

AGENDA
ORDINANCE COMMITTEE

Thursday, January 17, 2019

4:00 p.m.
Chamber A

- Item 1. Call to Order.
- Item 2. Roll Call.
- Item 3. Approval of the minutes from the October 18, 2018 meeting.
- Item 4. Public Comment.
- Item 5. Marijuana survey results and next steps.
- Item 6. Discussion on proposed amendments to Chapter 304, Town of Scarborough Purchasing Policy.
- Item 7. Discussion on proposed amendments to Chapter 601 Town of Scarborough Traffic ordinance.
- Item 8. Discussion on proposed amendments to Chapter 901 Garbage and Recycling Collection and Disposal ordinance.
- Item 9. Discussion on proposed amendments to Chapter 1002 Shellfish Conservation ordinance.
- Item 10. Adjournment.

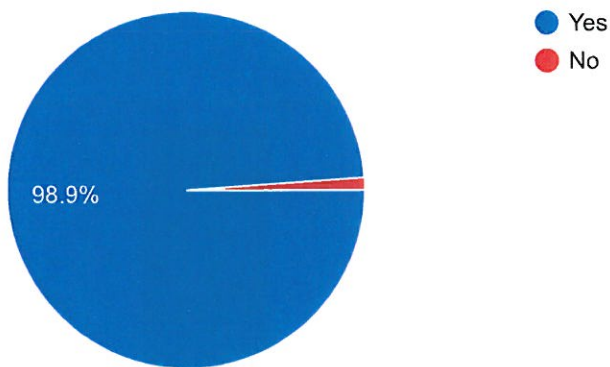
Medical and Adult Use Marijuana Survey

268 responses

Residency

Are you a resident of Scarborough?

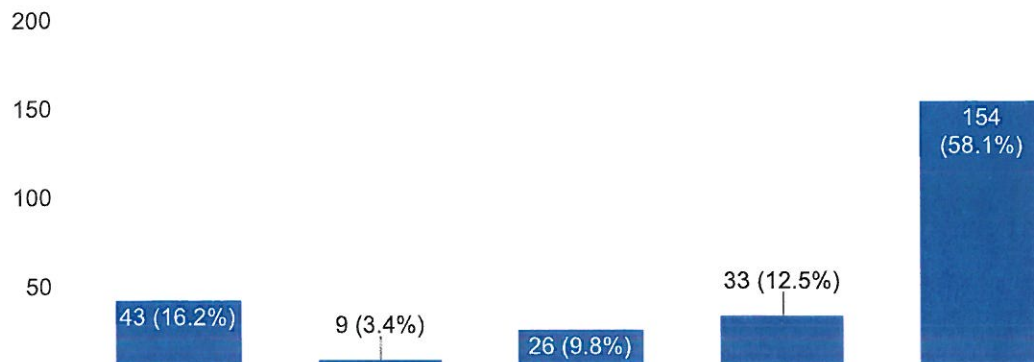
268 responses



Support for Marijuana Establishments in Scarborough

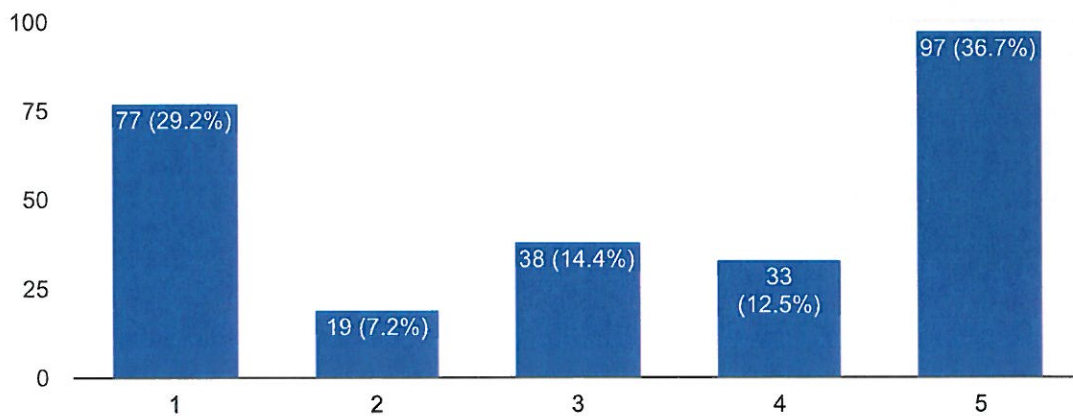
On a scale from 1 to 5, with 5 being the highest, please indicate your level of support in general for legalized MEDICAL marijuana establishments of any kind in the Town of Scarborough.

265 responses



On a scale from 1 to 5, with 5 being the highest, please indicate your level of support in general for legalized ADULT USE marijuana establishments of any kind in the Town of Scarborough.

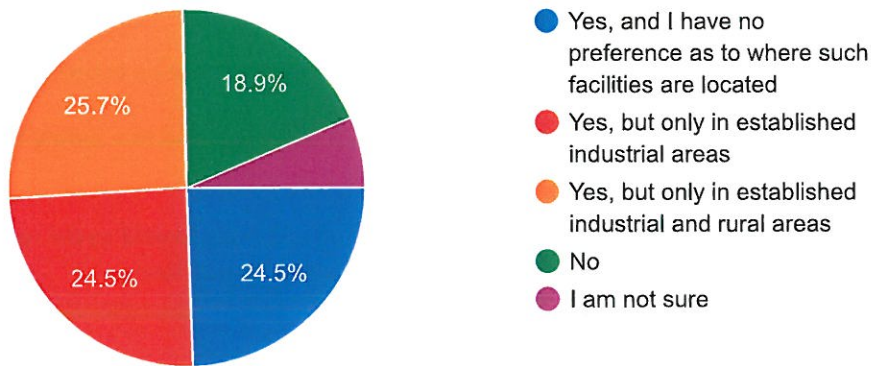
264 responses



Cultivation facilities

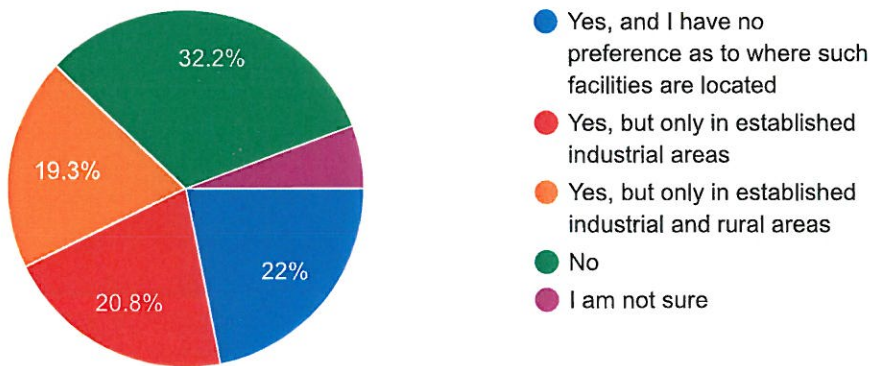
Would you support a decision to allow medical marijuana CULTIVATION facilities in Scarborough?

265 responses



Would you support a decision to allow adult use marijuana CULTIVATION facilities in Scarborough?

264 responses



What comments or concerns do you have about the location of potential marijuana cultivation facilities?

73 responses

none

not near schools

not in residential areas

the smell and security risks

i consider this a drug and I have zero tolerance for drugs in my community and around my children.

the smell during cultivation is offensive and bothersome to some and therefore should not be in residential areas

i think its important that the areas marijuana is grown needs to be protected, enclosed, and that safety be a key factor in determining its location.

i am concerned as i do not believe that the cultivation or use of marijuana will be of any benefit to the town. this road we are going down is very dangerous to all our citizens. marijuana is illegal under federal law

actually i'm not in favor of legalizing recreational marijuana use

smell.

That they be visible and not located in rural locations

smell and safety

I believe these establishments will increase tax revenue to the town. Its better we allow it before another town does and they get the financial benefit

the smell in residential areas

wind not drifting near homes

Not in favor of it.

i think its time to honor the referendum

concern about oversight capability and cost thereof

smell, impaired drivers

they should be regulated and secured

NA

Voters have legalized growth and use, there ought not to be overbearing restrictions, per the will of the voters

not in favor of growth in Scaeborough...but do not oppose growth elsewhere in State

Increased crime in that area

increased criminal activity

not in suburban home gardens

location

Obvious oversight of facilities and businesses.

Proximity to children, schools, my home!

duly licensed cultivators should not be limited by neighbors objections, ONLY by WRITTEN, ADOPTED LAW.

Needs to be controlled

environmental issues

medical marijuana saved my life from the onslaught and cyclical devastation from prescription meds. I'm a new person. Too bad i have to travel afar for my prescription

In general, fewer with careful protection and monitoring

my only concern is regarding excessive noise, lights, or smell in a residential area.

the smell of marijuana in scarborough would be both unpleasant and unwelcome

they be well regulated and inspected, in compliance with the law, and accounted for so not being used to support illegal drug trade.

I think Scarborough could generate a lot of much needed income through marijuana cultivation and we should take advantage of the opportunity rather than shun it.

only concern is smell

no cultivation in residential areas

site security

It will bring a lot of chaos to the town

not near schools. no flashy advertising anywhere

It still concerns me that law enforcement does not have any testing available for drivers under the influence of pot

My concern is that other NON-regulated growing would flourish.

smell, acceptance of overall use

co-ops???

how does it impact our power- spectrum told me that weed growing lights impact our service. aslo, i do not believe it should be allowed to grown by residential houses.

Access by robbers, etc.

None

the impact on drivers in such a frantic driving town, where many folks are running red lights at most intersections, adding driving while high would not help the situation in my opinion.

make sure its regulated so its safe

Not in retail areas. Only industrial.

I know that the smell of marijuana gives me headaches and bothers me, so my only concern is that if cultivation facilities have a larger odor, it may be more of a disturbance than if they weren't.

security, odor, appearance. can't be any worse than medical waste!

the questions around monetary transactions since banks will not accept the flow of marijuana sales due to federal laws

Potential for crime related to the facility

people do not need this. too many potheads walking around

I would expect clearly defined monitoring and controls.

I do not feel they should be in a predominantly residential neighborhood; I would consider supporting it if it was in a commercial industrial area

away from populated areas

Not in my town!

additional law enforcement would need to be implemented for security

crime ,altered behaviors, pollution, youth access ,safety persons and envirnmental

I do not support this initiative. I believe it is another step in what already is a dummyming down of our culture.

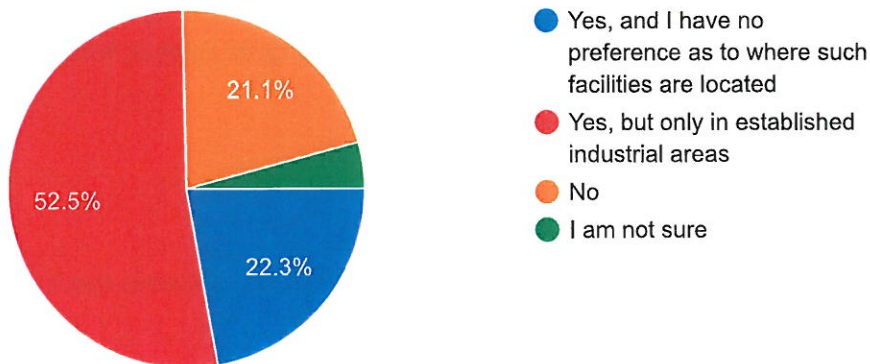
The smell, other than that I'm okay with it all

people smoking/ingesting and driving, foul odors

Manufacturing facilities

Would you support a decision to allow medical marijuana MANUFACTURING facilities in Scarborough?

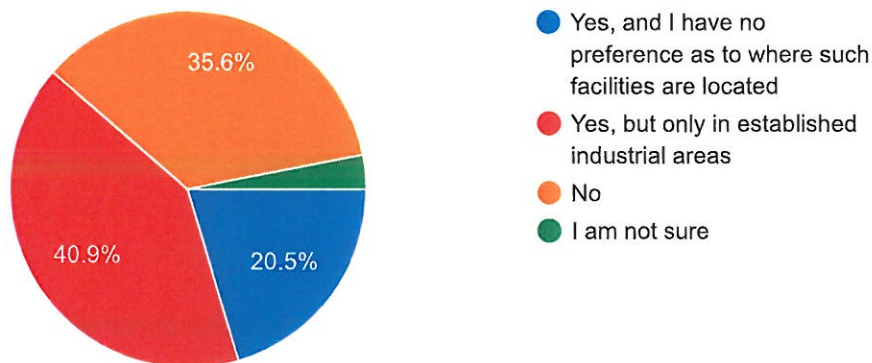
265 responses



Would you support a decision to allow adult use marijuana MANUFACTURING

facilities in Scarborough?

264 responses



What comments or concerns do you have about the location of potential marijuana manufacturing facilities?

48 responses

none

odor and safety issues

Control odor to protect neighboring properties.

None.

read former answer

there should only be Medical use.

easy access for police in case of robbery

no comments

Do not agree with recreational marijuana use or having manufacturing facilities in Scarborough.

prefer they not be in Scarborough at all

NA

Same as previous

don't want them

industrial areas only

Again, careful oversight.

Concerned about crime

environmental issues

traffic

Fewer, with careful protection (fencing, etc.) and monitoring

as with any business, the concern would be impacting on neighbors, to include waste, traffic, and smells emanating from such facilities.

not near schools

I would like large manufacturers to work in harmony with the community-being respectful of environmental concerns and making sure their is no odor issues

lack of long term effects of having such a facility located in town...

concerns with odors

We don't need another potentially addictive substance

policing

None

they stink, living in Pine Point we constantly smelliong the cultivation by the railroad tracks and it is bad!!

A similar comment about smell/location here, just that the smell can be bothersome to some folks.

not near residential areas.

same as before: odor, appearance, security

not in my town of scarborough

I would expect clearl defined monitoring and controls

not sure

in industrial areas not by schools or homes and NOT on rte 1

Not in a predominantly residential area

Not in my town!

none at this time

same answer as earlier

Smell

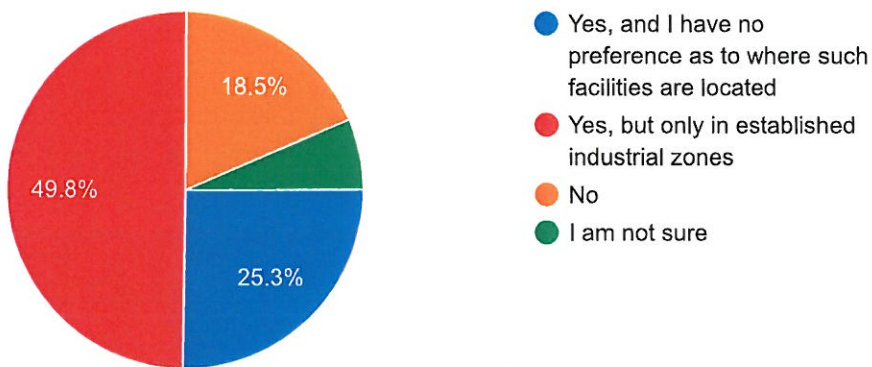
people under the influence

i think both cultivation and manufacturing facilities - if allowed- should be highly regulated and enforcement would have to be considered. Will crime be increased? What message does allowing growing/cultivating send to our kids and community?

Testing facilities

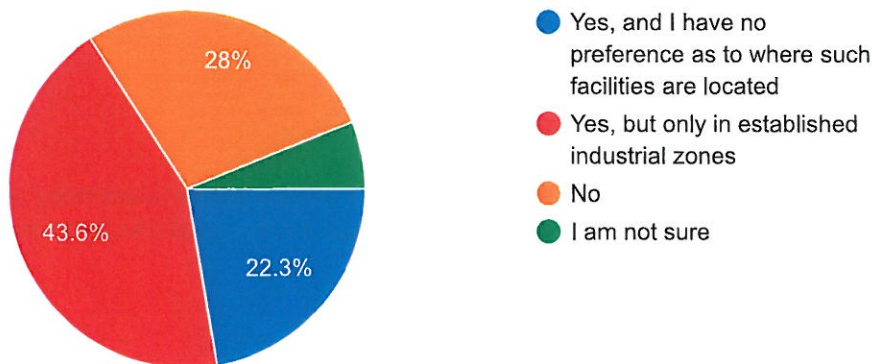
Would you support a decision to allow medical marijuana TESTING facilities in Scarborough?

265 responses



Would you support a decision to allow adult use marijuana TESTING facilities in Scarborough?

264 responses



What comments or concerns do you have about the location of potential marijuana testing facilities?

38 responses

none

Too much regulation.

see former answer

odors

no comments

prefer they not be in Scarborough at all

NA

Same

don't support anything to do with marijuana at all

See previous concerns!

marijuana SMELLS BAD, just growing in the sunshine. I can only imagine what a manufacturing or testing facility would smell like. I answered that it would be ok in industrial areas, but those would need a certain setback of MILES from homes.

no specific concerns

not near schools

Until there is more established research, I am uncomfortable having adults testing marijuana at this time. I do support medical testing by researchers.

none at this time

I am concerned about the possible abuse of security measures to keep all marijuana IN the testing facilities.

policing

No concerns

Testing facilities deal primarily with evaluating chemical constituents, they are in essence laboratories promoting rigorous chemical testing standards. I believe they are locations for valid careers in the laboratory sciences.

do not put near rural areas or schools

traffic

I need more information about what happens at these facilities.

not here

I would expect clearly defined monitoring and controls

in industrial areas only not by schools or homes and not on rte 1 its tacky enough

same as earlier

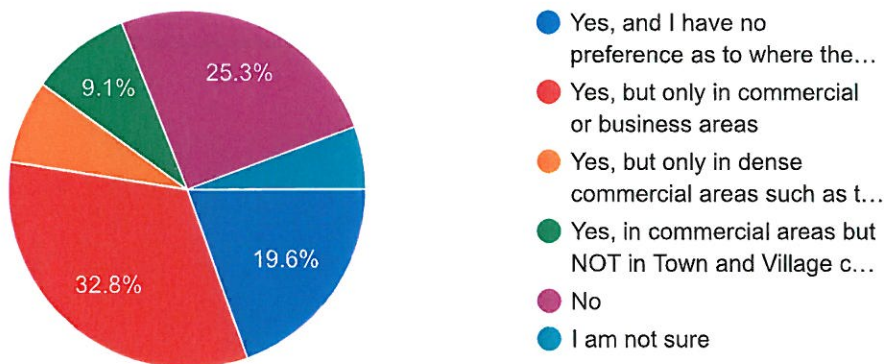
odor

I could not list all the reasons to oppose retail stores in our town and could not be more opposed. All research and data from other states who have passed recreational marijuana laws show that youth use goes up almost immediately when the law is implemented- the best we can do is take a stand in our town by not allowing any retail establishments- this sends a clear message to kids that the use of marijuana is not ok and is not safe.

Retail stores

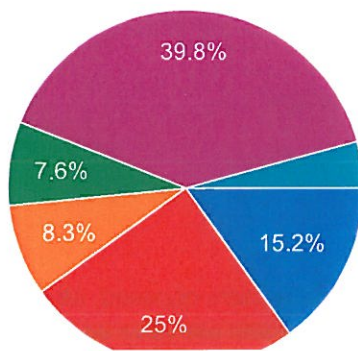
Would you support a decision to allow for RETAIL medical marijuana stores in Scarborough?

265 responses



Would you support a decision to allow for RETAIL adult use marijuana stores in Scarborough?

264 responses



- Yes, and I have no preference as to where the...
- Yes, but only in commercial or business areas
- Yes, but only in dense commercial areas such as t...
- Yes, in commercial areas but NOT in Town and Village c...
- No
- I am not sure

What comments or concerns do you have about the location of possible retail marijuana stores?

35 responses

none

If it's legal, make it legal and tax it.

Delay allowing retail sales until Maine has more experience with it.

Keep them located with other businesses

see former answer

The clients being addiction...prone? Loitering & safe driving & children getting used to seeing it

no comments

locate them within established medical facilities

Same

forget it!!!!

my biggest concern is driving and marijuana issues

Again, careful oversight and governance, but accessible.

Just no. I don't want the traffic this will bring.

The voters in Maine have voiced that they want to legalize marijuana. I fully support retail stores which will further this goal. I encourage entrepreneurs to open their businesses in any area with other commercial or business interests

I would not allow hanging around the stores. Maybe a rule that no use is allowed within a certain amount of feet, or in the parking lot. Other than that it is about time we have these stores as the voters approved this TWO years ago!!

none It is about time!!

Perfect fit for the "new downtown." Just what we need to give the town a bit of an edge.

undecided, at this time !

I am concerned that underage young people would attain access to this marijuana, especially by having an adult purchase it for them, as happens now with alcohol.

policing

No concerns

not near schools

like many facilities i believe retail operations should be centered in commercial areas

not sure

i am not in favor of legalized recreational facilities.

none specific

I would expect clearly defined monitoring and control

in industrial areas not by schools or homes not on rte 1

access by children

same as earlier

See comment above (i put it in the wrong place)... please, for the sake of our kids and this town, do NOT allow any type of retail anywhere.

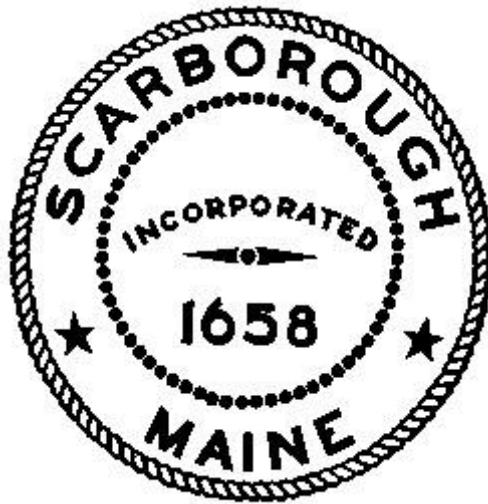
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CHAPTER 304

TOWN OF SCARBOROUGH

PURCHASING POLICY



Adopted 4/20/94
Amended 04/18/01
Amended 09/17/03
Amended 11/01/17

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CHAPTER 304
TOWN OF SCARBOROUGH
MUNICIPAL PURCHASING POLICY

Section 1. Purpose

The purposes of the regulation are to standardize the purchasing procedure of the Town of Scarborough thereby securing for the town the advantages of a centralized and uniform purchasing policy saving the taxpayers' money and increasing public confidence in the procedures for municipal purchasing; to promote the fair and equitable treatment of all suppliers of goods and services; and to set forth the duties and responsibilities of the department heads and the Purchasing Agent, thereby fostering interdepartmental cooperation and trust in the purchasing system.

Section 2. Definitions

~~1. Approved vendors.~~

~~“Approved vendors” means those vendors identified by each department head to the Purchasing Agent, who maintains a list of approved vendors for bidding purposes. The Purchasing Agent shall keep detailed lists for each department on file at all times.~~

2. Bid most advantageous to the Town.

“Bid most advantageous to the Town” means a bid chosen on the basis of price, quality of merchandise, suitability of merchandise, and service reputation of the vendor, and therefore may not necessarily mean the lowest bid received.

3. Competitive bidding.

“Competitive bidding” means the process of obtaining the bid most advantageous to the Town for any purchase, whether through formal or informal bidding procedures.

4. Informal bid.

“Informal bid” means a written or oral quotation obtained from an approved vendor but not required to be opened publicly at a specified day, place and time.

5. Field purchase.

“Field purchase” means an informal purchase of supplies needed in small quantities for day-to-day operation made directly by a Department Head or her/his designated representative from any vendor. [Amended 11/02/17]

6. Formal bid.

“Formal bid” means a written quotation obtained in a sealed envelope from an approved vendor or through advertisement and opened at a specific day, place and time.

7. Cooperative purchase.

“Cooperative purchase” means a purchase made by the Town in conjunction with or from another governmental or quasi-governmental agency, such as but not limited to, the State of Maine, Greater Portland Council of Governments, the School Department, the Sanitary District or another municipality.

8. Purchase.

“Purchase” means buying, renting, leasing, or otherwise acquiring supplies or services for a price.

9. Purchasing Agent.

“Purchasing Agent” means the Assistant Town Manager or the Assistant Town Manager’s designee.

10. Services.

“Services” means the lease or rental of all grounds, buildings, offices, space or equipment required by the Town, the repair or maintenance of equipment or real property owned by or the responsibility of the Town and all labor furnished to the Town by persons, firms, individuals or corporations not part of or connected with the Town government. “Services” shall not include professional services provided to or for the Town by lawyers, architects, engineers, auditors and consultants. Nor shall “services” include utilities such as electricity, water, and phone services.

11. Specifications.

“Specifications” means standards, including quality, set by department heads as a guide to the Purchasing Agent and as a measure of that which successful vendors must achieve. Specifications shall be either technical specifications for bids, which shall state formulations as broadly as practicable, yet shall be specific enough to describe the requirements of the department or non-technical specifications for bids, which shall state the quality required in general terms.

12. Supplies.

“Supplies” shall mean all supplies, materials and equipment.

Section 3. Applicability

This regulation shall apply to purchases made by departments and agencies of the Town, except as otherwise specified herein.

Section 4. Appropriation

Neither the Purchasing Agent nor any Department Head shall make any purchase or allow any purchase to be made until an appropriation therefore has been approved by the Town Council.

Section 5. Purchase Limits

1. A Department Head or the Department Head's designated representative may make field purchases when the total purchase price for the goods or services being purchased is less than ~~\$2500.00, provided the field purchases are reported to the Purchasing Agent in writing within 3 days thereafter.~~ (amended 09/17/03)
2. A Department Head may execute written orders when the total purchase price is \$5,000.00 or less and the requirements of this Purchasing Policy are complied with by the Department Head or her/his designee. Any purchase of computer hardware or software requires consultation with the IT Department prior to purchase. (amended 09/17/03)[amended 11/01/17]
3. The Purchasing Agent shall make any purchase when the total purchase price exceeds \$5,000.00 up to an amount within the municipal operating budget. (amended 04/18/01). (amended 09/17/03)
4. The Town Council shall approve and authorize any purchase beyond the amount as approved in the municipal operating budget. (amended 04/18/01).

Section 6. Competitive Bidding

1. Competitive bids shall be required for all purchases in excess of \$2,500.00 unless specifically exempted by this Policy or by action of the Town Council.
2. Informal bidding procedures shall be allowed when a purchase is required to be by competitive bidding if the total purchase price is less than ~~\$7,500.00~~ 10,000.00, unless the Purchasing Agent recommends use of formal bidding procedures.
3. Formal bidding procedures shall be followed by the Purchasing Agent in all other cases when competitive bidding is required by this Policy.
4. The Purchasing Agent may make cooperative purchases without competitive bidding if the Purchasing Agent determines the purchase is being made after competitive bidding by the cooperative entity or at price more advantageous than the Town would be likely to obtain by competitive bidding.
5. The Purchasing Agent may waive the requirements for competitive bidding for purchases of \$25,000.00 or less in cases of emergency or when the purchase is inappropriate for competitive bidding due to the nature of the item, time constraints or other factors, provided that the Purchasing Agent shall file a full and complete statement of the reasons for waiving competitive bidding.
6. Purchases of computer hardware or software will be reviewed with the IT Department for approval prior to the bidding process.

Section 7. Procedure for Formal Bidding

The procedure for formal bidding shall be as follows:

1. Invitation for Bids. The Department Head or Purchasing Agent shall prepare the invitation for bids, describing the Town's requirements clearly, accurately and completely, but avoiding unnecessarily restrictive specifications or requirements that might unduly limit the number of bidders. The term "invitation for bids" means the complete assembly of related (whether attached or incorporated by reference) material furnished prospective bidders for the purpose of submitting sealed bids. The Purchasing Agent shall determine that the requirements of the Town are clearly and accurately and completely stated within the invitation to bid. Every invitation to bid shall note that all purchases are subject to the conditions set forth in Section 9 hereof.
2. The Department Head or Purchasing Agent shall publicize the invitation for bids through distribution to prospective bidders, posting on the ~~bulletin board at Town Hall~~ purchasing page of the Town's website, posting notice in the office of the department(s) involved, advertising in a newspaper with local and/or regional circulation, or such other means as the Purchasing Agent determines is appropriate at least ten calendar days prior to the time set for public opening of sealed bids. While no preference shall be made for local vendors, every attempt shall be made to ensure that appropriate local vendors are notified of applicable advertised bids.
3. Bidders shall submit sealed bids to the Town prior to the date and time specified for the opening of bids. Late bids shall not be accepted and no bidder shall be permitted to withdraw a bid after the deadline for bids specified in the invitation to bidders.
4. Bids shall be publicly opened at the time and place specified in the invitation to bid. A contract shall be awarded to the responsible bidder whose bid conforms to the invitation to bid and will be the most advantageous to the Town. Award may be delayed pending verification of a bidder's credentials and references or review of the bids received.
5. Nothing in this section shall preclude the Town from rejecting any and all bids as provided in Section 9 of this Policy.

Section 8. Procedure for Informal Bidding.

1. The Department Head or the Purchasing Agent shall solicit competitive bids ~~either by written notice sent to approved vendors, and by posting on appropriate Town bulletin boards and the purchasing page of the Town's website or by advertisement in a newspaper(s) having at least local circulation.~~ The notice shall contain specifications as to quantity and quality required, the availability of bid packages or other details, and the date and time when bids must be received. If bids will be opened publicly and read, the notice shall also specify the date, time and location where they will be opened and read. Any solicitation or advertisement shall note that all purchases are subject to the conditions set forth in Section 9.
2. All bids shall quote delivered prices, terms of payment and cash discounts if applicable. If oral quotations are accepted, the Purchasing Agent or the Department Head shall make a record of the

quotation. The person from whom the quote is received, and the date and time the quote is received by the Town shall be recorded.

3. The Purchasing Agent or Department Head shall attempt to solicit at least three approved vendors on every purchase subject to informal bidding procedures. If less than three bids are received, or if in the opinion of the Department Head or the Purchasing Agent no bids are acceptable, rebidding may be required.

4. In all cases the bid most advantageous to the Town, price, quality, and other factors being considered, shall be awarded.

Section 9. Administrative Procedures and Conditions

Competitive Bids shall be administered by the Purchasing Agent and shall be subject to the following conditions:

1. The Department Head or Purchasing Agent shall keep a record of all bids submitted and such records shall be opened to proper inspection by any person.

2. All bidders shall be notified in writing of bid results within ten days after the bids are opened.

3. Tie bids shall be resolved by the Town Manager except that if the price exceeds \$25,000.00, the Town Council shall resolve the tie.

4. All bids shall be awarded on the basis of the bid most advantageous to the Town.

5. The Town reserves the right to accept or reject any or all bids, to investigate the qualifications of any bidder, and to waive or not waive any and all informalities in the bids when making an award.

6. If an award is made to other than the low bidder, the Purchasing Agent shall file a full and complete statement of the reasons for determining that the low bid was not the bid most advantageous to the Town, together with all papers relating the bidding process.

7. The Town retain custody of all bids submitted to the Town pursuant to this policy.

Section 10. Duties of Department Heads

1. Determine acceptable quality of commodities and supplies to be purchased.

~~2. Cooperate with the Purchasing Agent in establishing lists of approved specifications and vendors.~~

3. Share knowledge of special factors which will implement a policy designed to enable the Town to minimize cost and maximize quality.

~~4. Supply the Purchasing Agent with a list of estimated annual requirements of frequently used supplies, thereby fostering cooperative purchasing.~~

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 device as defined in this section, and; [amended 07/16/14]
 - (2) Any vehicle defined as a “trailer, semi-trailer or tow dolly” according to the Maine Motor Vehicle Statutes Title 29-A. [amended 07/16/14]

Park

- (b) The word “park” shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

Standing

- (c) The word “standing” shall mean any stopping of a vehicle, whether occupied or not.

Street, Way or Road

- (d) The words “street, way or road” shall mean the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of traffic.

Roadway

- (e) The word “roadway” shall mean that portion of a street, way or road, designed or ordinarily used for vehicular traffic.

Person

- (f) The word “person” shall mean every natural person, firm, co-partnership, association or corporation.

All Night Parking

- (g) The words “all night parking” shall mean the parking of a vehicle between the hours of 2:00 A.M. and 6:00 A.M. of any day except physicians or other persons on bona fide emergency calls. (Amended 06/21/2006)

Truck

- (h) The word “truck” shall mean any motor vehicle used for the conveyance of person and/or property having a gross vehicle weight of 26,001 pounds or more. (Effective 10/1/86) [Amended 07/16/14].

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) Unless otherwise restricted in this ordinance, No all-night parking upon any street roadway, except within designated parking spaces, (year-round) between the hours of 2 A.M. and 6 A.M.
- (2) Upon the Pleasant Hill Road from U.S. Route One to the Rigby Road.
- (3) Upon the westerly side of the Willowdale Road from U.S. Route One to the end of the Town right-of-way. (Parking permitted on the easterly side).
- (4) Upon the Black Point Road from the Old Neck Road to Kirkwood Road. No parking on the Black Point Road from Ferry Road to the end of the Public Way at Prouts Neck. [Amended 11/16/94]

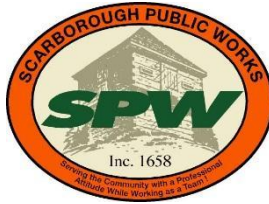
- (5) Upon the Broadturn Road within 50' of U.S. Route One to end.
- (6) Upon the Pine Point Road (Route #9) within 50' of U.S. Route One.
- (7) Upon U.S. Route One from the South Portland line to the Saco line (both sides).
- (8) No parking on the northerly side of Southgate Road for a distance of not less than 200 feet from the intersection of U.S. Route One. No parking on the southerly side of Southgate Road for a distance of not less than 60 feet from the intersection of U.S. Route One.
- (9) Upon Pillsbury Drive (entire length).
- (10) East Grand Avenue (east side) one parking space in front of 19 East Grand Avenue formerly; Colony Motel, no parking. [Adopted 10/6/76]
- (11) Avenue One Extension (entire length – from King Street to the ocean). [Amended 6/7/89] [Amended 07/16/14]
- (12) Upon Douglas Circle (from Pine Point Road to a point fifty feet beyond the start of the circle) both sides of the road. [Amended 08/01/90]
- (13) On Elmwood Avenue from Greenacres Lane to the Dead End by Sewer Pumping Station. [Amended 08/01/90]
- (14) Eastern Road (on the southerly side only, from Route 207 to the east, entire length. [Amended August 1, 1990]
- (15) Orchard Street (upon the southerly side only) from U.S. Route 1 to Carriage Way. [Amended 08/18/04]
- (16) Upon the southerly side (ocean side) the entire length of Eagles Nest Drive. [Amended 09/07/04]
- (17) No parking along Bayview Avenue from Houghton Street to Pearl Street. (Adopted J01/20/10)
- (18) No parking on north side of Gorham Road from 183 Gorham Road to the intersection of Gorham Road and Spring Street at number 209 and on the south side of Gorham Road from the westerly end of the stockade fence fronting on 200 Gorham Road, easterly for a distance of 50 yards. [amended 12/21/17]
- (19) Within 50 feet of the southwest most corner of the entrance to or within 50 feet of the northeast most corner of the exit to the Scarborough Beach State Park, located at 418 Black Point Road. [adopted 08/15/18]

II. HIGGINS BEACH.[amended 01/19/2011][amended02/16/2011]

- a. Upon any of the public streets or highways within the area known as Higgins Beach. For the purpose of this Ordinance the Higgins Beach area is defined as including the area bounded on the South by the Atlantic Ocean, on the East by the Spurwink River, on the West by the property now or formerly of one Edward Piper and on the North by the Spurwink Road (Route #77).

Parking shall be allowed on the easterly side of Acorn Lane from September 16^h to April 30th.

- b. Exempt from paragraph (a) of this subsection are the following:



Scarborough Public Works Department

MEMO

To: Ordinance Review Committee

From: Jami Fitch, Sustainability Coordinator

Date: September 26, 2018

Re: Revisions to Ch. 901 - Garbage and Recycling Collection and Disposal Ordinance

Scarborough Public Works proposes minor revisions to the Garbage and Recycling Collection and Disposal Ordinance (Ch. 901) to add clarity and specificity relating to putting debris in Town roads and rights-of-way and the timely removal of garbage carts from roadsides. These revisions are needed because some residents consistently leave debris and garbage carts in the Town's rights of way for extended periods. This practice is unsightly and poses serious problems during plowing season.

A summary of the proposed revisions is provided below and noted in the attached ordinance document.

Section 1.02 Definitions (page 3)

Definition of yard waste was updated to include earthen fill, soil, and sand.

Section 1.10 Carts required; hours for placement and removal; replacement or additional carts; overflow waste (page 5)

Updated to require the removal of garbage carts from the Town's rights of way on the day of collection.

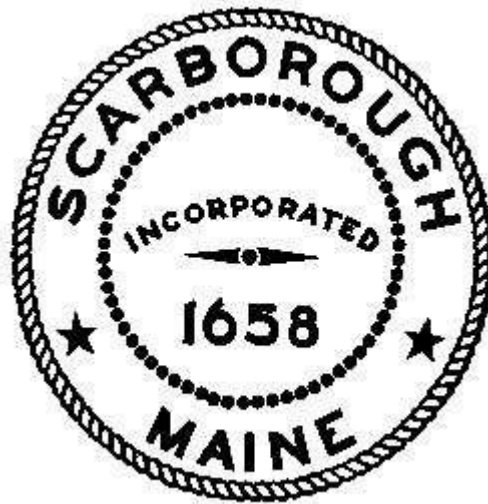
Section 1.12 Unlawful to put any yard waste or wood waste into streets of Town rights of way (page 5)

Updated to specify that neither yard waste nor wood waste shall be put in the Town's rights of way.

Section 3.01 Accumulation of garbage prohibited (page 6)

Updated to require the removal of garbage carts from the Town's rights of way on the day of collection.

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



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

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ARTICLE I. GENERAL PROVISIONS

Section 1.01 PURPOSE

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

Section 1.02 DEFINITIONS

1. CART:

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

2. CONSTRUCTION OR DEMOLITION DEBRIS:

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

3. CONTAINERS:

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

4. DISPOSAL:

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

5. ECOMAINE DISPOSAL FACILITY

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

6. GARBAGE:

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

7. HAZARDOUS WASTE:

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

8. OVERFLOW:

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

9. PERSON:

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

10. RECYCLABLE MATERIALS or RECYCLABLES:

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

11. RECYCLING VEHICLE:

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

12. RESIDENTIAL USES:

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

13. SOLID WASTE:

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

14. SOLID WASTE DISPOSAL FACILITY or DISPOSAL FACILITY:

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

15. TOWN:

“Town” means the Town of Scarborough, Maine.

16. UNIVERSAL WASTE:

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

17. WOOD WASTES:

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

18. YARD WASTE:

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

Section 1.03 INSPECTION

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

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

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

Section 1.05 AUTHORITY TO PROVIDE FOR COLLECTIONS: WHERE COLLECTIONS PROHIBITED

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

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

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

Section 1.07 RESPONSIBILITY TO MAINTAIN PREMISES IN SANITARY CONDITION

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

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

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

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

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

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

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

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

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

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

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

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

Section 1.11 ASHES

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

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

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

ARTICLE II. MANDATORY RECYCLING PROGRAM

Section 2.01 PURPOSE

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

Section 2.02 APPLICABILITY; SEPARATION OF RECYCLABLE MATERIALS REQUIRED

- 1) This article shall apply to all persons receiving the Town solid waste collection services.
- 2) All recyclable materials generated within the Town shall henceforth be separated from the daily waste stream and, for residential uses, placed at the curb in accordance with the provisions of this article. The Town may provide curbside collection of recyclables for all

residential uses located on a public road. Nonresidential buildings, i.e., businesses, offices, retail, hotels, apartments, mobile home parks, motels and bed-and-breakfast establishments, shall not receive curbside collection services from the Town. Buildings that contain both business and residential uses shall be classified by the majority use within the building, based on square footage.

Section 2.03 PROPERTY RIGHTS

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

Section 2.04 COLLECTION PROCEDURES

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

Section 2.05 CONTRACTED SERVICES

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

ARTICLE III. COLLECTION AND REMOVAL

Section 3.01 ACCUMULATION OF GARBAGE PROHIBITED

- 1) Each household or business is responsible for preventing accumulation of garbage. On the designated day of pickup, all residential garbage must be set out in a Town designated cart for garbage collection. Each household unit should contain its waste in carts as described in § 1.10. Pursuant to § 1.10, each cart shall be placed as instructed by the garbage collector along the street, sidewalk or roadside for automated collection. Town-designated garbage carts may be set out for collection the evening or day before, and ~~should~~ shall be removed from the street or roadside after-on the day of collection. No person shall cause or permit any accumulation of garbage which, in the opinion of the Health Officer or Health Inspector, is unsanitary or hazardous to the health of the public or, in the judgment of the Fire Chief of the Fire Department, constitutes a fire hazard.
- 2) Dumping prohibited. No person shall throw or place any garbage; recyclable materials, including paper, glass, nails, wire, bottles, and cans; yard waste, including brush, branches, and earthen fill; construction or demolition debris; garbage carts; litter or other debris in any ditch, stream, river or retention basin that regularly or periodically carries

surface water runoff. Any person who deposits any of the above shall remove it or cause it to be removed immediately. The Code Enforcement Officer, the Public Works Director or any one else designated by either shall be responsible for the enforcement of this provision.

Section 3.02 PICKUP SCHEDULE

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

Section 3.03 PICKUP PROCEDURE

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

Section 3.04 ABUSE OF CARTS

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

Section 3.05 STOLEN CARTS

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

Section 3.06 TOWN EQUIPMENT ON PRIVATE PROPERTY

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

Section 3.07 NOTICE TO REMOVE WASTE

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

ARTICLE IV. SOLID WASTE DISPOSAL

Section 4.01 Designation

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

Section 4.02 Restrictions

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

ARTICLE V. GARBAGE HAULING LICENSE

Section 5.01 LICENSE REQUIRED

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

Section 5.02 LICENSE FEES

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

Section 5.03 APPLICATION FOR LICENSE

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

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

Section 5.04 TERM OF LICENSE AND TIME FOR APPLICATION

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

Section 5.05 EXEMPTIONS

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

Section 5.06 REGULATION OF LICENSEES

Any person licensed under this Ordinance shall:

- a. operate all vehicles lawfully and safely and utilize only holders of current Maine drivers' licenses to operate such vehicles;
- b. not deliver loads containing both commercial and residential solid waste to **ecomaine**;
- c. cover and secure all loads; and
- d. comply with any agreement between the Town and **ecomaine** for disposal of solid waste.

Section 5.07 VIOLATIONS

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

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

ARTICLE VI. PENALTIES

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

ARTICLE VII. SEPARABILITY

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

ARTICLE VIII. REPEAL OF PRIOR ORDINANCE

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

**SHELLFISH CONSERVATION COMMISSION
ORDINANCE SUB COMMITTEE**

Presented August 14th 2018

**PROPOSED CHANGES TO
CHAPTER 1002 – SHELLFISH CONSERVATION ORDINANCE**

Second Recommendation:

D. Conservation Activities: [Adopted 06-03-15]

The Town encourages all shellfish diggers to protect and enhance the resource by participating in conservation activities such as seeding clam beds, participating in shellfish surveys, and participating in other approved resource management activities. All Commercial License holders 18 years of age or older may be required to participate in shellfish seeding as deemed necessary by the Shellfish Conservation Committee. Seeding or other approved conservation activities also may be undertaken on a volunteer basis. Commercial License Holders who complete ~~the specified number of hours of conservation activities which may include required shellfish seeding hours and volunteer hours for~~ a total of twelve (12) hours of conservation activities, four (4) of which will be required as conservation surveys, will be eligible for priority license renewal pursuant to Section 5.E.4.(a) of this Ordinance.

The Shellfish Conservation Committee will approve all accepted conservation activities by a majority vote. The names and number of hours completed on an accepted conservation activity will be recorded in writing by the Shellfish Conservation Officer and submitted to the Shellfish Committee on a monthly basis for their records.

It shall be the sole responsibility of the Commercial License holder to contact the Shellfish Committee Members or the Shellfish Officer to determine the conservation work available to participate in. The Shellfish Committee Chair, with consent of the majority membership of the Committee, may designate special conservation work during any period of State closure of the Town of Scarborough shellfish beds. The Chair may poll the Committee by telephone, email, fax or in person for the purposes of this section. ~~Each Commercial License holder is encouraged to contribute at least half of their voluntary conservation activity in the form of low tide work. All crab trapping is considered low tide work.~~ The conservation year will run from May 1st to November 30th. School conservation activities have a deadline of December 31st and are limited to a maximum of three (3) hours per project and six (6) hours total allowed.

Proposed Edits to Chapter 1002 of the Scarborough Shellfish Ordinance

Section 5(E)(4)(b):

(b) Non-Renewal Resident Commercial and Non-Resident Non-Reciprocating Commercial Licenses.

(i) On the third and fourth subsequent business days, the Clerk shall accept applications for any remaining resident commercial shellfish licenses and non-resident non-reciprocating commercial shellfish licenses. Applicants must apply in person and be 18 years of age at the time of application, at the office of the Town Clerk. The Clerk shall not issue any licenses during the third and fourth business days, but shall inform each applicant that licenses will be awarded on the basis of a lottery and advise each applicant of the time and place where the lottery will be held. On the fifth subsequent business day, the Clerk shall conduct a lottery for the issuance of the remaining resident commercial shellfish licenses and a lottery for the issuance of non-resident non-reciprocating commercial shellfish licenses. In order to be entered into the lottery, an applicant must be present and must tender the application fee at the time of the lottery drawing. The Clerk shall award the remaining resident commercial shellfish licenses by drawing the names of qualified applicants at random and then shall award the nonresident non-reciprocating commercial shellfish licenses by drawing the names of qualified applicants at random.

(ii) If, after June 1 annually, any allocated licenses remain unissued, on the first consecutive Monday, Tuesday and Wednesday in June applications shall be taken and placed in a lottery pool. Applicants must apply in person and be 18 years of age at the time of application. On the following Friday, applicants' names shall be drawn at random by the Town Clerk. Physical presence and full payment are required at the time of drawing, and all applicants must meet eligibility requirements for the license category that they apply for. The lottery shall be conducted in the same fashion as the lottery under section 5(E)(4)(b)(i).

(iii) Lottery Bonus Points Shall be awarded to applicants who have successfully applied in previous years as follows:

Applicants who apply to multiple lotteries in a row without winning a permit can earn bonus points (extra chances in the drawing). Points are non-transferrable and are accumulated as follows:

0-5 lotteries: 1 point/lottery.

6-10 lotteries: 2 points/ lottery.

11-15 lotteries: 3 points/ lottery.

16+ lotteries: 10 points/ lottery.

Bonus points are tracked by the Town Clerk using your name and date of birth. To receive bonus points, be sure to enter your correct name and date of birth on your application. You also need to indicate that you applied for the lottery the last year it was held. The Town Clerk upon receiving your application will review your record and provide applicants with the number of bonus points which will be entered in the lottery.

You will forfeit your points if you:

- Fail to apply for bonus points in any one (1) lottery.
- Obtain a Municipal Residential and/or non-residential Commercial Shellfish License through the lottery.
- Are selected for a Municipal Residential and/or non-residential Commercial Shellfish License but decline it, and/or fail to meet the criteria for legally possessing it.
- Are found to have not legally applied in the current year.
- Enter the incorrect name or date of birth on your application or fail to indicate that you applied for a permit last year.