AGENDA

ORDINANCE COMMITTEE

Thursday, October 18, 2018
4:30 p.m.
Chamber A

Item 1. Call to Order.

Item 2. Roll Call.

Item 3. Approval of the minutes from the last meeting.

Item 4. Public Comment

Item 5. Traffic Ordinance, parking in the right-of-way

Item 6. Zoning Board of Appeals, front yard setbacks on corner lots

Item 7. Mass Gathering/Public Assembly Ordinance, Discussion of issues with Chiefs

Item 8. Penalties within Mooring Ordinance

Item 9. Adjournment

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

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 devise 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].

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]

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.

SCARBOROUGH, MAINE INC. 1658

Planning & Code Enforcement Department

Memorandum

Date: August 10, 2018

To: Scarborough Ordinance Committee,
Jean-Marie Caterina, Chair

From: Scarborough Board of Appeals,
Leroy Crockett, Zoning Board Chair with
Scarborough Planning and Codes Staff

Subject: Ordinance Amendment Proposal

Description:

An area of the zoning ordinance that has proven problematic for many property owners in Scarborough involves front yard setbacks on corner lots, or lots bordered by more than one street. This situation is often exacerbated when the corner lot is also non-conforming in area or dimension. It generally leaves the owner with no reasonable building envelope, or results in an oddly shaped structure in order to meet the multiple front yard setbacks.

Scarborough definition of 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.

This definition basically says that instead of a front setback on the side street, it will be treated as a side setback, but it cannot be less than the front setback of other uses on that street, so in other words, it is still a front setback. Front setbacks in all residential districts are at least twice the distance of side or rear yard setbacks. In most cases, side and rear yard setbacks are the same (15 ft.)

The Town recently adopted standards for dealing with corner lots within the Higgins Beach Zoning Repair initiative, which allowed the owner to identify a *primary* frontage that required the larger setback from the street, and a *secondary* frontage, that had a reduced minimum setback. So far, this change has worked quite well, especially since many of these multi-frontage lots abutt properties that are also non-conforming with regard to the front yard setback. However, there are more areas than just Higgins Beach that could benefit from some form of reliable relief. The zoning board of appeals has had 2 variance request in the last 2 months from owners of parcels with 2 and 3 street frontages.

Although some communities regulate corner lots the same way that Scarborough does, others take a different approach. To aid in the discussion, planning staff reviewed the ordinances of several neighboring communities, and noted them below. There are certainly other models, both in Maine and nationally, that could provide some reasonable degree of flexibility in separating primary and secondary frontage requirements for lots under certain conditions. Also of note is the following definition found online.

Planners Dictionary - "*setback, front, on corner lot: the front setback of a corner lot shall be measured from the side of the lot designated as the "front." On a corner lot only one street line shall be considered as a front line, which shall be the shorter street frontage. (Henderson, Nevada)"* (emphasis added)

The following communities regulate corner lots differently than Scarborough:

Saco - requires lots with more than one frontage to maintain minimum front yard setback on at least 2 streets. It does allow for code officer to permit *"Along existing residential streets which were developed prior to enactment of the present front yard requirements, a single-family detached dwelling, a two-family dwelling, or an addition to either, other than a garage or carport, may be permitted to be built with a front setback equal to the average front setbacks of the existing houses on the immediately adjacent lots. However, in no case shall new construction be allowed closer than 15 feet from the front lot line without a variance."*

Westbrook - allows that *"The Code Enforcement Officer may reduce the setback requirements for existing structures to that of the average of adjacent properties, provided that no additional dwelling units are added."*

The following communities regulate corner lots similar to Scarborough:

South Portland - *"Corner or double frontage lots. If a lot has frontage on more than one way, then each yard which abuts such a way shall conform to the front yard space and bulk regulations for the district in which the yard is located, and each other yard shall conform to the side yard space and bulk regulations for the district in which the yard is located."*

Cape Elizabeth - "*Setback Front: An open area extending the entire width of a lot from sideline to sideline and extending in depth at a right angle from the street right-of-way to such depth as specified. Such area shall be unoccupied and unobstructed by a building from the ground*

upward. A lot having frontage on more than one (1) street shall be required to meet the minimum front setback on each street."

Gorham - reads the same as our definition of corner lot.

The Board of Appeals has asked the Planning Staff to engage in a discussion with the Ordinance Committee at the earliest convenience on possible amendments to the ordinance that would help relieve some of the pressures on the Board for variance appeals that could otherwise be dealt with in our zoning regulations.

Sincerely,

Leroy Crockett, Chair - Scarborough Zoning Board of Appeals