affected by a decision of the Planning Board may appeal to Superior Court in accordance the Maine Rules of Civil Procedure, Rule 80B. Actions of the Planning Board with respect to this Ordinance are not appealable to the Scarborough Board of Appeals.

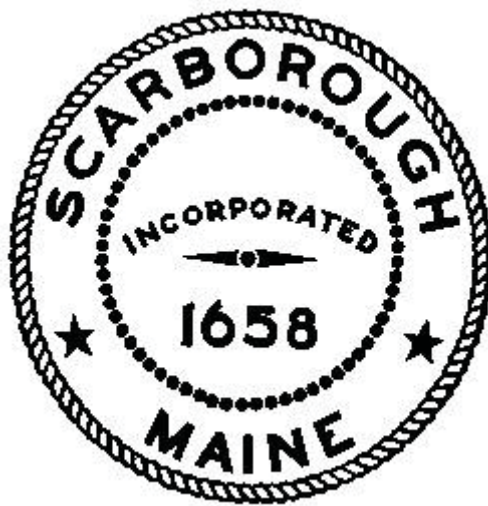
Be it further ordained, that these amendments shall take effect on January 1, 2009. Any growth permit applications submitted and any growth permits issued prior to January 1, 2009, shall be governed by the ordinance provisions in effect prior to January 1, 2009.

CHAPTER 416

TOWN OF SCARBOROUGH

HAIGIS PARKWAY SEWER

ASSESSMENT ORDINANCE



ADOPTED MAY 12, 2004
REVISED AUGUST 16, 2006
AMENDED DECEMBER 2, 2009
AMENDED OCTOBER 3, 2012

CHAPTER 416
TOWN OF SCARBOROUGH
HAIGIS PARKWAY MUNICIPAL DEVELOPMENT AND TAX INCREMENT
FINANCING DISTRICT SEWER ASSESSMENT ORDINANCE

WHEREAS, the Town Council of the Town of Scarborough, Maine has designated the Haigis Parkway Municipal Development and Tax Increment Financing District (the “District”) and has adopted a development program and financial plan (the “Development Program”) for the District;

WHEREAS, the Development Program contemplates the construction and installation, by the Town, of a series of infrastructure projects in order to promote private commercial and industrial development on properties in the District (the “Project”);

WHEREAS, the Town Council has authorized the issuance of general obligation bonds of the Town in order to fund a portion of the costs of the Project (the “Bonds”);

WHEREAS, the debt service on the Bonds will be paid, in part, from tax increment revenues from the District;

WHEREAS, in the judgment of the Town Council, a just and equitable proportionate share of the costs of the Project and the debt service on the Bonds should be borne by properties that have been benefited by the Project in the form of an assessment on those properties;

WHEREAS, the Town Council conducted a public hearing on the subject of proposed assessments on May 7, 2003, after posting and publication of notice thereof in accordance with the provisions of applicable Maine law;

WHEREAS, thereafter the Town sent out notices of assessments (the “Original Assessments”) to the owners of properties located within the District, with most property owners arranging for payment of the Original Assessments or entering into payment plans to pay the Original Assessments with the Town as further authorized hereunder;

WHEREAS, the Project is now complete with the final costs of the construction confirmed;

WHEREAS, pursuant to Section 11 of this Ordinance, as originally enacted on May 12, 2004, the Town Council was directed to review the appropriateness of the Original Assessments to determine whether such assessments continue to be reflective of the just, equitable and proportionate shares of the costs of the Project to be borne by each property within the District, the review to be completed by January 1, 2010;

WHEREAS, in the course of levying the Original Assessments to recover the just and equitable proportionate share of the costs of the Project to the properties which have been benefited by the Project, certain adjustments and modifications to the Original Assessments have been identified by the Council (the “Revised Assessments”), determined to be warranted and appropriate in the circumstances and necessary to ensure that the just, equitable and proportionate shares of the costs of the Project are borne by each property within the District; and

WHEREAS, on July 19, 2006, after posting and publication of notice thereof in accordance with the provisions of applicable Maine law, the Town Council conducted a public hearing on the subject of reviewing the Original Assessments and adopting Revised Assessments as the just, equitable and proportionate share of the costs of the Project to be borne by each Property within the District;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SCARBOROUGH, MAINE AS FOLLOWS:

1. Authority. This Ordinance is enacted under and pursuant to the provisions of the Charter of the Town of Scarborough, Maine and Chapters 141 and 206 of Title 30-A of the Maine Revised Statutes Annotated, amended and supplemented to date.
2. Revised List of Assessments. After hearing, the Town Council finds that the properties set forth in the Revised List of Assessments (the "Revised List"), attached hereto as Exhibit A and made a part hereof, is a true, complete and correct list of those properties and that the owner(s) ("Owner") thereof, and the properties listed therein, have received and will continue to receive benefits from the Development Program and the public facilities constructed in the District.
3. Just and Equitable Share. The Town Council further finds that a revised or supplemental assessment for each property described in the Revised List, arrived at through the procedures identified in the "Haigis Parkway Zone Assessment Calculation Procedure", Exhibit B attached hereto and made a part hereof, is necessary to allocate a just and equitable proportionate share of the costs of the Project to each property within the District.
4. Assessment. There is hereby assessed, against each of the properties described in the Revised List, a revised or supplemental assessment in the amount set forth in the Revised List (the "Revised Assessment").
5. Payment. Revised Assessments shall be due and payable at the Office of the Treasurer of the Town of Scarborough, Maine thirty (30) days following the effective date of this Ordinance. In cases where property owners have already paid in full the Original Assessment shown on the "List of Properties Assessed in the District" effective as of May 12, 2004, and the Revised Assessments set forth in the Revised List are less, the Town will make a refund. The Owner, if already paying under a Deferred Payment Program, shall continue to pay according to the terms of the payment agreement and may, within thirty (30) days, make application to the Town Manager for consideration and approval of a revised payment schedule and plan for payment of the Revised Assessment according to one of the Deferred Payment Programs, as set forth in Paragraph 6, below.
6. Deferred Payment Programs. Owners who receive increases in the assessment on their property as a result of a Revised Assessment may, within 30 days from the effective date of this revision of the Ordinance, make application to the Town Manager for consideration and approval of a Deferred Payment Program and revised payment schedule in accordance with one of the payment plans below. Revised payment schedules under any Deferred Payment Program for each property shall include: the amount of the Original Assessment; the amount of the Revised Assessment and the difference; a revised payment schedule showing each new installment; and a revised interest schedule consistent with the terms of the particular deferred payment option as follow:

A. Payment of the Revised Assessment in up to ten (10) substantially equal annual payments together with interest on the unpaid balance of the Assessment at a rate equal to that paid by the Town on the Bonds; or

B. Payment of the Revised Assessment in up to ten (10) annual payments, the first two (2) of which shall be in an amount of at least three percent (3%) of the total amount of the Revised Assessment and the final eight (8) of which shall be substantially equal payments of the then unpaid principal balance of the Revised Assessment, together with interest on the unpaid principal balance of the Revised Assessment at the rate of four percent (4%) per annum; or

C. In cases where the Town Manager determines that payment in accordance with Sections 6(A) or 6(B) above would cause an undue financial hardship to the Owner, the Town Manager may approve a deferred payment plan authorizing the Owner to make reduced payments of the principal balance of the Revised Assessment annually over a period not to exceed six (6) years and payment of the then remaining principal balance of the Revised Assessment in substantially equal annual payments for a period of up to four (4) additional years, together with interest on the unpaid principal balance of the Revised Assessment at the rate of eight percent (8%) per annum; or

D. In cases where a parcel is already developed and is currently used for commercial or residential purposes, the Owner may elect an installment payment plan to pay any increase in the Revised Assessment over the amount of the Original Assessments (as originally set on May 14, 2004) by agreeing to pay the amount by which the Original Assessment increased in up to five (5) substantially equal annual installments, the first payment due no later than fifteen (15) years from the date of enactment of this Ordinance, interest also commencing to run on that same date on the unpaid balance of the increased assessment, the rate of interest being the same rate then available to the Town for public financing purposes.

Upon the sale or transfer of a property in the District to a non-family member or non-affiliated third party, any outstanding balance of an assessment and interest as is under a Deferred Payment Program becomes immediately due and payable in the full amount to the Town, such amount due and interest to be paid to the Town at closing or upon transfer. Any election to enter a Deferred Payment Program made by an Owner hereunder shall be in a writing, duly executed by the Owner, in a form and content satisfactory to the Town Manager and suitable for recording in the Cumberland County Registry of Deeds. A condition of entering any Deferred Payment Program is that the Owner waives his or her rights to contest or appeal the amount of the assessment or appeal the validity or appropriateness of the methodologies by which such assessments were derived. Nothing in the provisions of this section shall constitute a waiver of the Town's lien rights or other legal remedies available to the Town to secure or enforce payment of any assessment or available for the Town to obtain full payment and interest due in the event of a default under a deferred payment agreement.

E. To further facilitate the sale and transfer of parcels in cases where a parcel originally subject to a Revised Assessment has been legally divided into more than one parcel or

interest, the Owner, before such parcels or interests are offered for sale, may request that the Revised Assessment, and any balance remaining under a Deferred Payment Program and installment payment agreement against the parcel, be re-apportioned among the newly created parcels or interests.

The Town Manager shall oversee and approve the terms of all such requested re-apportionments of assessments or installment payments. In arriving at re-apportioned assessments and installments the Town Manager shall discuss the proposal with the owner and then re-apportion the outstanding amount of the Revised Assessment for the original parcel among each newly created parcel or interest. The schedule and timing for payments for any re-apportioned assessments shall remain the same as in the payment schedule established in the underlying installment payment agreement for the original parcel. The Town Manager's objectives in re-apportioning assessments are to create fair and proportional assessments which are consistent with the expected relative values of the newly created lots and consistent with the interests of the Town in securing the most expedient and complete collection of assessments and outstanding payment installments.

After re-apportioning the assessment among newly created parcels or interests, the Town Manager shall issue a notice of the same for recording in the Cumberland County Registry of Deeds. Upon the sale or transfer of any newly created parcel or interest to a non-family member or non-affiliated third party, the outstanding balance of the re-apportioned assessment and interest then due is immediately due and payable in full to the Town and shall be paid to the Town at closing or upon transfer of the parcel or interest. Upon receipt of payment in full of a re-apportioned assessment, the Town will issue a partial release of the lien securing the Revised Assessment. The partial release of the Town's lien interest will correspond with the area of the new parcel or interest.

F. In cases where the Owner has entered into and is current on payment of the reduced payments agreed to under a deferred payment plan entered in accordance with Section 6 (C) above, and upon the Manager's determination that continuing financial circumstances indicate that unless the deferred payment schedule is extended that there will be undue financial hardship to the Owner, the Town Manager is authorized to amend and extend the term of the deferral payment agreement by authorizing up to six (6) additional years of payment deferral. The other terms of the payment deferral plan, including payment of the then remaining principal balance of the Revised Assessment, together with interest on the unpaid principal balance of the Revised Assessment at the rate of eight percent (8%) per annum, shall remain unchanged.

7. Collection. In the event that an Owner fails to pay an assessment, installments or interest under a Deferred Payment Program on or before the dates required, the terms and conditions of payment agreements under a Deferred Payment Program, or as otherwise required under this Ordinance, the Town of Scarborough and its officers shall have and may exercise all authority and powers to collect assessments or delinquent payments, interest or its costs under the procedures and legal remedies for the collection of delinquent municipal taxes.

8. Use of Revenues. All revenues collected from assessments made pursuant to this Ordinance shall be deposited into the Town's reserve fund established by the Development Program known as the Sinking Fund Account of the Development Program Fund, and all such revenues shall be used solely for the purposes of the Development Program.

9. Effective Date. This Ordinance shall become effective on the date it is approved by the Scarborough Town Council.

10. Severability. The provisions of this Ordinance are severable. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision or application of this Ordinance and the Ordinance shall be given effect without the invalid provisions or application.

11. Review of Assessments. (Repealed).

**EXHIBIT A
REVISED LIST OF ASSESSMENTS**

Map/Lot	Property Owners	Assessment
BUSINESS USE		
R39 L1	R. C. Moore, Inc	\$44,400
R39 L1A	Moore Brothers Realty, LLC	\$38,800
R39 L2	Shaws Realty Co.	\$177,100
R40 L11	Richard C. Moore	
R40 L11B	Richard C. Moore	
R40 L11C	Richard C. Moore	\$164,400
R40 L12A	R L R Investments LLC	\$48,300
R40 L12B	Adele C. & Cary N. Mack	\$97,400
R40 L5	Peoples Heritage Savings Bank	
R40 L6	Peoples Heritage Savings Bank	
R40 L7	Peoples Heritage Savings Bank	\$172,200
R40 L8	262 Payne Road, LLC	\$107,100
R40 L9	23 Spring Street, LLC	\$22,300
R40 L11A	Herbert E. & Robert Ginn	\$72,300
R40 L13	Neptune Properties LLC	\$79,100
R40 L14	Glenndonna Inc.	\$410,800
R52 L6	Dongle, LLC	\$204,700
R40 L26	Lee F. Adams Jr.	\$295,100
R40 L27	CJK, Inc	\$162,500
R52 L5	George E. Curlew	\$251,700
R50 L24	Michael D. Scamman	
R50 L24C	Michael D. Scamman	\$282,500
R50 L33	Three Diamond Realty, Inc.	\$140,400
R51 L1A	Three Diamond Realty, Inc.	\$100,000
R50 L34A	Haigis Parkway, LLC	\$544,500
R52 L4	Davric Maine Corp.	\$475,000

NON-CONFORMING, RESIDENTIAL USE		
R40 L3	Erik R. Peterson	\$10,400
R40 L4	Richard & Ellen Nielsen	\$5,400
R40 L15	Sharon Paula Theofrastou	\$6,800
R40 L16	Ralph R. & Annette L. Trempe	\$5,400
R40 L17	Robert & Wilma Reed	\$5,700
R40 L18	Leland & Marilyn Withee	\$5,000
R40 L19	Jerri Lynn MacLean	\$7,200
Total		\$3,936,600

EXHIBIT B

HAIGIS PARKWAY ZONE ASSESSMENT CALCULATION PROCEDURE

AREA ASSESSMENT:

The total area of the properties receiving sewer was summed.

The total area of properties receiving other utilities was summed.

An assessment cost per acre for sewer was calculated using the allocated project cost for sewer divided by the total area of properties receiving sewer.

An assessment cost per acre for utilities was calculated using the allocated project cost for utilities divided by the total area of properties receiving utilities.

The area assessment for sewer was calculated by multiplying the cost per acre by the sewer area for each lot.

The area assessment for utilities was calculated by multiplying the cost per acre by the utilities area for each lot.

The area assessment for sewer and utilities for each lot were summed.

The existing residential properties are to be held constant at this value, without further consideration of lot frontage.

FRONTAGE ASSESSMENT:

The total road frontage of the properties receiving sewer was summed.

The total frontage of properties receiving other utilities was summed.

Since the existing residential properties are not considered for this exercise, calculating the cost per lot must exclude the total betterment assessment for the residential properties.

The assessment cost per foot road frontage for sewer was calculated using the allocated project cost *minus the total assessment for the residential properties* for sewer divided by the total frontage of properties receiving sewer.

An assessment cost per foot road frontage for utilities was calculated using the allocated project cost *minus the total assessment for the residential properties* for utilities divided by the total frontage of properties receiving utilities.

The frontage assessment for sewer was calculated by multiplying the cost per foot road frontage by the sewer frontage for each lot.

The frontage assessment for utilities was calculated by multiplying the cost per foot road frontage by the utilities frontage for each lot.

TOTAL FEE:

For the business use properties, the total assessment fee for each lot was calculated by taking the average of the frontage assessment and the area assessment per lot.

For the existing residential properties, the total assessment fee for each lot is equal to the total area assessment already calculated for each lot.

CHAPTER 1003
TOWN OF SCARBOROUGH
HAWKERS & PEDDLERS ORDINANCE
Amended 09/06/95

Reference: Reference Book #11 - Annual Town Meeting March 10, 1958, Article 17A - Pages 243 and 244.

Section 1.

No person shall carry on the business of hawking or peddling of goods, wares or merchandise at retail within the limits of the Town of Scarborough without first having obtained a license from the Municipal Officers of the Town of Scarborough. The fee for such license shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council, and said license shall expire on July 1st.

Section 2.

This Ordinance shall not apply to persons selling merchandise by sample, list or catalogue for future delivery, farm, dairy, orchard, fish and forest products of their own production, newspapers and religious literature.

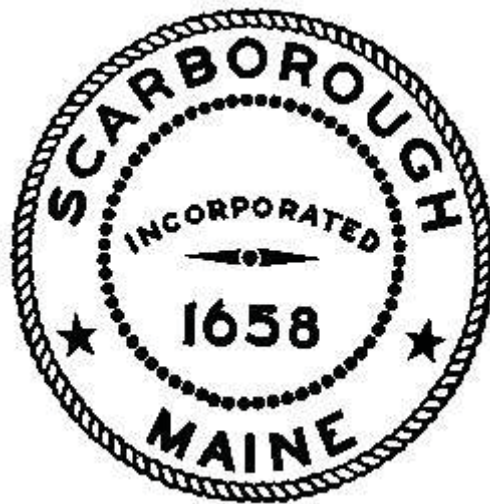
Section 3.

Every person convicted of a violation of this Ordinance shall be punished by a fine of not more than \$100.00 to be recovered on complaint to the use of the Town of Scarborough. Each day such violation occurs or continues shall constitute a separate offense.

CHAPTER 604A

TOWN OF SCARBOROUGH

HORSE BEACH PERMIT ORDINANCE



Adopted September 16, 2009
Amended May 7, 2014
Amended September 6, 2017
Amended November 1, 2017

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HORSE BEACH PERMIT ORDINANCE

Last Amended 09/06/17

604A-1. Authority

This Ordinance is enacted pursuant to the authority of 30-A M.R.S.A. § 3001 and also implements 17 M.R.S.A. § 3853-A. The Town Clerk shall have the powers and exercise the duties of the municipal officers under 17 M.R.S.A. § 3853-A.

604A-2. Purpose

The purpose of this Ordinance is to allow horses to be present on Pine Point Beach in Scarborough and Old Orchard Beach in the Town of Old Orchard Beach during appropriate times of year, and subject to appropriate regulation and control. This Ordinance recognizes that Pine Point Beach and Old Orchard Beach form a continuous strand of sand beach and establishes a system of reciprocal licensing for horses on that strand of beach.

604A-3. Definitions

As used in this Ordinance, the following terms have the following meanings:

1. “Beach” means Pine Point Beach and/or Old Orchard Beach.
2. “Old Orchard Beach” means the sand beach bordering the Atlantic Ocean from the Scarborough/Old Orchard Beach town line to the Saco city line.
3. Keeping or having custody, possession or control of a horse.
4. “Pine Point Beach” means the sand beach bordering the Atlantic Ocean from the mouth of the Scarborough River to the Old Orchard Beach town line.
5. “Rider” means any person who rides, leads or drives a horse.
6. “Town of Old Orchard Beach” means the municipality so named.

604A-4. Permit Required

No rider shall bring a horse onto the beach without having a permit and displaying on the rider a permit number tag issued by the Town Clerk of either the Town of Scarborough or the Town of Old Orchard Beach. Every rider must have an individual permit and permit number tag.

604A-5. Procedure for Obtaining a Permit

A rider seeking a permit to bring a horse onto the beach must apply in writing to the Town Clerk of the Town of Scarborough or the Town Clerk of the Town of Old Orchard Beach, using forms supplied by such clerk. The application must be accompanied by identification issued by a government agency and by the application fee required by the Schedule of License, Permit and Application Fees in the municipality where the application is made. If the applicant is a minor, the application must be signed by a parent or guardian, who must supply the required identification (the minor need not supply identification). Along with the permit, the Town Clerk shall also issue a permit number tag, designed to be worn by the rider and visible at a distance, which shall contain the permit number in numerals at least two and one half (2½) inches high,

the name of the permit holder and the name of the issuing municipality, and may contain such other information concerning the permit as the Clerk deems appropriate. A permit issued by either municipality shall be valid in both municipalities. Permits are valid only between October 1st and March 31st. All permits, whenever issued, expire on March 31st. The Town Clerk who issues the permit may suspend or revoke the permit if the rider violates any provision of this ordinance and may decline to issue a subsequent permit to a rider who has violated any provision of this ordinance.

604A-6. Regulation of Horses on the Beach

1. Horses are allowed on the beach only from October 1st through March 31st.
2. Except for gaining access to and egress from the beach, horses are allowed only in the intertidal zone (between the mean high tide line and the mean low water line).
3. Parking of horse trailers is limited to Hurd Park in the Town of Scarborough and the Milliken Street Municipal Parking Lot in the Town of Old Orchard Beach.
4. Any rider or owner who allows a horse to be present on the beach must remove and dispose of animal waste as required by Section 604-9 of the Town of Scarborough Animal Control Ordinance. Violation of Section 604-9 constitutes a violation of this Ordinance. Effective October 1, 2018, the owner, operator or driver of horses, or horse-drawn carriages operating on the beach shall be required to attach a containment device to the rear of each and every horse so operated, to be maintained and emptied so that manure is completely contained therein, cannot and does not fall upon any surface while operating under the Permit provided for herein, and is carried away for proper disposal. [amended 09/06/17][amended 11/01/17]

604A-7. Violation/Penalties

Any person who violates this Ordinance within the Town of Scarborough shall be subject to civil penalties for each violation as follows:

First violation: not less than \$50.00 and not more than \$100.00, plus costs.

Second violation: not less than \$100.00 and not more than \$250.00, plus costs.

Third and subsequent violations: not less than \$250.00 and not more than \$500.00, plus costs.

A person issued a civil violation citation for violating this Ordinance may elect to pay the minimum penalty specified above for each violation alleged in the citation, in lieu of appearing in court to answer the citation. Such payment must be received at the Office of the Scarborough Town Clerk in the amount specified in the citation prior to the court appearance date specified in the citation. Upon receipt of such payment by the Clerk, the Town shall cause the citation to be dismissed. However, the violations alleged in the citation shall be deemed admitted for purposes of assessing any future penalties under this section.

If a horse is present on the beach in violation of this Ordinance and the rider is not the owner, the owner shall be jointly and severally liable with the rider for civil penalties.

604A-8. Enforcement

This Ordinance may be enforced by any officer of the Police Department of the Town of Scarborough.

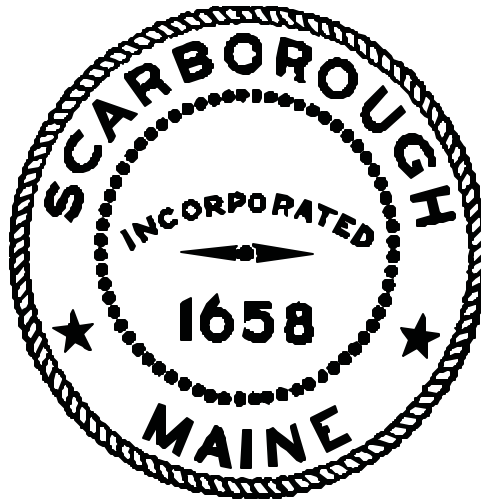
604A-9. Severability Clause

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

CHAPTER 1013

TOWN OF SCARBOROUGH

ICE CREAM TRUCK ORDINANCE



Adopted June 4, 1997
Amended July 18, 2001

CHAPTER 1013
TOWN OF SCARBOROUGH
ORDINANCE REGULATING ICE CREAM TRUCKS

DEFINITION

1. Ice cream truck means a motor vehicle utilized as the point of retail sales of pre -wrapped or prepackaged ice cream, frozen yogurt, frozen custard, flavored frozen water or similar frozen dessert products.

LICENSING PROCEDURES

1. No person shall operate an ice cream truck in Scarborough without the license required by this ordinance. A separate license is required for each ice cream truck.
2. Applications for licenses under this ordinance shall be submitted to the Town Clerk on forms provided by the Town of Scarborough Schedule of License, Permit and Application Fees established by order of the Town Council.
3. New licenses shall be issued by the Town Council after a public hearing. Renewal licenses may be issued by the Clerk.
4. Licenses issued under this ordinance shall be valid for no more than one year and shall expire on March 31 of each calendar year unless an application for renewal has been filed prior to March 31, in which case an existing license shall remain in effect until the Clerk has acted on the renewal application.
5. Licenses issued under this ordinance may be suspended or revoked by the Town Council after notice and hearing for violations of any of the provisions of this ordinance.

REGULATIONS APPLICABLE TO ICE CREAM TRUCKS

1. Permitted Sales Location. Sales from ice cream trucks shall occur only on public ways with a speed limit of 25 miles per hour or less located within residential districts under the Scarborough Zoning Ordinance or on private ways with the consent of the owner or owners of the private way.
2. Prohibited Locations. No ice cream truck shall make any sales within 500 feet of a restaurant, retail store selling prepackaged food items or a fixed place of business having a victualer's license issued by the Town of Scarborough.

No ice cream truck shall make any sales within 500 feet of any public school. (amended 7/18/01).

No ice cream truck shall make any sales within 1500 feet of the mean high water mark of coastal waters at Higgins Beach. (amended 7/18/01).

No ice cream truck shall stop at any time for the purpose of making sales in any area where parking is prohibited by the Town of Scarborough Traffic Ordinance or in any area posted as a no parking zone by the Scarborough Police Department.

3. Length of Stop. No ice cream truck shall stop for the purpose of making sales for more than 15 minutes in a single location.
4. Manner of Stops. Ice cream trucks shall pull as far as practicable to the side of the right of way when stopping for the purpose of making sales and shall operate four-way flashers when so stopped. In no event shall an ice cream truck stopped for the purpose of making sales prevent the passage of other motor vehicles on the right of way.
5. Rubbish Receptacle Required. Each ice cream truck shall provide a rubbish receptacle for use of its customers. Prior to leaving each stop, the operator of the ice cream truck shall remove any litter left at the stop by customers.
6. Hours of Operation. Ice cream trucks may stop for the purpose of making sales only between the hours of 11:00 a.m. and 8:00 p.m.
7. Insurance Required. Each ice cream truck shall be insured under a policy of public liability insurance in an amount of not less than \$300,000 with the Town of Scarborough names as an additional insured on the policy.
8. Limits on Products Sold. Only pre-wrapped or pre-packaged food items may be sold from an ice cream truck. Non-frozen items such as pre-packaged soft drinks, candy, chewing gum and snack food may be sold from an ice cream truck provided the principal product sold is ice cream and/or similar frozen dessert products.

EXEMPTION FROM ZONING ORDINANCE

1. An ice cream truck licensed under this ordinance and operated in compliance with this ordinance shall not be considered a land use subject to regulation under the Scarborough Zoning Ordinance.

VIOLATION, ENFORCEMENT AND PENALTIES

1. Any person who violates any provision of this ordinance commits a civil violation punishable by a civil penalty of up to \$100.00 per violation. Each day a violation occurs or exists constitutes a separate violation.

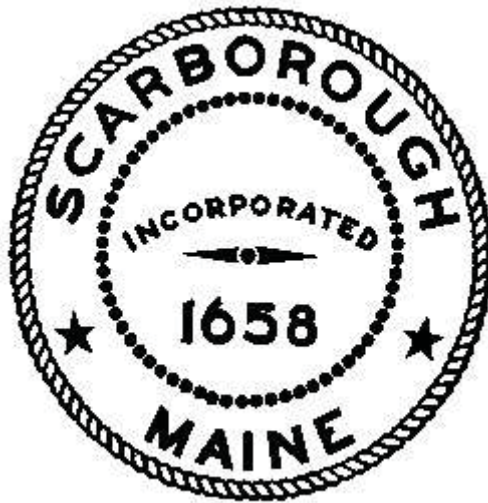
2. This ordinance shall be enforced by the Town of Scarborough Police Department.

CHAPTER 1005

TOWN OF SCARBOROUGH

INNKEEPERS LICENSE ORDINANCE

ORDINANCE



Adopted June 21, 2006
Amended 10/17/2007
Amended 04/16/2008
Amended 11/01/2017

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**CHAPTER 1005
TOWN OF SCARBOROUGH
INNKEEPERS LICENSE ORDINANCE**

Section 1. Purpose

The purpose of this Ordinance is to regulate the establishments providing lodging to travelers and other for compensation in the Town of Scarborough. The regulations are essential to insure that all establishments providing these services are in compliance with Title 30-A, §3811 – 3814 or the Maine Revised Statutes, all local ordinances and building regulations and that local property taxes and local fees are paid in full for the year prior to the issuance or renewal of a license.

Section 2. Definitions

As used in this Ordinance, the terms listed below shall have the meanings described below. The definitions in this Ordinance are exclusive to this Ordinance, and are independent of and have no bearing on terms used in the Zoning Ordinance of the Town of Scarborough. (amended 10/17/2007)

Innkeeper:

A person who keeps an inn, hotel, motel, lodging or rooming house, cabins or cottages to provide lodging to travelers and others for compensation. (amended 10/17/2007)

Lodging or Rooming House:

A building that provides sleeping accommodations for 16 or fewer persons on either a transient or permanent basis, with or without meals, without separate cooking facilities for individual occupants. Bed and breakfast occupancies with more than 3, but fewer than 17, occupants are considered lodging and rooming houses. (amended 10/17/2007)

Hotel:

A building or groups of buildings under the same management in which there are sleeping accommodations for more than 16 person and primarily used by transients for lodging with or without meals. This definition also includes an inn, club, motel, bed and breakfast or any other structure meeting this definition. (10/17/2007)

One and Two Family Dwellings:

Buildings containing not more than two dwelling units in which each dwelling unit is occupied by members of a single family with not more than three persons outside the family, if any, accommodated in rented rooms. (10/17/2007)

Cottage or Cabin:

A room or group of rooms in a self-standing structure containing sleeping, cooking and bathroom facilities and rented to travelers or other short-term occupants for compensation. As used in this definition, the term “short-term occupants” means persons renting the cottage or cabin for a term of less than three months. (10/17/2007) (04/16/2008)

Family:

One or more persons occupying a building or a portion of a building and living as a single housekeeping unit, as distinguished from a group occupying an inn, hotel, motel, lodging or rooming house, cabin or cottage. (10/17/2007)

Section 3. Applicability

This ordinance is applicable to innkeepers of hotels, motels, lodging and rooming houses, dormitories and owners of three or more cottages or cabins in a single or adjacent parcel. Single and two family dwellings are exempt from this ordinance as are dormitories of charitable, educational, or philanthropic institutions. (10/17/2007)

Section 4. License Required

All innkeepers must be licensed annually in order to operate within the Town of Scarborough.

Section 5. Application Process**A. New Applications**

New applicants may apply at any time during the year. Applications for a license shall be procured from the Town Clerk, completed and signed by the applicant and filed with the Town Clerk, and when submitted to the Town Council shall bear the recommendation for approval or disapproval with reasons noted by the Code Enforcement Officer, the Police Chief, the Fire Chief and the Tax Collector.

A license shall be granted if the property in question complies with all Federal, State and local laws and the applicant demonstrates that the premises will be conducted in a healthful and sanitary manner so as not to jeopardize the public health, safety and welfare and that the applicant is not delinquent in the payment of any taxes or fees owed to the Town of Scarborough. A new license, when granted, shall be valid until May 31st, immediately following said granting of said license, except that new licenses granted during April and May shall be valid until May 31st of the following calendar year. (amended 10/17/2007)

B. Renewal Licenses

An existing license may be renewed by the Town Clerk, provided that the holder of the existing license makes application for renewal on or before May 31st. If the holder applies for renewal on or before May 31st, the existing license shall remain in effect until final action on the renewal application. Otherwise, the existing license shall expire on May 31st and an application for a new license must be filed. For renewal applications filed on or before May 31st, the Clerk shall process and issue renewal licenses in the same manner as the Town Council processes and issues new licenses, except that no public hearing is required for a renewal. The Clerk may renew a license only if the Clerk is satisfied that the application meets all the requirements of this ordinance. If the Clerk is not satisfied that the application meets all the requirements of this ordinance, the Clerk shall refer the application to the Town

Council, which shall process the application in the same manner as an application for a new license. (amended 10/17/2007)

C. Public Hearing

The Town Council shall hold a public hearing prior to all applications for new innkeepers' licenses. Notice of the hearing shall be posted in at least two public places and shall be advertised in a local daily newspaper, at least seven (7) days prior to the hearing, both at the expense of the applicant.

Section 6. Investigation of Applicant [amended 11/01/17]

Upon receipt of each application request for an Innkeepers License the following shall occur:

- (a) The Code Enforcement Officer, or her/his designee, shall verify that the premises comply with all applicable ordinances of the town including, but not limited to, the building code, electrical code, plumbing code and zoning ordinance and shall report her/his findings in writing to the Town Clerk; and,
- (b) The Fire Chief or her/his designee shall inspect the proposed location to determine if all laws, ordinances or regulations concerning fire and safety have been satisfied and shall submit her/his report in writing to the Town Clerk; and,
- (c) The Police Chief or her/his designee shall investigate the application and shall report her/his findings in writing to the Town Clerk; and,
- (d) The Tax Collector shall submit a report to the Town Clerk on any delinquencies or payments due the Town at the time the license is requested or renewed; and,
- (e) The Town Clerk shall review the application and other documents and determine whether such documents comply with all of the requirements of this article and shall report such findings in writing to the Town Council.

Section 7. License Fees

The fee payable for an innkeepers' license shall be as specified in Chapter 311, the *Schedule of License, Permit and Application Fees* established by the Town Council.

Section 8. Suspension, Revocation of License

An Innkeepers license may, after notice and public hearing, be suspended or revoked by the Town Council for non-compliance with the ordinances, statutes, and regulations of the Town of Scarborough and the State of Maine.

Section 9. Reinstatement of License

An Innkeepers license may, at any time after the suspension of the license, make an application in writing for the reinstatement of the license to the Town Clerk and such application shall be submitted to the Town Council as per Section 4 above.

Section 10. Penalty

Any violation of this ordinance shall be punishable by a fine of not less than three hundred dollars (\$300) for the first offense and not less than five hundred dollars (\$500) for the second and subsequent violation which shall be recovered for the use of the Town of Scarborough. Each day that such unlawful act or violation continues shall be considered a separate offense. In addition, the Town may seek recovery of costs and any other legal and equitable remedies as may be available to the Town.

Section 11. Repeal of Prior Ordinances

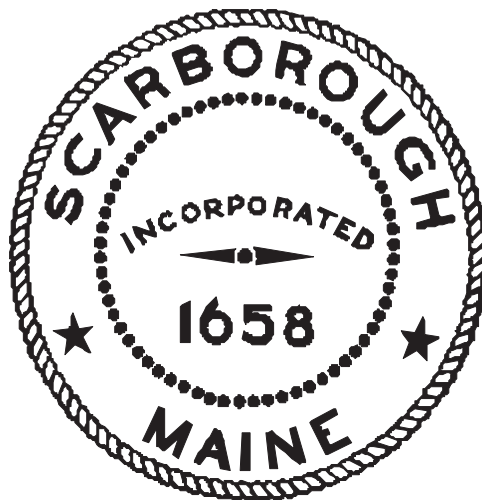
This Ordinance repeals and replaces the ordinance entitled “Fee for Innkeepers or Victualer’s License Ordinance” enacted by special town meeting, May 3, 1947 and amended through September 6, 1995.

CHAPTER 417

TOWN OF SCARBOROUGH

LANDFILLS AND LANDFILL

EXPANSION ORDINANCE



Adopted November 3, 2004

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CHAPTER 417
TOWN OF SCARBOROUGH
ORDINANCE REGULATING LANDFILLS
AND LANDFILL EXPANSIONS
ADOPTED NOVEMBER 3, 2004

Section 1. DEFINITIONS

“Expand”

Means to increase the area of land onto or into which solid waste is disposed.

“Landfill”

Means a waste disposal facility for the disposal of solid waste on or in land.

“Regional association”

Means two or more municipalities that have formed a relationship to manage the solid waste generated within the participating municipalities, including, without limitation, Regional Waste Systems, Inc. A landfill owned or operated by a regional association shall not be considered a municipal use under the Scarborough Zoning Ordinance.

“Residue”

Means waste remaining after the handling, processing, incineration or recycling of solid waste, including, without limitation, front-end waste and ash from incineration facilities.

“Solid waste”

Means useless, unwanted or discarded solid material with insufficient liquid content to be free-flowing, including, but not limited to, rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material, landscape refuse and residue.

Section 2. LOCAL PERMIT REQUIRED

No person, including a regional association, shall establish or expand a landfill within the Town of Scarborough without first obtaining a local permit from the Scarborough Town Council.

Section 3. CRITERIA FOR THE ISSUANCE OF LOCAL PERMITS

Prior to issuing a local permit under this Ordinance, the Town Council must determine that the proposed landfill or land fill expansion:

A. Has been licensed by the State of Maine Department of Environmental Protection;

- B. Has been reviewed by the Scarborough Fire Department, the Fire Department has determined that the design of the proposed landfill makes adequate provision for the prevention of fires and the Fire Department has approved a plan for emergency response to the landfill.
- C. Has been reviewed by the Scarborough Conservation Commission, and the applicant has made a reasonable effort to incorporate comments from the Conservation Commission in the design and operation of the landfill.
- D. Has been reviewed by a consulting engineer selected by the Town and funded by the applicant and that the applicant has agreed to implement that engineer's recommendations for the protection of ground and surface waters.
- E. Has been reviewed and approved by the Scarborough Planning Board under the Town of Scarborough Site Plan Review Ordinance.
- F. Has received all permits and approvals required under the Town of Scarborough Zoning Ordinance and/or the Town of Scarborough Shoreland Zoning Ordinance.

Section 4. CONDITIONS OF APPROVAL

In granting a local permit under this Ordinance, the Town Council may impose such conditions on the development and operation of the landfill as the Council finds necessary to ensure compliance with the requirements of this Ordinance and the requirements of the license issued by the Maine Department of Environmental Protection.

Section 5. LANDFILLS OPERATED BY REGIONAL ASSOCIATIONS

- A. A regional association seeking to develop or expand a landfill within the Town of Scarborough must obtain the local permit under this Ordinance no later than 90 days after issuance of the license by the Department of Environmental Protection or 30 days after a final decision by the Department of Environmental Protection to re-license the landfill. In granting a local permit to a regional association under this Ordinance, the Town Council shall adopt the findings, conclusions and conditions contained in the license issued by the Department of Environmental Protection for the landfill.
- B. The Town Council may also attach to the local permit additional conditions for the operation of the landfill, provided such conditions address issues not specifically addressed in any condition of the license issued by the Department of Environmental Protection and do not unreasonably restrict the operation of the facility in compliance with the license issued by the Department of Environmental Protection.

Section 6. SETBACK REQUIRED

No landfill or portion of a landfill shall be located within 500 feet of any property located in a residential zone under the Town of Scarborough Zoning Ordinance or any property in residential use.

Section 7. FEES

The application and license fees under this Ordinance shall be as set forth in the Town of Scarborough Schedule of License, Permit and Application Fees established by order of the Town Council.

Section 8. ENFORCEMENT AND PENALTIES

This Ordinance shall be enforced by the Scarborough Code Enforcement Officer. Any person who establishes or expands a landfill without the local permit required by this Ordinance or who operates a landfill in violation of any conditions attached to the local permit under this Ordinance shall be subject to the penalties and remedies provided in 30-A M.R.S.A. § 4452. Each day a violation exists shall constitute a separate violation.

Section 9. SEPARABILITY

Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

CHAPTER 310
TOWN OF SCARBOROUGH
ORDINANCE REGARDING
LICENSE, PERMIT AND APPLICATION FEES
TOWN OF SCARBOROUGH
ADOPTED SEPTEMBER 6, 1995

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, as follows:

1. All fees and charges required by ordinances of the Town of Scarborough for permits, licenses, approvals and applications therefor, and all fees and charges collected by the Town of Scarborough where state law authorizes or requires the Town to set the amounts of such fees and charges, shall hereafter be established by the Town Council by order as the *Schedule of License, Permit and Application Fees*.
2. All existing ordinances of the Town of Scarborough are amended by deleting the specific amounts of any fees required in such ordinances and substituting for the words: "as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council.
3. The Town Clerk is directed to make the changes in the texts of existing ordinances necessary to implement this ordinance.
4. Interest shall be charged on all past due fees, charges and payments owed to the Town at a rate and on terms established by the Town Council by order in the *Schedule of License, Permit and Application Fees*. (amended 05/02/2007)

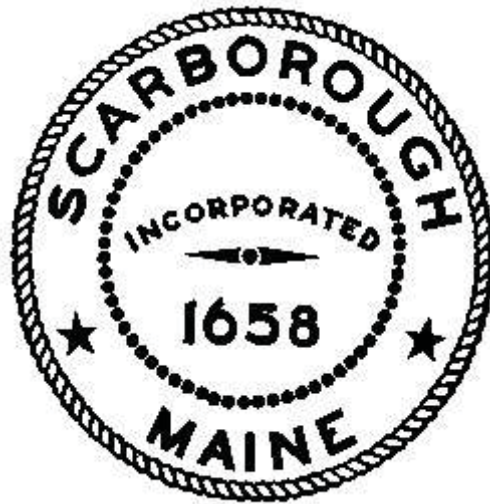
CHAPTER 418

TOWN OF SCARBOROUGH

ORDINANCE REQUIRING PERMITS FOR

LOCATION & USE OF OUTDOOR

WOOD BOILERS



Adopted May 21, 2008

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**TOWN OF SCARBOROUGH
ORDINANCE REQUIRING PERMITS FOR
LOCATION AND USE OF OUTDOOR WOOD BOILERS
ADOPTED MAY 21, 2008**

Section 1. Definition

“Outdoor wood boiler” (also known as outdoor wood-fired hydronic heater, water stove or outdoor wood furnace) means a fuel burning device designed to (1) burn wood or other approved solid fuels; (2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and (3) heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

Section 2. Permit Required

No person shall install, allow the installation of, or operate any outdoor wood boiler within the Town of Scarborough without first obtaining the requisite permits (building, plumbing, and electrical, if applicable) from the Code Enforcement Officer under this Ordinance.

Section 3. Permit Requirements

The applicant for a permit under this Ordinance shall demonstrate that the outdoor wood boiler will be installed and operated in accordance with Chapter 150 of the Rules of the Maine Department of Environmental Protection, “Control of Emissions from Outdoor Wood Boilers,” as the same may be amended from time to time.

Section 4. Violation and Penalties

Any person who installs, allows the installation of or operates an outdoor wood boiler without the permit required by this Ordinance or in violation of Chapter 150 of the Rules of the Maine Department of Environmental Protection commits a civil violation punishable in accordance with 30-A M.R.S.A. § 4452. Each day a violation continues to exist after notice of the violation constitutes a separate offense.

Section 5. Enforcement

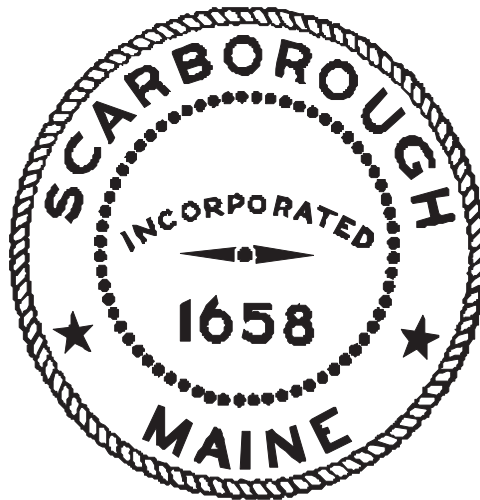
This Ordinance shall be enforced by the Code Enforcement Officer of the Town of Scarborough.

CHAPTER 1010

TOWN OF SCARBOROUGH

MASSAGE ESTABLISHMENT

ORDINANCE



ADOPTED JUNE 5, 1991
AMENDED NOVEMBER 18, 1992
Amended 09/06/95
Amended 09/05/01
Amended 02/16/2005

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**CHAPTER 1010
TOWN OF SCARBOROUGH, MAINE
MESSAGE ESTABLISHMENT ORDINANCE**

ARTICLE I - GENERAL PROVISIONS

Section 1. Purpose.

The purpose of this Ordinance is to regulate the operation of massage establishments in order to promote the public health, safety and general welfare.

Section 2. Definitions.

For the purpose of this Ordinance, the following shall apply unless the context clearly implies otherwise:

DISQUALIFYING CRIMINAL CONVICTION:

Any conviction for any criminal offense punishable by imprisonment for any period of time, whether or not the sentence was imposed or served, but not including any conviction which is shown to have been set aside on appeal or collaterally, or for which a pardon, certificate of rehabilitation, or the equivalent under the law of the sentencing jurisdiction has been granted, or which is not rationally related to the purpose of licensing massage establishments.

MESSAGE:

Massage therapy as defined in Section 14301(3) of Chapter 125 of Title 32 of the Maine Revised Statutes. (11/18/92)

MESSAGE ESTABLISHMENT:

Any business, including but not limited to sole proprietorship, in which the business operation consists of providing or making available massage in the Town of Scarborough for consideration or with the expectation of receiving consideration or any gratuity, whether or not the business has a fixed place of business within the limits of the Town.

MESSAGE THERAPIST:

Any person who performs massage for consideration or gratuity or with the expectation of receiving consideration or any gratuity.

PATRON:

Any person who receives a massage.

PERSON:

Any individual, partnership, corporation or other entity.

RECOGNIZED SCHOOL:

Any school or institution of learning which has for its purpose the teaching of the theory, method, profession and work of massage and is recognized or certified by the State of Maine or any other state. Schools offering a correspondence course not requiring actual attendance of class, shall not be deemed a Recognized School.

Section 3. Exemptions.

The following shall be exempt from this Ordinance, if duly licensed by and while practicing in accordance with the laws of this State: Physicians and Surgeons (medical doctors and doctors of osteopathy) Physicians' Assistants, Nurses, Chiropractors, Physical Therapists, Barbers, Cosmetologists, Beauticians, and other health and hygiene professionals.

Section 4. Massage Tables.

All massages shall be administered on a massage table, treatment table or treatment mat.

Section 5. Maintenance and Cleaning.

Every person who conducts or operates a massage establishment shall keep the same at all times in a clean and sanitary condition. All instruments, supplies and devices of any kind, or parts thereof, that come into contact with the human body shall be kept clean by a modern and approved method of cleaning.

Section 6. Prohibited Activities.

- A. No massage therapist shall administer a massage to a patron whose genitals are exposed.
- B. No massage therapist shall administer or agree to administer a massage to the genitals or anus of a patron.
- C. No massage therapist shall administer a massage unless he or she is fully clothed with non-transparent clothing of the type customarily worn by massage therapists while administering a massage.

Section 7. Closing Hours.

No massage establishments shall be kept open for massage purposes between the hours of 12 midnight and 6:00 a.m.

Section 8. Supervision.

At all times when open for business, a massage establishment shall have upon the premises a licensed massage therapist or person who possesses a combination massage establishment/massage therapist license who shall be available to supervise the operation of the establishment and assure that no violations of this Ordinance occur.

Section 9. List of Employees.

A massage establishment shall keep a written list of the names and current addresses of all employees, both on duty and off duty. Such list shall be shown to the chief of police, the chief's authorized deputy, the town clerk or the clerk's representative, upon request.

ARTICLE II. LICENSES

Section 1. Required.

A. Massage Establishment License.

No person shall operate a massage establishment without a valid massage establishment license. A separate license shall be required for each such establishment.

B. Massage Therapist License.

No person shall work as a massage therapist without a valid massage therapist license or a combined massage establishment/massage therapist license.

C. Combined Massage Establishment/Massage Therapist License.

A sole practitioner who employs no massage therapist other than himself/herself may apply for a combined massage establishment/massage therapist license in lieu of both a massage establishment license and a massage therapist license.

D. Conditional Massage Therapist License.

For the purpose of allowing an applicant for a license pursuant to Article II.1.B. or II.1.C who is otherwise qualified to obtain such a license, except for compliance with Article II.6, to comply with Article II.6, a conditional massage therapist license may be issued under the following conditions:

1. All provisions of Article II shall apply to a licensee under this section, except Section 6.
2. Licensee under this section shall designate one massage therapist or combined massage establishment/massage therapist licensed by the Town of Scarborough as the supervisor for licensee.
3. Licensee under this section may designate no more than one licensed supervisor pursuant to Article II.1.D.2 unless said licensed supervisor shall voluntarily surrender his/her license.
4. The designated licensed supervisor may supervise two (2) or fewer conditional massage therapists per license year.
5. Licenses issued pursuant to this subsection D may not be renewed.

Section 2. Licenses Displayed.

A valid massage establishment license shall be displayed at all times in an open and conspicuous place in the massage establishment for which it was issued. A valid conditional massage therapist license, massage therapist license or combined massage establishment/massage therapist license must be readily available to be produced immediately if demanded of the licensee.

Section 3. Standards for Denial.

A license application under this Ordinance shall be denied to any of the following persons:

A. Massage Establishment License.

1. a corporation not registered to do business in this state;
2. a corporation if any principal officer thereof or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction within the immediately preceding five (5) years; or
3. an applicant other than a corporation if such applicant or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction, within the immediately preceding five (5) years.

B. Massage Therapist, Combined Massage Establishment/Massage Therapist, or Conditional Massage Therapist.

1. to an applicant who has a disqualifying criminal conviction at any time during the five (5) years immediately preceding application; or
2. to an applicant who is not at least eighteen (18) years of age.

The clerk shall make and keep a written record of every decision to deny an application for any license hereunder.

Section 4. Grounds for Suspension or Revocation.

A. All Licenses.

Any license may be suspended or revoked upon a determination that the licensee:

1. failed to notify the clerk of any change in material facts set forth in the application for such license; or
2. violated any provision of this Ordinance of the License Ordinance.

B. Massage Establishment or Combined Establishment/Therapist license.

In addition to the provisions of subsection (A), either a massage establishment license or combined massage establishment/massage therapist license may be suspended or revoked upon a determination that the licensee:

1. permitted any person to perform massage without a valid license to do so;

2. permitted or allowed an employee, massage therapist or conditional massage therapist to violate any provision of this Ordinance on the premises of the establishment or in the course of conduct of the business of the establishment; or
3. knowingly permitted any violation of Title 17-A M.R.S.A. sections 851 through 855. Such knowledge shall be presumed if there have been two (2) or more convictions for any such offense within any one-year period. The applicant or licensee may rebut said presumption by showing that (i) due diligence was exercised to prevent the recurrence of any such offense and (ii) despite such diligence, he or she did not know and could not reasonably have known of any subsequent offense.

Section 5. Application for Massage Establishment, Combined Massage Establishment/Massage Therapist and Massage Therapist Licenses.

Any person desiring a license pursuant to this Ordinance shall file a written, signed application with the town clerk on a form to be furnished by the clerk. An application for a combined massage establishment/massage therapist license, a massage therapist license or a conditional massage therapist license shall be accompanied by a signed photograph of the applicant taken within thirty (30) days of the application, of such sizes as the clerk may specify. [amended 02/16/2005]

Section 6. Basic Proficiency.

Each applicant for a massage therapist license or combined massage establishment/massage therapist license shall show proof of basic proficiency in the field of massage therapy which may be satisfied by:

- A. evidence of completion of a formal training course in massage therapy given by a recognized school;
- B. evidence of one hundred (100) hours of on-the-job training in massage performed in the presence of a person holding a valid massage therapist license or a combined massage establishment/massage therapist license issued by the Town of Scarborough;
- C. evidence of continuous practice as a massage therapist for at least one (1) year, accompanied by the written recommendation of at least five (5) persons holding a valid massage therapy license or a combined massage establishment/massage license issued by the Town of Scarborough, which shall state that said person has personally received a massage from the applicant that was administered in a skilled and professional manner; or
- D. evidence of successful completion of a certifying exam given by another municipality or state, or the certifying exam given by American Massage Therapy Association.

Section 7. Obtaining License by Fraud.

- A. No person shall make any false, untruthful or fraudulent statement, either written or oral, or in any way conceal any material fact, or give or use any fictitious name in order to secure or aid in securing a license required by this Ordinance. All names, including

but not limited to maiden name, ever used by the applicant must be noted on the application.

B. Any license so secured shall be void.

Section 8. Use of License.

No person shall make use of, in any manner, to his or her own or another's benefit, any license which has not been duly issued to him or her in accordance with this Ordinance.

Section 9. Compliance of Existing Therapists and Massage Establishments.

A. Any person presently operating as a massage therapist and/or operating a massage establishment in Scarborough as defined herein on the effective date of this Ordinance shall comply with the terms of this Ordinance by obtaining a license hereunder within three (3) months of the effective date of this Ordinance.

Section 10. Severability.

In the event that any section, or any portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such declaration shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

Section 11. Penalty.

The violation of any provision of this Ordinance shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the town may enjoin or abate any violation of this Ordinance by appropriate action.

Section 12. Term of License.

Licenses issued pursuant to this Ordinance shall be for a term of no more than one year and shall expire annually on September 30th.

Section 13. Application Fees.

The fees for licenses issued under this Ordinance shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council.

The fees are payable at the time of application and are non-refundable.

Section 14. New Licenses and Renewals. [amended 02/16/2005]

A. New Licenses.

A new license under this ordinance may be issued only by the Town Council after public hearing, notice of which shall be given at least seven days in advance by publication in a newspaper having circulation in the Town and by posting notice in a public place

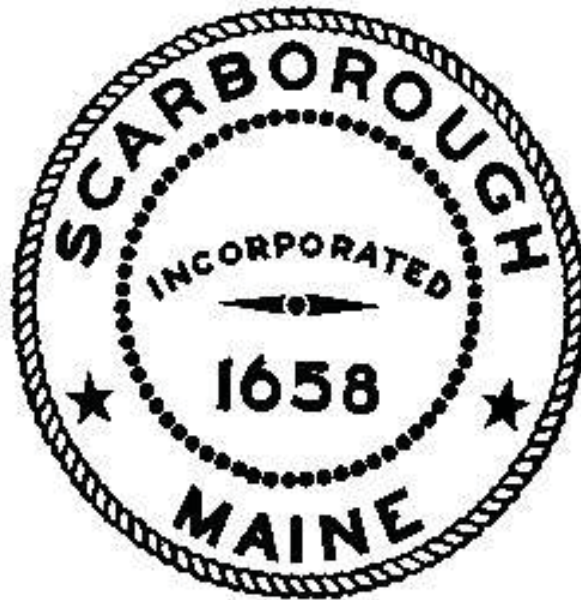
B. Renewal Licenses.

An existing license may be renewed by the Town Clerk, provided that the holder of the existing license makes application for renewal on or before September 30th. If the holder applies for renewal on or before September 30th, the existing license shall remain in effect until final action on the renewal application. Otherwise, the existing license shall expire on September 30th and an application for a new license must be filed. For renewal applications filed on or before September 30th, the Clerk shall process and issue renewal licenses in the same manner as the Town Council processes and issues new licenses, except that no public hearing and no criminal background check is required for a renewal. The Clerk may renew a license only if the Clerk is satisfied that the application meets all the requirements of this ordinance. If the Clerk is not satisfied that the application meets all the requirements of this ordinance, the Clerk shall refer the application to the Town Council, which shall process the application in the same manner as an application for a new license.

C. Criminal Background Checks.

The Town Council shall not take final action on an application for a new license (including an application for a renewal license filed after September 30th) until the Town Clerk has received and reviewed a criminal background check from the State Bureau of Investigation on the applicant and any persons having a relationship to the applicant described in Section 3 of this Ordinance.

**CHAPTER 602A
TOWN OF SCARBOROUGH
MASS GATHERING ORDINANCE**



**ADOPTED APRIL 20, 1994
Amended September 6, 1995
Amended June 6, 2012
Amended November 1, 2017**

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**CHAPTER 602A
TOWN OF SCARBOROUGH
MASS GATHERING ORDINANCE**

ARTICLE I - TITLE, AUTHORITY, AND PURPOSE

Section 101. Title.

This Ordinance shall be known as and may be cited as the Mass Gathering Ordinance of the Town of Scarborough, Maine.

Section 102. Authority.

This Ordinance is enacted pursuant to the authority granted in Title 22, Section 1601, et seq., and the home rule power conferred by Article VIII, part Second of the Maine Constitution and Title 30-A, Sections 2101, 2109, and 3001.

Section 103. Purpose.

It is recognized that a mass gathering attended by 1,000 or more persons, whatever its duration, may create a hazard to public health and safety. Accordingly, it is deemed necessary in the interests of public welfare to regulate the conduct of such gatherings in order to protect the public health and safety.

ARTICLE II - DEFINITIONS

Any term not specifically defined herein shall be given its customary and ordinary meaning. For the purpose of this Ordinance, the following terms shall be defined as hereinafter set forth:

Section 201.1. Council.

“Council” means the Scarborough Town Council and its authorized representatives.

Section 201.2. Mass Gathering Area.

“Mass gathering area” means any place maintained, operated, or used for a mass gathering or assemblage, except where the mass gathering is to occur within an established permanent stadium, arena, auditorium or other similar permanent building that is fully enclosed by a roof, walls and floor and has sufficient existing permanent sanitary facilities and parking to handle the expected number of persons.

Section 201.3. Mass Gathering.

“Mass gathering” means a group of 1,000 or more persons assembled together for a meeting, festival, social gathering, entertainment, scheduled event or other similar purpose.

Section 201.4. Operator.

“Operator” means the person responsible for the managing of the mass gathering area. In the event that no Operator exists, the owner or, in the event of her/his non-availability, the lessee of the ground encompassing the group gathering area, shall be deemed to be the Operator under those regulations.

Section 201.5. Person.

“Person” means an individual, group of individuals, association, partnership or corporation, firm or company, but shall not include the Town of Scarborough.

Section 201.6. Refuse.

“Refuse” means all combustible or non-combustible putrescible or non-putrescible solid or liquid wastes.

Section 201.7. Sanitary Facilities.

“Sanitary facilities” means toilet, privies, lavatories, urinals, drinking fountains, and any service building or room provided for installation and use of these units.

Section 201.8. Nuisance.

“Nuisance” means and includes the following:

- (a) Any public nuisance known at common law or in equity jurisprudence;
- (b) An attractive nuisance known at common law or in equity jurisprudence;
- (c) Any condition which violates federal, state or local health or environmental laws or regulations.

ARTICLE III - PERMIT REQUIRED

Section 301. Prohibitions.

No person shall sponsor, promote, sell tickets to, permit on her/his property, or otherwise conduct, a mass gathering which may, will or is intended to attract a continued attendance at such gathering of 1,000 or more persons until a permit therefor has been obtained from the Town Council.

Section 302. Issuance.

The Town Council shall issue a permit for a mass gathering only if it finds the standards in this Ordinance are met. When considering the issuance of a permit, the Town Council may seek advice from the Police Chief, Fire Chief, Code Enforcement Officer, Health Officer, and such other officials or persons as it deems appropriate, and shall seek from them relevant information, including but not limited to any safety problems that arose at any mass gathering within the previous two years (a) held at the same mass gathering area or (b) managed or promoted by the applicant or a related entity. The Town Council shall deny a permit for a mass gathering if it finds that any of the standards set forth in Section 304 of this Ordinance are or would not be met by the proposed mass gathering.

Section 303. Permit Procedures.

Section 303.1. Application.

An application to hold mass gathering event shall be submitted to the Town Clerk at least sixty (60) days prior to the outdoor gathering contemplated. The application shall identify (a) the Operator; (b) the mass gathering area; (c) the maximum number of patrons anticipated or tickets to be sold for the anticipated gathering; (d) the range of dates and time of day being considered for the anticipated mass gathering; multiple consecutive day events will be considered one event; (e) information pertaining to previous mass

gatherings in the same mass gathering area or sponsored by the Operator or a related entity at other locations, within the previous two years, including but not limited to safety problems or violations of this Ordinance or other ordinances or regulations occurring at such previous gatherings and how such problems are to be avoided at the requested mass gathering or gatherings; and (f) shall set forth the information needed to determine compliance with each of the standards set forth in Section 304 of this Ordinance. Additionally, the Application shall be accompanied by a non-refundable permit fee per event as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council. Applicants holding similar events and using the same safety, logistical, and operational plans in any given calendar year will receive a 50% discount off the application fee for each subsequent show after the initial one. [amended 09/06/95][amended 06/06/2012]

Section 303.2. Town Council Action.

Upon the filing of an application under Section 303.1, Town staff shall review the application and notify the applicant by letter issued no later than five business days after the filing of the application as to whether the application is deemed complete, or if not, the specific provisions of this Ordinance for which additional information must be provided. If the applicant objects to the determination that its application is not complete, then the completeness of the application may be reviewed by the Town Council at its next regularly scheduled meeting for which adequate time for notice is available. Once the application has been deemed completed either by Town staff or by the Town Council, the application shall be considered as an agenda item at the next regularly scheduled Town Council meeting for which adequate time for notice is available.

Section 303.3. Decision and Notification.

A. Within thirty (30) days after the Town Council first substantively considers the Section 303.1 Application (or longer with the agreement of the Operator) the Town Council shall either issue a Permit, with or without conditions, to the Operator or deny a Permit to the Operator. Any decision of the Town Council shall be in writing and shall set forth with specificity the reasons for the action taken, and in the case of denial, shall include a list of steps which, if followed by the Operator, would result in a Permit being issued, if in the judgement of the Council, the problems that resulted in denial can be cured. If the Town Council fails to either issue the Permit or send a notice of denial within the time allowed, the Permit shall be deemed to have been denied. A party aggrieved by the decision of the Town Council may appeal to the Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

B. Upon approval of the “general” permit application described in Section 303.1 above, the permit holder shall file a notification at least forty-five (45) days prior to each gathering contemplated identifying, for each gathering, (a) the specific date and time (start and finish) of the event; (b) the anticipated number of attending patrons or tickets to be sold; (c) the identity(ies) of the performer(s) at the event; and (d) information pertaining to the last three performances of each performer, including date, location, and any safety problems that arose at each such performance.

Section 303.4. Public Costs Escrow.

The Operator shall deposit with the Town Clerk at least two weeks prior to the first contemplated gathering an amount of money equal to 120% of the estimated public costs of each contemplated mass gathering as set by the Council when issuing the permit pursuant to Section 303.3. Public costs shall be those costs incurred by the Town in connection with the contemplated mass gatherings which related to the mass gathering and which would not be incurred by the Town if such mass gathering was not held. Promptly each mass gathering, the public costs shall be calculated, and the deposit shall be refunded to the Operator to the extent it exceeds the actual public costs. If the actual public costs exceed the amount deposited, the Operator shall pay the excess to the Town within ten (10) days after being so notified in writing.

Section 304. Permit Applications and Approval Criteria.

The permit application submitted pursuant to Section 303.1 shall be in the form prescribed by the Town Council and shall demonstrate compliance with the following approval criteria:

Section 304.1. Access.

- A. Convenient and safe access for the ingress and egress of pedestrians and vehicular traffic shall be provided.
- B. Sufficient traffic control personnel to insure safety to all members of the traveling public, including pedestrians, along all public roadways in the proximity of the mass gathering and/or along which the public is likely to travel to reach the mass gathering areas shall be provided.
- C. Information submitted by the applicant requested in Subsections A and B above are to be reviewed by the Town Police Chief, Fire Chief, and Planner to determine whether these standards have been demonstrated.

Section 304.2. Grounds.

- A. Each mass gathering area shall be well drained and so arranged to provide sufficient space for persons assembled, vehicles, sanitary facilities, and appurtenant equipment.
- B. Trees, underbrush, large rocks and other natural features shall be left intact and undisturbed whenever possible, and natural vegetative cover will be retained, protected and maintained so far as possible to facilitate the drainage, will prevent erosion, and preserve scenic attributes.
- C. Grounds shall be maintained free from accumulations of refuse and any health and safety hazards constituting a nuisance.
- D. Illumination will be provided at night to protect the safety of the persons assembled. The mass gathering area shall be adequately lighted, but the lighting shall not unreasonably reflect beyond the assembly area boundaries unless adjacent properties are uninhabited.
- E. Adequate parking areas, including handicapped parking spaces, shall be provided for persons arriving by vehicular means, which shall mean one parking space at least 9' x 18'

in area for each 3.5 persons expected to attend. Service road(s) and parking spaces shall be located and developed to permit convenient and safe movement of vehicular and pedestrian traffic and free passage of emergency vehicles and shall be sufficiently well-lit to provide for pedestrian safety. The width of any service road(s) may not be less than the following: 2 traffic lanes - 24 feet; parallel parking lane 9 feet for each lane. The density shall not exceed one hundred fifty (150) passenger cars or thirty (30) buses per usable acre available for supervised parking. If the Operator proposes to utilize temporary off-site parking, then the Operator must demonstrate 1) that the off-site parking location is in a commercial or industrial zone, and b) during the mass gathering event the off-site temporary parking area will not be utilized for purposes other than the mass gathering event. The Town Police Chief, Fire Chief, and Planner shall review any proposed temporary off-site parking to determine whether the standards contained in this Section have been demonstrated.

F. The mass gathering area shall contain at least 10 square feet per person expected to attend. No overnight assemblage shall be permitted. Areas used for parking and roads may not be counted towards the calculation of area per person.

Section 304.3. Water Supply.

A. An adequate, safe supply of potable water, meeting requirements of the State Department of Human Services, Division of Health Engineering, shall be provided and common cups will not be used.

B. Transported water, if used, shall be obtained from an approved source, stored and dispensed in an approved manner. Approval as used in this paragraph means in compliance with standards adopted by the State Department of Human Services, Division of Health Engineering.

Section 304.4. Sanitation.

A. When water is distributed under pressure and flush toilets are used, the water system shall deliver water at normal operating pressure (20 lbs. per square inch minimum to all fixtures at the rate of at least 30 gallons per person per day).

B. When water under pressure is not available, and nonwater carriage toilets are used, at least 3 gallons of water per person per day shall be provided for drinking and lavatory purposes.

C. When water under pressure is not available, equivalent facilities shall be provided and installed in accordance with the requirements of the Department of Human Services, Division of Health Engineering.

D. Toilets shall be provided at the rate of one for each 150 persons. Urinals (Men's) and Sanistands (Women's) or Porta Johns may be substituted for the required number of toilets (24 inches of trough urinals in a men's room will be considered the equivalent of one urinal or toilet).

E. Service buildings or rooms housing required plumbing fixtures will be constructed of easily cleanable, non-absorbent materials. The buildings, service room, and required

plumbing fixtures located therein will be maintained in good repair and in a clean and sanitary condition throughout the mass gathering.

F. Separate service buildings or rooms containing sanitary facilities, clearly marked, shall be provided for each sex, and each toilet room will be provided with door that closes and locks to insure privacy. Required sanitary facilities must be conveniently accessible and clearly identified and must be handicapped accessible.

G. Wastewater shall be discharged in a manner consistent with the requirements of the State Department of Human Services, Division of Health Engineering and the Town of Scarborough.

H. Disposal and/or treatment of any excretion or liquid waste will be in a manner consistent with the requirements of the State Department of Human Services, Division of Health Engineering and the Town of Scarborough.

Section 304.5. Refuse Disposal.

A. Refuse shall be collected, stored, and transported in a manner that allows recycling of those materials which may be recycled and protects against odor, infestation of insects and/or rodents and any other nuisance condition, or conditions which are inconsistent with the health, safety, and welfare of the patrons of the mass gathering or the public. The Operator shall contract with a licensed waste hauler(s) for disposal of all refuse and recyclables at an approved recycling or waste disposal facility, which shall mean facilities that have been licensed or approved by the State of Maine, or if refuse or recyclables are disposed of in another state, at facilities licensed or approved by that state. Records pertaining to waste disposal shall be maintained and copies provided to the Town.

B. Refuse and recycling containers shall be clearly marked and readily accessible and the equivalent of one (1) fifty (50) gallon refuse container shall be provided for each one hundred (100) persons anticipated or that one (1) sixteen (16) cubic yard trash container should be provided for every five thousand (5,000) persons anticipated in addition to an appropriate number of recycling containers.

C. The area where motor vehicles are parked shall have one (1) fifty (50) gallon refuse container or its equivalent for every twenty-five (25) such motor vehicles or one (1) sixteen (16) cubic yard trash container for every two thousand (2,000) motor vehicles and an appropriate number of recycling containers.

D. All refuse will be collected from the assembly area at least twice each twelve (12) hour period of the assembly, with a minimum of two (2) such collections per gatherings exceeding six (6) hours, or more often if necessary, and disposed of at a lawful disposal site.

E. The grounds and immediate surrounding property shall be cleared of refuse within twenty-four (24) hours following a mass gathering.

F. In lieu of the above-mentioned requirements in this Section, the Operator may submit a detailed alternative plan for refuse disposal to be reviewed and, if reasonable and appropriate, approved by the Town Council.

Section 304.6. Vermin Control.

Insect, rodents, and other vermin shall be controlled by proper, sanitary practices, extermination, or other safe and effective control methods, where necessary and animal parasites and other disease-transmitting nuisances shall be controlled.

Section 304.7. Safety.

A. Electrical system shall be installed and maintained in accordance with the provisions of the applicable State standards and local standards and regulations, and shall be approved by the Town electrical inspector.

B. Grounds, buildings, and related facilities shall be constructed, maintained and used in a manner as to prevent fire and in accordance with the applicable State and local fire prevention regulations.

C. The Scarborough Fire Department shall be informed of the date and time of the mass gathering in writing at least fifteen (15) days from the date of notification given by the permit holder pursuant to Section 303.3(B) above in order to insure that adequate fire prevention equipment and personnel, as determined by the Fire Chief, are available.

D. Internal and external traffic and security control shall meet requirements of the applicable State and local law enforcement agencies.

E. At least one law enforcement officer for each 1,000 persons expected to attend the mass gathering (but not fewer than a total of three officers) shall be on site to assist in crowd and traffic control. The Town Police Chief and Fire Chief may recommend additional or fewer officers, depending upon the information contained in the Section 303.3 (B) Notification. If the Operator intends to use private security officers, then the identity and number of such officers shall be described in the Permit Application.

F. The Operator shall present a plan describing all measures and procedures designed to address safety concerns, including provisions for protecting the safety of those attendees at a general admission event, particularly in the area immediately in front of the stage. This plan must be reviewed and either approved or disapproved by the Scarborough Police Department within fifteen (15) days from the date that the permit holder gives notice of an event in accordance with Section 303.3(B). Tickets may not go on sale or be distributed prior to approval of the safety plan. If the proposed safety plan is disapproved, then no tickets may be distributed or sold unless and until an amended plan is approved.

G. The Operator shall ensure that adequate communication between local law enforcement, fire prevention, and emergency personnel and any private security personnel, including emergency response protocols, is provided for each mass gathering. An on-site communications center may be required by Town Officials.

H. The Operator shall notify the Council at least three (3) days in advance of each mass gathering if the particular event or gathering is sold out. When the Operator learns that a particular event is likely to be sold out, the Operator shall exercise due diligence to promptly inform the general public that tickets will not be available for sale at the time of the event. At a minimum, the Operator shall broadcast announcements in the communications media serving the entire marketing area for the facility regarding the substance of the preceding sentence.

Section 304.8. Medical.

A. Emergency medical services shall be provided under the supervision of a licensed physician; all other personnel must be licensed by the State of Maine, as either a Physician Assistant, R.N., or Emergency Medical Technician. The Chief of the Scarborough Fire Department shall determine the number and the license level of emergency medical service personnel and ambulances needed and the times during which they shall be available.

B. Any and all medical buildings or tents with adequate medical supplies shall be available in a convenient location and shall be clearly identified as such.

C. An adequate number of emergency vehicles duly licensed by the State of Maine as ambulance shall be available on the site beginning one half hour before the mass gathering begins and until all patrons have left the scene.

D. Telephone and radio communications, including a communications link with the police and fire departments, shall be provided and kept available for emergency purposes.

E. The Operator of the mass gathering shall contact area (within 25 miles) hospitals prior to the date of the mass gathering and advise them that a mass gathering shall be held and the approximate number of people expected to attend.

Section 304.9. Sound.

The Operator shall control the level of sound emanating from the mass gathering area so as to avoid the creation of a nuisance and adverse impacts on adjoining areas and on the Scarborough community. The Operator shall control sound generated by each event as follows:

A. Operator shall establish sound measurement locations at or near the property boundary of the mass gathering area, in such locations as are determined appropriate by the Town Council. For each measuring location, Operator shall install, either at the measuring location or within the mass gathering area, an integrating sound level meter meeting the measurement instrumentation requirements set forth in subparagraph (D) below. The installation of sound level monitors as well as the work required to take and record all such measurements, shall be at the expense of the Operator. Operator shall control sound emanating from the mass gathering area so as to avoid the creation of a nuisance and an adverse impact upon adjoining areas and the Scarborough Community. With respect to mass gathering areas subject to an application filed in 1994, in the event

that specific sound level limits are to be established, they may be established by the Council for the mass gathering area after October 1, 1994 but prior to March 1, 1995, and said levels are to govern the mass gathering area for subsequent mass gathering events at that site. For mass gathering areas not reviewed by the Council under this Ordinance and for which mass gathering events are proposed to occur after January 1, 1995, in the event that specific level limits are to be established, they may be established by the Council for the mass gathering area within six months of the first mass gathering conducted at the site, said levels to govern the mass gathering area for subsequent mass gathering events at that site. The sound level measurements shall be taken continuously from one-half hour before the scheduled commencement of the event until one-half hour after the conclusion of the event. The limits of this subparagraph (A) shall not apply to periods of set-up, warm-up or equipment testing occurring before an event, provided that the total of such periods does not exceed one hour in any calendar day. Operator shall maintain a written record of all sound measurements at the three sound measuring locations and submit a sound measurement data report to the Scarborough Town Council within forty-eight (48) hours after each mass gathering, together with the affidavit of the person or persons taking such measurements stating affirmatively that such measurements are true and accurate and were taken in compliance with the procedures of subparagraph (D) below.

B. The Operator shall permit up to three representatives of the Town designated in advance by the Town Council to be present at each mass gathering for the purpose of observing and verifying the sound level measurements. If at any time during a mass gathering, after the Council has set specific sound level limits pursuant to subparagraph (A) above, those limits are exceeded, the designated municipal representative shall promptly issue a warning to the Operator. If any of the limits is exceeded during the second successive ten minute LEQ period after the warning or during any ten minute LEQ period thereafter, each such incident exceeding a limit after the initial warning shall constitute a violation of this Ordinance and the Operator shall pay to the Town of Scarborough liquidated penalties as follows:

First Violation:		\$1,000
Next Violation:	(Same Mass Gathering)	\$2,000
Each Subsequent Violation:	(Same Mass Gathering)	\$5,000

C. The Operator may appeal liquidated penalties to the Scarborough Town Council by filing a written notice of appeal within forty-eight (48) hours after the conclusion of the event. Within seven (7) days after receipt of such appeal, the Town Council shall hear the appeal and may reduce or rescind the liquidated penalties if the Council finds that the Operator made a good faith attempt to avoid violating the limits, and despite the Operator's efforts, the violation occurred, or if the Council finds that the violation was unavoidable. "Unavoidable" means that the sound level could not be adjusted at the control console without altering the content of the performance because the concert was not employing electronic

amplification and that the violation was not anticipated by the Operator in advance of the concert, or that the sound level could not reasonably be controlled by the Operator in a non-concert setting, and the violation was not reasonably foreseeable by the Operator in advance of the mass gathering.

D. The procedures for determining the compliance with subparagraph (A) above shall be as follows:

1. Measurements shall be supervised by personnel who are well qualified by training and experience in measurement and evaluation of environmental sound.
2. An integrating sound level meter shall meet all of the Type 1 or 2 performance requirements of American National Standard Specifications for Sound Level Meters, ANSI S1.4-1983 and the Type 1 or 2 Performance Requirements for integrating/averaging in the International Electrotechnical Commission Standard on Integrating-Averaging Sound Level Meters, IEC Publication 804 (1985).
3. An acoustical calibrator of a type recommended by the manufacturer of the sound level meter and that meets the requirement of the American National Standard Specification for Acoustical Calibrators, ANSI S1.40-1984 shall be used for sound measurement.
4. A microphone windscreen shall be used of a type recommended by the manufacturer of the sound level meter.
5. The sound level meter shall have been calibrated by a laboratory within 12 months of the measurement, and the microphone's response shall be traceable to the National Bureau of Standards (or its successor agency).
6. Field calibrations shall be recorded before and after each event and not less than once every two hours during each event or at shorter intervals if recommended by the manufacturer.
7. The microphone shall be positioned at a height of approximately 4 to 5 feet above the ground, and oriented in accordance with the manufacturer's recommendations.
8. Measurement locations shall be selected so that no vertical reflective surface exceeding the microphone height is located within 30 feet.
9. The sound measurement data shall include the following:
 - i. The dates, days of the week and hours of the day when measurements were made.
 - ii. The wind direction and speed, temperature, humidity and sky condition.
 - iii. Identification of all measurement equipment by make, model and serial number.

- iv. The most recent dates of laboratory calibration of sound level measuring equipment.
- v. The dates, time and results of all field calibrations during the measurements.

E. The Operator will at its own expense provide reasonable training and education for its employees, contract staff, and its public safety and security personnel in order to preserve the public safety, health and order, and will provide the Scarborough Town Council with written certification of the training and education of such personnel.

F. Nothing in this Ordinance in any way limits the ability of police, fire and other public safety personnel to enter the mass gathering area during events for the purpose of protecting the public safety.

Section 304.10. Alcoholic Beverages.

If the Operator intends to sell or permit the sale of alcoholic beverages within the mass gathering area during a mass gathering, the Operator shall restrict the time and location of such sale so that alcoholic beverages are sold only during the particular event and so that public safety and order will not be impaired. The Operator shall comply fully with the laws of the State of Maine regulating the sale and consumption of alcoholic beverages, as well as with the Town's Special Amusement Ordinance. No alcoholic beverages shall be sold at a mass gathering after 10:00 p.m. Alcoholic beverages may be sold and consumed only within a restricted area of the Facility, which does not include the parking lot. The Operator shall identify, in its Permit Application, the specific restricted areas where it proposes to sell alcoholic beverages, and the means by which it anticipates to limit the consumption of alcohol to such restricted portions of the mass gathering area. Additionally, the Operator shall exercise all due diligence and exert its best efforts to prevent the unauthorized consumption of alcoholic beverages on any part of the mass gathering area outside of the restricted areas, and to prevent patrons of the mass gathering area from using, consuming, bringing in, or otherwise obtaining alcoholic beverages in any manner not authorized by this Ordinance of the Special Amusement Ordinance. Nothing in this Ordinance shall preclude the Operator from implementing more restrictive rules for the sale and consumption of alcoholic beverages. In lieu of the above-mentioned requirements in this Section, the Operator may submit a detailed alternative management plan for the sale of alcoholic beverages subject to the approval of the Town Council and the Maine Bureau of Liquor Enforcement.

Section 304.11. Dates and Hours of Mass Gatherings.

The Operator shall schedule events at the mass gathering area so that they do not have an adverse impact on the areas adjoining the mass gathering area and upon the Scarborough community. For purposes of this Section, any mass gathering event that occurs in whole or in part prior to 9:00 a.m. or after 11:00 p.m. will be presumed to create an adverse impact, unless the Operator can demonstrate to the contrary. Each event must conclude no later than the hours set forth herein, but in cases of unavoidable delays because of weather or transportation problems, events may be extended, provided the Operator

promptly notifies the Scarborough Police Chief or the police officer in charge of security at that event that a delay will occur.

ARTICLE IV - BOND AND PUBLIC CODES

Section 401. Bond.

The Operator shall carry public liability insurance in at least the following amounts: \$300,000 Bodily Injury (per person); \$500,000 Bodily Injury (per occurrence); and \$100,000 property damage, which insurance policy shall name the Town as an additional insured and shall contain a clause providing that the policy may not be canceled by either party except upon not less than thirty (30) days written notice to the Town. A copy of the insurance policy shall be provided to the Town at the time of the filing of the application. Additionally, if the Operator carries public liability insurance in an amount greater than the figures set forth in this Section, then the Town shall be named as an additional insured.

ARTICLE V - PENALTIES AND REVOCATION

Section 501.1. Penalties.

Any person, including the Operator, violating this Ordinance shall be punished by a civil penalty of at least \$100 but not more than \$500. The failure to comply with conditions imposed upon the issuance of a mass gathering permit shall be a violation of this Ordinance. Each violation shall be considered a separate offense, and each day a violation is allowed to exist shall be considered a separate offense. The civil penalty provided for in this Section 501.1 shall be in addition to any other penalty provisions provided within this Ordinance, and shall be in addition to all other remedies to the Town of Scarborough at law and in equity. The provisions of this Ordinance shall be enforced by the Town Manager or such other municipal official or employee as the Town Manager shall designate in writing.

Section 501.2. Revocation.

The Council may revoke a mass gathering permit issued pursuant to this Ordinance upon finding that the Operator has violated one or more of the provisions of its mass gathering permit, if the Council finds that the violations are likely to occur again in future mass gathering events sponsored by the Operator at the same mass gathering area subject to the permit and where the previous violations occurred. The Council may revoke a permit only after the Operator has been given notice and an opportunity to be heard. In the case of a revocation, the Operator must receive notice of the proposed revocation at least fourteen (14) days prior to the revocation hearing. A decision by the Council to revoke an application shall not take effect until fourteen (14) days after the Operator has actual notice of the decision. The Council may, however, shorten any of the time periods prescribed in this Section 501.2 if the Council finds that an emergency posing an imminent threat to the public health, safety or welfare exists and requires immediate action. The decision of the Council to revoke a permit is not appealable to any other board or agency within the Town of Scarborough.

ARTICLE VI - SEVERABILITY AND EFFECTIVE DATE

Section 601. Severability.

The invalidity of any provision of this Ordinance shall not invalidate any other part thereof.

Section 602. Effective Date.

This Ordinance shall take effect immediately upon adoption of the same by the Town Council of the Town of Scarborough.

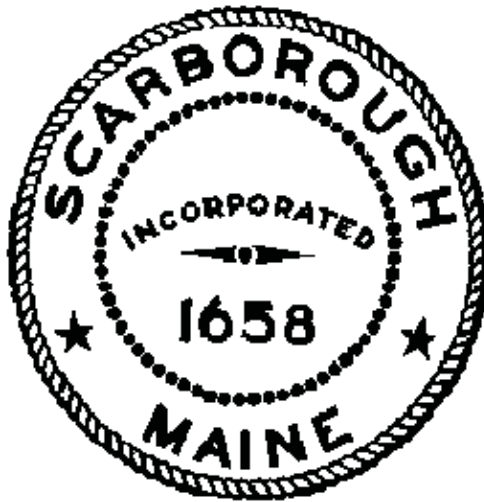
Section 603. Applicability.

Notwithstanding anything to the contrary in 1 M.R.S.A. §302, the provisions of this Ordinance shall apply to any application, request or proposal for a mass gathering permit which may be pending on or after March 16, 1994, the date of introduction of this Ordinance before the Town Council.

Section 604. Repeal.

This Ordinance repeals, replaces and supersedes the Ordinance entitled “Mass Gathering Ordinance of the Town of Scarborough, Maine, previously enacted by the Town Council.”

**CHAPTER 1105
TOWN OF SCARBOROUGH
EXEMPTING ELIGIBLE ACTIVE DUTY
MILITARY PERSONNEL FROM
VEHICLE EXCISE TAX ORDINANCE**



ADOPTED JUNE 6, 2012

**CHAPTER 1105
TOWN OF SCARBOROUGH
EXEMPTING ELIGIBLE ACTIVE
DUTY MILITARY PERSONNEL
FROM VEHICLE EXCISE TAX ORDINANCE**

Section 1. Authority.

This ordinance is enacted pursuant to 36 M.R.S.A. § 1483-A, which expressly authorizes such ordinances.

Section 2. Excise tax exemption; qualifications.

Vehicles owned by a resident of this municipality who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post, station or base outside this State or deployed for military service for a period of more than 180 days and who desires to register that resident's vehicle(s) in this State are hereby exempted from the annual excise tax imposed pursuant to 36 M.R.S.A. § 1482.

To apply for this exemption, the resident must present to the municipal excise tax collector certification from the commander of the resident's post, station or base, or from the commander's designated agent, that the resident is permanently stationed at that post, station or base or is deployed for military service for a period of more than 180 days.

For purposes of this section, "United States Armed Forces" includes the National Guard and the Reserves of the United States Armed Forces.

For purposes of this section, "deployed for military service" has the same meaning as in 26 M.R.S.A. § 814(1)(A).

For purposes of this section, "vehicle" has the meaning as in 36 M.R.S.A. § 1481(5) and does not include any snowmobiles as defined in 12 M.R.S.A. § 13001.

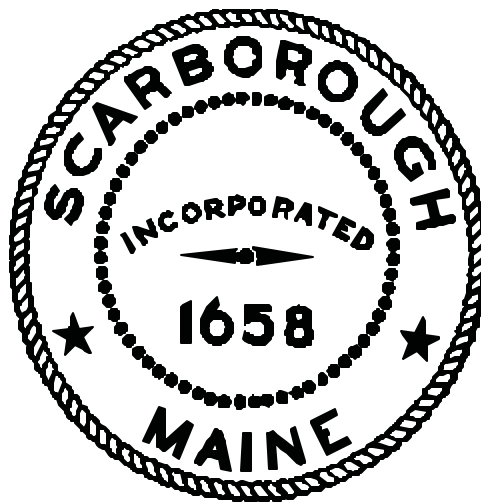
Section 3. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect unless and until it or 36 M.R.S.A. § 1483-A is repealed.

CHAPTER 1000a

TOWN OF SCARBOROUGH

MUNICIPAL LICENSE ORDINANCE



Adopted 3/20/1991
Amended 4/21/93

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**CHAPTER 1000A
TOWN OF SCARBOROUGH
MUNICIPAL LICENSE ORDINANCE
ORDINANCE ESTABLISHING THE BASIC CONDITION
FOR THE ISSUANCE OF ALL LICENSES AND PERMITS
FROM THE TOWN OF SCARBOROUGH**

Section 1 - Prerequisites for Issuance

No license or permit shall issue from any Licensing Authority of the Town of Scarborough if the Licensing Authority determines, as of the date of the license or permit application, either (1) that the applicant owes any personal property taxes to the Town of Scarborough, or (2) that there is an outstanding final judgment against the applicant due and payable to the Town, or (3) that there is any other account of the applicant, exclusive of real property taxes, due and payable to the Town of Scarborough or (4) any personal property taxes, final judgment, or account other than real property taxes is due and payable to the Town on account of the premises for which the license or permit is requested.

Section 2 - Definitions

A. "Licensing Authority" means that Town body or Town official who is authorized to issue licenses or permits under the particular licensing or permitting ordinance listed in subsection (B) below which applies to a given matter.

B. "License" means the license or permit that one is required to obtain under any of the following Ordinances of the Town of Scarborough:

1. Zoning Ordinance
2. Site Plan Review Ordinance
3. Subdivision Regulations
4. Septic Tank Sludge Disposal Ordinance
5. Extractive Industry, Waste Control, Landfill and Land Reclamation Ordinance.
6. Trailer and Trailer Camps Ordinance
7. Tenting and Camping Ordinance
8. Street Opening Ordinance
9. Dance Hall Ordinance (Repealed 10/19/94)
10. Shellfish Conservation Ordinance
11. Hawkers and Peddlers Ordinance
12. Taxicab Ordinance
13. Innkeepers or Victualers License Ordinance
14. Special Amusement Ordinance
15. Pinball and Video Machine Ordinance
16. Massage Establishment Ordinance

17. Para-Massage Establishment Ordinance
18. Mass Gathering Ordinance
19. Ordinance Requiring Licenses for Viewing Booths in Adult Businesses.

C. “Applicant” means the natural person or the entity submitting the application to the Licensing Authority.

Section 3 - Exceptions

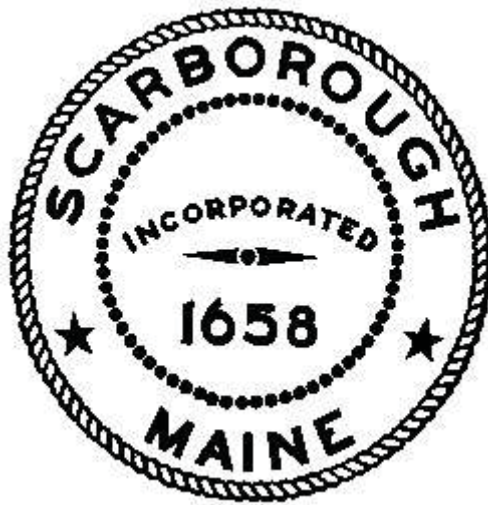
A. The requirements in Section 1 that all taxes and accounts be paid prior to issuance of a license or permit may be waived by the Town Council upon good cause shown.

B. The Licensing Authority may not refuse to issue a license or permit because of an applicant’s tax delinquency during the pendency of any request for an abatement from, or an appeal of, the tax assessment which is claimed to be delinquent.

CHAPTER 614

TOWN OF SCARBOROUGH

NOISE ABATEMENT ORDINANCE



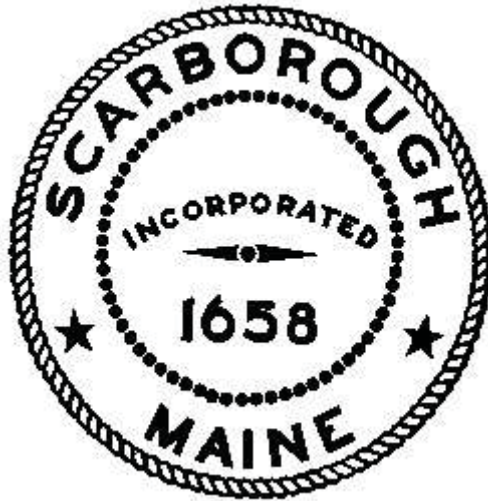
**Repealed on May 3, 2017, Refer to
Chapter 616 – Good Neighbor Ordinance**

CHAPTER 903

TOWN OF SCARBOROUGH

NON-STORM WATER DISCHARGE

ORDINANCE



Adopted September 5, 2007

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CHAPTER 9
TOWN OF SCARBOROUGH
NON-STORM WATER DISCHARGE ORDINANCE

Article I. Purpose/Objectives

A. Purpose. The purpose of this Non-Storm Water Discharge Ordinance (the “Ordinance”) is to provide for the health, safety, and general welfare of the citizens of the Town of Scarborough through the regulation of Non-Storm Water Discharges to the Municipality’s Storm Drainage System as required by federal and State law. This Ordinance establishes methods for controlling the introduction of Pollutants into the Town/City’s Storm Drainage System in order to comply with requirements of the federal Clean Water Act and State law.

B. Objectives. The objectives of this Ordinance are:

1. To prohibit unpermitted or unallowed Non-Storm Water Discharges to the Storm Drainage System; and
2. To set forth the legal authority and procedures to carry out all inspection, monitoring and enforcement activities necessary to ensure compliance with this Ordinance.

Article II. Definitions

For the purposes of this Ordinance, the following shall mean:

1. **“Clean Water Act”** Refers to the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the “Clean Water Act”), and any subsequent amendments thereto.
2. **“Discharge”** shall mean any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to “waters of the State.” "Direct discharge" or "point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.
3. **“Enforcement Authority”** shall mean the person(s) or department authorized under Section 4 of this Ordinance to administer and enforce this Ordinance.
4. **“Exempt Person or Discharge”** Shall mean any Person who is subject to a Multi-Sector General Permit for Industrial Activities, a General Permit for Construction Activity, a General Permit for the Discharge of Stormwater from the Maine Department of Transportation and the Maine Turnpike Authority Municipal Separate Storm Sewer Systems, or a General Permit for the Discharge of Stormwater from State or Federally Owned Authority Municipal Separate Storm Sewer System Facilities; and any Non-Storm Water Discharge permitted under a NPDES permit, waiver, or waste discharge license or order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency (“EPA”) or the Maine Department of Environmental Protection (“DEP”).

5. **“Industrial Activity”** shall mean activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
6. **“Municipality”** shall mean The Town of Scarborough.
7. **“Municipal Separate Storm Sewer System”, or “MS4”** shall mean conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.
8. **“National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit”** shall mean a permit issued by the EPA or by the DEP that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
9. **“Non-Storm Water Discharge”** shall mean any Discharge to an MS4 that is not composed entirely of Storm Water.
10. **“Person”** shall mean any individual, firm, corporation, municipality, quasi-municipal corporation, State agency or Federal agency or other legal entity which creates, initiates, originates or maintains a Discharge of Storm Water or a Non-Storm Water Discharge.
11. **“Pollutant”** shall mean dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.
12. **“Premises”** shall mean any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Municipality from which Discharges into the Storm Drainage System are or may be created, initiated, originated or maintained.
13. **“Regulated Small MS4”** shall mean any Small MS4 regulated by the State of Maine “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” dated June 3, 2003 (“General Permit”), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.
14. **“Small Municipal Separate Storm Sewer System”, or “Small MS4”** shall mean any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

15. **“Storm Drainage System”** shall mean the Municipality’s Regulated Small MS4.
16. **“Storm Water”** shall mean any Storm Water runoff, snowmelt runoff, and surface runoff and drainage; “Stormwater” has the same meaning as “Storm Water.”
17. **“Urbanized Area” (“UA”)** shall mean the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.

Article III. Applicability

This Ordinance shall apply to all Persons discharging Storm Water and/or Non-Storm Water Discharges from any Premises into the Storm Drainage System.

Article IV. Responsibility for Administration

The Director of Public Works is the Enforcement Authority who shall administer, implement, and enforce the provisions of this Ordinance.

Article V. Prohibition of Non-Storm Water Discharges

A. General Prohibition. Except as allowed or exempted herein, no Person shall create, initiate, originate or maintain a Non-Storm Water Discharge to the Storm Drainage System. Such Non-Storm Water Discharges are prohibited notwithstanding the fact that the Municipality may have approved the connections, drains or conveyances by which a Person Discharges unallowed Non-Storm Water Discharges to the Storm Drainage System.

B. Allowed Non-Storm Water Discharges. The creation, initiation, origination or maintenance of the following Non-Storm Water Discharges to the Storm Drainage System is allowed:

1. Landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)); uncontaminated pumped ground water; uncontaminated flows from foundation drains; air conditioning and compressor condensate; irrigation water; flows from uncontaminated springs; uncontaminated water from crawl space pumps; uncontaminated flows from footing drains; lawn watering runoff; flows from riparian habitats and wetlands; residual street wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed and detergents are not used); hydrant flushing and fire fighting activity runoff; water line flushing and discharges from potable water sources; and individual residential car washing;
2. Discharges specified in writing by the Enforcement Authority as being necessary to protect public health and safety; and
3. Dye testing, with verbal notification to the Enforcement Authority prior to the time of the test.
4. Drained water from swimming pools.

C. Exempt Person or Discharge. This Ordinance shall not apply to an Exempt Person or Discharge, except that the Enforcement Authority may request from Exempt Persons and Persons with Exempt Discharges a copies of permits, notices of intent, licenses and orders from the EPA or DEP that authorize the Discharge(s).

Article VI. Suspension of Access to the Municipality's Small MS4

The Enforcement Authority may, without prior notice, physically suspend Discharge access to the Storm Drainage System to a Person when such suspension is necessary to stop an actual or threatened Non-Storm Water Discharges to the Storm Drainage System which present or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the Storm Drainage System, or which may cause the Municipality to violate the terms of its environmental permits. Such suspension may include, but is not limited to, blocking pipes, constructing dams or taking other measures, on public ways or public property, to physically block the Discharge to prevent or minimize a Non-Storm Water Discharges to the Storm Drainage System. If the Person fails to comply with a suspension order issued in an emergency, the Enforcement Authority may take such steps as deemed necessary to prevent or minimize damage to the Storm Drainage System, or to minimize danger to persons, provided, however, that in taking such steps the Enforcement Authority may only enter upon the Premises that is the source of the actual or threatened Non-Storm Water Discharge to the Storm Drainage System with the consent of the Premises' owner, occupant or agent.

Article VII. Monitoring of Discharges

In order to determine compliance with this Ordinance, the Enforcement Authority may enter upon and inspect Premises subject to this Ordinance at reasonable hours with the consent of the Premises' owner, occupant or agent: to inspect the Premises and connections thereon to the Storm Drainage System; and to conduct monitoring, sampling and testing of the Discharge to the Storm Drainage System.

Article VIII. Enforcement

It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance. Whenever the Enforcement Authority believes that a Person has violated this Ordinance, the Enforcement Authority may enforce this Ordinance in accordance with 30-A M.R.S.A. § 4452.

1. Notice of Violation. Whenever the Enforcement Authority believes that a Person has violated this Ordinance, the Enforcement Authority may order compliance with this Ordinance by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:
 - a. The elimination of Non-Storm Water Discharges to the Storm Drainage System;
 - b. The cessation of discharges, practices, or operations in violation of this Ordinance;

- c. At the Person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of Non-Storm Water Discharges to the Storm Drainage System and the restoration of any affected property; and/or
 - d. The payment of fines, of the Municipality's remediation costs and of the Municipality's reasonable administrative costs and attorneys' fees and costs.
- 2. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.
- 3. Penalties/Fines/Injunctive Relief. Any Person who violates this Ordinance shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the Municipality for violation of federal and State environmental laws and regulations caused by or related to that Person's violation of this Ordinance; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Section.
- 4. Consent Agreement. The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance for the purposes of eliminating violations of this Ordinance and of recovering fines, costs and fees without court action.
- 5. Appeal of Notice of Violation. Any Person receiving a Notice of Violation or suspension notice may appeal the determination of the Enforcement Authority to the Board of Appeals [or change to the name of the Municipality's appropriate appellate authority] in accordance with the Board of Appeals Ordinance. The notice of appeal must be received within 30 days from the date of the Notice of Violation. The Board of Appeals shall hold a de novo hearing on the appeal within 30 days from the date of receipt of the notice of appeal. The Board of Appeals may affirm, reverse or modify the decision of the Enforcement Authority. A suspension under Section 6 of this Ordinance remains in place unless or until lifted by the Board of Appeals or by a reviewing court. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.
- 6. Enforcement Measures. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 45 days of the decision of the municipal Board of Appeals upholding the decision of

the Enforcement Authority, then the Enforcement Authority may recommend to the municipal officers that the town attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

Article IX. Severability

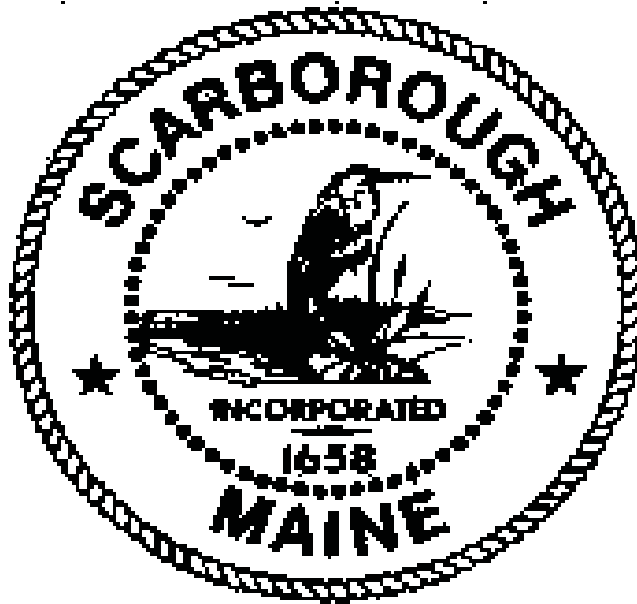
The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

Article X. Basis

The Town of Scarborough enacts this Non-Storm Water Discharge Ordinance (the “Ordinance”) pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 38 M.R.S.A. § 413 (the “Wastewater Discharge Law”), 33 U.S.C. § 1251 *et seq.* (the “Clean Water Act”), and 40 CFR Part 122 (U.S. Environmental Protection Agency’s regulations governing the National Pollutant Discharge Elimination System (“NPDES”)). The Maine Department of Environmental Protection, through its promulgation of the “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” dated June 3, 2003, has listed the Town of Scarborough as having a Regulated Small Municipal Separate Storm Sewer System (“Small MS4”); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Municipality’s Storm Water Management Program.

Chapter 1104

TOWN OF SCARBOROUGH PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE



Adopted October 6, 2010

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ARTICLE I - PURPOSE AND ENABLING LEGISLATION

1. Purpose

By and through this Ordinance, and in conformity with applicable federal and State laws, the Town of Scarborough establishes a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town.

2. Enabling Legislation

The Town enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

ARTICLE II - TITLE AND DEFINITIONS

1. Title

This Ordinance shall be known and may be cited as “the Town of Scarborough Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).

2. Definitions

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

A. Energy saving improvement. “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

(1). Will result in increased energy efficiency and substantially reduced energy use and:

(a) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Star program or similar energy efficiency standards established or approved by the Trust; or

(b) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

(2). Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

B. Municipality. “Municipality” shall mean the Town of Scarborough.

C. PACE agreement. “Pace agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

D. PACE assessment. “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.

E. PACE district. “PACE district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

F. PACE loan. “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

G. PACE mortgage. “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

H. PACE program. “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

I. Qualifying property. “Qualifying property” means real property located in the PACE district of the Municipality.

J. Renewable energy installation. “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

K. Trust. “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A.

§ 10103 and/or its agent(s), if any.

ARTICLE III – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
- ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- iii. the Trust, or its agent, will disburse the PACE loan to the property owner;
- iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- v. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- vii. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. Assistance and Cooperation. The Municipality desires to and intends to assist and cooperate with the Trust in its administration of the Municipality's PACE program.

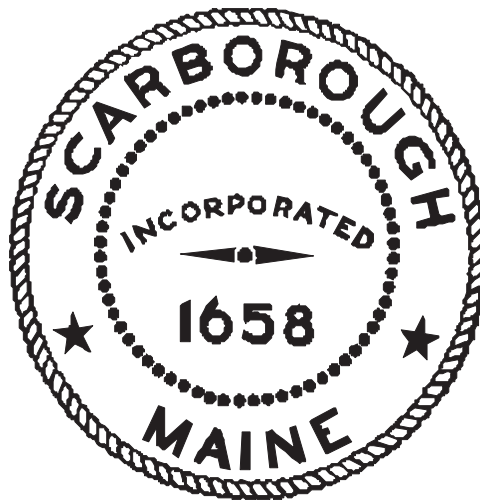
D. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

2. Liability of Municipal Officials; Liability of Municipality

A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors, tax collectors, town councilors and town managers are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article III, §1(A) above, the Municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

CHAPTER 1011
TOWN OF SCARBOROUGH
ORDINANCE REGULATING PERSONS
AND ESTABLISHMENTS
PROVIDING SERVICES SIMILAR TO
MASSAGE THERAPY ORDINANCE



ADOPTED NOVEMBER 18, 1992
Amended 09/06/95
Amended 02/16/2005

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**CHAPTER 1011
TOWN OF SCARBOROUGH
ORDINANCE REGULATING PERSONS AND ESTABLISHMENTS
PROVIDING SERVICES SIMILAR TO MASSAGE THERAPY**

ARTICLE I - GENERAL PROVISIONS

Section 1. Purpose.

The purpose of this Ordinance is to regulate services which appear similar to massage therapy as defined in and regulated by Chapter 125 of Title 32 of the Maine Revised Statutes but which are not regulated under that Chapter (hereinafter “para-massage.”)

Section 2. Definitions.

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly implies otherwise.

DISQUALIFYING CRIMINAL CONVICTIONS:

Any conviction for any criminal offense punishable by imprisonment for any period of time, whether or not the sentence was imposed or served, but not including any conviction which is shown to have been set aside on appeal or collaterally, or for which a pardon, certificate of rehabilitation, or the equivalent under the law of the sentencing jurisdiction has been granted, or which is not rationally related to the purpose of licensing para-massage establishments.

MASSAGE THERAPY:

The professional practice of massage therapy as defined in 32 M.R.S.A. section 14301(4).

PARA-MASSAGE:

Any method of rubbing, kneading, tapping, vibration, compression, percussion, application of friction or manipulation of the external parts of the human body with the hands or other parts of the body or with the aid of any instrument or device, and which is not massage therapy.

PARA-MASSAGE ESTABLISHMENT:

Any business, including but not limited to sole proprietorship, in which the business operation consists of providing or making available para-massage for consideration or with the expectation of receiving consideration or any gratuity, whether or not the business has a fixed place of business within the limits of the Town.

PARA-MASSAGER:

Any person who performs a para-massage for consideration or gratuity or with the expectation of receiving consideration or any gratuity.

PATRON:

Any person who receives a para-massage.

PERSON:

Any individual, partnership, corporation or other entity.

Section 3. Exceptions.

The following shall be exempt from this Ordinance while duly licensed or registered under and practicing in accordance with the laws of this State: Massage Therapists as defined in 32 M.R.S.A. section 14301(3), Physicians, Physicians' assistants, Surgeons, Osteopaths, Nurses, Chiropractors, Physical therapists, Barbers, Cosmetologists, Beauticians and other health and hygiene professionals.

Section 4.

All para-massage shall be administered on a massage table, treatment table or treatment mat.

Section 5. Maintenance and Cleaning.

Every person who conducts or operates a para-massage establishment shall keep the same at all times in a clean and sanitary condition. All instruments, supplies and devices of any kind, or parts thereof, that come into contact with the human body shall be kept clean by a modern and approved method of cleaning.

Section 6. Prohibited Activities.

- A. No para-masser shall administer a para-massage to a patron whose genitals are exposed.
- B. No para-masser shall administer or agree to administer a para-massage to the genitals or anus of patron.
- C. No para-masser shall administer a para-massage unless he/she is fully clothed with non-transparent clothing.

Section 7. Closing Hours.

No para-massage establishment shall be kept open between the hours of 12 midnight and 6:00 A.M.

Section 8. Supervision.

At all times when open for business, a para-massage establishment shall have upon the premises a licensed para-masser or person who possess a combination para-massage establishment/para-masser license who shall be available to supervise the operation of the establishment and assure that no violations of this Ordinance occur.

Section 9. List of Employees.

A para-massage establishment shall keep a written list of the names and current addresses of all employees, both on duty and off duty. Such list shall be shown to the Chief of Police, the Town Clerk or the Clerk's representative upon request.

ARTICLE II - LICENSES

Section 1. License Required.

A. ESTABLISHMENT LICENSE.

No person shall operate a para-massage establishment without first having obtained a valid para-massage establishment license issued by the Scarborough Town Council. A separate license shall be required for each para-massage establishment.

B. PARA-MASSAGER LICENSE.

No person shall work as a para-massager without a valid para-massager license or combined para-massage establishment/para-massager license issued by the Scarborough Town Council.

C. COMBINED ESTABLISHMENT/PARA-MASSAGER LICENSE.

A sole practitioner who employs no para-massager other than himself/herself may apply for a combined para-massage establishment/para-massager license.

Section 2. Licenses Displayed.

A valid para-massage establishment license shall be displayed at all times in the para-massage establishment for which it was issued. A valid para-massager license or combined para-massage establishment/para-massager license must be readily available to be produced immediately if demanded of the licensee.

Section 3. Standards for Denial.

A. Para-Massage Establishment License.

The Town Council may deny a license for a para-massage establishment if it finds that:

1. The applicant does not have a legal right to occupy the premises for which the license is sought;
2. The premises, business or activity are not in compliance with other local ordinances;
3. The applicant is a corporation that is not registered to do business in the State;
4. Any principal officer of the corporation or any person having an actual ownership interest or management authority therein, or the applicant, if other than a corporation, has a disqualifying criminal conviction within the immediately preceding five (5) years.

B. Para-Massager, Combined Para-Massage Establishment/Para-Massager.

The Town Council may deny a license for a para-massager or combined para-massage establishment/para-massager for the following reasons:

1. The applicant had a disqualifying criminal conviction at any time during the five (5) years immediately preceding application; or
2. The applicant is not at least eighteen (18) years of age.

The Town Council shall make and the Town Clerk shall keep a written record of each decision to deny an application for any license under this ordinance.

Section 4. Grounds for Suspension or Revocation.

A. All licenses.

In addition to the grounds for denial as set forth in Article II, Section 3, A & B, any license may be suspended or revoked upon a determination that the licensee:

1. Failed to notify the Clerk of any change in material facts set forth in the application for such license; or
2. Violated any provision of this Ordinance or of any other Ordinance of the Town of Scarborough.

B. Para-Massage Establishment or Combined Para-Massage Establishment/Para-Massager License.

In addition to the provisions of Article II Sub-Section 4, a para-massage establishment license or combined para-massage establishment/para-massager license may be suspended or revoked upon a determination that the licensee:

1. Permitted any person to perform a para-massage without a valid license to do so;
2. Permitted or allowed an employee or para-massager to violate any provisions of this Ordinance on the premises of the para-massage establishment or in the course of conduct of the business of the para-massage establishment; or
3. Knowingly permitted any violation of Title 17-A, M.R.S.A., Sections 851 and 855. Such knowledge shall be presumed if there have been two (2) or more convictions for any such offense within any one-year period. The applicant or licensee may rebut said presumption by showing that (i) due diligence was exercised to prevent the recurrence of any such offense and (ii) despite such diligence, he or she did not know and could not reasonably have known of any subsequent offense.

Section 5. Application for Para-Massage Establishment, Combined Para-Massage Establishment/Para-Massage Therapist and Para-Massage Therapist License.

Any persons desiring a license pursuant to this Ordinance shall file a written, signed application with the Town Clerk on a form to be furnished by the Clerk. An application for a combined para-massage establishment/para-massage therapist license or for a para-massage therapist's license shall be accompanied by a signed photograph of the applicant taken with thirty (30) days of the application, of such size as the Clerk may specify. [amended 02/16/2005]

Section 6. Obtaining License by Fraud.

A. No person shall make any false, untruthful or fraudulent statements, either written or oral, or in any way conceal any material fact, or give or use any fictitious name in order to secure or aid in securing a license required by this Ordinance. All names, including but not limited to maiden name, ever used by the applicant must be noted on the application.

B. Any license secured by fraud, deceit or concealment shall be deemed to be null and void.

Section 7. Use of License.

No person shall make use of, in any manner, to his or her own or another's benefit, any license which has not been duly issued to him or her in accordance with this Ordinance.

Section 8. Existing Para-Massage and Para-Massage Establishments.

A. Any person presently operating as a para-masser and/or operating a para-massage establishment in Scarborough on the effective date of this Ordinance shall comply with the terms of this Ordinance by obtaining a license within sixty (60) days of the effective date.

Section 9. Severability.

In the event that any Section, sub-section, or any portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such declaration shall not be deemed to affect the validity of any other Section, sub-section or portion of this Ordinance.

Section 10. Penalty.

The violation of any provision of this Ordinance shall be a civil violation punished by a fine of not less than Two Hundred Fifty (\$250.00) Dollars nor more than Five Hundred (\$500.00) dollars for each offense. Each act of violation and every day upon which any such violation occurs shall constitute a separate offense. In addition to such penalty, the Town may enjoin or abate any violation of this Ordinance by appropriate action.

Section 11. Term of License.

Licenses issued pursuant to this Ordinance shall be for a term of no more than one year and shall expire annually on September 30th.

Section 12. Application Fees.

The fees shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council for the licenses issued under this Ordinance:

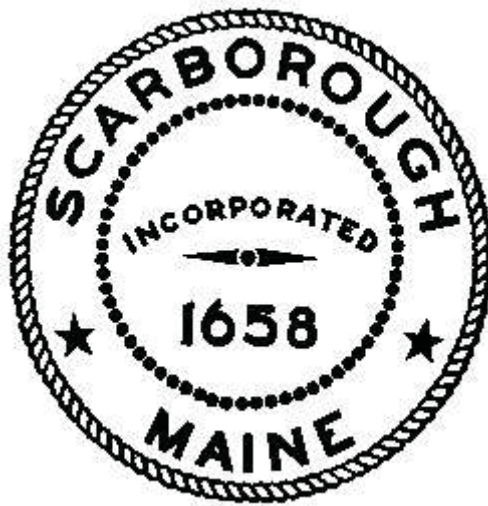
The fees are payable at the time of application and are non-refundable.

Section 13. Applicability to Pending Applications.

Notwithstanding anything to the contrary in 1 M.R.S.A. section 302, the provisions of this Ordinance shall apply to any application or request to operate a para-massage establishment previously submitted to the Town of Scarborough or to any of its officers or employees.

Chapter 1017

TOWN OF SCARBOROUGH PAWNBROKER ORDINANCE



Adopted on February 17, 2010
Amended on December 1, 2010
Amended November 1, 2017

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**CHAPTER 1017
TOWN OF SCARBOROUGH
PAWNBROKER ORDINANCE**

ARTICLE I - TITLE, PURPOSE & DEFINITIONS

Section 101. Title.

This Ordinance shall be known and may be cited as the Pawnbroker Ordinance of the Town of Scarborough, Maine.

Section 102. Purpose.

The purpose of this Ordinance is to ensure that any person who is issued a Pawnbroker License by the town follows all local and State requirements.

Section 103. Definitions.

The following terms have the following meanings:

103.1 Pawn Transaction.

Means the lending of money on the security of pledged tangible personal property that is delivered to a pawnbroker and held by the pawnbroker. The term also includes the purchase of tangible personal property on the condition that it may be repurchased by the seller for a fixed price within a fixed period of time.

103.2 Pawnbroker.

Means a person who engages in pawn transactions.

103.3. Tangible Personal Property.

Includes motor vehicles, but does not include documents evidencing title to motor vehicles. The term also does not include checks, drafts or similar instruments or real estate.

ARTICLE II - General

Section 201. License Required.

No person shall conduct business as a pawnbroker without first obtaining a license pursuant to the following provisions:

New Licenses

1. The Town Council may grant licenses to persons of good moral character to be pawnbrokers in the Town if such person demonstrates the following:
 - a. The person is 21 years of age or older
 - b. The person has no record of criminal convictions for crimes of moral turpitude
 - c. The person is not a convicted felon

2. A license shall be obtained by the owner or duly authorized agent of the owner of the business where the pawn transactions will occur by submitting a completed application to the Town Clerk's office upon forms provided for such purposes.
3. The fee for such license shall be as set forth in the Town of Scarborough Schedule of License, Permit and Application Fees.
4. A pawnbroker license issued under this Ordinance shall be valid for no more than one calendar year [January through December].

Applications for all pawnbroker licenses shall state the name of the applicant; residence address; name of the business to be conducted; business address; the nature of the business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony.

No pawnbroker license shall be issued unless the premises to be used for the pawnbroker business comply fully with all applicable ordinances and regulations of the Town of Scarborough.

A pawnbroker license may be issued by the Town Council only after conducting a public hearing. Notice of the hearing shall be advertised in a local daily newspaper, at least seven (7) days prior to the meeting at the expense of the applicant.

The Town Council shall not take final action on an application for a pawnbroker license until the Town Clerk has received and reviewed a criminal background check from the State Bureau of Investigation on the applicant and any persons working in the place of business and reported the results of that background check to the Town Council.

Renewals

An existing license may be renewed by the Town Clerk, provided that the holder of the existing license makes application for renewal on or before December 31st. If the holder applies for renewal on or before December 31st, the existing license shall remain in effect until final action on the renewal application. Otherwise, the existing license shall expire on December 31st and an application for a new license must be filed. For renewal applications filed on or before December 31st, the Clerk shall process and issue renewal licenses in the same manner as the Town Council processes and issues new licenses, except that no public hearing is required for a renewal. The Clerk may renew a license only if the Clerk is satisfied that the application meets all the requirements of this ordinance. If the Clerk is not satisfied that the application meets all the requirements of this ordinance, the Clerk shall refer the application to the Town Council, which shall process the application in the same manner as an application for a new license.

Section 202. Display of License, Laws by Pawnbroker; Occupation Sign.

Every Pawnbroker shall post in a conspicuous location in his or her place of business a copy of the License, this Ordinance and the Statutes of the State of Maine governing pawnbrokers, as well as a business sign in the English language with his or her name and occupation legibly inscribed thereon in large letters.

Section 203. Account of Business Done and Disclosure to Consumer.

Account Kept. Every pawnbroker shall maintain records in which the pawnbroker shall enter:

1. The date, duration, amount, periodic rate of interest and annual percentage rate of every loan that is made;
2. The finance charge, due dates for payment and the total payment needed to redeem or repurchase the pawned property;
3. An accurate account and description of the property pawned;
4. The terms of redemption or repurchase, including any reduction in the finance charge for early redemption or repurchase and the right of the consumer to at least one extension of 31 days at the same rate of interest upon request in writing or in person; and,
5. The name and address of the consumer.

Inspection. The pawnbroker shall allow any police officer to inspect these records at any and all times.

Delivery to Consumer. At the time of the pawn transaction, the pawnbroker shall deliver to the consumer a signed, written disclosure complying with the truth-in-lending provisions of the Maine Consumer Credit Code, 9-A M.R.S.A. §8-101 et seq. containing the items required by subsection 1 above and the name and address of the pawnbroker.

Section 204. List of Transactions; Seller to furnish Proof of Identification.

Every person licensed as a pawnbroker shall make out, and have a available for periodic collection, a legible and correct list, upon blanks furnished by the police chief, containing an accurate description of all articles taken in pawn, purchased or sold, the name, residence and date of birth of the buyer or seller other than the licensee, together with the correct and exact time when such articles were pawned, purchased or sold, and the amount the item was sold for. Before recording the information required by this section, a pawnbroker shall require reasonable written proof of the seller's identification in the form of a motor vehicle operator's license, military identification card, State identification card or similar item which confirms the person's identification by date of birth and by physical description. The routine reporting shall be submitted to the Chief of Police or her/his designee within 48 hours of the transaction. [amended 11/01/17]

Section 205. Receiving Articles from Minors, Thieves.

No one licensed pursuant to this article shall purchase or receive any article from any person under the age of 18 years without the written consent of such person's parent or guardian, or from a person known or suspected to be a thief or a receiver of stolen property.

Section 206. State Law to Apply.

All provisions of the laws of the State of Maine governing pawnbrokers, including, without limitation, 30-A M.R.S.A. §§3960 – 3964-A, as such may be amended from time to time, shall apply in addition to the provisions of this ordinance.

Section 207. Suspension or Revocation of License.

The Town Council may, after a public hearing, preceded by notice to interested parties, suspend, or revoke any pawnbroker license on the grounds that the business is considered a detriment to the public health, safety, or welfare, or violates any municipal ordinances, articles, by-laws, or rules and regulations.

Section 208. Additional Requirements on Purchase and Sale of Used Personal Property. [Adopted 12-01-2010]

Any person licensed as a pawnbroker under this Ordinance (“licensee”) who also engages in the purchase and resale of used personal property in transactions which are not pawn transactions must also comply with the following requirements:

1. Before completing the purchase of any used personal property, the licensee must record the following information:
 - a. The date of purchase;
 - b. The seller’s name, address and date of birth; and
 - c. A brief description of the property, including any identification numbers.

Before recording the information required by this subsection, the licensee shall require reasonable written proof of the seller’s identification in the form of a motor vehicle operator’s license, military identification card, adult liquor identification card or similar item.

2. The records required under subsection 1 must be kept for the purpose of complying with this Ordinance, maintained in order by date of purchase and contained in a bound volume or ledger, a binder in which pages can be affixed, or electronic records that can be viewed and printed.

Upon request from any law enforcement officer or prosecuting attorney, the licensee shall promptly make available for inspection at the licensee’s principal place of business the records required under subsection 1.

ARTICLE III - PENALTY AND SEPARABILITY.

Section 301. Penalty.

Any person who engages in pawn transactions in the Town of Scarborough without the license required by this Ordinance commits a civil violation punishable by a civil penalty of not more than \$100. Any licensee who violates any provision of this Ordinance commits a civil violation punishable by a penalty of not more than \$500. All civil penalties under this Ordinance are recoverable on complaint, to the use of the Town of Scarborough.

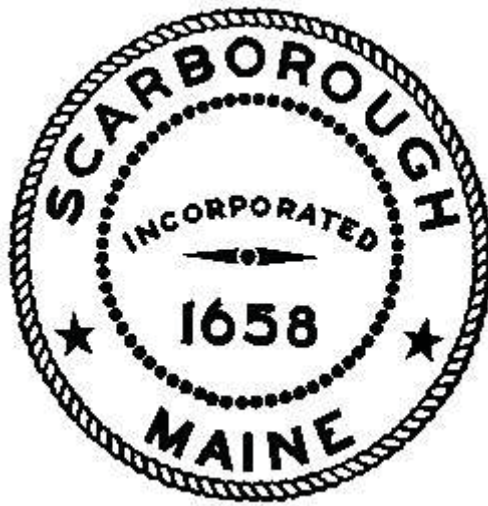
Section 302. Separability.

The invalidity of any provision of this Ordinance shall not invalidate any other part.

CHAPTER 303

TOWN OF SCARBOROUGH

PERSONNEL ORDINANCE



ADOPTED OCTOBER 6, 1993 - AMENDED NOVEMBER 2, 1994
AMENDED SEPTEMBER 6, 1995 - AMENDED FEBRUARY 17, 1999
AMENDED JULY 21, 1999 - AMENDED NOVEMBER 3, 1999
AMENDED JUNE 7, 2000 - AMENDED OCTOBER 18, 2000
AMENDED NOVEMBER 1, 2000 - AMENDED JANUARY 2, 2002
AMENDED FEBRUARY 6, 2002 - AMENDED AUGUST 20, 2003
AMENDED OCTOBER 6, 2004 - AMENDED FEBRUARY 16, 2005
AMENDED JULY 20, 2005 - AMENDED SEPTEMBER 05, 2007
AMENDED AUGUST 17, 2011 - AMENDED JULY 17, 2013
AMENDED NOVEMBER 7, 2018

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Article I. TITLE, AUTHORITY, AND PURPOSE

Section 101. Title.

This ordinance shall be known as and may be cited as the Personnel Ordinance.

Section 102. Authority.

This Personnel Ordinance is enacted pursuant to the Town's home rule powers conferred by Article VIII, part second of the Maine Constitution and Title 30-A, §§2001, 2109 and 3001 of the Maine Revised Statutes Annotated.

Section 103. Statement of Purpose and Applicability.

The purpose of this Personnel Ordinance is to guide the Town Manager and Department Heads in the administration of personnel activities. Presentation of this information to all employees will inform them about their rights as well as their responsibilities while in the employment of the Town of Scarborough. This Ordinance and subsequent modifications shall supersede any policy and rules made previously by the Town Council. This Ordinance does not create a contract. The Town reserves the right to modify the provisions as needed. This Ordinance applies to all full-time, part-time and temporary/seasonal employees, as defined herein, except school department employees. In instances where employees are subject to a collective bargaining agreement with provisions differing from the Personnel Ordinance, the terms of the collective bargaining agreement shall prevail. Where the Town Manager is subject to an employment agreement with provisions differing from the Personnel Ordinance, the terms of the employment agreement shall prevail. Elected Town officials and appointed members of Scarborough boards and commissions are not considered employees within the scope of this Personnel Ordinance. (amended 09/05/2007) (amended 08/17/2011) (amended 07/17/2013)

Article II. GENERAL PROVISIONS

Section 201. Employment.

The Town of Scarborough is an equal opportunity employer. All employees and applicants will be provided equal opportunities, and the Town shall make all its employment decisions without regard to religion, age, sex, sexual orientation (including gender identity and expression), race, color, ancestry, national origin, and physical or mental disability, or any other status protected by law. The Town shall employ, without discrimination, the best qualified persons who are available at the salary levels established for Town employment, first preference being given always to citizens of the Town of Scarborough, all factors being equal.

Within the limits of time during which a position must be filled, there shall be as wide a search for qualified candidates as is practicable. The character of this search will vary from position to position, but will consist of an internal posting for Town employees and may include advertising, open competitive examination, contact with state and other employment offices, and contact with special sources of information in each case. It shall be the duty of the Town Manager, or the appointing authority, to seek out the most desirable employees for the Town. (amended 11/02/94) (amended 09/05/2007) (amended 08/17/2011)

Applications for employment shall be filed on forms provided by the Town. Applications will be accepted only for positions for which a vacancy exists. Application forms will usually have to be signed by the applicant to be accepted. (amended 08/17/2011)

Section 202. Employee Designations.

A. Full-Time Employees.

A full-time employee is one who is scheduled for at least 35 hours per week fifty-two weeks per year and is appointed for a term greater than six months or for an indefinite term.

B. Part-Time Employees.

A part-time employee is appointed for a term longer than six months or for an indefinite term, works regularly scheduled hours and is scheduled for less than 35 hours per week. Per diem firefighters, inspectors, and rescue unit personnel employed in the Fire/Rescue Department are part-time employees regardless of the number of hours scheduled or worked per week. (amended 08/17/2011)

C. Temporary/Seasonal Employees.

A temporary/seasonal employee is one whose appointment is for a specified period of six months or less. Temporary/seasonal employees may work in different capacities throughout a year. Each different capacity is considered a separate appointment. (amended 08/17/2011)

Section 203. Probation.

All full-time and part-time employees are considered probationary for the first 180 days of employment. All Temporary/Seasonal Employees are considered probationary for the first 60 days of employment. Any break in employment lasting longer than two weeks during the probationary period, including but not limited to absence for medical reasons or military leave, shall not be credited towards the probationary period. Every employee must successfully complete the probationary period to continue employment. Probationary employees shall be evaluated by their immediate supervisor prior to the end of the probationary period and will be informed whether they have successfully completed the probationary period no later than by the end of the probationary period. If the probationary employee's conduct and/or work performance is evaluated as unsatisfactory, the Department Head, with the Town Manager's approval, may separate employment during the probationary period. (amended 02/06/02) (amended 09/05/2007) (amended 07/17/2013)

Section 204. Promotion.

Town employees shall be given the opportunity for advancement in the service. Present employees shall be given first consideration in filling a vacancy, when qualified employees are interested in the vacancy. Employees may be transferred to a new position without a loss in seniority, pay or job grade to a vacant position by a Department Head with the Town Manager's approval or by the Town Manager when filling a position appointed by the Town Manager, with or without posting the position, when the Town Manager determines the action will benefit the Town. Present employees may be given training opportunities to qualify for promotion, but it is recognized that, from time to time, the good of the service will require that a vacancy be filled

from outside the service. Such a decision shall be made only after careful review of the qualifications of all Town employees who apply for the position. (amended 11/02/94)

Section 205. Compensation.

To the extent feasible, it is the intent to pay Town employees a basis that is commensurate with salaries and wages for comparable public and private work in the area in order to attract and retain well-qualified employees.

Section 206. Training.

Both the Town and its employees profit from the provision of educational training opportunities at reasonable expense to the Town. Training programs shall be designed to improve the quality of performance and bring about more efficient or more economical operation. Employees will have to receive approval for training programs in advance from the Town Manager or Department Head, if attendance during normal working hours or reimbursement of tuition and/or expenses is expected.

Section 207. Nepotism.

Employees who are members of the same family (as defined in Bereavement Policy Section 504) may not occupy a position of influence over each other's employment, promotion, transfer, salary administration or other related management decisions. Employees must disclose to the Town Manager any employment relationship that may cause a potential conflict of interest. (amended 07/17/2013)

Section 208. Conflicts of Interest.

A conflict of interest exists when an employee's personal relationship or financial interest influences the employee's responsibility to act in the best interest of the Town. A conflict of interest may make it difficult for an employee to perform his or her work objectively and effectively and in the best interest of the Town. Employees must disclose and discuss any potential conflict with the Town Manager.

- (1) Internal Relationships: An employee must remain objective when influencing or making decisions regarding the hiring, placement, supervision, promotion, evaluation, or pay of any employee.
- (2) Business Transactions: Business transactions must be entered into for the interest and benefit of the Town. Employees may not use such transactions to individually benefit or financially benefit anyone in their family or household. (amended 07/17/2013)

Section 209. Employee Conduct and Responsibilities.

The intent of these standards and responsibilities is to provide direction and guidance to employees regarding appropriate and acceptable professional behavior. This is not an exhaustive list and the Town reserves the right to determine and define unacceptable conduct on a case-by-case basis.

A. Standards of Conduct

Employees shall:

- (1) Exhibit professional and respectful conduct.
- (2) Be citizen-focused in all contacts and dealings.
- (3) Assume responsibility for actions and decisions.

- (4) Comply with all laws, regulations, policies and procedures that govern Town activities. If there is a question of applicability, it is the employee's responsibility to seek guidance.
- (5) Participate in training and development; secure and maintain licenses and certifications as required for individual positions.
- (6) Follow direction and accept guidance from managers.
- (7) Refrain from all types of harassment, abusive behavior and unlawful activities.
- (8) Report, on a timely basis, observations and/or information regarding any activity that calls the integrity of the Town into question. (amended 07/17/2013)

B. Ethical Responsibilities

Employees will exhibit the highest standards of ethical conduct. The Town expects the communication of any concerns related to the lawful and ethical conduct of Town business. Employees with knowledge of Ordinance violations are expected to share their concerns with any supervisor or the Town Manager. Employees may report violations without fear of retaliation.

Employees shall:

- (1) Conduct themselves with the highest principles of honesty and integrity.
- (2) Ensure and maintain accurate and reliable financial records.
- (3) Avoid impropriety and the appearance of impropriety.
- (4) Not make, recommend or cause any action known or believed to be in violation of any law, regulation or organizational policy.
- (5) Not use their position of employment to inappropriately force, induce, coerce, harass, or intimidate any employee or citizen. (amended 07/17/2013)

Article III. CONDITIONS OF EMPLOYMENT

Section 301. Hours of Work.

It is necessary, owing to the variations in the different services provided by the Town, that there be variations in the hours of work per week in positions of the same class in different departments. Normal working hours for each department shall be established by the Town Manager.

Section 302. Overtime and Compensatory Leave.

Non-exempt, hourly employees generally will be compensated for overtime work at the rate of one and one-half times the established hourly rate for hours worked in excess of forty hours in a work week, except that the normal work week for employees in the Fire/Rescue Department shall be established by the Fire Chief subject to the approval of the Town Manager. For purposes of this section, hours worked shall include sick leave, vacation, compensatory time and bereavement. Hours worked on Christmas Day (12:00 a.m. to 12:00 mid-night December 25) and/or additional hours and holidays as designated by the Town Manager, shall be paid at the rate of one and one-half (1 ½) times the base hourly rate.

The Town may offer employees compensatory leave on the basis of one and one-half hours of compensatory leave per overtime hour worked if the employee elects in writing to receive compensatory leave rather than overtime in advance of working the excess hours. Employees

may not accrue compensatory leave exceeding departmental limits established by the Department Head and the Town Manager; therefore, employees whose accrued compensatory leave is at or near the established maximum will not be offered the option of compensatory leave. Upon termination of employment, employees will be paid for unused compensatory time at the average regular rate paid during the last three years of employment or the final regular rate paid during employment, whichever is higher.

Exempt, salaried positions (usually professional, managerial or supervisory positions) are compensated on the basis of job responsibility, not hours worked, and it is the responsibility of the person filling the position to accomplish the assigned responsibilities in a timely manner. The Town Manager shall establish a uniform and consistent compensatory time policy for exempt, salaried employees, which policy shall allow compensatory time off at a time convenient for the Town when a Department Head's duties require the employee to work in excess of 50 hours per week or when an exempt manager's/supervisor's duties require the employee to work in excess of 45 hours per week. Compensatory time may not be accumulated in excess of 50 hours. (amended 2/17/99) (amended 09/05/2007) (amended 08/17/2011) (amended 07/17/2013)

Section 303. Attendance at Work.

Employees shall be at their respective places of work in accordance with Town or departmental regulations pertaining to normal hours of work. All Department Heads shall keep daily attendance records and furnish to the Town Manager periodic reports upon request. In the event of necessary absence because of illness or any other cause, it is the responsibility of employees to see that their Department Head is advised of the reason for absence as soon as possible and at least before the time that the employee is expected to report to work.

Absences from work for any reason for a cumulative period of six months in the period of one year will form the basis for termination of employment except as otherwise provided by law. (amended 09/05/2007)

Section 304. Workplace Injuries.

The Town of Scarborough provides Workers' Compensation Insurance coverage for all employees.

An employee who sustains a personal injury or compensable illness arising out of and in the course of his/her employment with the Town shall be paid during the first four weeks of incapacity to work resulting from the injury an amount sufficient, when added to the weekly payment of Workers' Compensation, to equal his/her regular salary or normal wage (the "supplemental payment"). To avoid gaps in employee income while supplemental payments are being made, the Town may continue to pay an employee's normal wage or regular salary if the employee agrees, in writing, to turn over Workers' Compensation payments to the Town upon receipt. No supplemental payments shall be made if, in the opinion of the Department Head and Town Manager, the accident occurred as a result of intoxication, willfulness, the violation of rules and regulations on the part of the employee, or while the employee is in the employ of any other person, firm or corporation. Supplemental payments shall not be continued beyond four weeks except upon written authorization of the Town Manager. (amended 09/05/2007)

Section 305. Policy on Workplace Threats And Violence.

The safety and security of employees of the Town of Scarborough, and also the public who conducts business in the various municipal buildings, is of paramount importance to the Town. Therefore, threats, threatening behavior or acts of violence against or by employees, visitors, guests or other individuals on Town property will not be tolerated. Violations of this policy may lead to disciplinary action of employees, which may include dismissal and may lead to arrest and prosecution of employees or others.

Any person who makes threats, exhibits threatening behavior or engages in violent acts on Town property will be removed from the premises as quickly as safety permits. The Town will initiate any actions necessary to ensure that employees and the public are safe on Town property.

All Town personnel are responsible for notifying the Town representative designated below of any threats that they have witnessed, received or have been told that another person has witnessed or received. Even without an actual threat, personnel should also report any behavior they have witnessed that they regard as threatening or violent when that behavior is job-related or might be carried out on a Town-owned site, or is connected to Town employment. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behavior and the person or persons who were threatened or were the focus of the threatening behavior. If the designated Town representative is not available, personnel should report the threat to their supervisor or the Town Manager.

All individuals who apply for or obtain a protective or restraining order which lists any Town location as being a protected area must provide to the designated Town representative a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent.

The Town of Scarborough understands the sensitivity of information regarding threats or threatening behavior and will recognize and respect the privacy of the reporting employee(s) or citizen(s) to the extent permitted by law.

The designated Town representative is the Director of Human Resources (730-4026). (amended June 7, 2000)

Section 306. Progressive Discipline.

The Town has a policy of progressive discipline of employees, which means that repeated instances of poor job performance or misconduct, or violations of Town policies and procedures, will be documented and subject to progressively more severe sanctions, which may include oral or written warnings, counseling, suspension with or without pay, demotion or termination. Progressive discipline does not mean that the initial disciplinary response to unsatisfactory job performance or misconduct will always be the same. Serious job performance problems or misconduct such as, but not limited to, dishonesty, violence or theft, harassment, alcohol or illegal drug use may result in more severe disciplinary sanctions, up to and including dismissal, even on the first occurrence. (amended 08/17/2011) (amended 07/17/2013)

When in the judgment of the appointing authority, whether a Department Head or the Town Manager, an employee's work performance or conduct justifies disciplinary action, the employee may be disciplined. Consideration shall be given to the severity of the performance problem or misconduct and prior disciplinary sanctions, if any, against the employee prior to imposing any discipline. Repeated misconduct or continuing performance problems may be considered cumulative, and subject to progressively more severe discipline, even if the conduct or performance problems vary in nature or severity.

Except in cases of emergency, no employee may be suspended by a Department Head until the Town Manager ratifies the decision. No employee shall be suspended for more than three days without first being given an opportunity to discuss the incident or incidents underlying the suspension with either the Town Manager or Department Head, whoever initiated the suspension.

Section 307. Disciplinary Dismissals.

An employee may be dismissed for cause whenever in the judgment of the appointing authority the employee's work or misconduct so warrants, subject to the appeals provisions set forth in §1003 of the Scarborough Town Charter and Section 308 of the Personnel Ordinance. Prior to making a final decision to demote or dismiss an employee, the Department Head or Town Manager (whoever is the appointing authority) shall inform the affected employee of the action under consideration, along with the reasons therefore, and shall provide the employee an opportunity for an informal meeting to discuss the employee's version of the events and circumstances at issue. Prior discussion with the employee is not required when in the judgment of the Department Head or Town Manager the employee's conduct or job performance creates an immediate threat of injury to the employee, any other Town employee, or members of the public, provided that the employee shall be treated as suspended with pay until such time as an opportunity for an informal meeting is offered. Removal of an employee appointed by a Department Head shall be subject to ratification by the Town Manager and removal of an employee appointed by the Town Manager shall be subject to ratification by the Town Council. (amended 07/17/2013)

Section 308. Appeals.

Any employee who has been removed for disciplinary reasons or suspended without pay may appeal to the Town Manager, provided that an appeal must be made in writing within 10 business days of the decision. Upon request, the Human Resources Director or Department Head will assist any employee who needs such assistance to file a written appeal. The Town Manager shall give a written reply within 5 business days. (amended 07/17/2013)

Any employee who has been removed for disciplinary reasons or suspended without pay may appeal to the Personnel Appeals Board, provided that an appeal must be filed in writing with the Town Manager within 10 business days of the decision or of ratification by the Town Manager or the Town Council, if ratification of the removal or suspension is required by the Scarborough Town Charter. Upon request, the Human Resources Director or Department Head will assist any employee who needs such assistance to file a written appeal. This Paragraph shall not apply to contractual employees covered by a grievance procedure, probationary employees, lay-offs and reductions in force, whether by elimination of positions or separation of employees, or other

terminations or suspensions not attributable to cause. (amended 09/05/2007) (amended 07/17/2013)

Section 309. Internal Complaint/Grievance Procedure.

Any employee aggrieved because of some condition of his/her employment other than disciplinary actions subject to sections 306 and 307 hereof or lay-offs subject to section 310 hereof shall have the right, and shall be expected, to appeal to his/her immediate supervisor or Department Head. The grievance must be made in writing to the employee's immediate supervisor or Department Head within five (5) working days from the incident. The Department Head shall make an effort to settle the grievance within three days after the presentation.

If a satisfactory settlement cannot be reached, the employee may appeal within five (5) working days of the Department Head's decision to the Town Manager, who may require the grievance to be submitted in writing. The Manager shall give a written reply within one week. The decision of the Manager shall be final unless the grievance involves a policy matter, which must be determined by the Town Council. (amended 09/05/2007)

Section 310. Order of Lay-Offs.

Any employee may be laid off whenever it is necessary because of a shortage of funds, lack of work, or related reasons, which do not reflect discredit upon the employee. Lay-offs shall be on the basis of seniority in each classification within each department, so far as possible.

Temporary/seasonal employees may be laid off at any time by the Department Head without consideration of seniority. (amended 08/17/2011)

Section 311. Resignation.

All employees resigning from Town employment shall give a written two-week notice. Department Heads shall give a written four-week notice.

Section 312. References.

The Town of Scarborough's reference policy is to provide potential future employers only with the Town employee's date of hire, date of resignation or termination and terms of employment unless other disclosure is authorized in writing by the employee.

Section 313. Employment Policies and Practices.

These policies and practices are generally matters of state and federal law. This Section may not contain an exhaustive list of all Town policies and practices. Additional administrative policies, practices, and procedures may be distributed as supplemental employment guidelines.

A. Equal Employment Opportunity.

Any employee of the Town of Scarborough who believes that he or she has been discriminated against in employment in any way (including harassment or the denial of any employment benefits) on the basis of race, color, religion, national origin, ancestry, age, sex, sexual orientation (including gender identity or expression), physical or mental disability, or any other status protected by law, should follow the complaint procedure outlined below in the Sexual Harassment Policy. The Town of Scarborough takes allegations of discriminatory treatment very seriously. The Town of Scarborough will

investigate every allegation of discrimination promptly and take whatever action is necessary to stop unlawful discrimination and remedy any effects of unlawful discrimination. (amended July 20, 2005) (amended 09/05/2007)

B. Discrimination, Sexual Harassment and Other Illegal Harassment.

It is the policy of the Town to prohibit all forms of unlawful discrimination and harassment, including sexual harassment. Any employee who engages in discrimination or harassment based upon race, color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin, age, pregnancy status, status as a veteran, status as a whistleblower, or any other status protected by law will be subject to disciplinary action, up to and including termination of employment.

(1) Definition of Discrimination

Discrimination is defined as the less favorable treatment of an employee as compared to other employees based on illegal or inappropriate criteria, usually because of prejudice about race, ethnicity, age, disability, religion or gender. This may include, but is not limited to bias, favoritism, unfairness, bigotry, and intolerance. (amended 07/17/2013)

(2) Definition of Sexual Harassment and Other Illegal Harassment

Sexual harassment is one form of discrimination that undermines the integrity of the employment relationship, is degrading, detrimental to productivity, and illegal. Sexual harassment is defined as the attempt to control, influence or affect the career, salary or job of an individual in exchange for sexual favors; or the creation of an intimidating, hostile or offensive working environment based on unsolicited and unwelcome sexual conduct, either verbal or physical. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (amended 09/05/2007) (amended 07/17/2013):

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- b. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Other illegal harassment is defined as unwelcome conduct, whether it is intended or not, that disrupts or interferes with another's work performance by creating a workplace that is hostile, offensive, intimidating or humiliating either directly to the victim or indirectly to other Town employees. Note that a workplace environment that is hostile, offensive, intimidating or humiliating may be created by a single severe event or action or a pattern of behavior involving numerous less severe events or actions. Harassment may include, but is not limited to:

- a. Conduct that denigrates or shows hostility or aversion toward an individual because of race, ethnicity, age, disability, religion, marital and family status, or gender.
- b. Bullying and other harassment: Physical or verbal abuse, exclusion or isolation of an employee, withholding information, deliberate inconveniencing, intentional embarrassment, teasing, mocking, insults, threats, etc.
- c. Sexual harassment: Unwelcome sexual advances, requests for sexual favors, comments, physical conduct, derogatory information, jokes, obscene language, insinuations, etc. (amended 07/17/2013)

(3) Description of Sexual Harassment

The following type of conduct is considered to be sexual harassment and is not permitted:

- a. Physical assaults of a sexual nature such as:
 - i. Rape, sexual battery, molestation or attempts to commit these assaults; and
 - ii. Intentional physical conduct which is sexual in nature such as touching, pinching, patting, grabbing, brushing against another employee's body or poking another employee's body.
- b. Unwanted sexual advances, propositions or other sexual comments such as:
 - i. Sexually-oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience directed at, or made in the presence of, any employee who indicates, or has indicated, in any way that such conduct in his or her presence is unwelcome;
 - ii. Preferential treatment, or promise of preferential treatment, to an employee for submitting to sexual conduct including soliciting, or attempting to solicit, any employee to engage in sexual activity for compensation or reward; and
 - iii. Subjecting, or threats or subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of that employee's job more difficult because of that employee's sex.
- c. Sexual discriminatory displays or publications anywhere in the Town by employees such as:
 - i. Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials or other materials that are sexually suggestive, sexually demeaning or pornographic, or bringing into the work environment or possessing any such material to read, display or view at work;
 - ii. Reading, or otherwise publicizing, in the work environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic; and

- iii. Displaying signs or other materials purporting to segregate an employee by sex in any area of the workplace (other than restrooms and similar semi-private lockers/changing rooms).

(4) Internal Complaint Procedure

Harassment, discrimination or intimidation of any kind in the workplace, or retaliation for reporting any such behavior, whether committed by employees, supervisors, customers, vendors, or any third parties, is not sanctioned or tolerated. If an employee has a complaint of discriminatory treatment, harassment, or intimidation based upon race, color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin, age, pregnancy status, status as a veteran, status as a whistleblower, or any other status protected by law, or if an employee becomes aware of actual or potential discrimination or harassment, he/she should bring it to the Town's attention immediately.

There are three ways an employee can make a complaint or report of harassment or discrimination: 1) bring it to the attention of a supervisor; 2) bypass the supervisor and address the concerns directly with Human Resources; or 3) report harassment directly to the **HUMAN RESOURCES DIRECTOR or TOWN MANAGER**

All complaints or reports will be investigated promptly, thoroughly and fairly. Each employee alleging harassment, discrimination, or intimidation will be requested, but not required, to put his or her complaint in writing. All information will be held in confidence and will be discussed only with those who have a need to know in order to either investigate or resolve the complaint. Any employee who is determined, after investigation, to have engaged in unlawful discrimination or harassment will be subject to appropriate disciplinary action, up to and including termination.

Employees also have the right to contact the Maine Human Rights Commission, Augusta, Maine at (207) 624-6290 and/or file a complaint with the United States Equal Employment Opportunity Commission. It is not required that any of the above procedures be utilized first or in any particular sequence, nor is it required that any procedure be exhausted before the other is used. (amended 07/17/2013)

(5) Protection Against Retaliation for Complaining About Harassment

Under the law, employees may not be punished or penalized in any way for reporting, complaining about, or filing a claim concerning unlawful harassment or discrimination, or for cooperating with or testifying in any proceeding brought by anyone else. If an employee feels that he/she has been retaliated against for opposing or reporting what he/she reasonably believes to be unlawful harassment, please follow the same Internal Complaint Procedure set forth above. The Town will not tolerate any act of unlawful retaliation against employees who have reported, complained about, or filed a complaint of unlawful harassment.

C. Whistleblower Policy.

Any employee who believes that he or she is aware of a violation of any state or federal law or regulation in the workplace or any condition or practice that would put any person's health or safety at risk is required to immediately report the circumstances to the Human Resources Director or to the Town Manager. The employee will be requested to put the report in writing. The Town will investigate the report promptly and act promptly to take any necessary remedial action. No employee will be penalized for making a report in good faith. (amended 09/05/2007)

D. Americans with Disabilities Act.

In accordance with the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Maine Human Rights Act, Title 5 M.R.S.A. §4551, *et seq.*, the Town of Scarborough will not discriminate against qualified individuals with a disability because of the disability in regard to job application procedures, hiring, advancement or discharge, compensation, job training and other terms, conditions and privileges of employment. A qualified individual with a disability, by reason of that disability, may not be excluded from participation in or be denied the benefits of the services, programs or activities of the Town of Scarborough, or be subjected to discrimination relating to job application procedures, hiring, advancement or discharge, compensation, job training and other terms, conditions and privileges of employment.

It is the policy of the Town of Scarborough to provide reasonable accommodations for qualified individuals with disabilities. Federal law (the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990) and state law (the Maine Human Rights Act) establish the rights of individuals with disabilities. Reasonable accommodation shall be provided in a timely, cost-effective manner. The essential functions of a job need not be modified to accommodate an individual with a disability.

Any individual with a disability who believes he/she has been subjected to discrimination on the basis of disability may discuss the complaint with a supervisor and/or may file a grievance with the Human Resources Department. It is unlawful for the Town, its employees, contractors, or grantees to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

Questions, concerns, complaints, or requests for additional information regarding this notice may be forwarded to the Director of Human Resources, the designated Americans with Disabilities Act Compliance Officer.

Article IV. PUBLIC AND EMPLOYEE RELATIONS

Section 401. Public Relations.

All employees shall maintain a courteous, professional and helpful attitude in dealing with Town residents and other members of the public.

Section 402. Political Activity.

Employees may seek or accept nomination or election to any office in the Town government while employed by the Town, provided that no person may hold elective office while employed

by the Town. Therefore, any employee elected to any Scarborough Town Office shall resign from employment prior to taking office, with the exception of on-call emergency personnel elected to the Town Council or Board of Education as per Sections 202 and 402 of the Town Charter. During the course of their employment, employees shall refrain from using their influence publicly in any way for or against any candidate seeking elective office in the Town government. Town employees shall not work at the polls in support of any political purpose pertaining to the Town government, circulate petitions or campaign literature for elective Town officials, or be in any way concerned with soliciting or receiving subscriptions, contributions, or political service from any person for any political purpose pertaining to the Town government. This rule is not to be construed to prevent Town employees from becoming, or continuing to be, members of any political organization, from attending political meetings, from expressing their views on political matters, or from voting with complete freedom in any municipal, state or national election. (amended October 18, 2000; November 1, 2000)

Section 403. Receipt of Gifts.

All Town employees, including Department Heads, are prohibited from soliciting or accepting any gift, gratuity, favor, entertainment, loan, or any other item of monetary value from any person, within or outside Town employment, whose interests may be affected by the employee's performance or nonperformance of his/her official duties. Acceptance of nominal gifts, such as food and refreshments in the ordinary course of business meetings, or unsolicited advertising or promotional materials such as pens, note pads, calendars, etc., is permitted.

Article V. BENEFITS

Section 501. Holidays.

Full-time employees, including those still in the probationary period, shall receive holiday pay for the following holidays:

New Year's Day	Martin Luther King Day
President's Day	Patriot's Day
Memorial Day	Independence Day
Labor Day	Columbus Day
Veteran's Day	Thanksgiving Day
Friday following Thanksgiving	Christmas Day

If a holiday falls on a Saturday, the preceding Friday shall be deemed a holiday and if a holiday falls on a Sunday, the following Monday shall be deemed a holiday.

The intent of this benefit is for employees to observe the holiday as designated by the Town. Because of the nature of the position, certain employees are required to work during a holiday. These employees will receive holiday pay in addition to regular wages for time worked, which in effect, means double pay. Employees may receive payment for holiday time upon approval by the Town Manager or his/her designee. (amended 07/17/2013)

Temporary/seasonal and part-time employees are not eligible for paid holidays; if they work on a holiday, such employees will receive their regular wages. (amended 08/17/2011)

Employees on an unpaid leave of absence of any type shall not receive holiday pay. (amended 09/05/2007)

Section 502. Sick Leave and Personal Time.

All full-time employees shall accrue sick leave with pay at the rate of one day per month commencing with the date of initial employment. Temporary, seasonal and part-time employees do not accrue sick leave. Sick leave is defined as leave granted due to personal illness or non-work related bodily injury to the employee or the employee's family member. For purposes of this section, family member is defined to mean spouses, domestic partners (as defined by the Maine Municipal Employee Health Trust), children, parents brothers, sisters, mother-in-law, father-in-law, grandfather, grandmother, grandchildren, step-father, step-mother, step-children or other relative if living in the same household as the employee. (amended 08/20/03) (amended 09/05/2007) (amended 08/17/2011)

A maximum of one hundred twenty (120) days of sick leave may be accrued and carried forward from one calendar year to the next. Upon recommendation of the Department Head, the Human Resources Director may require a doctor's certificate for use of sick leave and/or prior to the return to work by an employee on sick leave for more than one workweek or in circumstances of excessive absenteeism. (amended 08/20/03) (amended 09/05/2007)

An employee shall report all absences to his/her supervisor prior to the start of their regularly scheduled day and in no instance later than one-half hour after the start of the regularly scheduled day. Failure to report within this period shall be considered justification for disallowing sick leave for that day.

Unless otherwise specified by the supervisor, employees shall be expected to call on each day of absence. When the nature of the absence indicates an extended period of time away from work, longer intervals of reporting shall be established by the supervisor.

Each employee will be entitled to sixteen (16) hours of personal time per year. Hours taken as personal time will be deducted from accrued sick leave. (amended 1/02/02)

False or fraudulent use of sick leave shall be cause for disciplinary action.

Section 503. Payment of Unused Sick Leave.

Upon retirement or separation in "good standing" full-time employees who have completed 5 years of service, and who retire, resign after giving the proper notice, or are terminated for reasons not attributable to "cause" shall be compensated for one-third (1/3) of accumulated unused sick leave subject to a maximum payment of forty (40) days, one-half (1/2) after 10 years, subject to a maximum of 60 days, three-quarters (3/4) after 15 years, subject to a maximum of 90 days, and 100% after 20 years to a maximum of 120 days. Payment will be made on the next regular payday after the employee's last day of work and, if applicable, in accordance with Section 516 Retirement Health Savings Account. In the event of the death of an employee, the designated beneficiary shall receive the above payment for unused sick leave. An employee's estate shall receive 100% of accrued sick leave for a qualified line of duty death. (amended 08/17/2011)

“Good standing” shall mean a written, fourteen (14) day notice to the Town in advance of the employee’s last actual day worked, in the case of a proper resignation, valid retirement, or separation of the employee from the Town service for other than cause.

Any absence from duty for which sick leave is paid, or for official leaves of absence, shall not constitute a break in the service record. (amended 2/17/99) (amended 09/05/2007)

Section 504. Bereavement Leave.

Full-time and part-time employees shall be excused from work for up to five (5) calendar days in the event of the death of spouse, domestic partner (as defined by the Maine Municipal Employee Health Trust), child or parents and up to three (3) calendar days off, in the event of the death of another member of the immediate family and shall be paid at the regular rate of pay for scheduled work hours missed. Immediate family is defined to mean spouse, domestic partner, child, parents, brothers, sisters, mother-in-law, father-in-law, grandfather, grandmother, grandchildren, step-father, step-mother, stepchildren or other relative living in the same household as the employee. The Department Head, with the Town Manager’s approval, may grant bereavement leave to employees in the event of the death of other members of the family. (amended 11/2/99) (amended 10/06/2004) (amended 02/16/2005) (amended 09/05/2007) (amended 08/17/2011) (amended 07/17/2013)

Section 505. Leave for Military Reserve Training/Active Duty.

In accordance with state and federal law, all employees will be granted time off from work for annual training obligations or active service in the United States armed services. Employees engaged in active military service will be placed on military leave of absence status. Employees should advise their Department Heads of the dates of their military service as far in advance as possible, unless military necessity prevents such notice. The Town will pay employees the difference between service pay and the employee’s regular compensation for a period up to two weeks in any one-year period, provided that the employee on Reserve Service furnishes his/her Department Head an official statement by military authorities giving his/her rank, pay and allowances. Employees should confer with their Department Heads concerning the rights and requirements of re-employment. (amended 09/05/2007)

Section 506. Jury Duty.

The Town shall pay to employees called for jury duty the difference between their regular pay and juror’s pay provided the employee provides an official statement of jury pay received and, reports to work after checking in with the immediate supervisor, if released for the day.

Section 507. Vacation.

Vacation privileges are available to all full-time employees at the convenience of the Town of Scarborough. Each full-time employee shall earn vacation with pay on the following basis:

- (1) One (1) work day shall be earned for each completed full month of service during the first through fifth year of employment.
- (2) One and one-quarter (1 1/4) work days shall be earned for each completed full month of service during the sixth through tenth years of employment.
- (3) One and one-half (1 1/2) work days shall be earned for each completed full month of service during the eleventh through the fifteenth years of employment.

- (4) One and three-fourths (1 3/4) work days shall be earned for each completed full month of service during the sixteenth through the twentieth years of employment.
- (5) After twenty (20) years of service, two (2) work days for each completed full month of service shall be earned.

New employees may be credited with years of service in a similar position for another employer at the discretion of the Town Manager.

Employees shall accrue vacation days during their probationary period but vacation may only be taken after the successful completion of the probationary period unless otherwise approved by the Department Head.

In case a holiday falls within the vacation period, the vacation may be extended to compensate for the holiday.

Any paid leave of absence shall not constitute a break in the service record for purposes of calculating earned vacation, except during the probationary period when such absences shall constitute a break in service. (amended 09/05/2007)

Employees may be eligible to receive payment for half the vacation time earned during a calendar year upon approval by the Town Manager. (amended 02/06/02) (amended 07/17/2013)

Employees with less than fifteen (15) years of service shall be entitled to accumulate twenty (20) days of vacation.

Employees with fifteen (15) years or more of service shall be entitled to accumulate thirty (30) days of vacation.

Accrued vacation leave shall be paid to employees upon their separation from the service or to their beneficiary or estate upon their death and, if applicable, in accordance with Section 516. Retirement Health Savings Account. (amended 08/17/2011)

Section 508. Personal Leave of Absence.

In exceptional circumstances, a full-time employee may be granted a personal leave of absence without pay and without the accrual of sick and vacation time or contribution by the Town towards any employee benefits. Such a leave of absence may be granted only in the discretion of the Town Manager upon recommendation of the Department Head concerned. Such leave of absence without pay shall not exceed one year in length and shall only be granted when it appears, because of the past record of the employee, or because of the purpose for which the leave is requested, that it is to the best interest of the Town to grant the leave. (amended 09/05/2007)

Section 509. Family and Medical Leave of Absence Policy. (amended 08/17/2011) (amended 07/17/2013)

(1) Policy

The Town's Family and Medical Leave of Absence Policy is established to integrate the provisions and entitlements of the Maine Family Medical Leave Law and the federal Family

and Medical Leave Act (FMLA). These laws are collectively referred to as “FML.” This policy provides a variety of leave options to help employees balance their work and family responsibilities. Employees who need leave time for their own serious health condition, birth or adoption of a child, care of an immediate family member with a serious health condition, other family responsibilities or military family leave may be granted leave as described below. These policies are complex. For more complete information or questions about specific situations, contact the Human Resources office.

(2) Eligibility

Employees must have at least 12 months of service (not necessarily consecutive) with the Town and have worked at least 1,250 hours during the 12-month period immediately preceding the request for leave. For seasonal and/or temporary positions, the 12-month service requirement will include only those months worked during the season.

(3) Basic Family Leave Entitlements

This policy provides eligible Town employees up to 12 workweeks of unpaid leave each “rolling” 12-month period under the FML:

- a. For the birth of child and care of a newborn child of the employee;
- b. For the placement with the employee of a son or daughter for adoption or foster care;
- c. To care for the employee’s spouse, son or daughter or parent with a serious health condition;
- d. To take medical leave for a serious health condition expected to last beyond one work week (including a Workers’ Compensation injury) that prevents the employee from performing the functions of his or her job.

If not eligible for FML as described above, an employee may qualify for leave under the Maine Family Medical Leave Law. Under this law, an employee who has worked for the Town for 12 consecutive months is eligible for up to 10 work weeks of unpaid Family Medical Leave during any two year period for the employee’s serious health condition, the birth or adoption of a child, including a domestic partner’s child, the serious health condition of a child, domestic partner’s child, parent, domestic partner or spouse, or sibling, or the death of the employee’s spouse, domestic partner, parent, sibling or child who is a covered service member who dies while on active duty.

(4) Military Family Leave Entitlements

Eligible employees are entitled to up to 12 workweeks of unpaid covered active duty leave during a 12-month period because of any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter or parent (military member) of the eligible employee is on covered active duty or has been called to active duty status as a member of the National Guard or Reserves or regular armed forces in support of a contingency operation. Examples of qualifying exigencies include (1) short notice deployment; (2) military events and related activities; (3) making arrangements for child care; (4) making financial and legal arrangements to address the service member’s absence; (5) counseling; (6) parental care; (7) attending to farewell or arrival arrangements for a service member; (8) rest and recuperation; employees may take a maximum of 15 calendar days for for rest and recuperation under the qualifying exigency leave category. Eligible employees are entitled to up to 26 workweeks of

unpaid military caregiver leave during a single 12-month period to care for a covered military service member with a serious injury or illness, or a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness, if the employee is the spouse, son, daughter, parent or next of kin. This 12-month period occurs using the 12-month period measured forward from the date an employee's first FML leave to care for the covered service member begins.

Under Maine law, when an employee's spouse, domestic partner, or child who is a Maine resident is deployed for military leave in a combat theater or an area where armed conflict is taking place for 180 days or longer, the eligible employee may take up to 15 days of leave.

(5) Definitions

- a. "Spouse" means a husband or wife as defined or recognized under Maine law.
- b. "Domestic Partner" means the partner of an employee who:
 - i. Is a mentally competent adult as is the employee;
 - ii. Has been legally domiciled with the employee for at least 12 months;
 - iii. Is not legally married to or legally separated from another individual;
 - iv. Is the sole partner of the employee and expects to remain so;
 - v. Is not a sibling of the employee; and
 - vi. Is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.
- c. "Sibling" means a sibling of an employee who is jointly responsible with the employee for each other's common welfare as evidenced by joint living and financial arrangements.
- d. "Serious Health Condition" means an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.
- e. "Health care provider" is defined as: a doctor of medicine or osteopathy, chiropractor, podiatrist, dentist, clinical psychologist, optometrist, nurse practitioner, nurse midwife, or a clinical social worker who is authorized to practice, and performing within the scope of their practice as defined by state law, or a Christian Science practitioner. A health care provider also is any provider that the Town or the employee's group health plan will accept medical certification to substantiate a claim for benefits.

(6) Definitions Procedure for Requesting FML

All employees requesting FML must provide verbal or written notice of the need for the leave to the Human Resources Director. Within five business days after the employee has provided this notice, the Human Resources Director will complete and provide the employee with the DOL *Notice of Eligibility and Rights*.

When the need for the leave is foreseeable, the employee must provide the employer with a notice of at least 30 days. When an employee becomes aware of a need for leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day. When the need for leave is not foreseeable, the employee must comply with the Town's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

(7) Certification Requirements

- a. Initial Certification. The Town will require that an employee's request for leave under this policy be supported by certification by a health care provider, or in the case of a qualifying exigency, by the appropriate military documents. Certification will be provided using the appropriate Department of Labor form. The employee must respond to the Town's request for certification within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. The Town may require second or third medical opinions (at the employer's expense) and periodic recertification of a serious health condition. The Town may use a health care provider, a human resource professional, a leave administrator or management official, excluding the employee's direct supervisor, to authenticate or clarify a medical certification of a serious health condition.
- b. Recertification. The Town may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days unless one of the following occur: circumstances described by the previous certification have changed significantly, the Town receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. The Town may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.
- c. Medical Release to Return to Work. An employee who has been on leave beyond one workweek due to his or her own medical condition is required to provide medical documentation of the employee's ability to return to work including any medical restrictions that may be applicable. This certification must be received by the supervisor or Human Resources Director prior to the employee returning to work.

(8) Designation of Family and Medical Leave

Within five business days after the employee has submitted the appropriate certification form, the Human Resources Director will complete and provide the employee with a written response to the employee's request for FML using the DOL *Designation Notice*.

(9) General Provisions

- a. When an eligible employee requests any leave of absence that qualifies under FML, the Town has the right to designate such leave as FML.
- b. Employees are required to use accrued paid time to cover their regular schedule during FML before taking unpaid leave under this policy unless the leave is otherwise paid through Workers' Compensation benefits, income protection, or other benefits. Employees may designate the type of accrued leave utilized.
- c. Leave under this policy (with the exception of military caregiver leave which uses the 12-month period measured forward) is computed on a "rolling" 12-month period measured backward.
- d. The Town places an eligible employee on FML when the absence from work is expected to be one workweek or longer.

- e. Leave on an intermittent basis or on a reduced work schedule may be requested when medically necessary for a serious health condition. Certification from a healthcare provider will be required to show that an intermittent or a reduced schedule leave is a medical necessity. When an employee takes intermittent or reduced schedule leave, time spent working will not be counted against the employee's leave entitlement. Employees taking intermittent or reduced schedule leave will be paid for the time they work, and the leave time away from work will be unpaid unless the employee qualifies for Workers' Compensation, income protection, or other leave benefits. If an employee is an exempt employee, the Town will adjust the employee's salary based on the amount of time actually worked.
- f. If both husband and wife work for the Town and each wishes to take leave for the birth and care of their newborn child, adoption or placement of a child in foster care, or to care for a parent (not parent "in law") with a serious health condition, the husband and wife may only take a combined total of 12, or in the case of military caregiver, 26 weeks of leave. Leave for the birth and care of a child, or placement for adoption or foster care, must conclude within 12 months of the birth or placement.
- g. Extensions of paid or unpaid leave beyond FML entitlements may be approved.

(10) Intent to Return to Work from FML

On a basis that does not discriminate against employees on FML, the Town may require an employee on FML to report periodically on the employee's status and intent to return to work.

(11) Benefit Coverage During FML

While an employee is on any paid leave (including sick leave, annual leave, and compensatory time), benefit coverage continues with no additional cost to the employee. During an unpaid leave of absence that qualifies as FML, health insurance coverage (including dental and/or optical coverage) continues on the same terms as during active employment, with the Town and the employee each paying the customary share of premiums. If the employee is not eligible for FML or the employee continues to need unpaid leave after exhausting FML, the employee is responsible for both the Town's and employee cost of continued benefit coverage. If applicable, the employee is responsible for making arrangements for the payment of the employee portion of any premiums that are not fully covered by a Town contribution. Failure to pay the employee portion of the premiums within 30 days of the due date may result in cancellation of enrollment in that plan.

If an employee does not return to work at the conclusion of FML, he/she may be liable for payment of the health plan premiums (medical, dental, optical) paid by the Town during any unpaid portion of the leave. The Town may recover its share of health plan premiums by taking deductions, to the extent permitted by law, from unpaid wages, if any, vacation pay, or other pay due. However, the employee will not be liable for the premiums if the failure to return to work is due to continuation of his/her own serious health condition or other reasons beyond his/her control. Employees will be considered to have returned to work if they work for at least 30 calendar days commencing with the scheduled return date.

The Town's responsibility to continue an employee's health plan coverage ends (except for COBRA continuation coverage) upon notice that the employee does not intend to return to work at the end of the approved leave.

Employees on unpaid FML may choose to continue other voluntary deductions, including life insurance, at the employee's expense. Arrangements for premium payments must be made by the employee with the appropriate vendors.

(12) Job Restoration

Upon return from FML, an employee must be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment provided that the employee returns to work immediately following the conclusion of FML. An employee has no greater right to restoration or to other benefits and conditions of employment than if the employee had been continuously employed.

(13) Conclusion of FML

Employees will separate from employment when FML is exhausted unless the employee is entitled to additional leave as a reasonable accommodation under the ADA or an extension of paid or unpaid leave is approved by the Town Manager. The Human Resources Department will provide the employee with notice of impending FML exhaustion. If an employee fails to return to work at the end of FML, the employee will be considered to have voluntarily resigned from his/her position with the organization.

Section 510. Leave for Victims of Domestic Violence.

In accordance with Maine Law, the Town will grant employees a reasonable and necessary amount of time off from work without pay if an employee is a victim of domestic violence, domestic assault, sexual assault or stalking, and needs the time to:

- Prepare for or attend court proceedings,
- Receive medical treatment, or
- Obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking.

Employees must request the leave from the Human Resources Director as soon as circumstances make it clear that time off is necessary. Approval of leave will be dependent upon (a) whether the employee's absence will create an undue hardship for the Town, (b) whether the employee requested leave within a reasonable time, and (c) whether the requested leave is impractical, unreasonable or unnecessary given the facts made available to the Human Resources Director at the time of the request.

If an employee's leave is approved, the employee will be required to first use any accrued paid vacation, sick or compensatory time before taking unpaid leave. Employees will not be discriminated against for taking or asking for leave. (amended 09/05/2007)

Section 511. Medical Insurance.

Currently, the Town offers group medical insurance to eligible employees in accordance with plan provisions and federal regulations. Eligible employees, regardless of probationary status, are eligible on the first day of the month following employment date or at open enrollment. The

Town reserves the right to change insurance carriers and/or benefit level as deemed necessary. (amended 08/17/2011) (amended 07/17/2013)

Currently, the Town contributes 100% of the health insurance premiums for all eligible employees. As determined by the Town Manager, the Town will contribute a percentage of the premium for covering additional eligible dependents. (amended 07/17/2013)

Effective January 1, 2019, the Employees will be offered the opportunity to enroll in the POS-C or PPO- 500 plans through the Maine Municipal Employees Health Trust. The Town agrees to contribute 92.5% of the single premium, 87.5% of the employee and child premium, and 82.5% of the family premium of the PPO-500 plan. Employees wishing to enroll in the POS-C will pay the difference in premium between the amounts the employer would otherwise pay towards the PPO-500 plan. (adopted 11/07/2018)

Employees who are currently covered or can be covered under other medical coverage can opt to receive an annual buy-out payment of \$1,500 (divided over 52-weeks). Proof of valid medical coverage must be presented in order to be eligible for this option.

If other health and/or dental coverage ends for any of the following reasons, the employee (and his/her eligible dependents) may still enter the Health and/or Dental programs offered through the Health Trust.

- (1) Loss of the other insurance coverage due to termination of employment, or a reduction in the number of hours worked.
- (2) Loss of other coverage because such other coverage is no longer available.
- (3) A change in contribution required by the other plan.
- (4) Divorce or legal separation.
- (5) Death of the spouse.
- (6) Loss of Medicaid benefits.

Employees who are covered by the Town's medical insurance at the time of employment termination, who are at least 55 years of age, and who are eligible for retirement benefits under either of the Town's retirement programs (i.e. Maine State Retirement or ICMA-RC 401(a)), may continue their coverage (including dependent coverage if in place at time of termination) under the Town's medical plan. An employee continuing coverage will do so at his/her expense; there will be no employer contribution.

The Town currently provides a Flexible Spending Account Plan for medical and dependent care expenses. (amended 2/17/99) (amended 10/06/2004) (amended 02/16/2005) (amended 09/05/2007) (amended 07/17/2013)

Section 512. Dental Insurance.

Currently, dental insurance is available to full-time employees, regardless of probationary status, on the first day of the month following employment. The Town currently pays 50% of the premium for individual coverage for employees, who must pay the remaining premium as well as the premium for any plan providing dependent coverage. All employee contributions shall be by payroll deduction upon the written authorization of the employee. With the exception of

COBRA continuation, employees may not carry dental coverage into retirement. (amended 10/06/2004) (amended 02/16/2005) (amended 09/05/2007)

Section 513. Long Term Disability Benefits.

Full-time employees become eligible for long term disability benefits after six months of continuous active work during employment. Long term disability benefits pay a regular income when an eligible employee is totally disabled and cannot work. Coverage for long term disability benefits begins when an eligible employee begins after 90 days of disability due to the same or a related sickness or injury. Upon eligibility for, or approval of, long term disability benefits, an employee may be asked to resign his or her employment with the Town if there is no medical indication that the employee will be able to return to work with the Town within a reasonable period of time. Coverage for each employee shall be equal to 60% of an employee's base pay up to a maximum monthly benefit of \$5,000 and is based on the District's policy in effect at the time of coverage. Benefits are available as long as total disability continues, until age 65. Benefits received may be offset by Social Security and/or Maine Public Employees Retirement System.

The Town reserves the right to change disability insurance carriers and/or benefit level as deemed necessary. (adopted 08/17/2011)

Section 514. Income Protection Plan.

Full-time employees may participate in the Maine Municipal Association income protection plan upon application therefore and payment of the cost therefore. Eligible employees may purchase income protection at 40%, 55%, or 70% replacement of salary. The cost of this program is dependent upon level of salary. (amended 10/06/2004) (amended 09/05/2007)

Section 515. Retirement.

Employees participate in, and are eligible to receive benefits from the following retirement plans:

(1) Voluntary.

Employees may participate in either the Maine Public Employees Retirement System (MPERS) or the International City Management Association - Retirement Corporation 401 plan (ICMA 401), but not both:

- a. **MPERS.** The Town of Scarborough became a participating district in the MPERS on May 1, 1971. Employees may become a member of the MPERS in accordance with the Plan's eligibility requirements. Employer and employee contributions are made to the MPERS plan in accordance with the requirements of the plan and state law. (amended 08/17/2011) (amended 07/17/2013)

Information concerning retirement benefits may be obtained from the Maine Public Employees Retirement System in or from the Human Resources Department. (amended 08/17/2011)

- b. **ICMA 401.** The Town of Scarborough entered into an agreement with ICMA for the 401 Money Purchase Plan on 1/1/85. All full-time employees are eligible to participate. Employer and employee contributions are made in conformity with plan requirements. The employee's contribution of 6% is in the form of a

deduction from each paycheck. The Town in turn contributes matching funds. Contributions are deferred from federal and state income taxes until withdrawn. Funds may not be withdrawn until termination of employment. (amended 2/17/99) (amended 08/17/2011)

Information concerning retirement benefits may be obtained from ICMA or from the Human Resources Department. (amended 08/17/2011)

- c. **ICMA 457.** Employees contributing to the ICMA 401 or the MPERS may also contribute to the ICMA Deferred Compensation Plan 457 (through payroll deduction up to the annual maximum contribution allowed as approved by the Internal Revenue Service effective January 1st of each year). This contribution is also deferred from federal and state income taxes until withdrawn. Funds may not be withdrawn until termination of employment. Beginning in the year July 1, 1999, the Town will contribute up to an additional 4% to the employees ICMARC 457 plan, whatever the employee chooses to match up to the 4% maximum as elected by the employee. Each employee must designate the level of their participation in the ICMARC 457 match no later than February 24, 1999 in the current year and no later than February 15 in subsequent years. (amended 2/17/99) (amended 08/17/2011)

Information concerning retirement benefits may be obtained from the ICMARC or from the Finance Department.

(2) Involuntary

- a. **Social Security.** All municipal employees receive full social security coverage, which includes both the old age, survivors and disability insurance (OASI) program and the hospital insurance (HI) program known as Medicare. Social security contributions are made by both the employee and the Town in compliance with federal law.

Section 516. Retirement Health Savings

Eligible employees may participate in the Town's Retirement Health Savings Account (RHSA) under the following provisions:

1. Probationary employees shall be excluded from participating in the RHSA plan until they have successfully completed their probationary period of six (6) months.
2. Active employees:
 - a. Vacation hours in excess of calendar year end accruals shall be deposited into RHSA. Participants with less than fifteen (15) years of service shall have all vacation hours in excess of 160 accrued hours at the end of the calendar year deposited into RHSA. Participants with fifteen (15) or more years of service shall have all vacation hours in excess of 240 accrued hours at the end of the calendar year deposited into RHSA.

- b. Holiday hours accrued in excess of ninety-six (96) hours at the end of the calendar year deposited into RHSA.
 - c. Sick hours accrued in excess of seven-hundred and twenty (720) hours at the end of the calendar year shall have twenty-four (24) sick hours deposited into RHSA.
- 3. Hours Upon Separation:
 - a. Sick Leave
 - i. Participants with more than 14 weeks (over 560 hours) of accrued sick hours shall have 50% of the sick hours deposited into RHSA at termination.
 - ii. Participants with more than 4 weeks (over 160 hours) of accrued sick hours shall have 25% of the sick hours deposited into RHSA at termination.
 - iii. Participants with 4 weeks (160 hours) or less of accrued sick hours shall have 0% of the sick hours deposited into RHSA at termination.
 - b. Vacation Leave
 - i. Participants with more than 2 weeks (80 hours) shall have 50% of the vacation hours deposited into RHSA at termination.
 - ii. Hours will be pro-rated according to hours worked.

Section 517. Optional Benefits.

Full-time employees may elect to purchase, through payroll deductions, additional insurance benefits made available by the Town. Information on optional benefit programs is available at the from the Human Resource Department. (amended 08/17/2011)

Section 518. Cessation of Town's Contribution to Employee Benefits.

After 90 days of unpaid leave for any reason, the Town shall cease making employer contributions to any employee benefit plan. Group health and dental insurance may remain in effect if the employee arranges for payment of the premium. At that time, the employee will receive a so-called "COBRA" notice giving the details of how the employee may apply for continuation of health insurance coverage at his or her expense. In the event the employee does not receive the COBRA notice, the employee should contact the Human Resources Director to request the notice. (amended 09/05/2007)

Article VI. SEVERABILITY AND EFFECTIVE DATE

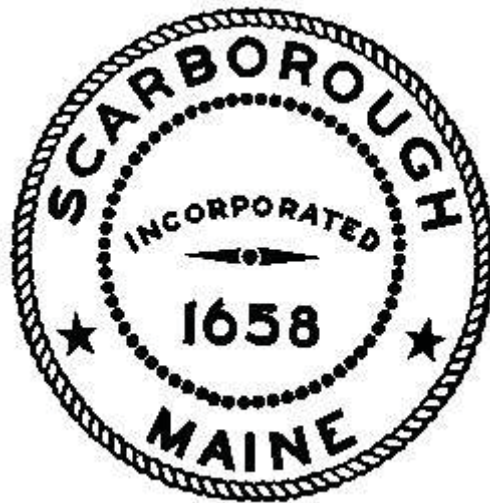
Section 601. Severability.

The provisions of this Ordinance are severable and the invalidity of any provision of this Ordinance shall not invalidate any other part hereof.

CHAPTER 610

TOWN OF SCARBOROUGH

PIPING PLOVER ORDINANCE



Adopted June 6, 2001
Amended October 2, 2013
Amended May 7, 2014

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CHAPTER 610
TOWN OF SCARBOROUGH
PIPING PLOVER PROTECTION ORDINANCE

1. Purpose.

The purpose of this Ordinance is to avoid or minimize adverse effects on Piping Plovers and their young by protecting their nesting, brooding, fledging, roosting and foraging activities on beaches within the Town of Scarborough.

2. Definitions.

Beach means any beach area within the Town of Scarborough, which is used by the general public.

Exclosure means an area from which pedestrians and vehicles are excluded by means of symbolic fencing.

Owner of a dog (or owner) means any person having custody, possession or control of a dog.

Piping Plover means the Atlantic Coast Piping Plover (*Charadrius melodus*), identified as a threatened species pursuant to the Federal Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 et seq.

Sand surfer means a recreational device consisting of a board on wheels attached to a large kite or sail and propelled by wind power.

Symbolic fencing means one or two strands of lightweight string, tied between posts to delineate areas where pedestrians and vehicles should not enter.

Wrack line means the line of dried seaweed, marine vegetation and other debris left on the beach by the action of the tides.

3. Piping Plover nesting habitat to be identified.

On or before April 1st of each year, the Town of Scarborough, in conjunction with the Maine Department of Inland Fisheries and Wildlife, the United States Fish and Wildlife Service and/or the Maine Audubon Society, will identify Piping Plover nesting habitat and will mark or arrange for the marking of such habitat with posts and warning signs.

4. Nests and broods protected.

When Piping Plover nests are present, the Town of Scarborough, in conjunction with the Maine Department of Inland Fisheries and Wildlife, the United States Fish and Wildlife Service and/or the Maine Audubon Society, will create or arrange for the creation of an exclosure around such nests in accordance with the guidelines of the United States Fish and Wildlife Service and authorization issued by the Maine Department of Inland Fisheries and Wildlife. Once such exclosures have been created, the following prohibitions shall apply:

- (1) No person shall enter into an exclosure, except for wildlife management purposes authorized by the Maine Department of Inland Fisheries and Wildlife or the United States Fish and Wildlife Service.
- (2) No person shall remove or disturb the wrack line located in front of an exclosure located within 330 feet of a Piping Plover brooding site, unless such

activity is approved by the Maine Department of Inland Fisheries and Wildlife or the United States Fish and Wildlife Service.

- (3) No owner of a dog shall cause or permit that dog to enter the enclosure or shall fail to prevent that dog from entering the enclosure. All dogs shall be leashed in accordance with the Animal Control Ordinance, Chapter 604.
- (4) No person shall drive or operate a vehicle, including a non-motorized vehicle, on the wrack line. (a) Non-emergency activities such as removal of dead or injured sea mammals shall require at least two responders, one of which will act as the spotter to and from the scene. (b) All emergency response personnel will account for and avoid nesting sites and chicks to the maximum extent practicable, consistent with the nature and urgency of the emergency. However, it is the policy of the Town of Scarborough that such essential vehicles will avoid driving on the wrack line where possible and will avoid frequent driving on the beach in a way which would create deep ruts that could impede movement of Piping Plover chicks.
- (5) No person shall engage in kite flying, kitesurfing or parasailing within 650 feet of nesting or territorial adult or unfledged juvenile Piping Plovers between April 1st and August 31st.
- (6) No person shall discharge or cause the discharge of any fireworks on any beach on which Piping Plovers are nesting from April 1st until all chicks are fledged.
- (7) No person shall utilize a sand surfer within 650 feet of nesting or territorial adult or unfledged juvenile Piping Plovers between April 1st and August 31st.

5. Enforcement and penalties.

Any person who violates any provision of this Ordinance commits a civil violation for which a civil penalty of no less than \$50.00 and no greater than \$250.00 shall be imposed. This Ordinance may be enforced by any officer of the Scarborough Police Department.

6. Relation to state and federal laws.

This Ordinance is intended to be consistent with state and federal protections of Piping Plovers and Piping Plover habitat. In the event of any inconsistency between this Ordinance and state or federal laws or regulations, the more stringent provisions shall control.

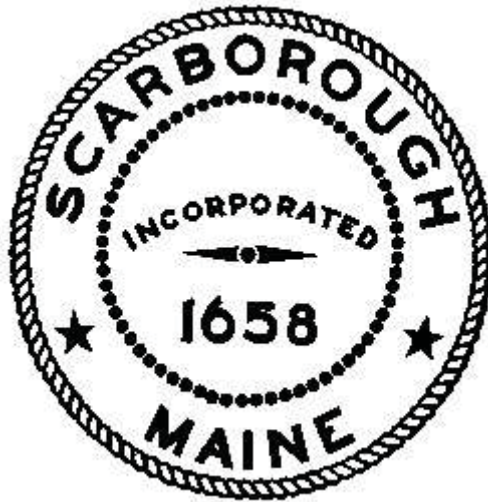
7. Relation to private protection efforts.

This Ordinance is not intended to supersede or displace any efforts or activities of private individuals or organizations or any protections afforded to Piping Plovers and their habitat by deed restrictions, conservation easements and other types of private covenants. To the extent any such private covenants are more restrictive than the provisions of this Ordinance, this Ordinance does not authorize any departure from the requirements of such covenants.

CHAPTER 404A

TOWN OF SCARBOROUGH

PLUMBING ORDINANCE



Approved by the Town Council on March 21, 1979
Amended June 21, 1989
Repeals the Private Sewage Disposal Ordinance
Amended November 17, 1993
Amended September 6, 1995
Amended June 17, 2009
Amended July 16, 2014
Amended November 1, 2017

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CHAPTER 404A SCARBOROUGH PLUMBING ORDINANCE

An ordinance regulating sewage disposal.

Article 1. TITLE.

This ordinance shall be known, and may be cited as the “Plumbing Ordinance of Scarborough, Maine.”

Article 2. FINDINGS AND INTENT.

Section 1. Findings

It is found that the use of subsurface waste disposal systems is a necessary and, if properly installed, operated, and maintained, economical and healthy means of disposing of domestic waste in the Town of Scarborough, Maine. It is found further, that subsurface waste disposal systems which are improperly designed, installed, maintained, or used, or placed in unsuitable soils, are a nuisance and a menace to public health and to water quality.

Acknowledging that the State of Maine has chosen to issue a Consent Order in the matter of the inhabitants of the Town of Scarborough, requiring the strict administration and enforcement of provisions of any local Plumbing Ordinance which are more restrictive than the State Plumbing Code, this ordinance is therefore enacted to further the protection of the public health, safety, and welfare and to protect and enhance the quality of surface waters and groundwater within the Town of Scarborough, Maine.

Section 2. Intent

It is the intent of this ordinance to encourage utilization of the full range of options for individual waste disposal systems listed in Chapter 9 of the Maine State Plumbing Code, Part II. These options include the separation of human wastes from other domestic wastewater, and use of composting, incinerating, chemical, recirculation, vacuum, and other non-water using equipment. It is further the intent of this Ordinance to encourage a variety of approaches to subsurface disposal systems, to be utilized where qualified site investigators and the Plumbing Inspector deem such approaches appropriate and desirable, and where the Maine Department of Human Services, Division of Health Engineering approves of or grants a variance (if required) to permit such approaches, including the use of dual leaching area designs. The construction of common disposal areas to serve clusters of dwellings and structures shall be encouraged only where existing developments have malfunctioning subsurface disposal systems and where soil conditions do not allow replacement systems on individual lots in compliance with the Maine State Plumbing Code.

Section 3. Responsibility to Users

Nothing in this ordinance shall relieve the users of subsurface waste disposal systems from the responsibility of complying with all provisions of the Maine State Plumbing Code, except in those instances in which the provisions herein are more stringent, in which cases this ordinance shall have precedence over the Maine State Plumbing Code.

Article III. DEFINITIONS.

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

1. An existing Subsurface Disposal System

Shall be deemed to be in compliance with the Code if any portion of the system regulated by the code was installed and maintained in accordance with the law in effect prior to the effective date of this code, unless the system is determined by the Plumbing Inspector to be dangerous, unsafe, unsanitary, or a nuisance.

2. "Subsurface Disposal Systems"

Means all private sewage disposal systems consisting of a treatment tank with the effluent discharging into an absorption area and holding tanks or other facilities as may be permitted under the procedures set forth elsewhere in this code.

3. Black waste water

Means wastewater containing human excrement, feces, and/or urine.

4. Gray waste water

Means all domestic liquid waste exclusive of black waste water.

5. Public sewer

Means a common sewer controlled by a governmental agency or public utility.

6. "Sewage"

Means any liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution. For the purposes of this code, the term sewage shall include industrial wastes, black waste water or gray waste water.

7. Sewer

Means a pipe or conduit that carries waste water or drainage water.

8. Shall

Is a mandatory term.

9. May

Is a permissive term.

10. Leaching area

Means that portion of the subsurface disposal system that is designed for the final disposal of the effluent from a septic tank or other treatment facility into the underlying soil.

11. Septic Tank

Means a watertight receptacle which receives sewage, and is designed and constructed so as to separate solids from liquids, digest organic matter through a period of detention, and allow the liquids to discharge into some system of final disposal outside of the tank which meets the requirements of this code.

12. Local Plumbing Inspector (LPI)

Is that individual properly certified by the State of Maine and appointed by the Town of Scarborough for the enforcement of the State Plumbing Code and the Scarborough Plumbing Ordinance.

13. Plumbing permits

Are a printed form furnished by the State of Maine and issued by the Local Plumbing Inspector for any plumbing installed in the Town of Scarborough.

14. “Conversion of a dwelling to a year-round dwelling

Means the installation of sufficient insulation, heating system or year-round habitation”. A year-round use is a dwelling so constructed, including but not limited to the use of insulation throughout a substantial part of the dwelling, or the use of a central heating system so as to be suitable for occupancy 365 days of the year.

15. “A conversion permit

Is not required for any dwelling which will not be occupied on a year-round basis or is not the principal dwelling place of the occupant.” A conversion permit means a permit to convert a seasonal dwelling to year-round use, and governed by the Maine State Plumbing Code.

16. Septage

Is the mixed liquid and solids pumped from septic tanks and cesspools receiving sewage.

17. Licensed soil evaluator

Means an individual licensed by the Department of Human Services as a site evaluator, (who has verified in writing that he/she is familiar with this ordinance). [11/01/17]

18. Holding tank

Means a watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of sewage at another site. A holding tank is a storage tank retaining sewage conveyed to it by a water carrying system.

Article IV. LOCAL PLUMBING INSPECTOR.

Section 1. Appointment

There shall be appointed a Plumbing Inspector in accordance with “Article VII, Section 701, Administrative Code of the Town of Scarborough”, who shall carry out all duties assigned to local plumbing inspectors by the Maine State Plumbing Code or this ordinance.

Section 2. Liability

The Local Plumbing Inspector or any employee charged with the enforcement of this ordinance acting for the Town in good faith and without malice in discharge of her/his duties, is hereby relieved from all personal liability for any damage that may occur to persons or property as a result of any act or omission in the discharge of such duties. Any suit brought against the LPI or employee, because of such act or omission performed by her/him in the enforcement of any provisions or ordinances or of the Maine State Plumbing Code shall be defended by the Town until final termination of the proceedings. The Town shall indemnify and hold said LPI or employee harmless from any such suit. [amended 11/07/17]

Section 3. Right of Entry

The Plumbing Inspector, in the discharge of her/his official duties and upon proper identification, may with the consent of the owner or occupant enter any buildings, structures, or premises at any reasonable hours. The District Court Civil Rule 80E outlines the procedures an inspector or other state or municipal official must go through to gain entry if the owner or occupant refuses to permit entry. [amended 11/01/17]

Section 4. Reports by Site Evaluator

The results of any site investigation performed by a soil evaluator in accordance with Chapter 4 of the Maine State Plumbing Code shall be signed by the soil evaluator and delivered to the Local Plumbing Inspector. In the event that a properly conducted soil investigation fails to locate an acceptable area for the installation of a subsurface disposal system, no plumbing permit shall be issued, and no subsurface disposal installed on that property. However, alternatives such as the option described in Article II, Section 2 of the ordinance may be considered.

Section 5. Files and Records

The Plumbing Inspector shall maintain a system of files and records in which are kept copies of subsurface waste disposal system plans as required in Article VIII, Section 4 of this ordinance; copies of violation reports as described in Article VIII, Section 3 of this ordinance; and copies of site investigation reports as described in Article IV, Section 4 of this ordinance.

Article V. SOILS ANALYSIS AND SYSTEM DESIGN.

Section 1. Soil Analysis and Design

- A. All sites proposed for subsurface disposal systems shall be tested for soil suitability in accordance with the Maine State Plumbing Code and this ordinance. The Plumbing Inspector shall be notified of the location, date, and time of all site evaluations to be performed in his presence, and sufficient test pits to be made in a minimum area of 1,000 square feet *uniformly encompassing the disposal site), indicating the minimum depth to bedrock, impervious strata or groundwater. In no case, shall a plumbing permit for a subsurface waste disposal system be issued if the depth of bedrock, groundwater, or impervious strata is less than 15 inches in original soil, except that the Local Plumbing Inspector may grant waivers in accordance with the provisions of the Maine State Plumbing Code, Part II.
- B. When a subsurface disposal system is proposed, it shall be designed in conformance with the standards of the Maine State Plumbing Code and this ordinance. The maximum elevation of the seasonal high water table at any time of the year, bedrock, or other impervious strata shall be at least three feet below the bottom of the absorption trench.

Section 2. Building Permit

Where soils are found to be unsuitable for subsurface waste disposal, as defined in the Maine State Plumbing Code, or where underground waste disposal systems are otherwise prohibited by this ordinance or the Maine State Plumbing Code, a building permit shall not be issued for new construction unless public sewer is available or experimental systems are utilized.

Section 3. Experimental System

- A. Experimental System means a system or part thereof that is not considered in the code.
- B. Design and Installation
A system shall be designed and installed in accordance with criteria established by the Division of Health Engineering, Maine Department of Human Services, and this ordinance taking into account the topography of the site.

Section 4. Prohibited Systems

- A. Holding tanks are not permitted for new construction.
- B. Common disposal areas serving multiple units are not permitted for new construction. This limitation does not apply to two-family dwellings, multifamily dwellings with four (4) or fewer dwelling units, and mixed-use buildings with four (4) or fewer dwelling units that are located in the portions of the RF, RPO, RH, RH2, and TVC2 zoning districts that are not served or cannot be reasonably served by the Town's public sewerage system provided that each building is served by one (1) or more independent subsurface sewage disposal systems so that no disposal system serves more than one (1) building. The use of common disposal areas to serve clusters of dwellings and structures shall be allowed only where existing units have malfunctioned. [Amended 07/16/14]
- C. The use of easements to locate new systems on neighboring properties is prohibited. All new systems shall be located on the property occupied by the structure to be served.

Article VI. SEASONAL DWELLINGS.

Section 1. Seasonal Dwellings

A person or persons proposing to convert a seasonal dwelling to a year-round dwelling shall obtain a conversion permit, and shall conform to the standards set forth by the Maine State Plumbing Code.

Section 2. Waiver

Requirements of this article may be waived in accordance with Section 3:12 of the Maine State Plumbing Code (May 15, 1978). Owners of seasonal dwellings which have been converted to year-round use prior to the effective date of this ordinance, in accordance with laws then in effect, shall be exempt from the requirements of the Article and shall be required to upgrade, alter, or replace their underground waste disposal systems only if such systems are found to be unsafe, unsanitary, or a nuisance to life, health, or property.

Section 3. Enforcement

Any person who converts a seasonal dwelling to year-round or permanent use after the effective date of this ordinance in violation of this section shall be required to comply with the provisions of this article. No waiver from this ordinance shall be issued by the Local Plumbing Inspector or the Maine Department of Human Services until consideration of all other options have been exhausted, including installation of composting, incinerating, chemical, recirculating or vacuum toilets. In addition, any person who violates this article, whether or not his or her waste disposal system is found deficient shall be guilty of a misdemeanor as prescribed in Article VIII of this ordinance.

Article VII. MAINTENANCE.

Section 1. Recommended Maintenance

The LPI shall issue with all permits for subsurface disposal systems, an informational brochure to advise property owners of the nature of the subsurface disposal system, and of important operational and maintenance practices.

Section 2. Septic Tank Pumping

All septic tank pumpers must be licensed in accordance with State of Maine Law. Septic tank pumpers shall issue to owners of the septic tanks which they pump out a signed receipt, showing the date of pumping, the name and address of the septic tank owner and a description of the location and the capacity of the septic tank.

Section 3. Disposal of Septage

The disposal of all septage shall be at a municipally approved site as required by the State of Maine Law (38 MRSA SS 4104-4105) or disposed or as otherwise permitted by State of Maine Law.

Article VIII. INSPECTION, EVALUATION AND RECORDS FOR EXISTING SYSTEMS.

Section 1. Inspection

Any subsurface disposal system or component thereof which is found to be malfunctioning or a nuisance to public health, safety, and welfare, or to the quality of surface waters or groundwater shall be ordered remedied by the owner in accordance with State of Maine Law and this Ordinance.

Section 2. Site Inspection for Existing Structures Required

For any system which is serving an existing dwelling or structure and which must be upgraded or replaced, a site investigation in accordance with the Maine State Plumbing Code and this Ordinance shall be conducted to determine the appropriate type, size, or location of the system.

Section 3. Violations

All violations of this ordinance discovered during any inspections shall be reported and appropriate corrective and enforcement actions shall be taken by the municipality.

Section 4. Filing

The Plumbing Inspector shall retain a file, in accordance with Article IV, Section 5 of this Ordinance including a copy of all site investigation reports, a description of the location of all subsurface disposal systems which are approved for new construction within the municipality and information regarding violations and enforcement actions.

Article IX. MISCELLANEOUS.

Section 1. Application for Local Plumbing Permit and Fee

No application for a permit to construct or install a subsurface disposal system will be accepted by the Local Plumbing Inspector unless it is complete in every detail as prescribed by this ordinance and the Maine State Plumbing Code. Internal Plumbing Code Fees are as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council. [09/06/95]

A. A person who starts construction without first obtaining a permit shall pay double the permit fee.

B. Restrictions

1. A permit is valid only for the named applicant and is non-transferable.

2. A permit shall become void if construction has not been started within six months from the date of issue.
3. The issuance of a permit shall not be construed to give authority to violate the provisions of the rules and shall not prevent the LPI from requiring a correction of an error in the application or from stopping construction when it is in violation of the rules.

Section 2. Penalties

Any person, firm, partnership, or corporation who violates any provision of this ordinance, shall, upon conviction, be fined in an amount not less than one hundred dollars or more than five hundred dollars for each violation. Each day in which any such violation shall continue, shall be deemed a separated violation.

Section 3. Severability

In the event that any section, subsection, or any portion of this ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or other portion of this ordinance.

Section 4. Applicability

The construction of new subsurface disposal systems or repairs, replacement or alterations of existing subsurface disposal systems shall conform to the requirements of the Maine State Plumbing Code and this Ordinance.

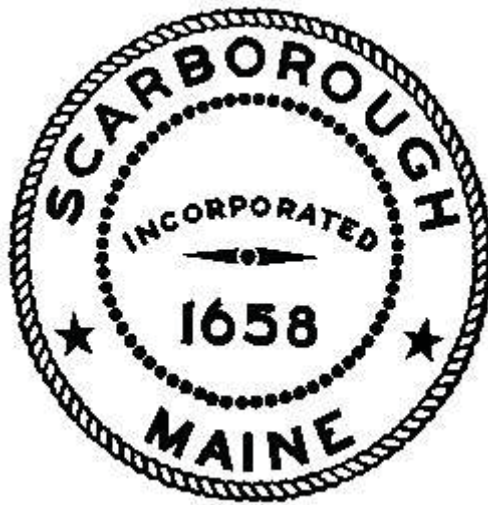
Section 5. Appeals

“Section 1 Appeals from the decision of the Plumbing Inspector shall be to the Town Planner/Engineer and then to the Town Council. No appeals shall be granted from matters governed by the State Plumbing Code until after approval has been granted by the Department of Human Services in accordance with the provisions of the Maine State Plumbing Code.”

CHAPTER 308

TOWN OF SCARBOROUGH

POLITICAL SIGN ORDINANCE



**This Ordinance was repealed by the Town Council
on September 20, 2017.
Please refer to Chapter 405 the Zoning Ordinance
Section XII. Sign Regulations**

**CHAPTER 308
TOWN OF SCARBOROUGH
POLITICAL SIGN ORDINANCE
ADOPTED OCTOBER 5, 1994
AMENDED SEPTEMBER 6, 1995
REPEAL ORDER**

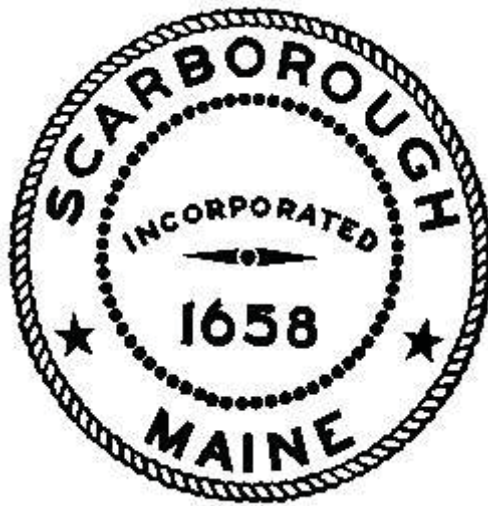
Be it hereby ordained by the Town Council of the Town of Scarborough, Maine, in Town Council Assembled, as follows:

The Ordinance entitled "Political Sign Ordinance," as the same, has been enacted by the Town Council of the Town of Scarborough, is hereby repealed.

CHAPTER 419

TOWN OF SCARBOROUGH

**POST-CONSTRUCTION STORMWATER
INFRASTRUCTURE MANAGEMENT ORDINANCE**



Adopted September 2, 2009

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<i>(to be completed by a Qualified Post-Construction Stormwater</i>	
<i>Inspector and sent to Town Code Enforcement Officer)</i>	

Section 1. Purpose.

The purpose of this “Post-Construction Stormwater Infrastructure Management Ordinance” (the “Ordinance”) is to provide for the health, safety, and general welfare of the citizens of the Town of Scarborough through administrative oversight of New Development and Redevelopment’s compliance with the stormwater infrastructure management plans in order for the Town of Scarborough to comply with the minimum control measure requirements of the Federal Clean Water Act, of Federal regulations and of Maine’s Small Municipal Separate Storm Sewer Systems General Permit.

Section 2. Objectives

This Ordinance seeks to meet the above purpose by monitoring, enforcement and reporting to the State, compliance status of Maine Department of Environmental Protection approved stormwater infrastructure management plan for New Developments, pursuant to Maine Department of Environmental Protection Chapter 500 and 502 Rules; and by applying this administrative oversight to all New Development and Redevelopment within the Town municipal boundary.

Section 3. Definitions.

Unless otherwise defined in this ordinance, terms used in this ordinance shall have the same meanings as defined terms in Zoning Ordinance of the Town of Scarborough, Maine (“Zoning Ordinance”). The following terms shall have the following meanings:

Applicant. “Applicant” means a Person with requisite right, title or interest or an agent for such Person who has filed an application for New Development or Redevelopment that requires a Post-Construction Stormwater Management Plan under this Ordinance.

Best Management Practices (“BMP”). “Best Management Practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Clean Water Act. “Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the “Clean Water Act”), and any subsequent amendments thereto.

Construction Activity. “Construction Activity” means Construction Activity including one acre or more of Disturbed Area, or activity with less than one acre of total land area that is part of a subdivision, if the subdivision will ultimately disturb equal to or greater than one acre.

Discharge. “Discharge” means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to “waters of the State.” “Direct discharge” or “point source” means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

Disturbed Area. “Disturbed Area” is clearing, grading and excavation. Cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered “disturbed area.” “Disturbed area” does not include routine maintenance but does include redevelopment. “Routine maintenance” is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of land or improvements thereon.

Municipality. “Municipality” means the Town of Scarborough.

Municipal Permitting Authority. “Municipal Permitting Authority” means the Town of Scarborough Code Enforcement Office or Planning Board, whichever has jurisdiction over the land use approval or permit required for a New Development or Redevelopment.

Municipal Separate Storm Sewer System, or MS4. “Municipal Separate Storm Sewer System” or “MS4,” means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. “National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” means a permit issued by the U.S. Environmental Protection Agency (“EPA”) or by the Maine Department of Environmental Protection (“DEP”) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

New Development. “New Development” means any Construction Activity on an unimproved Premise which is subject to review under the Town of Scarborough Site Plan Review Ordinance or the Subdivision Ordinance.

Person. “Person” means any individual, corporation, government agency, municipality, trust, estate, partnership, association, two or more individuals having joint or common interest, or other legal entity.

Pollutant. “Pollutant” means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

Post-Construction Stormwater Management Plan. “Post-Construction Stormwater Management Plan” means BMPs and Stormwater Management Facilities employed by a New Development or Redevelopment to meet the standards of this Ordinance.

Premises. “Premises” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Municipality from which Discharges into the Storm Drainage System are or may be created, initiated, originated or maintained.

Qualified Post-Construction Stormwater Inspector. “Qualified Post-Construction Stormwater Inspector” means a person who conducts post-construction Stormwater Management Facilities, Best Management Practice (“BMP”), inspections and meets the following qualifications:

1. The inspector shall have a working knowledge of Chapter 500, Stormwater Management Rules, and Maine’s Stormwater BMP Manual, and
2. The inspector shall meet at least one the following criteria outlined below; or the inspector must be on the DEP’s list of approved post construction stormwater BMP inspectors.

Non- Proprietary Stormwater Management Facilities

- a. Is a licensed professional engineer in the State of Maine with experience designing, evaluating or inspecting stormwater management facilities; or
- b. Has a college degree in an environmental science or civil engineering, or comparable expertise, and has demonstrated a practical knowledge of stormwater hydrology and stormwater management techniques, including the maintenance requirements for Stormwater Management Facilities, and has the ability to determine if stormwater facilities are performing as intended. This qualification must be accompanied by two references from a licensed professional engineer in the State of Maine to be valid; or
- c. Has successfully completed the requirements of a DEP training course on inspecting post-construction stormwater management facilities. Note: successful completion may require receiving a passing grade in an examination at the conclusion of the course.

Proprietary Stormwater Management Facilities

- a. Proprietary stormwater management facilities must be inspected by a person approved by the manufacturer.

Redevelopment. “Redevelopment” means Construction Activity on Premises already improved with buildings, structures or activities or uses, but does not include such activities as exterior remodeling.

Regulated Small MS4. “Regulated Small MS4” means any Small MS4 regulated by the State of Maine “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” effective July 1, 2008 (“General Permit”), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

Small Municipal Separate Storm Sewer System, or Small MS4. “Small Municipal Separate Storm Sewer System”, or “Small MS4,” means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

Storm Drainage System. “Storm Drainage System” means the Municipality’s Regulated Small MS4.

Stormwater. “Stormwater” means any Stormwater runoff, snowmelt runoff, and surface runoff and drainage; “Stormwater” has the same meaning as “Storm Water.”

Stormwater Management Facilities. “Stormwater Management Facilities” means any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures that are part of the Post-Construction Stormwater Management Plan for a New Development or Redevelopment.

Town. “Town” means the Town of Scarborough and is synonymous with the term “Municipality.”

Urbanized Area (“UA”). “Urbanized Area” or “UA” means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.

Section 4. Applicability.

A. In General.

This Ordinance applies to all New Development and Redevelopment activities to which at least one of the following criteria apply:

1. one acre or more of Disturbed Area, or
2. less than one acre of total land area that is part of a subdivision, if the subdivision will ultimately disturb an area equal to or greater than one acre, or
3. activity within the Shoreland Zone that is subject to review and approval of the Site Plan Review Ordinance requirements and is subject to permits pursuant to Maine Department of Environmental Protection Chapter 500 and 502 Rules.

B. Exception. This Ordinance does not apply to New Development or Redevelopment on a lot, tract or parcel where that lot, tract or parcel is part of a subdivision that is approved under this Ordinance; said lot, tract or parcel shall not require separate review under this Ordinance, but shall comply with the Post-Construction Stormwater Management Plan requirements for that approved subdivision.

Section 5. Post-Construction Stormwater Management Plan Approval

A. General Requirement. Except as provided in Section 4.B. above, no Applicant for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for New Development or Redevelopment to which this Ordinance is applicable shall receive such permit for New Development or Redevelopment unless the New Development or Redevelopment has an approved Post-Construction Stormwater Infrastructure Management Plan as part of all pertinent State and Federal permits pursuant to Maine Department of Environmental Protection Chapter 500 and 502 Rules.

B. Performance Standards

1. The Applicant shall make adequate provision for the management of the quantity and quality of all stormwater generated by the New Development or Redevelopment through a Post-Construction Stormwater Management Plan. This Post-Construction Stormwater Management Plan shall be designed to meet the standards contained in the Maine Department of Environmental Protection's Chapters 500 and 502 Rules and shall comply with the practices described in the most recently revised version of the manual *Stormwater Management for Maine*, published by the Maine Department of Environmental Protection which hereby are incorporated by reference pursuant to 30-A M.R.S.A. § 3003.
2. The Applicant may meet the quantity and quality standards above either on-site or off-site, but where off-site facilities are used, the applicant must submit to the Town documentation, approved as to legal sufficiency by the Town's attorney, that the Applicant has a sufficient property interest in the property where the off-site facilities are located -- by easement, covenant or other appropriate legal instrument -- to ensure that the facilities will be able to provide post-construction stormwater management for the New Development or Redevelopment and that the property will not be altered in a way that interferes with the off-site facilities.
3. Where the Applicant proposes to retain ownership of the Stormwater Management Facilities shown in its Post-Construction Stormwater Management Plan, and the Stormwater Management Facilities will not be dedicated to the Town, the Applicant shall enter into a Maintenance Agreement with the Town. The form of the Maintenance Agreement is attached as Appendix 1 to this Ordinance. The Applicant shall cause the Maintenance Agreement to be recorded in the Cumberland County Registry of Deeds within 30 days of the date of execution of the Agreement. Failure to comply with the terms of the Maintenance Agreement shall constitute a violation of this Ordinance.
4. Whenever elements of the Stormwater Management Facilities are not within the right-of-way of a public street and the facilities will not be offered to the Town for acceptance as public facilities, the Municipal Permitting Authority may require that perpetual easements not less than thirty (30) feet in width, conforming substantially with the lines of existing natural drainage, and in a form acceptable to the Town's attorney, shall be provided to the Town allowing access for maintenance, repair, replacement and improvement of the Stormwater Management Facilities. When an offer of dedication is required by the Municipal Permitting Authority, the Applicant shall be responsible for the maintenance of these Stormwater Management Facilities under this Ordinance until such time (if ever) as they are accepted by the Town. Nothing in this Ordinance requires the Town to accept any Stormwater Management Facilities offered or dedicated by the Applicant.
5. In addition to any other applicable requirements of this Ordinance and the Town's land use ordinances, any New Development or Redevelopment which also requires a stormwater management permit from the Maine Department of Environmental Protection (DEP) under 38 M.R.S.A. 420-D shall comply with the rules adopted by DEP under 38 M.R.S.A. 420-D(1), as the same may be amended from time to time, and the applicant shall document such compliance to the Municipal Permitting Authority. Where the standards or other provisions of such stormwater rules conflict with town ordinances, the stricter (more protective) standard shall apply.

6. Engineering and administrative review fees. Prior to the issuance of a permit for the construction activity authorized by the post-stormwater management plan approval, the applicant shall pay all engineering and administrative review fees associated with the review of the plan. The amount of the fee shall be determined by the Town Planning Department, and shall include the actual cost incurred by the Town to engage consultants to undertake the review of the applicant's plan submission, plus any other additional costs incurred to the Town during the review process.

In addition, any persons required to file an annual certification under Section 6 of this Ordinance shall include with the annual certification payment in the amount specified in the Schedule of License, Permit and Application Fees established by order of the Town Council.

7. As-Built Certification. Prior to the issuance of a Certificate of Compliance for a project requiring a Post-Construction Stormwater Management Plan under this Ordinance, the Applicant shall submit evidence in the form of a letter or plan prepared and stamped by a Professional Engineer who either prepared the Post-Construction Stormwater Management Plan and its associated Facilities or supervised the Plan and Facilities construction and implementation. The letter or plan shall certify that the Stormwater Management Facilities have been installed in accordance with the approved Post-Construction Stormwater Management Plan and that they will function as intended by said Plan.

8. Notice of BMP Discharge to Municipality's MS4. At the time of application, the Applicant shall notify the Municipal Permitting Authority if its Post-Construction Stormwater Management Plan includes any BMP(s) that will discharge to the Municipality's MS4 and shall include in this notification a listing of which BMP(s) will so discharge.

Section 6. Post-Construction Stormwater Management Plan Compliance

A. General Requirements. Any Person owning, operating, leasing or having control over Stormwater Management Facilities required by a Post-Construction Stormwater Infrastructure Management Plan approved under this Ordinance shall demonstrate compliance with that Plan as follows:

1. A Qualified Post-Construction Stormwater Inspector shall be hired by that Person to, at a minimum, annually inspect the Stormwater Management Facilities, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all town and state inspection, cleaning and maintenance requirements of the approved Post-Construction Stormwater Management Plan.
2. If the Stormwater Management Facilities require maintenance to function as intended by the approved Post-Construction Stormwater Management Plan, that Person shall take corrective action(s) to address the deficiency or deficiencies.
3. The Qualified Post-Construction Stormwater Inspector, shall, on or by June 1 of each year, provide a completed and signed certification to the Code Enforcement Officer in a form identical to that attached as Appendix 2 to this Ordinance, certifying that the Person has inspected the Stormwater Management Facilities and that they are adequately maintained and functioning as intended by the approved Post-Construction Stormwater

Infrastructure Management Plan, or that they require maintenance or repair, describing any required maintenance and any deficiencies found during inspection of the Stormwater Management Facilities and, if the Stormwater Management Facilities require maintenance or repair of deficiencies in order to function as intended by the approved Post-Construction Stormwater Infrastructure Management Plan, the Person shall provide a record of the required maintenance or deficiency and corrective action(s) taken.

Within one (1) week of the date of above, the Code Enforcement Officer shall submit a copy of the received certifications to the Public Works Department. The Public Works Department shall be responsible for the annual reporting to the Maine Department of Environmental Protection, as set forth in Section 6(C).

B. Right of Entry. In order to determine compliance with this Ordinance and with the Post-Construction Stormwater Management Plan, a municipal employee or agent acting on behalf of the Municipality may enter upon a property with an approved post construction stormwater management plan at reasonable hours to inspect the Stormwater Management Facilities.

C. Annual Report. Beginning July 1, 2009 and each year thereafter, the Municipality shall include the following in its Annual Report to the Maine Department of Environmental Protection:

1. The cumulative number of sites that have Stormwater Management Facilities discharging into their MS4;
2. A summary of the number of sites that have Stormwater Management Facilities discharging into their MS4 that were reported to the Municipality;
3. The number of sites with documented functioning Stormwater Management Facilities; and
4. The number of sites that required routine maintenance or remedial action to ensure that Stormwater Management Facilities are functioning as intended.

Section 7. Enforcement.

It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance or of the Post-Construction Stormwater Management Plan. Whenever the Code Enforcement Officer determines that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Code Enforcement Officer may enforce this Ordinance in accordance with 30-A M.R.S.A. § 4452.

A. Notice of Violation. Whenever the Code Enforcement Officer determines that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Code Enforcement Officer may order compliance with this Ordinance or with the Post-Construction Stormwater Management Plan by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

1. The abatement of violations, and the cessation of practices, or operations in violation of this Ordinance or of the Post-Construction Stormwater Management Plan;

2. At the Person's expense, compliance with BMPs required as a condition of approval of the New Development or Redevelopment, the repair of Stormwater Management Facilities and/or the restoration of any affected property; and/or
3. The payment of fines, of the Municipality's remediation costs and of the Municipality's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation, compliance with BMPs, repair of Stormwater Management Facilities and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement, compliance, repair and/or restoration must be completed.

B. Penalties/Fines/Injunctive Relief.

1. Any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation.

2. Any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the Municipality for violation of federal and State environmental laws and regulations caused by or related to that Person's violation of this Ordinance or of the Post-Construction Stormwater Management Plan; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under paragraph 1 of this subsection B.

C. Consent Agreement. The Code Enforcement Officer may, with the approval of the Town Manager, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance or of the Post-Construction Stormwater Management Plan for the purposes of eliminating violations of this Ordinance or of the Post-Construction Stormwater Management Plan and of recovering fines, costs and fees without court action.

D. Notice of Violation Not Appealable. There is no appeal to any official, board, body or agency of the Town of Scarborough from a Notice of Violation under this Ordinance.

E. Enforcement Measures. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then the Code Enforcement Officer may recommend to the Town Manager that the town's attorney file an enforcement action in a Maine court of competent jurisdiction.

Section 8. Severability.

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

Section 9. Basis.

The Town of Scarborough enacts this “Post-Construction Stormwater Infrastructure Management Ordinance” (the “Ordinance”) pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 38 M.R.S.A. § 413 (the “Wastewater Discharge Law”), 33 U.S.C. § 1251 *et seq.* (the “Clean Water Act”), and 40 CFR Part 122 (U.S. Environmental Protection Agency’s regulations governing the National Pollutant Discharge Elimination System (“NPDES”). The Maine Department of Environmental Protection, through its promulgation of the “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems,” has listed the Town of Scarborough as having a Regulated Small Municipal Separate Storm Sewer System (“Small MS4”); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance in order to satisfy the minimum control measures required by Part IV D 5 (“Post-construction stormwater management in new development and redevelopment”).

APPENDIX 1

Maintenance Agreement for Stormwater Management Facilities

This Maintenance Agreement is made this day of _____ 20__ by and between _____ (“Applicant”) and the Town of Scarborough, Maine (the “Town”).

The project name is _____.

The location is: _____, Scarborough, Maine.

The project’s Tax Map and Lot Numbers are Tax Map Lot _____

The project is shown on a plan entitled " _____ " dated _____ and most recently revised on _____, approved by the _____ [Municipal Permitting Board] on _____.

The last recorded deed in the chain of title for the property within the Project is recorded in the Cumberland County Registry of Deeds at Book _____, Page _____.

WHEREAS, the approval of the Project includes Stormwater Management Facilities which requires periodic maintenance; and

WHEREAS, in consideration of the approval of the Project the Town of Scarborough requires that periodic maintenance be performed on the Stormwater Management Facilities;

NOW, THEREFORE, in consideration of the mutual benefits accruing from the approval of the Project by the Town and the agreement of Applicant to maintain the Stormwater Management Facilities, the parties hereby agree as follows:

1. Applicant, for itself, and its successors and assigns, agrees to the following:

- (a) To inspect, clean, maintain, and repair the Stormwater Management Facilities, which includes, to the extent they exist, parking areas, catch basins, detention basins or ponds, drainage swales, pipes and related structures, at least annually, to prevent the build up and storage of sediment and debris in the system;
- (b) To repair any deficiencies in the Stormwater Management Facilities noted during the annual inspection;
- (c) To provide a summary report on the inspection, maintenance, and repair activities performed annually on the Stormwater Management Facilities to the Town Code Enforcement Officer;
- (d) To allow access by Town personnel or the Town’s designee for inspecting the Stormwater Management Facilities for conformance with these requirements.

(e) If lots or units will be sold separately, to create an association of lot or unit owners (the "Association") for the purpose of maintaining the Stormwater Management Facilities.

2. Upon creation of the Association, the Association shall become responsible for compliance with the terms of this Agreement.

3. This Agreement shall constitute a covenant running with the land, and Applicant shall reference this Agreement in all deeds conveying any interest in real estate within the Project.

Witness

By: _____
Its: _____

TOWN OF SCARBOROUGH

Witness

By: _____
Its: _____

STATE OF MAINE

_____, ss.

_____, 20__

Personally appeared the above-named _____, the _____ of _____, and acknowledged the foregoing Agreement to be said person's free act and deed in said capacity.

Before me,

Notary Public / Attorney at Law

Print Name:

STATE OF MAINE

_____, ss.

_____, 20__

Personally appeared the above-named _____, the _____ of the Town of Scarborough, and acknowledged the foregoing Agreement to be said his/her free act and deed in said capacity.

Before me,

Notary Public / Attorney at Law

Print Name:

APPENDIX 2

Annual Stormwater Management Facilities Certification
*(to be completed by a Qualified Post-Construction Stormwater
Inspector and sent to Town Code Enforcement Officer)*

I, _____ (print or type name), a Qualified Post-Construction Stormwater Inspector, certify the following:

1. I am making this Annual Stormwater Management Facilities Certification for the following property: _____ (print or type name of subdivision, condominium or other development) located at _____ (print or type address), (the "Property");

2. The owner, operator, tenant, lessee or homeowners' association of the Property is: _____ (name(s) of owner, operator, tenant, lessee, homeowners' association or other party having control over the Property);

3. I have knowledge of erosion and stormwater control and have reviewed the approved Post-Construction Stormwater Management Plan for the Property;

4. On _____, 20__, I inspected the Stormwater Management Facilities, including but not limited to parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures required by the approved Post-Construction Stormwater Management Plan for the Property;

5. At the time of my inspection of the Stormwater Management Facilities on the Property, I identified the following need(s) for routine maintenance or deficiencies in the Stormwater Management Facilities:

6. On _____, 20__, I took the following routine maintenance or the following corrective action(s) to address the deficiencies in the Stormwater Management Facilities stated in 6. above:

7. As of the date of this certification, the Stormwater Management Facilities are functioning as intended by the approved Post-Construction Stormwater Management Plan for the Property.

Date: _____, 20__ .By: _____

Signature

Print Name

STATE OF MAINE

_____, ss.

_____, 20__

Personally appeared the above-named _____, the
_____ of _____, and acknowledged the foregoing
Annual Certification to be said person's free act and deed in said capacity.

Before me,

Notary Public/Attorney at Law

Print Name: _____

9. The owner, operator, tenant, lessee, or other party having control over the Property shall sign below verifying the information above was completed by a Qualified Post-Construction Stormwater Inspector.

Date: _____, 20__ .By: _____

Signature

Print Name

STATE OF MAINE

_____, ss.

_____, 20__

Personally appeared the above-named _____, the
_____ of _____, and acknowledged the foregoing
Annual Certification to be said person's free act and deed in said capacity.

Before me,

Notary Public/Attorney at Law

Print Name: _____

Mail or hand deliver this certification to the Municipal Code Enforcement Officer at the following address:

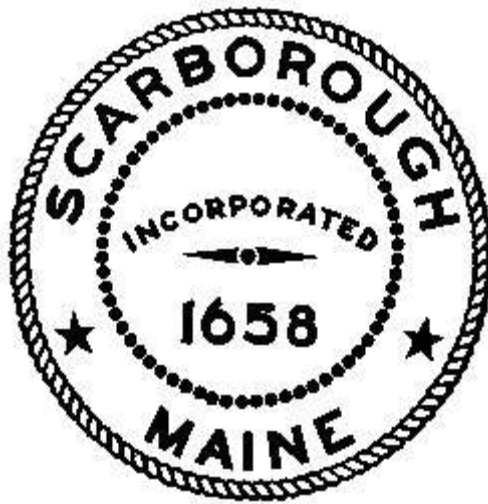
Town of Scarborough
c/o Code Enforcement Officer
PO Box 360
Scarborough, ME 04074

CHAPTER 313-A

TOWN OF SCARBOROUGH

PROPERTY TAX ASSISTANCE

ORDINANCE



Adopted November 4, 2015

Amended June 7, 2017

Amended November 1, 2017

Amended April 18, 2018

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CHAPTER 313-A
TOWN OF SCARBOROUGH PROPERTY TAX ASSISTANCE ORDINANCE

Section 1. Purpose

The purpose of this Ordinance is to establish a program to provide property tax assistance to persons 62 years of age and over who reside in the Town of Scarborough.

Section 2. Definitions

Homestead: A homestead is a dwelling owned or rented by the person seeking tax assistance under this Ordinance or held in a revocable living trust for the benefit of that person. The dwelling must be occupied by that person as a home.

Qualifying applicant: A qualifying applicant is a person who is determined by the Tax Assessor or her/his designee, after review of a complete application submitted under Section 4 of this Ordinance, to be eligible for a payment under the terms of this Ordinance. [amended 11/01/17]

Section 3. Criteria for Participation

In order to participate in the Property Tax Assistance Program, an applicant shall demonstrate all of the following:

- a. The applicant shall be 62 years of age or more by last day on which an application may be filed under Section 4 of this Ordinance.
- b. The applicant shall have been a resident of the Town of Scarborough with a Homestead therein for the ten years immediately preceding the last day on which an application may be filed under Section 4 of this Ordinance.
- c. The federal adjusted gross income of the applicant (plus that of any other adult members of the applicant's household) does not exceed \$50,000.

Section 4. Application and Payment Procedures

Persons seeking to participate in the Property Tax Assistance Program shall submit a written request to the Tax Assessor no later than October 15th. Applications are required every year to participate in this program. The Tax Assessor shall provide an application form for the program, which shall include the applicant's name, homestead address and contact information. At the time of application, Applicants must provide adequate evidence of eligibility. The Assessor may accept a statement under oath. No confidential income records, including tax returns, will be kept by the Town. The Tax Assessor shall review and determine if the application is complete and accurate and if the applicant is eligible to participate in the Program. The Tax Assessor shall notify an applicant if an application is determined to be incomplete. The Tax Assessor's decision on eligibility to participate in the Program shall be final.

Section 5. Determination of eligibility and amount of eligibility [Amended 11/07/17 - 06/07/17 – 04/18/18]

1. Eligibility for Homeowners

If the Tax Assessor determines that the applicant is eligible to participate in the Program, he/she shall determine the amount of the benefit paid. The amount shall be the least of the following:

- a. The amount, if any, by which (i) the taxes assessed for fiscal year of the Town beginning on July 1 of the preceding calendar year exceeds (ii) 5% of the federal adjusted gross income of the applicant (plus that of any other adult members of the applicant's household); or

- b. A pro-rata share of the available monies in the Program Fund, including any amount in the Property Tax Assistance Reserve Account, allocated based on the amount of the refunds determined under sub-section a for all eligible applicants; or
- c. \$600.00. [Amended 06/07/17]

In the case of applicants who did not file federal income tax returns, the Tax Assessor, upon presentation of adequate information returns and other information, shall calculate the federal adjusted gross income.

2. Eligibility for Renters

In the case of renters, the tax assessed for purposes of Section 5.1.a(i) shall be deemed to include 18% of the rent payable from own funds by applicant (and other adult members of applicant's household) in the preceding calendar year. The Tax Assessor, upon presentation of adequate documents and other information, shall determine the amount of rent. [Amended 04/18/18]

Section 6. Annual Report to the Town Council

The Tax Assessor shall report in writing to the Town Council no later than their first regular meeting in December each year the projected payments and number of eligible applicants requesting assistance for the program fund.

Section 7. Program Fund - Limitations On Payments

In the event that a lack of funding results in no payment or less than the full payment to a qualifying applicant, the request will not carry over to the next year.

Section 8. Creation of the Program Fund

The Program Fund from which payments shall be made under the terms of this Ordinance shall be created as follows:

As funds are available, the Town Council shall annually appropriate monies from the general fund or other sources to support this program. Any surplus monies available after all payments have been made shall revert to the Property Tax Assistance Reserve Account.

Section 9. Timing of Payments

A person who qualifies for payment under this Program shall be mailed a check for the full amount no later than December 15th for the year in which participation is sought.

Section 10. Limitations upon payments

Only one qualifying applicant per household shall be entitled to payment under this Program each year. The right to file an application under this Ordinance is personal to the applicant and does not survive the applicant's death, but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney-in-fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the Tax Assessor shall be disbursed to another member of the household as determined by the Town Assessor in consultation with the Town Manager. If the applicant was the only member of a household, then no payment shall be made under this Ordinance.

Section 11. Effective Date and Repeal of Prior Ordinance

This ordinance repeals and replaces Chapter 313, the Town of Scarborough Property Tax Assistance Ordinance adopted on April 18, 2007 as amended such that this Chapter applies to applications for property tax assistance received after October 15, 2015 under this chapter for payments paid beginning in calendar year 2016 related to taxes assessed in fiscal year July 1, 2015 through June 30, 2016, and thereafter.

Town of Scarborough, Maine

Assessor's Office

PO Box 360 Scarborough, Maine 04070

M/L: _____

Acct #: _____

Dept Approval: _____

Property Tax Assistance Program -Owner

Determination of Eligibility and Benefits for Property Tax Assessed as of April 1, 2017

Application Deadline – October 15, 2018

1. Name of Owner(s): _____ Phone: _____
2. Address of Property: _____ E-Mail: _____
2a. Mailing address (*if different*): _____
3. Date of Birth: _____ **Document Presented:** _____ ME Driver's License/ID
Applicants must be 62 on 10/15/2018 _____ US Passport
Born on/before 10/15/1956 _____ Other _____
4. Resident of Scarborough **Document Presented:** _____ Assessing Record
For at least 10 years on 10/15/2018 _____ MH Park Rent if Applicable
_____ Other _____
_____ Oath _____
5. Federal Adjusted Gross Income **Document Presented:** _____ 1040
From Filed Federal Tax Return _____ Social Sec. Benefit Statement
Form 1040, 1040-A, or 1040-EZ _____
6. Additional income of other adults in household _____
7. Total Income (Line 5 plus Line 6) _____
8. Income Limit \$50,000
a. If line 7 exceeds line 8: STOP: No benefit paid
9. Benefit Threshold _____
5% of Line 7
10. Real Estate Tax Assessed _____
July 1, 2017 through June 30, 2018 (FY2018)
11. Residential MH Park Rent (If Applicable) _____
July 1, 2017 through June 30, 2018 (FY2018)
12. Tax attributed to rent: 18% of Line 11 _____
13. Total Tax Attributable to Property _____
(Line 10 plus Line 12)
14. Excess of Tax Assessed over Benefit Threshold _____
Line 13 minus Line 9. If line 14 does not exceed
Line 9: STOP: No benefit paid
15. Benefit Cap \$600
16. Benefit Determined (Check Mailed by 12/15/2018) _____
Lesser of Excess Tax or Benefit Cap
(Lesser of Line 14 or Line 15)

Important note: Items 3, 4, & 5 above require documentation to be presented to Assessing staff. IF you did not file a Federal Tax Return please bring your 2017 Social Security Benefit statement.

Oath: I certify that the information contained herein is accurate to the best of my knowledge and belief, under penalties of perjury.

Signed: _____ Date: _____

Approved by: _____ Date: _____

CHAPTER 602

TOWN OF SCARBOROUGH

PUBLIC ASSEMBLY ORDINANCE



Reference, Council Book 8 - August 3, 1988
Amended November 1, 2017

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CHAPTER 602
PUBLIC ASSEMBLY ORDINANCE FOR
THE TOWN OF SCARBOROUGH, MAINE

SECTION 15-60-100. AUTHORITY.

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII, Part Second of the Constitution of the State of Maine and 30-A M.R.S.A. §4101.

SECTION 15-60-110. PURPOSE.

The purposes of this Ordinance include:

- (1) Protection of the public health, safety and welfare by insuring that adequate police protection is provided in places where large numbers of people are assembled.
- (2) Reimbursement from owners of places of public assembly of the costs of providing police protection, so that the operation of places which create a unique and specific demand for police protection does not create an unreasonable financial burden on the residents of the Town of Scarborough.

SECTION 15-60-120. DEFINITIONS.

(1) Chief of Police

Means the Chief of the Scarborough Police Department or her/his designated agent.

(2) Place of public assembly

Means a building, structure, room or interior or exterior space which is used for the gathering or assemblage of 100 or more persons for any purpose including, without limitation, recreational, educational, political, social or amusement purposes, or for the consumption of food or drink, and includes any connected room or space which has a common entrance.

(3) Owner

Means the owner, lessee, licensee or occupant in control of the place of public assembly, or any other person who operates the place of public assembly.

SECTION 15-60-130. POLICE PROTECTION PLAN REQUIRED.

(1) Standard Operating Plan.

No person shall operate a place of public assembly within the Town of Scarborough without adopting and implementing a standard operating plan approved by the Chief of Police to provide police protection during the normal operating hours of the place of public assembly. Such plan may include use of Town of Scarborough police officers, private security personnel or employees of the place of public assembly, in such numbers

as the Chief of Police considers necessary for the protection of the public. Where Town of Scarborough police officers are used, the Chief of Police shall designate the officers to be assigned. The Chief of Police may also determine that, because of the circumstances of a particular place of public assembly, the availability of the Scarborough Police Department to respond to calls for assistance shall constitute the approved standard operating plan. In approving a standard operating plan, the Chief of Police shall consider both the public safety and the reasonable costs to the owner.

(2) Special Events Plan.

Any owner of a place of public assembly for which a standard operating plan has been approved pursuant to Section 15-60-130(1) but who proposes a special event or activity which is likely to result in substantially greater attendance than is contemplated in the standard operating plan and any person who does not ordinarily operate a place of public assembly but who proposes a special event or activity which will cause his premises to become a place of public assembly on a temporary basis, must adopt and implement a special events plan approved by the Chief of Police. The Chief of Police shall approve a special events plan under the same terms and conditions as apply to standard operating plans pursuant to Section 15-60-130(1).

(3) Revised Plan.

If at any time the Chief of Police determines that public safety problems have occurred or can reasonably be anticipated to occur at a place of public assembly with a previously approved plan under Section 15-60-130(1) or Section 15-60-130(2), the Chief of Police may require the owner to adopt and implement a revised plan for police protection, providing for such additional protection as the Chief of Police deems necessary to deal with the public safety problems experienced or anticipated.

SECTION 15-60-140. COST REIMBURSEMENT.

Where police officers of the Town of Scarborough are used in implementation of a police protection plan pursuant to Section 15-60-130 of this Ordinance, the owner of the place of public assembly shall, within 30 days of receipt of a bill therefor, reimburse the Town of Scarborough for the wages paid to such police officers in implementing such plan for such owner. Bills not paid within 30 days shall incur late charges calculated at the rate of 18% per annum.

SECTION 15-60-150. VIOLATIONS.

(1) It shall be a violation of this Ordinance for any owner of a place of public assembly to operate a place of public assembly without adopting and implementing a police protection plan as required by Section 15-60-130 of this Ordinance.

(2) It shall be a violation of this Ordinance for any owner of a place of public assembly to fail to comply with the requirements or conditions of a police protection plan approved pursuant to Section 15-60-130 of this Ordinance.

(3) It shall be a violation of this Ordinance for any owner of a place of public assembly to fail to make payments required under Section 15-60-140 of this Ordinance.

SECTION 15-60-160. PENALTIES.

(1) Any person who violates any provision of this Ordinance commits a civil violation, punishable by a fine of \$100. Each day a violation continues shall constitute a separate violation.

(2) In addition to fines under Section 15-60-160(1), the Town may by civil action collect all amounts due to the Town under Section 15-60-140 of this Ordinance.

(3) The Town may enjoin any violations or threatened violations of this Ordinance which constitute a threat to the public safety.

SECTION 15.60-170. ENFORCEMENT.

This Ordinance may be enforced by any police officer of the Town of Scarborough.

SECTION 15-60-180. EFFECTIVE DATE AND TRANSITION.

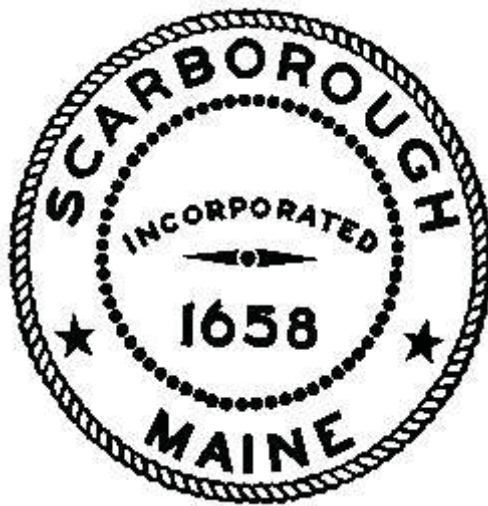
This Ordinance shall take effect on August 4, 1988. All places of public assembly within the Town of Scarborough must adopt and implement an approved police protection plan pursuant to Section 15-60-130 of this Ordinance no later than September 4, 1988 at which time the provisions of this Ordinance shall repeal and replace the former ordinance entitled "Public Assemblage Ordinance."

CHAPTER 410

TOWN OF SCARBOROUGH

SCARBOROUGH ROADWAY IMPACT FEE ORDINANCE:

PAYNE ROAD AREA CAPITAL IMPROVEMENT DISTRICTS



**ADOPTED OCTOBER 17, 1990
AMENDED SEPTEMBER 6, 1995
AMENDED DECEMBER 7, 2011
AMENDED NOVEMBER 1, 2017**

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**CHAPTER 410
TOWN OF SCARBOROUGH
ROAD IMPACT FEE ORDINANCE**

**BE IT ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF
SCARBOROUGH, MAINE, IN TOWN COUNCIL ASSEMBLED:**

Section One: Purpose

This Ordinance imposes an impact fee on land development requiring review under the Town's subdivision or site plan regulations for providing new roads and related facilities necessitated by new development that impacts traffic in the Payne Road Area of the Town as defined herein. It also provides for the placement of impact fee revenues into road impact fee trust funds established for that purpose and for the administration of the impact fee ordinance, including the expenditure of funds derived from road impact fees and the refunds of unexpended funds.

Section Two: Legislative Findings

The Town Council of Scarborough, Maine finds, determines and declares as follows:

A. The Town must expand its road system in order to provide adequate levels of service in the Payne Road Area of the Town if new development in the Payne Road Area and elsewhere that affects traffic in the Payne Road Area 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 the cost of capital investments necessary to accommodate such development. Appropriate locations for new development in the Town and the capital improvements necessary to accommodate such development are identified in the Town's Comprehensive Plan and capital improvements program.

D. New development generates additional traffic, necessitating the acquisition of rights-of-way, road construction and road improvements;

E. The fees established by Section Six 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 new developments for which the fees are levied.

F. The report entitled "Scarborough, Maine Road Computation Procedure-Payne Road Area Impact Fee", dated September 11, 1990, sets forth in more detail a reasonable methodology

and analysis for the determination of the impact of new development on the need for an costs of additional rights-of-way, road construction and road improvements in the Town.

Section Three: Title, Authority, and Applicability

A. Title.

This Ordinance shall be known and may be cited as the “Scarborough Road Impact Fee Ordinance”.

B. Authority.

The Town Council of the Town of Scarborough, has the authority to enact this ordinance pursuant to 30-A M.R.S.A. 4354, and its statutory and constitutional home rule powers.

C. Applicability.

This ordinance shall apply to all new development seeking subdivision or site plan approval or the extension of previously approved subdivisions or site plans or to any change in use when the proposed development impacts traffic in the “Payne Road Area” if a building permit is issued on or after the date this Ordinance is enacted.

Section Four: Definitions

A. “Developer”

Is a person commencing a land development activity which generates or attracts traffic in the Payne Road Area and which requires subdivision or site plan approval from the Town of Scarborough.

B. “Capital improvement”

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

- (1) construction of new through lanes
- (2) construction of new turn lanes
- (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

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

C. "Development"

Means any change in land use or any construction of buildings or structures or any change in the use of any structure that procedures vehicle trips within the Payne Road Area.

D. "Expansion of road capacity"

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

E. "Roads"

Means and includes arterial streets and transportation facilities associated with the arterial and state-aid highway network within the Payne Road Area of the Town and under the jurisdiction of the Town or the State of Maine.

F. "Site-related improvements"

Are 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:

- (1) access roads leading to the development
- (2) driveways and roads within the development
- (3) acceleration and deceleration lanes, and right and left turn lanes leading to those roads and driveways
- (4) traffic control measurers for those roads and driveways

G. "Independent Fee Calculation Study"

Means 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 Section Six of this Ordinance.

H. "Mandatory or Required right-of-way dedications and/or roadway improvements"

Means such non-compensated dedications and/or roadway improvements required by the Town during subdivision or site plan review.

I. "Payne Road Area"

Means the area of Scarborough, including Payne Road and State Route 114 as follows:

District 1 - Payne Road, South Portland line to I-295 Bridge

District 2 - Payne Road, I-295 Bridge through Route 114 intersection

District 3 - Payne Road, South of Route 114 to Holmes Road

District 4 - This District was repealed by the Scarborough Town Council on December 7, 2011, because the improvements in this district were accomplished.

District 5 - Route 114, between Maine Turnpike and Beech Ridge Road

Section Five: Imposition of Road Impact Fee

A. Any person who, after the effective date of this ordinance, seeks to develop land by applying for subdivision or site plan approval, or for an extension of subdivision or site plan approval issued prior to the effective date hereof, to make an improvement to land or to change the use of any land or building which will generate additional traffic in the Payne Road Area, regardless of whether the development itself is located within the Payne Road Area is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance. Preliminary determinations regarding whether a proposed development will generate traffic in the Payne Road Area shall be made by the Town Planner and the Town's consulting traffic engineer. Actual impacts shall be determined by a traffic study prepared by a traffic engineer at the developer's expense and approved by the Town's consulting engineer, unless the developer agrees with the Town's determination.

B. No new building permit for any activity requiring payment of an impact fee pursuant to this Ordinance shall be issued or renewed unless and until the road impact fee hereby required has been paid.

C. No extension of a building permit issued prior to the effective date of this ordinance, for any activity requiring payment of an impact fee pursuant to this Ordinance shall be granted unless and until the road impact fee hereby required has been paid.

Section Six: Computation of Road Impact Fee

A. At the option of the developer, the amount of the road impact fee may be determined by a fee schedule established by the Town Council. The provisions of this paragraph shall govern the setting of the impact fee schedule by the Town Council and the computation of impact fees by the Town, except as expressly provided elsewhere in this Ordinance.

(1) The amount of the impact fee to be paid shall be determined in accordance with the schedule of fees approved by order of the Town Council.

(2) Where a development involves a mixed use, the fees shall be determined in accordance with the applicable schedule by apportioning space to uses specified on the applicable schedule.

(3) Where a development involves an activity not specified on the applicable fee schedule, the Town shall use the fee applicable to the most nearly comparable type of land use on the fee schedule.

(4) Where an extension is sought for a building permit, the amount of the fee shall be the difference between the fee applicable at the time of the extension and any amount previously paid pursuant to this ordinance.

(5) Impact fees for change of use, redevelopment, or expansion or modification of an existing use which has previously paid an impact fee or which did not require payment of an impact fee when originally approved and which requires the issuance of a building permit shall

be based upon the net positive increase in the impact fee for the new use as compared to the previous use.

B. Alternative method for computation of fees

A developer may prepare and submit an independent fee calculation study for the land development activity. The independent fee calculation shall be prepared and presented by professionals and shall establish to a reasonable certainty that the impact of the proposed activity differs substantially from other land use activity for which fees have been established. The documentation submitted shall show the basis upon which the independent fee calculation was made. The Town shall consider the documentation submitted by the developer but is not required to accept any documentation which it deems to be inaccurate or unreliable and may require the developer to submit additional or different documentation for consideration. If the independent fee calculation study is approved, the Town shall adjust the fee in accordance with that calculation. Appeals of action of the Town pursuant to this section may be taken to the Town Manager by filing a written request within 10 days of final determination.

Section Seven: Payment of Fee

A. The developer shall pay the road impact fee required by this ordinance to the Building Inspector or her/his designee prior to the issuance of a building permit. [amended 11/01/17]

B. All funds collected shall be properly identified by road impact fee district and promptly transferred for deposit in the appropriate Road Impact Fee Trust Fund to be held in separate accounts as determined in Section Nine of this Ordinance and used solely for the purposes specified in this Ordinance.

Section Eight: Road Impact Fee Districts

A. There are hereby established four (4) road impact fee districts as defined in Section 4(I) of this Ordinance.

Section Nine: Road Impact Fee Trust Funds Established

A. There are hereby established four (4) separate Road Impact Fee Trust Funds, one for each road impact fee district established by Section Eight of this Ordinance.

B. Funds withdrawn from these accounts must be used in accordance with the provisions of Section Ten of this Ordinance.

Section Ten: Use of Funds

A. Funds collected from road impact fees shall be used for the purpose of capital improvements to and expansion of transportation facilities associated with the Payne Road Area.

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

C. Funds shall be used exclusively for capital improvements or expansion within the road impact fee district, including district boundary roads, as identified in the Report entitled Computation Procedure, from which the funds were collected or for projects in other road impact districts which are of benefit to the road impact district from which the funds were collected. Funds shall be expended in the order in which they are collected.

D. In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which road impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in paragraph A of this section and are located within the appropriate impact fee districts created by this Ordinance or as provided in paragraph C of this section.

E. At least once each fiscal period the Town Manager shall present to the Town Council a proposed capital improvement program for roads, assigning funds, including any accrued interest, from the several Road Impact Fee Trust Funds to specific road improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same Road Impact Fee Trust Funds until the next fiscal period except as provided by the refund provisions of this Ordinance.

F. Funds may be used to provide refunds as described in Section Eleven.

Section Eleven: Refund of Fees

A. If a building permit is surrendered or expires without commencement of construction, the developer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance except that the Town shall retain three (3) percent 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 fifteen (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 ten (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 (10) year period.

Section Twelve: Exemptions

A. Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips shall be exempt from payment of the traffic impact fee.

B. Construction of accessory buildings or structures which do not generate additional vehicle trips shall be exempt from the 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 shall be exempt from the payment of the impact fee.

Any claim of exemption shall be made prior to the time for payment of the impact fee. Any claim not so made shall be deemed waived.

Section Thirteen: 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 the 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. Credit for construction of capital improvements shall be given only where:

(1) the Town and applicant agree in writing that it would be more cost effective or expeditious for the applicant to construct improvements authorized for funding under this Ordinance, or

(2) for the cost of constructing capital improvements as a condition of Planning Board approval under the Site Plan or subdivision ordinance of the Town, provided such capital improvements would be eligible for designation by the Town Council for funding under this Ordinance. In such cases, the applicant 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 applicant are either unreliable or inaccurate. Upon final determination of all credits, the Town shall provide the applicant 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 project or development to which the credit may be applied. The applicant 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 applicant 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 subparagraph 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, were 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 and 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 of Development License if the development was approved prior to enactment of this ordinance 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 location of development 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. Determination pursuant to this Paragraph may be appealed to the Town manager by filing a written request with the Town Manager within 30 days of the determination

ORDER SETTING IMPACT FEES

AND DESIGNATING APPROVED PROJECTS

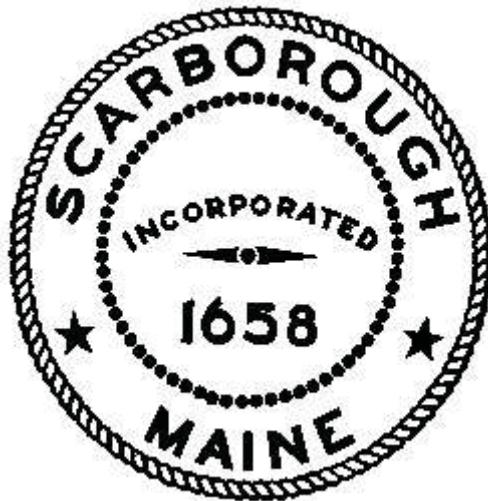
BE IT ORDERED by the Scarborough Town Council that pursuant to the Town of Scarborough Road Impact Fee Ordinance, the fees and charges shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council for development from the Highway Impact Fee Trust Fund.

CHAPTER 415A

TOWN OF SCARBOROUGH

SCARBOROUGH ROADWAY IMPACT FEE ORDINANCE:

DUNSTAN CORNER CAPITAL IMPROVEMENT DISTRICT



**ADOPTED AUGUST 16, 2006
AMENDED FEBRUARY 7, 2007
AMENDED NOVEMBER 16, 2011**

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**ROADWAY IMPACT FEE ORDINANCE:
DUNSTAN CORNER CAPITAL IMPROVEMENT DISTRICT
TOWN OF SCARBOROUGH**

Section I. Title

This Ordinance shall be known and may be cited as the “Scarborough Roadway Impact Fee Ordinance: Dunstan Corner Capital Improvement District”. It is adopted under the authority of Title 30-A M.R.S.A., § 4354, and the Town’s statutory and constitutional home rule powers.

Section II. Purpose

Dunstan Corner is one of Scarborough’s town centers within which four locally and regionally significant roads intersect. The capacity of Route One, and it’s intersections with Pine Point Road (Route 9), Broadturn Road and Payne Road, are critical to the mobility of regional vehicular traffic through Dunstan Corner and the access of local vehicular traffic to destinations within Dunstan Corner. In order for Dunstan Corner to continue to serve and evolve as a town center, while also maintaining and increasing vehicular mobility and access, the area is in need of adequate roadway infrastructure to support future development and the accompanying traffic generation and demands.

The Town has completed a master plan for roadway infrastructure improvements that will accommodate the traffic growth projected for the next twenty years and will establish the additional vehicular capacity and adequate levels of service necessary to serve, accommodate and benefit new development. The purpose of the Dunstan Corner Capital Improvement District is to procure the Town’s share of the cost of implementing these roadway infrastructure improvements from future development projects. The remaining roadway infrastructure improvement costs will be funded through cost sharing between PACTS (Portland Area Comprehensive Transportation System) and the Maine Department of Transportation. (amended 02/07/2007)(amended 11/16/2011)

Section III. Applicability

- A.** This ordinance shall apply to all new development seeking subdivision or site plan approval, the expansion of previously approved subdivisions or site plans, all new extractive industry operations, and to any change in use requiring site plan approval when the proposed development, whether located within or without the Dunstan Corner Capital Improvement District, generates additional traffic within the Dunstan Corner Capital Improvement District. (amended 02/07/2007)
- B.** The following development and construction shall be exempt from this ordinance:
 - 1.** Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips.
 - 2.** Construction of accessory buildings or structures which do not generate additional vehicle trips.

3. The replacement of a building or structure destroyed or damaged by fire, flood or natural disaster with a new building or structure of the same size or use which does not generate additional vehicle trips.

Section IV. Impact Fee Procedures

- A. Any person who seeks a permit or approval for any development, activity or use described in Section III(A) of this Ordinance is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance. (amended 02/07/2007)
- B. Preliminary determinations regarding whether a proposed development will generate traffic within the Dunstan Corner Capital Improvement District shall be made by the Town Planner and the Town's consulting traffic engineer. Actual traffic generation, impacts, and the corresponding fee, shall be determined through a traffic analysis (in accordance with Section V of this ordinance), 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's consulting engineer and shall be incorporated into the review and approval of a development project by the Planning Board, or the Planning and Code Enforcement Department when applicable.

Section V. Impact Fee Calculations

An impact fee shall be applied to development projects located in whole or in part within the Town of Scarborough that generate additional traffic within the Dunstan Corner Capital Improvement District. This impact fee is structured to be in proportion to the development project's share of 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 Section IV(B) 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 Dunstan Corner Capital Improvement District in the P.M. peak commuter hour.
- B. The impact fee calculation for individual development projects shall use 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 and 6:00 PM 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 Dunstan Corner Capital Improvement District within the P.M. peak commuter hour. All new trips that pass through the District, regardless of whether they pass through the Dunstan Corner or

Payne Road/Route One intersections, shall be counted as new trips. 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.

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

1. The Town cost of the master plan for roadway infrastructure improvements in the Dunstan Corner Capital Improvement District will amount to \$1,430,000, which is to be funded from this impact fee ordinance. (amended 02/07/2007)(amended 11/16/2011)
2. The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately 1020 trip ends in the P.M. peak commuter hour of traffic.
3. Each additional trip generated by new development will benefit from the 1020 trip ends of capacity and will utilize one trip end of that additional capacity.
4. The fee per trip, therefore, shall be \$1,402. This fee per trip equals \$1,430,000 / 1020 trip ends. (amended 02/07/2007)(amended 11/16/2011)

- E.** For any development requiring subdivision review, site plan review or other Planning Board review, the Planning Board shall determine the total impact fee for the development calculated pursuant to Section V, subsections A through D above, and then shall establish a payment schedule which apportions the impact fee to component parts of the development based on the estimated trip generation for each component part. Depending on the nature of the development, a component part may be a lot, a building, a dwelling unit (as defined in the Scarborough Zoning Ordinance), a unit of occupancy (as defined in the Scarborough Zoning Ordinance), or some combination thereof. The payment schedule shall specify the portion of the impact fee attributable to each component part and the point during the construction of the development at which the impact fee for each component part must be paid. The payment schedule shall be incorporated into the Planning Board's written approval document and endorsed on any final plan for the development.
- F.** For any development not requiring Planning Board review but requiring the payment of an impact fee under this ordinance, the Town Engineer shall determine the impact fee and payment schedule, pursuant to Section V, subsections A through E above.
- G.** If, after a development has been approved, changes are proposed which would change the trip generation for the development or a component part of the development, then, on the initiative of the Town or the developer, the impact fee and payment schedule may be recalculated, and such recalculated impact fee and payment schedule shall apply to all subsequent permits issued within the development.

Section VI. Impact Fee Payment (amended 02/07/2007)

The impact fee amount, as determined in accordance with Sections IV and V of this ordinance, shall be paid to the Town according to the payment schedule established under Section V, except as follows:

- A. For an extractive industry project, the impact fee amount shall be paid prior to the release of the attested final plan to the developer for recording at the Cumberland County Registry of Deeds.

Payments shall be tendered to the Town Engineer. Upon determining that the payment is in the correct amount, the Town Engineer shall issue a receipt for the payment and deliver the payment to the Town Treasurer.

Section VII. Dunstan Corner Capital Improvement District Boundaries

The Dunstan Corner Capital Improvement District is depicted on the map attached to this Ordinance as Appendix A and encompasses the following sections of roadway:

- Route 1 beginning 550 feet south of Broadturn Road extending northerly 2000 feet.
- Pine Point Road beginning at its intersection with Route 1 extending easterly 850 feet.
- Payne Road beginning at its proposed relocated intersection with Route 1 extending 1550 feet to align with the existing Payne Road.
- A proposed roadway beginning at Route 1 opposite the relocated Payne Road, westerly to Higgins Street.
- All of Harlow Street and Higgins Street.

Section VIII. Impact Fee Trust Fund

- A. There is hereby established a Dunstan Corner Capital Improvement District Trust Fund to segregate the impact fee revenue generated by this ordinance from the Town's general revenues.
- B. Funds withdrawn from this trust fund account shall be used in accordance with Section IX of this ordinance.

Section IX. Use of Impact Fee Funds

- A. Funds generated by this ordinance will be used for the purpose of completing the capital improvements identified in the master plan for roadway infrastructure improvements within Dunstan Corner Capital Improvement District.
- B. No funds shall be used for periodic or routine maintenance.
- C. In the event that bonds or similar debt instruments are issued for advanced 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 the master plan for roadway infrastructure improvements, as per Section IX(A) of this ordinance.

- D. Funds may be used to provide refunds in accordance with Section X.
- 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 within the Dunstan Corner Capital Improvement District. Such project and site specific improvements shall be the responsibility of the developer.

Section X. Refund of Impact Fees

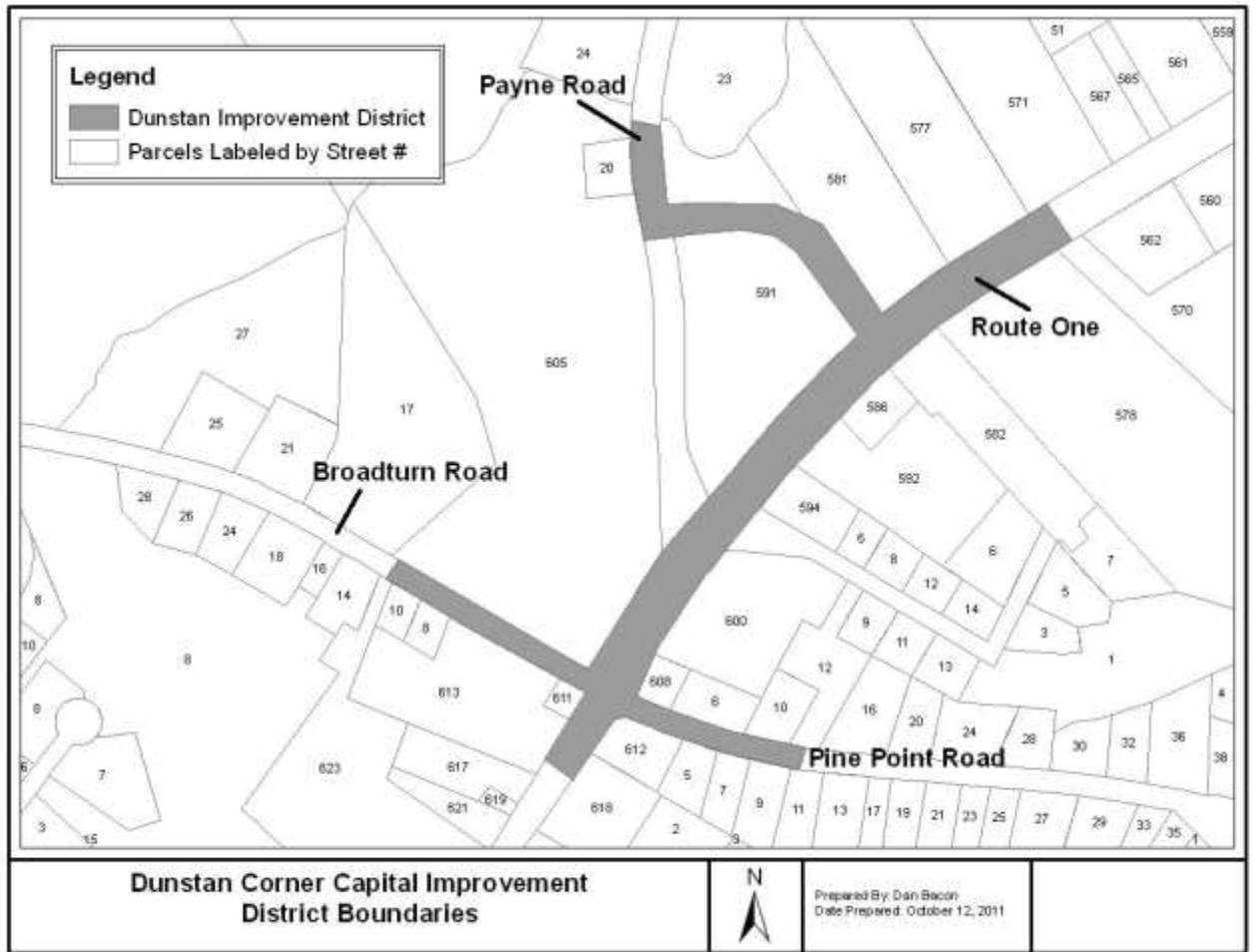
- A. If a building permit or site plan is surrendered or expires without commencement of construction; or a subdivision plan or extractive industries approval expires without recordation of the plan at the registry of deeds, the developer shall be entitled to a refund, without interest, of the impact fee paid as required by this ordinance. The developer must submit an application for such a refund to the Town Engineer not later than fifteen (15) days after the expiration of the building permit, site plan, subdivision plan or extractive industries approval.
- B. Any funds not expended or obligated by contract by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall, upon application for a refund by the developer, be returned to the developer without interest, provided that the developer submits an application for a refund to the Town Engineer within 180 days after expiration of the ten (10) year period.

Section XI. Master Plan for Roadway Infrastructure Improvements

- A. As per Section IX(A) of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the following master plan:

Dunstan Corner, Scarborough, Maine, PIN 17343.00, September 28, 2011, Preliminary Design Scale 1" = 40', HNTB Corporation. (amended 11/16/2011)
- B. The above cited plans may be amended by the Town Council, in accordance with Chapter 302, Scarborough Town Council Rules, Policies and Procedures Manual, if the amendments to the master plan are consistent with and further the purpose of this ordinance.

Appendix A.



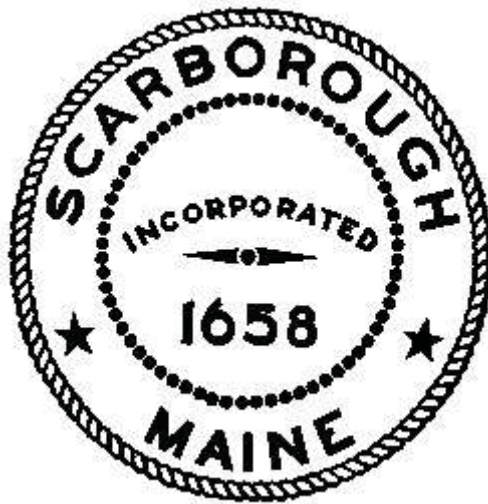
CHAPTER 415B

TOWN OF SCARBOROUGH

SCARBOROUGH ROADWAY IMPACT FEE ORDINANCE:

HAIGIS PARKWAY / ROUTE ONE CAPITAL IMPROVEMENT

DISTRICT



ADOPTED November 2, 2011

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HAIGIS PARKWAY / ROUTE ONE CAPITAL IMPROVEMENT DISTRICT TOWN OF SCARBOROUGH

Section I. Title

This Ordinance shall be known and may be cited as the “Scarborough Roadway Impact Fee Ordinance: Haigis Parkway / Route One Capital Improvement District”. It is adopted under the authority of Title 30-A M.R.S.A., § 4354, and the Town’s statutory and constitutional home rule powers.

Section II. Purpose

The Haigis Parkway / Route One / Lincoln Avenue intersection is one of the most significant intersections in the Town of Scarborough and is critical to the current and future mobility of local and regional motorists. This intersection currently serves local and regional travel on Route One, the Haigis Parkway, and Lincoln Avenue and provides important connections to Payne Road, the Maine Turnpike and the Scarborough industrial park. In addition, this intersection is an important facility for managing future traffic demands, both to provide an alternative to the high traffic volumes on Payne Road as well as to accommodate the future growth and development that is planned for land accessible from the Haigis Parkway and Route One.

In order for the Haigis Parkway / Route One / Lincoln Avenue intersection to continue to adequately serve local and regional transportation needs, while also providing additional capacity to support future development and the accompanying traffic generation and demands, roadway infrastructure improvements are warranted. These improvements are highlighted in the Town-Wide Transportation Study and in the Transportation Policy Objectives of the Town’s Comprehensive Plan.

To that end the Town has completed a master plan for roadway infrastructure improvements that will accommodate the traffic growth projected for the next fifteen years and will establish the additional vehicular capacity and adequate levels of service necessary to serve, accommodate, and benefit new development. These roadway infrastructure improvements also include provisions for pedestrians in order to enhance the walk-ability and pedestrian safety of this section of Route One. The purpose of the Haigis Parkway / Route One Capital Improvement District is to reimburse the portion of the Town’s cost of constructing these roadway infrastructure improvements that benefit new development by providing additional vehicular capacity.

Section III. Applicability

- A. This Ordinance shall apply to all new development seeking subdivision or site plan approval, the expansion of previously approved subdivisions or site plans, new development enabled by land divisions exempted from subdivision review as per Title 30-A M.R.S.A. §4401(4), all new extractive industry operations, and to any change in use when the proposed development, whether located within or

outside the Haigis Parkway / Route One Capital Improvement District, generates additional traffic within the Haigis Parkway / Route One Capital Improvement District.

B. The following development and construction shall be exempt from this ordinance:

1. Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips.
2. Construction of accessory buildings or structures which do not generate additional vehicle trips.
3. The replacement of a building or structure destroyed or damaged by fire, flood or natural disaster with a new building or structure of the same size or use which does not generate additional vehicle trips.

Section IV. Impact Fee Procedures

- A.** Any person who seeks a permit or approval for any development, activity or use described in Section III.A of this Ordinance is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance.
- B.** Preliminary determinations regarding whether a proposed development will generate traffic within the Haigis Parkway / Route One Capital Improvement District shall be made by the Town Planner and the Town's consulting traffic engineer. Actual traffic generation, impacts, and the corresponding fee, shall be determined through a traffic analysis (in accordance with Section V. of this ordinance), 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's consulting engineer and shall be incorporated into the review and approval of a development project by the Planning Board, or the Planning and Code Enforcement Department when applicable.

Section V. Impact Fee Calculations

An impact fee shall be applied to development projects located in whole or in part within the Town of Scarborough that generate additional traffic within the Haigis Parkway / Route One Capital Improvement District. This impact fee is structured to be in proportion to the development project's share of 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 Section IV(B) 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 Haigis Parkway / Route One Capital Improvement District in the P.M. peak commuter hour.

- B.** The impact fee calculation for individual development projects shall use 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 and 6:00 PM 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 Haigis Parkway / Route One Capital Improvement District within the P.M. peak commuter hour. All new trips that pass through the District shall be counted as new trips. 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.
- D.** The fee determination shall be based on the following:

 - 1. The Town cost of the master plan for roadway infrastructure improvements in the Haigis Parkway / Route One Capital Improvement District amounts to \$1,005,000, which is to be funded from this impact fee ordinance.
*(This cost total is less than the total project cost for the Fiscal Year 2010 CIP Project because the improvements associated with the Dunstan Corner intersection plan, the Southgate intersection plan, landscaping enhancements, and the Haigis/Scottow Hill Rd. and Route One/Enterprise Dr. improvements were not included).
 - 2. The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately 1015 trip ends in the P.M. peak commuter hour of traffic.
 - 3. Each additional trip generated by new development will benefit from the 1015 trip ends of capacity and will utilize one trip end of that additional capacity.
 - 4. The fee per trip, therefore, shall be \$990.00. This fee per trip equals \$1,005,000 / 1015 trip ends.
- E.** For any development requiring subdivision review, site plan review or other Planning Board review, the Planning Board shall determine the total impact fee for the development calculated pursuant to Section V, subsections A through D above, and then shall establish a payment schedule which apportions the impact

fee to component parts of the development based on the estimated trip generation for each component part. Depending on the nature of the development, a component part may be a lot, a building, a dwelling unit (as defined in the Scarborough Zoning Ordinance), a unit of occupancy (as defined in the Scarborough Zoning Ordinance), or some combination thereof. The payment schedule shall specify the portion of the impact fee attributable to each component part and the point during the construction of the development at which the impact fee for each component part must be paid. The payment schedule shall be incorporated into the Planning Board's written approval document and endorsed on any final plan for the development.

- F.** For any development not requiring Planning Board review but requiring the payment of an impact fee under this Ordinance, the Town Engineer shall determine the impact fee and payment schedule, pursuant to Section V, subsections A through E above.
- G.** If, after a development has been approved, changes are proposed which would change the trip generation for the development or a component part of the development, then, on the initiative of the Town or the developer, the impact fee and payment schedule may be recalculated, and such recalculated impact fee and payment schedule shall apply to all subsequent permits issued within the development.

Section VI. Impact Fee Payment

The impact fee amount, as determined in accordance with Sections IV and V of this Ordinance, shall be paid to the Town according to the payment schedule established under Section V, except as follows:

- A.** For an extractive industry project, the impact fee amount shall be paid prior to the release of the attested final plan to the developer for recording at the Cumberland County Registry of Deeds.
- B.** For a new residential dwelling(s) proposed on a lot(s) created by a land division(s) exempted from subdivision review as per Title 30-A M.R.S.A. §4401(4), the impact fee amount shall be paid prior to the issuance of a building permit for construction.

Payments shall be tendered to the Town Engineer. Upon determining that the payment is in the correct amount, the Town Engineer shall issue a receipt for the payment and deliver the payment to the Town Treasurer.

Section VII. Haigis Parkway / Route One Capital Improvement District Boundaries

The Haigis Parkway / Route One Capital Improvement District is depicted on the map attached to this Ordinance as Appendix A.

Section VIII. Impact Fee Trust Fund

- A.** There is hereby established a Haigis Parkway / Route One Capital Improvement District Trust Fund to segregate the impact fee revenue generated by this Ordinance from the Town's general revenues.
- B.** Funds withdrawn from this trust fund account shall be used in accordance with Section IX. of this ordinance.

Section IX. Use of Impact Fee Funds

- A.** Funds generated by this ordinance will be used for the purpose of financing the capital improvements identified in the master plan for roadway infrastructure improvements within the Haigis Parkway / Route One Capital Improvement District.
- B.** No funds shall be used for periodic or routine maintenance.
- C.** Given that bonds may be issued to finance the implementation of the capital improvements identified in the master plan for roadway infrastructure improvements within the Haigis Parkway / Route One Capital Improvement District, impact fee funds may be used to pay debt service on such bonds to the extent that the improvements provided are a component of the master plan for roadway infrastructure improvements, as per Section IX. A. of this ordinance.
- D.** Funds may be used to provide refunds in accordance with Section X.
- 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 within the Haigis Parkway / Route One Capital Improvement District. Such project and site specific improvements shall be the responsibility of the developer.

Section X. Refund of Impact Fees

- A.** If a building permit or site plan is surrendered or expires without commencement of construction; or a subdivision plan or extractive industries approval expires without recordation of the plan at the registry of deeds, the developer shall be entitled to a refund, without interest, of the impact fee paid as required by this ordinance. The developer must submit an application for such a refund to the Town Engineer not later than fifteen (15) days after the expiration of the building permit, site plan, subdivision plan or extractive industries approval.
- B.** Any funds not expended or obligated by contract by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall,

upon application for a refund by the developer, be returned to the developer without interest, provided that the developer submits an application for a refund to the Town Engineer within 180 days after expiration of the ten (10) year period.

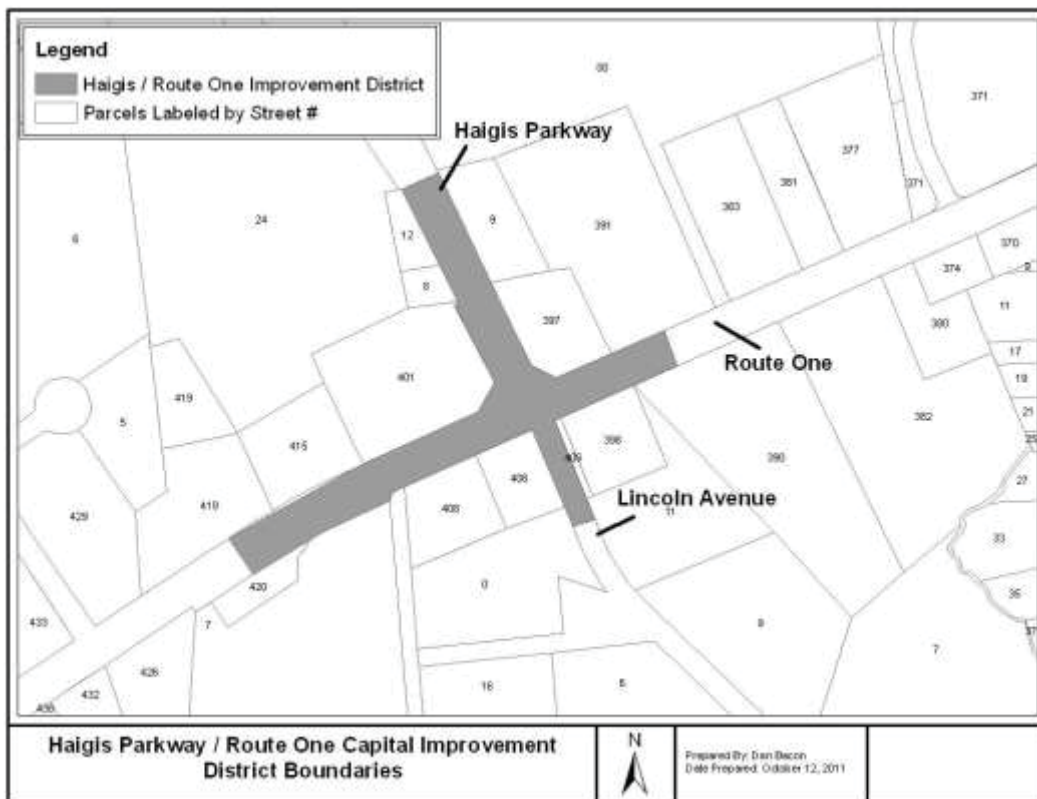
Section XI. Master Plan for Roadway Infrastructure Improvements

- A. As per Section IX. A. of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the following master plan:

Drawing Name: “Intersection Improvements Route 1 & Haigis Parkway, Scarborough, Maine, Cumberland County” dated August 2010 and prepared by Gorrill-Palmer Consulting Engineers, Inc.

- B. The above cited plans may be amended by the Town Council, in accordance with Chapter 302, Scarborough Town Council Rules, Policies and Procedures Manual, if the amendments to the master plan are consistent with and further the purpose of this ordinance.

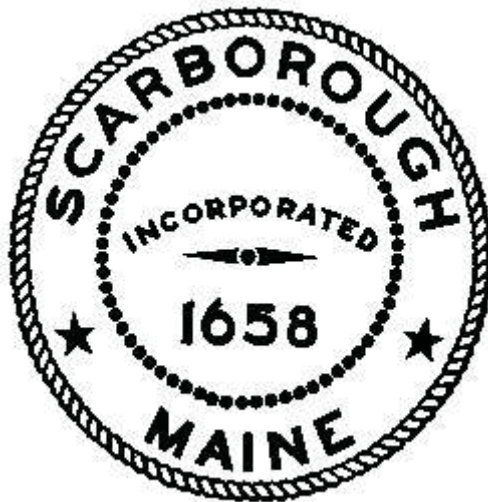
Appendix A.



CHAPTER 407

SEPTIC TANK SLUDGE DISPOSAL

ORDINANCE



Adopted June 18, 1975
Amended September 6, 1995
Amended November 1, 2017

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CHAPTER 407
TOWN OF SCARBOROUGH
SEPTIC TANK SLUDGE DISPOSAL ORDINANCE

An ordinance regulating the disposal of wastes, refuse, effluent, sludge or any other materials from septic tanks and cesspools located within the Town of Scarborough, Maine, and deposited at the site designated by the Municipal Officers.

ARTICLE I

Title

This ordinance shall be known, and may be cited as “The Septic Tank Sludge Disposal Ordinance of Scarborough, Maine.”

ARTICLE II

Purpose

The purpose of this Ordinance is to promote the health, safety and general welfare of the people of the Town of Scarborough by regulating the disposal of wastes, refuse, effluent, sludge or any other materials from septic tanks and cesspools or other private sewage disposal systems within the Town of Scarborough, and deposited at the site designated by the Municipal Officers.

ARTICLE III

Definitions

1. “Contractors” shall mean any person, firm, corporation or other legal entity who pumps, conveys, or in any manner otherwise disposes of waste, refuse, effluent, sludge or other materials from septic tanks, cesspools, or other private sewage disposal systems, whether for consideration or otherwise, and shall include the owner of the premises concerned, her/his agents, servants or employees.

2. “Code Enforcement Officer” shall mean the Code Enforcement Officer or her/his designate of the Town of Scarborough, Maine.

ARTICLE IV

Application and Permit Required

Every contractor, prior to disposal of any material or substance which is regulated by this Ordinance, shall first notify the Code Enforcement Officer of her/his intent and file the required application for a permit.

The required application must be completed and filed with the Code Enforcement Office, and the required permit obtained prior to disposal.

The application shall contain, but is not limited to, the following information:

Permit # _____

Owner's name _____

Owner's address _____

Location of tank, cesspool or system _____

Date _____

Contractor's name _____

Address _____

Volume of material _____

Type of Material

☐ Septage

☐ Sludge

☐ Grey Water

☐ Other (Specify type) _____

Fee Schedule: As adopted April 5, 1978

Fees shall be as specified in *Schedule of License, Permit and Application Fees* established by the Town Council. [amended 09/06/95]

<input type="checkbox"/> Field spread	per gallon
<input type="checkbox"/> Holding tank	per gallon
<input type="checkbox"/> Drying bed	per gallon
Disposal of Treatment Plant Sludge (S.S.D. Only)	per gallon
Disposal of Industrial Sludge and Wastes	per gallon
Grey Water 2,000 gallons, Maximum Load	per gallon

Fee _____

Received by _____

All wastes, refuse, effluent, sludge or any other materials from all septic tanks and cesspools, or other private sewage disposal systems within the Town of Scarborough shall be disposed of in accordance with the "Maine Guidelines for Septic Tank Sludge Disposal on the Land", published by the Life Sciences and Agriculture Experiment Station, and the Cooperative Extension Service, University of Maine, Orono, and the Maine Soil and Water Conservation Commission, Misc. Report No. 155, dated April 1974, which guidelines are specifically made a part of, and incorporated into, this Ordinance.

Penalties

Any person, firm, partnership, or corporation who violates any provision of this Ordinance shall, upon conviction, be fined in an amount not more than One Hundred Dollars (\$100.00) for each violation.

Each day in which any such violation shall continue shall be deemed a separate violation.

In addition to the foregoing penalties, the Town of Scarborough may seek injunctive or other relief to prohibit violations of this Ordinance and to correct conditions caused by violations hereof.

Separability

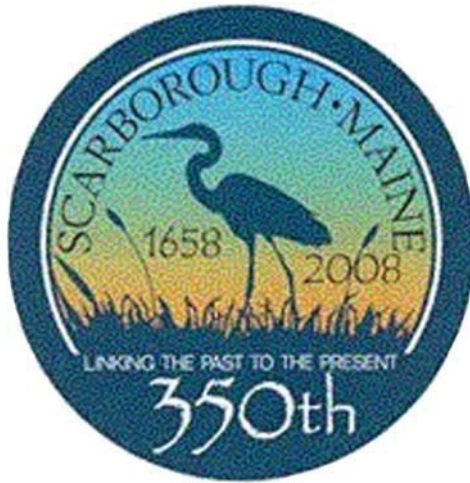
In the event that any section, subsection or any portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to effect the validity of any other section, subsection or any other portion of this Ordinance.

CHAPTER 409

TOWN OF SCARBOROUGH

SEWER ASSESSMENT ORDINANCE

(Town Center & Eight Corners Development Districts)



REPEALED SEPTEMBER 17, 2008

**REPEAL OF TOWN OF SCARBOROUGH
SEWER ASSESSMENT ORDINANCE**

BE IT HEREBY ordained by the Town Council of the Town of Scarborough, Maine in Town Council assembled, as follows:

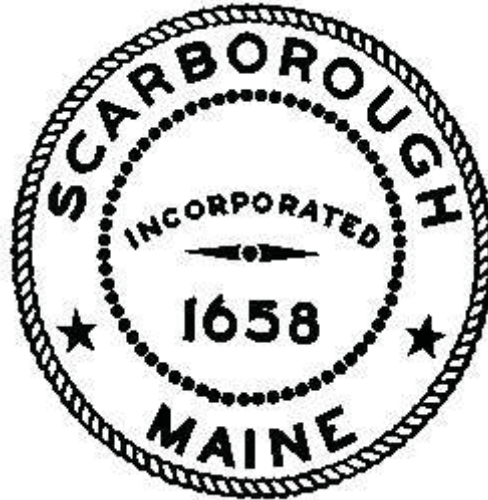
1. The Town of Scarborough Sewer Assessment Ordinance (Town Center and Eight Corners Development Districts) as adopted on February 1, 1989, ratified on March 8, 1989 and amended on November 7, 1990, is hereby repealed.
2. Notwithstanding Title 1, Section 302, this repeal shall apply to any actions or proceedings pending at the time of the repeal vote.
3. This repeal takes effect at 12:01 A.M. on Thursday, September 18, 2008.
4. This repeal has no effect on any fees, rates or charges imposed by the Scarborough Sanitary District.

CHAPTER 1002

TOWN OF SCARBOROUGH

SHELLFISH CONSERVATION

ORDINANCE



Adopted 12/04/85
Amended 01/06/86
Re-Adopted 02/15/89
Amended 02/07/90
Amended 12/19/90
Re-Adopted 02/19/92
Amended 02/19/92
Amended 03/03/93
Amended 02/02/94
Re-Adopted as Amended 02/15/95
Amended 09/05/95
Amended 02/28/96
Amended 02/19/97
Re-Adopted as Amended 02/18/98
Amended 01/20/99
Amended 01/05/00

Amended 01/03/01
Re-Adopted 02/07/01
Amended 04/18/01
Amended 07/17/02
Amended 03/19/03
Amended 03/17/04
Re-Adopted 03/17/04
Amended 03/16/05
Amended 11/02/05
Amended 03/01/06
Amended 04/04/07
Amended 10/17/07
Amended 02/18/09
Amended 03/20/13
Amended June 3, 2015
Amended October 5, 2016

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**CHAPTER 1002
TOWN OF SCARBOROUGH
SHELLFISH CONSERVATION ORDINANCE**

1. Authority:

This Ordinance is enacted in accordance with 12 M.R.S.A., Section 6671.

2. Purpose:

To establish a shellfish conservation program for the Town of Scarborough which will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:

- a. Licensing
- b. Limiting the number of shellfish harvesters
- c. Restricting the time and area where digging is permitted
- d. Limiting the minimum size of clams taken
- e. Limiting the amount of clams taken daily by a harvester
- f. Engaging in activities intended to protect and enhance the resource such as transplanting or seeding of shellfish. [Adopted 06-03-15]

3. Shellfish Conservation Committee:

The Shellfish Conservation Program for the Town of Scarborough will be administered by the Shellfish Conservation Committee consisting of 7 members to be appointed by the Town Council for terms of 3 years. The Committee's responsibilities include:

- a. Establishing annually in conjunction with the Dept. of Marine Resources, the number of shellfish digging licenses to be issued.
- b. Surveying the clam flats to maintain current information on shellfish resources.
- c. Submitting to the Town Council, proposals for the expenditures of funds for the purpose of shellfish conservation.
- d. Keeping this Ordinance under review and making recommendations for its amendments.
- e. Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the D.M.R.
- f. Approving conservation closures and openings in conjunction with the Area Biologists of the D.M.R. [amended 01/03/01].
- g. Submitting an annual report to the Municipality and the D.M.R. covering the above topics and all other committee activities.

4. Definitions:

a. Resident

The term "resident" refers to a person who has physically resided at a fixed, permanent and principal home in the town for at least six months next prior to the date of application for a

license under this Ordinance or, in the case of student, to a student living temporarily outside of Scarborough while enrolled in a college, university or post-secondary school, provided such student maintains his or her fixed permanent principal home in Scarborough. [amended 07/17/02]

b. Non-resident

The term “non-resident” means anyone not qualified as a resident under this Ordinance.

c. Shellfish, Clams

When used in the context of this Ordinance, the words “shellfish and clams” mean soft-shell clams MYA ARENARIA.

d. Municipality

Refers to the Town of Scarborough, Maine.

e. Conservation Projects

Conservation Projects may include seeding projects, crab projects, school projects, surveys or any other project accepted by the Shellfish Conservation Commission. [Adopted 06-03-15]

5. Licensing - Municipal Shellfish Digging is required:

It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current license issued by this municipality as provided by this Ordinance.

A Commercial Digger must also have a valid STATE OF MAINE COMMERCIAL SHELLFISH LICENSE issued by the Department of Marine Resources, if state law makes possession of the state license a prerequisite to issuance of a municipal license.

A. Designation, Scope and Qualifications:

1. Resident Commercial Shellfish License:

The license is available to residents of the Town of Scarborough who are 18 years or older and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.[amended 03/21/13]

2. Non-resident Non-reciprocating Commercial Shellfish License:

The license is available to non-residents of this municipality who are 18 years or older and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.[amended 03/21/13]

3. Resident Student Commercial License:

The license is available to residents of the Town of Scarborough who are full time students between the minimum age of twelve (12) years old and the maximum age of twenty-two (22) years old on May 1 of the year in which the application is made. Applicants must show proof of age and proof of school attendance and students attending college must also show proof of a minimum of twelve (12) college credit hours per semester to be considered full-time students. Applicants under the age of 18 must also have the signature of a parent or guardian on the application for the license to be valid. This license entitles the holder to dig or take any amount of shellfish from the shores and flats of this municipality. [amended 01/03/01] [amended 07/17/02] [amended 06-03-15]

4. Non-resident Student Commercial License:

The license is available to non-residents of the Town of Scarborough who are full time students between the minimum age of twelve (12) years old and the maximum age of twenty-two (22) years old on May 1 of the year in which the application is made. Applicants must show proof of age and proof of school attendance and students attending college must also show proof of a minimum of twelve (12) college credit hours per semester to be considered full-time students. Applicants under the age of 18 must also have the signature of a parent or guardian on the application for the license to be valid. This license entitles the holder to dig or take any amount of shellfish from the shores and flats of this municipality. [amended 01/03/01] [amended 07/17/02]

5. Over 60 Resident Commercial Bushel License:

The license is available to residents of the Town of Scarborough who are 60 years old and over. Applicants must show proof of age and residence. This license entitles the holder to dig or take one (1) bushel of shellfish from the shores and flats of this municipality at each tide. [amended 02/18/98] [amended 01/20/99]

6. Residential Recreational Shellfish License:

The license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use the holder and his or her family. It is a violation of this ordinance for any person to sell, or otherwise receive remuneration for, any shellfish harvested pursuant to a residential recreational shellfish license. Any holder of a recreational license who is cited by the Shellfish Conservation Officer for selling or otherwise receiving remuneration for any shellfish harvested pursuant to that license, in addition to being subject to the other penalties provided in this ordinance, shall be ineligible for a recreational license in the next licensing year following that violation. The Shellfish Conservation Officer's determination of violation may be appealed in the same manner as a license suspension under Section 5(H)(3). [amended 06-03-15]

6-a. Non-resident Recreational Shellfish License:

The license is available to non-residents of the Town of Scarborough and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of the holder and his or her family. It is a violation of this ordinance for any person to sell, or otherwise receive remuneration for, any shellfish harvested pursuant to a non-resident recreational shellfish license. Any holder of a non-resident recreational shellfish license who is cited by the Shellfish Conservation Officer for selling or otherwise receiving remuneration for any shellfish harvested pursuant to that license, in addition to being subject to the other penalties provided in this ordinance, shall be ineligible for a recreational license in the next licensing year following that violation. The Shellfish Conservation Officer's determination of violation may be appealed in the same manner as a license suspension under Section 5(H). [03/19/03] [amended 06-03-15]

7. Resident Recreational Day Licenses.

This license entitles residents and real estate taxpayers of the Town of Scarborough to dig or take up to one peck of shellfish from the shores and flats or this municipality during a single calendar day specified in the license. The duration of this license is one calendar day only. [02/18/98]

8. Non-resident Recreational Day Licenses.

This license entitles non-residents of the Town of Scarborough to dig or take up to one peck of shellfish from the shores and flats or this municipality during a single calendar day specified in the license. The duration of this license is one calendar day only. [02/18/98]

9. License must be signed.

The licensee must sign the license to make it valid.

10. Commercial license applicant may only apply for one type.

A commercial license applicant may only apply for one type of commercial license under this Ordinance.

B. Contents of Application:

Any person may apply to the Town Clerk for the license required by this ordinance on forms provided by the municipality.

1. Contents of the Application:

The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, signature and whatever other information the Town Clerk may require.

2. False Statements.

Any person who provides information in support of an application under this ordinance must do so in the form of an affidavit. If the applicant provides false information, the applicant forfeits the right to a license and a license previously issued to that applicant shall become void. Any other person who gives false information in support of an application under this ordinance commits a violation of this ordinance punishable under section 5(K). [02/18/98].

C. Fees:

The fees for the licenses are as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council, and must accompany in full the application for the respective license. Fees for non-resident licenses shall not exceed twice the amount charged for the equivalent resident licenses. The Town Clerk shall pay all fees received to the Town Treasurer. Fees received for shellfish licenses shall be used by the Town for shellfish management, conservation and enforcement. Fees are non-refundable, except that the holder of a student commercial license who surrenders the license within seventy-five (75) after the date of issuance shall receive a refund of one-half the license fee. [01/05/00]

D. Conservation Activities: [Adopted 06-03-15]

The Town encourages all shellfish diggers to protect and enhance the resource by participating in conservation activities such as seeding clam beds, participating in shellfish surveys, and participating in other approved resource management activities. All Commercial License holders 18 years of age or older may be required to participate in shellfish seeding as deemed necessary by the Shellfish Conservation Committee. Seeding or other approved conservation activities also may be undertaken on a volunteer basis. Commercial License Holders who complete the specified number of hours of conservation activities which may include required shellfish seeding hours and volunteer hours for a total of twelve (12), will be eligible for priority license renewal pursuant to Section 5.E.4.(a) of this Ordinance.

The Shellfish Conservation Committee will approve all accepted conservation activities by a majority vote. The names and number of hours completed on an accepted conservation activity will be recorded in writing by the Shellfish Conservation Officer and submitted to the Shellfish Committee on a monthly basis for their records.

It shall be the sole responsibility of the Commercial License holder to contact the Shellfish Committee Members or the Shellfish Officer to determine the conservation available to participate in. The Shellfish Committee Chair, with consent of the majority membership of the Committee, may designate special conservation work during any period of State closure of the Town of Scarborough shellfish beds. The Chair may poll the Committee by telephone, email, fax or in person for the purposes of this section. Each Commercial License holder is encouraged to contribute at least half of their voluntary conservation activity in the form of low tide work. All crab trapping is considered low tide work. The conservation year will run from May 1st to November 30th. School conservation activities have a deadline of December 31st and are limited to a maximum of three (3) hours per project and six (6) hours total allowed.

The Shellfish Conservation Committee may waive all or part of the requirement for shellfish seeding for an applicant who provides the Committee with a written statement from a physician indicating that the applicant was not able to participate in any regularly scheduled shellfish seeding do to incapacitation by illness or injury. The Committee may also allow the following alternative conservation work, on an hour for hour basis, upon the request of an applicant made at a regular monthly meeting of the Committee. Such alternative work may be used to meet the shellfish seeding requirement or may be used to qualify as additional volunteer conservation activity:

- i. Another time to complete conservation time for an applicant who demonstrates to the Committee that the illness or incapacitation of a parent, spouse or child prevented that person from participating in regularly scheduled conservation time; or,
- ii. Alternate, less strenuous work for an applicant who provides the Committee with a written statement from a physician indicating that the applicant is not physically able to participate in regular conservation work.
- iii. At the discretion of the Project Leader, any scheduled conservation project may be canceled and/or terminated due to severe weather or safety concerns for those involved. Any participate present or arriving within ten minutes at

the designated meeting area and start time must still sign in and sign out. These participants will receive the allotted hours of conservation time for that particular project regardless of performing the activity.

E. Issuance of Shellfish Licenses: [amended 06-03-15]

Clam resources vary in density and size distribution from year to year and over the limited soft clam producing area of the Town. It is essential that the town carefully husband its shellfish resources. Following the annual review of the town's clam resources, its size distribution, abundance and the warden's reports, as required by Section 3, the Shellfish Conservation Committee, in consultation with the D.M.R. area biologist, will determine whether limiting commercial or recreational shellfish licenses is an appropriate shellfish management option for the following year.

- 1) Prior to February 1 of 1998 and each succeeding year, the committee shall report its findings and document recommendations for the allocation of commercial and recreational licenses to be made available for the following license-year to the Commissioner of Marine Resources for concurrence.
- 2) After receiving approval of proposed license allocations from the Commissioner of Marine Resources and prior to February 1 of 1998 and each succeeding year, the Shellfish Conservation Committee shall notify the Town Clerk in writing of the number and allocation of shellfish licenses to be issued.
- 3) Notice of the number of licenses and the procedure for application shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes.
- 4) The Town Clerk shall accept applications for shellfish licenses annually commencing on the first Monday in April, or on the first town office business day thereafter if the first Monday is not a business day. [03/19/03]

(a) Commercial Renewal Licenses.

(i): On the first Monday of April and on the next subsequent business day, the Clerk shall issue license only to holders of resident and non-resident commercial shellfish licenses who seek renewal and who have completed at least 12 hours of approved conservation activities which may include mandatory shellfish seeding as well as voluntary conservation work approved under this Ordinance during the term of their current licenses or at least 4 hours of such work if the holder is 70 years of age or older. Such applicants may apply by mail pursuant to subparagraph (ii) below or must appear in person at the office of the Town Clerk during that two day period and pay the application fee at the time of issuance of the license. The Clerk shall issue commercial licenses to such qualified applicants on a first come, first served basis during those two business days. Any holder of a commercial license whose status as a resident or non-resident has changed at the time of application or who did not complete the requisite hours of approved conservation activities shall not be entitled to apply for renewal

under this subsection (a) but may apply for a new license under subparagraph (b) below. [03/16/2005][amended 06-03-15]

(ii): Effective March 1, 1998 in lieu of applying in person pursuant to subparagraph (I) above, an applicant for a renewal resident or non-resident commercial license may apply by mail. Applications by mail must be received at the Town Clerk's office on a day that office is open for business no earlier than March 1 and no later than March 31. The application must be accompanied by the required license fee, a copy of the applicant's driver's license, a copy of the applicant's motor vehicle registration certificate, and any other information upon which the applicant relies to document residency. The Clerk shall mark all applications with the date and time of receipt. If more than one application is received at the same time, the Clerk shall determine their order or receipt of random drawing and mark them accordingly. The Clerk's marks concerning order of receipt shall be conclusive for purposes of applying the first-come first-served provisions of paragraph (i) above.

(b) Non-Renewal Resident Commercial and Non-Resident Non-Reciprocating Commercial Licenses.

(i) On the third and fourth subsequent business days, the Clerk shall accept applications for any remaining resident commercial shellfish licenses and non-resident non-reciprocating commercial shellfish licenses. Applicants must apply in person and be 18 years of age at the time of application, at the office of the Town Clerk. The Clerk shall not issue any licenses during the third and fourth business days, but shall inform each applicant that licenses will be awarded on the basis of a lottery and advise each applicant of the time and place where the lottery will be held. On the fifth subsequent business day, the Clerk shall conduct a lottery for the issuance of the remaining resident commercial shellfish licenses and a lottery for the issuance of non-resident non-reciprocating commercial shellfish licenses. In order to be entered into the lottery, an applicant must be present and must tender the application fee at the time of the lottery drawing. The Clerk shall award the remaining resident commercial shellfish licenses by drawing the names of qualified applicants at random and then shall award the non-resident non-reciprocating commercial shellfish licenses by drawing the names of qualified applicants at random.

(ii) If, after June 1 annually, any allocated licenses remain unissued, on the first consecutive Monday, Tuesday and Wednesday in June applications shall be taken and placed in a lottery pool. Applicants must apply in person and be 18 years of age at the time of application. On the following Friday, applicants' names shall be drawn at random by the Town Clerk. Physical presence and full payment are required at the time of drawing, and all applicants must meet eligibility requirements for the license category that they apply for. The lottery shall be conducted in the same fashion as the lottery under section 5(E)(4)(b)(i).

(c) Resident Student Commercial Renewal Licenses, Non-Resident Student Commercial Renewal Licenses and Over 60 Resident Commercial Bushel Renewal Licenses.

Shall be renewable in the same manner as Resident and Non-Resident Commercial Licenses under Section 5.E.4(a), except that required shellfish seeding hours and additional voluntary conservation hours shall be:

Resident & Non-Resident Student Commercial Licenses under the age of 18. [amended 06-03-15]	No conservation time required. [Voluntary participation is encouraged.] [amended 06/03/15]
Resident & Non-Resident Student Commercial Licenses 18 years of age or older at time the license is issued. [adopted 06-03-15]	Twelve (12) hours of approved conservation activities. [adopted 06-03-15]
Over 60 Resident Commercial Bushel Licenses	Eight (8) Hours of approved conservation activities. [03/16/2005] [11/02/2005][amended 06/03/15]
All Commercial License Holders 70 or Older	Four (4) hours of approved conservation activities. [03/16/2005] [11/02/2005] [amended 06/03/15]

Any holder of a student commercial license or over 60 license whose status as a resident or non-resident has changed at the time of application or who did not complete the requisite hours of approved conservation activities shall not be entitled to apply for renewal under this subsection (a) but may apply for a new license under subparagraph (d) below.

(d) Non-Renewal Resident Student Commercial Licenses, Non-Resident Student Commercial Licenses and Over 60 Resident Commercial Bushel Licenses. Applications for new (non-renewal) Resident Student Commercial Licenses, Non-Resident Student Commercial Licenses and Over 60 Resident Commercial Bushel License shall be processed in the same manner as applications for non-renewal Resident Commercial and Non-Resident Non-Reciprocating Commercial Licenses under Section 5.E.4(b), except that for Resident Student Commercial Licenses and Non-Resident Student Commercial Licenses the clerk shall continue drawing names after all licenses have been awarded and until all applicants have been placed on a list in the order their names have been drawn. Any Student Commercial License which is surrendered after issuance shall be made available to the remaining applicants on that list in the order their names were drawn, and then to other applicants on a first-come, first-served basis.

(e) Resident Recreational Licenses.

Commencing on the second Monday in April annually the Town Clerk shall accept applications for resident recreational shellfish licenses. Applicants must appear in person at the office of the Town Clerk. Licenses shall be awarded on a first come, first served basis.

(f) Non-resident Recreational Licenses.

On the second Monday, Tuesday and Wednesday until noon, in April annually, the Town Clerk shall accept applications for non-resident recreational licenses. Applicants must apply in person at the office of the Town Clerk and shall have their names placed in a lottery pool. On that Wednesday at 3:00 p.m., the licenses shall be awarded to applicants drawn at random from the pool by the Clerk and shall not exceed ten percent (10%) of the number of allocated resident recreational shellfish licenses. Physical presence and full payment are required at the time of drawing. The lottery shall be conducted in the same fashion as the lottery under section 5(D)(4)(b)(i).

(g) Remaining Licenses.

If, after August 1 annually, any allocated licenses remain unissued, the clerk shall issue such licenses on a first-come, first served basis, without regard to the residency of the applicant or the allocation between resident and non-resident licenses. [03/16/2005] [11/02/2005]

(h) Day Licenses.

After all available resident and non-resident recreational licenses have been issued under Section 5(D)(4)(d) and 5(D)(4)(e) above, the clerk may receive applications for and issue resident recreational day licenses and non-resident recreational day licenses, on a first-come, first-served basis without regard to residency of the applicant. Applicants must appear in person at the office of the Town Clerk no earlier than 5 calendar days before the day for which the license is requested. An applicant may obtain only one day license at a time and must appear in person on a separate day for each license requested. Each license issued under this section shall specify the calendar day for which it is issued and shall be valid for that day only. [03/16/2005] [11/02/2005]

F. License expiration date:

Each license issued under authority of this Ordinance expires at midnight the 30th of April next following the date of issue.

G. Reciprocal Harvesting Privilege:

Licensees from any other municipality co-operating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of their management program, may harvest shellfish according to the terms of their licenses.

H. Children 16 years or younger may accompany a recreational license holder:

The recreational license holder and accompanying children are entitled to dig no more than the previously stated amount, "one peck of shellfish in any one day for the use of the holder and his or her family." [amended 07/17/02][amended 06/03/15]

I. Suspension: [amended 04/18/01] [amended 03/01/06]

1. Any shellfish licensee having one conviction for a violation of this Ordinance or for a violation occurring within the Town of Scarborough of any state statute regulating the digging or taking of shellfish shall have his or her shellfish license automatically suspended for a period of 14 days. Subsequent convictions during the same license year (May 1 - April 30) shall result in an automatic suspension of sixty

(60) days. A licensee shall have his or her record cleared if there are no convictions within one year from the time of a conviction. As used in this paragraph, the term “digging” means using a shovel, spade, rake, tool or hands to uncover shellfish from the ground and the term “taking” means removing a marine organism from its natural habitat. [amended 04/18/01][amended 06/03/15]

2. Any shellfish licensee having one conviction for a violation occurring within the Town of Scarborough of 12 M.R.S.A. § 6625 (governing identification and tagging of shellfish) shall have his or her shellfish license automatically suspended for a period of seven (7) days. Subsequent convictions during the same license year (May 1 - April 30) shall result in an automatic suspension of fourteen (14) days. A licensee shall have his or her record cleared if there are no convictions within one year from the time of a conviction. [amended 04/18/01] [amended 06/03/15]

3. A licensee whose shellfish license has been suspended pursuant to this section shall automatically have his or her license reinstated after the period of suspension has been served. [amended 04/18/01] [amended 06/03/15]

4. The suspension shall be effective from the third business day after the date of mailing of a Notice of Suspension by the Town Clerk to the Licensee or upon presentation of a Notice of Suspension by the Town Marine Resource Officer, whichever is earlier. [amended 02/18/98].

5. Any licensee whose shellfish license has automatically been suspended pursuant to this section shall be entitled to a hearing before the Shellfish Conservation Committee upon filing of a written Request for Hearing with the Town Clerk within 30 days following the effective date of suspension. Filing of the request for hearing with the Town Clerk stays the suspension until the end of the seventh day following the decision of the Shellfish Conservation Committee. The licensee may appeal the decision of the Shellfish Committee before the Town Council by filing a written Request for Appeal with the Town Clerk within 7 days of the decision of the Shellfish Conservation Committee. Filing of the Request for Appeal with the Town Clerk stays the suspension until the Town Council has rendered its decision. [amended 04/18/01]

6. No holder of a commercial license under this Ordinance shall dig or take shellfish during any time that holder’s State of Maine Shellfish License is suspended. During any such period of suspension, the holder’s license under this Ordinance is automatically suspended. [amended 02/18/09]

J. Opening and Closing of Flats:

The Shellfish Conservation Committee, with the approval of the Commissioner of Marine Resources, may open and close the areas for shellfish harvest (the “Conservation Areas”). Except in the case of emergencies, the Shellfish Conservation Committee shall follow the following procedure prior to opening or closing a Conservation Area:

1. Upon determination by the Shellfish Conservation Committee or by the Chair of the Committee that the opening or closing of a Conservation Area should be considered, the Chair shall place the proposed opening or closing on an agenda for a public hearing.

2. No less than 7 days prior to the hearing, a notice of the hearing describing the location of the Conservation Area proposed to be opened or closed shall be: (a) posted at the Town Office; (b) published in a newspaper of general circulation in the Town of Scarborough; and, (c) communicated to the Department of Marine Resources. The notice may also be placed on the Scarborough Shellfish Conservation Officer's telephone recording.
3. At the public hearing, the Shellfish Conservation Committee shall present and entertain evidence obtained from shellfish surveys and other sources. Members of the public may then comment on such evidence and may present additional evidence relevant to the proposed opening or closing.
4. At the conclusion of the evidence, the Shellfish Conservation Committee shall make findings of fact based on the evidence presented, shall reach conclusions based on those findings of fact, shall order whether the Conservation Area in question shall be opened or closed, and may set such time limitations and other harvesting conditions as are consistent with good conservation practices.
5. The order of the Shellfish Conservation Committee shall be forwarded to the Commissioner of Marine Resources and shall not take effect until approved by the Department of Marine Resources.

In the event the Shellfish Conservation Committee determines that an emergency closing of a Conservation Area is necessary, the Committee may take action without following the procedures described above, provided that the Committee makes a reasonable effort to give adequate public notice and allow for public participation. [amended 01/03/01]

K. Hours Prohibited:

It shall be unlawful to dig any shellfish anywhere in the Town of Scarborough between the hours of one half hour after sundown and one half hour before sunrise. (amended 10/17/2007)[amended 03/21/13]

L. Penalty:

Any person who violates any provision of this ordinance commits a crime, not a civil violation, punishable by a fine of up to \$1,500 per offense, as provided in 12 M.R.S.A. §6671(10). Any person holding a commercial license under this Ordinance who aids or abets the harvest of shellfish in violation of this Ordinance also commits a violation of this Ordinance and shall be subject to the same fines as the person he or she assisted. [amended 04/04/2007]

M. Administrative Suspension of Recreational License:

If the Shellfish Conservation Officer determines that the holder of a recreational license has sold or otherwise received remuneration for shellfish harvested pursuant to the recreational license, or that the holder of a license has violated Section 5(N) of this ordinance the Shellfish Conservation Officer may impose an administrative suspension of the License and of eligibility for a license in the next licensing year. The Shellfish Conservation Officer shall give written notice to the license holder of the administrative suspension, which shall be effective from the third business day after mailing of the Notice of Suspension or upon presentation of the Notice of Suspension by the Shellfish Conservation Officer, whichever

is earlier. The license holder may appeal the administrative suspension in the same manner as an automatic suspension under section 5.H.(3). The Shellfish Conservation Officer may, at their discretion, employ the administrative suspension in addition to or as an alternative to the penalties provided in section 5.K. The administrative suspension process and determinations resulting from that process are separate from and shall not be affected by the pendency or outcome of any court proceeding for the imposition of penalties under section 5.K. [amended 02/18/98] [amended 06/03/15]

N. Clam Size and Tolerance of Harvest:

- 1) Clam size and tolerance of harvest. A person shall not harvest or possess softshell clams which are less than two (2) inches in the longest diameter to the amount of more than ten (10) percent of any lot.
- 2) The method of determining tolerance. The tolerance of ten (10) percent must be determined by a numerical count of not less than one (1) nor more than four (4) pecks taken at random from various parts of the lot. If the lot contains less than one (1) peck, the tolerance must be determined by numerical count of the entire lot.

O. Unlawful Sale of Shellfish.

It is a violation of this Ordinance for any holder of a license under this Ordinance to sell or otherwise receive remuneration for any shellfish dug or taken within the Town of Scarborough by any person who does not hold a valid shellfish license issued by the Commissioner of Marine Resources pursuant to 12 M.R.S.A. § 6601. [02/18/98]

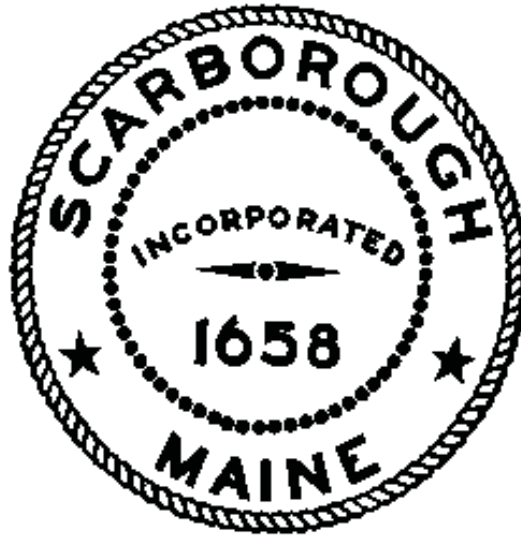
P. Method of Harvest.

The only acceptable method of harvest shall be by use of the hand-held clamrake, with a handle no more than eighteen inches in length. Use of shovels, spades and pitch forks shall be prohibited. [03/01/06]

CHAPTER 405C

TOWN OF SCARBOROUGH

SHORELAND ZONING ORDINANCE



Adopted August 5, 1992
Amended July 5, 1995
Amended December 15, 2004
Amended February 6, 2008
Amended July 15, 2009
Amended May 5, 2010
Amended September 5, 2012
Amended December 2, 2015
Amended November 1, 2017

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**CHAPTER 405C
SHORELAND ZONING ORDINANCE
FOR THE TOWN OF
SCARBOROUGH, MAINE**

Section 1. Purposes

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control buildings sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

Section 2. Authority

This Ordinance has been prepared in accordance with and adopted pursuant to the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

Section 3. Applicability

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the

- normal high-water line of any great pond or river
 - upland edge of a coastal wetland, including all areas affected by tidal action, or
 - upland edge of a freshwater wetland
- and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream. (amended 07/15/2009)

This Ordinance also applies to all land areas within the Stream Protection 2 District as shown on the Official Zoning Map and as further described in Section 13(C) Stream Protection 2 District. This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending below the normal high-water line of a water body or within a wetland. (amended 02/06/2008)(amended 07/15/2009)

In the Shoreland Overlay District, this Ordinance applies in addition to the Zoning Ordinance of the Town of Scarborough, Maine ("Scarborough Zoning Ordinance"). In the Resource Protection District, Stream Protection District, and Stream Protection 2 District this Ordinance applies in place of the Scarborough Zoning Ordinance. (amended 02/06/2008)

Section 4. Effective Date of Ordinance and Ordinance Amendments

The effective date of this Ordinance is the date of approval, automatic approval or approval with conditions by the Commissioner of the Department of Environmental Protection as provided in 38 M.R.S.A. subsection 438-A(3). On the effective date of this Ordinance, or Ordinance

Amendment, any shoreland zoning provisions previously adopted by the Town of Scarborough are hereby repealed. Any application for a permit submitted to the Town of Scarborough within 45 days prior to the date the Commissioner of the Department of Environmental Protection determines that he/she has received the Ordinance, or Ordinance Amendment, pursuant to 38 M.R.S.A. subsection 438-A(3) shall be governed by the terms of this Ordinance, or Ordinance Amendment, if this Ordinance, or Ordinance Amendment, is approved pursuant to 38 M.R.S.A. subsection 438-A(3). (amended 07/15/2009)

Section 5. Availability

This Ordinance is on file in the office of the Town Clerk, who will make copies available to the public on request upon payment of the Town's reasonable expenses of reproducing the Ordinance.

Section 6. Severability

Should any section or provisions of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

Section 7. Conflicts with Other Ordinances

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control. (amended 07/15/2009)

Section 8. Amendments

This Ordinance may be amended according to the procedures set forth in Section II.G of the Scarborough Zoning Ordinance. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Board of Environmental Protection following the adoption by the municipal legislative body and shall not be effective unless approved by the Board of Environmental Protection. If the Board of Environmental Protection fails to act on any amendment within forty-five (45) days of the Board's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Board.

Section 9. Districts and Zoning Map

A. Official Shoreland Zoning Map

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map which is made a part of this Ordinance:

1. Resource Protection
2. Stream Protection
3. Stream Protection 2 (amended 02/06/2008)
4. Shoreland Overlay

The Official Shoreland Zoning Map is the document entitled “Town of Scarborough Maine GIS Zoning Map,” as such may be amended from time to time pursuant to Section 8 of this Ordinance, which document shall be maintained in digital electronic form in the Town’s geographic information system database and in printed form in the office of the Town Clerk. Additional printed copies shall also be available in the Planning and Code Enforcement offices.

B. Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

C. Changes to the Official Shoreland Zoning Map

If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Board of Environmental Protection.

Section 10. Interpretation of District Boundaries

The depiction of the boundaries of the shoreland zone and of the individual shoreland districts on the Official Shoreland Zoning Map is merely illustrative of their general locations. The exact boundaries shall be determined by on-site inspection and measurement from the normal high-water line or upland edge of a wetland. Such on-site inspection and measurement may be requested by the property owner at any time or by the applicant at the time of filing an application for a permit or approval under this Ordinance. As part of such on-site inspection and measurement, the property owner or the applicant for any permit or approval may present evidence from persons with training and/or experience relevant to the identification, delineation and classification of wetlands and/or the delineation of the high-water line or upland edge of a wetland. Such evidence shall be presented to the Code Enforcement Officer (or to the Planning Board if an application for a Planning Board permit or approval is pending) and the Code Enforcement Officer (or the Planning Board if an application for a Planning Board permit or approval is pending) shall make a determination as to the exact boundaries, subject to review by the Board of Appeals pursuant to section 16(G)(1)(a) of this Ordinance.

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines, of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

Section 11. Land Use Requirements

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

Section 12. Non-conformance

A.

1. Purpose:

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming. (amended 07/15/2009)

2. Applicability:

The provisions of this Section 12 govern only non-conforming conditions which result from non-compliance with the requirements of this Ordinance. As to such non-conforming conditions, the provisions of this Section 12 supersede the provisions of Section III of the Scarborough Zoning Ordinance. As to non-conforming conditions which result from non-compliance with the requirements of the Scarborough Zoning Ordinance, the provisions of the Scarborough Zoning Ordinance shall govern.

B. General

1. Transfer of Ownership:

Non-conforming structures, lots and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

2. Repair and Maintenance:

This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require. (amended 07/15/2009)

C. Non-conforming Structures

1. Expansions:

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure except as provided for below. (amended 02/06/2008)

Further Limitations:

- a. After January 1, 1989 if any portions of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. This limitation does not apply to structures in the Stream Protection 2 District that are greater than seventy-five (75) feet from the normal high-water line of the stream,

provided that the structure was in existence as of January 31, 2008. (amended 02/06/2008)

b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland. This limitation does not apply to existing structures in the Stream Protection 2 District that are more than seventy-five (75) feet from the high-water line of the stream provided that the entire structure will be at least seventy-five (75) feet from the stream after it is expanded. (amended 02/06/2008) (amended 07/15/2009)

2. Relocation:

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of the relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming. (amended 07/15/2009)

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows: (amended 07/15/2009)

(a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. (adopted 07/15/2009)

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed. (adopted 07/15/2009)

(b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof. (adopted 07/15/2009)

3. Reconstruction or Replacement:

Should any nonconforming building or structure be destroyed or damaged by any means beyond the control of the owner, it shall be rebuilt or restored within a period of one year or thereafter conform with the requirements of Section 15.B of this Ordinance unless a variance from such requirements is granted by the Board of Appeals pursuant to Section 16.G.2 of this Ordinance. If a nonconforming building or structure is demolished or removed by or for its owner, it shall not be rebuilt or replaced except in conformity with the requirements of Section 15.B of this Ordinance unless a variance from such requirements is granted by the Board of Appeals pursuant to Section 16.G.2 of this Ordinance.

4. Change of Use of a Non-conforming Structure

The use of a non-conforming structure may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use. (amended 07/15/2009)

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

1. Expansions:

Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in Section 12(C)(1)(a) above.

2. Resumption Prohibited:

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This

provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

3. Change of Use:

An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

E. Non-conforming Lots

1. Non-conforming Lots:

A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals. (amended 07/15/2009)

2. Contiguous Built Lots:

If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.S.R.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with. (amended 07/15/2009)

If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. Contiguous Lots - Vacant or Partially Built:

If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

Section 13. Establishment of Districts

A. Resource Protection District

The Resource Protection District includes areas in which developments would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. In developing the Official Shoreland Zoning Map, areas of the following types were included in the Resource Protection District unless such areas were already developed at the time of mapping.

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on the Geographic Information System (GIS) data layer maintained by either Maine Department of Inland Fisheries and Wildlife or the Maine Department of Environmental Protection as of December 31, 2008. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river. (amended 07/15/2009)
2. Areas within 250 feet, horizontal distance, of the upland edge of salt marshes and salt meadows which are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of January 1, 1973. (adopted 07/15/2009)
3. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plan as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils. This district shall also include 100-year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
4. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
5. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water. (adopted 07/15/2009)
6. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
7. Freshwater wetlands not rated "moderate" or "high" by the Maine Department of Inland Fisheries and Wildlife but substantially surrounded by areas included in the Resource Protection District because of other characteristics described in this Section 13 (A).

B. Stream Protection District

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within the Stream

Protection 2 District and those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two-hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland. (amended 02/06/2008) (amended 07/15/2009)

C. Stream Protection 2 District

The Stream Protection 2 District includes all land areas within two hundred fifty (250) feet of the normal high water line of Stuart Brook east of the Maine Turnpike excluding the area within the travel way of Lucky Lane and the area upland of this way as shown on the Official Zoning Map and the normal high water line of the Nonesuch River as shown on the Official Zoning Map and the normal high water line of the Nonesuch River as shown on the Official Zoning Map. (amended 02/06/2008; amended 05/08/2010' amended 05/05/2010)

D. Shoreland Overlay District

All land areas in the shoreland zone which are not in the Resource Protection District, the Stream Protection District, or the Stream Protection 2 District are in the Shoreland Overlay District. Areas in the Shoreland Overlay District are subject to the requirements of the Scarborough Zoning Ordinance as well as to the requirements of this Ordinance. (amended 02/06/2008)

Section 14. Table of Land Uses

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map (amended 05/05/2010).

Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards).

No - Prohibited

PB - Allowed with permit issued by the Planning Board (amended 07/15/2009)

CEO - Allowed with permit issued by the Code Enforcement Officer (amended 07/15/2009)

LPI - Allowed with permit issued by the Local Plumbing Inspector (amended 07/15/2009)

Abbreviations:

RP - Resource Protection

SP - Stream Protection and Stream Protection 2 (amended 02/06/2008)

SP2 - Stream Protection 2

SO - Shoreland Overlay

TABLE 1. LAND USES IN THE SHORELAND ZONE				
LAND USES	DISTRICTS			
	<u>SO</u>¹	<u>SP</u>	<u>SP2</u>	<u>RP</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	Yes	Yes	Yes	Yes
2. Motorized vehicular traffic on existing roads and trails	Yes	Yes	Yes	Yes
3. Forest management activities except for timber harvesting	Yes	Yes	Yes	Yes
4. Timber harvesting	Yes	Yes	Yes	CEO ²
5. Clearing or removal of vegetation for activities other than timber harvesting (amended 07/15/2009)	Yes	CEO	CEO ¹¹	CEO ²
6. Fire prevention activities	Yes	Yes	Yes	Yes
7. Wildlife management practices	Yes	Yes	Yes	Yes
8. Soil and water conservation practices	Yes	Yes	Yes	Yes
9. Mineral exploration	Yes	No	No	Yes ³
10. Mineral extraction including sand and gravel extraction	CEO/PB	No	No	PB ⁴
11. Surveying and resource analysis	Yes	Yes	Yes	Yes
12. Emergency operations	Yes	Yes	Yes	Yes
13. Agriculture	Yes	Yes	Yes	CEO
14. Aquaculture (amended 07/15/2009)	PB	PB	PB	PB
15. Principal structures and uses				
A. One and two family residential, including driveways (amended 07/15/2009)	CEO	PB ⁵	CEO ¹²	No
B. Multi-unit residential	PB	No	No	No
C. Commercial	PB	No	No	No
D. Industrial	PB	No	No	No
E. Governmental and Institutional	PB	No	No	No
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	CEO/PB	PB ⁵	PB ^{5, 11}	PB
16. Structures accessory to allowed uses	CEO	PB ⁵	CEO ¹²	PB
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland				
a. Temporary	CEO	CEO	CEO	CEO
b. Permanent	PB	PB	PB	PB
18. Conversions of seasonal residences to year-round residences (amended 07/15/2009)	CEO	CEO	CEO	No
19. Home occupations (amended 07/15/2009)	CEO	CEO	CEO	No
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	No
21. Essential services	CEO	PB ⁶	Yes ¹¹	PB ⁶
22. Service drops, as defined, to allowed uses	Yes	Yes	Yes	Yes
23. Public and private recreational areas involving minimal structural development	PB	PB	Yes ¹¹	PB ¹⁰

TABLE 1. LAND USES IN THE SHORELAND ZONE				
LAND USES	DISTRICTS			
	SO¹	SP	SP2	RP
24. Campgrounds	PB	No	No	No ⁷
25. Road construction (amended 07/15/2009)	PB ⁸	PB ⁸	Yes ¹¹	No ⁹
26. Parking facilities	CEO/PB	No	CEO/PB ¹¹	No ⁷
27. Marinas	PB	PB	Yes ¹¹	No
28. Filling and earthmoving of < 10 cubic yards	Yes	CEO	Yes ¹¹	CEO
29. Filling and earthmoving of > 10 cubic yards but less than 500 cubic yards (amended 07/15/2009)	CEO	PB	Yes ¹¹	PB
30. Filling and earthmoving > 500 cubic yards (adopted 07/15/2009)	PB	PB	PB	PB
31. Signs	Yes	Yes	Yes	Yes
32. Uses similar to allowed uses	CEO/PB	CEO	CEO	CEO
33. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a PB permit (amended 07/15/2009)	PB	PB	PB	PB

¹In the Shoreland Overlay District, uses are governed by the district regulations of the Scarborough Zoning Ordinance for the district in which the property is located. (amended 07/15/2009)

²In RP not permitted within 75 feet of the normal high-water line of great ponds, except to remove safety hazards.

³Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

⁴In RP not permitted in areas so designated because of wildlife value.

⁵Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁶See further restrictions in Section 15(L)(2).

⁷Except when area is zoned for resource protection due to flood plain criteria in which case a permit is required from the PB.

⁸Except that no permit is required for the repair or maintenance of an existing road culvert or for the replacement of an existing road culvert, as long as the replacement culvert is:

- (1) not more than one standard culvert size wider in diameter than the culvert being replaced;
- (2) not more than 25% longer than the culvert being replaced; and
- (3) not longer than 75 feet.

Ancillary culverting activities, including excavation and filling, are included in this exception. The person repairing, replacing or maintaining an existing culvert pursuant to this exception shall ensure that erosion control measures are taken to prevent sedimentation of the water and that the crossing does not block fish passage in the water course.

⁹Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB.

¹⁰May include no more than one accessory food concession stand, cart or booth located inside a structure existing on August 5, 1992, provided no on-site waste water disposal is required for the operation of the concession. [Planning Board review is not required to operate such a concession

at a recreational area which lawfully existed on August 5, 1992]. (amended 07/05/95)

¹¹ Uses located greater than 75 feet, horizontal distance, from the normal high water line shall be allowed. Uses less than 75 feet, horizontal distance from the normal high water line shall be regulated by the authority established in the SP column.

¹² See further restrictions in Section 15(B)(1)

Section 15. Land Use Standards

All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

1.
 - a. The minimum lot area in the Resource Protection District shall be 30,000 square feet.
 - b. The minimum lot area in the Stream Protection and Stream Protection 2 Districts shall be the same as in the adjacent zoning district under the Scarborough Zoning Ordinance. If more than one district adjoins the land in the Stream Protection or Stream Protection 2 Districts, the minimum lot area for the least restricted adjacent zoning district shall govern. (amended 02/06/2008)
 - c. The minimum lot area in the Shoreland Overlay District shall be the same as in the underlying district pursuant to the Scarborough Zoning Ordinance.
2. The minimum shore frontage for all lots in the Shoreland Zone shall be 100 feet, measured in a straight line between the points of intersection of the side lot lines with the shore line at the normal high water line. The minimum width of any portion of any lot within 100 feet, horizontal distance of the normal high water line of a water body or upland edge of a wetland shall be equal to or greater than 100 feet.
3. Land below the normal high water line of a water body or upland edge of a wetland and land beneath roads serving more than two lots shall not be included toward calculating minimum lot area.
4. If a property owner voluntarily transfers the fee simple ownership of land within the Stream Protection 2 District to the Town of Scarborough or to a land trust or other conservation organization approved by the Planning Board for the purpose of public open space and public access to or along the stream, the property owner shall be entitled to a density bonus. The amount of the bonus shall be one and a half times the number of the dwelling units that could have been built on the transferred land within the Stream Protection 2 District without consideration of the stream setback requirement based upon the net residential area and density for the zone that determines the applicable density and lot area for the land based upon the requirements as set out in the Zoning Ordinance. This bonus shall be in addition to any other density bonus provided for in the Zoning Ordinance including the density bonus for the transfer of development rights. The units resulting from this density bonus may be:
 - a) Developed on another portion of the same parcel on which development is permitted that is not located within the Stream Protection 2 District, or
 - b) Transferred to another parcel in accordance with the Development Transfer Provisions of Section VIID of the Zoning Ordinance.

Units resulting from this density bonus must be built or transferred in accordance with Section VIID of the Zoning Ordinance within ten (10) years of the date of the transfer of the land to the Town, land trust, or conservation organization. The right to build or transfer a unit shall lapse at the conclusion of the ten (10) year period. The Planning Department shall establish and maintain a registry of any bonus units created under this provision and shall track the utilization of those units over time to ensure compliance with these provisions. (amended 02/06/2008)

5. If more than one residential dwelling unit is constructed or established on a single parcel as part of a residential development, all dimensional requirements shall be met for each additional dwelling unit. If more than one principal governmental, institutional, commercial, mixed-use or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional principal structure or use except in the Shoreland Overlay District when the underlying district is the TVC-4 or I-O District, the dimensional requirements shall be met for each additional principal structure rather than each principal use. (amended 09/05/2012)

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back from the normal high water line of water bodies, tributary streams, or the upland edge of a wetland in accordance with the following:

a. In the Shoreland Overlay and Stream Protection District, at least seventy-five (75) feet, horizontal distance, except as provided in the following subsection b.

b. In the Shoreland Overlay District, when the property is located east of the railroad right-of-way and the underlying zoning district is the Town and Village Centers Pine Point District – TVC-4 and/or the Industrial Overlay District – I-O, the setback may be reduced to no less than twenty-five (25) feet provided that a vegetated buffer strip at least twenty-five (25) feet in width is provided and maintained adjacent to the upland edge of the wetland. If a natural buffer does not currently exist, the vegetated buffer shall include a well-distributed stand of native vegetation including shrubs, plants, and ground cover appropriate to the specific environment. The buffer shall be designed by an appropriate professional and shall be approved by the Planning Board. If a vegetated buffer strip is not provided, the setback shall be seventy-five (75) feet.

c. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

d. In the Stream Protection 2 District all new principal structures shall be set back at least two hundred fifty (250) feet from the normal high water line, except as provided for under subsection B.1.h. below. Accessory structures in the Stream Protection 2 District shall be allowed in accordance with subsection B.1.i. below.

In addition:

e. The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational

necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses. For these uses there is no required shoreland setback.

f. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals. (adopted 07/15/2009)

g. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure. (adopted 07/15/2009)

h. The Code Enforcement Officer may issue a permit for a new principal structure within the Stream Protection 2 District provided the following standards are met:

- i. There is no location on the property, other than a location within the Stream Protection 2 District, where the structure can be constructed.
- ii. The lot on which the structure is proposed was created and recorded in the Cumberland County Registry of Deeds prior to (date of ordinance amendment).
- iii. The structure is setback from the normal high water line to the greatest practical extent and is located at least 75 feet from the normal high water line. In determining the greatest practical extent the Code Enforcement Officer shall consider the size of the lot, the depth of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed. (adopted 05/05/2010)

i. In the Stream Protection 2 District new accessory structures shall be permitted within the 250 foot setback to the normal high water line, provided the structure is located at least 75 feet from the normal high water line. (adopted 05/05/2010)

2. Principal or accessory structures and expansions of existing which are permitted in the Resource Protection and Stream Protection Districts shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills,

wind energy systems, antennas, and similar structures having no floor area. (amended 07/15/2009)

3. The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. (amended 07/15/2009)

4. The total footprint area of all structures, parking lots, driveways and other nonvegetated surfaces within the Shoreland Zone shall not exceed twenty (20) percent of the lot or portion thereof located within the Shoreland Zone, including land area previously developed except as provided for in the following subsections:

a. In the Shoreland Overlay District, when the property is located east of the railroad right-of-way and the underlying zoning district is the Town and Village Centers Pine Point District – TVC-4 and/or the Industrial Overlay District – I-O, the total footprint area shall not exceed seventy-five (75) percent of the lot or portion thereof located within the Shoreland Zone, including land area previously developed. (amended 09/05/2012)

b. The total footprint area for functionally water-dependent uses shall not exceed seventy (70) percent of the lot or portion thereof located within the Shoreland Zone, including land area previously developed. (amended 09/05/2012)

c. In the Shoreland Overlay District, when the property is also located in the Coastal Residential 1 (CD-CR1) District or Coastal Mixed Use-Limited (CD-CML) District, the total footprint area shall not exceed thirty-five (35) percent of the lot or portion thereof located within the Shoreland Zone, including land area previously developed. (adopted 12/02/15]

5. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., section 480-C); and that the applicant demonstrates that no reasonable access alternatives exists on the property. (amended 07/15/2009)

C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or within a Wetland

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

2. The location shall not interfere with existing developed or natural beach areas.

3. The facility shall be located so as to minimize adverse effects on fisheries.

4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.

5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
6. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
7. Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

D. Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of seventy-five (75) feet from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.

E. [Reserved]

F. Parking Areas

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream. (amended 07/15/2009)
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site. (amended 07/15/2009)
3. Size and configuration of parking spaces shall comply with the requirements of the Scarborough Zoning Ordinance and, where applicable, the Scarborough Site Plan Review Ordinance.

G. Roads and Driveways

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

1. Roads and driveways shall be set back at least seventy-five (75) feet, horizontal distance, from the normal high water line of water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback

requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland. (amended 07/15/2009)

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent. (amended 07/15/2009)

Section 15(G)(1) does not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(G)(1) except for that portion of the road or driveway necessary for direct access to the structure.(amended 07/15/2009)

2. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream, or wetland. (amended 07/15/2009)

3. [Reserved]

4. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

5. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section(15)Q. (amended 07/15/2009)

6. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet. (amended 07/15/2009)

7. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams, or wetlands roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip. (amended 07/15/2009)

8. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply: (amended 07/15/2009)

a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway, at intervals no greater than indicated in the following table: (amended 07/15/2009)

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less. (amended 07/15/2009)

c. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway. (amended 07/15/2009)

d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

9. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning. (amended 07/15/2009)

H. Signs

Signs in the Resource Protection and Stream Protection Districts shall comply with the applicable requirements of the Scarborough Zoning Ordinance and, in addition, with the following requirements.

1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited. (amended 07/15/2009)

2. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate. (amended 07/15/2009)

3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

4. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area. (amended 07/15/2009)

5. Signs relating to public safety shall be allowed without restriction. (amended 07/15/2009)

6. No sign shall extend higher than twenty (20) feet above the ground.

7. Signs may be illuminated only by shielded, non-flashing lights.

I. Storm Water Runoff

1. All new construction and development shall be designed to ensure storm water runoff from the site will be less than or equal to that of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters. (amended 07/15/2009)

2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

J. Septic Waste Disposal

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the requirements of the Scarborough Plumbing Ordinance, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone. (amended 07/15/2009)

K. Essential Services

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

2. The installation of essential services, other than road side distribution lines, is not allowed in a Resource Protection, Stream Protection, or Stream Protection 2 District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts. (amended 02/06/2008) (amended 07/15/2009)

3. Damage or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.(adopted 07/15/2009)

L. Mineral Exploration and Extraction

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15(M) below. (amended 07/15/2009)
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of any water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property. (amended 07/15/2009)
3. [Reserved]
4. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - b. The final graded slope shall be two and one half to one (2 1/2:1) slope or flatter. (amended 07/15/2009)
 - c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
5. In keeping with the purpose of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.
6. Mineral extraction shall also comply with all applicable requirements of the Extractive Industry, Waste Control, Landfill and Land Reclamation Ordinance of the Town of Scarborough.

M. Agriculture

1. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209). (amended 07/15/2009)
2. Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance, of water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. (amended 07/15/2009)
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance. This requirement shall not apply to agricultural activities in the

Stream Protection 2 District that are occurring at least 75 feet, horizontal distance, from the normal high water line. (amended 07/15/2009) (amended 05/05/2010)

4. There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, from water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained. (amended 07/15/2009)

5. Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance of water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan. (amended 07/15/2009)

N. Timber Harvesting (revised and adopted 07/15/2009)

(1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

(2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(N)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

(a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.

(b) Adjacent to great ponds, rivers and wetlands:

(i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and

(ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

(3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options. This requirement shall not apply to timber harvesting activities in the Stream Protection 2 District that are occurring

at least 75 feet, horizontal distance, from the normal high water line: (amended 05/05/2010)

(a) Option 1 (40% volume removal), as follows:

(i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;

(ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

(b) Option 2 (60 square foot basal area retention), as follows:

(i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;

(ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

(c) Option 3 (Outcome based), this option shall only become effective on the statutory date established under 38 M.R.S.A. section 438-A(5), until such time Section 15(N)(3)(c) is not in effect.

Option 3 requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of

Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. Chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

(4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

(a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

(b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

(c) Setbacks:

(i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

(ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter

strips must be established in accordance with the setback requirements in Section 15(N)(7) of this rule.

(a) Land management roads and associated ditches, excavation, and fill must be set back at least:

(i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland; (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and

(iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams

(b) The minimum 100 foot setback specified in Section 15(N)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(N- 1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.

(d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

(e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(N)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(N)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.

(g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15(N). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.

(h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(N)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

(6) Crossings of waterbodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.

(a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(N): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.

(b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(N). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(N).

(c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Department of Environmental Protection, or the US Army Corps of Engineers.

(d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.

(e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:

- (i) a map showing the location of all proposed permanent crossings;
- (ii) the GPS location of all proposed permanent crossings;
- (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
- (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

(f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(N)(6)(g)) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:

- (i) concentrated water runoff does not enter the stream or tributary stream;
- (ii) sedimentation of surface waters is reasonably avoided;
- (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
- (iv) fish passage is not impeded; and,
- (v) water flow is not unreasonably impeded.

Subject to Section 15(N)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

(g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

- (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency

water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.

(ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(N)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

(iii) Culverts utilized in river, stream and tributary stream crossings must:

1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

(iv) River, stream and tributary stream crossings allowed under Section 15(N), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100- year flood event.

(v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and

soil lying within ponds and wetlands occurs, such conditions must be corrected.

(h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

(i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(N)(6)(i) below.

(ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.

(iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

(i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.

(ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.

(iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;

2. it shall be designed to provide an opening with a cross-sectional area at least 3 ½ times the cross-sectional area of the river, stream or tributary stream channel; or 3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15(N), but in no case shall be less than shown in the following table.

Average slope of land between exposed soil and the shoreline (percent)	Width of strip between mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

O. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards. (amended 07/15/2009)

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district. (amended 07/15/2009)

2. Except in areas as described in Section 15(O)(1), above, and except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from any water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows: (amended 07/15/2009)

a. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other exiting woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub is allowed provided that a cleared line of sight to the water through the buffer strip is not created. (amended 07/15/2009)

b. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(O)(2)(b) a "well-distributed stand of trees" shall be defined as maintaining a

rating score of 16 or more in any 25-foot by 50-foot rectangle (1250 square feet) area as determined by the following rating system. (amended 07/15/2009)

<u>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</u>	<u>Points</u>
2 - < 4 in.	1
4 - <8 in.	2
8 - <12 in	4
12 in. or greater	8

The following shall govern in applying this point system: (adopted 07/15/2009)

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(O)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above the ground level may be removed in any ten (10) year period.

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(O) paragraphs 2 and 2a above. (adopted 07/15/2009)
- d. Pruning of tree branches, on the bottom 1/3 of the tree is allowed. (amended 07/15/2009)
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted as soon as seasonally practical, not to exceed one (1) calendar year, with native tree species unless existing new tree growth is present. (amended 07/15/2009)

Section 15(O)(2) above shall not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary. (amended 07/15/2009)

3. At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of any water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area. . This requirement shall not apply to vegetation removal activities in the Stream Protection 2 District that are occurring at least 75 feet, horizontal distance, from the normal high water line. (amended 07/15/2009) (amended 05/05/2010)

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. (amended 07/15/2009)

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance. (amended 07/15/2009)

5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section (15)(O). (amended 07/15/2009)

P. Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for: (amended 07/15/2009)

a. Mulching and revegetation of disturbed soil.

b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

c. Permanent stabilization structures such as retaining walls or riprap.

2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

- a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
- b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
- c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

Q. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

R. Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body.

S. Archaeological Sites

Any proposed land use activity involving structural development or soil disturbances on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

Section 16. Administration

A. Administering Bodies and Agents

The Code Enforcement Officer, Board of Appeals and Planning Board charged with administering this Ordinance shall be the same Code Enforcement Officer, Board of Appeals and Planning Board as administer the Scarborough Zoning Ordinance.

B. Permits Required

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed. (amended 07/15/2009)

C. Permit Application

1. Every applicant for a permit shall submit a written application, including a scaled plan, on a form provide by the municipality, to the appropriate official as indicated in Section 14.
2. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct. (amended 07/15/2009)
3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
4. If the property is not served by a public sewer, a valid external plumbing permit or completed application for an external plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system. (amended 07/15/2009)

D. Procedure for Administering Permits

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;

4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities.
8. Will avoid problems associated with flood plain development and use; and
9. Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or statute administered by the municipality. (amended 07/15/2009)

E. Expiration of Permit

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or (where no construction is involved) commencement of the use does not occur during that period. If a substantive start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire. (amended 07/15/2009)

Upon good cause shown, the person or board issuing the original permit or approval may extend its effectiveness for an additional six months. As used in this Section 16.E, "substantial start of construction" means completion of all of the following operations for all of the buildings or structures authorized by the permit or approval:

- implementation of erosion and storm water control measures
- installation of footings
- installation of foundations
- waterproofing (if necessary) of the foundations
- construction of the drainage systems
- completion of all back filling (but not including final grading and landscaping)

F. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

G. Appeals

1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

- a. Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the enforcement or administration of this Ordinance.
- b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

2. Variance Appeal

Variances may be permitted only under the following conditions:

- a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variance unless it finds that:
 - (1) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (2) The strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean:

- (i) That the land in question cannot yield a reasonable return unless a variance is granted;
 - (ii) That the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;
 - (iii) That the granting of a variance will not alter the essential character of the locality; and
 - (iv) That the hardship is not the result of action taken by the applicant or a prior owner.
- d. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

3. Appeal Procedure

The appeals procedures under this Ordinance shall be as provided in Section V.C. of the Scarborough Zoning Ordinance. Appeals may be granted only by a majority vote of those members present and voting. Administrative appeals from decisions of the Code Enforcement

Officer or Planning Board shall be filed within 30 days of the date of written notification to the applicant of the decision, ruling or order appealed from.

A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals. (adopted 07/15/2009)

H. Enforcement

1. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

2. Code Enforcement Officer

- a. The Code Enforcement Officer shall enforce the provisions of this Ordinance as provided in Section IV.A of the Scarborough Zoning Ordinance.
- b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found and fees collected. On a biennial basis, beginning in 1992, a summary of this record shall be submitted by March 1 to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection. (amended 07/15/2009)

3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorize municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health to public health and safety or will result in substantial environmental damage.

4. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with Title 30-A, M.R.S.A section 4452. (amended 07/15/2009)

Section 17. Definitions

Accessory structure or use:

A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Agriculture:

The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

Aggrieved party:

An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Aquaculture:

The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal area:

The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Boat Launching Facility:

A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Campground:

Any area or tract of land to accommodate one or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy:

The more or less continuous cover formed by tree crowns in a wooded area. (adopted 07/15/2009)

Coastal wetland:

All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. (amended 07/15/2009)

Commercial use:

The use of lands, buildings, or structures, other than a "home occupation", defined below the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

DBH:

The diameter of a standing tree measured 4.5 feet from ground level. (adopted 07/15/2009)

Development:

A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring. (adopted 07/15/2009)

Dimensional requirements:

Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disruption of shoreline integrity:

The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions. (adopted 07/15/2009)

Driveway:

A vehicular access-way less than five hundred (500) feet in length serving two single family dwellings or one two-family dwelling, or less. (amended 07/15/2009)

Emergency operations:

Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services:

The construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure:

An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches and greenhouses.

Expansion of use:

The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Family:

One or more persons occupying a premise and living as a single housekeeping unit.

Floor area:

The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest management activities:

Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested wetland:

A fresh water wetland dominated by woody vegetation that is 6 meters tall or taller.

Forest stand:

A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit. (adopted 07/15/2009)

Foundation:

The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material. (amended 07/15/2009)

Freshwater wetland:

Freshwater swamps, marshes, bogs and similar areas other than forested wetlands which are:

1. of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and
2. inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally water-dependent uses:

Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters. (amended 07/15/2009)

Great pond:

Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purpose of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner. (amended 07/15/2009)

Ground cover:

Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor. (adopted 07/15/2009)

Harvest area:

The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest. (adopted 07/15/2009)

Height of a structure:

The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area. (amended 07/15/2009)

Home occupation:

An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than one person other than family members residing in the home.

Industrial:

The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional:

A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes. (adopted 07/15/2009)

Land management road:

A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads. (adopted 07/15/2009)

Licensed forester:

A forester licensed under 32 M.R.S.A. Chapter 76. (adopted 07/15/2009)

Lot area:

The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Marina:

A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

Market value:

The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Minimum lot width:

The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be the side lot lines. (amended 07/15/2009)

Mineral exploration

Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction:

Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Multi-unit residential:

A residential structure containing three (3) or more residential dwelling units.

Native:

Indigenous to the local forest. (adopted 07/15/2009)

Non-conforming condition:

Non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect. (adopted 07/15/2009)

Non-conforming lot:

A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure:

A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use:

Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Nonvegetated surfaces:

The area covered by structures and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability. Common impermeable surfaces include roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of water. (adopted 07/15/2009)

Normal high-water line (non-tidal waters):

That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. (amended 07/15/2009)

Person:

An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland:

Temporary:

Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent:

Structure which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure:

A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use:

A use other than one which is wholly incidental or accessory to another use on the same premises.

Public facility:

Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent flood plain soils:

The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility:

A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle:

A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system:

A system intended to replace: 1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2) any existing overboard wastewater discharge.

Residential dwelling unit:

A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile home, and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units. (amended 07/15/2009)

Residual basal area:

The sum of the basal area of trees remaining on a harvested site. (adopted 07/15/2009)

Residual stand:

A stand of trees remaining in the forest following timber harvesting and related activities.

Riprap:

Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River:

A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

Road:

A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Salt marsh:

Areas of a coastal wetland that support salt tolerant species, and where at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed. (amended 07/15/2009)

Salt meadow:

Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is really inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common three square occurs in fresher areas. (amended 07/15/2009)

Service drop:

Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service

- a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
- b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service

- a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
- b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback:

The nearest horizontal distance from the normal high-water line of a water body, or tributary stream, or upland edge of a wetland to the nearest part of a structure, road, parking space or other regulated object or area. (amended 07/15/2009)

Shore frontage:

The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.(amended 07/15/2009)

Shoreland zone:

The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal feet, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet, horizontal distance, of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream. (amended 07/15/2009)

Shoreline:

The normal high-water line, or upland edge of a fresh water or coastal wetland. (adopted 07/15/2009)

Skid road or skid trail:

A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation. (adopted 07/15/2009)

Slash:

The residue, e.g., treetops and branches, left on the ground after a timber harvest. (adopted 07/15/2009)

Stream:

A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the

point where the body of water becomes a river or flows to another water body or wetland within a shoreland zone.

Structure:

Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios and satellite dishes. (amended 07/15/2009)

Subsurface sewage disposal system:

Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system. (amended 07/15/2009)

Sustained slope:

A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tidal Waters:

All waters affected by tidal action during the maximum spring tide. (adopted 07/15/2009)

Timber harvesting:

The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (O), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*. (amended 07/15/2009)

Timber harvesting and related activities:

Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting. (adopted 07/15/2009)

Tributary stream:

Means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. (amended 07/15/2009)

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Upland edge of a wetland:

The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller. (amended 07/15/2009)

Vegetation:

All live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 ½ feet above ground level. (amended 07/15/2009)

Vernal Pool:

A vernal pool is a natural, temporary to semi-permanent body of water occurring in a shallow depression that typically fills during the spring or fall and may dry during the summer. Vernal pools have no permanent inlet or outlet and no viable populations of predatory fish. A vernal pool may provide the primary breeding habitat for wood frogs, spotted salamanders, blue-spotted salamanders, and fairy shrimp, as well as valuable habitat for other plants and wildlife, including several rare, threatened, and endangered species. (adopted 07/15/2009)

Volume of a structure:

The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body:

Any great pond, river or stream.

Water crossing:

Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities. (amended 07/15/2009)

Wetland:

A freshwater or coastal wetland.

Windfirm:

The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage. (adopted 07/15/2009)

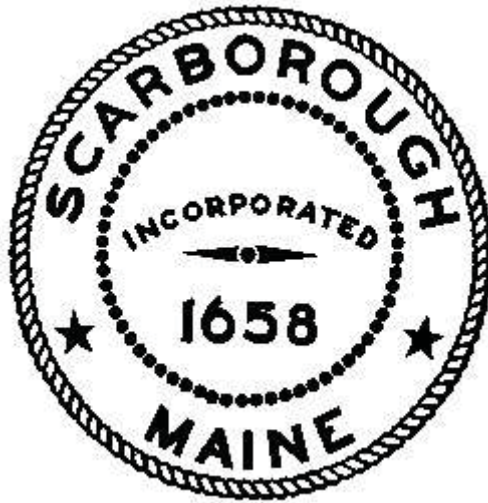
Woody vegetation:

Live trees or woody, non-herbaceous shrubs. (adopted 07/15/2009)

CHAPTER 405B

SITE PLAN REVIEW ORDINANCE

TOWN OF SCARBOROUGH



Revised as of August 17, 2005
Amended November 7, 2007
Amended January 6, 2010
Amended May 5, 2010
Amended March 19, 2014
Amended March 18, 2015
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**CHAPTER 405B
TOWN OF SCARBOROUGH
SITE PLAN REVIEW**

I. Purpose

The Town of Scarborough finds that uses and structures for which site plan submissions are required are potentially significant additions to the community's built and natural environment as well as to the residential, commercial or industrial neighborhood in which they are proposed. The purpose of site plan review is to ensure that the design, layout and construction of these additions to the community constitute suitable development and will not result in a detriment to the neighborhood, community or environment. The standards and requirements of this ordinance are intended to assure that adequate provisions are made for: traffic safety, access and circulation; emergency access and response; stormwater management; protection of natural features and the environment; water supply and sewage disposal; and minimizing impacts to abutting properties or uses.

II. Applicability

A. Activities Requiring Site Plan Review

Site Plan approval is required before any building or structure is erected or externally enlarged and before any parking, loading, or vehicular or pedestrian use is established, enlarged or changed, with the exception of the activities found below in Section II(B).

B. Activities Exempt from Site Plan Review [amended 05/05/2010]

The following activities shall not require site plan approval, however such activities may require building permits, plumbing permits or other local or State approvals:

1. The construction of, or addition to, single and two-family dwellings and their accessory buildings, structures and areas for parking and vehicular or pedestrian use.
2. Alterations to a building which in total do not increase the floor area of the building by more than 100 square feet.
3. Municipal buildings or uses, but shall be reviewed by the Planning Board for an advisory opinion to the Town Council or the applicable Town Department.
4. Buildings, structures and areas of impervious surface, the principal use of which is the conduct of accessory agriculture, commercial agriculture, or commercial animal husbandry, as are defined in Section VI. Definitions of the Town of Scarborough Zoning Ordinance.
5. Farm stands with no more than 400 square feet of retail sales area.
6. Temporary use of accessory storage containers.
7. Timber harvesting.

III. Administrative & Review Procedures

The Planning Board shall review and act on all site plans for development requiring review as outlined in Section II(A). The following procedures and application requirements shall govern the submission and review of the site and building plans.

A. Sketch Plan Review

Prior to submitting a formal site plan review application, the applicant may submit a sketch plan for review by the Planning Board. The sketch plan shall be conceptual and sketch plan review shall be considered an informal, informational review and discussion. The purpose of the sketch plan review process is to enable the applicant to present a concept plan for a development to the Planning Board in order for the Board to understand the type and scale of the proposed development as well as the associated on and off-site issues. Further, this process is intended to provide the applicant with preliminary feedback from the Board in order to identify any issues or revisions that should be addressed in the site plan review application.

The following information should be submitted or presented for discussion during sketch plan review:

1. The proposed site, including its boundaries, size, location, and landscape.
2. The environmental characteristics or constraints of the site, such as waterbodies, wetlands, floodways, steep slopes, etc.
3. The proposed use and scale of development, including a conceptual site plan, landscape plan, and building elevations.
4. An overview of any traffic issues or implications.
5. An overview of the local regulations and State permits that may apply to the proposed project and any requested waivers of such regulations.

The sketch plan review shall be conceptual and informational, and there shall be no formal action by the Planning Board. Further, the submittal and review of a sketch plan shall not be considered the creation of a pending proceeding under 1 M.R.S.A. § 302. Following sketch plan review, an applicant must submit a formal site plan review application in order to seek site plan approval.

B. Site Plan Application Procedures & Action [amended 06/05/19]

1. An application for site plan review shall be submitted to the Planning Board with the requisite fees and submission requirements, as outlined in Section III(C) of this ordinance. Upon receipt of any application that meets the submission requirements the Town Planner shall schedule the site plan for review on the next available Planning Board meeting agenda. An initial determination as to the completeness of the application shall be made by the Town Planner and Town Engineer, subject to

- final determination by the Planning Board. The Planning Board reserves the right to request additional plans or information, as stated in Section III(C)(8), depending on the nature of the proposal and its anticipated impacts. The Planning Board may also engage the services of one or more professional consultants to review the materials submitted by the applicant, the cost of which shall be paid by the applicant as provided in Section VI(B) of this ordinance.
2. When an application for site plan review is determined to be complete, the Planning Department shall, at the applicant's expense, give written notification to all abutting property owners within five-hundred (500) feet of the parcel on which the proposed development is located of the date, time, and place of the meeting at which the application will be considered. Notification shall be sent at least ten (10) days prior to the first meeting at which the complete application is to be reviewed. Failure of any property owner to receive the notification shall not necessitate another hearing or invalidate any action of the Board. For purposes of this section, the owners of the abutting properties shall be considered to be the parties listed by the tax assessor for the Town of Scarborough. The Planning Board shall provide an opportunity for public comment prior to taking action on any site plan application.
 3. No application for site plan review shall be considered complete nor acted upon by the Planning Board until all special exceptions or variances which may be required for a development have been approved. The Planning Board may conduct its shoreland zoning or subdivision review concurrently with a project's site plan review.
 4. The Planning Board may make a decision at the initial Planning Board meeting at which a site plan is heard or may request additional meetings to receive revised plans or additional information pertaining to the proposal, and then issue a decision. The Planning Board may deny the application, approve the site plan as submitted, or approve the site plan with such conditions as the Board finds necessary to ensure compliance with the standards of this ordinance and other applicable ordinances of the Town of Scarborough.
 5. If a site plan application is denied, a substantially similar application shall not be brought before the Planning Board within one (1) year from the date of the denial of the original application. This limitation may be waived if the majority of the Board finds that substantial new evidence exists or an error or mistake of law or misinformation concerning the original application is identified.
 6. Any appeal of a Planning Board decision on an application for site plan review shall be taken directly to Cumberland County Superior Court. Decisions of the Planning Board are not appealable to the Scarborough Board of Appeals.
 7. Upon written request, the Town Planner may approve transfer of Site Plan approval granted to the project owner to an alternative developer or property owner, or the Planner may refer any request for transfer to the Planning Board for decision. A transfer shall be approved only if the new developer or owner has the financial and technical capacity to comply with the requirements of the site plan approval.

8. Final approval shall expire one (1) year from the date of such approval unless the applicant has started substantial construction. The Town Planner may extend final approval for one (1) additional year for good cause, provided a written request for extension is submitted before the expiration of the approval. At her/his option, the Town Planner may refer any request for extension to the Planning Board for decision. [amended 11/01/17]
9. The property shown on the approved site plan may be developed and used only as shown on the plan. All elements and features of the plan and all representations made by the applicant which appear in the record of the Planning Board proceedings are conditions of approval. No change from the conditions of approval is permitted unless an amended site plan is approved by the Planning Board.
10. The text of paragraph 8, above, shall be included as a note on the approved site plan.
11. A request to amend an approved site plan shall be processed in the same manner as an application for site plan review, except that the Town Planner may grant preliminary waivers of submission requirements, subject to review of such waivers by the Planning Board when the Board takes up the request for amendment.

C. Submission Requirements

The applicant shall submit to the Planning Board fourteen (14) copies of the following plans and information:

1. A boundary survey prepared by a professional land surveyor licensed by the State of Maine indicating the boundary lines, dimensions, encumbrances, water bodies, water features, zoning designation(s) and topography of the site. This boundary survey shall be prepared at a scale no greater than one (1) inch = forty (40) feet. Plans showing engineering details submitted as part of the site plan application may be prepared by either a professional land surveyor or by a professional engineer.
2. A site plan(s), at a scale no greater than one (1) inch = forty (40) feet, showing all existing and proposed buildings, contour elevations, structures, parking spaces and layout, driveways, driveway openings, service areas, proposed outside display or vending areas, proposed grades and drainage facilities, proposed water and sewage facilities or connections, landscaping plan including proposed trees and planting areas, proposed locations of fences, walls, signs and advertising features, proposed walkways and pedestrian amenities, and a lighting plan. The site plan shall also include a locus map showing the relationship of the project to the surrounding area at a scale no greater than one inch equals 2,000 feet. The site plan shall also show all contiguous land owned by the applicant or the owner of the land proposed for development.
3. Building plans showing the floor plans, an outside access plan, and all elevations. The elevations shall indicate the proposed material and color of all of the proposed principal buildings and structures. The Planning Board may also require elevations of the accessory buildings and structures depending on their size and location.

4. Stormwater management systems, details and calculations.
5. A written statement prepared by a Maine Licensed Professional Engineer that describes the potential traffic flow patterns into and upon the site for both vehicles and pedestrians, the expected peak hour trip generation associated with the proposal, and the measured sight distance of each proposed driveway access. A traffic impact study shall be submitted for any project forecasted to generate 35 or more trip ends during any peak hour or if a project is forecasted to cause an existing access with less than 35 peak hour trip ends to exceed this threshold. The Planning Board or Town staff may also require a traffic study if specific safety or capacity issues have been identified for the general vicinity of the development. The scope of the study shall be determined based on discussions with the Town's Traffic Engineer and be completed by a Registered Professional Engineer with significant experience in traffic engineering. The study should be appropriate for the level of impact. At a minimum the study shall contain the following information: collision history at the intersection of the proposed street/driveway, capacity evaluation at the proposed driveway, sight distance analysis, Road Impact Fee calculations and the need for improvements such as turning lanes, signalization, etc. In compiling a traffic study, trip generation shall be based upon the most recent edition of the ITE's "Trip Generation" Manual and shall include an evaluation of each peak hour condition.
6. Any proposed off-site improvements to roads, sidewalks, natural areas or other infrastructure as may be necessary to accommodate the proposed development.
7. A lighting plan in compliance with Section IV(H) of this ordinance.
8. Reports from the Police Chief, Fire Chief, and to the extent applicable, from the Water District and Sanitary District, containing their requirements or recommendations.
9. Such other information or plans as may be necessary to enable the Town Planner, Town Engineer, Code Enforcement Officer, and Planning Board to determine that the proposed structure and use of the land will conform to the provisions of this ordinance, the Scarborough Zoning Ordinance and, where applicable, the Scarborough Shoreland Zoning Ordinance.
10. A list of any requested waivers of required submissions and waivers from the standards of this ordinance.
11. A description of method to be used to permanently delineate wetland buffers to prevent encroachment. [08/17/2005]
12. The location and description of all historic and archeological resources on the parcel as identified by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or Section VII.H. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance together with a narrative describing how these resources can be preserved and incorporated into the development plan. If an identified resource will be removed, altered, or not included as part of the

development plan, a statement shall be provided as to why the resource cannot be preserved and the options considered but rejected for including it as part of the development plan. [03/19/2014][Amended 03/18/2015]

The Planning Board may waive any of the above submission requirements if the Board finds that the required information is not necessary due to special circumstances of a particular site plan, or the nature or scale of the proposed development.

IV. Performance & Design Standards

The following minimum performance and design standards shall apply to all site plans and shall serve as the minimum requirements for approval of any application. However, where the Planning Board finds that due to the nature or special circumstances of a particular plan the requirements of certain standards are not requisite to the interest of public health, safety and general welfare, the Planning Board may waive such requirements, subject to appropriate conditions to achieve the intent of this ordinance.

A. Site Utilization & Layout

The primary goal of the site plan review process is to produce attractive and functional sites that compliment and conform to both the natural and built environment in which they are proposed. To this end, the built portions of a site shall be laid out in only the most environmentally suitable locations for development. Structures and impervious areas shall be designed around, and away from, resource areas such as wetlands, steep slopes, water bodies and other unique natural features. Once the build-able portion of a site is identified, the principal building(s) is the most critical amenity to orient and position, as it is the focal point of the site in regards to use, visitation, and aesthetics. The principal building(s) shall be oriented on the site in a way that is compatible with neighboring structures and the development pattern in the vicinity. The building(s) shall also be positioned to provide an aesthetic and functional relationship with surrounding streets and sidewalks to ensure attractive and efficient vehicle and pedestrian access. Parking areas, driveways, access points and sidewalks shall be designed around, and to serve, the principal building(s) and shall also compliment the neighboring development patterns and transportation networks as well as the Comprehensive Plan guidelines.

B. Site Access

Vehicle access to and from the site shall be safe and convenient, shall minimize conflict with the existing flow of traffic, and shall be from roads that have adequate capacity to accommodate the additional traffic generated by the development. Access management techniques such as limiting the number of driveways and combining driveways preserves mobility and improves safety, and shall be incorporated to the extent feasible.

As used in this Section IV(B), the term “street or driveway” includes both public and private local, collector and arterial streets, as well as entrance roads.

1. Entrance Location & Design

- a. Any street or driveway access shall be separated from any other street or driveway, existing or proposed, on-site or off-site, in accordance with the following table. The Planning Board may relax these standards only upon finding, based on a traffic study, that the location of the street or driveway closer than these minimums is necessary for effective utilization of the site or to enable the sharing of an access with an adjacent lot to reduce the total number of necessary curb cuts, and will not cause unreasonable congestion or unreasonable safety hazards. Driveway separation shall be measured from the edge of the proposed street/driveway entrance to the edge of the alternative entrance, excluding the radii.

The location of the site's access shall also consider the existing location of driveways and entrances across a road or highway and shall attempt to meet the same separation standards established below. Entrances having the same centerline and situated directly across a road or highway from a proposed street or driveway shall not apply to this spacing requirement.

POSTED SPEED IN M.P.H.	SEPARATION IN FEET
25 or less	90'
30	105'
35	130'
40	175'
45	265'
50	350'
55 or more	525'

- b. Any street or driveway access shall be so designed in profile and grading and so located as to provide the minimum sight distance measured in each direction as specified in the Maine Department of Transportation's "Entrance Rules - Chapter 299, Part B."
- c. Driveway grades at street intersections shall not be more than five percent (5%) up or down for the first fifty (50) feet from the street, unless otherwise approved by the Planning Board.
- d. Streets and driveways shall be located not less than 125 feet from the tangent point of the curb radius of any intersection. However, a greater distance or movement restrictions shall be provided if necessary based on the results of a vehicle queuing analysis at the intersection.
- e. When serving an individual site, no part of any street or driveway shall be located within a minimum of ten (10) feet of a side property line. Alternatively, when a street or driveway serves two (2) or more adjacent sites, the Planning Board may allow the street or driveway to be located on or within ten (10) feet of a side property line between the sites. The sharing of street or driveway accesses between sites should be incorporated whenever feasible to limit curb cuts.

- f. Where a site has frontage on two or more streets, the Planning Board will require that the access to the site be provide off the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. For developments with significant traffic volumes of 50 or more peak trips, the Planning Board will consider access to more than one street, providing a traffic study clearly demonstrates a traffic safety and congestion benefit will result.
- g. There shall be no more than one full service street or driveway connection from any lot to any street, except when an additional entrance/exit must be provided to prevent traffic hazards or congestion. If two curb cuts are found to be necessary for congestion or safety reasons they shall be separated in accordance with the separation requirements in Section IV(B)(1)(a), above.
- h. Streets and driveways shall intersect the road at an angle as near to ninety (90) degrees as site conditions will permit and in no case less than seventy-five (75) degrees.
- i. Streets and driveways intersecting collector and arterial roadways shall be adequately lit.
- j. The level of service at a proposed signalized intersection shall be “D” or better. At an existing signalized intersection, the level of service shall not be reduced below “D” by the development. If an existing signalized intersection is operating below a LOS “D” pre-development, then the development shall not increase the delay at the intersection, unless this standard is waived by the Planning Board. At an un-signalized intersection, if the level of service is forecasted to be less than a “D” post-development, than the installation of a traffic signal and/or additional turning lanes shall be investigated. If these improvements are found not to be warranted, than a level of service less than “D” may be acceptable.

C. Internal Vehicular Circulation

The layout and circulation pattern within the site shall provide for the safe and convenient movement of passenger, service, and emergency vehicles through the site. The circulation layout shall also provide a safe, accessible pedestrian environment as well as encourage intra-parcel travel, minimizing curb cuts and unnecessary roadway travel in keeping with the access management goals of section B.

- 1. Street and driveway dimensions. The dimensions of streets and driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to visit the site on a daily basis. The required minimum and maximum dimensions for driveways are indicated below. Streets and driveways serving large volumes of daily traffic or truck traffic shall be required to establish high to maximum dimensions.

LAND USE	ONE-WAY WIDTH (FEET)	TWO-WAY WIDTH (FEET)
Residential	12 to 14	20 to 24

Commercial & Industrial generating between 10 - 50 truck trips per hour	15 to 25	26 to 30
Commercial & Industrial generating 50 or more truck trips per hour	Maine DOT Criteria to Apply	Maine DOT Criteria to Apply

2. A site development access driveway profile shall be designed to conform to the natural topographic features of the site, to the extent feasible. Driveways serving residential development shall be between 0.75% and 15% up or down. Driveways serving commercial or industrial developments shall be between 0.75% and 8% up or down.
3. The construction and materials used for a driveway, street, parking lot and drainage infrastructure shall comply with the latest standard specifications issued by The State of Maine Department of Transportation and as approved by the Planning Board. Specific construction details for this infrastructure shall also be approved by the Planning Board.
4. The layout and design of driveways and parking areas shall provide for safe and convenient circulation of vehicles throughout the site and shall provide the necessary curbing, directional markings, and signage to achieve this requirement. The layout, design and circulation pattern must also provide for pedestrians and cyclists as well as emergency, delivery, and service vehicles.
5. Traffic calming measures shall be included where appropriate to discourage speeding within the site and between abutting sites. Measures may include speed tables, on-street parking, raised crosswalks, vertical curbing, curvilinear road alignments, roadside plantings, neck-downs, curbed islands, signage or other traffic calming techniques.
6. Where feasible, connections between parking lots and driveways on adjacent parcels shall be provided to facilitate deliveries and minimize turning movements onto primary roads. Internal connections shall be designed to provide safe, direct access between adjacent lots in a manner that prevents their use as vehicle shortcuts. The site plan shall show stub outs, or other driveway or parking lot linkages, anticipating future vehicular connections to abutting undeveloped property.
7. Identifiable routes of access for emergency and service vehicles shall be provided to and around the buildings on the site.
8. Drive-through lanes shall minimize conflicts with pedestrian circulation routes. Motorists shall be made aware of pedestrians through signage, lighting, raised crosswalks, changes in paving or other devices. The site plan shall be designed to minimize queuing in parking lots or other areas which would cause congestion or unsafe conditions.

9. Service drives shall be separated from internal walkways, parking areas, or pedestrian use areas by landscaped islands, grade changes or other devices to minimize pedestrian contact.

D. Parking Areas

Parking lots shall be designed to complement adjacent buildings, the site, and the neighborhood by not being a dominant visual element. Every effort shall be made to reduce the scale of parking lots for aesthetic and stormwater reasons. Parking areas shall balance the needs of both vehicles and pedestrians. Parking lots shall be accessible and organized to serve the motorist, while being safe and pedestrian-friendly.

1. Off-street parking shall conform to Section XI., Off-Street Parking & Loading Requirements, of the Zoning Ordinance.
 - a. If an applicant can demonstrate to the Planning Board that the nature or operation of the proposed use will not necessitate the minimum parking space requirements found in Section XI., the Planning Board shall have the authority to approve a site plan showing fewer parking spaces than are required. This allowance may only be provided, however, if the site plan incorporates a landscaped area that is feasible and adequate to accommodate the requisite parking under Section XI., should there be a future change in the nature or operation of the use necessitating the required parking.
 - b. The Board of Appeals may also permit a reduction in the required parking spaces as per Section XI(F) of the Zoning Ordinance.
 - c. For uses that experience high turn-over traffic volumes (i.e. typical visitation is less than one-hour) the Planning Board may require the dimensions of parking spaces in close proximity of the building entrance to be 10 feet wide by 20 feet long.
 - d. The Planning Board may approve parking spaces for use by employees or residential parking to be 8 feet wide. All 8 foot wide parking spaces that are provided for employees and residential uses must be in physically segregated parking areas and the design of such parking areas must be shown on an approved site plan. No more than 10% of off-street parking spaces may be designed with a width of less than 9 feet.
2. There shall be adequate provisions for ingress and egress to all parking spaces. The following aisle widths shall be required to ensure adequate and safe access to parking spaces. Only one-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than ninety (90) degrees.

PARKING ANGLE DEGREE	MINIMUM AISLE WIDTH (FEET)
0°□ parallel parking	12'

30°□	12'
45°□	13'
60°□	18'
90°□ perpendicular parking	25'

3. Parking lots shall be designed as part of the overall plan for the site, and shall be coordinated with building entrances, lighting, and landscaping.
 - a. Whenever feasible, the majority of parking areas shall be located at the rear or sides of the building(s) being served, except where parking would be located adjacent to a residential neighborhood or when the parking is part of a multi-building site. Where such placement is not possible, the parking area shall be screened with evergreen trees, earth berms, fences, or shrubs.
4. There shall be adequate provisions made for handicap parking in accordance with the ADA Standards for Accessible Design and marked by the international symbol of accessibility. Handicap accessible spaces shall be designated in the closest located spaces on a site to the accessible entrances. Such spaces shall be provided in accordance with the following table and shall be designed in accordance with the ADA Design Standards.

TOTAL SPACES	TOTAL ACCESSIBLE SPACES REQUIRED COLUMN A	SPACES WITH 60" WIDE ACCESSIBLE AISLE	VAN ACCESSIBLE SPACES WITH 96" WIDE ACCESSIBLE AISLE
1 to 25	1	0	1
26 to 50	2	1	1
51 to 75	3	2	1
76 to 100	4	3	1
101 to 150	5	4	1
151 to 200	6	5	1
201 to 300	7	6	1
301 to 400	8	7	1
401 to 500	9	7	2
501 to 1000	2% of total parking provided	7/8 of column A	1/8 of column A
1001 and over	20 plus 1 for each 100 over 1000	7/8 of column A	1/8 of column A

This table is in accordance with the ADA Design Guide, U.S. Department of Justice, Civil Rights Division, Disability Rights Section

5. Parking areas shall be landscaped and screened in accordance with the following standards:

- a. Paved surfaces of parking areas shall be separated from buildings by a minimum of five (5) feet of landscaping and a five (5) foot walkway. Beyond the 5 foot minimum, the width of the landscaping shall be proportional to the height of the building.
 - b. The scale and impervious area of parking lots with more than 15 spaces shall be broken up with trees, landscaped islands, grade changes, low walls, or other features.
 - c. At a minimum, between 10% and 15% of the parking lot shall be landscaped. The higher percentage (15%) shall be used for larger parking lots consisting of 40 or more spaces. The lower percentage of 10% shall be used for smaller parking lots containing fewer than 40 parking spaces. Planting islands shall be a minimum of 9 feet in width. All parking lot landscaping shall be hearty and appropriate for parking lot conditions. Existing natural groupings or clusters of trees shall also be preserved.
 - d. Where front parking is permitted between the building and the road it shall be screened by trees, berms, fencing, shrubs, low walls, perennial masses, or a combination of these elements. The height of the screening shall be approximately 3 feet to minimize the view of the parking lot and vehicles, while providing a clear view of the building and signage.
- 6. Parking areas with a single point of access are strongly discouraged. Dead-end parking lots shall not contain more than ten (10) spaces. Where dead-end lots must be used, adequate space shall be provided to safely turn a vehicle around to avoid backing out.
 - 7. Directional signage and markers shall be utilized in diagonal parking lot arrangements.
 - 8. Provisions shall be made for snow storage in the design of all parking areas. The areas shall be shown on the site plan to avoid conflicts with landscaping, visibility, drainage, or icing during the winter season.

E. Pedestrian Ways, Space & Alternative Transportation [amended 11/07/2007]

Developments shall provide attractive, safe, and functional walkways within the site and for connection of the site to the Town's sidewalk system when a public sidewalk exists or is planned in the vicinity of the site. Walkways shall be designed to direct pedestrians to the main entrances of the buildings from the public right-of-ways, abutting properties and businesses, and the parking areas on the site. Entrances to buildings shall also be designed to provide some outdoor space for pedestrian use, such as seating, dining, or lawn area.

- 1. Continuous internal walkways shall be provided from any existing or planned public sidewalk in the street(s) adjacent to the site to the principal customer entrances on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as transit stops, street crossings, and building entrances.

2. If a sidewalk does not exist in the street(s) adjacent to the site but the Town has identified the construction of a sidewalk for this portion of the street(s) in the Town Wide Transportation Study (March 2005) the applicant shall be responsible for the construction of a sidewalk along the full width of the frontage or in a location otherwise determined by the Planning Board. The applicant shall not be responsible for the construction of a sidewalk in a location for which the Town Council has already adopted and funded a Sidewalk Capital Improvement Plan.
3. If a sidewalk is required to be constructed, the sidewalk shall be located within the right-of-way of the public street unless the width of the right-of-way will not allow for this. In this case, the sidewalk shall be located on the parcel in the area immediately adjacent to the street right-of-way unless the topography or natural characteristics of the site or existing development make this impractical. When determining the location and alignment of new sidewalks, existing street trees shall be avoided and preserved to the extent possible to further the goals of “subsection F Landscaping, Buffering and Greenspace” of this Ordinance.
4. If the sidewalk will be located outside of the street right-of-way, the applicant shall convey an easement to the Town for the sidewalk area.
5. When a sidewalk is constructed wholly within the street right-of-way it must conform to the design and construction requirements set forth in the Town’s Street Acceptance Ordinance (Chapter 701) for the class of street. When a sidewalk is constructed wholly or partly outside of the street right-of-way the location and design of the sidewalk must be approved by the Planning Board as part of the site plan approval.
6. Internal walkways shall be a minimum of 4 feet in width for ADA compliance and shall be raised and separated from vehicular traffic by 6 inch curbing except at crosswalks and access areas.
7. Within larger parking lots where the main building entrance will be 50+ feet from at least half of the parking spaces, a network of walkways shall be provided. These walkways shall be separated from parking bays and travel aisles by raised curbing or landscape buffering and shall be aligned with the main entry or a focal point on the building for way finding. The width of these internal parking lot walkways shall be five feet or more to enable the use of shopping carts or heavy pedestrian traffic.
8. Walkways shall be located where motorists can anticipate pedestrians. Likewise, walkways shall be designed to give pedestrians a view of oncoming vehicles and shall avoid bisecting drive-through lanes, access and service drives, and other high-traffic routes.
9. Internal crosswalks shall be provided and marked by a change in pavement texture, pattern, or color to maximize pedestrian safety. The materials selected shall be highly durable and low maintenance. Raised crosswalks shall be

considered at key locations as a traffic calming device as well as to make crosswalks more visible.

10. Areas adjacent to walkways shall be landscaped with trees, shrubs, ground cover, benches or other materials. Walkways in parking areas shall include landscaped islands for visual relief, shade, and scale.
11. All walkways and sidewalks shall be designed for efficient snow removal to enable year-round use.
12. Major entrances to new or renovated buildings shall be complemented with outdoor seating or use areas. Canopies, recessed entrances, seating areas, decorative plantings, lawn areas and other elements may be incorporated around the building entry to serve as pedestrian space or gathering areas.
13. Provisions shall be made for alternative transportation if the site is located on a bus or bicycle route. Such provisions may consist of bus shelters, bicycle racks, or individual travel lanes for either mode of transportation.

F. Landscaping, Buffering & Greenspace

Landscaping shall be used to complement the architecture, enhance the human scale, reinforce circulation paths, highlight entrances, provide shade, and add color and seasonal interest. Buffering shall be used to minimize any adverse impacts or nuisances on the site or from adjacent areas. Greenspace shall be designated to preserve the natural features or resources of a site, to provide areas for active or passive recreation, or for visual and aesthetic benefits.

1. Native species shall be used to the greatest extent possible in all landscaping designs. If site improvements will create ten (10) or more new parking spaces or create 2,000 sq. ft. or more of new building footprint, a landscape plan shall be prepared by a landscape architect registered in Maine.
2. The applicant shall use plant material and species that require a low degree of maintenance and that are hearty and resistant to insect infestation, drought, disease, road salt, and auto emissions, and are tolerant of local winter conditions.
3. Wherever practical, existing specimen trees, tree clusters or other significant vegetation shall be preserved. The landscape plan shall illustrate which vegetation will be preserved and what protection measures will be implemented. Further, transplanting and reusing on-site trees and other vegetation is strongly encouraged.
4. A varying, but simple, collection of plant materials and species is encouraged to create a distinctive, yet low maintenance environment. A list of suggested plantings in Scarborough is included in an appendix to this ordinance. Plant materials shall meet the following minimum sizes, unless alternative sizes are required given a particular site or location:

VEGETATION	MINIMUM SIZE
Canopy Trees	2 ½" caliper
Flowering Trees	2" caliper
Evergreen Trees	5 to 7' in height
Deciduous Shrubs	24" in height
Evergreen Shrubs	18" height / spread
Perennials	2 year clumps
Ornamental Grasses	2 year clumps
Ground Covers	3" pots

5. Landscaping is necessary in parking lots to enhance their appearance, lessen the scale of paved areas, define edges, and provide shade and cover. The following standards shall apply within parking areas:
 - a. At a minimum, between 10% and 15% of the parking lot shall be landscaped. The higher percentage (15%) shall be used for larger parking lots consisting of 40 or more spaces. The lower percentage of 10% shall be used for smaller parking lots containing fewer than 40 parking spaces. Planting islands shall be a minimum of 9 feet in width. All parking lot landscaping shall be hearty and appropriate for parking lot conditions and snow storage.
 - b. Trees in parking lots shall be planted in informal groups, straight rows, or concentrated in certain areas. Trees shall be planted at least five feet from the end of parking lot islands for both motorist visibility and tree health.
 - c. Plantings, trees, and other landscape elements shall separate parking lots from neighboring streets to minimize views of vehicles and paved areas, while still enabling views of the building.
 - d. Trees and shrubs in and near parking areas shall be trimmed and maintained so that they do not block views needed for safe movement of motorists and pedestrians.
6. Trees and plantings shall be coordinated with the on-site architecture by complementing the building elevations without blocking storefronts, signs, or lighting.
8. Large spreading deciduous trees shall be planted in appropriate locations along town roads and private access drives to define the edge of the travelway, provide shade for pedestrians, clean the air, and add scale to transportation corridors and commercial developments.
9. Landscape plans presented to the Planning Board shall anticipate a 3 to 8 year growing cycle to achieve maturity for shrubs and 15 to 20+ years for trees. The plan shall be designed and plantings selected with due consideration for maintenance requirements.

- a. A written maintenance plan shall be provided for the landscape elements to be installed on the site. The plan shall include initial installation, guarantee period, replacement policy, annual maintenance, and irrigation provisions. All lawns and plant materials shall be guaranteed for a period of not less than 2 years.
 - b. The use of plant materials and landscape elements that require a low degree of maintenance is strongly encouraged. Vegetation to consider includes drought resistance, tolerance to auto emissions, disease resistance, and relatively light leaf litter.
- 10.** Buffers shall be provided to shield structures and uses from the view of abutting properties, where the abutting properties would otherwise be adversely impacted. In particular, buffers shall be used to screen garbage collection areas, loading areas, waste storage, commercial vehicle parking and the like. Buffers may include fences, plantings, berms, and walls used to minimize any adverse impacts and nuisances on a given site or abutter.
- 11.** Special landscaping and buffer requirements pertain to development along the Route One Corridor. Sites abutting Route One shall provide a green strip buffer along Route One at a depth of no less than 15 feet from the sideline of Route One. This 15 ft. may include trees, grass, plantings, berms, and mounds as well as sidewalks, fences or other landscape elements. The trees and plant materials within this buffer shall also conform to the planting schedule of the document entitled: Guiding Growth & Public Improvement on Route One, Scarborough, Maine, authored by Terrence J. Dewan & Associates, dated June 1993.
- 12.** In cases where the Scarborough Zoning Ordinance requires buffers for commercial or industrial developments that abut residential zoning districts or uses, the Planning Board may require evergreen or deciduous trees within these buffer areas. An evergreen buffer requires three (3) rows of staggered plantings. The rows shall be eight (8) feet apart and the evergreens planted six (6) feet on center. Deciduous buffers require trees with a minimum of 3 inch caliper and rows and spacing to be determined by the Board based on the characteristics of the site and uses.

G. Stormwater Management

Adequate provisions shall be made for the control, collection and disposal of all stormwater runoff from the site. Drainage plans, details, and calculations shall address the two, ten and twenty-five year, twenty-four hour storm events. These plans shall be designed to compliment the hydrology and natural features of the site and shall not cause adverse impacts to abutters, downstream properties, or receiving waters.

- 1.** Stormwater management areas shall be treated as integral, attractive and natural parts of the landscape. Natural areas shall be used to retain and drain stormwater to the extent possible.

2. When areas of the site are to be paved they may be designed and constructed with pervious and semi-pervious alternatives to bituminous pavement. Alternative parking surfaces, such as porous pavement, are intended to minimize storm water run-off and facilitate infiltration and natural hydrological functions to the extent feasible.
3. Stormwater treatment basins shall be patterned after natural features and shall avoid hard geometric shapes. These basins shall be planted with wetland species to improve their aesthetic and habitat values.
4. Abrupt changes to natural drainage ways and grades shall be avoided. Natural drainage ways shall not be filled unless specifically permitted by the Planning Board and transitional grading shall be used to blend all earthworks into the natural contours of the site.
5. Drainage systems shall be designed so as to not impact streets, adjacent properties, downstream properties, and local soils and vegetation. The system shall also consider and incorporate the upstream runoff that may pass over the site.
6. The water quality of receiving waters shall not be degraded by the stormwater runoff from the site. Oil and grease traps, on-site vegetated waterways, drainage swales, and vegetated buffer strips shall be utilized as needed to aid in the prevention of degraded receiving waters.
7. Where ground protection and rip rap is necessary in visible locations it shall be constructed of hand-placed rock or geo-grid, rather than course rip-rap.
8. Wherever feasible, drainage basins shall be designed to be shared between abutting properties to lessen the amount of land area devoted to stormwater management.

H. Lighting

Outdoor site lighting shall be designed to balance visibility and safety on the site, while respecting abutting properties and minimizing light pollution and sky glow. Functional, safety, and aesthetic goals shall be achieved with fixtures and locations that are planned as part of the overall site design.

1. A lighting plan shall be furnished with the site plan application. This plan shall include all lighting fixtures proposed to illuminate the buildings, travelways, loading areas, parking areas, walkways, and landscaping on the site. A photometric diagram shall be provided to show the illumination levels that will result from the proposed lighting. Lighting details and illustrations of the proposed fixtures shall also be included.
2. The location, design, and color of fixtures (poles and luminaries) shall complement the architecture, landscaping, parking areas, and street furnishings of the site to be developed or redeveloped in terms of form, style, and placement.

3. Cut-off fixtures shall be used to control glare, skyglow, and spillover onto adjacent properties. Cut-off fixtures control these impacts by directing light well below the horizontal. Non-cut-off fixtures, such as decorative or historic lamps, may be allowed by the Planning Board where they are designed to be lower luminance, limited in number, or distant from abutting residential uses.
4. The mounting height of light fixtures shall be in scale with adjacent buildings, access drives, and pedestrian ways. In general, the maximum mounting height along driveways or access ways shall not exceed 25 feet, and shall be reduced to 12 – 16 feet where sidewalks are present. Fixture heights in parking lots shall vary depending on the size and configuration of the lot. In general, the maximum mounting height shall be 20 feet, unless an increase in height can significantly reduce the number of fixtures necessary. The final height of fixtures shall be determined by the Planning Board.
5. The location and alignment of fixtures shall be coordinated with the orientation of buildings, the layout of parking and landscaped islands, and the driveway patterns. Light fixtures shall be sited within raised landscaped areas to avoid damage from vehicles and plows, but shall also be coordinated with the plantings to avoid shadowing and dark spots from mature trees.
6. For safety and energy conservation purposes, illumination levels shall not exceed the minimums to provide safe conditions as currently recommended by the Illuminating Engineering Society of North America (IESNA). The individual IESNA standards shall be followed for roadway lighting, lighting for parking facilities, and pedestrian lighting. The use of metal halide lamps is required for parking lots and driveways for its color rendition and energy efficiency, unless an alternative is specifically approved by the Planning Board.
7. Wherever practical, lighting fixtures shall include timers, photo sensors, and other energy saving devices to lessen both energy consumption and unnecessary lighting.
8. Where commercial development abuts residential uses, cut off fixtures shall be used to eliminate spillover onto adjacent residential properties to less than 0.1 foot-candles. The lighting within the parking lots of commercial uses abutting residential areas shall reduce the lighting to an average of 0.2 foot-candles within one hour after closing.
9. Facade lighting may be used to illuminate buildings or landscaping, but must be properly sited, aimed, and shielded so that the lighting is directed only onto the building façade or plantings. Lighting fixtures shall not be directed toward adjacent streets, sidewalks or properties.

I. Architecture & Signage

The architecture of the building(s) and the aesthetics of the signage on a site shall follow traditional New England building forms and shall be designed to complement the neighborhood or village in which the site is located.

1. The signage for a site shall comply with Section XII, Sign Regulations of the Zoning Ordinance and shall be reviewed in conjunction with the site plan.
2. Buildings shall present an inviting, human-scaled façade to the street, internal drives, parking areas, and abutting properties. Wherever possible, entrances shall be clearly visible from the street and reinforced through site and architectural features designed to direct visitors to the building.
3. Building materials shall be treated as important design elements that define the appearance of the structure and strengthen the sense of identity throughout Scarborough. The use of materials that give the appearance of New England architectural forms are strongly encouraged.
4. Rooflines shall be designed to provide diversity in the form of the building and add visual interest to the streetscape. Specifically, rooflines shall be designed to reduce the mass of large buildings, emphasize building entrances, provide shelter or shade for pedestrians, and incorporate elements unique to Maine and New England.
5. Large retail buildings, linear commercial buildings, national franchise buildings, and service stations shall all comply with the specific requirements for such structures found in the *Design Standards for Scarborough's Commercial Districts, January 27, 2003*.

J. Public & Private Utilities

1. The Planning Board may require electric, cable television, and telephone lines to be underground. If these services are underground in the street or on adjoining properties, the new service shall be placed underground. Any utility installations permitted above ground shall be designed and located so as to have a harmonious relation to both neighboring properties and the site.
2. The site shall be served by an adequate supply of drinking water as well as sufficient flows for fire suppression. If a development intends to be served by a public water supply, the applicant shall furnish a written statement from the water supplier confirming that the project can be served.
3. The project shall provide for an adequate means of sewage disposal, whether it is on-site or tied into the public sewage collection and treatment system. An on-site system shall be in conformance with Scarborough's Local Plumbing Ordinance, Chapter 404A. If a development intends to be served by a public sewage system, the applicant shall furnish a written statement from the sanitary district confirming the project can be served.

K. Outdoor Storage

Outdoor storage shall be permitted only as allowed by the Scarborough Zoning Ordinance. The outside storage of goods, materials, merchandise, automobiles, automobile parts, waste

collection facilities, dumpsters, containers, and the like shall be located to the side or rear of sites and screened from view, if feasible.

1. Fencing or vegetation shall be used to screen dumpsters or recycling areas from view. These facilities shall be consolidated where possible.
2. Areas for outdoor storage or containers shall be designed as an integral part of the site, landscaping, and architectural plan and shall be setback and screened from public and private ways, main entrances, public spaces, and abutting residential neighborhoods.

L. Design Standards for Commercial Districts

In addition to complying with the foregoing performance and design standards, all site plans for properties located in the Residence and Professional Office District (RPO), the Local Business District (B-1), the Town and Village Centers District (TVC), the General Business District (B-2), the Highway Business District (B-H), the Haigis Parkway District (HP), and any commercial uses within the Traditional Neighborhood Development Overlay (TND) shall comply with the more specific Design Standards for Scarborough's Commercial Districts. In determining whether a project is designed in accordance with the Commercial Design Standards, the Planning Board may engage the services of appropriate professionals to review (at the applicant's expense) the materials submitted. In the event of a conflict or inconsistency between any requirement of the Design Standards and a requirement of this Ordinance, the Scarborough Zoning Ordinance, the Scarborough Shoreland Zoning Ordinance, or the Scarborough Subdivision Regulations, the more restrictive requirement shall apply.

M. Preservation of Historic and Archeological Resources

Any historic or archeological resource that has been identified by the Maine Historic Preservation Commission, the Town's adopted Comprehensive Plan, or Section VII.H. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance should be preserved and incorporated into the development plan in a manner that retains its historic or archeological value if feasible. If an identified resource will be removed or will be altered in a manner that diminishes its historic or archeological value, the burden is on the applicant to demonstrate that options for preserving the resource have been explored. The Planning Board, Planning Department, and the applicant may consult the State Historic Preservation Office, the Scarborough Historical Society, or similar organizations with the mission of historic and archeological preservation on options for preserving the resource. If the resource will be removed, the applicant must demonstrate that reasonable efforts have been made to preserve the resource value or relocate it to another location.
[03/19/2014][Amended 03/18/2015]

N. Municipal Capacity and State Agency Review

Within the Town's designated growth areas as depicted in the current version of the Comprehensive Plan, the Town of Scarborough's Planning Board has municipal capacity to review development activities that otherwise would require review by the Maine Department

of Environmental Protection under the Site Location of Development Law. This authority has been provided for under 38 M.R.S.A. Section 488(19). Municipal capacity shall only apply to development projects that are located wholly within the Town of Scarborough and wholly within a designated growth area. All other development projects that meet or exceed the thresholds for Site Location of Development Law shall be reviewed by the Maine Department of Environmental Protection accordingly. Municipal capacity within the Town's growth areas shall apply to both new development projects and modifications to past development projects that may have existing Site Location of Development approvals.

In addition to meeting, the standards and requirements of this Ordinance, the Scarborough Zoning Ordinance, and any other applicable local ordinances, site plans that include a minimum of three (3) acres or more of building and impervious coverage shall also be submitted and reviewed by the State of Maine regarding significant wildlife and fisheries habitat and natural resources and significant historic and archeological resources as follows:

1. The Maine Department of Inland Fisheries and Wildlife shall be provided with a complete site plan application and shall have the ability to review and provide advisory comments on the site plan's impact on any significant wildlife habitat, aquatic habitat, fisheries habitat, or wildlife travel corridor. The Planning Board shall not issue a final decision on a site plan application until it receives comments from the Maine Department of Inland Fisheries and Wildlife or thirty (30) days from the submission of the application to the department, whichever comes first. [03/19/2014]
2. The Maine Historic Preservation Commission shall be provided with a complete site plan application and shall have the ability to review and provide advisory comments on the presence of any significant historic or archeological resources that may exist on the site. The Planning Board shall not issue a final decision on a site plan application until it receives comments from the Maine Historic Preservation Commission or thirty (30) days from the submission of the application to the department, whichever comes first. [03/19/2014]

V. Site Conditions & Environmental Considerations

Before and during construction, the applicant or developer shall abide by the following conservation, erosion, and sediment control measures as well as the site construction, safety, and hazardous waste standards.

A. Conservation, Erosion, & Sediment Control

1. Stripping of vegetation, re-grading and other development shall be performed in such a way as to minimize erosion.
2. Development shall preserve prominent natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water run-off.
3. Wherever feasible, natural vegetation shall be retained, protected, and supplemented.

4. The extent of disturbed area and the duration of exposure shall be proposed by the applicant for consideration by the Planning Board. The proposal shall conform to time schedules acceptable to the Planning Board or to the Town Planner and Town Engineer if the Planning Board so directs.
5. Disturbed soils shall be stabilized as efficiently as possible.
6. Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
7. The permanent vegetation and mechanical erosion control measures shall be installed in conformance with a specified schedule as approved by the Planning Board or by the Town Planner and Town Engineer if the Planning Board so directs.
8. Until the disturbed area is stabilized, sediment in the runoff shall be trapped and contained by the use of debris basins, sediment basins, silt traps, silt fencing or other acceptable measures.
9. Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the developer causing the sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any resulting damages in an efficient manner.
10. Any developer conducting an activity on or across a stream, watercourse or swale or upon a floodway or right-of-way thereof shall maintain, as nearly as possible, the state of the stream, watercourse, swale, floodway or right-of-way during the activity. Following the activity, the water feature shall be returned to its original, or equal, condition.
11. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

B. Site Conditions

1. During construction, the site shall be maintained and left each day in a safe and sanitary manner. Any condition which could lead to personal injury or property damage shall be immediately corrected by the developer upon order by the Code Enforcement Officer or other authorized personnel. The developer shall make provisions for the disposal of oil, grease, and any other materials or equipment which may pose a threat to public health and safety. The site shall be regularly sprayed to control dust from construction activity.
2. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris, and excess or scrap building materials. Such material shall be removed or destroyed upon the request, and to the satisfaction, of the Code Enforcement Officer and must be accomplished prior to the issuance of an occupancy permit.

3. No substantial change shall be made in the elevation or contour of any lot or site by the removal or addition of earth, except as shown on an approved site plan. Minimal changes in elevations may be made only after approval by the Code Enforcement Officer. All permitted changes necessitated by field conditions shall be shown on the as built plans.
4. Prior to or during construction, the Code Enforcement Officer may require the installation or construction of improvements in order to prevent or correct a temporary condition on the site that could cause personal injury, damage to property, erosion, flooding, heavy construction traffic, creation of steep grades, or pollution. Required improvements may include berms, mulching, sediment traps, detention and retention basins, grading, plantings, retaining walls, culverts, pipes, guardrails, temporary roads, and other improvements specific to a condition. All temporary improvements shall remain in place and operation until otherwise directed by the Code Enforcement Officer.

VI. Fees

A. Application Fee

At the time of submission of a site plan review application, the applicant shall pay to the Town Treasurer an application fee. Said fee shall be non-refundable and shall be computed as specified in the *Schedule of Licenses, Permit and Application Fees* established by the Town Council.

B. Development Review and Construction Inspection Fee

Prior to the issuance of a building permit for the construction authorized by the site plan approval, the applicant shall pay to the Town Treasurer a Development Review and Construction Inspection Fee. Said fee shall be non-refundable and shall be computed and paid as follows:

1. The amount of the fee shall be determined by the Town Engineer, and shall include the actual costs incurred by the Town to engage consultants to undertake review of the applicant's site plan submissions plus the estimated cost to the Town of retaining the services of a qualified construction or site inspector under the employ of a licensed professional engineer to observe and inspect any improvements associated with the site plan approval.
2. If, upon completion of the required improvements, the actual cost of monitoring and inspection exceeds the amount paid at the time of issuance of the building permit, the applicant shall pay the additional amount to the Town Treasurer before the certificate of occupancy for the building or site shall be issued. If, upon completion of the required improvements, the actual cost of monitoring and inspection is less than the amount paid the Town shall return the unused portion to the applicant.

VII. Enforcement, Occupancy and Performance Guaranty

This ordinance shall be enforced by the Town of Scarborough Code Enforcement Officer. It shall be a violation of this ordinance (1) to undertake an activity requiring site plan review without first obtaining site plan approval from the Planning Board, (2) to develop or use any property for which a site plan has been approved except in the manner shown on the approved site plan and as per Section III(B)(8) of this ordinance, or (3) to violate any condition of approval of an approved site plan. Any person who violates this ordinance shall be penalized pursuant to 30-A M.R.S.A. section 4452. Each day a violation exists constitutes a separate violation.

A. Occupancy Permit and Performance Guaranty

An occupancy permit for the use or occupancy of any land, building, structure or part thereof requiring site plan approval shall be issued in accordance with Section IV(G), Certificate of Occupancy, of the Town of Scarborough Zoning Ordinance.

No occupancy for full or partial occupancy shall be issued by the Code Enforcement Officer until the Town Engineer, Town Planner or their designee are satisfied that the property has been constructed in accordance with the approved site plan and conditions of approval, or that the Town has received a performance guarantee for the completion of specific outstanding site elements within a specified timeframe.

A performance guarantee may be in the form of cash, certified check payable to the Town of Scarborough, or an irrevocable letter of credit in a form and from an issuer acceptable to the Town Treasurer. The amount of a performance guarantee shall be determined by the Town Engineer or her/his designee, following the submission of a cost estimate by the applicant, and shall be in an amount at least equal to the total cost of the remaining work to be completed. [amended 11/01/17]

VIII. Severability and Conflicts

A. Severability

In the event that any section, subsection or any portion of this ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or other portion of this ordinance.

B. Conflict

In the event that any provision of this ordinance is in conflict with or inconsistent with any provision of any other ordinance of the Town of Scarborough, the provision which establishes the most stringent requirement shall prevail.

IX. Meanings of Words

Where words or terms used in this ordinance are defined in the Town of Scarborough Zoning Ordinance, the Town of Scarborough Subdivision Ordinance or the Town of Scarborough

Shoreland Zoning Ordinance, such definitions shall apply to this ordinance as well. Words or terms not so defined shall have their ordinary, customary meanings.

Appendix – Plant Materials List

The plants on this list have been derived from a number of sources to inspire a greater landscape variety in Scarborough. The final selection of materials shall consider the specific growing requirements and characteristics of each plant and the conditions of the site.

STREET TREES		ORNAMENTAL TREES	
Aesculus hippocastan	Baumanii Horsechest	Acer campestre	Hedge Maple
Acer campestre	Hedge Maple	Acer ginnala	Amur Maple
Acer ginnala	Amur Maple	Aesculus carnea	Red Horsechestnut
Acer x. freemanii	Armstrong Maple	Amelanchier canadensis	Serviceberry
Acer x. freemanii	Autumn Blaze Maple	Carpinus betulus	European Hornbeam
Acer rubrum	Red Maple	Carpinus carolinianum	American Hornbeam
Acer saccharum	Sugar Maple	Celtis occidentalis	Hackberry
Acer tataricum	Tartarian Maple	Cornus kousa	Kousa Dogwood
Acer triflorum	Three-flower Maple	Cornus mas	Cornealancherry Dogwood
Amelanchier	Shadblow	Cotinus obovatus	American Smoketree
Betula nigra	River Birch	Crataegus crus-galli	Cockspur Hawthorne
Carpinus betula fastig.	Upright Hornbeam	Crataegus viridis	Winter King Hawthorne
Carpinus caroliniana	American Hornbeam	Halesia carolina	Carolina Silverbell
Cercidiphyllum japon.	Katsura Tree	Maackia amurensis	Maackia
Cladrastis lutea	Yellowwood	Magnolia loebneri	Loebner Magnolia
Corylus columna	Turkish Filbert	Magnolia stellata	Star Magnolia
Crataegus crusgalli	Cockspur Hawthorn	Malus species	Crabapple
Fraxinus americana	White Ash	Nyssa sylvatica	Tupelo
Ginkgo biloba	Maidenhair Tree	Ostrya virginiana	Ironwood
Gleditsia triacanthos	Thornless Honey Locust	Phellodendron arboretum	Amur Corktree
Gymnocladus dioicus	Kentucky Coffee Tree	Prunus sargentii	Sargent Cherry
Liriodendron tulipifera	Tulip Poplar Tree	Prunus subhirtell	Higan Cherry
Magnolia acuminate	Cucumber Tree	Pyrus calleryana	Bradford Pear
Prunus accolade	Accolade Cheery	Sorbus alnifolia	Korean Mountain Ash
Prunus maackii	Amur Chokecherry	Syringa reticulata	Tree Lilac 'Ivory Silk'
Quercus alba	White Oak		
Quercus bicolor	Swamp White Oak	EVERGREEN TREES	
Quercus coccinea	Scarlet Oak	Abies concolor	White Fir

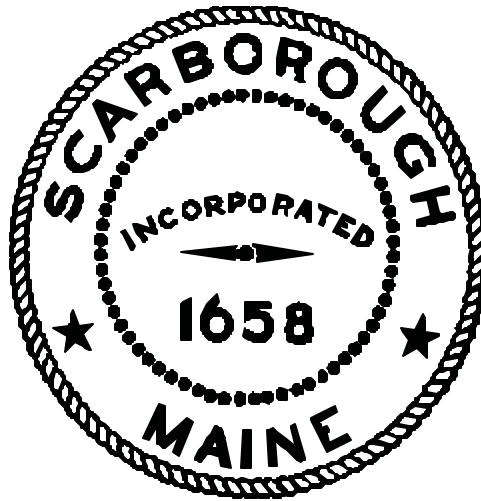
<i>Quercus imbricaria</i>	Shingle Oak	<i>Abies fraseri</i>	Fraser Fir
<i>Quercus palustris</i>	Pin Oak	<i>Picea abies</i>	Norway Spruce
<i>Quercus robur</i>	Upright English Oak	<i>Picea glauca</i>	White Spruce
<i>Quercus rubra</i>	Red Oak	<i>Picea omorika</i>	Serbian Spruce
<i>Quercus shumardi</i>	Shumard Red Oak	<i>Picea pungens</i>	Colorado Spruce
<i>Sophora japonica</i>	Regent Scholartree	<i>Pinus resinosa</i>	Red/Norway Pine
<i>Tilia cordata</i>	Littleleaf Linden	<i>Pinus strobus</i>	Eastern White Pine
<i>Ulmus parvifolia</i>	Lacebark Elm	<i>Thuja occidentalis</i>	American Arborvitae
<i>Ulmus americana</i>	Princeton American Elm	<i>Tsuga canadensis</i>	Canadian Hemlock
<i>Zelkova serrata</i>	Greenvase Zelkova	<i>Tsuga caroliniana</i>	Carolina Hemlock

FLOWERING & ORNAMENTAL SHRUBS		PERENNIALS	
<i>Aesculus parviflora</i>	Bottlebrush Buckeye	<i>Achillea millefolium</i>	Yarrow
<i>Aronia arbutifolia</i>	Red Chokeberry	<i>Aster x frikartii</i>	New England Aster
<i>Cotinus coggygia</i>	Common Smoketree	<i>Astilbe varieteis</i>	Astilbe
<i>Cotoneaster adpressa</i>	Creeping Cotoneaster	<i>Coreopsis verticillata</i>	Moonbeam Coreopsis
<i>Deutzia gracilis</i>	Slender Deutzia	<i>Echinacea purpurea</i>	Purple coneflower
<i>Enkianthus campanulat.</i>	Redveined Enkianthus	<i>Hemerocallis species</i>	Daylilies
<i>Forsythia 'Sunrise'</i>	Sunrise Forsythia	<i>Liatris spicata</i>	Gayfeather
<i>Hydrangea paniculata</i>	Panicle Hydrangea	<i>Malva alcea</i> 'fastigiata'	Hollyhock Mallow
<i>Ilex verticillata</i>	Winterberry	<i>Perovskia atriplicifolia</i>	Russian Sage
<i>Myrica pensylvanica</i>	Bayberry	<i>Rudbeckia</i> 'Goldsturm'	Black-Eyed Susan
<i>Potentilla fruticosa</i>	Bush Cinquefoil	<i>Sedum telephium</i>	Autumn Joy Sedum
<i>Prunus maritima</i>	Beach Plum		
<i>Rhododendron species</i>	Rhododendron Species	ORNAMENTAL GRASSES	
<i>Rosa rugosa</i>	Beach Rose	<i>Deschampsia caespitosa</i>	Tufted hair Grass
<i>Viburnum prunifolium</i>	Blackhaw Viburnum	<i>Miscanthus sinensis</i>	Purple Silver Grass
<i>Viburnum sargentii</i>	Sargent Viburnum		
<i>Viburnum trilobum</i>	Amer. Cranberrybush		
<i>Xanthorhiza simplicissima</i>	Yellowroot		

CHAPTER 902

TOWN OF SCARBOROUGH

DISPOSAL OF SOLID WASTE



Adopted 7/85

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**CHAPTER 902
TOWN OF SCARBOROUGH
DISPOSAL OF SOLID WASTE**

ARTICLE 1

1.1 Short Title

This Ordinance shall be known as and may be cited as the “Ordinance Relating to the Disposal of Solid Waste within the Town of Scarborough, Maine, Prescribing Rules and Regulations Therefore: Providing Penalties for Violations Thereof” and shall be referred to herein as “Ordinance.”

1.2 Purposes

The purpose of the Ordinance is to protect the health, safety and general well-being of the citizens of Scarborough: enhance and maintain the quality of the environment, conserve natural resources and prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the disposal of solid waste in the Town of Scarborough in accordance with the provisions of Title 38 M.R.S.A. § 1305 as amended.

1.3 Definitions

For the purpose of this Ordinance, the following definitions shall be observed in the construction of this Ordinance.

1.3.2 “Ashes” shall mean that residue from the burning of wood, coal, coke or other combustible material.

1.3.3 “Board” shall mean the Town Council or Board of Selectmen, whichever is applicable.

1.3.4 “Disposal” shall mean the discharge, deposit, dumping or placing of any solid waste into or on any land.

1.3.5 “Hazardous Wastes” shall mean a waste substance or material in any physical state, designated as hazardous by the terms of a certain Waste Handling Agreement between the municipality and Regional Waste Systems, Inc. (R.W.S.).

1.3.6 “Infectious Waste” shall include those wastes so defined by the Solid Waste Management Regulations promulgated by the Department of Environmental Protection pursuant to Title 38 M.R.S.A. §1304.

1.3.7 “Municipality” shall mean the Town of Scarborough, Maine.

1.3.8 “Resource Recovery” shall mean the recovery of materials or substances that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purposes.

1.3.9 “Solid Waste” shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitations, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscaping refuse, but shall not include septage tank sludge nor agricultural or hazardous wastes.

1.3.10 “Solid Waste Disposal Facility (Disposal Facility)” shall mean any land or structure or combination of land area and structures, including dumps and transfer stations used for storing, salvaging, reducing, incinerating or disposing of solid wastes.

ARTICLE II. MUNICIPAL SOLID WASTE DISPOSAL FACILITY

2.1 Designation

2.1.1 In accordance with the provisions of Title 30 M.R.S.A. §1305, the town hereby designates the Regional Waste Systems facility on Congress Street in Portland, Maine, as its public solid waste disposal facility for the purposes cited in 1.3.10 of this Ordinance. Subsequent to completion of the Disposal Facility or such other date as may be established by the Board, the dumping or depositing of any solid waste generated within the Municipality by any person at any place other than at this designated disposal facility is prohibited, provided however, the owner of any lot, or any other person with the permission of the lot owner, may deposit similar material for fill purposes only, subject to state of local land user regulations.

ARTICLE III. ADMINISTRATION

3.1 Governing Board

3.1.1 The Board shall establish the rules and regulations governing the availability and use of the disposal facility.

3.1.2 The operation of the disposal facility shall conform to all pertinent regulations or directives of all local, county, state or federal agencies which may have jurisdiction.

ARTICLE IV. RESTRICTIONS AND FEES FOR DISPOSAL

4.1 Restrictions

4.1.1 No person, firm or corporation shall permanently dispose of waste or refuse of any kind upon any land within the corporate limits of the Town of Scarborough, unless such land has been designated by the Town Council as a solid waste disposal facility.

4.1.2 Certain materials may be excluded by regulation from those refuse materials which may be deposited at a solid waste disposal facility. These excluded materials may include junk automobile bodies and similar bulky waste which may require special processing prior to disposal, trees and tree trunks and limbs, burning materials or materials containing hot or live coals; hazardous wastes; and other materials which the Town deems necessary to exclude. Hazardous wastes shall be handled in accordance with all applicable Federal, State and Local Regulations.

4.1.3 Except for licensed disposal of hazardous or infectious wastes, it shall be unlawful for any person, firm or corporation to burn or incinerate any solid waste within the Town other than trees, tree limbs, leaves and other wood waste.

ARTICLE V. RULES AND REGULATIONS

5.1 Authorized Disposal Facility Users

5.1.1 The availability and use of the disposal facility shall be limited to residents of the municipality, and to those residents of any other municipality which may, by mutual agreement, be authorized to use the disposal facility. As a means of user control, the municipality shall distribute vehicle permits to authorized users which shall be affixed to user vehicle(s). Failure to exhibit such permit shall result in denial of use of the facility.

5.2 Resource Recovery

5.2.1 The Municipality may require solid waste to be separated into such categories as may be established by Town regulations and disposed of only in such manner and at such sites and locations as designated.

5.3 Property Rights

5.3.1 Any solid waste deposited within the disposal facility shall become the property of the municipality or R.W.S., pursuant to the terms of said Waste Handling Agreement. No one shall salvage, remove, or carry off any such deposited solid waste without prior approval of the municipality.

VI. MISCELLANEOUS

6.1.1 The Board may establish by order a schedule of license fees to be charged to commercial refuse collectors for the use of the disposal facility which schedule shall be posted and published. All fees collected shall be for the use of the Town of Scarborough, Maine. Any license granted hereunder may be revoked upon any violation of this Ordinance.

6.1.2 It shall be the duty of the Board or its designee to enforce the provisions of this Ordinance.

6.1.3 All Ordinances or parts of Ordinances in conflict with this Ordinance is hereby repealed.

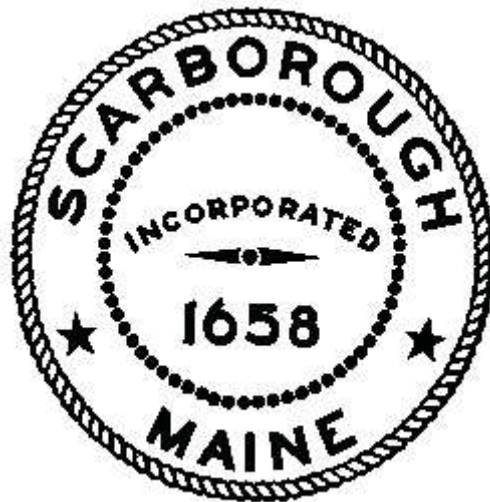
6.1.4 If any section, subsection, sentence or part of the Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

6.1.5 Whoever violates any of the provisions of this ordinance shall be punished by a fine or not more than one hundred (\$100.00) dollars plus costs which fine shall be recovered on complaint to the use of the Town.

CHAPTER 1008

TOWN OF SCARBOROUGH

SPECIAL AMUSEMENT ORDINANCE



Adopted 6/21/78
Amended 04/05/95
Amended 09/06/95
Amended 11/01/17

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**CHAPTER 1008
TOWN OF SCARBOROUGH
SPECIAL AMUSEMENT ORDINANCE**

ARTICLE I - Title, Purpose & Definitions

Section 101. TITLE

This Ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Scarborough, Maine.

Section 102. PURPOSE

The purpose of this Ordinance is to control the issuance of special permits for music, dancing, or entertainment in facilities licensed by the State of Maine to sell liquor as required by 28-A M.R.S.A. 1054.

Section 103. DEFINITIONS

103.1 Entertainment.

For the purposes of this Ordinance, "entertainment" shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises, whose incidental duties include activities with an entertainment value.

103.2 Licensee.

For purposes of this Section, "licensee" shall include the holder of a license issued under Alcoholic Beverages Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent, or employee of any such licensee.

ARTICLE II - General

Section 201. PERMIT REQUIRED

No licensee for the sale of liquor to be consumed on her/his premises shall permit, on her/his licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the municipality in which the licensed premises are situated a special amusement permit signed by at least a majority of the municipal officers. [amended 11/01/17]

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; her/his residence address; the name of the business to be conducted; her/his business address; the nature of her/his business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall described those circumstances specifically;

whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances and any additional information as may be needed by the municipal officers in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license. [amended 11/01/17]

No permit shall be issued for any thing, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, by-laws, or rules and regulations of the municipality.

The fee for a special amusement permit shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council.

The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within 15 days of the date that the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

The municipal officers shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety, or welfare, or would violate municipal ordinances, or rules and regulations, articles, or by-laws.

A permit shall be valid only for the license year of the applicant's existing liquor license.

Section 202. INSPECTIONS

Wherever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided or required by ordinance or State Law, or are reasonably necessary to secure compliance with any ordinance provision or State Law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official or employee of the municipality authorized to make the inspection at any reasonable time that admission is requested.

Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or State Law, it shall be the duty of the licensee, or person in charge of the premises, to give to any authorized officer, official or employee of the municipality requesting the same sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be provided, the municipal officers may revoke the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official or employee to make an inspection or take sufficient samples for analysis, or who interferes with such officer, official, or employee while in the performance of his duty. Provided, that no license or special amusement permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection.

Section 203. SUSPENSION OR REVOCATION OF A PERMIT

The municipal officers may, after a public hearing, preceded by notice to interested parties, suspend, or revoke any special amusement permits, which have been issued under this Ordinance on the grounds that the music, dancing or entertainment so permitted constitutes a detriment to the public health, safety, or welfare, or violates any municipal ordinances, articles, by-laws, or rules and regulations.

Section 204. RULES AND REGULATIONS

The municipal officers are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing or entertainment permitted under each class and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted.

Such rules and regulations shall be additional to and consistent with all sections of this Ordinance.

Section 205. PERMIT AND APPEAL PROCEDURES

205.1 Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen (15) days from the date her/his request was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within 30 days after an application for a permit has been denied. [amended 11/01/17]

205.2 Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within 30 days of the denial, suspension or revocation, appeal the decision to the municipal board of appeals as defined in 30-A M.R.S.A. 2691. The municipal board of appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety or welfare, or that the denial, revocation or suspension was not based by a preponderance of the evidence on a violation of any ordinance, article, by-law, or rule or regulation of the municipality.

Section 206. ADMISSION

A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit.

Section 207. LIVE ENTERTAINMENT REGULATION

The purpose of this section is to regulate nudity as a form of live entertainment in those establishments at which alcoholic beverages are served or consumed.

No licensee shall permit entertainment on the licensed premises whether provided by professional entertainer(s), employees of the licensed premises, or any other person, when the entertainment involves:

- A. The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
- B. The actual or simulated touching, caressing, or fondling of breasts, buttocks, anus, or genitals;
- C. The actual or simulated displaying of the genitals, pubic hair, buttocks, anus, or any portion of the female breasts at or below the areola area thereof;
- D. The permitting by any licensee of any person to remain in or upon the licensed premises who exposes to any public view any portion of his or her genitals or anus or female breasts below the areola area thereof.

For purposes of this section, the words "displaying" and "exposes" shall mean being unclothed or uncostumed or not covered by fully opaque cloth or textile material, or employing any device or covering which is intended to give the appearance or to simulate the genitals, pubic hair, buttocks, anus or the portions of the female breasts at or below the areola area thereof.

ARTICLE III - Penalty, Separability and Effective Date

Section 301. PENALTY

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than one hundred dollars (\$100.00), to be recovered on complaint, to the use of the Town of Scarborough.

Section 302. SEPARABILITY

The invalidity of any provision of this Ordinance shall not invalidate any other part.

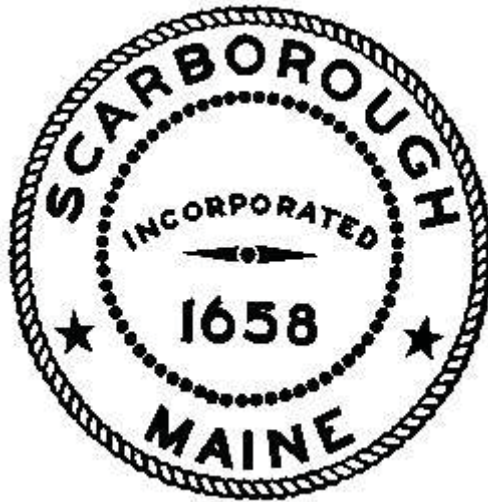
Section 303. EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the date of its official adoption by the Town of Scarborough. Adopted 6/21/78.

CHAPTER 312

TOWN OF SCARBOROUGH

SPECIAL FIRE POLICE ORDINANCE



Adopted May 20, 1987

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CHAPTER 312
TOWN OF SCARBOROUGH
SPECIAL FIRE-POLICE ORDINANCE

Section I. Application.

Persons desiring appointment as Special Fire-Police shall make application to the Chief of Police upon forms prescribed by the Chief of Police and containing such information as the Chief of Police shall require.

Section II. Appointment.

The Chief of Police, upon recommendation from the Fire Chief, may appoint Special Fire-Police to serve for a term of one (1) year. Appointments may be continued by the Chief of Police on a one (1) year basis to expire March 31 of each year.

Section III. Powers.

Special Fire-Police shall be empowered to direct traffic, to participate in crowd control measures and to act pursuant to specific direction and authorization of the Police Department or Fire Department at the scene of fires, accidents, or when called to duty by either the Police Department or Fire Department. Such Special Fire-Police shall have none of the other powers of a regular police or fire officer and shall serve only during his or her term of office. Such Special Fire-Police shall not wear a uniform or cap in a color or style similar to that worn by the regular police officers of the Town. Such Special Fire-Police shall not have the power of arrest or issue legal process, and shall not wear, carry or otherwise display any firearm. Such Special Fire-Police shall be authorized to equip his/her motor vehicle with a red light in accordance with Title 29, Section 1368 Maine Revised Statutes. This authorization shall be contingent on the member making application to the Fire Chief, and shall be governed by the same application process and regulations already established for members of the Scarborough Fire Department.

Section IV. Supervision by Chief of Police/Fire Chief.

The members of the Special Fire-Police shall serve under the control and supervision of the Chief of Police and the Fire Chief. The Chief of Police and Fire Chief are authorized to prescribe the organization, training, and such other regulations and conditions of the membership, as the Chiefs shall deem necessary or appropriate. The Chiefs may also institute such disciplinary actions as the Chiefs deem necessary or appropriate for violation of this Article or any regulations.

Section V. Compensation.

Special Fire-Police shall be compensated at the same rate as volunteer firemen. Payment will be made from the Fire Department payroll, except in cases of the Special Fire-Police being activated for a totally Police related incident. Payment, in such cases will be made by the Police Department.

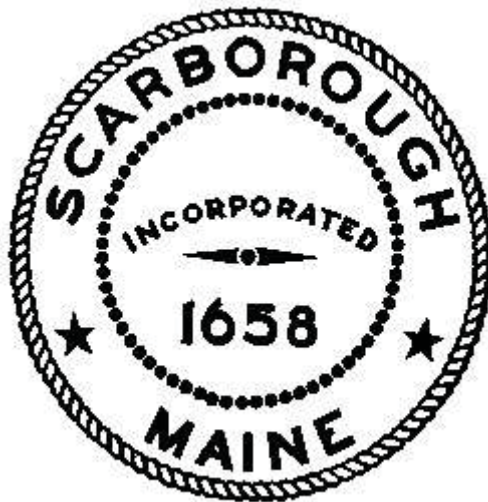
Section VI. Removal.

Special Fire-Police appointed or continued under the terms of this Ordinance may be removed by the Chief of Police and/or Fire Chief for cause after notice and hearing.

CHAPTER 305

TOWN OF SCARBOROUGH

SPRINKLER SYSTEM ORDINANCE



Adopted October 6, 1993
Amended August 16, 1995

Amended December 21, 2011

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CHAPTER 305
TOWN OF SCARBOROUGH
SPRINKLER SYSTEM ORDINANCE

New Building Construction.

Except as provided in Section 8, an Approved Automatic Sprinkler System shall be installed in all areas of all new buildings described in whole or in part by any of the following criteria:

- a. Three or more stories in height; or
- b. Forty or more feet in height; or
- c. Either 100,000 cubic feet or more in total volume or 7,500 square feet or more in floor area; or
- d. Multiple family or multiple occupant dwelling and/or lodging units which are attached to one another, whether vertically or horizontally, in a configuration of three or more units. Examples include, but are not limited to, multiplex housing, condominium units, garden apartments, town houses, attached dwellings, semi-detached dwellings, apartment houses, hotels, motels, boarding homes and lodging houses; or
- e. Non-residential Units of Occupancy which are attached to one another, whether vertically or horizontally, in a configuration of three or more units.
- f. Any building, regardless of size, that is part of a retail sales operation and that involves the storage and/or sale of consumer fireworks or fireworks; or,
- g. Any health care and/or educational occupancy as defined in NFPA 101 Life Safety Code.

2. Existing Building and Requirements of Other Codes.

Except as provided in Section 8, an Approved Automatic Sprinkler System shall also be installed in any of the following circumstances:

- a. When an existing building is enlarged, altered or renovated and the enlarged, altered or renovated portion, together with the area and/or volume of any other enlargements, alternations or renovations occurring since the effective date of this Ordinance, does not exceed 25% of the area and/or volume of the building existing on the effective date of this Ordinance, then an Approved Automatic Sprinkler System is not required. When the area and/or volume of such enlarged, altered or renovated portion, together with the area and/or volume of any other enlargements, alternations or renovations occurring since the effective date of this Ordinance, exceeds 25% of the area and/or volume of the building existing on the effective date of this Ordinance, and if as a result of the enlargement, alteration or renovations, the building as a whole will meet any of the criteria listed in Section 1, then an Approved Automatic Sprinkler System must be installed in the entire building.

- b. When a new dwelling or lodging unit is created in or added to an existing building, an Approved Automatic Sprinkler System must be installed in the entire building if, as a result of the creation of the new unit, the building as a whole will meet the criteria of Section 1 (d).
- c. When any other applicable ordinance, code, regulation, rule or statute so requires, then an Approved Automatic Sprinkler System shall be installed accordingly.

3. Definitions.

- a. “An Approved Automatic Sprinkler System” means a system either voluntarily installed or required under this ordinance or other codes and standards. All systems must be installed in accordance with National Fire Protection Association Standards or a system approved and permitted by the Maine State Fire Marshall’s Office and the Scarborough Fire Department.
- b. “Alteration” means any construction or renovation to an existing structure other than repair or addition.
- c. “Approved Supervisory Alarm System” means a system which complies with the requirements of the Town of Scarborough Ordinance Regulating Fire Detection, Suppression and Supervisory Alarm Systems adopted July 17, 1991, as such ordinance may be amended from time-to-time.
- d. “Building” means any structure having a roof supported by columns or walls. For purposes of determining when an Approved Automatic Sprinkler System is required by this Ordinance, portions of buildings separated from other portions by a fire walls shall not be considered separate buildings.
- e. “Consumer Fireworks” has the same meaning as provided for in 8 M.R.S.A. §221-A(4).
- f. “Fireworks” has the same meaning as provided for in 8 M.R.S.A. §221-A(4).
- g. “Unit of Occupancy” means any interior space with defined boundaries described in a deed, lease, license or agreement in which a discreet business, commercial, office, service, professional, institutional or industrial activity is conducted and which is separated from any other business, commercial, office, service, professional, institutional or industrial activity by interior or exterior walls.

4. Additional Requirements of Sprinkler Systems.

- a. An Approved Automatic Sprinkler System shall be equipped with an Approved Supervisory Alarm System which will transmit to an approved receiver or municipal fire alarm system. The determination of what systems and receivers are “approved” shall be made by the Scarborough Fire Department in order to ensure that only compatible systems are connected to the municipal fire alarm cable. The Scarborough Fire Department Electrician or designee is the only person authorized to make the connection to the municipal system.

- b. An Approved Automatic Sprinkler System shall include an approved Fire Department Connection with cap. The style and location of the Fire Department sprinkler and standpipe connections shall be approved by the Scarborough Fire Department.
- c. An Approved Automatic Sprinkler System shall include an evacuation alarm which will provide audible and visual warning throughout the entire building when the sprinkler system is activated.
- d. Notwithstanding anything to the contrary in any other regulation, code or rule, an Approved Automatic Sprinkler System shall provide sprinkler heads both above and below ceilings in all building spaces, including, without limitation, closets, stairwells, storage rooms, mechanical rooms and equipment rooms (unless an alternative method is acceptable to the Scarborough Fire Chief and the Maine State Fire Marshal's Office). [amended 08/16/95]
- e. Tamper switches shall be installed and monitored on all sprinkler systems to indicate a condition that would impair the satisfactory operation of the sprinkler system. System components and parameters that shall be monitored include, but are not limited to, control valves, water tank levels, tank pressure, and air pressure on dry-pipe systems.
- f. When required, fire suppression hood systems shall be installed and monitored. Upon activation of the fire alarm system, the alarm system shall automatically disconnect the fuel or energy supply to the protected appliances and the power to any ventilation and/or make-up air fans.

5. Maintenance of System Required.

Occupied or unoccupied buildings or portions thereof having a sprinkler system in place, whether or not such system is required by this Ordinance, shall maintain all sprinklers and standpipe systems and all component parts in workable condition at all times, and it shall be unlawful for any owner or occupant or agent of either to reduce the effectiveness of the protection those systems provide. This Section does not prevent the owner or occupant of a building from temporarily reducing or discontinuing the protection when necessary in order to conduct testing, repairs, alterations or additions to the system, provided that the testing, repairs, alterations or additions are done in such a way to avoid the creation of a safety hazard, and provided that the Fire Department has been notified that the work will be done, informed of the time the system will be shut down and then notified when the system is put back on line.

6. Enforcement.

A person, firm or corporation who is the owner or has control or use of any building and who violates or permits or causes a violation of any of the provisions of this Ordinance in such building commits a civil violation punishable pursuant to 30-A M.R.S.A. §4452. The provisions of this Ordinance shall be enforced by the Scarborough Fire Chief or members of the Fire Department expressly designated by the Chief.

7. Authority and Purpose.

This Ordinance is enacted pursuant to 30-A M.R.S.A. §3001 and 30 M.R.S.A. §3007(2) as a local life safety code and for the purpose of fulfilling the municipality's enforcement responsibilities pursuant to Title 25, Chapter 313 of the Maine Revised Statutes.

8. Exemption.

This Ordinance shall not apply to single-family dwellings, two-family dwellings and barns or greenhouses used for agriculture or horticulture.

CHAPTER 701

TOWN OF SCARBOROUGH

STREET ACCEPTANCE ORDINANCE



JANUARY 1986
AMENDED JUNE 4, 1986
AMENDED NOVEMBER 7, 2007
AMENDED NOVEMBER 1, 2017

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**CHAPTER 701
TOWN OF SCARBOROUGH
STREET ACCEPTANCE ORDINANCE**

Section. 1 Title

This Ordinance shall be known, and may be cited as the “Street Acceptance Ordinance of the Town of Scarborough, Maine”.

Section. 2 General

This ordinance shall apply to any request or petition by any person that the Town accept a street or road as a public street. However, nothing in this ordinance shall prevent the Town Council, acting on its own initiative, from accepting any street in any manner allowed by law when the Council, exercising its sole and exclusive judgment as the Town’s legislative body, determines that such acceptance would be in the public interest. [amended 11/07/2007]

Section. 3 Definitions

For the purpose of this Ordinance, certain terms used herein are defined as follows:

A. Residential Collector Street:

A street which carries residential neighborhood traffic, but which provides no or limited residential frontage and has an ADT not in excess of 3000. If the anticipated ADT will exceed 3000, the street shall be classified as a street of a higher order than residential collector and become subject to higher design standards as recommended by the Town Planner and approved by the Planning Board and Town Council. A dead-end residential collector street is not permitted.

B. Residential Subcollector Street:

A frontage street which provides access to abutting properties and which may also conduct traffic from residential access streets that intersect it and has an ADT that does not exceed 750. (Each half of a loop subcollector street may be regarded as a single subcollector street and the total traffic volume conveyed on a loop subcollector street shall not exceed 1500 ADT). A dead-end residential subcollector street shall not exceed 2000 feet in length.

C. Residential Access Street:

A frontage street which provides access to abutting properties and designed to carry no more traffic than that which is generated on the street itself and has an ADT that does not exceed 200. (Each half of a loop access street may be regarded as a single access street and the total traffic volume conveyed on a loop access street shall not exceed 400 ADT). A dead-end residential access street shall not exceed 2000 feet in length and shall not serve immediately or in the future more than 20 dwelling units.

D. Rural Residential Subcollector Road:

A frontage road located in the RF or RFM District which provides access to abutting properties and which may also conduct traffic from rural residential access roads that intersect it and has an ADT that does not exceed 500. (Each half of a loop subcollector road may be regarded as a single subcollector road and the total traffic volume conveyed on a loop subcollector road shall not exceed 1000 ADT). Maximum length of a dead-end rural residential subcollector road shall be 2000 feet, but shall not serve immediately or in the future more than 20 dwelling units.

E. Rural Residential Access Road:

A frontage road located in the RF or RFM District which provides access to abutting properties and designed to carry no more traffic than that which is generated on the road itself and has an ADT that does not exceed 200. (Each half of a loop access road may be regarded as a single access road and the total traffic volume conveyed on a loop access road shall not exceed 400 ADT). Maximum length of a dead-end rural residential access road shall be 2000 feet, but shall not serve immediately or in the future more than 20 dwelling units.

F. Commercial/Industrial Collector Street:

A street which carries Commercial/Industrial neighborhood traffic, but which provides no or limited frontage and has an ADT greater than 2000 and less than 4000. A dead-end Commercial/Industrial Collector shall not be permitted.

G. Commercial/Industrial Subcollector Street:

A frontage street which provides access to abutting Commercial/Industrial properties, and which may also conduct traffic from access streets that intersect it, and has an ADT that does not exceed 2000. A dead-end Commercial/Industrial subcollector shall not be permitted.

H. Commercial/Industrial Access Street:

A frontage street that provides access to abutting Commercial/Industrial properties and is designed to carry no more traffic than that which is generated on the street itself. A dead-end Commercial/Industrial Access Street shall not exceed 2000 feet in length.

I. Trip Generation Rates:

The following chart shall be used to determine the anticipated average daily traffic (ADT) levels of proposed residential development:

Housing Types	Average Weekday Trip Generation Rates
Single-Family Detached	10 Trips/D.U.
Duplex (twin) Multiplex, Townhouses, etc.	8 Trips/D.U.
Apartment	8 Trips/D.U.
Mobile Home	8 Trips/D.U.
Retirement Village	3.5 Trips/D.U.
Note: D.U. = Dwelling Unit	

J. Streets of Higher Order:

Streets that function within the highway network at levels above collector streets or with traffic volumes (ADT) greater than collector streets. Streets of Higher Order shall be designed by the Town Planner and reviewed for approval by the Planning Board and Town Council.

Section. 4 Acceptance of Streets and Ways

A street or way constructed on private lands by the owner(s) thereof and not dedicated for public travel prior to January 30, 1986 shall be laid out and accepted as a public street or way by the Town Council only upon the following conditions:

(A) The owner(s) shall give the Town a warranty deed to the property within the boundaries of the street at the time of its acceptance by the Town.

(B) A plan of said street or way shall be recorded in the Cumberland County Registry of Deeds at the time of its acceptance.

(C) A petition for the laying out and acceptance of said street or way shall be submitted to the Town Council upon a form to be prescribed by the Town Planner. Said petition shall be accompanied by a plan, plot plan, profile and cross section of said street or way as built, including:

1. A plan in a plot plan drawn when practical to scale of 40 feet to 1 inch, and to be on one or more sheets of paper not exceeding 24 inches by 36 inches in size. Said plot plan shall show the north point, the area of all lots, the length of all lot lines, the location and ownership of all adjoining subdivisions and adjacent acreages, passageways, street light lines, buildings, boundary monuments, water ways, topography (USGS vertical datum) and natural drainage courses with contour at not greater than 5 foot intervals, all angles and bearings necessary for the plotting of said street and lots and their reproduction on the ground, the distance to the nearest established street line, and any buildings abutting on said street or way, together with the stations of their side lines.

2. A profile of said street or way drawn to a horizontal scale not larger than 50 feet to 1 inch with a corresponding 10 to 1 ratio vertical scale. Said profile shall show the profile of the center lines of said street or way and the proposed grades thereof. Any buildings abutting on said street or way shall be shown on said profile.

3. A cross section of said street or way drawn to a horizontal scale no larger than 5 feet to 1 inch and a vertical scale of 1 foot to 1 inch.

4. The location and size of all existing and proposed water mains, storm drains, sanitary sewers, gas mains, culverts, underdrains and underground utilities shall be shown along with the individual building service connections to each.

Section. 5 Design Standards

A. Street Access to Adjoining Property

Where, in the opinion of the Planning Board it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication, to the boundary of such property.

B. Street Name

Streets which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the Board.

C. Reserve Strips

There shall be no reserve strips controlling access to streets except where the control of such strips is definitely placed with the community under conditions approved by the Planning Board.

D. Road and Street Design Standards

Design standards as tabulated herein (Table D-1, page 13-14) and as shown on typical sections in Appendix A shall be used for all road and street designs in the Town of Scarborough, unless otherwise agreed to and permitted in writing by the Planning Board. The Planning Board may require more conservative design if it finds special provisions to be necessary to protect the public health and safety as a result of a specific development proposal.

E. Location of Utilities

Utilities shall be located in all streets as shown in Appendix B.

F. Signs

Street name signs and traffic control signs shall be installed by the developer as directed by the Planning Board, and in conformance with the requirements of the Department of Public Works.

G. Dead-End Streets

Dead-end streets shall be permitted as provided for in Section 3. The terminus of a dead-end street shall be provided with a turn-around which shall comply with either of the following designs:

1. Cul-de-Sac turnarounds shall have the following radii:

Property (R.O.W.) Line	75'
Outer edge of pavement	60'
Inner edge of pavement	40'

2. Hammerhead turnarounds shall have the center line of the hammerhead at least 65 feet and no more than 85 feet from the end of the paved portion of the street. The hammerhead shall be paved and shall extend a distance of 50 feet at a 90 degree angle to the road or street which it serves.

Turnarounds shall conform to all street and road construction standards.

H. Sight Distance

Any intersecting street or road shall be so designed in profile and grading and so located as to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the intersecting street or road with the front of the vehicle a minimum of ten (10) feet behind the curbline or edge of shoulder with the height of the eye three and seventy-five hundredths (3.75) feet to the top of an object four and five tenths (4.5) feet above the pavement.

Allowable Speed (miles per hour)	Required Site Distance (in feet)
25	160
30	200
35	240
40	275
45	325
50	350
55	425

I. Driveways

Driveways shall be located not less than 40 feet from the tangent point of the curb radius of any intersection. Driveways to corner lots shall gain access from the street of lower classification when a corner lot is bounded by streets of two different classifications.

J. Soil Conditions

The Developer (Subdivider) shall investigate and determine the types and classifications of the sub-surface soils, which shall be considered in the design of the proposed street(s). If in the opinion of the Town Planner and the Director of Public Works, unsuitable sub-surface soils are encountered during construction, the Developer (Subdivider) shall be required to excavate and remove the unsuitable material and replace it with granular material.

Section. 6 Roadway Construction Standards and Specifications

A. Roadway construction materials standards:

Shall conform to the current “State of Maine Department of Transportation Standard Specifications Highways and Bridges”, Revision of January, 1984, as it may be revised, except as otherwise specified herein.

B. The Standards and Dimensions:

Contained in Table 6-1 (page 15) shall be considered minimum.

C. An adequate storm drainage system:

Including appurtenances such as manholes, catchbasins, culverts, ditchlines, detention facilities, outlets, etc., shall be provided as approved by the Planning Board. Appropriate conveyances for outlets to drainage systems must be provided. Minimum easement widths of 30 feet shall be required.

i. Design Criteria shall comply with Planning Board requirements for intensity and duration.

ii. Upstream drainage and development potential shall be considered as required by the Planning Board.

iii. Effect upon downstream drainage facilities and waterways shall be considered as required by the Planning Board. Overloading downstream facilities shall not be permitted.

iv. Open stormwater shall not be carried more than 300 feet in a street gutter prior to intake at a catch basin. No stormwater shall drain across a street or intersection.

v. Design standards for drainage systems shall be subject to review and approval of the Planning Board. Minimum pipe size for any storm drain pipe shall be 15 inches.

vi. Where subsurface soil conditions warrant, an underdrain system shall be installed and discharged in a positive manner to appropriate open or closed drain system.

D. Construction

i. Grading:

All streets, roads, walks, etc. shall be graded to their full width by the Developer (Subdivider) so that pavements and sidewalks can be constructed on parallel profiles.

ii. Preparation:

Before grading is started, the entire right-of-way area shall be cleared of all stumps, roots, brush and other objectionable material and all trees not intended for preservation.

iii. Cuts:

Tree stumps and other organic materials shall be removed to a depth of 2 feet below the subgrade. Rock and boulders when encountered, shall be removed to subgrade.

iv. Fill:

All material used in the construction of embankments shall be of the quality to meet the standards for embankment construction, Sections 203.02 through 203.17 of the Maine Department of Transportation Standard Specifications, except that compaction shall not be less than 95% of maximum density (per ASTM D 1557 Mod.). Excess materials including organic materials, soft clays, wet and non-compatible materials, etc., shall be removed from the street site. The fill shall be spread in layers not to exceed 8 inches loose and then compacted. The filling of utility trenches and other places shall be mechanically tamped.

v. Side Slopes: All side slopes shall be at a slope of 4 horizontal to 1 vertical unless shown otherwise on typical cross sections in Appendix "A".

vi. Bases and Pavement:

The appropriate sections of the Bases and Pavements Divisions of the Maine Department of Transportation Standards Specifications currently in effect at the

date of submission of the preliminary plan shall be applicable to this section except as follows:

Bases

1. Aggregate Sub-base Course - Gravel

Aggregate sub-base shall not contain particles of rock exceeding 4 inches in any dimension.

2. Aggregate Base Course - Crushed

Aggregate base shall not contain particles of rock that will not pass the 2 inch square sieve.

Pavement

1. Where pavement placed joins an existing pavement, the existing pavement shall be cut along a smooth line and to a neat, even, vertical joint. Broken or raveled edges will not be permitted, nor deviation from grade. A tack coat shall be applied to all joints prior to placement of new pavement.

2. Grading for the surface course of Hot Bituminous Pavement shall meet the requirements for Surface, Grading C.

3. Grading for the base course of Hot Bituminous Pavement shall meet the requirements for Binder, Grading B.

vii. Curbing:

Section 609 of the Maine Department of Transportation Standard Specifications shall be applicable to this section except as follows:

1. Bituminous concrete curb Type 3 with a minimum reveal of six inches shall be required.

2. Granite curbing shall be provided at all street intersections with radii less than 50 feet where curbing is proposed or required. All other areas with less than 50 feet radii will be evaluated on an individual bases.

3. Cape Cod Bituminous curbing may be utilized in lieu of Type 1, 3, and 5 curb.

viii. Sidewalks:

Section 608 of the State of Maine Department of Transportation Standard Specifications Highways and Bridges, revisions of January, 1984, shall be applicable to this section.

All driveway aprons shall be paved with 2 inches of bituminous concrete from the gutter side or edge of street pavement to the street right-of-way.

ix. Storm Drain Construction Standards:

1. Materials

The following material shall be utilized for storm drain construction.

- a. Reinforced Concrete Pipe - Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76. Pipe classes shall be as required to meet soil and traffic loads with a factor of safety 1.2 on the .01 inch crack strength with a class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing materials such as "Ramnek".
- b. Polyvinyl Chloride - PVC Gravity Sewer pipe shall meet the requirements of ASTM Designations D-3034-73-SDR35.
- c. Corrugated Polyethylene Pipe - Corrugated Polyethylene Pipe shall meet the requirements of ASTM F405 and ASTM F667.
- d. Underdrain Pipe - Underdrain Pipe may be Polyvinyl Chloride or Corrugated Polyethylene meeting similar requirements to that of standard drain pipe.
- e. Bituminous Coated Corrugated Metal Pipe - Type II Aluminum - Bituminous Coated Corrugated Metal Pipe shall meet the requirements of AASHTO M 190. Driveway culverts shall meet the requirements of the Director of Public Works.
- f. Drain Manholes - Manholes shall be of precast concrete section construction. Precast sections shall meet the requirements of ASTM Designation C-478. Cones shall be truncated. Castings shall be of cast iron meeting Sanitary District standards for sewer construction. Brick inverts shall be shaped to the crown of the pipe for sizes up to 18 inches, and to spring line for larger pipes.
- g. Catch Basins - Catch Basins shall be of precast concrete construction. Castings shall be square cast iron as required for the particular inlet

condition with the gratings perpendicular to the curb line. All catch basins shall be provided with a Type I curb face inlet.

h. Sanitary Sewers shall conform to the requirements of the Scarborough Sanitary District.

x. General Construction Requirements

a. Trenching - All trenching shall be accomplished in accordance with all appropriate state and federal safety requirements.

b. Minimum trench width at the pipe crown shall be the outside diameter of the pipe, plus 2 feet.

c. Pipe shall be bedded in a granular material with a minimum depth of 6 inches below the bottom of the pipe and extending to 6 inches above the top of the pipe. When water is present in the trench, pipe shall be bedded in crushed stone.

d. Drain alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Planning Board.

e. Manholes or catch basins shall be provided at all changes in vertical or horizontal alignments, and at all junctions. On straight runs, manholes or catch basins shall be placed at a maximum of 300-foot intervals.

f. Catch basin leads shall enter the drainage system at manholes only. The difference in elevation between the inverts of the lead and the main drain shall not exceed 12 inches.

g. All drain outlets shall be riprapped to prevent erosion. Facilities for energy dissipation shall be provided.

h. Underdrains shall be laid with perforation down with a backfill consisting of graded concrete sand.

xi. Monuments

a. Granite monuments or concrete monuments shall be 4 inches square or 6 inches square, respectively, and shall be 4 feet long with a flat top shall be set at all street corners, at all points where the street line intersects the exterior of the subdivisions and at angle points and points of curve in each street. The top of the monument shall have a drill hole to identify properly the location and shall be set flush with the finished grade on lawns and be raised 6 inches in wooded or unfinished areas.

- b. All other lot corners shall be marked with iron pipe or rod not less than 3/4 inches in diameter and 36 inches long and driven so as to be 6 inches above the finished grade.

xii. Street and Storm Drainage Plans:

Construction plans for streets and storm drainage systems shall be designed and prepared by a professional engineer registered in the State of Maine. Plans shall show the plan, profile, cross sections and details of appurtenances. Eight (8) copies shall be submitted to the Planning Board for their review, accompanying the subdivision or site plans, and referral to the Municipal Engineer or other designated registered engineer by the Planning Board.

No construction will be permitted until the Planning Board has approved construction drawings or development plans. The developer is responsible for obtaining all other approvals and permits which are required prior to construction. Upon completion of construction and prior to acceptance of the streets, a final set of "As Built" reproducible record drawings and a final set of "As Built" prints must be delivered to the Town Planner.

xiii. Water Supply

1. A public water supply system with fire hydrants at 500 foot intervals measured along the road, shall be installed at the expense of the Developer (Subdivider), or if in the opinion of the Board, service to each lot by a public water system is not feasible, the Board may allow individual wells to be used, which shall likewise be installed at the expense of the subdivider. Location of hydrants shall be approved by the Fire Chief.
2. The minimum public water main permitted shall be 8 inches in diameter and shall be installed at the expense of the subdivider, and approved by the responsible public utility company.
3. The water supply system shall be designed, and installed in accordance with requirements of the Maine Department of Health and Welfare.

xiv. Sewage Disposal:

Sewage disposal shall conform to the regulations of "Local Plumbing Ordinance of the Town of Scarborough, Maine", the "Maine State Plumbing Code Part II", and the "Sewer Regulations" of the Scarborough Sanitary District.

xv. Utilities:

Utilities shall be constructed in accordance with the requirements of the responsible agency. Location of utilities shall be in accordance with Appendix "B" whenever possible.

Section. 7 Inspections

The Developer shall coordinate the construction of streets, drains, sewers, and utilities with the responsible agencies. The Town Planner shall work with the Developer to schedule a pre-construction meeting. The Developer shall present her/his construction program and schedule inspections. At a minimum, the Director of Public Works (or her/his designee), the Superintendent of the Scarborough Sanitary District (or her/his designee), and the Town Planner shall be contacted by the Developer to schedule inspections. When a minimum length of 300 feet (or the entire length of a street if it is less than 300 feet in length) has been excavated to sub-grade and properly prepared for the placement of gravel the Pubic Works Department must be called to perform an inspection and approval granted before gravel is placed. Gravel shall be placed in compacted layers of not more than 8 inches. Before any surface material is placed in any area, the work shall again be inspected by the Director of Public Works. The placement of bituminous concrete shall be in accordance with this Ordinance, and be inspected by the Department of Public Works. [amended 11/01/17]

Prior to any sewer construction, necessary permits shall be obtained from the Scarborough Sanitary District. A representative of the District shall be present whenever an existing sewer is to be cut, entered, or in any way disturbed. The Sanitary District is to be notified immediately if any of its lines are damaged or in need of repair.

All utilities must certify in writing that the work has been accomplished to their satisfaction prior to acceptance by the Town of any street or way.

<p align="center">TABLE D – 1 Type of Street or Road</p>							
Description	Residential Collector Street	Residential Subcollector Street	Residential Access Street	Rural Residential Subcollector Street	Rural Residential Access Road	Commercial Industrial Collector Street	Commercial Industrial Subcollector Access Street
Right of Way Width	60'	50'	50'	50'	50'	60'	50'
Pavement Width	24'	24'	24'	24'	24'	32'	24'
Curbing Radius	Type #1	Type #1*	Type #1*	Type #1*	Type #1*	Type #1*	Type #1*
Curbing Remaining Locations	Type #3	Type #3*	Type #3*	Type #3*	Type #3*	Type #3*	Type #3*
Sidewalk Width	5'	5'	5'	5'	5'	5'	5'
Roadway Crown	1/4"/Ft.	1/4"/Ft.	1/4"/Ft.	1/4"/Ft.	1/4"/Ft.	1/4"/Ft.	1/4"/Ft.
Minimum Grade	1.0	1.0	1.0	1.0	1.0	.5%	.5%
Maximum Grade	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%
Minimum Centerline Radius	350'	150'	100'	150'	100'	350'	150'
Minimum Tangent Between Curves of Reverse Alignment	150'	100'	50'	100'	50'	150'	100'
Minimum Angle of Street Intersections for a minimum of 50' from the intersection	90	60	60	60	60	90	90
Minimum Distance Between Street Intersections: on Same Side Opposite Side	400' 250'	300' 150'	300' 150'	300' 150'	300' 150'	400' 250'	300' 150"
Sight Distance	See Table						
K Factor - Crest Vertical Curve	30	15	15	30	15	30	15
K Factor - Sag Vertical Curve	35	20	20	35	20	35	20
Design Speed - MPH	30	25	25	30	25	30	25
Maximum Grade at Intersection (within 75' of Intersection)	3%	3%	3%	3%	3%	3%	3%
Minimum Property Line Radii at Intersections	10'	10'	10'	10'	10'	10'	10'
Curb and Pavement Radii at Intersections	20'	20'	20'	20'	20'	20'	20'
Roadway Culverts (minimum)	15"	15"	15"	15"	15"	15"	15"
Driveway Culverts (minimum)	15"	15"	15"	15"	15"	15"	15"
*When required by Planning board due to special conditions							

**TABLE 6-1
STANDARDS & DIMENSIONS**

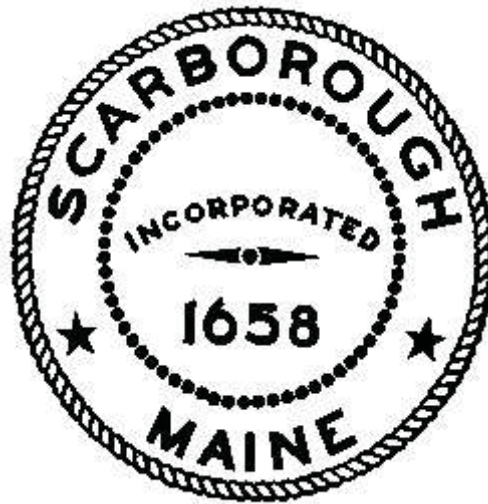
	Residential					Commercial/Industrial		
Material	Collector	Subcollector	Access	Rural Subcollector	Rural Access	Collector	Subcollector	Access
Aggregate Sub-Base Course	15"	15"	15"	15"	15"	21"	18"	18"
Crushed Aggregate Base Course	3"	3"	3"	3"	3"	3"	3"	3"
Hot Bituminous Pavement								
Total Thickness Compacted	3"	2 1/2"	2 1/2"	2 1/2"	2 1/2"	4"	3"	3"
Base Course	2"	1 1/2"	1 1/2"	1 1/2"	1 1/2"	2 1/2"	2"	2"
Surface Course	1"	1"	1"	1"	1"	1 1/2"	1"	1"
Bituminous Concrete Sidewalk								
Crushed Aggregate Base Course	8"	8"	8"	8"	8"	8"	8"	8"
Pavement Surface Course	2"	2"	2"	2"	2"	2"	2"	2"
Curbing Materials								
Granite Stone	Type I (All Streets)							
Bituminous Concrete	Type 3 (All Streets)							

CHAPTER 309

TOWN OF SCARBOROUGH

STREET/DEVELOPMENT

NAMES & NUMBERS ORDINANCE



Adopted 4/6/1995
Amended 02/06/2008

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CHAPTER 309
TOWN OF SCARBOROUGH
ORDINANCE REGULATING STREET NAMES & NUMBERS

I. Purpose.

The purpose of this ordinance is to enhance the easy and rapid location of properties by law enforcement, fire, rescue and emergency medical services personnel in the Town of Scarborough as well as to establish a predictable street naming and numbering system for use and way-finding by the public. (02/06/2008)

II. Authority.

This ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VII, Part 2, Section 1 of the constitution of the State of Maine and Title 30-A, M.R.S.A. Section 3001. (02/06/2008)

III. Definitions.

For the purposes of this ordinance: (02/06/2008)

“addressing officer” refers to a person appointed by the Chief of Police who has the authority to approve street and development names.

“business development” means a commercial, industrial, professional or financial building or buildings built in the same immediate vicinity and/or having a similar theme.

“driveway” means a paved or unpaved surface providing access from a property to a public or private street or way.

“physical address” means a permanent, unique address that clearly identifies where a property is physically located.

“property” refers to any parcel of land on which a more or less permanent structure has been erected or could be erected.

“private street” means a private way which affords the principle means of access to abutting properties that meets the design and construction standards of the Street Acceptance Ordinance but which is not dedicated for acceptance by the Town and which is intended to remain privately owned.

“private way” means a private right of way which affords the principle means of access to abutting properties, but which is not designed and constructed to the standards of the Street Acceptance Ordinance.

“public street” means a public way which affords the principle means of access to abutting properties, or a proposed way intended to be accepted by the Town as a public way in accordance with the Street Acceptance Ordinance.

“residential development” means a large parcel of land divided into two or more building lots meant for residential homes to be built in the same immediate vicinity and/or having a similar theme.

IV. Renaming of Existing Street.

Prior to changing the name of any existing street, the Scarborough Town Council shall hold a public hearing. Notice of the proposed name change, of the proposed effective date of the name change, and of the time and place of hearing shall be published and posted at least 10 days prior to the hearing. All property owners of record will be mailed a notice of the hearing at least 10 days prior to the hearing. (02/06/2008)

V. Designation of New Street Names and New Development Names. (02/06/2008)

- A.) The addressing officer shall assign/approve names for all new streets and ways proposed in the Town of Scarborough.
- B.) The addressing officer shall assign/approve names for all new business developments and new residential developments proposed in the Town of Scarborough.
- C.) All public and private streets shall be assigned a street name.
- D.) Private ways that provide access to two or more properties shall be assigned a street name.
- E.) Private driveways shall only be assigned a street name if a sequential number is unavailable on the existing street it intersects with.

- F.) Street naming standards:

No two streets or ways shall be given the same name (e.g., no Pine Road and Pine Lane or Beech Road and Beach Road).

No two streets or ways shall be given similar sounding names (e.g., Sanford Lane and Stanford Lane).

Each street or way shall have the same name throughout its entire length.

No punctuation may be used in any street or way name.

- G) Business and residential developments shall not be given similar names (e.g., Oakdale Condos, The Oaks Apartments, Oak Leaf Apartments, Village at Oak Hill, Oak Hill Condos).
- H) The word “Scarborough” may be used in development names. Development names shall not be similar (e.g., Scarborough Village and Scarborough Village Common).

VI. Posting of Designated Street Addresses. (02/06/2008)

- A) All street name signs shall be constructed out of extruded aluminum blades and made of materials which are reflective.
- B) Public street blades shall be no less than nine inches (9”) in height and shall be green in color. The lettering on these signs shall be no less than six inches (6”) in height and shall be white in color. All public street signs shall be maintained by the Public Works Director or their respective designees.
- C) Private street and way blades shall be no less than six inches (6”) in height and shall be blue in color. The lettering on these signs shall be no less than four inches (4”) in height and shall be white in color, with the abbreviation “PVT” appearing after the street name on the sign.
- D) Private driveway blades shall be no less than six inches (6”) in height and shall be white in color. The lettering on these signs shall be no less than four inches (4”) in height and shall be blue in color, with the abbreviation “PVT DRVWY” appearing after the street name on the sign.
- E) No person shall erect a street name sign without meeting the criteria under subsection V. and without approval by the addressing officer.

VII. Designation of Street Addresses. (02/06/2008)

- A) The Scarborough Assessor, after consulting with the Addressing Officer, shall assign a street number for occupancy located on any street. The Assessor shall assign such numbers to dwellings, places of business and buildings existing on the effective date of this Ordinance no later than 30 days after the effective date. The Assessor shall assign such numbers to new dwellings, places of business and buildings at the time subdivision approval, building permits or certificates of occupancy are requested, as provided in Section VIII of this Ordinance.
- B) Numbers shall run sequentially and shall start at the end of the street closest to the center of town. Odd numbers shall be on the right side of the street and even numbers shall be on the left side of the street.
- C) Property address numbers shall be whole numbers and shall not have fractions or letters attached (e.g., 45A Brown Street or 45½ Brown Street).

- D) The Assessor shall keep a record of all numbers assigned under this Ordinance.
- E) Upon assigning a number to any dwelling, place of business or building, the Assessor shall send written notice of the assigned number to the owner, occupant, or person in charge of the dwelling, place of business or building.
- F) Where a building contains more than one dwelling or place of business, the Assessor shall determine whether each dwelling or place of business shall be assigned its own street number or whether, because of the quantity or configuration of the dwellings or places of business within the business, only one street number should be assigned to the building.

VIII. Posting of Designated Street Addresses. (02/06/2008)

- A.) Within 60 days after receipt of written notice from the Assessor that a number has been assigned to a dwelling, place of business or building, the owner, occupant or person in charge shall display the assigned number on the exterior of the dwelling, place of business or building or in some other location on the premises, so that the number is conspicuous and legible from the street. The number must be 4 inches in height and made of materials which are reflective or which contrast with the background materials so that the number is visible after dark when illuminated by an ordinary flashlight from the street. A street number may be incorporated into an on-premises advertising sign or business directory sign permitted under the Scarborough Zoning Ordinance, provided the display of the street number otherwise complies with the requirements of this Ordinance.
- B.) Within 60 days after receipt of written notice from the Assessor that a number has been assigned to a dwelling, place of business or building, the owner, occupant or person in charge shall remove any different number which might be mistaken for or confused with the assigned number.
- C.) Where one driveway allows shared access to more than one address, a street number sign shall be erected at the street intersection. This sign must clearly reveal the range of addresses that can be accessed by this shared driveway and a similar sign must appear at every split or fork of the driveway.
- D.) Where a house is set back out of view from the street and there is no mailbox available to post the street address, a street number sign shall be erected at the street intersection in order to clearly display the assigned street address.
- E.) Where a principal building contains more than one dwelling or place of business and each such dwelling or place of business has been assigned a separate street number, the street number shall be displayed at the front entrance to each dwelling or place of business so that the number is conspicuous and legible from the street.

- F.) The owner, occupant or person in charge of each dwelling, place of business or building to which a number has been assigned shall maintain such number so that it is conspicuous and legible from the street at all times of year.

IX. New or Renovated Properties. (02/06/2008)

- A.) The Code Enforcement Officer shall not grant a building permit for any dwelling, place of business or building until the Assessor has assigned a street number to the dwelling, place of business or dwelling.
- B.) Notwithstanding anything to the contrary in Section 302 of Title 1 of the Maine Revised Statutes, the requirements of this Section V shall apply to applications for subdivision approval, building permits and Certificates of Occupancy pending upon the effective date of this Ordinance, except that no such approval, permit or certificate shall be withheld if the Assessor has not yet assigned street numbers to the property at the time when the application is otherwise in order for approval.
- C.) Developers of subdivisions shall be required to erect signs naming streets within each approved subdivision at the onset of the construction phase. Street signs shall be approved by the Public Works Director.
- D.) No certificate of occupancy will be issued until a street number is properly affixed to the dwelling or place of business.

X. Enforcement and Penalties.

The provisions of this Ordinance shall be enforced by the Code Enforcement Officer of the Town of Scarborough. Upon finding a violation of this Ordinance, the Code Enforcement Officer shall give written notice to any or all of the owners, occupants or persons in charge of the dwelling, place of business or other building, stating the action necessary to achieve compliance and a compliance date by which such action must be taken. If the person to whom the notice is addressed does not correct the violation by the compliance date, such person commits a civil violation for each day the violation remains uncorrected after the compliance date and is subject to civil penalties of between \$10.00 and \$50.00 for each subsequent violation. (02/06/2008)

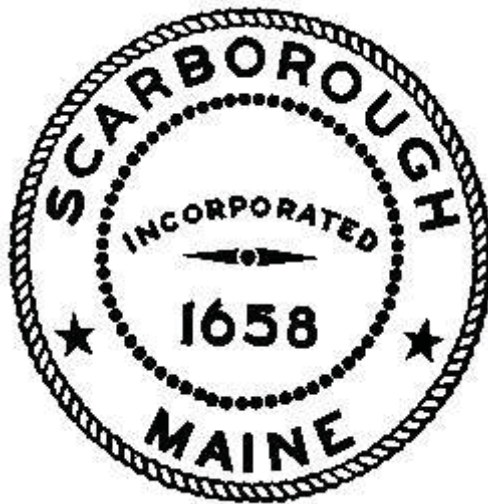
XI. Effective Date.

This Ordinance shall take effect at 12:01 a.m. on the day after its enactment by the Scarborough Town Council. Effective date is July 1, 1995. Owners of existing structures shall have until October 1, 1995 to comply with the terms and conditions of this Ordinance. (02/06/2008)

CHAPTER 702

TOWN OF SCARBOROUGH

STREET OPENING ORDINANCE



ADOPTED JUNE 1988
Amended September 6, 1995
Amended February 4, 2015
Amended November 1, 2017

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**CHAPTER 702
TOWN OF SCARBOROUGH
STREET OPENING ORDINANCE**

Section I Definitions, License, Insurance, Permit

Definitions:

The following words and phrases, when used in this article, shall have the following meanings respectively ascribed to them:

1. **Town:** Town of Scarborough and/or its public works authority.
2. **Excavation:** Any opening in the surface of a public place made in any manner whatsoever, except an opening in a lawful structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place. Trenchless Excavation – Any subsurface disturbance of a public place for the purpose of installation or removal of a facility that does not require a surface opening.
3. **Facility:** Pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire tower, pole, pole line, anchor, cable, junction box, or any other material, structure, or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under, or over any public place.
4. **Licensed Excavator:** Any person issued an Excavating License by the Town of Scarborough.
5. **Newly constructed, reconstructed or repaved streets:** Any street which has been newly constructed, reconstructed or repaved within the past five (5) years.
6. **Permittee:** A person who has obtained a permit as required by this article.
7. **Public Place:** Any public street, way, place, sidewalk, park, square, plaza, or any other similar public property owned or controlled by the Town and dedicated to public use, and any dedicated-but-unaccepted street or way.
8. **Substructure:** any pipe, conduit, duct, tunnel, manhole, vault, buried cable, or wire, or any other similar structures located below the surface of any public place.
9. **Digsafe:** The one-call utility-locating organization that contractors must call, under Maine Law, before breaking the plane of the ground surface.
10. **Utility:** A private company, corporation or quasi-municipal corporation under the direction and control of the Public Utilities Commission.

License:

No person or utility without a valid Excavating License approved by the Town of Scarborough shall excavate in a public place. The Scarborough Public Works shall issue an Excavating License upon receipt of an application, the annual license fee and after determining the competency and ability of the applicant to perform excavation to the standards of the Town. No person or utility possessing such license shall allow his or her name to be used by any person or utility, directly or indirectly, either to obtain a permit to do any work under this license. An Excavating License may be revoked if the Town determines the excavator has willfully disobeyed any portion of this article.

The annual Excavator License fee specified in the *Schedule of License, Permit and Application Fees* is established by the Town Council. The license is valid from January 1 to December 31 of the year issued.

Insurance

This article shall not be construed as imposing upon the Town or any official or employee any liability or responsibility for damage to any person injured by the performance of an excavation work for which an Excavation Permit is required under this article, nor shall the Town or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any excavation work. In the case of a dedicated-but-unaccepted street or way, this article shall not be construed as authorizing any action which is inconsistent with any private rights in said street or way, nor shall the issuance of any permit hereunder be construed as an acceptance of said street or way by the Town for highway or any other purposes. For purposes of this section, every licensed excavator shall at all times maintain a minimum of \$400,000.00 public liability insurance coverage protecting herself/himself, her/his agents and the Town from all such claims for damages or injuries and naming the Town as an additional insured. The Scarborough Public Works Department requires proof of such coverage prior to approval of any Excavating License. [amended 11/01/17]

Permit

No person or utility shall make any excavation or fill any excavation in any public place without first obtaining an approved permit from the Town. A Public Liability Insurance Certificate naming the Town as an additional insured and a minimum coverage of \$400,000.00 is required before an Excavation Permit will be approved.

No Excavation Permit shall be issued until an Excavating Permit Form has been submitted and approved by the Scarborough Public Works Department. The form requires the following information: excavation location, property description, contractor contact information, estimated start date, utility approvals with a Digsafe number and the signature of approval by an authorized Public Works Administrator.

Utility Companies, although having to submit an application for a permit to the Town, may contact other utilities involved by phone and fill in the Excavating permit for accordingly. All request forms shall be submitted to the Scarborough Public Works

Department within thirty (30) days from the date of the last utility approval. Once expired a request is no longer valid and the application process must be renewed.

Fees specified in the *Schedule of License, Permit and Application Fees* are established by the Town Council. A fee is charged for each permit issued. Each Excavating Permit is approved for work at a single location.

Work must start no later than thirty (30) days from the approval date on the Excavation Permit. The permit expires after this 30-day period and must be renewed before any work can begin.

Section II Special Conditions, Excavation, Resurfacing, Fees

Special Conditions

1. Relocation and protection of utilities

The permittee shall not interfere with any existing facility without the written consent of the Town and the owner of the facility. If it becomes necessary to relocate an existing facility, this shall be done by its owner. No facility owned by the Town shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned facilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the facility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across the work. The permittee shall secure approval of method of support and protection from the owner of the facility. In case any of the pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure, the permittee shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee. It is the intent of this section that the permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such facility damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The Town shall not be made a party to any action because of this section. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage.

2. Protection of public property

The permittee shall not remove, even temporarily, any trees or shrubs which exist in the street area without first obtaining the consent of the appropriate Town department or Town official having control of such property.

3. Urgent Work

When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the Town shall have the full power to order, at the time the permit is granted, that a crew and adequate facilities be employed by the permittee beyond normal working hours

including up to twenty-four (24) hours a day to end that such excavation work may be completed as soon as possible.

4. Emergency action

Nothing in this article shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall apply to the Town for such a permit on the first working day after such work is commenced. Before any excavation work is started, the person or utility excavating must contact Digsafe for on the spot locations.

5. Noise, dust and debris

Each permittee shall conduct and carry out excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of excavation work, noise, dust and unsightly debris and between the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the Town or in case of an emergency, any tool, appliance or equipment producing noise of sufficient volume to disturb sleep of occupants of the neighboring property.

6. Preservation of monuments

Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point, or a permanent survey bench mark within the Town, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the Town to do so. Permission to remove or disturb such monuments, reference points or bench marks shall be granted only when no alternate route for the proposed substructure or conduit is available. If the Town is satisfied that no alternate route is available, permission shall be granted only upon condition, by an agreement in writing, that the person or utility applying for such permission shall pay all expenses incident to the proper replacement of this monument by the Town or permittee.

7. Granite and bituminous curb

No person or utility shall remove, damage, haul away or cause misalignment or any bituminous curb, granite curbing, including radius curb and catch basin stones, for any reason whatsoever without first receiving written permission from the Town. Any curb missing, damaged or misaligned shall be replaced or aligned. The permittee to replace or realign that portion of curb by the permittee's excavation. In such event, replacement or realignment shall be done in a manner and under specifications prescribed by the Town and subject to inspection by the Town and shall be completed within a period of ninety (90) days after such authorization to complete work. The permittee shall, for a period of three (3) years thereafter, be fully liable for all defects in materials and workmanship relating to such work and shall promptly repair or replace the same upon notice of the Scarborough Public Works Department and to the satisfaction thereof.

8. Maintenance of drawings

Every person or utility owning, using, controlling, or having an interest in substructures, under the surface of the public way used for the purpose of supplying or

conveying gas, electricity, communication, impulse, water, steam, ammonia or oil in the Town, shall file with the Town, a map or set of maps each drawn to a scale of not less than one (1) inch to fifty (50) feet, showing in detail the plan, location, size and kind of installation, if known, of all new or renewed substructures, except service lines designed to serve single properties. These maps shall be provided to the Town no later than sixty (60) days after the completion date of construction. The same information shall be provided in a geo-reference CAD file

9. Annual work program to be submitted by utilities

Each year on or before March thirty-first, each utility shall submit to the Scarborough Public Works Department its planned work program for the ensuing year, which shall not include emergencies and normal house service lines. Thereafter, no permit shall be issued to a utility for excavations not contained within its planned work program, except for emergencies and house service lines, until a prior written application for such excavation shall have been submitted to and approved by the Scarborough Public Works Department.

Excavation

1. Clearance for vital structures

The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, traffic signal cables and loops and all other vital equipment as designated by the Town.

2. Protective measures and routing of traffic

a. Safe crossing.

The permittee shall in general maintain safe crossings for two (2) lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians. If any excavation is made across any public street or sidewalk, adequate crossings shall be maintained for vehicles and pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least one-half of the sidewalk width shall be maintained along such sidewalk line.

b. Barriers and warning devices.

It shall be the duty of every permittee cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for safety of the general public. Traffic control in the vicinity of all excavations affecting vehicular, pedestrian and bicycle traffic shall be subject to final review and approval of the Scarborough Public Works Department. Barriers, warning signs, lights, etc., shall conform to the latest edition of the "*Manual on Uniform Traffic Control Devices*". Warning lights shall be electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not replace light sources.

c. Normalizations of traffic conditions.

The permittee shall take appropriate measures to assure that during the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

d. Closing of streets.

When traffic conditions permit, the Scarborough Public Works Department, with the approval of the Scarborough Police and Fire Departments of the Town, may permit the closing of streets to all traffic for a period of time if necessary. Written approval of the Scarborough Public Works Department may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given. In case of emergency on week nights, weekends or holidays the utility company having such emergency shall contact the police and fire departments by phone before closing a street to traffic.

e. Interference with arterial streets.

Unless an emergency condition exists, construction activities of the permittee shall not interfere with the normal flow of traffic on arterial streets of the Town of Scarborough. The full in-bound roadway lane width shall be maintained between the hours of 6:45 a.m. and 8:30 a.m. and the full out-bound roadway lane width shall be maintained between the hours of 4:00 p.m. and 5:45 p.m.

f. Shifting traffic to opposite side.

The permittee may shift traffic to the opposite side of the roadway to maintain required lane width. The permittee may only make such shift with the approval of the Scarborough Public Works Department following proper review of detour plans to insure adequate safe two-way traffic flow and proper number and placement of police officers.

3. Breaking through pavement in streets and sidewalks

All excavations on paved street and sidewalk surfaces shall be pre-cut in a neat straight line with pavement breakers, saws, or asphalt cutters.

Heavy duty pavement breakers may be prohibited by the Town when the use endangers existing substructures or other property.

Cutouts of the trench lines must be normal or parallel to the trench line.

Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.

The permittee shall not be required to pay for repair of pavement damage existing prior to the excavation unless the cut results in small floating sections that may be unstable, in which case, the permittee shall remove the unstable portion and the area shall be treated as part of the excavation.

When three (3) or more street openings are made in sequence (fifteen (15) feet or less, center to center, between each adjacent opening), the permittee shall neatly cut and remove the area of pavement between these adjacent openings and shall patch as one trench.

On concrete sidewalks, all cuts shall be made from the nearest joint or score line on one side of the excavation to the nearest joint or score line on the other side of the excavation.

4. Care of excavated material

All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the Town shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling.

It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

All material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic, or as specified by the Town. Whenever necessary in order to expedite the flow of traffic or to abate the dirt or dust nuisance, the boards or bins may be required by the Town to prevent the spreading of dirt into traffic lanes.

5. Backfilling of excavation

Crushed stone or sand shall be used to bed and backfill all underground utilities and shall be thoroughly compacted under, around and to a minimum of 6 inches above the structure. After being properly bedded, the backfill material for all other substructures shall be of a fine material, free from lumps, frozen materials and no stones larger than four (4) inches in diameter. All backfill materials shall be placed in eight (8) to ten (10) inch lifts and thoroughly compacted with approved mechanical compactors. Within eighteen (18) inches of the subgrade of the pavement, gravel shall be used as backfill material consisting of fifteen (15) inches of bankrun and three (3) inches of crushed or screened gravel in accordance with the Town's specifications. The Town may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in its opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests must show that the backfill material meets the minimum requirements as prescribed by the Town. All expense of such tests shall be borne by the permittee.

6. Trenches

The maximum length of open trench in an excavation permissible at any time shall be two hundred (200) feet, and no greater length shall be opened for pavement removal, excavation, construction, backfilling, patching or any other operation without the written permission of the Town.

7. Prompt completion of work

Once an excavation has begun, the permittee shall expedite all excavation work covered by the excavation permit shall promptly complete the work and restore the street in accordance with this article. The permittee shall perform such restoration work so as not to obstruct, impede or create a safety hazard to public travel by foot or vehicle.

8. Winter Excavations

No person or utility shall be granted a permit to excavate or open any street or sidewalk from November first of each year to April fifteenth of the following year unless an emergency or special condition exists and permission is obtained in writing from the Town. Any person or utility wishing to obtain a street opening permit between these aforementioned dates shall first explain fully in writing the emergency situation existing to the Town. If a hazardous condition endangering life or property exists, excavation work shall not be delayed by this section. However, a written explanation shall be delivered to the Town as soon as possible to obtain a permit.

9. Manholes and/or catch basins

No person or utility shall remove, damage, haul away, or otherwise disturb any manhole and/or catch basin castings, frames, and/or covers owned by the Town without first receiving written permission from the Town. Any manhole and/or catch basin castings, frames and/or covers missing, damaged, or disturbed shall be repaired and/or replaced by the permittee in accordance with the specifications set forth by the Scarborough Public Works Department.

10. Excavations in reconstructed streets

Whenever the Town has developed plans to reconstruct a street, the Town or its representative shall give written notice to all abutting property owners, to the Town departments, and to all public utilities which have, or want, to lay pipes, wires or other facilities in or under the highway. Upon receipt of such written notice, such person or utility shall have sixty (60) days in which to install or lay any such facility. If an extension of time is needed by a person or utility for the installation of such facilities, the person or utility shall make a written application to the Town explaining fully the reasons for requesting such an extension of time. At the expiration of the time fixed and after such street has been reconstructed, no permit shall be granted to open such street for a period of five (5) years unless an emergency condition exists or unless the necessity for making such installation could not reasonably have been foreseen at the time such notice was given. The above mentioned five (5) year moratorium for street openings also pertains to all new public or private streets, i.e. new subdivisions or developments that have been accepted in accordance with the Town specifications.

11. Incurred expenses through repairing and backfilling by Town

If the work or any part thereof mentioned in this article for repairing or backfilling the trenches or excavations shall be unskillfully or improperly done, the Town shall cause the same to be skillfully and properly done, and shall keep an account of the expense thereof, and in such case such person or utility shall pay the Town an amount equal to the whole of the expense incurred by the Town with an additional amount of fifty (50) percent. Thereafter, upon completion of the work and the determination of the costs thereof, the Town shall not issue any additional permits to any person or utility receipt of payment due.

Any person or utility who continues to violate any section of this article shall receive no further permits until such time as the Town is satisfied that the person or utility shall comply with the terms of this article.

12. Resurfacing of streets and sidewalks

Temporary resurfacing by the permittee.

The top surface of backfill shall be covered with four (4) inches compacted depth of bituminous temporary resurfacing material, by the permittee. Such temporary paving material shall be cold mix, except that the permittee may use or the Town may require hot mix. All temporary paving material shall be compacted so that it is hard enough and smooth enough to be safe for pedestrian travel over it, as well as for vehicular traffic to pass safely over it at a legal rate of speed. The permittee shall maintain the temporary paving and shall keep same safe for pedestrian and vehicular traffic until the excavation has been resurfaced. If it is not possible to maintain the surface of the temporary paving in a safe condition for pedestrian and vehicular traffic, then the permittee shall maintain barriers and lights where necessary.

Permanent resurfacing by the permittee.

Upon completion of all excavation the permittee shall permanently resurface that portion of the street surface damaged by the permittee. In such event, permanent resurfacing shall be done under specifications prescribed by the Town and subject to inspection by the Scarborough Public Works Department. Completion is required within a period of ninety (90) days after such authorization to complete final resurfacing. If such permanent resurfacing is satisfactory to the Scarborough Public Works Department, all charges for resurfacing except for permit fees will be canceled. The permittee shall, for a period of three (3) years thereafter, be fully liable for all defects in materials and workmanship relating to such resurfacing and shall promptly repair or replace the same upon notice of the public works authority and to the satisfaction thereof.

13. Inspection

The Town shall make such inspections as are reasonably necessary in the enforcement of this article. The Town shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this article.

Fees and Charges

1. Fee:

A fee as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council, shall be paid for each excavation permit issued or renewed.

2. Cost of Replacement:

After opening charges shall be established by order of the Town Council to cover replacement costs of the street or sidewalk. Under this article, charges shall not be in excess of the reasonable cost of such replacement.

3. Special Conditions:

Where three (3) or more street openings are made in sequence (fifteen (15) feet or less, center to center, between each adjacent opening), the permittee shall be charged for one opening measured from the first opening to the last opening.

If the street openings exceeds fifty (50) square yards, a utility company or contractor may request, in writing, the Town's permission to contract privately for the street or sidewalk repairs. If the Town agrees, the contractor shall post a letter of credit for the actual amount of the street opening times the appropriate unit rate established or as approved by the Scarborough Public Works Department. The letter of credit shall be for a period of one year or as otherwise approved by the Scarborough Public Works Department and shall be retained by the Town for the period of time. Upon notification from the public works authority, that the repairs have been accepted, the Town shall release the letter of credit to the contractor. Street work must be done in accordance with the Town's specifications and is subject to inspection by a Town representative.

The Town shall provide an on-the-job inspector to supervise all excavation of temporary or permanent repairs. The permittee shall be charged the appropriate hourly inspector's rate, plus thirty-five (35) percent overhead for the services of such inspector.

Billing Procedures

Upon completion of the excavation work and after ground settlement has stabilized, the size of the opening will be measured by the Scarborough Public Works Department. The Town's long-term cost to maintain the opening are calculated by multiplying the size of the road cut (total square yards) by the appropriate rate as set forth herein. An invoice is generated and mailed to the permittee. Invoices rendered in accordance with this section shall be due and payable by the permittee immediately upon receipt thereof. If a permittee does not pay such invoice within thirty (30) days of receipt, the Town shall issue no further permits to permittee until payment has been received.

Town of Scarborough
STREET OPENING FEE SCHEDULE

Street Opening Charges

As specified in the *Schedule of License, Permit and Application Fees* established by the Town Council.

Sidewalk and Driveway Opening Charges

As specified in the *Schedule of License, Permit and Application Fees* established by the Town Council.

Curbing

As specified in the *Schedule of License, Permit and Application Fees* established by the Town Council.

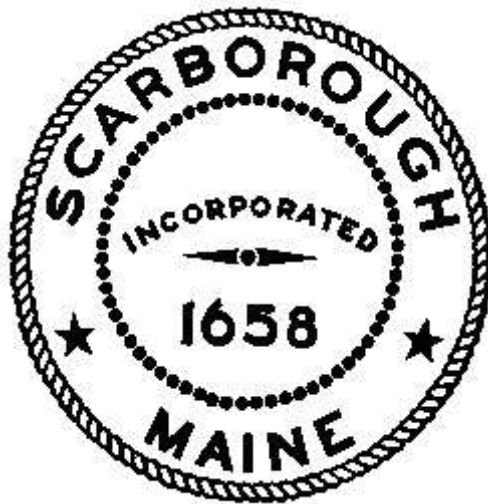
Other Charges

As specified in the *Schedule of License, Permit and Application Fees* established by the Town Council.

CHAPTER 406

TOWN OF SCARBOROUGH

SUBDIVISION ORDINANCE



ENACTED AUGUST 18, 1971
EFFECTIVE SEPTEMBER 17, 1971
AMENDED APRIL 8, 1976
AMENDED APRIL 14, 1982
AMENDED MAY 18, 1988
AMENDED FEBRUARY 2, 1994
AMENDED SEPTEMBER 6, 1995
AMENDED DECEMBER 3, 2003
AMENDED AUGUST 20, 2008
AMENDED MARCH 19, 2014
AMENDED MARCH 18, 2015
AMENDED NOVEMBER 1, 2017

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CHAPTER 406
SUBDIVISION ORDINANCE
TOWN OF SCARBOROUGH, MAINE

SECTION 1. TITLE

This ordinance shall be known and may be cited as the “Scarborough Subdivision Ordinance.” It is adopted under the authority of 30-A M.R.S.A. § 4403(2) and 30-A M.R.S.A. § 3001.

SECTION 2. PREAMBLE

This ordinance regulates the subdivision of land within the Town of Scarborough; defines subdivision; requires the approval of any subdivision by the Planning Board of the Town of Scarborough before any work may be commenced, and establishes procedures therefore; states the contents required for preliminary and final subdivision plans; establishes minimum standards for subdivision design and construction; and prescribes penalties for the violation of its provisions.

SECTION 3. DEFINITIONS

For the purposes of this ordinance, certain terms used herein are defined below. Terms not defined in this Ordinance have the same meaning as in 30-A M.R.S.A. § 4401, as amended from time to time.

AFFILIATE OF THE SUBDIVIDER:

Any person or entity which (a) is a direct or indirect corporate parent or subsidiary of the subdivider, (b) is a spouse, parent or child of the subdivider, or (c) directly or indirectly (i) owns or controls the subdivider, (ii) is owned or controlled by the subdivider or (iii) is under common ownership or control with the subdivider. For purposes of this definition, control shall mean the power to direct the management or policies of such entity, whether through ownership of voting shares, by contract or otherwise.

DEFAULT:

A subdivider is in default of the performance guarantee provided under section 9 of this Ordinance if the required improvements have not been completed within the time limits established under section 9 or if any of the required improvements which have been constructed fail to comply with the plans and specifications submitted with the subdivision application.

LOT:

A parcel of land in single ownership occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by the Zoning Ordinance of the Town of Scarborough.

PRIVATE STREET:

Any way that meets the design and construction standards of the Town of Scarborough Street Acceptance Ordinance but which is not dedicated for acceptance by the Town and which is intended to remain privately owned.

REPRODUCIBLE MEDIUM:

A material and format acceptable for recording in the Cumberland County Registry of Deeds and approved by the Town Planner.

STREET:

A public way which affords the principal means of access to abutting properties, or a proposed way that is intended to be accepted by the Town as a public way in accordance with the Street Acceptance Ordinance, or a private street as defined in this ordinance.

SUBDIVIDER:

An individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity, or agent thereof, that undertakes the activities governed by this ordinance. The term "subdivider" is intended to include the term "developer" and "builder."

WETLANDS:

For the purpose of this ordinance the term "wetlands" encompasses both freshwater and coastal wetlands.

SECTION 4. PURPOSE, AND INTERPRETATION, AND REVIEW CRITERIA

The purposes of this ordinance are to promote the development of an economically stable and sound community; to provide safe and adequate streets, utilities and other services to new land development; to provide convenient and safe traffic circulation and access; to assure generally the development of areas in a manner consistent with any comprehensive plan for the Town of Scarborough; to clarify the approval criteria of the state Subdivision Law, found in Title 30-A M.R.S.A. § 4404, to protect the environment and conserve the natural and cultural resources identified in the Scarborough Comprehensive Plan as important to the community; to minimize the potential impacts from new subdivisions on neighboring properties and on the town; and to provide uniform procedures and standards for observance by the Planning Board and Subdividers. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements for the protection of public health, safety and welfare. To this end, in evaluating any proposed subdivision of land within the Town of Scarborough, Maine the Planning Board shall determine that such subdivision will meet the design standards set forth in this Ordinance, will comply with all other pertinent State and Local codes and ordinances, and will comply with the following review criteria:

- A. The proposed subdivision will not result in undue water or air pollution. In making this determination it shall at least consider: the elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resources regulations;
- B. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
- C. The proposed subdivision will not cause an unreasonable burden on an existing water supply if one is to be utilized;

- D. The proposed subdivision will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- E. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
- F. The proposed subdivision will provide for adequate sewage waste disposal;
- G. The proposed subdivision will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
- H. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- I. The proposed subdivision is in conformance with this Subdivision Ordinance, the Scarborough Comprehensive Plan, the Scarborough Zoning Ordinance, the Scarborough Shoreland Zoning Ordinance (if applicable), the Scarborough Site Plan Review Ordinance (if applicable) and all applicable State and Local codes and regulations; in making this determination, the Planning Board may interpret the Comprehensive Plan and applicable local ordinances, codes and regulations;
- J. The subdivider has adequate financial and technical capacity to meet the standards of this Ordinance;
- K. Whenever situated in whole or in part, within 250 feet of any pond, lake, stream, river, wetland or tidal waters, the proposed subdivision will not adversely affect the quality of such body of water or wetland or unreasonably affect the shoreline of such body of water or wetland;
- L. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- M. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant, the Planning Board shall determine whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
- N. All wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any

mapping of wetlands may be done with the help of the local soil and water conservation district;

- O. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, “river, stream or brook” has the same meaning as in Title 38 M.R.S.A., section 480-B, subsection 9;
- P. The proposed subdivision will provide for adequate storm water management;
- Q. If any lots in the proposed subdivision have shore frontage on a river, stream, brook or coastal wetland as these features are defined in Title 38 M.R.S.A., section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
- R. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

SECTION 5. ADMINISTRATION

5:1 The Planning Board of the Town of Scarborough, hereinafter called the Board, shall administer this ordinance.

5:2 Whenever any subdivision is proposed or before any contract for the sale or offer to sell such subdivision or any part thereof shall have been negotiated, or before any permit for the erection of any structure within such subdivision shall be granted, or before any utility installations, ditching, grading, construction of roads, grading of land or lots shall be done on any subdivision, the subdividing owner or her/his authorized agent shall apply formally to the Board for approval of a Final Plan of such subdivision, which plan shall be in conformance with all of the requirements, design standards and specifications set forth in this ordinance, and shall record an attested copy of the Final Plan so approved and so endorsed in the Cumberland County Registry of Deeds. [amended 11/01/17]

5:3 When an application for subdivision approval is received and accepted by the Town Planner, the Planner shall give a dated receipt to the applicant and shall notify by mail all property owners within 500 feet of the proposed subdivision, and the clerk and the planning boards of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project. The Town Planner shall also notify by mail a public drinking water supplier if the subdivision is within its source water protection area. The Town Planner shall not accept the application if the subdivider or an affiliate of the subdivider is in default on any performance guarantee on any other development within the Town or is in arrears on any fees owed to the Town of Scarborough in connection with any other development within the Town. When the Town Planner has accepted the application and determines that thirteen (13) copies of all material apparently required to constitute the application have been submitted, he/she shall promptly so advise the Planning Board and schedule consideration of the application for its next following meeting. He/She shall promptly notify the applicant of the time and place for such meeting, and he/she shall transmit to each Planning Board member a copy of the application material. He/She shall advise the Board of

his/her comments and recommendations regarding additional information which might be useful to the Board, other permits or approvals which the subdivision might require, and the apparent timetable for Planning Board action. [amended 11/01/17]

5:4 As to any intended subdivision of land, the subdivider shall prepare and formally submit to the Board both a Preliminary Plan for study, and modification where required, and a Final Plan. The Final Plan shall not be prepared until the subdivider has received from the Board written notice that a majority of the Board has approved the Preliminary Plan of such subdivision.

5:5 The Director of Public Works and the Engineer shall make reports to the Planning Board with respect to the adequacy of the design standards and specifications of the proposed street or private street, including the need for street lighting and storm drains. Said report must be submitted before any approval is granted. The Planning Board may also engage the services of one or more professional consultants to conduct peer review of the materials submitted by the subdivider, the costs of which shall be paid by the subdivider as provided in Section 11 of this Ordinance.

5:6 Prior to submission of the subdivision application and the Preliminary Plan, an applicant may choose to present a sketch plan for review by the Planning Board at a pre-application meeting. At such meeting, the Planning Board and the applicant may discuss the lot layout, road design and other features of the proposed plan, as well as the format, procedures and process for reviewing the subdivision. Any such pre-application meeting shall be scheduled by the Town Planner once the Town Planner has determined that the applicant has submitted sufficient information for the Planning Board to consider, including a sketch plan containing the following information:

- (1) Subdivision name, boundaries, acreages, tax map and lot numbers, magnetic and grid north point, date and graphic scale.
- (2) Location Plan – A location plan of the subdivision, at a scale of 1000-2000 feet to the inch, showing right of way lines of all proposed streets in the subdivision and their location in relation to existing streets and readily identifiable as to locus on the Scarborough Zoning Map.
- (3) Name and address of record owner, subdivider, and engineer, surveyor, firm, or individual who prepared the plan.
- (4) Existing and proposed lines of streets, ways, easements, lots and any public or common areas within the subdivision.
- (5) Location, name, and present width of each street and public or private way bounding or within 500 feet of the subdivision.
- (6) Approximate locations of existing buildings and site features such as wooded areas, wetlands, and water bodies within or adjacent to the proposed subdivision.

A plan considered by the Planning Board in pre-application meeting is not considered a complete or pending application and creates no vested rights. Submittal of the pre-application sketch plan and review of the pre-application sketch plan by the Planning Board shall not be considered to create a pending proceeding under 1 M.R.S.A. § 302.

SECTION 6. GENERAL REQUIREMENTS

6:1 Any proposed subdivision shall be in conformity with any Comprehensive Plan of the Town of Scarborough and with the provisions of all pertinent State and Local codes and ordinances.

6:2 Land designed for public use may not be subdivided for any other purpose.

6:3 Any proposed subdivision shall be reviewed by the Board with respect to its effect upon existing community services and facilities including schools and recreational areas. The Board shall consider open space for future community facilities and may withhold approval of final plans pending such designation.

6:4 any proposed subdivision shall be so designed that every lot has access to a street.

6:5 Any natural drainageways and their easements shall be utilized so that no flooding will occur and all storm water can be disposed of properly.

6:6 The Board may require that a proposed subdivision design conserve such features as trees, streams, topography, and other natural assets.

6:7 Street trees, esplanades and open spaces may be required at the discretion of the Board. When such improvements are required they shall be incorporated in the Final Plan.

6.8 Any historic or archeological resource that has been identified by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or Section VII.H. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance should be preserved and incorporated into the subdivision plan in a manner that retains its historic or archeological value if feasible. If an identified resource will be removed or will be altered in a manner that diminishes its historic or archeological value, the burden is on the applicant to demonstrate that options for preserving the resource have been explored. The Planning Board, Planning Department, and the applicant may consult the State Historic Preservation Office, the Scarborough Historical Society, or similar organizations with the mission of historic and archeological preservation on options for preserving the resource. If the resource will be removed, the applicant must demonstrate that reasonable efforts have been made to preserve the resource value or relocate it to another location. [Amended 03/18/2015]

6.9 Within the Town's designated growth areas as depicted in the current version of the Comprehensive Plan, the Town of Scarborough's Planning Board has municipal capacity to review subdivisions that otherwise would require review by the Maine Department of Environmental Protection under the Site Location of Development Law. This authority has been provided for under 38 M.R.S.A. Section 488 (19). Municipal capacity shall only apply to subdivisions that are located wholly within the Town of Scarborough and wholly within a designated growth area. All other subdivisions that meet or exceed the thresholds for Site Location of Development Law shall be reviewed by the Maine Department of Environmental Protection accordingly. Municipal capacity within the Town's growth areas shall apply to both new subdivisions and modifications to past subdivisions that may have existing Site Location of Development approvals.

In addition to meeting the standards and requirements of this Ordinance, the Scarborough Zoning Ordinance, and any other applicable local ordinances, subdivisions that include fifteen (15) or more lots on thirty (30) or more acres shall also be submitted and reviewed by the State of Maine regarding significant wildlife and fisheries habitat and natural resources and significant historic and archeological resources as follows:

- (a) The Maine Department of Inland Fisheries and Wildlife shall be provided with a complete site plan application and shall have the ability to review and provide advisory comments on the site plans' impact on any significant wildlife habitat, aquatic habitat, fisheries habitat, or wildlife travel corridor. The Planning Board shall not issue a final decision on a site plan application until it receives comments from the Maine Department of Inland Fisheries and Wildlife or thirty (30) days from the submission of the application to the department, whichever comes first.
- (b) The Maine Historic Preservation Commission shall be provided with a complete site plan application and shall have the ability to review and provide advisory comments on the presence of any significant historic or archeological resources that may exist on the site. The Planning Board shall not issue a final decision on a site plan application until it receives comments from the Maine Historic Preservation Commission or thirty (30) days from the submission of the application to the department, whichever comes first.

SECTION 7. PRELIMINARY PLAN REQUIREMENTS AND PROCEDURES

7:1 A request for approval of a subdivision shall be made to the Board in writing and shall be accompanied by a Preliminary Plan, that shall be drawn at a scale between 20 and 100 feet to the inch. The Preliminary Plan shall be accompanied by a location map showing the relationship of the proposed subdivision to adjacent properties and public access and drawn at no smaller scale than 500 feet to the inch.

7:2 When practical, a standard sized sheet 24" x 36" shall be used for all plans and shall contain the following information:

- (a) Name of Subdivision, owner(s), engineer(s), and surveyor(s).
- (b) Graphic scale, date and grid point.
- (c) Existing Zoning.
- (d) Ownership and location of abutting properties.
- (e) Name, location, width, profile, cross-section, radius of curves, angles or change in direction and center line, length of all existing and/or proposed public or private streets, other public ways, building lines and easements in the subdivision. All street names shown for proposed streets located in a subdivision shall be checked against local records to assure that none are duplicates of existing street names or so similar as to cause confusion.
- (f) Type, location, profile and cross-section of all existing and/or proposed surface water drainage.
- (g) Location of all existing and/or proposed utilities - water, gas, electricity or other.

- (h) Location of all existing and/or proposed sanitary sewers showing size, profile, and cross-section; or description, plan, location, if other means of sewage disposal with evidence of the nature of soils and subsoils and their ability to adequately support sewage waste disposal as required by the Scarborough Plumbing Ordinance and the Maine State Plumbing Code, Part II, and that the land is suitable for subsurface sewage disposal systems.
- (i) Topography at two (2) foot contour intervals, unless otherwise prescribed by the Planning Board and Town Engineer. In addition, the location of existing natural or manmade features and soils conditions influencing the layout of the proposed subdivision shall be shown.
- (j) Lot lines and approximate dimensions.
- (k) Proposed uses of property.
- (l) Proposed public areas, if any.
- (m) Location and boundaries of wetlands.
- (n) 100-year flood elevations.
- (o) Any requested waivers from the standards of this Ordinance.
- (p) The location and description of all historic and archeological resources on the parcel as identified by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or Section VII.H. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance together with a narrative describing how these resources can be preserved and incorporated into the subdivision plan. If an identified resource will be removed, altered, or not included as part of the subdivision plan, a statement shall be provided as to why the resource cannot be preserved and the options considered but rejected for including it as part of the plan. [Amended 03/18/2015]

7:3 In addition to the Preliminary Plan, the Board may require the subdivider or others to undertake studies where deemed necessary or desirable to protect the public convenience, safety, health and welfare.

7:4 An application for approval of a Preliminary Plan shall be considered at a regular meeting of the Board within 30 days of receipt of such application. The Board shall, after such consideration and within 30 days of receipt of an application and Preliminary Plan, issue a written statement informing the sub-divider or her/his authorized agent of approval, disapproval or conditional approval or of any changes required prior to the submission of the Final Plan.

7:5 No final plan shall be approved by the Board unless submitted by the subdivider or her/his authorized agent within 12 months from the issuance of Preliminary Approval.

SECTION 8. FINAL PLAN REQUIREMENTS AND PROCEDURES [Amended 08/20/2008]

8:1 A request for Final Approval of a subdivision shall be made to the Board in writing and shall be accompanied by a Final Plan of such subdivision legibly drawn in black ink on a permanent reproducible medium. The Plan shall be drawn at such scale as may be prescribed by the Board as being adequate to show all details clearly.

8:2 The Plan shall be presented on one or more sheets of standard 24" x 36" size and shall contain the following information:

- (a) All the information required for the Preliminary Plan and amendments thereto requested by the Planning Board.
- (b) Existing and final proposed lines of streets, ways, lots, easements for utilities and/or drainage and public areas within the subdivision.
- (c) Sufficient data to determine the exact location, direction, and length of every street line, easement, lot lines and boundary line and to reproduce these lines upon the ground.
- (d) Location of all permanent monuments existing and/or proposed wherever in the opinion of the Board, such monuments are necessary to properly determine the location on the ground.
- (e) Lot and map numbers and letters in accordance with the prevailing policy on existing tax maps.
- (f) Designation of the location, size, planting and landscaping of such parks, esplanades or other open spaces as may be proposed or prescribed.
- (g) The seal(s) and/or appropriate stamps of the Professional Land Surveyors and, Professional Engineers, responsible for the preparation of the subdivision proposals.
- (h) Any waivers from the standards of this Ordinance.

8:3 The Final Plan shall be accompanied by certification from authorized local public officials and/or agencies that the design of sewer and drainage facilities, streets and utilities in the proposed subdivision conform to the requirements of all pertinent State and Local codes and ordinances. The cost of certification and/or inspection shall be borne by the subdivider.

8:4 The Board shall consider a Final Plan at a regular meeting within thirty days of submission of such Final Plan.

8:5 The Board shall determine by vote whether to approve the Final Plan, approve the Final Plan with conditions or deny approval of the final plan. The Board's vote shall constitute the Board's decision and order on the subdivision application. The approval of a Final Plan shall be attested on the original plan on reproducible medium and three copies by the signatures of a legal majority of the members of the Board. Signing of the Final Plan may ~~be deferred to a meeting occur~~ subsequent to approval of the Plan, ~~but no later than 30 days after the Board's vote and does not require a meeting of the Board~~. In addition, the subdivider shall provide a copy of the recording plan in digital format in compliance with the current specifications for placement in the Town's GIS database which is based on the Maine State Grid. Specifications are on file with the Town Planning Office.

8:6 A Final Plan on reproducible medium shall be retained by the Board. The subdivider shall record the approved Final Plan with the Cumberland County Registry of Deeds within ninety days after the date on which the Board vote to approve the subdivisions. The Town Planner shall not release the attested final plan on reproducible medium to the subdivider for recording until the subdivider has provided the performance guarantee required by section 9 of this Ordinance, and all fees required under section 11 of this Ordinance. In addition, the Town Planner shall not release the attested final plan on reproducible medium for recording if the subdivider or an

affiliate of the subdivider is in default on any performance guarantee on any other development within the Town or is in arrears on any fees owed to the Town of Scarborough in connection with any other development within the Town.

SECTION 9. PERFORMANCE GUARANTEES

9:1 In order to insure completion of all improvements required by the Town of Scarborough, Maine the subdivider shall furnish to the Town Treasurer a performance guarantee prior to the recording of the Final Plan. Said performance guarantee may be in the form of cash, certified check payable to the Town of Scarborough, or an irrevocable letter of credit in a form and from an issuer acceptable to the Town Treasurer. In determining the acceptability of the issuer, the Town Treasurer may rely on any published information available concerning the issuer's financial condition and projected financial condition during the term of the letter of credit. The determination of the Town Treasurer on the acceptability of the issuer is final and not appealable. The amount of such performance guarantee (the "Stated Amount") shall be approved by the Board and the Town Treasurer, and shall be in an amount at least equal to the total cost of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage and utilities or other improvements specified and shall be conditioned on the completion of all such specified improvements within 30-months of the date the Performance Guarantee is furnished. The performance guarantee may allow for, but shall not require, periodic reductions of the State Amount as portions of the specified improvements are determined by the Town Engineer to be complete, provided that each such reduction shall be limited to 85 percent of the cost of the improvements for which the reduction is allowed. In no event shall the performance guarantee be reduced to less than 15 percent of the Stated Amount until all the specified improvements have been completed and inspected and all fees due under Section 11 below or pursuant to any conditions of approval have been paid in full.

9:2 The Board may grant one or more extensions of up to exceed 12 months beyond the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Board good cause for such extension; provided, however, that the performance guarantee shall remain in full force and effect during any such extension period and that the total duration of the original performance guarantee and any extensions granted under this Section 9.2 shall not exceed five years from the date on which the original performance guarantee was furnished. The Planning Board may not grant an extension if the subdivider or an affiliate of the subdivider is in default on any performance guarantee on any other development within the Town or is in arrears on any fees owed to the Town of Scarborough in connection with any other development within the Town.

9:3 Before a subdivider may be released from any obligation required by her/his guarantee of performance, the Board shall require certification from the various departments and agencies concerned to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, State and Local codes and ordinances. [amended 11/01/17]

9:4 At the time of approval of the final plan, the Planning Board may approve the construction of the subdivision in specifically identified phases and allow the subdivider to furnish separate performance guarantees for each phase prior to commencement of construction of each phase,

provided that the performance guarantee furnished for any individual phase must secure the construction of all required improvements within such phase plus any improvements located in other phases which are necessary in order for the phase being constructed to comply with the requirements of this Ordinance should subsequent phases not be constructed. The time limits of sections 9:1 and 9:2 shall apply separately to each phase. In addition, the time limits of section 9:1 and 9:2 may be modified for a phased subdivision pursuant to a contract zoning agreement approved by the Scarborough Town Council under the Scarborough Zoning Ordinance.

SECTION 10. STREET INFRASTRUCTURE DESIGN STANDARDS

10:1 The design of streets shall provide for proper continuation of streets from adjacent subdivisions and built-up areas and proper projection of streets into adjacent unsubdivided and open land.

10:2 All public streets constructed after December 4, 2003 shall comply with the appropriate design standards and specifications set forth in the Street Acceptance Ordinance of the Town of Scarborough, Maine.

10:3 If access to the street or streets within the subdivision is from an existing private street which does not meet such design standards and specifications, the subdivider shall cause such existing road to be brought into compliance with such standards and specification.

10:4 When considering private street proposals the Planning Board shall require that the developer clearly identify the party responsible for maintenance of the private street. A note shall be placed on the final plan and incorporated into each deed stating that the proposed street is not dedicated for acceptance by the Town.

SECTION 11. FEES

a. Prior to the submission of a preliminary plan the subdivider shall pay to the Town Treasurer an application fee. Said fee shall be non-refundable and shall be computed as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council. For subdivisions involving attached single-family dwellings, multi-family dwellings or condominiums, the fee shall be calculated by the number of units rather than the number of lots.

b. Prior to the release of the Final Plan to the subdivider for recording, the subdivider shall pay to the Town Treasurer a Peer Review and Construction Inspection fee. Said fee shall be non-refundable and shall be computed and paid as follows:

1. The amount of the fee shall be determined by the Town Engineer, and shall include the actual costs incurred by the Town to engage consultants to undertake peer review of the subdivider's submissions plus the estimated cost to the Town of retaining the services of a qualified construction monitor under the employ of a licensed professional engineer to observe and monitor all construction of required improvements. In fixing the amount, the Town Engineer may consider the complexity of the improvements, the overall cost of the subdivision, the anticipated construction schedule, and any other factors relevant to estimating the cost of monitoring.

2. If, upon completion of the required improvements, the actual cost of monitoring and inspection exceeds the amount paid at the time of submission of the final plan, the subdivider shall pay the additional amount to the Town Treasurer before the subdivider shall be released from her/his obligations under the Performance Guarantee provided under Section 9 of this Ordinance, such additional amount being deemed a required improvement under the Performance Guarantee. If, upon completion of the required improvements, the actual cost of monitoring and inspection is less than the amount paid at the time of submission of the final plan, the Town shall return the unused portion to the subdivider. [amended 11/01/17]

SECTION 12. VALIDITY AND CONFLICT OF ORDINANCES

12:1 In the event that any section, subsection or any portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or other portion of this Ordinance.

12:2 In the event that any provision of this ordinance is in conflict with any provision of any other federal, state or local statute, ordinance or regulation, the provision which establishes the most stringent requirement shall prevail.

SECTION 13. WAIVERS

13:1 Waivers of Submission Requirements Authorized.

Where the Planning Board determines there are special circumstances relating to a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, except any submission requirements as to which the Ordinance specifically prohibits waiver. For a waiver to be granted, the applicant must demonstrate in writing that the Planning Board can evaluate the proposed subdivision under the standards of 30-A M.R.S.A. §4404 and of this Ordinance without the information contained in the submissions for which the applicant requests a waiver.

13:2 Waivers of Standards Authorized.

Where the Planning Board makes written findings of fact that, due to special circumstances of a particular parcel proposed to be subdivided, compliance with certain of the standards of 30-A M.R.S.A. §4404 or of this Ordinance is not required, the Board may waive such requirement of standard, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the Scarborough Comprehensive Plan, the Zoning Ordinance, or this Ordinance, and provided that the public health, safety, and welfare will not be compromised by the waiver.

13:3 Conditions.

Waivers may only be granted in accordance with Sections 13:1 and 13:2. When granted waivers the Board may set conditions so that the purposes of these regulations are met.

13:4 Waivers to be Shown on the Recording Plan.

When the Planning Board grants a waiver from any of the improvements required by the Ordinance or from any of the standards of 30-A M.R.S.A. §4404 or of this Ordinance, the reproducible medium to be recorded at the Registry of Deeds shall indicate the waivers granted and the dates on which they were granted.

SECTION 14. EFFECTIVE DATE

This ordinance shall take effect and be in force from and after the date of its official adoption by the Town of Scarborough.

CHAPTER 1101
TOWN OF SCARBOROUGH
ORDINANCE FOR AUTO RACING ON SUNDAY

Reference: Reference Book #10, Special Town Meeting, May 14, 1949, pages 45 and 46, Articles 2 and 3.

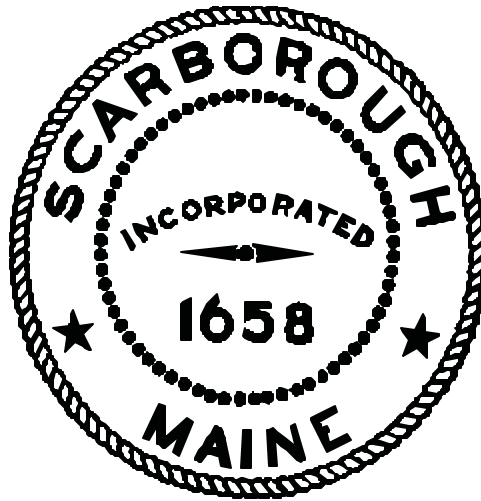
The Town voted that we make lawful the racing of motor vehicles on Sunday in the Town of Scarborough except there shall be no motor car racing on Sundays within a two mile distance of any built up portion of said Scarborough as defined in Chapter 19, Section 102, Article 4, Revised Statutes 1944.

The Town voted that the Planning Board be empowered to decide as to whether or not a specified distance should be established barring any such event from premises of any church or place of worship.

CHAPTER 605

TOWN OF SCARBOROUGH

SURFING ORDINANCE



Adopted March 1966
Amended May 20, 1970
Amended 04/07/04

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CHAPTER 605
TOWN OF SCARBOROUGH
SURFING ORDINANCE

Section 1. Higgins Beach.

No person shall surf in the waters of Higgins Beach in the Town of Scarborough between the hours of 11:00 A.M. and 5:00 P.M. during the period June 15th to September 15th inclusive.
(amended 04/07/04)

During the period September 16th to June 14th inclusive, Higgins Beach shall be open to surfing at any time. (amended 04/07/04)

Section 2. Other Beaches.

All public beaches other than Higgins Beach in the Town of Scarborough shall be open to surfing at any time.

Section 3. General Restrictions. (amended 04/07/04)

A "surfboard leash," which connects the person using the surfboard to his or her surfboard, shall be properly engaged at all times when the surfboard is in the water. The length of the "leash" shall be a minimum of 7 feet but no greater than 10 feet.

Section 4. Penalty.

Any person violating any of the preceding sections shall be subject to a fine of not less than \$100.00 nor more than \$500.00 plus costs, which fine shall be recovered on complaint to the use of the Town of Scarborough. (amended 04/07/04)

Section 5. Definitions. (amended 04/07/04)

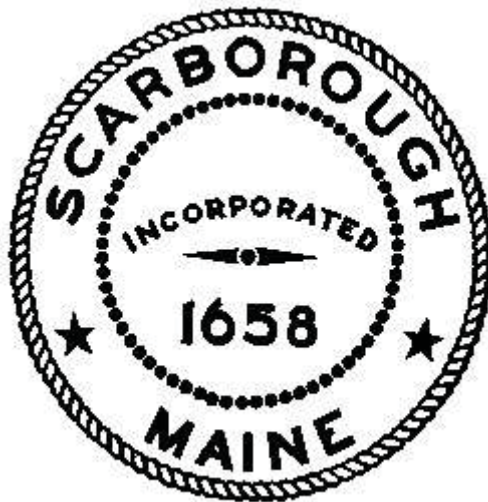
"Surf" means to ride the surf on a surfboard.

"Surfboard" means a narrow board or similar buoyant device made of wood, plastic, fiberglass, foam or other hard material and used to ride the surf. The term surfboard does not include air-fill devices made of soft materials, such as inner tubes, floating air mattresses and inflatable beach toys.

CHAPTER 1004

TOWN OF SCARBOROUGH

TAXICAB ORDINANCE



Adopted Annual Town Meeting March 7, 1955
Amended November 2, 1994
Amended September 6, 1995
Amended November 1, 2017

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**CHAPTER 1004
TOWN OF SCARBOROUGH
TAXICAB ORDINANCE**

Section 1. Definitions

(a) *License inspector*

Means the Scarborough Chief of Police or any Scarborough Police officer designated by the Chief to enforce this Ordinance.

(b) *Metered zone*

Means the Cities of Portland, South Portland, Westbrook and Saco and the Towns of Cape Elizabeth, Scarborough, Old Orchard Beach, Gorham and Buxton.

(c) *Operate*

Means to drive, or regularly to cause or induce another to drive, whether or not such other person acts in the capacity of an agent, servant, employee, lessee or independent contractor.

(d) *Taxicab*

Means any motor vehicle used for the transportation of passengers for hire, the destination and route of which are under the direction and control of the passengers; except that the provisions of this article shall not apply to a motor vehicle licensed by another municipality to operate as a taxicab or other vehicle for hire which is operated within Scarborough in response to:

1. A call to convey a passenger from Scarborough to such other municipality;
2. A request to convey a passenger from Scarborough to such other municipality when such request is made at the point of delivery in Scarborough of a passenger from such other municipality; or
3. A request to convey a passenger from such other municipality to Scarborough.

Section 2. Annual license required.

No person shall own or operate any taxicab in the Town of Scarborough without a license for such purposes as provided for herein. All owner's and operator's licenses shall expire on May 1 of each year.

Section 3. Issuance of owner's and operator's licenses.

- (a)** An initial license to own or operate a taxicab within Scarborough must be approved by the Town Council. Applicants for either an owner's or operator's license must file a written application with the Town Clerk's office. The Town Council, after public hearing, will approve a license provided the applicant:

1. Has a valid State of Maine driver's license;
 2. Is at least eighteen (18) years of age;
 3. Has a minimum of one (1) year's driving experience;
 4. Has been photographed and fingerprinted by the police department;
 5. Has not been convicted of any of the following:
 - (a) Operating under the influence of either drugs or alcohol within the previous six-year period;
 - (b) A class A, B, or C crime and any sexual offense of any class as set forth in Chapter 11 of Title 17-A of M.R.S.A., within the previous six-year period; conviction of any crime of any class that involves threatening or violent behavior within a three-year period;
 - (c) More than two (2) motor vehicle violations within the past eighteen months; more than four (4) motor vehicle violations within the past thirty-six (36) months.
 6. For an owner's license, has the required vehicle registration;
 7. For an owner's license, has submitted each taxicab for which a license is sought to the annual inspections under Section 2(a)(1);
 8. For an owner's license, has current liability insurance for a term at least equal to the period of the requested taxicab license, with liability limits no less than the minimums required under 29 M.R.S.A. section 2708-a and with a policy endorsement requiring written notice to the Town Clerk no less than thirty days prior to cancellation or non-renewal. Written evidence of such coverage shall be submitted with the application for the license.
- (b) If the Council finds that the standards have been met, the Council shall approve the license. The Clerk shall then issue the license once the applicant has paid the required license fee.
 - (c) The Town Council, if it makes the factual determination that one (1) or more of the above standards has not been met, is to issue in writing a denial of a request for a license and will set forth the reason for refusal to issue such license.

Section 4. Renewal and revocation of owner's or operator's licenses.

- (a) The Town Clerk shall renew a license issued under section 3 to own or operate a taxicab on or before May 1st of each year, provided however, that the applicant must still meet all of the licensing standards set forth in section 3. The Clerk shall be empowered to utilize the services of the Scarborough Police Department to update and to check on standards.
- (b) If information is provided to the office of the Town Clerk that a current licensee has violated one or more of the standards set forth in Section 3 and this fact is verified by the Police Department, then the Clerk shall issue a notice of

suspension revocation of an existing license. A licensee who has received such notice is entitled to a hearing before the Town Council before the revocation takes effect. The Council shall apply the standards of Section 3 to determine whether license should be suspended or revoked.

- (c) In addition, the Town Council may revoke or suspend the license of any owner or operator who violates the conditions of the license, makes a material misstatement on the application for the license, uses abusive or profane language in the presence of a passenger, keeps her/his taxicab in an unsafe, unclean or unsatisfactory condition, or operates her/his taxicab in an unsafe manner or keeps her/his taxicab in an unsafe, unclean or unsanitary condition. [amended 11/01/17]

Section 5. License Fee.

The annual fee for each taxicab shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council. The annual fee for each operator shall be \$25.00. These fees shall be prorated on a monthly basis in the case of an initial license issued for less than one year.

Section 6. Display of license.

Every driver licensed hereunder shall display his or her taxicab driver's license in a conspicuous location within the taxicab whenever the cab is in service. The license shall be surrendered upon revocation, suspension or expiration of the taxicab driver's license.

Section 7. Fares for service.

(a) *Metered zone.*

The maximum fare for taxicab service within the metered zone shall be one dollar and ten cents (\$1.10) for the first one ninth of a mile or a fraction thereof and twenty cents (\$0.20) for each one ninth of a mile or fraction thereof, thereafter. The fare shall be computed and displayed by the taximeter. No fare charged shall be in excess of the amount displayed by taximeter. There shall be one (1) fare, divided equally, in the case of two (2) or more passengers who engage the taxicab for a trip between the same two (2) points. In all other cases, each passenger shall pay a separate fare, provided the first passenger to engage the taxicab consents to sharing the taxicab. Such separate fare must be negotiated in advance of commencement of the trip.

(b) *Outside metered zone.*

If a trip begins or ends within Scarborough and the other point of origin or destination is outside the metered zone, the passenger and driver shall agree upon the fare before the trip commences; otherwise the passenger shall be under no obligation to pay any fare.

(c) *Waiting zone.*

A charge for waiting time may be made only for time waited at the express direction of the passenger after the trip has begun and for time waited before the trip has begun,

commencing five (5) minutes after the time at which the passenger has requested the taxicab to call, or five (5) minutes after the taxicab actually calls, whichever is later. The charge for such waiting time shall be twenty-five cents (\$0.25) per minute.

(d) *Sight-seeing.*

Taxicabs may be employed for purposes of sightseeing only according to a published route and rate, to which the passenger consents in advance of commencement of the trip.

(e) *Bags and parcels.*

No charge shall be made for the transportation of bags or parcels of a passenger.

Section 8. Rates to be displayed.

(a) *Rate and information card.*

The clerk shall issue, together with each taxicab business license, a rate and information card which sets forth the foregoing rates in clear, legible letters and a description of the metered zone. The rate and information card shall be displayed in the taxicab so as to be clearly visible to passengers at all times when the taxicab is in service.

(b) *Exterior display of rates.*

The maximum rates established by the Ordinance and any lower rates actually charged shall be displayed on the exterior of the rear doors of the taxicab in lettering visible to customers before they enter the taxicab.

Section 9. Equipment.

(a) *General requirements.*

(1) All taxicabs are subject to at least one (1) random vehicle inspection per license year by the License Inspector, in addition to a scheduled annual inspection by the License Inspector at the time the taxi owner applies for a new or renewal license. The inspection shall be for the purpose of determining compliance with the standards of this Ordinance.

(2) Taxicabs shall be at all times clean and in good repair inside and out. "Clean and in good repair" shall mean and include, without limitation, the following:

- a. No visible tears in carpeting;
- b. No dents larger than six (6) inches in diameter;
- c. No tears in seat upholstery;
- d. No loose trash or large amounts of dirt or sand in the interior passenger area, whether or not a passenger currently occupies the area;
- e. No missing trim or bodywork;
- f. No cracks in windshield or windows;

- g. Seat belts for all passenger seats visible and in working order;
- h. No missing hubcaps;
- i. No visible primer paint; and
- j. No rust greater than one (1) inch in diameter.

(3) Taxicabs shall be maintained at all times in compliance with the laws of the state relating to passenger vehicles and the rules and regulations of the state commissioner of transportation enacted pursuant thereto.

(b) *Taximeters.*

Taxicabs shall be equipped with taximeters which have been tested, approved and sealed by the state sealer of weights and measures, and which shall indicate fare and mileage by means of legible figures which are electrically illuminated during the period between sunset and sunrise, which fare shall be computed in accordance with the rate card and shall be calibrated the same fraction on a mile as the maximum fare provided in section 7. Taximeters shall be so placed that the figures are in plain view of all passengers. Taximeters shall be connected directly to and be driven directly from the transmission by means of flexible shafts and flexible housing so connected and sealed as to not be subject to tampering.

(e) *Exterior light.*

Every taxicab shall be equipped with an exterior light affixed to the roof thereof which shall be covered with translucent fixture marked with the work "Taxi" in legible lettering and which shall be operated during the period between sunset and sunrise.

(d) *Identification.*

Every taxicab shall be conspicuously marked in letters not less than one and one-half (1 ½) inches in height with the word "Taxicab" and the owner's name or trade name or, in lieu of such name or trade name, with a design or monogram containing the owner's name or trade name. Such design or monogram shall be not less than eight (8) inches in diameter.

Section 10. Order of taxicab from service.

The License Inspector may require any licensee to present a taxicab for inspection whenever the inspector deems such inspection necessary because of a serious threat to the health or safety of passengers and may in writing order a taxicab owner to remove from service any taxicab which is in violation of this ordinance; provided that a reinspection shall be scheduled as soon as possible but in no case more than three (3) days thereafter. There shall be a charge of ten dollars (\$10.00) for the first reinspection, and a charge of twenty-five dollars (\$25.00) for each reinspection thereafter, of any taxicab ordered removed from service hereunder.

Section 11. Conduct of driver.

When transporting passengers, all licensees shall be neat and clean in appearance. All articles of clothing shall be clean and in good repair.

Section 12. Smoking in vehicle.

Smoking is not permitted in any vehicle unless all passengers consent.

Section 13. Number of passengers permitted.

The number of passengers carried by a taxicab at any time shall not exceed the seating capacity of the vehicle.

Section 14. Taxi stands.

The Town Council may, if it determines in its sole and exclusive discretion that the public convenience and necessity require the establishment of taxi stands on public property, designate and assign taxi stand locations on public streets or other public property, but otherwise no taxi stand shall be established except on private property. No owner or operator of a taxicab shall allow the cab to stand on the public streets for the purpose or with the intent of soliciting passengers except at a taxi stand designated and assigned by the Town Council under this section.

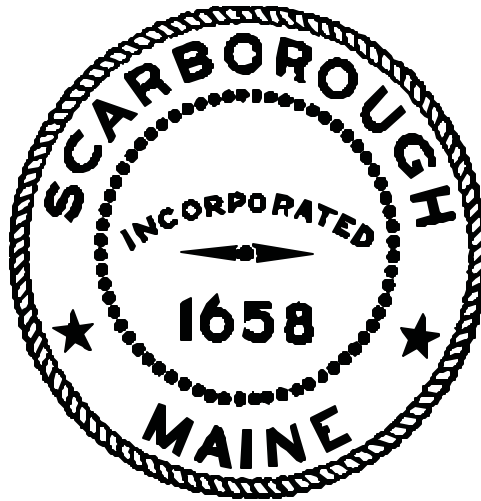
Section 15. Enforcement and penalty.

The License Inspector shall enforce this ordinance. Any person who owns or operates a taxicab in violation of the requirements of this Ordinance commits a civil violation. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense, punishable by a civil penalty of between \$100 and \$250 per violation. The Town may enjoin or abate any violation of this ordinance by appropriate action.

CHAPTER 412

TOWN OF SCARBOROUGH

TEMPORARY HOUSING ORDINANCE



ADOPTED OCTOBER 4, 2000

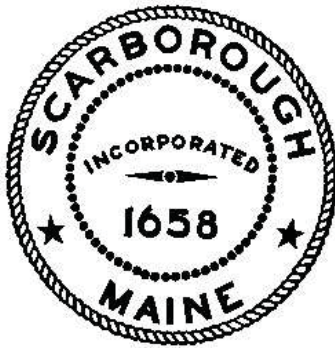
CHAPTER 412
TOWN OF SCARBOROUGH
TEMPORARY HOUSING ORDINANCE

Notwithstanding anything to the contrary in the Zoning Ordinance of the Town of Scarborough, the Town of Scarborough Shoreland Zoning Ordinance, the Town of Scarborough Site Plan Review Ordinance, or the Town of Scarborough Ordinance relating to Trailers and Trailer Camps, the Code Enforcement Officer may authorize the use of a mobile home, trailer or recreational vehicle as temporary housing when located on the same lot as a permanent dwelling which has been rendered uninhabitable by fire or natural disaster, in order to permit the persons who were residing in the dwelling immediately prior to the fire or natural disaster to continue to reside on the lot while the dwelling is repaired or reconstructed. In determining whether to grant such authorization, the Code Enforcement Officer shall consider the safety of the proposed temporary occupancy, the adequacy or wastewater disposal during the temporary occupancy, and any other potential impacts on the public health or safety. The Code Enforcement Officer shall specify the terms and conditions of the temporary occupancy and the maximum length of time that the temporary occupancy may continue (which may be extended for good cause shown). Decisions of the Code Enforcement Officer under this ordinance shall be final and not subject to appeal.

CHAPTER 601

TOWN OF SCARBOROUGH

TRAFFIC ORDINANCE



Adopted May 17, 1967, amended to June 15, 1977
Amended May 5, 1982 - Amended December 1985
Amended October 1, 1986 - Amended June 7, 1989
Amended June 6, 1990 - Amended August 1, 1990
Amended April 3, 1991 - Amended June 17, 1992
Amended April 7, 1993 - Amended December 1, 1993
Amended June 1, 1994 - Amended November 16, 1994
Amended June 6, 1997 - Amended January 5, 1998
Amended January 6, 1999 - Amended April 21, 1999
Amended April 5, 2000 - Amended September 06, 2000
Amended December 6, 2000 - Amended December 21, 2001
Amended February 14, 2003 - Amended June 5, 2002
Amended August 21, 2002 – Amended February 5, 2003
Effective Date May 1, 2003
Amended September 17, 2003 – Amended August 18, 2004
Amended September 1, 2004 – Amended September 15, 2004
Amended September 7, 2005 – Amended June 21, 2006
Amended January 20, 2010 – Amended January 19, 2011
Amended February 16, 2011 – Amended October 19, 2011
Amended May 2, 2012 - Amended July 16, 2014
Amended November 4, 2015 – Amended October 19, 2016
Amended March 1, 2017 – Amended September 6, 2017
Amended November 1, 2017 – Amended December 20, 2017
Amended August 15, 2018 – Amended June 5, 2019

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**CHAPTER 601
TOWN OF SCARBOROUGH
TRAFFIC ORDINANCE**

Section 1. Definitions

Vehicle

- (a) The word “vehicle” shall mean as defined in the Maine Motor Vehicle Statutes Title 29-A:
 - (1) Means a device for conveyance of persons or property on a way. “Vehicle” does not include conveyances propelled or drawn by human power or used exclusively on tracks or snowmobiles as defined in Title 12, Section 13001 or an electric personal assistive mobility device as defined in this section, and; [amended 07/16/14]
 - (2) Any vehicle defined as a “trailer, semi-trailer or tow dolly” according to the Maine Motor Vehicle Statutes Title 29-A. [amended 07/16/14]

Park

- (b) The word “park” shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

Standing

- (c) The word “standing” shall mean any stopping of a vehicle, whether occupied or not.

Street, Way or Road

- (d) The words “street, way or road” shall mean the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of traffic.

Roadway

- (e) The word “roadway” shall mean that portion of a street, way or road, designed or ordinarily used for vehicular traffic.

Person

- (f) The word “person” shall mean every natural person, firm, co-partnership, association or corporation.

All Night Parking

- (g) The words “all night parking” shall mean the parking of a vehicle between the hours of 2:00 A.M. and 6:00 A.M. of any day except physicians or other persons on bona fide emergency calls. (Amended 06/21/2006)

Truck

- (h) The word “truck” shall mean any motor vehicle used for the conveyance of person and/or property having a gross vehicle weight of 26,001 pounds or more. (Effective 10/1/86) [Amended 07/16/14].

Public Safety Traffic Flagger

- (i) As defined in Maine Motor Vehicle Statutes, Title 29-A: means a municipal firefighter, a volunteer firefighter or a member of an emergency medical service licensed by the Department of public Safety. [Adopted 07/16/14]

Section 2. Signs Required.

No provision of this ordinance for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective without signs being erected to give notice thereof.

Section 3. Unauthorized Signs, Signals or Markings.

No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic signal or control device or sign or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any sign or signal, and no person shall place or maintain any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the Chief of Police is hereby empowered to remove the same or cause it to be removed without notice.

Section 4. Prohibited Parking. [amended 07/16/14]

No person shall park a vehicle upon a street, way or road for the principal purpose of:

- (a) Displaying it for sale;
- (b) Washing, greasing or repairing such vehicle except for repairs necessitated by an emergency;
- (c) For the primary purpose of advertising;
- (d) Or for the sale of any personal property, or for the exercise of any business, profession or calling.

Section 5. Parking Prohibited, Specific Locations. [amended 07/16/14]

No person shall park a vehicle in any of the following places, nor shall any person move a vehicle not owned by him into any of the said places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer, other authorized person, or traffic control device:

- (a) On a sidewalk;
- (b) In front of a public or private driveway;
- (c) Within an intersection;
- (d) Within 10 feet of a fire hydrant;

- (e) On a crosswalk;
- (f) Within 20 feet of the near corner of the curbs at an intersection;
- (g) Within 30 feet upon the approach of any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;
- (h) Between a safety zone and the adjacent curb;
- (i) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station;
- (j) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic;
- (k) On the roadway side of any vehicle stopped or parked at the edge or curb of a street or double park, so-called;
- (l) Upon any bridge or other elevated structure upon a highway;
- (m) At any place where official signs prohibit stopping.

Section 6. Parking at the Scene of a Fire.

No person shall park within 500 feet of the scene of a fire and within 400 feet of fire-fighting apparatus at the scene of a fire. [Amended 07/16/14]

Section 7. Snow Removal.

No vehicle shall be parked at any time on any street, way or road so as to interfere with or hinder the plowing or removal of snow from any street, way or road. The Chief of Police or her/his designee may cause any vehicle so parked to be removed from the street in accordance with the provisions of Section 9 of the Ordinance. [Amended 07/16/14][Amended 11/01/17]

Section 8. Snow Obstruction.

No person shall lay, throw, or place, or cause to be laid, thrown or placed on any public street, way or road any snow or ice from private property. If, in the removal of snow or ice from private property, it is necessary to place temporarily snow or ice on any public street, way or road such snow or ice shall immediately be removed from the public street, way or road, by and or at the expense of the person that caused it to be placed on the public street, way or road. [Amended 07/16/14]

Section 9. Obstruction in Street.

Any vehicle of any kind or description parked upon a street, way or road at a place, in a manner, or for a length of time prohibited by an ordinance of said Town is hereby declared to be an obstruction in such street, way or road and a menace to the safe and proper regulation of traffic.

Section 10. Frightening Animals.

The driver of any motor vehicle approaching a person riding, driving or leading any animal, shall use reasonable caution in passing said animal(s). If said person so signals, a driver shall bring his/her motor vehicle to a stop and remain stationary as long as it may be necessary to allow said animal(s) to pass. [Amended 11/01/17]

Section 11. Authority to Remove.

- (a) Any vehicle parked or standing in a manner described in Sections 7 and 9 may be removed by, or under the direction of, or at the request of the Chief of Police or any Police Officer of said Town to a garage or storage place. Such police officer may use such force as may be necessary to enter such vehicle and cause the same to be placed in a condition to be moved, and may employ any reputable person, engaged in the business of towing or storing vehicles, for such purpose. Notwithstanding any language herein contained, the removal and storage of a vehicle pursuant to this ordinance, and the payment of the charges specified herein, shall in no way relieve or prevent prosecution for the violation of any provision of the ordinance.

Notice to owner

- (b) The Police Department shall make every effort to notify as promptly as possible the owner of any such vehicle of its removal from the streets, ways or roads by the quickest means. If this is not possible, a written notice that such vehicle has been impounded shall be sent by the Chief of Police or her/his designee to the owner at her/his last known address as shown by the records of the Secretary of Maine within (5) five business days of the vehicle removal thereof.. If the owner is unknown, the Chief of Police shall cause to be published in any newspaper printed in the City of Portland notice of such impounding, giving the registration number, the motor number and the name, type, and year of said vehicle. [Amended 07/16/14][amended 11/01/17]

Release of Vehicle

- (c) Before the owner of such vehicle, or her/his representative, may remove it from the possession of the person towing or storing it, he/she shall: [Amended 11/01/17]
 - (1) Furnish satisfactory evidence of her/his identity and of her/his ownership of said vehicle to the Chief of Police or her/his designee and to the person having possession of the vehicle. [Amended 07/16/14] [Amended 11/01/17]
 - (2) Pay to the person having possession of said vehicle reasonable charges for the towing and storing of said vehicle.
 - (3) Sign a receipt for said vehicle.

Section 12. Required Obedience.

Except when otherwise directed by a police officer, or Public Safety Traffic Flagger, the driver of any vehicle and every pedestrian shall obey the instructions of any traffic-control device, signal, sign or marker installed under the provisions of this ordinance or State Law, and every such person shall obey each and every provision of this ordinance. [Amended 07/16/14]

Section 13. Traffic Control Devices.

(a) Authority to install traffic control devices.

The Council shall place and maintain traffic-control signs, signals, and devices when and as required under the traffic ordinances of this Town to make effective the provisions of said ordinances, and may by order without the necessity of amending this ordinance, place and

maintain such additional traffic-control signs, signals and devices as may be deemed necessary to regulate traffic under the traffic ordinances of the Town or under State Law, or to guide or warn traffic. Such additional traffic-control signs, signals and devices shall have the same force and effect as if placed pursuant to amendments to this ordinance.

- (1) Whenever the Council accepts any street or way as a public way, and there are traffic control signs, signals, or devices existing on the street or way at the time of acceptance, and the Council approves the location of such existing traffic control signs, signals or devices as part of the street acceptance, then such traffic control signs, signals or devices shall have the same force and effect as if placed pursuant to an amendment to this Ordinance. [Amended 08/01/90]

(b) Obedience to official traffic-control devices.

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the traffic ordinances of this Town, unless otherwise directed by a police officer or Public Safety Traffic Flagger, subject to the exceptions granted the driver of an authorized emergency vehicle in this ordinance. [Amended 07/16/14]

(c) When traffic devices required for enforcement purposes.

- (1) No provision of this ordinance for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.
- (2) Curb painting shall be yellow only and shall designate restricted areas.

Section 14. Parking on Paved or Improved Surface.

No vehicle shall be parked on the paved or improved surface of any street, way or road when it is practicable to park elsewhere.

Section 15. Parking on Left.

No vehicle shall be parked or stopped on the left of any street, way or road so that it is facing oncoming traffic.

Section 16. Movement of Traffic.

The parking of vehicles and movement of traffic are hereby regulated on the streets or parts of the streets set forth in Section 25, annexed hereto and made a part of this ordinance and, when signs are erected giving notice thereof, the parking of vehicles and movement of traffic shall be regulated as set forth on said Schedule for such streets or parts of streets. [Amended 07/16/14]

Section 17. Prima facie Evidence of Operation.

No person shall allow, permit or suffer any vehicle registered in her/his name to stand or park on any street, way or road, in violation of any provision of this ordinance. The fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered. [Amended 07/16/14] [Amended 11/01/17]

Section 18. True name to be Given.

It shall be unlawful for any person when given a notice by any police officer or other authorized person to appear to answer for an offense against any provision of this ordinance to give other than her/his name and true place of residence or address, upon the request of such police officer or other authorized person. [Amended 11/01/17]

Section 19. Temporary Signs.

The Chief of Police or her/his designee is hereby authorized to place temporary no-parking signs, detour signs, and to route traffic by personal direction of police officers and/or Public Safety Traffic Flagger of the Town of Scarborough in circumstances of emergency or congestion such as, but not limited to fires, funerals, church services, parades, sporting events and also where the traffic generated by private business locations requires such directional and control. [Amended 07/16/14]
[Amended 11/01/17]

Section 20. Snow Accumulation.

When the width of a roadway is decreased by reason of snow accumulation, or by any other reason, to less than twelve feet, the Chief of Police is authorized to prescribe temporary traffic and parking regulations and to place such temporary signs as may be necessary to give notice of the regulations.

Section 21. Pedestrians Rights and Duties. [Amended 07/16/14]

(a) Pedestrians to use right half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(b) Prohibited crossing.

No pedestrian shall cross a roadway other than in a crosswalk (in the central traffic district or) in any business district.

(c) Obedience of pedestrians to bridge and railroad signals.

- (1) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.
- (2) No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

(d) Pedestrians soliciting rides or business.

- (1) No person shall stand in a roadway or a sidewalk for the purpose of soliciting a ride, employment or business from the occupant of any vehicle. [Amended 07/16/2014]
- (2) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

Section 22. Penalty.

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than Eighty (\$80.00) Dollars for each offense, except for handicapped parking violations which shall be \$120.00 for each offense, to be recovered, on complaint, to the use of the Town of

Scarborough or by imprisonment for not more than ten (10) days or by both such fine and imprisonment. If payment of a ticket is received at the Scarborough Municipal Building within 30 days after the date of issuance of the ticket, the fine shall be reduced to \$40.00, or \$60.00 for handicapped parking violations. [Amended 06/21/06]

Section 23. Citation on Illegally Parked Vehicles.

Whenever any motor vehicle is found parked in violation of any of the restrictions imposed by ordinance of this Town or by State Law, the officer or other authorized person finding such vehicle may take its registration number and may take any other information displayed on the vehicle which may identify the registered owner and may conspicuously affix to such vehicle a parking ticket, on a form provided by the Town, for the registered owner to answer to the charge against her/him within 5 days during the hours and at a place specified on the ticket. The penalty on illegally parked vehicles shall be \$80.00 for each offense, except for handicapped parking violations which shall be \$120.00 for each offense. [Amended June 1990][Amended 06/21/06] [Amended 07/16/14] [Amended 11/01/17]

Section 24. Appealing the Issuance of a Parking Ticket.

A registered owner of a motor vehicle that has been issued a parking ticket in violation of this ordinance may request that the issuance of the ticket be rescinded by appealing the issuance of the ticket. An appeal shall be made by delivering to the Scarborough Police Department, within seven business days of the issuance of the ticket, a written appeal on a form to be provided by the Scarborough Police Department. Delivery of the appeal shall be accomplished by hand delivery to the Police Department or by deposit in the United States mail, postage prepaid, properly addressed to the Chief of Police and post marked within seven business days of the issuance of the ticket. The Chief of Police or her/his designee shall render a written decision granting or denying the appeal within ten business days of the submission of the appeal. Written notice of the decision shall be sent by regular mail to the registered owner of the motor vehicle. (amended 06/21/2006) [Amended 11/01/17]

Section 25. Parking Restrictions.

A. PARKING RESTRICTIONS

I. NO PARKING AT ANY TIME.

No person shall park a vehicle in any of the following places except when necessary to avoid conflict with other traffic or in compliance with direction of a police officer or authorized person or traffic control device. [Amended 07/16/14]

- (1) No all-night parking upon any street (year round) between the hours of 2 A.M. and 6 A.M.
- (2) Upon the Pleasant Hill Road from U.S. Route One to the Rigby Road.
- (3) Upon the westerly side of the Willowdale Road from U.S. Route One to the end of the Town right-of-way. (Parking permitted on the easterly side).
- (4) Upon the Black Point Road from the Old Neck Road to Kirkwood Road. No parking on the Black Point Road from Ferry Road to the end of the Public Way at Prouts Neck. [Amended 11/16/94]
- (5) Upon the Broadturn Road within 50' of U.S. Route One to end.

- (6) Upon the Pine Point Road (Route #9) within 50' of U.S. Route One.
- (7) Upon U.S. Route One from the South Portland line to the Saco line (both sides).
- (8) No parking on the northerly side of Southgate Road for a distance of not less than 200 feet from the intersection of U.S. Route One. No parking on the southerly side of Southgate Road for a distance of not less than 60 feet from the intersection of U.S. Route One.
- (9) Upon Pillsbury Drive (entire length).
- (10) East Grand Avenue (east side) one parking space in front of 19 East Grand Avenue formerly; Colony Motel, no parking. [Adopted 10/6/76]
- (11) Avenue One Extension (entire length – from King Street to the ocean). [Amended 6/7/89]
[Amended 07/16/14]
- (12) Upon Douglas Circle (from Pine Point Road to a point fifty feet beyond the start of the circle) both sides of the road. [Amended 08/01/90]
- (13) On Elmwood Avenue from Greenacres Lane to the Dead End by Sewer Pumping Station. [Amended 08/01/90]
- (14) Eastern Road (on the southerly side only, from Route 207 to the east, entire length. [Amended August 1, 1990]
- (15) Orchard Street (upon the southerly side only) from U.S. Route 1 to Carriage Way. [Amended 08/18/04]
- (16) Upon the southerly side (ocean side) the entire length of Eagles Nest Drive. [Amended 09/07/04]
- (17) No parking along Bayview Avenue from Houghton Street to Pearl Street. (Adopted J01/20/10)
- (18) No parking on north side of Gorham Road from 183 Gorham Road to the intersection of Gorham Road and Spring Street at number 209 and on the south side of Gorham Road from the westerly end of the stockade fence fronting on 200 Gorham Road, easterly for a distance of 50 yards. [amended 12/21/17]
- (19) Within 50 feet of the southwest most corner of the entrance to or within 50 feet of the northeast most corner of the exit to the Scarborough Beach State Park, located at 418 Black Point Road. [adopted 08/15/18]

II. HIGGINS BEACH.[amended 01/19/2011][amended02/16/2011]

- a. Upon any of the public streets or highways within the area known as Higgins Beach. For the purpose of this Ordinance the Higgins Beach area is defined as including the area bounded on the South by the Atlantic Ocean, on the East by the Spurwink River, on the West by the property now or formerly of one Edward Piper and on the North by the Spurwink Road (Route #77).

Parking shall be allowed on the easterly side of Acorn Lane from September 16^h to April 30th.

- b. Exempt from paragraph (a) of this subsection are the following:
 - (i) two handicapped parking spaces on Bayview Avenue across from Ashton Street, with no time limit. (amended April 21, 1999)

- (ii) 1 hour parking shall be allowed, from 6:00 a.m. to 10:00 p.m., in designated metered parking spaces, on the ocean side only of Bayview Avenue. From the end of the drop-off zone to Morning Street from September 16th to April 30th, the 1 hour parking shall not be in effect. [amended November 4, 2015]
- (iii) On all other areas of Bayview Avenue there shall be no parking at any time, except during the off-season [September 16th to April 30th] on the ocean side of Bayview Avenue from Morning Street to Vesper Street. (amended 02/16/2011)
- (iiii) there shall be no parking on any of the other streets year round unless otherwise noted herein.
- c. Upon either side of Spurwink Road (Route #77), from Pleasant Hill Road continuing to the Southerly side of Dorado Drive.
- d. A five-minute drop-off zone, year round, on the ocean side of Bayview Avenue only outside the travel lane beginning at Pearl Street and continuing approximately 90 feet north toward Ashton Street.
- e. Vehicles found in the Higgins Beach Parking lot outside of the posted operational hours will be subject to ticketing as established in Section 22 of this Ordinance.

III. PROUTS NECK (from May 1 to September 15 of each year).

- a. Upon any of the public streets or highways within the area known as Prouts Neck area. For the purpose of this Ordinance, the Prouts Neck area is defined as including the area generally South of the property at 364 Black Point Road, now or formerly owned by Eucharist Archambault on the Prouts Neck Road. (Black Point Road). [Amended 07/16/14]
- b. Black Point Road from Kirkwood Road to Ferry Road. [Amended 11/14/94]

IV. PINE POINT (from May 1 to September 15 of each year). Revised February 1980 [09/06/17].

- (1) Upon certain of the public streets or highways within the Pine Point area known as Oak, Granite, Bliss, Dover, Pine, Beach, Sea Rose Lane, Bay, Ninth, or Eleventh Streets.
- (2) King Street (or Front Street) from Pine Point Road to Avenue Seven - both sides. [Amended 07/21/77]
- (3) Entire length of Riversands Drive - both sides.
- (4) On the Easterly side of Avenue Five from Jones Creek Drive to King Street.
- (5) On both sides of Avenue Five from King Street to the Ocean.
- (6) Driftwood Lane (the entire length - both sides).
- (7) Upon East Grand Avenue Except in accordance with the following: [Amended 09/21/03]
 - a. On the Northerly side of East Grand Avenue in front of number 3 East Grand Avenue at CMP Pole #116 back to Pine Point Road – No Parking. [Amended 09/06/17]
 - b. On the Ocean side of East Grand Avenue from the Old Orchard Line to a point opposite the Westerly side of 27 East Grand Avenue - No Parking. [Amended 07/16/14]

- d. On the Northerly side of East Grand Avenue each business shall have one designated parking space in front of the business for the business - 20-minute business parking.
- c. From CMP Pole #116 at 3 East Grand Avenue to the Old Orchard Line “Unlimited Parking Within Designated Spaces Only”. [Amended 09/06/17]
- (8) Tasker Avenue - Both sides from Jones Creek Drive to King Street.
- (9) Upon both sides of Avenue One, Avenue Two, Avenue Three and Avenue Six, from Jones Creek Drive to King Street. [Amended 07/16/14]
- (10) On the East Side of Avenue Four from Jones Creek Drive to King Street.
- (11) On the Northerly side of Jones Creek Drive from the Pine Point Road to the intersection of Avenue Four. [Amended 05/05/82]
- (12) On the Northerly side of Jones Creek Drive from the intersection of Avenue Four to the intersection of Avenue Six - 20 minutes business parking. [Amended 05/05/82]

IV-1. PINE POINT (from May 1 to September 15 of each year).

- (1) On Pine Point Road (formerly Depot Street) from East Grand Avenue to the Ocean.
- (2) On Pine Point Road, both sides, within twenty (20) feet of either side of the driveway opening of the Audubon Nature Center.
- (3) No parking shall be allowed on Pine Point Road from east Grand Avenue to Snow Canning Road, except for within the delineated on-street parking spaces on the southwesterly side of the road. [adopted 03-01-17]

IV-2. PINE POINT - CO-OP (Time Limit) [adopted 1/06/99][amended 06/05/19]

- (1) Pine Point Co-Op (Time Limit - Adopted 11/06/99): The thirteen (13) parking spaces, three (3) of which shall be designated as handicapped parking, located along the front northeasterly corner of the site plan designated Scarborough Town Landing shall be limited to a total time limit of 30 minutes parking year round. An additional four (4) handicapped parking spaces with no time limit shall be located in the next row back.
- (2) Authorized trailer parking slot(s):
 - a) Commercial boat trailer parking (RED)
 - b) Commercial and Recreational boat trailer parking (YELLOW)
- (3) Non-Authorized commercial vehicle(s) and trailer(s) parking within the restricted commercial dirt lot. (Exception recreational drop-off.)

V. TWO ROD ROAD (from May 1 to October 30 of each year).

- (1) No parking at any time on the Two Rod Road from Holmes Road southerly a direction of 1500 feet.

VI. LOADING AND UNLOADING ZONES.

- (1) 63 King Street - 20 minute business zone.
- (2) 27 East Grand Avenue - 20 minutes business zone.
- (3) 49 East Grand Avenue - 20 minutes business zone.
- (4) Ferry Beach Public Landing - Boat Landing Ramp - 20 minute limit.

VII. From 11:00 P.M. to 5:00 A.M. (Revised May 1982) (Amended June 1990) (Amended June 5, 2002)

- (1) Ferry Road and Ferry Beach Public Landing.
- (2) Hurd Memorial Park.
- (3) Bi-Centennial Parking Lot.
- (4) Pine Point Public Landing.

VIII. Deleted by Council Action on 5/5/82.

IX. Amended 6/7/89 see Section 30, A - I.

X. HANDICAPPED PARKING [Enacted 02/02/83][Amended 06/17/92]

It shall be unlawful for any vehicle to park in a parking space(s) designated as handicapped parking space without first displaying a special registration plate or placard issued under Title 29, Section 252, M.R.S.A. or a similar plate issued by another state. There shall be adjacent to and visible from each handicapped parking space(s) a posted sign containing the wording "*Handicapped Parking*" and denoting the International Handicap Symbol of Accessibility depicted in white on a blue background.

XI. ORCHARD STREET.

No parking shall be allowed on Orchard Street, except for three (3) parking spaces located along the southerly side of Orchard Street [Church side of Street].

B. LOCATIONS WHERE U-TURNS ARE NOT PERMITTED.

I. On U.S. Route #1 from the South Portland Line to the Saco Line.

C. ONE WAY STREETS AND ALLEYS.

I. Authority to sign one way streets.

Whenever any ordinance of this Town designates any one-way street the Town Council shall place and maintain signs giving notice thereof, and such regulation shall not be effective unless such signs are in place. Signs indicating the direction of lawful movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

II. One-Way Streets.

Upon the following streets vehicular traffic shall move only in the following specified directions:

- (1) Ocean Avenue shall be one-way from Greenwood Avenue southeasterly to Bayview Avenue.
- (2) Pearl Street shall be one-way from Bayview Avenue northwesterly to Greenwood Avenue.
- (3) Ashton Street shall be one-way from Bayview Avenue northwesterly to Greenwood Avenue and add a stop sign at Bayview Avenue and Ashton Street. [Amended 12/06/00]
- (4) Morning Street shall be one-way from Bayview Avenue northwesterly to Greenwood Avenue.
- (5) Houghton Street shall be one-way from Bayview Avenue northwesterly to Greenwood Avenue. [Amended 12/06/00]
- (6) Bayview Avenue shall be one-way from Ocean Avenue southwesterly to Houghton Street. [Amended 12/06/00]

- (7) Bayview Avenue shall be one-way from Ocean Avenue northeasterly to Morning Street.
[Amended 12/06/00]

D. SPEED LIMITS IN CERTAIN AREAS.

I. DUNSTAN AREA.

- (1) Broadturn Road from U.S. Route One to Urban line. Maximum speed limit 30 M.P.H.
(2) Old Blue Point Road from U.S. Route One to Urban line. Maximum speed limit 35 M.P.H.

II. PINE POINT AREA.

- (1) Pine Point Area - All streets easterly of Depot Street including Depot Street. Maximum speed limit 25 M.P.H.
(2) Ross Road from Pine Point Road ½ mile on Ross Road. Maximum speed limit 25 M.P.H.

III. HIGGINS BEACH AREA.

- (1) All streets including Ocean Avenue. Maximum speed limit 25 M.P.H.

IV. PLEASANT HILL AREA.

- (1) Highland Avenue from Pleasant Hill Road to Chamberlain Road. Maximum speed limit 35 M.P.H.
(2) Gunstock Road, entire length. Maximum speed limit is 25 M.P.H. 06/01/94
(3) Powder Horn Drive, entire length. Maximum speed limit is 25 M.P.H. 06/01/94
(4) Schooner Road, entire length. Maximum speed limit is 25 M.P.H. 06/01/94
(5) Honeysuckle Lane. Maximum speed limit 25 M.P.H. starting at the junction of Lilac Lane and extending northeasterly to the end of the pavement, a total distance of 0.25 miles. 09/06/2000
(6) Magnolia Lane. Maximum speed limit is 25 M.P.H. starting at the junction of Highland Avenue and extending southeasterly to the junction of Honeysuckle Lane, a total distance of 0.04 miles. 09/06/2000
(7) Lilac Lane. Maximum speed limit is 25 M.P.H. starting at the junction of Highland Avenue and extending southeasterly to the end of the pavement, a total distance of 0.20 miles. 09/06/2000

V. MAPLE AVENUE

- (1) Maple Avenue from U.S. Route #1 to Route #114. Maximum speed limit 25 M.P.H. 06/01/94

VI. SAWYER ROAD.

- (1) Sawyer Road from U.S. Route #1 to Route #114. Maximum speed limit 35 M.P.H.

VII. OLD MILLBROOK AREA.

- (1) Old Millbrook Area - All streets. Maximum speed limit 25 M.P.H.

VIII. FOGG ROAD.

- (a) Fogg Road from Route #207 to and extending easterly to a point opposite CMP/NET Pole #19 a total distance of .80 mile. Maximum speed limit 35 M.P.H. (8/8/75).

- (b) Fogg Road from a point opposite CMP/NET pole #19 easterly to the junction of Pleasant Hill Road a total distance of .70 mile. Maximum speed limit 30 M.P.H. (8/8/75)

IX. WINNOCK'S NECK ROAD.

- (1) Starting at the junction of the Winnock's Neck Road and the Black Point Road and extending southerly to the end of the road a total distance of 1.40 miles. Maximum speed limit 30 M.P.H. (12/4/75).

X. ASH SWAMP ROAD.

- (1) The Ash Swamp Road. Starting at the junction of Broadturn Road and extending westerly to the Scarborough/Saco town line, a total distance of 2.00 miles. Maximum speed limit 40 M.P.H. (8/23/77).

XI. MILLIKIN MILLS ROAD.

- (1) The Millikin Mills Road. Starting at the junction of Old Blue Point Road in Scarborough and extending southwesterly to the junction of Portland Avenue in Old Orchard Beach a total distance of 1.00 mile. Maximum speed 45 M.P.H. (7/15/86).

XII. HOLMES ROAD.

- (1) The Holmes Road. Starting at the junction of Payne Road and extending westerly to the junction of Two Rod Road, a total distance of 0.80 mile. Maximum speed 40 M.P.H. (7/10/90)
- (2) Holmes Road. Starting at the junction of Two Rod Road and extending westerly to the Saco town line, a total distance of 3.20 miles. Maximum speed 35 M.P.H. (7/10/90)

XIII. NEW ROAD.

- (1) The New Road. Starting at the junction of Route 114 and extending northerly to the junction of Running Hill Road a total distance of .60 mile. Maximum speed 35 M.P.H. (6/21/88).

XIV. SPRING STREET.

- (1) Spring Street. Starting at the junction of Route 114 and extending northerly to the junction of Payne Road a total distance of .50 mile. Maximum speed 35 M.P.H. (9/13/89).

XVI. MERRILL BROOK AREA.

- (1) Beaver Brook Road, entire length. Maximum speed limit is 30 M.P.H. 06/01/94
- (2) Longmeadow Road, entire length. Maximum speed limit is 30 M.P.H. 06/01/94
- (3) Merrill Brook Drive, entire length. Maximum speed limit is 30 M.P.H. 06/01/94

XVI. ELMWOOD AVENUE.

- (1) Elmwood Avenue, entire length. Maximum speed limit is 25 M.P.H. 06/01/94

XVII. SUNSET AVENUE.

- (1) Sunset Avenue, entire length. Maximum speed limit is 25 M.P.H. 06/01/94

MAINE DEPARTMENT OF TRANSPORTATION - SCARBOROUGH

ASH SWAMP ROAD (T.W.)

40 MPH starting at the junction of Broadturn Road and extending westerly to the Scarborough/Saco town line, a total distance of 2.00 miles.

BEECH RIDGE ROAD (S.A. #8)

40 MPH starting at the junction of Route 114 and extending southerly to the junction of the Payne Road, a total distance of 5.80 miles.

BROADTURN ROAD (S.A. #2, I.R. #70602)

30 MPH starting at the junction of Route 1 (Node 7006) and extending westerly to Phillips Brook or a point 0.03 mile east of the junction of Martin Avenue (Node 6805), a total distance of 0.25 mile. (7/24/98).

35 MPH starting at Phillips Brook or a point 0.03 mile east of the junction of Martin Avenue (Node 6805), and extending westerly to a point 0.22 mile west of the junction of Martin Avenue (Node 6805), a total distance of 0.25 mile. (7/24/98).

45 MHP starting at a point 0.22 mile west of the junction of Martin Avenue (Node 6805) and extending northerly to the junction with Route 22 (Node 6456), in the town of Buxton a total distance of 5.56 miles. (12/21/01)

BURNHAM ROAD (T.W. #493)

35 MPH starting at the Scarborough/Gorham town line and extending westerly to the Scarborough/Saco town line, a total distance of 2.10 miles. (5/21/91).

CHAMBERLAIN ROAD (I.R. #70201, T.W.)

25 MPH starting at the junction of Pleasant Hill road (Node 5413) and extending southwestly to a point 0.35 mile northeast of the junction of Highland Avenue (Node 5418), a total distance of 0.41 mile. (6/17/98)

35 MPH starting at a point 0.35 mile northeast of the junction of Highland Avenue (Node 5418) and extending westerly to the junction of Highland Avenue (Node 5418), a total distance of 0.35 mile. (6/17/98)

CUMBERLAND WAY (T.W., I.R. #78115)

25 MPH starting at the junction of Route 114 in Scarborough (Node 00882) and extending northeasterly to the end of the public way located 0.06 mile northeast of the junction of Jameco Mill Road in Scarborough (Node 00883), a total distance of 0.29 mile. (09/03/98)

CUMMINGS ROAD (this section was f.k.a. section of SPRING STREET)

35 MPD starting at the junction with Payne Road (Node 06829) and extending northerly to the Scarborough-South Portland town line (Node 06681), a total distance of 0.37 miles. *Note: This 35 MPH speed zone extends northerly 0.17 miles into the City of South Portland, for a total distance of 0.54 miles.*

DEERING DRIVE (T.W.)

25 MPH starting at the junction of Route 22 (Node 1008) in Scarborough and extending northerly through the town line with Buxton (Node 1009) and then northeasterly to its termination (Node 2534) in Buxton, a total distance of 0.95 miles. (01/16/02)

EASTERN ROAD

25 MPH starting at the intersection of Route 207 (Node 5436) and extending north easterly to the intersection of Portland Farms Road (Node 6739), a distance of 0.90 miles. (06/06/97)

FOGG ROAD (T.W.)

35 MPH starting at the junction of Fogg Road and Route 207 and extending easterly to a point opposite CMP/NET Pole #19, a total distance of 0.80 mile.

30 MPH starting at a point opposite CMP/NET Pole #19 and extending easterly to the junction of Pleasant Hill Road, a total distance of 0.70 mile.

HAIGIS PARKWAY

35 MPH starting at the junction of US Route 1 and extending westerly to a point 250' west of the centerline of Scottow Hill Road, a total distance of 0.30 mile.

45 MPH starting at a point 250' west of the centerline of Scottow Hill Road and extending westerly to the intersection of Payne Road, a total distance of 1.00 mile.

HIGHLAND AVENUE (I.R. #70203, S.A. #13)

35 MPH beginning at the junction with Route 207 (Node 05006) and extending northeasterly to a point 0.21 miles beyond the junction with Chamberlain Road (Node 05418), a total distance of 1.18 miles. (06/17/2004)

25 MPH beginning at a point 0.21 miles east of the junction with Chamberlain Road (Node 05418) and extending northeasterly to the junction with Pleasant Hill Road (Node 05409), a total distance of 0.57 miles. (06/17/2004)

45 MPH beginning at the junction with Pleasant Hill Road (Node 05409) and extending northeasterly to the Scarborough/South Portland town line (Node 05378), a total distance of 0.80 mile. (06/17/2004)

HOLMES ROAD (S.A. #12)

40 MPH starting at the junction of Payne Road and extending westerly to the junction of Two Rod Road, a total distance of 0.80 mile. (7/10/90).

35 MPH starting at the junction of Two Rod Road and extending westerly to the Saco town line, a total distance of 3.20 miles. (7/10/90).

JAMECO MILL ROAD (T.W., I.R. #78120)

25 MPH starting at the junction of Cumberland Way in Scarborough (Node 00883), and extending southeasterly to the end of the public way (Node 00883), a total distance of 0.43 mile. (09/03/98)

MILLIKEN MILLS ROAD (T.W. - I.R. #932)

45 MPH starting at the Town of Old Orchard Beach/Town of Scarborough municipal boundary (Node 53476) and extending easterly to the junction with the Old Blue Point Road (Node 10886), a total distance of 0.41 mile. (06/20/2006).

MITCHELL HILL ROAD

35 MPH starting at the junction with Holmes Road (Node 01016) extending northerly to Scarborough-Gorham town line, (Node 01021), a total distance of 1.28 miles. (07/10/02)

MUSSEY ROAD (S.A. #14)

40 MPH starting at the Scarborough/South Portland town line and extending westerly to a point 0.20 mile east of the junction of Spring Street, a total distance of 0.50 mile.

25 MPH starting at a point 0.20 mile east of the junction of Spring Street and extending westerly to the junction of the Payne Road, a total distance of 0.70 mile.

NEW ROAD (T.W. #507)

35 MPH starting at the junction of Route 114 and extending northerly to the junction of Running Hill Road, a total distance of 0.60 mile. (6/21/88).

OLD BLUE POINT ROAD (S.A. #7)

25 MPH starting at the junction of Route 1 and extending 0.30 mile southeast to CMP Pole #10/NET #520.10, a total distance of 0.30 mile. (9/30/87)

40 MPH starting at a point opposite CMP Pole #10/NET #520.10 and/or at a point 0.30 mile southeast of the junction of Route 1 and extending south then east to the southern junction of Burnham Woods Drive, a total distance of 1.00 mile. (9/30/87)

30 MPH starting at the southerly junction of Burnham Woods Drive and extending northeasterly to the junction of Route 9, a total distance of 0.40 mile. (9/30/87)

ORCHARD HILL ROAD

25 MPH beginning at the junction with Winnocks Neck Road (Node 08507) and extending southwesterly to the junction with High Point Road (Node 08509), a total distance of 0.28 mile. (06/20/2006)

PAYNE ROAD (S.A. #8 & S.A. #9)

35 MPH starting at a point opposite the South Portland/Scarborough town line and extending southerly to a point opposite CMP Pole #28 and/or 0.10 mile south of the junction of the Payne Road and the Gorham Road, a total distance of 0.75 mile.

45 MPH starting at a point opposite CMP Pole #28 and/or 0.10 mile south of the junction of Payne Road and Gorham Road and extending southerly to CMP Pole #19/58, a total distance of 1.10 miles. (11/24/92)

35 MPH starting at a point opposite CMP Pole #19/58 and extending southerly to the junction of Payne Road and U.S. Route 1, a total distance of 2.80 miles. (11/24/92)

PLEASANT HILL ROAD (S.A. #11)

35 MPH starting at the junction of Route 1 and extending easterly to the junction of Fogg Road, a total distance of 2.50 miles.

40 MPH starting at the junction of Fogg Road and extending easterly to the junction of Route 77, a total distance of 0.80 mile.

PORTLAND FARMS ROAD (T.W., I.R. #70111)

25 MPH starting at the junction of Route 1 (Node 7028) and extending southeasterly to the junction of Eastern Road (Node 6739), a total distance of 0.33 mile (05/28/98)

PORTLAND AVENUE (S.A. #2)

25 MPH starting at the junction of Route 98 and extending northerly to a point opposite NET Pole #J40, a total distance of 0.50 mile.

35 MPH starting at a point opposite NET Pole #J40 and extending northerly to a point opposite NET Pole #J89, a total distance of 1.20 miles.

45 MPH starting at a point opposite NET Pole #J89 and extending northerly to the junction of Old Blue Point Road, a total distance of 1.20 miles.

ROSS ROAD

35 MPH beginning at the junction with Route 9 (Node 06014) and extending southwesterly to the Town of Scarborough/Town of Old Orchard Beach municipal boundary (Node 01300), a total distance of 0.84 miles (08/24/2005).

ROUTE ONE

50 MPH beginning at a point 0.13 miles north of the MDOT Garage Entrance (Node 16592) and extending northerly to the junction with Southgate Road (Node 16596), a total distance of 0.97 miles, and

40 MPH beginning at the junction with Southgate Road (Node 16596) and extending northerly to a point 0.12 miles beyond the junction with Sawyer Road (Node 16602), a total distance of 1.34 miles. (05/22/2006)

35 MPH starting at a point 0.35 mile south of the junction of US Routes 1 and 114 at Oak Hill in Scarborough and extending northerly to the signalized junction of US Route 1 and Sunset Avenue in Scarborough, a total distance of 1.40 miles (5/29/91).

45 MPH starting at the signalized junction of Sunset Avenue and US Route 1 and extending northerly to a point 0.20 mile south of the junction of US Route 1 and Pleasant Hill Road in Scarborough, a total distance of 0.70 mile. (5/29/91)

35 MPH starting at a point 0.20 mile south of the junction of US Route 1 and Pleasant Hill Road in Scarborough and extending northerly to the junction of the I-95 spur in South Portland, a total distance of 0.50 mile. (5/29/91)

ROUTE NINE

25 MPH beginning at the Saco/Old Orchard Beach town line (Node 05107) and extending easterly to the junction of Pine Point Road and Jones Creek Drive in the Town of Scarborough (Node 06008), a total distance of 3.79 miles, (06/17/2004)

35 MPH beginning at the junction of Pine Point Road and Jones Creek Drive in the Town of Scarborough (Node 06008) and extending northerly to a point 0.15 miles beyond the junction with Primrose Lane in the Town of Scarborough (Node 00451), a total distance of 1.96 miles, (06/17/2004)

45 MPH beginning at a point 0.15 miles beyond the junction with Primrose Lane in the Town of Scarborough and extending northerly to a point 0.66 miles beyond same junction (Node 00451), a total distance of 0.51 miles, and, (06/17/2004)

35 MPH beginning at a point 0.66 miles east of the junction with Primrose Lane in the Town of Scarborough (Node 00451) and extending northerly to the junction with U.S. Route 1 and Broadturn Road in the Town of Scarborough (Node 07006), a total distance of 0.63 miles. (06/17/2004)

ROUTE TWENTY-TWO (MPH ID#05-0508-8908)

40 MPH starting at a point 0.18 miles west of junction of Route 22 and the entrance to Union Mutual in Portland (Node 0508) and extending westerly to a point 0.55 miles west of the Westbrook/Scarborough town line (Node 5429) a total distance of 2.96 miles. (10/18/96)

RUNNING HILL ROAD (S.A. #10)

35 MPH starting at the Scarborough/South Portland town line and extending westerly to the junction of Route 114, a total distance of 1.90 miles.

SCOTTOW HILL ROAD (T.W. – IR #78102)

35 MPH starting at the junction of Payne Road (Node 1042) and extending easterly to the junction of Haigis Parkway (Node 0752), a total distance of 0.93 miles. (01/05/98)

SOUTH PORTLAND/SCARBOROUGH CONNECTOR F.A.P. 1-1 SPUR

40 MPH starting at the junction of Route 1 in Scarborough and extending northerly to a point 0.15 mile north of said intersection in Scarborough, a total distance of 0.15 mile.

55 MPH starting at a point 0.15 mile north of the junction of Route 1 and extending northerly to the junction of I-295 in South Portland, a total distance of 1.80 miles.

SPRING STREET (T.W. #473)

35 MPH starting at the junction of Route 114 and extending northerly to the junction of Payne Road, a total distance of 0.50 mile. (9/13/89).

TWO ROD ROAD (T.W.)

25 MPH starting at the junction of the Scottow Hill Road and extending westerly to a point opposite CMP Pole #34/C, a total distance of 0.90 mile.

35 MPH starting at a point opposite CMP Pole #34/C and extending westerly to the junction of the Holmes Road, a total distance of 1.00 mile.

WEST BEECH RIDGE ROAD (T.W.)

30 MHP starting at the junction with Beech Ridge Road (Node 01035) and extending westerly to its end (Node 01034), a total distance of 0.67 miles.

WINNOCK'S NECK ROAD (T.W.)

30 MPH starting at the junction of Winnock's Neck Road and Black Point Road and extending southerly to the end of the road, a total distance of 1.40 miles.

E. LOCATIONS WHERE VEHICLES ARE REQUIRED TO MAKE A FULL AND COMPLETE STOP. (UPDATED 10/85)(AMENDED 8/90)(AMENDED 2/5/03 – EFFECTIVE DATE 5/1/2003)(AMENDED 09/03/03)(AMENDED 09/15/04)

At Abigail Way on Maple Avenue (East)
At Abigail Way on Maple Avenue (West)
At Ash Swamp Road on Hearn Road
At Avenue Five on Driftwood Lane
At Bayview Avenue on Houghton Street
At Bayview Avenue on Ashton Street
At Bayview Avenue on Vesper Street
At Bayview Avenue on Ocean Avenue
At Bayview Avenue on Morning Street
At Black Point Road on Thornton Avenue
At Black Point Road on Winnocks Neck Road
At Black Point Road on Old County Road
At Black Point Road on Highland Avenue
At Black Point Road on Roundabout Drive
At Black Point Road on Fogg Road
At Black Point Road on Woodside Drive
At Black Point Road on Clay Pits Road
At Black Point Road on Woodrock Drive
At Black Point Road on Old Neck Road
At Black Point Road on Spurwink Road
At Black Point Road on Ferry Road
At Black Point Road on Pinewood Circle (2)
At Broadturn Road on Ash Swamp Road
At Broadturn Road on Martin Avenue
At Broadturn Road on Susan Avenue
At Broadturn Road on Castle Terrace
At Broadturn Road on Hearn Road
At Broadturn Road on Holmes Road (Southeast)
At Broadturn Road on Holmes Road (Northwest)
At Broadturn Road on Burnham Road (Southeast)
At Broadturn Road on Burnham Road (Northwest)
At Broadturn Road on Hanson Road
At Beech Ridge Road on West Beech Ridge Road
At Beech Ridge Road on Dresser Road
At Beech Ridge Road on Holmes Road (East)

At Beech Ridge Road on Holmes Road (West)
At Chamberlain Road on Highland Avenue
At Chamberlain Road on Ramsey Terrace
At Clay Pits Road on Nonesuch Cove Road
At County Road on Broadturn Road
At County Road on Deering Road
At County Road on Gorham Road
At County Road on Saco Road
At County Road on Beech Ridge Road
At Driftwood Lane on Riversands Drive
At Dunstan Avenue on North Street
At Dunstan Avenue on Charles Circle
At East Grand Avenue on Eleventh Street
At East Grand Avenue on Ninth Street
At East Grand Avenue on Bay Street
At East Grand Avenue on Sea Rose Lane
At East Grand Avenue on Beach Street
At East Grand Avenue on Pine Street
At East Grand Avenue on Dover Street
At East Grand Avenue on Bliss Street
At East Grand Avenue on Granite Street
At East Grand Avenue on Oak Street
At East Grand Avenue on Route #9 at the Traffic Circle
At East Grand Avenue on Pine Point Road (Ocean End)
At Elmwood Avenue on Greenacres Lane
At Elmwood Avenue on Hunnewell Road
At Elmwood Avenue on Maple Avenue (North)
At Elmwood Avenue on Maple Avenue (South)
At Elmwood Avenue on Second Avenue
At Elmwood Avenue on Third Avenue
At Greenacres Lane on I-295 Cut Off
At First Street on Maple Avenue (North)
At First Street on Maple Avenue (South)
At First Street on Sunset Road
At First Street on Hudson Street
At Fogg Road on Ironclad Road
At Glenndale Drive at Broadturn Road (10/2/85)

At Gorham Road on Greenneedle Drive
 At Gorham Road on Sawyer Road
 At Gorham Road on Maple Avenue
 At Gorham Road on Asselyn Drive
 At Gorham Road on Spring Street
 At Gorham Road on Mussey Road (Northeast)
 At Gorham Road on Mussey Road (Northwest)
 At Gorham Road on Payne Road (Northeast)
 At Gorham Road on Payne Road (Northwest)
 At Gorham Road on New Road
 At Gorham Road on Running Hill Road
 At Gorham Road on Beech Ridge Road (Northeast)
 At Gorham Road on Beech Ridge Road (Northwest)
 At Gorham Road on Exit Road from Wentworth Middle School by Town Library, (amended 08/01/90)
 At Gorham Road on Exit Road from Wentworth Middle School by tennis courts, (amended 08/01/90)
 At Green Road on Running Hill Road
 At Greenacres Lane on Elmwood Avenue (East)
 At Greenacres Lane on Elmwood Avenue (West)
 At Greenwood Avenue on Ocean Avenue (amended 04/05/00)
 At Greenwood Avenue on Pearl Street (both sides)
 At Greenwood Avenue on Morning Street
 At Gunstock Road on Minuteman Drive (amended 11/14/94)
 At Gunstock Road on Nutter Way. (Both sides of intersection making a four way stop. Amended August 1, 1990).
 At Gunstock Road on Powderhorn Drive (amended 11/14/94)
 At Hearn Road on Ash Swamp Road (East)
 At Hearn Road on Ash Swamp Road (West) (amended 09/03/03)
 At Heritage Lane on Pilgrim Drive

At Heritage Lane on Puritan Drive
 At Highland Avenue on Ole Musket Road
 At Highland Avenue on Pleasant Hill Road from both directions
 At Highland Avenue on Woodland Road
 At Highland Avenue on Marcia Street
 At High Point Road on Orchard Hill Road
 At High Point Road on Sandy Point Road
 At High Point Road on Salt Marsh Circle
 At Hillside Avenue on Storer Drive
 At Hillside Avenue on Kennedy Drive
 At Holmes Road on Two Rod Road
 At Holmes Road on Mitchell Hill Road
 At Holmes Road on Dresser Road
 At Houghton Street on Greenwood Avenue (Westerly side)
 At Houghton Street on Shell Street
 At Hunnewell Road on Laidlaw Lane
 At Hunnewell Road on Maple Avenue (North)
 At Hunnewell Road on Maple Avenue (North)
 At Jasper Street on Dodge Street
 At Jasper Street on Baker Street
 At Jasper Street on Merrill Street
 At Jones Creek Drive on Tasker Avenue
 At Jones Creek Drive on Avenue One
 At Jones Creek Drive on Avenue Two
 At Jones Creek Drive on Avenue Three
 At Jones Creek Drive on Avenue Four
 At Jones Creek Drive on Avenue Five
 At King Street on Avenue Seven
 At King Street on Avenue Six
 At King Street on Avenue Five - both sides
 At King Street on Avenue Four
 At King Street on Avenue Three
 At King Street on Avenue Two
 At King Street on Avenue One
 At King Street on Avenue One – both sides
 At King Street on Tasker Avenue
 At King Street on Pine Point Road (Ocean side)
 At Manson Libby Road on Southgate Road
 At Maple Avenue on First Street
 At Maple Avenue on Sunset Road

At Maple Avenue on Elmwood Avenue
 At Maple Avenue on Laidlaw Lane
 At Maple Avenue on Hunnewell Road
 At Marion Jordan Road on Meadowood Road
 At Minuteman Drive on Gunstock Road (amended 11/14/94)
 At Mussey Road on Spring Street (both sides)
 At Mussey Road on Honan Road
 At Nelson Road on Ramsey Terrace
 At Nelson Road on Wayne Circle
 At Nutter Way on Gunstock Road
 At Nutter Way on Ole Ironside Lane
 At Nutter Way on Powderhorn Drive
 At Nutter Way on Cannon Lane
 At Ocean Avenue on Greenwood Avenue (East and West)
 At Old Blue Point Road on Milliken Mills Road
 At Old County Road on Kimball Drive
 At Old Neck Road on Melbourne Drive
 At Old Neck Road on Rhonda Drive
 At Old Neck Road on Thomas Drive
 At Ole Musket Road on Flintlock Drive
 At Olde Mill Road on Coachlantern Lane (East and West)
 At Olde Mill Road on Partridge Lane
 At Olde Mill Road on Tall Pines Road
 At Orchard Hill Road on Tall Pines Road
 At Partridge Lane on Fern Circle
 At Payne Road on Milliken Road
 At Payne Road on Beech Ridge Road
 At Payne Road on Scottow Hill Road
 At Payne Road on Puritan Drive
 At Payne Road on Pilgrim Drive
 At Payne Road on Plymouth Drive
 At Payne Road on Two Rod Road (North)
 At Payne Road on Two Rod Road (South)
 At Payne Road on Holmes Road
 At Payne Road on Mussey Road
 At Payne Road on Gorham Road (both sides)
 At Payne Road on Spring Street (North)
 At Payne Road on Cummings Road

At Pilgrim Drive on Colonial Drive
 At Pine Point Road on Douglas Road
 At Pine Point Road on Dunstan Landing Road
 At Pine Point Road on Old Blue Point Road
 At Pine Point Road on Hillside Avenue
 At Pine Point Road on Eagles Nest Drive
 At Pine Point Road on Sylvan Drive
 At Pine Point Road on Seavey Landing Road
 At Pine Point Road on Ocean View Road
 At Pine Point Road on Jasper Street
 At Pine Point Road on Ross Road
 At Pine Point Road on Snow Road
 At Pine Point Road on Bickford Street
 At Pine Point Road on Holly Street
 At Pine Point Road on Depot Street
 At Pine Point Road on Jones Creek Drive
 At Pleasant Hill Road on Rigby Road
 At Pleasant Hill Road on Pond View Drive
 At Pleasant Hill Road on Gibson Road
 At Pleasant Hill Road on Chamberlain Road
 At Pleasant Hill Road on Robinson Road
 At Pleasant Hill Road on Nelson Road
 At Pleasant Hill Road on Pleasant Avenue
 At Pleasant Hill Road on Highland Avenue (East)
 At Pleasant Hill Road on Highland Avenue (West)
 At Pleasant Hill Road on Flintlock Drive
 At Pleasant Hill Road on Gunstock Road
 At Pleasant Hill Road on Minuteman Drive
 At Pleasant Hill Road on Fogg Road
 At Portland Farms Road on Eastern Road (amended 09/15/04)
 At Powderhorn Drive on Gunstock Road (amended 11/14/94)
 At Powderhorn Drive on Militia Lane
 At Powderhorn Drive on Ole Musket Road
 At Powderhorn Drive on Scabbard Road
 At Ramsey Terrace on Robinson Road
 At Robinson Road on Ramsey Terrace
 At Route #1 on Pleasant Hill Road
 At Route #1 on Payne Road
 At Route #1 on Riverview Place

At Route #1 on Kenosha Avenue
 At Route #1 on Portland Farms Road
 At Route #1 on Foxcroft Drive
 At Route #1 on Maple Avenue
 At Route #1 on Downeast Lane
 At Route One on Fairfield Road
 At Route #1 on Westwood Avenue
 At Route #1 on Libby Street
 At Route #1 on Ward Avenue
 At Route #1 on Millbrook Road
 At Route #1 on Scottow Hill Road
 At Route #1 on Milliken Road
 At Route #1 on Rose Hill Way
 At Route #1 on Harlow Street
 At Route #1 on Orchard Street
 At Route #1 on Church Street
 At Route #1 on Dunstan Avenue
 At Route #1 on Queens Drive
 At Route #1 on Willowdale Road Turn
 Around
 At Running Hill Road on Gorham Road
 At Running Hill Road on New Road
 At Sawyer Road on Barbara Avenue
 At Sawyer Road on Herbert Drive
 At Sawyer Road on Imperial Lane
 At Sawyer Road on Phillip Street
 At Saco Street on Vance Street
 At Scottow Hill Road on Two Rod Road

At Serenity Drive on Eastern Road
 (amended 09/15/04)
 At Spurwink Road on Sawyer Road
 At Spurwink Road on Pleasant Hill Road
 At Spurwink Road on Ocean Avenue
 At Spurwink Road on Marion Jordan Road
 At Sunset Road on Second Avenue
 At Sunset Road on Third Avenue
 At Tall Pines Road on Spruce Circle
 At Tall Pines Road on Hemlock Circle
 At Tall Pines Road on Cedar Circle
 At Tall Pines Road on Rocky Hill Road
 At Tall Pines Road on Ledgewood Circle
 At Thomas Drive on Melbourne Drive
 At Thornton Street on Fairfield Road
 At Two Rod Road on Heritage Lane
 At Vesper Street on Greenwood Avenue
 At Welch Drive on Woodland Road
 At Westwood Avenue on Seaview Avenue
 At Westwood Avenue on Thornton Avenue
 At Winnocks Neck Road on Olde Mill Road
 At Winnocks Neck Road on Old County
 Road (2 entrances)
 At Winnocks Neck Road on Orchard Hill
 Road
 At Woodland Road on Nelson Road
 At Woodland Road on Pleasant Avenue

F. LOCATIONS FOR “NO THROUGH TRUCKS (OVER 26,001 POUNDS)” SIGNS.

Chamberlain Road*

Sawyer Road*

Fairfield Road*

Thornton Road*

Fogg Road*

Westwood Avenue*

Maple Avenue*

Mitchell Hill Road***

* Revised to include 10/1/86

New Road**

** Revised to include 8/4/88

Pondview Drive

***Revised to include 4/3/91 - No Truck over 10 Tons

G. LOCATIONS FOR “EMERGENCY STOPPING ONLY” SIGNS [Adopted 01/20/2010]

Pillsbury Drive [the right-of-way between lots 37 and 38].

H. LOCATIONS FOR “NO PARKING/STOPPING/IDLING” SIGNS [Adopted 04/02/2012]

On the eastside of Bayview between Ocean Avenue and Pearl Street.

I. POLICE ESCORT OF OVER LIMIT HIGHWAY PERMIT - MOVES [12/01/93]

Any person, firm or corporation who moves or causes the movement of any over-limit load which requires a permit for movement of such load from the Maine Department of Transportation and said permit stipulates that a police escort is required before such move may be made upon any of the streets or highways with the Town of Scarborough, shall arrange for said escort through the Scarborough Police Department. A fee for a police escort shall be charged by the Police Department in accordance with the hourly rate established by the Scarborough Town Council for “*Special Police Services*.” An additional fee shall be charged for the assignment of any police cruiser(s) assigned to said escort also at a rate established by the Scarborough Town Council. Fees collected must be used to defray the costs of providing services.

J. STICKERED PARKING [12/01/93][Amended 07/16/14]

Parking on the following locations shall be permitted by stickers for residents and non-resident taxpayers:

- (1) Bi-Centennial Park
- (2) Ferry Beach
- (3) Higgins Beach Parking Lot
- (4) Hurd Memorial Park

K. PARKING BANS DURING EMERGENCIES [Adopted 01/20/2010]

The purpose of this subsection is to communicate the intent of the Town of Scarborough, as it relates to the banning of vehicles parked on the streets of Scarborough during emergencies.

In order to properly remove snow and to provide safer travel conditions, the Town of Scarborough does implement parking bans. After consultation with the Director of Public Works, the Chief of Police shall decide to impose a parking ban.. During an emergency parking ban, all vehicles are prohibited from parking on any street within the Town of Scarborough unless the ban is specifically described and advertised as being limited to a particular area.

Once a parking ban has been imposed, the local broadcast media will immediately be notified of the ban and of the estimated time frame that the ban will remain in effect. If you are unsure if there is a parking ban in effect, you can call our hotline at 883-7760-SNO (766).

The Town of Scarborough strictly enforces parking bans – all vehicles in violation WILL BE TOWED at the owner’s expense.

Section 26. TOWING [December 1, 1993] [amended 06/21/2006]

(A). APPLICABILITY.

1. Any vehicle which is parked in violation of any parking restriction set forth in Section 5 or Section 25(A) of this Ordinance, may at the option of any police or other officer authorized to enforce the parking regulations of the Town, may be removed by a vehicle wrecker or towing service approved by the Chief of Police and stored in a storage

location approved by the Chief of Police pursuant to the provisions of this ordinance, including the provisions of the Scarborough Police Department Wrecker Policy set forth in Section 27 of this Traffic Ordinance until all waiver fees established pursuant to 30-A M.R.S.A. § 3009, for all outstanding notices of parking violations and also the towing and storage charges authorized by this Ordinance have been paid or until the requirements of Section 26(C) have been met.

2. If a motor vehicle has received at least two tickets in violation of this ordinance, both of which tickets were issued after December 31, 2004 and which remain unpaid for more than thirty (30) days, and neither of which tickets is currently under appeal as permitted under Section 24 and the vehicle is found to be in further violation of this ordinance, the motor vehicle may be towed and impounded. (06/21/2006)

(B). PROCEDURE FOR REMOVAL: NOTICE TO OWNER.

The police officer requesting removal of a vehicle under this Ordinance shall at the time of such removal notify the dispatcher of the intended storage location of the subject motor vehicle. Such information shall be recorded by the dispatcher for the use of the Chief of Police or Treasurer. If the motor vehicle is impounded, a reasonable attempt shall be made by telephone to contact the registered owner in order to make the owner aware of the impoundment. If contact is not made by telephone, the Chief of Police or his or her designee shall notify by certified mail the registered owner of such vehicle within five (5) business days of the impoundment thereof, the storage location of such vehicle and the requirements for release as set forth in Section 26(C). (amended 06/21/2006)

(C). RELEASE OF VEHICLES. (amended 06/21/2006)

- (1) Before a motor vehicle impounded under Section 26A paragraph 1 may be released, all appropriate towing and storage fees must be paid. If the registered owner of the vehicle is successful in appealing the violation, the registered owner will be reimbursed the towing and storage fees.
- (2) Before a motor vehicle impounded under Section 26A paragraph 2 may be released, all outstanding tickets and appropriate towing and storage fees must be paid. The registered owner shall have the right to appeal the ticket issued when the vehicle was impounded. If the registered owner is successful in appealing the ticket, the registered owner shall not be entitled to either reimbursement of fees paid or waiver of fees otherwise due under this paragraph.

(D). INTERFERENCE WITH ENFORCEMENT.

It shall be unlawful for any person to obstruct or attempt to prevent the removal of a vehicle as provided in this Section.

Section 27. SCARBOROUGH POLICE DEPARTMENT WRECKER POLICY

[December 1, 1993] [amended 06/21/2006]

PURPOSE

In order to protect motorists within the Scarborough Town Limits, to insure streets and public ways remain open and free of hazards, to insure efficient enforcement of traffic, parking, snow

removal and other regulatory ordinances, it is necessary to set a policy to regulate wrecker companies used by the Scarborough Police Department. A **Wrecker Policy** will be established to regulate towing and services, storage and disposition of vehicles towed and to establish rates for these services.

POLICY

The Scarborough Police Department will maintain a rotation list of wrecker companies approved for use by the Police Department, for towing and service. The list will be used for all normal routine calls town wide and the next due wrecker will have 30 minutes to arrive at the scene of the town (**SEE Regulation “C”**). If a towing company is unable to tow, it will be the responsibility of the Scarborough Police Department to assign a replacement wrecker, not the company originally called. Nothing in the foregoing paragraph will prevent the Scarborough Police Department in emergency situations from calling the closest available wrecker.

If the emergency deems the closest available wrecker be called, it will not be logged against the company called and they will not lose their place on the rotation list.

I. INSURANCE

The following policies will be on file with the Chief of Police.

A) Garage Keepers Policy

This will cover fire, theft, windstorm, vandalism and explosion in the amount of, at least, \$25,000 with each vehicle suffering damage or loss being deemed a separate claim.

B) Garage Keepers Liability

This will cover the wrecker company's business, equipment and/or other vehicles for bodily injury or property damage. The policy shall be in the minimum amount of \$250,000 for any one person injured or killed and a minimum of \$500,000 for more than one person injured or killed in any accident and a minimum of \$25,000 for property damage.

C) Road Service Liability

This will cover the lifting, hoisting and towing of vehicles in the minimum amount of \$25,000.

D) Policy Requirements

Each policy shall contain an endorsement by the carrier providing thirty (30) day notice to both the Town of Scarborough and the insured in the event of any change in coverage and/or cancellation of the policy. Each policy shall also contain an endorsement holding harmless the Town of Scarborough or any of its' officers or employees.

II. REGULATIONS

- A) Wreckers and storage facilities shall be within the Town of Scarborough limits.
- B) Wrecker company's shall maintain records as required by the Chief of Police and permit their inspection during normal business hours.
- C) Wreckers shall arrive on the scene within thirty (30) minutes of receipt of a request for service from the Police Department or lose the call to the next wrecker on the rotation list.

- D) Vehicles must be towed and not driven to the storage area.
- E) The wrecker operator shall check each vehicle, before towing, and note any existing damage.
- F) Each wrecker shall carry equipment such as brooms, shovels, speedy dry, and containers, which may be necessary to clean a normal amount of debris from the accident area. Wrecker operators shall clean the accident area of all debris resulting from the accident.
- G) No repairs will be made to the vehicle without the owners consent.
- H) The wrecker company shall hold the Town of Scarborough harmless from all claims for damages to property and injuries to persons resulting from wrecker company's negligence in the towing or storing of a vehicle.
- I) Police Officers may not recommend a wrecker company to the public.
- J) If a request is received from a patron for a wrecker company, the wrecker company's place is not lost on the rotation schedule.
- K) Police Officers will note damage, defects, etc., with the wrecker operator before the vehicle is towed.
- L) Wrecker companies that are used for motorcycle tows must have a motorcycle "sling" device to provide maximum protection to the motorcycle.

III. SOLICITATION OF BUSINESS

No wrecker operator may respond to the scene of an accident or emergency for the purpose of towing vehicles unless specifically called there by the Scarborough Police Department or persons involved in the accident or emergency. This does not prevent the wrecker company from contracting with any person, firm or corporation. It does not prevent soliciting a contract at the scene of an accident or emergency.

IV. REMOVAL FROM THE SCARBOROUGH POLICE ROTATION LIST

The Chief of Police may remove a wrecker company from the Police Department Rotation List for any of the following:

- A) The wrecker company has violated any of the requirements or regulations established herein.
- B) The Chief of Police is not satisfied with the general services of the wrecker company and/or employees or with the cooperation it has received while rendering the services.

V. RATE SCHEDULE

Shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council. [amended 09/06/95]

CHAPTER 500

TOWN OF SCARBOROUGH

ORDINANCE RELATING TO TRAILERS

& TRAILER CAMPS



(In accordance with Chapter 322 of the Public Laws
of Maine of the Special Session of 1942)
Adopted April 3, 1944 and Amended March 6, 1950
Amended again March 11, 1961 and on December 16, 1970
Amended August 4, 1993
Amended September 6, 1995
Amended November 1, 2017

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CHAPTER 500
TOWN OF SCARBOROUGH
Ordinance Relating to Trailers and Trailer Camps

Whereas the Voters of the Town of Scarborough deem it advisable, in order to provide greater safety from fire and from the spread of contagious diseases and to promote the public health, morals, comfort, safety and welfare of the Town, now therefore:

Be it ordained by the Legal Voters of the Town of Scarborough in Legal Meeting Assembled.

SECTION 1. Definitions

When used in the Ordinance, words in the singular number include the plural and words in the plural numbers include the singular; the word “Building” includes the word “Structure,” and the word “shall” is mandatory and not directory. Words used in the present tense include the future.

For the purpose of this Ordinance certain words and terms are herewith defined as follows:

House-Car-Trailer - is any structure intended for or so constructed that it will be primarily suitable for living or sleeping quarters, including Mobile Homes, or for office purposes, mounted upon wheels, or any other device upon which it may readily be transported, either by its own power or some externally applied tractive effort; provided, however, that this definition shall not apply to any vehicle lawfully operated upon fixed rails.

Towing Unit - is any vehicle furnishing tractive effort for a house-car-trailer.

Area Unit - is an area of ground space set aside in a trailer camp for the accommodation of one house-car-trailer and towing unit.

Person - refers to any individual, firm, partnership, association or corporation.

Trailer Camp - is any plot of ground in the Town of Scarborough where two or more house-car-trailers are invited or allowed to be located regardless of whether or not any charge is made for the use of the plot of ground.

Street - is any recognized thoroughfare in the Town of Scarborough.

**SECTION 2. HABITATION & MAINTENANCE OF
HOUSE-CAR-TRAILERS**

(1) It shall be unlawful for any person to maintain a house-car-trailer in the Town of Scarborough, outside a trailer camp which is duly licensed hereunder, except as hereinafter specifically permitted.

(2) In any zone specifically authorized by the Zoning Ordinance.

(3) No house-car-trailer shall after March 11, 1961 be converted into a permanent structure by the removal of wheels or other transporting device, except that nothing in this section shall apply

to any existing house-car-trailer previously converted into a permanent structure, provided that in such conversion it has met all the requirements of the Building Code, Zoning Ordinance, Health and Sanitary Regulations and taxable as such permanent structure.

(4) A house-car-trailer may be parked or stored in the Town of Scarborough regardless of the provisions hereof, provided that it shall not be used for living or sleeping purposes during such time it is so stored or parked and provided moreover, that it shall not be a nuisance and does not constitute a fire hazard. Subject to the foregoing provision, it shall be permissible, however, for the owner to jack up and support said stored or parked house-car-trailer on temporary blocks or jacks, in order to take the weight off the tires, provided the wheels are not removed therefrom.

(5) No house-car-trailer shall be maintained in the Town of Scarborough as a permanent office, but such office use as is compatible with the temporary demonstration and sale of such articles or services as may be readily transported in a house-car-trailer, by a distributor or salesman may be permitted from a house-car-trailer, stored in any business zone outside a trailer camp for a period of time not exceeding fifteen (15) days provided such house-car-trailer is not used for living or sleeping purposes during such time.

SECTION 3. Repealed March 11, 1961

SECTION 4. Trailer Camp License

(1) It shall be unlawful for any person to establish, maintain or operate within the corporate limits of the Town of Scarborough any house-car-trailer camp, unless such person shall first obtain a license therefor as hereinafter provided.

(2) House-car-trailer camp licenses shall be issued by the Town Clerk only after approval of such license by vote of the Selectman in regular or special meeting.

(3) Any person desiring to establish and operate a house-car-trailer camp shall file with the Town Clerk a written application for a license so to do, together with plans to show fully, the location and dimensions of the camp site and the location therein of the arrangement of all the house-car-trailer area units; location and dimensions of all existing and/or proposed buildings, toilet, bath and other washing facilities, slop sinks, water faucets or hydrants, sewer connections, or sewerage disposal layout, and driveways or other improvements, proposed or existing. Such license application shall be accompanied by the required license fee and shall state the name and address of the owner or lessee, the location of the camp, the maximum number of house-car-trailer units the camp will accommodate and the name of the person who will be in charge and directly responsible for the operation and maintenance of said trailer camp.

(4) After such investigations have been made as the Selectmen may deem advisable, the Selectmen shall approve or disapprove the license application, if said application is approved by the Selectmen, the Town Clerk shall thereupon issue said license. License shall not be transferable from person to person or place to place.

(5) After the completion of all necessary construction including water supply, plumbing fixtures and sewerage, the site of the trailer camp shall be inspected by the Health Officer or her/his agents and by the Building Inspector, who together after finding that all requirements of this and all other town ordinances have been complied with shall so certify to the Town Clerk. Upon receipt of such certification, the Town Clerk shall issue a Certificate of Operation, and no trailer camp shall begin operating until such certificate of operation has been issued to such owner or lessee.

(6) Each application for such license shall be accompanied by a license fee as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council. Each such license shall expire at the end of the calendar year in which it is issued, but in event a license is issued more than six months after the beginning of any calendar year, the fee to be paid shall be reduced one half. Before any trailer camp license shall be renewed the premises shall be subjected to the same inspection as provided herein for the original application.

(7) Such license shall be conspicuously posted on the premises of the trailer camp at all times.

(8) As amended December 16, 1970, effective January 16, 1971.

On or before April 15th of each year each licensee of a Mobile Home Park shall furnish to the Town Clerk a complete plan of the Park together with the names and location of all occupants as of April 1st of the same year. He/She shall also furnish the make, size and year of age of all mobile homes. [amended 11/01/17]

Failure to file the above information shall allow the Town Clerk to revoke the licensee's license.

SECTION 5. Ground Layout and Unit Area Requirements Lighting and Drainage with Exceptions

(1) Each house-car-trailer unit space, which space include the towing unit, shall be at least 30 feet wide by 70 feet long and all such spaces shall be clearly defined on the ground by appropriate markers.

(2) The unit area spaces in each trailer camp shall be arranged in rows so that each house-car-trailer unit shall face and abut on a driveway or clear unobstructed space not less than 24 feet in width which clear space shall have an unobstructed access to a public street or private-way.

(3) No house-car-trailer shall be permitted to park closer than 4 feet to the side lines which define its area unit, nor shall it be parked so that it is closer than 10 feet to any other house-car-trailer or to any building in the trailer camp.

(4) No trailer camp shall be located within a distance of 500 feet to any school or church building.

(5) No trailer camp shall be located within a distance of 300 feet from a public road or highway.

(6) No trailer camp shall be located within a distance of 300 feet from normal high water level of a river, brook or similar water course.

(7) No trailer camp shall be located within a distance of 300 feet from a dwelling unless it be the owner's own dwelling.

(8) Every house-car-trailer camp hereafter established shall be located on a well-drained area and be properly graded so as to prevent the accumulation of storm or causal water.

(9) The ground of every house-car-trailer camp shall be adequately lighted at night by electric lights, properly spaced to enable patrons of the camp to easily find their way around and to facilitate inspection by the police; camp lighting shall be provided by the owner or lessee at no expense to the Town of Scarborough and shall be satisfactory to the Chief of Police and Chief of the Fire Department.

Exceptions to Articles 5, 6 and 7, Section 5

Any trailer camp in operation on March 6, 1944 is exempt from the provisions of Articles No. 5, No. 6, and No. 7 of Section 5 of this Ordinance, provided it is operated in an orderly manner, and kept as such. Such trailer camp or camps cannot be enlarged from status of March 6, 1944, unless such enlargements comply fully with the provisions of the Ordinance.

SECTION 6. Sanitary Requirements

(1) An adequate supply of pure water from an approved source for drinking purposes, that will meet the requirements of the United States Public Health Service, shall be furnished to meet the requirements of each trailer camp, and shall be properly piped underground to each area unit.

(2) Each area unit shall be provided with a properly trapped sewer connection by which all waste and sewage from toilets, showers, wash basins, and other plumbing fixtures in each house-car-trailer unit shall be carried to suitable septic tanks, drainage beds, and/or any other means of treating the sewage as shall be recommended by the Health Officer and approved by the State of Maine Public Health Laws.

(3) All septic tanks and filter beds must be 300 feet from normal high water level of a river, or other body of water.

(4) Tightly covered garbage receptacles of non-absorbent material shall be provided by the trailer camp owner or lessee to take care of the garbage in a sanitary manner.

(5) The trailer camp owner or lessee shall PROVIDE suitable receptacles for papers, rubbish, tin cans, ashes and all non-putrescible refuse which he/she shall dispose of at her/his own expense, and he/she shall at all times maintain the trailer camp in a clean and sanitary condition to the satisfaction of the Health Officer of the Town. [amended 11/07/17]

SECTION 7. Safety Requirements

(1) It shall be the duty of the owner, his agent or caretaker to keep a register and to record therein all house-car-trailers and occupants which occupy space of her/his trailer camp. Said register shall specify dates and time of arrival, the name of the owner of the house-car-trailer and towing unit and the state in which the house-car-trailer and towing unit are registered and the number of the vehicle license.

(2) It shall be the duty of the Health Officer to enforce all Health and Sanitation Regulations, the duty of the Building Inspector to enforce all Building Code Regulations and Ordinances and the duty of the Police Department to maintain law and order in all trailer camps.

(3) If at any time a trailer camp is found to be violating any of the provisions of this Ordinance or other pertinent ordinances of the Town of Scarborough or the laws of the State of Maine, any duly constituted officer or agent of any department of the Town of Scarborough charged with the duty to inspect such trailer camps or maintain order therein, shall notify the licensee of such trailer camp of such condition. If the violation is not corrected to the satisfaction of the department complaining, within a reasonable time after notification, not exceeding 30 days, the license for such trailer camp may be revoked by the Selectmen on the recommendation of the department making the complaint.

(4) No open fires for burning grass, rubbish, papers, garbage or other non-putrescible refuse shall be permitted in any trailer camp.

SECTION 8. Partial Invalidity

If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 9. Effective Date

This Ordinance shall take effect and be in force from and after its adoption in accordance with the provisions of Chapter 322, Public Laws of Maine, Special Session of 1942, save that the owners, lessees or operators of trailer camps legally existing at the time of adoption hereof shall be given 30 days in which to conform with the provisions hereof.

SECTION 10. Penalty

Any person who shall violate any provision of this ordinance shall be punished upon conviction, by a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00) and all fines shall inure to the Town of Scarborough. Each day that such violation continues to exist shall constitute a separate offense.

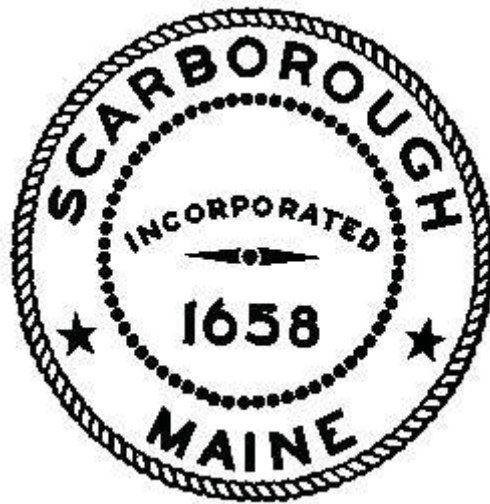
CHAPTER 611

TOWN OF SCARBOROUGH

ORDINANCE REGULATING

UNREASONABLE NOISE ON PUBLIC

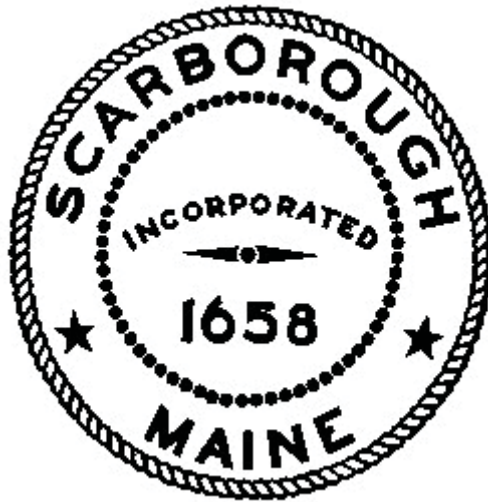
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**Repealed on May 3, 2017, Refer to
Chapter 616 – Good Neighbor Ordinance**

CHAPTER 612A

TOWN OF SCARBOROUGH ORDINANCE ESTABLISHING AND REGULATION THE USE OF THE RIVER WILDLIFE SANCTUARY



Adopted January 5, 2000

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CHAPTER 612A
TOWN OF SCARBOROUGH ORDINANCE
ESTABLISHING AND REGULATION THE USE OF
THE RIVER WILDLIFE SANCTUARY

ARTICLE I. GENERAL

Section. 101. Sanctuary Established

There is hereby established a sanctuary for wildlife, to be called the Scarborough River Wildlife Sanctuary (the “Sanctuary”), on the property located at Pine Point Road in the Town of Scarborough and identified on Scarborough Assessor’s Map 28 as Lot 33, to be used and managed as described in this Ordinance.

Section. 102. Purpose of Sanctuary

The Sanctuary shall be used for the protection and encouragement of wildlife habitat and for the preservation of the historical significance of the property. Public access shall be limited to low-intensity uses such as observing, recording and appreciating wildlife and its habitat.

Section. 103. Hours of Operation

The Sanctuary will be open to the public from dawn to dusk year-round, but may be closed by order of the Director of Community Services, the Scarborough Police Chief or the Scarborough Fire Chief when special circumstances warrant closure.

Section. 104. Management

Management of the operation of the Sanctuary shall be the responsibility of the Director of Community Services with the advice of the Recreation Advisory Committee.

Section. 105. Rubbish Removal

Sanctuary will not provide rubbish collection and disposal for users of the Sanctuary. All persons using the Sanctuary must carry out what they carry in.

Section. 106. Trails

As funding permits, the Town will develop a system of public use trails in the Sanctuary, such trails to be maintained in their natural state to the greatest extent possible. The Recreation Advisory Committee shall create a plan for trails and buffers and present such plan to the Town Council with a request for funding to implement the trail and buffer plan. Such plan shall include scenic vistas along the trail system and a natural evergreen buffer along the frontage of Route 9. Ongoing maintenance of the trail system, including signage and the regular removal of trash and unnatural debris, shall be the responsibility of the Community Services Director.

Section. 107. Vegetation Management

The Recreation Advisory Committee, in consultation with the Conservation Commission, will develop a vegetation management plan that is consistent with the purpose of protecting wildlife in the Sanctuary and present such plan to the Town Council. Such plan shall be reviewed by the Recreation Advisory Committee in consultation with the Conservation Commission every three years and revised as needed. Any such revised plan shall be presented to the Town Council.

Section. 108. Signs

- As funding permits, the Town shall install and maintain a main entrance sign, which shall include the words “Scarborough River Wildlife Sanctuary” and contain a statement of the purpose of the Sanctuary.
- As funding permits, the Town shall install and maintain a sign at the beginning of the trails stating the permitted and prohibited uses of the trail system.
- The Town may install and maintain directory signs to mark trails and guide visitors.
- The Town may install and maintain informational signs to assist visitors in enjoying nature.
- The Scarborough Historical Society may install a sign describing the history of the area.

Section. 109. Parking

As funding permits, the Town shall develop an unpaved parking area for ten cars behind the natural buffer on Route 9.

Section. 110. Public Use Restrictions

The use of the Sanctuary by the public shall be limited to activities, which are compatible with the purposes of the Sanctuary. Any activity, which endangers persons or property, is prohibited. The removal of, molestation of, injury to or damage to anything natural, physical, pre-historical or historical within the Sanctuary. In addition, and without limitation, members of the public using the Sanctuary are prohibited from:

- Bringing motorized vehicles into the Sanctuary except on designated driveways and designated parking areas.
- Lighting bonfires or campfires.
- Consuming alcoholic beverages.
- Removing wildflowers or plants.
- Bringing unleashed pets into the Sanctuary.
- Smoking.
- Utilizing mechanical vehicles, including bicycles.
- Camping or tenting.
- Swimming.
- Fishing, hunting and trapping.
- Being present in the Sanctuary after dusk and before dawn
- Leaving or depositing any rubbish, trash or other waste material on the Sanctuary property.

Section. 111. Violations and Enforcement

Any person who violates the public use restrictions of Section 10 of this Ordinance commits a civil violation punishable by a civil penalty of no less than \$10.00 and no more than \$50.00 for each violation. This Ordinance may be enforced by any officer of the Scarborough Police Department.

Section. 112. Conflict With Other Ordinances

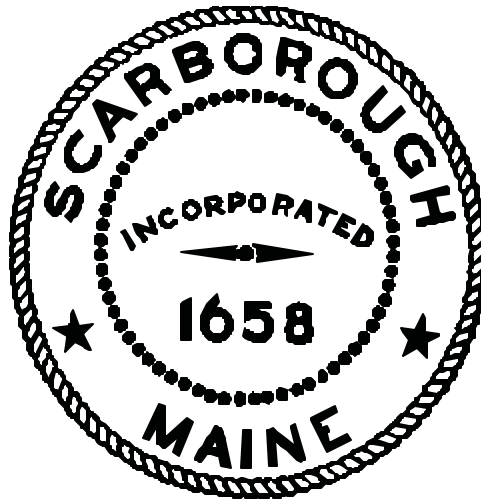
This Ordinance replaces and supersedes any previous action of the Town Council regulating the use and management of the Sanctuary. In the case of conflict between this Ordinance and any other applicable ordinance of the Town of Scarborough, the more restrictive provision shall govern.

CHAPTER 414

TOWN OF SCARBOROUGH

ORDINANCE PROHIBITING SIGNS ON

UTILITY POLES



Adopted 04/04/01

CHAPTER 414
TOWN OF SCARBOROUGH
ORDINANCE PROHIBITING SIGNS ON UTILITY POLES

1. Definitions.

“Public way” means any town way or state highway as defined in Title 23 of the Maine Revised Statutes.

“Sign” means an object, device, display, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by means of words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images. The term sign includes, without limitation, posters, placards, flyers, leaflets, handbills, circulars and any kinds of posted notices.

2. Placement of Signs on Utility Poles and Similar Structures Prohibited.

No person shall place or cause to be placed any sign on any utility pole, light pole, traffic control device or tree within the right of way of any public way.

3. Violations, Penalties and Remedies.

- a. Any person who places or causes to be placed a sign in violation of this ordinance commits a civil violation for which a civil penalty of no less than \$100 and no more than \$250 shall be imposed. Each day a sign remains in violation of this ordinance constitutes a separate violation.
- b. In lieu of or in addition to seeking civil penalties, the Town of Scarborough may remove any sign existing in violation of this ordinance according to the following procedure:
 - (1) Prior to removing a sign, the Town shall attempt to contact the owner of the sign based on any identifying information, which appears on the sign.
 - (2) If the Town succeeds in contacting the owner of the sign, the Town shall order the owner to remove the sign within 24 hours and notify the owner that if the owner does not remove the sign, the Town will remove the sign and destroy it. Such order and notification may be oral or written.
 - (3) If the owner does not remove the sign within 24 hours after being ordered to do so or if the Town is unable to contact the owner of the sign, the Town may remove the sign and store it in a secure location on Town property.
 - (4) The Town shall store the sign for at least seven days. If by the end of the seven days the owner has not reclaimed the sign, the Town may destroy or otherwise dispose of the sign.

4. Enforcement.

This ordinance shall be enforced by the Town of Scarborough Code Enforcement Officer.

5. Relation to Other Ordinances.

This ordinance applies in addition to the restrictions and requirements applicable to signs under the Zoning Ordinance of the Town of Scarborough, Maine and any other Town ordinance. In the event of conflict or inconsistency between applicable ordinances, the more restrictive ordinance shall govern.

6. Exemption.

This ordinance does not apply to signs placed by governmental authorities.

7. Severability.

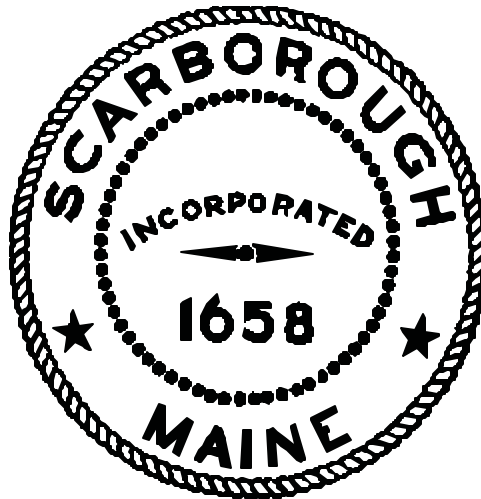
Should any section or provision of this ordinance be declared invalid by a court, such decision shall not invalidate any other section or provision.

CHAPTER 1012

TOWN OF SCARBOROUGH

VIEWING BOOTHS ADULT BUSINESS

ORDINANCE



Adopted 01/20/93
Amended 09/06/95

CHAPTER 1012
TOWN OF SCARBOROUGH
ORDINANCE REQUIRING LICENSES FOR VIEWING BOOTHS
IN ADULT BUSINESSES

1. **Definitions.**

- a. “Adult Business” means any business, a substantial or a significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise deal in materials which depict or describe any of the following:
1. human genitals in a state of sexual stimulation or arousal;
 2. acts of human masturbation, sexual intercourse or sodomy;
 3. fondling or other erotic touching of human genitals, pubic region, buttock or female breast;
 4. less than completely and opaquely covered:
 - (a) human genitals, pubic region,
 - (b) buttock,
 - (c) female breast below a point immediately above the top of the areola; and
 5. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- b. “Viewing Booth” means any booth, cubical, room or stall within the premises of an adult business used to display by audio or visual reproduction, projection or other means, any of the materials described in subparagraph (a) above.

2. **License Required.** No person owning or operating an adult business shall keep for public patronage or permit or allow the use of any viewing booth without first obtaining a license from the Scarborough Town Council.

3. **Licensing Requirement.** The Town Council shall grant a license for a viewing booth only upon finding, after public hearing, that the viewing booth will be clearly visible from the interior common areas of the premises and that visibility into the viewing booth shall not be blocked to obscured by any doors, curtains, partitions, drapes, or any other obstruction.

4. **License Fee.** A separate license shall be required for each viewing booth. The fee for each license shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council.

5. **Term of License.** Licenses issued pursuant to this Ordinance shall be for a term of no more than one year and shall expire annually on September 30.

6. **Suspension of Revocation of License.** The Town Council may, after notice to the licensee and hearing, suspend or revoke any viewing booth license issued under this Ordinance upon a finding that the license has violated any of the provisions of this Ordinance.
7. **Penalty.** The violation of any provision of this Ordinance shall be punished by a civil penalty of not less than \$250 and not more than \$500 for each offense. Each act of violation and every day upon which any such violation occurs shall constitute a separate offense. In addition to such civil penalty, the Town may enjoin or abate any violation of this Ordinance by appropriate action.
8. **Severability.** In the event that any section or any portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such declaration shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.
9. **Applicability to Pending Applications.** Notwithstanding anything to the contrary in 1 M.R.S.A. subsection 302, the provisions of this Ordinance shall apply to any application, request or proposal to locate or operate any viewing booth which may be pending on the effective date of this Ordinance.

CHAPTER 1103
TOWN OF SCARBOROUGH
PROVISION FOR THE FLUORINATION OF WATER

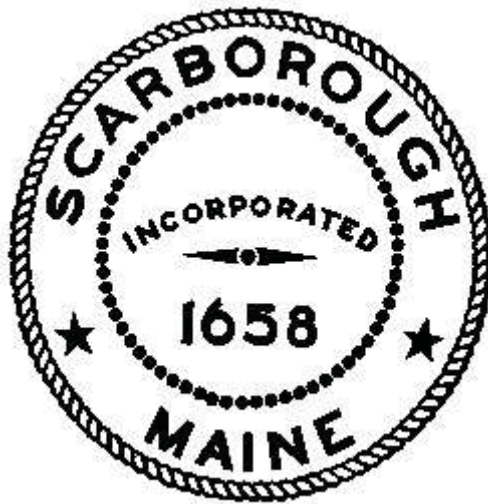
Reference: Record Book #10 - Annual Town Meeting, March 2, 1953, page 225 Article 43.

The Town voted to approve the fluorination of the Town's water supply should the Portland Water District and the Biddeford Saco Water Company wish to carry out such a plan.

(Water from Biddeford Saco Water Company was fluorinated 11/86).

(Water from Portland Water District was fluorinated 11/96).

Chapter 405
ZONING ORDINANCE
TOWN OF SCARBOROUGH



Amended As of June 5, 2019

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SECTIONS I & II TITLE AND ZONING ORDINANCE

SECTION I. TITLE

This Ordinance shall be known and may be cited as the “Zoning Ordinance of the Town of Scarborough, Maine.”

SECTION II. ZONING ORDINANCE

A. PURPOSE

This Zoning Ordinance is designed for all the purposes of zoning embraced in Maine Revised Statutes, and has been drafted as an integral part of the comprehensive plan for the Town of Scarborough, Maine. Among other things it is designed to encourage the most appropriate use of land throughout the municipality; to promote safe and efficient traffic circulation, to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of stable neighborhoods; to provide an allotment of land area in new development sufficient for all the requirements of community life; to conserve natural resources; and to provide for and promote adequate public service.

B. ESTABLISHMENT OF ZONES [Amended 8/5/92][Amended 09/05/2012]

To implement the provisions of this Ordinance, the Town of Scarborough is hereby divided into the following classes of Districts:

Rural and Farming District	R-F	[05/05/10]
Rural, Farming and Manufactured Housing District	R-F-M	[05/05/10]
Residential 2 District	R-2	
Residential 3 District	R-3	[12/86]
Village Residential 2 District	VR-2	[6/1/05]
Village Residential 4 District	VR-4	
Residential 4 District	R-4	
Residential 4A District	R-4A	
Traditional Neighborhood Development Option Overlay District	TND	[11/03/04]
Residence & Professional Office District	RPO	[7/17/91]
Beach Mixed District	B-1	[09/05/12]
Town & Village Centers District	TVC	[09/05/07]
Town & Village Centers Transition District	TVC-2	[09/05/07]
Town & Village Centers Fringe District	TVC-3	[11/07/07]
Town & Village Centers 4 District	TVC-4	[09/05/12]
Regional Business District	B-2	[04/16/08]
General Business District	B-3	[04/16/08]
Business Office-Research District	BO-R	[11/07/07]
Running Hill Mixed Use District	RH	[09/17/08]
Running Hill Transition District	RH2	[09/17/08]
Industrial District	I	
Pine Point Industrial Overlay District	I-O	[09/05/12]
Haigis Parkway District	HP	[8/21/96]
Crossroads Planned Development District	CPD	[8/21/13]

SECTIONS I & II TITLE AND ZONING ORDINANCE

C. ZONING MAP

The districts are shown on the Zoning Map. The Zoning Map is the document entitled “Town of Scarborough Maine GIS Zoning Map,” as such may be amended from time to time pursuant to section II (G) or section II (I) of this Ordinance, which document shall be maintained in digital electronic form in the Town’s geographic information system database and in printed form in the office of the Town Clerk. Additional printed copies shall also be available in the Planning and Code Enforcement offices. [Amended 12/15/2004]

The Zoning Map is hereby incorporated in and made a part of this Ordinance and shall be final authority as to the current status of district locations. Where uncertainty exists with respect to district boundaries as shown upon the Zoning Map, the following rules shall apply: [Amended 12/15/2004]

1. Unless otherwise indicated, district boundary lines are the centerlines, plotted at the time of adoption of or pertinent amendment to the Zoning Map, of streets, alleys, parkways, waterways, or rights-of-way of public utilities and railroads or such lines extended. [Amended 12/15/2004]
2. Unless otherwise indicated, where a district boundary apparently follows a property line, it shall be interpreted as such. Such property line shall be interpreted as one existing at the time of enactment or amendment of this Zoning Map. If any boundary as surveyed shall be different than as shown on the Zoning Map, such surveyed boundary shall control. [Amended 05/16/18]
3. Other district boundary lines which are not listed in the preceding or following paragraph shall be considered as lines paralleling a street and at distances from the center lines of such streets as indicated by the Zoning Map. In the absence of a written dimension, the graphic scale on the Zoning Map shall be used. [Amended 12/15/2004]
4. Whenever uncertainty or a dispute exists as to the exact location of a district boundary line, the exact location of said line shall be determined by the Board of Appeals pursuant to Section V, B, 4, (f). [Amended 12/15/2004]

D. CONFORMITY

1.
 - a. No building or structure shall be erected, altered, enlarged, rebuilt, moved or used and no land shall be used unless in conformity with the provisions of this Ordinance.
 - b. No lot, other than a lot of record lawfully created prior to November 5, 2003, shall be built upon unless there is access to the lot. “Access” means either frontage on a public way or connection to a public way over one or more private ways accepted by the Planning Department under Section IX.I of this Ordinance or by the Planning Board under the Scarborough Subdivision Regulations. [Amended November 5, 2003]
2. The regulations specified by this Ordinance for each class of district shall be minimum requirements and shall apply uniformly to each class or kind of structure or land.

SECTIONS I & II TITLE AND ZONING ORDINANCE

3. Land within the lines of a street on which a lot abuts shall not be considered as part of such lot for the purpose of meeting the Space and Bulk requirements of this Ordinance notwithstanding the fact that the fee to such land may be in the owner of such lot.

4. No part of a yard, open space, off-street parking space or loading space required to allow any building, structure or use to comply with this Ordinance, shall be included as part of a yard, open space, off-street parking space or loading space similarly required for any other building, structure or use.

5. When a lot of record at the effective date of adoption or amendment of this Ordinance is transected by a zoning district boundary, the regulations set forth in this Ordinance applying to the larger part by area of such lot may also be deemed to govern in the smaller area beyond such zoning district boundary but only to an extent not more than fifty (50) linear feet in depth beyond said zoning district boundary.

6. If two or more lots of record in continuous frontage, any of which does not meet the requirements for lot width and area as established by this Ordinance, are in single or common ownership at the effective date of adoption or amendment of this ordinance or any time thereafter, such lots shall be considered to be a single lot for the purposes of this ordinance, and no portion of such single lot shall be built upon except in compliance with all Space and Bulk requirements of this ordinance. The provisions of this subparagraph (6) shall not apply to lots of record shown in Subdivision plans approved by the Planning Board and recorded in the Cumberland County Registry of Deeds between January 1, 1967 and August 5, 1970.

7. Recorded lots in single ownership and on continuous frontage with lots in the same ownership shall comply with the provisions of this ordinance except those which are included in Subdivisions approved by the Planning Board and recorded in the Cumberland County Registry of Deeds between January 1, 1967 and August 5, 1970.

8. Any use not specifically allowed as either a permitted use or a Special Exception in any district shall be considered prohibited in that district.

9. No more than one principal building shall be located on a single lot, except as follows:

In the case of a commercial, office or mixed use development (which may include residential uses) in the RPO, B-1, TVC, TVC-2, TVC-3, TVC-4, HP, B-2, B-3, BO-R, RH, RH2, CPD, I and I-O districts, the Planning Board may, through site plan approval (and, where required, subdivision approval), approve the location of multiple buildings on a single lot, provided that the lot will remain in unified ownership.

As used in this section, "unified ownership" means that the lot is restricted by condominium declaration, restrictive covenants, or other legally binding document against division into separate lots unless each of such separate lots would comply separately with all applicable space and bulk regulations of this Ordinance. The document creating such restrictions shall be reviewed by the Town's attorney before the Planning Board grants final site plan and/or subdivision approval. An ownership structure which provides for unified ownership may allow for ground leases or leases of individual buildings, provided that the property is developed and used as shown on the plan approved by the Planning Board. [11/02/2005]

E. CONFLICT WITH OTHER ORDINANCES

Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rule, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

SECTIONS I & II TITLE AND ZONING ORDINANCE

F. SEPARABILITY

In the event that any section, subsection or any portion of this ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or other portion of this Ordinance.

G. CHANGES AND AMENDMENTS

This ordinance may be amended and its regulations, boundaries, and district classifications changed by the Town Council at a regular or special meeting provided that the following criteria are met:

1. Amendments or changes may be initiated by the Planning Board or Town Council, or may be requested by any owner of property (or authorized agent) or other person with equivalent right, title or interest in the property (or authorized agent). Amendments or changes may also be initiated by any person as permitted by the Constitution and laws of the State of Maine.
2. All requests for amendments to the text of the Zoning Ordinance, or for changes in zone boundary lines, or other requests to change the zoning map, initiated by persons other than the Planning Board or the Town Council, shall be accompanied by a fee as specified in the Schedule of License, Permit and Application Fees established by order of the Town Council. No such request shall be referred to the Planning Board for public hearing or otherwise considered as a Planning Board agenda item until the required fee has been submitted. [09/06/95]
3. No request for amendment or change shall be referred to the Town Council for consideration until the Planning Board has held a public hearing on that request, notice of which shall be given at least ten (10) days prior to such hearing in a newspaper of general circulation in the Town of Scarborough.
4. All requests for amendment or changes other than those initiated by the Planning Board or Town Council shall include:
 - a. A map showing existing and proposed zone lines.
 - b. Address or exact location of the request.
 - c. Name and address of property owner and/or applicant.
 - d. Statement regarding existing and proposed land use.
 - e. Existing and proposed zone classifications.
 - f. Statement indicating the developer has the financial ability to complete the proposed development, where applicable.
5. All requests for amendments or changes that propose new construction shall be accompanied by a site plan drawn in accordance with the Site Plan Review Ordinance.
6. The Planning Board shall review all requests for amendments or changes and make its recommendations to the Town Council regarding the land use implications of the request. If a substantial change or alteration is contemplated by the Town Council, approval by the Town Council shall not be granted without submitting the proposed changes to the Planning Board for comment.
7. If a person who has requested and been granted an amendment or change fails to begin construction in a substantial manner and in accordance with an approved request within one year from the effective date of the amendment or change, the Planning Board may initiate rezoning to the original zone classification.

SECTIONS I & II TITLE AND ZONING ORDINANCE

8. No request for amendment or change shall be considered within one year from the date of Town Council denial of the same request.

9. [Deleted - August 5, 1992].

10. The Federal Insurance Administration and the State Coordinating Office shall be notified before Flood Plain Management Regulations (Section IV (E)) are amended based upon modified data reflecting natural or man-made changes.

H. REPEAL CLAUSE

Upon adoption of this ordinance, all previously adopted zoning provisions of the Town of Scarborough except the Town of Scarborough Shoreland Zoning Ordinance are hereby repealed. (8/5/92)

I. CONTRACT ZONING [September 19, 2001][Amended 10/03/01][Amended 11/20/02][Amended 07/21/2004][Amended May 15, 2019]

1. Contract Zoning Authorized

Contract zoning is authorized for zoning map and/or text changes when the Town Council, exercising its sole and exclusive judgment as the legislative body of the Town of Scarborough, determines that it is appropriate to modify the zoning district regulations applicable to a parcel of land, subject to appropriate conditions and restrictions which relate to the physical development or operation of the property, and which will allow reasonable uses of the land which would not have been permitted by the existing zoning district regulations but which remain consistent with the Town of Scarborough Comprehensive Plan and compatible with the existing and permitted uses within the existing zoning district classification. For purposes of this section the term "contract zoning agreement" shall mean either an original agreement or any subsequent amendments.

2. Relationship to Shoreland Zoning

A parcel rezoned under this Section II(I) may include land areas subject to the Shoreland Zoning Ordinance for the Town of Scarborough, but any provision of a contract zoning agreement adopted by the Town Council which removes or modifies any restrictions or limitations imposed by the Shoreland Zoning Ordinance shall not take effect until approved by the Commissioner of Environmental Protection as required by 38 M.R.S.A. Section 438-A(3).

3. Public Benefit Required

Contract zoning shall promote the general welfare of the residents of the Town of Scarborough. The Town Council shall approve a contract zoning request only if it determines, exercising its sole and exclusive judgment as the legislative body of the Town, that the proposed contract zoning is in the public interest and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification. Guidelines for the Council to apply in making those determinations are set forth in Appendix A to this Ordinance.

4. Procedures

Requests for a contract zoning agreement or an amendment to an existing contract zoning agreement shall not be subject to Section II(G), but shall be processed exclusively as provided in this Section II(I). A summary of the procedural steps is contained in Appendix B to this Ordinance.

a. Preliminary Joint Review of Application for Contract Zoning by Planning Board and Town Council.

- i. The person proposing a contract zoning agreement or an amendment to an existing contract zoning agreement shall submit an application for contract zoning to the Town Planner, which shall include, at a minimum, the following elements:
 - A map showing existing and proposed zoning district lines.
 - The address or exact location of the request, including the Scarborough Assessor's map references for the property to be rezoned.
 - The name, address and telephone number of the property owner and of the applicant, if the applicant is not the owner.
 - Evidence of the applicant's right, title or interest in the property.
 - A site analysis that describes the major features of the property, allowing the Planning Board and Town Council to make informed judgments about how it will be used. Guidelines for preparation of the site analysis are contained in Appendix C to this Ordinance. This requirement may be waived by the Town Planner for amendments that do not propose to utilize lands that were not previously considered as part of the contract zone process.
 - A conceptual development plan showing the approximate layout of all buildings, structures, streets, driveways, parking areas and other significant improvements to be constructed on or above the surface of the ground plus any proposed open spaces, conservation areas, buffer areas or other features of the development, but is not required to show subsurface infrastructure installations, building plans, engineering plans or other details which would be required for a subdivision plan or site plan. This requirement may be waived by the Town Planner for amendments that do not propose to utilize lands that were not previously considered as part of the contract zone process.
 - A statement describing the existing use of the property and the proposed new use and development and describing how the proposed contract zone will be consistent with the Town of Scarborough Comprehensive Plan, will be consistent with existing and permitted uses within the existing zoning district classification of the property, will be in the public interest, and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification .
 - A proposed contract zoning agreement which complies with the requirements of Section II(I)(5) below.
 - Any other information requested by the Town Planner and/or the Town Engineer.
 - A non-refundable application fee as specified in the Schedule of License, Permit and Application Fees established by order of the Town Council
- ii. The Town Planner will review the application and, upon being satisfied that the application is sufficiently complete for review by the Planning Board and the Town Council, will schedule a joint meeting of the Planning Board and Town Council to commence review of the request for contract zoning. The Town Planner shall cause notice of the joint Planning Board/ Town Council meeting to be given in accordance with the requirements of 30-A M.R.S.A. § 4352(8), at the applicant's expense. Such notice shall be sent to the owners of all properties within five

SECTIONS I & II TITLE AND ZONING ORDINANCE

hundred (500) feet of the property to be rezoned. Such notice shall indicate that the joint meeting will include a public hearing conducted by the Planning Board at which the public will be given an opportunity to speak on the proposed contract zoning agreement.

iii. The joint Planning Board/Town Council meeting shall be conducted as follows:

- Presentation by the applicant.
- Comments from Town staff.
- Comments from members of the public. (This shall constitute the public hearing by the municipal reviewing authority required by 30-A M.R.S.A. § 4352(8).)
- Response or rebuttal from applicant.
- Discussion among members of the Planning Board and the Town Council, which may include questions posed to the applicant, staff and the public.
- Comments from members of the Planning Board concerning the land use implications of the proposed contract zoning agreement.
- Preliminary Town Council discussion of contract zoning agreement.

The Joint Planning Board/Town Council meeting may be continued from time-to-time by vote of the Town Council until the Council has concluded its discussion and is prepared to give the applicant preliminary direction concerning the further processing of the contract zoning request. At the conclusion of the discussion, the Council shall, by vote, advise the applicant: (1) to withdraw the request for contract zoning; (2) to continue to process the request for contract zoning, with or without modifications suggested by the Council; or (3) to revise and resubmit the application for contract zoning, under Section II(I)(4)(a)(i) above. The vote of the Town Council shall constitute direction from the Council to the applicant as to how to proceed, but shall not be binding on either the applicant or the Council, which reserves its sole and exclusive judgment as the elected legislative body of the Town of Scarborough until its final vote on the proposed contract zoning agreement.

b. Planning Board Plan Review.

- i. Every development proposed in an application for contract zoning shall require review and approval under the Town of Scarborough Site Plan Review Ordinance. In addition, if the development proposed is a subdivision, it shall require review under the ordinance entitled “Subdivision Regulations of the Town of Scarborough, Maine” (the “Subdivision Ordinance”). The application(s) for plan review shall be submitted only after the Town Council has given its preliminary directions to the applicant pursuant to Section II(I)(4)(a)(iii) above.
- ii. The Planning Board shall hold a public hearing to consider the site plan review application and the subdivision application, if required, whether or not a public hearing is required by the Site Plan Review Ordinance or the Subdivision Ordinance. The Planning Board shall review the site plan review application under the Scarborough Site Plan Review Ordinance and the subdivision application, if required, under the Subdivision Ordinance, applying the applicable standards of each ordinance and the zoning standards of the proposed contract zoning agreement. If the Planning Board determines that the proposed development meets such standards, the Board shall grant preliminary, provisional approval to the plan[s], subject to enactment of the contract zoning agreement by the Town Council.

SECTIONS I & II TITLE AND ZONING ORDINANCE

- a. The Planning Board shall also provide an advisory opinion to the Council and to the applicant of any changes or revisions to the proposed contract zoning agreement necessary to conform the agreement to the Planning Board's preliminary approval of the plan.
- iii. In the case of a subdivision, the Planning Board shall not make findings as to whether the proposed subdivision is in conformity with the Town of Scarborough Comprehensive Plan, but shall condition preliminary subdivision approval upon a determination by the Town Council under Section II(I)(4)(c)(ii), below that the proposed contract zoning agreement is consistent with the Comprehensive Plan.
- c. **Town Council Action on the Contract Zoning Agreement. [Amended 08/20/08]**
 - i. Except as provided in Section II(I)(6)(b) below, the Town Council shall not take final action on the contract zoning agreement until after the Planning Board has given preliminary site plan approval and preliminary subdivision approval, if required. The Council shall process the proposed contract zoning agreement under the procedures of Section 213 of the Town of Scarborough Charter and the Rules and Procedures of the Scarborough Town Council. In addition to the public hearing required by section 213 of the Charter, the Council may also conduct as many additional hearings and meetings as the Council deems necessary for consideration of the contract zoning application.
 - ii. Before taking its final vote on the contract zoning agreement, the Town Council shall determine whether the proposed contract zoning agreement:
 - (1) is consistent with the Town of Scarborough Comprehensive Plan;
 - (2) is consistent with the existing and permitted uses within the existing zoning district classification of the property;
 - (3) is in the public interest; and,
 - (4) will have beneficial effects on the town as a whole which would not result if the property were developed under the existing zoning district classification.

The Council shall state its reasons for its findings and conclusions on each of those determinations, which shall constitute the legislative findings of the Town Council. The Town Council shall then vote on the contract zoning agreement, which shall include any necessary map change and a contract zoning agreement complying with the requirements of Section II(I)(5) below. Final passage of the contract zoning agreement shall require the affirmative vote of at least two thirds of the Council members present and voting, but in no event less than four. [Amended 05/21/03 – retroactive to 11/20/02]

- iii. The contract zoning agreement approved by the Town Council shall be executed by the Town Manager or by such other Town officer as the Council may designate and recorded by the applicant in the Cumberland County Registry of Deeds. The agreement shall not take effect until it is recorded. If the agreement is not recorded within 90 days after the Town Council approves the request for rezoning, the Council, after giving the applicant notice and an opportunity to be heard, may rescind its approval of the agreement if the Council determines that changed circumstances warrant rescission. All contract zoning agreements approved and recorded prior to August 20, 2008 are hereby ratified, notwithstanding any different recording requirements in effect at the time of their approval.

d. Final Planning Board Action.

After the contract zoning agreement is recorded in the Registry of Deeds, the Planning Board shall complete its final site plan review of the development proposal and final subdivision review, if required. In the case of a subdivision, the Planning Board shall adopt as its findings under 30-A M.R.S.A. § 4404(9) and Sections 3(I) and 6:1 of the Subdivision Ordinance the findings made by the Council under Section II(I)(4)(c)(ii) above concerning consistency with the Town of Scarborough Comprehensive Plan.

5. The Contract Zoning Agreement

a. Contents of the Agreement.

The contract zoning agreement shall include a provision granting the Town of Scarborough the power to enforce all conditions and restrictions, both through enforcement action pursuant to this Ordinance and through legal action for specific performance. Conditions and restrictions imposed by the Town Council may include, but shall not be limited to, the following:

1. Limitations on the number and types of uses permitted.
2. Restrictions on the scale and density of development.
3. Specifications for the design and layout of buildings and other improvements, including landscaping.
4. Schedules for commencement and completion of construction.
5. Performance guarantees securing completion and maintenance of improvements, including landscaping, and guarantees against defects.
6. Preservation of open space and buffers, and protection of natural areas and historic sites.
7. Contributions toward the provision of municipal services required by the development, including, for example, infrastructure improvements such as roads and sewer, and special maintenance needs arising from the rezoning.
8. Provisions for enforcement and remedies for breach of any conditions or restrictions.
9. Provisions for reservation or dedication of land for public purposes.

The Town Council may impose conditions under this Section II(I) which are more restrictive than the otherwise applicable requirements of this Ordinance.

b. Effects of the Agreement.

The conditions and restrictions set forth in the agreement shall run with the land and bind all future owners of the land and any other person who claims an interest in the property, and may be removed only by subsequent action of the Town Council expressly removing, relieving or discharging one or more of the specific conditions or restrictions. If the conditions and restrictions are not fulfilled or complied with within the specified time limits, the Town Council may extend the time limits or may initiate a rezoning to the original zoning district classification or to another zoning district classification.

c. Modifications and Amendments. [Amended 07/21/2004][Amended 08/20/08][Amended 05/15/19]

The contract zoning agreement may allow for changes or modifications to the development, but shall specify the procedure for approval of any such changes or modifications, setting forth categories of changes or modifications which would require Planning Board approval only, those which would require Town Council approval only,

SECTIONS I & II TITLE AND ZONING ORDINANCE

and those which would require both Planning Board and Town Council approval. Unless otherwise specified in the contract zoning agreement, a request to amend a contract zoning agreement shall be processed as stated in Section II(I)(4) above.

d. Performance Guarantees.

As part of the contract zoning agreement, the Town Council may, but is not obligated to, require a bond, escrow agreement, irrevocable letter of credit, or other surety in such amount as is approved by the Town Manager as being reasonably necessary to ensure compliance with the conditions or restrictions required by the rezoning and, where necessary to ensure continued compliance, may require such surety to remain in effect after occupancy of the rezoned property. Such surety shall be posted before the agreement is recorded in the Registry of Deeds.

6. General Provisions

a. Use of Consultants.

Both the Planning Board and the Town Council may obtain the services of independent technical consultants if either body considers such services necessary for adequate review of the application for contract zoning, such consultants to be retained at the applicant's expense. By submitting an application for contract zoning under this Section II(I), the applicant agrees to reimburse the Town for the reasonable and necessary costs of such consultations, and the Town will not execute the contract zoning agreement until such amounts have been paid in full.

b. Waiver of Procedures for Phased Developments.

Notwithstanding any other provision of this Section II(I), where the development proposed in a request for contract zoning is designed to be constructed in phases and the Council concludes that it would be impracticable to require preliminary subdivision and/or site plan review and approval of all phases before approval of the contract zoning agreement, the Town Council, in its discretion, may waive the provisions of Section II(I)(4)(c)(i) requiring the Planning Board to approve a preliminary plan before the Council takes final action on the contract zoning agreement, but only with respect to phases subsequent to the first phase of the development to be constructed. If it grants such a waiver, the Council shall include a phasing schedule in the contract zoning agreement, specifying the dates for completion of the subdivision and/or site plan review, and may reserve in the contract zoning agreement the right of the Town Council to review the plans for subsequent phases prior to their construction.

c. No Rights Created Before Final Council Vote.

The submission of a request for contract zoning under this Section II(I), the payment of application fees, or the expenditure of funds by the applicant in presenting such a request shall not create any vested rights in the application. The conduct of meetings and hearings, the review of the application, comments by Town officials or staff, preliminary votes, findings or determinations, preliminary subdivision or site plan approval, and the availability of contract zoning under this Section II(I) shall not be construed as creating any entitlement to approval of a request for contract zoning. The decision whether or not to rezone remains committed to the Town Council exercising its sole and exclusive judgment as the elected legislative body of the Town of Scarborough and will not be made until the Council takes its final vote on the contract zoning agreement.

SECTION III. NONCONFORMANCE

A. CONTINUATION OF NON-CONFORMANCE

Any lawful use of buildings, structures, land, or parts thereof existing at the time of adoption or amendment of this Ordinance, and made non-conforming by the provisions of this Ordinance or any amendments thereto, may be continued, subject to the provisions of this Section.

B. NON-CONFORMING LOTS OF RECORD

In any district, a single lot of record at the effective date of adoption or amendment of this Ordinance may be built upon even though such lot fails to meet the minimum requirements for lot area or lot width which are applicable in the district, provided such lot is in separate ownership and not of continuous frontage with any other lot or lots in the same ownership. Such lot shall conform to all other requirements, not involving lot area or lot width, for the district in which it is located, unless a variance from such other requirements is obtained from the Board of Appeals pursuant to Section V, B, 3 of this Ordinance.

C. NON-CONFORMING BUILDINGS OR STRUCTURES

1. No building or structure which is non-conforming with respect to the Space and Bulk requirements of this Ordinance may be expanded, enlarged or increased in height unless such expanded or enlarged portion complies with the Space and Bulk requirements of this Ordinance or the Board of Appeals grants relief from such requirements by a variance under Section V, B, 3 or Section V, B, 6, or by limited reduction of yard size under Section V, B, 5 of this Ordinance, except:

a) The installation of one or more dormers on a dwelling shall not be considered an expansion, enlargement or increase in height provided that (1) dormer or dormers are set in a minimum of 12 inches from each end of the roof and from the exterior face of the story immediately below the roof, (2) the aggregate length of all dormers, measured along their faces, does not exceed the total length of the ridge of the roof less 24 inches, and (3) the height of the ridge is not increased. (8/06/97) (6/21/00)(03/02/16)

b) The elevation of an existing structure required for the purpose of meeting the minimum elevation standards in the Scarborough Floodplain Management Ordinance or Maine Department of Environmental Protection Chapter 355 – Coastal Sand Dune Rules, shall not be considered an expansion, enlargement or increase in height.(03/02/16)

2. Should any non-conforming building or structure be destroyed or damaged by any means beyond the control of the owner, it shall be rebuilt or restored within a period of one year or thereafter conform with the Space and Bulk requirements of this Ordinance unless the Board of Appeals grants relief from such requirements by variance under Section V, B, 3 or by limited reduction of yard size under Section V, B, 5 of this Ordinance. If a non-conforming building or structure is demolished or removed by or for its owner, it shall not be rebuilt or replaced except in conformity with the Space and Bulk requirements of this Ordinance unless the Board of Appeals grants relief from such requirements by variance under Section V, B, 3 or by limited reduction of yard size under Section V, B, 5 of this Ordinance. (06/21/00)

3. Notwithstanding any space and bulk requirements of this Ordinance, a non-conforming building or structure may be used for any use allowed in the zoning district where it is located.

SECTION III. NONCONFORMANCE

4. Any nonconforming building or structure which existed on or before March 1, 1985 may continue to be used and occupied, even though its original construction may have violated the Space and Bulk requirements of the Zoning Ordinance in effect at the time of construction, if it appears from the Town's records that:

- (i) A building permit was issued for the building or structure; and
- (ii) Since March 1, 1985, there has been no expansion or enlargement of the building or structure or alteration of the dimensions of the lot on which the building or structure is located which increased the non-conformity beyond that existing on March 1, 1985.
(1/05/94)

5. Notwithstanding Section III(C)(1) above, a nonconforming building or structure located in the General Business, B-2, or the Industrial District, I, may be expanded or enlarged by increasing the height of the building, provided the following requirements are met:

- (i) the building was constructed on or before March 1, 1985;
- (ii) the height increase does not exceed 100% of the building height existing prior to any increase in height allowed pursuant to this subsection (5); and
- (iii) the expansion or enlargement occurs entirely within the footprint of the existing building.
(09/20/00)

D. NON-CONFORMING USES OF LAND

1. No non-conforming use of land shall be enlarged or increased nor extended to occupy a greater area of land than that occupied at the effective date of adoption or amendment of this Ordinance.
2. No non-conforming use of land shall be moved in whole or in part to any portion of the lot, which was not occupied by such use at the effective date of adoption of this Ordinance.
3. If any non-conforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

E. NON-CONFORMING USES OF STRUCTURE

1. No existing structure devoted to a non-conforming use shall be enlarged, extended, or expanded except in changing the use of the structure to conforming use.
2. Any non-conforming use may be extended throughout any parts of a building, which were manifestly in existence and arranged or designed for such use at the time of the adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
3. If a non-conforming use of a structure is superseded by a permitted use, the non-conforming use shall not thereafter be resumed.
4. If any non-conforming use of a structure ceases for any reason for a period of more than one year, any subsequent use of such structure shall conform to the regulations specified by this Ordinance for the District in which such structure is located.

SECTION III. NONCONFORMANCE

F. APPEALS FROM RESTRICTIONS ON NON-CONFORMING USES

1. Notwithstanding the provisions of subsection D and E of this Section, a non-conforming use of land, buildings or structures may be enlarged, extended, expanded, resumed, or converted to another non-conforming use on the lot which it occupied at the effective date of adoption or amendment of the Ordinance, upon approval by the Board of Appeals pursuant to the procedures of Section V, C of this Ordinance.

The Board of Appeals may not approve any such enlargement, extension, expansion or resumption or conversion to another non-conforming use, unless it finds that:

- (a) the impact and effects of the enlargement, extension, expansion, resumption or conversion to another non-conforming use on existing uses in the neighborhood will not be substantially different from or greater than the impact and effects of the non-conforming use before the proposed enlargement, extension, expansion, resumption or conversion to another non-conforming use; and
- (b) the enlarged, extended, expanded, resumed or conversion to another non-conforming use will comply with the standards for Special Exceptions contained in Section IV, I of this Ordinance.

SECTION IV. ADMINISTRATION

A. ENFORCEMENT OFFICER

It shall be the duty of the Building Inspector of the Town of Scarborough to enforce the provisions of this Ordinance. If the Building Inspector shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation(s), indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal changes thereto; discontinuance of any illegal work being done, or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions, including revocation of a previously issued Certificate of Occupancy or Building Permit.

A-1. ZONING VIOLATION CITATION [12/01/04]

As an alternative to the notice procedure under Section IV(A) above, the Code Enforcement Officer may issue a written or oral warning that a particular use, structure, activity or practice constitutes a violation of the Zoning Ordinance and that such violation must be discontinued and may not be repeated. If the person receiving the warning fails to discontinue the violation or repeats the violation, then the Code Enforcement Officer shall issue a zoning violation Citation, stating the violation, the minimum and maximum penalties for the violation under Section IV(C) of this Ordinance and the consequences of failure to respond to the Citation. A single Citation may enumerate multiple violations and/or multiple occurrences of a violation. The Citation shall be served on the person responsible for the violation by hand-delivery or by certified mail.

No later than 7 days after service, the person served with the Citation must respond either by paying the minimum penalty stated in the Citation or by notifying the Code Enforcement Officer in writing that he or she intends to contest the Citation by appeal to the Board of Appeals, which appeal must be filed within 30 days of the date of service of the Citation. If the person served with the Citation fails to respond within 7 days, then the violation(s) stated in the Citation and any continuing or repeat violation(s) shall be deemed to be willful, and the Town may seek the maximum penalties set forth in Section IV(C) of this Ordinance and in 30-A M.R.S.A. section 4452. Failure to respond to the Citation within 7 days shall also constitute a waiver of any right to contest the Citation, including any right of appeal to the Scarborough Board of Appeals, and shall enable the Town to immediately commence enforcement action in court.

B. LEGAL ACTION AND VIOLATION

When any violation of any provision of this Ordinance including failure to comply with any subdivision or site plan approved by the Planning Board, or condition imposed by the Zoning Board of Appeals shall be found to exist, the Code Enforcement Officer shall notify the Town Manager who may then institute any and all actions to be brought in the name of the Town. The Town Manager shall inform members of the Town Council before instituting action in court, but need not obtain the consent of the Town Council, and the Town Manager may institute an action for injunctive relief without first informing members of the Town Council in circumstances where immediate relief is needed to prevent a serious public harm. In addition, the Town Manager may enter into administrative consent agreements in the name of the Town

SECTION IV. ADMINISTRATION

for the purposes of eliminating violations and recovering penalties without court action.
[Amended 12/01/04]

C. FINES

Any person, firm or corporation being the owner of or having control or use of any building, structure or land who violates any provision of this Ordinance or any condition imposed by the Building Inspector, Planning Board or Board of Appeals pursuant to the provisions of this Ordinance, commits a civil violation and shall be liable for a civil penalty of no less than \$100 and no more than \$2,500 for each violation. Each day such violation is permitted to exist after notification thereof shall constitute a separate violation. All penalties collected hereunder shall inure to the Town of Scarborough.

D. BUILDING PERMIT

1) No building or structure shall be erected, moved, added to or structurally altered without a permit therefore issued by the Building Inspector. No building permit shall be issued except in conformity with the provisions of this Ordinance and all other applicable ordinances of the Town of Scarborough and any conditions imposed pursuant to said ordinances.

2) No building permit (except permits for single family and two family dwellings) shall be issued except after review by the Fire marshal to determine that all plans for construction comply with applicable statutes, ordinances, codes and regulations promulgated to reduce fire hazards.

3) Notwithstanding the requirements of subparagraphs (1) above, the Code Enforcement Officer may grant a waiver from the yard or maximum building coverage requirements of this Ordinance for the purpose of making a dwelling accessible to a person with a disability who is living on the property or is a regular or occasional visitor to the dwelling. Such waiver may be granted only upon request of the owner of the dwelling. The Code Enforcement Officer shall restrict any such waiver solely to the installation of equipment or construction of structures, including railing, wall or roof systems needed for the safety or effectiveness of the structure, necessary for access to or egress from the property by the person with the disability. Disability under this subparagraph has the same meaning as physical handicap under Title 5. Section 4553 of the Maine Revised Statutes. When the Code Enforcement Officer grants a waiver under this subparagraph, a certificate indicating the name of the property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a waiver, including conditions imposed on the waiver, has been granted and the date of the granting of the waiver shall be signed by the Code Enforcement Officer and recorded by the property owner in the Cumberland County Registry of Deeds within 90 days of the date of approval of the waiver. The waiver is not valid the certificate is recorded and becomes void if the certificate is not recorded within 90 days from the date the waiver is granted. (2/17/93)

E. APPLICATION FOR BUILDING PERMIT

All applications for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings and structures already existing, if any, the location and dimensions of the proposed building structure or alterations and the proposed sewage disposal system as prescribed by the Maine State Plumbing Code and the Scarborough Plumbing Ordinance. The

Code Enforcement Officer may request such additional information including, but not limited to, survey and engineering data, as the Code Enforcement Officer deems necessary to determine whether the applicant's proposal complies with the requirements of this Ordinance, other applicable ordinances of the Town of Scarborough and any conditions imposed pursuant to said ordinances. Whenever the placement of buildings or structures depends upon the accurate location of natural features, including, but not limited to, water bodies, rivers, streams, wetlands, floodplains, soils types and vegetation types, the Code Enforcement Officer may require the applicant to produce written certification of the location of such features from a person qualified by training, experience or (where applicable) licensure to render such certification. [Amended 12/01/04]

In all districts the approval of building permit applications shall be subject to evidence of satisfactory subsurface soils conditions for drainage and sewage disposal. Such evidence shall be furnished by reference to the Soils Map of the Town of Scarborough, prepared by the United States Soils Conservation Services, and on site investigations approved by the Building Inspector. Where poor site conditions are shown to exist, approval of the application shall be subject to the installation of remedial measures, which comply fully with all applicable State and local codes for health, plumbing, sanitation, conservation, and pollution abatement. Soils characteristics shall be based on suitability for use of properly installed disposal systems continuously year round and the following points of consideration shall be made: ground water table, texture, pans, depth, permeability, percolation rate, flooding, slope, effect on ground water, that soils completely handle all free effluent without its return to the surface; extremely stony or very rocky is automatically very poor or unsuitable, high water table slopes of 15% to 25% or greater are rated poor for all soils which are otherwise suited because of likelihood of resurfacing and expense of installation.

F. SPECIAL PERMITS FOR CONSTRUCTION IN FLOOD HAZARD AREAS

1.) Special Flood Hazard Areas.

Before construction, relocation, replacement, or substantial enlargement or modification of any building has commenced in the special flood hazard area designated on the maps prepared in accordance with the National Flood Insurance Act of 1968, as amended, the owner or lessee, or the architect, engineer, contractor or builder employed by such owner or lessee shall obtain from the Building Inspector a permit covering such proposed work.

2.) Application.

The application for a permit shall be submitted in writing to the Building Inspector and shall include, in addition to the other information required by this section, the following:

- A. The name and address of the applicant and owner;
- B. An address or map indicating the location of the construction site;
- C. A site plan showing location of existing and proposed structure(s), sewage disposal facilities, water supply, areas to be cut and filled, and the lot dimensions.
- D. A statement of intended use of the proposed structure(s);
- E. A statement as to the type of sewage system proposed;
- F. Specifications of dimensions of the proposed structure(s) length, width, and height;

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- G. The elevation (in relation to ground and mean sea level) of the lowest floor, including basement, and if the lowest floor is below grade on one or more sides, the elevation of the floor immediately above;
- H. A copy of the plans and specifications of the proposed construction. This requirement may be modified by decision of the Building Inspector when, in his opinion, such information is or is not needed to determine the conformance of the proposed construction with this Ordinance; and
- I. Evacuation plans indicating alternate vehicular access and escape routes shall be filed with the local Disaster Preparedness Authority for mobile home parks or mobile home subdivisions located within Zone A on the Flood Hazard Boundary Map.

3.) Fee.

A permit fee shall be paid in such amount as specified in the Schedule of License, Permit and Application Fees established by order of the Town Council. (09/06/95)

4.) Review.

The Building Inspector shall review all aforesaid building permit applications to determine whether proposed building sites will be reasonably safe from flooding and ensure that necessary permits have been obtained from governmental agencies. Any construction, relocation, replacement or substantial enlargement or modification of any building, including prefabricated and mobile homes upon building sites in the special flood hazard area must:

A. Be designed or modified anchored to prevent floating, collapse, or lateral movement of the structure. All mobile homes to be placed in Zone Z of Scarborough, Flood Hazard Boundary Map shall meet this requirement by use of over-the-top and frame ties to ground anchors. Specific requirements are:

- (1) over-the-top ties be provided at each of the four corners with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side;
- (2) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;
- (3) all components of the anchoring system shall be capable of carrying a force of 4,800 pounds; and
- 4) any additions to the mobile home shall be similarly anchored.

B. Use construction material and utility equipment that are resistant to flood damage;

C. Use construction methods and practices that will minimize flood damage; and

D. Should any proposal subject to this ordinance involve the alteration and relocation of a watercourse, the Building Inspector shall so notify adjacent communities, the State Coordinating Office and the Federal Insurance Administrator prior to taking action, and the flood carrying capacity of the watercourse must be maintained.

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5.) Plumbing.

The Building Inspector shall require new or replacement water supply systems and sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

6.) Records.

The Building Inspector shall maintain a log for public inspection and information of all permit applications and flood proofing measures required.

G. CERTIFICATE OF OCCUPANCY.

1.

(a) It shall be unlawful to use or occupy or permit the use or occupancy of any land, building, structure or part thereof which is created, erected, changed, converted, altered or enlarged, or to change, alter or enlarge the use of any land, building, or structure until a certificate of occupancy is issued therefore by the Building Inspector and endorsed to the effect that the proposed use of the land, building or structure conforms with the requirements of this Ordinance.

(b) Prior to any change in the ownership or tenancy of a building or structure other than a single-family, two-family or multi-family dwelling, the owner of the building or structure (or the prospective new owner or tenant with the written authorization of the owner) shall obtain a new certificate of occupancy. The new owner or tenant shall not occupy the building or structure until it is brought into compliance with the requirements of this Ordinance and of any other applicable law, ordinance, rule or regulation for the use proposed by the prospective new owner or tenant.

2. An applicant for a building permit shall also make application for a certificate of occupancy, which application must be received before a building permit may be issued. Upon completion of the work permitted by the building permit, the Building Inspector shall issue the certificate of occupancy upon finding that the building, structure or land and the use or occupancy thereof comply with the provisions of this Ordinance, with all provisions of any site plans or subdivision plans approved by the Planning Board and with any conditions imposed by the Planning Board or Board of Appeals. The certificate of occupancy shall contain a statement that the building or structure, if constructed in a designated Flood Hazard Area, complies with the requirements of Section IV, F of this Ordinance.

3. A temporary Certificate of Occupancy may be issued by the Building Inspector for a period of six months during construction or alterations for a partial occupancy of a building pending its completion, provided that such temporary Certificate may require such conditions and safeguards as will protect the safety of the occupants and the public. Failure to complete all work per the temporary Certificate of Occupancy shall constitute a violation of this Ordinance.

4. The Building Inspector shall maintain a public record of all Certificates of Occupancy.

5. Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance. The Certificate of Occupancy shall contain a statement that the building has been flood proofed

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when constructed in a designated Flood Hazard Area. Violations of this Ordinance shall be cause for revocation of a Certificate of Occupancy.

H. [deleted August 5, 1992]

I. SPECIAL EXCEPTION PERMITS.

1. SPECIAL EXCEPTIONS.

Uses designated as Special Exceptions within this Ordinance are intended as potential land uses in the districts in which they are so designated, subject to the issuance of a Special Exception permit by the Board of Appeals in compliance with this Section. Any use which was commenced prior to the effective date of adoption or amendment of this Ordinance and would require a Special Exception permit under the terms of this Ordinance or subsequent amendment is a non-conforming use, and any expansion of such use shall require a Special Exception permit in compliance with this Section.

2. APPLICATION FOR SPECIAL EXCEPTION PERMIT.

When the owner of property or the owner's authorized agent is informed by the Code Enforcement Officer or otherwise determines that a Special Exception permit is required, an application for the permit shall be filed with the Board of Appeals on forms provided for that purpose. The application shall provide all information required for a building permit application under Section IV, D of this Ordinance plus information upon which the Board of Appeals may make findings of fact as to each of the standards set forth in subsection 4 of this Section. The application shall be accompanied by an application fee in such amount as the Town Council may by rule from time to time determine, and shall be heard pursuant to the procedures set forth in Section V, C of this Ordinance.

3. BOARD OF APPEALS REVIEW.

The Board of Appeals shall hear and approve, approve with modifications or conditions, or disapprove all applications for Special Exception permits. The Board may approve a Special Exception permit only for a use which is specifically designated by this Ordinance as a Special Exception in the district where the use will be located. If the Board determines that the proposed use meets all the standards set forth in subsection 4 of this Section and in all other respects complies with the applicable provisions of this Ordinance, the Board must approve the application. If the Board determines that the proposed use can be made to comply with the standards of subsection 4 of this Section by imposition of conditions as provided in subsection 5 of this Section, then it may approve the application with conditions. If the Board determines that the proposed use does not meet one or more of the standards of subsection 4 of this Section and conditions that would cause the use to comply with those standards are not acceptable to the applicant, the Board must deny the application.

4. STANDARDS FOR SPECIAL EXCEPTIONS.

Before it issues a special exception permit, the Board of Appeals shall find, as a matter of fact, that the proposed use meets the following criteria:

- a. The proposed use will not create unsanitary or unhealthful conditions by reason of sewage disposal, emissions to the air or water, or other aspects of its design or operation.

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- b.** The proposed use will not create unsafe vehicular or pedestrian traffic conditions when added to existing and foreseeable traffic in its vicinity.
- c.** The proposed use will not create public safety problems which would be substantially different from those created by existing uses in the neighborhood or require a substantially greater degree in municipal fire or police protection than existing uses in the neighborhood.
- d.** The proposed use will not result in sedimentation or erosion, or have an adverse effect on water supplies.
- e.** The proposed use will be compatible with existing uses in the neighborhood, with respect to physical size, visual impact, intensity of use, proximity to other structures and density of development.
- f.** If located in a shoreland zone as depicted on the Town of Scarborough Official Shoreland Zoning Map, the proposed use will comply with all of the requirements of the Town of Scarborough Shoreland Zoning Ordinance. (8/5/92)
- g.** The applicant has sufficient right, title or interest in the site of the proposed use to be able to carry out the proposed use.
- h.** The applicant has the technical and financial ability to meet the standards of this Section and to comply with any conditions imposed by the Board of Appeals pursuant to subsection 5 of this Section.
- i.** The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation.

5. CONDITIONS ON SPECIAL EXCEPTIONS.

Upon consideration of the standards listed in subsection 4 of this Section, the Board of Appeals may attach such condition, in addition to those required by other provisions of this Ordinance, as it finds necessary to insure compliance with those standards and all other applicable requirements of this Ordinance. Violation of any of those conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: type of vegetation, increased setbacks and yards, specified sewage disposal and water supply facilities, landscaping and planting screens, hours of operation, operation controls, professional inspection and maintenance, sureties, location of piers, docks, parking and signs, and types of construction.

6. CONDITIONS REQUIRED ON CHILD AND ADULT DAY CARE FACILITIES [Amended 06/01/94]

- a.** Family Day Care Homes, Group Day Care Homes, Day Care Center Facilities, and Nursery Schools shall comply with the following conditions:
 - i.** Shall provide outdoor play or recreation areas as required by state regulations, which shall be in rear and side yards only;
 - ii.** All outdoor play or recreation areas shall be fenced; if a facility is approved during the winter, fencing shall be installed as soon as weather permits.
 - iii.** Unless authorized by variance under Section V.B.3, such facilities may be located only on lots which comply fully with the minimum lot area and minimum street frontage requirements of this Ordinance, or as follows:

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1. On a nonconforming lot of record in the RFM or RF Districts, the minimum lot area required for a Group Day Care Home is 60,000 square feet and the minimum lot area for a Family Day Care Home is 40,000 square feet.
 2. On a nonconforming lot of record in the R-2 District, the minimum lot area required for a Family Day Care Home is 15,000 square feet, provided the lot is sewer.
 3. On a nonconforming lot of record in the R-3 District, the minimum lot area required for a Family Day Care Home is 10,000 square feet, provided the lot is sewer.
 4. On a nonconforming lot of record in the R-4 District or the R-4A District, the minimum lot area required for a Family Day Care Home is 7,500 square feet, provided the lot is sewer.
 5. On a nonconforming lot of record in any district, the minimum street frontage required for a Family Day Care Home is seventy-five percent of the minimum otherwise required in the district.
- iv. No such facility shall be situated in any location where the distance between the facility's driveway entrance and the driveway entrance of another child or adult day care facility or a home occupation is less than five times the minimum street frontage requirement for the zoning district, measured along the sidelines of streets. Where the facilities subject to this restriction are in different zoning districts with different street frontage requirements, the larger requirement shall apply.
- v. The owner shall show that the sewage disposal system fully conforms to the requirements of the Maine State Plumbing Code or the requirements of the Scarborough Sanitary District.
- vi. Prohibited in multiplex housing units.
- b. Group Day Care Homes, Day Care Center Facilities and Nursery Schools shall comply with the following additional conditions:
- i. Access shall be permitted only from streets of higher classification than a local residential street (as defined in the Street Acceptance Ordinance of the Town of Scarborough);
 - ii. Off street parking shall be provided for all non-resident employees.
 - iii. Driveways of childcare facilities must be configured so that vehicles dropping off and picking up children are not required to back up into the driveway or into the street in order to exit the facility. (2/15/95)
- c. In the RFM, RF, and R-2 districts, Nursery Schools and Day Care Center Facilities must provide total lot area which equals or exceeds the sum of the minimum lot area required in the zoning district for the first twelve children plus 800 square feet for each additional child, based on maximum licensed capacity. In all other districts, Nursery Schools must provide total lot area which equals or exceeds the sum of the minimum lot area required in the zoning district for the first twelve children plus 75 square feet for each additional child, based on maximum licensed capacity. (12/21/94)

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d. A Nursery School or Day Care Center Facility in the Industrial District cannot be located on a lot, which does not have at least one hundred feet of street frontage notwithstanding the space and bulk regulations for that district.

7. STANDARDS APPLICABLE TO GASOLINE FILLING STATIONS – [moved to Section IX.X. PERFORMANCE STANDARDS – GASOLINE FILLING STATIONS -06/20/12]

8. CONDITIONS REQUIRED ON NON-COMMERCIAL MODEL AVIATION FLYING FIELDS. (2/17/93)

a. Site Restrictions:

1. Non-Commercial Model Aviation Flying Fields shall be permitted west of the Maine Turnpike.
2. Non-commercial Model Aviation Flying Fields shall be allowed only on sites of 50 acres or larger.
3. Non-commercial Model Aviation Flying Fields are exempt from the Off-Street Parking Regulations of Section XI of this Ordinance. However, an area for parking shall be provided of a size and configuration determined by the Board of Appeals to be sufficient to accommodate the largest number of users anticipated at the field at any one time and to avoid any parking on public roads or any private access roads to the field.
4. Adequate sanitary facilities using “portable” toilets or normal septic systems must be provided.

b. Operator Restrictions:

1. All model aircraft flyers using a site must be 18 years of age or older, or directly supervised by someone 18 years of age or older.

c. Operating Restrictions:

1. Model aircraft flying may only occur between the hours of 9:00 a.m. to 7:00 p.m. or sunset whichever is earlier.
2. Model aircraft may not exceed a wingspan of 120 inches or exceed a weight of 30 pounds.
3. No model aircraft capable of carrying a person are permitted.
4. No model aircraft may fly past the lot boundaries of the flying site.
5. No model aircraft may come within 500 feet horizontal distance of any residence.
6. No model aircraft shall be flown higher than 400 feet above the ground.
7. No more than three model aircraft may be in the air simultaneously.
8. No individual model aircraft will be permitted to fly which produces a sound level greater than 98 dB measured on the ground at a distance of 15 feet from the engine.
9. Noise produced by model aircraft operation shall not exceed a level of 65 dB measured at the property line.

J. SPECIAL PERMIT FOR MOBILE HOME CONVERSION

1. Notwithstanding any provisions in this Ordinance to the contrary, the Zoning Board of Appeals may, upon written request by the applicant and subsequent to a public hearing held in conformance with the requirements of Section V, C of this Ordinance, issue a Special Permit to allow an existing dwelling to be replaced with an individual mobile home. Such a permit may be issued only after an affirmative finding by the Board of Appeals that:

a. The existing dwelling is uninhabitable due to structural deterioration and unsanitary conditions. Such a finding can only be made after reports are received from the Building Inspector, Electrical Inspector, Plumbing Inspector, and Health Officer, which reports shall identify with specificity the structural deterioration and unsanitary conditions observed at the dwelling. Other investigations may be requested by the Board;

b. Written evidence has been presented confirming that the applicant has made diligent efforts to obtain financing from local lending institutions, including, where available, federal or state sponsored programs, and that the financing of necessary repairs or replacement with conventional housing cannot be obtained by the applicant; and the applicant is unable to purchase conventional housing for construction at the site; and

c. The applicant is the owner in fee of the real estate upon which the mobile home is to be placed, and shall also be the occupant of the proposed mobile home.

2. Any Special Permit issued pursuant to this section shall be made subject to the following conditions:

a. The structure to be replaced shall be removed or demolished within 30 days after the mobile home is placed on the parcel and ready for occupancy;

b. The placement of manufactured (mobile) home shall comply fully with the siting and construction standards of Section XIII of this Ordinance.

c. The mobile home to be placed on the parcel shall conform to all applicable requirements of the Scarborough Building Code in effect at the time of the mobile home's location;

d. The Special Permit to the applicant is in no way to be construed as passing to heirs by death, or passing by will, gift or sale of property.

3. The Board of Appeals shall accept public input prior to making a final decision regarding the application. However, no public comment shall be permitted regarding the applicant's personal finances and financial status. In analyzing the applicant's financial statements the Board shall secure assistance of counsel or other person qualified to advise the Board.

K. PROVISIONS ON EXPIRATION OF PERMITS.

All permits and approvals issued pursuant to this Ordinance shall expire if construction of the building or structure or commencement of the use is not begun within six months of the date on which the permit or approval was issued. Upon good cause shown, the person or board issuing the original permit or approval may extend its effectiveness for an additional six month.

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A. APPOINTMENTS AND COMPOSITION.

There shall be a Board of Appeals of Five Members and Two Associate Members all of whom shall be residents of the Town of Scarborough. The members of the Board shall be appointed by the Legislative Body of the Town of Scarborough. Terms of membership shall be for 3 years except that initial appointments shall be such that the terms of office of no more than two members shall expire in any single year. The associate members shall be appointed for a term of 3 years and shall act on said Board in place of any member who may be unable to act due to interest, absence or physical incapacity. The members shall annually elect one of their number Chairman to preside at all meetings of the Board. The members of the Board shall annually elect a secretary from its own membership who shall provide for the keeping of the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the board shall be public record. A quorum shall consist of 4 members.

B. POWERS AND DUTIES.

Appeals shall lie from the decision of the Building Inspector to the Board of Appeals and from the Board of Appeals to the Superior Court according to the provisions of Maine Revised Statutes. The Board of Appeals shall have the following powers and duties:

1. Administrative Appeals.

To hear and decide where it is alleged there is an error in any order, decision or ruling made by the Building Inspector in the enforcement of this Ordinance. The action of the Building Inspector may be modified or reversed by the Board of Appeals only by majority vote of those members present and voting. In the event of a tie vote, the action of the Building Inspector shall be affirmed.

2. Special Exceptions.

To hear and decide applications for Special Exceptions permits as provided in Section IV, I of this Ordinance. A Special Exception Permit may be granted only by a majority vote of those members present and voting and may include such conditions and safeguards as are appropriate under this Ordinance.

3. Variance Appeals.

To hear and decide appeals requesting such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in undue hardship. A variance may be granted only by majority vote of those members present and voting, and may include such conditions and safeguards as are appropriate under this Ordinance. The words "undue hardship" as used in this subsection mean:

- a.** That the land in question cannot yield a reasonable return unless a variance is granted;
- b.** That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- c.** That the granting of a variance will not alter the essential character of the locality; and
- d.** That the hardship is not the result of action taken by the applicant or prior owner.

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4. Miscellaneous Appeals.

To hear and decide only the following miscellaneous appeals. Such appeals may be granted only by a majority vote of those members present and voting, and may include such conditions and safeguards as are appropriate under this Ordinance.

- a)** To permit a nonconforming use of land, buildings or structures to be enlarged, extended, expanded, resumed or converted as provided in Section III, F, of this Ordinance.
- b)** To permit the location of off-street parking of passenger vehicles only on lots other than the principal buildings or use where it cannot reasonably be provided on the same lot. This shall apply only to those lots in Residential Districts which abut Business or Industrial Districts provided that: the use shall be accessory to and under control of one or more uses located in and conforming with the uses permitted in the adjacent Business or Industrial District, such control to be evidenced by deed or lease and, if a lease, the period of the parking use shall automatically terminate with the termination of the lease; no such appeal shall be in order for hearing before the Board of Appeals until the Planning Board shall have reviewed the site plan accompanying the application for building permit or certificate of occupancy for such use and shall have submitted its recommendations with respect thereto, the Board of Appeals may impose such conditions as deemed necessary to insure development compatible with that of the immediate neighborhood notwithstanding the provisions of any other section of this Ordinance, and may at its discretion limit the period of such use.
- c)** To permit the location of required off-street parking on lots other than the lot containing the principal building or use where it cannot reasonably be provided on the same lot, subject to the conditions of Section XI of this Ordinance.
- d)** To permit additional directional signs as prescribed in Section XII of this Ordinance.
- e)** To permit variances from Flood Plain Management regulations according to the following criteria:
 - a.** Variances shall not be issued within a regulatory floodway if any increase in flood levels during the base flood discharge would result;
 - b.** Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level in conformance with paragraphs c, d, e, and f below;
 - c.** Variances shall only be issued upon:
 - (1)** a showing of good and sufficient cause;
 - (2)** a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3)** a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances;

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d. Variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

e. The applicant shall be notified in writing by the Zoning Board of Appeals that:

(i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage, and

(ii) such conditions below the base flood level increases risks to life and property; and

f. A record of all variance actions in Designated Flood Hazard Areas, including justification for their issuance shall be maintained by the Zoning Board of Appeals, and all such variances shall be reported in the annual report to the Federal Insurance Administration.

f) To determine the exact location of District Boundary lines on the face of the earth in cases of uncertainty or dispute as to their exact location.

g) To grant relief from the restrictions on nonconforming signs contained in Section XII(D) of this Ordinance. The Board of Appeals may grant such relief if the Board finds that, because of unusual circumstances of the property on which the nonconforming sign is located, it would not be technically or economically feasible to bring the sign into conformity, and that bringing the sign into conformity would leave the business with no effective way to announce its presence to passing motorists. As used in this paragraph, the term “unusual circumstances” includes, but is not limited to, factors such as the proximity of the sign to the nearest street, any changes in the location of the street right-of-way abutting the property since the original placement of the sign, the size of the property, the shape of the property, the location of the buildings on the property, the number and location of other signs on the property, the location of conforming signs on neighboring properties and the effects of such neighboring signs on the sign in question, the nature of the business located on the property and the need for the business to attract “drive-by” customers. In granting relief under this subsection, the Board of Appeals may impose such conditions as the Board finds necessary and appropriate to achieve the purposes and effectuate the intent of Section XII of this ordinance and may require modifications to the existing nonconforming sign where appropriate to bring such sign into conformity as nearly as possible. [06/01/2005]

5. Limited reduction of yard size – residential.

To hear and decide requests for a limited reduction of required yard size for a lot in residential use in order to permit (i) the expansion or enlargement of an existing building or structure, (ii) the construction of a new building or structure which will be accessory to an existing building or structure, (iii) the construction of a new building or structure on a vacant nonconforming lot of record.

A limited reduction of yard size may be granted only by a majority vote of those members present and voting and may include such conditions and safeguards as are appropriate under this Ordinance. As used in this subsection (5): “limited reduction of yard size” means the reduction of a required front yard by no more than ten feet or the reduction of a required side or

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rear yard by no more than five feet; “lots in residential use” means a lot on which a dwelling exists on July 3, 1991 or a vacant nonconforming lot or record on which a dwelling is proposed.

a. The applicant for a limited reduction of yard size must demonstrate the following:

(1) The existing buildings or structures on the lot for which the limited reduction of yard size is requested were erected prior to July 3, 1991, or the lot is a vacant nonconforming lot of record;

(2) The requested reduction is reasonably necessary to permit the owner or occupant of the property to use and enjoy the property in essentially the same manner as other similar properties are utilized in the zoning district;

(3) Due to the physical features of the lot and/or the location of existing structures on the lot, it would not be practical to construct the proposed expansion, enlargement or new structure in conformance with the currently applicable yard size requirements; and

(4) The impacts and effects of the enlargement, expansion or new building or structure on existing uses in the neighborhood will not be substantially different from or greater than the impacts and effects of a building or structure which conforms to the yard size requirement.

(5) The applicant has not commenced construction of the enlargement, expansion, building or structure for which the limited reduction in yard size is requested, so that the Board of Appeals is not considering an after-the-fact application. (12/15/93)

b. An application for a limited reduction of yard size shall be accompanied by a standard boundary survey showing all lot lines of the property, the location of each existing building or structure and the location of each proposed expansion, enlargement or new building or structure. The Code Enforcement Officer may waive the requirement of the survey if he determines, in his sole discretion, that the locations of the lot lines relevant to the request for a limited yard size reduction can be determined accurately without a survey.

c. Whenever the Board grants a limited reduction of yard size, the Board shall prepare a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, indicating that a limited reduction of yard size has been granted and setting forth the date of the granting. The applicant shall cause the certificate to be recorded in the Cumberland County Registry of Deeds within 90 days of approval of the limited reduction of yard size, or the approval shall be invalid.

d. The granting of a limited reduction of yard size pursuant to this subsection V(B)(5) shall not require or be construed as the granting of a variance to relieve hardship. Notwithstanding section V(C)(4), the denial of a variance requested under section V(B)(3) shall not preclude a subsequent application for a limited reduction of yard size under this subsection V(B)(5) and the denial of a request under this subsection V(B)(5) shall not preclude a subsequent application for a variance under subsection V(B)(3). If an application for a variance is pending, the Town shall not accept an application for limited reduction of yard size on the same property; if an application for a limited reduction of yard size is pending, the Town shall not accept an application for a variance on the same property. (7/3/91)

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6. Practical Difficulty Variance. [12/01/04]

- a. In addition to the provisions of Section V(B)(1 through 5) of this Ordinance, the board of appeals may grant a variance from the dimensional standards of this ordinance when strict application of the provisions of the ordinance would create a practical difficulty, as defined herein, and when all the following conditions are found to exist:
 1. The need for a variance is due to the unique circumstances of the property, and not to the general conditions in the neighborhood;
 2. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties;
 3. The practical difficulty is not the result of action taken by the applicant or a prior owner;
 4. No other feasible alternative is available to the applicant, except a variance;
 5. The granting of a variance will result in bringing the applicant's property more nearly into conformance with surrounding properties;
 6. The granting of a variance will not have an unreasonably adverse effect on the natural environment; and
 7. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. § 435, or flood hazard zone, as defined in the Town of Scarborough Floodplain Management Ordinance.
- b. As used in this section V(B)(6), the following words have the meanings set forth below:
 1. *Dimensional standards*: Those provisions of this ordinance which relate to lot area, lot coverage, frontage, and setback (including buffer) requirements.
 2. *Practical difficulty*: A case where strict application of the dimensional standards of the ordinance to the property for which a variance is sought would both preclude a use of the property which is permitted in the zone in which it is located and also would result in significant economic injury to the applicant.

C. APPEALS PROCEDURE.

1. Before making a decision on any appeal or application, the Board of Appeals shall hold a public hearing, notice of the nature of which shall be published at least ten days in advance of the date of the public hearing, and which shall also be posted in a conspicuous public place in the Town of Scarborough at least ten days in advance of the date of the public hearing. Owners of property abutting or located across a street or way from the property which is the subject of the public hearing shall be mailed copies of the notice of hearing at least 10 days in advance of the hearing date. For the purposes of this subsection, the persons against whom municipal property taxes are assessed shall be considered owners or property. Costs of notice shall be paid by the appellant or applicant. Failure of any property owner to receive notice by mail under this subsection shall not invalidate this action of the Board of Appeals.
2. When an appeal is taken from a decision, ruling, or order of the Building Inspector, the appeal shall be commenced within 30 days of the date of written notification to the applicant of the decision, ruling or order. The appeal shall be filed with the Board of Appeals on forms authorized by the Board, and the appellant shall explicitly set forth the grounds for appeal. The Board shall notify the Building Inspector, as appropriate, of the filing of an appeal.

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3. The Building Inspector or his designated assistant shall attend all public hearings and may present to the Board all plans, photographs, or other material he deems appropriate to a property understanding of the appeal or application. Persons wishing to be heard by the Board may appeal in person or through an agent or attorney. The appellant's or applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked only through the chair. All persons at the hearing shall abide by the orders of the Chairman. At the discretion of the Chairman, rebuttal may be permitted by any person present on any testimony presented on the opposing side. Hearing shall not be continued to other times except to consider evidence or to obtain additional evidence which cannot be produced at the scheduled hearing and only after a vote of the majority of the members present and voting to continue the hearing.

4. If the Board of Appeals shall deny an appeal or application, a second appeal or application of a similar nature for the same property may not be brought before the Board within one year of the date of denial of the first appeal or application, unless, in the opinion of the majority of the Board, substantial new evidence can be brought before the Board, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of fact has been made.

5. Before making a decision on any Miscellaneous Appeal from restrictions on nonconforming uses, the Zoning Board shall refer said appeal to the Planning Board for an advisory opinion. The Zoning Board shall not act contrary to the Planning Board recommendation unless it makes specific findings of fact to justify its decision. The Planning Board shall consider the criteria of Section III, F, in formulating its recommendation.

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Except where specifically defined herein, all words used in this Ordinance shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word “lot” includes the word “plot”; the word “building” includes the word “structure”; the word “shall” is always mandatory; “occupied” or “used” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied”; the terms “building inspector” and “code enforcement officer” are synonymous. [12/01/04][10/04/17]

Accessory Agricultural Activities:

The growing of plants including but not limited to forages and sod crops, grains and seed crops, fruits and vegetables, ornamental and nursery stock, and flowers and/or the keeping, breeding, or raising of animals, other than household pets, that is incidental and subordinate to the primary use of the property for residential or nonresidential use in which the agricultural products are primarily for use by the owner, lessor, or occupant of the property. Accessory Agricultural Activities are subject to performance standards contained in Section IX of this Ordinance. [05/05/10]

Accessory Use:

A use which, in the Town of Scarborough, is customarily incidental and subordinate to the principal building or use and is located on the same lot with such principal building or use. An accessory use shall not include any use injurious or offensive to the neighborhood or adjacent area.

Accessory Building:

A subordinate building or a portion of the main building, the use of which is incidental to that of the main or principal building.

Accessory Storage Container:

A roofed contained placed outdoors and used for the storage of goods, materials or merchandise, which are utilized in connection with a lawful principal or accessory use of the lot. The term accessory storage container includes, but is not limited to, containers such as boxcars, semi-trailers, roll-off containers, slide-off containers, railroad cars and “piggy-back” containers. The term accessory storage container does not includes a garage or barn accessory to a dwelling or a storage structure accessory to a dwelling provided such structure is not of a type designed, equipped or customarily used for over-the-road transport of goods, materials or merchandise. [09/03/97]

Accessory Unit:

A living area located within a single family dwelling or within a structure accessory to a single family dwelling, such as a garage, barn, or accessory cottage, which is designed and equipped with complete housekeeping facilities so that it can be occupied by a person or persons living independently from the persons occupying the single family dwelling. A Town approved accessory unit approved meeting the requirements of Section IX.J shall not be considered a separate dwelling unit under this ordinance, the Scarborough Subdivision Regulations, the Scarborough Growth Management Ordinance, the Scarborough Impact Fee Ordinance, the Scarborough Road Impact Fee Ordinance or the Scarborough Sewer Assessment Ordinance. [Adopted 11/05/2003, Amended 2/15/12]

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Addiction Treatment Facility:

A facility for outpatient detoxification and treatment of narcotic-dependent persons which administers or dispenses drugs used to alleviate adverse physiological or psychological effects incident to withdrawal from continuous or sustained use of a narcotic drug. [11/16/2005]

Adjunct Uses, Place of Worship:

Any of the following uses, activities, buildings or structures, when conducted on the same lot as a Place of Worship:

- (1) A hall, theater, function room, auditorium, meeting room or other assembly space which, alone or aggregated with other such assembly space, occupies a floor area which exceeds 100% of the floor area of the portion or portions of the Place of Worship designed for conducting organized religious services.
- (2) A gymnasium.
- (3) A swimming pool.
- (4) Athletic fields, playing fields, playgrounds, or similar outdoor recreational facilities.
- (5) Camping or tenting areas, cabins or other overnight accommodations for persons other than clergy in residence at the Place of Worship.
- (6) An amphitheater, stage or other performance space, located wholly or partly outdoors.
- (7) Group day care homes, day care facilities and nursery schools.
- (8) Elementary, secondary and post-secondary schools.
- (9) A detached dwelling occupied by clergy in residence at the Place of Worship and located on the same lot as the Place of Worship.
- (10) Outdoor parking or storage of more than two buses or passenger vans kept on the premises of the Place of Worship when they are not in use.
- (11) Any detached accessory building or structure with a floor area in excess of 100 square feet. [May 5, 1999]
- (12) Telecommunications Facility, where there is no visible change to the exterior of the building or use. [March 17, 2004]

Affordable Housing:

[Adopted 11/03/2004] [Amended 05/03/2006][Amended 12/03/2014][Amended 12-19-18]

Affordable Housing means decent, safe and sanitary living accommodations that are affordable to households, in accordance with following provisions:

- A. An Owner-Occupied Affordable Housing Unit is a unit which (i) is occupied by its owner; (ii) is owned by Qualifying Household and (iii) has a maximum sales price that is reasonably anticipated to result in Annual Housing Costs that are less than or equal to 30% of the Imputed Income Limitation applicable to the unit.
 - (I) A Qualifying Household is one with a total household income that, at the time of purchase, is 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 (the “MFI Standard”).

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- (II) Annual Housing Costs shall equal the sum of (i) the total annual payments of principal and mortgage interest, (ii) the total property insurance premium, (iii) the real estate taxes due (iv) any homeowners association or condominium fees that are due; and (v) a reasonable estimate of the annual cost of any additional water, sewer, heat, hot water and electricity in the home.
 - (III) The total annual payments of principal and mortgage interest referred to in A(I)(i) may, in the absence of other reasonable estimates, be estimated based on the assumed interest rate and loan term established by the U.S. Department of Housing and Urban Development for housing affordability limits. In the case of a unit which has two or fewer bedrooms, the Imputed Income Limitation referred to in A(iii) shall be 80% of the MFI Standard for a household of two (2) people. In the case of a unit which has more than two bedrooms, the Imputed Income Limitation referred to in A(iii) shall be 80% of the MFI standard for a household of four (4) people.
- B. A Renter-Occupied Affordable Housing Unit is a unit which is leased A Renter-Occupied Affordable Housing Unit is a unit which is leased by a Qualifying Household at an Annual Gross Rent that is less than or equal to 30% of the Imputed Income Limitation applicable to the unit.
- (I) A Qualifying Household is one with a total household income that, at the time of move-in, is 80% or less than the most recently published Median Family Income for the Portland, Maine, MSA, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development (the “MFI Standard”). To remain a Qualifying Household, the household’s income must remain at or below 140% of the income limitation described in the preceding sentence.
 - (II) Annual Gross Rent shall equal twelve (12) times the sum of (i) monthly rent due to the landlord, (ii) any required monthly payments to the landlord for additional services or facilities and (iii) a reasonable estimate of the monthly utility costs (not including television, internet or telephone) that the household is responsible for paying. In the case of a unit which does not have a separate bedroom, the Imputed Income Limitation used to determine the maximum annual gross rent shall be 80% of the MFI Standard for a household of one (1) person. In the case of a unit which has one or more bedrooms, the Imputed Income Limitation used to determine the maximum annual gross rent shall be 80% of the MFI standard for a household with a size equal to one and one half (1.50) people per bedroom.

Agricultural Employee Housing:

Housing quarters that are located on the premises of and are incidental and subordinate to a Commercial Agriculture or Commercial Animal Husbandry use and that are used exclusively to house seasonal agricultural employees and/or apprentices associated with the agricultural use for

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no more than eight (8) months per year. Units of agricultural employee housing shall not be considered dwelling units when applying the net residential density standards of this Ordinance, but must comply with all applicable OSHA standards and State and local building code requirements. [05/05/10]

Agricultural Products Store:

A building or structure, including the adjacent outdoor area, with a total area devoted to retail sales of more than 400 square feet, the primary activity of which is retail sales of agricultural products grown, raised, or produced by a Commercial Agriculture or Commercial Animal Husbandry Use as well as other agricultural and related food products not produced by the Commercial Agriculture or Commercial Animal Husbandry Use, and handmade crafts and similar products. Agricultural Products Stores are subject to performance standards contained in Section IX of this Ordinance. [05/05/10]

Agricultural Processing Facilities:

Buildings, structures, and equipment used for the processing, storage, and distribution of plant or animal products in conjunction with a Commercial Agriculture and/or Commercial Animal Husbandry use located on the same lot. Agricultural Processing Facilities are subject to performance standards contained in Section IX of this Ordinance. [05/05/10]

Approved Mobile Home:

A factory built housing unit constructed after June 15, 1976 which the manufacturer certifies as constructed in compliance with the United State Department of Housing and Urban Development standards, meaning a structure, transportable in one or more sections, which, in the traveling mode, is 14 body feet or more in width and is 750 or more square feet in area, and which is built on permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, including the plumbing, heating, air conditioning, and electrical systems contained therein; and which does not comply with the definition of a manufactured housing unit. This definition shall apply whether or not the unit is placed on a permanent foundation.

Bed and Breakfast (B&B):

A building containing not more than six guest rooms that provides lodging accommodations and food and beverage service to transient guests and contains a dwelling unit that is occupied by the owner or manager of the facility. For purposes of this definition, a transient guest is a person who occupies a guest room for no more than 28 days in any calendar year. A Bed and Breakfast is subject to performance standards contained in Section IX of this Ordinance. [05/05/10]

Bedroom:

A room within a dwelling unit that is arranged or designed to be used for sleeping or that is in fact regularly used for sleeping and that is separated from other rooms by one or more doors. Any room that is suitable to be used as a bedroom and is physically separate from other rooms and that has a closet and an egress window meeting the requirements of the building code is considered to be a bedroom for the purpose of this ordinance. [06/06/2007]

Boarding Care Facility for the Elderly:

A type of living accommodation consisting of multiply residents' rooms, but not dwelling units, occupied by persons over the age of 62 in a shared residential living environment. Boarding care

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facilities for the elderly may include shared community space, shared dining facilities, housekeeping services, personal care and assistance, transportation assistance, and specialized shared services such as medical support services and physical therapy.

Building:

Any structure having a roof supported by columns or walls and intended for the shelter, housing use, or enclosure of persons, animals or chattel. Each portion of a building, separated from other portions by a firewall, shall be considered as a separate building.

Building Height:

Vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof on a flat or mansard roof and to the average height between the eaves and the ridge for all other types of roofs. (08/06/97)

Building Inspector:

Shall mean the inspector of buildings for the Town of Scarborough.

Business Services and Business Offices:

Establishments rendering business services, either in-house or to other business establishments on a fee or contract basis. The types of business services allowed include, but are not limited to: data processing, payroll services, insurance claims processing, credit reporting, advertising and mailing, building maintenance, employment agencies, management and consulting services, protective and security services, and equipment rental and leasing. (7/17/91)

Chemical and Petroleum Products:

Any material that contains or is capable of producing in combination with, or in reaction to, other materials, any substance for which a contamination standard has been established as part of the Federal and State of Maine Primary Drinking Water Standards. (05/18/2011)

Climate Controlled/Internal Access Storage Facility

A storage facility built to a standard compatible with office and/or mixed use developments and which provides consumers and businesses with climate and humidity controlled individually accessed storage units. Access to the individual units should be internal. Access to the exterior is limited to a few key access points. Hours of operation are limited and must be staffed by on-site management. [Adopted 10/04/17]

Commercial Agriculture:

The growing of plants including but not limited to forages and sod crops, grains and seed crops, fruits and vegetables, ornamental and nursery stock, and flowers primarily for sale to or use by someone other than the owner, lessor, or occupant of the property. Commercial Agriculture includes leased or rented land used as part of an agricultural activity as well as the related processing and storage of these plants together with buildings and structures used in the agricultural activity such as barns, storage buildings and facilities, greenhouses and temporary shelters, and accessory processing facilities. Outdoor recreational and entertainment activities that involve minimal structural development and that are accessory to the agricultural activity (such as hay rides, corn mazes, agritainment, and similar activities) and educational activities are allowed. [05/05/10]

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Commercial Animal Husbandry:

The keeping, breeding, or raising of animals, other than household pets, primarily for sale to or use by someone other than the owner, lessor, or occupant of the property including the sale or use of the products of the animals such as, but not limited to, milk, eggs, meat, wool, or fur. Commercial Animal Husbandry includes leased or rented land used as part of an agricultural activity as well as the processing and storage of these animals and their products together with buildings and structures related to the agricultural activity such as barns, storage buildings and facilities, pens/enclosures, manure pits/storage, and processing facilities. Outdoor recreational and entertainment activities that involve minimal structural development and that are accessory to the agricultural activity (such as hay rides, corn mazes, agritainment, and similar activities) and educational activities are allowed. [05/05/10]

Commercial Outdoor Recreation:

A recreational use, activity, or facility, other than one operated by a governmental entity, in which the recreational activities occur primarily outside and do not involve the use of mechanical equipment or participant operated motorized vehicles as part of the recreational experience. Commercial Outdoor Recreation is subject to performance standards contained in Section IX of this Ordinance. [05/05/10]

Commercial Stable:

A public facility that receives remuneration for the boarding, breeding, and/or training of horses including buildings and structures related to these activities such as barns, storage facilities, indoor and/or outdoor riding rings/facilities, and trails. A Commercial Stable may include related activities that are accessory to the primary stable use such as trail rides, hay rides, horse shows, and animal auctions. [05/05/10]

Concept Plan:

An informal, concept map of a proposed subdivision or site plan of sufficient accuracy and detail to be used for the purpose of discussion and classification, but which carries no vesting rights for, or obligations on, any party. The purpose of the concept plan is to alert applicants to problems or permitting requirements prior to an official submission. Use of the concept plan is intended to save time and money for all parties. [8/21/96]

Contract Zoning:

The process by which the property owner, in consideration of the rezoning of his/her property, agrees to the imposition of certain conditions or restrictions not generally imposed on other similarly zoned properties.

Corner Lots:

In districts where yards are required: such corner lots, located at the intersection of two streets, shall be deemed to have a side rather than a front yard between the principal building and the side street. Such side yard shall not be less than the front yard requirement of uses located on the side street. Such corner lots located at the intersection of two streets shall be deemed to have a side rather than a rear yard between the principal building and the abutting property on the side street. Such side yard shall not be less than the side yard requirements of uses located on the side street. All such side yards described above shall conform with the specific regulations related to yard space and related building height contained in the district provisions of this Ordinance.

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Coverage:

That percentage of plot or lot area covered by the building area.

Cross Country Ski Area:

The use of otherwise unimproved land for both cross-country snow skiing and one or more of the following accessory activities: (10/19/94)

- sale or rental of skiing equipment or accessories;
- ski instruction;
- food or beverage service for users of the ski area;
- parking for users of the ski area; or
- construction and/or maintenance of ski trails for use by persons who pay a fee, membership dues or some other consideration for their use.

Day Camp:

A facility, which may include land and buildings and indoor and outdoor activities, that operates an organized program or programs the primary purpose of which is to provide recreational, social, educational or spiritual group experiences for children, that may provide incidental food service, and that does not provide overnight accommodations for children. If incidental to the camp use, camp facilities may be utilized to provide meeting, recreation or social facilities for a private or public association or group. [05/05/10]

Day Care Center Facilities:

- a. A house or place in which 13 or more children may for consideration be cared for, on a regular basis and which is licensed by the Maine Department of Human Services as a day care facility. [Amended 06/01/94]
- b. A house or place in which 13 or more children may for consideration be cared for on a non-recurring basis and which is licensed by the Maine Department of Human Services as a day care facility.

Disc Golf: [09/19/2007]

A game based on the rules of golf, using flying discs thrown at targets.

Distribution Facility:

A structure or building used for the receiving and shipping of finished goods and articles where goods are received and redirected for delivery to the ultimate customer at remote locations. [Adopted 06/20/18]

Drinking Establishment:

A bar, tavern, pub or other similar business establishment serving alcoholic beverages to paying customers or providing seating for the consumption of alcoholic beverages on the premises.

Drive-in Restaurant: (Deleted 11/16/94)

Dwelling:

A building designed or used as the living quarters for one or more families. The term shall not be deemed to include hotel, motel, rooming house or trailer.

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Dwelling, attached:

A dwelling with two or more party walls, or one party wall in the case of a dwelling at the end of a group of attached dwellings.

Dwelling, detached:

A dwelling which is designed to be and is substantially separate from any other structure or structures except accessory buildings.

Dwelling, multifamily:

A building designed and/or used for residential occupancy by three (3) or more families living independently in three (3) or more dwelling units. There is no limit to the number of dwelling units that can be in a multifamily dwelling unless there is a limit established by the zoning district regulations for the district in which the building is located. [06/06/2007]

Dwelling, semi-detached:

A dwelling having a party wall in common with another dwelling but which otherwise is designed to be and is substantially separate from any other structure or structures except accessory buildings.

Dwelling, single family:

A building designed and/or used exclusively for residential purposes for one (1) family only and containing not more than one (1) dwelling unit.

Dwelling, two family:

A detached or semi-detached building used for residential occupancy by two families living independently of each other.

Dwelling Unit:

A building or portion thereof providing complete housekeeping facilities for one family. Then term shall not be deemed to include trailer.

Dwelling Unit in a Mixed-Use Building:

A dwelling unit located in a building that contains one or more non-residential uses that occupy at least twenty percent (20%) of the floor area of the building. [06/06/2007]

Emergency Operations:

Emergency operations shall include operations conducted for the public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement and operations to rescue human beings and livestock from the threat of destruction or injury.

Extractive Industry:

The use of land for removal of topsoil, rock, sand, gravel or similar earth materials, including, but not limited to, gravel pits and quarries.

Family:

One or more persons occupying a premise and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house or hotel as herein defined.

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Family Day Care Home:

A house or other place in which 3-6 children or adults may for consideration be cared for and which is licensed by the Maine Department of Human Services as a day care facility or a small group adult care program. [Amended 06/01/94]

Farm Stand:

A building, structure, or outdoor location with a total area devoted to retail sales of 400 square feet or less, the primary activity of which is retail sales of agricultural products grown, raised, or produced by a Commercial Agriculture or Commercial Animal Husbandry use or Accessory Agricultural Activities as well as other agricultural and related food products not produced by the Commercial Agricultural or Commercial Animal Husbandry use or Accessory Agricultural Activities and handmade crafts and similar products. Farm Stands are subject to performance standards contained in Section IX of this Ordinance. [05/05/10]

Financial, Insurance and Real Estate Offices:

Establishments such as, but not limited to, banks and trust companies, credit unions, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodity exchanges, insurance agencies, real estate agencies, real estate development offices and real estate management offices. [7/17/91]

Floor Area:

The sum of the gross horizontal areas of the several floors of a building or of a unit of occupancy measured from the exterior face of exterior walls (or from the center line of a party wall or interior wall separating units of occupancy) but not including interior parking spaces, loading space for motor vehicles, or any space where the floor to ceiling height is less than 6 feet. [7/17/91]

Food Processing Facility:

The use of land, buildings, or structures for the processing of food, seafood, or agricultural products for use or consumption primarily off the premises including such activities as commercial bakeries, breweries, bottling facilities, dairies, lobster pounds and facilities for commercial food processing and/or packaging. Food processing facility does not include a use in which the principal activity is the rendering, storage, and/or treatment of animal or fish wastes. The processing of wastes created on the premises is allowed as an accessory use to a food processing facility. (Adopted 07/18/12)

Forest Management Activities:

Timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control.

Forestry:

The use of land for the raising and harvesting of timber, pulp wood, and other forestry products for commercial purposes, including the temporary operation of a sawmill and/or chipper. The operation of a sawmill and/or chipper must be primarily used to process timber harvested on the premises, but may also process timber harvested off the premises provided this processing is accessory and subordinate to the principal forestry use of the property. The term “forestry” does not include the clearing of land for approved construction. [05/05/10]

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Funeral Home:

A building used for the preparation of deceased human beings for burial and the display of the deceased and rituals connected therewith before burial or cremation. [03/07/07]

Gasoline Filling Station:

Any building, structure, land or part thereof where motor vehicle fuel is sold at retail either as a principal use or as an accessory use. As used in this definition, “at retail” means sold to the public generally. A business which provides some other service or product, which does not hold itself out as selling motor vehicle fuel at retail, and which sells motor vehicle fuel only to purchasers of that other service or product is not a gasoline filling station. [11/4/92]

Golf Course:

An area of land laid out for playing the game of golf or disc golf, with a series of 9 or 18 holes or targets, each including tee, fairway and putting green and often one or more natural or artificial hazards. A golf course may include a clubhouse, shelter for players and other accessory structures, including one dwelling unit in an accessory structure and accessory use to the golf course, provided the dwelling unit is occupied by a resident facility manager or by on-duty employees of the facility. A miniature golf facility or a golf driving range is not a golf course. [12/21/94] [Amended 09/19/07; amended 07/19/17]

Group Day Care Home:

A house or other place in which 7-12 children may for consideration be cared for and which is licensed by the Maine Department of Human Services as a day care facility. [Amended 06/01/94]

Gross Leaseable Area:

The floor area of a building or use less the area occupied by stairwells and elevator shafts, equipment rooms and utility rooms. [Adopted 01/06/10]

Harness Racing Facility:

A facility for the stabling, training, and racing of horses including related facilities such as food and beverage service areas, function rooms, permanent and temporary housing for track workers and horsemen, and gambling facilities for wagering on horse racing both on and off-track. A harness racing facility does not include facilities for gambling that does not involve wagering on horse races. [Adopted 08/21/2013]

Health Club:

An establishment that provides exercise facilities, such as running and jogging tracks, exercise equipment, game courts, swimming facilities, saunas, showers and lockers. [05/20/98]

High Technology Facility:

The use of land, buildings or structures for research, development, light assembly, or light manufacturing activities that does not create any danger to health or safety in surrounding areas, does not create offensive noise, vibration, smoke, dust, odor, heat or glare, that by reason of the high value of the product in relation to its size and weight does not create large volumes of truck traffic, and that conforms to the performance standards of Section IX(M).

Home Occupation:

An occupation or profession which is customarily carried on in a dwelling unit or in a building accessory to a dwelling unit by resident members of the family occupying the dwelling unit and is

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clearly incidental and secondary to the use of the dwelling unit for residential purposes. [amended 05/05/10]

Hospices:

An establishment or program caring for the physical and emotional needs of terminally ill patients within a home-like facility. [08/17/05]

Hotel/Motel:

A building or group of buildings containing six or more guest rooms and offering lodging accommodations (which may include such accessory services as food and beverages, meeting rooms, entertainment and recreation) to transient guests. A hotel may provide kitchens or kitchenettes in guest rooms and will not, as a result, be considered a dwelling under this ordinance, so long as the hotel is occupied exclusively by transient guests. A transient guest is a person who occupies the hotel for no more than 186 days in any 365-day period. [11/02/94]

Internal Road:

Any street or part of a street located within the Haigis Parkway District other than Haigis Parkway, Payne Road or U.S. Route One.¹ [11/06/02]

Kennel:

A commercial facility for the boarding, daycare and/or breeding of domestic pets including accessory activities such as grooming or training. The term “kennel” does not include veterinary and pet care facilities. [05/05/10]

Leachable Wastes:

Waste materials, including solid wastes, sludge, and industrial and agricultural wastes, that are capable of releasing contaminants to the surrounding environment. (05/18/2011)

Live/Work Unit:

A mixed-use unit within a multifamily dwelling or mixed-use building that contains both living space and work space. The work space shall be limited to no more than 1,000 square feet of gross floor area and may be used for any non-residential use permitted in Section XVIII.C.B. The work space need not be occupied by the same occupants as the living space, unless otherwise required to meet the parking requirements of Section XI.B. The work space within a live/work unit shall not be considered, and shall not be required to comply with the requirements for, a home occupation. [05/03/06] [Amended 06/06/07]

Living Space:

Living space is space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing, or sanitation purposes. Living space includes not only those areas used for living, sleeping, eating, and cooking, but also includes bathing and washing areas such as bathrooms and closets accessed from the interior of the dwelling unit. Living space does not include: 1) storage areas such as attics and garages, 2) common or shared hallways or stairways providing access to individual dwelling units in a multifamily dwelling, or 3) other common areas in a multifamily dwelling. [05/03/06] [Amended 06/06/07]

¹ As of 8/12/2002 no property in the HP District abuts U.S. Route One. The reference to Route One in the definition is in the event of future changes to the Zoning Map.

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Local Retail Store:

Retail sales and services, other than automobile repair and service facilities and car washes, which serve primarily the daily needs of a definable, immediate neighborhood. [7/17/91]

Lodging House:

A building in which three or more rooms are rented for living accommodations and in which no table board is furnished.

Lot:

A parcel of land described in a deed or depicted on a plan which is or is proposed to be separately owned, used, developed or built upon. [Amended 11/02/05]

Lot Area: [09/05/07] [02/06/08]

1. For lots within approved subdivisions, the gross area of the lot.
2. For lots not within approved subdivisions, the gross area of the lot, minus:
 - Portions of the lot located within the Resource Protection District pursuant to the Shoreland Zoning Ordinance for the Town of Scarborough, Maine.
 - Portions of the lot located in the Stream Protection or the Stream Protection 2 District pursuant to the Shoreland Zoning Ordinance for the Town of Scarborough, Maine that are within seventy-five (75) feet, measured horizontally, of the normal high water line of the stream.
 - Portions of the lot covered by surface water bodies other than manmade ponds.
 - Portions of the lot shown to be in the floodway or coastal high hazard area as designated on the Department of Housing and Urban Development flood boundary and floodway map or flood insurance rate map.
 - Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to, (a) water table at the surface for all or part of the year, or (b) unstable soil such as Sebago mucky peat, coastal dune or tidal marsh, as determined by the Code Enforcement Officer.
 - Portions of the lot subject to easements for vehicular access to land outside the lot.

Lot Lines:

The lines bounding a lot. Wherever a lot abuts a street, the sideline of the street on the side abutting the lot shall constitute the lot line.

Lot of Record:

A parcel of land, a legal description of which or the location and dimensions of which are contained on a deed or plan recorded at the Cumberland County Registry of Deeds.

Manufacturing and Assembly:

The use of land, buildings or structures for the production, manufacturing, assembly, fabrication, processing or treatment of materials, goods, or products. Manufacturing and assembly use may include the accessory retail sales of materials or products produced or processed on the premises.(Adopted 07/18/12)

Manufactured Housing Unit:

An “approved mobile home” constructed after June 15, 1976 which complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of

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1974 and complies with the additional standards listed below or a modular home constructed after January 1, 1984 which complies with the State of Maine's Manufactured Housing Act and Regulations and complies with the additional standards:

1. The unit is constructed with a roof having a pitch of 3 in 12 or greater.
2. The roof is covered with asphalt or fiberglass composition shingles or approved wood shingles or shakes.
3. The exterior wall surfaces are covered with materials similar to traditional site-built housing units. These materials may include clapboards such as conventional vinyl or metal siding, wood shingles or shakes or similar materials, but shall not include smooth ribbed or corrugated metal or plastic panels, except as permitted above.
4. The minimum horizontal dimension of the unit as installed on the site is 14 feet.
5. The minimum floor area of the unit shall be 750 square feet.

Meteorological Tower:

A structure or structures intended to collect data to determine the appropriate siting of a Small Wind Energy System, that may include wind speed indicators, wind direction indicators, a tower, guy cables, wiring, and other wind data gathering equipment and infrastructure. The term meteorological tower does not include structures principally utilized in the operation of federally licensed amateur radio stations, which may also accommodate wind speed indicators, wind direction indicators, and other data gathering equipment and infrastructure. [Adopted 07/15/09]

Mini-Warehouse/Storage Facilities:

A facility consisting of a building or group of buildings located in a fenced and gated controlled-access compound and containing individual compartmentalized, and controlled-access storage units with individual locks for each storage unit, which are leased or rented to customers of the facility for storage of those customer's personal property, designed and utilized so that each customer had individual access to his or her unit exclusive of the access of other customers of the facility and which is designed to function as a self-service facility. [12/03/97]

Mobile Home:

Mobile home shall mean any dwelling so constructed as to permit its being placed on a public street or highway.

Mobile Home Park:

Mobile home park shall mean a plot of land laid out to accommodate 25 or more mobile homes and which for the purpose of this Ordinance shall be regarded as a subdivision and subject to all applicable State and local codes and ordinances.

Multiplex:

A type of multifamily dwelling in which no more than eight dwelling units, in any configuration are located in the building. Where more than one multiplex structure is located on a lot, the average number of dwelling units per structure shall be no greater than six. [Amended 06/06/07]

Municipal Building or Use:

Any building or use owned or operated by the Town of Scarborough, the Scarborough School Department or the Scarborough Sanitary District, the Biddeford-Saco Water District or the Portland Water District, excluding public utility facilities. [7/17/91] [03/17/04]

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Net Residential Acreage: [Amended 07/21/04] [Amended 10/20/04] [Amended 09/05/07]

The area of a tract or parcel of land, which is suitable for development, determined by subtracting, in order, the following from the total acreage of the tract or parcel:

1. Portions of the tract or parcel which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the tract or parcel, as determined by the Planning Board.
2. Portions of the tract or parcel shown to be in the floodway or coastal high hazard area as designated on the Department of Housing and Urban Development flood boundary and floodway map or flood insurance rate map.
3. Portions of the tract or parcel which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to, (a) water table at the surface for all or part of the year, or (b) unstable soil such as Sebago mucky peat, costal dune or tidal marsh, as determined by the building inspector subject to review by the Planning Board in the event of a dispute.
4. Portions of the tract or parcel subject to rights of way or easements.
5. Portions of the tract or parcel located in the resource protection district, except land above the upland edge of a wetland, pursuant to the Shoreland Zoning Ordinance for the Town of Scarborough, Maine. (8/5/92)
6. Portions of the tract or parcel covered by surface water bodies.
7. Portions of the tract or parcel utilized for storm water management facilities.
8. 10% of the acreage remaining after the foregoing subtractions have been made, as an allowance for roads and parking, irrespective of the actual area proposed for roads and parking. This Paragraph 8 shall not apply to any application to amend a subdivision plan which was approved prior to October 20, 2004. Any such application for an amendment shall be governed by the definition of net residential acreage in effect at the time the subdivision plan was originally approved.

Net Residential Density:

Net residential density shall mean the number of dwelling units allowed per net residential acre within a subdivision. [Amended 09/05/07]

Non-Commercial Model Aviation Flying Field:

A parcel of land used to fly radio-controlled miniature aircraft by model aviation hobbyists who are either (1) members of guests of a non-profit model aviation club and pay no consideration other than club dues for the use of the field or (2) social guests of the landowner. This definition and the allowance of "Non-Commercial Aviation Flying Field" as a special exception in certain zoning districts shall not be deemed to prevent otherwise permissible occasional and casual use of land in any district to fly radio-controlled miniature aircraft, provided such occasional and casual use is secondary and incidental to another use or the property is otherwise unused. Use is deemed to be "occasional and casual" only when: (a) such use is made only by the owner of the property and the owner's social guests; (b) the property owner receives no payment or consideration of any kind for the use; (c) the use is not sponsored, organized or promoted by a model aviation club or similar organization; (d) no person is granted any formal rights by lease, contract, license or any method other than social invitation to use the property to fly radio-controlled miniature aircraft; and (e) such use does not occur on more than six days in any calendar month. [2/17/93]

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Non-Conforming Building or Structure:

A building or structure existing at the effective date of adoption or amendment of this Ordinance which does not conform to the Space and Bulk regulations of the district in which it is located.

Non-Conforming Lot:

A lot existing at the effective date of adoption or amendment of this Ordinance which does not conform to the Space and Bulk Regulations of the district in which it is located.

Non-Conforming Use:

A use of land, building, or structures at the effective date of adoption or amendment of this Ordinance which does not conform to the regulations and requirements of the district in which it is located. Non-conforming use includes a use existing at the effective date of adoption or amendment of this Ordinance which this Ordinance designates as a Special Exception in the district in which it is located, unless such use has been approved by the Board of Appeals under Section IV, I of this Ordinance.

Non-Municipal Government Offices:

The offices of any department, commission, agency or instrumentality of the United States, the State of Maine, the County of Cumberland or any other governmental authority or district. [7/17/91]

Nursery School:

A house or other place in which a person or combination of persons maintains or otherwise carries out for consideration during the day a regular program which provides care for 3 or more children, provided that:

- A. No session conducted for the children is longer than 3 ½ hours in length;
- B. No more than 2 sessions are conducted per day;
- C. Each child in attendance at the nursery school attends only one session per day; and
- D. No hot meal is served to the children.

This term does not include any facility operated as a day care center, a summer camp established solely for recreational and educational purposes or a public or private school in the nature of a kindergarten approved by the Commissioner of Educational and Cultural Services, in accordance with Title 20, Section 911.

Open Space:

Any area of land or water, which remains essentially unimproved except for landscaping, is not occupied by any structures, gravel or impervious surfaces, and is set aside to remain undeveloped. [7/17/91]

Open Space Ratio:

The total area of open space, excluding artificially created storm water management facilities and land occupied by easements or rights of way, divided by the total area of the lot. [7/17/91]

Outdoor Sales and Services:

Those land uses in which merchandise is sold or displayed principally outdoors or in which services are offered or rendered to customers principally outdoors, including new or used car dealerships which are not fully enclosed. The use category outdoor sales and services does not included: (1) outdoor display of agricultural and horticultural products by principal uses which primarily market said products, (2) drive-up windows accessory to a permitted, (3) accessory

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outside displays in compliance with Section IX (D) and (4) accessory outside vending machines in compliance with Section IX(E). [7/17/91] [4/6/94] [06/03/98]

Outdoor Storage:

The keeping in an unroofed area of any goods, materials, merchandise or vehicles in the same place for more than 24 hours. The term outdoor storage does not include the storage of goods, materials or merchandise inside box trailers, semi-trailers, roll-off containers, slide-off containers, “piggy-back” containers, railroad cars, or any other similar container. Any such storage in roofed containers shall be governed by the provisions of Section IX(G) of this ordinance accessory storage containers. [7/17/91] [09/03/97]

Parking Space:

Usable space for the parking of an automobile that conforms to the standards of this Ordinance. [Amended 01/06/2010]

Party Wall:

A fireproof wall separating two buildings and structurally common to both.

Personal Services:

Establishments providing services involving the care of a person or her/his apparel. The types of personal services allowed include, but are not limited to: laundry, cleaning and garment services, garment pressing, linen supply, diaper service, coin-operated laundries, dry-cleaning plants, photographic studios, beauty shops, barber shops, shoe repair, reducing salons and health clubs, clothing rental, and instruction in music, language or the arts. [7/17/91][11/01/17]

Pet Care Facility:

An establishment that provides fully enclosed facilities for the training, kenneling and grooming of pets. [09/04/02]

Place of Worship:

A building or structure designed and used primarily for conducting organized religious services. The term “Place of Worship” includes customary accessory facilities located within the principal building, such as meeting rooms, assembly space, administrative offices, classrooms for religious education and living quarters for clergy, but does not include uses, activities, buildings or structures defined in this Ordinance as “Adjunct Uses, Place of Worship.” [05/05/99; Amended 11-05-08]

Planning Department:

The Town Planning Department as described in Article VII of the Town of Scarborough Administrative Code. Where this Ordinance requires an approval from the Planning Department, such approval shall be evidenced by the signature of the Town Planner or the Assistant Town Planner/Engineer. [11/05/03]

Professional Office:

The office of a member of a recognized profession maintained for the conduct of that profession. The types of professional offices allowed include, but are not limited to: medical practitioners (including mental health practitioners), social workers, attorneys, engineers and accountants. Unless otherwise stated in the use regulations for a particular zoning district, the term professional office does not include addiction treatment facilities. [7/17/91] [11/16/05]

SECTION VI. DEFINITIONS

Public Utility Facilities:

Facilities such as, but not limited to, substations, pumping stations sewage treatment facilities, water treatment facilities, transmission lines, pipelines, studios, transmitters, receivers, and other buildings, structures or uses necessary or accessory to the operation, or conduct of activities regulated by the Public Utilities Commission and businesses or activities which are not so regulated but which provide a public service to the Town of Scarborough, including voice, image or data transmissions, radio, television and cable television that are available for use by the general public. The term Public Utility Facilities does not include Transmission Towers, which are separately defined and regulated. The term public utility facility does not include wholesale storage and/or wholesale distribution of fuel stored in bulk. [05/17/95] [3/20/02]

Recycling Facility:

Any building, structure or land upon which used materials, waste products or parts thereof are separated or processed and then shipped off the premises for eventual use in new products or are reprocessed on the premises into new usable products. A Recycling Facility which engages in those activities may also provide for the collection, sorting and transfer of non-recyclable waste. The term “Recycling Facility” does not include a junkyard, automobile graveyard or automobile-recycling business, as defined in subchapter I of chapter 183 of Title 30-A of the Maine Revised Statutes. [03/06/96]

Research, Development, and Light Industrial:

The use of land, buildings or structures for research, development, light assembly, or light manufacturing activities that does not create any danger to health or safety in surrounding areas and does not create offensive noise, vibration, smoke, dust, odor, heat or glare, and that conforms to the performance standards of Section IX(M.1). [Adopted 06/20/12]

Residential and Long-Term Care Facilities for the Ill, Aged or Disabled:

A facility which provides full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. [7/17/91]

Residential Recreational Facility:

An open space recreational use, which is customarily incidental to residential use, such as, but not limited to, swimming pools and tennis courts.

Restaurant:

A business the principal activity of which is serving food to the public. [11/16/94]

Retail Floor Area:

The floor area of a building used for retail sales or services less stairwells and elevator shafts, equipment rooms, utility rooms, inventory storage areas, general storage areas, office space and employee lounge or recreational areas. [7/17/91]

Retail Sales and Services (or “Retail Businesses and Service Establishments):

The sale of goods, merchandise or services to the general public for personal or household consumption. Unless otherwise specified in the district use regulations, retail sales and services includes fully enclosed automobile repair and service facility and includes car washes, but excludes gasoline filling stations, automobile sales, automobile painting and body shops, junkyards and salvaging operations and restaurants. [7/17/91] [11/16/94]

SECTION VI. DEFINITIONS

Senior Housing:

An apartment-style multifamily dwelling with individual dwelling units for elderly households. An elderly household shall include at least one elderly person of at least 55 years of age, and no occupant less than 55 years of age other than a fulltime caregiver to, or a spouse or companion of the elderly person(s), or a handicapped person. Senior housing may include services for medical and non-medical care and assistance. Senior housing is not subject to the limitations on the number of units per building which apply to Multiplex. [05/03/06] [Amended 06/06/07]

Service Area:

The floor area of a building used for personal services less stairwells and elevator shafts, equipment rooms, utility rooms and storage areas. [7/17/91]

Sign:

An object, device, display or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location by means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

Small Batch Processing Facilities: A category of a food processing facility or light industrial use that processes, produces or assembles small lots of consumer goods. Processors in this category include, but are not limited to, clothing design and production, small batch food production, craft brewers, jewelry makers and other product lines that have an element of handcrafted design or hand-made production. Small batch processing facilities shall not include the production or processing of medical marijuana. [Adopted 10/07/15]

Small-scale energy facility:

A facility for the generation of electricity with a maximum capacity of five megawatts (5 MW), but do not include small wind energy systems or solar energy systems which are defined and regulated separately. [Adopted 06/20/12]

Small Wind Energy System (SWES):

A structure or structures that may include a wind turbine (both vertical or horizontal axis), a tower, footings, electrical infrastructure and associated equipment that is designed to produce electrical energy or pump water for the building(s) and use(s) on a particular lot or site. Small Wind Energy Systems shall be subject to the Performance Standards under Section IX.N of this Ordinance. [Adopted 07/15/09]

Snack Bar: [Deleted 11/16/94]

Solar Energy System:

A structure or structures that use sunlight as a source of energy for such purposes as heating or cooling a structure, heating or pumping water, or generating electricity. [05/20/09]

Solid Wastes:

SECTION VI. DEFINITIONS

Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk, and refuse. (05/18/2011)

Space and Bulk Regulations:

Regulations in this Ordinance governing the size, shape, configuration and other physical characteristics of land, buildings and structures, including the requirements of this Ordinance for off-street parking.

Special Exceptions:

A special exception is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special exceptions, if specific provision for such special exceptions is made in this Zoning Ordinance. Any individual use for which a specific and individual special exception has been granted in accordance with this Ordinance shall be deemed as a permitted use but subject to such terms and conditions as specified by the Board of Appeals.

Story:

Any enclosed habitable floor area (other than a basement or cellar) which is separated by more than 6 feet, vertical distance, from any other enclosed habitable floor area in the same building. [08/06/97]

Street:

For purposes of meeting the street frontage and access requirements of this ordinance, the term street shall mean only:

- (1) a public way,
- (2) a private way approved by the Planning Department under Section IX.I of this Ordinance, or
- (3) a street approved by the Planning Board under the Town of Scarborough Subdivision Regulations.

For purposes of determining required setbacks under this Ordinance, including setbacks for corner lots, the term street shall mean any of the above and shall also include any right of way which is described in a deed or plan recorded in the Cumberland County Registry of Deeds prior to November 5, 2003 and which provides the principal means of access to abutting properties. [11/05/03] [Amended 07/21/04]

Structural Alteration:

Any change involving the removal or replacement of supporting members of a building or structure, such as posts, columns, plates, joists or girders.

Structure:

Anything constructed or erected, except a boundary wall or fence, the use of which requires a fixed location on the ground or attachment to something fixed on the ground, whether installed on, above, or below the surface of land or water.

SECTION VI. DEFINITIONS

Subdivisions:

As defined in Subchapter IV of Chapter 187 of Title 30-A of the Maine Revised Statutes, as such may be amended from time to time. [Amended 09/05/07]

Telecommunication Facility:

Transmission and reception antennas, cables, electronic equipment and associated facilities used for wireless transmission and reception of voice or data, mounted on, or enclosed within, a building, structure or use, no part of which shall be more than ten (10) feet above the height of the existing structure to which it is attached. [03/17/04][amended 10/15/14]

Timber Harvesting:

The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Townhouse:

A type of multifamily housing with attached single-family dwellings in a row of at least three such units separated by party walls, with no unit located over another unit and each unit having its own front and rear access to the outside. [November 3, 2004] [Amended 06/06/07]

Trailer:

Trailer shall mean any vehicle used or so constructed as to permit its being used as a conveyance on the public streets and highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof as a temporary dwelling, office, or work area for one or more persons and which cannot readily be connected to a common sewer and water service. This definition shall apply whether the trailer is placed on a foundation or not.

Transmission Tower:

Any structure which extends more than 35 feet above grade or more than 10 feet above the highest point of the building or structure to which it is attached, whichever is higher, and which is used for the wireless transmission or reception of electric impulses or signals by means of electromagnetic waves. The term transmission tower does not include structures utilized by the Town of Scarborough for public safety or public works communications or utilized in the operation of federally licensed amateur radio stations, which are permitted in all zoning districts where municipal uses are allowed. [5/17/95] [corrected 08/20/97][amended 10/15/14]

Unit of Occupancy:

Any interior space with defined boundaries described in a deed, lease, license or agreement in which a discrete business, commercial, office, service professional or institutional activity is conducted and which is separated from any other business, commercial, office, service or professional activity by interior or exterior walls. [7/17/91]

Use:

The purposes and activities for which land, buildings or structures were are or will be utilized in fact.

SECTION VI. DEFINITIONS

Variance:

A variance is a relaxation of the terms of this Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance will result in undue hardship.

As used in this Ordinance, a variance is authorized only for height, area, and size of structures, yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the particular zone or adjoining zone.

Warehouse Facility:

A structure or building where goods or materials are stored for distribution to other sites or locations. [Adopted 06/20/18]

Water Dependent Sports Practice Facility:

An area equipped with distance markers for sports activities where balls are driven into an artificially formed pond. [05/21/08]

Wetlands Creation:

The use of land to create new wetlands, or to enhance the functions or values of existing wetlands, for the purpose of establishing wetland areas which can be used for compensation or mitigation banking under state and/or federal wetlands regulations. [05/07/03]

Yard:

A space, open to the sky, which is not occupied with any buildings or structures and is located on the same lot with a building or structure.

Yard Front:

An open unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

Yard Rear:

An open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

Yard Side:

An open unoccupied space on the same lot situated between the building and the sideline of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a sideline.

SECTION VII. FLEXIBLE DEVELOPMENT STANDARDS FOR HIGHER DENSITY
RESIDENTIAL DISTRICTS. [Amended 02/01/2006] [Amended 01/20/16]

**SECTION VII. FLEXIBLE DEVELOPMENT STANDARDS FOR HIGHER DENSITY
RESIDENTIAL DISTRICTS. [Amended 02/01/2006][Amended 01/20/16]**

A. SPECIAL PROVISIONS

In all higher density districts (R3, R4, R4A, TND and RPO) the following special provisions may apply subject to the conditions set forth in this section. This section is intended to enable the developer of subdivisions and residential developments electing to use these provisions, and to require all developers of multiplex housing developments, to design projects which minimize environmental impacts, establish public and open spaces, integrate pedestrian ways and amenities, and demonstrate creativity and imagination in the design, location and orientation of housing types as well as the streets and ways that serve them. This section is intended to enable the creation of healthful, efficient, safe and aesthetically pleasing residential areas.

B. PERFORMANCE STANDARDS

Notwithstanding other provisions of this Ordinance relating to space and bulk, the Planning Board in reviewing and approving proposed higher density residential subdivisions and developments located in the Town of Scarborough, may modify said provisions related to space and bulk in order to permit innovative approaches to housing, neighborhood and environmental design in accordance with the following standards. This shall not be construed as granting Variances to relieve hardship.

1. The purpose and intent of this Zoning Ordinance shall be upheld.
2. There shall be compliance with all State and local codes and ordinances.
3. There shall be no approval of any proposed development, which exceeds the net residential density (see Section VI for definition) allowable in the Residential District in which it is located.
4. Separation between principal buildings located on the same lot shall be a minimum of 30 feet. This minimum separation requirement may be reduced by the Planning Board, but lesser separation must be in accordance with Chapters 6 and 7 of the International Buildings Code 2003 governing Construction Types and Fire-Resistance-Rated Construction. Any separation of less than 30 feet between buildings needs to be accompanied by a note on the approved plan indicating the need for building construction and materials in accordance with the Fire Resistance Rating Requirements of the International Building Code 2003 cited above.
5. Each building shall be an element of an overall plan for site development.
6. Where possible, buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, natural drainage areas, neighborhood greens and common open space.
7. Where possible, buildings, streets, sidewalks, parking areas and landscaping shall be designed in a cohesive, integrated fashion. Building placement and orientation to streets, parking, sidewalks and common areas should be designed to establish inviting public spaces exhibiting human elements and scale, while building orientation to natural features should furnish and buffer private spaces for individual dwelling units or groups of dwelling units.
8. Development proposals shall include a landscape program to illustrate the proposed aesthetic treatment of space, roads, paths, service and parking areas. Screening devices shall not impair pedestrian and vehicular safety.

SECTION VII. FLEXIBLE DEVELOPMENT STANDARDS FOR HIGHER DENSITY
RESIDENTIAL DISTRICTS. [Amended 02/01/2006] [Amended 01/20/16]

9. All utilities shall be installed underground wherever possible. All transformer boxes, substations, pumping stations, and meters shall be located and be designed as not to be unsightly or hazardous to the public.

10. Residual open space accumulated by modifying space and bulk requirements within the allowable density limits shall be usable for active or passive recreation, neighborhood gathering places, or other outdoor living purposes and for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcrops, native plant life and wildlife cover. In addition, open space can be used for solar or wind energy systems as allowed for under Section IX. The use of any open space may be further limited or controlled at the time of final plat approval where necessary to protect adjacent properties or uses.

11. The common open space(s) shall be shown on the subdivision plan and with appropriate notation of the face thereof to indicate that it:

- a.** Shall not be used for future building lots,
- b.** A part or all of the common open space may, at the Municipality's option, be accepted in dedication by the Municipality and operated as a Municipal Recreational facility.
- c.** If any or all of the common open space is to be reserved for use by the residents, the formation and incorporation by the developer of a neighborhood association shall be required prior to final plat approval.
- d.** Covenants for mandatory membership in the association setting forth the owner's rights and interest and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot.
- e.** This neighborhood association shall have the responsibility of maintaining the common open space(s) and operation and maintenance of local neighborhood recreational facilities, lawn, and landscaped areas within such open space(s).
- f.** The Association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open spaces and neighborhood recreational facilities.
- g.** The developer or subdivider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternately, the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request of the Neighborhood Association or the developer or subdivider.

12. The developer shall file with the Town of Scarborough at the time of submission of final plans a performance guarantee. This may be tendered in the form of a certified check payable to the Town or a faithful performance bond running to the Town and issued by a surety company acceptable to the Town. The conditions and amount of such check or performance bond shall be determined by the Treasurer of the Town of Scarborough with the advice of various Town departments or agencies concerned. The amount shall be at least equal to the total cost of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage, and utilities or other improvements specified in the final plan, and shall be conditioned on the satisfactory completion of all such specified improvements within a period agreed upon by the developer and the Planning Board.

13. For the purposes of this section the tract or parcel of land involved must be either in single ownership or the subject of an application filed jointly by the owners of all the property included.

SECTION VII. FLEXIBLE DEVELOPMENT STANDARDS FOR HIGHER DENSITY
RESIDENTIAL DISTRICTS. [Amended 02/01/2006] [Amended 01/20/16]

C. CORNER CLEARANCES

To maintain safe traffic vision in all residential districts, between the side lines of intersecting streets and a line joining points on such lines, twenty feet distant from their point of intersection, or in the case of a rounded street corner, the point of intersection of their tangents, no building or structure may be erected and no vegetation other than shade trees may be maintained above a height of three feet above the plane through their curb grades.

**SECTION VII.A. CONSERVATION SUBDIVISION DESIGN – FLEXIBLE
DEVELOPMENT STANDARDS FOR LOWER DENSITY RESIDENTIAL DISTRICTS**
[Amended 05/05/2010][Amended 07/16/2014]

**SECTION VII.A. CONSERVATION SUBDIVISION DESIGN – FLEXIBLE
DEVELOPMENT STANDARDS FOR LOWER DENSITY RESIDENTIAL DISTRICTS**
[Amended 05/05/2010][Amended 07/16/2014]

A. PURPOSE

Conservation subdivisions are intended to conserve and protect the town's freshwater wetlands, watercourses, farmlands, open space and natural features, while enabling more flexibility for residential developments to design around these natural features and resources. Conservation subdivisions allow the same net residential density on a given parcel as a conventional subdivision, but the use of alternative space and bulk requirements enable residential lots and dwellings to be clustered away from the natural or agricultural resources within a development. Conservation subdivision designs present many public benefits including: the conservation of wetlands; the avoidance of wetland impacts; the protection of watercourses and riparian corridors; the conservation of wildlife habitat; the conservation of productive agricultural uses, activities and soils; and the conservation of open space and forestlands for neighborhood use and recreation. Conservation subdivision designs also offer economic and maintenance benefits to the landowner, developer and town government through clustered development which enables shorter road lengths, less infrastructure, and less impact to the landscape. Conservation subdivision design shall be required to avoid and conserve Scarborough's freshwater wetlands and shall be encouraged to conserve Scarborough's forestlands, wildlife habitat, farms, agriculture and rural character.

B. APPLICABILITY

Conservation subdivisions are allowed in only the RFM, RF and R-2 Zoning Districts, subject to the requirements of Section VIIA.

1. Required conservation subdivisions. Conservation subdivision design is required in the RFM, RF and R-2 Districts when:

- a. The land to be subdivided contains one acre or more of wetlands.
- b. Twenty percent (20%) or more of the land to be subdivided is wetlands.
- c. Twenty percent (20%) or more of the land to be subdivided is within the Shoreland Zone under the Town of Scarborough Shoreland Zoning Ordinance.
- d. A subdivision will alter (through lot configurations and road, driveway and utility crossings) 4,300 square feet or more of wetland if designed and developed in a conventional layout.
- e. A subdivision proposes to include two-family and/or multi-family dwellings. [Adopted 05/05/10]

2. Elective conservation subdivisions. Where not required under Section VIIA(B)(1) above, conservation subdivision design may be permitted by the Planning Board in the RFM, RF and R-2 Districts in order to:

- a. Avoid, buffer and conserve wetlands, watercourses, water bodies, and shoreland zoned areas less in area and percentages than the thresholds requiring conservation subdivision design under Section VIIA(B)(1).
- b. Conserve agricultural fields, farming activities, forestlands, meadows, wildlife corridors, high value plant and animal habitat areas, or other natural areas, while accommodating residential development through flexible design.

**SECTION VII.A. CONSERVATION SUBDIVISION DESIGN – FLEXIBLE
DEVELOPMENT STANDARDS FOR LOWER DENSITY RESIDENTIAL DISTRICTS**
[Amended 05/05/2010][Amended 07/16/2014] [Amended 01/20/16]

**SECTION VII.A. CONSERVATION SUBDIVISION DESIGN – FLEXIBLE
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**SECTION VII.A. CONSERVATION SUBDIVISION DESIGN – FLEXIBLE
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[Amended 05/05/2010][Amended 07/16/2014] [Amended 01/20/16]

- c. Establish open space to be used for active and passive recreational purposes that can complement and serve the residences within a conservation subdivision.

C. PERMITTED USES & SPECIAL EXCEPTIONS [Amended 05/05/10]

The Permitted Uses and Special Exceptions within a conservation subdivision shall be the same as those allowed within the zoning district in which the subdivision is approved.

D. DENSITY DETERMINATION

The maximum number of dwelling units permitted within the conservation subdivision shall be determined by the maximum net residential density allowed in the zoning district in which the conservation subdivision is located, and as calculated in accordance with the definition of net residential acreage. To demonstrate the number of dwelling units possible, an applicant shall submit a sketch or concept level conventional subdivision plan showing a lot layout complying with the space and bulk regulations of the applicable zoning district, the net residential density calculation, an upland area on each lot capable of sufficiently accommodating a building envelope and providing for drinking water and wastewater disposal, and a street layout in accordance with the Street Acceptance Ordinance of the Town of Scarborough. If the subdivision will be served by on-site well and wastewater disposal the lots in a sketch conventional plan shall each have at least 20,000 square feet of contiguous uplands.

E. SPACE AND BULK REGULATIONS

Notwithstanding other provisions of this Ordinance relating to space and bulk, the Planning Board, in reviewing and approving a proposed conservation subdivision, shall apply the following space and bulk regulations.

1. RF & RFM Districts

Maximum net residential density	1 dwelling unit per net residential 2 acres
Minimum lot area	30,000 sq. ft.
Minimum street frontage	100 feet
Minimum front yard, all buildings	25 feet
Minimum rear and side yards, all buildings	15 feet
Maximum building height	(See Section IX,A,15)
Maximum building coverage	25%

2. R2 Districts served by Sewer

Maximum net residential density	2 dwelling units per net residential acre
Minimum lot area	7,500 sq. ft.
Minimum street frontage	75 feet
Minimum front yard, all buildings	15 feet
Minimum rear and side yards, all buildings	15 feet* ¹
Maximum building height	(See Section IX,A,15)
Maximum building coverage	35%

1. The minimum side yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

3. For conservation subdivisions in areas of the R2 District that are not served by the public sewer system, or are not within a reasonable distance from public sewer system, the space and bulk

**SECTION VII.A. CONSERVATION SUBDIVISION DESIGN – FLEXIBLE
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[Amended 05/05/2010][Amended 07/16/2014] [Amended 01/20/16]

standards of the R2 District shall apply. When determining a reasonable distance from the public sewer system, the Planning Board should consider factors such as the topography of the potential sewer line extension; subsurface conditions within the potential sewer line alignment; the residential density and number of building lots proposed within the subdivision; and other similar factors.

4. Building lots may be clustered in groupings of three to five lots or may all be clustered in one contiguous area depending on the natural characteristics of the land, the location and size of upland areas, and the function and values of the open space. The minimum width of open space between any clusters of building lots shall be 50 feet. This minimum width shall be measured between the building lots' side property lines and is intended to provide separation between clusters of building lots along a road right-of-way. The size and dimensions of the larger, contiguous open space areas shall be designed in accordance with the applicable performance standards in Section VIIA(F) below.

5. The minimum lot area in the RFM and RF Districts shall be 30,000 sq. ft. as per Section VIIA(E)(1) above, except where a greater lot area minimum may be required in order to meet the Town Plumbing Ordinance and the Maine State Plumbing Code. Lot size determinations shall be made prior to preliminary plan approval.

F. CONSERVATION OF OPEN SPACE

The open space within a conservation subdivision may include freshwater wetlands, forested wetlands, saltwater marshlands, farmlands, fields, forestlands and recreation areas. Stormwater facilities including detention or retention ponds and similar facilities shall not be counted in meeting the minimum open space requirements unless the Planning Board finds that the purpose and other standards of this Section VIIA. are met. The open space shall be designed in accordance with the following performance standards depending on the purpose of the open space:

1. Within conservation subdivisions that are required pursuant to Section VIIA(B)(1) and are located in the RF District, REM District or within a sewered area of the R2 District, at least 50% of a subdivision's total land area shall be open space. The open space areas shall be contiguous areas that encompass and buffer the wetlands, watercourses, water bodies and other natural features within the subdivision. In addition to these wetlands and natural features, the open space may also include agricultural fields, farming activities, forest lands, wildlife corridors and habitat areas, or recreation areas that will be preserved or established as part of the subdivision as well as land designed to buffer these areas. In order to be counted toward the 50% requirement, an open space area must be at least one acre in size and include a minimum wetland buffer of twenty-five (25) feet from the upland edge of a wetland to any building lot boundary. The open space areas shall be connected and contiguous, consistent with the connectivity and network of the wetlands, watercourses, water bodies and other natural features within the subdivision. To the extent possible, open space shall connect to open space lands existing or proposed on adjacent properties. The open space areas within conservation subdivisions shall also be consistent with the performance standards that apply to the type and function of the open space. Building lots shall be designed on the accessible and contiguous upland areas in clusters according to Section VIIA(E)(3) to prevent fragmentation of the open space tracts and to lessen road lengths, infrastructure needs and wetland or stream crossings. The Planning Board may permit open space parcels that are not

**SECTION VII.A. CONSERVATION SUBDIVISION DESIGN – FLEXIBLE
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contiguous and are less than one acre in size, as per Section VIIA(G), if the intent and purpose of this Section VIIA is fulfilled.

2. Within conservation subdivisions that are required pursuant to Section VIIA(B)(1) and are located in an unsewered area of the R2 District or conservation subdivisions that are elected pursuant to Section VIIA(B)(2) a., at least 40% of a subdivision's total land area shall be open space. The open space areas shall be contiguous areas that encompass and buffer the wetlands, watercourses, water bodies and other natural features within the subdivision. In order to be counted toward the 40% requirement, these open space areas shall include a minimum wetland buffer of twenty-five (25) feet, but the open space areas may be less than one acre in size depending on the size and configuration of wetlands or other natural features. The open space areas shall be connected and contiguous, consistent with the connectivity and network of the wetlands, watercourses, water bodies and other natural features within the subdivision. Building lots shall be designed on the accessible and contiguous upland areas in clusters according to Section VIIA(E)(3) to prevent fragmentation of the open space tracts and to lessen road lengths, infrastructure needs and wetland or stream crossings. The Planning Board may permit open space parcels that are not contiguous, as per Section VIIA(G), if the intent and purpose of this section is fulfilled.

3. Within conservation subdivisions that are elected pursuant to Section VIIA(B)(2)(b) or (c), at least 40% of a subdivision's total land area shall be open space. The open space areas shall encompass and buffer the wetlands, watercourses, water bodies and other natural features within the subdivision. In addition, the open space may encompass and buffer the agricultural fields, farming activities, forest lands, wildlife corridors and habitat areas, or recreation areas the conservation subdivision is intended to preserve or establish. In order to be counted toward the 40% minimum requirement, the open space areas shall be connected and contiguous and shall each be at least one acre in size. To the extent possible, open spaces shall connect to open space lands existing or proposed on adjacent properties. The open space areas within conservation subdivisions shall also be consistent with the performance standards that apply to the type and function of the open space.

4. Open space lands that are conserved to be used and maintained for agricultural activities shall meet the following standards:

- a.** The open space land(s) intended for agricultural activity shall not be intermingled with a cluster of residential lots within a conservation subdivision, but rather shall be designed as larger, contiguous tracts of land appropriate in dimensions and area to enable agricultural activities to occur at a level deemed appropriate by the Planning Board. For example, agricultural fields and activities should be designated along a road at the entrance to a subdivision, within a central common between clusters of residential lots, or at the rear of subdivision behind a cluster of residential lots, as opposed to designating agricultural activities on smaller open space strips between residential lots.
- b.** The specific agricultural activity shall require Planning Board approval. When determining the appropriateness of an agricultural activity within a conservation subdivision the Planning Board shall consider the noise, dust, odors, and other impacts that may result from the proposed agricultural activity. The Planning Board may require specific buffering, hours of operation and seasons of operation, and may restrict the

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type and intensity of agricultural use or activity based on the above considerations. Any conditions or restrictions imposed by the Planning Board shall be consistent with best management practices as determined by the Maine Department of Agriculture, Food and Rural Resources.

- c. No access to the agricultural use by vehicles, equipment or livestock associated with the agricultural activity shall be planned or allowed over residential lots as part of the conservation subdivision. Separate access to the agricultural use for operational purposes shall be required.
- d. The size and location of any agricultural building(s) associated with the agricultural use of the open space shall be approved by the Planning Board.
- e. The open space lands may be owned jointly by the owners of the residential lots within the subdivision, or may be permanently conveyed to a corporation or trust owned or to be owned jointly by the owners of the residential lots within the subdivision or to a recognized nonprofit conservation group, a land trust or the Town as approved by the Planning Board. Alternatively, open space land preserved for agricultural activity may be held in private ownership separate from the ownership of the residential lots within the subdivision, provided that all the agricultural open space within the subdivision is held in the same ownership. A deed restriction prohibiting further use and development of the open space parcel(s) beyond the specified agricultural use(s) and building(s) shall be required. Allowance for modification of the uses within that deed restriction shall require a subdivision amendment and Planning Board approval.

5. Open space lands that are conserved as wetlands, forestlands, meadows and other natural areas shall meet the following standards:

- a. Conservation subdivisions utilized to preserve wetlands, forestlands, meadows, wildlife corridors, wildlife habitats and other natural features shall be designed with the open space lands encompassing the most significant wildlife areas, mature forestlands or natural features within the subdivision. The open space lands shall be as large and contiguous as possible to provide the highest wildlife habitat and passive recreation values possible.
- b. Open space lands may include a trail system for walking, hiking, biking or similar activities. This trail system shall be included on the subdivision plan, including a cross-section and limit of clearing, and should link with adjacent trails if possible.
- c. The open space lands shall be owned jointly by the owners of the residential lots within the subdivision, or shall be permanently conveyed to a corporation or trust owned or to be owned jointly by the owners of the residential lots within the conservation subdivision, to be used for open space and recreational purposes, as specified above and as approved by the Planning Board, and shall not be further subdivided, used for building purposes or used for other recreational activities. A deed restriction to this effect shall be required. Any allowance for modification of the uses within that deed restriction shall require a subdivision amendment and Planning Board approval.
- d. As an alternative to Section VIIA(F)(5)(c), the open space lands may be preserved as such by being conveyed to a recognized non-profit conservation group, land trust or the Town as approved by the Planning Board. This conveyance shall also be accompanied by a deed restriction limiting the use of the land to the specific open space

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and recreational purposes approved by the Planning Board. Any allowance for modification of the uses within that deed restriction shall require a subdivision amendment and Planning Board approval.

6. Open space lands designed to accommodate passive and active recreational facilities or amenities shall meet the following standards:

- a.** The active and passive recreational areas may include facilities exclusively for the use of the residents of the subdivision such as neighborhood commons, gardens, picnic areas, playing fields, playgrounds, courts, bikeways or a combination thereof, or for use by the general public, or may be privately owned and operated as commercial recreational facilities such as golf courses, cross country ski areas and other commercial outdoor recreational uses.
- b.** Recreational areas shall be designed and located in a manner that is accessible to all of the residential dwellings in the subdivision. The open space and recreation areas may include sidewalks, footpaths, trails, driveways and parking areas to facilitate accessibility. Such amenities and infrastructure shall be reviewed and approved by the Planning Board.
- c.** Commercial recreational areas and facilities shall be principally identified by the use of open, outdoor space and shall have minimal structure development. If any of the facilities will be privately owned by an entity other than the owners of the dwelling units in the subdivision, permanent provisions must be established that allow residents of the subdivision use of the open space or designated facilities within the open space. Access to commercial recreational facilities for subdivision residents on a no-fee or reduced fee basis approved by the Planning Board can meet the requirement for resident access to the open space.
- d.** The size, location and impervious area of any recreational facility or amenity shall be reviewed and approved by the Planning Board. The Planning Board may consider stormwater runoff, lighting, proximity to residential dwellings, buffering, traffic impacts, compatibility with the residential development, and similar factors in their review.
- e.** Recreation areas shall be owned jointly by the owners of the residential lots within the subdivision, or shall be permanently conveyed to a corporation or trust owned or to be owned jointly by the owners of the residential lots within the conservation subdivision, to be used for open space and recreational purposes, as specified above and as approved by the Planning Board, and shall not be further subdivided, used for building purposes or used for other recreational activities. A deed restriction to this effect shall be required. Any allowance for modification of the uses within that deed restriction shall require a subdivision amendment and Planning Board approval.
- f.** As an alternative to Section VIIA(F)(6)(a) and (d), the recreation areas may be conveyed to the Town and may be open to use by the entire community if specifically approved by the Planning Board and agreed to by the Town Council. If open to community use, the recreation areas shall be sited in a location that is easily accessible to the public with minimal traffic impacts to the residential component of the conservation subdivision; shall provide adequate visitor parking based on the recreation area's size and intended uses; and shall include buffers to the residential lots within the conservation subdivision to separate public and private space.

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- g.** When parking areas are proposed, they shall be designed and constructed with pervious and semi-pervious alternatives to bituminous pavement, if possible. Such alternatives may include porous pavement blocks, grassed interlocking paving systems, re-enforced turf and stone dust materials. These alternative parking surfaces are intended to minimize storm water run-off and facilitate infiltration and natural hydrological functions to the extent feasible.
- h.** If any portion of the open space will be owned by a private entity consisting of others than the owners of the lots or units in the subdivision, that open space shall be protected from future development or uses that are inconsistent with its function as open space that benefits the subdivision by the establishment of a permanent conservation easement to the Town of Scarborough or a land trust or conservation organization approved by the Planning Board, or the subdivision's home owners association. This easement shall be approved by the Town prior to approval of the subdivision by the Planning Board.

7. Open space lands, required pursuant to Section VIIA(B)(1), may be designed to conserve wetlands and other natural resources, while also accommodating agricultural or recreational uses and activities or solar or wind energy systems as allowed for under Section IX.. The Planning Board shall have the flexibility to allow a combination of open space functions so long as these functions and uses are in conformance with all of the above performance standards in Section VIIA(F)(1) through (6).

G. WETLAND AVOIDANCE AND IMPACTS

As stated in Section VIIA(A) and (F), one of the primary purposes of conservation subdivision design is to avoid wetland fills and alterations and to buffer wetlands from development and impacts. Therefore, wetlands within a conservation subdivision shall not be used, filled or altered, except as follows:

- 1.** Where no practical alternative exists, the Planning Board may allow the crossing of wetlands for roads, driveways or utilities to provide access to, or use of, an upland area within a subdivision. To approve this crossing the Planning Board must find that the wetland impact is minimized, that the upland area is consistent with the net residential acreage, and that all other standards of this ordinance are met.
- 2.** Where no practical alternative exists, the Planning Board may allow the construction of footbridges, trails and docks within wetlands to provide communal access to the open space lands within a conservation subdivision. The footbridges, docks or similar structures shall be constructed on posts, pilings, or other structural supports to maintain the unobstructed flow of water and wetland connectivity.
- 3.** The Planning Board may allow the restoration or enhancement of a previously altered, disturbed or degraded wetland to improve the functions and values of the wetland area. This allowance shall involve a restoration or enhancement program consisting of the wetland area subject to the program, the activities necessary for restoration or enhancement, a planting schedule and other necessary material as determined by the Planning Board.
- 4.** The Planning Board may allow a wetland to be used for agricultural purposes in accordance with Section VIIA(F)(4) if the agricultural use is in existence within the wetland area at the time of subdivision. Any agricultural use shall be in accordance with Section VIIA(15)(M) of the Town of Scarborough Shoreland Zoning Ordinance.

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H. RELATIONSHIP TO OTHER ORDINANCE PROVISIONS

1. When a conservation subdivision is required or elected, the provisions of this Section VIIA shall apply in place of the provisions of Section VII.
2. This Section VIIA does not alter or supersede any requirement of the Scarborough Shoreland Zoning Ordinance for any portion of a conservation subdivision located within the Shoreland Zone.

I. WETLANDS DEFINED

As used in this Section VIIA, and notwithstanding any other definitions in this ordinance or the Scarborough Shoreland Zoning Ordinance, the terms “wetland,” “wetlands,” and “wetland areas” shall mean any of the following:

1. Coastal wetlands. “Coastal wetlands” means all tidal and subtidal lands, including all areas below any identifiable debris line left by tidal action; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service.
2. Floodplain wetland. “Floodplain wetland” means lands adjacent to a river, stream or brook that are inundated with floodwater during a 100-year flood event and that under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.
3. Freshwater wetlands. “Freshwater wetlands” means freshwater swamps, marshes, bogs and similar areas that are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.
4. Forested wetland. “Forested wetland” means a freshwater wetland dominated by woody vegetation that is 6 meters tall, or taller.

It is the intent of this Section VIIA that the terms wetland, wetlands and wetland areas shall be interpreted and applied in the same fashion as the terms listed above are interpreted and applied by the Maine Department of Environmental Protection under the Natural Resources Protection Act, Title 38 of the Maine Revised Statutes, Chapter 3, Subchapter 1, Article 5-A.

SECTION VII.B. EXIT 42 ECONOMIC DEVELOPMENT OVERLAY DISTRICT

SECTION VII.B. EXIT 42 ECONOMIC DEVELOPMENT OVERLAY DISTRICT
[Deleted 06/20/1]

SECTION VIIC. RESIDENTIAL DENSITY AND AFFORDABLE HOUSING PROVISIONS
[06/06/2007][amended 11/06/2013][amended 03/09/18][amended 12/19/18]

SECTION VIIC. RESIDENTIAL DENSITY AND AFFORDABLE HOUSING PROVISIONS [06/06/2007][amended 11/06/2013][amended 03/09/18][12/19/18]

A. RESIDENTIAL DENSITY

The following density factors apply only in those zoning districts that explicitly provide for residential density to be determined in accordance with these provisions. In those zones, the maximum number of dwelling units that can be placed on any site in accordance with the net residential density provisions shall be calculated based upon the following density factors for dwelling units that are located in two-family dwellings, multifamily dwellings, and/or mixed use buildings based upon the type of dwelling units proposed to be developed.

1. A dwelling unit with not more than one (1) bedroom and not more than seven hundred fifty (750) square feet of living space or a live/work unit with not more than one thousand two hundred (1,200) square feet of total floor area shall be counted as 0.5 dwelling unit for the purpose of the density calculation.
2. A dwelling unit with not more than two (2) bedrooms and not more than one thousand two hundred (1,200) square feet of living space or a live/work unit with not more than one thousand eight hundred (1,800) square feet of total floor area shall be counted as 0.66 dwelling unit for the purpose of the density calculation.
3. A dwelling unit with three (3) or more bedrooms or more than one thousand two hundred (1,200) square feet of living space or a live/work unit with more than one thousand eight hundred (1,800) square feet of total floor area shall be counted as 1.0 dwelling unit for the purpose of the density calculation.

B. AFFORDABLE HOUSIN IN LIEU FEE [adopted 11/06/2013]

This mechanism enables developments in designated zoning districts to contain additional residential density if a fee is paid per additional dwelling unit to support the creation of affordable housing within the community. These provisions may only be applied to residential developments that require subdivision and/or site plan review by the Planning Board within zoning districts that explicitly allow for the affordable housing in-lieu fee.

The use of this mechanism requires Planning Board review and approval in accordance with the following provisions:

1. An application for use of the affordable housing in-lieu fee shall be submitted by the applicant as an element of their overall submission for subdivision and/or site plan review and approval. This submission shall include the number of additional dwelling units proposed utilizing the affordable housing in-lieu fee, the proposed dwelling unit types, and the overall residential density.
2. The payment of an in-lieu fell shall be required for each additional dwelling unit permitted through this provision, unless the zoning district in which the project is located allows for density to be determined on a bedroom and square footage basis in accordance with Section VII.C.(A) Residential Density. In these cases, the payment of a fraction of the fee shall be required for each unit in the same proportion as the density

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requirement for the type and size of the unit proposed (For example, a unit that is counted as half (0.5) a dwelling unit for density purposed required half (0.5) the fee amount as a full dwelling unit). The affordable housing in-lieu fee amount is listed in the Town of Scarborough Schedule of License, Permit and Application Fees (Chapter 311).

3. The total amount of the affordable housing in-lieu fees for the development may either be apportioned to each development phase for multi-phase projects or each dwelling unit or residential building lot within the development. In these cases the fees shall be paid prior to the commencement of construction of each phase of development or prior to the issuance of a building permit for each unit or lot. This scheduled of payment shall be established as part of the Planning Board approval for the development
4. These fees shall be paid to the Town of Scarborough.
5. Affordable housing in-lieu fees collected by the Town shall be deposited into a specific account, segregated from the Town's general revenue, and created for supporting the creation of affordable housing with Scarborough. These funds shall be used in accordance with the following:
 - a. The funds contributed to the specific account, entitled the Affordable Housing Initiative Fund, shall be used to further the establishment of affordable housing within the Town. More specifically, these funds may be used for the land acquisition, infrastructure, and/or building construction costs of an affordable housing project.
 - b. A portion of these funds may also be used for administrative, legal, engineering or other costs related to the planning, design, permitting, and property acquisition for an affordable housing project.
 - c. A portion of these funds may also be used to establish a revolving loan program to provide direct financial assistance to qualified homebuyers with down payments and other financing needs for purchasing affordable housing units.
 - d. The Affordable Housing Trust Fund may be used in combination with other Town funds, and other private, non-profit, and government funding for establishing affordable housing within the community.
 - e. The in-lieu fees contributed by a development shall not be used by the same or other developments to fund the construction of affordable housing required to meet a residential density bonus for the creation of affordable housing.
 - f. The in-lieu fees collected by the Town shall not be utilized to fund affordable housing portions of a development which are otherwise required to included affordable housing in order to meet minimum zoning standards. [adopted 03/09/18]

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C. AFFORDABLE HOUSING CERTAINTY [Adopted 12/19/18]

1. Prior to the sale of an Owner-Occupied Affordable Housing Unit, the owner of the unit shall obtain approval from the Town Manager to transfer the unit to a new buyer. In determining whether to approve the transfer, the Town shall determine whether the proposed buyer will be a Qualifying Household and that the sale price does not exceed the maximum sale price as defined in this Ordinance. The proposed buyer shall provide documentation, as reasonably requested by the Town, to support the transfer request. In granting the request, the Town shall be entitled to impose conditions upon the transfer to ensure that physical deficiencies and code violations are addressed and that delinquent property tax, water and sewer bills are paid.

2. Owners of Renter-Occupied Affordable Housing Units shall be required to certify that the units continue to be occupied by Qualifying Households on an annual basis to the Town Manager and in so certifying shall be entitled to rely upon the household certifications described in the following sentence. Households shall certify to Owners of Renter-Occupied Affordable Housing Units that they continue to qualify based on the standards in this Ordinance and shall provide documentation to support their certification upon the reasonable request of the Town through the Town Manager.

SECTION VII.D. DEVELOPMENT TRANSFER PROVISIONS [ADOPTED 06/20/2007]

SECTION VII.D. DEVELOPMENT TRANSFER PROVISIONS [ADOPTED 06/20/2007]

A. PURPOSE

To provide a mechanism that will enable the transfer of residential development from the Town's limited and very low density growth areas to the Town's growth areas in order to maintain the rural character and development pattern of the limited and very low density growth areas, while directing growth to the higher density, more urban growth areas of Town. Development transfer may be accomplished by the payment of fees for additional residential density within developments located in the growth areas of Town, with the fee revenue to be used to conserve potentially developable land within the Town's limited and very low density growth areas. Alternatively, development transfer may be achieved by the transfer of development rights from the limited and very low density growth areas to the growth areas of Town. These provisions are allowed pursuant to 30-A M.R.S.A. Section 4328 and are in accordance with the Future Land Use Plan of the 2006 Update of the Comprehensive Plan.

B. APPLICABILITY

Development transfer provisions may be applied to residential or mixed use developments located within zoning districts designated as growth areas in the Future Land Use Plan of the 2006 Update of the Comprehensive Plan if the zoning district's space and bulk regulations specifically allow for development transfer.

Within zoning districts that allow for development transfer, these provisions may only be applied to new residential and mixed use developments that require subdivision and/or site plan review by the Planning Board. Further, these provisions may not be applied to a lot(s) in a residential subdivision that was approved prior to the enactment of this subsection. The Planning Board may allow these provisions to be applied to a lot(s) within a commercial or mixed use subdivision that was approved prior to the enactment of this subsection.

C. PERIODIC REVIEW BY THE TOWN COUNCIL

The Town Council must review the development transfer mechanism at least once every three years to evaluate if the program is working as intended and if any changes need to be made to the provisions of this section or to other Town ordinances, programs, or activities. As part of its periodic review, the Town Council must review the fee per dwelling unit credit to evaluate whether an adjustment to this fee is warranted based on changes in the value of raw, undeveloped land within the limited growth and very low density growth areas.

If the balance of unencumbered development transfer fees that have been collected but not spent exceeds one million five hundred thousand dollars (\$1,500,000) at any point, the Town Council must conduct a review of the program within ninety (90) days to determine if the intended transfer of development is likely to occur, if modifications need to be made to the mechanism, and if the provision for the payment of development transfer fees should be suspended until land or conservation easements are acquired. In its review of the mechanism, the Council must consider pending commitments to acquire land or conservation easements and work in progress toward this objective.

D. DEVELOPMENT TRANSFER MECHANISMS

1. Development transfer can occur through the use of development transfer fees or the transfer of development rights.
2. The use of development transfer fees enables greater residential density (or an increase in the number of dwelling units) to be established in a development located within a growth area zoning district that allows development transfer through the payment of development transfer fees to the Town of Scarborough. The funds collected through this mechanism must be used for acquiring the ownership of, or conservation easements on, potentially developable land located in an area designated as a limited growth area or a very low density growth area in the Future Land Use Plan of the 2006 Update of the Comprehensive Plan, in accordance with Section VIID(G). The provisions for this mechanism are outlined in Section VIID(E) and (H).
3. Greater residential density (or an increase in the number of dwelling units) may be established within an applicable growth area zoning district through the transfer of development rights. The transfer of development rights mechanism enables residential density (or dwelling units) that could be created in an area designated as a limited growth area or a very low density growth area in the Future Land Use Plan of the 2006 Update of the Comprehensive Plan, to be applied to a development located within an applicable growth area zoning district. The provisions for this mechanism are outlined in Section VIID(E) and (H).

E. DWELLING UNIT CREDITS

Dwelling unit credits shall be used in determining the additional number of dwelling units and the dwelling unit types that can be established within a development in a growth area zoning district that permits development transfer based either on the transfer fees to be paid to the Town of Scarborough or the number of development rights to be transferred. The number of dwelling unit credits to be applied, the overall residential density, and the dwelling unit types must also be in accordance with the specific space and bulk regulations of the growth area zoning district in which the development is proposed.

1. Acquisition of dwelling unit credits. Dwelling unit credits may be acquired using one of the following two approaches:
 - a. One (1) dwelling unit credit shall be issued for each payment of the fee per dwelling unit credit, in accordance with the Town of Scarborough Schedule of License, Permit, and Application Fees (Chapter 311).
 - b. One and a half (1.5) dwelling unit credits shall be issued for each potential dwelling unit that could have been developed in the limited and very low density growth area zoning districts based upon Section VIID(H) that is proposed to be transferred to a development in a growth area.
2. Utilization of dwelling unit credits. A residential or mixed-use development in a growth area zoning district that allows development transfer may be built at a greater density or have more dwelling units than would otherwise be permitted through the use of dwelling

SECTION VII.D. DEVELOPMENT TRANSFER PROVISIONS [ADOPTED 06/20/2007]

unit credits. One (1) dwelling unit credit shall be required for each additional unit permitted through development transfer unless the zoning district in which the project is located allows for density to be determined on a bedroom basis in accordance with Section VIIC(A) Residential Density. In this case, a fractional credit shall be required for each unit in the same proportion as the density requirement for the type and size of unit proposed (For example, a unit that is counted as half a dwelling unit for density purposes requires half a dwelling unit credit).

F. DEVELOPMENT TRANSFER FEE

The use of the development transfer fee mechanism requires Planning Board review and approval in accordance with the following provisions:

1. An application for use of development transfer fees for a development located within a growth area zoning district allowing development transfer shall be submitted by the applicant as an element of their overall submission for subdivision and/or site plan review and approval. The development transfer fee submission shall include:
 - a. The number of dwelling unit credits proposed to be applied to the development and the total transfer of development fee based on Section VIID(E). The number of dwelling unit credits to be applied, the overall residential density, and the dwelling unit types must be in accordance with the specific space and bulk regulations of the growth area zoning district in which the development is proposed.
 - b. The total amount of the development transfer fee shall be apportioned to each dwelling unit or residential building lot within the development and shall be paid prior to the issuance of a building permit for each unit or lot. The apportionment of the total fee amount to each dwelling unit or residential building lot shall be based on, and in accordance with, the dwelling unit credit value for the various dwelling types and living area and bedroom limitations outlined under Section VIID(E)(2).
 - c. This fee shall be paid to the Town of Scarborough.

G. USE OF DEVELOPMENT TRANSFER FEES

Development transfer fees collected by the Town in accordance with Section VIID(F) shall be deposited into a specific account, segregated from the Town's general revenue, created for this purpose or into the Town's Land Acquisition Reserve Fund as directed by the Town Council. These funds shall be used in accordance with the following:

1. These funds shall be used for acquiring ownership of, or conservation easements on, potentially developable land located within the areas designated as limited growth areas or very low density growth areas in the Future Land Use Plan of the 2006 Update of the Comprehensive Plan.
2. Land acquired in fee shall be permanently restricted from future development. Likewise, conservation easements on land to remain privately owned shall permanently restrict future development. When development is restricted on private land through the establishment of a conservation easement, public access to that land may be, but is not required to be provided.
3. Land acquired in fee may be used for conservation, open space, farming, forestry, passive recreation, active recreation, or any combination thereof. For the purposes of this subsection, recreation facilities such as ball fields, parking areas, bleacher seating,

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bathroom facilities, and the like shall not be considered development under Section VII.D.G.2. Similarly, agricultural facilities such as a barn, farmhouse, corral, and the like shall not be considered development under Section VIID(G)(2).

4. These funds may be used in combination with the Town of Scarborough's Land Acquisition Reserve Funds, recreation fee revenue, and other private, non-profit and government funding for acquiring ownership of, or conservation easements on, potentially developable land located in areas designated as limited growth areas or very low density growth areas in the Future Land Use Plan of the 2006 Update of the Comprehensive Plan.
5. A portion of these funds may be used for administrative, legal, and other costs related to the execution of land acquisitions of, or conservation easements on, potentially developable land outlined under Section VIID(G)(1) and to work with the owners of land to determine the number of dwelling unit credits available on their property in accordance with Section VIID(H).
6. In acquiring land or conservation easements, priority should be given, where possible, to parcels that are located in areas that if developed would have traffic impacts on the same roads and intersections as those impacted by the developments using the dwelling unit credits. This determination should be guided by the traffic studies conducted for the developments and the traffic impact fee areas associated with the impacted roads and intersections.

H. TRANSFER OF DEVELOPMENT RIGHTS

1. In order for land within areas designated as a limited growth area or a very low density growth area in the Future Land Use Plan of the 2006 Update of the Comprehensive Plan to be eligible to transfer development rights under this mechanism, the property shall meet the following criteria:
 - a. The contiguous acreage in common ownership must be a minimum of ten (10) acres;
 - b. A minimum of one (1) dwelling unit credit can be created on the property in accordance with Section VIID(H)(2)(b).
2. The establishment of dwelling unit credits under the transfer of development rights program requires Planning Board review and approval. An application for establishing the number of dwelling unit credits available on a parcel or portion thereof may be submitted by: a developer proposing to transfer the development rights to a development within the applicable zoning districts; a landowner seeking to establish development rights to be sold/transferred; or a non-profit conservation organization or land trust seeking to conserve land through the establishment and sale/transfer of development rights. The submission to the Planning Board shall include:
 - a. A Boundary Survey that indicates the boundary lines, dimensions and water bodies of the parcel of land or portion under consideration for development transfer. This survey shall be sealed by a professional land surveyor licensed by the State of Maine.
 - b. A net residential acreage calculation demonstrating the maximum number of dwelling units that could be created on the parcel of land or portion thereof in

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accordance with *Section VI DEFINITIONS, Net Residential Acreage* and the applicable net residential density as per the *SPACE AND BULK REGULATIONS* of the zoning district in which the land is located and the other development and subdivision standards of the Town including limits on the length of dead-end streets. This calculation may use published or publicly available information for some features if the Planning Board determines that this information will provide a reasonably accurate assessment of the development potential of the property.

- c. Documentation that indicates the owner of the land is willing to convey some or all of the development rights; a copy of the deed; and evidence of a clear title on the property.
- d. The Planning Board or Town staff may also require a sketch plan depicting an approvable subdivision of the parcel of land should there be questions about, or discrepancies with, the calculation of the net residential acreage.

Based on the information submitted in accordance with Section VIID(H)(2)(a) through (d) above, the Planning Board shall determine the reasonable development potential of the parcel or portion thereof and therefore the number of dwelling unit credits eligible for transfer. In making this determination, the Planning Board shall be guided by the Town's desire to see development transferred to growth areas and therefore, shall apply these requirements reasonably and to the benefit of the landowner when there are questions as to the number of credits to be allowed.

- 3. When a development proposes to utilize dwelling unit credits through this mechanism the applicant shall submit the following as part of the overall submission for subdivision and/or site plan review and approval:
 - a. The number of dwelling unit credits that are proposed to be applied to the development using the transfer of development rights.
 - b. The origin of the dwelling unit credits to be established as per Section VIID(H)(2) If a developer proposes to establish the development rights, then Section VIID(H)(2) can be reviewed concurrently with the overall development review by the Planning Board.
 - c. The dwelling units to be established using dwelling unit credits shall be identified as such on the final subdivision plan and/or site plan to be approved by the Planning Board and to be recorded at the Cumberland County Registry of Deeds.
 - d. A draft conservation easement to govern the parcel of land that is proposed to be restricted from development. The easement shall limit the land use of the parcel to agriculture, forestry, undisturbed open space, passive recreation or a combination thereof.
 - e. A letter of commitment as the holder of the conservation easement from the Town of Scarborough, the State of Maine, a non-profit conservation organization, or a land trust.
- 4. The content and conditions of the conservation easement shall be reviewed and approved by the Planning Board, in collaboration with the Town Council, Town Staff, and the Town Attorney, as part of final approval for the development.

SECTION VII.D. DEVELOPMENT TRANSFER PROVISIONS [ADOPTED 06/20/2007]

5. Evidence that the approved conservation easement has been recorded in the Cumberland County Registry of Deeds shall be provided to the Town Planner prior to the issuance of the first building permit for any dwelling unit identified as per Section VIID(F)(3)(c) above.

I. REGISTRY AND LANDOWNER ASSISTANCE

The Planning Department in conjunction with the Conservation Commission may provide assistance to landowners in limited growth and low density growth areas to evaluate the potential for development transfer and to facilitate the actual transfer of development. This assistance can be provided in conjunction with the Parks and Conservation Land Board or land trusts or other conservation organizations.

1. The Conservation Commission with assistance from the Planning Department shall maintain a registry that lists the owners of land in the limited growth or very low density growth areas that are interested in transferring their development rights by selling the dwelling unit credits from their property. The registry shall include information about the owner and the property and the potential number of dwelling unit credits available for transfer (if known). Listing in the registry shall be voluntary, shall be without charge, and shall include only the information desired by the landowner. The registry shall be available to the public and shall be posted on the Town's website. The registry shall be updated at least every three (3) months or whenever there is a change in the information provided by landowners.
2. The Conservation Commission shall establish a landowner assistance program for owners of land in limited growth or very low density growth areas that are interested in selling the dwelling unit credits from their property. This program is intended to help the property owner determine the number of dwelling unit credits they have available to be transferred. The provision of assistance through this program is voluntary and shall only occur at the written request of the landowner. The land owner assistance program shall focus on helping landowners to assemble/develop the information necessary to complete the net residential acreage calculation provided for in VIID(H)(2). As part of the program the Conservation Commission shall make published or otherwise available information including aerial photos, wetland mapping, medium intensity soil survey mapping, and maps of other natural resources and habitats available to a landowner at no cost to the landowner.
3. The Conservation Commission with assistance from the Planning Department shall prepare sample conservation easements and other documents that will be acceptable to the Town for the transfer of dwelling unit credits and make them available to interested landowners.

SECTION VII.E. ADDITIONAL REQUIREMENTS FOR PLANNED DEVELOPMENTS
[adopted 11/07/2007]

SECTION VII.E. ADDITIONAL REQUIREMENTS FOR PLANNED DEVELOPMENTS
[adopted 11/07/2007][Amended 03/18/2015]

A. GENERAL

Any proposal for a planned development must conform to the requirements of this section. The approval of a planned development involves a three phase process as follows:

- (1) The Site Inventory and Analysis Phase involves the preparation and review of a detailed analysis of the existing conditions on the site, the opportunities and constraints these conditions create for the use and development of the site, and the factors that must be addressed in the development of the Master Plan for the planned development. This phase must be completed before the Master Plan is submitted to the Town. For projects involving less than five (5) acres or that consist of a single building, the Master Plan may be submitted at the same time as the Site Inventory and Analysis.
- (2) The Master Plan Phase involves the preparation and review of a conceptual master plan for the overall planned development and the development standards that will apply to individual buildings, subdivisions, or phases of the development. Approval of the Master Plan and development standards must occur before any application is submitted for site plan review or subdivision approval.
- (3) The Site Plan or Subdivision Review Phase involves the preparation and review of the detailed development plans for individual buildings, subdivisions, or phases of the development in accordance with the Town's Site Plan Review Ordinance (Chapter 405B) and/or Subdivision Ordinance (Chapter 406) requirements. In addition to conforming to the requirements of those chapters and the other zoning requirements, a planned development must demonstrate that it is consistent with the approved Master Plan and its development standards.

B. WHERE PERMITTED

Planned developments are permitted only in those zones where they are expressly allowed by the standards of the zone.

C. AREA INCLUDED IN A PLANNED DEVELOPMENT

The intention of these requirements is that a planned development includes a substantial area that will allow for the master planning of a significant development activity. If a parcel is less than ten (10) acres, the entire area of the parcel must be included in the planned development unless the Planning Board determines otherwise based upon the unique characteristics of the parcel or existing development on the parcel. For lots with ten (10) acres or more, the Planning Board may permit a portion of the parcel to be treated as a planned development, or the parcel to be treated as more than one planned development, if it finds that such treatment will be consistent with the provisions of this section and will result in a coordinated development approach for the entire holding. If the Planning Board allows a planned development that is less than the entire parcel, the planned development must include at least five (5) acres. If the Planning Board permits multiple planned developments on a parcel, the Site Inventory and Analysis Phase and the Conceptual Site

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[adopted 11/07/2007]

Plan and Preliminary Infrastructure Plan of the Master Plan Phase submitted for the initial planned development must cover the entire area of the parcel.

D. SITE INVENTORY AND ANALYSIS PHASE

The Site Inventory and Analysis is intended to provide the applicant, Planning Board, staff, boards and utility districts, and public with a better understanding of the overall site and the opportunities and constraints that the natural and built environment create for the use and development of the site. The expectation is that the preparation of the inventory and analysis will result in a Master Plan for the planned development that reflects and is sensitive to the conditions on the site, that preserves areas that should be protected from development or intensive use, that utilizes the areas of the site that are most suitable for development for intensive use and development, and that recognizes and addresses identified constraints or limitations of the site. The Site Inventory and Analysis phase must be completed before the Master Plan is submitted except as provided for in A(1).

(1) Procedures

- a) The applicant shall deliver the Site Inventory and Analysis materials to the Planning Department with a request for the Board to initiate the review.
- b) Upon receipt of a Site Inventory and Analysis submission, the Planning Department shall review the submitted material and determine whether the submission is complete considering any requests for waivers of the submission requirements within five (5) working days of its receipt. If the staff determines that the submission is incomplete, he/she shall notify the applicant in writing of this finding, shall specify the additional material required to make the submission complete, and shall advise the applicant that the item will not be scheduled for discussion by the Planning Board until the additional information is submitted. A determination of incompleteness by the Planning Department may be appealed, in writing, to the Planning Board. These steps shall be repeated until the submission is determined to be complete.

When the submission is determined to be complete, the staff shall place the item on the agenda for discussion by the Planning Board at a workshop, and distribute copies of the submission to the Town Manager, Town Engineer, Public Works Director, Police Chief, Fire Chief, and utility districts for their review and comment. In addition, the staff shall notify all abutters and other property owners within five hundred (500) feet of the pending request and the date, time, and place of the workshop meeting at which the Planning Board will initiate review of the Site Inventory and Analysis.

As per the Planning Board's municipal capacity to review development projects that otherwise would require review by the Maine Department of Environmental Protection under the Site Location of Development Law, planned developments that include a minimum of three (3) acres or more of building and impervious coverage or fifteen (15) or more lots on thirty (30) or more acres shall also be submitted and reviewed by the State of Maine regarding significant wildlife and fisheries habitat and natural resources and significant historic and archeological resources as follows:

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The Maine Department of Inland Fisheries and Wildlife shall be provided with a complete Site Inventory and Analysis submission and shall have the ability to review and provide advisory comments on any significant wildlife habitat, aquatic habitat, fisheries habitat, or wildlife travel corridor on and within five hundred (500) feet of the site.

The Maine Historic Preservation Commission shall be provided with a complete Site Inventory and Analysis submission and shall have the ability to review and provide advisory comments on the presence of any significant historic or archeological resources that may exist on the site.

- c) The Planning Board may hold a public on-site inspection of the site to review the existing conditions, field-verify the information submitted, and investigate the opportunities and constraints of the site. This inspection shall be a formal meeting of the Board. The Board may schedule this visit either before or after the initial workshop at which Site Inventory and Analysis is considered.
- d) Prior to preparing its findings, the Planning Board shall provide the public with the opportunity to comment on the Site Inventory and Analysis and whether it accurately reflects site conditions, the opportunities and constraints for the use of the site, and the issues that need to be addressed in the Master Plan. This can occur as part of the Planning Board workshop or be a formal public hearing, public workshop, or other public session that allows for public comment on the submittal if deemed necessary by the Board. If the Board decides to hold a separate opportunity to allow public input, the board shall provide appropriate public notice of this opportunity including written notification of abutters and other property owners within five hundred (500) feet.
- e) The Planning Board may request peer review on any aspects of the submission.
- f) Within forty-five (45) days of the meeting for the initial consideration of the site inventory and analysis, the Planning Board shall provide the applicant with its findings in writing.

(2) Submission Requirements

The Site Inventory and Analysis submission shall include the appropriate application fee and fourteen (14) copies of the following five items plus any additional information the applicant wishes to submit to enable the Planning Board to evaluate the site and its development potential:

- A completed application form provided by the Town
- A Site Context or Locus Map
- A Site Inventory Plan
- A Site Analysis Plan
- A Site Analysis Narrative

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Each item shall include all of the information set forth below together with any supplemental information desired by the applicant. The Planning Board may not waive the submission of any of the five required items, but may waive the submission of individual pieces of data or information required for any of the five required items upon written request of the applicant and a finding, by formal vote of the Board, that the information is not needed to understand the conditions of the site and the opportunities and constraints resulting from these conditions.

- a) The Site Context or Locus Map shall show the location of the development in the Town and its relationship to adjacent property. The map shall be drawn at a size adequate to show the relationship of the proposed development to the adjacent properties within five hundred (500) feet of the site, and to allow the Board to locate the site within the municipality. The location map shall show:
 1. Existing subdivisions or other development in the proximity of the site.
 2. Locations and names of existing streets.
 3. Boundaries and designations of zoning districts.
 4. An outline of the land included in the planned development.
- b) The Site Inventory Plan shall show the existing natural features and resources and the built environment on and within five hundred (500) feet of the site. The Plan shall be an accurate scale plan of the site at a scale of not more than one (100) feet to the inch. If this scale is not adequate to show critical details of the inventory, the Planning Board may require larger scale plans be provided for these portions of the site. The Plan must show the following as a minimum:
 1. The proposed name of the development, north arrow (True Meridian), date, and scale.
 2. The boundaries of the parcel based upon a standard boundary survey prepared by a registered land surveyor and giving the bearings and distances of all property lines.
 3. Existing restrictions or easements on the site (if none, so state).
 4. The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site as determined by the Town Planner.
 5. The location, extent, and, where appropriate, value or condition of the natural features of the site and within five hundred (500) feet of the site, including wetlands, vernal pools, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats, scenic views or areas, significant geological features, or other important natural features. Information on adjacent properties may be from published sources.
 6. The soils on the site through a medium intensity soil survey. The Planning Board may require the submission of a high intensity soils survey if it determines that a high intensity survey is required to evaluate the appropriate use of the property.
 7. Vegetative cover conditions on the property according to general cover type, and the identification of any exceptional specimens including any trees with a diameter at breast height of more than twenty-four inches.

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8. Watershed and sub-watershed boundaries.
 9. The groundwater hydrology beneath the site including any information from test pits, borings, or existing wells.
 10. Existing buildings, structures, or other improvements on the site including streets, driveways, stone walls, fences, trails, and cemeteries (if none, so state).
 11. The approximate locations of all culturally, historically or archaeologically significant buildings, features, or sites. In particular, buildings, features or sites listed by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or Section VII.H. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance shall be identified.
 12. The location and size of existing utilities or improvements servicing the site (if none, so state).
- c) The Site Analysis Plan shall be at the same scale as the inventory plan (see b. above) and highlight the opportunities and constraints of the site in a bubble diagram or annotated format. This plan must enable the Planning Board to determine: which portions of the site: 1) are unsuitable for development or use; 2) are well suited for the proposed use; 3) have potential conservation or open space value that should be addressed in the Master Plan; and 4) may be subject to or create off-site conflicts or concerns (noise, lighting, visual intrusion, traffic, etc.).
- d) The Site Analysis Narrative must describe the existing conditions of the site, the constraints and opportunities created by the site, the potential for mitigating any potential conflicts or concerns, the development potential of the site, and the open space conservation potential of the site. This submission should include a narrative description of the existing road system that will provide access to the project and any issues related to traffic capacity, safety, sight distances, or other traffic considerations together with any preliminary studies done relative to the site including traffic studies, market studies, or other information that will help the Board understand the site and the proposed project.

(3) Planning Board Action

The Site Inventory and Analysis phase is informational and does not result in any formal approval or disapproval of the project. The Planning Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should be used and developed. The Planning Board shall also consider any input received from members of the Staff, other boards and commissions, utility districts, the Maine Historic Preservation Commission, the Maine Department of Inland Fisheries and Wildlife or members of the public. The Site Inventory and Analysis does not bind either the applicant or the board. The outcome of this phase of the review process shall be the identification by the Planning Board of the issues and constraints that must be addressed in the Master Plan and related submissions including proposed development standards.

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E. MASTER PLAN PHASE

The Master Plan is intended to lay out, in general terms, how the planned development will be developed including the proposed use of various parts of the site, the primary road and pedestrian network, primary utility network, overall approach to stormwater management, proposed development areas, proposed open space areas, and proposed buffer areas and the development standards that will apply to development proposals. The intention of this phase is to provide the overall development framework for the district into which specific projects can then be fitted to produce a coordinated development.

(1) Procedures

- a) The applicant shall initiate the review process by delivering the Master Plan materials to the Planning Department with a request for the Board to initiate the review.
- b) Upon receipt of a Master Plan submission, the Planning Department shall review the submitted material and determine whether the submission is complete considering any requests for waivers of the submission requirements within five (5) working days of its receipt. If the staff determines that the submission is incomplete, he/she shall notify the applicant in writing of this finding, shall specify the additional material required to make the submission complete, and shall advise the applicant that the item will not be scheduled for discussion by the Board until the additional information is submitted. A determination of incompleteness by the planning staff may be appealed, in writing, to the Planning Board. These steps shall be repeated until the submission is determined to be complete.

When the submission is determined to be complete, the staff shall place the item on the agenda for discussion by the Planning Board, and distribute copies of the submission to the Town Manager, Town Engineer, Public Works Director, Police Chief, Fire Chief, utility districts, and Conservation Commission for their review and comment. In addition, the staff shall notify all abutters and other property owners within five hundred (500) feet of the pending request and the date, time, and place of the workshop meeting at which the Planning Board will initiate review the Master Plan.

- c) The Planning Board may hold a public on-site inspection of the site. The Board may schedule this visit either before or after the initial meeting at which the Master Plan is considered. The site inspection is a formal meeting of the Board.
- d) The Planning Board shall provide the public with the opportunity to comment on the Master Plan. This can occur as part of the Planning Board workshop or be a formal public hearing, public workshop, or other public session that allows for public comment on the submittal if deemed necessary by the Board. If the Board decides to hold a separate opportunity to allow public input, the board shall provide appropriate public notice of this opportunity including written notification of abutters and other property owners within five hundred (500) feet. e) Within forty-five (45) days of the workshop for the initial consideration of the Master Plan, the Planning Board shall approve, approve with conditions, or disapprove the Master Plan. The time for consideration of the Master Plan may be extended with the mutual consent of the applicant and the Planning Board. The Board shall provide the applicant with a written record of its action and supporting findings within seven (7) working days of its action.

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(2) Submission Requirements. The Master Plan submission shall include the appropriate application fee, and fourteen (14) copies of the following six items plus any additional information the applicant wishes to submit to enable the Planning Board to evaluate the proposed development and the treatment of the site vis-à-vis the Site Inventory and Analysis:

- A Development Narrative
- A Conceptual Site Plan
- A Preliminary Infrastructure Plan
- A Neighborhood Impact Mitigation Plan
- An Environmental Assessment
- Development and Design Standards
- Historic Preservation Plan

Each item shall include all of the information set forth below together with any supplemental information desired by the applicant. The Planning Board may waive the submission of any of the six required items as well as the submission of individual pieces of data or information required for any of the six required items upon written request of the applicant and a finding, by formal vote of the Board, that the information is not needed to understand how the proposed development relates to the conditions of the site or the proposed nature of development, or that the information is not appropriate given the scale of the development.

- a) The Development Narrative must describe the overall nature of the proposed development, the general utilization of the site, the types and scale of anticipated development, and provisions to address the constraints and limitations identified in the Site Inventory and Analysis. The development narrative must specifically address how the planned development standards of the zone in which the development is located will be met.
- b) The Conceptual Site Plan must be an accurate, scaled plan at the same scale as the Site Analysis Plan submitted in the Site Inventory and Analysis Phase and show the proposed layout of the site, the proposed use of various parts of the site, the primary road and pedestrian network, primary utility network, overall approach to stormwater management, proposed development areas, proposed open space areas, and proposed buffer areas. The conceptual site plan may show proposed uses in a bubble diagram or similar conceptual format and does not need to include the location of individual buildings. However, if buildings are not shown on the conceptual site plan, the development standards (see f. below) must address the site and architectural design issues related to the design of individual buildings and sites.
- c) The Preliminary Infrastructure Plan must show the layout and preliminary design of the various infrastructure components that will serve as the core infrastructure for the site if the site will have any internal infrastructure/utility networks. This should address off-site infrastructure improvements where necessary. The Plan should include the proposed primary road network within the development as well as access into and out of the site, the public water and sewerage systems, the overall approach to stormwater management including any mitigation activities to comply with state stormwater requirements, electric,

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cable, and fiber optic systems, and any shared or common facilities such as parking or service areas.

- d) The Neighborhood Impact Mitigation Plan must describe how the impacts of the proposed development on neighboring residential areas including traffic, noise, exterior lighting, and visual considerations will be minimized. The impact mitigation plan must specify the areas that will be retained as buffers and how those areas will be treated and protected. The plan must include any specific standards or requirements that will be imposed on individual buildings or projects such as increased setbacks, buffering or landscaping, and similar measures.
- e) The Environmental Assessment must identify and evaluate the importance of the natural resources on the site based upon the Site Inventory and Analysis, detail how the Conceptual Site Plan has been designed to minimize encroachment on high value resources identified in the Site Inventory and Analysis, describe actions that will be taken to reduce adverse impacts on these resources from the proposed use of the site, and what mitigation activities will be undertaken to compensate for any undesirable negative impacts. The Environmental Assessment must also address how the development will conform, in a general sense, to federal, state, and local environmental regulations.
- f) Development and Design Standards that will apply to individual buildings or projects if the Conceptual Site Plan does not address site and building design issues. The standards should assure that the development will conform to the design elements of the zoning district in which it is located, as well as the Design Standards for Scarborough's Commercial Districts, and result in a coordinated, visually-integrated development. These standards must address, at a minimum, parking layout and design, landscaping, exterior lighting, signage, pedestrian and bicycle facilities, noise, and architectural design and details.
- g) Any historic or archeological resource that has been identified by the Maine Historic Preservation Commission, the Town's adopted Comprehensive Plan, or Section VII.H. Historic Preservation Provisions of the Town Scarborough Ordinance should be preserved and incorporated into the development plan in a manner that retains its historic or archeological value if feasible. If an identified resource will be removed or will be altered in a manner that diminishes its historic or archeological value, the burden is on the applicant to demonstrate that options for preserving the resource have been explored. The Planning Board, Planning Department, and the applicant may consult the State Historic Preservation Office, the Scarborough Historical Society, or similar organizations with the mission of historic and archeological preservation on options for preserving the resource. If the resource will be removed, the applicant must demonstrate that reasonable efforts have been made to preserve the resource value or relocate it to another location.

(3) Planning Board Action

The Planning Board shall approve the Master Plan only if it finds that it complies with the following criteria. The Planning Board may impose conditions on its approval of the Master

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Plan if it finds that such conditions are necessary for the Master Plan to comply with the approval criteria:

- a) The Master Plan is consistent with the Site Inventory and Analysis and reflects a reasonable utilization of the site given both environmental and built-environment considerations. Areas that are proposed to be intensively developed or used are located in the areas identified for development in the Site Inventory and Analysis. Areas that were identified as being unsuitable for development in the Site Inventory and Analysis are protected and the adverse impacts of development mitigated. Areas that were identified as having open space or conservation and natural resource value in the Site Inventory and Analysis have been addressed and the resource value maintained through the utilization of the site, mitigation activities, and/or on or off-site compensatory activities. Other issues and concerns identified in the Site Inventory and Analysis have been appropriately addressed in the Master Plan.
- b) The Master Plan is consistent with the space and bulk standards, the development standards, and other requirements for planned developments in the zoning district in which it is located.

Section VII.F. AQUIFER PROTECTION OVERLAY DISTRICT

Section VII.F. AQUIFER PROTECTION OVERLAY DISTRICT

A. PURPOSE

The purpose of the Aquifer Protection Overlay District is to protect the quality of the groundwater in significant sand and gravel aquifers by managing land use activities and development that occurs in the areas located above these deposits. The standards focus on minimizing the potential for contamination of the groundwater from:

- improperly functioning subsurface wastewater disposal systems
- leakage or spillage of heating oil and similar products
- leakage or spillage of commercial chemicals and petroleum products
- improper application or use of agricultural chemicals and fertilizers
- the infiltration of “untreated” stormwater runoff from impervious surfaces

B. APPLICABILITY

The requirements of the Aquifer Protection Overlay District apply to all land use and development activities that are located above a “significant sand and gravel aquifer” as identified by the Maine Geological Survey and depicted on the “Official Zoning Map”. Where there is uncertainty about the boundary of the Overlay District, the burden of proof shall be on the owner(s) of the land in question to provide the Code Enforcement Officer with information from a qualified professional geologist, geotechnical engineer, or soil scientist as to the location of the aquifer to assist the Code Enforcement Officer in delineating the boundary of the Overlay District.

The requirements and standards of this overlay district apply in addition to, and supplement the standards of the underlying zoning district in which the land is located as well as any other applicable standards of the Zoning Ordinance. If there is conflict between these standards and requirements and those of other provisions of the Zoning Ordinance or other Town ordinances, the more restrictive provisions apply.

C. PROHIBITED ACTIVITIES

The following uses of land and activities are prohibited within the Aquifer Protection Overlay District even if the use or activity is allowed in the underlying zone:

1. Disposal of solid waste (except brush and stumps), leachable wastes (except subsurface disposal of domestic-like wastewater as defined by the State of Maine), and sludge. This prohibition shall not apply to the land application of sewage sludge in accordance with Best Management Practices established by the Maine Department of Agriculture and/or Department of Environmental Protection.
2. The commercial storage of leachable wastes or solid wastes in an amount greater than typically associated with the principal use of the site.

D. REQUIREMENTS APPLICABLE TO RESIDENTIAL AND NONRESIDENTIAL USES AND ACTIVITIES

The following requirements apply to all residential and nonresidential uses and activities within the Aquifer Protection Overlay District.

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1. Standards for Subsurface Wastewater Disposal Systems

- a.** All new or replacement subsurface wastewater disposal systems for residential and non-residential uses shall conform to the Town of Scarborough Plumbing Ordinance and the Maine Subsurface Waste Water Disposal Rules.
- b.** Any property owner or applicant proposing to install a subsurface wastewater disposal system for either a residential or non-residential use that uses one or more septic tanks with a combined capacity of more than one thousand two hundred fifty (1250) gallons or a system with a design capacity of more than two thousand (2000) gallons per day must demonstrate that nitrate concentrations in the groundwater will not exceed five (5) mg/L at all property lines of the parcel. No building, plumbing, or other permit, or Planning Board or Code Enforcement Officer approval shall be issued until this requirement is met. The property owner or applicant subject to this requirement shall submit a hydrological analysis demonstrating compliance with this standard as part of any application for a permit or Planning Board approval.

2. Standards for Fuel Tanks and Fuel Supply Lines

- a.** Any new or replacement tank for the storage of heating oil, kerosene, or other petroleum-based fuel for use on either a residential or non-residential site must be either a double-walled tank or be equipped with secondary containment meeting the Maine Department of Environmental Protection requirements for use in a “wellhead protection zone”.
- b.** Any new or replacement tank for the storage of heating oil, kerosene, or other petroleum-based fuel for use on either a residential or non-residential site that is located outside of a building or structure must be white or a light color and be equipped with a filter protector designed to protect the filter from damage if the filter is not otherwise protected from possible damage by its design or location in the installation.
- c.** Any existing unprotected buried fuel line must be replaced by a properly sleeved fuel line in accordance with state requirements prior to: 1) the issuance of any plumbing, building, electrical, or other Town permit, or 2) the sale or transfer of the property to another party.

3. Standards for Floor Drains

- a.** Floor drains are not permitted in any area of a residential or non-residential building or site where chemical or petroleum products are used, handled, or stored.
- b.** Floor drains in other areas of the building or site must be registered with the State of Maine and a permit obtained if required. Proof of registration must be submitted prior to the issuance of any building or plumbing permit or any approval by the Planning Board or Code Enforcement Officer.
- c.** This provision does not apply to foundation drains, discharges of groundwater or stormwater from sump pumps, or similar uncontaminated discharges of groundwater or stormwater.

4. Standards for Stormwater Management

- a.** All new or expanded activity that requires site plan review must provide for the treatment of stormwater generated on the site.
- b.** This requirement for the treatment of stormwater can be met by one of the following:
 - 1) Obtaining a stormwater permit from the Maine Department of Environmental Protection (DEP) in accordance with the Chapter 500 Stormwater Rules, or

Section VII.F. AQUIFER PROTECTION OVERLAY DISTRICT

2) If a state stormwater permit is not required, by submitting a stormwater management plan that either:

- a) demonstrates compliance with the “basic standards” of Section 4 of Chapter 500 Stormwater Rules including the infiltration standards of Appendix D, and “the other applicable standards” of Section 5 of Chapter 500, or
 - b) provides for the treatment of 0.5 inches of stormwater runoff from ninety (90) percent of the impervious surfaces on the site and 0.2 inches of runoff from all disturbed pervious areas of the site using Low Impact Development (LID) practices as set forth in Chapter 10 of Volume III of the DEP BMP Technical Design Manual or other practices approved by the Planning Board.
- c. The owner or operator of any property that must provide for treatment of stormwater under a. must also provide for the annual inspection and repair/replacement of all stormwater facilities as provided for in Chapter 419, Post-Construction Stormwater Infrastructure Management Ordinance.

E. ADDITIONAL REQUIREMENTS FOR NON-RESIDENTIAL USES

Non-residential uses and activities other than commercial agriculture and commercial animal husbandry must conform to the following requirements. These requirements do not apply to home occupations or other non-residential activities conducted in conjunction with an allowed principal residential use.

1. The use, storage, and handling of chemical and petroleum products in quantities greater than normal household use in conjunction with a non-residential use must conform to the following requirements. The storage of not more than six hundred sixty (660) gallons of fuel for heating and/or supply of an emergency generator or not more than twenty-five (25) gallons (or the dry weight equivalent) of other hazardous materials including fuel not for heating or generator supply shall be considered to be normal household use and is not subject to these requirements. Uses and activities in existence at the time of adoption of this provision that do not conform to these requirements may continue but must be brought into conformance with these requirements if:

- i) The entire building is renovated, or
 - ii) The building is cumulatively enlarged by more than twenty (20) percent of the floor area or building volume existing as of April 1, 2011, or
 - iii) The amount of impervious surface on the parcel is cumulatively increased by more than twenty (20) percent of the impervious area existing as of April 1, 2011, or
 - iv) The use of property is changed, or
 - v) Facilities for the handling, use, or storage of chemical or petroleum products are modified, upgraded or expanded. In this case, only the new or modified facilities are required to be brought into conformance unless provisions i, ii, iii, or iv applies.
- a.** All chemical and petroleum products must be stored under cover and on an impervious surface without floor drains.
- b.** Secondary containment must be provided for liquid chemical and petroleum products with the capacity to contain 110% of the maximum stored volume. Provisions must be made for the removal of precipitation from the containment structure, unless the containment area is enclosed within a structure or completely covered by a roof.

Section VII.F. AQUIFER PROTECTION OVERLAY DISTRICT

- c.** Tanks for liquid chemical and petroleum products must be equipped with automatic shutoff valves and high level alarms.
- d.** Above-ground piping must be designed and located to prevent line breakage due to collisions including protection by bollards or similar devices that reduce the potential for the piping being struck.
- e.** Containers and piping must be constructed of corrosion resistant materials.
- f.** All containers and tanks for the storage of chemical and petroleum products must be labeled showing the contents.

The owner or operator of a facility that is subject to this section must prepare a Spill Prevention Control and Countermeasures Plan (SPCCP) meeting the requirements of the Maine Department of Environmental Protection and provide both the Code Enforcement Officer and Fire Department with a copy of the Plan. The SPCCP must include information on the procedures the Fire Department can use in the case of a fire to minimize leaching of chemicals to limit groundwater contamination.

2. Commercial vehicles including construction and other heavy equipment that are regularly parked or stored on the site of a non-residential use must be parked on an impervious surface. This requirement does not apply to commercial vehicles that are parked in conjunction with an allowed residential use or to commercial vehicles or equipment on a site during construction for which a permit or approval has been obtained from the Town.

3. All fueling or servicing of commercial vehicles or equipment on the site of a non-residential use must either occur on an impervious surface or with appropriate spill/drip containment including the use of portable drip pans.

F. ADDITIONAL REQUIREMENTS FOR COMMERCIAL AGRICULTURAL OR COMMERCIAL ANIMAL HUSBANDRY USES

1. Any use of manure or agricultural fertilizers in conjunction with a commercial agriculture or commercial animal husbandry use must be done in accordance with Best Management Practices established by the Maine Department of Agriculture.

2. The use of agricultural pesticides and herbicides must conform to the rules and regulations of the Maine Board of Pesticide Control.

3. The use, storage, and handling of chemical and petroleum products in quantities greater than normal household use must be done in accordance with Best Management Practices established by the Maine Department of Agriculture and/or Maine Department of Environmental Protection. The storage of not more than six hundred sixty (660) gallons of fuel for heating and/or supply of an emergency generator or not more than twenty-five (25) gallons (or the dry weight equivalent) of other hazardous materials including fuel not for heating or generator supply shall be considered to be normal household use and is not subject to these requirements.

SECTION VII.G. TRANSMISSION TOWER OVERLAY DISTRICT – TTOD.

SECTION VII.G. TRANSMISSION TOWER OVERLAY DISTRICT – TTOD.

A. PURPOSE AND APPLICABILITY

The purpose of the Transmission Tower Overlay District is to establish specific geographic areas within the Town of Scarborough to allow for the appropriate siting of transmission towers in accordance with Section IX.F. Performance Standards – Transmission Towers and Telecommunication Facilities of this Ordinance.

B. PERMITTED USES

1. Transmission Towers subject to the performance standards of Section IX.F. of this Ordinance.
2. Any use permitted in the underlying zoning district in which the land is located.

C. SPECIAL EXCEPTIONS

1. Any special exception use allowed for in the underlying zoning district in which the land is located.

D. SPACE AND BULK REGULATIONS

The space and bulk regulations required in the performance standards of Section IX. F. of this Ordinance shall apply to Transmission Towers, otherwise the space and bulk regulations of the underlying zoning district shall apply.

SECTION VII.H. HISTORIC PRESERVATION PROVISIONS

SECTION VII.H. HISTORIC PRESERVATION PROVISIONS

A. PURPOSE

This section provides an inventory of the buildings and properties that the Town Council has identified as significant historical resources that contribute to the history, culture, identity and general welfare of the Town of Scarborough. In addition to identifying locally historic buildings and properties, the purpose of these provisions are to also provide zoning and land use measures and incentives to preserve, protect and enhance these community resources.

B. HISTORICAL PROPERTIES

The following is a list of buildings and properties of historical significance (“significant historical resources”) that have been designated by the Scarborough Town Council:

<i>Street Address</i>	<i>Assessors Map/Lot</i>	<i>Current or Historical Property Name</i>
193 Beech Ridge Rd	R021005	Merry Farm
213 Beech Ridge Rd	R012012	Meserve Homestead
132 Black Point Rd	R081014	Causeway Church
255 Black Point Rd	U014014	Cobble Stone House
319 Black Point Rd	R090010	Foss Homestead
428 Black Point Rd	R103010	Cobble Stone House
81 Black Point Rd	R073012	Hunnewell House
79 County Rd	R015078	Ralph Temm Homestead
80 County Rd	R015014	North Scarborough Grange
450 County Rd	R002005D	Universalist Church and Parsonage
1 Dresser Rd	R031020B	John Libby Homestead
12 Dunstan Landing Rd	U033013	Lettie Merrill Homestead
13 Dunstan Landing Rd	U033029	Noah Pillsbury Homestead
18 Dunstan Landing Rd	U033014	Jonathan Pillsbury Homestead
37 Dunstan Landing Rd	R065003	Old Fabyan House
49 Elmwood Ave	R057001	Owen Leighton House
4 Highland Ave	R081016	Abraham Plummer
184 Holmes Rd	R022009	Beech Ridge School
23 Hunnewell Rd	U048028	2nd Hunnewell House
22 King St	U022079	Ebb Tide (formerly Phoenix)
8 Lucky Lane	U029004	Ezra Carter Farm

SECTION VII.H. HISTORIC PRESERVATION PROVISIONS

100 Manson Libby Rd	R062006	Samuel Manson Libby Homestead
42 Manson Libby Rd	R062001	Libby Mitchell Post 76
34 Ocean Ave	U002171	Higgins Beach Inn
237 Pine Point Rd	U026049	1840 House
211 Pine Point Rd	U026058	The Old Maine House
248 Pine Point Rd	U025042	Old Blue Point Church
212 Pine Point Rd	U025002	John Harris Seavey House
265 Pine Point Rd	U024052	Proctor House
272 Route One	U041002	Bessey School
397 Route One	U038011	Dr. Haigis House
577 Route One	U034037	Southgate House
581 Route One	U034036	Southgate Barn
591 Route One	U034033	Dunstan School
605 Route One	U034029	Wayland
720 Route One	U029001	Mulbery Milliken Tavern
674 Route One	U032034	One Room Dunstan Schoolhouse
626 Route One	U032001	Dr. Bacon House
672 Route One	U032033	Benjamin Chadwick House
656 Route One	U032011	Dunstan Church (W Scar Methodist Ch)
647 Route One	U031033A	Scarborough Historical Society
649 Route One	U031033	Dunstan Grange Hall
152 Spurwink Rd	R098016	Ivory Kilburn House
178 Spurwink Rd	R098023	Mitchell Farm
194 Spurwink Rd	R097002	Stanford House
2 Two Rod Rd	R049013	Scottow Hill Schoolhouse
122 Two Rod Rd	R032001	Blossom Place
5 Winslow Homer Rd	U002044	Winslow Homer Studio

The standards the Town Council used in designating these properties as significant historical resources included: the age of the structure(s) on the property; the historical significance of the design and architectural features of the structure(s) on the property; the historical significance of the people associated with the property; and the historical significance of events associated with the property. This list of significant historical resources may be reviewed and updated by the Town Council from time to

SECTION VII.H. HISTORIC PRESERVATION PROVISIONS

time by utilizing these standards as review criteria. When conducting a review and update to this list the Town Council may consult with the State Historic Preservation Office, the Scarborough Historical Society, and/or a similar organization with background in historic preservation for information and guidance on compliance with these standards.

C. RESIDENTIAL DENSITY CREDIT FOR HISTORIC PRESERVATION

As an incentive to encourage the preservation of significant historical resources as identified by the Town of Scarborough as listed above, a property that includes the preservation of such significant historical resources may utilize a residential density “credit” in accordance with the following provisions and through Planning Board review and approval:

1. The subdivision or development plan shall be designed in a manner that preserves the identified significant historical resource and maintains, or improves, its historical nature and integrity. In the case of a historical building or structure that is in poor condition or disrepair, improvements may be necessary to repair or renovate the building or structure to restore its historical integrity, enable the long term preservation of the building or structure, and/or make it available for occupancy as determined by the Planning Board. The Planning Board shall also review and approve the form of long term preservation of the resource, which can be achieved by: establishing a historic preservation easement; by deed restriction; by donation to the Scarborough Historical Society, the Town of Scarborough, or similar organization with the mission of historic preservation; or by other means achieving long term preservation.
2. As part of the development review process the Planning Board shall review and approve the amount of land area necessary to preserve the significant historical resource (the “Preservation Lot”). The Planning Board shall ensure the land area is adequate to preserve the resource and configured to reasonably protect its historical significance. Unless already an existing legally nonconforming lot, the Preservation Lot shall be equal to the minimum lot area required for the zoning district it is in, unless the Planning Board determines additional land is required to preserve the significant historic resource due to certain landscape or other features.
3. Upon approval of the Preservation Lot by the Planning Board, the total number of dwelling units allowable within the remainder of the subdivision or development shall be increased by the number of dwelling units that exist within the historic building and/or are allowed for on the Preservation Lot, calculated by applying the net residential density requirement of the applicable zoning district to the net residential area of the Preservation Lot alone. This residential density increase, or “credit”, for the remainder of the subdivision or development shall be in addition to the existing and/or allowed residential density within the historic building and/or on the Preservation Lot, as an incentive to encourage the preservation of the significant historic resource.

D. BUILDING CODE EXCEPTIONS

The Maine Uniform Building and Energy Code (MUBEC) and the National Fire Protection Association Codes (NFPA) may provide for specified code exceptions for historic buildings that are designated by a local jurisdiction or municipality as a means for helping enable the preservation of historic buildings and their character and construction. This subsection establishes that the inventory of significant historical resources listed under subsection B. above shall qualify as historic buildings under MUBEC and NFPA exceptions, unless otherwise excluded from these exceptions in the code standards.

SECTION VIII. BUFFER AREAS

SECTION VIII. BUFFER AREAS

No building shall be erected or any use permitted in non-residential districts, which abut residential districts unless the following side and rear yard requirements are satisfied:

- 1.** All such side and rear yards abutting residential districts shall maintain the district boundary in its natural state to provide a visual screen between districts.
- 2.** Where no natural buffering can be maintained all such side and rear yards abutting residential districts shall be landscaped to provide a visual screen between districts. Because of varying site conditions, landscaping for the purposes of this may include tree plantings, hedges, fencing, walling and combination thereof.

SECTION IX. PERFORMANCE STANDARDS.

[Amended 05/05/2010][Amended 01/02/16][Amended 10/04/17]

A. GENERAL

1. Industrial waste waters may be discharged to municipal sewers only and in such quantities and/or of such quality as to be compatible with commonly accepted municipal sewage operations, and subject to the approval of the Scarborough Sanitary District.
2. Such wastes may require pretreatment at the industrial site in order to render them amenable to municipal treatment processes.
3. Pretreatment includes, but is not limited to screening, grinding, sedimentation, ph adjustment, surface skimming, chemical oxidation and reduction and dilution.
4. The disposal of industrial waste waters by means other than the municipal sewerage system must comply with the laws of the State of Maine and the Town concerning water pollution. Wash water or other process water carrying stone dust, stone particles, silt or other mineral matter will not be accepted into the municipal system. Representatives of the Town and for the Maine Department of Environmental Protection may enter into premises for the purpose of gauging, sampling and testing any waste water streams which may enter into water courses.
5. Dust, dirt and fly ash shall not exceed 0.3 grains per cubic foot of flue gas at stack temperature of 500 degrees Fahrenheit and shall in no manner be destructive, unhealthful, hazardous, nor shall visibility be impaired by the emission of a haze which unduly impedes vision within apparent opaqueness equivalent to No. 1 of the Ringlemann Chart as measured at any boundary line, using the procedures of the American Society of Testing Materials. Representatives of the Town and for the Maine Department of Environmental Protection may enter onto premises for the purpose of testing any and all sources of potential air pollution.
6. The limitations of paragraph 5, shall not apply to emission resulting from soot, blowing on any heat-transfer operation regardless of fuel source provided such emissions do not exceed an aggregate duration of more than one hour in any 24 hour period. Any industry emitting toxic or odoriferous substances must submit detailed plans to minimize such emissions to the Building Inspector before a permit is granted. Limitations of toxicity and odors of these substances shall be as set forth by the State of Maine.
7. All air pollution control shall comply with minimum State requirements and detailed plans submitted to the Building Inspector for approval, before a permit is granted.
8. Noise: Noise is required to be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness. Noise may be equal but not exceed, during any consecutive 8-hour period, an average of 75 decibels at 600 cps measured at any boundary line. During the peak activity of 60 minutes in a 24-hour period a noise may not exceed 100 decibels at 600 cps when measured at the source.

9. Upset conditions, breakdowns, or scheduled maintenance of any water and air pollution control equipment shall not be deemed to be in violation of established limits as specified above. Such person responsible for such emissions will with all practical speed, initiate and complete appropriate reasonable action to correct the conditions causing such emissions to exceed said limits. The Town may take said appropriate and reasonable actions and assess the cost to the violator or owner.

10. No permit shall be issued in an industrial district for any use which may be offensive because of noise or vibration, odors or fumes, smoke or dirt, or because of fire or explosion or any other hazard or nuisance.

11. In case of doubt, the Building Inspector may employ such independent, recognized consultant necessary, at the expense of the applicant, to assure compliance with performance standards and all other requirements of this Ordinance related to the public health, safety and welfare and the abatement of nuisances.

12. Swimming pools shall be accessory buildings. Swimming pools of more than 100 sq. ft. of surface area, except above ground pools, shall be enclosed by a fence of at least 4 ft. in height, equipped with self-locking doors of such structure as to exclude children. Above ground pools of more than 100 sq. ft. surface area shall be enclosed by sides, barriers or a fence, any of which singly or in combination must be at least 4 ft. in height and shall be equipped with either (a) self-locking platform doors of such structure as to exclude children or (b) portable ladders which shall be removed when pool is not in use.

13. Tenting Camping Seasonal:

1. During the period beginning on April 1 and ending on December 1 of each year, tenting and camping in camping trailers or otherwise shall be allowed within such district or districts as the Town Zoning Ordinances allow.

2. During the period beginning on April 1 and ending on December 1 of each year, seasonal retail stores for selling food including candy and dairy products and variety merchandise shall be allowed within such district or districts.

3. Such district or districts shall be subject to the following restrictions:

a. No person may establish, own or operate a seasonal campground without a permit issued annually by the Building Inspector for which the applicant shall pay a license fee per camp site located in or planned to be located in such seasonal campground. Such fees shall be as specified in the Municipal Schedule of License, Permit and Application Fees established by order of the Town Council. A schedule of such fees shall be filed with the Town Clerk and may be changed from time to time. Such permit shall only be issued if the campground is found to conform to the requirements of this ordinance and all other pertinent municipal ordinances, state statutes, and rules and regulations of state departments having jurisdiction.
[09/06/95]

b. Fires to be permitted only in specifically designated places and only under conditions and at times approved by the Fire Chief.

c. Service facilities which meet the following specifications be provided and continuously maintained in condition and in good operating order at all times when seasonal campground is open for business.

i. A continuous, adequate, safe and potable supply of water.

ii. Toilet facilities shall meet all requirements of the State Plumbing Code, and shall be specifically approved by the municipal health officer.

iii. The storage, collection and disposal of refuse shall not create health hazards, rodent harborage, insect breeding area, accident hazards of air pollution.

d. No sign shall exceed 50 square feet in area. Signs shall deal only with goods or services provided in the premises. The source of light of an illuminated sign must be shielded or concealed.

14. Parking & Storage. Parking or storage for more than one commercial motor vehicle is specifically prohibited as an accessory use in the R-2, R-3, R-4, and R-4A Districts except as accessory to a farm, truck garden or nursery. Parking or storage of more than two commercial motor vehicles is specifically prohibited as an accessory use in the RF District except as accessory to a farm, truck garden or nursery. Commercial vehicles shall not be parked or stored with engines, motors, or accessory motors in operation. [Amended 12/86]

15. Height Restrictions

a. No dwelling shall exceed three (3) stories or thirty-five (35) feet in height. (8/06/97)

16. Boat Storage. No vessel exceeding twenty-four (24) feet in length shall be stored or parked on any residential property unless the vessel is stored or parked so as not to violate the minimum front, rear and side yards for structures.

17. Timber Harvesting. On any lot where timber harvesting occurs, a minimum 50-foot wide buffer area shall be maintained between the property line and the harvesting activity. Slash shall be disposed of in such manner that it lies on the ground and no part thereof extends more than four feet above the ground.

18. Recycling Facilities. 03/06/96

a. No Recycling Facility, as defined in Section VI of this Ordinance, shall be operated until a site plan is approved by the Scarborough Planning Board under the Scarborough Site Plan Review Ordinance. 03/06/96

b. Any Recycling Facility which collects, stores or processes any material outdoors must comply with the same standards for screening as apply to automobile graveyards and junkyards under subchapter I of chapter 183 of Title 30-A of the Maine Revised Statutes. 03/06/96

c. Any Recycling Facility which collects, stores or processes any material outdoors must receive an annual license from the Scarborough Town Council, which shall apply the same

standards and procedures as apply to automobile graveyards and junkyards under subchapter I of chapter 183 of Title 30-A of the Maine Revised Statutes. 03/06/96

d. All Recycling Facilities shall be subject to at least an annual inspection conducted by the Code Enforcement Officer and such other municipal officials as the Code Enforcement Officer may designate for the purpose of determining compliance with all applicable Town ordinances and with all conditions of site plan approval. 03/06/96

B. PERFORMANCE STANDARDS--IN-HOME OFFICES (2/01/95)

In any district, the Code Enforcement Officer may issue a permit for the operation of an in-home office by one or more residents of a dwelling unit as an accessory use to the dwelling unit. An in-home office shall not be considered a home occupation requiring a special exception permit if the following conditions are met:

- a. customers or clients do not come to the dwelling to receive goods or services;
- b. communication with customers, clients and business associates is principally by mail, electronic mail, telephone or other telecommunication device, and deliveries or pick-ups by truck, if any, occur at an average frequency not substantially greater than the ordinary frequency of delivery truck traffic at a single family residence.
- c. there are no signs or any other exterior indications of the in-home office activity;
- d. the activities conducted within the in-home office are limited to processes, such as data processing, word processing, desktop publishing and electronic research, which do not create noise, pollution or nuisance conditions detectable outside the dwelling;
- e. the in-home office does not employ any persons who are not residents of the dwelling unit; and
- f. there are no signs (other than a name on a mail box which complies with U.S. Postal Service regulations), exterior exhibits, exterior exhibits, exterior storage of materials or any other exterior indications of the in-home office.

The permit for an in-home office shall set forth the foregoing conditions and shall not be valid until the applicant agrees, by signing the permit, to operate the in-home office in compliance with those conditions. The permit shall list the names of the persons who will operate the in-home office and shall remain valid only so long as one or more of those listed persons continues to reside in the dwelling unit.

C. PERFORMANCE STANDARDS -- BOARDING CARE FACILITIES FOR THE ELDERLY

The following standards shall apply to all Boarding Care Facilities for the Elderly.

1. The minimum lot size shall be 5 acres.

2. The maximum density of residents' rooms shall be 14 rooms per acre and the total number of beds shall not exceed 1.3 times the number of residents' rooms.
3. No cooking facilities shall be permitted in any residents' rooms.
4. Occupancy of the residents' rooms shall be limited to persons over the age of 62 or households with at least one resident over the age of 62.
5. Notwithstanding Section IX (A)(15)(a) of this ordinance, buildings in which residents' rooms are located may be up to three (3) stories in height, provided they do not exceed thirty-five (35) feet in height.
6. The facility must be served by both public water and public sewer.
7. For facilities located in residential districts, the minimum front yard shall be 75 feet and the minimum side and rear yards shall be 50 feet. For facilities located in business districts, the minimum yard standards in the space and bulk regulations of that district shall apply.
[Amended 06/20/12]

D. ACCESSORY OUTSIDE DISPLAYS. [04/94][06/03/98]

In any district a retail sales or service business, which operates principally within a building, may display merchandise or render services (other than dispensing of motor fuels) outside the building, provided such display or service is incidental and secondary to the business conducted within the building. No merchandise displayed under this subsection may be located in any required yard or buffer area, in any parking space required to meet the minimum standards of Section XI of this Ordinance or in any location which would interfere with (1) safe movement of pedestrians into and out of the building, (2) safe movement of pedestrians between parking areas and the building or (3) safe flow of traffic on the site. No such Accessory Outside Display shall be located on any property, which has received site plan approval from the Scarborough Planning Board under the Scarborough Site Plan Review Ordinance after April 6, 1994 except in areas designated for outside display on the site plan.

E. ACCESSORY OUTSIDE VENDING MACHINES. [04/94][06/03/98][09/05/12]

In the B-1, B-2, B-3, TVC, TVC-2, TVC-3, TVC-4 BO-R, I-O and Industrial Districts, and on the premises of a non-conforming use in any other district if such use is allowed in the B-1, B-2, B-3, TVC, TVC-2, TVC-3, TVC-4, BO-R, I-O or Industrial Districts, vending machines may be located outdoors, provided they are incidental and secondary to the principal use of the premises. No vending machines allowed under this subsection may be located in any required yard or buffer area, in any parking space, loading berth or loading bay required to meet the minimum standards of Section XI of this Ordinance or in any location which would interfere with (1) safe movement of pedestrians into and out of the building(s) on the premises, (2) safe movement of pedestrians between parking areas and the building(s) or (3) safe flow of traffic on the site. No such accessory outside vending machines shall be located on any property which has received site plan approval from the Scarborough Planning Board under the Scarborough Site Plan Review Ordinance after April 6, 1994 except in locations designated for outside vending areas on the site plan. As used in this subsection (E), the term "vending machines" includes self-service mechanical dispensers such

as soft drink machines, candy machines, cigarette machines and news racks and free-standing containers or racks from which customers pick up merchandise to be purchased inside the building, but excludes motor fuel pumps.

F. PERFORMANCE STANDARDS--TRANSMISSION TOWERS [added 5/17/95]

The purpose of these standards are to allow for the appropriate siting of transmission towers and telecommunications facilities for wireless transmission and reception for the use and benefit of the general public, while minimizing adverse visual effects of transmission towers and telecommunication facilities through careful design, siting, and vegetative screening; avoiding potential damage to adjacent properties from tower failure and falling ice through proper engineering; and promoting cooperation of service providers and the collocation of antennas. All new transmission towers and telecommunications facilities, or the increase in height of an existing transmission tower, as applicable, shall conform to the following standards and be reviewed and permitted under the Site Plan Review Ordinance by the Planning Board or as a Special Exception by the Board of Appeals, unless the changes to a tower comply with subsection 2(k). below.

1. Priority of Locations.

Applicants shall use the following procedure when proposing the siting and installation of any transmission tower or telecommunications facility. The siting of transmission towers, wireless transmission or reception antennas, and wireless telecommunications facilities must be located according to the priorities below: (a) new wireless transmission or reception antennas on existing transmission towers; (b) new transmission towers in the Industrial (I) and Light Industrial (LI) Districts; (c) new telecommunication facilities mounted on, or within, buildings and structures in the districts where they are permitted or special exception uses; and (d) new transmission tower in the Transmission Tower Overlay District (TTOD). The application shall demonstrate that a location of higher priority cannot reasonably fulfill the applicant's requirements for coverage improvements in the intended geographic area.

- a. Existing Transmission Towers – When available, new wireless transmission or reception antennas shall be installed on existing transmission towers, provided that such installation will comply with the performance standards of this subsection.
- b. New Transmission Towers within the I or LI Districts – New transmission towers are permitted in the I and LI Districts, but the Planning Board may not approve an application for a new transmission tower in the I or LI Districts unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a) above cannot reasonably accommodate the applicant's proposed facility.
- c. New Telecommunication Facilities – New telecommunication facilities are permitted, but the Planning Board may not approve an application for a new telecommunications facility unless the Board first finds that the applicant has

submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a-b) above cannot reasonably accommodate the applicant's proposed facility. The application and design of a new telecommunication facility shall comply with the performance standards of this subsection.

- d. New Transmission Towers within the Transmission Tower Overlay District - New transmission towers are permitted in the TTOD, but the Planning Board may not approve an application for a new transmission tower within the TTOD unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a-c) above cannot reasonably accommodate the applicant's proposed facility.

As stated above, an applicant must submit substantial evidence and justification to demonstrate that a location of higher priority cannot reasonably accommodate the applicant's proposed facility. Justification may include evidence that: existing towers are not of sufficient height to meet the applicants engineering requirements; existing towers do not have sufficient strength, capacity or expansion capabilities for additional antennas as determined by a Maine P.E.; a facility in a different location would not be suitable to adequately serve the intended geographic area necessary to meet the applicants requirements; a new transmission tower would cause electromagnetic interference with antennas on existing towers or structures in proximity to a proper location in the I or LI District; no buildings or structures were identified that could accommodate or would be suitable for installing a telecommunications facility, or where the owner of the building or structure rejected the installation of such a facility; and/or other reasons that a new transmission tower or telecommunications facility cannot meet the applicant's engineering requirements for the geographic area. This evidence shall be submitted to the Planning Board for review as part of any application for a new installation.

2. Standards for Transmission Towers.

In addition to the priority of location requirements in Section IX(F)(1) above, transmission towers must comply with the following performance standards:

a. Height.

- (i) Within the Transmission Tower Overlay District the standard height limit for a new transmission tower shall be 130 feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may allow the standard height limit to be exceeded by up to an additional 20 feet, to a maximum of 150 feet, if the increase in height enables the collocation of additional antennas that otherwise could not be accommodated on the tower and results in no material increase in the visual impacts of the tower as determined by the Planning Board. The Planning Board may also require the height of a tower be reduced down by as much as 20 feet, to a maximum of 110 feet if the Board finds through review that reducing the tower height most effectively screen and mitigate the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces. When considering a reduction in

the maximum tower height, the Planning Board shall ensure that such a reduction still accommodates the colocation requirements of subsection g.

(ii) Within the Industrial and Light Industrial Districts the height limit for a new transmission tower or the expansion of an existing transmission tower shall be 200 feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may require the height of a tower be reduced down by as much as 20 feet, to a maximum of 180 feet if the Board finds through review that reducing the tower height would materially reduce the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces, including to avoid the need for FAA lighting.

b. Minimum Lot Size and Setbacks.

(i). Within the I and LI Districts there is no minimum lot size for transmission towers, but the standard setback from the base of the tower to all property lines shall be a distance equivalent to 100% of the total tower height, including any attached transmitting or receiving antennas and devices. Accessory structures shall meet the minimum setbacks for the zoning district. The Planning Board may decrease the standard 100% setback if the applicant secures an easement(s) from the abutting property(s) that allows for a lesser setback. The easement shall allow the tower to be located closer to the property line than the 100% requirement above. An easement from an abutting property shall not however enable a tower to be sited closer to the abutting property line than the minimum front, side and rear yard setback requirements of the zoning district and the combined distance of the easement from the property boundary and the setback must be equivalent to 100% of the tower height.

(ii) Within the Transmission Tower Overlay District, the minimum lot size for a new transmission tower shall be twenty-five (25) acres. The standard setback from the base of the tower to all property lines shall be a distance equivalent to 150% of the total tower height, including any attached transmitting or receiving antennas and devices. Accessory structures shall meet the minimum setbacks for the zoning district. The Planning Board shall have the discretion to either increase the standard setback up to 300% or decrease the standard setback down to 100% of the total tower height if it finds through review that siting the tower in a different location will better screen and buffer the tower from view of the surrounding properties, abutters, roadways and public spaces. The Planning Board may also decrease the standard 150% setback if the applicant secures a restrictive easement(s) from the abutting property(s) that allows for a lesser setback. The restrictive easement shall prohibit dwellings within the easement area so as to allow the tower to be located closer to the property line than the 150% requirement above. A restrictive easement from an abutting property shall not however enable a tower to be sited closer to the abutting property line than the minimum front, side and rear yard setback requirements of the zoning district, but the combined distance of the restrictive easement from the property boundary and the lot setback must be equivalent to 150% of the tower height.

After a transmission tower is approved and installed, the Planning Board may allow a reduction in the minimum lot size from 25 acres to a minimum of 5 acres and a setback distance equivalent to 150% of the total tower height including any attached transmitting or receiving antennas and devices. This lot size reduction is allowed only through Planning Board review to enable additional uses and/or subdivision of the parcel. The allowed reduction in original lot size shall not however reduce or lessen the buffering requirements under subsection (c) below and shall not increase the visual impact of the tower on surrounding properties, roadways and/or public spaces.

c. Buffering.

(i) Within the I and LI Districts, transmission towers shall be surrounded by a buffer of dense tree growth and vegetation that screens the facility and minimizes the visual impact from all directions. If the majority of the site is heavily vegetated with mature tree growth and effectively screens the facility, the Planning Board may require the existing vegetation to be preserved, and supplemented with new plantings where necessary, except for the minimum amount of clearing necessary to install the facility and provide access and utilities. If the site is already developed for a commercial or industrial use, the Planning Board shall have the authority to allow a reduced buffer based on site conditions and the current use of the property so long as the visual impacts of the tower are minimized to the extent practical.

(ii) Within the Transmission Tower Overlay District, all transmission towers shall be surrounded by a buffer of dense tree growth and vegetation that screens the facility and minimizes its visual impact from abutting properties, roadways and public spaces. If the majority of the site is heavily vegetated with mature tree growth and effectively screens the facility, the Planning Board may require the existing vegetation to be preserved, and supplemented with new plantings where necessary, except for the minimum amount of clearing necessary to install the facility and provide access and utilities. If heavy vegetation and mature tree growth are not present to effectively screen the facility on one or more property lines or from surrounding roadways or public spaces, the Planning Board shall have the authority to require the tower to be sited in an alternative location on the property that exhibits an adequate buffer or screening as provided for under subsection (b)(ii) above. The Planning Board shall have the authority to require the landscape buffer be protected by a landscape easement specifying that the trees within the buffer not be removed or topped, unless the trees are dead or dying. This landscape easement may include a distance equivalent to 150% of the total tower height, be within the carrier's lease, and/or apply to buffering and vegetation on other areas of the site that provide effective screening.

d. Visual Impact Analysis.

In order to review and assess the suitability of the proposed buffering of a tower (under subsection c.), the optimal tower setback from adjacent property lines (under subsection b), the proposed color, style and height of the tower (under subsections a. and e.), and the towers overall visual impacts and effects, the Planning Board may require photo simulations of the tower within the landscape from a variety of

perspectives, including surrounding roadways, abutting properties, and public spaces. In addition, the Planning Board may also require other simulations of the tower height and location within the landscape using a balloon test or similar method typical in the industry. Using this visual impact analysis the Planning Board shall have the authority and discretion to mitigate and minimize the visual impact of a tower by: specifying the required tower setback and location as provided for under subsection b., requiring changes and/or enhancements to the buffering as provided for under subsection c.; and regulating the tower height and style as provided for under subsections a. and e.

e. Tower Style.

Tower types shall be limited to monopole-style towers painted in a sky tone above the top of surrounding trees and in an earth tone below tree-top level or stealth towers exhibiting concealed antennas or camouflaging treatment, such as monopine towers, as determined by the Planning Board.

f. Lighting.

Towers and attached antennas and devices shall not be artificially lighted, unless required by the FAA or other federal or state agency. If lighting is required, the Planning Board may review the available lighting alternatives and require the design that would cause the least impact to surrounding properties and views.

g. Colocation.

All new transmission towers shall be designed and constructed to accommodate the colocation of additional antennas, equipment and facilities on the tower and site. To meet this standard the applicant, owner and all other tower users shall allow other commercial wireless telecommunication service providers using functionally compatible technology to collocate; shall provide a mechanism for the construction and maintenance of collocated antennas and infrastructure; and shall provide for reasonable sharing of costs in accordance with industry standards. To ensure colocation and prevent the need for additional new towers within the same coverage area, the Planning Board may require an existing or new tower to be increased in height up to the maximum height allowed and/or make other accommodations in order to provide for colocation. When designing a tower and site for colocation the facility should be designed to accommodate the inclusion of at least three additional telecommunication service providers and shall have the structural integrity to accommodate these additional antennas and/or an expansion in height of the tower. The Planning Board may waive the requirement for colocation or the number of additional providers to be collocated, but only after the Planning Board reviews and determines with satisfactory evidence that technical constraints prohibit colocation.

h. Advertising.

No advertising or signage is permitted on transmission towers or any attached transmitting and receiving antennas or devices.

i. Coverage.

As part of any proposal the applicant shall submit a radio frequency coverage analysis showing existing or planned wireless facilities within 10 miles of the

proposed location. Maps shall be supplied that indicate on street and in building coverage for both existing/planned sites and the proposed location. The coverage analysis for the proposed location must show all available optional antenna heights if it is a co-location or all possible antenna heights starting at a minimum of 90 feet if it is a new facility. The coverage analysis must use each current licensed frequency band by the applicant. An applicant shall demonstrate that there is inadequate coverage for the area covered by the application.

j. Structural Standards.

Transmission towers erected after May 17, 1995 shall meet all applicable requirements of federal and state regulations and shall be designed and installed in accordance with the standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna supporting Structures.

k. Existing Towers.

Transmission towers existing before May 17, 1995 which do not comply with these performance standards or with the use or dimensional requirements of the zoning district in which they are located may continue to be used subject to the provisions of Section III of this Ordinance. The addition, removal or relocation of transmitting or receiving devices on such towers does not constitute the expansion or enlargement of the nonconforming use and does not require review under the Scarborough Site Plan Review Ordinance, provided the total height of the transmission tower, including attached devices, is not increased.

l. Abandonment.

A transmission tower and associated facilities that is not operating for a continuous twelve month period shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to Code Enforcement that the facility has not been abandoned. If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. The removal of the facility shall include removing the tower and associated facility and returning the site to its pre-construction condition including removing of roads and replanting vegetation.

If the facility is not removed within this period, the Town may remove the facility at the owner's expense. A copy of the relevant portions of a signed lease or other comparable signed legal instrument which requires the applicant to remove the tower and associated facilities and reclaim the site upon abandonment shall be submitted as part of the application. Further, a surety shall be provided to the Town to guarantee the removal of an abandoned tower, prior to the installation of the tower. The applicant must submit a sample form of surety along with its application to pay for the costs of removing the facility if it is abandoned. The surety must be obtained and delivered to the Planning Department after approval of the application by the Planning Board and prior to construction.

m. Shoreland Zoning.

Transmission towers shall not be allowed within any Shoreland Zoning District, including the Shoreland Overlay District and the Resource Protection District. Land within a Shoreland Zoning District however can be counted toward the minimum lot size and/or setback requirements provided the siting of the transmission tower is outside any Shoreland Zoning District.

n. Public Notification.

When an application for a modification to an existing transmission tower or for a new transmission tower is received and accepted by the Town Planner, the Planner shall give a dated receipt to the applicant and shall notify by mail all property owners abutting the tower site or lot once the application has been scheduled for a Planning Board agenda.

3. Standards for Telecommunications Facilities.

In addition to the priority of location requirements in Section IX(F)(1) above, telecommunications facilities must comply with the following performance standards. Where allowed as a special exception use, the Board of Appeals may issue a special exception for the installation of a telecommunication facility only if the facility also meets the standards for special exceptions in Section IV(I)(4). Before making a decision on any telecommunication facility special exception application, the Board of Appeals shall refer the application to the Planning Board for an advisory opinion. The Planning Board shall consider the standards of this subsection and the standards for special exceptions in Section IV(I)(4) in formulating its recommendation.

a. Design. If a telecommunication facility is proposed to be mounted or attached to the exterior of a building or structure the facility shall be designed and located in a manner that is consistent and compatible with the architecture of that building or structure. If applicable, the addition of a facility to the exterior of a building shall also comply with the Design Standards for Scarborough's Commercial Districts, including the standards for rooflines and roof mounted equipment.

b. Utility poles and transmission lines.

For the purposes of these performance standards, telecommunication facilities shall be allowed to be attached or mounted on high voltage public utility transmission line poles and structures, subject to Board of Appeals and/or Planning Board review and approval, but shall not be permitted to be attached or mounted on distribution scale utility poles and structures.

c. Ground mounted equipment.

Ground mounted equipment associated with, and accessory to, the telecommunication facility may be allowed through Board review and approval provided the Board finds there is adequate screening of this equipment and that is compatible with the site.

d. Exemption.

Telecommunication facilities that are proposed to be fully enclosed within an existing building and will not alter the exterior dimensions of the building or the

exterior appearance of the building to accommodate the facility, shall be exempt from special exception review by the Board of Appeals or site plan review by the Planning Board. These installations may be permitted through review and approval by the Code Enforcement Officer. Ground mounted equipment associated with, and accessory to, the telecommunication facility may be allowed by the Code Enforcement Officer provided there is adequate screening of this equipment and that is compatible with the site.

e. Public Notification.

When an application for a telecommunication facility is received and accepted by the Town Planner or Code Enforcement Officer, the Planner/CEO shall give a dated receipt to the applicant and shall notify by mail all property owners abutting the tower site or lot once the application has been scheduled for a Planning Board or Board of Appeals agenda.

G. PERFORMANCE STANDARDS - ACCESSORY CONTAINERS [09/03/97][09/05/12]

Accessory storage containers may be utilized in the B-1, B-2, B-3, BO-R, RH, RH2, TVC, TVC-2, TVC-3, TVC-4, CPD, I-O and HPZ Districts only, and only as allowed under this Section IX(G)

1. Temporary Use of Accessory Storage Container.

Accessory storage containers may be used on a temporary basis only after being approved by the Code Enforcement Officer, and subject to the following standards.

- a. No more than one temporary container shall be located on a lot at any time.
- b. The temporary container shall comply with all minimum yard size requirements of this ordinance.
- c. The temporary container shall be placed behind the front line of the principal building on the lot, unless the Code Enforcement Officer determines that, due to the size and configuration of the lot and/or the locations of existing buildings or structures on the lot, such placement is not feasible.
- d. The temporary container shall not displace any parking spaces utilized to meet the parking standards of Section XI of this ordinance, unless the applicant provides evidence of written permission to use substitute spaces on an adjacent lot or lots during the entire period of time the temporary container is in place.
- e. The temporary container shall not be placed in any location where it will create pedestrian or vehicular traffic hazards or interfere with orderly traffic circulation.
- f. The temporary container shall be structurally sound. Its exterior surfaces shall be free of rust, holes, sharp edges, torn or damaged siding, exposed wiring or any other defects, which could endanger health or safety.
- g. The temporary use of accessory storage containers is limited to no more than 60 days per lot per calendar year.

- h. At least five days in advance of the date when the temporary container is to be placed on the lot, the owner or occupant of the lot shall make application to the Code Enforcement Officer for a permit. The application shall be accompanied by the application fee specified in the Town of Scarborough Schedule of License, Permit and Application Fees established by order of the Town Council. The application shall also be accompanied by a refundable deposit in the amount of \$125.00 which shall be forfeited to the Town if the temporary container remains on the lot longer than allowed by subsection (g) above. A separate permit is required each time a temporary container is placed on a lot and no more than two permits shall be issued per lot per calendar year.

2. Non-Temporary Use of Accessory Storage Containers.

Except when used on a temporary basis as provided in Section IX(G)(1) above, no accessory storage container shall be placed on any lot except in a location approved by the Scarborough Planning Board under the Town of Scarborough Site Plan Review Ordinance, and subject to the following standards:

- a. No accessory storage container shall exceed 14 feet in height, 9 feet in width or 55 feet in length.
- b. The total floor area of all accessory storage containers on a lot shall not exceed 495 square feet or 5 percent of the floor area of the principal building or buildings on the lot, whichever is greater.
- c. Accessory storage containers shall comply with all minimum yard size requirements of this ordinance.
- d. Accessory storage containers shall not displace any parking spaces utilized to meet the parking standards of Section XI of this ordinance.
- e. Accessory storage containers shall not be placed in any location where they will create pedestrian or vehicular traffic hazards or interfere with orderly traffic circulation.
- f. The exteriors of accessory storage containers shall contain no signs or advertising material visible from any public way or abutting property.
- g. All accessory storage containers shall be screened by the use of fencing, walls, berms, plantings, natural vegetation or other buildings or structures on the lot so that the accessory storage containers are substantially hidden from abutting properties and any public way.
- h. All accessory storage containers shall be structurally sound. Their exterior surfaces shall be free of rust, holes, sharp edges, torn or damaged siding, exposed wiring or any other defects, which could endanger health or safety.

An accessory storage container which was located on a lot for a period of at least 60 consecutive days immediately prior to May 20, 1997 may continue to be used subject to the requirements of subparagraphs (c), (g) and (h) above, without Planning Board approval under this paragraph (2).

3. Decisions of the Code Enforcement Officer or Planning Board under this Section IX(G) are final and cannot be appealed to the Board of Appeals. No variances may be granted from the requirements of this Section IX(G).

4. This Section IX(G) does not apply to the Industrial District, where containers which otherwise are described by the definition of accessory storage container may be used as accessory structure to uses allowed in the Industrial District, subject to all applicable provisions of this ordinance.

H. PERFORMANCE STANDARDS - MINI-WAREHOUSE/STORAGE FACILITIES AND CLIMATE CONTROLLED/INTERNAL ACCESS STORAGE FACILITIES [12/03/97][10/04/17]

The following standards shall apply to all Mini-Warehouse/Storage Facilities:

1. Mini-Warehouse/Storage Facilities shall be located only in the Industrial District.
2. Climate Controlled/Internal Access Storage Facilities may be located in the Industrial District and/or the Haigis Parkway District. [adopted 10/04/17]
3. Mini-Warehouse/Storage Facilities shall be located on lots of no less than one acre and no greater than five acres total lot area. [10/04/17]
4. Impervious surfaces (any material that prevents absorption of storm water into the ground) shall not cover more than fifty percent of the lot on which the Mini-Warehouse/Storage Facility is located.
5. Climate Controlled/Internal Access Storage Facilities will follow the impervious surface requirements of the district where the facility is located. [10/04/17]
6. Vehicle circulation within the facility shall allow for safe access to the individual storage units and shall include fire lanes acceptable to the Town of Scarborough Fire Chief.
7. Off-street parking shall be provided in accordance with Section XI of this Ordinance for any office space and for any dwelling unit located on the property pursuant to paragraph 6 below. Parking spaces shall not be provided for each unit, but the site shall be designed so that vehicles of customers picking up or depositing stored materials may stand temporarily in the aisles and adjacent to the storage units.
8. Notwithstanding anything to the contrary in this Ordinance, the lot on which any Storage Facility is located may contain one dwelling unit as an accessory structure and accessory use to the storage facility, provided the dwelling is occupied only by a resident facility manager or by on-duty employees of the facility. [10/04/17]
9. Notwithstanding anything to the contrary in this Ordinance, a Storage Facility may incorporate more than one storage building and may include an accessory dwelling unit without separately meeting the space and bulk requirements for each building. [10/04/17]
10. No storage unit in a Storage Facility may exceed five hundred square feet of floor area. [10/04/17]
11. The owner of the Storage Facility shall designate a facility manager who can be contacted at a specified address and telephone number, and shall at all times provide the Scarborough

Code Enforcement Officer, the Scarborough Fire Department and the Scarborough Police Department with the current address and phone number of the facility manager. The function of the facility manager includes, but is not limited to: providing proper policing of the area for trash, debris and vandalism; reporting to the police department any evidence of storage of contraband property or materials unlawfully possessed by customers of the facility; reporting to the fire department and the code enforcement officer any evidence of storage of dangerous or hazardous materials. [10/04/17]

12. The storage of hazardous, explosive or radioactive materials and of flammable liquid or gaseous materials is prohibited in a Storage Facility. The facility manager shall provide written notice of this prohibition to each customer at the time of rental of a unit. [10/04/17]
13. No activities other than rental of the storage units and pick up and deposit of the stored personal property shall be allowed on the Storage Facilities property. Examples of prohibited activities include, but are not limited to: wholesale or retail sales, auctions, garage sales; the service, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other equipment; and the operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment or other similar tools. The facility manager shall provide written notice of this prohibition to each customer at the time of rental of a unit. [10/04/17]
14. No outside storage of customers' goods or materials is allowed on the property of the Storage Facility. This provision does not prevent storage of household articles customarily stored outdoors by the manager of the facility if the manager resides on the property.[10/04/17]
15. The use of a Storage Facility or any portion thereof may not be changed to any other use, even though such use is otherwise permitted under this Ordinance, until the proposed new use is first reviewed and approved by the Planning Board under the provisions of the Site Plan Review Ordinance. [10/04/17]
16. Each customer, at the time of rental of a unit, shall be required to sign a lease or rental agreement which reserves to the owner and the owner's representatives, agents and employees the right to enter into and inspect the unit and its contents at any time without prior notice and which authorizes the owner and the owner's representatives, agents and employees to allow the Town of Scarborough Code Enforcement Officer, Fire Chief, Police Chief and their designated representatives to enter into and inspect the unit and its contents at any time without prior notice to the customer.

Notwithstanding anything to the contrary in this Ordinance or in 1 M.R.S.A. § 302, the standards of paragraph 1 through 16 above shall apply to any application for a Storage Facility which has not received site plan approval from the Scarborough Planning Board prior to October 27, 1997 and to any application to expand, extend, enlarge, reconstruct, rebuild or replace a Mini-Warehouse/Storage Facility existing on October 27, 1997. [12/03/97][10/04/17]

I. PRIVATE WAY RESIDENTIAL DEVELOPMENT [11/01/06]

1. Purpose

The Town of Scarborough recognizes there is significant level of single family residential development that occurs that does not require development approval under the Town's Subdivision or Site Plan Review Ordinances. However, the development impacts in this type of development

have many individual and incremental similarities with a traditional Town regulated residential subdivision or site plan development; such as impacts on natural resources, infrastructure serviceability and maintenance responsibility, fire protection, and drainage and traffic impacts to abutters and Town infrastructure. Consequently, the Town sees a necessity to manage this type of development at a level consistent, and in an orderly manner, with the development issues commonly associated with a subdivision or site plan to meet the municipality's responsibility for the health, safety and welfare of the Public.

2. Applicability

This Section IX(I) shall apply to the creation of or development on any new single family residential lot that acquires the required street frontage on an existing or proposed private way, and that is not subject to the Town of Scarborough Subdivision Ordinance or Site Plan Review Ordinance. Only lots used for single family dwelling purposes may acquire required street frontage under this Section IX(I).

3. Definitions

As used in this Section IX(I), the following terms shall have the following meanings:

50-foot wide right of way: Includes an existing right of way originally laid out and described as a three rod road.

Existing: In actual existence on November 1, 2006.

New single family residential lot: A single family residential lot created pursuant to this Section IX(I) on or after November 1, 2006 that meets the bulk and space requirements for the district in which it is located and acquires the required street frontage from a proposed or existing private way. Also, an existing single family residential lot re-configured as a result of the location of a private way created under this Section IX(I) and that acquires its required frontage on a private way.

No-disturb buffer: An area within 25 feet, horizontal distance, of the upland edge of a wetland, as defined under Section VIIA(I), which is not otherwise regulated under the Town of Scarborough Shoreland Zoning Ordinance. Disturbance of the no-disturb buffer by clearing, mowing or construction of a structure is prohibited. The no-disturb buffer shall be delineated in compliance with Section IX(I)(9)(1) below.

Private way: A right of way for travel by motor vehicles which is not owned or maintained by the Town of Scarborough or any other public entity.

4. General Requirements

- a. The right of way of a private way created after November 1, 2006 shall be a minimum 50 feet wide.
- b. The building envelope on a lot which has its street frontage on a private way shall meet standard zoning building setbacks and a minimum of 15 feet setback from an identified and delineated no-disturb buffer in compliance with Section IX(I)(9). Nothing in this requirement supersedes applicable requirements under the Town of Scarborough Shoreland Zoning Ordinance.
- c. On any private way created under this Section XI(I), the initial lot (first in time) to acquire the required street frontage on the private way is not required to utilize the private way for physical access to the lot, if another means of physical access is available. However, if and

when an additional lot or lots subsequently acquire the required street frontage on the private way, then the initial lot must thereafter use the private way for physical access. Physical access for a second and subsequent lots to acquire the required street frontage on a private way shall be from the private way. However, this requirement shall not apply to an existing single-family lot with an existing single-family dwelling and driveway if such existing driveway provides access to a public street and the creation of the private way will not result in any alteration to the intersection of that existing driveway with the public way.

- d. No new lot created after November 1, 2006 shall meet its street frontage requirement on a private way providing street frontage for two or more lots unless the private way is improved with a road constructed in compliance with Section IX(I)(8) below, and, if an existing private way must also be utilized for access between such new lot and the nearest public way, then such existing private way must also comply with the infrastructure and construction standards of Section IX(I)(8).
- e. New single family lots created under this Ordinance are subject to any traffic impact fee ordinances enacted prior to the approval of the proposed private way development. A re-configured existing lot with an existing single family home is exempted from any traffic impact fee under this ordinance.
- f. After November 1, 2006, any private way approved under this Section IX(I) must connect either to a public way or to an existing private way having a minimum 50-foot wide right of way. If the road infrastructure in an existing accepted Town way is either not constructed or does not meet the standards of Section IX(I)(8), then the applicant shall construct or upgrade the existing road to the standards of Section IX(I)(8).
- g. No more than a cumulative total of six (6) lots shall acquire the required street frontage on a private way built to the standards of Section IX(I)(8). The cumulative total shall include all proposed and existing lots on an existing private way created prior to, or after, November 1, 2006. When the total number of new and existing lots acquiring the required street frontage on a proposed and/or existing private way exceeds six (6), the road shall be designed and constructed to the standards of the Town of Scarborough Street Acceptance Ordinance.
- h. The cumulative total length of a dead end private way shall not exceed 2000 feet. The cumulative total length of the private way shall include the length of an existing private way that provides access to the proposed private way development. The length shall be measured from the intersection of the private way road at the Town right of way along the centerline alignment of the private way to the end of the private way right of way. If the cumulative total length of a proposed and existing private way exceeds 2000 feet, a secondary intersection connection to an existing Town accepted way must be provided.
- i. When this Section IX(I) requires construction of a road, no certificate of occupancy shall be issued for any lot which acquires its required street frontage on the private way until either the road improvements are completed and the required documentation in Section IX(I)(8)(c)2 is provided and accepted by the Town Engineer, or a performance guaranty in compliance with Section 9 Performance Guarantee of the Scarborough Subdivision Ordinance is provided and accepted by the Town Engineer for the value of the remaining road infrastructure improvements.

- j. The Planning Department shall not approve a private way which would cause any lot or lots to become nonconforming with the dimensional requirements of this Ordinance. In the event an existing lot becomes a corner lot, as defined in this Ordinance, as a result of the creation of a private way, the buildings or structures on such lot shall be deemed to conform with the dimensional requirements of this Ordinance to the same extent as they conformed prior to the creation of the private way.
- k. A private way which provides required street frontage for two or more lots shall provide emergency vehicular access and fire suppression water supply in compliance with Section IX(I)(10).

5. Application Submission Requirements

The Planning Department shall review and act upon applications for the creation or use of a private way to provide street frontage for a lot or lots. The submission for a private way shall include the following:

- a. Review Documents
 - 1. A recording plat. A plan of land laying out the private way and lot[s]. See Section IX(I)6, Plat Requirements for plat detail requirements.
 - 2. A design of the road infrastructure. The design shall include a plan and profile of the road, and layout of utilities to service the lot[s], such as drainage, power, telephone, etc. See Section IX(I)8, Road Infrastructure and Construction Standards for infrastructure design documentation requirements.
 - 3. A draft of the Maintenance Declaration, if applicable. See Section IX(I)7, Maintenance Agreement for declaration requirements.
 - 4. A cover letter describing where and what the project is and the name and address of the applicant.
- b. Final Documentation
 - 1. The applicant shall record the original recording plat plan in the Cumberland County Registry of Deeds (“CCRD”) within 30 days of approval. If the plan is not recorded within the required time frame, the approval shall be void.
 - 2. The applicant shall provide to the Planning Department one Mylar and four paper copies of the recorded plat with the planning department’s signature and CCRD attested data, and a copy of the executed and recorded maintenance declaration with the CCRD recording data.
 - 3. In addition to other requirements under a building permit application, no building permit will be issued until the required plat and maintenance declaration documentation is submitted and accepted by the Town and recorded in the CCRD.

6. Plat Requirements

The plan shall be prepared by a Licensed Professional Land Surveyor in the State of Maine and meet the following requirements;

- a. All points of the private way shall be permanently field marked by a Licensed Professional Land Surveyor in the State of Maine.
- b. The plan shall be drawn on reproducible medium and shall be sealed and signed by the surveyor preparing the plan.
- c. The plan shall be labeled "Plan of a Private Way-[STREET NAME]".
- d. The plan and survey work shall meet accepted survey practice sufficiently to show and establish on the ground the precise location of the private way, easements with recipients noted, lots with building envelopes and all existing natural and manmade features, such as, but not limited to streams, drainage courses, wetlands and no disturb buffer, utility pole lines, structures, etc. If wetlands are identified the following note shall be placed on the plan: "The no disturb buffer shall remain in their natural vegetated condition. No alteration of these buffers shall occur except for the removal of dead or dying trees without the prior approval of the Town Engineer and, if required, the State of Maine Department of Environmental Protection."
- e. If the project requires fire tank protection infrastructure, the plan shall identify the easements to the Town of Scarborough.
- f. The plan shall contain the following notes: "The Town of Scarborough shall not be responsible for maintenance, repair, plowing, street signage or other similar services or infrastructure for the private way shown on the plan. When the private way provides required street frontage for a cumulative total of more than six (6), the hammerhead shall comply with the requirements of the Scarborough Street Acceptance Ordinance."
- g. The plan shall provide a signature block to be signed by the Town Engineer, Town Planner or Assistant Town Planner.

7. Maintenance Agreement

When a private way provides access for 2 or more new lots to be created after November 1, 2006, the owners of the lots to be served by the private way and the owners of any portion of the private way shall be jointly and severally liable to the Town of Scarborough to adequately maintain the private way.

The applicant shall submit a Maintenance Declaration shall specify the rights and responsibilities of the owners among themselves with respect to:

- a. Responsibility for the road infrastructure construction, maintenance, repair, plowing, and street identification signage.
- b. A detailed statement of how the ownership interests in the private way will be structured; i.e. whether ownership will be single or joint, whether lot owners will own the fee or have easements, etc.
- c. A statement that in the event any of the lots shown are divided or in the event any remaining land of the declarant is subsequently divided into lots which are served by the private way, then such resulting lot or lots shall become subject to the Maintenance Declaration and to any modifications to the Maintenance Declaration advisable to

- adjust the duties and responsibilities equitably among the owners of the lots served by the private way
- d. An acknowledgement by the declarant and other persons signing the Maintenance Declaration that the Town of Scarborough is not responsible for the construction, maintenance, repair or plowing of the private way infrastructure.
 - e. A statement that the duties and obligations imposed by the Maintenance Declaration run with the land and shall be transferred to donees, purchasers or other transferees of any portion of the real estate subject to the Maintenance declaration and that, upon such transfer, the Planning Department shall be notified in writing and provided with a copy of any changes or amendments to the Maintenance Declaration.
 - f. A requirement that the Maintenance Declaration be referenced in all deeds to any lots served by the private way.
 - g. If the private way subject to the Maintenance declaration is an extension of an existing private way which served lots created prior to November 1, 2006, a statement that the applicant for private way approval has contacted the owners of such lots, has offered them the opportunity to make their properties subject to the Maintenance Declaration and that they have either accepted or declined that offer; and that the Declarant has submitted to the Planning Department a notarized affidavit confirming the Declarant's compliance with this paragraph.
 - h. An acknowledgement that all persons executing the Maintenance Declaration are aware that no lot served by the private way shall be sold and no building permit shall be issued for any lot served by the private way until the Maintenance Declaration is recorded in the Cumberland County Registry of Deeds.
 - i. The maintenance declaration shall clearly reference, as identified on the plan, the lots to be served by the declaration.

A sample Maintenance Declaration is attached to this Ordinance as Appendix D

8. Private Way Road Infrastructure Design and Construction Standards

The design of the road and utility infrastructure shall be reviewed and approved by the Town Engineer.

- a. Road Design
 - 1. The road horizontal and vertical alignment design criteria shall comply with the requirements of the Residential Access Street classification in the Street Acceptance Ordinance. The length shall be measured as shown on drawing number 2 in Appendix D.
 - a. A dead end private way shall provide a hammerhead end treatment. The hammerhead shall be shown on the plan to be recorded at the Cumberland County Registry of Deeds.
 - i. The hammerhead end treatment for a private way that provides required street frontage for a cumulative total of six (6) or fewer lots shall be configured to allow a fire truck to turn around in compliance

- ii. with Section IX(I)10. The location of the hammerhead shall be located at or past the furthest driveway of the approved lots from the existing public road. The furthest driveway may be used for the short perpendicular leg of the hammerhead turn around. The required infrastructure for the short leg of the hammerhead outside of the right of way shall be contained within an easement of an approved dimension by the Town Engineer for emergency vehicle maneuvering.
 - iii. The hammerhead end treatment for a private way that provides required street frontage for a cumulative total of more than six (6) lots shall conform to the alignment and dimensional standards in the Street Acceptance Ordinance. The location of the hammerhead shall be located past the furthest driveway of the approved lots from the existing public road. Lot access shall not be allowed from the hammerhead. The hammerhead road infrastructure shall be contained within the road right of way in compliance with the Street Acceptance Ordinance.
- 2. The road typical section shall comply with drawing number 1 in Appendix D. The intersection of the private road at a Town Way shall be paved and comply with drawing number 4 in Appendix D.
- 3. All intersections of a private way, whether existing or proposed, with a Town or other private way shall comply with the Maine Department of Transportation standards for intersection sight distance. The submitted analysis shall be prepared by a Professional Engineer, or Surveyor, licensed by the State of Maine, qualified for such analysis.
- 4. The location of a driveway for access to a lot may cross a no disturb buffer, but the amount of disturbance shall be kept to a minimum. However, a driveway located through a wetland may be subject to the State of Maine Natural Resource Protection Act and/or Army Corp of Engineers wetland filling requirements.
- b. Utilities Location & Design
 - 1. The location of utilities to service the lots shall comply with drawing number 3 in Appendix D. If power, telephone and cable TV service is overhead, the pole alignment shall maintain a minimum offset distance from the edge of travel lane to the face of the pole of 7 feet. The design of the utilities shall comply with the requirements of the utility companies providing service.
 - 2. A stormwater management plan must be prepared identifying specifications of the stormwater management infrastructure. The plan shall be prepared by a Professional Engineer licensed by the State of Maine. The stormwater infrastructure shall be designed for a 25-year, 24-hour storm recurrence interval.
 - 3. The Town Engineer may require a street light at a proposed intersection with a Town Public Way when the private way provides required street frontage for a cumulative total of more than six (6) lots. When required by the Town Engineer,

the street light fixture and configuration shall comply with the Town's street light policy. The cost of installation and maintenance shall be borne by the owners of the lots which acquire their required street frontage from the private way and identified in the maintenance declaration.

c. Construction Standards

1. All materials and construction of the road and drainage infrastructure shall comply with the requirements of the Street Acceptance Ordinance or specific utilities standards. An (E&S) erosion control management plan must be prepared and submitted. The (E&S) plan shall describe a sequence of actions and timelines for the control, containment and disposal of disturbed soils by the use of appropriate erosion control (BMP's) best management practice during the construction period. Erosion control BMP's shall comply with the Maine Erosion & Sedimentation Control BMP Manual prepared by the Maine Department of Environmental Protection,
2. The construction of the road shall be inspected by a Professional Engineer licensed by the State of Maine. The engineer shall provide a signed written report to the Town Engineer that in his opinion the construction is in compliance with the Road Infrastructure Design and Construction standards and the fire department protection design standards. The report shall attach documentation supporting compliance with the Town's specifications such as granular material gradations, compaction test results, storm drain material specifications, etc.

d. Easements

1. Utility easements shall be provided consistent with the standards of the utility companies providing service. In addition, easements shall be provided for the road drainage infrastructure where it exceeds the private right of way and that will be maintained under the maintenance agreement for the private way. All easements must provide metes and bounds line data with type & recipient identified on the plan to be recorded. If any easements are to be granted to the Town of Scarborough, the applicant shall prepare and record easement deeds to the Town of Scarborough; the language of the easement deed shall be approved by the Town prior to recording. The Planning Department is hereby authorized to accept such easement deeds on behalf of the Town.

e. Private Way Road & Development Name

1. The road and development name of the private way shall comply with the Town of Scarborough Ordinance Chapter 309, "Street/Development Name & Number Ordinance" regulating street & development names and numbering system. The initial cost and maintenance replacement for installing the private street and stop sign shall be the responsibility of the applicant. The design and installation of the signage shall comply with the Public Works standards.

9. Natural Resource Mapping and Identification

1. The application for a private way shall include wetland delineation in conformance with the Army Corp of Engineers wetland classification standards and prepared by a qualified wetland specialist in such identification work. On each lot which

acquires its frontage from the private way, the boundary line for the wetlands on the lot shall be delineated on the recording plat, and the boundaries of the no-disturb buffer, as defined in Section IX(I)(3), shall be marked on the lot by permanent markers located and set by a Professional Land Surveyor, licensed by the State of Maine. Permanent markers shall consist of 3'-0" x 3/8" diameter reinforcing bars installed with a 9"-12" projection above grade. The iron reinforcing bars shall be fitted with RED plastic caps inscribed with the words, "No Disturb Buffer". Markers shall be located at all angle points as well as equidistant points at a maximum spacing of 50ft. Additionally, a split rail fence, or some equivalent hard landscape feature, may be required by the Planning Department as part of the review of a building permit application by the Town of Scarborough Planning Department Staff. The building permit application shall include a detailed site specific development plan at a scale of 1inch=20ft, or a scale approved by the Town Engineer. The site plan shall include the property lines, proposed and existing easements, building envelop, existing and proposed tree clearing limits, location of the no disturb buffer and markers, the house and driveway, and sewer, water, electrical and telephone services, and any other site improvement.

10. Fire Protection Infrastructure Standards

1. Fire protection infrastructure standards shall be required when a road is required to be constructed by Section IX(I)4d and shall be in compliance with the following National Fire Protection standards.
 - a. Access
 - i. A private way shall provide a minimum unobstructed width of 20 feet with an unobstructed vertical clearance of 13 feet-6 inches.
 - ii. The road within the private way shall provide sufficient width for fire apparatus to execute a turning maneuver with a minimum 50 feet outside radius.
 - iii. Any dead-end private way greater than 150 feet in length shall provide a hammerhead turnaround.
 - iv. The road shall be able to support the imposed fire apparatus load of 70,000 lbs.
 - v. If fire protection infrastructure for the project requires underground fire tanks, a 30 ft by 50 ft easement to the Town shall be required.
 - b. Fire Suppression Water Supply
 - i. Fire hydrants shall be required in those areas of Scarborough that are served by either the Portland Water District or the Biddeford & Saco Water Company. Hydrants located within a private right of way shall be considered private hydrants and shall be the responsibility of the residents of the lots which acquire their required street frontage from the private way. Fire hydrant installations shall meet the following requirements.

- a. The hydrant shall be installed approximately every 500 feet. The exact location shall be determined and approved by the Fire Department prior to installation.
- b. Hydrants are to be installed in accordance with the National Water Works Association and the local water utility requirements.
- c. Hydrants shall be located 7-8 feet behind the face of curb, edge of pavement or edge of travel lane. This dimension shall be measured to the front cap on the main steamer port of the hydrant.
- d. All hydrants shall be inspected and flow tested prior to approval by the Fire Department as ready for service.
- e. A 5 feet wide level work area shall be provided around the hydrant.
- ii. Underground storage tank systems are required in those areas of Scarborough that are not served by a public water supply. The underground fire storage tank system shall meet the following requirements.
 - a. Each system shall be installed approximately every 1200 to 1400 feet along the proposed road system. The exact location shall be determined and approved on site by the Fire Department prior to installation.
 - b. Each system installation shall provide a minimum capacity of 10,000 gallons and designed and installed in accordance with the Scarborough Fire Department Fire Suppression Underground Fire Storage Tank Requirements, which are available from the Fire Department.
 - c. Each system installation shall be inspected prior to approval by the Fire Department as ready for service.
- iii. The installation of a residential sprinkler system may be considered by the Fire Department as an alternative to an installation of hydrants or underground storage tank systems. The approval, of the use and specific sprinkler system, shall be determined by the Fire Department on a case-by-case basis.
- iv. Ownership of the fire suppression water supply shall depend on the required system. A hydrant system connected to a water utility shall be owned by the owners of the lots which acquire their required street frontage from the private way in compliance with the particular water utility standards. Maintenance of the hydrants shall be the responsibility of the lot owners and the details of the maintenance shall be made part of the maintenance declaration required in Section IX(I)7 Maintenance Agreement. An underground storage tank system shall be owned and maintained by the Fire Department once the system has been approved by the Fire Department as ready for service and the required underground storage tank system easement deed to the Town, has been accepted by the Town.

11. Fees

1. An application fee shall be paid at the time of submission to the Planning Department. The fee is listed in Chapter 311, Schedule of Fees, of the Town Ordinances. The applicant is responsible for the cost incurred by the Town for assistance provided to the Town for review of the application by consultants.

J. PERFORMANCE STANDARDS – ACCESSORY UNITS [11/05/03][Amended 02/15/12]

The following standards are intended to allow the addition and use of one accessory unit to a single family dwelling in a manner that will preserve the single family residential character of the property and neighborhood. The Code Enforcement Officer may issue a permit for the construction on an accessory unit only if the Accessory Unit adheres to the following standards:

- A. The owner(s) of the lot on which the principal structure is located must reside in the principal structure or the accessory unit, either of which residence may be seasonal. An accessory unit may be located on a lot which the owner occupies as a seasonal residence; however, neither the accessory unit nor the single-family dwelling shall be rented for less than 28 continuous days. For this purpose, “season” means any three consecutive months during a twelve (12) month period.
- B. The number of occupants of the accessory unit is limited to two.
- C. The living space of an accessory unit shall not exceed the following percentage of living space of the single family dwelling to which the unit is accessory or the following maximum amounts, whichever are applicable:

If the living space of the single family dwelling is:	The living space of the accessory unit shall not exceed:
Under 2,000 sq. ft.	40% or 750 sq. ft., whichever is greater
2,000 sq. ft. or more, but less than 3,000 sq. ft.	35% or 750 sq. ft., whichever is greater
3,000 sq. ft. or more, but less than 5,000 sq. ft.	30% or 1,050 sq. ft., whichever is greater
Over 5,000 sq. ft.	20% or 1,500 sq. ft., whichever is greater

- D. Accessory units are permitted on nonconforming lots, but the structures in which they are located (attached or detached), shall meet the lot coverage requirements for the district in which they are located.
- E. In order for an accessory unit to be added to an unsewered lot, the lot must comply with the requirements of the state minimum lot size law, 12 M.R.S.A. §§ 4807 – 4807-G for multiple unit housing as well as all the provisions of the Maine State Plumbing Code and the Town of Scarborough Plumbing Ordinance. The applicant shall have the burden to establish the lot area, which burden may include a survey signed and sealed by a Professional Land Surveyor, at the discretion of the Code Enforcement Officer. The septic system on the property in question shall be functioning properly at the time of application for accessory unit approval.
- F. A minimum of 1 off-street parking space shall be provided for an accessory unit in accordance with Section XI. Off-Street Parking Regulations of this Ordinance.

- G. Proper ingress and egress shall be provided to the accessory unit.
- H. Only one accessory unit per principal structure shall be permitted on a lot.
- I. The accessory unit and the principal structure must be serviced by common utility meters, unless the utility company providing the service refuses to do so. Should a utility company be unwilling to service the accessory unit with a common meter, the applicant must provide the Code Enforcement Officer with a letter signed by the utility company so stating, with specific reasons for the refusal.
- J. Accessory units shall retain and respect the existing streetscape, character of the neighborhood, and preserve the single-family appearance, architectural style, and character of the original dwelling and property. Outside stairways (either open or closed) that service accessory units on upper stories are permitted, provided that they are integrated into and consistent with the architecture of the building. Outside stairways serving upper stories shall not be located on the side of the building that faces the street, except in the case of a building on a corner lot that fronts two or more streets, a stairway may be allowed on one of the sides of the building that faces a street if no reasonable alternative exists.
- K. All municipal and state buildings codes in effect at the time of application must be followed.
- L. An applicant for a permit for an accessory unit may also apply to the Zoning Board of Appeals for a limited reduction of yard size under Section V.B.5 of this Ordinance where such reduction is reasonably necessary to allow construction of the accessory unit.
- M. Should the owner(s) of the principal structure be found in non-compliance with the standards contained in this section, the non-compliance shall be considered a violation of this Ordinance, and the structure shall revert to a single family dwelling or the previous use.
- N. In order for an accessory unit to be located in a detached accessory structure, the following requirements must be met: [09/05/07]
 - i. The detached accessory structure must be located no further than 100 feet from the nearest point of the principal structure;
 - ii. The detached accessory structure must be designed and constructed in the style of a garage, barn, storage building, carriage house, accessory cottage, or similar structure customarily located on the same lot with a single-family residence.

K. PERFORMANCE STANDARDS – HOSPICE (Amended 08/17/05)

In the RF, RFM, R2, R3, R4, VR2, and VR4 zoning districts, the Board of Appeals may issue a special exception for the establishment of a hospice facility. In addition to meeting the standards for special exceptions in Section IV(I)4, the following standards shall also apply to any hospice facility.

1. The minimum lot area shall be four times the required minimum lot area for the zoning district in which it is proposed, except in the Rural Residence and Farming District in which the required minimum lot area shall be 5 acres.

2. Notwithstanding Section IX(A)(15)(a) of this Ordinance, buildings containing hospice facilities may be up to three (3) stories in height, provided it does not exceed thirty-five (35) feet in height.
3. The facility must be served by both public water and public sewer, excepting hospice facilities located in the RF zoning district.
4. The facility shall conform to the minimum yard requirements for the zoning district in which it is located, but greater setbacks and buffering, and lesser building coverage and total impervious coverage limitations, may be required by the Zoning Board of Appeals to meet the standards for special exceptions.

L. PERFORMANCE STANDARDS – ADDICTION TREATMENT FACILITY (Amended 11/16/05)

The following standards shall apply to all Addiction Treatment Facilities:

1. No addiction treatment facility shall be located where the patient entrance to the treatment facility would be closer than 1,500 feet, measured in a straight line without regard to intervening structures, objects or municipal boundaries, to the nearest point on the boundary of any property which is located in a residential zone.
2. No addiction treatment facility shall be located where the patient entrance to the treatment facility would be closer than 1,000 feet, measured in a straight line without regard to intervening structures or objects, to the nearest boundary of any property which is occupied by a residence, school, playground, park, day care center or nursery school, or is owned by the Town of Scarborough.

M. PERFORMANCE STANDARDS – HIGH TECHNOLOGY FACILITIES [adopted 04/16/08][Amended 07/18/12]

All high technology research facilities, light assembly, and light manufacturing uses permitted in the B2, B3, BOR, RH, RH2, CPD, I and HP districts may be undertaken only after the Planning Board has reviewed and approved the use in accordance with the Site Plan Review Ordinance and if the Planning Board finds that the proposed use, with any reasonable conditions the Planning Board deems necessary, will conform to the following standards and requirements:

1. The use will not create any unhealthy or offensive smoke, dust, odor, or airborne discharge;
2. The use will not create any offensive noise or vibration to abutting landowners;
3. The use will not involve the handling, storage, or disposal of hazardous waste material in a manner that will threaten public health;
4. The use will not include any outdoor storage of equipment or material;
5. The use will not create unsafe traffic conditions or excessive traffic that would either adversely affect neighborhood character or unduly burden the ability of the Town to maintain the existing roads;
6. The design and external appearance of any proposed building and site improvements will constitute an attractive and compatible addition to its neighborhood and be consistent the Design Standards for Scarborough's Commercial Districts;

7. All activities associated with the use(s) shall take place entirely within its principal structure(s)

M.1. PERFORMANCE STANDARDS – RESEARCH, DEVELOPMENT, AND LIGHT INDUSTRIAL USES [adopted 06/20/12]

For any research, development, and light industrial use that requires review under the Site Plan Review Ordinance, in addition to compliance with the Site Plan Review Ordinance and all other requirements of this ordinance, the Planning Board shall find that the use will conform to the following performance standards:

1. The use will not create any unhealthy or offensive smoke, dust, odor, or airborne discharges;
2. The use will not create any offensive noise or vibration to abutting landowners;
3. The use will not involve the handling, storage, or disposal of hazardous waste material in a manner that will threaten the public health; and
4. The design and external appearance of the proposed buildings, structures, and site improvements will constitute an attractive and compatible addition to the neighborhood and be consistent with the Town's commercial design standards.

M.2. PERFORMANCE STANDARDS – FOOD PROCESSING FACILITIES IN THE HAIGIS PARKWAY DISTRICT [Adopted 07/15/15]

Food processing facilities permitted in the HP District may be undertaken only after the Planning Board has reviewed and approved the use in accordance with the Site Plan Review Ordinance and has found that the proposed use will conform to the following performance standards and locational requirements:

1. The food processing facility shall be located within two thousand two hundred fifty (2250) feet of the point of intersection of the centerlines of Scottow Hill Road and the Haigis Parkway;
2. The food processing facility shall be sited in a location, and designed in a manner, that is compatible with surrounding uses. This may include the need for screening and buffering between the facility and adjacent uses and properties. The buffering and visual screen may include the preservation of natural vegetation, new landscaping, berms or other means to fulfill this standard;
3. The design and external appearance of the food processing facility and site improvements will constitute an attractive and compatible addition to the zoning district and be consistent with the Design Standards for Scarborough's Commercial Districts;
4. The facility will not create any unhealthy or offensive odor, emissions or other airborne discharges;
5. The facility will not include any outdoor storage of equipment, materials or processing byproduct or waste; and
6. The facility will not create any offensive noise or vibration to abutting landowners.

M.3. PERFORMANCE STANDARDS – SMALL BATCH PROCESSING FACILITIES
[Adopted 10/07/15]

Small batch processing facilities may be undertaken only after the Planning Board has reviewed and approved the use in accordance with the following performance standards and requirements:

1. Small batch processing facilities shall be limited to no greater than 5,000 square feet of floor area including any accessory uses, such as a retail area, a tap room, sampling area, storage or warehousing;
2. The design and external appearance of the small batch processing facility and site improvements will constitute an attractive and compatible addition to the neighborhood, shall be of a scale of, and compatible with, other non-residential uses allowed in the same zone, and will be consistent with the Design Standards for Scarborough's Commercial Districts;
3. The facility will not create any unhealthy or offensive odor, emissions, dust or other airborne discharges;
4. The facility will not include any outdoor storage of equipment, materials or processing byproduct or waste;
5. The facility will not create any offensive noise or vibration, heat or glare to abutting landowners; and
6. The facility will not create unsafe traffic conditions or a volume of truck traffic in excess of other non-residential uses allowed in the same zone that would either adversely affect neighborhood character or be incompatible with abutting properties or uses.

N. PERFORMANCE STANDARDS – SMALL WIND ENERGY SYSTEMS [Adopted 07/15/09]

Small wind energy systems (SWES) are considered accessory uses and structures in all districts except the Resource Protection District (as delineated in the Shoreland Zoning Ordinance for the Town of Scarborough). The Code Enforcement Officer may issue a building permit for the installation and operation of a SWES provided the following performance standards are met. A SWES which complies with the performance standards of this section is not subject to the space and bulk regulations of the zoning district in which it is located.

1. Space and Bulk –

- a. Number of SWES** – With the exception of SWES allowed per subsection N.(12) below, the number of SWES shall be limited as follows:

On lots less than one (1) acre in size a maximum of one (1) SWES is permitted per lot;

On lots one (1) acre to five (5) acres in size a maximum of two (2) SWES is permitted per lot;

On lots greater than five (5) acres in size, there is no maximum number of SWES per lot.

SWES, and the number of systems, shall be designed, sized and installed to generate energy only for the building(s) located on the same lot. This standard is not intended to prohibit the transfer of excess energy to the power grid.

- b. Height** – The height of a SWES shall be limited to one hundred and seventy-five (175') feet. SWES height shall be measured from the average elevation of the finished grade at the base of the tower to highest point of the SWES.
- c. Setbacks** – The SWES shall be set back a minimum 75% of the system's height, as measured per subsection N.1.b. above, from all property lines or shall comply with the minimum front, side or rear yard setback requirements of the zoning district in which it is located whichever is greater. The Code Enforcement Officer may relax the 75% of the SWES height setback standard if the applicant secures a restrictive easement(s) from the abutting property(s) that allows for a lesser setback. The restrictive easement shall restrict the uses and structures within the easement area so as to allow the SWES to be located closer to the property line than the 75% requirement above. A restrictive easement from an abutting property shall not however enable a SWES to be sited closer to the abutting property line than the minimum front, side and rear yard setback requirements of the zoning district.
- d. Town Exemption** – A SWES located on property owned by the Town of Scarborough shall not be subject to the Space and Bulk Standards listed above, provided the purpose of the SWES is to reduce energy consumption and energy costs for public buildings and provided the plans for the SWES are approved by the Town Council after public notice, notice to abutters and public hearing

2. SWES Energy Generation – SWES shall be limited to a power generation capacity of 20 kilowatts in residential districts and 60 kilowatts in commercial and industrial districts.

3. Design and Aesthetics –

- a. Tower** – The new installation of a tower for a SWES designed to generate electricity shall be a monopole-style tower (freestanding or guyed wire). The new installation of a lattice tower shall be allowed for SWES designed to pump water. Electricity generating SWES affixed to lattice towers existing as of June 26, 2009, that otherwise comply with this subsection shall be permitted.
- b. Color** – SWES shall be a non-reflective, neutral color (light gray, white, brushed aluminum etc.)
- c. Signage** – SWES shall not display signage or other forms of advertising, except warning, direction and manufacturing labels, none of which shall exceed six (6) square feet in area.
- d. Appendages** – Appendages to a SWES tower may be permitted, but are limited to appendages that will not affect the normal operation, safety or stability of the SWES.

4. Safety –

- a. Access** – Any climbing apparatus on a SWES tower shall be a minimum of eight (8') feet from the ground.
- b. Blade Clearance** – The SWES's blades shall not rotate to within ten (10') feet of the ground at their lowest point.

5. Lighting - Exterior lighting on a SWES may be permitted but the lightings placement on the SWES shall comply with the maximum building height limit of the zoning district in which the SWES is sited, except for lighting that may be required by the Federal Aviation Administration.

6. Electrical Service - Electrical wiring and connections from the wind energy system to the building(s) they serve shall be underground, unless an applicant demonstrates to the Code Enforcement Office that the subsurface conditions of a particular site makes the installation of an underground electrical service impracticable.

7. Noise –

a. Over-Speed Control - The SWES shall be equipped with both a manual and automatic brake, governing, furling or feathering mechanism that controls and moderates the rotation of the system's blade and prevents over-speed. Conformance with this requirement shall be confirmed and documented by the wind energy system's manufacturer.

b. Db(A) Level – The SWES shall be designed and operated to not exceed 20 db(A) above the ambient noise level at the closest property line. After approval and installation of the SWES, the Code Enforcement Officer may require the applicant to perform sound measurements to determine conformance with this standards.

8. Foundation – The foundation design for a SWES shall comply with the SWES manufacturer's minimum standards regarding the specific wind energy system and the soils type at which the installation is proposed.

9. Submission Requirements For Permitting - A plot plan; specifications and an illustration of the SWES provided by the manufacturer; a detailed description of how the SWES, and the lot on which it is proposed, complies with the performance standards of this subsection N; structural drawings of the wind tower, base and foundation prepared by the manufacturer or a professional engineer; and electrical and building permit applications shall be submitted prior to Code Enforcement review and approval.

10. Meteorological Tower – As defined in Section VI. Definitions of the Zoning Ordinance, meteorological towers are structures intended to collect data to determine the appropriate siting of a SWES. These towers are permitted as a temporary use to remain installed for a maximum of two (2) years. The Town encourages applicants interested in installing SWES to first collect the necessary data through the use of a meteorological tower or other appropriate device to help determine the appropriate location and height for a SWES as well as to ensure a SWES is a worthwhile investment on the subject property. Meteorological towers shall comply with the SWES performance standards of this subsection with the exception of subsection N.3.a Tower, subsection N.3..b. Color and subsection N.6. Electrical Service.

11. Removal Requirements –

a. Unsafe SWES – A SWES that is found to be unsafe by Code Enforcement shall either be repaired to correct the safety issue or shall be removed by the property owner.

b. Abandonment – A SWES that is not working or is not being used for a consecutive twelve (12) month period shall be removed by the property owner.

12. SWES within Common Open Space – To the extent permitted by applicable state and/or federal law, SWES may be allowed by the Planning Board within the common open space of a

residential subdivision reviewed under Section VII. or Section VIIA. of the Zoning Ordinance, subject the following requirements:

- a. The open space shall be of sufficient size and dimensions to accommodate the SWES(s) and the 75% setback requirement of subsection.N.1.c. above, within the boundaries of the open space.
- b. The installation of a SWES, and necessary associated improvements, shall not impact wetlands or otherwise compromise the intent of a conservation subdivision to protect wetlands or other natural resources.
- c. The SWES shall comply with all the performance standards other than subsection N.1. Number of SWES, and shall require Planning Board approval of the location of the SWES within the subdivision prior to application to Code Enforcement. The number of SWES shall be determined by the Planning Board and shall be based on the forecasted energy consumption of the dwellings and uses with the subdivision as well as the site's ability to comply with subsection 12.a. and 12.b. a. above.

O. PERFORMANCE STANDARDS – SOLAR ENERGY SYSTEMS

Solar energy systems are considered accessory uses and structures in all residential, mixed use, commercial and industrial districts in the Town of Scarborough. The Code Enforcement Officer may issue a building permit for the installation of a solar energy system provided the following performance standards are met. Solar energy systems include photovoltaic, solar hot water, and solar space heating.

1. Roof and Building Mounted Solar Energy Systems -

- a. Roof mounted solar energy systems shall conform to the maximum building height restrictions within the district in which it is located;
- b. The solar energy systems shall be designed, sized and installed to only generate electricity, hot water, or heat for the building(s) located on the same lot. This standard is not intended to prohibit the transfer of excess energy to the power grid.
- c. Electrical, plumbing and/or building permits from Code Enforcement shall be required.

2. Ground Mounted Solar Energy Systems (Solar Arrays) -

- a. The maximum height of a ground mounted solar energy systems shall be a twenty (20) feet. The height of a ground mounted solar energy system shall be measured from the ground level at the base of the solar energy system to its highest point, including the system's pedestal. [amended 01-20-16]
- b. Ground mounted solar energy systems shall conform to the yard requirements of the applicable zoning district or be setback a distance equal to the total height of the system, whichever is greater.
- c. Electrical wiring and connections from the solar energy system to the building(s) they serve shall be underground.

- d. The solar energy systems shall be designed, sized and installed to only generate electricity, hot water or heat for the building(s) located on the same lot. This standard is not intended to prohibit the transfer of excess energy to the power grid.
- e. Electrical, plumbing, and/or building permits from Code Enforcement shall be required.

3. Solar Energy Systems within Common Open Space – To the extent permitted by applicable state and/or federal laws, solar energy systems may be allowed by the Planning Board within the common open space of a residential subdivision subject to the following requirements: [adopted 01-20-16]

- a. The solar energy systems within common open space shall comply with the performance standards 2.a., 2.c., and 2.e. of the subsection above.
- c. If proposed within a conservation subdivision required under Section VII.A. of this Ordinance, the installation of solar energy systems, and any necessary associated improvements, shall avoid impacting wetlands within the subdivision open space areas.
- c. The location and number of solar energy systems shall be determined by the Planning Board and shall be based on the forecasted energy consumption of the dwellings and uses within the subdivision as well as the site's ability to accommodate these systems without impacting the other purposes of the common open space.

O. **PERFORMANCE STANDARDS – ACCESSORY AGRICULTURAL ACTIVITIES** [Adopted 05/05/2010]

Accessory Agricultural Activities must be carried out in conformance with the following performance standards:

- 1. Chickens may be kept on a lot in accordance with the following standards:
 - a. Up to five (5) chickens may be kept on a lot with a lot area of less than ten thousand (10,000) square feet.
 - b. Up to ten (10) chickens may be kept on a lot with a lot area of ten thousand (10,000) square feet or more but less than forty thousand (40,000) square feet.
 - c. Any number of chickens may be kept on a lot with a lot area of forty thousand (40,000) square feet or more.
 - d. On lots with a lot area of less than ten thousand (10,000) square feet, all chickens must be female.
 - e. On lots with a lot area of less than forty thousand (40,000) square feet, the chickens must be kept in an enclosure or fenced area at all times. This requirement can be met through the use of a mobile enclosure or a so called “chicken tractor”.
 - f. The chickens must be confined within a henhouse during non-daylight hours.
 - g. The henhouse must be enclosed on all sides, have a roof and door, and the access doors must be able to be shut and locked. The henhouse must be constructed from substantial materials and be visually compatible with the property. The hen house must be setback

from any property line at least fifteen feet or the minimum required setback for the district in which it is located, whichever is greater

h. The henhouse and enclosure must be maintained so that it is clean, dry, and odor free. All manure or other wastes must be stored in a fully enclosed structure or in airtight containers and must be periodically removed from the property or composted so there is no accumulation of waste material on the lot.

2. Small animals (such as sheep, goats, pot-belly pigs, or fowl that typically weigh not more than 100 pounds at maturity) other than domestic pets or chickens may be kept on a lot that has a lot area of at least 40,000 square feet.

3. Large animals (such as horses, cows, hogs, or llamas that typically weigh more than 100 pounds at maturity) may be kept on a lot that has a lot area of at least 80,000 square feet.

4. Any building or structure that is used to house animals other than domestic pets or chickens must meet the setback requirements for the zone in which it is located.

5. The sale of products produced on the property in excess of what is consumed by the occupants of the property is permitted. The sales must occur in a designated area not more than twenty (20) square feet in area and may include a display stand or table. The stand or table may only be in place during the season when products are being sold and must be removed during the “off-season”.

Q. PERFORMANCE STANDARDS – COMMERCIAL AGRICULTURE AND COMMERCIAL ANIMAL HUSBANDRY INCLUDING PROCESSING [Adopted 05/05/2010]

Commercial Agriculture and Commercial Animal Husbandry must be carried out in conformance with the following performance standards:

1. A lot must have a lot area of at least one (1) acre to have any permanent agricultural buildings or structures.

2. Commercial Animal Husbandry is allowed only on lots with a lot area of two (2) acres or more.

3. Any building or structure that is used to house animals other than domestic pets and any facilities for the storage or handling of manure or materials that contain manure must conform to the setback requirements of the zone in which it is located. The facilities must be operated and maintained in accordance with the latest edition of the Maine Department of Agriculture’s Manual of Best Management Practices for Maine Agriculture.

4. Facilities for the processing of agricultural products must be designed and primarily used to process products raised as part of the Commercial Agriculture and/or Commercial Animal Husbandry use but the processing of other agricultural products not raised as part of the Commercial Agriculture or Animal Husbandry use is allowed provided that the processing facilities are accessory and subordinate to the principal agricultural use of the property.

5. Processing facilities must be operated and maintained in accordance with the latest edition of the Maine Department of Agriculture’s 01-001 Chapter 343 Rule, “Food Processing and Manufacturing” requirements.

R. PERFORMANCE STANDARDS – FARM STANDS [Adopted 05/05/2010]

A Farm Stand must conform to the following performance standards:

1. A farm stand must be associated with and accessory to a Commercial Agriculture and/or Commercial Animal Husbandry use.
2. A farm stand must be located on a parcel that is actively used for the Commercial Agriculture or Commercial Animal Husbandry use.
3. A farm stand may be a free-standing building, structure or outdoor location or may be part of another building or structure (for example, an area in a barn or house that is used for sales).
4. The total area devoted to retail sales is limited to four hundred (400) square feet. This includes the area of a free-standing building or structure, the area for outside display and/or sales, the outdoor area used for retail sales if there is no building or structure, and the area used for sales in another building.
5. The sale of products is limited to: a) those grown, raised, or produced by the Commercial Agriculture or Commercial Animal Husbandry use with which the farm stand is associated, b) processed products that are made from products grown or raised by the agricultural use (for example, cheese or ice cream made from milk, yarn made from wool, processed foods such as apple butter or salsa made from items grown by the use, or baked goods made using items grown by the agricultural use), c) agriculture products including processed products that are not produced by the agricultural use with which the stand is associated, and d) handmade art and craft products.
6. If the stand sells products that are not grown or raised by the use or made from products grown or raised by the use, at least 51% of the dollar amount of gross retail sales per calendar year must be from products associated with the Commercial Agriculture and/or Commercial Husbandry use. In January of each year, the owner shall calculate and report to the Code Enforcement Officer the percentage of gross retail sales attributable to off-premises products for the preceding calendar year and, if requested by the Code Enforcement Officer, shall provide documentation of the calculated percentage.
7. The farm stand must be located on the parcel so that it meets side and rear setback requirements but a free-standing farm stand is not required to meet the front setback requirements.
8. The farm stand must be located so that it provides appropriate parking and access for customers. Customer vehicles must not be required to back out on to a public street.
9. The farm stand may be open for business only when it is selling products that are grown, raised, or produced as part of the Commercial Agriculture or Commercial Animal Husbandry use.
10. A farm stand is not subject to site plan review but does require a permit from the CEO

S. PERFORMANCE STANDARDS – AGRICULTURAL PRODUCTS STORES [Adopted 05/05/2010]

An Agricultural Products Store must conform to the following performance standards:

1. An agricultural product store must be associated with and accessory to a Commercial Agriculture or Commercial Animal Husbandry use.
2. A store must be located on a parcel that is actively used for the Commercial Agriculture and/or Commercial Animal Husbandry use.
3. The primary vehicle access to the store must be from a street/road that is classified by the Town as an arterial, collector, or minor collector.
4. An agricultural products store may be a free-standing building or may be part of another building or structure (for example, an area in a barn or house that is used for sales)
5. A free-standing building used for retail sales or the area used for sales in another building is limited to one thousand (1,000) square feet of sales area. An additional outside area of not more than five hundred (500) square feet may be used for the display and/or sales of products. These limits shall not apply to greenhouses or areas for the growing and/or display of nursery stock or other plants for sale as part of the agricultural use.
6. The sale of products may include: a) those grown, raised, or produced by the Commercial Agriculture or Commercial Animal Husbandry use with which it is associated, b) processed products that are made from products grown or raised by the use (for example, cheese or ice cream made from milk, yarn made from wool, processed foods such as apple butter or salsa made from items grown by the use, or baked goods made using items grown by the use), c) agriculture products including processed products that are not produced by the Commercial Agriculture or Commercial Animal Husbandry use with which the store is associated, d) live or fresh fish, shellfish, and lobsters, and e) handmade art and craft products.
7. If the store sells products that are not grown or raised by the use or made from products grown or raised by the use, at least 51% of the dollar amount of gross retail sales per calendar year must be from products associated with the Commercial Agriculture or Commercial Husbandry use. In January of each year, the owner shall calculate and report to the Code Enforcement Officer the percentage of gross retail sales attributable to off-premises products for the preceding calendar year and, if requested by the Code Enforcement Officer, shall provide documentation of the calculated percentage.
8. The building in which the store is located must meet the front, side, and rear setback requirements for the district in which it is located
9. The store must be located so that it provides appropriate parking and access for customers. Parking must be provided in accordance with the requirements of Section XI. for retail uses.
10. The store may be open for business only when it is selling products that are grown, raised, or produced as part of the Commercial Agriculture or Commercial Animal Husbandry use.
11. The construction of a building or the conversion of an existing building for use as a agricultural products store is subject to site plan review.

T. PERFORMANCE STANDARDS – BED AND BREAKFASTS [Adopted 05/05/2010]

A Bed and Breakfast (B&B) must conform to the following performance standards:

1. A B&B that is located in a rural or residential zone must have its primary vehicle access from a street/road that is classified by the Town as an arterial, collector, or minor collector. This requirement does not apply to a B&B located in mixed-use or nonresidential zone.
2. The parking for a B&B that is located in a rural or residential zone may not be located in the required front yard.
3. A B&B that is located in a rural or residential zone shall maintain a residential character in the design of the building and site improvements including the location of parking.
4. If the lot on which the B&B is located abuts a lot that is in residential use, a vegetated buffer strip at least fifteen (15) feet in width shall be established and maintained between any parking or service areas and the property line. The buffer strip shall screen the parking and/or service areas from view from the abutting property.
5. The provision of food and beverage service is limited to the guests of the B&B during their stay.
6. The owner or manager of the B&B must reside in a dwelling unit within the B&B during times the B&B is open for business.

U. PERFORMANCE STANDARDS – COMMERCIAL OUTDOOR RECREATION [Adopted 05/05/2010]

A Commercial Outdoor Recreation use must conform to the following performance standards:

1. The primary recreational activity must occur in the outdoors.
2. Structural development must be limited to facilities and buildings that support the primary recreational activity and shall be the minimum necessary to accommodate the use. Buildings or structures may not be or house the primary recreational activity. Examples of allowed buildings and structures include maintenance and storage buildings, an office related to the use, rest rooms, an equipment rental building, a warming hut or club house, and facilities for the sale of refreshments to people using the facility.
3. All buildings, facilities and areas used for recreation activities must conform to the setbacks for the district in which it is located.
4. The use must provide adequate off-street parking that is appropriate for the anticipated use of the facility and that will prevent the parking of vehicles along public roads.
5. If the use will operate on a regular basis, an improved parking lot must be provided.
6. If the use will operate intermittently or will have increased use on an intermittent basis, parking for these times may be provided in unimproved or field type parking areas.
7. The recreational activity must not create any adverse impacts for abutting properties as a result of noise or odors.

V. PERFORMANCE STANDARDS – HOME OCCUPATIONS [adopted 05/05/2010]

In those zoning districts where home occupation is allowed as a special exception, the Board of Appeals may issue special exception approval for the establishment of a home occupation. In

addition to meeting the standards for special exceptions in Section IV.I.4 of this Ordinance, all home occupations must adhere to the following standards:

1. The occupation or profession shall be carried on wholly within the principal building or within a building accessory thereto.
2. The home occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes.
3. No more than one person who is not a resident of the dwelling unit shall be employed in the home occupation.
4. Exterior signage shall be permitted in accordance with the home occupation sign provisions under Section XII. Sign Regulations subsection E.
5. There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building (except as expressly permitted by the district regulations of this Ordinance). This prohibition shall not apply to the storage of lobster traps.
6. No nuisance shall be generated, including but not necessarily limited to offensive noise, vibration, smoke, dust, odors, heat or glare.
7. The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood.
8. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users or customers the home occupation may attract during peak operating hours.
9. The home occupation may utilize:
 - a. Not more than twenty percent (20%) of the dwelling unit floor area, provided that for the purposes of this calculation, unfinished basement and attic spaces are not included;
 - b. Unfinished attic and basement spaces; and
 - c. Space within an accessory building totaling not more than one thousand (1,000) square feet of floor area.
10. Home occupations may include retail sales subject to the following limitations:
 - a. The total area devoted to retail sales is limited to four hundred (400) square feet and must be fully enclosed within a building.
 - b. The sale of products is limited to: products and articles produced, assembled or processed on the premises; and seafood caught or harvested off the premises by persons who reside in the dwelling unit or by the one employee permitted under paragraph 3 above.
11. A fisherman, lobsterman or shellfish harvester need not obtain home occupation approval except to engage in retail sales allowed under paragraph 9.b above.
12. Motor vehicle repairs and motor vehicle towing businesses are not allowed as home occupations.

W. PERFORMANCE STANDARDS – SMALL-SCALE ENERGY FACILITIES [Adopted 06/20/12]

All small-scale energy facilities shall comply with the following performance standards:

1. The energy facility shall be accessory to a permitted use in the district in which it is located or shall be part of a planned development approved by the Planning Board.
2. The facility shall be designed and used primarily to provide power to the principal use or building to which it is accessory or the planned development in which it is located. This requirement is not intended to prohibit the sale of surplus power to the electric grid but the capacity of the facility shall be not more than 200% of the estimated energy need of the principal use/building or planned development.
3. The generator, fuel storage, and related equipment shall be located in a fully enclosed building except for wind or solar related elements of the facility.
4. The facility, including all buildings and elements located outside of a building shall be sited and designed to be compatible with the principal building or the overall planned development.
5. If the facility relies on a fuel source that is delivered by truck, the volume of truck traffic shall be compatible with the principal use/building or the planned development. The use of trash or refuse derived fuel (RDF) as the primary fuel source shall not be allowed.
6. The facility shall conform to the Town's performance standards for noise and odor.

X. PERFORMANCE STANDARDS – GASOLINE FILLING STATIONS [Amended 06/20/12]

Gasoline filling stations, whether a principal or accessory use, shall comply with the following standards. These standards shall apply to all new gasoline filling stations and to existing gasoline filling stations which are expanded or enlarged by increasing the size of buildings or structures, by increasing the number of fuel pumps or by adding any of the activities or uses listed in subparagraph (f) below. New gasoline filling stations and gasoline filling stations which are expanded or enlarged by increasing the size of buildings or structures or by increasing the number of fuel pumps must also obtain site plan approval pursuant to the Scarborough Site Plan Review Ordinance.

1. A gasoline filling station shall be located on a lot of no less than 40,000 square feet or the minimum lot area required in the zoning district, whichever is greater. (09/19/01).
2. A gasoline filling station existing on October 5, 1992 which does not comply with the space and bulk regulations for the zoning district, does not comply with the requirements of subsection (a) above, or is not a permitted or planned development use within the zoning district shall be deemed a non-conforming use, which can be expanded or enlarged only in compliance with Section (III)(F) of this Ordinance. Otherwise, the lot on which a gasoline filling station is located and all buildings and structures used in connection with the gasoline filling station shall comply with all space and

bulk regulations for the zoning district, and no variance shall be granted from any of them or from the requirements of subsection (a) above.

3. A gasoline filling station shall be served by public sewer and public water and shall provide public rest rooms, one for males and one for females, for use by customers.

4. There shall be at least one attendant on duty at all times when a gasoline filling station is open for business.

5. A gasoline filling station may include as accessory uses or may be operated as an accessory use to the following:

a. Retail sales. If a gasoline filling station is operated as an accessory use on a site containing a retail sales use or uses with a total retail floor area of greater than 30,000 square feet, the gasoline filling station shall be subject to the following additional conditions:

- No curb cuts or access points to streets shall be allowed beyond those needed to serve the retail sales use or uses on the site, as determined by the Planning Board;
- The gasoline filling station must be situated on the site in a well-landscaped location which minimizes its visibility from streets, as determined by the Planning Board.

As used in this Section, the term retail sales use includes businesses such as “wholesale clubs” which offer membership to the general public. (09/19/01)

b. Fully enclosed automobile repair and service facilities serving the general public.

c. Retail sale of propane gas, compressed natural gas or similar fuels.

d. Retail sales of automobile supplies and accessories for the convenience of travelers.

e. Hand washing of automobiles, or waxing, polishing, cleaning and detailing of automobiles in fully enclosed structures.

f. Restaurants.

6. A gasoline filling station may not include as an accessory use and may not be operated as an accessory use to the following:

a. Wholesale distribution, storage or sale of fuels.

b. Automobile sales.

c. Automobile painting or body shops.

d. Junkyards or salvaging operations.

e. Distribution or transportation facilities or trucking terminals.

f. Hotels or motels.

g. Truck stops dispensing motor fuel primarily to trucks and similar commercial vehicles and/or providing overnight accommodations or food service for truck crews.

h. Facilities for servicing, storing or repairing commercial or fleet vehicles and which do not provide retail services to the general public.

i. Self-service, automatic or semiautomatic car washes.

j. Towing and wrecker service.

If any of the above uses or activities listed in this subsection (f) is permitted in the zoning district, it may be located on the same property as a gasoline filling station, but such use or activity and the

gasoline filling stations shall be considered a principal use and each shall comply separately with all applicable requirements of this zoning ordinance.

7. If a gasoline filling station is part of a planned development that includes other buildings and uses, the gasoline filling station shall be integrated into the overall planned development in terms of the site design, the vehicular access and traffic circulation, the building orientation(s), and the building architecture.

8. A gasoline filling station shall provide the number of off-street parking spaces required for retail sales and services based on the floor area of the filling station, as per Section XI of this Ordinance. In addition, any accessory use allowed per subsection (e.) shall also provide off-street parking in accordance with the standards for off-street parking under Section XI.

9. Except as allowed in accordance with section IX.D. Accessory Outdoor Displays, the placement, storage or display of any goods, wares or merchandise outside the enclosed portions of the buildings or structures is prohibited. This subsection shall not prevent the placement at the fuel pump islands or products, such as motor oil, automotive fluids and wiper blades, which are dispensed or installed while vehicles are standing at the fuel pumps. (11/04/92)

10. All gasoline filling stations developed after September 20, 2001 shall be designed and constructed in accordance with the “Design Standards for Scarborough’s Commercial Districts” adopted by the Scarborough Planning Board. (09/19/01)

11. Fuel pump canopies installed after September 20, 2001 must have a pitched roof and must be consistent with the “Design Standards for Scarborough’s Commercial Districts” adopted by the Scarborough Planning Board. (09/19/01)

12. All gasoline filling stations developed after September 20, 2001 shall maintain a green strip buffer at least 15 feet in depth along the entire front lot line, except for driveway entrances, and along the entire rear lot line. Where the rear lot line abuts a lot located wholly or partly within a residential zone, the depth of the green strip buffer shall be increased to 30 feet. (09/19/01)

13. All gasoline filling stations developed or expanded after September 20, 2001 shall incorporate a storm water management system designed to contain fuel or other automotive fluids on site in the event of a spill. Such system must be reviewed and approved by the Town Engineer. (09/19/01)

SECTION X. PERFORMANCE STANDARDS - EXTRACTIVE INDUSTRY.

1. Whenever under the district regulations of this ordinance, a special exception permit is required for an extractive industry, the Board of Appeals shall consider, in addition to the standards of Section IV, I, 4 of this Ordinance, the following factors:

- A.** Fencing, barriers and other public safety measures.
- B.** Landscaping, buffer strips, and other measures to reserve the aesthetic values of the neighborhood.
- C.** Effect of advertising signs and lighting.
- D.** Adequacy of parking spaces and loading and unloading areas.
- E.** Location of entrances and exits.
- F.** Hours of operation and duration of operation.
- G.** Methods of operation.
- H.** Weight of trucks and method of loading trucks.
- I.** Protection against spillage upon public streets.
- J.** Proposals for rehabilitation and reclamation of the site.
- K.** Effect of the use on the natural environment.

2. The Board of Appeals may impose such conditions relating to those factors as are necessary to insure compliance with the standards and requirements of this Ordinance.

SECTION XI. OFF-STREET PARKING REGULATIONS. [amended 01/06/2010]

SECTION XI. OFF-STREET PARKING REGULATIONS. [amended 01/06/2010]

Off-street parking spaces shall be provided in all districts whenever any structure is constructed, altered, or enlarged; a new land use is established; an existing use is replaced by a new use (change of use); or an existing use is expanded or increased in intensity. Such spaces shall be provided in accordance with the provisions of this Section, prior to the issuance of a certificate of occupancy for the structure or use. Single family and two family dwellings in existence as of January 6, 2010, shall be exempt from this provision. [adopted 01/06/10]

As provided for under the requirements of the Site Plan Review Ordinance, site plan approval is required before any parking or vehicular use is established, enlarged or changed. [adopted 01/06/10]

Off-street parking, either by means of open air spaces or by garage space, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve uses located in any district. [amended 01/06/10]

A. Off-street parking shall be designed, constructed and maintained as follows: [amended 01/06/10]

- 1.** For all uses, each off-street parking space must have an area no less than 9 feet wide by 18 feet long, except that the size of parking spaces may be determined by the Planning Board in accordance with the requirements of Section IV(D)(1) of the Site Plan Ordinance.
- 2.** Where required by applicable federal or state law, all off-street parking areas shall include handicapped accessible parking spaces in accordance with the ADA Standards for Accessible Design and the Site Plan Review Ordinance.
- 3.** For all uses, parking spaces must be adequately served by isles and drives in accordance with the requirements of Section IV of the Site Plan Review Ordinance.

B. The following minimum off-street parking requirements shall be provided and maintained. Where a use is not specifically mentioned in this provision, the Planning Board shall determine the minimum parking requirements. The number of parking spaces required shall be determined by the Planning Board based on the nature of the use, the intensity of the proposed use and the parking demand expected to be generated by the specific proposal.

1. Standards for off-street parking.

USE	Number of Parking Spaces Require *FA=Floor Area *GLA=Gross Leaseable Area
Dwellings	
a. Single Family	2 for each dwelling unit.
b. Two Family	2 for each dwelling unit

SECTION XI. OFF-STREET PARKING REGULATIONS. [amended 01/06/2010]

c. Multi-family	2 for each dwelling unit containing 2 or more bedrooms 1.5 for each dwelling unit containing fewer than 2 bedrooms
d. Accessory Unit	1 for each unit
e. Senior housing	1 parking space per dwelling unit and 1 parking space for each employee based on the expected average employee occupancy.
Hotels, motels and other transient lodging establishments	1 for each guest room.
Schools..... a. Elementary and Middle School:	1 per teacher and staff member, plus 1 space per 2 classroom.
b. High School:	1 per teacher and staff member on the largest shift, plus 1 space per 5 non-bused students.
c. College:	1 space per staff member on the largest shift, plus 1 space per 2 students of the largest class attendance period.
d. Group Day Care Homes, Day Care Centers, Nursery Schools	1 per 4 children the facility is licensed for, plus 1 for each employee required by the State of Maine licensing standards for child to staff ratio
Hospitals, Boarding Care Facilities for the Elderly, nursing homes, residential and long-term care facilities for the ill, aged or disabled	1 per 3 beds, plus 1 for each employee based on the expected average employee occupancy.
Place of assembly, amusement, culture and places of worship	1 for each 4 seats or for each 100 square feet or major fraction thereof of assemblage space if no fixed seats.
Retail sales & services	4 per 1,000 sq. ft. of FA
Business services and business offices; Professional offices	4 per 1,000 sq. ft. of GLA
Financial, Insurance and Real Estate Offices	3.5 per 1,000 sq. ft. of GLA
Personal services	3.5 per 1,000 sq. ft. of GLA
High Technology Facility	2 per 1,000 sq. ft. of FA
Data Processing/Telemarketing	6 per 1,000 sq. ft. of GLA
Medical and Dental Offices	4 per 1,000 sq. ft. of GLA
Restaurants & drinking establishments without drive-thru or take-out services	1 per 4 table or booth seats, plus 1 per 2 counter or bar seats, plus 1 for each 60 square feet of customer standing or waiting area, plus 1 for every 2 employees, based on highest employee occupancy

SECTION XI. OFF-STREET PARKING REGULATIONS. [amended 01/06/2010]

Restaurants & drinking establishments with drive-thru and/or take out services	Standards described above apply, provided that the minimum number of parking spaces is 10, plus 6 stack spaces for each drive-up window, at least 3 of which must be designated for the ordering station, located so as not to impede pedestrian or vehicular circulation on the site of any adjacent street
Work space in a live/work unit	2.5 per 1,000 sq. ft. of GLA, provided that the Planning Board has required, as a condition of approval of the site plan or subdivision plan which includes the live/work unit, that the work space shall be principally used by one or more of the residents of the live/work unit and provided that the work space is in fact so used. That restriction on the use of the work space must be incorporated into all deeds to or leases of the live/work unit or any part thereof. Alternatively, 4 per 1,000 sq. ft. of GLA, when the non-residential space is not required to be principally used by one or more of the residents of the live/work unit.
Industry, manufacturing, warehousing and distribution [amended 01/06/2010]	2 per 1,000 sq. ft. of FA (additional spaces required for area(s) occupied for office and/or sales use) [amended 01/06/2010]
Health Club [amended 01/06/2010]	3.5 per 1,000 sq. ft. Of FA, except that areas occupied by, and only to be used for specific activities (i.e. tennis or racquetball courts, exclusive of gymnasiums) require 3 per court.
Funeral Home	10 per 1,000 sq. ft. of FA in slumber rooms, parlors, and individual service rooms
Water Dependent Golf Driving Ranges	1.5 spaces for each tee area.

C. In specific cases where it is demonstrated that a particular building can be occupied or use carried on with fewer parking spaces than required under this section, the Planning Board may reduce the requirements for off-street parking upon finding the following requirements are met:

1. That the undeveloped parking spaces are shown on an approved site plan as reserved future parking spaces. Such reserved future parking spaces shall be designed to meet all requirements of this Ordinance and of the Site Plan Review Ordinance and shall be treated by the Planning Board in the same manner as developed parking spaces for purposes of determining the compliance of the site plan with ordinance standards, including, but not limited to, stormwater management standards, grading, vehicular access and circulation.

2. If at any time after construction of the development the Code Enforcement Officer determines that actual need for parking exceeds the number of spaces actually developed, the Code Enforcement Officer may order the owner of the property to

SECTION XI. OFF-STREET PARKING REGULATIONS. [amended 01/06/2010]

appear before the Planning Board for a determination by the Board as to whether some or all of the reserved future parking spaces must be developed.

D. In specific cases where two or more uses listed in section B(1), above, occupy segregated areas of the same building or structure the off-street parking requirements shall be based on the total area occupied by each distinct use.

E. The Planning Board may approve the joint use of a parking facility by two or more principal buildings or uses where it is clearly demonstrated that said parking facility will substantially meet the intent of the requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments.

F. In specific cases where it is demonstrated that a particular building can be occupied or use carried on with fewer parking spaces than required under this section, the Board of Appeals may reduce the requirements for off-street parking upon finding that such reduction will not detract from neighborhood values, inconvenience the public, or increase congestion in the street. The granting of such reduction shall not be construed as the granting of a variance to relieve undue hardship.

G. On-street parking cannot be used to satisfy the requirements of this section unless it is specifically authorized in another section of this Ordinance.

H. Required off-street parking in all districts shall be located on the same lot as the principal building or use except that the Planning Board may authorize residential off-street parking to be located within 300 feet of principal residential uses, measured along lines of public access, where it cannot reasonably be provided on the same lot. Such parking areas shall be held under the same ownership or lease as the residential uses served and evidence of such control or lease shall be required.

I. Required off-street parking in all business and industrial zones shall be located on the same lot with the principal building or use, or within 100 feet measured along lines of public access, except that where off-street parking cannot be provided within these limits, the Planning Board may permit such off-street parking to be located a reasonable distance from the principal building or use, measured along lines of public access, if the premises to be used for parking are held under the same ownership or lease. Evidence of such control or lease shall be required and such lots shall be located within business or industrial districts.

J. Where off-street parking for uses other than single or two-family dwellings is required or provided on a lot and vehicles are to be or may be parked within the area otherwise required to be kept open and unoccupied for front, side and rear yards in the zone in which such parking is located, the following requirements shall be met.

1. Where vehicles are to be or may be parked within ten feet of any street line a continuous guard curb, rectangular in cross-section, at least six inches in height and permanently anchored shall be provided and maintained at least five feet from the street or lot line between such off-street parking and that part of the street or lot line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least 20 inches

SECTION XI. OFF-STREET PARKING REGULATIONS. [amended 01/06/2010]

in height, shall be provided and maintained between such off-street parking and that part of the street or lot line involved so that bumpers of vehicles cannot project beyond its face toward the street or line involved, either above or below the impact surface.

2. No parking shall be located within a green strip buffer required pursuant to Section IV(F)(10) of the Town of Scarborough Site Plan Review Ordinance.

K. Where off-street parking for any use other than single or two-family dwellings is required or provided, the following construction requirements shall apply:

1. Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided (see Site Plan Review Ordinance, Section IV for requirements). When access to parking areas is available from more than one street, ingress and egress to and from the lot shall have the approval of the Planning Board.

2. The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six inches in depth, well compacted and with a wearing surface equivalent in qualities of compaction and durability of fine gravel. Unless otherwise specifically approved by the Planning Board, the surface of driveways, maneuvering areas and parking areas in all Business Zones shall be paved.

3. A system of surface drainage shall be provided in such a way that the water runoff shall not run over or across any public sidewalk or street.

4. Where artificial lighting is provided cut-off fixtures shall be used to control glare, skyglow, and spillover onto adjacent properties.

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/17][Amended 11/28/18]

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/2017][Amended 11/28/18]

A. SIGNS – PURPOSE AND PERMITTING

1. Purpose.

The purpose of regulating signs is to promote and protect the public health, welfare and safety by regulating existing and proposed exterior advertising and signage; to allow for attractive, legible signs to serve the needs of individual businesses, properties, and general destinations within the community; to protect property values, enhance and protect the physical appearance of the community, preserve its scenic and natural beauty; to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public right of way, provide more open space and curb the deterioration of natural beauty and community environment.

2. Sign Permits.

After the effective date of this Ordinance and except as otherwise herein provided, no person shall erect, make structural alterations to or move any signs without first applying for and obtaining from the Code Enforcement Officer a sign permit. Applications shall be on forms prescribed and provided by the Code Enforcement Officer setting forth such information as may be required by the Code Enforcement Officer for a complete understanding of the proposed work and shall be accompanied by the required fee as specified in the Schedule of License, Permit and Application Fees established by order of the Town Council.

Except as otherwise provided in subsection J., temporary signs must conform to all provisions of this Ordinance, but shall not be counted in calculating the maximum number of signs allowed on a lot or the maximum gross display area allowed on a wall. Permits are not required for: [Amended 04/6/94] [09/06/95] [05/01/96][12/06/02][09/06/17]

Temporary signs

Bulletin boards and similar signs under Section XII(B.)(4).

Directional signs under Section XII(B.)(12)

Doorway signs under Section XII(B.13.)

Banners under Section XII(B.)(21.)

3. Application for Sign Permits.

Permits for permanent signs shall only: be granted to the owner(s) or the agent of the building or the property upon which the sign(s) will be installed. See Section XII(J.) for application requirements for temporary signs.

4. Exceptions.

For the purpose of this Ordinance, the term "sign" does not include banners attached to or printed on and signs located under the cover of a tent or tarp allowed under Section IX(F);

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signs erected and maintained for public safety and welfare or pursuant to and in discharge of any governmental function, or required by law, ordinance or governmental regulations; "name signs" not exceeding one (1) square foot in area identifying occupants of the premises where such sign is located; or the Town of Scarborough public banner, controlled by the Town of Scarborough and placed from time-to-time across Gorham Road (Route 114) near the Scarborough High School driveway to provide public notice of events or functions authorized by the Town and occurring at municipal facilities. [10/21/92][4/6/94][5/01/96][09/06/17]

B. GENERAL SIGN STANDARDS

The following provisions relating to signs are applicable in all districts.

1. Maintenance and Conformance of Signs. No sign shall be erected, maintained, used or altered except in conformity with the provisions herein. The sign must be kept clean, neatly painted and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings. The sign must be maintained at all times in safe condition so as not to be detrimental to the public health or safety or detrimental to physical appearance or scenic or natural beauty of the community, or constitute a distraction or obstruction that may contribute to traffic accidents. [4/6/94]
2. General Safety Standards for Signs. No sign, whether new or existing shall be permitted in a location that causes a sight, traffic, health or welfare hazard, or results in a nuisance due to illumination, placement, display, or manner of construction.
3. When a commercial sign is authorized on a residential building it must not exceed six (6) square feet in area and be non-illuminated.[09/06/17]
4. A bulletin board, reader board or similar sign in connection with any commercial activity or similar public structure is allowed. [4/6/94][09/06/17]
5. Except as provided in Section XII(J.) concerning temporary signs and Section XII.(I.) off-premise official business directional signs, no sign shall project over or be located within a public right of way. [4/6/94][09/06/17]
6. Animated signs, animated displays or flashing signs are prohibited, with the exception of time and temperature signs as allowed under Section XII.(C.). No sign or part of a sign shall consist of a balloon or other inflatable component. [4/6/94]
7. Internally-lit signs shall have an opaque or dark background to minimize glare and lighting impacts.
8. A string of lights shall not be used for the purpose of advertising or attracting attention unless as an integral part of a permitted sign. This paragraph does not prohibit temporary decoration of buildings or structures during holiday seasons when such decoration is customary. [4/6/94]
9. Motor Vehicle Signs. Signs on motor vehicles are not subject to the regulations of this Section XII unless they have the effect of circumventing restrictions or limitations imposed

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by this Section. A sign on a motor vehicle will be presumed to have the effect of circumventing the restrictions or limitations of this Section XII if the motor vehicle is parked or stored in a location visible from a public way and one or more of the following circumstances exists:

- a. the motor vehicle is unregistered;
- b. the motor vehicle is uninspected;
- c. the sign is larger in any dimension than or extends beyond any surface of the motor vehicle to which it is attached;
- d. the motor vehicle is parked or stored continuously in the same locations;
- e. the motor vehicle is parked or stored in an area not designed, designated or commonly used for parking;
- f. the motor vehicle is regularly parked or stored in a front yard, as defined in this ordinance, or in the public right-of-way adjacent to the front yard when there is parking available in a side or rear yard; or,
- g. the motor vehicle is regularly parked or stored in a location where a sign would not be permitted under this ordinance.

The presumption that a motor vehicle has the effect of circumventing this Section XII may be rebutted by evidence that the motor vehicle is parked or stored in a particular location for reasonable business or personal purposes not related to advertising, identifying, displaying, directing, or attracting attention to an object, person, institution, organization, business, product, service, event or location.

9. Decoration and Ornamentation. Decoration or ornamentation of buildings, structures or other features of a site, including wall murals, are not subject to the regulations of this Section XII unless they have the effect of circumventing the restrictions or limitations imposed by this Section. Decoration or ornamentation will be presumed to have the effect of circumventing the restrictions or limitations of this Section XII if one or more of the following circumstances exists:
 - a. The decoration or ornamentation depicts any product or service offered to customers of a business located on the property (for example, painting an ice cream cone on the wall of an ice cream stand);
 - b. The decoration or ornamentation depicts some component or aspect of the name of a business located on the property, (for example, displaying a statue of a dolphin on a restaurant named "The Dolphin"); or
 - c. The decoration or ornamentation imitates or replicates any logo or symbol used to advertise or identify a business located on the property.

The presumption that any decoration or ornamentation has the effect of circumventing this Section XII may be rebutted by evidence that the decoration or ornamentation exists for some reasonable business or personal purpose not related to advertising, identifying or attracting attention to the products or services offered on the premises. Nothing in this paragraph prevents temporary decoration of buildings or structures or temporary displays on a site during holiday seasons when such decoration and display are customary.

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11. Any sign which no longer advertises a bonafide business conducted, product sold, activity or campaign being conducted, or public notice, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or premises upon which such sign may be found within ten (10) days after written or personal notification from the Code Enforcement Officer, except in the case of temporary signs which shall be removed in accordance with Section XII(J). [4/6/94]
12. Directional signs having a display area that does not exceed three (3) square feet, and does not extend higher than seven (7) feet above ground level, are permitted with permission of the Code Enforcement Officer.
13. Identification signs indicating the location of, or direction to a separate function performed within one portion of that building may be erected over or by the doorway or entrance to such portion of the building. The sign area shall not exceed ten percent (10%) of the area of such doorway or entrance to such portion of the building.
14. A sign with a double signboard or display area shall be construed to be one sign for the purpose of this ordinance.
15. Roof signs are not allowed.
16. Minimum lot line setbacks for all signs shall be fifteen (15) feet unless otherwise specified in Section XII.E.
17. Identification signs identifying the name of a commercial activity or similar public activity, may be permitted if approved by the Planning Board. Such signs may be illuminated by shielded lights and located as approved by the Planning Board, and shall be maintained by an approved owner or association. The Planning Board may waive setback requirements for an identification sign when the Board finds that locating the sign in compliance with setback requirements would be impractical or ineffective. Signs allowed under this paragraph shall not be counted in calculating the maximum number of signs allowable on a lot or in applying requirements for separation between signs. [05/01/96][09/06/17]
18. Graphics and pictorial artwork are allowed on signs and shall be considered a part of the gross display area for the purpose of determining the size of a sign. [4/6/94]
19. An awning which includes words, letters, figures, designs, symbols, graphics or pictorial art shall constitute a wall sign, including the calculation of total gross display area. [4/6/94]
20. Any premises which utilizes an identification or advertising sign must display its street numbers on at least one of the permanent signs permitted under this Section XII in a location visible from the nearest street. Numbers shall be placed on the sign face or on a panel parallel to the sign face and shall be as nearly perpendicular to the sideline of the street as possible. If it is not physically feasible to place the street numbers on the sign face, the numbers may be placed on the end of the sign parallel to the sideline of the street as long as they are of contrasting color and easily visible from the roadway. The characters of the street number shall be at least 11 inches high. The street number shall not be counted as part of the gross display area of the sign unless characters larger than 11 inches high are used for the street number and/or the street name, in which case the area which exceeds

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that which would be covered using 11 inch characters shall be counted as part of the gross display area. The street number must be displayed on all permanent signs erected, repaired, altered (including change in message) or replaced after April 7, 1994 unless another permanent sign on the same premises already displays the street address in compliance with this paragraph. [4/6/94] [4/5/95] [05/01/96]

21. A banner, limited to a maximum of twenty five (25) characters (numbers and letters), the dimensions of which do not exceed twenty-four square feet may be displayed by any commercial or similar public entity during the hours such business is open for customers and shall not be counted toward calculating the maximum number of signs or the maximum gross display area of signs on the property. Under this subsection, a commercial or similar public entity may display one banner limited to a maximum of twenty-five (25) characters during the hours such business is open for customers. This subparagraph does not prohibit or restrict displays of the United States Flag or the State of Maine Flag. [4/6/94] [08/19/09][09/06/17]
22. No lighted sign, including a nonconforming sign replaced or relocated pursuant to Section XII.K. shall be located within eight feet of the drip lines of any overhead utility wires and their appurtenances. This requirement is not subject to variance or waiver. [4/6/94] [4/5/95] [5/01/96]
23. Marquees may not be animated signs or have animated sections. [09/06/17]
24. One or more freestanding signs installed at the points where customers place their orders at a drive-through commercial establishment, which does not exceed 32 square feet of gross display area per sign and the location of which has been approved by the Planning Board under the Scarborough Site Plan Review Ordinance, shall not be counted as a sign in applying the dimensional requirements of Sections XII(D), XII(E) and XII(F). [08/17/05][09/06/17]
25. Illuminated signs are prohibited in all residential districts, except as allowed by Section XII(B)(17). [7/17/91]

In the Residence and Professional Office District RPO, no illuminated sign may be located on a lot abutting or across the street from a lot containing a dwelling until the lighting for the sign is reviewed and approved by the Planning Board, or Town Planner at the direction of the Planning Board, applying the standards of the Scarborough Site Plan Review Ordinance. [4/6/94]

26. Vision triangle. No sign shall be located in an area that conflicts with clear sight distance for oncoming traffic. Sign permits will be issued by the Code Enforcement Officer if the applicant provides supporting evidence that the proposed sign will be located at least 15 feet from the existing edge of pavement. If an applicant desires a location less than 15 feet from the edge of pavement then they must provide certifiable evidence from a licensed Professional Engineer who specializes in Traffic Engineering that the proposed sign location will not obstruct vehicular sight distance within the boundaries of following described vision triangle:

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a. The vision triangle is determined by measuring from the intersection of the edge of the major street and the minor street or driveway along the major street the appropriate distance as determined based upon the posted speed limit (see table) and a distance of 15 feet along the minor street/driveway. and then connecting: the two points with a straight line.

b. Sight distance will be measured in accordance with the current Maine DOT standards and procedures.

c. Major Street Speed Limit Measurement Distances

25 mph	=	250 feet
35 mph	=	350 feet
40 mph	=	400 feet
45 mph	=	450 feet
50 mph	=	500 feet
55 mph	=	550 feet

C. SIGN DIMENSIONAL CHART [Amended 08/19/09]

The following chart summarizes the maximum gross area (in square footage) that is permitted for signage and is listed by type of signs and zoning districts in which they allowed.

MAXIMUM SIGN SIZES – Freestanding (FS) /Wall-Mounted (W)										
TYPE OF SIGN	REF.	MAX. DIM.	RF R4A RFM	RPO	R2, R3, VR2, VR4	R4	B1	B2, B3 BO- R, Ind., I-O. L-I	TVC, TVC-2, TVC-3, TVC-4, RH, RH2, CPD	HP
TEMPORARY SIGNS										
Temporary signs in the right-of-way	J	Gross Area	6 sf				6 sf			
Temporary Signs on private property	J	Gross Area	16 sf	16 sf	16sf	16 sf	32 sf			
Banner (see note 2)	J	Gross Area	24 sf							
Temp. sandwich board	J	Gross Area	8 sf				8 sf			

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MAXIMUM SIGN SIZES – Freestanding (FS) /Wall-Mounted (W)										
TYPE OF SIGN	REF.	MAX. DIM.	RF R4A RFM	RPO	R2, R3, VR2, VR4	R4	B1	B2, B3 BO- R, Ind., I-O, L-I	TVC, TVC-2, TVC-3, TVC-4, RH, RH2, CPD	HP
CAMPUS SIGNS										
Campus directory	H.	Gross Area						75 sf	75 sf	75 sf
		Height						10’	10’	10’
Campus primary directional	H.	Gross Area						45 sf	45 sf	45 sf
		Height						9’	9’	9’
Campus secondary directional	H.	Gross Area						16 sf	16 sf	16 sf
		Height						8’	8’	8’
Campus pedestrian directional	H.	Gross Area						8 sf	8 sf	8 sf
		Height						8’	8’	8’
Freestanding Signs	B/C	Gross Area: FS	32 sf	32 sf	32sf	32 sf	100 sf			
	C	Length FS	16’	16’	16’	16’	16’	16’	16’	16’
	C	Height FS	8’	8’	8’	8’	16’	16’	16’	16’
Wall Signs	C	Gross Area/bldg. face: Wall (See Note 5)	50 sf	50 sf	16 sf	16 sf	100 sf			
		Combined Gross Area Corner Lot (See Note 4)					150 sf			
Business Directory Signs	F.	Gross Area					150 sf			
Commercial Signs on Residential Property	B.1	Gross Area	6 sf							
Off-premise directional	I	Gross Area					Not to exceed State standards or ≤ 16” x 72”			
Readerboards (See Note 3)	G	Gross Area					25sf	25sf	25sf	
IDENTIFICATION, BULLETIN AND DIRECTIONAL SIGNS										
Bulletin board	B.4	Gross Area	24 sf							

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MAXIMUM SIGN SIZES – Freestanding (FS) /Wall-Mounted (W)										
<u>TYPE OF SIGN</u>	<u>REF.</u>	<u>MAX. DIM.</u>	<u>RF</u> <u>R4A</u> <u>RFM</u>	<u>RPO</u>	<u>R2,</u> <u>R3,</u> <u>VR2,</u> <u>VR4</u>	<u>R4</u>	<u>B1</u>	<u>B2,</u> <u>B3</u> <u>BO-</u> <u>R,</u> <u>Ind.,</u> <u>I-O,</u> <u>L-I</u>	<u>TVC,</u> <u>TVC-2,</u> <u>TVC-3,</u> <u>TVC-4,</u> <u>RH, RH2,</u> <u>CPD</u>	<u>HP</u>
Directional signs at driveways	B.11	Gross Area	3 sf							
		Height	7'							
Doorway identification	B.12	Gross Area	10% of doorway or opening							
Identification Signs	B.17	Gross Area	32 sf							

Sign Dimensional Chart Notes and Standards

1. Identification signs do not count toward maximum number of signs on a lot, or for applying requirements for separation of signs.
2. Banners allowed under Section XII(B)21. do not count toward maximum number of signs on a lot.
3. Area of readerboard included in the maximum sign area of the freestanding sign of which it is a part of.
4. Gross sign area may be divided between the principal and secondary sign and under this section the principal sign shall not exceed 100 sf.
5. Unless otherwise provided, wall and window signs shall conform to the following:
 - a. Total gross display area of all wall and window signs shall not exceed 10% of the area of the wall on which they are located. Where separate units of occupancy exist in a building, the gross display area under this paragraph shall be calculated separately for each unit of occupancy, based on the wall areas which enclose each unit, provided that the total gross display area for the building does not exceed the limits of this paragraph.
 - b. Except in the case of an awning, no wall sign shall project more than 12" inches beyond the surface of the wall to which it is attached, or extend above the drip edge of the roof above it or extend laterally beyond the ends of the wall to which it is attached. Where separate units of occupancy exist in a building, the limitations of this paragraph shall apply separately to the wall surface which encloses each unit.

D. MAXIMUM NUMBER OF FREESTANDING SIGNS PER LOT

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MAXIMUM NUMBER OF FREESTANDING SIGNS							
TYPE OF SIGN	<u>RF, R4A, RFM, R2, R3, R4, VR2, VR4</u>	<u>RPO</u>	<u>B1</u>	<u>B2, B3, BO-R</u>	<u>IND, I- O, L-I</u>	<u>TVC, TVC-2, 3, 4, RH, RH2</u>	<u>HP</u>
Temporary	1/lot						
Permanent: frontage on one street	1/lot	1/lot	1/lot	2/lot			
Minimum street frontage for 2 signs				300'			
Permanent: corner lot	1/lot	1/lot	1 principal sign, 1 secondary sign				
Minimum separation			100', measured along rights-of-way or front property line				
Business Directory			1 (<i>Note 1</i>)				
Campus Directional Signage				<i>Note 2</i>		<i>Note 2</i>	
Readerboards			1 incorporated into principal freestanding sign				

Note 1. Lots are limited to one (1) Business Directory signs except for lots that qualify and are approved in accordance with Section XII(F)5.

Note 2. Number of campus directional signs shall be approved by the Planning Board as part of review of Signage Master Plan (see Section H Campus Directional Signs and the Commercial Design Standards)

E. ADDITIONAL FREESTANDING SIGN REQUIREMENTS

Unless otherwise provided, freestanding signs shall conform to the following:

1. The required minimum distance between signs on the same lot or unified development is one hundred (100) feet.
2. The required minimum lot line setback is fifteen (15) feet from side and rear lot lines.
3. The required minimum setbacks to the front lot line and right-of-way (ROW) is variable based on the height of the sign in accordance with the following chart:

VARIABLE SETBACKS		
<u>DISTANCE FROM ROW</u>	<u>MAXIMUM HEIGHT</u>	<u>MAXIMUM SIZE</u>
5'	8'	32 sf
10'	10'	60 sf
15'	16'	100 sf

- a. There is no minimum front lot line setback required for freestanding signs from the Haigis Parkway right-of-way; all other dimensional requirements established in Section XII (C) shall apply

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4. The maximum sign height requirements are listed in Section XII(C) and are, subject to the variable setback requirements above. [10/20/04]
5. The required minimum setback/distance for signage located in a “Business” District is two hundred (200) feet from a “Residential” District. [7/17/91] [4/6/94]

F. BUSINESS DIRECTORY SIGNS [Amended November 17, 1993]

1. Except as otherwise provided in this Subsection (F), a Business Directory Sign shall comply with all the requirements of this Section XII. A Business Directory Sign shall be deemed an on-premise, freestanding sign, not a billboard.
2. Business Directory Signs shall be permitted only in the B-1, TVC, TVC-2, TVC-3, TVC-4, B-2, B-3, HP, BO-R, RH, RH2, CPD and Industrial districts.
3. Notwithstanding the provisions of Sections XII(C) and XII(D), the maximum gross display area of a Business Directory Sign shall be 150 square feet. At least 10 percent of the gross display area shall be devoted to identifying the Unified Development by name (or by generic description such as "office park" or "shopping center" if no name has been assigned) and by street address on the Main Thoroughfare. The numbers of the street address must be no less than 11" (eleven) inches high. The remaining gross display area may be used only to identify and advertise uses within the Unified Development and must be located below the name and street address of the Unified Development. Before the Building Inspector issues a permit for a Business Directory Sign, the Addressing Officer in coordination with the Town Planner must determine that the name of the Unified Development is not identical to or likely to be confused with the name of any other development already existing in Scarborough. [4/6/94]
4. Notwithstanding Subsection XII(F), no lot within a Unified Development which utilizes a Business Directory Sign may contain more than one freestanding sign, except that the lot on which the Business Directory Sign is located may contain both the Business Directory Sign and one other freestanding sign otherwise allowed by this Ordinance. The Building Inspector shall not issue a permit for a Business Directory Sign without the written consent of each lot owner within the Unified Development to the limitation of one freestanding sign per lot and the written agreement of the owner of any lot on which there are two or more freestanding signs to remove all but one of such signs upon the erection of the Business Directory Sign. [4/6/94] [4/5/95]
5. A Business Directory Sign must be located on property within the Unified Development which abuts the Main Thoroughfare, must be visible from the Main Thoroughfare and must be located at or near the driveway or street entrance to the Unified Development in order to direct motorists to that entrance. When a Unified Development abuts and has a driveway or street entrance from more than one Main Thoroughfare, the Planning Board may approve one Business Directory Sign at or near the driveway or street entrance from each of the Main Thoroughfares for a total of two Business Directory Signs.

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6. Business Directory Signs shall comply with all applicable setback requirements, except that no setbacks shall be required from property lines separating lots within the Unified Development from one another or from common areas (other than streets), and no setbacks shall be required from boundaries of leasehold or easement interests (other than streets) within the Unified Development.
7. No Business Directory Sign may be located within 200 feet of any other freestanding sign in the Unified Development.
8. If provided, electrical service to a Business Directory Sign must be by underground wiring only.
9. Each owner of a lot or unit of occupancy which is identified or advertised on a Business Directory Sign shall be responsible for any violations of this Ordinance arising out of the erection or maintenance of the Business Directory Sign and shall be deemed an owner of the sign under Section IV(C) of this Ordinance. The Town may enforce the provisions of this Ordinance against any or all such owners.

G. ELECTRONIC MESSAGE AND TIME/TEMPERATURE SIGNS

Electronic message and time and/or temperature signs are permitted only in the B1, B2, B3, BO-R, RH, RH2, I, I-O, L-I, CPD and TVC, TVC-2, TVC-3, TVC-4 Districts subject to the following standards:

1. Electronic Message Signs are required to comply with the following conditions:
 - a. An electronic message sign may only be used as a readerboard on a free-standing sign. Electronic message signs may not be used as stand-alone signs.
 - b. An electronic message sign must not give the appearance of motion, flashing, blinking, or shimmering. When the display changes, it must change as rapidly as is technologically practicable with no phasing, rolling, scrolling, flashing, or blending.
 - c. The message may be changed no more frequently than twice in each 60 minute period. [Amended 08/19/09]
 - d. Electronic message sign lettering or numbering height shall be a minimum of 8" and a maximum of 12" and where any industry standard for colors does not exist, may consist only of white or gold lettering or numbering on a black background. [Adopted 08/19/09][09/21/2011]
2. Time and/or Temperature Signs are required to comply with the following conditions:
 - a. Any sign otherwise permitted may include a time and/or temperature sign. (09/21/2011)
 - b. A time and/or temperature sign, or the portion of a sign used to illustrate the time and/or temperature, shall be limited to 10 square feet in area. (09/21/2011)
 - c. A time sign shall be permitted to change no more frequently than thirty-second intervals.

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d. A temperature sign shall not change except when the temperature changes one degree.

H. CAMPUS DIRECTIONAL SIGNS [07/21/04][06/05/19]

1. A primary goal of campus directional signs shall be to assist the public in finding specific business locations or destinations or directing the public within a Unified Development or Planned Development. The number and location of the signs shall be based upon the following criteria: [Amended 02/20/08]

- a. The number and visibility of major destinations within the Unified Development or Planned Development.
- b. The complexity of internal circulation patterns.
- c. The nature of the businesses/institutions as they relate to public accessibility.
- d. The characteristics of the clientele. such as but not limited to familiarity with the area, seasonally attracted, tourist oriented, or emergency users.

2. Campus directional signs shall be permitted only in the TVC, TVC-2, TVC-3, TVC-4, B-2, B-3, BO-R, RH, RH2 HP, CPD and Industrial districts.

3. Dimensional Requirements

Type of Sign	Maximum Gross Display Area	Maximum Height
Primary Directional	45 SF	10 feet
Secondary Directional	32 SF	8 feet
Pedestrian Directional	8 SF	8 feet

4. The display area of campus directional signs shall be used to identify the names of destinations within the Unified Development or Planned Development and to provide directions to, from and within said development based on the criteria listed in Section H(1) (a) through (d). [Amended 02/20/08]

5. Depending upon the sign location, sign may be double-faced with information on the opposite side of the sign.

6. Text messages on the sign faces must be of a size and typeface that is readable from a moving vehicle at the posted speed limit. In no case shall the text be smaller than 3 inches in capital letter height. See Scarborough Design Standards for further description of signage requirements.

7. The recommended minimum distance between campus directional signs shall be one hundred (100) feet.

8. Campus directional signs shall be set back a minimum of fifteen (15) feet from the boundaries of the Unified Development or Planned Development.

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9. The maximum number of signs for the Unified Development or Planned Development shall be shown on a Signage Master Plan submitted to the Planning Board as part of Site Plan Approval. The Master Plan shall indicate typical layout for signs, allowing flexibility to change the wording without having to return to the Planning Board. Variations in the number or locations of signs shown on the Signage Master Plan must be approved by the Planning Board prior to implementation. See Scarborough Design Standards for further description of Signage Master Plan.[09/06/17]

10. Off-site directional signs shall not be considered campus directional signs. However, for purposes of signage review, off campus directional signs that are part of a Unified Development or Planned Development shall be designed as part of the Signage Master Plan.

I. OFF-PREMISE OFFICIAL BUSINESS DIRECTIONAL SIGNS

Any business establishment located within the Town of Scarborough, which does not front or face upon U.S. Route One and which does not have a freestanding or wall sign fronting or facing upon U.S. Route One regulated by Section XII of this Ordinance and that is not on a residential property, may locate two signs off the business premises. Whenever any eligible business establishment as defined above applies for an Official Business Directional Sign the following conditions must be met: [09/06/17]

1. Comply with Maine Department of Transportation "Regulations for the Installation of Official Business Directional Signs" except as is otherwise specified above.

2. Maximum sign size shall not exceed 16" x 72"; (Note: sign size to be determined by Maine DOT but not to exceed 16" x 72").

3. Off-Premise Official Business Directional Signs shall not be located within the Haigis Parkway Right-of-Way between Payne Road and Route One.

4. The Code Enforcement Officer may permit two directional signs per this Ordinance. No more than two additional signs may be allowed if the Zoning Board rules favorably on an appeal heard pursuant to Section V of the Zoning Ordinance and based upon any of the following criteria:

- a. a demonstrated need for adequate visibility of the sign to two-directional traffic;
- b. the distance from the nearest State numbered route;
- c. the nature of the business as it relates to public accessibility;
- d. the characteristics of the clientele such as but not limited to familiarity with the area, seasonally attracted, or tourist oriented;
- e. excessive number of turns or confusing route on local roads;
- f. complicated intersections of State numbered routes or major arterials;
- g. a primary consideration shall be to assist customers seeking the specific business location;
- h. the Board shall deny the application for added signs if it finds that their function is one of advertising to attract customers rather than to direct individuals seeking the business;
- i. existing double-faced directional signs which must be replaced shall be considered as two single-faced signs, and the relocation of signs to other locations

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/17][Amended 11/28/18]

must be approved by the Zoning Board of Appeals subject to the criteria of this section;

j. the Zoning Board must specify the approved number(s) and location(s) of additional signs based upon the provisions of this section.

J. TEMPORARY SIGNS

The following temporary signs are permitted and shall conform to standards within municipal, state or federal ordinances, statutes or regulations.

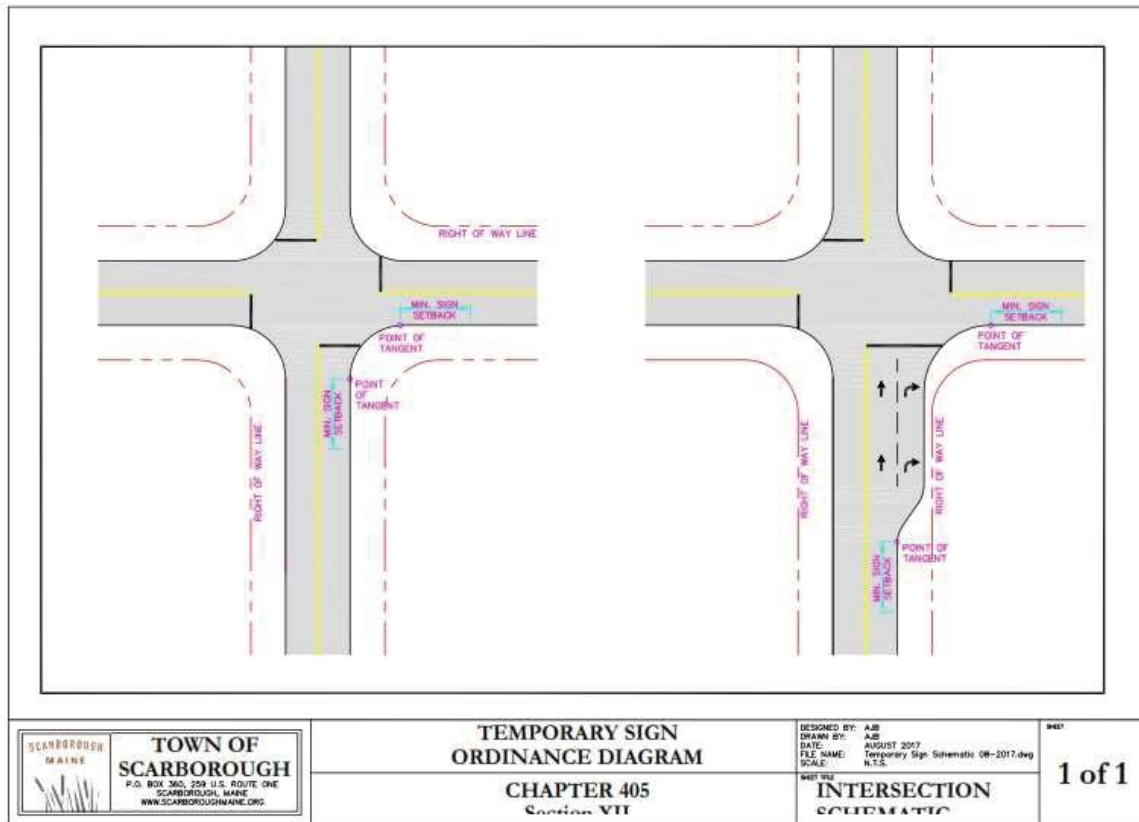
Temporary signs specified in this section shall not be attached to fences, trees, utility poles, light poles, traffic control devices or the like. [09/06/17]

To protect ecologically sensitive areas and scenic views no temporary signs shall be placed in the right-of-way along:[09/06/17]

- Route One between Dolloff Way and Southgate Road
- Black Point Road between Old County Road and Tide Mill Lane
- Black Point Road between Seal Rock Drive and Sanctuary Lane
- Pine Point Road between 67 Pine Point Road and the Eastern Trail
- Pine Point Road between Holly Street and Snow Canning Road
- Pleasant Hill Road from Minuteman Drive to Hackmatack Drive (Pleasant Hill Preserve Area)
- Bayview Avenue between Houghton Street and Morning Street

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/17][Amended 11/28/18]

To promote public safety in and around intersections with high traffic volumes no temporary signs shall be placed in the right-of-way within 30 feet of the following intersections, as measure linearly from the point of tangent to the intersection, or the point of tangent where a dedicated turn lane is provided, whichever is furthest from the intersection:



- The Route One – Broadturn Road/Pine Point Road intersection
- The Route One – Payne Road intersection
- The Route One – Haigis Parkway intersection
- The Route One Gorham Road/Black Point Road intersection
- The Route One – Pleasant Hill Road intersection
- The Payne Road – Haigis Parkway intersection
- The Payne Road – Gorham Road intersection
- The Payne Road – Gallery Boulevard intersection

The number of temporary signs permitted under this subsection is in addition to the maximum number of signs allowed on a lot or the maximum gross display area allowed on a wall:

1. Temporary Signs in the Right-of-Way [Adopted 09/06/17][Amended 11/28/18]

Temporary signs in the right-of-way are permitted for a period not to exceed 12 weeks in a calendar year. All signs shall be removed by the deadlines established herein. All temporary signs in the right-of-way must include or be marked with name and address of

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/17][Amended 11/28/18]

the individual, entity or organization that placed the sign within the right-of-way and the date the sign was erected within the right-of-way. To control the proliferation of signs repeating the same or similar message, temporary signs in the right-of-way shall not be placed with 30 feet of another bearing the same message. This distance requirement applies to streets on a linear basis with a separate measurement done for every intersecting street. Temporary signs in the right-of-way may not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public.

2. Temporary Signs on Private Property [Adopted 09/06/17]

Temporary signs on private property are permitted for no more than 6 consecutive months with not less than 30 days between displays of a sign bearing the same message. Temporary signs on private property may not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or a disturbance to the health and welfare of the general public.

3. Temporary Sandwich Board Sign. [Adopted 08/19/09][09/06/17]

One (1) Sandwich Board Sign may be displayed on the premises of a commercial or similar public entity for general commercial uses. Sandwich Board Signs shall be limited to a maximum gross area of eight (8) sq. ft. and a maximum height of 48". The location of Sandwich Board Signs shall be limited to the sidewalk or walkway leading to the main entrance of the building in which the business is located and shall be located no greater than fifteen feet (15') from the building's main entrance. Sandwich Board Signs shall only be displayed during the hours the business or use is open for customers or visitors and shall not be counted toward calculating the maximum number of signs or the maximum gross display area of signs on the property. A Sandwich Board Sign shall require a sign permit, per subsection A.2., which will establish a business or uses ability to use such a sign and delineate the area in which it will be displayed. A Sandwich Board Sign shall be located on a sidewalk or walkway in a manner that it does not infringe on handicap accessibility or safe pedestrian movement and that safely secures the sign in one location.

K. NON-CONFORMING SIGNS

The eventual elimination of non-conforming signs is an objective of the town. Such elimination of nonconforming signs shall be brought about over a period of time and in such manner as to avoid the invasion of vested rights of the sign's owner and the infliction of unnecessary hardship.

1. Any sign existing at the effective date of adoption of this Section XII which does not conform to the regulations and requirements of this Section XII and any sign existing on the effective date of any amendment to this Section XII which renders the sign nonconforming: may continue to be used and maintained in a condition of good repair until removed, pursuant to the conditions of this Ordinance.

2. No non-conforming sign shall:

- a. Be enlarged if such enlargement would increase any nonconformity.
- b. Be changed to another nonconforming sign.

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/17][Amended 11/28/18]

- c. Be changed in shape or size.
- d. Continue to be used or allowed to remain in place after the business, product, service, event or other activity to which it relates has been discontinued for ninety (90) days or longer, or, in the case of a seasonal business, for three hundred sixty-five (365) days or longer.
- e. Be repaired, or replaced after damage or destruction, if the expense of repair exceeds fifty percent (50%) of the current cost of replacing or duplicating the existing sign, as determined by a professional sign manufacturer.
- f. Continue to be used or allowed to remain in place following any activity that requires site plan approval by the Planning Board.

The addition of a readerboard to an existing nonconforming sign shall not be considered an enlargement under subparagraph (a) above or a change under subparagraphs (b) or (c) above, provided that the addition of the readerboard does not increase the gross display area of the sign beyond the maximum permitted in the zoning district or the gross square footage of the existing sign, whichever is greater. [Amended 08/17/05]

- 3. A non-conforming sign may not be moved or replaced except to bring the sign into complete conformity with this Ordinance. Once a non-conforming sign has been taken down or moved, said sign may only be replaced with a sign that is in conformance with the requirements of this Ordinance, except that a seasonal business may take down nonconforming signs in the off season and replace them in the same locations when the business reopens the following season.
- 4. Notwithstanding other provisions contained in this Section, the message of a nonconforming sign may be changed so long as this does not create any new nonconformities.
- 5. Notwithstanding the above, if there is a change of use on a single-use property, and there were one or more on-premise nonconforming signs which advertised the former business or use, any new signs used, and all new signs faces for the new use or business must meet all sign requirements for the underlying zoning district. This provision shall not apply in cases where the supply of parking would be reduced below that required by ordinance, or where the new sign location would create a public safety hazard or block sight distance. A change in use means a change in function as described in the Land-Based Classification Standards of the American Planning Association (APA).
- 6. Relief from the above restrictions on non-conforming signs may be reviewed and granted by the Board of Appeals in accordance with the Miscellaneous Appeal review process under Section V.B.4.g.

L. SUBSTITUTION CLAUSE [Adopted 09/06/17]

For every commercial sign that is allowed under this Ordinance, any non-commercial message may be legally substituted.

M. DEFINITIONS SPECIFIC TO SIGN REGULATIONS.

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/17][Amended 11/28/18]

As used in this Section XII, the following terms have the following meanings: [Amended 4/6/94] [Amended 05/01/96][09/06/17]

a. Abandoned Sign:

A sign that was legally erected but whose use has ceased or the structure upon which the sign was displayed has been abandoned by its owner for a period of not less than 30 days.

b. Accessory Sign:

A secondary sign that provides on-site information concerning the business that is not indicated on the primary identification sign(s), such as store hours, accepted credit cards, quality ratings, affiliations, vacancies, parking and traffic direction.

c. Advertising Sign:

A sign whose primary purpose is to attract attention to goods offered for sale or lease or services rendered upon property whereupon the advertising is occurring.

d. Animated Sign:

A sign employing actual motion or the illusion of motion. This definition does not include time and temperature signs or electronic message signs. Animated signs, which are differentiated from readerboards or changeable signs, include the following types:

1) Environmentally Activated: Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. These include spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

2) Mechanically Activated: Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

3) Electrically Activated: Animated signs producing the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

a) Flashing: An animated sign with an intermittent or flashing light source.

b) Patterned Illusionary Movement: Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

e. Banner:

A sign of temporary construction made of vinyl, canvas, or similar flexible material.

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/17][Amended 11/28/18]

f. Bulletin Board:

A sign associated with religious or educational institutions on which the copy can be changed.

g. Business Directory Sign:

A freestanding sign identifying names and/or uses, and/or locations, in a Unified Development or multi-tenant development.

h. Campus Directional Sign:

A freestanding sign located along a public right-of-way or within an area designated as a Unified Development that directs people to one or more named destinations reachable along that roadway. [Amended 02/20/08]

i. Copy:

Any graphic, letter, number, symbol, insignia, text, sample, model, device, or combination thereof, which relates to advertising, identification, or notification.

j. Directional Sign:

A sign that indicates ingress or egress to a property and does not contain either identification or advertising copy.

k. Doorway Sign:

A sign indicating the location of, or direction to, a separate function performed within one portion of a building that may be erected over or by the doorway or entrance to such portion of the building.

l. Electronic Message Sign:

An electronically activated changeable sign whose variable message capability can be electronically programmed.

m. Exterior Illuminated Sign:

A sign with an exterior light source, either attached or detached from the sign, whose purpose is to illuminate the sign board.

n. Freestanding Sign:

A sign supported by one or more uprights or braces permanently affixed into the ground.

o. Changeable Message Sign:

The portion of a freestanding sign changes message by electronic, manual, or mechanical means. [09/06/17]

p. Gross Display Area:

On signs which use a signboard or boards, the total area of the board or boards. On signs where the copy is attached directly to a wall, awning or other building surface, the area within a rectangle which completely contains all the sign's copy.

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/17][Amended 11/28/18]

q. Historical Site Signs:

A wall sign erected or provided by local historical society or government agency that denotes a recognized historical site or structure.

r. Identification Sign:

A sign that includes, as copy, only the name of the business, place, organization, building, or person it identifies.

s. Internally Illuminated Sign:

A sign with a light source incorporated into the body of the sign and where light emanates through the message of the sign.

t. Main Thoroughfare:

Means any of the following streets:

U.S. Route 1
Payne Road
Haigis Parkway
Gorham Road
Pine Point Road
Pleasant Hill Road
Spring Street

u. Marquee:

A structure projecting over the entrance to a theater used to support a sign.

v. Drive-through Sign:

A permanently mounted sign displaying the bill of fare for a drive-through commercial establishment.[09/06/17]

w. Non-Conforming Sign:

An existing sign that was lawfully erected in compliance with applicable code requirements and maintained prior to the effective date of this Ordinance.

x. Off-Premise Official Business Directional Sign (OBDS):

An off-premise directional sign allowed under Maine DOT Chapter 200 (or current) Regulations.

y. Off-premise Sign:

A sign that identifies one or more businesses that is located off the premises of the said business(es) and that is located within the public right-of-way. [Amended 02/20/08]

z. Orientation Map:

A sign at the entrance to direct motorists to individual buildings or parking lots within a Unified Development.

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/17][Amended 11/28/18]

aa. Pennant:

An all-weather device constructed of lightweight plastic, fabric, or other material, which may or may not contain copy, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

bb. Portable Sign:

A sign not designed or intended to be permanently affixed into the ground or to a structure.

cc. Principle Sign:

The main sign on a property.

dd. Projecting Sign:

A sign that is suspended from or supported by any building or structure and projects outward from the supporting structure.

ee. Readerboard:

A free-standing sign or portion thereof on which the copy changes, or can be changed, by manual, electronic, or mechanical means. A readerboard may contain an electronic message sign, or a time and/or temperature sign. [Amended 08/17/2005]

ff. Roof Sign:

A sign located upon or over a roof of a building.

gg. Sandwich Board Signs:

A sign not secured or attached to the ground or surface upon which it is located, but supported by its own frame and most often forming the cross-sectional shape of an A.

hh. Sign:

An object, device, display or structure or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, project, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, or projected image. See Section XII.A.6 for exceptions.

ii. Temporary Sign:

A sign intended to be displayed for a short period of time. [096/06/17]

jj. Time and/or Temperature Sign:

A sign designed to show time and outdoor temperature.

kk. Under Common Control:

Subject to the provisions of a condominium declaration or subject to rules and regulations imposed by an incorporated unit owners' association or lot owners' association.

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/17][Amended 11/28/18]

ll. Unified Development:

A group of contiguous lots in a common ownership or under common control, a group of lots in a subdivision approved by the Scarborough Planning Board, or a group of units of occupancy on a single lot, where access to the individual lots or units of occupancy is by a common driveway or by a street which serves principally that Unified Development and which is not a Main Thoroughfare. Examples of Unified Developments include, but are not limited to, office parks, healthcare/hospitals, professional parks, business parks, industrial parks, shopping centers and shopping malls.

mm. Vision Triangle:

The area at the four corners of an intersection that is to be kept free of shrubs, ground covers, berms, fences, signs, structures, or other materials or items greater than thirty (30) inches in height.

nn. Wall Sign:

A sign painted on, attached to, or supported by a building wall or part thereof, provided that the sign does not project more than 12" from the wall.

oo. Window Sign:

A sign placed, painted, or affixed on the inside or within 12" of a window or door, and is visible from the exterior of the building.

SECTION XIII. RURAL, FARMING AND MANUFACTURED HOUSING DISTRICT: R-F-M.
[December 19, 1984][May 5, 2010]

SECTION XIII. RURAL, FARMING AND MANUFACTURED HOUSING DISTRICT:
R-F-M. [December 19, 1984][May 5, 2010]

A. PURPOSE

To conserve the integrity and natural qualities of rural open space for the betterment and future use of the community, to encourage the continuation of agriculture and related activities and to provide for areas within the community where manufactured housing units can be harmoniously situated on individual lots. To this end, residential development shall not be in excess of 1 dwelling unit per 2 residential acres and may occur in accordance with the provisions of Section VIIA of this Ordinance. [Amended 02/01/06]

B. PERMITTED USES

The following uses are permitted uses: (05/07/03)

- 1.** Commercial agriculture subject to the performance standards of Section IX.Q. [Adopted 05/05/10]
- 2.** Commercial animal husbandry subject to the performance standards of Section IX.Q. [Adopted 05/05/10]
- 3.** Farm stands subject to the performance standards of Section IX.R. [Adopted 05/05/10]
- 4.** Agricultural products store subject to the performance standards of Section IX.S. . [Adopted 05/05/10]
- 5.** Agricultural processing facilities with a total of not more than two thousand (2,000) square feet of gross floor area in conjunction with commercial agriculture and/or commercial animal husbandry subject to the performance standards of Section IX..Q. [Adopted 05/05/10]
- 6.** Bed and Breakfast (B&Bs) subject to the performance standards of Section IX.T.
- 7.** Single family detached dwellings, exclusive of individual mobile homes.
- 8.** Two-family dwellings. [Adopted 05/05/10]
- 9.** A single multifamily dwelling with four or fewer dwelling units on a lot, subject to review under Section VII-A. Conservation Subdivision Design. [Adopted 05/05/10]
- 10.** Manufactured Housing Units which conform to the following installation standards:
 - a.** The wheels, axles, detachable transporter unit and tongue shall be removed and the unit shall be placed on a permanent foundation.
 - b.** The foundation shall comply to the requirements of the Town's building code for residential structures. At a minimum, the foundation shall consist of a 4' frost wall completely surrounding and supporting the perimeter of the unit with a crawl space.

SECTION XIII. RURAL, FARMING AND MANUFACTURED HOUSING DISTRICT: R-F-M.
[December 19, 1984][May 5, 2010]

- c.** The exterior plumbing shall comply with the Maine State Plumbing Code.
 - d.** The exterior electrical connections shall comply with the National Electrical Code.
 - e.** The acute angle between the front property line of the lot (or in the case of a curved front line, the chord connecting the points where the side lines intersect the front line) and a line parallel to the short axis of the manufactured housing unit is not less than 30 degrees. On corner lots, said acute angle shall be no less than 30 degrees and no greater than 60 degrees.
 - f.** Fuel oil storage tanks shall be in the cellar, crawl space, or buried and conform to NFPA 31.
 - g.** Above-ground propane tanks shall be permitted only at the rear of the structure.
 - h.** All disturbed portions of the site shall be loamed and seeded.
- 11.** Residentially recreational facility. [Amended 05/05/10]
- 12.** Nursing homes and boarding-care facilities for the elderly on lots of at least five acres. [Amended 05/05/10]
- 13.** Accessory uses and buildings, including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
- 14.** Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required. [Amended 06/01/94]
- 15.** Golf Course. (12/21/94)
- 16.** Municipal Buildings and Uses. (7/5/95)
- 17.** Place of Worship. (5/5/99)
- 18.** Day camp on a lot with a lot area of at least ten (10) acres. [Adopted 05/05/10]
- 19.** Forestry. [Adopted 05/05/10]
- 20.** Commercial Stables. [Adopted 05/05/10]
- The following uses are allowed only pursuant to a contract zoning agreement approved by the Town Council under Section II(I) of this Ordinance: (05/07/03)
- 21.** Wetlands Creation on previously excavated property. (05/07/03)
- 22.** Accessory units subject to the performance standards of Section IX.J. (02/15/12)

SECTION XIII. RURAL, FARMING AND MANUFACTURED HOUSING DISTRICT: R-F-M.
[December 19, 1984][May 5, 2010]

C. SPECIAL EXCEPTIONS

- 1.** Agricultural processing facilities with a total of more than town thousand (2,000) square feet of gross floor area in conjunction with commercial agriculture and/or commercial animal husbandry subject to the performance standards of Section IX.Q. [Adopted 05/05/10]
- 2.** Public utility facilities including substations, pumping stations and sewage treatment facilities.
- 3.** Cemeteries.
- 4.** Extractive industrial including gravel pits and quarries.
- 5.** Camping and tenting areas on lots of at least five acres.
- 6.** Mobile home parks.
- 7.** Home occupations.
- 8.** Group Day Care Homes and Nursery Schools.
- 9.** Day Care Center Facilities. [Adopted 05/05/10]
- 10.** Non-commercial Model Aviation Flying Field located west of the Maine Turnpike and subject to the standards of Section IV(I)(8) of this Ordinance. (2/17/93)
- 11.** Adjunct Uses, Places of Worship. (5/5/99)
- 12.** Telecommunication Facility. (03/17/04)
- 13.** Hospices [Adopted 05/05/10]
- 14.** Kennels. [Adopted 05/05/10]
- 15.** Veterinary and pet care facilities. [Adopted 05/05/10]
- 16.** Agricultural employee housing in conjunction with commercial agricultural and/or commercial animal husbandry. [Adopted 05/05/10]
- 17.** Commercial outdoor recreation subject to the performance standards of Section IX.U.

D. SPACE AND BULK REGULATIONS

Maximum net residential density	1 dwelling unit per net residential 2 acres (adopted 6/21/72)
Minimum lot area (refer to page 41, Section VI – Definitions, <i>Lot Area</i> for calculation)	80,000 sq. ft.
Minimum area per family	80,000 sq. ft.
Minimum street frontage	200 feet
Minimum front yard, all buildings	50 feet

SECTION XIII. RURAL, FARMING AND MANUFACTURED HOUSING DISTRICT: R-F-M.
[December 19, 1984][May 5, 2010]

Minimum rear and side yards, all buildings *Buildings higher than 30 feet shall have side and rear yards not less than 50% of building height.	15 feet*
Maximum building height	(See Section IX,A,15)
Maximum building coverage	25%

The above space and bulk regulations shall apply unless the use of Section VIIA, Conservation Subdivision Design – Flexible Development Standards for Lower Density Residential Districts, of this Ordinance is required or elected, as per subsection B applicability of Section VIIA. [Amended 02/01/06]

E. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

F. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XIV. RURAL FARMING DISTRICT R-F. [Amended 05/05/2010][02/15/12]

SECTION XIV. RURAL FARMING DISTRICT R-F. [Amended 05/05/2010][02/15/12]

A. PURPOSE

To conserve the integrity and natural qualities of rural open space for the betterment and future of the community and encourage the continuation of agriculture and related activities in these areas of the community. To this end, residential development shall not be in excess of 1 dwelling unit per 2 residential acres and may occur in accordance with the provisions of Section VIIA of this Ordinance. [Amended 02/01/2006][Amended 05/05/10]

B. PERMITTED USES

The following uses are permitted uses: (05/07/03)

1. Commercial agriculture subject to the performance standards of Section IX.Q. [Adopted 05/05/10]
2. Commercial animal husbandry subject to the performance standards of Section IX.Q. [Adopted 05/05/10]
3. Farm stands subject to the performance standards of Section IX.R. [Adopted 05/05/10]
4. Agricultural products store subject to the performance standards of Section IX.S. [Adopted 05/05/10]
5. Agricultural processing facilities with a total of not more than two thousand (2,000) square feet of gross floor area in conjunction with commercial agriculture and/or commercial animal husbandry subject to the performance standards of Section IX.Q. [Adopted 05/05/10]
6. Bed and Breakfast (B&Bs) subject to the performance standards of Section IX.T. [Adopted 05/05/10]
7. Single family detached dwellings, exclusive of individual mobile homes.
8. Two-family dwellings. [Adopted 05/05/10]
9. A single multifamily dwelling with four or fewer dwelling units on a lot, subject to review under Section VIIA. Conservation Subdivision Design. [Adopted 05/05/10]
10. Residential recreational facility.
11. Nursing homes and boarding-care facilities for the elderly on lots of at least five acres. [Amended 05/05/10]
12. Accessory uses and buildings including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
13. Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required. [6/01/94]

SECTION XIV. RURAL FARMING DISTRICT R-F. [Amended 05/05/2010][02/15/12]

14. Golf Course. [12/21/94]

15. Municipal Buildings and Uses. [7/5/95]

16. Place of Worship. [5/5/99]

17. Day camp on a lot with a lot area of least ten (1) acres. [Adopted 05/05/10]

18. Forestry. [Adopted 05/05/10]

19. Commercial Stables. [Adopted 05/05/10]

The following uses are allowed only pursuant to a contract zoning agreement approved by the Town Council under Section II(I) of this Ordinance: [05/07/03]

20. Wetlands Creation on previously excavated property. [05/07/03]

21. Accessory units subject to the performance standards of Section IX.J. (02/15/12)

C. SPECIAL EXCEPTIONS

1. Agricultural processing facilities with a total of more than two thousand (2,000) square feet of gross floor area in conjunction with commercial agriculture and/or commercial animal husbandry subject to the performance standards of Section IX.Q. [Adopted 05/05/10].

2. Public utility facilities including substations, pumping stations and sewage treatment facilities.

3. Cemeteries.

4. Extractive industry including gravel pits and quarries. [Amended 05/05/10]

5. Camping and tenting area on lots of at least five acres.

6. Mobile home parks.

7. Home occupations.

8. Group Day Care Homes and Nursery Schools. [6/01/94]

9. Day Care Center Facilities. [Adopted 05/05/10]

10. Non-commercial Model Aviation Flying Field located west of the Maine Turnpike and subject to the standards of Section IV(I)(8) of this Ordinance. [02/17/93]

11. Adjunct Uses, Place of Worship. [05/05/99]

12. Telecommunication Facility. [03/17/04]

13. Hospices. [08/17/05]

SECTION XIV. RURAL FARMING DISTRICT R-F. [Amended 05/05/2010][02/15/12]

14. Kennels. [Adopted 05/05/10]

15. Veterinary and pet care facilities. [Adopted 05/05/10]

16. Agricultural employee housing in conjunction with commercial agriculture and/or commercial animal husbandry. [Adopted 05/05/10]

17. Commercial outdoor recreation subject to the performance standards of Section IX.U.

D. SPACE AND BULK REGULATIONS

Maximum net residential density	1 dwelling unit per net residential 2 acres
Minimum lot area (refer to page 41, Section VI – Definitions, <i>Lot Area</i> for calculation)	80,000 sq. ft.
Minimum area per family	80,000 sq. ft.
Minimum street frontage	200 feet
Minimum front yard, all buildings	50 feet
Minimum rear and side yards, all buildings *Buildings higher than 30 feet shall have side and rear yards not less than 50% of building height.	15 feet*
Maximum building height	(See Section IX,A,15)
Maximum building coverage	25%

The above space and bulk regulations shall apply unless the use of Section VIIA, Conservation Subdivision Design – Flexible Development Standards for Lower Density Residential Districts, of this Ordinance is required or elected, as per subsection B applicability of Section VIIA. [Amended 02/01/06]

E. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

F. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this ordinance.

SECTION XV. RESIDENTIAL DISTRICT R-2.

SECTION XV. RESIDENTIAL DISTRICT R-2.

A. PURPOSE

To provide residential areas within the Town of Scarborough of low density in a manner which will promote a wholesome living environment. To this end, residential development shall not exceed 2 dwelling units per net residential acre and may occur in accordance with the provisions of Section VIIA of this Ordinance. [Amended 02/01/2006]

B. PERMITTED USES

1. Single family detached dwellings exclusive of individual mobile homes.
2. Place of Worship. [05/05/99]
3. School, library, museum.
4. Residential recreation facility.
5. Accessory uses including accessory stables on lots of at least two acres, accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
6. Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board Appeals review is not required. [6/01/94]
7. Golf Course. [12/21/94]
8. Municipal Buildings and Uses. [07/05/95]
9. Accessory units subject to the performance standards of Section IX.J. (02/15/12)

C. SPECIAL EXCEPTION USES

1. Commercial agriculture subject to the performance standards of Section IX.Q. [05/05/10]
2. Farm stands subject to the performance standards of Section IX.R. [05/05/10]
3. Agricultural products stores subject to the performance standards of Section IX.S. [05/05/10]
4. Agricultural processing facilities with a total of not more than one thousand (1,000) square feet of gross floor area in conjunction with commercial agriculture subject to the performance standards of Section IX.Q. [05/05/10]
5. Cemeteries.
6. Public utilities facilities including substations, pumping stations and sewage treatment facilities.
7. Home occupations.
8. Group Day Care Homes, and Nursery Schools. [06/01/94]

SECTION XV. RESIDENTIAL DISTRICT R-2.

9. Day Care Center Facilities. [12/21/94]
10. Adjunct Uses, Place of Worship. [05/05/99]
11. Telecommunications Facility. [03/17/04]
12. Hospices. [08/17/05]

D. SPACE AND BULK REGULATIONS

Maximum net residential density	2 dwellings per net residential acre.
Minimum lot area (refer to page 41, Section VI – Definitions, <i>Lot Area</i> for calculation)	20,000 sq. ft.
Minimum area per family	20,000 sq. ft.
Minimum street frontage	100 feet
Minimum front yard all buildings	40 feet
Minimum rear and side yards, all buildings *Buildings higher than 30 feet shall have side and rear yards not less than 50% of building height.	15 feet*
Maximum building height	(See Section IX,A,15)
Maximum building coverage	20%
Minimum distance between principal buildings on the same lot	The height equivalent of the taller building

The above space and bulk regulations shall apply unless the use of Section VIIA, Conservation Subdivision Design – Flexible Development Standards for Lower Density Residential Districts, of this Ordinance is required or elected, as per subsection B applicability of Section VIIA. [Amended 02/01/06]

E. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

F. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XV.A RESIDENTIAL DISTRICT R-3 [Amended 07/13/16]

SECTION XV.A RESIDENTIAL DISTRICT R-3 [Amended 07/13/16]

A. PURPOSE

To provide residential areas within the Town of Scarborough of higher density to a manner which will promote a wholesome living environment. To this end, residential development shall not exceed 2 dwelling units per net residential acre in unsewered areas or 3 dwelling units per net residential acre in sewerred areas.

B. PERMITTED USES

1. Any permitted use in an R-2 Residential District.
2. Two-family dwelling.
3. Community buildings not operated for private gain.
4. Accessory uses including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
5. Multiplex (must be served by public sewer; minimum parcel size of five 5 acres) per Section VII.
6. Townhouses limited to no more than eight (8) dwelling units per building (must be served by public sewer; minimum parcel size of five (5) acres).
7. Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required. [06/01/94]
8. Golf Course. [12/21/94]
9. Municipal Buildings and Uses. [07/05/95]
10. Accessory units subject to the performance standards of Section IX.J. (02/15/12)

C. SPECIAL EXCEPTIONS

1. Nursing homes, orphanages, hospices. [Amended 08/17/05]
2. Charitable institutions.
3. Public utility facilities including substations, pumping stations and sewage treatment facilities.
4. Home occupations.
5. Group Day Care Homes and Nursery Schools. [06/01/94]
6. Adjunct Uses, Place of Worship. [05/05/99]
8. Telecommunication Facility. [03/17/04]

D. SPACE AND BULK REGULATIONS

	Sewered	Unsewered
Minimum lot area (refer to page 41, Section VI – Definitions, <i>Lot Area</i> for calculation)	15,000 sq. ft.	20,000 sq. ft.
Minimum Area per Family	15,000 sq. ft.	20,000 sq. ft.
Minimum Street Frontage	100 feet	100 feet
Minimum Front Yard, All buildings	40 feet	40 feet

SECTION XV.A RESIDENTIAL DISTRICT R-3 [Amended 07/13/16]

	Sewered	Unsewered
Minimum Rear and Side Yard, All Buildings (*Buildings higher than 30 feet shall have side and rear yards not less than 50% of building height.)	15 feet*	15 feet*
Maximum Building Height	See Section IX, A, 15	
Maximum Building Coverage	25%	20%
Minimum distance between principal building on same lot shall be the height equivalent of the taller building.		

E. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

F. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XV.B – VILLAGE RESIDENTIAL 2 – DISTRICT VR2 [Amended 01/20/16; Amended 07/13/16]

A. PURPOSE

To provide residential neighborhoods of a moderate density to a manner which will promote a wholesome living environment and accept a significant share of the Town's residential growth. To this end, residential development shall not exceed 2 dwelling units per net residential acre if served by public sewer and 1 dwelling unit per 2 acres if served by on-site sewage disposal. T. The village residential development standards are intended to promote the establishment of neighborhoods with a mix of dwelling types accommodating a mix of household types, age groups and income levels, incorporate communal recreation areas, greens, commons and open spaces, and create a village-style development pattern with an interconnected network of landscaped streets, blocks, and pedestrian ways in a manner that compliments adjacent residential neighborhoods and commercial districts to instill a mix of housing types and land uses in and around our town and village centers. All new subdivisions in the VR2 District shall be serviced by public sewer and public water supply.

B. VILLAGE DEVELOPMENT STANDARDS

New Residential subdivisions in the VR2 District shall conform to the following standards:

1. Residential subdivisions shall be designed in a pattern of substantially rectangular blocks forming a grid layout with interconnected streets and communal space as defined by buildings, landscaping and streetscapes, natural features, and pedestrian ways that establishes a traditional village design.
2. Residential developments shall include low-volume streets designed for lower vehicle speeds in order to increase pedestrian safety, discourage non-local through traffic and maintain a village character. In order to achieve these design standards, the Planning Board shall have the authority to reduce the pavement width of local residential streets to 20 feet. Streets approved by the Planning Board under this Section shall be deemed to comply with the Street Acceptance and Subdivision Ordinances.
3. Sidewalks and shade trees shall be provided on both sides of the streets within a subdivision and shall connect to the pedestrian amenities of abutting neighborhoods to the extent feasible. The Planning Board may allow alternative pedestrian amenities, such as a sidewalk on one side of a street, footpaths and trails, if the Board finds the above standard is not necessary due to special circumstances of a site or the nature or scale of a particular residential development.
4. The Planning Board may allow the establishment of "private alleyways" to provide access to parking facilities for various residential units. These alleyways may be 14 feet in pavement width with an additional 6 feet of non-paved drivable surface (totaling 20 ft.), in accordance with Scarborough Fire Department requirements. These alleyways shall be owned and maintained by a homeowners association and shall be subject to an easement allowing Town use and access. These alleyways shall not be considered streets under this Ordinance, the Street Acceptance Ordinance or the Scarborough Subdivision Ordinance.

5. Between 10 - 20% of the net residential area of a subdivision shall be allocated as designated open space accessible to all residential units. The open space shall consist of both village green space and surrounding open space for conservation. The village green space may consist of neighborhood parks, community greens, commons, linear greenways, courtyards, landscaped boulevards and the like. The surrounding open space shall be connected and contiguous where feasible, and shall be restricted for conservation and recreation in perpetuity. This open space may contain recreation areas, ball fields, recreation trails, and the like. It shall function as protection for natural resources, buffers to adjacent incompatible uses, forested, natural distinctions between this zoning district and adjacent less dense zoning districts, and linkages to neighboring green spaces or recreational amenities. In addition, this common green space or open space can be used for solar or wind energy systems as allowed for under Section IX. The final open space percentage within the 10 - 20% range shall be determined by the Planning Board.

C. PERMITTED USES

1. Single family detached dwellings exclusive of mobile homes.
2. Two-family dwellings.
3. Multiplexes (permitted with a minimum parcel size of five (5) acres).
4. Townhouses limited to no more than eight (8) dwelling units per building (permitted with a minimum parcel size of five (5) acres).
5. Multifamily dwellings limited to a maximum building footprint of 7,500 square feet (permitted with a minimum parcel size of five (5) acres).
6. Place of Worship.
7. School, library, museum.
8. Community buildings not operated for private gain.
9. Residential recreation facility.
10. Family Day Care Homes, subject to the standards and conditions of Section IV (I)(6), except that Board of Appeals review is not required.
11. Municipal Buildings and Uses.
12. Post office facilities.
13. Accessory uses including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
14. Accessory units subject to the performance standards of Section IX.J. (02/15/12)

D. SPECIAL EXCEPTIONS

1. Nursing homes, orphanages, hospices. [Amended 08/17/05]

2. Charitable institutions.

3. Public utility facilities including substations, pumping stations and sewage treatment facilities, except that Board of Appeals review is not required if the facility is proposed, reviewed and permitted by the Planning Board as part of an original residential development.

4. Home occupations.

5. Group Day Care Homes and Nursery Schools.

6. Adjunct Uses, Place of Worship.

7. Telecommunication Facility.

8. Commercial agriculture subject to the performance standards of Section IX.Q.

9. Farm stands subject to the performance standards of Section IX.R.

10. Agricultural processing facilities with a total of not more than one thousand (1,000) square feet of gross floor area in conjunction with commercial agriculture subject to the performance standards of Section IX.Q.

E. SPACE AND BULK REGULATIONS

1. The following Space and Bulk Regulations are applicable to subdivisions reviewed by the Planning Board under the Scarborough Subdivision Ordinance after June 1, 2005:

a. Minimum lot dimensions and yard requirements:

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)	Front Yard (ft)	Rear & Side Yard (ft.)
single-family	5,000	40	40	5	15 ¹
two-family	7,500	50	50	5	15 ¹
multifamily, multiplex	15,000	75	75	5	15 ²
townhouses	15,000	75	75	5	15 ²
non-residential ³	15,000	75	75	5	15
¹ May be reduced to 5 feet for single-family dwellings within the same residential development if the dwelling and the abutting dwellings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code.					
² May be reduced to 10 feet for two-family dwellings if the structures meet the Fire Rating requirements as per the NFPA 101 Life Safety Code. The Planning Board may also allow lesser separation between two-family and multi-family dwellings than the setback requirements dictated above if these dwellings are located on the same lot and the structures meet the Fire Rating requirements for the lesser separation as per the NFPA 101 Life Safety Code.					
³ As used in this subsection E., the term “non-residential” does not include home occupations and other uses accessory to a residential use.					
⁴ The lot area requirements shall be considered minimums. The Planning Board may require additional lot areas in order to meet the Town Plumbing Ordinance & the Maine Subsurface Waste Water Disposal Rules depending on the density of housing and use types.					

b. Maximum Building Coverage 60%

2. For a resident lot that does not require subdivision review and approval by the Planning Board or a lot in a subdivision that was approved prior to June 1, 2005, the Space and Bulk Regulations of the R2 District shall apply if the lot is served by the public sewer system. If the lot is served by an on-site subsurface sewage disposal system, the space and bulk regulations of the RF District shall apply.
3. Maximum Building Height Thirty-five (35) feet, and not to exceed three (3) stories
4. Maximum Building Coverage 60%

F. RESIDENTIAL DENSITY REGULATIONS

1. For a residential lot that is not subject to Planning Board review and approval or a lot in a subdivision that was approved prior to June 1, 2005, the residential density shall be governed by the R2 Space and Bulk Regulations if the lot is served by an on-site subsurface sewage disposal system, the space and bulk regulations of the RF District shall apply.
2. For a subdivision that is subject to Planning Board review and approval after June 1, 2005, the following residential density regulations shall apply:
 - a. **Residential Density Factors** – Within this zoning district the Residential Density Factors in Section VII.C.A. of the Zoning Ordinance shall apply to multiplex and townhouse dwelling units.
 - b. **Maximum Base Residential Density** – The maximum base residential density shall be two (2) dwelling units per net residential acre. This is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.
 - c. **Additional Residential Density Thru Development Transfer** – A subdivision may increase the number of dwelling units by up to ten percent (10%) of the total number allowed under the maximum base residential density (subsection F.2.b.) by utilizing the development transfer provisions in accordance with Section VII.D. of this Ordinance.
 - d. **Additional Residential Density Thru Affordable Housing** - A subdivision may increase the number of dwelling units by up to ten percent (10%) of the total number allowed under the maximum base residential density (subsection F.2.b.) provided at least forty percent (40%) of those additional units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.
 - e. **Additional Residential Density Thru an Affordable Housing In-Lieu Fee** – In lieu of developing affordable housing to utilize additional residential density under subsection F.2.d., a development may increase the number of dwelling units by up to ten percent (10%) of the total number allowed under the maximum base residential density by utilizing the affordable housing in lieu fee provisions in accordance with Section VII.C. of this Ordinance. [Adopted 08/20/2014]

The Planning Board may allow a subdivision to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed twenty percent (20%) beyond the maximum base residential density allowed.

G. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except that the Planning Board shall have the authority to allow residential off-street parking to be located within 300 feet of principal residential uses, measured along lines of public access, where it cannot be reasonably be provided on the same lot. Such parking areas shall be held under the same ownership or lease as the residential uses served and evidence of such control or lease shall be required. This allowance shall not require approval by the Board of Appeals under Section XI(C) in this zoning district.

Given the village-style development pattern of the residential development, residential parking spaces in a new subdivisions need not measure more than 9 feet by 18 feet and valid parking spaces shall include spaces located in private driveways leading into garages, notwithstanding the otherwise applicable provisions of Sections VI and XI of this Ordinance.

H. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XV.C VILLAGE RESIDENTIAL 4 DISTRICT – VR4 [Adopted 03-04-09] [Amended 01/20/16; Amended 07/13/16]

**SECTION XV.C VILLAGE RESIDENTIAL 4 DISTRICT – VR4 [Adopted 03-04-09]
[Amended 01/20/16; Amended 07/13/16]**

A. PURPOSE

To provide residential neighborhoods of a higher density to a manner which will promote a wholesome living environment and accept a significant share of the Town's residential growth. To this end, residential development shall not exceed 4 dwelling units per net residential acre, plus additional density through development transfer or affordable housing. The village residential development standards are intended to promote the establishment of neighborhoods with a mix of dwelling types accommodating a mix of households, age groups and income levels, incorporate communal recreation areas, greens, commons and open spaces, and create a village-style development pattern with an interconnected network of landscaped streets, blocks, and pedestrian ways in a manner that compliments adjacent residential neighborhoods and commercial districts to instill a mix of housing types and land uses in and around our town and village centers. All developments in the VR4 District shall be serviced by public sewer and public water supply.

B. VILLAGE DEVELOPMENT STANDARDS

1. Residential developments shall be designed in a pattern of substantially rectangular blocks forming a grid layout with interconnected streets and communal space as defined by buildings, landscaping and streetscapes, natural features, and pedestrian ways that establishes a traditional village design. The Planning Board may waive the standard for a grid layout of interconnected streets if the Board finds that topographical, wetland or other natural constraints inhibit this design or if the scale of a particular residential development is not conducive to an interconnected street layout.
2. Residential developments shall include low-volume streets designed for lower vehicle speeds in order to increase pedestrian safety, discourage non-local through traffic and maintain a village character. In order to achieve these design standards, the Planning Board shall have the authority to reduce the pavement width of local residential streets to 20 feet. Streets approved by the Planning Board under this Section shall be deemed to comply with the Street Acceptance and Subdivision Ordinances.
3. The street network in a residential development, or a private access road or driveway located in the VR4 District, shall not provide or create vehicular access from Sawyer Road to serve non-residential development located outside of the VR4 District.
4. Sidewalks and shade trees shall be provided on both sides of the streets within a development and shall connect to the pedestrian amenities of abutting neighborhoods to the extent feasible. The Planning Board may allow alternative pedestrian amenities, such as a sidewalk on one side of a street, footpaths and trails, if the Board finds the above standard is not necessary due to special circumstances of a site or the nature or scale of a particular residential development.
5. The Planning Board may allow the establishment of "private alleyways" to provide access to parking facilities for various residential units. These alleyways may be 14 feet in pavement width with an additional 6 feet of non-paved drivable surface (totaling 20 ft.), in accordance with Scarborough Fire Department requirements. These alleyways shall be owned and maintained by a homeowners association and shall be subject to an easement allowing Town use and access. These alleyways shall not be considered streets under this Ordinance, the Street Acceptance Ordinance or the Scarborough Subdivision Ordinance.

SECTION XV.C VILLAGE RESIDENTIAL 4 DISTRICT – VR4 [Adopted 03-04-09] [Amended 01/20/16; Amended 07/13/16]

6. At least 10% of the net residential acreage of a development shall be allocated as village green space for active and passive recreation. This village green space may consist of neighborhood parks, community greens, commons, linear greenways, courtyards, landscaped boulevards and the like. The village green space shall be integral to the development and shall be sited in a central location available and desirable for use by the residents of the development. In addition, green space or common land can be used for solar or wind energy systems as allowed for under Section IX.

7. Development shall be clustered away from wetlands, watercourses and water bodies and impacts to these resources shall be avoided. Contiguous wetland areas of 15,000 square feet or greater shall be protected as common open space. These open space areas shall include a minimum wetland buffer of twenty-five (25) feet from the upland edge of a wetland to any building lot boundary. The open space lands may include a trail system for walking, hiking, biking or similar activities subject to Planning Board approval. Where no practical alternative exists, the Planning Board may allow the crossing of wetlands for roads, driveways or utilities to provide access to, or use of, an upland area within a development.

C. PERMITTED USES

1. Single family detached dwellings, exclusive of individual mobile homes
2. Two-family dwellings
3. Multiplexes (permitted with a minimum parcel size of five (5) acres).
4. Townhouses limited to no more than eight (8) dwelling units per building (permitted with a minimum parcel size of five (5) acres).
5. Multifamily dwelling limited to a maximum building footprint of 7,500 square feet (permitted with a minimum parcel size of five (5) acres).
6. Place of Worship
7. School, library, museum
8. Community buildings not operated for private gain
9. Residential recreation facility
10. Family Day Care Homes, subject to the standards and conditions of Section IV (I)(6), except that Board of Appeals review is not required
11. Municipal Buildings and Uses
12. Golf Course
13. Accessory Uses including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]

D. SPECIAL EXCEPTIONS

- 1.** Nursing homes, orphanages, hospice
- 2.** Charitable institutions
- 3.** Public utility facilities including substations, pumping stations and sewage treatment facilities, except that Board of Appeals review is not required if the facility is proposed, reviewed and permitted by the Planning Board as part of an original residential development.
- 4.** Home occupations
- 5.** Group Day Care Homes and Nursery Schools
- 6.** Day Care Center Facilities
- 7.** Adjunct Uses, Place of Worship
- 8.** Accessory units subject to the performance standards of Section IX.J.
- 9.** Telecommunication Facility

E. SPACE AND BULK REGULATIONS

- 1.** The following Space and Bulk Regulations are applicable to developments reviewed by the Planning Board under the Scarborough Subdivision Ordinance:

a. Minimum Lot Area, Dimensions and Yard Standards

Housing & Use Type	Lot Area (square ft)	Lot Frontage (ft.)	Lot Width (ft.)	Front Yard (ft)	Rear & Side Yard (ft.)
single-family	5,000	50	50	5	15 ¹
two-family	7,500	50	50	5	15 ¹
multifamily, multiplex	15,000	75	75	5	15 ^{2 & 3}
townhouses	15,000	75	75	5	15 ^{2 & 3}
non-residential ⁴	15,000	75	75	5	15

¹ *May be reduced to 5 feet for single-family and two-family dwellings with the same residential development if the dwelling and the abutting dwelling meet the Fire Rating requirements for the*

SECTION XV.C VILLAGE RESIDENTIAL 4 DISTRICT – VR4 [Adopted 03-04-09] [Amended 01/20/16; Amended 07/13/16]

lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard

² *May be reduced to 10 feet for multiplex and townhouse dwellings if the dwelling and the abutting dwelling meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard*

³ *When the yard abuts a lot or parcel that is not part of the development the minimum yard shall be 25 feet and the buffering requirements of Section VIII of this Ordinance shall apply*

⁴ *As used in this subsection E., the term “non-residential” does not include home occupations and other uses accessory to a residential use*

b. Maximum Building Coverage 40%

2. For development that does not require subdivision review and approval by the Planning Board the Space and Bulk Regulations of the R-4 District shall apply.

3. Maximum Building Height Thirty-five (35) feet, and not to exceed three (3) stories

F. RESIDENTIAL DENSITY REGULATIONS

1. For development that is not subject to Planning Board review and approval the residential density shall be governed by the R-4 Space and Bulk Regulations.

2. For development that is subject to Planning Board review and approval the following residential density regulations shall apply:

a. Residential Density Factors - The Residential Density Factors in Section VII C. A. of the Zoning Ordinance shall apply to multiplex and townhouse dwelling units

b. Maximum Base Residential Density – The maximum base residential density shall be four (4) dwelling units per net residential acre. This is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.

c. Additional Residential Density Thru Development Transfer – A development may incorporate up to three (3) additional dwelling units per net residential acre, beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID. of this Ordinance.

d. Additional Residential Density Thru Affordable Housing – A development may incorporate up to one (1) additional dwelling unit per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

e. Additional Residential Density Thru an Affordable Housing In-Lieu Fee - In lieu of developing affordable housing to utilize additional residential density under subsection F.2.d., a development may incorporate up to one (1) additional dwelling unit per acre of net lot area beyond the maximum base residential density by utilizing the affordable housing in-lieu fee provisions in accordance with Section VII.C. of this Ordinance. [Adopted 08/20/2014]

The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density

SECTION XV.C VILLAGE RESIDENTIAL 4 DISTRICT – VR4 [Adopted 03-04-09] [Amended 01/20/16; Amended 07/13/16]

shall not exceed three (3) dwelling units per net residential acre beyond the maximum base residential density.

G. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except that the Planning Board shall have the authority to allow residential off-street parking to be located within 300 feet of principal residential uses, measured along lines of public access, where it cannot be reasonably be provided on the same lot. Such parking areas shall be held under the same ownership or lease as the residential uses served and evidence of such control or lease shall be required. This allowance shall not require approval by the Board of Appeals under Section XI(C) in this zoning district.

Given the village-style development pattern of the residential development, residential parking spaces need not measure more than 9 feet by 18 feet and valid parking spaces shall include spaces located in private driveways leading into garages, notwithstanding the otherwise applicable provisions of Sections VI and XI of this Ordinance.

H. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XV.I. RESIDENTIAL DISTRICT R-4. [Amended 07/13/16]

SECTION XV.I. RESIDENTIAL DISTRICT R-4. [Amended 07/13/16]

A. PURPOSE

To provide residential areas within the Town of Scarborough of higher density to a manner which will promote a wholesome living environment. To this end, residential development shall not exceed 2 dwelling units per net residential acre in unsewered areas or 4 dwelling units per net residential acre in sewerred areas.

B. PERMITTED USES

- 1.** Any permitted use in an R-2 Residential District.
- 2.** Two-family dwelling.
- 3.** Community buildings not operated for private gain.
- 4.** Accessory uses including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
- 5.** Multiplex (must be served by public sewer; minimum parcel size of five 5 acres) per Section VII.
- 6.** Townhouses limited to no more than eight (8) dwelling units per building (must be served by public sewer; minimum parcel size of five (5) acres).
- 7.** Family Day care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required. [06/01/94]
- 8.** Golf Course. [12/21/94]
- 9.** Municipal Buildings and Uses. [7/5/95]
- 10.** Accessory units subject to the performance standards of Section IX.J. (02/15/12)

C. SPECIAL EXCEPTIONS [Amended 02/21/07]

- 1.** Nursing homes, orphanages, hospices. [Amended 08/17/05]
- 2.** Charitable institutions.
- 3.** Public utility facilities including substations, pumping stations and sewage treatment facilities.
- 4.** Home occupations.
- 5.** Group Day Care Homes and Nursery Schools. [06/01/94]
- 6.** Boarding Care Facilities.
- 7.** Adjunct Uses, Place of Worship. [05/05/99]
- 8.** Telecommunication Facility. [03/17/04]

SECTION XV.I. RESIDENTIAL DISTRICT R-4. [Amended 07/13/16]

D. SPACE AND BULK REGULATIONS

	Sewered	Unsewered
Minimum lot area (refer to page 41, Section VI – Definitions, <i>Lot Area</i> for calculation)	10,000 sq. ft.	20,000 sq. ft.
Minimum Area per Family	10,000 sq. ft.	20,000 sq. ft.
Minimum Street Frontage	75 feet	100 feet
Minimum Front Yard, All buildings	30 feet	40 feet
Minimum Rear and Side Yard, All Buildings *Buildings higher than 30 feet shall have side and rear yards not less than 50% of building height.	15 feet*	15 feet*
Maximum Building Height	See Section IX, A, 15	
Maximum Building Coverage	25%	20%
Minimum distance between principal building on same lot shall be the height equivalent of the taller building.		

E. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

F. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XVI.A. TRADITIONAL NEIGHBORHOOD DEVELOPMENT OPTION OVERLAY DISTRICT, TND [Adopted 11/03/2004][Amended 11/06/2013; Amended 07/13/16]

SECTION XVI.A. TRADITIONAL NEIGHBORHOOD DEVELOPMENT OPTION OVERLAY DISTRICT, TND [Adopted 11/03/2004][Amended 11/06/2013; Amended 07/13/16]

A. PURPOSE

To provide residential areas within the Town of Scarborough of a higher density in a manner which will promote a wholesome living environment. To this end, residential development pursuant to this Section XVI.A shall not exceed 5 dwelling units per net residential acre through the use of the residential density bonus provisions. Traditional neighborhood development standards are intended to promote innovative design solutions that incorporate a mix of residential unit types accommodating a mix of income levels, provide for shared open space and civic areas, and promote a development pattern with an interconnected network of landscaped streets, blocks, and pedestrian ways.

B. DEVELOPMENT STANDARDS (TND)

(See Conceptual – Traditional Neighborhood Street Cross-Section at end of XVI.A)

1. Eligible parcels must be served by public utilities (sewer and water), contain at least 25 acres and be located within an R-4 Residential District.
2. Between 10 – 20% of the net residential area shall be allocated as designated open space accessible to all residential units. The open space may consist of neighborhood parks, commons, recreation fields, woodland walking trails, greenbelts or a combination thereof. The amount and location of open space shall be based on the development's overall design and needs when considering the street and block layout, housing density, dwelling styles, lot areas and natural features. The final open space percentage within the 10 – 20% range shall be determined by the Planning Board.
3. The development shall be designed in a pattern of substantially rectangular blocks forming a grid layout with interconnected streets and communal space as defined by buildings, landscaping, open space, natural features, sidewalks and paths.
4. The development design shall include low-volume residential streets with a pavement width of 20 feet and an overall right-of-way width of 44 feet, which are alternative to the standards required under the Town's Street Acceptance Ordinance and Subdivision Ordinance. Streets approved by the Planning Board under this Section shall be deemed to comply with the Street Acceptance and Subdivision Ordinances. These low-volume street standards are adequate to provide primary access to individual dwellings and adjacent streets within a traditional neighborhood development, while maintaining a compact neighborhood character. The low-volume streets shall be designed for lower vehicle speeds in order to increase pedestrian safety and discourage non-local through traffic as well as to compliment the higher density residential setting. The Planning Board may require additional pavement and layout widths on the streets that provide the primary access to the traditional neighborhood development.
5. Sidewalks and shade trees shall be provided on both sides of the streets within the development. Sidewalks and paths shall link to the pedestrian amenities of any abutting neighborhoods to the degree that is practical.
6. A minimum of 30% of the dwelling units provided shall be in the form of townhouses or attached dwellings.
7. There may be a retail or community use component of the neighborhood development that shall conform to the floor area and dwelling unit thresholds highlighted in C. Permitted Uses, below. The Subdivision proposal shall identify the specific types of retail and/or community uses proposed for the development, and the Planning Board may limit its approval to those specific types. Any retail sales shall be modest in size and merchandise suitable only to serve the immediate development, and

**SECTION XVI.A. TRADITIONAL NEIGHBORHOOD DEVELOPMENT OPTION OVERLAY
DISTRICT, TND [Adopted 11/03/2004][Amended 11/06/2013; Amended 07/13/16]**

shall not market or generate significant traffic external to the neighborhood. Any retail or community use component shall be integrated into the neighborhood layout, design, and architectural scheme. This non-residential component shall be reviewed as part of the overall subdivision and site plan review process and will require further site plan approval with any change of use.

C. PERMITTED USES

1. Any use permitted in the R-4 Residential District.
2. There may be 1,000 sq. ft. of floor area for retail sales, community use or a combination of the two per every 50 dwelling units within the development. The retail sales establishments shall not exceed 1,000 sq. ft. per unit of occupancy and there shall be no more than 2,000 sq. ft. of retail sales in any one building.
3. The retail sales, community use or other non-residential uses allowed in the R-4 Residential District may be located in a standalone building(s) or as part of a mixed use building(s) that include other non-residential or residential uses.
4. Multifamily dwellings limited to a maximum building footprint of 7,500 square feet.
5. Townhouses limited to no more than eight (8) dwelling units per building.

D. SPECIAL EXCEPTIONS

1. Public utility facilities including substations, pumping stations and sewage treatment facilities.
2. Adjunct uses, place of worship.
3. Community use greater than 1,000 sq. ft. in floor area.

E. SPACE AND BULK REGULATIONS

The space and bulk requirements, other than the residential density regulations under subsection F. below shall be the same as in the R-4 Residential District except as modified by the Planning Board under Section VII.

F. RESIDENTIAL DENSITY REGULATIONS

- 1. Residential Density Factors** – Within this zoning district the Residential Density Factors in Section VII.C.A. of the Zoning Ordinance shall apply to multiplex, townhouse, two-family and single-family dwelling units.
- 2. Maximum Base Residential Density** - The maximum base residential density shall be four (4) dwelling units per net residential acre. This is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.
- 3. Additional Residential Density Thru Creating Affordable Housing** – A development may incorporate up to one (1) additional dwelling unit per net residential acre beyond the maximum base residential density provided at least forty percent (40%) of the additional dwelling units (with fractional number of units rounded up to the nearest whole number) are designated as affordable housing.
- 4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee** – In lieu of developing affordable housing to utilize additional residential density under subsection F.3., a development may incorporate up to one (1) additional dwelling unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing in lieu fee provisions in accordance with Section VII.C. of this Ordinance.
- 5. Additional Residential Density Thru Development Transfer** – A development may incorporate up to one (1) additional dwelling unit per net residential acre beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VII.D. of this Ordinance.

SECTION XVI.A. TRADITIONAL NEIGHBORHOOD DEVELOPMENT OPTION OVERLAY DISTRICT, TND [Adopted 11/03/2004][Amended 11/06/2013; Amended 07/13/16]

The Planning Board may allow a development to utilize additional residential density through a combination of the provisions specified in subsection F.3, F.4 and F.5 but the combined additional residential density shall not exceed one (1) additional dwelling unit per net residential acre beyond the maximum base residential density allowed.

G. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

H. SIGNS

Signs for any retail or community use shall be in conformance with the standards for R-4 under Section XII.

I. PROCEDURE FOR ELECTING TRADITIONAL NEIGHBORHOOD DEVELOPMENT OPTION

An applicant proposing to develop a subdivision pursuant to this Section XVI.A shall, prior to applying for subdivision approval, request that the Town Council designate the applicant's property as eligible to be developed pursuant to the Traditional Neighborhood Development Option Overlay District. Such designation by the Town Council shall not constitute or require an amendment to the Zoning Map or to this Ordinance. The Council shall act on such request by order; however, prior to acting on the request, the Council shall hold a public hearing, posting and publishing notice of the hearing at least 7 days in advance and mailing notice of the hearing at least 10 days in advance to owners of property abutting or located across a street or way from the subject property. If the Town Council designates the property as eligible for development pursuant to this Section XVI.A, the property shall continue to be within the R-4 Residential District, but shall be subject to the standards of this Section XVI.A where these standards modify the requirements otherwise applicable in the R-4 District.

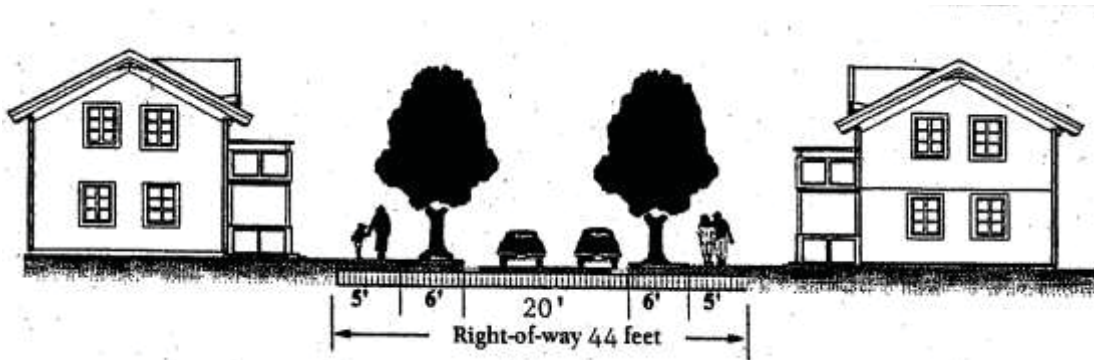
Conceptual - Traditional Neighborhood Street Cross-Section

Street Requirements

- Total right-of-way width of 44 ft.
- Street pavement width of 20 ft., equaling 10 ft. per travel lane
- Granite curbing where sidewalks are present
- 6 ft. planting strip width with street trees on both sides of street
- 5 ft. sidewalk width on both sides of street except that a minimum 4 ft. sidewalk may be used in areas of occasional pedestrian activity.
- Public utilities (water & sewer) shall be installed under the travel way
- Underground utilities (electric, cable, telephone etc.) shall be installed under the sidewalks
- 1 ft. reserve strip between sidewalks and property lines

**SECTION XVI.A. TRADITIONAL NEIGHBORHOOD DEVELOPMENT OPTION OVERLAY
DISTRICT, TND [Adopted 11/03/2004][Amended 11/06/2013; Amended 07/13/16]**

- The street surface and sub-base standards and dimensions shall be equal to that of a residential access street as outlined in Table 6-1 of the Town's Street Acceptance Ordinance



Town of Scarborough HIGGINS BEACH CHARACTER-BASED ZONING DISTRICTS

Adopted 12-2-15

Amended 09-06-2017

03-07-2018

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A. PURPOSE

- a. To implement the Comprehensive Plan of the Town of Scarborough.
- b. To coordinate development and redevelopment according to plans collaboratively developed with community members from Higgins Beach.
- c. To maintain a complete, walkable neighborhood that continues to promote community and neighborly activity.
- d. To preserve and enhance the existing character of Higgins Beach, respects the existing built form, and honors the historic development pattern inherent in the original plat of Higgins Beach.
- e. To require a strong connection and appropriate transition between the public realm (streets and sidewalks) and the private realm (yards and buildings).
- f. To promote the adaptation of existing buildings and to permit redevelopment and infill construction that contributes to and preserves the character of Higgins Beach.
- g. To allow for a narrow range of business activity that supports the local residents of Higgins Beach.
- h. To enable continued access to Higgins Beach's greatest amenity, the beach, marshes, and other coastal areas.

B. APPLICABILITY

- a. Unless otherwise specified, this District is applicable to all real property within Higgins Beach as described on the Town of Scarborough Official Zoning Map.
- b. That which is not specifically allowed by this ordinance as it pertains to the dimensions, massing, and location of buildings, lots, accessory buildings, roofs, and components shall be considered to be prohibited.

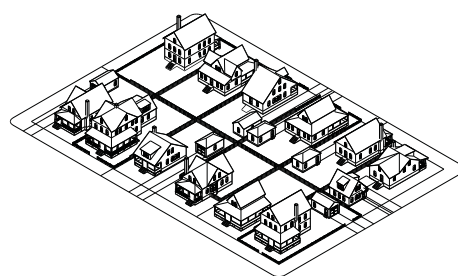
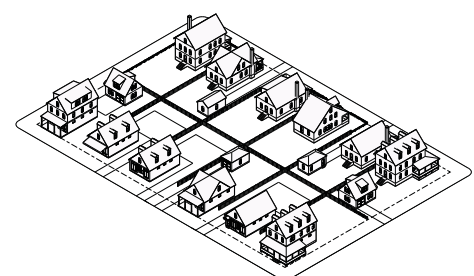
C. TEXT & GRAPHICS

- a. Illustrations, graphics, pictures, and flowcharts are included in this District to help illustrate the intent and requirements of the text. In the case of a conflict between the text of this Chapter and any illustration, graphic, picture, or flowchart, the text shall govern.
- b. All metrics included in tables shall be interpreted as text under this Chapter and shall govern.

D. GENERAL TO LOTS

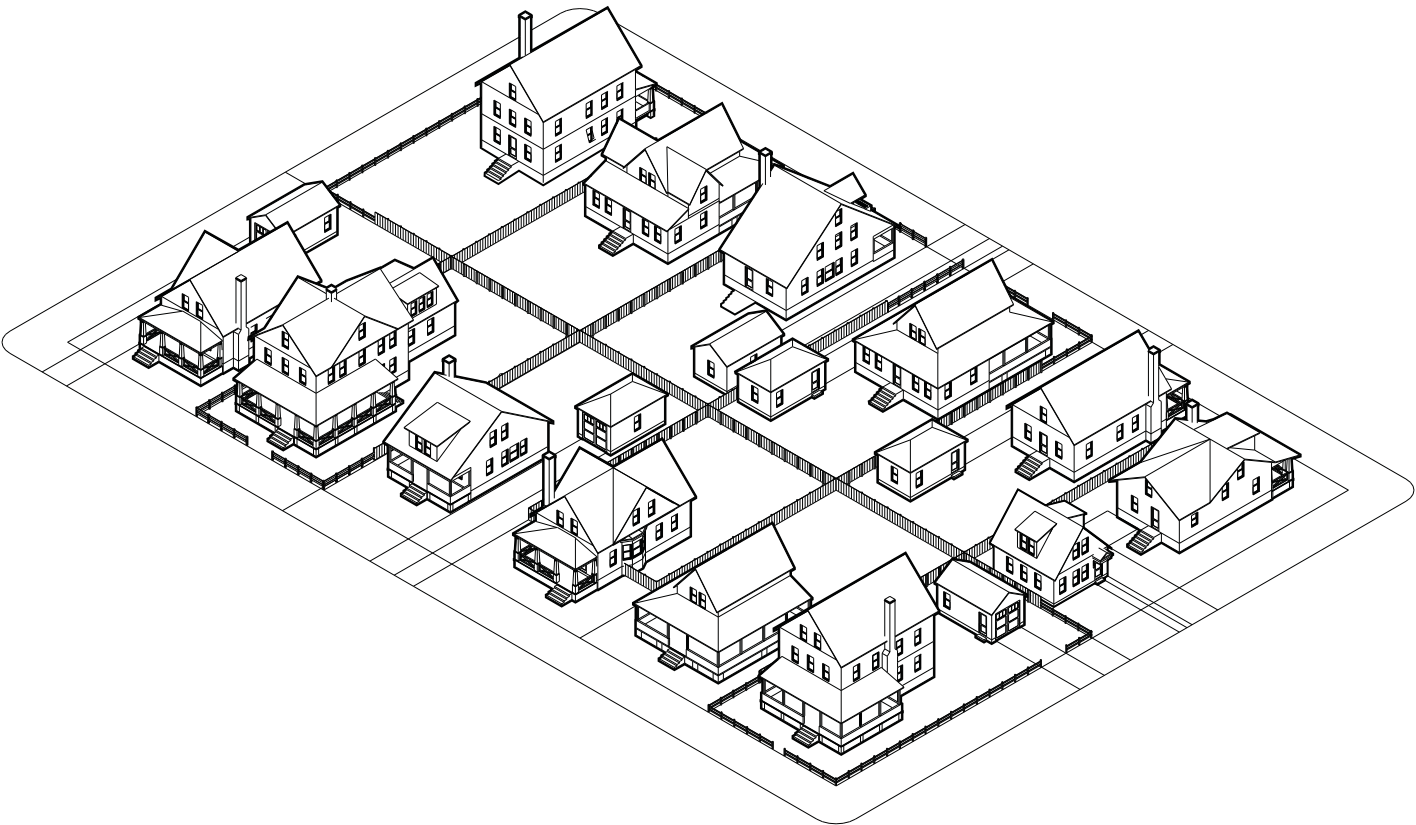
- a. For the purposes of determining setbacks any lot that fronts on two non-intersecting streets, or a street and the beach, shall be considered to have primary front lot lines along all said streets or resources.

TABLE 2.1 CHARACTER DISTRICT SUMMARY TABLE

	
1. COASTAL RESIDENTIAL 1 (CD-CR1)	2. COASTAL MIXED-USE LIMITED (CD-CML)

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A. COASTAL RESIDENTIAL 1 (CD-CR1)



INTENT

- a. To conserve the already established residential neighborhood fabric of Higgins Beach and the rhythm of single-family homes and cottages.

PURPOSE

- a. To permit the development of new single-family residential building types on individual lots.
- b. To provide for the administrative review of additions and modifications to existing structures, in keeping with the standards of this District.

BUILDING STANDARDS

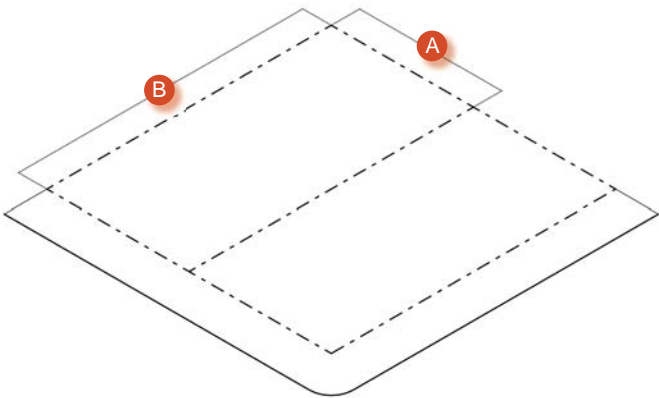
- a. See Article 4: Building Standards for the standards for each building type.

PERMITTED BUILDING TYPES

Coastal Cottage	Permitted
Bungalow	Permitted
House	Permitted
Inn Building	Not Permitted
Shop House	Not Permitted
Neighborhood Store	Not Permitted

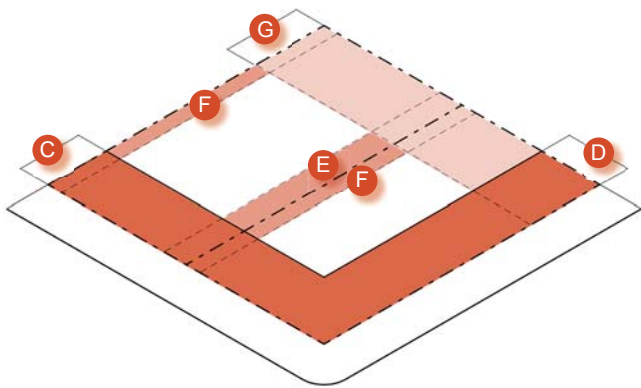
LOT DIMENSIONS

Width	48 ft min	A
Depth	98 ft min	B



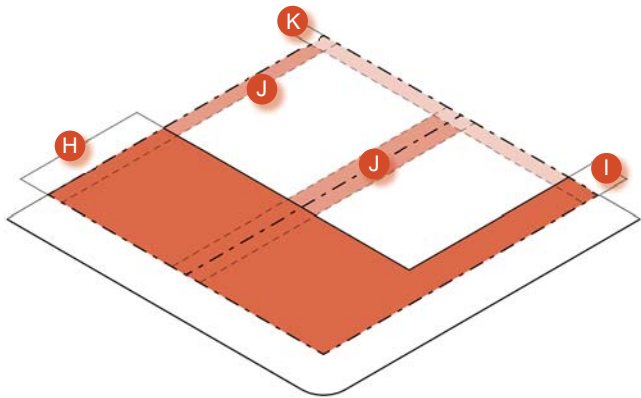
PRINCIPAL BUILDING PLACEMENT

Primary Front Setback	18 ft min, 21 ft max	C
Secondary Front Setback	12 ft min, 21 ft max	D
Primary Side Setback	8 ft min	E
Secondary Side Setback	8 ft min	F
Rear Setback	30 ft min	G

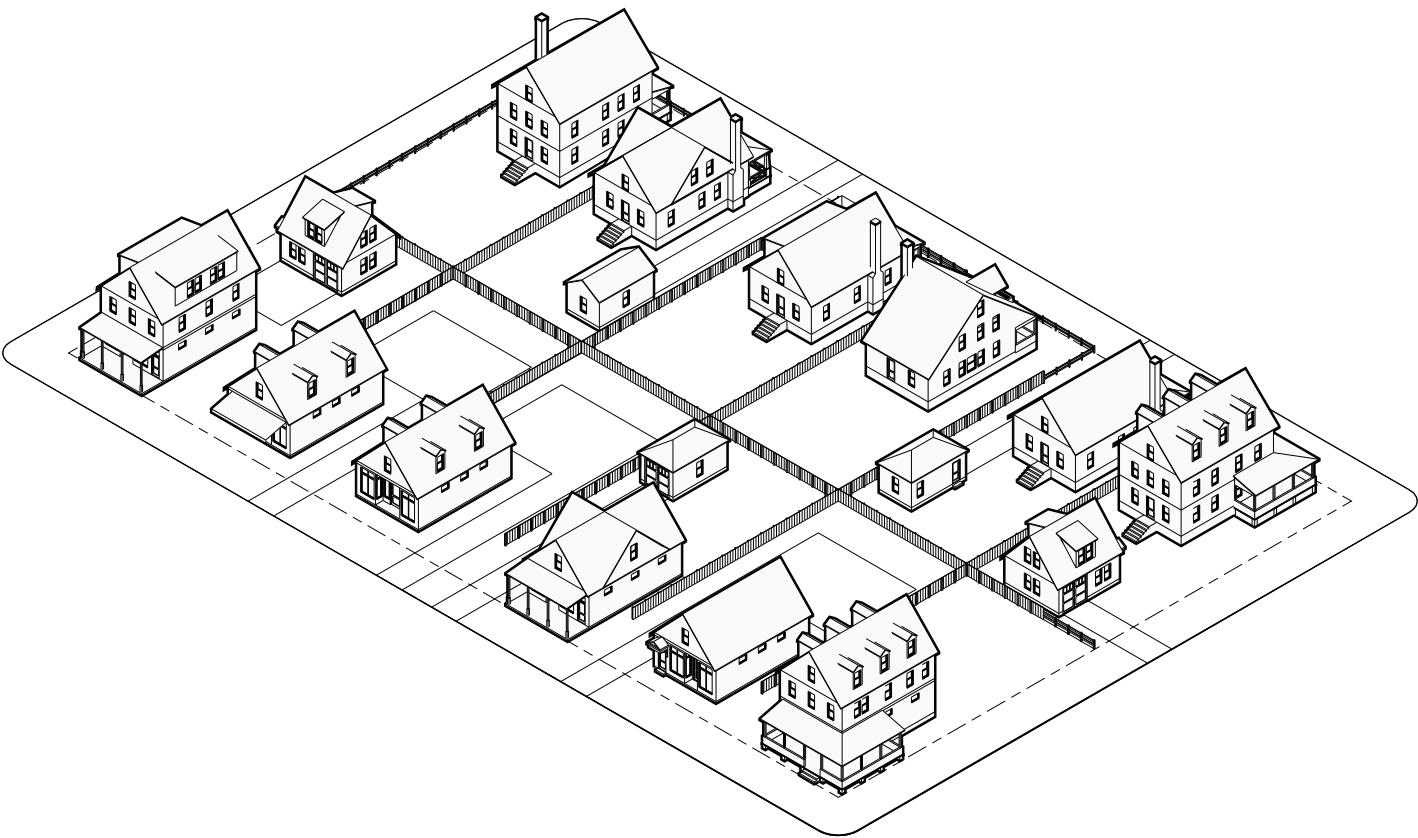


ACCESSORY BUILDING PLACEMENT

Primary Front Setback	40 ft min	H
Secondary Front Setback	12 ft min	I
Side Setback	3 ft min	J
Rear Setback	3 ft min	K



B. COASTAL MIXED-USE-LIMITED (CD-CML)



INTENT

- a. To maintain and enhance the existing mixed use and limited commercial uses that support the existing residential neighborhood.

PURPOSE

- a. To permit appropriate, small-scale commercial uses in keeping with the character of the neighborhood.
- b. To protect existing historic commercial properties that contribute to the character of Higgins Beach.

BUILDING STANDARDS

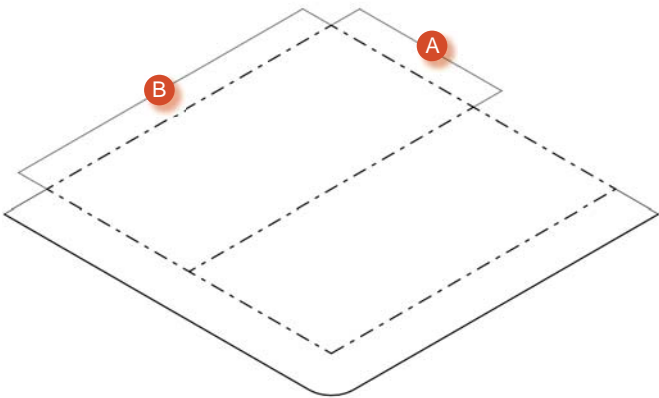
- a. See Article 4: Building Standards for each building type.

PERMITTED BUILDING TYPES

Coastal Cottage	Permitted
Bungalow	Permitted
House	Permitted
Inn Building	Permitted
Shop House	Permitted
Neighborhood Store	Permitted

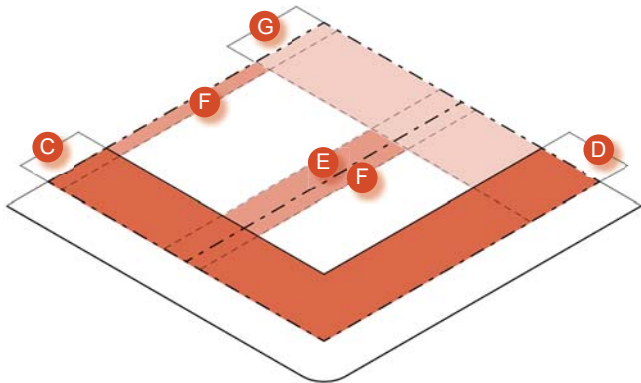
LOT DIMENSIONS

Width	48 ft min	A
Depth	98 ft min	B



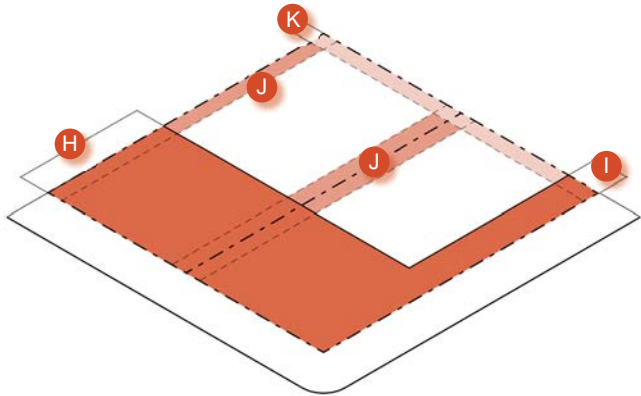
PRINCIPAL BUILDING PLACEMENT

Primary Front Setback	8 ft min, 21 ft max	C
Secondary Front Setback	8 ft min, 21 ft max	D
Primary Side Setback	8 ft min	E
Secondary Side Setback	8 ft min	F
Rear Setback	20 ft min	G



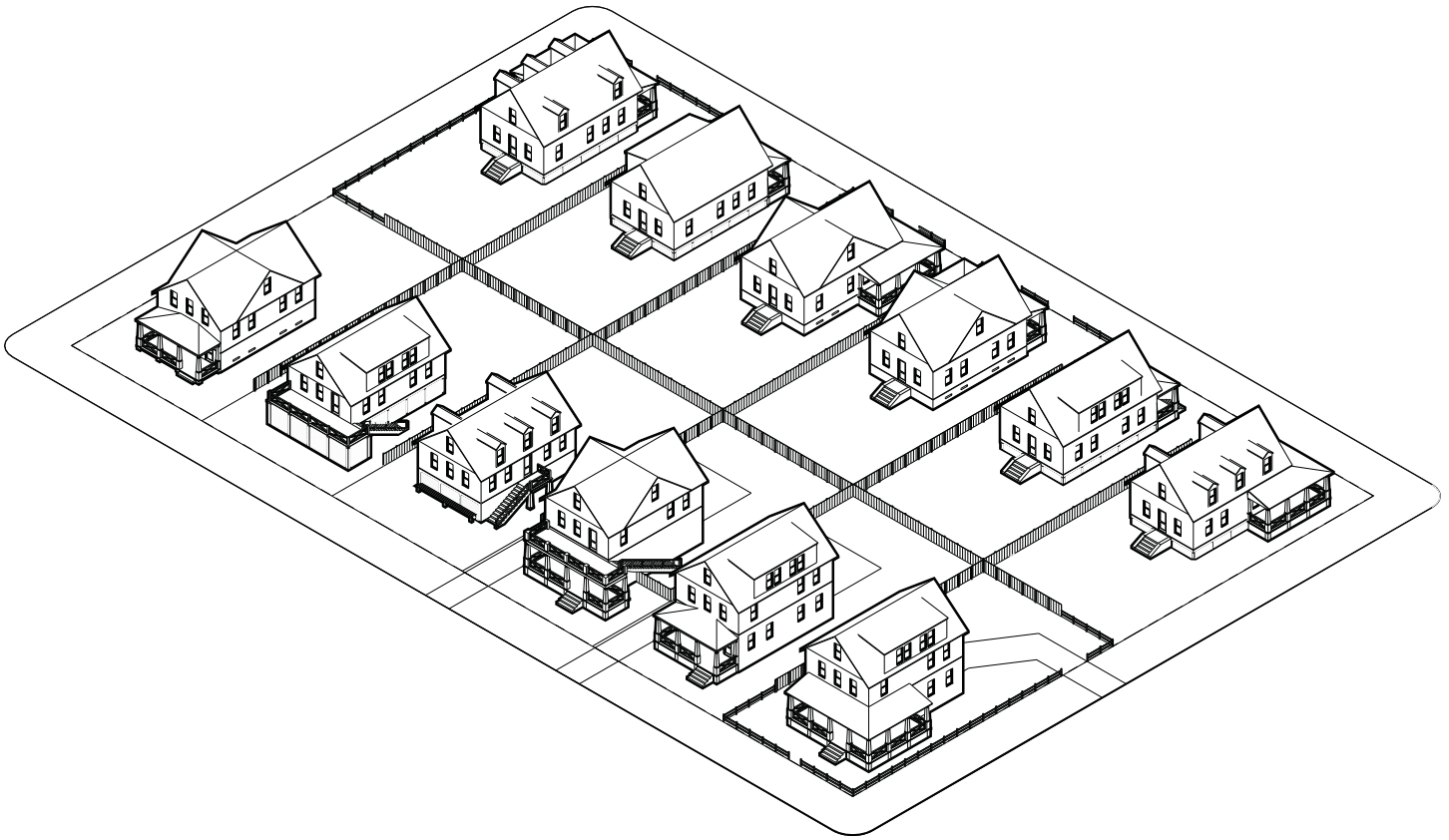
ACCESSORY BUILDING PLACEMENT

Primary Front Setback	40 ft min	H
Secondary Front Setback	8 ft min	I
Side Setback	3 ft min	J
Rear Setback	3 ft min	K



A. SHORELAND OVERLAY

THIS SECTION IS FOR REFERENCE ONLY. REFER TO CHAPTER 405C THE SHORELAND ZONING ORDINANCE FOR SPECIFIC STANDARDS AND REQUIREMENTS



75 ft from the resource

75 to 250 ft from the resource

** measured from highest annual tide

New Construction	No new construction.	New construction allowed per Coverage standards below.
Additions/Expansions	30% expansion max., area and volume, from January 1, 1989.	Expansions allowed per Coverage standards below.
Coverage	Limited to existing coverage as per Chapter 405C the Shoreland Zoning Ordinance	35% Development Coverage * includes all land covered by nonvegetated surfaces as per Chapter 405C the Shoreland Zoning Ordinance
Height	See Article 4.A.2.	See Article 4.A.2.
Placement on Lot	May not move or add to an existing structure any closer to the resource as per Chapter 405C the Shoreland Zoning Ordinance	See Article 2. Character Districts
Accessory Units	In the Shoreland Overlay accessory units are considered separate dwelling units and are only permitted when both the single-family dwelling and the accessory unit individually comply with the lot dimensional requirements	See Section 15.A.5. of Chapter 405C the Shoreland Zoning Ordinance

B. FLOODPLAIN

THIS SECTION IS FOR REFERENCE ONLY. REFER TO CHAPTER 405A THE FLOODPLAIN MANAGEMENT ORDINANCE FOR SPECIFIC STANDARDS AND REQUIREMENTS. ADDITIONAL LIMITATIONS/REQUIREMENTS PURSUANT TO MAINE DEP CHAPTER 355: COASTAL SAND DUNE RULES, MAY BE APPLICABLE. *

	VE	AE	AO	A
New Construction	New construction allowed per elevation standards below.	New construction allowed per elevation standards below.	New construction allowed per elevation standards below.	New construction allowed per elevation standards below.
Additions/Expansions	*Expansions allowed per elevation standards below. Substantial Improvement/substantial damage will require elevation standards to be met for entire structure.	*Expansions allowed per elevation standards below. Substantial Improvement/substantial damage will require elevation standards to be met for entire structure.	*Expansions allowed per elevation standards below. Substantial Improvement/substantial damage will require elevation standards to be met for entire structure.	*Expansions allowed per elevation standards below. Substantial Improvement/substantial damage will require elevation standards to be met for entire structure.
Coverage	*Controlled by Character District and Shoreland Zoning.	*Controlled by Character District and Shoreland Zoning.	*Controlled by Character District and Shoreland Zoning.	*Controlled by Character District and Shoreland Zoning.
Elevation	Bottom of lowest horizontal framing member must be 1 ft above base flood as defined under Chapter 405A, Article VI.P of the Floodplain Management Ordinance.	Top of lowest floor including basement must be 1 ft above base flood as defined under Chapter 405A, Article VI.F-G of the Floodplain Management Ordinance.	*1 ft higher than the flood depth specified on FIRM or at least 3 ft if no depth number is specified.	1 ft above base flood as determined by the methods under Chapter 405A the Floodplain Management Ordinance Article III.H.1.b.
Height	See Article 4.A.2.	See Article 4.A.2.	See Article 4.A.2.	See Article 4.A.2.
Placement on Lot	*Controlled by Character District and Shoreland Zoning.	*Controlled by Character District and Shoreland Zoning.	*Controlled by Character District and Shoreland Zoning.	*Controlled by Character District and Shoreland Zoning.

C. SAND DUNES

THIS SECTION IS FOR REFERENCE ONLY. REFER TO THE MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION REGULATIONS, CHAPTER 355: COASTAL SAND DUNE RULES, FOR SPECIFIC STANDARDS AND REQUIREMENTS. CONSULT MAINE DEP STAFF FOR RULE INTERPRETATIONS AND DETERMINATIONS.

	Frontal Dune	Back Dune	Erosion Hazard Area
New Construction	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP
Additions/Expansions	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP
Coverage	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP
Elevation	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP	Undeveloped lot: 3 ft above highest existing elevation within the buildings footprint
			Developed lot: 3 ft. above the highest natural elevation measured 5 ft from corners of existing bldg foundation or the elevation required in local floodplain ordinance, whichever is higher.
Height	35 ft measured from the elevation used by the municipality when determining compliance with local ordinances.	35 ft measured from the elevation used by the municipality when determining compliance with local ordinances.	35 ft measured from the elevation used by the municipality when determining compliance with local ordinances.
Placement on Lot	See Chapter 355 - consult with Maine DEP	Controlled by Character District or See Chapter 355 - consult with Maine DEP.	Controlled by Character District or See Chapter 355 - consult with Maine DEP
Specifications	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP

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A. STANDARDS FOR ALL BUILDINGS

1. GENERAL

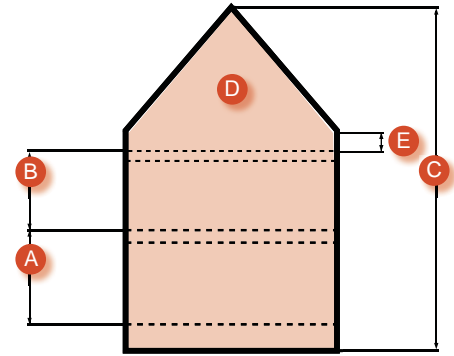
- a. Principal building types are summarized on Table 4.2A and permitted according to Character District standards in Article 2: Character Districts.
- b. See Article 4.B for the standards for each building type.
- c. The Planning and Code Enforcement Department shall classify existing principal structures as a specific building type based on the definition of each type and upon finding that the structure is substantially similar in placement, height, massing, use, and features to one of the permitted building types.
- d. Existing buildings may be considered a component or accessory building of a new principal building on the same lot, provided they meet all dimensional requirements for that component or accessory building (with the exception of roof pitch, which may remain nonconforming provided the existing nonconformity is not extended to the roof pitch of the new principal building.)

2. BUILDING MASSING & ASSEMBLY

- a. All principal and accessory buildings must meet the standards for one of the building types provided in Article 4B.
- b. Each principal building and accessory building type must be comprised of a main building mass with a rectangular form and a single allowed roof type.
- c. In order to create a broad range of building designs and promote architectural creativity, components may attach to both principal and accessory buildings.
- d. The outer wall of a main building mass must be located entirely in a single plane. Articulation in the wall plane is not permitted except through the use of a component.
- e. For the purpose of measurement, building length and width standards apply only to the main building mass of principal and accessory buildings. Components have unique dimensions and standards.
- f. Integral or engaged components may recess within the envelope of the main building mass only at the story to which they are attached, and may not alter the boundary of the main building roof above.
- g. Terraced components may recess within the structure of a pitched roof.
- h. Architectural decorations, moldings, adornments, and details shall not be regulated by this ordinance provided they project from the face of a building or component by less than 6 inches.

3. HEIGHT

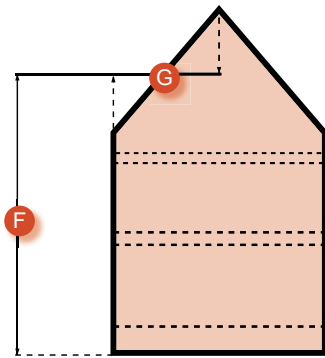
a. Building Height, Stories



- i. Story height is measured from the surface of any floor to the surface of the floor above it **A** or, if there is no floor above, from the surface of the floor to the top of the lowest horizontal roof joist or collar tie, whichever is lower **B**.
- ii. To calculate building height by number of stories, each story above the average ground level within the required building placement area is counted as 1 story **C**.
- iii. Basements are counted as 1-story when 5 feet or more of an exterior basement wall at the front set-back is exposed above the average ground level.
 - a). An unfinished or flood resistant enclosure for utilities, building access or storage in an area other than a basement area is not considered a building's basement.
- iv. For buildings with pitched roofs, habitable space is allowed within the pitch and is not considered a full story. **D**
- v. A habitable floor within a pitched roof must be counted as a full story if the roof rafters intersect the wall plate or top of the exterior wall frame at a height more than 1 feet above the finished floor of the space. **E**
- vi. A half-story is a habitable story within a pitched roof where the roof rafters intersect the wall plate or top of the exterior wall frame at a height less than 1 feet above the finished floor of the space. **E**
- vii. A building that has more than one floor contained within the structure of a pitched roof must count all but the top floor as a story.

Article 4: Building Standards

b. Building Height, Feet



- i. In the Character Districts building height is generally regulated by stories, but shall also comply with a maximum building height limit of thirty-two (32) feet.
- ii. Building height by feet shall be measured as required in the Zoning Ordinance definition: the vertical distance **F** measured from the average elevation of the finished grade at the front of the building to the highest point of the roof on a flat or mansard roof and to the average height between the eaves and the ridge for all other types of roof **G**.

- iii. In the Shoreland Zone building height is also limited to thirty-five (35) feet measured to the highest point of the structure as required in Chapter 405C, Section 17 of the Shoreland Zoning Ordinance.

c. Ground Floor Elevation

- i. Ground floor elevation is measured from the average ground level at the front of the building, to the top of the finished floor of the ground story of a building.
- ii. Ground story dwelling units must be elevated above grade a minimum of 2 ft.
- iii. Ground floor should not be confused with “lowest floor” as defined in Chapter 405A - Scarborough Floodplain Management Ordinance on those parcels in Special Flood Hazard Areas.
- d. Eave Height is measured from the top of the foundation to the lowest point of a soffit, or the lowest point of the rafter ends if there is no soffit.
- e. Height limits do not apply to mechanical equipment; roof mounted cellular, radio and internet transmission equipment; vents or exhausts; solar panels or skylights; flagpoles; chimneys; parapets or other non-habitable architectural features; and to roof walks in conformance with Article 4.

TABLE 4.1A ROOFS BY BUILDING TYPE (SEE TABLE 4.1B FOR ROOF STANDARDS BY COMPONENT TYPE)

	Gable	Hip	Bungalow Gable	Shed	Flat*
Coastal Cottage	9:12 Min 14:12 Max	-	-	-	-
Bungalow	-	-	6:12 Min 14:12 Max	-	-
House	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	-	-
Inn	6:12 Min 12:12 Max	3:12 Min 12:12 Max	-	-	1.5:12 Min* 2:12 Max
Shophouse	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	-	-
Neighborhood Store	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 6:12 Max	1.5:12 Min* 2:12 Max
Outbuilding	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 6:12 Max	1.5:12 Min* 2:12 Max
Carriage House	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 6:12 Max	-

NOTE: Roofs marked with a dash (-) are not permitted with that building type.

* Or minimum slope required by building code for specified roof system.

4. ROOFS

- a. Pitched roofs, if provided, must be symmetrically sloped in accordance with roof pitch standards for the building type (Table 4.1) with the exception of the Bungalow type, which has a unique roof composition.
- b. Pitched roofs must converge, symmetrically, to a single ridge beam at their highest point. Roof assemblies with multiple ridge beams are prohibited.
- c. The highest point of the roof of any component must be lower than or equal to the highest point of the roof of the principal building, unless specifically allowed to be taller.
- d. Gable ends must be located on the narrowest building face or component face, with the exception of the bungalow.
- e. Raking eaves at a building frontage must be restricted in depth such that no part of the roof overhangs the wall below by more than 1ft, measured horizontally.
- f. No part of any roof may overhang the wall below by more than 3 ft.

5. FENESTRATION

- a. Facades are required to have doors and windows with glass for a percentage of the total area of a facade, measured for each story independently.
- b. Required windows and doors must provide clear, transparent, and un-tinted glass.
- c. Fenestration of a story's facade is measured from the top of a finished floor to the top of the finished floor above, or top of wall plate on a single story structure.
- d. Fenestration requirements are only applicable to building walls that face a road, the beach, or any other public way. Exterior walls facing an interior lot line are exempt. Components have their own fenestration requirements that apply to all component faces.

TABLE 4.1B ROOFS BY COMPONENT TYPE

	Gable	Hip	Bungalow Gable	Shed	Flat*
Projecting Porch	5:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 14:12 Max	1.5:12 Min* 2:12 Max
Integral Porch	-	-	-	-	-
Engaged Porch	5:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 14:12 Max	1.5:12 Min* 2:12 Max
Balcony	-	-	-	-	-
Bay Window	5:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 14:12 Max	1.5:12 Min* 2:12 Max
Dormer Window	4:12 Min 14:12 Max	3:12 Min 12:12 Max	-	6:12 Min 14:12 Max	-
Cross Gable	9:12 Min 14:12 Max	-	-	-	-
Roof Walk	-	-	-	-	-
Retail Awning	-	-	-	-	-
Canopy	5:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 14:12 Max	1.5:12 Min* 2:12 Max
Stoop	-	-	-	-	-
Deck	-	-	-	-	-
Rear Addition**	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	5:12 Min 14:12 Max	1.5:12 Min* 2:12 Max
Side Wing**	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	5:12 Min 14:12 Max	-
Estate Wing**	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	5:12 Min 14:12 Max	-

COMPONENTS

NOTE: Roofs marked with a dash (-) are not permitted with that component type.

* Or minimum slope required by building code for specified roof system.

** Component may not exceed the roof pitch of the Principal Building to which they attach.

Article 4: Building Standards

- e. To the extent possible, fenestration patterns and window configurations should be used that break the direct line of sight between neighboring properties to minimize privacy impacts. Other strategies, including the use of translucent glass on the bottom half of windows or strategically placed landscape elements, should be utilized if it is not possible to offset windows.

6. BUILDING PLACEMENT

- a. All buildings and structures must be located at or behind any required minimum front, side, or rear setback, except as allowed for under Article 4.A.5. Setback Encroachments.
- b. All stories of the facade of a principal building must be built at or within the provided setback range.
- c. The facade of a principal building must be built in a manner generally parallel to a front lot line or to the tangent of a curved front lot line with some adjustment allowed based on irregularly shaped lots.
- d. Notwithstanding the Definition of Corner Lot under Section VI. of this Ordinance, corner lots shall have primary and secondary front setback, side setback and a rear setback as shown under Article 2. Building Placements.

7. SETBACK ENCROACHMENTS

- a. Notwithstanding the general “Yard” requirements applicable to other Districts within this Ordinance, building frontages and components within the Character Districts may extend beyond a required front, side or rear setback (or yard) as indicated for each type provided that at least 3 ft. is maintained from the vertical plane of any side or rear lot line to the closest point of the structure. Specific encroachments for frontages and components can be found in Article 4.D.
- b. Accessory buildings and structures may encroach as indicated in Article 4: Building Standards.

8. MATERIALS

- a. Buildings must be sided with wood siding, vinyl siding, or cement board siding.
- b. Buildings located closer than 5 feet from a side or rear property line must meet the fire rated construction requirements as approved by the

Scarborough Fire Department.

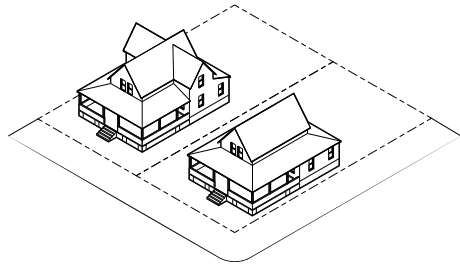
9. GARAGES AND PARKING

- a. Any building, accessory building, or component may contain a garage.
- b. Garages must be setback from the principal facade of the principal building by at least 20 feet, with the exception of lots having a front both on a street and the beach, which are exempt from this provision.
- c. Any paved driveway or parking area with a width greater than 12 feet must be setback from the facades of the principal building by at least 10 feet, with the exception of lots having a front both on a street and the beach, which are exempt from this provision.

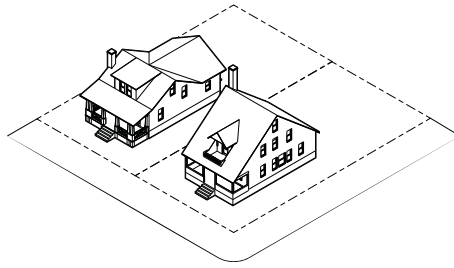
10. ACCESS

- a. All buildings must be accessed by a primary entrance located on the main building mass at, or within 12 ft of, the principal facade.
- b. Additional entrances may be located on any building or component face.

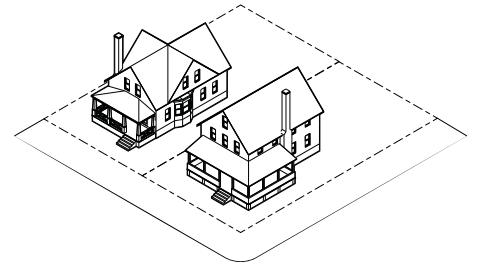
TABLE 4.2A BUILDING TYPES SUMMARY TABLE



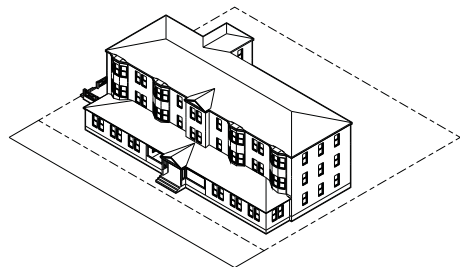
1. COASTAL COTTAGE



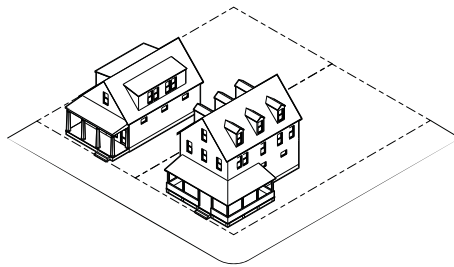
2. BUNGALOW



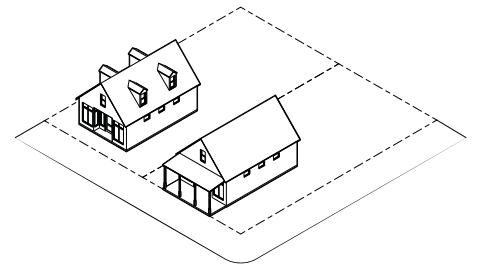
3. HOUSE



4. INN BUILDING

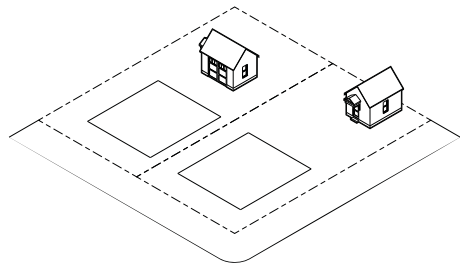


5. SHOPHOUSE

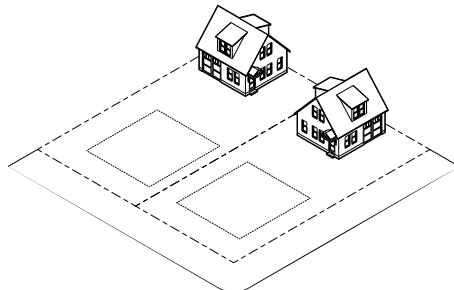


6. NEIGHBORHOOD STORE

TABLE 4.2B ACCESSORY BUILDING TYPES SUMMARY TABLE



1. ONE-STORY OUTBUILDING



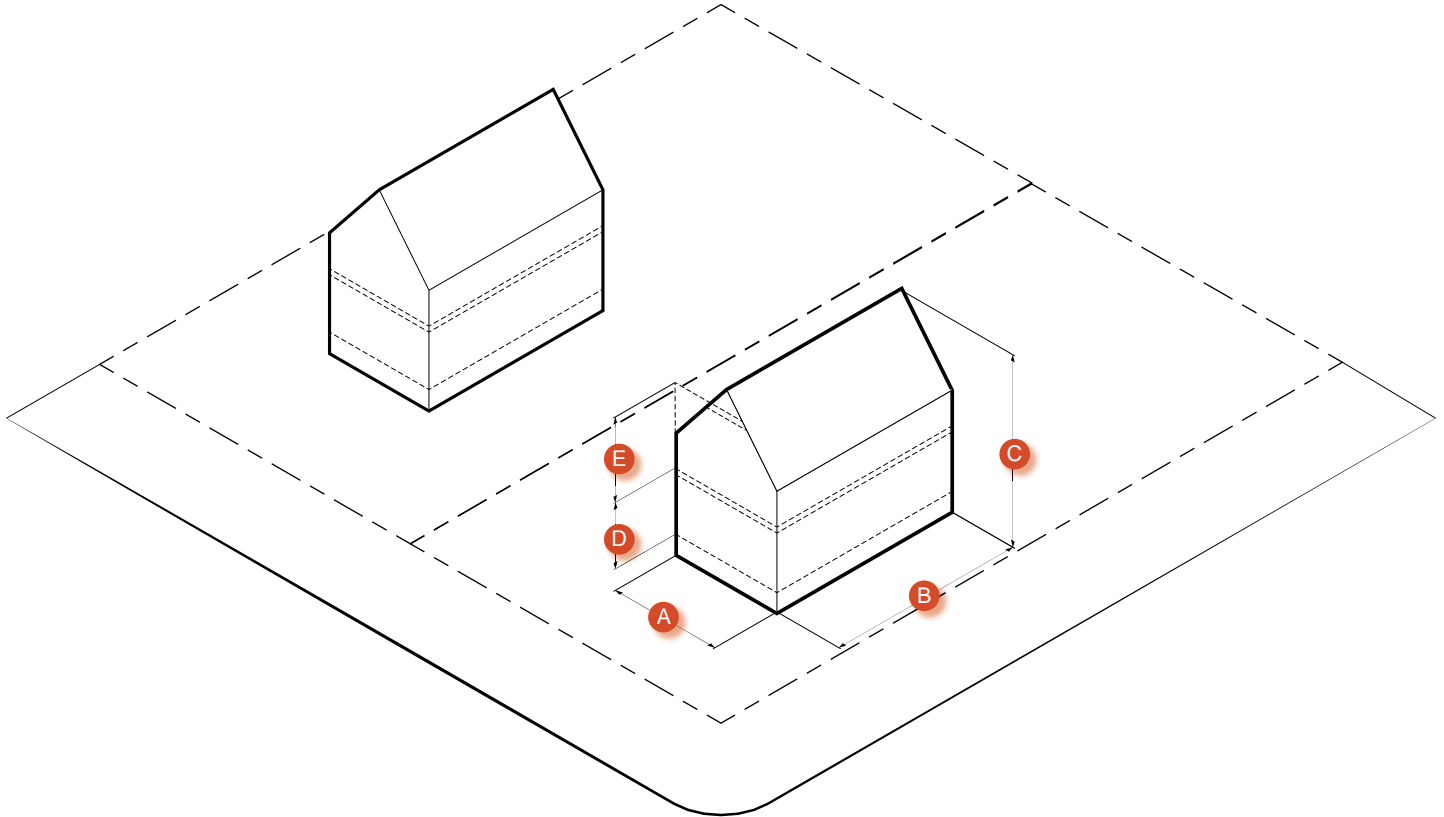
2. ONE-STORY CARRIAGE HOUSE

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B. PRINCIPAL BUILDING TYPES & STANDARDS

1. COASTAL COTTAGE

A detached residential building type with one principal dwelling unit and defined by a narrow, projecting center massing that typically has a wrap-around porch engaged on the sides.



BUILDING FORM

Building Width	22 ft max	A
Building Depth	36 ft max	B
Total Stories	2.5 stories max*	C
First Story Height*	10 ft max	D
Upper Story Height*	9 ft max	E
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

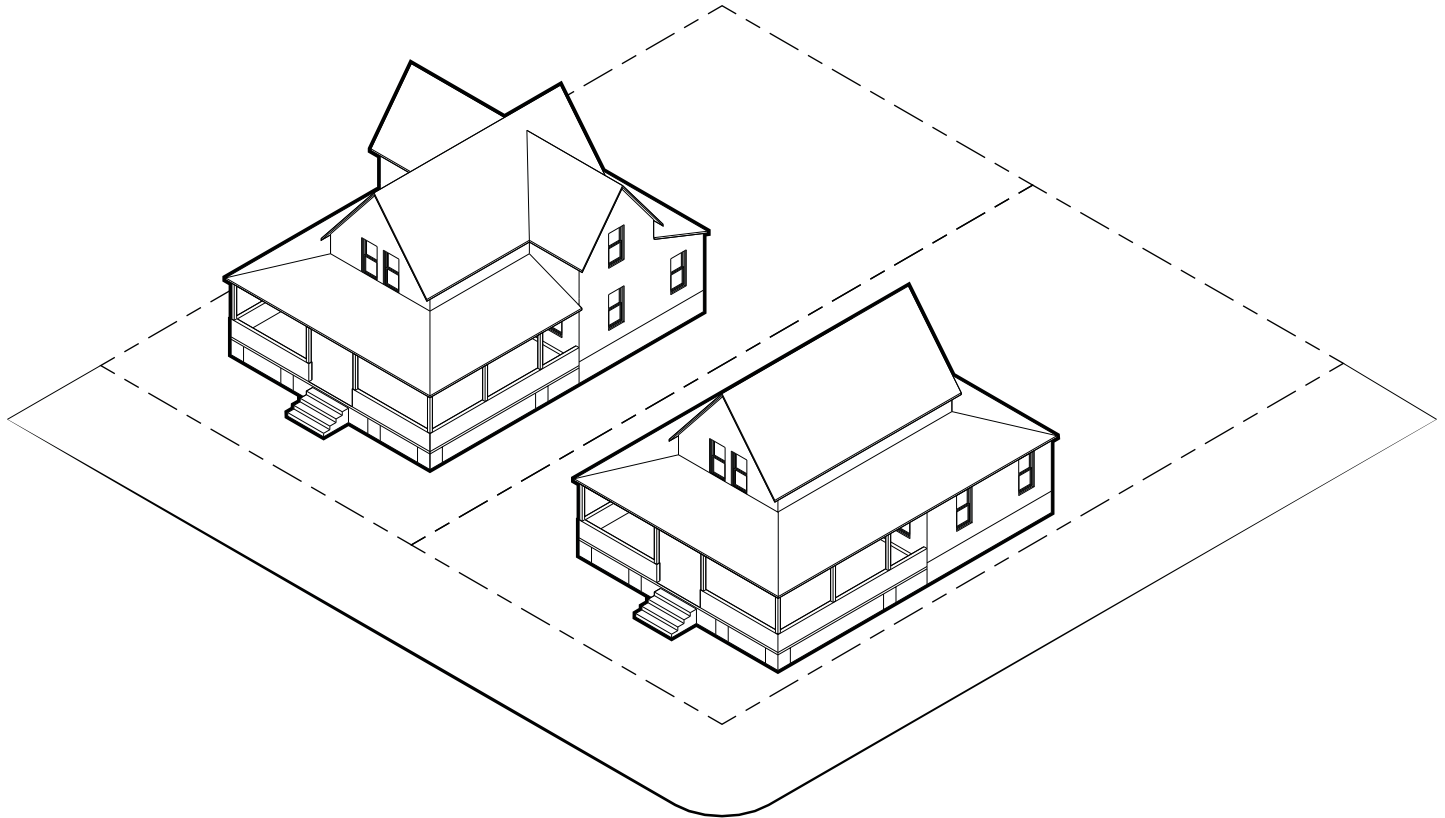
FACADE COMPOSITION

Ground Story Fenestration	20% min
Upper Story Fenestration	15% min

FRONTAGES

	See Article 4D
Residential Yard	Required
Shopfront	Not Permitted
Beachfront Yard	See Special Requirements Map
Beachfront Garage Court	See Special Requirements Map

COASTAL COTTAGE COMPONENTS



COMPONENTS

See Article 4C

Projecting Porch	Permitted
Integral Porch	Not Permitted
Enagaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof Walk	Not Permitted
Retail Awning	Not Permitted
Canopy	Permitted
Stoop	Permitted
Deck	Permitted

COMPONENTS (CONT'D)

See Article 4C

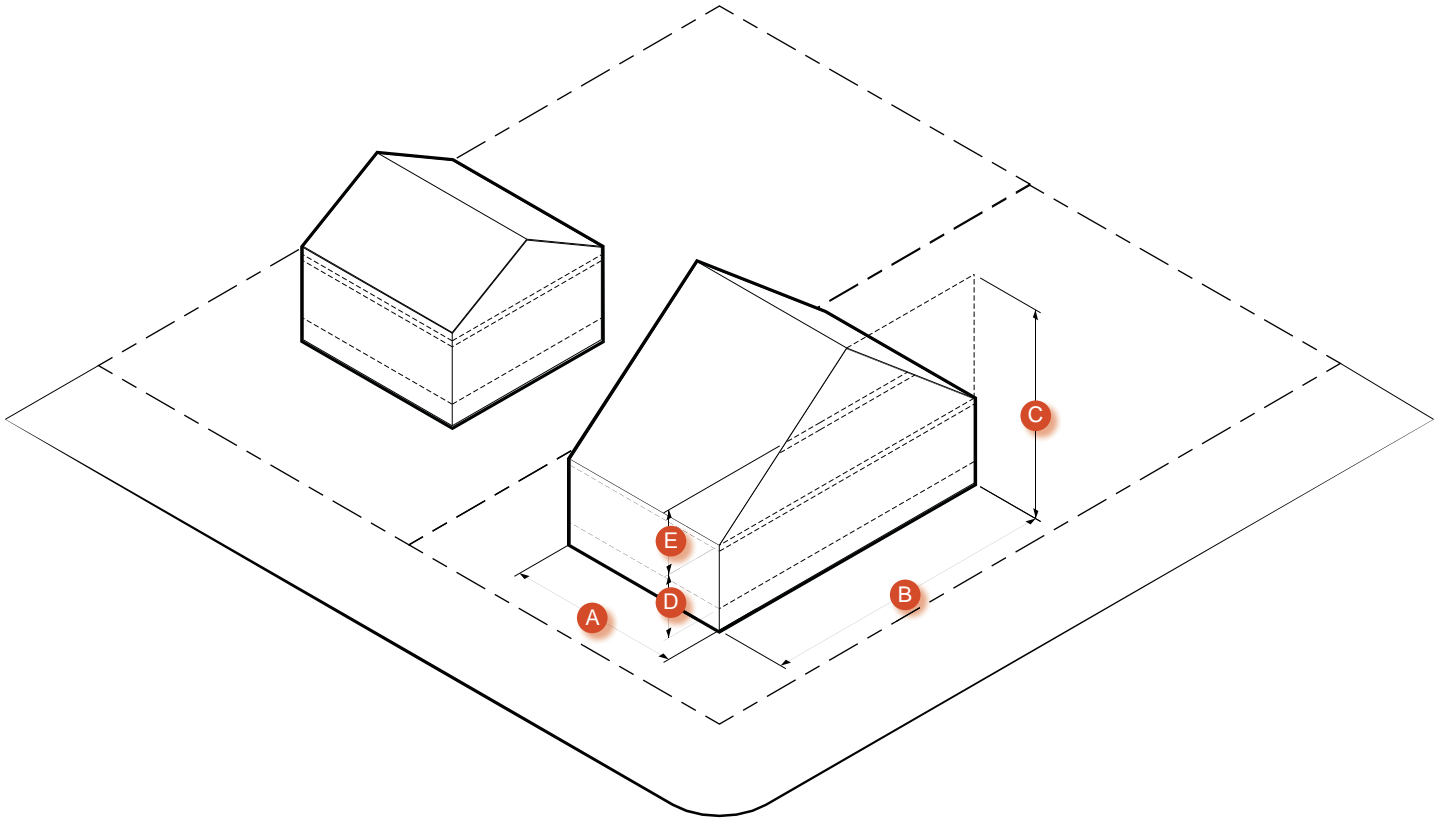
Rear Addition	Permitted
Side Addition	Permitted

STANDARDS

- A minimum of two components may be applied to the main building mass, including a Porch as required under the Residential Yard Frontage standards (Article 4D).
- The Coastal Cottage may have both a Rear Addition and a Carriage House.
- The eave height may not exceed 16 feet, measured from the top of the buildings' foundation.

2. BUNGALOW

A detached residential building type with one principal dwelling unit and defined by a unique roof form, typically including an integral front porch.



BUILDING FORM

Building Width	25 ft max	A
Building Depth	40 ft max	B
Total Stories	2.5 stories max*	C
First Story Height*	10 ft max	D
Upper Story Height*	9 ft max	E
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

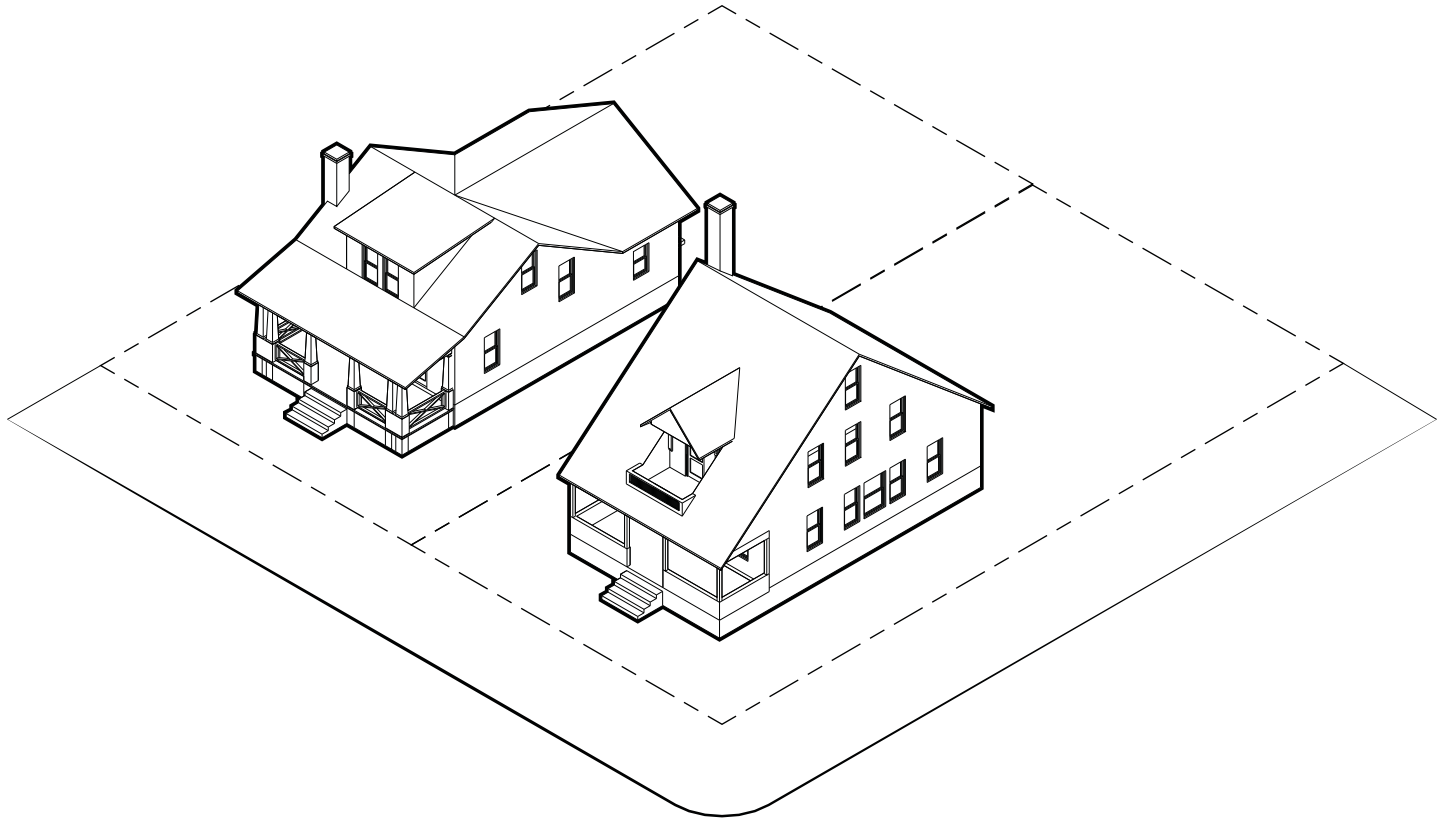
FACADE COMPOSITION

Ground Story Fenestration	20% min
Upper Story Fenestration	20% min

FRONTAGES

	See Article 4D
Residential Yard	Permitted
Shopfront	Not Permitted
Beachfront Yard	See Special Requirements Map
Beachfront Garage Court	See Special Requirements Map

BUNGALOW COMPONENTS



COMPONENTS

See Article 4C

Projecting Porch	Permitted
Integral Porch	Permitted
Engaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof Walk	Not Permitted
Retail Awning	Not Permitted
Canopy	Permitted
Stoop	Permitted

Deck Permitted

COMPONENTS (CONT'D)

See Article 4C

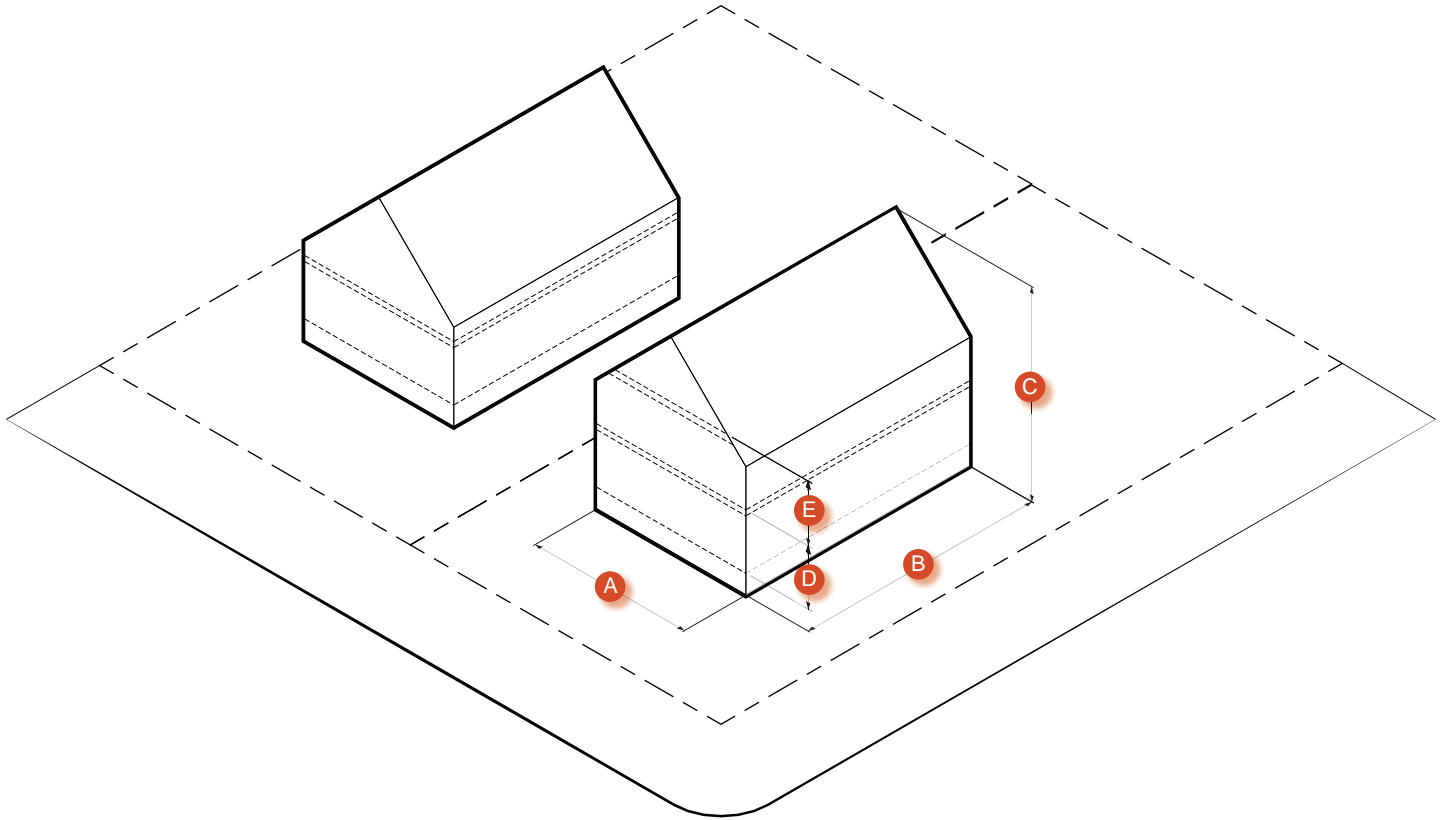
Rear Addition	Permitted
Side Addition	Permitted
Estate Addition	Not Permitted

STANDARDS

- The gable end of a bungalow must be oriented away from the primary frontage.
- *Stories above the first story must be contained within the roof structure.
- A minimum of two components may be applied to the main building mass, including a Porch as required under the Residential Yard Frontage standards (Article 4D).
- The eave height may not exceed 16 feet, measured from the top of the buildings' foundation.

3. HOUSE

A detached residential building type with one principal dwelling unit and exhibiting architecture with Character District components.



BUILDING FORM

Building Width	28 ft max	A
Building Depth	38 ft max	B
Total Stories	2.5 stories max*	C
First Story Height*	10 ft max	D
Upper Story Height*	9 ft max	E
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

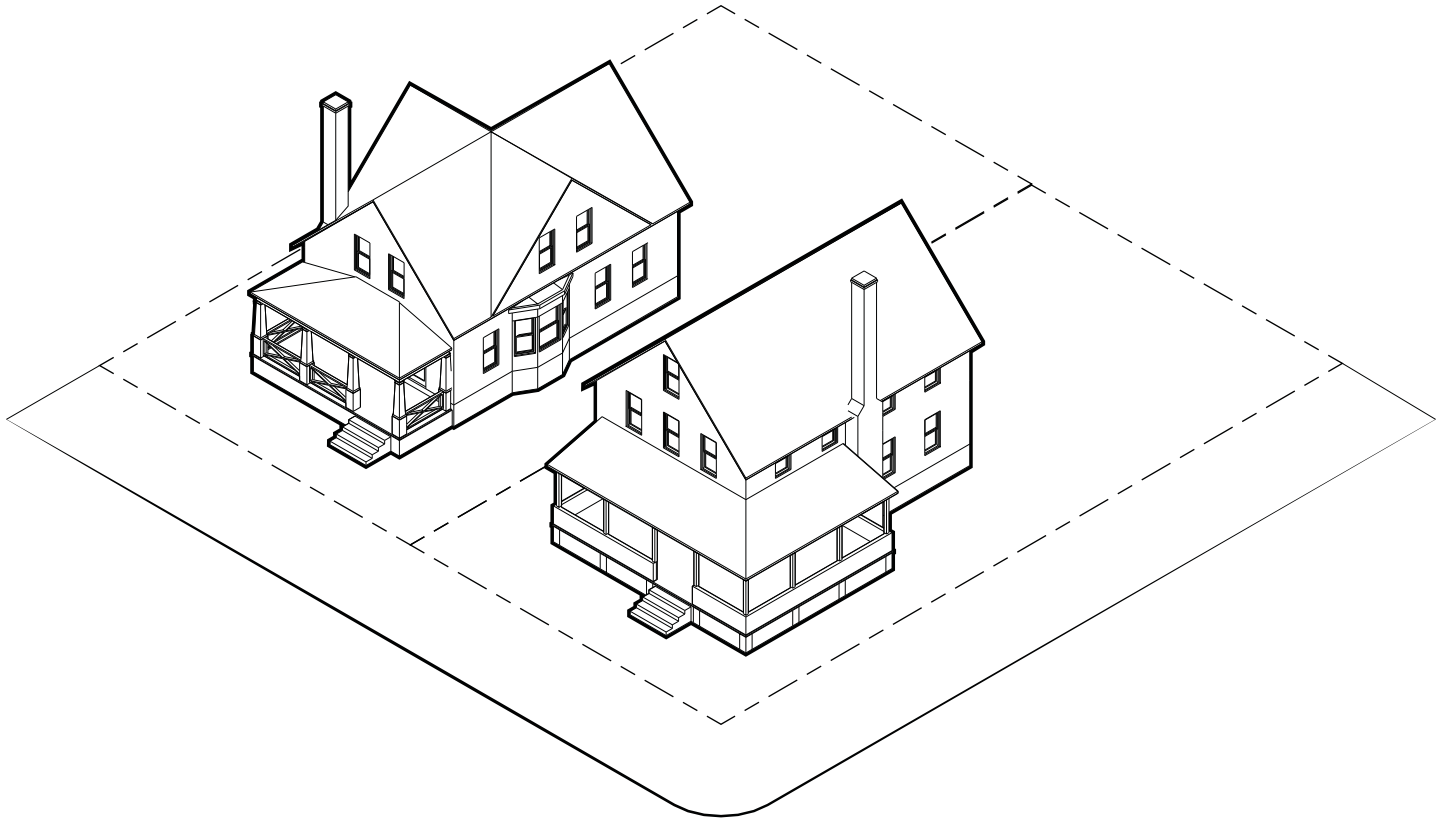
FACADE COMPOSITION

Ground Story Fenestration	20% min
Upper Story Fenestration	10% min

FRONTAGES

	See Article 4D
Residential Yard	Required
Shopfront	Not Permitted
Beachfront Yard	See Special Requirements Map
Beachfront Garage Court	See Special Requirements Map

HOUSE COMPONENTS



COMPONENTS

See Article 4C

Projecting Porch	Permitted
Integral Porch	Not Permitted
Engaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof Walk	Permitted
Retail Awning	Not Permitted
Canopy	Permitted
Stoop	Permitted
Deck	Permitted

COMPONENTS (CONT'D)

See Article 4C

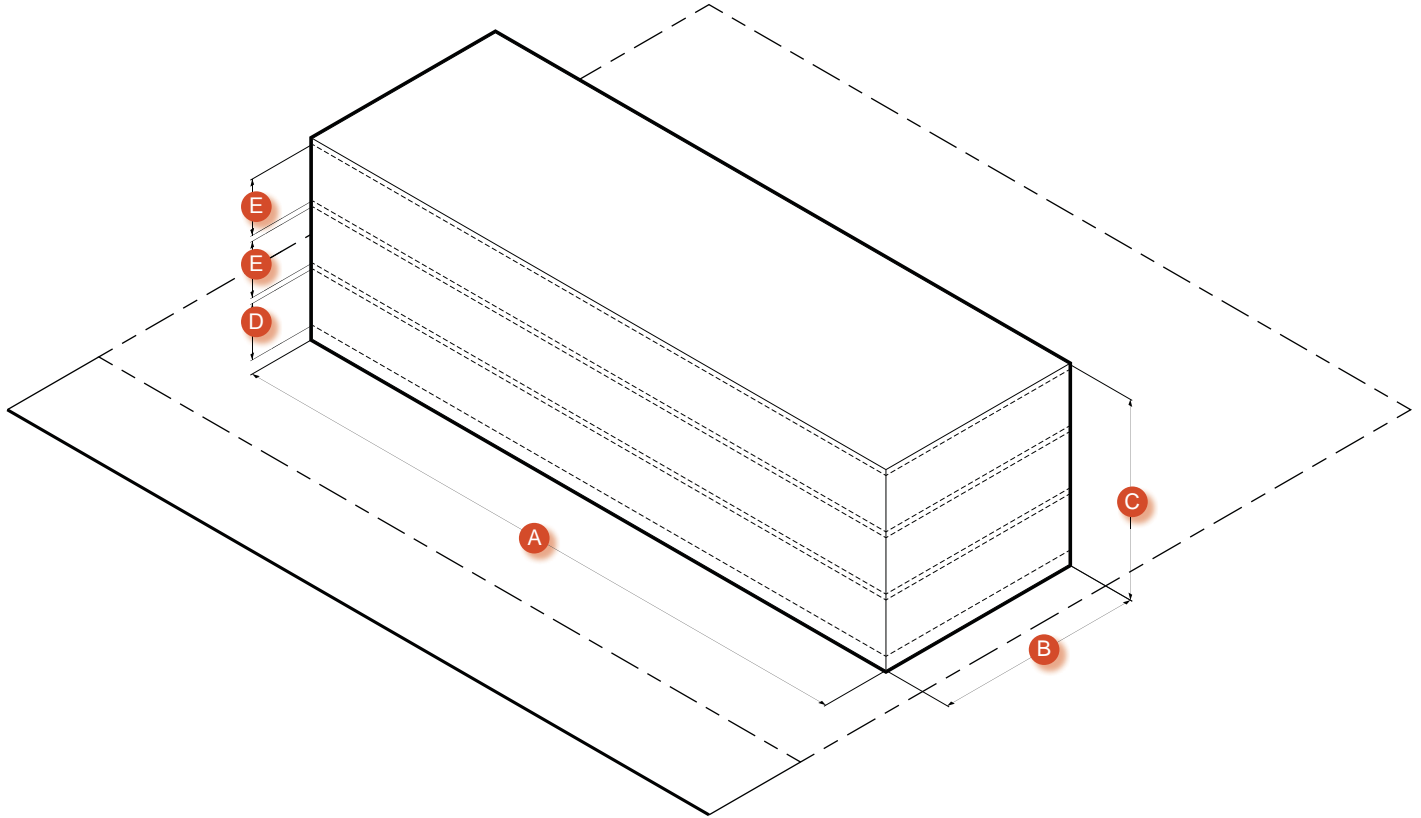
Rear Addition	Permitted
Side Addition	Permitted
Estate Addition	Permitted on lots 98 ft wide min.

STANDARDS

- A minimum of two components may be applied to the main building mass, including a Porch as required under the Residential Yard Frontage standards (Article 4D).
- The eave height may not exceed 16 feet, measured from the top of the buildings' foundation.

4. INN BUILDING

A large floor plate, detached mixed-use building type with residential or lodging units on upper floors and supporting limited commercial uses on the ground floor.



BUILDING FORM

Building Width	100 ft max	A
Building Depth	50 ft max	B
Total Stories	3 stories max*	C
First Story Height*	10 ft min, 12 ft max	D
Upper Story Height*	12 ft max	E
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

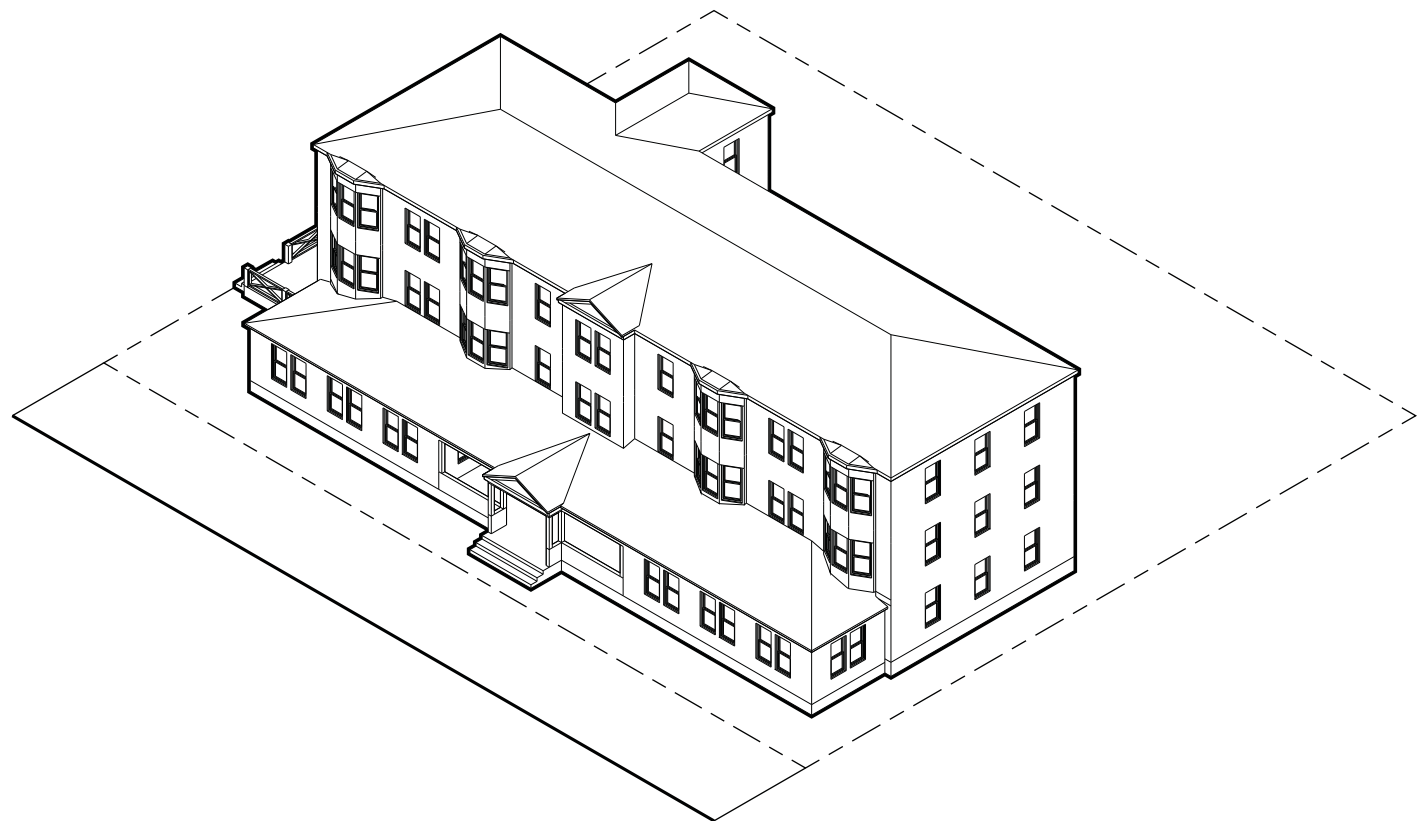
FACADE COMPOSITION

Ground Story Fenestration	20% min
Upper Story Fenestration	10% min

FRONTAGES

	See Article 4D
Residential Yard	Permitted
Shopfront	Permitted
Beachfront Yard	See Special Requirements Map
Beachfront Garage Court	See Special Requirements Map

INN BUILDING COMPONENTS



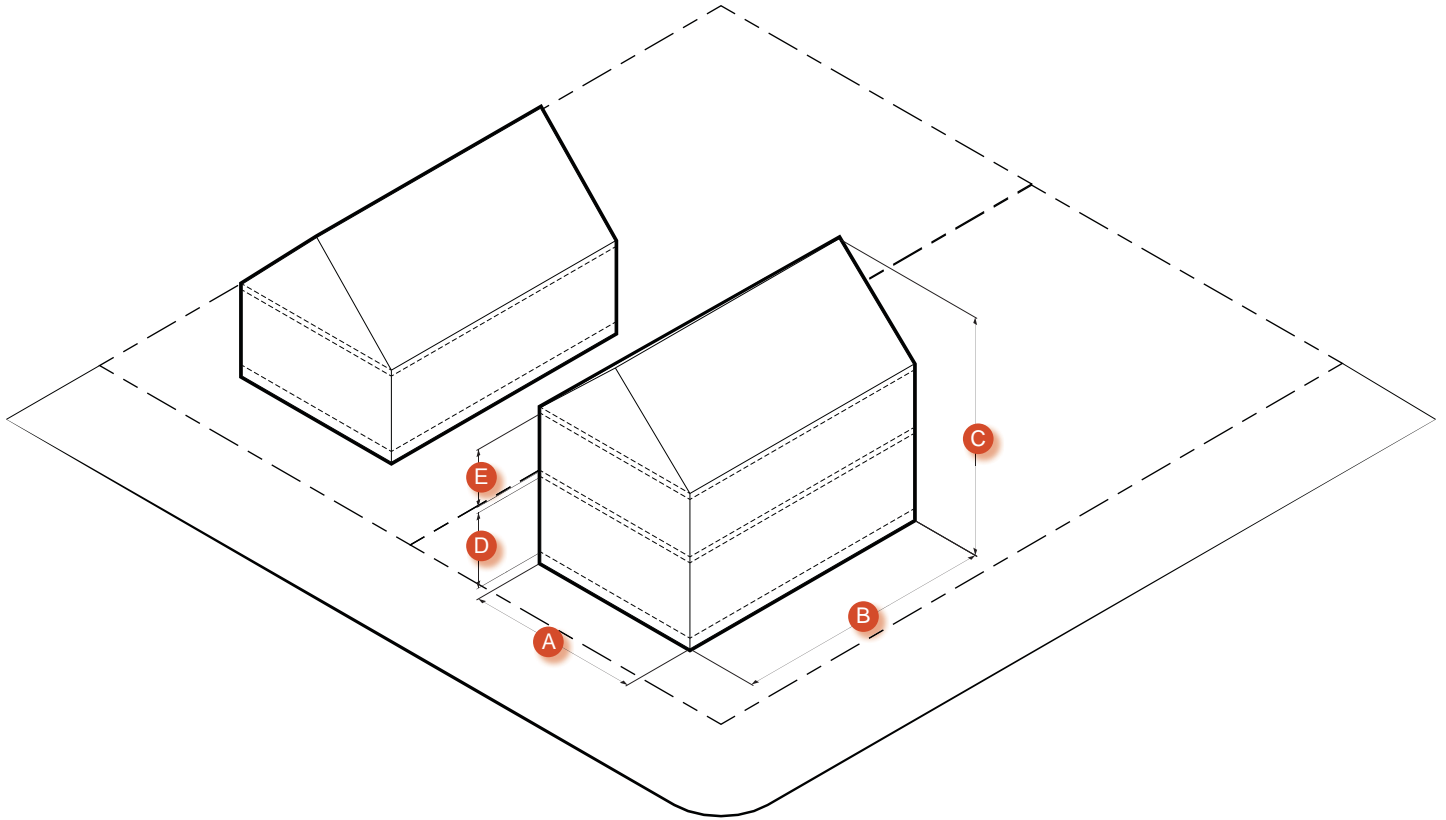
COMPONENTS	See Article 4C
Projecting Porch	Required
Integral Porch	Not Permitted
Enagaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof Walk	Permitted
Retail Awning	Permitted
Canopy	Permitted
Stoop	Permitted
Deck	Permitted

COMPONENTS (CONT'D)	See Article 4C
Rear Addition	Permitted
Side Addition	Permitted
Estate Addition	Permitted on lots 98 ft wide min.

- STANDARDS
- i. A minimum of two components may be applied to the main building mass, including a Porch as required under the Residential Yard Frontage standards (Article 4D).

5. SHOP HOUSE

A mixed-use building type that appears residential in character, with ground floor commercial uses and an upper story residential unit.



BUILDING FORM

Building Width	30 ft max	A
Building Depth	36 ft max	B
Total Stories	2.5 stories max*	C
First Story Height*	10 ft min, 12 ft max	D
Upper Story Height*	10 ft max	E
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

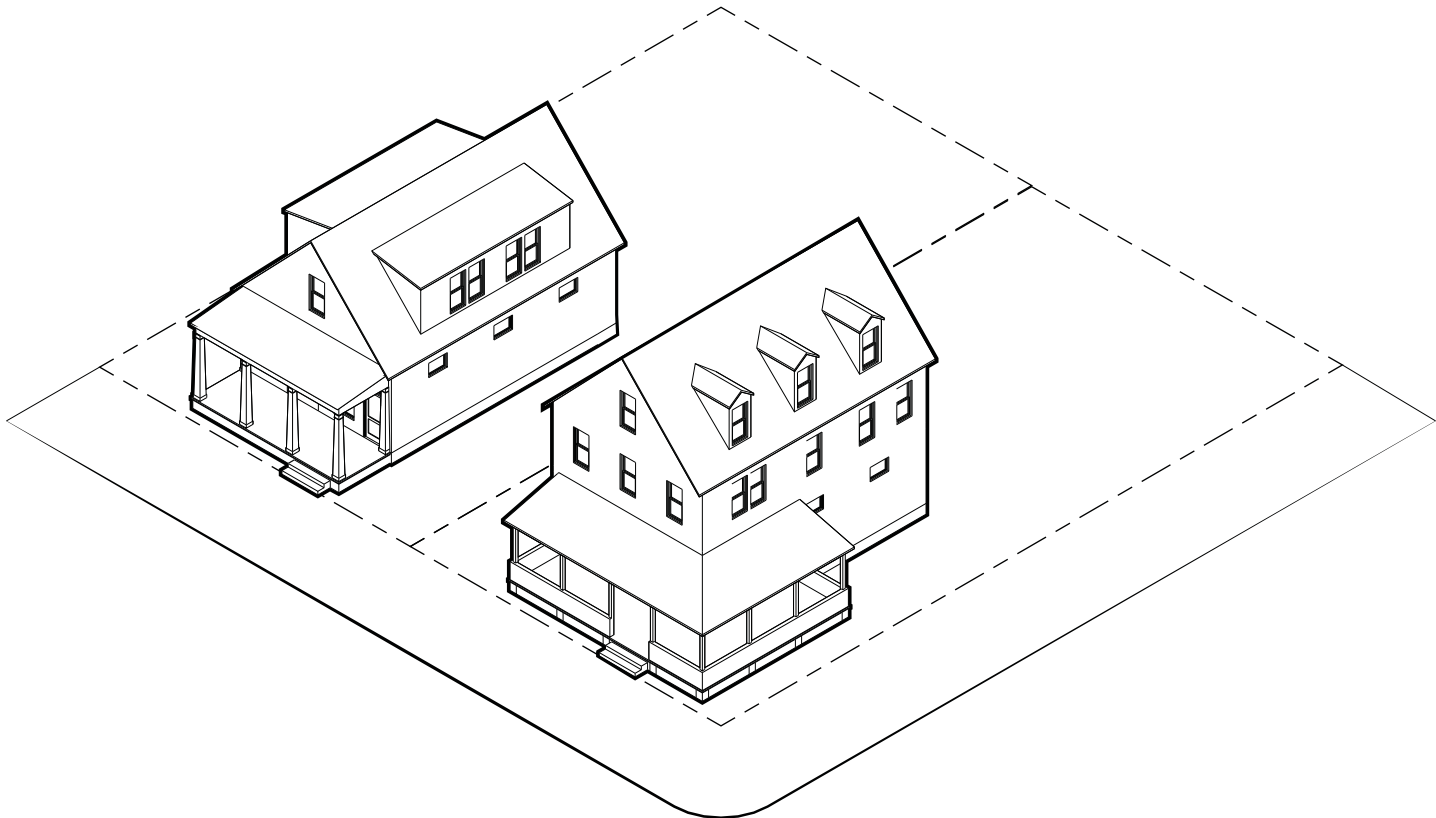
FACADE COMPOSITION

Ground Story Fenestration	20% min
Upper Story Fenestration	10% min

FRONTAGES

	See Article 4D
Residential Yard	Permitted
Shopfront	Required
Beachfront Yard	See Special Requirements Map
Beachfront Garage Court	See Special Requirements Map

SHOP HOUSE COMPONENTS



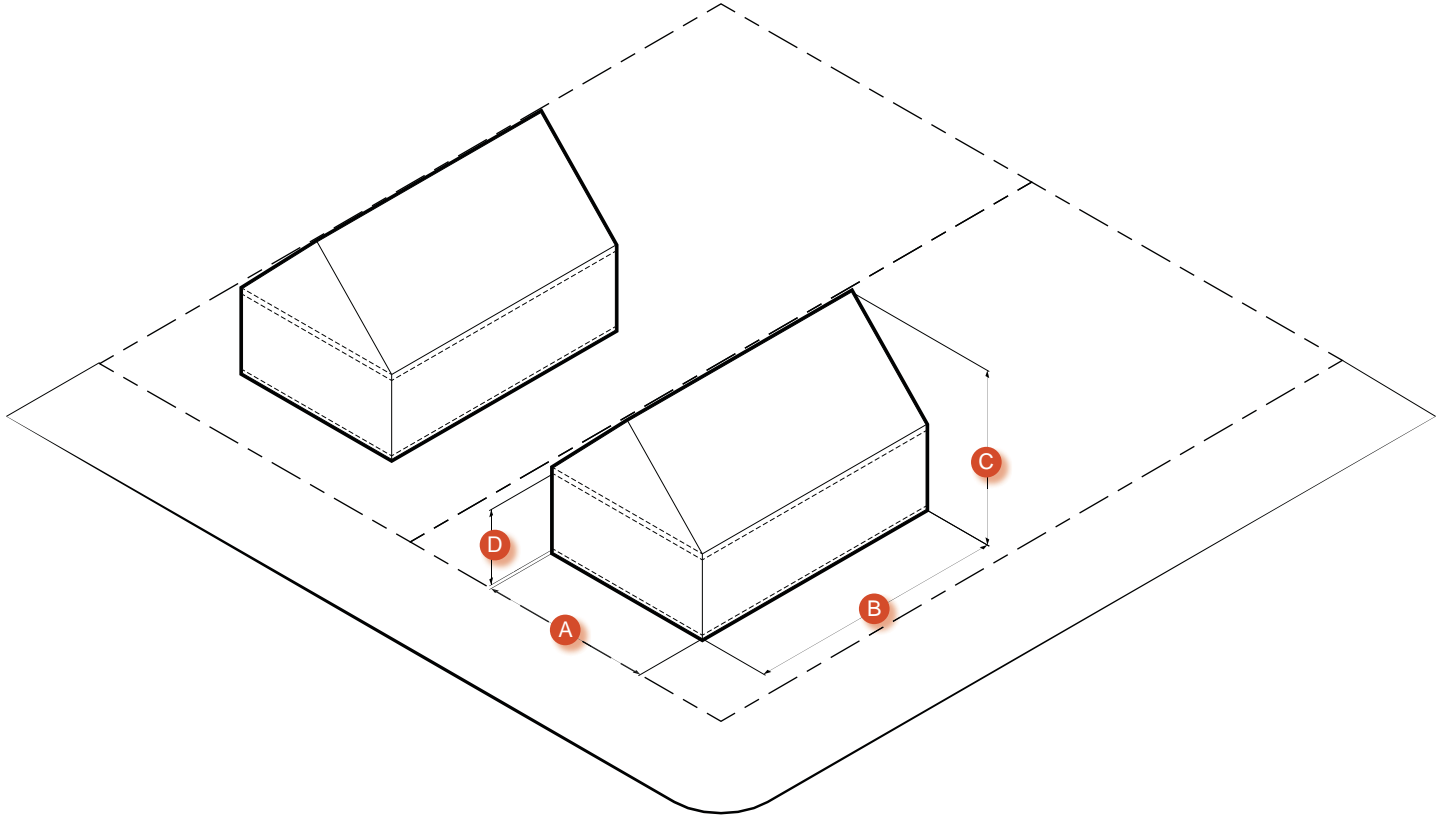
COMPONENTS	See Article 4C
Projecting Porch	Permitted
Integral Porch	Not Permitted
Enagaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof Walk	Permitted
Retail Awning	Permitted
Canopy	Permitted
Stoop	Permitted
Deck	Permitted

COMPONENTS (CONT'D)	See Article 4C
Rear Addition	Permitted
Side Addition	Permitted
Estate Addition	Permitted on lots 98 ft wide min.

- STANDARDS
- i. A minimum of two components may be applied to the main building mass, including a Porch as required under the Residential Yard Frontage standards (Article 4D).

6. NEIGHBORHOOD STORE

A medium-sized footprint, single-story building type designed for commercial purposes.



BUILDING FORM

Building Width	40 ft max	A
Building Depth	30 ft max	B
Total Stories	1.5 stories max*	C
First Story Height*	10 ft min, 12 ft max	D
Upper Story Height*	n/a	
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

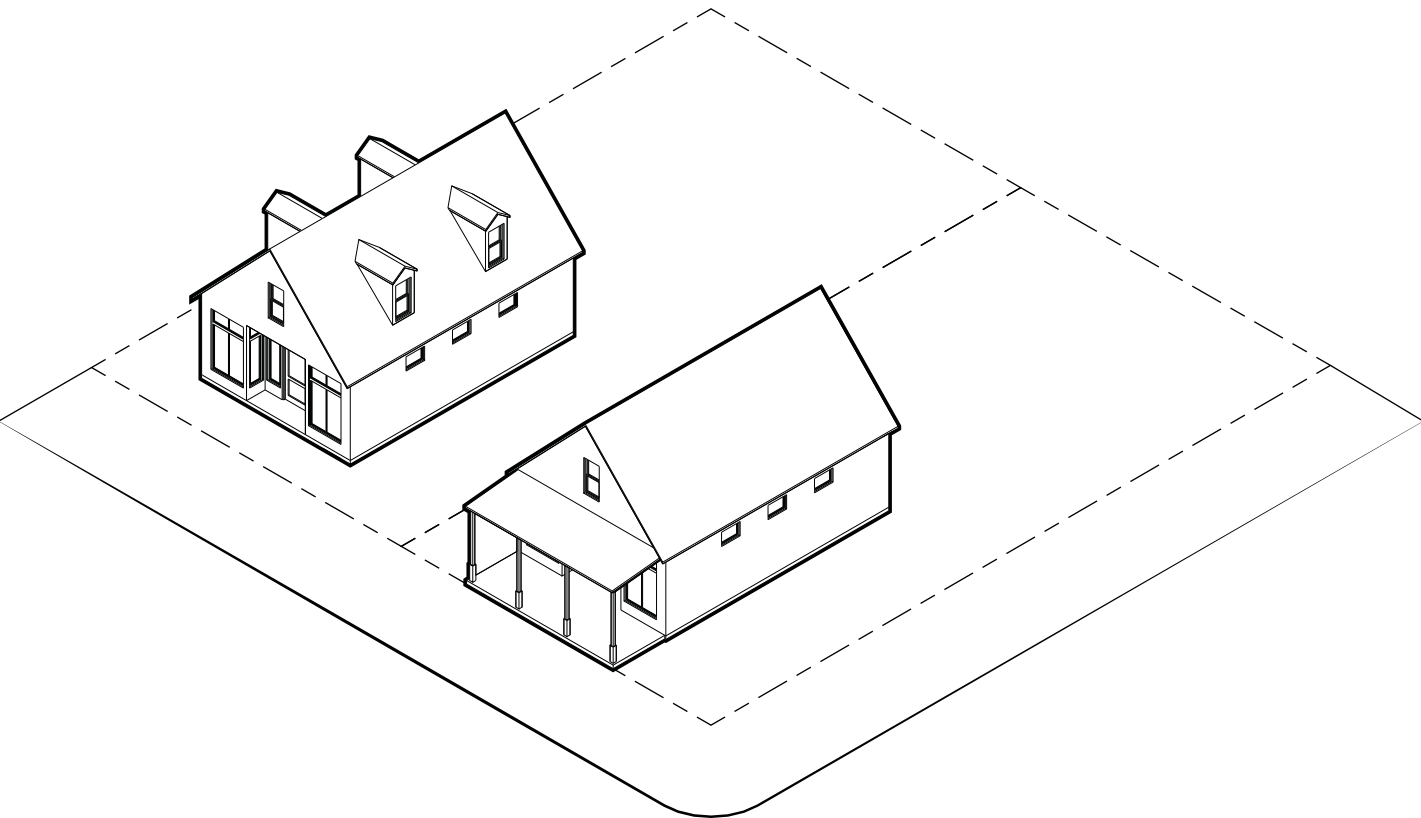
FACADE COMPOSITION

Ground Story Fenestration	20% min
Upper Story Fenestration	n/a

FRONTAGES

	See Article 4D
Residential Yard	Permitted
Shopfront	Required
Beachfront Yard	See Special Requirements Map
Beachfront Garage Court	See Special Requirements Map

NEIGHBORHOOD STORE COMPONENTS



COMPONENTS

See Article 4C

Projecting Porch	Required
Integral Porch	Not Permitted
Enagaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof Walk	Permitted
Retail Awning	Permitted
Canopy	Permitted
Stoop	Permitted

COMPONENTS (CONT'D)

See Article 4C

Deck	Permitted
Rear Addition	Permitted
Side Addition	Permitted
Estate Addition	Not Permitted

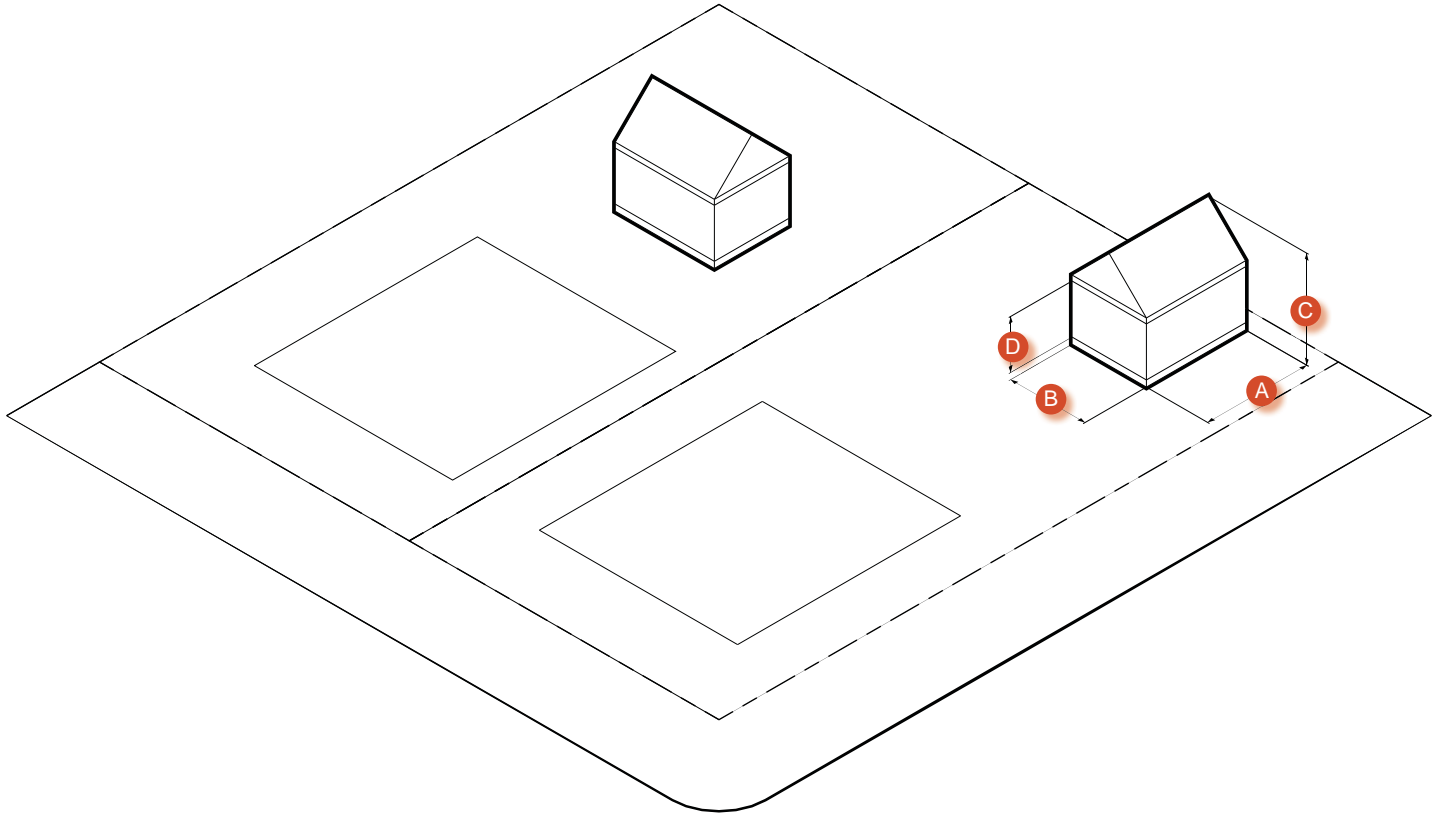
STANDARDS

- i. A minimum of two components may be applied to the main building mass, including a Porch as required under the Residential Yard Frontage standards (Article 4D).

C. ACCESSORY BUILDING TYPES & STANDARDS

1. ONE-STORY OUTBUILDING

A one-story detached accessory building that does not contain an accessory dwelling unit.



BUILDING FORM

Building Width	20 ft max	A
Building Depth	12 ft max	B
Total Stories	1.5 stories max*	C
First Story Height*	10 ft max	D
Upper Story Height*	n/a	
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

FACADE COMPOSITION

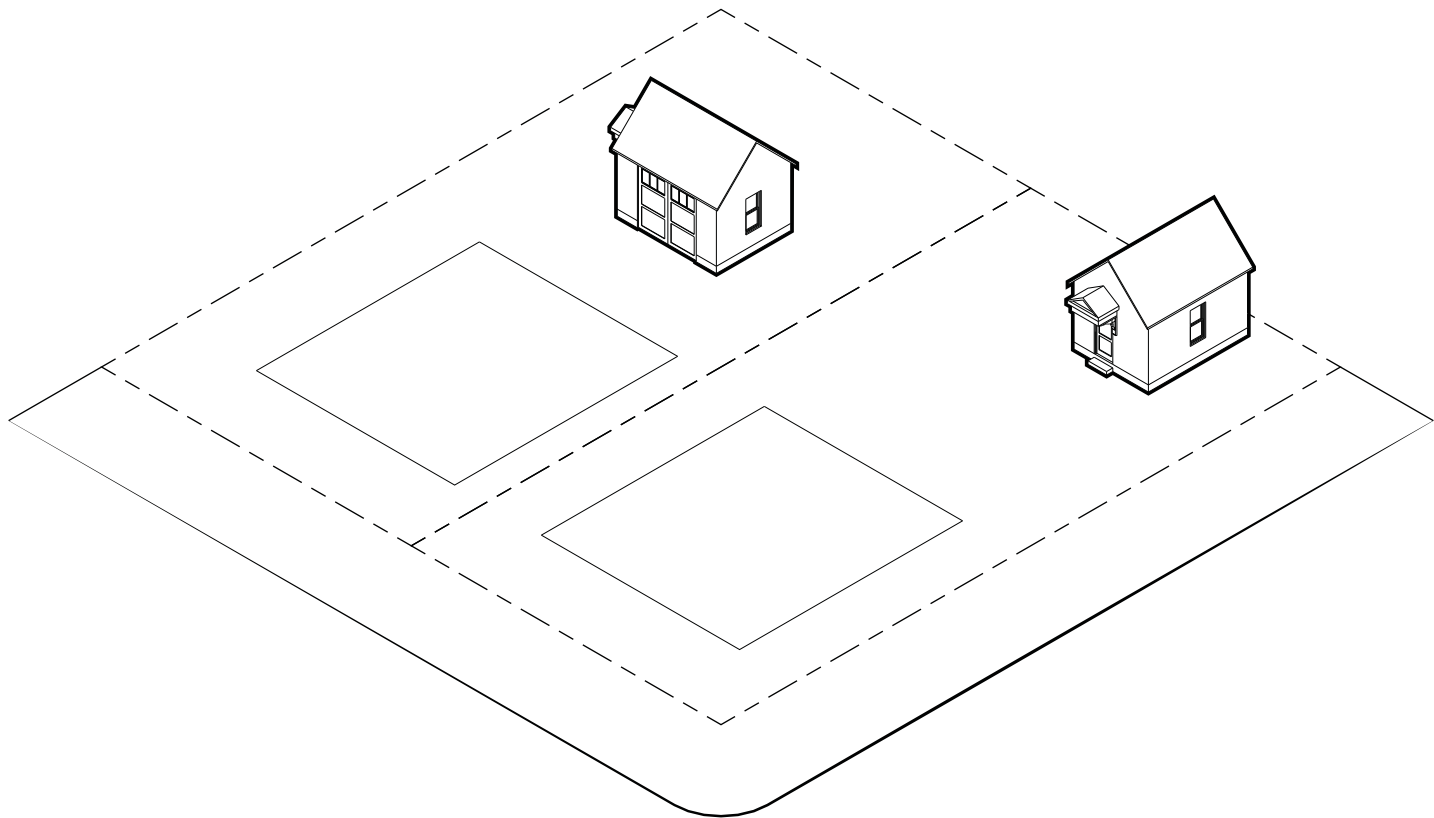
Ground Story Fenestration	10% min
Upper Story Fenestration	n/a

COMPONENTS

See Article 4C

Projecting Porch	Permitted
Integral Porch	Not Permitted
Enagaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof walk	Not Permitted
Retail Awning	Not Permitted
Canopy	Permitted
Stoop	Permitted
Deck	Permitted

ONE-STORY OUTBUILDING COMPONENTS

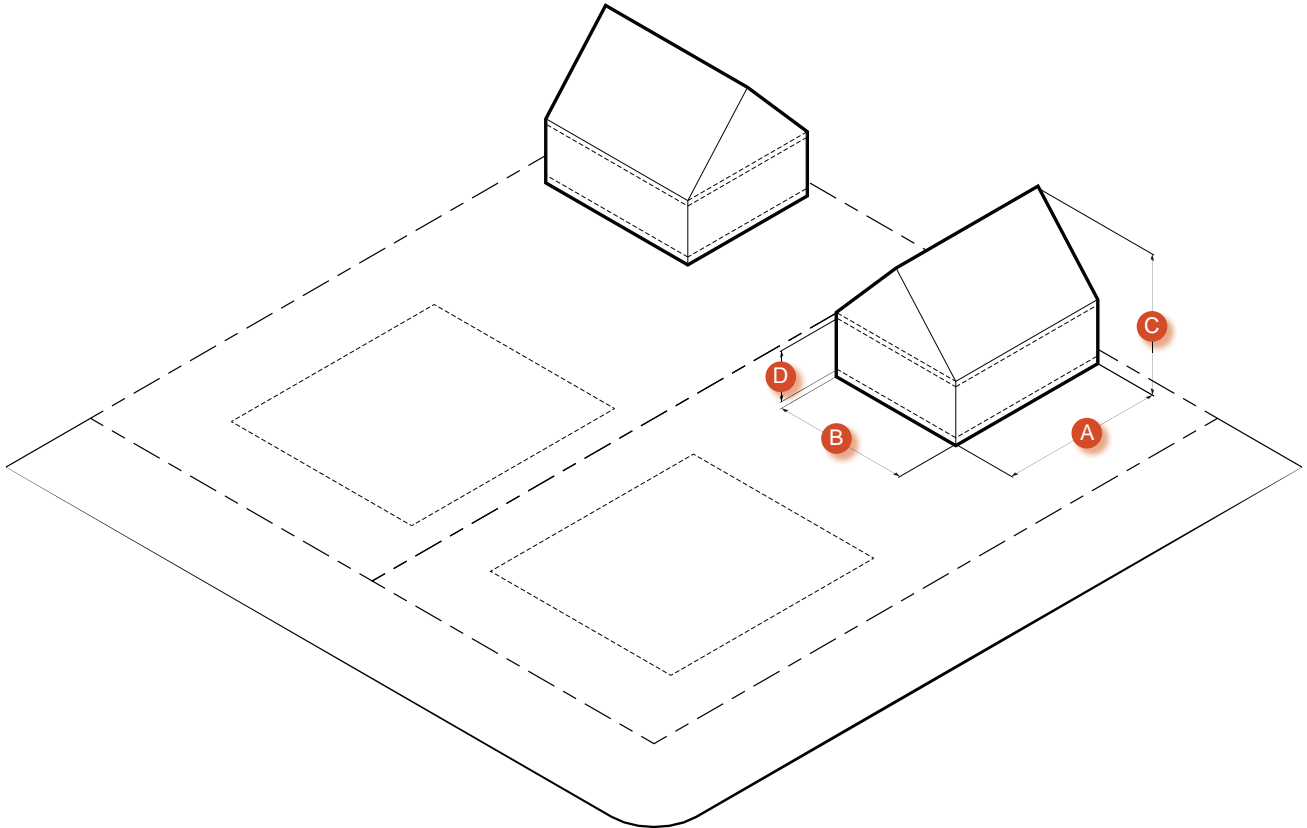


COMPONENTS (CONT'D)	See Article 4C
Rear Addition	Not Permitted
Side Addition	Not Permitted
Estate Addition	Not Permitted

- STANDARDS
- i. The Outbuilding is required to be detached from the principal building and components, and sited in accordance with the accessory building placement under Article 2.
 - ii. Accessory buildings are prohibited from adding the following components; roof deck, side wing, estate wing, rear addition.

1. ONE-STORY CARRIAGE HOUSE

A one-story detached building that can serve as a garage, an accessory dwelling unit, or a combination of the two.



BUILDING FORM

Building Width	24 ft max	A
Building Depth	24 ft max	B
Total Stories	1.5 stories max*	C
First Story Height*	12 ft max	D
Upper Story Height*	n/a	

Roof See Table 4.1

*See Article 4.A.3 for Height Standards

FACADE COMPOSITION

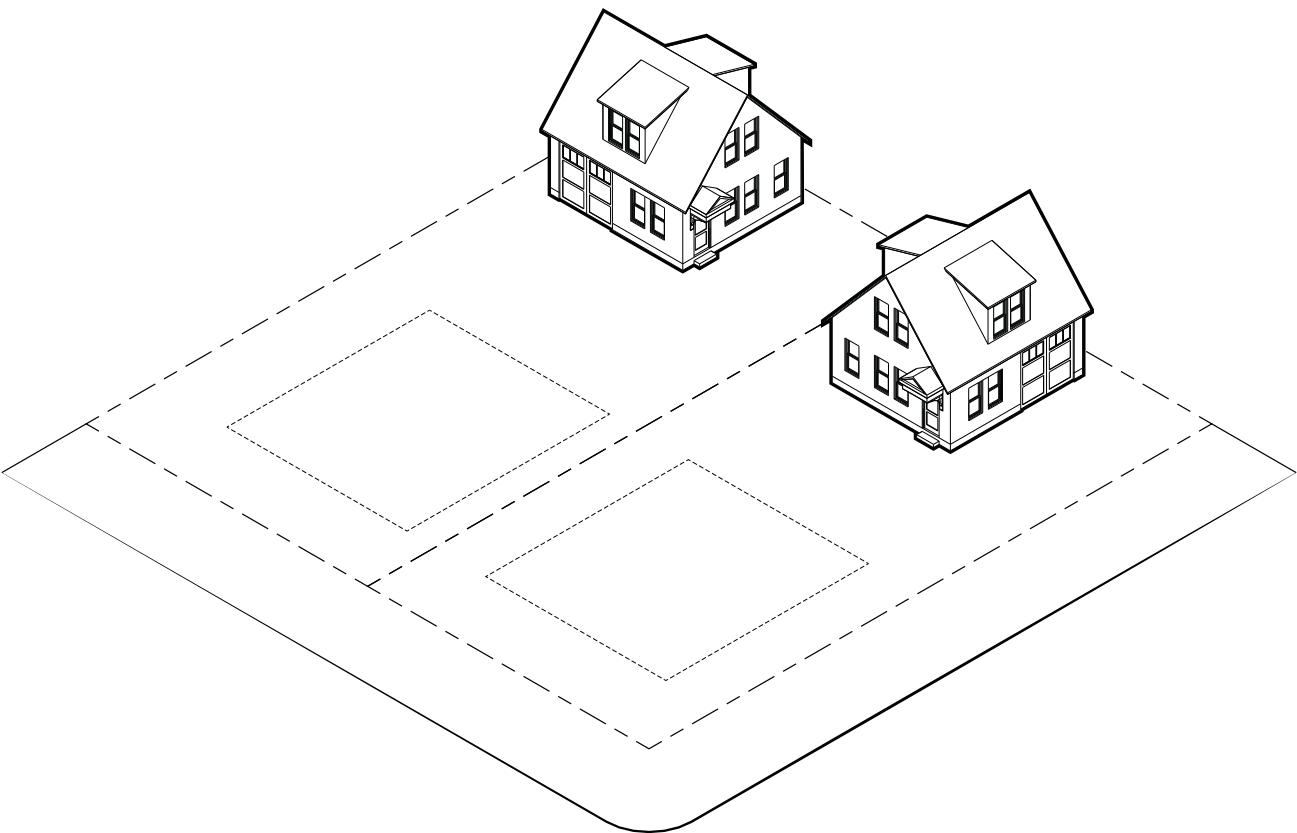
Ground Story Fenestration	20% min
Upper Story Fenestration	n/a

COMPONENTS

See Article 4C

Projecting Porch	Permitted
Integral Porch	Not Permitted
Engaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof walk	Not Permitted
Retail Awning	Not Permitted
Canopy	Permitted
Stoop	Permitted
Deck	Permitted

ONE-STORY CARRIAGE HOUSE COMPONENTS



COMPONENTS (CONT'D)	See Article 4C
Rear Addition	Not Permitted
Side Addition	Not Permitted
Estate Addition	Not Permitted

- STANDARDS
- i. The Carriage House is required to be detached from the principal building and components and sited in accordance with the Accessory Building Placement under Article 2.
 - ii. A minimum of one component must be applied to the carriage house mass.
 - iii. Carriage Houses may not be built on the same lot as a Rear Addition, except when built on the same lot as a coastal cottage, or when the lot exceeds 98 ft in width.
 - iv. Accessory buildings are prohibited from adding the following components; roof deck, side wing, estate wing, rear addition.

D. BUILDING COMPONENTS

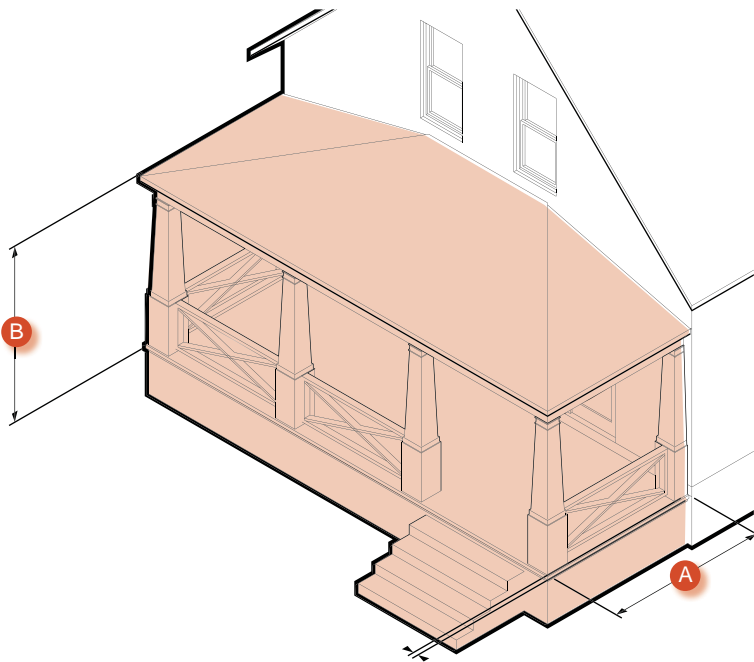
1. GENERAL

- a. Building Component standards are detailed in Article 4.D. 2-16 and Table 4.1B. Components are permitted by building type according to Article 4.B-C.
- b. Building components are accessory features that increase the floor area, living space, exterior space and/or generally enhance the usefulness of a building.
- c. All components may attach to all other components and to all buildings and accessory buildings unless specifically disallowed by the building or component.
- d. Multiple components of the same type may not attach to each other, unless specifically allowed, and must be separated horizontally by a distance of no less than 1 ft.
- e. Certain Building Components are permitted to encroach into the Building Setbacks found in the Character Districts standards in Article 2 and as per Article 4.A.4. This Permitted Encroachment standard is meant to encourage and allow certain Building Components that contribute to the character of Higgins Beach.
- f. Stairs that extend off porches, stoops, decks and principal buildings are not required to meet the setback or setback encroachment limits provided that at least 3 ft is maintained from the vertical plane of any front, side or rear lot line.
- g. Porches are required along the Primary Frontage on all new or replacement dwellings with the residential yard frontage type and must extend across at least 75% of the width of the building facade.

E. BUILDING COMPONENTS & STANDARDS

1. PORCH - PROJECTING

A wide, raised platform with stairs that leads to an entrance of a building and has a roof supported by columns or piers.



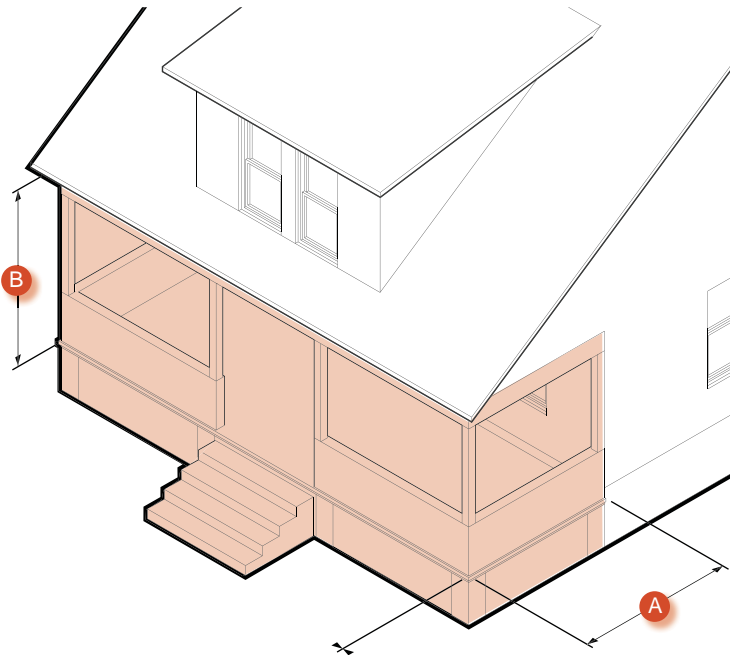
Depth	6 ft min, 10 ft max (see v)	A
Height	8 ft min	B
Permitted Encroachment	4 ft max Secondary Front Setback 10 ft max Primary Front, Rear Setback Encroachment not permitted in Side Setback	
Roof	See Table 4.1	
Fenestration	60% min when enclosed 40% min on side or rear porches	

STANDARDS

- i. Porches may be partially or fully enclosed.
- ii. Stairs may extend off the front or side of the porch.
- iii. Porches may wrap around corners to and may connect with porches or decks on adjacent building or component faces.
- iv. A projecting porch may appear as an engaged porch if it is partially enclosed and meets the dimensions and standards of this section.
- v. Porches, or sections of porches, attached to a rear facing wall may extend to a maximum depth of 12 ft.

2. PORCH - INTEGRAL

A raised platform with stairs that lead to an entrance of a building and a roof supported by columns or piers. Integral porches are unique in that they are located under the roof of the principal building, typical in a bungalow type.



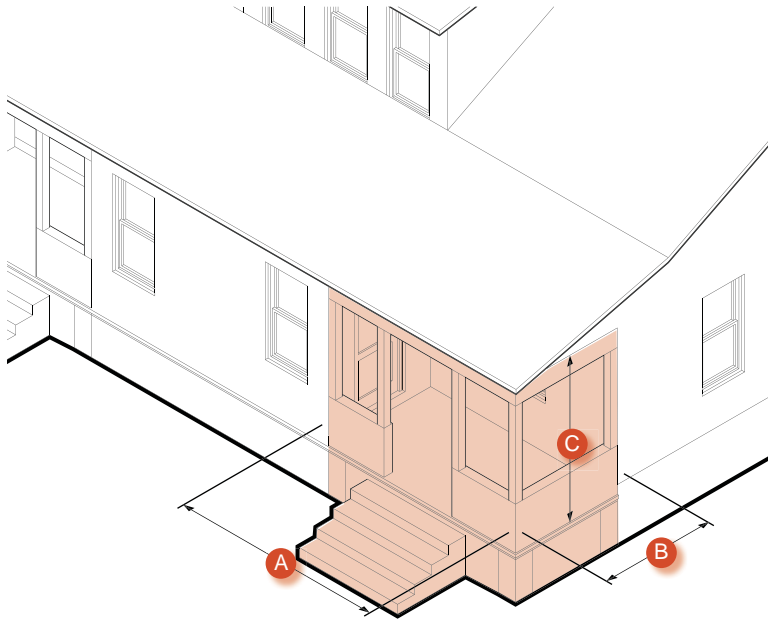
DIMENSIONS

Depth	8 ft min, 10 ft max (see iv)	A
Height	8 ft min	B
Permitted Encroachment	4 ft max Secondary Front Setback 10 ft max Primary Front, Rear Setback Encroachment not permitted in Side Setback	
Roof	See Table 4.1	
	60% min when enclosed 40% min on side or rear porches	

- i. Porches may be partially or fully enclosed.
- ii. Stairs may extend off the front or side of the porch.
- iii. Porches may wrap around corners to and may connect with porches or decks on adjacent building or component faces.
- iv. Porches, or sections of porches, attached to a rear facing wall may extend to a maximum depth of 12 ft.

3. PORCH - ENGAGED

A raised platform with stairs leading to a secondary entrance of a building. Engaged porches are attached to the building at two sides and are integrated within the building's roofline.



DIMENSIONS

Width	8 ft min	A
Depth	6 ft min, 10 ft max (see iv)	B
Height	8 ft min	C

Encroachment
not permitted

Roof See Table 4.1B

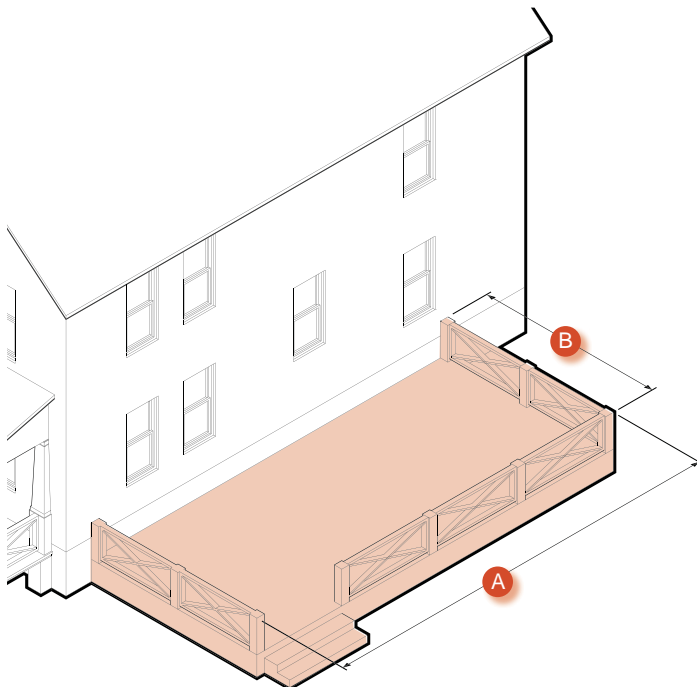
Fenestration 60% min when enclosed
40% min on side or rear
porches

STANDARDS

- Stairs may extend off the front or side of the porch.
- Engaged porches may not occur on any primary frontage except the Garage Court Frontage (see Projecting Porch for options along any primary frontage)
- Porches may wrap around corners to and may connect with porches or decks on adjacent building or component faces.
- Porches, or sections of porches, attached to a rear facing wall may extend to a maximum depth of 12 ft.

4. DECK

A roofless, uncovered, raised platform accessible from a secondary entrance to a building that provides outdoor amenity space.



DIMENSIONS

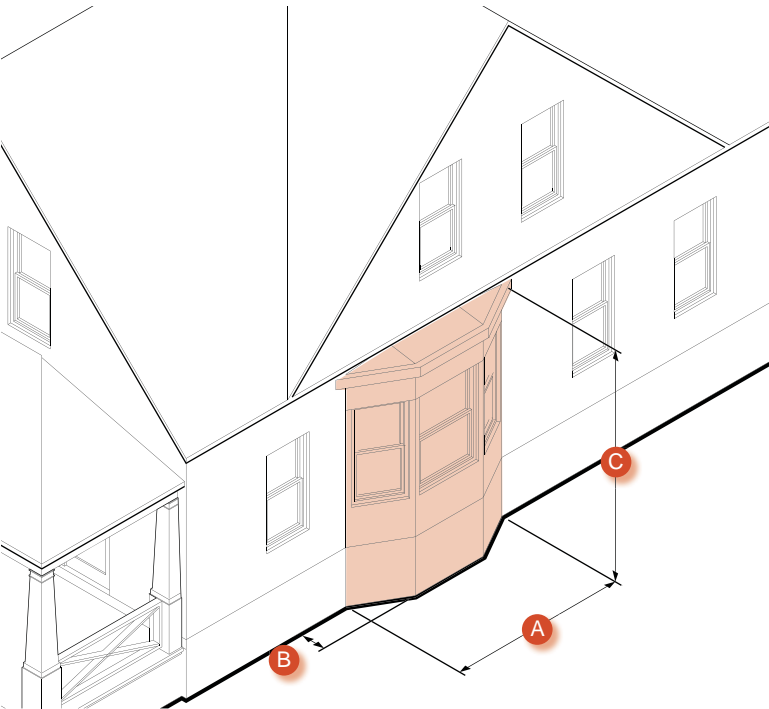
Width	24 ft max	A
Depth	24 ft max	B
Permitted Encroachment	8 ft	

STANDARDS

- Decks may only encroach into side and rear setbacks, with the exception of houses elevated more than 6 ft on pilings or piers in a coastal overlay zone, in which case a deck may be used in lieu of a porch, provided it is similarly elevated.
- The deck may connect a primary building with an accessory building.

5. BAY

A window assembly extending from the main body of a building to permit increased light, multi-directional views, and articulate a building wall.



DIMENSIONS

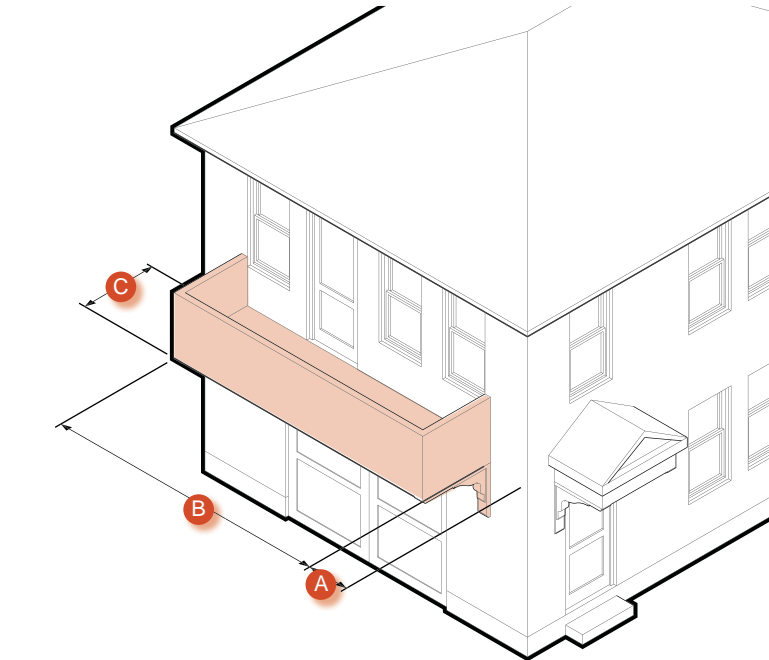
Width	50% max width of Facade or building wall	A
Depth	12 in min, 3 ft max	B
Fenestration	50% min	
Height	Total number of complete building stories	C
Permitted Encroachment	3 ft	

STANDARDS

- i. Bays must have a foundation extend all the way to the ground level or be visually supported by brackets or other architectural supports.
- ii. Bays may be integrated within an unenclosed porch, provided the Depth does not exceed 2ft.

6. BALCONY

An unroofed platform with a railing that provides outdoor amenity space.



DIMENSIONS

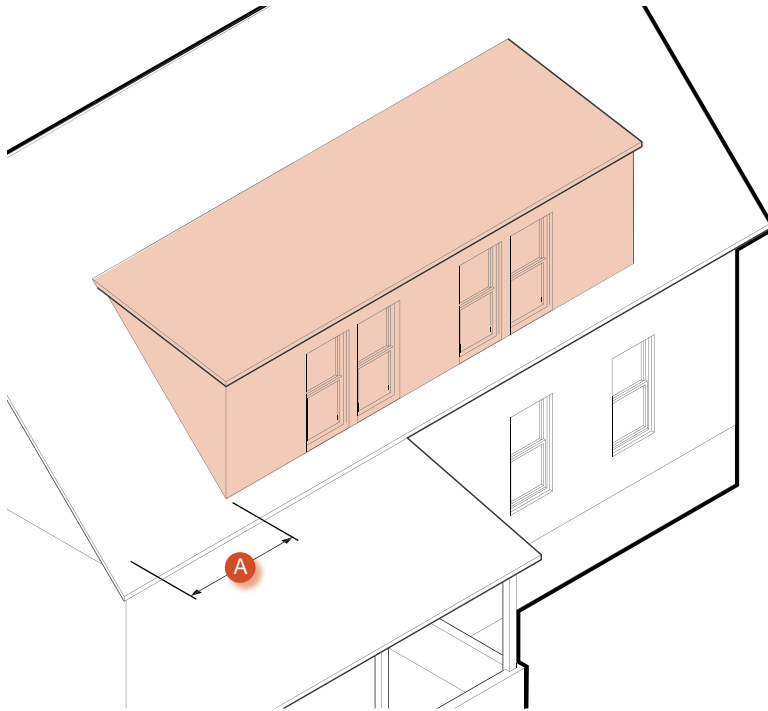
Required Inset	3 ft min (Projecting, Terraced) 0 ft min (Integral)	A
Length	5 ft min	B
Width	5 ft min (Projecting) 6 ft max (Integral, Terraced)	C
Permitted Encroachment	5 ft	

STANDARDS

- i. Balconies may be integral, projecting, a combination of the two, or terraced as part of the main building roof or the roof of a portico, porch, or bay.
- ii. Terraced balconies are the only type permitted to attach to the facade.
- iii. A projecting balcony must have a clear height above the ground of at least 10 ft.
- iv. The railing of any projecting balcony oriented toward a front lot line must have posts and rails with spacing.
- v. Balconies should be supported on wood or metal brackets or columns in keeping with the character of the building.
- vi. Integral balconies may stack on top of integral porches.
- vii. An integral balcony may meet a facade at a corner.

7. DORMER WINDOW

A window or set of windows that projects vertically from a sloped roof, designed to provide increased light and expand the habitable space of a half-story.



DIMENSIONS

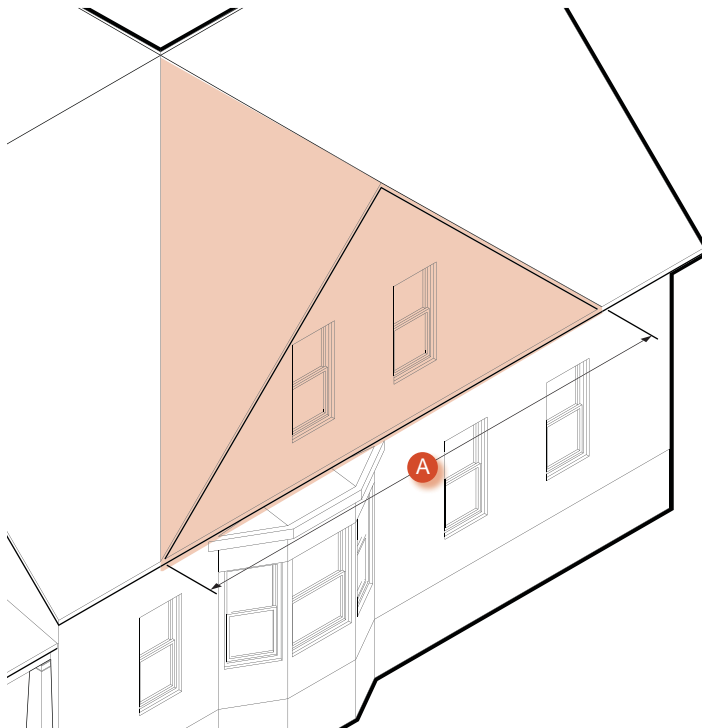
Gable End Setback	2 ft min	A
Fenestration	30% min (see iii)	
Roof	See Table 4.1	

STANDARDS

- The face of the dormer should not project beyond the building wall face below.
- Dormers must also conform to the height standards under Article 4.A. and the overall average height limit
- Windows in a dormer may not be narrower than 20 inches in width.
- The face of the dormer must be set back at least 12 ft from the vertical plane of all side lot lines, regardless of the setback of the building to which it is attached.

8. CROSS GABLE

A sloped roof that projects perpendicularly from the main roof of a building to significantly increase the habitable space of a half-story.

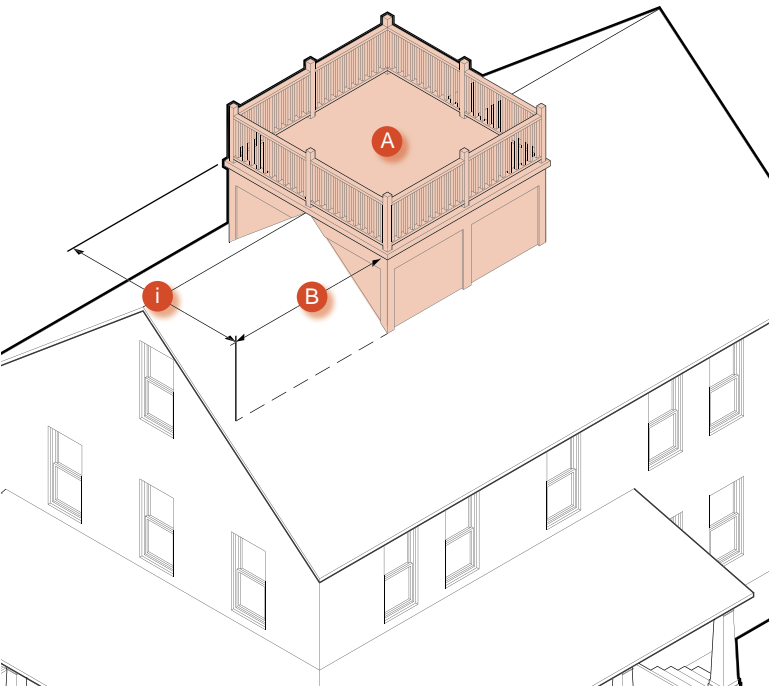


DIMENSIONS

Width	maximum of 50% of the eave length of the main roof	A
Roof	See Table 4.1	
Fenestration	30% min	

9. ROOF WALK

A raised platform on the roof of a building or component that provides outdoor amenity space and allows for views.



DIMENSIONS

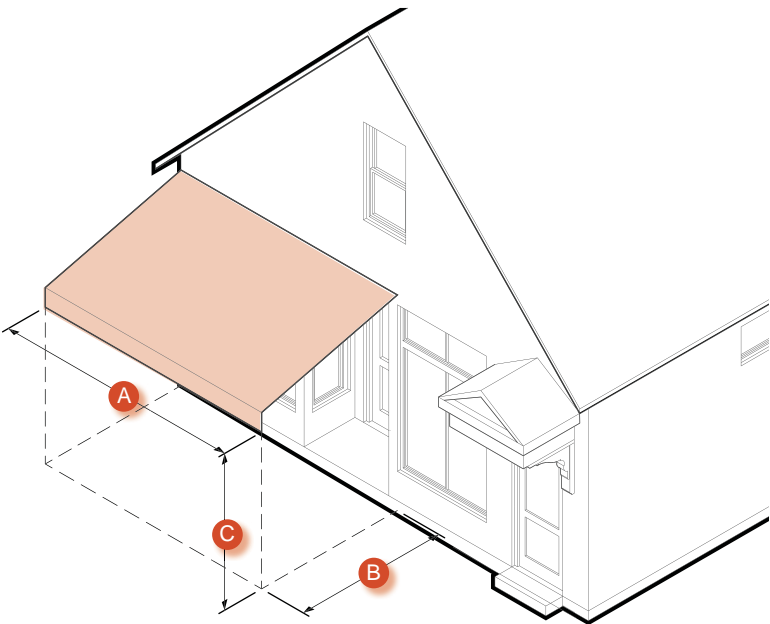
Total Area	400 sq ft max	A
SetbackfromFacade	5 ft min	B
Railing Height	3 ft min, 4 ft max	

STANDARDS

- i. The width of Roof Walks may not exceed 50% of the Building Width.
- ii. The railing must be constructed with posts and rails with spacing such that it does not exceed 50% opacity.

10. AWNING

A wall mounted, pitched, fabric covering extending from a building to provide shade and weather protection for pedestrians.



DIMENSIONS

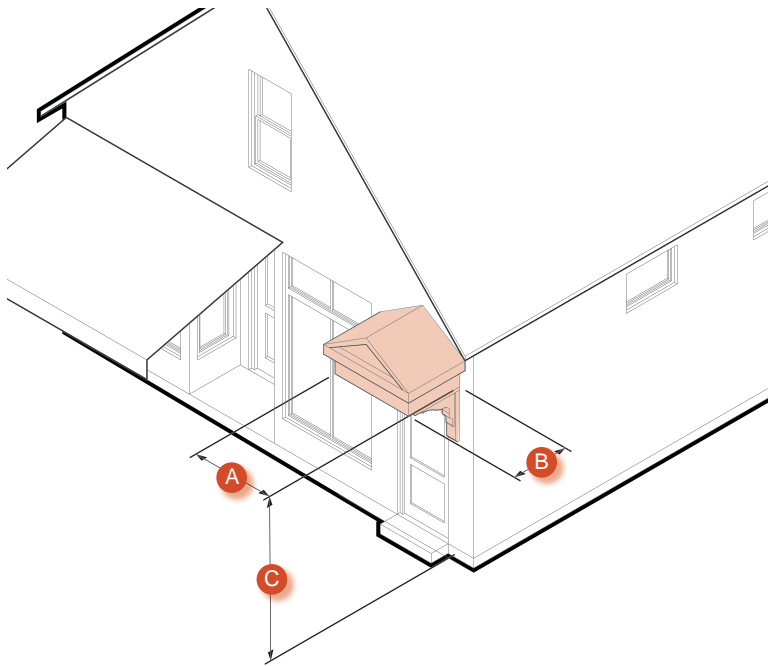
Width	12 ft min	A
Depth	6 ft min	B
Clearance	8 ft min	C
Permitted Encroachment	6 ft	

STANDARDS

- i. Where possible, awnings should be retractable.

11. CANOPY

A wall mounted, pitched, solid overhang extending from a building to provide shade and weather protection for pedestrians.



DIMENSIONS

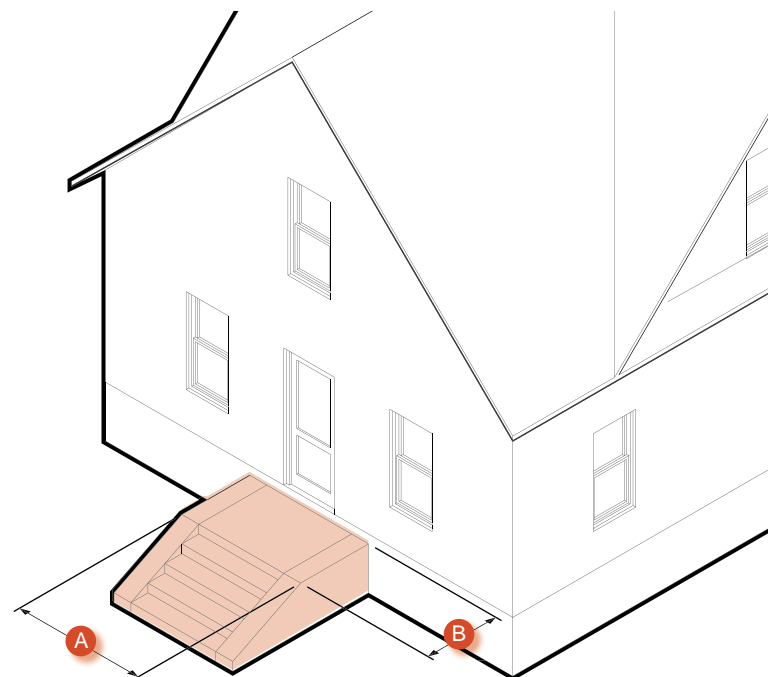
Width	4 ft min	A
Depth	3 ft min	B
Clearance	8 ft min	C
Roof	See Table 4.1	
Permitted Encroachment	3 ft	

STANDARDS

- i. Canopies should be supported on wood or metal brackets or columns in keeping with the character of the building.

12. STOOP

A component type featuring set of stairs with a landing leading to an entrance of a building.



DIMENSIONS

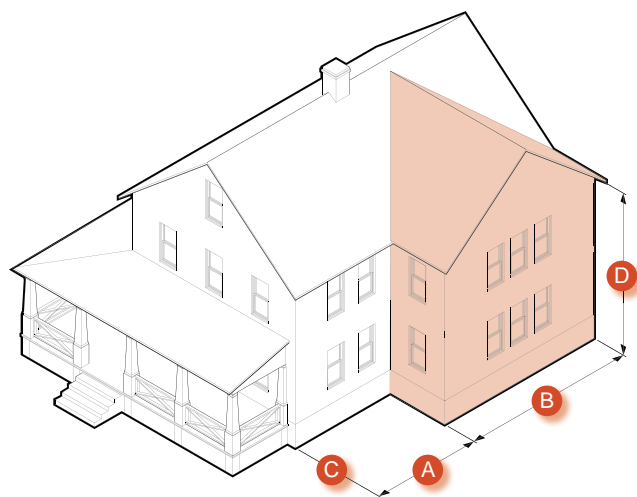
Landing Width	4 ft min	A
Landing Depth	4 ft min	B
Permitted Encroachment	4 ft	

STANDARDS

- i. Stairs may be recessed into the building wall.
- ii. Stairs are not permitted to encroach onto any abutting sidewalk.
- iii. Stairs may be built perpendicular or parallel to the building wall, but must lead directly to ground level or an abutting sidewalk.

13. SIDE WING

An extension from one or more side walls of the main body of a building.



DIMENSIONS

Setback from Facade	10 ft min	A
Floor Plate Area	50% max of the Floor Plate of the Principal Building	
Width		B
1-Story	1/2 depth of the Principal Building (max)	
2-Story	1/3 depth of the Principal Building (max)	
Projection	2/3 width of the Principal Building	C
Height	Same Height of Principal Building (max)	D
Roof	see Table 4.1	
Fenestration	Same as Principal Building	

STANDARDS

- i. Side Wings may not encroach on setbacks.
- ii. Side wings may be centered or offset at the side wall of the principal building, provided they share at least 6 ft with the common wall.
- iii. Side Wings are not permitted on buildings that have an Estate Wing.
- iv. Only one Side Wing is permitted per building side.

DIMENSIONS

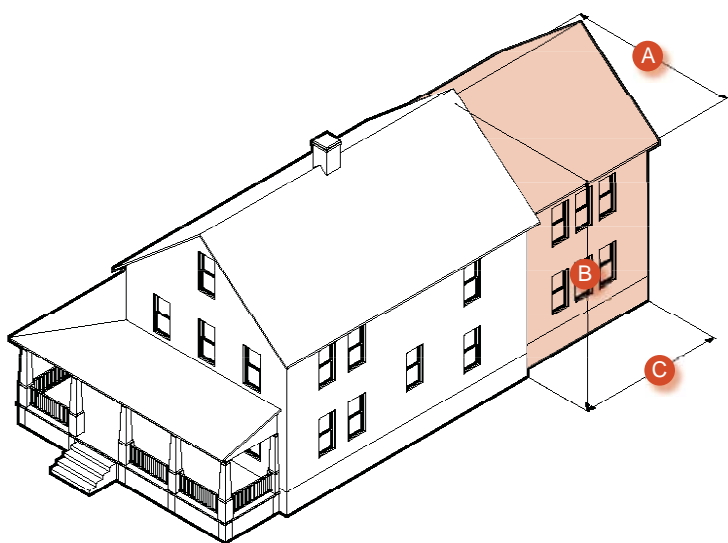
Width	2 ft less than Width of Principal Building (max)	A
Height	Same Height of Principal Building (max)	B
Roof	see Table 4.1	
Depth	Same Depth as Principal Building (max)	C

STANDARDS

- i. Rear Additions may not encroach on setbacks.
- ii. Rear Additions may not be built on the same lot as a Carriage House, except when built on the same lot as a coastal cottage, or when the lot exceeds 98 ft in width.
- iii. Rear additions may be centered or offset at the rear wall of the principal building, provided they share at least 6 ft with the common wall.
- iv. The side wall of a rear addition must be offset at least 1 ft from the plane of the side wall of the primary building, to prevent the creation of overly long side elevations.

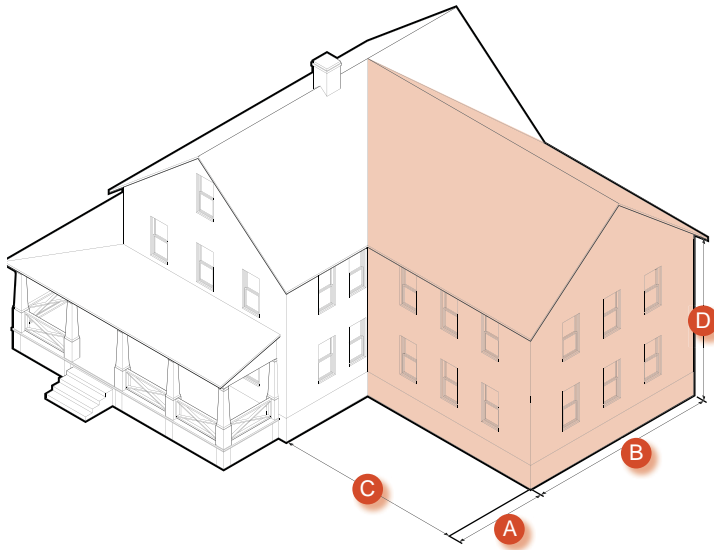
14. REAR ADDITION

An extension from the rear wall of the main body of a building.



15. ESTATE WING

A large multi-story extension from one side wall of the main body of a building. Estate Wings are only allowed on lots 98' in width or greater.



DIMENSIONS

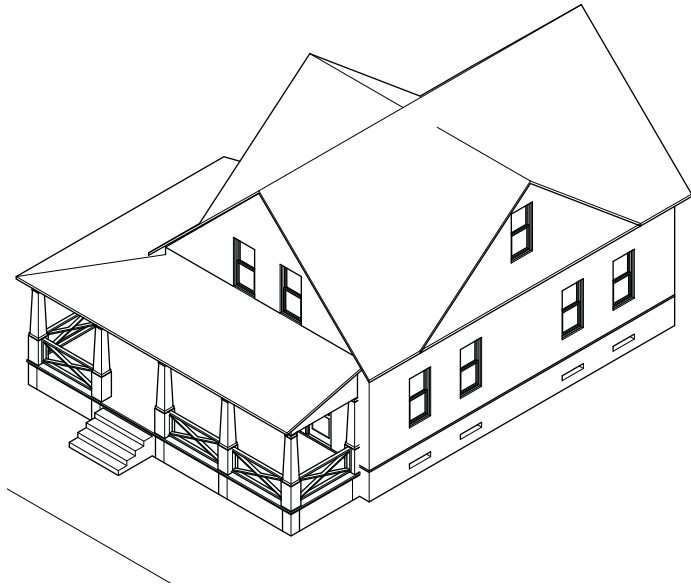
Setback from Facade	10 ft min	A
Width	Same Width as Principal Facade (max)	B
Projection	Same Width as Principal Facade (max)	C
Max Height	Same Height of Principal Building (max)	D
Roof	see Table 4.1	
Fenestration	Same as Principal Building	

STANDARDS

- Estate Wings may not encroach on setbacks.
- Estate Wings may only be used on lots 98 ft x 98 ft or greater in size
- Estate Wings may not be used on a building that has a Side Wing.
- Only one Estate Wing is permitted per building side.

F. FOUNDATIONS & STANDARDS

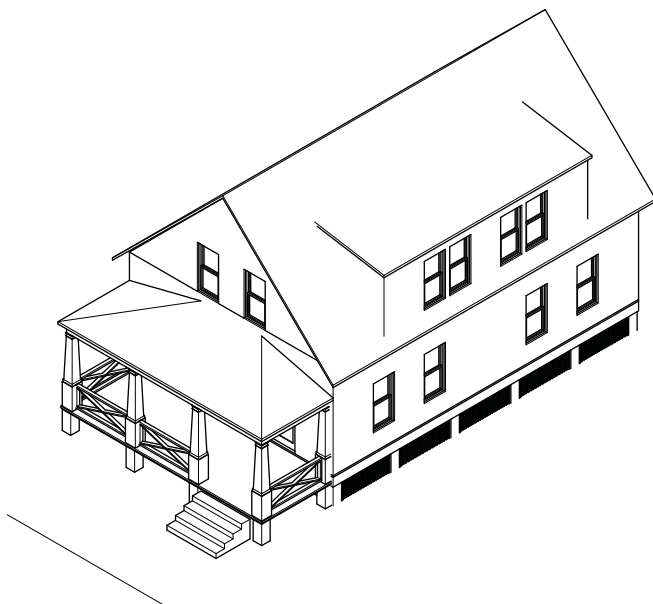
16. 0-4 FT HYDRAULIC FOUNDATION



STANDARDS

- i. Hydraulic foundations up to 4 ft in height should have the general appearance of typical foundations.
- ii. Doorways and windows should generally be located above the level of the foundation and should not penetrate it.
- iii. Enclosed area may only be used for building access or storage and may not be inhabited as per Floodplain Management Ordinance
- iv. All heights measured from established ground plane.

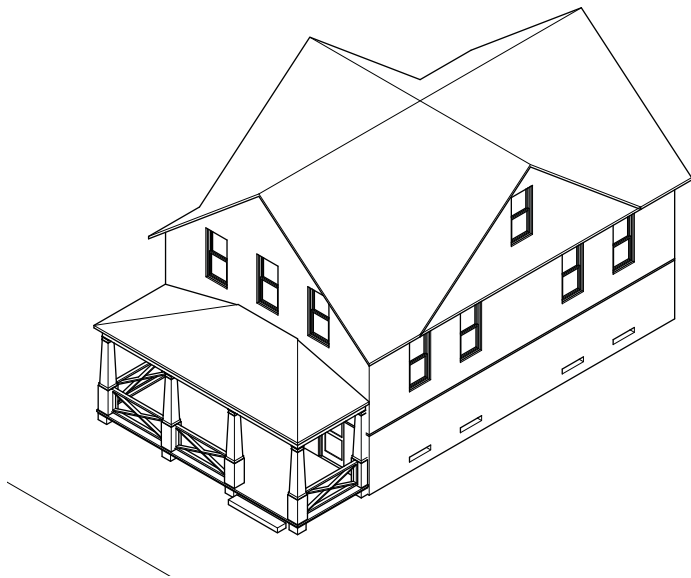
17. 0-4 FT PILE/PIER FOUNDATION



STANDARDS

- i. Pile/pier foundations up to 4 ft in height should be consistent with overall building architecture and have the gaps between piles or piers filled with approved breakaway panels or flow through latticework to give an impression of solidity.
- ii. Doorways and windows should generally be located above the level of the foundation and should not penetrate it.
- iii. Enclosed area may only be used for building access or storage and may not be inhabited as per Floodplain Management Ordinance.
- iv. All heights measured from established ground plane.

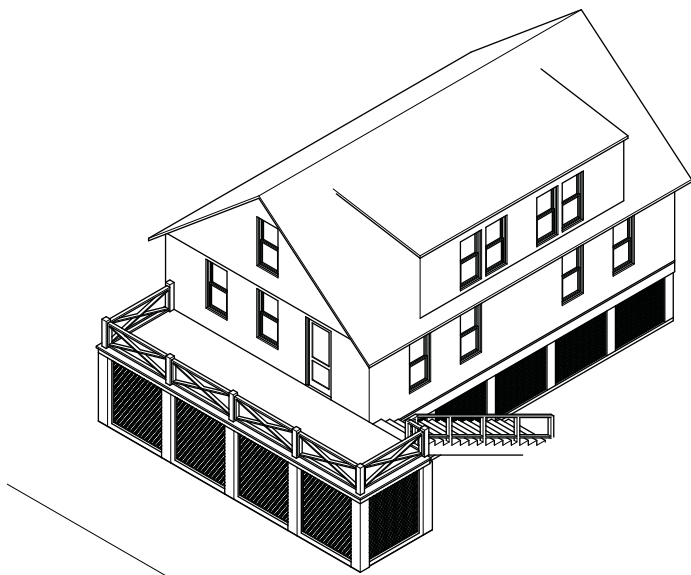
18. 4-8 FT HYDRAULIC FOUNDATION



STANDARDS

- i. Hydraulic foundations between 4 ft and 8 ft in height may have the general appearance of a split-level foundation.
- ii. Doorways and windows may penetrate the foundation in order to provide access from the outside and to conceal access stairs within the enclosed area of the foundation itself.
- iii. Enclosed area may only be used for building access to upper levels, parking of vehicles or storage and not be inhabited as per the Floodplain Management Ordinance
- iv. All heights measured from established ground plane.

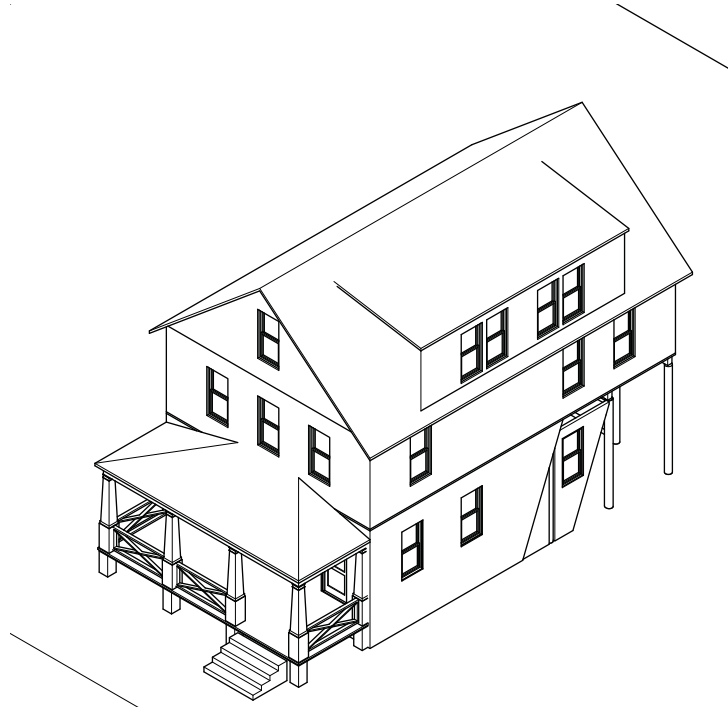
19. 4-8 FT PILE/PIER FOUNDATION



STANDARDS

- i. Pile/pier foundations between 4 ft and 8 ft in height may not have the appearance of a split-level foundation.
- ii. Gaps between pile/ piers must be filled with approved breakaway panels or flow through lattice work to give an impression of solidity on all street facing walls.
- iii. Doorways and windows may occur in break-away walls as a means of access to the enclosed area, but may not extend across the boundary between breakaway walls and permanent walls above as this will hinder the panels ability to separate and may cause damage to the house.
- iv. Stairways should be concealed either within the enclosed area or in a side or rear yard. Stairways should not extend across the primary frontage.
- v. Enclosed area may only be used for building access to upper levels, parking of vehicles or storage and not be inhabited as per the Floodplain Management Ordinance
- vi. All heights measured from established ground plane.

20. 8 FT AND TALLER PILE/PIER FOUNDATION



STANDARDS

- i. Pile/pier foundations above 8 ft in height should have the general appearance of a full story.
- ii. Gaps between pile/ piers must be filled with approved breakaway panels on all street facing walls.
- iii. Doorways and windows should occur in breakaway walls as a means of access to the enclosed area and to appear like a typical first floor, but may not extend across the boundary between breakaway walls and permanent walls above as this will hinder the panels ability to separate and may cause extensive damage to the house.
- iv. Stairways should be concealed either within the enclosed area or in a side or rear yard, stairways should not extend across a primary frontage.
- v. Enclosed area may only be used for building access to upper levels, parking of vehicles or storage and may not be inhabited as per the Floodplain Management Ordinance
- vi. All heights measured from established ground plane.

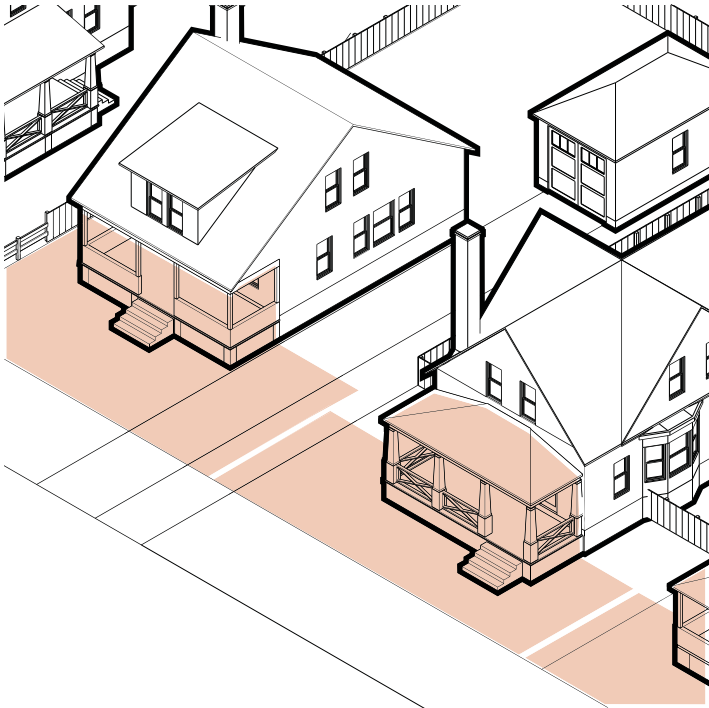
G. BUILDING FRONTAGE TYPES

1. GENERAL

- a. Building Frontages are described in Article 4.G.2-4 and permitted according to the standards in Article 2.A-B.
- b. Building frontages provide an important transition between the public realm (sidewalks, streets, and civic space) and the private realm (yards and building interiors).
- c. At least 1 building frontage type is required for each principal building.
- d. Lots may include multiple frontage types.

2. RESIDENTIAL YARD

A frontage featuring a fenced or common front yard with porches allowed to encroach into the front setback.

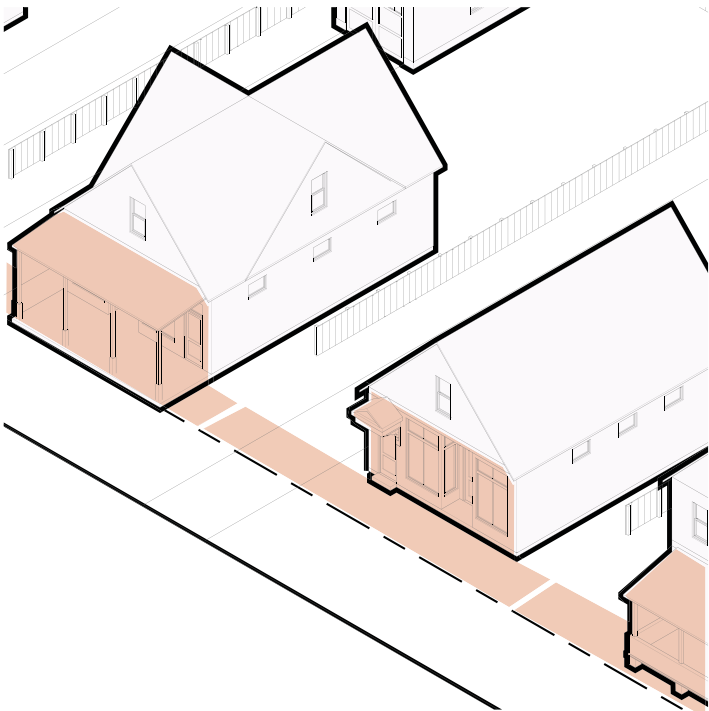


STANDARDS

- i. Porches are required along the Primary Frontage and must extend across at least 75% of the width of the building facade.
- ii. Off-street parking may not be located in the residential yard and shall be sited behind the minimum front setback.
- iii. Paving is restricted to walkways and driveways, and permeable materials are encouraged for these surfaces, including crushed shells, crushed stone, ribbon driveways and pavers to maintain the coastal feel of the beach and minimize impervious area.
- iv. When two driveways are located next to each other an effort should be made to provide vertical landscaping between the driveways to break up the visual width of the paved areas.
- v. Landscaping should consist primarily of native species requiring minimal irrigation, fertilization, and maintenance.
- vi. Accessory Buildings are prohibited within this frontage.

3. SHOPFRONT

A mixed-use frontage type accommodating storefronts punctuated by entrances to uses on the floors above.

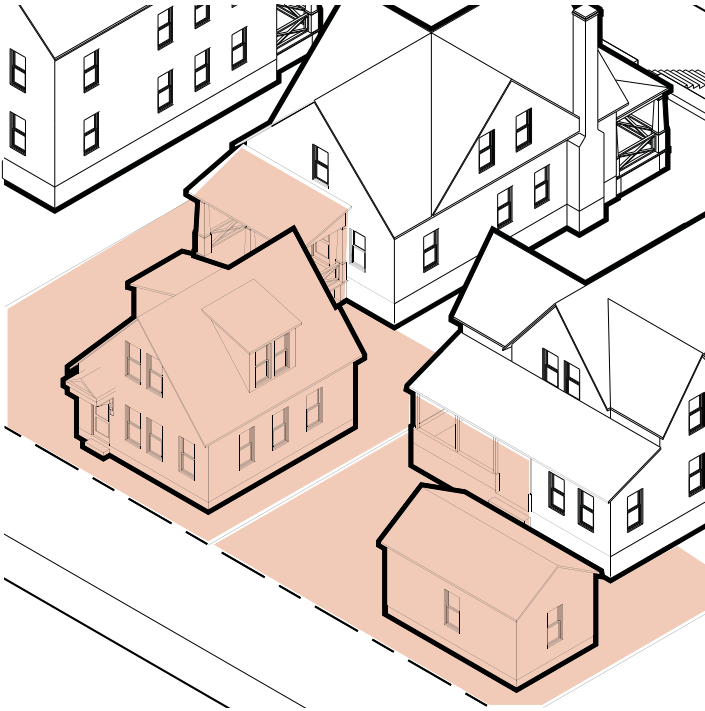


STANDARDS

- i. Store fronts are required on the Primary Frontage and may be used in conjunction with a front porch.
- ii. Frontage may be paved or planted with turf or garden beds.
- iii. Frontage requires at least one component be utilized.
- iv. Accessory Buildings are prohibited within this frontage.

4. BEACHFRONT GARAGE COURT

A primary street frontage allowed only on lots with both street frontage and beach frontage.



STANDARDS

- i. Driveways and parking may occur within the beachfront garage court, other parking related provisions notwithstanding.
- ii. Paving is restricted to walkways, driveways, and parking, and permeable materials are encouraged for these surfaces, including crushed shells, crushed stone, ribbon driveways and pavers to maintain the coastal feel of the beach and minimize impervious area.
- iii. Notwithstanding the Accessory Building Placement requirements in Article 2, an Accessory Building is allowed within this frontage subject to a front setback of 3 ft. This is the only frontage type that allows this placement.
- iv. Whenever possible, garage doors should be oriented away from the primary and secondary frontages.
- v. When this frontage type is assigned to an applicable lot, it may only be applied along the frontage the lot shares with a street, the portions of the lot that front on the beach must be built to the standards of the Residential Yard frontage type.
- vi. Porches are required along the street facing facade of the primary building and must extend across at least 30% of the width of the building facade.

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A. COASTAL RESIDENTIAL 1 DISTRICT

1. PERMITTED USES

- a. Single family detached dwellings
- b. Accessory Units subject to the performance standards of Section IX.J. (prohibited in Shoreland Overlay Zone)
- c. Accessory uses
- d. Municipal buildings and uses

2. SPECIAL EXCEPTION USES

- a. Home occupations
- b. Family day care homes, group day care homes, and nursery schools
- c. Public utility facilities including substations, pumping stations and sewage treatment facilities permitted uses

3. RESIDENTIAL DENSITY

- a. One principal dwelling unit is allowed per lot that complies with the Lot Standards in Article 2.

B. COASTAL MIXED-USE - LIMITED DISTRICT

1. PERMITTED USES

- a. Hotels
- b. Bed and Breakfasts, except that in this District they are not subject to the performance standards of Section IX of this Ordinance
- c. Restaurants with no drive-thru service
- d. Retail Sales and Services, excluding automobile repair and service facilities, car washes, and outdoor sales and services
- e. Non-residential institutional uses, including educational, religious, philanthropic, fraternal or social institutions
- f. Municipal buildings and uses
- g. Single family detached dwellings
- h. Accessory Units subject to the performance standards of Section IX.J. (prohibited in Shoreland Overlay Zone)
- i. Accessory uses

2. SPECIAL EXCEPTION USES

- a. Home occupations
- b. Family day care homes, group day care homes, and nursery schools
- c. Public utility facilities including substations, pumping stations and sewage treatment facilities residential density

3. RESIDENTIAL DENSITY

- a. One principal dwelling unit is allowed per lot that complies with the Lot Standards in Article 2

C. ADMINISTRATION AND PERMITTING

1. ADMINISTRATIVE REVIEW

- a. Applications for new single family detached dwellings, additions, renovations, modifications, accessory units, out buildings, carriage houses and other permitted uses shall be reviewed and permitted administratively by the Planning and Code Enforcement Department. This administrative process will include a review and determination of compliance and consistency with the provisions of the Character Districts and standards as well as review and permitting under any other applicable local codes and ordinances including the building permit.
- b. Applications for special exception uses shall require Zoning Board of Appeals review and permitting prior to any administrative review and permitting by the Planning and Code Enforcement Department.
- c. Applications for uses and activities requiring review under Chapter 405B the Site Plan Review Ordinance, including any changes in use, shall require review under that ordinance by the Planning Board prior to any administrative review and permitting by the Planning and Code Enforcement Department.

2. NON-CONFORMING USES AND STRUCTURES

- a. A nonconformity is any use, building, lot, or sign that was lawfully established prior to the adoption of this Ordinance and has been made nonconforming as a result of the adoption of this Ordinance, or subsequent amendments, and may continue so long as the nonconformity remains otherwise lawful and complies with this section.
 - i. Any such building may be expanded, enlarged, or increased in height provided that any such expansion or addition is within the principal building placement identified in Article 2 and the addition meets all other building standards of Article 4. A building that is nonconforming as to the maximum front setback may be expanded pursuant to the requirements in this subsection without becoming conforming regarding the maximum front setback.
- b. General routine repair or maintenance of non-conforming uses, structures, buildings, lots, or signs is permitted.
- c. Alterations made to restore structures or buildings to a safe condition is permitted.
- d. Additions and components that meet the dimensional standards of the code may be added to existing non-conforming buildings, so long as the change does not expand or create a new non-conformity.
- e. Additions and components may match an existing, non-conforming roof pitch with the exception of non-conforming flat roofs, provided all other dimensional standards of the code are adhered to.
- f. Additions and components may match existing non-conforming eave heights, provided all other dimensional standards of the code are adhered to.
 - i. For any such existing building that does not meet the minimum ceiling height required by building code, additions may exceed the eave height requirements to the minimum height necessary to ensure code compliant access between the existing structure and addition can be achieved.

Article 5: Use Provisions and Administration

- g. No non-conforming lot may be subdivided to increase the non-conformity.

BUILDING TYPE:

A classification or kind of structure characterized and differentiated by its placement on a lot, massing, composition, use, and features.

COMPONENT:

One of the elements that make up a building, the other being the principal building mass. Components are comprised of smaller attachments to the principal building mass and provide architectural articulation and additional usable space.

DEPTH:

When related to lot dimensions, depth refers to the perpendicular distance between the closest points of the front lot line and the rear lot line.

EAVE:

The overhang resulting when a sloped roof intersections and extends beyond the building wall.

ENGAGE:

To incorporate within a larger volume; in whole or in part.

FAÇADE:

The exterior wall of a building oriented in whole or in part toward a Street, or Beach, not including service alleys.

FRONTAGE:

The land that lies adjacent to a street, right-of-way, easement, civic space, or natural feature, or the space between a building and the same.

FRONTAGE, PRIMARY:

The primary frontage is located along the street upon which the lot fronts. For corner lots, the primary frontage is designated by one or more of the following conditions:

- The property's postal address.
- The orientation of primary building.
- The lot line with the narrowest width.
- The widest street, or the street with the widest pedestrian walkway.

FRONTAGE, SECONDARY:

On corner lots, the frontage that is oriented toward the second, non-address-bearing street.

FRONT SETBACK, PRIMARY:

The setback required along a primary frontage.

FRONT SETBACK, SECONDARY:

The setback required along a secondary frontage.

GROUND FLOOR:

The lowest floor of a building that is not considered a basement.

INTEGRAL:

To be contained, in whole or in part, within the structural envelope of a larger building element.

PIER:

A solid support designed to sustain vertical pressure, such as used in a section of a wall between windows or other adjacent openings or as structural member used in the construction of building foundations.

PRIMARY ENTRANCE:

The main point of access for pedestrians into a building, upper story use, or ground floor tenant space.

PRIMARY FRONTAGE:

See Frontage, Primary

SECONDARY FRONTAGE:

See Frontage, Secondary

SETBACK:

The horizontal distance required between the closest exterior wall of a Building or parking and a specified element, such as vva lot line, easement, or natural feature, measured perpendicularly. This area must be maintained clear of permanent structures with the exception of allowed encroachments.

TOP PLATE:

The highest horizontal framing member of a wall. Syn. Wall Plate.

VERTICAL PLANE:

A flat surface perpendicular to the ground or horizontal plane.

SECTION XV.I. RESIDENTIAL DISTRICT R-4A. [Amended 03-04-09][Amended 07/13/16]

SECTION XV.I. RESIDENTIAL DISTRICT R-4A. [Amended 03-04-09][Amended 07/13/16]

A. PURPOSE

To provide residential areas within the Town of Scarborough of higher density in a manner which will promote a wholesome living environment. To this end, residential development shall not exceed 4 dwelling units per net residential acre. All developments in R-4A districts shall be serviced by public sewer and public water supply.

B. PERMITTED USES

1. Single family detached dwellings exclusive of individual mobile homes.
2. Recreational or community activity buildings, grounds for games or sports except those operated for profit.
3. Public and private educational facilities.
4. Place of Worship. [05/05/99]
5. Medical and professional offices with less than 2,500 square feet of floor area, total per lot.
6. Accessory uses including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
7. Two family dwelling.
8. Multiplex (must be served by public sewer; minimum parcel size of five 5 acres) per Section VII.
9. Townhouses limited to no more than eight (8) dwelling units per building (must be serviced by public sewer; minimum parcel size of five (5) acres).
10. Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required. [06/01/94]
11. Golf Course. [12/21/94]
12. Municipal Buildings and Uses. [07/05/95]
13. Accessory units subject to the performance standards of Section IX. J. (2-15-12)

C. SPECIAL EXCEPTIONS

1. Public utility facilities including substations, pumping stations and sewage treatment facilities.
2. Home occupation.
3. Group Day Care Homes, and Nursery Schools.
4. Adjunct Uses, Place of Worship. [05/05/99]
5. Telecommunication Facility. [03/17/04]

D. SPACE AND BULK REGULATIONS

Maximum net residential density	4 dwelling units per net residential acre
Minimum lot area (refer to page 41 - Section VI – Definitions, <i>Lot Area</i> for calculation)	10,000 square feet
Minimum area per family	10,000 square feet
Minimum street frontage	80 feet

SECTION XV.I. RESIDENTIAL DISTRICT R-4A. [Amended 03-04-09][Amended 07/13/16]

Minimum front yard, all buildings	30 feet
Minimum rear and side yards, all buildings *Buildings higher than 30 feet shall have side and rear yards not less than 50% of building height.	15 feet*
Maximum building height	See Section IX,A,15
Maximum building coverage	25%
Minimum distance between principal buildings on same lot shall be the height equivalent of the taller building.	

E. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

F. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO. [Amended 08/19/09]

SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO. [Amended 08/19/09]

A. PURPOSE

To provide a transitional or buffer area between residential areas and more intensive commercial districts. It is a district generally limited to small and moderate scale business and professional office uses located in buildings compatible with adjacent residential areas. Except under Section VII, the Residence and Professional Office District RPO shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. PERMITTED USES

1. Dwellings. Single family detached dwellings and two family dwellings are permitted in the district. Where an RPO zone abuts a residential zone, other types of dwellings are allowed, provided they are of the same type (as defined in Section V) as dwellings in the adjacent residential zone. If an RPO zone abuts more than one residential zone, the district regulations of the least restrictive residential zone abutting that particular RPO zone shall apply throughout that particular RPO zone. [Amended 08/19/09]
2. Dwelling units within a mixed use building limited to not more than eight (8) dwelling units per building if served by public sewer and two (2) units per building if served by on-site sewage disposal. [Adopted 08/19/09]
3. Live/Work units. [Adopted 08/19/09]
4. Non-Municipal government offices with less than 2,500 square feet of floor area, total per lot.
5. Municipal buildings and uses.
6. Elementary and secondary schools.
7. Professional offices with less than 2,500 square feet of floor area, total per lot.
8. Financial, insurance and real estate offices with less than 2,500 square feet of floor area, total per lot.
9. Personal service establishments with less than 2,500 square feet of service area, total per lot.
10. Business services and business offices with less than 2,500 square feet of floor area, total per lot.
11. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
12. Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required. [6/01/94]
13. Golf Course. [12/21/94]
14. Residential recreational facility. [Adopted 08/19/09]
15. Accessory units subject to the performance standards of Section IX.J. (02/15/12)

C. SPECIAL EXCEPTIONS

1. Place of Worship and Adjunct Uses, Place of Worship. [05/05/99]
2. Group day care homes and nursery schools. [6/01/94]

SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO. [Amended 08/19/09]

3. Public utility facilities. [5/17/95]

4. Non-residential institutional uses, including educational, religious, philanthropic, fraternal or social institutions, which are not otherwise allowed as permitted uses under subsection (B), with less than 5,000 square feet of floor area, total per lot. [Amended 08/19/09]

5. Professional offices with more than 2,499 but no more than 5,000 square feet of floor area, total per lot. [Amended 08/19/09]

6. Non-Municipal government offices with more than 2,499 but no more than 10,000 square feet of floor area, total per lot. [Amended 08/19/09]

7. Home occupations. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under subsection (B).

8. Instructional and educational services, including but not limited to, schools of music, dance, art, driver education and vocational training, not otherwise allowed as permitted uses under subsection (B), with less than 10,000 square feet of floor area, total per lot. [Amended 08/19/09]

D. SPACE AND BULK REGULATIONS

1. Minimum Lot Area and Dimensions in areas served by public sewer [Adopted 08/19/09]

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Single-family and two-family detached dwellings	10,000 or the requirement of the adjacent residential zone, whichever is less	50	50
Multi-family dwellings, multiplex, townhouses (if permitted)	10,000 or the requirement of the adjacent residential zone, whichever is less	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	50
Senior housing (if permitted)	80,000 or the requirement of the adjacent residential zone, whichever is less	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	100
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	50

SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO. [Amended 08/19/09]

2. Minimum Lot Area and Dimensions in areas not served by public sewer[Adopted 08/19/09]

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Single-family detached and two-family dwellings	40,000	100	50
Non-Residential, Mixed-Use, and Live/Work Units	40,000	200 for lots abutting on Rte. 1; 100 for lots not abutting Rte. 1	50

3. Yard Standards - The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under subsection (F) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s). [Adopted 08/19/09]

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yards (ft.)
Route 1	35	90	15 ^{1 & 2}
Route 114 & other major collector streets	25	60 (except that this maximum shall not apply to single-family and two-family dwellings)	15 ^{1 & 2}
All other streets	10	25 (except that this maximum shall not apply to single-family and two-family dwellings)	15 ^{1 & 2}

4. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height
5,000 sq. ft.	35%	75%	3 stories or 45 feet

¹ When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yards.

² When the yard abuts a residential district the minimum yard shall be 25 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO. [Amended 08/19/09]

The maximum individual building footprint shall not apply to municipal buildings and uses, elementary and secondary schools, libraries and museums, and senior housing buildings. [Adopted 08/19/09]

E. RESIDENTIAL DENSITY REGULATIONS

Within this zoning district, the Residential Density Factors in Section VIIC(A) of the Zoning Ordinance shall apply to two-family, multi-family, multiplex, townhouse, live/work, senior housing, or dwelling units in a mixed-use building or on a mixed use lot. [Adopted 08/19/09]

1. Maximum Base Residential Density in areas served by public sewer – The maximum base residential density in an RPO District is the maximum residential density permitted in the residential zone abutting the RPO District without utilizing additional density through the development transfer or affordable housing provisions. If an RPO District abuts more than one residential zone, the residential density requirements of the least restrictive residential zone abutting the RPO District shall apply throughout that RPO District [Adopted 08/19/09]

2. Additional Residential Density Thru Development Transfer (not permitted in areas not served by public sewer) – A development may incorporate additional dwelling units beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance if such a bonus is provided for in the abutting residential district. [Adopted 08/19/09]

3. Additional Residential Density Thru Affordable Housing (not permitted in areas not served by public sewer) – A development may incorporate additional dwelling units beyond the maximum base residential density if such a bonus is provided for in the abutting residential district. [Adopted 08/19/09]

The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions if such a bonus is provided for in the abutting residential district. [Adopted 08/19/09]

4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee (not permitted in areas not served by public sewer) – In lieu of developing affordable housing to utilize additional residential density under subsection E.3., a development may incorporate additional dwelling units beyond the maximum base residential density by utilizing the affordable housing In-Lieu Fee provisions in accordance with Section VII.C. of this Ordinance if such a bonus is provided for in the abutting residential district. [Adopted 08/20/2014]

5. Maximum Residential Density in areas not served by public sewer –

Single-family and two-family dwellings on lots which contain only residential uses	1 dwelling unit per net residential acre
Live/work units and dwelling units located in a mixed use building or on a mixed use lot	1 dwelling unit per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance

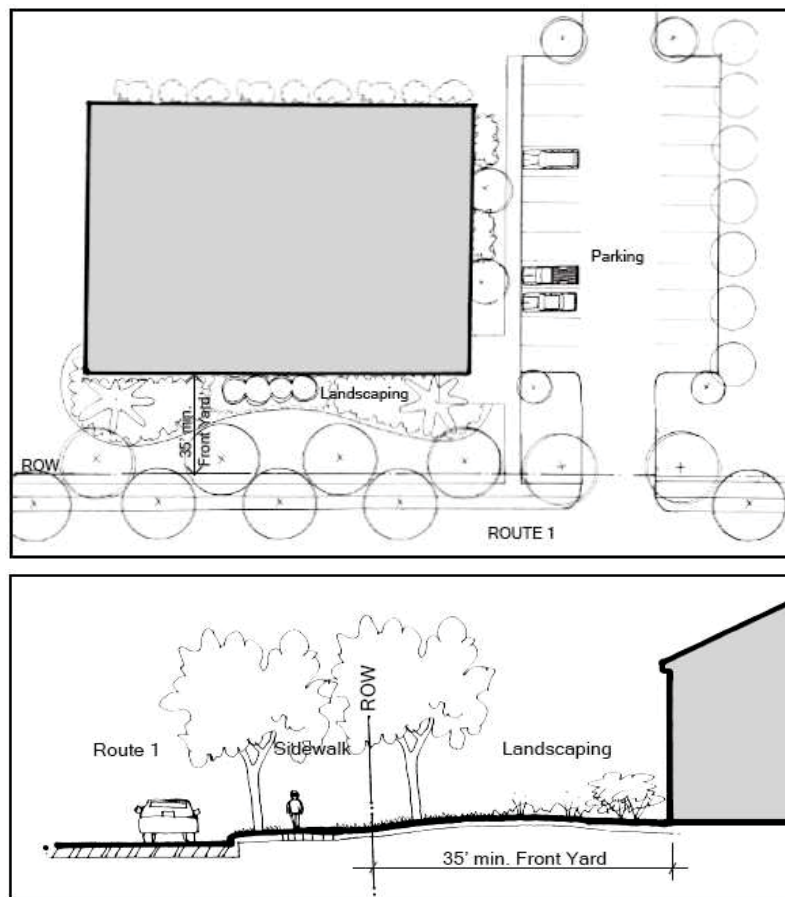
F. SITE LAYOUT AND OFF-STREET PARKING STANDARDS

The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this district. In this district, buildings shall be located relatively close to the street to provide human scale development, village character, and auto and pedestrian utility. As exhibited by the varying minimum and maximum front setback standards under subsection (D)(3), Yard Standards, the proximity of the front line of a building(s) shall depend on the street that the lot fronts. The front line of buildings are required to be closer to local streets than they are to Route 1 and major collector streets including Route 114. [Adopted 08/19/09]

The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection (D)(3) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s). As stated under subsection D.3. of this district, the maximum front yard requirement and the off-street parking location requirements shall not apply to single-family and two-family dwellings: [Adopted 08/19/09]

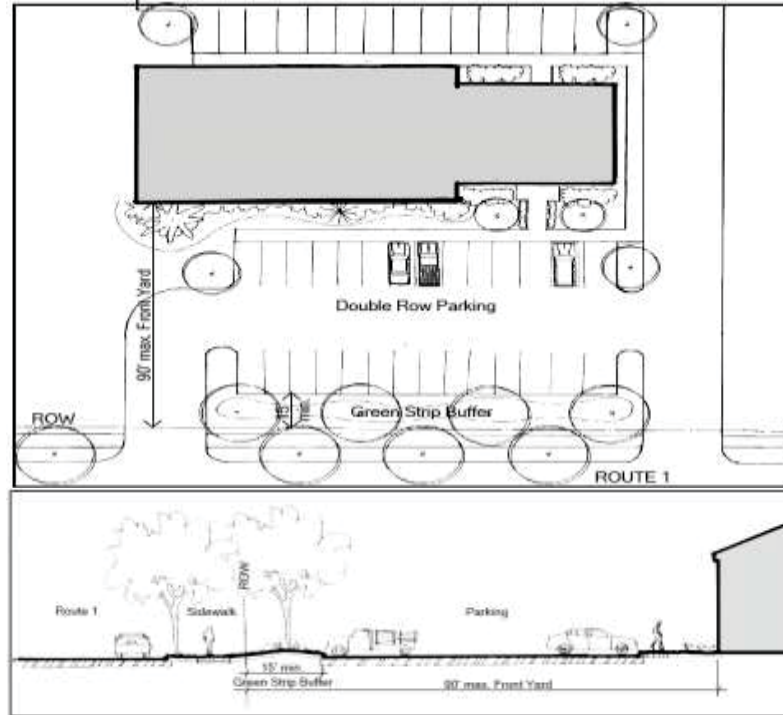
Standards for Front Yards and Off-Street Parking on Lots abutting Route 1:

1. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



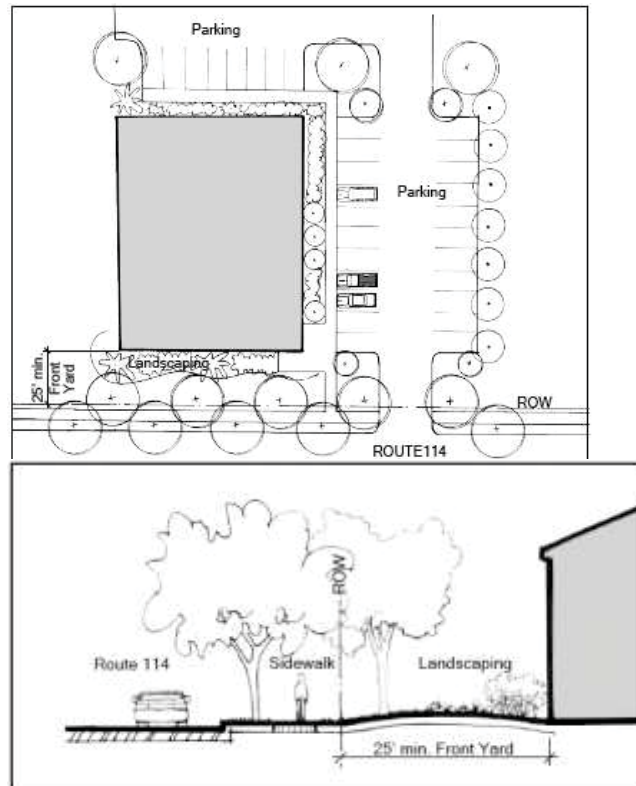
SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO. [Amended 08/19/09]

2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one double-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or “green strip buffer”, from the front property line shall be at least 15 feet.



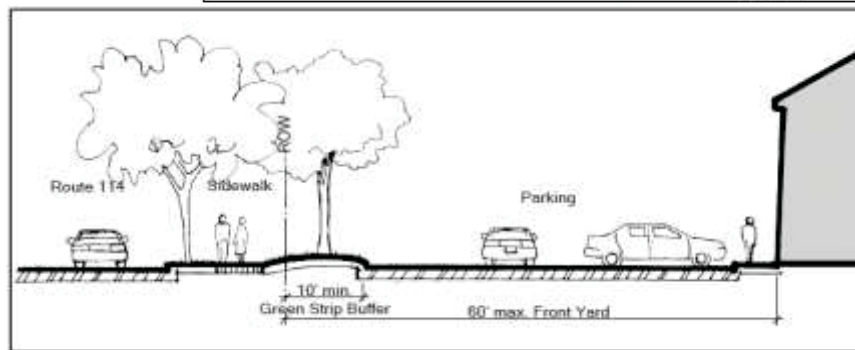
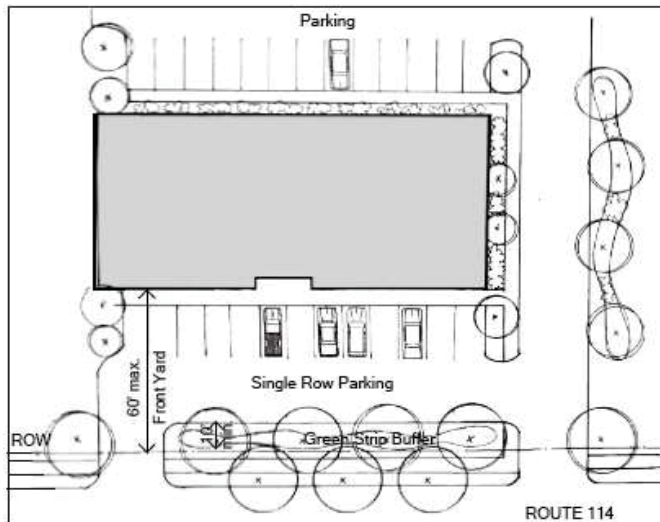
Standards for Front Yards and Off-Street Parking on Lots abutting Rte. 114 and other major collector streets:

3. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



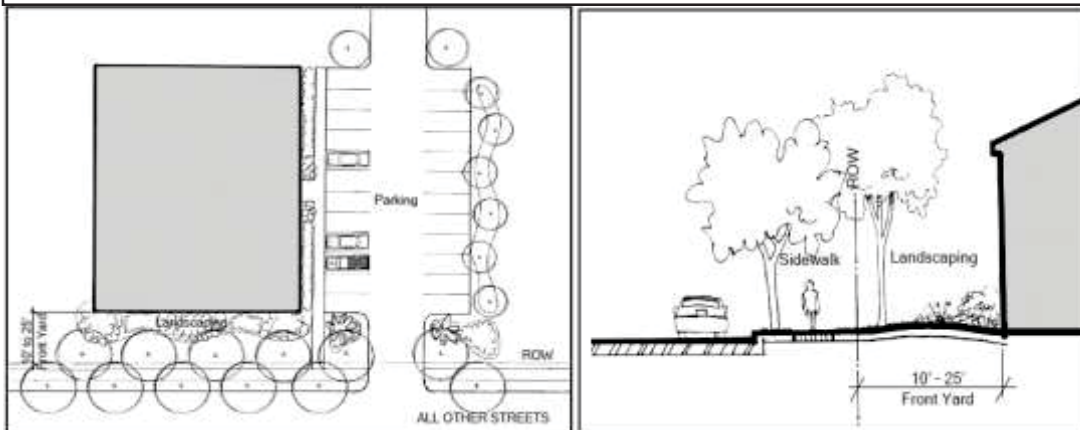
SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO. [Amended 08/19/09]

4. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one single-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or “green strip buffer,” from the front property line shall be at least 10 feet.



Standards for Front Yards and Off-Street Parking on Lots abutting all other streets:

5. No parking shall be allowed in the front yard of lots abutting all other streets. All off-street parking shall be located in the side and rear yards behind the front line of the principle building(s). The front yard shall be used for landscaping features, street trees, sidewalks, and pedestrian amenities. An access drive(s) to the site may cross the front yard but may not be located in the area between the front of the building and the front property line.



General Off-Street Parking Standards:

- 1.** Off-street parking shall be provided in accordance with the requirements of Section XI if this Ordinance, except as those requirements are augmented or modified below.
- 2.** Notwithstanding anything to the contrary in Section III or Section XI of this Ordinance, parking spaces existing in a front yard setback as of (the effective date of the amendments) shall be relocated to comply with the requirements of this section in the event of any change to the site which requires Planning Board approval under the Town of Scarborough Site Plan Review Ordinance. This requirement may be waived if the Planning Board determines that the relocation of some or all of the parking spaces is not feasible due to the shape, size or topography of the lot or the location of an existing principal building(s) on the lot.
- 3.** In order to reduce the establishment of unnecessary parking spaces and impervious area, which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments. This allowance may also be exercised in developments that include a mix of residential and non-residential uses, such as second story dwelling units above non-residential uses or live-work units, subject to the same requirement that the parking facility will substantially meet the intent of the parking requirements. In the RPO District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

G. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.
[as of 7/17/91]

SECTION XVIII. BEACH MIXED-USE DISTRICT B-1. [as of 3/31/74][09/05/12]

SECTION XVIII. BEACH MIXED -USE DISTRICT B-1. [as of 3/31/74][09/05/12]

A. PURPOSE

To provide areas for the location of small retail, restaurant, lodging and marine-related uses and residential uses within one or more of Scarborough's beach communities. These uses are intended to, and are likely to serve the daily needs of the residents of the immediate neighborhood as well as tourist and summer visitors. The Beach Mixed-Use District shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. PERMITTED USES

- 1.** Single family detached dwellings exclusive of individual mobile homes.
- 2.** Two family dwellings.
- 3.** Accessory units subject to the performance standards of Section IX.J.
- 4.** Dwelling units within a mixed use building limited to no more than two (2) dwelling units per building. Permitted residential uses mixed with special exception uses requires special exception approval by the zoning Board of Appeals under Section IV(I).
- 5.** Live/Work Units.
- 6.** Retail sales and services with less than 2,500 square feet of floor area, total per lot, excluding car washes, gasoline filling stations and outdoor sales and services.
- 7.** Personal services with less than 2,500 square feet of floor area, total per lot.
- 8.** Municipal Buildings and Uses. [7/5/95]
- 9.** Financial, insurance and real estate offices with less than 2,500 square feet of floor area, total per lot.
- 10.** Accessory uses including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
- 11.** Restaurants with no drive-through service, with less than 2,500 square feet area, total per lot.
- 12.** Business services and business offices with less than 2,500 square feet of floor area, total per lot.
- 13.** Professional offices with less than 2,500 square feet of floor area, total per lot.
- 14.** Bed and Breakfast (B&Bs) subject to the performance standards of Section IX.T.
- 15.** Place of worship.
- 16.** Food processing facility existing as of September 1, 2011.

C. SPECIAL EXCEPTIONS

- 1.** Public utility building including substations, pumping stations and sewage treatment facilities.
- 2.** Home occupation. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under Subsection (B).
- 3.** Adjunct Uses, Place of Worship. [05/05/99]
- 4.** Telecommunication Facility. [03/17/04]

SECTION XVIII. BEACH MIXED-USE DISTRICT B-1. [as of 3/31/74][09/05/12]

5. Food processing facility with less than 2,500 square feet of floor area, total per lot, only on lots that are located easterly of Avenue 5.

D. SPACE AND BULK REGULATIONS

Minimum lot area (refer to page 41, Section VI – Definitions, <i>Lot Area</i> for calculation)	10,000 sq. ft.
Minimum street frontage	50 feet
Minimum front yards	A minimum of 10 feet is required for buildings or portions of buildings that are less than 20 feet in height; a minimum of 20 feet is required for buildings or portions of buildings that are 20 feet or greater in height.
Minimum side and rear yards	15 feet
Maximum building height	35 feet
Maximum building coverage	35%

E. RESIDENTIAL DENSITY REGULATIONS

Within this zoning district, the Residential Density Factors in Section VIIC(a) of the Zoning Ordinance shall apply to live/work or dwelling units in a mixed-use building or on a mixed use lot.

Single-family and two-family dwellings on lots which contain only residential uses.	4 dwelling units per net residential acre
Live/work units and dwelling units located in a mix use building or on a mixed use lot.	4 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance.

F. ADDITIONAL DEVELOPMENT STANDARDS

1. Commercial Design Standards: All commercial or mixed use development involving commercial uses within the B1 District must be consistent with the Design Standards for Scarborough's Commercial Districts.

2. Pedestrian and Bicycle Facilities: All developments shall provide for pedestrian movement to and within the parcel in accordance with Section IV(E) of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities such as bike racks and bike lanes if the location, type and/or scale of the project make these reasonable.

G. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

In addition, for new development requiring site plan review, the establishment of off-street parking should be located to the side or rear of the principle building on the site to the extent practical. The Planning Board shall use the Site Plan Review Ordinance and the Commercial Design Standards in determining the exact location and design of the off-street parking.

H. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

**SECTION XVIII.A. TOWN AND VILLAGE CENTERS DISTRICT TVC [09/05/2007]
[amended 01-20-16]**

**SECTION XVIII.A. TOWN AND VILLAGE CENTERS DISTRICT TVC [09/05/2007] [amended
01-20-16]**

A. PURPOSE

The purpose of this district is to provide for and encourage the evolution and maintenance of village and town centers within Scarborough that exhibit village style development and offer a mix of retail, office, service, civic, and residential uses in an environment conducive to both pedestrians and motorists. The buildings, parking areas, sidewalks, landscaping and other infrastructure within this district are to be of a village scale and character. These town and village centers are intended to and are likely to serve as places for local shopping, business, dining, entertainment and civic activities primarily for residents of Scarborough and the immediate region. A diversity of residential uses are also intended to be integral elements of this district enabling walk-ability, convenience, and human activity and vibrancy. The Town and Village Centers District (TVC) shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage, scale and site layout of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsections (E) and (G) or may be reviewed as a Planned Development applying the qualitative standards and design criteria of subsection (I).

1. Conventional Developments. Projects that are proposing to develop or redevelop less than 5 acres of land may be reviewed as a conventional development or may be reviewed as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing to develop or redevelop 5 acres or more of land shall be reviewed as Planned Developments in accordance with the standards of subsection (I). Qualitative Development Standards for Planned Development of this district and Section VII(E) Planned Development of this Ordinance.

C. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS

RESIDENTIAL USES

The following residential uses are permitted in both conventional and planned developments:

- 1.** Multifamily dwellings
- 2.** Multiplex dwellings
- 3.** Townhouses, limited to no more than eight (8) dwelling units per building
- 4.** Senior housing

MIXED USES

The following mixed uses are permitted in both conventional and planned developments:

5. Dwelling units in a mixed use building. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV(I) of this Ordinance.

6. Live/Work Units

**SECTION XVIII.A. TOWN AND VILLAGE CENTERS DISTRICT TVC [09/05/2007]
[amended 01-20-16]**

NON-RESIDENTIAL USES:

The following non-residential uses are permitted in both conventional and planned developments, but in conventional developments are limited to 20,000 square feet of floor area per unit of occupancy within the Oak Hill TVC District and 8,000 square feet of floor area per unit of occupancy within the Dunstan TVC District:

7. Retail sales and services, excluding car washes, gasoline filling stations and outdoor sales and services
8. Personal services
9. Restaurants with no drive-through service [Amended 11/07/07]
10. Professional offices
11. Business services and business offices
12. Financial, insurance and real estate offices
13. Health clubs
14. Non-municipal government offices
15. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions
16. Funeral homes
17. Place of worship
18. Group day care homes, day care facilities, and nursery schools
19. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P [Amended 05/05/10]
20. Family day care homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required
21. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance. [adopted 10/07/15]

The following non-residential uses are permitted in both conventional and planned developments without regard to floor area per unit of occupancy.

21. Municipal buildings and uses
22. Elementary and secondary schools
23. Libraries and museums

The following non-residential uses are permitted only in planned developments. [11/07/07]

24. Restaurants with drive-through service
25. Gasoline filling stations, whether a principal or accessory use, subject to the performance standards of Section IX. (X.) of this Ordinance.

D. SPECIAL EXCEPTIONS

The following uses are allowed as special exceptions in both conventional and planned developments:

1. Adjunct Uses, Place of Worship

**SECTION XVIII.A. TOWN AND VILLAGE CENTERS DISTRICT TVC [09/05/2007]
[amended 01-20-16]**

2. Public utility facilities

3. Residential and long-term care facilities for the ill, aged or disabled with no more than 20,000 square feet of floor area per unit of occupancy. If the facility includes dwelling units, then the regulations governing the particular type of dwelling shall apply

4. Home occupations. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under subsection (B)

5. Telecommunication facility

E. SPACE AND BULK REGULATIONS

The following space and bulk regulations are applicable to conventional developments:

1. Minimum Lot Area and Dimensions

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Multi-family dwellings; multiplex; townhouses	10,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	50
Senior housing	80,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	100
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	50

2. Yard Standards - The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under subsection (G) of this district. In a development with more than one principal building, each building shall conform to the following yard standards unless the development design is reviewed and approved as a Planned Development under subsection (I) of this district

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yard (ft.)
Route 1	35	90	15 ^{1 & 2}
Route 114 & other major collector streets	25	60	15 ^{4 & 5}
All other streets	10	25	15 ^{4 & 5}

¹ When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

² When a site abuts a residential district the minimum yard shall be 25 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

**SECTION XVIII.A. TOWN AND VILLAGE CENTERS DISTRICT TVC [09/05/2007]
[amended 01-20-16]**

3. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
20,000 sq. ft. for buildings containing non-residential ³ and mixed uses within the Oak Hill TVC District; 10,000 sq. ft. for buildings containing non-residential ³ and mixed uses within the Dunstan TVC District; 10,000 sq. ft. for buildings containing only residential uses	50%	85%	A building must be either a minimum of 2 stories or 20 feet in height over at least 50% of the building footprint	3 stories or 45 feet

The following space and bulk regulations are applicable to Planned Developments:

1. Minimum Lot Area and Dimensions

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Multi-family dwellings; multiplex; townhouses	10,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	50
Senior housing	80,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	100
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	50

2. Yard Standards – Determined by the Planning Board under Section XVIII.A(I)(2)(d), flexible yard standards.

³ A maximum building footprint shall not apply to schools, municipal buildings, libraries and museums

3. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
Determined by the Planning Board under Section XVIII(A)(2)(b), flexible maximum building footprint	Determined by the Planning Board under Section XVIII(A)(2)(b), flexible lot coverage	Determined by the Planning Board under Section XVIII(A)(2)(b), flexible lot coverage	A building must be either a minimum of 2 stories or 20 feet in height over at least 50% of the building footprint	3 stories or 45 feet

F. RESIDENTIAL DENSITY REGULATIONS, APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Within this zoning district the Residential Density Factors in Section VIIC(A) of this Ordinance shall apply to multi-family, multiplex, townhouse, live/work, senior housing or dwelling units in a mixed-use building or on a mixed use lot.

1. Maximum Base Residential Density – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.

Multi-family, multiplex, townhouse dwellings, live/work units, senior housing and dwelling units located in a mix use building or on a mixed use lot	5 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance
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2. Additional Residential Density Thru Development Transfer – A development may incorporate up to three (3) additional dwelling units per acre of net lot area beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance.

3. Additional Residential Density Thru Affordable Housing – A development may incorporate up to one (1) additional dwelling unit per acre of net lot area beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee (not permitted in areas not served by public sewer) – In lieu of developing affordable housing to utilize additional

**SECTION XVIII.A. TOWN AND VILLAGE CENTERS DISTRICT TVC [09/05/2007]
[amended 01-20-16]**

residential density under subsection F.3., a development may incorporate up to one (1) additional dwelling unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing In-Lieu Fee provisions in accordance with Section VII.C. of this ordinance. [Adopted 08/20/2014]

The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed three (3) dwelling units per acre of net lot area beyond the maximum base residential density. [Amended 08/20/2014]

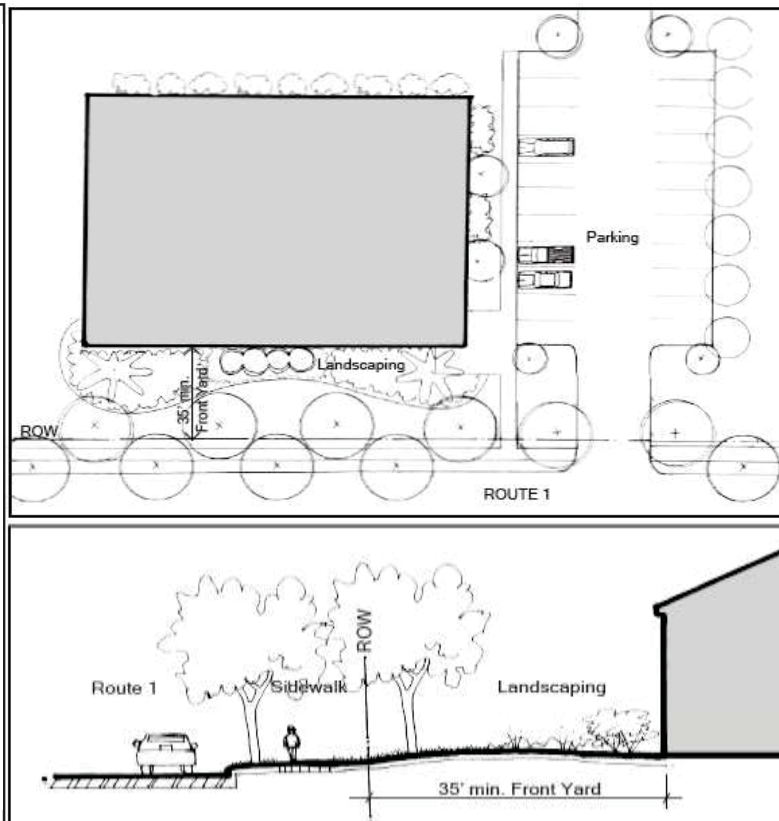
G. SITE LAYOUT AND OFF-STREET PARKING STANDARDS, APPLICABLE TO CONVENTIONAL DEVELOPMENTS

The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this district. In this district buildings shall be located relatively close to the street to provide human scale development, village character, and auto and pedestrian utility. As exhibited by the varying minimum and maximum front setback standards under subsection (E)(2) Yard Standards, the proximity of the front line of a building(s) shall depend on the street that the lot fronts. The front line of buildings are required to be closer to local streets than they are to Route 1 and major collector streets including Route 114.

The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection E(2) of this district:

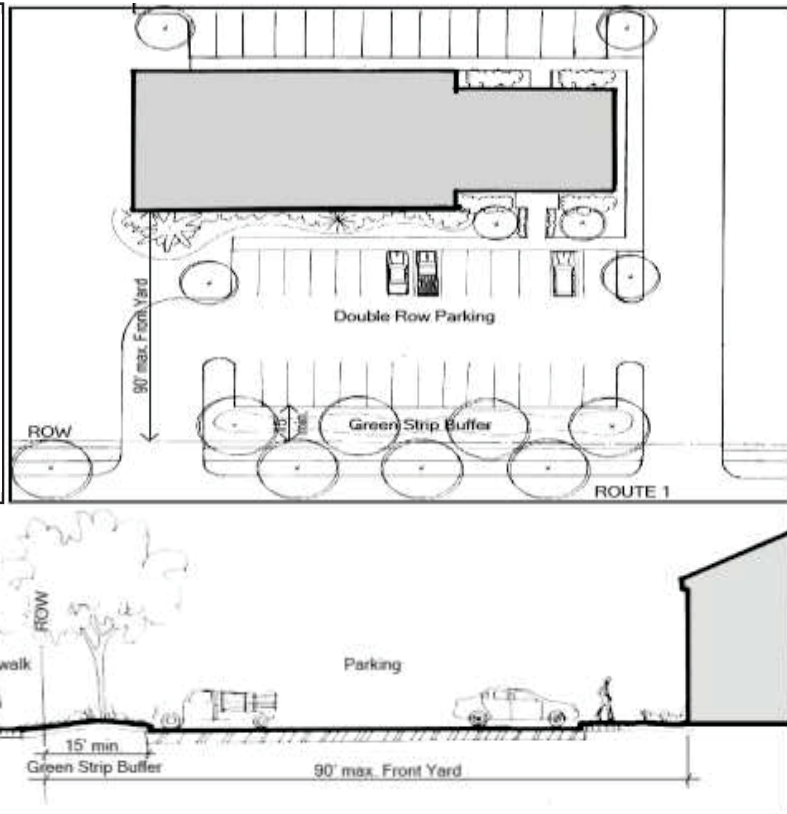
Standards for Front Yards and Off-Street Parking on Lots abutting Route 1:

1. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



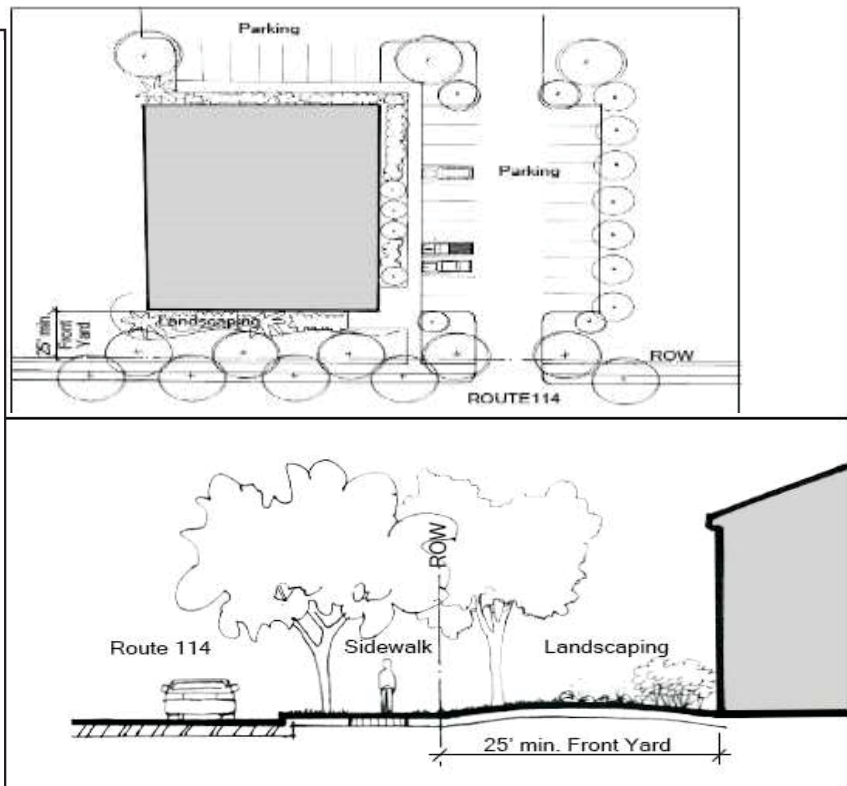
**SECTION XVIII.A. TOWN AND VILLAGE CENTERS DISTRICT TVC [09/05/2007]
[amended 01-20-16]**

2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one double-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or “green strip buffer”, from the front property line shall be at least 15 feet.



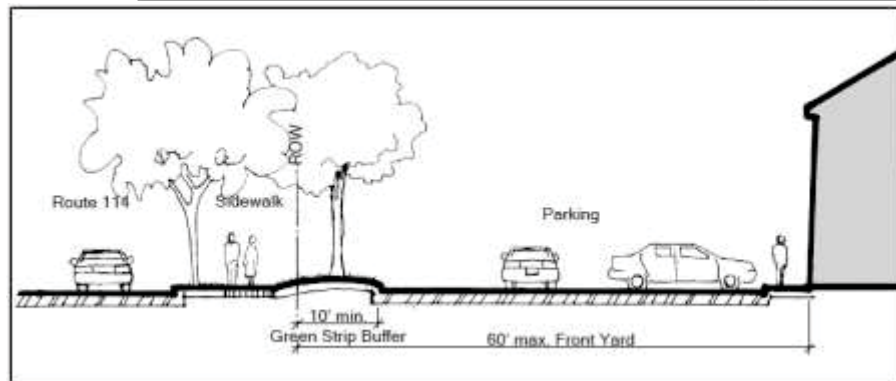
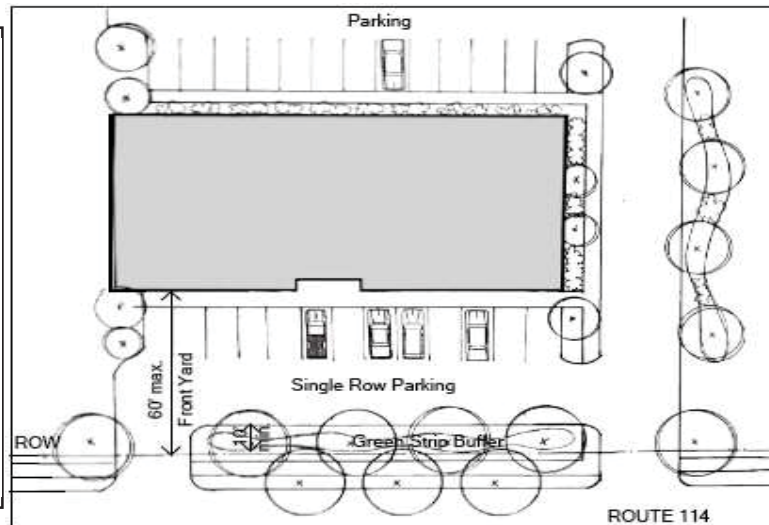
Standards for Front Yards and Off-Street Parking on Lots abutting Rte. 114 and other major collector streets:

3. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



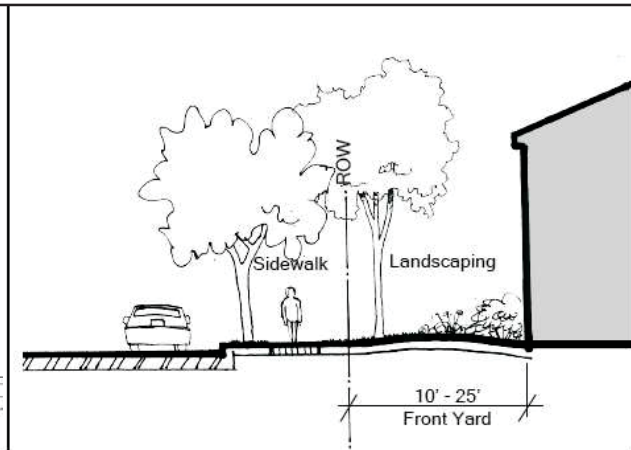
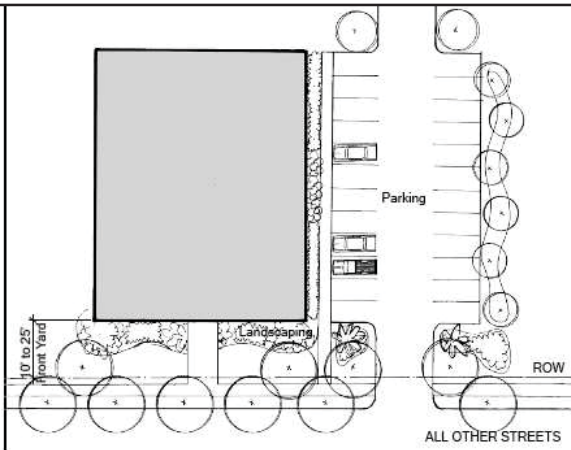
**SECTION XVIII.A. TOWN AND VILLAGE CENTERS DISTRICT TVC [09/05/2007]
[amended 01-20-16]**

4. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one single-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or “green strip buffer”, from the front property line shall be at least 10 feet.



Standards for Front Yards and Off-Street Parking on Lots abutting all other streets:

5. No parking shall be allowed in the front yard of lots abutting all other streets. All off-street parking shall be located in the side and rear yards behind the front line of the principle building(s). The front yard shall be used for landscaping features, street trees, sidewalks, and pedestrian amenities. An access drive(s) to the site may cross the front yard but may not be located in the area between the front of the building and the front property line.



General Off-Street Parking Standards:

6. Off-street parking shall be provided in accordance with the requirements of Section XI if this Ordinance, except as otherwise permitted in this subsection.

7. Notwithstanding anything to the contrary in Section III or Section XI of this Ordinance, parking spaces existing in a front yard as of (the effective date of the amendments) shall be relocated to comply with the requirements of this section in the event of any change to the site layout which requires Planning Board approval under the Town of Scarborough Site Plan Review Ordinance. This requirement may be waived if the Planning Board determines that the relocation of some or all of the parking spaces is not feasible due to the shape, size or topography of the lot or the location of an existing principal building(s) on the lot.

8. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses. In the TVC District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

H. SIGNS, APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

I. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS

The Town and Village Centers (TVC) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough's Commercial Districts and provide more specific requirements for development in the TVC District.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VII(E) Planned Development.

1. PLANNED DEVELOPMENT STANDARDS

A planned development shall be designed in a manner that reinforces the TVC District as a town or village center. Buildings, parking, pedestrian amenities, landscaping and streets shall be arranged in a village-style development pattern that exhibits a human scale and a mix of land uses.

a. Walkable, pedestrian-oriented design – Appropriately designed and oriented sidewalks, and other pedestrian amenities, are critical to promote walk-ability, pedestrian activity, and a sense of place within the TVC District. Sidewalks shall be designed to provide linkages and continuity between each use within a planned development as well as connections to abutting uses and the greater pedestrian network. Where pedestrian traffic and activity is likely to be intense, such as along storefronts or at a common area or gathering place, sidewalks shall be properly proportioned to accommodate this activity and to establish a pedestrian realm.

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[amended 01-20-16]**

b. Streetscape – Streetscapes are critical to foster a village layout, form and scale, and offer an environment that comfortably accommodates both pedestrians and vehicles. The streetscape of roads and/or driveways within a planned development shall be designed with shade trees on both sides; road widths that are of a village scale; human scale street lighting; frequent intersections and crosswalks; and sidewalks as per standard H(1)(a) above. A streetscape may include on-street parking on one or both sides of internal streets or driveways as per provision H(2)(a) below.

c. Compact, human scale development – Building height, massing and facades as well as building orientation to streets, driveways and parking are critical to establishing a compact, village-style development pattern that exhibits a human scale. In general, building(s) shall be designed to front onto the street(s) that provides primary access to the building(s). In developments with multiple buildings, the Planning Board may allow some buildings to be setback from the street at greater distances than would occur in a conventional development with parking between those buildings and the street provided: other buildings front on street(s) or driveways to maintain a village streetscape; there is continuity between buildings with no major expanse of parking; and the development meets or exceeds each of the other planned development standards. Buildings, regardless of size and height, shall exhibit a village-style and a human scale. All buildings, including larger buildings containing one or multiple tenants, shall meet or exceed the Commercial Design Standards.

d. Mixed use development – A mix and diversity of uses are fundamental to fostering a center for community activity and vibrancy. Any non-residential use exceeding the limit on square feet of floor area per unit of occupancy for conventional development must be designed as component of a mixed use building containing multiple uses and/or tenants. Such a building(s) shall include mixed uses in a vertical configuration, a horizontal configuration or both. An example of a vertical mix of uses could be offices or residential units above retail uses, while a horizontal configuration could be office uses and retail uses separated by common walls within the same building.

e. Place-making – A planned development shall include at least one “place”, and potentially a number of “places”, depending on the size and scale of the development. A “place” shall be a common space(s) where people can gather, meet and cross paths. A “place” can be a community green or common; plaza; court; square or some variation of each. Regardless of the style or size, “places” are required to be designed as an integral part of a planned development in locations where people will naturally gather and cross paths. “Places” shall be located at the core of the pedestrian realm of a planned development; shall include facilities for residents and visitors; shall be an element of the development streetscape; and shall be available and desirable for public use. Areas for outdoor seating, court yards or green space associated with a particular use or establishment are desirable amenities, but should not be counted as a “place” unless they are available for public use.

2. DESIGN CRITERIA FOR PLANNED DEVELOPMENTS

The following design criteria shall apply to all planned developments. In addition, the Planning Board may require a planned development to be designed in conformance with any other standards of this Section XVIII.A when the Board finds that application of such standards will achieve conformity with the Planned Development Standards of section XVIII.A(I)(1).

a. On-street parking – On-street parking is a primary characteristic of traditional town and village centers. On-street parking can provide spaces directly in front of residential and non-residential

**SECTION XVIII.A. TOWN AND VILLAGE CENTERS DISTRICT TVC [09/05/2007]
[amended 01-20-16]**

uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can slow vehicular traffic in the street. A planned development may include new streets or driveways with parallel or angled on-street parking or “on-driveway” parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

b. Flexible maximum building footprint – The Planning Board shall determine the allowable building footprint for each building in a planned development by applying the standards of Section XVIII(I)(1), in particular subsection (I)(1)(c) Compact, human scale development.

c. Flexible lot coverage – The Planning Board shall determine the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces in a planned development if the planned development includes “green building” technology or approaches that compensate for the additional lot coverage proposed. Examples of “green building” approaches may include green roof systems, porous pavement, photovoltaic and other forms of distributed energy, and other techniques as reviewed and approved by the Planning Board. If the planned development does not include green building technology, then the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces shall be governed by subsection (E)(3).

d. Flexible yard standards - The Planning Board shall determine the yard requirements and site layout and off-street parking configuration for a planned development by applying the standards of Section XVIII(I)(1), in particular subsection (I)(1)(c). In reviewing a planned development, the Planning Board may use the Yard Standards under subsection (E)(2) and the Site Layout and Off-Street Parking Regulations under subsection (G) that correspond with the yard standards as guidelines, but is not required to apply them. This enables the Planning Board to allow some buildings to be setback from the street in a configuration different from a conventional development, with parking between those buildings and the street, provided the specific provisions under subsection (I)(1)(c) are met, each of the other Planned Development Standards are met, and the planned development furthers the purposes of this district.

BASIC STANDARDS

A. PURPOSE

The land immediately surrounding the Haigis Parkway between Payne Road and Route One is unique in its topography, water features, visibility, accessibility and road frontage. Its proximity to Exit 42 makes it highly desirable as a regional center for employment, entertainment, and cultural activities. The Haigis Parkway District is intended to be one of the gateways into Scarborough, and anticipates high quality uses such as office parks, hotels, small scaled retail, convention centers, places of cultural and civic assembly, high technology and research, and multi-family housing as part of mixed-use development. The standards listed below are intended to encourage a high quality of campus-style landscape and architectural design, preservation of natural features, integration of pedestrian circulation, and interconnection of open spaces and resource protection areas. The Haigis Parkway District is a significant commercial and mixed-use growth area off of Exit 42 of the Maine Turnpike and a vital complement to the Oak Hill town center.

B. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS NON-RESIDENTIAL USES [amended 06/20/18]

The following non-residential uses are permitted in both conventional and planned developments:

1. Professional offices
2. Financial, insurance, and real estate offices
3. Business services and business offices
4. High technology facilities, subject to the performance standards of Section IX(M) of this ordinance
5. Research, development and light industrial with no outdoor storage, subject to the performance standards of Section IX(M.1) of this ordinance
6. Hotels and motels, provided all guest rooms are accessed by interior corridors
7. Restaurants, with no drive-up, drive-through or drive-in service
8. Group day care homes, nursery schools and day care centers
9. Retail sales and services with less than 20,000 square feet of retail floor area per unit of occupancy, excluding car washes, automobile repair and service facilities, and outdoor sales and services
10. Municipal buildings and uses
11. Public utility facilities
12. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P.
13. Health clubs
14. Personal services
15. Non-municipal government offices
16. Medical/diagnostic facilities
17. Places of assembly, amusement, recreation, culture or government, exclusive of arcades, video arcades, amusement parlors, video gambling, casino gambling and off-track betting, fully enclosed within a building or buildings
18. Golf courses and campgrounds

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP [8/21/96][Amended 06/20/12]
[Amended 07/15/15][Amended 09/07/16][Amended 10/04/17][Amended 03/06/19]

19. Educational institutions
20. Places of worship and adjunct uses, places of worship
21. Small-scale energy facilities, subject to the performance standards of Section IX(W)
22. Commercial outdoor recreation, subject to the performance standards of Section IX(U)
23. Telecommunication Facilities
24. Food processing facilities, subject to the performance standards of Section IX.(M.2.)
25. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance.[adopted 10/07/15]
26. Climate Controlled/Internal Access Storage Facility, subject to Section IX(H) Performance Standards and only within an approved subdivision. [10/04/17]

RESIDENTIAL USES

The following residential uses are permitted only in planned developments:

27. Boarding care facilities for the elderly, subject to the performance standards of Section IX(C)
28. Nursing homes
29. Dwelling units in a mixed-use building, limited to a maximum building footprint of 12,500 square feet and only as part of a mixed-use planned development as specified under subsection II.C.5.
30. Multi-family dwellings, limited to a maximum building footprint of 12,500 square feet and only as part of a mixed-use planned development as specified under subsection II.C.5.
31. Live / work units and only as part of a mixed-use planned development as specified under subsection II.C.5.

C. SPACE AND BULK STANDARDS

The following space and bulk regulations are applicable to CONVENTIONAL DEVELOPMENTS:

1. Minimum Lot Area and Dimensions

Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Non-Residential and Mixed-Uses	40,000	200 for lots abutting Haigis Parkway and Payne Rd; 50 for lots not abutting Haigis Parkway and Payne Rd	50

2. Minimum Yard Standards

Abutting Streets	Minimum Front Yard (ft.)	Minimum Side and Rear Yard (ft.)
Payne Road and Haigis Parkway	25	15 ^{1&2}
All other streets	15	15 ^{1&2}

¹When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP [8/21/96][Amended 06/20/12]
[Amended 07/15/15][Amended 09/07/16][Amended 10/04/17][Amended 03/06/19]

yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

² *When a site abuts a residential district the minimum yard shall be 50 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.*

3. Maximum Building Coverage, Lot Coverage, and Building Height.

Use Types	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height (ft.)
Non-Residential and Mixed Uses	50%	75%	75', not to exceed 6 stories
Residential Uses	50%	75%	45', not to exceed 3 stories

The following space and bulk regulations are applicable to PLANNED DEVELOPMENTS:

4. Minimum Lot Area and Dimensions

Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Non-Residential, Residential and Mixed-Uses	40,000	200 for lots abutting Haigis Parkway and Payne Rd; 50 for lots not abutting Haigis Parkway and Payne Rd	50

5. Minimum Yard Standards – Determined by the Planning Board under Section II.D.2(d), flexible yard standards, except that when a site abuts a residential district the minimum yard shall be 50 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

6. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height
Determined by the Planning Board under Section I.C.2 (b), flexible lot coverage	Determined by the Planning Board under Section I.C.2 (b), flexible lot coverage	75', not to exceed six stories

RESIDENTIAL DENSITY REGULATIONS

Within this zoning district the Residential Density Factors in Section VIIC(A) of this Ordinance shall apply to live/work, dwelling units in a mixed-use building, and multi-family dwellings.

7. Maximum Residential Density –

Live/work units, dwelling units located in a mixed-use building, and multifamily dwelling units	5 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance
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D. OFF-STREET PARKING STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

1. Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except as otherwise permitted in this subsection.

2. In addition, the establishment of off-street parking shall be located to the side or rear of the principal building on the site to the extent practical. In a development with more than one principal building, the off-street parking shall be located to the side or rear of the principal building or group of principal buildings located closest to the abutting street(s) to the extent practical. If locating the parking to the side or rear of the principal building(s) is not practical due to the shape, size or topography of the lot or the building(s) design or orientation, any parking between the buildings and the abutting street(s) shall be screened by landscaping, preservation of existing vegetation and natural features, berms, hardscape, or a combination of these approaches. The Planning Board shall use the Site Plan Review Ordinance and the Commercial Design Standards in reviewing and approving the exact location and design of the off-street parking and its corresponding landscaping and screening.

3. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses.

E. SIGNS, APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENT
Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

II. ADDITIONAL DEVELOPMENT STANDARDS

A. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage, scale, uses, and design of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards and development standards for Conventional Developments set out in this section or may be reviewed as a Planned Development in accordance with the procedures set forth in

Section VIII.E. Additional Requirements for Planned Developments and applying the qualitative standards and design criteria for Planned Developments set out in this Section.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than five (5) acres of land may be reviewed as a Conventional Development or as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing any of the following are required to be reviewed as Planned Developments in accordance with Section VIII.E. and conform to the applicable standards of this section for Planned Developments:

- a. Develop or redevelop five (5) acres or more of land,
- b. Exceed the space and bulk standards for conventional developments, or
- c. Establish a use that is allowed only as part of a Planned Development.

B. PERFORMANCE STANDARDS, APPLICABLE TO CONVENTIONAL AND PLANNED DEVELOPMENTS

To ensure attractive, high quality development that is designed and developed in a manner that minimizes impacts on the community and adjacent properties, all uses are subject to following performance standards:

1. Vehicular access to and from Payne Road and Haigis Parkway shall be strictly controlled to limit the number of curbs cuts along these roadways, and in the case of the Haigis Parkway, to curb cuts that are approved by Maine DOT. In addition, provisions shall be made for street and driveway interconnections to abutting properties to enable cross connections, the shared use of curb cuts and intersections and to reduce the overall number of curb cuts on all streets.
2. There shall be no vehicular access to adjacent residential districts, except for emergency vehicle access approved by the Fire Department and Planning Board.
3. Visual impact of structures as viewed from adjacent streets shall be taken into consideration during Site Plan Review. Any application for site plan review within the Haigis Parkway District shall be accompanied by graphic representations of how the development will look upon completion, utilizing artists' renderings, photo manipulation, computer generated imaging or similar techniques, unless the Planning Board determines that the location, scale or nature of the proposed development does not warrant such graphic representations in order for the Planning Board to evaluate the application.
[11/06/02]
4. Landscaping and streetscape buffer strips shall be used throughout the district to reinforce the parkway landscape, provide an attractive streetscape on any new streets, and provide buffering and screening between uses and development sites. To this end, a landscaped or naturally vegetated buffer strip shall be established and/or maintained along the property line(s) of a lot where it abuts a street. The width of the buffer strip shall be a minimum of twenty-five (25) feet when it abuts Haigis Parkway and a minimum of fifteen (15) feet to all other streets, and shall be designed to separate the development from the street, enhance the visual environment, and help screen parking from view from the street. The buffer strip shall be maintained as a naturally vegetated area with native,

non-invasive vegetation where it is adjacent to water bodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review. In other areas, the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance and Design Standards for Scarborough's Commercial Districts. The buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip.

C. PLANNED DEVELOPMENT STANDARDS

The Haigis Parkway (HP) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough's Commercial Districts and provide more specific requirements for development in the HP District.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VII(E) Planned Development.

PLANNED DEVELOPMENT STANDARDS

1. Walkable, Pedestrian-Oriented Design Required of all Planned Developments within the HP District

Appropriately designed and oriented sidewalks and other pedestrian amenities are critical to promote walk-ability, pedestrian activity, and a sense of place within planned developments in the HP District. Sidewalks shall be designed to provide linkages and continuity between each use and building within a planned development as well as existing or future connections to abutting uses and/or the pedestrian network along the adjacent roadways.

2. Unified and Coordinated Building Architecture, Signage, and Lighting

Development and redevelopment of larger parcels in the HP District requiring Planned Development Review shall exhibit a high level of architectural planning and design. Planned Developments with multiple buildings and/or building lots shall establish unified and coordinated architectural themes that are exhibited throughout the development. Likewise, a coordinated signage and lighting plan shall be required of the Planned Development that establishes a theme and sense of place within the development.

3. Open Space and Natural Resource Conservation

Planned Developments shall be designed with respect for the natural resources and topography of the site. Significant wetlands, vernal pools and critical wildlife habitat areas shall be avoided, buffered and conserved. These significant natural resource areas that are greater than one (1) acre in size shall be conserved as common open space, while smaller significant natural resource areas may be incorporated into individual building lots or development sites. Open space lands may include a trail system for walking, hiking, biking or similar activities if such a trail system can be accommodated without adverse impact to the natural resources.

4. Required of Planned Developments Incorporating Live/Work Units, Residential Dwellings within a Mixed-Use Building and/or Multi-family Dwellings [amended 03/06/19]

Live/work units, residential dwellings within a mixed-use building and multifamily dwellings are allowed as part of a planned development provided they meet the requirements of this section. In reviewing a planned development with residential uses, the Planning Board shall only permit residential uses that are designed in a manner and sited in locations that are appropriate and conducive to housing. Accordingly, the Planning Board shall find that residential uses within a planned development meet each of the following standards:

- a. Given the HP District, the maximum amount of residential use(s) shall not exceed 40% of the non-residential use(s) at full build-out. Determination of the full build out use ratio is calculated as described below:
 - i. For planned development projects that consist of a single lot or building, the floor area of all residential uses shall be a maximum of 40% of the total non-residential use floor area at the time of approval.
 - ii. For planned development projects that consist of multiple lots or buildings the maximum amount of residential use is based on the amount of total non-residential use floor area that can be accommodated on the lots and/or buildings, as determined by the applicant and approved by the Planning Board. In determining the total non-residential floor area the applicant shall complete a conceptual build-out analysis for each lot and/or building, including all typical and necessary supporting infrastructure associated with the assumed building size; including, but not limited to, parking fields, stormwater facilities, landscaping, etc. The Planning Board shall verify the applicant's analysis, and may require modifications, prior to approval.
- b. The proposed residential dwellings are sufficiently setback and/or buffered from major roadways as well as major internal circulation routes and large parking areas so as to ensure a safe, sanitary, and healthful environment for residents.
- c. Any other non-residential uses within the planned development are compatible with residential uses with respect to noise, odors, intensity of use, health and safety, and aesthetics.
- d. Residential uses are designed with outdoor amenities, open spaces or common spaces usable for the active or passive recreation. Such spaces can be a community green or common; plaza; court; square; pocket park or some variation of each.

5. Required of Planned Developments Incorporating Boarding Care Facilities for the Elderly and/or Nursing Homes

Boarding care facilities for the elderly and nursing homes are allowed within this district as planned developments provided they meet the requirements of this section the following standards:

- a. Given the HP District is principally a business district, boarding care facilities for the elderly and nursing homes shall be adequately screened and buffered from adjacent properties and non-residential uses. This buffering shall provide a visual screen as well as minimize the impacts of noise or odors that may be

- generated by abutting uses. Buffering may include the preservation of natural vegetation, new landscaping, berms or other means to fulfill this standard.
- b. The proposed facility shall be sufficiently setback and/or buffered from major roadways so as to ensure a safe, sanitary, and healthful environment for residents.
 - c. If other non-residential uses are proposed within the same planned development, these other uses must be compatible with a boarding care facility or nursing home with respect to noise, odors, intensity of use, health and safety, and aesthetics.

D. FLEXIBLE DESIGN STANDARDS FOR PLANNED DEVELOPMENTS

The following flexible design standards may be applied to a Planned Development project, subject to Planning Board review and approval.

1. On-street parking – On-street parking is a primary characteristic of compact and pedestrian friendly development. On-street parking can provide spaces directly in front of buildings that are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using a sidewalk and vehicular traffic; and can slow vehicular traffic in the street. A planned development may include new streets or driveways with parallel or angled on-street parking or “on-driveway” parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

2. Flexible lot coverage – The Planning Board shall determine the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces in a planned development if the planned development includes “green building” technology or approaches that compensate for the additional lot coverage proposed. Examples of “green building” approaches may include green roof systems, porous pavement, photovoltaic and other forms of distributed energy, and other techniques as reviewed and approved by the Planning Board. If the planned development does not include green building technology, then the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces shall be governed by subsection I.C.3. of this district

3. Flexible yard standards - The Planning Board shall determine the yard requirements for a planned development by applying the standards of subsection II.C In reviewing a planned development, the Planning Board may use the Yard Standards under subsection I.C.2. as a guideline, but is not required to apply them. This enables the Planning Board to allow buildings to be sited closer to the street than conventional development to meet the standards of subsection II.C. and further the purpose of this district.

**SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2
[09/05/2007][Amended 08/19/09]**

**SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT,
TVC2 [09/05/2007][Amended 08/19/09]**

A. PURPOSE

To provide areas for the location of small and moderate scale retail, business, service and community uses as well as a range of residential uses including multifamily dwellings, senior housing facilities and dwellings that are part of mixed use developments. These uses are intended to, and are likely to, serve primarily the local market and the convenience and needs of town residents. The goal of the district is to supplement the TVC District in encouraging the creation and persistence of Scarborough's town and village centers, with development at a scale and uses at an intensity, which are compatible with surrounding areas. This medium intensity mixed use district allows a range of land uses that are intended to compliment the core development pattern and uses in our town and village centers as well as serve as a transition to surrounding residential areas. The Town and Village Centers Transition District shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. PERMITTED USES [Amended 08/19/09]

RESIDENTIAL USES:

- 1. Single family detached dwellings, not permitted on lots fronting Route 1**
- 2. Two family dwellings, not permitted on lots fronting Route 1**
- 3. Multifamily dwellings limited to no more than twelve (12) dwelling units per building (must be serve by public sewer) [Amended 08/19/09]**
- 4. Multiplex dwellings (must be serve by public sewer) [Amended 08/19/09]**
- 5. Townhouses limited to no more than eight (8) dwelling units per building (must be serve by public sewer) [Amended 08/19/09]**
- 6. Senior housing (must be serve by public sewer) [Amended 08/19/09]**
- 7. Accessory units subject to the performance standards of Section IX.J. (02/15/12)**

MIXED USES:

- 7. Dwelling units within a mixed use building limited to no more than eight (8) dwelling units per building if served by public sewer and two (2) units per building if served by on-site sewage disposal. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV(I) [Amended 08/19/09]**
- 8. Live/Work Units**

NON-RESIDENTIAL USES: [Amended 08/19/09]

The following non-residential uses are limited to 5,000 square feet of floor area per unit of occupancy.

- 9. Retail sales and services, excluding car washes, and outdoor sales and services**
- 10. Business services and business offices**
- 11. Professional offices**
- 12. Financial, insurance and real estate offices**
- 13. Personal services**
- 14. Non-municipal government offices**

SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2
[09/05/2007][Amended 08/19/09]

15. Restaurants with no drive-through service [Amended 08/19/09]
16. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions, which are not otherwise permitted uses in this section
17. Funeral homes
18. Group day care homes, Day care center facilities and Nursery schools
19. Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required
20. Health clubs
21. Hotels and motels (must be served by public sewer) [Amended 08/19/09]
22. Bed and breakfast establishments [Amended 08/19/09]

The following non-residential uses are not limited in square footage of floor area per unit of occupancy.

23. Municipal buildings and uses
24. Elementary and secondary schools
25. Place of worship
26. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P [Amended 05/05/10]
27. Libraries and museums

The following non-residential uses are limited to 5,000 square feet of floor area per unit of occupancy and are permitted only in planned developments. [Adopted 08/19/09]

28. Restaurants with drive-through service

C. SPECIAL EXCEPTIONS

1. Nursing homes
2. Boarding care facility for the elderly
3. Public utility facilities
4. Telecommunication facility
5. Adjunct Uses, Place of Worship
6. Home occupations. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under subsection (B)

D. SPACE AND BULK REGULATIONS

1. Minimum Lot Area and Dimensions in areas served by public sewer [Amended 08/18/09]

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Single-family and two-family detached dwellings	10,000	50	50

SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2
[09/05/2007][Amended 08/19/09]

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Multi-family dwellings, multiplex, townhouses	10,000	200 for lots abutting on Rte. 1 and Rte. 114; 50 for lots not abutting Rte. 1 and Rte. 114	50
Senior housing	80,000	200 for lots abutting on Rte. 1 and Rte. 114; 50 for lots not abutting Rte. 1 and Rte. 114	100
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Rte. 1 and Rte. 114; 50 for lots not abutting Rte. 1 and Rte. 114	50

2. Minimum Lot Area and Dimensions in areas not served by public sewer [Adopted 08/19/09]

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Single-family detached and two-family dwellings	40,000	100	50
Non-Residential, Mixed-use buildings, and Live/Work Units	40,000	200 for lots abutting on Rte. 1, Rte. 22 and Rte. 114; 100 for lots not abutting Rte. 1, Rte. 22 and Rte. 114	50

3. Yard Standards - The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under subsection (F) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s). [Amended 11/07/07]

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yards (ft.)
Rte. 1	35	90	15 ^{1 & 2}

¹ When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yards.

² When the yard of a mixed use or non-residential use abuts a RF (Rural Residence and Farming) District the minimum yard shall be 50 ft. and the buffering requirement of Section VIII of this Ordinance shall apply. When the

SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2
[09/05/2007][Amended 08/19/09]

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yards (ft.)
Rte. 114, Rte. 207, and Rte. 22	25	60 (except that this maximum shall not apply to single-family and two-family dwellings)	15 ^{1 & 2}
All other streets	10	25 (except that this maximum shall not apply to single-family and two-family dwellings)	15 ^{1 & 2}

Municipal buildings and uses, elementary and secondary schools, and libraries and museums shall be exempt from the maximum front yard requirement above and the standards for front yards and off-street parking under subsection (F)(1) thru (5) of this zoning district. Though exempt from this requirement, any front yard parking shall be substantially screened from abutting streets by street trees, landscaping and other buffering amenities and shall be designed to reinforce a village streetscape.

4. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height
10,000 sq. ft.	35%	85%	3 stories or 45 feet

The maximum individual building footprint shall not apply to municipal buildings and uses, elementary and secondary schools, libraries and museums, and senior housing buildings.

E. RESIDENTIAL DENSITY REGULATIONS

Within this zoning district, the Residential Density Factors in Section VIIC(A) of the Zoning Ordinance shall apply to multi-family, multiplex, townhouse, live/work, senior housing, or dwelling units in a mixed-use building or on a mixed use lot.

1. Maximum Base Residential Density in areas served by public sewer – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.[Amended 08/19/09]

Single-family and two-family dwellings on lots which contain only residential uses	5 dwelling units per net residential acre
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yard abuts all other a residential districts the minimum yard shall be 25 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2
[09/05/2007][Amended 08/19/09]

Multi-family, multiplex, townhouse dwellings, live/work units and dwelling units located in a mix use building or on a mixed use lot	5 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance
Senior housing	15 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance

2. Additional Residential Density Thru Development Transfer (not permitted in areas not served by public sewer) – A development may incorporate up to three (3) additional dwelling units per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance. [Amended 08/18/09]

3. Additional Residential Density Thru Affordable Housing (not permitted in areas not served by public sewer) – A development may incorporate up to one (1) additional dwelling unit per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing. [Amended 08/18/09]

4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee (not permitted in areas not served by public sewer) – In lieu of developing affordable housing to utilize additional residential density under subsection e.3., a development may incorporate up to one (1) additional dwelling unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing in-lieu fee provisions in accordance with Section VII.C. of this Ordinance. [Adopted 08/20/2014]

The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed three (3) dwelling units per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density. [Amended 08/20/2014]

4. Maximum Residential Density in areas not served by public sewer – [Adopted 08/19/09]

Single-family and two-family dwellings on lots which contain only residential uses	1 dwelling unit per net residential acre
Live/work units and dwelling units located in a mixed use building or on a mixed use lot	1 dwelling unit per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance

SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2
[09/05/2007][Amended 08/19/09]

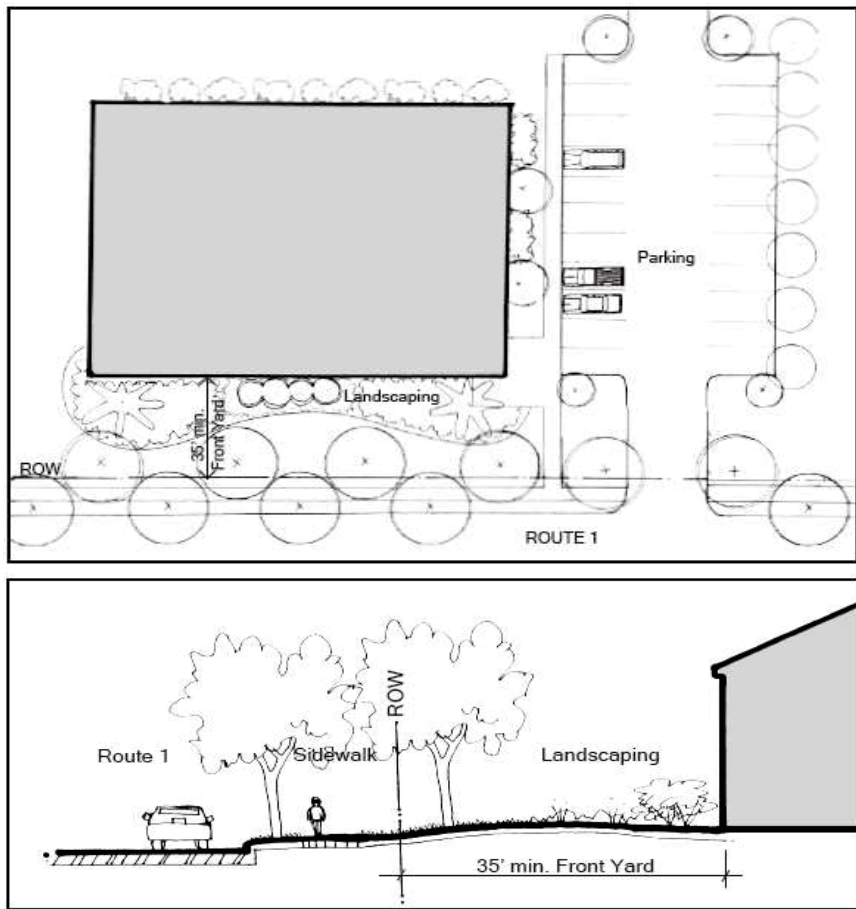
F. SITE LAYOUT AND OFF-STREET PARKING STANDARDS

The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this district. In this district, buildings shall be located relatively close to the street to provide human scale development, village character, and auto and pedestrian utility. As exhibited by the varying minimum and maximum front setback standards under subsection (D)(2). Yard Standards, the proximity of the front line of a building(s) shall depend on the street that the lot fronts. The front line of buildings are required to be closer to local streets than they are to Route 1 and other major streets including Route 114, Route 22 and Route 207. [Amended 08/18/09]

The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection (D)(2) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s). As stated under subsection D.3. of this district, the maximum front yard requirement and the off-street parking location requirements shall not apply to single-family and two-family dwellings: [Amended 11/07/07; 08/19/09]

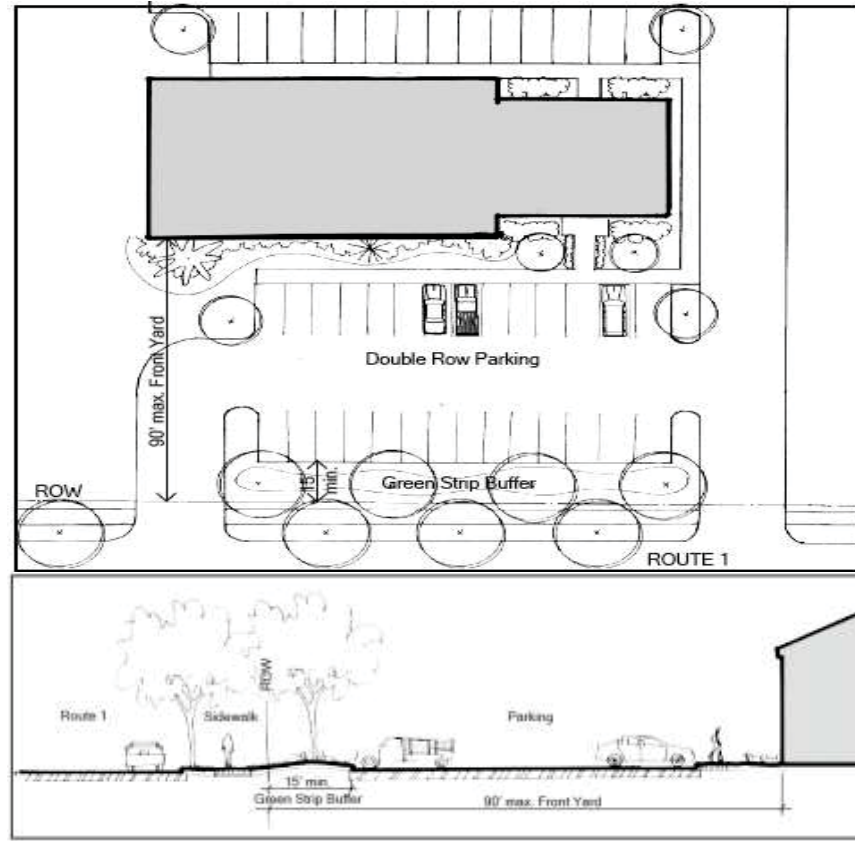
Standards for Front Yards and Off-Street Parking on Lots abutting Route 1:

1. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



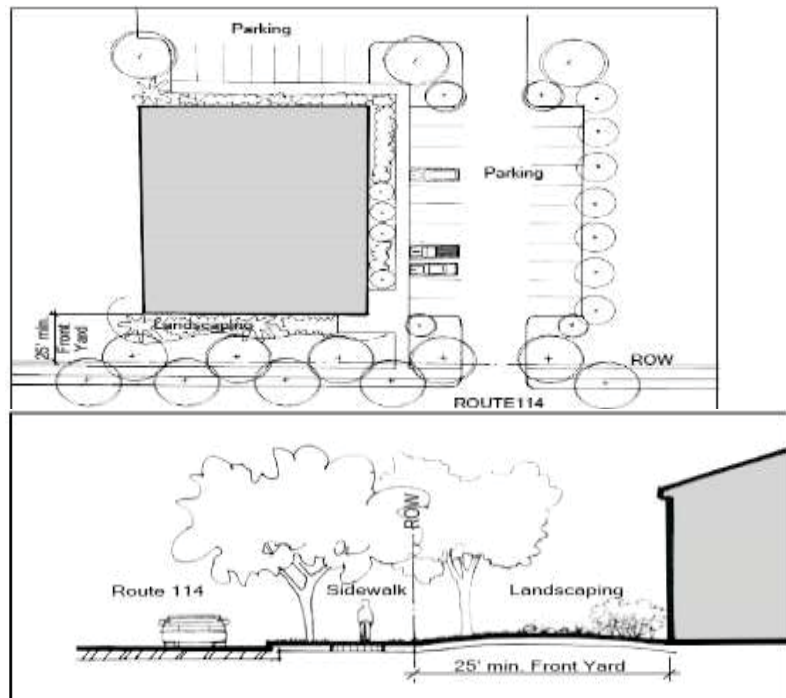
SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2
[09/05/2007][Amended 08/19/09]

2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one double-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or “green strip buffer”, from the front property line shall be at least 15 feet.



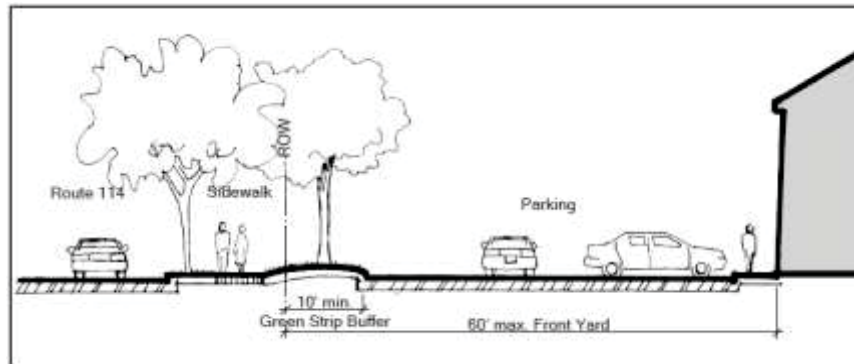
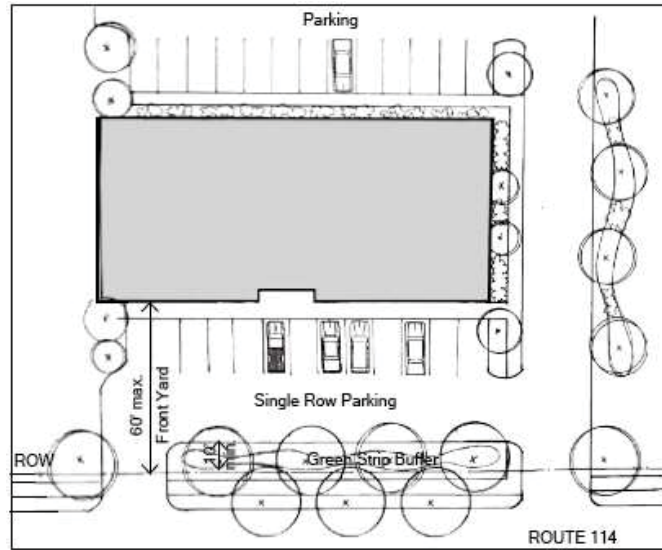
Standards for Front Yards and Off-Street Parking on Lots abutting Rte. 114, Rte. 22 and Rte. 207:[Amended 08/19/09]

3. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



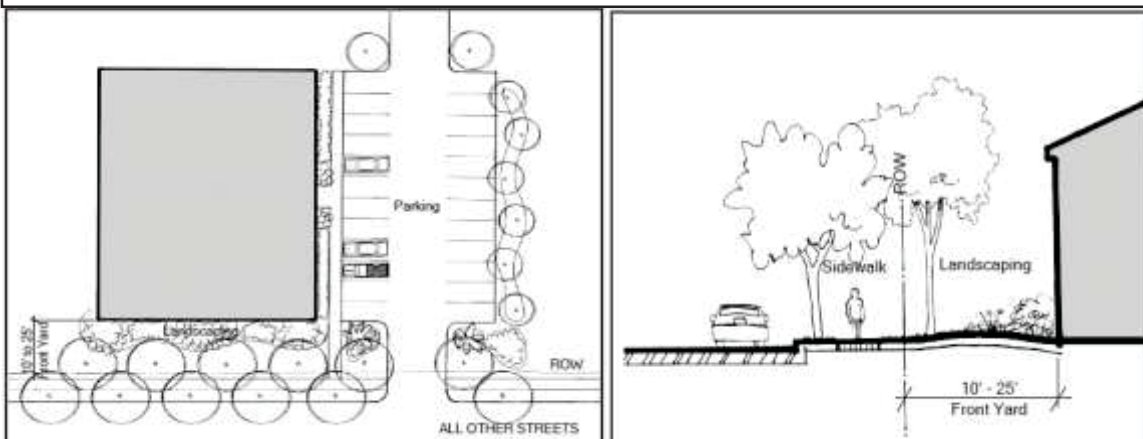
SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2
[09/05/2007][Amended 08/19/09]

4. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one single-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or “green strip buffer,” from the front property line shall be at least 10 feet.



Standards for Front Yards and Off-Street Parking on Lots abutting all other streets:

5. No parking shall be allowed in the front yard of lots abutting all other streets. All off-street parking shall be located in the side and rear yards behind the front line of the principle building(s). The front yard shall be used for landscaping features, street trees, sidewalks, and pedestrian amenities. An access drive(s) to the site may cross the front yard but may not be located in the area between the front of the building and the front property line.



General Off-Street Parking Standards:

6. Off-street parking shall be provided in accordance with the requirements of Section XI if this Ordinance, except as those requirements are augmented or modified below.

7. Notwithstanding anything to the contrary in Section III or Section XI of this Ordinance, parking spaces existing in a front yard setback as of (the effective date of the amendments) shall be relocated to comply with the requirements of this section in the event of any change to the site which requires Planning Board approval under the Town of Scarborough Site Plan Review Ordinance. This requirement may be waived if the Planning Board determines that the relocation of some or all of the parking spaces is not feasible due to the shape, size or topography of the lot or the location of an existing principal building(s) on the lot.

8. In order to reduce the establishment of unnecessary parking spaces and impervious area, which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments. This allowance may also be exercised in developments that include a mix of residential and non-residential uses, such as second story dwelling units above non-residential uses or live-work units, subject to the same requirement that the parking facility will substantially meet the intent of the parking requirements. In the TVC-2 District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

G. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

H. PLANNED DEVELOPMENT [Adopted 08/19/09]

As per subsection B. 28., restaurants with drive through service are required to be reviewed under this subsection and in accordance with Section VIIE. Planned Development within the TVC2 District. The planned development review process is required for restaurants with drive through service to ensure that the use is compatible with surrounding uses, that the site can provide for safe and convenient vehicular access from the abutting roadways, that the roadways have adequate capacity to accommodate the additional traffic generated by the use, and that the use is designed in a manner that reinforces the purpose of the TVC2 District.

SECTION XVIII.D. TOWN AND VILLAGE CENTERS FRINGE DISTRICT, TVC3 [adopted 11/07/2007][amended 03/04/09][amended 04/06/2011]

SECTION XVIII.D. TOWN AND VILLAGE CENTERS FRINGE DISTRICT, TVC3 [adopted 11/07/2007][amended 03/04/09][amended 04/06/2011]

A. PURPOSE

To provide areas for the location of small and moderate scale business, service and community uses, a range of residential uses including multifamily dwellings and dwellings that are part of mixed use developments as well as small scale retail to enable existing retail uses to conform and modernize. These uses are intended to, and are likely to, serve primarily the local market and the convenience and needs of town residents. The goal of the district is to supplement the TVC District in encouraging the creation and persistence of Scarborough's town and village centers, with development at a scale and uses at an intensity which are compatible with surrounding areas. This medium intensity mixed use district allows a range of land uses that are intended to compliment the core development pattern and uses in our town and village centers as well as serve as a transition between these centers and surroundings land uses. The Town and Village Centers Fringe District shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. PERMITTED USES

RESIDENTIAL USES:

1. Single family detached dwellings, not permitted on lots fronting Route 1
2. Two family dwellings, not permitted on lots fronting Route 1
3. Multifamily dwellings limited to no more than twelve (12) dwelling units per building (must be serviced by public sewer)[amended 04/06/2011]
4. Multiplex dwellings (must be serviced by public sewer)[amended 04/06/2011]
5. Townhouses limited to no more than eight (8) dwelling units per building (must be serviced by public sewer)[amended 04/06/2011]
6. Senior housing (must be serviced by public sewer)[amended 04/06/2011]
7. Accessory units subject to the performance standards of Section IX.J. (02/15/12)

MIXED USES:

7. Dwelling units within a mixed use building limited to no more than eight (8) dwelling units per building if served by public sewer and two (2) units per building if served by on-site sewage disposal. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV(I). [amended 04/06/2011]
8. Live/Work Units

NON-RESIDENTIAL USES:

The following non-residential uses are limited to 1,000 square feet of floor area per unit of occupancy.

9. Retail sales and services, excluding car washes, and outdoor sales and services

The following non-residential uses are limited to 5,000 square feet of floor area per unit of occupancy.

10. Business services and business offices
11. Professional offices
12. Financial, insurance and real estate offices
13. Personal services

SECTION XVIII.D. TOWN AND VILLAGE CENTERS FRINGE DISTRICT, TVC3 [adopted 11/07/2007][amended 03/04/09][amended 04/06/2011]

14. Non-municipal government offices
15. Restaurants with no drive-through service
16. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions, which are not otherwise permitted uses in this section
17. Funeral homes
18. Group day care homes, Day care center facilities and Nursery schools
19. Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required
20. Health clubs, except that health clubs are not permitted in the Black Point Neighborhood Center TVC3 District located adjacent to Black Point Road and Highland Avenue. [amended 04/06/2011]

The following non-residential uses are limited to 36,000 square feet of floor area per establishment.

21. Hotels, motels and bed and breakfast establishments except that hotels and motels are not permitted in the Black Point Neighborhood Center TVC3 District located adjacent to Black Point Road and Highland Avenue. [amended 04/06/2011]

The following non-residential uses are not limited in square footage of floor area per unit of occupancy.

22. Municipal buildings and uses
23. Elementary and secondary schools
24. Place of worship
25. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P [Amended 05/05/10]
26. Libraries and museums

C. SPECIAL EXCEPTIONS

1. Nursing homes.
2. Boarding care facility for the elderly.
3. Public utility facilities.
4. Telecommunication facility.
5. Adjunct Uses, Place of Worship.
6. Home occupations. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under subsection (B)

D. SPACE AND BULK REGULATIONS [Amended 03/04/09][Amended 04/06/2011]

1. Minimum Lot Area and Dimensions in areas service by public sewer

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Single-family and two-family detached dwellings	10,000	50 feet	50

SECTION XVIII.D. TOWN AND VILLAGE CENTERS FRINGE DISTRICT, TVC3 [adopted 11/07/2007][amended 03/04/09][amended 04/06/2011]

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Multi-family dwellings, multiplex, townhouses	10,000	200 feet for lots abutting on Rte. 1, Rte. 114, Rte.207, Mussey Road or Spring Street; 50 feet for lots not abutting Rte. 1, Rte. 114, Rte.207, Mussey Road, or Spring Street	50
Senior housing	80,000	200 feet for lots abutting on Rte. 1, Rte. 114, Rte.207, Mussey Road, or Spring Street; 50 feet for lots not abutting Rte. 1, Rte. 114, Rte.207, Mussey Road, or Spring Street	100
Non-Residential and Mixed Uses	10,000	200 feet for lots abutting on Rte. 1, Rte. 114, Rte.207, Mussey Road, or Spring Street; 50 feet for lots not abutting Rte. 1, Rte. 114, Rte.207, Mussey Road, or Spring Street	50

b. Minimum Lot Area and Dimensions in areas not served by public sewer [Adopted 04/06/2011]

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Single-family detached and two-family dwellings	40,000	100	50
Non-Residential, Mixed-use buildings, and Live/Work Units	40,000	200 feet for lots abutting on Rte. 1, Rte. 114, Rte.207, Mussey Road or Spring Street; 100 feet for lots not abutting Rte. 1, Rte. 114, Rte.207, Mussey Road, or Spring Street	50

3. Yard Standards - The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under subsection F. of this district. In a development with more than one principal building, the maximum front yard

SECTION XVIII.D. TOWN AND VILLAGE CENTERS FRINGE DISTRICT, TVC3 [adopted 11/07/2007][amended 03/04/09][amended 04/06/2011]

requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s).

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yards (ft.)
Route 1, Route 114, or Mussey Road	25	70 (except that this maximum shall not apply to single-family and two-family dwellings.)	15 ^{1 & 2}
All other streets	10	25 (except that this maximum shall not apply to single-family and two-family dwellings.)	15 ^{1 & 2}

Municipal buildings and uses, elementary and secondary schools, and libraries and museums shall be exempt from the maximum front yard requirement above and the standards for front yards and off-street parking under subsection (F)(1) thru (3) of this zoning district. Though exempt from this requirement, any front yard parking shall be substantially screened from abutting streets by street trees, landscaping and other buffering amenities and shall be designed to reinforce a village streetscape.

3. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height
10,000 sq. ft. ³	35%	85%	3 stories or 45 feet, except that in the Black Point Neighborhood Center TVC3 District located adjacent to Black Point Road and Highland Avenue building height shall be limited to 35 feet.

¹ When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yards.

² When the yard abuts a residential district the minimum yard shall be 25 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

³ The maximum individual building footprint for hotels, motels and bed and breakfast establishments shall be 12,000 sq. ft. The maximum individual building footprint shall not apply to municipal buildings and uses, elementary and secondary schools, and libraries and museums.

SECTION XVIII.D. TOWN AND VILLAGE CENTERS FRINGE DISTRICT, TVC3 [adopted 11/07/2007][amended 03/04/09][amended 04/06/2011]

E. RESIDENTIAL DENSITY REGULATIONS

Within this zoning district the Residential Density Factors in Section VII C. A. of the Zoning Ordinance shall apply to multi-family, multiplex, townhouse, live/work, senior housing or dwelling units in a mixed-use building or on a mixed use lot.

1. Maximum Base Residential Density in areas served by public sewer – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.

Single-family and two-family dwellings on lots which contain only residential uses	5 dwelling units per net residential acre
Multi-family, multiplex, townhouse dwellings, live/work units, senior housing and dwelling units located in a mix use building or on a mixed use lot	5 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance

2. Additional Residential Density Thru Development Transfer (not permitted in areas not served by public sewer) – A development may incorporate up to three (3) additional dwelling units per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance.

3. Additional Residential Density Thru Affordable Housing (not permitted in areas not served by public sewer) – A development may incorporate up to one (1) additional dwelling unit per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

4. Additional Residential Density Thru an Affordable Housing In-Lie Fee (not permitted in areas not served by public sewer) – In lieu of developing affordable housing to utilize additional residential density under subsection E.3., a development may incorporate up to one (1) additional dwell unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing In-Lieu Fee provisions in accordance with Section VII.C. of this Ordinance. [Adopted 08/20/2014]

The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed three (3) dwelling units per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density. [Amended 08/20/2014]

5. Maximum Residential Density in areas not served by public sewer –

Single-family and two-family dwellings on lots which contain only residential uses.	1 dwelling unit per net residential acre.
Live/Work units and dwelling units located in a mixed use building or on a mixed use lot.	1 dwelling unit per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance.

SECTION XVIII.D. TOWN AND VILLAGE CENTERS FRINGE DISTRICT, TVC3 [adopted 11/07/2007][amended 03/04/09][amended 04/06/2011]

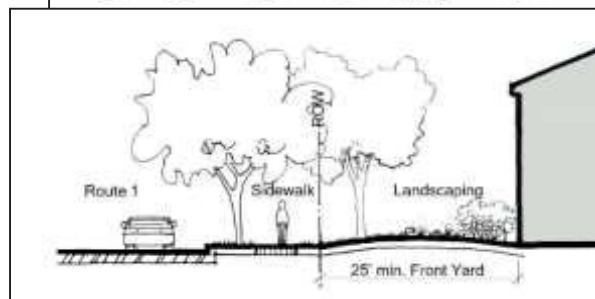
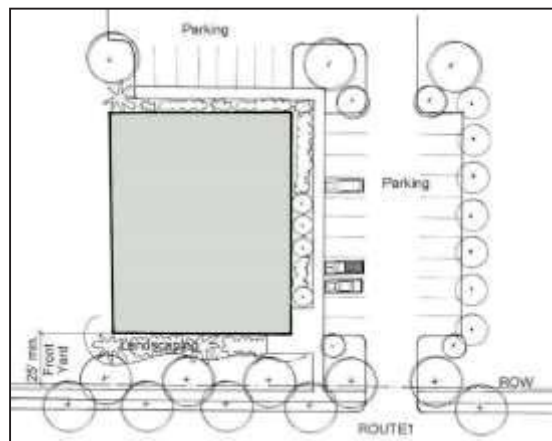
F. SITE LAYOUT AND OFF-STREET PARKING STANDARDS [amended 03-04-09]

The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this district. In this district buildings shall be located relatively close to the street to provide human scale development, village character, and auto and pedestrian utility. As exhibited by the varying minimum and maximum front setback standards under subsection (D)(2) Yard Standards, the proximity of the front line of a building(s) shall depend on the street that the lot fronts. The front line of buildings are required to be closer to local streets than they are to Route 1 and other arterial and collector streets, including Route 114, Route 207 and Mussey Road.

The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection (D)(2) of this district. In developments with more than one principal building, the requirements for the location of the off street parking shall only apply to the principal building or group of principal buildings, located closest to the abutting street(s):

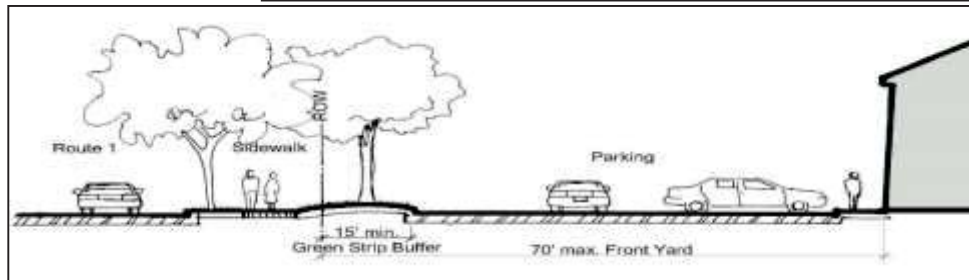
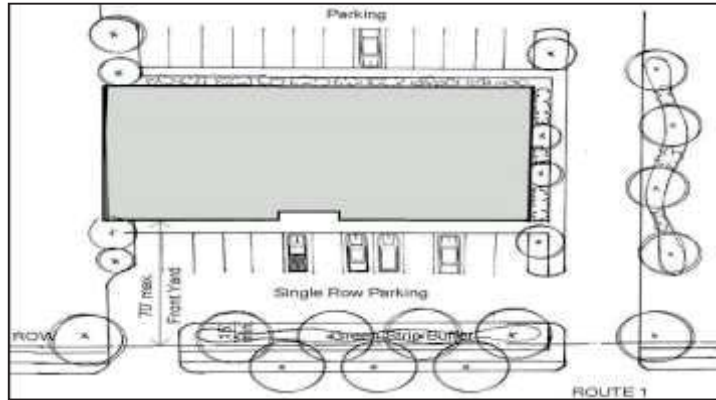
Standards for Front Yards and Off-Street Parking on Lots abutting Route 1 and other arterial and collector streets, including Route 114, Route 207 and Mussey Road:

1. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front



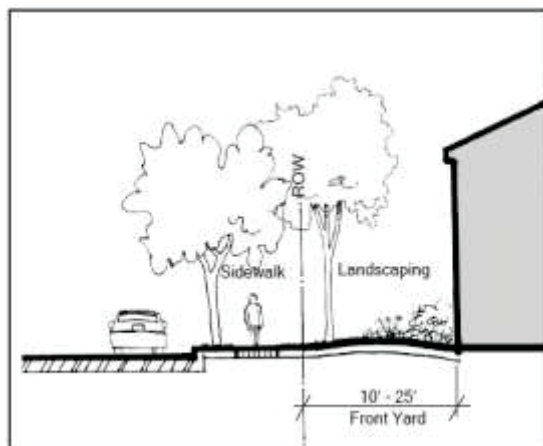
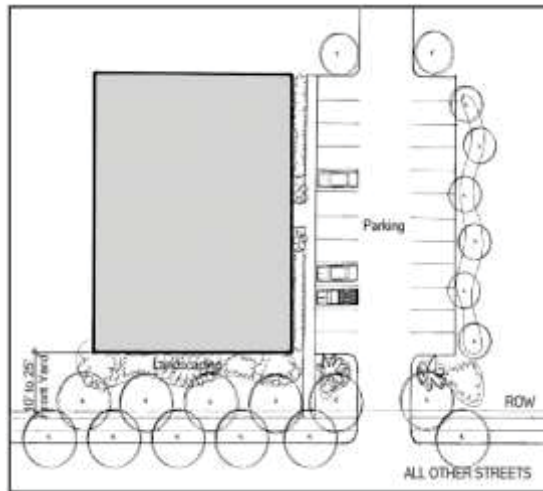
SECTION XVIII.D. TOWN AND VILLAGE CENTERS FRINGE DISTRICT, TVC3 [adopted 11/07/2007][amended 03/04/09][amended 04/06/2011]

2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one single-row of parking and drive aisle may be



Lots abutting all other streets:

3. No parking shall be allowed in the front yard of lots abutting all other streets. All off-street parking shall be located in the side and rear yards behind the front line of the principle building(s). The front yard shall be used for landscaping



General Off-Street Parking Standards:

4. Off-street parking shall be provided in accordance with the requirements of Section XI if this Ordinance, except as those requirements are augmented or modified below.

5. Notwithstanding anything to the contrary in Section III or Section XI of this Ordinance, parking spaces existing in a front yard setback as of (the effective date of the amendments) shall be relocated to comply with the requirements of this section in the event of any change to the site which requires Planning Board approval under the Town of Scarborough Site Plan Review Ordinance. This requirement may be waived if the Planning Board determines that the relocation of some or all of the parking spaces is not feasible due to the shape, size or topography of the lot or the location of an existing principal building(s) on the lot.

6. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments. This allowance may also be exercised in developments that include a mix of residential and non-residential uses, such as 2nd story dwelling units above non-residential uses or live-work units, subject to the same requirement that the parking facility will substantially meet the intent of the parking requirements. In the TVC3 District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

G. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XVIII.E. TOWN AND VILLAGE CENTERS 4 DISTRICT – TVC-4

SECTION XVIII.E. TOWN AND VILLAGE CENTERS 4 DISTRICT – TVC-4

BASIC STANDARDS

A. PURPOSE

The purpose of this district is to provide for and encourage the evolution and maintenance of the Pine Point commercial area into a village center that exhibits village style development and offers a mix of retail, office, service, civic, marine, and residential uses in an environment conducive to both pedestrians and motorists. The buildings, parking areas, sidewalks, landscaping and other infrastructure within this district are to be a village scale and character. This village center area is intended to and will likely serve as a place for local shopping, business, dining, entertainment, and civic activities for residents of Scarborough and the immediate region as well as for visitors and tourists. Residential uses are also intended to be integral elements of this district enabling walkability, convenience, human activity, and vibrancy. The Town and Village Centers 4 District (TVC-4) shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS

The following non-residential uses are permitted in both conventional and planned developments, but in conventional developments are limited to 20,000 square feet of floor area per unit of occupancy:

1. Retail sales and services, excluding car washes, gasoline filling stations and outdoor sales and services except as otherwise provided.
2. Gasoline filling stations existing as of July 1, 2012.
3. Sales, services and storage of marine-related equipment and watercraft including outdoor sales, display and storage.
4. Food processing facilities.
5. Personal services.
6. Restaurants with no drive-through service.
7. Professional offices.
8. Business services and business offices.
9. Financial, insurance and real estate offices.
10. Health clubs.
11. Non-municipal government offices.
12. Non-residential institutional uses, including educational, religious, philanthropic, fraternal or social institutions.
13. Place of worship.
14. Fully enclosed places of assembly, amusement, culture, and government, exclusive of video arcades, amusement parlors, video gambling, casino gambling and off-track betting.

SECTION XVIII.E. TOWN AND VILLAGE CENTERS 4 DISTRICT – TVC-4

15. High technology facilities.
16. Research, development and light industrial uses.
17. Group day care homes, day care facilities, and nursery schools.
18. Accessory uses (excluding outdoor storage) including accessory agricultural activities.
19. Fuel distribution facilities existing as of September 1, 2012.
20. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance.[Adopted 10/07/15]

The following non-residential uses are permitted in both conventional and planned developments without regard to floor area per unit of occupancy:

20. Municipal buildings and uses

The following non-residential uses are permitted only in planned developments:

21. Restaurants with drive-through service

The following residential uses are permitted in both conventional and planned developments:

22. Single family detached dwellings only on lots with their primary frontage on Holly Street, Bickford Street, or other streets that are accessed via Holly or Bickford Streets
23. Two family dwellings only on lots with their primary frontage on Holly Street, Bickford Street, or other streets that are accessed via Holly or Bickford Streets
24. Townhouses limited to not more than eight (8) units per building

The following residential uses are permitted only in planned developments:

25. Dwelling units and/or live/work units in a mixed use building only on a lot having its primary frontage on East Grand Avenue, Pine Point Road, or Snow's Canning Road

C. SPECIAL EXCEPTIONS

The following non-residential uses are permitted in both conventional and planned developments:

1. Adjunct Uses, Place of Worship.
2. Public utility facilities.
3. Home occupations. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under subsection (B).

SECTION XVIII.E. TOWN AND VILLAGE CENTERS 4 DISTRICT – TVC-4

4. Telecommunication facility.

D. SPACE AND BULK REGULATIONS

The following space and bulk regulations are applicable to CONVENTIONAL DEVELOPMENTS:

1. Minimum Lot Area and Dimensions

Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Non-Residential and Mixed Uses	10,000	200 for lots abutting Pine Point Road; 50 for lots not abutting Pine Point Road	50
Residential Uses	10,000	100	100

2. Standards – The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under Subsection (G) of this District. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s). The maximum front yard requirement shall not apply to single-family and two-family dwellings.

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yard (ft.)
Pine Point Road	35	90	15 ¹ & ²
Snows Canning Road	25	60	15 ¹ &2
All other streets	10	30	15 ¹ & ²

3. Maximum Building Footprint, Building Coverage, and lot Coverage and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height
20,000 sq. ft. for buildings containing non-residential and mixed uses otherwise none	50%	85%	40 feet

¹When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

²When a site abuts a residential district the minimum yard shall be 25th and the buffering requirements of Section VIII of this Ordinance shall apply.

SECTION XVIII.E. TOWN AND VILLAGE CENTERS 4 DISTRICT – TVC-4

The following space and bulk regulations are applicable to **PLANNED DEVELOPMENTS**:

1. Minimum Lot Area and Dimensions

Housing & Use Type:	Lot Area (square Ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Non-Residential and Mixed Uses	10,000	200 for lots abutting Pine Point Road; 50 for lots not abutting Pine Point Road	50
Residential Uses	10,000	100	100

2. Yard Standards – Determined by the Planning Board under Section I.C.2(d), flexible yard standards.

3. Maximum Building Footprint, Building Coverage and Lot Coverage, and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious services	Maximum building height
Determined by the Planning Board under Section I.C.2(b), flexible maximum building footprint	Determined by the Planning Board under Section I.C.2(b), flexible lot coverage	Determined by the Planning Board under Section I.C.2(b), flexible lot coverage	40 Feet

The following residential density regulations are applicable to **CONVENTIONAL** and **PLANNED DEVELOPMENTS**:

Within this zoning district the Residential Density Factors in Section VIIC(A) of this Ordinance shall apply to live/work or dwelling units in a mixed-use building.

1. Maximum Base Residential Density – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the transfer of development and/or affordable housing provisions.

Live/work units and dwelling units located in a mixed-use building	2 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance.
Single family, two family and townhouse dwellings	2 dwelling units per net residential acre

SECTION XVIII.E. TOWN AND VILLAGE CENTERS 4 DISTRICT – TVC-4

2. Additional Residential Density Thru Development Transfer – A development involving live/work units and/or dwelling units in a mixed-use building may incorporate up to six (6) additional dwelling units per acre of net lot area beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance. A development involving single family, two family and/or townhouse units may incorporate up to two (2) additional dwelling units per net residential acre beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance.

E. OFF-STREET PARKING STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

1. Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except as otherwise permitted in this Subsection.

2. Notwithstanding anything to the contrary in Section III or Section XI of this Ordinance, parking spaces existing in a front yard as of (the effective date of the amendments) shall be relocated to comply with the requirements of this Section in the event of any change to the site layout which requires Planning Board approval under the Town of Scarborough Site Plan Review Ordinance. This requirement may be waived if the Planning Board determines that the relocation of some or all of the parking spaces is not feasible due to the shape, size or topography of the lot or the location of an existing principal building(s) on the lot.

F. SIGNS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENT

I. ADDITIONAL DEVELOPMENT STANDARDS

A. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage, scale and site layout of a proposed project, a development/redevelopment project within this District may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of Subsection I.D or may be reviewed as a Planned Development applying the qualitative standards and design criteria of Subsection I.C.

- 1. Conventional Developments.** Projects that are proposing to develop or redevelop less than 5 acres of land may be reviewed as a conventional development or may be reviewed as a Planned Development, at the applicant's option.
- 2. Planned Developments.** Projects that are proposing to develop or redevelop 5 acres or more of land shall be reviewed as Planned Developments in accordance with the standards of Subsection II.C. Development Standards for Planned Development of this District and Section VII(E) Planned Development of this Ordinance.

B. SITE LAYOUT AND OFF-STREET PARKING STANDARDS, APPLICABLE TO CONVENTIONAL DEVELOPMENTS

The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this District. In this District buildings shall be located relatively close to the

SECTION XVIII.E. TOWN AND VILLAGE CENTERS 4 DISTRICT – TVC-4

street to provide human scale development, village character, and auto and pedestrian utility. New off-street parking shall be located to the side or rear of the principal building to the extent feasible. In a development with more than one principal building, the parking shall be located to the side or rear of the principal building closest to the abutting street where practical. If locating the parking to the side and/or rear of the principal building is not practical due to the shape, size or topography of the lot, or the location of existing improvements on the lot, any parking that is located between the building and an abutting street(s) shall be screened by landscaping, the preservation of natural vegetation and features, berms, hardscaping, or a combination thereof. The Planning Board shall use the Site Plan Review Ordinance and the Commercial Design Standards in reviewing and approving the location of the building and parking and the design of the corresponding landscaping and screening.

C. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENT

The Town and Village Centers Pine Point (TVC-4) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough's Commercial Districts and provide more specific requirements for development in the TVC-4 District.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VII(E) Planned Development.

1. PLANNED DEVELOPMENT STANDARDS

A planned development shall be designed in a manner that reinforces the TVC-4 District as a village center. Buildings, parking, pedestrian amenities, landscaping and streets shall be arranged in a village-style development pattern that exhibits a human scale and a mix of land uses.

- a. **Walkable, pedestrian-oriented design** – Appropriately designed and oriented sidewalks, and other pedestrian amenities, are critical to promote walkability, pedestrian activity, and a sense of place within the TVC-4 District. Sidewalks shall be designed to provide linkages and continuity between each use within a planned development as well as connections to abutting uses and the greater pedestrian network. Where pedestrian traffic and activity is likely to be intense, such as along storefronts or at a common area or gathering place, sidewalks shall be properly proportioned to accommodate this activity and to establish a pedestrian realm.
- b. **Streetscape** – Streetscapes are critical to foster a village layout, form and scale, and offer an environment that comfortably accommodates both pedestrians and vehicles. The streetscape of roads and/or driveways within a planned development shall be designed with shade trees on both sides; road widths that are of a village scale; human scale street lighting; frequent intersections and crosswalks; and sidewalks as per standard 1.a. above. A streetscape may include on-street parking on one or both sides of internal streets or driveways as per provisions 2.a. below.

SECTION XVIII.E. TOWN AND VILLAGE CENTERS 4 DISTRICT – TVC-4

- c. **Compact, human scale development** – Building height, massing and facades as well as building orientation to streets, driveways and parking are critical to establishing a compact, village-style development pattern that exhibits a human scale. In general, building(s) shall be designed to front onto the street(s) that provides primary access to the building(s). In developments with multiple buildings, the Planning Board may allow some buildings to be setback from the street at greater distances that would occur in a conventional development with parking between those buildings and the street provided: other buildings front on street(s) or driveways to maintain a village streetscape; there is continuity between buildings with no major expanse of parking; and the development meets or exceeds each of the other planned development standards. Buildings, regardless of size and height, shall exhibit a village-style and a human scale. All buildings, including larger buildings containing one or multiple tenants, shall meet or exceed the Commercial Design Standards.

2. DESIGN CRITERIA FOR PLANNED DEVELOPMENTS

The following design criteria shall apply to all planned developments. In addition, the Planning Board may require a planned development to be designed in conformance with any other standards of this section when the Board finds that application of such standards will achieve conformity with the Planned Development Standards.

- a. **On-street parking** - On-street parking is a primary characteristic of traditional town and village centers. On-street parking can provide spaces directly in front of residential and non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can slow vehicular traffic in the street. A planned development may include new streets or driveways with parallel or angled on-street parking or “on-driveway” parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.
- b. **Flexible maximum building footprint** - The Planning Board shall determine the allowable building footprint for each building in a planned development by applying the standards of Section I.C.1., in particular subsection c. Compact, human scale development.
- c. **Flexible lot coverage** – The Planning Board shall determine the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces in a planned development if the planned development includes “green building” technology or approaches that compensate for the additional lot coverage proposed. Examples of “green building” approaches may include green roof systems, porous pavement, photovoltaic and other forms of distributed energy, and other techniques as reviewed and approved by the Planning Board. If the planned development does not include green building technology, then the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces shall be governed by subsection I.D.3.

SECTION XVIII.E. TOWN AND VILLAGE CENTERS 4 DISTRICT – TVC-4

- d. Flexible yard standards** – The Planning Board shall determine the yard requirements and site layout and off –street parking configuration for a planned development by applying the standards of Section I.C.1., in particular subsection c. In reviewing a planned development, the Planning Board may use the Yard Standards under subsection I.D.2 and the Site Layout and Off-Street Parking Regulations under subsection II.B. that correspond with the yard standards as guidelines, but is not required to apply them, This enable the Planning Board to allow some buildings to be setback from the street in a configuration different from a conventional development, with parking between those buildings and the street, provided the specific provisions, under subsection II.C.1.c. are met, each of the other Planned Development Standards are met, and the planned development furthers the purpose of this district.
- e. Restaurants with drive through service** – The planned development review process is required for restaurants with drive through service to ensure that the use is compatible with surrounding uses, that the site can provide for safe and convenient access from abutting roadways, that the roadways have an adequate capacity to accommodate the additional traffic generated by the use and that the use is designed in a manner that reinforces the purpose of the TVC-4 District.
- f. Live/work units and residential dwellings in mixed-use buildings** – Live/work units and residential dwellings within a mixed-use building are allowed as part of a planned development provided they meet the requirements of this section. In reviewing a planned development with residential uses, the Planning Board shall only permit residential use that are designed in a manner and sited in locations that are appropriate and conducive to housing. Accordingly, the Planning Board shall find that residential uses within a planned development meet each of the following standards:

 - a.** The proposed dwelling units are located, designed and buffered so as to ensure a safe, sanitary and healthful environment for the occupants of the units considering traffic on adjacent roadways, the other planned uses on the site and the location of non-residents parking and service areas.
 - b.** The non-residential uses within the planned development are compatible with residential uses with respect to noise, odors, intensity of use, health and safety considerations and aesthetics.

The residential uses are located and designed to provide outdoor amenities, open space, and/or common places usable for private and communal active and passive recreation by the occupants of the units. This requirement can be met through the provision of private facilities usable only by the occupants or by facilities that are available to the entire planned development or the public.

SECTION XVIII.F. PINE POINT INDUSTRIAL OVERLAY DISTRICT – I-O

SECTION XVIII.F. PINE POINT INDUSTRIAL OVERLAY DISTRICT – I-O

A. PURPOSE AND APPLICABILITY

To allow the existing buildings in the industrial areas in Pine Point to continue to be used for manufacturing, processing, treatment, research, warehousing, storage and distribution, and other compatible uses until such time as the property is redeveloped and/or modified and used in accordance with the Town and Village Centers 4 (TVC-4) District requirements.

The provisions of the I-O District are applicable only to buildings existing as of the date of adoption of this provision that are occupied or intended to be occupied predominately by uses that are not allowed as Permitted Uses or Special Exceptions in the underlying TVC-4 Zoning District. The properties and buildings within the I-O District shall be governed by the provisions of the Industrial Overlay District rather than the provisions of the TVC-4 District until: 1) the property owner notifies the Town Planner in writing that he/she wants the property to be subject to the requirements of the underlying TVC-4 Zoning District, or 2) the property is redeveloped, or 3) the building(s) is expanded or modified in a manner that is not consistent with the limits set forth in subsection G. Once a property becomes subject to the provisions of the underlying TVC-4 zoning district, all rights to being governed by the I-O provision are lost and the property may not revert to industrial uses or other uses not allowed in the TVC-4 District.

B. PERMITTED USES

The use of land and of buildings and structures in the I-O District existing as of the date of adoption of this section shall be governed by the provisions of this section. The use of new or redeveloped buildings or structures and related land shall be governed by the provisions of subsection G.

1. Manufacturing and assembly.
2. Research, development and light industrial.
3. High technology facility.
4. Food processing facility.
5. Warehousing and storage.
6. Distribution, wholesale trade and transportation, including trucking terminals.
7. Recycling facilities, exclusive of junkyards, automobile graveyards, or automobile recycling business.
8. Instructional and educational services.
9. Motor vehicle repair and service facilities including auto body shops, facilities for the repair of recreational vehicles, small engine repair facilities, and vehicle sales accessory to these uses.
10. Sale, rental and/or service of heavy equipment or specialized motor vehicles (other than passenger cars).
11. Sales, service and storage of marine-related equipment and watercraft including outdoor sales, display and storage.
12. Restaurants, with less than 2,000 square feet of floor area and with no drive-up, drive-through or drive-in service.

SECTION XVIII.F. PINE POINT INDUSTRIAL OVERLAY DISTRICT – I-O

13. Retail sales or services if such sales or services are accessory to principal permitted uses.
14. Professional offices with a maximum of 2,500 square feet of floor area per use.
15. Business services and business offices.
16. Contractor's offices, shops and storage yards.
17. Municipal building and uses.
18. Non-municipal government buildings and uses.
19. Health clubs.
20. Personal Services.
21. Pet Care Facility.
22. Accessory uses including accessory agricultural activities subject to the performance standards of Section IX.P.

C. SPECIAL EXCEPTIONS

The use of land and of buildings and structures in the I-O District existing as of the date of adoption of this section shall be governed by the provisions of this section. The use of new or redeveloped buildings or structures and related land shall be governed by the provisions of subsection G.

1. Public utility facilities including substations, pumping stations and sewage treatment facilities.

2. Family day care homes, group day care homes, day care center facilities, and nursery schools.

3. Telecommunication facility.

D. SPACE AND BULK REGULATIONS

The use, modification, or expansion of buildings or structures in the I-O District existing as of the date of adoption of this section shall be governed by the provisions of this section. The use of new or redeveloped buildings or structures shall be governed by the provisions of subsection G.

Minimum area of lot size	20,000 square feet
Maximum building coverage	50%
Minimum Front Yards,	50 feet
Minimum side and rear yard	25 feet or 50% of building height whichever is greater except that all side and rear yards abutting residential district s shall be a minimum of 50 feet or the height equivalent of the principal building or use, whichever is great, and shall comply with the buffering requirements of this Ordinance.
Maximum building height	60 feet – The Planning Board may approve an increase in the building height as part of the site plan review to not more than 100 feet if the applicant demonstrates that the increased height is an operational necessity for the use and the visual impact of the increased height will be minimized through the building design or buffering.

SECTION XVIII.F. PINE POINT INDUSTRIAL OVERLAY DISTRICT – I-O

E. OFF –STREET PARKING

Off-Street parking shall be provided in accordance with the requirements of Section XI. of this Ordinance.

F. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII. of this Ordinance.

G. ADDITIONAL REQUIREMENTS FOR REDEVELOPMENT OR MODIFICATION/ ENLARGMENT OF AN EXISTING BUILDING.

a. Continued Use of Existing Buildings and Structures –Any building or structure existing as of the date of adoption of this subsection may be used for all of the uses allowed in the I-O District subject to the requirements of the District and all required approvals and permits.

b. Modification of Existing Buildings and Structures – Any building or structure existing as of the date of adoption of this subsection may be improved within the existing footprint and envelop of the building or structure subject to all required approval and permits. Any existing building or structure existing as of the date of adoption of this subsection may be modified or enlarged in accordance with requirements of the space and bulk standards of subsection D, and the applicable shoreland zoning provisions provided that such modification does not cumulatively increase the total floor area of the building or structure by more than five thousand (5,000) square feet or more than ten (10) percent of the floor area existing as of the date of adoption of this subsection, whichever is less.

Construction and Use of New, Redeveloped, or Expanded Buildings and Structures – Any new building or structure in the I-O District shall be developed and used in accordance with the requirements of the underlying Town and Village Centers 4 (TVC-4) District. Any existing building that is substantially redeveloped or that is expanded in excess of the limits of subsection b. shall also be developed and used in accordance with the TVC-4 requirements.

SECTION XIX. REGIONAL BUSINESS DISTRICT B-2. [04/16/08][Amended 08/19/09]

SECTION XIX. REGIONAL BUSINESS DISTRICT B-2. [04/16/08][Amended 08/19/09]

A. PURPOSE

To purpose of this district is to provide for general retail sales, services, lodging, restaurants, civic uses and general business space within the Town of Scarborough that serves both Town residents as well as the greater region. As development and/or redevelopment occur within the district, the visual environment is enhanced, traffic flow and safety are improved, and provisions for pedestrians are made. [Amended 08/19/09]

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES [Adopted 08/19/09]

Depending on the acreage of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsection F. or may be reviewed as a Planned Development applying the qualitative standards and flexible design allowable under subsections J and K of this district and Section VIIE of this Ordinance.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than five (5) acres of land may be reviewed as a conventional development or as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing to:

- a. Develop or redevelop five (5) acres or more of land, or
- b. Establish a gasoline filling station

are required to be reviewed as Planned Developments in accordance with the applicable standards of subsection J Development Standards for Planned Developments of this district and Section VIIE Planned Development of this Ordinance.

C. PERMITTED USES

1. Retail business and service establishments including warehousing and wholesale distribution of products other than fuel stored in bulk, but exclusive of Mini-Warehouse/Storage Facilities junkyards, salvaging operations, outdoor sales and services, and gasoline stations. Personal services. [07/17/91] [08/17/94] [11/16/94] [12/03/97] [03/20/02][Amended 08/19/09]

2. Personal services [Amended 08/19/09]

3. Professional offices [Amended 08/19/09]

4. Financial insurance and real estate offices [Amended 08/19/09]

5. Business services and business offices [Amended 08/19/09]

6. Non-municipal government offices. [7/17/91] [Amended 08/19/09]

7. Fully enclosed places of assembly, amusement, culture and government, exclusive of video arcades, amusement parlors, video gambling, casino gambling and off-track betting. [4/03/02]

SECTION XIX. REGIONAL BUSINESS DISTRICT B-2. [04/16/08][Amended 08/19/09]

8. Clubs and lodging houses.

9. Passenger transportation facilities.

10. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P. [7/17/91] [Amended 05/05/10]

11. Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required. [6/01/94]

12. High Technology Facilities, subject to the performance standards of Section IX(M) of this Ordinance. [08/17/94] [04/16/08]

13. Hotels and Motels. [11/02/94]

14. Restaurants. [11/16/94]

15. Golf Course. [12/21/94]

16. Municipal Buildings and Uses. [07/05/95]

17. Place of Worship. [05/05/99]

18. Funeral Homes. [02/21/07]

19. Health Clubs [Adopted 08/19/09]

20. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions [Adopted 08/19/09]

21. Libraries and museums [Adopted 08/19/09]

22. Elementary and secondary schools [Adopted 08/19/09]

23. Group Day Care Homes, Day Care Center Facilities and Nursery Schools [Adopted 08/19/09]

24. Telecommunication Facilities [Effective 11/15/14]

25. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance. [Adopted 10/07/15]

D. SPECIAL EXCEPTIONS [Amended 08/19/09]

1. Public utility buildings including substations, pumping stations and sewage treatment facilities.

2. Outdoor storage, exclusive of fuel stored in bulk. [03/20/02]

3. Outdoor sales provided that all merchandise displayed for sale is located at least 1,000 feet from any public way.

SECTION XIX. REGIONAL BUSINESS DISTRICT B-2. [04/16/08][Amended 08/19/09]

4. Adjunct Uses, Place of Worship. [05/05/99]

E. ADDITIONAL PERMITTED USES – PLANNED DEVELOPMENT [Adopted 08/19/09]

In addition to the permitted uses allowed in subsection C., the following uses are allowed only in planned developments:

NON-RESIDENTIAL USES:

1. Gasoline filling stations on lots abutting Payne Road between the South Portland line and Gorham Road (Route 114) whether a principal or accessory use, subject to the standards of subsection L. of this district and subject to the performance standards of Section IX.(X.) of this Ordinance.

F. SPACE AND BULK REGULATIONS [Amended 08/19/09]

Minimum lot area	10,000 sq. ft.
Minimum street frontage	200 feet
Minimum front yard	50 feet, except: on local Commercial Streets, which provide access to properties in the B-2 Districts and do not serve through traffic, the front yard setback may be a minimum of 35 feet when the site plans are approved by the Planning Board pursuant to the Performance and Design Standards of the Scarborough Site Plan Review Ordinance
Minimum side and rear yards	15 feet required except where the side and/or rear yard abuts a residential district in which case it/they shall be a minimum of 100 feet and the buffering requirements of this ordinance shall be met.
Maximum percent of lot coverage by buildings	50%
Maximum percent of lot coverage by buildings and other impervious surfaces	85%
Maximum Building Height	60 feet

2. The following space and bulk regulations are applicable to planned developments:

Minimum lot area	10,000 sq. ft.
Minimum street frontage	200 feet
Minimum front yard	Determined by the Planning Board under subsection K. of this district
Minimum side and rear yards	15 feet required except where the side and/or rear yard abuts a residential district in which case it/they shall be a minimum of 100 feet and the buffering requirements of this ordinance shall be met.

SECTION XIX. REGIONAL BUSINESS DISTRICT B-2. [04/16/08][Amended 08/19/09]

Maximum percent of lot coverage by buildings	Determined by the Planning Board under subsection K. of this district
Maximum percent of lot coverage by buildings and other impervious surfaces	Determined by the Planning Board under subsection K. of this district
Maximum Building Height	60 feet

G. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS [Adopted 08/19/09]

1. Streetscape Buffer Strip: A landscaped or naturally vegetated buffer strip shall be established and/or maintained along the front property line of a lot where it abuts a public street. The width of the buffer strip shall be a minimum of fifteen (15) feet when it is adjacent to Payne Road or Gorham Road (Route 114) and ten (10) feet when it is adjacent to any other public street. The buffer strip shall be designed to separate the development from the street and to enhance the visual environment of the street. The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to water bodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review. In addition, the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance and Design Standards for Scarborough's Commercial Districts. The buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip.

2. Buffering of Parking: Parking lots and associated access drives must be buffered from adjacent public streets in accordance with the Design Standards for Scarborough's Commercial Districts.

3. Commercial Design Standards: All development in the B2 District must be consistent with the Design Standards for Scarborough's Commercial Districts.

4. Pedestrian, Bicycle and Mass Transit Facilities: All developments shall provide for pedestrian movement to and within the parcel in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities such as bike racks and bike lanes if the scale of the project makes these reasonable. Provisions must also be incorporated into new developments for mass transit use, such as bus stops and bus stop shelters, if the scale of the project makes these reasonable.

SECTION XIX. REGIONAL BUSINESS DISTRICT B-2. [04/16/08][Amended 08/19/09]

H. OFF-STREET PARKING APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS [Amended 08/19/09]

1. Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.
2. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses. In the B2 District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required. [Adopted 08/19/09]

I. SIGNS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENT [Amended 08/19/09]

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

J. PLANNED DEVELOPMENT STANDARDS [Adopted 08/19/09]

The following development standards shall apply to all planned developments. In addition to these requirements, planned developments may incorporate the flexible design standards under subsection K. of this district subject to Planning Board review and approval.

1. Walkable, Pedestrian-Oriented Design Required of all Planned Developments within the B2 District

Appropriately designed and oriented sidewalks and other pedestrian amenities are critical to promote walk-ability, pedestrian activity, and a sense of place within planned developments in the B2 District. Sidewalks shall be designed to provide linkages and continuity between each use and building within a planned development as well as connections to abutting uses and the pedestrian network along the adjacent roadways. Where pedestrian traffic and activity is likely to be intense, such as along storefronts, at the entrances to buildings, or at a common gathering place, sidewalks shall be properly proportioned to accommodate this activity and to establish a pedestrian realm.

2. Unified and Coordinated Building Architecture, Signage, and Lighting

Development and redevelopment of larger parcels in the B2 District requiring Planned Development Review shall exhibit a high level of architectural planning and design. Planned Developments with multiple buildings and/or building lots shall establish unified and coordinated architectural themes that are exhibited throughout the development. Likewise, a coordinated signage and lighting plan shall be required of the Planned Development that establishes a theme and sense of place within the development.

3. Open Space and Natural Resource Conservation

Planned Developments shall be designed with respect for the natural resources and topography of the site. Significant wetlands, vernal pools and critical wildlife habitat areas shall be avoided, buffered and conserved. These significant natural resource areas that are greater than one (1) acre in size shall be conserved as common open space, while smaller significant natural resource areas may be incorporated into individual building lots or development sites. Open space lands may

SECTION XIX. REGIONAL BUSINESS DISTRICT B-2. [04/16/08][Amended 08/19/09]

include a trail system for walking, hiking, biking or similar activities if such a trail system can be accommodated without adverse impact to the natural resources.

4. Access Management and Interconnections

Access to Planned Developments from Payne Road and Gorham Road (Route 114) shall be strictly controlled to limit the number of curbs cuts along these roadways. Planned Developments shall also make provisions for street and driveway interconnections to abutting properties to enable cross connections, the shared use of curb cuts and intersections and to reduce the overall number of curb cuts on Payne Road and Gorham Road.

5. Required of Planned Developments to Establish a Gasoline Filling Station

Gasoline filling stations are allowed only through the planned development review process. The planned development review process is required for gasoline filling stations to ensure that the use is compatible with surrounding uses and is designed in a manner that reinforces the purpose of the B2 district. In addition to planned development review, gasoline filling stations must comply with the performance standards of Section IX.(X.) of this Ordinance.

K. FLEXIBLE DESIGN STANDARDS FOR PLANNED DEVELOPMENTS [Adopted 08/19/09]

The following flexible design standards may be applied to a Planned Development project, subject to Planning Board review and approval.

1. On-street parking – On-street parking is a primary characteristic of compact and pedestrian friendly development. On-street parking can provide spaces directly in front of non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can slow vehicular traffic in the street. A planned development may include new streets or driveways with parallel or angled on-street parking or “on-driveway” parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

2. Flexible lot coverage – The Planning Board shall determine the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces in a planned development if the planned development includes “green building” technology or approaches that compensate for the additional lot coverage proposed. Examples of “green building” approaches may include green roof systems, porous pavement, photovoltaic and other forms of distributed energy, and other techniques as reviewed and approved by the Planning Board. If the planned development does not include green building technology, then the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces shall be governed by subsection F. of this district

d. Flexible yard standards - The Planning Board shall determine the yard requirements for a planned development by applying the standards of subsection K. In reviewing a planned development, the Planning Board may use the Yard Standards under subsection F. as a guideline, but is not required to apply them. This enables the Planning Board to allow buildings to be sited closer to the street than conventional development to meet the standards of subsection K. and further the purpose of this district.

SECTION XIXA. GENERAL BUSINESS DISTRICT B3 [04/16/2008]

SECTION XIXA. GENERAL BUSINESS DISTRICT B3 [04/16/2008]

A. PURPOSE

The purpose of this district is to provide for and encourage general retail, office, service, lodging, and civic uses along portions of the Town's major roadways. This district is intended to accommodate a wide range of non-residential activities that primarily serve the residents of Scarborough and the immediate region. As development and/or redevelopment occur within the district, the visual environment is enhanced, traffic flow and safety are improved, and provisions for pedestrians are made. Master planning for larger parcels, uses, and buildings, as well as mixed-use developments enable flexibility, creativity, conservation and residential uses in this district fostering areas of increased activity, vibrancy and sustainability.

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage, scale, uses, and design of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsection F. or may be reviewed as a Planned Development applying the quantitative and qualitative standards and design criteria of subsections G and L of this district and Section VIIE of this Ordinance.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than five (5) acres of land may be reviewed as a conventional development or as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing to:

- a. Develop or redevelop five (5) acres or more of land,
- b. Incorporate residential uses within the development,
- c. Exceed the space and bulk requirements for conventional development,
- d. Establish a gasoline filling station, or
- e. Any combination of a, b, c., and d.

are required to be reviewed as Planned Developments in accordance with the applicable standards of subsection L. Development Standards for Planned Developments of this district and Section VIIE Planned Development of this Ordinance.

C. PERMITTED USES – CONVENTIONAL AND PLANNED DEVELOPMENT NON-RESIDENTIAL USES:

The following non-residential uses are permitted in both conventional and planned developments, subject to the limitation on the maximum floor area per unit of occupancy set forth in Sections F and G:

- 1.** Retail sales and services, excluding outdoor sales and services
- 2.** Personal services
- 3.** Restaurants
- 4.** Professional offices

SECTION XIXA. GENERAL BUSINESS DISTRICT B3 [04/16/2008]

5. Business services and business offices
6. Financial, insurance and real estate offices
7. Health clubs
8. Fully enclosed places of assembly, amusement, culture and government, exclusive of video arcades, amusement parlors, video gambling, casino gambling and off-track betting
9. High technology facilities, subject to the performance standards of Section IX(M) of this Ordinance
10. Hotels and motels
11. Non-municipal government offices
12. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions
13. Clubs and lodging houses
14. Passenger transportation facilities
15. Funeral homes
16. Places of worship
17. Group day care homes, day care facilities, and nursery schools, subject to the standards of Section IV(I)(6) of this Ordinance, but special exception approval by the Zoning Board of Appeals is not required
18. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
19. Telecommunication Facilities [effective 11/15/14]

The following non-residential uses are permitted in both conventional and planned developments without regard to the limitation on floor area per unit of occupancy.

20. Municipal buildings and uses
21. Elementary and secondary schools
22. Libraries and museums
23. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance. [Adopted 10/07/15]

D. SPECIAL EXCEPTIONS

The following uses are allowed as special exceptions in both conventional and planned developments, subject to the limitation on the maximum floor area per unit of occupancy set forth in Sections F and G:

1. Adjunct Uses, Place of Worship
2. Public utility facilities
3. Outdoor storage, exclusive of fuel stored in bulk

E. ADDITIONAL PERMITTED USES – PLANNED DEVELOPMENT

In addition to the permitted uses allowed in subsection C., the following uses are allowed only in planned developments:

SECTION XIXA. GENERAL BUSINESS DISTRICT B3 [04/16/2008]

NON-RESIDENTIAL USES [Amended 06/20/12]:

1. Gasoline filling stations whether as a principal or accessory use but only if they meet one of the following locational criteria and subject to the performance standards of Section IX.(X.) of this Ordinance:

- a. Are located on a lot that abuts Route One, or
- b. Are located so that all fueling facilities and vehicle service or storage areas are located within one thousand two hundred fifty (1250) feet of the point of intersection of the centerlines of the Payne Road and Haigis Parkway

MIXED USES:

2. Dwelling units in a mixed use building. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV(I) of this Ordinance

3. Live/Work Units

RESIDENTIAL USES [Amended 06/20/12]:

- 4.** Boarding care facility for the elderly, subject to the performance standards of Section IX(C)
- 5.** Nursing homes

F. SPACE AND BULK REGULATIONS – CONVENTIONAL DEVELOPMENT

The following space and bulk regulations are applicable to conventional developments:

Minimum lot area	10,000 sq. ft.
Minimum street frontage	200 feet on collector or arterial streets 100 feet on local streets
Minimum front yard	35 feet
Minimum side and rear yards	15 feet required except where the side and/or rear yard abuts a residential district in which case it/they shall be a minimum of 50 feet and the buffering requirements of this ordinance shall be met.
Maximum building coverage	50%
Maximum floor area per unit of occupancy for uses permitted in subsections C. and D. that are subject to a size limit .	30,000 square feet
Maximum individual building footprint for uses permitted in subsections C. and D. that are subject to a floor area limit	30,000 square feet
Maximum building height	45 feet

SECTION XIXA. GENERAL BUSINESS DISTRICT B3 [04/16/2008]

G. SPACE AND BULK REGULATIONS – PLANNED DEVELOPMENT

The following space and bulk regulations are applicable to Planned Developments:

Minimum lot area	10,000 sq. ft.
Minimum street frontage	200 feet on arterial or collector streets 100 feet on local streets
Minimum front yard	35 feet
Minimum side and rear yards	15 feet required except where the side and/or rear yard abuts a residential district in which case it/they shall be a minimum of 50 feet and the buffering requirements of this ordinance shall be met
Maximum building coverage	Determined by the Planning Board under subsection L.(2) flexible building coverage
Maximum floor area per unit of occupancy for uses permitted in subsection C. and D. that are subject to a size limit	80,000 square feet as determined by the Planning Board under subsection L(2) flexible floor area per unit of occupancy, except that for a building located within one thousand five hundred (1,500) feet of the point of intersection of the centerlines of the Payne Rd and Haigis Parkway the maximum floor area per unit of occupancy shall be 150,000 square feet as determined by the Planning Board under subsection L(2) flexible floor area per unit of occupancy (Amended 06/20/12)
Maximum individual building footprint for uses permitted in subsection C. and D. that are subject to a floor area limit	Determined by Planning Board under subsection L(2) flexible maximum individual building footprint
Maximum building height	45 feet

H. RESIDENTIAL DENSITY REGULATIONS FOR PLANNED DEVELOPMENTS

Within this zoning district the Residential Density Factors in Section VII C. A. of this Ordinance shall apply to dwelling units in a mixed-use building or live/work units that may be allowed in a planned development.

1. Maximum Base Residential Density – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.

Dwelling units located in a mixed use building or live/work units	3 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance
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2. Additional Residential Density Thru Development Transfer – A development may incorporate up to three (3) additional dwelling units per acre of net lot area beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance.

SECTION XIXA. GENERAL BUSINESS DISTRICT B3 [04/16/2008]

3. Additional Residential Density Thru Affordable Housing – A development may incorporate up to one (1) additional dwelling unit per acre of net lot area beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee – In lieu of developing affordable housing to utilize additional residential density under subsection H.3., a development may incorporate up to one (1) additional dwelling unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing In-Lieu Fee provisions in accordance with Section VII.C. of this Ordinance. [Adopted 08/20/2014]

The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed three (3) dwelling units per acre of net lot area beyond the maximum base residential density. [Amended 08/20/2014]

I. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

1. Streetscape Buffer Strip: A landscaped or naturally vegetated buffer strip shall be established and/or maintained along the front property line of a lot where it abuts a public street. The width of the buffer strip shall be a minimum of fifteen (15) feet when it is adjacent to Route One or Payne Road and ten (10) feet when it is adjacent to any other public street. The buffer strip shall be designed to separate the development from the street and to enhance the visual environment of the street. The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to water bodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review. In addition, the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance and Design Standards for Scarborough's Commercial Districts. The buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip.

2. Buffering of Parking: Parking lots and associated access drives must be buffered from adjacent public streets in accordance with the Design Standards for Scarborough's Commercial Districts.

3. Commercial Design Standards: All development in the B3 District must be consistent with the Design Standards for Scarborough's Commercial Districts.

4. Pedestrian and Bicycle Facilities: All developments shall provide for pedestrian movement to and within the parcel in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities such as bike racks and bike lanes if the scale of the project makes these reasonable

SECTION XIXA. GENERAL BUSINESS DISTRICT B3 [04/16/2008]

J. OFF-STREET PARKING APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

K. SIGNS, APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

L. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS

The General Business District (B3) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district by providing provisions for larger buildings and uses, opportunities for mixed use development, the establishment of gasoline filling stations, and master planning for large development sites.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VIIE Additional Requirements for Planned Development.

PLANNED DEVELOPMENT STANDARDS

1. Walkable, Pedestrian-Oriented Design Required of all Planned Developments within the B3 District

Appropriately designed and oriented sidewalks and other pedestrian amenities are critical to promote walk-ability, pedestrian activity, and a sense of place within planned developments in the B3 District. Sidewalks shall be designed to provide linkages and continuity between each use and building within a planned development as well as connections to abutting uses and the pedestrian network along the adjacent roadways. Where pedestrian traffic and activity is likely to be intense, such as along storefronts, at the entrances to buildings, around residential dwellings, or at a common gathering place, sidewalks shall be properly proportioned to accommodate this activity and to establish a pedestrian realm.

2. Human Scale Design Required of all Planned Developments within the B3 District

Building height, massing and facades as well as building orientation to streets, driveways and parking areas are critical to establishing a human scale development. Within the B3 District, buildings should be designed to exhibit a strong relationship with the street(s) that they front. Parking should be dispersed on the site with no major expanse of parking between the building(s) and the street(s) or between individual buildings within the planned development. Coupled with this, planned developments incorporating multiple buildings shall be designed in a compact manner with buildings sited in close proximity to each other with pedestrian connections, design features and amenities that establish a pedestrian realm as required in subsection 1 above. This design may include human scale lighting, appropriately sized sidewalks, shade trees, benches and the like. Human scale design elements may also include a common, green space, court, plaza or

SECTION XIXA. GENERAL BUSINESS DISTRICT B3 [04/16/2008]

the like that is an integral part of the planned development and is located at or near the center of the planned development in a high activity location.

3. Required of Planned Developments Utilizing Green Building Design to Exceed Conventional Space and Bulk Regulations

The allowance to exceed the space and bulk requirements for conventional development through the use of green building techniques shall not take effect until the Town Council has enacted the development standards for green building design to be inserted in this subsection or to be added in new performance standard section of this Ordinance.

4. Required of Planned Developments Incorporating Residential Uses

Live/work units and residential dwellings within a mixed-use building are allowed as part of a planned development provided they meet the requirements of this section. In reviewing a planned development with residential uses, the Planning Board shall only permit residential uses that are designed in a manner and sited in locations that are appropriate and conducive to housing. Accordingly, the Planning Board shall find that residential uses within a planned development meet each of the following standards:

- a. The proposed residential dwellings are sufficiently setback and/or buffered from major roadways as well as major internal circulation routes and large parking areas so as to ensure a safe, sanitary, and healthful environment for residents
- b. The non-residential uses within the planned development are compatible with residential uses with respect to noise, odors, intensity of use, health and safety, and aesthetics.
- c. Residential uses are designed with outdoor amenities, open spaces or common places usable for the active or passive recreation of residents. Such spaces can be a community green or common; plaza; court; square; pocket park or some variation of each. The Planning Board may determine that these spaces be designed and available to only the residents in the project or available for non-residential and public use depending on the layout, design and nature of the planned development.

5. Required of Planned Developments Incorporating Boarding Care Facilities for the Elderly or Nursing Homes [Amended 06/20/12]

Boarding care facilities for the elderly and nursing homes are allowed in this District provided they are reviewed through the planned development process and provided they meet the requirements of this section. In reviewing such a planned development, the Planning Board shall only permit these uses if they are designed in a manner and sited in locations that are appropriate and conducive to these types of facilities. Accordingly, the Planning Board shall find that these uses, and their design and location, meet each of the following standards:

- a. Given the B3 District is principally a business district, boarding care facilities for the elderly and nursing homes shall be adequately screened and buffered from adjacent properties and non-residential uses. This buffering shall provide a visual screen as well as minimize the impacts of noise or odors that may be generated by abutting uses. Buffering may include the preservation of natural vegetation, new landscaping, berms or other means to fulfill this standard.
- b. The proposed facility shall be sufficiently setback and/or buffered from major roadways so as to ensure a safe, sanitary, and healthful environment for residents.

SECTION XIX.A. GENERAL BUSINESS DISTRICT B3 [04/16/2008]

- c. If other non-residential uses are proposed within the same planned development, these other uses must be compatible with a boarding care facility or nursing home with respect to noise, odors, intensity of use, health and safety, and aesthetics.

6. Required of Planned Developments to Establish a Gasoline Filling Station

Gasoline filling stations are allowed only through the planned development review process. The planned development review process is required for gasoline filling stations to ensure that the use is compatible with surrounding uses and is designed in a manner that reinforces the purpose of the B3 district. In addition to planned development review, gasoline filling stations must comply with the performance standards of Section IX.(X.) of this Ordinance. [Amended 06/20/12]

SECTION XX. BUSINESS OFFICE-RESEARCH DISTRICT BOR. [Adopted 11/07/07][Amended 12/01/10]

SECTION XX. BUSINESS OFFICE-RESEARCH DISTRICT BOR. [Adopted 11/07/07][Amended 12/01/10]

A. PURPOSE

To provide an area within the Town of Scarborough that allows for the growth and development of high quality office and research uses that result in the area becoming a major employment center. As development and/or redevelopment occurs within the district, the visual environment is enhanced, Route One is re-established as a “landscaped parkway”, and the Nonesuch River and adjacent wetlands are buffered from the impacts of the development.

B. PERMITTED USES

- 1. Medical/diagnostic facilities**
- 2. Places of worship**
- 3. Municipal buildings and uses**
- 4. Non-municipal government buildings and use**
- 5. Instructional and educational services**
- 6. Nonresidential institutional uses**
- 7. Business and professional offices**
- 8. Business services**
- 9. Financial, insurance and real estate offices**
- 10. Personal service establishments**
- 11. Retail business and service establishments with less than 5,000 square feet of gross floor area, excluding car washes**
- 12. Restaurants with no drive-through service**
- 13. Funeral homes**
- 14. Health clubs**
- 15. Motor vehicle (automobile) sales, repair and service facilities existing as of September 1, 2007**
- 16. High technology facilities, subject to the performance standards of Section IX(M) of this ordinance [04/16/08]**
- 17. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]**

SECTION XX. BUSINESS OFFICE-RESEARCH DISTRICT BOR. [Adopted 11/07/07][Amended 12/01/10]

18. Hotels and motels existing as of September 1, 2007

19. Sale, rental and/or service of heavy equipment or specialized motor vehicles (other than passenger cars) existing as of September 1, 2007

20. Mini-Warehouse/Storage Facilities existing as of September 1, 2007

21. Contractor's offices, shops and storage yards existing as of September 1, 2007

22. Telecommunication Facilities

C. SPECIAL EXCEPTIONS

1. Group day care homes, day care center facilities, and nursery schools

2. Adjunct uses, place of worship

3. Public utility facilities

D. SPACE AND BULK REGULATIONS

Minimum lot area	10,000 sq. ft.
Minimum street frontage:	200 feet
Minimum front yard	35 feet
Minimum side and rear yards	15 feet required except where the side and/or rear yard abuts a residential district in which case it/they shall be a minimum of 50 feet and the buffering requirements of this ordinance shall be met.
Maximum building coverage	50%
Maximum building height	6 stories or 75 feet whichever is less, except that any portion of a building located within 150 feet of a residential district shall be limited to 35 feet in height.

E. ADDITIONAL DEVELOPMENT STANDARDS

1. Streetscape Buffer Strip: A landscaped or naturally vegetated buffer strip shall be established and/or maintained along the front property line of a lot where it abuts a public street. The width of the buffer strip shall be a minimum of twenty-five (25) feet when it is adjacent to Route One and fifteen (15) feet when it is adjacent to any other public street. The buffer strip shall be designed to separate the development from the street and to enhance the visual environment of the street. The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to waterbodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review. In other areas, the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance and Design Standards for Scarborough's Commercial Districts. The buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip.

SECTION XX. BUSINESS OFFICE-RESEARCH DISTRICT BOR. [Adopted 11/07/07][Amended 12/01/10]

2. Buffering of Parking: Parking lots and associated access drives must be buffered from adjacent public streets in accordance with the Design Standards for Scarborough's Commercial Districts.

3. Commercial Design Standards: All development in the BO-R District must be consistent with the Design Standards for Scarborough's Commercial Districts.

4. Pedestrian and Bicycle Facilities: All developments shall provide for pedestrian movement to and within the parcel in accordance with Section IV(E) of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities such as bike racks and bike lanes if the scale of the project makes these reasonable.

F. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

G. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XXA. RUNNING HILL – GORHAM ROAD MIXED USE DISTRICT, RH
[Amended 07/16/14]

SECTION XXA. RUNNING HILL – GORHAM ROAD MIXED USE DISTRICT, RH
[Amended 07/16/14]

A. PURPOSE

To provide for and encourage the Running Hill Road and Gorham Road area west of the Maine Turnpike to develop as a high-quality, well-planned mixed use center. This district is intended to accommodate a mix of office, service, financial, research, small retail, recreational and residential uses in an environment conducive to both pedestrians and motorists. Development is intended to be compact and interconnected with common spaces, enabling walk-ability, human activity and vibrancy as well as convenient and orderly vehicular access and circulation. Master planning for larger parcels will enable flexibility, creativity, open spaces, and an overall character for the development. The Running Hill Road – Gorham Road Mixed Use District (RH) shall be considered a business district whenever this Ordinance distinguishes between types of districts.[Amended 07/16/14]

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage, scale and site layout of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsection E. or may be reviewed as a Planned Development applying the qualitative standards and design criteria of subsection I. of this district.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than 5 acres of land, except for newly created lots addressed in 3. New Lots, may be reviewed as a conventional development or may be reviewed as a Planned Development, at the applicant's option. [Amended 07/16/14]

2. Planned Developments. Projects that are proposing to develop or redevelop 5 acres or more of land, shall be reviewed as Planned Developments in accordance with the standards of subsection I. Qualitative Development Standards for Planned Development of this district and Section VIIE. Planned Development of this Ordinance.

3. New Lots. The division of a parcel that had five (5) acres or more of area as of July 16, 2008, into two or more lots as well as the subsequent development of the new lots regardless of their size shall be reviewed as a Planned Development in accordance with the standards of subsection I. Qualitative Development Standards for Planned Development of this district and Section VIIE. Planned Development of this Ordinance. [Amended 07/16/14]

C. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS

RESIDENTIAL USES

The following residential uses are permitted in both conventional and planned developments:

- 1. Multifamily dwellings**
- 2. Multiplex dwellings**
- 3. Townhouses**

SECTION XXA. RUNNING HILL – GORHAM ROAD MIXED USE DISTRICT, RH
[Amended 07/16/14]

4. Senior housing
5. Single-family dwellings existing as of September 1, 2008
6. Accessory units subject to the performance standards of Section IX.J.

MIXED USES

The following mixed uses are permitted in both conventional and planned developments:

7. Dwelling units in a mixed use building. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV.(I) of this Ordinance
8. Live/Work Units
9. Retail sales and services establishments with less than 5,000 square feet of retail floor area per unit of occupancy, excluding car washes, gasoline filling stations and outdoor sales and services, if located in a mixed use building that includes other non-residential uses and/or residential uses
10. Restaurants with no drive-through service if located in a mixed use building that includes other non-residential uses and/or residential uses
11. Personal services if located in a mixed use building that includes other non-residential uses and/or residential uses

NON-RESIDENTIAL USES:

12. Professional offices
13. Business services and business offices
14. Financial, insurance and real estate offices
15. High technology facilities, subject to the performance standards of Section IX(M) of this Ordinance
16. Health clubs
17. Non-municipal government offices
18. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions
19. Funeral homes
20. Place of worship
21. Group day care homes, day care facilities, and nursery schools
22. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
23. Family day care homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required
24. Municipal buildings and uses
25. Elementary and secondary schools
26. Libraries and museums
27. General purpose farming existing as of September 1, 2008 including the retail sales of farm produce located on the same premises and kennels, but exclusive of abattoirs and piggeries
28. Golf courses [Amended 07/16/14]
29. Nursing Homes [Amended 07/16/14]
30. Boarding care facilities for the elderly [Amended 07/16/14]
31. Telecommunication Facilities

D. SPECIAL EXCEPTIONS

The following uses are allowed as special exceptions in both conventional and planned developments:

1. Adjunct Uses, Place of Worship
2. Public utility facilities
3. Residential and long-term care facilities for the ill, aged or disabled with no more than 20,000 square feet of floor area per unit of occupancy. If the facility includes dwelling units, then the regulations governing the particular type of dwelling shall apply

E. SPACE AND BULK REGULATIONS

The following space and bulk regulations are applicable to conventional developments:

1. Minimum Lot Area and Dimensions

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Minimum Lot Width (ft.)
Multi-family dwellings; multiplex; townhouses; senior housing	10,000 with public sewer 40,000 with on-site sewage disposal	200 for lots abutting Running Hill Road or Gorham Road; 50 for lots abutting any other street	50
Non-Residential and Mixed Uses	10,000 with public sewer 40,000 with on-site sewage disposal	200 for lots abutting Running Hill Road or Gorham Road; 50 for lots abutting any other street	50
Single-family dwellings existing as of September 1, 2008	The space and bulk regulations of Section XIV., the RF District shall apply		

2. Yard Standards - The following minimum front yard standards apply in conjunction with subsection G. of this district.

Abutting Streets	Minimum Front Yard (ft.)	Side and Rear Yard (ft.)
Running Hill Road and Gorham Road	30 or the height of the building fronting Running Hill Road or Gorham Road, whichever is greater	15 ^{1 & 2}
All other streets	10	15 ^{1 & 2}
Single-family dwellings existing as of September 1, 2008	The space and bulk regulations of Section XIV., the RF District shall apply	

SECTION XXA. RUNNING HILL – GORHAM ROAD MIXED USE DISTRICT, RH
[Amended 07/16/14]

¹When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

²When a site abuts a residential district the minimum yard for a use other than a single-family dwelling shall be 100ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

3. Maximum Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
50%	85%	A building must be either a minimum of 2 stories or 20 feet in height over at least 50% of the building footprint	45 feet

For single-family dwellings existing as of September 1, 2008, the space and bulk regulations of Section XIV., the RF District shall apply.

The following space and bulk regulations are applicable to Planned Developments:

4. Minimum Lot Area and Dimensions

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Multi-family dwellings; multiplex; townhouses; senior housing	10,000	200 for lots abutting Running Hill Road or Gorham Road; for lots abutting any other street the Planning Board shall determine the lot frontage under subsection I. of this district	50
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Running Hill Road or Gorham Road; for lots abutting any other street the Planning Board shall determine the lot frontage under subsection I. of this district	50

5. Yard Standards and Building Distance Requirements – The following minimum front yard standards apply in conjunction with subsection I. of this district.

Abutting Streets	Minimum Front Yard (ft.)	Side and Rear Yard (ft.)
Running Hill Road and Gorham Road – Buildings	30 or the height of the building fronting Running Hill Road or Gorham Road, whichever is greater	15 ^{1 & 2}
All other streets	10	15 ^{1 & 2}

6. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
Determined by the Planning Board under subsection I. of this district	85%	Determined by the Planning Board under subsection I. of this district	60 feet if the building is approved by the Planning Board under subsection I. of this district

F. RESIDENTIAL DENSITY REGULATIONS, APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Within this zoning district the Residential Density Factors in Section VII C. A. of this Ordinance shall apply to multi-family, multiplex, townhouse, live/work, senior housing or dwelling units in a mixed-use building

1. Maximum Base Residential Density – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions

Multi-family, multiplex, townhouse dwellings, live/work units, senior housing and dwelling units located in a mix use building	5 dwelling units per acre of net lot area if served by public sewer or 1 dwelling unit per acre if serviced by on-site sewage disposal. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance
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2. Additional Residential Density Thru Development Transfer – A development that is served by the public sewer system may incorporate up to ten (10) additional dwelling units per acre of net lot area beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID. of this Ordinance.

3. Additional Residential Density Thru Affordable Housing – A development that is served by the public sewer system may incorporate up to ten (10) additional dwelling unit per acre of net lot area beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee – In lieu of developing affordable housing to utilize additional residential density under subsection F.3., a development that is served by the public sewer system may incorporate up to ten (10) additional dwelling unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing In-Lieu Fee provisions in accordance with Section VII.C. of this Ordinance.

The Planning Board may allow a development that is served by the public sewer system to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed ten (10) dwelling units per acre of net lot area beyond the maximum base residential density. If subsections F.2., F.3., and/or F.4. are used, the additional dwelling units permitted under F.3. and/or F.4. shall not also be subject to the development transfer provisions under F.2.

G. BUILDING ORIENTATION, STREETScape, ACCESS MANAGEMENT AND OFF-STREET PARKING STANDARDS, APPLICABLE TO CONVENTIONAL DEVELOPMENTS

The design of a development site, and more specifically the orientation of buildings to Running Hill Road and Gorham Road, the streetscape of Running Hill and Gorham Roads, access management as well as the location, layout and form of site parking, are fundamental to realizing the purpose of this district.

1. Streetscape – A landscaped buffer strip shall be established along the front property line of a lot where it abuts Running Hill Road or Gorham Road. The width of the landscaped buffer strip shall be a minimum of thirty (30) feet. Where trees exist within the buffer strip the Planning Board may require these trees to be saved to preserve this corridor. Where significant trees do not exist the buffer strip shall be landscaped in accordance with the Site Plan Review Ordinance, the Design Standards for Scarborough's Commercial Districts and any subsequent Running Hill Road or Gorham Road corridor landscaping plan. In addition to landscaping, the buffer strip may contain sidewalks or pedestrian trails, freestanding signage, and an access drive to the site.

2. Building Orientation – The location of buildings and their orientation to Running Hill and Gorham Roads is critical to establishing attractive gateways into the Town of Scarborough. Buildings fronting Running Hill and Gorham Roads shall be located relatively close to the street to exhibit a strong relationship with the street and shall be designed in coordination with the required landscape buffer strip. The height of buildings shall be proportional to their distance (or setback) from the Running Hill or Gorham Road right-of-way. The front line of buildings two-stories or thirty (30) feet in height may be sited as close as thirty (30) feet from the right-of-way, while taller buildings are required to be setback from these roads in proportion to their height in order to correspond with the landscaped buffer strip and not shadow or visually dominant the road corridors.

3. Access Management and Interconnections – Access management is critical to preserving mobility in the Running Hill and Gorham Road corridor as well as to establish attractive gateways into the Town of Scarborough. Where feasible, adjacent sites shall be interconnected through the use of internal driveways or streets and shall establish one common curb cut onto the road in order to share an access point and reduce the number of curb cuts along the corridor. Site access shall also be designed in accordance with the Site Plan Review Ordinance.

4. Off-Street Parking Location –No off-street parking shall be located within the front yard of sites fronting Running Hill or Gorham Roads. The front yard shall be used to meet the streetscape requirements of subsection G.1. above and may also include sidewalks, other pedestrian amenities, street lighting, site access drives, and additional landscaping or buffering that exceeds the minimum requirements of subsection G.1. above.

Therefore on sites fronting Running Hill or Gorham Roads off-street parking shall be located to the side or rear of the building or may be incorporated into the building design as structured parking. Further, where parking lots and associated access drives are visible from these roads they shall be buffered in accordance with the Design Standards for Scarborough's Commercial Districts.

H. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

1. Signs - Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

2. Commercial Design Standards – All development within the Running Hill – Gorham Road Mixed Use District must be consistent with the Design Standards for Scarborough's Commercial Districts.

3. Pedestrian, Bicycle and Mass Transit Facilities – All developments shall provide for pedestrian movement to and within the site in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities, such as bike racks and bike lanes, if the scale of the project makes these reasonable. Provisions must also be incorporated into new developments for mass transit use, such as bus stops and bus stop shelters, if the scale of the project makes these reasonable.

4. Public Sewer Service – All new development or redevelopment within a planned development shall be served by public sewer. All new, expanded, or redeveloped buildings that are part of a conventional development shall be service by the public sewer system unless all of the following are met in which case sewage disposal may be provided by an on-site sewage disposal system meeting the requirements of the Maine State Plumbing Code and the Town of Scarborough Plumbing Ordinance.

- a. The design sewage flow of the use will be less than six hundred (600) gallons per day based on the Maine State Plumbing Code, and;
- b. Only domestic type sewage will flow to the on-site sewage disposal system. No process water shall go to the system, and;
- c. The project will be designed to be connected to a public sewer system in the adjacent street if such a sewer is ever extended.

Existing single-family dwellings served by on-site wastewater systems shall not be subject to this requirement until the single-family dwelling is changed, converted or redeveloped to a new use.

5. General Off-Street Parking Standards -

- a. Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except as otherwise permitted in this subsection.
- b. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses. In the RH District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

I. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS

The Running Hill – Gorham Road Mixed Use District (RH) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough's Commercial Districts and provide more specific requirements for development in the RH District.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VIIIE. Planned Development.

1. PLANNED DEVELOPMENT STANDARDS

A planned development shall be designed in a manner that reinforces the RH District as a mixed use center. Buildings, parking, pedestrian amenities, landscaping, streets and common space shall be arranged in a compact, interconnected development pattern that exhibits a human scale and a mix of land uses.

a. Running Hill and Gorham Road Streetscapes – The streetscapes along Running Hill Road and Gorham Road are critical to establishing attractive gateways into Scarborough with shade trees and a generous landscaped buffer strip along the road right-of-way. This landscape buffer shall meet or exceed the thirty (30') foot width required of conventional developments. The planned development process will be used to identify areas along these roads where existing trees and vegetation shall be preserved as well as areas in which new shade trees and landscaping shall be planted to enhance this corridor. Buildings may be visible from these roads but shall be setback from and separated from the street by this landscaped buffer. In addition to landscaping, sidewalks, pedestrian trails, freestanding signage and access drives are permitted within the buffer strip, but parking is not.

b. Internal Street Streetscape - The streetscape along internal streets and driveways within a planned development shall differ from the streetscape along Running Hill Road and shall exhibit a more compact layout, form and scale. The streetscape along internal streets and driveways within a planned development shall be designed with shade trees on both sides; road widths that are of a more compact, urban scale; human scale street lighting; frequent intersections and crosswalks; and

sidewalks as per standard I(1)c. below. The streetscape of internal streets may also include on-street parking on one or both sides of the streets or driveways.

c. Walk-able, pedestrian-oriented design – Appropriately designed and oriented sidewalks, and other pedestrian amenities, are critical to promote walk-ability, pedestrian activity, and a sense of place within the RH District. Sidewalks or pedestrian trails shall be designed along both Running Hill and Gorham Roads and internal streets and shall be a primary component of each streetscape. Pedestrian amenities along Running Hill and Gorham Roads should generally be setback from the street leaving a larger landscaped buffer strip along the roadway. Sidewalks along internal streets and driveways should be closer to the roadway creating a more compact environment as per standard (I)1.b. above. In general, sidewalks or pedestrian trails shall be designed to provide linkages and continuity between each use within a planned development as well as connections to abutting uses to establish a greater pedestrian network.

d. Building Orientation for Buildings 45 feet or less in Height – Buildings shall be a key component of the streetscape and exhibit a strong relationship to the street and associated sidewalks and landscaping. For buildings 45 feet in height or less, off-street parking shall not be permitted between the front line of the building and the street that the building fronts. Off-street parking shall be located to the side or rear of the building(s) or as a component of the building in the case of structured or covered parking. In planned developments with multiple buildings on one lot, the Planning Board may allow some buildings to be setback from the street(s) or driveways with parking between those buildings and the street provided: other buildings front the street(s) or driveways and maintain a more compact, human scale streetscape; there is continuity between buildings with no major expanse of parking; and the development meets or exceeds each of the other planned development standards.

e. Building Orientation and Visual Impact for Buildings Greater than 45 feet in Height – The Planned Development provisions enable the Planning Board to review and approve of buildings greater than forty-five (45) feet in height, up to a maximum of sixty (60) feet in height, if the Planning Board finds that the building meets all of the following standards:

- 1) The apparent height of the proposed building when viewed from the Running Hill Road or Gorham Road is no greater than the apparent height of a similar building with a height of forty-five (45) feet setback forty-five (45) feet from the road considering the topography of the site and the actual height of the proposed building;
- 2) The proposed building will not shadow or visually dominate the road corridor;
- 3) The proposed building will not significantly alter the appearance of the natural tree line of Running Hill when viewed from the surrounding area including from South Portland; and
- 4) Any portion of the building that is taller than forty-five (45) feet will be located at least five hundred (500) feet from an RF District or other residential zone unless the Planning Board determines that there is adequate visual buffering between the building and the RF District or other residential zone to assure that the proposed building does not have an adverse visual impact on properties in the RF District or other residential zones.

When determining the visual appropriateness of a building taller than forty-five (45) feet, the Planning Board may require graphic representations of how a building will look upon completion when viewed from various perspectives along the road corridor, from an RF District or other residential zones within five hundred (500) feet, and from surrounding viewing points in Scarborough and South Portland from which the proposed building may be visible. When

buildings are setback more than one hundred (100) feet from Running Hill or Gorham Roads, the Planning Board may permit off-street parking to be located between the building and the road provided it is screened in accordance with the streetscape requirements of subsection I.1.a above.

f. Place-making – A planned development shall include at least one “place” and potentially a number of “places”, depending on the size and scale of the development. A “place” shall be a common space(s) where people can gather, meet and cross paths. A “place” can be a community green or common; plaza; court; square or some variation of each. Regardless of the style or size, “places” are required to be designed as an integral part of a planned development in locations where people will naturally gather, meet and cross paths. “Places” shall be located at the core of the pedestrian realm of a planned development; shall be an element of the development streetscape and overall development pattern; and shall be available and desirable for public use. Areas for outdoor seating, court yards or green space associated with a particular use or establishment are desirable amenities, but should not be counted as a “place” unless they are available for public use.

g. Access management and interconnections – Access to planned developments from Running Hill Road and/or Gorham Road shall be strictly controlled to limit the number of curb cuts on these roads. Planned developments shall also make provisions for street and driveway interconnections to abutting properties to enable cross connections, to share the use of curb cuts and intersections, and to reduce the overall number of curb cuts on these roads.

2. DESIGN CRITERIA FOR PLANNED DEVELOPMENTS

The following design criteria shall apply to all planned developments. In addition, the Planning Board may require a planned development to be designed in conformance with any other standards of this Section XXA. when the Board finds that application of such standards will achieve conformity with the Planned Development Standards of section XXA.(I)(1).

a. On-street Parking On-street parking can provide spaces directly in front of residential and non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can act as a traffic calming measure. As indicated in subsection (I)(1) above, a planned development may include new internal streets or driveways with parallel or angled on-street parking or “on-driveway” parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

b. Flexible maximum building footprint – The Planning Board shall determine the allowable building footprint for each building in a planned development by applying the standards of subsection (I)(1), in particular subsection I.1.d. Compact design.

c. Flexible yard standards - The Planning Board shall determine the yard requirements and site layout and off-street parking configuration for a planned development by applying the standards of subsections (I) (1). In reviewing a planned development, the Planning Board may use the Yard Standards under subsection E.2. and the Site Layout and Off-Street Parking Regulations under subsection G. that correspond with the yard standards as guidelines, but is not required to apply them. This enables the Planning Board to allow buildings to be sited closer to internal streets than conventional development or require buildings to be set further back from Running Hill Road or internal streets to meet the standards of subsection (I) and further the purpose of this district.

SECTION XX.B. RUNNING HILL – GORHAM ROAD TRANSITION DISTRICT RH2
[Amended 07/16/2014]

SECTION XX.B. RUNNING HILL – GORHAM ROAD TRANSITION DISTRICT RH2
[Amended 07/16/2014]

A. PURPOSE

To provide an area for the location of small retail, business, service and community uses as well as a range of residential uses including multifamily dwellings and dwellings that are part of mixed use developments. The goal of the district is to supplement the RH District in fostering a high-quality, mixed use center, with development at a scale and uses at an intensity which are compatible with the surrounding area. This medium intensity mixed use district allows a range of land uses that are intended to compliment the core development pattern and uses in the RH District as well as serve as a transition to the surrounding rural residential areas. The Running Hill-Gorham Road Transition District shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage, scale and site layout of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsection E. or may be reviewed as a Planned Development applying the qualitative standards and design criteria of subsections E. and I.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than 5 acres of land, except for newly created lots addressed in 3. New Lots, may be reviewed as a conventional development or may be reviewed as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing to develop or redevelop 5 acres or more of land, shall be reviewed as Planned Developments in accordance with the standards of subsection I. Qualitative Development Standards for Planned Development of this district and Section VIIE. Planned Development of this Ordinance.

3. New Lots. The division of a parcel that had five (5) acres or more of area as of July 16, 2008, into two or more lots as well as the subsequent development of the new lots regardless of their size shall be reviewed as a Planned Development in accordance with the standards of subsection I. Qualitative Development Standards for Planned Development of this district and Section VIIE. Planned Development of this Ordinance.

C. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS

RESIDENTIAL USES:

The following residential uses are permitted in both conventional and planned developments:

1. Single family dwellings
2. Two family dwellings
3. Multifamily dwellings limited to no more than twelve (12) dwelling units per building
4. Multiplex dwellings
5. Townhouses limited to no more than eight (8) dwelling units per building

SECTION XX.B. RUNNING HILL – GORHAM ROAD TRANSITION DISTRICT RH2
[Amended 07/16/2014]

6. Senior housing

MIXED USES:

The following mixed uses are permitted in both conventional and planned developments:

- 7.** Dwelling units within a mixed use building limited to no more than eight (8) dwelling units per building. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV.(I)
- 8.** Live/Work Units
- 9.** Retail sales and services establishments with less than 1,000 square feet of retail floor area per unit of occupancy, excluding car washes, gasoline filling stations and outdoor sales and services, if located in a mixed use building that includes other non-residential uses and/or residential uses
- 10.** Restaurants with no drive-through service if located in a mixed use building that includes other non-residential uses and/or residential uses
- 11.** Personal services if located in a mixed use building that includes other non-residential uses and/or residential uses

NON-RESIDENTIAL USES:

The following mixed uses are permitted in both conventional and planned developments.

The following non-residential uses are limited to 5,000 square feet of floor area per unit of occupancy.

- 12.** Business services and business offices
- 13.** Professional offices
- 14.** Financial, insurance and real estate offices
- 15.** Day care center facilities and Nursery schools
- 16.** Group day care homes and Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required
- 17.** Health clubs

The following non-residential uses are not limited in square footage of floor area per unit of occupancy.

- 18.** Municipal buildings and uses
- 19.** Place of worship
- 20.** Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
- 21.** General purpose agriculture existing as of September 1, 2008 including retail sales of farm products located on the same premises and kennels, but exclusive of abattoirs and piggeries

The following non-residential uses are permitted in conventional developments on lots existing as of April 1, 2014, that have frontage on Gorham Road:

- 22.** Retail sales and services establishments with less than 2,500 square feet of retail floor area per unit of occupancy, excluding car washes, gasoline filling stations and outdoor sales and services
- 23.** Restaurants with no drive-through services

SECTION XX.B. RUNNING HILL – GORHAM ROAD TRANSITION DISTRICT RH2
[Amended 07/16/2014]

D. SPECIAL EXCEPTIONS

The following uses are allowed as special exceptions in both conventional and planned developments:

1. Nursing homes.
2. Boarding care facility for the elderly.
3. Public utility facilities.
4. Telecommunication facility.
5. Adjunct Uses, Place of Worship.
6. Home occupations. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under subsection (B)
7. Non-municipal government offices
8. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions, which are not otherwise permitted uses in this section
9. Funeral homes
10. Elementary and secondary schools
11. Libraries and museums

E. SPACE AND BULK REGULATIONS

The following space and bulk regulations are applicable to conventional developments:

1. Minimum Lot Area and Dimensions

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Single-family dwellings; two-family dwellings; multi-family dwellings; multiplex; townhouses; senior housing	10,000 with public sewer 40,000 with on-site sewage disposal	200 for lots abutting Running Hill Road or Gorham Road; 50 for lots abutting any other street	50
Non-Residential and Mixed Uses	10,000 with public sewer 40,000 with on-site sewage disposal	200 for lots abutting Running Hill Road or Gorham Road; 50 for lots abutting any other street	50

2. Yard Standards - The following minimum front yard standards apply in conjunction with subsection G. of this district.

Abutting Streets	Minimum Front Yard (ft.)	Side and Rear Yard (ft.)
Running Hill Road and Gorham Road	30 or the height of the building fronting	15 ^{1 & 2}

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	Running Hill Road or Gorham Road, whichever is greater	
All other streets	10	15 ^{1 & 2}

¹ When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

² When a site abuts a residential district the minimum yard for a use other than a single-family or two-family dwelling shall be determined bases on the use in the RH2 District in accordance with the following table. Where the buffer is required, it shall comply with the buffering requirements of Section VIII of this Ordinance.

<i>Use of the Site</i>	<i>Minimum yard and buffer width</i>
<i>Buildings and structures for all residential uses other than single- and two-family dwellings.</i>	<i>50 Feet</i>
<i>Buildings and structures for non-residential uses or mixed-uses with one story.</i>	<i>50 feet</i>
<i>Buildings and structures for non-residential uses or mixed-uses with more than one story.</i>	<i>100 feet</i>

3. Maximum Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
5,000 sq. ft.	35%	85%	None	3 stories or 45 feet, whichever is less

The following space and bulk regulations are applicable to Planned Developments:

4. Minimum Lot Area and Dimensions

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Single-family dwellings; two-family dwellings; multi-family dwellings; multiplex; townhouses; senior	10,000	200 for lots abutting Running Hill Road or Gorham Road; for lots abutting any other street the Planning Board shall	50

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housing		determine the lot frontage under subsection I. of this district	
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Running Hill Road or Gorham Road; for lots abutting any other street the Planning Board shall determine the lot frontage under subsection I. of this district	50

5. Yard Standards – Determined by the Planning Board under subsection I. of this district

6. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
5,000 sq. ft.	35%	85%	None	3 stories or 45 feet whichever is less

F. RESIDENTIAL DENSITY REGULATIONS, APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Within this zoning district the Residential Density Factors in Section VII C. A. of this Ordinance shall apply to multi-family, multiplex, townhouse, live/work, senior housing or dwelling units in a mixed-use building

1. Maximum Base Residential Density – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions

Single-family, two-family, multi-family, multiplex, townhouse dwellings, live/work units, senior housing and dwelling units located in a mix use building	5 dwelling units per acre of net lot area if served by public sewer or 1 dwelling unit per acre if served by on-site sewage disposal. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance
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2. Additional Residential Density Thru Development Transfer – A development that is served by the public sewer system may incorporate up to five (5) additional dwelling units per acre of net

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lot area beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID. of this Ordinance.

3. Additional Residential Density Thru Affordable Housing – A development that is served by the public sewer system may incorporate up to five (5) additional dwelling unit per acre of net lot area beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee – In lieu of developing affordable housing to utilize additional residential density under subsection F.3., a development that is served by the public sewer system may incorporate up to five (5) additional dwelling unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing in-lieu fee provisions in accordance with Section VII.C. of this Ordinance.

The Planning Board may allow a development that is served by the public sewer system to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed five (5) dwelling units per acre of net lot area beyond the maximum base residential density. If subsections F.2., F.3., and /or F.4. are used, the additional dwelling units permitted under F.3. and /or F.4. shall not also be subject to the development transfer provisions under F.2.

G. BUILDING ORIENTATION, STREETScape AND OFF-STREET PARKING STANDARDS, APPLICABLE TO CONVENTIONAL DEVELOPMENTS

The design of a development site, and more specifically the orientation of buildings to Running Hill Road and Gorham Road and internal streets, the streetscape of Running Hill Road and Gorham Road and internal streets, as well as the location, layout and form of site parking, are fundamental to realizing the purpose of this district.

1. Streetscape – A landscaped buffer strip shall be established along the front property line of a lot where it abuts Running Hill Road or Gorham Road. The width of the landscaped buffer strip shall be a minimum of thirty (30) feet. Where trees exist within the buffer strip the Planning Board may require these trees to be saved to preserve this corridor. The buffer strip shall be landscaped in accordance with the Site Plan Review Ordinance, the Design Standards for Scarborough's Commercial Districts and any subsequent Running Hill Road corridor landscaping plan. In addition to landscaping, the buffer strip may contain sidewalks or pedestrian trails, freestanding signage, and an access drive to the site.

2. Building Orientation - The location of buildings and their orientation to Running Hill and Gorham Roads is critical to establishing attractive gateways into the Town of Scarborough. Buildings fronting Running Hill and Gorham Roads shall be located relatively close to the street to exhibit a strong relationship with the street and shall be designed in coordination with the required landscape buffer strip. The height of buildings shall be proportional to their distance (or setback) from the Running Hill or Gorham Road right-of-way. The front line of buildings two-stories or thirty (30) feet in height may be sited as close as thirty (30) feet from the right-of-way, while taller buildings are required to be setback from these roads in proportion to their height

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in order to correspond with the landscaped buffer strip and not shadow or visually dominant the road corridors.

3. Access Management and Interconnections – Access management is critical to preserving mobility in the Running Hill and Gorham Road corridors as well as to establish attractive gateways into the Town of Scarborough. Where feasible, adjacent sites shall be interconnected through the use of internal driveways or streets and shall establish one common curb cut onto the road in order to share an access point and reduce the number of curb cuts along the corridor. Site access shall also be designed in accordance with the Site Plan Review Ordinance.

4. Off-Street Parking Location – No off-street parking shall be located within the front yard of sites fronting Running Hill or Gorham Roads. The front yard shall be used to meet the streetscape requirements of subsection G.1. above and may also include sidewalks, other pedestrian amenities, street lighting, site access drives, and additional landscaping or buffering that exceeds the minimum requirements of subsection G.1. above.

This standard shall not apply to single-family and two-family dwellings that may utilize driveways for parking within the front yard.

Where parking lots and associated access drives are visible from adjacent public streets, they shall be buffered in accordance with the Design Standards for Scarborough's Commercial Districts.

H. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

1. Signs - Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

2. Commercial Design Standards – All development within the Running Hill Road-Gorham Road Transition District, with the exception of single-family and two-family dwellings, must be consistent with the Design Standards for Scarborough's Commercial Districts.

3. Pedestrian, Bicycle and Mass Transit Facilities – All developments shall provide for pedestrian movement to and within the site in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities, such as bike racks and bike lanes, if the scale of the project makes these reasonable. Provisions must also be incorporated into new developments for mass transit use, such as bus stops and bus stop shelters, if the scale of the project makes these reasonable.

4. Public Sewer Service – All new development and redevelopment within a planned development shall be served by public sewer. All new, expanded, or redeveloped buildings that are part of a conventional development shall be served by the public sewer system unless all of the following are met in which case sewage disposal may be provided by an on-site sewage disposal system meeting the requirements of the Maine State Plumbing Code and the Town of Scarborough Plumbing Ordinance.

- a. The design sewage flow of the use will be less than six hundred (600) gallons per day based on the Maine State Plumbing Code; and,

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- b. Only domestic type sewage will flow to the on-site sewage disposal system. No process water shall go to the system; and,
- c. The project will be designed to be connected to a public sewer system in the adjacent street if such a sewer is ever extended.

Existing single-family dwellings served by on-site wastewater systems shall not be subject to this requirement until the single-family dwelling is changed, converted or redeveloped to a new use.

5. General Off-Street Parking Standards -

- a. Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except as otherwise permitted in this subsection.
- b. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses. In the RH2 District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

I. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS

The Running Hill Road-Gorham Road Transition District (RH2) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough's Commercial Districts and provide more specific requirements for development in the RH2 District.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VIIIE. Planned Development.

1. PLANNED DEVELOPMENT STANDARDS

A planned development shall be designed in a manner that reinforces the RH2 District as a mixed use transition zone. Buildings, parking, pedestrian amenities, landscaping, streets and common space shall be arranged in a compact, interconnected development pattern that exhibits a human scale and a mix of land uses.

- a. **Running Hill and Gorham Road Streetscapes** – The streetscape along Running Hill Road and Gorham Road are critical to establishing attractive gateways and transition into the rural area of Scarborough. Running Hill and Gorham Roads shall be buffered with shade trees and a generous landscaped strip along the road right-of-way. This landscape buffer shall meet or exceed the thirty (30') foot width required of conventional developments. The planned development process will be used to identify areas along these roads where existing trees and vegetation shall be preserved as well as areas in which new shade trees and landscaping shall be planted to enhance this corridor. Buildings may be visible from these roads but shall be setback and separated from the street by this landscaped buffer. Parking is not appropriate between Running Hill Road or Gorham Road and buildings within a planned development, but sidewalks, pedestrian trails, freestanding signs and access drives are.

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b. Internal Street Streetscape - The streetscape along internal streets and driveways within a planned development shall differ from the streetscape along Running Hill Road and Gorham Road and shall exhibit a more compact form and scale. The streetscape along internal streets and driveways within a planned development shall be designed with shade trees on both sides; road widths that are more compact in scale; human scale street lighting; frequent intersections and crosswalks; and sidewalks as per standard I(1)c. below. The streetscape of internal streets may also include on-street parking on one or both sides of the streets or driveways.

c. Walk-able, pedestrian-oriented design – Appropriately designed and oriented sidewalks, and other pedestrian amenities, are critical to promote walk-ability, pedestrian activity, and a sense of place within the RH2 District. Sidewalks or pedestrian trails shall be designed along both Running Hill and Gorham Roads and internal streets and shall be a primary component of each streetscape. Pedestrian amenities along Running Hill and Gorham Roads should generally be setback from the street leaving a larger landscaped buffer strip along the roadway. Sidewalks along internal streets and driveways should be close to the roadway creating a more compact environment as per standard (I)1.b. above. In general, sidewalks or pedestrian trails shall be designed to provide linkages and continuity between each use within a planned development as well as connections to abutting uses to establish a greater pedestrian network.

d. Compact building design – Planned developments with the RH2 District shall exhibit a compact development pattern. Buildings shall be designed to front onto the internal street or driveway that provides access to the building(s). Buildings shall be a key component of the streetscape and exhibit a strong relationship to the street and associated sidewalks and landscaping. The majority of off-street parking shall be located to the side or rear of buildings or as a component of the building in the case of structured or covered parking. In planned developments with multiple buildings, the Planning Board may allow some buildings to be setback from the street or driveway with parking between those buildings and the street provided: other buildings front the street(s) or driveways and maintain a human scale streetscape; there is continuity between buildings with no major expanse of parking; and the development meets or exceeds each of the other planned development standards. The Planning Board may determine that this standard need not apply to single-family and two-family dwellings that may seek to utilize driveways for parking within the front yard.

e. Access management and interconnections – Access to planned developments from Running Hill Road and/or Gorham Road shall be strictly controlled to limit the number of curb cuts on these roads. Planned developments shall also make provisions for street and driveway interconnections to abutting properties to enable cross connections, the share use of curb cuts and intersections and to reduce the overall number of curb cuts on these roads.

f. Place-making – A planned development shall include at least one “place” and potentially a number of “places”, depending on the size and scale of the development. A “place” shall be a common space(s) where people can gather, meet and cross paths. A “place” can be a community green or common; plaza; court; square or some variation of each. Regardless of the style or size, “places” are required to be designed as an integral part of a planned development in locations where people will naturally gather, meet and cross paths. “Places” shall be located at the core of the pedestrian realm of a planned development; shall an element of the development streetscape and overall development pattern; and shall be available and desirable for public use. Areas for

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outdoor seating, court yards or green space associated with a particular use or establishment are desirable amenities, but should not be counted as a “place” unless they are available for public use.

2. DESIGN CRITERIA FOR PLANNED DEVELOPMENTS

The following design criteria shall apply to all planned developments. In addition, the Planning Board may require a planned development to be designed in conformance with any other standards of this Section XXB. when the Board finds that application of such standards will achieve conformity with the Planned Development Standards of section XXB.(I)(1).

a. On-street Parking On-street parking can provide spaces directly in front of residential and non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can act as a traffic calming measure. As indicated in subsection (I)(1) above, a planned development may include new internal streets or driveways with parallel or angled on-street parking or “on-driveway” parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

b. Flexible yard standards - The Planning Board shall determine the yard requirements and site layout and off-street parking configuration for a planned development by applying the standards of subsections (I) (1). In reviewing a planned development, the Planning Board may use the Yard Standards under subsection E.2. and the Site Layout and Off-Street Parking Regulations under subsection G. that correspond with the yard standards as guidelines, but is not required to apply them. This enables the Planning Board to allow buildings to be sited closer to internal streets than conventional development or require buildings to be set further back from Running Hill Road or internal streets to meet the standards of subsection (I) and further the purpose of this district.

**SECTION. XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD) Adopted
08/21/2103**

**SECTION XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD)
[Adopted 08/21/13; Amended 10/07/15; Amended 05/16/18]**

I. BASIC STANDARDS

A. PURPOSE (CPD)

The purpose of the Crossroads Planned Development District is to allow a mix of uses, guided by design standards and a conceptual master plan, which results in a vibrant center for development located in the heart of Scarborough. This largely undeveloped area, within the center of the town, offers a unique opportunity for town representatives to work cooperatively with the area's single land-owner, allowing mixed use development to evolve, while ensuring open space, preservation of natural resources, an efficient land use pattern for pedestrian, bicycle and transit use, a coordinated street plan and a cost effective extension of needed utilities. The mix of uses and efficient land development patterns are also intended to promote a number of community places, where people can gather, meet and cross paths.

B. PERMITTED USES (CPD)

The following uses are permitted in both conventional and planned developments:

1. Harness racing facilities.
2. Commercial outdoor recreation uses.
3. Fully enclosed places of assembly, amusement, culture and government, exclusive of video gambling, casino gambling and slot machine facilities.
4. Municipal buildings and uses.
5. Public utility facilities.
6. Accessory uses.

The following uses are permitted only in planned developments:

7. Single-family dwellings but only as part of a planned development that includes a variety of housing types.
8. Two-family dwellings but only as part of a planned development that includes a variety of housing types.
9. Multifamily dwellings.
10. Multiplex dwellings.
11. Townhouses, limited to no more than eight (8) dwelling units per building.
12. Senior housing.
13. Residential and long-term care facilities for the ill, aged, or disabled. If the facility includes dwelling units, then the regulations governing the particular type of dwelling shall apply.
14. Dwelling units in a mixed use building.
15. Live/work units.
16. Accessory units.
17. Retail business and service establishments.
18. Personal service establishments.
19. Restaurants with no drive-through service.
20. Hotels and motels.
21. Business and professional offices.

**SECTION. XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD) Adopted
08/21/2103**

- 22.** Financial, insurance and real estate offices.
- 23.** Business services.
- 24.** Medical/diagnostic facilities.
- 25.** Health clubs.
- 26.** Non-municipal government buildings and uses.
- 27.** Elementary and secondary schools.
- 28.** Instructional and educational services.
- 29.** Libraries.
- 30.** Museums.
- 31.** Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions.
- 32.** Funeral homes.
- 33.** Places of worship.
- 34.** Adjunct uses, Place of worship.
- 35.** Golf courses.
- 36.** Casinos or slot machine facilities, as defined in Chapter 31 of Title 8 of the Maine Revised Statutes, that are located within the same planned development as a harness racing facility and are licenses by the State of Maine in accordance with the requirements of Chapter 31 of Title 8 of the Maine Revised Statues, including the requirements that the casino or slot machine facility must be approved by the voters of the Town in a municipal referendum and that the Town Council has entered into a revenue-sharing agreement with the owner and/or operator of the casino or slot machine facility.
- 37.** Pet care facilities. [Adopted 05/16/18]

The following uses are permitted only in planned developments and are subject to specific performance standards set forth in Section IX.

- 38.** Home occupations.
- 39.** High technology facilities.
- 40.** Family day care homes.
- 41.** Group day care homes and day care facilities.
- 42.** Nursery schools.
- 43.** Passenger transportation facilities.
- 44.** Small-scale energy facilities.
- 45.** Telecommunication facilities.
- 46.** Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance. [Adopted 10/07/15]
- 47.** Research, development and light industrial. [Adopted 05/16/18]
- 48.** Gasoline filling stations whether as a principal or accessory use and located so that all fueling facilities are located within one thousand (1,000) feet of the point of intersection of the centerlines of Payne Road and Holmes Road. Gasoline filling stations shall also be subject to the performance standards of Section IX.(X.) of this Ordinance. [Adopted 05/16/18]

**SECTION. XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD) Adopted
08/21/2103**

The following uses are permitted only in planned developments and are subject to the additional developments standards of subsection D, of this district, including the standards on location and buffers under subsection D.14.: [Adopted 05/16/18]

- 49.** Manufacturing and assembly.
- 50.** Food processing facilities.
- 51.** Mini-warehouse/storage facilities.
- 52.** Contractors offices, shops and storage yards.
- 53.** Motor vehicle repair and service facilities including auto body shops, facilities for the repair or recreational vehicles, small engine repair facilities and vehicle sales accessory to these uses.
- 54.** Sale, rental and/or service f heavy equipment or specialized motor vehicles (other than passenger cars).

C. SPECIAL EXCEPTIONS (CPD)

There are no special exception uses in the Crossroads Planned Development District.

D. SPACE AND BULK REGULATIONS (CPD)

1. Conventional Developments

The space and bulk regulations of the B2 Regional Business District are applicable to all conventional developments.

2. Planned Developments

The space and bulk standards applicable to planned developments and the individual lots and buildings within an approved planned development shall be the development standards set forth in the approved Master Plan for the planned development subject to the following limits:

Maximum Net Residential Density	The Residential Density Factors in Section VIIC. apply to all residential uses in this district. The maximum allowed residential density is 20 units per net residential acre.
Maximum Building Height	6 stories or 75 feet whichever is less, except that any portion of a building located within 150 feet of a residential district shall be limited to 35 feet in height.
Maximum Impervious Surface Ratio	75 percent

All buildings and related parking and access drives must be setback from the boundary of the CPD District in accordance with the following standards and the minimum required setback area shall treated as a buffer in accordance with Section VIII. if applicable. This requirement shall not preclude the construction of streets or utilities that cross the buffer strip. (Amended 05/16/18)

Adjacent Zoning District	Minimum Setback
A “Residential District” or “Natural Resource District”	100 feet

SECTION. XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD) Adopted 08/21/2103

E. OFF-STREET PARKING (CPD)

Off-street parking shall be provided in accordance with the requirements of Section XI. In approving the development standards set forth in the Master Plan for a planned development including the Conceptual Development Master Plan for a Planned Mixed-Use Development, the Planning Board may allow the provision of fewer off-street parking spaces than is required by Section XI., including considerations for reduced or shared parking, if the Planning Board finds that less parking will adequately serve the development taking into account the provision of on-street or other public parking, provisions for long-term support of public transit to serve the development, provisions for pedestrian and bicycle movement within and to/from the development, and/or the type and mix of uses within the development and their demonstrated parking demand.

F. SIGNS (CPD)

Signs in the CPD District shall be regulated in accordance with the requirements of Section VIIE.

II. ADDITIONAL DEVELOPMENT STANDARDS

A. DEVELOPMENT DESIGN AND REVIEW PROCEDURES (CPD)

Depending on the acreage, type of use, and design of a proposed project, a development/redevelopment project within this district may undergo: **1)** a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards and development standards for Conventional Developments set out in this section; or **2)** may be reviewed as a Planned Development in accordance with the procedures set forth in Section VIIE. Additional Requirements for Planned Developments applying the quantitative standards and development standards and design criteria for Planned Developments set out in this Section; or **3)** if the project involves a Planned Development involving a parcel with more than fifty (50) acres, may be reviewed as a Planned Development under a modified version of the procedures set forth in Section VIIE. Additional Requirements for Planned Developments applying the quantitative standards and development standards and design criteria for Planned Developments set out in this Section;

1. Conventional Developments. Projects that are proposing to develop or redevelop less than five (5) acres of land may be reviewed as a Conventional Development or as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing to develop or redevelop five (5) acres or more of land are required to be reviewed as Planned Developments in accordance with Section VIIE. and conform to the applicable standards of this section for Planned Developments unless the parcel involved has more than fifty (50) acres and the owner/applicant chooses to use the modified review procedures in B.

3. Large-Scale Planned Developments. Projects that include a Planned Development on a parcel with more than fifty (50) acres may be reviewed and developed as a Planned Development in accordance with Section VIIE. as modified in B. Review Procedures for Large-Scale Planned Mixed-Use Developments and conform to the applicable standards of this section for Planned Developments.

**SECTION. XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD) Adopted
08/21/2103**

B. REVIEW PROCEDURES FOR LARGE-SCALE PLANNED DEVELOPMENTS (CPD)

A Large-Scale Planned Development may be reviewed and approved in accordance with the following procedure which modifies the procedures for the review of a Planned Development set forth in Section VIIIE. Additional Requirements for Planned Developments:

1. Two Step Process. Any development involving a Large-Scale Planned Development may be reviewed under a two-step process. The first step is the preparation, review, and approval of a Conceptual Infrastructure Plan. This plan must cover all land held in common ownership as of May 1, 2013. The second step is the preparation, review, and approval of a Site Inventory and Analysis and Master Plan for the development of the project. The Master Plan can cover the entire holding or a portion of the holding that includes at least fifty (50) acres. The applicant may choose to submit the Site Inventory and Analysis for review prior to the submission of the Master Plan.

2. Conceptual Infrastructure Plan. The purpose of the Conceptual Infrastructure Plan is to provide a preliminary assessment of the development suitability and potential of the entire holding based on available information and to provide a preliminary layout of the key infrastructure elements to serve the entire parcel. This Plan is intended to guide and coordinate the phased development of the project with the recognition that the Plan may be modified as detailed information and design is undertaken.

The Conceptual Infrastructure Plan shall include the following elements:

- a. The Site Inventory and Analysis Phase of the Additional Requirements for Planned Developments set out in Section VIIIE. This analysis may be based on information about the site and its natural resources that is available from publically available sources including state and federal databases and information available from the Town of Scarborough and local utilities. The expectation is that the Site Analysis Plan prepared as part of this effort will guide the overall utilization of the site and the conceptual planning of the various infrastructure components.
- b. A Preliminary Infrastructure Plan as set out in subsection E. of Section VIIIE. Additional Requirements for Planned Developments. In addition to the elements included in E. this Plan shall also:
 - 1) Identify the planned primary pedestrian network within the development as well as connections to existing pedestrian facilities adjacent to the site,
 - 2) Identify areas of the site that should be preserved as open space including provisions to create an interconnected network of green space within the development and that links to preserved or protected open space in the vicinity of the site.

The Conceptual Infrastructure Plan shall be reviewed in accordance with the procedures set out in Section VIIIE. Additional Requirements for Planned Developments for the review of the Site Inventory and Analysis Phase.

3. Conceptual Master Plan. The Conceptual Master Plan for a Large-Scale Planned Development shall consist of an updated Site Inventory and Analysis based on appropriate field data with respect to the location and extent of natural resources and site features and a Master Plan for the development. These shall be prepared and reviewed in accordance with Section VIIIE. Additional Requirements for Planned Developments.

**SECTION. XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD) Adopted
08/21/2103**

**C. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH
CONVENTIONAL AND PLANNED DEVELOPMENTS (CPD)**

- 1. Commercial Design Standards** – All development within the District must be consistent with the Design Standards for Scarborough’s Commercial Districts, with the exception of the uses allowed under subsection D.14.of this district. [amended 05/16/18]
- 2. Pedestrian, Bicycle and Mass Transit Facilities** – All developments shall provide for pedestrian movement to and within the site in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough’s Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities, such as bike racks and bike lanes, if the scale of the project makes these reasonable. Provisions must also be incorporated into new developments for mass transit use, such as bus stops and bus stop shelters, if the scale of the project makes these reasonable.
- 3. Public Sewer Service** – All new development or redevelopment within this district shall be served by public sewer.

**D. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO PLANNED
DEVELOPMENTS**

- 1. Mix of Uses** – The intention of the CPD District is that the district will develop with a mix of uses (i.e. retail, office, service, light manufacturing, mixed residential, etc.). The Conceptual Master Plan must address how the proposed development will contribute to this objective either individually or in conjunction with other Planned Developments in the district or development adjacent to the district. While the objective is to encourage Planned Developments that include a mix of uses, the Planning Board may approve a Conceptual Master Plan that does not meet this objective if the applicant demonstrates that the intention of the CDP District as a mixed-use development will be met or will be able to be met on a district-wide basis. After the approval of each Planned Development, the Planning Board will report to the Town Council on the mix of uses in the Planned Development as well as the overall District.
- 2. Overall Location and Pattern of Development** – The overall location and pattern of development within the District must reflect the findings of the Site Analysis Map and Report prepared as part of the Conceptual Infrastructure Plan. Similarly, the overall location and pattern of development within an individual Planned Development must reflect the Site Analysis Map and Report prepared as part of the Conceptual Master Plan.
- 3. Street Network** – The intention of the CPD District is that as development occurs, a coordinated, interconnected street system will be created. This street network must be designed to accomplish the following objectives:
 - a) At the overall district level, create a connection through the District from Route One to the Payne Road and to the Haigis Parkway. In addition consideration should be given to connecting the street network to the Gorham Road and Enterprise Drive if feasible. These two connections, if provided, should be designed to provide access to development within the district and should avoid creating direct travel routes that result in the establishment of a “short-cut” through the district.

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b) At the Planned Development level, create an interconnected network of streets within the development that allows travel within the development without using collector roads. The network should utilize T- intersections where feasible and avoid the use of dead-end streets or cul-de-sacs.

4. Public Water System – The layout of the overall water distribution system must provide for an interconnected, looped network of mains that avoids dead-ends. This requirement must be met at both the district and Planned Development level unless the Fire Chief approves an alternative layout in conjunction with the Portland Water District.

5. Open Space Network – The intention of the CPD District is to preserve the significant natural resources that exist within the District and to develop an interconnected “green network” throughout the District that links the open spaces within the District and to preserved or protected land in the vicinity of the District. At least twenty (20) percent of the total land area within the District and at least ten (10) percent of the land area within an individual Planned Development shall be set aside and preserved as open space. This can include natural areas, parks or other improved green spaces that are open for use by residents/users of the development or the public, or improved recreational facilities with limited structural development (i.e. golf courses, playing fields, etc.). The land set aside as open space shall generally reflect the Site Analysis Map and Report. As part of the Master Plan for each Planned Development, the provisions for ownership and maintenance of the open space shall be established.

6. Relationship of Buildings to the Street – The intention of the CPD District is to encourage a variety of development patterns and forms with the overall objective of establishing a “village center-like” atmosphere within the District. As a general principle, buildings should be located close to streets with parking located to the side and/or rear of the buildings. A Planned Development shall be designed in a manner that reinforces the CPD District as a mixed use center. Buildings, parking, pedestrian amenities, landscaping, streets and common space shall be arranged in a compact, interconnected development pattern that exhibits a human scale and a mix of land uses. In reviewing and approving the Conceptual Master Plans for individual Planned Developments, the Planning Board must find that the proposed development standards will result in a development that has a “village character” rather than a “suburban commercial” character.

7. Access Management and Interconnections – The development standards for each Planned Development must address the issues of access management and interconnections. Direct vehicular access from individual building sites onto Route One, Payne Road, or new collector streets within the District must be restricted. Site access shall be designed in accordance with the Site Plan Review Ordinance.

8. Streetscape Treatment -- The streetscape along internal streets and driveways within a Planned Development shall exhibit a compact layout, form and scale. The streetscape shall be designed with shade trees on both sides; road widths that are of a compact, urban scale; human-scale street lighting; frequent intersections and crosswalks; and sidewalks. The streetscape of internal streets may also include on-street parking on one or both sides of the streets or driveways.

The streetscape along Haigis Parkway, Route One and Payne Road that border the district shall incorporate a landscaped or natural vegetated buffer strip. The width of the buffer strip shall be a minimum of twenty-five (25) feet when it abuts the Haigis Parkway and fifteen (15) feet when it abuts Route One and Payne Road.

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9. Walkable, Pedestrian-Oriented Design – The objective of the CPD District is to create a walkable, pedestrian-oriented environment. This can be accomplished in a variety of ways. Appropriately designed and oriented sidewalks and other pedestrian amenities, are critical to promote walkability, pedestrian activity, and a sense of place within the District. In general, sidewalks or pedestrian trails shall be designed to provide linkages and continuity between each use within a Planned Development as well as connections to abutting uses to establish a greater pedestrian network.

10. Place making – A Planned Development must include a number of “places”, depending on the size and scale of the development. A “place” shall be a common space(s) where people can gather, meet and cross paths. A “place” can be a community green or common; plaza; court; square or some variation of each. Regardless of the style or size, “places” are required to be designed as an integral part of a Planned Development in locations where people will naturally gather, meet and cross paths. “Places” shall be located at the core of the pedestrian realm of a development; shall be an element of the development streetscape and overall development pattern; and shall be available and desirable for public use. Areas for outdoor seating, court yards or green space associated with a particular use or establishment are desirable amenities, but are not counted as a “place” unless they are available for public use.

11. On-street Parking – The use of on-street parking within a Planned Development is encouraged. On-street parking can provide spaces directly in front of residential and non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can act as a traffic calming measure. A Planned Development may include new internal streets or driveways with parallel or angled on-street parking or “on-driveway” parking. As part of the review process the on-street parking design shall require approval from all applicable Town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of subsection I.E.

12. Dimensional Standards – The minimum lot size, net residential density, building height, yard and setback, and other space and bulk requirements for individual lots and buildings that are part of a Planned Development shall be determined in the Conceptual Master Plan except as limited by the provisions of I.D.2. The development standards must provide for the setback from and buffering of residential uses and zones abutting the CPD District and for the buffering of residential uses that are part of the Planned Development from nonresidential uses within or adjacent to the District. In approving the Master Plan and the development standards, the Planning Board shall assure that the proposed requirements will result in a development that reflects the Town’s vision for the Crossroads as a village center for the Town of Scarborough.

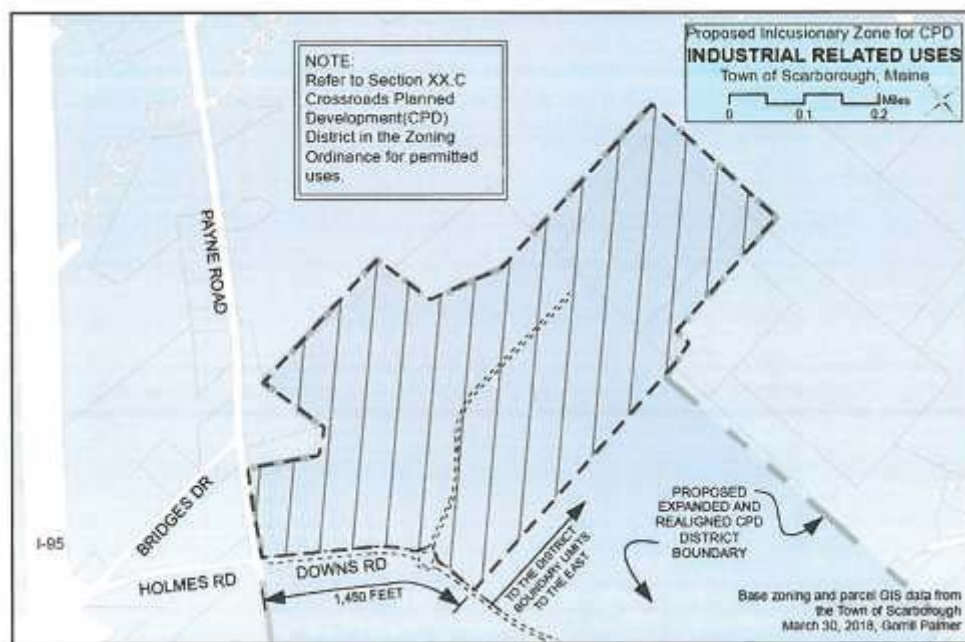
13. Provision of Affordable Housing – A key objective of the Crossroads Planned Development District is the provision of a mix of uses and a mix of housing types. Therefore at least ten percent of the dwelling units in a planned development must qualify as affordable housing in accordance with the definition of affordable housing in this ordinance. This requirement can be met either through affordable housing developments or through providing for affordable units within market-rate housing developments. Since development within a planned development will likely occur

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incrementally, this requirement must be met cumulatively as development occurs. The initial residential development in a planned development must include affordable housing unless the project has fewer than ten dwelling units. If a housing development provides more than ten percent of its units as affordable or if more than ten percent of the cumulative dwelling units within a planned development are affordable, any balance may be carried forward and applied to future residential development. The Master Plan for the planned development shall address how this requirement will be met and set out any requirements that will be established for assuring the long-term affordability of these units.

14. The land use required to comply with these additional development standards are permitted as part of a planned development with specific standards and limitations on the location within the overall CPD District they are allowed and subject to the buffering requirements below. This inclusionary area within the District is located to the northeast of the Scarborough Downs entrance drive and extending southerly from the Payne Road intersection 1,450 feet and spanning from the Downs Road easterly to the limits of the CPD Zoning District boundary as depicted in the diagram below. The permitted uses specifically allowed within this area are subject to:

- 1) A 250-foot setback from the center line of Payne Road.
- 2) A 250-foot setback from the Downs Road, as depicted on the Approved Conceptual Infrastructure Plan.
- 3) A 100-foot setback and buffer to any adjacent residential district or natural resource district in accordance with subsection D.2. of this District.
- 4) The performance standards of Section IX9(A) of this ordinance.
- 5) The permitted uses specifically allowed within this area shall not be subject to the Design Standards for Scarborough's Commercial District.



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The diagram and description above establish the maximum area allowed for these non-residential uses, but does not bind or require this area to be exclusively developed with these specific uses. The planned development process shall be used to establish the design, buffering details, and extent of these non-residential uses within this inclusionary area and whether this area includes other uses and development allowed district wide.

15. Earthwork, Material Extraction and Construction Activities Incidental to Site Development – Activities that are typical of earthwork, material extraction and construction including, but not limited to the excavation of earthen material and aggregate, material processing, material stockpiling and storage, and similar activities are allowed in accordance with the following performance standards:

- a. Material extraction and processing allowed for under this subsection shall be for the sole purpose of supporting development, site work and the installation of infrastructure located exclusively within the CPD District.
- b. Notwithstanding contrary provisions in the Extractive Industry Ordinance, excavation may occur below the seasonal high-water table for the purpose of creating water features within the development project. Any excavation below 12 inches above the seasonal high-water table shall be in accordance with a plan approved by the Planning Board. This plan shall include the limits, design and final restoration of the excavation area and its functions and values.
- c. The stockpiling and processing of aggregate and earthen materials shall comply with a site plan and operations plan to be reviewed and approved by the Planning Board. This operations plan still include: a description and location of the activity; its proximity to existing development within and outside the District; general hours of operation, methods of operation and safeguards in place to mitigate dust, smoke and other environmental factors, and a restoration plan when applicable.
- d. Any deviation and changes to the Operations Plan must be approved in advance by the Planning Director with consultation with other town staff and departments.

SECTION XXI. INDUSTRIAL DISTRICT - I.

SECTION XXI. INDUSTRIAL DISTRICT - I.

A. PURPOSE

To provide districts within the Town of Scarborough for manufacturing, processing, treatment, research, warehousing, storage and distribution, and other compatible uses, where there is no unreasonable danger of explosion or other hazard to health or safety. [amended 07/18/12]

B. PERMITTED USES

- 1. Manufacturing and assembly. [07/18/2012]**
- 2. Research, development and light industrial.**
- 3. High technology facilities, subject to the performance standards of Section IX(M).**
- 4. Food processing facilities.**
- 5. Warehousing Facility. [amended 06/20/18]**
- 6. Distribution, wholesale trade and transportation, including trucking terminals. (3/19/75) (05/01/96)**
- 7. Mini-Warehouse/Storage Facilities, subject to the performance standards of Section IX(H) of this Ordinance. [12/03/97]**
- 8. Instructional and educational services.**
- 9. Motor vehicle repair and service facilities including auto body shops, facilities for the repair of recreational vehicles, small engine repair facilities and vehicle sales accessory to these uses.**
- 10. Sale, rental and/or service of heavy equipment or specialized motor vehicles (other than passenger cars). (05/01/96)**
- 11. Restaurants, with less than 2,000 square feet of floor area and with no drive-up, drive-through or drive-in service. (05/06/98)**
- 12. Lumber yards, fuel storage and distribution yards (excluding tank farms) and building material yards (building material yards may include storage of rock, sand and gravel provided no excavation occurs on site). (05/01/96)(07/18/12)**
- 13. Retail sales or services if such sales or services are accessory to principal permitted uses. (05/01/96)**
- 14. Professional offices, including addiction treatment facilities subject to the Performance Standards of Section IX.L. with a maximum of 2,500 square feet of floor area per use. (11/16/2005)(07/18/12)**
- 15. Business services and business offices.**

SECTION XXI. INDUSTRIAL DISTRICT - I.

- 16.** Contractor's offices, shops and storage yards. (05/01/96)
- 17.** Municipal buildings and uses, not including places of assembly.
- 18.** Non-municipal government buildings and uses.
- 19.** Health Clubs. (05/04/02)
- 20.** Personal Services. (05/20/98)(07/18/12)
- 21.** Pet Care Facility. (09/04/02)
- 22.** Transmission towers subject to the performance standards of Section IX(F) of this Ordinance. (5/17/95)(07/18/12)
- 23.** Recycling Facility, exclusive of junkyards, automobile graveyards or automobile recycling businesses subject to annual licensing by the Scarborough Town Council under section IX(A)(18). Notwithstanding this provision, all municipal solid waste incinerator ash processing facilities and all municipal solid waste incinerator ash recycling facilities shall be sited only within the confines of a secure, lined landfill approved by the Maine Department of Environmental Protection.(03/06/96)(07/18/12)
- 24.** Water dependent sports practice facilities. (07/18/12)
- 25.** Accessory agricultural activities subject to the performance standards of Section IX.P. (Amended 05/05/10; 07/18/12)
- 26.** Telecommunication facilities. (05/01/96)

C. SPECIAL EXCEPTIONS

- 1.** Public utility facilities including substations, pumping stations and sewage treatment facilities.
- 2.** Family Day Care Homes, Group Day Care Homes, Day Care Center Facilities and Nursery Schools. (6/01/94; 07/12/12)

D. SPACE AND BULK REGULATIONS (07/20/2011; 07/18/12)

Minimum area of lot	20,000 square feet
Maximum building coverage	50%
Minimum front yards	50 feet

SECTION XXI. INDUSTRIAL DISTRICT - I.

Minimum side and rear yards	25 feet or 50% of building height whichever is greater except that all side and rear yards abutting residential districts shall be a minimum of 50 feet or the height equivalent of the principal building or use, whichever is greater, and shall comply with the buffering requirements of this Ordinance.
Maximum building height	60 Feet The Planning Board may approve an increase in the building height as part of the site plan review to not more than 100 feet if the applicant demonstrates that the increased height is an operational necessity for the use and the visual impact of the increased height will be minimized through the building design or buffering,

E. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

F. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

G. PERFORMANCES STANDARDS (05/01/96; 07/18/12)

All uses in the Industrial District are subject to the performance standards of Section IX(A) of this ordinance.

SECTION XXI.B. LIGHT INDUSTRIAL DISTRICT (LI).

SECTION XXI.B. LIGHT INDUSTRIAL DISTRICT (LI).

A. PURPOSE

The purpose of this district is to provide an area for small, light industrial type of development while reestablishing the Holmes Road as an attractive gateway to the west side of town. New development together with redevelopment of existing uses should create an attractive business/industrial park environment with a roadside buffer along the Holmes Road. Residential properties along Two Rod Road and to the west of the district should be protected with a substantial buffer.

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsection E. or may be reviewed as a Planned Development applying the qualitative standards and flexible design allowable under subsections I and J of this district and Section VIIE of this Ordinance.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than five (5) acres of land may be reviewed as a conventional development or as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing to develop or redevelop five (5) acres or more of land are required to be reviewed as Planned Developments in accordance with the applicable standards of subsection J Development Standards for Planned Developments of this district and Section VIIE Planned Development of this Ordinance.

C. PERMITTED USES

NOTE: The requirements of subsection F.1. of this district relating to sewage disposal may limit the type or scale of the uses that can occur in this district.

The following uses are permitted on any lot in the district subject to the requirements of Section F:

- 1.** Personal service establishments.
- 2.** Instructional and educational services.
- 3.** Business and professional offices.
- 4.** Business services.
- 5.** Contractor's offices, shops and storage yards.
- 6.** Non-municipal government buildings and uses.
- 7.** Motor vehicle repair and service facilities existing as of January 1, 2013 including auto body shops and facilities for the repair of recreational vehicles.
- 8.** Accessory uses.
- 9.** Accessory agricultural activities subject to the performance standards of Section IX.P.

SECTION XXI.B. LIGHT INDUSTRIAL DISTRICT (LI).

The following uses are permitted only on lots that have vehicular access to the Holmes Road:

- 10.** Manufacturing and assembly.
- 11.** Research, development and light industrial.
- 12.** High technology facilities, subject to the performance standards of Section IX (M).
- 13.** Warehousing Facility, exclusive of mini-warehouse/storage facilities.[amended 06/20/18]
- 14.** Distribution, wholesale trade and transportation, including truck terminals.
- 15.** Motor vehicle repair and service facilities including auto body shops, facilities for the repair of recreational vehicles, small engine repair facilities, and vehicle sales accessory to these uses.
- 16.** Sale, rental and/or service of heavy equipment or specialized motor vehicles (other than passenger cars).
- 17.** Retail sales or services if such sales or services are accessory to principal permitted uses.
- 18.** Municipal buildings and uses.
- 19.** Transmission towers subject to the performance standards of Section IX(F) of this Ordinance.
- 20.** Recycling facilities, including only junkyards, automobile graveyards or automobile recycling businesses that are existing as of January 1, 2013, and subject to annual licensing by the Scarborough Town Council under section IX(A)(18).
- 22.** Fully enclosed places of assembly, amusement, culture and government existing as of January 1, 2013.
- 23.** Telecommunication facilities.
- 24.** Small-scale energy facilities, subject to the performance standards of Section IX(W).

D. SPECIAL EXCEPTIONS

- 1.** Public utility buildings including substations, pumping stations and sewage treatment facilities.
- 2.** Outdoor storage, exclusive of fuel stored in bulk.

E. SPACE AND BULK REGULATIONS

- 1.** The following space and bulk regulations are applicable to conventional developments:

Minimum area of lot	20,000 square feet
Minimum lot frontage	200 feet for lots abutting Holmes Rd and Two Rod Rd; 100 feet for lots abutting all other streets
Maximum percent of lot coverage by buildings	50%
Maximum percent of lot coverage by buildings and other impervious surfaces	85%

SECTION XXI.B. LIGHT INDUSTRIAL DISTRICT (LI).

Minimum front yards	50 feet
Minimum side and rear yards	25 feet except that all side and rear yards abutting residential districts shall be a minimum of 100 feet or the height equivalent of the principal building or use, whichever is greater, and shall comply with the buffering requirements of this Ordinance.
Maximum building height	45 feet

2. The following space and bulk regulations are applicable to planned developments:

Minimum area of lot	20,000 square feet
Minimum lot frontage	200 feet for lots abutting Holmes Rd and Two Rod Rd; For all other streets the lot frontage requirement shall be determined under subsection J. of this district
Maximum percent of lot coverage by buildings	Determined by the Planning Board under subsection J. of this district
Maximum percent of lot coverage by buildings and other impervious surfaces	Determined by the Planning Board under subsection J. of this district
Minimum front yards	50 feet
Minimum side and rear yards	25 feet except that all side and rear yards abutting residential districts shall be a minimum of 100 feet or the height equivalent of the principal building or use, whichever is greater, and shall comply with the buffering requirements of this Ordinance.
Maximum building height	45 feet

F. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

1. Sewage Disposal: All new, expanded, or redeveloped buildings in the district shall be connected to the public sewer system unless all of the following are met in which case sewage disposal may be provided by an on-site sewage disposal system meeting the requirements of the Maine State Plumbing Code and Chapter 404A the Town of Scarborough Plumbing Ordinance.

- The design sewage flow of the use will be less than two thousand (2,000) gallons per day based on the Maine State Plumbing Code, and
- Only domestic type sewage will flow to the on-site sewage disposal system. No process water shall go to the system, and
- The project will be designed to be connected to a public sewer system in the adjacent street if such a sewer is ever extended, and
- The owner or developer agrees to connect to the public sewer system within twenty-four (24) months of service being provided in the adjacent street and this requirement is made a condition of approval of any site plan approval for the project.

2. Streetscape Buffer Strip: For all new, expanded, or redeveloped buildings, a landscaped or naturally vegetated buffer strip shall be established and/or maintained along the front property line of a lot where it abuts a public street or highway except for existing lots fronting on Two Rod Road

SECTION XXI.B. LIGHT INDUSTRIAL DISTRICT (LI).

which are subject to the requirements of F.4. The width of the buffer strip shall be a minimum of thirty (30) feet when it is adjacent to Holmes Road, one hundred (100) feet when it is adjacent to Two Rod Road, one hundred (100) feet when it is adjacent to the Maine Turnpike (I-95) and associated Maine Turnpike on/off ramps, and ten (10) feet when it is adjacent to any other street. The buffer strip shall be designed to separate the development from the street and to enhance the visual environment of the street. The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation unless an alternative treatment is approved by the Planning Board as part of the site plan review. In addition, the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance. In the case of Holmes Road and other streets the buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip. In the case of Two Rod Road, access roads or driveways are not allowed through the street buffer strip except in accordance with standard F.3. below.

3. Vehicular Access Prohibited from Two Rod Road:

- a. Vehicle access to and from the Two Rod Road to serve new, expanded, or redeveloped buildings in the district via any means including public streets, private ways, driveways, other private accessways, or combinations thereof shall not be permitted, except for emergency vehicle access approved by the Fire Department and Planning Board and as allowed for under 3.b.
- b. Buildings existing as of January 1, 2013 on lots that have frontage on Two Rod Road and that have their exclusive vehicle access from Two Rod Road may continue to have one point of vehicle access onto Two Rod Road. If the gross floor area of all existing buildings on a lot is increased by more than twenty (20) percent, or if the building is removed or the property is redeveloped, vehicular access to the property must not be from Two Rod Road as per 3.a.

4. Lots Abutting Two Rod Road: A building existing as of January 1, 2013 that is on a lot that has frontage on Two Rod Road and that has its exclusive vehicle access from Two Rod Road that is converted from a residential use to a nonresidential use in whole or in part, must conform to the following additional requirements:

- a. A twenty-five (25) foot wide vegetated or landscaped buffer strip shall be maintained along the front property line adjacent to Two Rod Road and shall be improved/maintained in accordance with the Site Plan Review Ordinance.
- b. One driveway not more than sixteen (16) feet in width shall provide access to Two Rod Road.
- c. Any parking for more than two vehicles or service areas shall be located to the side or rear of the existing building.
- d. Any expansion of the buildings on the lot or the construction/placement of new accessory buildings on the lot shall be limited to a cumulative total of twenty percent of the gross floor area of all buildings existing as of January 1, 2013 and shall be compatible with and maintain the architectural character of the existing buildings.
- e. Any material storage or outdoor service areas shall be located to the side or rear of the existing building and shall be located within a landscaped or fenced area to screen it from view from the street.

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5. Residential Buffering: Where a lot in the LI District abuts a lot in residential use or a residential or rural zone, a vegetated buffer shall be established and maintained in accordance with E. The buffer shall soften the transition from the LI District to adjacent residential areas and shall buffer buildings, parking, and service areas. In the design of sites, components of the project that generate large amounts of traffic, activity, noise, or similar potential impacts should be located away from residential areas and/or designed to mitigate adverse impacts on adjacent residential areas. Exterior light must be designed to eliminate spillover to adjacent residential uses or a residential or rural zone as per the Site Plan Review Ordinance.

6. Buffering of Parking: Parking lots and associated access drives must be buffered from adjacent public streets in accordance with the Site Plan Review Ordinance.

G. OFF-STREET PARKING APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

H. SIGNS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENT

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

I. PLANNED DEVELOPMENT STANDARDS

The following development standards shall apply to all planned developments. In addition to these requirements, planned developments may incorporate the flexible design standards under subsection J. of this district subject to Planning Board review and approval.

1. Unified and Coordinated Design, Signage, and Lighting

Development and redevelopment of larger parcels in the LI District requiring Planned Development Review shall exhibit a high level of site planning and design. Planned Developments with multiple buildings and/or building lots shall establish a unified and coordinated layout and themes that are exhibited throughout the development. Likewise, a coordinated signage and lighting plan shall be required of the Planned Development that establishes a theme within the development.

2. Open Space and Natural Resource Conservation

Planned Developments shall be designed with respect for the natural resources and topography of the site. Significant wetlands, vernal pools and critical wildlife habitat areas shall be avoided, buffered and conserved. These significant natural resource areas that are greater than one (1) acre in size shall be conserved as common open space, while smaller significant natural resource areas may be incorporated into individual building lots or development sites. Open space lands may include a trail system for walking, hiking, biking or similar activities if such a trail system can be accommodated without adverse impact to the natural resources.

3. Access Management and Interconnections

Access to Planned Developments from Holmes Road shall be strictly controlled to limit the number of curbs cuts along this roadway. Planned Developments shall make provisions for street and driveway interconnections to abutting properties to enable cross connections, the shared use

SECTION XXI.B. LIGHT INDUSTRIAL DISTRICT (LI).

of curb cuts and intersections and to reduce the overall number of curb cuts on Holmes Road and to provide access to interior properties that do not have street frontage on Holmes Road.

J. FLEXIBLE DESIGN STANDARDS FOR PLANNED DEVELOPMENTS

The following flexible design standards may be applied to a Planned Development project, subject to Planning Board review and approval.

1. Flexible lot coverage – The Planning Board shall determine the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces in a planned development if the planned development includes “green building” technology or approaches that compensate for the additional lot coverage proposed. Examples of “green building” approaches may include green roof systems, porous pavement, photovoltaic and other forms of distributed energy, and other techniques as reviewed and approved by the Planning Board. If the planned development does not include green building technology, then the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces shall be governed by subsection E. of this district.

SECTION XXI.C. RURAL AND FARMING OVERLAY DISTRICT – RF-O.

SECTION XXI.C. RURAL AND FARMING OVERLAY DISTRICT – RF-O.

A. PURPOSE AND APPLICABILITY

To allow the existing residential buildings and vacant parcels in the Holmes Road Light Industrial area to continue to be used or developed for residential uses until such time as the property is developed, redeveloped, and/or modified and used in accordance with the Light Industrial (LI) District requirements.

The provisions of the RF-O District are applicable to land and to buildings existing as of the date of adoption of this provision or that are developed subsequent to the creation of this overlay district that are occupied or intended to be occupied predominately by residential uses or other uses that are not allowed as Permitted Uses or Special Exceptions in the underlying LI zoning district. The properties and buildings within the RF-O District shall be governed by the provisions of the Rural and Farming Overlay District rather than the provisions of the LI District until: 1) the property owner notifies the Town Planner in writing that he/she wants the property to be subject to the requirements of the underlying LI zoning district or 2) the property is used, developed or redeveloped for nonresidential or other uses not allowed in the RF-O District. Once a property becomes subject to the provisions of the underlying LI zoning district, all rights to being governed by the RF-O provisions are lost and the property may not revert to residential uses or other uses not allowed in the LI District.

B. PERMITTED USES

The use of land and of buildings and structures existing as of the date of adoption of this section shall be governed by the permitted use provisions of the RF District. Any use that is a permitted use in the RF District shall be a permitted use in the RF-O District.

C. SPECIAL EXCEPTIONS

The use of land and of buildings and structures existing as of the date of adoption of this section shall be governed by the Special Exception provisions of the RF District. Any use that is a Special Exception in the RF District shall be a Special Exception in the RF-O District.

D. SPACE AND BULK REGULATIONS

The use, modification, or expansion of buildings or structures existing as of the date of adoption of this section or the construction of new buildings shall be governed by the Space and Bulk Regulations of the RF District.

E. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

F. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XXII. LOCATION OF ADULT BUSINESSES. [Adopted 1/20/93]

SECTION XXII. LOCATION OF ADULT BUSINESSES. [Adopted 1/20/93]

1. DEFINITIONS

a. "Adult business"

means any business in any use category, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in materials or devices of any kind which appeal to prurient interest and which depict or describe specified sexual activities.

b. "Specified sexual activities" means:

1. human genitals in a state of sexual stimulation or arousal;
2. acts of human masturbation, sexual intercourse or sodomy;
3. fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

c. "Public Building"

means a building owned, operated or funded in whole or in part by the Town of Scarborough which members of the general public have occasion to visit, either regularly or occasionally, such as, but not limited to, the Town Hall, the Public Library, the Police Station and Fire Stations.

2. LOCATION OF ADULT BUSINESSES RESTRICTED

No adult business shall be located:

- a.** in any zoning district other than the General Business District B-2 or the Highway Business District BO-R; or
- b.** in any location where the customer entrance to the adult business would be closer than 1,000 feet, measured in a straight line without regard to intervening structures or objects, to the nearest point on the boundary of any property which is:
 - i. occupied by a residence, school, park, playground, church or public building,
 - ii. located in a residential zone, or
 - iii. occupied by another adult business.

3. OUTSIDE DISPLAYS PROHIBITED

No materials or devices displaying or exhibiting specified sexual activities shall be visible from the exterior of the building in which the adult business is located.

SECTION XXIII. CONTRACT ZONING DISTRICTS. Adopted July 3, 1996.

SECTION XXIII. CONTRACT ZONING DISTRICTS. Adopted July 3, 1996.

1. CONTRACT ZONING DISTRICT NUMBER 1

Contract Zoning District Number 1 is created as shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 1 is subject to the regulations applicable in the General Business District, B-2, as modified by the Contract Zoning Agreement between the Town of Scarborough and Frank R. Goodwin, Edward T. Flynn and Raymond C. Field dated July 15, 1996 and attached to this ordinance as Exhibit 1, and by the First Amendment to Contract Zoning Agreement Between the Town of Scarborough and Frank R. Goodwin, E&F Limited Liability Company and Raymond C. Field, dated September 20, 2000 and attached to this ordinance as Exhibit 1-A. (7/03/96) (10/04/2000)

2. CONTRACT ZONING DISTRICT NUMBER 2

Contracting Zoning District Number 2 is created and shown on the Zoning Map of the Town of Scarborough, Maine. Contract Zoning District Number 2 is subject to the regulations applicable in the Rural Residence and Farming District, R-F, as modified by the Contract Zoning Agreement between the Town of Scarborough and Robert Tgettis and Lucinda P. Malbon dated January 6, 1997 and attached to this ordinance as Exhibit 2. (01/06/97) (12/03/97)

3. CONTRACT ZONING DISTRICT NUMBER 3

Contracting Zoning District Number 3 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District Number 3 is an “overlay” zone governed by the Contract Zoning Agreement between the Town of Scarborough and Maine Life Care Retirement Community, Inc., dated November 17, 1997 as Exhibit 3. (duly authorized by Council vote on November 5, 1997)[Amended 05/20/15]

4. CONTRACT ZONING DISTRICT NUMBER 4 [REPEALED BY COUNCIL VOTE ON MARCH 5, 2014]

5. CONTRACT ZONING DISTRICT NUMBER 5

Contract Zoning District Number 5 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 5 is subject to the regulations applicable in the General Business District Zone, B-2, as modified by the Contract Zoning Agreement between the Town of Scarborough and First Scarborough Realty of Maine, LLC, dated August 21, 2002 and attached to this ordinance as Exhibit 5. (August 21, 2002)

6. CONTRACT ZONING DISTRICT NUMBER 6 [REPEALED BY REFERENDUM VOTE ON JULY 29, 2003]

7. CONTRACT ZONING DISTRICT NUMBER 7

Contract Zoning District Number 7 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 7 is subject to the Hillcrest Retirement Community Expansion Contract Zoning Agreement Among The Town Of Scarborough, Theresa Desfosses, Agnes Desfosses And State Manufactured Homes, Inc. (November 3, 2004)

SECTION XXIII. CONTRACT ZONING DISTRICTS. Adopted July 3, 1996.

8. CONTRACT ZONING DISTRICT NUMBER 8

Contract Zoning District Number 8 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 8 is between the Town Of Scarborough, and Grondin Aggregates LLC. (August 16, 2006)

9. CONTRACT ZONING DISTRICT NUMBER 9

Contract Zoning District Number 9 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 9 is between the Town Of Scarborough, and The New England Expedition – Scarborough LLC. (Approved December 20, 2006)

10. CONTRACT ZONING DISTRICT NUMBER 10

Contract Zoning District Number 10 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 10 is between the Town Of Scarborough, The Scarborough Land Conservation Trust, John Bliss, and Stacy Brenner. (Approved May 21, 2008)

11. CONTRACT ZONING DISTRICT NUMBER 11

Contact Zoning District Number 11 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 11 is between the Town of Scarborough and Avesta Housing Development Corporation. (Approved August 19, 2015)

12. CONTRACT ZONING DISTRICT NUMBER 12

Contact Zoning District Number 12 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 12 is between the Town of Scarborough and Patriot Acura Dealership. (Approved May 20, 2019)

EXHIBIT 1

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND FRANK R. GOODWIN,
E&F LIMITED LIABILITY COMPANY
AND RAYMOND C. FIELD**

This is a Contract Zoning Agreement made as of the 15th day of July 1996, by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter "the Town"), and E&F Limited Liability Company, with an office at 195 Pleasant Street, Brunswick, Maine, and Raymond C. Field of Scarborough, Maine, pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance.

WHEREAS, E&F Limited Liability Company intends to purchase from Raymond C. Field a parcel of real estate located at 371 U.S. Route 1 in Scarborough, Maine consisting of five (5) acres (hereinafter "the property"); and

WHEREAS, the property is currently in a General Business District (B-2) under the Scarborough Zoning Ordinance; and

WHEREAS, the General Business District B-2 presently allows, as permitted uses, general retail sales, services and business space such as retail business and service establishments including warehousing and wholesale distribution but exclusive of outside sales and services; and

WHEREAS, the property contains several select mature trees along the Route 1 frontage, and a resource protection area to the North which will be reserved, and will include extensive interior landscaping, all of which provide a unique amount and quality of vegetative buffering; and

WHEREAS, E&F Limited Liability Company wishes to develop the property as a Land Rover Automobile Dealership with outdoor sales and services which are not permitted in the B-2 Zone; and

WHEREAS, E&F Limited Liability Company has requested a rezoning of the property to permit an Automobile Dealership with outdoor sales and services; and

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of outdoor displays, storage and sales, provided the operation is restricted to the density, scale and intensity proposed by E&F Limited Liability Company and further provided that the restrictions of this Contract Zoning Agreement and the site plan approval are strictly observed; and

WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph G, Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberation thereon, recommended the rezoning of the property as aforesaid; and

WHEREAS, the rezoning would be consistent with the Policies and Future Land Use Plan of Part III of the Scarborough Comprehensive Plan.

WHEREAS, the Town of Scarborough, by and through its Town Council, had determined that the said rezoning would be pursuant to and consistent with the Town's Comprehensive Plan and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Contract Zoning Agreement on July 3, 1996.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

EXHIBITS

1. The Town will amend the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown on Attachment 1.
2. E&F Limited Liability Company is authorized to create an automobile dealership at the property consisting of one building. The initial phases will be constructed within one year after execution of this agreement. Construction of the facility shall be subject to the following conditions:
 - (a) The maximum allowable building footprint for the building shall be 8,075 s.f. and the maximum building height shall be two stories. It is anticipated that the initial structure will be approximately 5,000 s.f. and be programmed to support an expansion phase as business conditions permit.
 - (b) The uses allowed on the property shall be limited to an automobile dealership with outdoor sales, display and storage of motor vehicles.
 - (c) Building design, style and materials shall be substantially as depicted on the building elevations submitted during site plan review.
 - (d) The property shall be landscaped to enhance the general appearance of the project from U.S. Route 1 and surrounding properties as determined by the Planning Board at the time of site plan approval. After the date of approval of this Contract Zoning Agreement by the Scarborough Town Council, no trees or other vegetation existing on that date shall be removed except as indicated in an approved site plan. The landscaping shall be maintained by E&F Limited Liability Company or its successors in interest.
 - (e) With the exception of emergency situations, the hours during which the business may be open to the public shall be limited to between 6:00 a.m. and 9:00 p.m. Monday through Saturday.
 - (f) Upon completion of the access road bisecting the parcel (whether designed as a public street or a private road), as constructed by others, and no later than 30 days after pavement is applied, E&F Limited Liability Company or its successors in interest will construct a second access point at the rear of the parcel as shown on the plan. This access will serve exiting traffic. The existing driveway at Route 1 then will be limited to entering traffic only, as shown on the approved site plan.
 - (g) The sub parcel west of the future access road will be selectively trimmed to provide control of the visual appearance of the facility. No further development of the area is permitted. The sub parcel does not meet the dimensional requirements for a lot under the Scarborough Zoning Ordinance, shall not be built upon and shall not have the status of a non-conforming lot of record under Section III.B of the Scarborough Zoning Ordinance.
 - (h) The property subject to this Contract Zoning Agreement shall be developed and used only in accordance with the site plan approved by the Scarborough Planning Board on May 28, 1996, as that site plan may be Amended from time to time pursuant to the provisions of the Scarborough Site Plan Review Ordinance. Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement:
 - (i) Any increase in the square footage of the area utilized for outdoor display, storage or parking of vehicles on the site; and

EXHIBITS

- (ii) Relocation of any outdoor vehicle storage, display or parking area to any part of the site closer to the property boundaries or to the road sidelines than shown on the original approved site plan.
 - (i) Revisions to the site plan needed to reflect construction of a roadway and installation of utilities in the area shown as "Reserved for a Roadway" shall not require revision of this Contract Zoning Agreement.
- 3. E&F Limited Liability Company shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.
- 4. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property except as this Contract Zoning Agreement may be amended by future written agreement of the Town of Scarborough and E&F Limited Liability Company, and Raymond C. Field or their successors in interest.

This is the sole zoning for the property and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying B-2 Zoning District shall apply. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the property, shall bind E&F Limited Liability Company and Raymond C. Field, their successors in interest and assigns of said property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough and any applicable amendments thereto or replacement thereof.

In the event that E&F Limited Liability Company or Raymond C. Field or their successors or assigns fail to develop the project in accordance with this Contract, or in the event of any other breach hereof, this Contract may be terminated by vote of the Scarborough Town Council. In that event, the property may then be used only for such uses as are otherwise allowed by law.

WITNESS:

TOWN OF SCARBOROUGH

/s/ Laurel R. Nadeau

/s/ Carl L. Betterley

Its Town Manager (duly authorized by vote of
the Scarborough Town Council on July 3, 1996)

E&F LIMITED LIABILITY COMPANY

/s/ Laurel R. Nadeau

/s/ Frank R. Goodwin

Its Managing Member

/s/ Laurel R. Nadeau

/s/ Raymond C. Field, Owner

FIRST AMENDMENT TO EXHIBIT 1

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
FRANK R. GOODWIN, E&F LIMITED LIABILITY COMPANY
AND RAYMOND C. FIELD**

WHEREAS, E&F Limited Liability Company (“E&F”) entered into a Contract Zoning Agreement with the Town of Scarborough on the 15th date of July 1996 (the “Contract”), a copy of which is attached hereto as Exhibit 1; and,

WHEREAS, E&F acquired certain real estate from Raymond C. Field by two deeds dated June 21, 1996 and recorded in the Cumberland County Registry of Deeds at Book 12576 Page 54 and by Corrective Warranty Deed dated October 27, 1997, recorded in the Cumberland County Registry of Deeds at Book 13402, Page 45; and,

WHEREAS, E&F wishes to build an addition to its existing building on the north side of the building away from U.S. Route One, which addition is to be used for the purposes of automotive sales and service; and,

WHEREAS, in order to have the proper setbacks, E&F has acquired an approximate additional 17,070 square feet by Deed of KDA LLC (successor to Raymond Field), which deed was dated April 10, 2000 and recorded in the Cumberland County Registry of Deeds at Book 15410, Page 322; and,

WHEREAS, the original Contract, Exhibit 1, at paragraph 2, states that E&F was authorized to create an automobile dealership with the initial structure of approximately 5000 square feet and that the maximum allowable footprint for the building shall be 8075 square feet; and,

WHEREAS, the current initial structure is 5495 square feet and the anticipated addition to the structure will be 3826 square feet for a total building footprint of 9321 square feet; and,

WHEREAS, the addition to the automobile dealership may involve an increase in the square footage of the area utilized for outdoor display, storage or parking of vehicles and may involve the relocation of outdoor vehicle storage, display or parking areas of the site closer to the property boundaries or road sidelines than shown on the originally approved site plan; and,

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of outdoor displays, storage and sales, because the additional square footage of the building is aware from U.S. Route One and will provide no parking closer to U.S. Route One than already exists; and,

WHEREAS, the Amendment to the Contract Zoning Agreement would be consistent with the policies and future land use plan of part three of the Scarborough Comprehensive Plan and is permitted pursuant to the Zoning Ordinance and Maine Law and is consistent with the existing and permitted uses within the original zoning classification.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change shown on Attachment 1 hereto.
2. All references in the original Contract Zoning Agreement to the “site plan” shall hereafter mean the amended site plan approved by the Scarborough Planning Board on August 14, 2000.

EXHIBITS

3. Upon approval of an amended site plan by the Scarborough Planning Board, E&F Limited Liability Company is authorized to construct the addition to the automobile dealership as portrayed on the Attached Exhibit B. The additional construction will be completed within 12 months after execution of this Agreement. Construction of the addition shall be subject to the following conditions:
 - a. The maximum allowable building footprint for the building shall be 9325 square feet and the maximum building height shall be two stories.
 - b. Building design, style and materials for the addition shall be substantially as depicted on the building elevation submitted during site plan review.
 - c. No trees or other vegetation existing on the date of this Agreement shall be removed except as indicated in the approved addition site plan.
4. Except as amended hereby, E&F Limited Liability Company reaffirms each and every provision of the Contract Zoning Agreement, Exhibit A.
5. E&F Limited Liability Company shall record this Amendment to the Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Contract Zoning Agreement this day of October, 2000.

WITNESS:

/s/

TOWN OF SCARBOROUGH

by:/s/ Its: Town Manager (duly authorized by a vote of the Scarborough Town Council on October 2, 2000.)

WITNESS:

/s/

E&F LIMITED LIABILITY COMPANY

by:/s/Frank R. Goodwin
Its: Managing Member

STATE OF MAINE

COUNTY OF CUMBERLAND _____,2000

Personally appeared the above named _____, in his/her capacity as Scarborough Town Manager and acknowledged the foregoing instrument to be his/her free act and deed.

Before me,

Notary Public / Attorney at Law

STATE OF MAINE

COUNTY OF CUMBERLAND _____,2000

Personally appeared the above named Frank R. Goodwin in his capacity as Managing Member of E&F Limited Liability Company and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Notary Public / Attorney at Law

SECOND AMENDMENT TO EXHIBIT I

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
FRANK R. GOODWIN, E & F LIMITED LIABILITY COMPANY
AND RAYMOND C. FIELD**

WHEREAS, E & F Limited Liability Company (“E & F”) entered into a Contract Zoning Agreement with the Town of Scarborough on the 15th day of July 1996 (the “Contract”), a copy of which is attached hereto as Schedule A; and,

WHEREAS, E & F acquired certain real estate from Raymond C. Field by two deeds dated June 21, 1996 and recorded in the Cumberland County Registry of Deeds at Book 12576 Page 54 and by Corrective Warranty Deed dated October 27, 1997, recorded in the Cumberland County Registry of Deeds at Book 13402, Page 45; and,

WHEREAS, E & F built a 3,826 square foot addition to its existing building on the north side of the building away from U.S. Route One, which addition is used for the purposes of automobile sales and service pursuant to a First Amendment to the Contract, dated October 2, 2000, a copy of which is attached hereto as Schedule B; and,

WHEREAS, in order to have the proper set backs, E & F acquired an approximate additional 17,070 square feet by deed of KDA LLC (successor to Raymond Field), which deed was dated April 10, 2000 and recorded in the Cumberland County Registry of Deeds at Book 15410, Page 322; and,

WHEREAS, the Amended Contract, Schedule B, at paragraph 3(a), states that E & F was authorized to have an automobile dealership with the structure of 9,325 square feet; and,

WHEREAS, the current initial structure is 9,321 square feet and the anticipated additions to the structure will be 4409 square feet for a total building footprint of 13730 square feet; and,

WHEREAS, the addition to the automobile dealership will also involve an increase in the square footage of the area utilized for outdoor display, storage or parking of vehicles. An additional 9 parking spaces, 8 new spaces being visible from the road will bring the total number of parking spaces to 108, 16 of which will be visible from the road. The relocation of outdoor vehicle storage and display or parking areas to parts of the site closer to the property boundaries or road sidelines than shown on the originally approved site plan is contemplated; and,

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of outdoor displays, storage and sales, because the additional square footage of the building is away from U.S. Route One.

WHEREAS, the Amendment to the Contract Zoning Agreement would be consistent with the policies and future land use plan of part three of the Scarborough Comprehensive Plan and is permitted pursuant to the Zoning Ordinance and Maine Law and is consistent with the existing and permitted uses within the original zoning classification.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change shown on Schedule C hereto.
2. All references in the original Contract Zoning Agreement, the First Amendment to the Contract and the Second Amendment to the Contract, to the “site plan” shall hereafter mean the amended site plan approved by the Scarborough Planning Board on June 1, 2004, attached hereto as Schedule D.

EXHIBITS

3. Upon approval of an amended site plan by the Scarborough Planning Board, E & F Limited Liability Company is authorized to construct the addition to the automobile dealership as portrayed on the Attached Schedule C. The additional construction will be completed within 12 months after execution of this Agreement. Construction of the addition shall be subject to the following conditions:
 - a. The maximum allowable building footprint for the building shall be 13730 square feet and the maximum building height shall be two stories.
 - b. Building design, style and materials for the addition shall be substantially as depicted on the building elevation submitted during site plan review.
 - c. No trees or other vegetation existing on the date of this Agreement shall be removed except as indicated in the approved addition site plan.
4. Except as amended hereby, E & F Limited Liability Company reaffirms each and every provision of the Contract Zoning Agreement, Schedule A and the First Amendment, Schedule B.
5. E & F Limited Liability Company shall record this Amendment to Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Contract Zoning Agreement this _____ day of _____, 2004.

WITNESS:

TOWN OF SCARBOROUGH

By: _____

Its: Town Manager (duly authorized by a vote of the Scarborough Town Council on July 21, 2004)

E & F LIMITED LIABILITY COMPANY

By: _____

Frank R. Goodwin

Its: Managing Member

STATE OF MAINE

COUNTY OF CUMBERLAND

_____, 2004

Personally appeared the above named _____, in his/her capacity as Scarborough Town Manager and acknowledged the foregoing instrument to be his/her free act and deed.

Before me,

Notary Public/Attorney at Law

STATE OF MAINE

COUNTY OF _____

_____, 2004

Personally appeared the above named Frank R. Goodwin in his capacity as Managing Member of E & F Limited Liability Company and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Notary Public/Attorney at Law

THIRD AMENDMENT TO EXHIBIT I

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
FRANK R. GOODWIN, E & F LIMITED LIABILITY COMPANY
AND RAYMOND C. FIELD**

WHEREAS, E & F Limited Liability Company (“E & F”) entered into a Contract Zoning Agreement with the Town of Scarborough on the 15th day of July 1996 (the “Contract”), a copy of which is attached hereto as Schedule A; and,

WHEREAS, E & F acquired certain real estate from Raymond C. Field by two deeds dated June 21, 1996 and recorded in the Cumberland County Registry of Deeds at Book 12576 Page 54 and by Corrective Warranty Deed dated October 27, 1997, recorded in the Cumberland County Registry of Deeds at Book 13402, Page 45; and,

WHEREAS, E & F built a 3,826 square foot addition to its existing building on the north side of the building away from U.S. Route One, which addition is used for the purposes of automobile sales and service pursuant to a First Amendment to the Contract, dated October 2, 2000, a copy of which is attached hereto as Schedule B; and,

WHEREAS, in order to have the proper setbacks, E & F acquired an approximate additional 17,070 square feet by deed of KDA LLC (successor to Raymond Field), which deed was dated April 10, 2000 and recorded in the Cumberland County Registry of Deeds at Book 15410, Page 322; and,

WHEREAS, the Amended Contract, Schedule B, at paragraph 3(a), states that E & F was authorized to have an automobile dealership with the structure of 13,730 square feet; and,

WHEREAS, the current initial structure is 13,730 square feet and the anticipated additions to the structure will be 1000 square feet for a total building footprint of 14730 square feet; and,

WHEREAS, the addition to the automobile dealership will also involve an increase in the square footage of the area utilized for outdoor display, storage or parking of vehicles. An additional 7 parking spaces, 7 new spaces being visible from the road will bring the total number of parking spaces to 115, 23 of which will be visible from the road. The relocation of outdoor vehicle storage and display or parking areas to parts of the site closer to the property boundaries or road sidelines than shown on the originally approved site plan is contemplated; and,

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of outdoor displays, storage and sales, because the additional square footage of the building is away from U.S. Route One.

WHEREAS, the Amendment to the Contract Zoning Agreement would be consistent with the policies and future land use plan of part three of the Scarborough Comprehensive Plan and is permitted pursuant to the Zoning Ordinance and Maine Law and is consistent with the existing and permitted uses within the original zoning classification.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change shown on Schedule C hereto.
2. All references in the original Contract Zoning Agreement, the First Amendment to the Contract and the Second Amendment to the Contract, and the Third Amendment to the Contract to the “site plan” shall hereafter mean the amended site plan approved by the Scarborough Planning Board on (TBD), 2016, attached hereto as Schedule D.

EXHIBITS

3. Upon approval of an amended site plan by the Scarborough Planning Board, E & F Limited Liability Company is authorized to construct the addition to the automobile dealership as portrayed on the Attached Schedule C. The additional construction will be completed within 12 months after execution of this Agreement. Construction of the addition shall be subject to the following conditions:
 - a. The maximum allowable building footprint for the building shall be 14,730 square feet and the maximum building height shall be two stories.
 - b. Building design, style and materials for the addition shall be substantially as depicted on the building elevation plans prepared by Ryan Senatore Architecture dated May 13, 2016, submitted during site plan review.
 - c. No trees or other vegetation existing on the date of this Agreement shall be removed except as indicated in the approved addition site plan.
4. Except as amended hereby, E & F Limited Liability Company reaffirms each and every provision of the Contract Zoning Agreement, Schedule A and the First Amendment, Schedule B.
5. E & F Limited Liability Company shall record this Amendment to Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.

The parties hereto have executed this Third Amendment to Contract Zoning Agreement this _____ day of _____, 2016.

WITNESS:

TOWN OF SCARBOROUGH

By: _____

Its: Town Manager (duly authorized by a vote of _____ the Scarborough Town Council on
(TBD), 2016

E & F LIMITED LIABILITY COMPANY

By: _____

Frank R. Goodwin

Its: Managing Member

STATE OF MAINE

COUNTY OF CUMBERLAND

_____, 2016

Personally appeared the above named _____, in his/her capacity as Scarborough Town Manager and acknowledged the foregoing instrument to be his/her free act and deed.

Before me,

Notary Public/Attorney at Law

STATE OF MAINE

COUNTY OF _____

_____, 2016

Personally appeared the above named Frank R. Goodwin in his capacity as Managing Member of E & F Limited Liability Company and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Notary Public/Attorney at Law

FOURTH AMENDMENT TO EXHIBIT 1

**FOURTH AMENDMENT TO EXHIBIT I
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
FRANK R. GOODWIN, E & F LIMITED LIABILITY COMPANY
AND RAYMOND C. FIELD**

WHEREAS, E & F Limited Liability Company (“E & F”) entered into a Contract Zoning Agreement with the Town of Scarborough on the 15th day of July 1996 (the “Contract”), a copy of which is attached hereto as Schedule A; and,

WHEREAS, E & F acquired certain real estate from Raymond C. Field by two deeds dated June 21, 1996 and recorded in the Cumberland County Registry of Deeds at Book 12576 Page 54 and by Corrective Warranty Deed dated October 27, 1997, recorded in the Cumberland County Registry of Deeds at Book 13402, Page 45; and,

WHEREAS, E & F built a 3,826 square foot addition to its existing building on the north side of the building away from U.S. Route One, which addition is used for the purposes of automobile sales and service pursuant to a First Amendment to the Contract, dated October 2, 2000, a copy of which is attached hereto as Schedule B; and,

WHEREAS, in order to have the proper setbacks, E & F acquired an approximate additional 17,070 square feet by deed of KDA LLC (successor to Raymond Field), which deed was dated April 10, 2000 and recorded in the Cumberland County Registry of Deeds at Book 15410, Page 322; and,

WHEREAS, the Amended Contract, Schedule B, at paragraph 3(a), states that E & F was authorized to have an automobile dealership with the structure of 13,730 square feet; and,

WHEREAS, the current initial structure is 13,730 square feet and the anticipated additions to the structure will be 2,270 square feet for a total building footprint of 16,500 square feet; and,

WHEREAS, the addition to the automobile dealership will also involve an increase in the square footage of the area utilized for outdoor display, storage or parking of vehicles. An additional 7 parking spaces, 5 new spaces being visible from the road will bring the total number of parking spaces to 115, 23 of which will be visible from the road. The relocation of outdoor vehicle storage and display or parking areas to parts of the site closer to the property boundaries or road sidelines than shown on the originally approved site plan is contemplated; and,

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of outdoor displays, storage and sales, because the additional square footage of the building is away from U.S. Route One.

WHEREAS, the Amendment to the Contract Zoning Agreement would be consistent with the policies and future land use plan of part three of the Scarborough Comprehensive Plan and is permitted pursuant to the Zoning Ordinance and Maine Law and is consistent with the existing and permitted uses within the original zoning classification.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change shown on Schedule C hereto.
2. All references in the original Contract Zoning Agreement, the First Amendment to the Contract, the Second Amendment to the Contract, the Third Amendment to the Contract, and the Fourth Amendment to the contract and to the “site plan” shall hereafter mean the amended site plan approved by the Scarborough Planning Board on (TBD), 2017, attached hereto as Schedule D.

EXHIBITS

3. Upon approval of an amended site plan by the Scarborough Planning Board, E & F Limited Liability Company is authorized to construct the addition to the automobile dealership as portrayed on the Attached Schedule C. The additional construction will be completed within 12 months after execution of this Agreement. Construction of the addition shall be subject to the following conditions:
 - a. The maximum allowable building footprint for the building shall be 16,500 square feet and the maximum building height shall be two stories.
 - b. Building design, style and materials for the addition shall be substantially as depicted on the building elevation plans as prepared by Ryan Senatore Architecture dated TBD 2017, submitted during Site Plan Review.
 - c. No trees or other vegetation existing on the date of this Agreement shall be removed except as indicated in the approved addition site plan.
4. Except as amended hereby, E & F Limited Liability Company reaffirms each and every provision of the Contract Zoning Agreement, Schedule A and the First Amendment, Schedule B.
5. E & F Limited Liability Company shall record this Amendment to Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.

The parties hereto have executed this Third Amendment to Contract Zoning Agreement this _____ day of _____, 2017.

WITNESS:

TOWN OF SCARBOROUGH

By: _____

Its: Town Manager (duly authorized by a vote of _____ the Scarborough Town Council on (TBD), 2017)

E & F LIMITED LIABILITY COMPANY

By: _____

Frank R. Goodwin Its: Managing Member

STATE OF MAINE

COUNTY OF CUMBERLAND

_____, 2017

Personally appeared the above named _____, in his/her capacity as Scarborough Town Manager and acknowledged the foregoing instrument to be his/her free act and deed.

Before me,

Notary Public/Attorney at Law

STATE OF MAINE

COUNTY OF _____

_____, 2017

Personally appeared the above named Frank R. Goodwin in his capacity as Managing Member of E & F Limited Liability Company and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Notary Public/Attorney at Law

EXHIBIT 2

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
ROBERT TGETTIS AND LUCINDA P. MALBON**

This is a Contract Zoning Agreement made as of the 6th day of January 1997, by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter “the Town”), and Robert Tgettis and Lucinda P. Malbon of Scarborough, Maine, (“Tgettis and Malbon”) pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance.

WHEREAS, Tgettis and Malbon are owners of real estate located at 311 Beech Ridge Road in Scarborough, Maine consisting of approximately 9.6 acres, as shown on attachment 1 (the “Property”); and

WHEREAS, the Property is currently in a Rural Residence and Farming District (R-F) under the Scarborough Zoning Ordinance; and

WHEREAS, the Rural Residence and Farming District R-F presently allows a number of non-residential uses, including retail sales of farm produce in connection with farming operations, kennels, hospitals, nursing homes and sanatoria, family day care homes, golf courses, municipal buildings and uses, public utility facilities, cemeteries, extractive industry, camping and tenting areas, non-commercial model aviation flying fields, cross country ski areas and day care center facilities; and

WHEREAS, Tgettis and Malbon wish to expand their existing skin and nail care business within the existing structure on the Property, which is currently operating as a home occupation; and

WHEREAS, the portion of the lot which abuts Beech Ridge Road is extensively wooded and, the existing vegetation, together with appropriate landscaping, will provide effective screening and buffering for the use; and

WHEREAS, Tgettis and Malbon have requested a rezoning of the Property lot to permit the expansion of the existing skin and nail care business beyond the scope allowable as a home occupation; and

WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph G, Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), after notice and hearing and due deliberation thereon, recommends the rezoning of the Property as set forth in this contract; and

WHEREAS, the Town of Scarborough, by and through its Town Council, has determined that the rezoning would be pursuant to and consistent with the Town’s Comprehensive Plan and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Contract Zoning Agreement on January 6, 1997.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown on Attachment 1.
2. Tgettis and Malbon are authorized to operate a skin and nail care business at the Property, consisting of the existing two story structure and new paved parking and driveway areas. The initial phases will be constructed within one year after execution of this agreement. Operation of the facility shall be subject to the following conditions:
 - (a) The maximum allowable building footprint for the building shall be 2,200 s.f. and the maximum building height shall be two stories.

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(b) The uses allowed on the Property shall be skin and nail care, and those uses otherwise allowable in the Rural Residence and Farming District R-F.

(c) Building design, style and materials shall be residential in appearance, with no substantial exterior changes from the existing structure.

(d) The Property shall be landscaped to enhance the general appearance of the project from Beech Ridge Road and surrounding properties as determined by the Planning Board at the time of site plan approval. After the date of approval of this Contract Zoning Agreement by the Scarborough Town Council, no trees or other vegetation existing on that date shall be removed except as indicated in an approved site plan. The landscaping shall be maintained by Tgettis and Malbon or their successors in interest in the Property.

(e) With the exception of emergency situations, the hours during which the nail and skin care business may be open to the public shall be limited to between 7:00 a.m. and 9:00 p.m. Monday through Saturday.

(f) Vehicular access between Beech Ridge Road and the Property shall be from one driveway only, located approximately in the location of the existing driveway, the exact location to be determined by the Planning Board at the time of site plan approval.

(g) The number of persons providing skin and nail care to customers on the Property shall not exceed eight at any time.

(h) The Property shall be developed and used only in accordance with the site plan approved by the Scarborough Planning Board on December 9, 1996, as that site plan may be amended from time to time pursuant to the provisions of the Scarborough Site Plan Review Ordinance. Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement:

(i) Any increase in the square footage of the area utilized for the skin and nail care business; and

(ii) Relocation of any outdoor parking areas to any part of the site other than shown on the original approved site plan.

(i) As used in this Contract Zoning Agreement, the term “skin and nail care” includes:

- (i) manicure and pedicure treatments, meaning applying the hands or mechanical or electrical apparatus with or without cosmetic preparations, locations, creams or antiseptics to cut, trim, shape polish, color, or trim or apply artificial nails to the nails of any person or to massage, cleanse or beautify the hands or feet of any person, including application of nail art;
- (ii) skin treatments, meaning beautifying, massaging, cleansing, stimulating, toning, or manipulating or exercising the skin of the human body by the use of cosmetic preparations, tonics, lotions, creams, antiseptics, or clays or any device electrical or otherwise, for the care of the skin, including facial treatments;
- (iii) coloring treatments, including applying makeup or eyelashes, to the eyelashes or eyebrows;
- (iv) hair removal, by wax treatments, electrolysis or other means;
- (v) massage therapy as defined in state statute, 32 M.R.S.A. § 14302(4), administered by a massage therapist certified under the state statute and licensed under the Town of Scarborough Massage Establishment Ordinance; and,
- (vi) any

other procedures, techniques or advancements for accomplishing the treatments above which may in the future become generally accepted and recognized in the fields of skin and nail care. The term "skin and nail care" does not include arranging, dressing, curling, waving, cleansing, cutting, trimming, singeing, bleaching or similarly treating human hair wigs, wiglets or hairpieces.

(i) This addendum shall not prevent the practice of massage therapy on the premises by Amy Cousins, a registered massage practitioner employed on the premises at the time of approval of this addendum. (Addendum, made as of the 3rd day of December between the Town of Scarborough and Robert Tgettis and Lucinda P. Malbon dated January 6, 1997 adding the new term "skin and nail care").

3. Tgettis and Malbon shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.
4. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property except as this Contract Zoning Agreement may be amended by future written agreement of the Town of Scarborough and Tgettis and Malbon or their successors in interest.
5. This is the sole zoning for the Property and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying R-F Zoning District shall apply. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind Tgettis and Malbon, their heirs, successors in interest and assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.
6. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough and any applicable amendments thereto or replacement thereof.
7. In the event that Tgettis and Malbon or their heirs, successors or assigns fail to use the Property in accordance with this Contract Zoning Agreement, or in the event of any other breach hereof, this Contract Zoning Agreement may be terminated by vote of the Scarborough Town Council. In that event, the property may then be used only for such uses as are otherwise allowed by law.

WITNESS:

/s/ Laurel R. Nadeau

/s/ Laurel R. Nadeau

/s/ Laurel R. Nadeau

TOWN OF SCARBOROUGH

/s/ Carl Betterley

Its Town Manager (duly authorized by vote
of the Scarborough Town Council on January 6, 1997)

/s/ Robert Tgettis

/s/ Lucinda P. Malbon

**FIRST AMENDMENT TO EXHIBIT 2
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
ROBERT TGETTIS AND LUCINDA P. MALBON**

This First Amendment to Contract Zoning Agreement (hereinafter, this "Amendment") is made as of the 19th day of September, 2007, by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter "the Town"), and Robert Tgettis and Lucinda P. Malbon of Scarborough, Maine, ("Tgettis and Malbon) pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, Tgettis and Malbon entered into a Contract Zoning Agreement with the Town dates as of the 6th day of January 1997 (hereinafter, this "Agreement") creating Contact Zoning District Number II (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 12903, Page 122; and,

WHEREAS, Tgettis and Malbon wish to expand their existing skin and nail care business on the Property; and,

WHEREAS, Tgettis and Malbon have requested that the Town approve this Amendment to the Agreement; (a) modifying the number of employees allowed; (b) adding administrative staff; (c) adding to the overall square footage of structure footprint; and (d) adding separate parking for employees.

NOW THEREFORD, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. Section 2(a) is amended to read as follows: "The maximum allowable building footprint for the building shall be 2,200 square feet plus a maximum of 335 square feet for a rear porch and stair area measuring approximately 29.6 feet by 11.2 feet, and the maximum building height shall be two stories."
2. Section 2(g) is amended to read as follows: "The number of persons providing skin and nail care to customers on the Property shall not exceed twelve at any time; this limit does not include the owner/manager or administrative staff who do not perform skin and nail care services."
3. A new Section 2(j) is added to read as follows: "Upon approval of an amended site plan by the Scarborough Planning Board, Tgettis and Malbon are authorized to add a separate employee parking area measuring approximately 90 feet by 60 feet with a 25 foot by 25 foot hammerhead turnaround."
4. Except as specifically amended herein, all terms and conditions of the original Contract Zoning Agreement shall remain in full force and effect.
5. Tgettis and Malbon shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

/s/ Laurel R. Nadeau

TOWN OF SCARBOROUGH:

/s/ Ronald W. Owens, its Town Manager

EXHIBITS

(duly authorized by vote of the Scarborough Town Council on September 19, 2007)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

September 25, 2007

Personally appeared the above named Ronald W. Owens, Town Manager, of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

/s/ Yolande P. Justice, Notary Public

SECOND AMENDMENT TO EXHIBIT 2
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
ROBERT TGETTIS AND LUCINDA P. MALBON

This Second Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the October 4, 2017 by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter “the Town”), and Robert Tgettis and Lucinda P. Malbon of Scarborough, Maine, (“Tgettis and Malbon”) pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, Tgettis and Malbon entered into a Contract Zoning Agreement with the Town dated as of the 6th day of January 1997, subsequently amended by an amendment dated September 19, 2007, (hereinafter, this “Agreement”) creating Contract Zoning District Number II (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 12903, Page 122; and,

WHEREAS, Tgettis and Malbon wish to expand their existing skin and nail care business on the Property to include hair care; and,

WHEREAS, Tgettis and Malbon have requested that the Town approve this Amendment to the Agreement to allow hair care as an approved service.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. Section 2 is amended to insert hair care as an allowable use, to read as follows: “Tgettis and Malbon are authorized to operate a skin, hair and nail care business at the Property....”
2. Section 2(b) is amended to read as follows: “The uses allowed on the Property shall be skin, hair and nail care, and those uses otherwise allowable in the Rural Residence and Farming District.”
3. Section 2(h)(i) is amended to read as follows: “Any increase in the square footage of the area utilized for the skin, hair and nail care business, and”
4. Section 2(h)(i) is amended to read as follows: “As used is this Contract Zoning Amendment, the term skin, hair and nail care includes:”
5. Section 2(h)(i)(i) is amended to insert “hair care” as an allowable use, and will read as follows: “(i) manicure and pedicure treatments, meaning applying the hands or mechanical or electrical apparatus with or without cosmetic preparations, locations, creams, or antiseptics to cut, trim, shape, polish, color, or trim or apply artificial nails to the nails of any person or to massage, cleanse or beautify the hands or feet of any person, including application of nail art; (ii) skin treatments, meaning beautifying, massaging, cleansing, stimulating, toning, or manipulating or exercising the skin if the human body by the use of cosmetic preparations, tonics, lotions, creams, antiseptics, or clays or any device electrical or otherwise, for the care of skin, including facial treatment; (iii) coloring treatments, including applying makeup or eyelashes, to the eyelashes or eyebrows; (iv) hair removal, by wax treatments, electrolysis or other means; (v) massage therapy as defined in state statute, 32 M.R.S.A. § 14302(4), administered by a massage therapist certified under the state statute and licensed under the Town of Scarborough Massage Establishment Ordinance; and (vi) hair care (vii) any other procedures techniques or advancements for accomplishing the

EXHIBITS

treatment above which may in the future become generally accepted and recognized in the fields of skin, hair and nail care.”

6. Section 2 (h)(i)(i) is further amended to delete the following sentence: “The term “skin and nail care” does not include arranging, dressing, curling, waving, cleansing, cutting, trimming, singeing, bleaching or similarly treating human hair wigs, wiglets or hairpieces.”
7. The sole intent of this amendment is to allow hair care as an acceptable use. Except as specifically amended herein, all terms and conditions of the original Contract Zoning Agreement, as amended, shall remain in full force and effect.
8. Tgettis and Malbon shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

Thomas J. Hall, its Town Manager
(duly authorized by vote of the Scarborough
Town Council on _____, 2017)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

_____, 2017

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

Notary Public/Attorney-At-Law

Print Name

EXHIBIT 3

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
MAINE LIFE CARE RETIREMENT COMMUNITY, INC.**

This Contract Zoning Agreement made as of the 17th date of November, 1997, by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the “Town”), and MAINE LIFE CARE RETIREMENT COMMUNITY, INC., a Maine non-profit corporation, with an address of P.O. Box 1012, Portland, ME (“Maine Life Care”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance:

WHEREAS, Maine Life Care intends to purchase a parcel or real estate located at Spurwink Road and Piper Road, Scarborough, Maine, consisting of approximately 138 acres, being shown as Parcels 1, 2, 5, 6, 6A, 7, 8 and 9 on the Town’s Tax Map 101 and as Parcel 12 and 14 on the Town’s Map 100, such property being the premises described in Schedule A of the Memorandum of Option Agreement, dated November 5, 1996 and recorded in the Cumberland County Registry of Deeds, Book 12808, Page 50 (hereinafter the “Property”); and

WHEREAS, the Property is currently in part in a Rural Residence and Farming District (R-F) and in part in the Residential (R-3) District and in part in the Resource Protection (R-P) District under the Scarborough Zoning Ordinance; and

WHEREAS, the R-F District and the R-3 District presently allow, as permitted uses, or special exceptions, various uses, including nursing homes and board care facilities for the elderly but not continuing care retirement communities; and

WHEREAS, Maine Life Care wishes to develop the Property as a Continuing Care Retirement Community which is not currently permitted in the R-F Zone or the R-3 Zone; and

WHEREAS, the Zoning Ordinance of the Town of Scarborough does not currently recognize Continuing Care Retirement Community as a defined use; and

WHEREAS, Maine Life Care has requested a rezoning of the Property to permit a Continuing Care Retirement Community; and

WHEREAS, the Property contains several select mature trees along the Spurwink Avenue frontage and open agricultural land along Spurwink Road frontage that will be maintained, a large amount of mature trees buffering adjacent to the agricultural lands that will be preserved, and a resource protection area to the south which will be preserved, and will include areas of extensive interior landscaping, all of which provide a unique amount and quality of vegetative buffering; and

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping, and site design which will be appropriate for a Continuing Care Retirement Community, provided the operation is restricted to the density, scale and intensity proposed by Maine Life Care and further provided that the restrictions of this Contract Zoning Agreement are observed; and

WHEREAS, the Continuing Care Retirement Community will concentrate development into two areas of the site plus roadways totaling approximately 48 acres, thereby leaving approximately 90 acres of the 138 acre site as open space; and

WHEREAS, Maine Life Care intends to maintain approximately 90 acres of the Project’s land as open space and, if requested by the Town, to place the same into a Conservation Easement to be held and administered by a conservation trust approve by the Town Manager of the Town; and

EXHIBITS

WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph G, Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid; and

WHEREAS, the Project will serve the Town's goal of fostering and accommodating a diverse population in the Town (Chapter 15(A) of the Comprehensive Plan) by constructing the first life care community in the State of Maine to serve the needs of the elderly in the region; and

WHEREAS, the Project would create approximately 100 new permanent jobs thereby helping to achieve the Town's goal of promoting and fostering a diversified economy that can be sustaining even in recessionary periods as set forth in Chapter 15(B) of the Comprehensive Plan; and

WHEREAS, the Project will preserve over 90 acres as open space thereby furthering the goal of Chapter 15(C) of the Comprehensive Plan of promoting a "pattern of land use that respects the Town's natural resources" with this Agreement serving as the Plan's contemplated "meaningful incentive to keep large areas of rural space intact" and the goal of Chapter 15(D) of the Comprehensive Plan of protecting fragile cost resources, including marshlands, sand dunes and wildlife habitats and the character of existing coastal neighborhoods; and

WHEREAS, the Project preserves Spurwink Road as a "scenic corridor" and assures 90 acres of open space "needed for the ... protection of wildlife and natural systems" as envisioned by Chapter 15(E) of the Comprehensive Plan;

WHEREAS, the Project, in accordance with Chapter 15(F) of the Comprehensive Plan, encouraging development that maintains substantial open space along Spurwink Avenue and precludes new households with frontage thereon, and therefor provides the variety of land uses needed to serve the day-to-day needs of the community (particularly its elderly residents) and this Contract, therefor, recognizes the Town's "preferred strategy for these rural lands is a combination of (a) increasing the minimum land size somewhat from the present 2 net acres; (b) making clustering of development optional but with a substantial density bonus as an incentive and (c) developing standards to assure that open space that is preserved as part of the clustering is both contiguous to other land similarly preserved and has public value (for wildlife, aesthetics, preservation of the rural landscape and so forth;" and

WHEREAS, the Project serves the goals of Chapter 15 (G) of the Comprehensive Plan by using public sewer and water facilities; and

WHEREAS, the Project fulfills the goals of Chapter 15 (H) of the Comprehensive Plan encouraging a choice of housing for residents of all ages and incomes by providing a type of retirement community not currently available in the Town;

WHEREAS, the rezoning provided in this Agreement, therefor, would be consistent with the Policies and Future Land Use Plan of Part III of the Scarborough Comprehensive Plan; and

WHEREAS, the Town of Scarborough, by and through its Town Council, therefor, has determined that the said rezoning would be pursuant to and consistent with the Town's local growth program and Comprehensive Plan adopted pursuant to Title 30-A, Maine Revised Statutes, Chapter 187, Sub-part 6-A, and consistent with the existing and permitted uses within the original zoning district classification and has authorized the executive of this Contract Zoning Agreement.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town hereby amends the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown on Attachment 1.

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2. Maine Life Care is authorized to create a Continuing Care Retirement Community, as defined herein, at the Property. For purposes of this Agreement, a Continuing Care Retirement Community means a residential and health care facility for persons 62 years of age or older which may include independent living units (apartments or cottages) for well elderly, assisted living units for frail elderly, and a skilled nursing facility, all as further described in paragraph (e) below, plus related supporting and accessory uses. Supporting and accessory uses, which shall be secondary and incidental to the residential units, may include administrative offices, shared areas for communal dining and recreational activities, a Wellness Center, health care offices, community store, bank, barber/beauty salon and guest rooms, all for the benefit of the residents and staff of the Continuing Care Retirement Community. Unless extended by the Town, construction of the initial phases of the Project will commence within two (2) years after execution of this Agreement; provided that Phase II (consisting of the 40 Independent Living Cottage Units referenced in paragraph 2(e) hereof, and the final 4 Assisted Living apartments; 32 Skilled Nursing Rooms and 16 Assisted Living Units) and substantially completed within five (5) years thereafter. Construction and use of the facility shall be subject to the following conditions:

- (a) Building Footprint and Height: The maximum allowable building footprint for the buildings (including the main building, the cottages and garage structures) shall be 257,600 square feet and the maximum building height shall be three (3) stories and as shown on the Site Plan Approved by the Town of Scarborough Planning Board. The main buildings shall be a maximum height of 39 feet to the mid-point of the sloped or hip roofs and 45 feet to the ridge of the roof. The maximum number of stories for the cottages will be 1 story.
- (b) Permitted Uses: The uses allowed or permitted on the Property shall be limited to (i) a Continuing Care Retirement Community and accessory uses; and (ii) the existing agricultural uses along Spurwink Avenue. Maine Life Care also may either (a) retain and maintain the existing cottage and barn on the Property, the use of which will be consistent with the and incidental to the Continuing Care Retirement Community use, such as guest rooms for guest visiting residents, equipment storage, security or maintenance, office and staff accommodations; or (b) sell such cottage for use as a single family residence.
- (c) Building Design: Building design, style and materials shall be substantially as depicted on the building elevations submitted during site plan review, with any changes thereto as approved by the Planning Board.
- (d) Landscaping: The Property shall be landscaped to enhance the general appearance of the project from surrounding properties as determined by the Planning Board at the time of site plan approval. The landscaping shall be maintained by Maine Life Care or its successors or its successors in interest. After the date of approval of this Contract Zoning Agreement, there shall be no significant amount of removal of existing trees or other vegetation except as indicated on an approved Site Plan. Notwithstanding the above, the use and maintenance by Maine Life Care of lands placed into any Conservation Easement shall be governed by the Deed of Easement, the language of which shall be approved by the Planning Board.
- (e) Density: The maximum net residential density of the Continuing Care Retirement Community shall be

160 Independent Living apartments, being dwelling units ranging in size from 500 square feet to 1800 square feet;

40 Independent Living Cottage Units, being one story, semi-attached in up to for plex buildings with each unit ranging in size from 700 square feet to 2000 square feet;

EXHIBITS

20 Assisted Living Units, as regulated by Department of Human Services rules relating to residential care or assisted living units; and

40 Skilled Nursing Rooms, as regulated by Department of Human Services Nursing Home licensing requirements.

(f) Residents: Occupancy of the Continuing Care Retirement Community shall be limited to persons 62 years of age or older or households with at least one resident who is 62 years of age or older.

(g) Sewer and Water: The facility will be served by both public water and public sewer.

(h) Setback: The front, side and rear yards shall be a minimum of 50 feet and as generally shown on the Site Plan approved by the Planning Board.

(i) Parking: The Project shall provide the following minimum off-street parking:

Independent Living apartments:	1 space for each dwelling unit
Independent Living cottages:	1.25 spaces for each dwelling unit
Assisted Living Units:	1 space per 3 units
Nursing Home beds:	1 space per 3 beds
Employees:	1 space per employee based on the expected average employee occupancy
Facility vehicles:	1 space per each expected facility vehicle

(j) Site Plan: The property subject to this Contract Zoning Agreement shall be developed and used only in accordance with the site plan approved by the Scarborough Planning Board on October 14, 1997, as that site plan may be amended from time to time pursuant to the provisions of the Scarborough Site Plan Ordinance. Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement:

(a) any change to the definition of a Continuing Care Retirement Community; and

(b) any increase in the number of units.

3. Maine Life Care shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its execution by the Town Council.

4. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property except as this Contract Zoning Agreement may be amended by future written agreement with the Town of Scarborough and Maine Life Care or its successors in interest.

The provisions of this Contract Zoning shall operate as an “overlay” zone and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying Zoning District shall apply (other than the maximum net residential density, use, height and parking). The restrictions, provisions and conditions of this Agreement are an essential part of the rezoning, shall run with the Property, shall bind Maine Life Care, its successors in interests and assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough (as applicable) and any applicable amendments thereto or replacement thereof.

EXHIBITS

The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Scarborough Zoning Ordinance and through legal action for specific performance of this Agreement. In the event that Maine Life Care or its successors or assigns fail to develop the project in accordance with this Contract, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if Maine Life Care, its successors or assigns, fails to commence to cure or remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to completion in a reasonable time, then this Contract may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses as otherwise allowed by law.

WITNESS:

/s/ Laurel R. Nadeau

TOWN OF SCARBOROUGH

/s/ Carl L. Betterley, Its Town Manager

duly authorized by vote of the Scarborough

Town Council on November 5, 1997

WITNESS:

MAINE LIFE CARE RETIREMENT

COMMUNITY, INC.

/s/ Ronald Epstein

/s/ John J. Evans, Its President

**FIRST AMENDMENT TO CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
MAINE LIFE CARE RETIREMENT COMMUNITY, INC.**

The First Amendment to Contract Zoning Agreement made as of the _____ day of _____, 2014, by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town"), and Maine Life Care Retirement Community, Inc., a Maine non-profit corporation, with an address of 15 Piper Road, Scarborough, ME 04074 ("Maine Life Care"), pursuant to the Contract Zoning provisions of the Scarborough Zoning Ordinance.

WHEREAS, the Town and Maine Life entered a Contract Zoning Agreement dated November 6, 1997 and November 17, 1997 and recorded in the Cumberland County Registry of Deeds, Book 13437, Page 19 and Book 13449, Page 171; and,

WHEREAS, the Town of Scarborough, by and through its town Council has determined that the amendments set forth herein to said rezoning would be pursuant to and consistent with the Town's local growth program and Comprehensive Plan adopted pursuant to Title 30-A, Maine Revised Statutes, Chapter 187, Sub-part 6-A, and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this First Amendment to the Contract Zoning Agreement.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The provisions of Section 2(a), 2(e) and 2(f) of the Agreement are hereby amended in their entirety to provide:

(a) Building Footprint and Height: The maximum allowable building footprint for the buildings (including the main building, the cottages and garage structures) shall be 288,000 square feet and the maximum building height shall be three (3) stories and as shown on the Site Plan Approved by the Town of Scarborough Planning Board. The main buildings shall be a maximum height of 39 feet to the mid-point of the sloped or hip roofs and 45 feet to the ridge of the roof. The maximum number of stories for the cottages will be 1 story.

(e) Density: The maximum net residential density of the Continuing Care Retirement Community shall be

160 Independent Living apartments, being dwelling units ranging in size from 500 square feet to 1800 square feet;

40 Independent Living Cottage Units, being one story, semi-attached in up to four plex buildings with each unit ranging in size from 700 square feet to 2000 square feet;

48 Assisted Living Units, as regulated by Department of Human Services rules relating to residential care or assisted living units; and

40 Skilled Nursing Rooms, as regulated by Department of Human Services Nursing Home licensing requirements.

(f) Residents: Occupancy of the Continuing Care Retirement Community shall be limited to persons 62 years of age or older or households with at least one resident who is 62 years of age or older; provided, however, that in the case of any dwelling occupied by a person age 62 or older and by a person older than 21 and younger than age 62, in the event that the person age 62 or

EXHIBITS

older moves out of the dwelling unit or dies, the younger person may continue to reside the dwelling unit.

3. Maine Life Care shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its execution by the Town Council.

4. Unless extended by the Town by further amendment of this Agreement, construction of the additional improvements to the Property authorized by this Amendment may commence within five (5) years after execution of this Amendment and shall be substantially completed within ten (10) years from the date of this Amendment.

5. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

Witness:

Town of Scarborough

By: _____

Thomas Hall, Its Town Manager

Maine Life Care Retirement Community, Inc.

By: _____

James E. Adamowicz, Its Chief Executive Officer

STATE OF MAINE

CUMBERLAND, ss.

_____, 2014

Personally appeared the above-named Thomas Hall, Town Manager of said Town of Scarborough, and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized and the free act and deed of said Town of Scarborough.

Before me,

Notary Public/Commission Expires

STATE OF MAINE

CUMBERLAND, ss.

_____, 2014

Personally appeared the above-named James E. Adamowicz, Chief Executive Officer of said Maine Life Care Retirement Community, Inc., and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized and the free act and deed of said Maine Life Care Retirement Community, Inc.

Before me,

Notary Public/Commission Expires

EXHIBITS

EXHIBIT 4

**CONTRACT ZONING DISTRICT NUMBER 4 [REPEALED BY COUNCIL VOTE ON
MARCH 5, 2014]**

EXHIBIT 5

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
FIRST SCARBOROUGH REALTY OF MAINE, LLC**

This is a Contract Zoning Agreement made as of the 21st day of August 2002, by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter “the Town”), and First Scarborough Realty of Maine, LLC with an office at 178 U.S. Route One, Falmouth, Maine 04105, pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance.

WHEREAS, First Scarborough Realty of Maine, LLC intends to purchase from Joseph H. Guite, a parcel of real estate located at 133, 137, 149 U.S. Route One in Scarborough, Maine consisting of 5.76 acres (hereinafter “the property”); and,

WHEREAS, the property is currently in a General Business District (B-2) under the Scarborough Zoning Ordinance; and,

WHEREAS, the General Business District (B-2) presently allows, as permitted uses, general retail sales, services and business space such as retail business and service establishments including warehousing and wholesale distribution but exclusive of outside sales and services; and,

WHEREAS, the property contains several select mature trees along the Route 1 frontage, and will include extensive landscaping, which will provide a unique amount and quality of vegetative buffering; and,

WHEREAS, First Scarborough Realty of Maine, LLC wishes to develop the property as a Mercedes Benz Automobile Dealership with outdoor sales and services which are not permitted in the B-2 Zone; and,

WHEREAS, First Scarborough Realty of Maine, LLC has requested a rezoning of the property to permit an Automobile Dealership with outdoor sales and services; and,

WHEREAS, First Scarborough Realty of Maine, LLC has requested a rezoning of the property to permit automobile display at a minimum of 15 feet from the property line; and,

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of outdoor displays, storage and sales, provided the operation is restricted to the density, scale and intensity proposed by First Scarborough Realty of Maine, LLC and further provided that the restrictions of the Contract Zoning Agreement and the site plan approval are strictly observed; and,

WHEREAS, the Scarborough Planning Board, pursuant to the Zoning Ordinance, and after notice and hearing and due deliberation thereon, recommend the rezoning of the property as aforesaid; and,

WHEREAS, the rezoning would be consistent with the Policies and Future Land Use Plan of Part III of the Scarborough Comprehensive Plan; and,

WHEREAS, the Town of Scarborough, by and through its Town Council, had determined that the said rezoning would be pursuant to and consistent with the Town’s Comprehensive Plan and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Contract Zoning Agreement on August 21, 2002.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

EXHIBITS

1. The Town will amend the Zoning Map of the Town of Scarborough, by adopting the map change amendment as shown on Attachment 1.
2. First Scarborough Realty of Maine, LLC is authorized to create an Automobile Dealership at the property consisting of one building. The facility will be substantially constructed within one year after execution of this agreement. Construction of the facility shall be subject to the following conditions:
 - (a) The maximum allowable building footprint for the building shall be 24,000+/- s.f. and the maximum allowable building height shall be 1 story.
 - (b) The uses allowed on the property shall be limited to an automobile dealership with outdoor sales, display and storage of motor vehicles and indoor sales, service and display.
 - (c) Building design, style and materials and the design of all features of the site should comply with the Town of Scarborough Design Guidelines adopted by the Scarborough Planning Board on July 16, 2001 unless First Scarborough Realty of Maine, LLC submits and the Planning Board approves an alternative design during the site plan review process.
 - (d) The property shall be landscaped to enhance the general appearance of the project from U.S. Route 1 and surrounding properties as determined by the Planning Board at the time of site plan approval. After the date of approval of this Contract Zoning Agreement by the Scarborough Town Council, no trees or other vegetation existing on that date shall be removed except as indicated in an approved site plan. The landscaping shall be maintained by First Scarborough Realty of Maine, LLC or its successors in interest.
 - (e) With the exception of emergency situations, the hours during which the business may be open to the public shall be limited to 6 a.m. to 9 p.m. Monday through Saturday.
 - (f) First Scarborough Realty of Maine, LLC, its agents and employees shall not utilize First Street, Hudson Avenue, Littlefield Lane, Sunset Road, Second Avenue, Third Avenue, Fourth Avenue, Elmwood Avenue, Maple Avenue and Greenacres Lane to road test vehicles before or after servicing, demonstrate vehicles or provide customer test drives, except that vehicles being road tested, demonstrated or test-driven may traverse First Street and Greenacres Avenue for access to and from U. S. Route One. In addition, First Scarborough Realty of Maine, LLC shall notify all vendors, jobbers and delivery vehicle operators who regularly visit the property that they should avoid traveling on the foregoing streets and roads and utilize only U. S. Route One or First Street via Greenacres to access to the property, with direct access from U. S. Route One being preferred.
 - (g) The property subject to this Contract Zoning Agreement shall be developed and used only in accordance with the site plan, to be approved by the Scarborough Planning Board, as that site plan may be amended from time to time pursuant to the provisions of the Scarborough Site Plan Review Ordinance. Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement:
 - (i) Any increase in the square footage of the area utilized for outdoor display, storage or parking of vehicles on the site; and
 - (ii) Relocation of any outdoor vehicle storage, display or parking area to any part of the site closer to the property boundaries or road sidelines than shown on the original approved site plan.

EXHIBITS

(h) Sanding and painting of vehicles will not be done on site.

Any other revision to the approved site plan shall first be submitted to the Scarborough Town Council, which will determine whether the proposed revision can be approved exclusively by the Planning Board under the Site Plan Review Ordinance or will require an amendment to this Contract Zoning Agreement.

- 3. First Scarborough Realty of Maine, LLC shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.
- 4. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property except as this Contract Zoning Agreement may be amended by future written agreement of the Town of Scarborough and First Scarborough Realty of Maine, LLC or its successors in interest.

This is the sole zoning for the property and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying B-2 Zoning District shall apply. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the property, shall bind First Scarborough Realty of Maine, LLC, its successors in interest and assigns of said property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough and any applicable amendments thereto or replacement thereof.

In the event that First Scarborough Realty of Maine, LLC or its successors or assigns fail to develop the project in accordance with this Contract, or in the event of any other breach hereof, this Contract may be terminated by vote of the Scarborough Town Council. In that event, the property may then be used only for such uses as are otherwise allowed by law.

The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Scarborough Zoning Ordinance and through legal action for specific performance of the Agreement.

WITNESS:

S/ Laurel R. Nadeau

TOWN OF SCARBOROUGH

S/ Ronald W. Owens

**ITS TOWN MANAGER DULY AUTHORIZED BY VOTE OF THE SCARBOROUGH
TOWN COUNCIL ON AUGUST 21, 2002**

WITNESS:

First Scarborough Realty of Maine, LLC

EXHIBITS

FIRST AMENDMENT FOR EXHIBIT 5

**THE CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
FIRST SCARBOROUGH REALTY OF MAINE, LLC**

WHEREAS, First Scarborough Realty of Maine, LLC ("First Scarborough Realty") entered into a Contract Zoning Agreement with the Town of Scarborough (the "Town") on the 21st day of August 2002, a copy of which is attached hereto as Exhibit 1 (the "Contract"); and

WHEREAS, since the execution of the Contract, First Scarborough Realty has acquired an additional 12,600 square foot parcel of land (the "Porath Lot") adjacent to the property which is the subject of the Contract; and

WHEREAS, First Scarborough Realty proposes to utilize the Porath Lot for an enlarged parking area; and

WHEREAS, First Scarborough Realty wishes to enlarge the building proposed in the Contract by approximately 1200 square feet and to shift the location of the building by approximately 25 feet toward the south; and

WHEREAS, First Scarborough Realty proposes to have additional automobile display area in the front of the building and to the south of the entrance driveway;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough to include the Porath Lot in the property subject to the Contract, by adopting the map change shown on Attachment 1 hereto.
2. All references in the Contract to the "site plan" shall hereafter mean the amended site plan to be approved by the Scarborough Planning Board, which shall be substantially as depicted on the amended site layout plan attached hereto as Exhibit 2.
3. The second sentence of section 2 of the Contract is amended to read as follows: "The facility will be substantially constructed within one year after the execution of the First Amendment to the Contract Zoning Agreement.
4. Section 2(a) of the Contract is amended to read: "The maximum allowable building footprint for the building shall be 25,200+/- s.f. and the maximum allowable building height shall be 1 story."
5. Except as amended hereby, all terms of the Contract shall remain in full force and effect. First Scarborough Realty and the Town hereby reaffirm each and every provision of the Contract.
6. First Scarborough Realty shall record this First Amendment to the Contract Zoning Agreement within 30 days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties have executed this First Amendment to the Contract Zoning Agreement this 16th day of September 2004.

WITNESS:

FIRST SCAROROGH REALTY OF MAINE, LLC

By: _____

William G. Waldron, Jr.

Its Manager

EXHIBITS

WITNESS:

TOWN OF SCARBOROUGH

/s/ Laurel R. Nadeau

By: /s/ Ronald W. Owens, Town Manager

State of Maine

County of Cumberland, ss.

Date: _____

PERSONALLY APPEARED the above-named _____ in his capacity as _____ of First Scarborough Realty of Maine, LLC and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of said company.

Notary Public / Attorney at Law

State of Maine

County of Cumberland, ss.

Date: September 16, 2004

PERSONALLY APPEARED the above-named Ronald W. Owens in his capacity as Town Manager of the Town of Scarborough, Maine and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of said Town.

/s/ Marcia McGinnis

Notary Public

**SECOND AMENDMENT TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH
AND 137 U.S. ROUTE ONE SCARBOROUGH REALTY, LLC
(formerly First Scarborough Realty of Maine, LLC)**

THIS CONTRACT ZONING AGREEMENT is made by and between the Town of Scarborough, a Maine municipality with its principal office located at the Scarborough Municipal Building, 259 U.S. Route 1, Scarborough, Maine (the "Town") and 137 U.S. Route One Scarborough Realty, LLC, a Maine limited liability company with a principal office located at 137 U.S. Route One, Scarborough, Maine ("137 US Route One").

RECITALS

WHEREAS, First Scarborough Realty of Maine, LLC, a Maine limited liability company ("First Scarborough Realty") is a predecessor in interest and in title to 137 U.S. Route One; and,

WHEREAS, First Scarborough Realty entered into a Contract Zoning Agreement with the Town on August 21, 2002, subsequently amended by an amendment dated on or about September 16, 2004 (hereinafter and taken together "First Agreement") in connection with certain improvements made to property located at 137 U.S. Route One and more particularly described in the First Agreement; and,

WHEREAS, the First Agreement (together with all exhibits and schedules appended thereto) is appended to this Agreement as *Exhibit 1*; and,

WHEREAS, First Scarborough Realty conveyed its interest to 137 US Route One by deed dated April 26, 2005 and recorded in the Cumberland County Registry of Deeds at Book 22565, Page 326, the premises and all improvements situated thereon hereinafter referred to as the "Original Parcel"; and,

WHEREAS, 137 US Route One proposes to acquire additional property adjoining the Original Parcel, more particularly described in a deed from Drake Petroleum Company, Inc. to SRAM Corp. dated July 28, 2011 and recorded in the Cumberland County Registry of Deeds at Book 28856, Page 233 (the "New Parcel") for the purpose of expanding and improving the existing automobile dealership showroom located on the Original Parcel and other related purposes (together referred to as the "Property").

WHEREAS, the rezoning and inclusion of the New Parcel into the Contract Zoning District ("the District") and this Second Amendment is pursuant to and consistent with the Town's Comprehensive Plan and with the existing and permitted uses within the original zoning district classification;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged as received by each, the parties covenant and agree as follows:

1. All terms, conditions, covenants, representations, warranties, benefits and burdens set forth in the

EXHIBITS

First Agreement (including all exhibits and schedules appended thereto) are affirmed, adopted, ratified and accepted by the Town and 137 US Route One and incorporated herein as if restated in full, subject to any conflict or inconsistency between the First Agreement and this Second Amendment, in which case this Second Amendment shall govern and control.

2. The Town hereby amends the Zoning Map of the Town of Scarborough to include the New Parcel in the District by adopting the map change shown on Exhibit 2A.
3. 137 US Route One is authorized to make the improvements and modifications to the Property as described in a certain "Site Plan - Proposed Second Amendment to the Contract Zone Agreement for Prime Mercedes Benz " prepared by Sebago Technics, revised through 4-07-2015 (the "Site Plan") attached as Exhibit 2B. Construction of the improvements shall be subject to the following conditions:
 - a. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, one additional business sign is permitted as shown on the Site Plan.
 - b. Notwithstanding the landscaping requirements in Section XVIII.A of the Zoning Ordinance, as it may be amended from time to time, a reduction in the required 15' green strip buffer is permitted to the extent shown on the Site Plan.
 - c. The uses allowed shall be limited to an automobile dealership with outdoor sales, display and storage of motor vehicles and indoor sales, service and display.
 - d. Special events and assembly activities may be conducted within any building as an accessory use, subject to any other required codes and approvals.
 - e. The Property subject to this Agreement shall be developed and used only in accordance with the Site Plan, to be approved by the Scarborough Planning Board, as that site plan may be amended from time to time.
4. 137 US Route One shall record this Agreement within 30 days after its approval by the Scarborough Town Council.
5. The provisions of this Agreement shall be deemed restrictions on the use of the Property, except as this Agreement may be amended by future written agreement of the Town and 137 US Route One or its successors in interest.
6. This is the sole zoning for the Property, and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying TVC Zoning District shall apply. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind 137 US Route One, its successors in interest and assigns, and shall inure to the benefit of and be enforceable by the Town.
7. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance of the Town and any applicable amendments thereto or replacement thereof.
8. In the event that 137 US Route One or its successors or assigns fail to develop the Property in accordance with this Agreement, or in the event of any other breach hereof, this Agreement may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses as are otherwise allowed by law.

EXHIBITS

9. The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Scarborough Zoning Ordinance and through legal action for specific performance of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day of _____ 2015.

WITNESS:

_____	137 ROUTE ONE SCARBOROUGH REALTY, LLC
	By: _____
	Ira Rosenberg Its
	Manager
	TOWN OF SCARBOROUGH
_____	By: _____
	Thomas Hall Its Town
	Manager

STATE OF MAINE
Cumberland, ss.

Date: _____

PERSONALLY APPEARED the above-named Ira Rosenberg, in his capacity as Manager of 137 US Route One Scarborough Realty, LLC and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of said limited liability company.

Before me,
Notary Public/Attorney at Law

STATE OF MAINE
Cumberland, ss.

Date: _____

PERSONALLY APPEARED the above-named Thomas Hall, in his capacity as Town Manager of the Town of Scarborough, Maine and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of said Town.

Before me,
Notary Public/Attorney at Law

THIRD AMENDMENT TO

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH
AND 137 U.S. ROUTE ONE SCARBOROUGH REALTY, LLC
(formerly First Scarborough Realty of Maine, LLC)**

THIS CONTRACT ZONING AGREEMENT is made by and between the Town of Scarborough, a Maine municipality with its principal office located at the Scarborough Municipal Building, 259 U.S. Route 1, Scarborough, Maine (the "Town") and 137 U.S. Route One Scarborough Realty, LLC, a Maine limited liability company with a principal office located at 137 U.S. Route One, Scarborough, Maine ("137 US Route One").

RECITALS

WHEREAS, First Scarborough Realty of Maine, LLC, a Maine limited liability company ("First Scarborough Realty") is a predecessor in interest and in title to 137 U.S. Route One; and,

WHEREAS, First Scarborough Realty entered into a Contract Zoning Agreement with the Town on August 21, 2002, subsequently amended by an amendment dated on or about September 16, 2004 (hereinafter and taken together "First Agreement") in connection with certain improvements made to property located at 137 U.S. Route One and more particularly described in the First Agreement; and,

WHEREAS, the First Agreement (together with all exhibits and schedules appended thereto) is appended to this Agreement as *Exhibit 1*; and,

WHEREAS, First Scarborough Realty conveyed its interest to 137 US Route One by deed dated April 26, 2005 and recorded in the Cumberland County Registry of Deeds at Book 22565, Page 326, the premises and all improvements situated thereon hereinafter referred to as the "Original Parcel"; and,

WHEREAS, 137 US Route One acquired additional property adjoining the Original Parcel, more particularly described in a deed from SRAM Corp. to 137 U.S. Route One Scarborough, LLC dated June 16, 2015 and recorded in the Cumberland County Registry of Deeds at Book 32352, Page 208 (the "New Parcel") for the purpose of expanding and improving the existing automobile dealership showroom located on the Original Parcel and other related purposes (together referred to as the "Property"); and,

WHEREAS, 137 US Route One and the Town entered into a Second Amendment to Contract Zoning Agreement dated April 30, 2015 and recorded in the Cumberland County Registry of Deeds at Book 32238, Page 198 (the "Second Amendment"), a copy of which is attached to this Third Amendment as *Exhibit 2*; and,

WHEREAS, the rezoning and inclusion of the New Parcel into the Contract Zoning District ("the District") is pursuant to and consistent with the Town's Comprehensive Plan and with the existing and permitted uses within the original zoning district classification; and,

WHEREAS, by operation of this Third Amendment to Contract Zoning Agreement (the "Third Amendment"), 137 US Route One desires to increase the size of the footprint of building to be located on the New Parcel also pursuant to and consistent with the Town's Comprehensive Plan and with the existing and permitted uses within the original zoning district classification.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged as received by each, the parties covenant and agree as follows:

EXHIBITS

1. All terms, conditions, covenants, representations, warranties, benefits and burdens set forth in the First Agreement and Second Amendment (including all exhibits and schedules appended thereto) are affirmed, adopted, ratified and accepted by the Town and 137 US Route One and incorporated herein as if restated in full, subject to any conflict or inconsistency between the First Agreement, the Second Amendment and this Third Amendment, in which case this Third Amendment shall govern and control.
2. 137 US Route One is authorized to make the improvements and modifications to the Property as described in a certain "Site Plan - Proposed Contract Zone Amendment for Prime Motor Mercedes Benz - Sprinter" prepared by Gawron Turgeon Architects, Scarborough, Maine, revised through April 27, 2016 (the "Site Plan") attached as *Exhibit 2B*. Within this authorization is specific authorization to permit the maximum allowable building footprint for the building to be constructed on the New Parcel to be 26,290 ± square feet. Construction of the improvements shall be subject to the following conditions:
 - a. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, one additional business sign is permitted as shown on the Site Plan.
 - b. Notwithstanding the landscaping requirements in Section XVIII.A of the Zoning Ordinance, as it may be amended from time to time, a reduction in the required 15' green strip buffer is permitted to the extent shown on the Site Plan.
 - c. The uses allowed shall be limited to an automobile dealership with outdoor sales, display and storage of motor vehicles and indoor sales, service and display.
 - d. Special events and assembly activities may be conducted within any building as an accessory use, subject to any other required codes and approvals.
 - e. The Property subject to this Agreement shall be developed and used only in accordance with the Site Plan, to be approved by the Scarborough Planning Board, as that site plan may be amended from time to time.
3. 137 US Route One shall record this Agreement within 30 days after its approval by the Scarborough Town Council.
4. The provisions of this Agreement shall be deemed restrictions on the use of the Property, except as this Agreement may be amended by future written agreement of the Town and 137 US Route One or its successors in interest.
5. This is the sole zoning for the Property, and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying TVC Zoning District shall apply. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind 137 US Route One, its successors in interest and assigns, and shall inure to the benefit of and be enforceable by the Town.
6. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance of the Town and any applicable amendments thereto or replacement thereof.
7. In the event that 137 US Route One or its successors or assigns fail to develop the Property in accordance with this Agreement or in the event of any other breach hereof, this Agreement may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses as are otherwise allowed by law.
8. The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Scarborough Zoning Ordinance and through legal action for specific performance of the Agreement.

EXHIBITS

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of ___, 2016
WITNESS:

137 ROUTE ONE SCARBOROUGH
REALTY, LLC

By: _____
Ira Rosenberg Its
Manager

TOWN OF SCARBOROUGH

By: _____
Thomas Hall
It's Town Manager

STATE OF MAINE
Cumberland, ss.

Date: _____

PERSONALLY APPEARED the above-named Ira Rosenberg, in his capacity as Manager of 137 US Route One Scarborough Realty, LLC and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of said limited liability company.

Before me,
Notary Public/Attorney at Law

STATE OF MAINE
Cumberland, ss.

Date: _____

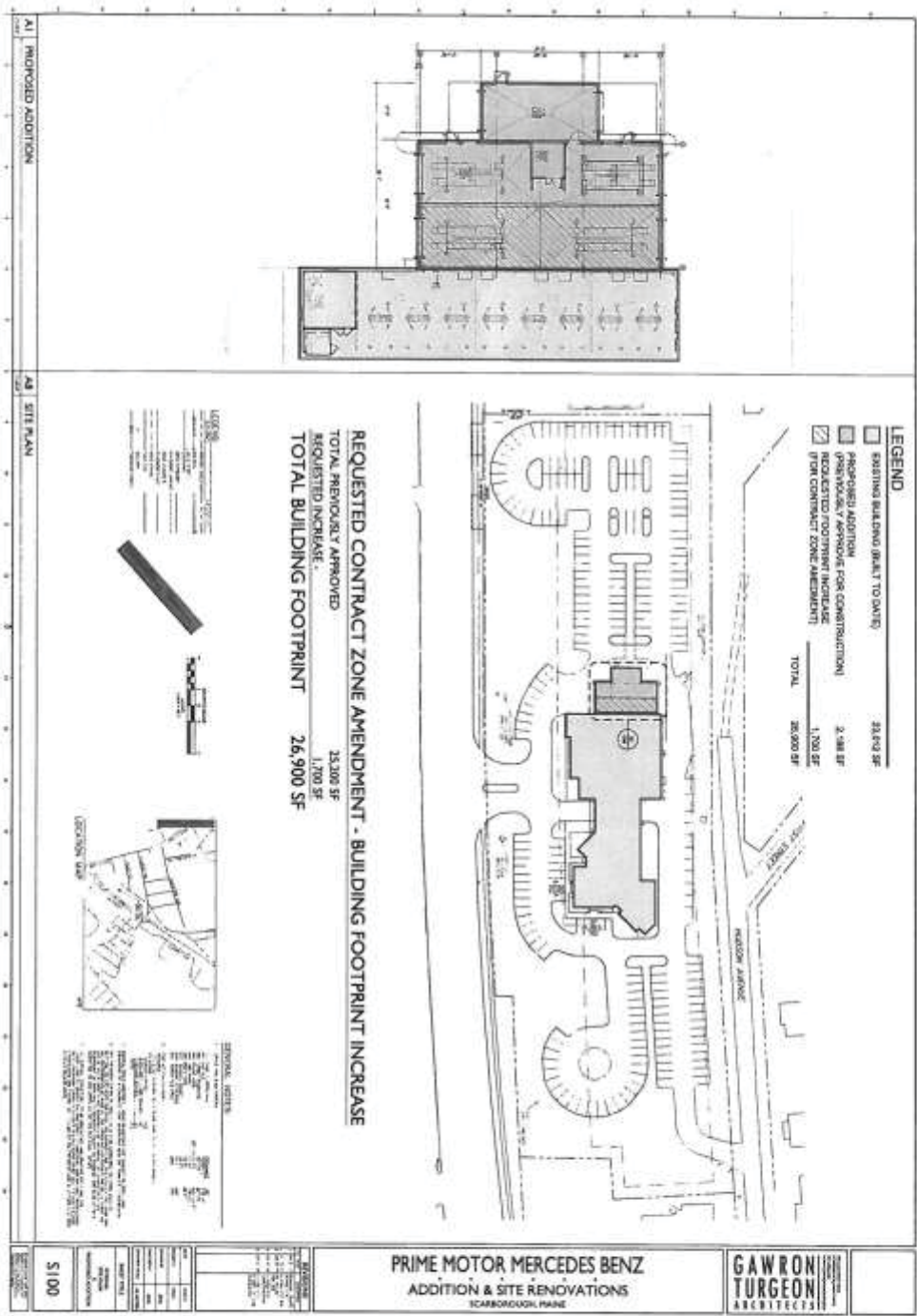
PERSONALLY APPEARED the above-named Thomas Hall, in his capacity as Town Manager of the Town of Scarborough, Maine and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of said Town.

Before me,
Notary Public/Attorney at Law

EXHIBIT 1
(THE FIRST AGREEMENT - ABOVE)

EXHIBIT 2
(SECOND AMENDMENT TO CONTRACT ZONE AGREEMENT- ABOVE)

EXHIBIT 2B
(SITE PLAN)





EXHIBITS

**EXHIBIT 6 –
CONTRACT ZONING DISTRICT NUMBER 6 [REPEALED BY REFERENDUM VOTE ON
JULY 29, 2003]**

EXHIBIT 7 –

**HILLCREST RETIREMENT COMMUNITY EXPANSION
CONTRACT ZONING AGREEMENT AMONG
THE TOWN OF SCARBOROUGH,
THERESA DESFOSSES, AGNES DESFOSSES
AND STATE MANUFACTURED HOMES, INC.**

This Contract Zoning Agreement made as of the 3rd day of November, 2004, by and among the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the “Town”) and Theresa Desfosses and Agnes Desfosses, individuals, both having a mailing address of 126 U.S. Route 1, Scarborough, Maine 04074 and State Manufactured Homes, Inc. (“SMH”), a Maine corporation, also having a mailing address of 126 U.S. Route 1, Scarborough, Maine 04094 pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance, Chapter 405 of the Town’s Ordinances (the “Ordinance” or “Zoning Ordinance”). Theresa Desfosses and Agnes Desfosses are collectively referred to herein as the “Owners.” Owners and SMH are collectively referred to herein as the “Developers.” The Town and the Developers are collectively referred to herein as the “Parties.” Capitalized terms not otherwise defined herein shall have the meaning set forth in the Ordinance.

WHEREAS, Theresa Desfosses and Agnes Desfosses (“Owners”) are the owners of certain real estate located off of Hillcrest Avenue in Scarborough, Maine consisting of approximately 186 acres, and identified on Town Assessor’s Tax Map R76 as lots 7, 8 and 11 and Tax Map R78 as lot 87 and as described in instruments recorded in the Cumberland County Registry of Deeds at Book 4116, Page 174 and Book 8901, Page 133, a 156.52 acre portion of which real estate as shown on Exhibit A is the subject of this Agreement (the “Property”); and

WHEREAS, as shown on Exhibit A, the Property subject to this Agreement has been divided into three sections for the purposes of designation in this Agreement: approximately 153.74 acres of the Property which is presently undeveloped (the “Expansion Section”), approximately 0.55 acre of the Property upon which is located SMH’s retail sales office, its storage building, and a residence (the “Route One Section”), and approximately 2.23 acres of the Property which is presently principally used by SMH as a display and storage area for manufactured homes and includes a two car garage and a portion of Hillcrest Drive (the “Commercial Section”);

WHEREAS, SMH is presently the lessee from Owners of the Route One Section and the Commercial Section, upon which SMH operates a retail sales facility selling manufactured homes, and of another portion of Owners’ aforesaid real estate which abuts Commercial Section and Expansion Section of the Property and upon which SMH operates a manufactured housing community, known as Hillcrest Retirement Community, which provides housing for older persons, and SMH has an lease option to lease long term the Property from Owners;

WHEREAS, the General Business District, Industrial Zone, Residential District R-3 and the Resource Protection District, the present zoning classifications of the Ordinance which affect the various parts of the Property, do not otherwise permit the expansion of an existing manufactured housing community; and

WHEREAS, Developers desire to expand Hillcrest Retirement Community, the existing manufactured housing community, by developing the Property to accommodate 175 lots on which lots manufactured homes would be placed (the “Expansion Project”); and

EXHIBITS

WHEREAS, Developers have requested a rezoning of the Property to permit the expansion of the existing manufactured housing development beyond the scope of those zoning classifications currently in effect for the Property; and

WHEREAS, the Property contains frontage near and on the Nonesuch River and several wetlands that will be maintained and preserved; and

WHEREAS, the Expansion Project serves the goals of Chapter 15(A) of the Town's Comprehensive Plan adopted pursuant to Title 30-A Maine Revised Statutes, Chapter 187, Sub-part 6-A (hereafter "Comprehensive Plan"), which seeks to foster and accommodate a diverse population in the Town by constructing a manufactured housing development to serve the needs of senior citizens and retirees in need of more affordable housing; and

WHEREAS, the Expansion Project serves the goals of Chapter 15(E) of the Comprehensive Plan by enhancing public access to the upper reaches of the Nonesuch River and trail systems; and

WHEREAS, the Expansion Project serves the goals of Chapter 15(F) of the Comprehensive Plan by encouraging growth of more affordable housing and a pattern of land use that can be served efficiently and does not impose undue burden on the Town's financial resources; and preserves the historic pattern and character of neighborhoods; and

WHEREAS, the Expansion Project serves the goals of Chapter 15(G) of the Comprehensive Plan by using public sewer and water facilities; and

WHEREAS, the Expansion Project serves the goals of Chapter 15(H) of the Comprehensive Plan encouraging a choice of housing for residents of all ages and incomes and encouraging and promoting more affordable, decent housing opportunities for all Maine citizens by expanding a type of senior citizen community not currently sufficiently available in the Town; and

WHEREAS, the Expansion Project serves the public interest by providing an easement for a continuation across the property of the Eastern Trail; and

WHEREAS, the Expansion Project provides for significant visual improvement at the beginning of the Route One corridor into Scarborough, consistent with the Design Standards for Scarborough's Commercial Districts; and

WHEREAS, a joint Scarborough Planning Board/Town Council meeting was noticed, held and conducted pursuant to Section II, Paragraph I, Subsection 4.a. of the Zoning Ordinance; and

WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph I, Subsection 4.b. of the Zoning Ordinance and 30-A M.R.S.A. § 4352(8), and after notice and hearing and due deliberation thereon, reviewed and on September 13, 2004, granted preliminary, provisional subdivision and site plan approval of the Expansion Project with comments and a condition that resource protection classified lands be included in the Expansion Zone, subject to enactment of the contract zoning amendment by the Town Council; and

WHEREAS, the rezoning provided in this Agreement, therefore, would be consistent with the Policies and Land Use and Housing plan of Chapter 15 of the Scarborough Comprehensive Plan; and

WHEREAS, the Town of Scarborough, by and through its Town Council, therefore, pursuant to Section II, Paragraph I, Subsection 4.c. on October 13, 2004 found and concluded as set forth in its Legislative Facts that that this Contract Zoning Agreement (1) is consistent with the Town of Scarborough Comprehensive Plan, (2) is consistent and compatible with the existing and permitted uses within the existing zoning district classifications of the Property, (3) is in the public interest, and (4) will have beneficial effects on the town as a whole which would not result if the Property were developed

EXHIBITS

under the existing zoning district classifications, and authorized the execution of this Contract Zoning Agreement.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. Zoning Map Amendment. The Town hereby amends the Zoning Map of the Town of Scarborough, by adopting the zoning map change amendment shown on Exhibit 1.

2. Hillcrest Retirement Community Expansion Zone. The Parties hereby create the Hillcrest Retirement Community Expansion Zone as defined herein for the Property described in Exhibit A. For purposes of this Agreement, the Hillcrest Retirement Community Expansion Zone (hereafter also referred to as the “Expansion Zone”) means an expansion of the existing senior age restricted residential manufactured housing development, such expansion to be designed and built as set forth in this Agreement and Exhibit A.

The general schematic street layout, open space system and distribution of uses (including location of the Eastern Trail easement) shall conform to Exhibit A, as such plans may be amended as set forth hereinafter from time to time pursuant to the provisions of the Scarborough Site Plan Ordinance and Subdivision Regulations. The improvements may be constructed in Phases as shown on Exhibit A (the “Phases”).

3. Permitted Uses. The Owners are authorized to establish and maintain uses at the Property as follows:

(i) *In the Expansion Section the following uses shall be permitted:*

- A. Single family residential manufactured homes available for lease, sale or rent located on the sites depicted on Exhibit A.
- B. A community center.
- C. An exercise and fitness center for the exclusive use of community members and their invitees only.
- D. Management and sales offices.
- E. Temporary storage of manufactured homes, provided, however, that not more than twenty (20) of the temporarily stored manufactured homes shall be pending delivery to locations outside the Expansion Section at any one time.
- F. Accessory uses and structures, including but not limited to maintenance facilities, parking areas, utility services, storm water management systems, site amenities, and outside recreational spaces.

Provided, however, the only uses permitted in the areas denoted on Exhibit A as “Resource Protection Area” shall be uses that are permitted by the Scarborough Shoreland Zoning Ordinance in the Resource Protection (R-P) District zoning classification.

(ii) *In the Route One Section the following uses shall be permitted:*

- A. Single Family Dwelling Unit, associated garaging, and associated residential uses.
- B. Manufactured home sales and service center, provided, however, that no display or storage of manufactured homes for purposes of sale shall occur.
- C. Manufactured home community administrative office, which may be of manufactured home or modular building construction.

EXHIBITS

- D. Access to other portions of the Property, Hillcrest Retirement Community and any property of abutters to the Property.
- E. Signage for Hillcrest Retirement Community, for SMH and for any use permitted on the Property as depicted on Exhibit B.
- F. Any lawful nonconforming use permitted to continue under and subject to the provisions of Section III of the Zoning Ordinance.
- G. Any use and accessory uses permitted (including uses permitted as special exceptions) in the General Business District B-2 zone.

(iii) *In the Commercial Section the following uses shall be permitted:*

- A. Manufactured home sales and service center, including the display and storage of manufactured homes.
- B. Manufactured home community administrative office, which may be of manufactured home or modular building construction.
- C. Access to other portions of the Property, Hillcrest Retirement Community and any property of abutters to the Property.
- D. Signage for Hillcrest Retirement Community, for SMH and for any use permitted on the Property.
- E. Any uses permitted in the Route One Section immediately above.
- F. Display and storage of manufactured homes.
- G. Any use and accessory uses permitted (including uses permitted as special exceptions) in the General Business District B-2 zone.
- H. Any lawful nonconforming use permitted to continue under and subject to the provisions of Section III of the Zoning Ordinance.

4. **Area Dimensional and Design Criteria.** The following criteria shall apply:

(i) *In the Expansion Section the following area dimensional and design criteria apply:*

- A. **Building Height:** The maximum building height shall not exceed 35 feet.
- B. **Building Design:** All manufactured homes located on lots are subject to the following restrictions and limitations:
 - 1. Installation on the Property shall be in compliance with the State of Maine installation standards for manufactured housing.
 - 2. The exterior wall surfaces shall be covered with material similar to traditional site built housing units. These materials presently include clapboards such as conventional vinyl or metal siding, wood shingles or shakes or similar materials.
 - 3. The homes shall be constructed with a roof having a pitch of 3 in 12 or greater.
 - 4. Roofs are to be covered with asphalt or fiberglass composition shingles or other contemporary building materials.

EXHIBITS

- C. Landscaping: At least two trees shall be planted on each manufactured home lot. Such trees shall be at least 2" caliper if deciduous, five feet in height if evergreen.
- D. Density: Residential manufactured homes within the Expansion Project shall be placed on lots of location and size as shown on Exhibit A.
- E. Setbacks and separation: The front, rear and side yards shall be as generally shown on the Site Plan approved by the Planning Board. A minimum 20-foot separation shall be maintained between all manufactured homes in all directions.
- F. Property coverage: All structures constructed on the Property, but excluding open decks and parking related structures, shall not cover more than 50% of the Property area.
- G. Open space: Open space not developed shall be left in its natural state unless otherwise shown on the Site Plan approved by the Planning Board.
- H. Roads: On or before occupancy of Phase III lots (lots 83-129), Developers shall construct the new access road to Route 1 on the northerly side of the Expansion Project, as shown on Exhibit A for use by residents of the Expansion Project. The layout, general development plan and construction phasing for the Expansion Project's roads and ways, together with the location and dimensions of access junctions with existing public streets, shall be as approved by the Planning Board. All streets within the Expansion Project shall remain private and be privately maintained.
- I. Parking: For each manufactured house lot in the Expansion Project there shall be at least two off-street parking spaces, which may be located on the lot. Each parking space shall contain a minimum area of 200 square feet with minimum dimensions of 10 feet by 20 feet.
- J. Lighting: Outdoor lighting shall be provided to adequately illuminate the internal streets of the Expansion Project.

(ii) In the Route One Section the following area dimensional and design criteria apply:

- A. Notwithstanding anything to the contrary in the Zoning Ordinance, existing structures may be improved and replaced and increased in height to a maximum height of 35 feet, but the existing footprints on the earth of such structures as identified on Exhibit A shall not be changed in location or increased in size.
- B. Walkways, ramps, porches and other appurtenances to existing structures, or the replacements of such structures, may be improved and replaced and increased in height, but the existing footprints of such appurtenances on the earth as identified on Exhibit A shall not be increased.
- C. Landscaping shall be of the type and scope shown on Exhibit B. See Section 10 below.
- D. Except as otherwise provided in Section 4(ii)(A) through (C) above, the dimensional area and design criteria of the General Business District B-2 zone shall apply.
- E. Except as otherwise provided in Section 4(ii)(A) through (C) above, existing structures and uses which do not conform with the dimensional, area and design criteria of the General Business District B-2 zone are subject to the rules

governing nonconforming lots, uses and structures contained in Section III of the Zoning Ordinance.

(iii) *In the Commercial Section the following area dimensional and design criteria apply:*

- A. The dimensional area and design criteria of the General Business District B-2 zone shall apply.
- B. Existing structures and uses which do not conform with the dimensional, area and design criteria of the General Business District B-2 zone are subject to the rules governing nonconforming lots, uses and structures contained in Section III of the Zoning Ordinance.

5. Residents. Housing within the Expansion Section shall meet the federal Fair Housing Act definition of “housing for older persons”, as it may be amended, and which presently is defined as: (i) HUD has determined that the dwelling is specifically designed for and occupied by elderly persons under a Federal, State or local government program; or, (ii) it is occupied solely by persons who are 62 or older; or, (iii) it houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 or older.

6. Utilities: All lots in the Expansion Section on which manufactured homes are placed shall be provided with electrical, water, and sewage disposal connections in accordance with applicable state and local rules and regulations. The Expansion Section shall be serviced by the following public utilities:

- A. Wastewater disposal shall be provided by a connection to existing or to be constructed sanitary sewers traversing the Project. Individual lots may be served by gravity or pumping. All new pumping stations shall be privately maintained.
- B. Water supply may be provided by a connection to existing water supply mains in the existing Hillcrest Retirement Community or to new water supply mains. Public water shall serve the Expansion Project, and to encourage water conservation, sub-metering may be provided to a lot on which a manufactured home is located.
- C. Electric service shall be provided underground from pad-mounted transformers to lots on which manufactured homes are located.
- D. Telephone and cable service, to the extent provided, shall be underground throughout the Expansion Project.

7. Plan. The Property shall be generally developed and used in accordance with Exhibit A, as approved by the Town Council on November 3, 2004, as that plan may be further approved and amended from time to time pursuant to the provisions of the Scarborough Site Plan Ordinance and Subdivision Ordinance and this Agreement. Notwithstanding any other provisions of the Ordinance, the physical layout, dimensions, setbacks, parking and proposed uses and improvements shown on Exhibit A and identified in this Agreement shall be permitted under the Ordinance.

8. Status of Approvals/Amendments. Exhibit A to this Agreement is the plan which has received preliminary Subdivision Approval for the entire Property under the Town’s Subdivision Ordinance. Any amendment to Exhibit A or this Agreement which involves the following changes to the terms of this Agreement will require an amendment approved by the Town Council after a public hearing:

- A. any change in permitted uses.
- B. any increase above 175 in the number of manufactured housing lots.

EXHIBITS

Except for the foregoing, any other changes to the Expansion Project and any subsequent site plan approvals or subsequent site plan and/or subdivision amendments need only be approved by the Planning Board after a public hearing in accordance with this Agreement without need for further Town Council approval, provided that the Planning Board shall not have the authority to waive the terms of this Agreement and provided any such changes are consistent with this Agreement.

9. Eastern Trail Easement and Trail Construction Fund. To facilitate the construction of an extension of the Eastern Trail for the public over the Property, and in lieu of any recreational fee required by Town policy:

- A. At or prior to issuance of any permits for commencement of construction of the Expansion Project, Developers shall convey for no additional consideration to the Town and the Eastern Trail Alliance (“ETA”) (collectively, the Town and ETA are hereafter referred to as “holders”) an easement at least thirty feet wide for construction of and public use of a twelve (12) foot wide unpaved public recreational Trail (“Trail”) with shoulders of up to five (5) foot width located in the approximate location shown on Exhibit A, to be part of the Eastern Trail system in Scarborough. The Trail shall be designed and designated so that it will not be used by any motorized or otherwise non-human propelled vehicles; for example, snowmobiles, ATV’s, dirt bikes and other off-road vehicles are prohibited from use of the Trail. The easement shall include provisions and requirements that (1) Trail use, maintenance and anti-waste requirements and restrictions shall be rigorously followed and enforced by the holders; (2) the Trail shall be well maintained by the holders of the easement; (3) the term of the easement is perpetual, but subject to termination by written notice of voluntary abandonment by the holders or by court decision if the court finds that (i) the holders have materially failed to comply with their obligations as set forth in the easement, or (ii) the general public has not used the Trail on a regular basis for a period of three (3) years. If the easement is so terminated by court decision, the holders (jointly and severally) shall be responsible for the payment of Developer’s reasonable attorney’s fees incurred in such court proceeding.
- B. Upon the issuance of the first certificate of occupancy for a Dwelling Unit within the Expansion Project, Developers shall pay to the Town a fee (the “Eastern Trail Fee”) in the amount of Sixty Thousand Dollars (\$60,000.00). The Eastern Trail Fee shall be placed in a separate account held by the Town and used for the construction of the aforesaid Trail in the Expansion Project. To the maximum extent possible, the Eastern Trail Fee shall be used by the Town to leverage the acquisition of other funds from private, local, state or federal sources for construction of the Trail.
- C. Prior to the commencement of Phase One and thereafter during the periods of construction, Developer shall assist the Town and the Eastern Trail Management District to coordinate with Developer’s engineers and construction contractors trail construction activities so to efficiently utilize funds available from and through the Town and the ETA (including the Eastern Trail Fee) for the construction of the Trail. Developer is not required to delay its construction to assist the trail construction. The Parties contemplate that coordinated activities may include surveying, environmental permitting, and base trail grade construction. The Town and ETA will contract with such contractors as they deem appropriate for the trail design, permitting and construction, and Developer will attempt to facilitate the Town’s and ETA’s contracting with Developer’s engineers and contractors if requested by the Town and ETA.

EXHIBITS

- D. The Town and the ETA and their agents with their Trail construction and maintenance equipment shall have the right of prudent and careful access across the Property for Trail construction and maintenance related purposes, subject to the following conditions and covenants. Such access, maintenance and construction shall minimize disruption to Developer and to any residents of Hillcrest Retirement Community, as the community may be expanded. Access shall be over established roads if reasonably possible. Without Developer's written consent, no single Trail construction project or phase will exceed one year in duration. The holders, jointly and severally, will be responsible for and repair any damage caused to the Property and indemnify, defend and hold harmless Developer from any claims arising from its construction of the trail on the Property, except that nothing in this Agreement or in said Eastern Trail easement shall be construed to waive any immunity against the claims of others available to the Town under the Maine Tort Claims Act or other applicable law.

10. Route 1 Corridor Improvements. The Route One Section which abuts U.S. Route 1 is located at prominent position at the commencement of a significant entrance into the Town. In consideration of the Town's willingness to enter into this Agreement, Developers agree to make certain significant changes to such property along Route 1 so to improve its visual appearance from U.S. Route 1, such changes being referred to as the "Route 1 Corridor Improvements." Developers' agreement to make the Route 1 Corridor Improvements has been a material inducement to the Town to enter into this Agreement. The Route 1 Corridor Improvements shall be in the area shown on Exhibit B and of the type and scope shown there, with the final design of such improvements to be as determined and approved by the Planning Board during its considerations on final Site Plan review of the Expansion Project. The Route 1 Corridor Improvements shall be completed before the issuance of any certificate of occupancy for a manufactured home in the Expansion Project.

11. Commencement/Phasing Schedule/Bonding. Unless extended by the Town Council, the construction of the initial Phase shall commence within two (2) years after Developers' receipt of final land use approvals for Phase I of the Property. If changes of site plan or subdivision approvals are needed for development of subsequent Phases, such changes shall be subject to approval of the Planning Board and, if appropriate by the Town Council, all in accordance with Section 8 above. The Phases I, II, III and IV shall be completed in that order. Multiple phases may be pending and under construction at the same time. Developer shall be required to periodically update the Town with respect to commencement schedules of the next phase to be constructed in order to facilitate orderly planning on part of the Town.

As shown on Exhibit A, the northern access/egress road shall be constructed prior to any residential manufactured home being placed on any lot in Phase III or Phase IV.

Owners need only post a performance guaranty assuring the completion of public improvements for those improvements to be constructed within each Phase or which are to be completed in conjunction with such Phase under this Agreement. For the purposes of a performance guaranty, the Route 1 Corridor Improvements shall be required to be completed in conjunction with Phase I. For purposes of measuring the required date for completion of public improvements under the Town of Scarborough Subdivision Ordinance, the start date for the running of the period of completion shall commence with the commencement of physical construction of each Phase.

12. General.

A. Developers shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its execution by the Town Manager. The Town Manager shall sign the full size copy of the plan attached hereto as Exhibit A, marked with the legend:

EXHIBITS

“Exhibit A to Hillcrest Retirement Community Expansion Contract Zoning Agreement dated November 3, 2004, subject to final Planning Board Subdivision and Site Plan Approvals pursuant to said Agreement.”

B. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property, and this Contract Zoning Agreement may be amended by future written agreement among the Town of Scarborough and the Developers or their successors in interest without need for approval of any other party.

C. The provisions of this Contract Zoning Agreement, including as applicable reference to and incorporation of the provisions of the Ordinance’s Resource Protection (R-P) District, shall operate as the sole zoning requirements upon the Property. Except as otherwise set forth in the aforesaid conditions, the regulations adopted by the State of Maine concerning the regulation of manufactured housing pursuant to 30-A M.R.S.A. §§4358, et seq., as amended hereafter, shall apply to the Property. The parties acknowledge the provisions of 30-A M.R.S.A. §4358.3.M. that “a municipality shall permit mobile home parks to expand and to be developed in a number of environmentally suitable locations in the municipality with reasonable consideration being given to permit existing mobile home parks to expand in their existing locations,” and agree that the expansion of Hillcrest Retirement Community permitted by this Agreement satisfies the Town’s obligation, if any, pursuant to such statutory provisions and that the Town has no obligation under the statute to allow further expansion.

D. The restrictions, provisions and conditions of this Agreement are an essential part of the rezoning, shall run with the Property, shall bind Developers, their successors in interests and assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

E. The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Scarborough Zoning Ordinance and through legal action for specific performance of this Agreement. In the event that Developers or their successors or assigns fail to develop the Expansion Project in accordance with this Contract, or in the event of any breach thereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if Developers, their successors or assigns, fail to commence to cure or remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such remedy or cure to completion in a reasonable time, then the Town may enforce the performance of this Agreement and recover the costs and expenses of performance from such Developers or their heirs, successors or assigns violating this Agreement, which recovery may include the Town’s reasonable attorney’s fees and expenses.

F. All references in this Agreement to the Scarborough Zoning Ordinance, the Scarborough Shoreland Zoning Ordinance, the Scarborough Subdivision Ordinance and other ordinances, and provisions and classifications thereof shall be and mean the Zoning Ordinance, Shoreland Zoning Ordinance, Subdivision Ordinance, other ordinances, and the provisions and classifications thereof in effect as of the date of adoption of this Agreement.

WITNESS:

TOWN OF SCARBOROUGH

By:_____

Ronald Owens, Town Manager

WITNESS:

DEVELOPERS

EXHIBITS

WITNESS:

WITNESS:

Exhibit 1- Zoning Map Change Amendment
Exhibit A- Summary Expansion Zone Plan
Exhibit B- Route 1 Corridor Improvements
110504

Agnes Desfosses

Theresa Desfosses

By: _____

State Manufactured Homes, Inc.,
Its President

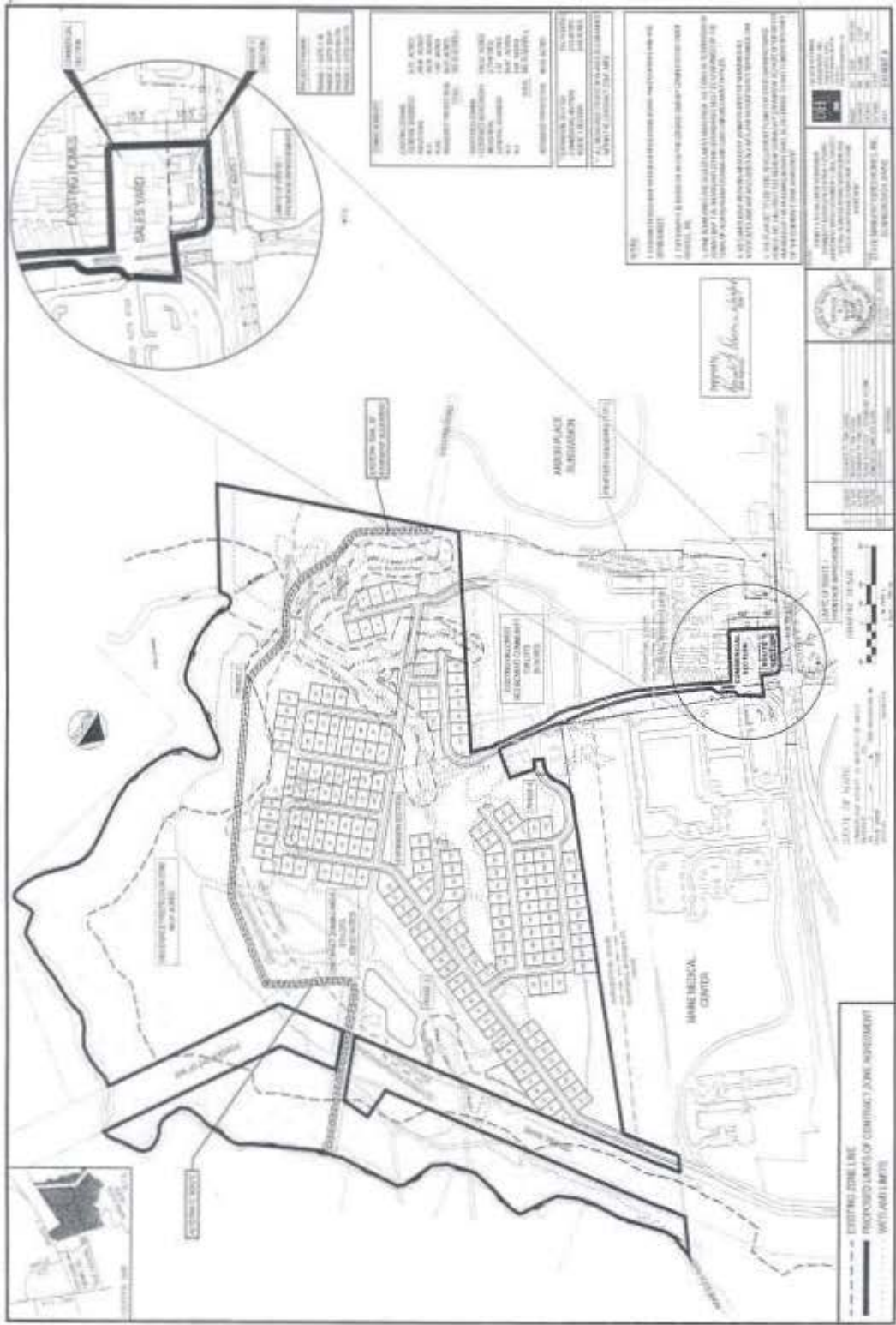


DeLuca-Hoffman Associates, Inc.
778 MAIN STREET, SUITE 8
SOUTH PORTLAND, ME 04106
207-775-1121
www.delucahoffman.com

DRAWN: RJK
CHECKED: SRB
DATE: NOV. 2004
FILENAME: G:\2174\FIGURES\2174_ZONE-FIG4.mxd
SCALE: 1 inch equals 400 feet

EXHIBIT
1





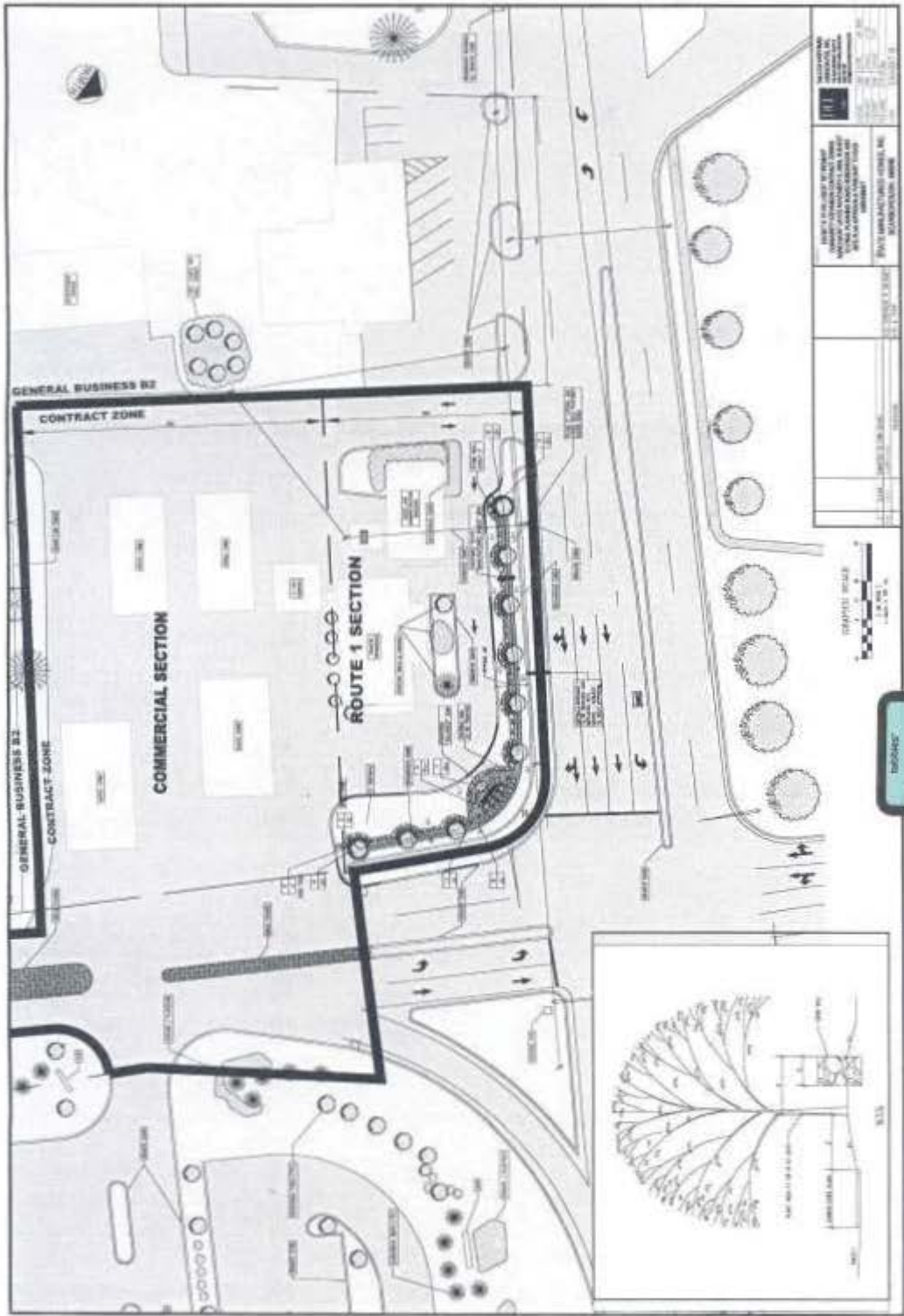


EXHIBIT
B

EXHIBIT 8 –

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
GRONDIN AGGREGATES LLC**

This is a Contract Zoning Agreement made as of the 16th day of August 2006, by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter “the Town”), and GRONDIN AGGREGATES LLC, with a mailing address of 11 Bartlett Rd, Gorham, Maine 04038 (hereinafter “Grondin”) pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance (hereinafter the “Zoning Ordinance”).

WHEREAS, Grondin owns a parcel of real estate located southeast of the corner of Beech Ridge Road and Route 114 in Scarborough, Maine consisting of 284.2 acres (hereinafter “the property”); and

WHEREAS, the property is currently zoned in a Rural Residence and Farm District (RF) under the Zoning Ordinance, and the land within 75 feet of the Nonesuch River is zoned within the Stream Protection District (SPD) under the Scarborough Shoreland Zoning Ordinance (hereinafter the “Shoreland Zoning Ordinance”) and will be maintained in its current state; and

WHEREAS, the Rural Residence and Farm District allows wetlands creation on previously excavated property pursuant to a contract zoning agreement approved by the Town Council under Section II(I) of the Zoning Ordinance; and

WHEREAS, the property contains over 1 mile of frontage on the Nonesuch River, and the associated floodplain and wetlands, which provide unique and quality resources of wildlife habitat and opportunities for recreation, and the area currently zoned within the Stream Protection District will remain undeveloped; and

WHEREAS, Grondin wishes to establish a large wetlands mitigation project on the site, the Larrabee Farms Wetlands Mitigation Project (the “project”), which would involve preservation and creation of wetlands to provide compensation for wetlands impacts on other properties; and

WHEREAS, the size, location, hydrogeology, and topography of this site provide a unique and viable opportunity for a wetlands creation and preservation project, and the project will be satisfactorily buffered from abutting properties; and

WHEREAS, the entire parcel that includes this contract zone, except approximately 20 acres shown on Exhibit A and dedicated to the Town for possible use as a school or other municipal uses, will be encumbered by a conservation easement or easements limiting the use of the property to wetlands and open space preservation and passive outdoor recreation; and

WHEREAS, Grondin has requested a rezoning of the property to allow construction of said wetlands mitigation project; and

WHEREAS, each wetlands creation and preservation phase of the proposed project would be overseen and authorized by the U.S. Army Corps of Engineers pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899; and

WHEREAS, each wetlands creation and preservation phase of the proposed project would also be overseen and authorized by the Maine Department of Environmental Protection pursuant to the Maine Natural Resources Protection Act (38 M.R.S.A. §§480-A *et seq.*), and the Maine Department of Environmental Protection may also act as a third-party enforcer of the conservation easement or easements on the property; and

EXHIBITS

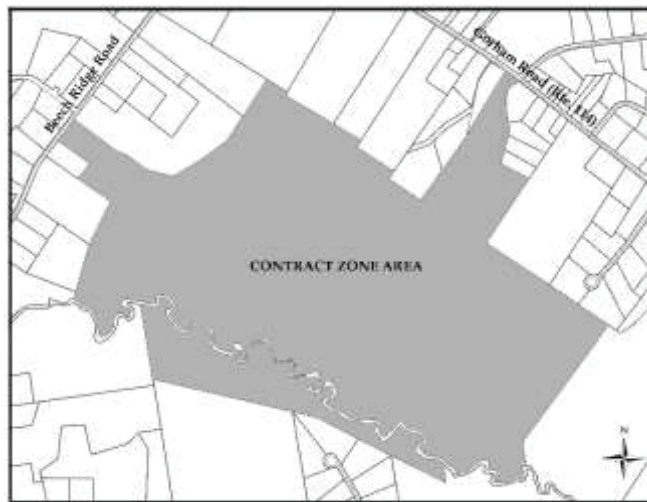
WHEREAS, the rezoning would be consistent with the Policies and Future Land Use Plan of Part III of the Scarborough Comprehensive Plan; and

WHEREAS, the Larrabee Farms Wetlands Mitigation Project site will provide unique and expansive recreational opportunities for the Town of Scarborough through the creation of trails and the permanent protection placed upon parcel and trail areas; and

WHEREAS, the Town of Scarborough, by and through its Town Council, has determined that the said rezoning would be pursuant to and consistent with the Town's Comprehensive Plan and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Contract Zoning Agreement on August 16, 2006.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. Zoning Map: The Town hereby amends the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown below:



2. Depth of Excavation: Except as otherwise specified in this Agreement, the project shall not be subject to and shall not require review under the Town of Scarborough Extractive Industry and Land Reclamation Ordinance (the "Extractive Industry Ordinance"). Notwithstanding contrary provisions in the Extractive Industry Ordinance, excavation may occur below the seasonal high water table for the purpose of accessing groundwater for wetlands creation. Any excavation deeper than 12 inches above the seasonal high water table is limited to a wetlands creation area within a compensation package which has been accepted for use as mitigation by the U.S. Army Corps of Engineers and the Maine Department of Environmental Protection and has been approved by the Town Engineer under Section 3(h) below and secured by a performance guarantee under Section 3(h) below.

3. Process and Regulations: Grondin is authorized to create a wetlands mitigation project including wetlands creation, and wetlands with surrounding uplands preservation on the property, subject to the following conditions:

(a) Commencement: The project must be commenced within two years of the date of this Agreement.

(b) **Plan Approval:** With the exception of the property to be dedicated to the Town and shown on Exhibit A, the property subject to this Agreement shall be developed and used substantially in accordance with the Larrabee Farms Wetlands Mitigation Project Plan granted preliminary approval by the Scarborough Planning Board on July 17, 2006, as such plan is finally approved by the Planning Board and may be amended from time to time by the Planning Board (hereinafter the “Plan”).

(c) **Permitted Uses:** The permitted uses on the property shall be limited to the following:

- (i) wetlands mitigation and associated work; specifically: wetlands creation in previously excavated areas, wetlands creation in areas excavated in order to create wetlands, extractive industry incidental to or in preparation for wetlands creation; and land reclamation;
- (ii) passive recreation, including trails as depicted on the Plan and trail maintenance;
- (iii) public schools, municipal uses and uses allowed in the RF District on the property depicted on Exhibit A and hereby dedicated to the Town;
- (iv) preservation of wetlands and open space.

(d) **Wetland Mitigation Packages:** As wetlands compensation packages are accepted for use as mitigation by the U.S. Army Corps of Engineers and the Maine Department of Environmental Protection, wetlands creation will be conducted pursuant to the terms of this Agreement. Grondin shall give first priority to wetlands compensation packages which will mitigate or compensate for the effects of impacts to wetlands located in Scarborough and shall give second priority to wetlands compensation packages which will mitigate or compensate for the effects of impacts to wetlands located outside Scarborough but within the Nonesuch River watershed. Prior to the commencement of development of each wetlands creation area, Grondin shall submit to the Town Planner and the Town Engineer a description of the wetlands creation project, which shall include the identity of the off-site project being benefited by the wetlands compensation package. If such benefited project is not within the Town of Scarborough or the Nonesuch River watershed, Grondin must demonstrate to the satisfaction of the Town Planner that there are no projects in Scarborough or the Nonesuch River watershed that have pending applications with the U.S. Army Corps of Engineers and/or the Maine Department of Environmental Protection that will necessitate wetlands creation or mitigation and which therefore could be benefited by, and are willing to participate in, a wetlands compensation package through Grondin.

(e) **Wetlands Creation Area Development:** Excavation on the property shall be undertaken by area, substantially in accordance with the Plan. Any deviations in wetland creation areas from the depictions on the plan shall require Town Engineer approval in accordance with Section 3(h). Substantial changes to the plan, as determined by the Town Engineer, shall require approval from the Planning Board. No more than three areas may be open at any one time. For purposes of this paragraph, an area is considered open from the time any excavation has commenced within the area until the area has been permanently reclaimed or work within the area has commenced on a wetlands creation plan approved by the Town Engineer and secured by a performance guarantee under Section 3(h) below.

(f) **Excavation without Approved Wetlands Creation Plan:** If Grondin elects to undertake excavation in any designated wetlands creation area before receiving approval from the Town Engineer of a plan for wetlands creation under Section 3(h) of this Agreement, Grondin shall submit: a detailed plan of the excavation and a contingent

permanent reclamation plan for approval by the Town Engineer and an application fee as set forth in the Schedule of License, Permit and Application Fees established by order of the Town Council. The reclamation plan shall comply with the Standards of Section 10 of the Extractive Industry Ordinance. Upon approval of the excavation and reclamation plans by the Town Engineer, Grondin shall furnish to the Town a performance guarantee for the cost of implementing the approved reclamation plan meeting the requirements of Section 9 of the Town of Scarborough Subdivision Ordinance and a construction inspection fee meeting the requirements of Section 11 of the Subdivision Ordinance. Grondin shall pay for the services of any consultants the Town Engineer deems appropriate to evaluate the application and inspect the work. Excavation pursuant to this paragraph is limited to a depth of no greater than 12 inches above the seasonal high water table.

(g) Temporary Reclamation: An area which is excavated pursuant to Section 3(f) above shall be temporarily stabilized with a nurse crop and mulch until such time as a plan for wetlands creation is approved under Section 3(h) of this Agreement. Any such area excavated and temporarily stabilized which is not converted to wetlands within 5 years after the approval of the excavation and reclamation plans by the Town Engineer shall be permanently reclaimed in accordance with the contingent permanent reclamation plan approved under Section 3(f).

(h) Wetlands Creation Plans and Performance Guarantees: Prior to excavation deeper than 12 inches above the seasonal high water table for the commencement of a Wetlands Mitigation Plan in any designated wetlands creation area, whether or not the area has previously been excavated, Grondin shall submit for approval by the Town Engineer: a detailed plan of the wetlands creation; a reclamation plan that complies with the Standards of Section 10 of the Extractive Industry Ordinance; an application fee as set forth in the Schedule of License, Permit and Application Fees established by order of the Town Council; and copies of the approved permits and wetland mitigation plans for the wetlands creation areas issued by the U.S. Army Corps of Engineers and the Maine Department of Environmental Protection. Upon approval by the Town Engineer of the plan for wetlands creation, Grondin shall furnish to the Town a performance guarantee meeting the requirements of Section 9 of the Town of Scarborough Subdivision Ordinance for the cost of implementing the reclamation plan that complies with the Standards of Section 10 of the Extractive Industry Ordinance, and a construction inspection fee meeting the requirements of Section 11 of the Subdivision Ordinance. Grondin shall pay for the services of any consultants the Town Engineer deems appropriate to evaluate the application and inspect the work.

(i) Buffering: A 200-foot buffer shall be maintained around the property except in those areas shown on the Plan. This buffer shall be maintained around the property as sound and site screen during development of the wetlands creation areas and be maintained as buffers following development.

(j) Hours of Operation: With the exception of emergency situations, the hours during which extractive industries work shall be allowed on the property shall be limited to between 7:00 a.m. and 5:30 p.m. Monday through Saturday.

(k) Public Use: Public access to the designated trails on site and to the Nonesuch River shall be made available following completion of the applicable portions of the project, with the trails to be protected in the conservation easement or easements encumbering the parcel.

The approximate locations of the trails and the timing of their construction shall be approved by the Planning Board and depicted on the Plan.

(l) **Road Improvements:** No later than 90 days after approval of the Plan by the Planning Board, Grondin shall make improvements to and pave a section of the existing roadway abutting the properties identified on the Plan as N/F Jerome and Carmen Gayle, N/F Robert Rawding, N/F Shirley Bodman and N/F Howard Rawding, and shown as a private easement for access and utilities on the Plan. Thereafter, such road shall not be used for the hauling of materials excavated from the property or transportation of fill materials into the property. As shown on the Plan, a portion of the roadway will be deeded to the abutting landowners as a private right-of-way in a form acceptable to the landowners and the Town.

(m) **Water Quality and Testing:** Grondin shall, at its sole expense, perform testing on all domestic water supply wells serving any residences located within ½ mile (2,640 feet) of the blasting area, and wells within 300 feet of any sand and gravel excavation that are not included within the ½ mile blasting radius. The well testing will be conducted in order to determine the volume, quantity and quality of water provided by each such well. Such testing shall be in accordance with testing protocols to be established by a hydrogeologist selected by the Town and paid by Grondin. As a component of these testing protocols, the hydrogeologist shall determine the requisite time period necessary for water supply testing to be performed in advance of any excavation below the seasonal high water table. Grondin agrees that, for a period of 20 years after the date of this Agreement, it will, at its sole expense, repair, replace or provide a substitute water source for any such well if it is determined by a hydrogeologist selected by the Town and paid by Grondin that such well was damaged, degraded or impaired for use as a domestic water supply by any activities occurring on the property or associated with the project.

(n) **Reports to the Planning Board:** One year after the commencement of excavation pursuant to this Agreement and then every three years thereafter, Grondin shall submit a report to the Planning Board on the progress of the project. Such report shall address traffic, environmental monitoring, operational impacts on the neighborhood (for example, noise and dust), the creation or opening of trail areas to the public, drainage, rate of wetlands creation, anticipated wetlands creation over the next three-year period, and any other factors which relate to compliance with the requirements of this Agreement and with the Planning Board's approval of the Plan. Upon review of the progress report, the Planning Board may, if the Board finds that the Project is not proceeding in accordance with the Plan or this Agreement, impose additional conditions on its approval of the Plan and/or may refer the report to the Town Council with recommendations for amendments to this Agreement.

(o) **Off-site Road and Traffic Mitigation:** Grondin shall implement, at Grondin's sole expense, all off-site traffic mitigation measures described in the June 15, 2005 memorandum from Scarborough Town Engineer Jim Wendel to Scarborough Town Manager Ron Owens, attached to and incorporated into this Agreement as Addendum A.

(p) **Conservation Easement(s):** Upon approval by the Maine DEP and the U.S. Army Corps of Engineers, and prior to approval by the Town Engineer of the plan for wetlands creation under Section 3(h), each wetland mitigation project will be entered into a Conservation Easement. Ultimately, and within a time period of no more than 20 years from the date of approval of this Agreement by the Town of Scarborough, the entire property with the exception of the land area shown on Exhibit A that is hereby dedicated

to the town for a school or other municipal use, will be entered into a conservation easement to be held by the Town, or a land trust or similar entity designated by the Town, if such conveyance is approved by the Scarborough Town Council. The conservation easement or easements shall be permanent and shall limit the uses of the property to wetlands mitigation and monitoring, open space preservation, passive outdoor recreation, excluding use by motorized vehicles other than service and emergency vehicles, and may allow hunting provided hunting is limited to those areas where the hunting will not create a danger to persons using the property for walking, hiking, jogging, bicycling, picnicking and other passive recreational activities. The conservation easement or easements shall allow the uses permitted under Section 3(c) above. As is required under state and federal wetland statutes, the Maine DEP and the U.S. Army Corps of Engineers will have third party oversight in the easement.

4. Property Conveyance: Grondin shall have the right to convey its fee interest in the property, in whole or in part, as necessary to satisfy applicable requirements of the U.S. Army Corps of Engineers and the Maine Department of Environmental Protection in connection with the wetlands mitigation project and sale of the authorized wetlands mitigation credits; provided, however, that any parcel conveyed shall first be encumbered by conservation easement or easements limiting its use to the uses permitted by this Agreement. Portions of the property conveyed for wetlands compensation and restricted in perpetuity by conservation easement or easements to wetlands preservation shall not be considered lots under the Zoning Ordinance or the Subdivision Ordinance. Within 90 days of approval of this Agreement, Grondin shall convey the dedicated lot shown on Exhibit A to the Town, provided such dedicated lot is accepted by the Town Council. Upon completion of all phases of the wetlands mitigation and sale of the authorized wetlands mitigation credits or at the end of 20 years after the date of this Agreement, whichever occurs first, Grondin agrees to convey as a gift any remaining portions of the property to the Town, or to a land trust or similar entity designated by the Town, if such conveyance is approved by the Scarborough Town Council, subject to the same use limitations prescribed for conservation easements under Section 3(p) of this Agreement.

5. Recordation: Grondin shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.

6. Contract Zoning Agreement and Amendments: The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property except as this Contract Zoning Agreement may be amended by future written agreement of the Town of Scarborough and Grondin, or their successors in interest.

7. Property Restrictions: The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the property, shall bind Grondin, their successors in interest and assigns of said property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

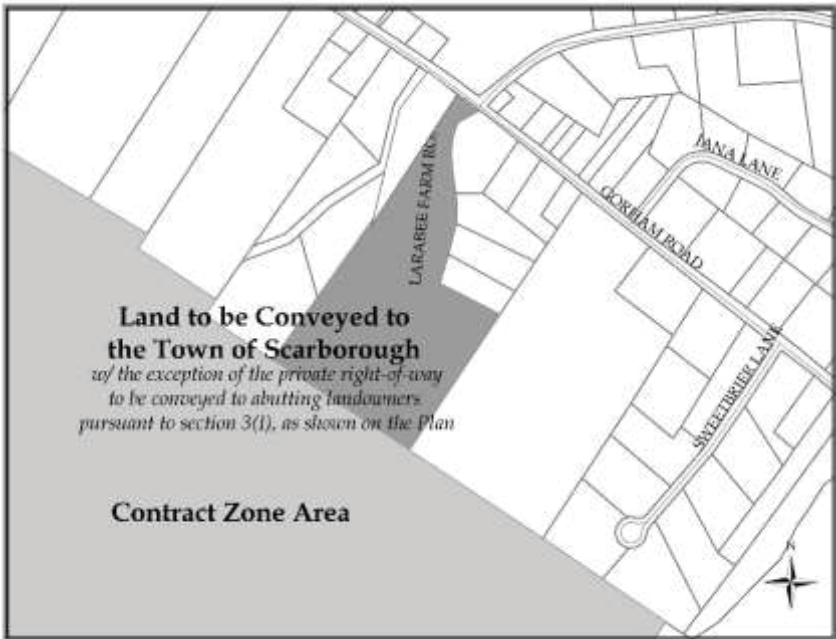
8. Zoning Ordinance Applicability: Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough and any applicable amendments thereto or replacement thereof. The land within the Stream Protection District, as depicted on the Town of Scarborough, Maine GIS Zoning Map prior to the adoption of this Contract Zoning Agreement and as illustrated on Exhibit B to this Agreement, shall continue to be governed by the applicable provisions of the Shoreland Zoning Ordinance, none of which are abrogated or modified by this Agreement.

EXHIBITS

9. Agreement Termination: In the event that Grondin or its successors or assigns fail to develop the project in accordance with this Agreement, or in the event of any other breach hereof, this Contact may be terminated by vote of the Scarborough Town Council. In that event, the property may then be used only for such uses as are otherwise allowed by law.

10. Section 901: This Agreement is subject to Section 901 of the Council-Manager Charter of the Town of Scarborough.

11. Exhibit A:



WITNESS:

TOWN OF SCARBOROUGH

By: _____
Ronald W. Owens, Its Town Manager
(duly authorized by vote of the Scarborough
Town Council on _____, 2006)

GRONDIN AGGREGATES LLC

Philip H. Grondin Jr., Its Manager

EXHIBIT 8
ADDENDUM "A" – PAGE 1



MEMORANDUM

TO: Ron Owens, Town Manager

CC: Joe Ziepniewski, Planner
Dan Bacon, Assistant Planner
Mike Shaw, Director of Public Works

FROM: Jim Wendel, PE, Planning Department

DATE: June 15, 2005

RE: Larabee Wetland Mitigation Contract Zone

Below is a summary of the Planning Departments requirements for off-site traffic mitigation for the project.

1. All truck access to the site shall only be through the Beech Ridge Road entrance. Further, no trucks exiting the site shall take a left and drive southerly on Beech Ridge Road. However, the Public Works Director may authorize the use of the southern portion Beech Ridge Road for a specific project based on the review of a written request by the applicant identifying the project location, route and anticipated round trips between the pit and the project.
2. Reconstruct approximately 2,740 LF of Beech Ridge Road from Rte 114 south towards the proposed site entrance. The actual beginning and end points shall be coordinated with and agreed to by the Director of Public Works. The work shall include:
 - a. Grinding the existing pavement and mixing a certain depth of the underlying existing subgrade granular material.
 - b. Fine grade the surface for paving.
 - c. Placement of a total of 4inches of pavement to a width of 32ft (12ft travel lanes and 4ft shoulders).
 - d. Install pavement markings for a double yellow centerline and white travel edge lines.
 - e. Reconstruct all existing driveways and Town roads within the work limits to allow a proper match with the new road grade. Reconstructed driveways shall include a paved apron if the driveway is not paved. The paved driveway apron shall be 3ft long by 3 inches of total pavement depth with a width to match the reconstructed driveway. The existing paved driveway shall have a total replacement paving depth of 3 inches. The Town road replacement paving shall be 4 inches.
3. Construct, prior to the start of pit operations, an exclusive left-turn lane of sufficient length to accommodate two "wheeler" trucks on the south approach of Beech Ridge Road at the site

EXHIBIT 8
ADDENDUM A – PAGE 2

- entrance. The design shall be based upon MDOT standards as presented in their 1994 Highway Design Manual.
4. Widen, prior to the start of pit operations, the southwest corner of Beech Ridge Road and Route 114 intersection as conceptually depicted on Figure 5 enclosed with the March 16, 2005 Gorrill-Palmer, Inc. letter to accommodate a turning WB-50 tractor trailer vehicle.
 5. Detailed designs for items 2, 3 & 4 above shall evaluate surface and subsurface drainage, and subgrade soil conditions and provide appropriate designs in response to any identified deficiencies. Detailed design plans including plan and profiles and typical sections for these improvements will be submitted to both the Director of Public Works and the Town Engineer for review and approval.
 6. Construction of the site entrance shall be in general conformance to the conceptual design depicted on Figure 4 enclosed with the March 16, 2005 Gorrill-Palmer, Inc. letter. However, in addition, the entrance shall include a paved apron. The apron shall be 10ft long with 4inches of total pavement depth and shall match the width of the proposed entrance drive geometry.
 7. The Applicant will commit in writing to complete by October 15, 2010 or in year five of the pit operation to either a heavy maintenance shim or the road reconstruction improvements on Beech Ridge Road identified in item 2. The Director of Public Works will advise the applicant in writing which level of improvement will be required by late summer of the same year. If the maintenance shim is required than the applicant will complete the required final reconstruction improvements to Beech Ridge Road, identified in item 2, in a time frame required by the Director of Public Works.
 8. Install a truck actuated flashing warning light and "TRUCK ENTERING" sign assembly on Beech Ridge Road southerly of the site entrance in conformance with MUTCD. Maintenance of the installation is the applicant's responsibility.
 9. The Payne Road Impact Fee computation for Zone #2 should be revised for a total of 9 trips @ \$292.42=\$2,631.78. The total impact fee is therefore revised from \$12,160.83 to \$13,038.09
 10. Prior to the start of pit operations, the applicant shall provide a performance guarantee for the value of the required off-site improvements outlined in item 2 above. The initial minimum duration of the performance guarantee shall be to December 31, 2011 or the end of the first six years of the pit operation. Pit operation is defined as mobilization to, and set-up of pit equipment on the site and hauling of any natural resource material from or to the site.

Thank you,

**FIRST AMENDMENT TO EXHIBIT 8
CONTRACT ZONE AGREEMENT BETWEEN
GRONDIN AGGGREATESC LLC
[The Larrabee Farms Wetlands Mitigation Project]
AND
THE TOWN OF SCARBOROUGH**

This First Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the Seventh day of May 2008 by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, “the Town”), Grondin Aggregates LLC, a limited liability company, located in Gorham, Maine (hereinafter, “Grondin”), and the Scarborough Fish and Game Association, a Maine not-for-profit corporation, located in Scarborough, Maine (hereinafter, “SF&G”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, Grondin entered into a Contract Zoning Agreement with the Town dated as of the 5th day of March, 2008 (hereinafter, the “Agreement”) creating Contract Zoning District Number VIII (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24332, Page 285; and,

WHEREAS, Grondin has acquired, by a certain Easement Agreement and Declaration between Grondin and SF&G dated April 13, 2007 and recorded in the Cumberland County Registry of Deeds at Book 26229, Page 120, the right to utilize portions of approximately 53 acres of land owned by the Scarborough Fish & Game Association for the wetlands mitigation and preservation purposes described in the Agreement; and

WHEREAS, SF&G is willing to have that 53 acres rezoned in order to become part of the Agreement; and

WHEREAS, SF&G is willing to submit its 53 acres to a conservation easement; and

WHEREAS, Grondin wishes to amend the Agreement in order to allow the importation and storage of aggregate materials from outside the District to be used in the mixing and processing of materials excavated or quarried onsite to create aggregate products for end users; and

WHEREAS, the ability of Grondin to undertake such mixing and processing within the District will expedite the completion of the wetlands mitigation and preservation work authorized by the Agreement, making the property within the District available for public recreational use sooner;

NOW THEREFORE, in consideration of the mutual promises made by the parties to one another, the parties covenant and agree as follows:

1. The Zoning Map of the Town of Scarborough is amended and the District is enlarged as shown on Attachment 1 hereto.
2. Section 3(c) (Permitted Uses) of the Agreement is amended by adding a new permitted use as described and limited in the following new subparagraph (v):
 - (v) Production of end-user aggregate products by the mixing and processing of naturally deposited materials excavated or mined on property within the District with materials imported

EXHIBITS

from outside the District. The imported materials can include naturally deposited material, old bituminous asphalt cement pavement, and old portland cement and pozzolan cement concrete customarily used in the construction of infrastructure. The imported material may be stored on the property temporarily pending its use to produce the end-user aggregate products. All reinforcing steel imbedded in portland or pozzolan cement concrete which is imported into the District and is removed during mixing and processing must be removed from the District on a regular basis, no longer than 90 days after it arrives in the District. Mixing and processing shall be accomplished only by mechanical crushing, screening and blending of the material, without the use of heat or the application of chemicals. Hot bituminous asphalt pavement and cement concrete shall not be manufactured on site. The mixing and processing allowed under this subparagraph (v) is limited to that portion of the property depicted as "Aggregate Material Mixing, Processing and Storage Area" on the plan attached hereto as Attachment 2. The operation of crushers, grinders, mixers and other machinery in the location shown on Attachment 2 as Crusher/Sorter #1 is limited to the hours of 9:00 a.m. to 3:00 p.m. weekdays. The operation of crushers, grinders, mixers and other machinery in the location shown on Attachment 2 as Crusher/Sorter #2 is subject to the hours of operation set forth in Section 3(j) of the Agreement.

3. Section 3(c) (Permitted Uses) of the Agreement is amended by adding a new permitted use as described and limited in the following new subparagraph (vi):

(vi) A temporary shelter for materials and equipment storage and equipment maintenance, as depicted on the plan attached hereto as Attachment 3. Maintenance activities within the District are limited to repairs and routine maintenance of on-site machinery and equipment used in the excavation, wetlands creation, wetlands reclamation and aggregate materials mixing and processing allowed under the Agreement and this Amendment. Maintenance, servicing and repairs of over-the-road vehicles are not allowed on the property.
4. The requirements of Section 3(o) of the Agreement and the June 15, 2005 memorandum from Scarborough Town Engineer Jim Wendel to Scarborough Town Manager Ron Owens shall remain in effect, except that the amount of the Payne Road Impact Fee for Zone No. 2 is revised to \$25,286.76.
5. The requirements for conservation easements under Section 3(p) shall remain in effect, except the time period for subjecting the entire property to conservation easements is changed from 20 years to "10 years after the date of this amendment," and except that, as to the approximately 53 acres owned by SF&G, SF&G shall make the designation of the land trust or other entity qualified under Maine law to be the holder of the conservation easement.
6. The requirement of Section 4 that remaining portions of the property shall be conveyed as a gift to the Town or a land trust suitable to the Town remains in effect, except the time period for completing such conveyance is changed from 20 years to "10 years after the date of this amendment," and except that the approximately 53 acres owned by SF&G shall not be required to be conveyed.
7. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.
8. Grondin shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

EXHIBITS

9. No later than five (5) working days after commencing one or more of the uses permitted by paragraphs 2 and 3 of this Amendment, Grondin shall give written notice to the Town Engineer that the use has commenced, specifying the date of commencement. If Grondin fails to give such notice, the Town Engineer may independently determine when the use commences. In either event, the Town Engineer, in person or by agent, shall confirm by site visit that the use has commenced and then provide written notice to the Town Manager of the date of commencement of the use. At the end of six (6) months after the date of commencement of use specified by the Town Engineer, the Town Manager shall place an item on the agenda of the next regular Town Council meeting to review the operation of such use, and the Council, after notice and public hearing, shall evaluate whether there have occurred significant adverse impacts on the surrounding neighborhood which were not identified or anticipated at the time of approval of this Amendment. If the Council finds that significant adverse impacts have occurred, the Council may amend the Agreement and/or this Amendment as the Council deems necessary to address such impacts. Any such amendment would require Town Council approval only, unless the Council should elect to refer the proposed amendment to the Planning Board for a recommendation.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS	GRONDIN AGGREGATES, LLC
_____ By:	_____
	Philip H. Grondin, Jr., its Manager
WITNESS	TOWN OF SCARBOROUGH
_____ By:	_____
	Ronald W. Owens, its Town Manager (duly authorized by vote of the Scarborough Town Council on _____, 2008)
WITNESS	SCARBOROUGH FISH AND GAME ASSOCIATION
_____ By:	_____
	_____, its _____

EXHIBIT 9 –

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
THE NEW ENGLAND EXPEDITION – SCARBOROUGH LLC**

This Contract Zoning Agreement (hereinafter, this “Agreement”) is made as of the 3rd day of January, 2007 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition intends to purchase certain lots or parcels of land located on Payne Road and Haigis Parkway in Scarborough, Maine, consisting of (a) the premises currently owned by 262 Payne Road, LLC, et al., located at 262 and 274 Payne Road comprising Lots 8 and 11A shown on Town of Scarborough Tax Map R-40 and described in deeds to 262 Payne Road, LLC, et al., recorded in the Cumberland County Registry of Deeds in Book 3630, Page 199, Book 21070, Page 169 and Book 22791, Page 266, (b) the premises currently owned by TD Banknorth, N.A., located at 246, 248 and 250 Payne Road comprising Lots 5, 6 and 7 shown on Town of Scarborough Tax Map R-40 and described in deeds to Peoples Heritage Savings Bank, predecessor to TD Banknorth, N.A., recorded in the Cumberland County Registry of Deeds in Book 15215, Page 204 and Book 15272, Page 261, (c) the premises currently owned by 23 Spring Street, LLC located at 264 Payne Road comprising Lot 9 shown on Town of Scarborough Tax Map R-40 and described in deed to 23 Spring Street, LLC recorded in the Cumberland County Registry of Deeds in Book 18263, Page 310, and (d) the premises currently owned by GlennDonna, Inc. located on Haigis Parkway and Payne Road comprising Lot 14 shown on Town of Scarborough Tax Map R-40 and being a portion of the premises described in deed to GlennDonna, Inc. recorded in the Cumberland County Registry of Deeds in Book 7564, Page 223 (hereinafter, collectively referred to as the “Property”), the Property containing approximately seventy-four (74) acres; and

WHEREAS, New England Expedition intends to develop the Property as a single project to be known as “The Gateway at Scarborough” (hereinafter, the “Project”), with that portion of the Project located on the northwesterly side of Payne Road to be known as “The Gateway Shoppes at Scarborough” and that portion of the Project located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway to be known as “The Gateway Square at Scarborough”, with construction of the Project anticipated to proceed in phases commencing with The Gateway Shoppes at Scarborough and progressing to The Gateway Square at Scarborough; and

WHEREAS, the Property is currently located in the Haigis Parkway District, HP (hereinafter, the “HP District”) as described in Section XVIII B. of the Zoning Ordinance; and

WHEREAS, the HP District presently allows, as a permitted use, among other uses, retail sales and services with less than twenty thousand (20,000) square feet of retail floor area per unit of occupancy; and

WHEREAS, New England Expedition desires to construct multiple facilities on the Property in which will be conducted various permitted uses including, but not limited to, a facility on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road for the retail sale of specialty hunting, fishing and other outdoor recreational equipment by Cabela’s Incorporated or its subsidiaries (hereinafter, “Cabela’s”), which facility will include, in addition to retail sales space, exhibit and education areas as well as an accessory restaurant for patrons; and

EXHIBITS

WHEREAS, Cabela's requires a facility of one hundred thirty thousand (130,000) square feet of retail floor area in order to facilitate the manner in which such facility operates and displays its products and to accommodate the unique exhibit and educational components that are an integral part of such facility; and

WHEREAS, Cabela's requires certain specific signage attached to and associated with such facility that varies from signage permitted under Section XII of the Zoning Ordinance; and

WHEREAS, New England Expedition desires to install certain signage, together with related improvements, lighting and landscaping, for the purpose of identifying the Project, off-site on property in the immediate vicinity of the Property; and

WHEREAS, the sign regulations under Section XII of the Zoning Ordinance impose limitations on the placement of off-site signage relating to the Project; and

WHEREAS, New England Expedition has requested that, notwithstanding the requirements of Section B6 of the HP District requirements and the sign regulations set forth in Section XII of the Zoning Ordinance, in addition to the other facilities proposed to be constructed on the Property, the Town permit New England Expedition to construct a facility to be occupied by Cabela's and utilized for the uses permitted under said Section B6 of the HP District requirements containing not more than one hundred thirty thousand (130,000) square feet of retail floor area on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road, together with certain specific signage attached to and associated with such facility, and to install certain signage, together with related improvements, lighting and landscaping, for the purpose of identifying the Project, off-site on property in the immediate vicinity of the Property; and

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of the Cabela's facility, and the other facilities proposed for the Property, provided the operation is restricted to the density, scale and intensity proposed by New England Expedition and further provided that the restrictions, provisions and conditions of this Agreement and the site plan and subdivision approval are strictly observed; and

WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph G Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberation thereon, recommended that New England Expedition be permitted to develop the Property so as to include, in addition to the other facilities proposed for the Property, a facility on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road to be occupied by Cabela's and utilized for the uses permitted under said Section B6 containing not more than one hundred thirty thousand (130,000) square feet of retail floor area, together with certain specific signage attached to and associated with such facility, and to install certain signage, together with related improvements, lighting and landscaping, for the purpose of identifying the Project, off-site on property in the immediate vicinity of the Property; and

WHEREAS, the proposed uses of the Property, being in accordance with the requirements of the HP District, are consistent with the 2006 Update of the Comprehensive Plan of the Town of Scarborough adopted by the Scarborough Town Council on July 19, 2006 (hereinafter, the "Comprehensive Plan") for the area of the Property; and

WHEREAS, the Town of Scarborough, by and through its Town Council, having determined that the said uses are pursuant to and consistent with the Comprehensive Plan and consistent with the permitted uses within the HP District, authorized the execution of this Agreement on December 20, 2006.

EXHIBITS

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change amendment shown on Attachment 1.
2. Notwithstanding the provisions of Section B6 of the HP District requirements, New England Expedition shall be permitted to develop the Property so as to include, in addition to the other facilities proposed for the Property, a facility on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road to be occupied by Cabela's and utilized for the uses permitted under Section B6 of the HP District requirements containing not more than one hundred thirty thousand (130,000) square feet of retail floor area.
3. New England Expedition is authorized to construct the Cabela's facility to be used in accordance with the requirements of the HP District, except as amended by this Agreement, together with the other facilities proposed for the Property containing such other uses as are permitted in the HP District.
4. Notwithstanding the provisions of Section XII of the Zoning Ordinance, New England Expedition shall be permitted to include signage attached to and associated with the Cabela's facility as more particularly described and shown on Attachment 2.
5. Notwithstanding the provisions of Section XII of the Zoning Ordinance, New England Expedition shall be permitted to install certain signage, together with related improvements, lighting and landscaping, which signage is generally depicted on Attachment 3, for the purpose of identifying the Project, on the property located between that portion of the Property comprising The Gateway Square at Scarborough located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway and said Payne Road and Haigis Parkway, or within the right of way of said Payne Road or Haigis Parkway adjacent to said property, subject, however, to the terms and provisions of any agreements entered into with the owners of said property and/or the Town of Scarborough relating to such signage including, but not limited to, the following terms and provisions:
 - a. Such signage shall be built in accordance with the Town of Scarborough's specifications and at the expense of New England Expedition;
 - b. Such signage shall be maintained by New England Expedition; and
 - c. Except as otherwise amended by this Agreement, such signage shall comply with the requirements of Section XII of the Zoning Ordinance and all other applicable local and state regulations applicable thereto.
6. The Property shall be developed and used only in accordance with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the "Site Plan Ordinance") and the Subdivision Ordinance of the Town of Scarborough (hereinafter, the "Subdivision Ordinance"), with construction anticipated to proceed in phases commencing with that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road and then progressing to that portion of the Property comprising The Gateway Square at Scarborough located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway. The phasing of the construction as outlined above shall

EXHIBITS

be subject to the additional requirement that New England Expedition shall “substantially complete” the construction of that portion of the Project which includes the ten (10) buildings and related improvements to be constructed by New England Expedition, (collectively, the “NEE Buildings”), the NEE Buildings designated and shown on Attachment 4. The NEE Buildings shall be substantially complete within two (2) years from the date that New England Expedition receives Planning Board approval for the Project. For purposes hereof, “substantially complete” shall mean the completion of the clearing and rough grading of the Project building sites and related improvement areas and the internal road system, the installation of utilities, storm drains and sanitary sewer lines and the completion and approval of the foundations for the NEE Buildings. In the event that New England Expedition requires additional time to attain substantial completion as described herein, the Town Planner, or if the Town Planner chooses, the Scarborough Planning Board, may, for good cause shown, grant New England Expedition an additional one (1) year period for such purpose.

7. New England Expedition shall record this Agreement in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

8. The provisions of this Agreement shall be deemed restrictions on the use of the Property except as this Agreement may be amended by future written agreement of the Town of Scarborough and New England Expedition, or their successors or assigns.

9. Except as the requirements of the HP District and Section XII of the Zoning Ordinance have been amended by this Agreement, and subject to any other restrictions, provisions and conditions set forth herein regarding the development and use of the Property, all other requirements of the underlying HP District and the requirements of Section XII of the Zoning Ordinance shall apply and shall govern the use and development of the Property. Any such restrictions, provisions and conditions are an essential part of the aforesaid modification of the HP District requirements and the requirements of Section XII of the Zoning Ordinance as set forth herein, shall run with the Property, shall bind New England Expedition, its successors and assigns of the Property or any part thereof.

10. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance and any applicable amendments thereto and nothing contained in this Agreement shall be deemed to prohibit or limit the development of the Property in any other manner so long as such development is in compliance with the applicable provisions of the Zoning Ordinance and otherwise approved pursuant to the Site Plan Ordinance, the Subdivision Ordinance and/or other applicable Scarborough Ordinances and, if applicable, State and Federal laws, ordinances and regulations.

11. Notwithstanding anything to the contrary set forth herein or in the Zoning Ordinance, in the event that Cabela’s shall, for any reason following its initial occupancy of the facility containing not more than one hundred thirty thousand (130,000) square feet of retail floor area as permitted hereunder to be located on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road, fail to continue to operate its business therein, then:

a. New England Expedition shall, within sixty (60) days of the date that Cabela’s ceases its business operations at the facility, remove the signage unique to Cabela’s from the buildings and as otherwise permitted under this Agreement;

b. New England Expedition shall, within sixty (60) days of the date that Cabela’s ceases its business operations at the facility, report to the Scarborough Town Council on

EXHIBITS

the status of New England Expedition's efforts to secure a substitute tenant, and will continue to update the Council regarding such efforts at intervals not later than every sixty (60) days thereafter, so as to afford the Council the opportunity to comment on any such proposed substitute tenant; and

c. New England Expedition shall have the right to substitute another retailer in such facility so long as such substitute retailer is not a discount store, wholesale club, or home improvement center, the substitute retailer to be subject to such approvals as may be required from the Scarborough Planning Board under applicable Ordinances and regulations and any other State or Federal regulatory bodies having jurisdiction over the development, and provided further, that in the event New England Expedition should seek to substitute another retailer in such facility within the first five (5) years following the date Cabela's commences business operations at the facility, such substitute retailer shall be subject to the review and approval of the Scarborough Town Council, which approval shall not be unreasonably withheld, conditioned or delayed.

12. Any change to the development that results in either an increase in the size of the one hundred thirty thousand (130,000) square foot retail facility permitted hereunder or changes to the signage attached thereto or associated therewith, or any change with respect to the off-site signage permitted hereunder, shall require an amendment to this Agreement approved by the Scarborough Town Council and will also be subject to further Planning Board review, as required, except for any change to signage that results in the signage being in compliance with the requirements of Section XII of the Zoning Ordinance.

13. The Town of Scarborough shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Zoning Ordinance and through legal action for specific performance of this Agreement. In the event that New England Expedition or its successors or assigns fail to develop the Project in accordance with this Agreement, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach, or in the event such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if New England Expedition, its successors or assigns, fail to commence to cure or remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to completion in a reasonable time taking into account the nature of such failure or breach and the action necessary to cure or remedy same, then this Agreement may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses and according to such zoning requirements as are otherwise allowed by law.

14. In the event any provision of this Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, either in law or in equity. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of Maine.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

EXHIBITS

WITNESS:

TOWN OF SCARBOROUGH

/s/ Joseph F. Ziepniewski

By: /s/ Ronald W. Owens

its Town Manager (duly authorized by vote of the
Scarborough Town Council on December 20,
2006)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

January 3, 2007

Personally appeared the above named Ronald W. Owens, Town Manager of the Town of
Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and
the free act and deed of said Town of Scarborough.

Before me,

/s/ Cheryl G. Profenno

Notary Public/Attorney at Law

WITNESS:

THE NEW ENGLAND EXPEDITION –
SCARBOROUGH, LLC

/s/ Richard A. Shinay

By: /s/ Barry E. Feldman

Its Member

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

January 4, 2007

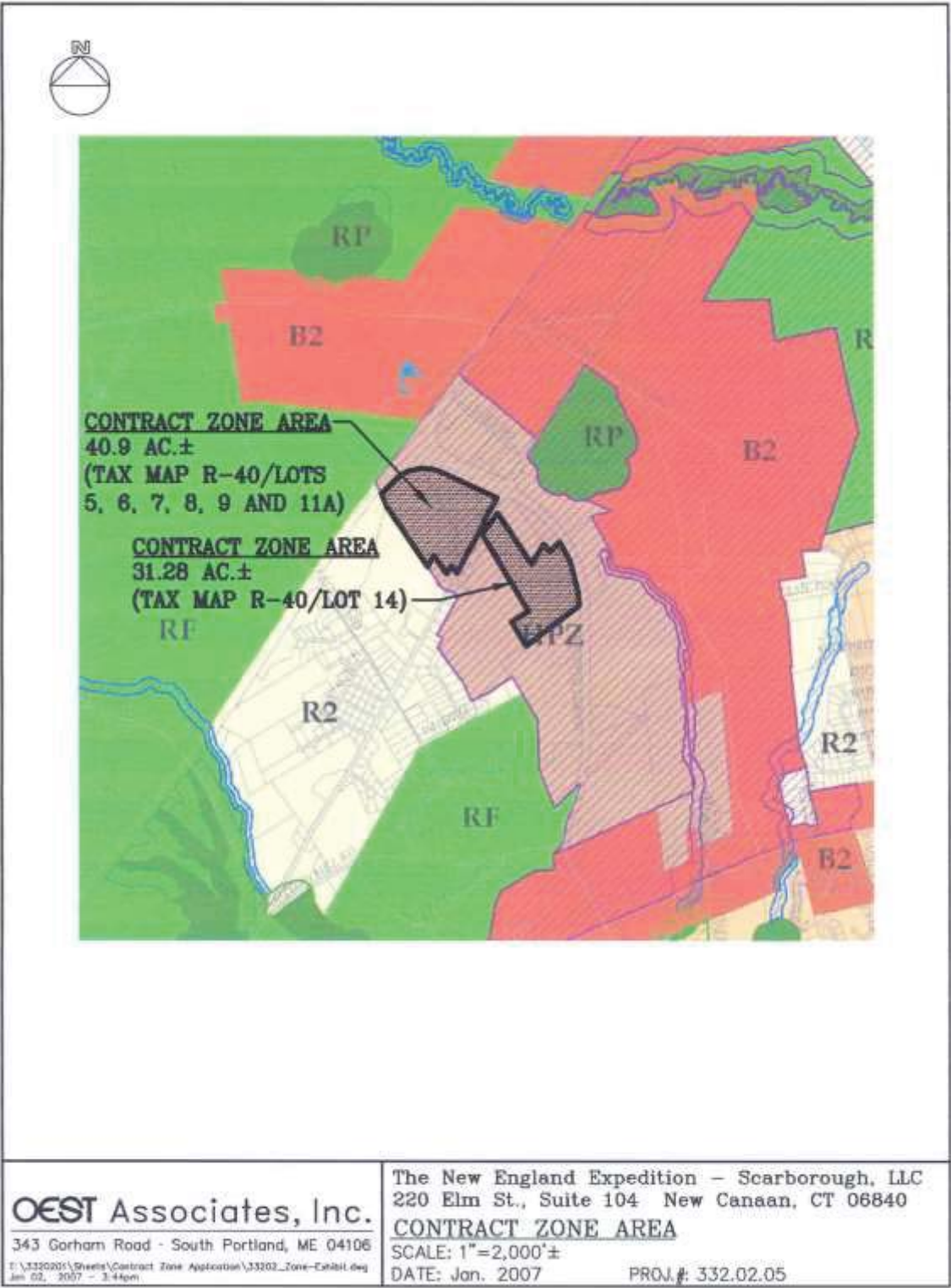
Personally appeared the above named Barry E. Feldman, Member of The New England
Expedition – Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in
his said capacity and the free act and deed of said Town of Scarborough.

Before me,

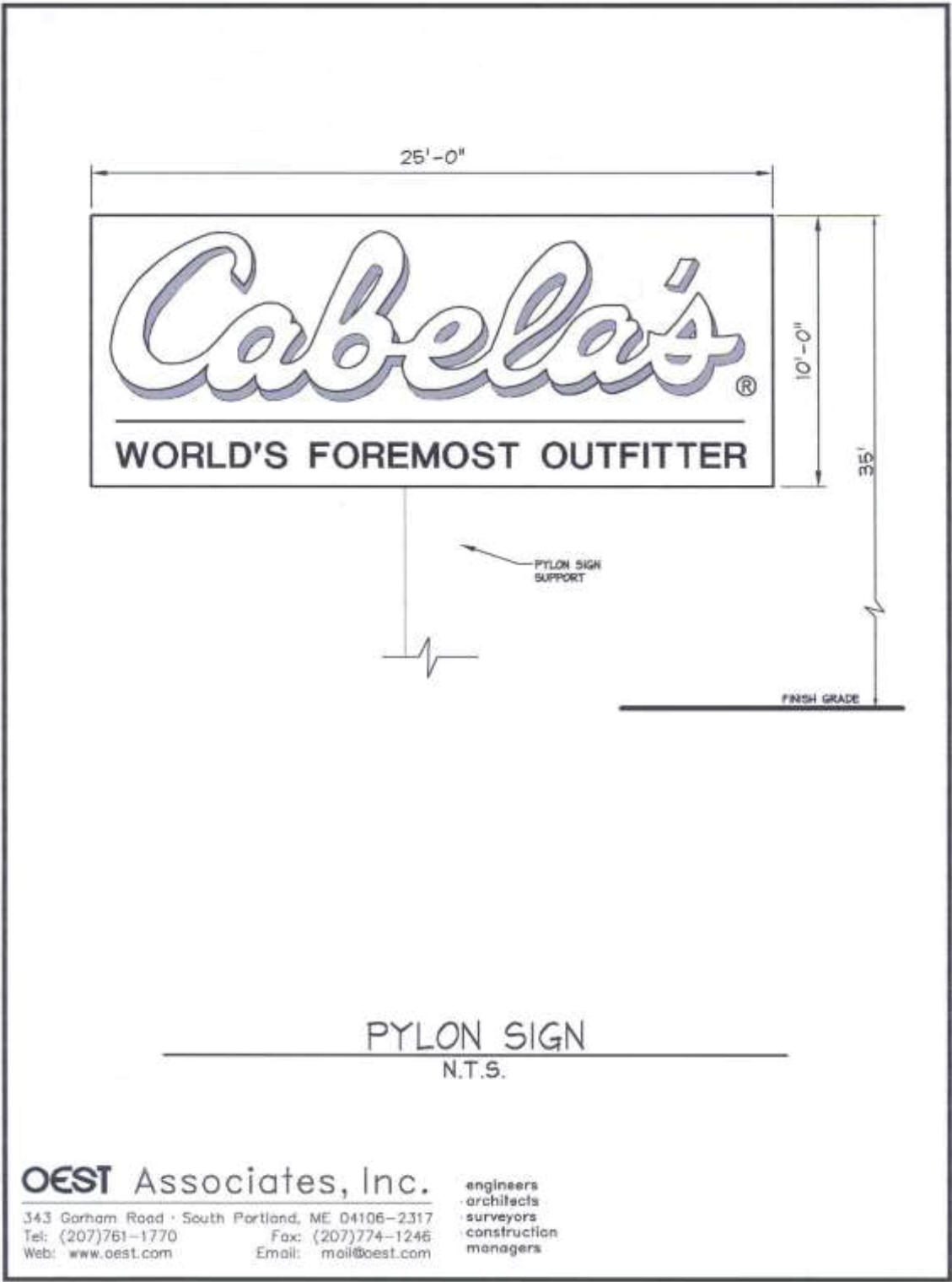
/s/ Richard A. Shinay

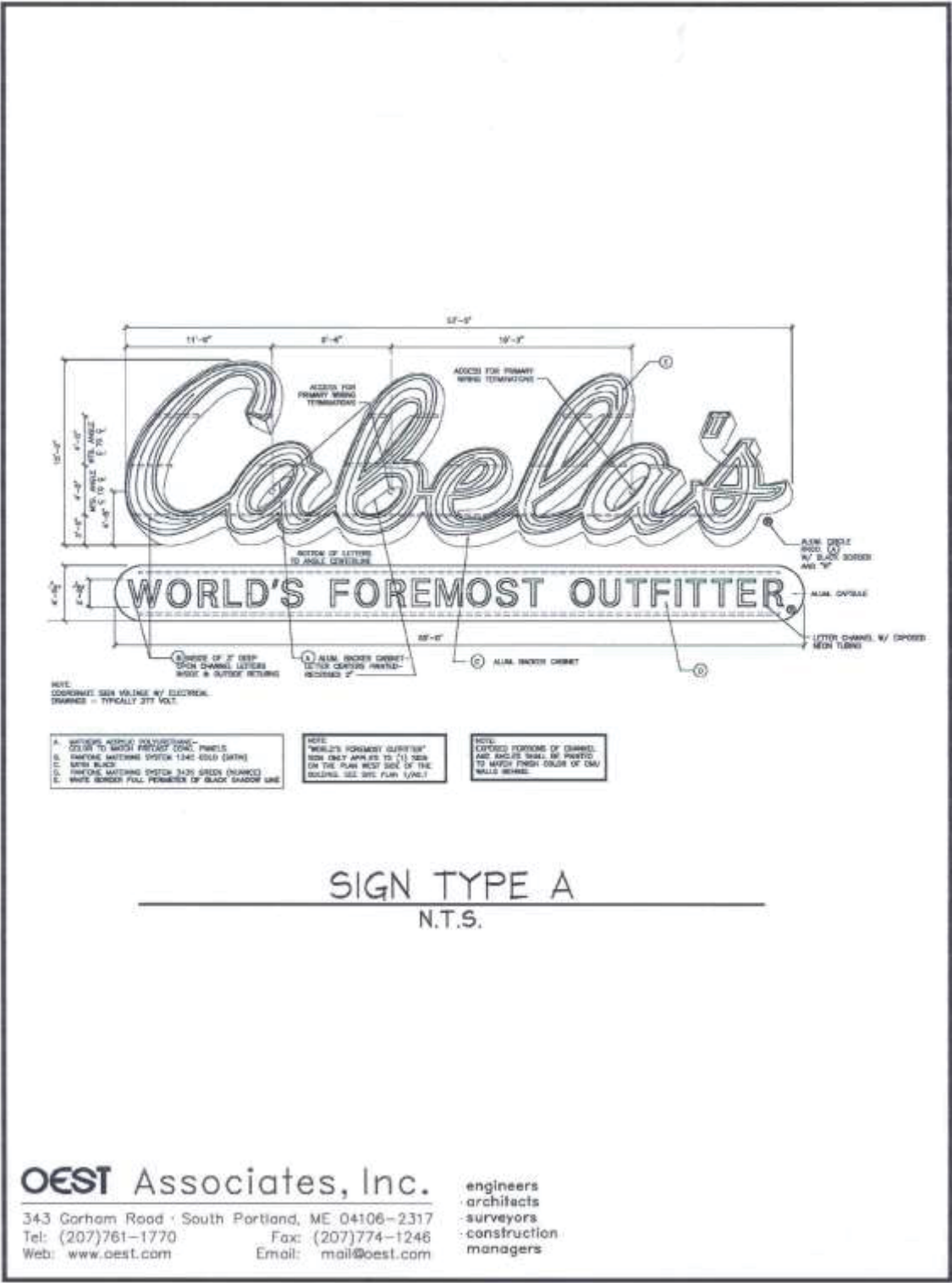
Notary Public/Attorney at Law

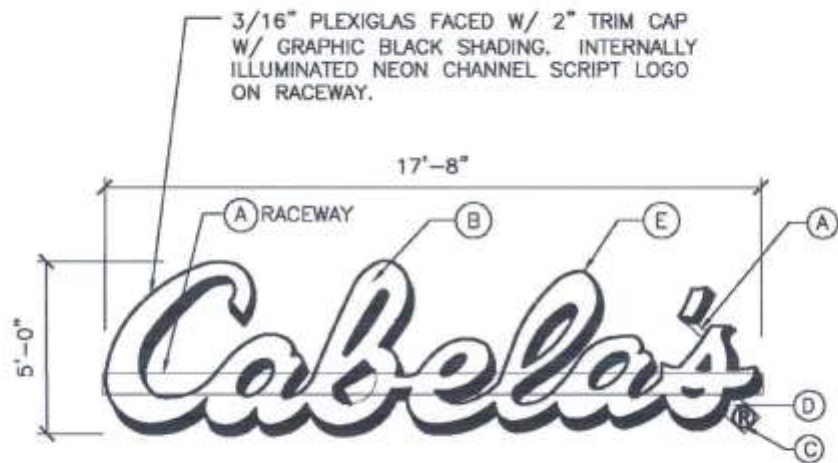
Attachment 1
Map Change Amendment consisting of one (1) page.



Attachment 2
Cabela's signage depiction consisting of five (5) pages.







- A. MATCH COLOR OF WOOD STAIN @ LOGS
- B. 2016 YELLOW PLEXIGLAS
- C. BLACK VINYL
- D. .063 WHITE ALUM.
- E. WHITE BORDER FULL PERIMETER OF
BLACK SHADOW LINE

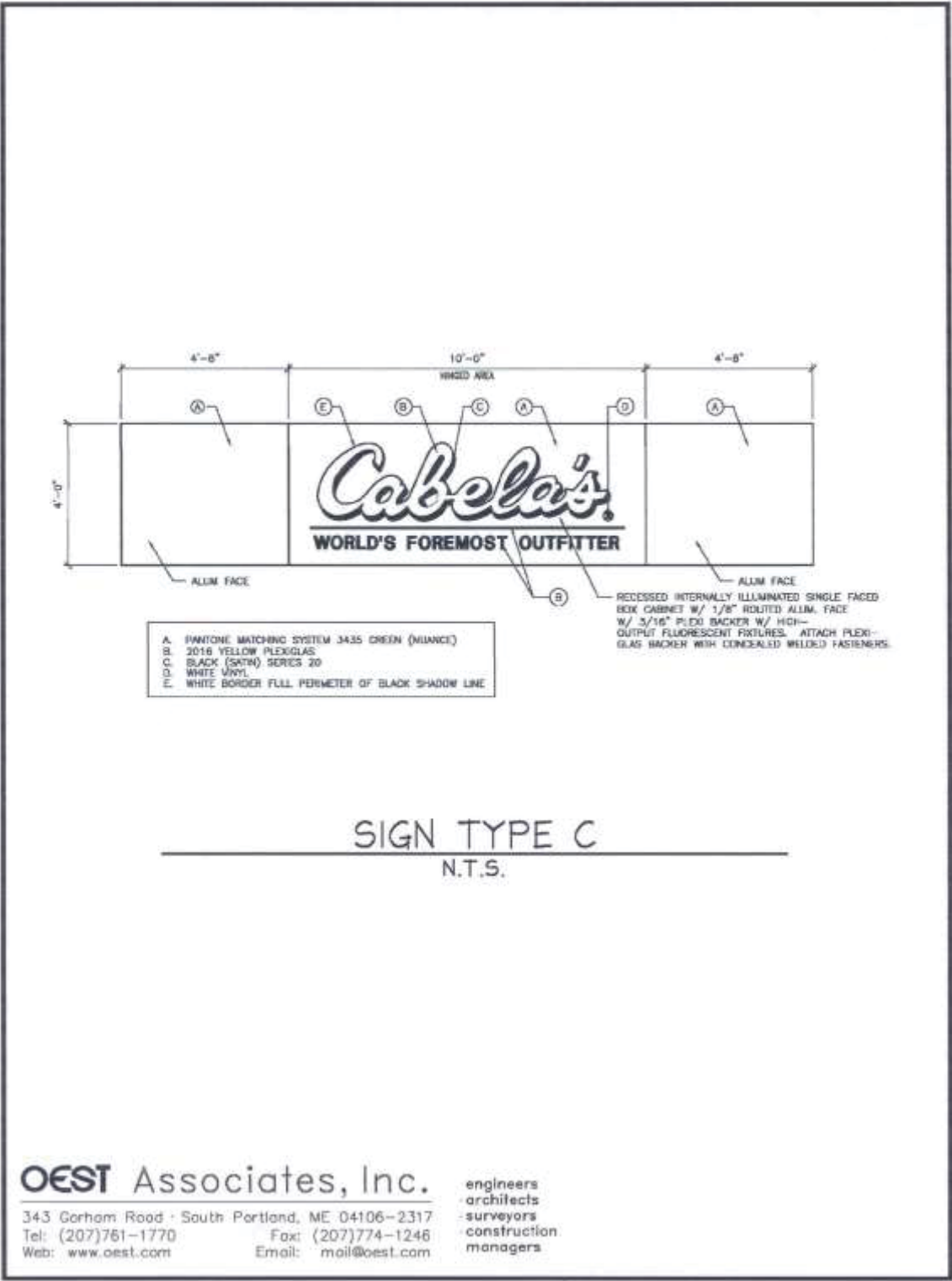
SIGN TYPE B

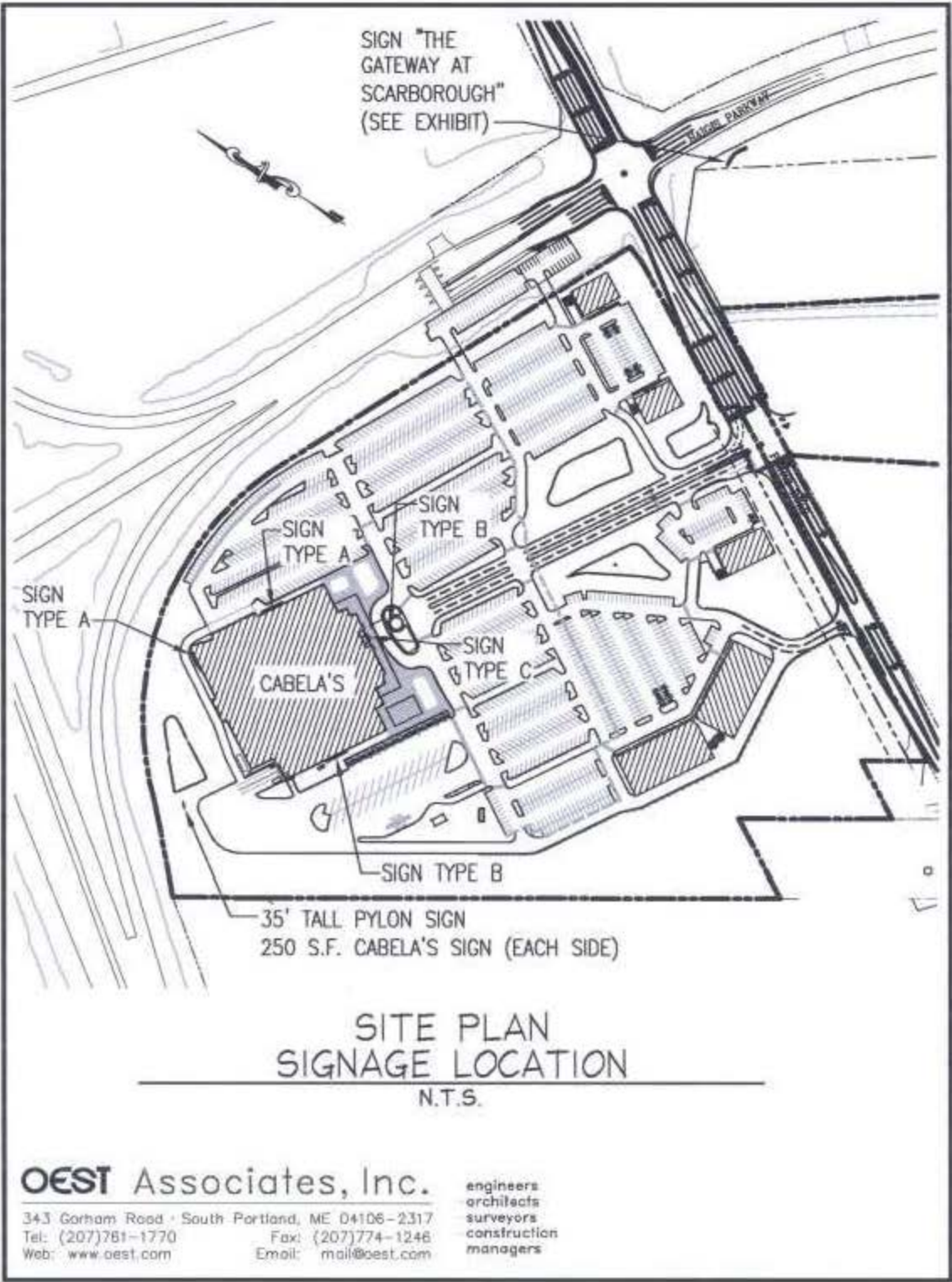
N.T.S.

OEST Associates, Inc.

343 Gorham Road - South Portland, ME 04106-2317
Tel: (207)761-1770 Fax: (207)774-1246
Web: www.oest.com Email: mail@oest.com

engineers
architects
surveyors
construction
managers

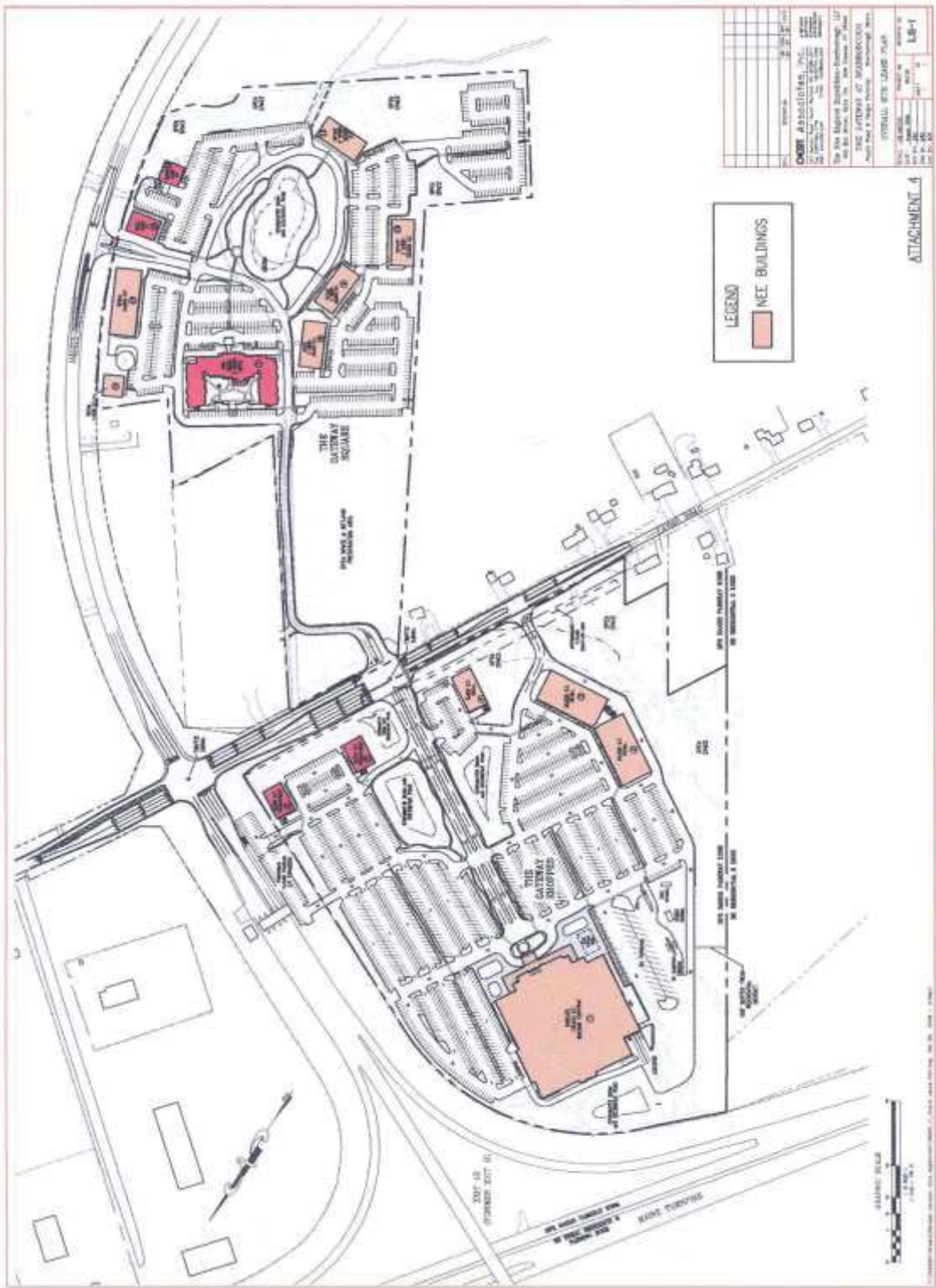




Attachment 3
Project off-site signage depiction consisting of one (1) page.



Attachment 4
Plan of NEE Buildings consisting of one (1) page.



FIRST AMENDMENT TO EXHIBIT 9

**AMENDMENTS TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
THE NEW ENGLAND EXPEDITION – SCARBOROUGH LLC**

This First Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the ____ day of _____, 2007 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, this “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, among other modifications of the provisions of the Zoning Ordinance, the Agreement allows for certain specific signage relating to the Cabela’s building described in the Agreement that varies from signage permitted under Section XII of the Zoning Ordinance; and

WHEREAS, Cabela’s has proposed modifications to the number of signs, size and location thereof on its building as currently allowed under the Agreement; and

WHEREAS, the signage requirements of other tenants proposed for the buildings to be constructed within the District vary from the signage otherwise permitted under Section XII of the Zoning Ordinance; and

WHEREAS, New England Expedition has requested that the Town approve this Amendment to the Agreement (a) modifying the number of signs, size and location thereof relating to the Cabela’s building as currently allowed under the Agreement, and (b) permitting certain signage relating to tenants for the proposed buildings to be constructed within the District that varies from the signage otherwise permitted under Section XII of the Zoning Ordinance.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, New England Expedition shall be permitted to include signage attached to and associated with the Cabela’s building as more particularly described and shown on Attachment 2 to the Agreement, as modified as described and shown on Attachment 1 to this Amendment.
2. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, New England Expedition shall be permitted to install certain signage hereinafter described, together with related improvements, lighting and landscaping, relating to the tenants to be located in the buildings to be constructed within the Project as hereinafter provided:
 - a. With respect to buildings containing multiple tenants, two (2) wall signs per tenant, each of said signs not to exceed one hundred (100) square feet, one to be located

EXHIBITS

on the front wall of the building and one to be located on the rear wall of the building, except that in the case of end units within a building, the second wall sign may be located on the end wall of the building rather than on the rear wall of the building; and

b. With respect to single-tenant buildings, two (2) wall signs, each sign not to exceed one hundred (100) square feet, one to be located on the front wall of the building and one to be located on a second wall of the tenant's choosing, except that in the case of single-tenant buildings to be located in that portion of the Project known as "The Gateway Shoppes at Scarborough", said buildings may have up to four (4) wall signs not to exceed one hundred (100) square feet each, with no more than one (1) such wall sign per wall; and

c. With respect to both multiple tenant and single-tenant buildings, the total gross area of all wall signs shall not exceed 10% of the wall area on which they are located.

3. Nothing set forth in the Agreement as amended by this Amendment shall be deemed to limit or prohibit signage within the District that is otherwise allowed under Section XII of the Zoning Ordinance, as it may be amended from time to time.

4. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

5. New England Expedition shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

/s/ Laurel R. Nadeau

TOWN OF SCARBOROUGH

By: /s/ Ronald W. Owens

its Town Manager (duly authorized by vote of the Scarborough Town Council on September 5, 2007)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

September 18, 2007

Personally appeared the above named Ronald W. Owens, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

/s/ Yolanda P. Justice

Notary Public

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

/s/ Richard A. Shinay

/s/ Barry E. Feldman

Its Managing Member

EXHIBITS

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

September 12, 2007, 2007

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

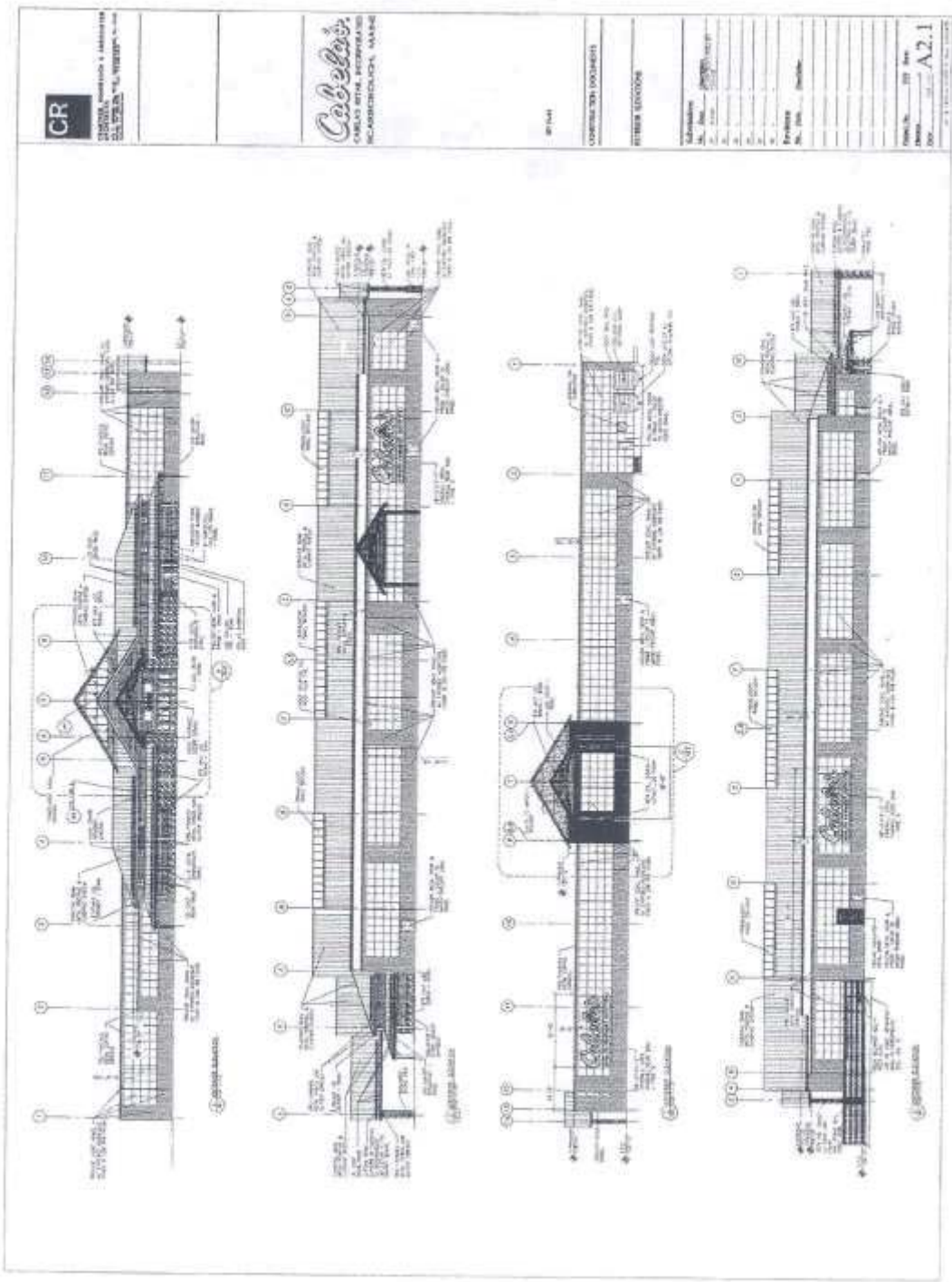
/s/ Richard A. Shinay

Notary Public

EXHIBITS

Attachment 1

Modification of Cabela's signage depiction consisting of one (1) page.



SECOND AMENDMENT TO EXHIBIT 9
AMENDMENTS TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
THE NEW ENGLAND EXPEDITION – SCARBOROUGH LLC

This Second Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the ____ day of _____, 2007 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State (hereinafter, the “Town”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, this “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201; and

WHEREAS, the Haigis Parkway District, HP, the underlying District within which the land subject to the Agreement is located, allows for the use of property located therein for “Educational Institutions” only pursuant to a contract zoning agreement; and

WHEREAS, New England Expedition desires to construct one of more buildings to be located in that portion of the Project known as “The Gateway Square at Scarborough” in which will be located an educational institution and being hereinafter referred to as the “Facility”; and

WHEREAS, New England Expedition has requested that the Town approve this Amendment to the Agreement so as to allow for an “Educational Institution” use within the Facility; and

WHEREAS, New England Expedition agrees that use of the Facility by an educational institution will not qualify the Facility for exemption from property taxes under 36 M.R.S.A. § 652 as long as the Facility is owned by a for-profit entity.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. “Educational Institution” use shall be a permitted use in that portion of Contract Zoning District Number 9 which the Facility is located.
2. New England Expedition agrees for itself and for any future owner of the Facility that use of the Facility by an educational institution will not qualify the Facility for exemption from property taxes under 36 M.R.S.A. § 652 as long as the Facility is owned by a for-profit entity, and further, that should the Facility ever qualify for a tax exempt status under 36 M.R.S.A. § 652, as it may be amended from time to time or as otherwise may become law by virtue of its use as an Educational Institution and the nature of the ownership entity, then New England Expedition or the then owner will pay to the Town annually, at the same time property taxes are due, an amount equivalent to one hundred percent (100%) of the property taxes that would be imposed

EXHIBITS

on the facility if it did not qualify for exempt status. Such payments shall be subject to the same interest charges and penalties for late payment or non-payment as are applicable under Maine law for non-payment of property taxes and New England Expedition or any future owner of the Facility shall have the same rights to dispute valuation and seek abatements as if such payments were assessed as property taxes.

3. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, remains consistent with the Comprehensive Plan.

4. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

5. New England Expedition shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

By: _____

Ronald W. Owens, its Town Manager

(duly authorized by vote of the Scarborough Town Council on November 7, 2007)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

_____, 2007

Personally appeared the above named Ronald W. Owens, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

Notary Public/Attorney at Law

Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____

Barry E. Feldman

Its Managing Member

STATE OF MAINE

EXHIBITS

COUNTY OF CUMBERLAND, ss. _____, 2007

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

Notary Public/Attorney at Law

Print name

THIRD AMENDMENT TO EXHIBIT 9

**THIRD AMENDMENT
TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND THE NEW ENGLAND EXPEDITION –
SCARBOROUGH, LLC
THE GATEWAY AT SCARBOROUGH**

This Third Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the 30th day of April, 2008 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the “First Amendment”); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the “Second Amendment”); and

WHEREAS, Cabela’s proposes to modify the pylon sign permitted under the Agreement relating to the Cabela’s building described in the Agreement; and

WHEREAS, New England Expedition proposes that banners be allowed to be affixed to light poles within the District; and

WHEREAS, New England Expedition has requested that the Town approve this Amendment to the Agreement (a) permitting a modification of the Cabela’s pylon sign, and (d) permitting banners to be affixed to light poles within the District.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The first page of Attachment 2 to the Agreement depicting the Cabela’s pylon sign is hereby deleted and the modified version of the Cabela’s pylon sign depicted on Attachment 1 to this Amendment is substituted in its place.
2. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, banners depicting seasonal or decorative scenes or images, and general or seasonal messages and greetings may be affixed to light poles within the District. Banners announcing the opening of specific businesses within the District and/or promoting sales of products by specific

EXHIBITS

retailers within the District may be affixed to those types of light poles within the District as depicted on Attachment 2 to this Amendment provided, however, that such types of banners may remain in place for not more than one hundred and eighty (180) cumulative days per calendar year. Banners shall not be allowed to deteriorate in appearance so as to become unsightly.

3. New England Expedition, its lessees, and future owners of all or any portion of the property within the District acquire no property interests in the use of banners as allowed by this Amendment and use of banners will not confer lawful non-conforming use status in the event that the provisions of this Amendment are amended or repealed by the Scarborough Town Council pursuant to this Section 3. Within forty-five (45) days following the first (1st) anniversary of the date of adoption of this Amendment by the Scarborough Town Council, the Town Council shall review the experience with banners and may amend or repeal Section 2 above if it should be determined by the Town Council that (a) the banners have been allowed to deteriorate in appearance so as to become unsightly, or (b) the banners pose a distraction to motorists so as to cause unsafe traffic conditions.

4. Nothing set forth in the Agreement as amended by this Amendment shall be deemed to limit or prohibit signage within the District that is otherwise allowed under Section XII of the Zoning Ordinance, as it may be amended from time to time.

5. The Agreement, as amended by this Amendment and as previously amended by the First Amendment and the Second Amendment, remains consistent with the Comprehensive Plan.

6. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

7. New England Expedition shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

/s/ Laurel R. Nadeau

TOWN OF SCARBOROUGH

By: /s/ Ronald W. Owens

Its Town Manager (duly authorized by vote of the Scarborough Town Council on April 30, 2008)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

May 2, 2008

Personally appeared the above named Ronald W. Owens, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

/s/ Yolande P. Justice

Notary Public/Attorney at Law

Yolande P. Justice

Notary Public

WITNESS:

THE NEW ENGLAND EXPEDITION-

EXHIBITS

SCARBOROUGH, LLC
By FELDCO SCARBOROUGH, LLC, its
Manager
By: _____
Barry E. Feldman
Its Managing Member

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

May ____, 2008

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

Notary Public/Attorney at Law

Print name

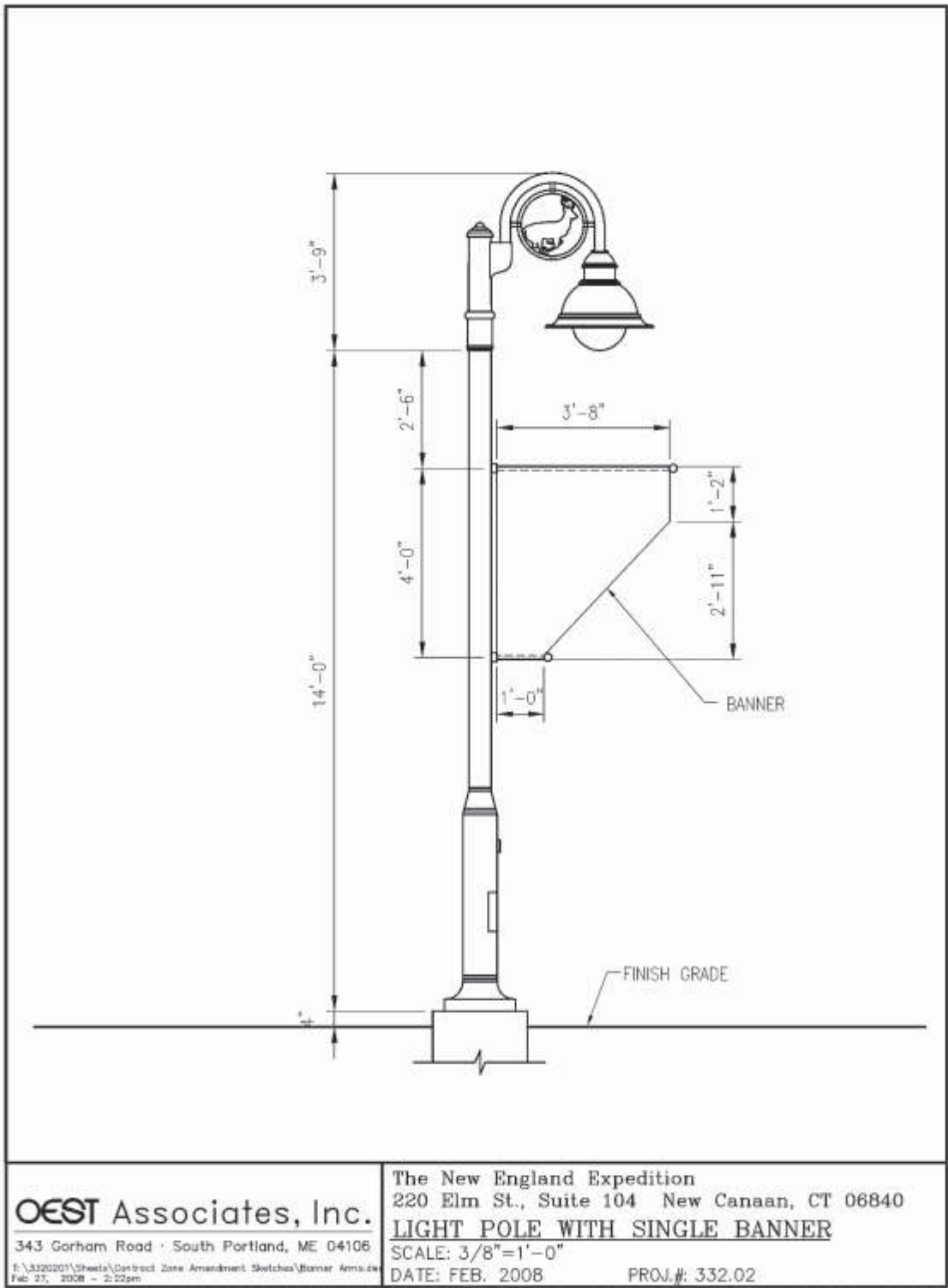
Attachment 1

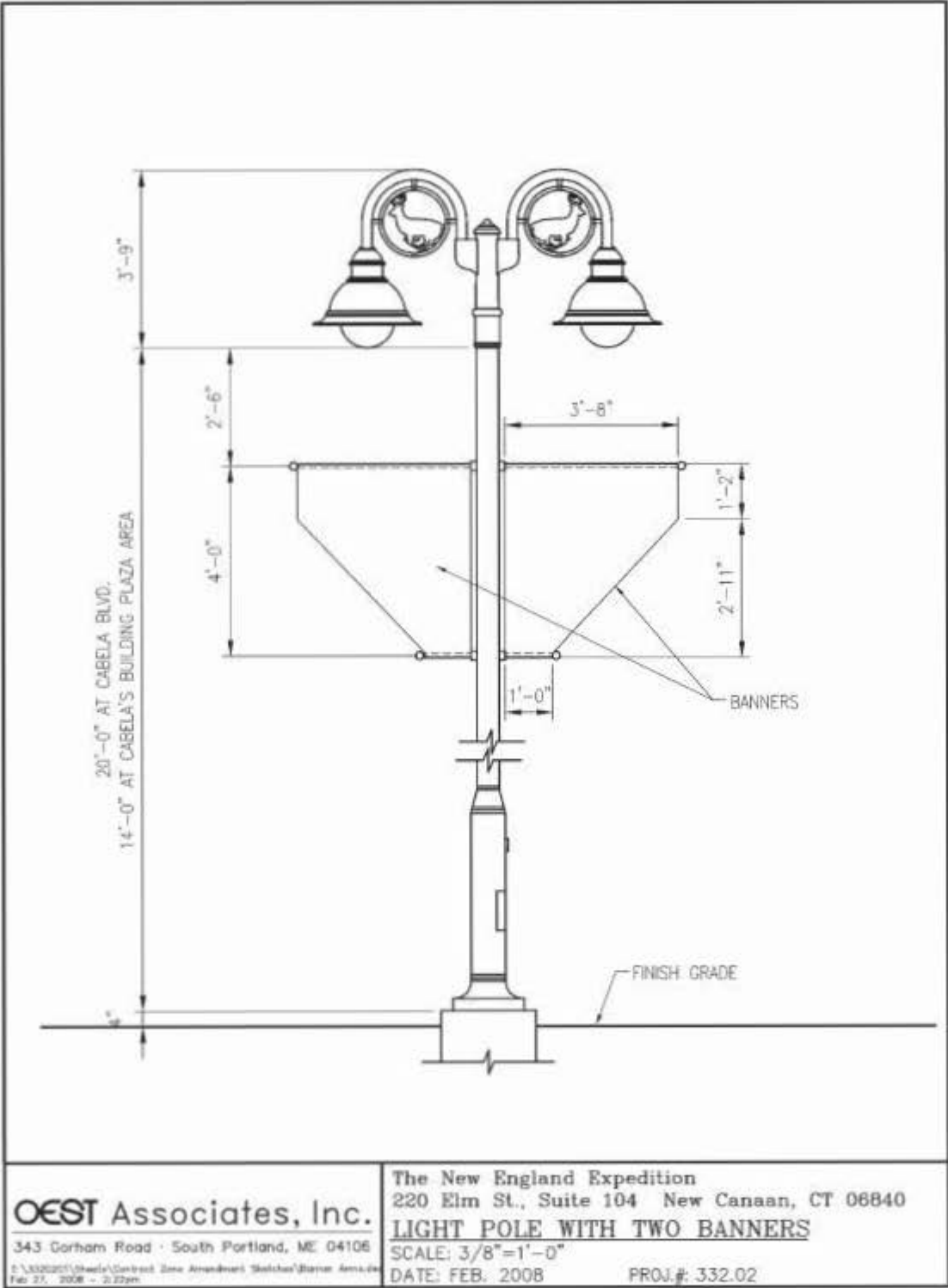
Modification of Cabela’s pylon sign consisting of one (1) page.



Attachment 2

Types of light poles on which temporary banners may be affixed consisting of two (2) pages.





FOURTH AMENDMENT TO EXHIBIT 9

**TO CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC
THE GATEWAY AT SCARBOROUGH**

This Fourth Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the 3rd day of March, 2010 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH II, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition II”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and,

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the “First Amendment”); and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the “Second Amendment”); and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060, Page 162 (the “Third Amendment”); and,

WHEREAS, Section 6 of the Agreement provided that certain improvements within that portion of the Property located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway known as “The Gateway Square at Scarborough” be “substantially complete,” as that term is defined in said Section 6 of the Agreement, within two (2) years from the date that New England Expedition received Planning Board approval for the Project; and,

WHEREAS, the Town Planner extended said “substantial completion” deadline to March 12, 2010, pursuant to authority granted the Town Planner under said Section 6 of the Agreement; and,

WHEREAS that portion of the Property known as The Gateway Square at Scarborough was conveyed by New England Expedition to New England Expedition II by Quitclaim Deed With Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and,

EXHIBITS

WHEREAS, the New England Expedition and the New England Expedition II have requested that the Town approve this Amendment to Section 6 of the Agreement (a) further extending said “substantial completion” deadline for an additional three (3) years to March 12, 2013, and (b) amending the definition of “substantially complete” as set forth therein.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Section 6 of the Agreement is hereby amended in its entirety to read as follows:
 6. The Property shall be developed and used only in accordance with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the “Site Plan Ordinance”) and the Subdivision Ordinance of the Town of Scarborough (hereinafter, the “Subdivision Ordinance”), with construction anticipated to proceed in phases commencing with that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road and then progressing to that portion of the Property comprising The Gateway Square at Scarborough located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway. The phasing of the construction as outlined above shall be subject to the additional requirement that construction of that portion of the Project comprising The Gateway Square at Scarborough shall be “substantially complete” no later than March 12, 2013. For purposes hereof, “substantially complete” shall mean the completion of the clearing and rough grading of the Project building sites and related improvement areas and the internal road system, the installation of utilities, storm drains and sanitary sewer lines and the completion and approval of the foundations for one or more buildings containing in the aggregate not less than one hundred thousand (100,000.00) square feet of gross leaseable area.
2. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, the Second Amendment and the Third Amendment, remains consistent with the Comprehensive Plan.
3. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.
4. This Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

By: _____

Thomas J. Hall, its Town Manager (duly authorized by vote of the Scarborough Town Council on March 3, 2010)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

March ____, 2010

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

EXHIBITS

Notary Public/Attorney at Law

Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

March ____, 2010

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

Notary Public

Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH II, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

March ____, 2010

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition – Scarborough II, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition – Scarborough II, LLC.

Before me,

Notary Public

Print name

FIFTH AMENDMENT TO EXHIBIT 9

**TO CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC
THE GATEWAY AT SCARBOROUGH**

**FIFTH AMENDMENT
TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND THE NEW ENGLAND EXPEDITION –
SCARBOROUGH, LLC
THE GATEWAY AT SCARBOROUGH**

This Fifth Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the 21st day of July, 2010 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH II, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition II”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the “First Amendment”); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the “Second Amendment”); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060, Page 162 (the “Third Amendment”); and

WHEREAS, that portion of the Property comprising The Gateway Square at Scarborough was conveyed by New England Expedition to New England Expedition II by Quitclaim Deed With Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fourth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition

EXHIBITS

and New England Expedition II dated as of the 3rd day of March, 2010, and recorded in said Registry of Deeds in Book 27642, Page 85 (the “Fourth Amendment”); and

WHEREAS, the New England Expedition and the New England Expedition II have requested that the Town approve this Amendment to the Agreement regarding (a) signage and banners, and (b) certain uses within the District.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, in addition to the wall signs permitted under Section 2 of the First Amendment, one (1) additional doorway sign not exceeding fifteen (15) square feet, which sign may be two-sided and, in the case of a two-sided sign, not exceeding fifteen (15) square feet for each face with the width of such two-sided sign between such faces not to exceed one (1) foot, indicating the location of any entrance to a restaurant at which “pick-up,” “take-out” or “to-go” orders can be picked up, may be affixed to the exterior of the building either parallel or perpendicular to the building wall, either attached directly to the building wall or attached to one or more supports attached to the building wall, and located over any such entrance, which sign may not extend more than three (3) feet from the building wall.

2. Section 2 and Section 3 of the Third Amendment are hereby deleted in their entirety.

3. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, banners depicting seasonal or decorative scenes or images, and general or seasonal messages and greetings, may be affixed to those light poles within the District designated “Seasonal Banner Light Pole (Typ.)” on Attachment 1 to this Amendment. Banners promoting sales of products by specific retailers within the District may be affixed to those types of light poles within the District depicted on Attachment 2 to the Third Amendment. Banners shall not be allowed to deteriorate in appearance so as to become unsightly.

4. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, the existing Cabela’s pylon sign depicted on Attachment 1 to the Third Amendment and located where shown on Attachment 1 to this Amendment may be modified so as to include one (1) additional sign for advertising purposes for one or more businesses that may be located within that portion of the District comprising The Gateway Shoppes subject to the following conditions:

- a. Said pylon sign shall not be increased in height; and
- b. Said additional sign shall not be greater in size than seventy-five percent (75%) of the size of the existing Cabela’s sign as shown on said Attachment 1 to the Third Amendment.

This Section 4 shall not be deemed to eliminate the need to comply with applicable State law regarding signage located adjacent to the Maine Turnpike.

5. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, the following additional signage shall be permitted:

- a. One (1) business directory sign not exceeding one hundred fifty (150) square feet, which sign may be two-sided and, in the case of a two-sided sign, not exceeding one hundred fifty (150) square feet for each face, advertising the businesses located within that portion of the District comprising The Gateway Shoppes, may be located within the area designated “Shoppes Business Directory Sign Area” on Attachment 2 to this Amendment;

EXHIBITS

- b. Two (2) signs not exceeding thirty-two (32) square feet each, which signs may be two-sided and, in the case of a two-sided sign, not exceeding thirty-two (32) square feet for each face, designating the secondary entrance to The Gateway Shoppes on Payne Road for employees, trucks, buses, recreational vehicles, service vehicles, and delivery vehicles for deliveries to one or more named tenants, one of which may be located within the area designated “Shoppes Secondary Entrance Sign One Area” and one of which may be located within the area designated “Shoppes Secondary Entrance Sign Two Area” on Attachment 2 to this Amendment;
- c. Two (2) business directory signs not exceeding one hundred fifty (150) square feet, which signs may be two-sided and, in the case of a two-sided signs, not exceeding one hundred fifty (150) square feet for each face, advertising the businesses located within that portion of the District comprising The Gateway Square, one of which may be located within the area designated “Square Business Directory Sign One Area” and one of which may be located within the area designated “Square Business Directory Sign Two Area” on Attachment 3 to this Amendment; and
- d. Signs indicating the name of the project and/or the names of not more than three (3) of the businesses located therein may be affixed to the faces of the existing rock walls located on either side of the main entrances on Payne Road and Haigis Parkway to that portion of the District comprising The Gateway Square as shown and designated “Existing Stone Walls” on Attachment 3 to this Amendment.

The signage referred to in this Section 5 shall otherwise comply with all requirements of Section XII of the Zoning Ordinance, as it may be amended from time to time.

6. Nothing set forth in the Agreement as amended by this Amendment shall be deemed to limit or prohibit signage within the District that is otherwise allowed under Section XII of the Zoning Ordinance, as it may be amended from time to time.

7. The following additional uses and related signage shall be permitted within that portion of the District comprising The Gateway Shoppes:

- a. Restaurants that include drive-up or drive-thru service windows to be located within the areas designated “Restaurants with Drive-Ups and Drive-Thrus” on Attachment 4 to this Amendment, the design of which shall be architecturally compatible with the existing buildings, provided that this provision shall not be deemed to prohibit the number of restaurants within the District that do not include drive-up or drive-thru service windows;
- b. Craft shows and art shows, including the sale of items displayed therein, that may be conducted within any building or outdoors and that need not be related to, or accessory to, any existing building or use, which craft shows and art shows conducted outdoors shall be conducted within the areas designated “Special Events” on Attachment 5 to this Amendment, together with temporary signs meeting the requirement of Section XII of the Zoning Ordinance advertising such events and directing persons thereto that may be located within the areas designated “Temporary Sign Areas” on Attachment 5 to this Amendment the day or days of the event; and
- c. Outdoors sales and tent sales that need not be related to, or accessory to, any existing building or use, which outdoor sales and tent sales shall be conducted within the areas designated “Special Events” on Attachment 5 to this Amendment, together with temporary signs meeting the requirements of Section XII of the Zoning Ordinance

EXHIBITS

advertising such events and directing persons thereto that may be located within the areas designated "Temporary Sign Areas" on Attachment 5 to this Amendment the day or days of the event.

- d. Not more than an aggregate total of six (6) craft shows, art shows, outdoor sales and tent sales, which shall not exceed three (3) consecutive days each, excluding time for setup, dismantling and cleanup which may occur on the day immediately before the commencement of the event and on the day immediately after the conclusion of the event unless additional time is required due to inclement weather or other circumstances beyond the reasonable control of the business or organization conducting the event, may be conducted within a calendar year.

8. Craft shows, art shows, outdoor sales and tent sales described in Section 7 above that are not being conducted by on-site businesses shall be subject to the review and approval by the Code Enforcement Officer and the Chief of the Scarborough Fire Department in accordance with the following procedure:

- a. No later than twenty-one (21) days prior to the date of commencement of the event, the Code Enforcement Officer and the Chief of the Scarborough Fire Department shall be provided with written notification of the event, which notification shall contain the following information:
 - i. The type of event;
 - ii. The name, address and telephone number of the business or organization conducting the event, together with the name of an individual associated with such business or organization who can be contacted regarding the event;
 - iii. A sketch plan showing in which Special Events areas the event will be conducted and the approximate layout of the event facilities within those areas; and
 - iv. The date or dates during which the event will be conducted.
- b. If the proposed event is anticipated to be repeated on multiple dates such as, by way of example, an art show that occurs on multiple Sundays each week during the months of June through October, only a single notification in accordance with Subsection 8. a. above need be provided to the Code Enforcement Officer and the Chief of the Scarborough Fire Department prior to the date of the first of such multiple repetitive events.
- c. Any temporary structures such as tents shall require a permit be obtained not less than seven (7) days prior to the date or dates of the event from the Chief of the Scarborough Fire Department.
- d. The event shall comply with all National Fire Protection Association and Town fire safety standards and requirements as applicable.
- e. In the event that the Code Enforcement Officer and/or the Chief of the Scarborough Fire Department should reasonably determine that the event fails to comply with the terms and conditions set forth herein, the Code Enforcement Officer and/or the Chief of the Scarborough Fire Department shall provide written notice to the notifying party indicating in what manner the event fails to so comply. In the event the Code Enforcement Officer and/or the Chief of the Scarborough Fire Department should fail to provide such notice to the notifying party within fourteen (14) days following the Code

EXHIBITS

Enforcement Officer's and the Chief of the Scarborough Fire Department's receipt of the notification required in Subsection 8. a. above, the event shall be deemed approved.

f. No other Town permits or approvals shall be required for such events.

9. The terms and conditions of this Amendment including, but not limited to, the review and approval process described in Section 8 above for craft shows, art shows, outdoor sales and tent sales that are not being conducted by on-site businesses, shall not be applicable to craft shows, art shows, outdoor sales and tent sales that are that are otherwise allowed to be conducted by on-site businesses in accordance with the Zoning Ordinance and other applicable Town regulations and procedures.

10. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment, remains consistent with the Comprehensive Plan.

11. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

12. This Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

By: _____
Thomas J. Hall, its Town Manager (duly
authorized by vote of the Scarborough Town
Council on July 21, 2010)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

July ____, 2010

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

Notary Public/Attorney at Law

Print name

EXHIBITS

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

July ____, 2010

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

Notary Public

Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH II, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

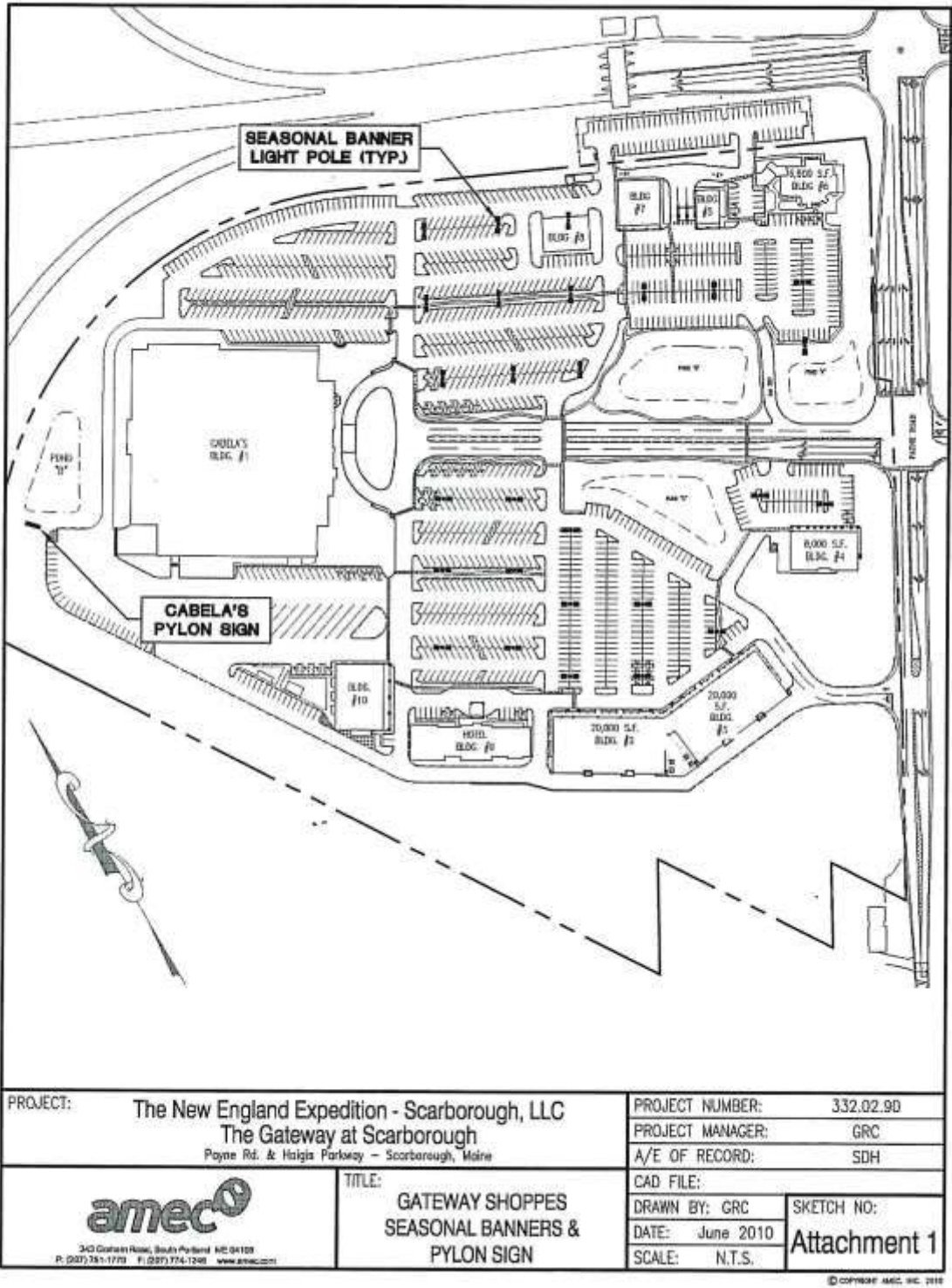
July ____, 2010

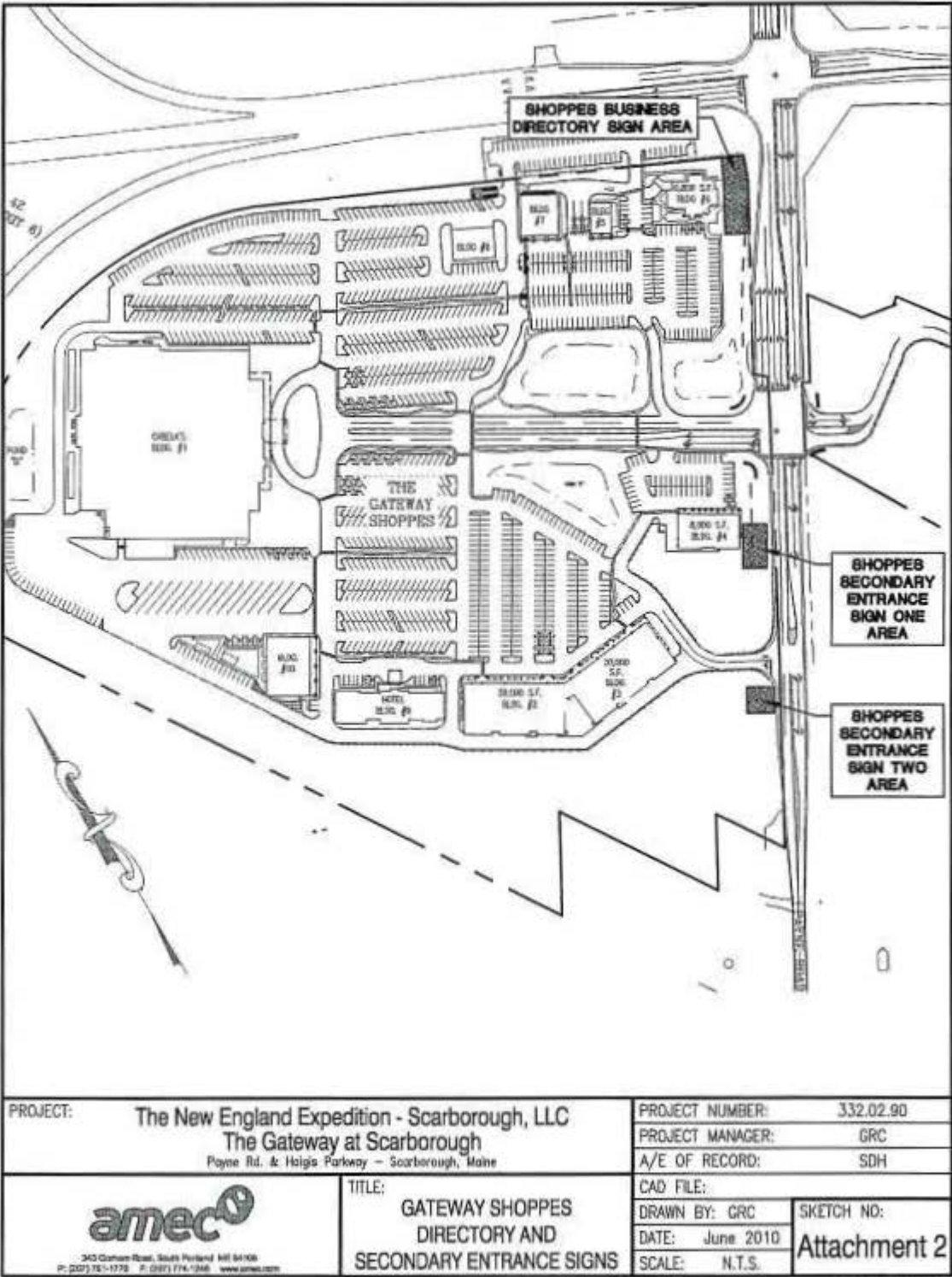
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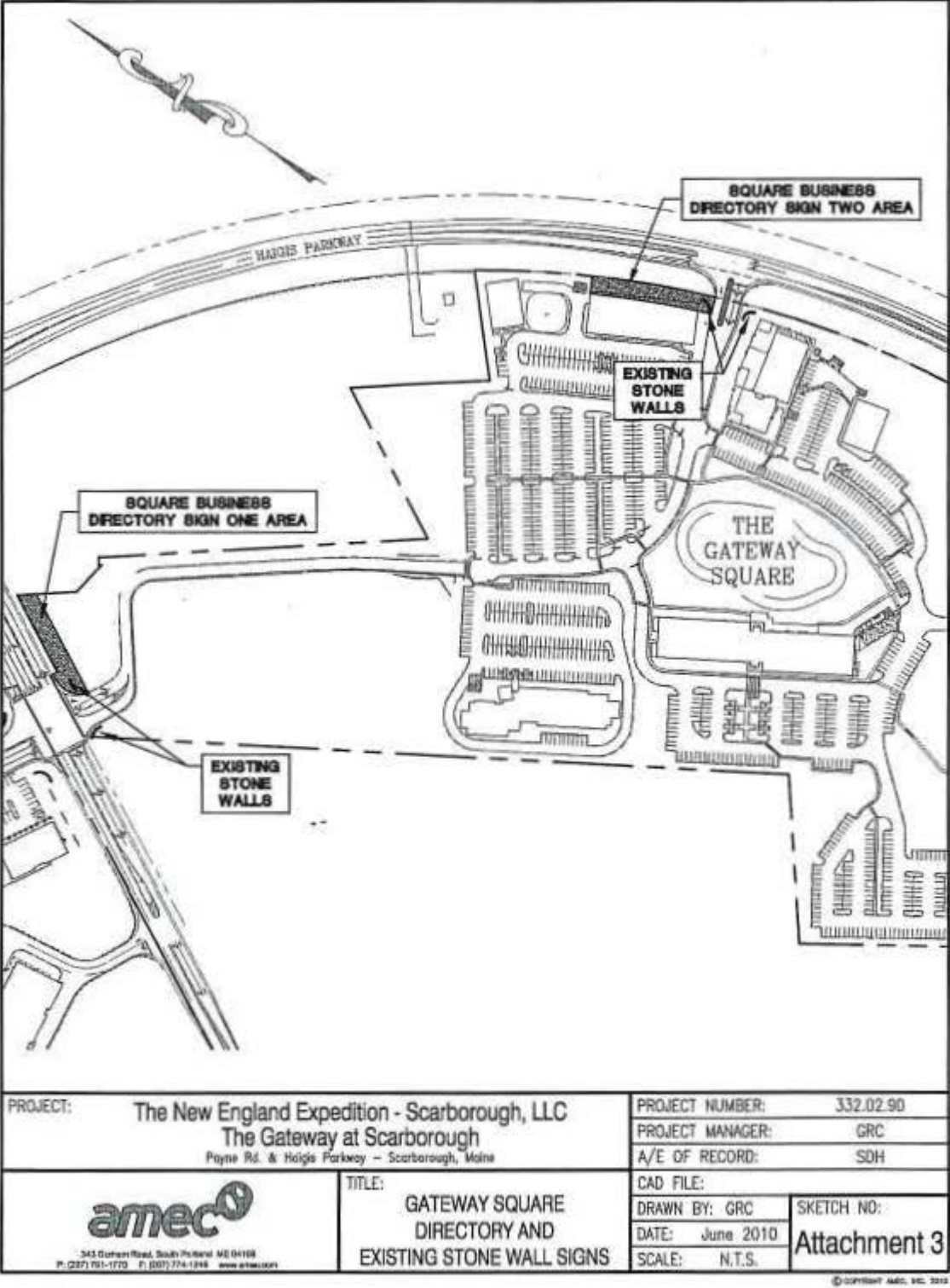
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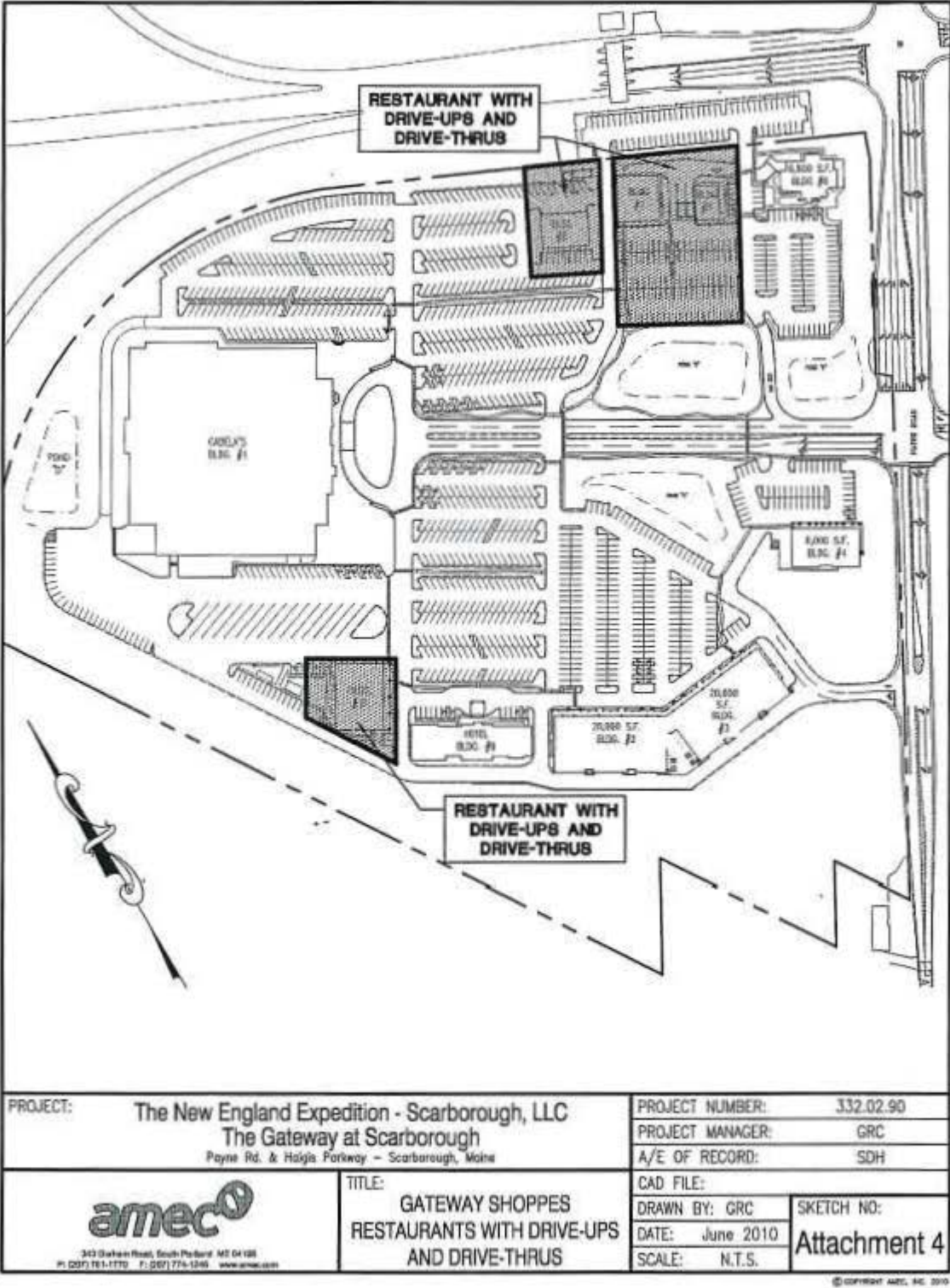
Notary Public

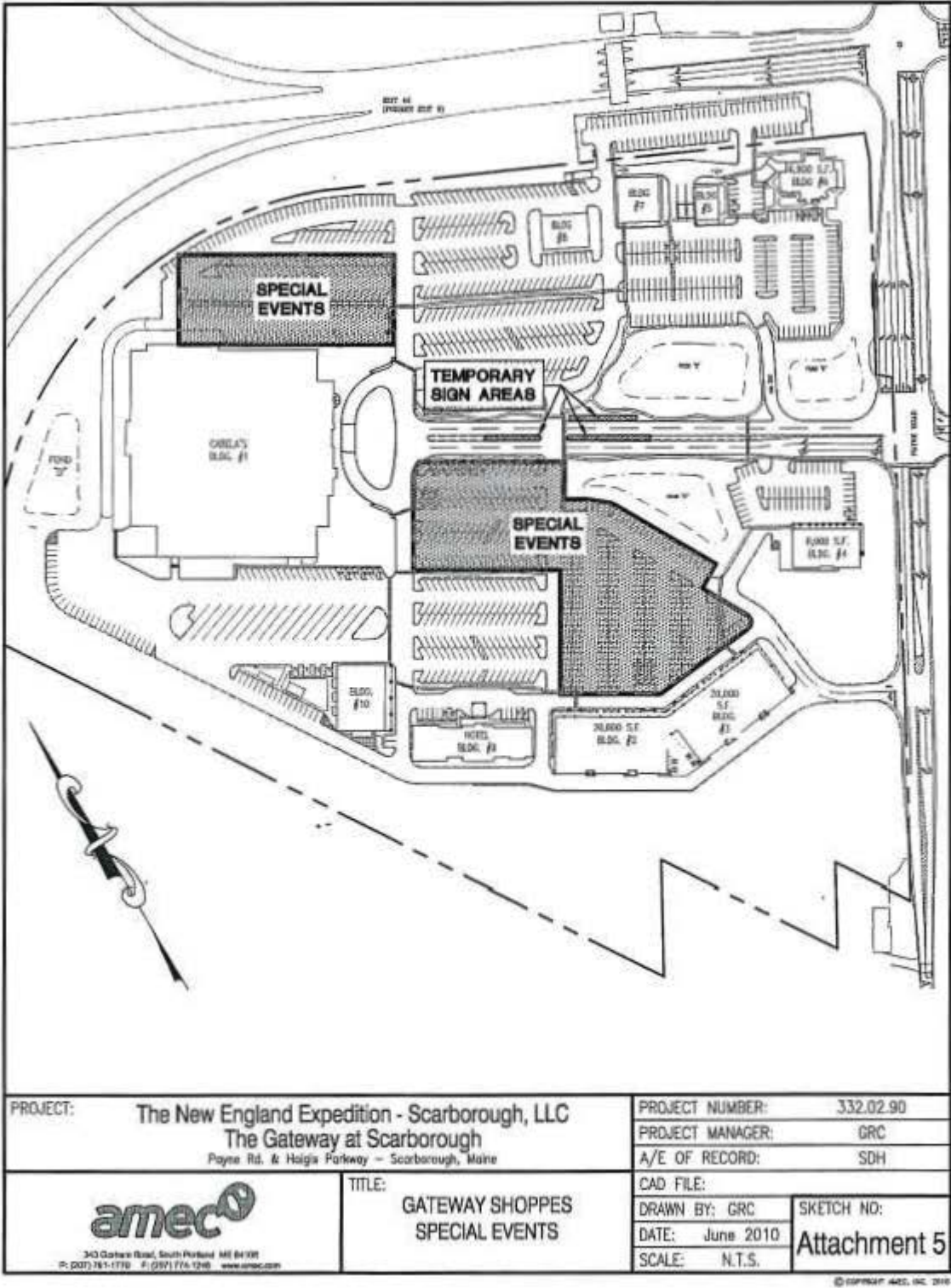
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SIXTH AMENDMENT TO EXHIBIT 9

**TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND THE NEW ENGLAND EXPEDITION –
SCARBOROUGH, LLC**

THE GATEWAY AT SCARBOROUGH

This Sixth Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the ____ day of _____, 2011 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH II, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition II”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the “First Amendment”); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the “Second Amendment”); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060, Page 162 (the “Third Amendment”); and

WHEREAS, that portion of the Property comprising The Gateway Square at Scarborough was conveyed by New England Expedition to New England Expedition II by Quitclaim Deed With Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fourth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 3rd day of March, 2010, and recorded in said Registry of Deeds in Book 27642, Page 85 (the “Fourth Amendment”); and

EXHIBITS

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fifth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 21st day of July, 2010, and recorded in said Registry of Deeds in Book 27960, Page 322 (the "Fifth Amendment"); and

WHEREAS, the New England Expedition and the New England Expedition II have requested that the Town approve this Amendment to the Agreement regarding the height of the business directory signs permitted within the District.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, the business directory signs permitted within the District under Section 5.a. and Section 5.c. of the Fifth Amendment may be up to sixteen (16) feet in height as measured from the base of such signs at ground level.
2. Nothing set forth in the Agreement as amended by this Amendment shall be deemed to limit or prohibit signage within the District that is otherwise allowed under Section XII of the Zoning Ordinance, as it may be amended from time to time.
3. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment and the Fifth Amendment, remains consistent with the Comprehensive Plan.
4. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.
5. This Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

By: _____
Thomas J. Hall, its Town Manager (duly authorized by vote of the Scarborough Town Council on _____, 2011)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

_____, 2011

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

Notary Public/Attorney at Law

EXHIBITS

WITNESS: THE NEW ENGLAND EXPEDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
It's Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss. _____, 2011

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

Notary Public

Print name

WITNESS: THE NEW ENGLAND EXPEDITION-
SCARBOROUGH II, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
It's Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss. _____, 2011

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition – Scarborough II, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition – Scarborough II, LLC.

Before me,

Notary Public

Print name



SIGNConcepts
VISUAL COMMUNICATION EXPERTS

Date: 4/23/09	Scale: 1/4" = 1'
Drawing #: 4	Sales Rep: DF
Rev #: 14	Rev Date: 11/17/10

Apprv'd by:

The Gateway Shoppes

- Internally illuminated tenant pylon sign
- Internally illuminated sign cabinet w/ 3/16" white Lexan faces
- custom fabricated "roof"
- cultured stone pylons to match existing Cabela's colors

This design is the exclusive property of Sign Concepts, LLC, and cannot be copied, exhibited, or shown to anyone outside of your organization without the prior consent of Sign Concepts, LLC. Copyright © 2010.

SEVENTH AMENDMENT TO EXHIBIT 9

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND THE NEW ENGLAND
EXPEDITION – SCARBOROUGH, LLC**

THE GATEWAY AT SCARBOROUGH

This Seventh Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the 6 day of March, 2013 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), THE NEW ENGLAND - SCARBOROUGH, LLC, a Maine Limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, new Canaan, Connecticut 06840 (hereinafter, “New England Expedition II”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and,

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September 2007, and recorded in said Registry of Deeds in Book 25482. Page 201 (the “First Amendment”); and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060. Page 162 (the “Third Amendment”); and,

WHEREAS, that portion of the Property comprising The Gateway Square at Scarborough was conveyed by New England Expedition to New England Expedition II by Quitclaim Deed with Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of Fourth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 3rd day of March, 2010, and recorded in said Registry of Deeds in Book 27642, page 85 (the “Fourth Amendment”); and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of Fifth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 19th day of January, 2011, and recorded in said Registry of Deeds in Book 28464, page 260 (the “Sixth Amendment”); and,

WHEREAS, Section 6 of the Agreement, as amended pursuant to said Fourth Amendment to Contract Zoning Agreement, provides that certain improvements within that portion of the Property located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway known as “The Gateway Square at Scarborough” be substantially complete,” as that term is defined in said Section 6 of the Agreement as amended, no later than March 12, 2013; and,

EXHIBITS

WHEREAS, the New England Expedition and the New England Expedition II have requested that the Town approve this Seventh Amendment to Contract Zoning Agreement further amending the definition of “substantially complete” as set forth in Section 6 of the Agreement, as previously amended, to eliminate the requirement that by March 12, 2013, foundations for one or more buildings containing in the aggregate not less than one hundred thousand (100,000.00) square feet of gross leasable area be completed and approved within The Gateway Square at Scarborough.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Section 6 of the Agreement is hereby further amended in its entirety to read as follows:
 6. The Property shall be developed and used only in accordance with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the “Site Plan Ordinance”) and the Subdivision Ordinance of the Town of Scarborough (hereinafter, the “Subdivision Ordinance”), with construction anticipated to proceed in phases commencing with that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road and then progressing to that portion of the Property comprising The Gateway Square at Scarborough located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway. The phasing of the construction as outlined above shall be subject to the additional requirement that construction of that portion of the Project comprising The Gateway Square at Scarborough shall be “substantially complete” no later than March 12, 2013. For purposes hereof, “substantially complete” shall mean the completion of the clearing and rough grading of the Project building sites and related improvement areas and the internal road system, and the installation of utilities, storm drains and sanitary sewer lines.
2. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment and the Sixth Amendment, remains consistent with the Comprehensive Plan.
3. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.
4. This Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

By: _____
Thomas J. Hall, its Town Manager
(duly authorized by vote of the
Scarborough Town Council on
_____, 2013)

EXHIBITS

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2013

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me.

Notary Public/Attorney at Law

Print Name

WITNESS:

THE NEW ENGLAND EXPENDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC its
Manager

By: _____
Barry E. Feldman
Its Managing Member
_____, 2013

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss. _____, 2013

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of New England Expedition-Scarborough, LLC and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition-Scarborough, LLC.

Before me.

Notary Public/Attorney at Law

Print Name

EXHIBITS

WITNESS:

THE NEW ENGLAND EXPENDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC its
Manager

By: _____
Barry E. Feldman
Its Managing Member

_____, 2013

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

_____, 2013

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of New England Expedition-Scarborough, LLC and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition-Scarborough, LLC.

Before me.

Notary Public/Attorney at Law

Print Name

EIGHTH AMENDMENT TO EXHIBIT 9

Doc# 14701 Bk:33913 Pg: 213

**EIGHTH AMENDMENT TO CONTRACT ZONING AGREEMENT
AMONG THE TOWN OF SCARBOROUGH, EXIT 42 HAIGIS PARKWAY LLC, AND
DEVINE CAPITAL, LLC
THE GATEWAY AT SCARBOROUGH**

This Eighth Amendment to Contract Zoning Agreement (hereinafter, this "Eighth Amendment") is made as of the 29th day of March, 2017 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the "Town"), EXIT 42 HAIGIS PARKWAY LLC, a Maine limited liability company, with an office at 11 Bartlett Road, Gorham, Maine 04038 (hereinafter, "Exit 42 HP"), and DEVINE CAPITAL, LLC, a Massachusetts limited liability company with a mailing address of 2 Monument Square, Seventh Floor, Portland, Maine 04101 (hereinafter, "Devine Capital"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, The New England Expedition – Scarborough, LLC, a Maine limited liability company with an office at 222 Newbury Street, 4th Floor, Boston Massachusetts 02116 (hereinafter, "New England Expedition"), entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the "Agreement") creating Contract Zoning District Number 9 (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the "First Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the "Second Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060, Page 162 (the "Third Amendment"); and

WHEREAS, that portion of the Property comprising "The Gateway Square at Scarborough" was conveyed by New England Expedition to The New England Expedition – Scarborough II, LLC (hereinafter, "New England Expedition II") by Quitclaim Deed With Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fourth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 3rd day of March, 2010, and recorded in said Registry of Deeds in Book 27642, Page 85 (the "Fourth Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fifth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 21st day of July, 2010, and recorded in said Registry of Deeds in Book 27960, Page 322 (the "Fifth Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Sixth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 19th day of January, 2011, and recorded in said Registry of Deeds in Book 28464, Page 260 (the "Sixth Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Seventh Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 6th day of March, 2013, and recorded in said Registry of Deeds in Book 30462, Page 162 (the "Seventh Amendment"); and

WHEREAS, that portion of the Property comprising The Gateway Square at Scarborough was conveyed by Deed In Lieu of Foreclosure With Covenant from New England Expedition – Scarborough, LLC to GlennDonna, Inc. and to R.J. Grondin & Sons dated as of the 26th day of September, 2014, and recorded in said Registry of Deeds in Book 31987, Page 197; and was subsequently conveyed to Exit 42 HP by Quitclaim Deed With Covenant from GlennDonna, Inc. and R.J. Grondin & Sons dated November 13, 2014, and recorded in said Registry of Deeds in Book 31987, Page 206; and

WHEREAS, Devine Capital intends to purchase of The Gateway Square at Scarborough from Exit 42 HP;

WHEREAS, the Haigis Parkway District, HP (hereinafter, the "HP District"), the underlying Zoning District in which The Gateway Square at Scarborough is located, as described in Section XVIII.B of the Zoning District, presently allows, as a permitted use, multi-family residential dwellings/units provided such dwellings/units are developed as part of a mixed-use building or mixed-use planned development;

WHEREAS, the HP District limits multi-family dwellings to a maximum building footprint of 12,500 square feet, a maximum of 5 dwelling units per acre of net lot area, and limits the floor area of all residential uses within a planned development to a maximum of 40% of the total floor area of all the building floor area within a planned development;

WHEREAS, the Town's Growth Management Ordinance, Chapter 413, requires the issuance of growth permits in order to obtain building permits to construct dwelling units and requires that growth permits be issued either from the annual allocation of growth permits or from a reserve pool of growth permits;

WHEREAS, Devine Capital desires to develop The Gateway Square at Scarborough as a multi-family residential development project;

WHEREAS, Devine Capital proposes to construct up to twelve (12) multi-family residential buildings, with up to twenty-four (24) dwelling units per building, consisting of up to 30,000 square feet of floor area for residential purposes, containing studio, 1, 2 and 3 bedroom units, with a maximum building footprint of 12,500 square feet per building the ("Project");

WHEREAS, the residential unit development mix of the Project will foster the commercial and mixed-use activities and amenities desired within the underlying HP District, consistent with the 2006 Update of the Comprehensive Plan of the Town of Scarborough adopted by the Scarborough Town Council on July 19, 2006 (the "Comprehensive Plan");

WHEREAS, the 2006 Update of the Comprehensive Plan of the Town of Scarborough includes an objective that ten percent of new housing units in the community be affordable to low and moderate income households, and Section VII.C, Residential Density and Affordable Housing Provisions, of the Zoning Ordinance enables developments in certain districts to contain additional density by providing an affordable housing in-lieu fee and Devine Capital proposes to provide an in-lieu payment to the Town of Scarborough's Affordable Housing Initiative Fund, and the Town Council will work with the Scarborough Housing Alliance to develop a plan by October 1st, 2017 to establish priorities and utilize the Affordable Housing Fund to enable the Town to make progress in meeting this affordable housing objective;

WHEREAS, the Devine Capital project includes a variety of active and passive recreational amenities, including a clubhouse with a fitness center and pool and outdoor active and passive recreation space, that will serve the health and recreational needs of the development's residents;

WHEREAS, the Devine Capital project will comply with Chapters 410, 415, 415A, and 415B consisting of the Town's Development and Traffic-Related Impact Fees and will pay these fees to compensate for the project's proportionate impact and demand on Town's school facilities, intersections, and roadway corridors.

WHEREAS, Exit 42 HP and Devine Capital have requested that the Town approve this Eighth Amendment to the Agreement to permit the multi-family residential development project within The Gateway Square at Scarborough as described herein, including the allocation of necessary growth permits from the reserve pool to permit the issuance of building permits for the Project.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Notwithstanding the provisions of Section XVIII.B HP District, in the Zoning Ordinance, as may be amended from time to time, Devine Capital, its successor and assigns, are hereby permitted to develop within The Gateway Square at Scarborough up to twelve (12) multi-family residential buildings, with up to twenty-four (24) dwelling units per building, resulting in a maximum number of residential units of two hundred eighty-eight (288) and consisting of up to

30,000 square feet of floor area for residential purposes per building, containing studio, 1, 2 and 3 bedroom units, with a maximum building footprint of 12,500 square feet per building, without regard to the requirement that any such dwelling units be part of a mixed-use building or part of a mixed-use planned development and without regard to any conflicting lot area, dimensional, and density requirements otherwise applicable within the HP District.

2. The Property shall be developed and used only in accordance with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the "Site Plan Ordinance") and the Subdivision Ordinance of the Town of Scarborough (hereinafter, the "Subdivision Ordinance").

3. Pursuant to Section 7(G)(5)(a) of the Town's Growth Management Ordinance, Chapter 413, the Town hereby authorizes the use of growth permits from the reserve pool for the Project and authorizes the Planning Board to so allocate from the reserve pool the appropriate number of growth permits to allow Devine Capital, its successor and assigns, to obtain the requisite building permits for the Project.

4. Devine Capital, its successor and assigns, shall pay a total of \$700,000 into the Town of Scarborough's Affordable Housing Initiative Fund for the two hundred eighty-eight (288) dwelling unit project. This affordable housing in-lieu fee requirement shall be paid to the Town proportionally by building at the time of building permit issuance with \$2,430.56 due per dwelling unit.

5. Given the active and passive recreational amenities provided within the development project, including the clubhouse with a fitness center and pool and outdoor active and passive recreation space, the Town determines that adequate recreational facilities have been provided for on-site and that a recreation contribution is not required.

6. The Agreement, as amended by this Eighth Amendment and as previously amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, and the Seventh Amendment, remains consistent with the Comprehensive Plan and consistent and compatible with the existing and permitted uses within the existing zoning district classification.

7. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

8. The Town acknowledges and agrees that (a) any breach of the restrictions, provisions and conditions of the Agreement relating to The Gateway Square at Scarborough shall not be deemed a breach of the Agreement as it relates to The Gateway Shoppes at Scarborough, and (b) any breach of the restrictions, provisions and conditions of the Agreement relating to The Gateway Shoppes at Scarborough shall not be deemed a breach of the Agreement as it relates to The Gateway Square at Scarborough.

EXHIBITS

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9. This Eighth Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

[Signature Page Follows]

1. This document is a
copy of the original
document filed with the
Cumberland County Registry of Deeds.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

Collette Matheson

By: Thomas J. Hall
Thomas J. Hall, its Town Manager*
(* Duly authorized by vote of the
Scarborough Town Council on March 15
 , 2017)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

March 22, 2017

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

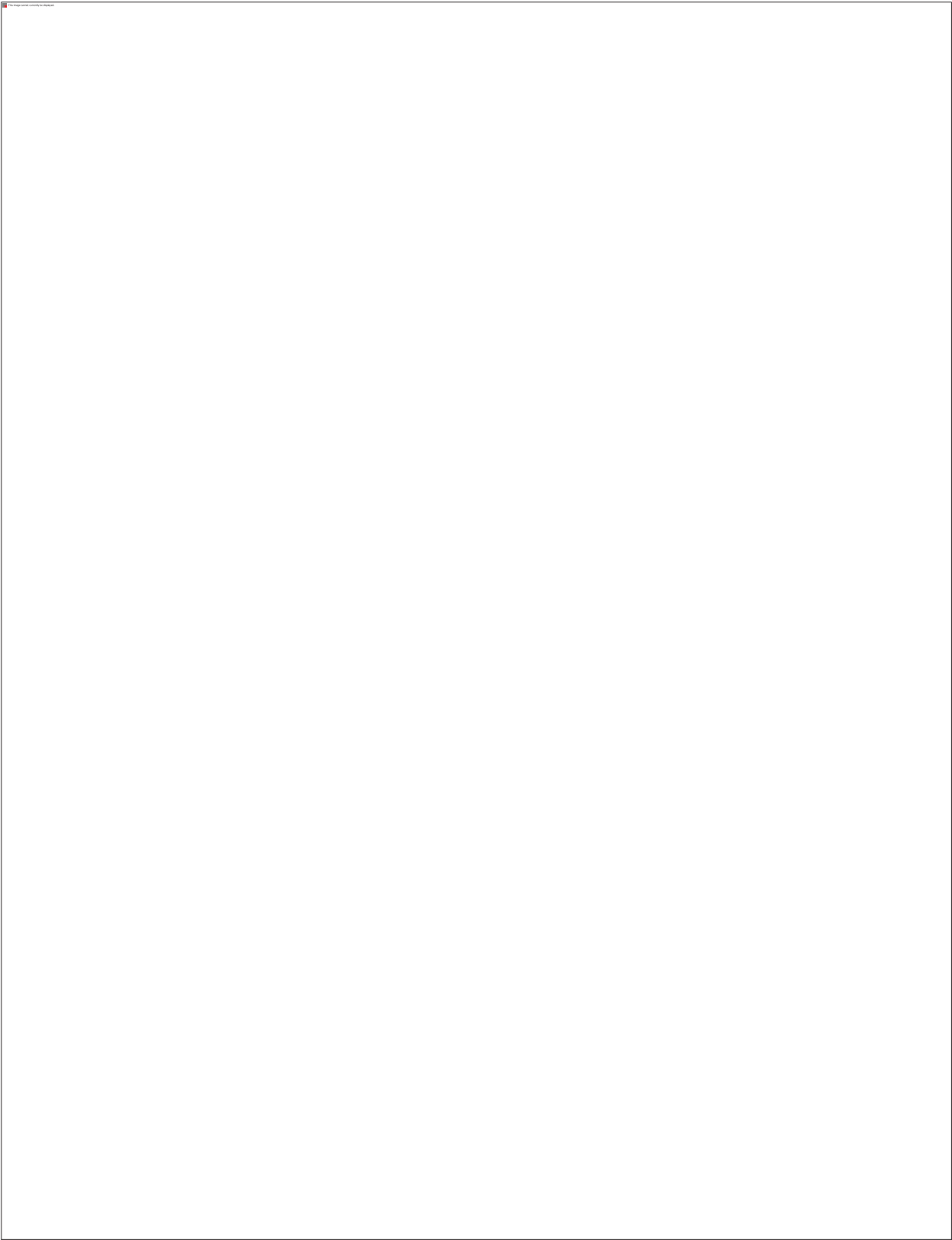
Before me,

Yolande Justice
Notary Public/Attorney at Law
Print Name: _____

SEAL

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

EXHIBITS



EXHIBITS

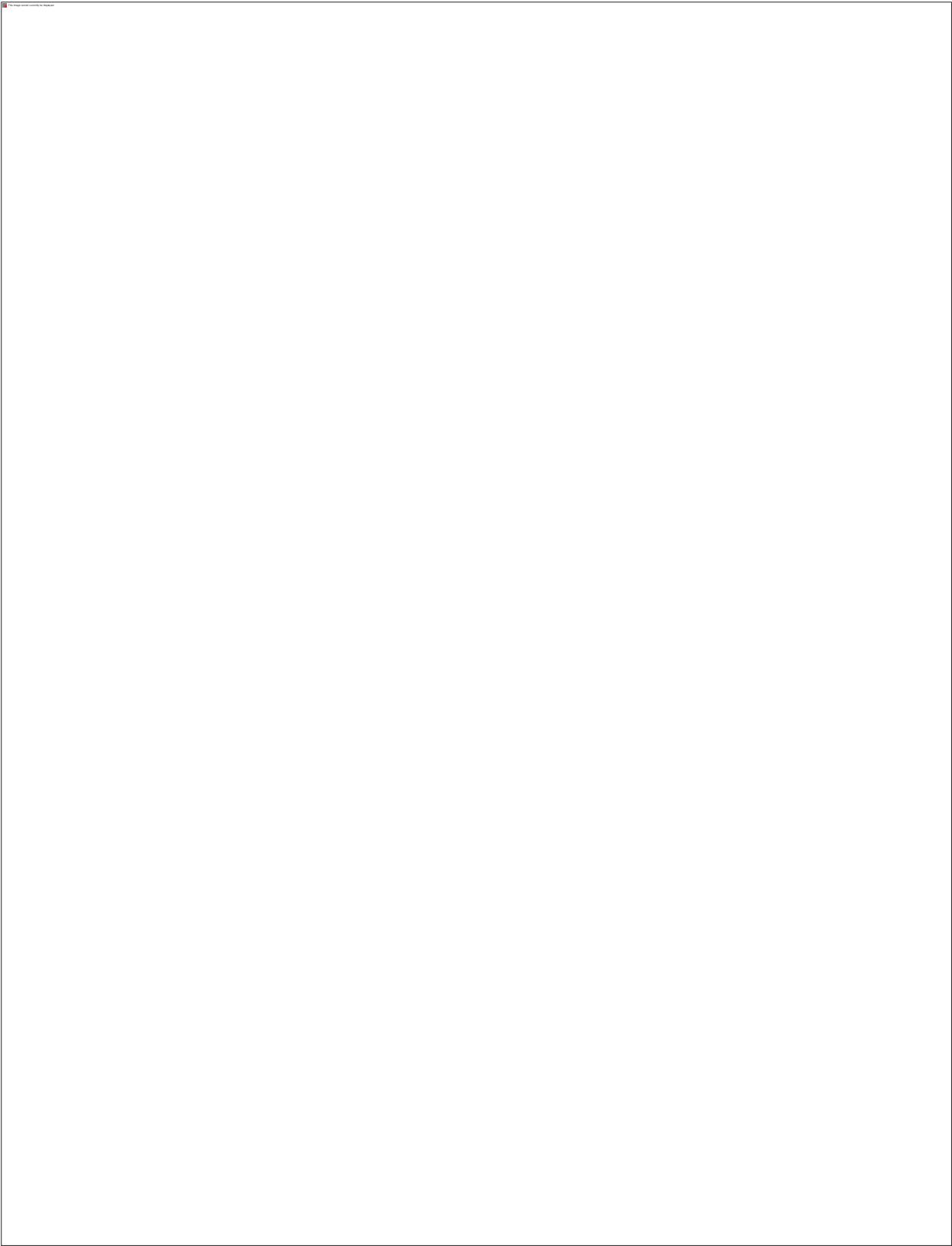


EXHIBIT 10

**CONTRACT ZONING AGREEMENT
BETWEEN AND AMONG
THE TOWN OF SCARBOROUGH, SCARBOROUGH LAND CONSERVATION TRUST,
JOHN BLISS AND STACY BRENNER**

This is a Contract Zoning Agreement made as of the 22 day of May, 2008 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the “Town”), SCARBOROUGH LAND CONSERVATION TRUST, a Maine non-profit corporation with its locus of activity in Scarborough, Maine (hereinafter the “Owner”), and JOHN BLISS and STACY BRENNER of Scarborough, Maine (hereinafter the “Applicants”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance.

WHEREAS, the Applicants lease from the Owner and occupy a parcel of real estate now known as Broadturn Farm, located at 388 Broadturn Road in Scarborough, Maine, consisting of four hundred and thirty four (434) acres, more or less (hereinafter the “Property”); and

WHEREAS, the Property is currently in a Rural Residence Farming, and Manufactured Housing District (R-F-M) under the Scarborough Zoning Ordinance; and

WHEREAS, the Rural Residence Farming, and Manufactured Housing District (R-F-M Zone) presently allows, as permitted uses, among others, general purpose farming, including retail sales of farm produce located on the same premises; accessory uses and buildings, accessory stables, beehives and rabbit warrens kennels, but exclusive of abattoirs and piggeries; single family detached dwellings, exclusive of individual mobile homes; and home occupations (as a Special Exception); and

WHEREAS, the Applicants wish to place certain structures on the Property and to use and operate the Property for certain purposes which are not expressly provided for in the R-F-M Zone; and

WHEREAS, the Applicants have requested a rezoning of the Property to permit such structures, uses and operations; and

WHEREAS, the overall usage, operation, size, location, configuration and topography of this site and the potential benefits to the public of the structures, uses and operations permitted by this Contract Zoning Agreement will all serve to mitigate what might otherwise be any potential adverse impacts of such structures, uses and operations; and

WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph G, Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberation thereon, recommended the rezoning of a portion of the Property as aforesaid; and

WHEREAS, the rezoning would be consistent with the Policies and Future Land Use Plan of Part III of the Scarborough Comprehensive Plan; and

WHEREAS, the Town of Scarborough, by and through its Town Council, had determined that the said rezoning would be pursuant to and consistent with the Town’s Comprehensive Plan and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Contract Zoning Agreement on May 21, 2008;

EXHIBITS

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town hereby amends the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown on Attachment 1.

In addition to those allowed in the R-F-M District, the following uses, activities, buildings and structures are allowed on the Property:

2. A summer day camp for children of ages 4-15, subject to the following conditions:

(a) The camp may have a maximum of fifty [50] children in attendance on any given weekday during the Summer season, including up to forty [40] campers and up to ten [10] volunteer junior counselors.

3. Pasture-raising of pigs and construction and maintenance of suitable shelter for them, subject to the following conditions:

(a) No more than two [2] breeding sows and their offspring intended for market may be kept on the Property at any one time.

4. Public events that are designed for the enjoyment or education of the public and/or to promote agricultural products, services, or experiences on the farm, subject to the following conditions:

(a) The attendance at any such event is limited to two hundred [200] people at any one time.

(b) Parking will be provided along the access roads in the fields on either side of Hanson Road.

(c) Portable toilets will be provided to accommodate the attendees.

(d) Such events will be held on no more than seven (7) days during any calendar year.

5. Celebratory events such as weddings or wedding-like parties, subject to the following conditions:

(a) The attendance at any such event will is limited to two hundred [200] people.

(b) Parking will be provided along the access roads in the fields on either side of Hanson Road.

(c) Portable toilets will be provided to accommodate the attendees.

(d) Any service, sale or consumption of any alcoholic beverages shall be in compliance with State law.

(e) Such events may include the provision of goods and services by third-party vendors, including but not limited to catered food preparation and serving and musical performances or other entertainment.

(f) Such events may be held only between May 1 and October 1 and shall be held on no more than ten (10) days during any calendar year.

6. A commercial kitchen for the purpose of producing value added goods derived from farm products, subject to the following conditions:

(a) The kitchen will be constructed in one of the existing outbuildings.

(b) The kitchen will be operated in compliance with all applicable local, state and federal laws and regulations.

7. Up to three [3] cabins with dimensions no greater than 14' x 16', subject to the following conditions:

(a) The cabins' use and location shall have been reviewed and approved by the Town of Scarborough Planning Board under the Scarborough Site Plan Review Ordinance.

EXHIBITS

(b) The cabins will not be permanent residential structures and will be used solely to house farm apprentices and employees for no more than eight [8] months per year and for agricultural, recreational or conservation purposes.

(c) The cabins will be located along an existing access road off of Hanson Road. The structures will be located away from the fields so as not to affect the visual landscape of the farm for passersby of scenic vistas or views.

(d) The cabins will be placed in conformance with the setback requirements of the Zoning Ordinance of the Town of Scarborough and any applicable requirements of State law.

(e) The cabins will be placed on cinder block foundations and will be able to be moved, relocated or removed.

(f) Occupants of the cabins will have access at all times to facilities, including kitchen, showers and bathrooms, inside the main farm house.

(g) The cabins will be equipped and maintained in conformity with all applicable local and state code and safety requirements, including but not limited to, plumbing codes.

8. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property except as this Contract Zoning Agreement may be amended by future written agreement of the Town of Scarborough, the Applicants, Owner and/or their successors in interest.

This is the sole zoning for the Property and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying R-F-M Zoning District shall apply. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall inure to the benefit of and bind the Applicants, the Owner, their successors in interest and assigns of said Property or any part thereof, and shall inure to the benefit of and be binding upon and enforceable by the Town of Scarborough.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough and any applicable amendments thereto or replacement thereof.

In the event that the Applicants or the Owner or their successors or assigns fail to use and operate the Property in accordance with this Contract Zoning Agreement, or in the event of any other breach hereof, this Contract Zoning Agreement may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses as are otherwise allowed by law.

WITNESS:

TOWN OF SCARBOROUGH

name of witness

By _____
Ronald W. Owens
Its Town Manager (duly authorized by vote of the
Scarborough Town Council on May 21, 2008)

name of witness

JOHN BLISS

name of witness

STACY BRENNER

EXHIBITS

SCARBOROUGH LAND CONSERVATION TRUST

name of witness

By _____
Laurene Swaney
Its President

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2008

Personally appeared the above named Ronald W. Owens, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

Notary Public/Attorney at Law

print name

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2008

Personally appeared the above named John Bliss, and acknowledged the foregoing instrument to be his free act deed.

Before me,

Notary Public/Attorney at Law

print name

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2008

Personally appeared the above named Stacy Brenner, and acknowledged the foregoing instrument to be her free act deed.

Before me,

Notary Public/Attorney at Law

print name

EXHIBITS

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

_____, 2008

Personally appeared the above named Laurene Swaney, President of the Scarborough Land Trust, and acknowledged the foregoing instrument to be her free act deed in her said capacity and the free act and deed of said Scarborough Land Trust.

Before me,

Notary Public/Attorney at Law

print name

Attachment 1
Zoning Map Amendment Change

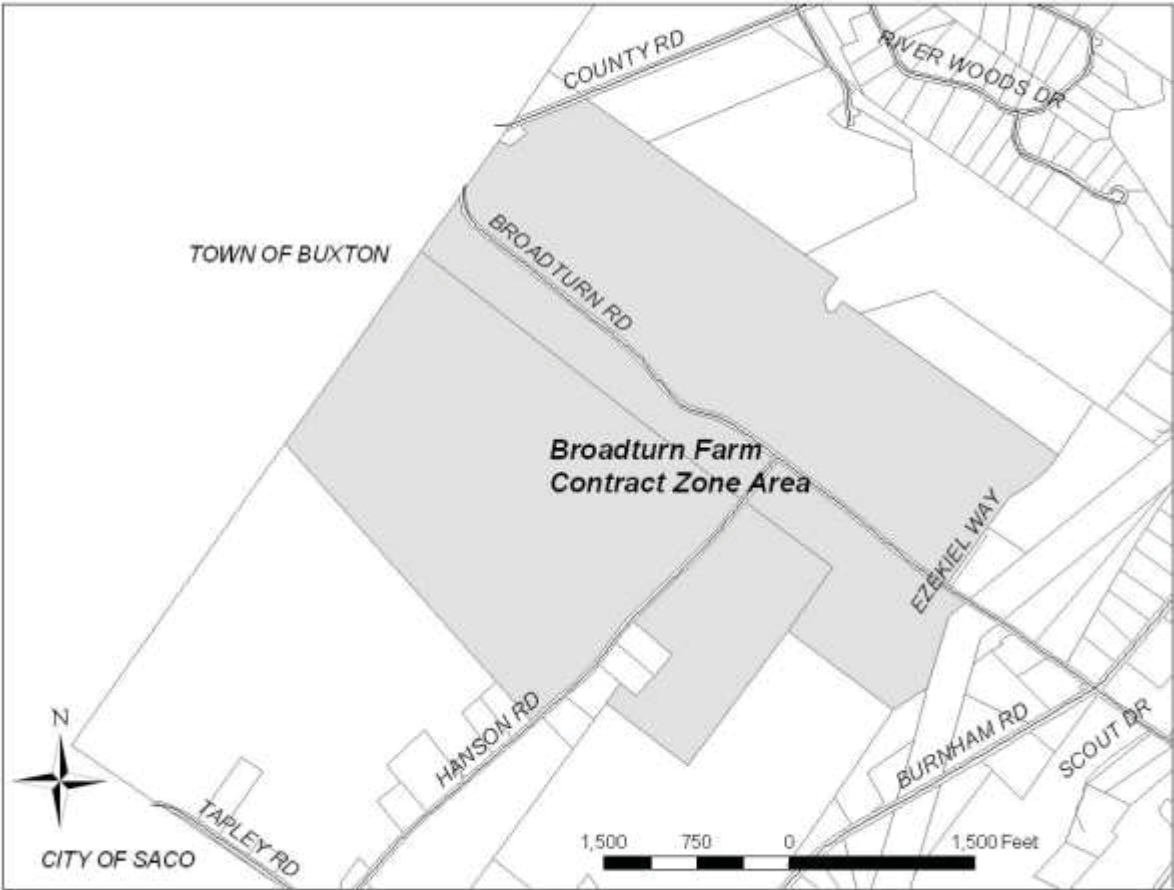


EXHIBIT 11

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
AVESTA HOUSING DEVELOPMENT CORPORATION**

This Contract Zoning Agreement made as of the _____ day of _____, 2015, by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the “Town”), and AVESTA HOUSING DEVELOPMENT CORPORATION, a Maine nonprofit corporation, with an address of 307 Cumberland Avenue, Portland, Maine 04101 (together with its successors and assigns, including subsequent record owners of the property described in this Agreement, hereinafter “Avesta”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance:

WHEREAS, Avesta intends to purchase a parcel of real estate located at 577 U.S. Route One, Scarborough, Maine, consisting of approximately 3.05 acres with the buildings and improvements thereon, being Parcel 37 on the Town’s Tax Map U034 (hereinafter the “Property”); and

WHEREAS, the Property is currently in the Town and Village Centers Fringe (TVC3) District and a portion of the Property is also subject to the Shoreland Overlay District provisions of the Shoreland Zoning Ordinance; and

WHEREAS, the TVC3 District presently allows, as a permitted use, multifamily dwellings limited to no more than twelve (12) units per building, so long as such building is serviced by public sewer, and accessory units subject to certain performance standards, but not multifamily dwellings containing a greater number of units per building; and

WHEREAS, Avesta wishes to develop the Property as an affordable rental housing complex consisting of the existing 7-unit historic building that will be renovated to include 8 units, a to-be-constructed 42-unit building, an existing barn that will be renovated and may include community space for occupants, and a second existing barn that may be preserved due to its historic value (the “Project”). The new 42-unit building will exceed the maximum number of units per building currently permitted in the TVC3 Zone; and

WHEREAS, Avesta demonstrates that the proposed use can be carried on with fewer parking spaces than required by the off-street parking regulations in Section XI of the Zoning Ordinance; and

WHEREAS, the maximum density within the TVC3 Zone for multi-family dwellings is 5 dwelling units per acre of net lot area, and the Project will exceed this maximum density; and

WHEREAS, the Project would qualify for Additional Residential Density Thru Affordable Housing pursuant to Section XVIII.D(E)(3) of the Scarborough Zoning Ordinance, the Project as proposed would still exceed the maximum density; and

WHEREAS, the Property contains an existing multi-family building and a barn that will be rehabilitated in a good and worker-like manner; and

WHEREAS, the Planning Board, pursuant to Section II(I)(4), of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid; and

EXHIBITS

WHEREAS, the Project will serve the Town's objective of encouraging affordable housing both generally and through density bonus provisions within the Town's residential areas and districts (Chapter 5, Objective A.4.a. of the Comprehensive Plan) by constructing an affordable housing opportunity within a growth area; and

WHEREAS, the Project serves the goals of Chapter 5 (Objective A.2.) of the Comprehensive Plan by using public sewer and water facilities; and

WHEREAS, the Project fulfills the goals of Chapter 5 (Objective A.4.b.) of the Comprehensive Plan encouraging a choice of housing for residents of all ages and incomes by providing affordable housing within a growth area;

WHEREAS, the Project helps to achieve the objectives of Chapter 5 (Objective H.2), in which the Town endeavors to assure that at least ten percent of new housing units created in Scarborough are affordable; and

WHEREAS, the rezoning provided in this Agreement, therefore, would be consistent with the Policies and Future Land Use Plan of Part B of the Scarborough Comprehensive Plan; and

WHEREAS, the Town of Scarborough, by and through its Town Council, therefore, has determined that the said rezoning would be pursuant to and consistent with the Town's local growth program and Comprehensive Plan adopted pursuant to Title 30-A, Maine Revised Statutes, Chapter 187, Subchapter 2, and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Contract Zoning Agreement.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town hereby amends the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown on Attachment 1.

2. Avesta is authorized to create the Project, including the renovation of the existing 7-unit building such that it includes 8 units, construction of a new 42-unit building, renovation of an existing barn to provide community space for Project occupants, and preservation of a second barn on the Property. Construction and use of the Project shall be subject to the following conditions:

- (a) Building Height: The maximum building height for the new 42 unit building shall be four (4) stories and as shown on the Site Plan approved by the Town of Scarborough Planning Board. The new 42 unit building shall be a maximum height of approximately 45 feet. The final building height for the Project shall be approved by the Planning Board as part of site plan and subdivision approval.
- (b) Permitted Uses: The uses allowed or permitted on the Property shall be limited to (i) an affordable housing complex with one 8-unit building and one 42-unit building, (ii) a separate building for community space, for use by Project occupants, and (iii) accessory uses. Avesta also may either (a) retain and maintain the existing barn on the Property furthest from Route 1 which will not be converted into community recreation and/or meeting space, the use of which will be consistent with, and incidental to the affordable housing use, such as equipment storage, security or maintenance, office and staff accommodations, or merely historic preservation; or (b) remove and/or demolish said barn, provided that such removal or demolition shall be approved by the Planning Board prior to any such action.

EXHIBITS

- (c) Building Design: Project design, style and materials shall be substantially as depicted on the building elevations submitted during site plan and subdivision review, with any changes thereto as approved by the Planning Board.
- (d) Landscaping: The Property shall be landscaped to enhance the general appearance of the project from surrounding properties as determined by the Planning Board at the time of site plan and subdivision approval. The landscaping shall be maintained by Avesta or its successors or its successors in interest. After the date of approval of this Contract Zoning Agreement, there shall be no significant amount of removal of existing trees or other vegetation except as indicated on an approved Site Plan.
- (e) Density: The maximum net residential density shall be fifty (50) dwelling units, including the renovation of the existing building such that it includes eight (8) units and the construction of a new 42 unit building.
- (f) Residents: The Project shall be “Affordable Housing” as defined on the zoning Ordinance, and occupancy of the Project shall be limited to individuals or families with an income that is less than or equal to Eighty Percent (80%) of area median income as more particularly defined in Article VI of the Zoning Ordinance.
- (g) Sewer and Water: The facility will be served by both public water and public sewer.
- (h) Setbacks: The front yard shall be a minimum of 25 feet, and side and rear yards shall be a minimum of 15 feet, excluding accessory buildings and excluding the existing location of a barn within 15 feet from the sideline of the Property. The existing, nonconforming setback of the barn will be maintained. Additionally, the maximum front yard shall be increased to allow for the removal of an existing porch. All of the setbacks and building locations shall be as shown on the Site/Subdivision Plan, approved by the Planning Board.
- (i) Parking: The Project shall provide a minimum of fifty five (55) off-street parking spaces. The dimensions and arrangement of the parking spaces shall be as generally shown on the Site/Subdivision Plan, approved by the Planning Board.
- (j) Site/Subdivision Plan: The property subject to this Contract Zoning Agreement shall be developed and used only in accordance with the preliminary site and subdivision plan approved by the Scarborough Planning Board on June 22, 2015, as that site plan may be amended from time to time pursuant to the provisions of the Scarborough Site Plan Ordinance. Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement:
 - (a) any change to the use of the Property; and
 - (b) any increase in the number of units.

3. Avesta shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its execution by the Town Council.

4. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property except as this Contract Zoning Agreement may be amended by future written agreement with the Town of Scarborough and Avesta or its successors in interest. This Agreement shall be binding upon subsequent record owners of the Property.

The provisions of this Contract Zoning shall operate as an “overlay” zone and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying Zoning District shall apply

EXHIBITS

(other than the maximum net residential density, use, height, setbacks and parking). The restrictions, provisions and conditions of this Agreement are an essential part of the rezoning, shall run with the Property, shall bind Avesta, its successors in interests and assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough (as applicable) and any applicable amendments thereto or replacement thereof.

The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Scarborough Zoning Ordinance and through legal action for specific performance of this Agreement. In the event that Avesta, or its successors, or assigns, fail to develop the project in accordance with this Contract, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if Avesta, its successors or assigns, fails to commence to cure or remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to completion in a reasonable time, then this Contract may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses as otherwise allowed by law.

WITNESS:

TOWN OF SCARBOROUGH

By: _____
Thomas Hall, its Town Manager
duly authorized by vote of the
Scarborough Town Council on
_____, 2015

WITNESS:
CORPORATION

AVESTA HOUSING DEVELOPMENT

By: _____
Dana Totman, its President

STATE OF MAINE
CUMBERLAND, SS

_____, 2015

PERSONALLY APPEARED the above named Thomas Hall, Town Manager of the Town of Scarborough as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

Notary Public/Attorney at Law

Print name:
My commission expires:

EXHIBITS

STATE OF MAINE
CUMBERLAND, SS

_____, 2015

PERSONALLY APPEARED the above named Dana Totman, President of Avesta Housing Development Corporation as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said nonprofit corporation.

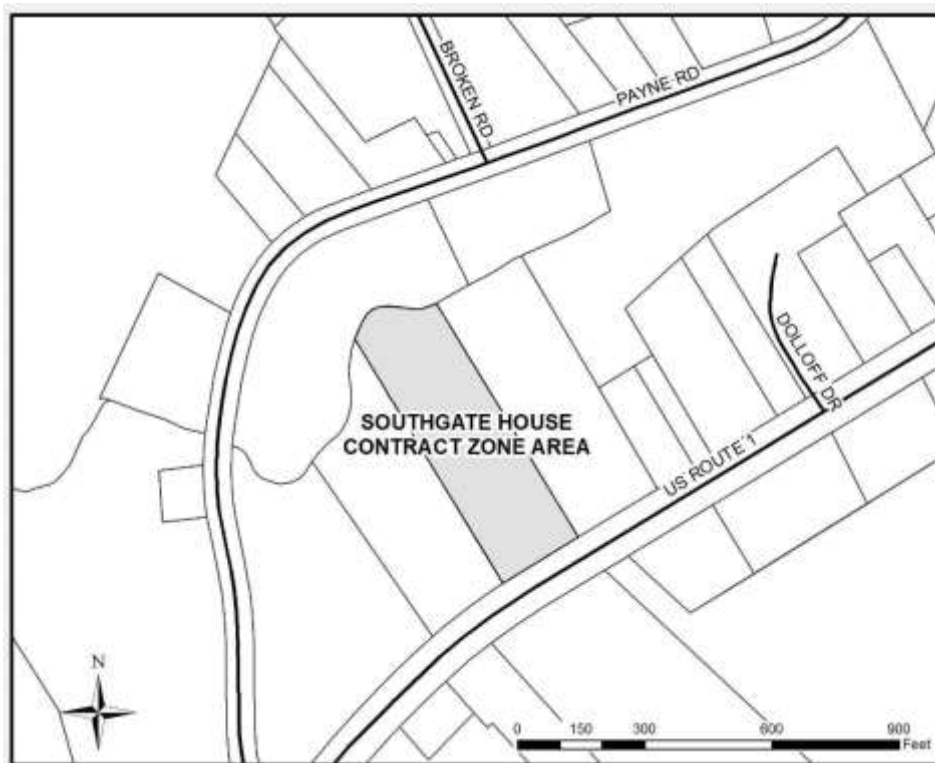
Before me,

Notary Public/Attorney at Law

Print name:

My commission expires:

Attachment 1
Zoning Map Amendment



**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH
AND
PATRIOT REALTY – SACO, LLC**

This Contract Zoning Agreement (hereinafter, this “Agreement”) is made as of the 21st day of March, 2019 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), and PATRIOT REALTY – SACO, LLC, a Maine limited liability company with a mailing address of c/o Adam S. Arens, 702 S. Lakeside Drive, Lake Worth, Florida 33460 (hereinafter, “Patriot Realty”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, Patriot Realty intends to purchase a certain lot or parcel of land, with the buildings and improvements thereon, situated on the northeasterly side of Haigis Parkway and the southeasterly side of Payne Road in the Town of Scarborough, County of Cumberland, and State of Maine, consisting of the premises currently owned Jacqueline A. Curlew comprising approximately 16.52 acres and located at 285 Payne Road, also known as 1000 Haigis Parkway, being Lot 5 as shown on Town of Scarborough Tax Map R052, and described in a Warranty Deed from Ray L. Littlefield to George E. Curlew and Jacqueline A. Curlew, as joint tenants, dated December 4, 1964 and recorded in the Cumberland County Registry of Deeds in Book 2871, Page 25 (hereinafter, the “Property”), said George E. Curlew having died on November 19, 2015, leaving said Jacqueline A. Curlew as surviving joint tenant and sole owner of the Property; and

WHEREAS, Patriot Realty desires to construct and operate an automobile sales and service facility on the Property selling as its primary brand of automobile those in the Acura line, which facility will include the outdoor display of vehicles, a repair and service facility, and an internal area for washing vehicles sold and/or serviced on site (hereinafter, the “Facility”); and

WHEREAS, the Property is located in the Haigis Parkway District, HP (hereinafter, the “HP District”) as described in Section XVIII B. of the Zoning Ordinance; and

WHEREAS, pursuant to Section B of the provisions of the Zoning Ordinance relating to the HP District, uses permitted in the HP District include, among others, retail sales and services excluding, however, “car washes, automobile repair and service facilities, and outdoor sales and services”; and

WHEREAS, “outdoor sales and services” as defined in the Zoning Ordinance includes “new or used car dealerships which are not fully enclosed”; and

WHEREAS, Patriot Realty has requested that, notwithstanding the limitations under Section B of the Zoning Ordinance relating to the HP District, the Town agree to a rezoning of the Property so as to permit Patriot Realty to construct and operate the Facility thereon; and

WHEREAS, the size, location, configuration and topography of the Property permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of the Facility, provided the Facility is restricted to the density, scale and intensity proposed by Patriot Realty and further provided that any restrictions, provisions and conditions of this Agreement and the site plan approval by the Scarborough Planning Board are strictly observed; and

WHEREAS, the Scarborough Town Council and the Scarborough Planning Board, pursuant to the Contract Zoning provisions of the Zoning Ordinance, held a joint meeting on March 7, 2018 at which meeting the Planning Board conducted a public hearing on the proposed contract zoning request, and at which meeting the Council voted unanimously to advise Patriot Realty to continue to process the contract zoning request; and

WHEREAS, Patriot Realty received preliminary site plan approval from the Planning Board at the Board's February 4, 2019 meeting; and

WHEREAS, the proposed use of the Property, being in accordance with the requirements of the HP District, is consistent with the 2006 Update of the Comprehensive Plan of the Town of Scarborough adopted by the Scarborough Town Council on July 19, 2006 (hereinafter, the "Comprehensive Plan") for the area of the Property, as well as with the existing and permitted uses within the HP District, and in the adjacent General Business District B-3 that was formerly within the HP District, reference being made to the determinations set forth in Schedule A attached hereto and made a part hereof; and

WHEREAS, the proposed use of the Property, if developed by Patriot Realty in accordance with this Agreement, is in the public interest, and will have beneficial effects on the Town as a whole which would not result if the Property were developed under the existing zoning requirements, reference being made to the findings set forth in Schedule B attached hereto and made a part hereof; and

WHEREAS, the Town of Scarborough, by and through its Town Council, having determined that the said use is pursuant to and consistent with the Town of Scarborough Comprehensive Plan, the existing and permitted uses within the HP District as well as in the adjacent General Business District B-3 that was formerly within the HP District, is in the public interest, and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification, authorized the execution of this Agreement on March 20, 2019.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change amendment shown on Attachment 1 hereto.
2. Notwithstanding the limitations under Section B of the Zoning Ordinance relating to the HP District, Patriot Realty shall be permitted to construct and operate an automobile sales

and service facility on the Property, which facility will include the outdoor display of vehicles, a repair and service facility, and an internal area for washing vehicles sold and/or serviced on site.

3. Patriot Realty is authorized to construct and operate the Facility to be used in accordance with the requirements of the HP District, except as amended by this Agreement.

4. The Property shall be developed and used only in accordance with the site plan as finally approved by the Scarborough Planning Board, and as said approved site plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the "Site Plan Ordinance").

5. Patriot Realty will grant the Town the right to construct a "welcome to Scarborough sign" in an appropriate location on the Facility site and make a "payment in lieu of construction" of such a sign so as to allow the Town to proceed with the design and installation of the sign at the Town's pace in conjunction with the development of the Facility.

6. The Property shall be landscaped to enhance the general appearance of the project from Haigis Parkway and Payne Road and surrounding properties as determined by the Planning Board at the time of site plan approval. After the date of approval of this Contract Zoning Agreement by the Scarborough Town Council, no trees or other vegetation existing on that date shall be removed except as indicated in an approved site plan provided, however, that the removal of diseased or damaged trees or trees that are otherwise in danger of falling; pruning and selective thinning or cutting of trees in accordance with good forestry practices; and thinning, cutting back, or removal of vegetation in connection with normal and customary landscaping maintenance shall be permitted. The landscaping shall be maintained by Patriot Realty or its successors in interest.

7. The provisions of this Agreement shall be deemed restrictions on the use of the Property except as this Agreement may be amended by future written agreement of the Town of Scarborough and Patriot Realty, or their successors or assigns.

8. Except as the provisions of the HP District of the Zoning Ordinance have been amended by this Agreement, and subject to any other restrictions, provisions and conditions set forth herein regarding the development and use of the Property, all other requirements of the underlying HP District of the Zoning Ordinance shall apply and shall govern the use and development of the Property. Any such restrictions, provisions and conditions are an essential part of the aforesaid modification of the HP District provisions of the Zoning Ordinance as set forth herein, shall run with the Property, shall bind Patriot Realty, its successors and assigns of the Property or any part thereof.

9. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance and any applicable amendments thereto and nothing contained in this Agreement shall be deemed to prohibit or limit the development and use of the Property, or any portion thereof, in any other manner so long as such development and use is in compliance with the applicable provisions of the Zoning Ordinance and otherwise approved pursuant to the Site Plan Ordinance and/or other applicable Scarborough Ordinances and, if applicable, State and Federal laws, ordinances and regulations.

10. Nothing set forth in this Agreement shall be deemed to prohibit or limit the right of Patriot Realty, or any tenant or subsequent owner of the Property, to sell as the primary brand of automobile, one or more brands other than those in the Acura line.

11. The Town of Scarborough shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Zoning Ordinance and through legal action for specific performance of this Agreement. In the event that Patriot Realty or its successors or assigns fail to develop and operate the Facility in accordance with this Agreement, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach, or in the event such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if Patriot Realty, its successors or assigns, fail to commence to cure or remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to completion in a reasonable time taking into account the nature of such failure or breach and the action necessary to cure or remedy same, then this Agreement may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses and according to such zoning requirements as are otherwise allowed by law.

12. In the event any provision of this Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, either in law or in equity. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of Maine.

13. Patriot Realty shall record this Agreement in the Cumberland County Registry of Deeds within ninety (90) days after its approval by the Scarborough Town Council.

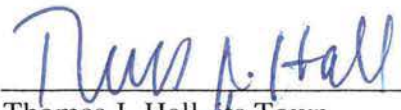
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

[End of page. Execution pages follow.]

WITNESS:



TOWN OF SCARBOROUGH

By: 
Thomas J. Hall, its Town
Manager (duly authorized by
vote of the Scarborough Town
Council on March 20, 2019)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

March 22, 2019

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

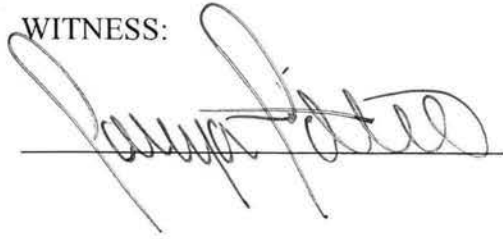

Notary Public/Maine Attorney at
Law

Colette A. Matheson
Print name

My Commission expires 2/05/24

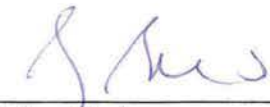
SEAL

WITNESS:



PATRIOT REALTY – SACO, LLC

By:


Adam S. Arens
Its Manager

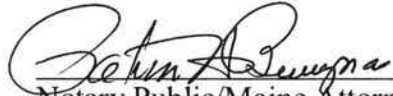
STATE OF MAINE

COUNTY OF York, ss.

March 27th, 2019

Personally appeared the above named Adam S. Arens, Manager of Patriot Realty – Saco, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Patriot Realty – Saco, LLC.

Before me,


Notary Public/Maine Attorney at
Law

PATRICIA A. BERRYMAN
Print name

My Commission expires



Schedule A

Determination of consistency with the Comprehensive Plan and existing and permitted uses within the HP District and adjacent General Business District B-3 that was formerly within the HP District.

The 2006 Update of the Scarborough Comprehensive Plan adopted by the Town Council on July 19, 2006 (the "Comprehensive Plan") designated the HP District as a Development Area within the Growth Areas of the Town. The Comprehensive Plan described "Growth Areas" as "areas of Scarborough where the Town desires to see the majority of new residential development and virtually all non-residential development occur". *Comprehensive Plan, Part B, Chapter 6, Article IV*. The Comprehensive Plan envisioned the HP District as, among other things, a "regional center for employment" with development of "a high quality with campus-style architectural and landscape design". Allowed uses were anticipated to include, among others, retail uses subject to a maximum of 20,000 square feet. Development was to be of a "high quality" and "well planned". *Haigis Parkway District, Comprehensive Plan at Page 6-38*.

Under the Zoning Ordinance, uses in the HP District include, among others, "retail sales and services with less than 20,000 square feet of retail floor area per unit of occupancy", excluding "car washes, automobile repair and service facilities, and outdoor sales and services". "Outdoor sales and services" are defined to include "new or used car dealerships which are not fully enclosed".

The Facility, being a retail use, is thus consistent with both the Comprehensive Plan and the Zoning Ordinance.

The actual uses in the vicinity of the Project within the HP District include the Golf & Ski Warehouse on the opposite corner of Haigis Parkway, and the multi-building residential rental project adjacent to the Golf & Ski Warehouse which we understand was permitted under a Contract Zoning Agreement. There are also the Cabela's Plaza located on the west side of Payne Road adjacent to Exit 42 which was also the subject of a Contract Zoning Agreement, the Dunkin Donuts/Irving Oil convenience store and gasoline filling facility on the opposite side of Payne Road from the Project, and the RC Moore trucking facility and other similar facilities also located on the opposite side of Payne Road from the Project and adjacent to the Dunkin Donuts/Irving Oil facility. The area where these facilities are located was formerly within the HP District and is now in the General Business District B-3. While somewhat of a varied type of uses, all of these facilities generally fall into the "commercial use/business use" category as does the Project, including the multi-building residential rental project which we understand is owned by and operated by a single entity. As such, the Project is consistent with such uses.

Schedule B

In the Public Interest/Beneficial Effects on the Town.

1. The Facility site is a highly visible “entrance” to Scarborough and an ideal location for an appropriate Town “welcoming sign”. Patriot Realty is willing to grant the Town the right to construct such a sign in an appropriate location on the Facility site and to make a “payment in lieu of construction” of such a sign so as to allow the Town to proceed with the design and installation of the sign at the Town’s pace in conjunction with the development of the Facility.

2. The acquisition of the Facility site by Patriot Realty will result in the payment of an outstanding sewer assessment fee against the site of over Two Hundred Thousand Dollars (\$200,000).

3. Patriot Realty will be a substantial taxpayer requiring virtually no public services.

4. Values of surrounding properties will likely be positively influenced by the development of the Facility.

5. Patriot Realty anticipates further investment in Scarborough by the future development on the remaining undeveloped portion of the Facility site.

6. Patriot Realty is seeking no financial assistance from the Town by way of tax increment financing.

7. Patriot Realty has a strong track record of community service and expects to continue such service in Scarborough. The company intends to actively engage and participate with many businesses and charities to create a variety of events at the facility. Here is just a sampling of the types of events the company has held at its other facilities:

Red Cross Blood Drives
Dog Adoptions
Dog Wash To Support Shelters
Loves Pets Day
Food Drives Supporting Local Pantries
Kevin On The Roof To Support STRIVE
Toys For Tots Annual Holiday Drive
Business After Hour Chamber Hosts
Take A Bike - Portland Trail
Cars and Coffee Car Shows
Childrens Literacy Support / Family Magic Shows
Cub Scouts Pinewood Derby Host
Bone Marrow - Be The Match Registration
Halloween Pumpkin Painting For Families

Organic Garden tended by staff & customers - Share Produce
 Community Breakfasts with Charities - Awareness/Fundraiser
 Community BBQ's with Charities - Awareness/Fundraiser
 Earth Day Fundraiser for Shade Trees - And we help plant!
 Habitat For Humanity - Patriot associates on Scarborough build site
 Patriot Riders Chapter One Fundraiser / Wreaths Across America
 High School Musicians/ Support for Youth Arts/ In-store performance
 Support for Winterkids program

8. Patriot Realty intends to use local construction and architecture businesses as much as possible and will request that the General Contractor for the Facility use local subcontractors as well as much as possible.

9. Upon opening of the business, Patriot Realty expects a payroll of approximately Two Million Dollars (\$2,000,000) among approximately thirty – three (33) employees, many of whom it hopes will be Scarborough residents. The average compensation is anticipated to be approximately Sixty-One Thousand Dollars (\$61,000) plus benefits.

10. Patriot Realty will seek to have third-party spending for services needed by the Facility to be to local vendors and servicers as much as possible.

11. No residential component of the Facility is, of course, proposed, and thus none of the additional impacts on the Town associated with a residential project.

12. Patriot Realty has a policy of employing a diverse group of people. The company takes particular pride in employing a high ratio of women. It is the longest tenured team in the auto industry in Saco and is determined to achieve the same result in Scarborough. Many of the company's associates are anticipated to live and raise their families in Scarborough and to contribute to the community.

13. The building and related aspects will be a very attractive, high quality addition to the community and to this gateway to Scarborough. It will be a facility that Patriot Realty believes the community will be proud of.

14. Patriot Realty prides itself on the protection of the environment in connection with its developments. Its current facilities have received awards for environmentally conscious development, most notably, the Green Dealer Eco Friendly Certification, Recipient of Energy Star Small Business Award, and Eco Maine Business of the Year. Patriot Realty hopes to achieve similar results with the Facility.

15. Patriot Realty expects to make indoor and outdoor space available for public meetings and public gatherings as reasonably possible in its continuing effort to give back to the community.

16. Development of the Facility site will preserve sensitive areas by preservation of the land or by the use of buffers to protect areas such as the stream crossing along the southerly

end of the site and throughout the site utilizing buffers to protect existing wetland areas. Protected wetland areas are further shown on the plan titled "Overall Site Plan of Acura Dealership" prepared by Sebago Technics and most recently revised January 18, 2019 attached hereto as Attachment 2.

17. As noted above, Facility site is a highly visible corner at the intersection of Haigis Parkway and Payne Road and will be developed in manner to maximize the building's prominence and enhance the blending of architecture and landscaping to present a business and a facility that will be a cornerstone for further development along Haigis Parkway and setting the marketability of the remaining land for smart development within the HP District, a goal that the Town has been pursuing for many years.

18. Traffic pattern enhancements associated with the Facility are anticipated to have a significant benefit to the overall traffic flow within the area.

19. This will be the first and currently only Acura dealer in Maine. With Mercedes Benz, Jaguar and Land Rover in Town, the addition of the highly desirable Acura line will be an enhancement to the Scarborough automobile sales environment.

Attachment 1

Map Change Amendment consisting of one (1) page.

Attachment 1 Map Change Amendment

Contract Zone Area
Tax Map R052, Lot 005

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community



**Town Of
Scarborough
Maine**
<http://www.scarboroughmaine.org>

Disclaimer: The data contained within the Scarborough GIS is intended as a public resource of general information. The Town of Scarborough makes no warranty or representation as to the accuracy, timeliness or completeness of any of the data, and shall assume no liability for the data contained, for omissions, or any decision made or action taken or not taken in reliance upon any of the data. Parcel data is intended for general map reference only and is a general representative of approximate lot configuration, and is not intended for boundary determination, legal description, delineation, or transfer. Any service utility information shown is intended for general information only. Other utilities may be present, and the appropriate utility owner should be contacted for detailed information. GIS data is not intended for engineering design. Field verification is recommended.

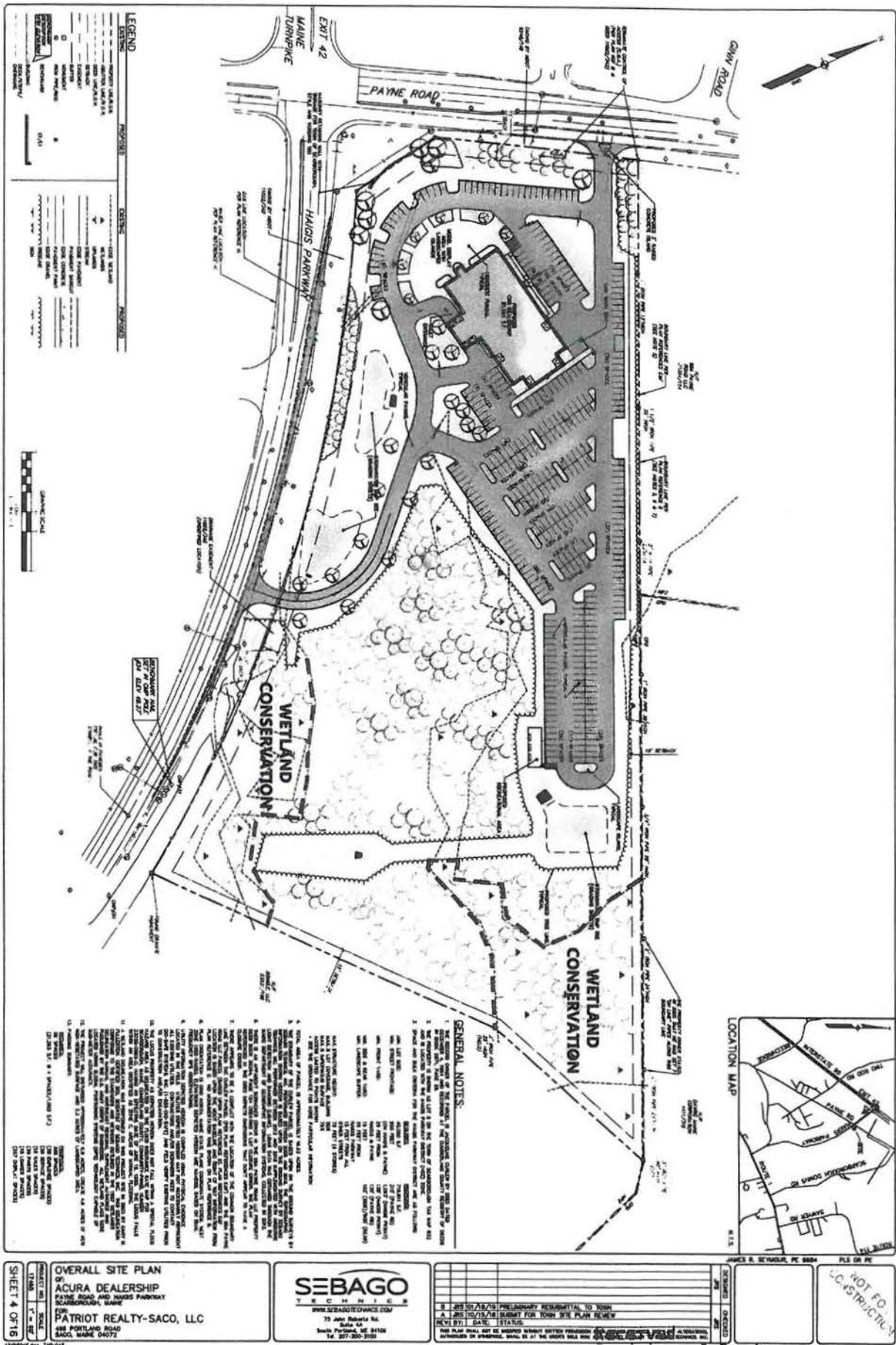
1 in = 752 feet

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Attachment 2

Sebago Technics Wetlands Map consisting of one (1) page.



Received
Recorded Register of Deeds
Mar 28, 2019 02:13:15P
Cumberland County
Nancy A. Lane

APPENDIX – A

In determining whether a proposed contract zoning is in the public interest and will have beneficial effects on the Town as a whole, which would not result if the property were developed under the existing zoning district classification, the Town Council may consider, but shall not be limited to, the following factors:

- The development proposed by the contract zoning request will have a net positive effect on the Town's tax base or will provide payments in lieu of taxes at least equivalent to the development's projected demand on municipal services.
- The development proposed by the contract zoning request will create either direct or indirect employment opportunities or will otherwise have a positive impact on the Town's economy.
- The development proposed by the contract zoning request will enhance the variety of housing types available in Scarborough.
- The development proposed by the contract zoning request will foster demographic diversity in Scarborough's population.
- The development proposed by the contract zoning request will have the effect of maintaining and enhancing property values in the neighborhood and/or in the Town as a whole.
- The development proposed by the contract zoning request will be designed, constructed and maintained in a way which enhances its surroundings and, particularly if it involves a use different from neighboring uses, will utilize architectural, landscaping and design techniques to achieve reasonable compatibility with neighboring uses.
- The development proposed by the contract zoning request will preserve open space which might not be preserved if the property were developed under the existing zoning district classification.
- The development proposed by the contract zoning request will provide public access to water bodies, open space land or outdoor recreational opportunities.
- The development proposed by the contract zoning request will provide recreational, social or cultural facilities available in whole or in part to the public.
- The development proposed by the contract zoning request will preserve unique or sensitive environmental features.
- The development proposed by the contract zoning request will preserve scenic views, vistas or corridors.
- The development proposed by the contract zoning request will preserve and maintain historical or archeological features.
- The development proposed by the contract zoning request will preserve agricultural uses or agricultural lands.
- The applicant has volunteered to provide or to fund off-site improvements or activities in exchange for, and related to, any relaxation of the standards of the current zoning district classification. Examples include, but are not limited to, preservation of off-site wetlands in return for the ability to fill or disturb certain wetlands on the site, and preservation of off-site open space in return for the allowance of higher density on the site.
- The development proposed by the contract zoning agreement will provide goods, services or amenities desirable for community life.

APPENDIX – B

Summary of Procedural Steps for Contract Zoning

This summary is intended to provide a shorthand guide to the contract zoning process for applicants, Town officials and the public. This summary does not substitute for the text of Section II(I) of the Zoning Ordinance, which governs the process for contract zoning.

Phase 1 – Preliminary Joint Review by Planning Board and Town Council

Step One: The applicant files an application for contract zoning with the Town Planner.

Step Two: The Town Planner evaluates the application for completeness.

Step Three: The Planning Board and Town Council conduct a joint meeting for preliminary review of the contract zoning application. The joint meeting includes:

- a. Public hearing under 30-A M.R.S.A. § 4352(8).
- b. Planning Board comments on the land use implications of the proposed contract zoning.
- c. Council discussion of the proposed contract zoning.
- d. Council's preliminary direction to the applicant concerning further proceedings on the contract zoning request.

Phase 2 – Planning Board Plan Review

Step Four: The applicant files the application for site plan approval (and subdivision approval, if required).

Step Five: After public hearing, the Planning Board grants preliminary, provisional approval to the site plan (and subdivision plan, if required).

Phase 3 – Town Council Action

Step Six: The Town Council holds the first reading of the contract zoning amendment.

Step Seven: The Town Council holds a public hearing.

Step Eight: The Town Council holds the second reading and votes on the contract zoning amendment.

Step Nine: The applicant records the contract zoning agreement in the registry of deeds.

Phase 4 – Final Planning Board Action

Step Ten: The Planning Board grants final site plan approval (and subdivision approval, if required).

APPENDIX – C

The site analysis required by section II(I)(4)(a)(i) of the Zoning Ordinance above shall address the following factors in narrative form, accompanied by any maps, plans and graphics which the applicant believes will aid the Town Council and Planning Board in understanding the site. If any of the factors are inapplicable, the applicant shall explain why.

Natural Features

- Wetlands and wetland buffers and applicable regulations
- Regional storm water patterns
- Soils and their limitations for development
- Slope categories
- Topographic features such as ridgelines and rock outcrops
- Vegetative cover and features such as cover type, significant trees, orchards, and rare plants
- Wildlife habitat and corridors including deer wintering areas, moose wallows, rare/threatened/endangered species, nesting areas, and open water

Cultural Features

- Scenic and rural roads
- Hiking trails informal and designated
- Snowmobile trails mapped with permission of landowner
- Stone walls
- Historic structures, monuments and markers
- Cemeteries
- Views of and from the site
- Historic uses of the site
- Alterations to the land such as gravel mining, topsoil removal and timber harvesting

Community Relationships

- Access to adjacent properties
- Bus routes that serve the site
- Greenways and trail systems

Institutional Factors

- Zoning (applicability, performance standards, space/bulk requirements, cluster options)
- Utility services
- Current road system

Composite Analysis

- A diagram that illustrates those parts of the site which have (a) no constraints, (b) moderate restraints and (c) severe restraints

APPENDIX D

**Town of Scarborough
Maintenance Declaration
For Private Way**

This Maintenance Declaration for Private Way (hereinafter called “Declaration”) is made as of the _____ day of _____, 200__, by _____, whose mailing address is _____, (hereinafter called “Declarant”).

WITNESSETH

Whereas, the Declarant is the owner of certain real property situated in Scarborough, Cumberland County, Maine, which property is shown on a plan entitled Plan of Private Way [insert name of private way], Scarborough, Maine, prepared by _____, dated _____, and recorded [to be recorded] in the Cumberland County Registry of Deeds (hereinafter called the “Plan”);

Whereas, the Declarant is required by the Zoning Ordinance, Section IX, Subsection I, of the Town of Scarborough to outline and declare the respective duties and obligations of the owners of the lots and owners of the private way as shown on the Plan with regard to the construction, maintenance, repair and plowing of the private way shown on the Plan (hereinafter called the “Private Way”);

Now, therefore, the Declarant hereby declares as follows:

1. [Explain who will be responsible] shall be responsible for the cost of constructing, maintaining, repairing and plowing the Private Way, including required signage, as follows: [describe how responsibility is apportioned and any other details of allocation of responsibilities].
2. The Private Way [describe ownership arrangement, for example: “shall be owned in fee by the Declarant subject to an easement in favor of the owners of the lots shown on the Plan”].
3. In the event that any of the lots shown on the Plan are divided or in the event any remaining land of Declarant is subsequently divided into lots which are served by the Private Way, then such resulting lot or lots shall become subject to this Declaration and to any modifications to this Declaration which the Declarant or the Declarant’s successors in interest shall deem advisable in order to adjust the duties and responsibilities of this Declaration equitably among the owners of all lots served by the Private Way.
4. The Declarant, for himself/herself and for his/her heirs, successors and assigns, acknowledges, understands and agrees that the Town of Scarborough is not responsible for the construction, maintenance, repair or plowing of the Private Way shown on the Plan.

5. The duties and obligations imposed by this Declaration shall run with the land and shall be transferred to any donee, purchaser or other transferee of any portion of the real estate subject to this Declaration. Reference to this Declaration shall be made in all deeds conveying any of the lots shown on the Plan or any portion of the Private Way.
6. [For extensions of existing private ways only.] The private way subject to this Maintenance Declaration is an extension of an existing private way which served lots created prior to November 1, 2006; the Declarant has contacted the owners of such lots, has offered them the opportunity to make their properties subject to the Maintenance Declaration and they have [declined/accepted] that offer; and the Declarant has submitted to the Scarborough Planning Department a notarized affidavit confirming the Declarant's compliance with this paragraph.
7. None of the lots served by the Private Way shall be conveyed and no building permit shall be issued for any lot served by the Private Way until this Declaration is recorded in the Cumberland County Registry of Deeds.

Witness

Name

STATE OF MAINE

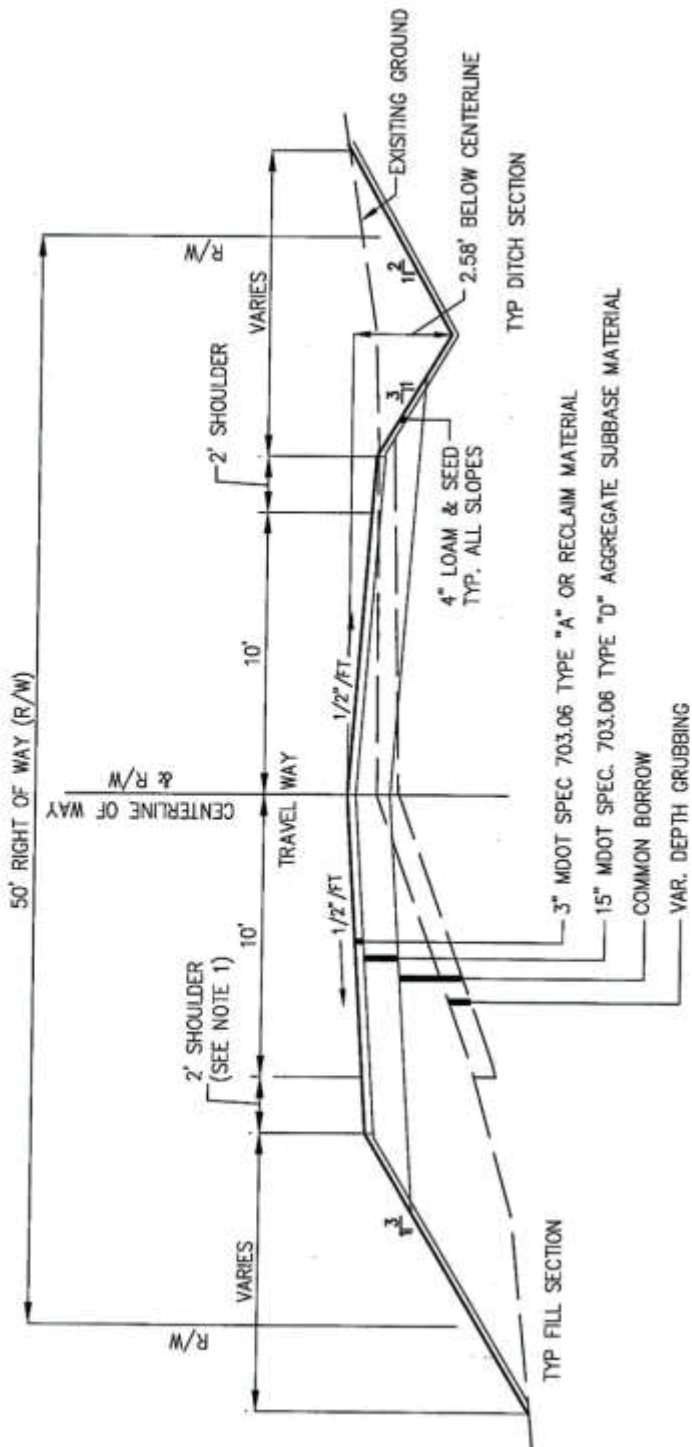
COUNTY OF _____[county]_____, ss.

_____[date]_____

PERSONALLY APPEARED, the above-named _____[name]_____ as aforesaid, and acknowledged the foregoing instrument to be his/her free act and deed.

Notary Public/ Attorney at Law

Appendix D – Drawing Number 1



TYPICAL SECTION - PRIVATE WAY

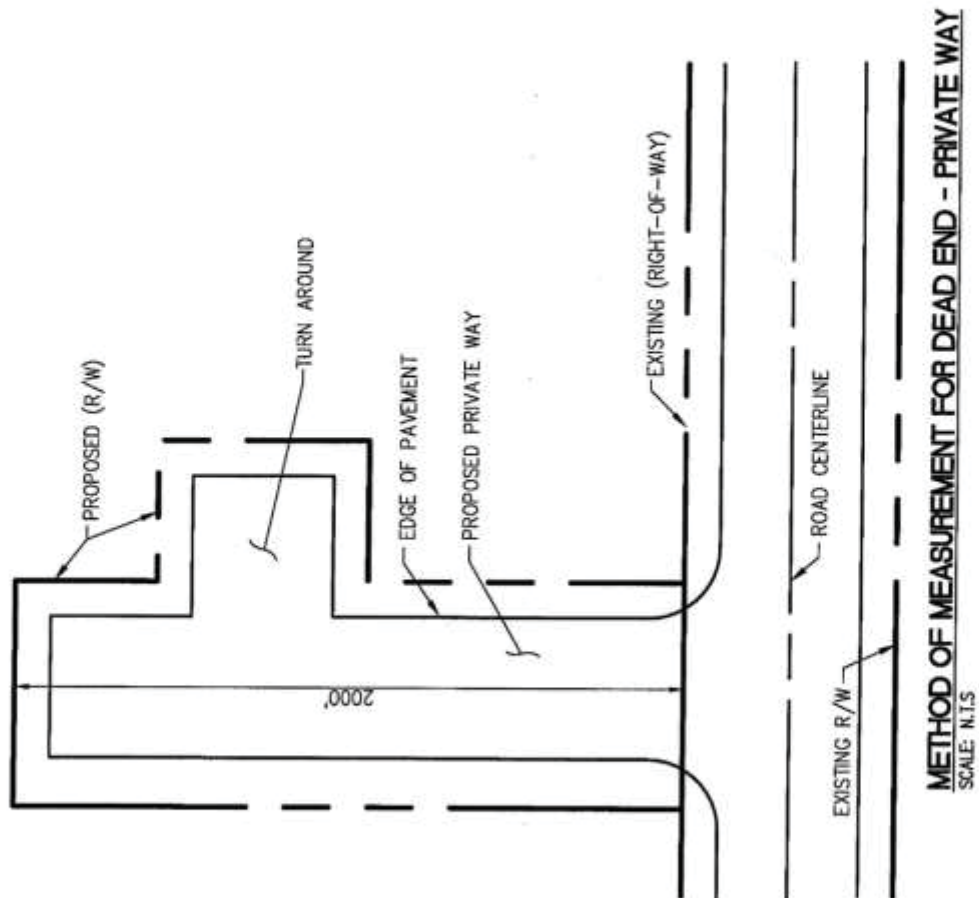
SCALE: 1"=5'

NOTES:

1. THE SHOULDER SHALL BE WIDENED TO 5.0' WHERE UNDERGROUND POWER/ COMMUNICATIONS & GAS ARE PROPOSED (SEE DRAWING NUMBER 3 FOR TYPICAL UTILITY LOCATION)

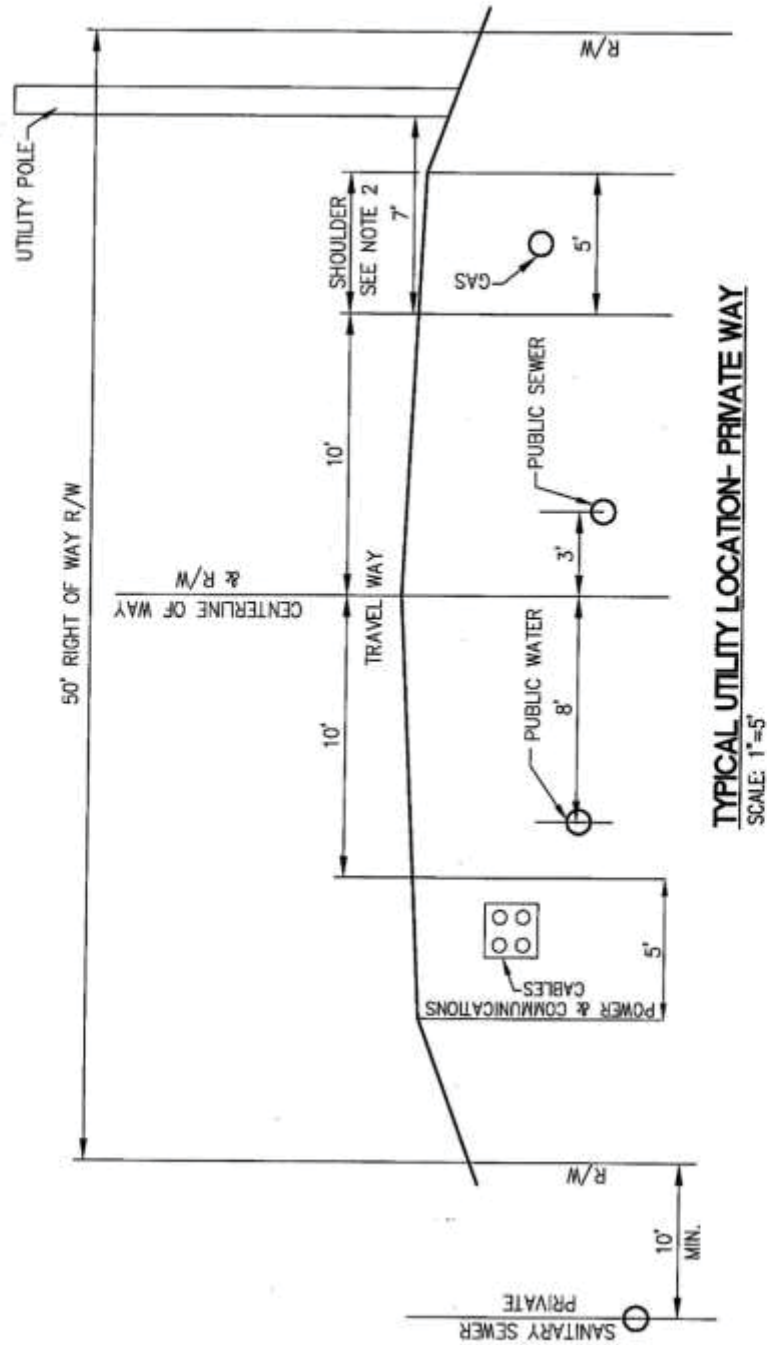
DRAWING NUMBER 1

Appendix D – Drawing Number 2



DRAWING NUMBER 2

Appendix D – Drawing Number 3

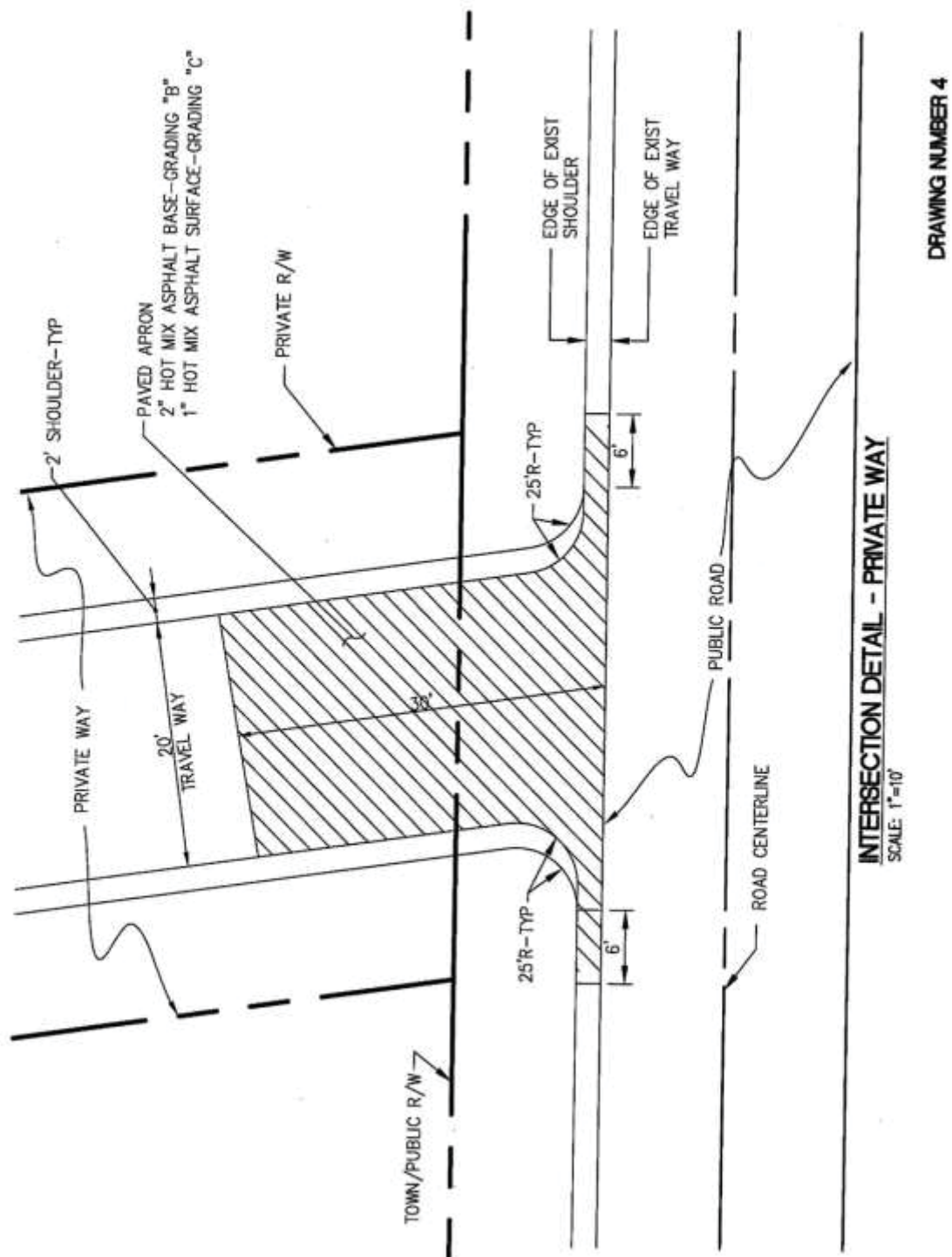


NOTES:

1. THE DEPTH OF ALL UTILITIES SHALL BE AS RECOMMENDED BY THE APPROPRIATE AUTHORITY.
2. THE SHOULDER SHALL BE WIDENED TO 5.0' WHERE UNDER GROUND POWER/COMMUNICATIONS & GAS ARE PROPOSED (SEE DRAWING NUMBER 1 FOR TYPICAL SECTION)

DRAWING NUMBER 3

Appendix D – Drawing Number 4



APPENDIX E

**Town of Scarborough
Registration of Accessory Units**

Property Owner _____

Property Address _____

Deed Reference _____

I/We will be occupying the property located at _____

as my/our primary/seasonal residence.

_____ The number of people living in the accessory unit will not exceed two (2)

_____ I/We understand that in the event that I/We move out of or sell this property, the property will revert to a single family or previous use.

_____ If I/We are found to be in non-compliance of any of the performance standards of Section IX. Performance Standards, I. Performance Standards-Accessory Units of the Zoning Ordinance town of Scarborough (as determined by the Scarborough Code Enforcement Officer) the property will revert to a single family or previous use and I/We may be subject to a fine of up to two thousand five hundred dollars (\$2500.00).

_____ I/We understand that this Registration expires 5 years after the date of recording.

I/we certify the above statements are true

X _____ Date _____

X _____ Date _____

X _____ Date _____

All owners of record must sign this form

APPENDIX F

[With Amendments as of July 17, 1991]
[With Amendments as of August 5, 1992]
[With Amendments as of October 21, 1992]
[With Amendments as of November 4, 1992]
[With Amendments as of January 20, 1993]
[With Amendments as of February 17, 1993]
[With Amendments as of November 17, 1993]
[With Amendments as of December 15, 1993]
[With Amendments as of January 5, 1994]
[With Amendments as of April 6, 1994]
[With Amendments as of June 1, 1994]
[With Amendments as of August 17, 1994]
[With Amendments as of October 19, 1994]
[With Amendments as of November 2, 1994]
[With Amendments as of November 16, 1994]
[With Amendments as of December 21, 1994]
[With Amendments as of February 1, 1995]
[With Amendments as of February 15, 1995]
[With Amendments as of April 5, 1995]
[With Amendments as of May 17, 1995]
[With Amendments as of July 5, 1995]
[With Amendments as of September 6, 1995]
[With Amendments as of March 6, 1996]
[With Amendments as of May 1, 1996]
[With Amendments as of July 3, 1996]
[With Amendments as of August 21, 1996]
[With Amendments as of January 6, 1997]
[With Amendments as of August 6, 1997]
[With Correction as of August 20, 1997]
[With Amendments as of September 3, 1997]
[With Amendments as of November 4, 1997]
[With Amendments as of November 5, 1997]
[With Amendments as of November 17, 1997]
[With Amendments as of December 3, 1997]
[With Amendments as of May 6, 1998]
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[With Amendments as of April 2, 2002]
[With Amendments as of August 21, 2002]
[With Amendments as of September 4, 2002]
[With Amendments as of November 6, 2002]
[With Amendments as of November 20, 2002]

[With Amendments as of December 4, 2002]
[With Amendments as of April 16, 2003]
[With Amendments as of May 7, 2003]
[With Amendments as of May 21, 2003]
[With Amendments as of June 18, 2003 –
Repealed by Referendum Vote on
July 29, 2003]
[With Amendments as of November 5, 2003]
[With Amendments as of March 17, 2004]
[With Amendments as of July 21, 2004]
[With Amendments as of September 15, 2004]
[With amendments as of October 20, 2004]
[With Amendments as of November 3, 2004]
[With Amendments as of December 1, 2004]
[With Amendments as of December 15, 2004]
[With Amendments as of May 4, 2005]
[With Amendments as of June 1, 2005]
[With Amendments as of August 17, 2005]
[With Amendments as of September 21, 2005]
[With Amendments as of November 2, 2005]
[With Amendments as of November 16, 2005]
[With Amendments as of February 1, 2006]
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[With Amendments as of December 1, 2010]
[With Amendments as of April 6, 2011]
[With Amendments as of February 15, 2012]
[With Amendments as of June 20, 2012]
[With Amendments as of July 18, 2012]
[With Amendments as of September 5, 2012]

Amendment Dates

[With Amendments as of July 2013]
[With Amendments as of August 2013]
[With Amendments as of March 6, 2014]
[With Amendments as of August 18, 2014]
[With Amendments as of October 15, 2014
with an effective date of November 15, 2014]
[With Amendments as of December 3, 2014]
[With Amendments as of March 18, 2015]
[With Amendments as of July 15, 2015]
[With Amendments as of December 2, 2015]
[With Amendments as of January 20, 2016]
[With Amendments as of March 2, 2016]
[With Amendments as of June 15, 2016]
[With Amendments as of September 7, 2016]
[With Amendments as of March 15, 2017]
[With Amendments as of July 19, 2017]
[With Amendments as of September 6, 2017]
[With Amendments as of March 7, 2018]
[With Amendments as of June 20, 2018]
[With Amendments as of November 28, 2018]