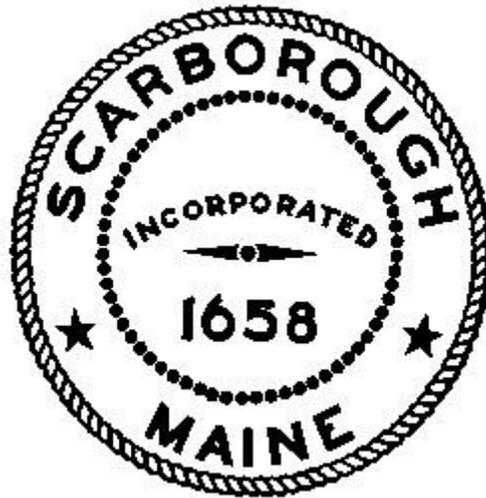


**CHAPTER 405B**

**SITE PLAN REVIEW ORDINANCE**

**TOWN OF SCARBOROUGH**



*Revised as of August 17, 2005*  
Amended November 7, 2007  
Amended January 6, 2010  
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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 [amended 04/21/2021]**

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). Activities subject to site plan review shall be divided into two classes: Major Development Review and Minor Development Review.

1. Major Development Review. Planning Board approval is required for any activity described above, except for any activity that may be eligible for Minor Development Review outlined below, or as exempt as provided in Section II.B.
2. Minor Development Review. Town Planner approval is required for any permitted uses in the Industrial District, the Light Industrial District, and those uses in the Crossroads Planned Development District which are permitted only within the "inclusionary area" as outlined in Section XX.C.I.B.iv of the Scarborough Zoning Ordinance.

Notwithstanding the above, the following activities in the Industrial District, the Light Industrial District, and those uses in the Crossroads Planned Development District which are permitted only within the "inclusionary area" as outlined in Section XX.C.I.B.iv require Major Development Review from the Planning Board:

- a. Activities with one-acre or more of disturbance;
- b. Activities that are forecasted to generate more than 35 trip ends during any peak hour; and
- c. Activities that require amendments to state or federal permits.

The Town Planner (or designee) may refer approval of a permitted use defined as requiring minor development review to the Planning Board for Major Development Review when the nature of the application warrants a public hearing or poses the potential for significant impacts on municipal facilities or natural resources, as determined by the Town Planner (or designee). Additionally, an applicant may request that a project be reviewed by the Planning Board through Major Development Review instead of Minor Development Review for any reason.

### **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. Application & Review Procedures [amended 04/21/2021]**

The following procedures and application requirements shall govern development proposals for major and minor development review.

### **A. Major Development Review [amended 04/21/2021]**

#### **1. 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:

- a. The proposed site, including its boundaries, size, location, and landscape.
- b. The environmental characteristics or constraints of the site, such as waterbodies, wetlands, floodways, steep slopes, etc.
- c. The proposed use and scale of development, including a conceptual site plan, landscape plan, and building elevations.
- d. An overview of any traffic issues or implications.
- e. 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.

## **2. Site Plan Application Procedures & Action [amended 06/05/19]**

- a. An application for site plan review shall be submitted to the Planning Department with the requisite fees and submission requirements, as outlined in Section VI.A 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(3)(i), 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.
- b. 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.

- c. 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.
- d. 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.
- e. 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.
- f. 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.
- g. 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.
- h. 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]
- i. 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. Minor deviations that do not alter the essential nature of the approval or affect approval criteria may be approved by the Town Planner (or designee) and with endorsement of the Planning Board Chair.
- j. The text of paragraph 8, above, shall be included as a note on the approved site plan.
- k. 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.

### 3. Submission Requirements

The applicant shall submit to the Planning Board the following plans and information in a form required by the Planning Department:

- a. 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.
- b. 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.
- c. 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.
- d. Stormwater management systems, details and calculations.
- e. 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.

f. Any proposed off-site improvements to roads, sidewalks, natural areas or other infrastructure as may be necessary to accommodate the proposed development.

g. A lighting plan in compliance with Section IV(H) of this ordinance.

h. Reports from the Police Chief, Fire Chief, and to the extent applicable, from the Water District and Sanitary District, containing their requirements or recommendations.

i. 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.

j. A list of any requested waivers of required submissions and waivers from the standards of this ordinance.

k. A description of method to be used to permanently delineate wetland buffers to prevent encroachment. [08/17/2005]

l. 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.

#### **B. Minor Development Review [amended 04/21/2021]**

1. An application for site plan review shall be submitted to the Planning Department with the requisite fees and submission requirements, as outlined in Section VI.A of this Ordinance. The Town Planner (or designee) reserves the right to request additional plans or information, as stated in Section III.A(3)(i), depending on the nature of the proposal and its anticipated impacts. The Town Planner (or designee) 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. After the Town Planner (or designee) determines that an application is complete, the applications are distributed to the Town Engineer, Zoning Administrator, Fire Chief (or designee), Police Chief (or designee), and the Director of Public Works (or designee) for review and comment.
3. The Planning Department shall also, 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, and must include a brief description of the proposed project, the name of the applicant, the location where the application is available for inspection, how written comments on the application may be submitted. Failure of any property owner to receive the notification shall not invalidate any action of the Town Planner. 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.
4. Within 30 days of determining the application complete, and after a ten (10) day public comment period following mailing of the notice to abutting property owners, the Town Planner (or designee) shall review all submitted comments and act on the application to either: a. send the application to Major Development Review; or b. approve, approve conditionally, or deny the application. The decision of the Town Planner (or designee) shall be provided in writing to the applicant.
5. If a site plan application is denied, a substantially similar application shall not be brought before the Town Planner (or designee) within one (1) year from the date of the denial of the original application. This limitation may be waived if the Town Planner 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 the Town Planner's decision on an application for Minor Development Review shall be taken directly to the Planning Board; provided the appeal is made within 30 days of the issuance of the decision. Upon such an appeal, the Planning Board shall review the application as a Major Development Review; including all procedures and submission requirements of section III.A.
7. Upon written request, the Town Planner may approve transfer of Minor Development 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.
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 application are conditions of approval. No change from the conditions of approval is permitted unless an amended site plan is approved by the Town Planner (or

designee). Minor deviations that do not alter the essential nature of the approval or affect approval criteria may be approved by the Town Planner (or designee).

10. The text of paragraph 9, 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 (or designee) may grant preliminary waivers of submission requirements.

#### **IV. Performance & Design Standards [amended 04/21/2021]**

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 or Town Planner (together the “Applicable Reviewing Authority”) as applicable 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 Applicable Review Authority 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 [amended 04/21/2021]**

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 Applicable Reviewing Authority 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.

<b>POSTED SPEED IN M.P.H.</b>	<b>SEPARATION IN FEET</b>
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” (as may be amended from time to time).
- 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 Applicable Reviewing Authority.
- 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 Applicable Reviewing Authority 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 Applicable Reviewing Authority 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 Applicable Reviewing Authority 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 Applicable Reviewing Authority. 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 [amended 04/21/2021]**

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.

<b>LAND USE</b>	<b>ONE-WAY WIDTH (FEET)</b>	<b>TWO-WAY WIDTH (FEET)</b>
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 Applicable Reviewing Authority. Specific construction details for this infrastructure shall also be approved by the Applicable Reviewing Authority.
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 [amended 04/21/2021]**

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 Applicable Reviewing Authority that the nature or operation of the proposed use will not necessitate the minimum parking space requirements found in Section XI., the Applicable Reviewing Authority 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 Applicable Reviewing Authority 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 Applicable Reviewing Authority 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.

<b>PARKING ANGLE DEGREE</b>	<b>MINIMUM AISLE WIDTH (FEET)</b>
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.

<b>TOTAL SPACES</b>	<b>TOTAL ACCESSIBLE SPACES REQUIRED COLUMN A</b>	<b>SPACES WITH 60" WIDE ACCESSIBLE AISLE</b>	<b>VAN ACCESSIBLE SPACES WITH 96" WIDE ACCESSIBLE AISLE</b>
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; 04/21/2021]**

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 Applicable Reviewing Authority. 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 Applicable Reviewing Authority 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 [amended 04/21/2021]**

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 Applicable Reviewing Authority 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 Applicable Reviewing Authority 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 [amended 04/21/2021]**

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 Applicable Reviewing Authority 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 [amended 04/21/2021]**

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 Applicable Reviewing Authority 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 Applicable Reviewing Authority.
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 Applicable Reviewing Authority.
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 [amended 04/21/2021]**

1. The Applicable Reviewing Authority 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 [amended 04/21/2021]**

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 Applicable Reviewing Authority 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 [amended 04/21/2021]**

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 Applicable Reviewing Authority. The proposal shall conform to time schedules acceptable to the Applicable Reviewing Authority or to the Town Planner and Town Engineer if the Applicable Reviewing Authority 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 Applicable Reviewing Authority or by the Town Planner and Town Engineer if the Applicable Reviewing Authority 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**

**[amended 04/21/2021]**

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 Applicable Reviewing Authority, (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 carolineanum	American Hornbeam
Acer saccharum	Sugar Maple	Celtis occidentallis	Hackberry
Acer tataricum	Tartarian Maple	Cornus kousa	Kousa Dogwood
Acer triflorum	Three-flower Maple	Cornus mas	Cornealiancherry 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	Maacki amurensis	Maackia
Cladrastis lutea	Yellowwood	Magnolia loebneri	Loebner Magnolia
Corylus colurna	Turkish Filbert	Magnolia stellata	Star Magnolia
Crataegus crusgalli	Cockspur Hawthorn	Malus species	Crabapple
Fraxinus americana	White Ash	Nyssa sylvatica	Tupelo
Ginko 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	<b>EVERGREEN TREES</b>	
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	<b>ORNAMENTAL GRASSES</b>	
<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		