

AGENDA
ORDINANCE COMMITTEE

Thursday, April 18, 2019

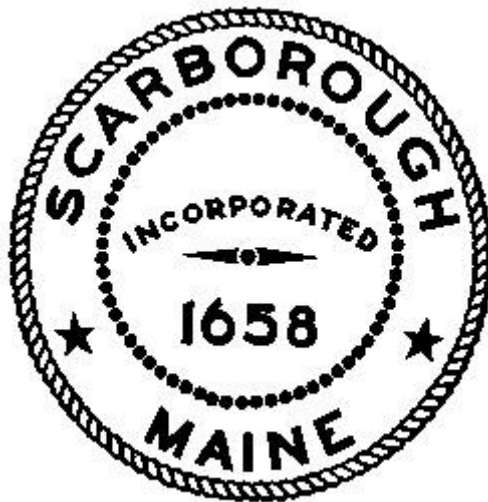
4:00 p.m.
Chamber A

- Item 1. Call to Order.
- Item 2. Roll Call.
- Item 3. Approval of the minutes from March 21, 2019 meeting.
- Item 4. Public Comment.
- Item 5. Discussion on amendments to Chapter 1016 Garage/Yard Sale ordinance.
- Item 6. Discussion on amendments to Site Ordinance Abutter Notification.
- Item 7. Discussion on amendments to Chapter 304, Town of Scarborough Traffic Ordinance.
- Item 8. Presentation of a plastic bag ordinance by the Conservation Commission.
- Item 9. Discussion of food truck licensing.
- Item 10. Discussion on Commercial marijuana ordinance development.
- Item 11. Adjournment.

CHAPTER 1016

TOWN OF SCARBOROUGH

GARAGE/YARD SALE ORDINANCE



Adopted March 21, 2007

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

PERMIT REQUIRED FOR GARAGE/YARD SALES.

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

The Town Clerk may issue only two (2) garage/yard sale permits for such sale, whether conducted indoors or out-of-doors, to any person or for a sale on any given residence within a consecutive six-month period. Any sale of this type conducted more frequently than three (3) consecutive days for each six (6) consecutive month period, or any sale conducted without permit, shall be considered a use of land, which must comply with the Scarborough Zoning Ordinance and all licensing ordinances of the Town of Scarborough.

ATTACHING ADVERTISING MATERIAL TO VEHICLES; PLACING MATERIALS IN VEHICLES.

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

PENALTY

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


 SCARBOROUGH, MAINE

INC. 1658

To: Ordinance Committee**From: Jay Chace****Date: April 10, 2019****RE: Amendments to Site Plan Notification Process**

At the request of the Ordinance Committee staff has been asked to look at providing draft language to the Site Plan Review Ordinance as relates to notification of abutters. Currently the Planning Board agendas are made publicly available on-line and through an e-mail list serve. While the Board's agendas are made public, it is recognized the distribution process has limitations with regards to informing abutters for Site Plan applications since direct mailings are not required.

At the March meeting of the Ord. Committee staff provided draft language for consideration which proposed notifications be mailed seven (7) days in advance of the meeting. Based on the Committee conversation staff was requested to conduct additional research on the issue of timing and consistency with other ordinance requirements and come back to the Ord. Committee. This memo serves to address the questions asked at the March meeting.

Currently all notifications that are required by Ordinance to be mailed to abutters from the Planning Dept. are mailed out at least 10 days prior to the scheduled meeting. See the table below for additional information:

Ordinance / Project Type	Timing of Notice Requirement Stated in Ordinance	Notes
Subdivision	Not specified	Sent out at least 10 days in advance of upcoming PB meeting
Planned Development	Not specified	Ordinance notes that "appropriate public notice" shall be provided. Sent out at least 10 days in advance of upcoming PB meeting
ZBA	10 days in advance of upcoming ZBA meeting	

Based on prior discussion with the Ordinance Committee as well as further discussions with administrative staff of the Planning Dept., notifying abutters ten (10) days in advance of a Site Plan application is both consistent with the current practice and the earliest that could be committed too based on the Planning Board meeting schedule. The proposed language has been modified to suggest notifications mailed ten (10) days in advance of the meeting.



Proposed Amendments to Chapter 405B, Site Plan Review Ordinance

(Additions shown as underline)

III. Administrative & Review Procedures

B. Site Plan Application Procedures & Action

1. An application for site plan review shall be submitted to the Planning Board with the requisite fees and submission requirements, as outlined in Section III(C) of this ordinance. Upon receipt of any application that meets the submission requirements the Town Planner shall schedule the site plan for review on the next available Planning Board meeting agenda. An initial determination as to the completeness of the application shall be made by the Town Planner and Town Engineer, subject to final determination by the Planning Board. The Planning Board reserves the right to request additional plans or information, as stated in Section III(C)(8), depending on the nature of the proposal and its anticipated impacts. The Planning Board may also engage the services of one or more professional consultants to review the materials submitted by the applicant, the cost of which shall be paid by the applicant as provided in Section VI(B) of this ordinance.
2. When an application for site plan review is determined to be complete, the Planning Department shall, at the applicant's expense, give written notification to all abutting property owners within five-hundred (500) feet of the parcel on which the proposed development is located of the date, time, and place of the meeting at which the application will be considered. Notification shall be sent at least **ten (10)** days prior to the first meeting at which the complete application is to be reviewed. Failure of any property owner to receive the notification shall not necessitate another hearing or invalidate any action of the Board. For purposes of this section, the owners of the abutting properties shall be considered to be the parties listed by the tax assessor for the Town of Scarborough. The Planning Board shall provide an opportunity for public comment prior to taking action on any site plan application.
3. No application for site plan review shall be considered complete nor acted upon by the Planning Board until all special exceptions or variances which may be required for a development have been approved. The Planning Board may conduct its shoreland zoning or subdivision review concurrently with a project's site plan review.

**CHAPTER 601
TOWN OF SCARBOROUGH
TRAFFIC ORDINANCE**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 601 - the Town of Scarborough Traffic Ordinance, is amended as follows, by adding the underlined text and deleting the text shown in strikeover type, as show below:

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

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

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

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

- (i) two handicapped parking spaces on Bayview Avenue across from Ashton Street, with no time limit. (amended April 21, 1999)
- (ii) 1 hour parking shall be allowed, from 6:00 a.m. to 10:00 p.m., in designated metered parking spaces, on the ocean side only of Bayview Avenue. From the end of the drop-off zone to Morning Street from September 16th to April 30th, the 1 hour parking shall not be in effect. [amended November 4, 2015]
- (iii) On all other areas of Bayview Avenue there shall be no parking at any time, except during the off-season [September 16th to April 30th] on the ocean side of Bayview Avenue from Morning Street to Vesper Street. (amended02/16/2011)
- (iii) there shall be no parking on any of the other streets year round unless otherwise noted herein.

- c. Upon either side of Spurwink Road (Route #77), from Pleasant Hill Road continuing to the Southerly side of Dorado Drive.

- d. A five-minute drop-off zone, year round. on the ocean side of Bayview Avenue only outside the travel lane beginning at Pearl Street and continuing approximately 90 feet north toward Ashton Street.

- e. Vehicles found in the Higgins Beach Parking lot outside of the posted operational hours will be subject to ticketing as established in Section 22 of this ordinance.

III. PROUTS NECK (from May 1 to September 15 of each year).

- a. Upon any of the public streets or highways within the are known as Prouts Neck area. For the purpose of this Ordinance, the Prouts Neck area is defined as including the area generally South of the property at 364 Black Point Road, now or formerly owned by Eucharist Archambault on the Prouts Neck Road. (Black Point Road). [Amended 07/16/14]

- b. Black Point Road from Kirkwood Road to Ferry Road. [Amended 11/14/94]

IV. PINE POINT (from May 1 to September 15 of each year). Revised February 1980 [09/06/17].

- (1) Upon certain of the public streets or highways within the Pine Point area known as Oak, Granite, Bliss, Dover, Pine, Beach, Sea Rose Lane, Bay, Ninth, or Eleventh Streets.
- (2) King Street (or Front Street) from Pine Point Road to Avenue Seven - both sides. [Amended 07/21/77]
- (3) Entire length of Riversands Drive - both sides.
- (4) On the Easterly side of Avenue Five from Jones Creek Drive to King Street.
- (5) On both sides of Avenue Five from King Street to the Ocean.
- (6) Driftwood Lane (the entire length - both sides).
- (7) Upon East Grand Avenue Except in accordance with the following: [Amended 09/21/03]
 - a. On the Northerly side of East Grand Avenue in front of number 3 East Grand Avenue at CMP Pole #116 back to Pine Point Road – No Parking. [Amended 09/06/17]
 - b. On the Ocean side of East Grand Avenue from the Old Orchard Line to a point opposite the Westerly side of 27 East Grand Avenue - No Parking. [Amended 07/16/14]
 - d. On the Northerly side of East Grand Avenue each business shall have one designated parking space in front of the business for the business - 20-minute business parking.
 - c. From CMP Pole #116 at 3 East Grand Avenue to the Old Orchard Line “Unlimited Parking Within Designated Spaces Only”. [Amended 09/06/17]
- (8) Tasker Avenue - Both sides from Jones Creek Drive to King Street.
- (9) Upon both sides of Avenue One, Avenue Two, Avenue Three and Avenue Six, from Jones Creek Drive to King Street. [Amended 07/16/14]
- (10) On the East Side of Avenue Four from Jones Creek Drive to King Street.
- (11) On the Northerly side of Jones Creek Drive from the Pine Point Road to the intersection of Avenue Four. [Amended 05/05/82]
- (12) On the Northerly side of Jones Creek Drive from the intersection of Avenue Four to the intersection of Avenue Six - 20 minutes business parking. [Amended 05/05/82]

IV-1. PINE POINT (from May 1 to September 15 of each year).

- (1) On Pine Point Road (formerly Depot Street) from East Grand Avenue to the Ocean.
- (2) On Pine Point Road, both sides, within twenty (20) feet of either side of the driveway opening of the Audubon Nature Center.
- (3) No parking shall be allowed on Pine Point Road from east Grand Avenue to Snow Canning Road, except for within the delineated on-street parking spaces on the southwesterly side of the road. [adopted 03-01-17]

IV-2. PINE POINT - CO-OP (Time Limit) [adopted 1/06/99]

- ~~(1) The thirteen (13) parking spaces, three (3) of which shall be designated as handicapped parking, located along the front northeasterly corner of the site plan designated Scarborough Town Landing shall be limited to a total time limit of 30 minutes parking~~

~~year round. An additional four (4) handicapped parking spaces with no time limit shall be located in the next row back.~~

1) Pine Point Co-Op (Time Limit-Adopted 11/06/99): The thirteen (13) parking spaces, three (3) of which shall be designated as handicapped parking, located along the front northeasterly corner of the site plan designated Scarborough Town Landing shall be limited to a total time limit of 30 minutes parking year round. An additional four (4) handicapped parking spaces with no time limit shall be located in the next row back.

2) Authorized trailer parking slot(s):

a) Commercial boat trailer parking (RED)

b) Commercial and Recreational boat trailer parking (YELLOW)

3) Non-Authorized commercial vehicle(s) and trailer(s) parking within the restricted commercial dirt lot. (Exception recreational drop-off and commercial wholesale buyers)

SCARBOROUGH, MAINE



INC. 1658

MEMO

To: Scarborough Ordinance Committee
From: Pete Slovinsky, Conservation Commission Chair
Date: April 12, 2019
Re: Proposed Plastic Bag Ordinance
Encl: Draft ordinance and accompanying materials

The Conservation Commission is pleased to provide you with a draft ordinance to prohibit the distribution of single-use plastic shopping bags in Scarborough. We have spent nearly a year developing this ordinance. Our efforts included conducting a survey to gauge public support for a bag ordinance, considering a bag fee vs. a bag ban, speaking with other communities about their experiences developing and implementing bag ordinances, and initiating outreach to Scarborough's business community. During the Commission's ordinance development process, a number of Scarborough community groups provided letters in support of this effort. The letters are provided in this packet.

The Conservation Commission wishes to address single-use plastic bags for a number of reasons:

1. These light-weight, filmy bags are prolific in our environment – they are carried long distances in the wind, clog our drainage systems and waterways, and do not biodegrade.
2. Single-use plastic bags are not easily recycled, and they are a major source of non-recyclable contamination in our Town's curbside recycling carts and silver bullet containers.
3. There are sustainable options, like reusable bags, to replace single-use plastic bags.

Addressing the use of single-use plastic bags through local ordinances is not a new concept. More than 20% of Maine's population is currently subject to a bag ordinance. Many of the first municipalities to adopt an ordinance opted to charge a fee on single-use plastic bags, but more recently, municipalities have passed ordinances to ban these bags. **Bag bans have proven to be more effective in reducing the number of bags distributed and result in less of an administrative burden on retailers and municipalities, alike.** We hope you will agree that a bag ban makes good fiscal and environmental sense for Scarborough.

Thank you for your consideration of this proposed ordinance. Members of the Conservation Commission will attend the Ordinance Committee meeting on April 18th to answer your questions. We look forward to working with you on this important topic.



Town of Scarborough Single-Use Plastic Carry-Out Bag Ordinance - DRAFT

SECTION 1. PURPOSE AND INTENT

The production and use of single-use plastic carry-out bags have significant impacts on the marine and land environment of all coastal communities that outweigh their usefulness to the public. These impacts include, but are not limited to: contributing to the potential death of marine animals through ingestion and entanglement; contributing to pollution of the land and marine environment; imposing unnecessary burden on our solid waste management systems; clogging our stormwater drainage systems; and requiring the use of non-renewable fossil fuels for manufacture.

To date, individual efforts by Town residents to control the use of single-use plastic carryout bags have been minimal.

The Town of Scarborough recognizes the uniqueness and importance of the Scarborough Marsh and its tributaries and the need to: conserve resources; reduce greenhouse gas emissions; reduce waste and litter; and protect the quality of life for the Town's residents, visitors, and future generations.

The purpose of this Ordinance is to eliminate the usage of single-use carry out bags by all Retail Establishments in the Town of Scarborough.

SECTION 2. AUTHORITY

This Ordinance is adopted pursuant to the Town's Home Rule Authority granted under Art. VIII, Pt. 2, Sec. I of the Maine Constitution and Title 30-A M.R.S. §3001 of the general laws of Maine.

SECTION 3. DEFINITIONS

Customer: Any person obtaining food or merchandise at or from a Retail Establishment.

Food: Any substance that is intended for eating and drinking, either in its original form or that is prepared in any manner for the same; however, food does not include produce, meat, lobsters, fish, or bulk foods to the extent those products are contained within handle-less plastic bags solely used for protection of food or for containing potential contamination of those foods or other foods in contact herewith.

Merchandise: Goods or articles that are bought and sold between a retailer and a customer for use or consumption. Merchandise does not include dry cleaning, newspapers, or wet items to the extent those items are contained within handle-less plastic bags solely used for protection of the items contained therein.

Retail Establishment: Any commercial enterprise engaged in the sale of food, clothing, or other merchandise including, but not limited to, grocery and convenience stores, markets, pharmacies, restaurants, take-out food purveyors, clothing stores, hardware stores, seasonal and temporary businesses, and other merchandise retailers.

Reusable Bag: A bag with handles that is specifically designed and manufactured to withstand a minimum of 75 uses, is made from a material that can be cleaned and disinfected regularly, is at least 4 mils (4/1000 of an inch) if made from plastic, and is designed to carry a minimum of 18 pounds.

Single-Use Plastic Carry-Out Bag: Plastic bag with a thickness of less than 4 mils (4/1000 of an inch) with an integral handle provided at check-out for the purpose of transporting food or merchandise out of the Retail Establishment.

SECTION 4. STANDARDS

- A. Every Retail Establishment located in the Town of Scarborough shall comply with this Ordinance.
- B. No Retail Establishment shall provide a Single-Use Plastic Carry-Out Bag to a Customer for the purpose of transporting food or merchandise out of the establishment.
- C. A Retail Establishment may provide a paper bag or a reusable bag that meets the requirements stated above, with or without a charge.
- D. If a Retail Establishment chooses not to provide a bag of any kind, a sign measuring at least 3 inches by 5 inches near the point of sale and at least 10 inches by 14 inches at the entrance must be posted stating that bags will not be provided.
- E. Customers are allowed to bring into a Retail Establishment and use their own bags, including plastic bags, without the Retail Establishment being in violation hereof.

SECTION 5. EXCEPTIONS

- A. Single-Use Plastic Carry-Out Bags, without handles, used to contain dry cleaning; newspapers; wet items; and to protect produce, meat, seafood, and other bulk foods from damage or contaminating other items are permissible.
- B. A Retail Establishment shall be exempt from the provisions of this Ordinance in a situation deemed by the Town Manager to be an emergency for the immediate preservation of the public health or safety.

SECTION 6. ADMINISTRATION AND ENFORCEMENT

- A. The Town Manager or his designee shall have the authority to administer and enforce this Ordinance.
- B. If the Town Manager or his/her designee(s) determines that a violation of this Ordinance has occurred, he shall issue a written warning to the Retail Establishment that a violation has occurred. Subsequent violations of the Ordinance shall be punishable by fines as follows:
 - 1. A fine not exceeding \$250 for the first violation in a one-year period;
 - 2. A fine not exceeding \$500 for the second and each subsequent violation in a one-year period.

- C. No more than one penalty shall be imposed upon a Retail Establishment within a seven (7) day period.
- D. A Retail Establishment shall have 15 days following receipt of a fine to pay the penalty.

SECTION 7. EFFECTIVE DATE

The provisions of this Ordinance shall become effective on **date**.

SECTION 8. SEVERABILITY

Should any portion of this Ordinance be held invalid by a court of competent jurisdiction, this shall not affect the validity of remaining portions of the Ordinance.

DRAFT



The Problem with Plastic Bags

- Intended to be used once
- Lightweight, travel long distances in the wind
- Clog drainage systems and often end up in streams, the marsh, and the ocean
- Not biodegradable
- CANNOT be recycled curbside (opportunities to recycle in general are limited)
- Named by The Ocean Conservancy as the #2 deadliest threat to sea turtles, birds, and marine mammals

Ordinance Committee | April 18, 2019



Plastic bags are a major non-recyclable contaminant in Scarborough's curbside recycling carts and silver bullet containers. Recycling contamination is resulting in Public Works' waste management budget to increase in FY20.



What's Happening in Maine?

Communities with bag fees	Communities with bag bans
<ul style="list-style-type: none"> – Cape Elizabeth – Falmouth – Portland – South Portland – Topsham 	<ul style="list-style-type: none"> – Bar Harbor – Bath – Belfast – Blue Hill – Brunswick – Camden – Damariscotta – Freeport – Kennebunk – Manchester – Newcastle – Saco – Southwest Harbor – Rockland – Waterville (pending) – York

Legislature will consider a statewide bag ban this year

Ordinance Committee | April 18, 2019 

- ~20% of Maine's population is currently subject to some sort of bag ordinance (fee or ban)
 - Scarborough is behind many of our neighbors on this issue
 - Biddeford City Council recently voted to endorse a bag ban, citing recycling contamination as the major reason for the ban
- Recent survey done by the Retail Association of Maine indicated that ~65% of its members support a statewide ban or fee (seeking statewide consistency)
- In general, communities with fees were some of the first to pass ordinances. Ordinances that have passed more recently have opted to implement a ban. Why?
 - Falmouth's fee has not effectively reduced the number of plastic bags distributed – stores gave out 1.5 Million bags in 2018
 - Falmouth is currently working on revising their ordinance to ban bags



Scarborough's Effort

- Conservation Commission proposing a bag ban
 - Fees in other municipalities have not effectively reduced bags - Falmouth stores gave out 1.5M bags in 2018
 - Administration of fee burdensome for retailers and municipality, alike
 - Difficult to enforce a fee
- Ordinance would apply to all retailers; charging for paper bags allowed
- One-year “grace period” before going into effect
- Exemptions for dry cleaning, produce, meat, seafood, and others
- Initial conversations with SEDCO board indicate they are not opposed to ban

Ordinance Committee | April 18, 2019

Public survey conducted by Conservation Commission in June 2018 showed Scarborough residents favored a bag ordinance by a 5:1 margin.

- Reasons for a ban:
 - Want a real impact on the number of bags used (Falmouth’s data was a large factor in the decision to pursue a ban)
 - Administration of a fee (tracking and reporting) is burdensome for town staff and retailers
 - Difficult to enforce a fee – there has been anecdotal evidence of stores not complying with the ordinance in other areas (i.e., not charging for bags)
- Ordinance would apply to all retailers, regardless of store size
- Bags at least 4 mils (4/1000 of an inch) thick, designed to hold ≥ 18 lbs, designed to be used ≥ 75 times, and include a handle are allowed
- Propose a 1-year grace period before ordinance goes into effect to allow retailers to prepare for changes and use existing stocks of bags
- Exemptions:
 - Dry cleaning
 - Newspapers
 - Wet items
 - Produce, meat, seafood, and other bulk items

SCARBOROUGH, MAINE

INC. 1658

ENERGY COMMITTEE

March 27, 2019

Town of Scarborough
Ordinance Committee
PO Box 360
Scarborough, ME 04070

Re: Plastic Bag Ordinance

Dear Ordinance Committee members:

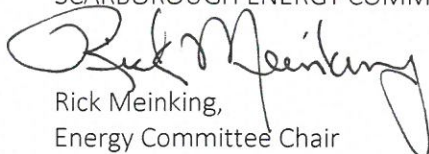
The Town of Scarborough Energy Committee supports the Conservation Commission's proposed ordinance to prohibit the use of single use plastic carry out bags. The Energy Committee supports both energy and environmental sustainability for Scarborough. Part of our work includes identifying areas where the Town can implement policies and practices to increase sustainability, often addressing waste management challenges in Town.

The prevalence of single-use plastic bags in Scarborough's recycling containers is an increasing concern. Ecomaine recently increased the tipping fee for recyclables because recycling loads that are contaminated with plastic bags and other materials cannot be processed through their recycling equipment. The proposed single-use plastic bag ordinance would remove a major source of Scarborough's recycling contamination.

While we expect that some will oppose this ordinance, we want you to know that many others will commend your steps to protect Scarborough Marsh, our beaches, and other natural resources. Thank you for your efforts to address the issue of single-use plastic bags; we urge you to support a full ban.

If you would like to discuss this matter with our committee, or if you would like more information, please do not hesitate to contact me.

Sincerely,
SCARBOROUGH ENERGY COMMITTEE


Rick Meinking,
Energy Committee Chair



SCARBOROUGH LAND TRUST

Town of Scarborough
Ordinance Committee
PO Box 360
Scarborough, ME 04070

Re: Plastic Bag Ordinance

March 7, 2019

Board of Directors

Rick Shinay
President

Elizabeth Peoples
Vice President

Patrick O'Reilly
Treasurer

Nancy Kelleher
Clerk

Melissa Anson

Betts Armstrong

Rita Breton

Mark Follansbee

Seth Hanson

Diane Neal

Gil Paquette

Dawn Piccolo

Alex Timpson

Jeremy Wintersteen

Executive Director

Rich Bard

Dear Ordinance Committee Members:

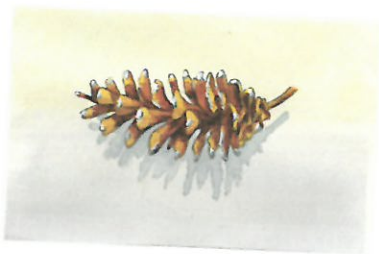
On behalf of the Board of Directors of Scarborough Land Trust, I am writing in support of the Town of Scarborough's proposed ordinance prohibiting the use of single-use plastic bags. The members of the Land Trust, like many other residents, are passionate about conserving the beauty of Scarborough as well as the health of our environment.

Single-use plastic bags have proven to be a nuisance in our environment. They accumulate on our roadsides, in our trees, on our beaches, and in our treasured Scarborough Marsh. They present a documented risk to wildlife and fish, not to mention the impact they have on views of wild areas for residents and visitors. The Draft 2018 Comprehensive Plan sets a vision of the Town operating "*in a manner that conserves and safeguards natural resources, becoming a model of environmental stewardship.*" Alternatives to single-use plastic bags are readily available in the form of reusable bags and paper bags. For these reasons, we support a Town ban on single-use plastic bags, as opposed to a fee for use of these unnecessary conveniences.

Scarborough Land Trust has long worked closely with the Town to conserve some very special places enjoyed by thousands of people each year. We are confident that people who use and support these lands will also favor a ban on single-use plastic bags. We urge you to support a full ban.

Sincerely,

Rick Shinay
President, Board of Directors



February 3, 2019

Town of Scarborough
Ordinance Committee
P.O. Box 360
Scarborough, ME 04070

Dear Ordinance Committee Members

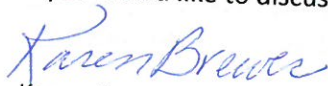
The Coalition on the Natural Environment is writing *in support of the Town of Scarborough's proposed ordinance to prohibit the use of single use plastic carry out bags*. C.O.N.E. is a special interest group of the Piper Shores Community with over 30 members. We are committed to good stewardship of the environment both within Piper Shores and the broader community. As such we have long discussed our concerns over the harm of plastic bags to our community, and tried to develop projects to collect and recycle them.

We know that single use plastic bags are an unnecessary nuisance in our environment, as they pose threats to our marine ecosystem and to our wildlife. Furthermore, they pollute the land and water, and not only clog our drainage system, but cause disruption in the Ecomaine recycling process now used by the Town. We are aware that there are now ecologically responsible alternatives to plastic, even paper as well as new technology, that are commonly available and used in our nearby communities.

We know that change is inconvenient and difficult for people. But we also know that there will be many more residents and visitors who will commend your steps to protect the beauty of the Scarborough Marsh, the beaches and parks, and even the roadsides.

We thank you for your efforts to address the single-use plastic bag issue and strongly encourage you to support a full ban.

If you would like to discuss this proposal with us further, please contact us at Piper Shores in care of:


Karen Brewer, Chair

Coalition on the Natural Environment at Piper Shores
14 Drake Lane
Scarborough, ME 04074
Karenbrewer1943@gmail.com

Food Trucks & Other Mobile Food Units

- **Zoning Approach – Mobile Units - Fixed and Open to Public**
 - Amends the Zoning Ordinance to permit food trucks on commercially-developed properties subject to specific standards and site requirements. Essentially, they are treated as a commercial building with all necessary site and performance standards
 - Types of requirements and/or standards include
 - Determining which districts would allow trucks
 - Determining appropriate size of lot and density of trucks
 - Determining setbacks from other trucks
 - Determining setbacks from other restaurants
 - Must have parking availability
 - Hours of operation
 - All standards that a regular restaurant would be held to.
- **Designated Areas in Town for Mobile Units – Open to Public**
 - Specific area and time frames are designated where any food truck, with the appropriate license may set up on temporary basis. This requires the town to identify the appropriate area considering parking, traffic, access to restrooms etc
 - Portland has a separate food truck ordinance that lays out specific streets etc where trucks may locate on a first come first serve basis.
 - The number of food trucks allowed would be established
 - The area would be separated from established restaurants

- Parking, noise etc would all be subject to regulations
- **Mobile Units as Caterers – Not Public (Current approach in Scarborough)**
 - Either for Events or by invitation by a private entity, these trucks act as caterers. They are not advertised as open to the public (although an event may be open to the public)
 - Either the event is paying for the food or the target audience is paying. Again, not advertised for general public.
 - Maybe a one-time event or an ongoing relationship with a private party.
 - Need to determine catering and licensing approach.
 - State health permit or reciprocal permit from other municipalities.



TO: Long Range Planning Committee
FROM: Karen Martin, SEDCO
SUBJECT: Food Trucks
DATE: June 18, 2015

As we continue to examine elements of the food production cluster, the time is right to consider the mobile food producers – food trucks, carts, trailers and any other thing that moves. These mobile entrepreneurs are not just in the urban areas. We’ve had inquiries in both the Planning Department and at SEDCO about our policies regarding food trucks. It’s time to assess how such mobile “uses” should be treated in Scarborough.

The Economic Case for Food Trucks

We don’t have to do much research to identify the popularity of the food truck phenomenon. They are popular and trendy, but they also fulfill a real niche within the restaurant industry. In many cases they are a stepping stone to a bricks and mortar restaurant. The investment in a fitted out food truck could be as little as \$10,000, compared to opening a new restaurant at half a million dollars. The food truck lets entrepreneurs hone their skills and develop a following. This following can be critical to the success of a new restaurant. From an economic development perspective, you can think of the food truck as an incubator of sorts.

Regulatory Approaches – Current Conditions

In Scarborough, food trucks are allowed if they are hired to cater a specific event. The Town is treating them in the same way any caterer would be. For example, the Town of Scarborough hired “Bite into Maine”, the lobster roll food truck that holds one of the leases at Fort Williams in Cape Elizabeth. They catered the event by parking their mobile cart at public works. So we are clear about using food trucks at a specific event.

We currently do not allow food trucks to set up in a parking lot or any other area on any type of regular or ad hoc basis, outside of a scheduled event.

Regulatory Approaches – Other Communities

The regulatory approach in communities that do allow food trucks fall into two major categories. The first approach treats the food trucks in a stand alone ordinance and specifies specific areas where food trucks may congregate. The City of Portland falls into this category.

Portland’s ordinance (attached) requires an application to the City, including images and size specifications of the specific vehicle to be used. They treat food trucks, carts and trailers the same).

Food trucks are allowed to operate on private property, with the owners permission, in all zones where food trucks are specifically allowed and on specific streets on the Peninsula.

Hours of operation, size, hours of operation are all regulated. A certificate of insurance to cover public liability is required. Finally, no alcohol may be served.

A second example is to incorporate the food truck regulations as part of the Zoning ordinance. Density, setbacks, parking, and signage are specified for the food trucks. We provided a second example that is part of a zoning ordinance.

Suggestions for Scarborough

We've discussed the issues of food trucks in-house. One great suggestion was to approach them in the same way that we did the Farmer's Market. We could allow them on Town owned property, such as Memorial Park or Public Works in the Industrial Park.

Dan suggested that we allow them on a temporary basis to get a better understanding of their impacts. It would also give the sit down restaurants some experience with the food trucks, to see whether their business is really affected by them.

Feedback from LRPC

The Planning Department and SEDCO staff would like some guidance as to the approach we take for food trucks.

Should we experiment on publically owned property, with a sunset clause? A temporary ordinance could address the health provisions, size etc. and hours. The ordinance could trigger a six-month review that could then end in a more detailed approach for private property. Or, should we take the time to look at all the zones and develop a comprehensive approach from the start?

City of Portland

Food Truck Rules and Regulations

These Rules and Regulations are promulgated pursuant to Section 19-23 of the City Code:

1. An application must be submitted on a form provided by the City Clerk's office with colored pictures of at least two different angles of the unit you are applying to license and a description that includes the length and width, when in its widest configuration.
2. Operation from 6:00 a.m. to 10:00 p.m. food trucks may operate on private property in all zones where food trucks are permitted with the permission of the property owner and in the following locations:
 - a. On the following city streets on the Peninsula:
 - West Commercial Street from Park Street to Danforth Street;
 - Bayside along Marginal Way from Forest Avenue to East End Beach Trail, along Washington Avenue from I295 to Cumberland Avenue, along Cumberland Avenue from Washington to Forest Avenue and along Forest Avenue from Cumberland to Marginal Way;
 - On the north side of Park Avenue between High Street and I295, except when there is a game or event at Hadlock Field in which case food trucks are limited to Park Avenue along Deering Oaks Park until two (2) hours before a game or event and starting again two (2) hours after the game or event;
 - Spring Street between Temple and Center Street;
 - Commercial Street from Franklin Arterial to India Street and then along Thames Street;
 - Eastern Promenade from Washington Avenue to Cutter Street;
 - St. John Street from A Street to Valley Street and along Valley Street back to A Street and along A Street between Valley and St. John Street.
 - In the metered parking spaces on the southeasterly side of Congress Street directly adjacent to Lincoln Park between Pearl Street and Franklin Street.
 - b. On city streets or in city-owned parking lots off the Peninsula:
 - In the B-3, B-4, B-5, B-6, B-7 and Industrial Zones.
 - c. City Parks:
 - On city streets or in city-owned parking lots in city parks, if granted a license through the competitive bid process or RFP process described in Chapter 2, Sections 2-301 through 2-314 of the Portland City Code.
3. Night Vending: Food Trucks may operate in all non-residential zones where food trucks are permitted between the hours of 10:00 p.m. and 6:00 a.m. both on and off peninsula

subject to the Separation Requirements in paragraph seven (7) of these rules. Additionally, the food truck shall obtain the appropriate Night Vendor's License from the City Clerk.

The Portland Police Department has the right to close down or request a food truck to relocate after 10 p.m. where in the opinion of the Department, the food truck vending is causing or contributing to an imminent public safety hazard.

4. Food trucks are not allowed on the grounds of any school unless as part of a school authorized function.
5. Food trucks are not allowed in cemeteries.
6. Except as provided in Paragraph 2(a) above, food trucks are not allowed in residential (R) zones.
7. Separation Requirement:
 - a. On Peninsula: Except when operating in connection with a festival or special event approved pursuant to Section 19-22 of the City Code, food trucks must locate at least sixty-five (65) feet from:
 - i. Any fixed-base food service establishment with an operating kitchen measured from the front door; and
 - ii. Any hotel, bed and breakfast, motel, hostel, or inn measured from the nearest edge of the property.
 - b. Off Peninsula: Except when operating in connection with a festival or special event approved pursuant to Section 19-22 of the City Code, food trucks must locate at least two-hundred (200) feet from:
 - i. Any fixed-based food service establishment with an operating kitchen measured from the front door; and
 - ii. Any hotel, bed and breakfast, motel, hostel, or inn measured from the nearest edge of the property.
8. In addition to complying with the City's ordinances related to food trucks and these regulations, the owner and operator of a food truck is responsible for applying for and obtaining all other necessary city licenses required for the service of food and beverages, the food truck itself must be in compliance with the motor vehicle laws of the State of Maine, and the food truck owner is responsible for verifying that a specific location, other than those identified in paragraph 3(a), does not violate a zoning ordinance of the City.
9. Food truck locations, other than those on private property or those permitted through the City's competitive bid process, are based on a first come, first serve basis; there will be no designated parking spots for specific food truck vendors.

10. In locations on public property where food trucks are permitted to operate, food trucks shall comply with all parking rules, except that food trucks otherwise operating lawfully and actively offering food for sale on city-owned property may, in any twenty-four (24) hour period, "feed" any parking meter once in order to extend the maximum parking time by two times (2x) the usual maximum parking time limit.
11. Food trucks may not be parked overnight on city streets or in city parking lots.
12. Size limitations: Food trucks must not exceed ten (10) feet in width, including any side extensions or awnings. Food trucks parking in metered parking spaces on city-owned property must not exceed twenty (20) feet in length including the length of any trailer hitch, trailer, or other extension. Food trucks parking in non-metered parking spaces on city-owned property must not exceed twenty-four (24) feet in length, including the length of any trailer hitch, trailer, or other extension. If the food truck is parked on private property, the food truck with attached trailer, or other extension must not exceed forty (40) feet in length.
13. Food trucks must be self-contained when operating, except for the required trash and/or recycling receptacles which shall be in contact with the food truck, in a safe location and in no event shall impede the free movement of automobiles or pedestrians.
14. Food trucks must serve to the sidewalk or esplanade next to a sidewalk when parked in spaces parallel to City sidewalks.
15. Only food and/or non-alcoholic beverages are allowed to be sold on City property.
16. Each food truck vendor must provide the City of Portland with a certificate of insurance to cover public liability in the amount of at least \$400,000.00
17. The food truck base station must be inspected and properly licensed pursuant to Chapter 19 and Sections 15-12 and 6-17 (if applicable) of the City code.
18. Food trucks shall comply with the City's noise requirements pursuant to Section 17-20 of the Portland City Code.
19. Failure to adhere to the regulations for food truck is cause for revocation or suspension of your license by the City Clerk pursuant to Chapter 15 of the City Code.

Dated: May 5, 2014

Signed: /s/ Mark Rees
Mark Rees
City Manager

Please Direct Inquiries Regarding the Food Trucks in the City of Portland or Food Truck Inspections to (207)756-8365.

Example 2: Food Truck in Zoning Ordinance

9/6/11 CITY COUNCIL REVISED VERSION

ORDINANCE NO. (2011)

TC

TC-5-11

AN ORDINANCE TO AMEND THE ZONING CODE TO PERMIT FOOD TRUCKS TO LOCATE ON DEVELOPED LOTS COMMERCIALY-ZONED SUBJECT TO CONDITIONS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH, NORTH CAROLINA that:

Section 1. Amend Raleigh City Code Section 10-2002(b), **DEFINITIONS**, to include the following new definition in its proper alphabetical order:

“Retail sales – food truck. A licensed, motorized vehicle or mobile food unit which is temporarily stored on a *premise* where food items are sold to the general public all in accordance with the standards of §10-2072, *Retail sales – food trucks.*”.

Section 2. Amend Raleigh City Code Section 10-2071, **SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS**, within the **COMMERCIAL** category, under the “*Retail sales*” heading, by inserting a new sublisting immediately following the “*Convenience*” sublisting to read as follows:

“Food Truck”.

Furthermore, within this new land use listing, place a conditional use symbol (open circle) within the **SC**, **NB**, **Bus Zone**, **TD**, **I-1** and **I-2** columns.

Section 3. Amend Raleigh City Code Section 10-2072 by including the following new conditional use listing in alphabetical order:

“- Food truck (see *Retail sales – food truck*)”.

Section 4. Amend Raleigh City Code Section 10-2072(b), **Uses enumerated**, to include the following new conditional use listing in alphabetical order:

“Retail sales – food truck.

A *retail sales – food truck* in the Shopping Center, Neighborhood Business, Business, Thoroughfare, Industrial-1 or Industrial-2 zoning district *shall* meet all of the following:

- (1) *Retail sales - food trucks shall only be located on a lot containing a principal building(s) or use and the maximum number of retail sales - food trucks per lot shall be limited as follows:*
 - a. maximum of one (1) *retail sales - food trucks* on lots of one-half (1/2) acre or less;
 - b. maximum of two (2) *retail sales - food trucks* on lots between one-half (1/2) acre and one (1) acre;
 - c. maximum of three (3) *retail sales - food trucks* on lots greater than one acre
- (2) *Retail sales - food trucks shall be located a minimum of one hundred (100) feet from the main entrance to any eating establishment or similar food service business, one hundred (100) feet from any outdoor dining area and fifty (50) feet from any permitted food vending cart location, as measured from the designated location on the lot accommodating the retail sales - food truck. In the event that one or more of the aforementioned uses locates within the minimum separation requirement subsequent to a retail sales – food truck location being approved, nothing herein shall prohibit the property owner from continuing to operate at the approved location until the food truck permit has expired.*
- (3) *Retail sales - food trucks shall be located a minimum distance of five (5) feet from the edge of any driveway or public sidewalk, utility boxes and vaults, handicapped ramp, building entrances, exits or emergency access/ exit ways, or emergency call box and shall not locate within any area of the lot that impedes, endangers, or interferes with pedestrian or vehicular traffic. Retail sales – food trucks shall be located a minimum distance of fifteen (15) feet in all directions of a fire hydrant.*
- (4) *Retail sales - food trucks and its associated seating, if any, shall not occupy parking spaces required to fulfill the minimum requirements of the principal use per §10-2081 of this Code, unless the principal use's hours of operation do not coincide with those of the food truck business. Nor shall any retail sales - food truck and its associated seating, if any, occupy parking spaces which may be leased to other businesses and uses to fulfill its minimum parking requirements. Retail Sales – food trucks shall not occupy any handicap accessible parking space as specified in G.S. § 20-37.6.*
- (5) *No free-standing signage or audio amplification shall be permitted as part of the retail sales - food trucks vending operation. Outdoor seating areas associated with a retail sales - food trucks vending operation shall only be permitted on lots two (2) acres or greater in size.*

- (6) Hours of operation of *retail sales - food trucks* shall be limited to the hours between 6:00 a.m. and 3:00 a.m. unless the designated location on the *lot* accommodating the *retail sales - food truck* is located within one hundred fifty (150) feet of the property line of a *single family* or *duplex dwelling* in which case the hours of operation shall be limited to the hours between 7:00 a.m. and 10:00 p.m.
- (7) The *retail sales - food trucks* operator or his/her designee must be present at all times except in cases of an emergency.
- (8) *Retail sales - food trucks* and associated outdoor seating shall be removed from all permitted locations during impermissible hours of operation and shall not be stored, parked, or left overnight on any public *street* or sidewalk.
- (9) The *retail sales - food trucks* vendor is responsible for the proper disposal of waste and trash associated with the operation. City trash receptacles are not to be used for this purpose. Vendors shall remove all waste and trash from their approved location at the end of each day or as needed to maintain the health and safety of the public. The vendor shall keep all areas within five (5) feet of the truck and any associated seating area clean of grease, trash, paper, cups or cans associated with the vending operation. No liquid waste or grease is to be disposed in tree pits, storm drains or onto the sidewalks, streets, or other public space. Under no circumstances shall grease be released or disposed of in the City's sanitary sewer system.
- (10) With the exception of allowable outdoor seating areas, all equipment required for the operation shall be contained within, attached to or within three (3) feet of the *retail sales - food trucks* and all food preparation, storage, and sales/distribution shall be in compliance with all applicable County, State and Federal Health Department sanitary regulations.
- (11) That a City of Raleigh zoning permit shall be obtained by the property owner (as listed in the Wake County tax records) for any *lot* proposed to accommodate one or more *retail sales – food truck* businesses. If at any time evidence is provided that the *lot* is being used other than in compliance with these regulations such as number of food trucks allowed on the lot, outdoor seating or hours of operation, the zoning permit shall be rendered null and void, and the owner shall be punished for the violation. This zoning permit shall be required to be renewed annually.
- (12) That a City of Raleigh food truck permit shall be obtained for the *retail sales - food truck* business and all required Wake County and City of Raleigh permits and licenses shall be clearly displayed on the food truck. A copy of the approved food truck permit and zoning permit shall be kept in the food truck. The approved *retail sales – food truck* as shown on the food truck

permit shall be clearly delineated on the improved surface. Prior to the issuance of the food truck permit, the vendor *shall* provide evidence of having obtained a City of Raleigh Business License, NC Sales and Use Certificate for collecting and paying the proper sales taxes and prepared meals taxes, a Wake County Environmental Services – Vending Permit and a means for the disposal of grease within an approved grease disposal facility. This food truck permit *shall* be required to be renewed annually. If at any time evidence of the improper disposal of liquid waste or grease is discovered, the food truck permit for the *retail sales - food truck* business *shall* be rendered null and void and the *retail sales - food truck* business *shall* be required to cease operation immediately. The operator of the *retail sales - food truck* business *shall* be punished for the violation.

- (13) If at any time, the Wake County Environmental Services revokes or suspends the issued food vending permit, the City permit for the *retail sales - food truck* business is revoked or suspended simultaneously.

Section 5. Amend Raleigh City Code Section 10-2072(b), Uses enumerated, within the “*Retail sales – outdoor mobile vending cart*” listing, to add the following new sentence to the end of subsection (5):

“This zoning permit *shall* be required to be renewed annually.”.

Section 6. Amend Raleigh City Code Section 10-2088 relating to number of principal buildings or uses on a lot to include the following new listing in alphabetical order:

“- *Retail sales – food truck* approved in accordance with §10-2072(b).”.

Section 7. Amend Raleigh City Code Section 10-6039(e) relating to permit fees to include the language “*retail sales - food truck*,” between the words “retail sales – outdoor mobile vending cart,” and “fence”.

Section 8. All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

Section 9. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable.

Section 10. This ordinance has been adopted following a duly advertised joint public hearing of the Raleigh City Council and the City Planning Commission following a recommendation of the Planning Commission.

Section 11. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 12. This ordinance shall be enforced by law as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be up to the fifty dollar limit in G.S. 14-4(a) or similar limitations.

Section 13. The penalty for violating this ordinance shall be as follows: For the first offense, the fine shall be \$100.00. For the second offense, the fine shall be \$300.00. The permit shall be revoked after the third offense.

Section 14. This ordinance shall become effective on October 1, 2011.

ADOPTED:

EFFECTIVE:

DISTRIBUTION:

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 1018 - the Marijuana Establishment Licensing Ordinance of the Town of Scarborough, Maine, is adopted as follows:

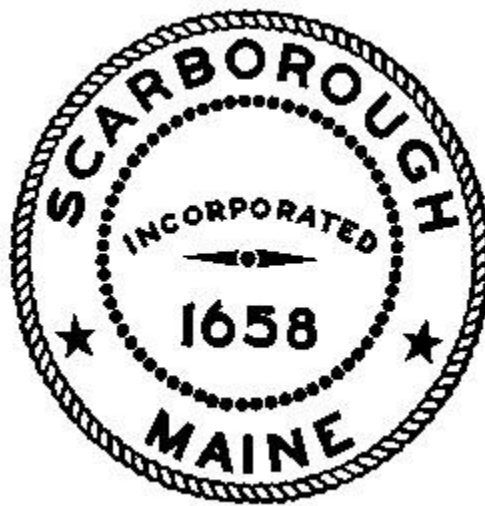
Proposed Draft

CHAPTER 1018

TOWN OF SCARBOROUGH

MARIJUANA ESTABLISHMENT

LICENSING ORDINANCE



DRAFT APRIL 18, 2019

KEY TO SCHEDULE:

TC	Denotes license granted by Town Council
CLK	Denotes license granted by Town Clerk
CMR	Denotes Code of Maine Rules
MRSA	Denotes Maine Revised Statutes Annotated, as may be amended from time to time
OY	Denotes one year from date of issuance
P	Denotes Permit
L	Denotes License
Police	Denotes review of application by Police Department required prior to issuance or renewal, unless otherwise noted
Fire	Denotes review of application by Fire Department required prior to issuance or renewal, unless otherwise noted
Health	Denotes review of application by Health Officer required prior to issuance or renewal, unless otherwise noted
CEO	Denotes review of application by Code Enforcement Department required prior to issuance or renewal, unless otherwise noted
N/A	Denotes License not required

Business or Occupation	Reference	P/L	Granted by	Exp	Additional Review by
• • •	• • •	• •	• • •	• • •	• • •
Medical Marijuana Establishments	22 MRSA § 2421 <i>et seq.</i> ; § 14-770 <i>et seq.</i>				
Medical Marijuana Cultivation Facility	22 MRSA § 2421 <i>et seq.</i> ; § 14-770 <i>et seq.</i>	L	TC/CLK	OY	Police/Fire/Health/CEO if new license
Medical Marijuana Dispensary	22 MRSA § 2421 <i>et seq.</i> ; § 14-770 <i>et seq.</i>	L	TC/CLK	OY	Police/Fire/Health/CEO if new license
Medical Marijuana Products Manufacturing Facility	22 MRSA § 2421 <i>et seq.</i> ; § 14-770 <i>et seq.</i>	L	TC/CLK	OY	Police/Fire/Health/CEO if new license
Medical Marijuana Retail Store	22 MRSA § 2421 <i>et seq.</i> ; § 14-770 <i>et seq.</i>	L	TC/CLK	OY	Police/Fire/Health/CEO if new license
Medical Marijuana Testing Facility	N/A	N/A	N/A	N/A	N/A
• • •	• • •	• •	• • •	• • •	• • •

**CHAPTER 1016 – TOWN OF SCARBOROUGH
MARIJUANA ESTABLISHMENTS AND
MEDICAL MARIJUANA ESTABLISHMENTS ORDINANCE**

PURPOSE

The purpose of this Ordinance is to provide for and regulate the issuance of Local Licenses for Marijuana Establishments as defined in this Ordinance and by the State of Maine under the Marijuana Legalization Act, Title 28-B M.R.S.A. Chapter 1, and to provide for and regulate the issuance of Local Licenses for Medical Marijuana Establishments as defined in this Ordinance and by the State of Maine under the Maine Medical Use of Marijuana Act, Title 22 M.R.S.A. Chapter 558-C.

AUTHORITY

This Ordinance is adopted pursuant to the authority granted by Title 28-B M.R.S.A. §401 *et seq.* and Title 22 M.R.S.A. §2421 *et seq.*

DEFINITIONS

As used in this Ordinance, the following words and phrases shall have the meanings ascribed to them in this section.

Adult use marijuana shall mean “adult use marijuana” as that term is defined in Title 28-B M.R.S.A. §102(1).

Adult use marijuana product shall mean “adult use marijuana product” as that term is defined in Title 28-B M.R.S.A. §102(2).

Applicant shall mean a person that has submitted an application for licensure as a Marijuana Establishment pursuant to this Ordinance.

Cultivate or cultivation shall mean the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale. It does not include manufacturing.

Harvested marijuana shall mean “harvested marijuana” as that term is defined in Title 22 M.R.S.A. §2422(3-C).

Licensed premises shall mean the premises specified in an application for a State or Local License pursuant to this Ordinance that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, or test adult use marijuana, adult use marijuana products, medical marijuana or medical marijuana products in accordance with the provisions of this Ordinance and the requirements of State law and regulations.

Licensee shall mean a person licensed pursuant to this Ordinance or, in the case of a holder of an occupational license, a natural person licensed pursuant to this Ordinance.

Local License shall mean any license required by and issued under the provisions of this Ordinance.

Local Licensing Authority shall mean the Town Clerk or the Town Council, as further specified in the provisions of this Ordinance.

Manufacture or manufacturing of marijuana shall mean the production, blending, infusing, compounding or other preparation of marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. It does not include cultivation.

Marijuana shall mean “marijuana” as that term is defined in Title 28-B M.R.S.A. §102(27).

Marijuana concentrate shall mean the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. In determining the weight of marijuana concentrate in a marijuana product, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included.

Marijuana Cultivation Facility shall mean a “cultivation facility” as that term is defined in Title 28-B M.R.S.A. §102(13). A Marijuana Cultivation Facility is an entity licensed to cultivate, prepare and package adult use marijuana and to sell adult use marijuana to Marijuana Establishments.

Marijuana Establishment shall mean a “marijuana establishment” as that term is defined in Title 28-B M.R.S.A. §102(29). A Marijuana Establishment is a Marijuana Cultivation Facility, a Marijuana Products Manufacturing Facility, or a Marijuana Testing Facility.

Marijuana Products Manufacturing Facility shall mean a “products manufacturing facility” as that term is defined in Title 28-B M.R.S.A. §102(43). A Marijuana Products Manufacturing Facility is an entity licensed to purchase adult use marijuana; to manufacture, label and package adult use marijuana products; and to sell adult use marijuana products from a Marijuana Cultivation Facility only to other Marijuana Products Manufacturing Facilities

Marijuana Testing Facility shall mean a “testing facility” as that term is defined in Title 28-B M.R.S.A. §102(54). A Marijuana Testing Facility is facility licensed to develop, research and test marijuana, marijuana products and other substances.

Medical marijuana shall mean the medical use of marijuana, with the term “medical use” as defined in Title 22 M.R.S.A. § 242 2 (5).

Medical marijuana caregiver shall mean a “caregiver” as that term is defined in Title 22 M.R.S.A. §2422(8-A).

Medical marijuana cultivation area shall mean a “cultivation area” as that term is defined in Title 22 M.R.S.A. §2422(3).

Medical Marijuana Cultivation Facility shall mean a medical marijuana cultivation area used or occupied by one or more medical marijuana registered caregivers. A medical marijuana cultivation facility is prohibited from selling medical marijuana to medical marijuana qualifying patients, medical marijuana caregivers or medical marijuana registered caregivers on premise. A medical marijuana cultivation facility shall not be used or occupied by a “collective” as that term is defined in 22 M.R.S.A. §2422(1-A).

Medical Marijuana Dispensary shall mean a “registered dispensary” as that term is defined in Title 22 M.R.S.A. §2422(6).

Medical Marijuana Establishment shall mean a Medical Marijuana Dispensary, a Medical Marijuana Cultivation Facility, a Medical Marijuana Retail Store, a Medical Marijuana Products Manufacturing Facility, or a Medical Marijuana Testing Facility.

Medical marijuana product shall mean a “marijuana product” as that term is defined in Title 22 M.R.S.A. §2442(4-L).

Medical Marijuana Products Manufacturing Facility shall mean a “manufacturing facility” as that term is defined in Title 22 M.R.S.A. §2422(4-H).

Medical marijuana qualifying patient shall mean a “qualifying patient” as that term is defined in Title 22 M.R.S.A. §2422(9).

Medical marijuana registered caregiver shall mean a “registered caregiver” as that term is defined in Title 22 M.R.S.A. §2422(11).

Medical Marijuana Retail Store shall mean a retail establishment operated by a single medical marijuana registered caregiver where harvested marijuana is sold by that medical marijuana registered caregiver to medical marijuana qualifying patients for patients’ medical use and may include an area for consultation with patients. Two or more medical marijuana registered caregivers are prohibited from forming, owning or operating a medical marijuana retail store as a single medical marijuana retail store.

Medical Marijuana Testing Facility shall mean a “marijuana testing facility” as that term is defined in Title 22 M.R.S.A. §2422(5-C).

Owner shall mean a person whose beneficial interest in a Marijuana Establishment and/or Medical Marijuana Establishment is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a Marijuana Establishment and/or Medical Marijuana Establishment and has a controlling interest in a Marijuana Establishment and/or Medical Marijuana Establishment.

Person shall mean a natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer or employee thereof. “Person” does not include any governmental organization.

State License shall mean any license, registration or certification issued by the State Licensing Authority.

State Licensing Application shall mean the application form and supporting materials required by the State for the purpose of a person obtaining a State license, registration or certification for the cultivation, manufacture, distribution, testing and sale of adult use marijuana, adult use marijuana products, medical marijuana and/or medical marijuana products in this State.

State Licensing Authority shall mean the authority (or authorities) created by the State for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of adult use marijuana, adult use marijuana products, medical marijuana and/or medical marijuana products in this State.

MARIJUANA ESTABLISHMENTS AND MEDICAL MARIJUANA ESTABLISHMENTS

Marijuana Establishments and Medical Marijuana Establishments shall be allowed, subject to the requirements and restrictions of this Ordinance.

PROHIBITED ACTIVITIES

(No Marijuana Establishment or Medical Marijuana Establishment shall be established or operated within the Town without first receiving and then maintaining all approvals required under this Ordinance

No Marijuana Establishment or Medical Marijuana Establishment shall conduct any activity for which it has not received the required State License and Local License.

LICENSE REQUIRED

State License. A Marijuana Establishment shall not operate until it is licensed by the State Licensing Authority pursuant to the requirements of Title 28-B M.R.S.A. Chapter 1. An Applicant may not operate a Marijuana Establishment without a State License and all other necessary Town approvals. A Medical Marijuana Establishment shall not operate until it is licensed, registered or certified, as applicable, by the State Licensing Authority pursuant to the requirements of Title 22 M.R.S.A. Chapter 558-C. An Applicant may not operate a Medical Marijuana Establishment without any required State License and without all other necessary Town approvals.

Local License. A Local License issued under the provisions of this Ordinance is required for any Marijuana Cultivation Facility or Marijuana Products Manufacturing Facility. A Marijuana Testing Facility does not require a Local License. A Local License issued under the provisions of this Ordinance is required for any Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturing Facility, Medical Marijuana Dispensary or Medical Marijuana Retail Store. A Medical Marijuana Testing Facility does not require a Local License.

LICENSE CLASSES

A Class I license shall be required for Marijuana Products Manufacturing Facilities. A Class I license shall be required for Medical Marijuana Products Manufacturing Facilities.

A Class II license shall be required for Marijuana Cultivation Facilities. A Class II license shall be required for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries and Medical Marijuana Retail Stores.

LICENSING AUTHORITY

The initial application for a Class II license shall be processed by the Town Clerk but reviewed and may be approved by the Town Council. Application shall be made on a form prepared by the Town and must include all information required by this Ordinance.

A Class II renewal application shall be subject to the same review standards as applied to the initial issuance of the license and the same notice requirement as a Class I new application. As part of the renewal process, the Town Clerk shall consider compliance from prior years, and based upon that review, may add conditions to any future license to correct, abate or limit past problems. In the event that the Town Clerk determines that a hearing on a Class II renewal application is necessary and appropriate, the Town Clerk may elect to defer action on a renewal application and refer the matter to the Town Council for public hearing and action.

Responsibilities and review authority.

- (1) The Town Clerk shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Article. The Town Clerk may consult with other Town Departments and any appropriate State Licensing Authority as part of this investigation.
- (2) The Licensing Authority shall have the authority to impose any conditions on a license that may be necessary to insure compliance with the requirements of this Chapter or to address concerns about operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the license.
- (3) No Local License shall be granted by the Licensing Authority until the Police Chief, the Fire Chief, the Health Inspector and, if applicable, the Code Enforcement Officer have all made a positive recommendation upon the Applicant's ability to comply with this Ordinance. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance or State law, or are reasonably necessary to secure compliance with any ordinance provision or State law, it shall be the duty of the Applicant or licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the Town authorized to make the inspection at any reasonable time that admission is requested.

Confidentiality.

Medical marijuana registered caregivers and other applicants submitting applications and supporting information that is confidential under Title 22 M.R.S.A. §2425-A (12) and the Maine Freedom of Access Act, Title 1 M.R.S.A. §403(3) (F), shall mark such information as confidential.

An individual who possesses a valid Maine medical marijuana registered caregiver registry identification card need not identify himself or herself in an application for a license for a medical marijuana establishment. The cardholder must identify himself or herself and provide the relevant cards to the Town Clerk for examination, but the identity of the cardholder shall not be a public record and the Town Clerk shall not share the identity of the cardholder, except as necessary by law in the performance of his or her duties. At the time of application, the cardholder may appoint a representative to appear before the Licensing Authority on his or her behalf.

LICENSING PROCESS

APPLICATION

Application required. Each Applicant for a Class I or Class II license shall complete and file an application on a form prescribed by the Town Clerk, together with a license fee as required by Chapter 311 – Schedule of Fees and as specified in the Schedule of License, Permit, Inspection and Application Fees, together with the following submissions:

- (1) If a State License is required for the proposed use, a copy of the Applicant's State License Application and supporting documentation as filed with the State Licensing Authority, and any amendments thereto.
- (2) Evidence of all State approvals or conditional approvals required to operate a Marijuana Establishment or Medical Marijuana Establishment, including, but not

limited to, a State License as defined by this Ordinance, a State retail certificate, or a State health license.

- (3) If not included in the Applicant's State License Application, attested copies of the Articles of incorporation and bylaws if the Applicant is a corporation, operating agreement if the Applicant is a limited liability company, evidence of partnership if the Applicant is a partnership, or articles of association and bylaws if the Applicant is an association.
- (4) If not included in the Applicant's State License Application, an affidavit that identifies all owners, officers, members, managers, or partners of the Applicant, their ownership interests, and their places of residence at the time of the application and for the immediately preceding three (3) years.
- (5) If not included in the Applicant's State License Application, a release authorized by Title 16 M.R.S.A. §620(6), as may be amended, with the application for each Applicant and for each officer, owner, member, manager, or partner of the Applicant seeking a Local License.
- (6) Evidence of all land use approvals or conditional land use approvals required to operate a Marijuana Establishment or Medical Marijuana Establishment, pursuant to the Ordinances, including, but not limited to, a building permit, special exception approval, site plan approval, change of use permit or certificate of occupancy.
- (7) Evidence of all other local approvals or conditional approvals required to operate a Marijuana Establishment or Medical Marijuana Establishment pursuant to the Code of Ordinances, including, but not limited to, food license or victualer's license.
- (8) A description of the premises for which the Local License is sought, including a floor plan of the premises showing how the floor space is or will be used, parking for the premises, total floor area of the building(s), and the nature and location of any existing or proposed exterior lighting and signage.
- (9) A copy of the Applicant's security plan and operations manual.

Complete application. In the event that the Town Clerk determines that a submitted application is not complete, the Town Clerk shall notify the Applicant within ten (10) business days that the application is not complete and shall inform the Applicant of the additional information required to process the application.

Background checks. The Town Clerk shall order background checks of each applicant and renewal applicant. If the applicant is a business entity, every officer, director, manager and general partner of the business entity is required to submit to a criminal history record check. Failure to submit required releases for a background check is grounds for denial of a license. The cost of the background check shall be borne by the applicant.

Public hearing. A public hearing on an application for a Class II license shall be scheduled after receipt of a completed application by the Town Clerk. The Town Clerk shall post and publish public notice of the hearing not less than seven (7) days prior to the hearing. The Town Clerk shall give public notice by posting a sign in a conspicuous place on the premises identified in an Application

for Local License and by publication in a newspaper of general circulation in Cumberland County at the expense of the applicant.

Advertisements for public hearing shall contain the location of the proposed medical marijuana production facility and the identity of the owner of the real estate and the identity of the designated representative.

LICENSE FEES

Fees for a Local License shall be as set forth in the Schedule of License, Permit, Inspection and Application Fees established by Town Council order and shall be paid annually.

LICENSE EXPIRATION AND RENEWAL

Each Local License issued shall be effective for one year from the date of issuance.

Renewal applications must be submitted prior to the date of expiration of the annual Local License. An application for the renewal of an expired license shall be treated as a new license application.

DENIAL, SUSPENSION OR REVOCATION OF LICENSE

In addition to the provisions set forth in Chapter 1000a, the following applies:

A Local License under this Ordinance shall be denied to the following persons:

- (1) A person who fails to meet the requirements of this Ordinance. Where an Applicant is an entity rather than a natural person, all natural persons with an ownership interest shall meet these requirements.
- (2) A person who has had a license for a Marijuana Establishment and/or Medical Marijuana Establishment revoked by the Town or by the State.
- (3) An Applicant who has not acquired all necessary State approvals and other required local approvals prior to the issuance of a Local License.

The Town may suspend or revoke a license for any violation of this Chapter, Chapter 1000a, Chapter 405, or any other applicable building and life safety code requirements. The Town may suspend or revoke a license if the licensee has a State License for a Marijuana Establishment and/or Medical Marijuana Establishment suspended or revoked by the State. The Licensee shall be entitled to notice and a hearing prior to any suspension or revocation.

OPERATING REQUIREMENTS

The Licensee shall comply with all of the following requirements during the term of the Local License:

Display of License. The current Local License shall be displayed at all times in a conspicuous location within the Licensed Premises.

Location. All Licensed Premises shall be fixed, permanent locations. Licensees shall not be permitted to operate Marijuana Establishments or Medical Marijuana Establishments in temporary locations such as mall kiosks or farm stands.

Compliance with other laws. A Marijuana Establishment and a Medical Marijuana Establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing

Marijuana Establishments and/or Medical Marijuana Establishments, the stricter law or regulation shall control.

TRANSFER OF OWNERSHIP AND CHANGE OF LOCATION

Licenses issued under this Ordinance are not transferable to a new owner. Any change in ownership or change in the officers of an owner shall require a new license. Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A Licensee who seeks to operate in a new location shall acquire a new Local License for that location.

APPEALS

Any appeal of a decision of the Town Clerk under the provisions of this Ordinance shall be made to the Town Council. The Town Council shall conduct a *de novo* hearing in which it will hear evidence on the application and make its own findings of fact and conclusions of law on the issue of whether the application meets the requirements of this Ordinance.

Any appeal of a decision of the Town Council shall be to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

VIOLATIONS AND PENALTIES

The operation of any Marijuana Establishment or Medical Marijuana Establishment without the required Local License or in violation of the requirements of this Chapter shall be a violation of this Chapter. Violations shall be subject to fines as set forth in this Chapter. Each day of a violation shall constitute a separate violation. Any such fine may be in addition to any suspension or revocation imposed in accordance with the provisions of this Ordinance or Chapter 1000a. In any court action, the Town may seek injunctive relief in addition to penalties. The Town shall be entitled to recover its costs of enforcement, including its attorney's fees.

SEVERABILITY

The provisions of this Ordinance are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

OTHER LAWS

Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in the Maine Marijuana Legalization Act, Title 28-B M.R.S.A. Chapter 1. In the event of a conflict between the provisions of this Chapter and the provisions of the Maine Marijuana Legalization Act or any other applicable State or local law or regulation, the more restrictive provision shall control.

Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in the Maine Medical Use of Marijuana Act, Title 22 M.R.S.A. Chapter 558-C. In the event of a conflict between the provisions of this Chapter and the provisions of the Maine Medical Use of Marijuana Act or any other applicable State or local law or regulation, the more restrictive provision shall control.

EFFECTIVE DATE

This Ordinance shall take effect pursuant to the Town Charter. However, no application for any Local License for Marijuana Establishments shall be acted upon until the effective date of regulations promulgated and adopted pursuant to Title 28-B M.R.S.A. Chapter 1.

MEDICAL AND ADULT USE MARIJUANA PERFORMANCE STANDARDS

Performance standards for home cultivation of marijuana for personal adult use.

The total number of mature plants that may be cultivated on any one parcel or tract of land located within the Town is limited to 3 mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings by each person 21 years of age or older who is domiciled at that parcel or tract of land.

Performance standards for marijuana establishments and medical marijuana establishments.

Notwithstanding the provisions of Title 1 M.R.S.A. § 302 or any other law to the contrary, this section, when enacted, shall govern any proposed marijuana establishment or medical marijuana establishment.

All marijuana establishments and medical marijuana establishments require site plan review and approval from the Planning Board prior to the issuance of any building permit or certificate of occupancy. The following performance standards are to be used by the Planning Board in reviewing site plan applications and compliance with the same shall serve as requirements for approval of such site plans.

(a) Separation from sensitive uses.

(1) No medical marijuana retail store or medical marijuana dispensary shall be sited within one thousand (1,000) feet of the lot lines of a school, and

(2) No medical marijuana retail store or medical marijuana dispensary shall be sited within three hundred (300) feet of the lot lines of a child care facility, community center, higher educational facility, large public outdoor recreational facility, church, synagogue or other house of religious worship.

The distance cited in this subsection shall be measured between the lot line of the proposed site for the medical marijuana retail store or medical marijuana dispensary and the lot line of the site of the use listed in (1) or (2) above at their closest points. For purposes of this measurement, if a medical marijuana retail store or medical marijuana dispensary is to be located on a site that is leased from an unrelated third party, such as establishment's lot line shall be determined as follows:

- (i) If the establishment leases an entire parcel of land, the lot line of such establishments shall be the lot line of the parcel;
- (ii) If the establishment leases a freestanding building or buildings which is or are part of a larger parcel containing other free standing buildings, the lot line of such establishment shall be the outer wall of the building(s) being leased by the establishment; and
- (iii) If the establishment leases a room or suite of rooms within a building, including, without limitation, individual units within a shopping plaza, the lot line of such establishment shall be the outer wall of the building within which such room or suite of rooms is located.

The Town will only verify distance of the proposed premises from existing uses listed in (1) or (2) above; once all of the Town-required licenses, permits and approvals are issued, the Town will not preclude a sensitive use listed in (1) or (2) above from opening at a location within the applicable buffer zones.

A medical marijuana retail store or medical marijuana dispensary may continue to operate in its present location as a pre-existing use if a sensitive use as listed in (1) or (2) above later locates within the applicable buffer zone; however, the medical marijuana retail store or medical marijuana dispensary does so at its own risk, and Town-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a medical marijuana retail store or medical marijuana dispensary near a sensitive use listed in (1) or (2) above.

For purposes of this section, the term “school” means a “public school” as that term is defined in Title 20-A M.R.S. § 1(24), as may be amended; a “private school” as that term is defined in Title 20-A M.R.S. § 1(22), as may be amended; and/or a “public preschool program” as that term is defined in Title 20-A M.R.S. § 1(23-A), as may be amended.

For purposes of this section, the term “child care facility” means a “child care facility” as that term is defined in Title 22 M.R.S. § 8301-A (1-A) (B), as may be amended, and/or a “family child care provider” as that term is defined in Title 22 M.R.S. § 8301-A (1-A) (C), as may be amended.

For purposes of this section, the term “large public outdoor recreational facility” means a place designed and used for athletic fields that is at least 50 acres in size and is owned and operated by a governmental agency.

- (b) Hours of operation. Medical marijuana retail stores and medical marijuana dispensaries are limited to the same hours of operation as those for establishments serving or selling alcoholic beverages or products as may be set forth in State statute or in the zoning district regulations for the zone in which the store is located.

When there is a conflict between statute and local zoning, the more restrictive hours of operation shall apply.

- (c) Size limitation. The plant canopy of a marijuana cultivation facility or medical marijuana cultivation facility shall not exceed ten thousand (10,000) square feet in area.
- (d) Separation of medical marijuana retail stores and medical marijuana dispensaries. No medical marijuana retail store or medical marijuana dispensary shall be sited within three hundred (300) feet of another medical marijuana retail store or medical marijuana dispensary as measured from the main entrance of one to the main entrance of the other by the ordinary course of travel.

- (e) Area of activities; control of odors and emissions; sealed walls; disposal plan; security.
- (1) All activities of marijuana establishments and medical marijuana establishments, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. Marijuana establishments and medical marijuana establishments are not permitted to conduct outdoor sales or services of any kind. Any common areas, including, but not limited to storage areas and building facilities, shared with another marijuana establishment and/or medical marijuana establishment must be clearly identified as such on the site plan application.
 - (2) Odor management. For all marijuana establishments and medical marijuana establishments, the odor of marijuana must not be detected offsite, i.e., must not be detected at premises that are not under the custody or control of the establishment. To prevent and control marijuana odors, an odor control plan shall be submitted as part of the site plan application describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises. The odor control plan shall, at a minimum, include the following:
 - (a) A facility floor plan that identifies the locations of all odor-emitting activities and sources. The plan shall also identify the location of doors, windows, vents, HVAC systems, odor control systems and other relevant information.
 - (b) A list of specific odor-emitting activities and sources, and a description of the process that will take place at the facility, including, but not limited to, vegetative flowering, processing, and storage.
 - (c) For each odor-emitting activity or source, a description of the administrative procedures as well as the engineering processes, technologies, and equipment the facility will use.
 - (i) Administrative controls shall include, at a minimum: management practices to isolate odor activities and sources, use of standard operating procedures, employee training, regular equipment inspections and maintenance of inspection logs.
 - (ii) Engineering controls shall include, at a minimum, building design features; use of equipment and technology to address each specific odor-emitting activity or source; a systems and equipment maintenance and replacement schedule; and evidence that proposed equipment and technology are sufficiently capable and appropriately sized consistent with marijuana industry best practices for control technologies designed to effectively mitigate odors.

Marijuana cultivation facilities and medical marijuana cultivation facilities must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. Medical marijuana retail stores, marijuana product manufacturing facilities, medical marijuana product manufacturing facilities, marijuana testing facilities, and medical marijuana testing facilities are not required to install filtration equipment on the licensed premises but must

satisfy the same odor standard contained herein. While the Town does not mandate any particular equipment specifications with regard to filtration, all marijuana establishments and medical marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

- (3) Noxious gases and fumes. Marijuana product manufacturing facilities, medical marijuana product manufacturing facilities, marijuana testing facilities, and medical marijuana testing facilities shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.
- (4) Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana establishment or medical marijuana establishment must be provided at all times.
- (5) All marijuana establishments and medical marijuana establishments shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. All trash receptacles on the premises used to discard adult use marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles.
- (6) Sufficient and appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana must be provided at all times. Security measures shall include, at a minimum, the following:
 - (a) Security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
 - (b) Door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working order;
 - (c) A locking safe or its functional equivalent permanently affixed to the premises that is suitable for storage of all adult use marijuana product, medical marijuana product and cash stored overnight on the premises;
 - (d) Exterior lighting that illuminates the exterior walls of the premises and complies with applicable provisions of the Code of Ordinances; and

- (e) Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).

All security recordings shall be preserved for at least seventy- two (72) hours. All marijuana establishments and medical marijuana establishments shall provide the Police Chief or her/his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the Town may provide notice of any operating problems associated with the establishment.

- (f) Sale of edible products. No food products shall be sold, prepared, produced or assembled by a marijuana establishment or medical marijuana establishment except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.
- (g) Drive-through and home delivery. Medical marijuana retail stores and medical marijuana dispensaries are prohibited from having drive-through pick-up facilities. Medical marijuana retail stores are prohibited from providing home delivery services; provided, however, that medical marijuana registered caregivers (and not medical marijuana assistants unless they are also medical marijuana registered caregivers) may provide home delivery services.
- (h) Manufacture of marijuana. Any medical marijuana qualifying patient, medical marijuana caregiver or medical marijuana dispensary that intends to manufacture marijuana shall only do so if such activity is located in a zoning district where medical marijuana products manufacturing is a permitted or special exception use. The extraction of marijuana using inherently dangerous substances is prohibited unless (a) the person has sought and obtained a registration to do so with the State of Maine, and (b) such activity is located in a zoning district where marijuana products manufacturing and/or medical marijuana products manufacturing a permitted or special exception use is.
- (i) Inspections. The Code Enforcement Officer or her/his designee will inspect all marijuana establishments and medical marijuana establishments prior to issuance of a Certificate of Occupancy, to verify that the facilities are constructed and can be operated in accordance with the application submitted, the land use approval(s) issued and the requirements of this Ordinance, local and state building codes and electrical codes. The Fire Chief or her/his designee will inspect all marijuana establishments and medical marijuana establishments prior to issuance of a Certificate of Occupancy, to verify that the facilities are constructed and can be operated in accordance with the requirements of Chapter 8 of the Code of Ordinances and all applicable fire codes. The initial inspection shall occur after the establishment is ready for operation. But no marijuana, marijuana products or medical marijuana products will be allowed on the premises until the inspection is complete and a Certificate of Occupancy has been issued. Nothing herein shall prevent the Fire Chief or her/his designee from inspecting marijuana establishments and medical marijuana establishments at random intervals and without advance notice provided that the inspection is during normal business hours of the establishment.
- (j) Change of use/addition of use. If any type of marijuana establishment or medical marijuana establishment wants to change to another type of establishment or to add another type of

marijuana establishment or medical marijuana establishment to its existing operations, such change of use or additional use must be reviewed and approved by the Planning Board for compliance with this Ordinance.

- (k) Other laws remain applicable. A marijuana establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing adult-use marijuana and/or marijuana establishments the stricter law or regulation shall control.