AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.

NO NEW BUSINESS SHALL BE TAKEN UP AFTER 10:00 P.M.

Item 1. Call to Order.

Item 2. Pledge of Allegiance.

Item 3. Roll Call.

Order No. 19-090. Act on the request for an executive session pursuant to Title 1 M.R.S.A. §405(6)(c) in consultation with legal counsel relating to the proposed Credit Enhancement Agreement. *[Town Manager]*

Item 4. General Public Comments.

Item 5. Minutes: November 20, 2019 - Regular Town Council Meeting.

Item 6. Adjustment to the Agenda.

Item 7. Items to be signed: a. Treasurer's Warrants.

***Procedure for Addressing Council** [Posted in Chambers.]

Order No. 19-091, 7:00 p.m. Public hearing and action on the new request for a Food Handlers License from Zhiyong Chen, d/b/a CJ Asian Inc., located at 426 US Route One, Suite #2. *[Town Clerk]*

OLD BUSINESS:

Order No. 19-075. Second reading on the proposed amendments to the Town of Scarborough Zoning Map of the Crossroads Planned Development District. [Tabled from the November 20, 2019 Town Council meeting.] *[Developer]*

Order No. 19-092. Act on the request to move approval of the names posted to the Coastal Waters and Harbor Committee as follows: move Vincent Clough from the 1st Alternate position to a full voting member with a term to expire in 2021 and Jeff Caldwell as the 1st Alternate with a term to expire in 2020. *[Appointments/Negotiations Committee]*

NEW BUSINESS:

Order No. 19-093. First reading and refer to the Planning Board the proposed changes to Chapter 405 – Town of Scarborough Zoning Ordinance, relating to Marijuana Establishments. *[Ordinance Committee]*

Order No. 19-094. First reading and schedule a public hearing on the adoption of proposed Chapter 1018 – the Town of Scarborough Marijuana Establishment Licensing Ordinance. *[Ordinance Committee]*

Order No. 19-095. First reading and waive the second reading on the request from the Finance Sub-Committee of the Ad-Hoc Community Center Advisory Committee, to allocate up to an amount not to exceed $10,000 for an outside consultant and to authorize the Town Manager to redirect the $10,000 for the Town-Wide Survey for this allocation. *[Finance Sub-Committee of the Ad-Hoc Community Center Advisory Committee]*

Order No. 19-096. Act on the request from the Ad-Hoc Community Center Advisory Committee, to amend their charge, approved on September 4, 2019, to extend their reporting time from December 15, 2019 to January 17, 2020. *[Ad-Hoc Community Center Advisory Committee]*

Order No. 19-097. Act on the appointment of Nick Cloutier, as the Assessor for the Town of Scarborough, effective December 30, 2019. *[Town Manager]*

Order No. 19-098. Act to authorize the Town Manager to sign a renewal lease agreement with Abigail Carroll and Nonesuch Oysters, LLC, for use of the south side of the Town Pier for an upweller float for oysters. *[Town Manager]*

Order No. 19-099. Act on the request from the Deputy Tax Collector for a waiver of foreclosure on the following properties: 8 David Drive – Map T003/Lot 008, 30 Matthews Way – Map T003/Lot 030, 13 Crystal Lane – Map T003/Lot 013, 19 Crystal Lane – Map T003/Lot019, 11 David Drive – Map T003/Lot 011 and 184 Balsam Street and authorize the Town Manager to sign the necessary documentation. *[Deputy Tax Collector]*

Order No. 19-100. Act on the request from the Council Chair for the appointments to the Council Standing Committee and Committee Liaisons Appointments-Standing Committees. *[Council Chair]*

Item 8. Non Action Item.

Item 9. Standing and Special Committee Reports and Liaison Reports.

Item 10. Town Manager Report.

Item 11. Council Member Comments.

Item 12. Adjournment.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.

Order No. 19-090. Move approval on the request for an executive session pursuant to Title 1 M.R.S.A. §405(6)(c) in consultation with legal counsel relating to the proposed Credit Enhancement Agreement and to return to public session. *[Town Manager]*

Town Manager

Sponsor

Ought to Pass

Recommendation

12/04/2019 – Vote:

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.

Order No. 19-091. Move approval on the new request for a Food Handlers License from Zhiyong Chen, d/b/a CJ Asian Inc., located at 426 US Route One, Suite #2. *[Town Clerk]*

Town Clerk

Sponsor

Ought to Pass

Recommendation

12/04/2019 – Vote:

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote

Town of Scarborough, Maine
Town Clerk's Office
259 US Route One
PO Box 360
Scarborough, Maine • 04070-0360

TO: Town Council Members

FROM: Yolande P. Justice, Town Clerk

DATE: November 29, 2019

RE: Food Handlers License

The following applicant is seeking approval on their Food Handlers License:

- Zhiyong Chen, d/b/a CJ Asian Inc., located at 426 US Route One, Suite #2

The completed application is on file with Town Clerk's Office and there are no outstanding issues and it is recommended that this license be approved.

Phone: 207.730.4020 • Fax: 207.730.4033 • www.scarboroughmaine.org

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.

Order No. 19-075. Move approval of the second reading on the proposed amendments to the Town of Scarborough Zoning Map of the Crossroads Planned Development District. [Tabled from the November 20, 2019 Town Council meeting.] *[Developer]*

Developer

Sponsor

Ought to Pass

Recommendation

10/02/2019 – Vote: 6 Yeas
[Councilor Hamill Absent]

First Reading/Vote

11/20/2019

Public Hearing

12/04/2019 – Vote:

Second Reading/Final Approval/Vote

September 25, 2019

Chairman Peter Hayes
Town Council
Town of Scarborough
259 Route 1
Scarborough, Maine 04070

Re: Request for a Proposed Zoning Map Amendment of the Crossroads Planned Development District (CPD) Boundary at Scarborough Downs

Dear Chairman Hayes and Town Councilors,

On behalf of Crossroads Holdings LLC and the Scarborough Downs development team, we are proposing an amendment to the Official Town of Scarborough Zoning Map to change a 15 +/- acre parcel that is currently zoned Village Residential 4 (VR4) to the Crossroads Planned Development District (CPD).

This 15 +/- acre parcel consists of undeveloped, forested uplands that directly abuts the Downs and the CPD District to the east and is otherwise landlocked with no clear access to Sawyer Road, which is the closest public street. Crossroads Holdings LLC has this parcel under contract for purchase with the intent of incorporating it into the Downs master plan for development and conservation. Given its location and relationship to the Downs, this parcel is ideally suited for CPD zoning and to be properly integrated into project's master plan, rather than being developed on the outskirts of the project in a fragmented and disconnected manner, as would result under the current VR4 Zoning.

The following provides additional details on this parcel and the zoning proposal, in accordance with the Zoning Amendment process as outlined in the Town's Zoning Ordinance:

A map showing existing and proposed zoning lines.

Attached is a map that illustrates the current (VR4) and proposed (CPD) zoning district boundaries.

Address and location of zoning map amendment.

The parcel location is shown on the attached GIS Map that illustrates the parcel and the surrounding area as per the Town's Tax Assessors Map. The parcel is a portion of the land located at 2 Elsie Way, but will not be accessible from Elsie Way.

Name and address of the applicant.

The applicant is Crossroads Holdings LLC with a mailing address of 6 Washington Avenue, Scarborough, Maine. Right, title and interest has been attached to this submission.

Overview of existing and proposed land uses.

This parcel is currently undeveloped upland that is located within the Town's growth area and is zoned VR4, which is a higher density village residential district that allows for a mix of residential uses. Under the VR4 District, this parcel would be developed in its entirety as dwellings and infrastructure as allowed for in the zone. Access to the parcel can be provided from Scarborough Downs, but if so, a thru connection to Sawyer Rd would be prohibited under the current zoning.

Under the proposed CPD District, future residential development is also allowed and planned on a portion of this parcel (mixed residential development is allowed in the CPD as well), but unlike the VR4 Zone, there is an added requirement for 100' buffer along the boundary of the CPD to any abutting residential zones. This requirement will mandate a buffer be provided to each of the abutting properties and residences to the east and south, and that development be limited to the portion of the parcel bordering the Scarborough Downs property.

With the CPD District designation, the future development of this parcel can be appropriately integrated and connected with the rest of the Downs development to the west, and a robust buffer and separation provided to neighbors and homes in the remaining VR4 District along Sawyer Rd. We believe this to the right approach to planning, land development and conservation in this locale, and seek the Town Council's support for this map amendment.

Existing and Proposed Zoning Classifications

As noted in the sections above, the current zoning district that applies is the Village Residential 4 (VR4) District and the proposed is the Crossroads Planned Development (CPD) District.

Financial Capacity

This parcel is not planned for development by the applicant in the immediate future, but is important to their overall design, layout and land planning which has led to this acquisition and proposed zoning amendment. As required at the time of future development, the applicant will demonstrate to the Planning Board the requisite financial capacity to execute the project.

Long Range Planning Committee Review and Neighborhood Outreach

In advance of this application to the Town Council for 1st Reading on the zoning map amendment, we have met with the Long Range Planning Committee (LRPC) on September 6th to review the proposal and have since conducted a neighborhood meeting. The neighborhood meeting was positive with those that attending expressing appreciation for the buffer that the CPD will enable and raising no specific concerns or objections with the change.

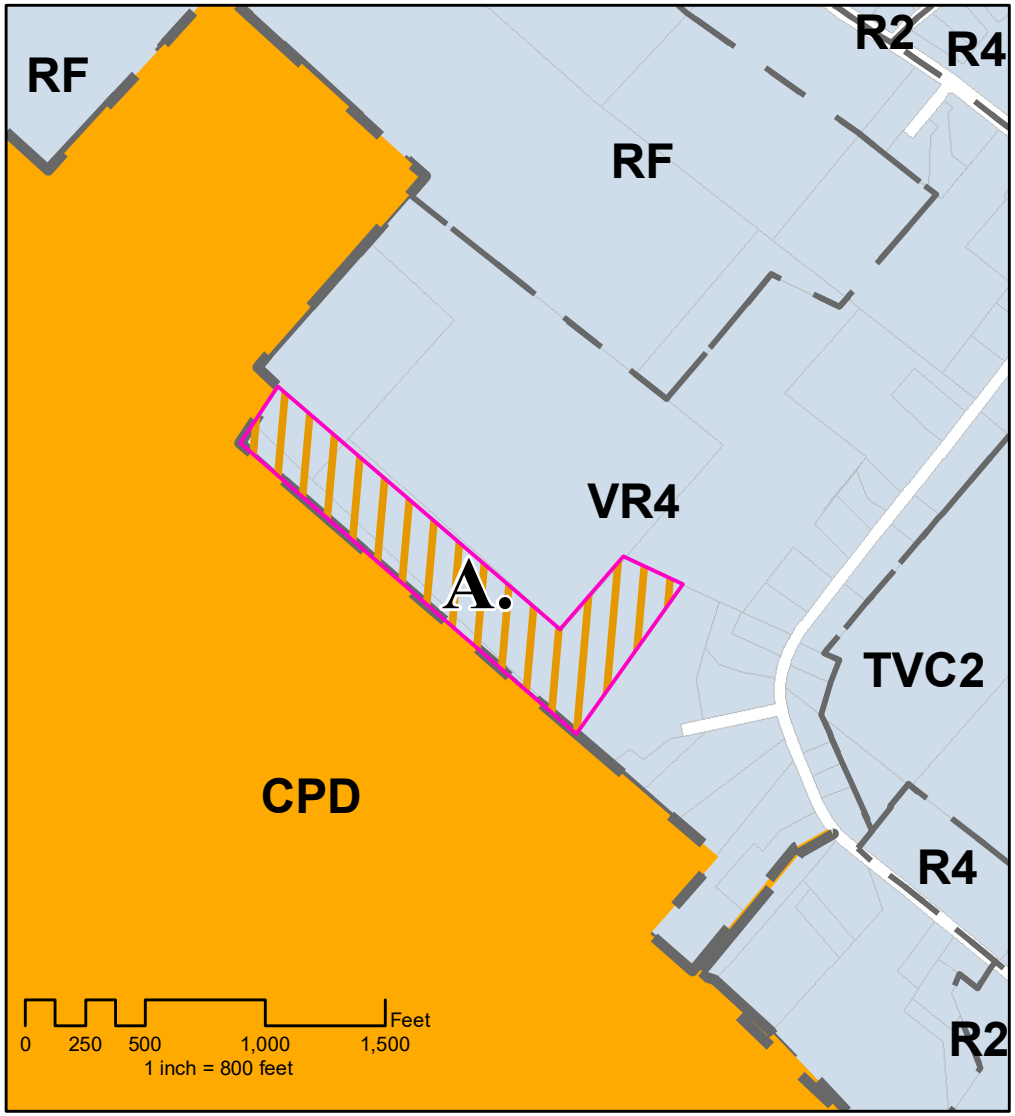
In conclusion, we hope this package adequately outlines the details and merits of this modest zoning map amendment and are seeking the Town Council's support for this change. We feel strongly that this amendment will enable this parcel to be thoughtfully integrated with the Downs master plan and at the same time provide appropriate separation and buffering from the site's neighbors along Sawyer Rd to the east and south, both of which wouldn't be possible under the current VR4 zone.

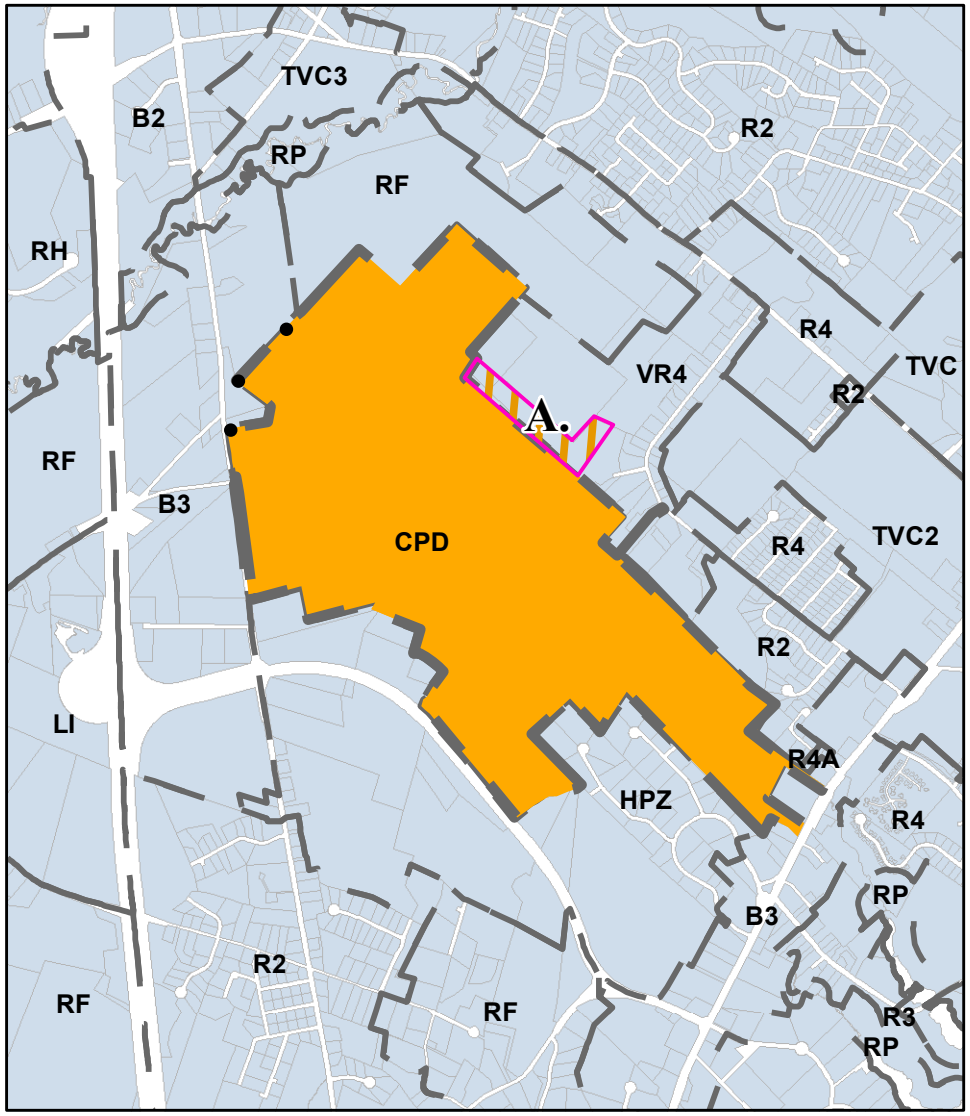
We look forward to presenting this map amendment in more detail at 1st Reading by the Town Council at your October 2nd meeting. Should you wish to discuss this proposal in advance of the Council meeting, don't hesitate to reach me at 207-232-5154.

Best regards,

Dan Bacon, Development Director
M&R Holdings

CC: Roccy Risbara
Tom Hall, Town Manager
Jay Chace, Planning Director





A. Area currently zoned VRF.
Land conveyed from Carr to Crossroads Holdings LLC

Proposed Zoning Amendment

ZONE MAP CHANGE - CPD DISTRICT

Town of Scarborough, Maine

0 0.375 0.75 Miles

Zoning District Boundaries

Current Crossroads Planned Development (CPD) District

Addtions to the CPD District

NOTE: Parcel GIS data from the Town of Scarborough XX, 2018.

Gorrill Palmer - 8/16/2019 - DRAFT

Town Of
Scarborough
Maine
http://www.scarboroughmaine.org

Disclaimer: The data contained within the Scarborough GIS is intended as a public resource of general information. The Town of Scarborough makes no warranty or representation as to the accuracy, timeliness or completeness of any of the data, and shall assume no liability for the data contained, for omissions, or any decision made or action taken or not taken in reliance upon any of the data. Parcel data is intended for general map reference only and is a general representative of approximate lot configuration, and is not intended for boundary determination, legal description, delineation, or transfer. Any service utility information shown is intended for general information only. Other utilities may be present, and the appropriate utility owner should be contacted for detailed information. GIS data is not intended for engineering design. Field verification is recommended.

1 in = 752 feet

0 0.03 0.06 0.12 0.18 0.24
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MINUTES
PLANNING BOARD MEETING
MONDAY, NOVEMBER 4, 2019 – 6:30 P.M.

Members Present:
Mr. Nicholas McGee - Chair
Ms. Rachel Hendrickson – Vice Chair
Mr. Roger Beeley - Secretary
Ms. Robyn Saunders (ABSENT)
Mr. Richard DuPerre – 1st Alternate
Ms. Jennifer Ladd
Mr. Rick Meinking – 2nd Alternate

Staff Present:
Mr. Jamel Torres, Assistant Town Planner
Ms. Angela Blanchette, Town Engineer
Ms. Doreen Christ, Recording Secretary

1. **Call to Order.** Nicholas McGee - Chair called the meeting to order at 6:30 p.m.
2. **Pledge of Allegiance.**
3. **Roll Call.** Roll was called by the Recording Secretary. It shall be noted that Robyn Saunders – Board Member was not present at this meeting.

In Robyn Saunders absence, Richard DuPerre was the voting member at this meeting.

4. **Approval of Minutes (October 15, 2019).** This set of meeting minutes was not available at this meeting. The following motion was made.

MOTION: *by Nicholas McGee, seconded by Rachel Hendrickson to move to table the Planning Board Meeting Minutes for October 15, 2019.*

VOTED: *5-0 (Passed).*

5. **The Planning Board will conduct a Public Hearing to receive comment on the proposed amendments to the Town of Scarborough Zoning Map for adjustments to the boundary of the Crossroads Planned Development (CPD) Zoning District.*** Jamel Torres gave an overview of the item. This is for an amendment to the Official Town of Scarborough Zoning Map to change a 15+/- acre parcel that is currently zoned Village Residential 4 (VR4) to the Crossroads Planned Development (CPD) District. This 15+/- acre parcel consists of undeveloped, forested uplands that directly abuts the CPD District to the east and is otherwise landlocked with no clear access to Sawyer Road, which is the closest public street. The parcel is a portion of the land located at 2 Elsie Way, however, is not accessible from Elsie Way. Crossroads Holdings LLC has this parcel under construction for purchase with the intent of incorporating it into The Downs Master Plan for development.

Present at this meeting was Dan Bacon, Development Director, for M&R Holdings. He said with this amendment, it will grow the Scarborough Downs project. He went on to say that there was a Neighborhood Meeting that took place at the Grand Stands. Abutters were notified beyond and including 500 feet from the parcel. There were three (3) in attendance and after the presentation of the proposal, they had no concerns with the zone change. Dan Bacon showed the board the map that illustrates the current (VR4) and proposed (CPD) zoning district boundaries. In closing, Dan Bacon said that this amendment will enable this parcel to be thoughtfully integrated with The Downs Master Plan, and at the same time, provide appropriate separation and buffering from the site's neighbors along Sawyer Road to the east and south, both of which would not be possible under the current VR4 Zone. With this zoning map change, this requires a 100 foot buffer to all residential zones that abut it.

Nicholas McGee opened the Public Hearing giving an opportunity for public comment. There was none. He then closed the public portion of this hearing.

Nicholas McGee then opened this item up to the board. Nicholas McGee asked about vehicle access to Sawyer Road. Dan Bacon said that the zoning does not allow for vehicular connections between The Downs and Sawyer Street. There being no further questions or comments from the board, Nicholas McGee said the concensus of the board is to provide a favorable response to the Town Council of the proposed amendments to the zoning map for the adjustments to the boundary of the CPD Zoning District.

6. **Maine Medical Center requests a site plan review for 92 Campus Drive, Assessor's Map R76, Lot 4A.*** Jamel Torres gave an overview of the item. Maine Medical Center has submitted a site plan application titled, *"Proposed Medical Office Building"*. The applicant is proposing to construct a 108,000 SF, three- (3-) story medical building with associated parking, pedestrian infrastructure, utilities, and storm water management infrastructure. This

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WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.

Order No. 19-092. Move approval on the names posted to the Coastal Waters and Harbor Committee as follows: move Vincent Clough from the 1st Alternate position to a full voting member with a term to expire in 2021 and Jeff Caldwell as the 1st Alternate with a term to expire in 2020. *[Appointments/Negotiations Committee]*

Appointments/Negotiations Committee	*Ought to Pass*
Sponsor	Recommendation

12/04/2019 – Vote:

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.

Order No. 19-093. Move approval of the first reading and refer to the Planning Board the proposed changes to Chapter 405 – Town of Scarborough Zoning Ordinance, relating to Marijuana Establishments and schedule the public hearing upon receipt of the recommendations of the Planning Board. *[Ordinance Committee]*

Ordinance Committee	*Ought to Pass*
Sponsor	Recommendation

12/04/2019 – Vote:

First Reading/Vote

TBD

Public Hearing

TBD

Second Reading/Final Approval/Vote

CHAPTER 405
TOWN OF SCARBOROUGH
ZONING ORDINANCE

Proposed Amendments to the Zoning Ordinance relating to Marijuana Establishments:

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to the Zoning Ordinance of the Town of Scarborough, Maine, be and hereby are adopted:

1. AMEND SECTION VI. DEFINITIONS, by adding the following:

Marijuana Cultivation Facility shall mean a facility licensed for the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale; to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package marijuana; to sell marijuana to products manufacturing facilities, and to other cultivation facilities. This term includes Adult Use Marijuana Cultivation Facilities as defined in the Marijuana Legalization Act and Medical Marijuana Cultivation Facilities as defined in the Scarborough Marijuana Establishment Licensing Ordinance, as may be amended.

Marijuana Manufacturing Facility shall mean a facility licensed for 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. The Facility may also purchase marijuana from a cultivation facility or another manufacturing facility, manufacture, label and package marijuana and marijuana products. It does not include cultivation or testing. This term shall mean both an Adult Use Marijuana Products Manufacturing Facility and Medical Marijuana Manufacturing Facility as defined in the Marijuana Legalization Act and the Maine Medical Use of Marijuana Act, as may be amended.

Marijuana Testing Facility shall mean a facility licensed to develop, research and test marijuana, marijuana products for contaminants, safety or potency. "Testing" or "test" does not include cultivation or manufacturing. This term shall mean both an Adult Use Marijuana Testing Facility and Medical Manufacturing Testing Facility as defined in the Marijuana Legalization Act and the Maine Medical Use of Marijuana Act, as may be amended.

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2. AMEND SECTION IX. PERFORMANCE STANDARDS, by adding the following:

Y. PERFORMANCE STANDARDS – MARIJUANA CULTIVATION FACILITY IN THE RF DISTRICT

1. A marijuana cultivation facility is allowed only on lots with a minimum lot area of 80,000 square feet.

2. A marijuana cultivation facility may only occur within a fully enclosed structure which in the RF includes permanent buildings as well as temporary shelters, including but not limited to greenhouses, hoop houses, and tension fabric shelters. All structures shall conform to the setback requirements of the RF district.

3. Any building or structure or activity related to the planting, propagation, growing or harvesting of marijuana must be operated and maintained in accordance with the latest edition of the Maine Department of Agriculture's Manual of Best Management Practices for Maine Agriculture.

Z. PERFORMANCE STANDARDS – MARIJUANA MANUFACTURING FACILITY IN THE RF DISTRICT

1. A marijuana manufacturing facility in the RF must be associated with and accessory to a marijuana cultivation facility use.

2. A marijuana manufacturing facility in the RF must be located on a parcel that is actively used for the marijuana cultivation facility use.

3. A marijuana manufacturing facility in the RF must be designed and primarily used to process products raised as part of the marijuana cultivation facility use on site.

4. The marijuana manufacturing facility may be a free-standing building, structure or outdoor location or may be part of another building or structure (for example, an area in a barn).

5. The facility shall not exceed 2,000SF of gross floor area.

6. The marijuana manufacturing facility will not include any outdoor storage of processing byproduct or waste, other than what may be kept inside a common trash dumpster.

7. The establishment of a marijuana manufacturing facility is subject to site plan review.

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3. AMEND SECTION XIV. RURAL FARMING DISTRICT (RF), by adding the following:

B. PERMITTED USES

22. Marijuana Cultivation, subject to performance standards of section IX.Y of this Ordinance

23. Marijuana Manufacturing Facility, subject to performance standards of section IX.Z of this Ordinance.

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4. AMEND SECTION XVIII.B HAIGIS PARKWAY DISTRICT (HP), by adding the following:

B. PERMITTED USES

27. Marijuana Manufacturing Facility

28. Marijuana Testing Facility

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5. AMEND SECTION XVIII.F. PINE POINT INDUSTRIAL OVERLAY DISTRICT (I-O), by adding the following:

B. PERMITTED USES

24. Marijuana Manufacturing Facility

25. Marijuana Testing Facility

26. Marijuana Cultivation Facility conducted within a fully enclosed structure

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6. AMEND SECTION XX. BUSINESS OFFICE-RESEARCH DISTRICT (BOR), by adding the following:

B. PERMITTED USES

23. Marijuana Manufacturing Facility

24. Marijuana Testing Facility

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7. AMEND SECTION XX.C CROSSROADS PLANNED DEVELOPMENT DISTRICT (CPD), by adding the following:

B. PERMITTED USES

55. Marijuana Manufacturing Facility

56. Marijuana Testing Facility

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8. SECTION XXI. INDUSTRIAL DISTRICT (I), by adding the following:

B. PERMITTED USES

27. Marijuana Manufacturing Facility

28. Marijuana Testing Facility

29. Marijuana Cultivation Facility conducted within a fully enclosed structure

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9. SECTION XXI.B. LIGHT INDUSTRIAL DISTRICT (LI), by adding the following;

C. PERMITTED USES

25. Marijuana Manufacturing Facility

26. Marijuana Testing Facility

27. Marijuana Cultivation Facility conducted within a fully enclosed structure

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.

Order No. 19-094. Move approval of the first reading on the adoption of proposed Chapter 1018 – the Town of Scarborough Marijuana Establishment Licensing Ordinance and schedule a public hearing for Wednesday, December 18, 2019. *[Ordinance Committee]*

Ordinance Committee — *Ought to Pass*

Sponsor — Recommendation

12/04/2019 – Vote:

First Reading/Vote

12/18/2019

Public Hearing

TBD

Second Reading/Final Approval/Vote

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

Chapter 1018
Town of Scarborough
Marijuana Establishments Licensing Ordinance

Section 1. Purpose.

The purpose of this Ordinance is to regulate and license Marijuana Establishments as defined in this Ordinance and by the State of Maine under the Marijuana Legalization Act, 28-B M.R.S.A. Chapter 1, and the Maine Medical Use of Marijuana Act, 22 M.R.S.A. Chapter 558-C, as may be amended, in order to promote the health, safety, and general welfare of the residents of Scarborough.

Persons or entities wishing to establish a Marijuana Establishment within the Town of Scarborough shall first obtain a license from the Scarborough Town Council (hereinafter "the Town Council") and shall be subject to the provisions of this Ordinance.

Section 2. Authority.

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

Section 3. Definitions.

The following definitions shall apply to this Ordinance:

Adult use marijuana shall mean "adult use marijuana" as that term is defined in 28-B M.R.S.A. §102(1), as may be amended.

Adult Use Marijuana Cultivation Facility shall mean a "cultivation facility" as that term is defined in 28-B M.R.S.A. §102(13), as may be amended.

Adult use marijuana product shall mean "adult use marijuana product" as that term is defined in 28-B M.R.S.A. §102(2), as may be amended.

Adult Use Marijuana Products Manufacturing Facility shall mean a "products manufacturing facility" as that term is defined in 28-B M.R.S.A. §102(43), as may be amended.

Adult Use Marijuana Testing Facility shall mean a "testing facility" as that term is defined in 28-B M.R.S.A. §102(54), as may be amended.

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.

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.

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

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

Manufacture or manufacturing 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 s*hall mean "marijuana" as that term is defined in 28-B M.R.S.A. §102(27) as may be amended.

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 Establishment shall mean an Adult Use Marijuana Cultivation Facility, an Adult Use Marijuana Products Manufacturing Facility, an Adult Use Marijuana Testing Facility, a Medical Marijuana Dispensary, a Medical Marijuana Testing Facility, a Medical Marijuana Manufacturing Product Facility, and a Medical Marijuana Cultivation Facility. A Marijuana Establishment does not include an Adult Use Marijuana Store or a Medical Marijuana Caregiver Retail Store, which are not permitted in the Town of Scarborough.

Medical marijuana shall mean the medical use of marijuana, with the term "medical use" as defined in 22 M.R.S §2422(5), as amended.

Medical marijuana caregiver shall mean a "caregiver" as that term is defined in 22 M.R.S.A. §2422(8-A), as may be amended.

Medical Marijuana Caregiver Retail Store shall mean "caregiver retail store" as that term is defined in 22 M.R.S.A. §2422(1-F) as may be amended.

Medical marijuana cultivation area shall mean a "cultivation area" as that term is defined in 22 M.R.S.A. §2422(3), as may be amended.

Medical Marijuana Cultivation Facility shall mean a medical marijuana cultivation area used or occupied by one or more medical marijuana registered caregivers and a facility licensed under this ordinance to cultivate, prepare and package medical marijuana at a location that is not the residence of the Registered Caregiver or Qualifying Patient.

Medical Marijuana Dispensary shall mean a "registered dispensary" as that term is defined in 22 M.R.S.A. §2422(6), as may be amended.

Medical marijuana product shall mean a "marijuana product" as that term is defined in 22 M.R.S.A. §2442(4-L), as may be amended.

Medical Marijuana Products Manufacturing Facility shall mean a "manufacturing facility" as that term is defined in 22 M.R.S.A. §2422(4-R), as may be amended.

Medical marijuana qualifying patient shall mean a "qualifying patient" as that term is defined in 22 M.R.S.A. §2422(9), as may be amended.

Medical marijuana registered caregiver shall mean a "registered caregiver" as that term is defined in 22 M.R.S.A. §2422(11), as may be amended.

Medical Marijuana Testing Facility shall mean a "marijuana testing facility" as that term is defined in 22 M.R.S.A. §2422(5-C), as may be amended.

Owner shall mean a person whose beneficial interest in a 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 has a controlling interest in a 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.

Section 4. License Required.

No person may establish, operate or maintain a Marijuana Establishment without first obtaining a license from the Town Council.

Any grandfathered use pursuant to Section10.5.A of this Licensing Ordinance shall obtain a license from Town Council within 6 months of the adoption of this Ordinance; however the standards of Section 10.A.(2, 3, 4) are not applicable to licensing process of these grandfathered activities.

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Section 5. License Application.

An application for a license must be made on a form provided by the Town. All applicants must be qualified according to the provisions of this Ordinance. Applicants shall provide sufficient information to demonstrate that they meet all qualifications and standards established in this Ordinance.

The application for a Marijuana Establishment license shall contain the following information**:**

A. Name of Applicant.

1. If the applicant is an individual**:** The individual shall state their legal name and any aliases and submit proof that they are at least twenty- one (21) years of age.
2. If the applicant is a partnership**:** The partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, submit a copy of the partnership agreement, if any, and submit proof that all partners are at least twenty-one (21) years of age.
3. If the applicant is a corporation**:** The corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under State law, the names and capacity of all officers, directors and principal stockholders, the name of the registered corporate agent, the address of the registered office for service of process, and submit proof that all officers, directors and principal stockholders are at least twenty-one (21) years of age.
4. If the applicant is a limited liability company (LLC)**:** The LLC shall state its complete name, the date of its establishment, evidence that the LLC is in good standing under State law, the names and capacity of all members, a copy of its operating agreement, if any, the address of its registered office for service of process, and submit proof that all members are at least twenty-one (21) years of age.
5. If the applicant intends to operate the Marijuana Establishment under a name other than that of the applicant, they must state the Marijuana Establishment's name and submit the required registration documents.

B. The applicant's mailing address and residential address.

C. Recent passport-style photograph(s) of the applicant(s).

D. The applicant's driver's license.

E. A sketch showing the configuration of the subject premises, including building footprint, interior layout with floor space to be occupied by the business, and parking plan. The sketch must be drawn to scale with marked dimensions.

F. The location of the proposed Marijuana Establishment, including a legal description of the property, street address, and telephone number. The applicant must also demonstrate that the property meets the zoning requirements for the proposed use.

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G. If the applicant has had a previous license under this Ordinance or other similar Marijuana Establishment license applications in another town in Maine, in the Town of Scarborough, or in another state denied, suspended or revoked, they must list the name and location of the Marijuana Establishment for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and they must list whether the applicant has been a partner in a partnership or an officer, director, or principal stockholder of a corporation that is permitted/licensed under this Ordinance, whose license has previously been denied, suspended or revoked, listing the name and location of the Marijuana Establishment for which the permit was denied, suspended, or revoked as well as the date of denial, suspension or revocation.

H. If the applicant holds any other permits/licenses under this Ordinance or other similar Marijuana Establishment license from another town, the Town of Scarborough, or state the applicant shall provide the names and locations of such other permitted/licensed businesses, including the current status of the license or permit and whether the license or permit has been revoked.

I. The type of Marijuana Establishment for which the applicant is seeking a license and a general description of the business including hours of operation.

J. Sufficient documentation demonstrating possession or entitlement to possession of the proposed licensed premises of the Marijuana Establishment pursuant to a lease, rental agreement, purchase and sale agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.

K. A copy of a Town Tax Map depicting the property lines of any public or preexisting private school within one thousand (1000) feet of the subject property. For the purposes of this Ordinance, "school" includes a public school, private school, or public preschool program all as defined in 20-A M.R.S.A. §1, or any other educational facility that serves children from prekindergarten to grade 12, as well as any preschool or daycare facility licensed by the Maine Department of Health and Human Services.

L. Evidence of all required state authorizations, including evidence of a caregiver registration in good standing, a conditional license pursuant to Title 28-B, food license, and any other required state authorizations.

M. A copy of the security plan as required by Section 10(A)(6) of this Ordinance.

N. A copy of the odor and ventilation mitigation plan as required by Section 10(A)(7) of this Ordinance.

O. A copy of the operations plan as required by Section 10(A)(8) of this Ordinance.

P. Consent for the right to access the property as required by Section 10(B) of this Ordinance.

Q. Evidence of insurance as required by Section 10(C)(1) of this Ordinance

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Section 6. Application and License Fees

A. Applicant Fee. An applicant must pay a $350 application fee upon submission. Applicants are also responsible for the Town's expenses associated with the review of an application, including the cost of any third-party review if necessary.

B. License Fee. Local License fees are set forth below and shall be paid annually:

1. Adult Use Marijuana Cultivation Facility**:**

   (a) Tier 1**:** 0 to 500 SF of plant canopy**:** $750.

   (b) Tier 2: 501-2,000 SF of mature plant canopy: $3,000.

   (c) Tier 3: 2,001-7,000 SF of mature plant canopy: $7,500.

   (d) Tier 4: greater than 7,000SF of mature plant canopy: $10,000

2. Adult Use or Medical Marijuana Testing Facility: $1,000

3. Adult Use or Medical Marijuana Products Manufacturing Facility: $2,500

4. Medical Marijuana Cultivation Facility: $750

Section 7. Licensing Authority and Procedure.

A. The initial application for a license shall be processed by the Town Clerk and reviewed and approved by the Town Council.

B. 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.

C. Public hearing.

1. A public hearing by the Town Council on an application for a license shall be scheduled after receipt of a completed application. The Town Clerk shall publish public notice of the hearing not less than ten (10) days prior to the hearing in a newspaper of general circulation in Cumberland County.

2. When an application is determined to be complete, the Town Clerk 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 license is sought 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.

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D. A renewal application shall be subject to the same application and review standards as applied to the initial issuance of the license. As part of the renewal process, the Town Clerk shall consider compliance from prior years, and based upon that review, may recommend conditions to any future license to correct, abate, or limit past problems to forward to the Town Council for action.

E. 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 Ordinance. The Town Clerk shall consult with other Town Departments and any appropriate State Licensing Authority as part of this investigation.

2. No Local License shall be granted by the Town Council until the Police Chief, the Fire Chief, and the Code Enforcement Officer have all made a positive recommendation upon the Applicant's ability to comply with this Ordinance. The Town may also consult with a third party expert on an application and charge the costs for that consultation to the applicant. 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.

3. The Town Council shall have the authority to approve license and renewal applications, and 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.

Section 8. License Expiration and Renewal.

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

B. Renewal applications must be submitted at least 45 days 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.

C. 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.

Section 9. Denial, Suspension or Revocation of License.

A. 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 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.

B. 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 suspended or revoked by the State. The Licensee shall be entitled to notice and a hearing prior to any suspension or revocation, except where the reason for suspension or revocation could reasonably threaten health, safety, or welfare, as long as notice and a hearing is provided as soon as practicable.

Section 10. Performance Standards for License

A. General.

1. All Marijuana Establishments shall comply with applicable state and local laws and regulations.

2. Marijuana Establishments shall only be located within the zoning districts permitted in the Scarborough Zoning Ordinance.

3. Marijuana Establishments may not be located on property within 1,000 feet of the property line of a preexisting school as required and defined in Section 5(L) of this Ordinance.

4. Required setbacks shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the school property line and the property line of the parcel of land on which the Marijuana Establishment is located. If the Marijuana Establishment is located within a commercial subdivision, the required setback shall be measured from the closest portion of a building that is used for the Marijuana Establishment to the property line of the school. Presence of a town, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

5. Pursuant to 22 M.R.S.A. §2429-D(3), Caregiver Retail Stores, Medical Marijuana Dispensaries, Medical Marijuana Testing Facilities, Medical Marijuana Manufacturing Facilities and Medical Marijuana Cultivation Facilities that were operating with Town approval prior to December 13, 2018, are grandfathered in their current location and current use and shall be treated as legally non-conforming uses in accordance with Article III of the Scarborough Zoning Ordinance, provided, however, that said Marijuana Establishments shall apply for and obtain a license. If any non-conforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by the Zoning Ordinance for the district in which such land is located.

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6. Security measures at all Marijuana Establishment premises shall include, at a minimum, the following**:**

   a. Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week, with thirty (30) day video storage, 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; and

   b. Door and window combination video and motion detector intrusion system with audible alarm and smart phone monitoring, maintained in good working condition; and

   c. A locking safe or locked room permanently affixed to the premises that is suitable for storage of all marijuana, marijuana products, and cash stored overnight on the licensed premises; and

   d. Exterior lighting that illuminates the exterior walls of the licensed premises during dusk to dawn, that is either constantly on or activated by motion detectors, and complies with applicable provisions of the lighting performance standards in the Town of Scarborough Zoning Ordinance and the Good Neighbor Ordinance; and

   e. Deadbolt locks on all exterior doors and any other exterior access points, excepting windows which shall have locks and bars; and

   f. Methods to ensure that no person under the age of twenty-one (21) shall have access to marijuana and marijuana products.

7. Odor and Ventilation. All Marijuana Establishments shall have odor mitigation systems and a plan to ensure that the smell of marijuana shall not be detectable at the property boundary or at any adjoining use of the same property, whichever is closer. A Marijuana Establishment is responsible for taking any and all measures necessary to ensure this standard is met.

8. Operating Plan. Marijuana Establishments which cultivate, test, and/or manufacture are required to submit an operation plan that at a minimum addresses wastewater and waste disposal. No marijuana, marijuana products, marijuana plants, or other marijuana waste may be stored outside, other than in secured, locked containers. Any wastewater shall be treated such that it will not create excessive odors, contamination, or pollution.

9. Signs. In addition to the sign regulations contained in Chapter 405, Zoning Ordinance, signage must comply with the requirements in 22 M.R.S.A. §2429-B and 28-B M.R.S.A. §702.

B. Right of Access /Inspection.

1. Every Marijuana Establishment shall allow the Scarborough Code Enforcement Officer ("CEO"), Fire Department, and Police Department to enter the premises at reasonable times for the purpose of checking compliance with all applicable State laws and this Ordinance.

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2. All Marijuana Establishments shall agree to be inspected annually by the Scarborough Fire Department and have a Knox Box installed at the structure's exterior entrance for emergency access. Knox Boxes shall be obtained and installed in coordination with the Scarborough Fire Department.

C. Insurance and Indemnification.

1. Each marijuana establishment shall procure and maintain commercial general liability coverage in the minimum amount of $1,000,000 per occurrence for bodily injury, death, and property damage.

2. By accepting a license issued pursuant to this Ordinance, the licensee knowingly and voluntarily waives and releases the Town, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of any Marijuana Establishment owners, operators, employees, clients, or customers for a violation of local, State or federal laws, rules, or regulations.

3. By accepting a license issued pursuant to this Ordinance, the permittee/licensee agrees to indemnify, defend, and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, and insurers against all liability, claims, and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of a licensed Marijuana Establishment.

D. State Law

In the event the State of Maine adopts any additional or stricter law or regulation governing the sale, cultivation, manufacture, distribution, or testing of Marijuana or Marijuana products, the additional or stricter regulation shall control the establishment or operation of any Marijuana Establishment in Scarborough.

Compliance with all applicable State laws and regulation shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and noncompliance with State laws or regulations shall be grounds for revocation or suspension of any license issued hereunder.

Section 11. Violations and Penalties.

This Ordinance shall be enforced by the Code Enforcement Officer or the Police Chief and her/his designees, who may institute any and all actions to be brought in the name of the Town.

A. Any violation of this Ordinance, including the operation of a Marijuana Establishment without a valid Local License and failure to comply with any condition, shall be subject to civil penalties in the minimum amount of $100 and the maximum amount of $2,500. Every day a violation exists constitutes a separate violation. Any such fine may be in addition to any suspension or revocation imposed in accordance with the provisions of this Ordinance. In any court action, the Town may seek injunctive relief in addition to penalties, and shall be entitled to recover its costs of enforcement, including its attorney's fees.

B. In addition to any other remedies provided by this Ordinance, the Town may take all necessary steps to immediately shut down any marijuana business and post the business and the space that it occupies against occupancy for the following violations: operating a marijuana business without a Local License or State License; failure to allow entrance and inspection to any Town official on official business after a reasonable request; and any other violation that the Town determines as the potential to threaten the health and/or safety of the public, including significant fire and life safety violations.

C. The Town Manager shall inform members of the Town Council before instituting action in court, but need not obtain the consent of the Town Council, and the Town Manager may institute an action for injunctive relief without first informing members of the Town Council in circumstances where immediate relief is needed to prevent a serious public harm. In addition, the Town Manager may enter into administrative consent agreements in the name of the Town for the purposes of eliminating violations and recovering penalties without court action

Section 12. Appeals.

A. Any appeal of a decision of the Town Council to issue, issue with conditions, deny, or revoke a license shall be to the Superior Court in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

B. Any order, requirement, decision, or determination made, or failure to act, in the enforcement of this ordinance by the CEO or Police Chief is appealable to the Zoning Board of Appeals.

Section 13. 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.

Section 14. Other Laws.

Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in the Maine Medical Use of Marijuana Act, 22 M.R.S.A. Chapter 558-C, as may be amended and the Marijuana Legalization Act, 28-B M.R.S.A. Chapter 1, as may be amended. In the event of a conflict between the provisions of this Chapter and the provisions of the above laws or any other applicable State or local law or regulation, the more restrictive provision shall control.

Section 15. Effective Date.

The effective date of this Ordinance shall be in accordance with Chapter 302 – Council Rules and Policies Manual, Section 115.0 Ordinances: When Effective.

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AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.

Order No. 19-095. Move approval of the first reading and waive the second reading on the request from the Finance Sub-Committee of the Ad-Hoc Community Center Advisory Committee, to allocate up to an amount not to exceed $10,000 for an outside consultant and to authorize the Town Manager to redirect the $10,000 for the Town-Wide Survey for this allocation. *[Finance Sub-Committee of the Ad-Hoc Community Center Advisory Committee]*

Finance Sub-Committee of the Ad-Hoc Community Center Advisory Committee

Sponsor

Ought to Pass

Recommendation

12/04/2019 – Vote:

First Reading/Vote

N/A

Public Hearing

12/04/19

Second Reading/Final Approval/Vote

Dear Chairman Johnson and Town Councilors,

On behalf of the Ad-Hoc Community Center Advisory Committee, in accordance with Section 6 of our committee charge ("Consulting Support"), we are requesting funding not to exceed $10,000 for the purpose of hiring outside support from a Parks and Recreation consulting firm. The funds would be used to produce a professional analysis of daily and annual attendance estimates, membership sales projections, and economic impact projections. A final report on the analysis is expected to be complete by mid-February.

The committee feels this is an important component of our work because the community center's operations budget projections depend heavily on estimates of how many memberships we can confidently expect to sell. A professional analysis will help to validate our market assumptions and will produce estimates with a greater level of confidence.

Thank you for your consideration.

Sincerely,
Amelia Kurtz
Patrick O'Reilly
Matt Sither

CC: Tom Hall, Town Manager
Todd Souza, Community Services Director

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.

Order No. 19-096. Move approval on the request from the Ad-Hoc Community Center Advisory Committee, to amend their charge, approved on September 4, 2019, to extend their reporting time from December 15, 2019 to January 17, 2020. *[Ad-Hoc Community Center Advisory Committee]*

Ad-Hoc Community Center Advisory Committee

Sponsor

Ought to Pass

Recommendation

12/04/2019 – Vote:

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote

Memorandum

TO: Thomas J. Hall, Town Manager & Members of the Town Council

FROM: Matt Tonello
Representative of the Ad-Hoc Community Center Advisory Committee

RE: Extension on the Reporting Time to the Town Council

DATE: November 27, 2019

The Community Center Committee requests an extension to our deadline due to the additional 3 weeks that the development team has requested to prepare pricing and operating costs to the requested program.

With the Holidays following the developer's requested extension to December 9th, the committee would like an extension of our deadline for submission of our recommendations from December 15th to January 17th.

We are asking for this extension due to the fact that we will need the pricing for the facility, and also the operating cost information that we expect from the development team on the 9th.

Thank you for your, and the council's consideration of this request.

BE IT HEREBY ORDERED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the Charge for the Ad-Hoc Community Center Advisory Committee, Section 3. Timeframe, is amended as follows:

Ad-Hoc Community Center Advisory Committee

Adopted September 4, 2019

3. **Timeframe.** The Committee Report is to be done by ~~December 15, 2019~~ January 17, 2020. In the event that the Committee is unable to complete its task by this date, the Town Council will consider a reasonable extension of time. Once the Committee has completed its work it shall cease to exist unless otherwise extended by the Town Council.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.

Order No. 19-097. Move approval on the appointment of Nick Cloutier, as the Assessor for the Town of Scarborough, effective December 30, 2019. *[Town Manager]*

Town Manager

Sponsor

Ought to Pass

Recommendation

12/04/2019 – Vote:

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.

Order No. 19-098. Move approval to authorize the Town Manager to sign a renewal lease agreement with Abigail Carroll and Nonesuch Oysters, LLC, for use of the south side of the Town Pier for an upweller float for oysters. *[Town Manager]*

Town Manager

Sponsor

Ought to Pass

Recommendation

12/04/2019 – Vote:

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote

Town of Scarborough, Maine

Thomas Hall <thall@scarboroughmaine.org>

NONESUCH FLOAT

1 message

Abigail Carroll <abigail@nonesuchoysters.com> Tue, Aug 13, 2019 at 4:33 PM
To: Thomas Hall <thall@scarboroughmaine.org>

Hi Tom,

I hope your summer is going well. We got hit with 6 weeks of red tide but I'm happy to say we're back to harvesting. It's never predicable!

Speaking of which, a few weeks ago I was informed that the Department of Marine Resources had mistakenly allowed me, and others, to hold LPAs, the smallest of all aquaculture leases, in the Essential Habitat area which is the classification for the Scarborough estuary. It's unclear to me why this type of lease is not permissible but our bigger, standard lease is. But that is the way it is. As a result, the DMR is pulling my LPA, and everyone else's, in December.

My LPA lease is home to my dock/upweller. Two other agreements were also required for its presence there, one with the Army Corps and our Licensing Agreement with the Town of Scarborough.

The truth is that we haven't used the nursery as a nursery for two years - instead we have found a way to grow the small seed on our regular lease site so we don't really need the LPA. However, having that float there has become an indispensable tool for our operation. We store boats and gear there and use it as a work platform.

I spoke to the Army Corps and they said that in order to keep my float as a working platform once the DMR pulls my LPA all I would need is to present them with a renewed licensing agreement with the Town of Scarborough stating that we have your permission to remain there for the modified activity (ie no shellfish rearing, just a working platform). Do you think this would be possible? I honestly can't imagine how we would operate without it. I am happy to continue to pay the annual fee despite our not using electricity. It seems fair to pay some rent for that.

Our deadline for action on this is December 31st but it would be good to know at your earliest convenience as we would need to make some serious operational changes without it. And the more time we can have to prepare for that the better.

Thank you for your consideration.

Kind regards,

Abigail

LICENSE AGREEMENT

This License Agreement ("Agreement") is made as of _____ ___, ~~2012~~2019, by and between THE TOWN OF SCARBOROUGH, a municipal corporation and body politic with a mailing address of 259 U.S. Route 1, P.O. Box 360, Scarborough, ME 04074 (the "Town"), and ABIGAIL CARROLL, an individual, and NONESUCH OYSTERS, LLC a Maine limited liability company both with a mailing address of P.O. Box 311, Biddeford Pool, ME 04006 (together the "Licensee").

1) Recitals; Definitions:

a) the Town owns the pier located at the easterly end of King Street and the northerly side of the Pine Point peninsula, in the Town of Scarborough, County of Cumberland, State of Maine, known as the "Public Pier at Pine Point" (the "Premises" or the "Pier") and the Town, in order to support and foster local business in the community, wishes to allow Licensee, pursuant to the terms and conditions herein described, to ~~pursue~~ foster its oyster cultivation business ~~on the Premises~~in the Scarborough River (the "Business");

b) Licensee holds a ~~certain Limited Purpose Aquaculture License~~Standard Aquaculture Lease ~~for 2012~~ from the Maine Department of Marine Resources for the cultivation of American or Eastern Oysters and European Oysters ~~dated November ___, 2012~~ (the "DMR License") further up the river and Licensee wishes to use the Premises to ~~, pursuant to the DMR License and this Agreemen~~support~~t~~ a working platform and storage place for workboats, ~~to engage~~ in support of the Business.

2) Grant of License. Subject to the provisions of this Agreement, the Town hereby grants to Licensee a non-exclusive license to enter onto the Premises during the Term hereof (defined below) for the purpose of constructing and maintaining ~~an upweller~~a float measuring 8 feet by 20 feet which may be attached to the pilings by galvanized steel hardware on the south side of the Pier at its westerly end, as illustrated on Exhibit A attached hereto and made a part hereof (the "~~Upweller~~Float"), for use by Licensee as a year-round work platform for Licensee's Business. Licensee shall be solely responsible for acquiring and complying with all applicable federal, state and local permits required for its Business, as well as the intended construction and use of the Premises and ~~Upweller~~Float. Licensee shall also be solely responsible for all costs associated with the construction, attachment and use of the ~~Upweller~~Float.

3) Fees. Licensee shall pay an annual fee of Four Hundred and Twenty dollars ($420.00) to the Town which the parties acknowledge is a fair estimate of rent and occasional water and electric usage~~of the Town's electricity costs related to Licensee's use of the Premises~~. Such fee shall be paid by April 1 of each year. Additionally, Licensee shall be responsible for any user fees or permits applicable to Licensee's use of the Pier, now or in the future.

4) Term of License. ~~-~~The term of this Agreement (the "Term") shall commence ~~on the date of the issuance of the DMR License and continue~~ as of the signing of this document and ~~to~~ renew automatically in one (1) year increments until such time as Nonesuch Oysters, LLC is no longer in good standing and/or in operation, ~~or the DMR License is not renewed~~ ~~,~~ unless earlier revoked by the Town in accordance with this Agreement.

5) Use of Premises; Assignment; Subletting. Licensee and its agents, employees and customers may use the Premises and Float ~~Upweller~~ for the purposes identified and outlined in the DMR License. Licensee shall not perform any act or carry on any practice which may damage the Premises or constitute a nuisance on the Premises. Licensee may not conduct any activities or cause any condition to exist which would present an impediment to safe navigation around the Premises or interfere with the use of the Premises as a public pier or impede the access and use of Pier by others, taking into consideration that the Premises is a busy town landing open to the public. Licensee shall not assign its rights hereunder in and to the Premises or any part hereof without the prior written consent of the Town.

~~6) Shellfish Conservation Committee. Notwithstanding the provisions of Section 5, above, Licensee shall, as needed, dedicate one silo to growing clam seed for the Town of Scarborough's Shellfish Conservation Committee (the "Committee") at no cost to the Committee or the Town from the period of May 1 to July 15 annually. Licensee's employees will maintain the seed on behalf of the Committee but will not guarantee results.~~ 7

~~7~~) Access. The ~~Upweller~~ Float remains the private property of Licensee and access shall be restricted to Licensee's employees.~~, as per the DMR License.~~

8) Rules and Regulations; Alterations. Licensee agrees to conform to all reasonable rules and regulations now or hereinafter made by the Town for the care and use of the Premises. The Premises are made available to Licensee in "as is" condition on the commencement date of the Term. Except as expressly provided for herein ~~or as required by the DMR License~~, Licensee agrees not to make any alterations or additions or place any signs in or on any portion of the Premises without written permission from the Town. Licensee agrees, at all times during the Term, to be and remain in compliance with ~~the DMR License and~~ all applicable local, state and federal ordinances, rules and regulations.

9) Insurance. At all times during the Term, Licensee shall maintain at its sole cost and expense, for the benefit of both the Town and Licensee, general liability insurance in an amount reasonably acceptable to the Town insuring Licensee and naming the Town as an additional insured, against any losses, liabilities, damages, claims, suits, demands, actions, judgments, costs and expenses (including reasonable attorneys' fees) relating to any injury to, or death of, any person or persons, or damage to any property. Licensee shall provide the Town with a copy of said insurance policy or a certificate evidencing the same, at the time this Agreement is executed. The foregoing shall not constitute a waiver by the Town of any provision of the Maine Tort Claims Act, 14 M.R.S. §8101 et seq.

10) Indemnification. Licensee hereby agrees to defend, indemnify and hold the Town, its successors and assigns, harmless from and against any and all damages, liabilities, losses, expenses, claims and suits (including the cost of defending the same or enforcing this Agreement, including reasonable attorneys' fees) incurred or suffered in consequence of either bodily injury to any person (including death) or damage to any property arising out of, or related in any way to the acts or omissions of Licensee or its agents or other invitees or related in any way to this Agreement, or the exercise by Licensee of the rights granted hereunder or the breach or violation of the terms hereof by Licensee. The provisions of this Section ~~7~~ 10 shall survive the expiration or earlier termination of this Agreement.

11) Removal of Licensee's Property. Licensee shall, at its sole expense, upon expiration or earlier termination of this Agreement, promptly remove its property and ~~Upweller~~ Float from the Premises and restore the Premises to its condition existing prior to the commencement of the Term hereof and otherwise reasonably satisfactory to the Town.

12) Title. No warranty of title to the Premises or any other property is given hereunder, and the permission herein granted to Licensee is subject to all encumbrances, conditions and reservations upon or under which the Town holds the Premises. The rights of Licensee hereunder are limited solely to the license herein granted and Licensee shall not acquire by virtue of this Agreement or otherwise any easement or other greater interest in the Premises.

13) Revocation. The Town may revoke this Agreement at any time and for any reason. Revocation by the Town shall be deemed effective as of the date of delivery of written notice to Licensee.

13) Replacement. This Agreement replaces the 2012 License Agreement between the Town of Scarborough and the Licensee.

14) Relocation. Notwithstanding anything to the contrary contained in this Agreement, Licensee shall, upon thirty (30) days' written notice from Town, relocate Licensee's ~~Upweller~~ Float and equipment to another location on the Pier as identified by the Town at Licensee's reasonable cost and expense.

15) Notices. Whenever by the terms of this Agreement, notice shall or may be given either to the Town or to Licensee, such notice shall be in writing and shall be delivered in person or sent by certified mail, return receipt requested, postage prepaid, to the address set forth above, or a subsequent address designated by either the Town or Licensee. Notices from the Town to Licensee shall be deemed to have been delivered when mailed.

16) Miscellaneous. This Agreement is made in and shall be governed by and construed in accordance with the laws of the State of Maine. The captions and headings contained in this Agreement are for convenience only and shall not be taken into account in construing the meaning of this Agreement or any part thereof. As to the obligations of each party hereunder to perform its undertakings, promises, covenants and obligations hereunder, time is of the essence. No waiver on the part of the Town of any term, provision or covenant of this Agreement shall constitute a precedent, nor bind the Town to a waiver of any similar or succeeding breach of same or any other terms, provisions or covenants of this Agreement. If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law. This Agreement constitutes the entire agreement between parties with respect to the subject matter contained herein and there are no other understandings or agreements with respect to the subject matter which are not contained

herein. This Agreement cannot be amended except by written instrument executed by the Town and Licensee.

[*signatures on following page*]

IN WITNESS WHEREOF, the Town and Licensee have executed this instrument under seal as of the day and year first written above.

WITNESS:	TOWN OF SCARBOROUGH
_____	By:_____ Thomas Hall, its Manager
WITNESS:	NONESUCH OYSTERS, LLC
_____	By:_____ Abigail Carroll, its Manager
_____	_____ Abigail Carroll, individually

EXHIBIT A

2/6/2013

Order No. 13-09. Act to authorize the Town Manager to sign a lease agreement with Abigail Carroll and Nonesuch Oysters, LLC, for use of the south side of the Town Pier to construct and maintain an upweller float for oysters. Thomas J. Hall, Town Manager, gave a brief overview on this proposal and responded to questions from the Town Council. Ms. Carroll gave a brief overview on the process that she follows and hopes that the Council would support the request.

Motion by Councilor Roy, seconded by Councilor Sullivan, to move approval to authorize the Town Manager to sign a lease agreement with Abigail Carroll and Nonesuch Oysters, LLC, for use of the south side of the Town Pier to construct and maintain an upweller float for oysters.

Vote: 7 Yeas.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.

Order No. 19-099. Move approval on the request from the Deputy Tax Collector for a waiver of foreclosure on the following properties: 8 David Drive – Map T003/Lot 008, 30 Matthews Way – Map T003/Lot 030, 13 Crystal Lane – Map T003/Lot 013, 19 Crystal Lane – Map T003/Lot019, 11 David Drive – Map T003/Lot 011 and 184 Balsam Street and authorize the Town Manager to sign the necessary documentation. *[Deputy Tax Collector]*

Deputy Tax Collector

Sponsor

Ought to Pass

Recommendation

12/04/2019 – Vote:

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote

To: Tom Hall

CC: Ruth Porter

From: Lisa Saulle

Date: 12/04/19

Re: Waiver of Foreclosures

Mr. Hall,

This is a request for the Council to waive Automatic Foreclosure on the following properties:

8 David Drive	Map T003/ Lot 008
30 Matthews Way	Map T003/ Lot 030
13 Crystal Ln	Map T003/ Lot 013
19 Crystal Ln	Map T003/ Lot 019
11 David Dr	Map T003/ Lot 011
184 Balsam St	Map T001/Lot 184

These properties have outstanding taxes from 2017 and are due to foreclose on 12/20/19.

Thank you,
Lisa Saulle
Deputy Tax Collector

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.

Order No. 19-100. Move approval on the request from the Council Chair for the appointments to the Council Standing Committee and Committee Liaisons Appointments-Standing Committees. *[Council Chair]*

Council Chair

Sponsor

Ought to Pass

Recommendation

12/04/2019 – Vote:

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote

Town Council
Chair – Paul Johnson
Vice Chair – Don Hamill

Town Council Standing Committees

Appointments and Negotiations Committee:
Councilor Hamill, Chair
Councilor Hayes
Councilor Caterina

Communications:
Councilor K. Johnson, Chair
Councilor Cloutier
Councilor Gleysteen

Fair Hearing Authority:
Councilor Cloutier, Chair
Councilor K. Johnson
Councilor Caterina

Finance Committee:
Councilor Hayes, Chair
Councilor Cloutier
Councilor Gleysteen

Ordinance Committee:
Councilor Caterina, Chair
Councilor Hamill
Councilor K. Johnson

Rules & Policies Committee:
Councilor Gleysteen, Chair
Councilor Cloutier
Councilor Caterina

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Town Council Liaison Appointments

ADA Advisory Committee: Councilor K. Johnson

BOE: Councilor Gleysteen

Cable Television Committee: Councilor K. Johnson

Chamber Of Commerce: Councilor Caterina

Coastal Waters and Harbor Advisory Committee: Councilor Hamill

Community Services and Recreation Advisory Board: Councilor Hayes

Conservation Commission: Councilor Cloutier

Eastern Trail Alliance: Councilor K. Johnson

Firing Range: Councilor Caterina - Chair

GPCOG/PACTS (3 Councilors): Chairman Johnson, Councilors Johnson and Cloutier

METRO Coalition:

Historic Preservation: Councilor Caterina

Library Trustees: Councilor Hayes

Long Range Planning Committee: Councilor Caterina
[Councilor Hamill – Alternate]

Pest Management Committee: Councilor Gleysteen

Planning Board: Councilor K. Johnson

Housing Alliance: Councilor Hayes

SEDCO: Councilor Cloutier

Senior Advisory Board: Councilor Gleysteen

Shellfish Conservation Commission: Councilor Hamill

Sustainability Committee: Councilor Caterina

Transportation Committee: Councilor Hayes

Ad-Hoc Community Center Advisory Committee: Chairman Johnson and Councilor Cloutier

ecomaine: Councilor Cloutier

MMA Policy Committee: Councilor Caterina