

AGENDA
ORDINANCE COMMITTEE

Thursday, August 3, 2017
4:00 p.m.
Council Chamber A

- Item 1.** Call to order.
- Item 2.** Attendance.
- Item 3.** Approval of Minutes: June 09, 2017.
- Item 4.** Discussion on Marijuana
- Item 5.** Discussion on Beach Pass Fees.
- Item 6.** Discussion on Sign Regulation.
- Item 7.** Discussion on defacing trash/recycling containers.
- Item 8.** Identification of next agenda items.
- Item 9.** Adjournment.

Summary of the Maine Medical Use of Marijuana Law

The statute governing medical use of marijuana can be found below.

<http://www.mainelegislature.org/legis/statutes/22/title22sec2421.html>

An easier to read and understand version of the statutes was released by the Maine Department of Health and Human Services.

From DHHS: Rules Governing the Maine Use of Medical Marijuana Program

<http://www.maine.gov/dhhs/mecdc/public-health-systems/mmm/documents/MMMP-Rules-144c122.pdf>

Summary of rules that affect growers in residential neighborhoods:

- The State law does not regulate where medical marijuana patients and caregivers can cultivate, serve, or use the medical marijuana, as long as it is not in public. This limits municipalities in how they may be able to regulate caregivers growing on a primary residence. Caregivers are not seen as businesses under the state statute.
- All cultivation of marijuana must take place in an enclosed locked facility or an enclosed outdoor area on property that is owned or under the control of the qualifying patient, caregiver or registered dispensary. The State defines enclosed, locked facility to mean a closet, room, building, greenhouse, or other enclosed area that is equipped with locks or other security devices that permit access only by the individual authorized to cultivate the marijuana.
- The State protects licensed growers and qualifying patients from seizure or retention of marijuana: “Except when necessary for an ongoing criminal or civil investigation, a law enforcement officer may not seize marijuana that is in the possession of a qualifying patient, primary caregiver, or registered dispensary as authorized by [State Statute] rules.”
- An enclosed outdoor area must have a privacy fence at least 6 feet high that obscures the view of the marijuana to discourage theft and unauthorized intrusion.
- Saco has a Medical Marijuana Caregiver’s Ordinance that regulates caregivers that grow on sites that are not their primary residence. The City of Saco was advised that State law prohibits zoning regulation of caregivers that are growing at their primary residence.
- News articles relating to municipal challenges surrounding zoning and medical marijuana:
 - [Fairfield seeks balance between medical marijuana grower, unhappy neighbors](#)
 - [Maine municipalities struggle to put brakes on marijuana growth](#)
 - [Saco enacts limits on cultivation of medical marijuana](#)

Medical Marijuana, Continued

I spoke with Brianna from MMA legal to clarify the Town's options regarding regulation of medical marijuana caregivers. She confirmed what I outlined in the first memo with a few additional pieces of information:

- The MMA does not recommend regulation of residential caregivers and growers. This is because in the statutes pertaining to medical marijuana the legislature made specific mention of a municipality's right to regulate dispensaries but did not specifically mention anything about caregivers.
- Some attorneys, not from MMA, have advised that municipalities can regulate caregivers as a home occupation. MMA does not agree with this for the reason above.
- The Town of York attempted to regulate caregivers through a business license process. They are being sued by a group of eight caregivers on the grounds that the State provides for confidentiality for caregivers in the same way that any medical patient would be granted anonymity. An article discussing this case can be found here: <http://www.pressherald.com/2015/04/30/medical-marijuana-caregivers-challenge-ordinance-in-york/>. My understanding from MMA legal was that this case is on hold until the 2018 legislative session is complete.
- If Scarborough chose to try to regulate caregivers at residential primary homes we would be the first in the state to do so.
- [Emergency legislation](http://www.pressherald.com/2017/06/29/emergency-legislation-closing-medical-marijuana-loop-hole-signed-into-law/) signed into law at the end of June does now allow: "Notwithstanding any provision of this chapter or any other provision of law to the contrary, a municipality may adopt and enforce an ordinance that prohibits the location of a primary caregiver, or that restricts the number of primary caregivers, within 500 feet of the property line of a preexisting public or private school". This law is set to sunset in July 2018 but there is thought that the next legislative session will make it permanent. An article discussing this bill can be found here: <http://www.pressherald.com/2017/06/29/emergency-legislation-closing-medical-marijuana-loop-hole-signed-into-law/>
- MMA does anticipate a comprehensive overhaul of medical marijuana regulations and clearer guidelines granting municipal authority to regulate providers and growers during the next legislative session. While nothing is guaranteed, it may be wise to hold off on any attempts to regulate the location or activity of caregivers working from their primary residence until after this time.
- The Ordinance Committee may wish to consider expanding the current Good Neighbor ordinance to include language regarding odor. While certainly more challenging to make objective than noise or lighting, there may be a way to create expectations for reasonable levels of odor.

Chapter 1006 - Ferry Beach/Hurd Park Fees Season Passes	<u>Fee</u>
Resident And/Or Taxpayer Season Pass - (includes Ferry Beach, Higgins Beach and Hurd Park) (amended 05/05/04; 05/18/11)(amended 05/02/2012) (amended 05/07/2014)	\$40.00
Resident - Additional Vehicle Registered to the Same Address	\$5.00
Non-Resident Season Beach Pass - (includes Ferry Beach Higgins Beach and Hurd Park) (amended 05/05/04) (amended 05/02/2012) (amended 05/07/2014)	\$75.00
Higgins Beach – Metered parking spaces on Bayview Avenue Fee [adopted 05/17/17]	\$1.00 Hourly
Resident Commercial Fisherman Season Beach Pass - (Ferry Beach <u>only</u> , <i>must</i> show State Commercial Fisherman License)	FREE
Resident Senior Citizen Season Pass - (includes both Ferry Beach, Higgins Beach and Hurd Park)	FREE
Resident Veteran Lifetime Season Pass – Applications must be filed and applicant must meet the following criteria: must be a resident of the Town of Scarborough and must have received an honorable discharge or general discharge under honorable conditions [copy of DD214 must accompany application]. This pass will not expire and is valid for the lifetime of the holder. (Please note that any Scarborough Veteran age 60 years or older will not be issued a Resident Veteran Season Pass as they are automatically entitled to a free Resident Senior Citizen Season Pass.) (Adopted 05/19/2010)	FREE
<u>DAILY PARKING RATES (WITHOUT PASS)</u>	
Daily Parking: Ferry Beach, Higgins Beach And Hurd Park (amended 05/05/04) [amended 05/02/2012]	\$10.00
End of Day Parking Fee (e.g. Passenger Vehicles, Motor Bikes) – 3 PM to 5 PM (amended 05/03/05)	\$5.00
Larger Vehicle Daily Parking Fee - (R.V.'s, Campers and Buses) (amended 05/05/04)	\$35.00
<u>BOAT LAUNCHING FEE</u>	
Launching from any town facility, includes Ferry Beach Boat Launch and Co-op Boat Launch (Note – Ferry Beach – parking is not included)	
Resident – Daily Boat Launching Fee (amended 05/05/04)	\$10.00
Resident – Seasonal Boat Launching Fee	\$25.00
Resident – Additional Boat Launching Fee Registered to the Same Address [Amended 05/18/16]	\$5.00
Resident Commercial Fisherman Seasonal Boat Launch Pass	Free
Non-Resident – Daily Boat Launching Fee (amended 05/05/04)	\$20.00
Non-Resident – Seasonal Boat Launching Fee	\$50.00

**AMENDMENT TO CHAPTER 405 THE ZONING ORDINANCE
REGARDING SIGN REGULATIONS**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Section XII. Sign Regulations, of the Zoning Ordinance of the Town of Scarborough, Maine is amended as follows:

Amend Section XII of Sign Regulations by adding the underlined text as shown below.

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013]

A. SIGNS – PURPOSE AND PERMITTING

1. Purpose.

The purpose of regulating signs is to promote and protect the public health, welfare and safety by regulating existing and proposed exterior advertising and signage; to allow for attractive, legible signs to serve the needs of individual businesses, properties, and general destinations within the community; to protect property values, enhance and protect the physical appearance of the community, preserve its scenic and natural beauty; to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public right of way, provide more open space and curb the deterioration of natural beauty and community environment.

2. Sign Permits.

After the effective date of this Ordinance and except as otherwise herein provided, no person shall erect, make structural alterations to or move any signs without first applying for and obtaining from the Code Enforcement Officer a sign permit. Applications shall be on forms prescribed and provided by the Code Enforcement Officer setting forth such information as may be required by the Code Enforcement Officer for a complete understanding of the proposed work and shall be accompanied by the required fee as specified in the Schedule of License, Permit and Application Fees established by order of the Town Council.

~~For Temporary Grand Opening Signs and Temporary Going Out of Business Signs under subsection J, the fee will include a refundable deposit to be forfeited to the Town if the applicant fails to remove the sign or banner upon expiration of the permit.~~ Except as otherwise provided in subsection J., temporary signs must conform to all provisions of this Ordinance, but shall not be counted in calculating the maximum number of signs allowed on a lot or the maximum gross display area allowed on a wall. Permits are not required for: [Amended 04/6/94] [09/06/95] [05/01/96][12/06/02]

Temporary signs ~~giving notice under Section XII(J).(1)~~

~~Temporary real estate signs under Section XII(J).(2.)~~

~~Temporary development or construction site signs under Section XII(J.3.)~~

~~Off premises farm stand signs under Section XII(J).(5).~~

Bulletin boards and similar signs under Section XII(B.)(4).

Directional signs under Section XII(B.)(12)

Doorway signs under Section XII(B.13.)

Banners under Section XII(B.)(21.)

3. Application for Sign Permits.

Permits for permanent signs shall only: be granted to the owner(s) or the agent of the building or the property upon which the sign(s) will be installed. See Section XII(J.) for application requirements for temporary signs.

4. Exceptions.

For the purpose of this Ordinance, the term "sign" does not include banners attached to or printed on and signs located under the cover of a tent or tarp allowed under Section IX(F); signs erected and maintained for public safety and welfare or pursuant to and in discharge of any governmental function, or required by law, ordinance or governmental regulations; "name signs" not exceeding one (1) square foot in area identifying occupants of the premises where such sign is located; or the Town of Scarborough public banner, controlled by the Town of Scarborough and placed from time-to-time across Gorham Road (Route 114) near the Scarborough High School driveway to provide public notice of events or functions authorized by the Town and occurring at municipal facilities. ~~or of events or functions conducted by churches or civic organizations, limited to one event or function per church or organization per year.~~ (10/21/92) (4/6/94) (5/01/96)

B. GENERAL SIGN STANDARDS

The following provisions relating to signs are applicable in all districts.

1. Maintenance and Conformance of Signs. No sign shall be erected, maintained, used or altered except in conformity with the provisions herein. The sign must be kept clean, neatly painted and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings. The sign must be maintained at all times in safe condition so as not to be detrimental to the public health or safety or detrimental to physical appearance or scenic or natural beauty of the community, or constitute a distraction or obstruction that may contribute to traffic accidents.. (4/6/94)
2. General Safety Standards for Signs. No sign, whether new or existing shall be permitted in a location that causes a sight, traffic, health or welfare hazard, or results in a nuisance due to illumination, placement, display, or manner of construction.
3. ~~Signs identifying the name, address and profession of a permitted home occupation or a lawfully existing nonconforming home occupation are allowed provided such sign does~~

When a commercial sign is authorized on a residential building it must not exceed six (6) square feet in area and ~~is~~ be non-illuminated.

4. A bulletin board, reader board or similar sign in connection with any ~~church, museum, library, school~~ commercial activity or similar public structure is allowed. [4/6/94]
5. Except as provided in Section XII(J.) concerning ~~certain~~ temporary signs and Section XII.(I.) off-premise official business directional signs, no sign shall project over or be located within a public right of way. [4/6/94]
6. Animated signs, animated displays or flashing signs are prohibited, with the exception of time and temperature signs as allowed under Section XII.(C.). No sign or part of a sign shall consist of a balloon or other inflatable component. [4/6/94]
7. Internally-lit signs shall have an opaque or dark background to minimize glare and lighting impacts.
8. A string of lights shall not be used for the purpose of advertising or attracting attention unless as an integral part of a permitted sign. This paragraph does not prohibit temporary decoration of buildings or structures during holiday seasons when such decoration is customary. [4/6/94]
9. Motor Vehicle Signs. Signs on motor vehicles are not subject to the regulations of this Section XII unless they have the effect of circumventing restrictions or limitations imposed by this Section. A sign on a motor vehicle will be presumed to have the effect of circumventing the restrictions or limitations of this Section XII if the motor vehicle is parked or stored in a location visible from a public way and one or more of the following circumstances exists:
 - a. the motor vehicle is unregistered;
 - b. the motor vehicle is uninspected;
 - c. the sign is larger in any dimension than or extends beyond any surface of the motor vehicle to which it is attached;
 - d. the motor vehicle is parked or stored continuously in the same locations;
 - e. the motor vehicle is parked or stored in an area not designed, designated or commonly used for parking;
 - f. the motor vehicle is regularly parked or stored in a front yard, as defined in this ordinance, or in the public right-of-way adjacent to the front yard when there is parking available in a side or rear yard; or,
 - g. the motor vehicle is regularly parked or stored in a location where a sign would not be permitted under this ordinance.

The presumption that a motor vehicle has the effect of circumventing this Section CII may be rebutted by evidence that the motor vehicle is parked or stored in a particular location for reasonable business or personal purposes not related to advertising, identifying,

displaying, directing, or attracting attention to an object, person, institution, organization, business, product, service, event or location.

10. Decoration and Ornamentation. Decoration or ornamentation of buildings, structures or other features of a site, including wall murals, are not subject to the regulations of this Section XII unless they have the effect of circumventing the restrictions or limitations imposed by this Section. Decoration or ornamentation will be presumed to have the effect of circumventing the restrictions or limitations of this Section XII if one or more of the following circumstances exists:

- a. The decoration or ornamentation depicts any product or service offered to customers of a business located on the property (for example, painting an ice cream cone on the wall of an ice cream stand);
- b. The decoration or ornamentation depicts some component or aspect of the name of a business located on the property, (for example, displaying a statue of a dolphin on a restaurant named "The Dolphin"); or
- c. The decoration or ornamentation imitates or replicates any logo or symbol used to advertise or identify a business located on the property.

The presumption that any decoration or ornamentation has the effect of circumventing this Section XII may be rebutted by evidence that the decoration or ornamentation exists for some reasonable business or personal purpose not related to advertising, identifying or attracting attention to the products or services offered on the premises. Nothing in this paragraph prevents temporary decoration of buildings or structures or temporary displays on a site during holiday seasons when such decoration and display are customary.

11. Any sign which no longer advertises a bonafide business conducted, product sold, activity or campaign being conducted, or public notice, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or premises upon which such sign may be found within ten (10) days after written or personal notification from the Code Enforcement Officer, except in the case of temporary signs which shall be removed in accordance with Section XII(J). [4/6/94]

12. Directional signs having a display area that does not exceed three (3) square feet, and does not extend higher than seven (7) feet above ground level, are permitted with permission of the Code Enforcement Officer.

13. Identification signs indicating the location of, or direction to a separate function performed within one portion of that building may be erected over or by the doorway or entrance to such portion of the building. The sign area shall not exceed ten percent (10%) of the area of such doorway or entrance to such portion of the building.

14. A sign with a double signboard or display area shall be construed to be one sign for the purpose of this ordinance.

15. Roof signs are not allowed.

16. Minimum lot line setbacks for all signs shall be fifteen (15) feet unless otherwise specified in Section XII.E.

17. Identification signs identifying the name of a ~~church, residential subdivision, condominium, apartment, multi-family housing project, residential neighborhood, or a commercial subdivision which has a place name different from the names of any of the businesses within the subdivision,~~ commercial activity or similar public activity may be permitted if approved by the Planning Board. Such signs may be illuminated by shielded lights and located as approved by the Planning Board, and shall be maintained by an approved owner or association. The Planning Board may waive setback requirements for an identification sign when the Board finds that locating the sign in compliance with setback requirements would be impractical or ineffective. Signs allowed under this paragraph shall not be counted in calculating the maximum number of signs allowable on a lot or in applying requirements for separation between signs. [05/01/96]
18. Graphics and pictorial artwork are allowed on signs and shall be considered a part of the gross display area for the purpose of determining the size of a sign. [4/6/94]
19. An awning which includes words, letters, figures, designs, symbols, graphics or pictorial art shall constitute a wall sign, including the calculation of total gross display area. [4/6/94]
20. Any premises which utilizes an identification or advertising sign must display its street numbers on at least one of the permanent signs permitted under this Section XII in a location visible from the nearest street. Numbers shall be placed on the sign face or on a panel parallel to the sign face and shall be as nearly perpendicular to the sideline of the street as possible. If it is not physically feasible to place the street numbers on the sign face, the numbers may be placed on the end of the sign parallel to the sideline of the street as long as they are of contrasting color and easily visible from the roadway. The characters of the street number shall be at least 11 inches high. The street number shall not be counted as part of the gross display area of the sign unless characters larger than 11 inches high are used for the street number and/or the street name, in which case the area which exceeds that which would be covered using 11 inch characters shall be counted as part of the gross display area. The street number must be displayed on all permanent signs erected, repaired, altered (including change in message) or replaced after April 7, 1994 unless another permanent sign on the same premises already displays the street address in compliance with this paragraph. [4/6/94] [4/5/95] [05/01/96]
21. A banner, limited to a maximum of twenty five (25) characters (numbers and letters), the dimensions of which do not exceed twenty-four square feet may be displayed by any ~~retail business or service establishment, personal service establishment, restaurant establishment, business service and business office establishment, financial, insurance, or real estate establishment, health club, hotel or motel, or a fully enclosed place of assembly, amusement, culture and government (except home occupations)~~ commercial or similar public entity during the hours such business is open for customers and shall not be counted toward calculating the maximum number of signs or the maximum gross display area of signs on the property. Under this subsection, a business commercial or similar public entity may display ~~both one (1) "open" banner and one (1) banner~~ limited to a maximum of twenty-five (25) characters during the hours such business is open for customers. This subparagraph does not prohibit or restrict displays of the United States Flag or the State of Maine Flag. [4/6/94] [Amended 08/19/09]

22. No lighted sign, including a nonconforming sign replaced or relocated pursuant to Section XII.K. shall be located within eight feet of the drip lines of any overhead utility wires and their appurtenances. This requirement is not subject to variance or waiver. [4/6/94] [4/5/95] [5/01/96]
23. ~~Marquees are allowed for theatres and movie houses and on buildings or portions of buildings that are used as theatres or movie houses.~~ Marquees may not be animated signs or have animated sections.
24. One or more ~~menu boards~~ freestanding signs installed at the points where customers place their orders at a drive-through ~~restaurant~~ commercial establishment, which does not exceed 32 square feet of gross display area per sign and the location of which has been approved by the Planning Board under the Scarborough Site Plan Review Ordinance, shall not be counted as a sign in applying the dimensional requirements of Sections XII(D), XII(E) and XII(F). [Amended 08/17/05]
25. Illuminated signs are prohibited in all residential districts, except as allowed by Section XII(B)(17). [7/17/91]

In the Residence and Professional Office District RPO, no illuminated sign may be located on a lot abutting or across the street from a lot containing a dwelling until the lighting for the sign is reviewed and approved by the Planning Board, or Town Planner at the direction of the Planning Board, applying the standards of the Scarborough Site Plan Review Ordinance. [4/6/94]

26. Vision triangle. No sign shall be located in an area that conflicts with clear sight distance for oncoming traffic. Sign permits will be issued by the Code Enforcement Officer if the applicant provides supporting evidence that the proposed sign will be located at least 15 feet from the existing edge of pavement. If an applicant desires a location less than 15 feet from the edge of pavement then they must provide certifiable evidence from a licensed Professional Engineer who specializes in Traffic Engineering that the proposed sign location will not obstruct vehicular sight distance within the boundaries of following described vision triangle:

a. The vision triangle is determined by measuring from the intersection of the edge of the major street and the minor street or driveway along the major street the appropriate distance as determined based upon the posted speed limit (see table) and a distance of 15 feet along the minor street/driveway. and then connecting: the two points with a straight line.

b. Sight distance will be measured in accordance with the current Maine DOT standards and procedures.

c. Major Street Speed Limit Measurement Distances

25 mph	=	250 feet
35 mph	=	350 feet
40 mph	=	400 feet

45 mph	=	450 feet
50 mph	=	500 feet
55 mph	=	550 feet

27. ~~Fuel price signs are permitted to be incorporated into freestanding signs for gasoline filling stations. Fuel prices~~ Free standing signs with changeable messages may be advertised through using manual, electronic or mechanical means ~~and~~ are limited to 12" in lettering or numbering height. If ~~fuel prices are advertised the changeable messages are~~ electronically they are permitted to use industry standards and colors and are not limited to the requirements under Section XII. G.1. Electronic Message Signs.

C. SIGN DIMENSIONAL CHART [Amended 08/19/09]

The following chart summarizes the maximum gross area (in square footage) that is permitted for signage and is listed by type of signs and zoning districts in which they allowed.

MAXIMUM SIGN SIZES – Freestanding (FS) /Wall-Mounted (W)										
TYPE OF SIGN	REF.	MAX. DIM.	RF R4A RFM	RPO	R2, R3, VR2, VR4	R4	B1	B2, B3 BO- R, Ind., I-O, L-I	TVC, TVC-2, TVC-3, TVC-4, RH, RH2, CPD	HP
TEMPORARY SIGNS										
Temporary signs <u>in the right-of-way giving notice: FS/W</u>	J	Gross Area	12 6 sf				16 6 sf			
Temporary <u>Signs on Private Property</u> real estate: FS	J	Gross Area	916 sf	16 sf	916sf	16 sf	32 sf			
<u>Banner</u> (see note 2)	J	<u>Gross Area</u>	24 sf							
Temporary—real estate: W	J	Gross Area	9-sf	16-sf	9-sf	16-sf	32-sf	32-sf	32-sf	16-sf
Temporary construction: FS	J	Gross Area	16-sf							
Temporary construction: W	J	Gross Area	16-sf				32-sf			

MAXIMUM SIGN SIZES – Freestanding (FS) /Wall-Mounted (W)										
TYPE OF SIGN	REF.	MAX. DIM.	RF R4A RFM	RPO	R2, R3, VR2, VR4	R4	B1	B2, B3 BO- R, Ind., I-O. L-I	TVC, TVC-2, TVC-3, TVC-4, RH, RH2, CPD	HP
Temporary grand opening (window or banner)	J	Gross Area	16 sf				60 sf			
Off-premise farm stand: FS	J	Gross Area	8 sf				8 sf			
Temporary going out of business (window or banner)	J	Gross Area	16 sf				60 sf			
Temporary relocation (window or banner	J	Gross Area	16 sf				60 sf			
Temp. sandwich board	J	Gross Area	8 sf				8 sf			
CAMPUS SIGNS										
Campus directory	H.	Gross Area						75 sf	75 sf	75 sf
		Height						10’	10’	10’
Campus primary directional	H.	Gross Area						45 sf	45 sf	45 sf
		Height						9’	9’	9’
Campus secondary directional	H.	Gross Area						16 sf	16 sf	16 sf
		Height						8’	8’	8’
Campus pedestrian directional	H.	Gross Area						8 sf	8 sf	8 sf
		Height						8’	8’	8’
ADVERTISING / RETAIL SIGNS										
Advertising Freestanding Signs	B/C	Gross Area: FS	32 sf	32 sf	32sf	32 sf	100 sf			
	C	Length FS	16’	16’	16’	16’	16’	16’	16’	16’
	C	Height FS	8’	8’	8’	8’	16’	16’	16’	16’
Advertising Wall Signs	C	Gross Area/bldg. face: Wall (See Note 5)	50 sf	50 sf	16 sf	16 sf	100 sf			

MAXIMUM SIGN SIZES – Freestanding (FS) /Wall-Mounted (W)										
TYPE OF SIGN	REF.	MAX. DIM.	RF R4A RFM	RPO	R2, R3, VR2, VR4	R4	B1	B2, B3 BO- R, Ind., I-O, L-I	TVC, TVC-2, TVC-3, TVC-4, RH, RH2, CPD	HP
		Combined Gross Area Corner Lot (See Note 4)					150 sf			
Business Directory Signs	F.	Gross Area					150 sf			
Home occupation Commercial Signs on Residential Property	B.1	Gross Area	6 sf							
Off-premise directional	I	Gross Area					Not to exceed State standards or ≤ 16” x 72”			
Readerboards (See Note 3)	G	Gross Area					25sf	25sf	25sf	
Open/retail banner (See Note 2)	B.21	Gross Area	24 sf							
IDENTIFICATION, BULLETIN AND DIRECTIONAL SIGNS										
Bulletin board	B.4	Gross Area	24 sf							
Directional signs at driveways	B.11	Gross Area	3 sf							
		Height	7’							
Doorway identification	B.12	Gross Area	10% of doorway or opening							
Identification Signs for church or residential developments¹	B.17	Gross Area	20 32 sf							
Identification for commercial subdivisions¹	B.17	Gross Area					32 sf			

Sign Dimensional Chart Notes and Standards

1. Identification signs do not count toward maximum number of signs on a lot, or for applying requirements for separation of signs.

2. Banners allowed under Section XII(B)21. do not count toward maximum number of signs on a lot.
3. Area of readerboard included in the maximum sign area of the freestanding sign of which it is a part of.
4. Gross sign area may be divided between the principal and secondary sign and under this section the principal sign shall not exceed 100 sf.
5. Unless otherwise provided, wall and window signs shall conform to the following:
 - a. Total gross display area of all wall and window signs shall not exceed 10% of the area of the wall on which they are located. Where separate units of occupancy exist in a building, the gross display area under this paragraph shall be calculated separately for each unit of occupancy, based on the wall areas which enclose each unit, provided that the total gross display area for the building does not exceed the limits of this paragraph.
 - b. Except in the case of an awning, no wall sign shall project more than 12" inches beyond the surface of the wall to which it is attached, or extend above the drip edge of the roof above it or extend laterally beyond the ends of the wall to which it is attached. Where separate units of occupancy exist in a building, the limitations of this paragraph shall apply separately to the wall surface which encloses each unit.

D. MAXIMUM NUMBER OF FREESTANDING SIGNS PER LOT

MAXIMUM NUMBER OF FREESTANDING SIGNS							
TYPE OF SIGN	<u>RF, R4A, RFM, R2, R3, R4, VR2, VR4</u>	<u>RPO</u>	<u>B1</u>	<u>B2, B3, BO-R</u>	<u>IND, I- O, L-I</u>	<u>TVC, TVC-2, 3, 4, RH, RH2</u>	<u>HP</u>
Temporary	1/lot						
Permanent: frontage on one street	1/lot	1/lot	1/lot	2/lot			
Minimum street frontage for 2 signs				300'			
Permanent: corner lot	1/lot	1/lot	1 principal sign, 1 secondary sign				
Minimum separation			100', measured along rights-of-way or front property line				
Business Directory			1 (<i>Note 1</i>)				
Campus Directional Signage				<i>Note 2</i>		<i>Note 2</i>	
Readerboards			1 incorporated into principal freestanding sign				

Note 1. Lots are limited to one (1) Business Directory signs except for lots that qualify and are approved in accordance with Section XII(F)5.

Note 2. Number of campus directional signs shall be approved by the Planning Board as part of review of Signage Master Plan (see Section H Campus Directional Signs and the Commercial Design Standards)

E. ADDITIONAL FREESTANDING SIGN REQUIREMENTS

Unless otherwise provided, freestanding signs shall conform to the following:

1. The required minimum distance between signs on the same lot or unified development is one hundred (100) feet.
2. The required minimum lot line setback is fifteen (15) feet from side and rear lot lines.
3. The required minimum setbacks to the front lot line and right-of-way (ROW) is variable based on the height of the sign in accordance with the following chart:

<u>VARIABLE SETBACKS</u>		
<u>DISTANCE FROM ROW</u>	<u>MAXIMUM HEIGHT</u>	<u>MAXIMUM SIZE</u>
5'	8'	32 sf
10'	10'	60 sf
15'	16'	100 sf

- a. There is no minimum front lot line setback required for freestanding signs from the Haigis Parkway right-of-way; all other dimensional requirements established in Section XII (C) shall apply
4. The maximum sign height requirements are listed in Section XII(C) and are, subject to the variable setback requirements above. [10/20/04]
5. The required minimum setback/distance for signage located in a “Business” District is two hundred (200) feet from a “Residential” District. [7/17/91] [4/6/94]

F. BUSINESS DIRECTORY SIGNS [Amended November 17, 1993]

1. Except as otherwise provided in this Subsection (F), a Business Directory Sign shall comply with all the requirements of this Section XII. A Business Directory Sign shall be deemed an on-premise, freestanding sign, not a billboard.
2. Business Directory Signs shall be permitted only in the B-1, TVC, TVC-2, TVC-3, TVC-4, B-2, B-3, HP, BO-R, RH, RH2, CPD and Industrial districts.
3. Notwithstanding the provisions of Sections XII(C) and XII(D), the maximum gross display area of a Business Directory Sign shall be 150 square feet. At least 10 percent of the gross display area shall be devoted to identifying the Unified Development by name (or by generic description such as "office park" or "shopping center" if no name has been assigned) and by street address on the Main Thoroughfare. The numbers of the street address must be no less than 11" (eleven) inches high. The remaining gross display area may be used only to identify and advertise uses within the Unified Development and must be located below the name and street address of the Unified Development. Before the Building Inspector issues a permit for a Business Directory Sign, the Addressing Officer in coordination with the Town Planner must determine that the name of the Unified Development is not identical to or likely to be confused with the name of any other development already existing in Scarborough. [4/6/94]

4. Notwithstanding Subsection XII(F), no lot within a Unified Development which utilizes a Business Directory Sign may contain more than one freestanding sign, except that the lot on which the Business Directory Sign is located may contain both the Business Directory Sign and one other freestanding sign otherwise allowed by this Ordinance. The Building Inspector shall not issue a permit for a Business Directory Sign without the written consent of each lot owner within the Unified Development to the limitation of one freestanding sign per lot and the written agreement of the owner of any lot on which there are two or more freestanding signs to remove all but one of such signs upon the erection of the Business Directory Sign. [4/6/94] [4/5/95]

5. A Business Directory Sign must be located on property within the Unified Development which abuts the Main Thoroughfare, must be visible from the Main Thoroughfare and must be located at or near the driveway or street entrance to the Unified Development in order to direct motorists to that entrance. When a Unified Development abuts and has a driveway or street entrance from more than one Main Thoroughfare, the Planning Board may approve one Business Directory Sign at or near the driveway or street entrance from each of the Main Thoroughfares for a total of two Business Directory Signs.

6. Business Directory Signs shall comply with all applicable setback requirements, except that no setbacks shall be required from property lines separating lots within the Unified Development from one another or from common areas (other than streets), and no setbacks shall be required from boundaries of leasehold or easement interests (other than streets) within the Unified Development.

7. No Business Directory Sign may be located within 200 feet of any other freestanding sign in the Unified Development.

8. If provided, electrical service to a Business Directory Sign must be by underground wiring only.

9. Each owner of a lot or unit of occupancy which is identified or advertised on a Business Directory Sign shall be responsible for any violations of this Ordinance arising out of the erection or maintenance of the Business Directory Sign and shall be deemed an owner of the sign under Section IV(C) of this Ordinance. The Town may enforce the provisions of this Ordinance against any or all such owners.

G. ELECTRONIC MESSAGE AND TIME/TEMPERATURE SIGNS

Electronic message and time and/or temperature signs are permitted only in the B1, B2, B3, BO-R, RH, RH2, I, I-O, L-I, CPD and TVC, TVC-2, TVC-3, TVC-4 Districts subject to the following standards:

1. Electronic Message Signs are required to comply with the following conditions:

- a. An electronic message sign may only be used as a readerboard on a free-standing sign. Electronic message signs may not be used as stand-alone signs.
- b. An electronic message sign must not give the appearance of motion, flashing, blinking, or shimmering. When the display changes, it must change as rapidly as is

technologically practicable with no phasing, rolling, scrolling, flashing, or blending.

c. The message may be changed no more frequently than twice in each 60 minute period. [Amended 08/19/09]

d. Electronic message sign lettering or numbering height shall be a minimum of 8” and a maximum of 12” and may consist only of white or gold lettering or numbering on a black background. [Adopted 08/19/09][09/21/2011]

2. Time and/or Temperature Signs are required to comply with the following conditions:

a. Any sign otherwise permitted may include a time and/or temperature sign. (09/21/2011)

b. A time and/or temperature sign, or the portion of a sign used to illustrate the time and/or temperature, shall be limited to 10 square feet in area. (09/21/2011)

c. A time sign shall be permitted to change no more frequently than thirty-second intervals.

d. A temperature sign shall not change except when the temperature changes one degree.

H. CAMPUS DIRECTIONAL SIGNS [07/21/04]

1. A primary goal of campus directional signs shall be to assist the public in finding specific business locations or destinations or directing the public within a Unified Development. The number and location of the signs shall be based upon the following criteria: [Amended 02/20/08]

a. The number and visibility of major destinations within the Unified Development.

b. The complexity of internal circulation patterns.

c. The nature of the businesses/institutions as they relate to public accessibility.

d. The characteristics of the clientele. such as but not limited to familiarity with the area, seasonally attracted, tourist oriented, or emergency users.

2. Campus directional signs shall be permitted only in the TVC, TVC-2, TVC-3, TVC-4, B-2, B-3, BO-R, RH, RH2 HP and Industrial districts.

3. Dimensional Requirements

Type of Sign	Maximum Gross Display Area	Maximum Height
Primary Directional	45 SF	10 feet
Secondary Directional	32 SF	8 feet
Pedestrian Directional	8 SF	8 feet

4. The display area of campus directional signs shall be used to identify the names of destinations within the Unified Development and to provide directions to, from and within said development based on the criteria listed in Section K(1) (a) through (d). [Amended 02/20/08]

5. Depending upon the sign location, sign may be double-faced with information on the opposite side of the sign.
6. Text messages on the sign faces must be of a size and typeface that is readable from a moving vehicle at the posted speed limit. In no case shall the text be smaller than 3 inches in capital letter height. See Scarborough Design Standards for further description of signage requirements.
7. The recommended minimum distance between campus directional signs shall be one hundred (100) feet.
8. Campus directional signs shall be set back a minimum of fifteen (15) feet from the boundaries of the Unified Development.
9. The maximum number of signs for the Unified Development shall be shown on a Signage Master Plan submitted to the Planning Board as part of Site Plan Approval. The Master Plan shall indicate typical ~~content~~ layout for signs, allowing flexibility to change the wording without having to return to the Planning Board. Variations in the number or locations of signs shown on the Signage Master Plan must be approved by the Planning Board prior to implementation. See Scarborough Design Standards for further description of Signage Master Plan.
10. Off-site directional signs shall not be considered campus directional signs. However, for purposes of signage review, off campus directional signs that are part of a Unified Development shall be designed as part of the Signage Master Plan.

I. OFF-PREMISE OFFICIAL BUSINESS DIRECTIONAL SIGNS

Any business establishment located within the Town of Scarborough, which does not front or face upon U.S. Route One and which does not have a freestanding or wall sign fronting or facing upon U.S. Route One regulated by Section XII of this Ordinance, and that is not on a residential property, may locate two signs off the business premises. Whenever any eligible business establishment as defined above applies for an Official Business Directional Sign the following conditions must be met:

1. Comply with Maine Department of Transportation "Regulations for the Installation of Official Business Directional Signs" except as is otherwise specified above.
2. Maximum sign size shall not exceed 16" x 72"; (Note: sign size to be determined by Maine DOT but not to exceed 16" x 72").
3. Off-Premise Official Business Directional Signs shall not be located within the Haigis Parkway Right-of-Way between Payne Road and Route One.
- ~~4. Business establishments undertaken and permitted pursuant to the provisions for home occupations shall not be permitted directional signs under this section.~~

5. The Code Enforcement Officer may permit two directional signs per this Ordinance. No more than two additional signs may be allowed if the Zoning Board rules favorably on an appeal heard pursuant to Section V of the Zoning Ordinance and based upon any of the following criteria:

- a. a demonstrated need for adequate visibility of the sign to two-directional traffic;
- b. the distance from the nearest State numbered route;
- c. the nature of the business as it relates to public accessibility;
- d. the characteristics of the clientele such as but not limited to familiarity with the area, seasonally attracted, or tourist oriented;
- e. excessive number of turns or confusing route on local roads;
- f. complicated intersections of State numbered routes or major arterials;
- g. a primary consideration shall be to assist customers seeking the specific business location;
- h. the Board shall deny the application for added signs if it finds that their function is one of advertising to attract customers rather than to direct individuals seeking the business;
- i. existing double-faced directional signs which must be replaced shall be considered as two single-faced signs, and the relocation of signs to other locations must be approved by the Zoning Board of Appeals subject to the criteria of this section;
- j. the Zoning Board must specify the approved number(s) and location(s) of additional signs based upon the provisions of this section.

J. TEMPORARY SIGNS

The following temporary signs are permitted and shall conform to standards within municipal, state or federal ordinances, statutes or regulations.

Temporary signs specified in this section shall not be attached to fences, trees, utility poles, light poles, traffic control devices or the like.

To protect ecologically sensitive areas and scenic views no temporary signs shall be placed in the right-of-way along:

- Route One between Dolloff Way and Southgate Road
- Black Point Road between Camperdown Elm Drive and Tide Mill Lane
- Black Point Road between Old Neck Road and Strawberry Fields Road
- Black Point Road between Spurwink Road and Sprague Way
- Black Point Road between Harmon Street and Winslow Homer Road
- Pine Point Road between Marsh Winds Street and Primrose Lane
- Pine Point Road between Old Blue Point Road and East Grand Avenue
- Pleasant Hill Road from Minuteman Drive to Hackmatack Drive (Pleasant Hill Preserve Area)
- Bayview Avenue between Houghton Street and Morning Street

To protect public safety in and around intersections with high traffic volumes no temporary signs shall be placed in the right-of-way within 50 feet of the following intersections:

- The Route One - Broadturn Road/Pine Point Road intersection
- The Route One - Payne Road intersection
- The Route One - Haigis Parkway intersection
- The Route One Gorham Road/Black Point Road intersection
- The Route One - Pleasant Hill Road intersection
- The Payne Road - Haigis Parkway intersection
- The Payne Road-Gorham Road intersection
- The Payne Road-Gallery Boulevard intersection

The number of temporary signs permitted under this subsection is in addition to the maximum number of signs allowed on a lot or the maximum gross display area allowed on a wall:

1. Temporary Signs in the Right-of-Way

Temporary signs in the right-of-way are permitted for a period not to exceed 12 weeks in a calendar year with no sign remaining for more than 3 consecutive weeks and with not less than 6 weeks between the end of one sign display time period and the beginning of another. All signs shall be removed by the deadlines established herein. All temporary signs in the right-of-way will include the name and phone number of the person placing the sign. To control the proliferation of signs repeating the same or similar message, temporary signs in the right-of-way shall not be placed within one tenth of one mile of another bearing the same or similar message. This distance requirement applies to streets on a linear basis with a separate measurement done for every intersecting street. Temporary signs in the right-of-way may not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public

~~Temporary Signs Giving Notice-~~

~~Temporary signs giving public notice, such as political posters, advertisements of charitable functions, meeting notices, and other noncommercial signs of a similar nature, are permitted for a period not to exceed twenty (20) days and shall be removed by the person(s) who posted the signs. Temporary signs specified in this section shall not be attached to fences, trees, utility poles, or the like and shall not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public.~~

2. Temporary Signs on Private Property

Temporary signs on private property are permitted for no more than 6 consecutive months. Temporary signs on private property may not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or a disturbance to the health and welfare of the general public.

~~Temporary Real Estate Sign. [4/6/94]~~

~~a. One temporary real estate sign attached to a building or free standing, may be erected advertising the sale, lease or rental of the premises upon which the sign is located. This sign shall be located on the property that is advertised for sale. Two signs may be utilized depending on the location of the business relative to the main highway. [4/5/95]~~

~~b. Unless prohibited by State authorities, one off-premises Temporary Real Estate Sign bearing only a general message such as "Home[s] For Sale [or Lease]" or "Land For Sale [or Lease]" and not identifying or advertising any real estate agency, agent or broker or one off-premises Temporary Real Estate sign bearing the message "Open House" (which may identify or advertise a real estate agency, agent or broker) may be placed at the entrance to a dead-end or cul-de-sac street for the purpose of directing motorists to property offered for sale on that street. Such sign may be located within the public right-of-way, but only in locations which do not interfere with vehicular or pedestrian traffic and which do not block the line of sight to and from vehicles exiting the street. Nothing in this subsection authorizes placement of any sign on private property without the permission of the property owner.~~

~~c. Notwithstanding the provisions of Section XII(D), a temporary real estate sign advertising lots or homes for sale in a residential subdivision approved by the Scarborough Planning Board may have a gross display area of thirty-two square feet until such time as the last of the lots or houses is sold for use as a residence.~~

~~d. Temporary real estate signs shall be removed from the premises within thirty (30) days after the property is sold or leased.~~

~~3. Temporary Development or Construction Site:~~

~~One temporary development or construction sign, attached to a building or free standing, may be erected provided such sign shall be limited to a general identification of the project and shall be removed within thirty (30) days after completion of the project. [4/6/94]~~

~~4. Temporary Grand Opening Signs. [Amended 12/04/02] [Amended 08/17/05] [repealed effective 12/31/05] ¹[Adopted 08/19/09]~~

~~Temporary Grand Opening Signs. One (1) Temporary Grand Opening Sign may be installed on the premises of a retail business and service establishment, personal service establishment, restaurant establishment, business service and business office establishment, financial, insurance, or real estate establishment, health club, hotel or motel, or a fully enclosed place of assembly, amusement, culture and government for the purposes of announcing the opening of a new business. Business establishments located on corner lots may install two (2) Temporary Grand Opening Signs. In the instance of two signs, the total gross area of the two signs shall not exceed the maximum sign gross area allowed under subsection E. Temporary Grand Opening Signs may be in the form of a banner or window sign. A Temporary Grand Opening Sign shall be displayed for no more than sixty (60) days and shall be removed by the person(s) who posted the sign. A Temporary Grand Opening Sign shall comply with the Sign Dimensional Chart under Section XII.E. and the Variable Setback Standards of Section XII.G.3. of this Ordinance.~~

~~5. Off-Premises Farm Stand and Agricultural Products Store Signs:~~

~~To the extent permitted by State law, the operator of a Farm Stand or Agricultural Products Store may install a maximum of four (4) Off-Premises Farm Stand/Agricultural Products Store Signs for the purpose of directing motorists to the location where local agricultural~~

¹ Section XII(B)(4) (Temporary Business Signs) shall stand repealed as of December 31, 2005. No Temporary Business Signs shall be allowed after December 31, 2005.

~~products are offered for sale. Such Off-Premises Farm Stand/Agricultural Products Store Signs must be no more than eight square feet in gross display area and must be located within five miles, road distance, of the farm stand or store. Farm Stand/Agricultural Products Store Signs may be placed in off-premises locations only during periods of the year when the stand or store is open and the product or products identified on the sign are available for sale, or such other time periods as provided in state law. Off-premises Farm Stand/Agricultural Products Store Signs may be located within the right-of-way only on highways which receive no federal aid and only at the edge of the right-of-way, in locations which do not interfere with vehicular or pedestrian traffic and which do not interfere with visibility for pedestrians or motorists. Nothing in this subsection authorizes the placement of any sign on private property without the consent of the property owner.[4/6/94] [12/15/99] [amended 05/05/10]~~

~~6. Temporary Going Out of Business Sign. [Adopted 08/19/09]~~

~~One (1) Temporary Going Out of Business Sign may be installed on the premises of a retail business and service establishment, personal service establishment, restaurant establishment, business service and business office establishment, financial, insurance, or real estate establishment, health club, hotel or motel, or a fully enclosed place of assembly, amusement, culture and government for the purposes of announcing that the establishment is going out of business. Business establishments located on corner lots may install two (2) Temporary Going Out of Business Signs. In the instance of two signs, the total gross area of the two signs shall not exceed the maximum sign gross area allowed under subsection E. Temporary Going Out of Business Signs may be in the form of a banner or window sign. The display of a Temporary Going Out of Business Sign shall be limited to no more than sixty (60) days and shall be removed by the person(s) who posted the sign. A Temporary Going Out of Business Sign shall comply with the Sign Dimensional Chart under Section XII.E. and the Variable Setback Standards of Section XII.G.3. of this Ordinance.~~

~~7. Temporary Sandwich Board Sign. [Adopted 08/19/09]~~

~~One (1) Sandwich Board Sign may be displayed on the premises of a retail business and service establishment, personal service establishment, restaurant establishment, business service and business office establishment, financial, insurance, or real estate establishment, health club, hotel or motel, or a fully enclosed place of assembly, amusement, culture and government commercial or similar public entity for the purposes of advertising specials, other items for sale, or events being offered general commercial uses. Sandwich Board Signs shall be limited to a maximum gross area of eight (8) sq. ft. and a maximum height of 48". The location of Sandwich Board Signs shall be limited to the sidewalk or walkway leading to the main entrance of the building in which the business is located and shall be located no greater than fifteen feet (15') from the building's main entrance. Sandwich Board Signs shall only be displayed during the hours the business or use is open for customers or visitors and shall not be counted toward calculating the maximum number of signs or the maximum gross display area of signs on the property. A Sandwich Board Sign shall require a sign permit, per subsection A.2., which will establish a business or user's ability to use such a sign and delineate the area in which it will be displayed. A Sandwich Board Sign shall be located on a sidewalk or walkway in a manner that it does not infringe~~

on handicap accessibility or safe pedestrian movement and that safely secures the sign in one location.

~~8. Temporary Relocation Sign. [Adopted 08/19/09]~~

~~One (1) Temporary Relocation Sign may be installed on the premises of a retail business and service establishment, personal service establishment, restaurant establishment, business service and business office establishment, financial, insurance, or real estate establishment, health club, hotel or motel, or a fully enclosed place of assembly, amusement, culture and government for the purposes of announcing that the establishment is relocating. Business establishments located on corner lots may install two (2) Temporary Relocation Signs. In the instance of two signs, the total gross area of the two signs shall not exceed the maximum sign gross area allowed under subsection E. Temporary Relocation Signs may be in the form of a banner or window sign. The display of a Temporary Relocation Sign shall be limited to no more than sixty (60) days and shall be removed by the person(s) who posted the sign. A Temporary Relocation Sign shall comply with the Sign Dimensional Chart under Section XII.E. and the Variable Setback Standards of Section XII.G.3. of this Ordinance.~~

K. NON-CONFORMING SIGNS

The eventual elimination of non-conforming signs is an objective of the town. Such elimination of nonconforming signs shall be brought about over a period of time and in such manner as to avoid the invasion of vested rights of the sign's owner and the infliction of unnecessary hardship.

1. Any sign existing at the effective date of adoption of this Section XII which does not conform to the regulations and requirements of this Section XII and any sign existing on the effective date of any amendment to this Section XII which renders the sign nonconforming; may continue to be used and maintained in a condition of good repair until removed, pursuant to the conditions of this Ordinance.

2. No non-conforming sign shall:

- a. Be enlarged if such enlargement would increase any nonconformity.
- b. Be changed to another nonconforming sign.
- c. Be changed in shape or size.
- d. Continue to be used or allowed to remain in place after the business, product, service, event or other activity to which it relates has been discontinued for ninety (90) days or longer, or, in the case of a seasonal business, for three hundred sixty-five (365) days or longer.
- e. Be repaired, or replaced after damage or destruction, if the expense of repair exceeds fifty percent (50%) of the current cost of replacing or duplicating the existing sign, as determined by a professional sign manufacturer.
- f. Continue to be used or allowed to remain in place following any activity that requires site plan approval by the Planning Board.

The addition of a readerboard to an existing nonconforming sign shall not be considered an enlargement under subparagraph (a) above or a change under subparagraphs (b) or (c) above, provided that the addition of the readerboard does not increase the gross display area of the sign beyond the maximum permitted in the zoning district or the gross square footage of the existing sign, whichever is greater. [Amended 08/17/05]

3. A non-conforming sign may not be moved or replaced except to bring the sign into complete conformity with this Ordinance. Once a non-conforming sign has been taken down or moved, said sign may only be replaced with a sign that is in conformance with the requirements of this Ordinance, except that a seasonal business may take down nonconforming signs in the off season and replace them in the same locations when the business reopens the following season.

4. Notwithstanding other provisions contained in this Section, the message of a nonconforming sign may be changed so long as this does not create any new nonconformities.

5. Notwithstanding the above, if there is a change of use on a single-use property, and there were one or more on-premise nonconforming signs which advertised the former business or use, any new signs used, and all new signs faces for the new use or business must meet all sign requirements for the underlying zoning district. This provision shall not apply in cases where the supply of parking would be reduced below that required by ordinance, or where the new sign location would create a public safety hazard or block sight distance. A change in use means a change in function as described in the Land-Based Classification Standards of the American Planning Association (APA).

6. Relief from the above restrictions on non-conforming signs may be reviewed and granted by the Board of Appeals in accordance with the Miscellaneous Appeal review process under Section V.B.4.g.

L. SUBSTITUTION CLAUSE

For every commercial sign that is allowed under this Ordinance, any non-commercial message may be legally substituted.

M L. DEFINITIONS SPECIFIC TO SIGN REGULATIONS.

As used in this Section XII, the following terms have the following meanings: [Amended 4/6/94]
[Amended 05/01/96]

a. Abandoned Sign:

A sign that was legally erected but whose use has ceased or the structure upon which the sign was displayed has been abandoned by its owner for a period of not less than 30 days.

b. Accessory Sign:

A secondary sign that provides on-site information concerning the business that is not indicated on the primary identification sign(s), such as store hours, accepted credit cards, quality ratings, affiliations, vacancies, parking and traffic direction.

c. Advertising Sign:

A sign whose primary purpose is to attract attention to goods offered for sale or lease or services rendered upon property whereupon the advertising is occurring.

d. Animated Sign:

A sign employing actual motion or the illusion of motion. This definition does not include time and temperature signs or electronic message signs. Animated signs, which are differentiated from readerboards or changeable signs, include the following types:

1) Environmentally Activated: Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. These include spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

2) Mechanically Activated: Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

3) Electrically Activated: Animated signs producing the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

a) Flashing: An animated sign with an intermittent or flashing light source.

b) Patterned Illusionary Movement: Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

e. Banner:

A sign of temporary construction made of vinyl, canvas, or similar flexible material.

f. Bulletin Board:

A sign associated with religious or educational institutions on which the copy can be changed.

g. Business Directory Sign:

A freestanding sign identifying names and/or uses, and/or locations, in a Unified Development or multi-tenant development.

h. Campus Directional Sign:

A freestanding sign located along a public right-of-way or within an area designated as a Unified Development that directs people to one or more named destinations reachable along that roadway. [Amended 02/20/08]

i. Copy:

Any graphic, letter, number, symbol, insignia, text, sample, model, device, or combination thereof, which relates to advertising, identification, or notification.

j. Directional Sign:

A sign that indicates ingress or egress to a property and does not contain either identification or advertising copy.

k. Doorway Sign:

A sign indicating the location of, or direction to, a separate function performed within one portion of a building that may be erected over or by the doorway or entrance to such portion of the building.

l. Electronic Message Sign:

An electronically activated changeable sign whose variable message capability can be electronically programmed.

m. Exterior Illuminated Sign:

A sign with an exterior light source, either attached or detached from the sign, whose purpose is to illuminate the sign board.

n. Freestanding Sign:

A sign supported by one or more uprights or braces permanently affixed into the ground.

o. ~~Fuel Price~~ Changeable Message Sign:

The portion of a freestanding sign that ~~indicates current fuel prices available at gasoline filling stations~~ changes message by electronic, manual, or mechanical means.

p. Gross Display Area:

On signs which use a signboard or boards, the total area of the board or boards. On signs where the copy is attached directly to a wall, awning or other building surface, the area within a rectangle which completely contains all the sign's copy.

q. Historical Site Signs:

A wall sign erected or provided by local historical society or government agency that denotes a recognized historical site or structure.

r. Identification Sign:

A sign that includes, as copy, only the name of the business, place, organization, building, or person it identifies.

s. Internally Illuminated Sign:

A sign with a light source incorporated into the body of the sign and where light emanates through the message of the sign.

t. Main Thoroughfare:

Means any of the following streets:

U.S. Route 1
Payne Road
Haigis Parkway
Gorham Road
Pine Point Road
Pleasant Hill Road
Spring Street

u. Marquee:

A structure projecting over the entrance to a theater used to support a sign.

v. ~~Menu Board~~ Drive-through Sign:

A permanently mounted sign displaying the bill of fare for a drive-through ~~restaurant~~ commercial establishment.

w. Non-Conforming Sign:

An existing sign that was lawfully erected in compliance with applicable code requirements and maintained prior to the effective date of this Ordinance.

x. Off-Premise Official Business Directional Sign (OBDS):

An off-premise directional sign allowed under Maine DOT Chapter 200 (or current) Regulations.

y. Off-premise Sign:

A sign that identifies one or more businesses that is located off the premises of the said business(es) and that is located within the public right-of-way. [Amended 02/20/08]

z. Orientation Map:

A sign at the entrance to direct motorists to individual buildings or parking lots within a Unified Development.

aa. Pennant:

An all-weather device constructed of lightweight plastic, fabric, or other material, which may or may not contain copy, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

bb. Portable Sign:

A sign not designed or intended to be permanently affixed into the ground or to a structure.

cc. Principle Sign:

The main sign on a property.

dd. Projecting Sign:

A sign that is suspended from or supported by any building or structure and projects outward from the supporting structure.

ee. Readerboard:

A free-standing sign or portion thereof on which the copy changes, or can be changed, by manual, electronic, or mechanical means. A readerboard may contain an electronic message sign, or a time and/or temperature sign. [Amended 08/17/2005]

ff. Roof Sign:

A sign located upon or over a roof of a building.

gg. Sandwich Board Signs:

A sign not secured or attached to the ground or surface upon which it is located, but supported by its own frame and most often forming the cross-sectional shape of an A.

hh. Sign:

An object, device, display or structure or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, project, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, or projected image. See Section XII.A.6 for exceptions.

ii. Temporary Sign:

A sign ~~or advertising display (such as a political poster) designed,~~ intended to be displayed, ~~or displayed~~ for a short period of time.

jj. Time and/or Temperature Sign:

A sign designed to show time and outdoor temperature.

kk. Under Common Control:

Subject to the provisions of a condominium declaration or subject to rules and regulations imposed by an incorporated unit owners' association or lot owners' association.

ll. Unified Development:

A group of contiguous lots in a common ownership or under common control, a group of lots in a subdivision approved by the Scarborough Planning Board, or a group of units of occupancy on a single lot, where access to the individual lots or units of occupancy is by a common driveway or by a street which serves principally that Unified Development and which is not a Main Thoroughfare. Examples of Unified Developments include, but are not limited to, office parks, healthcare/hospitals, professional parks, business parks, industrial parks, shopping centers and shopping malls.

mm. Vision Triangle:

The area at the four corners of an intersection that is to be kept free of shrubs, ground covers, berms, fences, signs, structures, or other materials or items greater than thirty (30) inches in height.

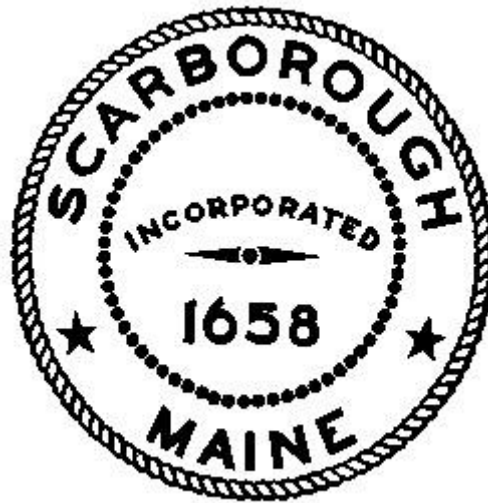
nn. Wall Sign:

A sign painted on, attached to, or supported by a building wall or part thereof, provided that the sign does not project more than 12" from the wall.

oo. Window Sign:

A sign placed, painted, or affixed on the inside or within 12" of a window or door, and is visible from the exterior of the building.

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



Adopted August 20, 2008

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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 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**.

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 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

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 circumstance should the carts be defaced by the use of markers, stickers or paint. A cart that has been defaced will be replaced at 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

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 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 INTO STREETS OR RIGHTS OF WAY

It shall be unlawful to rake leaves into any paved street 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 be removed from the street or roadside after 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.