Chapter 405

ZONING ORDINANCE

TOWN OF SCARBOROUGH

Amended As of September 17, 2025

TABLE OF CONTENT

SECTION I. TITLE

SECTION II. ZONING ORDINANCE [Amended 05/17/2023]

SECTION III. NON-CONFORMANCE

SECTION IV. ADMINISTRATION [Amended 09/17/2025]

SECTION V. BOARD OF APPEALS

SECTION VI. DEFINITIONS [Amended 01/22/2020; 04/21/2021; 05/04/2022; 07/20/2022; 05/03/2023; 07/19/2023; 10/18/2023; 09/04/2024; 01/08/2025; 03/19/2025; 08/20/2025]

SECTION VII. FLEXIBLE DEVELOPMENT STANDARDS FOR HIGHER DENSITY RESIDENTIAL DISTRICTS [Amended 02/01/06; 09/17/2026]

SECTION VII.A. CONSERVATION SUBDIVISION DESIGN – FLEXIBLE DEVELOPMENT STANDARDS FOR LOWER DENSITY RESIDENTIAL DISTRICTS [Amended 05/05/10][Amended 07/16/14]

SECTION VII.B. EXIT B ECONOMIC DEVELOPMENT OVERLAY DISTRICT [DELETED 06/20/12]

SECTION VII.C. RESIDENTIAL DENSITY AND AFFORDABLE HOUSING PROVISIONS [06/06/07][Amended 11/06/13][Amended 06/07/2023][Amended 07//19/2023]

SECTION VII.D. DEVELOPMENT TRANSFER PROVISIONS [Adopted 06/20/07]

SECTION VII.E. ADDITIONAL REQUIREMENTS FOR PLANNED DEVELOPMENTS [Adopted 11/07/07]

SECTION VII.F. AQUIFER PROTECTION OVERLAY DISTRICT

SECTION VII.G. TRANSMISSION TOWER OVERLAY DISTRICT – TTOD [Adopted 10/15/14 with an effective date of 11/15/14]

SECTION VII.H. HISTORIC PRESERVATION PROVISIONS [Adopted 03/18/15][06/03/2020]

SECTION VIII. BUFFER AREAS

SECTION IX. PERFORMANCE STANDARDS [Amended 05/05/10; 05/06/2020; 05/20/2020; 09/02/2020; 11/03/2021;07/20/2022;10/05/2022; 05/03/2023; 07/19/2023; 10/18/2023; 09/04/2024; 11/20/2024; 01/08/2025, 03/19/2025; 08/20/2025]

SECTION X. PERFORMANCE STANDARDS – EXTRACTIVE INDUSTRY

SECTION X.A. WETLANDS SETBACKS AND VEGETATED BUFFERS [Adopted 01/22/2025]

SECTION XI. OFF-STREET PARKING REGULATIONS [Amended 01/06/10; 01/04/2023; 07/19/2023; 01/08/2025; 05/07/2025]

SECTION XII. SIGN REGULATIONS [Amended 10/20/04][Amended 08/20/08] [Amended 08/19/09][Amended 07/17/13]

SECTION XIII. RESIDENTIAL ZONING DISTRICTS [Adopted 07/19/2023]

SECTION XIV. VILLAGE RESIDENTIAL DISTRICTS [Adopted 07/19/2023]

~~**SECTION XIII. RURAL, FARMING AND MANUFACTURED HOUSING DISTRICT, R-F-M [12/19/84][Amended 05/05/10][Amended 05/20/2020][amended 11/03/2021][07/20/2022]**~~ ***REPEALED ON 07/19/2023 – REFER TO NEW SECTION XIII – RESIDENTIAL ZONING DISTRICTS***

~~**SECTION XIV. RURAL FARMING DISTRICT R-F [Amended 05/05/10][02/15/12][Amended 05/20/2020] [amended 11/03/2021][07/20/2022]**~~ ***REPEALED ON 07/19/2023 – REFER TO NEW SECTION XIII – RESIDENTIAL ZONING DISTRICTS***

~~**SECTION XV. RESIDENTIAL DISTRICT R-2 [Amended 05/20/2020]**~~ ***REPEALED ON 07/19/2023 – REFER TO NEW SECTION XIII – RESIDENTIAL ZONING DISTRICTS***

~~**SECTION XV.A. RESIDENTIAL DISTRICT R-3 [Amended 05/20/2020]**~~ ***REPEALED ON 07/19/2023 – REFER TO NEW SECTION XIII – RESIDENTIAL ZONING DISTRICTS***

~~**SECTION XV.B. VILLAGE RESIDENTIAL 2 DISTRICT VR-2**~~ ***REPEALED ON 07/19/2023 – SECTION XIV VILLAGE RESIDENTIAL DISTRICTS***

~~**SECTION XV.C. VILLAGE RESIDENTIAL 3 DISTRICT VR-4 [Adopted 03/04/09]**~~ ***REPEALED ON 07/19/2023 – SECTION XIV VILLAGE RESIDENTIAL DISTRICTS***

~~**SECTION XVI. RESIDENTIAL DISTRICT R-4 [Amended 05/20/2020]**~~ ***REPEALED ON 07/19/2023 – REFER TO NEW SECTION XIII – RESIDENTIAL ZONING DISTRICTS***

SECTION XVI.A. TRADITIONAL NEIGHBORHOOD DEVELOPMENT OPTION OVERLAY DISTRICT TND [Adopted 11/03/04][Amended 11/06/13] [Amended 05/17/2023]

SECTION XVI.B. HIGGINS BEACH CHARACTER-BASED ZONING DISTRICTS AND BUILDING STANDARDS [Amended 01/22/2020][Adopted 12/02/15]

~~**SECTION XVII. RESIDENTIAL DISTRICT R-4A [Amended 03/04/09][Amended 05/20/2020]**~~ ***REPEALED ON 07/19/2023 – REFER TO NEW SECTION XIII – RESIDENTIAL ZONING DISTRICTS***

SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO [Amended 08/19/09] [Amended 05/20/2020][Amended 07/19/2023]

SECTION XVIII. BEACH MIXED USE DISTRICT B-1 [As of 03/31/74][Amended 09/05/12][Amended 07/19/2023]

SECTION XVIII.A. TOWN AND VILLAGE CENTERS DISTRICT TVC [06/05/07] [Amended 05/20/2020; 01/08/2025]

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP [Amended 05/20/2020; 02/17/2021; 09/04/2024; 01/08/2025]

SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT TVC2 [09/05/07][Amended 08/19/09; 05/20/2020; 07/19/2023; 01/08/2025]

SECTION XVIII.D. TOWN AND VILLAGE CENTERS FRINGE DISTRICT TVC3 [Adopted 11/07/07][Amended 03/04/09; 04/06/2011; 05/20/2020; 07/19/2023; 01/08/2025]

SECTION XVIII.E. TOWN AND VILLAGE CENTERS 4 DISTRICT TVC4 [Adopted 09/12/2012; Amended 07/19/2023; 01/08/2025]

SECTION XVIII.F. PINE POINT INDUSTRIAL OVERLAY DISTRICT I-O [Adopted 09/05/2012] [Amended 01/22/2020; 09/04/2024]

SECTION XIX. REGIONAL BUSINESS DISTRICT B-2 [Adopted 04/16/08][Amended 08/19/09; 01/08/2025]

SECTION XIX.A. GENERAL BUSINESS DISTRICT B-3 [Adopted 04/16/08][Amended 01/08/2025]

SECTION XX. BUSINESS OFFICE-RESEARCH DISTRICT BOR
[Adopted 11/07/2007][Amended 12/01/2010; 01/22/2020; 05/20/2020; 04/21/2021; 01/08/2025]

SECTION XX.A. RUNNING HILL – GORHAM ROAD MIXED USE DISTRICT RH
[Amended 07/19/14; 07/19/2023; 08/20/2025]

SECTION XX.B. RUNNING HILL – GORHAM ROAD TRANSITION DISTRICT RH2
[Amended 07/19/14; 05/20/2020; 07/19/2023]

SECTION XX.C. CROSSROAD PLANNED DEVELOPMENT DISTRICT CPD
[Amended 01/22/2020; 05/20/2020; 04/21/2021;05/17/2023; 01/08/2025]

SECTION XXI. INDUSTRIAL DISTRICT I [Amended 01/22/2020; 11/03/2021; 09/04/2024; 01/08/2024; 08/20/2025]

SECTION XXI.B. LIGHT INDUSTRIAL DISTRICT LI [Amended 11/03/2021; 09/04/2024; 03/19/2025; 08/20/2025]

SECTION XXI.C. RURAL AND FARMING OVERLAY DISTRICT RF-O

SECTION XXII. LOCATION OF ADULT BUSINESSES [Adopted 01/20/93]

SECTION XXIII. CONTRACT ZONING DISTRICTS [Adopted 07/03/96]

EXHIBITS

APPENDICES

SECTION I. TITLE

This Ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Scarborough, Maine."

SECTION II. ZONING ORDINANCE

A. PURPOSE

This Zoning Ordinance is designed for all the purposes of zoning embraced in Maine Revised Statutes, and has been drafted as an integral part of the comprehensive plan for the Town of Scarborough, Maine. Among other things it is designed to encourage the most appropriate use of land throughout the municipality; to promote safe and efficient traffic circulation, to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of stable neighborhoods; to provide an allotment of land area in new development sufficient for all the requirements of community life; to conserve natural resources; and to provide for and promote adequate public service.

B. ESTABLISHMENT OF ZONES [Amended 8/5/92][Amended 09/05/2012]

To implement the provisions of this Ordinance, the Town of Scarborough is hereby divided into the following classes of Districts:

Rural and Farming District	R-F	[05/05/10]
Rural, Farming and Manufactured Housing District	R-F-M	[05/05/10]
Residential 2 District	R-2	
Residential 3 District	R-3	[12/86]
Village Residential 2 District	VR-2	[6/1/05]
Village Residential 4 District	VR-4	
Residential 4 District	R-4	
Residential 4A District	R-4A	
Traditional Neighborhood Development Option Overlay District	TND	[11/03/04]
Residence & Professional Office District	RPO	[7/17/91]
Beach Mixed District	B-1	[09/05/12]
Town & Village Centers District	TVC	[09/05/07]
Town & Village Centers Transition District	TVC-2	[09/05/07]
Town & Village Centers Fringe District	TVC-3	[11/07/07]
Town & Village Centers 4 District	TVC-4	[09/05/12]
Regional Business District	B-2	[04/16/08]
General Business District	B-3	[04/16/08]
Business Office-Research District	BO-R	[11/07/07]
Running Hill Mixed Use District	RH	[09/17/08]
Running Hill Transition District	RH2	[09/17/08]
Industrial District	I	
Pine Point Industrial Overlay District	I-O	[09/05/12]
Haigis Parkway District	HP	[8/21/96]
Crossroads Planned Development District	CPD	[8/21/13]

C. ZONING MAP

1. The districts are shown on the Official Zoning Map entitled "Town of Scarborough Maine Official Zoning Map. The Town's GIS Department will maintain and update the Official Zoning Map to reflect zoning changes, updated property boundaries and street alignments, amendment and error corrections. The Official Zoning map is attested by the Town Clerk. Regardless of the existence of other zoning maps that may be published, the Official Zoning Map is the final authority of the current zoning status of all property in the Town of Scarborough. [Amended 12/15/2004; 05/17/2023]
2. The Official Zoning Map must include the following:[adopted 05/17/2023]
    a. The date the map was updated and attested by the Town Clerk, including the Town Clerk signature
    b. Town Council Order number authorizing the change
    c. Brief description of the change
3. The Official Zoning Map must be maintained in digital electronic form as a PDF and available on the Town's website with the effective date of the map. The Official Zoning Map shall also be available in printed from in the office of the Town Clerk and the Planning and Code Enforcement Department. Printed copies shall be available for purchase in the Planning and Code Enforcement Department. [adopted 05/17/2023]
4. In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the governing authority may, by resolution, adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the Official Zoning Map. [adopted 05/17/2023]
5. The Official Zoning Map is hereby incorporated in and made a part of this Ordinance and shall be final authority as to the current status of district locations. Where uncertainty exists with respect to district boundaries as shown upon the Official Zoning Map, the following rules shall apply: [Amended 12/15/2004]

    a. Unless otherwise indicated, district boundary lines are the centerlines, plotted at the time of adoption of or pertinent amendment to the Zoning Map, of streets, alleys, parkways, waterways, or rights-of-way of public utilities and railroads or such lines extended. [Amended 12/15/2004]

    b. Unless otherwise indicated, where a district boundary apparently follows a property line, it shall be interpreted as such. Such property line shall be interpreted as one existing at the time of enactment or amendment of this Zoning Map. If any boundary as surveyed shall be different than as shown on the Zoning Map, such surveyed boundary shall control. [Amended 05/16/18]

    c. Other district boundary lines which are not listed in the preceding or following paragraph shall be considered as lines paralleling a street and at distances from the center lines of such streets as indicated by the Zoning Map. In the absence of a written dimension, the graphic scale on the Zoning Map shall be used. [Amended 12/15/2004]

4. Whenever uncertainty or a dispute exists as to the exact location of a district boundary line, the exact location of said line shall be determined by the Board of Appeals pursuant to Section V, B, 4, (f). [Amended 12/15/2004]

D. CONFORMITY

1.

a. No building or structure shall be erected, altered, enlarged, rebuilt, moved or used and no land shall be used unless in conformity with the provisions of this Ordinance.

b. No lot, other than a lot of record lawfully created prior to November 5, 2003, shall be built upon unless there is access to the lot. "Access" means either frontage on a public way or connection to a public way over one or more private ways accepted by the Planning Department under Section IX.I of this Ordinance or by the Planning Board under the Scarborough Subdivision Regulations. [Amended November 5, 2003]

2. The regulations specified by this Ordinance for each class of district shall be minimum requirements and shall apply uniformly to each class or kind of structure or land.

3. Land within the lines of a street on which a lot abuts shall not be considered as part of such lot for the purpose of meeting the Space and Bulk requirements of this Ordinance notwithstanding the fact that the fee to such land may be in the owner of such lot.

4. No part of a yard, open space, off-street parking space of loading space required to allow any building, structure or use to comply with this Ordinance, shall be included as part of a yard, open space, off-street parking space or loading space similarly required for any other building, structure or use.

5. When a lot of record at the effective date of adoption or amendment of this Ordinance is transected by a zoning district boundary, the regulations set forth in this Ordinance applying to the larger part by area of such lot may also be deemed to govern in the smaller area beyond such zoning district boundary but only to an extent not more than fifty (50) linear feet in depth beyond said zoning district boundary.

6. If two or more lots of record in continuous frontage, any of which does not meet the requirements for lot width and area as established by this Ordinance, are in single or common ownership at the effective date of adoption or amendment of this ordinance or any time thereafter, such lots shall be considered to be a single lot for the purposes of this ordinance, and no portion of such single lot shall be built upon except in compliance with all Space and Bulk requirements of this ordinance. The provisions of this subparagraph (6) shall not apply to lots of record shown in Subdivision plans approved by the Planning Board and recorded in the Cumberland County Registry of Deeds between January 1, 1967 and August 5, 1970.

7. Recorded lots in single ownership and on continuous frontage with lots in the same ownership shall comply with the provisions of this ordinance except those which are included in Subdivisions approved by the Planning Board and recorded in the Cumberland County Registry of Deeds between January 1, 1967 and August 5, 1970.

8. Any use not specifically allowed as either a permitted use or a Special Exception in any district shall be considered prohibited in that district.

9. No more than one principal building shall be located on a single lot, except as follows:

a. In the case of a commercial, office or mixed use development (which may include residential uses) in the RPO, B-1, TVC, TVC-2, TVC-3, TVC-4, HP, B-2, B-3, BO-R, RH, RH2, CPD, I and I-O districts, the Planning Board may, through site plan approval (and, where required, subdivision approval), approve the location of multiple buildings on a single lot, provided that the lot will remain in unified ownership.

b. In the case of a residential development where multi-family dwellings or multi-plex uses are permitted, the Planning Board may, through site plan approval (and, where required, subdivision approval), approve the locations of multiple buildings on a single lot, provided that the lot will remain in unified ownership. [Adopted 01/04/2023]

c. As used in this section, "unified ownership" means that the lot is restricted by condominium declaration, restrictive covenants, or other legally binding document against division into separate lots unless each of such separate lots would comply separately with all applicable space and bulk regulations of this Ordinance. The document creating such restrictions shall be reviewed by the Town's attorney before the Planning Board grants final site plan and/or subdivision approval. An ownership structure which provides for unified ownership may allow for ground leases or leases of individual buildings, provided that the property is developed and used as shown on the plan approved by the Planning Board. [11/02/2005]

E. CONFLICT WITH OTHER ORDINANCES

Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rule, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

F. SEPARABILITY

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

G. CHANGES AND AMENDMENTS

This ordinance may be amended and its regulations, boundaries, and district classifications changed by the Town Council at a regular or special meeting provided that the following criteria are met:

1. Amendments or changes may be initiated by the Planning Director, Planning Board, Town Council, or may be requested by any owner of property (or authorized agent) or other person with equivalent right, title or interest in the property (or authorized agent). Amendments or changes may also be initiated by any person as permitted by the Constitution and laws of the State of Maine. [Amended 05/17/2023]

2. All requests for amendments or changes shall be submitted to the Planning and Codes Department for processing. [Amended 05/17/2023]

3. All requests for amendments or changes, other than those imitated by the Planning Director, Planning Board or Town Council, shall include:

a. Zoning amendment application including the following:
- **i.** Name and address of property owner and/or application'
- **ii.** Address or exact location of request.
- **iii.** Existing and proposed zone classifications.
- **iv.** A map showing existing and proposed zone lines.

v. Statement regarding existing and proposed land use.

vi. Statement indicating the developer has the financial ability to complete the proposed development, where applicable.

b. Fee as specified in the Schedule of License, Permit and Application Fees established by order of the Town Council.

c. All requests for amendments or changes that propose new construction shall be accompanied by a site plan drawn in accordance with the Site Plan Review Ordinance.

4. The Planning Director or designee shall review all requests for amendments or changes and make a recommendation to the Planning Board and/or Town Council in regards to the Comprehensive Plan. [Adopted 05/17/2023]

5. The Planning Board shall review all requests for amendments or changes and make its recommendations to the Town Council regarding the land use implications of the request. If a substantial change or alteration is contemplated by the Town Council, approval by the Town Council shall not be granted without submitting the proposed changes to the Planning Board for comment.

6. No request for amendment or change shall be referred to the Town Council for consideration until the Planning Board has held a public hearing on that request, notice of which shall be given at least ten (10) days prior to such hearing in a newspaper of general circulation in the Town of Scarborough. [adopted 05/17/2023]

7. If the proposed zoning amendment is approved by Town Council, the Town Clerk will notify the Planning and Codes Department and GIS staff of the change and include the legal description of the property and the approved map amendments. [adopted 05/17/2023]

8. GIS staff will revise the Official Zoning Map within 14 days and the Town Clerk will attest to its status as a true Town Council action. GIS staff will then update the electronic copy of the Official Zoning Map in PDF form on the Town website and in paper form in the office of the Town Clerk and Planning and Codes Department showing the new effective date. [adopted 05/17/2023]

9. If a person who has requested and been granted an amendment or change fails to begin construction in a substantial manner and in accordance with an approved request within one year from the effective date of the amendment or change, the Planning Board may initiate rezoning to the original zone classification. The Planning and Codes Department is responsible for verifying that construction has occurred in a timely manner.

If construction has not begun in a timely manner, the Planning and Codes Department will notify the Planning Board. If the Planning Board initiates rezoning to the original zone classification the process will begin over. [adopted 05/17/2023]

10. No request for amendment or change shall be considered within one year from the date of Town Council denial of the same request.

11. The Federal Insurance Administration and the State Coordinating Office shall be notified before Flood Plain Management Regulations (Section IV (E)) are amended based upon modified data reflecting natural or man-made changes.

H. REPEAL CLAUSE

Upon adoption of this ordinance, all previously adopted zoning provisions of the Town of Scarborough except the Town of Scarborough Shoreland Zoning Ordinance are hereby repealed. (8/5/92)

I. CONTRACT ZONING [September 19, 2001][Amended 10/03/01][Amended 11/20/02] [Amended 07/21/2004][Amended May 15, 2019]

1. Contract Zoning Authorized

   Contract zoning is authorized for zoning map and/or text changes when the Town Council, exercising its sole and exclusive judgment as the legislative body of the Town of Scarborough, determines that it is appropriate to modify the zoning district regulations applicable to a parcel of land, subject to appropriate conditions and restrictions which relate to the physical development or operation of the property, and which will allow reasonable uses of the land which would not have been permitted by the existing zoning district regulations but which remain consistent with the Town of Scarborough Comprehensive Plan and compatible with the existing and permitted uses within the existing zoning district classification. For purposes of this section the term "contact zoning agreement" shall mean either an original agreement or any subsequent amendments.

2. Relationship to Shoreland Zoning

   A parcel rezoned under this Section II(I) may include land areas subject to the Shoreland Zoning Ordinance for the Town of Scarborough, but any provision of a contract zoning agreement adopted by the Town Council which removes or modifies any restrictions or limitations imposed by the Shoreland Zoning Ordinance shall not take effect until approved by the Commissioner of Environmental Protection as required by 38 M.R.S.A. Section 438-A(3).

3. Public Benefit Required

   Contract zoning shall promote the general welfare of the residents of the Town of Scarborough. The Town Council shall approve a contract zoning request only if it determines, exercising its sole and exclusive judgment as the legislative body of the Town, that the proposed contract zoning is in the public interest and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification. Guidelines for the Council to apply in making those determinations are set forth in Appendix A to this Ordinance.

4. Procedures

   Requests for a contract zoning agreement or an amendment to an existing contract zoning agreement shall not be subject to Section II(G), but shall be processed exclusively as provided in this Section II(I). A summary of the procedural steps is contained in Appendix B to this Ordinance.

   a. Preliminary Joint Review of Application for Contract Zoning by Planning Board and Town Council.

      i. The person proposing a contract zoning agreement or an amendment to an existing contract zoning agreement shall submit an application for contract zoning to the Town Planner, which shall include, at a minimum, the following elements:

- A map showing existing and proposed zoning district lines.
- The address or exact location of the request, including the Scarborough Assessor's map references for the property to be rezoned.
- The name, address and telephone number of the property owner and of the applicant, if the applicant is not the owner.
- Evidence of the applicant's right, title or interest in the property.
- A site analysis that describes the major features of the property, allowing the Planning Board and Town Council to make informed judgments about how it will be used. Guidelines for preparation of the site analysis are contained in Appendix C to this Ordinance. This requirement may be waived by the Town Planner for amendments that do not propose to utilize lands that were not previously considered as part of the contract zone process.
- A conceptual development plan showing the approximate layout of all buildings, structures, streets, driveways, parking areas and other significant improvements to be constructed on or above the surface of the ground plus any proposed open spaces, conservation areas, buffer areas or other features of the development, but is not required to show subsurface infrastructure installations, building plans, engineering plans or other details which would be required for a subdivision plan or site plan. This requirement may be waived by the Town Planner for amendments that do not propose to utilize lands that were not previously considered as part of the contract zone process.
- A statement describing the existing use of the property and the proposed new use and development and describing how the proposed contract zone will be consistent with the Town of Scarborough Comprehensive Plan, will be consistent with existing and permitted uses within the existing zoning district classification of the property, will be in the public interest, and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification .
- A proposed contract zoning agreement which complies with the requirements of Section II(I)(5) below.
- Any other information requested by the Town Planner and/or the Town Engineer.
- A non-refundable application fee as specified in the Schedule of License, Permit and Application Fees established by order of the Town Council

ii. The Town Planner will review the application and, upon being satisfied that the application is sufficiently complete for review by the Planning Board and the Town Council, will schedule a joint meeting of the Planning Board and Town Council to commence review of the request for contract zoning. The Town Planner shall cause notice of the joint Planning Board/ Town Council meeting to be given in accordance with the requirements of 30-A M.R.S.A. § 4352(8), at the applicant's expense. Such notice shall be sent to the owners of all properties within five hundred (500) feet of the property to be rezoned. Such notice shall indicate that the joint meeting will include a public hearing conducted by the Planning Board at which the public will be given an opportunity to speak on the proposed contract zoning agreement.

iii. The joint Planning Board/Town Council meeting shall be conducted as follows:

- Presentation by the applicant.

- Comments from Town staff.
- Comments from members of the public. (This shall constitute the public hearing by the municipal reviewing authority required by 30-A M.R.S.A. § 4352(8).)
- Response or rebuttal from applicant.
- Discussion among members of the Planning Board and the Town Council, which may include questions posed to the applicant, staff and the public.
- Comments from members of the Planning Board concerning the land use implications of the proposed contract zoning agreement.
- Preliminary Town Council discussion of contract zoning agreement.

The Joint Planning Board/Town Council meeting may be continued from time-to-time by vote of the Town Council until the Council has concluded its discussion and is prepared to give the applicant preliminary direction concerning the further processing of the contract zoning request. At the conclusion of the discussion, the Council shall, by vote, advise the applicant: (1) to withdraw the request for contract zoning; (2) to continue to process the request for contract zoning, with or without modifications suggested by the Council; or (3) to revise and resubmit the application for contract zoning, under Section II(I)(4)(a)(i) above. The vote of the Town Council shall constitute direction from the Council to the applicant as to how to proceed, but shall not be binding on either the applicant or the Council, which reserves its sole and exclusive judgment as the elected legislative body of the Town of Scarborough until its final vote on the proposed contract zoning agreement.

b. Planning Board Plan Review.

i. Every development proposed in an application for contract zoning shall require review and approval under the Town of Scarborough Site Plan Review Ordinance. In addition, if the development proposed is a subdivision, it shall require review under the ordinance entitled "Subdivision Regulations of the Town of Scarborough, Maine" (the "Subdivision Ordinance"). The application(s) for plan review shall be submitted only after the Town Council has given its preliminary directions to the applicant pursuant to Section II(I)(4)(a)(iii) above.

ii. The Planning Board shall hold a public hearing to consider the site plan review application and the subdivision application, if required, whether or not a public hearing is required by the Site Plan Review Ordinance or the Subdivision Ordinance. The Planning Board shall review the site plan review application under the Scarborough Site Plan Review Ordinance and the subdivision application, if required, under the Subdivision Ordinance, applying the applicable standards of each ordinance and the zoning standards of the proposed contract zoning agreement. If the Planning Board determines that the proposed development meets such standards, the Board shall grant preliminary, provisional approval to the plan[s], subject to enactment of the contract zoning agreement by the Town Council.

a. The Planning Board shall also provide an advisory opinion to the Council and to the applicant of any changes or revisions to the proposed contract zoning agreement necessary to conform the agreement to the Planning Board's preliminary approval of the plan.

iii. In the case of a subdivision, the Planning Board shall not make findings as to whether the proposed subdivision is in conformity with the Town of Scarborough

Comprehensive Plan, but shall condition preliminary subdivision approval upon a determination by the Town Council under Section II(I)(4)(c)(ii), below that the proposed contract zoning agreement is consistent with the Comprehensive Plan.

c. Town Council Action on the Contract Zoning Agreement. [Amended 08/20/08]

i. Except as provided in Section II(I)(6)(b) below, the Town Council shall not take final action on the contract zoning agreement until after the Planning Board has given preliminary site plan approval and preliminary subdivision approval, if required. The Council shall process the proposed contract zoning agreement under the procedures of Section 213 of the Town of Scarborough Charter and the Rules and Procedures of the Scarborough Town Council. In addition to the public hearing required by section 213 of the Charter, the Council may also conduct as many additional hearings and meetings as the Council deems necessary for consideration of the contract zoning application.

ii. Before taking its final vote on the contract zoning agreement, the Town Council shall determine whether the proposed contract zoning agreement:

(1) is consistent with the Town of Scarborough Comprehensive Plan;
(2) is consistent with the existing and permitted uses within the existing zoning district classification of the property;
(3) is in the public interest; and,
(4) will have beneficial effects on the town as a whole which would not result if the property were developed under the existing zoning district classification.

The Council shall state its reasons for its findings and conclusions on each of those determinations, which shall constitute the legislative findings of the Town Council. The Town Council shall then vote on the contract zoning agreement, which shall include any necessary map change and a contract zoning agreement complying with the requirements of Section II(I)(5) below. Final passage of the contract zoning agreement shall require the affirmative vote of at least two thirds of the Council members present and voting, but in no event less than four. [Amended 05/21/03 – retroactive to 11/20/02]

iii. The contract zoning agreement approved by the Town Council shall be executed by the Town Manager or by such other Town officer as the Council may designate and recorded by the applicant in the Cumberland County Registry of Deeds. The agreement shall not take effect until it is recorded. If the agreement is not recorded within 90 days after the Town Council approves the request for rezoning, the Council, after giving the applicant notice and an opportunity to be heard, may rescind its approval of the agreement if the Council determines that changed circumstances warrant rescission. All contract zoning agreements approved and recorded prior to August 20, 2008 are hereby ratified, notwithstanding any different recording requirements in effect at the time of their approval.

d. Final Planning Board Action.

After the contract zoning agreement is recorded in the Registry of Deeds, the Planning Board shall complete its final site plan review of the development proposal and final subdivision review, if required. In the case of a subdivision, the Planning Board shall adopt as its findings under 30-A M.R.S.A. § 4404(9) and Sections 3(I) and 6:1 of the Subdivision

Ordinance the findings made by the Council under Section II(I)(4)(c)(ii) above concerning consistency with the Town of Scarborough Comprehensive Plan.

5. The Contract Zoning Agreement

a. Contents of the Agreement.

The contract zoning agreement shall include a provision granting the Town of Scarborough the power to enforce all conditions and restrictions, both through enforcement action pursuant to this Ordinance and through legal action for specific performance. Conditions and restrictions imposed by the Town Council may include, but shall not be limited to, the following:

1. Limitations on the number and types of uses permitted.
2. Restrictions on the scale and density of development.
3. Specifications for the design and layout of buildings and other improvements, including landscaping.
4. Schedules for commencement and completion of construction.
5. Performance guarantees securing completion and maintenance of improvements, including landscaping, and guarantees against defects.
6. Preservation of open space and buffers, and protection of natural areas and historic sites.
7. Contributions toward the provision of municipal services required by the development, including, for example, infrastructure improvements such as roads and sewer, and special maintenance needs arising from the rezoning.
8. Provisions for enforcement and remedies for breach of any conditions or restrictions.
9. Provisions for reservation or dedication of land for public purposes.

The Town Council may impose conditions under this Section II(I) which are more restrictive than the otherwise applicable requirements of this Ordinance.

b. Effects of the Agreement.

The conditions and restrictions set forth in the agreement shall run with the land and bind all future owners of the land and any other person who claims an interest in the property, and may be removed only by subsequent action of the Town Council expressly removing, relieving or discharging one or more of the specific conditions or restrictions. If the conditions and restrictions are not fulfilled or complied with within the specified time limits, the Town Council may extend the time limits or may initiate a rezoning to the original zoning district classification or to another zoning district classification.

c. Modifications and Amendments. [Amended 07/21/2004][Amended 08/20/08][Amended 05/15/19]

The contract zoning agreement may allow for changes or modifications to the development, but shall specify the procedure for approval of any such changes or modifications, setting forth categories of changes or modifications which would require Planning Board approval only, those which would require Town Council approval only, and those which would require both Planning Board and Town Council approval. Unless otherwise specified in the contract zoning agreement, a request to amend a contract zoning agreement shall be processed as stated in Section II(I)(4) above.

d. Performance Guarantees.

As part of the contract zoning agreement, the Town Council may, but is not obligated to, require a bond, escrow agreement, irrevocable letter of credit, or other surety in such amount as is approved by the Town Manager as being reasonably necessary to ensure compliance with the conditions or restrictions required by the rezoning and, where necessary to ensure continued compliance, may require such surety to remain in effect after occupancy of the rezoned property. Such surety shall be posted before the agreement is recorded in the Registry of Deeds.

6. General Provisions

a. Use of Consultants.

Both the Planning Board and the Town Council may obtain the services of independent technical consultants if either body considers such services necessary for adequate review of the application for contract zoning, such consultants to be retained at the applicant's expense. By submitting an application for contract zoning under this Section II(I), the applicant agrees to reimburse the Town for the reasonable and necessary costs of such consultations, and the Town will not execute the contract zoning agreement until such amounts have been paid in full.

b. Waiver of Procedures for Phased Developments.

Notwithstanding any other provision of this Section II(I), where the development proposed in a request for contract zoning is designed to be constructed in phases and the Council concludes that it would be impracticable to require preliminary subdivision and/or site plan review and approval of all phases before approval of the contract zoning agreement, the Town Council, in its discretion, may waive the provisions of Section II(I)(4)(c)(i) requiring the Planning Board to approve a preliminary plan before the Council takes final action on the contract zoning agreement, but only with respect to phases subsequent to the first phase of the development to be constructed. If it grants such a waiver, the Council shall include a phasing schedule in the contract zoning agreement, specifying the dates for completion of the subdivision and/or site plan review, and may reserve in the contract zoning agreement the right of the Town Council to review the plans for subsequent phases prior to their construction.

c. No Rights Created Before Final Council Vote.

The submission of a request for contract zoning under this Section II(I), the payment of application fees, or the expenditure of funds by the applicant in presenting such a request shall not create any vested rights in the application. The conduct of meetings and hearings, the review of the application, comments by Town officials or staff, preliminary votes, findings or determinations, preliminary subdivision or site plan approval, and the availability of contract zoning under this Section II(I) shall not be construed as creating any entitlement to approval of a request for contract zoning. The decision whether or not to rezone remains committed to the Town Council exercising its sole and exclusive judgment as the elected legislative body of the Town of Scarborough and will not be made until the Council takes its final vote on the contract zoning agreement.

SECTION III. NONCONFORMANCE

A. CONTINUATION OF NON-CONFORMANCE

Any lawful use of buildings, structures, land, or parts thereof existing at the time of adoption or amendment of this Ordinance, and made non-conforming by the provisions of this Ordinance or any amendments thereto, may be continued, subject to the provisions of this Section.

B. NON-CONFORMING LOTS OF RECORD

In any district, a single lot of record at the effective date of adoption or amendment of this Ordinance may be built upon even though such lot fails to meet the minimum requirements for lot area or lot width which are applicable in the district, provided such lot is in separate ownership and not of continuous frontage with any other lot or lots in the same ownership. Such lot shall conform to all other requirements, not involving lot area or lot width, for the district in which it is located, unless a variance from such other requirements is obtained from the Board of Appeals pursuant to Section V, B, 3 of this Ordinance.

C. NON-CONFORMING BUILDINGS OR STRUCTURES

1. No building or structure which is non-conforming with respect to the Space and Bulk requirements of this Ordinance may be expanded, enlarged or increased in height unless such expanded or enlarged portion complies with the Space and Bulk requirements of this Ordinance or the Board of Appeals grants relief from such requirements by a variance under Section V, B, 3 or Section V, B, 6, or by limited reduction of yard size under Section V, B, 5 of this Ordinance, except:

> a) The installation of one or more dormers on a dwelling shall not be considered an expansion, enlargement or increase in height provided that (1) dormer or dormers are set in a minimum of 12 inches from each end of the roof and from the exterior face of the story immediately below the roof, (2) the aggregate length of all dormers, measured along their faces, does not exceed the total length of the ridge of the roof less 24 inches, and (3) the height of the ridge is not increased. (8/06/97) (6/21/00)(03/02/16)
>
> b) The elevation of an existing structure required for the purpose of meeting the minimum elevation standards in the Scarborough Floodplain Management Ordinance or Maine Department of Environmental Protection Chapter 355 – Coastal Sand Dune Rules, shall not be considered an expansion, enlargement or increase in height.(03/02/16)

2. Should any non-conforming building or structure be destroyed or damaged by any means beyond the control of the owner, it shall be rebuilt or restored within a period of one year or thereafter conform with the Space and Bulk requirements of this Ordinance unless the Board of Appeals grants relief from such requirements by variance under Section V, B, 3 or by limited reduction of yard size under Section V, B, 5 of this Ordinance. If a non-conforming building or structure is demolished or removed by or for its owner, it shall not be rebuilt or replaced except in conformity with the Space and Bulk requirements of this Ordinance unless the Board of Appeals grants relief from such requirements by variance under Section V, B, 3 or by limited reduction of yard size under Section V, B, 5 of this Ordinance. (06/21/00)

3. Notwithstanding any space and bulk requirements of this Ordinance, a non-conforming building or structure may be used for any use allowed in the zoning district where it is located.

4. Any nonconforming building or structure which existed on or before March 1, 1985 may continue to be used and occupied, even though its original construction may have violated the Space and Bulk requirements of the Zoning Ordinance in effect at the time of construction, if it appears from the Town's records that:

(i) A building permit was issued for the building or structure; and

(ii) Since March 1, 1985, there has been no expansion or enlargement of the building or structure or alteration of the dimensions of the lot on which the building or structure is located which increased the non-conformity beyond that existing on March 1, 1985. (1/05/94)

5. Notwithstanding Section III(C)(1) above, a nonconforming building or structure located in the General Business, B-2, or the Industrial District, I, may be expanded or enlarged by increasing the height of the building, provided the following requirements are met:

(i) the building was constructed on or before March 1, 1985;

(ii) the height increase does not exceed 100% of the building height existing prior to any increase in height allowed pursuant to this subsection (5); and

(iii) the expansion or enlargement occurs entirely within the footprint of the existing building. (09/20/00)

D. NON-CONFORMING USES OF LAND

1. No non-conforming use of land shall be enlarged or increased nor extended to occupy a greater area of land than that occupied at the effective date of adoption or amendment of this Ordinance.

2. No non-conforming use of land shall be moved in whole or in part to any portion of the lot, which was not occupied by such use at the effective date of adoption of this Ordinance.

3. 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 this Ordinance for the district in which such land is located.

E. NON-CONFORMING USES OF STRUCTURE

1. No existing structure devoted to a non-conforming use shall be enlarged, extended, or expanded except in changing the use of the structure to conforming use.

2. Any non-conforming use may be extended throughout any parts of a building, which were manifestly in existence and arranged or designed for such use at the time of the adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

3. If a non-conforming use of a structure is superseded by a permitted use, the non-conforming use shall not thereafter be resumed.

4. If any non-conforming use of a structure ceases for any reason for a period of more than one year, any subsequent use of such structure shall conform to the regulations specified by this Ordinance for the District in which such structure is located.

F. APPEALS FROM RESTRICTIONS ON NON-CONFORMING USES

1. Notwithstanding the provisions of subsection D and E of this Section, a non-conforming use of land, buildings or structures may be enlarged, extended, expanded, resumed, or converted to another non-conforming use on the lot which it occupied at the effective date of adoption or amendment of the Ordinance, upon approval by the Board of Appeals pursuant to the procedures of Section V, C of this Ordinance.

The Board of Appeals may not approve any such enlargement, extension, expansion or resumption or conversion to another non-conforming use, unless it finds that:

(a) the impact and effects of the enlargement, extension, expansion, resumption or conversion to another non-conforming use on existing uses in the neighborhood will not be substantially different from or greater than the impact and effects of the non-conforming use before the proposed enlargement, extension, expansion, resumption or conversion to another non-conforming use; and

(b) the enlarged, extended, expanded, resumed or conversion to another non-conforming use will comply with the standards for Special Exceptions contained in Section IV, I of this Ordinance.

SECTION IV. ADMINISTRATION

A. ENFORCEMENT OFFICER

It shall be the duty of the Building Inspector of the Town of Scarborough to enforce the provisions of this Ordinance. If the Building Inspector shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation(s), indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal changes thereto; discontinuance of any illegal work being done, or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions, including revocation of a previously issued Certificate of Occupancy or Building Permit.

A-1. ZONING VIOLATION CITATION [12/01/04]

As an alternative to the notice procedure under Section IV(A) above, the Code Enforcement Officer may issue a written or oral warning that a particular use, structure, activity or practice constitutes a violation of the Zoning Ordinance and that such violation must be discontinued and may not be repeated. If the person receiving the warning fails to discontinue the violation or repeats the violation, then the Code Enforcement Officer shall issue a zoning violation Citation, stating the violation, the minimum and maximum penalties for the violation under Section IV(C) of this Ordinance and the consequences of failure to respond to the Citation. A single Citation may enumerate multiple violations and/or multiple occurrences of a violation. The Citation shall be served on the person responsible for the violation by hand-delivery or by certified mail.

No later than 7 days after service, the person served with the Citation must respond either by paying the minimum penalty stated in the Citation or by notifying the Code Enforcement Officer in writing that he or she intends to contest the Citation by appeal to the Board of Appeals, which appeal must be filed within 30 days of the date of service of the Citation. If the person served with the Citation fails to respond within 7 days, then the violation(s) stated in the Citation and any continuing or repeat violation(s) shall be deemed to be willful, and the Town may seek the maximum penalties set forth in Section IV(C) of this Ordinance and in 30-A M.R.S.A. section 4452. Failure to respond to the Citation within 7 days shall also constitute a waiver of any right to contest the Citation, including any right of appeal to the Scarborough Board of Appeals, and shall enable the Town to immediately commence enforcement action in court.

B. LEGAL ACTION AND VIOLATION

When any violation of any provision of this Ordinance including failure to comply with any subdivision or site plan approved by the Planning Board, or condition imposed by the Zoning Board of Appeals shall be found to exist, the Code Enforcement Officer shall notify the Town Manager who may then institute any and all actions to be brought in the name of the Town. 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 Manger may enter into administrative consent agreements in the name of the Town

for the purposes of eliminating violations and recovering penalties without court action. [Amended 12/01/04]

C. FINES

Any person, firm or corporation being the owner of or having control or use of any building, structure or land who violates any provision of this Ordinance or any condition imposed by the Building Inspector, Planning Board or Board of Appeals pursuant to the provisions of this Ordinance, commits a civil violation and shall be liable for a civil penalty of no less than $100 and no more than $2,500 for each violation. Each day such violation is permitted to exist after notification thereof shall constitute a separate violation. All penalties collected hereunder shall inure to the Town of Scarborough.

D. BUILDING PERMIT

1) No building or structure shall be erected, moved, added to or structurally altered without a permit therefore issued by the Building Inspector. No building permit shall be issued except in conformity with the provisions of this Ordinance and all other applicable ordinances of the Town of Scarborough and any conditions imposed pursuant to said ordinances.

2) No building permit (except permits for single family and two family dwellings) shall be issued except after review by the Fire marshal to determine that all plans for construction comply with applicable statutes, ordinances, codes and regulations promulgated to reduce fire hazards.

3) Notwithstanding the requirements of subparagraphs (1) above, the Code Enforcement Officer may grant a waiver from the yard or maximum building coverage requirements of this Ordinance for the purpose of making a dwelling accessible to a person with a disability who is living on the property or is a regular or occasional visitor to the dwelling. Such waiver may be granted only upon request of the owner of the dwelling. The Code Enforcement Officer shall restrict any such waiver solely to the installation of equipment or construction of structures, including railing, wall or roof systems needed for the safety or effectiveness of the structure, necessary for access to or egress from the property by the person with the disability. Disability under this subparagraph has the same meaning as physical handicap under Title 5. Section 4553 of the Maine Revised Statutes. When the Code Enforcement Officer grants a waiver under this subparagraph, a certificate indicating the name of the property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a waiver, including conditions imposed on the waiver, has been granted and the date of the granting of the waiver shall be signed by the Code Enforcement Officer and recorded by the property owner in the Cumberland County Registry of Deeds within 90 days of the date of approval of the waiver. The waiver is not valid the certificate is recorded and becomes void if the certificate is not recorded within 90 days from the date the waiver is granted. (2/17/93)

E. APPLICATION FOR BUILDING PERMIT

All applications for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings and structures already existing, if any, the location and dimensions of the proposed building structure or alterations and the proposed sewage disposal system as prescribed by the Maine State Plumbing Code and the Scarborough Plumbing Ordinance. The

Code Enforcement Officer may request such additional information including, but not limited to, survey and engineering data, as the Code Enforcement Officer deems necessary to determine whether the applicant's proposal complies with the requirements of this Ordinance, other applicable ordinances of the Town of Scarborough and any conditions imposed pursuant to said ordinances. Whenever the placement of buildings or structures depends upon the accurate location of natural features, including, but not limited to, water bodies, rivers, streams, wetlands, floodplains, soils types and vegetation types, the Code Enforcement Officer may require the applicant to produce written certification of the location of such features from a person qualified by training, experience or (where applicable) licensure to render such certification. [Amended 12/01/04]

In all districts the approval of building permit applications shall be subject to evidence of satisfactory subsurface soils conditions for drainage and sewage disposal. Such evidence shall be furnished by reference to the Soils Map of the Town of Scarborough, prepared by the United States Soils Conservation Services, and on site investigations approved by the Building Inspector. Where poor site conditions are shown to exist, approval of the application shall be subject to the installation of remedial measures, which comply fully with all applicable State and local codes for health, plumbing, sanitation, conservation, and pollution abatement. Soils characteristics shall be based on suitability for use of properly installed disposal systems continuously year round and the following points of consideration shall be made: ground water table, texture, pans, depth, permeability, percolation rate, flooding, slope, effect on ground water, that soils completely handle all free effluent without its return to the surface; extremely stony or very rocky is automatically very poor or unsuitable, high water table slopes of 15% to 25% or greater are rated poor for all soils which are otherwise suited because of likelihood of resurfacing and expense of installation.

F. SPECIAL PERMITS FOR CONSTRUCTION IN FLOOD HAZARD AREAS

1.) Special Flood Hazard Areas.
Before construction, relocation, replacement, or substantial enlargement or modification of any building has commenced in the special flood hazard area designated on the maps prepared in accordance with the National Flood Insurance Act of 1968, as amended, the owner or lessee, or the architect, engineer, contractor or builder employed by such owner or lessee shall obtain from the Building Inspector a permit covering such proposed work.

2.) Application.
The application for a permit shall be submitted in writing to the Building Inspector and shall include, in addition to the other information required by this section, the following:

A. The name and address of the applicant and owner;
B. An address or map indicating the location of the construction site;
C. A site plan showing location of existing and proposed structure(s), sewage disposal facilities, water supply, areas to be cut and filled, and the lot dimensions.
D. A statement of intended use of the proposed structure(s);
E. A statement as to the type of sewage system proposed;
F. Specifications of dimensions of the proposed structure(s) length, width, and height;

G. The elevation (in relation to ground and mean sea level) of the lowest floor, including basement, and if the lowest floor is below grade on one or more sides, the elevation of the floor immediately above;
H. A copy of the plans and specifications of the proposed construction. This requirement may be modified by decision of the Building Inspector when, in his opinion, such information is or is not needed to determine the conformance of the proposed construction with this Ordinance; and
I. Evacuation plans indicating alternate vehicular access and escape routes shall be filed with the local Disaster Preparedness Authority for mobile home parks or mobile home subdivisions located within Zone A on the Flood Hazard Boundary Map.

3.) Fee.

A permit fee shall be paid in such amount as specified in the Schedule of License, Permit and Application Fees established by order of the Town Council. (09/06/95)

4.) Review.

The Building Inspector shall review all aforesaid building permit applications to determine whether proposed building sites will be reasonably safe from flooding and ensure that necessary permits have been obtained from governmental agencies. Any construction, relocation, replacement or substantial enlargement or modification of any building, including prefabricated and mobile homes upon building sites in the special flood hazard area must:

A. Be designed or modified anchored to prevent floating, collapse, or lateral movement of the structure. All mobile homes to be placed in Zone Z of Scarborough, Flood Hazard Boundary Map shall meet this requirement by use of over-the-top and frame ties to ground anchors. Specific requirements are:

(1) over-the-top ties be provided at each of the four corners with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side;

(2) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;

(3) all components of the anchoring system shall be capable of carrying a force of 4,800 pounds; and

4) any additions to the mobile home shall be similarly anchored.

B. Use construction material and utility equipment that are resistant to flood damage;

C. Use construction methods and practices that will minimize flood damage; and

D. Should any proposal subject to this ordinance involve the alteration and relocation of a watercourse, the Building Inspector shall so notify adjacent communities, the State Coordinating Office and the Federal Insurance Administrator prior to taking action, and the flood carrying capacity of the watercourse must be maintained.

5.) Plumbing.

The Building Inspector shall require new or replacement water supply systems and sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

6.) Records.

The Building Inspector shall maintain a log for public inspection and information of all permit applications and flood proofing measures required.

G. CERTIFICATE OF OCCUPANCY.

1.

(a) It shall be unlawful to use or occupy or permit the use or occupancy of any land, building, structure or part thereof which is created, erected, changed, converted, altered or enlarged, or to change, alter or enlarge the use of any land, building, or structure until a certificate of occupancy is issued therefore by the Code Enforcement Officer and endorsed to the effect that the proposed use of the land, building or structure conforms with the requirements of this Ordinance and with the Maine Uniform Building and Energy Code (MUBEC). [Amended 09/17/2025]

(b) Prior to any change in the ownership or tenancy of a building or structure other than a single-family, two-family or multi-family dwelling, the owner of the building or structure (or the prospective new owner or tenant with the written authorization of the owner) shall obtain a new certificate of occupancy. The new owner or tenant shall not occupy the building or structure until it is brought into compliance with the requirements of this Ordinance and of any other applicable law, ordinance, rule or regulation for the use proposed by the prospective new owner or tenant.

2. An applicant for a building permit shall also make application for a certificate of occupancy, which application must be received before a building permit may be issued. Upon completion of the work permitted by the building permit, the Code Enforcement Officer shall issue the certificate of occupancy upon finding that the building, structure or land and the use or occupancy thereof comply with the requirements of MUBEC and this Ordinance, with all provisions of any site plans or subdivision plans approved by the Planning Board and with any conditions imposed by the Planning Board or Board of Appeals. The certificate of occupancy shall contain a statement that the building or structure, if constructed in a designated Flood Hazard Area, complies with the requirements of Section IV, F of this Ordinance. [Amended 09/17/2025]

3. A temporary Certificate of Occupancy may be issued by the Building Inspector for a period of six months during construction or alterations for a partial occupancy of a building pending its completion, provided that such temporary Certificate may require such conditions and safeguards as will protect the safety of the occupants and the public. Failure to complete all work per the temporary Certificate of Occupancy shall constitute a violation of this Ordinance.

4. The Building Inspector shall maintain a public record of all Certificates of Occupancy.

5. Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance. The Certificate of Occupancy shall contain a statement that the building has been flood proofed when constructed in a designated Flood Hazard Area. Violations of this Ordinance shall be cause for revocation of a Certificate of Occupancy.

H. [deleted August 5, 1992]

I. SPECIAL EXCEPTION PERMITS.

1. SPECIAL EXCEPTIONS.

Uses designated as Special Exceptions within this Ordinance are intended as potential land uses in the districts in which they are so designated, subject to the issuance of a Special Exception permit by the Board of Appeals in compliance with this Section. Any use which was commenced prior to the effective date of adoption or amendment of this Ordinance and would require a Special Exception permit under the terms of this Ordinance or subsequent amendment is a non-conforming use, and any expansion of such use shall require a Special Exception permit in compliance with this Section.

2. APPLICATION FOR SPECIAL EXCEPTION PERMIT.

When the owner of property or the owner's authorized agent is informed by the Code Enforcement Officer or otherwise determines that a Special Exception permit is required, an application for the permit shall be filed with the Board of Appeals on forms provided for that purpose. The application shall provide all information required for a building permit application under Section IV, D of this Ordinance plus information upon which the Board of Appeals may make findings of fact as to each of the standards set forth in subsection 4 of this Section. The application shall be accompanied by an application fee in such amount as the Town Council may by rule from time to time determine, and shall be heard pursuant to the procedures set forth in Section V, C of this Ordinance.

3. BOARD OF APPEALS REVIEW.

The Board of Appeals shall hear and approve, approve with modifications or conditions, or disapprove all applications for Special Exception permits. The Board may approve a Special Exception permit only for a use which is specifically designated by this Ordinance as a Special Exception in the district where the use will be located. If the Board determines that the proposed use meets all the standards set forth in subsection 4 of this Section and in all other respects complies with the applicable provisions of this Ordinance, the Board must approve the application. If the Board determines that the proposed use can be made to comply with the standards of subsection 4 of this Section by imposition of conditions as provided in subsection 5 of this Section, then it may approve the application with conditions. If the Board determines that the proposed use does not meet one or more of the standards of subsection 4 of this Section and conditions that would cause the use to comply with those standards are not acceptable to the applicant, the Board must deny the application.

4. STANDARDS FOR SPECIAL EXCEPTIONS.

Before it issues a special exception permit, the Board of Appeals shall find, as a matter of fact, that the proposed use meets the following criteria:

a. The proposed use will not create unsanitary or unhealthful conditions by reason of sewage disposal, emissions to the air or water, or other aspects of its design or operation.

b. The proposed use will not create unsafe vehicular or pedestrian traffic conditions when added to existing and foreseeable traffic in its vicinity.

c. The proposed use will not create public safety problems which would be substantially different from those created by existing uses in the neighborhood or require a substantially greater degree in municipal fire or police protection than existing uses in the neighborhood.

d. The proposed use will not result in sedimentation or erosion, or have an adverse effect on water supplies.

e. The proposed use will be compatible with existing uses in the neighborhood, with respect to physical size, visual impact, intensity of use, proximity to other structures and density of development.

f. If located in a shoreland zone as depicted on the Town of Scarborough Official Shoreland Zoning Map, the proposed use will comply with all of the requirements of the Town of Scarborough Shoreland Zoning Ordinance. (8/5/92)

g. The applicant has sufficient right, title or interest in the site of the proposed use to be able to carry out the proposed use.

h. The applicant has the technical and financial ability to meet the standards of this Section and to comply with any conditions imposed by the Board of Appeals pursuant to subsection 5 of this Section.

i. The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation.

5. CONDITIONS ON SPECIAL EXCEPTIONS.

Upon consideration of the standards listed in subsection 4 of this Section, the Board of Appeals may attach such condition, in addition to those required by other provisions of this Ordinance, as it finds necessary to insure compliance with those standards and all other applicable requirements of this Ordinance. Violation of any of those conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: type of vegetation, increased setbacks and yards, specified sewage disposal and water supply facilities, landscaping and planting screens, hours of operation, operation controls, professional inspection and maintenance, sureties, location of piers, docks, parking and signs, and types of construction.

6. CONDITIONS REQUIRED ON CHILD AND ADULT DAY CARE FACILITIES [Amended 06/01/94]

a. Family Day Care Homes, Group Day Care Homes, Day Care Center Facilities, and Nursery Schools shall comply with the following conditions:

i. Shall provide outdoor play or recreation areas as required by state regulations, which shall be in rear and side yards only;

ii. All outdoor play or recreation areas shall be fenced; if a facility is approved during the winter, fencing shall be installed as soon as weather permits.

iii. Unless authorized by variance under Section V.B.3, such facilities may be located only on lots which comply fully with the minimum lot area and minimum street frontage requirements of this Ordinance, or as follows:

1. On a nonconforming lot of record in the RFM or RF Districts, the minimum lot area required for a Group Day Care Home is 60,000 square feet and the minimum lot area for a Family Day Care Home is 40,000 square feet.
2. On a nonconforming lot of record in the R-2 District, the minimum lot area required for a Family Day Care Home is 15,000 square feet, provided the lot is sewered.
3. On a nonconforming lot of record in the R-3 District, the minimum lot area required for a Family Day Care Home is 10,000 square feet, provided the lot is sewered.
4. On a nonconforming lot of record in the R-4 District or the R-4A District, the minimum lot area required for a Family Day Care Home is 7,500 square feet, provided the lot is sewered.
5. On a nonconforming lot of record in any district, the minimum street frontage required for a Family Day Care Home is seventy-five percent of the minimum otherwise required in the district.

iv. No such facility shall be situated in any location where the distance between the facility's driveway entrance and the driveway entrance of another child or adult day care facility or a home occupation is less than five times the minimum street frontage requirement for the zoning district, measured along the sidelines of streets. Where the facilities subject to this restriction are in different zoning districts with different street frontage requirements, the larger requirement shall apply.

v. The owner shall show that the sewage disposal system fully conforms to the requirements of the Maine State Plumbing Code or the requirements of the Scarborough Sanitary District.

vi. Prohibited in multiplex housing units.

b. Group Day Care Homes, Day Care Center Facilities and Nursery Schools shall comply with the following additional conditions:

i. Access shall be permitted only from streets of higher classification than a local residential street (as defined in the Street Acceptance Ordinance of the Town of Scarborough);

ii. Off street parking shall be provided for all non-resident employees.

iii. Driveways of childcare facilities must be configured so that vehicles dropping off and picking up children are not required to back up into the driveway or into the street in order to exit the facility. (2/15/95)

c. In the RFM, RF, and R-2 districts, Nursery Schools and Day Care Center Facilities must provide total lot area which equals or exceeds the sum of the minimum lot area required in the zoning district for the first twelve children plus 800 square feet for each additional child, based on maximum licensed capacity. In all other districts, Nursery Schools must

provide total lot area which equals or exceeds the sum of the minimum lot area required in the zoning district for the first twelve children plus 75 square feet for each additional child, based on maximum licensed capacity. (12/21/94)

d. A Nursery School or Day Care Center Facility in the Industrial District cannot be located on a lot, which does not have at least one hundred feet of street frontage notwithstanding the space and bulk regulations for that district.

7. STANDARDS APPLICABLE TO GASOLINE FILLING STATIONS – [moved to Section IX.X. PERFORMANCE STANDARDS – GASOLINE FILLING STATIONS -06/20/12]

8. CONDITIONS REQUIRED ON NON-COMMERCIAL MODEL AVIATION FLYING FIELDS. (2/17/93)

a. Site Restrictions:

1. Non-Commercial Model Aviation Flying Fields shall be permitted west of the Maine Turnpike.

2. Non-commercial Model Aviation Flying Fields shall be allowed only on sites of 50 acres or larger.

3. Non-commercial Model Aviation Flying Fields are exempt from the Off-Street Parking Regulations of Section XI of this Ordinance. However, an area for parking shall be provided of a size and configuration determined by the Board of Appeals to be sufficient to accommodate the largest number of users anticipated at the field at any one time and to avoid any parking on public roads or any private access roads to the field.

4. Adequate sanitary facilities using “portable” toilets or normal septic systems must be provided.

b. Operator Restrictions:

1. All model aircraft flyers using a site must be 18 years of age or older, or directly supervised by someone 18 years of age or older.

c. Operating Restrictions:

1. Model aircraft flying may only occur between the hours of 9:00 a.m. to 7:00 p.m. or sunset whichever is earlier.

2. Model aircraft may not exceed a wingspan of 120 inches or exceed a weight of 30 pounds.

3. No model aircraft capable of carrying a person are permitted.

4. No model aircraft may fly past the lot boundaries of the flying site.

5. No model aircraft may come within 500 feet horizontal distance of any residence.

6. No model aircraft shall be flown higher than 400 feet above the ground.

7. No more than three model aircraft may be in the air simultaneously.

8. No individual model aircraft will be permitted to fly which produces a sound level greater than 98 dB measured on the ground at a distance of 15 feet from the engine.

9. Noise produced by model aircraft operation shall not exceed a level of 65 dB measured at the property line.

J. SPECIAL PERMIT FOR MOBILE HOME CONVERSION

1. Notwithstanding any provisions in this Ordinance to the contrary, the Zoning Board of Appeals may, upon written request by the applicant and subsequent to a public hearing held in conformance with the requirements of Section V, C of this Ordinance, issue a Special Permit to allow an existing dwelling to be replaced with an individual mobile home. Such a permit may be issued only after an affirmative finding by the Board of Appeals that**:**

a. The existing dwelling is uninhabitable due to structural deterioration and unsanitary conditions. Such a finding can only be made after reports are received from the Building Inspector, Electrical Inspector, Plumbing Inspector, and Health Officer, which reports shall identify with specificity the structural deterioration and unsanitary conditions observed at the dwelling. Other investigations may be requested by the Board;

b. Written evidence has been presented confirming that the applicant has made diligent efforts to obtain financing from local lending institutions, including, where available, federal or state sponsored programs, and that the financing of necessary repairs or replacement with conventional housing cannot be obtained by the applicant; and the applicant is unable to purchase conventional housing for construction at the site; and

c. The applicant is the owner in fee of the real estate upon which the mobile home is to be placed, and shall also be the occupant of the proposed mobile home.

2. Any Special Permit issued pursuant to this section shall be made subject to the following conditions:

a. The structure to be replaced shall be removed or demolished within 30 days after the mobile home is placed on the parcel and ready for occupancy;

b. The placement of manufactured (mobile) home shall comply fully with the siting and construction standards of Section XIII of this Ordinance.

c. The Special Permit to the applicant is in no way to be construed as passing to heirs by death, or passing by will, gift or sale of property.

3. The Board of Appeals shall accept public input prior to making a final decision regarding the application. However, no public comment shall be permitted regarding the applicant's personal finances and financial status. In analyzing the applicant's financial statements the Board shall secure assistance of counsel or other person qualified to advise the Board.

K. PROVISIONS ON EXPIRATION OF PERMITS.

All permits and approvals issued pursuant to this Ordinance shall expire if construction of the building or structure or commencement of the use is not begun within six months of the date on which the permit or approval was issued. Upon good cause shown, the person or board issuing the original permit or approval may extend its effectiveness for an additional six month.

SECTION V. BOARD OF APPEALS

A. APPOINTMENTS AND COMPOSITION.

There shall be a Board of Appeals of Five Members and Two Associate Members all of whom shall be residents of the Town of Scarborough. The members of the Board shall be appointed by the Legislative Body of the Town of Scarborough. Terms of membership shall be for 3 years except that initial appointments shall be such that the terms of office of no more than two members shall expire in any single year. The associate members shall be appointed for a term of 3 years and shall act on said Board in place of any member who may be unable to act due to interest, absence or physical incapacity. The members shall annually elect one of their number Chairman to preside at all meetings of the Board. The members of the Board shall annually elect a secretary from its own membership who shall provide for the keeping of the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the board shall be public record. A quorum shall consist of 4 members.

B. POWERS AND DUTIES.

Appeals shall lie from the decision of the Building Inspector to the Board of Appeals and from the Board of Appeals to the Superior Court according to the provisions of Maine Revised Statutes. The Board of Appeals shall have the following powers and duties:

1. Administrative Appeals.
   To hear and decide where it is alleged there is an error in any order, decision or ruling made by the Building Inspector in the enforcement of this Ordinance. The action of the Building Inspector may be modified or reversed by the Board of Appeals only by majority vote of those members present and voting. In the event of a tie vote, the action of the Building Inspector shall be affirmed.

2. Special Exceptions.
   To hear and decide applications for Special Exceptions permits as provided in Section IV, I of this Ordinance. A Special Exception Permit may be granted only by a majority vote of those members present and voting and may include such conditions and safeguards as are appropriate under this Ordinance.

3. Variance Appeals.
   To hear and decide appeals requesting such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in undue hardship. A variance may be granted only by majority vote of those members present and voting, and may include such conditions and safeguards as are appropriate under this Ordinance. The words “undue hardship” as used in this subsection mean:

   a. That the land in question cannot yield a reasonable return unless a variance is granted;

   b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

   c. That the granting of a variance will not alter the essential character of the locality; and

   d. That the hardship is not the result of action taken by the applicant or prior owner.

4. Miscellaneous Appeals.

To hear and decide only the following miscellaneous appeals. Such appeals may be granted only by a majority vote of those members present and voting, and may include such conditions and safeguards as are appropriate under this Ordinance.

a) To permit a nonconforming use of land, buildings or structures to be enlarged, extended, expanded, resumed or converted as provided in Section III, F, of this Ordinance.

b) To permit the location of off-street parking of passenger vehicles only on lots other than the principal buildings or use where it cannot reasonably be provided on the same lot. This shall apply only to those lots in Residential Districts which abut Business or Industrial Districts provided that: the use shall be accessory to and under control of one or more uses located in and conforming with the uses permitted in the adjacent Business or Industrial District, such control to be evidenced by deed or lease and, if a lease, the period of the parking use shall automatically terminate with the termination of the lease; no such appeal shall be in order for hearing before the Board of Appeals until the Planning Board shall have reviewed the site plan accompanying the application for building permit or certificate of occupancy for such use and shall have submitted its recommendations with respect thereto, the Board of Appeals may impose such conditions as deemed necessary to insure development compatible with that of the immediate neighborhood notwithstanding the provisions of any other section of this Ordinance, and may at its discretion limit the period of such use.

c) To permit the location of required off-street parking on lots other than the lot containing the principal building or use where it cannot reasonably be provided on the same lot, subject to the conditions of Section XI of this Ordinance.

d) To permit additional directional signs as prescribed in Section XII of this Ordinance.

e) To permit variances from Flood Plain Management regulations according to the following criteria:

a. Variances shall not be issued within a regulatory floodway if any increase in flood levels during the base flood discharge would result;

b. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level in conformance with paragraphs c, d, e, and f below;

c. Variances shall only be issued upon:

(1) a showing of good and sufficient cause;

(2) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances;

d. Variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

e. The applicant shall be notified in writing by the Zoning Board of Appeals that:

(i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage, and

(ii) such conditions below the base flood level increases risks to life and property; and

f. A record of all variance actions in Designated Flood Hazard Areas, including justification for their issuance shall be maintained by the Zoning Board of Appeals, and all such variances shall be reported in the annual report to the Federal Insurance Administration.

f) To determine the exact location of District Boundary lines on the face of the earth in cases of uncertainty or dispute as to their exact location.

g) To grant relief from the restrictions on nonconforming signs contained in Section XII(D) of this Ordinance. The Board of Appeals may grant such relief if the Board finds that, because of unusual circumstances of the property on which the nonconforming sign is located, it would not be technically or economically feasible to bring the sign into conformity, and that bringing the sign into conformity would leave the business with no effective way to announce its presence to passing motorists. As used in this paragraph, the term "unusual circumstances" includes, but is not limited to, factors such as the proximity of the sign to the nearest street, any changes in the location of the street right-of-way abutting the property since the original placement of the sign, the size of the property, the shape of the property, the location of the buildings on the property, the number and location of other signs on the property, the location of conforming signs on neighboring properties and the effects of such neighboring signs on the sign in question, the nature of the business located on the property and the need for the business to attract "drive-by" customers. In granting relief under this subsection, the Board of Appeals may impose such conditions as the Board finds necessary and appropriate to achieve the purposes and effectuate the intent of Section XII of this ordinance and may require modifications to the existing nonconforming sign where appropriate to bring such sign into conformity as nearly as possible. [06/01/2005]

5. Limited reduction of yard size – residential.

To hear and decide requests for a limited reduction of required yard size for a lot in residential use in order to permit (i) the expansion or enlargement of an existing building or structure, (ii) the construction of a new building or structure which will be accessory to an existing building or structure, (iii) the construction of a new building or structure on a vacant nonconforming lot of record.

A limited reduction of yard size may be granted only by a majority vote of those members present and voting and may include such conditions and safeguards as are appropriate under this Ordinance. As used in this subsection (5): "limited reduction of yard size" means the reduction of a required front yard by no more than ten feet or the reduction of a required side or

rear yard by no more than five feet; "lots in residential use" means a lot on which a dwelling exists on July 3, 1991 or a vacant nonconforming lot or record on which a dwelling is proposed.

a. The applicant for a limited reduction of yard size must demonstrate the following:

(1) The existing buildings or structures on the lot for which the limited reduction of yard size is requested were erected prior to July 3, 1991, or the lot is a vacant nonconforming lot of record;

(2) The requested reduction is reasonably necessary to permit the owner or occupant of the property to use and enjoy the property in essentially the same manner as other similar properties are utilized in the zoning district;

(3) Due to the physical features of the lot and/or the location of existing structures on the lot, it would not be practical to construct the proposed expansion, enlargement or new structure in conformance with the currently applicable yard size requirements; and

(4) The impacts and effects of the enlargement, expansion or new building or structure on existing uses in the neighborhood will not be substantially different from or greater than the impacts and effects of a building or structure which conforms to the yard size requirement.

(5) The applicant has not commenced construction of the enlargement, expansion, building or structure for which the limited reduction in yard size is requested, so that the Board of Appeals is not considering an after-the-fact application. (12/15/93)

b. An application for a limited reduction of yard size shall be accompanied by a standard boundary survey showing all lot lines of the property, the location of each existing building or structure and the location of each proposed expansion, enlargement or new building or structure. The Code Enforcement Officer may waive the requirement of the survey if he determines, in his sole discretion, that the locations of the lot lines relevant to the request for a limited yard size reduction can be determined accurately without a survey.

c. Whenever the Board grants a limited reduction of yard size, the Board shall prepare a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, indicating that a limited reduction of yard size has been granted and setting forth the date of the granting. The applicant shall cause the certificate to be recorded in the Cumberland County Registry of Deeds within 90 days of approval of the limited reduction of yard size, or the approval shall be invalid.

d. The granting of a limited reduction of yard size pursuant to this subsection V(B)(5) shall not require or be construed as the granting of a variance to relieve hardship. Notwithstanding section V(C)(4), the denial of a variance requested under section V(B)(3) shall not preclude a subsequent application for a limited reduction of yard size under this subsection V(B)(5) and the denial of a request under this subsection V(B)(5) shall not preclude a subsequent application for a variance under subsection V(B)(3). If an application for a variance is pending, the Town shall not accept an application for limited reduction of yard size on the same property; if an application for a limited reduction of yard size is pending, the Town shall not accept an application for a variance on the same property. (7/3/91)

6. Practical Difficulty Variance. [12/01/04]

a. In addition to the provisions of Section V(B)(1 through 5) of this Ordinance, the board of appeals may grant a variance from the dimensional standards of this ordinance when strict application of the provisions of the ordinance would create a practical difficulty, as defined herein, and when all the following conditions are found to exist:

1. The need for a variance is due to the unique circumstances of the property, and not to the general conditions in the neighborhood;
2. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties;
3. The practical difficulty is not the result of action taken by the applicant or a prior owner;
4. No other feasible alternative is available to the applicant, except a variance;
5. The granting of a variance will result in bringing the applicant's property more nearly into conformance with surrounding properties;
6. The granting of a variance will not have an unreasonably adverse effect on the natural environment; and
7. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. § 435, or flood hazard zone, as defined in the Town of Scarborough Floodplain Management Ordinance.

b. As used in this section V(B)(6), the following words have the meanings set forth below:

1. *Dimensional standards:* Those provisions of this ordinance which relate to lot area, lot coverage, frontage, and setback (including buffer) requirements.
2. *Practical difficulty:* A case where strict application of the dimensional standards of the ordinance to the property for which a variance is sought would both preclude a use of the property which is permitted in the zone in which it is located and also would result in significant economic injury to the applicant.

C. APPEALS PROCEDURE.

1. Before making a decision on any appeal or application, the Board of Appeals shall hold a public hearing, notice of the nature of which shall be published at least ten days in advance of the date of the public hearing, and which shall also be posted in a conspicuous public place in the Town of Scarborough at least ten days in advance of the date of the public hearing. Owners of property abutting or located across a street or way from the property which is the subject of the public hearing shall be mailed copies of the notice of hearing at least 10 days in advance of the hearing date. For the purposes of this subsection, the persons against whom municipal property taxes are assessed shall be considered owners or property. Costs of notice shall be paid by the appellant or applicant. Failure of any property owner to receive notice by mail under this subsection shall not invalidate this action of the Board of Appeals.

2. When an appeal is taken from a decision, ruling, or order of the Building Inspector, the appeal shall be commenced within 30 days of the date of written notification to the applicant of the decision, ruling or order. The appeal shall be filed with the Board of Appeals on forms authorized by the Board, and the appellant shall explicitly set forth the grounds for appeal. The Board shall notify the Building Inspector, as appropriate, of the filing of an appeal.

3. The Building Inspector or his designated assistant shall attend all public hearings and may present to the Board all plans, photographs, or other material he deems appropriate to a property understanding of the appeal or application. Persons wishing to be heard by the Board may appeal in person or through an agent or attorney. The appellant's or applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked only through the chair. All persons at the hearing shall abide by the orders of the Chairman. At the discretion of the Chairman, rebuttal may be permitted by any person present on any testimony presented on the opposing side. Hearing shall not be continued to other times except to consider evidence or to obtain additional evidence which cannot be produced at the scheduled hearing and only after a vote of the majority of the members present and voting to continue the hearing.

4. If the Board of Appeals shall deny an appeal or application, a second appeal or application of a similar nature for the same property may not be brought before the Board within one year of the date of denial of the first appeal or application, unless, in the opinion of the majority of the Board, substantial new evidence can be brought before the Board, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of fact has been made.

5. Before making a decision on any Miscellaneous Appeal from restrictions on nonconforming uses, the Zoning Board shall refer said appeal to the Planning Board for an advisory opinion. The Zoning Board shall not act contrary to the Planning Board recommendation unless it makes specific findings of fact to justify its decision. The Planning Board shall consider the criteria of Section III, F, in formulating its recommendation.

SECTION VI. DEFINITIONS

Except where specifically defined herein, all words used in this Ordinance shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall' is always mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied"; the terms "building inspector" and "code enforcement officer" are synonymous. [12/01/04] [10/04/17]

Accessory Agricultural Activities:

The growing of plants including but not limited to forages and sod crops, grains and seed crops, fruits and vegetables, ornamental and nursery stock, and flowers and/or the keeping, breeding, or raising of animals, other than household pets, or fishing and/or shellfish harvesting that is incidental and subordinate to the primary use of the property for residential or nonresidential use in which the agricultural products are primarily for use by the owner, lessor, or occupant of the property. Accessory Agricultural Activities are subject to performance standards contained in Section IX of this Ordinance. [05/05/10] [Amended 10/18/23]

Accessory Use:

A use which, in the Town of Scarborough, is customarily incidental and subordinate to the principal building or use and is located on the same lot with such principal building or use. An accessory use shall not include any use injurious or offensive to the neighborhood or adjacent area.

Accessory Building:

A subordinate building or a portion of the main building, the use of which is incidental to that of the main or principal building.

Accessory Dwelling Unit:

A self-contained dwelling unit, with complete housekeeping facilities so that it can be occupied by a person or persons living independently from the persons occupying the single family dwelling, located within, attached to or detached from a single-family dwelling unit located on the same parcel of land. An accessory dwelling unit must be a minimum of 190 square feet. A Town approved accessory unit approved meeting the requirements of Section IX.J shall not be considered a separate dwelling unit under this ordinance, the Scarborough Subdivision Regulations, the Scarborough Growth Management Ordinance, the Scarborough Impact Fee Ordinance, the Scarborough Road Impact Fee Ordinance or the Scarborough Sewer Assessment Ordinance. [Adopted 11/05/2003, Amended 02/15/12; 07/19/23]

Accessory Storage Container:

A roofed contained placed outdoors and used for the storage of goods, materials or merchandise, which are utilized in connection with a lawful principal or accessory use of the lot. The term accessory storage container includes, but is not limited to, containers such as boxcars, semi-trailers, roll-off containers, slide-off containers, railroad cars and "piggy-back" containers. The term accessory storage container does not include a garage or barn accessory to a dwelling or a storage structure accessory to a dwelling provided such structure is not of a type designed, equipped or customarily used for over-the-road transport of goods, materials or merchandise. [09/03/97]

Addiction Treatment Facility:

A facility for outpatient detoxification and treatment of narcotic-dependent persons which administers or dispenses drugs used to alleviate adverse physiological or psychological effects incident to withdrawal from continuous or sustained use of a narcotic drug. [11/16/2005]

Adjunct Uses, Place of Worship:

Any of the following uses, activities, buildings or structures, when conducted on the same lot as a Place of Worship:

(1) A hall, theater, function room, auditorium, meeting room or other assembly space which, alone or aggregated with other such assembly space, occupies a floor area which exceeds 100% of the floor area of the portion or portions of the Place of Worship designed for conducting organized religious services.

(2) A gymnasium.

(3) A swimming pool.

(4) Athletic fields, playing fields, playgrounds, or similar outdoor recreational facilities.

(5) Camping or tenting areas, cabins or other overnight accommodations for persons other than clergy in residence at the Place of Worship.

(6) An amphitheater, stage or other performance space, located wholly or partly outdoors.

(7) Group day care homes, day care facilities and nursery schools.

(8) Elementary, secondary and post-secondary schools.

(9) A detached dwelling occupied by clergy in residence at the Place of Worship and located on the same lot as the Place of Worship.

(10) Outdoor parking or storage of more than two buses or passenger vans kept on the premises of the Place of Worship when they are not in use.

(11) Any detached accessory building or structure with a floor area in excess of 100 square feet. [May 5, 1999]

(12) Telecommunications Facility, where there is no visible change to the exterior of the building or use. [March 17, 2004]

Affordable Housing:
[Adopted 11/03/2004] [Amended 05/03/2006;12/03/2014;12/19/18; 07/17/19]

Affordable Housing means decent, safe and sanitary living accommodations that are affordable to households, in accordance with following provisions:

A. An Owner-Occupied Affordable Housing Unit is a unit which (i) is occupied by its owner; (ii) is owned by Qualifying Household and (iii) has a maximum sales price that is reasonably anticipated to result in Annual Housing Costs that are less than or equal to 30% of the Imputed Income Limitation applicable to the unit.
   (I) A Qualifying Household is one with a total household income that, at the time of purchase, is 80% or less than the most recently published Median Family Income for the Portland, Maine Metropolitan Statistical Area,

adjusted for family size, as determined by the U.S. Department of Housing and Urban Development (the "MFI Standard").

(II) Annual Housing Costs shall equal the sum of (i) the total annual payments of principal and mortgage interest, (ii) the total property insurance premium, (iii) the real estate taxes due (iv) any homeowners association or condominium fees that are due; and (v) a reasonable estimate of the annual cost of any additional water, sewer, heat, hot water and electricity in the home.

(III) The total annual payments of principal and mortgage interest referred to in A(I)(i) may, in the absence of other reasonable estimates, be estimated based on the assumed interest rate and loan term established by the U.S. Department of Housing and Urban Development for housing affordability limits. In the case of a unit which has one or fewer bedrooms, the Imputed Income Limitation referred to in A(iii) shall be 80% of the MFI Standard for a household of two (2) people. In the case of a unit which has more than one bedroom, the Imputed Income Limitation referred to in A(iii) shall be 80% of the MFI standard for a household of four (4) people.

B. A Renter-Occupied Affordable Housing Unit is a unit which is leased A Renter-Occupied Affordable Housing Unit is a unit which is leased by a Qualifying Household at an Annual Gross Rent that is less than or equal to 30% of the Imputed Income Limitation applicable to the unit.

(I) A Qualifying Household is one with a total household income that, at the time of move-in, is 80% or less than the most recently published Median Family Income for the Portland, Maine, MSA, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development (the "MFI Standard"). To remain a Qualifying Household, the household's income must remain at or below 140% of the income limitation described in the preceding sentence.

(II) Annual Gross Rent shall equal twelve (12) times the sum of (i) monthly rent due to the landlord, (ii) any required monthly payments to the landlord for additional services or facilities and (iii) a reasonable estimate of the monthly utility costs (not including television, internet or telephone) that the household is responsible for paying. In the case of a unit which does not have a separate bedroom, the Imputed Income Limitation used to determine the maximum annual gross rent shall be 80% of the MFI Standard for a household of one (1) person. In the case of a unit which has one or more bedrooms, the Imputed Income Limitation used to determine the maximum annual gross rent shall be 80% of the MFI standard for a household with a size equal to one and one half (1.50) people per bedroom.

Agricultural Employee Housing:

Housing quarters that are located on the premises of and are incidental and subordinate to a Commercial Agriculture or Commercial Animal Husbandry use and that are used exclusively to house seasonal agricultural employees and/or apprentices associated with the agricultural use for no more than eight (8) months per year. Units of agricultural employee housing shall not be considered dwelling units when applying the net residential density standards of this Ordinance, but must comply with all applicable OSHA standards and State and local building code requirements. [05/05/10]

Agricultural Products Store:

A building or structure, including the adjacent outdoor area, with a total area devoted to retail sales of more than 400 square feet, the primary activity of which is retail sales of agricultural products grown, raised, or produced by a Commercial Agriculture, Commercial Animal Husbandry Use or Commercial Fishing and Harvesting use as well as other agricultural and related food products not produced by the Commercial Agriculture, Commercial Animal Husbandry Use or Commercial Fishing and Harvesting use, and handmade crafts and similar products. Agricultural Products Stores are subject to performance standards contained in Section IX of this Ordinance. [05/05/10] [Amended 10/18/23]

Agricultural Processing Facilities:

Buildings, structures, and equipment used for the processing, storage, and distribution of plant or animal products in conjunction with a Commercial Agriculture and/or Commercial Animal Husbandry use located on the same lot. Agricultural Processing Facilities are subject to performance standards contained in Section IX of this Ordinance. [05/05/10]

Bed and Breakfast (B&B):

A building containing not more than six guest rooms that provides lodging accommodations and food and beverage service to transient guests and contains a dwelling unit that is occupied by the owner or manager of the facility. For purposes of this definition, a transient guest is a person who occupies a guest room for no more than 28 days in any calendar year. A Bed and Breakfast is subject to performance standards contained in Section IX of this Ordinance. [05/05/10]

Bedroom:

A room within a dwelling unit that is arranged or designed to be used for sleeping or that is in fact regularly used for sleeping and that is separated from other rooms by one or more doors. Any room that is suitable to be used as a bedroom and is physically separate from other rooms and that has a closet and an egress window meeting the requirements of the building code is considered to be a bedroom for the purpose of this ordinance. [06/06/2007]

Boarding Care Facility for the Elderly:

A type of living accommodation consisting of multiply residents' rooms, but not dwelling units, occupied by persons over the age of 62 in a shared residential living environment. Boarding care facilities for the elderly may include shared community space, shared dining facilities, housekeeping services, personal care and assistance, transportation assistance, and specialized shared services such as medical support services and physical therapy.

Building:

Any structure having a roof supported by columns or walls and intended for the shelter, housing use, or enclosure of persons, animals or chattel. Each portion of a building, separated from other portions by a firewall, shall be considered as a separate building.

Building Height:

Vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof on a flat or mansard roof and to the average height between the eaves and the ridge for all other types of roofs. (08/06/97)

Building Inspector:

Shall mean the inspector of buildings for the Town of Scarborough.

Business Services and Business Offices:

Establishments rendering business services, either in-house or to other business establishments on a fee or contract basis. The types of business services allowed include, but are not limited to: data processing, payroll services, insurance claims processing, credit reporting, advertising and mailing, building maintenance, employment agencies, management and consulting services, protective and security services, and equipment rental and leasing. (7/17/91)

Cannabis Cultivation Facility:

Shall mean an adult use "cultivation facility" as that term is defined in the Cannabis Legalization Act at 28-B M.R.S. §102(13) or a Medical Cannabis Cultivation Facility as defined in the Scarborough Cannabis Establishment Licensing Ordinance, as may be amended. [Adopted 01/08/20; Amended 09/04/2024]

Cannabis Cultivation Manufacturing Facility:

Shall mean either an adult use "testing facility" as that term is defined in the Cannabis Legalization Act at 28-B M.R.S. § 102(54) or a medical "cannabis testing facility" as that term is defined in the Maine Medical Use of Cannabis Act at 22 M.R.S. §2422(5-C), as may be amended. [Adopted 01/08/20; 09/04/2024]

Cannabis 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. [Adopted 01/08/20; Amended 09-04-2024]

Chemical and Petroleum Products:

Any material that contains or is capable of producing in combination with, or in reaction to, other materials, any substance for which a contamination standard has been established as part of the Federal and State of Maine Primary Drinking Water Standards. (05/18/2011)

Climate Controlled/Internal Access Storage Facility:

A storage facility built to a standard compatible with office and/or mixed use developments and which provides consumers and businesses with climate and humidity controlled individually accessed storage units. Access to the individual units should be internal. Access to the exterior is limited to a few key access points. Hours of operation are limited and must be staffed by on-site management. [Adopted 10/04/17]

Coffee House:

An informal restaurant primarily offering coffee, tea, and other beverages, and where light refreshments and limited menu meals may also be sold.

Commercial Agriculture:

The growing of plants including but not limited to forages and sod crops, grains and seed crops, fruits and vegetables, ornamental and nursery stock, and flowers primarily for sale to or use by someone other than the owner, lessor, or occupant of the property. Commercial Agriculture includes leased or rented land used as part of an agricultural activity as well as the related processing and storage of these plants together with buildings and structures used in the agricultural activity such as barns, storage buildings and facilities, greenhouses and temporary shelters, and accessory processing facilities. Outdoor recreational and entertainment activities that involve minimal structural development and that are accessory to the agricultural activity (such as hay rides, corn mazes, agritainment, and similar activities) and educational activities are allowed. [05/05/10]

Commercial Animal Husbandry:

The keeping, breeding, or raising of animals, other than household pets, primarily for sale to or use by someone other than the owner, lessor, or occupant of the property including the sale or use of the products of the animals such as, but not limited to, milk, eggs, meat, wool, or fur. Commercial Animal Husbandry includes leased or rented land used as part of an agricultural activity as well as the processing and storage of these animals and their products together with buildings and structures related to the agricultural activity such as barns, storage buildings and facilities, pens/enclosures, manure pits/storage, and processing facilities. Outdoor recreational and entertainment activities that involve minimal structural development and that are accessory to the agricultural activity (such as hay rides, corn mazes, agritainment, and similar activities) and educational activities are allowed. [05/05/10]

Commercial Fishing and Harvesting:

The attempt to catch fish or any other marine animals or organisms with the intent of disposing of them for profit or trade in commercial channels and does not include subsistence fishing for personal use, sport fishing or charter boat fishing where the vessel is used for carrying sport anglers to available fishing grounds. [Adopted 10/18/23]

Commercial Outdoor Recreation:

A recreational use, activity, or facility, other than one operated by a governmental entity, in which the recreational activities occur primarily outside and do not involve the use of mechanical equipment or participant operated motorized vehicles as part of the recreational experience. Commercial Outdoor Recreation is subject to performance standards contained in Section IX of this Ordinance. [05/05/10]

Commercial Stable:

A public facility that receives remuneration for the boarding, breeding, and/or training of horses including buildings and structures related to these activities such as barns, storage facilities, indoor and/or outdoor riding rings/facilities, and trails. A Commercial Stable may include related activities that are accessory to the primary stable use such as trail rides, hay rides, horse shows, and animal auctions. [05/05/10]

Concept Plan:

An informal, concept map of a proposed subdivision or site plan of sufficient accuracy and detail to be used for the purpose of discussion and classification, but which carries no vesting rights for, or obligations on, any party. The purpose of the concept plan is to alert applicants to problems or

permitting requirements prior to an official submission. Use of the concept plan is intended to save time and money for all parties. [8/21/96]

Contract Zoning:

The process by which the property owner, in consideration of the rezoning of his/her property, agrees to the imposition of certain conditions or restrictions not generally imposed on other similarly zoned properties.

Coverage:

That percentage of plot or lot area covered by the building area.

Cross Country Ski Area:

The use of otherwise unimproved land for both cross-country snow skiing and one or more of the following accessory activities: (10/19/94)

sale or rental of skiing equipment or accessories;

ski instruction;

food or beverage service for users of the ski area;

parking for users of the ski area; or

construction and/or maintenance of ski trails for use by persons who pay a fee, membership dues or some other consideration for their use.

Day Camp:

A facility, which may include land and buildings and indoor and outdoor activities, that operates an organized program or programs the primary purpose of which is to provide recreational, social, educational or spiritual group experiences for children, that may provide incidental food service, and that does not provide overnight accommodations for children. If incidental to the camp use, camp facilities may be utilized to provide meeting, recreation or social facilities for a private or public association or group. [05/05/10]

Day Care Center Facilities:

a. A house or place in which 13 or more children may for consideration be cared for, on a regular basis and which is licensed by the Maine Department of Human Services as a day care facility. [Amended 06/01/94]

b. A house or place in which 13 or more children may for consideration be cared for on a non-recurring basis and which is licensed by the Maine Department of Human Services as a day care facility.

Designated Growth Area:

Designated growth area means an area that is designated in the Town of Scarborough Comprehensive Plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is

directed. The Rural Farming District and Rural. [Adopted 07/19/23]

Disc Golf: [09/19/2007]

A game based on the rules of golf, using flying discs thrown at targets.

Disturbed Area:

Means all land areas of a Parcel that are stripped, graded, grubbed, filled, or excavated at any time during the Site preparation or removing vegetation for, or construction of, a project. Cutting of trees, without grubbing, stump removal, disturbance, or exposure of soil is not considered Disturbed Area. Disturbed Area does not include routine maintenance but does include redevelopment and new Impervious Areas. "Routine maintenance" is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces provided that an applicant or permittee can prove the original line and grade and hydraulic capacity shall be maintained and original purpose of the gravel surface remains the same is considered routine maintenance. Replacement of a building is not considered routine maintenance of the building and is therefore considered Disturbed Area. [Adopted 07/19/23]

Distribution Facility:

A structure or building used for the receiving and shipping of finished goods and articles where goods are received and redirected for delivery to the ultimate customer at remote locations. [Adopted 06/20/18]

Drinking Establishment:

A bar, tavern, pub or other similar business establishment serving alcoholic beverages to paying customers or providing seating for the consumption of alcoholic beverages on the premises.

Drive-in Restaurant: (Deleted 11/16/94)

Dwelling:

A building designed or used as the living quarters for one or more families. The term shall not be deemed to include hotel, motel, rooming house or trailer.

Dwelling, accessory unit:

See Accessory Dwelling Unit.

Dwelling, attached:

A dwelling with two or more party walls, or one party wall in the case of a dwelling at the end of a group of attached dwellings.

Dwelling, detached:

A dwelling which is designed to be and is substantially separate from any other structure or structures except accessory buildings.

Dwelling, multifamily:

A building designed and/or used for residential occupancy by three (3) or more families living independently in three (3) or more dwelling units. There is no limit to the number of dwelling units that can be in a multifamily dwelling unless there is a limit established by the zoning district regulations for the district in which the building is located. [06/06/2007]

Dwelling, semi-detached:

A dwelling having a party wall in common with another dwelling but which otherwise is designed to be and is substantially separate from any other structure or structures except accessory buildings.

Dwelling, single family:

A building designed and/or used exclusively for residential purposes for one (1) family only and containing not more than one (1) dwelling unit.

Dwelling, two family:

A detached or semi-detached building used for residential occupancy by two families living independently of each other.

Dwelling Unit:

A building or portion thereof providing complete housekeeping facilities for one family. Then term shall not be deemed to include trailer.

Dwelling Unit in a Mixed-Use Building:

A dwelling unit located in a building that contains one or more non-residential uses that occupy at least twenty percent (20%) of the floor area of the building. [06/06/2007]

Emergency Operations:

Emergency operations shall include operations conducted for the public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement and operations to rescue human beings and livestock from the threat of destruction or injury.

Extractive Industry:

The use of land for removal of topsoil, rock, sand, gravel or similar earth materials, including, but not limited to, gravel pits and quarries.

Family:

One or more persons occupying a premise and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house or hotel as herein defined.

Family Day Care Home:

A house or other place in which 3-6 children or adults may for consideration be cared for and which is licensed by the Maine Department of Human Services as a day care facility or a small group adult care program. [Amended 06/01/94]

Farm Stand:

A building, structure, or outdoor location with a total area devoted to retail sales of 400 square feet or less, the primary activity of which is retail sales of agricultural products grown, raised, or produced by a Commercial Agriculture, Commercial Animal Husbandry, Commercial Fishing and Harvesting use or Accessory Agricultural Activities as well as other agricultural and related food products not produced by the Commercial Agricultural, Commercial Animal Husbandry, Commercial Fishing and Harvesting use or Accessory Agricultural Activities and handmade crafts and similar products. Farm Stands are subject to performance standards contained in Section IX of this Ordinance. [05/05/10] [Amended 10/18/23]

Financial, Insurance and Real Estate Offices:

Establishments such as, but not limited to, banks and trust companies, credit unions, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodity exchanges, insurance agencies, real estate agencies, real estate development offices and real estate management offices. [7/17/91]

Floor Area:

The sum of the gross horizontal areas of the several floors of a building or of a unit of occupancy measured from the exterior face of exterior walls (or from the center line of a party wall or interior wall separating units of occupancy) but not including interior parking spaces, loading space for motor vehicles, or any space where the floor to ceiling height is less than 6 feet. [7/17/91]

Food Processing Facility:

The use of land, buildings, or structures for the processing of food, seafood, or agricultural products for use or consumption primarily off the premises including such activities as commercial bakeries, breweries, bottling facilities, dairies, lobster pounds and facilities for commercial food processing and/or packaging. Food processing facility does not include a use in which the principal activity is the rendering, storage, and/or treatment of animal or fish wastes. The processing of wastes created on the premises is allowed as an accessory use to a food processing facility. [Adopted 07/18/12]

Forest Management Activities:

Timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control.

Forestry:

The use of land for the raising and harvesting of timber, pulp wood, and other forestry products for commercial purposes, including the temporary operation of a sawmill and/or chipper. The operation of a sawmill and/or chipper must be primarily used to process timber harvested on the premises, but may also process timber harvested off the premises provided this processing is accessory and subordinate to the principal forestry use of the property. The term "forestry" does not include the clearing of land for approved construction. [05/05/10]

Funeral Home:

A building used for the preparation of deceased human beings for burial and the display of the deceased and rituals connected therewith before burial or cremation. [03/07/07]

Gasoline Filling Station:

Any building, structure, land or part thereof where motor vehicle fuel is sold at retail either as a principal use or as an accessory use. As used in this definition, "at retail" means sold to the public generally. A business which provides some other service or product, which does not hold itself out as selling motor vehicle fuel at retail, and which sells motor vehicle fuel only to purchasers of that other service or product is not a gasoline filling station. [11/4/92]

Golf Course:

An area of land laid out for playing the game of golf or disc golf, with a series of 9 or 18 holes or targets, each including tee, fairway and putting green and often one or more natural or artificial

hazards. A golf course may include a clubhouse, shelter for players and other accessory structures, including one dwelling unit in an accessory structure and accessory use to the golf course, provided the dwelling unit is occupied by a resident facility manager or by on-duty employees of the facility. A miniature golf facility or a golf driving range is not a golf course. [12/21/94] [Amended 09/19/07; 07/19/17]

Group Day Care Home:

A house or other place in which 7-12 children may for consideration be cared for and which is licensed by the Maine Department of Human Services as a day care facility. [Amended 06/01/94]

Gross Leasable Area:

The floor area of a building or use less the area occupied by stairwells and elevator shafts, equipment rooms and utility rooms. [Adopted 01/06/10]

Harness Racing Facility:

A facility for the stabling, training, and racing of horses including related facilities such as food and beverage service areas, function rooms, permanent and temporary housing for track workers and horsemen, and gambling facilities for wagering on horse racing both on and off-track. A harness racing facility does not include facilities for gambling that does not involve wagering on horse races. [Adopted 08/21/2013]

Health Club:

An establishment that provides exercise facilities, such as running and jogging tracks, exercise equipment, game courts, swimming facilities, saunas, showers and lockers. [05/20/98]

High Technology Facility:

The use of land, buildings or structures for research, development, light assembly, or light manufacturing activities that does not create any danger to health or safety in surrounding areas, does not create offensive noise, vibration, smoke, dust, odor, heat or glare, that by reason of the high value of the product in relation to its size and weight does not create large volumes of truck traffic, and that conforms to the performance standards of Section IX(M).

Home Occupation:

An occupation or profession which is customarily carried on in a dwelling unit or in a building accessory to a dwelling unit by resident members of the family occupying the dwelling unit and is clearly incidental and secondary to the use of the dwelling unit for residential purposes. [Amended 05/05/10]

Hospices:

An establishment or program caring for the physical and emotional needs of terminally ill patients within a home-like facility. [08/17/05]

Hotel/Motel:

A building or group of buildings containing six or more guest rooms and offering lodging accommodations (which may include such accessory services as food and beverages, meeting rooms, entertainment and recreation) to transient guests. A hotel may provide kitchens or kitchenettes in guest rooms and will not, as a result, be considered a dwelling under this ordinance, so long as the

hotel is occupied exclusively by transient guests. A transient guest is a person who occupies the hotel for no more than 186 days in any 365-day period. [11/02/94]

Internal Road:

Any street or part of a street located within the Haigis Parkway District other than Haigis Parkway, Payne Road or U.S. Route One.[1] [11/06/02]

Impervious Area:

Means the total area of a Parcel covered with a low-permeability material that is highly resistant to infiltration by water, such as asphalt, concrete, or rooftop, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common Impervious Areas include, but not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater. Pervious pavement, pervious pavers, pervious concrete, and underdrained artificial turf fields are all considered impervious. [Adopted 07/19/23]

Kennel:

A commercial facility for the boarding, daycare and/or breeding of domestic pets including accessory activities such as grooming or training. The term "kennel" does not include veterinary and pet care facilities. [05/05/10]

Leachable Wastes:

Waste materials, including solid wastes, sludge, and industrial and agricultural wastes, that are capable of releasing contaminants to the surrounding environment. [05/18/2011]

Landscape Contractor:

Landscape Contractor means the business of designing, installing, planting, or maintaining lawns, gardens, hardscapes, water features, outdoor structures, decorative features, stormwater and drainage features, or other activities intended to enhance the appearance or usefulness of outdoor areas. Landscape Contractor also means providing snow removal services with vehicles, equipment, and supplies that are stored, parked, serviced, or loaded at the business location. Landscape Contractor includes tree installation, maintenance, or removal. Landscape Contractor includes buildings and structures used in the such as barns, storage buildings and facilities, greenhouses and temporary shelters. All structures shall be subject to site plan approval. [08/20/2025]

Live/Work Unit:

A mixed-use unit within a multifamily dwelling or mixed-use building that contains both living space and work space. The work space shall be limited to no more than 1,000 square feet of gross floor area and may be used for any non-residential use permitted in Section XVIIIC.B. The work space need not be occupied by the same occupants as the living space, unless otherwise required to meet the parking requirements of Section XI.B. The work space within a live/work unit shall not be considered, and shall not be required to comply with the requirements for, a home occupation. [05/03/06] [Amended 06/06/07]

[1] As of 8/12/2002 no property in the HP District abuts U.S. Route One. The reference to Route One in the definition is in the event of future changes to the Zoning Map.

Living Space:

Living space is space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing, or sanitation purposes. Living space includes not only those areas used for living, sleeping, eating, and cooking, but also includes bathing and washing areas such as bathrooms and closets accessed from the interior of the dwelling unit. Living space does not include: 1) storage areas such as attics and garages, 2) common or shared hallways or stairways providing access to individual dwelling units in a multifamily dwelling, or 3) other common areas in a multifamily dwelling. [05/03/06] [Amended 06/06/07]

Local Retail Store:

Retail sales and services, other than automobile repair and service facilities and car washes, which serve primarily the daily needs of a definable, immediate neighborhood. [7/17/91]

Lodging House:

A building in which three or more rooms are rented for living accommodations and in which no table board is furnished.

Lot:

A parcel of land described in a deed or depicted on a plan which is or is proposed to be separately owned, used, developed or built upon. [Amended 11/02/05]

Lot Area: [09/05/07] [02/06/08]

1. For lots within approved subdivisions, the gross area of the lot.
2. For lots not within approved subdivisions, the gross area of the lot, minus:
    - Portions of the lot located within the Resource Protection District pursuant to the Shoreland Zoning Ordinance for the Town of Scarborough, Maine.
    - Portions of the lot located in the Stream Protection or the Stream Protection 2 District pursuant to the Shoreland Zoning Ordinance for the Town of Scarborough, Maine that are within seventy-five (75) feet, measured horizontally, of the normal high water line of the stream.
    - Portions of the lot covered by surface water bodies other than manmade ponds.
    - Portions of the lot shown to be in the floodway or coastal high hazard area as designated on the Department of Housing and Urban Development flood boundary and floodway map or flood insurance rate map.
    - Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to, (a) water table at the surface for all or part of the year, or (b) unstable soil such as Sebago mucky peat, coastal dune or tidal marsh, as determined by the Code Enforcement Officer.
    - Portions of the lot subject to easements for vehicular access to land outside the lot.

Lot Lines:

The lines bounding a lot. Wherever a lot abuts a street, the sideline of the street on the side abutting the lot shall constitute the lot line.

Lot of Record:

A parcel of land, a legal description of which or the location and dimensions of which are contained on a deed or plan recorded at the Cumberland County Registry of Deeds.

Manufacturing and Assembly:

The use of land, buildings or structures for the production, manufacturing, assembly, fabrication, processing or treatment of materials, goods, or products. Manufacturing and assembly use may include the accessory retail sales of materials or products produced or processed on the premises. [Adopted 07/18/12]

Manufactured Housing Community:

Shall mean a parcel of land under unified ownership approved by the municipality for the placement of three (3) or more manufactured homes. [Adopted 07/20/22]

Manufactured Housing Community Lot:

Shall mean the land on which an individual home and nay appurtenant structures or additions, is situated within a manufactured housing community and which is reserved for use by the occupants of that home. Such lost shall be designated on the plan for a manufactured housing community.

Manufactured Housing Unit:

Shall mean "manufactured housing" as that term is defined in 30-A M.R.S.§4358(1)(A), as may be amended. [Amended 07/20/22]

Notwithstanding any other provision in this Ordinance to the contrary, any modular home that meets construction standards for state-certified manufactured homes adopted pursuant to Title 10 section 9042 are allowed in all zones where other single-family homes are allowed.

Manufactured housing on individual lots must also meet the following standards:

(1) The unit is constructed with a roof having a pitch of 3 in 12 or greater.

(2) The roof is covered with asphalt or fiberglass composition shingles or approved wood shingles or shakes.

(3) The exterior wall surfaces are covered with materials similar to traditional site-built housing units. These materials may include clapboards such as conventional vinyl or metal siding, wood shingles or shakes or similar materials, but shall not include smooth ribbed or corrugated metal or plastic panels, except as permitted above.

(4) The minimum horizontal dimension of the unit as installed on the site is 14 feet.

(5) The minimum floor area of the unit shall be 750 square feet.

Meteorological Tower:

A structure or structures intended to collect data to determine the appropriate siting of a Small Wind Energy System, that may include wind speed indicators, wind direction indicators, a tower, guy cables, wiring, and other wind data gathering equipment and infrastructure. The term meteorological tower does not include structures principally utilized in the operation of federally licensed amateur radio stations, which may also accommodate wind speed indicators, wind direction indicators, and other date gathering equipment and infrastructure. [Adopted 07/15/09]

Mini-Warehouse/Storage Facilities:

A facility consisting of a building or group of buildings located in a fenced and gated controlled-access compound and containing individual compartmentalized, and controlled-access storage units with individual locks for each storage unit, which are leased or rented to customers of the facility for storage of those customer's personal property, designed and utilized so that each customer had individual access to his or her unit exclusive of the access of other customers of the facility and which is designed to function as a self-service facility. [12/03/97]

Mobile Food Vendor:

A vehicle, trailer, cart or stand designed and constructed to transport, prepare, sell or serve food and/or beverages and capable of being moved from its serving site at any time. Mobile food vendors are subject to Chapter 1015.A Mobile Food Vendor License Ordinance. [01/08/2025]

Mobile Food Vendor Court:

A collection of two or more mobile food vendors in a common outdoor plaza or site providing a common area for self-serve dining. For the purpose of this definition the mobile food vendor court may be an accessory use to the primary use of the site or the primary use of the site. Mobile food vendors courts are subject to Chapter 405 Zoning Ordinance use standards and applicable performance standards and Chapter 405B Site Plan review requirements. [01/08/2025]

Multiplex:

A type of multifamily dwelling in which no more than eight dwelling units, in any configuration are located in the building. Where more than one multiplex structure is located on a lot, the average number of dwelling units per structure shall be no greater than six. [Amended 06/06/07]

Municipal Building or Use:

Any building or use owned or operated by the Town of Scarborough, the Scarborough School Department or the Scarborough Sanitary District, the Biddeford-Saco Water District or the Portland Water District, excluding public utility facilities. [7/17/91] [03/17/04]

Net Residential Acreage: [Amended 07/21/04; 10/20/04: 09/05/07]

The area of a tract or parcel of land, which is suitable for development, determined by subtracting, in order, the following from the total acreage of the tract or parcel:

1. Portions of the tract or parcel which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the tract or parcel, as determined by the Planning Board.

2. Portions of the tract or parcel shown to be in the floodway or coastal high hazard area as designated on the Department of Housing and Urban Development flood boundary and floodway map or flood insurance rate map.

3. Portions of the tract or parcel which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to, (a) water table at the surface for all or part of the year, or (b) unstable soil such as

Sebago mucky peat, costal dune or tidal marsh, as determined by the building inspector subject to review by the Planning Board in the event of a dispute.

4. Portions of the tract or parcel subject to rights of way or easements.

5. Portions of the tract or parcel located in the resource protection district, except land above the upland edge of a wetland, pursuant to the Shoreland Zoning Ordinance for the Town of Scarborough, Maine. [8/5/92]

6. Portions of the tract or parcel covered by surface water bodies.

7. Portions of the tract or parcel utilized for storm water management facilities.

8. 10% of the acreage remaining after the foregoing subtractions have been made, as an allowance for roads and parking, irrespective of the actual area proposed for roads and parking. This Paragraph 8 shall not apply to any application to amend a subdivision plan which was approved prior to October 20, 2004. Any such application for an amendment shall be governed by the definition of net residential acreage in effect at the time the subdivision plan was originally approved.

Net Residential Density:

Net residential density shall mean the number of dwelling units allowed per net residential acre within a subdivision. [Amended 09/05/07]

Non-Commercial Model Aviation Flying Field:

A parcel of land used to fly radio-controlled miniature aircraft by model aviation hobbyists who are either (1) members of guests of a non-profit model aviation club and pay no consideration other that club dues for the use of the field or (2) social guests of the landowner. This definition and the allowance of "Non-Commercial Aviation Flying Field" as a special exception in certain zoning districts shall not be deemed to prevent otherwise permissible occasional and casual use of land in any district to fly radio-controlled miniature aircraft, provided such occasional and casual use is secondary and incidental to another use or the property is otherwise unused. Use is deemed to be "occasional and casual" only when: (a) such use is made only by the owner of the property and the owner's social guests; (b) the property owner receives no payment or consideration of any kind for the use; (c) the use is not sponsored, organized or promoted by a model aviation club or similar organization; (d) no person is granted any formal rights by lease, contract, license or any method other than social invitation to use the property to fly radio-controlled miniature aircraft; and (e) such use does not occur on more than six days in any calendar month. [2/17/93]

Non-Conforming Building or Structure:

A building or structure existing at the effective date of adoption or amendment of this Ordinance which does not conform to the Space and Bulk regulations of the district in which it is located.

Non-Conforming Lot:

A lot existing at the effective date of adoption or amendment of this Ordinance which does not conform to the Space and Bulk Regulations of the district in which it is located.

Non-Conforming Use:

A use of land, building, or structures at the effective date of adoption or amendment of this Ordinance which does not conform to the regulations and requirements of the district in which it is located. Non-conforming use includes a use existing at the effective date of adoption or amendment of this Ordinance which this Ordinance designates as a Special Exception in the district in which it is located, unless such use has been approved by the Board of Appeals under Section IV, I of this Ordinance.

Non-Municipal Government Buildings and Uses:

Buildings and uses of any department, commission, agency or instrumentality of the United States, the State of Maine, the County of Cumberland or any other governmental authority or district. Non-Municipal Government buildings and uses do not include any temporary or permanent holding facilities, jails, or prisons, which are not permitted in any zoning district. [Adopted 04/21/2021]

Non-Municipal Government Offices:

The offices of any department, commission, agency or instrumentality of the United States, the State of Maine, the County of Cumberland or any other governmental authority or district. Non-Municipal Government Offices do not include any temporary or permanent holding facilities, jails, or prisons, which are not permitted in any zoning district. [7/17/91][Amended 04/21/2021]

Nursery School:

A house or other place in which a person or combination of persons maintains or otherwise carries out for consideration during the day a regular program which provides care for 3 or more children, provided that:

A. No session conducted for the children is longer than 3 ½ hours in length;

B. No more than 2 sessions are conducted per day;

C. Each child in attendance at the nursery school attends only one session per day; and

D. No hot meal is served to the children.

This term does not include any facility operated as a day care center, a summer camp established solely for recreational and educational purposes or a public or private school in the nature of a kindergarten approved by the Commissioner of Educational and Cultural Services, in accordance with Title 20, Section 911.

Open Space:

Any area of land or water, which remains essentially unimproved except for landscaping, is not occupied by any structures, gravel or impervious surfaces, and is set aside to remain undeveloped. [7/17/91]

Open Space Ratio:

The total area of open space, excluding artificially created storm water management facilities and land occupied by easements or rights of way, divided by the total area of the lot. [7/17/91]

Outdoor Sales and Services:

Those land uses in which merchandise is sold or displayed principally outdoors or in which services are offered or rendered to customers principally outdoors, including new or used car dealerships

which are not fully enclosed. The use category outdoor sales and services does not include: (1) outdoor display of agricultural and horticultural products by principal uses which primarily market said products, (2) drive-up windows accessory to a permitted, (3) accessory outside displays in compliance with Section IX (D) and (4) accessory outside vending machines in compliance with Section IX(E). [7/17/91] [Amended 4/6/94; 06/03/98]

Outdoor Storage:

The keeping in an unroofed area of any goods, materials, merchandise or unregistered/uninspected vehicles in the same place for more than 24 hours. The term outdoor storage does not include service vehicles used by a commercial enterprise in the conduct of their business, which can meet the performance standards in Section IX. A (14), the storage of goods, materials or merchandise inside box trailers, semi-trailers, roll-off containers, slide-off containers, "piggy-back" containers, railroad cars, or any other similar container. Any such storage in roofed containers shall be governed by the performance standards in Section IX(G) Accessory Containers. [7/17/91] [Amended 09/03/97; 05/03/2023]

Parking Space:

Usable space for the parking of an automobile that conforms to the standards of this Ordinance. [Amended 01/06/2010]

Party Wall:

A fireproof wall separating two buildings and structurally common to both.

Personal Services:

Establishments providing services involving the care of a person or her/his apparel. The types of personal services allowed include, but are not limited to: laundry, cleaning and garment services, garment pressing, linen supply, diaper service, coin-operated laundries, dry-cleaning plants, photographic studios, beauty shops, barber shops, shoe repair, reducing salons and health clubs, clothing rental, and instruction in music, language or the arts. [7/17/91][Amended 11/01/17]

Pet Care Facility:

An establishment that provides fully enclosed facilities for the training, kenneling and grooming of pets. [09/04/02]

Place of Worship:

A building or structure designed and used primarily for conducting organized religious services. The term "Place of Worship" includes customary accessory facilities located within the principal building, such as meeting rooms, assembly space, administrative offices, classrooms for religious education and living quarters for clergy, but does not include uses, activities, buildings or structures defined in this Ordinance as "Adjunct Uses, Place of Worship." [05/05/99][Amended 11/05/08]

Planning Department:

The Town Planning Department as described in Article VII of the Town of Scarborough Administrative Code. Where this Ordinance requires an approval from the Planning Department, such approval shall be evidenced by the signature of the Town Planner or the Assistant Town Planner/Engineer. [11/05/03]

Professional Office:

The office of a member of a recognized profession maintained for the conduct of that profession. The types of professional offices allowed include, but are not limited to: medical practitioners (including mental health practitioners), social workers, attorneys, engineers and accountants. Unless otherwise stated in the use regulations for a particular zoning district, the term professional office does not include addiction treatment facilities. [7/17/91] [11/16/05]

Public Utility Facilities:

Facilities such as, but not limited to, substations, pumping stations sewage treatment facilities, water treatment facilities, transmission lines, pipelines, studios, transmitters, receivers, and other buildings, structures or uses necessary or accessory to the operation, or conduct of activities regulated by the Public Utilities Commission and businesses or activities which are not so regulated but which provide a public service to the Town of Scarborough, including voice, image or data transmissions, radio, television and cable television that are available for use by the general public. The term Public Utility Facilities does not include Transmission Towers, which are separately defined and regulated. The term public utility facility does not include wholesale storage and/or wholesale distribution of fuel stored in bulk. [05/17/95] [3/20/02]

Recycling Facility:

Any building, structure or land upon which used materials, waste products or parts thereof are separated or processed and then shipped off the premises for eventual use in new products or are reprocessed on the premises into new usable products. A Recycling Facility which engages in those activities may also provide for the collection, sorting and transfer of non-recyclable waste. The term "Recycling Facility" does not include a junkyard, automobile graveyard or automobile-recycling business, as defined in subchapter I of chapter 183 of Title 30-A of the Maine Revised Statutes. [03/06/96]

Research, Development, and Light Industrial:

The use of land, buildings or structures for research, development, light assembly, or light manufacturing activities that does not create any danger to health or safety in surrounding areas and does not create offensive noise, vibration, smoke, dust, odor, heat or glare, and that conforms to the performance standards of Section IX(M.1). [Adopted 06/20/12]

Residential and Long-Term Care Facilities for the Ill, Aged or Disabled:

A facility which provides full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. [7/17/91]

Residential Recreational Facility:

An open space recreational use, which is customarily incidental to residential use, such as, but not limited to, swimming pools and tennis courts.

Restaurant:

A business the principal activity of which is serving food to the public. [11/16/94]

Retail Floor Area:

The floor area of a building used for retail sales or services less stairwells and elevator shafts, equipment rooms, utility rooms, inventory storage areas, general storage areas, office space and employee lounge or recreational areas. [7/17/91]

Retail Sales and Services (or "Retail Businesses and Service Establishments):

The sale of goods, merchandise or services to the general public for personal or household consumption. Unless otherwise specified in the district use regulations, retail sales and services includes fully enclosed automobile repair and service facility and includes car washes, but excludes gasoline filling stations, automobile sales, automobile painting and body shops, junkyards and salvaging operations and restaurants. [7/17/91] [11/16/94]

Senior Housing:

An apartment-style multifamily dwelling with individual dwelling units for elderly households. An elderly household shall include at least one elderly person of at least 55 years of age, and no occupant less than 55 years of age other than a fulltime caregiver to, or a spouse or companion of the elderly person(s), or a handicapped person. Senior housing may include services for medical and non-medical care and assistance. Senior housing is not subject to the limitations on the number of units per building which apply to Multiplex. [05/03/06] [Amended 06/06/07]

Service Area:

The floor area of a building used for personal services less stairwells and elevator shafts, equipment rooms, utility rooms and storage areas. [7/17/91]

Sign:

An object, device, display or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location by means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

Small Batch Processing Facilities:

A category of a food processing facility or light industrial use that processes, produces or assembles small lots of consumer goods. Processors in this category include, but are not limited to, clothing design and production, small batch food production, craft brewers, jewelry makers and other product lines that have an element of handcrafted design or hand-made production. Small batch processing facilities shall not include the production or processing of adult use or medical cannabis. [Adopted 10/07/15]

Small-scale energy facility:

A facility for the generation of electricity with a maximum capacity of five megawatts (5 MW), but do not include small wind energy systems or solar energy systems which are defined and regulated separately. [Adopted 06/20/12]

Small Wind Energy System (SWES):

A structure or structures that may include a wind turbine (both vertical or horizontal axis), a tower, footings, electrical infrastructure and associated equipment that is designed to produce electrical

energy or pump water for the building(s) and use(s) on a particular lot or site. Small Wind Energy Systems shall be subject to the Performance Standards under Section IX.N of this Ordinance. [Adopted 07/15/09]

Snack Bar: [Deleted 11/16/94]

Solar Energy System:

A structure or structures that use sunlight as a source of energy for such purposes as heating or cooling a structure, heating or pumping water, or generating electricity. [05/20/09]

Solid Wastes:

Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk, and refuse. [05/18/2011]

Space and Bulk Regulations:

Regulations in this Ordinance governing the size, shape, configuration and other physical characteristics of land, buildings and structures, including the requirements of this Ordinance for off-street parking.

Special Exceptions:

A special exception is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special exceptions, if specific provision for such special exceptions is made in this Zoning Ordinance. Any individual use for which a specific and individual special exception has been granted in accordance with this Ordinance shall be deemed as a permitted use but subject to such terms and conditions as specified by the Board of Appeals.

Story:

Any enclosed habitable floor area (other than a basement or cellar) which is separated by more than 6 feet, vertical distance, from any other enclosed habitable floor area in the same building. [08/06/97]

Street:

For purposes of meeting the street frontage and access requirements of this ordinance, the term street shall mean only:

(1) a public way,

(2) a private way approved by the Planning Department under Section IX.I of this Ordinance, or

(3) a street approved by the Planning Board under the Town of Scarborough Subdivision Regulations.

For purposes of determining required setbacks under this Ordinance, including setbacks for corner lots, the term street shall mean any of the above and shall also include any right of way which is described in a deed or plan recorded in the Cumberland County Registry of Deeds prior to November 5, 2003 and which provides the principal means of access to abutting properties. [11/05/03] [Amended 07/21/04]

Structural Alteration:

Any change involving the removal or replacement of supporting members of a building or structure, such as posts, columns, plates, joists or girders.

Structure:

Anything constructed or erected, except a boundary wall or fence, the use of which requires a fixed location on the ground or attachment to something fixed on the ground, whether installed on, above, or below the surface of land or water.

Subdivisions:

As defined in Subchapter IV of Chapter 187 of Title 30-A of the Maine Revised Statutes, as such may be amended from time to time. [Amended 09/05/07]

Telecommunication Facility:

Transmission and reception antennas, cables, electronic equipment and associated facilities used for wireless transmission and reception of voice or data, mounted on, or enclosed within, a building, structure or use, no part of which shall be more than ten (10) feet above the height of the existing structure to which it is attached. [03/17/04][amended 10/15/14]

Timber Harvesting:

The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Townhouse:

A type of multifamily housing with attached single-family dwellings in a row of at least three such units separated by party walls, with no unit located over another unit and each unit having its own front and rear access to the outside. [November 3, 2004] [Amended 06/06/07]

Trailer:

Trailer shall mean any vehicle used or so constructed as to permit its being used as a conveyance on the public streets and highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof as a temporary dwelling, office, or work area for one or more persons and which cannot readily be connected to a common sewer and water service. This definition shall apply whether the trailer is placed on a foundation or not.

Transmission Tower:

Any structure which extends more than 35 feet above grade or more than 10 feet above the highest point of the building or structure to which it is attached, whichever is higher, and which is used for the wireless transmission or reception of electric impulses or signals by means of electromagnetic waves. The term transmission tower does not include structures utilized by the Town of Scarborough for public safety or public works communications or utilized in the operation of federally licensed amateur radio stations, which are permitted in all zoning districts where municipal uses are allowed. [5/17/95] [Corrected 08/20/97][Amended 10/15/14]

Truck Terminals:

Facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck between different locations. Truck terminals serve as facilities for unloading products from an incoming vehicle and reloading quickly onto an outbound vehicle with no storage time in between. They are not designed or utilized for long-term warehousing. The terminal facility may include storage areas for trucks or buildings or areas for the repair of trucks associated with the terminal. [03/19/25]

Unit of Occupancy:

Any interior space with defined boundaries described in a deed, lease, license or agreement in which a discrete business, commercial, office, service professional or institutional activity is conducted and which is separated from any other business, commercial, office, service or professional activity by interior or exterior walls. [7/17/91]

Use:

The purposes and activities for which land, buildings or structures were are or will be utilized in fact.

Variance:

A variance is a relaxation of the terms of this Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance will result in undue hardship.

As used in this Ordinance, a variance is authorized only for height, area, and size of structures, yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the particular zone or adjoining zone.

Warehouse Facility:

A structure or building where goods or materials are stored for distribution to other sites or locations. [Adopted 06/20/18]

Water Dependent Sports Practice Facility:

An area equipped with distance markers for sports activities where balls are driven into an artificially formed pond. [05/21/08]

Wetlands Creation:

The use of land to create new wetlands, or to enhance the functions or values of existing wetlands, for the purpose of establishing wetland areas which can be used for compensation or mitigation banking under state and/or federal wetlands regulations. [05/07/03]

Wholesale Trade and Transportation:

The business of buying goods in large quantities and selling them in smaller quantities to other businesses or retailers. Wholesale transportation is the process of moving goods from manufacturers to retailers or businesses in bulk. Wholesale means the sale of goods or commodities for resale by a retailer, as opposed to the sale of goods or commodities to the ultimate consumer. [03/19/25]

Workforce Housing: [Adopted 07/20/2022]

Workforce Housing means decent, safe and sanitary living accommodations that are available to households, in accordance with following provisions:

A. An Owner-Occupied Workforce Housing Unit is a unit which (i) is occupied by its owner; (ii) is owned by Qualifying WF Household and (iii) has a maximum sales price that is reasonably anticipated to result in Annual Housing Costs that are less than or equal to 30% of the Imputed WF Income Limitation applicable to the unit.

(I) A Qualifying WF Household is one with a total household income that, at the time of purchase, is 120% or less than the most recently published Median Family Income for the Portland, Maine Metropolitan Statistical Area, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development (the "MFI Standard").

(II) Annual Housing Costs shall equal the sum of (i) the total annual payments of principal and mortgage interest, (ii) the total property insurance premium, (iii) the real estate taxes due (iv) any homeowners association or condominium fees that are due; and (v) a reasonable estimate of the annual cost of any additional water, sewer, heat, hot water and electricity in the home.

(III) In the case of a unit which has one or fewer bedrooms, the Imputed WF Income Limitation referred to in A(iii) shall be 120% of the MFI Standard for a household of two (2) people. In the case of a unit which has more than one bedroom, the Imputed WF Income Limitation referred to in A(iii) shall be 120% of the WF MFI Standard for a household of four (4) people.

B. A Renter-Occupied Workforce Housing Unit is a unit which is leased by a Qualifying WF Household at an Annual Gross Rent that is less than or equal to 30% of the Imputed WF Income Limitation applicable to the unit.

(I) A Qualifying WF Household is one with a total household income that, at the time of move-in, is 120% or less than the most recently published Median Family Income for the Portland, Maine, MSA, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development (the "MFI Standard"). To remain a Qualifying WF Household, the household's income must remain at or below 140% of the income limitation described in the preceding sentence.

(II) Annual Gross Rent shall equal twelve (12) times the sum of (i) monthly rent due to the landlord, (ii) any required monthly payments to the landlord for additional services or facilities and (iii) a reasonable estimate of the monthly utility costs (not including television, internet or telephone) that the household is responsible for paying. In the case of a unit which does not have a separate bedroom, the Imputed WF Income Limitation used to determine the maximum annual gross rent shall be 120% of the MFI Standard for a household of one (1) person. In the case of a unit which has one or more bedrooms, the Imputed WF Income Limitation used to determine the maximum annual gross rent shall be 120% of

the MFI standard for a household with a size equal to one and one half (1.50) people per bedroom.

Yard:

A space, open to the sky, which is not occupied with any buildings or structures and is located on the same lot with a building or structure.

Yard Front: [Amended 05/04/2022]

An open unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

1. Corner lots and lots abutting multiple streets the front setback line applies to each bordering street, except as provide in 2. below.
2. Corner lots and lots abutting multiple streets in a residential district (RFM, RF, R-2, R-3, R-4, R-4A) shall have a primary and secondary front yard as provided below.
   a) The primary front yard shall be deemed to be located on the street of address, or from the street of access to the lot. The front yard from any other abutting street shall be deemed a secondary front yard between the principal building and the side street, and shall not be less than 50% of the front yard requirement of uses located on the side street. (See Fig. 1)

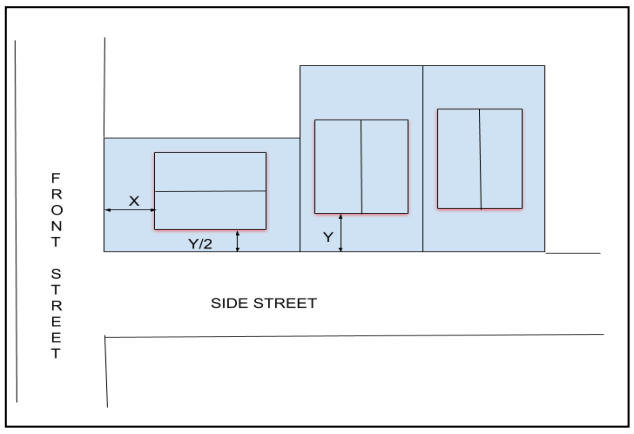


Figure 1: dimension "X" is the required front yard in a given district for the primary frontage. The "Y" dimension is the required front yard on the side street. The "Y/2" dimension is half the required front yard for the side street for the corner lot.

   b) lots that front on two or more streets shall have one primary and one or more secondary front yards. The primary front yard shall be deemed to be located on the street of address, or from the street of access to the lot. The front yard from any other abutting street shall be deemed a secondary front yard between the principal building and the side street, and shall not be less than 50% of the front yard requirement of uses located on that street. (See Fig. 2)

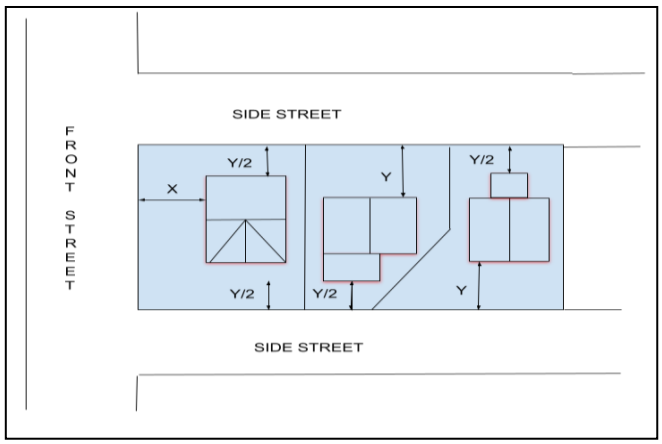


Figure 2: there are 3 lots with more than one street frontage. The required front yard on the primary street is designated as "X" for the lot with 3 front yards; "Y" is the required front yard on the side streets; and "Y/2" is half the required front yard for secondary street frontage.

Yard Rear:

An open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

Yard Side:

An open unoccupied space on the same lot situated between the building and the sideline of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a sideline.

SECTION VII. FLEXIBLE DEVELOPMENT STANDARDS FOR HIGHER DENSITY RESIDENTIAL DISTRICTS. **[Amended 02/01/2006][Amended 01/20/16][Amended 09/17/2025]**

A. SPECIAL PROVISIONS

In all higher density districts (R3, R4, R4A, TND and RPO) the following special provisions may apply subject to the conditions set forth in this section. This section is intended to enable the developer of subdivisions and residential developments electing to use these provisions, and to require all developers of multiplex housing developments, to design projects which minimize environmental impacts, establish public and open spaces, integrate pedestrian ways and amenities, and demonstrate creativity and imagination in the design, location and orientation of housing types as well as the streets and ways that serve them. This section is intended to enable the creation of healthful, efficient, safe and aesthetically pleasing residential areas.

B. PERFORMANCE STANDARDS

Notwithstanding other provisions of this Ordinance relating to space and bulk, the Planning Board in reviewing and approving proposed higher density residential subdivisions and developments located in the Town of Scarborough, may modify said provisions related to space and bulk in order to permit innovative approaches to housing, neighborhood and environmental design in accordance with the following standards. This shall not be construed as granting Variances to relieve hardship.

1. The purpose and intent of this Zoning Ordinance shall be upheld.

2. There shall be compliance with all State and local codes and ordinances.

3. There shall be no approval of any proposed development, which exceeds the net residential density (see Section VI for definition) allowable in the Residential District in which it is located.

4. Separation between principal buildings located on the same lot shall be a minimum of 30 feet. This minimum separation requirement may be reduced by the Planning Board, but lesser separation must be in accordance with the provisions of MUBEC governing Construction Types and Fire-Resistance-Rated Construction. Any separation of less than 30 feet between buildings needs to be accompanied by a note on the approved plan indicating the need for building construction and materials in accordance with the Fire Resistance Rating Requirements of MUBEC cited above. [Amended 09/17/2025]

5. Each building shall be an element of an overall plan for site development.

6. Where possible, buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, natural drainage areas, neighborhood greens and common open space.

7. Where possible, buildings, streets, sidewalks, parking areas and landscaping shall be designed in a cohesive, integrated fashion. Building placement and orientation to streets, parking, sidewalks and common areas should be designed to establish inviting public spaces exhibiting human elements and scale, while building orientation to natural features should furnish and buffer private spaces for individual dwelling units or groups of dwelling units.

8. Development proposals shall include a landscape program to illustrate the proposed aesthetic treatment of space, roads, paths, service and parking areas. Screening devices shall not impair pedestrian and vehicular safety.

9. All utilities shall be installed underground wherever possible. All transformer boxes, substations, pumping stations, and meters shall be located and be designed as not to be unsightly or hazardous to the public.

10. Residual open space accumulated by modifying space and bulk requirements within the allowable density limits shall be usable for active or passive recreation, neighborhood gathering places, or other outdoor living purposes and for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcrops, native plant life and wildlife cover. In addition, open space can be used for solar or wind energy systems as allowed for under Section IX. The use of any open space may be further limited or controlled at the time of final plat approval where necessary to protect adjacent properties or uses.

11. The common open space(s) shall be shown on the subdivision plan and with appropriate notation of the face thereof to indicate that it:

a. Shall not be used for future building lots,
b. A part or all of the common open space may, at the Municipality's option, be accepted in dedication by the Municipality and operated as a Municipal Recreational facility.
c. If any or all of the common open space is to be reserved for use by the residents, the formation and incorporation by the developer of a neighborhood association shall be required prior to final plat approval.
d. Covenants for mandatory membership in the association setting forth the owner's rights and interest and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot.
e. This neighborhood association shall have the responsibility of maintaining the common open space(s) and operation and maintenance of local neighborhood recreational facilities , lawn, and landscaped areas within such open space(s).
f. The Association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open spaces and neighborhood recreational facilities.
g. The developer or subdivider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternately, the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request of the Neighborhood Association or the developer or subdivider.

12. The developer shall file with the Town of Scarborough at the time of submission of final plans a performance guarantee. This may be tendered in the form of a certified check payable to the Town or a faithful performance bond running to the Town and issued by a surety company acceptable to the Town. The conditions and amount of such check or performance bond shall be determined by the Treasurer of the Town of Scarborough with the advice of various Town departments or agencies concerned. The amount shall be at least equal to the total cost of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage, and utilities or other improvements specified in the final plan, and shall be conditioned on the satisfactory completion of all such specified improvements within a period agreed upon by the developer and the Planning Board.

13. For the purposes of this section the tract or parcel of land involved must be either in single ownership or the subject of an application filed jointly by the owners of all the property included.

C. CORNER CLEARANCES

To maintain safe traffic vision in all residential districts, between the side lines of intersecting streets and a line joining points on such lines, twenty feet distant from their point of intersection, or in the case of a rounded street corner, the point of intersection of their tangents, no building or structure may be erected and no vegetation other than shade trees may be maintained above a height of three feet above the plane through their curb grades.

SECTION VII.A. CONSERVATION SUBDIVISION DESIGN – FLEXIBLE DEVELOPMENT STANDARDS FOR LOWER DENSITY RESIDENTIAL DISTRICTS

[Amended 05/05/2010][Amended 07/16/2014] [Amended 01/20/16]

A. PURPOSE

Conservation subdivisions are intended to conserve and protect the town's freshwater wetlands, watercourses, farmlands, open space and natural features, while enabling more flexibility for residential developments to design around these natural features and resources. Conservation subdivisions allow the same net residential density on a given parcel as a conventional subdivision, but the use of alternative space and bulk requirements enable residential lots and dwellings to be clustered away from the natural or agricultural resources within a development. Conservation subdivision designs present many public benefits including: the conservation of wetlands; the avoidance of wetland impacts; the protection of watercourses and riparian corridors; the conservation of wildlife habitat; the conservation of productive agricultural uses, activities and soils; and the conservation of open space and forestlands for neighborhood use and recreation. Conservation subdivision designs also offer economic and maintenance benefits to the landowner, developer and town government through clustered development which enables shorter road lengths, less infrastructure, and less impact to the landscape. Conservation subdivision design shall be required to avoid and conserve Scarborough's freshwater wetlands and shall be encouraged to conserve Scarborough's forestlands, wildlife habitat, farms, agriculture and rural character.

B. APPLICABILITY

Conservation subdivisions are allowed in only the RFM, RF and R-2 Zoning Districts, subject to the requirements of Section VIIA.

1. Required conservation subdivisions**.** Conservation subdivision design is required in the RFM, RF and R-2 Districts when:

- **a.** The land to be subdivided contains one acre or more of wetlands.
- **b.** Twenty percent (20%) or more of the land to be subdivided is wetlands.
- **c.** Twenty percent (20%) or more of the land to be subdivided is within the Shoreland Zone under the Town of Scarborough Shoreland Zoning Ordinance.
- **d.** A subdivision will alter (through lot configurations and road, driveway and utility crossings) 4,300 square feet or more of wetland if designed and developed in a conventional layout.
- **e.** A subdivision proposes to include two-family and/or multi-family dwellings. [Adopted 05/05/10]

2. Elective conservation subdivisions**.** Where not required under Section VIIA(B)(1) above, conservation subdivision design may be permitted by the Planning Board in the RFM, RF and R-2 Districts in order to:

- **a.** Avoid, buffer and conserve wetlands, watercourses, water bodies, and shoreland zoned areas less in area and percentages than the thresholds requiring conservation subdivision design under Section VIIA(B)(1).
- **b.** Conserve agricultural fields, farming activities, forestlands, meadows, wildlife corridors, high value plant and animal habitat areas, or other natural areas, while accommodating residential development through flexible design.
- **c.** Establish open space to be used for active and passive recreational purposes that can complement and serve the residences within a conservation subdivision.

C. PERMITTED USES & SPECIAL EXCEPTIONS [Amended 05/05/10]
The Permitted Uses and Special Exceptions within a conservation subdivision shall be the same as those allowed within the zoning district in which the subdivision is approved.

D. DENSITY DETERMINATION
The maximum number of dwelling units permitted within the conservation subdivision shall be determined by the maximum net residential density allowed in the zoning district in which the conservation subdivision is located, and as calculated in accordance with the definition of net residential acreage. To demonstrate the number of dwelling units possible, an applicant shall submit a sketch or concept level conventional subdivision plan showing a lot layout complying with the space and bulk regulations of the applicable zoning district, the net residential density calculation, an upland area on each lot capable of sufficiently accommodating a building envelope and providing for drinking water and wastewater disposal, and a street layout in accordance with the Street Acceptance Ordinance of the Town of Scarborough. If the subdivision will be served by on-site well and wastewater disposal the lots in a sketch conventional plan shall each have at least 20,000 square feet of contiguous uplands.

E. SPACE AND BULK REGULATIONS
Notwithstanding other provisions of this Ordinance relating to space and bulk, the Planning Board, in reviewing and approving a proposed conservation subdivision, shall apply the following space and bulk regulations.

1. RF & RFM Districts

Maximum net residential density	1 dwelling unit per net residential 2 acres
Minimum lot area	30,000 sq. ft.
Minimum street frontage	100 feet
Minimum front yard, all buildings	25 feet
Minimum rear and side yards, all buildings	15 feet
Maximum building height	(See Section IX,A,15)
Maximum building coverage	25%

2. R2 Districts served by Sewer

Maximum net residential density	2 dwelling units per net residential acre
Minimum lot area	7,500 sq. ft.
Minimum street frontage	75 feet
Minimum front yard, all buildings	15 feet
Minimum rear and side yards, all buildings	15 feet*[1]
Maximum building height	(See Section IX,A,15)
Maximum building coverage	35%

1. The minimum side yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

3. For conservation subdivisions in areas of the R2 District that are not served by the public sewer system, or are not within a reasonable distance from public sewer system, the space and bulk standards of the R2 District shall apply. When determining a reasonable distance from the public sewer system, the Planning Board should consider factors such as the topography of the potential

sewer line extension; subsurface conditions within the potential sewer line alignment; the residential density and number of building lots proposed within the subdivision; and other similar factors.

4. Building lots may be clustered in groupings of three to five lots or may all be clustered in one contiguous area depending on the natural characteristics of the land, the location and size of upland areas, and the function and values of the open space. The minimum width of open space between any clusters of building lots shall be 50 feet. This minimum width shall be measured between the building lots' side property lines and is intended to provide separation between clusters of building lots along a road right-of-way. The size and dimensions of the larger, contiguous open space areas shall be designed in accordance with the applicable performance standards in Section VIIA(F) below.

5. The minimum lot area in the RFM and RF Districts shall be 30,000 sq. ft. as per Section VIIA(E)(1) above, except where a greater lot area minimum may be required in order to meet the Town Plumbing Ordinance and the Maine State Plumbing Code. Lot size determinations shall be made prior to preliminary plan approval.

F. CONSERVATION OF OPEN SPACE

The open space within a conservation subdivision may include freshwater wetlands, forested wetlands, saltwater marshlands, farmlands, fields, forestlands and recreation areas. Stormwater facilities including detention or retention ponds and similar facilities shall not be counted in meeting the minimum open space requirements unless the Planning Board finds that the purpose and other standards of this Section VIIA. are met. The open space shall be designed in accordance with the following performance standards depending on the purpose of the open space:

1. Within conservation subdivisions that are required pursuant to Section VIIA(B)(1) and are located in the RF District, REM District or within a sewered area of the R2 District, at least 50% of a subdivision's total land area shall be open space. The open space areas shall be contiguous areas that encompass and buffer the wetlands, watercourses, water bodies and other natural features within the subdivision. In addition to these wetlands and natural features, the open space may also include agricultural fields, farming activities, forest lands, wildlife corridors and habitat areas, or recreation areas that will be preserved or established as part of the subdivision as well as land designed to buffer these areas. In order to be counted toward the 50% requirement, an open space area must be at least one acre in size and include a minimum wetland buffer of twenty-five (25) feet from the upland edge of a wetland to any building lot boundary. The open space areas shall be connected and contiguous, consistent with the connectivity and network of the wetlands, watercourses, water bodies and other natural features within the subdivision. To the extent possible, open space shall connect to open space lands existing or proposed on adjacent properties. The open space areas within conservation subdivisions shall also be consistent with the performance standards that apply to the type and function of the open space. Building lots shall be designed on the accessible and contiguous upland areas in clusters according to Section VIIA(E)(3) to prevent fragmentation of the open space tracts and to lessen road lengths, infrastructure needs and wetland or stream crossings. The Planning Board may permit open space parcels that are not contiguous and are less than one acre in size, as per Section VIIA(G), if the intent and purpose of this Section VIIA is fulfilled.

2. Within conservation subdivisions that are required pursuant to Section VIIA(B)(1) and are located in an unsewered area of the R2 District or conservation subdivisions that are elected pursuant to Section VIIA(B)(2) a., at least 40% of a subdivision's total land area shall be open space. The open space areas shall be contiguous areas that encompass and buffer the wetlands, watercourses, water bodies and other natural features within the subdivision. In order to be counted toward the 40% requirement, these open space areas shall include a minimum wetland buffer of twenty-five (25) feet, but the open space areas may be less than one acre in size depending on the size and configuration of wetlands or other natural features. The open space areas shall be connected and contiguous, consistent with the connectivity and network of the wetlands, watercourses, water bodies and other natural features within the subdivision. Building lots shall be designed on the accessible and contiguous upland areas in clusters according to Section VIIA(E)(3) to prevent fragmentation of the open space tracts and to lessen road lengths, infrastructure needs and wetland or stream crossings. The Planning Board may permit open space parcels that are not contiguous, as per Section VIIA(G), if the intent and purpose of this section is fulfilled.

3. Within conservation subdivisions that are elected pursuant to Section VIIA(B)(2)(b) or (c), at least 40% of a subdivision's total land area shall be open space. The open space areas shall encompass and buffer the wetlands, watercourses, water bodies and other natural features within the subdivision. In addition, the open space may encompass and buffer the agricultural fields, farming activities, forest lands, wildlife corridors and habitat areas, or recreation areas the conservation subdivision is intended to preserve or establish. In order to be counted toward the 40% minimum requirement, the open space areas shall be connected and contiguous and shall each be at least one acre in size. To the extent possible, open spaces shall connect to open space lands existing or proposed on adjacent properties. The open space areas within conservation subdivisions shall also be consistent with the performance standards that apply to the type and function of the open space.

4. Open space lands that are conserved to be used and maintained for agricultural activities shall meet the following standards:

- **a**. The open space land(s) intended for agricultural activity shall not be intermingled with a cluster of residential lots within a conservation subdivision, but rather shall be designed as larger, contiguous tracts of land appropriate in dimensions and area to enable agricultural activities to occur at a level deemed appropriate by the Planning Board. For example, agricultural fields and activities should be designated along a road at the entrance to a subdivision, within a central common between clusters of residential lots, or at the rear of subdivision behind a cluster of residential lots, as opposed to designating agricultural activities on smaller open space strips between residential lots.
- **b**. The specific agricultural activity shall require Planning Board approval. When determining the appropriateness of an agricultural activity within a conservation subdivision the Planning Board shall consider the noise, dust, odors, and other impacts that may result from the proposed agricultural activity. The Planning Board may require specific buffering, hours of operation and seasons of operation, and may restrict the type and intensity of agricultural use or activity based on the above considerations. Any conditions or restrictions imposed by the Planning Board shall be consistent with best

management practices as determined by the Maine Department of Agriculture, Food and Rural Resources.

c. No access to the agricultural use by vehicles, equipment or livestock associated with the agricultural activity shall be planned or allowed over residential lots as part of the conservation subdivision. Separate access to the agricultural use for operational purposes shall be required.

d. The size and location of any agricultural building(s) associated with the agricultural use of the open space shall be approved by the Planning Board.

e. The open space lands may be owned jointly by the owners of the residential lots within the subdivision, or may be permanently conveyed to a corporation or trust owned or to be owned jointly by the owners of the residential lots within the subdivision or to a recognized nonprofit conservation group, a land trust or the Town as approved by the Planning Board. Alternatively, open space land preserved for agricultural activity may be held in private ownership separate from the ownership of the residential lots within the subdivision, provided that all the agricultural open space within the subdivision is held in the same ownership. A deed restriction prohibiting further use and development of the open space parcel(s) beyond the specified agricultural use(s) and building(s) shall be required. Allowance for modification of the uses within that deed restriction shall require a subdivision amendment and Planning Board approval.

5. Open space lands that are conserved as wetlands, forestlands, meadows and other natural areas shall meet the following standards:

a. Conservation subdivisions utilized to preserve wetlands, forestlands, meadows, wildlife corridors, wildlife habitats and other natural features shall be designed with the open space lands encompassing the most significant wildlife areas, mature forestlands or natural features within the subdivision. The open space lands shall be as large and contiguous as possible to provide the highest wildlife habitat and passive recreation values possible.

b. Open space lands may include a trail system for walking, hiking, biking or similar activities. This trail system shall be included on the subdivision plan, including a cross-section and limit of clearing, and should link with adjacent trails if possible.

c. The open space lands shall be owned jointly by the owners of the residential lots within the subdivision, or shall be permanently conveyed to a corporation or trust owned or to be owned jointly by the owners of the residential lots within the conservation subdivision, to be used for open space and recreational purposes, as specified above and as approved by the Planning Board, and shall not be further subdivided, used for building purposes or used for other recreational activities. A deed restriction to this effect shall be required. Any allowance for modification of the uses within that deed restriction shall require a subdivision amendment and Planning Board approval.

d. As an alternative to Section VIIA(F)(5)(c), the open space lands may be preserved as such by being conveyed to a recognized non-profit conservation group, land trust or the Town as approved by the Planning Board. This conveyance shall also be accompanied by a deed restriction limiting the use of the land to the specific open space and recreational purposes approved by the Planning Board. Any allowance for

modification of the uses within that deed restriction shall require a subdivision amendment and Planning Board approval.

6. Open space lands designed to accommodate passive and active recreational facilities or amenities shall meet the following standards:

- **a.** The active and passive recreational areas may include facilities exclusively for the use of the residents of the subdivision such as neighborhood commons, gardens, picnic areas, playing fields, playgrounds, courts, bikeways or a combination thereof, or for use by the general public, or may be privately owned and operated as commercial recreational facilities such as golf courses, cross country ski areas and other commercial outdoor recreational uses.
- **b.** Recreational areas shall be designed and located in a manner that is accessible to all of the residential dwellings in the subdivision. The open space and recreation areas may include sidewalks, footpaths, trails, driveways and parking areas to facilitate accessibility. Such amenities and infrastructure shall be reviewed and approved by the Planning Board.
- **c.** Commercial recreational areas and facilities shall be principally identified by the use of open, outdoor space and shall have minimal structure development. If any of the facilities will be privately owned by an entity other than the owners of the dwelling units in the subdivision, permanent provisions must be established that allow residents of the subdivision use of the open space or designated facilities within the open space. Access to commercial recreational facilities for subdivision residents on a no-fee or reduced fee basis approved by the Planning Board can meet the requirement for resident access to the open space.
- **d.** The size, location and impervious area of any recreational facility or amenity shall be reviewed and approved by the Planning Board. The Planning Board may consider stormwater runoff, lighting, proximity to residential dwellings, buffering, traffic impacts, compatibility with the residential development, and similar factors in their review.
- **e.** Recreation areas shall be owned jointly by the owners of the residential lots within the subdivision, or shall be permanently conveyed to a corporation or trust owned or to be owned jointly by the owners of the residential lots within the conservation subdivision, to be used for open space and recreational purposes, as specified above and as approved by the Planning Board, and shall not be further subdivided, used for building purposes or used for other recreational activities. A deed restriction to this effect shall be required. Any allowance for modification of the uses within that deed restriction shall require a subdivision amendment and Planning Board approval.
- **f.** As an alternative to Section VIIA(F)(6)(a) and (d), the recreation areas may be conveyed to the Town and may be open to use by the entire community if specifically approved by the Planning Board and agreed to by the Town Council. If open to community use, the recreation areas shall be sited in a location that is easily accessible to the public with minimal traffic impacts to the residential component of the conservation subdivision; shall provide adequate visitor parking based on the recreation area's size and intended uses; and shall include buffers to the residential lots within the conservation subdivision to separate public and private space.

g. When parking areas are proposed, they shall be designed and constructed with pervious and semi-pervious alternatives to bituminous pavement, if possible. Such alternatives may include porous pavement blocks, grassed interlocking paving systems, re-enforced turf and stone dust materials. These alternative parking surfaces are intended to minimize storm water run-off and facilitate infiltration and natural hydrological functions to the extent feasible.

h. If any portion of the open space will be owned by a private entity consisting of others than the owners of the lots or units in the subdivision, that open space shall be protected from future development or uses that are inconsistent with its function as open space that benefits the subdivision by the establishment of a permanent conservation easement to the Town of Scarborough or a land trust or conservation organization approved by the Planning Board, or the subdivision's home owners association. This easement shall be approved by the Town prior to approval of the subdivision by the Planning Board.

7. Open space lands, required pursuant to Section VIIA(B)(1), may be designed to conserve wetlands and other natural resources, while also accommodating agricultural or recreational uses and activities or solar or wind energy systems as allowed for under Section IX.. The Planning Board shall have the flexibility to allow a combination of open space functions so long as these functions and uses are in conformance with all of the above performance standards in Section VIIA(F)(1) through (6).

G. WETLAND AVOIDANCE AND IMPACTS

As stated in Section VIIA(A) and (F), one of the primary purposes of conservation subdivision design is to avoid wetland fills and alterations and to buffer wetlands from development and impacts. Therefore, wetlands within a conservation subdivision shall not be used, filled or altered, except as follows:

1. Where no practical alternative exists, the Planning Board may allow the crossing of wetlands for roads, driveways or utilities to provide access to, or use of, an upland area within a subdivision. To approve this crossing the Planning Board must find that the wetland impact is minimized, that the upland area is consistent with the net residential acreage, and that all other standards of this ordinance are met.

2. Where no practical alternative exists, the Planning Board may allow the construction of footbridges, trails and docks within wetlands to provide communal access to the open space lands within a conservation subdivision. The footbridges, docks or similar structures shall be constructed on posts, pilings, or other structural supports to maintain the unobstructed flow of water and wetland connectivity.

3. The Planning Board may allow the restoration or enhancement of a previously altered, disturbed or degraded wetland to improve the functions and values of the wetland area. This allowance shall involve a restoration or enhancement program consisting of the wetland area subject to the program, the activities necessary for restoration or enhancement, a planting schedule and other necessary material as determined by the Planning Board.

4. The Planning Board may allow a wetland to be used for agricultural purposes in accordance with Section VIIA(F)(4) if the agricultural use is in existence within the wetland area at the time of subdivision. Any agricultural use shall be in accordance with Section VIIA(15)(M) of the Town of Scarborough Shoreland Zoning Ordinance.

H. RELATIONSHIP TO OTHER ORDINANCE PROVISIONS

1. When a conservation subdivision is required or elected, the provisions of this Section VIIA shall apply in place of the provisions of Section VII.

2. This Section VIIA does not alter or supersede any requirement of the Scarborough Shoreland Zoning Ordinance for any portion of a conservation subdivision located within the Shoreland Zone.

I. WETLANDS DEFINED

As used in this Section VIIA, and notwithstanding any other definitions in this ordinance or the Scarborough Shoreland Zoning Ordinance, the terms "wetland," "wetlands," and "wetland areas" shall mean any of the following:

1. Coastal wetlands**.** "Coastal wetlands" means all tidal and subtidal lands, including all areas below any identifiable debris line left by tidal action; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service.

2. Floodplain wetland**.** "Floodplain wetland" means lands adjacent to a river, stream or brook that are inundated with floodwater during a 100-year flood event and that under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.

3. Freshwater wetlands**.** "Freshwater wetlands" means freshwater swamps, marshes, bogs and similar areas that are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

4. Forested wetland**.** "Forested wetland" means a freshwater wetland dominated by woody vegetation that is 6 meters tall, or taller.

It is the intent of this Section VIIA that the terms wetland, wetlands and wetland areas shall be interpreted and applied in the same fashion as the terms listed above are interpreted and applied by the Maine Department of Environmental Protection under the Natural Resources Protection Act, Title 38 of the Maine Revised Statutes, Chapter 3, Subchapter 1, Article 5-A.

SECTION VII.B. EXIT 42 ECONOMIC DEVELOPMENT OVERLAY DISTRICT [Deleted 06/20/1]

SECTION VIIC. RESIDENTIAL DENSITY AND AFFORDABLE HOUSING PROVISIONS
[06/06/2007][amended 11/06/2013; amended 03/09/18; amended 12/19/18; amended 06/07/2023; amended 07/19/2023

A. RESIDENTIAL DENSITY FACTORS [amended 07/19/2023]

The following density factors apply only in those zoning districts that explicitly provide for residential density to be determined in accordance with these provisions. In those zones, the maximum number of dwelling units that can be placed on any site in accordance with the net residential density provisions shall be calculated based upon the following density factors for dwelling units that are located in two-family dwellings, multifamily dwellings, and/or mixed use buildings based upon the type of dwelling units proposed to be developed.

1. A dwelling unit with not more than one (1) bedroom and not more than seven hundred fifty (750) square feet of living space or a live/work unit with not more than one thousand two hundred (1,200) square feet of total floor area shall be counted as 0.5 dwelling unit for the purpose of the density calculation.

2. A dwelling unit with not more than two (2) bedrooms and not more than one thousand two hundred (1,200) square feet of living space or a live/work unit with not more than one thousand eight hundred (1,800) square feet of total floor area shall be counted as 0.66 dwelling unit for the purpose of the density calculation.

3. A dwelling unit with three (3) or more bedrooms or more than one thousand two hundred (1,200) square feet of living space or a live/work unit with more than one thousand eight hundred (1,800) square feet of total floor area shall be counted as 1.0 dwelling unit for the purpose of the density calculation.

B. AFFORDABLE HOUSING DENSITY BONUS [adopted 07/19/2023]

This section applies to affordable housing developments approved on or after July 1, 2023, located in a zoning district where multifamily dwellings are allowed, and either be located in a designated growth area of the Town of Scarborough or be served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system.

1. For affordable projects meeting the requirements herein, the maximum density shall be 2 1/2 times the base density that is otherwise allowed in that location.
2. For the purposes of this section, "affordable housing development" means:
    a) For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs; and

    b) For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the

household's monthly income on housing costs.

3. Rate of growth permits shall apply in accordance with Chapter 413.
4. Reduced Parking Standards. Two (2) off-street parking spaces shall be required for every three (3) units.
5. Minimum lot size and setback requirements shall apply in accordance with zoning standards as applicable.
6. Shoreland Zoning requirements shall apply as applicable.
7. Subdivision Ordinance shall apply as applicable.
8. All other ordinance requirements not specifically addressed within this section shall apply as applicable.
9. The owner of the affordable housing development must execute a restrictive covenant, recorded in the appropriate registry of deeds, for the benefit of and enforceable by a party acceptable to the municipality, to ensure that for at least 30 years after completion of construction:
    a) For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and
    b) For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.
10. The owner of an affordable housing development shall provide written verification to the municipality that each unit of the housing development is connected to adequate water and wastewater services before the municipality may certify the development for occupancy. Written verification under this subsection must include:
    a) If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;
    b) If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42;
    c) If a housing unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and
    d) If a housing unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.
11. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other

agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

C. AFFORDABLE HOUSE IN LIEU FEE [adopted 11/06/2013; amended 07/19/2023]

This mechanism enables developments in designated zoning districts to contain additional residential density if a fee is paid per additional dwelling unit to support the creation of affordable housing within the community. These provisions may only be applied to residential developments that require subdivision and/or site plan review by the Planning Board within zoning districts that explicitly allow for the affordable housing in-lieu fee.

Affordable House in Lieu Fees factors do not apply to affordable housing projects receiving density bonuses based on Section VIIC. B Affordable Housing.

The use of this mechanism requires Planning Board review and approval in accordance with the following provisions:

1. An application for use of the affordable housing in-lieu fee shall be submitted by the applicant as an element of their overall submission for subdivision and/or site plan review and approval. This submission shall include the number of additional dwelling units proposed utilizing the affordable housing in-lieu fee, the proposed dwelling unit types, and the overall residential density.

2. The payment of an in-lieu fell shall be required for each additional dwelling unit permitted through this provision, unless the zoning district in which the project is located allows for density to be determined on a bedroom and square footage basis in accordance with Section VII.C.(A) Residential Density. In these cases, the payment of a fraction of the fee shall be required for each unit in the same proportion as the density requirement for the type and size of the unit proposed (For example, a unit that is counted as half (0.5) a dwelling unit for density purposed required half (0.5) the fee amount as a full dwelling unit). The affordable housing in-lieu fee amount is listed in the Town of Scarborough Schedule of License, Permit and Application Fees (Chapter 311).

3. The total amount of the affordable housing in-lieu fees for the development may either be apportioned to each development phase for multi-phase projects or each dwelling unit or residential building lot within the development. In these cases the fees shall be paid prior to the commencement of construction of each phase of development or prior to the issuance of a building permit for each unit or lot. This scheduled of payment shall be established as part of the Planning Board approval for the development

4. These fees shall be paid to the Town of Scarborough.

5. Affordable housing in-lieu fees collected by the Town shall be deposited into a specific account, segregated from the Town's general revenue, and created for supporting the creation of affordable housing. These funds shall be used in accordance with the following: [Amended 06/07/2023]

a. The funds contributed to the specific account, entitled the Affordable Housing Initiative Fund, shall be used to further the establishment of affordable housing within the Cumberland County. More specifically, these funds may be used for the land acquisition, infrastructure, and/or building construction costs of an affordable housing project. [Amended 06/07/2023]

b. A portion of these funds may also be used for administrative, legal, engineering or other costs related to the planning, design, permitting, and property acquisition for an affordable housing project.

c. A portion of these funds may also be used to establish a revolving loan program to provide direct financial assistance to qualified homebuyers with down payments and other financing needs for purchasing affordable housing units.

d. The Affordable Housing Trust Fund may be used in combination with other Town funds, and other private, non-profit, and government funding for establishing affordable housing within the community.

e. The in-lieu fees contributed by a development shall not be used by the same or other developments to fund the construction of affordable housing required to meet a residential density bonus for the creation of affordable housing.

f. The in-lieu fees collected by the Town shall not be utilized to fund affordable housing portions of a development which are otherwise required to included affordable housing in order to meet minimum zoning standards. [adopted 03/09/18]

C. AFFORDABLE HOUSING CERTAINTY [Adopted 12/19/18]

1. Prior to the sale of an Owner-Occupied Affordable Housing Unit, the owner of the unit shall obtain approval from the Town Manager to transfer the unit to a new buyer. In determining whether to approve the transfer, the Town shall determine whether the proposed buyer will be a Qualifying Household and that the sale price does not exceed the maximum sale price as defined in this Ordinance. The proposed buyer shall provide documentation, as reasonably requested by the Town, to support the transfer request. In granting the request, the Town shall be entitled to impose conditions upon the transfer to ensure that physical deficiencies and code violations are addressed and that delinquent property tax, water and sewer bills are paid.

2. Owners of Renter-Occupied Affordable Housing Units shall be required to certify that the units continue to be occupied by Qualifying Households on an annual basis to the Town Manager and in so certifying shall be entitled to rely upon the household certifications described in the following sentence. Households shall certify to Owners of Renter-Occupied Affordable Housing Units that they continue to qualify based on the standards in this Ordinance and shall provide documentation to support their certification upon the reasonable request of the Town through the Town Manager.

SECTION VII.D. DEVELOPMENT TRANSFER PROVISIONS [ADOPTED 06/20/2007]

A. PURPOSE

To provide a mechanism that will enable the transfer of residential development from the Town's limited and very low density growth areas to the Town's growth areas in order to maintain the rural character and development pattern of the limited and very low density growth areas, while directing growth to the higher density, more urban growth areas of Town. Development transfer may be accomplished by the payment of fees for additional residential density within developments located in the growth areas of Town, with the fee revenue to be used to conserve potentially developable land within the Town's limited and very low density growth areas. Alternatively, development transfer may be achieved by the transfer of development rights from the limited and very low density growth areas to the growth areas of Town. These provisions are allowed pursuant to 30-A M.R.S.A. Section 4328 and are in accordance with the Future Land Use Plan of the 2006 Update of the Comprehensive Plan.

B. APPLICABILITY

Development transfer provisions may be applied to residential or mixed use developments located within zoning districts designated as growth areas in the Future Land Use Plan of the 2006 Update of the Comprehensive Plan if the zoning district's space and bulk regulations specifically allow for development transfer.

Within zoning districts that allow for development transfer, these provisions may only be applied to new residential and mixed use developments that require subdivision and/or site plan review by the Planning Board. Further, these provisions may not be applied to a lot(s) in a residential subdivision that was approved prior to the enactment of this subsection. The Planning Board may allow these provisions to be applied to a lot(s) within a commercial or mixed use subdivision that was approved prior to the enactment of this subsection.

C. PERIODIC REVIEW BY THE TOWN COUNCIL

The Town Council must review the development transfer mechanism at least once every three years to evaluate if the program is working as intended and if any changes need to be made to the provisions of this section or to other Town ordinances, programs, or activities. As part of its periodic review, the Town Council must review the fee per dwelling unit credit to evaluate whether an adjustment to this fee is warranted based on changes in the value of raw, undeveloped land within the limited growth and very low density growth areas.

If the balance of unencumbered development transfer fees that have been collected but not spent exceeds one million five hundred thousand dollars ($1,500,000) at any point, the Town Council must conduct a review of the program within ninety (90) days to determine if the intended transfer of development is likely to occur, if modifications need to be made to the mechanism, and if the provision for the payment of development transfer fees should be suspended until land or conservation easements are acquired. In its review of the mechanism, the Council must consider pending commitments to acquire land or conservation easements and work in progress toward this objective.

D. DEVELOPMENT TRANSFER MECHANISMS

1. Development transfer can occur through the use of development transfer fees or the transfer of development rights.
2. The use of development transfer fees enables greater residential density (or an increase in the number of dwelling units) to be established in a development located within a growth area zoning district that allows development transfer through the payment of development transfer fees to the Town of Scarborough. The funds collected through this mechanism must be used for acquiring the ownership of, or conservation easements on, potentially developable land located in an area designated as a limited growth area or a very low density growth area in the Future Land Use Plan of the 2006 Update of the Comprehensive Plan, in accordance with Section VIID(G). The provisions for this mechanism are outlined in Section VIID(E) and (H).
3. Greater residential density (or an increase in the number of dwelling units) may be established within an applicable growth area zoning district through the transfer of development rights. The transfer of development rights mechanism enables residential density (or dwelling units) that could be created in an area designated as a limited growth area or a very low density growth area in the Future Land Use Plan of the 2006 Update of the Comprehensive Plan, to be applied to a development located within an applicable growth area zoning district. The provisions for this mechanism are outlined in Section VIID(E) and (H).

E. DWELLING UNIT CREDITS

Dwelling unit credits shall be used in determining the additional number of dwelling units and the dwelling unit types that can be established within a development in a growth area zoning district that permits development transfer based either on the transfer fees to be paid to the Town of Scarborough or the number of development rights to be transferred. The number of dwelling unit credits to be applied, the overall residential density, and the dwelling unit types must also be in accordance with the specific space and bulk regulations of the growth area zoning district in which the development is proposed.

1. Acquisition of dwelling unit credits. Dwelling unit credits may be acquired using one of the following two approaches:
    a. One (1) dwelling unit credit shall be issued for each payment of the fee per dwelling unit credit, in accordance with the Town of Scarborough Schedule of License, Permit, and Application Fees (Chapter 311).
    b. One and a half (1.5) dwelling unit credits shall be issued for each potential dwelling unit that could have been developed in the limited and very low density growth area zoning districts based upon Section VIID(H) that is proposed to be transferred to a development in a growth area.
2. Utilization of dwelling unit credits. A residential or mixed-use development in a growth area zoning district that allows development transfer may be built at a greater density or have more dwelling units than would otherwise be permitted through the use of dwelling

unit credits. One (1) dwelling unit credit shall be required for each additional unit permitted through development transfer unless the zoning district in which the project is located allows for density to be determined on a bedroom basis in accordance with Section VIIC(A) Residential Density. In this case, a fractional credit shall be required for each unit in the same proportion as the density requirement for the type and size of unit proposed (For example, a unit that is counted as half a dwelling unit for density purposes requires half a dwelling unit credit).

F. DEVELOPMENT TRANSFER FEE

The use of the development transfer fee mechanism requires Planning Board review and approval in accordance with the following provisions:

1. An application for use of development transfer fees for a development located within a growth area zoning district allowing development transfer shall be submitted by the applicant as an element of their overall submission for subdivision and/or site plan review and approval. The development transfer fee submission shall include:
    a. The number of dwelling unit credits proposed to be applied to the development and the total transfer of development fee based on Section VIID(E). The number of dwelling unit credits to be applied, the overall residential density, and the dwelling unit types must be in accordance with the specific space and bulk regulations of the growth area zoning district in which the development is proposed.
    b. The total amount of the development transfer fee shall be apportioned to each dwelling unit or residential building lot within the development and shall be paid prior to the issuance of a building permit for each unit or lot. The apportionment of the total fee amount to each dwelling unit or residential building lot shall be based on, and in accordance with, the dwelling unit credit value for the various dwelling types and living area and bedroom limitations outlined under Section VIID(E)(2).
    c. This fee shall be paid to the Town of Scarborough.

G. USE OF DEVELOPMENT TRANSFER FEES

Development transfer fees collected by the Town in accordance with Section VIID(F) shall be deposited into a specific account, segregated from the Town's general revenue, created for this purpose or into the Town's Land Acquisition Reserve Fund as directed by the Town Council. These funds shall be used in accordance with the following:

1. These funds shall be used for acquiring ownership of, or conservation easements on, potentially developable land located within the areas designated as limited growth areas or very low density growth areas in the Future Land Use Plan of the 2006 Update of the Comprehensive Plan.
2. Land acquired in fee shall be permanently restricted from future development. Likewise, conservation easements on land to remain privately owned shall permanently restrict future development. When development is restricted on private land through the establishment of a conservation easement, public access to that land may be, but is not required to be provided.
3. Land acquired in fee may be used for conservation, open space, farming, forestry, passive recreation, active recreation, or any combination thereof. For the purposes of this subsection, recreation facilities such as ball fields, parking areas, bleacher seating,

bathroom facilities, and the like shall not be considered development under Section VII.D.G.2. Similarly, agricultural facilities such as a barn, farmhouse, corral, and the like shall not be considered development under Section VIID(G)(2).

4. These funds may be used in combination with the Town of Scarborough's Land Acquisition Reserve Funds, recreation fee revenue, and other private, non-profit and government funding for acquiring ownership of, or conservation easements on, potentially developable land located in areas designated as limited growth areas or very low density growth areas in the Future Land Use Plan of the 2006 Update of the Comprehensive Plan.
5. A portion of these funds may be used for administrative, legal, and other costs related to the execution of land acquisitions of, or conservation easements on, potentially developable land outlined under Section VIID(G)(1) and to work with the owners of land to determine the number of dwelling unit credits available on their property in accordance with Section VIID(H).
6. In acquiring land or conservation easements, priority should be given, where possible, to parcels that are located in areas that if developed would have traffic impacts on the same roads and intersections as those impacted by the developments using the dwelling unit credits. This determination should be guided by the traffic studies conducted for the developments and the traffic impact fee areas associated with the impacted roads and intersections.

H. TRANSFER OF DEVELOPMENT RIGHTS

1. In order for land within areas designated as a limited growth area or a very low density growth area in the Future Land Use Plan of the 2006 Update of the Comprehensive Plan to be eligible to transfer development rights under this mechanism, the property shall meet the following criteria:
    a. The contiguous acreage in common ownership must be a minimum of ten (10) acres;
    b. A minimum of one (1) dwelling unit credit can be created on the property in accordance with Section VIID(H)(2)(b).

2. The establishment of dwelling unit credits under the transfer of development rights program requires Planning Board review and approval. An application for establishing the number of dwelling unit credits available on a parcel or portion thereof may be submitted by: a developer proposing to transfer the development rights to a development within the applicable zoning districts; a landowner seeking to establish development rights to be sold/transferred; or a non-profit conservation organization or land trust seeking to conserve land through the establishment and sale/transfer of development rights. The submission to the Planning Board shall include:

a. A Boundary Survey that indicates the boundary lines, dimensions and water bodies of the parcel of land or portion under consideration for development transfer. This survey shall be sealed by a professional land surveyor licensed by the State of Maine.

b. A net residential acreage calculation demonstrating the maximum number of dwelling units that could be created on the parcel of land or portion thereof in

accordance with *Section VI DEFINITIONS, Net Residential Acreage* and the applicable net residential density as per the *SPACE AND BULK REGULATIONS* of the zoning district in which the land is located and the other development and subdivision standards of the Town including limits on the length of dead-end streets. This calculation may use published or publicly available information for some features if the Planning Board determines that this information will provide a reasonably accurate assessment of the development potential of the property.

c. Documentation that indicates the owner of the land is willing to convey some or all of the development rights; a copy of the deed; and evidence of a clear title on the property.

d. The Planning Board or Town staff may also require a sketch plan depicting an approvable subdivision of the parcel of land should there be questions about, or discrepancies with, the calculation of the net residential acreage.

Based on the information submitted in accordance with Section VIID(H)(2)(a) through (d) above, the Planning Board shall determine the reasonable development potential of the parcel or portion thereof and therefore the number of dwelling unit credits eligible for transfer. In making this determination, the Planning Board shall be guided by the Town's desire to see development transferred to growth areas and therefore, shall apply these requirements reasonably and to the benefit of the landowner when there are questions as to the number of credits to be allowed.

3. When a development proposes to utilize dwelling unit credits through this mechanism the applicant shall submit the following as part of the overall submission for subdivision and/or site plan review and approval:

a. The number of dwelling unit credits that are proposed to be applied to the development using the transfer of development rights.

b. The origin of the dwelling unit credits to be established as per Section VIID(H)(2) If a developer proposes to establish the development rights, then Section VIID(H)(2) can be reviewed concurrently with the overall development review by the Planning Board.

c. The dwelling units to be established using dwelling unit credits shall be identified as such on the final subdivision plan and/or site plan to be approved by the Planning Board and to be recorded at the Cumberland County Registry of Deeds.

d. A draft conservation easement to govern the parcel of land that is proposed to be restricted from development. The easement shall limit the land use of the parcel to agriculture, forestry, undisturbed open space, passive recreation or a combination thereof.

e. A letter of commitment as the holder of the conservation easement from the Town of Scarborough, the State of Maine, a non-profit conservation organization, or a land trust.

4. The content and conditions of the conservation easement shall be reviewed and approved by the Planning Board, in collaboration with the Town Council, Town Staff, and the Town Attorney, as part of final approval for the development.

5. Evidence that the approved conservation easement has been recorded in the Cumberland County Registry of Deeds shall be provided to the Town Planner prior to the issuance of the first building permit for any dwelling unit identified as per Section VIID(F)(3)(c) above.

I. REGISTRY AND LANDOWNER ASSISTANCE

The Planning Department in conjunction with the Conservation Commission may provide assistance to landowners in limited growth and low density growth areas to evaluate the potential for development transfer and to facilitate the actual transfer of development. This assistance can be provided in conjunction with the Parks and Conservation Land Board or land trusts or other conservation organizations.

1. The Conservation Commission with assistance from the Planning Department shall maintain a registry that lists the owners of land in the limited growth or very low density growth areas that are interested in transferring their development rights by selling the dwelling unit credits from their property. The registry shall include information about the owner and the property and the potential number of dwelling unit credits available for transfer (if known). Listing in the registry shall be voluntary, shall be without charge, and shall include only the information desired by the landowner. The registry shall be available to the public and shall be posted on the Town's website. The registry shall be updated at least every three (3) months or whenever there is a change in the information provided by landowners.

2. The Conservation Commission shall establish a landowner assistance program for owners of land in limited growth or very low density growth areas that are interested in selling the dwelling unit credits from their property. This program is intended to help the property owner determine the number of dwelling unit credits they have available to be transferred. The provision of assistance through this program is voluntary and shall only occur at the written request of the landowner. The land owner assistance program shall focus on helping landowners to assemble/develop the information necessary to complete the net residential acreage calculation provided for in VIID(H)(2). As part of the program the Conservation Commission shall make published or otherwise available information including aerial photos, wetland mapping, medium intensity soil survey mapping, and maps of other natural resources and habitats available to a landowner at no cost to the landowner.

3. The Conservation Commission with assistance from the Planning Department shall prepare sample conservation easements and other documents that will be acceptable to the Town for the transfer of dwelling unit credits and make them available to interested landowners.

SECTION VII.E. ADDITIONAL REQUIREMENTS FOR PLANNED DEVELOPMENTS [adopted 11/07/2007]

SECTION VII.E. ADDITIONAL REQUIREMENTS FOR PLANNED DEVELOPMENTS [adopted 11/07/2007][Amended 03/18/2015]

A. GENERAL

Any proposal for a planned development must conform to the requirements of this section. The approval of a planned development involves a three phase process as follows:

(1) The Site Inventory and Analysis Phase involves the preparation and review of a detailed analysis of the existing conditions on the site, the opportunities and constraints these conditions create for the use and development of the site, and the factors that must be addressed in the development of the Master Plan for the planned development. This phase must be completed before the Master Plan is submitted to the Town. For projects involving less than five (5) acres or that consist of a single building, the Master Plan may be submitted at the same time as the Site Inventory and Analysis.

(2) The Master Plan Phase involves the preparation and review of a conceptual master plan for the overall planned development and the development standards that will apply to individual buildings, subdivisions, or phases of the development. Approval of the Master Plan and development standards must occur before any application is submitted for site plan review or subdivision approval.

(3) The Site Plan or Subdivision Review Phase involves the preparation and review of the detailed development plans for individual buildings, subdivisions, or phases of the development in accordance with the Town's Site Plan Review Ordinance (Chapter 405B) and/or Subdivision Ordinance (Chapter 406) requirements. In addition to conforming to the requirements of those chapters and the other zoning requirements, a planned development must demonstrate that it is consistent with the approved Master Plan and its development standards.

B. WHERE PERMITTED

Planned developments are permitted only in those zones where they are expressly allowed by the standards of the zone.

C. AREA INCLUDED IN A PLANNED DEVELOPMENT

The intention of these requirements is that a planned development includes a substantial area that will allow for the master planning of a significant development activity. If a parcel is less than ten (10) acres, the entire area of the parcel must be included in the planned development unless the Planning Board determines otherwise based upon the unique characteristics of the parcel or existing development on the parcel. For lots with ten (10) acres or more, the Planning Board may permit a portion of the parcel to be treated as a planned development, or the parcel to be treated as more than one planned development, if it finds that such treatment will be consistent with the provisions of this section and will result in a coordinated development approach for the entire holding. If the Planning Board allows a planned development that is less than the entire parcel, the planned development must include at least five (5) acres. If the Planning Board permits multiple planned developments on a parcel, the Site Inventory and Analysis Phase and the Conceptual Site

Plan and Preliminary Infrastructure Plan of the Master Plan Phase submitted for the initial planned development must cover the entire area of the parcel.

D. SITE INVENTORY AND ANALYSIS PHASE

The Site Inventory and Analysis is intended to provide the applicant, Planning Board, staff, boards and utility districts, and public with a better understanding of the overall site and the opportunities and constraints that the natural and built environment create for the use and development of the site. The expectation is that the preparation of the inventory and analysis will result in a Master Plan for the planned development that reflects and is sensitive to the conditions on the site, that preserves areas that should be protected from development or intensive use, that utilizes the areas of the site that are most suitable for development for intensive use and development, and that recognizes and addresses identified constraints or limitations of the site. The Site Inventory and Analysis phase must be completed before the Master Plan is submitted except as provided for in A(1).

(1) Procedures

a) The applicant shall deliver the Site Inventory and Analysis materials to the Planning Department with a request for the Board to initiate the review.

b) Upon receipt of a Site Inventory and Analysis submission, the Planning Department shall review the submitted material and determine whether the submission is complete considering any requests for waivers of the submission requirements within five (5) working days of its receipt. If the staff determines that the submission is incomplete, he/she shall notify the applicant in writing of this finding, shall specify the additional material required to make the submission complete, and shall advise the applicant that the item will not be scheduled for discussion by the Planning Board until the additional information is submitted. A determination of incompleteness by the Planning Department may be appealed, in writing, to the Planning Board. These steps shall be repeated until the submission is determined to be complete.

When the submission is determined to be complete, the staff shall place the item on the agenda for discussion by the Planning Board at a workshop, and distribute copies of the submission to the Town Manager, Town Engineer, Public Works Director, Police Chief, Fire Chief, and utility districts for their review and comment. In addition, the staff shall notify all abutters and other property owners within five hundred (500) feet of the pending request and the date, time, and place of the workshop meeting at which the Planning Board will initiate review of the Site Inventory and Analysis.

As per the Planning Board's municipal capacity to review development projects that otherwise would require review by the Maine Department of Environmental Protection under the Site Location of Development Law, planned developments that include a minimum of three (3) acres or more of building and impervious coverage or fifteen (15) or more lots on thirty (30) or more acres shall also be submitted and reviewed by the State of Maine regarding significant wildlife and fisheries habitat and natural resources and significant historic and archeological resources as follows:

The Maine Department of Inland Fisheries and Wildlife shall be provided with a complete Site Inventory and Analysis submission and shall have the ability to review and provide advisory comments on any significant wildlife habitat, aquatic habitat, fisheries habitat, or wildlife travel corridor on and within five hundred (500) feet of the site.

The Maine Historic Preservation Commission shall be provided with a complete Site Inventory and Analysis submission and shall have the ability to review and provide advisory comments on the presence of any significant historic or archeological resources that may exist on the site.

c) The Planning Board may hold a public on-site inspection of the site to review the existing conditions, field-verify the information submitted, and investigate the opportunities and constraints of the site. This inspection shall be a formal meeting of the Board. The Board may schedule this visit either before or after the initial workshop at which Site Inventory and Analysis is considered.

d) Prior to preparing its findings, the Planning Board shall provide the public with the opportunity to comment on the Site Inventory and Analysis and whether it accurately reflects site conditions, the opportunities and constraints for the use of the site, and the issues that need to be addressed in the Master Plan. This can occur as part of the Planning Board workshop or be a formal public hearing, public workshop, or other public session that allows for public comment on the submittal if deemed necessary by the Board. If the Board decides to hold a separate opportunity to allow public input, the board shall provide appropriate public notice of this opportunity including written notification of abutters and other property owners within five hundred (500) feet.

e) The Planning Board may request peer review on any aspects of the submission.

f) Within forty-five (45) days of the meeting for the initial consideration of the site inventory and analysis, the Planning Board shall provide the applicant with its findings in writing.

(2) Submission Requirements

The Site Inventory and Analysis submission shall include the appropriate application fee and fourteen (14) copies of the following five items plus any additional information the applicant wishes to submit to enable the Planning Board to evaluate the site and its development potential:

- A completed application form provided by the Town
-A Site Context or Locus Map
-A Site Inventory Plan
- A Site Analysis Plan
-A Site Analysis Narrative

Each item shall include all of the information set forth below together with any supplemental information desired by the applicant. The Planning Board may not waive the submission of any of the five required items, but may waive the submission of individual pieces of data or information required for any of the five required items upon written request of the applicant and a finding, by formal vote of the Board, that the information is not needed to understand the conditions of the site and the opportunities and constraints resulting from these conditions.

a) The Site Context or Locus Map shall show the location of the development in the Town and its relationship to adjacent property. The map shall be drawn at a size adequate to show the relationship of the proposed development to the adjacent properties within five hundred (500) feet of the site, and to allow the Board to locate the site within the municipality. The location map shall show:

    1. Existing subdivisions or other development in the proximity of the site.
    2. Locations and names of existing streets.
    3. Boundaries and designations of zoning districts.
    4. An outline of the land included in the planned development.

b) The Site Inventory Plan shall show the existing natural features and resources and the built environment on and within five hundred (500) feet of the site. The Plan shall be an accurate scale plan of the site at a scale of not more than one (100) feet to the inch. If this scale is not adequate to show critical details of the inventory, the Planning Board may require larger scale plans be provided for these portions of the site. The Plan must show the following as a minimum:

    1. The proposed name of the development, north arrow (True Meridian), date, and scale.
    2. The boundaries of the parcel based upon a standard boundary survey prepared by a registered land surveyor and giving the bearings and distances of all property lines.
    3. Existing restrictions or easements on the site (if none, so state).
    4. The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site as determined by the Town Planner.
    5. The location, extent, and, where appropriate, value or condition of the natural features of the site and within five hundred (500) feet of the site, including wetlands, vernal pools, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats, scenic views or areas, significant geological features, or other important natural features. Information on adjacent properties may be from published sources.
    6. The soils on the site through a medium intensity soil survey. The Planning Board may require the submission of a high intensity soils survey if it determines that a high intensity survey is required to evaluate the appropriate use of the property.
    7. Vegetative cover conditions on the property according to general cover type, and the identification of any exceptional specimens including any trees with a diameter at breast height of more than twenty-four inches.

8. Watershed and sub-watershed boundaries.
9. The groundwater hydrology beneath the site including any information from test pits, borings, or existing wells.
10. Existing buildings, structures, or other improvements on the site including streets, driveways, stone walls, fences, trails, and cemeteries (if none, so state).
11. The approximate locations of all culturally, historically or archaeologically significant buildings, features, or sites. In particular, buildings, features or sites listed by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or Section VII.H. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance shall be identified.
12. The location and size of existing utilities or improvements servicing the site (if none, so state).

c) The Site Analysis Plan shall be at the same scale as the inventory plan (see b. above) and highlight the opportunities and constraints of the site in a bubble diagram or annotated format. This plan must enable the Planning Board to determine: which portions of the site: 1) are unsuitable for development or use; 2) are well suited for the proposed use; 3) have potential conservation or open space value that should be addressed in the Master Plan; and 4) may be subject to or create off-site conflicts or concerns (noise, lighting, visual intrusion, traffic, etc.).

d) The Site Analysis Narrative must describe the existing conditions of the site, the constraints and opportunities created by the site, the potential for mitigating any potential conflicts or concerns, the development potential of the site, and the open space conservation potential of the site. This submission should include a narrative description of the existing road system that will provide access to the project and any issues related to traffic capacity, safety, sight distances, or other traffic considerations together with any preliminary studies done relative to the site including traffic studies, market studies, or other information that will help the Board understand the site and the proposed project.

(3) Planning Board Action

The Site Inventory and Analysis phase is informational and does not result in any formal approval or disapproval of the project. The Planning Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should be used and developed. The Planning Board shall also consider any input received from members of the Staff, other boards and commissions, utility districts, the Maine Historic Preservation Commission, the Maine Department of Inland Fisheries and Wildlife or members of the public. The Site Inventory and Analysis does not bind either the applicant or the board. The outcome of this phase of the review process shall be the identification by the Planning Board of the issues and constraints that must be addressed in the Master Plan and related submissions including proposed development standards.

E. MASTER PLAN PHASE

The Master Plan is intended to lay out, in general terms, how the planned development will be developed including the proposed use of various parts of the site, the primary road and pedestrian network, primary utility network, overall approach to stormwater management, proposed development areas, proposed open space areas, and proposed buffer areas and the development standards that will apply to development proposals. The intention of this phase is to provide the overall development framework for the district into which specific projects can then be fitted to produce a coordinated development.

(1) Procedures

a) The applicant shall initiate the review process by delivering the Master Plan materials to the Planning Department with a request for the Board to initiate the review.

b) Upon receipt of a Master Plan submission, the Planning Department shall review the submitted material and determine whether the submission is complete considering any requests for waivers of the submission requirements within five (5) working days of its receipt. If the staff determines that the submission is incomplete, he/she shall notify the applicant in writing of this finding, shall specify the additional material required to make the submission complete, and shall advise the applicant that the item will not be scheduled for discussion by the Board until the additional information is submitted. A determination of incompleteness by the planning staff may be appealed, in writing, to the Planning Board. These steps shall be repeated until the submission is determined to be complete.

When the submission is determined to be complete, the staff shall place the item on the agenda for discussion by the Planning Board, and distribute copies of the submission to the Town Manager, Town Engineer, Public Works Director, Police Chief, Fire Chief, utility districts, and Conservation Commission for their review and comment. In addition, the staff shall notify all abutters and other property owners within five hundred (500) feet of the pending request and the date, time, and place of the workshop meeting at which the Planning Board will initiate review the Master Plan.

c) The Planning Board may hold a public on-site inspection of the site. The Board may schedule this visit either before or after the initial meeting at which the Master Plan is considered. The site inspection is a formal meeting of the Board.

d) The Planning Board shall provide the public with the opportunity to comment on the Master Plan. This can occur as part of the Planning Board workshop or be a formal public hearing, public workshop, or other public session that allows for public comment on the submittal if deemed necessary by the Board. If the Board decides to hold a separate opportunity to allow public input, the board shall provide appropriate public notice of this opportunity including written notification of abutters and other property owners within five hundred (500) feet. e) Within forty-five (45) days of the workshop for the initial consideration of the Master Plan, the Planning Board shall approve, approve with conditions, or disapprove the Master Plan. The time for consideration of the Master Plan may be extended with the mutual consent of the applicant and the Planning Board. The Board shall provide the applicant with a written record of its action and supporting findings within seven (7) working days of its action.

(2) Submission Requirements. The Master Plan submission shall include the appropriate application fee, and fourteen (14) copies of the following six items plus any additional information the applicant wishes to submit to enable the Planning Board to evaluate the proposed development and the treatment of the site vis-à-vis the Site Inventory and Analysis:

- A Development Narrative
- A Conceptual Site Plan
- A Preliminary Infrastructure Plan
- A Neighborhood Impact Mitigation Plan
- An Environmental Assessment
- Development and Design Standards
- Historic Preservation Plan

Each item shall include all of the information set forth below together with any supplemental information desired by the applicant. The Planning Board may waive the submission of any of the six required items as well as the submission of individual pieces of data or information required for any of the six required items upon written request of the applicant and a finding, by formal vote of the Board, that the information is not needed to understand how the proposed development relates to the conditions of the site or the proposed nature of development, or that the information is not appropriate given the scale of the development.

a) The Development Narrative must describe the overall nature of the proposed development, the general utilization of the site, the types and scale of anticipated development, and provisions to address the constraints and limitations identified in the Site Inventory and Analysis. The development narrative must specifically address how the planned development standards of the zone in which the development is located will be met.

b) The Conceptual Site Plan must be an accurate, scaled plan at the same scale as the Site Analysis Plan submitted in the Site Inventory and Analysis Phase and show the proposed layout of the site, the proposed use of various parts of the site, the primary road and pedestrian network, primary utility network, overall approach to stormwater management, proposed development areas, proposed open space areas, and proposed buffer areas. The conceptual site plan may show proposed uses in a bubble diagram or similar conceptual format and does not need to include the location of individual buildings. However, if buildings are not shown on the conceptual site plan, the development standards (see f. below) must address the site and architectural design issues related to the design of individual buildings and sites.

c) The Preliminary Infrastructure Plan must show the layout and preliminary design of the various infrastructure components that will serve as the core infrastructure for the site if the site will have any internal infrastructure/utility networks. This should address off-site infrastructure improvements where necessary. The Plan should include the proposed primary road network within the development as well as access into and out of the site, the public water and sewerage systems, the overall approach to stormwater management including any mitigation activities to comply with state stormwater requirements, electric,

cable, and fiber optic systems, and any shared or common facilities such as parking or service areas.

d) The Neighborhood Impact Mitigation Plan must describe how the impacts of the proposed development on neighboring residential areas including traffic, noise, exterior lighting, and visual considerations will be minimized. The impact mitigation plan must specify the areas that will be retained as buffers and how those areas will be treated and protected. The plan must include any specific standards or requirements that will be imposed on individual buildings or projects such as increased setbacks, buffering or landscaping, and similar measures.

e) The Environmental Assessment must identify and evaluate the importance of the natural resources on the site based upon the Site Inventory and Analysis, detail how the Conceptual Site Plan has been designed to minimize encroachment on high value resources identified in the Site Inventory and Analysis, describe actions that will be taken to reduce adverse impacts on these resources from the proposed use of the site, and what mitigation activities will be undertaken to compensate for any undesirable negative impacts. The Environmental Assessment must also address how the development will conform, in a general sense, to federal, state, and local environmental regulations.

f) Development and Design Standards that will apply to individual buildings or projects if the Conceptual Site Plan does not address site and building design issues. The standards should assure that the development will conform to the design elements of the zoning district in which it is located, as well as the Design Standards for Scarborough's Commercial Districts, and result in a coordinated, visually-integrated development. These standards must address, at a minimum, parking layout and design, landscaping, exterior lighting, signage, pedestrian and bicycle facilities, noise, and architectural design and details.

g) Any historic or archeological resource that has been identified by the Maine Historic Preservation Commission, the Town's adopted Comprehensive Plan, or Section VII.H. Historic Preservation Provisions of the Town Scarborough Ordinance should be preserved and incorporated into the development plan in a manner that retains its historic or archeological value if feasible. If an identified resource will be removed or will be altered in a manner that diminishes its historic or archeological value, the burden is on the applicant to demonstrate that options for preserving the resource have been explored. The Planning Board, Planning Department, and the applicant my consult the State Historic Preservation Office, the Scarborough Historical Society, or similar organizations with the mission of historic and archeological preservation on options for preserving the resource. If the resource will be removed, the applicant must demonstrate that reasonable efforts have been made to preserve the resource value or relocate it to another location.

(3) Planning Board Action

The Planning Board shall approve the Master Plan only if it finds that it complies with the following criteria. The Planning Board may impose conditions on its approval of the Master

Plan if it finds that such conditions are necessary for the Master Plan to comply with the approval criteria:

a) The Master Plan is consistent with the Site Inventory and Analysis and reflects a reasonable utilization of the site given both environmental and built-environment considerations. Areas that are proposed to be intensively developed or used are located in the areas identified for development in the Site Inventory and Analysis. Areas that were identified as being unsuitable for development in the Site Inventory and Analysis are protected and the adverse impacts of development mitigated. Areas that were identified as having open space or conservation and natural resource value in the Site Inventory and Analysis have been addressed and the resource value maintained through the utilization of the site, mitigation activities, and/or on or off-site compensatory activities. Other issues and concerns identified in the Site Inventory and Analysis have been appropriately addressed in the Master Plan.

b) The Master Plan is consistent with the space and bulk standards, the development standards, and other requirements for planned developments in the zoning district in which it is located.

Section VII.F. AQUIFER PROTECTION OVERLAY DISTRICT

A. PURPOSE

The purpose of the Aquifer Protection Overlay District is to protect the quality of the groundwater in significant sand and gravel aquifers by managing land use activities and development that occurs in the areas located above these deposits. The standards focus on minimizing the potential for contamination of the groundwater from:

- improperly functioning subsurface wastewater disposal systems
- leakage or spillage of heating oil and similar products
- leakage or spillage of commercial chemicals and petroleum products
- improper application or use of agricultural chemicals and fertilizers
- the infiltration of "untreated" stormwater runoff from impervious surfaces

B. APPLICABILITY

The requirements of the Aquifer Protection Overlay District apply to all land use and development activities that are located above a "significant sand and gravel aquifer" as identified by the Maine Geological Survey and depicted on the "Official Zoning Map". Where there is uncertainty about the boundary of the Overlay District, the burden of proof shall be on the owner(s) of the land in question to provide the Code Enforcement Officer with information from a qualified professional geologist, geotechnical engineer, or soil scientist as to the location of the aquifer to assist the Code Enforcement Officer in delineating the boundary of the Overlay District.

The requirements and standards of this overlay district apply in addition to, and supplement the standards of the underlying zoning district in which the land is located as well as any other applicable standards of the Zoning Ordinance. If there is conflict between these standards and requirements and those of other provisions of the Zoning Ordinance or other Town ordinances, the more restrictive provisions apply.

C. PROHIBITED ACTIVITIES

The following uses of land and activities are prohibited within the Aquifer Protection Overlay District even if the use or activity is allowed in the underlying zone:

1. Disposal of solid waste (except brush and stumps), leachable wastes (except subsurface disposal of domestic-like wastewater as defined by the State of Maine), and sludge. This prohibition shall not apply to the land application of sewage sludge in accordance with Best Management Practices established by the Maine Department of Agriculture and/or Department of Environmental Protection.

2. The commercial storage of leachable wastes or solid wastes in an amount greater than typically associated with the principal use of the site.

D. REQUIREMENTS APPLICABLE TO RESIDENTIAL AND NONRESIDENTIAL USES AND ACTIVITIES

The following requirements apply to all residential and nonresidential uses and activities within the Aquifer Protection Overlay District.

1. Standards for Subsurface Wastewater Disposal Systems

a. All new or replacement subsurface wastewater disposal systems for residential and non-residential uses shall conform to the Town of Scarborough Plumbing Ordinance and the Maine Subsurface Waste Water Disposal Rules.

b. Any property owner or applicant proposing to install a subsurface wastewater disposal system for either a residential or non-residential use that uses one or more septic tanks with a combined capacity of more than one thousand two hundred fifty (1250) gallons or a system with a design capacity of more than two thousand (2000) gallons per day must demonstrate that nitrate concentrations in the groundwater will not exceed five (5) mg/L at all property lines of the parcel. No building, plumbing, or other permit, or Planning Board or Code Enforcement Officer approval shall be issued until this requirement is met. The property owner or applicant subject to this requirement shall submit a hydrological analysis demonstrating compliance with this standard as part of any application for a permit or Planning Board approval.

2. Standards for Fuel Tanks and Fuel Supply Lines

a. Any new or replacement tank for the storage of heating oil, kerosene, or other petroleum-based fuel for use on either a residential or non-residential site must be either a double-walled tank or be equipped with secondary containment meeting the Maine Department of Environmental Protection requirements for use in a "wellhead protection zone".

b. Any new or replacement tank for the storage of heating oil, kerosene, or other petroleum-based fuel for use on either a residential or non-residential site that is located outside of a building or structure must be white or a light color and be equipped with a filter protector designed to protect the filter from damage if the filter is not otherwise protected from possible damage by its design or location in the installation.

c. Any existing unprotected buried fuel line must be replaced by a properly sleeved fuel line in accordance with state requirements prior to: 1) the issuance of any plumbing, building, electrical, or other Town permit, or 2) the sale or transfer of the property to another party.

3. Standards for Floor Drains

a. Floor drains are not permitted in any area of a residential or non-residential building or site where chemical or petroleum products are used, handled, or stored.

b. Floor drains in other areas of the building or site must be registered with the State of Maine and a permit obtained if required. Proof of registration must be submitted prior to the issuance of any building or plumbing permit or any approval by the Planning Board or Code Enforcement Officer.

c. This provision does not apply to foundation drains, discharges of groundwater or stormwater from sump pumps, or similar uncontaminated discharges of groundwater or stormwater.

4. Standards for Stormwater Management

a. All new or expanded activity that requires site plan review must provide for the treatment of stormwater generated on the site.

b. This requirement for the treatment of stormwater can be met by one of the following:

1) Obtaining a stormwater permit from the Maine Department of Environmental Protection (DEP) in accordance with the Chapter 500 Stormwater Rules, or

2) If a state stormwater permit is not required, by submitting a stormwater management plan that either:

a) demonstrates compliance with the "basic standards" of Section 4 of Chapter 500 Stormwater Rules including the infiltration standards of Appendix D, and "the other applicable standards" of Section 5 of Chapter 500, or

b) provides for the treatment of 0.5 inches of stormwater runoff from ninety (90) percent of the impervious surfaces on the site and 0.2 inches of runoff from all disturbed pervious areas of the site using Low Impact Development (LID) practices as set forth in Chapter 10 of Volume III of the DEP BMP Technical Design Manual or other practices approved by the Planning Board.

c. The owner or operator of any property that must provide for treatment of stormwater under a. must also provide for the annual inspection and repair/replacement of all stormwater facilities as provided for in Chapter 419, Post-Construction Stormwater Infrastructure Management Ordinance.

E. ADDITIONAL REQUIREMENTS FOR NON-RESIDENTIAL USES

Non-residential uses and activities other than commercial agriculture and commercial animal husbandry must conform to the following requirements. These requirements do not apply to home occupations or other non-residential activities conducted in conjunction with an allowed principal residential use.

1. The use, storage, and handling of chemical and petroleum products in quantities greater than normal household use in conjunction with a non-residential use must conform to the following requirements. The storage of not more than six hundred sixty (660) gallons of fuel for heating and/or supply of an emergency generator or not more than twenty-five (25) gallons (or the dry weight equivalent) of other hazardous materials including fuel not for heating or generator supply shall be considered to be normal household use and is not subject to these requirements. Uses and activities in existence at the time of adoption of this provision that do not conform to these requirements may continue but must be brought into conformance with these requirements if:

i) The entire building is renovated, or

ii) The building is cumulatively enlarged by more than twenty (20) percent of the floor area or building volume existing as of April 1, 2011, or

iii) The amount of impervious surface on the parcel is cumulatively increased by more than twenty (20) percent of the impervious area existing as of April 1, 2011, or

iv) The use of property is changed, or

v) Facilities for the handling, use, or storage of chemical or petroleum products are modified, upgraded or expanded. In this case, only the new or modified facilities are required to be brought into conformance unless provisions i, ii, iii, or iv applies.

a. All chemical and petroleum products must be stored under cover and on an impervious surface without floor drains.

b. Secondary containment must be provided for liquid chemical and petroleum products with the capacity to contain 110% of the maximum stored volume. Provisions must be made for the removal of precipitation from the containment structure, unless the containment area is enclosed within a structure or completely covered by a roof.

c. Tanks for liquid chemical and petroleum products must be equipped with automatic shutoff valves and high level alarms.

d. Above-ground piping must be designed and located to prevent line breakage due to collisions including protection by bollards or similar devices that reduce the potential for the piping being struck.

e. Containers and piping must be constructed of corrosion resistant materials.

f. All containers and tanks for the storage of chemical and petroleum products must be labeled showing the contents.

The owner or operator of a facility that is subject to this section must prepare a Spill Prevention Control and Countermeasures Plan (SPCCP) meeting the requirements of the Maine Department of Environmental Protection and provide both the Code Enforcement Officer and Fire Department with a copy of the Plan. The SPCCP must include information on the procedures the Fire Department can use in the case of a fire to minimize leaching of chemicals to limit groundwater contamination.

2. Commercial vehicles including construction and other heavy equipment that are regularly parked or stored on the site of a non-residential use must be parked on an impervious surface. This requirement does not apply to commercial vehicles that are parked in conjunction with an allowed residential use or to commercial vehicles or equipment on a site during construction for which a permit or approval has been obtained from the Town.

3. All fueling or servicing of commercial vehicles or equipment on the site of a non-residential use must either occur on an impervious surface or with appropriate spill/drip containment including the use of portable drip pans.

F. ADDITIONAL REQUIREMENTS FOR COMMERCIAL AGRICULTURAL OR COMMERCIAL ANIMAL HISBANDRY USES

1. Any use of manure or agricultural fertilizers in conjunction with a commercial agriculture or commercial animal husbandry use must be done in accordance with Best Management Practices established by the Maine Department of Agriculture.

2. The use of agricultural pesticides and herbicides must conform to the rules and regulations of the Maine Board of Pesticide Control.

3. The use, storage, and handling of chemical and petroleum products in quantities greater than normal household use must be done in accordance with Best Management Practices established by the Maine Department of Agriculture and/or Maine Department of Environmental Protection. The storage of not more than six hundred sixty (660) gallons of fuel for heating and/or supply of an emergency generator or not more than twenty-five (25) gallons (or the dry weight equivalent) of other hazardous materials including fuel not for heating or generator supply shall be considered to be normal household use and is not subject to these requirements.

SECTION VII.G. TRANSMISSION TOWER OVERLAY DISTRICT – TTOD.

A. PURPOSE AND APPLICABILITY

The purpose of the Transmission Tower Overlay District is to establish specific geographic areas within the Town of Scarborough to allow for the appropriate siting of transmission towers in accordance with Section IX.F. Performance Standards – Transmission Towers and Telecommunication Facilities of this Ordinance.

B. PERMITTED USES

1. Transmission Towers subject to the performance standards of Section IX.F. of this Ordinance.
2. Any use permitted in the underlying zoning district in which the land is located.

C. SPECIAL EXCEPTIONS

1. Any special exception use allowed for in the underlying zoning district in which the land is located.

D. SPACE AND BULK REGULATIONS

The space and bulk regulations required in the performance standards of Section IX. F. of this Ordinance shall apply to Transmission Towers, otherwise the space and bulk regulations of the underlying zoning district shall apply.

SECTION VII.H. HISTORIC PRESERVATION PROVISIONS [Amended 06/03/2020]

A. PURPOSE

This section provides an inventory of the buildings and properties that the Town Council has identified as significant historical resources that contribute to the history, culture, identity and general welfare of the Town of Scarborough. In addition to identifying locally historic buildings and properties, the purpose of these provisions are to also provide zoning and land use measures and incentives to preserve, protect and enhance these community resources.

B. HISTORICAL PROPERTIES

The following is a list of buildings and properties of historical significance ("significant historical resources") that have been designated by the Scarborough Town Council:

Street Address	*Assessors Map/Lot*	*Current or Historical Property Name*
193 Beech Ridge Rd	R021005	Merry Farm
213 Beech Ridge Rd	R012012	Meserve Homestead
1 Bessey School Drive	U041002	Bessey School
134 Black Point Rd	R081015	Causeway Church
255 Black Point Rd	U014014	Cobble Stone House
319 Black Point Rd	R090010	Foss Homestead
428 Black Point Rd	R103010	Cobble Stone House
81 Black Point Rd	R073012	Hunnewell House
79 County Rd	R015078	Ralph Temm Homestead
74 County Rd	R015012	North Scarborough Grange
450 County Rd	R002005D	Universalist Church and Parsonage
1 Dresser Rd	R031020B	John Libby Homestead
12 Dunstan Landing Rd	U033013	Lettie Merrill Homestead
13 Dunstan Landing Rd	U033029	Noah Pillsbury Homestead
18 Dunstan Landing Rd	U033014	Jonathan Pilsbery Homestead
37 Dunstan Landing Rd	R065003	Old Fabyan House
49 Elmwood Ave	R057001	Owen Leighton House
4 Highland Ave	R081016	Abraham Plummer
184 Holmes Rd	R022009	Beech Ridge School
35 Hunnewell Rd	U048024	Roger Hunnewell House
39 Hunnewell Rd	U048023	Richard Hunnewell House

8 Lucky Lane	U029004	Ezra Carter Farm
100 Manson Libby Rd	R062006	Samuel Manson Libby Homestead
42 Manson Libby Rd	R062001	Libby Mitchell Post 76
34 Ocean Ave	U002171	Higgins Beach Inn
237 Pine Point Rd	U026049	1840 House
211 Pine Point Rd	U026058	The Old Maine House
248 Pine Point Rd	U025042	Old Blue Point Church
212 Pine Point Rd	U025002	John Harris Seavey House
265 Pine Point Rd	U024052	Proctor House
397 Route One	U038011	Dr. Haigis House
577 Route One	U034037	Southgate House
581 Route One	U034036	Southgate Barn
591 Route One	U034033	Dunstan School
605 Route One	U034029	Wayland
720 Route One	U029001	Mulbery Milliken Tavern
674 Route One	U032034	One Room Dunstan Schoolhouse
626 Route One	U032001	Dr. Bacon House
672 Route One	U032033	Benjamin Chadwick House
656 Route One	U032011	Dunstan Church (W Scar Methodist Ch)
647 Route One	U031033A	Scarborough Historical Society
649 Route One	U031033	Dunstan Grange Hall
152 Spurwink Rd	R098016	Ivory Kilburn House
194 Spurwink Rd	R097002	Stanford House
122 Two Rod Rd	R032001	Blossom Place
5 Winslow Homer Rd	U002044	Winslow Homer Studio

The standards the Town Council used in designating these properties as significant historical resources included: the age of the structure(s) on the property; the historical significance of the design and architectural features of the structure(s) on the property; the historical significance of the people associated with the property; and the historical significance of events associated with the property. This list of significant historical resources may be reviewed and updated by the Town Council from time to time by utilizing these standards as review criteria. When conducting a review and update to this list the Town Council may consult with the State Historic Preservation Office, the Scarborough Historical

Society, and/or a similar organization with background in historic preservation for information and guidance on compliance with these standards.

C. RESIDENTIAL DENSITY CREDIT FOR HISTORIC PRESERVATION

As an incentive to encourage the preservation of significant historical resources as identified by the Town of Scarborough as listed above, a property that includes the preservation of such significant historical resources may utilize a residential density "credit" in accordance with the following provisions and through Planning Board review and approval:

1. The subdivision or development plan shall be designed in a manner that preserves the identified significant historical resource and maintains, or improves, its historical nature and integrity. In the case of a historical building or structure that is in poor condition or disrepair, improvements may be necessary to repair or renovate the building or structure to restore its historical integrity, enable the long term preservation of the building or structure, and/or make it available for occupancy as determined by the Planning Board. The Planning Board shall also review and approve the form of long term preservation of the resource, which can be achieved by: establishing a historic preservation easement; by deed restriction; by donation to the Scarborough Historical Society, the Town of Scarborough, or similar organization with the mission of historic preservation; or by other means achieving long term preservation.
2. As part of the development review process the Planning Board shall review and approve the amount of land area necessary to preserve the significant historical resource (the "Preservation Lot"). The Planning Board shall ensure the land area is adequate to preserve the resource and configured to reasonably protect its historical significance. Unless already an existing legally nonconforming lot, the Preservation Lot shall be equal to the minimum lot area required for the zoning district it is in, unless the Planning Board determines additional land is required to preserve the significant historic resource due to certain landscape or other features.
3. Upon approval of the Preservation Lot by the Planning Board, the total number of dwelling units allowable within the remainder of the subdivision or development shall be increased by the number of dwelling units that exist within the historic building and/or are allowed for on the Preservation Lot, calculated by applying the net residential density requirement of the applicable zoning district to the net residential area of the Preservation Lot alone. This residential density increase, or "credit", for the remainder of the subdivision or development shall be in addition to the existing and/or allowed residential density within the historic building and/or on the Preservation Lot, as an incentive to encourage the preservation of the significant historic resource.

D. BUILDING CODE EXCEPTIONS

The Maine Uniform Building and Energy Code (MUBEC) and the National Fire Protection Association Codes (NFPA) may provide for specified code exceptions for historic buildings that are designated by a local jurisdiction or municipality as a means for helping enable the preservation of historic buildings and their character and construction. This subsection establishes that the inventory of significant historical resources listed under subsection B. above shall qualify as historic buildings under MUBEC and NFPA exceptions, unless otherwise excluded from these exceptions in the code standards.

SECTION VIII. BUFFER AREAS

No building shall be erected or any use permitted in non-residential districts, which abut residential districts unless the following side and rear yard requirements are satisfied:

1. All such side and rear yards abutting residential districts shall maintain the district boundary in its natural state to provide a visual screen between districts.

2. Where no natural buffering can be maintained all such side and rear yards abutting residential districts shall be landscaped to provide a visual screen between districts. Because of varying site conditions, landscaping for the purposes of this nay include tree plantings, hedges, fencing, walling and combination thereof.

SECTION IX. PERFORMANCE STANDARDS.

[Amended 05/05/2010; 01/02/16; 10/04/17;05/06/2020; 05/20/2020; 07/20/2022; 10/05/2022; 05/03/2022; 05/17/2023; 07/19/2023;10/18/2023; 09/04/2024; 11/20/2024; 01/08/2025; 03/19/2025; 08/20/2025]

A. GENERAL

1. Industrial waste waters may be discharged to municipal sewers only and in such quantities and/or of such quality as to be compatible with commonly accepted municipal sewage operations, and subject to the approval of the Scarborough Sanitary District.

2. Such wastes may require pretreatment at the industrial site in order to render them amenable to municipal treatment processes.

3. Pretreatment includes, but is not limited to screening, grinding, sedimentation, ph adjustment, surface skimming, chemical oxidation and reduction and dilution.

4. The disposal of industrial waste waters by means other than the municipal sewerage system must comply with the laws of the State of Maine and the Town concerning water pollution. Wash water or other process water carrying stone dust, stone particles, silt or other mineral matter will not be accepted into the municipal system. Representatives of the Town and for the Maine Department of Environmental Protection may enter into premises for the purpose of gauging, sampling and testing any waste water streams which may enter into water courses.

5. Dust, dirt and fly ash shall not exceed 0.3 grains per cubic foot of flue gas at stack temperature of 500 degrees Fahrenheit and shall in no manner be destructive, unhealthful, hazardous, nor shall visibility be impaired by the emission of a haze which unduly impedes vision within apparent opaqueness equivalent to No. 1 of the Ringlemann Chart as measured at any boundary line, using the procedures of the American Society of Testing Materials. Representatives of the Town and for the Maine Department of Environmental Protection may enter onto premises for the purpose of testing any and all sources of potential air pollution.

6. The limitations of paragraph 5, shall not apply to emission resulting from soot, blowing on any heat-transfer operation regardless of fuel source provided such emissions do not exceed an aggregate duration of more than one hour in any 24 hour period. Any industry emitting toxic or odoriferous substances must submit detailed plans to minimize such emissions to the Building Inspector before a permit is granted. Limitations of toxicity and odors of these substances shall be as set forth by the State of Maine.

7. All air pollution control shall comply with minimum State requirements and detailed plans submitted to the Building Inspector for approval, before a permit is granted.

8. Noise: Noise is required to be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness. Noise may be equal but not exceed, curing any consecutive 8-hour period, an average of 75 decibels at 600 cps measured at any boundary line. During the peak activity of 60 minutes in a 24-hour period a noise may not exceed 100 decibels at 600 cps when measured at the source.

9. Upset conditions, breakdowns, or scheduled maintenance of any water and air pollution control equipment shall not be deemed to be in violation of established limits as specified above. Such person responsible for such emissions will with all practical speed, initiate and complete appropriate reasonable action to correct the conditions causing such emissions to exceed said limits. The Town may take said appropriate and reasonable actions and assess the cost to the violator or owner.

10. No permit shall be issued in an industrial district for any use which may be offensive because of noise or vibration, odors or fumes, smoke or dirt, or because of fire or explosion or any other hazard or nuisance.

11. In case of doubt, the Building Inspector may employ such independent, recognized consultant necessary, at the expense of the applicant, to assure compliance with performance standards and all other requirements of this Ordinance related to the public health, safety and welfare and the abatement of nuisances.

12. Swimming pools shall be accessory buildings. Swimming pools of more than 100 sq. ft. of surface area, except above ground pools, shall be enclosed by a fence of at least 4 ft. in height, equipped with self-locking doors of such structure as to exclude children. Above ground pools of more than 100 sq. ft. surface area shall be enclosed by sides, barriers or a fence, any of which singly or in combination must be at least 4 ft. in height and shall be equipped with either (a) self-locking platform doors of such structure as to exclude children or (b) portable ladders which shall be removed when pool is not in use.

13. Tenting Camping Seasonal:

1. During the period beginning on April 1 and ending on December 1 of each year, tenting and camping in camping trailers or otherwise shall be allowed within such district or districts as the Town Zoning Ordinances allow.

2. During the period beginning on April 1 and ending on December 1 of each year, seasonal retail stores for selling food including candy and dairy products and variety merchandise shall be allowed within such district or districts.

3. Such district or districts shall be subject to the following restrictions:

a. No person may establish, own or operate a seasonal campground without a permit issued annually by the Building Inspector for which the applicant shall pay a license fee per camp site located in or planned to be located in such seasonal campground. Such fees shall be as specified in the Municipal Schedule of License, Permit and Application Fees established by order of the Town Council. A schedule of such fees shall be filed with the Town Clerk and may be changed from time to time. Such permit shall only be issued if the campground if found to conform to the requirements of this ordinance and all other pertinent municipal ordinances, state statutes, and rules and regulations of state departments having jurisdiction. [09/06/95]

b. Fires to be permitted only in specifically designated places and only under conditions and at times approved by the Fire Chief.

c. Service facilities which meet the following specifications be provided and continuously maintained in condition and in good operating order at all times when seasonal campground is open for business.

i. A continuous, adequate, safe and potable supply of water.

ii. Toilet facilities shall meet all requirements of the State Plumbing Code, and shall be specifically approved by the municipal health officer.

iii. The storage, collection and disposal of refuse shall not create health hazards, rodent harborage, insect breeding area, accident hazards of air pollution.

d. No sign shall exceed 50 square feet in area. Signs shall deal only with goods or services provided in the premises. The source of light of an illuminated sign must be shielded or concealed.

14. Parking & Storage. Parking or storage for more than one commercial motor vehicle is specifically prohibited as an accessory use in the R-2, R-3, R-4, and R-4A Districts except as accessory to a farm, truck garden or nursery. Parking or storage of more than two commercial motor vehicles is specifically prohibited as an accessory use in the RF District except as accessory to a farm, truck garden or nursery. Commercial vehicles shall not be parked or stored with engines, motors, or accessory motors in operation for an excessive period of time. [Amended 12/86][05/03/2023]

In any commercial district, the outdoor parking or storage of more than four commercial vehicles or fleet of vehicles in service for a permitted use must be approved by the Planning Board and shall be in an area to the rear or side of the building that is not easily seen from any street, or must incorporate appropriate screening so that vehicles are not easily seen from the street. The Planning Board may place a limit on the number of vehicles permitted to be parked or stored on a commercial property. Any parking spaces used for more than four fleet vehicles shall be in addition to the required parking pursuant to Section XI. [adopted 05/03/2023]

In any industrial district, the outdoor parking or storage of commercial vehicles is permitted in an approved parking space. [adopted 05/03/2023]

15. Number will be for further use. [Amended 05/20/2020]

16. Boat Storage. No vessel exceeding twenty-four (24) feet in length shall be stored or parked on any residential property unless the vessel is stored or parked so as not to violate the minimum front, rear and side yards for structures.

17. Timber Harvesting. On any lot where timber harvesting occurs, a minimum 50-foot wide buffer area shall be maintained between the property line and the harvesting activity. Slash shall be disposed of in such manner that it lies on the ground and no part thereof extends more than four feet above the ground.

18. Recycling Facilities.[03/06/96]

a. No Recycling Facility, as defined in Section VI of this Ordinance, shall be operated until a site plan is approved by the Scarborough Planning Board under the Scarborough Site Plan Review Ordinance. [03/06/96]

b. Any Recycling Facility which collects, stores or processes any material outdoors must comply with the same standards for screening as apply to automobile graveyards and junkyards under subchapter I of chapter 183 of Title 30-A of the Maine Revised Statutes. [03/06/96]

c. Any Recycling Facility which collects, stores or processes any material outdoors must receive an annual license from the Scarborough Town Council, which shall apply the same standards and procedures as apply to automobile graveyards and junkyards under subchapter I of chapter 183 of Title 30-A of the Maine Revised Statutes. [03/06/96]

d. All Recycling Facilities shall be subject to at least an annual inspection conducted by the Code Enforcement Officer and such other municipal officials as the Code Enforcement Officer may

designate for the purpose of determining compliance with all applicable Town ordinances and with all conditions of site plan approval. [03/06/96]

B. PERFORMANCE STANDARDS--IN-HOME OFFICES (2/01/95)

In any district, the Code Enforcement Officer may issue a permit for the operation of an in-home office by one or more residents of a dwelling unit as an accessory use to the dwelling unit. An in-home office shall not be considered a home occupation requiring a special exception permit if the following conditions are met:

a. customers or clients do not come to the dwelling to receive goods or services;

b. communication with customers, clients and business associates is principally by mail, electronic mail, telephone or other telecommunication device, and deliveries or pick-ups by truck, if any, occur at an average frequency not substantially greater than the ordinary frequency of delivery truck traffic at a single family residence.

c. there are no signs or any other exterior indications of the in-home office activity;

d. the activities conducted within the in-home office are limited to processes, such as data processing, word processing, desktop publishing and electronic research, which do not create noise, pollution or nuisance conditions detectable outside the dwelling;

e. the in-home office does not employ any persons who are not residents of the dwelling unit; and

f. there are no signs (other than a name on a mail box which complies with U.S. Postal Service regulations), exterior exhibits, exterior exhibits, exterior storage of materials or any other exterior indications of the in-home office.

The permit for an in-home office shall set forth the foregoing conditions and shall not be valid until the applicant agrees, by signing the permit, to operate the in-home office in compliance with those conditions. The permit shall list the names of the persons who will operate the in-home office and shall remain valid only so long as one or more of those listed persons continues to reside in the dwelling unit.

C. PERFORMANCE STANDARDS -- BOARDING CARE FACILITIES FOR THE ELDERLY

The following standards shall apply to all Boarding Care Facilities for the Elderly.

1. The minimum lot size shall be 5 acres.

2. The maximum density of residents' rooms shall be 14 rooms per acre and the total number of beds shall not exceed 1.3 times the number of residents' rooms.

3. No cooking facilities shall be permitted in any residents' rooms.

4. Occupancy of the residents' rooms shall be limited to persons over the age of 62 or households with at least one resident over the age of 62.

5. Notwithstanding Section IX (A)(15)(a) of this ordinance, buildings in which residents' rooms are located may be up to three (3) stories in height, provided they do not exceed thirty-five (35) feet in height.

6. The facility must be served by both public water and public sewer.

7. For facilities located in residential districts, the minimum front yard shall be 75 feet and the minimum side and rear yards shall be 50 feet. For facilities located in business districts, the minimum yard standards in the space and bulk regulations of that district shall apply. [Amended 06/20/12]

D. ACCESSORY OUTSIDE DISPLAYS. [04/94][06/03/98]

In any district a retail sales or service business, which operates principally within a building, may display merchandise or render services (other than dispensing of motor fuels) outside the building, provided such display or service is incidental and secondary to the business conducted within the building. No merchandise displayed under this subsection may be located in any required yard or buffer area, in any parking space required to meet the minimum standards of Section XI of this Ordinance or in any location which would interfere with (1) safe movement of pedestrians into and out of the building, (2) safe movement of pedestrians between parking areas and the building or (3) safe flow of traffic on the site. No such Accessory Outside Display shall be located on any property, which has received site plan approval from the Scarborough Planning Board under the Scarborough Site Plan Review Ordinance after April 6, 1994 except in areas designated for outside display on the site plan.

E. ACCESSORY OUTSIDE VENDING MACHINES. [04/94][06/03/98][09/05/12]

In the B-1, B-2, B-3, TVC, TVC-2, TVC-3, TVC-4 BO-R, I-O and Industrial Districts, and on the premises of a non-conforming use in any other district if such use is allowed in the B-1, B-2, B-3, TVC, TVC-2, TVC-3, TVC-4, BO-R, I-O or Industrial Districts, vending machines may be located outdoors, provided they are incidental and secondary to the principal use of the premises. No vending machines allowed under this subsection may be located in any required yard or buffer area, in any parking space, loading berth or loading bay required to meet the minimum standards of Section XI of this Ordinance or in any location which would interfere with (1) safe movement of pedestrians into and out of the building(s) on the premises, (2) safe movement of pedestrians between parking areas and the building(s) or (3) safe flow of traffic on the site. No such accessory outside vending machines shall be located on nay property which has received site plan approval from the Scarborough Planning Board under the Scarborough Site Plan Review Ordinance after April 6, 1994 except in locations designated for outside vending areas on the site plan. As used in this subsection (E), the term "vending machines" includes self-service mechanical dispensers such as soft drink machines, candy machines, cigarette machines and news racks and free-standing containers or racks from which customers pick up merchandise to be purchased inside the building, but excludes motor fuel pumps.

F. PERFORMANCE STANDARDS--TRANSMISSION TOWERS [Added 5/17/95]

The purpose of these standards are to allow for the appropriate siting of transmission towers and telecommunications facilities for wireless transmission and reception for the use and benefit of the general public, while minimizing adverse visual effects of transmission towers and telecommunication facilities through careful design, siting, and vegetative screening; avoiding potential damage to adjacent properties from tower failure and falling ice through proper engineering; and promoting cooperation of

service providers and the collocation of antennas. All new transmission towers and telecommunications facilities, or the increase in height of an existing transmission tower, as applicable, shall conform to the following standards and be reviewed and permitted under the Site Plan Review Ordinance by the Planning Board or as a Special Exception by the Board of Appeals, unless the changes to a tower comply with subsection 2(k). below.

1. Priority of Locations.

Applicants shall use the following procedure when proposing the siting and installation of any transmission tower or telecommunications facility. The siting of transmission towers, wireless transmission or reception antennas, and wireless telecommunications facilities must be located according to the priorities below: (a) new wireless transmission or reception antennas on existing transmission towers; (b) new transmission towers in the Industrial (I) and Light Industrial (LI) Districts; (c) new telecommunication facilities mounted on, or within, buildings and structures in the districts where they are permitted or special exception uses; and (d) new transmission tower in the Transmission Tower Overlay District (TTOD). The application shall demonstrate that a location of higher priority cannot reasonably fulfill the applicant's requirements for coverage improvements in the intended geographic area.

a. Existing Transmission Towers – When available, new wireless transmission or reception antennas shall be installed on existing transmission towers, provided that such installation will comply with the performance standards of this subsection.

b. New Transmission Towers within the I or LI Districts – New transmission towers are permitted in the I and LI Districts, but the Planning Board may not approve an application for a new transmission tower in the I or LI Districts unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a) above cannot reasonably accommodate the applicant's proposed facility.

c. New Telecommunication Facilities – New telecommunication facilities are permitted, but the Planning Board may not approve an application for a new telecommunications facility unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a-b) above cannot reasonably accommodate the applicant's proposed facility. The application and design of a new telecommunication facility shall comply with the performance standards of this subsection.

d. New Transmission Towers within the Transmission Tower Overlay District -New transmission towers are permitted in the TTOD, but the Planning Board may not approve an application for a new transmission tower within the TTOD unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a-c) above cannot reasonably accommodate the applicant's proposed facility.

As stated above, an applicant must submit substantial evidence and justification to demonstrate that a location of higher priority cannot reasonably accommodate the applicant's proposed facility. Justification may include evidence that: existing towers are not of sufficient height to

meet the applicants engineering requirements; existing towers do not have sufficient strength, capacity or expansion capabilities for additional antennas as determined by a Maine P.E.; a facility in a different location would not be suitable to adequately serve the intended geographic area necessary to meet the applicants requirements; a new transmission tower would cause electromagnetic interference with antennas on existing towers or structures in proximity to a proper location in the I or LI District; no buildings or structures were identified that could accommodate or would be suitable for installing a telecommunications facility, or where the owner of the building or structure rejected the installation of such a facility; and/or other reasons that a new transmission tower or telecommunications facility cannot meet the applicant's engineering requirements for the geographic area. This evidence shall be submitted to the Planning Board for review as part of any application for a new installation.

2. Standards for Transmission Towers.
In addition to the priority of location requirements in Section IX(F)(1) above, transmission towers must comply with the following performance standards:

a. Height.
(i) Within the Transmission Tower Overlay District the standard height limit for a new transmission tower shall be 130 feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may allow the standard height limit to be exceeded by up to an additional 20 feet, to a maximum of 150 feet, if the increase in height enables the collocation of additional antennas that otherwise could not be accommodated on the tower and results in no material increase in the visual impacts of the tower as determined by the Planning Board. The Planning Board may also require the height of a tower be reduced down by as much as 20 feet, to a maximum of 110 feet if the Board finds through review that reducing the tower height most effectively screen and mitigate the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces. When considering a reduction in the maximum tower height, the Planning Board shall ensure that such a reduction still accommodates the colocation requirements of subsection g.

(ii) Within the Industrial and Light Industrial Districts the height limit for a new transmission tower or the expansion of an existing transmission tower shall be 200 feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may require the height of a tower be reduced down by as much as 20 feet, to a maximum of 180 feet if the Board finds through review that reducing the tower height would materially reduce the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces, including to avoid the need for FAA lighting.

b. Minimum Lot Size and Setbacks.
(i). Within the I and LI Districts there is no minimum lot size for transmission towers, but the standard setback from the base of the tower to all property lines shall be a distance equivalent to 100% of the total tower height, including any attached transmitting or receiving antennas and devices. Accessory structures shall meet the minimum setbacks for the zoning district. The Planning Board may decrease the standard 100% setback if the applicant secures an easement(s) from the abutting property(s) that allows for a lesser setback. The easement shall allow the tower to be located closer to the property line than

the 100% requirement above. An easement from an abutting property shall not however enable a tower to be sited closer to the abutting property line than the minimum front, side and rear yard setback requirements of the zoning district and the combined distance of the easement from the property boundary and the setback must be equivalent to 100% of the tower height.

(ii) Within the Transmission Tower Overlay District, the minimum lot size for a new transmission tower shall be twenty-five (25) acres. The standard setback from the base of the tower to all property lines shall be a distance equivalent to 150% of the total tower height, including any attached transmitting or receiving antennas and devices. Accessory structures shall meet the minimum setbacks for the zoning district. The Planning Board shall have the discretion to either increase the standard setback up to 300% or decrease the standard setback down to 100% of the total tower height if it finds through review that siting the tower in a different location will better screen and buffer the tower from view of the surrounding properties, abutters, roadways and public spaces. The Planning Board may also decrease the standard 150% setback if the applicant secures a restrictive easement(s) from the abutting property(s) that allows for a lesser setback. The restrictive easement shall prohibit dwellings within the easement area so as to allow the tower to be located closer to the property line than the 150% requirement above. A restrictive easement from an abutting property shall not however enable a tower to be sited closer to the abutting property line than the minimum front, side and rear yard setback requirements of the zoning district, but the combined distance of the restrictive easement from the property boundary and the lot setback must be equivalent to 150% of the tower height.

After a transmission tower is approved and installed, the Planning Board may allow a reduction in the minimum lot size from 25 acres to a minimum of 5 acres and a setback distance equivalent to 150% of the total tower height including any attached transmitting or receiving antennas and devices. This lot size reduction is allowed only through Planning Board review to enable additional uses and/or subdivision of the parcel. The allowed reduction in original lot size shall not however reduce or lessen the buffering requirements under subsection (c) below and shall not increase the visual impact of the tower on surrounding properties, roadways and/or public spaces.

c. Buffering.

(i) Within the I and LI Districts, transmission towers shall be surrounded by a buffer of dense tree growth and vegetation that screens the facility and minimizes the visual impact from all directions. If the majority of the site is heavily vegetated with mature tree growth and effectively screens the facility, the Planning Board may require the existing vegetation to be preserved, and supplemented with new plantings where necessary, except for the minimum amount of clearing necessary to install the facility and provide access and utilities. If the site is already developed for a commercial or industrial use, the Planning Board shall have the authority to allow a reduced buffer based on site conditions and the current use of the property so long as the visual impacts of the tower are minimized to the extent practical.

(ii) Within the Transmission Tower Overlay District, all transmission towers shall be surrounded by a buffer of dense tree growth and vegetation that screens the facility and minimizes its visual impact from abutting properties, roadways and public spaces.

If the majority of the site is heavily vegetated with mature tree growth and effectively screens the facility, the Planning Board may require the existing vegetation to be preserved, and supplemented with new plantings where necessary, except for the minimum amount of clearing necessary to install the facility and provide access and utilities. If heavy vegetation and mature tree growth are not present to effectively screen the facility on one or more property lines or from surrounding roadways or public spaces, the Planning Board shall have the authority to require the tower to be sited in an alternative location on the property that exhibits an adequate buffer or screening as provided for under subsection (b)(ii) above. The Planning Board shall have the authority to require the landscape buffer be protected by a landscape easement specifying that the trees within the buffer not be removed or topped, unless the trees are dead or dying. This landscape easement may include a distance equivalent to 150% of the total tower height, be within the carrier's lease, and/or apply to buffering and vegetation on other areas of the site that provide effective screening.

d. Visual Impact Analysis.

In order to review and assess the suitability of the proposed buffering of a tower (under subsection c.), the optimal tower setback from adjacent property lines (under subsection b), the proposed color, style and height of the tower (under subsections a. and e.), and the towers overall visual impacts and effects, the Planning Board may require photo simulations of the tower within the landscape from a variety of perspectives, including surrounding roadways, abutting properties, and public spaces. In addition, the Planning Board may also require other simulations of the tower height and location within the landscape using a balloon test or similar method typical in the industry. Using this visual impact analysis the Planning Board shall have the authority and discretion to mitigate and minimize the visual impact of a tower by: specifying the required tower setback and location as provided for under subsection b., requiring changes and/or enhancements to the buffering as provided for under subsection c.; and regulating the tower height and style as provided for under subsections a. and e.

e. Tower Style.

Tower types shall be limited to monopole-style towers painted in a sky tone above the top of surrounding trees and in an earth tone below tree-top level or stealth towers exhibiting concealed antennas or camouflaging treatment, such as mono-pine towers, as determined by the Planning Board.

f. Lighting.

Towers and attached antennas and devices shall not be artificially lighted, unless required by the FAA or other federal or state agency. If lighting is required, the Planning Board may review the available lighting alternatives and require the design that would cause the least impact to surrounding properties and views.

g. Colocation.

All new transmission towers shall be designed and constructed to accommodate the colocation of additional antennas, equipment and facilities on the tower and site. To meet this standard the applicant, owner and all other tower users shall allow other commercial wireless telecommunication service providers using functionally compatible technology to collocate; shall provide a mechanism for the construction and maintenance of collocated antennas and infrastructure; and shall provide for reasonable sharing of costs

in accordance with industry standards. To ensure colocation and prevent the need for additional new towers within the same coverage area, the Planning Board may require an existing or new tower to be increased in height up to the maximum height allowed and/or make other accommodations in order to provide for colocation. When designing a tower and site for colocation the facility should be designed to accommodate the inclusion of at least three additional telecommunication service providers and shall have the structural integrity to accommodate these additional antennas and/or an expansion in height of the tower. The Planning Board may waive the requirement for colocation or the number of additional providers to be collocated, but only after the Planning Board reviews and determines with satisfactory evidence that technical constraints prohibit colocation.

h. Advertising.
No advertising or signage is permitted on transmission towers or any attached transmitting and receiving antennas or devices.

i. Coverage.
As part of any proposal the applicant shall submit a radio frequency coverage analysis showing existing or planned wireless facilities within 10 miles of the proposed location. Maps shall be supplied that indicate on street and in building coverage for both existing/planned sites and the proposed location. The coverage analysis for the proposed location must show all available optional antenna heights if it is a co-location or all possible antenna heights starting at a minimum of 90 feet if it is a new facility. The coverage analysis must use each current licensed frequency band by the applicant. An applicant shall demonstrate that there is inadequate coverage for the area covered by the application.

j. Structural Standards.
Transmission towers erected after May 17, 1995 shall meet all applicable requirements of federal and state regulations and shall be designed and installed in accordance with the standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna supporting Structures.

k. Existing Towers.
Transmission towers existing before May 17, 1995 which do not comply with these performance standards or with the use or dimensional requirements of the zoning district in which they are located may continue to be used subject to the provisions of Section III of this Ordinance. The addition, removal or relocation of transmitting or receiving devices on such towers does not constitute the expansion or enlargement of the nonconforming use and does not require review under the Scarborough Site Plan Review Ordinance, provided the total height of the transmission tower, including attached devices, is not increased.

l. Abandonment.
A transmission tower and associated facilities that is not operating for a continuous twelve month period shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to Code Enforcement that the facility has not been abandoned. If the owner fails to show that the facility is in active

operation, the owner shall have sixty (60) days to remove the facility. The removal of the facility shall include removing the tower and associated facility and returning the site to its pre-construction condition including removing of roads and replanting vegetation.

If the facility is not removed within this period, the Town may remove the facility at the owner's expense. A copy of the relevant portions of a signed lease or other comparable signed legal instrument which requires the applicant to remove the tower and associated facilities and reclaim the site upon abandonment shall be submitted as part of the application. Further, a surety shall be provided to the Town to guarantee the removal of an abandoned tower, prior to the installation of the tower. The applicant must submit a sample form of surety along with its application to pay for the costs of removing the facility if it is abandoned. The surety must be obtained and delivered to the Planning Department after approval of the application by the Planning Board and prior to construction.

m. Shoreland Zoning.
Transmission towers shall not be allowed within any Shoreland Zoning District, including the Shoreland Overlay District and the Resource Protection District. Land within a Shoreland Zoning District however can be counted toward the minimum lot size and/or setback requirements provided the siting of the transmission tower is outside any Shoreland Zoning District.

n. Public Notification.
When an application for a modification to an existing transmission tower or for a new transmission tower is received and accepted by the Town Planner, the Planner shall give a dated receipt to the applicant and shall notify by mail all property owners abutting the tower site or lot once the application has been scheduled for a Planning Board agenda.

3. Standards for Telecommunications Facilities.
In addition to the priority of location requirements in Section IX(F)(1) above, telecommunications facilities must comply with the following performance standards. Where allowed as a special exception use, the Board of Appeals may issue a special exception for the installation of a telecommunication facility only if the facility also meets the standards for special exceptions in Section IV(I)(4). Before making a decision on any telecommunication facility special exception application, the Board of Appeals shall refer the application to the Planning Board for an advisory opinion. The Planning Board shall consider the standards of this subsection and the standards for special exceptions in Section IV(I)(4) in formulating its recommendation.

a. Design. If a telecommunication facility is proposed to be mounted or attached to the exterior of a building or structure the facility shall be designed and located in a manner that is consistent and compatible with the architecture of that building or structure. If applicable, the addition of a facility to the exterior of a building shall also comply with the Design Standards for Scarborough's Commercial Districts, including the standards for rooflines and roof mounted equipment.

b. Utility poles and transmission lines.
For the purposes of these performance standards, telecommunication facilities shall be allowed to be attached or mounted on high voltage public utility transmission line poles and structures, subject to Board of Appeals and/or Planning Board review and approval,

but shall not be permitted to be attached or mounted on distribution scale utility poles and structures.

c. Ground mounted equipment.
Ground mounted equipment associated with, and accessory to, the telecommunication facility may be allowed through Board review and approval provided the Board finds there is adequate screening of this equipment and that is compatible with the site.

d. Exemption.
Telecommunication facilities that are proposed to be fully enclosed within an existing building and will not alter the exterior dimensions of the building or the exterior appearance of the building to accommodate the facility, shall be exempt from special exception review by the Board of Appeals or site plan review by the Planning Board. These installations may be permitted through review and approval by the Code Enforcement Officer. Ground mounted equipment associated with, and accessory to, the telecommunication facility may be allowed by the Code Enforcement Officer provided there is adequate screening of this equipment and that is compatible with the site.

e. Public Notification.
When an application for a telecommunication facility is received and accepted by the Town Planner or Code Enforcement Officer, the Planner/CEO shall give a dated receipt to the applicant and shall notify by mail all property owners abutting the tower site or lot once the application has been scheduled for a Planning Board or Board of Appeals agenda.

G. PERFORMANCE STANDARDS - ACCESSORY CONTAINERS [09/03/97][09/05/12]
Accessory storage containers may be utilized in the B-1, B-2, B-3, BO-R, RH, RH2, TVC, TVC-2, TVC-3, TVC-4, CPD, I-O and HPZ Districts only, and only as allowed under this Section IX(G)

1. Temporary Use of Accessory Storage Container.
Accessory storage containers may be used on a temporary basis only after being approved by the Code Enforcement Officer, and subject to the following standards.

a. No more than one temporary container shall be located on a lot at any time.

b. The temporary container shall comply with all minimum yard size requirements of this ordinance.

c. The temporary container shall be placed behind the front line of the principal building on the lot, unless the Code Enforcement Officer determines that, due to the size and configuration of the lot and/or the locations of existing buildings or structures on the lot, such placement is not feasible.

d. The temporary container shall not displace any parking spaces utilized to meet the parking standards of Section XI of this ordinance, unless the applicant provides evidence of written permission to use substitute spaces on an adjacent lot or lots during the entire period of time the temporary container is in place.

e. The temporary container shall not be placed in any location where it will create pedestrian or vehicular traffic hazards or interfere with orderly traffic circulation.

f. The temporary container shall be structurally sound. Its exterior surfaces shall be free of rust, holes, sharp edges, torn or damaged siding, exposed wiring or any other defects, which could endanger health or safety.

g. The temporary use of accessory storage containers is limited to no more than 60 days per lot per calendar year.

h. At least five days in advance of the date when the temporary container is to be placed on the lot, the owner or occupant of the lot shall make application to the Code Enforcement Officer for a permit. The application shall be accompanied by the application fee specified in the Town of Scarborough Schedule of License, Permit and Application Fees established by order of the Town Council. The application shall also be accompanied by a refundable deposit in the amount of $125.00 which shall be forfeited to the Town if the temporary container remains on the lot longer than allowed by subsection (g) above. A separate permit is required each time a temporary container is placed on a lot and no more than two permits shall be issued per lot per calendar year.

2. Non-Temporary Use of Accessory Storage Containers.

Except when used on a temporary basis as provided in Section IX(G)(1) above, no accessory storage container shall be placed on any lot except in a location approved by the Scarborough Planning Board under the Town of Scarborough Site Plan Review Ordinance, and subject to the following standards:

a. No accessory storage container shall exceed 14 feet in height, 9 feet in width or 55 feet in length.

b. The total floor area of all accessory storage containers on a lot shall not exceed 495 square feet or 5 percent of the floor area of the principal building or buildings on the lot, whichever is greater.

c. Accessory storage containers shall comply with all minimum yard size requirements of this ordinance.

d. Accessory storage containers shall not displace any parking spaces utilized to meet the parking standards of Section XI of this ordinance.

e. Accessory storage containers shall not be placed in any location where they will create pedestrian or vehicular traffic hazards or interfere with orderly traffic circulation.

f. The exteriors of accessory storage containers shall contain no signs or advertising material visible from any public way or abutting property.

g. All accessory storage containers shall be screened by the use of fencing, walls, berms, plantings, natural vegetation or other buildings or structures on the lot so that the accessory storage containers are substantially hidden from abutting properties and any public way.

h. All accessory storage containers shall be structurally sound. Their exterior surfaces shall be free of rust, holes, sharp edges, torn or damaged siding, exposed wiring or any other defects, which could endanger health or safety.

An accessory storage container which was located on a lot for a period of at least 60 consecutive days immediately prior to May 20, 1997 may continue to be used subject to the requirements of subparagraphs (c), (g) and (h) above, without Planning Board approval under this paragraph (2).

3. Decisions of the Code Enforcement Officer or Planning Board under this Section IX(G) are final and cannot be appealed to the Board of Appeals. No variances may be granted from the requirements of this Section IX(G).

4. This Section IX(G) does not apply to the Industrial District, where containers which otherwise are described by the definition of accessory storage container may be used as accessory structure to uses allowed in the Industrial District, subject to all applicable provisions of this ordinance.

H. PERFORMANCE STANDARDS - MINI-WAREHOUSE/STORAGE FACILITIES AND CLIMATE CONTORLLED/INTERNAL ACCESS STORAGE FACILITIES [12/03/97][10/04/17]

The following standards shall apply to all Mini-Warehouse/Storage Facilities:

1. Mini-Warehouse/Storage Facilities shall be located only in the Industrial District.
2. Climate Controlled/Internal Access Storage Facilities may be located in the Industrial District and/or the Haigis Parkway District. [Adopted 10/04/17]
3. Mini-Warehouse/Storage Facilities shall be located on lots of no less than one acre and no greater than five acres total lot area. [10/04/17]
4. Impervious surfaces (any material that prevents absorption of storm water into the ground) shall not cover more than fifty percent of the lot on which the Mini-Warehouse/Storage Facility is located.
5. Climate Controlled/Internal Access Storage Facilities will follow the impervious surface requirements of the district where the facility is located. [10/04/17]
6. Vehicle circulation within the facility shall allow for safe access to the individual storage units and shall include fire lanes acceptable to the Town of Scarborough Fire Chief.
7. Off-street parking shall be provided in accordance with Section XI of this Ordinance for any office space and for any dwelling unit located on the property pursuant to paragraph 6 below. Parking spaces shall not be provided for each unit, but the site shall be designed so that vehicles of customers picking up or depositing stored materials may stand temporarily in the aisles and adjacent to the storage units.
8. Notwithstanding anything to the contrary in this Ordinance, the lot on which any Storage Facility is located may contain one dwelling unit as an accessory structure and accessory use to the storage facility, provided the dwelling is occupied only by a resident facility manager or by on-duty employees of the facility. [10/04/17]
9. Notwithstanding anything to the contrary in this Ordinance, a Storage Facility may incorporate more than one storage building and may include an accessory dwelling unit without separately meeting the space and bulk requirements for each building. [10/04/17]
10. No storage unit in a Storage Facility may exceed five hundred square feet of floor area. [10/04/17]
11. The owner of the Storage Facility shall designate a facility manager who can be contacted at a specified address and telephone number, and shall at all times provide the Scarborough Code Enforcement Officer, the Scarborough Fire Department and the Scarborough Police Department with the current address and phone number of the facility manager. The function of the facility

manager includes, but is not limited to: providing proper policing of the area for trash, debris and vandalism; reporting to the police department any evidence of storage of contraband property or materials unlawfully possessed by customers of the facility; reporting to the fire department and the code enforcement officer any evidence of storage of dangerous or hazardous materials. [10/04/17]

12. The storage of hazardous, explosive or radioactive materials and of flammable liquid or gaseous materials is prohibited in a Storage Facility. The facility manager shall provide written notice of this prohibition to each customer at the time of rental of a unit. [10/04/17]

13. No activities other than rental of the storage units and pick up and deposit of the stored personal property shall be allowed on the Storage Facilities property. Examples of prohibited activities include, but are not limited to: wholesale or retail sales, auctions, garage sales; the service, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other equipment; and the operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment or other similar tools. The facility manager shall provide written notice of this prohibition to each customer at the time of rental of a unit. [10/04/17]

14. No outside storage of customers' goods or materials is allowed on the property of the Storage Facility. This provision does not prevent storage of household articles customarily stored outdoors by the manager of the facility if the manager resides on the property. [10/04/17]

15. The use of a Storage Facility or any portion thereof may not be changed to any other use, even though such use is otherwise permitted under this Ordinance, until the proposed new use is first reviewed and approved by the Planning Board under the provisions of the Site Plan Review Ordinance. [10/04/17]

16. Each customer, at the time of rental of a unit, shall be required to sign a lease or rental agreement which reserves to the owner and the owner's representatives, agents and employees the right to enter into and inspect the unit and its contents at any time without prior notice and which authorizes the owner and the owner's representatives, agents and employees to allow the Town of Scarborough Code Enforcement Officer, Fire Chief, Police Chief and their designated representatives to enter into and inspect the unit and its contents at any time without prior notice to the customer.

Notwithstanding anything to the contrary in this Ordinance or in 1 M.R.S.A. § 302, the standards of paragraph 1 through 16 above shall apply to any application for a Storage Facility which has not received site plan approval from the Scarborough Planning Board prior to October 27, 1997 and to any application to expand, extend, enlarge, reconstruct, rebuild or replace a Mini-Warehouse/Storage Facility existing on October 27, 1997. [12/03/97][10/04/17]

I. PRIVATE WAY RESIDENTIAL DEVELOPMENT [11/01/06]

1. Purpose

The Town of Scarborough recognizes there is significant level of single family residential development that occurs that does not require development approval under the Town's Subdivision or Site Plan Review Ordinances. However, the development impacts in this type of development have many individual and incremental similarities with a traditional Town regulated residential subdivision or site plan development; such as impacts on natural resources, infrastructure serviceability and maintenance responsibility, fire protection, and drainage and traffic impacts to abutters and Town infrastructure. Consequently, the Town sees a necessity to manage this type of development at a level consistent, and

in an orderly manner, with the development issues commonly associated with a subdivision or site plan to meet the municipality's responsibility for the health, safety and welfare of the Public.

2. Applicability

This Section IX(I) shall apply to the creation of or development on any new single family residential lot that acquires the required street frontage on an existing or proposed private way, and that is not subject to the Town of Scarborough Subdivision Ordinance or Site Plan Review Ordinance. Only lots used for single family dwelling purposes may acquire required street frontage under this Section IX(I).

3. Definitions

As used in this Section IX(I), the following terms shall have the following meanings:

50-foot wide right of way: Includes an existing right of way originally laid out and described as a three rod road.

Existing: In actual existence on November 1, 2006.

New single family residential lot: A single family residential lot created pursuant to this Section IX(I) on or after November 1, 2006 that meets the bulk and space requirements for the district in which it is located and acquires the required street frontage from a proposed or existing private way. Also, an existing single family residential lot re-configured as a result of the location of a private way created under this Section IX(I) and that acquires its required frontage on a private way.

No-disturb buffer: An area within 25 feet, horizontal distance, of the upland edge of a wetland, as defined under Section VIIA(I), which is not otherwise regulated under the Town of Scarborough Shoreland Zoning Ordinance. Disturbance of the no-disturb buffer by clearing, mowing or construction of a structure is prohibited. The no-disturb buffer shall be delineated in compliance with Section IX(I)(9)(1) below.

Private way: A right of way for travel by motor vehicles which is not owned or maintained by the Town of Scarborough or any other public entity.

4. General Requirements

a. The right of way of a private way created after November 1, 2006 shall be a minimum 50 feet wide.

b. The building envelope on a lot which has its street frontage on a private way shall meet standard zoning building setbacks and a minimum of 15 feet setback from an identified and delineated no-disturb buffer in compliance with Section IX(I)(9). Nothing in this requirement supersedes applicable requirements under the Town of Scarborough Shoreland Zoning Ordinance.

c. On any private way created under this Section XI(I), the initial lot (first in time) to acquire the required street frontage on the private way is not required to utilize the private way for physical access to the lot, if another means of physical access is available. However, if and when an additional lot or lots subsequently acquire the required street frontage on the private way, then the initial lot must thereafter use the private way for physical access. Physical access for a second and subsequent lots to acquire the required street frontage on a private way shall be from the private way. However, this requirement shall not apply to an existing single-family lot with an existing single-family dwelling and driveway if such existing driveway provides access to a public street and the creation of the private way will not result in any alteration to the intersection of that existing driveway with the public way.

d. No new lot created after November 1, 2006 shall meet its street frontage requirement on a private way providing street frontage for two or more lots unless the private way is improved with a road constructed in compliance with Section IX(I)(8) below, and, if an existing private way must also be utilized for access between such new lot and the nearest public way, then such existing private way must also comply with the infrastructure and construction standards of Section IX(I)(8).

e. New single family lots created under this Ordinance are subject to any traffic impact fee ordinances enacted prior to the approval of the proposed private way development. A re-configured existing lot with an existing single family home is exempted from any traffic impact fee under this ordinance.

f. After November 1, 2006, any private way approved under this Section IX(I) must connect either to a public way or to an existing private way having a minimum 50-foot wide right of way. If the road infrastructure in an existing accepted Town way is either not constructed or does not meet the standards of Section IX(I)(8), than the applicant shall construct or upgrade the existing road to the standards of Section IX(I)(8).

g. No more than a cumulative total of six (6) lots shall acquire the required street frontage on a private way built to the standards of Section IX(I)(8). The cumulative total shall include all proposed and existing lots on an existing private way created prior to, or after, November 1, 2006. When the total number of new and existing lots acquiring the required street frontage on a proposed and/or existing private way exceeds six (6), the road shall be designed and constructed to the standards of the Town of Scarborough Street Acceptance Ordinance.

h. The cumulative total length of a dead end private way shall not exceed 2000 feet. The cumulative total length of the private way shall include the length of an existing private way that provides access to the proposed private way development. The length shall be measured from the intersection of the private way road at the Town right of way along the centerline alignment of the private way to the end of the private way right of way. If the cumulative total length of a proposed and existing private way exceeds 2000 feet, a secondary intersection connection to an existing Town accepted way must be provided.

i. When this Section IX(I) requires construction of a road, no certificate of occupancy shall be issued for any lot which acquires its required street frontage on the private way until either the road improvements are completed and the required documentation in Section IX(I)8(c)2 is provided and accepted by the Town Engineer, or a performance guaranty in compliance with Section 9 Performance Guarantee of the Scarborough Subdivision Ordinance is provided and accepted by the Town Engineer for the value of the remaining road infrastructure improvements.

j. The Planning Department shall not approve a private way which would cause any lot or lots to become nonconforming with the dimensional requirements of this Ordinance. In the event an existing lot becomes a corner lot, as defined in this Ordinance, as a result of the creation of a private way, the buildings or structures on such lot shall be deemed to conform with the dimensional requirements of this Ordinance to the same extent as they conformed prior to the creation of the private way.

k. A private way which provides required street frontage for two or more lots shall provide emergency vehicular access and fire suppression water supply in compliance with Section IX(I)(10).

5. Application Submission Requirements

The Planning Department shall review and act upon applications for the creation or use of a private way to provide street frontage for a lot or lots. The submission for a private way shall include the following:

a. Review Documents

1. A recording plat. A plan of land laying out the private way and lot[s]. See Section IX(I)6, Plat Requirements for plat detail requirements.

2. A design of the road infrastructure. The design shall include a plan and profile of the road, and layout of utilities to service the lot[s], such as drainage, power, telephone, etc. See Section IX(I)8, Road Infrastructure and Construction Standards for infrastructure design documentation requirements.

3. A draft of the Maintenance Declaration, if applicable. See Section IX(I)7, Maintenance Agreement for declaration requirements.

4. A cover letter describing where and what the project is and the name and address of the applicant.

b. Final Documentation

1. The applicant shall record the original recording plat plan in the Cumberland County Registry of Deeds ("CCRD") within 30 days of approval. If the plan is not recorded within the required time frame, the approval shall be void.

2. The applicant shall provide to the Planning Department one electronic file and four paper copies of the recorded plat with the planning department's signature and CCRD attested data, and a copy of the executed and recorded maintenance declaration with the CCRD recording data. [amended 05/06/2020]

3. In addition to other requirements under a building permit application, no building permit will be issued until the required plat and maintenance declaration documentation is submitted and accepted by the Town and recorded in the CCRD.

6. Plat Requirements

The plan shall be prepared by a Licensed Professional Land Surveyor in the State of Maine and meet the following requirements;

a. All points of the private way shall be permanently field marked by a Licensed Professional Land Surveyor in the State of Maine.

b. The plan shall be drawn on a paper plan sheet measuring 24" x 36" and shall be sealed and signed by the surveyor preparing the plan. [Amended 05/06/2020]

c. The plan shall be labeled "Plan of a Private Way-[STREET NAME]".

d. The plan and survey work shall meet accepted survey practice sufficiently to show and establish on the ground the precise location of the private way, easements with recipients noted, lots with building envelopes and all existing natural and manmade features, such as, but not limited to streams, drainage courses, wetlands and no disturb buffer, utility pole lines, structures, etc. If wetlands are identified the following note shall be placed on the plan: "The no disturb buffer shall remain in their natural vegetated condition. No alteration of these buffers shall occur except for the removal of dead or dying trees without

the prior approval of the Town Engineer and, if required, the State of Maine Department of Environmental Protection."

e. If the project requires fire tank protection infrastructure, the plan shall identify the easements to the Town of Scarborough.

f. The plan shall contain the following notes: "The Town of Scarborough shall not be responsible for maintenance, repair, plowing, street signage or other similar services or infrastructure for the private way shown on the plan. When the private way provides required street frontage for a cumulative total of more than six (6), the hammerhead shall comply with the requirements of the Scarborough Street Acceptance Ordinance."

g. The plan shall provide a signature block to be signed by the Town Engineer, Town Planner or Assistant Town Planner.

7. Maintenance Agreement

When a private way provides access for 2 or more new lots to be created after November 1, 2006, the owners of the lots to be served by the private way and the owners of any portion of the private way shall be jointly and severally liable to the Town of Scarborough to adequately maintain the private way.

The applicant shall submit a Maintenance Declaration shall specify the rights and responsibilities of the owners among themselves with respect to:

a. Responsibility for the road infrastructure construction, maintenance, repair, plowing, and street identification signage.

b. A detailed statement of how the ownership interests in the private way will be structured; i.e. whether ownership will be single or joint, whether lot owners will own the fee or have easements, etc.

c. A statement that in the event any of the lots shown are divided or in the event any remaining land of the declarant is subsequently divided into lots which are served by the private way, then such resulting lot or lots shall become subject to the Maintenance Declaration and to any modifications to the Maintenance Declaration advisable to adjust the duties and responsibilities equitably among the owners of the lots served by the private way

d. An acknowledgement by the declarant and other persons signing the Maintenance Declaration that the Town of Scarborough is not responsible for the construction, maintenance, repair or plowing of the private way infrastructure.

e. A statement that the duties and obligations imposed by the Maintenance Declaration run with the land and shall be transferred to donees, purchasers or other transferees of any portion of the real estate subject to the Maintenance declaration and that, upon such transfer, the Planning Department shall be notified in writing and provided with a copy of any changes or amendments to the Maintenance Declaration.

f. A requirement that the Maintenance Declaration be referenced in all deeds to any lots served by the private way.

g. If the private way subject to the Maintenance declaration is an extension of an existing private way which served lots created prior to November 1, 2006, a statement that the applicant for private way approval has contacted the owners of such lots, has offered them the opportunity to make their properties subject to the Maintenance Declaration and that they have either

accepted or declined that offer; and that the Declarant has submitted to the Planning Department a notarized affidavit confirming the Declarant's compliance with this paragraph.

h. An acknowledgement that all persons executing the Maintenance Declaration are aware that no lot served by the private way shall be sold and no building permit shall be issued for any lot served by the private way until the Maintenance Declaration is recorded in the Cumberland County Registry of Deeds.

i. The maintenance declaration shall clearly reference, as identified on the plan, the lots to be served by the declaration.

A sample Maintenance Declaration is attached to this Ordinance as Appendix D

8. Private Way Road Infrastructure Design and Construction Standards

The design of the road and utility infrastructure shall be reviewed and approved by the Town Engineer.

a. Road Design

1. The road horizontal and vertical alignment design criteria shall comply with the requirements of the Residential Access Street classification in the Street Acceptance Ordinance. The length shall be measured as shown on drawing number 2 in Appendix D.

a. A dead end private way shall provide a hammerhead end treatment. The hammerhead shall be shown on the plan to be recorded at the Cumberland County Registry of Deeds.

i. The hammerhead end treatment for a private way that provides required street frontage for a cumulative total of six (6) or fewer lots shall be configured to allow a fire truck to turn around in compliance

ii. with Section IX(I)10. The location of the hammerhead shall be located at or past the furthest driveway of the approved lots from the existing public road. The furthest driveway may be used for the short perpendicular leg of the hammerhead turn around. The required infrastructure for the short leg of the hammerhead outside of the right of way shall be contained within an easement of an approved dimension by the Town Engineer for emergency vehicle maneuvering.

iii. The hammerhead end treatment for a private way that provides required street frontage for a cumulative total of more than six (6) lots shall conform to the alignment and dimensional standards in the Street Acceptance Ordinance. The location of the hammerhead shall be located past the furthest driveway of the approved lots from the existing public road. Lot access shall not be allowed from the hammerhead. The hammerhead road infrastructure shall be contained within the road right of way in compliance with the Street Acceptance Ordinance.

2. The road typical section shall comply with drawing number 1 in Appendix D. The intersection of the private road at a Town Way shall be paved and comply with drawing number 4 in Appendix D.

3. All intersections of a private way, whether existing or proposed, with a Town or other private way shall comply with the Maine Department of Transportation standards for

intersection sight distance. The submitted analysis shall be prepared by a Professional Engineer, or Surveyor, licensed by the State of Maine, qualified for such analysis.

4. The location of a driveway for access to a lot may cross a no disturb buffer, but the amount of disturbance shall be kept to a minimum. However, a driveway located through a wetland may be subject to the State of Maine Natural Resource Protection Act and/or Army Corp of Engineers wetland filling requirements.

b. Utilities Location & Design

1. The location of utilities to service the lots shall comply with drawing number 3 in Appendix D. If power, telephone and cable TV service is overhead, the pole alignment shall maintain a minimum offset distance from the edge of travel lane to the face of the pole of 7 feet. The design of the utilities shall comply with the requirements of the utility companies providing service.

2. A stormwater management plan must be prepared identifying specifications of the stormwater management infrastructure. The plan shall be prepared by a Professional Engineer licensed by the State of Maine. The stormwater infrastructure shall be designed for a 25-year, 24-hour storm recurrence interval, and shall include green infrastructure and low impact practices.

3. The Town Engineer may require a street light at a proposed intersection with a Town Public Way when the private way provides required street frontage for a cumulative total of more than six (6) lots. When required by the Town Engineer, the street light fixture and configuration shall comply with the Town's street light policy. The cost of installation and maintenance shall be borne by the owners of the lots which acquire their required street frontage from the private way and identified in the maintenance declaration.

c. Construction Standards

1. All materials and construction of the road and drainage infrastructure shall comply with the requirements of the Street Acceptance Ordinance or specific utilities standards. An (E&S) erosion control management plan and narrative must be prepared, submitted and must comply with requirements set forth in Chapter 420 the Town of Scarborough Erosion and Sedimentation Control at Construction Sites Ordinance. The (E&S) plan shall describe a sequence of actions and timelines for the control, containment and disposal of disturbed soils by the use of appropriate erosion control (BMP's) best management practice during the construction period. Erosion control BMP's shall comply with the Maine Erosion & Sedimentation Control BMP Manual prepared by the Maine Department of Environmental Protection,

2. The construction of the road shall be inspected by a Professional Engineer licensed by the State of Maine. The engineer shall provide a signed written report to the Town Engineer that in his opinion the construction is in compliance with the Road Infrastructure Design and Construction standards and the fire department protection design standards. The report shall attach documentation supporting compliance with the Town's specifications such as granular material gradations, compaction test results, storm drain material specifications, etc.

d. Easements

1. Utility easements shall be provided consistent with the standards of the utility companies providing service. In addition, easements shall be provided for the road drainage infrastructure where it exceeds the private right of way and that will be maintained under the maintenance agreement for the private way. All easements must provide metes and bounds line data with type & recipient identified on the plan to be recorded. If any easements are to be granted to the Town of Scarborough, the applicant shall prepare and record easement deeds to the Town of Scarborough; the language of the easement deed shall be approved by the Town prior to recording. The Planning Department is hereby authorized to accept such easement deeds on behalf of the Town.

e. Private Way Road & Development Name

1. The road and development name of the private way shall comply with the Town of Scarborough Ordinance Chapter 309, "Street/Development Name & Number Ordinance" regulating street & development names and numbering system**.** The initial cost and maintenance replacement for installing the private street and stop sign shall be the responsibility of the applicant. The design and installation of the signage shall comply with the Public Works standards.

9. Natural Resource Mapping and Identification

1. The application for a private way shall include wetland delineation in conformance with the Army Corp of Engineers wetland classification standards and prepared by a qualified wetland specialist in such identification work. On each lot which acquires its frontage from the private way, the boundary line for the wetlands on the lot shall be delineated on the recording plat, and the boundaries of the no-disturb buffer, as defined in Section IX(I)(3), shall be marked on the lot by permanent markers located and set by a Professional Land Surveyor, licensed by the State of Maine. Permanent markers shall consist of 3'-0" x 3/8" diameter reinforcing bars installed with a 9"-12" projection above grade. The iron reinforcing bars shall be fitted with RED plastic caps inscribed with the words, "No Disturb Buffer". Markers shall be located at all angle points as well as equidistant points at a maximum spacing of 50ft. Additionally, a split rail fence, or some equivalent hard landscape feature, may be required by the Planning Department as part of the review of a building permit application by the Town of Scarborough Planning Department Staff. The building permit application shall include a detailed site specific development plan at a scale of 1inch=20ft, or a scale approved by the Town Engineer. The site plan shall include the property lines, proposed and existing easements, building envelop, existing and proposed tree clearing limits, location of the no disturb buffer and markers, the house and driveway, and sewer, water, electrical and telephone services, and any other site improvement.

10. Fire Protection Infrastructure Standards

1. Fire protection infrastructure standards shall be required when a road is required to be constructed by Section IX(I)4d and shall be in compliance with the following National Fire Protection standards.

a. Access

i. A private way shall provide a minimum unobstructed width of 20 feet with an unobstructed vertical clearance of 13 feet-6 inches.

ii. The road within the private way shall provide sufficient width for fire apparatus to execute a turning maneuver with a minimum 50 feet outside radius.

iii. Any dead-end private way greater than 150 feet in length shall provide a hammerhead turnaround.

iv. The road shall be able to support the imposed fire apparatus load of 70,000 lbs.

v. If fire protection infrastructure for the project requires underground fire tanks, a 30 ft by 50 ft easement to the Town shall be required.

b. Fire Suppression Water Supply

i. Fire hydrants shall be required in those areas of Scarborough that are served by either the Portland Water District or the Biddeford & Saco Water Company. Hydrants located within a private right of way shall be considered private hydrants and shall be the responsibility of the residents of the lots which acquire their required street frontage from the private way. Fire hydrant installations shall meet the following requirements.

a. The hydrant shall be installed approximately every 500 feet. The exact location shall be determined and approved by the Fire Department prior to installation.

b. Hydrants are to be installed in accordance with the National Water Works Association and the local water utility requirements. c. Hydrants shall be located 7-8 feet behind the face of curb, edge of pavement or edge of travel lane. This dimension shall be measured to the front cap on the main steamer port of the hydrant.

d. All hydrants shall be inspected and flow tested prior to approval by the Fire Department as ready for service.

e. A 5 feet wide level work area shall be provided around the hydrant.

ii. Underground storage tank systems are required in those areas of Scarborough that are not served by a public water supply. The underground fire storage tank system shall meet the following requirements.

a. Each system shall be installed approximately every 1200 to 1400 feet along the proposed road system. The exact location shall be determined and approved on site by the Fire Department prior to installation.

b. Each system installation shall provide a minimum capacity of 10,000 gallons and designed and installed in accordance with the Scarborough Fire Department Fire Suppression Underground Fire Storage Tank Requirements, which are available from the Fire Department.

c. Each system installation shall be inspected prior to approval by the Fire Department as ready for service.

iii. The installation of a residential sprinkler system may be considered by the Fire Department as an alternative to an installation of hydrants or underground storage tank systems. The approval, of the use and specific sprinkler system, shall be determined by the Fire Department on a case-by-case basis.

iv. Ownership of the fire suppression water supply shall depend on the required system. A hydrant system connected to a water utility shall be owned by the owners of the lots which acquire their required street frontage from the private way in compliance with the particular water utility standards. Maintenance of the hydrants shall be the responsibility of the lot owners and the details of the maintenance shall be made part of the maintenance declaration required in Section IX(I)7 Maintenance Agreement. An underground storage tank system shall be owned and maintained by the Fire Department once the system has been approved by the Fire Department as ready for service and the required underground storage tank system easement deed to the Town, has been accepted by the Town.

11. Fees

1. An application fee shall be paid at the time of submission to the Planning Department. The fee is listed in Chapter 311, Schedule of Fees, of the Town Ordinances. The applicant is responsible for the cost incurred by the Town for assistance provided to the Town for review of the application by consultants.

J. PERFORMANCE STANDARDS – ACCESSORY UNITS [11/05/03][Amended 02/15/12][Amended 07/19/2023]

The following standards are intended to allow the addition and use of one accessory unit to a single family dwelling in a manner that will preserve the single family residential character of the property and neighborhood. The Code Enforcement Officer may issue a permit for the construction on an accessory unit only if the Accessory Unit adheres to the following standards:

1. The owner(s) of the lot on which the principal structure is located must reside in the principal structure or the accessory unit, either of which residence may be seasonal. An accessory unit may be located on a lot which the owner occupies as a seasonal residence; however, neither the accessory unit nor the single-family dwelling shall be rented for less than 28 continuous days. For this purpose, "season" means any three consecutive months during a twelve (12) month period.
2. The number of occupants of the accessory unit is limited to two.
3. The living space of an accessory unit shall be a minimum of 190 square feet and not exceed the following percentage of living space of the single family dwelling to which the unit is accessory or the following maximum amounts, whichever are applicable:

If the living space of the single family dwelling is:	The living space of the accessory unit shall not exceed:
Under 2,000 sq. ft.	40% or 750 sq. ft., whichever is greater
2,000 sq. ft. or more, but less than 3,000 sq. ft.	35% or 750 sq. ft., whichever is greater
3,000 sq. ft. or more, but less than 5,000 sq. ft.	30% or 1,050 sq. ft., whichever is greater
Over 5,000 sq. ft.	20% or 1,500 sq. ft., whichever is greater

4. Accessory dwelling units are exempt from density requirements or lot area requirements related to the area in which the accessory dwelling unit is constructed.
5. Accessory dwelling units are exempt from rate of growth permit requirements.

6. Only one accessory unit per principal structure shall be permitted on a lot.
7. An accessory dwelling unit may be constructed only: a) Within an existing dwelling unit on the lot; b) Attached to or sharing a wall with a single-family dwelling unit; or c) As a new structure on the lot for the primary purpose of creating an accessory dwelling unit.
8. Accessory units are permitted on nonconforming lots, but the structures in which they are located (attached or detached), shall meet the lot coverage requirements for the district in which they are located.
9. Any new structure constructed on the lot to be an accessory dwelling unit must meet the existing dimensional requirements as required by the municipality for an accessory structure.
10. Proper ingress and egress shall be provided to the accessory unit.
11. Attached and internal accessory units shall retain and respect the existing streetscape, character of the neighborhood, and preserve the single-family appearance, architectural style, and character of the original dwelling and property. Outside stairways (either open or closed) that service accessory units on upper stories are permitted, provided that they are integrated into and consistent with the architecture of the building. Outside stairways serving upper stories shall not be located on the side of the building that faces the street, except in the case of a building on a corner lot that fronts two or more streets, a stairway may be allowed on one of the sides of the building that faces a street if no reasonable alternative exists.
12. All municipal and state buildings codes in effect at the time of application must be followed.
13. An applicant for a permit for an accessory unit may also apply to the Zoning Board of Appeals for a limited reduction of yard size under Section V.B.5 of this Ordinance where such reduction is reasonably necessary to allow construction of the accessory unit.
14. Should the owner(s) of the principal structure be found in non-compliance with the standards contained in this section, the non-compliance shall be considered a violation of this Ordinance, and the structure shall revert to a single family dwelling or the previous use.
15. For an accessory dwelling unit located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit, dimensional requirements and setback requirements must be the same as the dimensional requirements and setback requirements of the single-family dwelling unit.
16. In order for an accessory unit to be located in a detached accessory structure, the following requirements must be met: [09/05/07]
    i. The detached accessory structure must be located no further than 100 feet from the nearest point of the principal structure;
    ii. The detached accessory structure must be designed and constructed in the style of a garage, barn, storage building, carriage house, accessory cottage, or similar structure customarily located on the same lot with a single-family residence.
17. For an accessory dwelling unit permitted in an existing accessory building or secondary building or garage as of July 1, 2023, the required setback requirements apply.
18. The accessory unit and the principal structure must be serviced by common utility meters, unless the utility company providing the service refuses to do so. Should a utility company be unwilling to service the accessory unit with a common meter, the applicant must provide the Code Enforcement Officer with a letter signed by the utility company so stating, with specific reasons for the refusal.
19. In order for an accessory unit to be added to an unsewered lot, the lot must comply with the requirements of the state minimum lot size law, 12 M.R.S.A. §§ 4807 – 4807-G for multiple unit housing as well as all the provisions of the Maine State Plumbing Code and the Town of

Scarborough Plumbing Ordinance. The applicant shall have the burden to establish the lot area, which burden may include a survey signed and sealed by a Professional Land Surveyor, at the discretion of the Code Enforcement Officer. The septic system on the property in question shall be functioning properly at the time of application for accessory unit approval.

20. The owner of an accessory dwelling unit must provide written verification that each unit of the accessory dwelling unit is connected to adequate water and wastewater services prior to certification of the accessory dwelling unit for occupancy or similar type of approval process. Written verification must include the following:
    i. If an accessory dwelling unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;
    ii. If an accessory dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with Subsurface Wastewater Disposal Rules.
    iii. If an accessory dwelling unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and
    iv. If an accessory dwelling unit is connected to a well, proof of access to potable water. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

K. PERFORMANCE STANDARDS – HOSPICE (Amended 08/17/05)

In the RF, RFM, R2, R3, R4, VR2, and VR4 zoning districts, the Board of Appeals may issue a special exception for the establishment of a hospice facility. In addition to meeting the standards for special exceptions in Section IV(I)4, the following standards shall also apply to any hospice facility.

1. The minimum lot area shall be four times the required minimum lot area for the zoning district in which it is proposed, except in the Rural Residence and Farming District in which the required minimum lot area shall be 5 acres.
2. Notwithstanding Section IX(A)(15)(a) of this Ordinance, buildings containing hospice facilities may be up to three (3) stories in height, provided it does not exceed thirty-five (35) feet in height.
3. The facility must be served by both public water and public sewer, excepting hospice facilities located in the RF zoning district.
4. The facility shall conform to the minimum yard requirements for the zoning district in which it is located, but greater setbacks and buffering, and lesser building coverage and total impervious coverage limitations, may be required by the Zoning Board of Appeals to meet the standards for special exceptions.

L. PERFORMANCE STANDARDS – ADDICTION TREATMENT FACILITY (Amended 11/16/05)

The following standards shall apply to all Addiction Treatment Facilities:

1. No addiction treatment facility shall be located where the patient entrance to the treatment facility would be closer than 1,500 feet, measured in a straight line without regard to intervening structures, objects or municipal boundaries, to the nearest point on the boundary of any property which is located in a residential zone.

2. No addiction treatment facility shall be located where the patient entrance to the treatment facility would be closer than 1,000 feet, measured in a straight line without regard to intervening structures or objects, to the nearest boundary of any property which is occupied by a residence, school, playground, park, day care center or nursery school, or is owned by the Town of ScarboroughA

M. PERFORMANCE STANDARDS – HIGH TECHNOLOGY FACILITIES [adopted 04/16/08][Amended 07/18/12; 03/19/25]

All high technology research facilities, light assembly, and light manufacturing uses permitted in the B2, B3, BOR, RH, RH2, CPD, LI, I and HP districts may be undertaken only after the Planning Board has reviewed and approved the use in accordance with the Site Plan Review Ordinance and if the Planning Board finds that the proposed use, with any reasonable conditions the Planning Board deems necessary, will conform to the following standards and requirements:

1. The use will not create any unhealthy or offensive smoke, dust, odor, or airborne discharge;
2. The use will not create any offensive noise or vibration to abutting landowners;
3. The use will not involve the handling, storage, or disposal of hazardous waste material in a manner that will threaten public health;
4. The use will not include any outdoor storage of equipment or material;
5. The use will not create unsafe traffic conditions or excessive traffic that would either adversely affect neighborhood character or unduly burden the ability of the Town to maintain the existing roads;
6. The design and external appearance of any proposed building and site improvements will constitute an attractive and compatible addition to its neighborhood and be consistent the Design Standards for Scarborough's Commercial Districts;
7. All activities associated with the use(s) shall take place entirely within its principal structure(s)

M.1. PERFORMANCE STANDARDS – RESEARCH, DEVELOPMENT, AND LIGHT INDUSTRIAL USES [Adopted 06/20/12]

For any research, development, and light industrial use that requires review under the Site Plan Review Ordinance, in addition to compliance with the Site Plan Review Ordinance and all other requirements of this ordinance, the Planning Board shall find that the use will conform to the following performance standards:

1. The use will not create any unhealthy or offensive smoke, dust, odor, or airborne discharges;
2. The use will not create any offensive noise or vibration to abutting landowners;
3. The use will not involve the handling, storage, or disposal of hazardous waste material in a manner that will threaten the public health; and
4. The design and external appearance of the proposed buildings, structures, and site improvements will constitute an attractive and compatible addition to the neighborhood and be consistent with the Town's commercial design standards.

M.2. PERFORMANCE STANDARDS – FOOD PROCESSING FACILITIES IN THE HAIGIS PARKWAY DISTRICT [Adopted 07/15/15]

Food processing facilities permitted in the HP District may be undertaken only after the Planning Board has reviewed and approved the use in accordance with the Site Plan Review Ordinance and has found that the proposed use will conform to the following performance standards and locational requirements:

1. The food processing facility shall be located within two thousand two hundred fifty (2250) feet of the point of intersection of the centerlines of Scottow Hill Road and the Haigis Parkway;

2. The food processing facility shall be sited in a location, and designed in a manner, that is compatible with surrounding uses. This may include the need for screening and buffering between the facility and adjacent uses and properties. The buffering and visual screen may include the preservation of natural vegetation, new landscaping, berms or other means to fulfill this standard;

3. The design and external appearance of the food processing facility and site improvements will constitute an attractive and compatible addition to the zoning district and be consistent with the Design Standards for Scarborough's Commercial Districts;

4. The facility will not create any unhealthy or offensive odor, emissions or other airborne discharges;

5. The facility will not include any outdoor storage of equipment, materials or processing byproduct or waste; and

6. The facility will not create any offensive noise or vibration to abutting landowners.

M.3. PERFORMANCE STANDARDS – SMALL BATCH PROCESSING FACILITIES [Adopted 10/07/15]

Small batch processing facilities may be undertaken only after the Planning Board has reviewed and approved the use in accordance with the following performance standards and requirements:

1. Small batch processing facilities shall be limited to no greater than 5,000 square feet of floor area including any accessory uses, such as a retail area, a tap room, sampling area, storage or warehousing;

2. The design and external appearance of the small batch processing facility and site improvements will constitute an attractive and compatible addition to the neighborhood, shall be of a scale of, and compatible with, other non-residential uses allowed in the same zone, and will be consistent with the Design Standards for Scarborough's Commercial Districts;

3. The facility will not create any unhealthy or offensive odor, emissions, dust or other airborne discharges;

4. The facility will not include any outdoor storage of equipment, materials or processing byproduct or waste;

5. The facility will not create any offensive noise or vibration, heat or glare to abutting landowners; and

6. The facility will not create unsafe traffic conditions or a volume of truck traffic in excess of other non-residential uses allowed in the same zone that would either adversely affect neighborhood character or be incompatible with abutting properties or uses.

N. PERFORMANCE STANDARDS – SMALL WIND ENERGY SYSTEMS [Adopted 07/15/09]

Small wind energy systems (SWES) are considered accessory uses and structures in all districts except the Resource Protection District (as delineated in the Shoreland Zoning Ordinance for the Town of Scarborough). The Code Enforcement Officer may issue a building permit for the installation and operation of a SWES provided the following performance standards are met. A SWES which complies with the performance standards of this section is not subject to the space and bulk regulations of the zoning district in which it is located.

1. Space and Bulk –

a. Number of SWES – With the exception of SWES allowed per subsection N.(12) below, the number of SWES shall be limited as follows:

On lots less than one (1) acre in size a maximum of one (1) SWES is permitted per lot;

On lots one (1) acre to five (5) acres in size a maximum of two (2) SWES is permitted per lot;

On lots greater that five (5) acres is size, there is no maximum number of SWES per lot.

SWES, and the number of systems, shall be designed, sized and installed to generate energy only for the building(s) located on the same lot. This standard is not intended to prohibit the transfer of excess energy to the power grid.

b. Height – The height of a SWES shall be limited to one hundred and seventy-five (175') feet. SWES height shall be measured from the average elevation of the finished grade at the base of the tower to highest point of the SWES.

c. Setbacks – The SWES shall be set back a minimum 75% of the system's height, as measured per subsection N.1.b. above, from all property lines or shall comply with the minimum front, side or rear yard setback requirements of the zoning district in which it is located whichever is greater. The Code Enforcement Officer may relax the 75% of the SWES height setback standard if the applicant secures a restrictive easement(s) from the abutting property(s) that allows for a lesser setback. The restrictive easement shall restrict the uses and structures within the easement area so as to allow the SWES to be located closer to the property line than the 75% requirement above. A restrictive easement from an abutting property shall not however enable a SWES to be sited closer to the abutting property line than the minimum front, side and rear yard setback requirements of the zoning district.

d. Town Exemption – A SWES located on property owned by the Town of Scarborough shall not be subject to the Space and Bulk Standards listed above, provided the purpose of the SWES is to reduce energy consumption and energy costs for public buildings and provided the plans for the SWES are approved by the Town Council after public notice, notice to abutters and public hearing

2. SWES Energy Generation – SWES shall be limited to a power generation capacity of 20 kilowatts in residential districts and 60 kilowatts in commercial and industrial districts.

3. Design and Aesthetics –

a. Tower – The new installation of a tower for a SWES designed to generate electricity shall be a monopole-style tower (freestanding or guyed wire). The new installation of a lattice tower shall be allowed for SWES designed to pump water. Electricity generating SWES affixed to lattice towers existing as of June 26, 2009, that otherwise comply with this subsection shall be permitted.

b. Color – SWES shall be a non-reflective, neutral color (light gray, white, brushed aluminum etc.)

c. Signage – SWES shall not display signage or other forms of advertising, except warning, direction and manufacturing labels, none of which shall exceed six (6) square feet in area.

d. Appendages – Appendages to a SWES tower may be permitted, but are limited to appendages that will not affect the normal operation, safety or stability of the SWES.

4. Safety –

a. Access – Any climbing apparatus on a SWES tower shall be a minimum of eight (8') feet from the ground.

b. Blade Clearance – The SWES's blades shall not rotate to within ten (10') feet of the ground at their lowest point.

5. Lighting - Exterior lighting on a SWES may be permitted but the lightings placement on the SWES shall comply with the maximum building height limit of the zoning district in which the SWES is sited, except for lighting that may be required by the Federal Aviation Administration.

6. Electrical Service - Electrical wiring and connections from the wind energy system to the building(s) they serve shall be underground, unless an applicant demonstrates to the Code Enforcement Office that the subsurface conditions of a particular site makes the installation of an underground electrical service impracticable.

7. Noise –

a. Over-Speed Control - The SWES shall be equipped with both a manual and automatic brake, governing, furling or feathering mechanism that controls and moderates the rotation of the system's blade and prevents over-speed. Conformance with this requirement shall be confirmed and documented by the wind energy system's manufacturer.

b. Db(A) Level – The SWES shall be designed and operated to not exceed 20 db(A) above the ambient noise level at the closest property line. After approval and installation of the SWES, the Code Enforcement Officer may require the applicant to perform sound measurements to determine conformance with this standards.

8. Foundation – The foundation design for a SWES shall comply with the SWES manufacturer's minimum standards regarding the specific wind energy system and the soils type at which the installation is proposed.

9. Submission Requirements For Permitting - A plot plan; specifications and an illustration of the SWES provided by the manufacturer; a detailed description of how the SWES, and the lot on which it is proposed, complies with the performance standards of this subsection N; structural drawings of the wind tower, base and foundation prepared by the manufacturer or a professional engineer; and electrical and building permit applications shall be submitted prior to Code Enforcement review and approval.

10. Meteorological Tower – As defined in Section VI. Definitions of the Zoning Ordinance, meteorological towers are structures intended to collect date to determine the appropriate siting of a

SWES. These towers are permitted as a temporary use to remain installed for a maximum of two (2) years. The Town encourages applicants interested in installing SWES to first collect the necessary data through the use of a meteorological tower or other appropriate device to help determine the appropriate location and height for a SWES as well as to ensure a SWES is a worthwhile investment on the subject property. Meteorological towers shall comply with the SWES performance standards of this subsection with the exception of subsection N.3.a Tower, subsection N.3..b. Color and subsection N.6. Electrical Service.

11. Removal Requirements –

a. Unsafe SWES – A SWES that is found to be unsafe by Code Enforcement shall either be repaired to correct the safety issue or shall be removed by the property owner.

b. Abandonment – A SWES that is not working or is not being used for a consecutive twelve (12) month period shall be removed by the property owner.

12. SWES within Common Open Space – To the extent permitted by applicable state and/or federal law, SWES may be allowed by the Planning Board within the common open space of a residential subdivision reviewed under Section VII. or Section VIIA. of the Zoning Ordinance, subject the following requirements:

a. The open space shall be of sufficient size and dimensions to accommodate the SWES(s) and the 75% setback requirement of subsection.N.1.c. above, within the boundaries of the open space.

b. The installation of a SWES, and necessary associated improvements, shall not impact wetlands or otherwise compromise the intent of a conservation subdivision to protect wetlands or other natural resources.

c. The SWES shall comply with all the performance standards other than subsection N.1. Number of SWES, and shall require Planning Board approval of the location of the SWES within the subdivision prior to application to Code Enforcement. The number of SWES shall be determined by the Planning Board and shall be based on the forecasted energy consumption of the dwellings and uses with the subdivision as well as the site's ability to comply with subsection 12.a. and 12.b. a. above.

O. PERFORMANCE STANDARDS – SOLAR ENERGY SYSTEMS

Solar energy systems are considered accessory uses and structures in all residential, mixed use, commercial and industrial districts in the Town of Scarborough. The Code Enforcement Officer may issue a building permit for the installation of a solar energy system provided the following performance standards are met. Solar energy systems include photovoltaic, solar hot water, and solar space heating.

1. Roof and Building Mounted Solar Energy Systems -

a. Roof mounted solar energy systems shall conform to the maximum building height restrictions within the district in which it is located;

b. The solar energy systems shall be designed, sized and installed to only generate electricity, hot water, or heat for the building(s) located on the same lot. This standard is not intended to prohibit the transfer of excess energy to the power grid.

c. Electrical, plumbing and/or building permits from Code Enforcement shall be required.

2. Ground Mounted Solar Energy Systems (Solar Arrays) -

a. The maximum height of a ground mounted solar energy systems shall be a twenty (20) feet. The height of a ground mounted solar energy system shall be measured from the ground level at the base of the solar energy system to its highest point, including the system's pedestal. [amended 01-20-16]

b. Ground mounted solar energy systems shall conform to the yard requirements of the applicable zoning district or be setback a distance equal to the total height of the system, whichever is greater.

c. Electrical wiring and connections from the solar energy system to the building(s) they serve shall be underground.

d. The solar energy systems shall be designed, sized and installed to only generate electricity, hot water or heat for the building(s) located on the same lot. This standard is not intended to prohibit the transfer of excess energy to the power grid.

e. Electrical, plumbing, and/or building permits from Code Enforcement shall be required.

3. Solar Energy Systems within Common Open Space – To the extent permitted by applicable state and/or federal laws, solar energy systems may be allowed by the Planning Board within the common open space of a residential subdivision subject to the following requirements: [adopted 01-20-16]

a. The solar energy systems within common open space shall comply with the performance standards 2.a., 2.c., and 2.e. of the subsection above.

b. If proposed within a conservation subdivision required under Section VII.A. of this Ordinance, the installation of solar energy systems, and any necessary associated improvements, shall avoid impacting wetlands within the subdivision open space areas.

c. The location and number of solar energy systems shall be determined by the Planning Board and shall be based on the forecasted energy consumption of the dwellings and uses within the subdivision as well as the site's ability to accommodate these systems without impacting the other purposes of the common open space.

O.1 PERFORMANCE STANDARDS – UTILITY-SCALE SOLAR ENERGY SYSTEMS [Adopted 10/21/2021][Amended 11/03/2021][Amended 10/05/2022]

The purpose of these standards is to allow for the appropriate siting of Utility-Scale Solar Energy Systems as a clean, renewable energy source and to help promote sustainable initiatives in town. The intent is to facilitate the effective and efficient use of Solar Energy Systems while protecting the public health, safety, and welfare of Scarborough Citizens.

All Utility-Scale Solar Energy Systems are considered principal uses and structures in the RF, RFM, I, LI. For purposes of this Ordinance. Utility-Scale Solar Energy Systems shall meet the following: (a) a commercial facility with primary purpose to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means; (b) is a system that is designed primarily to export energy to the electrical grid; and (c) produces not less than one megawatt and not more than five megawatts of electricity.

All Utility-Scale Solar Energy Systems may be undertaken only after the Planning Board has found that the proposed use will conform to the following performance standards requirements:

1. Dimensional Requirements:

a. Height - Utility-Scale Energy Systems shall conform to the building/structure height requirements of the zoning districts in which they are permitted, not to exceed 20 feet.

b. Setbacks - The minimum setback shall conform to the requirements of the zoning district or 50 feet from lot line, whichever is greater. Setbacks shall be measured from the edge of the perimeter fence enclosure to the property boundary.

i. For Utility-Scale Solar Energy Systems constructed on a property with a closed and capped landfill and which is subject to a MEDEP Solid Waste permit which would restrict the installation of a fence at least 50 feet from the property boundary, the setback shall be 65-feet from the property boundary and is to be measured from the edge of the solar array to the property boundary. The perimeter fence is still required and shall be erected between the property boundary as allowed per MEDEP Solid Waste permit. [adopted 11-03-2021]

Lot Size - The minimum lot size for a Utility-Solar Energy Systems shall be 25 acres.

2. Standards for Utility-Scale Solar Energy Systems:

a. Utility Connections - Utility connections from the solar photovoltaic installation shall be place underground, depending on appropriate soil conditions, shape and topography of the site, and any requirements of the utility provider.

b. Visual Impact - Visual impacts shall be minimized by preserving natural vegetation, screening abutting properties, and protecting scenic resources. Buffer requirements of Section VIII. of the Zoning Ordinance shall apply.

c. Natural Resources - Wetland, vernal pools, surface waters, and slopes greater than twenty percent (20%) shall be conserved. Whenever possible, the area surrounding the array shall be planted with native wildflower meadow seed mix to stabilize the soil, encourage infiltration of runoff and increase pollinator habitat. The Planning Board may allow limited crossings for driveways or utilities to provide access to an upland area that is otherwise deemed to meet all other standards for the development of a Utility-Scale Solar Energy System.

d. Land Clearing and Erosion Control – Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of Utility-Scale Solar Energy Systems. Adherence to the provisions of the Maine Department of Environmental Protection's Maine Erosion and Sediment Control Best Management Practices is mandatory. An erosion and sedimentation control plan and narrative is required, and must comply with requirements set forth in Chapter 420 Town of Scarborough Erosion and Sedimentation Control at Construction Sites Ordinance. Herbicide use is prohibited. No prime agricultural soil or significant volume of topsoil shall be removed from the site to install a Utility-Scale Solar Energy System or its accompanying infrastructure. Removal of mature trees is discouraged and the imposition of mitigation measures or restrictions on tree clearing shall be prescribed by the Planning Board in order to prevent habitat fragmentation of existing forested landscapes and to protect hydrological regimes and other essential ecosystem functions. In the event that a site's vegetation is disturbed or must be removed to provide for solar access during the construction of the project, a revegetation plan is required and must be prepared by a qualified professional. The plan shall indicate the existing nature of the vegetation to be removed; describe revegetation activities and how they create beneficial

habitat by using native vegetation in all disturbed areas of the site not used to achieve operational efficacy of the Utility-Scale Solar Energy System; and a maintenance plan. The Planning Board may approve an alternate revegetation plan that uses native vegetation but does not necessarily establish a beneficial habitat.

1. For projects removing one or move acres of continuous forested landscape the project shall be required to ensure the minimum setback area is vegetated at a density comparable to the pre-existing vegetated area that is to be removed, except for areas required for access crossing.

e. Operations & Maintenance Plan – As part of a Utility-Scale Solar Energy System site plan, the project applicant shall include an operation and maintenance plan, which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.

f. Enclosure – The Utility-Scale Solar Energy Systems shall be surrounded by a perimeter fence. Where applicable for screening from abutting properties in accordance with Section VIII of the Zoning Ordinance. The fence shall be constructed of high quality, long lasting materials incorporating an appropriate level of architectural design determine by the Planning Board. Where chain link fence is determined an appropriate use, the fence shall be either painted a dark color or coated with dark vinyl.

g. Signage – Signs on Utility-Scale Solar Energy Systems shall comply with all applicable standards in this zoning ordinance. All sites shall be required, at minimum, to identify the system owner and provide a 24-hour emergency contact phone number at the entrance of the site.

h. Emergency Services – The system owner of a Utility-Scale Solar Energy System shall provide a copy of the project summary, electrical schematic, and an emergency response plan. The system owner shall identify a responsible person for public inquiries throughout the life of the installation.

i. Installation Conditions – The system owner of a Utility-Scale Solar Energy System shall maintain the facility in good condition. Maintenance shall include, but not be limited to painting, structural repairs, and integrity of perimeter fencing. Site access shall be maintained to a level acceptable to the Fire Chief. The system owner shall be responsible for the cost of maintaining the access road(s) unless the road(s) is accepted as a public way.

j. Applicable Permitting – Prior to approval the Planning Board shall determine all applicable Federal and State permits have been received by the applicant. In addition, prior to the issuance of a building permit the applicant will need to provide an interconnection agreement from the energy provider.

3. Decommissioning and Removal of Utility-Scale Solar Energy Systems: [Amended 10/05/2022]

a. Removal – Any Utility-Scale Solar Energy System that has reached the end of its useful life or has been abandoned consistent with this ordinance shall be removed. The system owner shall physically remove the installation no more than twelve (12) months after the date of discontinued operations. The system owner shall notify the Code Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

1. Physical removal of all Utility-Scale Solar Energy Systems, structures, equipment, perimeter fencing, and transmission lines for the site.
2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Code Enforcement Officer may allow the system owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
    i. Projects removing one or more acres of continuous forested landscape, as noted in section 2.d.1 above, shall revegetate the same area where vegetation was removed and at a density comparable to the pre-existing vegetation. A revegetation plan shall be prepared by a qualified professional. The plan shall indicate the existing nature of the vegetation that was removed, describe revegetation activities, and include a maintenance plan. The revegetation plan shall be a component of the surety as required in section 3.c. below.

b. Abandonment.

i. Absent written notice of a propose date of discontinued operations or written notice of extenuating circumstances, a Utility-Scale Solar Energy System shall be considered abandoned when it fails to generate electricity for a continuous twelve (12) month period. Determination of abandonment shall be made by the Code Enforcement Officer. The Code Enforcement Officer shall notify the system owner of an abandoned facility in writing and order the removal of the facility within one hundred and twenty (120) days of receipt of the written notice. The system owner shall have forty-five (45) days from the receipt of the notice to demonstrate to the Code Enforcement Officer that the system has not been abandoned. If the system owner fails to show that the system is inactive operation, the system owner shall have ninety (90) days to reactivate the system or commence removal of the facility in accordance with the requirement of this provision.

ii. Failing to remove the system in accordance with the requirements of this Article is considered a violation of this Article. The Town retains the right to use any all legal or available means necessary to cause an abandoned, hazardous, or decommissioned Utility-Scale Solar Energy System to be removed.

c. Surety – If the facility is not removed within the designated period. The Town may remove the facility at the owner's expense. A copy of the relevant portions of a signed lease or other comparable signed legal instrument which requires the applicant to remove the Solar Energy System and associated facilities and reclaim the site upon abandonment or decommissioning shall be submitted as part of the application. Further, a surety shall be proved to the Town to guarantee the removal of an abandoned Solar Energy System, prior to the installation of the facility. The applicant must submit a sample form of surety with its application to pay for the costs of removing the facility if it is abandoned. The surety must be obtained and delivered to the Planning Department after approval of the application by the Planning Board and prior to construction.

4. Public Notification:

When an application is deemed 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 the 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 actin on an application.

P. PERFORMANCE STANDARDS – ACCESSORY AGRICULTURAL ACTIVITIES [Adopted 05/05/2010][Amended 09/02/2020; 10/18/23]

Accessory Agricultural Activities must be carried out in conformance with the following performance standards:

1. Chickens may be kept on a lot in accordance with the following standards:

a. Up to five (5) chickens may be kept on a lot with a lot area of less than ten thousand (10,000) square feet.

b. Up to ten (10) chickens may be kept on a lot with a lot area of ten thousand (10,000) square feet or more but less than forty thousand (40,000) square feet.

c. Any number of chickens may be kept on a lot with a lot area of forty thousand (40,000) square feet or more.

d. All chickens must be female unless on lots in the RF with a lot area of at least eighty thousand (80,000) square feet. [Amended 09/02/2020]

e. On lots with a lot area of less than forty thousand (40,000) square feet, the chickens must be kept in an enclosure or fenced area at all times. This requirement can be met through the use of a mobile enclosure or a so called “chicken tractor”.

f. The chickens must be confined within a henhouse during non-daylight hours.

g. The henhouse must be enclosed on all sides, have a roof and door, and the access doors must be able to be shut and locked. The henhouse must be constructed from substantial materials and be visually compatible with the property. The hen house must be setback from any property line at least fifteen feet or the minimum required setback for the district in which it is located, whichever is greater

h. The henhouse and enclosure must be maintained so that it is clean, dry, and odor free. All manure or other wastes must be stored in a fully enclosed structure or in airtight containers and must be periodically removed from the property or composted so there is no accumulation of waste material on the lot.

2. Small animals (such as sheep, goats, pot-belly pigs, or fowl that typically weigh not more than 100 pounds at maturity) other than domestic pets or chickens may be kept on a lot that has a lot area of at least 40,000 square feet.

3. Large animals (such as horses, cows, hogs, or llamas that typically weigh more than 100 pounds at maturity) may be kept on a lot that has a lot area of at least 80,000 square feet.

4. Any building or structure that is used to house animals other than domestic pets or chickens must meet the setback requirements for the zone in which it is located.

5. The sale of any type of seafood may only be permitted by those who meet all Federal, State and municipal requirements to do so.

6. Accessory agricultural activities that include any type of seafood are not subject to site plan review, but do require a permit from the Zoning Administrator to verify licensing requirements and safe storage practices are in place.

7. The sale of products produced on the property or seafood caught or harvested by the owner in excess of what is consumed by the occupants of the property is permitted. The sales must occur in a designated area not more than twenty (20) square feet in area and may include a display stand or table. The stand or table may only be in place during the season when products are being sold and must be removed during the "off-season".

Q. PERFORMANCE STANDARDS – COMMERCIAL AGRICULTURE AND COMMERCIAL ANIMAL HUSBANDRY INCLUDING PROCESSING [Adopted 05/05/2010]

Commercial Agriculture and Commercial Animal Husbandry must be carried out in conformance with the following performance standards:

1. A lot must have a lot area of at least one (1) acre to have any permanent agricultural buildings or structures.

2. Commercial Animal Husbandry is allowed only on lots with a lot area of two (2) acres or more.

3. Any building or structure that is used to house animals other than domestic pets and any facilities for the storage or handling of manure or materials that contain manure must conform to the setback requirements of the zone in which it is located. The facilities 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.

4. Facilities for the processing of agricultural products must be designed and primarily used to process products raised as part of the Commercial Agriculture and/or Commercial Animal Husbandry use but the processing of other agricultural products not raised as part of the Commercial Agriculture or Animal Husbandry use is allowed provided that the processing facilities are accessory and subordinate to the principal agricultural use of the property.

5. Processing facilities must be operated and maintained in accordance with the latest edition of the Maine Department of Agriculture's 01-001 Chapter 343 Rule, "Food Processing and Manufacturing" requirements.

R. PERFORMANCE STANDARDS – FARM STANDS [Adopted 05/05/2010] [Amended 10/18/23]

A Farm Stand must conform to the following performance standards:

1. A farm stand must be associated with and accessory to a Commercial Agriculture, Commercial Animal Husbandry or Commercial Fishing and Harvesting use.

2. A farm stand must be located on a parcel that is actively used for the Commercial Agriculture or Commercial Animal Husbandry use or in the case of Commercial Fishing and Harvesting, be the primary residence of the owner of the commercial operation.

3. A farm stand may be a free-standing structure or outdoor location or may be part of another building or structure (for example, an area in a barn or house that is used for sales).

4. The total area devoted to retail sales is limited to four hundred (400) square feet. This includes the area of a free-standing building or structure, the area for outside display and/or sales, the outdoor area used for retail sales if there is no building or structure, and the area used for sales in another building.

5. The sale of products is limited to: a) those grown, raised, caught, harvested or produced by the Commercial Agriculture, Commercial Animal Husbandry or Commercial Fishing and Harvesting use with which the farm stand is associated, b) processed products that are made from products grown or raised by the agricultural use (for example, cheese or ice cream made from milk, yarn made from wool, processed foods such as apple butter or salsa made from items grown by the use, or baked goods made using items grown by the agricultural use), c) agriculture products including processed products that are not produced by the agricultural use with which the stand is associated, d) live or fresh fish, shellfish and lobsters, and e) handmade art and craft products.

6. The farm stand must be located on the parcel so that it meets side and rear setback requirements but a free-standing farm stand is not required to meet the front setback requirements.

7. The farm stand must be located so that it provides appropriate parking and access for customers. Customer vehicles must not be required to back out on to a public street.

8. The farm stand may be open for business only when it is selling products that are grown, raised, caught, harvested or produced as part of the Commercial Agriculture or Commercial Animal Husbandry use.

9. A farm stand is not subject to site plan review but does require a permit from the Zoning Administrator.

S. PERFORMANCE STANDARDS – AGRICULTURAL PRODUCTS STORES [Adopted 05/05/2010] [Amended 10/18/2023]

An Agricultural Products Store must conform to the following performance standards:

1. An agricultural product store must be associated with and accessory to a Commercial Agriculture, Commercial Animal Husbandry, or Commercial Fishing and Harvesting use.

2. A store must be located on a parcel that is actively used for the Commercial Agriculture and/or Commercial Animal Husbandry use or in the case of Commercial Fishing and Harvesting, be the primary residence of the owner of the commercial operation.

3. The primary vehicle access to the store must be from a street/road that is classified by the Town as an arterial, collector, or minor collector.

4. An agricultural products store may be a free-standing building or may be part of another building or structure (for example, an area in a barn or house that is used for sales)

5. A free-standing building used for retail sales or the area used for sales in another building is limited to one thousand (1,000) square feet of sales area. An additional outside area of not more than five hundred (500) square feet may be used for the display and/or sales of products. These limits shall not apply to greenhouses or areas for the growing and/or display of nursery stock or other plants for sale as part of the agricultural use.

6. The sale of products may include: a) those grown, raised, caught, harvested or produced by the Commercial Agriculture, Commercial Animal Husbandry or Commercial Fishing and Harvesting

use with which it is associated, b) processed products that are made from products grown or raised by the use (for example, cheese or ice cream made from milk, yarn made from wool, processed foods such as apple butter or salsa made from items grown by the use, or baked goods made using items grown by the use), c) agriculture products including processed products that are not produced by the Commercial Agriculture or Commercial Animal Husbandry use with which the store is associated, and d) handmade art and craft products.

7. The building in which the store is located must meet the front, side, and rear setback requirements for the district in which it is located

8. The store must be located so that it provides appropriate parking and access for customers. Parking must be provided in accordance with the requirements of Section XI. for retail uses.

9. The store may be open for business only when it is selling products that are grown, raised, caught, harvested or produced as part of the Commercial Agriculture, Commercial Animal Husbandry or Commercial Fishing and Harvesting use.

10. The construction of a building or the conversion of an existing building for use as an agricultural products store is subject to minor site plan review.

T. PERFORMANCE STANDARDS – BED AND BREAKFASTS [Adopted 05/05/2010]

A Bed and Breakfast (B&B) must conform to the following performance standards:

1. A B&B that is located in a rural or residential zone must have its primary vehicle access from a street/road that is classified by the Town as an arterial, collector, or minor collector. This requirement does not apply to a B&B located in mixed-use or nonresidential zone.

2. The parking for a B&B that is located in a rural or residential zone may not be located in the required front yard.

3. A B&B that is located in a rural or residential zone shall maintain a residential character in the design of the building and site improvements including the location of parking.

4. If the lot on which the B&B is located abuts a lot that is in residential use, a vegetated buffer strip at least fifteen (15) feet in width shall be established and maintained between any parking or service areas and the property line. The buffer strip shall screen the parking and/or service areas from view from the abutting property.

5. The provision of food and beverage service is limited to the guests of the B&B during their stay.

6. The owner or manager of the B&B must reside in a dwelling unit within the B&B during times the B&B is open for business.

U. PERFORMANCE STANDARDS – COMMERCIAL OUTDOOR RECREATION [Adopted 05/05/2010]

A Commercial Outdoor Recreation use must conform to the following performance standards:

1. The primary recreational activity must occur in the outdoors.

2. Structural development must be limited to facilities and buildings that support the primary recreational activity and shall be the minimum necessary to accommodate the use. Buildings or structures may not be or house the primary recreational activity. Examples of allowed buildings and

structures include maintenance and storage buildings, an office related to the use, rest rooms, an equipment rental building, a warming hut or club house, and facilities for the sale of refreshments to people using the facility.

3. All buildings, facilities and areas used for recreation activities must conform to the setbacks for the district in which it is located.

4. The use must provide adequate off-street parking that is appropriate for the anticipated use of the facility and that will prevent the parking of vehicles along public roads.

5. If the use will operate on a regular basis, an improved parking lot must be provided.

6. If the use will operate intermittently or will have increased use on an intermittent basis, parking for these times may be provided in unimproved or field type parking areas.

7. The recreational activity must not create any adverse impacts for abutting properties as a result of noise or odors.

V. PERFORMANCE STANDARDS – HOME OCCUPATIONS [Adopted 05/05/2010]

In those zoning districts where home occupation is allowed as a special exception, the Board of Appeals may issue special exception approval for the establishment of a home occupation. In addition to meeting the standards for special exceptions in Section IV.I.4 of this Ordinance, all home occupations must adhere to the following standards:

1. The occupation or profession shall be carried on wholly within the principal building or within a building accessory thereto.

2. The home occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes.

3. No more than one person who is not a resident of the dwelling unit shall be employed in the home occupation.

4. Exterior signage shall be permitted in accordance with the home occupation sign provisions under Section XII. Sign Regulations subsection E.

5. There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building (except as expressly permitted by the district regulations of this Ordinance). This prohibition shall not apply to the storage of lobster traps.

6. No nuisance shall be generated, including but not necessarily limited to offensive noise, vibration, smoke, dust, odors, heat or glare.

7. The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood.

8. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users or customers the home occupation may attract during peak operating hours.

9. The home occupation may utilize:

a. Not more than twenty percent (20%) of the dwelling unit floor area, provided that for the purposes of this calculation, unfinished basement and attic spaces are not included;

b. Unfinished attic and basement spaces; and

c. Space within an accessory building totaling not more than one thousand (1,000) square feet of floor area.

10. Home occupations may include retail sales subject to the following limitations:

a. The total area devoted to retail sales is limited to four hundred (400) square feet and must be fully enclosed within a building.

b. The sale of products is limited to: products and articles produced, assembled or processed on the premises; and seafood caught or harvested off the premises by persons who reside in the dwelling unit or by the one employee permitted under paragraph 3 above.

11. A fisherman, lobsterman or shellfish harvester need not obtain home occupation approval except to engage in retail sales allowed under paragraph 10.b above.

12. Motor vehicle repairs and motor vehicle towing businesses are not allowed as home occupations.

W. PERFORMANCE STANDARDS – SMALL-SCALE ENERGY FACILITIES [Adopted 06/20/12; Amended 05/17/2023]

All small-scale energy facilities shall comply with the following performance standards:

1. The energy facility shall be accessory to a permitted use in the district in which it is located or shall be part of a planned development approved by the Planning Board.
2. The facility shall be designed and used primarily to provide power to the principal use or building to which it is accessory or the planned development in which it is located. This requirement is not intended to prohibit the sale of surplus power to the electric grid. [Amended 05/17/2023]
3. The generator, fuel storage, and related equipment shall be located in a fully enclosed building except for self-contained equipment, and wind or solar related elements of the facility. [Amended 05/17/2023]
4. The facility, including all buildings and elements located outside of a building shall be sited and designed to be compatible with the principal building or the overall planned development and located to the side or rear of the primary structure. [Amended 05/17/2023]
5. They shall be screened from public and private ways, main entrances, public spaces, and abutting residential neighborhoods. [Adopted 05/17/2023]
6. If the facility relies on a fuel source that is delivered by truck, the volume of truck traffic shall be compatible with the principal use/building or the planned development. The use of trash or refuse derived fuel (RDF) as the primary fuel source shall not be allowed.
7. The facility shall conform to the Town's performance standards for noise and odor.

X. PERFORMANCE STANDARDS – GASOLINE FILLING STATIONS [Amended 06/20/12]

Gasoline filling stations, whether a principal or accessory use, shall comply with the following standards. These standards shall apply to all new gasoline filling stations and to existing gasoline filling stations which are expanded or enlarged by increasing the size of buildings or structures, by increasing the number of fuel pumps or by adding any of the activities or uses listed in subparagraph (f) below. New gasoline filling stations and gasoline filling stations which are expanded or enlarged by increasing the size of buildings or structures or by increasing the number of fuel pumps must also obtain site plan approval pursuant to the Scarborough Site Plan Review Ordinance.

1. A gasoline filling station shall be located on a lot of no less than 40,000 square feet or the minimum lot area required in the zoning district, whichever is greater. (09/19/01).

2. A gasoline filling station existing on October 5, 1992 which does not comply with the space and bulk regulations for the zoning district, does not comply with the requirements of subsection (a) above, or is not a permitted or planned development use within the zoning district shall be deemed a non-conforming use, which can be expanded or enlarged only in compliance with Section (III)(F) of this Ordinance. Otherwise, the lot on which a gasoline filling station is located and all buildings and structures used in connection with the gasoline filling station shall comply with all space and bulk regulations for the zoning district, and no variance shall be granted from any of them or from the requirements of subsection (a) above.

3. A gasoline filling station shall be served by public sewer and public water and shall provide public rest rooms, one for males and one for females, for use by customers.

4. There shall be at least one attendant on duty at all times when a gasoline filling station is open for business.

5. A gasoline filling station may include as accessory uses or may be operated as an accessory use to the following:

a. Retail sales. If a gasoline filling station is operated as an accessory use on a site containing a retail sales use or uses with a total retail floor area of greater than 30,000 square feet, the gasoline filling station shall be subject to the following additional conditions:

- No curb cuts or access points to streets shall be allowed beyond those needed to serve the retail sales use or uses on the site, as determined by the Planning Board;
- The gasoline filling station must be situated on the site in a well-landscaped location which minimizes its visibility from streets, as determined by the Planning Board.

As used in this Section, the term retail sales use includes businesses such as "wholesale clubs" which offer membership to the general public. (09/19/01)

b. Fully enclosed automobile repair and service facilities serving the general public.
c. Retail sale of propane gas, compressed natural gas or similar fuels.
d. Retail sales of automobile supplies and accessories for the convenience of travelers.
e. Hand washing of automobiles, or waxing, polishing, cleaning and detailing of automobiles in fully enclosed structures.
f. Restaurants.

6. A gasoline filling station may <u>not</u> include as an accessory use and may <u>not</u> be operated as an accessory use to the following:

a. Wholesale distribution, storage or sale of fuels.

b. Automobile sales.
c. Automobile painting or body shops.
d. Junkyards or salvaging operations.
e. Distribution or transportation facilities or trucking terminals.
f. Hotels or motels.
g. Truck stops dispensing motor fuel primarily to trucks and similar commercial vehicles and/or providing overnight accommodations or food service for truck crews.
h. Facilities for servicing, storing or repairing commercial or fleet vehicles and which do not provide retail services to the general public.
i. Self-service, automatic or semiautomatic car washes.
j. Towing and wrecker service.

If any of the above uses or activities listed in this subsection (f) is permitted in the zoning district, it may be located on the same property as a gasoline filling station, but such use or activity and the gasoline filling stations shall be considered a principal use and each shall comply separately with all applicable requirements of this zoning ordinance.

7. If a gasoline filling station is part of a planned development that includes other buildings and uses, the gasoline filling station shall be integrated into the overall planned development in terms of the site design, the vehicular access and traffic circulation, the building orientation(s), and the building architecture.

8. A gasoline filling station shall provide the number of off-street parking spaces required for retail sales and services based on the floor area of the filling station, as per Section XI of this Ordinance. In addition, any accessory use allowed per subsection (e.) shall also provide off-street parking in accordance with the standards for off-street parking under Section XI.

9. Except as allowed in accordance with section IX.D. Accessory Outdoor Displays, the placement, storage or display of any goods, wares or merchandise outside the enclosed portions of the buildings or structures is prohibited. This subsection shall not prevent the placement at the fuel pump islands or products, such as motor oil, automotive fluids and wiper blades, which are dispensed or installed while vehicles are standing at the fuel pumps. (11/04/92)

10. All gasoline filling stations developed after September 20, 2001 shall be designed and constructed in accordance with the "Design Standards for Scarborough's Commercial Districts" adopted by the Scarborough Planning Board. [09/19/01]

11. Fuel pump canopies installed after September 20, 2001 must have a pitched roof and must be consistent with the "Design Standards for Scarborough's Commercial Districts" adopted by the Scarborough Planning Board. [09/19/01]

12. All gasoline filling stations developed after September 20, 2001 shall maintain a green strip buffer at least 15 feet in depth along the entire front lot line, except for driveway entrances, and along the entire rear lot line. Where the rear lot line abuts a lot located wholly or partly within a residential zone, the depth of the green strip buffer shall be increased to 30 feet. [09/19/01]

13. All gasoline filling stations developed or expanded after September 20, 2001 shall incorporate a storm water management system designed to contain fuel or other automotive fluids on site in the event of a spill. Such system must be reviewed and approved by the Town Engineer. [09/19/01]

Y. MANUFACTURED HOUSING COMMUNITIES Adopted [07/20/2022]

(1) Each manufactured home shall face and abut on a driveway or clear unobstructed space that provides access to a public street or privately owned road within a Manufactured Housing Community.

(2) No manufactured home shall be permitted to be installed closer than 5 feet to the side lines which define the manufactured housing community lot, nor shall it be installed so that it is closer than 10 feet to any other manufactured home or to any building not on the same manufactured housing community lot.

(3) The minimum lot area for Manufactured Housing Community lots shall be at least 2,100 square feet.

(4) A Manufactured Housing Community must comply with the setback requirements that are applicable in the underlying zoning district.

(5) Any proposed expansion of a Manufactured Housing Community must obtain either a special exception permit in zoning districts where a Manufactured Housing Community is a special exception, or approval through a miscellaneous appeal in zoning districts that do not permit Manufactured Housing Community.

(6) A Manufactured Housing Community shall comply with the provisions of Chapter 1019.

Z. SINGLE FAMILY DWELLING UNITS

30-A MRSA §4364-A Permits up to four dwelling units per lot with the following stipulations.
[Adopted 07/19/2023]

	Dwelling Units Permitted	
Lot Status	Inside Growth Areas	Outside Growth Areas
Vacant	4 total dwelling units	2 total dwelling units
Contains one existing unit	2 additional units[1]	2 additional units[1]
Contains two or more existing units	No additional units	

[1] One additional dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each.

1. If more than one dwelling unit has been constructed on a lot as a result of the allowance under this section or section 4364-B Accessory Dwelling Units, the lot is not eligible for any additional increases in density.
2. All space and bulk standards shall apply in accordance with the corresponding zoning designation of the lot.
3. The owner of a housing structure must provide written verification to the municipality that the structure is connected to adequate water and wastewater services before the municipality may certify the structure for occupancy. Written verification under this subsection must include:

a. If a housing structure is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the structure and proof of payment for the connection to the sewer system;

b. If a housing structure is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42;

c. If a housing structure is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the structure, proof of payment for the connection and the volume and supply of water required for the structure; and

d. If a housing structure is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

4. A housing structure must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, Chapter 3 and municipal shoreland zoning ordinances.

5. This section may not be construed to exempt a subdivider from the requirements for division of a tract or parcel of land.

6. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

AA. CANNABIS CULTIVATION FACILITIES, CANNABIS MANUFACTURING FACILITIES, AND CANNABIS TESTING FACILITIES[Adopted 09/04/2024]

1. Licensing. Persons or entities wishing to establish a Cannabis Cultivation Facility, Cannabis Manufacturing Facility, or Cannabis Testing Facility within the Town of Scarborough shall first obtain a license from the Scarborough Town Council and shall be subject to the provisions of the Cannabis Establishments Licensing Ordinance and this Ordinance.

2. Residential Property Setbacks. Cannabis Cultivation Facilities may not be located on property within 1,000 feet of the property line of a lot on which a dwelling is located in a Residential Zoning District, measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the residential property line and the closed portion of the structure or building in which the Cannabis Cultivation Facility is located; or within 1,000 feet of the front door of an existing single-family home in existence at the time of the adoption of this ordinance. A Cannabis Cultivation Facility licensed and operating prior to the adoption of this section that does not meet this performance standard may continue under the nonconformance provisions in Section III of this Ordinance.

BB. MOBILE FOOD VENDOR COURT. [Adopted 01/08/2025]

The establishment of a mobile food vendor court shall be through the site plan process. In addition, all mobile food vendors in the mobile food vendor court shall adhere to licensing requirements found in Chapter 1015.A Mobile Food Vendor License Ordinance.

The following standards shall apply to all mobile food vendor courts:

1. Minimum setbacks for the zoning district in which the mobile food vendor court is located shall apply to all mobile food vendor pad sites.
2. Each mobile food vendor located at a mobile food vendor court shall be located on a pad site that meets the standards in this ordinance.
3. Each mobile food vendor pad site shall be equipped with electrical connections.
4. Mobile food vendor pad sites shall be designed to maintain a five (5) foot clear space around each mobile food vendor.
5. Mobile food vendor pad sites shall be designed so that mobile food vendors shall be parked on asphalt, concrete or other approved surfaces. Appropriate spill control and counter-measures plan with sufficient materials to address typical shall be provided for every pad site.
6. Mobile food vendor pad sites shall be designed so that no mobile food vendor is set-up within any ADA accessible parking space.
7. Mobile food vendor pad sites shall be designed so that no mobile food vendor is set up within any designated sight triangle/vehicle clear-zone or within twenty (20) feet of fire lanes, fire hydrants or fire connections.
8. Mobile food vendor pad sites shall be designed so that no mobile food vendor is located in the public right-of-way, impedes traffic, interferes with the general ingress and egress to and from any property, public or otherwise, or presents an unsafe condition for patrons, pedestrians, or other vehicles.
9. Mobile food vendor courts shall provide temporary or permanent public restroom facilities.

CC. LANDSCAPE CONTRACTOR RUNNING HILL - GORHAM ROAD MIXED USE DISTRICT [Adopted 08/20/2025]

1. The number of motor vehicles and trailers for equipment and supplies operated in connection with the landscape contractor business or parked on-site must be approved by the Planning Board to avoid an adverse impact on abutting uses.
2. Adequate parking must be provided on-site for the total number of vehicles and trailers permitted.
3. Sale of plant materials, garden supplies, or equipment is prohibited.
4. The Planning Board may regulate hours of operation and other on-site operations to avoid adverse impact on abutting uses.
5. No open storage of materials shall be permitted.
6. All burning of landscape related materials shall be prohibited.

SECTION X.A WETLAND SETBACKS AND VEGETATED BUFFERS [Adopted 01/22/2025]

A. Applicability

Wetland setback requirements shall apply to all new development requiring site plan or subdivision approval. Redevelopment projects shall maintain the minimum wetland setbacks under this Ordinance or that which was previously permitted at the property.

This ordinance shall not apply to wetlands addressed in Chapter 405C Town of Scarborough Shoreland Zoning Ordinance.

This ordinance shall not apply to required conservation subdivisions per Section VII.A. Conservation Subdivision Design.

This ordinance does not preclude wetland fill permitting at the State and Federal level. If a wetland is approved to be filled in its entirety, no wetland setback or buffer is required. If a wetland is approved for partial impact, the wetland setback and buffer requirements will be based on the new wetland boundary.

This ordinance shall not apply to properties in receipt of or in process of receipt of approval for wetland fill as of January 22, 2025.

B. Definitions

Coastal Wetlands: Coastal wetland means all tidal and subtidal lands; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat, or other contiguous lowland that is subject to tidal action during the highest astronomical in which an activity is proposed. Coastal wetlands may include portions of coastal sand dunes.

Forested Wetland: Forested wetland means a freshwater wetland dominated by woody vegetation that is 6 meters tall, or taller.

Fresh Water Wetland: Freshwater wetland means freshwater swamps, marshes, bogs, and similar areas that are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and not considered part of a great pond, coastal wetland, river, stream, or brook.

Vegetated Buffer: A vegetated buffer is part of the wetland setback area that maintains or enhances the natural vegetation cover from the natural resource for a specified distance. Limited activity may take place in the vegetated buffer.

Wetland Setback: A wetland setback is a defined distance between a coastal wetland, freshwater wetland or forested wetland, and any upland development. The wetland setback also includes a vegetated buffer.

C. Wetland Setback and Vegetated Buffer Required

The following setback and minimum vegetated buffer width standards apply:

Environmental Resource Type	Vegetated Buffer	Wetland Setback (includes vegetated buffer)
All other Wetlands	15’	25’

*Where any provision of this Section conflicts with a State or Federal law or regulation, another section of this Site Plan Ordinance, Zoning Ordinance, or another local ordinance or regulation, the more restrictive provision shall apply.

The required minimum vegetated buffer is a portion of the wetland setback area directly adjacent to the wetland and maintains or enhances the natural vegetation cover from the wetland for a specified distance.

All wetland setbacks and vegetated buffers shall be marked with permanent pins every 50-100’ and signage along the 15 foot buffer line as determined by the Planning Board. All required boundary markers shall be installed by a qualified professional before project construction commences.

Wetland Setbacks are not subject to variance procedures.

D. Permitted Activities

Activities that do not involve the erection or construction of any structure or impervious surface, will not alter the natural surface configuration by the addition of fill or by excavation, will not result in site alterations, and is otherwise permitted by the Zoning Ordinance are permitted as shown in the following table. Uses not specifically identified shall be prohibited.

Standards and Permitted Activity use table abbreviations are as follows:

P – Permitted by Right
NO – Not a Permitted Activity

Permitted Activity	Setback Area – Inside of Vegetated Buffer	Setback Area - Outside of Vegetated Buffer
Pesticides Permitted	NO	NO
Fertilizer Permitted[A]	NO	P
Tree Cutting or Vegetation Removal	NO	P
Invasive Species Control[B]	P	P
Planting/establishment of Non-invasive species[C]	P	P

Permitted Activity	Setback Area – Inside of Vegetated Buffer	Setback Area - Outside of Vegetated Buffer
Lawns	NO	P
Forest Management Activities[D]	NO	P
Outdoor Lighting	NO	P
Fences[F]	NO	P
Stormwater Retention or Detention Basin	NO	NO
Stormwater Conveyance Structures	NO	P
Sewage Disposal Facilities	NO	NO
Soil Erosion and Sediment Control Measures[G]	NO	P
Shoreline Stabilization	NO	NO
Living Shorelines	P	P
Maintenance to existing structures and improvements within existing footprint[E]	P	P
Repair, maintenance and improvements of existing roadways, utilities and sidewalks	P	P
Installation of piers or docks, provided that all required local, state, and federal approvals have been granted	P	P
Wildlife refuges, passive recreation, conservation nature trails, and open spaces as permitted or required by the Zoning Ordinance or Subdivision Regulations	P	P
Trailhead Parking	NO	NO
Grading, Fill or Excavation Activities	NO	Only for permitted activities listed above

[A]Permitted fertilizers must be low phosphate slow release in areas of fresh water impact and slow release nitrogen in areas of coastal water impacts, both at a rate recommended from a soil test.

[B]Invasive species control shall be completed under the guidance and approval of a Licensed Forester, ISA Certified Arborist, Registered Landscape Architect, or Qualified Resource Buffer Professional.

[C]Depending on the buffer type, revegetation of buffers must use appropriate native plants.

[D]When forest management activities are permitted, harvesting up to 20% of the total volume of each acre of trees 4.5 inches DBH or greater in any 10-year period is allowed.

[E]Reconstruction and modifications of existing structures is permitted; however, footprint expansion must move landward to the greatest extent practical.

[F]Fences may be constructed along the vegetated buffer line; however, they must have no footings and no ground disturbance within five (5) feet of the vegetated buffer.

[G]Construction disturbance limit is 15 feet from the wetland. When silt fence is required, it shall be placed outside of the 15 feet vegetated buffer line.

E. Waivers

Wetland Crossings. The Planning Board may consider wetland crossing in setbacks through the subdivision and site plan approval process if the following apply:

1) The crossing must be located at the narrowest span of wetlands; and
2) The crossing must be designed to move flow between the segregated wetlands; and
3) Minimum footprint of the roadway or utility crossing must be demonstrated to reduce wetland impacts; and
4) Open bottom culverts shall be included every 50 feet; and
5) It is demonstrated that no other alternative route is feasible.

SECTION X. PERFORMANCE STANDARDS - EXTRACTIVE INDUSTRY.

1. Whenever under the district regulations of this ordinance, a special exception permit is required for an extractive industry, the Board of Appeals shall consider, in addition to the standards of Section IV, I, 4 of this Ordinance, the following factors:

A. Fencing, barriers and other public safety measures.
B. Landscaping, buffer strips, and other measurers to reserve the aesthetic values of the neighborhood.
C. Effect of advertising signs and lighting.
D. Adequacy of parking spaces and loading and unloading areas.
E. Location of entrances and exits.
F. Hours of operation and duration of operation.
G. Methods of operation.
H. Weight of trucks and method of loading trucks.
I. Protection against spillage upon public streets.
J. Proposals for rehabilitation and reclamation of the site.
K. Effect of the use on the natural environment.

2. The Board of Appeals may impose such conditions relating to those factors as are necessary to insure compliance with the standards and requirements of this Ordinance.

SECTION XI. OFF-STREET PARKING REGULATIONS. [Amended 01/06/2010; 01/04/2023; 07/19/2023; 01/08/2025; 05/07/2025]

A. Applicability

Off-street parking spaces shall be provided in all districts whenever any structure is constructed, altered, or enlarged; a new land use is established; an existing use is replaced by a new use (change of use); or an existing use is expanded or increased in intensity.

All new or redevelopment parking facilities shall be required to install electrical vehicle charging station (EVCS) infrastructure. For redeveloped parking facilities, EVCS standards shall apply to the redeveloped parking area(s) and not the parking facility as a whole.

Such spaces shall be provided in accordance with the provisions of this Section, prior to the issuance of a certificate of occupancy for the structure or use. As provided for under the requirements of the Site Plan Review Ordinance, site plan approval is required before any parking or vehicular use is established, enlarged or changed. [adopted 01/06/10]

Off-street parking, either by means of open-air spaces or by garage space, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve uses located in any district. [amended 01/06/10]

Single family and two-family dwellings in existence as of January 6, 2010, shall be exempt from the number of parking spaces and EVCS requirements in Section XI.[adopted 01/06/10]

Single family and two-family dwellings not constructed in an approved subdivision shall be exempt from EVCS parking standards in Section XI, but not the total number of parking spaces required.

B. Definitions

Charging levels: Means the standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms 1, 2, and 3 are the most common charging levels, and include the following specifications:

- Level 1 provides charging through a 120 volt (V), alternating-current (AC) plug
- Level 2 charging is through a 240V, AC plug
- Level 3 charging is through a 480V, direct-current (DC) plug.

EVCS-capable: Means parking spaces with necessary conduit installed but lacking required electrical capacity to install EVCS.

EVCS-installed: Means parking spaces equipped with electrified EVCS.

EVCS-ready (non-residential): Means parking spaces with necessary conduit installed and the electrical panel and equipment where EV charger circuits are to originate be designed with sufficient space to accommodate future capacity to install required EVCS.

EVCS-ready (residential): Electrical panel with at least 50 amp service and a 240V grounded alternating current outlet installed near where cars will be parked (garage, driveway, etc.).

Electric vehicle infrastructure: Means conduit/wiring, structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations.

Electric vehicle parking space: Means any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle.

Electrical capacity: Means, at minimum:

- Panel capacity to accommodate a dedicated branch circuit and service capacity to install a 208/240V outlet per charger;
- Conduit from an electric panel to future EVCS location(s).

Non-electric vehicle: Means any motor vehicle that is licensed and registered for operation on public and private highways, roads, and streets that does not meet the definition of an electric vehicle.

Redevelopment: Means the excavation or grading (not including paving or fine grading) of existing parking areas in excess of 25% of the existing parking area.

C. Off-Street Parking Required

In specific cases where two or more uses occupy segregated areas of the same building or structure the off-street parking requirements shall be based on the total area occupied by each distinct use.

Where a use is not specifically mentioned in this provision, the Planning Board shall determine the minimum parking requirements. The number of parking spaces required shall be determined by the Planning Board based on the nature of the use, the intensity of the proposed use and the parking demand expected to be generated by the specific proposal.

On-street parking cannot be used to satisfy the requirements of this section unless it is specifically authorized in another section of this Ordinance.

For all non-residential uses, the number of required EVCS spaces shall round up to an even number.

The following minimum off-street parking requirements, including EVCS requirements, shall be provided and maintained:

RESIDENTIAL USES	SPACES REQUIRED	EVCS Install	EVCS Ready	EVCS Capable
Single Family	2 for each dwelling unit		100%	
Two Family	2 for each dwelling unit		100%	
Multi-family	2 for each dwelling unit Containing 2 or more bedrooms 1.5 for each dwelling unit containing fewer than 2 bedrooms	5%	30%	65%
Accessory Unit	None required			

Senior Housing	1 parking space per dwelling unit and 1 parking space for each employee based on the expected average employee occupancy	10%	20%	70%
INSTITUTIONAL AND CIVIC USES	**SPACES REQUIRED**	**EVCS Install**	**EVCS Ready**	**EVCS Capable**
Elementary and Middle School	1 per teacher and staff member, plus 1 space per 2 classrooms.	5%	5%	15%
High School	1 per teacher and staff member on the largest shift, plus 1 space per 5 non-bused students.	5%	5%	15%
College	1 space per staff member on the largest shift, plus 1 space per 2 students of the largest class attendance period.	5%	5%	15%
Group Day Care Homes, Day Care Centers, Nursery Schools	1 per 4 children the facility is licensed for, plus 1 for each employee required by the State of Maine licensing standards for child to staff ratio		5%	20%
Hospitals, Boarding Care Facilities for the Elderly, nursing homes, residential and long-term care facilities for the ill, aged or disabled	1 per 3 beds, plus 1 for each employee based on the expected average employee occupancy.		5%	20%
Place of assembly, amusement, culture and places of worship	1 for each 4 seats or for each 100 square feet or major fraction thereof of assemblage space if no fixed seats.		5%	20%
Funeral Home	10 per 1,000 sq. ft. of FA in slumber rooms, parlors, and individual service rooms		5%	20%
RECREATIONAL USES	**SPACES REQUIRED**	**EVCS Install**	**EVCS Ready**	**EVCS Capable**
Health Club [amended 01/06/2010]	3.5 per 1,000 sq. ft. Of FA, except that areas occupied by, and only to be used for specific activities (i.e. tennis or racquetball courts, Exclusive of gymnasiums) require 3 per court.	5%	10%	10%
Water Dependent Golf Driving Ranges	1.5 spaces for each tee area		5%	20%

COMMERICAL AND RETAIL USES	SPACES REQUIRED	EVCS Install	EVCS Ready	EVCS Capable
Retail sales & services (< 25,000 sq ft)	4 per 1,000 sq. ft. of FA		5%	5%
Retail sales & services (> 25,000 sq ft)	4 per 1,000 sq. ft. of FA	1%	4%	5%
Mobile food Vendor Court [Amended 01/08/2025]	1 per mobile food vendor pad site	--	--	--
Business services and business offices; Professional offices	4 per 1,000 sq. ft. of GLA		5%	20%
Financial, Insurance and Real Estate Offices	3.5 per 1,000 sq. ft. of GLA		5%	20%
Personal services	3.5 per 1,000 sq. ft. of GLA		5%	10%
High Technology Facility	2 per 1,000 sq. ft. of FA		5%	20%
Data Processing/ Telemarketing	6 per 1,000 sq. ft. of GLA		5%	20%
Medical and Dental Offices	4 per 1,000 sq. ft. of GLA		5%	10%
Restaurants & drinking establishments without drive-thru or take-out services	1 per 4 table or booth seats, plus 1 per 2 counter or bar seats, plus 1 for each 60 square feet of customer standing or waiting area, plus 1 for every 2 employees, based on highest employee occupancy		5%	10%
Restaurants & drinking establishments with drive-thru and/or take out services	Standards described above apply, provided that the minimum number of parking spaces is 10, plus 6 stack spaces for each drive-up window, at least 3 of which must be designated for the ordering station, located so as not to impede pedestrian or vehicular circulation on the site of any adjacent street		5%	5%
Work space in a live/ work unit	2.5 per 1,000 sq. ft. of GLA, provided that the Planning Board has required, as a condition of approval of the site plan or subdivision plan which includes the live/work unit, that the work space shall be principally used by one or more of the residents of the live/work unit and provided that the work space is in fact so used. That		5%	20%

	restriction on the use of the work space must be incorporated into all deeds to or leases of the live/work unit or any part thereof. Alternatively, 4 per 1,000 sq. ft. of GLA, when the non-residential space is not required to be principally used by one or more of the residents of the live/work unit.			
LODGING USES	**SPACES REQUIRED**	**EVCS Install**	**EVCS Ready**	**EVCS Cap-able**
Hotels, motels and other transient lodging establishments	1 for each guest room	10%	10%	80%
INDUSTRIAL USES	**SPACES REQUIRED**	**EVCS Install**	**EVCS Ready**	**EVCS Cap-able**
Industry, manufacturing, warehousing and distribution [amended 01/06/2010]	2 per 1,000 sq. ft. of FA (additional spaces required for area(s) occupied for office and/or sales use) [amended 01/06/2010]		5%	20%

*FA=Floor Area
*GLA=Gross Leaseable Area

D. Off-Street Parking Location

Required residential off-street parking in all districts shall be located on the same lot as the principal building or use except that the Planning Board may authorize residential off-street parking to be located within 300 feet of principal residential uses, measured along lines of public access, where it cannot reasonably be provided on the same lot. Such parking areas shall be held under the same ownership or lease as the residential uses served and evidence of such control or lease shall be required.

Required non-residential off-street parking in all business and industrial zones shall be located on the same lot with the principal building or use, or within 100 feet measured along lines of public access, except that where off-street parking cannot be provided within these limits, the Planning Board may permit such off-street parking to be located a reasonable distance from the principal building or use, if the premises to be used for parking are held under the same ownership or lease. Evidence of such control or lease shall be required and such lots shall be located within business or industrial districts.

Required residential EV parking spaces shall be located on the same lot as the principal building(s) or use except that the Planning Board may authorize residential EV spaces to be combined in a centralized location with an adjacent residential or mixed-use project so long as the parking spaces are located a reasonable distance from each principal residential structure. Such parking areas shall be held under the same ownership or lease as the residential uses served and evidence of such control or lease shall be required.

Required non-residential EV parking spaces shall be located on the same lot as the principal building(s) or use except that the Planning Board may authorize non-residential EV spaces to be combined in a centralized location with an adjacent non-residential or mixed-use project so long as the parking spaces are located a reasonable distance from each principal non-residential structure. Such parking areas shall be held under the same ownership or lease as the non-residential uses served and evidence of such control or lease shall be required.

Where off-street parking for uses other than single or two-family dwellings is required or provided on a lot and vehicles are to be or may be parked within the area otherwise required to be kept open and unoccupied for front, side and rear yards in the zone in which such parking is located, the following requirements shall be met.

> Where vehicles are to be or may be parked within ten feet of any street line a continuous guard curb, rectangular in cross-section, at least six inches in height and permanently anchored shall be provided and maintained at least five feet from the street or lot line between such off-street parking and that part of the street or lot line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least 20 inches in height, shall be provided and maintained between such off-street parking and that part of the street or lot line involved so that bumpers of vehicles cannot project beyond its face toward the street or line involved, either above or below the impact surface.

No parking shall be located within a required landscape buffer.

E. Shared Parking

The Planning Board may approve the joint use of a parking facility by two or more principal buildings or uses where it is clearly demonstrated that said parking facility will substantially meet the intent of the requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments.

F. Parking Design and Construction - General

For all uses, each off-street parking space must have an area no less than 9 feet wide by 18 feet long.

Where required by applicable federal or state law, all off-street parking areas shall include handicapped accessible parking spaces in accordance with the ADA Standards for Accessible Design and the Site Plan Review Ordinance.

For all uses, parking spaces must be adequately served by isles and drives in accordance with the requirements of the Site Plan Review Ordinance.

Where off-street parking for any use other than single or two-family dwellings is required or provided, the following construction requirements shall apply: [Adopted 01/04/2023]

> The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six inches in depth, well compacted and with a wearing surface equivalent in qualities of compaction and durability of

fine gravel. Unless otherwise specifically approved by the Planning Board, the surface of driveways, maneuvering areas and parking areas in all Business Zones shall be paved.

G. Parking Design and Construction – EVCS Spaces

Site design must provide electrical, associated ventilation, accessible parking, and wiring connection to transformer to support the additional potential future electric vehicle charging stations.

When EVCS spaces are required, they shall be installed as Level 2 charging stations. One Level 3 charging station may substitute for four Level 2 charging stations. However, the total required number of overall parking spaces shall not be reduced.

Electric vehicle charging stations within single-family and two-family residences are exempt from the below general station requirements. This does not exempt electrical or other permit obligations.

H. General Station Requirements

Size. A standard size parking space shall be used for an electric vehicle charging station where such a station is required or planned.

Equipment Standards and Protection. Where provided, parking for electric vehicle charging purposes shall meet the standards below:

1. Clearance. Charging station equipment mounted on pedestals, light posts, bollards or other devices shall be a minimum of 24 inches clear from the face of curb.

2. Charging Station Equipment. Charging station outlets and connector devices shall be no less than 36 inches or no higher than 48 inches from the top of surface where mounted, and shall be designed and located as to not impede pedestrian travel or create trip hazards on sidewalks.

3. Charging Station Equipment Protection. When the electric vehicle parking space is perpendicular or at an angle to curb face and charging equipment, adequate equipment protection, such as wheel stops or concrete-filled steel bollards shall be used.

4. Maintenance. Charging station equipment shall be maintained in all respects, including the functioning of the charging equipment. A phone number or other contact information shall be provided on the charging station equipment for reporting when the equipment is not functioning or other problems are encountered.

Signage. Electric vehicle charging stations, other than in residential use, shall have posted signage allowing only charging electric vehicles to park in such spaces. For the purposes of this subsection, "charging" means that an electric vehicle is parked at an electric vehicle charging station and is connected to the charging station equipment.

Operational Hours. The EVCS must be operational during the normal business hours of the use(s) that it serves. EVCS may be de-energized or otherwise restricted after normal business hours of the use(s) it serves. *Operation hours of the chargers and a phone number for public assistance must be placed in a prominent position visual from the parking space.*

Usage Fees. The property owner or operator is not restricted from collecting a service fee for the use of an electric vehicle charging station made available to visitors of the property.

Accessible Facilities. Where electric vehicle charging stations are provided in parking lots or parking garages, excluding garages in single-family or two-family residential units, accessible electric vehicle charging stations shall be provided according to the ratios shown in the table below. The first column indicates the number of electric vehicle stations being provided on-site and the second column indicates the number of accessible charging stations that are to be provided for the corresponding number(s) of charging stations. Accessible electric vehicle charging stations should be located in close proximity to the building or facility entrance and shall be connected to a barrier-free accessible route of travel.

Minimum Number of ADA Accessible Electric Vehicle (EV) Charging Stations

Number of EV charging stations	Minimum accessible EV charging stations
1-50	1
51-100	2
101+	3

I. Off-Street Parking Reductions

Planning Board Authority. In specific cases where it is demonstrated that a particular building can be occupied or use carried on with fewer parking spaces than required under this section, the Planning Board may reduce the requirements for off-street parking upon finding the following requirements are met:

1. That the undeveloped parking spaces are shown on an approved site plan as reserved future parking spaces. Such reserved future parking spaces shall be designed to meet all requirements of this Ordinance and of the Site Plan Review Ordinance and shall be treated by the Planning Board in the same manner as developed parking spaces for purposes of determining the compliance of the site plan with ordinance standards, including, but not limited to, stormwater management standards, grading, vehicular access and circulation.

2. If at any time after construction of the development the Code Enforcement Officer determines that actual need for parking exceeds the number of spaces actually developed, the Code Enforcement Officer may order the owner of the property to appear before the Planning Board for a determination by the Board as to whether some or all of the reserved future parking spaces must be developed.

For non-residential and multi-family development, the EVCS requirements outlined in Section C may be reduced by the Planning Board as part of an application review based on verifiable information pertaining to parking. Sites where EVCS requirements are reduced will be subject to in-lieu fees outlined below.

Board of Appeals Authority. In specific cases where it is demonstrated that a particular building can be occupied or use carried on with fewer parking spaces than required under this section, the Board of Appeals may reduce the requirements for off-street parking upon finding that such reduction will not detract from neighborhood values, inconvenience the public, or increase congestion in the street. The

granting of such reduction shall not be construed as the granting of a variance to relieve undue hardship.

J. Electrical Vehicle Charging Fee in Lieu

Those approved for a reduction in EVCS parking requirements must pay an in-lieu fee to the Town of Scarborough in the following amounts:

$8,000 per required Level 2 EVCS-installed parking space
$3,000 per required EVCS-ready parking space
$1,000 per required EVCS-capable parking space

EVCS in-lieu fees collected by the Town shall be deposited into a specific account, segregated from the Town's general revenue, and created for supporting energy efficiency and sustainability projects in the Town of Scarborough. These funds shall be used in accordance with the following:

a) The funds contributed to the specific account, entitled the Sustainability Reserve Account, shall be used to implement efficiency projects within the Town.
b) A portion of these funds may also be used for administrative, legal, engineering, or other costs related to the planning, design and projects approved by Town Council.
c) The Sustainability Reserve Account may be used in combination with other Town funds and other private, non-profit, and government funding.
d) The in-lieu fees collected by the Town shall not be utilized to fund electric vehicle charging infrastructure that is otherwise required to meet minimum zoning standards.

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/17][Amended 11/28/18][Amended 11/15/23][Amended 9/4/24]

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/2017][Amended 11/28/18][Amended 11/15/23][Amended 9/4/24]

A. SIGNS – PURPOSE AND PERMITTING

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

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

Except as otherwise provided in subsection J., temporary signs must conform to all provisions of this Ordinance, but shall not be counted in calculating the maximum number of signs allowed on a lot or the maximum gross display area allowed on a wall. Permits are not required for: [Amended 04/6/94] [09/06/95] [05/01/96][12/06/02][09/06/17]

Temporary signs

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

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

Doorway signs under Section XII(B.13.)

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

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

4. Exceptions.
For the purpose of this Ordinance, the term "sign" does not include banners attached to or printed on and signs located under the cover of a tent or tarp allowed under Section IX(F); signs erected and maintained for public safety and welfare or pursuant to and in discharge of any governmental function, or required by law, ordinance or governmental regulations; "name signs" not exceeding one (1) square foot in area identifying occupants of the premises where such sign is located; or the Town of Scarborough public banner, controlled by the Town of Scarborough and placed from time-to-time across Gorham Road (Route 114) near the Scarborough High School driveway to provide public notice of events or functions authorized by the Town and occurring at municipal facilities. [10/21/92][4/6/94][5/01/96][09/06/17]

5. Waivers.
Increases to the maximum sign sizes may be approved by the Planning Board in conjunction with site plan approval for wall mounted signs on buildings 20,000 square feet or greater. [9/4/24]

B. GENERAL SIGN STANDARDS

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

1. Maintenance and Conformance of Signs. No sign shall be erected, maintained, used or altered except in conformity with the provisions herein. The sign must be kept clean, neatly painted and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings. The sign must be maintained at all times in safe condition so as not to be detrimental to the public health or safety or detrimental to physical appearance or scenic or natural beauty of the community, or constitute a distraction or obstruction that may contribute to traffic accidents. [4/6/94]

2. General Safety Standards for Signs. No sign, whether new or existing shall be permitted in a location that causes a sight, traffic, health or welfare hazard, or results in a nuisance due to illumination, placement, display, or manner of construction.

3. When a commercial sign is authorized on a residential building it must not exceed six (6) square feet in area and be non-illuminated.[09/06/17]

4. A bulletin board, reader board or similar sign in connection with any commercial activity or similar public structure is allowed. [4/6/94][09/06/17]

5. Except as provided in Section XII(J.) concerning temporary signs and Section XII.(I.) off-premise official business directional signs, no sign shall project over or be located within a public right of way. [4/6/94][09/06/17]

6. Animated signs, animated displays or flashing signs are prohibited, with the exception of time and temperature signs as allowed under Section XII.(C.). No sign or part of a sign shall consist of a balloon or other inflatable component. [4/6/94]

7. Internally-lit signs shall have an opaque or dark background to minimize glare and lighting impacts.

8. A string of lights shall not be used for the purpose of advertising or attracting attention unless as an integral part of a permitted sign. This paragraph does not prohibit temporary decoration of buildings or structures during holiday seasons when such decoration is customary. [4/6/94]

9. Motor Vehicle Signs. Signs on motor vehicles are not subject to the regulations of this Section XII unless they have the effect of circumventing restrictions or limitations imposed by this Section. A sign on a motor vehicle will be presumed to have the effect of circumventing the restrictions or limitations of this Section XII if the motor vehicle is parked or stored in a location visible from a public way and one or more of the following circumstances exits:

    a. the motor vehicle is unregistered;

    b. the motor vehicle is uninspected;

    c. the sign is larger in any dimension than or extends beyond any surface of the motor vehicle to which it is attached;

    d. the motor vehicle is parked or stored continuously in the same locations;

    e. the motor vehicle is parked or stored in an area not designed, designated or commonly used for parking;

    f. the motor vehicle is regularly parked or stored in a front yard, as defined in this ordinance, or in the public right-of-way adjacent to the front yard when there is parking available in a side or rear yard; or,

    g. the motor vehicle is regularly parked or stored in a location where a sign would not be permitted under this ordinance.

    The presumption that a motor vehicle has the effect of circumventing this Section CII may be rebutted by evidence that the motor vehicle is parked or stored in a particular location for reasonable business or personal purposes not related to advertising, identifying, displaying, directing, or attracting attention to an object, person, institution, organization, business, product, service, event or location.

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

    a. The decoration or ornamentation depicts any product or service offered to customers of a business located on the property (for example, painting an ice cream cone on the wall of an ice cream stand);

b. The decoration or ornamentation depicts some component or aspect of the name of a business located on the property, (for example, displaying a statue of a dolphin on a restaurant named "The Dolphin"); or

c. The decoration or ornamentation imitates or replicates any logo or symbol used to advertise or identify a business located on the property.

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

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

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

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

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

15. Roof signs are not allowed.

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

17. Identification signs identifying the name of a commercial activity or similar public activity, may be permitted if approved by the Planning Board. Such signs may be illuminated by shielded lights and located as approved by the Planning Board, and shall be maintained by an approved owner or association. The Planning Board may waive setback requirements for an identification sign when the Board finds that locating the sign in compliance with setback requirements would be impractical or ineffective. Signs allowed under this paragraph shall not be counted in calculating the maximum number of signs allowable on a lot or in applying requirements for separation between signs. [05/01/96][09/06/17]

18. Graphics and pictorial artwork are allowed on signs and shall be considered a part of the gross display area for the purpose of determining the size of a sign. [4/6/94]

19. An awning which includes words, letters, figures, designs, symbols, graphics or pictorial art shall constitute a wall sign, including the calculation of total gross display area. [4/6/94]

20. Any premises which utilizes an identification or advertising sign must display its street numbers on at least one of the permanent signs permitted under this Section XII in a location visible from the nearest street. Numbers shall be placed on the sign face or on a panel parallel to the sign face and shall be as nearly perpendicular to the sideline of the street as possible. If it is not physically feasible to place the street numbers on the sign face, the numbers may be placed on the end of the sign parallel to the sideline of the street as long as they are of contrasting color and easily visible from the roadway. The characters of the street number shall be at least 11 inches high. The street number shall not be counted as part of the gross display area of the sign unless characters larger than 11 inches high are used for the street number and/or the street name, in which case the area which exceeds that which would be covered using 11 inch characters shall be counted as part of the gross display area. The street number must be displayed on all permanent signs erected, repaired, altered (including change in message) or replaced after April 7, 1994 unless another permanent sign on the same premises already displays the street address in compliance with this paragraph. [4/6/94] [4/5/95] [05/01/96]

21. A banner, limited to a maximum of twenty five (25) characters (numbers and letters), the dimensions of which do not exceed twenty-four square feet may be displayed by any commercial or similar public entity during the hours such business is open for customers and shall not be counted toward calculating the maximum number of signs or the maximum gross display area of signs on the property. Under this subsection, a commercial or similar public entity may display one banner limited to a maximum of twenty-five (25) characters during the hours such business is open for customers. This subparagraph does not prohibit or restrict displays of the United States Flag or the State of Maine Flag. [4/6/94] [08/19/09][09/06/17]

22. No lighted sign, including a nonconforming sign replaced or relocated pursuant to Section XII.K. shall be located within eight feet of the drip lines of any overhead utility wires and their appurtenances. This requirement is not subject to variance or waiver. [4/6/94] [4/5/95] [5/01/96]

23. Marquees may not be animated signs or have animated sections. [09/06/17]

24. One or more freestanding signs installed at the points where customers place their orders at a drive-through commercial establishment, which does not exceed 32 square feet of gross display area per sign and the location of which has been approved by the Planning Board under the Scarborough Site Plan Review Ordinance, shall not be counted as a sign in applying the dimensional requirements of Sections XII(D), XII(E) and XII(F). [08/17/05][09/06/17]

25. Illuminated signs are prohibited in all residential districts, except as allowed by Section XII(B)(17). [7/17/91]

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

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

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

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

    c. Major Street Speed Limit Measurement Distances

25 mph	=	250 feet
35 mph	=	350 feet
40 mph	=	400 feet
45 mph	=	450 feet
50 mph	=	500 feet
55 mph	=	550 feet

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

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

MAXIMUM SIGN SIZES – Freestanding (FS) /Wall-Mounted (W)										
TYPE OF SIGN	REF.	MAX. DIM.	RF R4A RFM	RPO	R2, R3, VR2, VR4	R4	B1	B2, B3 BO-R, Ind., I-O. L-I	TVC, TVC-2, TVC-3, TVC-4, RH, RH2, CPD	HP
TEMPORARY SIGNS										
Temporary signs in the right-of-way	J	Gross Area	6 sf				6 sf			
Temporary Signs on private property	J	Gross Area	16 sf	16 sf	16sf	16 sf	32 sf			
Banner (see note 2)	J	Gross Area	24 sf							
Temp. sandwich board	J	Gross Area	8 sf				8 sf			
CAMPUS SIGNS										
Campus directory	H.	Gross Area						75 sf	75 sf	75 sf
		Height						10’	10’	10’
Campus primary directional	H.	Gross Area						45 sf	45 sf	45 sf
		Height						9’	9’	9’
Campus secondary directional	H.	Gross Area						16 sf	16 sf	16 sf
		Height						8’	8’	8’
Campus pedestrian directional	H.	Gross Area						8 sf	8 sf	8 sf
		Height						8’	8’	8’
Freestanding Signs	B/C	Gross Area: FS	32 sf	32 sf	32sf	32 sf	100 sf			
	C	Length FS	16’	16’	16’	16’	16’	16’	16’	16’
	C	Height FS	8’	8’	8’	8’	16’	16’	16’	16’
Wall Signs	C	Gross Area/bldg. face: Wall *(See Note 5)*	50 sf	50 sf	16 sf	16 sf	100 sf			
		Combined Gross Area Corner Lot *(See Note 4)*					150 sf			

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

Sign Dimensional Chart Notes and Standards

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

2. Banners allowed under Section XII(B)21. do not count toward maximum number of signs on a lot.

3. Area of readerboard included in the maximum sign area of the freestanding sign of which it is a part of.

4. Gross sign area may be divided between the principal and secondary sign and under this section the principal sign shall not exceed 100 sf.

5. Unless otherwise provided, wall and window signs shall conform to the following:

a. Total gross display area of all wall and window signs shall not exceed 10% of the area of the wall on which they are located. Where separate units of occupancy exist in a building, the gross display area under this paragraph shall be calculated separately for each unit of occupancy, based on the wall areas which enclose each unit, provided that the total gross display area for the building does not exceed the limits of this paragraph.
b. Except in the case of an awning, no wall sign shall project more than 12" inches beyond the surface of the wall to which it is attached, or extend above the drip edge of the roof above it or extend laterally beyond the ends of the wall to which it is attached. Where separate units of occupancy exist in a building, the limitations of this paragraph shall apply separately to the wall surface which encloses each unit.

D. MAXIMUM NUMBER OF FREESTANDING SIGNS PER LOT

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

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

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

E. ADDITIONAL FREESTANDING SIGN REQUIREMENTS

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

1. The required minimum distance between signs on the same lot or unified development is one hundred (100) feet.
2. The required minimum lot line setback is fifteen (15) feet from side and rear lot lines.

3. The required minimum setbacks to the front lot line and right-of-way (ROW) is variable based on the height of the sign in accordance with the following chart:

VARIABLE SETBACKS		
DISTANCE FROM ROW	**MAXIMUM HEIGHT**	**MAXIMUM SIZE**
5'	8'	32 sf
10'	10'	60 sf
15'	16'	100 sf

a. There is no minimum front lot line setback required for freestanding signs from the Haigis Parkway right-of-way; all other dimensional requirements established in Section XII (C) shall apply

4. The maximum sign height requirements are listed in Section XII(C) and are, subject to the variable setback requirements above. [10/20/04]

5. The required minimum setback/distance for signage located in a "Business" District is two hundred (200) feet from a "Residential" District. [7/17/91] [4/6/94]

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

1. Except as otherwise provided in this Subsection (F), a Business Directory Sign shall comply with all the requirements of this Section XII. A Business Directory Sign shall be deemed an on-premise, freestanding sign, not a billboard.

2. Business Directory Signs shall be permitted only in the B-1, TVC, TVC-2, TVC-3, TVC-4, B-2, B-3, HP, BO-R, RH, RH2, CPD and Industrial districts.

3. Notwithstanding the provisions of Sections XII(C) and XII(D), the maximum gross display area of a Business Directory Sign shall be 150 square feet. At least 10 percent of the gross display area shall be devoted to identifying the Unified Development by name (or by generic description such as "office park" or "shopping center" if no name has been assigned) and by street address on the Main Thoroughfare. The numbers of the street address must be no less than 11" (eleven) inches high. The remaining gross display area may be used only to identify and advertise uses within the Unified Development and must be located below the name and street address of the Unified Development. Before the Building Inspector issues a permit for a Business Directory Sign, the Addressing Officer in coordination with the Town Planner must determine that the name of the Unified Development is not identical to or likely to be confused with the name of any other development already existing in Scarborough. [4/6/94]

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

more freestanding signs to remove all but one of such signs upon the erection of the Business Directory Sign. [4/6/94] [4/5/95]

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

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

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

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

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

G. ELECTRONIC MESSAGE AND TIME/TEMPERATURE SIGNS [Amended 11/15/2023]

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

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

a. An electronic message sign may only be used as a readerboard on a free-standing sign. Electronic message signs may not be used as stand-alone signs.
b. An electronic message sign must not give the appearance of motion, flashing, blinking, or shimmering. When the display changes, it must change as rapidly as is technologically practicable with no phasing, rolling, scrolling, flashing, or blending.
c. The message may be changed no more frequently than twice in each 60 minute period. [Amended 08/19/09]

d. Maximum luminance shall not exceed 5,000 nits (candela per square meter) during daylight hours, and 300 nits after sunset. [11/15/2023]

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

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

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

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

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

H. CAMPUS DIRECTIONAL SIGNS [07/21/04][06/05/19]

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

a. The number and visibility of major destinations within the Unified Development or Planned Development.
b. The complexity of internal circulation patterns.
c. The nature of the businesses/institutions as they relate to public accessibility.
d. The characteristics of the clientele. such as but not limited to familiarity with the area, seasonally attracted, tourist oriented, or emergency users.

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

3. Dimensional Requirements

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

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

5. Depending upon the sign location, sign may be double-faced with information on the opposite side of the sign.

6. Text messages on the sign faces must be of a size and typeface that is readable from a moving vehicle at the posted speed limit. In no case shall the text be smaller than 3 inches in capital letter height. See Scarborough Design Standards for further description of signage requirements.

7. The recommended minimum distance between campus directional signs shall be one hundred (100) feet.

8. Campus directional signs shall be set back a minimum of fifteen (15) feet from the boundaries of the Unified Development or Planned Development.

9. The maximum number of signs for the Unified Development or Planned Development shall be shown on a Signage Master Plan submitted to the Planning Board as part of Site Plan Approval. The Master Plan shall indicate typical layout for signs, allowing flexibility to change the wording without having to return to the Planning Board. Variations in the number or locations of signs shown on the Signage Master Plan must be approved by the Planning Board prior to implementation. See Scarborough Design Standards for further description of Signage Master Plan.[09/06/17]

10. Off-site directional signs shall not be considered campus directional signs. However. for purposes of signage review, off campus directional signs that are part of a Unified Development or Planned Development shall be designed as part of the Signage Master Plan.

I. OFF-PREMISE OFFICIAL BUSINESS DIRECTIONAL SIGNS

Any business establishment located within the Town of Scarborough, which does not front or face upon U.S. Route One and which does not have a freestanding or wall sign fronting or facing upon U.S. Route One regulated by Section XII of this Ordinance and that is no on a residential property, may locate two signs off the business premises. Whenever any eligible business establishment as defined above applies for an Official Business Directional Sign the following conditions must be met: [09/06/17]

1. Comply with Maine Department of Transportation "Regulations for the Installation of Official Business Directional Signs" except as is otherwise specified above.

2. Maximum sign size shall not exceed 16" x 72"; (Note: sign size to be determined by Maine DOT but not to exceed 16" x 72").

3. Off-Premise Official Business Directional Signs shall not be located within the Haigis Parkway Right-of-Way between Payne Road and Route One.

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

a. a demonstrated need for adequate visibility of the sign to two-directional traffic;
b. the distance from the nearest State numbered route;
c. the nature of the business as it relates to public accessibility;

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

J. TEMPORARY SIGNS

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

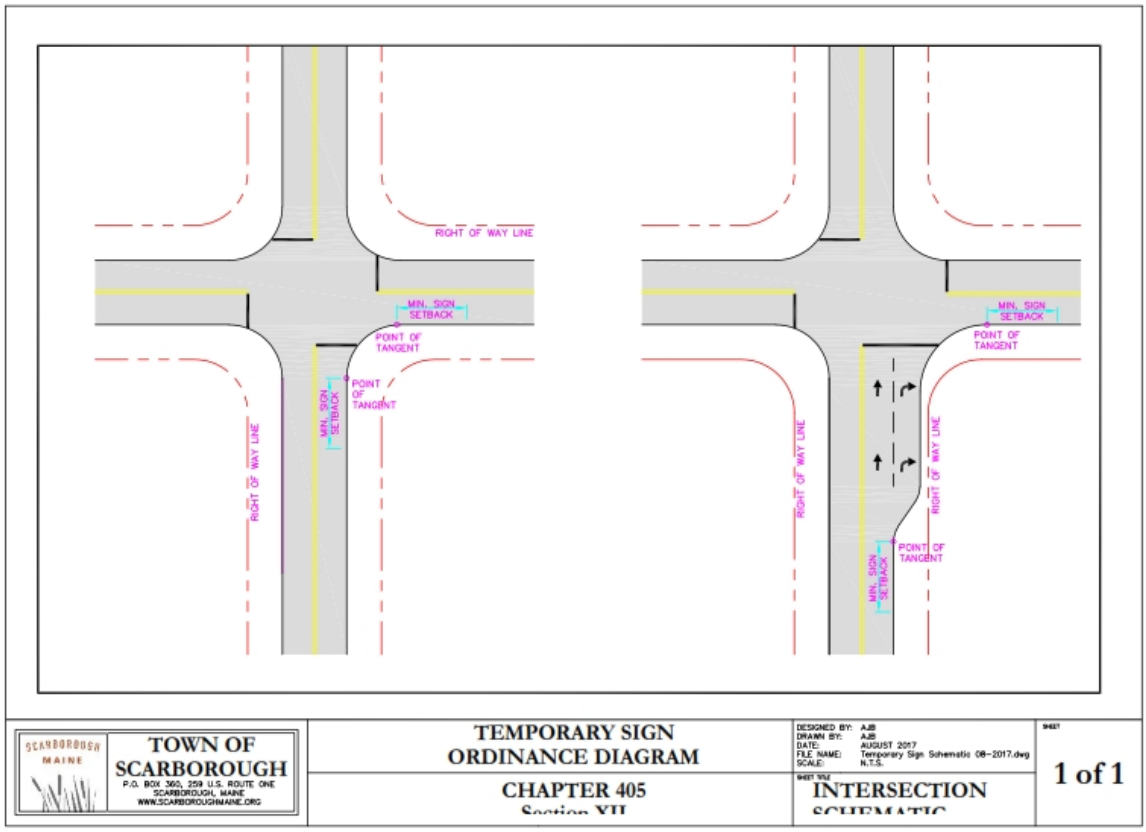
Temporary signs specified in this section shall not be attached to fences, trees, utility poles, light poles, traffic control devices or the like. [09/06/17]

To protect ecologically sensitive areas and scenic views no temporary signs shall be placed in the right-of-way along:[09/06/17]

- Route One between Dolloff Way and Southgate Road
- Black Point Road between Old County Road and Tide Mill Lane
- Black Point Road between Seal Rock Drive and Sanctuary Lane
- Pine Point Road between 67 Pine Point Road and the Eastern Trail
- Pine Point Road between Holly Street and Snow Canning Road
- Pleasant Hill Road from Minuteman Drive to Hackmatack Drive (Pleasant Hill Preserve Area)
- Bayview Avenue between Houghton Street and Morning Street

SECTION XII. SIGN REGULATIONS. [Amended 10/20/2004; Amended 08/20/08; Amended 08/19/09][Amended 07/17/2013][Amended 09/06/17][Amended 11/28/18][Amended 11/15/23][Amended 9/4/24]

To promote public safety in and around intersections with high traffic volumes no temporary signs shall be placed in the right-of-way within 30 feet of the following intersections, as measure linearly from the point of tangent to the intersection, or the point of tangent where a dedicated turn lane is provided, whichever is furthest from the intersection:



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

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

1. Temporary Signs in the Right-of-Way [Adopted 09/06/17][Amended 11/28/18]

Temporary signs in the right-of-way are permitted for a period not to exceed 12 weeks in a calendar year. All signs shall be removed by the deadlines established herein. All

temporary signs in the right-of-way must include or be marked with name and address of the individual, entity or organization that placed the sign within the right-of-way and the date the sign was erected within the right-of-way. To control the proliferation of signs repeating the same or similar message, temporary signs in the right-of-way shall not be placed with 30 feet of another bearing the same message. This distance requirement applies to streets on a linear basis with a separate measurement done for every intersecting street. Temporary signs in the right-of-way may not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public.

2. Temporary Signs on Private Property [Adopted 09/06/17]

Temporary signs on private property are permitted for no more than 6 consecutive months with not less than 30 days between displays of a sign bearing the same message. Temporary signs on private property may not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or a disturbance to the health and welfare of the general public.

3. Temporary Sandwich Board Sign. [Adopted 08/19/09][09/06/17]

One (1) Sandwich Board Sign may be displayed on the premises of a commercial or similar public entity for general commercial uses. Sandwich Board Signs shall be limited to a maximum gross area of eight (8) sq. ft. and a maximum height of 48". The location of Sandwich Board Signs shall be limited to the sidewalk or walkway leading to the main entrance of the building in which the business is located and shall be located no greater than fifteen feet (15') from the building's main entrance. Sandwich Board Signs shall only be displayed during the hours the business or use is open for customers or visitors and shall not be counted toward calculating the maximum number of signs or the maximum gross display area of signs on the property. A Sandwich Board Sign shall require a sign permit, per subsection A.2., which will establish a business or uses ability to use such a sign and delineate the area in which it will be displayed. A Sandwich Board Sign shall be located on a sidewalk or walkway in a manner that it does not infringe on handicap accessibility or safe pedestrian movement and that safely secures the sign in one location.

K. NON-CONFORMING SIGNS

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

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

2. No non-conforming sign shall:

a. Be enlarged if such enlargement would increase any nonconformity.

b. Be changed to another nonconforming sign.

c. Be changed in shape or size.

d. Continue to be used or allowed to remain in place after the business, product, service, event or other activity to which it relates has been discontinued for ninety (90) days or longer, or, in the case of a seasonal business, for three hundred sixty-five (365) days or longer.

e. Be repaired, or replaced after damage or destruction, if the expense of repair exceeds fifty percent (50%) of the current cost of replacing or duplicating the existing sign, as determined by a professional sign manufacturer.

f. Continue to be used or allowed to remain in place following any activity that requires site plan approval by the Planning Board.

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

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

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

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

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

L. SUBSTITUTION CLAUSE [Adopted 09/06/17]

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

M. DEFINITIONS SPECIFIC TO SIGN REGULATIONS.

As used in this Section XII, the following terms have the following meanings: [Amended 4/6/94] [Amended 05/01/96][09/06/17]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

l. Electronic Message Sign:
An electronically activated changeable sign whose variable message capability can be electronically programmed.

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

n. Freestanding Sign:
A sign supported by one or more uprights or braces permanently affixed into the ground.

o. Changeable Message Sign:
The portion of a freestanding sign changes message by electronic, manual, or mechanical means. [09/06/17]

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

q. Historical Site Signs:
A wall sign erected or provided by local historical society or government agency that denotes a recognized historical site or structure.

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

s. Internally Illuminated Sign:
A sign with a light source incorporated into the body of the sign and where light emanates through the message of the sign.

t. Main Thoroughfare:
Means any of the following streets:

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

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

v. Drive-through Sign:
A permanently mounted sign displaying the bill of fare for a drive-through commercial establishment.[09/06/17]

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

x. Off-Premise Official Business Directional Sign (OBDS):
An off-premise directional sign allowed under Maine DOT Chapter 200 (or current) Regulations.

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

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

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

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

cc. Principle Sign:
The main sign on a property.

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

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

ff. Roof Sign:
A sign located upon or over a roof of a building.

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

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

ii. Temporary Sign:
A sign intended to be displayed for a short period of time. [096/06/17]

jj. Time and/or Temperature Sign:
A sign designed to show time and outdoor temperature.

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

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

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

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

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

SECTION XIII. RESIDENTIAL ZONING DISTRICTS

RURAL FARMING DISTRICT RF

To conserve the integrity and natural qualities of rural open space for the betterment and future of the community and encourage the continuation of agriculture and related activities in these areas of the community. To this end, residential development shall not be in excess of 1 dwelling unit per 2 residential acres.

RURAL, FARMING AND MANUFACTURED HOUSING DISTRICT RFM

To conserve the integrity and natural qualities of rural open space for the betterment and future use of the community, to encourage the continuation of agriculture and related activities and to provide for areas within the community where manufactured housing units can be harmoniously situated on individual lots. To this end, residential development shall not be in excess of 1 dwelling unit per 2 residential acres.

RESIDENTIAL DISTRICT R2

To provide residential areas within the Town of Scarborough of low density in a manner which will promote a wholesome living environment. To this end, residential development shall not exceed 2 dwelling units per net residential acre.

RESIDENTIAL DISTRICT R3

To provide residential areas within the Town of Scarborough of higher density to a manner which will promote a wholesome living environment. To this end, residential development shall not exceed 2 dwelling units per net residential acre in unsewered areas or 3 dwelling units per net residential acre in sewered areas.

RESIDENTIAL DISTRICT R4

To provide residential areas within the Town of Scarborough of higher density to a manner which will promote a wholesome living environment. To this end, residential development shall not exceed 2 dwelling units per net residential acre in unsewered areas or 4 dwelling units per net residential acre in sewered areas.

RESIDENTIAL DISTRICT R4A.

To provide residential areas within the Town of Scarborough of higher density in a manner which will promote a wholesome living environment. To this end, residential development shall not exceed 4 dwelling units per net residential acre. All developments in R-4A districts shall be serviced by public sewer and public water supply.

A. PERMITTED USES – RESIDENTIAL DISTRICTS

Permitted use table abbreviations are as follows:

P – Permitted by Right
SE – Special Exception Required
C# – Condition Applies
CZ – Contract Zone Required
Blank – Not a Permitted Use

AGRICULTURAL USES	PERFORMANCE STANDARDS APPLY	RF	RFM	R2	R3	R4	R4A
Accessory uses including accessory stables on lots of at least two acres	Section IX.P.	P	CZ	P			
Accessory uses including accessory agricultural activities	Section IX.P.	P	CZ	P	P	P	P
Commercial Agriculture	Section IX.Q.	P	CZ	SE			
Commercial Animal Husbandry	Section IX.Q.	P	CZ				
Agricultural Employee Housing in Conjunction with Commercial Agriculture and/or Commercial Animal Husbandry		SE	SE				
Commercial Stables		P	CZ				
Farm stand	Section IX.R	P	CZ	SE			
Agricultural Products Store	Section IX.S.	P	CZ	SE			
Agricultural processing facility with a total of not more than one thousand (1,000) square feet of gross floor area in conjunction with commercial agriculture	Section IX.Q.			SE			
Agricultural processing facility with a total of not more than two thousand (2,000) square feet of gross floor area in conjunction with commercial agriculture and/or animal husbandry	Section IX.Q.	P	CZ				
Agricultural processing facility with a total of more than two thousand (2,000) square feet of gross floor area in conjunction with commercial agriculture and/or animal husbandry	Section IX.Q.	SE	SE				
Forestry		P	CZ				
Wetlands Creation on Previously Excavated Property		CZ	CZ				

RESIDENTIAL USES	PERFORMANCE STANDARDS APPLY	RF	RFM	R2	R3	R4	R4A
Single Family Dwelling Units (exclusive of individual mobile homes) Up to 2 Dwelling Units per Lot	Section IX.Z.	P	P	P	P	P	P

Single Family Dwelling Units (exclusive of individual mobile homes) Up to 4 Dwelling Units per Lot	Section IX.Z.			P	P	P	P
Two-family Dwelling Units		P	P		P	P	P
A Single Multi-family Dwelling with Four or Fewer Dwelling Units on a Lot	Section VIIA. Conservation Design	P	CZ				
Manufactured Housing Unit			CZ, C4				
Manufactured Housing Community		SE	SE				
Townhouse - No more than 8 units per building (Minimum 3 units)					C3	C3	C3
Multiplex	Section VII				C3	C3	C3
Nursing Home		C1	CZ, C1		SE	SE	
Boarding Care		C1	CZ, C1				
Orphanage					SE	SE	
INSTITUTIONAL AND CIVIC USES	**PERFORMANCE STANDARDS APPLY**	**RF**	**RFM**	**R2**	**R3**	**R4**	**R4A**
Cemetery		SE	SE	SE			
Library				P	P	P	
Museum				P	P	P	
School - Public and Private Educational Facility				P	P	P	P
Municipal Building and Use		P	CZ	P	P	P	P
Public Utility Facility, Including Substation, Pumping Station and Sewage Treatment Facility		SE	SE	SE	SE	SE	SE
Hospice Facility		SE	SE	SE	SE	SE	
Place of Worship		P	CZ	P	P	P	P
Adjunct Use, Place of Worship		SE	SE	SE	SE	SE	SE
Charitable Institution					SE	SE	
RECREATIONAL USES	**PERFORMANCE STANDARDS APPLY**	**RF**	**RFM**	**R2**	**R3**	**R4**	**R4A**
Residential Recreation Facility		P	CZ	P		P	
Golf Course		P	CZ	P	P	P	P

Community Building (non-profit)					P	P	P
Grounds for Games and Sports (non-profit)							P
Commercial Outdoor Recreation	Section IX.U	SE	SE				
Day Camp		C2	CZ, C2				
Non-commercial Model Aviation Flying Field Located West of the Maine Turnpike	Section IV(I)(8)	SE	SE				
COMMERCIAL AND RETAIL USES	**PERFORMANCE STANDARDS APPLY**	**RF**	**RFM**	**R2**	**R3**	**R4**	**R4A**
Family Day Care Home (3-6 children or adults)	Section IV(I)(6), except that Board Appeals review is not required.	P	CZ	P	P	P	P
Group Day Care Home (7-12 children) and Nursery School		SE	SE	SE	SE	SE	SE
Day Care Center Facility (13 + children)		SE	SE	SE			
Medical or Professional Office (less than 2,500 sq. ft floor area per lot)							P
Boarding Care Facility						SE	
Kennel		SE	SE				
Veterinary and Pet Care Facility		SE	SE				
Utility Scale Solar Energy System	Section IX.(O.1.)	P	CZ				
LODGING USES	**PERFORMANCE STANDARDS APPLY**	**RF**	**RFM**	**R2**	**R3**	**R4**	**R4A**
Bed and Breakfast	Section IX.T.	P	CZ				
Camping and Tenting (five acres or more)		SE	SE				
INDUSTRIAL USES	**PERFORMANCE STANDARDS APPLY**	**RF**	**RFM**	**R2**	**R3**	**R4**	**R4A**
Extractive Industry Including Gravel Pit and Quarry		SE	SE				
ACCESSORY USES	**PERFORMANCE STANDARDS APPLY**	**RF**	**RFM**	**R2**	**R3**	**R4**	**R4A**
Accessory Dwelling Unit	Section IX.J.	P	P	P	P	P	P
Home Occupation		SE	SE	SE	SE	SE	SE

Telecommunication Facility		SE	SE	SE	SE	SE	SE

C1 - Must be on minimum 5-acre lot
C2 - Must be on minimum 10-acre lot
C3 – Must be served by public sewer; minimum 5 acres parcel
C4 - **a.** The wheels, axles, detachable transporter unit and tongue shall be removed and the unit shall be placed on a permanent foundation.

b. The foundation shall comply to the requirements of the Town's building code for residential structures. At a minimum, the foundation shall consist of a 4' frost wall completely surrounding and supporting the perimeter of the unit with a crawl space.

c. The exterior plumbing shall comply with the Maine State Plumbing Code.

d. The exterior electrical connections shall comply with the National Electrical Code.

e. The acute angle between the front property line of the lot (or in the case of a curved front line, the chord connecting the points where the side lines intersect the front line) and a line parallel to the short axis of the manufactured housing unit is not less than 30 degrees. On corner lots, said acute angle shall be no less than 30 degrees and no greater than 60 degrees.

f. Fuel oil storage tanks shall be in the cellar, crawl space, or buried and conform to NFPA 31.

g. Above-ground propane tanks shall be permitted only at the rear of the structure.

h. All disturbed portions of the site shall be loamed and seeded.

B. SPACE AND BULK STANDARDS – RESIDENTIAL DISTRICTS

The following standards shall apply unless the use of Section VIIA, Conservation Subdivision Design is required or selected.

DIMENSIONAL STANDARDS	**RF**	**RFM**	**R2**	**R3**		**R4**		**R4A**
	ALL	**ALL**	**ALL**	**Sewer**	**No Sewer**	**Sewer**	**No Sewer**	**Sewer Only**
Minimum Lot Area per Dwelling Unit (refer to Section VI - Definitions, Lot Area for calculation)	80,000 sq ft	80,000 sq ft	20,000 sq ft	15,000 sq ft	20,000 sq ft	10,000 sq ft	20,000 sq ft	10,000 sq ft
Minimum Street Frontage	200'	200'	100'	100'		75'	100'	80'
Conservation Subdivision Design Dimensional Standards	See Section VIIA			NA				
SETBACKS	**RF**	**RFM**	**R2**	**R3**		**R4**		**R4A**
	ALL	**ALL**	**ALL**	**Sewer**	**No Sewer**	**Sewer**	**No Sewer**	**Sewer Only**
Minimum Front Yard (All Structures)	50'	50'	40'	40'		30'	40'	30'
Minimum Side Yard*	15'	15'	15'	15'		15'		15'

Minimum Rear Yard*	15'	15'	15'	15'		15'		15'
Conservation Subdivision Design Setbacks	See Section VIIA			NA				
DENSITY	**RF**	**RFM**	**R2**	**R3**		**R4**		**R4A**
	ALL	**ALL**	**ALL**	**Sewer**	**No Sewer**	**Sewer**	**No Sewer**	**Sewer Only**
Maximum Net Residential Density per Acre	0.5	0.5	2	3	2	4	2	4
Residential Density Factors Section VIIC (a) Apply	NA							
Conservation Subdivision Design Density	See Section VIIA			NA				

*Buildings taller than 30' shall have side and rear yards not less than 50% of building height.

C. ADDITIONAL STANDARDS – RESIDENTIAL DISTRICTS

The following standards shall apply unless the use of Section VIIA, Conservation Subdivision Design is required or elected.

ADDITIONAL STANDARDS	**RF**	**RFM**	**R2**	**R3**		**R4**		**R4A**
	ALL	**ALL**	**ALL**	**Sewer**	**No Sewer**	**Sewer**	**No Sewer**	**Sewer Only**
Maximum Building Height	35'	35'	35'	35'		35'		35'
Minimum distance between principal buildings on the same lot	Height Equivalent of Taller Building							
Maximum Building Coverage	25%	25%	20%	25%		25%	20%	25%
Conservation Subdivision Design Additional Standards	See Section VIIA			NA				
Off-Street Parking	See Section XI							

SECTION XIV. VILLAGE RESIDENTIAL DISTRICTS

VILLAGE RESIDENTIAL 2 DISTRICT - VR2

To provide residential neighborhoods of a moderate density to a manner which will promote a wholesome living environment and accept a significant share of the Town's residential growth. To this end, residential development shall not exceed 2 dwelling units per net residential acre if served by public sewer and 1 dwelling unit per 2 acres if served by on-site sewage disposal. T. The village residential development standards are intended to promote the establishment of neighborhoods with a mix of dwelling types accommodating a mix of household types, age groups and income levels, incorporate communal recreation areas, greens, commons and open spaces, and create a village-style development pattern with an interconnected network of landscaped streets, blocks, and pedestrian ways in a manner that compliments adjacent residential neighborhoods and commercial districts to instill a mix of housing types and land uses in and around our town and village centers. All new subdivisions in the VR2 District shall be serviced by public sewer and public water supply.

VILLAGE RESIDENTIAL 4 DISTRICT - VR4

To provide residential neighborhoods of a higher density to a manner which will promote a wholesome living environment and accept a significant share of the Town's residential growth. To this end, residential development shall not exceed 4 dwelling units per net residential acre, plus additional density through development transfer or affordable housing. The village residential development standards are intended to promote the establishment of neighborhoods with a mix of dwelling types accommodating a mix of households, age groups and income levels, incorporate communal recreation areas, greens, commons and open spaces, and create a village-style development pattern with an interconnected network of landscaped streets, blocks, and pedestrian ways in a manner that compliments adjacent residential neighborhoods and commercial districts to instill a mix of housing types and land uses in and around our town and village centers. All developments in the VR4 District shall be serviced by public sewer and public water supply.

A. PERMITTED USES – VILLAGE RESIDENTIAL DISTRCITS

Permitted use table abbreviations are as follows:

P – Permitted by Right
SE – Special Exception Required
C# – Condition Applies
CZ – Contract Zone Required
Blank – Not a Permitted Use

AGRICULTURAL USES	PERFORMANCE STANDARDS APPLY	VR2	VR4
Accessory uses including accessory stables on lots of at least two acres	Section IX.P.		
Accessory uses including accessory agricultural activities	Section IX.P.	P	P
Commercial Agriculture	Section IX.Q.	SE	
Commercial Animal Husbandry	Section IX.Q.		
Agricultural Employee Housing in Conjunction with Commercial Agriculture and/or Commercial Animal Husbandry			
Commercial Stables			
Farm stand	Section IX.R	SE	
Agricultural Products Store	Section IX.S.		
Agricultural processing facility with a total of not more than one thousand (1,000) square feet of gross floor area in conjunction with commercial agriculture	Section IX.Q.	SE	
Agricultural processing facility with a total of not more than two thousand (2,000) square feet of gross floor area in conjunction with commercial agriculture and/or animal husbandry	Section IX.Q.		
Agricultural processing facility with a total of more than two thousand (2,000) square feet of gross floor area in conjunction with commercial agriculture and/or animal husbandry	Section IX.Q.		
Forestry			
Wetlands Creation on Previously Excavated Property			

RESIDENTIAL USES	PERFORMANCE STANDARDS APPLY	VR2	VR4
Single Family Dwelling Units (exclusive of individual mobile homes) Up to 2 Dwelling Units per Lot	Section IX.Z.	P	P
Single Family Dwelling Units (exclusive of individual mobile homes) Up to 4 Dwelling Units per Lot	Section IX.Z	P	P
Two-family Dwelling Units		P	P
A Single Multi-family Dwelling with Four or Fewer Dwelling Units on a Lot	Section VIIA. Conservation Design		
Manufactured Housing Unit			
Manufactured Housing Community			
Townhouse - No more than 8 units per building (minimum 3)		C1	C1
Multiplex		C1	C1
Multi-family Dwellings (maximum building footprint 7,500 sq ft)		C1	C1
Nursing Home		SE	SE
Boarding Care			
Orphanage		SE	SE

INSTITUTIONAL AND CIVIC USES	PERFORMANCE STANDARDS APPLY	VR2	VR4
Cemetery			
Library		P	P
Museum		P	P
School – Public and Private Educational Facility		P	P
Municipal Building and Use		P	P
Post Office Facilities		P	
Public Utility Facility, Including Substation, Pumping Station and Sewage Treatment Facility		SE C2	SE C2
Hospice Facility		SE	SE

Place of Worship		P	P
Adjunct Use, Place of Worship		SE	SE
Charitable Institution		SE	SE
RECREATIONAL USES	**PERFORMANCE STANDARDS APPLY**	**VR2**	**VR4**
Residential Recreation Facility		P	P
Golf Course			P
Community Building (non-profit)		P	P
Grounds for Games and Sports (non-profit)			
Commercial Outdoor Recreation	Section IX.U		
Day Camp			
Non-commercial Model Aviation Flying Field Located West of the Maine Turnpike	Section IV(I)(8)		
COMMERCIAL AND RETAIL USES	**PERFORMANCE STANDARDS APPLY**	**VR2**	**VR4**
Family Day Care Home (3-6 children or adults)	Section IV(I)(6), except that Board Appeals review is not required.	P	P
Group Day Care Home (7-12 children) and Nursery School		SE	SE
Day Care Center Facility (13 + children)			SE
Medical or Professional Office (less than 2,500 sq ft floor area per lot)			
Boarding Care Facility			
Kennel			
Veterinary and Pet Care Facility			
Utility Scale Solar Energy System	Section IX.(O.1.)		

LODGING USES	PERFORMANCE STANDARDS APPLY	VR2	VR4
Bed and Breakfast	Section IX.T.		
Camping and Tenting (five acres or more)			
INDUSTRIAL USES	**PERFORMANCE STANDARDS APPLY**	**VR2**	**VR4**
Extractive Industry Including Gravel Pit and Quarry			
ACCESSORY USES	**PERFORMANCE STANDARDS APPLY**	**VR2**	**VR4**
Accessory Dwelling Unit	Section IX.J.	P	P
Home Occupation		SE	SE
Telecommunication Facility		SE	SE

C1 - Permitted with a minimum parcel size of five (5) acres.
C2 - Board of Appeals review is not required if the facility is proposed, reviewed and permitted by the Planning Board as part of an original residential development.

B. SPACE AND BULK STANDARDS

The following Space and Bulk Regulations are applicable to subdivisions reviewed by the Planning Board under the Scarborough Subdivision Ordinance.

DIMENSIONAL STANDARDS AND SETBACKS	VILLAGE RESIDENTIAL 2 – VR2					
	Single-family units	Two-family units	Multi-family	Multi-plex	Town-house	Non-residential[3]
Minimum Lot Area per dwelling unit	5,000 sq ft	NA	NA			
Minimum Lot Area per two dwelling nits	NA	7,500 sq ft	NA			
Minimum Lot Area	NA		15,000 sq ft			
Minimum Street Frontage	40’	50’	75’			
Minimum Lot Width	40’	50’	75’			
Minimum Front yard	5’					
Minimum Rear & Side Yard	15’[1]		15’[2]			15’

[1] May be reduced to 5 feet for single-family dwellings within the same residential development if the dwelling and the abutting dwellings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code.

[2] May be reduced to 10 feet for two-family dwellings if the structures meet the Fire Rating requirements as per the NFPA 101 Life Safety Code. The Planning Board may also allow lesser separation between two-family and multi-family dwellings than the setback requirements dictated above if these dwellings are located on the same lot and the structures meet the Fire Rating requirements for the lesser separation as per the NFPA 101 Life Safety Code.

[3] As used in this subsection E., the term "non-residential" does not include home occupations and other uses accessory to a residential use.

1. The lot area requirements above shall be considered minimums. The Planning Board may require additional lot areas in order to meet the Town Plumbing Ordinance & the Maine Subsurface Waste Water Disposal Rules depending on the density of housing and use types.

2. For a resident lot that does not require subdivision review and approval by the Planning Board or a lot in a subdivision that was approved prior to June 1, 2005, the Space and Bulk Regulations of the R2 District shall apply if the lot is served by the public sewer system. If the lot is served by an on-site subsurface sewage disposal system, the space and bulk regulations of the RF District shall apply.

DIMENSIONAL STANDARDS AND SETBACKS	VILLAGE RESIDENTIAL 4 – VR4					
	Single-family units	Two-family units	Multi-family	Multi-plex	Town-house	Non-residential[4]
Minimum Lot Area per Dwelling Unit	5,000 sq ft	NA	NA			
Minimum Lot Area per two dwelling units	NA	7,500sq ft	NA			
Minimum Lot Area	NA		15,000 sq ft			
Minimum Street Frontage	50'		75'			
Minimum Lot Width	50'		75'			
Minimum Front yard	5'					
Minimum Rear & Side Yard	15'[1]		15'[2, 3]			15'

[1] May be reduced to 5 feet for single-family dwellings within the same residential development if the dwelling and the abutting dwellings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code.

[2] May be reduced to 10 feet for multiplex and townhouse dwellings if the dwelling and the abutting dwelling meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

[3] When the yard abuts a lot or parcel that is not part of the development the minimum yard shall be 25 feet and the buffering requirements of Section VIII of this Ordinance shall apply.

[4] As used in this subsection E., the term "non-residential" does not include home occupations and other uses accessory to a residential use.

For development that does not require subdivision review and approval by the Planning Board the Space and Bulk Regulations of the R-4 District shall apply.

C. VILLAGE DEVELOPMENT STANDARDS

New Residential subdivisions in the VR2 and VR4 Districts shall conform to the following standards:

1. Residential subdivisions shall be designed in a pattern of substantially rectangular blocks forming a grid layout with interconnected streets and communal space as defined by buildings, landscaping and streetscapes, natural features, and pedestrian ways that establishes a traditional village design. In the VR4 District the Planning Board may waive the standard for a grid layout of interconnected streets if the Board finds that topographical, wetland or other natural constraints inhibit this design or if the scale of a particular residential development is not conducive to an interconnected street layout.

2. Residential developments shall include low-volume streets designed for lower vehicle speeds in order to increase pedestrian safety, discourage non-local through traffic and maintain a village character. In order to achieve these design standards, the Planning Board shall have the authority to reduce the pavement width of local residential streets to 20 feet. Streets approved by the Planning Board under this Section shall be deemed to comply with the Street Acceptance and Subdivision Ordinances.

3. The street network in a residential development, or a private access road or driveway located in the VR4 District, shall not provide or create vehicular access from Sawyer Road to serve non-residential development located outside of the VR4 District.

4. Sidewalks and shade trees shall be provided on both sides of the streets within a subdivision or development shall connect to the pedestrian amenities of abutting neighborhoods to the extent feasible. The Planning Board may allow alternative pedestrian amenities, such as a sidewalk on one side of a street, footpaths and trails, if the Board finds the above standard is not necessary due to special circumstances of a site or the nature or scale of a particular residential development.

4. The Planning Board may allow the establishment of “private alleyways” to provide access to parking facilities for various residential units. These alleyways may be 14 feet in pavement width with an additional 6 feet of non-paved drivable surface (totaling 20 ft.), in accordance with Scarborough Fire Department requirements. These alleyways shall be owned and maintained by a homeowners association and shall be subject to an easement allowing Town use and access. These alleyways shall not be considered streets under this Ordinance, the Street Acceptance Ordinance or the Scarborough Subdivision Ordinance.

5. In the VR2 District between 10 - 20% of the net residential area of a subdivision shall be allocated as designated open space accessible to all residential units. The open space shall consist of both village green space and surrounding open space for conservation. The village green space may consist of neighborhood parks, community greens, commons, linear greenways, courtyards, landscaped boulevards and the like. The surrounding open space shall be connected and contiguous where feasible, and shall be restricted for conservation and recreation in perpetuity. This open

space may contain recreation areas, ball fields, recreation trails, and the like. It shall function as protection for natural resources, buffers to adjacent incompatible uses, forested, natural distinctions between this zoning district and adjacent less dense zoning districts, and linkages to neighboring green spaces or recreational amenities. In addition, this common green space or open space can be used for solar or wind energy systems as allowed for under Section IX. The final open space percentage within the 10 - 20% range shall be determined by the Planning Board.

6. In the VR4 District at least 10% of the net residential acreage of a development shall be allocated as village green space for active and passive recreation. This village green space may consist of neighborhood parks, community greens, commons, linear greenways, courtyards, landscaped boulevards and the like. The village green space shall be integral to the development and shall be sited in a central location available and desirable for use by the residents of the development. In addition, green space or common land can be used for solar or wind energy systems as allowed for under Section IX.

7. In the VR4 District development shall be clustered away from wetlands, watercourses and water bodies and impacts to these resources shall be avoided. Contiguous wetland areas of 15,000 square feet or greater shall be protected as common open space. These open space areas shall include a minimum wetland buffer of twenty-five (25) feet from the upland edge of a wetland to any building lot boundary. The open space lands may include a trail system for walking, hiking, biking or similar activities subject to Planning Board approval. Where no practical alternative exists, the Planning Board may allow the crossing of wetlands for roads, driveways or utilities to provide access to, or use of, an upland area within a development.

D. RESIDENTIAL DENSITY REGULATIONS – VR2

1. For a residential lot that is not subject to Planning Board review and approval or a lot in a subdivision that was approved prior to June 1, 2005, the residential density shall be governed by the R2 Space and Bulk Regulations if the lot is served by an on-site subsurface sewage disposal system, the space and bulk regulations of the RF District shall apply.

2. For a subdivision that is subject to Planning Board review and approval after June 1, 2005, the following residential density regulations shall apply:

a. Residential Density Factors – Within this zoning district the Residential Density Factors in Section VII.C.A. of the Zoning Ordinance shall apply to multiplex and townhouse dwelling units.

b. Maximum Base Residential Density – The maximum base residential density shall be two (2) dwelling units per net residential acre. This is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.

c. Additional Residential Density Thru Development Transfer – A subdivision may increase the number of dwelling units by up to ten percent (10%) of the total number allowed under the maximum base residential density (subsection F.2.b.) by utilizing the development transfer provisions in accordance with Section VII.D. of this Ordinance.

d. **Additional Residential Density Thru Affordable Housing -** A subdivision may increase the number of dwelling units by up to ten percent (10%) of the total number allowed under the maximum base residential density (subsection F.2.b.) provided at least forty percent (40%) of those additional units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

e. **Additional Residential Density Thru an Affordable Housing In-Lieu Fee –** In lieu of developing affordable housing to utilize additional residential density under subsection F.2.d., a development may increase the number of dwelling units by up to ten percent (10%) of the total number allowed under the maximum base residential density by utilizing the affordable housing in lieu fee provisions in accordance with Section VII.C. of this Ordinance. [Adopted 08/20/2014]

3. The Planning Board may allow a subdivision to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed twenty percent (20%) beyond the maximum base residential density allowed.

E. RESIDENTIAL DENSITY REGULATIONS – VR4

1. For development that is not subject to Planning Board review and approval the residential density shall be governed by the R-4 Space and Bulk Regulations.

2. For development that is subject to Planning Board review and approval the following residential density regulations shall apply:

a. Residential Density Factors - The Residential Density Factors in Section VII C. A. of the Zoning Ordinance shall apply to multiplex and townhouse dwelling units

b. Maximum Base Residential Density – The maximum base residential density shall be four (4) dwelling units per net residential acre. This is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.

c. Additional Residential Density Thru Development Transfer – A development may incorporate up to three (3) additional dwelling units per net residential acre, beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID. of this Ordinance.

d. Additional Residential Density Thru Affordable Housing – A development may incorporate up to one (1) additional dwelling unit per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

e. Additional Residential Density Thru an Affordable Housing In-Lieu Fee - In lieu of developing affordable housing to utilize additional residential density under subsection F.2.d.,

a development may incorporate up to one (1) additional dwelling unit per acre of net lot area beyond the maximum base residential density by utilizing the affordable housing in-lieu fee provisions in accordance with Section VII.C. of this Ordinance. [Adopted 08/20/2014]

3. The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed three (3) dwelling units per net residential acre beyond the maximum base residential density.

F. ADDITIONAL STANDARDS – VILLAGE DISTRICTS

ADDITIONAL STANDARDS	VR2	VR4
Maximum Building Height	35’ (3 stories)	35’ (3 stories)
Maximum Building Coverage	60%	40%
Signs	Section XII Applies	

G. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except that the Planning Board shall have the authority to allow residential off-street parking to be located within 300 feet of principal residential uses, measured along lines of public access, where it cannot be reasonably be provided on the same lot. Such parking areas shall be held under the same ownership or lease as the residential uses served and evidence of such control or lease shall be required. This allowance shall not require approval by the Board of Appeals under Section XI(C) in this zoning district.

Given the village-style development pattern of the residential development, residential parking spaces in a new subdivision need not measure more than 9 feet by 18 feet and valid parking spaces shall include spaces located in private driveways leading into garages, notwithstanding the otherwise applicable provisions of Sections VI and XI of this Ordinance.

SECTION XVI.A. TRADITIONAL NEIGHBORHOOD DEVELOPMENT OPTION OVERLAY DISTRICT, TND [Adopted 11/03/2004][Amended 11/06/2013; Amended 07/13/16; Amended 05/17/2023]

A. PURPOSE

To provide residential areas within the Town of Scarborough of a higher density in a manner which will promote a wholesome living environment. To this end, residential development pursuant to this Section XVI.A shall not exceed 5 dwelling units per net residential acre through the use of the residential density bonus provisions. Traditional neighborhood development standards are intended to promote innovative design solutions that incorporate a mix of residential unit types accommodating a mix of income levels, provide for shared open space and civic areas, and promote a development pattern with an interconnected network of landscaped streets, blocks, and pedestrian ways.

B. DEVELOPMENT STANDARDS (TND)

(See Conceptual – Traditional Neighborhood Street Cross-Section at end of XVI.A)

1. Eligible parcels must be served by public utilities (sewer and water), contain at least 25 acres and be located within an R-4 Residential District.

2. Between 10 – 20% of the net residential area shall be allocated as designated open space accessible to all residential units. The open space may consist of neighborhood parks, commons, recreation fields, woodland walking trails, greenbelts or a combination thereof. The amount and location of open space shall be based on the development's overall design and needs when considering the street and block layout, housing density, dwelling styles, lot areas and natural features. The final open space percentage within the 10 – 20% range shall be determined by the Planning Board.

3. The development shall be designed in a pattern of substantially rectangular blocks forming a grid layout with interconnected streets and communal space as defined by buildings, landscaping, open space, natural features, sidewalks and paths.

4. The development design shall include low-volume residential streets with a pavement width of 20 feet and an overall right-of-way width of 44 feet, which are alternative to the standards required under the Town's Street Acceptance Ordinance and Subdivision Ordinance. Streets approved by the Planning Board under this Section shall be deemed to comply with the Street Acceptance and Subdivision Ordinances. These low-volume street standards are adequate to provide primary access to individual dwellings and adjacent streets within a traditional neighborhood development, while maintaining a compact neighborhood character. The low-volume streets shall be designed for lower vehicle speeds in order to increase pedestrian safety and discourage non-local through traffic as well as to compliment the higher density residential setting. The Planning Board may require additional pavement and layout widths on the streets that provide the primary access to the traditional neighborhood development.

5. Sidewalks and shade trees shall be provided on both sides of the streets within the development. Sidewalks and paths shall link to the pedestrian amenities of any abutting neighborhoods to the degree that is practical.

6. A minimum of 30% of the dwelling units provided shall be in the form of townhouses or attached dwellings.

7. There may be a retail or community use component of the neighborhood development that shall conform to the floor area and dwelling unit thresholds highlighted in C. Permitted Uses, below. The Subdivision proposal shall identify the specific types of retail and/or community uses proposed for the development, and the Planning Board may limit its approval to those specific types. Any retail sales shall be modest in size and merchandise suitable only to serve the immediate development, and shall not market or generate significant traffic external to the neighborhood. Any retail or community

use component shall be integrated into the neighborhood layout, design, and architectural scheme. This non-residential component shall be reviewed as part of the overall subdivision and site plan review process and will require further site plan approval with any change of use.

C. PERMITTED USES

1. Any use permitted in the R-4 Residential District.
2. There may be 1,000 sq. ft. of floor area for retail sales, community use or a combination of the two per every 50 dwelling units within the development. The retail sales establishments shall not exceed 1,000 sq. ft. per unit of occupancy and there shall be no more than 2,000 sq. ft. of retail sales in any one building.
3. The retail sales, community use or other non-residential uses allowed in the R-4 Residential District may be located in a standalone building(s) or as part of a mixed use building(s) that include other non-residential or residential uses.
4. Multifamily dwellings limited to a maximum building footprint of 7,500 square feet.
5. Townhouses limited to no more than eight (8) dwelling units per building.

D. SPECIAL EXCEPTIONS

1. Public utility facilities including substations, pumping stations and sewage treatment facilities.
2. Adjunct uses, place of worship.
3. Community use greater than 1,000 sq. ft. in floor area.

E. SPACE AND BULK REGULATIONS

The space and bulk requirements, other than the residential density regulations under subsection F. below shall be the same as in the R-4 Residential District except as modified by the Planning Board under Section VII.

F. RESIDENTIAL DENSITY REGULATIONS

1. Residential Density Factors – Within this zoning district the Residential Density Factors in Section VII.C.A. of the Zoning Ordinance shall apply to multiplex, townhouse, two-family and single-family dwelling units.

2. Maximum Base Residential Density - The maximum base residential density shall be four (4) dwelling units per net residential acre. This is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.

3. Additional Residential Density Thru Creating Affordable Housing – A development may incorporate up to one (1) additional dwelling unit per net residential acre beyond the maximum base residential density proved at least forty percent (40%) of the additional dwelling units (with fractional number of units rounded up to the nearest whole number) are designated as affordable housing.

4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee – In lieu of developing affordable housing to utilize additional residential density under subsection F.3., a development may incorporate up to one (1) additional dwelling unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing in lieu fee provisions in accordance with Section VII.C. of this Ordinance.

5. Additional Residential Density Thru Development Transfer – A development may incorporate up to one (1) additional dwelling unit per net residential acre beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VII.D. of this Ordinance.

The Planning Board may allow a development to utilize additional residential density through a combination of the provisions specified in subsection F.3, F.4 and F.5 but the combined additional residential density shall not exceed one (1) additional dwelling unit per net residential acre beyond the maximum base residential density allowed.

G. OFF-STREET PARKING
Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

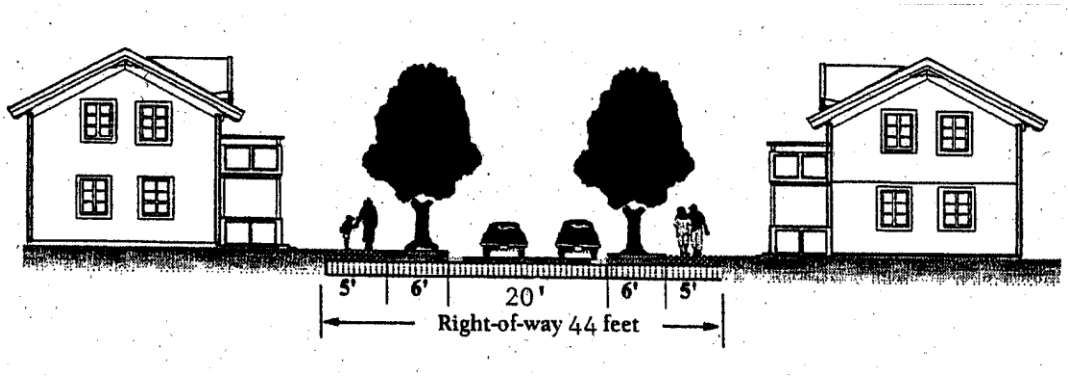
H. SIGNS
Signs for any retail or community use shall be in conformance with the standards for R-4 under Section XII.

I. PROCEDURE FOR ELECTING TRADITIONAL NEIGHBORHOOD DEVELOPMENT OPTION
An applicant proposing to develop a subdivision pursuant to this Section XVI.A shall, prior to applying for subdivision approval apply for a zoning change as defined in Section II.G. If the Town Council approves the zoning change, the property shall be subject to the standards of this Section XVI.A where these standards modify the requirements otherwise applicable in the R-4 District. [Amended 05/17/2023]

Conceptual - Traditional Neighborhood Street Cross-Section

Street Requirements

- Total right-of-way width of 44 ft.
- Street pavement width of 20 ft., equaling 10 ft. per travel lane
- Granite curbing where sidewalks are present
- 6 ft. planting strip width with street trees on both sides of street
- 5 ft. sidewalk width on both sides of street except that a minimum 4 ft. sidewalk may be used in areas of occasional pedestrian activity.
- Public utilities (water & sewer) shall be installed under the travel way
- Underground utilities (electric, cable, telephone etc.) shall be installed under the sidewalks
- 1 ft. reserve strip between sidewalks and property lines
- The street surface and sub-base standards and dimensions shall be equal to that of a residential access street as outlined in Table 6-1 of the Town's Street Acceptance Ordinance.



This page intentionally left blank.

Town of Scarborough
HIGGINS BEACH
CHARACTER-BASED ZONING DISTRICTS

Adopted 12-2-15
Amended 09-06-2017
03-07-2018

THIS PAGE INTENTIONALLY LEFT BLANK

TABLE OF CONTENTS

ARTICLE 1: GENERAL PROVISIONS

A. GENERAL

ARTICLE 2: CHARACTER DISTRICTS

A. COASTAL RESIDENTIAL 1 (CD-CR1)
B. COASTAL MIXED USE - LIMITED (CD-CML)

ARTICLE 3: COASTAL OVERLAY DISTRICTS & NATURAL RESOURCE REFERENCES

A. FLOODPLAIN OVERLAY (SD-FL)
B. SHORELAND OVERLAY (SD-SO)
C. COASTAL DUNES (SD-CD)

ARTICLE 4: BUILDING STANDARDS

A. STANDARDS FOR ALL BUILDING TYPES
B. PRINCIPAL BUILDING TYPES & STANDARDS
C. ACCESSORY BUILDING TYPES & STANDARDS
D. BUILDING COMPONENTS
E. BUILDING COMPONENT STANDARDS
F. FOUNDATIONS & STANDARDS
G. BUILDING FRONTAGE TYPES

ARTICLE 5: USE PROVISIONS & ADMINISTRATION

A. COASTAL RESIDENTIAL 1 (CD-CR1)
B. COASTAL MIXED USE - LIMITED (CD-CML)
C. ADMINISTRATION & PERMITTING

ARTICLE 6: DEFINITIONS

THIS PAGE INTENTIONALLY LEFT BLANK

A. PURPOSE

a. To implement the Comprehensive Plan of the Town of Scarborough.

b. To coordinate development and redevelopment according to plans collaboratively developed with community members from Higgins Beach.

c. To maintain a complete, walkable neighborhood that continues to promote community and neighborly activity.

d. To preserve and enhance the existing character of Higgins Beach, respects the existing built form, and honors the historic development pattern inherent in the original plat of Higgins Beach.

e. To require a strong connection and appropriate transition between the public realm (streets and sidewalks) and the private realm (yards and buildings).

f. To promote the adaptation of existing buildings and to permit redevelopment and infill construction that contributes to and preserves the character of Higgins Beach.

g. To allow for a narrow range of business activity that supports the local residents of Higgins Beach.

h. To enable continued access to Higgins Beach's greatest amenity, the beach, marshes, and other coastal areas.

B. APPLICABILITY

a. Unless otherwise specified, this District is applicable to all real property within Higgins Beach as described on the Town of Scarborough Official Zoning Map.

b. That which is not specifically allowed by this ordinance as it pertains to the dimensions, massing, and location of buildings, lots, accessory buildings, roofs, and components shall be considered to be prohibited.

C. TEXT & GRAPHICS

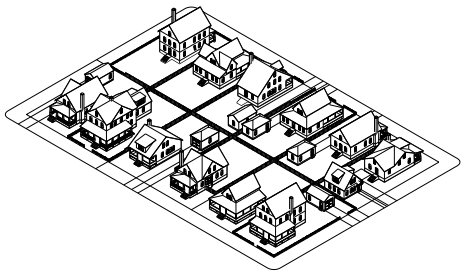
a. Illustrations, graphics, pictures, and flowcharts are included in this District to help illustrate the intent and requirements of the text. In the case of a conflict between the text of this Chapter and any illustration, graphic, picture, or flowchart, the text shall govern.

b. All metrics included in tables shall be interpreted as text under this Chapter and shall govern.

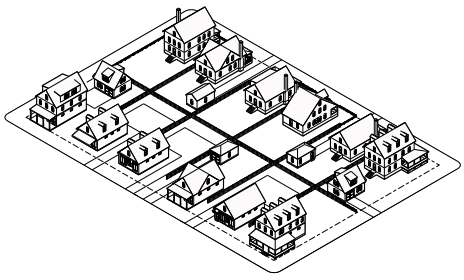
D. GENERAL TO LOTS

a. For the purposes of determining setbacks any lot that fronts on two non-intersecting streets, or a street and the beach, shall be considered to have primary front lot lines along all said streets or resources.

TABLE 2.1 CHARACTER DISTRICT SUMMARY TABLE



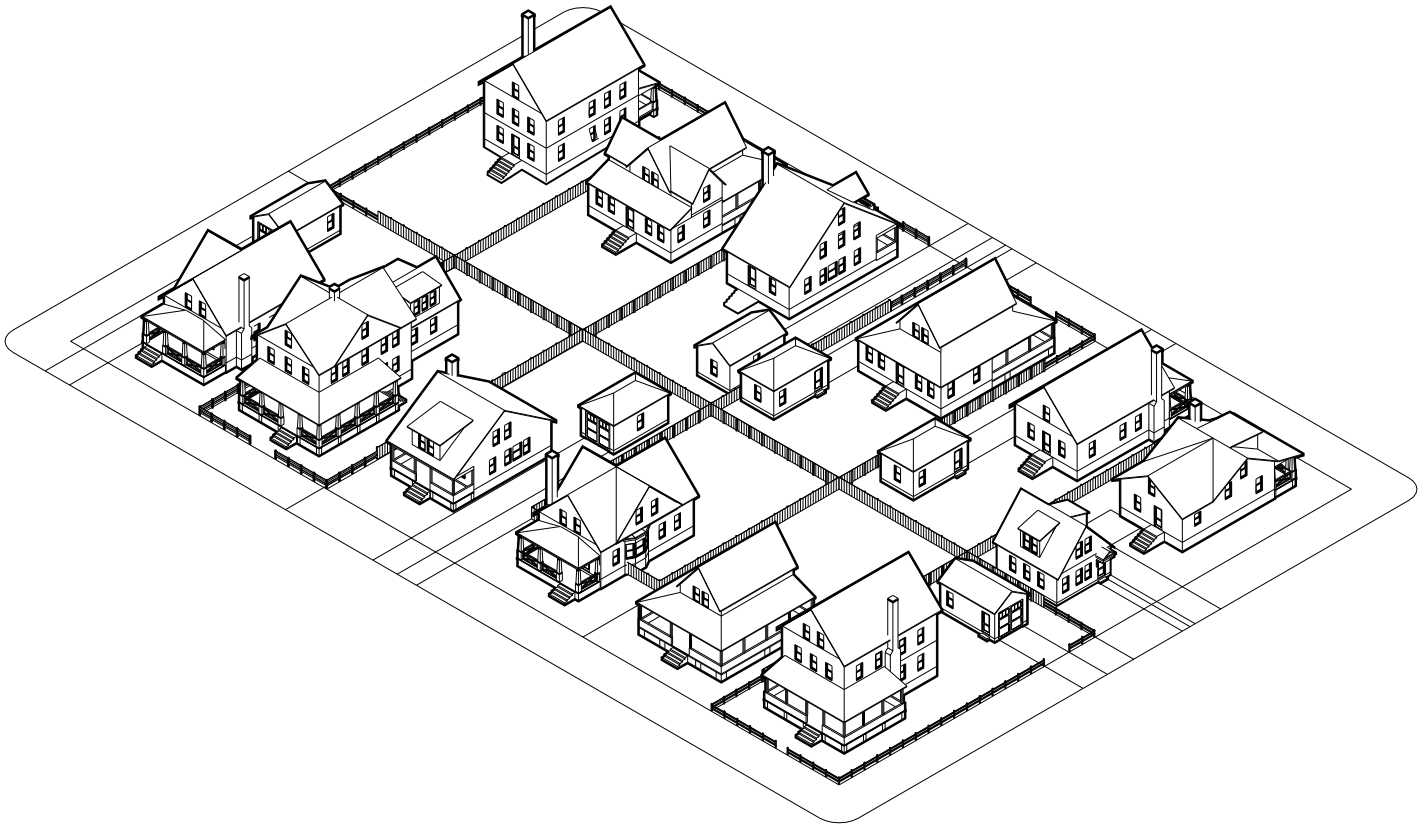
1. COASTAL RESIDENTIAL 1 (CD-CR1)



2. COASTAL MIXED-USE LIMITED (CD-CML)

THIS PAGE INTENTIONALLY LEFT BLANK

A. COASTAL RESIDENTIAL 1 (CD-CR1)



INTENT

a. To conserve the already established residential neighborhood fabric of Higgins Beach and the rhythm of single-family homes and cottages.

PURPOSE

a. To permit the development of new single-family residential building types on individual lots.

b. To provide for the administrative review of additions and modifications to existing structures, in keeping with the standards of this District.

BUILDING STANDARDS

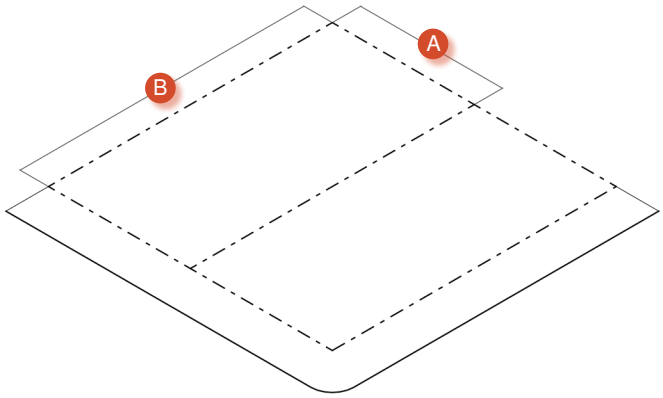
a. See Article 4: Building Standards for the standards for each building type.

PERMITTED BUILDING TYPES

Coastal Cottage	Permitted
Bungalow	Permitted
House	Permitted
Inn Building	Not Permitted
Shop House	Not Permitted
Neighborhood Store	Not Permitted

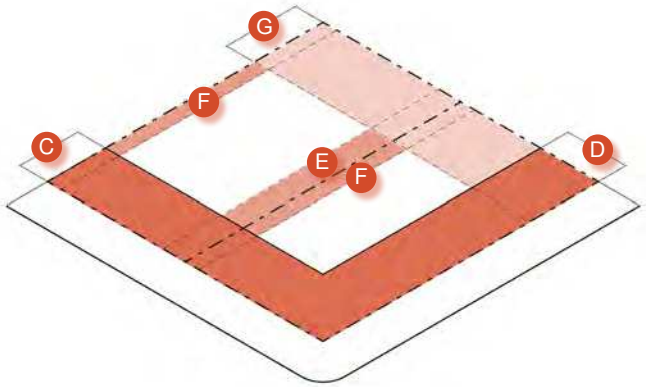
LOT DIMENSIONS

Width	48 ft min	A
Depth	98 ft min	B



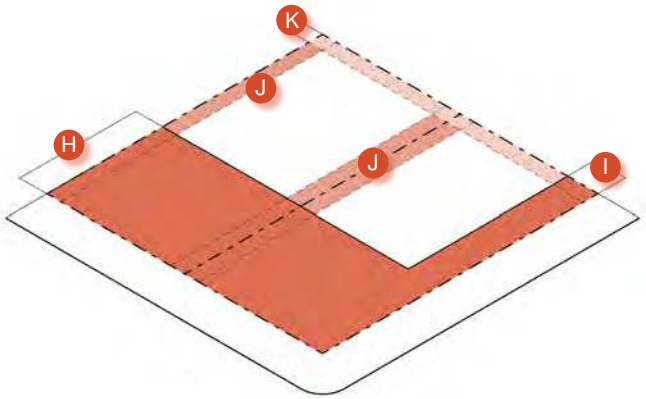
PRINCIPAL BUILDING PLACEMENT

Primary Front Setback	18 ft min, 21 ft max	C
Secondary Front Setback	12 ft min, 21 ft max	D
Primary Side Setback	8 ft min	E
Secondary Side Setback	8 ft min	F
Rear Setback	30 ft min	G

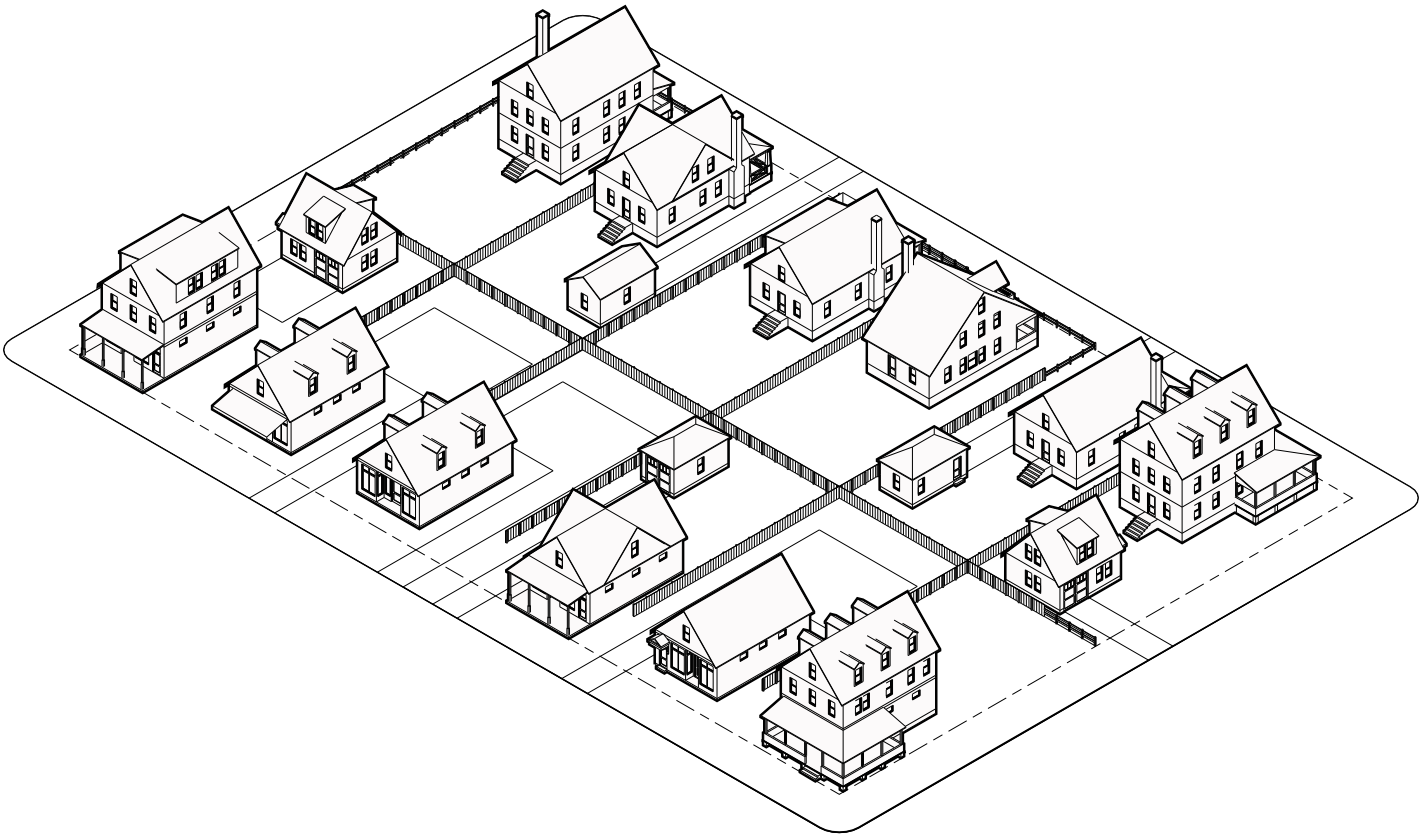


ACCESSORY BUILDING PLACEMENT

Primary Front Setback	40 ft min	H
Secondary Front Setback	12 ft min	I
Side Setback	3 ft min	J
Rear Setback	3 ft min	K



B. COASTAL MIXED-USE–LIMITED (CD-CML)



INTENT

a. To maintain and enhance the existing mixed use and limited commercial uses that support the existing residential neighborhood.

PURPOSE

a. To permit appropriate, small-scale commercial uses in keeping with the character of the neighborhood.

b. To protect existing historic commercial properties that contribute to the character of Higgins Beach.

BUILDING STANDARDS

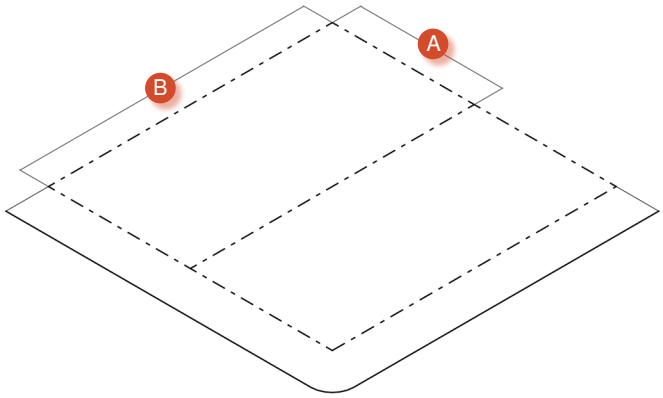
a. See Article 4: Building Standards for each building type.

PERMITTED BUILDING TYPES

Coastal Cottage	Permitted
Bungalow	Permitted
House	Permitted
Inn Building	Permitted
Shop House	Permitted
Neighborhood Store	Permitted

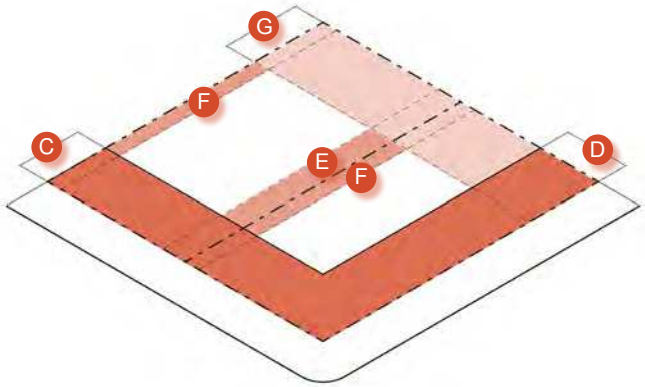
LOT DIMENSIONS

Width	48 ft min	A
Depth	98 ft min	B



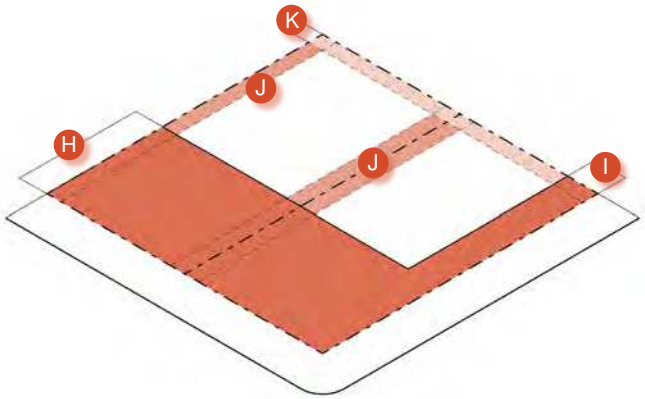
PRINCIPAL BUILDING PLACEMENT

Primary Front Setback	8 ft min, 21 ft max	C
Secondary Front Setback	8 ft min, 21 ft max	D
Primary Side Setback	8 ft min	E
Secondary Side Setback	8 ft min	F
Rear Setback	20 ft min	G



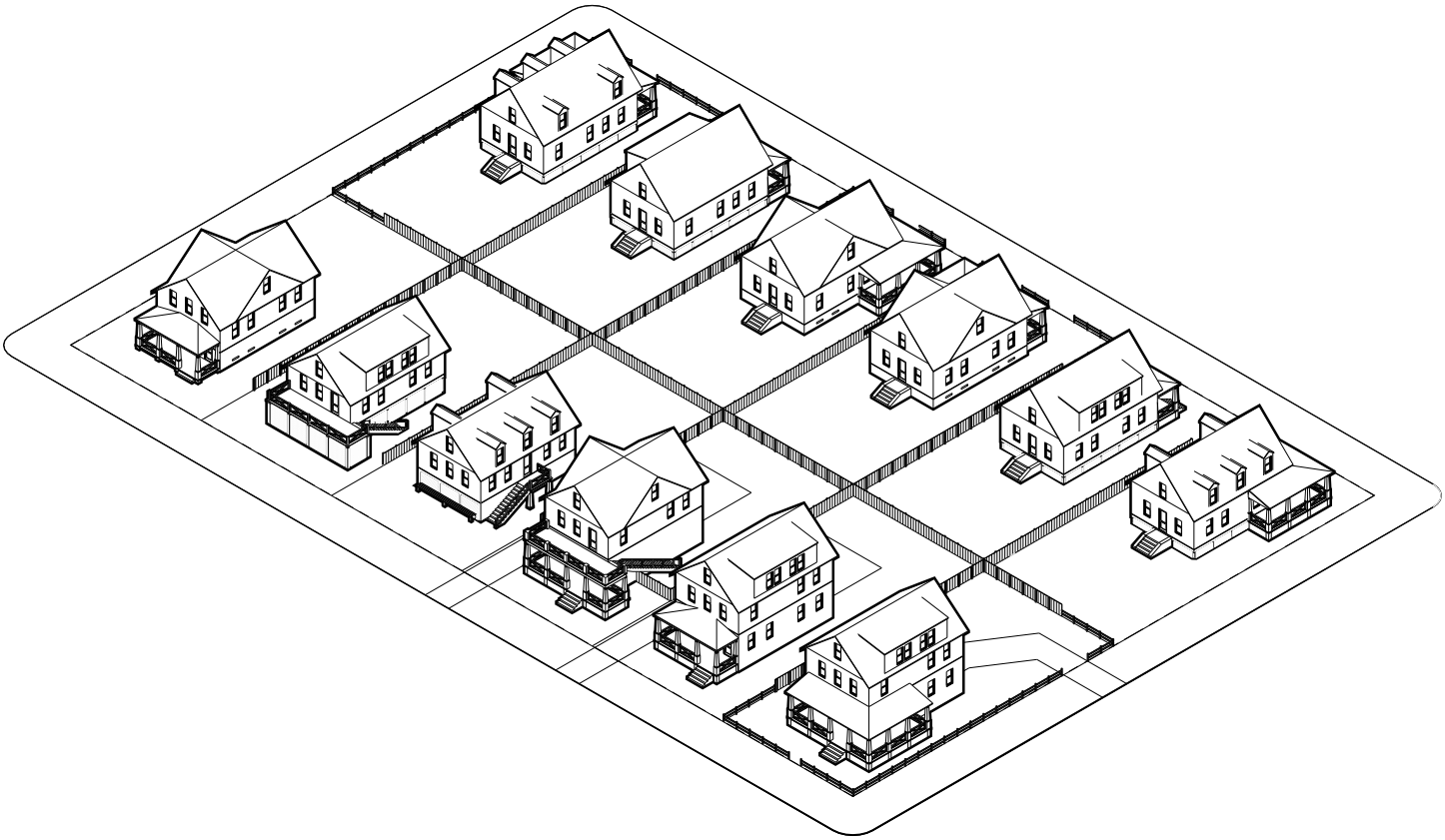
ACCESSORY BUILDING PLACEMENT

Primary Front Setback	40 ft min	H
Secondary Front Setback	8 ft min	I
Side Setback	3 ft min	J
Rear Setback	3 ft min	K



A. SHORELAND OVERLAY

THIS SECTION IS FOR REFERENCE ONLY. REFER TO CHAPTER 405C THE SHORELAND ZONING ORDINANCE FOR SPECIFIC STANDARDS AND REQUIREMENTS



	75 ft from the resource	75 to 250 ft from the resource ** measured from highest annual tide
New Construction	No new construction.	New construction allowed per Coverage standards below.
Additions/ Expansions	30% expansion max., area and volume, from January 1, 1989.	Expansions allowed per Coverage standards below.
Coverage	Limited to existing coverage as per Chapter 405C the Shoreland Zoning Ordinance	35% Development Coverage * includes all land covered by nonvegetated surfaces as per Chapter 405C the Shoreland Zoning Ordinance
Height	See Article 4.A.2.	See Article 4.A.2.
Placement on Lot	May not move or add to an existing structure any closer to the resource as per Chapter 405C the Shoreland Zoning Ordinance	See Article 2. Character Districts
Accessory Units	In the Shoreland Overlay accessory units are considered separate dwelling units and are only permitted when both the single-family dwelling and the accessory unit individually comply with the lot dimensional requirements	See Section 15.A.5. of Chapter 405C the Shoreland Zoning Ordinance

B. FLOODPLAIN

THIS SECTION IS FOR REFERENCE ONLY. REFER TO CHAPTER 405A THE FLOODPLAIN MANAGEMENT ORDINANCE FOR SPECIFIC STANDARDS AND REQUIREMENTS. ADDITIONAL LIMITATIONS/REQUIREMENTS PURSUANT TO MAINE DEP CHAPTER 355: COASTAL SAND DUNE RULES, MAY BE APPLICABLE. *

	VE	AE	AO	A
New Construction	New construction allowed per elevation standards below.	New construction allowed per elevation standards below.	New construction allowed per elevation standards below.	New construction allowed per elevation standards below.
Additions/ Expansions	*Expansions allowed per elevation standards below. Substantial Improvement/substantial damage will require elevation standards to be met for entire structure.	*Expansions allowed per elevation standards below. Substantial Improvement/substantial damage will require elevation standards to be met for entire structure.	*Expansions allowed per elevation standards below. Substantial Improvement/substantial damage will require elevation standards to be met for entire structure.	*Expansions allowed per elevation standards below. Substantial Improvement/substantial damage will require elevation standards to be met for entire structure.
Coverage	*Controlled by Character District and Shoreland Zoning.	*Controlled by Character District and Shoreland Zoning.	*Controlled by Character District and Shoreland Zoning.	*Controlled by Character District and Shoreland Zoning.
Elevation	Bottom of lowest horizontal framing member must be 1 ft above base flood as defined under Chapter 405A, Article VI.P of the Floodplain Management Ordinance.	Top of lowest floor including basement must be 1 ft above base flood as defined under Chapter 405A, Article VI.F-G of the Floodplain Management Ordinance.	*1 ft higher than the flood depth specified on FIRM or at least 3 ft if no depth number is specified.	1 ft above base flood as determined by the methods under Chapter 405A the Floodplain Management Ordinance Article III.H.1.b.
Height	See Article 4.A.2.	See Article 4.A.2.	See Article 4.A.2.	See Article 4.A.2.
Placement on Lot	*Controlled by Character District and Shoreland Zoning.	*Controlled by Character District and Shoreland Zoning.	*Controlled by Character District and Shoreland Zoning.	*Controlled by Character District and Shoreland Zoning.

C. SAND DUNES

THIS SECTION IS FOR REFERENCE ONLY. REFER TO THE MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION REGULATIONS, CHAPTER 355: COASTAL SAND DUNE RULES, FOR SPECIFIC STANDARDS AND REQUIREMENTS. CONSULT MAINE DEP STAFF FOR RULE INTERPRETATIONS AND DETERMINATIONS.

	Frontal Dune	Back Dune	Erosion Hazard Area
New Construction	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP
Additions/ Expansions	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP
Coverage	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP
Elevation	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP	Undeveloped lot: 3 ft above highest existing elevation within the buildings footprint Developed lot: 3 ft. above the highest natural elevation measured 5 ft from corners of existing bldg foundation or the elevation required in local floodplain ordinance, whichever is higher.
Height	35 ft measured from the elevation used by the municipality when determining compliance with local ordinances.	35 ft measured from the elevation used by the municipality when determining compliance with local ordinances.	35 ft measured from the elevation used by the municipality when determining compliance with local ordinances.
Placement on Lot	See Chapter 355 - consult with Maine DEP	Controlled by Character District or See Chapter 355 - consult with Maine DEP.	Controlled by Character District or See Chapter 355 - consult with Maine DEP
Specifications	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP	See Chapter 355 - consult with Maine DEP

THIS PAGE INTENTIONALLY LEFT BLANK

A. STANDARDS FOR ALL BUILDINGS

1. GENERAL

a. Principal building types are summarized on Table 4.2A and permitted according to Character District standards in Article 2: Character Districts.

b. See Article 4.B for the standards for each building type.

c. The Planning and Code Enforcement Department shall classify existing principal structures as a specific building type based on the definition of each type and upon finding that the structure is substantially similar in placement, height, massing, use, and features to one of the permitted building types.

d. Existing buildings may be considered a component or accessory building of a new principle building on the same lot, provided they meet all dimensional requirements for that component or accessory building (with the exception of roof pitch, which may remain nonconforming provided the existing nonconformity is not extended to the roof pitch of the new principle building.)

2. BUILDING MASSING & ASSEMBLY

a. All principal and accessory buildings must meet the standards for one of the building types provided in Article 4B.

b. Each principal building and accessory building type must be comprised of a main building mass with a rectangular form and a single allowed roof type.

c. In order to create a broad range of building designs and promote architectural creativity, components may attach to both principal and accessory buildings.

d. The outer wall of a main building mass must be located entirely in a single plane. Articulation in the wall plane is not permitted except through the use of a component.

e. For the purpose of measurement, building length and width standards apply only to the main building mass of principal and accessory buildings. Components have unique dimensions and standards.

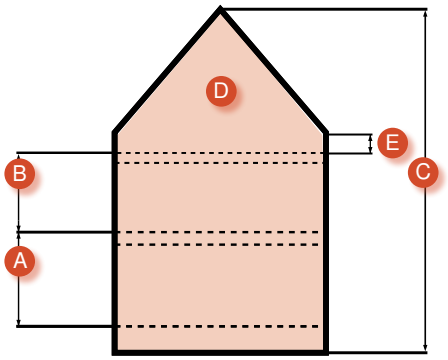
f. Integral or engaged components may recess within the envelope of the main building mass only at the story to which they are attached, and may not alter the boundary of the main building roof above.

g. Terraced components may recess within the structure of a pitched roof.

h. Architectural decorations, moldings, adornments, and details shall not be regulated by this ordinance provided they project from the face of a building or component by less than 6 inches.

3. HEIGHT

a. Building Height, Stories



i. Story height is measured from the surface of any floor to the surface of the floor above it (A) or, if there is no floor above, from the surface of the floor to the top of the lowest horizontal roof joist or collar tie, whichever is lower (B).

ii. To calculate building height by number of stories, each story above the average ground level within the required building placement area is counted as 1 story (C).

iii. Basements are counted as 1-story when 5 feet or more of an exterior basement wall at the front set-back is exposed above the average ground level.

a). An unfinished or flood resistant enclosure for utilities, building access or storage in an area other than a basement area is not considered a building's basement.

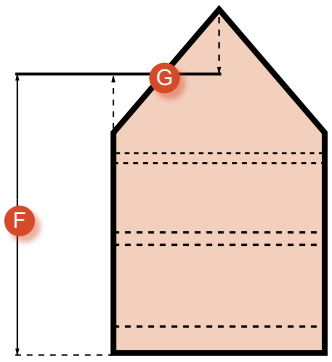
iv. For buildings with pitched roofs, habitable space is allowed within the pitch and is not considered a full story. (D)

v. A habitable floor within a pitched roof must be counted as a full story if the roof rafters intersect the wall plate or top of the exterior wall frame at a height more than 1 feet above the finished floor of the space. (E)

vi. A half-story is a habitable story within a pitched roof where the roof rafters intersect the wall plate or top of the exterior wall frame at a height less than 1 feet above the finished floor of the space. (E)

vii. A building that has more than one floor contained within the structure of a pitched roof must count all but the top floor as a story.

b. Building Height, Feet



i. In the Character Districts building height is generally regulated by stories, but shall also comply with a maximum building height limit of thirty-two (32) feet.

ii. Building height by feet shall be measured as required in the Zoning Ordinance definition: the vertical distance F measured from the average elevation of the finished grade at the front of the building to the highest point of the roof on a flat or mansard roof and to the average height between the eaves and the ridge for all other types of roof G.

iii. In the Shoreland Zone building height is also limited to thirty-five (35) feet measured to the highest point of the structure as required in Chapter 405C, Section 17 of the Shoreland Zoning Ordinance.

c. Ground Floor Elevation

i. Ground floor elevation is measured from the average ground level at the front of the building, to the top of the finished floor of the ground story of a building.

ii. Ground story dwelling units must be elevated above grade a minimum of 2 ft.

iii. Ground floor should not be confused with “lowest floor” as defined in Chapter 405A - Scarborough Floodplain Management Ordinance on those parcels in Special Flood Hazard Areas.

d. Eave Height is measured from the top of the foundation to the lowest point of a soffit, or the lowest point of the rafter ends if there is no soffit.

e. Height limits do not apply to mechanical equipment; roof mounted cellular, radio and internet transmission equipment; vents or exhausts; solar panels or skylights; flagpoles; chimneys; parapets or other non-habitable architectural features; and to roof walks in conformance with Article 4.

TABLE 4.1A ROOFS BY BUILDING TYPE (SEE TABLE 4.1B FOR ROOF STANDARDS BY COMPONENT TYPE)

BUILDING TYPES	Gable	Hip	Bungalow Gable	Shed	Flat*
Coastal Cottage	9:12 Min 14:12 Max	-	-	-	-
Bungalow	-	-	6:12 Min 14:12 Max	-	-
House	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	-	-
Inn	6:12 Min 12:12 Max	3:12 Min 12:12 Max	-	-	1.5:12 Min* 2:12 Max
Shophouse	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	-	-
Neigborhood Store	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 6:12 Max	1.5:12 Min* 2:12 Max
Outbuilding	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 6:12 Max	1.5:12 Min* 2:12 Max
Carriage House	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 6:12 Max	-

NOTE: Roofs marked with a dash (-) are not permitted with that building type.

* Or minimum slope required by building code for specified roof system.

4. ROOFS

a. Pitched roofs, if provided, must be symmetrically sloped in accordance with roof pitch standards for the building type (Table 4.1) with the exception of the Bungalow type, which has a unique roof composition.

b. Pitched roofs must converge, symmetrically, to a single ridge beam at their highest point. Roof assemblies with multiple ridge beams are prohibited.

c. The highest point of the roof of any component must be lower than or equal to the highest point of the roof of the principal building, unless specifically allowed to be taller.

d. Gable ends must be located on the narrowest building face or component face, with the exception of the bungalow.

e. Raking eaves at a building frontage must be restricted in depth such that no part of the roof overhangs the wall below by more than 1ft, measured horizontally.

f. No part of any roof may overhang the wall below by more than 3 ft.

5. FENESTRATION

a. Facades are required to have doors and windows with glass for a percentage of the total area of a facade, measured for each story independently.

b. Required windows and doors must provide clear, transparent, and un-tinted glass.

c. Fenestration of a story's facade is measured from the top of a finished floor to the top of the finished floor above, or top of wall plate on a single story structure.

d. Fenestration requirements are only applicable to building walls that face a road, the beach, or any other public way. Exterior walls facing an interior lot line are exempt. Components have their own fenestration requirements that apply to all component faces.

TABLE 4.1B ROOFS BY COMPONENT TYPE

COMPONENTS	Gable	Hip	Bungalow Gable	Shed	Flat*
Projecting Porch	5:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 14:12 Max	1.5:12 Min* 2:12 Max
Integral Porch	-	-	-	-	-
Engaged Porch	5:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 14:12 Max	1.5:12 Min* 2:12 Max
Balcony	-	-	-	-	-
Bay Window	5:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 14:12 Max	1.5:12 Min* 2:12 Max
Dormer Window	4:12 Min 14:12 Max	3:12 Min 12:12 Max	-	6:12 Min 14:12 Max	-
Cross Gable	9:12 Min 14:12 Max	-	-	-	-
Roof Walk	-	-	-	-	-
Retail Awning	-	-	-	-	-
Canopy	5:12 Min 14:12 Max	3:12 Min 12:12 Max	-	3:12 Min 14:12 Max	1.5:12 Min* 2:12 Max
Stoop	-	-	-	-	-
Deck	-	-	-	-	-
Rear Addition**	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	5:12 Min 14:12 Max	1.5:12 Min* 2:12 Max
Side Wing**	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	5:12 Min 14:12 Max	-
Estate Wing**	9:12 Min 14:12 Max	3:12 Min 12:12 Max	-	5:12 Min 14:12 Max	-

NOTE: Roofs marked with a dash (-) are not permitted with that component type.

* Or minimum slope required by building code for specified roof system.

** Component may not exceed the roof pitch of the Principal Building to which they attach.

e. To the extent possible, fenestration patterns and window configurations should be used that break the direct line of sight between neighboring properties to minimize privacy impacts. Other strategies, including the use of translucent glass on the bottom half of windows or strategically placed landscape elements, should be utilized if it is not possible to offset windows.

6. BUILDING PLACEMENT

a. All buildings and structures must be located at or behind any required minimum front, side, or rear setback, except as allowed for under Article 4.A.5. Setback Encroachments.

b. All stories of the facade of a principal building must be built at or within the provided setback range.

c. The facade of a principal building must be built in a manner generally parallel to a front lot line or to the tangent of a curved front lot line with some adjustment allowed based on irregularly shaped lots.

d. Not withstanding the Definition of Corner Lot under Section VI. of this Ordinance, corner lots shall have primary and secondary front setback, side setback and a rear setback as shown under Article 2. Building Placements.

7. SETBACK ENCROACHMENTS

a. Notwithstanding the general “Yard” requirements applicable to other Districts within this Ordinance, building frontages and components within the Character Districts may extend beyond a required front, side or rear setback (or yard) as indicated for each type provided that at least 3 ft. is maintained from the vertical plane of any side or rear lot line to the closest point of the structure. Specific encroachments for frontages and components can be found in Article 4.D.

b. Accessory buildings and structures may encroach as indicated in Article 4: Building Standards.

8. MATERIALS

a. Buildings must be sided with wood siding, vinyl siding, or cement board siding.

b. Buildings located closer than 5 feet from a side or rear property line must meet the fire rated construction requirements as approved by the Scarborough Fire Department.

9. GARAGES AND PARKING

a. Any building, accessory building, or component may contain a garage.

b. Garages must be setback from the principal facade of the principal building by at least 20 feet, with the exception of lots having a front both on a street and the beach, which are exempt from this provision.

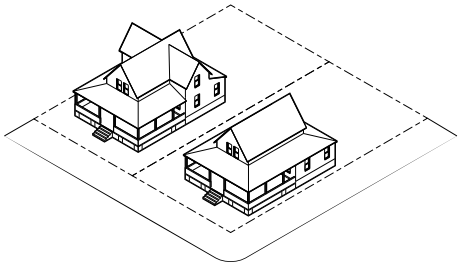
c. Any paved driveway or parking area with a width greater than 12 feet must be setback from the facades of the principal building by at least 10 feet, with the exception of lots having a front both on a street and the beach, which are exempt from this provision.

10. ACCESS

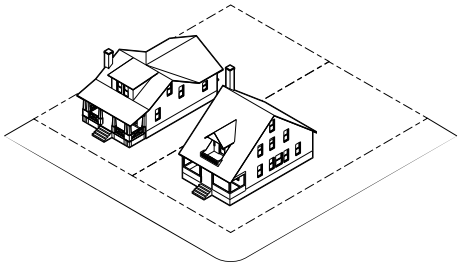
a. All buildings must be accessed by a primary entrance located on the main building mass at, or within 12 ft of, the principal facade.

b. Additional entrances may be located on any building or component face.

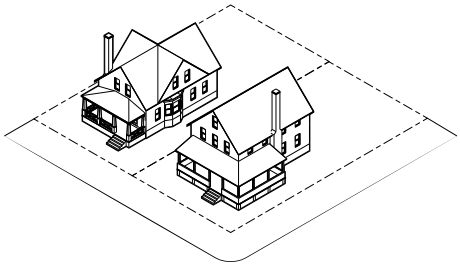
TABLE 4.2A BUILDING TYPES SUMMARY TABLE



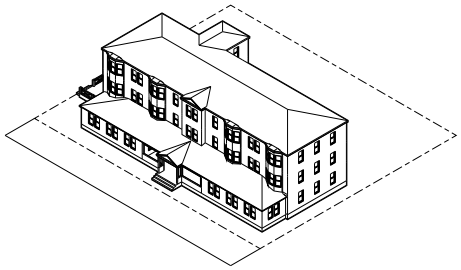
1. COASTAL COTTAGE



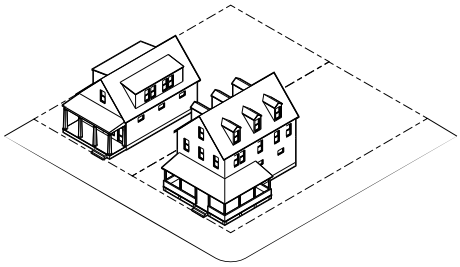
2. BUNGALOW



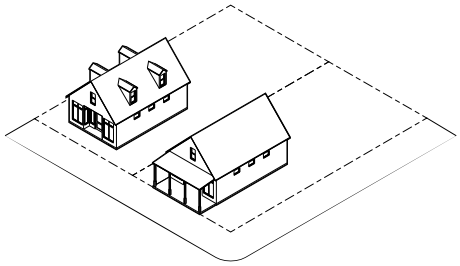
3. HOUSE



4. INN BUILDING

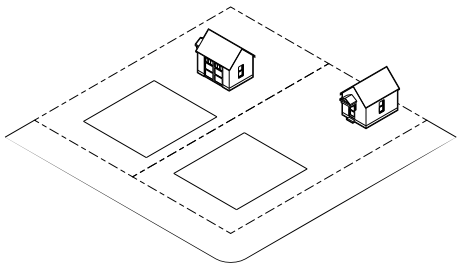


5. SHOPHOUSE

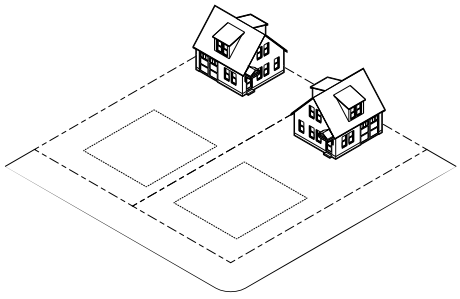


6. NEIGHBORHOOD STORE

TABLE 4.2B ACCESSORY BUILDING TYPES SUMMARY TABLE



1. ONE-STORY OUTBUILDING



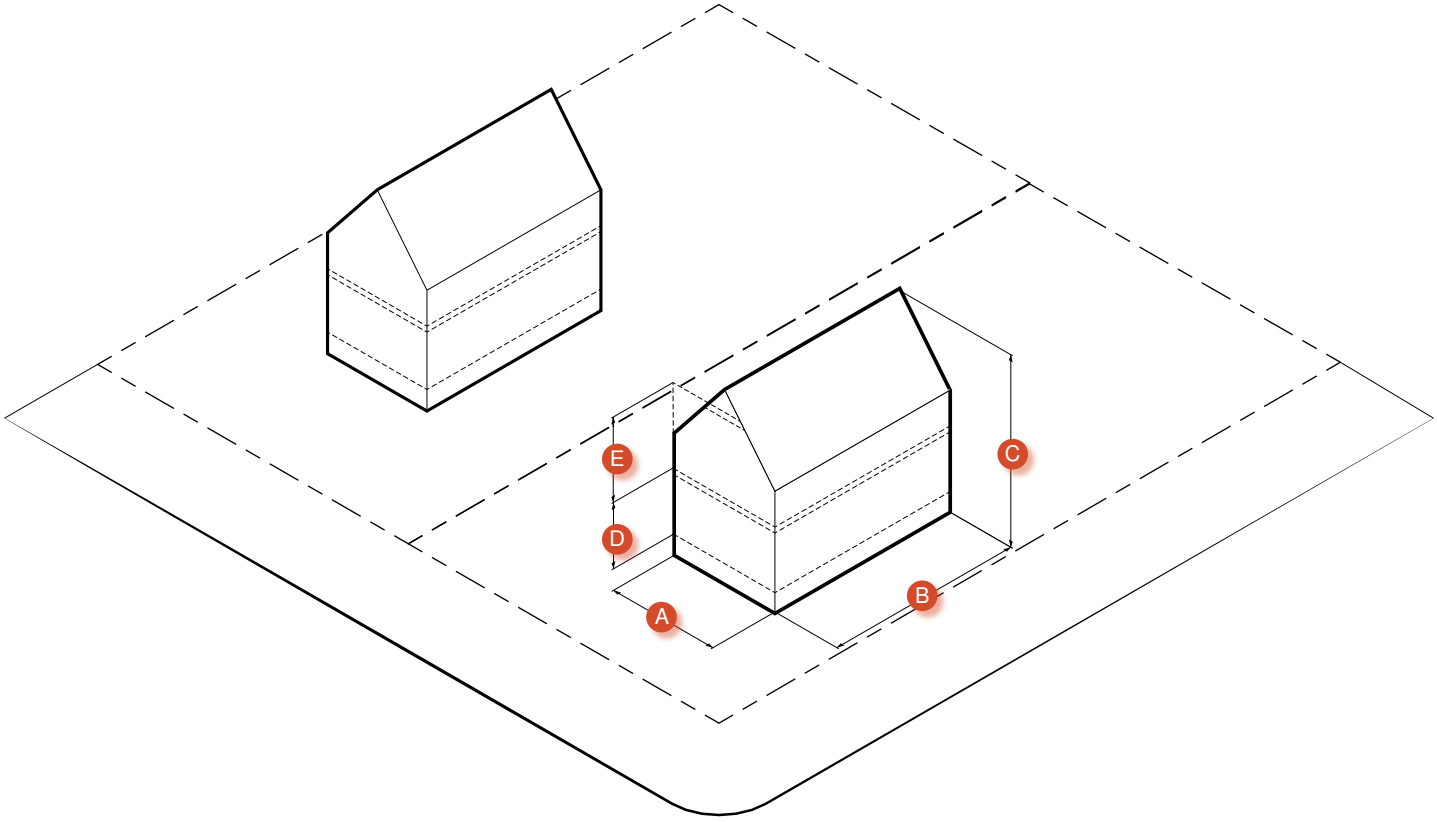
2. ONE-STORY CARRIAGE HOUSE

THIS PAGE INTENTIONALLY LEFT BLANK

B. PRINCIPAL BUILDING TYPES & STANDARDS

1. COASTAL COTTAGE

A detached residential building type with one principal dwelling unit and defined by a narrow, projecting center massing that typically has a wrap-around porch engaged on the sides.



BUILDING FORM

Building Width	22 ft max	A
Building Depth	36 ft max	B
Total Stories	2.5 stories max*	C
First Story Height*	10 ft max	D
Upper Story Height*	9 ft max	E
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

FACADE COMPOSITION

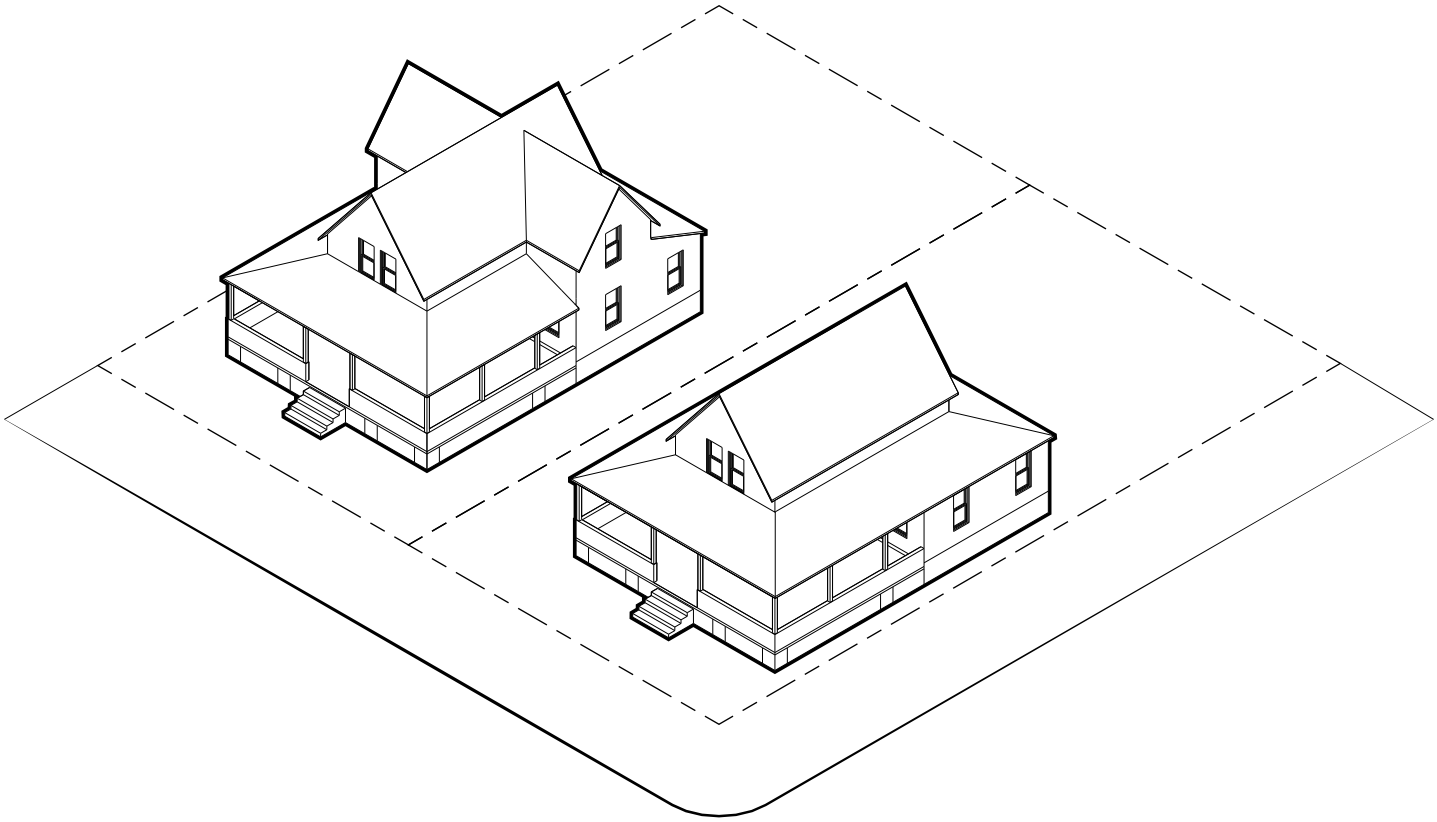
Ground Story Fenestration	20% min
Upper Story Fenestration	15% min

FRONTAGES

See Article 4D

Residential Yard	Required
Shopfront	Not Permitted
Beachfront Yard	See Special Requirements Map
Beachfront Garage Court	See Special Requirements Map

COASTAL COTTAGE COMPONENTS



COMPONENTS	See Article 4C
Projecting Porch	Permitted
Integral Porch	Not Permitted
Enagaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof Walk	Not Permitted
Retail Awning	Not Permitted
Canopy	Permitted
Stoop	Permitted
Deck	Permitted

COMPONENTS (CONT'D)	See Article 4C
Rear Addition	Permitted
Side Addition	Permitted

STANDARDS

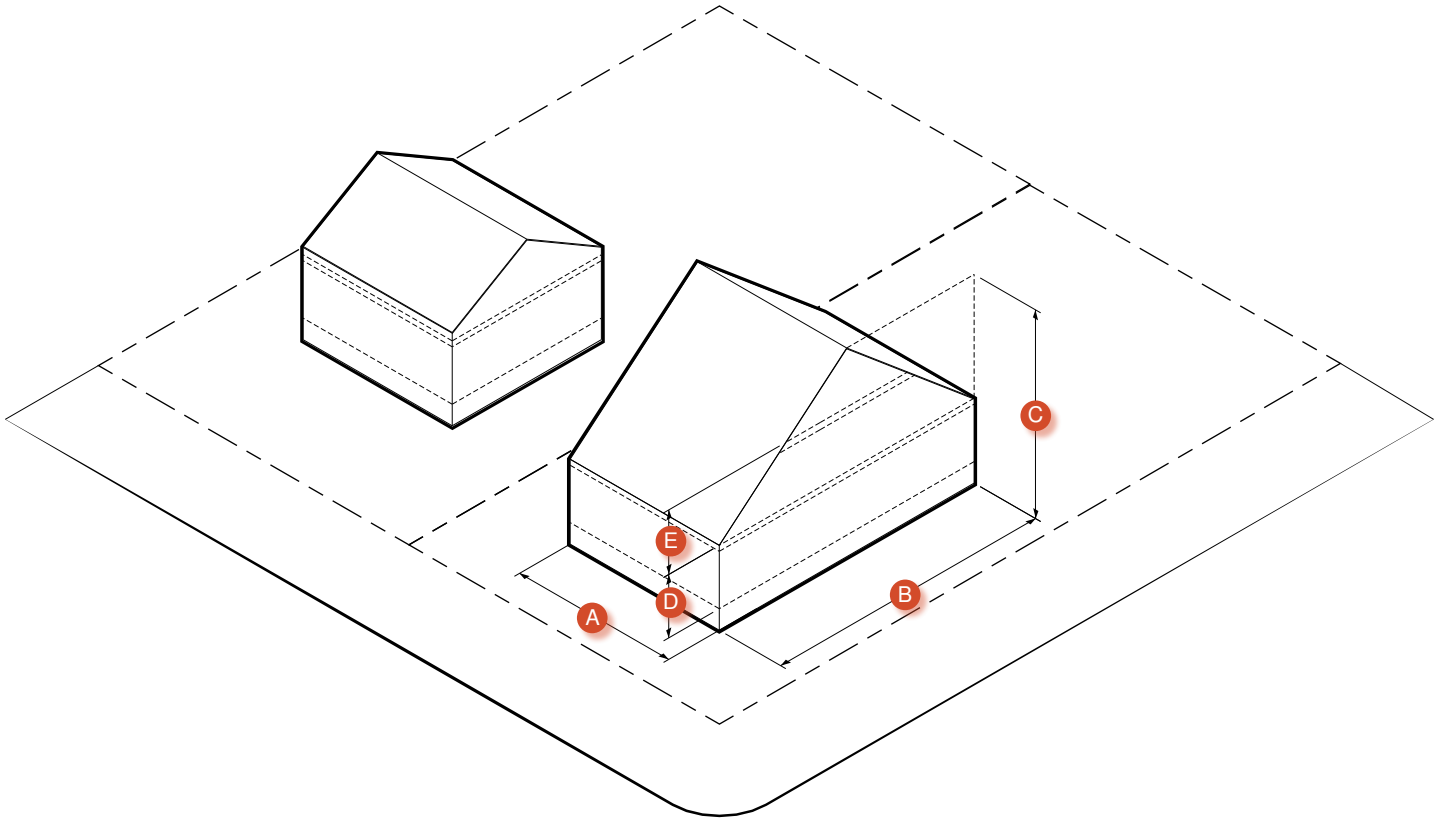
i. A minimum of two components may be applied to the main building mass, including a Porch as required under the Residential Yard Frontage standards (Article 4D).

ii. The Coastal Cottage may have both a Rear Addition and a Carriage House.

iii. The eave height may not exceed 16 feet, measured from the top of the buildings' foundation.

2. BUNGALOW

A detached residential building type with one principal dwelling unit and defined by a unique roof form, typically including an integral front porch.



BUILDING FORM

Building Width	25 ft max	A
Building Depth	40 ft max	B
Total Stories	2.5 stories max*	C
First Story Height*	10 ft max	D
Upper Story Height*	9 ft max	E
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

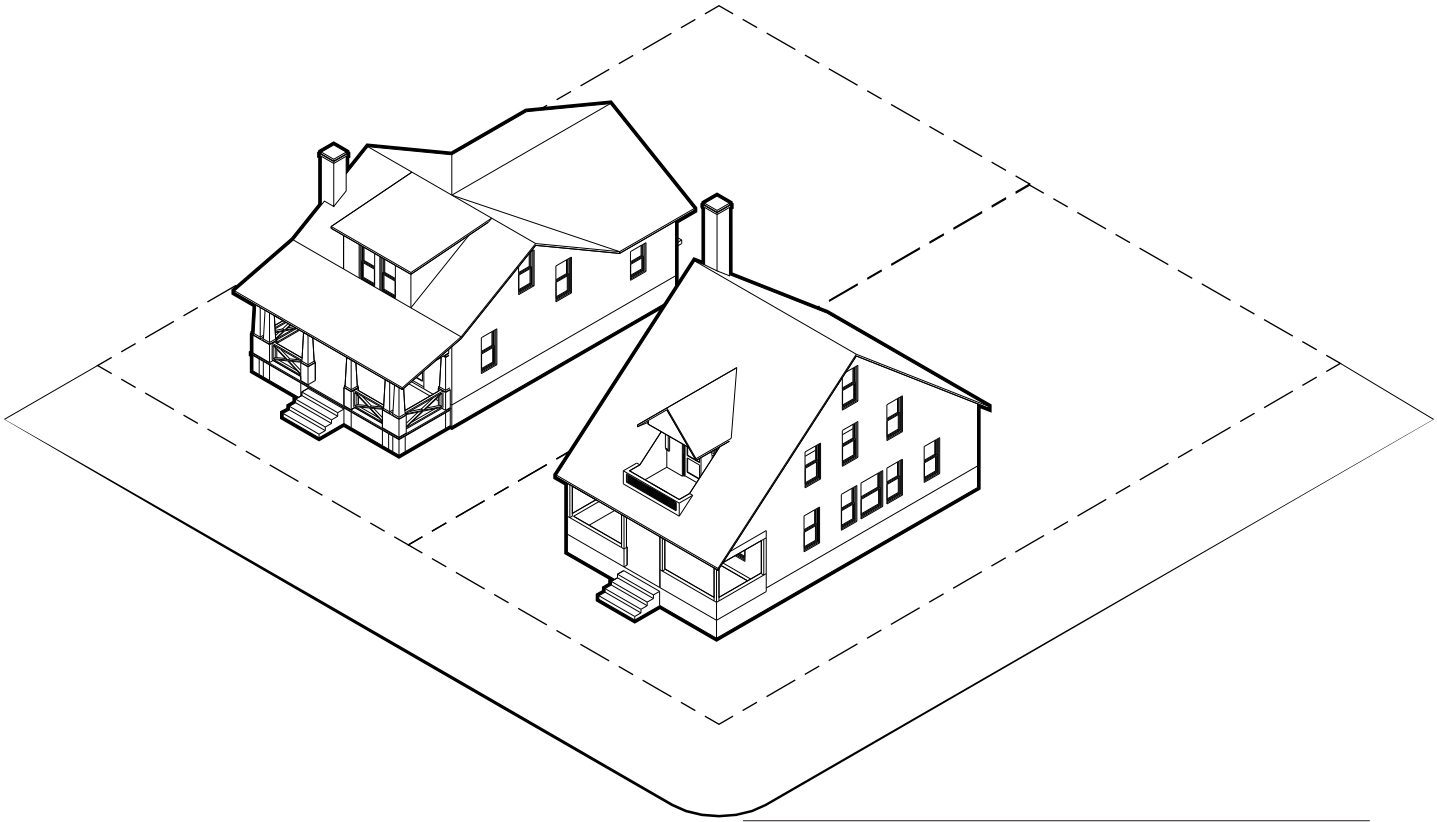
FACADE COMPOSITION

Ground Story Fenestration	20% min
Upper Story Fenestration	20% min

FRONTAGES

	See Article 4D
Residential Yard	Permitted
Shopfront	Not Permitted
Beachfront Yard	See Special Requirements Map
Beachfront Garage Court	See Special Requirements Map

BUNGALOW COMPONENTS



COMPONENTS	See Article 4C
Projecting Porch	Permitted
Integral Porch	Permitted
Engaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof Walk	Not Permitted
Retail Awning	Not Permitted
Canopy	Permitted
Stoop	Permitted
Deck	Permitted

COMPONENTS (CONT'D)	See Article 4C
Rear Addition	Permitted
Side Addition	Permitted
Estate Addition	Not Permitted

STANDARDS

i. The gable end of a bungalow must be oriented away from the primary frontage.

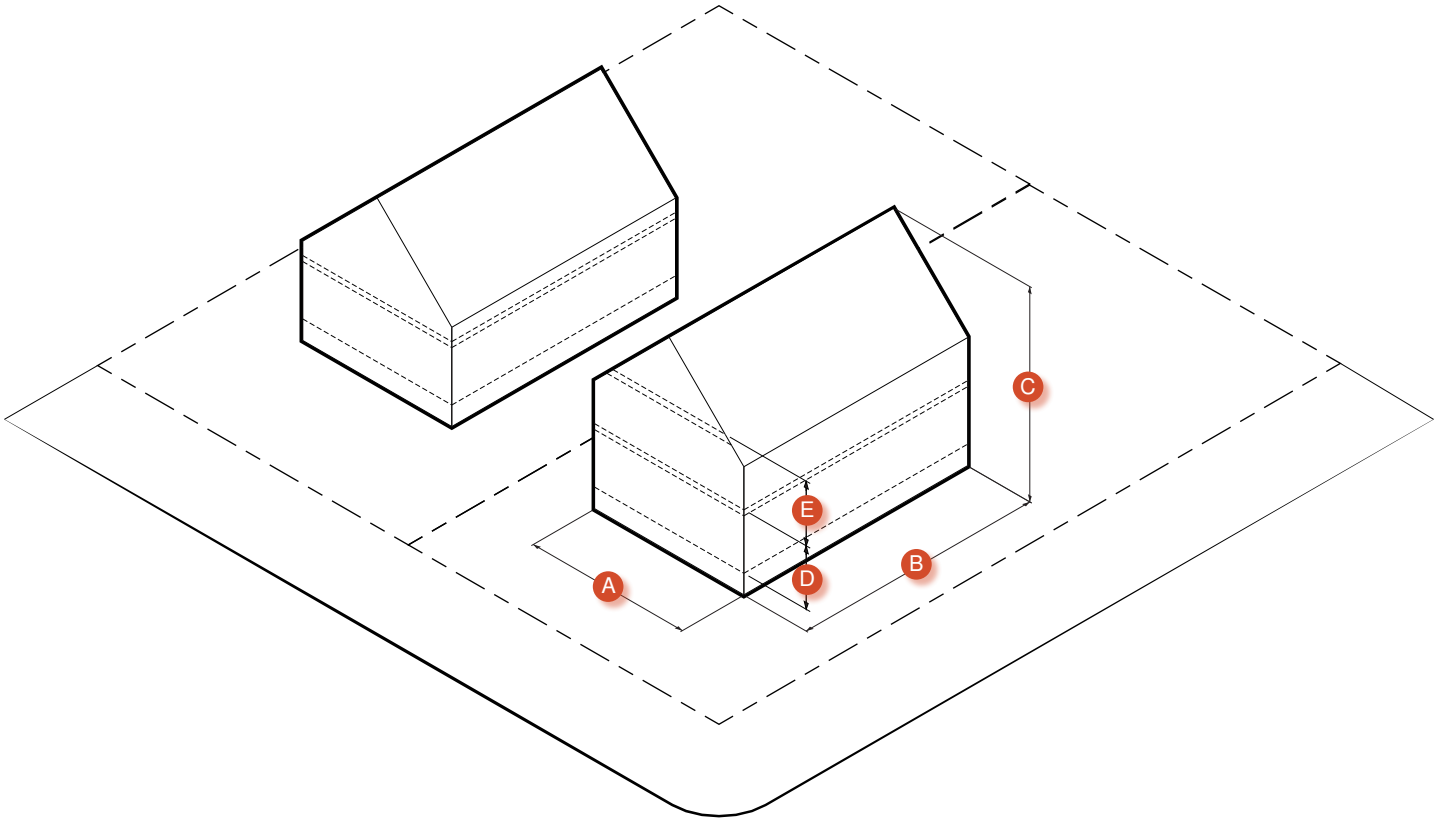
ii. *Stories above the first story must be contained within the roof structure.

iii. A minimum of two components may be applied to the main building mass, including a Porch as required under the Residential Yard Frontage standards (Article 4D).

iv. The eave height may not exceed 16 feet, measured from the top of the buildings' foundation.

3. HOUSE

A detached residential building type with one principal dwelling unit and exhibiting architecture with Character District components.



BUILDING FORM

Building Width	28 ft max	A
Building Depth	38 ft max	B
Total Stories	2.5 stories max*	C
First Story Height*	10 ft max	D
Upper Story Height*	9 ft max	E
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

FACADE COMPOSITION

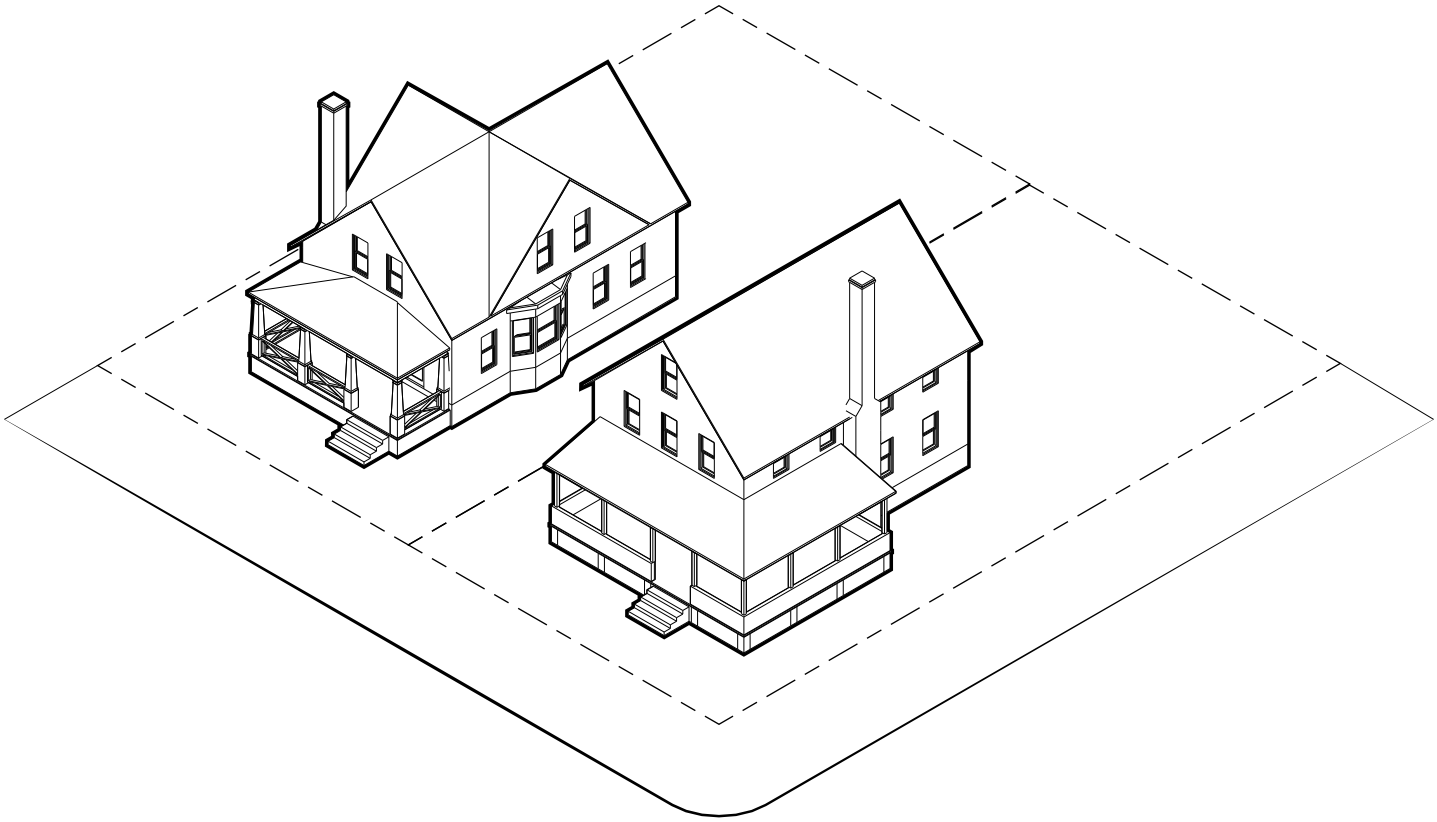
Ground Story Fenestration	20% min
Upper Story Fenestration	10% min

FRONTAGES

See Article 4D

Residential Yard	Required
Shopfront	Not Permitted
Beachfront Yard	See Special Requirements Map
Beachfront Garage Court	See Special Requirements Map

HOUSE COMPONENTS



COMPONENTS	See Article 4C
Projecting Porch	Permitted
Integral Porch	Not Permitted
Engaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof Walk	Permitted
Retail Awning	Not Permitted
Canopy	Permitted
Stoop	Permitted
Deck	Permitted

COMPONENTS (CONT'D)	See Article 4C
Rear Addition	Permitted
Side Addition	Permitted
Estate Addition	Permitted on lots 98 ft wide min.

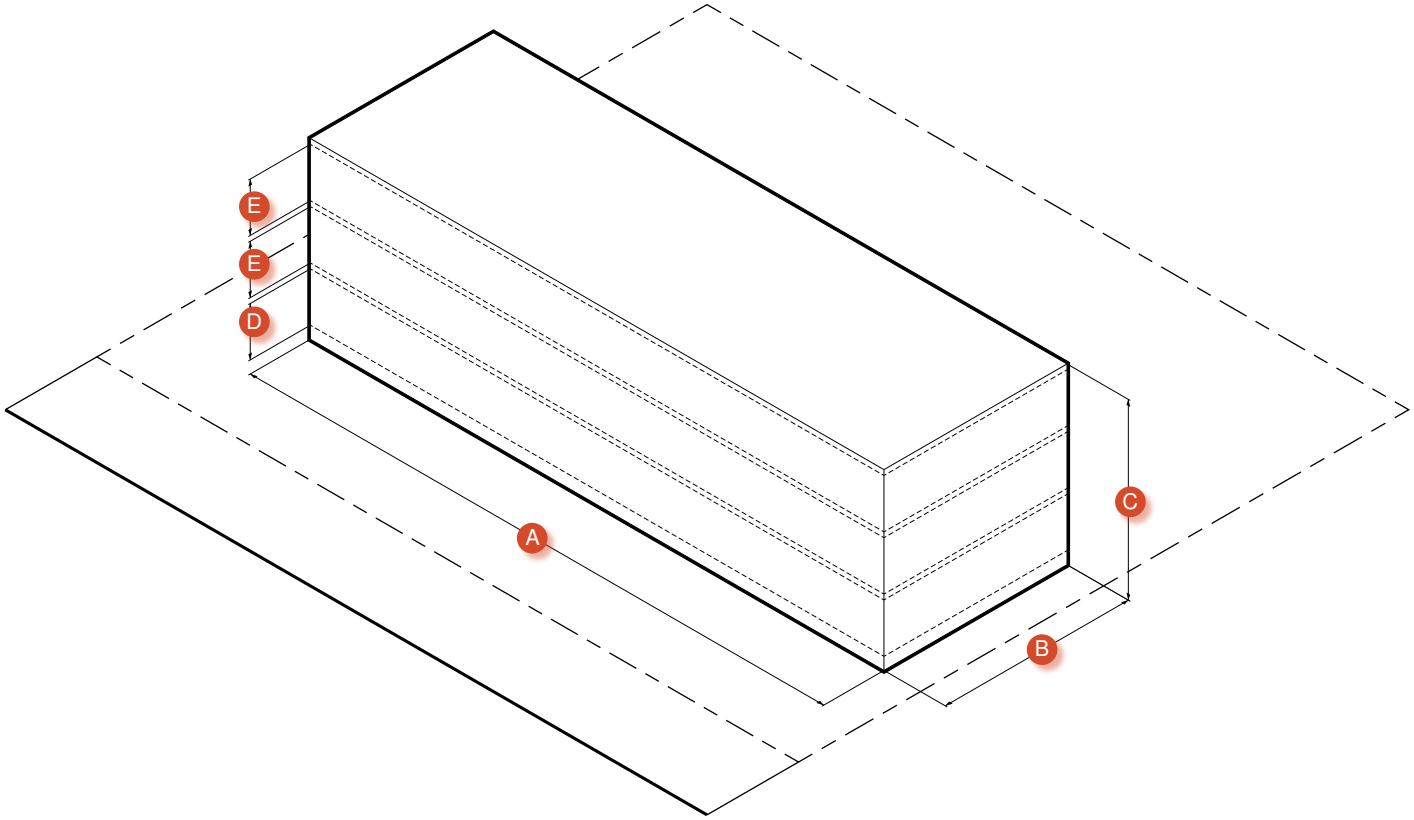
STANDARDS

i. A minimum of two components may be applied to the main building mass, including a Porch as required under the Residential Yard Frontage standards (Article 4D).

ii. The eave height may not exceed 16 feet, measured from the top of the buildings' foundation.

4. INN BUILDING

A large floor plate, detached mixed-use building type with residential or lodging units on upper floors and supporting limited commercial uses on the ground floor.



BUILDING FORM

Building Width	100 ft max	A
Building Depth	50 ft max	B
Total Stories	3 stories max*	C
First Story Height*	10 ft min, 12 ft max	D
Upper Story Height*	12 ft max	E
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

FACADE COMPOSITION

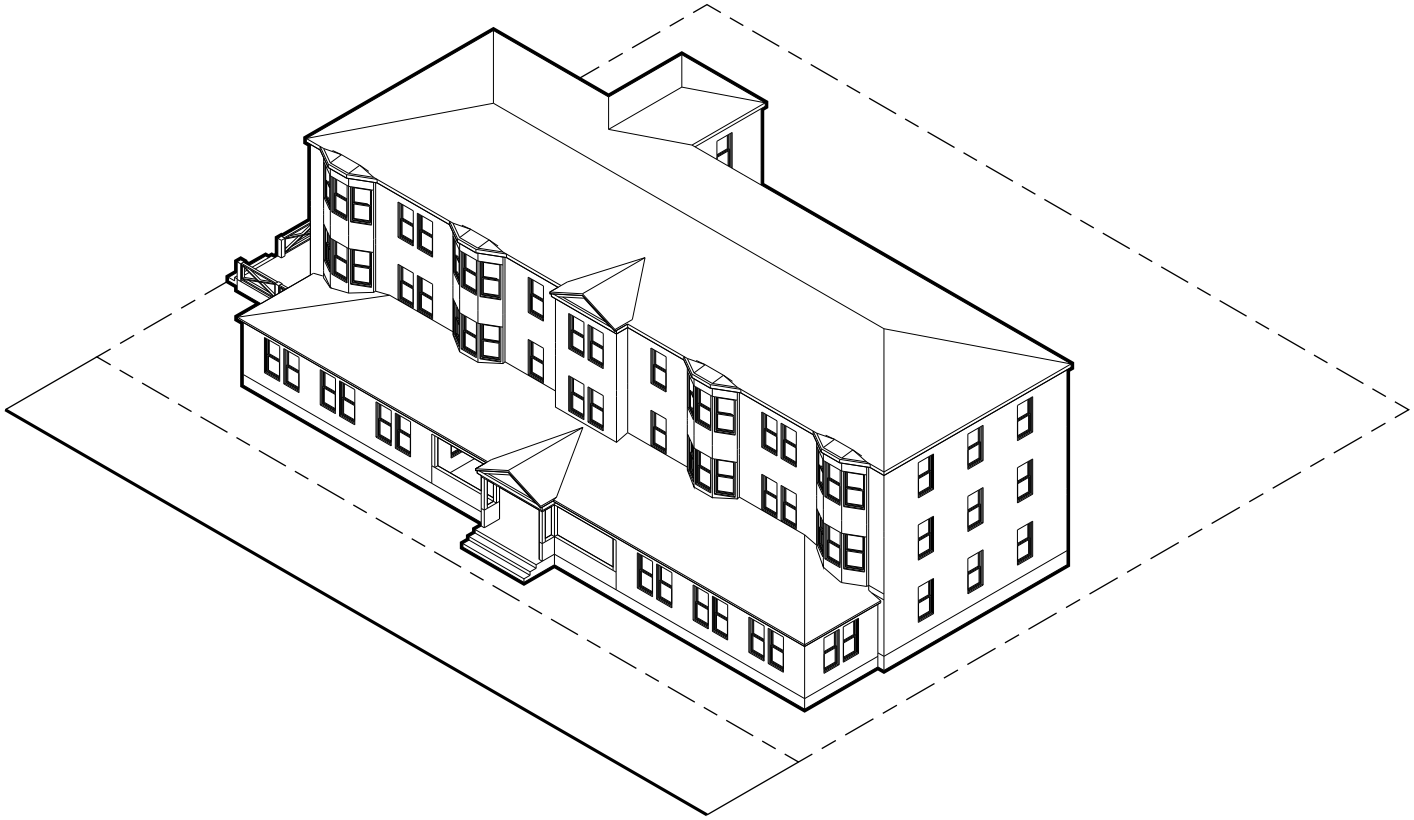
Ground Story Fenestration	20% min
Upper Story Fenestration	10% min

FRONTAGES

See Article 4D

Residential Yard	Permitted
Shopfront	Permitted
Beachfront Yard	See Special Requirements Map
Beachfront Garage Court	See Special Requirements Map

INN BUILDING COMPONENTS



COMPONENTS	See Article 4C
Projecting Porch	Required
Integral Porch	Not Permitted
Enagaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof Walk	Permitted
Retail Awning	Permitted
Canopy	Permitted
Stoop	Permitted
Deck	Permitted

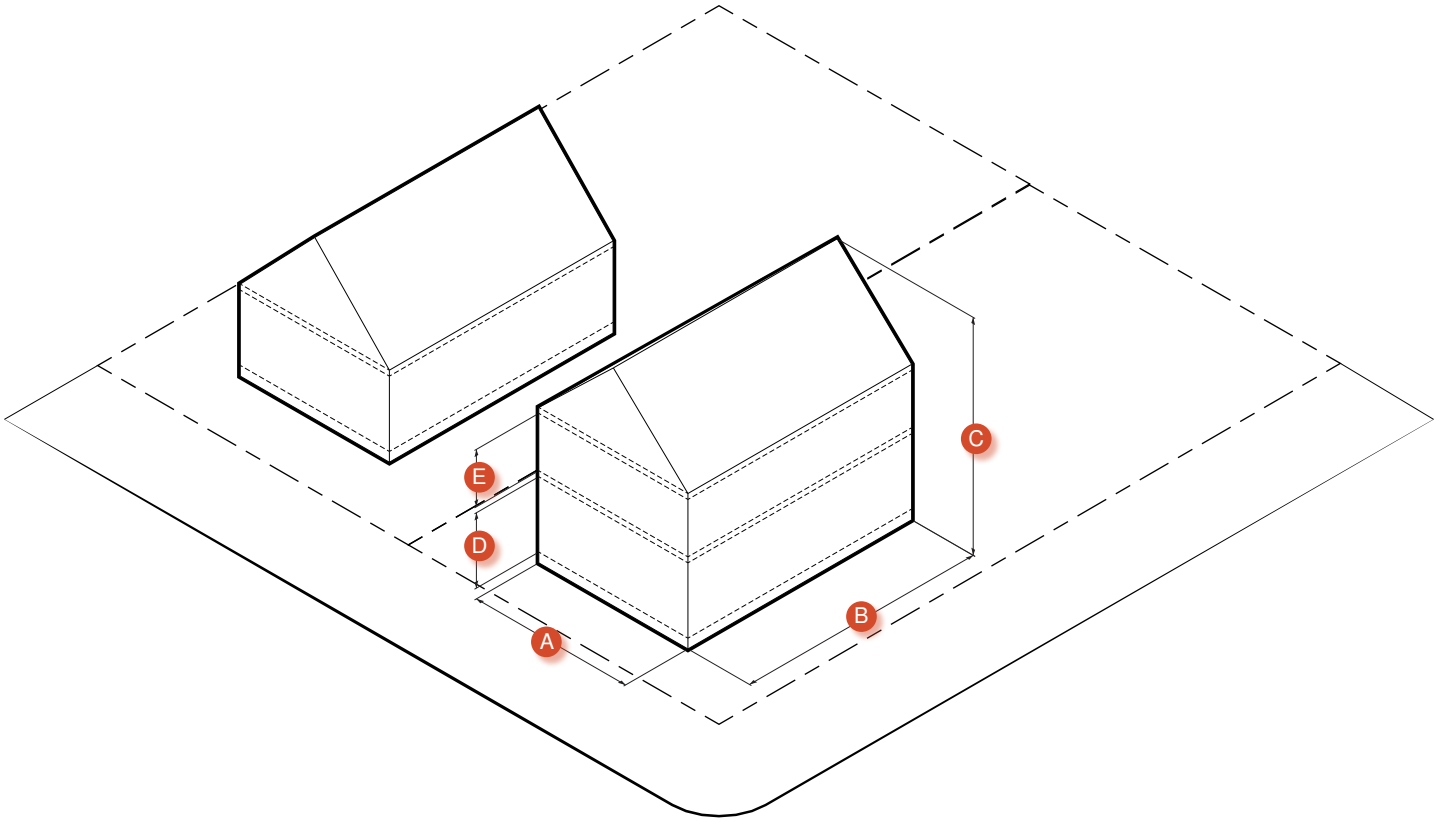
COMPONENTS (CONT'D)	See Article 4C
Rear Addition	Permitted
Side Addition	Permitted
Estate Addition	Permitted on lots 98 ft wide min.

STANDARDS

i. A minimum of two components may be applied to the main building mass, including a Porch as required under the Residential Yard Frontage standards (Article 4D).

5. SHOP HOUSE

A mixed-use building type that appears residential in character, with ground floor commercial uses and an upper story residential unit.



BUILDING FORM

Building Width	30 ft max	A
Building Depth	36 ft max	B
Total Stories	2.5 stories max*	C
First Story Height*	10 ft min, 12 ft max	D
Upper Story Height*	10 ft max	E
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

FACADE COMPOSITION

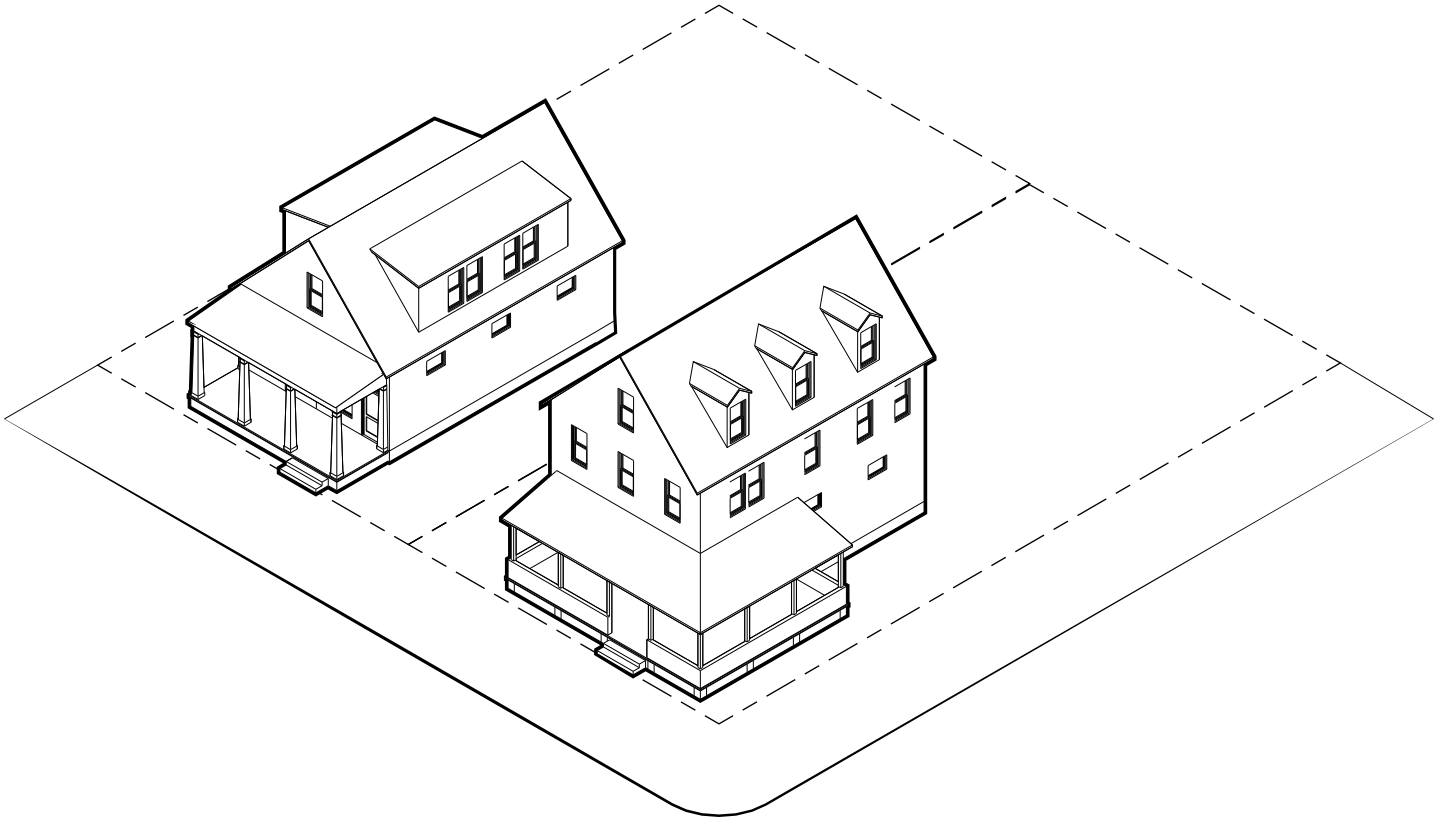
Ground Story Fenestration	20% min
Upper Story Fenestration	10% min

FRONTAGES

See Article 4D

Residential Yard	Permitted
Shopfront	Required
Beachfront Yard	See Special Requirements Map
Beachfront Garage Court	See Special Requirements Map

SHOP HOUSE COMPONENTS



COMPONENTS	See Article 4C
Projecting Porch	Permitted
Integral Porch	Not Permitted
Enagaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof Walk	Permitted
Retail Awning	Permitted
Canopy	Permitted
Stoop	Permitted
Deck	Permitted

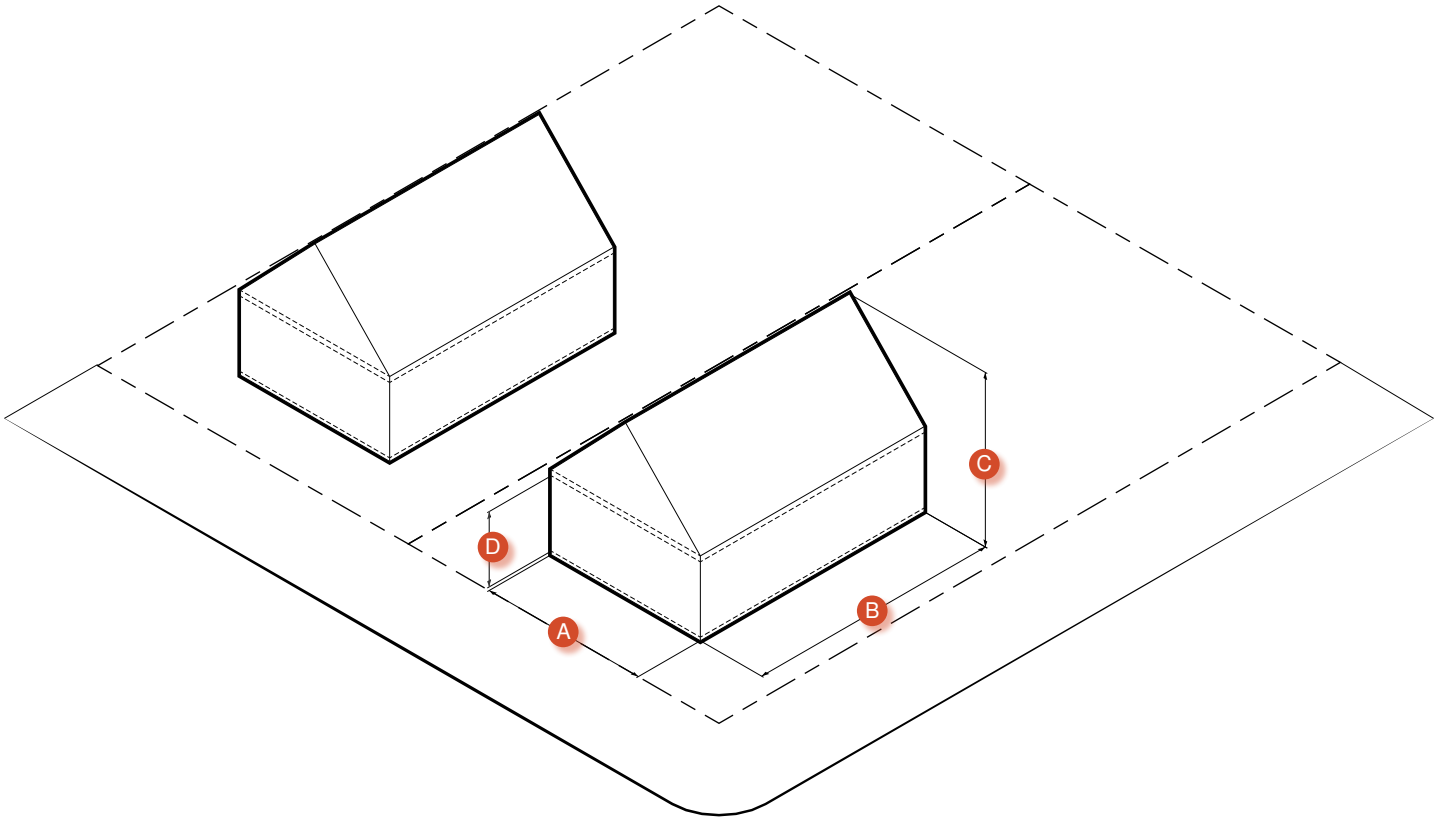
COMPONENTS (CONT'D)	See Article 4C
Rear Addition	Permitted
Side Addition	Permitted
Estate Addition	Permitted on lots 98 ft wide min.

STANDARDS

i. A minimum of two components may be applied to the main building mass, including a Porch as required under the Residential Yard Frontage standards (Article 4D).

6. NEIGHBORHOOD STORE

A medium-sized footprint, single-story building type designed for commercial purposes.



BUILDING FORM

Building Width	40 ft max	A
Building Depth	30 ft max	B
Total Stories	1.5 stories max*	C
First Story Height*	10 ft min, 12 ft max	D
Upper Story Height*	n/a	
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

FACADE COMPOSITION

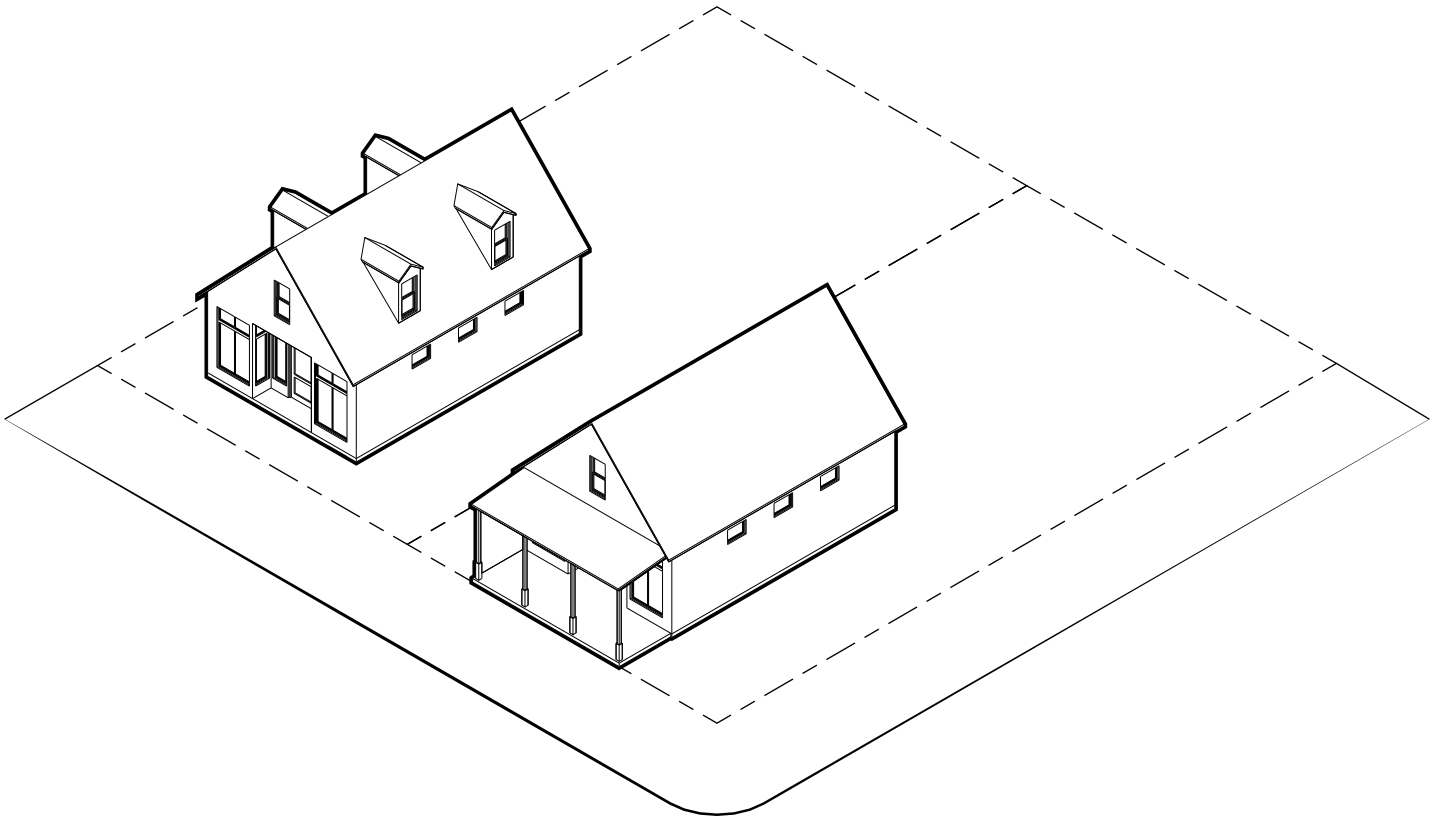
Ground Story Fenestration	20% min
Upper Story Fenestration	n/a

FRONTAGES

See Article 4D

Residential Yard	Permitted
Shopfront	Required
Beachfront Yard	See Special Requirements Map
Beachfront Garage Court	See Special Requirements Map

NEIGHBORHOOD STORE COMPONENTS



COMPONENTS	See Article 4C
Projecting Porch	Required
Integral Porch	Not Permitted
Enagaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof Walk	Permitted
Retail Awning	Permitted
Canopy	Permitted
Stoop	Permitted

COMPONENTS (CONT'D)	See Article 4C
Deck	Permitted
Rear Addition	Permitted
Side Addition	Permitted
Estate Addition	Not Permitted

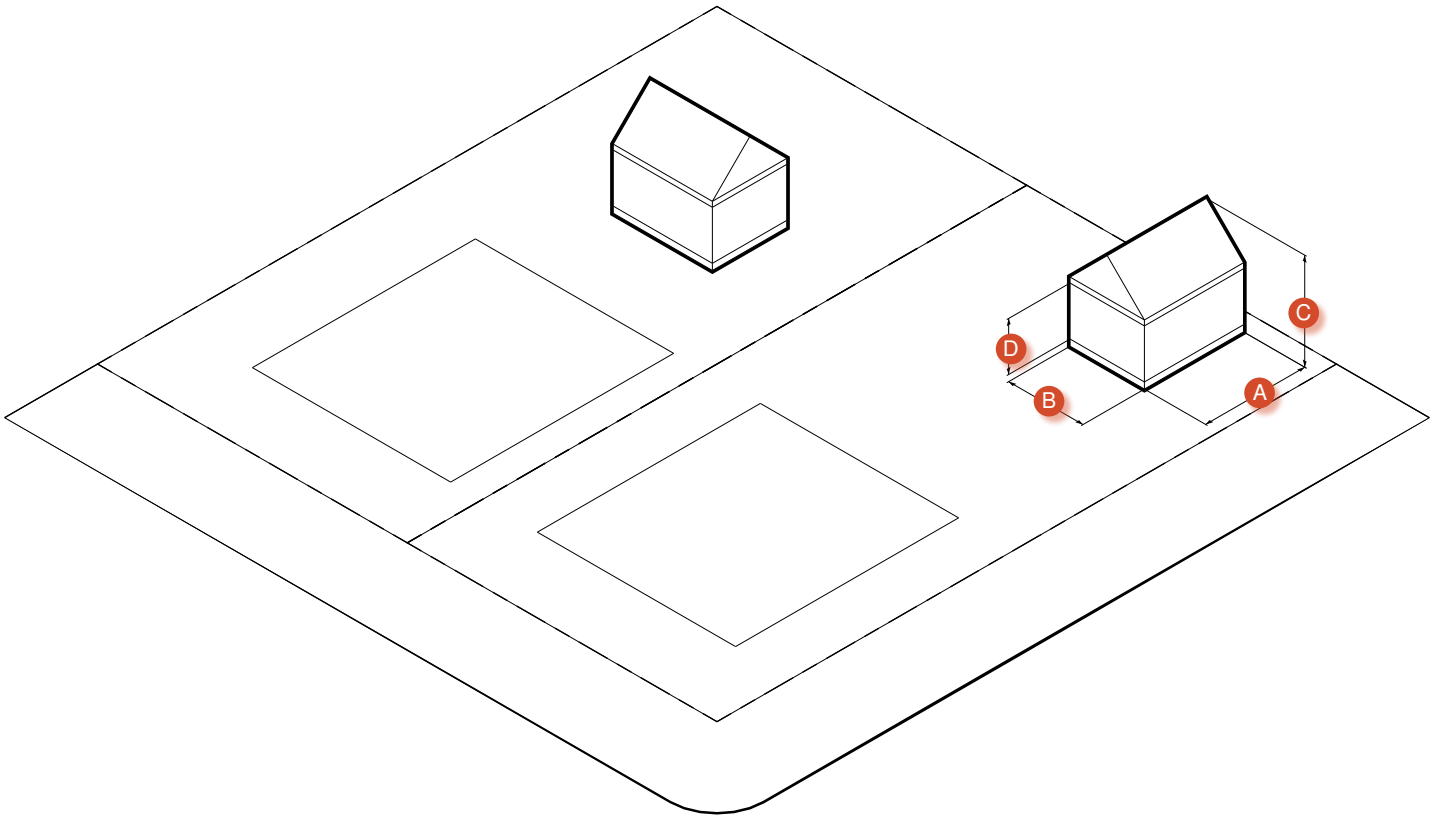
STANDARDS

i. A minimum of two components may be applied to the main building mass, including a Porch as required under the Residential Yard Frontage standards (Article 4D).

C. ACCESSORY BUILDING TYPES & STANDARDS

1. ONE-STORY OUTBUILDING

A one-story detached accessory building that does not contain an accessory dwelling unit.



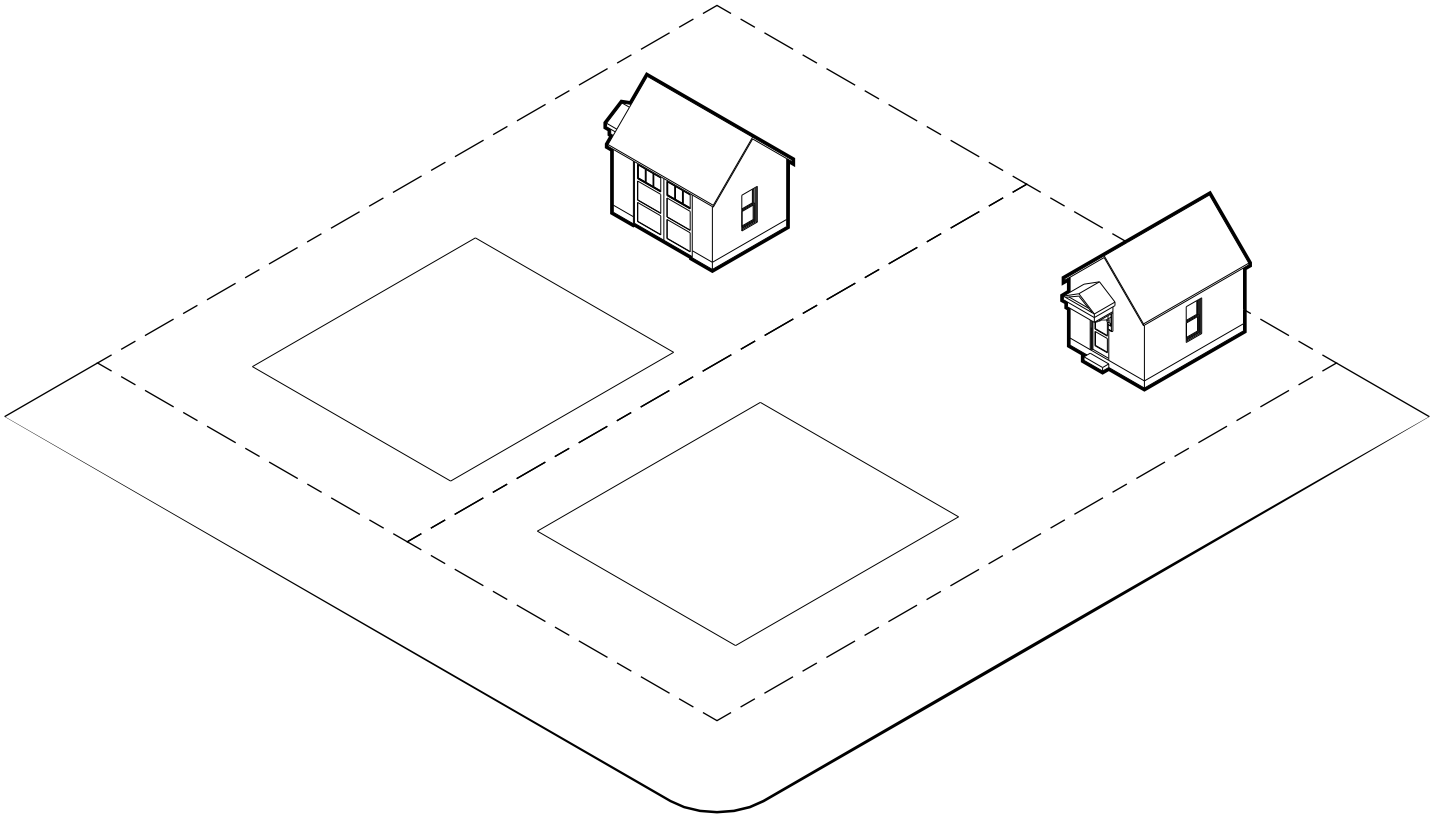
BUILDING FORM		
Building Width	20 ft max	A
Building Depth	12 ft max	B
Total Stories	1.5 stories max*	C
First Story Height*	10 ft max	D
Upper Story Height*	n/a	
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards.

FACADE COMPOSITION	
Ground Story Fenestration	10% min
Upper Story Fenestration	n/a

COMPONENTS	See Article 4C
Projecting Porch	Permitted
Integral Porch	Not Permitted
Enagaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof walk	Not Permitted
Retail Awning	Not Permitted
Canopy	Permitted
Stoop	Permitted
Deck	Permitted

ONE-STORY OUTBUILDING COMPONENTS



COMPONENTS (CONT'D)	See Article 4C
Rear Addition	Not Permitted
Side Addition	Not Permitted
Estate Addition	Not Permitted

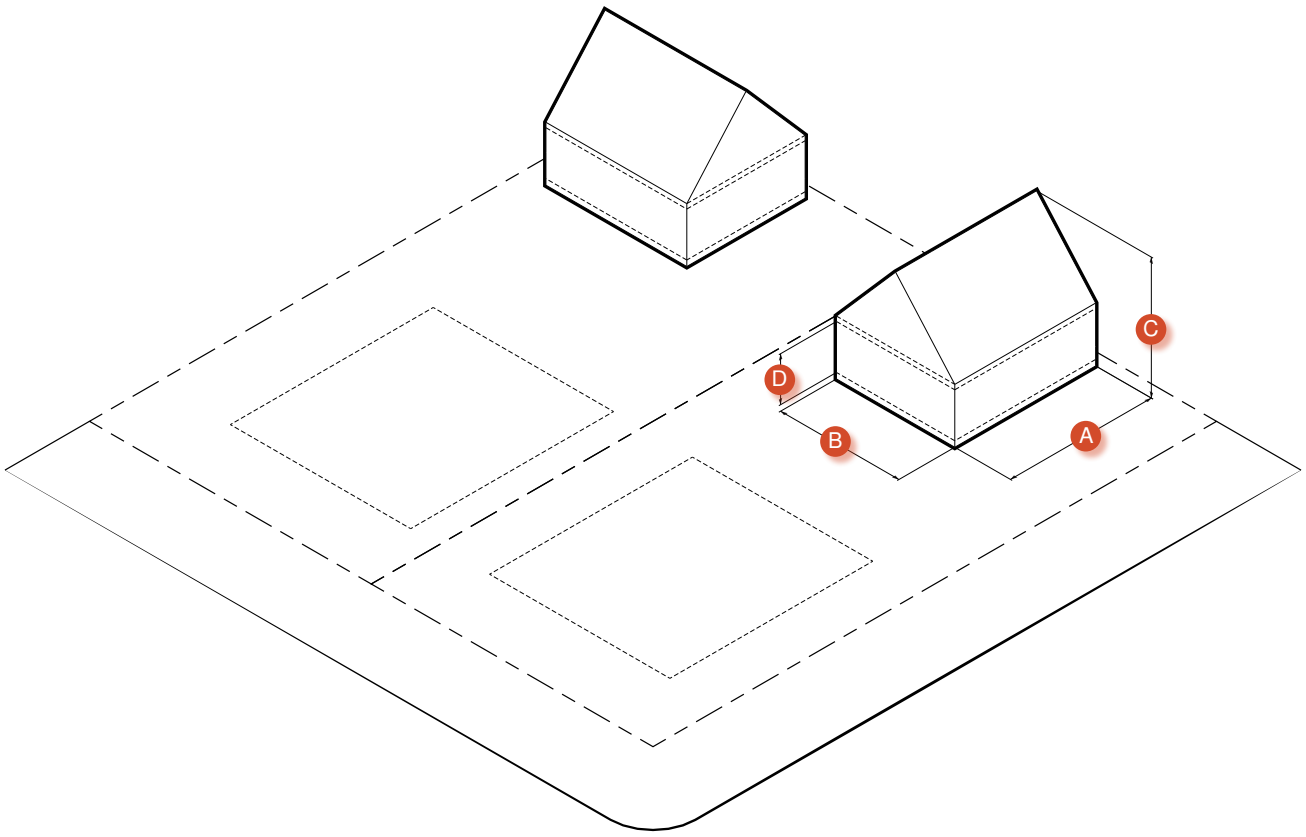
STANDARDS

i. The Outbuilding is required to be detached from the principal building and components, and sited in accordance with the accessory building placement under Article 2.

ii. Accessory buildings are prohibited from adding the following components; roof deck, side wing, estate wing, rear addition.

1. ONE-STORY CARRIAGE HOUSE

A one-story detached building that can serve as a garage, an accessory dwelling unit, or a combination of the two.



BUILDING FORM

Building Width	24 ft max	A
Building Depth	24 ft max	B
Total Stories	1.5 stories max*	C
First Story Height*	12 ft max	D
Upper Story Height*	n/a	
Roof	See Table 4.1	

*See Article 4.A.3 for Height Standards

FACADE COMPOSITION

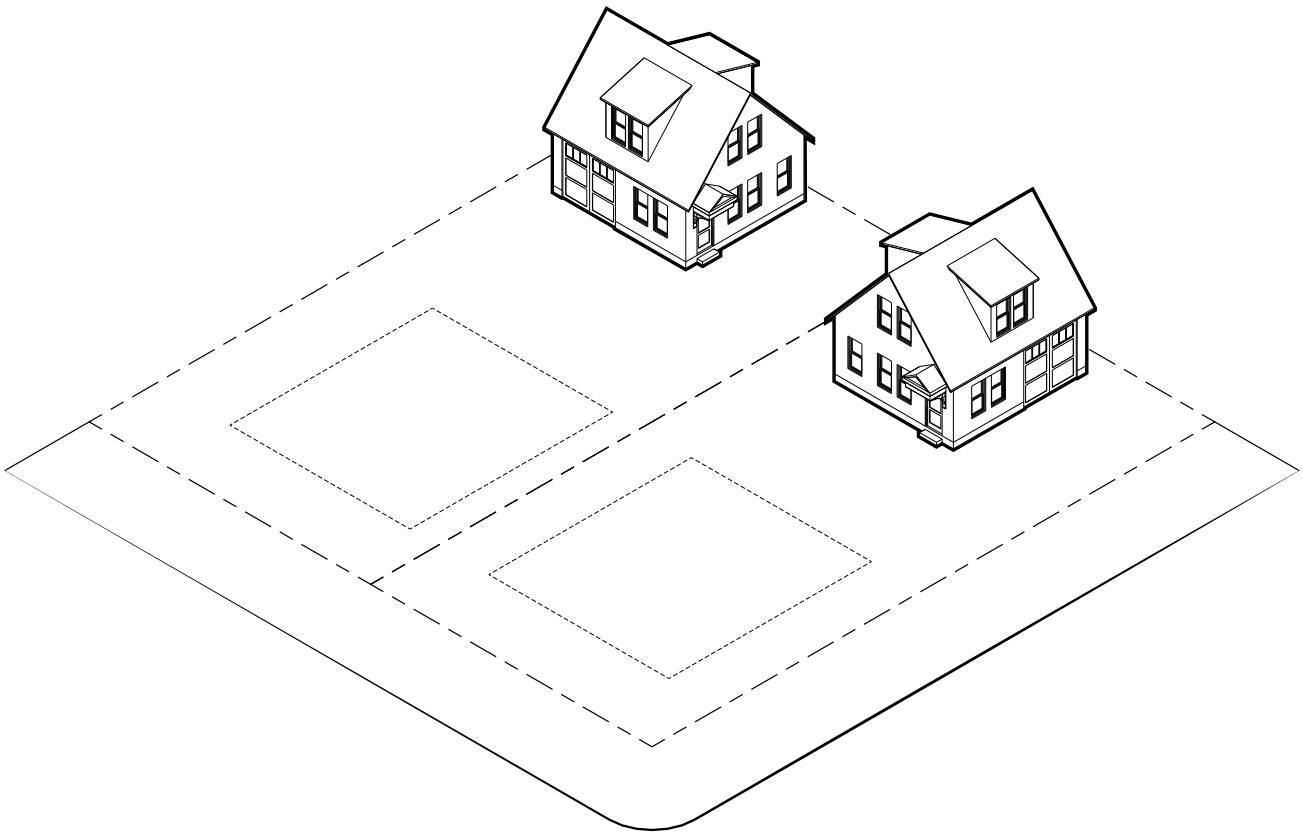
Ground Story Fenestration	20% min
Upper Story Fenestration	n/a

COMPONENTS

See Article 4C

Projecting Porch	Permitted
Integral Porch	Not Permitted
Engaged Porch	Permitted
Balcony	Permitted
Bay Window	Permitted
Dormer Window	Permitted
Cross Gable	Permitted
Roof walk	Not Permitted
Retail Awning	Not Permitted
Canopy	Permitted
Stoop	Permitted
Deck	Permitted

ONE-STORY CARRIAGE HOUSE COMPONENTS



COMPONENTS (CONT'D)	See Article 4C
Rear Addition	Not Permitted
Side Addition	Not Permitted
Estate Addition	Not Permitted

STANDARDS

i. The Carriage House is required to be detached from the principal building and components and sited in accordance with the Accessory Building Placement under Article 2.

ii. A minimum of one component must be applied to the carriage house mass.

iii. Carriage Houses may not be built on the same lot as a Rear Addition, except when built on the same lot as a coastal cottage, or when the lot exceeds 98 ft in width.

iv. Accessory buildings are prohibited from adding the following components; roof deck, side wing, estate wing, rear addition.

D. BUILDING COMPONENTS

1. GENERAL

a. Building Component standards are detailed in Article 4.D. 2-16 and Table 4.1B. Components are permitted by building type according to Article 4.B-C.

b. Building components are accessory features that increase the floor area, living space, exterior space and/or generally enhance the usefulness of a building.

c. All components may attach to all other components and to all buildings and accessory buildings unless specifically disallowed by the building or component.

d. Multiple components of the same type may not attach to each other, unless specifically allowed, and must be separated horizontally by a distance of no less than 1 ft.

e. Certain Building Components are permitted to encroach into the Building Setbacks found in the Character Districts standards in Article 2 and as per Article 4.A.4. This Permitted Encroachment standard is meant to encourage and allow certain Building Components that contribute to the character of Higgins Beach.

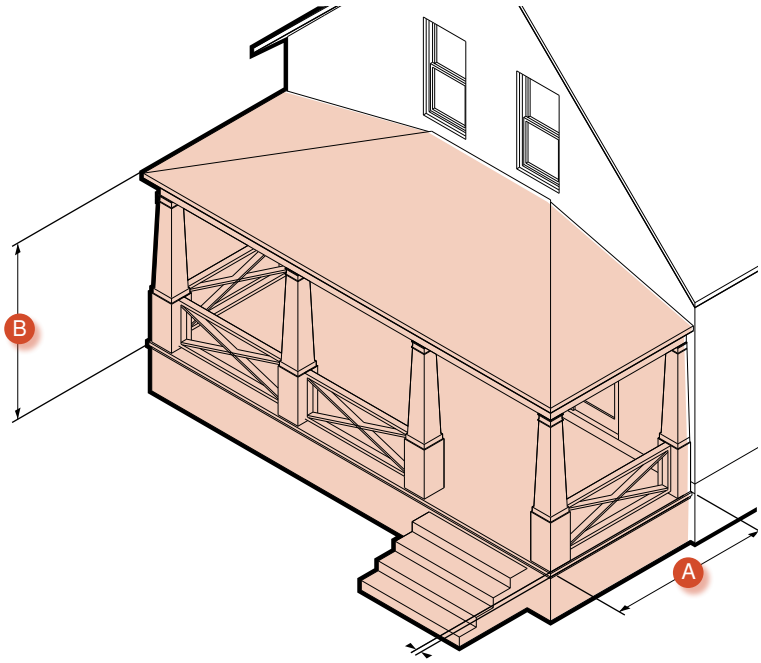
f. Stairs that extend off porches, stoops, decks and principal buildings are not required to meet the setback or setback encroachment limits provided that at least 3 ft is maintained from the vertical plane of any front, side or rear lot line.

g. Porches are required along the Primary Frontage on all new or replacement dwellings with the residential yard frontage type and must extend across at least 75% of the width of the building facade.

E. BUILDING COMPONENTS & STANDARDS

1. PORCH - PROJECTING

A wide, raised platform with stairs that leads to an entrance of a building and has a roof supported by columns or piers.



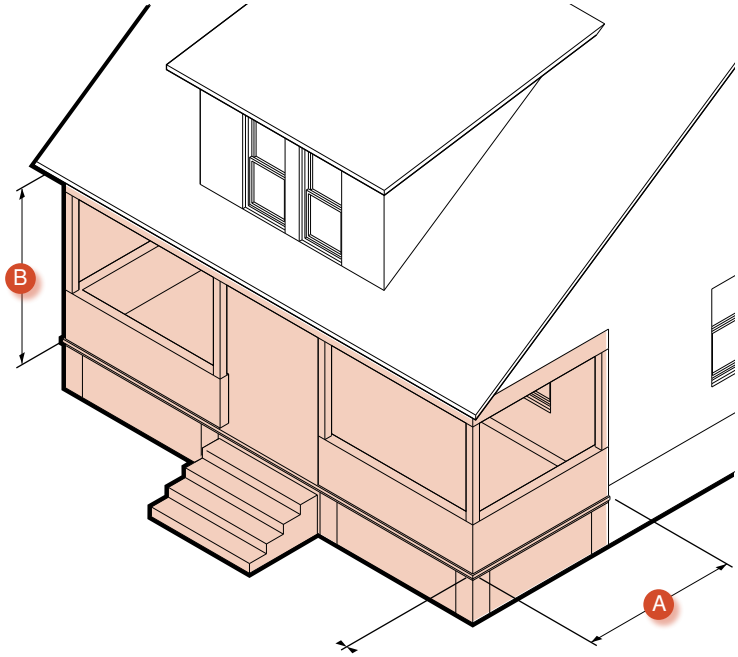
Depth	6 ft min, 10 ft max (see v)	A
Height	8 ft min	B
Permitted Encroachment	4 ft max Secondary Front Setback 10 ft max Primary Front, Rear Setback Encroachment not permitted in Side Setback	
Roof	See Table 4.1	
Fenestration	60% min when enclosed 40% min on side or rear porches	

STANDARDS

i. Porches may be partially or fully enclosed.
ii. Stairs may extend off the front or side of the porch.
iii. Porches may wrap around corners ~~to~~ and may connect with porches or decks on adjacent building or component faces.
iv. A projecting porch may appear as an engaged porch if it is partially enclosed and meets the dimensions and standards of this section.
v. Porches, or sections of porches, attached to a rear facing wall may extend to a maximum depth of 12 ft.

2. PORCH - INTEGRAL

A raised platform with stairs that lead to an entrance of a building and a roof supported by columns or piers. Integral porches are unique in that they are located under the roof of the principal building, typical in a bungalow type.



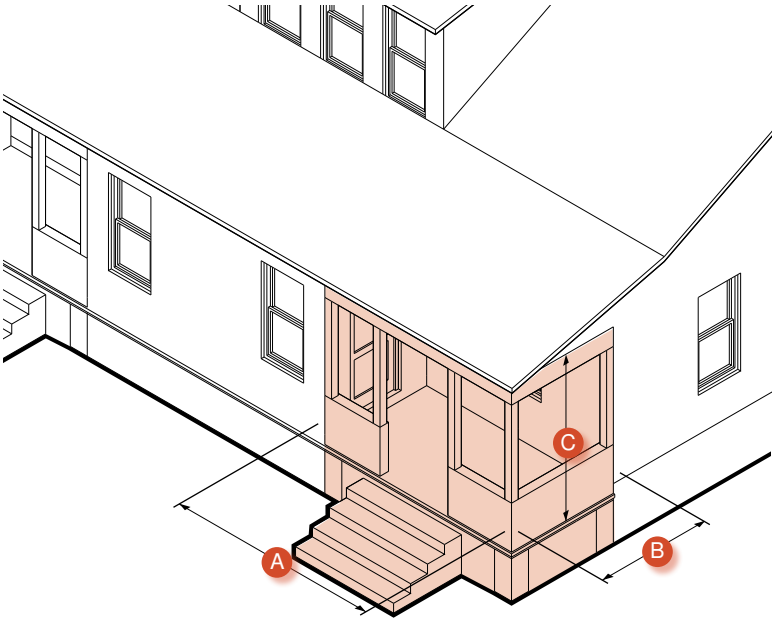
DIMENSIONS

Depth	8 ft min, 10 ft max (see iv)	A
Height	8 ft min	B
Permitted Encroachment	4 ft max Secondary Front Setback 10 ft max Primary Front, Rear Setback Encroachment not permitted in Side Setback	
Roof	See Table 4.1	
	60% min when enclosed 40% min on side or rear porches	

i. Porches may be partially or fully enclosed.
ii. Stairs may extend off the front or side of the porch.
iii. Porches may wrap around corners ~~to~~ and may connect with porches or decks on adjacent building or component faces.
iv. Porches, or sections of porches, attached to a rear facing wall may extend to a maximum depth of 12 ft.

3. PORCH - ENGAGED

A raised platform with stairs leading to a secondary entrance of a building. Engaged porches are attached to the building at two sides and are integrated within the building's roofline.



DIMENSIONS

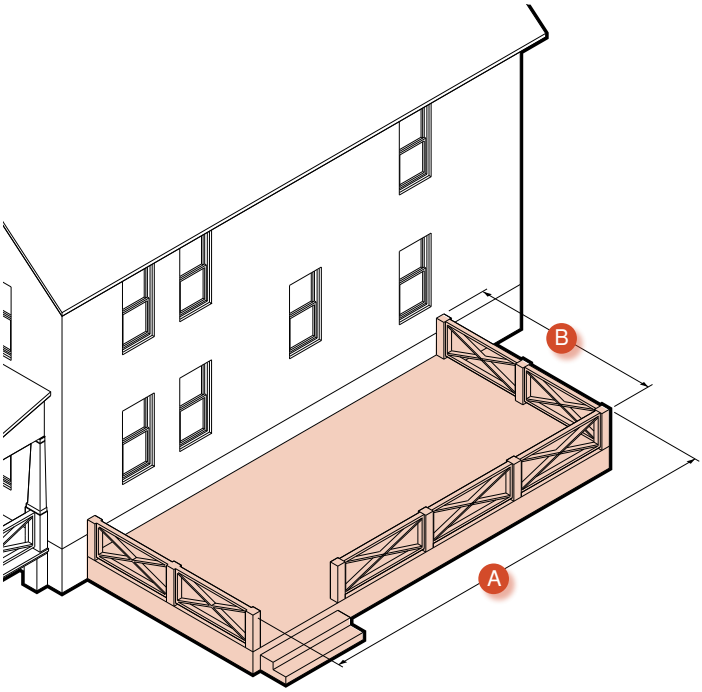
Width	8 ft min	A
Depth	6 ft min, 10 ft max (see iv)	B
Height	8 ft min	C
Encroachment not permitted		
Roof	See Table 4.1B	
Fenestration	60% min when enclosed 40% min on side or rear porches	

STANDARDS

i. Stairs may extend off the front or side of the porch.
ii. Engaged porches may not occur on any primary frontage except the Garage Court Frontage (see Projecting Porch for options along any primary frontage)
iii. Porches may wrap around corners ~~to~~ and may connect with porches or decks on adjacent building or component faces.
iv. Porches, or sections of porches, attached to a rear facing wall may extend to a maximum depth of 12 ft.

4. DECK

A roofless, uncovered, raised platform accessible from a secondary entrance to a building that provides outdoor amenity space.



DIMENSIONS

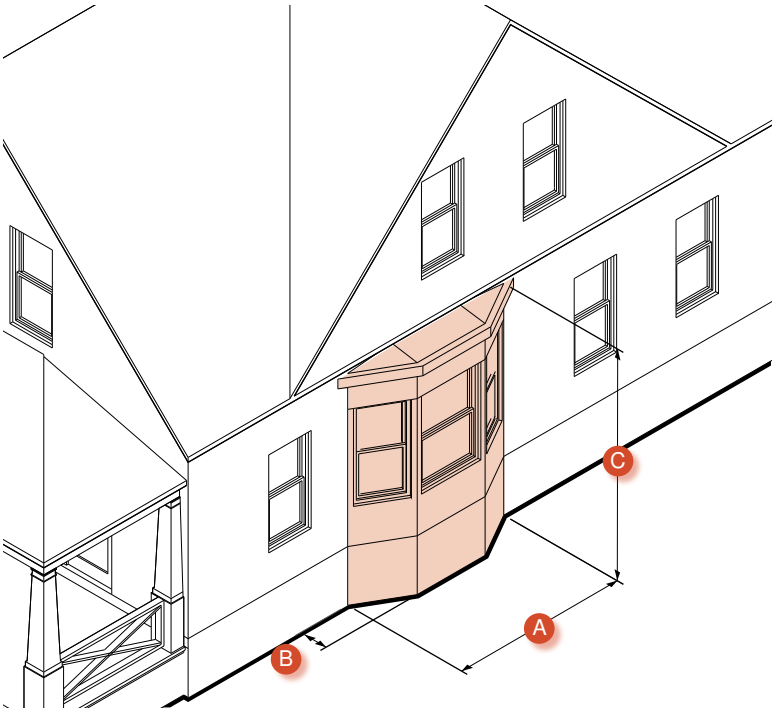
Width	24 ft max	A
Depth	24 ft max	B
Permitted Encroachment	8 ft	

STANDARDS

i. Decks may only encroach into side and rear setbacks, with the exception of houses elevated more than 6 ft on pilings or piers in a coastal overlay zone, in which case a deck may be used in lieu of a porch, provided it is similarly elevated.
ii. The deck may connect a primary building with an accessory building.

5. BAY

A window assembly extending from the main body of a building to permit increased light, multi-directional views, and articulate a building wall.



DIMENSIONS

Width	50% max width of Facade or building wall	A
Depth	12 in min, 3 ft max	B
Fenestration	50% min	
Height	Total number of complete building stories	C
Permitted Encroachment	3 ft	

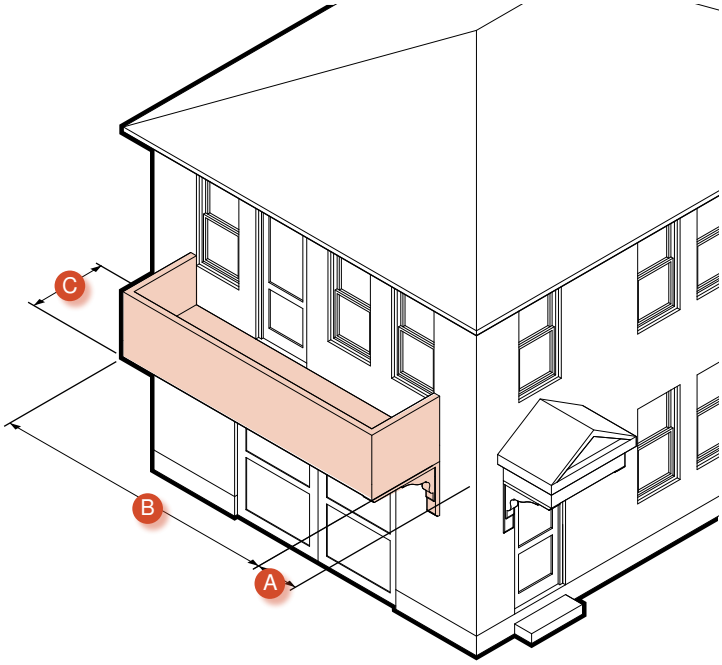
STANDARDS

i. Bays must have a foundation extend all the way to the ground level or be visually supported by brackets or other architectural supports.

ii. Bays may be integrated within an unenclosed porch, provided the Depth does not exceed 2ft.

6. BALCONY

An unroofed platform with a railing that provides outdoor amenity space.



DIMENSIONS

Required Inset	3 ft min (Projecting, Terraced) 0 ft min (Integral)	A
Length	5 ft min	B
Width	5 ft min (Projecting) 6 ft max (Integral, Terraced)	C
Permitted Encroachment	5 ft	

STANDARDS

i. Balconies may be integral, projecting, a combination of the two, or terraced as part of the main building roof or the roof of a portico, porch, or bay.

ii. Terraced balconies are the only type permitted ~~on~~ to attach to the facade.

iii. A projecting balcony must have a clear height above the ground of at least 10 ft.

iv. The railing of any projecting balcony oriented toward a front lot line must have posts and rails with spacing.

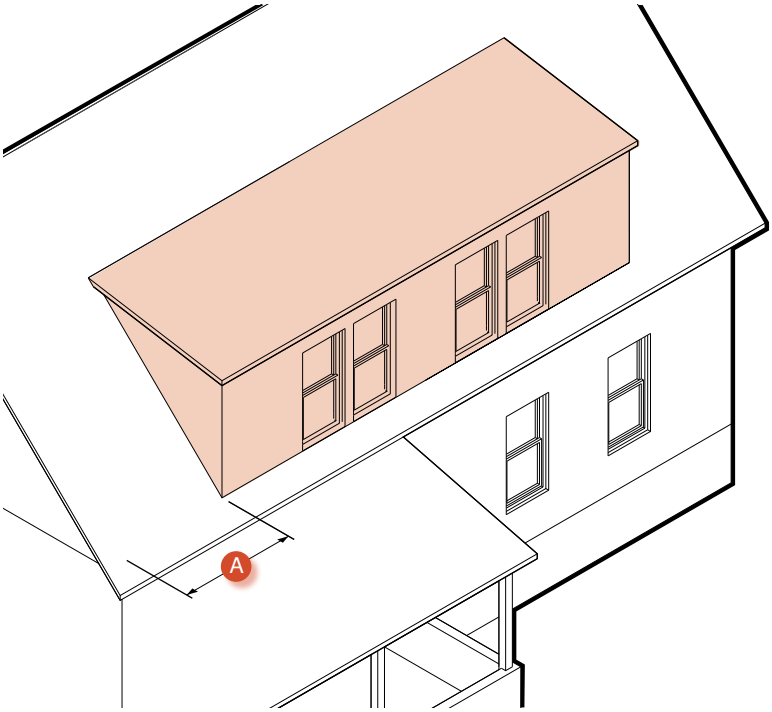
v. Balconies should be supported on wood or metal brackets or columns in keeping with the character of the building.

vi. Integral balconies may stack on top of integral porches.

vii. An integral balcony may meet a facade at a corner.

7. DORMER WINDOW

A window or set of windows that projects vertically from a sloped roof, designed to provide increased light and expand the habitable space of a half-story.



DIMENSIONS

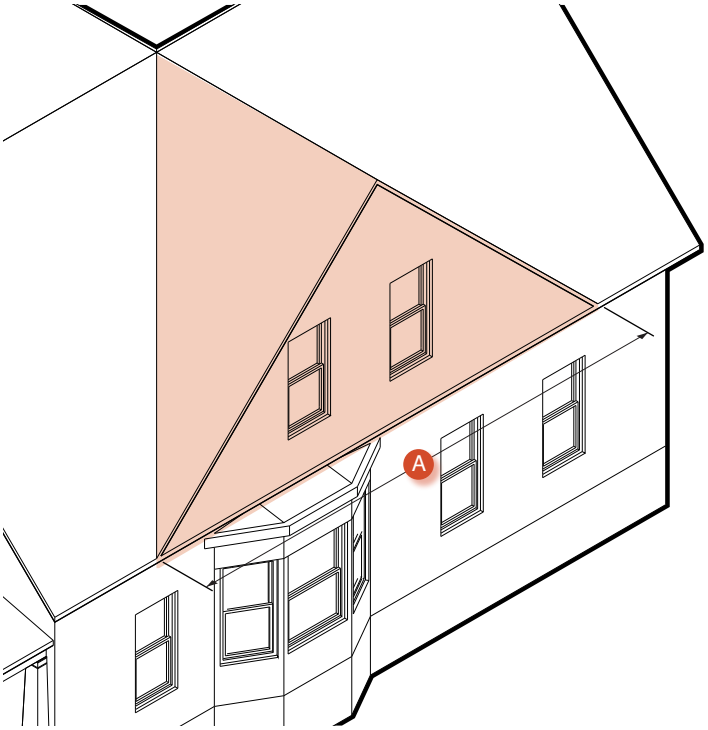
Gable End Setback	2 ft min	A
Fenestration	30% min (see iii)	
Roof	See Table 4.1	

STANDARDS

i. The face of the dormer should not project beyond the building wall face below.
ii. Dormers must also conform to the height standards under Article 4.A. and the overall average height limit
iii. Windows in a dormer may not be narrower than 20 inches in width.
iv. The face of the dormer must be set back at least 12 ft from the vertical plane of all side lot lines, regardless of the setback of the building to which it is attached.

8. CROSS GABLE

A sloped roof that projects perpendicularly from the main roof of a building to significantly increase the habitable space of a half-story.

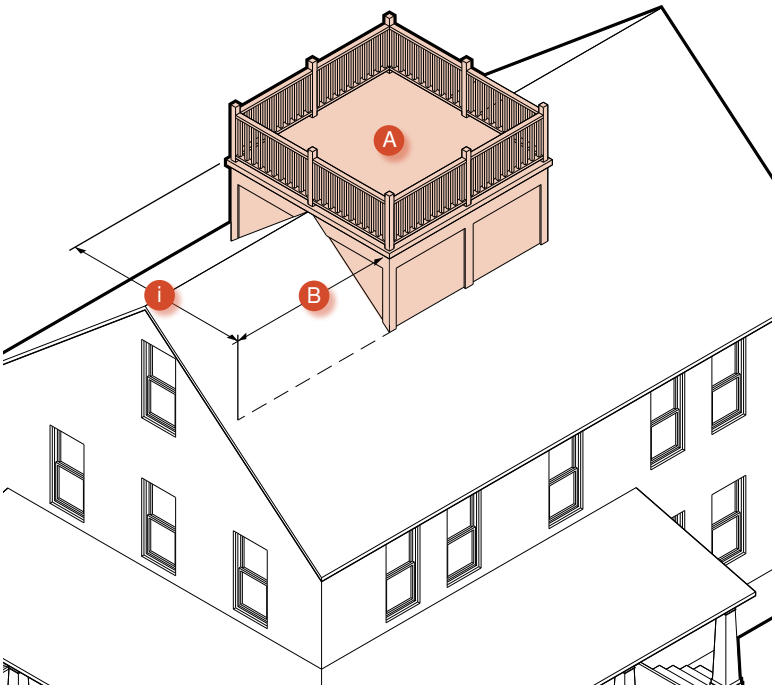


DIMENSIONS

Width	maximum of 50% of the eave length of the main roof	A
Roof	See Table 4.1	
Fenestration	30% min	

9. ROOF WALK

A raised platform on the roof of a building or component that provides outdoor amenity space and allows for views.



DIMENSIONS

Total Area	400 sq ft max	A
SetbackfromFacade	5 ft min	B
Railing Height	3 ft min, 4 ft max	

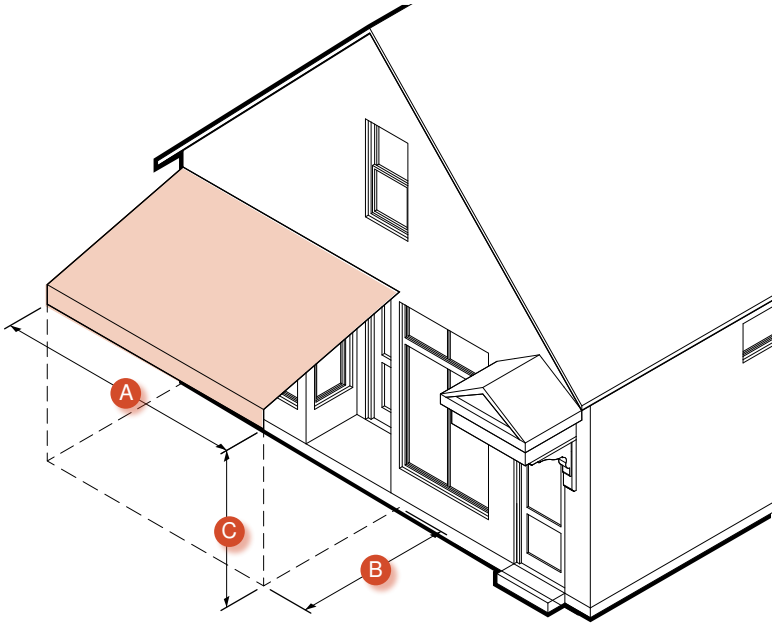
STANDARDS

i. The width of Roof Walks may not exceed 50% of the Building Width.

ii. The railing must be constructed with posts and rails with spacing such that it does not exceed 50% opacity.

10. AWNING

A wall mounted, pitched, fabric covering extending from a building to provide shade and weather protection for pedestrians.



DIMENSIONS

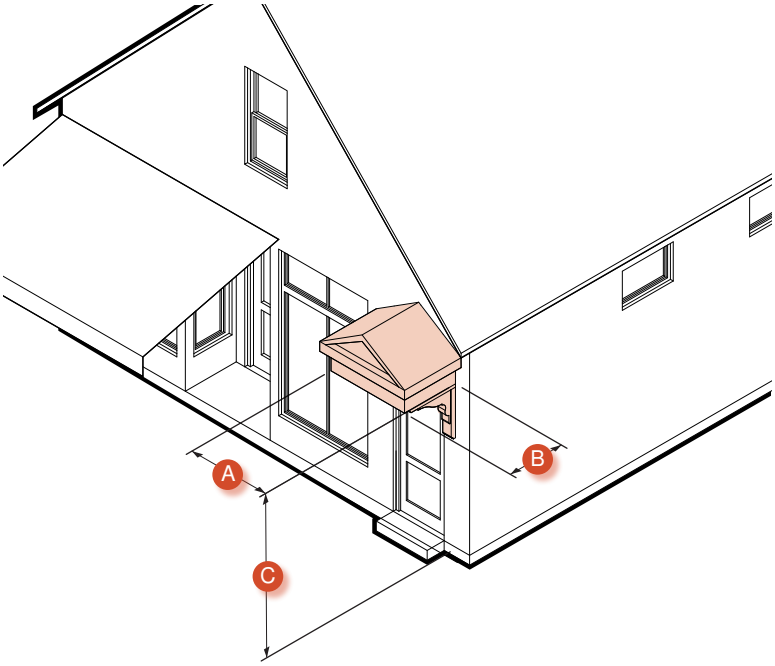
Width	12 ft min	A
Depth	6 ft min	B
Clearance	8 ft min	C
Permitted Encroachment	6 ft	

STANDARDS

i. Where possible, awnings should be retractable.

11. CANOPY

A wall mounted, pitched, solid overhang extending from a building to provide shade and weather protection for pedestrians.



DIMENSIONS

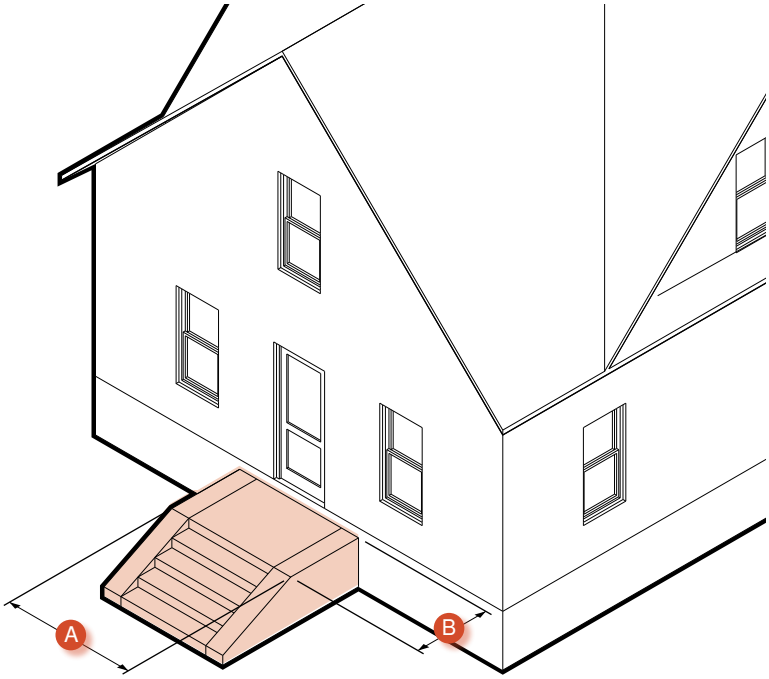
Width	4 ft min	A
Depth	3 ft min	B
Clearance	8 ft min	C
Roof	See Table 4.1	
Permitted Encroachment	3 ft	

STANDARDS

i. Canopies should be supported on wood or metal brackets or columns in keeping with the character of the building.

12. STOOP

A component type featuring set of stairs with a landing leading to an entrance of a building.



DIMENSIONS

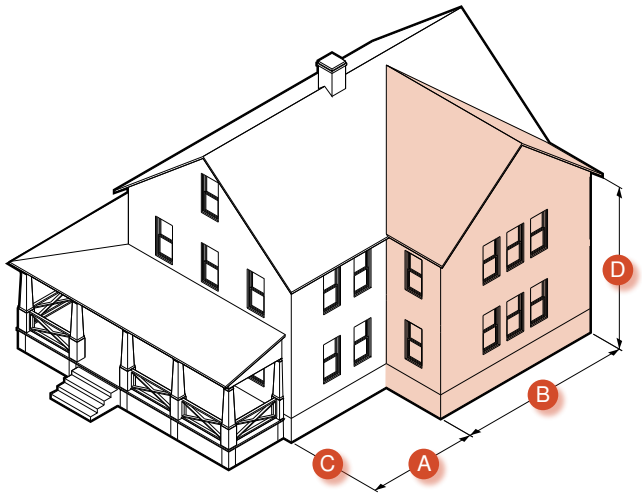
Landing Width	4 ft min	A
Landing Depth	4 ft min	B
Permitted Encroachment	4 ft	

STANDARDS

i. Stairs may be recessed into the building wall.
ii. Stairs are not permitted to encroach onto any abutting sidewalk.
iii. Stairs may be built perpendicular or parallel to the building wall, but must lead directly to ground level or an abutting sidewalk.

13. SIDE WING

An extension from one or more side walls of the main body of a building.



DIMENSIONS

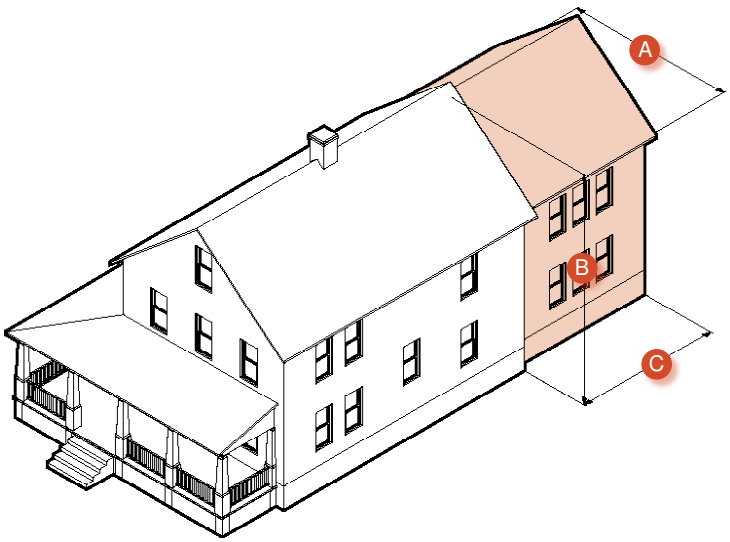
Setback from Facade	10 ft min	A
Floor Plate Area	50% max of the Floor Plate of the Principal Building	
Width		B
1-Story	1/2 depth of the Principal Building (max)	
2-Story	1/3 depth of the Principal Building (max)	
Projection	2/3 width of the Principal Building	C
Height	Same Height of Principal Building (max)	D
Roof	see Table 4.1	
Fenestration	Same as Principal Building	

STANDARDS

i. Side Wings may not encroach on setbacks.
ii. Side wings may be centered or offset at the side wall of the principal building, provided they share at least 6 ft with the common wall.
iii. Side Wings are not permitted on buildings that have an Estate Wing.
iv. Only one Side Wing is permitted per building side.

14. REAR ADDITION

An extension from the rear wall of the main body of a building.



DIMENSIONS

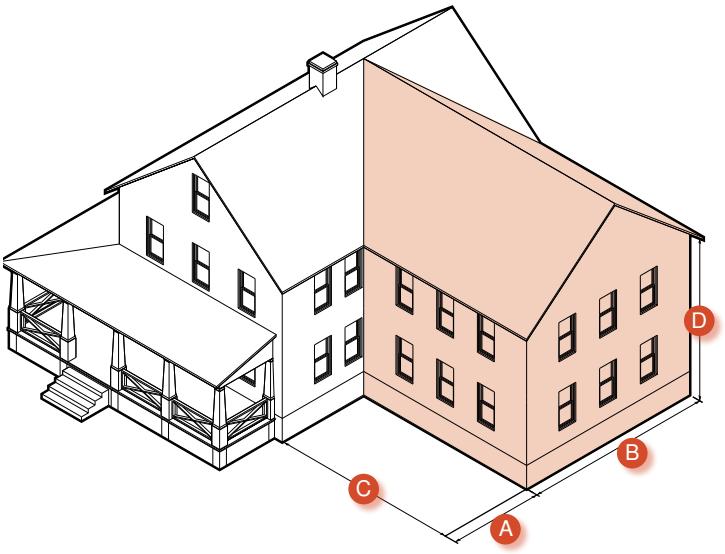
Width	2 ft less than Width of Principal Building (max)	A
Height	Same Height of Principal Building (max)	B
Roof	see Table 4.1	
Depth	Same Depth as Principal Building (max)	C

STANDARDS

i. Rear Additions may not encroach on setbacks.
ii. Rear Additions may not be built on the same lot as a Carriage House, except when built on the same lot as a coastal cottage, or when the lot exceeds 98 ft in width.
iii. Rear additions may be centered or offset at the rear wall of the principal building, provided they share at least 6 ft with the common wall.
iv. The side wall of a rear addition must be offset at least 1 ft from the plane of the side wall of the primary building, to prevent the creation of overly long side elevations.

15. ESTATE WING

A large multi-story extension from one side wall of the main body of a building. Estate Wings are only allowed on lots 98'in width or greater.



DIMENSIONS

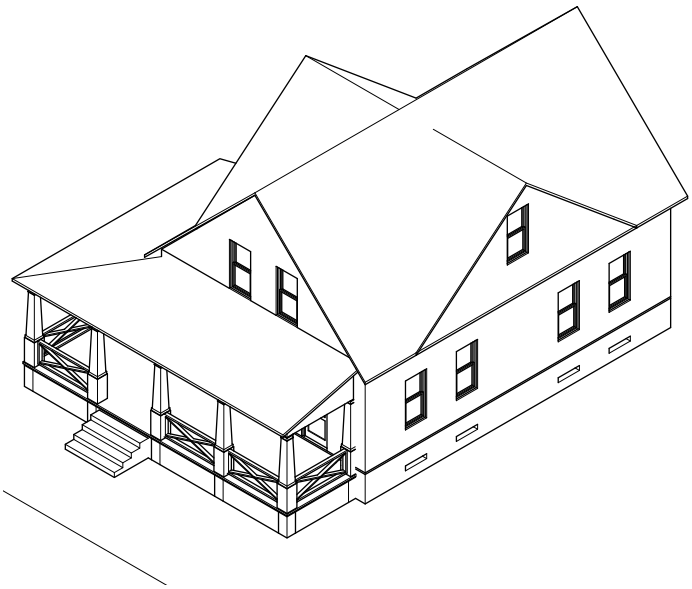
Setback from Facade	10 ft min	A
Width	Same Width as Principal Facade (max)	B
Projection	Same Width as Principal Facade (max)	C
Max Height	Same Height of Principal Building (max)	D
Roof	see Table 4.1	
Fenestration	Same as Principal Building	

STANDARDS

i. Estate Wings may not encroach on setbacks.
ii. Estate Wings may only be used on lots 98 ft x 98 ft or greater in size
iii. Estate Wings may not be used on a building that has a Side Wing.
iv. Only one Estate Wing is permitted per building side.

F. FOUNDATIONS & STANDARDS

16. 0-4 FT HYDRAULIC FOUNDATION



STANDARDS

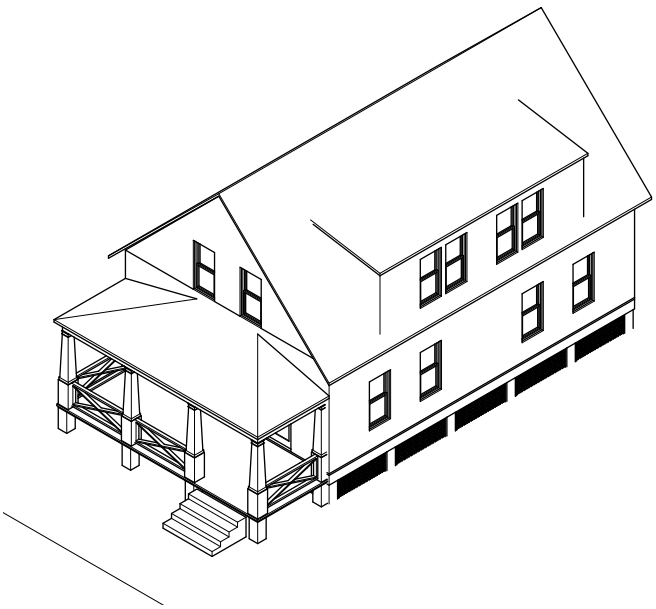
i. Hydraulic foundations up to 4 ft in height should have the general appearance of typical foundations.

ii. Doorways and windows should generally be located above the level of the foundation and should not penetrate it.

iii. Enclosed area may only be used for building access or storage and may not be inhabited as per Floodplain Management Ordinance

iv. All heights measured from established ground plane.

17. 0-4 FT PILE/PIER FOUNDATION



STANDARDS

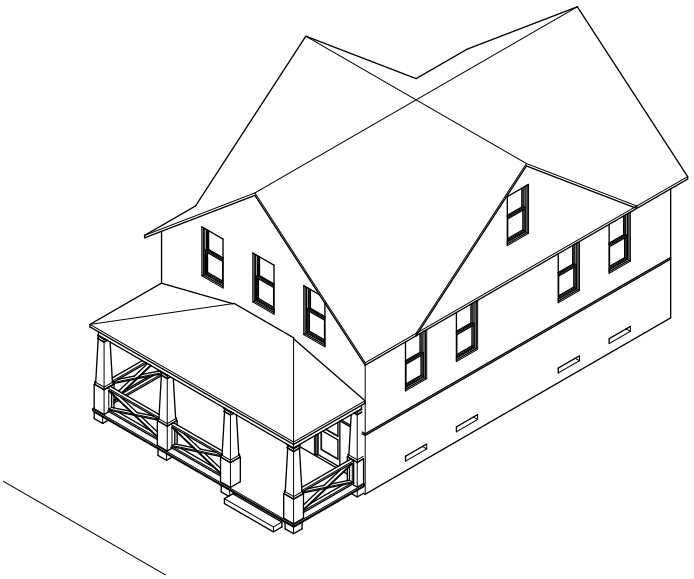
i. Pile/pier foundations up to 4 ft in height should be consistent with overall building architecture and have the gaps between piles or piers filled with approved breakaway panels or flow through latticework to give an impression of solidity.

ii. Doorways and windows should generally be located above the level of the foundation and should not penetrate it.

iii. Enclosed area may only be used for building access or storage and may not be inhabited as per Floodplain Management Ordinance.

iv. All heights measured from established ground plane.

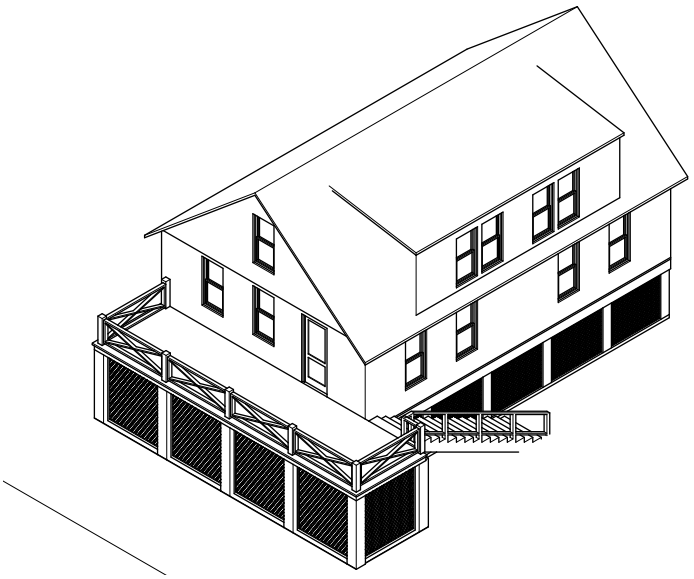
18. 4-8 FT HYDRAULIC FOUNDATION



STANDARDS

i. Hydraulic foundations between 4 ft and 8 ft in height may have the general appearance of a split-level foundation.
ii. Doorways and windows may penetrate the foundation in order to provide access from the outside and to conceal access stairs within the enclosed area of the foundation itself.
iii. Enclosed area may only be used for building access to upper levels, parking of vehicles or storage and mot not be inhabited as per the Floodplain Management Ordinance
iv. All heights measured from established ground plane.

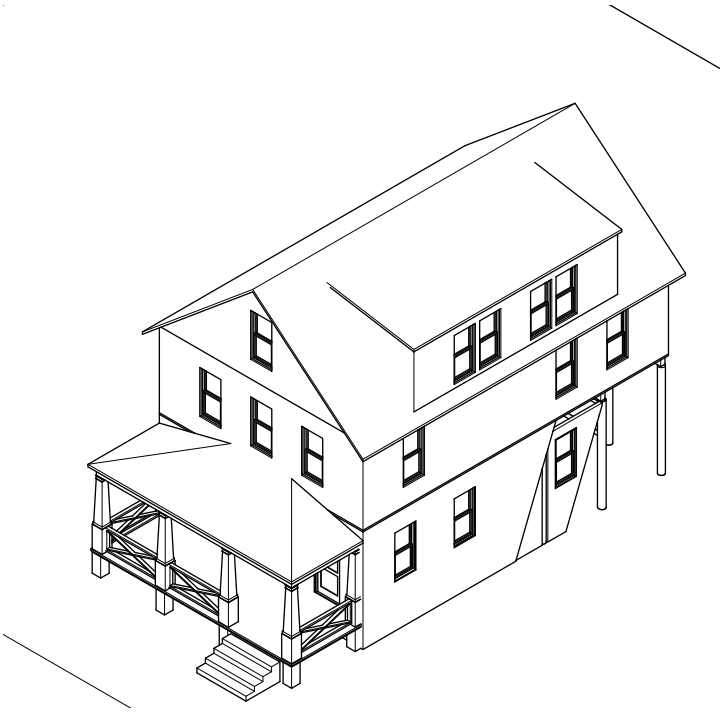
19. 4-8 FT PILE/PIER FOUNDATION



STANDARDS

i. Pile/pier foundations between 4 ft and 8 ft in height may not have the appearance of a split-level foundation.
ii. Gaps between pile/ piers must be filled with approved breakaway panels or flow through lattice work to give an impression of solidity on all street facing walls.
iii. Doorways and windows may occur in break-away walls as a means of access to the enclosed area, but may not extend across the boundary between breakaway walls and permanent walls above as this will hinder the panels ability to separate and may cause damage to the house.
iv. Stairways should be concealed either within the enclosed area or in a side or rear yard. Stairways should not extend across the prima-ry frontage.
v. Enclosed area may only be used for building access to upper levels, parking of vehicles or storage and mot not be inhabited as per the Floodplain Management Ordinance
vi. All heights measured from established ground plane.

20. 8 FT AND TALLER PILE/PIER FOUNDATION



STANDARDS

i. Pile/pier foundations above 8 ft in height should have the general appearance of a full story.
ii. Gaps between pile/ piers must be filled with approved breakaway panels on all street facing walls.
iii. Doorways and windows should occur in breakaway walls as a means of access to the enclosed area and to appear like a typical first floor, but may not extend across the boundary between breakaway walls and permanent walls above as this will hinder the panels ability to separate and may cause extensive damage to the house.
iv. Stairways should be concealed either within the enclosed area or in a side or rear yard, stairways should not extend across a primary frontage.
v. Enclosed area may only be used for building access to upper levels, parking of vehicles or storage and may not be inhabited as per the Floodplain Management Ordinance
vi. All heights measured from established ground plane.

G. BUILDING FRONTAGE TYPES

1. GENERAL

a. Building Frontages are described in Article 4.G.2-4 and permitted according to the standards in Article 2.A-B.

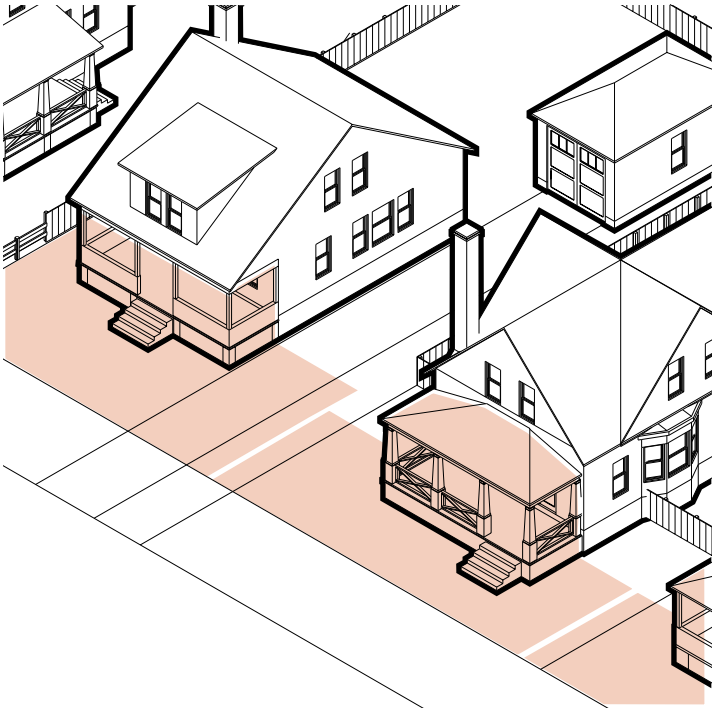
b. Building frontages provide an important transition between the public realm (sidewalks, streets, and civic space) and the private realm (yards and building interiors).

c. At least 1 building frontage type is required for each principal building.

d. Lots may include multiple frontage types.

2. RESIDENTIAL YARD

A frontage featuring a fenced or common front yard with porches allowed to encroach into the front setback.

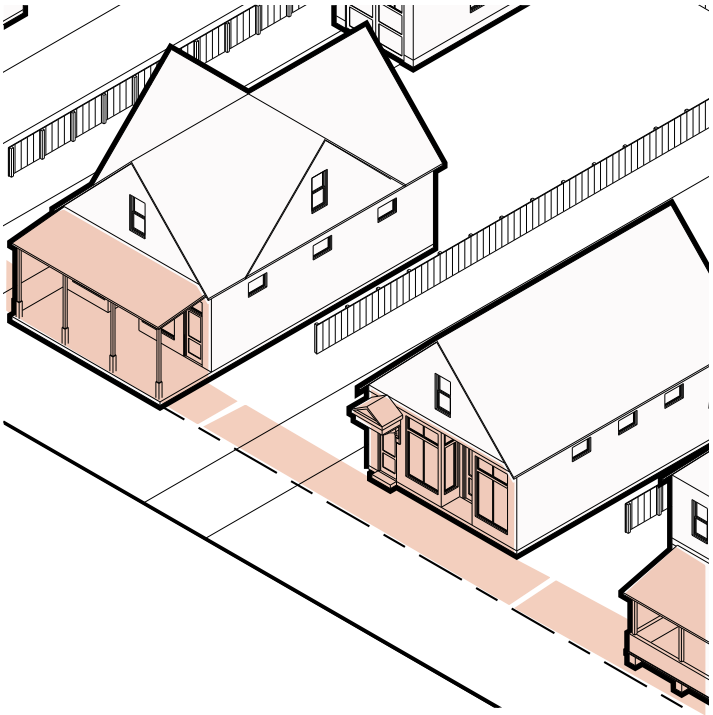


STANDARDS

i. Porches are required along the Primary Frontage and must extend across at least 75% of the width of the building facade.
ii. Off-street parking may not be located in the residential yard and shall be sited behind the minimum front setback.
iii. Paving is restricted to walkways and driveways, and permeable materials are encouraged for these surfaces, including crushed shells, crushed stone, ribbon driveways and pavers to maintain the coastal feel of the beach and minimize impervious area.
iv. When two driveways are located next to each other an effort should be made to provide vertical landscaping between the driveways to break up the visual width of the paved areas.
v. Landscaping should consist primarily of native species requiring minimal irrigation, fertilization, and maintenance.
vi. Accessory Buildings are prohibited within this frontage.

3. SHOPFRONT

A mixed-use frontage type accommodating storefronts punctuated by entrances to uses on the floors above.



STANDARDS

i. Store fronts are required on the Primary Frontage and may be used in conjunction with a front porch.
ii. Frontage may be paved or planted with turf or garden beds.
iii. Frontage requires at least one component be utilized.
iv. Accessory Buildings are prohibited within this frontage.

4. BEACHFRONT GARAGE COURT

A primary street frontage allowed only on lots with both steet frontage and beach frontage.

STANDARDS

i. Driveways and parking may occur within the beachfront garage court, other parking related provisions notwithstanding.

ii. Paving is restricted to walkways, driveways, and parking, and permeable materials are encouraged for these surfaces, including crushed shells, crushed stone, ribbon driveways and pavers to maintain the coastal feel of the beach and minimize impervious area.

iii. Notwithstanding the Accessory Building Placement requirements in Article 2, an Accessory Building is allowed within this frontage subject to a front setback of 3 ft. This is the only frontage type that allows this placement.

iv. Whenever possible, garage doors should be oriented away from the primary and secondary frontages.

v. When this frontage type is assigned to an applicable lot, it may only be applied along the frontage the lot shares with a street, the portions of the lot that front on the beach must be built to the standards of the Residential Yard frontage type.

vi. Porches are required along the street facing facade of the primary building and must extend across at least 30% of the width of the building facade.

THIS PAGE INTENTIONALLY LEFT BLANK

A. COASTAL RESIDENTIAL 1 DISTRICT

1. PERMITTED USES

a. Single family detached dwellings

b. Accessory Units subject to the performance standards of Section IX.J. (prohibited in Shoreland Overlay Zone)

c. Accessory uses

d. Municipal buildings and uses

2. SPECIAL EXCEPTION USES

a. Home occupations

b. Family day care homes, group day care homes, and nursery schools

c. Public utility facilities including substations, pumping stations and sewage treatment facilities permitted uses

3. RESIDENTIAL DENSITY

a. One principal dwelling unit is allowed per lot that complies with the Lot Standards in Article 2.

B. COASTAL MIXED-USE - LIMITED DISTRICT

1. PERMITTED USES

a. Hotels

b. Bed and Breakfasts, except that in this District they are not subject to the performance standards of Section IX of this Ordinance

c. Restaurants with no drive-thru service

d. Retail Sales and Services, excluding automobile repair and service facilities, car washes, and outdoor sales and services

e. Non-residential institutional uses, including educational, religious, philanthropic, fraternal or social institutions

f. Municipal buildings and uses

g. Single family detached dwellings

h. Accessory Units subject to the performance standards of Section IX.J. (prohibited in Shoreland Overlay Zone)

i. Accessory uses

2. SPECIAL EXCEPTION USES

a. Home occupations

b. Family day care homes, group day care homes, and nursery schools

c. Public utility facilities including substations, pumping stations and sewage treatment facilities residential density

3. RESIDENTIAL DENSITY

a. One principal dwelling unit is allowed per lot that complies with the Lot Standards in Article 2

C. ADMINISTRATION AND PERMITTING

1. ADMINISTRATIVE REVIEW

a. Applications for new single family detached dwellings, additions, renovations, modifications, accessory units, out buildings, carriage houses and other permitted uses shall be reviewed and permitted administratively by the Planning and Code Enforcement Department. This administrative process will include a review and determination of compliance and consistency with the provisions of the Character Districts and standards as well as review and permitting under any other applicable local codes and ordinances including the building permit.

b. Applications for special exception uses shall require Zoning Board of Appeals review and permitting prior to any administrative review and permitting by the Planning and Code Enforcement Department.

c. Applications for uses and activities requiring review under Chapter 405B the Site Plan Review Ordinance, including any changes in use, shall require review under that ordinance by the Planning Board prior to any administrative review and permitting by the Planning and Code Enforcement Department.

2. NON-CONFORMING USES AND STRUCTURES

a. A nonconformity is any use, building, lot, or sign that was lawfully established prior to the adoption of this Ordinance and has been made nonconforming as a result of the adoption of this Ordinance, or subsequent amendments, and may continue so long as the nonconformity remains otherwise lawful and complies with this section.

i. Any such building may be expanded, enlarged, or increased in height provided that any such expansion or addition is within the principal building placement identified in Article 2 and the addition meets all other building standards of Article 4. A building that is nonconforming as to the maximum front setback may be expanded pursuant to the requirements in this subsection without becoming conforming regarding the maximum front setback.

b. General routine repair or maintenance of non-conforming uses, structures, buildings, lots, or signs is permitted.

c. Alterations made to restore structures or buildings to a safe condition is permitted.

d. Additions and components that meet the dimensional standards of the code may be added to existing non-conforming buildings, so long as the change does not expand or create a new non-conformity.

e. Additions and components may match an existing, non-conforming roof pitch with the exception of non-conforming flat roofs, provided all other dimensional standards of the code are adhered to.

f. Additions and components may match existing non-conforming eave heights, provided all other dimensional standards of the code are adhered to.

i. For any such existing building that does not meet the minimum ceiling height required by building code, additions may exceed the eave height requirments to the minimum height necessary to ensure code compliant access between the existing structure and addition can be achieved.

g. No non-conforming lot may be subdivided to increase the non-conformity.

BUILDING TYPE:

A classification or kind of structure characterized and differentiated by its placement on a lot, massing, composition, use, and features.

COMPONENT:

One of the elements that make up a building, the other being the principal building mass. Components are comprised of smaller attachments to the principal building mass and provide architectural articulation and additional usable space.

DEPTH:

When related to lot dimensions, depth refers to the perpendicular distance between the closest points of the front lot line and the rear lot line.

EAVE:

The overhang resulting when a sloped roof intersections and extends beyond the building wall.

ENGAGE:

To incorporate within a larger volume; in whole or in part.

FAÇADE:

The exterior wall of a building oriented in whole or in part toward a Street, or Beach, not including service alleys.

FRONTAGE:

The land that lies adjacent to a street, right-of-way, easement, civic space, or natural feature, or the space between a building and the same.

FRONTAGE, PRIMARY:

The primary frontage is located along the street upon which the lot fronts. For corner lots, the primary frontage is designated by one or more of the following conditions:

- The property's postal address.
- The orientation of primary building.
- The lot line with the narrowest width.
- The widest street, or the street with the widest pedestrian walkway.

FRONTAGE, SECONDARY:

On corner lots, the frontage that is oriented toward the second, non-address-bearing street.

FRONT SETBACK, PRIMARY:

The setback required along a primary frontage.

FRONT SETBACK, SECONDARY:

The setback required along a secondary frontage.

GROUND FLOOR:

The lowest floor of a building that is not considered a basement.

INTEGRAL:

To be contained, in whole or in part, within the structural envelope of a larger building element.

PIER:

A solid support designed to sustain vertical pressure, such as used in a section of a wall between windows or other adjacent openings or as structural member used in the construction of building foundations.

PRIMARY ENTRANCE:

The main point of access for pedestrians into a building, upper story use, or ground floor tenant space.

PRIMARY FRONTAGE:

See Frontage, Primary

SECONDARY FRONTAGE:

See Frontage, Secondary

SETBACK:

The horizontal distance required between the closest exterior wall of a Building or parking and a specified element, such as vva lot line, easement, or natural feature, measured perpendicularly. This area must be maintained clear of permanent structures with the exception of allowed encroachments.

TOP PLATE:

The highest horizontal framing member of a wall. Syn. Wall Plate.

VERTICAL PLANE:

A flat surface perpendicular to the ground or horizontal plane.

SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO.

[Amended 08/19/09] [Amended 05/20/2020; 07/19/2023]

A. PURPOSE

To provide a transitional or buffer area between residential areas and more intensive commercial districts. It is a district generally limited to small and moderate scale business and professional office uses located in buildings compatible with adjacent residential areas. Except under Section VII, the Residence and Professional Office District RPO shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. PERMITTED USES

1. Dwellings. Single family dwellings, subject to the performance standards in Section IX.Z and two family dwellings are permitted in the district. Where an RPO zone abuts a residential zone, other types of dwellings are allowed, provided they are of the same type (as defined in Section V) as dwellings in the adjacent residential zone. If an RPO zone abuts more than one residential zone, the district regulations of the least restrictive residential zone abutting that particular RPO zone shall apply throughout that particular RPO zone. [Amended 08/19/09]

2. Dwelling units within a mixed use building limited to not more than eight (8) dwelling units per building if served by public sewer and two (2) units per building if served by on-site sewage disposal. [Adopted 08/19/09]

3. Live/Work units. [Adopted 08/19/09]

4. Non-Municipal government offices with less than 2,500 square feet of floor area, total per lot.

5. Municipal buildings and uses.

6. Elementary and secondary schools.

7. Professional offices with less than 2,500 square feet of floor area, total per lot.

8. Financial, insurance and real estate offices with less than 2,500 square feet of floor area, total per lot.

9. Personal service establishments with less than 2,500 square feet of service area, total per lot.

10. Business services and business offices with less than 2,500 square feet of floor area, total per lot.

11. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]

12. Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required. [6/01/94]

13. Golf Course. [12/21/94]

14. Residential recreational facility. [Adopted 08/19/09]

15. Accessory dwelling units subject to the performance standards of Section IX.J. (02/15/12)

C. SPECIAL EXCEPTIONS

1. Place of Worship and Adjunct Uses, Place of Worship. [05/05/99]

2. Group day care homes and nursery schools. [6/01/94]

3. Public utility facilities. [5/17/95]

4. Non-residential institutional uses, including educational, religious, philanthropic, fraternal or social institutions, which are not otherwise allowed as permitted uses under subsection (B), with less than 5,000 square feet of floor area, total per lot. [Amended 08/19/09]

5. Professional offices with more than 2,499 but no more than 5,000 square feet of floor area, total per lot. [Amended 08/19/09]

6. Non-Municipal government offices with more than 2,499 but no more than 10,000 square feet of floor area, total per lot. [Amended 08/19/09]

7. Home occupations. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under subsection (B).

8. Instructional and educational services, including but not limited to, schools of music, dance, art, driver education and vocational training, not otherwise allowed as permitted uses under subsection (B), with less than 10,000 square feet of floor area, total per lot. [Amended 08/19/09]

D. SPACE AND BULK REGULATIONS

1. Minimum Lot Area and Dimensions in areas served by public sewer [Adopted 08/19/09]

Housing & Use Type	**Lot Area (square ft.)**	**Lot Frontage (ft.)**	**Lot Width (ft.)**
Single-family dwellings	10,000 per dwelling unit or the requirement of the adjacent residential zone, whichever is less	50	50
Two-family dwellings	10,000 per two dwelling units or the requirement of the adjacent residential zone, whichever is less	50	50
Multi-family dwellings, multiplex, townhouses (if permitted)	10,000 or the requirement of the adjacent residential zone, whichever is less	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	50
Senior housing (if permitted)	80,000 or the requirement of the adjacent residential zone, whichever is less	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	100
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	50

2. Minimum Lot Area and Dimensions in areas not served by public sewer[Adopted 08/19/09]

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Single-family dwellings	40,000 per dwelling unit	100	50
Two-family dwellings	40,000 per two dwelling units	100	50
Non-Residential, Mixed-Use, and Live/Work Units	40,000	200 for lots abutting on Rte. 1; 100 for lots not abutting Rte. 1	50

3. Yard Standards - The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under subsection (F) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s). [Adopted 08/19/09]

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yards (ft.)
Route 1	35	90	15[1 & 2]
Route 114 & other major collector streets	25	60 (except that this maximum shall not apply to single-family and two-family dwellings)	15[1 & 2]
All other streets	10	25 (except that this maximum shall not apply to single-family and two-family dwellings)	15[1 & 2]

4. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height [Amended 05/20/2020]

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height
5,000 sq. ft.	35%	75%	45 feet

[1] When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yards.

[2] When the yard abuts a residential district the minimum yard shall be 25 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

The maximum individual building footprint shall not apply to municipal buildings and uses, elementary and secondary schools, libraries and museums, and senior housing buildings. [Adopted 08/19/09]

E. RESIDENTIAL DENSITY REGULATIONS

Within this zoning district, the Residential Density Factors in Section VIIC(A) of the Zoning Ordinance shall apply to two-family, multi-family, multiplex, townhouse, live/work, senior housing, or dwelling units in a mixed-use building or on a mixed use lot. [Adopted 08/19/09]

1. Maximum Base Residential Density in areas served by public sewer – The maximum base residential density in an RPO District is the maximum residential density permitted in the residential zone abutting the RPO District without utilizing additional density through the development transfer or affordable housing provisions. If an RPO District abuts more than one residential zone, the residential density requirements of the least restrictive residential zone abutting the RPO District shall apply throughout that RPO District [Adopted 08/19/09]

2. Additional Residential Density Thru Development Transfer (not permitted in areas not served by public sewer) – A development may incorporate additional dwelling units beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance if such a bonus is provided for in the abutting residential district. [Adopted 08/19/09]

3. Additional Residential Density Thru Affordable Housing (not permitted in areas not served by public sewer) – A development may incorporate additional dwelling units beyond the maximum base residential density if such a bonus is provided for in the abutting residential district. [Adopted 08/19/09]

The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions if such a bonus is provided for in the abutting residential district. [Adopted 08/19/09]

4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee (not permitted in areas not served by public sewer) – In lieu of developing affordable housing to utilize additional residential density under subsection E.3., a development may incorporate additional dwelling units beyond the maximum base residential density by utilizing the affordable housing In-Lieu Fee provisions in accordance with Section VII.C. of this Ordinance if such a bonus is provided for in the abutting residential district. [Adopted 08/20/2014]

5. Maximum Residential Density in areas not served by public sewer –

Single-family and two-family dwellings on lots which contain only residential uses	1 dwelling unit per net residential acre
Live/work units and dwelling units located in a mixed use building or on a mixed use lot	1 dwelling unit per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance

F. SITE LAYOUT AND OFF-STREET PARKING STANDARDS

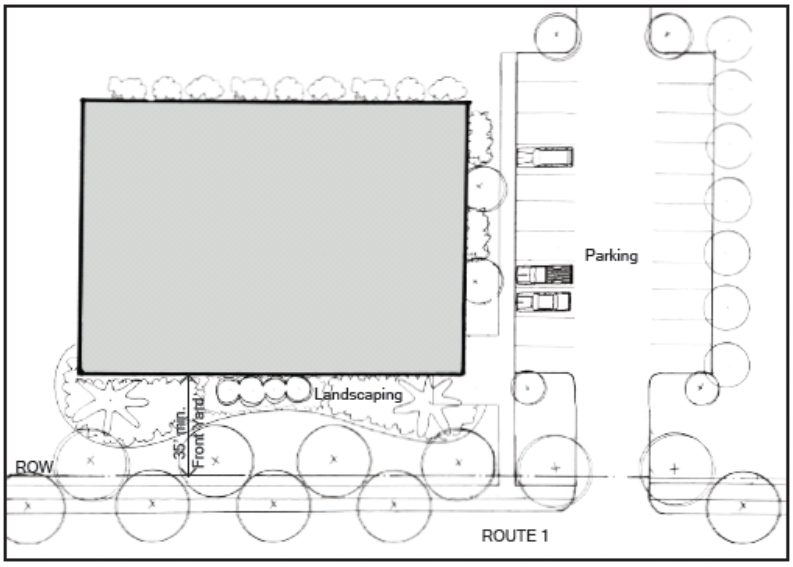
The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this district. In this

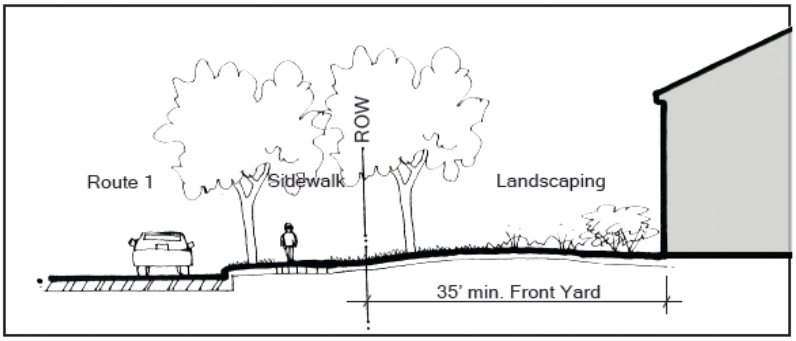
district, buildings shall be located relatively close to the street to provide human scale development, village character, and auto and pedestrian utility. As exhibited by the varying minimum and maximum front setback standards under subsection (D)(3), Yard Standards, the proximity of the front line of a building(s) shall depend on the street that the lot fronts. The front line of buildings are required to be closer to local streets than they are to Route 1 and major collector streets including Route 114. [Adopted 08/19/09]

The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection (D)(3) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s). As stated under subsection D.3. of this district, the maximum front yard requirement and the off-street parking location requirements shall not apply to single-family and two-family dwellings: [Adopted 08/19/09]

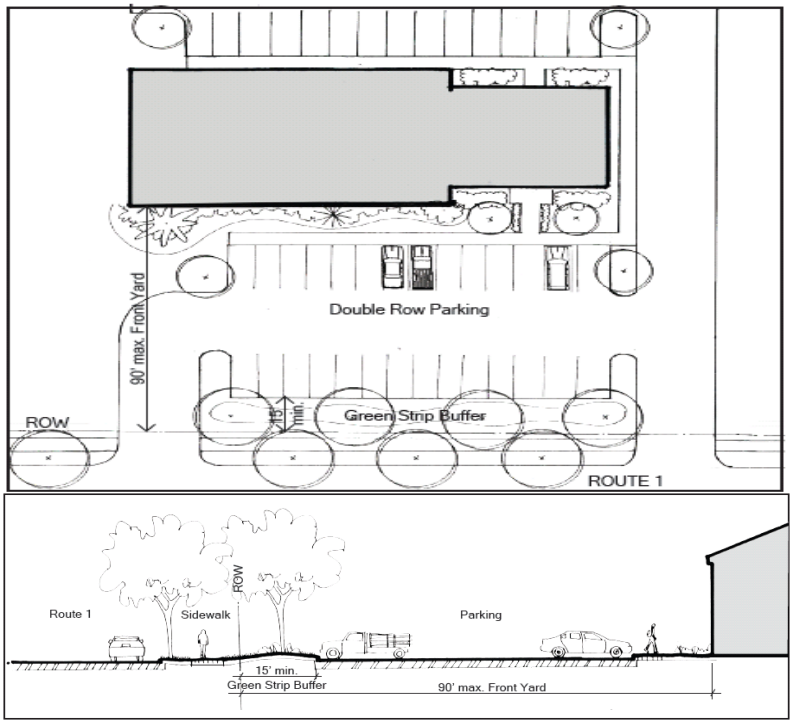
Standards for Front Yards and Off-Street Parking on Lots abutting Route 1:

1. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



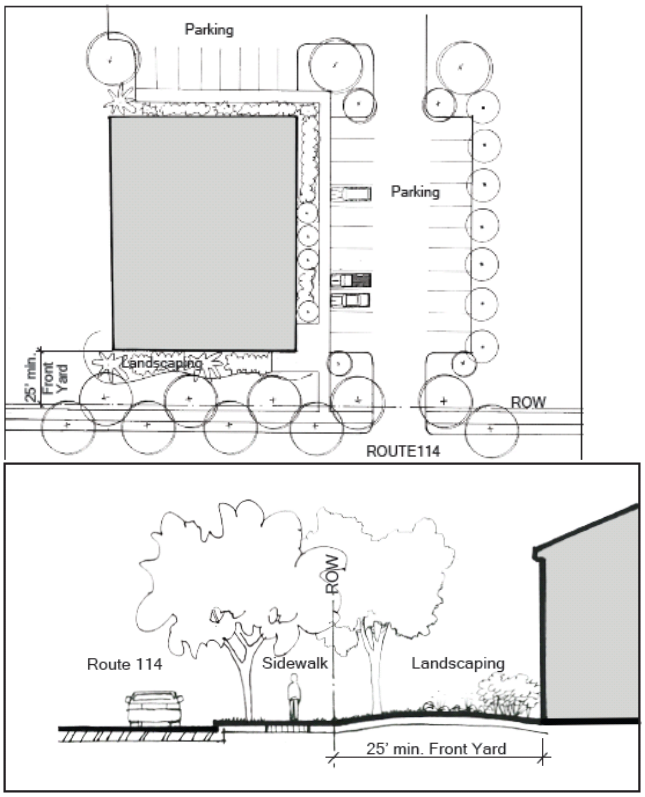


2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one double-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or "green strip buffer", from the front property line shall be at least 15 feet.

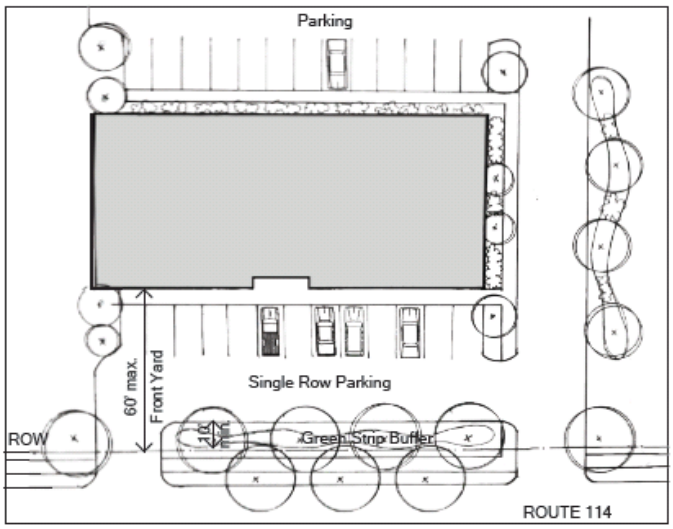


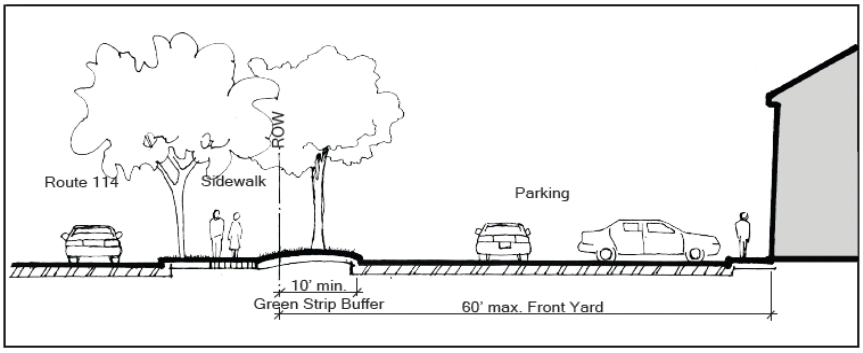
Standards for Front Yards and Off-Street Parking on Lots abutting Rte. 114 and other major collector streets:

3. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



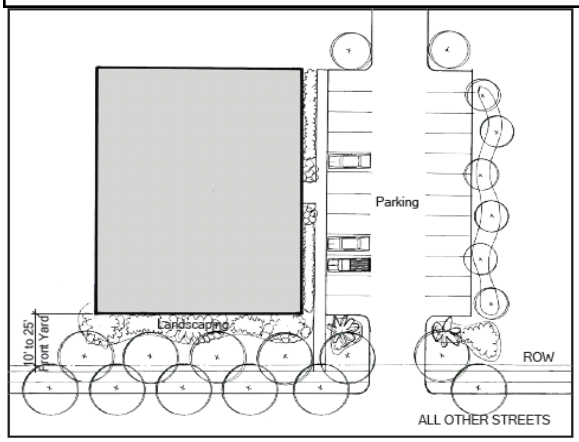
4. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one single-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or "green strip buffer," from the front property line shall be at least 10 feet.

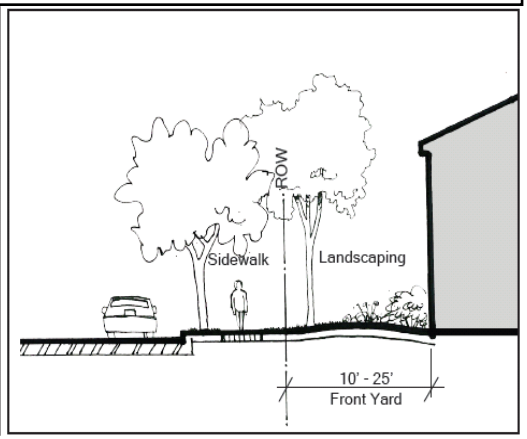




Standards for Front Yards and Off-Street Parking on Lots abutting all other streets:

5. No parking shall be allowed in the front yard of lots abutting all other streets. All off-street parking shall be located in the side and rear yards behind the front line of the principle building(s). The front yard shall be used for landscaping features, street trees, sidewalks, and pedestrian amenities. An access drive(s) to the site may cross the front yard but may not be located in the area between the front of the building and the front property line.





General Off-Street Parking Standards:

1. Off-street parking shall be provided in accordance with the requirements of Section XI if this Ordinance, except as those requirements are augmented or modified below.

2. Notwithstanding anything to the contrary in Section III or Section XI of this Ordinance, parking spaces existing in a front yard setback as of (the effective date of the amendments) shall be relocated to comply with the requirements of this section in the event of any change to the site which requires Planning Board approval under the Town of Scarborough Site Plan Review Ordinance. This requirement may be waived if the Planning Board determines that the relocation of some or all of the parking spaces is not feasible due to the shape, size or topography of the lot or the location of an existing principal building(s) on the lot.

3. In order to reduce the establishment of unnecessary parking spaces and impervious area, which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments. This allowance may also be exercised in developments that include a mix of residential and non-residential uses, such as second story dwelling units above non-residential uses or live-work units, subject to the same requirement that the parking facility will substantially meet the intent of the parking requirements. In the RPO District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

G. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance. [as of 7/17/91]

SECTION XVIII. BEACH MIXED-USE DISTRICT B-1. **[as of 3/31/74][09/05/12][Amended 07/19/2023]**

SECTION XVIII. BEACH MIXED -USE DISTRICT B-1. [as of 3/31/74][09/05/12][Amended 07/19/2023]

A. PURPOSE

To provide areas for the location of small retail, restaurant, lodging and marine-related uses and residential uses within one or more of Scarborough's beach communities. These uses are intended to, and are likely to serve the daily needs of the residents of the immediate neighborhood as well as tourist and summer visitors. The Beach Mixed-Use District shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. PERMITTED USES

1. Single family dwellings exclusive of individual mobile homes. Subject to performance standards in Section IX.Z.

2. Two family dwellings.

3. Accessory dwelling units subject to the performance standards of Section IX.J.

4. Dwelling units within a mixed use building limited to no more than two (2) dwelling units per building. Permitted residential uses mixed with special exception uses requires special exception approval by the zoning Board of Appeals under Section IV(I).

5. Live/Work Units.

6. Retail sales and services with less than 2,500 square feet of floor area, total per lot, excluding car washes, gasoline filling stations and outdoor sales and services.

7. Personal services with less than 2,500 square feet of floor area, total per lot.

8. Municipal Buildings and Uses. [7/5/95]

9. Financial, insurance and real estate offices with less than 2,500 square feet of floor area, total per lot.

10. Accessory uses including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]

11. Restaurants with no drive-through service, with less than 2,500 square feet area, total per lot.

12. Business services and business offices with less than 2,500 square feet of floor area, total per lot.

13. Professional offices with less than 2,500 square feet of floor area, total per lot.

14. Bed and Breakfast (B&Bs) subject to the performance standards of Section IX.T.

15. Place of worship.

16. Food processing facility existing as of September 1, 2011.

C. SPECIAL EXCEPTIONS

1. Public utility building including substations, pumping stations and sewage treatment facilities.

2. Home occupation. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under Subsection (B).

3. Adjunct Uses, Place of Worship. [05/05/99]

4. Telecommunication Facility. [03/17/04]

5. Food processing facility with less than 2,500 square feet of floor area, total per lot, only on lots that are located easterly of Avenue 5.

D. SPACE AND BULK REGULATIONS

Minimum lot area per single family dwelling unit	10,000 sq. ft.
Minimum lot area per two-family unit	10,000 sq. ft.
Minimum lot area all others (refer to page 41, Section VI – Definitions, *Lot Area* for calculation)	10,000 sq. ft.
Minimum street frontage	50 feet
Minimum front yards	A minimum of 10 feet is required for buildings or portions of buildings that are less than 20 feet in height; a minimum of 20 feet is required for buildings or portions of buildings that are 20 feet or greater in height.
Minimum side and rear yards	15 feet
Maximum building height	35 feet
Maximum building coverage	35%

E. RESIDENTIAL DENSITY REGULATIONS

Within this zoning district, the Residential Density Factors in Section VIIC(a) of the Zoning Ordinance shall apply to live/work or dwelling units in a mixed-use building or on a mixed use lot.

Single-family and two-family dwellings on lots which contain only residential uses.	4 dwelling units per net residential acre
Live/work units and dwelling units located in a mix use building or on a mixed use lot.	4 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance.

F. ADDITIONAL DEVELOPMENT STANDARDS

1. Commercial Design Standards: All commercial or mixed use development involving commercial uses within the B1 District must be consistent with the Design Standards for Scarborough's Commercial Districts.

2. Pedestrian and Bicycle Facilities: All developments shall provide for pedestrian movement to and within the parcel in accordance with Section IV(E) of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities such as bike racks and bike lanes if the location, type and/or scale of the project make these reasonable.

G. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

In addition, for new development requiring site plan review, the establishment of off-street parking should be located to the side or rear of the principle building on the site to the extent practical. The Planning Board shall use the Site Plan Review Ordinance and the Commercial Design Standards in determining the exact location and design of the off-street parking.

H. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XVIII.A. TOWN AND VILLAGE CENTERS DISTRICT TVC [09/05/2007] [Amended 01/20/16] [Amended 05/20/2020] [Amended 01/08/2025]

A. PURPOSE

The purpose of this district is to provide for and encourage the evolution and maintenance of village and town centers within Scarborough that exhibit village style development and offer a mix of retail, office, service, civic, and residential uses in an environment conducive to both pedestrians and motorists. The buildings, parking areas, sidewalks, landscaping and other infrastructure within this district are to be of a village scale and character. These town and village centers are intended to and are likely to serve as places for local shopping, business, dining, entertainment and civic activities primarily for residents of Scarborough and the immediate region. A diversity of residential uses are also intended to be integral elements of this district enabling walk-ability, convenience, and human activity and vibrancy. The Town and Village Centers District (TVC) shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage, scale and site layout of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsections (E) and (G) or may be reviewed as a Planned Development applying the qualitative standards and design criteria of subsection (I).

1. Conventional Developments. Projects that are proposing to develop or redevelop less than 5 acres of land may be reviewed as a conventional development or may be reviewed as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing to develop or redevelop 5 acres or more of land shall be reviewed as Planned Developments in accordance with the standards of subsection (I). Qualitative Development Standards for Planned Development of this district and Section VII(E) Planned Development of this Ordinance.

C. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS

RESIDENTIAL USES

The following residential uses are permitted in both conventional and planned developments:

1. Multifamily dwellings
2. Multiplex dwellings
3. Townhouses, limited to no more than eight (8) dwelling units per building
4. Senior housing

MIXED USES

The following mixed uses are permitted in both conventional and planned developments:

5. Dwelling units in a mixed use building. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV(I) of this Ordinance.

6. Live/Work Units

NON-RESIDENTIAL USES:
The following non-residential uses are permitted in both conventional and planned developments, but in conventional developments are limited to 20,000 square feet of floor area per unit of occupancy within the Oak Hill TVC District and 8,000 square feet of floor area per unit of occupancy within the Dunstan TVC District:

7. Retail sales and services, excluding car washes, gasoline filling stations and outdoor sales and services
8. Personal services
9. Restaurants with no drive-through service [Amended 11/07/07]
10. Mobile Food Vendor Court (drive-through or drive-in service is prohibited), subject to the performance standards of Section IX.BB [Adopted 01/08/2025]
11. Professional offices
12. Business services and business offices
13. Financial, insurance and real estate offices
14. Health clubs
15. Non-municipal government offices
16. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions
17. Funeral homes
18. Place of worship
19. Group day care homes, day care facilities, and nursery schools
20. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P [Amended 05/05/10]
21. Family day care homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required
22. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance. [adopted 10/07/15]
23. Hotels and Motels

The following non-residential uses are permitted in both conventional and planned developments without regard to floor area per unit of occupancy.

24. Municipal buildings and uses
25. Elementary and secondary schools
26. Libraries and museums

The following non-residential uses are permitted only in planned developments. [11/07/07]

27. Restaurants with drive-through service
28. Gasoline filling stations, whether a principal or accessory use, subject to the performance standards of Section IX. (X.) of this Ordinance.

D. SPECIAL EXCEPTIONS
The following uses are allowed as special exceptions in both conventional and planned developments:

1. Adjunct Uses, Place of Worship
2. Public utility facilities

3. Residential and long-term care facilities for the ill, aged or disabled with no more than 20,000 square feet of floor area per unit of occupancy. If the facility includes dwelling units, then the regulations governing the particular type of dwelling shall apply
4. Home occupations. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under subsection (B)
5. Telecommunication facility

E. SPACE AND BULK REGULATIONS
The following space and bulk regulations are applicable to conventional developments:

1. Minimum Lot Area and Dimensions

Housing & Use Type	**Lot Area (square ft.)**	**Lot Frontage (ft.)**	**Lot Width (ft.)**
Multi-family dwellings; multiplex; townhouses	10,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	50
Senior housing	80,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	100
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	50

2. Yard Standards - The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under subsection (G) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building located closest to the abutting street.
[Amended 05/20/2020]

Abutting Streets	**Minimum Front Yard (ft.)**	**Maximum Front Yard (ft.)**	**Side and Rear Yard (ft.)**
Route 1	35	90	15[1 & 2]
Route 114 & other major collector streets	25	60	15[4 & 5]
All other streets	10	25	15[4 & 5]

[1] *When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.*
[2] *When a site abuts a residential district the minimum yard shall be 25 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.*

3. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
20,000 sq. ft. for buildings containing non-residential[3] and mixed uses within the Oak Hill TVC District; 10,000 sq. ft. for buildings containing non-residential[3] and mixed uses within the Dunstan TVC District; 10,000 sq. ft. for buildings containing only residential uses	50%	85%	A building must be either a minimum of 2 stories or 20 feet in height over at least 50% of the building footprint	45 feet [Amended 05/20/2020]

The following space and bulk regulations are applicable to Planned Developments:

1. Minimum Lot Area and Dimensions

Housing & Use Type	**Lot Area (square ft.)**	**Lot Frontage (ft.)**	**Lot Width (ft.)**
Multi-family dwellings; multiplex; townhouses	10,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	50
Senior housing	80,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	100
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Rte. 1; 50 for lots not abutting Rte. 1	50

2. Yard Standards – Determined by the Planning Board under Section XVIIIA(I)(2)(d), flexible yard standards.

[3] A maximum building footprint shall not apply to schools, municipal buildings, libraries and museums

3. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
Determined by the Planning Board under Section XVIIIA(I)(2)(b), flexible maximum building footprint	Determined by the Planning Board under Section XVIIIA(I)(2)(b), flexible lot coverage	Determined by the Planning Board under Section XVIIIA(I)(2)(b), flexible lot coverage	A building must be either a minimum of 2 stories or 20 feet in height over at least 50% of the building footprint	45 feet [Amended 05/20/2020

F. RESIDENTIAL DENSITY REGULATIONS, APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Within this zoning district the Residential Density Factors in Section VIIC(A) of this Ordinance shall apply to multi-family, multiplex, townhouse, live/work, senior housing or dwelling units in a mixed-use building or on a mixed use lot.

1. Maximum Base Residential Density – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.

Multi-family, multiplex, townhouse dwellings, live/work units, senior housing and dwelling units located in a mix use building or on a mixed use lot	5 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance

2. Additional Residential Density Thru Development Transfer – A development may incorporate up to three (3) additional dwelling units per acre of net lot area beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance.

3. Additional Residential Density Thru Affordable Housing – A development may incorporate up to one (1) additional dwelling unit per acre of net lot area beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee (not permitted in areas not served by public sewer) – In lieu of developing affordable housing to utilize additional residential density under subsection F.3., a development may incorporate up to one (1) additional

dwelling unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing In-Lieu Fee provisions in accordance with Section VII.C. of this ordinance. [Adopted 08/20/2014]

The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed three (3) dwelling units per acre of net lot area beyond the maximum base residential density. [Amended 08/20/2014]

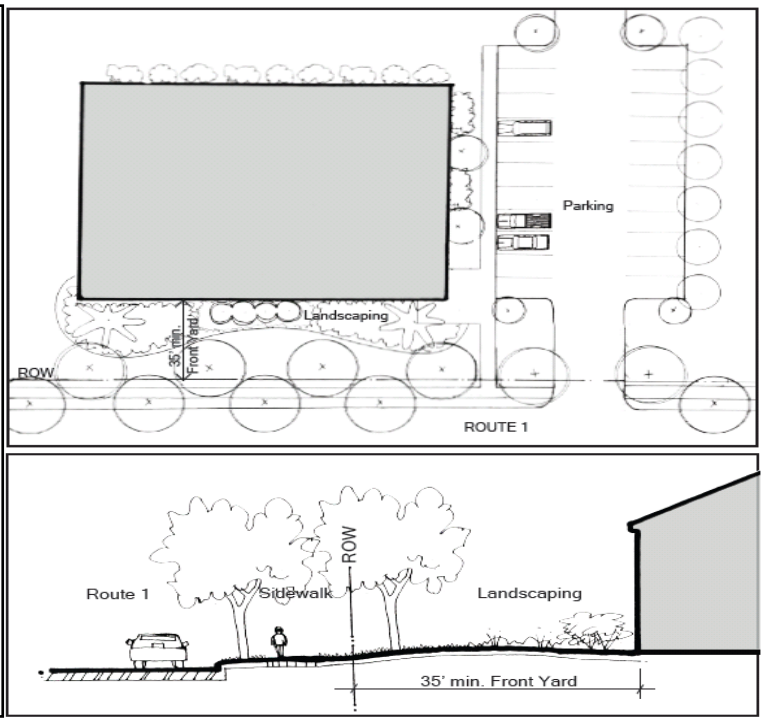
G. SITE LAYOUT AND OFF-STREET PARKING STANDARDS, APPLICABLE TO CONVENTIONAL DEVELOPMENTS

The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this district. In this district buildings shall be located relatively close to the street to provide human scale development, village character, and auto and pedestrian utility. As exhibited by the varying minimum and maximum front setback standards under subsection (E)(2) Yard Standards, the proximity of the front line of a building(s) shall depend on the street that the lot fronts. The front line of buildings are required to be closer to local streets than they are to Route 1 and major collector streets including Route 114.

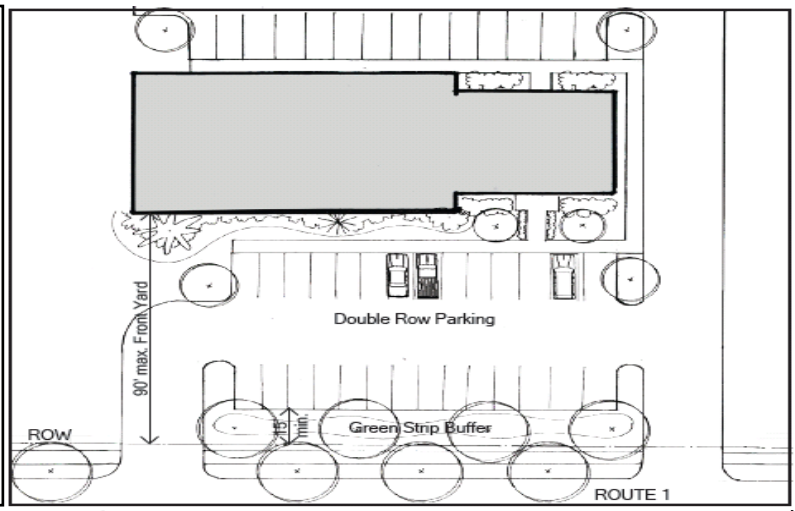
The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection E(2) of this district:

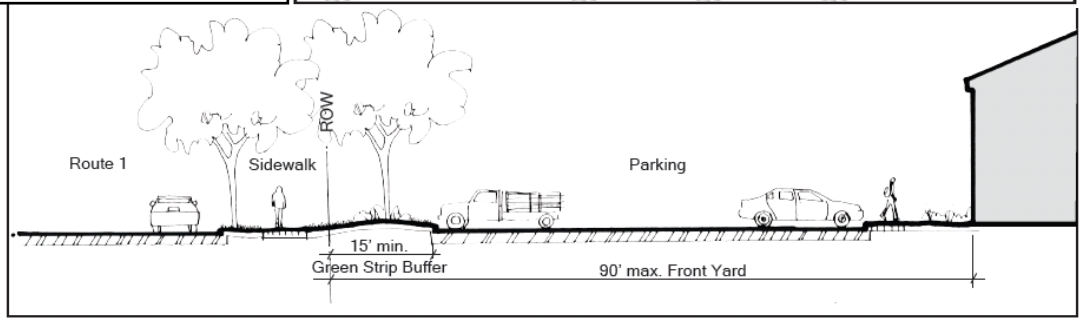
Standards for Front Yards and Off-Street Parking on Lots abutting Route 1:

1. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



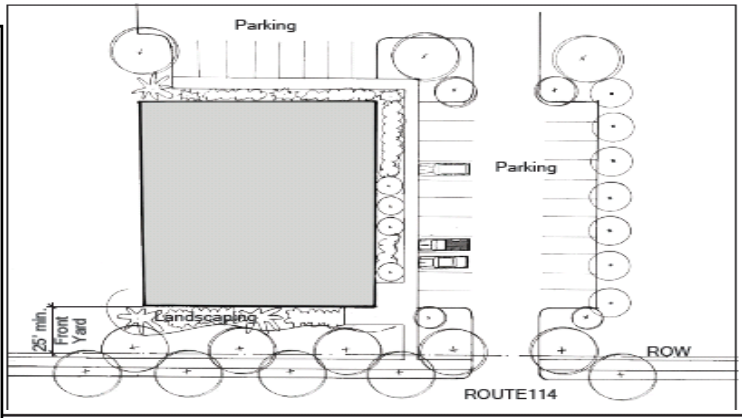
2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one double-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or "green strip buffer", from the front property line shall be at least 15 feet.

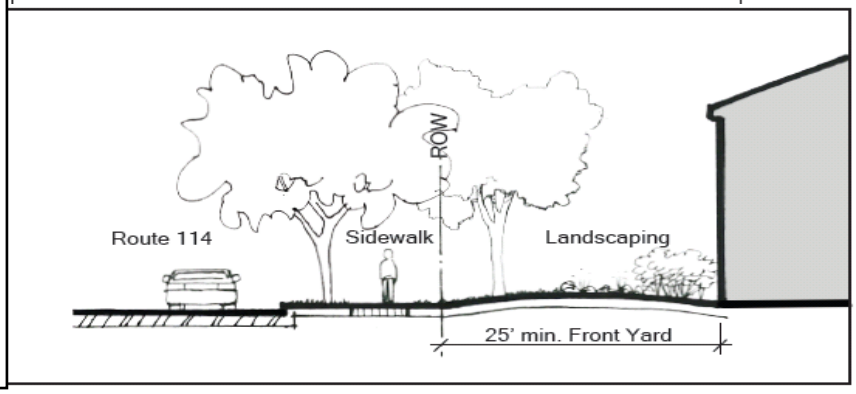




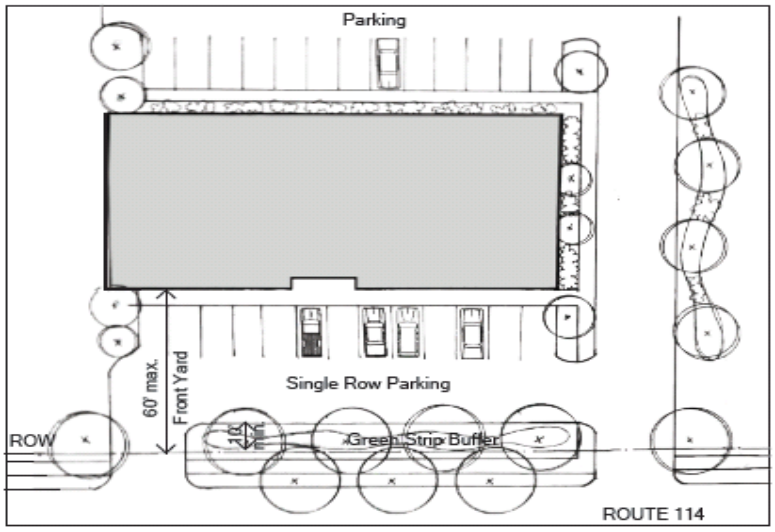
Standards for Front Yards and Off-Street Parking on Lots abutting Rte. 114 and other major collector streets:

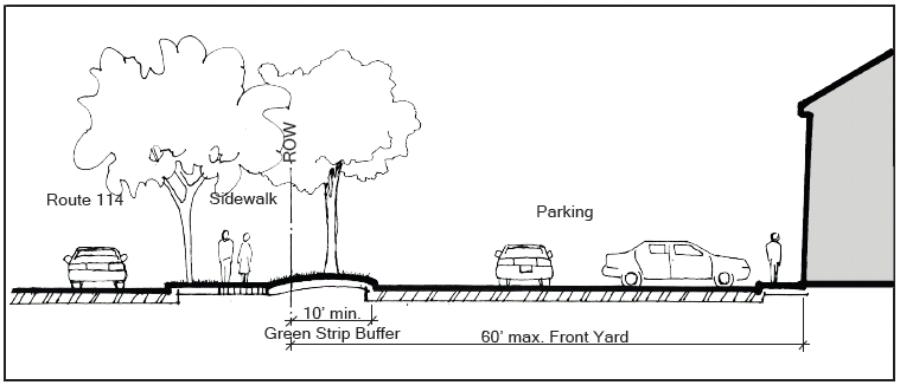
3. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.





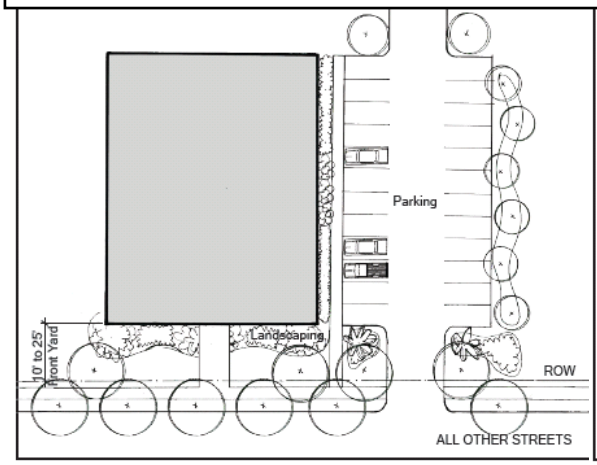
4. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one single-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or "green strip buffer", from the front property line shall be at least 10 feet.

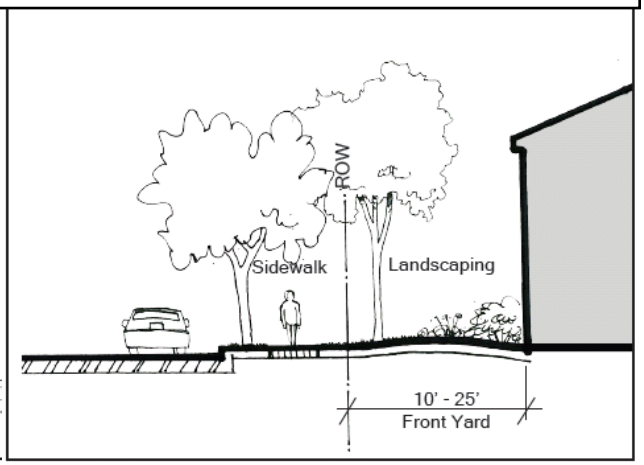




Standards for Front Yards and Off-Street Parking on Lots abutting all other streets:

5. No parking shall be allowed in the front yard of lots abutting all other streets. All off-street parking shall be located in the side and rear yards behind the front line of the principle building(s). The front yard shall be used for landscaping features, street trees, sidewalks, and pedestrian amenities. An access drive(s) to the site may cross the front yard but may not be located in the area between the front of the building and the front property line.





General Off-Street Parking Standards:

6. Off-street parking shall be provided in accordance with the requirements of Section XI if this Ordinance, except as otherwise permitted in this subsection.

7. Notwithstanding anything to the contrary in Section III or Section XI of this Ordinance, parking spaces existing in a front yard as of (the effective date of the amendments) shall be relocated to comply with the requirements of this section in the event of any change to the site layout which requires Planning Board approval under the Town of Scarborough Site Plan Review Ordinance. This requirement may be waived if the Planning Board determines that the relocation of some or all of the parking spaces is not feasible due to the shape, size or topography of the lot or the location of an existing principal building(s) on the lot.

8. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses. In the TVC District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

H. SIGNS, APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

I. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS

The Town and Village Centers (TVC) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough's Commercial Districts and provide more specific requirements for development in the TVC District.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VII(E) Planned Development.

1. PLANNED DEVELOPMENT STANDARDS

A planned development shall be designed in a manner that reinforces the TVC District as a town or village center. Buildings, parking, pedestrian amenities, landscaping and streets shall be arranged in a village-style development pattern that exhibits a human scale and a mix of land uses.

a. Walkable, pedestrian-oriented design – Appropriately designed and oriented sidewalks, and other pedestrian amenities, are critical to promote walk-ability, pedestrian activity, and a sense of place within the TVC District. Sidewalks shall be designed to provide linkages and continuity between each use within a planned development as well as connections to abutting uses and the greater pedestrian network. Where pedestrian traffic and activity is likely to be intense, such as along storefronts or at a common area or gathering place, sidewalks shall be properly proportioned to accommodate this activity and to establish a pedestrian realm.

b. Streetscape – Streetscapes are critical to foster a village layout, form and scale, and offer an environment that comfortably accommodates both pedestrians and vehicles. The streetscape of roads and/or driveways within a planned development shall be designed with shade trees on both sides; road widths that are of a village scale; human scale street lighting; frequent intersections and crosswalks; and sidewalks as per standard H(1)(a) above. A streetscape may include on-street parking on one or both sides of internal streets or driveways as per provision H(2)(a) below.

c. Compact, human scale development – Building height, massing and facades as well as building orientation to streets, driveways and parking are critical to establishing a compact, village-style development pattern that exhibits a human scale. In general, building(s) shall be designed to front onto the street(s) that provides primary access to the building(s). In developments with multiple buildings, the Planning Board may allow some buildings to be setback from the street at greater distances than would occur in a conventional development with parking between those buildings and the street provided: other buildings front on street(s) or driveways to maintain a village streetscape; there is continuity between buildings with no major expanse of parking; and the development meets or exceeds each of the other planned development standards. Buildings, regardless of size and height, shall exhibit a village-style and a human scale. All buildings, including larger buildings containing one or multiple tenants, shall meet or exceed the Commercial Design Standards.

d. Mixed use development – A mix and diversity of uses are fundamental to fostering a center for community activity and vibrancy. Any non-residential use exceeding the limit on square feet of floor area per unit of occupancy for conventional development must be designed as component of a mixed use building containing multiple uses and/or tenants. Such a building(s) shall include mixed uses in a vertical configuration, a horizontal configuration or both. An example of a vertical mix of uses could be offices or residential units above retail uses, while a horizontal configuration could be office uses and retail uses separated by common walls within the same building.

e. Place-making – A planned development shall include at least one “place”, and potentially a number of “places”, depending on the size and scale of the development. A “place” shall be a common space(s) where people can gather, meet and cross paths. A “place” can be a community green or common; plaza; court; square or some variation of each. Regardless of the style or size, “places” are required to be designed as an integral part of a planned development in locations where people will naturally gather and cross paths. “Places” shall be located at the core of the pedestrian realm of a planned development; shall include facilities for residents and visitors; shall be an element of the development streetscape; and shall be available and desirable for public use. Areas for outdoor seating, court yards or green space associated with a particular use or establishment are desirable amenities, but should not be counted as a “place” unless they are available for public use.

2. DESIGN CRITERIA FOR PLANNED DEVELOPMENTS

The following design criteria shall apply to all planned developments. In addition, the Planning Board may require a planned development to be designed in conformance with any other standards of this Section XVIIIA when the Board finds that application of such standards will achieve conformity with the Planned Development Standards of section XVIIIA(I)(1).

a. On-street parking – On-street parking is a primary characteristic of traditional town and village centers. On-street parking can provide spaces directly in front of residential and non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street

parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can slow vehicular traffic in the street. A planned development may include new streets or driveways with parallel or angled on-street parking or "on-driveway" parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

b. Flexible maximum building footprint – The Planning Board shall determine the allowable building footprint for each building in a planned development by applying the standards of Section XVIII(I)(1), in particular subsection (I)(1)(c) Compact, human scale development.

c. Flexible lot coverage – The Planning Board shall determine the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces in a planned development if the planned development includes "green building" technology or approaches that compensate for the additional lot coverage proposed. Examples of "green building" approaches may include green roof systems, porous pavement, photovoltaic and other forms of distributed energy, and other techniques as reviewed and approved by the Planning Board. If the planned development does not include green building technology, then the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces shall be governed by subsection (E)(3).

d. Flexible yard standards - The Planning Board shall determine the yard requirements and site layout and off-street parking configuration for a planned development by applying the standards of Section XVIII(I)(1), in particular subsection (I)(1)(c). In reviewing a planned development, the Planning Board may use the Yard Standards under subsection (E)(2) and the Site Layout and Off-Street Parking Regulations under subsection (G) that correspond with the yard standards as guidelines, but is not required to apply them. This enables the Planning Board to allow some buildings to be setback from the street in a configuration different from a conventional development, with parking between those buildings and the street, provided the specific provisions under subsection (I)(1)(c) are met, each of the other Planned Development Standards are met, and the planned development furthers the purposes of this district.

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP [Amended 05/20/2020; 02/17/2021; 09/04/2024; 01/08/2025]

I. BASIC STANDARDS

A. PURPOSE

The land immediately surrounding the Haigis Parkway between Payne Road and Route One is unique in its topography, water features, visibility, accessibility and road frontage. Its proximity to Exit 42 makes it highly desirable as a regional center for employment, entertainment, and cultural activities. The Haigis Parkway District is intended to be one of the gateways into Scarborough, and anticipates high quality uses such as office parks, hotels, small scaled retail, convention centers, places of cultural and civic assembly, high technology and research, and multi-family housing as part of mixed-use development. The standards listed below are intended to encourage a high quality of campus-style landscape and architectural design, preservation of natural features, integration of pedestrian circulation, and interconnection of open spaces and resource protection areas. The Haigis Parkway District is a significant commercial and mixed-use growth area off of Exit 42 of the Maine Turnpike and a vital complement to the Oak Hill town center.

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES [Adopted 02/17/2021]
Depending on the acreage, scale, uses, and design of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards and development standards for Conventional Developments set out in this section or may be reviewed as a Planned Development in accordance with the procedures set forth in Section VIIE. Additional Requirements for Planned Developments and applying the qualitative standards and design criteria for Planned Developments set out in this Section.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than five (5) acres of land may be reviewed as a Conventional Development or as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing any of the following are required to be reviewed as Planned Developments in accordance with Section VIIE. and conform to the applicable standards of this section for Planned Developments:

a. Develop or redevelop five (5) acres or more of land,
b. Exceed the space and bulk standards for conventional developments, or
c. Establish a use that is allowed only as part of a Planned Development.

C. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS
NON-RESIDENTIAL USES [Amended 06/20/18; Amended 02/17/2021]

The following non-residential uses are permitted in both conventional and planned developments:

1. Professional offices
2. Financial, insurance, and real estate offices
3. Business services and business offices
4. High technology facilities, subject to the performance standards of Section IX(M) of this ordinance

5. Research, development and light industrial with no outdoor storage, subject to the performance standards of Section IX(M.1) of this ordinance
6. Hotels and motels, provided all guest rooms are accessed by interior corridors
7. Restaurants, with no drive-through service [Amended 02/17/2021]
8. Mobile Food Vendor Court (drive-through or drive-in service is prohibited), subject to the performance standards of Section IX.BB [Adopted 01/08/2025]
9. Group day care homes, nursery schools and day care centers
10. Retail sales and services with less than 20,000 square feet of retail floor area per unit of occupancy, excluding car washes, automobile repair and service facilities, and outdoor sales and services
11. Municipal buildings and uses
12. Public utility facilities
13. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P.
14. Health clubs
15. Personal services
16. Non-municipal government offices
17. Medical/diagnostic facilities
18. Places of assembly, amusement, recreation, culture or government, exclusive of arcades, video arcades, amusement parlors, video gambling, casino gambling and off-track betting, fully enclosed within a building or buildings
19. Golf courses and campgrounds
20. Educational institutions
21. Places of worship and adjunct uses, places of worship
22. Small-scale energy facilities, subject to the performance standards of Section IX(W)
23. Commercial outdoor recreation, subject to the performance standards of Section IX(U)
24. Telecommunication Facilities
25. Food processing facilities, subject to the performance standards of Section IX.(M.2.)
26. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance.[adopted 10/07/15]
27. Climate Controlled/Internal Access Storage Facility, subject to Section IX(H) Performance Standards and only within an approved subdivision. [10/04/17]
28. Cannabis Manufacturing Facility. [Adopted 01/08/2020; Amended 09/04/2024]
29. Cannabis Testing Facility. [Adopted 01/08/2020; Amended 09/04/2024]

The following residential uses are permitted only in planned developments:

30. Boarding care facilities for the elderly, subject to the performance standards of Section IX(C)
31. Nursing homes
32. Dwelling units in a mixed-use building, limited to a maximum building footprint of 12,500 square feet and only as part of a mixed-use planned development as specified under subsection II.C.5.
33. Multi-family dwellings, limited to a maximum building footprint of 12,500 square feet and only as part of a mixed-use planned development as specified under subsection II.C.5.
34. Live / work units and only as part of a mixed-use planned development as specified under subsection II.C.4.

35. Restaurant with drive-through service in a mixed use building only as part of a planned development as specified under subsection II.C.6 [Adopted 02/17/2021]

C. SPACE AND BULK STANDARDS

The following space and bulk regulations are applicable to CONVENTIONAL DEVELOPMENTS:

1. Minimum Lot Area and Dimensions

Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Non-Residential and Mixed-Uses	40,000	200 for lots abutting Haigis Parkway and Payne Rd; 50 for lots not abutting Haigis Parkway and Payne Rd	50

2. Minimum Yard Standards

Abutting Streets	Minimum Front Yard (ft.)	Minimum Side and Rear Yard (ft.)
Payne Road and Haigis Parkway	25	15[1& 2]
All other streets	15	15[1 & 2]

[1]*When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.*

[2] *When a site abuts a residential district the minimum yard shall be 50 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.*

3. Maximum Building Coverage, Lot Coverage, and Building Height.

Use Types	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height (ft.)
Non-Residential and Mixed Uses	50%	75%	75 feet [Amended 05/20/2020]
Residential Uses	50%	75%	45 feet [Amended 05/20/2020]

The following space and bulk regulations are applicable to PLANNED DEVELOPMENTS:

4. Minimum Lot Area and Dimensions

Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Non-Residential, Residential and Mixed-Uses	40,000	200 for lots abutting Haigis Parkway and Payne Rd; 50 for lots not abutting Haigis Parkway and Payne Rd	50

5. Minimum Yard Standards – Determined by the Planning Board under Section II.C.3, flexible yard standards, except that when a site abuts a residential district the minimum yard shall be 50 ft. and the buffering requirements of Section VIII of this Ordinance shall apply. [Amended 02/17/2021]

6. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height [Amended 02/17/2021]

Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height
Determined by the Planning Board under Section II.C.2 , flexible lot coverage	Determined by the Planning Board under Section II.C.2 , flexible lot coverage	75' [Amended 05/20/2020]

RESIDENTIAL DENSITY REGULATIONS
Within this zoning district the Residential Density Factors in Section VIIC(A) of this Ordinance shall apply to live/work, dwelling units in a mixed-use building, and multi-family dwellings.

7. Maximum Residential Density –

Live/work units, dwelling units located in a mixed-use building, and multifamily dwelling units	5 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance

II. ADDITIONAL DEVELOPMENT STANDARDS

A. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS [Amended 02/17/2021]
To ensure attractive, high quality development that is designed and developed in a manner that minimizes impacts on the community and adjacent properties, all uses are subject to following performance standards:

1. Off-Street Parking:

a. Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except as otherwise permitted in this subsection.

b. In addition, the establishment of off-street parking shall be located to the side or rear of the principal building on the site to the extent practical. In a development with more than one principal building, the off-street parking shall be located to the side or rear of the principal building or group of principal buildings located closest to the abutting

street(s) to the extent practical. If locating the parking to the side or rear of the principal building(s) is not practical due to the shape, size or topography of the lot or the building(s) design or orientation, any parking between the buildings and the abutting street(s) shall be screened by landscaping, preservation of existing vegetation and natural features, berms, hardscape, or a combination of these approaches. The Planning Board shall use the Site Plan Review Ordinance and the Commercial Design Standards in reviewing and approving the exact location and design of the off-street parking and its corresponding landscaping and screening.

c. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses.

2. Commercial Design Standards

All development in the HP District must be consistent with the Design Standards for Scarborough's Commercial Districts. [Adopted 02/17/2021]

3. Signs

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance. [Amended 02/17/2021]

4. Vehicular Access

a. Vehicular access to and from Payne Road and Haigis Parkway shall be strictly controlled to limit the number of curbs cuts along these roadways, and in the case of the Haigis Parkway, to curb cuts that are approved by Maine DOT. In addition, provisions shall be made for street and driveway interconnections to abutting properties to enable cross connections, the shared use of curb cuts and intersections and to reduce the overall number of curb cuts on all streets.

b. There shall be no vehicular access to adjacent residential districts, except for emergency vehicle access approved by the Fire Department and Planning Board.

5. Visual Impacts

Visual impact of structures as viewed from adjacent streets shall be taken into consideration during Site Plan Review. Any application for site plan review within the Haigis Parkway District shall be accompanied by graphic representations of how the development will look upon completion, utilizing artists' renderings, photo manipulation, computer generated imaging or similar techniques, unless the Planning Board determines that the location, scale or nature of the proposed development does not warrant such graphic representations in order for the Planning Board to evaluate the application. [11/06/02]

6. Landscape and Streetscape Buffer

Landscaping and streetscape buffer strips shall be used throughout the district to reinforce the parkway landscape, provide an attractive streetscape on any new streets, and provide buffering and screening between uses and development sites. To this end, a landscaped or naturally vegetated buffer strip shall be established and/or maintained along the property

line(s) of a lot where it abuts a street. The width of the buffer strip shall be a minimum of twenty-five (25) feet when it abuts Haigis Parkway and a minimum of fifteen (15) feet to all other streets, and shall be designed to separate the development from the street, enhance the visual environment, and help screen parking from view from the street. The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to water bodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review. In other areas, the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance and Design Standards for Scarborough's Commercial Districts. The buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip.

B. PLANNED DEVELOPMENT STANDARDS

The Haigis Parkway (HP) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough's Commercial Districts and provide more specific requirements for development in the HP District. This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VII(E) Planned Development.

1. Walkable, Pedestrian-Oriented Design Required of all Planned Developments within the HP District

Appropriately designed and oriented sidewalks and other pedestrian amenities are critical to promote walk-ability, pedestrian activity, and a sense of place within planned developments in the HP District. Sidewalks shall be designed to provide linkages and continuity between each use and building within a planned development as well as existing or future connections to abutting uses and/or the pedestrian network along the adjacent roadways.

2. Unified and Coordinated Building Architecture, Signage, and Lighting

Development and redevelopment of larger parcels in the HP District requiring Planned Development Review shall exhibit a high level of architectural planning and design. Planned Developments with multiple buildings and/or building lots shall establish unified and coordinated architectural themes that are exhibited throughout the development. Likewise, a coordinated signage and lighting plan shall be required of the Planned Development that establishes a theme and sense of place within the development.

3. Open Space and Natural Resource Conservation

Planned Developments shall be designed with respect for the natural resources and topography of the site. Significant wetlands, vernal pools and critical wildlife habitat areas shall be avoided, buffered and conserved. These significant natural resource areas that are greater than one (1) acre in size shall be conserved as common open space, while smaller significant natural resource areas may be incorporated into individual building lots or development sites. Open space lands may include a trail system for walking, hiking, biking or similar activities if such a trail system can be accommodated without adverse impact to the natural resources.

4. Required of Planned Developments Incorporating Live/Work Units, Residential

Dwellings within a Mixed-Use Building and/or Multi-family Dwellings [amended 03/06/19]
Live/work units, residential dwellings within a mixed-use building and multifamily dwellings are allowed as part of a planned development provided they meet the requirements of this section. In reviewing a planned development with residential uses, the Planning Board shall only permit residential uses that are designed in a manner and sited in locations that are appropriate and conducive to housing. Accordingly, the Planning Board shall find that residential uses within a planned development meet each of the following standards:

a. Given the HP District, the maximum amount of residential use(s) shall not exceed 40% of the non-residential use(s) at full build-out. Determination of the full build out use ratio is calculated as described below:
    i. For planned development projects that consist of a single lot or building, the floor area of all residential uses shall be a maximum of 40% of the total non-residential use floor area at the time of approval.
    ii. For planned development projects that consist of multiple lots or buildings the maximum amount of residential use is based on the amount of total non-residential use floor area that can be accommodated on the lots and/or buildings, as determined by the applicant and approved by the Planning Board. In determining the total non-residential floor area the applicant shall complete a conceptual build-out analysis for each lot and/or building, including all typical and necessary supporting infrastructure associated with the assumed building size; including, but not limited to, parking fields, stormwater facilities, landscaping, etc. The Planning Board shall verify the applicant's analysis, and may require modifications, prior to approval.
b. The proposed residential dwellings are sufficiently setback and/or buffered from major roadways as well as major internal circulation routes and large parking areas so as to ensure a safe, sanitary, and healthful environment for residents.
c. Any other non-residential uses within the planned development are compatible with residential uses with respect to noise, odors, intensity of use, health and safety, and aesthetics.
d. Residential uses are designed with outdoor amenities, open spaces or common spaces usable for the active or passive recreation. Such spaces can be a community green or common; plaza; court; square; pocket park or some variation of each.

5. Required of Planned Developments Incorporating Boarding Care Facilities for the Elderly and/or Nursing Homes
Boarding care facilities for the elderly and nursing homes are allowed within this district as planned developments provided they meet the requirements of this section the following standards:

a. Given the HP District is principally a business district, boarding care facilities for the elderly and nursing homes shall be adequately screened and buffered from adjacent properties and non-residential uses. This buffering shall provide a visual screen as well as minimize the impacts of noise or odors that may be generated by abutting uses. Buffering may include the preservation of natural vegetation, new landscaping, berms or other means to fulfill this standard.

b. The proposed facility shall be sufficiently setback and/or buffered from major roadways so as to ensure a safe, sanitary, and healthful environment for residents.
c. If other non-residential uses are proposed within the same planned development, these other uses must be compatible with a boarding care facility or nursing home with respect to noise, odors, intensity of use, health and safety, and aesthetics.

6. Required of Planned Developments Incorporating Restaurant with Drive-Through Service in a Mixed-Use Building [Adopted 02/17/2021]
Restaurants with drive-through service are allowed within this district as planned developments provided they meet the requirements of this section the following standards:

a. Restaurant with drive-through service use may not exceed 50% of the gross leasable area of the building.
b. Only one restaurant with drive through service is permitted in a Planned Development.
c. The entire building must be located within one thousand and two hundred fifty (1,250) feet of the point of intersection of the centerlines of Payne Rd and Haigis Parkway.
d. The parcel on which the use is located shall be a minimum of one acre.
e. A minimum of 300 feet drive aisle must be maintained between the required stacking lane for the drive-up ordering station and the intersection with the public roadway.

C. FLEXIBLE DESIGN STANDARDS FOR PLANNED DEVELOPMENTS

The following flexible design standards may be applied to a Planned Development project, subject to Planning Board review and approval.

1. On-street parking – On-street parking is a primary characteristic of compact and pedestrian friendly development. On-street parking can provide spaces directly in front of buildings that are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using a sidewalk and vehicular traffic; and can slow vehicular traffic in the street. A planned development may include new streets or driveways with parallel or angled on-street parking or "on-driveway" parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

2. Flexible lot coverage – The Planning Board shall determine the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces in a planned development if the planned development includes "green building" technology or approaches that compensate for the additional lot coverage proposed. Examples of "green building" approaches may include green roof systems, porous pavement, photovoltaic and other forms of distributed energy, and other techniques as reviewed and approved by the Planning Board. If the planned development does not include green building technology, then the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces shall be governed by subsection I.C.3. of this district

3. Flexible yard standards - The Planning Board shall determine the yard requirements for a planned development by applying the standards of subsection II.B In reviewing a planned development, the Planning Board may use the Yard Standards under subsection I.C.2. as a guideline, but is not required to apply them. This enables the Planning Board to allow buildings to

be sited closer to the street than conventional development to meet the standards of subsection II.C. and further the purpose of this district.

SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2 [09/05/2007][Amended 08/19/09; 05/20/2020; 07/19/2023; 01/08/2025]

A. PURPOSE

To provide areas for the location of small and moderate scale retail, business, service and community uses as well as a range of residential uses including multifamily dwellings, senior housing facilities and dwellings that are part of mixed use developments. These uses are intended to, and are likely to, serve primarily the local market and the convenience and needs of town residents. The goal of the district is to supplement the TVC District in encouraging the creation and persistence of Scarborough's town and village centers, with development at a scale and uses at an intensity, which are compatible with surrounding areas. This medium intensity mixed use district allows a range of land uses that are intended to compliment the core development pattern and uses in our town and village centers as well as serve as a transition to surrounding residential areas. The Town and Village Centers Transition District shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. PERMITTED USES [Amended 08/19/09; 07/19/2023]

RESIDENTIAL USES:

1. Single family dwellings, not permitted on lots fronting Route 1. Subject to the performance standards of Section IX.Z.
2. Two family dwellings, not permitted on lots fronting Route 1
3. Multifamily dwellings limited to no more than twelve (12) dwelling units per building (must be serve by public sewer) [Amended 08/19/09]
4. Multiplex dwellings (must be served by public sewer) [Amended 08/19/09]
5. Townhouses limited to no more than eight (8) dwelling units per building (must be served by public sewer) [Amended 08/19/09]
6. Senior housing (must be serve by public sewer) [Amended 08/19/09]
7. Accessory dwelling units subject to the performance standards of Section IX.J.

MIXED USES:

7. Dwelling units within a mixed use building limited to no more than eight (8) dwelling units per building if served by public sewer and two (2) units per building if served by on-site sewage disposal. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV(I) [Amended 08/19/09]
8. Live/Work Units

NON-RESIDENTIAL USES: [Amended 08/19/09]

The following non-residential uses are limited to 5,000 square feet of floor area per unit of occupancy.

9. Retail sales and services, excluding car washes, and outdoor sales and services
10. Business services and business offices
11. Professional offices
12. Financial, insurance and real estate offices
13. Personal services
14. Non-municipal government offices

15. Restaurants with no drive-through service [Amended 08/19/09]
16. Mobile Food Vendor Court (drive-through or drive-in service is prohibited), subject to the performance standards of Section IX.BB [Adopted 01/08/2025]
17. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions, which are not otherwise permitted uses in this section
18. Funeral homes
19. Group day care homes, Day care center facilities and Nursery schools
20. Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required
21. Health clubs
22. Hotels and motels (must be served by public sewer) [Amended 08/19/09]
23. Bed and breakfast establishments [Amended 08/19/09]

The following non-residential uses are not limited in square footage of floor area per unit of occupancy.

24. Municipal buildings and uses
25. Elementary and secondary schools
26. Place of worship
27. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P [Amended 05/05/10]
28. Libraries and museums

The following non-residential uses are limited to 5,000 square feet of floor area per unit of occupancy and are permitted only in planned developments. [Adopted 08/19/09]

29. Restaurants with drive-through service

C. SPECIAL EXCEPTIONS
1. Nursing homes
2. Boarding care facility for the elderly
3. Public utility facilities
4. Telecommunication facility
5. Adjunct Uses, Place of Worship
6. Home occupations. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under subsection (B)

D. SPACE AND BULK REGULATIONS

1. Minimum Lot Area and Dimensions in areas served by public sewer [Amended 08/18/09]

Housing & Use Type	**Lot Area (square ft.)**	**Lot Frontage (ft.)**	**Lot Width (ft.)**
Single-family dwellings	10,000 per dwelling unit	50	50
Two-family dwellings	10,000 per two dwelling units	50	50

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Multi-family dwellings, multiplex, townhouses	10,000	200 for lots abutting on Rte. 1 and Rte. 114;50 for lots not abutting Rte. 1 and Rte. 114	50
Senior housing	80,000	200 for lots abutting on Rte. 1 and Rte. 114; 50 for lots not abutting Rte. 1 and Rte. 114	100
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Rte. 1 and Rte. 114; 50 for lots not abutting Rte. 1 and Rte. 114	50

2. Minimum Lot Area and Dimensions in areas not served by public sewer

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Single-family dwellings	40,000 per dwelling unit	100	50
Two-family dwellings	40,000 per two dwelling units	100	50
Non-Residential, Mixed-use buildings, and Live/Work Units	40,000	200 for lots abutting on Rte. 1, Rte. 22 and Rte. 114; 100 for lots not abutting Rte. 1, Rte. 22 and Rte. 114	50

3. Yard Standards - The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under subsection (F) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building located closest to the abutting street(s). [Amended 11/07/07][Amended 05/20/2020]

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yards (ft.)
Rte. 1	35	90	15[1 & 2]

[1] When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yards.

[2] When the yard of a mixed use or non-residential use abuts a RF (Rural Residence and Farming) District the minimum yard shall be 50 ft. and the buffering requirement of Section VIII of this Ordinance shall apply. When the yard abuts all other ~~a~~ residential districts the minimum yard shall be 25 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yards (ft.)
Rte. 114, Rte. 207, and Rte. 22	25	60 (except that this maximum shall not apply to single-family and two-family dwellings)	15[1 & 2]
All other streets	10	25 (except that this maximum shall not apply to single-family and two-family dwellings)	15[1 & 2]

Municipal buildings and uses, elementary and secondary schools, and libraries and museums shall be exempt from the maximum front yard requirement above and the standards for front yards and off-street parking under subsection (F)(1) thru (5) of this zoning district. Though exempt from this requirement, any front yard parking shall be substantially screened from abutting streets by street trees, landscaping and other buffering amenities and shall be designed to reinforce a village streetscape.

4. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height
10,000 sq. ft.	35%	85%	45 feet [Amended 05/20/2020]

The maximum individual building footprint shall not apply to municipal buildings and uses, elementary and secondary schools, libraries and museums, and senior housing buildings.

E. RESIDENTIAL DENSITY REGULATIONS

Within this zoning district, the Residential Density Factors in Section VIIC(A) of the Zoning Ordinance shall apply to multi-family, multiplex, townhouse, live/work, senior housing, or dwelling units in a mixed-use building or on a mixed use lot.

1. Maximum Base Residential Density in areas served by public sewer – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.[Amended 08/19/09]

Single-family and two-family dwellings on lots which contain only residential uses	5 dwelling units per net residential acre

Multi-family, multiplex, townhouse dwellings, live/work units and dwelling units located in a mix use building or on a mixed use lot	5 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance
Senior housing	15 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance

2. Additional Residential Density Thru Development Transfer (not permitted in areas not served by public sewer) – A development may incorporate up to three (3) additional dwelling units per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance. [Amended 08/18/09]

3. Additional Residential Density Thru Affordable Housing (not permitted in areas not served by public sewer) – A development may incorporate up to one (1) additional dwelling unit per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing. [Amended 08/18/09]

4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee (not permitted in areas not served by public sewer) – In lieu of developing affordable housing to utlize additional residential density under subsection e.3., a development may incorporate up to one (1) additional dwelling unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing in-lieu fee provisions in accordance with Section VII.C. of this Ordinance. [Adopted 08/20/2014]

The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed three (3) dwelling units per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density. [Amended 08/20/2014]

4. Maximum Residential Density in areas not served by public sewer – [Adopted 08/19/09]

Single-family and two-family dwellings on lots which contain only residential uses	1 dwelling unit per net residential acre
Live/work units and dwelling units located in a mixed use building or on a mixed use lot	1 dwelling unit per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance

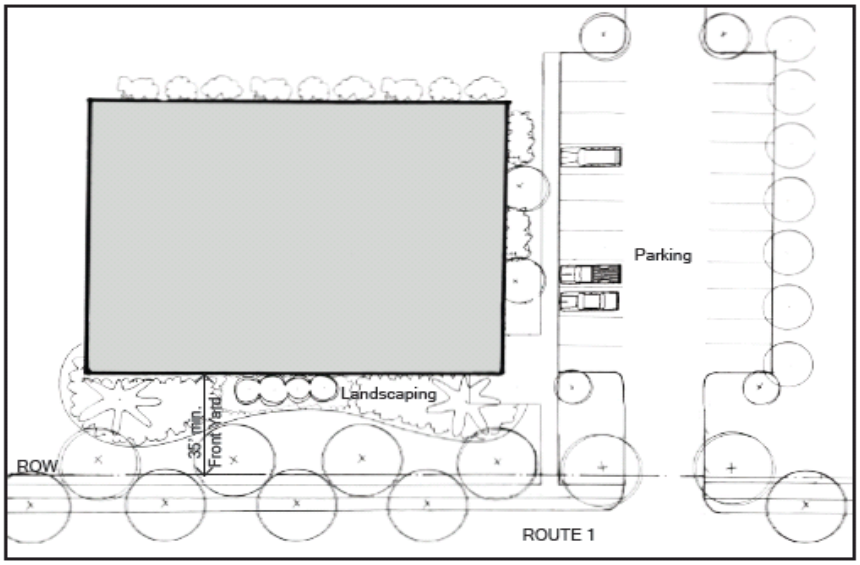
F. SITE LAYOUT AND OFF-STREET PARKING STANDARDS

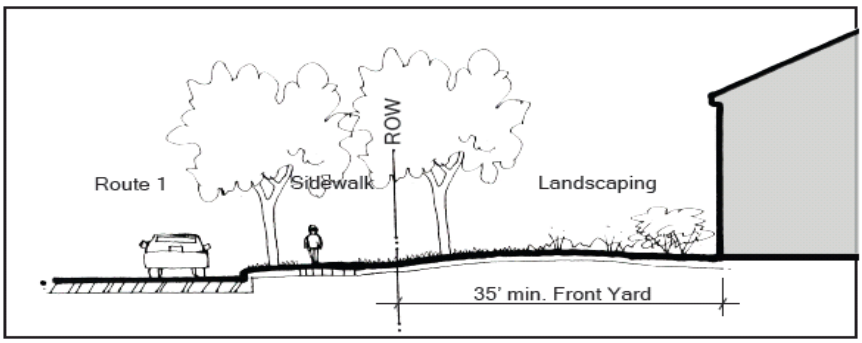
The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this district. In this district, buildings shall be located relatively close to the street to provide human scale development, village character, and auto and pedestrian utility. As exhibited by the varying minimum and maximum front setback standards under subsection (D)(2). Yard Standards, the proximity of the front line of a building(s) shall depend on the street that the lot fronts. The front line of buildings are required to be closer to local streets than they are to Route 1 and other major streets including Route 114, Route 22 and Route 207. [Amended 08/18/09]

The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection (D)(2) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s). As stated under subsection D.3. of this district, the maximum front yard requirement and the off-street parking location requirements shall not apply to single-family and two-family dwellings: [Amended 11/07/07; 08/19/09]

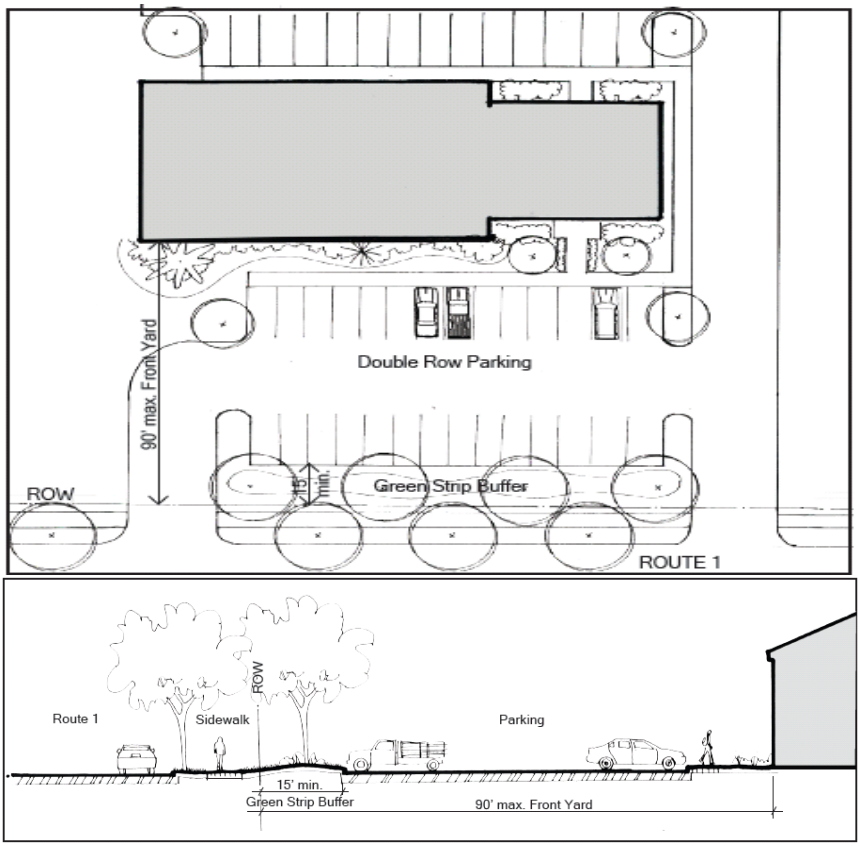
Standards for Front Yards and Off-Street Parking on Lots abutting Route 1:

1. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



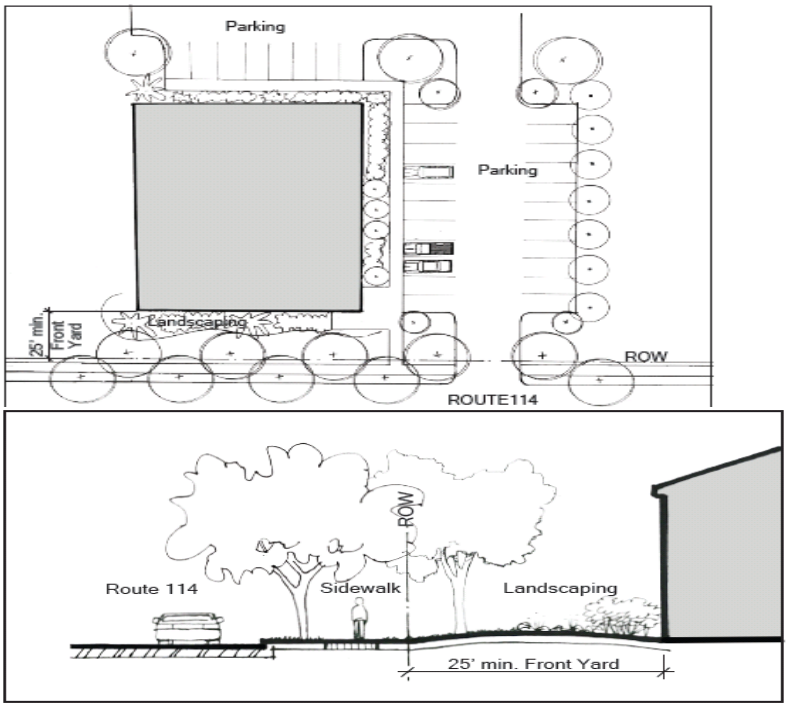


2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one double-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or "green strip buffer", from the front property line shall be at least 15 feet.

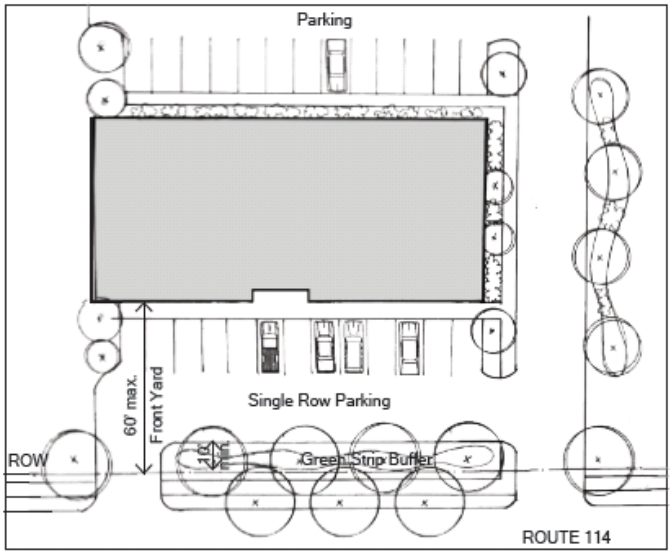


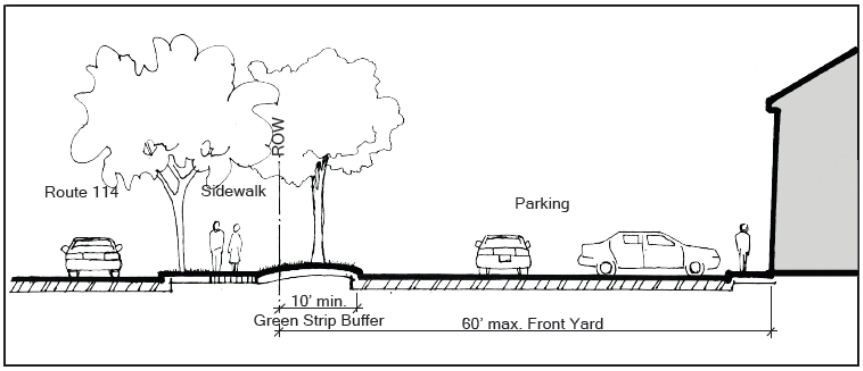
Standards for Front Yards and Off-Street Parking on Lots abutting Rte. 114, Rte. 22 and Rte. 207:[Amended 08/19/09]

3. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



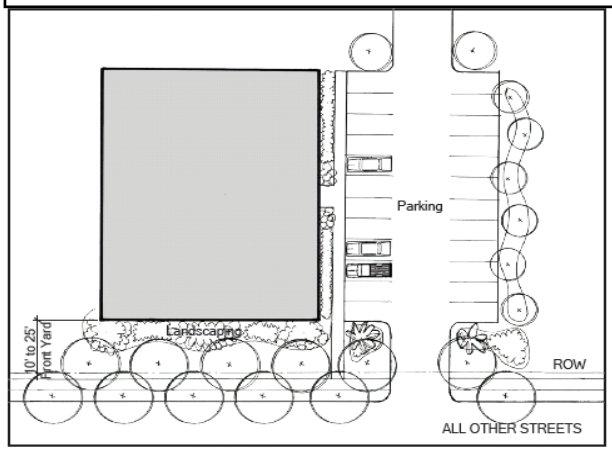
4. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one single-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or "green strip buffer," from the front property line shall be at least 10 feet.

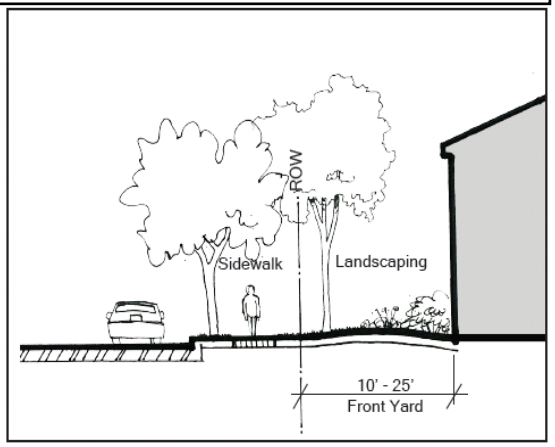




Standards for Front Yards and Off-Street Parking on Lots abutting all other streets:

5. No parking shall be allowed in the front yard of lots abutting all other streets. All off-street parking shall be located in the side and rear yards behind the front line of the principle building(s). The front yard shall be used for landscaping features, street trees, sidewalks, and pedestrian amenities. An access drive(s) to the site may cross the front yard but may not be located in the area between the front of the building and the front property line.





General Off-Street Parking Standards:

6. Off-street parking shall be provided in accordance with the requirements of Section XI if this Ordinance, except as those requirements are augmented or modified below.

7. Notwithstanding anything to the contrary in Section III or Section XI of this Ordinance, parking spaces existing in a front yard setback as of (the effective date of the amendments) shall be relocated to comply with the requirements of this section in the event of any change to the site which requires Planning Board approval under the Town of Scarborough Site Plan Review Ordinance. This requirement may be waived if the Planning Board determines that the relocation of some or all of the parking spaces is not feasible due to the shape, size or topography of the lot or the location of an existing principal building(s) on the lot.

8. In order to reduce the establishment of unnecessary parking spaces and impervious area, which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments. This allowance may also be exercised in developments that include a mix of residential and non-residential uses, such as second story dwelling units above non-residential uses or live-work units, subject to the same requirement that the parking facility will substantially meet the intent of the parking requirements. In the TVC-2 District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

G. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

H. PLANNED DEVELOPMENT [Adopted 08/19/09]

As per subsection B. 28., restaurants with drive through service are required to be reviewed under this subsection and in accordance with Section VIIE. Planned Development within the TVC2 District. The planned development review process is required for restaurants with drive through service to ensure that the use is compatible with surrounding uses, that the site can provide for safe and convenient vehicular access from the abutting roadways, that the roadways have adequate capacity to accommodate the additional traffic generated by the use, and that the use is designed in a manner that reinforces the purpose of the TVC2 District.

SECTION XVIII.D. TOWN AND VILLAGE ; 07/19/2023 FRINGE DISTRICT, TVC3

[adopted 11/07/2007][Amended 03/04/09; 04/06/2011; 05/20/2020; 07/19/2023; 01/08/2025]

A. PURPOSE

To provide areas for the location of small and moderate scale business, service and community uses, a range of residential uses including multifamily dwellings and dwellings that are part of mixed use developments as well as small scale retail to enable existing retail uses to conform and modernize. These uses are intended to, and are likely to, serve primarily the local market and the convenience and needs of town residents. The goal of the district is to supplement the TVC District in encouraging the creation and persistence of Scarborough's town and village centers, with development at a scale and uses at an intensity which are compatible with surrounding areas. This medium intensity mixed use district allows a range of land uses that are intended to compliment the core development pattern and uses in our town and village centers as well as serve as a transition between these centers and surroundings land uses. The Town and Village Centers Fringe District shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. PERMITTED USES

RESIDENTIAL USES:

1. Single family dwellings, not permitted on lots fronting Route 1. Subject to performance standards in Section IX.Z.
2. Two family dwellings, not permitted on lots fronting Route 1
3. Multifamily dwellings limited to no more than twelve (12) dwelling units per building (must be serviced by public sewer)[amended 04/06/2011]
4. Multiplex dwellings (must be serviced by public sewer)[amended 04/06/2011]
5. Townhouses limited to no more than eight (8) dwelling units per building (must be serviced by public sewer)[amended 04/06/2011]
6. Senior housing (must be serviced by public sewer)[amended 04/06/2011]
7. Accessory dwelling units subject to the performance standards of Section IX.J. (02/15/12)

MIXED USES:

7. Dwelling units within a mixed use building limited to no more than eight (8) dwelling units per building if served by public sewer and two (2) units per building if served by on-site sewage disposal. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV(I). [amended 04/06/2011]
8. Live/Work Units

NON-RESIDENTIAL USES:

The following non-residential uses are limited to 1,000 square feet of floor area per unit of occupancy.

9. Retail sales and services, excluding car washes, and outdoor sales and services

The following non-residential uses are limited to 5,000 square feet of floor area per unit of occupancy.

10. Business services and business offices
11. Professional offices
12. Financial, insurance and real estate offices

13. Personal services
14. Non-municipal government offices
15. Restaurants with no drive-through service
16. Mobile Food Vendor Court (drive-through or drive-in service is prohibited), subject to the performance standards of Section IX.BB [Adopted 01/08/2025]
17. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions, which are not otherwise permitted uses in this section
18. Funeral homes
19. Group day care homes, Day care center facilities and Nursery schools
20. Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required
21. Health clubs, except that health clubs are not permitted in the Black Point Neighborhood Center TVC3 District located adjacent to Black Point Road and Highland Avenue. [amended 04/06/2011]

The following non-residential uses are limited to 36,000 square feet of floor area per establishment.

22. Hotels, motels and bed and breakfast establishments except that hotels and motels are not permitted in the Black Point Neighborhood Center TVC3 District located adjacent to Black Point Road and Highland Avenue. [amended 04/06/2011]
The following non-residential uses are not limited in square footage of floor area per unit of occupancy.
23. Municipal buildings and uses
24. Elementary and secondary schools
25. Place of worship
26. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P [Amended 05/05/10]
27. Libraries and museums

C. SPECIAL EXCEPTIONS
1. Nursing homes.
2. Boarding care facility for the elderly.
3. Public utility facilities.
4. Telecommunication facility.
5. Adjunct Uses, Place of Worship.
6. Home occupations. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under subsection (B)

D. SPACE AND BULK REGULATIONS [Amended 03/04/09][Amended 04/06/2011]

1. Minimum Lot Area and Dimensions in areas service by public sewer

Housing & Use Type	**Lot Area (square ft.)**	**Lot Frontage (ft.)**	**Lot Width (ft.)**
Single-family dwellings	10,000 per dwelling unit	50	50
Two-family dwellings	10,000 per two dwelling units	50	50

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Multi-family dwellings, multiplex, townhouses	10,000	200 feet for lots abutting on Rte. 1, Rte. 114, Rte.207, Mussey Road or Spring Street; 50 feet for lots not abutting Rte. 1, Rte. 114, Rte.207, Mussey Road, or Spring Street	50
Senior housing	80,000	200 feet for lots abutting on Rte. 1, Rte. 114, Rte.207, Mussey Road, or Spring Street; 50 feet for lots not abutting Rte. 1, Rte. 114, Rte.207, Mussey Road, or Spring Street	100
Non-Residential and Mixed Uses	10,000	200 feet for lots abutting on Rte. 1, Rte. 114, Rte.207, Mussey Road, or Spring Street; 50 feet for lots not abutting Rte. 1, Rte. 114, Rte.207, Mussey Road, or Spring Street	50

b. **Minimum Lot Area and Dimensions in areas not served by public sewer**

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Single-family dwellings	40,000 per dwelling unit	100	50
Two-family Dwellings	40,000 per two dwelling units	100	50
Non-Residential, Mixed-use buildings, and Live/Work Units	40,000	200 feet for lots abutting on Rte. 1, Rte. 114, Rte.207, Mussey Road or Spring Street; 100 feet for lots not abutting Rte. 1, Rte. 114, Rte.207, Mussey Road, or Spring Street	50

2. Yard Standards - The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under subsection F. of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building located closest to the abutting street(s). [Amended 05/20/2020]

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yards (ft.)
Route 1, Route 114, or Mussey Road	25	70 (except that this maximum shall not apply to single-family and two-family dwellings.)	15 [1 & 2]
All other streets	10	25 (except that this maximum shall not apply to single-family and two-family dwellings.)	15 [1 & 2]

Municipal buildings and uses, elementary and secondary schools, and libraries and museums shall be exempt from the maximum front yard requirement above and the standards for front yards and off-street parking under subsection (F)(1) thru (3) of this zoning district. Though exempt from this requirement, any front yard parking shall be substantially screened from abutting streets by street trees, landscaping and other buffering amenities and shall be designed to reinforce a village streetscape.

3. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height
10,000 sq. ft.[3]	35%	85%	45 feet, except that in the Black Point Neighborhood Center TVC3 District located adjacent to Black Point Road and Highland Avenue building height shall be limited to 35 feet. [Amended 05/20/2020]

[1] *When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yards.*

[2] *When the yard abuts a residential district the minimum yard shall be 25 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.*

[3] The maximum individual building footprint for hotels, motels and bed and breakfast establishments shall be 12,000 sq. ft. The maximum individual building footprint shall not apply to municipal buildings and uses, elementary and secondary schools, and libraries and museums.

E. RESIDENTIAL DENSITY REGULATIONS

Within this zoning district the Residential Density Factors in Section VII C. A. of the Zoning Ordinance shall apply to multi-family, multiplex, townhouse, live/work, senior housing or dwelling units in a mixed-use building or on a mixed use lot.

1. Maximum Base Residential Density in areas served by public sewer – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.

Single-family and two-family dwellings on lots which contain only residential uses	5 dwelling units per net residential acre
Multi-family, multiplex, townhouse dwellings, live/work units, senior housing and dwelling units located in a mix use building or on a mixed use lot	5 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance

2. Additional Residential Density Thru Development Transfer (not permitted in areas not served by public sewer) – A development may incorporate up to three (3) additional dwelling units per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance.

3. Additional Residential Density Thru Affordable Housing (not permitted in areas not served by public sewer) – A development may incorporate up to one (1) additional dwelling unit per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

4. Additional Residential Density Thru an Affordable Housing In-Lie Fee (not permitted in areas not served by public sewer) – In lieu of developing affordable housing to utilize additional residential density under subsection E.3., a development may incorporate up to one (1) additional dwell unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing In-Lieu Fee provisions in accordance with Section VII.C. of this Ordinance. [Adopted 08/20/2014)

The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed three (3) dwelling units per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density. [Amended 08/20/2014]

5. Maximum Residential Density in areas not served by public sewer –

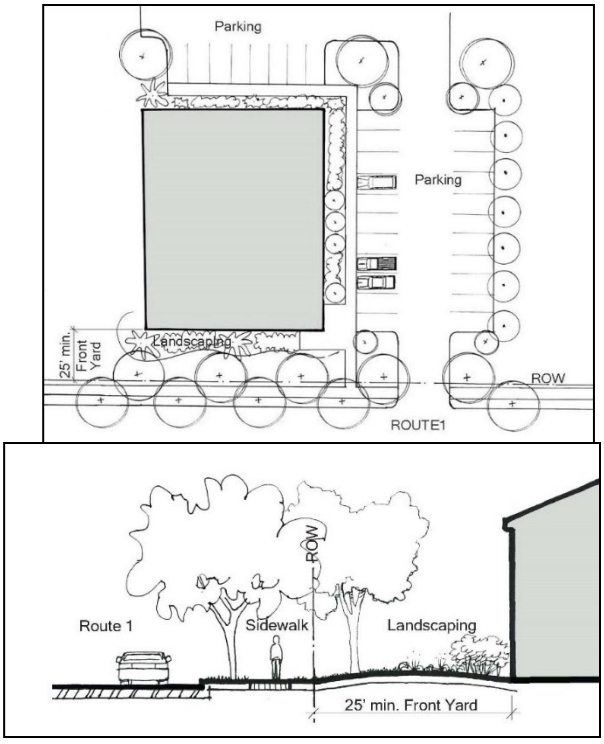
Single-family and two-family dwellings on lots which contain only residential uses.	1 dwelling unit per net residential acre.
Live/Work units and dwelling units located in a mixed use building or on a mixed use lot.	1 dwelling unit per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance.

F. SITE LAYOUT AND OFF-STREET PARKING STANDARDS [amended 03-04-09]
The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this district. In this district buildings shall be located relatively close to the street to provide human scale development, village character, and auto and pedestrian utility. As exhibited by the varying minimum and maximum front setback standards under subsection (D)(2) Yard Standards, the proximity of the front line of a building(s) shall depend on the street that the lot fronts. The front line of buildings are required to be closer to local streets than they are to Route 1 and other arterial and collector streets, including Route 114, Route 207 and Mussey Road.

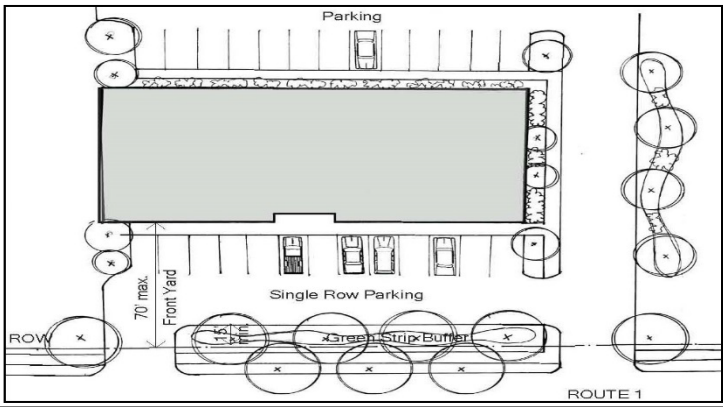
The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection (D)(2) of this district. In developments with more than one principal building, the requirements for the location of the off street parking shall only apply to the principal building or group of principal buildings, located closest to the abutting street(s):

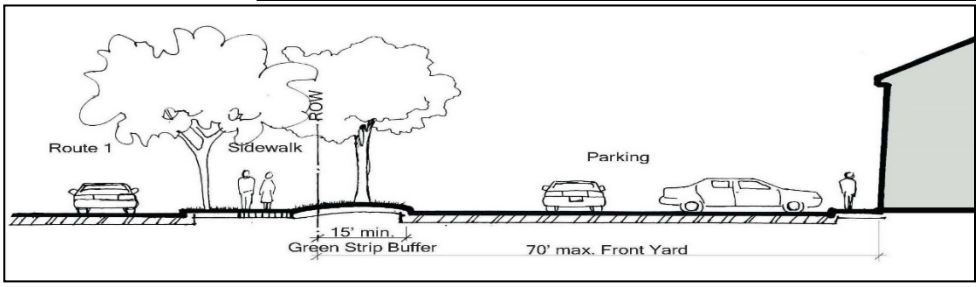
Standards for Front Yards and Off-Street Parking on Lots abutting Route 1 and other arterial and collector streets, including Route 114, Route 207 and Mussey Road:

1. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front



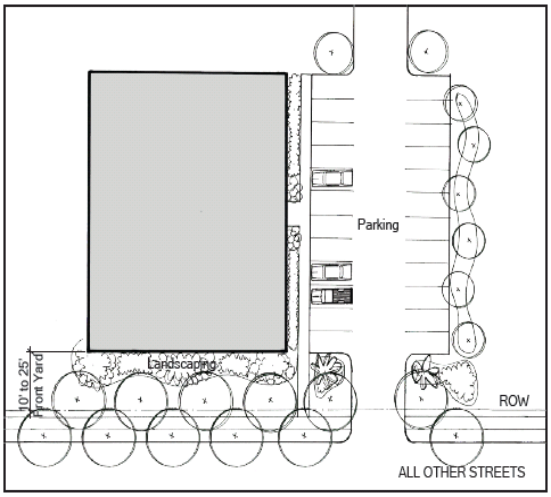
2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one single-row of parking and drive aisle may be

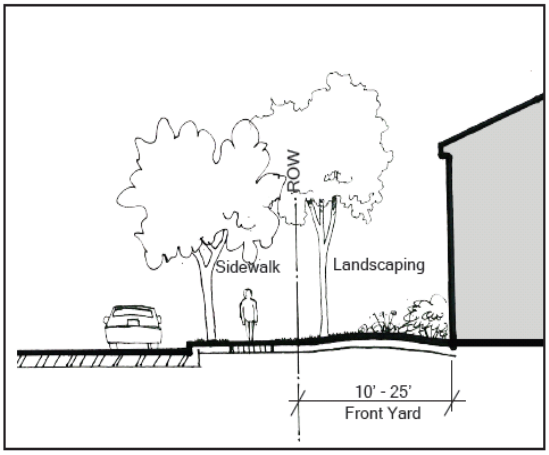




Lots abutting all other streets:

3. No parking shall be allowed in the front yard of lots abutting all other streets. All off-street parking shall be located in the side and rear yards behind the front line of the principle building(s). The front yard shall be used for landscaping





General Off-Street Parking Standards:

4. Off-street parking shall be provided in accordance with the requirements of Section XI if this Ordinance, except as those requirements are augmented or modified below.

5. Notwithstanding anything to the contrary in Section III or Section XI of this Ordinance, parking spaces existing in a front yard setback as of (the effective date of the amendments) shall be relocated to comply with the requirements of this section in the event of any change to the site which requires Planning Board approval under the Town of Scarborough Site Plan Review Ordinance. This requirement may be waived if the Planning Board determines that the relocation of some or all of the parking spaces is not feasible due to the shape, size or topography of the lot or the location of an existing principal building(s) on the lot.

6. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments. This allowance may also be exercised in developments that include a mix of residential and non-residential uses, such as 2nd story dwelling units above non-residential uses or live-work units, subject to the same requirement that the parking facility will substantially meet the intent of the parking requirements. In the TVC3 District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

G. SIGNS
Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XVIII.E. TOWN AND VILLAGE CENTERS 4 DISTRICT – TVC-4

[Amended 07/19/2023; 01/08/2025]

BASIC STANDARDS

A. PURPOSE

The purpose of this district is to provide for and encourage the evolution and maintenance of the Pine Point commercial area into a village center that exhibits village style development and offers a mix of retail, office, service, civic, marine, and residential uses in an environment conducive to both pedestrians and motorists. The buildings, parking areas, sidewalks, landscaping and other infrastructure within this district are to be a village scale and character. This village center area is intended to and will likely serve as a place for local shopping, business, dining, entertainment, and civic activities for residents of Scarborough and the immediate region as well as for visitors and tourists. Residential uses are also intended to be integral elements of this district enabling walkability, convenience, human activity, and vibrancy. The Town and Village Centers 4 District (TVC-4) shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS

The following non-residential uses are permitted in both conventional and planned developments, but in conventional developments are limited to 20,000 square feet of floor area per unit of occupancy:

1. Retail sales and services, excluding car washes, gasoline filling stations and outdoor sales and services except as otherwise provided.

2. Gasoline filling stations existing as of July 1, 2012.

3. Sales, services and storage of marine-related equipment and watercraft including outdoor sales, display and storage.

4. Food processing facilities.

5. Personal services.

6. Restaurants with no drive-through service.

7. Mobile Food Vendor Court (drive-through or drive-in service is prohibited), subject to the performance standards of Section IX.BB [Adopted 01/08/2025]

8. Professional offices.

9. Business services and business offices.

10. Financial, insurance and real estate offices.

11. Health clubs.

12. Non-municipal government offices.

13. Non-residential institutional uses, including educational, religious, philanthropic, fraternal or social institutions.

14. Place of worship.

15. Fully enclosed places of assembly, amusement, culture, and government, exclusive of video arcades, amusement parlors, video gambling, casino gambling and off-track betting.

16. High technology facilities.

17. Research, development and light industrial uses.

18. Group day care homes, day care facilities, and nursery schools.

19. Accessory uses (excluding outdoor storage) including accessory agricultural activities.

20. Fuel distribution facilities existing as of September 1, 2012.

21. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance.[Adopted 10/07/15]

The following non-residential uses are permitted in both conventional and planned developments without regard to floor area per unit of occupancy:

22. Municipal buildings and uses

The following non-residential uses are permitted only in planned developments:

23. Restaurants with drive-through service

The following residential uses are permitted in both conventional and planned developments:

24. Single family dwellings only on lots with their primary frontage on Holly Street, Bickford Street, or other streets that are accessed via Holly or Bickford Streets. Subject to the performance standards in Section IX.Z.

25. Two family dwellings only on lots with their primary frontage on Holly Street, Bickford Street, or other streets that are accessed via Holly or Bickford Streets

26. Townhouses limited to not more than eight (8) units per building

27. Accessory dwelling units subject to the performance standard in Section IX.J

The following residential uses are permitted only in planned developments:

28. Dwelling units and/or live/work units in a mixed use building only on a lot having its primary frontage on East Grand Avenue, Pine Point Road, or Snow's Canning Road

C. SPECIAL EXCEPTIONS

The following non-residential uses are permitted in both conventional and planned developments:

1. Adjunct Uses, Place of Worship.

2. Public utility facilities.

3. Home occupations. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under subsection (B).

4. Telecommunication facility.

D. SPACE AND BULK REGULATIONS

The following space and bulk regulations are applicable to CONVENTIONAL DEVELOPMENTS:

1. Minimum Lot Area and Dimensions

Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Non-Residential and Mixed Uses	10,000	200 for lots abutting Pine Point Road; 50 for lots not abutting Pine Point Road	50
Single family dwellings	10,000 per dwelling unit	100	100
Two family dwellings	10,000 per two dwelling units	100	100
All other Residential Uses	10,000	100	100

2. Standards – The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under Subsection (G) of this District. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s). The maximum front yard requirement shall not apply to single-family and two-family dwellings.

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yard (ft.)
Pine Point Road	35	90	15[1 & 2]
Snows Canning Road	25	60	15[1 & 2]
All other streets	10	30	15[1 & 2]

3. Maximum Building Footprint, Building Coverage, and lot Coverage and Maximum Building Height

[1]*When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101Life Safety Code and the Scarborough Fire Department approves the reduced yard.*

[2]*When a site abuts a residential district the minimum yard shall be 25th and the buffering requirements of Section VIII of this Ordinance shall apply.*

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height
20,000 sq. ft. for buildings containing non-residential and mixed uses otherwise none	50%	85%	40 feet

The following space and bulk regulations are applicable to PLANNED DEVELOPMENTS:

1. Minimum Lot Area and Dimensions

Housing & Use Type:	**Lot Area (square Ft.)**	**Lot Frontage (ft.)**	**Lot Width (ft.)**
Non-Residential and Mixed Uses	10,000	200 for lots abutting Pine Point Road; 50 for lots not abutting Pine Point Road	50
Single family dwellings	10,000 per dwelling unit	100	100
Two family dwellings	10,000 per two dwelling units	100	100
All other Residential Uses	10,000	100	100

2. Yard Standards – Determined by the Planning Board under Section I.C.2(d), flexible yard standards.

3. Maximum Building Footprint, Building Coverage and Lot Coverage, and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious services	Maximum building height
Determined by the Planning Board under Section I.C.2(b), flexible maximum building footprint	Determined by the Planning Board under Section I.C.2(b), flexible lot coverage	Determined by the Planning Board under Section I.C.2(b), flexible lot coverage	40 Feet

The following residential density regulations are applicable to CONVENTIONAL and PLANNED DEVELOPMENTS:

Within this zoning district the Residential Density Factors in Section VIIC(A) of this Ordinance shall apply to live/work or dwelling units in a mixed-use building.

1. Maximum Base Residential Density – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the transfer of development and/or affordable housing provisions.

Live/work units and dwelling units located in a mixed-use building	2 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance.
Single family, two family and townhouse dwellings	2 dwelling units per net residential acre

2. Additional Residential Density Thru Development Transfer – A development involving live/work units and/or dwelling units in a mixed-use building may incorporate up to six (6) additional dwelling units per acre of net lot area beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance. A development involving single family, two family and/or townhouse units may incorporate up to two (2) additional dwelling units per net residential acre beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance.

E. OFF-STREET PARKING STANDARDS APPLICABLE TO BOTH CONVENTIAL AND PLANNED DEVELOMENTS

1. Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except as otherwise permitted in this Subsection.

2. Notwithstanding anything to the contrary in Section III or Section XI of this Ordinance, parking spaces existing in a front yard as of (the effective date of the amendments) shall be relocated to comply with the requirements of this Section in the event of any change to the site layout which requires Planning Board approval under the Town of Scarborough Site Plan Review Ordinance. This requirement may be waived if the Planning Board determines that the relocation of some or all of the parking spaces is not feasible due to the shape, size or topography of the lot or the location of an existing principal building(s) on the lot.

F. SIGNS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENT

I. ADDITIONAL DEVELOPMENT STANDARDS

A. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage, scale and site layout of a proposed project, a development/redevelopment project within this District may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of Subsection I.D or may be reviewed as a Planned Development applying the qualitative standards and design criteria of Subsection I.C.

1. **Conventional Developments.** Projects that are proposing to develop or redevelop less than 5 acres of land may be reviewed as a conventional development or may be reviewed as a Planned Development, at the applicant's option.

2. **Planned Developments.** Projects that are proposing to develop or redevelop 5 acres or more of land shall be reviewed as Planned Developments in accordance with the standards of Subsection II.C. Development Standards for Planned Development of this District and Section VII(E) Planned Development of this Ordinance.

B. SITE LAYOUT AND OFF-STREET PARKING STANDARDS, APPLCABLE TO CONVENTIONAL DEVELOPMENTS

The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this District. In this District buildings shall be located relatively close to the street to provide human scale development, village character, and auto and pedestrian utility. New off-street parking shall be located to the side or rear of the principal building to the extent feasible. In a development with more than one principal building, the parking shall be located to the side or rear of the principal building closest to the abutting street where practical. If locating the parking to the side and/or rear of the principal building is not practical due to the shape, size or topography of the lot, or the location of existing improvements on the lot, any parking that is located between the building and an abutting street(s) shall be screened by landscaping, the preservation of natural vegetation and features, berms, hardscaping, or a combination thereof. The Planning Board shall use the Site Plan Review Ordinance and the Commercial Design Standards in reviewing and approving the location of the building and parking and the design of the corresponding landscaping and screening.

C. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENT

The Town and Village Centers Pine Point (TVC-4) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough's Commercial Districts and provide more specific requirements for development in the TVC-4 District.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VII(E) Planned Development.

1. PLANNED DEVELOPMENT STANDARDS

A planned development shall be designed in a manner that reinforces the TVC-4 District as a village center. Buildings, parking, pedestrian amenities, landscaping and streets shall be arranged in a village-style development pattern that exhibits a human scale and a mix of land uses.

a. Walkable, pedestrian-oriented design – Appropriately designed and oriented sidewalks, and other pedestrian amenities, are critical to promote walkability, pedestrian activity, and a sense of place within the TVC-4 District. Sidewalks shall be designed to provide linkages and continuity between each use within a planned development as well as connections to abutting uses and the greater pedestrian network.

Where pedestrian traffic and activity is likely to be intense, such as along storefronts or at a common area or gathering place, sidewalks shall be properly proportioned to accommodate this activity and to establish a pedestrian realm.

b. Streetscape – Streetscapes are critical to foster a village layout, form and scale, and offer an environment that comfortably accommodates both pedestrians and vehicles. The streetscape of roads and/or driveways within a planned development shall be designed with shade trees on both sides; road widths that are of a village scale; human scale street lighting; frequent intersections and crosswalks; and sidewalks as per standard 1.a. above. A streetscape may include on-street parking on one or both sides of internal streets or driveways as per provisions 2.a. below.

c. Compact, human scale development – Building height, massing and facades as well as building orientation to streets, driveways and parking are critical to establishing a compact, village-style development pattern that exhibits a human scale. In general, building(s) shall be designed to front onto the street(s) that provides primary access to the building(s). In developments with multiple buildings, the Planning Board may allow some buildings to be setback from the street at greater distances that would occur in a conventional development with parking between those buildings and the street provided: other buildings front on street(s) or driveways to maintain a village streetscape; there is continuity between buildings with no major expanse of parking; and the development meets or exceeds each of the other planned development standards. Buildings, regardless of size and height, shall exhibit a village-style and a human scale. All buildings, including larger buildings containing one or multiple tenants, shall meet or exceed the Commercial Design Standards.

2. DESIGN CRITERIA FOR PLANNED DEVELOPMENTS

The following design criteria shall apply to all planned developments. In addition, the Planning Board may require a planned development to be designed in conformance with any other standards of this section when the Board finds that application of such standards will achieve conformity with the Planned Development Standards.

a. On-street parking - On-street parking is a primary characteristic of traditional town and village centers. On-street parking can provide spaces directly in front of residential and non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffet between pedestrians using the sidewalk and vehicular traffic; and can slow vehicular traffic in the street. A planned development may include new streets or driveways with parallel or angled on-street parking or "on-driveway" parking. As part of the planned development review process the on0street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

b. Flexible maximum building footprint - The Planning Board shall determine the allowable building footprint for each building in a planned development by applying the standards of Section I.C.1., in particular subsection c. Compact, human scale development.

c. Flexible lot coverage – The Planning Board shall determine the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces in a planned development if the planned development includes "green building' technology or approaches that compensate for the additional lot coverage proposed. Examples of "green building" approaches may include green roof systems, porous pavement, photovoltaic and other forms of distributed energy, and other techniques as reviewed and approved by the Planning Board. If the planned development does not include green building technology, then the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces shall be governed by subsection I.D.3.

d. Flexible yard standards – The Planning Board shall determine the yard requirements and site layout and off –street parking configuration for a planned development by applying the standards of Section I.C.1., in particular subsection c. In reviewing a planned development, the Planning Board may use the Yard Standards under subsection I.D.2 and the Site Layout and Off-Street Parking Regulations under subsection II.B. that correspond with the yard standards as guidelines, but is not required to apply them, This enable the Planning Board to allow some buildings to be setback from the street in a configuration different from a conventional development, with parking between those buildings and the street, provided the specific provisions, under subsection II.C.1.c. are met, each of the other Planned Development Standards are met, and the planned development furthers the purpose of this district.

e. **Restaurants with drive through service –** The planned development review process is required for restaurants with drive through service to ensure that the use is compatible with surrounding uses, that the site can provide for safe and convenient access from abutting roadways, that the roadways have an adequate capacity to accommodate the additional traffic generated by the use and that the use is designed in a manner that reinforces the purpose of the TVC-4 District.

f. Live/work units and residential dwellings in mixed-use buildings – Live/work units and residential dwellings within a mixed-use building are allowed as part of a planned development provided they meet the requirements of this section. In reviewing a planned development with residential uses, the Planning Board shall only permit residential use that are designed in a manner and sited in locations that are appropriate and conducive to housing. Accordingly, the Planning Board shall find that residential uses within a planned development meet each of the following standards:

a. The proposed dwelling units are located, designed and buffered so as to ensure a safe, sanitary and healthful environment for the occupants of the units considering traffic on adjacent roadways, the other planned uses on the site and the location of non-residents parking and service areas.

b. The non-residential uses within the planned development are compatible with residential uses with respect to noise, odors, intensity of use, health and safety considerations and aesthetics.

The residential uses are located and designed to provide outdoor amenities, open space, and/or common places usable for private and communal active and passive recreation by the occupants of the units. This requirement can be met through the provision of private facilities usable only by the occupants or by facilities that are available to the entire planned development or the public.

SECTION XVIII.F. PINE POINT INDUSTRIAL OVERLAY DISTRICT – I-O

A. PURPOSE AND APPLICABITLITY

To allow the existing buildings in the industrial areas in Pine Point to continue to be used for manufacturing, processing, treatment, research, warehousing, storage and distribution, and other compatible uses until such time as the property is redeveloped and/or modified and used in accordance with the Town and Village Centers 4 (TVC-4) District requirements.

The provisions of the I-O District are applicable only to buildings existing as of the date of adoption of this provision that are occupied or intended to be occupied predominately by uses that are not allowed as Permitted Uses or Special Exceptions in the underlying TVC-4 Zoning District. The properties and buildings within the I-O District shall be governed by the provisions of the Industrial Overlay District rather than the provisions of the TVC-4 District until: 1) the property owner notifies the Town Planner in writing that he/she wants the property to be subject to the requirements of the underlying TVC-4 Zoning District, or 2) the property is redeveloped, or 3) the building(s) is expanded or modified in a manner that is not consistent with the limits set forth in subsection G. Once a property becomes subject to the provisions of the underlying TVC-4 zoning district, all rights to being governed by the I-O provision are lost and the property may not revert to industrial uses or other uses not allowed in the TVC-4 District.

B. PERMIITTED USES

The use of land and of buildings and structures in the I-O District existing as of the date of adoption of this section shall be governed by the provisions of this section. The use of new or redeveloped buildings or structures and related land shall be governed by the provisions of subsection G.

1. Manufacturing and assembly.
2. Research, development and light industrial.
3. High technology facility.
4. Food processing facility.
5. Warehousing and storage.
6. Distribution, wholesale trade and transportation, including trucking terminals.
7. Recycling facilities, exclusive of junkyards, automobile graveyards, or automobile recycling business.
8. Instructional and educational services.
9. Motor vehicle repair and service facilities including auto body shops, facilities for the repair of recreational vehicles, small engine repair facilities, and vehicle sales accessory to these uses.
10. Sale, rental and/or service of heavy equipment or specialized motor vehicles (other than passenger cars).
11. Sales, service and storage of marine-related equipment and watercraft including outdoor sales, display and storage.

12. Restaurants, with less than 2,000 square feet of floor area and with no drive-up, drive-through or drive=in service.
13. Retail sales or services if such sales or services are accessory to principal permitted uses.
14. Professional offices with a maximum of 2,500 square feet of floor area per use.
15. Business services and business offices.
16. Contractor's offices, shops and storage yards.
17. Municipal building and uses.
18. Non-municipal government buildings and uses.
19. Health clubs.
20. Personal Services.
21. Pet Care Facility.
22. Accessory uses including accessory agricultural activities subject to the performance standards of Section IX.P.
23. Cannabis Manufacturing Facility. [Adopted 01/08/2020; Amended 09/04/2024]
24. Cannabis Testing Facility. [Adopted 01/08/2020; Amended 09/04/2024]
25. Cannabis Cultivation Facility conducted with a fully enclosed structure. [Adopted 01/08/2020; Amended 09/04/2024]

C. SPECIAL EXCEPTIONS

The use of land and of buildings and structures in the I-O District existing as of the date of adoption of this section shall be governed by the provisions of this section. The use of new or redeveloped buildings or structures and related land shall be governed by the provisions of subsection G.

1, Public utility facilities including substations, pumping stations and sewage treatment facilities.

2. Family day care homes, group day care homes, day care center facilities, and nursery schools.

3. Telecommunication facility.

D. SPACE AND BULK REGULATIONS

The use, modification, or expansion of buildings or structures in the I-O District existing as of the date of adoption of this section shall be governed by the provisions of this section. The use of new or redeveloped buildings or structures shall be governed by the provisions of subsection G.

Minimum area of lot size	20,000 square feet
Maximum building coverage	50%
Minimum Front Yards,	50 feet

Minimum side and rear yard	25 feet or 50% of building height whichever is greater except that all side and rear yards abutting residential district s shall be a minimum of 50 feet or the height equivalent of the principal building or use, whichever is great, and shall comply with the buffering requirements of this Ordinance.
Maximum building height	60 feet – The Planning Board may approve an increase in the building height as part of the site plan review to not more than 100 feet if the applicant demonstrates that the increased height is an operational necessity for the use and the visual impact of the increased height will be minimized through the building design or buffering.

E. OFF –STREET PARKING

Off-Street parking shall be provided in accordance with the requirements of Section XI. of this Ordinance.

F. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII. of this Ordinance.

G. ADDITIONAL REQUIREMENTS FOR REDEVELOPMENT OR MODIFICATION/ ENLARGMENT OF AN EXISTING BUILDING.

a. Continued Use of Existing Buildings and Structures –Any building or structure existing as of the date of adoption of this subsection may be used for all of the uses allowed in the I-O District subject to the requirements of the District and all required approvals and permits.

b. Modification of Existing Buildings and Structures – Any building or structure existing as of the date of adoption of this subsection may be improved within the existing footprint and envelop of the building or structure subject to all required approval and permits. Any existing building or structure existing as of the date of adoption of this subsection may be modified or enlarged in accordance with requirements of the space and bulk standards of subsection D, and the applicable shoreland zoning provisions provided that such modification does not cumulatively increase the total floor area of the building or structure by more than five thousand (5,000) square feet or more than ten (10) percent of the floor area existing as of the date of adoption of this subsection, whichever is less.

Construction and Use of New, Redeveloped, or Expanded Buildings and Structures – Any new building or structure in the I-O District shall be developed and used in accordance with the requirements of the underlying Town and Village Centers 4 (TVC-4) District. Any existing building that is substantially redeveloped or that is expanded in excess of the limits of subsection b. shall also be developed and used in accordance with the TVC-4 requirements.

SECTION XIX. REGIONAL BUSINESS DISTRICT B-2.

SECTION XIX. REGIONAL BUSINESS DISTRICT B-2. [04/16/08][Amended 08/19/09; 01/08/2025]

A. PURPOSE

To purpose of this district is to provide for general retail sales, services, lodging, restaurants, civic uses and general business space within the Town of Scarborough that serves both Town residents as well as the greater region. As development and/or redevelopment occur within the district, the visual environment is enhanced, traffic flow and safety are improved, and provisions for pedestrians are made. [Amended 08/19/09]

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES [Adopted 08/19/09]

Depending on the acreage of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsection F. or may be reviewed as a Planned Development applying the qualitative standards and flexible design allowable under subsections J and K of this district and Section VIIE of this Ordinance.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than five (5) acres of land may be reviewed as a conventional development or as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing to:

a. Develop or redevelop five (5) acres or more of land, or
b. Establish a gasoline filling station

are required to be reviewed as Planned Developments in accordance with the applicable standards of subsection J Development Standards for Planned Developments of this district and Section VIIE Planned Development of this Ordinance.

C. PERMITTED USES

1. Retail business and service establishments including warehousing and wholesale distribution of products other than fuel stored in bulk, but exclusive of Mini-Warehouse/Storage Facilities junkyards, salvaging operations, outdoor sales and services, and gasoline stations. Personal services. [07/17/91] [08/17/94] [11/16/94] [12/03/97] [03/20/02][Amended 08/19/09]

2. Personal services [Amended 08/19/09]

3. Professional offices [Amended 08/19/09]

4. Financial insurance and real estate offices [Amended 08/19/09]

5. Business services and business offices [Amended 08/19/09]

6. Non-municipal government offices. [7/17/91] [Amended 08/19/09]

7. Fully enclosed places of assembly, amusement, culture and government, exclusive of video arcades, amusement parlors, video gambling, casino gambling and off-track betting. [4/03/02]

8. Clubs and lodging houses.

9. Passenger transportation facilities.

10. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P. [7/17/91] [Amended 05/05/10]

11. Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required. [6/01/94]

12. High Technology Facilities, subject to the performance standards of Section IX(M) of this Ordinance. [08/17/94] [04/16/08]

13. Hotels and Motels. [11/02/94]

14. Restaurants. [11/16/94]

15. Mobile Food Vendor Court (drive-through or drive-in service is prohibited), subject to the performance standards of Section IX.BB [Adopted 01/08/2025]

16. Golf Course. [12/21/94]

17. Municipal Buildings and Uses. [07/05/95]

18. Place of Worship. [05/05/99]

19. Funeral Homes. [02/21/07]

20. Health Clubs [Adopted 08/19/09]

21. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions [Adopted 08/19/09]

22. Libraries and museums [Adopted 08/19/09]

23. Elementary and secondary schools [Adopted 08/19/09]

24. Group Day Care Homes, Day Care Center Facilities and Nursery Schools [Adopted 08/19/09]

25. Telecommunication Facilities [Effective 11/15/14]

26. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance. [Adopted 10/07/15]

D. SPECIAL EXCEPTIONS [Amended 08/19/09]

1. Public utility buildings including substations, pumping stations and sewage treatment facilities.

2. Outdoor storage, exclusive of fuel stored in bulk. [03/20/02]

3. Outdoor sales provided that all merchandise displayed for sale is located at least 1,000 feet from any public way.

4. Adjunct Uses, Place of Worship. [05/05/99]

E. ADDITIONAL PERMITTED USES – PLANNED DEVELOPMENT [Adopted 08/19/09]

In addition to the permitted uses allowed in subsection C., the following uses are allowed only in planned developments:

NON-RESIDENTIAL USES:

1. Gasoline filing stations on lots abutting Payne Road between the South Portland line and Gorham Road (Route 114) whether a principal or accessory use, subject to the standards of subsection L. of this district and subject to the performance standards of Section IX.(X.) of this Ordinance**.**

F. SPACE AND BULK REGULATIONS [Amended 08/19/09]

Minimum lot area	10,000 sq. ft.
Minimum street frontage	200 feet
Minimum front yard	50 feet, except: on local Commercial Streets, which provide access to properties in the B-2 Districts and do not serve through traffic, the front yard setback may be a minimum of 35 feet when the site plans are approved by the Planning Board pursuant to the Performance and Design Standards of the Scarborough Site Plan Review Ordinance
Minimum side and rear yards	15 feet required except where the side and/or rear yard abuts a residential district in which case it/they shall be a minimum of 100 feet and the buffering requirements of this ordinance shall be met.
Maximum percent of lot coverage by buildings	50%
Maximum percent of lot coverage by buildings and other impervious surfaces	85%
Maximum Building Height	60 feet

2. The following space and bulk regulations are applicable to planned developments:

Minimum lot area	10,000 sq. ft.
Minimum street frontage	200 feet
Minimum front yard	Determined by the Planning Board under subsection K. of this district

Minimum side and rear yards	15 feet required except where the side and/or rear yard abuts a residential district in which case it/they shall be a minimum of 100 feet and the buffering requirements of this ordinance shall be met.
Maximum percent of lot coverage by buildings	Determined by the Planning Board under subsection K. of this district
Maximum percent of lot coverage by buildings and other impervious surfaces	Determined by the Planning Board under subsection K. of this district
Maximum Building Height	60 feet

G. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS [Adopted 08/19/09]

1. Streetscape Buffer Strip: A landscaped or naturally vegetated buffer strip shall be established and/or maintained along the front property line of a lot where it abuts a public street. The width of the buffer strip shall be a minimum of fifteen (15) feet when it is adjacent to Payne Road or Gorham Road (Route 114) and ten (10) feet when it is adjacent to any other public street. The buffer strip shall be designed to separate the development from the street and to enhance the visual environment of the street. The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to water bodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review. In addition, the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance and Design Standards for Scarborough's Commercial Districts. The buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip.

2. Buffering of Parking: Parking lots and associated access drives must be buffered from adjacent public streets in accordance with the Design Standards for Scarborough's Commercial Districts.

3. Commercial Design Standards: All development in the B2 District must be consistent with the Design Standards for Scarborough's Commercial Districts.

4. Pedestrian, Bicycle and Mass Transit Facilities: All developments shall provide for pedestrian movement to and within the parcel in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities such as bike racks and bike lanes if the scale of the project makes these reasonable. Provisions must also be incorporated into new developments for mass transit use, such as bus stops and bus stop shelters, if the scale of the project makes these reasonable.

H. OFF-STREET PARKING APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS [Amended 08/19/09]

1. Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

2. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses. In the B2 District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required. [Adopted 08/19/09]

I. SIGNS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENT [Amended 08/19/09]

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

J. PLANNED DEVELOPMENT STANDARDS [Adopted 08/19/09]
The following development standards shall apply to all planned developments. In addition to these requirements, planned developments may incorporate the flexible design standards under subsection K. of this district subject to Planning Board review and approval.

1. Walkable, Pedestrian-Oriented Design Required of all Planned Developments within the B2 District
Appropriately designed and oriented sidewalks and other pedestrian amenities are critical to promote walk-ability, pedestrian activity, and a sense of place within planned developments in the B2 District. Sidewalks shall be designed to provide linkages and continuity between each use and building within a planned development as well as connections to abutting uses and the pedestrian network along the adjacent roadways. Where pedestrian traffic and activity is likely to be intense, such as along storefronts, at the entrances to buildings, or at a common gathering place, sidewalks shall be properly proportioned to accommodate this activity and to establish a pedestrian realm.

2. Unified and Coordinated Building Architecture, Signage, and Lighting
Development and redevelopment of larger parcels in the B2 District requiring Planned Development Review shall exhibit a high level of architectural planning and design. Planned Developments with multiple buildings and/or building lots shall establish unified and coordinated architectural themes that are exhibited throughout the development. Likewise, a coordinated signage and lighting plan shall be required of the Planned Development that establishes a theme and sense of place within the development.

3. Open Space and Natural Resource Conservation
Planned Developments shall be designed with respect for the natural resources and topography of the site. Significant wetlands, vernal pools and critical wildlife habitat areas shall be avoided, buffered and conserved. These significant natural resource areas that are greater than one (1) acre

in size shall be conserved as common open space, while smaller significant natural resource areas may be incorporated into individual building lots or development sites. Open space lands may include a trail system for walking, hiking, biking or similar activities if such a trail system can be accommodated without adverse impact to the natural resources.

4. Access Management and Interconnections
Access to Planned Developments from Payne Road and Gorham Road (Route 114) shall be strictly controlled to limit the number of curbs cuts along these roadways. Planned Developments shall also make provisions for street and driveway interconnections to abutting properties to enable cross connections, the shared use of curb cuts and intersections and to reduce the overall number of curb cuts on Payne Road and Gorham Road.

5. Required of Planned Developments to Establish a Gasoline Filling Station
Gasoline filling stations are allowed only through the planned development review process. The planned development review process is required for gasoline filling stations to ensure that the use is compatible with surrounding uses and is designed in a manner that reinforces the purpose of the B2 district. In addition to planned development review, gasoline filling stations must comply with the performance standards of Section IX.(X.) of this Ordinance.

K. FLEXIBLE DESIGN STANDARDS FOR PLANNED DEVELOPMENTS [Adopted 08/19/09]

The following flexible design standards may be applied to a Planned Development project, subject to Planning Board review and approval.

1. On-street parking – On-street parking is a primary characteristic of compact and pedestrian friendly development. On-street parking can provide spaces directly in front of non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can slow vehicular traffic in the street. A planned development may include new streets or driveways with parallel or angled on-street parking or "on-driveway" parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

2. Flexible lot coverage – The Planning Board shall determine the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces in a planned development if the planned development includes "green building" technology or approaches that compensate for the additional lot coverage proposed. Examples of "green building" approaches may include green roof systems, porous pavement, photovoltaic and other forms of distributed energy, and other techniques as reviewed and approved by the Planning Board. If the planned development does not include green building technology, then the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces shall be governed by subsection F. of this district

d. Flexible yard standards - The Planning Board shall determine the yard requirements for a planned development by applying the standards of subsection K. In reviewing a planned development, the Planning Board may use the Yard Standards under subsection F. as a guideline, but is not required to apply them. This enables the Planning Board to allow buildings to be sited

closer to the street than conventional development to meet the standards of subsection K. and further the purpose of this district.

SECTION XIXA. GENERAL BUSINESS DISTRICT B3

SECTION XIXA. GENERAL BUSINESS DISTRICT B3 [04/16/2008][Amended 01/08/2025]

A. PURPOSE

The purpose of this district is to provide for and encourage general retail, office, service, lodging, and civic uses along portions of the Town's major roadways. This district is intended to accommodate a wide range of non-residential activities that primarily serve the residents of Scarborough and the immediate region. As development and/or redevelopment occur within the district, the visual environment is enhanced, traffic flow and safety are improved, and provisions for pedestrians are made. Master planning for larger parcels, uses, and buildings, as well as mixed-use developments enable flexibility, creativity, conservation and residential uses in this district fostering areas of increased activity, vibrancy and sustainability.

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage, scale, uses, and design of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsection F. or may be reviewed as a Planned Development applying the quantitative and qualitative standards and design criteria of subsections G and L of this district and Section VIIE of this Ordinance.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than five (5) acres of land may be reviewed as a conventional development or as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing to:

a. Develop or redevelop five (5) acres or more of land,
b. Incorporate residential uses within the development,
c. Exceed the space and bulk requirements for conventional development,
d. Establish a gasoline filing station, or
e. Any combination of a, b, c., and d.

are required to be reviewed as Planned Developments in accordance with the applicable standards of subsection L. Development Standards for Planned Developments of this district and Section VIIE Planned Development of this Ordinance.

C. PERMITTED USES – CONVENTIONAL AND PLANNED DEVELOPMENT

NON-RESIDENTIAL USES:

The following non-residential uses are permitted in both conventional and planned developments, subject to the limitation on the maximum floor area per unit of occupancy set forth in Sections F and G:

1. Retail sales and services, excluding outdoor sales and services
2. Personal services
3. Restaurants

4. Mobile Food Vendor Court (drive-through or drive-in service is prohibited), subject to the performance standards of Section IX.BB [Adopted 01/08/2025]
5. Professional offices
6. Business services and business offices
7. Financial, insurance and real estate offices
8. Health clubs
9. Fully enclosed places of assembly, amusement, culture and government, exclusive of video arcades, amusement parlors, video gambling, casino gambling and off-track betting
10. High technology facilities, subject to the performance standards of Section IX(M) of this Ordinance
11. Hotels and motels
12. Non-municipal government offices
13. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions
14. Clubs and lodging houses
15. Passenger transportation facilities
16. Funeral homes
17. Places of worship
18. Group day care homes, day care facilities, and nursery schools, subject to the standards of Section IV(I)(6) of this Ordinance, but special exception approval by the Zoning Board of Appeals is not required
19. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
20. Telecommunication Facilities [effective 11/15/14]

The following non-residential uses are permitted in both conventional and planned developments without regard to the limitation on floor area per unit of occupancy.

21. Municipal buildings and uses
22. Elementary and secondary schools
23. Libraries and museums
24. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance. [Adopted 10/07/15]

D. SPECIAL EXCEPTIONS
The following uses are allowed as special exceptions in both conventional and planned developments, subject to the limitation on the maximum floor area per unit of occupancy set forth in Sections F and G:

1. Adjunct Uses, Place of Worship
2. Public utility facilities
3. Outdoor storage, exclusive of fuel stored in bulk

E. ADDITIONAL PERMITTED USES – PLANNED DEVELOPMENT

SECTION XIXA. GENERAL BUSINESS DISTRICT B3

In addition to the permitted uses allowed in subsection C., the following uses are allowed only in planned developments:
NON-RESIDENTIAL USES [Amended 06/20/12]**:**

1. Gasoline filling stations whether as a principal or accessory use but only if they meet one of the following locational criteria and subject to the performance standards of Section IX.(X.) of this Ordinance:

a. Are located on a lot that abuts Route One, or
b. Are located so that all fueling facilities and vehicle service or storage areas are located within one thousand two hundred fifty (1250) feet of the point of intersection of the centerlines of the Payne Road and Haigis Parkway

MIXED USES:

2. Dwelling units in a mixed use building. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV(I) of this Ordinance
3. Live/Work Units

RESIDENTIAL USES [Amended 06/20/12]**:**

4. Boarding care facility for the elderly, subject to the performance standards of Section IX(C)
5. Nursing homes

F. SPACE AND BULK REGULATIONS – CONVENTIONAL DEVELOPMENT

The following space and bulk regulations are applicable to conventional developments:

Minimum lot area	10,000 sq. ft.
Minimum street frontage	200 feet on collector or arterial streets 100 feet on local streets
Minimum front yard	35 feet
Minimum side and rear yards	15 feet required except where the side and/or rear yard abuts a residential district in which case it/they shall be a minimum of 50 feet and the buffering requirements of this ordinance shall be met.
Maximum building coverage	50%
Maximum floor area per unit of occupancy for uses permitted in subsections C. and D. that are subject to a size limit .	30,000 square feet
Maximum individual building footprint for uses permitted in subsections C. and D. that are subject to a floor area limit	30,000 square feet
Maximum building height	45 feet

G. SPACE AND BULK REGULATIONS – PLANNED DEVELOPMENT
The following space and bulk regulations are applicable to Planned Developments:

Minimum lot area	10,000 sq. ft.
Minimum street frontage	200 feet on arterial or collector streets 100 feet on local streets
Minimum front yard	35 feet
Minimum side and rear yards	15 feet required except where the side and/or rear yard abuts a residential district in which case it/they shall be a minimum of 50 feet and the buffering requirements of this ordinance shall be met
Maximum building coverage	Determined by the Planning Board under subsection L.(2) flexible building coverage
Maximum floor area per unit of occupancy for uses permitted in subsection C. and D. that are subject to a size limit	80,000 square feet as determined by the Planning Board under subsection L(2) flexible floor area per unit of occupancy, except that for a building located within one thousand five hundred (1,500) feet of the point of intersection of the centerlines of the Payne Rd and Haigis Parkway the maximum floor area per unit of occupancy shall be 150,000 square feet as determined by the Planning Board under subsection L(2) flexible floor area per unit of occupancy (Amended 06/20/12)
Maximum individual building footprint for uses permitted in subsection C. and D. that are subject to a floor area limit	Determined by Planning Board under subsection L(2) flexible maximum individual building footprint
Maximum building height	45 feet

H. RESIDENTIAL DENSITY REGULATIONS FOR PLANNED DEVELOPMENTS
Within this zoning district the Residential Density Factors in Section VII C. A. of this Ordinance shall apply to dwelling units in a mixed-use building or live/work units that may be allowed in a planned development.

1. Maximum Base Residential Density – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.

Dwelling units located in a mixed use building or live/work units	3 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance

2. Additional Residential Density Thru Development Transfer – A development may incorporate up to three (3) additional dwelling units per acre of net lot area beyond the maximum

base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance.

3. Additional Residential Density Thru Affordable Housing – A development may incorporate up to one (1) additional dwelling unit per acre of net lot area beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee – In lieu of developing affordable housing to utilize additional residential density under subsection H.3., a development may incorporate up to one (1) additional dwelling unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing In-Lieu Fee provisions in accordance with Section VII.C. of this Ordinance. [Adopted 08/20/2014]

The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed three (3) dwelling units per acre of net lot area beyond the maximum base residential density. [Amended 08/20/2014]

I. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

1. Streetscape Buffer Strip: A landscaped or naturally vegetated buffer strip shall be established and/or maintained along the front property line of a lot where it abuts a public street. The width of the buffer strip shall be a minimum of fifteen (15) feet when it is adjacent to Route One or Payne Road and ten (10) feet when it is adjacent to any other public street. The buffer strip shall be designed to separate the development from the street and to enhance the visual environment of the street. The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to water bodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review. In addition, the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance and Design Standards for Scarborough's Commercial Districts. The buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip.

2. Buffering of Parking: Parking lots and associated access drives must be buffered from adjacent public streets in accordance with the Design Standards for Scarborough's Commercial Districts.

3. Commercial Design Standards: All development in the B3 District must be consistent with the Design Standards for Scarborough's Commercial Districts.

4. Pedestrian and Bicycle Facilities: All developments shall provide for pedestrian movement to and within the parcel in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities such as bike racks and bike lanes if the scale of the project makes these reasonable

.

J. OFF-STREET PARKING APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS
Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

K. SIGNS, APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS
Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

L. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS
The General Business District (B3) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district by providing provisions for larger buildings and uses, opportunities for mixed use development, the establishment of gasoline filling stations, and master planning for large development sites.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VIIE Additional Requirements for Planned Development.

PLANNED DEVELOPMENT STANDARDS

1. Walkable, Pedestrian-Oriented Design Required of all Planned Developments within the B3 District

Appropriately designed and oriented sidewalks and other pedestrian amenities are critical to promote walk-ability, pedestrian activity, and a sense of place within planned developments in the B3 District. Sidewalks shall be designed to provide linkages and continuity between each use and building within a planned development as well as connections to abutting uses and the pedestrian network along the adjacent roadways. Where pedestrian traffic and activity is likely to be intense, such as along storefronts, at the entrances to buildings, around residential dwellings, or at a common gathering place, sidewalks shall be properly proportioned to accommodate this activity and to establish a pedestrian realm.

2. Human Scale Design Required of all Planned Developments within the B3 District

Building height, massing and facades as well as building orientation to streets, driveways and parking areas are critical to establishing a human scale development. Within the B3 District, buildings should be designed to exhibit a strong relationship with the street(s) that they front. Parking should be dispersed on the site with no major expanse of parking between the building(s) and the street(s) or between individual buildings within the planned development. Coupled with this, planned developments incorporating multiple buildings shall be designed in a compact manner with buildings sited in close proximity to each other with pedestrian connections, design features and amenities that establish a pedestrian realm as required in subsection 1 above. This

design may include human scale lighting, appropriately sized sidewalks, shade trees, benches and the like. Human scale design elements may also include a common, green space, court, plaza or the like that is an integral part of the planned development and is located at or near the center of the planned development in a high activity location.

3. Required of Planned Developments Utilizing Green Building Design to Exceed Conventional Space and Bulk Regulations

The allowance to exceed the space and bulk requirements for conventional development through the use of green building techniques shall not take effect until the Town Council has enacted the development standards for green building design to be inserted in this subsection or to be added in new performance standard section of this Ordinance.

4. Required of Planned Developments Incorporating Residential Uses

Live/work units and residential dwellings within a mixed-use building are allowed as part of a planned development provided they meet the requirements of this section. In reviewing a planned development with residential uses, the Planning Board shall only permit residential uses that are designed in a manner and sited in locations that are appropriate and conducive to housing. Accordingly, the Planning Board shall find that residential uses within a planned development meet each of the following standards:

a. The proposed residential dwellings are sufficiently setback and/or buffered from major roadways as well as major internal circulation routes and large parking areas so as to ensure a safe, sanitary, and healthful environment for residents
b. The non-residential uses within the planned development are compatible with residential uses with respect to noise, odors, intensity of use, health and safety, and aesthetics.
c. Residential uses are designed with outdoor amenities, open spaces or common places usable for the active or passive recreation of residents. Such spaces can be a community green or common; plaza; court; square; pocket park or some variation of each. The Planning Board may determine that these spaces be designed and available to only the residents in the project or available for non-residential and public use depending on the layout, design and nature of the planned development.

5. Required of Planned Developments Incorporating Boarding Care Facilities for the Elderly or Nursing Homes [Amended 06/20/12]

Boarding care facilities for the elderly and nursing homes are allowed in this District provided they are reviewed through the planned development process and provided they meet the requirements of this section. In reviewing such a planned development, the Planning Board shall only permit these uses if they are designed in a manner and sited in locations that are appropriate and conducive to these types of facilities. Accordingly, the Planning Board shall find that these uses, and their design and location, meet each of the following standards:

a. Given the B3 District is principally a business district, boarding care facilities for the elderly and nursing homes shall be adequately screened and buffered from adjacent properties and non-residential uses. This buffering shall provide a visual screen as well as minimize the impacts of noise or odors that may be generated by abutting uses. Buffering may include the preservation of natural vegetation, new landscaping, berms or other means to fulfill this standard.

b. The proposed facility shall be sufficiently setback and/or buffered from major roadways so as to ensure a safe, sanitary, and healthful environment for residents.
c. If other non-residential uses are proposed within the same planned development, these other uses must be compatible with a boarding care facility or nursing home with respect to noise, odors, intensity of use, health and safety, and aesthetics.

6. Required of Planned Developments to Establish a Gasoline Filling Station
Gasoline filling stations are allowed only through the planned development review process. The planned development review process is required for gasoline filling stations to ensure that the use is compatible with surrounding uses and is designed in a manner that reinforces the purpose of the B3 district. In addition to planned development review, gasoline filling stations must comply with the performance standards of Section IX.(X.) of this Ordinance. [Amended 06/20/12]

SECTION XX. BUSINESS OFFICE-RESEARCH DISTRICT BOR. [Adopted 11/07/07] [Amended 12/01/10; 05/20/2020; 04/21/2021; 01/08/2025]

A. PURPOSE

To provide an area within the Town of Scarborough that allows for the growth and development of high quality office and research uses that result in the area becoming a major employment center. As development and/or redevelopment occurs within the district, the visual environment is enhanced, Route One is re-established as a "landscaped parkway", and the Nonesuch River and adjacent wetlands are buffered from the impacts of the development.

B. PERMITTED USES

1. Medical/diagnostic facilities

2. Places of worship

3. Municipal buildings and uses

4. Non-municipal government buildings and use

5. Instructional and educational services

6. Nonresidential institutional uses

7. Business and professional offices

8. Business services

9. Financial, insurance and real estate offices

10. Personal service establishments

11. Retail business and service establishments with less than 5,000 square feet of gross floor area, excluding car washes

12. Restaurants with no drive-through service

13. Mobile Food Vendor Court (drive-through or drive-in service is prohibited), subject to the performance standards of Section IX.BB [Adopted 01/08/2025]

14. Funeral homes

15. Health clubs

16. Motor vehicle (automobile) sales, repair and service facilities existing as of September 1, 2007

17. High technology facilities, subject to the performance standards of Section IX(M) of this ordinance [04/16/08]

18. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]

19. Hotels and motels existing as of September 1, 2007

20. Sale, rental and/or service of heavy equipment or specialized motor vehicles (other than passenger cars) existing as of September 1, 2007

21. Mini-Warehouse/Storage Facilities existing as of September 1, 2007

22. Contractor's offices, shops and storage yards existing as of September 1, 2007

23. Telecommunication Facilities

24. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance. [Adopted 10/07/15]

25. Marijuana Manufacturing Facility [Adopted 01/08/2020]

26. Marijuana Testing Facility. [Adopted 01/08/2020]

C. SPECIAL EXCEPTIONS [Amended 04/21/2021]
1. Group day care homes, day care center facilities, and nursery schools

2. Adjunct uses, place of worship

3. Public utility facilities

4. Residential and Long-Term Care Facilities for the Ill, Aged or Disabled.

D. SPACE AND BULK REGULATIONS

Minimum lot area	10,000 sq. ft.
Minimum street frontage:	200 feet
Minimum front yard	35 feet
Minimum side and rear yards	15 feet required except where the side and/or rear yard abuts a residential district in which case it/they shall be a minimum of 50 feet and the buffering requirements of this ordinance shall be met.
Maximum building coverage	50%
Maximum building height	75 feet, except that any portion of a building located within 150 feet of a residential district shall be limited to 35 feet in height. [Amended 05/20/2020]

E. ADDITIONAL DEVELOPMENT STANDARDS
1. Streetscape Buffer Strip: A landscaped or naturally vegetated buffer strip shall be established and/or maintained along the front property line of a lot where it abuts a public street. The width of

the buffer strip shall be a minimum of twenty-five (25) feet when it is adjacent to Route One and fifteen (15) feet when it is adjacent to any other public street. The buffer strip shall be designed to separate the development from the street and to enhance the visual environment of the street. The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to waterbodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review. In other areas, the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance and Design Standards for Scarborough's Commercial Districts. The buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip.

2. Buffering of Parking: Parking lots and associated access drives must be buffered from adjacent public streets in accordance with the Design Standards for Scarborough's Commercial Districts.

3. Commercial Design Standards: All development in the BO-R District must be consistent with the Design Standards for Scarborough's Commercial Districts.

4. Pedestrian and Bicycle Facilities: All developments shall provide for pedestrian movement to and within the parcel in accordance with Section IV(E) of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities such as bike racks and bike lanes if the scale of the project makes these reasonable.

F. OFF-STREET PARKING
Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

G. SIGNS
Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XXA. RUNNING HILL – GORHAM ROAD MIXED USE DISTRICT, RH
[Amended 07/16/14; 07/19/2023; 08/20/2025]

A. PURPOSE

To provide for and encourage the Running Hill Road and Gorham Road area west of the Maine Turnpike to develop as a high-quality, well-planned mixed use center. This district is intended to accommodate a mix of office, service, financial, research, small retail, recreational and residential uses in an environment conducive to both pedestrians and motorists. Development is intended to be compact and interconnected with common spaces, enabling walk-ability, human activity and vibrancy as well as convenient and orderly vehicular access and circulation. Master planning for larger parcels will enable flexibility, creativity, open spaces, and an overall character for the development. The Running Hill Road – Gorham Road Mixed Use District (RH) shall be considered a business district whenever this Ordinance distinguishes between types of districts.[Amended 07/16/14]

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage, scale and site layout of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsection E. or may be reviewed as a Planned Development applying the qualitative standards and design criteria of subsection I. of this district.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than 5 acres of land, except for newly created lots addressed in 3. New Lots, may be reviewed as a conventional development or may be reviewed as a Planned Development, at the applicant's option. [Amended 07/16/14]

2. Planned Developments. Projects that are proposing to develop or redevelop 5 acres or more of land, shall be reviewed as Planned Developments in accordance with the standards of subsection I. Qualitative Development Standards for Planned Development of this district and Section VIIE. Planned Development of this Ordinance.

3. New Lots. The division of a parcel that had five (5) acres or more of area as of July 16, 2008, into two or more lots as well as the subsequent development of the new lots regardless of their size shall be reviewed as a Planned Development in accordance with the standards of subsection I. Qualitative Development Standards for Planned Development of this district and Section VIIE. Planned Development of this Ordinance. [Amended 07/16/14]

C. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS

RESIDENTIAL USES

The following residential uses are permitted in both conventional and planned developments:

1. Multifamily dwellings
2. Multiplex dwellings
3. Townhouses

4. Senior housing
5. Single-family dwellings existing as of September 1, 2008, subject to the performance standards in Section IX.Z
6. Accessory dwelling units subject to the performance standards of Section IX.J.

MIXED USES

The following mixed uses are permitted in both conventional and planned developments:

7. Dwelling units in a mixed use building. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV.(I) of this Ordinance
8. Live/Work Units
9. Retail sales and services establishments with less than 5,000 square feet of retail floor area per unit of occupancy, excluding car washes, gasoline filling stations and outdoor sales and services, if located in a mixed use building that includes other non-residential uses and/or residential uses
10. Restaurants with no drive-through service if located in a mixed use building that includes other non-residential uses and/or residential uses
11. Personal services if located in a mixed use building that includes other non-residential uses and/or residential uses

NON-RESIDENTIAL USES:

12. Professional offices
13. Business services and business offices
14. Financial, insurance and real estate offices
15. High technology facilities, subject to the performance standards of Section IX(M) of this Ordinance
16. Health clubs
17. Non-municipal government offices
18. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions
19. Funeral homes
20. Place of worship
21. Group day care homes, day care facilities, and nursery schools
22. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
23. Family day care homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required
24. Municipal buildings and uses
25. Elementary and secondary schools
26. Libraries and museums
27. General purpose farming existing as of September 1, 2008 including the retail sales of farm produce located on the same premises and kennels, but exclusive of abattoirs and piggeries
28. Golf courses [Amended 07/16/14]
29. Nursing Homes [Amended 07/16/14]
30. Boarding care facilities for the elderly [Amended 07/16/14]
31. Telecommunication Facilities

32. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance. [Adopted 10/07/15]

D. SPECIAL EXCEPTIONS

The following uses are allowed as special exceptions in both conventional and planned developments:

1. Adjunct Uses, Place of Worship
2. Public utility facilities
3. Landscape Contractor subject to the performance standards of Section IX.(CC) [Adopted 08/20/2025]
4. Residential and long-term care facilities for the ill, aged or disabled with no more than 20,000 square feet of floor area per unit of occupancy. If the facility includes dwelling units, then the regulations governing the particular type of dwelling shall apply

E. SPACE AND BULK REGULATIONS

The following space and bulk regulations are applicable to conventional developments:

1. Minimum Lot Area and Dimensions

Housing & Use Type	**Lot Area (square ft.)**	**Lot Frontage (ft.)**	**Minimum Lot Width (ft.)**
Multi-family dwellings; multiplex; townhouses; senior housing	10,000 with public sewer 40,000 with on-site sewage disposal	200 for lots abutting Running Hill Road or Gorham Road; 50 for lots abutting any other street	50
Non-Residential and Mixed Uses	10,000 with public sewer 40,000 with on-sire sewage disposal	200 for lots abutting Running Hill Road or Gorham Road; 50 for lots abutting any other street	50
Single-family dwellings existing as of September 1, 2008	The space and bulk regulations of the RF District shall apply		

2. Yard Standards - The following minimum front yard standards apply in conjunction with subsection G. of this district.

Abutting Streets	**Minimum Front Yard (ft.)**	**Side and Rear Yard (ft.)**
Running Hill Road and Gorham Road	30 or the height of the building fronting Running Hill Road or Gorham Road, whichever is greater	15 [1 & 2]
All other streets	10	15 [1 & 2]
Single-family	The space and bulk	

dwellings existing as of September 1, 2008	regulations of the RF District shall apply	

[1]*When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.*

[2] *When a site abuts a residential district the minimum yard for a use other than a single-family dwelling shall be 100ft. and the buffering requirements of Section VIII of this Ordinance shall apply.*

3. Maximum Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
50%	85%	A building must be either a minimum of 2 stories or 20 feet in height over at least 50% of the building footprint	45 feet

For single-family dwellings existing as of September 1, 2008, the space and bulk regulations of Section XIV., the RF District shall apply.

The following space and bulk regulations are applicable to Planned Developments:

4. Minimum Lot Area and Dimensions

Housing & Use Type	**Lot Area (square ft.)**	**Lot Frontage (ft.)**	**Lot Width (ft.)**
Multi-family dwellings; multiplex; townhouses; senior housing	10,000	200 for lots abutting Running Hill Road or Gorham Road; for lots abutting any other street the Planning Board shall determine the lot frontage under subsection I. of this district	50
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Running Hill Road or Gorham Road; for lots abutting any other street the Planning Board shall determine the lot frontage under	50

		subsection I. of this district	

5. Yard Standards and Building Distance Requirements – The following minimum front yard standards apply in conjunction with subsection I. of this district.

Abutting Streets	**Minimum Front Yard (ft.)**	**Side and Rear Yard (ft.)**
Running Hill Road and Gorham Road – Buildings	30 or the height of the building fronting Running Hill Road or Gorham Road, whichever is greater	15 [1 & 2]
All other streets	10	15 [1 & 2]

6. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
Determined by the Planning Board under subsection I. of this district	85%	Determined by the Planning Board under subsection I. of this district	60 feet if the building is approved by the Planning Board under subsection I. of this district

F. RESIDENTIAL DENSITY REGULATIONS, APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Within this zoning district the Residential Density Factors in Section VII C. A. of this Ordinance shall apply to multi-family, multiplex, townhouse, live/work, senior housing or dwelling units in a mixed-use building

1. Maximum Base Residential Density – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions

Multi-family, multiplex, townhouse dwellings, live/work units, senior housing and dwelling units located in a mix use building	5 dwelling units per acre of net lot area if served by public sewer or 1 dwelling unit per acre if serviced by on-site sewage disposal. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance

2. Additional Residential Density Thru Development Transfer – A development that is served by the public sewer system may incorporate up to ten (10) additional dwelling units per acre of net

lot area beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID. of this Ordinance.

3. Additional Residential Density Thru Affordable Housing – A development that is served by the public sewer system may incorporate up to ten (10) additional dwelling unit per acre of net lot area beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee – In lieu of developing affordable housing to utilize additional residential density under subsection F.3., a development that is served by the public sewer system may incorporate up to ten (10) additional dwelling unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing In-Lieu Fee provisions in accordance with Section VII.C. of this Ordinance.

The Planning Board may allow a development that is served by the public sewer system to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed ten (10) dwelling units per acre of net lot area beyond the maximum base residential density. If subsections F.2., F.3., and/or F.4. are used, the additional dwelling units permitted under F.3. and/or F.4. shall not also be subject to the development transfer provisions under F.2.

G. BUILDING ORIENTATION, STREETSCAPE, ACCESS MANAGEMENT AND OFF-STREET PARKING STANDARDS, APPLICABLE TO CONVENTIONAL DEVELOPMENTS

The design of a development site, and more specifically the orientation of buildings to Running Hill Road and Gorham Road, the streetscape of Running Hill and Gorham Roads, access management as well as the location, layout and form of site parking, are fundamental to realizing the purpose of this district.

1. Streetscape – A landscaped buffer strip shall be established along the front property line of a lot where it abuts Running Hill Road or Gorham Road. The width of the landscaped buffer strip shall be a minimum of thirty (30) feet. Where trees exist within the buffer strip the Planning Board may require these trees to be saved to preserve this corridor. Where significant trees do not exist the buffer strip shall be landscaped in accordance with the Site Plan Review Ordinance, the Design Standards for Scarborough's Commercial Districts and any subsequent Running Hill Road or Gorham Road corridor landscaping plan. In addition to landscaping, the buffer strip may contain sidewalks or pedestrian trails, freestanding signage, and an access drive to the site.

2. Building Orientation – The location of buildings and their orientation to Running Hill and Gorham Roads is critical to establishing attractive gateways into the Town of Scarborough. Buildings fronting Running Hill and Gorham Roads shall be located relatively close to the street to exhibit a strong relationship with the street and shall be designed in coordination with the required landscape buffer strip. The height of buildings shall be proportional to their distance (or setback) from the Running Hill or Gorham Road right-of-way. The front line of buildings two-stories or thirty (30) feet in height may be sited as close as thirty (30) feet from the right-of-way, while taller buildings are required to be setback from these roads in proportion to their height in order to correspond with the landscaped buffer strip and not shadow or visually dominant the road corridors.

3. Access Management and Interconnections – Access management is critical to preserving mobility in the Running Hill and Gorham Road corridor as well as to establish attractive gateways into the Town of Scarborough. Where feasible, adjacent sites shall be interconnected through the use of internal driveways or streets and shall establish one common curb cut onto the road in order to share an access point and reduce the number of curb cuts along the corridor. Site access shall also be designed in accordance with the Site Plan Review Ordinance.

4. Off-Street Parking Location –No off-street parking shall be located within the front yard of sites fronting Running Hill or Gorham Roads. The front yard shall be used to meet the streetscape requirements of subsection G.1. above and may also include sidewalks, other pedestrian amenities, street lighting, site access drives, and additional landscaping or buffering that exceeds the minimum requirements of subsection G.1. above.

Therefore on sites fronting Running Hill or Gorham Roads off-street parking shall be located to the side or rear of the building or may be incorporated into the building design as structured parking. Further, where parking lots and associated access drives are visible from these roads they shall be buffered in accordance with the Design Standards for Scarborough's Commercial Districts.

H. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

1. Signs - Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

2. Commercial Design Standards – All development within the Running Hill – Gorham Road Mixed Use District must be consistent with the Design Standards for Scarborough's Commercial Districts.

3. Pedestrian, Bicycle and Mass Transit Facilities – All developments shall provide for pedestrian movement to and within the site in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities, such as bike racks and bike lanes, if the scale of the project makes these reasonable. Provisions must also be incorporated into new developments for mass transit use, such as bus stops and bus stop shelters, if the scale of the project makes these reasonable.

4. Public Sewer Service – All new development or redevelopment within a planned development shall be served by public sewer. All new, expanded, or redeveloped buildings that are part of a conventional development shall be service by the public sewer system unless all of the following are met in which case sewage disposal may be provided by an on-site sewage disposal system meeting the requirements of the Maine State Plumbing Code and the Town of Scarborough Plumbing Ordinance.

a. The design sewage flow of the use will be less than six hundred (600) gallons per day based on the Maine State Plumbing Code, and;
b. Only domestic type sewage will flow to the on-site sewage disposal system. No process water shall go to the system, and;
c. The project will be designed to be connected to a public sewer system in the adjacent street if such a sewer is ever extended.

Existing single-family dwellings served by on-site wastewater systems shall not be subject to this requirement until the single-family dwelling is changed, converted or redeveloped to a new use.

5. General Off-Street Parking Standards -

a. Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except as otherwise permitted in this subsection.

b. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses. In the RH District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

I. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS

The Running Hill – Gorham Road Mixed Use District (RH) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough's Commercial Districts and provide more specific requirements for development in the RH District.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VIIE. Planned Development.

1. PLANNED DEVELOPMENT STANDARDS

A planned development shall be designed in a manner that reinforces the RH District as a mixed use center. Buildings, parking, pedestrian amenities, landscaping, streets and common space shall be arranged in a compact, interconnected development pattern that exhibits a human scale and a mix of land uses.

a. Running Hill and Gorham Road Streetscapes – The streetscapes along Running Hill Road and Gorham Road are critical to establishing attractive gateways into Scarborough with shade trees and a generous landscaped buffer strip along the road right-of-way. This landscape buffer shall meet or exceed the thirty (30') foot width required of conventional developments. The planned development process will be used to identify areas along these roads where existing trees and vegetation shall be preserved as well as areas in which new shade trees and landscaping shall be planted to enhance this corridor. Buildings may be visible from these roads but shall be setback from and separated from the street by this landscaped buffer. In addition to landscaping, sidewalks, pedestrian trails, freestanding signage and access drives are permitted within the buffer strip, but parking is not.

b. Internal Street Streetscape - The streetscape along internal streets and driveways within a planned development shall differ from the streetscape along Running Hill Road and shall exhibit a more compact layout, form and scale. The streetscape along internal streets and driveways within a planned development shall be designed with shade trees on both sides; road widths that are of a

more compact, urban scale; human scale street lighting; frequent intersections and crosswalks; and sidewalks as per standard I(1)c. below. The streetscape of internal streets may also include on-street parking on one or both sides of the streets or driveways.

c. Walk-able, pedestrian-oriented design – Appropriately designed and oriented sidewalks, and other pedestrian amenities, are critical to promote walk-ability, pedestrian activity, and a sense of place within the RH District. Sidewalks or pedestrian trails shall be designed along both Running Hill and Gorham Roads and internal streets and shall be a primary component of each streetscape. Pedestrian amenities along Running Hill and Gorham Roads should generally be setback from the street leaving a larger landscaped buffer strip along the roadway. Sidewalks along internal streets and driveways should be closer to the roadway creating a more compact environment as per standard (I)1.b. above. In general, sidewalks or pedestrian trails shall be designed to provide linkages and continuity between each use within a planned development as well as connections to abutting uses to establish a greater pedestrian network.

d. Building Orientation for Buildings 45 feet or less in Height –Buildings shall be a key component of the streetscape and exhibit a strong relationship to the street and associated sidewalks and landscaping. For buildings 45 feet in height or less, off-street parking shall not be permitted between the front line of the building and the street that the building fronts. Off-street parking shall be located to the side or rear of the building(s) or as a component of the building in the case of structured or covered parking. In planned developments with multiple buildings on one lot, the Planning Board may allow some buildings to be setback from the street(s) or driveways with parking between those buildings and the street provided: other buildings front the street(s) or driveways and maintain a more compact, human scale streetscape; there is continuity between buildings with no major expanse of parking; and the development meets or exceeds each of the other planned development standards.

e. Building Orientation and Visual Impact for Buildings Greater than 45 feet in Height – The Planned Development provisions enable the Planning Board to review and approve of buildings greater than forty-five (45) feet in height, up to a maximum of sixty (60) feet in height, if the Planning Board finds that the building meets all of the following standards:

1) The apparent height of the proposed building when viewed from the Running Hill Road or Gorham Road is no greater than the apparent height of a similar building with a height of forty-five (45) feet setback forty-five (45) feet from the road considering the topography of the site and the actual height of the proposed building;
2) The proposed building will not shadow or visually dominate the road corridor;
3) The proposed building will not significantly alter the appearance of the natural tree line of Running Hill when viewed from the surrounding area including from South Portland; and
4) Any portion of the building that is taller than forty-five (45) feet will be located at least five hundred (500) feet from an RF District or other residential zone unless the Planning Board determines that there is adequate visual buffering between the building and the RF District or other residential zone to assure that the proposed building does not have an adverse visual impact on properties in the RF District or other residential zones.

When determining the visual appropriateness of a building taller than forty-five (45) feet, the Planning Board may require graphic representations of how a building will look upon completion when viewed from various perspectives along the road corridor, from an RF District or other residential zones within five hundred (500) feet, and from surrounding viewing points in

Scarborough and South Portland from which the proposed building may be visible. When buildings are setback more than one hundred (100) feet from Running Hill or Gorham Roads, the Planning Board may permit off-street parking to be located between the building and the road provided it is screened in accordance with the streetscape requirements of subsection I.1.a above.

f. Place-making – A planned development shall include at least one "place" and potentially a number of "places", depending on the size and scale of the development. A "place" shall be a common space(s) where people can gather, meet and cross paths. A "place" can be a community green or common; plaza; court; square or some variation of each. Regardless of the style or size, "places" are required to be designed as an integral part of a planned development in locations where people will naturally gather, meet and cross paths. "Places" shall be located at the core of the pedestrian realm of a planned development; shall be an element of the development streetscape and overall development pattern; and shall be available and desirable for public use. Areas for outdoor seating, court yards or green space associated with a particular use or establishment are desirable amenities, but should not be counted as a "place" unless they are available for public use.

g. Access management and interconnections – Access to planned developments from Running Hill Road and/or Gorham Road shall be strictly controlled to limit the number of curb cuts on these roads. Planned developments shall also make provisions for street and driveway interconnections to abutting properties to enable cross connections, to share the use of curb cuts and intersections, and to reduce the overall number of curb cuts on these roads.

2. DESIGN CRITERIA FOR PLANNED DEVELOPMENTS

The following design criteria shall apply to all planned developments. In addition, the Planning Board may require a planned development to be designed in conformance with any other standards of this Section XXA. when the Board finds that application of such standards will achieve conformity with the Planned Development Standards of section XXA.(I)(1).

a. On-street Parking On-street parking can provide spaces directly in front of residential and non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can act as a traffic calming measure. As indicated in subsection (I)(1) above, a planned development may include new internal streets or driveways with parallel or angled on-street parking or "on-driveway" parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

b. Flexible maximum building footprint – The Planning Board shall determine the allowable building footprint for each building in a planned development by applying the standards of subsection (I)(1), in particular subsection I.1.d. Compact design.

c. Flexible yard standards - The Planning Board shall determine the yard requirements and site layout and off-street parking configuration for a planned development by applying the standards of subsections (I) (1). In reviewing a planned development, the Planning Board may use the Yard Standards under subsection E.2. and the Site Layout and Off-Street Parking Regulations under subsection G. that correspond with the yard standards as guidelines, but is not required to apply them. This enables the Planning Board to allow buildings to be sited closer to internal streets than

conventional development or require buildings to be set further back from Running Hill Road or internal streets to meet the standards of subsection (I) and further the purpose of this district.

SECTION XX.B. RUNNING HILL – GORHAM ROAD TRANSITION DISTRICT RH2

[Amended 07/16/2014][Amended 05/20/2020; 07/19/2023]

A. PURPOSE

To provide an area for the location of small retail, business, service and community uses as well as a range of residential uses including multifamily dwellings and dwellings that are part of mixed use developments. The goal of the district is to supplement the RH District in fostering a high-quality, mixed use center, with development at a scale and uses at an intensity which are compatible with the surrounding area. This medium intensity mixed use district allows a range of land uses that are intended to compliment the core development pattern and uses in the RH District as well as serve as a transition to the surrounding rural residential areas. The Running Hill-Gorham Road Transition District shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage, scale and site layout of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsection E. or may be reviewed as a Planned Development applying the qualitative standards and design criteria of subsections E. and I.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than 5 acres of land, except for newly created lots addressed in 3. New Lots, may be reviewed as a conventional development or may be reviewed as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing to develop or redevelop 5 acres or more of land, shall be reviewed as Planned Developments in accordance with the standards of subsection I. Qualitative Development Standards for Planned Development of this district and Section VIIE. Planned Development of this Ordinance.

3. New Lots. The division of a parcel that had five (5) acres or more of area as of July 16, 2008, into two or more lots as well as the subsequent development of the new lots regardless of their size shall be reviewed as a Planned Development in accordance with the standards of subsection I. Qualitative Development Standards for Planed Development of this district and Section VIIE. Planned Development of this Ordinance.

C. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS

RESIDENTIAL USES:

The following residential uses are permitted in both conventional and planned developments:

1. Single family dwellings subject to the performance standards in Section IX.Z
2. Two family dwellings
3. Multifamily dwellings limited to no more than twelve (12) dwelling units per building
4. Multiplex dwellings
5. Townhouses limited to no more than eight (8) dwelling units per building
6. Senior housing
7. Accessory dwelling units subject to the performance standards of Section IX.

MIXED USES:

The following mixed uses are permitted in both conventional and planned developments:

8. Dwelling units within a mixed use building limited to no more than eight (8) dwelling units per building. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV.(I)
9. Live/Work Units
10. Retail sales and services establishments with less than 1,000 square feet of retail floor area per unit of occupancy, excluding car washes, gasoline filling stations and outdoor sales and services, if located in a mixed use building that includes other non-residential uses and/or residential uses
11. Restaurants with no drive-through service if located in a mixed use building that includes other non-residential uses and/or residential uses
12. Personal services if located in a mixed use building that includes other non-residential uses and/or residential uses

NON-RESIDENTIAL USES:

The following mixed uses are permitted in both conventional and planned developments.

The following non-residential uses are limited to 5,000 square feet of floor area per unit of occupancy.

13. Business services and business offices
14. Professional offices
15. Financial, insurance and real estate offices
16. Day care center facilities and Nursery schools
17. Group day care homes and Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required
18. Health clubs

The following non-residential uses are not limited in square footage of floor area per unit of occupancy.

19. Municipal buildings and uses
20. Place of worship
21. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10]
22. General purpose agriculture existing as of September 1, 2008 including retail sales of farm products located on the same premises and kennels, but exclusive of abattoirs and piggeries

The following non-residential uses are permitted in conventional developments on lots existing as of April 1, 2014, that have frontage on Gorham Road:

23. Retail sales and services establishments with less than 2,500 square feet of retail floor area per unit of occupancy, excluding car washes, gasoline filling stations and outdoor sales and services
24. Restaurants with no drive-through services

D. SPECIAL EXCEPTIONS

The following uses are allowed as special exceptions in both conventional and planned developments:

1. Nursing homes.
2. Boarding care facility for the elderly.
3. Public utility facilities.
4. Telecommunication facility.
5. Adjunct Uses, Place of Worship.
6. Home occupations. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under subsection (B)
7. Non-municipal government offices
8. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions, which are not otherwise permitted uses in this section
9. Funeral homes
10. Elementary and secondary schools
11. Libraries and museums

E. SPACE AND BULK REGULATIONS

The following space and bulk regulations are applicable to conventional developments:

1. Minimum Lot Area and Dimensions

Housing & Use Type	**Lot Area (square ft.)**	**Lot Frontage (ft.)**	**Lot Width (ft.)**
Single-family dwellings	10,000 per dwelling unit with public sewer 40,000 per dwelling unit with on-site sewage disposal	200 for lots abutting Running Hill Road or Gorham Road; 50 for lots abutting any other street	50
Two family dwellings	10,000 per two dwelling units with public sewer 40,000 per two dwelling units with on-site sewage disposal	200 for lots abutting Running Hill Road or Gorham Road; 50 for lots abutting any other street	50
Multi-family dwellings; multiplex townhouses; senior housing	10,000 with public sewer 40,000 with on-site disposal	200 for lots abutting Running Hill Road or Gorham Road; 50 for lots abutting any other street	50
Non-Residential and Mixed Uses	10,000 with public sewer 40,000 with on-site sewage disposal	200 for lots abutting Running Hill Road or Gorham Road; 50 for lots abutting	50

		any other street	

2. Yard Standards - The following minimum front yard standards apply in conjunction with subsection G. of this district.

Abutting Streets	**Minimum Front Yard (ft.)**	**Side and Rear Yard (ft.)**
Running Hill Road and Gorham Road	30 or the height of the building fronting Running Hill Road or Gorham Road, whichever is greater	15 [1 & 2]
All other streets	10	15 [1 & 2]

[1]*When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.*

[2] *When a site abuts a residential district the minimum yard for a use other than a single-family or two-family dwelling shall be determined bases on the use in the RH2 District in accordance with the following table. Where the buffer is required, it shall comply with the buffering requirements of Section VIII of this Ordinance.*

Use of the Site	***Minimum yard and buffer width***
Buildings and structures for all residential uses other than single– and two-family dwellings.	*50 Feet*
Buildings and structures for non-residential uses or mixed-uses with one story.	*50 feet*
Buildings and structures for non-residential uses or mixed-uses with more than one story.	*100 feet*

3. Maximum Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
5,000 sq. ft.	35%	85%	None	45 feet [Amended 05/20/2020]

The following space and bulk regulations are applicable to Planned Developments:

4. Minimum Lot Area and Dimensions

Housing & Use Type	**Lot Area**	**Lot Frontage (ft.)**	**Lot Width (ft.)**

	(square ft.)		
Single-family dwellings; two-family dwellings; multi-family dwellings; multiplex; townhouses; senior housing	10,000	200 for lots abutting Running Hill Road or Gorham Road; for lots abutting any other street the Planning Board shall determine the lot frontage under subsection I. of this district	50
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Running Hill Road or Gorham Road; for lots abutting any other street the Planning Board shall determine the lot frontage under subsection I. of this district	50

5. Yard Standards – Determined by the Planning Board under subsection I. of this district

6. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
5,000 sq. ft.	35%	85%	None	45 feet [Amended 05/20/2020]

F. RESIDENTIAL DENSITY REGULATIONS, APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Within this zoning district the Residential Density Factors in Section VII C. A. of this Ordinance shall apply to multi-family, multiplex, townhouse, live/work, senior housing or dwelling units in a mixed-use building

1. Maximum Base Residential Density – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions

Single-family, two-family, multi-family, multiplex, townhouse dwellings, live/work units, senior housing and dwelling units	5 dwelling units per acre of net lot area if served by public sewer or 1 dwelling unit per acre if served by on-site sewage disposal. The net lot

located in a mix use building	area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance

2. Additional Residential Density Thru Development Transfer – A development that is served by the public sewer system may incorporate up to five (5) additional dwelling units per acre of net lot area beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID. of this Ordinance.

3. Additional Residential Density Thru Affordable Housing – A development that is served by the public sewer system may incorporate up to five (5) additional dwelling unit per acre of net lot area beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

4. Additional Residential Density Thru an Affordable Housing In-Lieu Fee – In lieu of developing affordable housing to utilize additional residential density under subsection F.3., a development that is served by the public sewer system may incorporate up to five (5) additional dwelling unit per net residential acre beyond the maximum base residential density by utilizing the affordable housing in-lieu fee provisions in accordance with Section VII.C. of this Ordinance.

The Planning Board may allow a development that is served by the public sewer system to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed five (5) dwelling units per acre of net lot area beyond the maximum base residential density. If subsections F.2., F.3., and /or F.4. are used, the additional dwelling units permitted under F.3. and /or F.4. shall not also be subject to the development transfer provisions under F.2.

G. BUILDING ORIENTATION, STREETSCAPE AND OFF-STREET PARKING STANDARDS, APPLICABLE TO CONVENTIONAL DEVELOPMENTS

The design of a development site, and more specifically the orientation of buildings to Running Hill Road and Gorham Road and internal streets, the streetscape of Running Hill Road and Gorham Road and internal streets, as well as the location, layout and form of site parking, are fundamental to realizing the purpose of this district.

1. Streetscape – A landscaped buffer strip shall be established along the front property line of a lot where it abuts Running Hill Road or Gorham Road. The width of the landscaped buffer strip shall be a minimum of thirty (30) feet. Where trees exist within the buffer strip the Planning Board may require these trees to be saved to preserve this corridor. The buffer strip shall be landscaped in accordance with the Site Plan Review Ordinance, the Design Standards for Scarborough's Commercial Districts and any subsequent Running Hill Road corridor landscaping plan. In addition to landscaping, the buffer strip may contain sidewalks or pedestrian trails, freestanding signage, and an access drive to the site.

2. Building Orientation - The location of buildings and their orientation to Running Hill and Gorham Roads is critical to establishing attractive gateways into the Town of Scarborough. Buildings fronting Running Hill and Gorham Roads shall be located relatively close to the street to exhibit a strong relationship with the street and shall be designed in coordination with the

required landscape buffer strip. The height of buildings shall be proportional to their distance (or setback) from the Running Hill or Gorham Road right-of-way. The front line of buildings two-stories or thirty (30) feet in height may be sited as close as thirty (30) feet from the right-of-way, while taller buildings are required to be setback from these roads in proportion to their height in order to correspond with the landscaped buffer strip and not shadow or visually dominant the road corridors.

3. Access Management and Interconnections – Access management is critical to preserving mobility in the Running Hill and Gorham Road corridors as well as to establish attractive gateways into the Town of Scarborough. Where feasible, adjacent sites shall be interconnected through the use of internal driveways or streets and shall establish one common curb cut onto the road in order to share an access point and reduce the number of curb cuts along the corridor. Site access shall also be designed in accordance with the Site Plan Review Ordinance.

4. Off-Street Parking Location – No off-street parking shall be located within the front yard of sites fronting Running Hill or Gorham Roads. The front yard shall be used to meet the streetscape requirements of subsection G.1. above and may also include sidewalks, other pedestrian amenities, street lighting, site access drives, and additional landscaping or buffering that exceeds the minimum requirements of subsection G.1. above.

This standard shall not apply to single-family and two-family dwellings that may utilize driveways for parking within the front yard.

Where parking lots and associated access drives are visible from adjacent public streets, they shall be buffered in accordance with the Design Standards for Scarborough's Commercial Districts.

H. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

1. Signs - Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

2. Commercial Design Standards – All development within the Running Hill Road-Gorham Road Transition District, with the exception of single-family and two-family dwellings, must be consistent with the Design Standards for Scarborough's Commercial Districts.

3. Pedestrian, Bicycle and Mass Transit Facilities – All developments shall provide for pedestrian movement to and within the site in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities, such as bike racks and bike lanes, if the scale of the project makes these reasonable. Provisions must also be incorporated into new developments for mass transit use, such as bus stops and bus stop shelters, if the scale of the project makes these reasonable.

4. Public Sewer Service – All new development and redevelopment within a planned development shall be served by public sewer. All new, expanded, or redeveloped buildings that are part of a conventional development shall be served by the public sewer system unless all of the following are met in which case sewage disposal may be provided by an on-site sewage disposal system meeting the requirements of the Maine State Plumbing Code and the Town of Scarborough Plumbing Ordinance.

a. The design sewage flow of the use will be less than six hundred (600) gallons per day based on the Maine State Plumbing Code; and,
b. Only domestic type sewage will flow to the on-site sewage disposal system. No process water shall go to the system; and,
c. The project will be designed to be connected to a public sewer system in the adjacent street if such a sewer is ever extended.

Existing single-family dwellings served by on-site wastewater systems shall not be subject to this requirement until the single-family dwelling is changed, converted or redeveloped to a new use.

5. General Off-Street Parking Standards -

a. Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except as otherwise permitted in this subsection.

b. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses. In the RH2 District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

I. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS

The Running Hill Road-Gorham Road Transition District (RH2) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough's Commercial Districts and provide more specific requirements for development in the RH2 District.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VIIE. Planned Development.

1. PLANNED DEVELOPMENT STANDARDS

A planned development shall be designed in a manner that reinforces the RH2 District as a mixed use transition zone. Buildings, parking, pedestrian amenities, landscaping, streets and common space shall be arranged in a compact, interconnected development pattern that exhibits a human scale and a mix of land uses.

a. Running Hill and Gorham Road Streetscapes – The streetscape along Running Hill Road and Gorham Road are critical to establishing attractive gateways and transition into the rural area of Scarborough. Running Hill and Gorham Roads shall be buffered with shade trees and a generous landscaped strip along the road right-of-way. This landscape buffer shall meet or exceed the thirty (30') foot width required of conventional developments. The planned development process will be used to identify areas along these roads where existing trees and vegetation shall be preserved as well as areas in which new shade trees and landscaping shall be planted to enhance this corridor. Buildings may be visible from these roads but shall be setback and separated from the street by this landscaped buffer. Parking is not appropriate between Running Hill Road or Gorham Road and buildings within a planned development, but sidewalks, pedestrian trails, freestanding signs

and access drives are.

b. Internal Street Streetscape - The streetscape along internal streets and driveways within a planned development shall differ from the streetscape along Running Hill Road and Gorham Road and shall exhibit a more compact form and scale. The streetscape along internal streets and driveways within a planned development shall be designed with shade trees on both sides; road widths that are more compact in scale; human scale street lighting; frequent intersections and crosswalks; and sidewalks as per standard I(1)c. below. The streetscape of internal streets may also include on-street parking on one or both sides of the streets or driveways.

c. Walk-able, pedestrian-oriented design – Appropriately designed and oriented sidewalks, and other pedestrian amenities, are critical to promote walk-ability, pedestrian activity, and a sense of place within the RH2 District. Sidewalks or pedestrian trails shall be designed along both Running Hill and Gorham Roads and internal streets and shall be a primary component of each streetscape. Pedestrian amenities along Running Hill and Gorham Roads should generally be setback from the street leaving a larger landscaped buffer strip along the roadway. Sidewalks along internal streets and driveways should be close to the roadway creating a more compact environment as per standard (I)1.b. above. In general, sidewalks or pedestrian trails shall be designed to provide linkages and continuity between each use within a planned development as well as connections to abutting uses to establish a greater pedestrian network.

d. Compact building design – Planned developments with the RH2 District shall exhibit a compact development pattern. Buildings shall be designed to front onto the internal street or driveway that provides access to the building(s). Buildings shall be a key component of the streetscape and exhibit a strong relationship to the street and associated sidewalks and landscaping. The majority of off-street parking shall be located to the side or rear of buildings or as a component of the building in the case of structured or covered parking. In planned developments with multiple buildings, the Planning Board may allow some buildings to be setback from the street or driveway with parking between those buildings and the street provided: other buildings front the street(s) or driveways and maintain a human scale streetscape; there is continuity between buildings with no major expanse of parking; and the development meets or exceeds each of the other planned development standards. The Planning Board may determine that this standard need not apply to single-family and two-family dwellings that may seek to utilize driveways for parking within the front yard.

e. Access management and interconnections – Access to planned developments from Running Hill Road and/or Gorham Road shall be strictly controlled to limit the number of curb cuts on these roads. Planned developments shall also make provisions for street and driveway interconnections to abutting properties to enable cross connections, the share use of curb cuts and intersections and to reduce the overall number of curb cuts on these roads.

f. Place-making – A planned development shall include at least one "place" and potentially a number of "places", depending on the size and scale of the development. A "place" shall be a common space(s) where people can gather, meet and cross paths. A "place" can be a community green or common; plaza; court; square or some variation of each. Regardless of the style or size, "places" are required to be designed as an integral part of a planned development in locations where people will naturally gather, meet and cross paths. "Places" shall be located at the core of the pedestrian realm of a planned development; shall an element of the development streetscape

and overall development pattern; and shall be available and desirable for public use. Areas for outdoor seating, court yards or green space associated with a particular use or establishment are desirable amenities, but should not be counted as a "place" unless they are available for public use.

2. DESIGN CRITERIA FOR PLANNED DEVELOPMENTS

The following design criteria shall apply to all planned developments. In addition, the Planning Board may require a planned development to be designed in conformance with any other standards of this Section XXB. when the Board finds that application of such standards will achieve conformity with the Planned Development Standards of section XXB.(I)(1).

a. On-street Parking On-street parking can provide spaces directly in front of residential and non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can act as a traffic calming measure. As indicated in subsection (I)(1) above, a planned development may include new internal streets or driveways with parallel or angled on-street parking or "on-driveway" parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

b. Flexible yard standards - The Planning Board shall determine the yard requirements and site layout and off-street parking configuration for a planned development by applying the standards of subsections (I) (1). In reviewing a planned development, the Planning Board may use the Yard Standards under subsection E.2. and the Site Layout and Off-Street Parking Regulations under subsection G. that correspond with the yard standards as guidelines, but is not required to apply them. This enables the Planning Board to allow buildings to be sited closer to internal streets than conventional development or require buildings to be set further back from Running Hill Road or internal streets to meet the standards of subsection (I) and further the purpose of this district.

SECTION XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD)

[Adopted 08/21/13; Amended 10/07/15; 05/16/18; 05/20/2020; 04/21/2021; 05/17/2023; 11/15/2023; 09/04/2024; 01/08/2025]

I. BASIC STANDARDS

A. PURPOSE (CPD)

The purpose of the Crossroads Planned Development District is to allow a mix of uses, guided by design standards and a conceptual master plan, which results in a vibrant center for development located in the heart of Scarborough. This largely undeveloped area, within the center of the town, offers a unique opportunity for town representatives to work cooperatively with the area's single land-owner, allowing mixed use development to evolve, while ensuring open space, preservation of natural resources, an efficient land use pattern for pedestrian, bicycle and transit use, a coordinated street plan and a cost effective extension of needed utilities. The mix of uses and efficient land development patterns are also intended to promote a number of community places, where people can gather, meet and cross paths.

B. PERMITTED USES (CPD)

i. The following uses are permitted in both conventional and planned developments:

1. Harness racing facilities.
2. Commercial outdoor recreation uses.
3. Fully enclosed places of assembly, amusement, culture and government, exclusive of video gambling, casino gambling and slot machine facilities.
4. Municipal buildings and uses.
5. Public utility facilities.
6. Accessory uses.

ii. The following uses are permitted only in planned developments:

7. Single-family dwellings but only as part of a planned development that includes a variety of housing types.
8. Two-family dwellings but only as part of a planned development that includes a variety of housing types.
9. Multifamily dwellings.
10. Multiplex dwellings.
11. Townhouses, limited to no more than eight (8) dwelling units per building.
12. Senior housing.
13. Residential and long-term care facilities for the ill, aged, or disabled. If the facility includes dwelling units, then the regulations governing the particular type of dwelling shall apply.
14. Dwelling units in a mixed use building.
15. Live/work units.
16. Accessory units.
17. Retail business and service establishments.
18. Personal service establishments.
19. Restaurants with no drive-through service, excluding coffee houses.
20. Mobile Food Vendor Court (drive-through or drive-in service is prohibited), subject to the performance standards of Section IX.BB [Adopted 01/08/2025]

21. Coffee Houses, drive-through service permitted. Coffee houses with drive-through service must be compatible with the character of the specific district subject to Planning Board review.
22. Hotels and motels.
23. Business and professional offices.
24. Financial, insurance and real estate offices.
25. Business services.
26. Medical/diagnostic facilities.
27. Health clubs.
28. Non-municipal government buildings and uses.
29. Elementary and secondary schools.
30. Instructional and educational services.
31. Libraries.
32. Museums.
33. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions.
34. Funeral homes.
35. Places of worship.
36. Adjunct uses, Place of worship.
37. Golf courses.
38. Casinos or slot machine facilities, as defined in Chapter 31 of Title 8 of the Maine Revised Statutes, that are located within the same planned development as a harness racing facility and are licenses by the State of Maine in accordance with the requirements of Chapter 31 of Title 8 of the Maine Revised Statues, including the requirements that the casino or slot machine facility must be approved by the voters of the Town in a municipal referendum and that the Town Council has entered into a revenue-sharing agreement with the owner and/or operator of the casino or slot machine facility.
39. Pet care facilities. [Adopted 05/16/18]

iii. The following uses are permitted only in planned developments and are subject to specific performance standards set forth in Section IX.
40. Home occupations.
41. High technology facilities.
42. Family day care homes.
43. Group day care homes and day care facilities.
44. Nursery schools.
45. Passenger transportation facilities.
46. Small-scale energy facilities.
47. Telecommunication facilities.
48. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance with the exception of size limitation. Small batch processing facilities shall be limited to no more than 10,000 square feet of floor area included any accessory uses, such as retail area, a tap room, sampling area, storage or warehousing. [Adopted 10/07/15; amended 05/17/2023]
49. Research, development and light industrial. [Adopted 05/16/18]
50. Gasoline filling stations whether as a principal or accessory use and located so that all fueling facilities are located within one thousand (1,000) feet of the point of intersection of the

centerlines of Payne Road and Holmes Road. Gasoline filling stations shall also be subject to the performance standards of Section IX.(X.) of this Ordinance. [Adopted 05/16/18]

iv. The following uses are permitted only in planned developments and are subject to the additional development standards of subsection D, of this district, including the standards on location and buffers under subsection D.14.: [Adopted 05/16/18]

51. Manufacturing and assembly.
52. Food processing facilities.
53. Mini-warehouse/storage facilities.
54. Contractors offices, shops and storage yards.
55. Motor vehicle repair and service facilities including auto body shops, facilities for the repair or recreational vehicles, small engine repair facilities and vehicle sales accessory to these uses.
56. Sale, rental and/or service f heavy equipment or specialized motor vehicles (other than passenger cars).
57. Cannabis Manufacturing Facility. [Adopted 01/08/2020 Amended 09/04/2024]
58. Cannabis Testing Facility. . [Adopted 01/08/2020 Amended 09/04/2024]

C. SPECIAL EXCEPTIONS (CPD)

There are no special exception uses in the Crossroads Planned Development District.

D. SPACE AND BULK REGULATIONS (CPD)

1. Conventional Developments

The space and bulk regulations of the B2 Regional Business District are applicable to all conventional developments.

2. Planned Developments

The space and bulk standards applicable to planned developments and the individual lots and buildings within an approved planned development shall be the development standards set forth in the approved Master Plan for the planned development subject to the following limits:

Maximum Net Residential Density	The Residential Density Factors in Section VIIC. apply to all residential uses in this district. The maximum allowed residential density is 20 units per net residential acre.
Maximum Building Height	75 feet, except that any portion of a building located within 150 feet of a residential district shall be limited to 35 feet in height. [Amended 05/20/2020]
Maximum Impervious Surface Ratio	75 percent

All buildings and related parking and access drives must be setback from the boundary of the CPD District in accordance with the following standards and the minimum required setback area shall treated as a buffer in accordance with Section VIII. if applicable. This requirement shall not preclude the construction of streets or utilities that cross the buffer strip. (Amended 05/16/18)

Adjacent Zoning District	Minimum Setback
A "Residential District" or "Natural Resource District"	100 feet

E. OFF-STREET PARKING (CPD)

Off-street parking shall be provided in accordance with the requirements of Section XI. In approving the development standards set forth in the Master Plan for a planned development including the Conceptual Development Master Plan for a Planned Mixed-Use Development, the Planning Board may allow the provision of fewer off-street parking spaces than is required by Section XI., including considerations for reduced or shared parking, if the Planning Board finds that less parking will adequately serve the development taking into account the provision of on-street or other public parking, provisions for long-term support of public transit to serve the development, provisions for pedestrian and bicycle movement within and to/from the development, and/or the type and mix of uses within the development and their demonstrated parking demand.

F. SIGNS (CPD)

Signs in the CPD District shall be regulated in accordance with the requirements of Section VIIE.

II. ADDITIONAL DEVELOPMENT STANDARDS

A. DEVELOPMENT DESIGN AND REVIEW PROCEDURES (CPD)

Depending on the acreage, type of use, and design of a proposed project, a development/redevelopment project within this district may undergo: **1**) a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards and development standards for Conventional Developments set out in this section; or **2**) may be reviewed as a Planned Development in accordance with the procedures set forth in Section VIIE. Additional Requirements for Planned Developments applying the quantitative standards and development standards and design criteria for Planned Developments set out in this Section; or **3**) if the project involves a Planned Development involving a parcel with more than fifty (50) acres, may be reviewed as a Planned Development under a modified version of the procedures set forth in Section VIIE. Additional Requirements for Planned Developments applying the quantitative standards and development standards and design criteria for Planned Developments set out in this Section;

1. Conventional Developments. Projects that are proposing to develop or redevelop less than five (5) acres of land may be reviewed as a Conventional Development or as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing to develop or redevelop five (5) acres or more of land are required to be reviewed as Planned Developments in accordance with Section VIIE. and conform to the applicable standards of this section for Planned Developments unless the parcel involved has more than fifty (50) acres and the owner/applicant choses to use the modified review
procedures in B.

3. Large-Scale Planned Developments. Projects that include a Planned Development on a parcel with more than fifty (50) acres may be reviewed and developed as a Planned Development in accordance with Section VIIE. as modified in B. Review Procedures for Large-Scale Planned Mixed-Use Developments and conform to the applicable standards of this section for Planned Developments.

B. REVIEW PROCEDURES FOR LARGE-SCALE PLANNED DEVELOPMENTS (CPD)

A Large-Scale Planned Development may be reviewed and approved in accordance with the following procedure which modifies the procedures for the review of a Planned Development set forth in Section VIIE. Additional Requirements for Planned Developments:

1. Two Step Process. Any development involving a Large-Scale Planned Development may be reviewed under a two-step process. The first step is the preparation, review, and approval of a Conceptual Infrastructure Plan. This plan must cover all land held in common ownership as of May 1, 2013. The second step is the preparation, review, and approval of a Site Inventory and Analysis and Master Plan for the development of the project. The Master Plan can cover the entire holding or a portion of the holding that includes at least fifty (50) acres. The applicant may choose to submit the Site Inventory and Analysis for review prior to the submission of the Master Plan.

2. Conceptual Infrastructure Plan. The purpose of the Conceptual Infrastructure Plan is to provide a preliminary assessment of the development suitability and potential of the entire holding based on available information and to provide a preliminary layout of the key infrastructure elements to serve the entire parcel. This Plan is intended to guide and coordinate the phased development of the project with the recognition that the Plan may be modified as detailed information and design is undertaken.

The Conceptual Infrastructure Plan shall include the following elements:

a. The Site Inventory and Analysis Phase of the Additional Requirements for Planned Developments set out in Section VIIE. This analysis may be based on information about the site and its natural resources that is available from publically available sources including state and federal databases and information available from the Town of Scarborough and local utilities. The expectation is that the Site Analysis Plan prepared as part of this effort will guide the overall utilization of the site and the conceptual planning of the various infrastructure components.

b. A Preliminary Infrastructure Plan as set out in subsection E. of Section VIIE. Additional Requirements for Planned Developments. In addition to the elements included in E. this Plan shall also:

1) Identify the planned primary pedestrian network within the development as well as connections to existing pedestrian facilities adjacent to the site,

2) Identify areas of the site that should be preserved as open space including provisions to create an interconnected network of green space within the development and that links to preserved or protected open space in the vicinity of the site.

The Conceptual Infrastructure Plan shall be reviewed in accordance with the procedures set out in Section VIIE. Additional Requirements for Planned Developments for the review of the Site Inventory and Analysis Phase.

3. Conceptual Master Plan. The Conceptual Master Plan for a Large-Scale Planned Development shall consist of an updated Site Inventory and Analysis based on appropriate field data with respect to the location and extent of natural resources and site features and a Master Plan for the development. These shall be prepared and reviewed in accordance with Section VIIE. Additional Requirements for Planned Developments.

C. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS (CPD)

1. Commercial Design Standards **–** All development within the District must be consistent with the Design Standards for Scarborough's Commercial Districts, with the exception of the uses allowed under subsection D.14.of this district. [amended 05/16/18]

2. Pedestrian, Bicycle and Mass Transit Facilities **–** All developments shall provide for pedestrian movement to and within the site in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities, such as bike racks and bike lanes, if the scale of the project makes these reasonable. Provisions must also be incorporated into new developments for mass transit use, such as bus stops and bus stop shelters, if the scale of the project makes these reasonable.

3. Public Sewer Service **–** All new development or redevelopment within this district shall be served by public sewer.

D. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO PLANNED DEVELOPMENTS

1. Mix of Uses – The intention of the CPD District is that the district will develop with a mix of uses (i.e. retail, office, service, light manufacturing, mixed residential, etc.). The Conceptual Master Plan must address how the proposed development will contribute to this objective either individually or in conjunction with other Planned Developments in the district or development adjacent to the district. While the objective is to encourage Planned Developments that include a mix of uses, the Planning Board may approve a Conceptual Master Plan that does not meet this objective if the applicant demonstrates that the intention of the CDP District as a mixed-use development will be met or will be able to be met on a district-wide basis. After the approval of each Planned Development, the Planning Board will report to the Town Council on the mix of uses in the Planned Development as well as the overall District.

2. Overall Location and Pattern of Development – The overall location and pattern of development within the District must reflect the findings of the Site Analysis Map and Report prepared as part of the Conceptual Infrastructure Plan. Similarly, the overall location and pattern of development within an individual Planned Development must reflect the Site Analysis Map and Report prepared as part of the Conceptual Master Plan.

3. Street Network – The intention of the CPD District is that as development occurs, a coordinated, interconnected street system will be created. This street network must be designed to accomplish the following objectives:

a) At the overall district level, create a connection through the District from Route One to the Payne Road and to the Haigis Parkway. In addition consideration should be given to

connecting the street network to the Gorham Road and Enterprise Drive if feasible. These two connections, if provided, should be designed to provide access to development within the district and should avoid creating direct travel routes that result in the establishment of a "short-cut" through the district.

b) At the Planned Development level, create an interconnected network of streets within the development that allows travel within the development without using collector roads. The network should utilize T- intersections where feasible and avoid the use of dead-end streets or cul-de-sacs.

4. Public Water System – The layout of the overall water distribution system must provide for an interconnected, looped network of mains that avoids dead-ends. This requirement must be met at both the district and Planned Development level unless the Fire Chief approves an alternative layout in conjunction with the Portland Water District.

5. Open Space Network – The intention of the CPD District is to preserve the significant natural resources that exist within the District and to develop an interconnected "green network" throughout the District that links the open spaces within the District and to preserved or protected land in the vicinity of the District. At least twenty (20) percent of the total land area within the District and at least ten (10) percent of the land area within an individual Planned Development shall be set aside and preserved as open space. This can include natural areas, parks or other improved green spaces that are open for use by residents/users of the development or the public, or improved recreational facilities with limited structural development (i.e. golf courses, playing fields, etc.). The land set aside as open space shall generally reflect the Site Analysis Map and Report. As part of the Master Plan for each Planned Development, the provisions for ownership and maintenance of the open space shall be established.

6. Relationship of Buildings to the Street – The intention of the CPD District is to encourage a variety of development patterns and forms with the overall objective of establishing a "village center-like" atmosphere within the District. As a general principle, buildings should be located close to streets with parking located to the side and/or rear of the buildings. A Planned Development shall be designed in a manner that reinforces the CPD District as a mixed use center. Buildings, parking, pedestrian amenities, landscaping, streets and common space shall be arranged in a compact, interconnected development pattern that exhibits a human scale and a mix of land uses. In reviewing and approving the Conceptual Master Plans for individual Planned Developments, the Planning Board must find that the proposed development standards will result in a development that has a "village character" rather than a "suburban commercial" character.

7. Access Management and Interconnections – The development standards for each Planned Development must address the issues of access management and interconnections. Direct vehicular access from individual building sites onto Route One, Payne Road, or new collector streets within the District must be restricted. Site access shall be designed in accordance with the Site Plan Review Ordinance.

8. Streetscape Treatment -- The streetscape along internal streets and driveways within a Planned Development shall exhibit a compact layout, form and scale. The streetscape shall be designed with shade trees on both sides; road widths that are of a compact, urban scale; human-scale street lighting; frequent intersections and crosswalks; and sidewalks. The streetscape of internal streets may also include on-street parking on one or both sides of the streets or driveways.

The streetscape along Haigis Parkway, Route One and Payne Road that border the district shall incorporate a landscaped or natural vegetated buffer strip. The width of the buffer strip shall be a minimum of twenty-five (25) feet when it abuts the Haigis Parkway and fifteen (15) feet when it abuts Route One and Payne Road.

9. Walkable, Pedestrian-Oriented Design – The objective of the CPD District is to create a walkable, pedestrian-oriented environment. This can be accomplished in a variety of ways. Appropriately designed and oriented sidewalks and other pedestrian amenities, are critical to promote walkability, pedestrian activity, and a sense of place within the District. In general, sidewalks or pedestrian trails shall be designed to provide linkages and continuity between each use within a Planned Development as well as connections to abutting uses to establish a greater pedestrian network.

10. Place making – A Planned Development must include a number of "places", depending on the size and scale of the development. A "place" shall be a common space(s) where people can gather, meet and cross paths. A "place" can be a community green or common; plaza; court; square or some variation of each. Regardless of the style or size, "places" are required to be designed as an integral part of a Planned Development in locations where people will naturally gather, meet and cross paths. "Places" shall be located at the core of the pedestrian realm of a development; shall be an element of the development streetscape and overall development pattern; and shall be available and desirable for public use. Areas for outdoor seating, court yards or green space associated with a particular use or establishment are desirable amenities, but are not counted as a "place" unless they are available for public use.

11. On-street Parking – The use of on-street parking within a Planned Development is encouraged. On-street parking can provide spaces directly in front of residential and non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can act as a traffic calming measure. A Planned Development may include new internal streets or driveways with parallel or angled on-street parking or "on-driveway" parking. As part of the review process the on-street parking design shall require approval from all applicable Town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of subsection I.E.

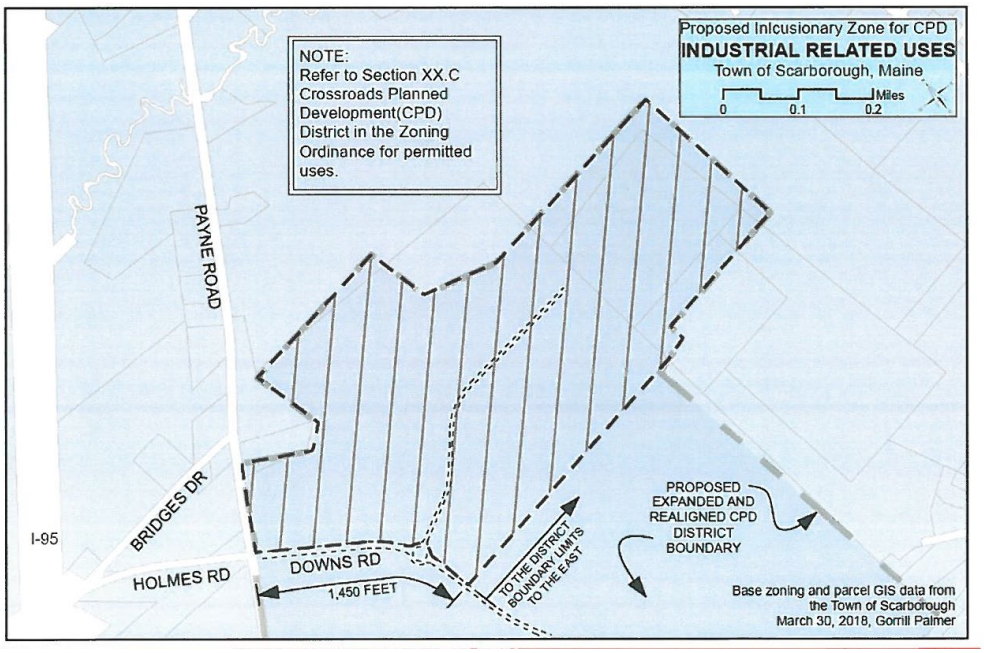
12. Dimensional Standards – The minimum lot size, net residential density, building height, yard and setback, and other space and bulk requirements for individual lots and buildings that are part of a Planned Development shall be determined in the Conceptual Master Plan except as limited by the provisions of I.D.2. The development standards must provide for the setback from and buffering of residential uses and zones abutting the CPD District and for the buffering of residential uses that are part of the Planned Development from nonresidential uses within or adjacent to the District. In approving the Master Plan and the development standards, the Planning Board shall assure that the proposed requirements will result in a development that reflects the Town's vision for the Crossroads as a village center for the Town of Scarborough.

13. Provision of Affordable Housing – A key objective of the Crossroads Planned Development District is the provision of a mix of uses and a mix of housing types. Therefore at least ten percent of the dwelling units in a planned development must qualify as affordable housing in accordance

with the definition of affordable housing in this ordinance. This requirement can be met either through affordable housing developments or through providing for affordable units within market-rate housing developments. Since development within a planned development will likely occur incrementally, this requirement must be met cumulatively as development occurs. The initial residential development in a planned development must include affordable housing unless the project has fewer than ten dwelling units. If a housing development provides more than ten percent of its units as affordable or if more than ten percent of the cumulative dwelling units within a planned development are affordable, any balance may be carried forward and applied to future residential development. The Master Plan for the planned development shall address how this requirement will be met and set out any requirements that will be established for assuring the long-term affordability of these units.

14. The land use required to comply with these additional development standards are permitted as part of a planned development with specific standards and limitations on the location within the overall CPD District they are allowed and subject to the buffering requirements below. This inclusionary area within the District is located to the northeast of the Scarborough Downs entrance drive and extending southerly from the Payne Road intersection 1,450 feet and spanning from the Downs Road easterly to the limits of the CPD Zoning District boundary as depicted in the diagram below. The permitted uses specifically allowed within this area are subject to:

1) A 250-foot setback from the center line of Payne Road.
2) A 250-foot setback from the Downs Road, as depicted on the Approved Conceptual Infrastructure Plan.
3) A 100-foot setback and buffer to any adjacent residential district or natural resource district in accordance with subsection D.2. of this District.
4) The performance standards of Section IX9(A) of this ordinance.
5) The permitted uses specifically allowed within this area shall not be subject to the Design Standards for Scarborough's Commercial District.



The diagram and description above establish the maximum area allowed for these non-residential uses, but does not bind or require this area to be exclusively developed with these specific uses. The planned development process shall be used to establish the design, buffering details, and extent of these non-residential uses within this inclusionary area and whether this area includes other uses and development allowed district wide.

15. Earthwork, Material Extraction and Construction Activities Incidental to Site Development – Activities that are typical of earthwork, material extraction and construction including, but not limited to the excavation of earthen material and aggregate, material processing, material stockpiling and storage, and similar activities are allowed in accordance with the following performance standards:

a. Material extraction and processing allowed for under this subsection shall be for the sole purpose of supporting development, site work and the installation of infrastructure located exclusively within the CPD District.

b. Notwithstanding contrary provisions in the Extractive Industry Ordinance, excavation may occur below the seasonal high-water table for the purpose of creating water features within the development project. Any excavation below 12 inches above the seasonal high-water table shall be in accordance with a plan approved by the Planning Board. This plan shall include the limits, design and final restoration of the excavation area and its functions and values.

c. The stockpiling and processing of aggregate and earthen materials shall comply with a site plan and operations plane to be reviewed and approved by the Planning Board. This operations plan still include: a description and location of the activity; its proximity to existing development within and outside the District; general hours of operation, methods of operation and safeguards in place to mitigate dust, smoke and other environmental factors, and a restoration plan when applicable.

d. Any deviation and changes to the Operations Plan must be approved in advance by the Planning Director with consultation with other town staff and departments.

SECTION XXI. INDUSTRIAL DISTRICT - I.

SECTION XXI. INDUSTRIAL DISTRICT - I. [Amended 01/08/2025; 08/20/2025]

A. PURPOSE

To provide districts within the Town of Scarborough for manufacturing, processing, treatment, research, warehousing, storage and distribution, and other compatible uses, where there is no unreasonable danger of explosion or other hazard to health or safety. [Amended 07/18/12]

B. PERMITTED USES

1. Manufacturing and assembly. [Amended 07/18/12]

2. Research, development and light industrial.

3. High technology facilities, subject to the performance standards of Section IX(M).

4. Food processing facilities.

5. Warehousing Facility. [Amended 06/20/18]

6. Distribution, wholesale trade and transportation, including trucking terminals. [3/19/75] [05/01/96]

7. Mini-Warehouse/Storage Facilities, subject to the performance standards of Section IX(H) of this Ordinance. [12/03/97]

8. Instructional and educational services.

9. Motor vehicle repair and service facilities including auto body shops, facilities for the repair of recreational vehicles, small engine repair facilities and vehicle sales accessory to these uses.

10. Sale, rental and/or service of heavy equipment or specialized motor vehicles (other than passenger cars). [05/01/96]

11. Restaurants, with less than 2,000 square feet of floor area and with no drive-up, drive-through or drive-in service. [05/06/98]

12. Mobile Food Vendor Court (drive-through or drive-in service is prohibited), subject to the performance standards of Section IX.BB [Adopted 01/08/2025]

13. Lumber yards, fuel storage and distribution yards (excluding tank farms) and building material yards (building material yards may include storage of rock, sand and gravel provided no excavation occurs on site). [05/01/96][07/18/12]

14. Retail sales or services if such sales or services are accessory to principal permitted uses. [05/01/96]

15. Professional offices, including addiction treatment facilities subject to the Performance Standards of Section IX.L. with a maximum of 2,500 square feet of floor area per use. [11/16/2005][07/18/12]

16. Business services and business offices.

17. Contractor's offices, shops and storage yards. (05/01/96)

18. Landscape Contractor [08/20/25]

19. Municipal buildings and uses, not including places of assembly.

20. Non-municipal government buildings and uses.

21. Health Clubs. [05/04/02]

22. Personal Services. [05/20/98][07/18/12]

23. Pet Care Facility. [09/04/02]

24. Transmission towers subject to the performance standards of Section IX(F) of this Ordinance. [5/17/95][07/18/12]

25. Recycling Facility, exclusive of junkyards, automobile graveyards or automobile recycling businesses subject to annual licensing by the Scarborough Town Council under section IX(A)(18). Notwithstanding this provision, all municipal solid waste incinerator ash processing facilities and all municipal solid waste incinerator ash recycling facilities shall be sited only within the confines of a secure, lined landfill approved by the Maine Department of Environmental Protection.[03/06/96][07/18/12]

26. Water dependent sports practice facilities. [07/18/12]

27. Accessory agricultural activities subject to the performance standards of Section IX.P. [Amended 05/05/10; 07/18/12]

28. Telecommunication facilities. [05/01/96]

29. Cannabis Manufacturing Facility [Adopted 01/08/2020]

30. Cannabis Testing Facility. [Adopted 01/08/2020]

31. Cannabis Cultivation Facility conducted within a fully enclosed structure. [Adopted 01/08/2020; 09/04/2024]

32. Utility-Scale Solar Energy Systems, subject to the performance standards of Section IX.(O.1.) of this Ordinance. [Adopted 11/03/21]

C. SPECIAL EXCEPTIONS

1. Public utility facilities including substations, pumping stations and sewage treatment facilities.

2. Family Day Care Homes, Group Day Care Homes, Day Care Center Facilities and Nursery Schools. [6/01/94; 07/12/12]

D. SPACE AND BULK REGULATIONS [07/20/2011; 07/18/12]

Minimum area of lot	20,000 square feet
Maximum building coverage	50%
Minimum front yards	50 feet
Minimum side and rear yards	25 feet or 50% of building height whichever is greater except that all side and rear yards abutting residential districts shall be a minimum of 50 feet or the height equivalent of the principal building or use, whichever is greater, and shall comply with the buffering requirements of this Ordinance.
Maximum building height	60 Feet The Planning Board may approve an increase in the building height as part of the site plan review to not more than 100 feet if the applicant demonstrates that the increased height is an operational necessity for the use and the visual impact of the increased height will be minimized through the building design or buffering,

E. OFF-STREET PARKING
Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

F. SIGNS
Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

G. PERFORMANCES STANDARDS [05/01/96; 07/18/12]
All uses in the Industrial District are subject to the performance standards of Section IX(A) of this ordinance.

SECTION XXI.C. RURAL AND FARMING OVERLAY DISTRICT – RF-O.

SECTION XXI.C. RURAL AND FARMING OVERLAY DISTRICT – RF-O.

A. PURPOSE AND APPLICABILITY

To allow the existing residential buildings and vacant parcels in the Holmes Road Light Industrial area to continue to be used or developed for residential uses until such time as the property is developed, redeveloped, and/or modified and used in accordance with the Light Industrial (LI) District requirements.

The provisions of the RF-O District are applicable to land and to buildings existing as of the date of adoption of this provision or that are developed subsequent to the creation of this overlay district that are occupied or intended to be occupied predominately by residential uses or other uses that are not allowed as Permitted Uses or Special Exceptions in the underlying LI zoning district. The properties and buildings within the RF-O District shall be governed by the provisions of the Rural and Farming Overlay District rather than the provisions of the LI District until: 1) the property owner notifies the Town Planner in writing that he/she wants the property to be subject to the requirements of the underlying LI zoning district or 2) the property is used, developed or redeveloped for nonresidential or other uses not allowed in the RF-O District. Once a property becomes subject to the provisions of the underlying LI zoning district, all rights to being governed by the RF-O provisions are lost and the property may not revert to residential uses or other uses not allowed in the LI District.

B. PERMITTED USES

The use of land and of buildings and structures existing as of the date of adoption of this section shall be governed by the permitted use provisions of the RF District. Any use that is a permitted use in the RF District shall be a permitted use in the RF-O District.

C. SPECIAL EXCEPTIONS

The use of land and of buildings and structures existing as of the date of adoption of this section shall be governed by the Special Exception provisions of the RF District. Any use that is a Special Exception in the RF District shall be a Special Exception in the RF-O District.

D. SPACE AND BULK REGULATIONS

The use, modification, or expansion of buildings or structures existing as of the date of adoption of this section or the construction of new buildings shall be governed by the Space and Bulk Regulations of the RF District.

E. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

F. SIGNS

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

SECTION XXI.B. LIGHT INDUSTRIAL DISTRICT (LI). [Amended 03/19/2025; 08/20/2025]

SECTION XXI.B. LIGHT INDUSTRIAL DISTRICT (LI).

A. PURPOSE

The purpose of this district is to provide an area for small, light industrial type of development while reestablishing the Holmes Road as an attractive gateway to the west side of town. New development together with redevelopment of existing uses should create an attractive business/industrial park environment with a roadside buffer along the Holmes Road. Residential properties along Two Rod Road and to the west of the district should be protected with a substantial buffer.

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsection F. or may be reviewed as a Planned Development applying the qualitative standards and flexible design allowable under subsections J and K of this district and Section VIIE of this Ordinance.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than five (5) acres of land may be reviewed as a conventional development or as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing to develop or redevelop five (5) acres or more of land are required to be reviewed as Planned Developments in accordance with the applicable standards of subsection J Development Standards for Planned Developments of this district and Section VIIE Planned Development of this Ordinance.

C. PERMITTED USES

NOTE: The requirements of subsection G.1. of this district relating to sewage disposal may limit the type or scale of the uses that can occur in this district.

The following uses are permitted on any lot in the district subject to the requirements of Section G:

1. Personal service establishments.

2. Instructional and educational services.

3. Business and professional offices.

4. Business services.

5. Contractor's offices, shops and storage yards.

6. Landscape Contractor [Adopted 08/20/2025]

7. Non-municipal government buildings and uses.

8. Motor vehicle repair and service facilities existing as of January 1, 2013 including auto body shops and facilities for the repair of recreational vehicles.

9. Accessory uses.

10. Accessory agricultural activities subject to the additional performance standards of Section IX.P. [Amended 03/19/2025]

The following uses are permitted only on lots that have vehicular access to the Holmes Road:

11. Manufacturing and assembly, subject to the additional performance standards of Section IX (M). [Amended 03/19/2025]

12. Research, development and light industrial, subject to the additional performance standards of Section IX (M.1). [Amended 03/19/2025]

13. High technology facilities, subject to the additional performance standards of Section IX (M). [Amended 03/19/2025]

14. Warehousing Facility, exclusive of mini-warehouse/storage facilities. [Amended 06/20/18]

15. Distribution, wholesale trade and transportation, including truck terminals.

16. Motor vehicle repair and service facilities including auto body shops, facilities for the repair of recreational vehicles, small engine repair facilities, and vehicle sales accessory to these uses.

17. Sale, rental and/or service of heavy equipment or specialized motor vehicles (other than passenger cars).

18. Retail sales or services if such sales or services are accessory to principal permitted uses.

19. Municipal buildings and uses.

20. Transmission towers subject to the additional performance standards of Section IX(F) of this Ordinance. [Amended 03/19/2025]

21. Recycling facilities, including only junkyards, automobile graveyards or automobile recycling businesses that are existing as of January 1, 2013, and subject to annual licensing by the Scarborough Town Council under Section IX(A)(18).

22. Fully enclosed places of assembly, amusement, culture and government existing as of January 1, 2013.

23. Telecommunication facilities.

24. Small-scale energy facilities, subject to the additional performance standards of Section IX(W). [Amended 03/19/2025]

25. Cannabis Testing Facility. [Adopted 01/08/2020; Amended 09/04/2024]

26. Utility-Scale Solar Energy Systems, subject to the performance standards of Section IX.(O.1.) of this Ordinance. [Adopted 11/03/21]

D. SPECIAL EXCEPTIONS

1. Public utility buildings including substations, pumping stations and sewage treatment facilities.

2. Outdoor storage, exclusive of fuel stored in bulk.

E. PERFORMANCE STANDARDS. The following performance standards shall apply to all site plan applications after March 19, 2025.

All permitted uses in the Light Industrial district may be undertaken only after the Planning Board has reviewed and approved the use in accordance with the Site Plan Review Ordinance and if the Planning Board finds that the proposed use, with any reasonable conditions the Planning Board deems necessary, will conform to the following standards and requirements:

1. The use will not create any unhealthy or offensive smoke, dust, odor, or airborne discharges;
2. The use will not create any offensive noise or vibration to abutting landowners;
3. The use will not involve the handling, storage, or disposal of hazardous waste material in a manner that will threaten the public health; and
4. The design and external appearance of the proposed buildings, structures, and site improvements will constitute an attractive and compatible addition to the neighborhood and be consistent with the Town's Site Plan standards.
5. All warehousing facilities, distribution, wholesale trade and transportation, and truck terminal uses shall be limited to the operating hours between 5:00 am and 10:00 pm for each day of the week, unless otherwise approved by the Planning Board.

F. SPACE AND BULK REGULATIONS

1. The following space and bulk regulations are applicable to conventional developments:

Minimum area of lot	20,000 square feet
Minimum lot frontage	200 feet for lots abutting Holmes Rd and Two Rod Rd; 100 feet for lots abutting all other streets
Maximum percent of lot coverage by buildings	50%
Maximum percent of lot coverage by buildings and other impervious surfaces	85%
Minimum front yards	50 feet
Minimum side and rear yards	25 feet except that all side and rear yards abutting residential districts shall be a minimum of 100 feet or the height equivalent of the principal building or use, whichever is greater, and shall comply with the buffering requirements of this Ordinance.
Maximum building height	45 feet

2. The following space and bulk regulations are applicable to planned developments:

Minimum area of lot	20,000 square feet
Minimum lot frontage	200 feet for lots abutting Holmes Rd and Two Rod Rd;

	For all other streets the lot frontage requirement shall be determined under subsection J. of this district
Maximum percent of lot coverage by buildings	Determined by the Planning Board under subsection J. of this district
Maximum percent of lot coverage by buildings and other impervious surfaces	Determined by the Planning Board under subsection J. of this district
Minimum front yards	50 feet
Minimum side and rear yards	25 feet except that all side and rear yards abutting residential districts shall be a minimum of 100 feet or the height equivalent of the principal building or use, whichever is greater, and shall comply with the buffering requirements of this Ordinance.
Maximum building height	45 feet

G. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

1. Sewage Disposal: All new, expanded, or redeveloped buildings in the district shall be connected to the public sewer system unless all of the following are met in which case sewage disposal may be provided by an on-site sewage disposal system meeting the requirements of the Maine State Plumbing Code and Chapter 404A the Town of Scarborough Plumbing Ordinance.

a. The design sewage flow of the use will be less than two thousand (2,000) gallons per day based on the Maine State Plumbing Code, and
b. Only domestic type sewage will flow to the on-site sewage disposal system. No process water shall go to the system, and
c. The project will be designed to be connected to a public sewer system in the adjacent street if such a sewer is ever extended, and
d. The owner or developer agrees to connect to the public sewer system within twenty-four (24) months of service being provided in the adjacent street and this requirement is made a condition of approval of any site plan approval for the project.

2. Streetscape Buffer Strip: For all new, expanded, or redeveloped buildings, a landscaped or naturally vegetated buffer strip shall be established and/or maintained along the front property line of a lot where it abuts a public street or highway except for existing lots fronting on Two Rod Road which are subject to the requirements of F.4. The width of the buffer strip shall be a minimum of thirty (30) feet when it is adjacent to Holmes Road, one hundred (100) feet when it is adjacent to Two Rod Road, one hundred (100) feet when it is adjacent to the Maine Turnpike (I-95) and associated Maine Turnpike on/off ramps, and ten (10) feet when it is adjacent to any other street. The buffer strip shall be designed to separate the development from the street and to enhance the visual environment of the street. The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation unless an alternative treatment is approved by the Planning Board as part of the site plan review. In addition, the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance. In the case of Holmes Road and other streets the buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways,

structures, and storage or service facilities may not be located within the buffer strip. In the case of Two Rod Road, access roads or driveways are not allowed through the street buffer strip except in accordance with standard F.3. below.

3. Vehicular Access Prohibited from Two Rod Road:

a. Vehicle access to and from the Two Rod Road to serve new, expanded, or redeveloped buildings in the district via any means including public streets, private ways, driveways, other private accessways, or combinations thereof shall not be permitted, except for emergency vehicle access approved by the Fire Department and Planning Board and as allowed for under 3.b.

b. Buildings existing as of January 1, 2013 on lots that have frontage on Two Rod Road and that have their exclusive vehicle access from Two Rod Road may continue to have one point of vehicle access onto Two Rod Road. If the gross floor area of all existing buildings on a lot is increased by more than twenty (20) percent, or if the building is removed or the property is redeveloped, vehicular access to the property must not be from Two Rod Road as per 3.a.

4. Lots Abutting Two Rod Road: A building existing as of January 1, 2013 that is on a lot that has frontage on Two Rod Road and that has its exclusive vehicle access from Two Rod Road that is converted from a residential use to a nonresidential use in whole or in part, must conform to the following additional requirements:

a. A twenty-five (25) foot wide vegetated or landscaped buffer strip shall be maintained along the front property line adjacent to Two Rod Road and shall be improved/maintained in accordance with the Site Plan Review Ordinance.

b. One driveway not more than sixteen (16) feet in width shall provide access to Two Rod Road.

c. Any parking for more than two vehicles or service areas shall be located to the side or rear of the existing building.

d. Any expansion of the buildings on the lot or the construction/placement of new accessory buildings on the lot shall be limited to a cumulative total of twenty percent of the gross floor area of all buildings existing as of January 1, 2013 and shall be compatible with and maintain the architectural character of the existing buildings.

e. Any material storage or outdoor service areas shall be located to the side or rear of the existing building and shall be located within a landscaped or fenced area to screen it from view from the street.

5. Residential Buffering: Where a lot in the LI District abuts a lot in residential use or a residential or rural zone, a vegetated buffer shall be established and maintained in accordance with E. The buffer shall soften the transition from the LI District to adjacent residential areas and shall buffer buildings, parking, and service areas. In the design of sites, components of the project that generate large amounts of traffic, activity, noise, or similar potential impacts should be located away from residential areas and/or designed to mitigate adverse impacts on adjacent residential areas. Exterior light must be designed to eliminate spillover to adjacent residential uses or a residential or rural zone as per the Site Plan Review Ordinance.

6. Buffering of Parking: Parking lots and associated access drives must be buffered from adjacent public streets in accordance with the Site Plan Review Ordinance.

H. OFF-STREET PARKING APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance.

I. SIGNS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENT

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

J. PLANNED DEVELOPMENT STANDARDS

The following development standards shall apply to all planned developments. In addition to these requirements, planned developments may incorporate the flexible design standards under subsection K. of this district subject to Planning Board review and approval.

1. Unified and Coordinated Design, Signage, and Lighting
Development and redevelopment of larger parcels in the LI District requiring Planned Development Review shall exhibit a high level of site planning and design. Planned Developments with multiple buildings and/or building lots shall establish a unified and coordinated layout and themes that are exhibited throughout the development. Likewise, a coordinated signage and lighting plan shall be required of the Planned Development that establishes a theme within the development.

2. Open Space and Natural Resource Conservation
Planned Developments shall be designed with respect for the natural resources and topography of the site. Significant wetlands, vernal pools and critical wildlife habitat areas shall be avoided, buffered and conserved. These significant natural resource areas that are greater than one (1) acre in size shall be conserved as common open space, while smaller significant natural resource areas may be incorporated into individual building lots or development sites. Open space lands may include a trail system for walking, hiking, biking or similar activities if such a trail system can be accommodated without adverse impact to the natural resources.

3. Access Management and Interconnections
Access to Planned Developments from Holmes Road shall be strictly controlled to limit the number of curbs cuts along this roadway. Planned Developments shall make provisions for street and driveway interconnections to abutting properties to enable cross connections, the shared use of curb cuts and intersections and to reduce the overall number of curb cuts on Holmes Road and to provide access to interior properties that do not have street frontage on Holmes Road.

K. FLEXIBLE DESIGN STANDARDS FOR PLANNED DEVELOPMENTS
The following flexible design standards may be applied to a Planned Development project, subject to Planning Board review and approval.

1. Flexible lot coverage – The Planning Board shall determine the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces in a planned development if the planned development includes “green building”

technology or approaches that compensate for the additional lot coverage proposed. Examples of "green building" approaches may include green roof systems, porous pavement, photovoltaic and other forms of distributed energy, and other techniques as reviewed and approved by the Planning Board. If the planned development does not include green building technology, then the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces shall be governed by subsection F. of this district.

SECTION XXII. LOCATION OF ADULT BUSINESSES. [Adopted 1/20/93]

SECTION XXII. LOCATION OF ADULT BUSINESSES. [Adopted 1/20/93]

1. DEFINITIONS

a. "Adult business"

means any business in any use category, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in materials or devices of any kind which appeal to prurient interest and which depict or describe specified sexual activities.

b. "Specified sexual activities" means:

1. human genitals in a state of sexual stimulation or arousal;

2. acts of human masturbation, sexual intercourse or sodomy;

3. fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

c. "Public Building"

means a building owned, operated or funded in whole or in part by the Town of Scarborough which members of the general public have occasion to visit, either regularly or occasionally, such as, but not limited to, the Town Hall, the Public Library, the Police Station and Fire Stations.

2. LOCATION OF ADULT BUSINESSES RESTRICTED

No adult business shall be located:

a. in any zoning district other than the General Business District B-2 or the Highway Business District BO-R; or

b. in any location where the customer entrance to the adult business would be closer than 1,000 feet, measured in a straight line without regard to intervening structures or objects, to the nearest point on the boundary of any property which is:

i. occupied by a residence, school, park, playground, church or public building,

ii. located in a residential zone, or

iii. occupied by another adult business.

3. OUTSIDE DISPLAYS PROHIBITED

No materials or devices displaying or exhibiting specified sexual activities shall be visible from the exterior of the building in which the adult business is located.

SECTION XXIII. CONTRACT ZONING DISTRICTS. Adopted July 3, 1996.

SECTION XXIII. CONTRACT ZONING DISTRICTS. Adopted July 3, 1996.

1. CONTRACT ZONING DISTRICT NUMBER 1
Contract Zoning District Number 1 is created as shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 1 is subject to the regulations applicable in the General Business District, B-2, as modified by the Contract Zoning Agreement between the Town of Scarborough and Frank R. Goodwin, Edward T. Flynn and Raymond C. Field dated July 15, 1996 and attached to this ordinance as Exhibit 1, and by the First Amendment to Contract Zoning Agreement Between the Town of Scarborough and Frank R. Goodwin, E&F Limited Liability Company and Raymond C. Field, dated September 20, 2000 and attached to this ordinance as Exhibit 1-A. (7/03/96) (10/04/2000)

2. CONTRACT ZONING DISTRICT NUMBER 2
Contracting Zoning District Number 2 is created and shown on the Zoning Map of the Town of Scarborough, Maine. Contract Zoning District Number 2 is subject to the regulations applicable in the Rural Residence and Farming District, R-F, as modified by the Contract Zoning Agreement between the Town of Scarborough and Robert Tgettis and Lucinda P. Malbon dated January 6, 1997 and attached to this ordinance as Exhibit 2. (01/06/97) (12/03/97)

3. CONTRACT ZONING DISTRICT NUMBER 3
Contracting Zoning District Number 3 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District Number 3 is an “overlay” zone governed by the Contract Zoning Agreement between the Town of Scarborough and Maine Life Care Retirement Community, Inc., dated November 17, 1997 as Exhibit 3. (duly authorized by Council vote on November 5, 1997)[Amended 05/20/15]

4. CONTRACT ZONING DISTRICT NUMBER 4 [REPEALED BY COUNCIL VOTE ON MARCH 5, 2014]

5. CONTRACT ZONING DISTRICT NUMBER 5
Contract Zoning District Number 5 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 5 is subject to the regulations applicable in the General Business District Zone, B-2, as modified by the Contract Zoning Agreement between the Town of Scarborough and First Scarborough Realty of Maine, LLC, dated August 21, 2002 and attached to this ordinance as Exhibit 5. (August 21, 2002)

6. CONTRACT ZONING DISTRICT NUMBER 6 [REPEALED BY REFERENDUM VOTE ON JULY 29, 2003]

7. CONTRACT ZONING DISTRICT NUMBER 7
Contract Zoning District Number 7 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 7 is subject to the Hillcrest Retirement Community Expansion Contract Zoning Agreement Among The Town Of Scarborough, Theresa Desfosses, Agnes Desfosses And State Manufactured Homes, Inc. (November 3, 2004)

8. CONTRACT ZONING DISTRICT NUMBER 8
Contract Zoning District Number 8 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 8 is between the Town Of Scarborough, and Grondin Aggregates LLC. (August 16, 2006)

9. CONTRACT ZONING DISTRICT NUMBER 9
Contract Zoning District Number 9 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 9 is between the Town Of Scarborough, and The New England Expedition – Scarborough LLC. (Approved December 20, 2006)

10. CONTRACT ZONING DISTRICT NUMBER 10
Contract Zoning District Number 10 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 10 is between the Town Of Scarborough, The Scarborough Land Conservation Trust, John Bliss, and Stacy Brenner. (Approved May 21, 2008)

11. CONTRACT ZONING DISTRICT NUMBER 11
Contact Zoning District Number 11 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 11 is between the Town of Scarborough and Avesta Housing Development Corporation. (Approved August 19, 2015)

12. CONTRACT ZONING DISTRICT NUMBER 12
Contact Zoning District Number 12 is created and shown on the Official Zoning Map of the Town of Scarborough, Maine. Contract Zoning District 12 is between the Town of Scarborough and Patriot Acura Dealership. (Approved May 20, 2019)

EXHIBIT 1

CONTRACT ZONING AGREEMENT BETWEEN THE TOWN OF SCARBOROUGH AND FRANK R. GOODWIN, E&F LIMITED LIABILITY COMPANY AND RAYMOND C. FIELD

This is a Contract Zoning Agreement made as of the 15th day of July 1996, by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter "the Town"), and E&F Limited Liability Company, with an office at 195 Pleasant Street, Brunswick, Maine, and Raymond C. Field of Scarborough, Maine, pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance.

WHEREAS, E&F Limited Liability Company intends to purchase from Raymond C. Field a parcel of real estate located at 371 U.S. Route 1 in Scarborough, Maine consisting of five (5) acres (hereinafter "the property"); and

WHEREAS, the property is currently in a General Business District (B-2) under the Scarborough Zoning Ordinance; and

WHEREAS, the General Business District B-2 presently allows, as permitted uses, general retail sales, services and business space such as retail business and service establishments including warehousing and wholesale distribution but exclusive of outside sales and services; and

WHEREAS, the property contains several select mature trees along the Route 1 frontage, and a resource protection area to the North which will be reserved, and will include extensive interior landscaping, all of which provide a unique amount and quality of vegetative buffering; and

WHEREAS, E&F Limited Liability Company wishes to develop the property as a Land Rover Automobile Dealership with outdoor sales and services which are not permitted in the B-2 Zone; and

WHEREAS, E&F Limited Liability Company has requested a rezoning of the property to permit an Automobile Dealership with outdoor sales and services; and

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of outdoor displays, storage and sales, provided the operation is restricted to the density, scale and intensity proposed by E&F Limited Liability Company and further provided that the restrictions of this Contact Zoning Agreement and the site plan approval are strictly observed; and

WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph G, Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberation thereon, recommended the rezoning of the property as aforesaid; and

WHEREAS, the rezoning would be consistent with the Policies and Future Land Use Plan of Part III of the Scarborough Comprehensive Plan.

WHEREAS, the Town of Scarborough, by and through its Town Council, had determined that the said rezoning would be pursuant to and consistent with the Town's Comprehensive Plan and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Contract Zoning Agreement on July 3, 1996.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown on Attachment 1.

2. E&F Limited Liability Company is authorized to create an automobile dealership at the property consisting of one building. The initial phases will be constructed within one year after execution of this agreement. Construction of the facility shall be subject to the following conditions:

   (a) The maximum allowable building footprint for the building shall be 8,075 s.f. and the maximum building height shall be two stories. It is anticipated that the initial structure will be approximately 5,000 s.f. and be programmed to support an expansion phase as business conditions permit.

   (b) The uses allowed on the property shall be limited to an automobile dealership with outdoor sales, display and storage of motor vehicles.

   (c) Building design, style and materials shall be substantially as depicted on the building elevations submitted during site plan review.

   (d) The property shall be landscaped to enhance the general appearance of the project from U.S. Route 1 and surrounding properties as determined by the Planning Board at the time of site plan approval. After the date of approval of this Contract Zoning Agreement by the Scarborough Town Council, no trees or other vegetation existing on that date shall be removed except as indicated in an approved site plan. The landscaping shall be maintained by E&F Limited Liability Company or its successors in interest.

   (e) With the exception of emergency situations, the hours during which the business may be open to the public shall be limited to between 6:00 a.m. and 9:00 p.m. Monday through Saturday.

   (f) Upon completion of the access road bisecting the parcel (whether designed as a public street or a private road), as constructed by others, and no later than 30 days after pavement is applied, E&F Limited Liability Company or its successors in interest will construct a second access point at the rear of the parcel as shown on the plan. This access will serve exiting traffic. The existing driveway at Route 1 then will be limited to entering traffic only, as shown on the approved site plan.

   (g) The sub parcel west of the future access road will be selectively trimmed to provide control of the visual appearance of the facility. No further development of the area is permitted. The sub parcel does not meet the dimensional requirements for a lot under the Scarborough Zoning Ordinance, shall not be built upon and shall not have the status of a non-conforming lot of record under Section III.B of the Scarborough Zoning Ordinance.

   (h) The property subject to this Contract Zoning Agreement shall be developed and used only in accordance with the site plan approved by the Scarborough Planning Board on May 28, 1996, as that site plan may be Amended from time to time pursuant to the provisions of the Scarborough Site Plan Review Ordinance. Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement:

      (i) Any increase in the square footage of the area utilized for outdoor display, storage or parking of vehicles on the site; and

(ii) Relocation of any outdoor vehicle storage, display or parking area to any part of the site closer to the property boundaries or to the road sidelines than shown on the original approved site plan.

(i) Revisions to the site plan needed to reflect construction of a roadway and installation of utilities in the area shown as "Reserved for a Roadway" shall not require revision of this Contract Zoning Agreement.

3. E&F Limited Liability Company shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.

4. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property except as this Contract Zoning Agreement may be amended by future written agreement of the Town of Scarborough and E&F Limited Liability Company, and Raymond C. Field or their successors in interest.

This is the sole zoning for the property and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying B-2 Zoning District shall apply. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the property, shall bind E&F Limited Liability Company and Raymond C. Field, their successors in interest and assigns of said property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough and any applicable amendments thereto or replacement thereof.

In the event that E&F Limited Liability Company or Raymond C. Field or their successors or assigns fail to develop the project in accordance with this Contract, or in the event of any other breach hereof, this Contact may be terminated by vote of the Scarborough Town Council. In that event, the property may then be used only for such uses as are otherwise allowed by law.

WITNESS:	TOWN OF SCARBOROUGH
/s/ Laurel R. Nadeau	/s/ Carl L. Betterley
	Its Town Manager (duly authorized by vote of
	the Scarborough Town Council on July 3, 1996)
	E&F LIMITED LIABILITY COMPANY
/s/ Laurel R. Nadeau	/s/ Frank R. Goodwin
	Its Managing Member
/s/ Laurel R. Nadeau	/s/ Raymond C. Field, Owner

FIRST AMENDMENT TO EXHIBIT 1

CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
FRANK R. GOODWIN, E&F LIMITED LIABILITY COMPANY
AND RAYMOND C. FIELD

WHEREAS, E&F Limited Liability Company ("E&F") entered into a Contract Zoning Agreement with the Town of Scarborough on the 15th date of July 1996 (the "Contract"), a copy of which is attached hereto as Exhibit 1; and,

WHEREAS, E&F acquired certain real estate from Raymond C. Field by two deeds dated June 21, 1996 and recorded in the Cumberland County Registry of Deeds at Book 12576 Page 54 and by Corrective Warranty Deed dated October 27, 1997, recorded in the Cumberland County Registry of Deeds at Book 13402, Page 45; and,

WHEREAS, E&F wishes to build an addition to its existing building on the north side of the building away from U.S. Route One, which addition is to be used for the purposes of automotive sales and service; and,

WHEREAS, in order to have the proper setbacks, E&F has acquired an approximate additional 17,070 square feet by Deed of KDA LLC (successor to Raymond Field), which deed was dated April 10, 2000 and recorded in the Cumberland County Registry of Deeds at Book 15410, Page 322; and,

WHEREAS, the original Contract, Exhibit 1, at paragraph 2, states that E&F was authorized to create an automobile dealership with the initial structure of approximately 5000 square feet and that the maximum allowable footprint for the building shall be 8075 square feet; and,

WHEREAS, the current initial structure is 5495 square feet and the anticipated addition to the structure will be 3826 square feet for a total building footprint of 9321 square feet; and,

WHEREAS, the addition to the automobile dealership may involve an increase in the square footage of the area utilized for outdoor display, storage or parking of vehicles and may involve the relocation of outdoor vehicle storage, display or parking areas of the site closer to the property boundaries or road sidelines than shown on the originally approved site plan; and,

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of outdoor displays, storage and sales, because the additional square footage of the building is aware from U.S. Route One and will provide no parking closer to U.S. Route One than already exists; and,

WHEREAS, the Amendment to the Contract Zoning Agreement would be consistent with the policies and future land use plan of part three of the Scarborough Comprehensive Plan and is permitted pursuant to the Zoning Ordinance and Maine Law and is consistent with the existing and permitted uses within the original zoning classification.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change shown on Attachment 1 hereto.
2. All references in the original Contract Zoning Agreement to the "site plan" shall hereafter mean the amended site plan approved by the Scarborough Planning Board on August 14, 2000.

3. Upon approval of an amended site plan by the Scarborough Planning Board, E&F Limited Liability Company is authorized to construct the addition to the automobile dealership as portrayed on the Attached Exhibit B. The additional construction will be completed within 12 months after execution of this Agreement. Construction of the addition shall be subject to the following conditions:

   a. The maximum allowable building footprint for the building shall be 9325 square feet and the maximum building height shall be two stories.

   b. Building design, style and materials for the addition shall be substantially as depicted on the building elevation submitted during site plan review.

   c. No trees or other vegetation existing on the date of this Agreement shall be removed except as indicated in the approved addition site plan.

4. Except as amended hereby, E&F Limited Liability Company reaffirms each and every provision of the Contract Zoning Agreement, Exhibit A.

5. E&F Limited Liability Company shall record this Amendment to the Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Contract Zoning Agreement this day of October, 2000.

WITNESS: **TOWN OF SCARBOROUGH**

/s/ by:/s/ Its: Town Manager (duly authorized by a vote of the Scarborough Town Council on October 2, 2000.)

WITNESS: **E&F LIMITED LIABILITY COMPANY**

/s/ by:/s/Frank R. Goodwin
Its: Managing Member

STATE OF MAINE

COUNTY OF CUMBERLAND _____,2000

Personally appeared the above named_____, in his/her capacity as Scarborough Town Manager and acknowledged the foregoing instrument to be his/her free act and deed.

Before me,

_____
Notary Public / Attorney at Law

STATE OF MAINE
COUNTY OF CUMBERLAND _____,2000

Personally appeared the above named Frank R. Goodwin in his capacity as Managing Member of E&F Limited Liability Company and acknowledged the foregoing instrument to be his free act and deed.

Before me,

_____
Notary Public / Attorney at Law

SECOND AMENDMENT TO EXHIBIT I
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
FRANK R. GOODWIN, E & F LIMITED LIABILITY COMPANY
AND RAYMOND C. FIELD

WHEREAS, E & F Limited Liability Company ("E & F") entered into a Contract Zoning Agreement with the Town of Scarborough on the 15th day of July 1996 (the "Contract"), a copy of which is attached hereto as Schedule A; and,

WHEREAS, E & F acquired certain real estate from Raymond C. Field by two deeds dated June 21, 1996 and recorded in the Cumberland County Registry of Deeds at Book 12576 Page 54 and by Corrective Warranty Deed dated October 27, 1997, recorded in the Cumberland County Registry of Deeds at Book 13402, Page 45; and,

WHEREAS, E & F built a 3,826 square foot addition to its existing building on the north side of the building away from U.S. Route One, which addition is used for the purposes of automobile sales and service pursuant to a First Amendment to the Contract, dated October 2, 2000, a copy of which is attached hereto as Schedule B; and,

WHEREAS, in order to have the proper set backs, E & F acquired an approximate additional 17,070 square feet by deed of KDA LLC (successor to Raymond Field), which deed was dated April 10, 2000 and recorded in the Cumberland County Registry of Deeds at Book 15410, Page 322; and,

WHEREAS, the Amended Contract, Schedule B, at paragraph 3(a), states that E & F was authorized to have an automobile dealership with the structure of 9,325 square feet; and,

WHEREAS, the current initial structure is 9,321 square feet and the anticipated additions to the structure will be 4409 square feet for a total building footprint of 13730 square feet; and,

WHEREAS, the addition to the automobile dealership will also involve an increase in the square footage of the area utilized for outdoor display, storage or parking of vehicles. An additional 9 parking spaces, 8 new spaces being visible from the road will bring the total number of parking spaces to 108, 16 of which will be visible from the road. The relocation of outdoor vehicle storage and display or parking areas to parts of the site closer to the property boundaries or road sidelines than shown on the originally approved site plan is contemplated; and,

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of outdoor displays, storage and sales, because the additional square footage of the building is away from U.S. Route One.

WHEREAS, the Amendment to the Contract Zoning Agreement would be consistent with the policies and future land use plan of part three of the Scarborough Comprehensive Plan and is permitted pursuant to the Zoning Ordinance and Maine Law and is consistent with the existing and permitted uses within the original zoning classification.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change shown on Schedule C hereto.
2. All references in the original Contract Zoning Agreement, the First Amendment to the Contract and the Second Amendment to the Contract, to the "site plan" shall hereafter mean the amended site plan approved by the Scarborough Planning Board on June 1, 2004, attached hereto as Schedule D.

3. Upon approval of an amended site plan by the Scarborough Planning Board, E & F Limited Liability Company is authorized to construct the addition to the automobile dealership as portrayed on the Attached Schedule C. The additional construction will be completed within 12 months after execution of this Agreement. Construction of the addition shall be subject to the following conditions:
    a. The maximum allowable building footprint for the building shall be 13730 square feet and the maximum building height shall be two stories.
    b. Building design, style and materials for the addition shall be substantially as depicted on the building elevation submitted during site plan review.
    c. No trees or other vegetation existing on the date of this Agreement shall be removed except as indicated in the approved addition site plan.
4. Except as amended hereby, E & F Limited Liability Company reaffirms each and every provision of the Contract Zoning Agreement, Schedule A and the First Amendment, Schedule B.
5. E & F Limited Liability Company shall record this Amendment to Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Contract Zoning Agreement this _____ day of _____, 2004.

WITNESS:

_____

TOWN OF SCARBOROUGH

By: _____

Its: Town Manager (duly authorized by a vote of the Scarborough Town Council on July 21, 2004)

E & F LIMITED LIABILITY COMPANY

_____

By: _____

Frank R. Goodwin

Its: Managing Member

STATE OF MAINE
COUNTY OF CUMBERLAND

_____, 2004

Personally appeared the above named _____, in his/her capacity as Scarborough Town Manager and acknowledged the foregoing instrument to be his/her free act and deed.

Before me,

_____

Notary Public/Attorney at Law

STATE OF MAINE
COUNTY OF _____

_____, 2004

Personally appeared the above named Frank R. Goodwin in his capacity as Managing Member of E & F Limited Liability Company and acknowledged the foregoing instrument to be his free act and deed.

Before me,

_____

Notary Public/Attorney at Law

THIRD AMENDMENT TO EXHIBIT I
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
FRANK R. GOODWIN, E & F LIMITED LIABILITY COMPANY
AND RAYMOND C. FIELD

WHEREAS, E & F Limited Liability Company ("E & F") entered into a Contract Zoning Agreement with the Town of Scarborough on the 15th day of July 1996 (the "Contract"), a copy of which is attached hereto as Schedule A; and,

WHEREAS, E & F acquired certain real estate from Raymond C. Field by two deeds dated June 21, 1996 and recorded in the Cumberland County Registry of Deeds at Book 12576 Page 54 and by Corrective Warranty Deed dated October 27, 1997, recorded in the Cumberland County Registry of Deeds at Book 13402, Page 45; and,

WHEREAS, E & F built a 3,826 square foot addition to its existing building on the north side of the building away from U.S. Route One, which addition is used for the purposes of automobile sales and service pursuant to a First Amendment to the Contract, dated October 2, 2000, a copy of which is attached hereto as Schedule B; and,

WHEREAS, in order to have the proper setbacks, E & F acquired an approximate additional 17,070 square feet by deed of KDA LLC (successor to Raymond Field), which deed was dated April 10, 2000 and recorded in the Cumberland County Registry of Deeds at Book 15410, Page 322; and,

WHEREAS, the Amended Contract, Schedule B, at paragraph 3(a), states that E & F was authorized to have an automobile dealership with the structure of 13,730 square feet; and,

WHEREAS, the current initial structure is 13,730 square feet and the anticipated additions to the structure will be 1000 square feet for a total building footprint of 14730 square feet; and,

WHEREAS, the addition to the automobile dealership will also involve an increase in the square footage of the area utilized for outdoor display, storage or parking of vehicles. An additional 7 parking spaces, 7 new spaces being visible from the road will bring the total number of parking spaces to 115, 23 of which will be visible from the road. The relocation of outdoor vehicle storage and display or parking areas to parts of the site closer to the property boundaries or road sidelines than shown on the originally approved site plan is contemplated; and,

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of outdoor displays, storage and sales, because the additional square footage of the building is away from U.S. Route One.

WHEREAS, the Amendment to the Contract Zoning Agreement would be consistent with the policies and future land use plan of part three of the Scarborough Comprehensive Plan and is permitted pursuant to the Zoning Ordinance and Maine Law and is consistent with the existing and permitted uses within the original zoning classification.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change shown on Schedule C hereto.
2. All references in the original Contract Zoning Agreement, the First Amendment to the Contract and the Second Amendment to the Contract, and the Third Amendment to the Contract to the "site plan" shall hereafter mean the amended site plan approved by the Scarborough Planning Board on (TBD), 2016, attached hereto as Schedule D.

3. Upon approval of an amended site plan by the Scarborough Planning Board, E & F Limited Liability Company is authorized to construct the addition to the automobile dealership as portrayed on the Attached Schedule C. The additional construction will be completed within 12 months after execution of this Agreement. Construction of the addition shall be subject to the following conditions:
    a. The maximum allowable building footprint for the building shall be 14,730 square feet and the maximum building height shall be two stories.
    b. Building design, style and materials for the addition shall be substantially as depicted on the building elevation plans prepared by Ryan Senatore Architecture dated May 13, 2016, submitted during site plan review.
    c. No trees or other vegetation existing on the date of this Agreement shall be removed except as indicated in the approved addition site plan.
4. Except as amended hereby, E & F Limited Liability Company reaffirms each and every provision of the Contract Zoning Agreement, Schedule A and the First Amendment, Schedule B.
5. E & F Limited Liability Company shall record this Amendment to Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.

he parties hereto have executed this Third Amendment to Contract Zoning Agreement this _____ day of _____, 2016.

WITNESS: **TOWN OF SCARBOROUGH**

_____ By: _____

Its: Town Manager (duly authorized by a vote of the Scarborough Town Council on (TBD), 2016

E & F LIMITED LIABILITY COMPANY

_____ By: _____

Frank R. Goodwin

Its: Managing Member

STATE OF MAINE
COUNTY OF CUMBERLAND _____, 2016

Personally appeared the above named _____, in his/her capacity as Scarborough Town Manager and acknowledged the foregoing instrument to be his/her free act and deed.

Before me,

_____

Notary Public/Attorney at Law

STATE OF MAINE
COUNTY OF _____ _____, 2016

Personally appeared the above named Frank R. Goodwin in his capacity as Managing Member of E & F Limited Liability Company and acknowledged the foregoing instrument to be his free act and deed.

Before me,

_____

Notary Public/Attorney at Law

FOURTH AMENDMENT TO EXHIBIT 1

FOURTH AMENDMENT TO EXHIBIT I
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
FRANK R. GOODWIN, E & F LIMITED LIABILITY COMPANY
AND RAYMOND C. FIELD

WHEREAS, E & F Limited Liability Company ("E & F") entered into a Contract Zoning Agreement with the Town of Scarborough on the 15th day of July 1996 (the "Contract"), a copy of which is attached hereto as Schedule A; and,

WHEREAS, E & F acquired certain real estate from Raymond C. Field by two deeds dated June 21, 1996 and recorded in the Cumberland County Registry of Deeds at Book 12576 Page 54 and by Corrective Warranty Deed dated October 27, 1997, recorded in the Cumberland County Registry of Deeds at Book 13402, Page 45; and,

WHEREAS, E & F built a 3,826 square foot addition to its existing building on the north side of the building away from U.S. Route One, which addition is used for the purposes of automobile sales and service pursuant to a First Amendment to the Contract, dated October 2, 2000, a copy of which is attached hereto as Schedule B; and,

WHEREAS, in order to have the proper setbacks, E & F acquired an approximate additional 17,070 square feet by deed of KDA LLC (successor to Raymond Field), which deed was dated April 10, 2000 and recorded in the Cumberland County Registry of Deeds at Book 15410, Page 322; and,

WHEREAS, the Amended Contract, Schedule B, at paragraph 3(a), states that E & F was authorized to have an automobile dealership with the structure of 13,730 square feet; and,

WHEREAS, the current initial structure is 13,730 square feet and the anticipated additions to the structure will be 2,270 square feet for a total building footprint of 16,500 square feet; and,

WHEREAS, the addition to the automobile dealership will also involve an increase in the square footage of the area utilized for outdoor display, storage or parking of vehicles. An additional 7 parking spaces, 5 new spaces being visible from the road will bring the total number of parking spaces to 115, 23 of which will be visible from the road. The relocation of outdoor vehicle storage and display or parking areas to parts of the site closer to the property boundaries or road sidelines than shown on the originally approved site plan is contemplated; and,

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of outdoor displays, storage and sales, because the additional square footage of the building is away from U.S. Route One.

WHEREAS, the Amendment to the Contract Zoning Agreement would be consistent with the policies and future land use plan of part three of the Scarborough Comprehensive Plan and is permitted pursuant to the Zoning Ordinance and Maine Law and is consistent with the existing and permitted uses within the original zoning classification.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change shown on Schedule C hereto.
2. All references in the original Contract Zoning Agreement, the First Amendment to the Contract, the Second Amendment to the Contract, the Third Amendment to the Contract, and the Fourth Amendment to the contract and to the "site plan" shall hereafter mean the amended site plan approved by the Scarborough Planning Board on (TBD), 2017, attached hereto as Schedule D.

3. Upon approval of an amended site plan by the Scarborough Planning Board, E & F Limited Liability Company is authorized to construct the addition to the automobile dealership as portrayed on the Attached Schedule C. The additional construction will be completed within 12 months after execution of this Agreement. Construction of the addition shall be subject to the following conditions:
   a. The maximum allowable building footprint for the building shall be 16,500 square feet and the maximum building height shall be two stories.
   b. Building design, style and materials for the addition shall be substantially as depicted on the building elevation plans as prepared by Ryan Senatore Architecture dated TBD 2017, submitted during Site Plan Review.
   c. No trees or other vegetation existing on the date of this Agreement shall be removed except as indicated in the approved addition site plan.
4. Except as amended hereby, E & F Limited Liability Company reaffirms each and every provision of the Contract Zoning Agreement, Schedule A and the First Amendment, Schedule B.
5. E & F Limited Liability Company shall record this Amendment to Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.

he parties hereto have executed this Third Amendment to Contract Zoning Agreement this _____ day of _____, 2017.

WITNESS: **TOWN OF SCARBOROUGH**

_____ By: _____

Its: Town Manager (duly authorized by a vote of the Scarborough Town Council on (TBD), 2017)

E & F LIMITED LIABILITY COMPANY

_____ By: _____

Frank R. Goodwin Its: Managing Member

STATE OF MAINE
COUNTY OF CUMBERLAND _____, 2017

Personally appeared the above named _____, in his/her capacity as Scarborough Town Manager and acknowledged the foregoing instrument to be his/her free act and deed.

Before me,

_____

Notary Public/Attorney at Law

STATE OF MAINE
COUNTY OF _____ _____, 2017

Personally appeared the above named Frank R. Goodwin in his capacity as Managing Member of E & F Limited Liability Company and acknowledged the foregoing instrument to be his free act and deed.

Before me,

_____

Notary Public/Attorney at Law

EXHIBIT 2

CONTRACT ZONING AGREEMENT BETWEEN THE TOWN OF SCARBOROUGH AND ROBERT TGETTIS AND LUCINDA P. MALBON

This is a Contract Zoning Agreement made as of the 6th day of January 1997, by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter "the Town"), and Robert Tgettis and Lucinda P. Malbon of Scarborough, Maine, ("Tgettis and Malbon) pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance.

WHEREAS, Tgettis and Malbon are owners of real estate located at 311 Beech Ridge Road in Scarborough, Maine consisting of approximately 9.6 acres, as shown on attachment 1 (the "Property"); and

WHEREAS, the Property is currently in a Rural Residence and Farming District (R-F) under the Scarborough Zoning Ordinance; and

WHEREAS, the Rural Residence and Farming District R-F presently allows a number of non-residential uses, including retail sales of farm produce in connection with farming operations, kennels, hospitals, nursing homes and sanatoria, family day care homes, golf courses, municipal buildings and uses, public utility facilities, cemeteries, extractive industry, camping and tenting areas, non-commercial model aviation flying fields, cross country ski areas and day care center facilities; and

WHEREAS, Tgettis and Malbon wish to expand their existing skin and nail care business within the existing structure on the Property, which is currently operating as a home occupation; and

WHEREAS, the portion of the lot which abuts Beech Ridge Road is extensively wooded and, the existing vegetation, together with appropriate landscaping, will provide effective screening and buffering for the use; and

WHEREAS, Tgettis and Malbon have requested a rezoning of the Property lot to permit the expansion of the existing skin and nail care business beyond the scope allowable as a home occupation; and

WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph G, Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), after notice and hearing and due deliberation thereon, recommends the rezoning of the Property as set forth in this contract; and

WHEREAS, the Town of Scarborough, by and through its Town Council, has determined that the rezoning would be pursuant to and consistent with the Town's Comprehensive Plan and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Contract Zoning Agreement on January 6, 1997.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown on Attachment 1.

2. Tgettis and Malbon are authorized to operate a skin and nail care business at the Property, consisting of the existing two story structure and new paved parking and driveway areas. The initial phases will be constructed within one year after execution of this agreement. Operation of the facility shall be subject to the following conditions:

   (a) The maximum allowable building footprint for the building shall be 2,200 s.f. and the maximum building height shall be two stories.

(b) The uses allowed on the Property shall be skin and nail care, and those uses otherwise allowable in the Rural Residence and Farming District R-F.

(c) Building design, style and materials shall be residential in appearance, with no substantial exterior changes from the existing structure.

(d) The Property shall be landscaped to enhance the general appearance of the project from Beech Ridge Road and surrounding properties as determined by the Planning Board at the time of site plan approval. After the date of approval of this Contract Zoning Agreement by the Scarborough Town Council, no trees or other vegetation existing on that date shall be removed except as indicated in an approved site plan. The landscaping shall be maintained by Tgettis and Malbon or their successors in interest in the Property.

(e) With the exception of emergency situations, the hours during which the nail and skin care business may be open to the public shall be limited to between 7:00 a.m. and 9:00 p.m. Monday through Saturday.

(f) Vehicular access between Beech Ridge Road and the Property shall be from one driveway only, located approximately in the location of the existing driveway, the exact location to be determined by the Planning Board at the time of site plan approval.

(g) The number of persons providing skin and nail care to customers on the Property shall not exceed eight at any time.

(h) The Property shall be developed and used only in accordance with the site plan approved by the Scarborough Planning Board on December 9, 1996, as that site plan may be amended from time to time pursuant to the provisions of the Scarborough Site Plan Review Ordinance. Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement:

(i) Any increase in the square footage of the area utilized for the skin and nail care business; and

(ii) Relocation of any outdoor parking areas to any part of the site other than shown on the original approved site plan.

(i) As used in this Contract Zoning Agreement, the term “skin and nail care” includes:

(i) manicure and pedicure treatments, meaning applying the hands or mechanical or electrical apparatus with or without cosmetic preparations, locations, creams or antiseptics to cut, trim, shape polish, color, or trim or apply artificial nails to the nails of any person or to massage, cleanse or beautify the hands or feet of any person, including application of nail art; (ii) skin treatments, meaning beautifying, massaging, cleansing, stimulating, toning, or manipulating or exercising the skin of the human body by the use of cosmetic preparations, tonics, lotions, creams, antiseptics, or clays or any device electrical or otherwise, for the care of the skin, including facial treatments; (iii) coloring treatments, including applying makeup or eyelashes, to the eyelashes or eyebrows; (iv) hair removal, by wax treatments, electrolysis or other means; (v) massage therapy as defined in state statute, 32 M.R.S.A. § 14302(4), administered by a massage therapist certified under the state statute and licensed under the Town of Scarborough Massage Establishment Ordinance; and, (vi) any

other procedures, techniques or advancements for accomplishing the treatments above which may in the future become generally accepted and recognized in the fields of skin and nail care. The term "skin and nail care" does not include arranging, dressing, curling, waving, cleansing, cutting, trimming, singeing, bleaching or similarly treating human hair wigs, wiglets or hairpieces.

(i) This addendum shall not prevent the practice of massage therapy on the premises by Amy Cousins, a registered massage practitioner employed on the premises at the time of approval of this addendum. (Addendum, made as of the 3rd day of December between the Town of Scarborough and Robert Tgettis and Lucinda P. Malbon dated January 6, 1997 adding the new term "skin and nail care").

3. Tgettis and Malbon shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.

4. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property except as this Contract Zoning Agreement may be amended by future written agreement of the Town of Scarborough and Tgettis and Malbon or their successors in interest.

5. This is the sole zoning for the Property and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying R-F Zoning District shall apply. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind Tgettis and Malbon, their heirs, successors in interest and assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

6. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough and any applicable amendments thereto or replacement thereof.

7. In the event that Tgettis and Malbon or their heirs, successors or assigns fail to use the Property in accordance with this Contract Zoning Agreement, or in the event of any other breach hereof, this Contact Zoning Agreement may be terminated by vote of the Scarborough Town Council. In that event, the property may then be used only for such uses as are otherwise allowed by law.

WITNESS:	TOWN OF SCARBOROUGH
/s/ Laurel R. Nadeau	/s/ Carl Betterley
	Its Town Manager (duly authorized by vote
	of the Scarborough Town Council on January 6, 1997)
/s/ Laurel R. Nadeau	/s/ Robert Tgettis
/s/ Laurel R. Nadeau	/s/ Lucinda P. Malbon

FIRST AMENDMENT TO EXHIBIT 2

CONTRACT ZONING AGREEMENT

BETWEEN THE TOWN OF SCARBOROUGH AND

ROBERT TGETTIS AND LUCINDA P. MALBON

This First Amendment to Contract Zoning Agreement (hereinafter, this "Amendment") is made as of the 19th day of September, 2007, by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter "the Town"), and Robert Tgettis and Lucinda P. Malbon of Scarborough, Maine, ("Tgettis and Malbon) pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, Tgettis and Malbon entered into a Contract Zoning Agreement with the Town dates as of the 6th day of January 1997 (hereinafter, this "Agreement") creating Contact Zoning District Number II (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 12903, Page 122; and,

WHEREAS, Tgettis and Malbon wish to expand their existing skin and nail care business on the Property; and,

WHEREAS, Tgettis and Malbon have requested that the Town approve this Amendment to the Agreement; (a) modifying the number of employees allowed; (b) adding administrative staff; (c) adding to the overall square footage of structure footprint; and (d) adding separate parking for employees.

NOW THEREFORD, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. Section 2(a) is amended to read as follows: "The maximum allowable building footprint for the building shall be 2,200 square feet plus a maximum of 335 square feet for a rear porch and stair area measuring approximately 29.6 feet by 11.2 feet, and the maximum building height shall be two stories."
2. Section 2(g) is amended to read as follows: "The number of persons providing skin and nail care to customers on the Property shall not exceed twelve at any time; this limit does not include the owner/manager or administrative staff who do not perform skin and nail care services."
3. A new Section 2(j) is added to read as follows: "Upon approval of an amended site plan by the Scarborough Planning Board, Tgettis and Malbon are authorized to add a separate employee parking area measuring approximately 90 feet by 60 feet with a 25 foot by 25 foot hammerhead turnaround."
4. Except as specifically amended herein, all terms and conditions of the original Contract Zoning Agreement shall remain in full force and effect.
5. Tgettis and Malbon shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:	TOWN OF SCARBOROUGH:
/s/ Laurel R. Nadeau	/s/ Ronald W. Owens, its Town Manager

(duly authorized by vote of the Scarborough Town Council on September 19, 2007)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss. September 25, 2007

Personally appeared the above named Ronald W. Owens, Town Manager, of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

/s/ Yolande P. Justice, Notary Public

SECOND AMENDMENT TO EXHIBIT 2
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
ROBERT TGETTIS AND LUCINDA P. MALBON

This Second Amendment to Contract Zoning Agreement (hereinafter, this "Amendment") is made as of the October 4, 2017 by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter "the Town"), and Robert Tgettis and Lucinda P. Malbon of Scarborough, Maine, ("Tgettis and Malbon") pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, Tgettis and Malbon entered into a Contract Zoning Agreement with the Town dated as of the 6th day of January 1997, subsequently amended by an amendment dated September 19, 2007, (hereinafter, this "Agreement") creating Contract Zoning District Number II (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 12903, Page 122; and,

WHEREAS, Tgettis and Malbon wish to expand their existing skin and nail care business on the Property to include hair care; and,

WHEREAS, Tgettis and Malbon have requested that the Town approve this Amendment to the Agreement to allow hair care as an approved service.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. Section 2 is amended to insert hair care as an allowable use, to read as follows: "Tgettis and Malbon are authorized to operate a skin, hair and nail care business at the Property…."
2. Section 2(b) is amended to read as follows: "The uses allowed on the Property shall be skin, hair and nail care, and those uses otherwise allowable in the Rural Residence and Farming District."
3. Section 2(h)(i) is amended to read as follows: "Any increase in the square footage of the area utilized for the skin, hair and nail care business, and"
4. Section 2(h)(i) is amended to read as follows: "As used is this Contract Zoning Amendment, the term skin, hair and nail care includes:"
5. Section 2(h)(i)(i) is amended to insert "hair care" as an allowable use, and will read as follows: "(i) manicure and pedicure treatments, meaning applying the hands or mechanical or electrical apparatus with or without cosmetic preparations, locations, creams, or antiseptics to cut, trim, shape, polish, color, or trim or apply artificial nails to the nails of any person or to massage, cleanse or beautify the hands or feet of any person, including application of nail art; (ii) skin treatments, meaning beautifying, massaging, cleansing, stimulating, toning, or manipulating or exercising the skin if the human body by the use of cosmetic preparations, tonics, lotions, creams, antiseptics, or clays or any device electrical or otherwise, for the care of skin, including facial treatment; (iii) coloring treatments, including applying makeup or eyelashes, to the eyelashes or eyebrows; (iv) hair removal, by wax treatments, electrolysis or other means; (v) massage therapy as defined in state statute, 32 M.R.S.A. § 14302(4), administered by a massage therapist certified under the state statute and licensed under the Town of Scarborough Massage Establishment Ordinance; and (vi) hair care (vii) any other procedures techniques or advancements for accomplishing the

treatment above which may in the future become generally accepted and recognized in the fields of skin, hair and nail care."

6. Section 2 (h)(i)(i) is further amended to delete the following sentence: "The term "skin and nail care" does not include arranging, dressing, curling, waving, cleansing, cutting, trimming, singeing, bleaching or similarly treating human hair wigs, wiglets or hairpieces."
7. The sole intent of this amendment is to allow hair care as an acceptable use. Except as specifically amended herein, all terms and conditions of the original Contract Zoning Agreement, as amended, shall remain in full force and effect.
8. Tgettis and Malbon shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

_____

TOWN OF SCARBOROUGH

_____

Thomas J. Hall, its Town Manager

(duly authorized by vote of the Scarborough Town Council on _____, 2017)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

_____, 2017

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

_____

Notary Public/Attorney-At-Law

_____

Print Name

EXHIBIT 3

CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
MAINE LIFE CARE RETIREMENT COMMUNITY, INC.

This Contract Zoning Agreement made as of the 17th date of November, 1997, by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town"), and MAINE LIFE CARE RETIREMENT COMMUNITY, INC., a Maine non-profit corporation, with an address of P.O. Box 1012, Portland, ME ("Maine Life Care"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance:

WHEREAS, Maine Life Care intends to purchase a parcel or real estate located at Spurwink Road and Piper Road, Scarborough, Maine, consisting of approximately 138 acres, being shown as Parcels 1, 2, 5, 6, 6A, 7, 8 and 9 on the Town's Tax Map 101 and as Parcel 12 and 14 on the Town's Map 100, such property being the premises described in Schedule A of the Memorandum of Option Agreement, dated November 5, 1996 and recorded in the Cumberland County Registry of Deeds, Book 12808, Page 50 (hereinafter the "Property"); and

WHEREAS, the Property is currently in part in a Rural Residence and Farming District (R-F) and in part in the Residential (R-3) District and in part in the Resource Protection (R-P) District under the Scarborough Zoning Ordinance; and

WHEREAS, the R-F District and the R-3 District presently allow, as permitted uses, or special exceptions, various uses, including nursing homes and board care facilities for the elderly but not continuing care retirement communities; and

WHEREAS, Maine Life Care wishes to develop the Property as a Continuing Care Retirement Community which is not currently permitted in the R-F Zone or the R-3 Zone; and

WHEREAS, the Zoning Ordinance of the Town of Scarborough does not currently recognize Continuing Care Retirement Community as a defined use; and

WHEREAS, Maine Life Care has requested a rezoning of the Property to permit a Continuing Care Retirement Community; and

WHEREAS, the Property contains several select mature trees along the Spurwink Avenue frontage and open agricultural land along Spurwink Road frontage that will be maintained, a large amount of mature trees buffering adjacent to the agricultural lands that will be preserved, and a resource protection area to the south which will be preserved, and will include areas of extensive interior landscaping, all of which provide a unique amount and quality of vegetative buffering; and

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping, and site design which will be appropriate for a Continuing Care Retirement Community, provided the operation is restricted to the density, scale and intensity proposed by Maine Life Care and further provided that the restrictions of this Contract Zoning Agreement are observed; and

WHEREAS, the Continuing Care Retirement Community will concentrate development into two areas of the site plus roadways totaling approximately 48 acres, thereby leaving approximately 90 acres of the 138 acre site as open space; and

WHEREAS, Maine Life Care intends to maintain approximately 90 acres of the Project's land as open space and, if requested by the Town, to place the same into a Conservation Easement to be held and administered by a conservation trust approve by the Town Manager of the Town; and

WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph G, Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid; and

WHEREAS, the Project will serve the Town's goal of fostering and accommodating a diverse population in the Town (Chapter 15(A) of the Comprehensive Plan) by constructing the first life care community in the State of Maine to serve the needs of the elderly in the region; and

WHEREAS, the Project would create approximately 100 new permanent jobs thereby helping to achieve the Town's goal of promoting and fostering a diversified economy that can be sustaining even in recessionary periods as set forth in Chapter 15(B) of the Comprehensive Plan; and

WHEREAS, the Project will preserve over 90 acres as open space thereby furthering the goal of Chapter 15(C) of the Comprehensive Plan of promoting a "pattern of land use that respects the Town's natural resources" with this Agreement serving as the Plan's contemplated "meaningful incentive to keep large areas of rural space intact" and the goal of Chapter 15(D) of the Comprehensive Plan of protecting fragile cost resources, including marshlands, sand dunes and wildlife habitats and the character of existing coastal neighborhoods; and

WHEREAS, the Project preserves Spurwink Road as a "scenic corridor" and assures 90 acres of open space "needed for the ... protection of wildlife and natural systems" as envisioned by Chapter 15(E) of the Comprehensive Plan;

WHEREAS, the Project, in accordance with Chapter 15(F) of the Comprehensive Plan, encouraging development that maintains substantial open space along Spurwink Avenue and precludes new households with frontage thereon, and therefor provides the variety of land uses needed to serve the day-to-day needs of the community (particularly its elderly residents) and this Contract, therefor, recognizes the Town's "preferred strategy for these rural lands is a combination of (a) increasing the minimum land size somewhat from the present 2 net acres; (b) making clustering of development optional but with a substantial density bonus as an incentive and (c) developing standards to assure that open space that is preserved as part of the clustering is both contiguous to other land similarly preserved and has public value (for wildlife, aesthetics, preservation of the rural landscape and so forth;" and

WHEREAS, the Project serves the goals of Chapter 15 (G) of the Comprehensive Plan by using public sewer and water facilities; and

WHEREAS, the Project fulfills the goals of Chapter 15 (H) of the Comprehensive Plan encouraging a choice of housing for residents of all ages and incomes by providing a type of retirement community not currently available in the Town;

WHEREAS, the rezoning provided in this Agreement, therefor, would be consistent with the Policies and Future Land Use Plan of Part III of the Scarborough Comprehensive Plan; and

WHEREAS, the Town of Scarborough, by and through its Town Council, therefor, has determined that the said rezoning would be pursuant to and consistent with the Town's local growth program and Comprehensive Plan adopted pursuant to Title 30-A, Maine Revised Statutes, Chapter 187, Sub-part 6-A, and consistent with the existing and permitted uses within the original zoning district classification and has authorized the executive of this Contract Zoning Agreement.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town hereby amends the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown on Attachment 1.

2. Maine Life Care is authorized to create a Continuing Care Retirement Community, as defined herein, at the Property. For purposes of this Agreement, a Continuing Care Retirement Community means a residential and health care facility for persons 62 years of age or older which may include independent living units (apartments or cottages) for well elderly, assisted living units for frail elderly, and a skilled nursing facility, all as further described in paragraph (e) below, plus related supporting and accessory uses. Supporting and accessory uses, which shall be secondary and incidental to the residential units, may include administrative offices, shared areas for communal dining and recreational activities, a Wellness Center, health care offices, community store, bank, barber/beauty salon and guest rooms, all for the benefit of the residents and staff of the Continuing Care Retirement Community. Unless extended by the Town, construction of the initial phases of the Project will commence within two (2) years after execution of this Agreement; provided that Phase II (consisting of the 40 Independent Living Cottage Units referenced in paragraph 2(e) hereof, and the final 4 Assisted Living apartments; 32 Skilled Nursing Rooms and 16 Assisted Living Units) and substantially completed within five (5) years thereafter. Construction and use of the facility shall be subject to the following conditions:

(a) Building Footprint and Height: The maximum allowable building footprint for the buildings (including the main building, the cottages and garage structures) shall be 257,600 square feet and the maximum building height shall be three (3) stories and as shown on the Site Plan Approved by the Town of Scarborough Planning Board. The main buildings shall be a maximum height of 39 feet to the mid-point of the sloped or hip roofs and 45 feet to the ridge of the roof. The maximum number of stories for the cottages will be 1 story.

(b) Permitted Uses: The uses allowed or permitted on the Property shall be limited to (i) a Continuing Care Retirement Community and accessory uses; and (ii) the existing agricultural uses along Spurwink Avenue. Maine Life Care also may either (a) retain and maintain the existing cottage and barn on the Property, the use of which will be consistent with the and incidental to the Continuing Care Retirement Community use, such as guest rooms for guest visiting residents, equipment storage, security or maintenance, office and staff accommodations; or (b) sell such cottage for use as a single family residence.

(c) Building Design: Building design, style and materials shall be substantially as depicted on the building elevations submitted during site plan review, with any changes thereto as approved by the Planning Board.

(d) Landscaping: The Property shall be landscaped to enhance the general appearance of the project from surrounding properties as determined by the Planning Board at the time of site plan approval. The landscaping shall be maintained by Maine Life Care or its successors or its successors in interest. After the date of approval of this Contract Zoning Agreement, there shall be no significant amount of removal of existing trees or other vegetation except as indicated on an approved Site Plan. Notwithstanding the above, the use and maintenance by Maine Life Care of lands placed into any Conservation Easement shall be governed by the Deed of Easement, the language of which shall be approved by the Planning Board.

(e) Density: The maximum net residential density of the Continuing Care Retirement Community shall be

160 Independent Living apartments, being dwelling units ranging in size from 500 square feet to 1800 square feet;

40 Independent Living Cottage Units, being one story, semi-attached in up to for plex buildings with each unit ranging in size from 700 square feet to 2000 square feet;

20 Assisted Living Units, as regulated by Department of Human Services rules relating to residential care or assisted living units; and

40 Skilled Nursing Rooms, as regulated by Department of Human Services Nursing Home licensing requirements.

(f) Residents: Occupancy of the Continuing Care Retirement Community shall be limited to persons 62 years of age or older or households with at least one resident who is 62 years of age or older.

(g) Sewer and Water: The facility will be served by both public water and public sewer.

(h) Setback: The front, side and rear yards shall be a minimum of 50 feet and as generally shown on the Site Plan approved by the Planning Board.

(i) Parking: The Project shall provide the following minimum off-street parking:

Independent Living apartments:	1 space for each dwelling unit
Independent Living cottages:	1.25 spaces for each dwelling unit
Assisted Living Units:	1 space per 3 units
Nursing Home beds:	1 space per 3 beds
Employees:	1 space per employee based on the expected average employee occupancy
Facility vehicles:	1 space per each expected facility vehicle

(j) Site Plan: The property subject to this Contract Zoning Agreement shall be developed and used only in accordance with the site plan approved by the Scarborough Planning Board on October 14, 1997, as that site plan may be amended from time to time pursuant to the provisions of the Scarborough Site Plan Ordinance. Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement:

(a) any change to the definition of a Continuing Care Retirement Community; and

(b) any increase in the number of units.

3. Maine Life Care shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its execution by the Town Council.

4. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property except as this Contract Zoning Agreement may be amended by future written agreement with the Town of Scarborough and Maine Life Care or its successors in interest.

The provisions of this Contract Zoning shall operate as an "overlay" zone and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying Zoning District shall apply (other than the maximum net residential density, use, height and parking). The restrictions, provisions and conditions of this Agreement are an essential part of the rezoning, shall run with the Property, shall bind Maine Life Care, its successors in interests and assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough (as applicable) and any applicable amendments thereto or replacement thereof.

The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Scarborough Zoning Ordinance and through legal action for specific performance of this Agreement. In the event that Maine Life Care or it successors or assigns fail to develop the project in accordance with this Contract, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if Maine Life Care, its successors or assigns, fails to commence to cure or remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to completion in a reasonable time, then this Contract may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses as otherwise allowed by law.

WITNESS:	TOWN OF SCARBOROUGH
/s/ Laurel R. Nadeau	/s/ Carl L. Betterley, Its Town Manager
	duly authorized by vote of the Scarborough
	Town Council on November 5, 1997
WITNESS:	MAINE LIFE CARE RETIREMENT
	COMMUNITY, INC.
/s/ Ronald Epstein	/s/ John J. Evans, Its President

**FIRST AMENDMENT TO CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
MAINE LIFE CARE RETIREMENT COMMUNITY, INC.**

The First Amendment t Contract Zoning Agreement made as of the _____ day of _____, 2014, by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town"), and Maine Life Care Retirement Community, Inc., a Maine non-profit corporation, with an address of 15 Piper Road, Scarborough, ME 04074 ("Maine Life Care"), pursuant to the Contract Zoning provisions of the Scarborough Zoning Ordinance.

WHEREAS, the Town and Maine Life entered a Contract Zoning Agreement dated November 6, 1997 and November 17, 1997 and recorded in the Cumberland County Registry of Deeds, Book 13437, Page 19 and Book 13449, Page 171; and,

WHEREAS, the Town of Scarborough, by and through its town Council has determined that the amendments set forth herein to said rezoning would be pursuant to and consistent with the Town's local growth program and Comprehensive Plan adopted pursuant to Title 30-A, Maine Revised Statutes, Chapter 187, Sub-part 6-A, and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this First Amendment to the Contract Zoning Agreement.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The provisions of Section 2(a), 2(e) and 2(f) of the Agreement are hereby amended in their entirety to provide:

(a) Building Footprint and Height: The maximum allowable building footprint for the buildings (including the main building, the cottages and garage structures) shall be 288,000 square feet and the maximum building height shall be three (3) stories and as shown on the Site Plan Approved by the Town of Scarborough Planning Board. The main buildings shall be a maximum height of 39 feet to the mid-point of the sloped or hip roofs and 45 feet to the ridge of the roof. The maximum number of stories for the cottages will be 1 story.

(e) Density: The maximum net residential density of the Continuing Care Retirement Community shall be

160 Independent Living apartments, being dwelling units ranging in size from 500 square feet to 1800 square feet;

40 Independent Living Cottage Units, being one story, semi-attached in up to four plex buildings with each unit ranging in size from 700 square feet to 2000 square feet;
48 Assisted Living Units, as regulated by Department of Human Services rules relating to residential care or assisted living units; and

40 Skilled Nursing Rooms, as regulated by Department of Human Services Nursing Home licensing requirements.

(f) Residents: Occupancy of the Continuing Care Retirement Community shall be limited to persons 62 years of age or older or households with at least one resident who is 62 years of age or older; provided, however, that in the case of any dwelling occupied by a person age 62 or older and by a person older than 21 and younger than age 62, in the event that the person age 62 or

older moves out of the dwelling unit or dies, the younger person may continue to reside the dwelling unit.

3. Maine Life Care shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its execution by the Town Council.

4. Unless extended by the Town by further amendment of this Agreement, construction of the additional improvements to the Property authorized by this Amendment may commence within five (5) years after execution of this Amendment and shall be substantially completed within ten (10) years from the date of this Amendment.

5. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

Witness:

_____

Town of Scarborough
By:_____
Thomas Hall, Its Town Manager

_____

Maine Life Care Retirement Community, Inc.
By:_____
James E. Adamowicz, Its Chief Executive Officer

STATE OF MAINE
CUMBERLAND, ss. _____, 2014

Personally appeared the above-named Thomas Hall, Town Manager of said Town of Scarborough, and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized and the free act and deed of said Town of Scarborough.

Before me,

_____
Notary Public/Commission Expires

STATE OF MAINE
CUMBERLAND, ss. _____, 2014

Personally appeared the above-named James E. Adamowicz, Chief Executive Officer of said Maine Life Care Retirement Community, Inc., and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized and the free act and deed of said Maine Life Care Retirement Community, Inc.

Before me,

_____
Notary Public/Commission Expires

SECOND AMENDMENT TO
CONTRACT ZONING AGREEMENT

This Second Amendment to Contract Zoning Agreement made as of the 19th day of June, 2019 by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town"), and Maine Life Care Retirement Community, Inc., d/b/a Piper Shores, a Maine nonprofit corporation, with an address of 15 Piper Road, Scarborough, ME 04074 (hereinafter "Maine Life Care"), pursuant to the Contract Zoning provisions of the Scarborough Zoning Ordinance.

WHEREAS, the Town and Maine Life Care entered a Contract Zoning Agreement, dated November 6, 1997 and November 17, 1997 and recorded in the Cumberland County Registry of Deeds, Book 13437, Page 19, and Book 13449, Page 171, as amended by a First Amendment to Contract Zoning Agreement, dated May 21, 2015, and recorded in said Registry, Book 32302, Page 205 (collectively, the "Agreement"); and

WHEREAS, the property is currently in a Rural Farming Zone (R-F Zone), which allows as permitted uses various uses, including but not limited to single-family housing, multi-family housing, nursing homes, and boarding care facilities for the elderly; and

WHEREAS, Maine Life Care has requested a rezoning of the property to permit a Continuing Care Retirement Community; and

WHEREAS, a Continuing Care Retirement Community is a permitted use in the existing contract zone and is in harmony with the existing and permitted uses in the R-F Zone:

(i) is residential in nature consistent with the permitted residential uses in the RF Zone,

(ii) involves a clustered development and conservation easements that provide substantial open space permitted and endorsed by the RF Zone,

(iii) involves a senior population consistent with the permitted use of "Nursing homes and boarding-care facilities for the elderly" permitted in the RF Zone,

(iv) with regard to the apartment building, involves a scale of building, consistent with the the permitted uses of "Nursing homes and boarding-care facilities for the elderly", "places of worship", and "municipal buildings", and

(v) projects traffic volumes consistent with the permitted uses in the RF Zone; and

WHEREAS, the preliminary site plan approved by the Planning Board includes heavily landscaped buffering from neighboring properties to preserve the character and feel of properties in the RF Zone, and includes substantially greater setbacks than required in the RF Zone; and

WHEREAS, the Town of Scarborough, by and through its Town Council, has determined, in accordance with the Town of Scarborough Zoning Ordinance Section II, I. 4. c. ii., that the amendments set forth herein are consistent with the existing and permitted uses within the R-F Zone; and

WHEREAS, the Town of Scarborough, by and through its Town Council has determined that the amendments set forth herein to said rezoning are pursuant to and consistent with the Town's local growth program and 2006 Update of the Comprehensive Plan adopted pursuant to Title 30-A, Maine Revised Statutes, Chapter 187, Sub-part 6-A, by providing a range of senior housing opportunities within a growth area served by public water and sewer facilities, encouraging the development of multiplex/multi-family housing, growing a non-profit business that offers high quality jobs, and adding new residential development that does not result in demands for expanded services beyond the Town's ability to meet those demands; and such amendments are consistent with the existing and permitted uses within the original zoning district classifications; and

WHEREAS, the Town of Scarborough, by and through its Town Council, has determined that the amendments set forth herein to said rezoning are in the public interest and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification. The public benefits, which are more fully set forth on Exhibit C attached hereto and incorporated herein, include but are not limited to: (i) providing housing and amenities to senior citizens with innovative design features, (ii) donating an easement for open space and conservation land; (iii) providing public parking and public access to recreational trails, (iv) improving the Town's tax base, (v) providing a contribution to the Town's Affordable Housing Initiative Fund; (vi) providing a contribution to the Town's multimodal reserve account to fund sidewalks to enhance pedestrian connectivity, and (vii) increasing employment opportunities in the Town; and

WHEREAS, the Town of Scarborough, by and through its Town Council has authorized the execution of this Second Amendment to Contract Zoning Agreement ("Second Amendment").

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town hereby amends the Zoning Map of the Town of Scarborough by adopting the map change amendment shown on Attachment 1. The Agreement is amended to add to the provisions of the Agreement the property described in Exhibit A of this Second Amendment (hereinafter called the "Dorado Property"). The provisions of Section 2 of the Agreement are hereby amended to provide that Sections 2(a) through 2(j) of the Agreement shall not apply to the Dorado Property and instead the following provisions shall apply to the Dorado property, and Maine Life Care is authorized to construct up to 52 dwelling units and related improvements as described below and subject to the conditions set forth below and notwithstanding the provisions of Sections XIV and IX of the Zoning Ordinance of the Town:

(a) Building Height: The maximum building height is 40 feet. Building height for purpose of this Agreement shall be as defined in the zoning ordinance, which states the

definition as "Vertical distance measured from the average finish grade at the front of the building to the highest point of the roof on a flat or mansard roof and to the average height between the eaves and the ridge for all other types of roofs." For this definition, the "front of the building" shall be the exterior side of the building where visitors approach the main entrance and where off street parking is located.

(b) Density: The maximum residential density for the Dorado Property shall be 52 dwelling units. The dwelling units may be located in any combination of single family dwelling units, duplex or two family dwelling units, and multi-family dwelling units, and any building with multi-family dwelling units may also contain additional common facilities such as meeting rooms, activity rooms, recreational facilities, common dining and kitchen facilities and parking facilities and other facilities that may be part of a Continuing Care Retirement Community.

(c) Permitted Uses: The uses allowed or permitted on the Property shall be a Continuing Care Retirement Community and accessory uses, including maintenance and operations support facilities. The term "Continuing Care Retirement Community" shall have the meaning set forth in the Contract Zoning Agreement, dated November 6, 1997 and November 17, 1997 and recorded in the Cumberland County Registry of Deeds, Book 13437, Page 19, and Book 13449, Page 171, as amended by the First Amendment to Contract Zoning Agreement, dated May 21, 2015, and recorded in said Registry, Book 32302, Page 205 and as amended by this Amendment.

(d) Building Design: Building design, style and materials shall be substantially as depicted on plans submitted during site plan review, with any changes thereto as approved by the Planning Board.

(e) Residents: Occupancy of the Continuing Care Retirement Community shall be limited to person 62 years of age or older households with at least one resident who is 62 years of age or older; provided, however, that in the case of any dwelling occupied by a person age 62 or older and by a person older than age 35 and younger than age 62, in the event that the person age 62 or older moves out of the dwelling unit or dies, the younger person may continue to reside the dwelling unit.

(f) Sewer and Water: The facility will be served by both public water and public sewer.

(g) Setbacks: The front yard setback from Spurwink Road shall be a minimum of 200 feet and the side and rear yards from the exterior boundary of the Dorado Property shall be a minimum of 50 feet, except that the setback from Newcomb Ridge on the westerly side of the Dorado Property shall be 75 feet as shown on the Subdivision Plan.

The side and rear yard setbacks shall comply with the buffering requirements set forth in Section VIII of the Zoning Ordinance of the Town such that where no natural

buffering can be maintained all such side and rear yards abutting residential districts shall be landscaped to provide a visual screen.

(h) Parking: The following minimum off-street parking shall be provided: 1 space for each dwelling unit.

(i) Road Length: In recognition of the fact that all units will be equipped with residential sprinkler systems and that adequate fire hydrants will be provided throughout the project, the cumulative length of a dead end private way on the Dorado Property may exceed 2,000 feet but shall not exceed 2,800 feet.

(j) Site Plan and Subdivision Plan: The property shall be developed in a manner consistent with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough and the Subdivision Ordinance of the Town of Scarborough (the "Subdivision Plan").

Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement: (a) any change to the definition of a Continuing Care Retirement Community; and (b) any increase in the number of units, decrease in minimum setbacks or increase in maximum building height.

2. Pursuant to Section 7(G)(5)(a) of the Town's Growth Management Ordinance, Chapter 413, in order to permit the dwelling units to be constructed in a timely and efficient manner, the Town hereby authorizes use of growth permits from the reserve pool for the project and authorizes and directs the Planning Board to so allocate from the reserve pool the appropriate number of growth permits to allow Maine Life Care, its successors and assigns, to obtain the requisite building permits for the project, inclusive of the 52 dwelling units.

3. Maine Life Care shall record this Second Amendment to Contract Zoning Agreement in the Cumberland County Registry of Deeds within 90 days after its execution by the Town.

4. In recognition of Scarborough's interest in expanding pedestrian connectivity in the area, Maine Life Care agrees to make a $25,000.00 contribution to the Town's multimodal reserve account to be used for construction of sidewalks to enhance pedestrian connectivity. In addition, Maine Life Care intends to install a pedestrian crosswalk across Spurwink Road to facilitate a pedestrian connection between the existing trail system at 15 Piper Road and the Dorado Property. In the event that Maine Life Care is unable to install the pedestrian crosswalk across Spurwink Road, Maine Life Care will increase its contribution to the multimodal reserve account to $40,000.00.

5. In recognition of Scarborough's interest in expanding affordable housing opportunities, Maine Life Care agrees to make a $250,000.00 contribution payable to the

Scarborough Affordable Housing Initiative Fund, to be paid at the time Maine Life Care receives its building permit(s).

6. Maine Life Care agrees that it will donate a conservation easement to the Town, the Scarborough Land Trust, or such other entity/organization qualified to hold conservation easements pursuant to Title 33, Maine Revised Statutes Annotated, Section 476(2)(A) & (B), as amended, and under Internal Revenue Code Section 170(h)(3) and the regulations promulgated thereunder, to wit: government entities or nonprofit Code § 501(C)(3) organizations operated primarily to accept lands, easements, and property for the purpose of preserving and protecting natural, scenic, educational, recreational and open space values of real property, having a commitment to protect the conservation purposes of the donation, and the resources to enforce the restrictions; provided, however, that the Town, the Scarborough Land Trust, or such other qualified entity/organization is willing to accept said donation of the conservation easement under the terms and conditions hereinafter described.

The conservation easement shall encumber approximately 12.5 acres of land at the back of the Dorado Property and shown as the "Proposed Conservation Area" on the plan titled "Subdivision Plan Of Land Owned By: David R. and Patricia R. MacDonald, 5 Dorado Drive, Scarborough, Maine" prepared by Sebago Technics for Maine Life Care Retirement, and attached hereto as Exhibit B and incorporated herein. The conservation easement shall be in a form mutually agreeable to Maine Life Care and the easement holder, shall prohibit the development or installation of permanent structures on or in the conservation area without the prior written consent of the easement holder, and shall permit public access for pedestrian walking trails in accordance with Section 7 below.

7. Maine Life Care agrees that all sidewalks and pedestrian walkways located on the Dorado Property and all walking trails located within the conservation easement area as set forth in Section 6 above as shown on the Subdivision Plan may be used by the general public during daylight hours subject to reasonable rules and regulations adopted by Maine Life Care from time to time. Maine Life Care shall provide seven (7) parking spaces for the general public to access such trails. Maine Life Care shall have the right to relocate such trails and parking spaces from time to time with approval from the Planning Department or Planning Board.

8. Maine Life Care agrees to hire a hydrologist to prepare a groundwater and well motioning plan reasonably acceptable to the Planning Board as part of the final subdivision approval to ensure the project does not materially and adversely impact the water quality or water flow (as measured by gallons per minute) of existing wells within one thousand (1,000) feet of the property. The groundwater and well monitoring plan will include the following provisions: First, Maine Life Care will evaluate the water quality and water flow of the wells of abutting property owners prior to any blasting on site so long as the abutting property owner consents to such evaluation. Second, Maine Life Care will work with appropriate consultants to ensure that any blasting on the site complies with all applicable laws, rules, and regulations, and general best practices. Third, Maine Life Care will take all reasonable measures to prevent blasting activities from adversely affect the water quality and water flow of the wells of abutting property owners. Fourth, Maine Life Care will monitor the water quality and water flow of the wells of abutting property owners during construction activities and for a period of thirty-six (36) months

following substantial completion of the project so long as the abutting property owner consents to such monitoring. Fifth, Maine Life Care will take all necessary and commercially reasonable steps and actions to remediate the water quality and water flow of the wells of abutting property owners if it is determined by a hydrogeologist selected by Maine Life Care and approved by the Town and paid for by Maine Life Care that the construction of the project caused a material deterioration of the water quality and water flow.

9. Unless extended by the Town by further amendment of this Agreement, construction of the additional improvements to the Property authorized by this Second Amendment may commence within five (5) years after execution of this Second Amendment and shall be completed within ten (10) years from the date of this Second Amendment.

10. Maine Life Care acknowledges and agrees that the 52 dwelling units authorized by this Amendment will not be licensed as skilled nursing or assisted living or residential care and that accordingly such independent living dwelling units shall be subject to property tax by the Town.

11. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

WITNESS:

Colette Mathieson

TOWN OF SCARBOROUGH

By: Thomas J. Hall
Thomas Hall, Its Town Manager
(Duly authorized by vote of the Scarborough Town Council on June 19, 2019)

MAINE LIFE CARE RETIREMENT COMMUNITY, INC.

Colette Mathieson

By: James E. Adamowicz
James E. Adamowicz, Its Chief Executive Officer

June 27, 2019

STATE OF MAINE
CUMBERLAND, ss.

Personally appeared the above-named Thomas Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized, and the free act and deed of said Town of Scarborough.

Before Me,
Yolande P. Justice
Notary Public

SEAL

YOLANDE P. JUSTICE
Notary Public, Maine
My Commission Expires October 31, 2022

STATE OF MAINE
CUMBERLAND, ss.

July 2, 2019

Personally appeared the above-named James E. Adamowicz, Chief Executive Officer of Maine Life Care Retirement Community, Inc., and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized, and the free act and deed of said Maine Life Care Retirement Community, Inc.

Before Me, SEAL

Yolande P. Justice
Notary Public

YOLANDE P. JUSTICE
Notary Public, Maine
My Commission Expires October 31, 2022

Exhibits
Attachment 1: Zoning Map Change
Exhibit A: Description of Dorado Property
Exhibit B: Conservation Easement Area
Exhibit C: Public Interest/Public Benefit

Attachment 1
Amendment to Zoning Map

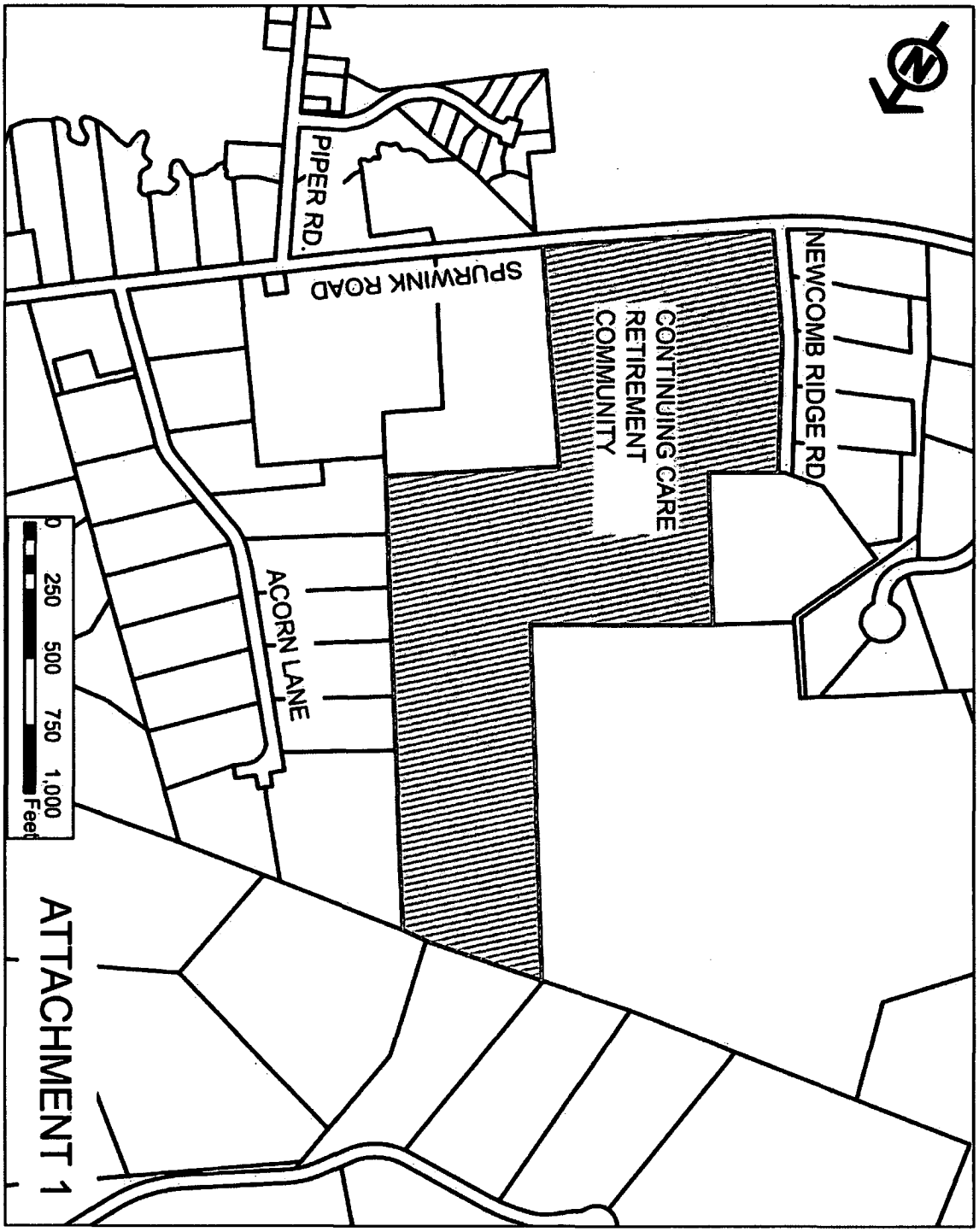


Exhibit A
5 Dorado Drive, Scarborough, Maine

A certain lot or parcel of land, together with any improvements thereon, in Scarborough, Cumberland County, Maine, located on the northerly side of Spurwink Road, being a portion of property now or formerly owned by K. Joseph Newcomb as described in an instrument recorded with the Cumberland County Registry of Deeds in Book 6994, Page 269, and also being a portion of the parcel depicted as "Lot 3, 45.04 Ac. +/-" on a plan entitled "Plan of Property on Spurwink Road, Scarborough, Maine, Made for Joseph Newcomb," prepared by registered Professional Land Surveyor George R. Bauer, Registration #2231, dated July 3, 1998, revised July 23, 1998, as recorded in said Registry of Deeds in Plan Book 198, Page 300 (the "Plan"), and more particularly described as follows:

Beginning at an iron rod set and capped PLS 2231, located at the southwest corner of the parcel described herein, said corner being the intersection of the northerly sideline of said Spurwink Road with the easterly sideline of an area depicted on the Plan as "Newcomb Ridge Road, 50' Wide Right of Way," said point of beginning being located N 78° 50' 08" E a distance of 469.26 feet from a concrete obelisk marked "1920 R11M8E" situated on the northerly sideline of said Spurwink Road as shown on the Plan;

Thence running N 16° 49' 00" W a distance of 164.36 feet along the easterly boundary of said 50' Wide Right of Way to an iron pin set and capped PLS 2231, as shown on the Plan;

Thence turning and running N 24° 43' 33" W a distance of 204.57 feet continuing along the easterly boundary of said 50' Wide Right of Way to an iron rod set and capped PLS 2231, as shown on the Plan;

Thence turning and running N 13° 28' 42" W a distance of 406.61 feet along the easterly boundary of said 50' Wide Right of Way to an iron rod set and capped PLS 2231, as shown on the Plan;

Thence turning and running N 09° 16' 52" W a distance of 104.77 feet along the easterly boundary of said 50' Wide Right of Way to an iron rod set and capped PLS 2231, which iron rod is located S 84° 16' 52" E a distance of 51.76 from a 5/8" iron rod found at the northwesterly corner of said 50' Wide Right of Way and the northeasterly corner of land now or formerly of Frank J. Dirrigl and Sheridan N. Dirrigl, described in an instrument recorded in said Registry of Deeds in Book 6571, Page 122, and depicted on the Plan as "Lot 2, 2.16 Ac. +/- ;"

Thence turning and running N 75° 19' 19" E a distance of 273.87 feet along remaining land now or formerly of K. Joseph Newcomb depicted on the Plan as "Lot 4, 13.33 Ac. +/-"to an iron rod set and capped PLS 2231 at the southeasterly corner of said Lot 4, as shown on the Plan;

Thence turning and running N 16° 39' 08" W a distance of 575.00 feet along the easterly boundary of said Lot 4 to an iron rod set and capped PLS 2231 at the northeasterly corner of said Lot 4 and the southerly or southeasterly boundary of land now or formerly of Camp Fire Girls Hitinowa

Council, Inc. described in an instrument recorded in said Registry of Deeds in Book 4345, Page 217, as shown on the Plan;

Thence turning and running N 73° 20' 52" E a distance of 574.08 feet along the southerly or southeasterly boundary of said, land now or formerly of said Camp Fire Girls of Hitinowa Council, Inc. to a pine tree with wire remains, as shown on the Plan;

Thence turning and running N 18° 30' 23" W a distance of 1,352.95 feet along the easterly boundary of said land now or formerly of Camp Fire Girls of Hitinowa Council, Inc. to a 5/8" iron rod found at the northeasterly corner of said land now or formerly of Camp Fire Girls of Hitinowa Council, Inc. and the southwesterly corner of land now or formerly of Robert W. Hansen and Karen D. Hansen described in an instrument recorded in said Registry of Deeds in Book 11926, Page 37, as shown on the Plan;

Thence turning and running S 86° 49' 32" E a distance of 450.13 feet along the southerly boundary of said land now or formerly of said Hansens to a 5/8" iron rod found at the southeasterly corner of said land now or formerly of said Hansens and the southwesterly corner of land now or formerly of Robert C. Ludwig and Gail T. Ludwig described in an instrument recorded in said Registry of Deeds in Book 10802, Page 271, as shown on the Plan;

Thence turning and running S 80° 58' 54" E a distance of 104.28 feet along the southerly boundary of said land now or formerly of said Ludwigs to a crimped 1/2" pipe found at the northwesterly corner of land now or formerly of Peter B. Talbot and Lorraine D. Talbot described in an instrument recorded in said Registry of Deeds in Book 11668, Page 327, as shown on the Plan;

Thence turning and running S 18° 17' 00" E a distance of 1,679.55 feet along the westerly boundary of said land now or formerly of said Talbots and the westerly boundaries of lands now or formerly of (i) Beverly A. Brennan, described in an instrument recorded in said Registry of Deeds in Book 3210, Page 250; (ii) Jeffrey W. Jones and Luciad Jones, described in an instrument recorded in said Registry of Deeds in Book 11265, Page 82; (iii) Scott D. Dakers and Jane A. Dakers, described in an instrument recorded in said Registry of Deeds in Book 8163, Page 256; (iv) Arnold M Bushner and Sharon A. Bushner, described in an instrument recorded in said Registry of Deeds in Book 7713, Page 252; and (v) Steven G. Jamison Trent and Susan I. Jamison Trent, described in an instrument recorded in said Registry of Deeds in Book 9480, Page 343, to a 1 1/2" iron pipe found at the southwesterly corner of said land now or formerly of said Trents and the northeasterly corner of land now or formerly of David E. Hefler, described in instruments recorded in said Registry of Deeds in Book 3124, Page 468 and Book 4124, Page 70;

Thence turning and running S 71° 49' 54" W a distance of 606.07 feet along the northerly boundary of said land now or formerly of Hefler to an iron rod found at the northwest corner of said land now or formerly of Hefler, as shown on the Plan;

Thence turning and running S 19° 33' 31" E a distance of 843.18 feet along the westerly boundary of said land now or formerly of Hefler through a bent iron pin found, as shown on the Plan, and continuing to an iron rod set and capped PLS 2231 on the northerly sideline of said Spurwink Road at the southwesterly corner of said land now or formerly of Hefler, as shown on the Plan;

Thence turning and running S 68° 58' 44" W a distance of 788.51 feet along the northerly sideline of said Spurwink Road to an iron rod set and capped PLS 2231 on the northerly sideline of Spurwink Road, as shown on the Plan;

Thence turning and running S 74° 01' 02" W a distance of 26.68 feet along the northerly sideline of said Spurwink Road to the iron rod set and capped PLS 2231 at the southeasterly corner of said 50' Wide Right of Way and the point of beginning.

The above described premises contain 44.02 acres, more or less.

Bearings are magnetic, 1960.

Reference is hereby made to the Plan. This conveyance is the conveyance contemplated by Note 4 on the Plan, earlier parties having agreed, notwithstanding such Note and notwithstanding the depiction of said Lot 3 on the Plan, to convey only the above-described portion of the parcel said Lot 3, excepting and reserving to K. Joseph Newcomb, his heirs and assigns, the fee ownership in the portion of said Lot 3 which is depicted on the Plan as "Newcomb Ridge Road, 50' Wide Right of Way."

Exhibit B

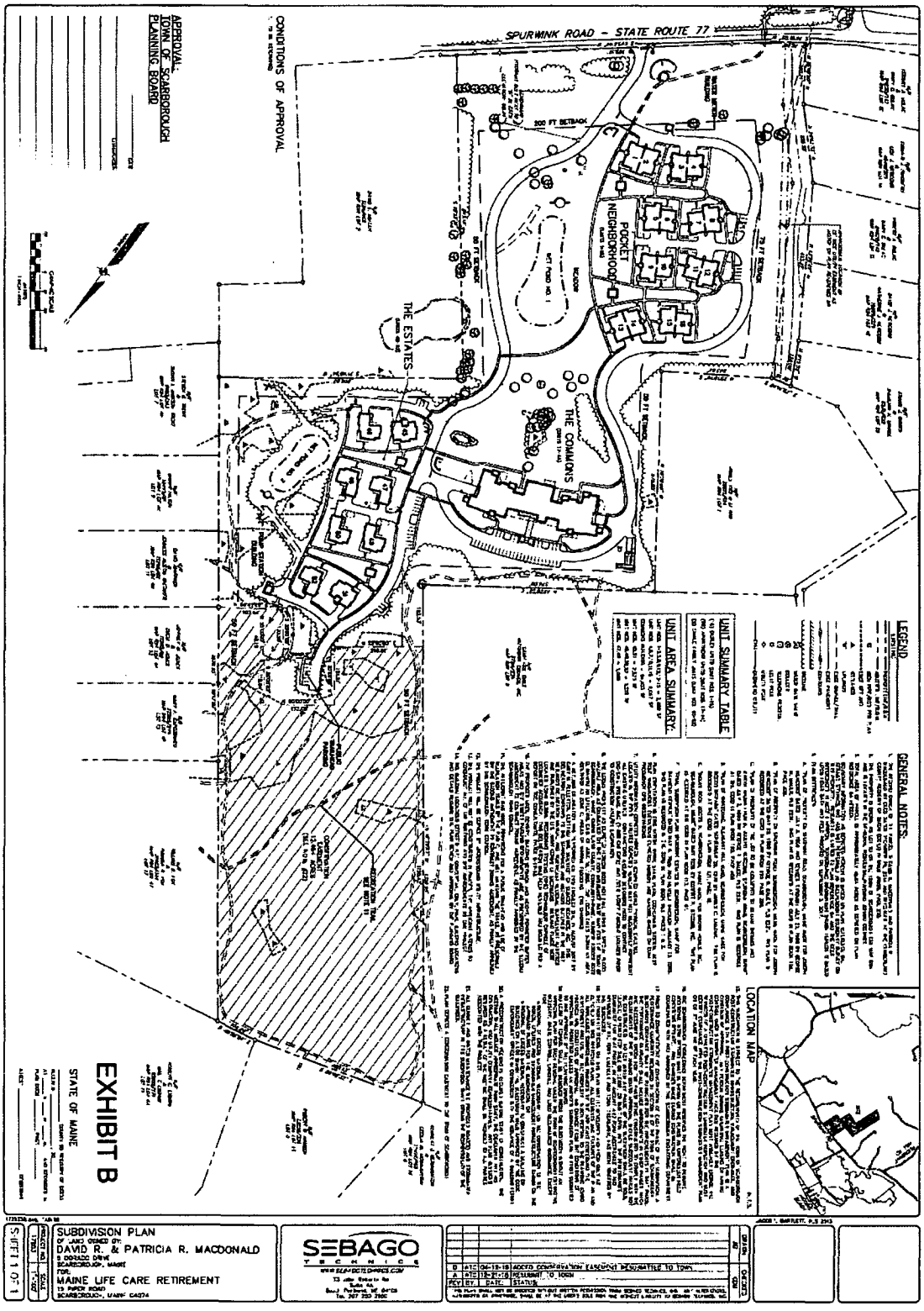

SPURWINK ROAD - STATE ROUTE 77
APPROVAL
TOWN OF SCARBOROUGH
PLANNING BOARD
CONDITIONS OF APPROVAL
POCKET NEIGHBORHOOD
THE COMMONS
THE ESTATES
UNIT SUMMARY TABLE
UNIT AREA SUMMARY
LEGEND
GENERAL NOTES
LOCATION MAP
EXHIBIT B
STATE OF MAINE
SUBDIVISION PLAN
OF LAND OWNED BY
DAVID R. & PATRICIA R. MACDONALD
MAINE LIFE CARE RETIREMENT
SEBAGO TECHNICS

Exhibit C
Public Benefits to Scarborough and
Consistency with the Comprehensive Plan

1. SENIOR HOUSING: The proposed development will provide additional housing and amenities to senior citizens.

> The Scarborough Comprehensive Plan calls out the need for additional senior housing in Scarborough, stating: "We know that the senior population continues to grow and with that growth comes an increased need for higher density housing, often with smaller yards, common maintenance agreements, and shared facilities."

2. INNOVATIVE DESIGN AND CLUSTER DEVELOPMENT: The proposed development features highly attractive and innovative design, including clustered development, significant open space preservation, and a mix of housing types (single-family, duplex, and apartments).

> The Scarborough Comprehensive Plan promotes these same features in the Limited Growth Sector, stating: "Clustered developments with standards for significant open space protection, an interconnected street network, and a mix of housing types (single-family, duplexes and townhouses) are encouraged".

3. CONSERVATION AND OPEN SPACE: Maine Life Care will donate an easement over an additional 12.5 +/- acres of land for permanent open space and conservation land. This is in addition to more approximately 95+/- acres of land already under conservation easement on the existing Maine Life Care campus, bringing the total conservation area to more than 107 acres.

> The Scarborough Comprehensive Plan states, "Open-space preservation was recognized early on as critical to protect Scarborough's natural resources."

4. RECREATIONAL TRAILS: Maine Life Care will provide public access to recreational trails located in the conservation area. This is in addition to the extensive trail network already accessible on the existing Maine Life Care campus.

> The Scarborough Comprehensive Plan promotes, "Sustain and build our system of parks, trails, and open spaces to enhance our quality of life, protect our environment, and promote the economic well-being of our remarkable town by the sea."

5. PUBLIC PARKING/ACCESS: Maine Life Care will construct seven (7) parking spaces available to the public near the trailhead to make the trails accessible.

> The Scarborough Comprehensive Plan states, "Many recreation opportunities within a stunning coast environment significantly contribute to the quality of life enjoyed by current residents and appeal to visitors."

6. ENHANCED SETBACKS: The proposed development will include robust setbacks from all sidelines exceeding the requirements of the existing zoning, including:

- the front yard setback from Spurwink Road shall be a minimum of 200 feet;
- the side and rear yards from the exterior boundary of the Dorado Property shall be a minimum of 50 feet; and
- the setback from Newcomb Ridge on the westerly side of the Dorado Property shall be 75 feet.

7. BUFFERING/SCREENING: The side and rear yard setbacks shall comply with the buffering requirements set forth in Section VIII of the Zoning Ordinance of the Town such that where no natural buffering can be maintained all such side and rear yards abutting residential districts shall be landscaped to provide a visual screen.

> The Scarborough Comprehensive Plan states, "Known as "vertical rain gardens," trees offer multiple benefits, including managing stormwater runoff."

8. TAX REVENUE: The project will considerably add to the Town's tax base and increase employment opportunities in the Town. The Scarborough Comprehensive Plan expressly calls out the need to stabilize and diversify the employment base in Scarborough.

> The Scarborough Comprehensive Plan states, "Generally, a local government's capital and operating responsibilities are financed by taxes and other fixed or restricted revenue sources."

9. AFFORDABLE HOUSING: Maine Life Care will provide a contribution of $250,000.00 to the Town's Affordable Housing Initiative Fund.

> The Scarborough Comprehensive Plan states, "Having more diverse and affordable housing options is critical to the region's economic success and will assist businesses in attracting qualified workers." It also states, "The funds collected through the in-lieu fee provisions can be used to increase the availability of affordable housing beyond what could have been provided under the standard density bonus provision."

10. PEDESTRIAN CONNECTIVITY: Maine Life Care will provide a contribution of $25,000.00 to the Town's multimodal reserve account to fund sidewalks to enhance pedestrian connectivity.

> The Scarborough Comprehensive Plan states, "A strong network of pedestrian sidewalks, trails, and bicycle lanes will also work to connect all residents and visitors."

11. FISCALLY SUSTAINABLE: Maine Life Care will bring many civically-minded volunteers to Scarborough who will devote countless hours and resources to numerous civic and volunteer opportunities in the community; however, Maine Life Care will NOT significantly add to the strain on municipal infrastructure, such as public works and the public school system.

The Scarborough Comprehensive Plan lists in its Guiding Principles: "Fiscally Sustainable. Deliver excellent municipal services to our entire community in a fiscally sustainable manner to minimize the impacts and costs for tax payers."

Received
Recorded Register of Deeds
Jul 08,2019 03:35:02P
Cumberland County
Nancy A. Lane

EXHIBIT 4

CONTRACT ZONING DISTRICT NUMBER 4 [REPEALED BY COUNCIL VOTE ON MARCH 5, 2014]

EXHIBIT 5

CONTRACT ZONING AGREEMENT BETWEEN THE TOWN OF SCARBOROUGH AND FIRST SCARBOROUGH REALTY OF MAINE, LLC

This is a Contract Zoning Agreement made as of the 21st day of August 2002, by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter "the Town"), and First Scarborough Realty of Maine, LLC with an office at 178 U.S. Route One, Falmouth, Maine 04105, pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance.

WHEREAS, First Scarborough Realty of Maine, LLC intends to purchase from Joseph H. Guite, a parcel of real estate located at 133, 137, 149 U.S. Route One in Scarborough, Maine consisting of 5.76 acres (hereinafter "the property"); and,

WHEREAS, the property is currently in a General Business District (B-2) under the Scarborough Zoning Ordinance; and,

WHEREAS, the General Business District (B-2) presently allows, as permitted uses, general retail sales, services and business space such as retail business and service establishments including warehousing and wholesale distribution but exclusive of outside sales and services; and,

WHEREAS, the property contains several select mature trees along the Route 1 frontage, and will include extensive landscaping, which will provide a unique amount and quality of vegetative buffering; and,

WHEREAS, First Scarborough Realty of Maine, LLC wishes to develop the property as a Mercedes Benz Automobile Dealership with outdoor sales and services which are not permitted in the B-2 Zone; and,

WHEREAS, First Scarborough Realty of Maine, LLC has requested a rezoning of the property to permit an Automobile Dealership with outdoor sales and services; and,

WHEREAS, First Scarborough Realty of Maine, LLC has requested a rezoning of the property to permit automobile display at a minimum of 15 feet from the property line; and,

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of outdoor displays, storage and sales, provided the operation is restricted to the density, scale and intensity proposed by First Scarborough Realty of Maine, LLC and further provided that the restrictions of the Contract Zoning Agreement and the site plan approval are strictly observed; and,

WHEREAS, the Scarborough Planning Board, pursuant to the Zoning Ordinance, and after notice and hearing and due deliberation thereon, recommend the rezoning of the property as aforesaid; and,

WHEREAS, the rezoning would be consistent with the Policies and Future Land Use Plan of Part III of the Scarborough Comprehensive Plan; and,

WHEREAS, the Town of Scarborough, by and through its Town Council, had determined that the said rezoning would be pursuant to and consistent with the Town's Comprehensive Plan and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Contract Zoning Agreement on August 21, 2002.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough, by adopting the map change amendment as shown on Attachment 1.
2. First Scarborough Realty of Maine, LLC is authorized to create an Automobile Dealership at the property consisting of one building. The facility will be substantially constructed within one year after execution of this agreement. Construction of the facility shall be subject to the following conditions:
    (a) The maximum allowable building footprint for the building shall be 24,000+/- s.f. and the maximum allowable building height shall be 1 story.
    (b) The uses allowed on the property shall be limited to an automobile dealership with outdoor sales, display and storage of motor vehicles and indoor sales, service and display.
    (c) Building design, style and materials and the design of all features of the site should comply with the Town of Scarborough Design Guidelines adopted by the Scarborough Planning Board on July 16, 2001 unless First Scarborough Realty of Maine, LLC submits and the Planning Board approves an alternative design during the site plan review process.
    (d) The property shall be landscaped to enhance the general appearance of the project from U.S. Route 1 and surrounding properties as determined by the Planning Board at the time of site plan approval. After the date of approval of this Contract Zoning Agreement by the Scarborough Town Council, no trees or other vegetation existing on that date shall be removed except as indicated in an approved site plan. The landscaping shall be maintained by First Scarborough Realty of Maine, LLC or its successors in interest.
    (e) With the exception of emergency situations, the hours during which the business may be open to the public shall be limited to 6 a.m. to 9 p.m. Monday through Saturday.
    (f) First Scarborough Realty of Maine, LLC, its agents and employees shall not utilize First Street, Hudson Avenue, Littlefield Lane, Sunset Road, Second Avenue, Third Avenue, Fourth Avenue, Elmwood Avenue, Maple Avenue and Greenacres Lane to road test vehicles before or after servicing, demonstrate vehicles or provide customer test drives, except that vehicles being road tested, demonstrated or test-driven may traverse First Street and Greenacres Avenue for access to and from U. S. Route One. In addition, First Scarborough Realty of Maine, LLC shall notify all vendors, jobbers and delivery vehicle operators who regularly visit the property that they should avoid traveling on the foregoing streets and roads and utilize only U. S. Route One or First Street via Greenacres to access to the property, with direct access from U. S. Route One being preferred.
    (g) The property subject to this Contract Zoning Agreement shall be developed and used only in accordance with the site plan, to be approved by the Scarborough Planning Board, as that site plan may be amended from time to time pursuant to the provisions of the Scarborough Site Plan Review Ordinance. Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement:
        (i) Any increase in the square footage of the area utilized for outdoor display, storage or parking of vehicles on the site; and
        (ii) Relocation of any outdoor vehicle storage, display or parking area to any part of the site closer to the property boundaries or road sidelines than shown on the original approved site plan.

(h) Sanding and painting of vehicles will not be done on site.

Any other revision to the approved site plan shall first be submitted to the Scarborough Town Council, which will determine whether the proposed revision can be approved exclusively by the Planning Board under the Site Plan Review Ordinance or will require an amendment to this Contract Zoning Agreement.

3. First Scarborough Realty of Maine, LLC shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.
4. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property except as this Contract Zoning Agreement may be amended by future written agreement of the Town of Scarborough and First Scarborough Realty of Maine, LLC or its successors in interest.

This is the sole zoning for the property and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying B-2 Zoning District shall apply. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the property, shall bind First Scarborough Realty of Maine, LLC, its successors in interest and assigns of said property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough and any applicable amendments thereto or replacement thereof.

In the event that First Scarborough Realty of Maine, LLC or its successors or assigns fail to develop the project in accordance with this Contract, or in the event of any other breach hereof, this Contract may be terminated by vote of the Scarborough Town Council. In that event, the property may then be used only for such uses as are otherwise allowed by law.

The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Scarborough Zoning Ordinance and through legal action for specific performance of the Agreement.

WITNESS: **TOWN OF SCARBOROUGH**

S/ Laurel R. Nadeau S/ Ronald W. Owens

ITS TOWN MANAGER DULY AUTHORIZED BY VOTE OF THE SCARBOROUGH TOWN COUNCIL ON AUGUST 21, 2002

WITNESS: First Scarborough Realty of Maine, LLC

_____ _____

FIRST AMENDMENT FOR EXHIBIT 5

THE CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
FIRST SCARBOROUGH REALTY OF MAINE, LLC

WHEREAS, First Scarborough Realty of Maine, LLC ("First Scarborough Realty") entered into a Contract Zoning Agreement with the Town of Scarborough (the "Town") on the 21st day of August 2002, a copy of which is attached hereto as Exhibit 1 (the "Contract"); and

WHEREAS, since the execution of the Contract, First Scarborough Realty has acquired an additional 12,600 square foot parcel of land (the "Porath Lot") adjacent to the property which is the subject of the Contract; and

WHEREAS, First Scarborough Realty proposes to utilize the Porath Lot for an enlarged parking area; and

WHEREAS, First Scarborough Realty wishes to enlarge the building proposed in the Contract by approximately 1200 square feet and to shift the location of the building by approximately 25 feet toward the south; and

WHEREAS, First Scarborough Realty proposes to have additional automobile display area in the front of the building and to the south of the entrance driveway;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough to include the Porath Lot in the property subject to the Contract, by adopting the map change shown on Attachment 1 hereto.

2. All references in the Contract to the "site plan" shall hereafter mean the amended site plan to be approved by the Scarborough Planning Board, which shall be substantially as depicted on the amended site layout plan attached hereto as Exhibit 2.

3. The second sentence of section 2 of the Contract is amended to read as follows: "The facility will be substantially constructed within one year after the execution of the First Amendment to the Contract Zoning Agreement.

4. Section 2(a) of the Contract is amended to read: "The maximum allowable building footprint for the building shall be 25,200+/- s.f. and the maximum allowable building height shall be 1 story."

5. Except as amended hereby, all terms of the Contract shall remain in full force and effect. First Scarborough Realty and the Town hereby reaffirm each and every provision of the Contract.

6. First Scarborough Realty shall record this First Amendment to the Contract Zoning Agreement within 30 days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties have executed this First Amendment to the Contract Zoning Agreement this 16th day of September 2004.

WITNESS: FIRST SCAROROGH REALTY OF MAINE, LLC

_____ By:_____

William G. Waldron, Jr.

Its Manager

WITNESS: TOWN OF SCARBOROUGH

/s/ Laurel R. Nadeau By: /s/ Ronald W. Owens, Town Manager

State of Maine

County of Cumberland, ss. Date: _____

PERSONALLY APPEARED the above-named _____ in his capacity as _____ of First Scarborough Realty of Maine, LLC and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of said company.

_____

Notary Public / Attorney at Law

State of Maine

County of Cumberland, ss. Date: September 16, 2004

PERSONALLY APPEARED the above-named Ronald W. Owens in his capacity as Town Manager of the Town of Scarborough, Maine and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of said Town.

/s/ Marcia McGinnis

Notary Public

SECOND AMENDMENT TO

CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH
AND 137 U.S. ROUTE ONE SCARBOROUGH REALTY, LLC
(formerly First Scarborough Realty of Maine, LLC)

THIS CONTRACT ZONING AGREEMENT is made by and between the Town of Scarborough, a Maine municipality with it principal office located at the Scarborough Municipal Building, 259 U.S. Route 1, Scarborough, Maine (the "Town") and 137 U.S. Route One Scarborough Realty, LLC, a Maine limited liability company with a principal office located at 137 U.S. Route One, Scarborough, Maine ("137 US Route One").

RECITALS

WHEREAS, First Scarborough Realty of Maine, LLC, a Maine limited liability company ("First Scarborough Realty") is a predecessor in interest and in title to 137 U.S. Route One; and,

WHEREAS, First Scarborough Realty entered into a Contract Zoning Agreement with the Town on August 21, 2002, subsequently amended by an amendment dated on or about September 16, 2004 (hereinafter and taken together "First Agreement") in connection with certain improvements made to property located at 137 U.S. Route One and more particularly described in the First Agreement; and,

WHEREAS, the First Agreement (together with all exhibits and schedules appended thereto) is appended to this Agreement as *Exhibit 1*; and,

WHEREAS, First Scarborough Realty conveyed its interest to 137 US Route One by deed dated April 26, 2005 and recorded in the Cumberland County Registry of Deeds at Book 22565, Page 326, the premises and all improvements situated thereon hereinafter referred to as the "Original Parcel"; and,

WHEREAS, 137 US Route One proposes to acquire additional property adjoining the Original Parcel, more particularly described in a deed from Drake Petroleum Company, Inc. to SRAM Corp. dated July 28, 2011 and recorded in the Cumberland County Registry of Deeds at Book 28856, Page 233 (the "New Parcel") for the purpose of expanding and improving the existing automobile dealership showroom located on the Original Parcel and other related purposes (together referred to as the “Property”).

WHEREAS, the rezoning and inclusion of the New Parcel into the Contract Zoning District (“the District”) and this Second Amendment is pursuant to and consistent with the Town’s Comprehensive Plan and with the existing and permitted uses within the original zoning district classification;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged as received by each, the parties covenant and agree as follows:

1. All terms, conditions, covenants, representations, warranties, benefits and burdens set forth in the

First Agreement (including all exhibits and schedules appended thereto) are affirmed, adopted, ratified and accepted by the Town and 137 US Route One and incorporated herein as if restated in full, subject to any conflict or inconsistency between the First Agreement and this Second Amendment, in which case this Second Amendment shall govern and control.

2. The Town hereby amends the Zoning Map of the Town of Scarborough to include the New Parcel in the District by adopting the map change shown on Exhibit 2A.

3. 137 US Route One is authorized to make the improvements and modifications to the Property as described in a certain "Site Plan - Proposed Second Amendment to the Contract Zone Agreement for Prime Mercedes Benz " prepared by Sebago Technics, revised through 4-07-2015 (the "Site Plan") attached as Exhibit 2B. Construction of the improvements shall be subject to the following conditions:

    a. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, one additional business sign is permitted as shown on the Site Plan.
    b. Notwithstanding the landscaping requirements in Section XVIII.A of the Zoning Ordinance, as it may be amended from time to time, a reduction in the required 15' green strip buffer is permitted to the extent shown on the Site Plan.
    c. The uses allowed shall be limited to an automobile dealership with outdoor sales, display and storage of motor vehicles and indoor sales, service and display.
    d. Special events and assembly activities may be conducted within any building as an accessory use, subject to any other required codes and approvals.
    e. The Property subject to this Agreement shall be developed and used only in accordance with the Site Plan, to be approved by the Scarborough Planning Board, as that site plan may be amended from time to time.

4. 137 US Route One shall record this Agreement within 30 days after its approval by the Scarborough Town Council.

5. The provisions of this Agreement shall be deemed restrictions on the use of the Property, except as this Agreement may be amended by future written agreement of the Town and 137 US Route One or its successors in interest.

6. This is the sole zoning for the Property, and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying TVC Zoning District shall apply. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind 137 US Route One, its successors in interest and assigns, and shall inure to the benefit of and be enforceable by the Town.

7. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance of the Town and any applicable amendments thereto or replacement thereof.
8. In the event that 137 US Route One or its successors or assigns fail to develop the Property in accordance with this Agreement, or in the event of any other breach hereof, this Agreement may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses as are otherwise allowed by law.

9. The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Scarborough Zoning Ordinance and through legal action for specific performance of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement this _____day of _____2015.

WITNESS:

137 ROUTE ONE SCARBOROUGH REALTY, LLC

_____ By: _____
Ira Rosenberg Its Manager

TOWN OF SCARBOROUGH

_____ By: _____
Thomas Hall Its Town Manager

STATE OF MAINE
Cumberland, ss. Date: _____

PERSONALLY APPEARED the above-named Ira Rosenberg, in his capacity as Manager of 137 US Route One Scarborough Realty, LLC and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of said limited liability company.

Before me,
Notary Public/Attorney at Law

STATE OF MAINE
Cumberland, ss. Date: _____

PERSONALLY APPEARED the above-named Thomas Hall, in his capacity as Town Manager of the Town of Scarborough, Maine and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of said Town.

Before me,
Notary Public/Attorney at Law

THIRD AMENDMENT TO

CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH
AND 137 U.S. ROUTE ONE SCARBOROUGH REALTY, LLC
(formerly First Scarborough Realty of Maine, LLC)

THIS CONTRACT ZONING AGREEMENT is made by and between the Town of Scarborough, a Maine municipality with it principal office located at the Scarborough Municipal Building, 259 U.S. Route 1, Scarborough, Maine (the "Town") and 137 U.S. Route One Scarborough Realty, LLC, a Maine limited liability company with a principal office located at 137 U.S. Route One, Scarborough, Maine ("137 US Route One").

RECITALS

WHEREAS, First Scarborough Realty of Maine, LLC, a Maine limited liability company ("First Scarborough Realty") is a predecessor in interest and in title to 137 U.S. Route One; and,

WHEREAS, First Scarborough Realty entered into a Contract Zoning Agreement with the Town on August 21, 2002, subsequently amended by an amendment dated on or about September 16, 2004 (hereinafter and taken together "First Agreement") in connection with certain improvements made to property located at 137 U.S. Route One and more particularly described in the First Agreement; and,

WHEREAS, the First Agreement (together with all exhibits and schedules appended thereto) is appended to this Agreement as *Exhibit 1*; and,

WHEREAS, First Scarborough Realty conveyed its interest to 137 US Route One by deed dated April 26, 2005 and recorded in the Cumberland County Registry of Deeds at Book 22565, Page 326, the premises and all improvements situated thereon hereinafter referred to as the "Original Parcel"; and,

WHEREAS, 137 US Route One acquired additional property adjoining the Original Parcel, more particularly described in a deed from SRAM Corp. to 137 U.S. Route One Scarborough, LLC dated June 16, 2015 and recorded in the Cumberland County Registry of Deeds at Book 32352, Page 208 (the "New Parcel") for the purpose of expanding and improving the existing automobile dealership showroom located on the Original Parcel and other related purposes (together referred to as the "Property"); and,

WHEREAS, 137 US Route One and the Town entered into a Second Amendment to Contract Zoning Agreement dated April 30, 2015 and recorded in the Cumberland County Registry of Deeds at Book 32238, Page 198 (the "Second Amendment"), a copy of which is attached to this Third Amendment as *Exhibit 2*; and,

WHEREAS, the rezoning and inclusion of the New Parcel into the Contract Zoning District ("the District") is pursuant to and consistent with the Town's Comprehensive Plan and with the existing and permitted uses within the original zoning district classification; and,

WHEREAS, by operation of this Third Amendment to Contract Zoning Agreement (the "Third Amendment"), 137 US Route One desires to increase the size of the footprint of building to be located on the New Parcel also pursuant to and consistent with the Town's Comprehensive Plan and with the existing and permitted uses within the original zoning district classification.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged as received by each, the parties covenant and agree as follows:

1. All terms, conditions, covenants, representations, warranties, benefits and burdens set forth in the First Agreement and Second Amendment (including all exhibits and schedules appended thereto) are affirmed, adopted, ratified and accepted by the Town and 137 US Route One and incorporated herein as if restated in full, subject to any conflict or inconsistency between the First Agreement, the Second Amendment and this Third Amendment, in which case this Third Amendment shall govern and control.
2. 137 US Route One is authorized to make the improvements and modifications to the Property as described in a certain "Site Plan - Proposed Contract Zone Amendment for Prime Motor Mercedes Benz - Sprinter" prepared by Gawron Turgeon Architects, Scarborough, Maine, revised through April 27, 2016 (the "Site Plan") attached as *Exhibit 2B*. Within this authorization is specific authorization to permit the maximum allowable building footprint for the building to be constructed on the New Parcel to be 26,290 ± square feet. Construction of the improvements shall be subject to the following conditions:
   a. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, one additional business sign is permitted as shown on the Site Plan.
   b. Notwithstanding the landscaping requirements in Section XVIII.A of the Zoning Ordinance, as it may be amended from time to time, a reduction in the required 15' green strip buffer is permitted to the extent shown on the Site Plan.
   c. The uses allowed shall be limited to an automobile dealership with outdoor sales, display and storage of motor vehicles and indoor sales, service and display.
   d. Special events and assembly activities may be conducted within any building as an accessory use, subject to any other required codes and approvals.
   e. The Property subject to this Agreement shall be developed and used only in accordance with the Site Plan, to be approved by the Scarborough Planning Board, as that site plan may be amended from time to time.
3. 137 US Route One shall record this Agreement within 30 days after its approval by the Scarborough Town Council.
4. The provisions of this Agreement shall be deemed restrictions on the use of the Property, except as this Agreement may be amended by future written agreement of the Town and 137 US Route One or its successors in interest.
5. This is the sole zoning for the Property, and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying TVC Zoning District shall apply. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind 137 US Route One, its successors in interest and assigns, and shall inure to the benefit of and be enforceable by the Town.
6. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance of the Town and any applicable amendments thereto or replacement thereof.
7. In the event that 137 US Route One or its successors or assigns fail to develop the Property in accordance with this Agreement or in the event of any other breach hereof, this Agreement may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses as are otherwise allowed by law.
8. The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Scarborough Zoning Ordinance and through legal action for specific performance of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement this ___ day of __, 2016

WITNESS:

137 ROUTE ONE SCARBOROUGH REALTY, LLC

_____ By: _____
Ira Rosenberg Its Manager

TOWN OF SCARBOROUGH

_____ By: _____
Thomas Hall
It's Town Manager

STATE OF MAINE
Cumberland, ss. Date: _____

PERSONALLY APPEARED the above-named Ira Rosenberg, in his capacity as Manager of 137 US Route One Scarborough Realty, LLC and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of said limited liability company.

Before me,
Notary Public/Attorney at Law

STATE OF MAINE
Cumberland, ss. Date: _____

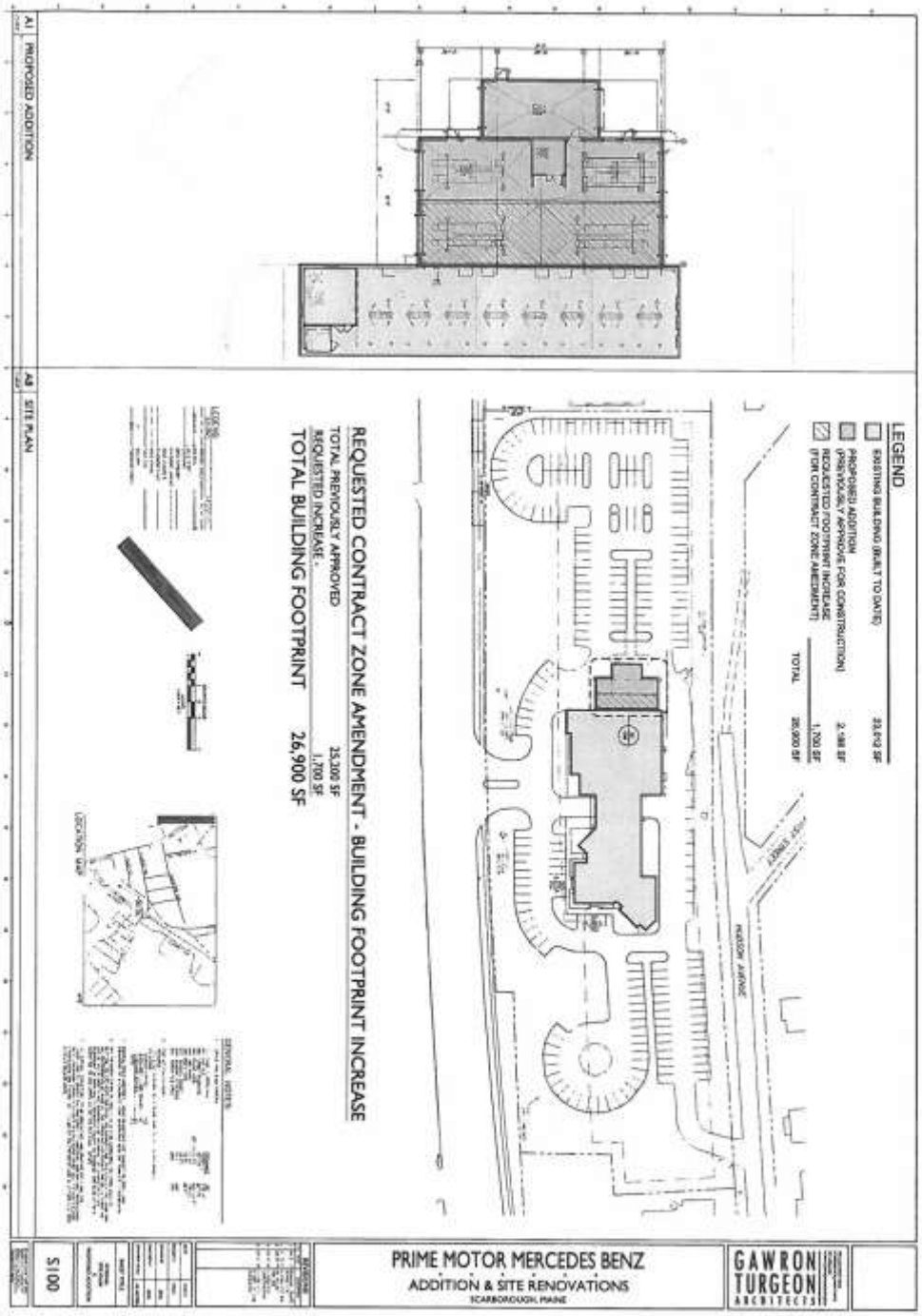
PERSONALLY APPEARED the above-named Thomas Hall, in his capacity as Town Manager of the Town of Scarborough, Maine and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of said Town.

Before me,
Notary Public/Attorney at Law

EXHIBIT 1
(THE FIRST AGREEMENT - ABOVE)

EXHIBIT 2
(SECOND AMENDMENT TO CONTRACT ZONE AGREEMENT- ABOVE)

EXHIBIT 2B
(SITE PLAN)



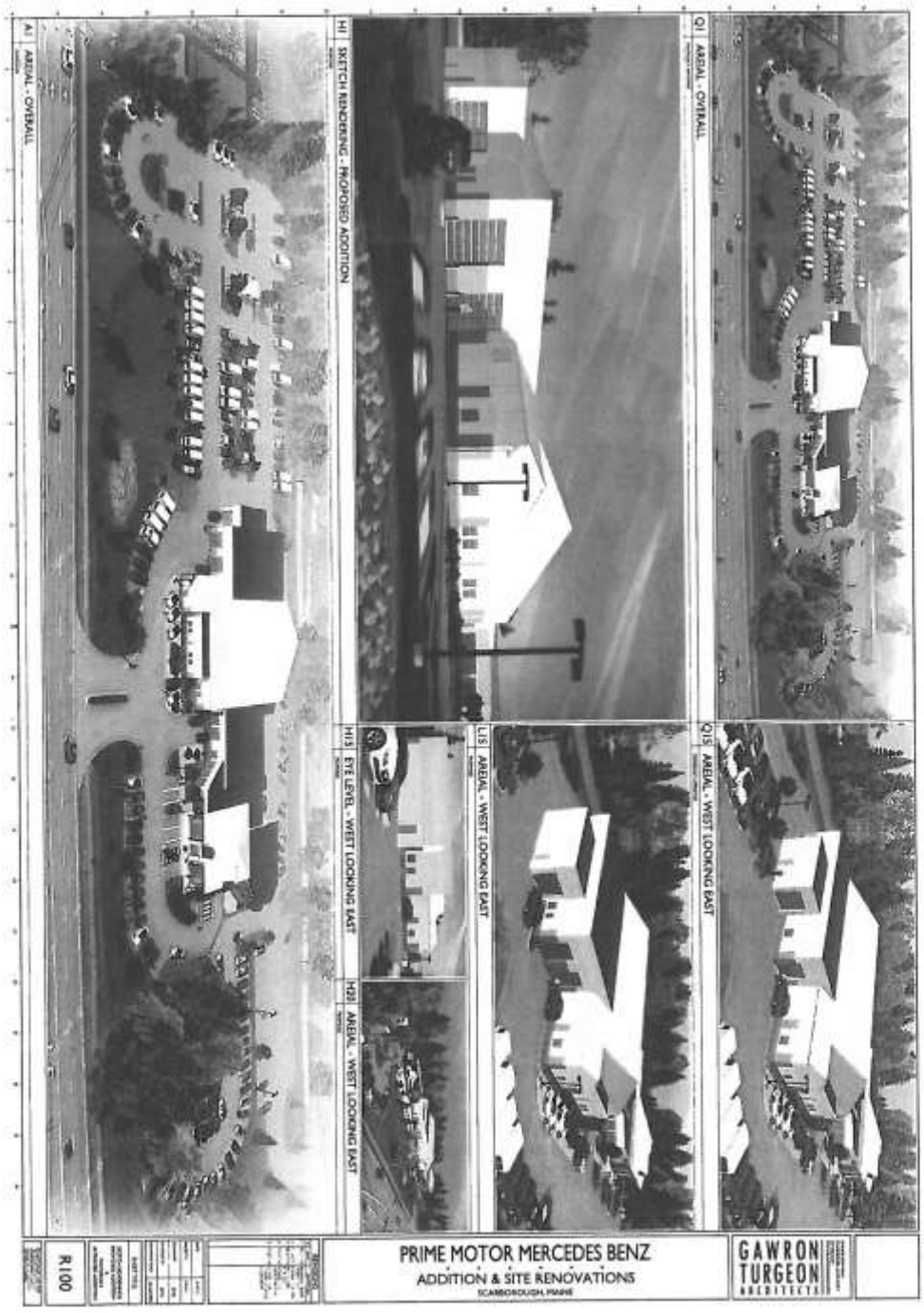

A1 AERIAL - OVERALL
H1 SKETCH RENDERING - PROPOSED ADDITION
Q1 AERIAL - OVERALL
H1.1 EYE LEVEL - WEST LOOKING EAST
L1.1 AERIAL - WEST LOOKING EAST
Q1.1 AERIAL - WEST LOOKING EAST
H2.1 AERIAL - WEST LOOKING EAST
R100
PRIME MOTOR MERCEDES BENZ
ADDITION & SITE RENOVATIONS
SCARBOROUGH, MAINE
GAWRON TURGEON ARCHITECTS

EXHIBIT 6 –
CONTRACT ZONING DISTRICT NUMBER 6 [REPEALED BY REFERENDUM VOTE ON JULY 29, 2003]

EXHIBIT 7 –

**HILLCREST RETIREMENT COMMUNITY EXPANSION
CONTRACT ZONING AGREEMENT AMONG
THE TOWN OF SCARBOROUGH,
THERESA DESFOSSES, AGNES DESFOSSES
AND STATE MANUFACTURED HOMES, INC.**

This Contract Zoning Agreement made as of the 3rd day of November, 2004, by and among the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town") and Theresa Desfosses and Agnes Desfosses, individuals, both having a mailing address of 126 U.S. Route 1, Scarborough, Maine 04074 and State Manufactured Homes, Inc. ("SMH"), a Maine corporation, also having a mailing address of 126 U.S. Route 1, Scarborough, Maine 04094 pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance, Chapter 405 of the Town's Ordinances (the "Ordinance" or "Zoning Ordinance"). Theresa Desfosses and Agnes Desfosses are collectively referred to herein as the "Owners." Owners and SMH are collectively referred to herein as the "Developers." The Town and the Developers are collectively referred to herein as the "Parties." Capitalized terms not otherwise defined herein shall have the meaning set forth in the Ordinance.

WHEREAS, Theresa Desfosses and Agnes Desfosses ("Owners") are the owners of certain real estate located off of Hillcrest Avenue in Scarborough, Maine consisting of approximately 186 acres, and identified on Town Assessor's Tax Map R76 as lots 7, 8 and 11 and Tax Map R78 as lot 87 and as described in instruments recorded in the Cumberland County Registry of Deeds at Book 4116, Page 174 and Book 8901, Page 133, a 156.52 acre portion of which real estate as shown on Exhibit A is the subject of this Agreement (the "Property"); and

WHEREAS, as shown on Exhibit A, the Property subject to this Agreement has been divided into three sections for the purposes of designation in this Agreement: approximately 153.74 acres of the Property which is presently undeveloped (the "Expansion Section"), approximately 0.55 acre of the Property upon which is located SMH's retail sales office, its storage building, and a residence (the "Route One Section"), and approximately 2.23 acres of the Property which is presently principally used by SMH as a display and storage area for manufactured homes and includes a two car garage and a portion of Hillcrest Drive (the "Commercial Section");

WHEREAS, SMH is presently the lessee from Owners of the Route One Section and the Commercial Section, upon which SMH operates a retail sales facility selling manufactured homes, and of another portion of Owners' aforesaid real estate which abuts Commercial Section and Expansion Section of the Property and upon which SMH operates a manufactured housing community, known as Hillcrest Retirement Community, which provides housing for older persons, and SMH has an lease option to lease long term the Property from Owners;

WHEREAS, the General Business District, Industrial Zone, Residential District R-3 and the Resource Protection District, the present zoning classifications of the Ordinance which affect the various parts of the Property, do not otherwise permit the expansion of an existing manufactured housing community; and

WHEREAS, Developers desire to expand Hillcrest Retirement Community, the existing manufactured housing community, by developing the Property to accommodate 175 lots on which lots manufactured homes would be placed (the "Expansion Project"); and

WHEREAS, Developers have requested a rezoning of the Property to permit the expansion of the existing manufactured housing development beyond the scope of those zoning classifications currently in effect for the Property; and

WHEREAS, the Property contains frontage near and on the Nonesuch River and several wetlands that will be maintained and preserved; and

WHEREAS, the Expansion Project serves the goals of Chapter 15(A) of the Town's Comprehensive Plan adopted pursuant to Title 30-A Maine Revised Statutes, Chapter 187, Sub-part 6-A (hereafter "Comprehensive Plan"), which seeks to foster and accommodate a diverse population in the Town by constructing a manufactured housing development to serve the needs of senior citizens and retirees in need of more affordable housing; and

WHEREAS, the Expansion Project serves the goals of Chapter 15(E) of the Comprehensive Plan by enhancing public access to the upper reaches of the Nonesuch River and trail systems; and

WHEREAS, the Expansion Project serves the goals of Chapter 15(F) of the Comprehensive Plan by encouraging growth of more affordable housing and a pattern of land use that can be served efficiently and does not impose undue burden on the Town's financial resources; and preserves the historic pattern and character of neighborhoods; and

WHEREAS, the Expansion Project serves the goals of Chapter 15(G) of the Comprehensive Plan by using public sewer and water facilities; and

WHEREAS, the Expansion Project serves the goals of Chapter 15(H) of the Comprehensive Plan encouraging a choice of housing for residents of all ages and incomes and encouraging and promoting more affordable, decent housing opportunities for all Maine citizens by expanding a type of senior citizen community not currently sufficiently available in the Town; and

WHEREAS, the Expansion Project serves the public interest by providing an easement for a continuation across the property of the Eastern Trail; and

WHEREAS, the Expansion Project provides for significant visual improvement at the beginning of the Route One corridor into Scarborough, consistent with the Design Standards for Scarborough's Commercial Districts; and

WHEREAS, a joint Scarborough Planning Board/Town Council meeting was noticed, held and conducted pursuant to Section II, Paragraph I, Subsection 4.a. of the Zoning Ordinance; and

WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph I, Subsection 4.b. of the Zoning Ordinance and 30-A M.R.S.A. § 4352(8), and after notice and hearing and due deliberation thereon, reviewed and on September 13, 2004, granted preliminary, provisional subdivision and site plan approval of the Expansion Project with comments and a condition that resource protection classified lands be included in the Expansion Zone, subject to enactment of the contract zoning amendment by the Town Council; and

WHEREAS, the rezoning provided in this Agreement, therefore, would be consistent with the Policies and Land Use and Housing plan of Chapter 15 of the Scarborough Comprehensive Plan; and

WHEREAS, the Town of Scarborough, by and through its Town Council, therefore, pursuant to Section II, Paragraph I, Subsection 4.c. on October 13, 2004 found and concluded as set forth in its Legislative Facts that that this Contract Zoning Agreement (1) is consistent with the Town of Scarborough Comprehensive Plan, (2) is consistent and compatible with the existing and permitted uses within the existing zoning district classifications of the Property, (3) is in the public interest, and (4) will have beneficial effects on the town as a whole which would not result if the Property were developed

under the existing zoning district classifications, and authorized the execution of this Contract Zoning Agreement.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. Zoning Map Amendment. The Town hereby amends the Zoning Map of the Town of Scarborough, by adopting the zoning map change amendment shown on Exhibit 1.

2. Hillcrest Retirement Community Expansion Zone. The Parties hereby create the Hillcrest Retirement Community Expansion Zone as defined herein for the Property described in Exhibit A. For purposes of this Agreement, the Hillcrest Retirement Community Expansion Zone (hereafter also referred to as the "Expansion Zone") means an expansion of the existing senior age restricted residential manufactured housing development, such expansion to be designed and built as set forth in this Agreement and Exhibit A.

The general schematic street layout, open space system and distribution of uses (including location of the Eastern Trail easement) shall conform to Exhibit A, as such plans may be amended as set forth hereinafter from time to time pursuant to the provisions of the Scarborough Site Plan Ordinance and Subdivision Regulations. The improvements may be constructed in Phases as shown on Exhibit A (the "Phases").

3. Permitted Uses. The Owners are authorized to establish and maintain uses at the Property as follows:

(i) *In the Expansion Section the following uses shall be permitted:*

A. Single family residential manufactured homes available for lease, sale or rent located on the sites depicted on Exhibit A.

B. A community center.

C. An exercise and fitness center for the exclusive use of community members and their invitees only.

D. Management and sales offices.

E. Temporary storage of manufactured homes, provided, however, that not more than twenty (20) of the temporarily stored manufactured homes shall be pending delivery to locations outside the Expansion Section at any one time.

F. Accessory uses and structures, including but not limited to maintenance facilities, parking areas, utility services, storm water management systems, site amenities, and outside recreational spaces.

Provided, however, the only uses permitted in the areas denoted on Exhibit A as "Resource Protection Area" shall be uses that are permitted by the Scarborough Shoreland Zoning Ordinance in the Resource Protection (R-P) District zoning classification.

(ii) *In the Route One Section the following uses shall be permitted:*

A. Single Family Dwelling Unit, associated garaging, and associated residential uses.

B. Manufactured home sales and service center, provided, however, that no display or storage of manufactured homes for purposes of sale shall occur.

C. Manufactured home community administrative office, which may be of manufactured home or modular building construction.

D. Access to other portions of the Property, Hillcrest Retirement Community and any property of abutters to the Property.

E. Signage for Hillcrest Retirement Community, for SMH and for any use permitted on the Property as depicted on Exhibit B.

F. Any lawful nonconforming use permitted to continue under and subject to the provisions of Section III of the Zoning Ordinance.

G. Any use and accessory uses permitted (including uses permitted as special exceptions) in the General Business District B-2 zone.

(iii) *In the Commercial Section the following uses shall be permitted:*

A. Manufactured home sales and service center, including the display and storage of manufactured homes.

B. Manufactured home community administrative office, which may be of manufactured home or modular building construction.

C. Access to other portions of the Property, Hillcrest Retirement Community and any property of abutters to the Property.

D. Signage for Hillcrest Retirement Community, for SMH and for any use permitted on the Property.

E. Any uses permitted in the Route One Section immediately above.

F. Display and storage of manufactured homes.

G. Any use and accessory uses permitted (including uses permitted as special exceptions) in the General Business District B-2 zone.

H. Any lawful nonconforming use permitted to continue under and subject to the provisions of Section III of the Zoning Ordinance.

4. <u>Area Dimensional and Design Criteria</u>. The following criteria shall apply:

(i) *<u>In the Expansion Section the following area dimensional and design criteria apply</u>*:

A. <u>Building Height</u>: The maximum building height shall not exceed 35 feet.

B. <u>Building Design</u>: All manufactured homes located on lots are subject to the following restrictions and limitations:

1. Installation on the Property shall be in compliance with the State of Maine installation standards for manufactured housing.

2. The exterior wall surfaces shall be covered with material similar to traditional site built housing units. These materials presently include clapboards such as conventional vinyl or metal siding, wood shingles or shakes or similar materials.

3. The homes shall be constructed with a roof having a pitch of 3 in 12 or greater.

4. Roofs are to be covered with asphalt or fiberglass composition shingles or other contemporary building materials.

C. Landscaping: At least two trees shall be planted on each manufactured home lot. Such trees shall be at least 2" caliper if deciduous, five feet in height if evergreen.

D. Density: Residential manufactured homes within the Expansion Project shall be placed on lots of location and size as shown on Exhibit A.

E. Setbacks and separation: The front, rear and side yards shall be as generally shown on the Site Plan approved by the Planning Board. A minimum 20-foot separation shall be maintained between all manufactured homes in all directions.

F. Property coverage: All structures constructed on the Property, but excluding open decks and parking related structures, shall not cover more than 50% of the Property area.

G. Open space: Open space not developed shall be left in its natural state unless otherwise shown on the Site Plan approved by the Planning Board.

H. Roads: On or before occupancy of Phase III lots (lots 83-129), Developers shall construct the new access road to Route 1 on the northerly side of the Expansion Project, as shown on Exhibit A for use by residents of the Expansion Project. The layout, general development plan and construction phasing for the Expansion Project's roads and ways, together with the location and dimensions of access junctions with existing public streets, shall be as approved by the Planning Board. All streets within the Expansion Project shall remain private and be privately maintained.

I. Parking: For each manufactured house lot in the Expansion Project there shall be at least two off-street parking spaces, which may be located on the lot. Each parking space shall contain a minimum area of 200 square feet with minimum dimensions of 10 feet by 20 feet.

J. Lighting: Outdoor lighting shall be provided to adequately illuminate the internal streets of the Expansion Project.

(ii) *In the Route One Section the following area dimensional and design criteria apply:*

A. Notwithstanding anything to the contrary in the Zoning Ordinance, existing structures may be improved and replaced and increased in height to a maximum height of 35 feet, but the existing footprints on the earth of such structures as identified on Exhibit A shall not be changed in location or increased in size.

B. Walkways, ramps, porches and other appurtenances to existing structures, or the replacements of such structures, may be improved and replaced and increased in height, but the existing footprints of such appurtenances on the earth as identified on Exhibit A shall not be increased.

C. Landscaping shall be of the type and scope shown on Exhibit B. See Section 10 below.

D. Except as otherwise provided in Section 4(ii)(A) through (C) above, the dimensional area and design criteria of the General Business District B-2 zone shall apply.

E. Except as otherwise provided in Section 4(ii)(A) through (C) above, existing structures and uses which do not conform with the dimensional, area and design criteria of the General Business District B-2 zone are subject to the rules

governing nonconforming lots, uses and structures contained in Section III of the Zoning Ordinance.

(iii) *In the Commercial Section the following area dimensional and design criteria apply:*

A. The dimensional area and design criteria of the General Business District B-2 zone shall apply.

B. Existing structures and uses which do not conform with the dimensional, area and design criteria of the General Business District B-2 zone are subject to the rules governing nonconforming lots, uses and structures contained in Section III of the Zoning Ordinance.

5. Residents. Housing within the Expansion Section shall meet the federal Fair Housing Act definition of "housing for older persons", as it may be amended, and which presently is defined as: (i) HUD has determined that the dwelling is specifically designed for and occupied by elderly persons under a Federal, State or local government program; or, (ii) it is occupied solely by persons who are 62 or older; or, (iii) it houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 or older.

6. Utilities: All lots in the Expansion Section on which manufactured homes are placed shall be provided with electrical, water, and sewage disposal connections in accordance with applicable state and local rules and regulations. The Expansion Section shall be serviced by the following public utilities:

A. Wastewater disposal shall be provided by a connection to existing or to be constructed sanitary sewers traversing the Project. Individual lots may be served by gravity or pumping. All new pumping stations shall be privately maintained.

B. Water supply may be provided by a connection to existing water supply mains in the existing Hillcrest Retirement Community or to new water supply mains. Public water shall serve the Expansion Project, and to encourage water conservation, sub-metering may be provided to a lot on which a manufactured home is located.

C. Electric service shall be provided underground from pad-mounted transformers to lots on which manufactured homes are located.

D. Telephone and cable service, to the extent provided, shall be underground throughout the Expansion Project.

7. Plan. The Property shall be generally developed and used in accordance with Exhibit A, as approved by the Town Council on November 3, 2004, as that plan may be further approved and amended from time to time pursuant to the provisions of the Scarborough Site Plan Ordinance and Subdivision Ordinance and this Agreement. Notwithstanding any other provisions of the Ordinance, the physical layout, dimensions, setbacks, parking and proposed uses and improvements shown on Exhibit A and identified in this Agreement shall be permitted under the Ordinance.

8. Status of Approvals/Amendments. Exhibit A to this Agreement is the plan which has received preliminary Subdivision Approval for the entire Property under the Town's Subdivision Ordinance. Any amendment to Exhibit A or this Agreement which involves the following changes to the terms of this Agreement will require an amendment approved by the Town Council after a public hearing:

A. any change in permitted uses.

B. any increase above 175 in the number of manufactured housing lots.

Except for the foregoing, any other changes to the Expansion Project and any subsequent site plan approvals or subsequent site plan and/or subdivision amendments need only be approved by the Planning Board after a public hearing in accordance with this Agreement without need for further Town Council approval, provided that the Planning Board shall not have the authority to waive the terms of this Agreement and provided any such changes are consistent with this Agreement.

9. Eastern Trail Easement and Trail Construction Fund. To facilitate the construction of an extension of the Eastern Trail for the public over the Property, and in lieu of any recreational fee required by Town policy:

A. At or prior to issuance of any permits for commencement of construction of the Expansion Project, Developers shall convey for no additional consideration to the Town and the Eastern Trail Alliance ("ETA") (collectively, the Town and ETA are hereafter referred to as "holders") an easement at least thirty feet wide for construction of and public use of a twelve (12) foot wide unpaved public recreational Trail ("Trail") with shoulders of up to five (5) foot width located in the approximate location shown on Exhibit A, to be part of the Eastern Trail system in Scarborough. The Trail shall be designed and designated so that it will not be used by any motorized or otherwise non-human propelled vehicles; for example, snowmobiles, ATV's, dirt bikes and other off-road vehicles are prohibited from use of the Trail. The easement shall include provisions and requirements that (1) Trail use, maintenance and anti-waste requirements and restrictions shall be rigorously followed and enforced by the holders; (2) the Trail shall be well maintained by the holders of the easement; (3) the term of the easement is perpetual, but subject to termination by written notice of voluntary abandonment by the holders or by court decision if the court finds that (i) the holders have materially failed to comply with their obligations as set forth in the easement, or (ii) the general public has not used the Trail on a regular basis for a period of three (3) years. If the easement is so terminated by court decision, the holders (jointly and severally) shall be responsible for the payment of Developer's reasonable attorney's fees incurred in such court proceeding.

B. Upon the issuance of the first certificate of occupancy for a Dwelling Unit within the Expansion Project, Developers shall pay to the Town a fee (the "Eastern Trail Fee") in the amount of Sixty Thousand Dollars ($60,000.00). The Eastern Trail Fee shall be placed in a separate account held by the Town and used for the construction of the aforesaid Trail in the Expansion Project. To the maximum extent possible, the Eastern Trail Fee shall be used by the Town to leverage the acquisition of other funds from private, local, state or federal sources for construction of the Trail.

C. Prior to the commencement of Phase One and thereafter during the periods of construction, Developer shall assist the Town and the Eastern Trail Management District to coordinate with Developer's engineers and construction contractors trail construction activities so to efficiently utilize funds available from and through the Town and the ETA (including the Eastern Trail Fee) for the construction of the Trail. Developer is not required to delay its construction to assist the trail construction. The Parties contemplate that coordinated activities may include surveying, environmental permitting, and base trail grade construction. The Town and ETA will contract with such contractors as they deem appropriate for the trail design, permitting and construction, and Developer will attempt to facilitate the Town's and ETA's contracting with Developer's engineers and contractors if requested by the Town and ETA.

D. The Town and the ETA and their agents with their Trail construction and maintenance equipment shall have the right of prudent and careful access across the Property for Trail construction and maintenance related purposes, subject to the following conditions and covenants. Such access, maintenance and construction shall minimize disruption to Developer and to any residents of Hillcrest Retirement Community, as the community may be expanded. Access shall be over established roads if reasonably possible. Without Developer's written consent, no single Trail construction project or phase will exceed one year in duration. The holders, jointly and severally, will be responsible for and repair any damage caused to the Property and indemnify, defend and hold harmless Developer from any claims arising from its construction of the trail on the Property, except that nothing in this Agreement or in said Eastern Trail easement shall be construed to waive any immunity against the claims of others available to the Town under the Maine Tort Claims Act or other applicable law.

10. Route 1 Corridor Improvements . The Route One Section which abuts U.S. Route 1 is located at prominent position at the commencement of a significant entrance into the Town. In consideration of the Town's willingness to enter into this Agreement, Developers agree to make certain significant changes to such property along Route 1 so to improve its visual appearance from U.S. Route 1, such changes being referred to as the "Route 1 Corridor Improvements." Developers' agreement to make the Route 1 Corridor Improvements has been a material inducement to the Town to enter into this Agreement. The Route 1 Corridor Improvements shall be in the area shown on Exhibit B and of the type and scope shown there, with the final design of such improvements to be as determined and approved by the Planning Board during its considerations on final Site Plan review of the Expansion Project. The Route 1 Corridor Improvements shall be completed before the issuance of any certificate of occupancy for a manufactured home in the Expansion Project.

11. Commencement/Phasing Schedule/Bonding. Unless extended by the Town Council, the construction of the initial Phase shall commence within two (2) years after Developers' receipt of final land use approvals for Phase I of the Property. If changes of site plan or subdivision approvals are needed for development of subsequent Phases, such changes shall be subject to approval of the Planning Board and, if appropriate by the Town Council, all in accordance with Section 8 above. The Phases I, II, III and IV shall be completed in that order. Multiple phases may be pending and under construction at the same time. Developer shall be required to periodically update the Town with respect to commencement schedules of the next phase to be constructed in order to facilitate orderly planning on part of the Town.

As shown on Exhibit A, the northern access/egress road shall be constructed prior to any residential manufactured home being placed on any lot in Phase III or Phase IV.

Owners need only post a performance guaranty assuring the completion of public improvements for those improvements to be constructed within each Phase or which are to be completed in conjunction with such Phase under this Agreement. For the purposes of a performance guaranty, the Route 1 Corridor Improvements shall be required to be completed in conjunction with Phase I. For purposes of measuring the required date for completion of public improvements under the Town of Scarborough Subdivision Ordinance, the start date for the running of the period of completion shall commence with the commencement of physical construction of each Phase.

12. General.

A. Developers shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its execution by the Town Manager. The Town Manager shall sign the full size copy of the plan attached hereto as Exhibit A, marked with the legend:

"Exhibit A to Hillcrest Retirement Community Expansion Contract Zoning Agreement dated November 3, 2004, subject to final Planning Board Subdivision and Site Plan Approvals pursuant to said Agreement."

B. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property, and this Contract Zoning Agreement may be amended by future written agreement among the Town of Scarborough and the Developers or their successors in interest without need for approval of any other party.

C. The provisions of this Contract Zoning Agreement, including as applicable reference to and incorporation of the provisions of the Ordinance's Resource Protection (R-P) District, shall operate as the sole zoning requirements upon the Property. Except as otherwise set forth in the aforesaid conditions, the regulations adopted by the State of Maine concerning the regulation of manufactured housing pursuant to 30-A M.R.S.A. §§4358, et seq., as amended hereafter, shall apply to the Property. The parties acknowledge the provisions of 30-A M.R.S.A. §4358.3.M. that "a municipality shall permit mobile home parks to expand and to be developed in a number of environmentally suitable locations in the municipality with reasonable consideration being given to permit existing mobile home parks to expand in their existing locations," and agree that the expansion of Hillcrest Retirement Community permitted by this Agreement satisfies the Town's obligation, if any, pursuant to such statutory provisions and that the Town has no obligation under the statute to allow further expansion.

D. The restrictions, provisions and conditions of this Agreement are an essential part of the rezoning, shall run with the Property, shall bind Developers, their successors in interests and assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

E. The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Scarborough Zoning Ordinance and through legal action for specific performance of this Agreement. In the event that Developers or their successors or assigns fail to develop the Expansion Project in accordance with this Contract, or in the event of any breach thereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if Developers, their successors or assigns, fail to commence to cure or remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such remedy or cure to completion in a reasonable time, then the Town may enforce the performance of this Agreement and recover the costs and expenses of performance from such Developers or their heirs, successors or assigns violating this Agreement, which recovery may include the Town's reasonable attorney's fees and expenses.

F. All references in this Agreement to the Scarborough Zoning Ordinance, the Scarborough Shoreland Zoning Ordinance, the Scarborough Subdivision Ordinance and other ordinances, and provisions and classifications thereof shall be and mean the Zoning Ordinance, Shoreland Zoning Ordinance, Subdivision Ordinance, other ordinances, and the provisions and classifications thereof in effect as of the date of adoption of this Agreement.

WITNESS: TOWN OF SCARBOROUGH

_____ By:_____

Ronald Owens, Town Manager

WITNESS: DEVELOPERS

_____ _____

Agnes Desfosses

WITNESS:

_____ _____

Theresa Desfosses

WITNESS:

_____ By:_____

State Manufactured Homes, Inc.,

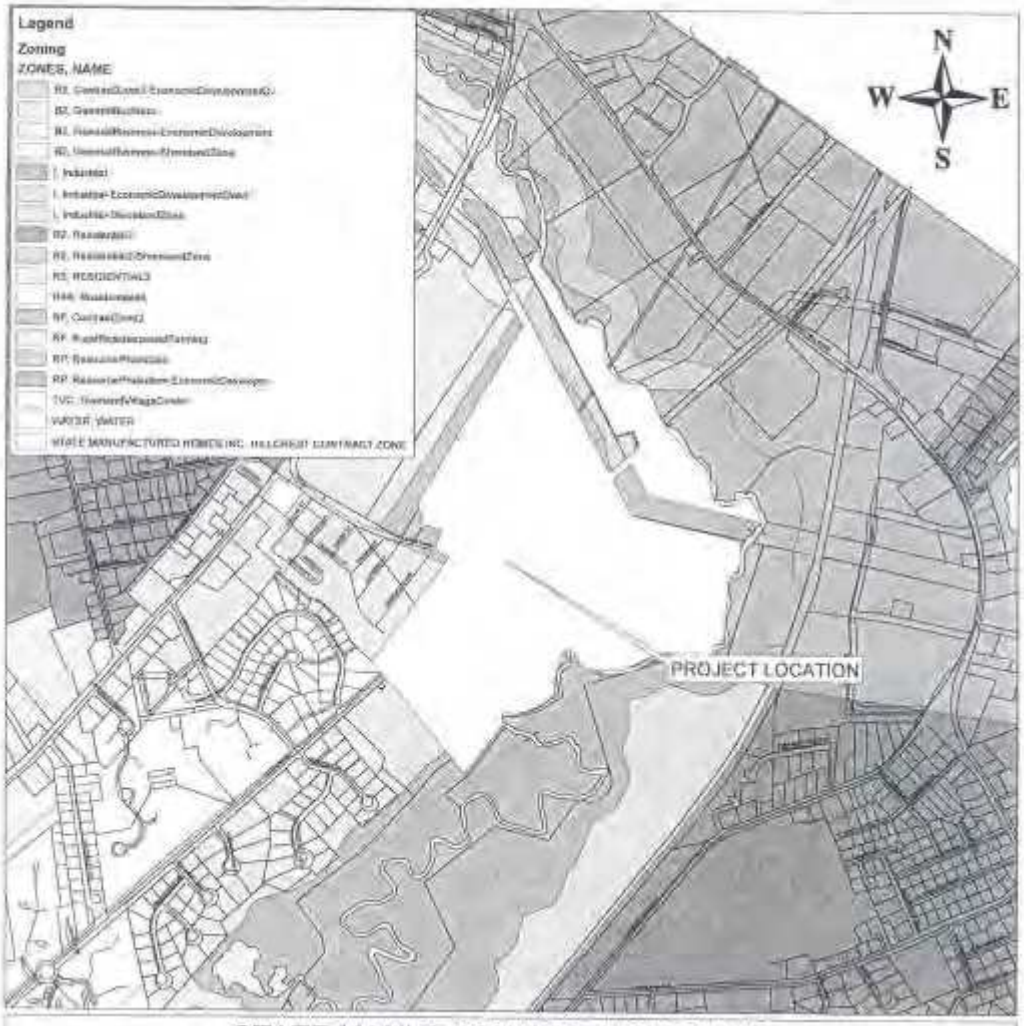
Its President

Exhibit 1- Zoning Map Change Amendment

Exhibit A- Summary Expansion Zone Plan

Exhibit B- Route 1 Corridor Improvements

110504



STATE MANUFACTURED HOMES INC.
SCARBOROUGH, MAINE

ZONING MAP - PREPARED IN SUPPORT OF CONTRACT ZONE AGREEMENT
APPROVED BY TOWN COUNCIL ON NOVEMBER 3, 2004

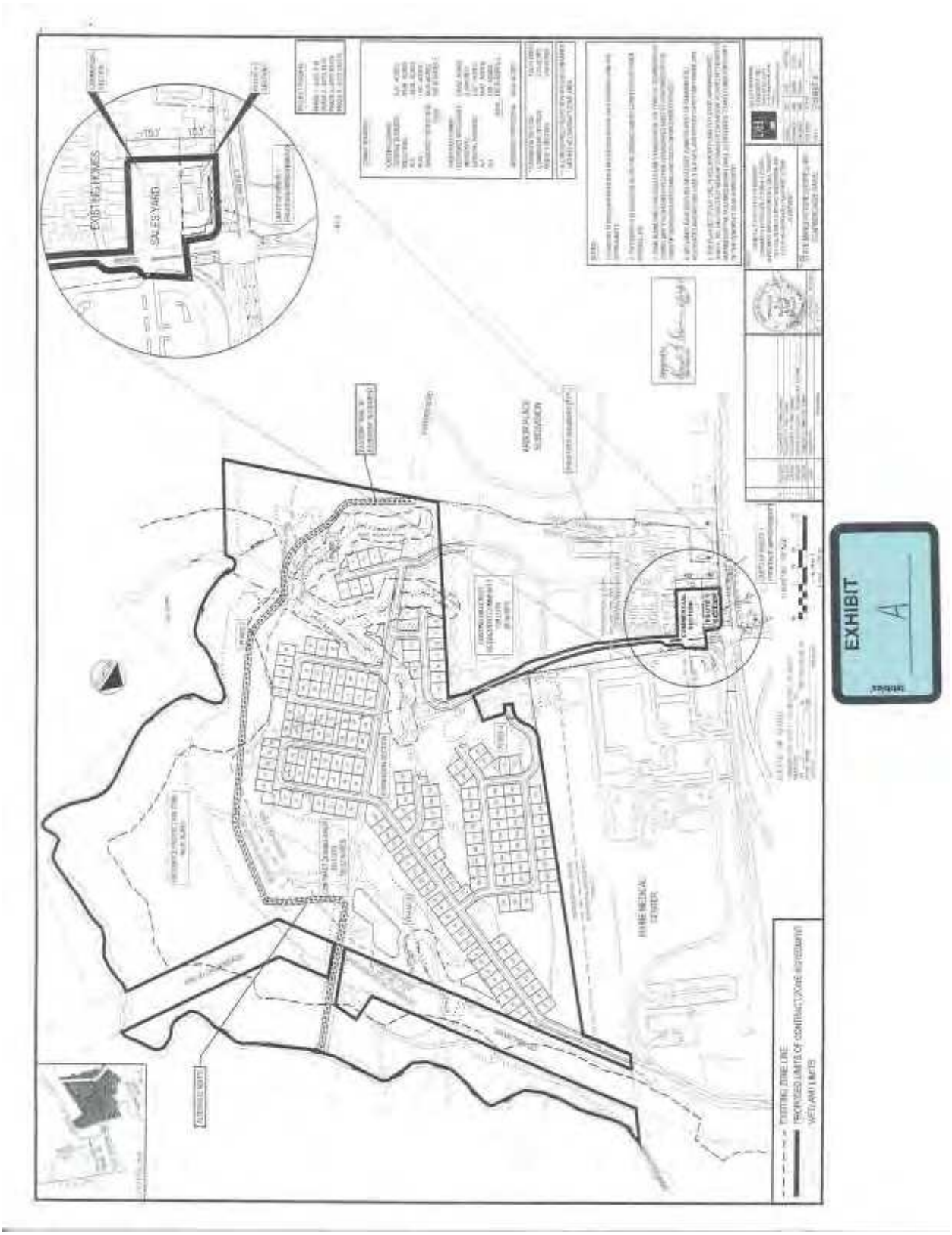
SOURCE: TOWN OF SCARBOROUGH GIS DATA

DeLuca-Hoffman Associates, Inc.
778 MAIN STREET, SUITE 8
SOUTH PORTLAND, ME 04106
207-775-1121
www.delucahoffman.com

DRAWN:	RJK
CHECKED:	SRB
DATE:	NOV. 2004
FILENAME:	G:\2174\FIGURES\2174 ZONE-FIG4.mxd
SCALE:	1 inch equals 400 feet

EXHIBIT

1


EXISTING HOMES
SALES YARD
EXHIBIT
A

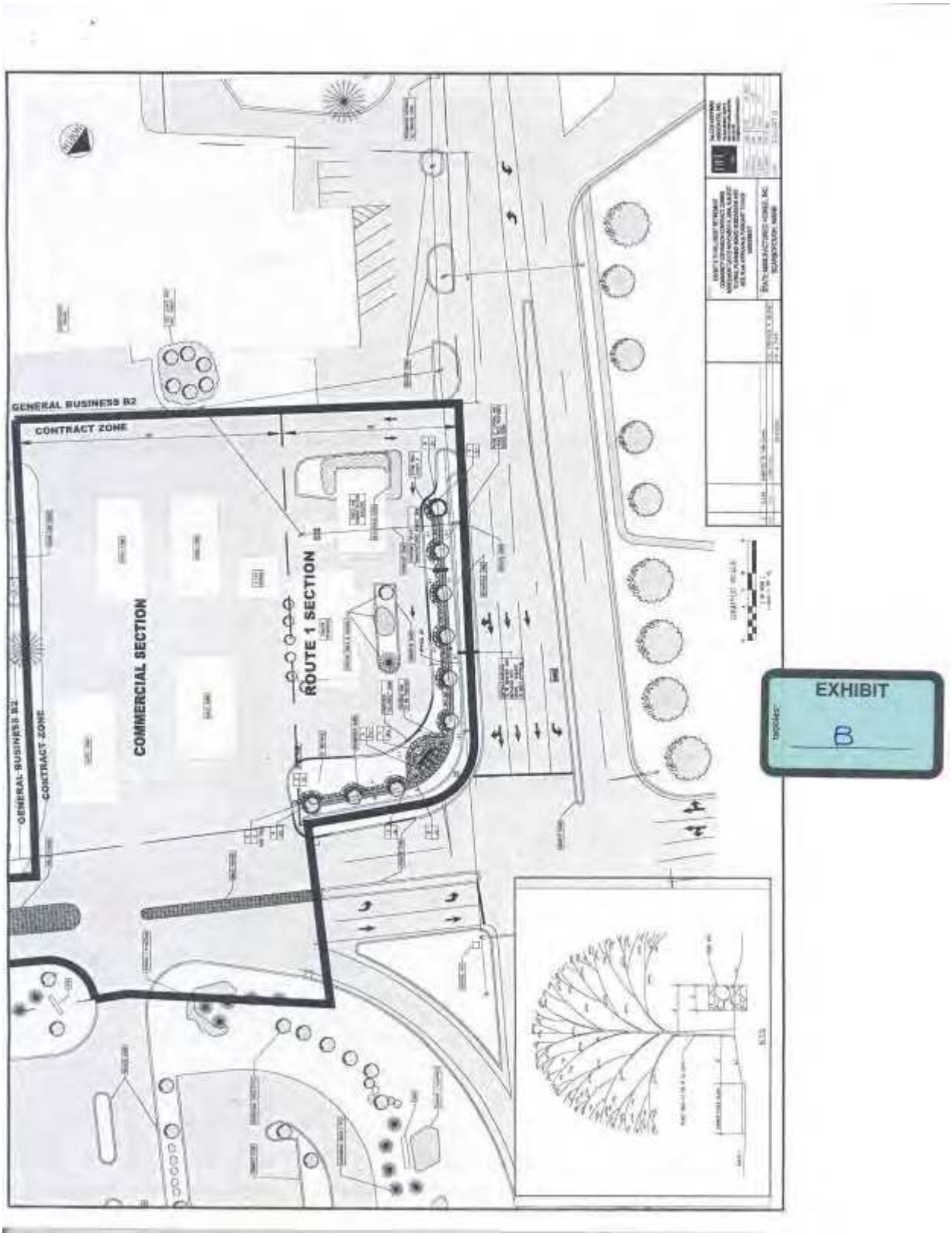

GENERAL BUSINESS B2
CONTRACT ZONE
COMMERCIAL SECTION
ROUTE 1 SECTION
GENERAL BUSINESS B2
CONTRACT ZONE
EXHIBIT
B

EXHIBIT 8 –

CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
GRONDIN AGGREGATES LLC

This is a Contract Zoning Agreement made as of the 16th day of August 2006, by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter "the Town"), and GRONDIN AGGREGATES LLC, with a mailing address of 11 Bartlett Rd, Gorham, Maine 04038 (hereinafter "Grondin") pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance (hereinafter the "Zoning Ordinance").

WHEREAS, Grondin owns a parcel of real estate located southeast of the corner of Beech Ridge Road and Route 114 in Scarborough, Maine consisting of 284.2 acres (hereinafter "the property"); and

WHEREAS, the property is currently zoned in a Rural Residence and Farm District (RF) under the Zoning Ordinance, and the land within 75 feet of the Nonesuch River is zoned within the Stream Protection District (SPD) under the Scarborough Shoreland Zoning Ordinance (hereinafter the "Shoreland Zoning Ordinance") and will be maintained in its current state; and

WHEREAS, the Rural Residence and Farm District allows wetlands creation on previously excavated property pursuant to a contract zoning agreement approved by the Town Council under Section II(I) of the Zoning Ordinance; and

WHEREAS, the property contains over 1 mile of frontage on the Nonesuch River, and the associated floodplain and wetlands, which provide unique and quality resources of wildlife habitat and opportunities for recreation, and the area currently zoned within the Stream Protection District will remain undeveloped; and

WHEREAS, Grondin wishes to establish a large wetlands mitigation project on the site, the Larrabee Farms Wetlands Mitigation Project (the "project"), which would involve preservation and creation of wetlands to provide compensation for wetlands impacts on other properties; and

WHEREAS, the size, location, hydrogeology, and topography of this site provide a unique and viable opportunity for a wetlands creation and preservation project, and the project will be satisfactorily buffered from abutting properties; and

WHEREAS, the entire parcel that includes this contract zone, except approximately 20 acres shown on Exhibit A and dedicated to the Town for possible use as a school or other municipal uses, will be encumbered by a conservation easement or easements limiting the use of the property to wetlands and open space preservation and passive outdoor recreation; and

WHEREAS, Grondin has requested a rezoning of the property to allow construction of said wetlands mitigation project; and

WHEREAS, each wetlands creation and preservation phase of the proposed project would be overseen and authorized by the U.S. Army Corps of Engineers pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899; and

WHEREAS, each wetlands creation and preservation phase of the proposed project would also be overseen and authorized by the Maine Department of Environmental Protection pursuant to the Maine Natural Resources Protection Act (38 M.R.S.A. §§480-A *et seq.*), and the Maine Department of Environmental Protection may also act as a third-party enforcer of the conservation easement or easements on the property; and

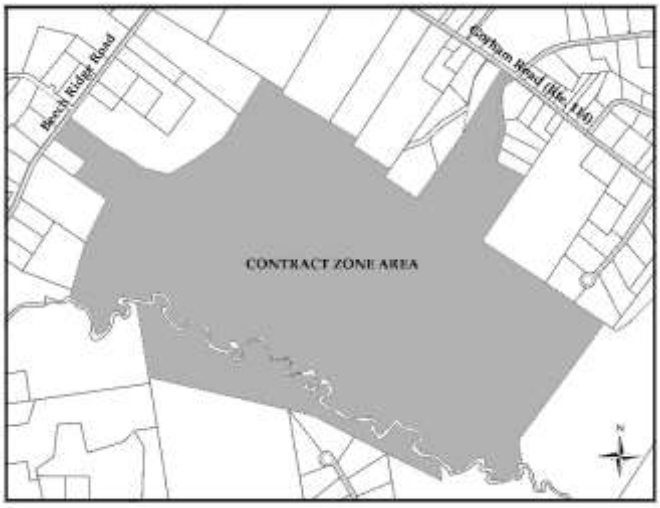
WHEREAS, the rezoning would be consistent with the Policies and Future Land Use Plan of Part III of the Scarborough Comprehensive Plan; and

WHEREAS, the Larrabee Farms Wetlands Mitigation Project site will provide unique and expansive recreational opportunities for the Town of Scarborough through the creation of trails and the permanent protection placed upon parcel and trail areas; and

WHEREAS, the Town of Scarborough, by and through its Town Council, has determined that the said rezoning would be pursuant to and consistent with the Town's Comprehensive Plan and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Contract Zoning Agreement on August 16, 2006.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. Zoning Map: The Town hereby amends the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown below:



2. Depth of Excavation: Except as otherwise specified in this Agreement, the project shall not be subject to and shall not require review under the Town of Scarborough Extractive Industry and Land Reclamation Ordinance (the "Extractive Industry Ordinance"). Notwithstanding contrary provisions in the Extractive Industry Ordinance, excavation may occur below the seasonal high water table for the purpose of accessing groundwater for wetlands creation. Any excavation deeper than 12 inches above the seasonal high water table is limited to a wetlands creation area within a compensation package which has been accepted for use as mitigation by the U.S. Army Corps of Engineers and the Maine Department of Environmental Protection and has been approved by the Town Engineer under Section 3(h) below and secured by a performance guarantee under Section 3(h) below.

3. Process and Regulations: Grondin is authorized to create a wetlands mitigation project including wetlands creation, and wetlands with surrounding uplands preservation on the property, subject to the following conditions:

(a) Commencement: The project must be commenced within two years of the date of this Agreement.

(b) **Plan Approval:** With the exception of the property to be dedicated to the Town and shown on Exhibit A, the property subject to this Agreement shall be developed and used substantially in accordance with the Larrabee Farms Wetlands Mitigation Project Plan granted preliminary approval by the Scarborough Planning Board on July 17, 2006, as such plan is finally approved by the Planning Board and may be amended from time to time by the Planning Board (hereinafter the "Plan").

(c) **Permitted Uses:** The permitted uses on the property shall be limited to the following:

(i) wetlands mitigation and associated work; specifically: wetlands creation in previously excavated areas, wetlands creation in areas excavated in order to create wetlands, extractive industry incidental to or in preparation for wetlands creation; and land reclamation;

(ii) passive recreation, including trails as depicted on the Plan and trail maintenance;

(iii) public schools, municipal uses and uses allowed in the RF District on the property depicted on Exhibit A and hereby dedicated to the Town;

(iv) preservation of wetlands and open space.

(d) **Wetland Mitigation Packages:** As wetlands compensation packages are accepted for use as mitigation by the U.S. Army Corps of Engineers and the Maine Department of Environmental Protection, wetlands creation will be conducted pursuant to the terms of this Agreement. Grondin shall give first priority to wetlands compensation packages which will mitigate or compensate for the effects of impacts to wetlands located in Scarborough and shall give second priority to wetlands compensation packages which will mitigate or compensate for the effects of impacts to wetlands located outside Scarborough but within the Nonesuch River watershed. Prior to the commencement of development of each wetlands creation area, Grondin shall submit to the Town Planner and the Town Engineer a description of the wetlands creation project, which shall include the identity of the off-site project being benefited by the wetlands compensation package. If such benefited project is not within the Town of Scarborough or the Nonesuch River watershed, Grondin must demonstrate to the satisfaction of the Town Planner that there are no projects in Scarborough or the Nonesuch River watershed that have pending applications with the U.S. Army Corps of Engineers and/or the Maine Department of Environmental Protection that will necessitate wetlands creation or mitigation and which therefore could be benefited by, and are willing to participate in, a wetlands compensation package through Grondin.

(e) **Wetlands Creation Area Development:** Excavation on the property shall be undertaken by area, substantially in accordance with the Plan. Any deviations in wetland creation areas from the depictions on the plan shall require Town Engineer approval in accordance with Section 3(h). Substantial changes to the plan, as determined by the Town Engineer, shall require approval from the Planning Board. No more than three areas may be open at any one time. For purposes of this paragraph, an area is considered open from the time any excavation has commenced within the area until the area has been permanently reclaimed or work within the area has commenced on a wetlands creation plan approved by the Town Engineer and secured by a performance guarantee under Section 3(h) below.

(f) **Excavation without Approved Wetlands Creation Plan:** If Grondin elects to undertake excavation in any designated wetlands creation area before receiving approval from the Town Engineer of a plan for wetlands creation under Section 3(h) of this Agreement, Grondin shall submit: a detailed plan of the excavation and a contingent

permanent reclamation plan for approval by the Town Engineer and an application fee as set forth in the Schedule of License, Permit and Application Fees established by order of the Town Council. The reclamation plan shall comply with the Standards of Section 10 of the Extractive Industry Ordinance. Upon approval of the excavation and reclamation plans by the Town Engineer, Grondin shall furnish to the Town a performance guarantee for the cost of implementing the approved reclamation plan meeting the requirements of Section 9 of the Town of Scarborough Subdivision Ordinance and a construction inspection fee meeting the requirements of Section 11 of the Subdivision Ordinance. Grondin shall pay for the services of any consultants the Town Engineer deems appropriate to evaluate the application and inspect the work. Excavation pursuant to this paragraph is limited to a depth of no greater than 12 inches above the seasonal high water table.

(g) **Temporary Reclamation:** An area which is excavated pursuant to Section 3(f) above shall be temporarily stabilized with a nurse crop and mulch until such time as a plan for wetlands creation is approved under Section 3(h) of this Agreement. Any such area excavated and temporarily stabilized which is not converted to wetlands within 5 years after the approval of the excavation and reclamation plans by the Town Engineer shall be permanently reclaimed in accordance with the contingent permanent reclamation plan approved under Section 3(f).

(h) **Wetlands Creation Plans and Performance Guarantees:** Prior to excavation deeper than 12 inches above the seasonal high water table for the commencement of a Wetlands Mitigation Plan in any designated wetlands creation area, whether or not the area has previously been excavated, Grondin shall submit for approval by the Town Engineer: a detailed plan of the wetlands creation; a reclamation plan that complies with the Standards of Section 10 of the Extractive Industry Ordinance; an application fee as set forth in the Schedule of License, Permit and Application Fees established by order of the Town Council; and copies of the approved permits and wetland mitigation plans for the wetlands creation areas issued by the U.S. Army Corps of Engineers and the Maine Department of Environmental Protection. Upon approval by the Town Engineer of the plan for wetlands creation, Grondin shall furnish to the Town a performance guarantee meeting the requirements of Section 9 of the Town of Scarborough Subdivision Ordinance for the cost of implementing the reclamation plan that complies with the Standards of Section 10 of the Extractive Industry Ordinance, and a construction inspection fee meeting the requirements of Section 11 of the Subdivision Ordinance. Grondin shall pay for the services of any consultants the Town Engineer deems appropriate to evaluate the application and inspect the work.

(i) **Buffering:** A 200-foot buffer shall be maintained around the property except in those areas shown on the Plan. This buffer shall be maintained around the property as sound and site screen during development of the wetlands creation areas and be maintained as buffers following development.

(j) **Hours of Operation:** With the exception of emergency situations, the hours during which extractive industries work shall be allowed on the property shall be limited to between 7:00 a.m. and 5:30 p.m. Monday through Saturday.

(k) **Public Use:** Public access to the designated trails on site and to the Nonesuch River shall be made available following completion of the applicable portions of the project, with the trails to be protected in the conservation easement or easements encumbering the parcel.

The approximate locations of the trails and the timing of their construction shall be approved by the Planning Board and depicted on the Plan.

(l) **Road Improvements:** No later than 90 days after approval of the Plan by the Planning Board, Grondin shall make improvements to and pave a section of the existing roadway abutting the properties identified on the Plan as N/F Jerome and Carmen Gayle, N/F Robert Rawding, N/F Shirley Bodman and N/F Howard Rawding, and shown as a private easement for access and utilities on the Plan. Thereafter, such road shall not be used for the hauling of materials excavated from the property or transportation of fill materials into the property. As shown on the Plan, a portion of the roadway will be deeded to the abutting landowners as a private right-of-way in a form acceptable to the landowners and the Town.

(m) **Water Quality and Testing:** Grondin shall, at its sole expense, perform testing on all domestic water supply wells serving any residences located within ½ mile (2,640 feet) of the blasting area, and wells within 300 feet of any sand and gravel excavation that are not included within the ½ mile blasting radius. The well testing will be conducted in order to determine the volume, quantity and quality of water provided by each such well. Such testing shall be in accordance with testing protocols to be established by a hydrogeologist selected by the Town and paid by Grondin. As a component of these testing protocols, the hydrogeologist shall determine the requisite time period necessary for water supply testing to be performed in advance of any excavation below the seasonal high water table. Grondin agrees that, for a period of 20 years after the date of this Agreement, it will, at its sole expense, repair, replace or provide a substitute water source for any such well if it is determined by a hydrogeologist selected by the Town and paid by Grondin that such well was damaged, degraded or impaired for use as a domestic water supply by any activities occurring on the property or associated with the project.

(n) **Reports to the Planning Board:** One year after the commencement of excavation pursuant to this Agreement and then every three years thereafter, Grondin shall submit a report to the Planning Board on the progress of the project. Such report shall address traffic, environmental monitoring, operational impacts on the neighborhood (for example, noise and dust), the creation or opening of trail areas to the public, drainage, rate of wetlands creation, anticipated wetlands creation over the next three-year period, and any other factors which relate to compliance with the requirements of this Agreement and with the Planning Board's approval of the Plan. Upon review of the progress report, the Planning Board may, if the Board finds that the Project is not proceeding in accordance with the Plan or this Agreement, impose additional conditions on its approval of the Plan and/or may refer the report to the Town Council with recommendations for amendments to this Agreement.

(o) **Off-site Road and Traffic Mitigation:** Grondin shall implement, at Grondin's sole expense, all off-site traffic mitigation measures described in the June 15, 2005 memorandum from Scarborough Town Engineer Jim Wendel to Scarborough Town Manager Ron Owens, attached to and incorporated into this Agreement as Addendum A.

(p) **Conservation Easement(s):** Upon approval by the Maine DEP and the U.S. Army Corps of Engineers, and prior to approval by the Town Engineer of the plan for wetlands creation under Section 3(h), each wetland mitigation project will be entered into a Conservation Easement. Ultimately, and within a time period of no more than 20 years from the date of approval of this Agreement by the Town of Scarborough, the entire property with the exception of the land area shown on Exhibit A that is hereby dedicated

to the town for a school or other municipal use, will be entered into a conservation easement to be held by the Town, or a land trust or similar entity designated by the Town, if such conveyance is approved by the Scarborough Town Council. The conservation easement or easements shall be permanent and shall limit the uses of the property to wetlands mitigation and monitoring, open space preservation, passive outdoor recreation, excluding use by motorized vehicles other than service and emergency vehicles, and may allow hunting provided hunting is limited to those areas where the hunting will not create a danger to persons using the property for walking, hiking, jogging, bicycling, picnicking and other passive recreational activities. The conservation easement or easements shall allow the uses permitted under Section 3(c) above. As is required under state and federal wetland statutes, the Maine DEP and the U.S. Army Corps of Engineers will have third party oversight in the easement.

4. Property Conveyance: Grondin shall have the right to convey its fee interest in the property, in whole or in part, as necessary to satisfy applicable requirements of the U.S. Army Corps of Engineers and the Maine Department of Environmental Protection in connection with the wetlands mitigation project and sale of the authorized wetlands mitigation credits; provided, however, that any parcel conveyed shall first be encumbered by conservation easement or easements limiting its use to the uses permitted by this Agreement. Portions of the property conveyed for wetlands compensation and restricted in perpetuity by conservation easement or easements to wetlands preservation shall not be considered lots under the Zoning Ordinance or the Subdivision Ordinance. Within 90 days of approval of this Agreement, Grondin shall convey the dedicated lot shown on Exhibit A to the Town, provided such dedicated lot is accepted by the Town Council. Upon completion of all phases of the wetlands mitigation and sale of the authorized wetlands mitigation credits or at the end of 20 years after the date of this Agreement, whichever occurs first, Grondin agrees to convey as a gift any remaining portions of the property to the Town, or to a land trust or similar entity designated by the Town, if such conveyance is approved by the Scarborough Town Council, subject to the same use limitations prescribed for conservation easements under Section 3(p) of this Agreement.

5. Recordation: Grondin shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.

6. Contract Zoning Agreement and Amendments: The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property except as this Contract Zoning Agreement may be amended by future written agreement of the Town of Scarborough and Grondin, or their successors in interest.

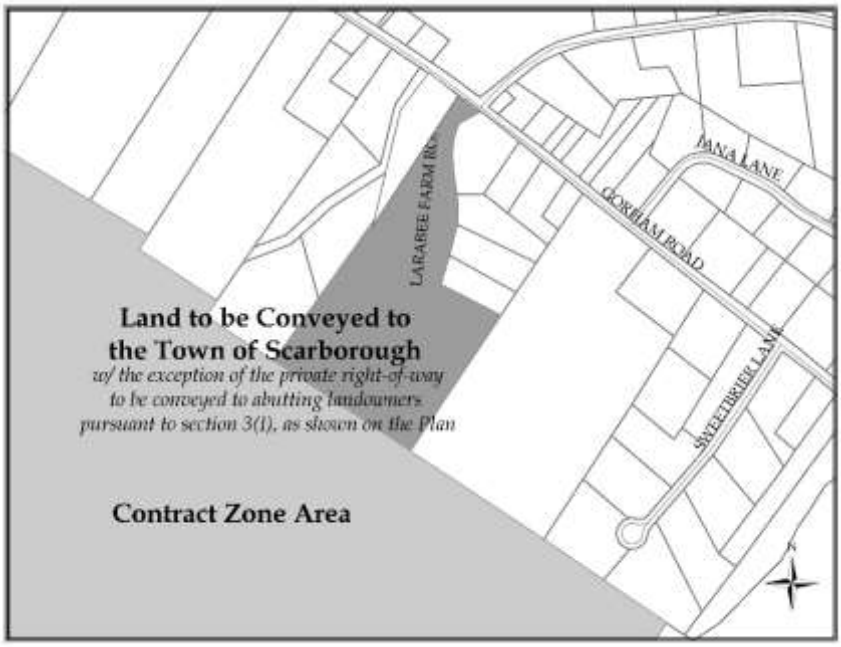
7. Property Restrictions: The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the property, shall bind Grondin, their successors in interest and assigns of said property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

8. Zoning Ordinance Applicability: Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough and any applicable amendments thereto or replacement thereof. The land within the Stream Protection District, as depicted on the Town of Scarborough, Maine GIS Zoning Map prior to the adoption of this Contract Zoning Agreement and as illustrated on Exhibit B to this Agreement, shall continue to be governed by the applicable provisions of the Shoreland Zoning Ordinance, none of which are abrogated or modified by this Agreement.

9. Agreement Termination: In the event that Grondin or its successors or assigns fail to develop the project in accordance with this Agreement, or in the event of any other breach hereof, this Contact may be terminated by vote of the Scarborough Town Council. In that event, the property may then be used only for such uses as are otherwise allowed by law.

10. Section 901: This Agreement is subject to Section 901 of the Council-Manager Charter of the Town of Scarborough.

11. Exhibit A:



WITNESS:

TOWN OF SCARBOROUGH

_____

By:_____
Ronald W. Owens, Its Town Manager
(duly authorized by vote of the Scarborough Town Council on _____, 2006)

_____

GRONDIN AGGREGATES LLC

Philip H. Grondin Jr., Its Manager

EXHIBIT 8
ADDENDUM "A" – PAGE 1

Town of Scarborough, Maine

MEMORANDUM

TO: Ron Owens, Town Manager

CC: Joe Ziepniewski, Planner
Dan Bacon, Assistant Planner
Mike Shaw, Director of Public Works

FROM: Jim Wendel, PE, Planning Department

DATE: June 15, 2005

RE: Larabee Wetland Mitigation Contract Zone

Below is a summary of the Planning Departments requirements for off-site traffic mitigation for the project.

1. All truck access to the site shall only be through the Beech Ridge Road entrance. Further, no trucks exiting the site shall take a left and drive southerly on Beech Ridge Road. However, the Public Works Director may authorize the use of the southern portion Beech Ridge Road for a specific project based on the review of a written request by the applicant identifying the project location, route and anticipated round trips between the pit and the project.
2. Reconstruct approximately 2,740 LF of Beech Ridge Road from Rte 114 south towards the proposed site entrance. The actual beginning and end points shall be coordinated with and agreed to by the Director of Public Works. The work shall include;
   a. Grinding the existing pavement and mixing a certain depth of the underlying existing subgrade granular material.
   b. Fine grade the surface for paving.
   c. Placement of a total of 4inches of pavement to a width of 32ft (12ft travel lanes and 4ft shoulders).
   d. Install pavement markings for a double yellow centerline and white travel edge lines.
   e. Reconstruct all existing driveways and Town roads within the work limits to allow a proper match with the new road grade. Reconstructed driveways shall include a paved apron if the driveway is not paved. The paved driveway apron shall be 3ft long by 3 inches of total pavement depth with a width to match the reconstructed driveway. The existing paved driveway shall have a total replacement paving depth of 3 inches. The Town road replacement paving shall be 4 inches.
3. Construct, prior to the start of pit operations, an exclusive left-turn lane of sufficient length to accommodate two "wheeler" trucks on the south approach of Beech Ridge Road at the site

PHONE 207 730 4040 • FAX 207 730 4049 • www.scarborough.me.us

EXHIBIT 8
ADDENDUM A – PAGE 2

entrance. The design shall be based upon MDOT standards as presented in their 1994 Highway Design Manual.

4. Widen, prior to the start of pit operations, the southwest corner of Beech Ridge Road and Route 114 intersection as conceptually depicted on Figure 5 enclosed with the March 16, 2005 Gorrill-Palmer, Inc. letter to accommodate a turning WB-50 tractor trailer vehicle.
5. Detailed designs for items 2, 3 &4 above shall evaluate surface and subsurface drainage, and subgrade soil conditions and provide appropriate designs in response to any identified deficiencies. Detailed design plans including plan and profiles and typical sections for these improvements will be submitted to both the Director of Public Works and the Town Engineer for review and approval.
6. Construction of the site entrance shall be in general conformance to the conceptual design depicted on Figure 4 enclosed with the March 16, 2005 Gorrill-Palmer, Inc. letter. However, in addition, the entrance shall include a paved apron. The apron shall be 10ft long with 4inches of total pavement depth and shall match the width of the proposed entrance drive geometry.
7. The Applicant will commit in writing to complete by October 15, 2010 or in year five of the pit operation to either a heavy maintenance shim or the road reconstruction improvements on Beech Ridge Road identified in item 2. The Director of Public Works will advise the applicant in writing which level of improvement will be required by late summer of the same year. If the maintenance shim is required than the applicant will complete the required final reconstruction improvements to Beech Ridge Road, identified in item 2, in a time frame required by the Director of Public Works.
8. Install a truck actuated flashing warning light and "TRUCK ENTERING" sign assembly on Beech Ridge Road southerly of the site entrance in conformance with MUTCD. Maintenance of the installation is the applicant's responsibility.
9. The Payne Road Impact Fee computation for Zone #2 should be revised for a total of 9 trips @ $292.42=$2,631.78. The total impact fee is therefore revised from $12,160.83 to $13,038.09.
10. Prior to the start of pit operations, the applicant shall provide a performance guarantee for the value of the required off-site improvements outlined in item 2 above. The initial minimum duration of the performance guarantee shall be to December 31, 2011 or the end of the first six years of the pit operation. Pit operation is defined as mobilization to, and set-up of pit equipment on the site and hauling of any natural resource material from or to the site.

Thank you.

FIRST AMENDMENT TO EXHIBIT 8
CONTRACT ZONE AGREEMENT BETWEEN
GRONDIN AGGGREATESC LLC
[The Larrabee Farms Wetlands Mitigation Project]
AND
THE TOWN OF SCARBOROUGH

This First Amendment to Contract Zoning Agreement (hereinafter, this "Amendment") is made as of the Seventh day of May 2008 by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, "the Town"), Grondin Aggregates LLC, a limited liability company, located in Gorham, Maine (hereinafter, "Grondin"), and the Scarborough Fish and Game Association, a Maine not-for-profit corporation, located in Scarborough, Maine (hereinafter, "SF&G"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, Grondin entered into a Contract Zoning Agreement with the Town dated as of the 5th day of March, 2008 (hereinafter, the "Agreement") creating Contract Zoning District Number VIII (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24332, Page 285; and,

WHEREAS, Grondin has acquired, by a certain Easement Agreement and Declaration between Grondin and SF&G dated April 13, 2007 and recorded in the Cumberland County Registry of Deeds at Book 26229, Page 120, the right to utilize portions of approximately 53 acres of land owned by the Scarborough Fish & Game Association for the wetlands mitigation and preservation purposes described in the Agreement; and

WHEREAS, SF&G is willing to have that 53 acres rezoned in order to become part of the Agreement; and

WHEREAS, SF&G is willing to submit its 53 acres to a conservation easement; and

WHEREAS, Grondin wishes to amend the Agreement in order to allow the importation and storage of aggregate materials from outside the District to be used in the mixing and processing of materials excavated or quarried onsite to create aggregate products for end users; and

WHEREAS, the ability of Grondin to undertake such mixing and processing within the District will expedite the completion of the wetlands mitigation and preservation work authorized by the Agreement, making the property within the District available for public recreational use sooner;

NOW THEREFORE, in consideration of the mutual promises made by the parties to one another, the parties covenant and agree as follows:

1. The Zoning Map of the Town of Scarborough is amended and the District is enlarged as shown on Attachment 1 hereto.

2. Section 3(c) (Permitted Uses) of the Agreement is amended by adding a new permitted use as described and limited in the following new subparagraph (v):

   (v) Production of end-user aggregate products by the mixing and processing of naturally deposited materials excavated or mined on property within the District with materials imported

from outside the District. The imported materials can include naturally deposited material, old bituminous asphalt cement pavement, and old portland cement and pozzolan cement concrete customarily used in the construction of infrastructure. The imported material may be stored on the property temporarily pending its use to produce the end-user aggregate products. All reinforcing steel imbedded in portland or pozzolan cement concrete which is imported into the District and is removed during mixing and processing must be removed from the District on a regular basis, no longer than 90 days after it arrives in the District. Mixing and processing shall be accomplished only by mechanical crushing, screening and blending of the material, without the use of heat or the application of chemicals. Hot bituminous asphalt pavement and cement concrete shall not be manufactured on site. The mixing and processing allowed under this subparagraph (v) is limited to that portion of the property depicted as "Aggregate Material Mixing, Processing and Storage Area" on the plan attached hereto as Attachment 2. The operation of crushers, grinders, mixers and other machinery in the location shown on Attachment 2 as Crusher/Sorter #1 is limited to the hours of 9:00 a.m. to 3:00 p.m. weekdays. The operation of crushers, grinders, mixers and other machinery in the location shown on Attachment 2 as Crusher/Sorter #2 is subject to the hours of operation set forth in Section 3(j) of the Agreement.

3. Section 3(c) (Permitted Uses) of the Agreement is amended by adding a new permitted use as described and limited in the following new subparagraph (vi):

   (vi) A temporary shelter for materials and equipment storage and equipment maintenance, as depicted on the plan attached hereto as Attachment 3. Maintenance activities within the District are limited to repairs and routine maintenance of on-site machinery and equipment used in the excavation, wetlands creation, wetlands reclamation and aggregate materials mixing and processing allowed under the Agreement and this Amendment. Maintenance, servicing and repairs of over-the-road vehicles are not allowed on the property.

4. The requirements of Section 3(o) of the Agreement and the June 15, 2005 memorandum from Scarborough Town Engineer Jim Wendel to Scarborough Town Manager Ron Owens shall remain in effect, except that the amount of the Payne Road Impact Fee for Zone No. 2 is revised to $25,286.76.

5. The requirements for conservation easements under Section 3(p) shall remain in effect, except the time period for subjecting the entire property to conservation easements is changed from 20 years to "10 years after the date of this amendment," and except that, as to the approximately 53 acres owned by SF&G, SF&G shall make the designation of the land trust or other entity qualified under Maine law to be the holder of the conservation easement.

6. The requirement of Section 4 that remaining portions of the property shall be conveyed as a gift to the Town or a land trust suitable to the Town remains in effect, except the time period for completing such conveyance is changed from 20 years to "10 years after the date of this amendment," and except that the approximately 53 acres owned by SF&G shall not be required to be conveyed.

7. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

8. Grondin shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

9. No later than five (5) working days after commencing one or more of the uses permitted by paragraphs 2 and 3 of this Amendment, Grondin shall give written notice to the Town Engineer that the use has commenced, specifying the date of commencement. If Grondin fails to give such notice, the Town Engineer may independently determine when the use commences. In either event, the Town Engineer, in person or by agent, shall confirm by site visit that the use has commenced and then provide written notice to the Town Manager of the date of commencement of the use. At the end of six (6) months after the date of commencement of use specified by the Town Engineer, the Town Manager shall place an item on the agenda of the next regular Town Council meeting to review the operation of such use, and the Council, after notice and public hearing, shall evaluate whether there have occurred significant adverse impacts on the surrounding neighborhood which were not identified or anticipated at the time of approval of this Amendment. If the Council finds that significant adverse impacts have occurred, the Council may amend the Agreement and/or this Amendment as the Council deems necessary to address such impacts. Any such amendment would require Town Council approval only, unless the Council should elect to refer the proposed amendment to the Planning Board for a recommendation.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS

GRONDIN AGGREGATES, LLC

_____ By: _____

Philip H. Grondin, Jr., its Manager

WITNESS

TOWN OF SCARBOROUGH

_____ By: _____

Ronald W. Owens, its Town Manager (duly authorized by vote of the Scarborough Town Council on , 2008)

WITNESS

SCARBOROUGH FISH AND GAME ASSOCIATION

_____ By: _____

_____, its _____

EXHIBIT 9 –

CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
THE NEW ENGLAND EXPEDITION – SCARBOROUGH LLC

This Contract Zoning Agreement (hereinafter, this "Agreement") is made as of the 3rd day of January, 2007 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the "Town"), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, "New England Expedition"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, New England Expedition intends to purchase certain lots or parcels of land located on Payne Road and Haigis Parkway in Scarborough, Maine, consisting of (a) the premises currently owned by 262 Payne Road, LLC, et al., located at 262 and 274 Payne Road comprising Lots 8 and 11A shown on Town of Scarborough Tax Map R-40 and described in deeds to 262 Payne Road, LLC, et al., recorded in the Cumberland County Registry of Deeds in Book 3630, Page 199, Book 21070, Page 169 and Book 22791, Page 266, (b) the premises currently owned by TD Banknorth, N.A., located at 246, 248 and 250 Payne Road comprising Lots 5, 6 and 7 shown on Town of Scarborough Tax Map R-40 and described in deeds to Peoples Heritage Savings Bank, predecessor to TD Banknorth, N.A., recorded in the Cumberland County Registry of Deeds in Book 15215, Page 204 and Book 15272, Page 261, (c) the premises currently owned by 23 Spring Street, LLC located at 264 Payne Road comprising Lot 9 shown on Town of Scarborough Tax Map R-40 and described in deed to 23 Spring Street, LLC recorded in the Cumberland County Registry of Deeds in Book 18263, Page 310, and (d) the premises currently owned by GlennDonna, Inc. located on Haigis Parkway and Payne Road comprising Lot 14 shown on Town of Scarborough Tax Map R-40 and being a portion of the premises described in deed to GlennDonna, Inc. recorded in the Cumberland County Registry of Deeds in Book 7564, Page 223 (hereinafter, collectively referred to as the "Property"), the Property containing approximately seventy-four (74) acres; and

WHEREAS, New England Expedition intends to develop the Property as a single project to be known as "The Gateway at Scarborough" (hereinafter, the "Project"), with that portion of the Project located on the northwesterly side of Payne Road to be known as "The Gateway Shoppes at Scarborough" and that portion of the Project located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway to be known as "The Gateway Square at Scarborough", with construction of the Project anticipated to proceed in phases commencing with The Gateway Shoppes at Scarborough and progressing to The Gateway Square at Scarborough; and

WHEREAS, the Property is currently located in the Haigis Parkway District, HP (hereinafter, the "HP District") as described in Section XVIII B. of the Zoning Ordinance; and

WHEREAS, the HP District presently allows, as a permitted use, among other uses, retail sales and services with less than twenty thousand (20,000) square feet of retail floor area per unit of occupancy; and

WHEREAS, New England Expedition desires to construct multiple facilities on the Property in which will be conducted various permitted uses including, but not limited to, a facility on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road for the retail sale of specialty hunting, fishing and other outdoor recreational equipment by Cabela's Incorporated or its subsidiaries (hereinafter, "Cabela's"), which facility will include, in addition to retail sales space, exhibit and education areas as well as an accessory restaurant for patrons; and

WHEREAS, Cabela's requires a facility of one hundred thirty thousand (130,000) square feet of retail floor area in order to facilitate the manner in which such facility operates and displays its products and to accommodate the unique exhibit and educational components that are an integral part of such facility; and

WHEREAS, Cabela's requires certain specific signage attached to and associated with such facility that varies from signage permitted under Section XII of the Zoning Ordinance; and

WHEREAS, New England Expedition desires to install certain signage, together with related improvements, lighting and landscaping, for the purpose of identifying the Project, off-site on property in the immediate vicinity of the Property; and

WHEREAS, the sign regulations under Section XII of the Zoning Ordinance impose limitations on the placement of off-site signage relating to the Project; and

WHEREAS, New England Expedition has requested that, notwithstanding the requirements of Section B6 of the HP District requirements and the sign regulations set forth in Section XII of the Zoning Ordinance, in addition to the other facilities proposed to be constructed on the Property, the Town permit New England Expedition to construct a facility to be occupied by Cabela's and utilized for the uses permitted under said Section B6 of the HP District requirements containing not more than one hundred thirty thousand (130,000) square feet of retail floor area on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road, together with certain specific signage attached to and associated with such facility, and to install certain signage, together with related improvements, lighting and landscaping, for the purpose of identifying the Project, off-site on property in the immediate vicinity of the Property; and

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of the Cabela's facility, and the other facilities proposed for the Property, provided the operation is restricted to the density, scale and intensity proposed by New England Expedition and further provided that the restrictions, provisions and conditions of this Agreement and the site plan and subdivision approval are strictly observed; and

WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph G Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberation thereon, recommended that New England Expedition be permitted to develop the Property so as to include, in addition to the other facilities proposed for the Property, a facility on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road to be occupied by Cabela's and utilized for the uses permitted under said Section B6 containing not more than one hundred thirty thousand (130,000) square feet of retail floor area, together with certain specific signage attached to and associated with such facility, and to install certain signage, together with related improvements, lighting and landscaping, for the purpose of identifying the Project, off-site on property in the immediate vicinity of the Property; and

WHEREAS, the proposed uses of the Property, being in accordance with the requirements of the HP District, are consistent with the 2006 Update of the Comprehensive Plan of the Town of Scarborough adopted by the Scarborough Town Council on July 19, 2006 (hereinafter, the "Comprehensive Plan") for the area of the Property; and

WHEREAS, the Town of Scarborough, by and through its Town Council, having determined that the said uses are pursuant to and consistent with the Comprehensive Plan and consistent with the permitted uses within the HP District, authorized the execution of this Agreement on December 20, 2006.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change amendment shown on Attachment 1.

2. Notwithstanding the provisions of Section B6 of the HP District requirements, New England Expedition shall be permitted to develop the Property so as to include, in addition to the other facilities proposed for the Property, a facility on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road to be occupied by Cabela's and utilized for the uses permitted under Section B6 of the HP District requirements containing not more than one hundred thirty thousand (130,000) square feet of retail floor area.

3. New England Expedition is authorized to construct the Cabela's facility to be used in accordance with the requirements of the HP District, except as amended by this Agreement, together with the other facilities proposed for the Property containing such other uses as are permitted in the HP District.

4. Notwithstanding the provisions of Section XII of the Zoning Ordinance, New England Expedition shall be permitted to include signage attached to and associated with the Cabela's facility as more particularly described and shown on Attachment 2.

5. Notwithstanding the provisions of Section XII of the Zoning Ordinance, New England Expedition shall be permitted to install certain signage, together with related improvements, lighting and landscaping, which signage is generally depicted on Attachment 3, for the purpose of identifying the Project, on the property located between that portion of the Property comprising The Gateway Square at Scarborough located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway and said Payne Road and Haigis Parkway, or within the right of way of said Payne Road or Haigis Parkway adjacent to said property, subject, however, to the terms and provisions of any agreements entered into with the owners of said property and/or the Town of Scarborough relating to such signage including, but not limited to, the following terms and provisions:

   a. Such signage shall be built in accordance with the Town of Scarborough's specifications and at the expense of New England Expedition;

   b. Such signage shall be maintained by New England Expedition; and

   c. Except as otherwise amended by this Agreement, such signage shall comply with the requirements of Section XII of the Zoning Ordinance and all other applicable local and state regulations applicable thereto.

6. The Property shall be developed and used only in accordance with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the "Site Plan Ordinance") and the Subdivision Ordinance of the Town of Scarborough (hereinafter, the "Subdivision Ordinance"), with construction anticipated to proceed in phases commencing with that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road and then progressing to that portion of the Property comprising The Gateway Square at Scarborough located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway. The phasing of the construction as outlined above shall

be subject to the additional requirement that New England Expedition shall "substantially complete" the construction of that portion of the Project which includes the ten (10) buildings and related improvements to be constructed by New England Expedition, (collectively, the "NEE Buildings"), the NEE Buildings designated and shown on Attachment 4. The NEE Buildings shall be substantially complete within two (2) years from the date that New England Expedition receives Planning Board approval for the Project. For purposes hereof, "substantially complete" shall mean the completion of the clearing and rough grading of the Project building sites and related improvement areas and the internal road system, the installation of utilities, storm drains and sanitary sewer lines and the completion and approval of the foundations for the NEE Buildings. In the event that New England Expedition requires additional time to attain substantial completion as described herein, the Town Planner, or if the Town Planner chooses, the Scarborough Planning Board, may, for good cause shown, grant New England Expedition an additional one (1) year period for such purpose.

7. New England Expedition shall record this Agreement in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

8. The provisions of this Agreement shall be deemed restrictions on the use of the Property except as this Agreement may be amended by future written agreement of the Town of Scarborough and New England Expedition, or their successors or assigns.

9. Except as the requirements of the HP District and Section XII of the Zoning Ordinance have been amended by this Agreement, and subject to any other restrictions, provisions and conditions set forth herein regarding the development and use of the Property, all other requirements of the underlying HP District and the requirements of Section XII of the Zoning Ordinance shall apply and shall govern the use and development of the Property. Any such restrictions, provisions and conditions are an essential part of the aforesaid modification of the HP District requirements and the requirements of Section XII of the Zoning Ordinance as set forth herein, shall run with the Property, shall bind New England Expedition, its successors and assigns of the Property or any part thereof.

10. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance and any applicable amendments thereto and nothing contained in this Agreement shall be deemed to prohibit or limit the development of the Property in any other manner so long as such development is in compliance with the applicable provisions of the Zoning Ordinance and otherwise approved pursuant to the Site Plan Ordinance, the Subdivision Ordinance and/or other applicable Scarborough Ordinances and, if applicable, State and Federal laws, ordinances and regulations.

11. Notwithstanding anything to the contrary set forth herein or in the Zoning Ordinance, in the event that Cabela's shall, for any reason following its initial occupancy of the facility containing not more than one hundred thirty thousand (130,000) square feet of retail floor area as permitted hereunder to be located on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road, fail to continue to operate its business therein, then:

a. New England Expedition shall, within sixty (60) days of the date that Cabela's ceases its business operations at the facility, remove the signage unique to Cabela's from the buildings and as otherwise permitted under this Agreement;

b. New England Expedition shall, within sixty (60) days of the date that Cabela's ceases its business operations at the facility, report to the Scarborough Town Council on

the status of New England Expedition's efforts to secure a substitute tenant, and will continue to update the Council regarding such efforts at intervals not later than every sixty (60) days thereafter, so as to afford the Council the opportunity to comment on any such proposed substitute tenant; and

c. New England Expedition shall have the right to substitute another retailer in such facility so long as such substitute retailer is not a discount store, wholesale club, or home improvement center, the substitute retailer to be subject to such approvals as may be required from the Scarborough Planning Board under applicable Ordinances and regulations and any other State or Federal regulatory bodies having jurisdiction over the development, and provided further, that in the event New England Expedition should seek to substitute another retailer in such facility within the first five (5) years following the date Cabela's commences business operations at the facility, such substitute retailer shall be subject to the review and approval of the Scarborough Town Council, which approval shall not be unreasonably withheld, conditioned or delayed.

12. Any change to the development that results in either an increase in the size of the one hundred thirty thousand (130,000) square foot retail facility permitted hereunder or changes to the signage attached thereto or associated therewith, or any change with respect to the off-site signage permitted hereunder, shall require an amendment to this Agreement approved by the Scarborough Town Council and will also be subject to further Planning Board review, as required, except for any change to signage that results in the signage being in compliance with the requirements of Section XII of the Zoning Ordinance.

13. The Town of Scarborough shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Zoning Ordinance and through legal action for specific performance of this Agreement. In the event that New England Expedition or it successors or assigns fail to develop the Project in accordance with this Agreement, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach, or in the event such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if New England Expedition, its successors or assigns, fail to commence to cure or remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to completion in a reasonable time taking into account the nature of such failure or breach and the action necessary to cure or remedy same, then this Agreement may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses and according to such zoning requirements as are otherwise allowed by law.

14. In the event any provision of this Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, either in law or in equity. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of Maine.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

WITNESS: TOWN OF SCARBOROUGH

/s/ Joseph F. Ziepniewski By: /s/ Ronald W. Owens

its Town Manager (duly authorized by vote of the Scarborough Town Council on December 20, 2006)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss. January 3, 2007

Personally appeared the above named Ronald W. Owens, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

/s/ Cheryl G. Profenno

Notary Public/Attorney at Law

WITNESS: THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC

/s/ Richard A. Shinay By: /s/ Barry E. Feldman

Its Member

STATE OF MAINE

COUNTY OF CUMBERLAND, ss. January 4, 2007

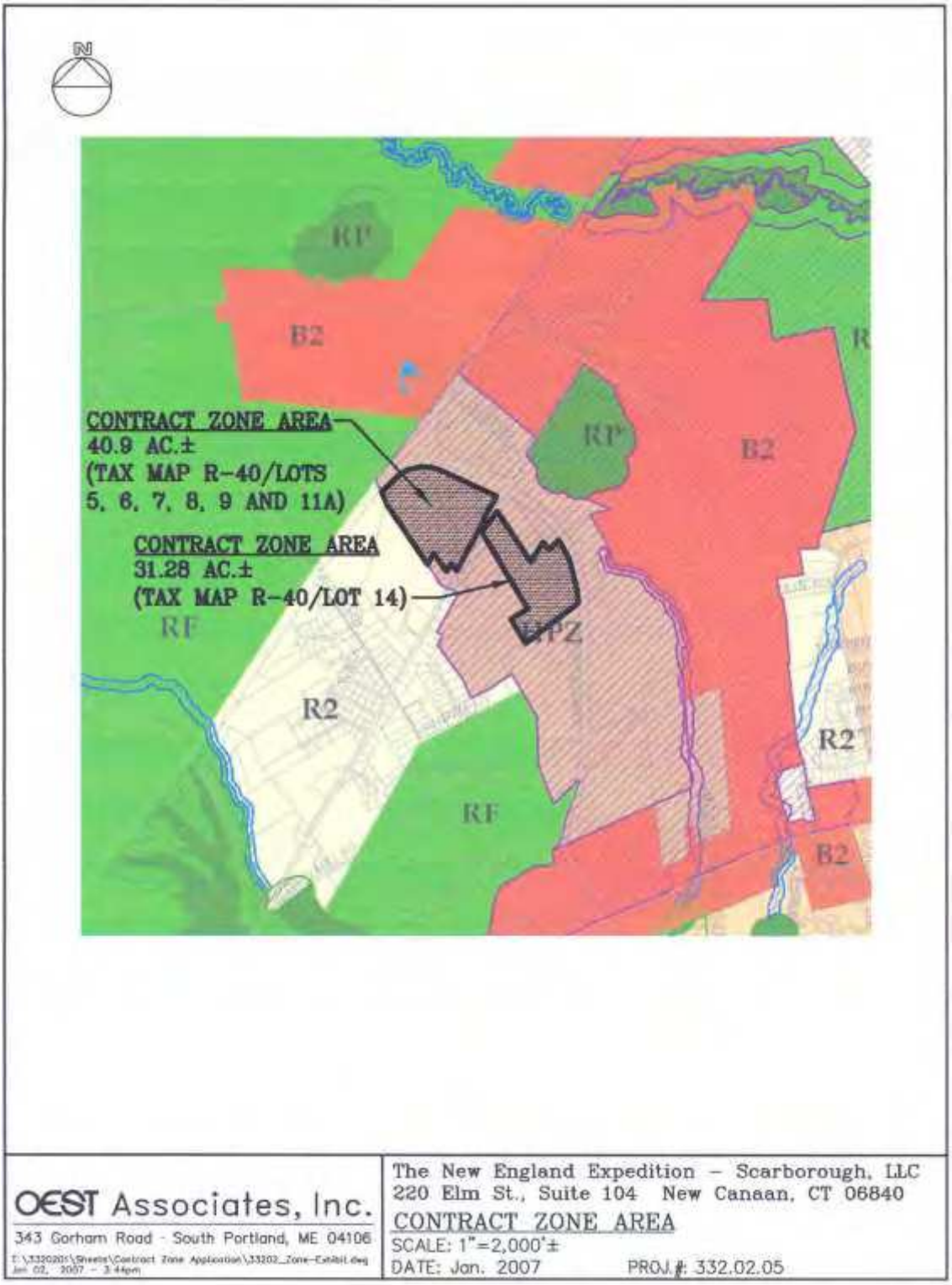
Personally appeared the above named Barry E. Feldman, Member of The New England Expedition – Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

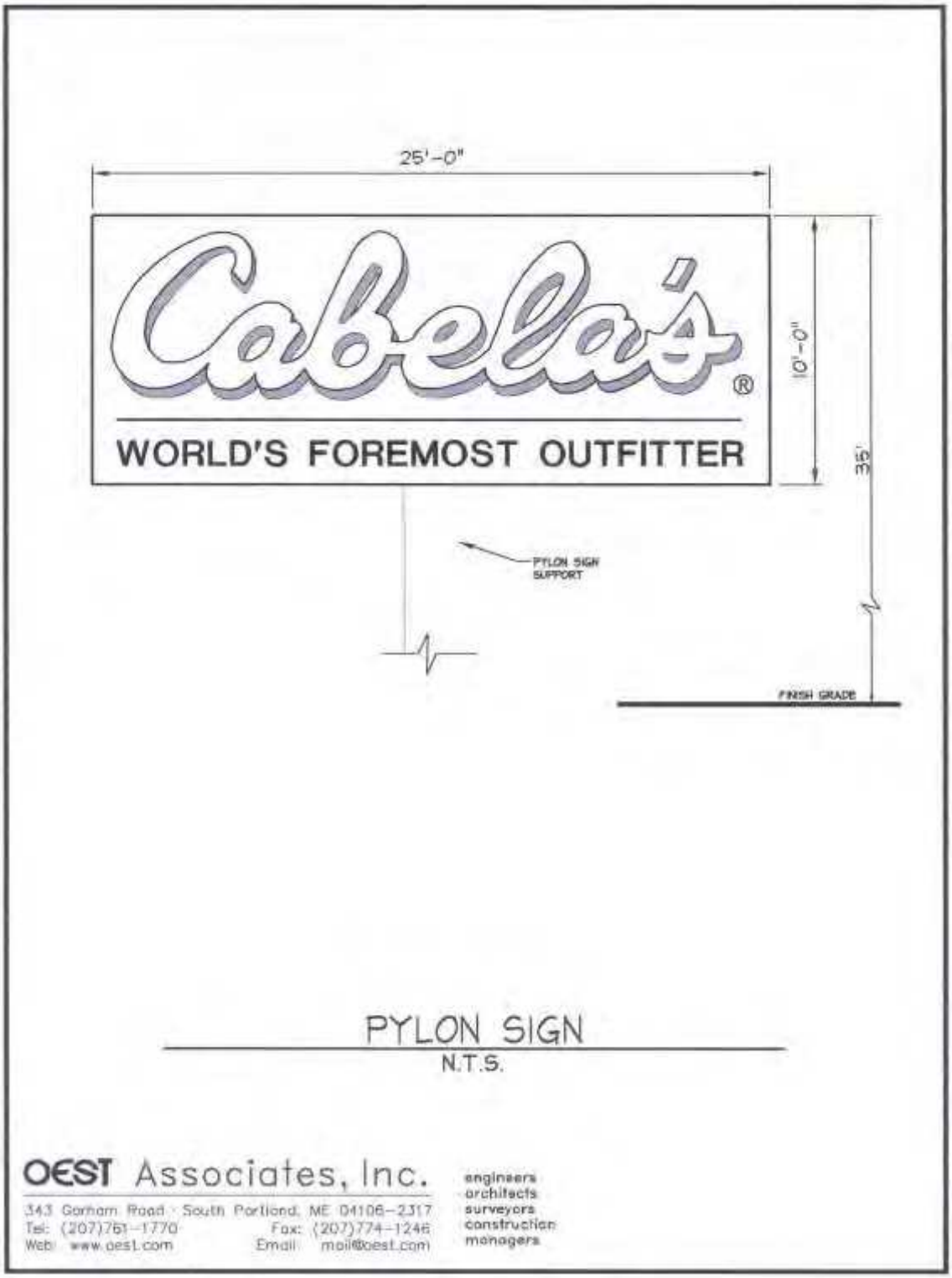
/s/ Richard A. Shinay

Notary Public/Attorney at Law

Attachment 1
Map Change Amendment consisting of one (1) page.

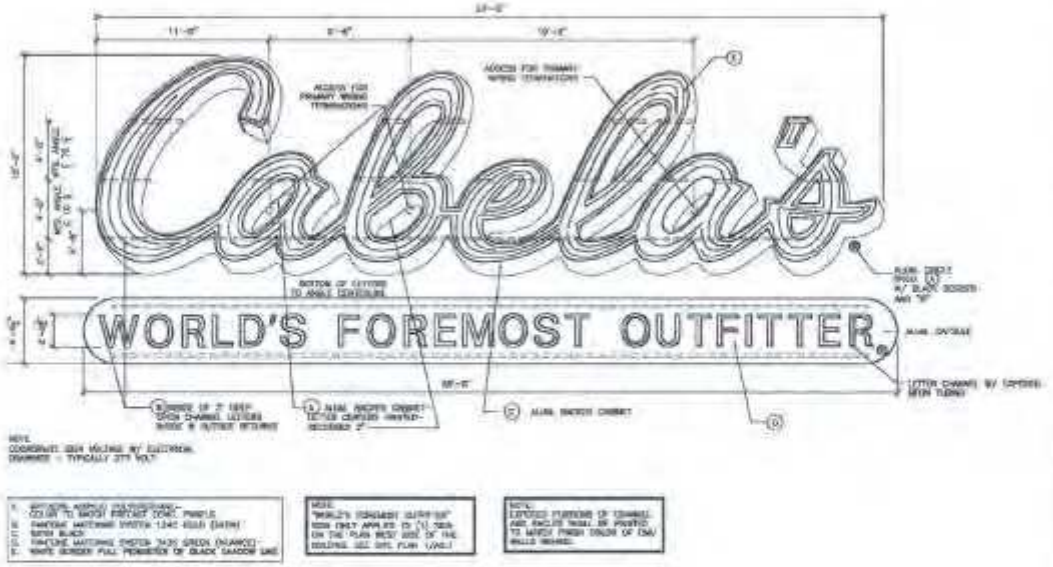


Attachment 2
Cabela's signage depiction consisting of five (5) pages.



PYLON SIGN
N.T.S.

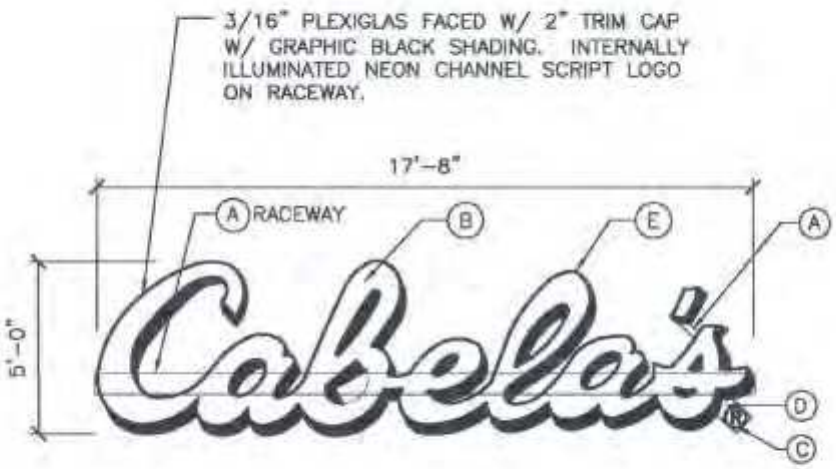
OEST Associates, Inc.
343 Gorham Road · South Portland, ME 04106-2317
Tel: (207)761-1770 Fax: (207)774-1246
Web: www.oest.com Email: mail@oest.com
engineers
architects
surveyors
construction
managers



SIGN TYPE A

N.T.S.

OEST Associates, Inc.
343 Gorham Road · South Portland, ME 04106-2317
Tel: (207)761-1770 Fax: (207)774-1248
Web: www.oest.com Email: mail@oest.com
engineers
architects
surveyors
construction
managers

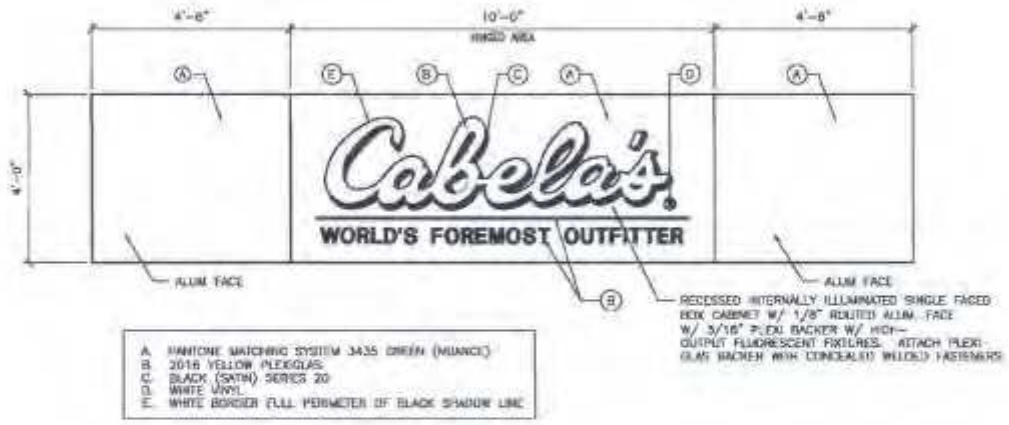


A.	MATCH COLOR OF WOOD STAIN @ LOGS
B.	2016 YELLOW PLEXIGLAS
C.	BLACK VINYL
D.	.063 WHITE ALUM.
E.	WHITE BORDER FULL PERIMETER OF BLACK SHADOW LINE

SIGN TYPE B

N.T.S.

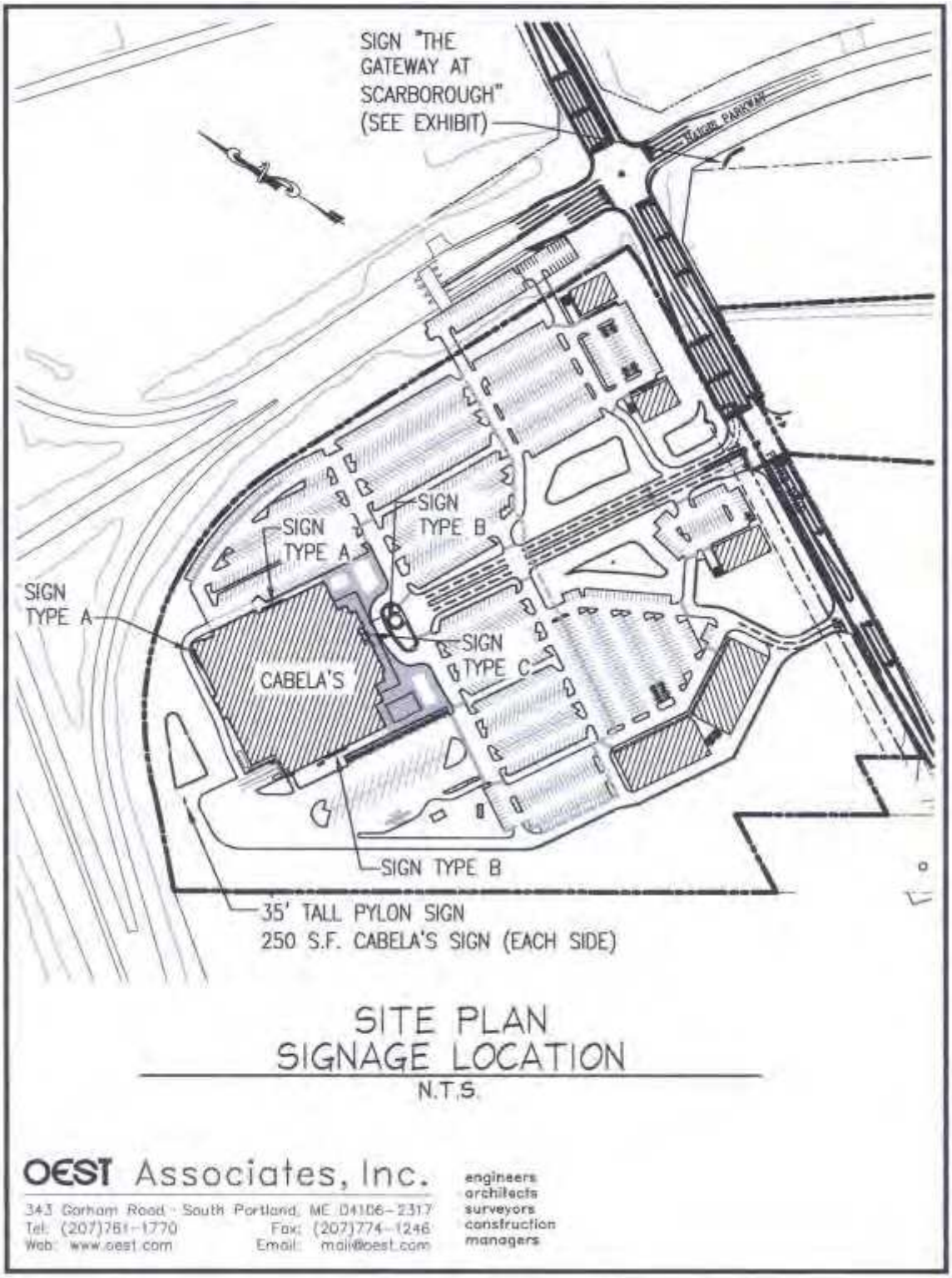
OEST Associates, Inc.
343 Gorham Road · South Portland, ME 04106-2317
Tel: (207)761-1770 Fax: (207)774-1246
Web: www.oest.com Email: mail@oest.com
engineers
architects
surveyors
construction
managers



SIGN TYPE C

N.T.S.

OEST Associates, Inc.
343 Gorham Road - South Portland, ME 04106-2317
Tel: (207)761-1770 Fax: (207)774-1246
Web: www.oest.com Email: mail@oest.com
engineers
architects
surveyors
construction
managers

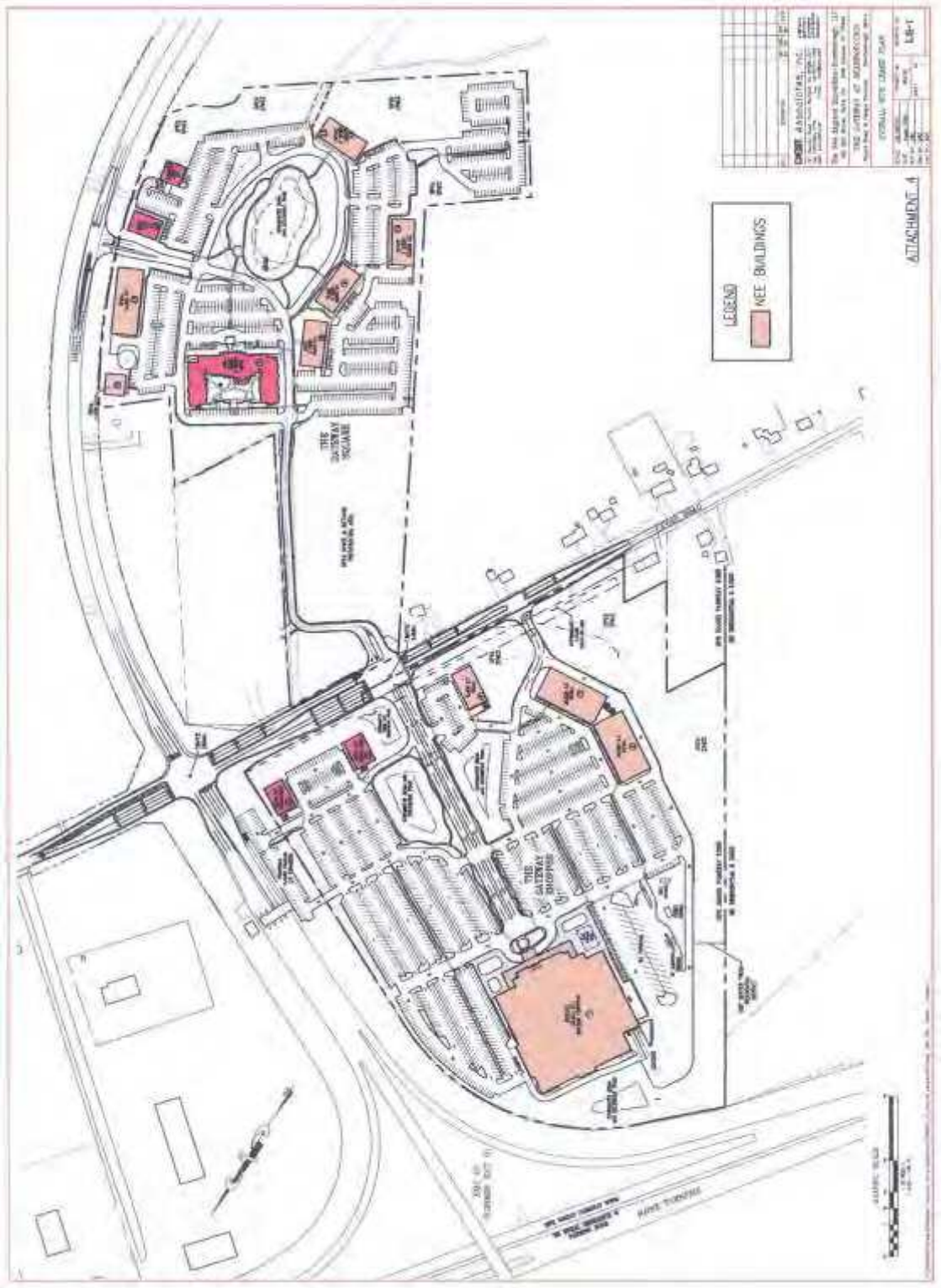


SITE PLAN
SIGNAGE LOCATION
N.T.S.

OEST Associates, Inc.
343 Gorham Road · South Portland, ME 04106-2317
Tel: (207)761-1770 Fax: (207)774-1246
Web: www.oest.com Email: mail@oest.com
engineers
architects
surveyors
construction
managers

Attachment 3
Project off-site signage depiction consisting of one (1) page.

Attachment 4
Plan of NEE Buildings consisting of one (1) page.



FIRST AMENDMENT TO EXHIBIT 9

AMENDMENTS TO
CONTRACT ZONING AGREEMENT

BETWEEN THE TOWN OF SCARBOROUGH AND

THE NEW ENGLAND EXPEDITION – SCARBOROUGH LLC

This First Amendment to Contract Zoning Agreement (hereinafter, this "Amendment") is made as of the ____ day of _____, 2007 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the "Town"), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, "New England Expedition"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, this "Agreement") creating Contract Zoning District Number 9 (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, among other modifications of the provisions of the Zoning Ordinance, the Agreement allows for certain specific signage relating to the Cabela's building described in the Agreement that varies from signage permitted under Section XII of the Zoning Ordinance; and

WHEREAS, Cabela's has proposed modifications to the number of signs, size and location thereof on its building as currently allowed under the Agreement; and

WHEREAS, the signage requirements of other tenants proposed for the buildings to be constructed within the District vary from the signage otherwise permitted under Section XII of the Zoning Ordinance; and

WHEREAS, New England Expedition has requested that the Town approve this Amendment to the Agreement (a) modifying the number of signs, size and location thereof relating to the Cabela's building as currently allowed under the Agreement, and (b) permitting certain signage relating to tenants for the proposed buildings to be constructed within the District that varies from the signage otherwise permitted under Section XII of the Zoning Ordinance.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, New England Expedition shall be permitted to include signage attached to and associated with the Cabela's building as more particularly described and shown on Attachment 2 to the Agreement, as modified as described and shown on Attachment 1 to this Amendment.

2. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, New England Expedition shall be permitted to install certain signage hereinafter described, together with related improvements, lighting and landscaping, relating to the tenants to be located in the buildings to be constructed within the Project as hereinafter provided:

   a. With respect to buildings containing multiple tenants, two (2) wall signs per tenant, each of said signs not to exceed one hundred (100) square feet, one to be located

on the front wall of the building and one to be located on the rear wall of the building, except that in the case of end units within a building, the second wall sign may be located on the end wall of the building rather than on the rear wall of the building; and

b. With respect to single-tenant buildings, two (2) wall signs, each sign not to exceed one hundred (100) square feet, one to be located on the front wall of the building and one to be located on a second wall of the tenant's choosing, except that in the case of single-tenant buildings to be located in that portion of the Project known as "The Gateway Shoppes at Scarborough", said buildings may have up to four (4) wall signs not to exceed one hundred (100) square feet each, with no more than one (1) such wall sign per wall; and

c. With respect to both multiple tenant and single-tenant buildings, the total gross area of all wall signs shall not exceed 10% of the wall area on which they are located.

3. Nothing set forth in the Agreement as amended by this Amendment shall be deemed to limit or prohibit signage within the District that is otherwise allowed under Section XII of the Zoning Ordinance, as it may be amended from time to time.

4. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

5. New England Expedition shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

/s/ Laurel R. Nadeau

By: /s/ Ronald W. Owens

its Town Manager (duly authorized by vote of the Scarborough Town Council on September 5, 2007)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss. September 18, 2007

Personally appeared the above named Ronald W. Owens, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

/s/ Yolanda P. Justice

Notary Public

WITNESS:

THE NEW ENGLAND EXPEDITION-SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its

Manager

/s/ Richard A. Shinay

/s/ Barry E. Feldman

Its Managing Member

STATE OF MAINE

COUNTY OF CUMBERLAND, ss. September 12, 2007, 2007

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

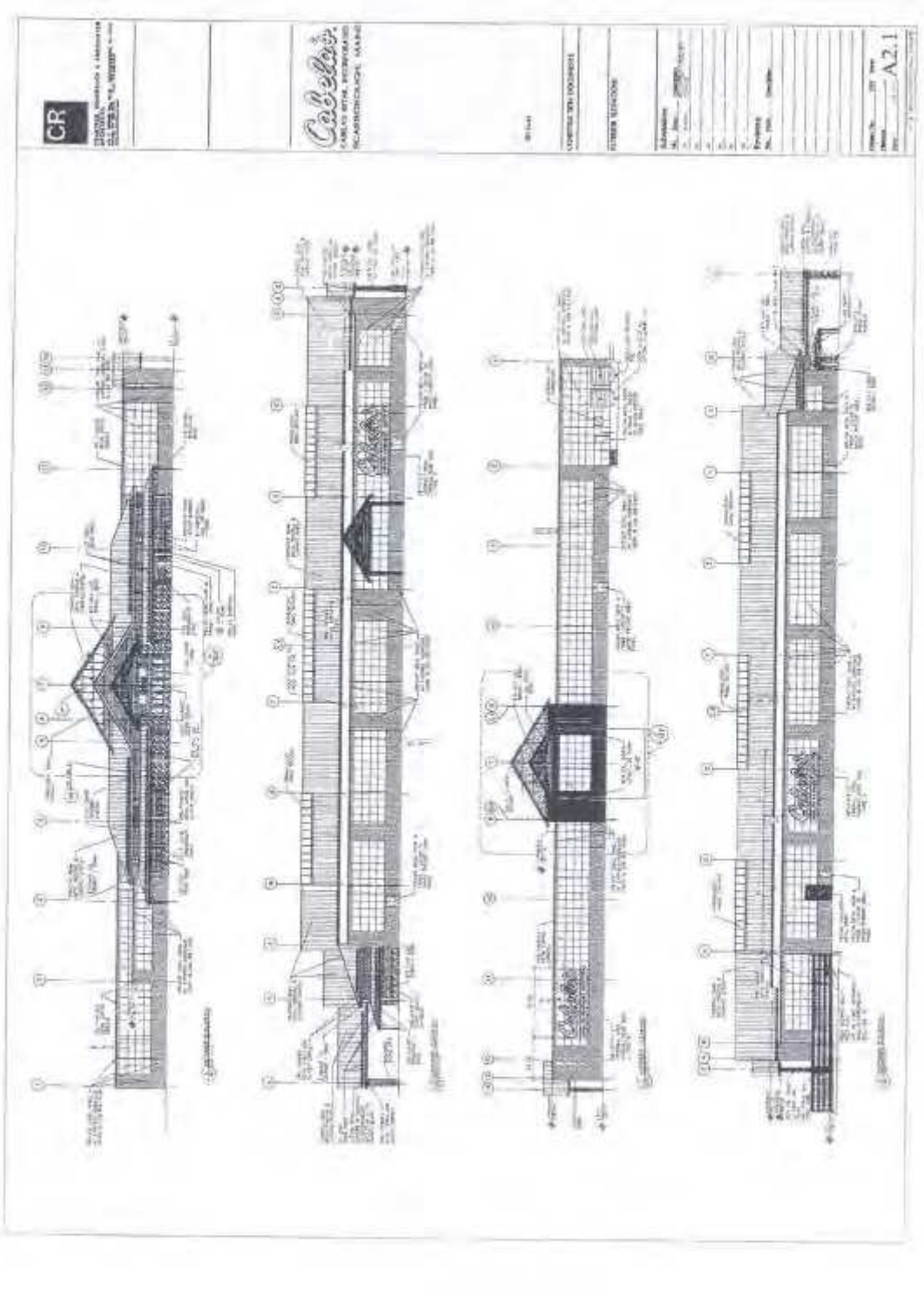
Before me,

/s/ Richard A. Shinay

Notary Public

Attachment 1

Modification of Cabela's signage depiction consisting of one (1) page.



SECOND AMENDMENT TO EXHIBIT 9

AMENDMENTS TO

CONTRACT ZONING AGREEMENT

BETWEEN THE TOWN OF SCARBOROUGH AND

THE NEW ENGLAND EXPEDITION – SCARBOROUGH LLC

This Second Amendment to Contract Zoning Agreement (hereinafter, this "Amendment") is made as of the ____ day of _____, 2007 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State (hereinafter, the "Town"), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, "New England Expedition"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, this "Agreement") creating Contract Zoning District Number 9 (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201; and

WHEREAS, the Haigis Parkway District, HP, the underlying District within which the land subject to the Agreement is located, allows for the use of property located therein for "Educational Institutions" only pursuant to a contract zoning agreement; and

WHEREAS, New England Expedition desires to construct one of more buildings to be located in that portion of the Project known as "The Gateway Square at Scarborough" in which will be located an educational institution and being hereinafter referred to as the "Facility"; and

WHEREAS, New England Expedition has requested that the Town approve this Amendment to the Agreement so as to allow for an "Educational Institution" use within the Facility; and

WHEREAS, New England Expedition agrees that use of the Facility by an educational institution will not qualify the Facility for exemption from property taxes under 36 M.R.S.A. § 652 as long as the Facility is owned by a for-profit entity.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. "Educational Institution" use shall be a permitted use in that portion of Contract Zoning District Number 9 which the Facility is located.

2. New England Expedition agrees for itself and for any future owner of the Facility that use of the Facility by an educational institution will not qualify the Facility for exemption from property taxes under 36 M.R.S.A. § 652 as long as the Facility is owned by a for-profit entity, and further, that should the Facility ever qualify for a tax exempt status under 36 M.R.S.A. § 652, as it may be amended from time to time or as otherwise may become law by virtue of its use as an Educational Institution and the nature of the ownership entity, then New England Expedition or the then owner will pay to the Town annually, at the same time property taxes are due, an amount equivalent to one hundred percent (100%) of the property taxes that would be imposed

on the facility if it did not qualify for exempt status. Such payments shall be subject to the same interest charges and penalties for late payment or non-payment as are applicable under Maine law for non-payment of property taxes and New England Expedition or any future owner of the Facility shall have the same rights to dispute valuation and seek abatements as if such payments were assessed as property taxes.

3. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, remains consistent with the Comprehensive Plan.

4. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

5. New England Expedition shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

_____

TOWN OF SCARBOROUGH

By: _____

Ronald W. Owens, its Town Manager

(duly authorized by vote of the Scarborough Town Council on November 7, 2007)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss. _____, 2007

Personally appeared the above named Ronald W. Owens, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

_____

Notary Public/Attorney at Law

_____

Print name

WITNESS:

_____

THE NEW ENGLAND EXPEDITION-SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its Manager

By: _____

Barry E. Feldman

Its Managing Member

STATE OF MAINE

COUNTY OF CUMBERLAND, ss. _____, 2007

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

_____

Notary Public/Attorney at Law

_____

Print name

THIRD AMENDMENT TO EXHIBIT 9

THIRD AMENDMENT
TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC

THE GATEWAY AT SCARBOROUGH

This Third Amendment to Contract Zoning Agreement (hereinafter, this "Amendment") is made as of the 30th day of April, 2008 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the "Town"), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, "New England Expedition"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the "Agreement") creating Contract Zoning District Number 9 (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the "First Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the "Second Amendment"); and

WHEREAS, Cabela's proposes to modify the pylon sign permitted under the Agreement relating to the Cabela's building described in the Agreement; and

WHEREAS, New England Expedition proposes that banners be allowed to be affixed to light poles within the District; and

WHEREAS, New England Expedition has requested that the Town approve this Amendment to the Agreement (a) permitting a modification of the Cabela's pylon sign, and (d) permitting banners to be affixed to light poles within the District.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The first page of Attachment 2 to the Agreement depicting the Cabela's pylon sign is hereby deleted and the modified version of the Cabela's pylon sign depicted on Attachment 1 to this Amendment is substituted in its place.

2. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, banners depicting seasonal or decorative scenes or images, and general or seasonal messages and greetings may be affixed to light poles within the District. Banners announcing the opening of specific businesses within the District and/or promoting sales of products by specific

retailers within the District may be affixed to those types of light poles within the District as depicted on Attachment 2 to this Amendment provided, however, that such types of banners may remain in place for not more than one hundred and eighty (180) cumulative days per calendar year. Banners shall not be allowed to deteriorate in appearance so as to become unsightly.

3. New England Expedition, its lessees, and future owners of all or any portion of the property within the District acquire no property interests in the use of banners as allowed by this Amendment and use of banners will not confer lawful non-conforming use status in the event that the provisions of this Amendment are amended or repealed by the Scarborough Town Council pursuant to this Section 3. Within forty-five (45) days following the first (1st) anniversary of the date of adoption of this Amendment by the Scarborough Town Council, the Town Council shall review the experience with banners and may amend or repeal Section 2 above if it should be determined by the Town Council that (a) the banners have been allowed to deteriorate in appearance so as to become unsightly, or (b) the banners pose a distraction to motorists so as to cause unsafe traffic conditions.

4. Nothing set forth in the Agreement as amended by this Amendment shall be deemed to limit or prohibit signage within the District that is otherwise allowed under Section XII of the Zoning Ordinance, as it may be amended from time to time.

5. The Agreement, as amended by this Amendment and as previously amended by the First Amendment and the Second Amendment, remains consistent with the Comprehensive Plan.

6. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

7. New England Expedition shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS: TOWN OF SCARBOROUGH

/s/ Laurel R. Nadeau By: /s/ Ronald W. Owens

Its Town Manager (duly authorized by vote of the Scarborough Town Council on April 30, 2008)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss. May 2, 2008

Personally appeared the above named Ronald W. Owens, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

/s/ Yolande P. Justice

Notary Public/Attorney at Law

Yolande P. Justice

Notary Public

WITNESS: THE NEW ENGLAND EXPEDITION-

SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its Manager

_____ By: _____

Barry E. Feldman

Its Managing Member

STATE OF MAINE

COUNTY OF CUMBERLAND, ss. May ____, 2008

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

_____

Notary Public/Attorney at Law

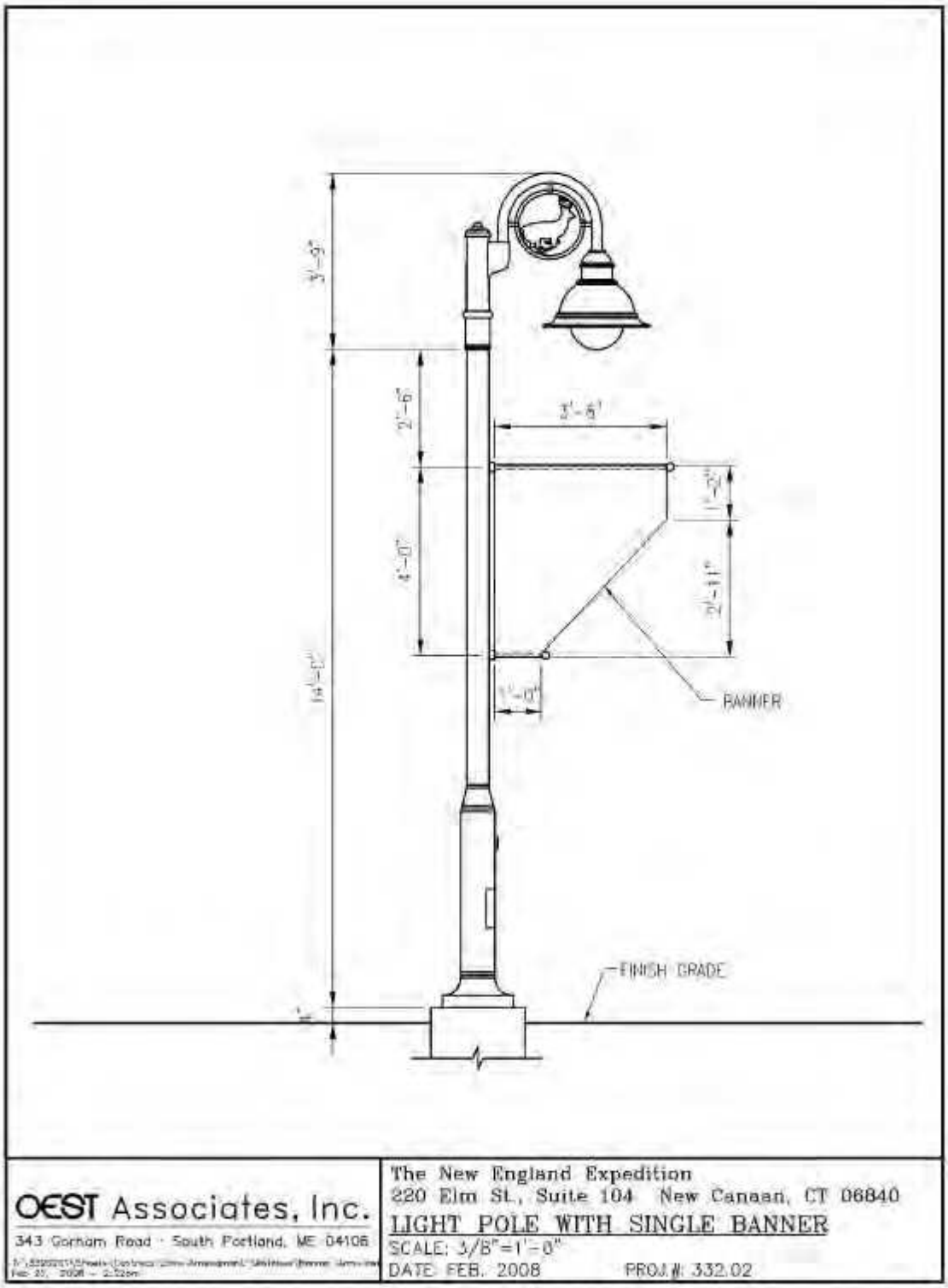
_____

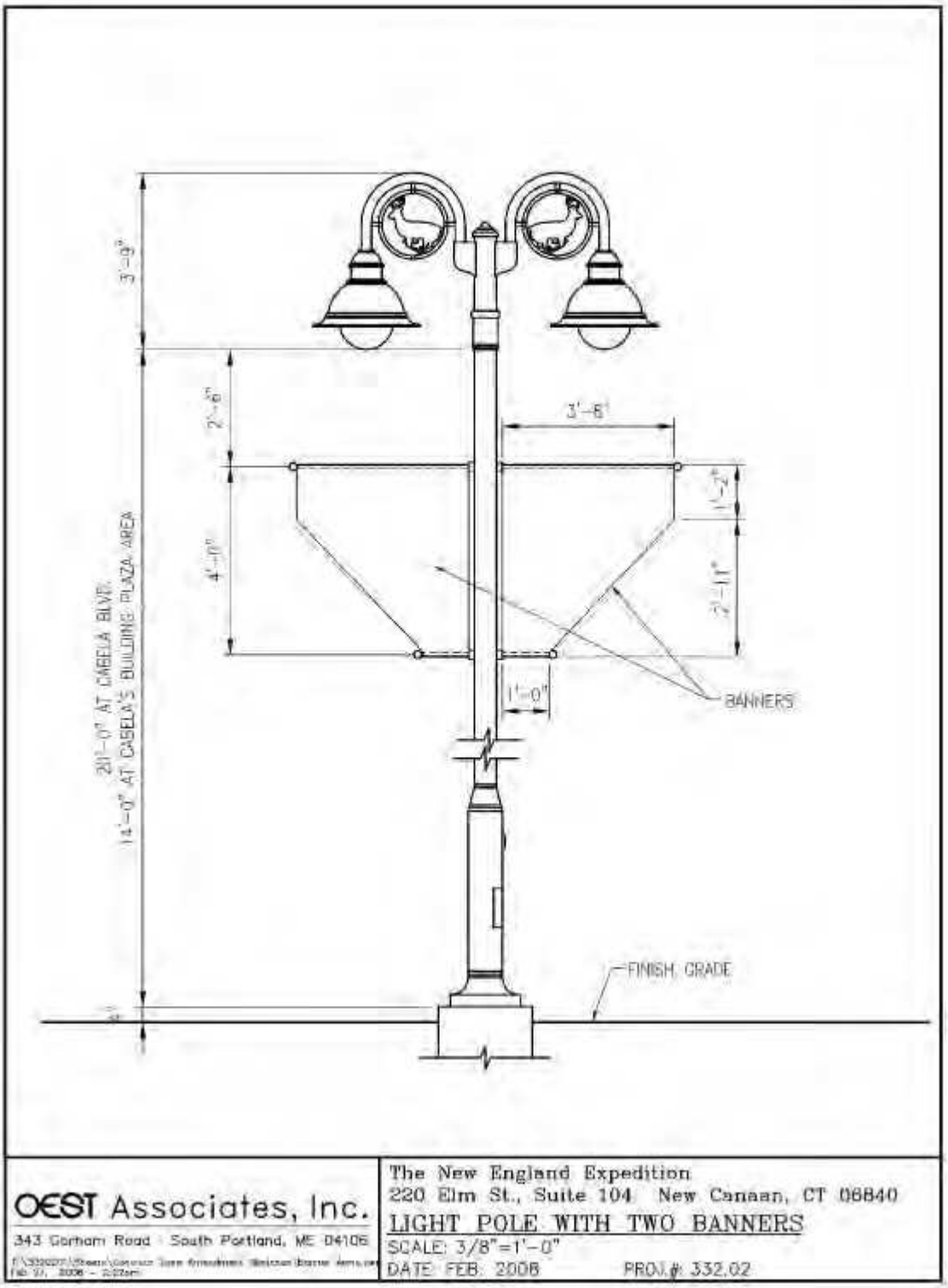
Print name

Attachment 1

Modification of Cabela's pylon sign consisting of one (1) page.

Attachment 2
Types of light poles on which temporary banners may be affixed consisting of two (2) pages.




3'-9"
2'-6"
4'-0"
20'-0" AT CABELA BLVD.
14'-0" AT CASELA'S BUILDING PLAZA AREA
3'-6"
1'-7"
2'-11"
1'-0"
BANNERS
FINISH GRADE
OEST Associates, Inc.
343 Gorham Road · South Portland, ME 04106
The New England Expedition
220 Elm St., Suite 104 New Canaan, CT 06840
LIGHT POLE WITH TWO BANNERS
SCALE: 3/8"=1'-0"
DATE: FEB. 2006
PROJ.#: 332.02

FOURTH AMENDMENT TO EXHIBIT 9

TO CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC

THE GATEWAY AT SCARBOROUGH

This Fourth Amendment to Contract Zoning Agreement (hereinafter, this "Amendment") is made as of the 3rd day of March, 2010 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the "Town"), THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, "New England Expedition"), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH II, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, "New England Expedition II"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the "Agreement") creating Contract Zoning District Number 9 (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and,

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the "First Amendment"); and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the "Second Amendment"); and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060, Page 162 (the "Third Amendment"); and,

WHEREAS, Section 6 of the Agreement provided that certain improvements within that portion of the Property located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway known as "The Gateway Square at Scarborough" be "substantially complete," as that term is defined in said Section 6 of the Agreement, within two (2) years from the date that New England Expedition received Planning Board approval for the Project; and,

WHEREAS, the Town Planner extended said "substantial completion" deadline to March 12, 2010, pursuant to authority granted the Town Planner under said Section 6 of the Agreement; and,

WHEREAS that portion of the Property known as The Gateway Square at Scarborough was conveyed by New England Expedition to New England Expedition II by Quitclaim Deed With Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and,

WHEREAS, the New England Expedition and the New England Expedition II have requested that the Town approve this Amendment to Section 6 of the Agreement (a) further extending said "substantial completion" deadline for an additional three (3) years to March 12, 2013, and (b) amending the definition of "substantially complete" as set forth therein.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Section 6 of the Agreement is hereby amended in its entirety to read as follows:

   6. The Property shall be developed and used only in accordance with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the "Site Plan Ordinance") and the Subdivision Ordinance of the Town of Scarborough (hereinafter, the "Subdivision Ordinance"), with construction anticipated to proceed in phases commencing with that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road and then progressing to that portion of the Property comprising The Gateway Square at Scarborough located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway. The phasing of the construction as outlined above shall be subject to the additional requirement that construction of that portion of the Project comprising The Gateway Square at Scarborough shall be "substantially complete" no later than March 12, 2013. For purposes hereof, "substantially complete" shall mean the completion of the clearing and rough grading of the Project building sites and related improvement areas and the internal road system, the installation of utilities, storm drains and sanitary sewer lines and the completion and approval of the foundations for one or more buildings containing in the aggregate not less than one hundred thousand (100,000.00) square feet of gross leaseable area.

2. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, the Second Amendment and the Third Amendment, remains consistent with the Comprehensive Plan.

3. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

4. This Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS: TOWN OF SCARBOROUG

_____ By: _____

Thomas J. Hall, its Town Manager (duly authorized by vote of the Scarborough Town Council on March 3, 2010)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. March ____, 2010

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

_____
Notary Public/Attorney at Law

_____
Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its Manager

_____

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss. March ____, 2010

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

_____
Notary Public

_____
Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-SCARBOROUGH II, LLC

By FELDCO SCARBOROUGH, LLC, its Manager

_____

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss. March ____, 2010

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition – Scarborough II, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition – Scarborough II, LLC.

Before me,

_____
Notary Public

_____
Print name

FIFTH AMENDMENT TO EXHIBIT 9

**TO CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC**

THE GATEWAY AT SCARBOROUGH

**FIFTH AMENDMENT
TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC**

THE GATEWAY AT SCARBOROUGH

This Fifth Amendment to Contract Zoning Agreement (hereinafter, this "Amendment") is made as of the 21st day of July, 2010 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the "Town"), THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, "New England Expedition"), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH II, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, "New England Expedition II"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the "Agreement") creating Contract Zoning District Number 9 (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the "First Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the "Second Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060, Page 162 (the "Third Amendment"); and

WHEREAS, that portion of the Property comprising The Gateway Square at Scarborough was conveyed by New England Expedition to New England Expedition II by Quitclaim Deed With Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fourth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition

and New England Expedition II dated as of the 3rd day of March, 2010, and recorded in said Registry of Deeds in Book 27642, Page 85 (the "Fourth Amendment"); and

WHEREAS, the New England Expedition and the New England Expedition II have requested that the Town approve this Amendment to the Agreement regarding (a) signage and banners, and (b) certain uses within the District.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, in addition to the wall signs permitted under Section 2 of the First Amendment, one (1) additional doorway sign not exceeding fifteen (15) square feet, which sign may be two-sided and, in the case of a two-sided sign, not exceeding fifteen (15) square feet for each face with the width of such two-sided sign between such faces not to exceed one (1) foot, indicating the location of any entrance to a restaurant at which "pick-up," "take-out" or "to-go" orders can be picked up, may be affixed to the exterior of the building either parallel or perpendicular to the building wall, either attached directly to the building wall or attached to one or more supports attached to the building wall, and located over any such entrance, which sign may not extend more than three (3) feet from the building wall.

2. Section 2 and Section 3 of the Third Amendment are hereby deleted in their entirety.

3. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, banners depicting seasonal or decorative scenes or images, and general or seasonal messages and greetings, may be affixed to those light poles within the District designated "Seasonal Banner Light Pole (Typ.)" on Attachment 1 to this Amendment. Banners promoting sales of products by specific retailers within the District may be affixed to those types of light poles within the District depicted on Attachment 2 to the Third Amendment. Banners shall not be allowed to deteriorate in appearance so as to become unsightly.

4. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, the existing Cabela's pylon sign depicted on Attachment 1 to the Third Amendment and located where shown on Attachment 1 to this Amendment may be modified so as to include one (1) additional sign for advertising purposes for one or more businesses that may be located within that portion of the District comprising The Gateway Shoppes subject to the following conditions:

a. Said pylon sign shall not be increased in height; and

b. Said additional sign shall not be greater in size than seventy-five percent (75%) of the size of the existing Cabela's sign as shown on said Attachment 1 to the Third Amendment.

This Section 4 shall not be deemed to eliminate the need to comply with applicable State law regarding signage located adjacent to the Maine Turnpike.

5. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, the following additional signage shall be permitted:

a. One (1) business directory sign not exceeding one hundred fifty (150) square feet, which sign may be two-sided and, in the case of a two-sided sign, not exceeding one hundred fifty (150) square feet for each face, advertising the businesses located within that portion of the District comprising The Gateway Shoppes, may be located within the area designated "Shoppes Business Directory Sign Area" on Attachment 2 to this Amendment;

b. Two (2) signs not exceeding thirty-two (32) square feet each, which signs may be two-sided and, in the case of a two-sided sign, not exceeding thirty-two (32) square feet for each face, designating the secondary entrance to The Gateway Shoppes on Payne Road for employees, trucks, buses, recreational vehicles, service vehicles, and delivery vehicles for deliveries to one or more named tenants, one of which may be located within the area designated "Shoppes Secondary Entrance Sign One Area" and one of which may be located within the area designated "Shoppes Secondary Entrance Sign Two Area" on Attachment 2 to this Amendment;

c. Two (2) business directory signs not exceeding one hundred fifty (150) square feet, which signs may be two-sided and, in the case of a two-sided signs, not exceeding one hundred fifty (150) square feet for each face, advertising the businesses located within that portion of the District comprising The Gateway Square, one of which may be located within the area designated "Square Business Directory Sign One Area" and one of which may be located within the area designated "Square Business Directory Sign Two Area" on Attachment 3 to this Amendment; and

d. Signs indicating the name of the project and/or the names of not more than three (3) of the businesses located therein may be affixed to the faces of the existing rock walls located on either side of the main entrances on Payne Road and Haigis Parkway to that portion of the District comprising The Gateway Square as shown and designated "Existing Stone Walls" on Attachment 3 to this Amendment.

The signage referred to in this Section 5 shall otherwise comply with all requirements of Section XII of the Zoning Ordinance, as it may be amended from time to time.

6. Nothing set forth in the Agreement as amended by this Amendment shall be deemed to limit or prohibit signage within the District that is otherwise allowed under Section XII of the Zoning Ordinance, as it may be amended from time to time.

7. The following additional uses and related signage shall be permitted within that portion of the District comprising The Gateway Shoppes:

a. Restaurants that include drive-up or drive-thru service windows to be located within the areas designated "Restaurants with Drive-Ups and Drive-Thrus" on Attachment 4 to this Amendment, the design of which shall be architecturally compatible with the existing buildings, provided that this provision shall not be deemed to prohibit the number of restaurants within the District that do not include drive-up or drive-thru service windows;

b. Craft shows and art shows, including the sale of items displayed therein, that may be conducted within any building or outdoors and that need not be related to, or accessory to, any existing building or use, which craft shows and art shows conducted outdoors shall be conducted within the areas designated "Special Events" on Attachment 5 to this Amendment, together with temporary signs meeting the requirement of Section XII of the Zoning Ordinance advertising such events and directing persons thereto that may be located within the areas designated "Temporary Sign Areas" on Attachment 5 to this Amendment the day or days of the event; and

c. Outdoors sales and tent sales that need not be related to, or accessory to, any existing building or use, which outdoor sales and tent sales shall be conducted within the areas designated "Special Events" on Attachment 5 to this Amendment, together with temporary signs meeting the requirements of Section XII of the Zoning Ordinance

advertising such events and directing persons thereto that may be located within the areas designated "Temporary Sign Areas" on Attachment 5 to this Amendment the day or days of the event.

d. Not more than an aggregate total of six (6) craft shows, art shows, outdoor sales and tent sales, which shall not exceed three (3) consecutive days each, excluding time for setup, dismantling and cleanup which may occur on the day immediately before the commencement of the event and on the day immediately after the conclusion of the event unless additional time is required due to inclement weather or other circumstances beyond the reasonable control of the business or organization conducting the event, may be conducted within a calendar year.

8. Craft shows, art shows, outdoor sales and tent sales described in Section 7 above that are not being conducted by on-site businesses shall be subject to the review and approval by the Code Enforcement Officer and the Chief of the Scarborough Fire Department in accordance with the following procedure:

a. No later than twenty-one (21) days prior to the date of commencement of the event, the Code Enforcement Officer and the Chief of the Scarborough Fire Department shall be provided with written notification of the event, which notification shall contain the following information:

i. The type of event;

ii. The name, address and telephone number of the business or organization conducting the event, together with the name of an individual associated with such business or organization who can be contacted regarding the event;

iii. A sketch plan showing in which Special Events areas the event will be conducted and the approximate layout of the event facilities within those areas; and

iv. The date or dates during which the event will be conducted.

b. If the proposed event is anticipated to be repeated on multiple dates such as, by way of example, an art show that occurs on multiple Sundays each week during the months of June through October, only a single notification in accordance with Subsection 8. a. above need be provided to the Code Enforcement Officer and the Chief of the Scarborough Fire Department prior to the date of the first of such multiple repetitive events.

c. Any temporary structures such as tents shall require a permit be obtained not less than seven (7) days prior to the date or dates of the event from the Chief of the Scarborough Fire Department.

d. The event shall comply with all National Fire Protection Association and Town fire safety standards and requirements as applicable.

e. In the event that the Code Enforcement Officer and/or the Chief of the Scarborough Fire Department should reasonably determine that the event fails to comply with the terms and conditions set forth herein, the Code Enforcement Officer and/or the Chief of the Scarborough Fire Department shall provide written notice to the notifying party indicating in what manner the event fails to so comply. In the event the Code Enforcement Officer and/or the Chief of the Scarborough Fire Department should fail to provide such notice to the notifying party within fourteen (14) days following the Code

Enforcement Officer's and the Chief of the Scarborough Fire Department's receipt of the notification required in Subsection 8. a. above, the event shall be deemed approved.

f. No other Town permits or approvals shall be required for such events.

9. The terms and conditions of this Amendment including, but not limited to, the review and approval process described in Section 8 above for craft shows, art shows, outdoor sales and tent sales that are not being conducted by on-site businesses, shall not be applicable to craft shows, art shows, outdoor sales and tent sales that are that are otherwise allowed to be conducted by on-site businesses in accordance with the Zoning Ordinance and other applicable Town regulations and procedures.

10. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment, remains consistent with the Comprehensive Plan.

11. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

12. This Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

_____

TOWN OF SCARBOROUGH

By: _____
Thomas J. Hall, its Town Manager (duly authorized by vote of the Scarborough Town Council on July 21, 2010)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. July ____, 2010

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

_____
Notary Public/Attorney at Law

_____
Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its Manager

_____

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss. July ____, 2010

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

_____
Notary Public

_____
Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-SCARBOROUGH II, LLC

By FELDCO SCARBOROUGH, LLC, its Manager

_____

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss. July ____, 2010

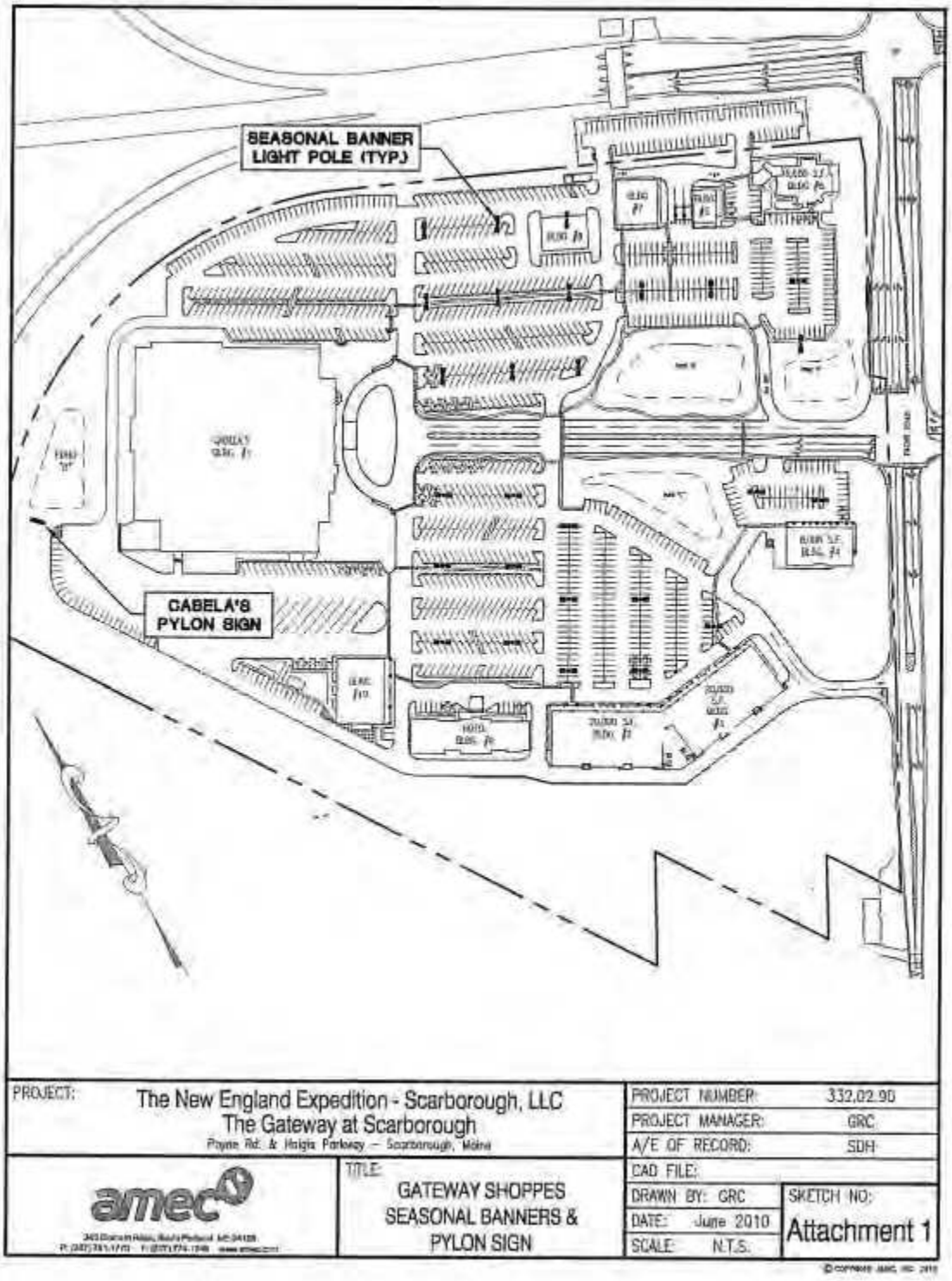
Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition – Scarborough II, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition – Scarborough II, LLC.

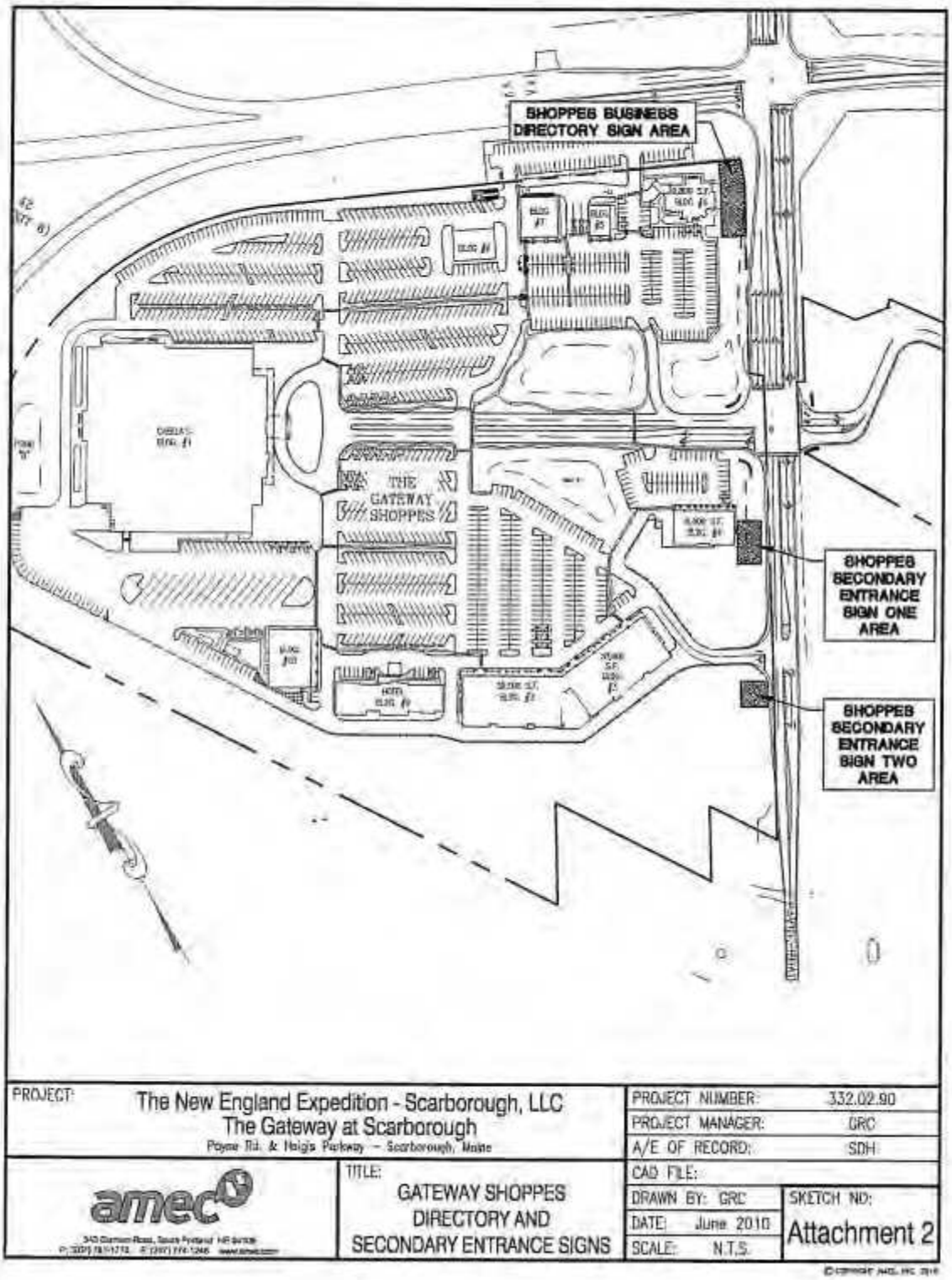
Before me,

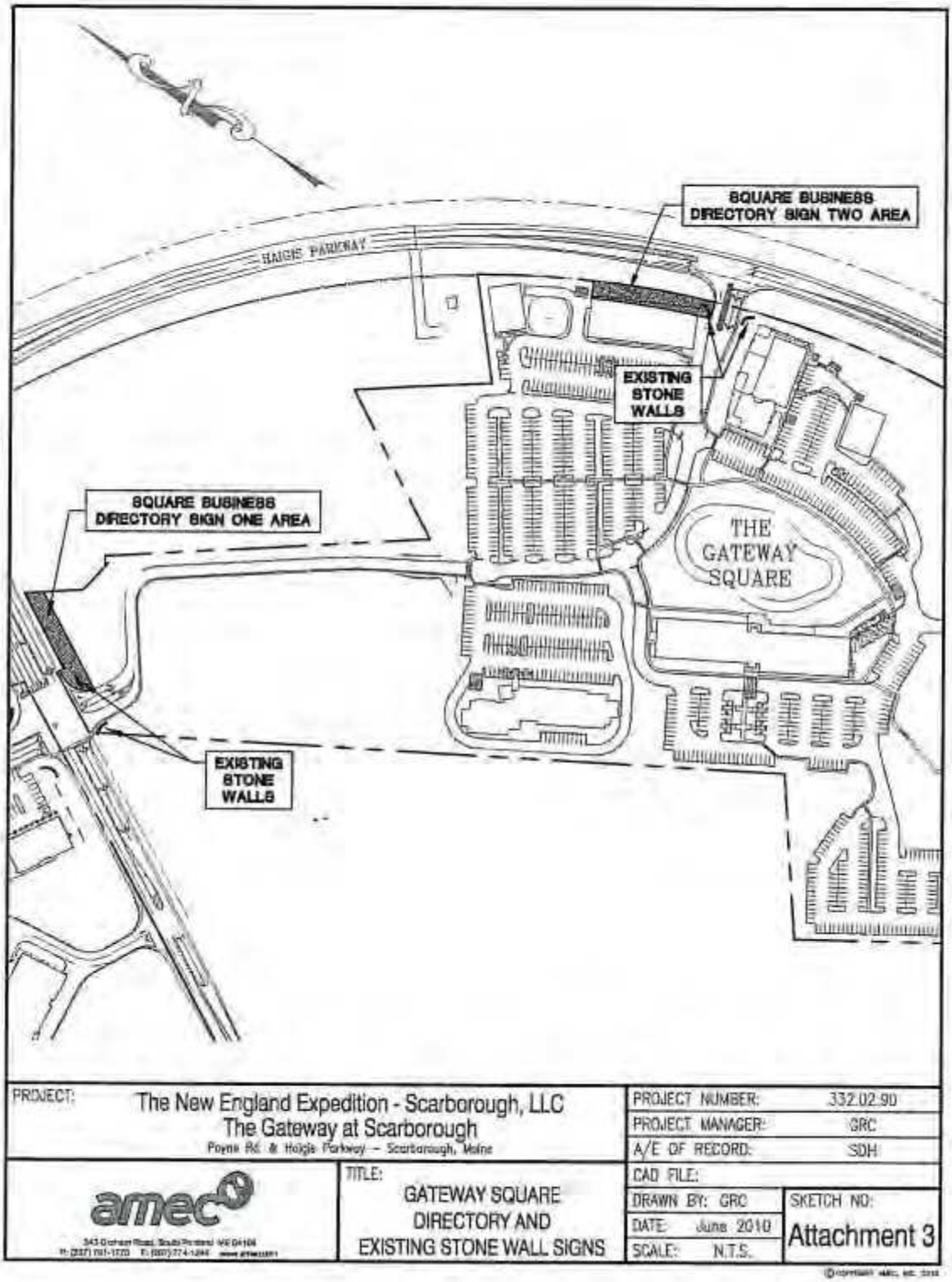
_____
Notary Public

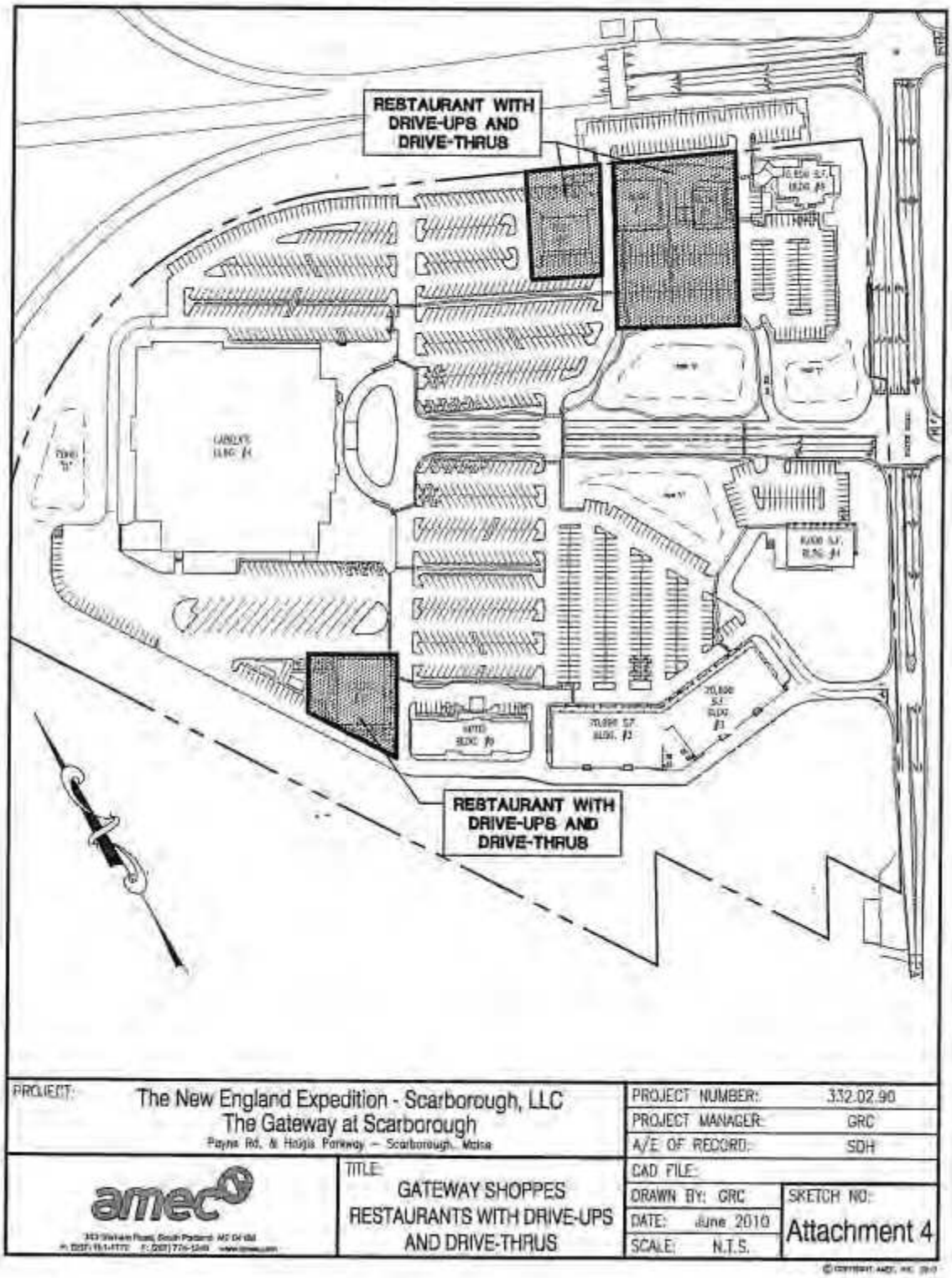
_____

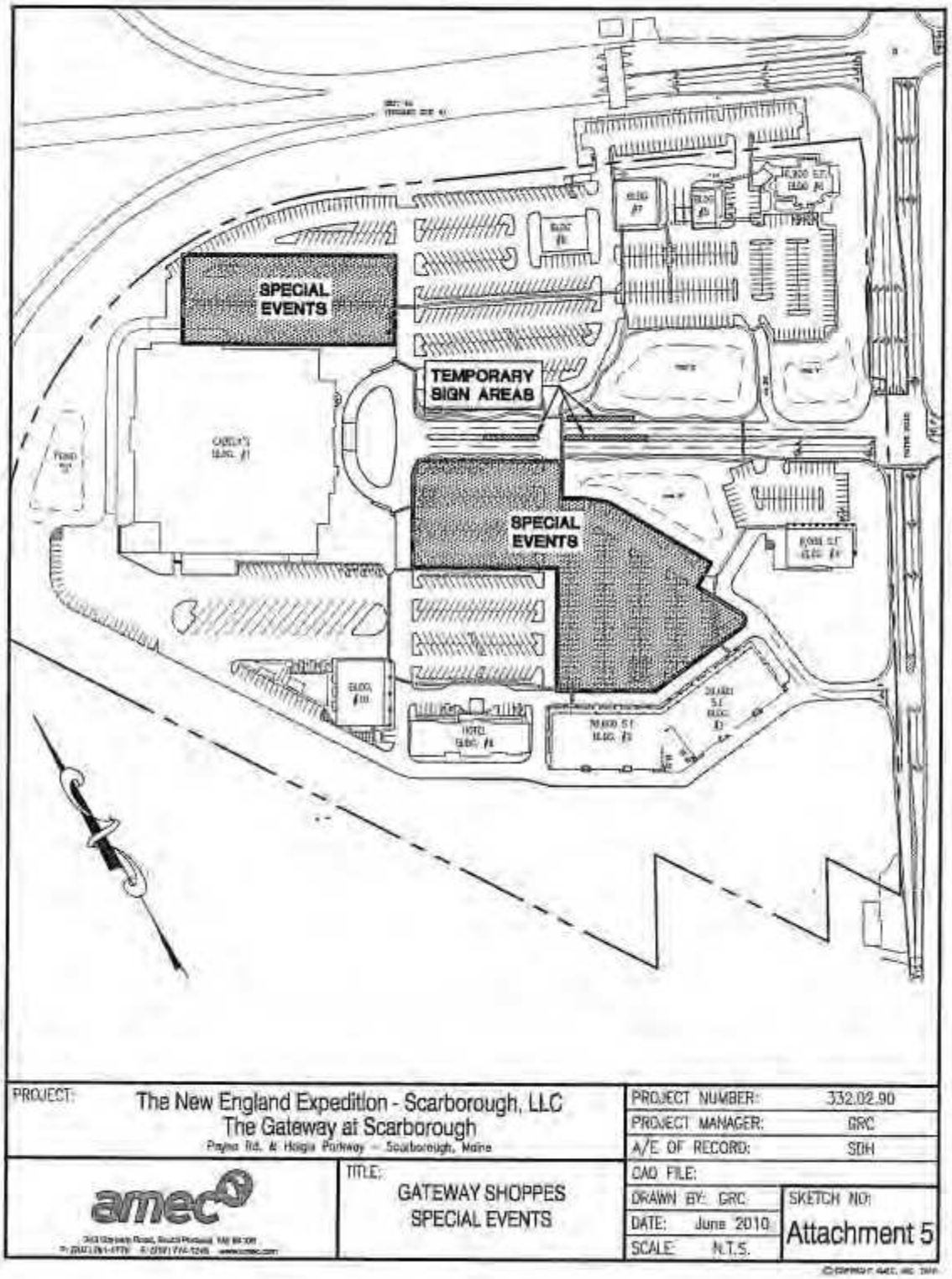
Print name


SEASONAL BANNER LIGHT POLE (TYP.)
CABELA'S PYLON SIGN
PROJECT: The New England Expedition - Scarborough, LLC
The Gateway at Scarborough
Payne Rd. & Haigis Parkway – Scarborough, Maine
PROJECT NUMBER: 332.02.90
PROJECT MANAGER: GRC
A/E OF RECORD: SDH
CAD FILE:
DRAWN BY: GRC
DATE: June 2010
SCALE: N.T.S.
TITLE: GATEWAY SHOPPES SEASONAL BANNERS & PYLON SIGN
SKETCH NO: Attachment 1


SHOPPES BUSINESS DIRECTORY SIGN AREA
THE GATEWAY SHOPPES
SHOPPES SECONDARY ENTRANCE SIGN ONE AREA
SHOPPES SECONDARY ENTRANCE SIGN TWO AREA
PROJECT: The New England Expedition - Scarborough, LLC
The Gateway at Scarborough
Payne Rd. & Haigis Parkway – Scarborough, Maine
PROJECT NUMBER: 332.02.90
PROJECT MANAGER: GRC
A/E OF RECORD: SDH
CAD FILE:
DRAWN BY: GRC
DATE: June 2010
SCALE: N.T.S.
TITLE: GATEWAY SHOPPES DIRECTORY AND SECONDARY ENTRANCE SIGNS
SKETCH NO: Attachment 2


SQUARE BUSINESS DIRECTORY SIGN TWO AREA
HAIGIS PARKWAY
EXISTING STONE WALLS
SQUARE BUSINESS DIRECTORY SIGN ONE AREA
THE GATEWAY SQUARE
EXISTING STONE WALLS
PROJECT: The New England Expedition - Scarborough, LLC
The Gateway at Scarborough
Payne Rd. & Haigis Parkway – Scarborough, Maine
PROJECT NUMBER: 332.02.90
PROJECT MANAGER: GRC
A/E OF RECORD: SDH
CAD FILE:
TITLE: GATEWAY SQUARE DIRECTORY AND EXISTING STONE WALL SIGNS
DRAWN BY: GRC
DATE: June 2010
SCALE: N.T.S.
SKETCH NO: Attachment 3


RESTAURANT WITH DRIVE-UPS AND DRIVE-THRUS
RESTAURANT WITH DRIVE-UPS AND DRIVE-THRUS
PROJECT: The New England Expedition - Scarborough, LLC
The Gateway at Scarborough
Payne Rd. & Haigis Parkway – Scarborough, Maine
PROJECT NUMBER: 332.02.90
PROJECT MANAGER: GRC
A/E OF RECORD: SDH
CAD FILE:
TITLE: GATEWAY SHOPPES RESTAURANTS WITH DRIVE-UPS AND DRIVE-THRUS
DRAWN BY: GRC
DATE: June 2010
SCALE: N.T.S.
SKETCH NO: Attachment 4


SPECIAL EVENTS
TEMPORARY SIGN AREAS
SPECIAL EVENTS
PROJECT: The New England Expedition - Scarborough, LLC
The Gateway at Scarborough
Payne Rd. & Haigis Parkway – Scarborough, Maine
PROJECT NUMBER: 332.02.90
PROJECT MANAGER: GRC
A/E OF RECORD: SDH
CAD FILE:
TITLE: GATEWAY SHOPPES SPECIAL EVENTS
DRAWN BY: GRC
DATE: June 2010
SCALE: N.T.S.
SKETCH NO: Attachment 5
amec

SIXTH AMENDMENT TO EXHIBIT 9

TO

CONTRACT ZONING AGREEMENT

BETWEEN THE TOWN OF SCARBOROUGH AND THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC

THE GATEWAY AT SCARBOROUGH

This Sixth Amendment to Contract Zoning Agreement (hereinafter, this "Amendment") is made as of the ____ day of _____, 2011 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the "Town"), THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, "New England Expedition"), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH II, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, "New England Expedition II"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the "Agreement") creating Contract Zoning District Number 9 (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the "First Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the "Second Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060, Page 162 (the "Third Amendment"); and

WHEREAS, that portion of the Property comprising The Gateway Square at Scarborough was conveyed by New England Expedition to New England Expedition II by Quitclaim Deed With Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fourth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 3rd day of March, 2010, and recorded in said Registry of Deeds in Book 27642, Page 85 (the "Fourth Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fifth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 21st day of July, 2010, and recorded in said Registry of Deeds in Book 27960, Page 322 (the "Fifth Amendment"); and

WHEREAS, the New England Expedition and the New England Expedition II have requested that the Town approve this Amendment to the Agreement regarding the height of the business directory signs permitted within the District.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, the business directory signs permitted within the District under Section 5.a. and Section 5.c. of the Fifth Amendment may be up to sixteen (16) feet in height as measured from the base of such signs at ground level.

2. Nothing set forth in the Agreement as amended by this Amendment shall be deemed to limit or prohibit signage within the District that is otherwise allowed under Section XII of the Zoning Ordinance, as it may be amended from time to time.

3. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment and the Fifth Amendment, remains consistent with the Comprehensive Plan.

4. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

5. This Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS: TOWN OF SCARBOROUGH

_____ By: _____
Thomas J. Hall, its Town Manager (duly authorized by vote of the Scarborough Town Council on _____, 2011)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2011

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

_____
Notary Public/Attorney at Law

_____
Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its Manager

_____

By: _____
Barry E. Feldman
It's Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss. _____, 2011

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

_____
Notary Public

_____
Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-SCARBOROUGH II, LLC

By FELDCO SCARBOROUGH, LLC, its Manager

_____

By: _____
Barry E. Feldman
It's Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss. _____, 2011

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition – Scarborough II, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition – Scarborough II, LLC.

Before me,

_____

Notary Public

_____

Print name

SIGNConcepts
VISUAL COMMUNICATION EXPERTS

Date: 4/23/09	Scale: ¾" = 1'
Drawing #: 4	Sales Rep: DF
Rev #: 14	Rev Date: 11/17/10

Apprv'd by:

The Gateway Shoppes

- Internally illuminated tenant pylon sign
- Internally illuminated sign cabinet w/ 3/16" white Lexan faces
- custom fabricated "roof"
- cultured stone pylons to match existing Cabela's colors

This design is the exclusive property of Sign Concepts, LLC, and cannot be copied, exhibited, or shown to anyone outside of your organization without the prior consent of Sign Concepts, LLC. Copyright @ 2010.

SEVENTH AMENDMENT TO EXHIBIT 9

CONTRACT ZONING AGREEMENT
BETWEENTHE TOWN OF SCARBOROUGH AND THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC

THE GATEWAY AT SCARBOROUGH

This Seventh Amendment to Contract Zoning Agreement (hereinafter, this "Amendment") is mad as of the 6 day of March, 2013 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the "Town"), THE NEW ENDLAND - SCARBOROUGH, LLC, a Maine Limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, "New England Expedition"), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, new Canaan, Connecticut 06840 (hereinafter, "new England Expedition II"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").
WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the "Agreement") creating Contract Zoning District Number 9 (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and,

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and new England Expedition dates as of the 5th day of September 2007, and recorded in said Registry of Deeds in Book 25482. Page 201 (the "First Amendment"); and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060. Page 162 (the "Third Amendment"); and,

WHEREAS, that portion of the Property comprising The Gateway Square at Scarborough was conveyed by New England Expedition to New England Expedition II by Quitclaim Deed with Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of Fourth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 3rd day of March, 2010, and recorded in said Registry of Deeds in Book 27642, page 85 (the "Fourth Amendment"); and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of Fifth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 19th day of January, 2011, and recorded in said Registry of Deeds in Book 28464, page 260 (the "Sixth Amendment"); and,

WHEREAS, Section 6 of the Agreement, as amended pursuant to said Fourth Amendment to Contract Zoning Agreement, provides that certain improvements within that portion of the Property located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway known as "The Gateway Square at Scarborough" be substantially complete," as that term is defined in said Section 6 of the Agreement as amended, no later than March 12, 2013; and,

WHEREAS, the New England Expedition and the New England Expedition II have requested that the Town approve this Seventh Amendment to Contract Zoning Agreement further amending the definition of "substantially complete" as set forth in Section 6 of the Agreement, as previously amended, to eliminate the requirement that by March 12, 2013, foundations for one or more buildings containing in the aggregate not less than one hundred thousand (100,000.00) square feet of gross leasable area be completed and approved within The Gateway Square at Scarborough.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Section 6 of the Agreement is hereby further amended in its entirety to read as follows:

   6. The Property shall be developed and used only in accordance with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the "Site Plan Ordinance") and the Subdivision Ordinance of the Town of Scarborough (hereinafter, the "Subdivision Ordinance"), with construction anticipated to proceed in phases commencing with that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road and then progressing to that portion of the Property comprising The Gateway Square at Scarborough located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway. The phasing of the construction as outlined above shall be subject to the additional requirement that construction of that portion of the Project comprising The Gateway Square at Scarborough shall be "substantially complete" no later than March 12, 2013. For purposes hereof, "substantially complete" shall mean the completion of the clearing and rough grading of the Project building sites and related improvement areas and the internal road system, and the installation of utilities, storm drains and sanitary sewer lines.

2. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment and the Sixth Amendment, remains consistent with the Comprehensive Plan.

3. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

4. This Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

_____

TOWN OF SCARBOROUGH

By:_____
Thomas J. Hall, its Town Manager
(duly authorized by vote of the
Scarborough Town Council on
_____, 2013)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2013

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me.

_____
Notary Public/Attorney at Law

_____
Print Name

WITNESS:

_____

THE NEW ENGLAND EXPENDITION-SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC its Manager

By:_____
Barry E. Feldman
Its Managing Member

_____, 2013

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss. _____, 2013

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of New England Expedition-Scarborough, LLC and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition-Scarborough, LLC.

Before me.

_____
Notary Public/Attorney at Law

_____
Print Name

WITNESS:

THE NEW ENGLAND EXPENDITION-SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC its Manager

_____

By:_____
Barry E. Feldman
Its Managing Member

_____, 2013

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss. _____, 2013

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of New England Expedition-Scarborough, LLC and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition-Scarborough, LLC.

Before me.

_____
Notary Public/Attorney at Law

_____
Print Name

EIGHTH AMENDMENT TO EXHIBIT 9

Doc#: 14701 Bk:33913 Pg: 213

EIGHTH AMENDMENT TO CONTRACT ZONING AGREEMENT

AMONG THE TOWN OF SCARBOROUGH, EXIT 42 HAIGIS PARKWAY LLC, AND DEVINE CAPITAL, LLC

THE GATEWAY AT SCARBOROUGH

This Eighth Amendment to Contract Zoning Agreement (hereinafter, this "Eighth Amendment") is made as of the 29th day of March, 2017 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the "Town"), EXIT 42 HAIGIS PARKWAY LLC, a Maine limited liability company, with an office at 11 Bartlett Road, Gorham, Maine 04038 (hereinafter, "Exit 42 HP"), and DEVINE CAPITAL, LLC, a Massachusetts limited liability company with a mailing address of 2 Monument Square, Seventh Floor, Portland, Maine 04101 (hereinafter, "Devine Capital"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, The New England Expedition – Scarborough, LLC, a Maine limited liability company with an office at 222 Newbury Street, 4th Floor, Boston Massachusetts 02116 (hereinafter, "New England Expedition"), entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the "Agreement") creating Contract Zoning District Number 9 (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the "First Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the "Second Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060, Page 162 (the "Third Amendment"); and

WHEREAS, that portion of the Property comprising "The Gateway Square at Scarborough" was conveyed by New England Expedition to The New England Expedition – Scarborough II, LLC (hereinafter, "New England Expedition II") by Quitclaim Deed With Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and

Doc#: 14701 Bk:33913 Pg: 214

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fourth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 3rd day of March, 2010, and recorded in said Registry of Deeds in Book 27642, Page 85 (the "Fourth Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fifth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 21st day of July, 2010, and recorded in said Registry of Deeds in Book 27960, Page 322 (the "Fifth Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Sixth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 19th day of January, 2011, and recorded in said Registry of Deeds in Book 28464, Page 260 (the "Sixth Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Seventh Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 6th day of March, 2013, and recorded in said Registry of Deeds in Book 30462, Page 162 (the "Seventh Amendment"); and

WHEREAS, that portion of the Property comprising The Gateway Square at Scarborough was conveyed by Deed In Lieu of Foreclosure With Covenant from New England Expedition – Scarborough, LLC to GlennDonna, Inc. and to R.J. Grondin & Sons dated as of the 26th day of September, 2014, and recorded in said Registry of Deeds in Book 31987, Page 197; and was subsequently conveyed to Exit 42 HP by Quitclaim Deed With Covenant from GlennDonna, Inc. and R.J. Grondin & Sons dated November 13, 2014, and recorded in said Registry of Deeds in Book 31987, Page 206; and

WHEREAS, Devine Capital intends to purchase of The Gateway Square at Scarborough from Exit 42 HP;

WHEREAS, the Haigis Parkway District, HP (hereinafter, the "HP District"), the underlying Zoning District in which The Gateway Square at Scarborough is located, as described in Section XVIII.B of the Zoning District, presently allows, as a permitted use, multi-family residential dwellings/units provided such dwellings/units are developed as part of a mixed-use building or mixed-use planned development;

WHEREAS, the HP District limits multi-family dwellings to a maximum building footprint of 12,500 square feet, a maximum of 5 dwelling units per acre of net lot area, and limits the floor area of all residential uses within a planned development to a maximum of 40% of the total floor area of all the building floor area within a planned development;

WHEREAS, the Town's Growth Management Ordinance, Chapter 413, requires the issuance of growth permits in order to obtain building permits to construct dwelling units and requires that growth permits be issued either from the annual allocation of growth permits or from a reserve pool of growth permits;

Doc#: 14701 Bk:33913 Ps: 215

WHEREAS, Devine Capital desires to develop The Gateway Square at Scarborough as a multi-family residential development project;

WHEREAS, Devine Capital proposes to construct up to twelve (12) multi-family residential buildings, with up to twenty-four (24) dwelling units per building, consisting of up to 30,000 square feet of floor area for residential purposes, containing studio, 1, 2 and 3 bedroom units, with a maximum building footprint of 12,500 square feet per building the ("Project");

WHEREAS, the residential unit development mix of the Project will foster the commercial and mixed-use activities and amenities desired within the underlying HP District, consistent with the 2006 Update of the Comprehensive Plan of the Town of Scarborough adopted by the Scarborough Town Council on July 19, 2006 (the "Comprehensive Plan");

WHEREAS, the 2006 Update of the Comprehensive Plan of the Town of Scarborough includes an objective that ten percent of new housing units in the community be affordable to low and moderate income households, and Section VII.C, Residential Density and Affordable Housing Provisions, of the Zoning Ordinance enables developments in certain districts to contain additional density by providing an affordable housing in-lieu fee and Devine Capital proposes to provide an in-lieu payment to the Town of Scarborough's Affordable Housing Initiative Fund, and the Town Council will work with the Scarborough Housing Alliance to develop a plan by October 1st, 2017 to establish priorities and utilize the Affordable Housing Fund to enable the Town to make progress in meeting this affordable housing objective;

WHEREAS, the Devine Capital project includes a variety of active and passive recreational amenities, including a clubhouse with a fitness center and pool and outdoor active and passive recreation space, that will serve the health and recreational needs of the development's residents;

WHEREAS, the Devine Capital project will comply with Chapters 410, 415, 415A, and 415B consisting of the Town's Development and Traffic-Related Impact Fees and will pay these fees to compensate for the project's proportionate impact and demand on Town's school facilities, intersections, and roadway corridors.

WHEREAS, Exit 42 HP and Devine Capital have requested that the Town approve this Eighth Amendment to the Agreement to permit the multi-family residential development project within The Gateway Square at Scarborough as described herein, including the allocation of necessary growth permits from the reserve pool to permit the issuance of building permits for the Project.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Notwithstanding the provisions of Section XVIII.B HP District, in the Zoning Ordinance, as may be amended from time to time, Devine Capital, its successor and assigns, are hereby permitted to develop within The Gateway Square at Scarborough up to twelve (12) multi-family residential buildings, with up to twenty-four (24) dwelling units per building, resulting in a maximum number of residential units of two hundred eighty-eight (288) and consisting of up to

30,000 square feet of floor area for residential purposes per building, containing studio, 1, 2 and 3 bedroom units, with a maximum building footprint of 12,500 square feet per building, without regard to the requirement that any such dwelling units be part of a mixed-use building or part of a mixed-use planned development and without regard to any conflicting lot area, dimensional, and density requirements otherwise applicable within the HP District.

2. The Property shall be developed and used only in accordance with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the "Site Plan Ordinance") and the Subdivision Ordinance of the Town of Scarborough (hereinafter, the "Subdivision Ordinance").

3. Pursuant to Section 7(G)(5)(a) of the Town's Growth Management Ordinance, Chapter 413, the Town hereby authorizes the use of growth permits from the reserve pool for the Project and authorizes the Planning Board to so allocate from the reserve pool the appropriate number of growth permits to allow Devine Capital, its successor and assigns, to obtain the requisite building permits for the Project.

4. Devine Capital, its successor and assigns, shall pay a total of $700,000 into the Town of Scarborough's Affordable Housing Initiative Fund for the two hundred eighty-eight (288) dwelling unit project. This affordable housing in-lieu fee requirement shall be paid to the Town proportionally by building at the time of building permit issuance with $2,430.56 due per dwelling unit.

5. Given the active and passive recreational amenities provided within the development project, including the clubhouse with a fitness center and pool and outdoor active and passive recreation space, the Town determines that adequate recreational facilities have been provided for on-site and that a recreation contribution is not required.

6. The Agreement, as amended by this Eighth Amendment and as previously amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, and the Seventh Amendment, remains consistent with the Comprehensive Plan and consistent and compatible with the existing and permitted uses within the existing zoning district classification.

7. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

8. The Town acknowledges and agrees that (a) any breach of the restrictions, provisions and conditions of the Agreement relating to The Gateway Square at Scarborough shall not be deemed a breach of the Agreement as it relates to The Gateway Shoppes at Scarborough, and (b) any breach of the restrictions, provisions and conditions of the Agreement relating to The Gateway Shoppes at Scarborough shall not be deemed a breach of the Agreement as it relates to The Gateway Square at Scarborough.

Doc#: 14701 Bk:33913 Pg: 217

9. This Eighth Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

[*Signature Page Follows*]

Doc#: 14701 Bk:33913 Ps: 218

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

Colette Mathieu

TOWN OF SCARBOROUGH

By: Thomas J. Hall
Thomas J. Hall, its Town Manager*
(* Duly authorized by vote of the Scarborough Town Council on March 15, 2017)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

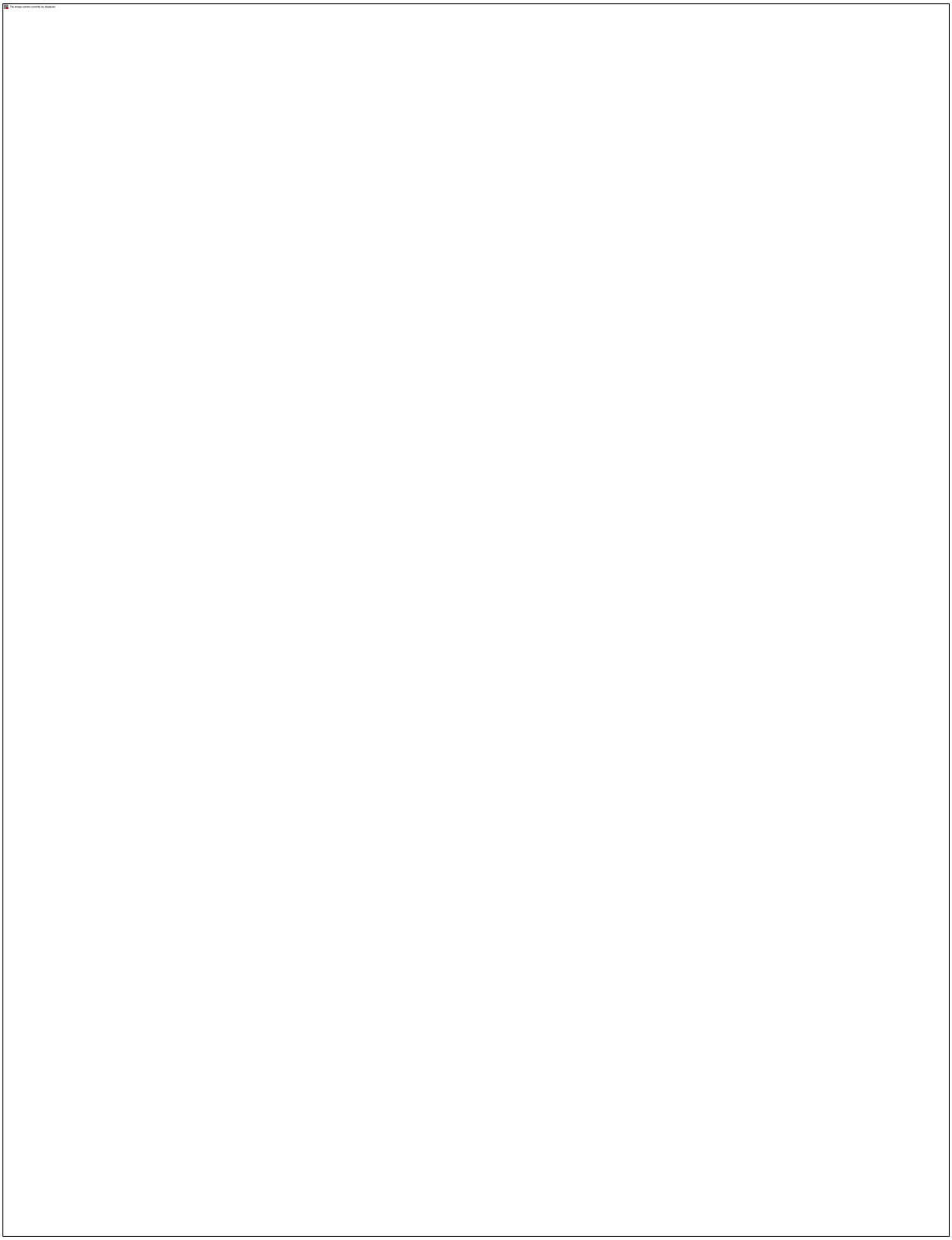
March 22, 2017

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,
Yolande P. Justice
Notary Public/Attorney at Law
Print Name:

SEAL

YOLANDE P. JUSTICE
Notary Public, Maine
My Commission Expires October 31, 2022



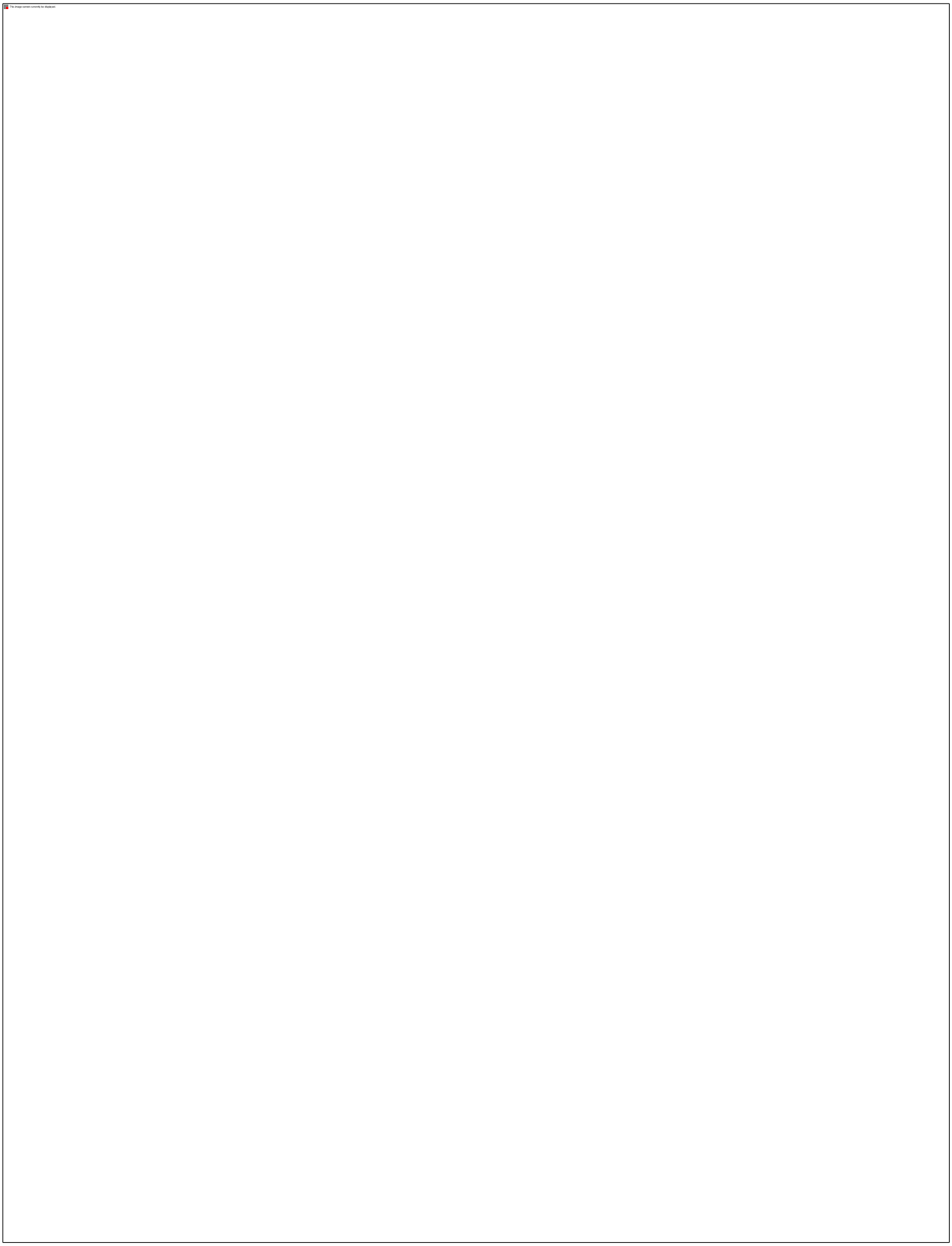


EXHIBIT 10

CONTRACT ZONING AGREEMENT
BETWEEN AND AMONG
THE TOWN OF SCARBOROUGH, SCARBOROUGH LAND CONSERVATION TRUST,
JOHN BLISS AND STACY BRENNER

This is a Contract Zoning Agreement made as of the 22 day of May, 2008 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town"), SCARBOROUGH LAND CONSERVATION TRUST, a Maine non-profit corporation with its locus of activity in Scarborough, Maine (hereinafter the "Owner"), and JOHN BLISS and STACY BRENNER of Scarborough, Maine (hereinafter the "Applicants"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance.

WHEREAS, the Applicants lease from the Owner and occupy a parcel of real estate now known as Broadturn Farm, located at 388 Broadturn Road in Scarborough, Maine, consisting of four hundred and thirty four (434) acres, more or less (hereinafter the "Property"); and

WHEREAS, the Property is currently in a Rural Residence Farming, and Manufactured Housing District (R-F-M) under the Scarborough Zoning Ordinance; and

WHEREAS, the Rural Residence Farming, and Manufactured Housing District (R-F-M Zone) presently allows, as permitted uses, among others, general purpose farming, including retail sales of farm produce located on the same premises; accessory uses and buildings, accessory stables, beehives and rabbit warrens kennels, but exclusive of abattoirs and piggeries; single family detached dwellings, exclusive of individual mobile homes; and home occupations (as a Special Exception); and

WHEREAS, the Applicants wish to place certain structures on the Property and to use and operate the Property for certain purposes which are not expressly provided for in the R-F-M Zone; and

WHEREAS, the Applicants have requested a rezoning of the Property to permit such structures, uses and operations; and

WHEREAS, the overall usage, operation, size, location, configuration and topography of this site and the potential benefits to the public of the structures, uses and operations permitted by this Contract Zoning Agreement will all serve to mitigate what might otherwise be any potential adverse impacts of such structures, uses and operations; and

WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph G, Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberation thereon, recommended the rezoning of a portion of the Property as aforesaid; and

WHEREAS, the rezoning would be consistent with the Policies and Future Land Use Plan of Part III of the Scarborough Comprehensive Plan; and

WHEREAS, the Town of Scarborough, by and through its Town Council, had determined that the said rezoning would be pursuant to and consistent with the Town's Comprehensive Plan and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Contract Zoning Agreement on May 21, 2008;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town hereby amends the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown on Attachment 1.

In addition to those allowed in the R-F-M District, the following uses, activities, buildings and structures are allowed on the Property:

2. A summer day camp for children of ages 4-15, subject to the following conditions:

(a) The camp may have a maximum of fifty [50] children in attendance on any given weekday during the Summer season, including up to forty [40] campers and up to ten [10] volunteer junior counselors.

3. Pasture-raising of pigs and construction and maintenance of suitable shelter for them, subject to the following conditions:

(a) No more than two [2] breeding sows and their offspring intended for market may be kept on the Property at any one time.

4. Public events that are designed for the enjoyment or education of the public and/or to promote agricultural products, services, or experiences on the farm, subject to the following conditions:

(a) The attendance at any such event is limited to two hundred [200] people at any one time.
(b) Parking will be provided along the access roads in the fields on either side of Hanson Road.
(c) Portable toilets will be provided to accommodate the attendees.
(d) Such events will be held on no more than seven (7) days during any calendar year.

5. Celebratory events such as weddings or wedding-like parties, subject to the following conditions:

(a) The attendance at any such event will is limited to two hundred [200] people.
(b) Parking will be provided along the access roads in the fields on either side of Hanson Road.
(c) Portable toilets will be provided to accommodate the attendees.
(d) Any service, sale or consumption of any alcoholic beverages shall be in compliance with State law.
(e) Such events may include the provision of goods and services by third-party vendors, including but not limited to catered food preparation and serving and musical performances or other entertainment.
(f) Such events may be held only between May 1 and October 1 and shall be held on no more than ten (10) days during any calendar year.

6. A commercial kitchen for the purpose of producing value added goods derived from farm products, subject to the following conditions:

(a) The kitchen will be constructed in one of the existing outbuildings.
(b) The kitchen will be operated in compliance with all applicable local, state and federal laws and regulations.

7. Up to three [3] cabins with dimensions no greater than 14’ x 16’, subject to the following conditions:
(a) The cabins’ use and location shall have been reviewed and approved by the Town of Scarborough Planning Board under the Scarborough Site Plan Review Ordinance.

(b) The cabins will not be permanent residential structures and will be used solely to house farm apprentices and employees for no more than eight [8] months per year and for agricultural, recreational or conservation purposes.
(c) The cabins will be located along an existing access road off of Hanson Road. The structures will be located away from the fields so as not to affect the visual landscape of the farm for passersby of scenic vistas or views.
(d) The cabins will be placed in conformance with the setback requirements of the Zoning Ordinance of the Town of Scarborough and any applicable requirements of State law.
(e) The cabins will be placed on cinder block foundations and will be able to be moved, relocated or removed.
(f) Occupants of the cabins will have access at all times to facilities, including kitchen, showers and bathrooms, inside the main farm house.
(g) The cabins will be equipped and maintained in conformity with all applicable local and state code and safety requirements, including but not limited to, plumbing codes.

8. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property except as this Contract Zoning Agreement may be amended by future written agreement of the Town of Scarborough, the Applicants, Owner and/or their successors in interest.

This is the sole zoning for the Property and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying R-F-M Zoning District shall apply. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall inure to the benefit of and bind the Applicants, the Owner, their successors in interest and assigns of said Property or any part thereof, and shall inure to the benefit of and be binding upon and enforceable by the Town of Scarborough.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough and any applicable amendments thereto or replacement thereof.

In the event that the Applicants or the Owner or their successors or assigns fail to use and operate the Property in accordance with this Contract Zoning Agreement, or in the event of any other breach hereof, this Contract Zoning Agreement may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses as are otherwise allowed by law.

WITNESS:

TOWN OF SCARBOROUGH

_____
name of witness

By _____
Ronald W. Owens
Its Town Manager (duly authorized by vote of the Scarborough Town Council on May 21, 2008)

_____
name of witness

_____
JOHN BLISS

_____
name of witness

_____
STACY BRENNER

SCARBOROUGH LAND CONSERVATION TRUST

_____ By _____
name of witness Laurene Swaney
Its President

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2008

Personally appeared the above named Ronald W. Owens, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

_____
Notary Public/Attorney at Law

_____
print name

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2008

Personally appeared the above named John Bliss, and acknowledged the foregoing instrument to be his free act deed.

Before me,

_____
Notary Public/Attorney at Law

_____
print name

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2008

Personally appeared the above named Stacy Brenner, and acknowledged the foregoing instrument to be her free act deed.

Before me,

_____
Notary Public/Attorney at Law

_____
print name

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2008

Personally appeared the above named Laurene Swaney, President of the Scarborough Land Trust, and acknowledged the foregoing instrument to be her free act deed in her said capacity and the free act and deed of said Scarborough Land Trust.

Before me,

_____
Notary Public/Attorney at Law

_____
print name

Attachment 1
Zoning Map Amendment Change

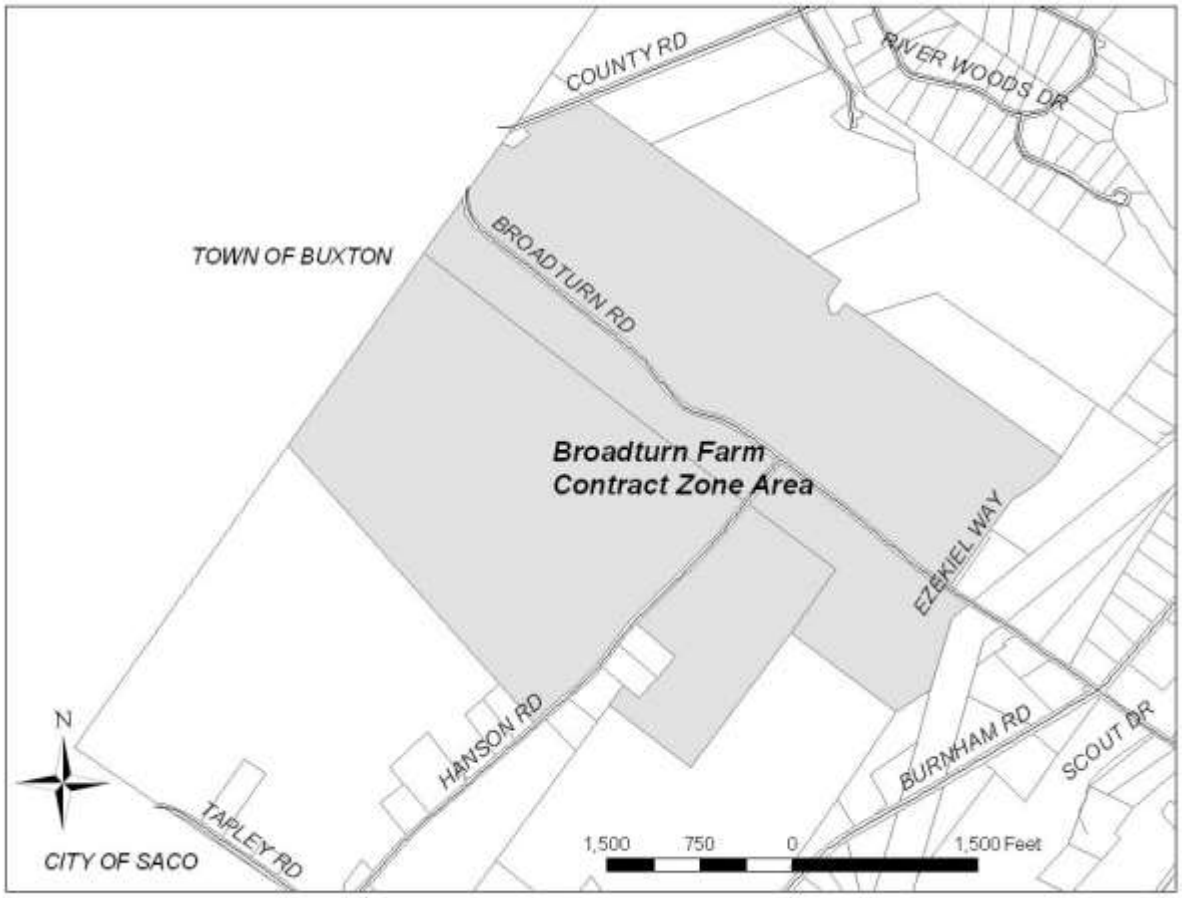


EXHIBIT 11

CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
AVESTA HOUSING DEVELOPMENT CORPORATION

This Contract Zoning Agreement made as of the _____ day of _____, 2015, by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town"), and AVESTA HOUSING DEVELOPMENT CORPORATION, a Maine nonprofit corporation, with an address of 307 Cumberland Avenue, Portland, Maine 04101 (together with its successors and assigns, including subsequent record owners of the property described in this Agreement, hereinafter "Avesta"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance:

WHEREAS, Avesta intends to purchase a parcel of real estate located at 577 U.S. Route One, Scarborough, Maine, consisting of approximately 3.05 acres with the buildings and improvements thereon, being Parcel 37 on the Town's Tax Map U034 (hereinafter the "Property"); and

WHEREAS, the Property is currently in the Town and Village Centers Fringe (TVC3) District and a portion of the Property is also subject to the Shoreland Overlay District provisions of the Shoreland Zoning Ordinance; and

WHEREAS, the TVC3 District presently allows, as a permitted use, multifamily dwellings limited to no more than twelve (12) units per building, so long as such building is serviced by public sewer, and accessory units subject to certain performance standards, but not multifamily dwellings containing a greater number of units per building; and

WHEREAS, Avesta wishes to develop the Property as an affordable rental housing complex consisting of the existing 7-unit historic building that will be renovated to include 8 units, a to-be-constructed 42-unit building, an existing barn that will be renovated and may include community space for occupants, and a second existing barn that may be preserved due to its historic value (the "Project"). The new 42-unit building will exceed the maximum number of units per building currently permitted in the TVC3 Zone; and

WHEREAS, Avesta demonstrates that the proposed use can be carried on with fewer parking spaces than required by the off-street parking regulations in Section XI of the Zoning Ordinance; and

WHEREAS, the maximum density within the TVC3 Zone for multi-family dwellings is 5 dwelling units per acre of net lot area, and the Project will exceed this maximum density; and

WHEREAS, the Project would qualify for Additional Residential Density Thru Affordable Housing pursuant to Section XVIII.D(E)(3) of the Scarborough Zoning Ordinance, the Project as proposed would still exceed the maximum density; and

WHEREAS, the Property contains an existing multi-family building and a barn that will be rehabilitated in a good and worker-like manner; and

WHEREAS, the Planning Board, pursuant to Section II(I)(4), of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid; and

WHEREAS, the Project will serve the Town's objective of encouraging affordable housing both generally and through density bonus provisions within the Town's residential areas and districts (Chapter 5, Objective A.4.a. of the Comprehensive Plan) by constructing an affordable housing opportunity within a growth area; and

WHEREAS, the Project serves the goals of Chapter 5 (Objective A.2.) of the Comprehensive Plan by using public sewer and water facilities; and

WHEREAS, the Project fulfills the goals of Chapter 5 (Objective A.4.b.) of the Comprehensive Plan encouraging a choice of housing for residents of all ages and incomes by providing affordable housing within a growth area;

WHEREAS, the Project helps to achieve the objectives of Chapter 5 (Objective H.2), in which the Town endeavors to assure that at least ten percent of new housing units created in Scarborough are affordable; and

WHEREAS, the rezoning provided in this Agreement, therefore, would be consistent with the Policies and Future Land Use Plan of Part B of the Scarborough Comprehensive Plan; and

WHEREAS, the Town of Scarborough, by and through its Town Council, therefore, has determined that the said rezoning would be pursuant to and consistent with the Town's local growth program and Comprehensive Plan adopted pursuant to Title 30-A, Maine Revised Statutes, Chapter 187, Subchapter 2, and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Contract Zoning Agreement.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town hereby amends the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown on Attachment 1.

2. Avesta is authorized to create the Project, including the renovation of the existing 7-unit building such that it includes 8 units, construction of a new 42-unit building, renovation of an existing barn to provide community space for Project occupants, and preservation of a second barn on the Property. Construction and use of the Project shall be subject to the following conditions:

(a) Building Height: The maximum building height for the new 42 unit building shall be four (4) stories and as shown on the Site Plan approved by the Town of Scarborough Planning Board. The new 42 unit building shall be a maximum height of approximately 45 feet. The final building height for the Project shall be approved by the Planning Board as part of site plan and subdivision approval.

(b) Permitted Uses: The uses allowed or permitted on the Property shall be limited to (i) an affordable housing complex with one 8-unit building and one 42-unit building, (ii) a separate building for community space, for use by Project occupants, and (iii) accessory uses. Avesta also may either (a) retain and maintain the existing barn on the Property furthest from Route 1 which will not be converted into community recreation and/or meeting space, the use of which will be consistent with, and incidental to the affordable housing use, such as equipment storage, security or maintenance, office and staff accommodations, or merely historic preservation; or (b) remove and/or demolish said barn, provided that such removal or demolition shall be approved by the Planning Board prior to any such action.

(c) Building Design: Project design, style and materials shall be substantially as depicted on the building elevations submitted during site plan and subdivision review, with any changes thereto as approved by the Planning Board.

(d) Landscaping: The Property shall be landscaped to enhance the general appearance of the project from surrounding properties as determined by the Planning Board at the time of site plan and subdivision approval. The landscaping shall be maintained by Avesta or its successors or its successors in interest. After the date of approval of this Contract Zoning Agreement, there shall be no significant amount of removal of existing trees or other vegetation except as indicated on an approved Site Plan.

(e) Density: The maximum net residential density shall be fifty (50) dwelling units, including the renovation of the existing building such that it includes eight (8) units and the construction of a new 42 unit building.

(f) Residents: The Project shall be "Affordable Housing" as defined on the zoning Ordinance, and occupancy of the Project shall be limited to individuals or families with an income that is less than or equal to Eighty Percent (80%) of area median income as more particularly defined in Article VI of the Zoning Ordinance.

(g) Sewer and Water: The facility will be served by both public water and public sewer.

(h) Setbacks: The front yard shall be a minimum of 25 feet, and side and rear yards shall be a minimum of 15 feet, excluding accessory buildings and excluding the existing location of a barn within 15 feet from the sideline of the Property. The existing, nonconforming setback of the barn will be maintained. Additionally, the maximum front yard shall be increased to allow for the removal of an existing porch. All of the setbacks and building locations shall be as shown on the Site/Subdivision Plan, approved by the Planning Board.

(i) Parking: The Project shall provide a minimum of fifty five (55) off-street parking spaces. The dimensions and arrangement of the parking spaces shall be as generally shown on the Site/Subdivision Plan, approved by the Planning Board.

(j) Site/Subdivision Plan: The property subject to this Contract Zoning Agreement shall be developed and used only in accordance with the preliminary site and subdivision plan approved by the Scarborough Planning Board on June 22, 2015, as that site plan may be amended from time to time pursuant to the provisions of the Scarborough Site Plan Ordinance. Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement:

(a) any change to the use of the Property; and
(b) any increase in the number of units.

3. Avesta shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its execution by the Town Council.

4. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property except as this Contract Zoning Agreement may be amended by future written agreement with the Town of Scarborough and Avesta or its successors in interest. This Agreement shall be binding upon subsequent record owners of the Property.

The provisions of this Contract Zoning shall operate as an "overlay" zone and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying Zoning District shall apply

(other than the maximum net residential density, use, height, setbacks and parking). The restrictions, provisions and conditions of this Agreement are an essential part of the rezoning, shall run with the Property, shall bind Avesta, its successors in interests and assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough (as applicable) and any applicable amendments thereto or replacement thereof.

The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Scarborough Zoning Ordinance and through legal action for specific performance of this Agreement. In the event that Avesta, or it successors, or assigns, fail to develop the project in accordance with this Contract, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if Avesta, its successors or assigns, fails to commence to cure or remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to completion in a reasonable time, then this Contract may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses as otherwise allowed by law.

WITNESS: TOWN OF SCARBOROUGH

_____ By:_____
Thomas Hall, its Town Manager
duly authorized by vote of the
Scarborough Town Council on
_____ __, 2015

WITNESS: AVESTA HOUSING DEVELOPMENT
CORPORATION

_____ By:_____
Dana Totman, its President

STATE OF MAINE
CUMBERLAND, SS _____, 2015

PERSONALLY APPEARED the above named Thomas Hall, Town Manager of the Town of Scarborough as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

_____
Notary Public/Attorney at Law

Print name:
My commission expires:

STATE OF MAINE
CUMBERLAND, SS _____, 2015

PERSONALLY APPEARED the above named Dana Totman, President of Avesta Housing Development Corporation as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said nonprofit corporation.

Before me,

_____
Notary Public/Attorney at Law
Print name:
My commission expires:

Attachment 1
Zoning Map Amendment

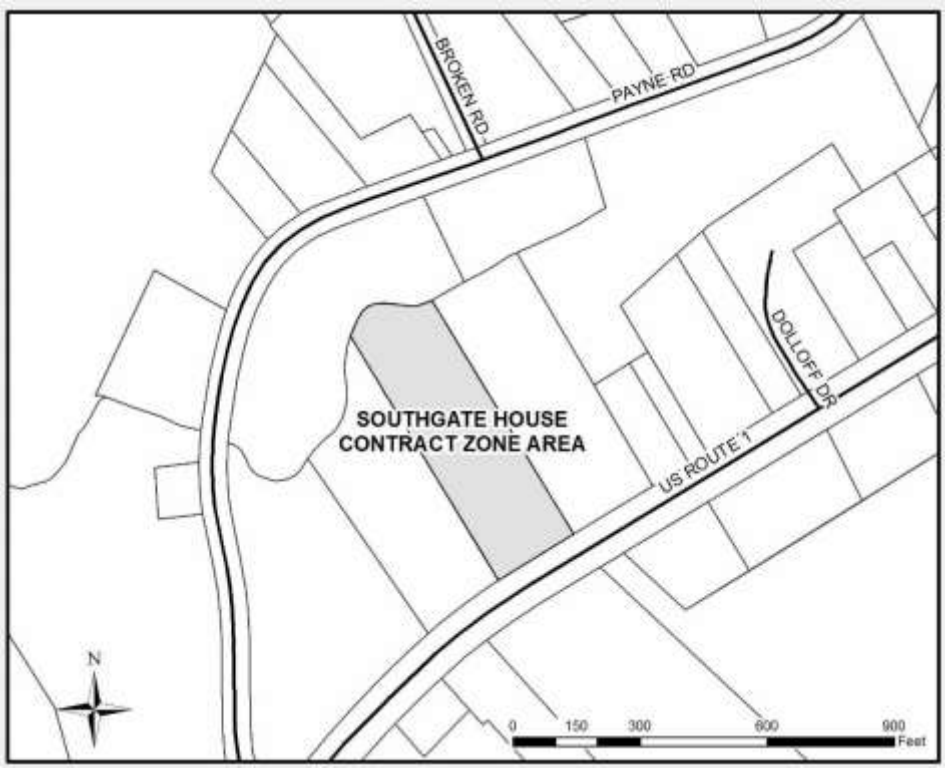


EXHIBIT 12

Doc#: 12546 Bk:35544 Pg: 180

CONTRACT ZONING AGREEMENT BETWEEN THE TOWN OF SCARBOROUGH AND PATRIOT REALTY – SACO, LLC

This Contract Zoning Agreement (hereinafter, this "Agreement") is made as of the 21st day of March, 2019 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the "Town"), and PATRIOT REALTY – SACO, LLC, a Maine limited liability company with a mailing address of c/o Adam S. Arens, 702 S. Lakeside Drive, Lake Worth, Florida 33460 (hereinafter, "Patriot Realty"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, Patriot Realty intends to purchase a certain lot or parcel of land, with the buildings and improvements thereon, situated on the northeasterly side of Haigis Parkway and the southeasterly side of Payne Road in the Town of Scarborough, County of Cumberland, and State of Maine, consisting of the premises currently owned Jacqueline A. Curlew comprising approximately 16.52 acres and located at 285 Payne Road, also known as 1000 Haigis Parkway, being Lot 5 as shown on Town of Scarborough Tax Map R052, and described in a Warranty Deed from Ray L. Littlefield to George E. Curlew and Jacqueline A. Curlew, as joint tenants, dated December 4, 1964 and recorded in the Cumberland County Registry of Deeds in Book 2871, Page 25 (hereinafter, the "Property"), said George E. Curlew having died on November 19, 2015, leaving said Jacqueline A. Curlew as surviving joint tenant and sole owner of the Property; and

WHEREAS, Patriot Realty desires to construct and operate an automobile sales and service facility on the Property selling as its primary brand of automobile those in the Acura line, which facility will include the outdoor display of vehicles, a repair and service facility, and an internal area for washing vehicles sold and/or serviced on site (hereinafter, the "Facility"); and

WHEREAS, the Property is located in the Haigis Parkway District, HP (hereinafter, the "HP District") as described in Section XVIII B. of the Zoning Ordinance; and

WHEREAS, pursuant to Section B of the provisions of the Zoning Ordinance relating to the HP District, uses permitted in the HP District include, among others, retail sales and services excluding, however, "car washes, automobile repair and service facilities, and outdoor sales and services"; and

WHEREAS, "outdoor sales and services" as defined in the Zoning Ordinance includes "new or used car dealerships which are not fully enclosed"; and

WHEREAS, Patriot Realty has requested that, notwithstanding the limitations under Section B of the Zoning Ordinance relating to the HP District, the Town agree to a rezoning of the Property so as to permit Patriot Realty to construct and operate the Facility thereon; and

WHEREAS, the size, location, configuration and topography of the Property permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of the Facility, provided the Facility is restricted to the density, scale and intensity proposed by Patriot Realty and further provided that any restrictions, provisions and conditions of this Agreement and the site plan approval by the Scarborough Planning Board are strictly observed; and

WHEREAS, the Scarborough Town Council and the Scarborough Planning Board, pursuant to the Contract Zoning provisions of the Zoning Ordinance, held a joint meeting on March 7, 2018 at which meeting the Planning Board conducted a public hearing on the proposed contract zoning request, and at which meeting the Council voted unanimously to advise Patriot Realty to continue to process the contract zoning request; and

WHEREAS, Patriot Realty received preliminary site plan approval from the Planning Board at the Board's February 4, 2019 meeting; and

WHEREAS, the proposed use of the Property, being in accordance with the requirements of the HP District, is consistent with the 2006 Update of the Comprehensive Plan of the Town of Scarborough adopted by the Scarborough Town Council on July 19, 2006 (hereinafter, the "Comprehensive Plan") for the area of the Property, as well as with the existing and permitted uses within the HP District, and in the adjacent General Business District B-3 that was formerly within the HP District, reference being made to the determinations set forth in Schedule A attached hereto and made a part hereof; and

WHEREAS, the proposed use of the Property, if developed by Patriot Realty in accordance with this Agreement, is in the public interest, and will have beneficial effects on the Town as a whole which would not result if the Property were developed under the existing zoning requirements, reference being made to the findings set forth in Schedule B attached hereto and made a part hereof; and

WHEREAS, the Town of Scarborough, by and through its Town Council, having determined that the said use is pursuant to and consistent with the Town of Scarborough Comprehensive Plan, the existing and permitted uses within the HP District as well as in the adjacent General Business District B-3 that was formerly within the HP District, is in the public interest, and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification, authorized the execution of this Agreement on March 20, 2019.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change amendment shown on Attachment 1 hereto.

2. Notwithstanding the limitations under Section B of the Zoning Ordinance relating to the HP District, Patriot Realty shall be permitted to construct and operate an automobile sales

and service facility on the Property, which facility will include the outdoor display of vehicles, a repair and service facility, and an internal area for washing vehicles sold and/or serviced on site.

3. Patriot Realty is authorized to construct and operate the Facility to be used in accordance with the requirements of the HP District, except as amended by this Agreement.

4. The Property shall be developed and used only in accordance with the site plan as finally approved by the Scarborough Planning Board, and as said approved site plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the "Site Plan Ordinance").

5. Patriot Realty will grant the Town the right to construct a "welcome to Scarborough sign" in an appropriate location on the Facility site and make a "payment in lieu of construction" of such a sign so as to allow the Town to proceed with the design and installation of the sign at the Town's pace in conjunction with the development of the Facility.

6. The Property shall be landscaped to enhance the general appearance of the project from Haigis Parkway and Payne Road and surrounding properties as determined by the Planning Board at the time of site plan approval. After the date of approval of this Contract Zoning Agreement by the Scarborough Town Council, no trees or other vegetation existing on that date shall be removed except as indicated in an approved site plan provided, however, that the removal of diseased or damaged trees or trees that are otherwise in danger of falling; pruning and selective thinning or cutting of trees in accordance with good forestry practices; and thinning, cutting back, or removal of vegetation in connection with normal and customary landscaping maintenance shall be permitted. The landscaping shall be maintained by Patriot Realty or its successors in interest.

7. The provisions of this Agreement shall be deemed restrictions on the use of the Property except as this Agreement may be amended by future written agreement of the Town of Scarborough and Patriot Realty, or their successors or assigns.

8. Except as the provisions of the HP District of the Zoning Ordinance have been amended by this Agreement, and subject to any other restrictions, provisions and conditions set forth herein regarding the development and use of the Property, all other requirements of the underlying HP District of the Zoning Ordinance shall apply and shall govern the use and development of the Property. Any such restrictions, provisions and conditions are an essential part of the aforesaid modification of the HP District provisions of the Zoning Ordinance as set forth herein, shall run with the Property, shall bind Patriot Realty, its successors and assigns of the Property or any part thereof.

9. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance and any applicable amendments thereto and nothing contained in this Agreement shall be deemed to prohibit or limit the development and use of the Property, or any portion thereof, in any other manner so long as such development and use is in compliance with the applicable provisions of the Zoning Ordinance and otherwise approved pursuant to the Site Plan Ordinance and/or other applicable Scarborough Ordinances and, if applicable, State and Federal laws, ordinances and regulations.

10. Nothing set forth in this Agreement shall be deemed to prohibit or limit the right of Patriot Realty, or any tenant or subsequent owner of the Property, to sell as the primary brand of automobile, one or more brands other than those in the Acura line.

11. The Town of Scarborough shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Zoning Ordinance and through legal action for specific performance of this Agreement. In the event that Patriot Realty or it successors or assigns fail to develop and operate the Facility in accordance with this Agreement, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach, or in the event such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if Patriot Realty, its successors or assigns, fail to commence to cure or remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to completion in a reasonable time taking into account the nature of such failure or breach and the action necessary to cure or remedy same, then this Agreement may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses and according to such zoning requirements as are otherwise allowed by law.

12. In the event any provision of this Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, either in law or in equity. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of Maine.

13. Patriot Realty shall record this Agreement in the Cumberland County Registry of Deeds within ninety (90) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

[End of page. Execution pages follow.]

WITNESS:

TOWN OF SCARBOROUGH

By: _____
Thomas J. Hall, its Town Manager (duly authorized by vote of the Scarborough Town Council on March 20, 2019)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

March 22, 2019

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

_____
Notary Public/Maine Attorney at Law

Colette A. Mathieson
Print name

My Commission expires 2/05/24

SEAL

WITNESS:

PATRIOT REALTY – SACO, LLC

By: _____
Adam S. Arens
Its Manager

STATE OF MAINE
COUNTY OF York, ss.

March 27th, 2019

Personally appeared the above named Adam S. Arens, Manager of Patriot Realty – Saco, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Patriot Realty – Saco, LLC.

Before me,

_____
Notary Public/Maine Attorney at Law

PATRICIA A. BERRYMAN
Print name

My Commission expires:

PATRICIA A. BERRYMAN Notary Public Commission Expires EXP. FEB 22, 2026

Schedule A

Determination of consistency with the Comprehensive Plan and existing and permitted uses within the HP District and adjacent General Business District B-3 that was formerly within the HP District.

The 2006 Update of the Scarborough Comprehensive Plan adopted by the Town Council on July 19, 2006 (the "Comprehensive Plan") designated the HP District as a Development Area within the Growth Areas of the Town. The Comprehensive Plan described "Growth Areas" as "areas of Scarborough where the Town desires to see the majority of new residential development and virtually all non-residential development occur". *Comprehensive Plan, Part B, Chapter 6, Article IV.* The Comprehensive Plan envisioned the HP District as, among other things, a "regional center for employment" with development of "a high quality with campus-style architectural and landscape design". Allowed uses were anticipated to include, among others, retail uses subject to a maximum of 20,000 square feet. Development was to be of a "high quality" and "well planned". *Haigis Parkway District, Comprehensive Plan at Page 6-38.*

Under the Zoning Ordinance, uses in the HP District include, among others, "retail sales and services with less than 20,000 square feet of retail floor area per unit of occupancy", excluding "car washes, automobile repair and service facilities, and outdoor sales and services". "Outdoor sales and services" are defined to include "new or used car dealerships which are not fully enclosed".

The Facility, being a retail use, is thus consistent with both the Comprehensive Plan and the Zoning Ordinance.

The actual uses in the vicinity of the Project within the HP District include the Golf & Ski Warehouse on the opposite corner of Haigis Parkway, and the multi-building residential rental project adjacent to the Golf & Ski Warehouse which we understand was permitted under a Contract Zoning Agreement. There are also the Cabela's Plaza located on the west side of Payne Road adjacent to Exit 42 which was also the subject of a Contract Zoning Agreement, the Dunkin Donuts/Irving Oil convenience store and gasoline filling facility on the opposite side of Payne Road from the Project, and the RC Moore trucking facility and other similar facilities also located on the opposite side of Payne Road from the Project and adjacent to the Dunkin Donuts/Irving Oil facility. The area where these facilities are located was formerly within the HP District and is now in the General Business District B-3. While somewhat of a varied type of uses, all of these facilities generally fall into the "commercial use/business use" category as does the Project, including the multi-building residential rental project which we understand is owned by and operated by a single entity. As such, the Project is consistent with such uses.

Schedule B

In the Public Interest/Beneficial Effects on the Town.

1. The Facility site is a highly visible "entrance" to Scarborough and an ideal location for an appropriate Town "welcoming sign". Patriot Realty is willing to grant the Town the right to construct such a sign in an appropriate location on the Facility site and to make a "payment in lieu of construction" of such a sign so as to allow the Town to proceed with the design and installation of the sign at the Town's pace in conjunction with the development of the Facility.

2. The acquisition of the Facility site by Patriot Realty will result in the payment of an outstanding sewer assessment fee against the site of over Two Hundred Thousand Dollars ($200,000).

3. Patriot Realty will be a substantial taxpayer requiring virtually no public services.

4. Values of surrounding properties will likely be positively influenced by the development of the Facility.

5. Patriot Realty anticipates further investment in Scarborough by the future development on the remaining undeveloped portion of the Facility site.

6. Patriot Realty is seeking no financial assistance from the Town by way of tax increment financing.

7. Patriot Realty has a strong track record of community service and expects to continue such service in Scarborough. The company intends to actively engage and participate with many businesses and charities to create a variety of events at the facility. Here is just a sampling of the types of events the company has held at its other facilities:

Red Cross Blood Drives
Dog Adoptions
Dog Wash To Support Shelters
Loves Pets Day
Food Drives Supporting Local Pantries
Kevin On The Roof To Support STRIVE
Toys For Tots Annual Holiday Drive
Business After Hour Chamber Hosts
Take A Bike - Portland Trail
Cars and Coffee Car Shows
Childrens Literacy Support / Family Magic Shows
Cub Scouts Pinewood Derby Host
Bone Marrow - Be The Match Registration
Halloween Pumpkin Painting For Families

Organic Garden tended by staff & customers - Share Produce
Community Breakfasts with Charities - Awareness/Fundraiser
Community BBQ's with Charities - Awareness/Fundraiser
Earth Day Fundraiser for Shade Trees - And we help plant!
Habitat For Humanity - Patriot associates on Scarborough build site
Patriot Riders Chapter One Fundraiser / Wreaths Across America
High School Musicians/ Support for Youth Arts/ In-store performance
Support for Winterkids program

8. Patriot Realty intends to use local construction and architecture businesses as much as possible and will request that the General Contractor for the Facility use local subcontractors as well as much as possible.

9. Upon opening of the business, Patriot Realty expects a payroll of approximately Two Million Dollars ($2,000,000) among approximately thirty – three (33) employees, many of whom it hopes will be Scarborough residents. The average compensation is anticipated to be approximately Sixty-One Thousand Dollars ($61,000) plus benefits.

10. Patriot Realty will seek to have third-party spending for services needed by the Facility to be to local venders and servicers as much as possible.

11. No residential component of the Facility is, of course, proposed, and thus none of the additional impacts on the Town associated with a residential project.

12. Patriot Realty has a policy of employing a diverse group of people. The company takes particular pride in employing a high ratio of women. It is the longest tenured team in the auto industry in Saco and is determined to achieve the same result in Scarborough. Many of the company's associates are anticipated to live and raise their families in Scarborough and to contribute to the community.

13. The building and related aspects will be a very attractive, high quality addition to the community and to this gateway to Scarborough. It will be a facility that Patriot Realty believes the community will be proud of.

14. Patriot Realty prides itself on the protection of the environment in connection with its developments. Its current facilities have received awards for environmentally conscious development, most notably, the Green Dealer Eco Friendly Certification, Recipient of Energy Star Small Business Award, and Eco Maine Business of the Year. Patriot Realty hopes to achieve similar results with the Facility.

15. Patriot Realty expects to make indoor and outdoor space available for public meetings and public gatherings as reasonably possible in its continuing effort to give back to the community.

16. Development of the Facility site will preserve sensitive areas by preservation of the land or by the use of buffers to protect areas such as the stream crossing along the southerly

end of the site and throughout the site utilizing buffers to protect existing wetland areas. Protected wetland areas are further shown on the plan titled "Overall Site Plan of Acura Dealership" prepared by Sebago Technics and most recently revised January 18, 2019 attached hereto as Attachment 2.

17. As noted above, Facility site is a highly visible corner at the intersection of Haigis Parkway and Payne Road and will be developed in manner to maximize the building's prominence and enhance the blending of architecture and landscaping to present a business and a facility that will be a cornerstone for further development along Haigis Parkway and setting the marketability of the remaining land for smart development within the HP District, a goal that the Town has been pursuing for many years.

18. Traffic pattern enhancements associated with the Facility are anticipated to have a significant benefit to the overall traffic flow within the area.

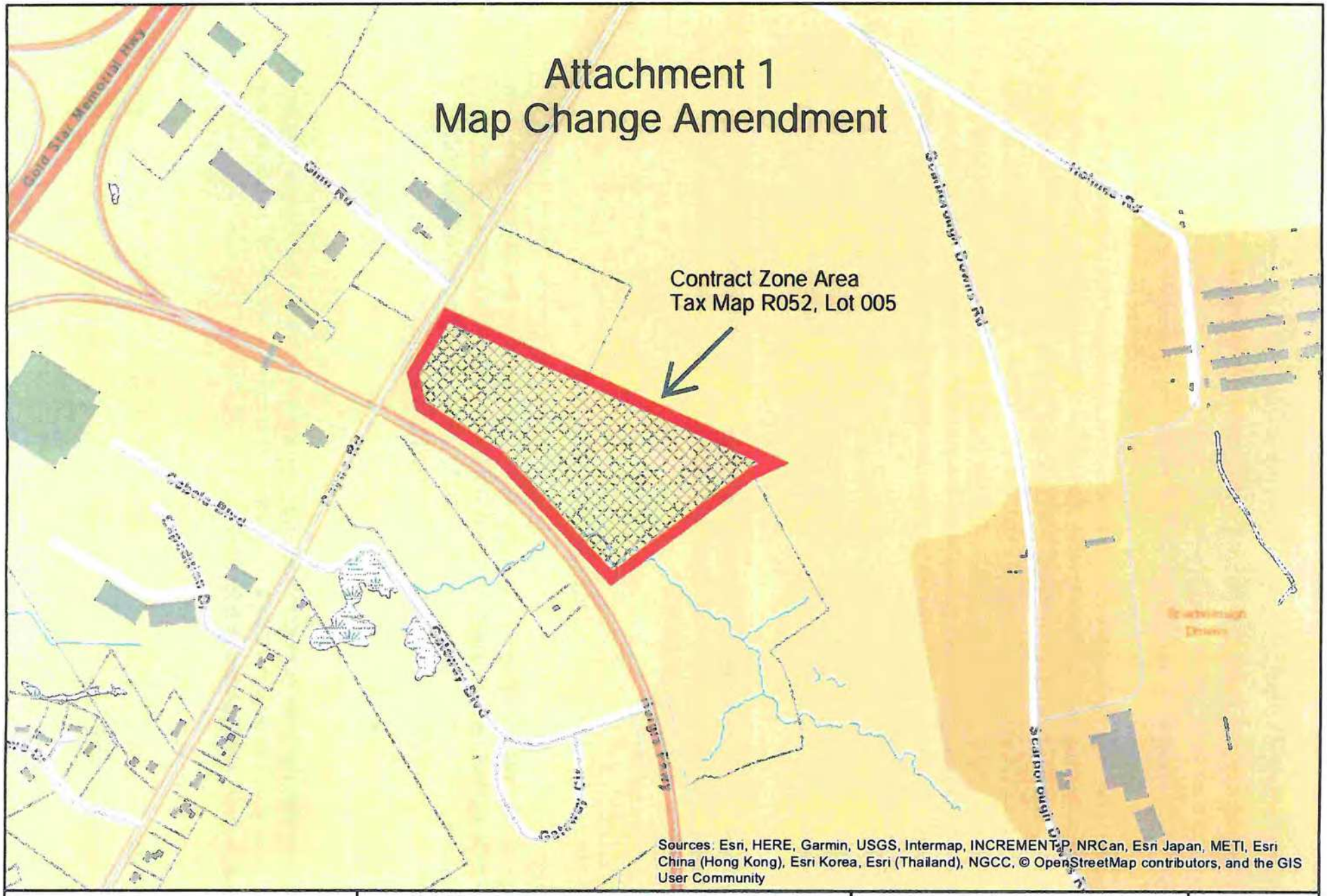
19. This will be the first and currently only Acura dealer in Maine. With Mercedes Benz, Jaguar and Land Rover in Town, the addition of the highly desirable Acura line will be an enhancement to the Scarborough automobile sales environment.

Attachment 1

Map Change Amendment consisting of one (1) page.

Doc#: 12546 Bk:35544 Pg: 191

Attachment 1
Map Change Amendment



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.

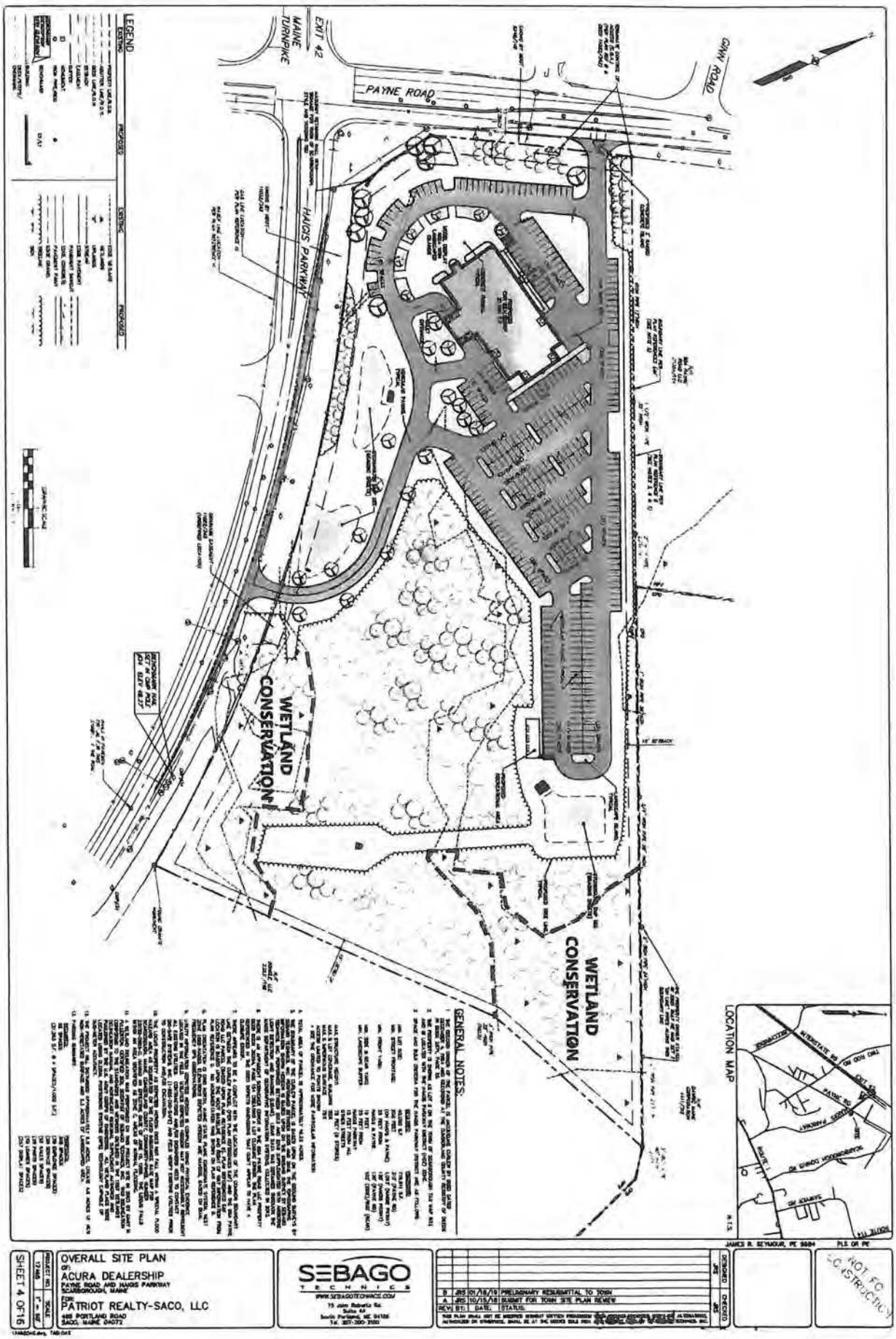
1 in = 752 feet

0 0.03 0.06 0.12 0.18 0.24
mi

N
W E
S

Attachment 2

Sebago Technics Wetlands Map consisting of one (1) page.



Received
Recorded Register of Deeds
Mar 28,2019 02:13:15P
Cumberland County
Nancy A. Lane

APPENDIX – A

In determining whether a proposed contract zoning is in the public interest and will have beneficial effects on the Town as a whole, which would not result if the property were developed under the existing zoning district classification, the Town Council may consider, but shall not be limited to, the following factors:

- The development proposed by the contract zoning request will have a net positive effect on the Town's tax base or will provide payments in lieu of taxes at least equivalent to the development's projected demand on municipal services.
- The development proposed by the contract zoning request will create either direct or indirect employment opportunities or will otherwise have a positive impact on the Town's economy.
- The development proposed by the contract zoning request will enhance the variety of housing types available in Scarborough.
- The development proposed by the contract zoning request will foster demographic diversity in Scarborough's population.
- The development proposed by the contract zoning request will have the effect of maintaining and enhancing property values in the neighborhood and/or in the Town as a whole.
- The development proposed by the contract zoning request will be designed, constructed and maintained in a way which enhances its surroundings and, particularly if it involves a use different from neighboring uses, will utilize architectural, landscaping and design techniques to achieve reasonable compatibility with neighboring uses.
- The development proposed by the contract zoning request will preserve open space which might not be preserved if the property were developed under the existing zoning district classification.
- The development proposed by the contract zoning request will provide public access to water bodies, open space land or outdoor recreational opportunities.
- The development proposed by the contract zoning request will provide recreational, social or cultural facilities available in whole or in part to the public.
- The development proposed by the contract zoning request will preserve unique or sensitive environmental features.
- The development proposed by the contract zoning request will preserve scenic views, vistas or corridors.
- The development proposed by the contract zoning request will preserve and maintain historical or archeological features.
- The development proposed by the contract zoning request will preserve agricultural uses or agricultural lands.
- The applicant has volunteered to provide or to fund off-site improvements or activities in exchange for, and related to, any relaxation of the standards of the current zoning district classification. Examples include, but are not limited to, preservation of off-site wetlands in return for the ability to fill or disturb certain wetlands on the site, and preservation of off-site open space in return for the allowance of higher density on the site.

- The development proposed by the contract zoning agreement will provide goods, services or amenities desirable for community life.

APPENDIX – B

Summary of Procedural Steps for Contract Zoning

This summary is intended to provide a shorthand guide to the contract zoning process for applicants, Town officials and the public. This summary does not substitute for the text of Section II(I) of the Zoning Ordinance, which governs the process for contract zoning.

Phase 1 – Preliminary Joint Review by Planning Board and Town Council

Step One: The applicant files an application for contract zoning with the Town Planner.

Step Two: The Town Planner evaluates the application for completeness.

Step Three: The Planning Board and Town Council conduct a joint meeting for preliminary review of the contract zoning application. The joint meeting includes:

a. Public hearing under 30-A M.R.S.A. § 4352(8).
b. Planning Board comments on the land use implications of the proposed contract zoning.
c. Council discussion of the proposed contract zoning.
d. Council's preliminary direction to the applicant concerning further proceedings on the contract zoning request.

Phase 2 – Planning Board Plan Review

Step Four: The applicant files the application for site plan approval (and subdivision approval, if required).

Step Five: After public hearing, the Planning Board grants preliminary, provisional approval to the site plan (and subdivision plan, if required).

Phase 3 – Town Council Action

Step Six: The Town Council holds the first reading of the contract zoning amendment.

Step Seven: The Town Council holds a public hearing.

Step Eight: The Town Council holds the second reading and votes on the contract zoning amendment.

Step Nine: The applicant records the contract zoning agreement in the registry of deeds.

Phase 4 – Final Planning Board Action

Step Ten: The Planning Board grants final site plan approval (and subdivision approval, if required).

APPENDIX – C

The site analysis required by section II(I)(4)(a)(i) of the Zoning Ordinance above shall address the following factors in narrative form, accompanied by any maps, plans and graphics which the applicant believes will aid the Town Council and Planning Board in understanding the site. If any of the factors are inapplicable, the applicant shall explain why.

Natural Features

- Wetlands and wetland buffers and applicable regulations
- Regional storm water patterns
- Soils and their limitations for development
- Slope categories
- Topographic features such as ridgelines and rock outcrops
- Vegetative cover and features such as cover type, significant trees, orchards, and rare plants
- Wildlife habitat and corridors including deer wintering areas, moose wallows, rare/threatened/endangered species, nesting areas, and open water

Cultural Features

- Scenic and rural roads
- Hiking trails informal and designated
- Snowmobile trails mapped with permission of landowner
- Stone walls
- Historic structures, monuments and markers
- Cemeteries
- Views of and from the site
- Historic uses of the site
- Alterations to the land such as gravel mining, topsoil removal and timber harvesting

Community Relationships

- Access to adjacent properties
- Bus routes that serve the site
- Greenways and trail systems

Institutional Factors

- Zoning (applicability, performance standards, space/bulk requirements, cluster options)
- Utility services
- Current road system

Composite Analysis

- A diagram that illustrates those parts of the site which have (a) no constraints, (b) moderate restraints and (c) severe restraints

APPENDIX D

Town of Scarborough
Maintenance Declaration
For Private Way

This Maintenance Declaration for Private Way (hereinafter called "Declaration") is made as of the _____ day of _____, 200__, by _____, whose mailing address is _____, (hereinafter called "Declarant").

WITNESSETH

Whereas, the Declarant is the owner of certain real property situated in Scarborough, Cumberland County, Maine, which property is shown on a plan entitled Plan of Private Way [insert name of private way], Scarborough, Maine, prepared by _____, dated _____ _____, and recorded [to be recorded] in the Cumberland County Registry of Deeds (hereinafter called the "Plan"):

Whereas, the Declarant is required by the Zoning Ordinance, Section IX, Subsection I, of the Town of Scarborough to outline and declare the respective duties and obligations of the owners of the lots and owners of the private way as shown on the Plan with regard to the construction, maintenance, repair and plowing of the private way shown on the Plan (hereinafter called the "Private Way");

Now, therefore, the Declarant hereby declares as follows:

1. [Explain who will be responsible] shall be responsible for the cost of constructing, maintaining, repairing and plowing the Private Way, including required signage, as follows: [describe how responsibility is apportioned and any other details of allocation of responsibilities].

2. The Private Way [describe ownership arrangement, for example: "shall be owned in fee by the Declarant subject to an easement in favor of the owners of the lots shown on the Plan"].

3. In the event that any of the lots shown on the Plan are divided or in the event any remaining land of Declarant is subsequently divided into lots which are served by the Private Way, then such resulting lot or lots shall become subject to this Declaration and to any modifications to this Declaration which the Declarant or the Declarant's successors in interest shall deem advisable in order to adjust the duties and responsibilities of this Declaration equitably among the owners of all lots served by the Private Way.

4. The Declarant, for himself/herself and for his/her heirs, successors and assigns, acknowledges, understands and agrees that the Town of Scarborough is not responsible for the construction, maintenance, repair or plowing of the Private Way shown on the Plan.

5. The duties and obligations imposed by this Declaration shall run with the land and shall be transferred to any donee, purchaser or other transferee of any portion of the real estate subject to this Declaration. Reference to this Declaration shall be made in all deeds conveying any of the lots shown on the Plan or any portion of the Private Way.

6. [For extensions of existing private ways only.] The private way subject to this Maintenance Declaration is an extension of an existing private way which served lots created prior to November 1, 2006; the Declarant has contacted the owners of such lots, has offered them the opportunity to make their properties subject to the Maintenance Declaration and they have [declined/accepted] that offer; and the Declarant has submitted to the Scarborough Planning Department a notarized affidavit confirming the Declarant's compliance with this paragraph.

7. None of the lots served by the Private Way shall be conveyed and no building permit shall be issued for any lot served by the Private Way until this Declaration is recorded in the Cumberland County Registry of Deeds.

_____ _____

Witness Name

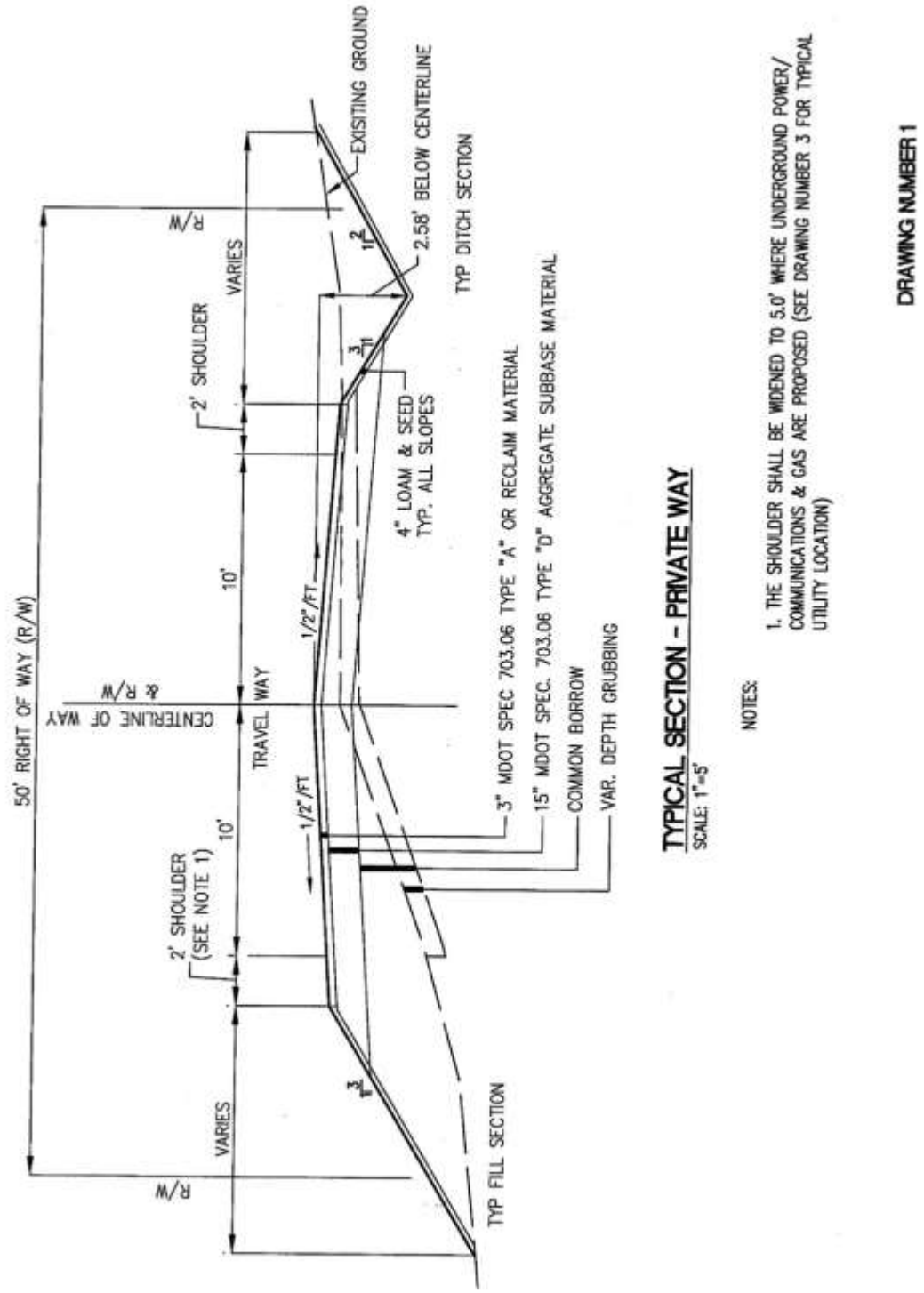
STATE OF MAINE
COUNTY OF [county], ss. [date]

PERSONALLY APPEARED, the above-named [name] as aforesaid, and acknowledged the foregoing instrument to be his/her free act and deed.

_____

Notary Public/ Attorney at Law

Appendix D – Drawing Number 1



TYPICAL SECTION – PRIVATE WAY

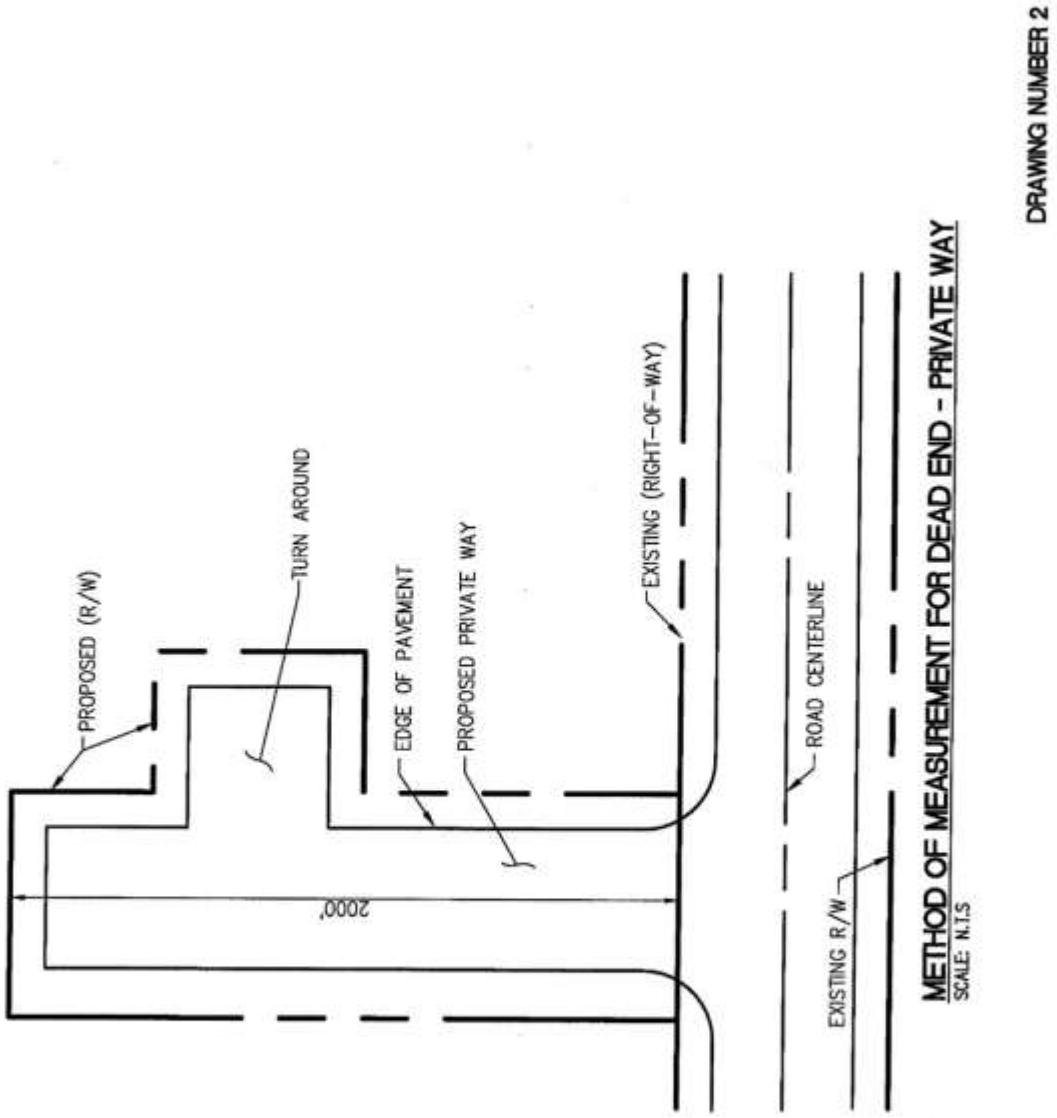
SCALE: 1"=5'

NOTES:

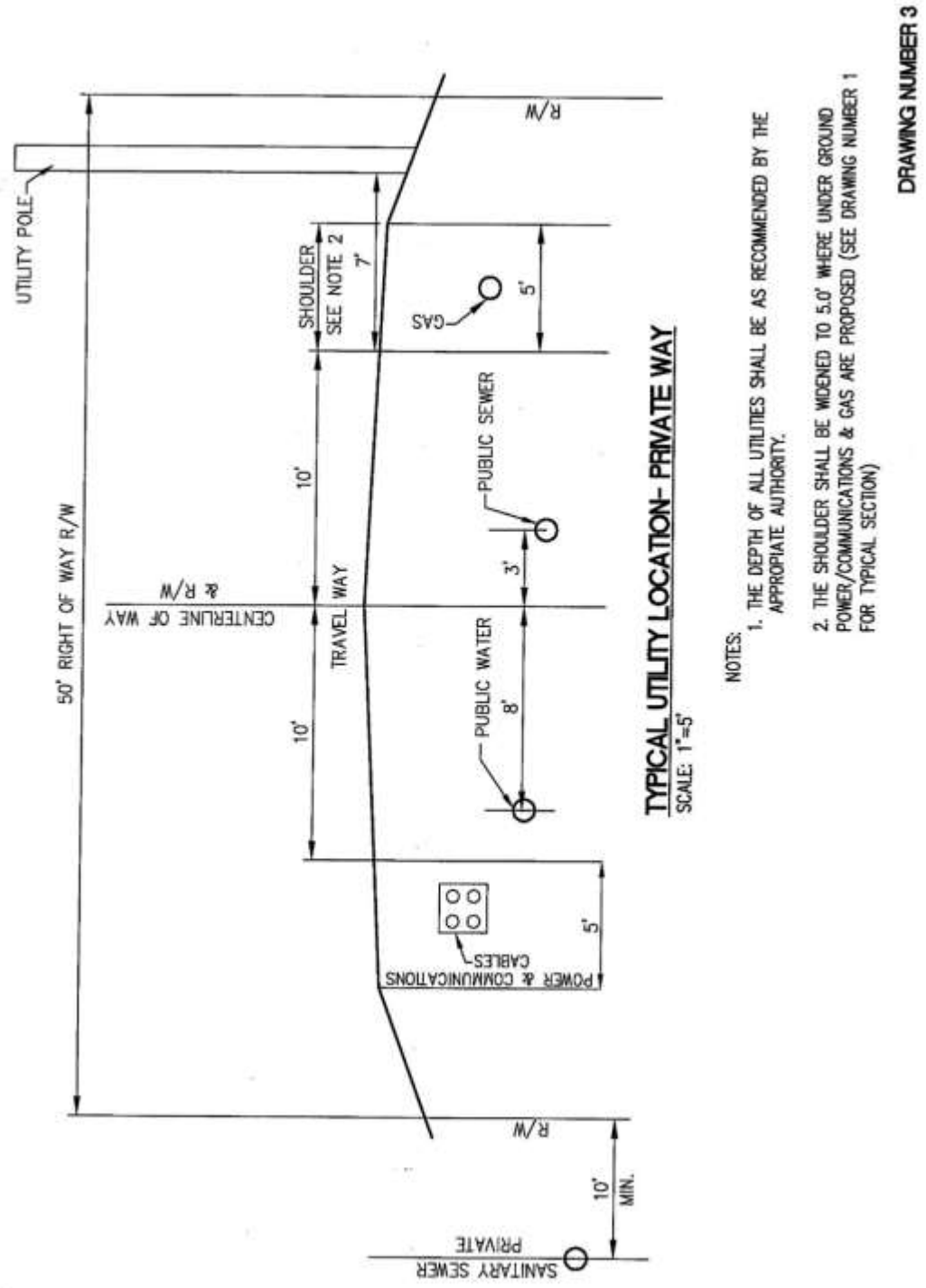
1. THE SHOULDER SHALL BE WIDENED TO 5.0' WHERE UNDERGROUND POWER/ COMMUNICATIONS & GAS ARE PROPOSED (SEE DRAWING NUMBER 3 FOR TYPICAL UTILITY LOCATION)

DRAWING NUMBER 1

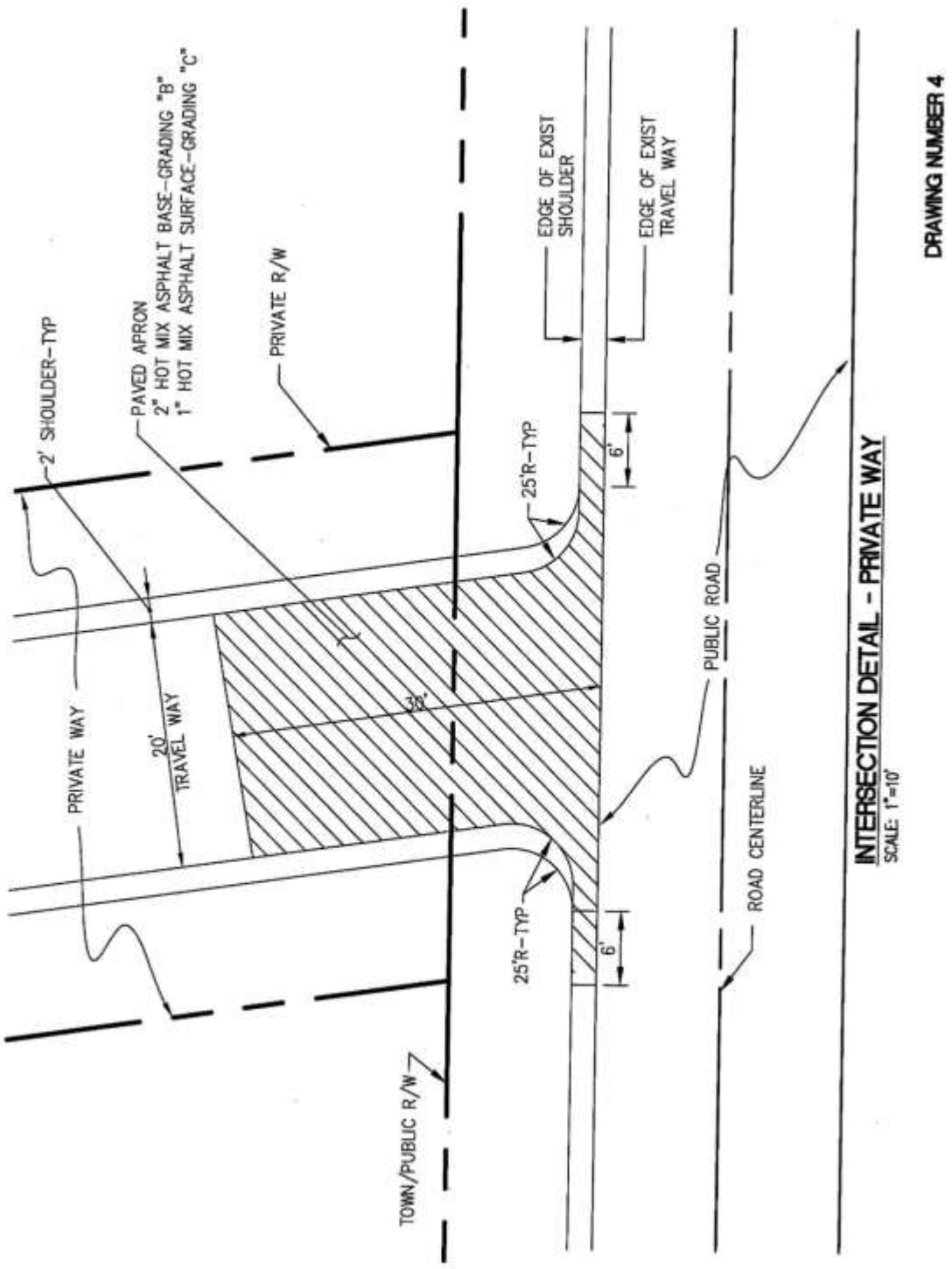
Appendix D – Drawing Number 2



Appendix D – Drawing Number 3



Appendix D – Drawing Number 4



APPENDIX E

Town of Scarborough
Registration of Accessory Units

Property Owner _____

Property Address _____

Deed Reference _____

I/We will be occupying the property located at _____
as my/our primary/seasonal residence.

_____ The number of people living in the accessory unit will not exceed two (2)

_____ I/We understand that in the event that I/We move out of or sell this property, the property will revert to a single family or previous use.

_____ If I/We are found to be in non-compliance of any of the performance standards of Section IX. Performance Standards, I. Performance Standards-Accessory Units of the Zoning Ordinance town of Scarborough (as determined by the Scarborough Code Enforcement Officer) the property will revert to a single family or previous use and I/We may be subject to a fine of up to two thousand five hundred dollars ($2500.00).

_____ I/We understand that this Registration expires 5 years after the date of recording.

I/we certify the above statements are true

X _____ Date_____

X _____ Date_____

X _____ Date_____

All owners of record must sign this form

STATE OF MAINE
COUNTY OF_____, ss. Date: _____

PERSONALLY APPEARED the above-named _____ and made oath that the foregoing statements made by him/her are true based upon his/her personal knowledge.

_____
Notary Public/ Attorney at Law

APPENDIX F

[With Amendments as of July 17, 1991]
[With Amendments as of August 5, 1992]
[With Amendments as of October 21, 1992]
[With Amendments as of November 4 1992]
[With Amendments as of January 20, 1993]
[With Amendments as of February 17, 1993]
[With Amendments as of November 17, 1993]
[With Amendments as of December 15, 1993]
[With Amendments as of January 5, 1994]
[With Amendments as of April 6, 1994]
[With Amendments as of June 1, 1994]
[With Amendments as of August 17, 1994]
[With Amendments as of October 19, 1994]
[With Amendments as of November 2, 1994]
[With Amendments as of November 16, 1994]
[With Amendments as of December 21, 1994]
[With Amendments as of February 1, 1995]
[With Amendments as of February 15, 1995]
[With Amendments as of April 5, 1995]
[With Amendments as of May 17, 1995]
[With Amendments as of July 5, 1995]
[With Amendments as of September 6, 1995]
[With Amendments as of March 6, 1996]
[With Amendments as of May 1, 1996]
[With Amendments as of July 3, 1996]
[With Amendments as of August 21, 1996]
[With Amendments as of January 6, 1997]
[With Amendments as of August 6, 1997]
[With Correction as of August 20, 1997]
[With Amendments as of September 3, 1997]
[With Amendments as of November 4, 1997]
[With Amendments as of November 5, 1997]
[With Amendments as of November 17, 1997]
[With Amendments as of December 3, 1997]
[With Amendments as of May 6, 1998]
[With Amendments as of May 20, 1998]
[With Amendments as of June 3, 1998]
[With Amendments as of May 5, 1999]
[With Amendments as of December 15, 1999]
[With Amendments as of June 21, 2000]
[With Amendments as of September 20, 2000]
[With Amendments as of October 4, 2000]
[With Amendments as of February 7, 2001]
[With Amendments as of September 19, 2001]
[With Amendments as of October 3, 2001]
[With Amendments as of March 20, 2002]
[With Amendments as of April 2, 2002]
[With Amendments as of August 21, 2002]
[With Amendments as of September 4, 2002]
[With Amendments as of November 6, 2002]
[With Amendments as of November 20, 2002]
[With Amendments as of December 4, 2002]
[With Amendments as of April 16, 2003]
[With Amendments as of May 7, 2003]
[With Amendments as of May 21, 2003]
[With Amendments as of June 18, 2003 – Repealed by Referendum Vote on July 29, 2003]
[With Amendments as of November 5, 2003]
[With Amendments as of March 17, 2004]
[With Amendments as of July 21, 2004]
[With Amendments as of September 15, 2004]
[With amendments as of October 20, 2004]
[With Amendments as of November 3, 2004]
[With Amendments as of December 1, 2004]
[With Amendments as of December 15, 2004]
[With Amendments as of May 4, 2005]
[With Amendments as of June 1, 2005]
[With Amendments as of August 17, 2005]
[With Amendments as of September 21, 2005]
[With Amendments as of November 2, 2005]
[With Amendments as of November 16, 2005]
[With Amendments as of February 1, 2006]
[With Amendments as of March 1, 2006]
[With Amendments as of May 3, 2006]
[With Amendments as of August 16, 2006]
[With Amendments as of November 01, 2006]
[With Amendments as of December 20, 2006]
[With Amendments as of February 21, 2007]
[With Amendments as of June 7, 2007]
[With Amendments as of June 20, 2007]
[With Amendments as of September 5, 2007]
[With Amendments as of September 19, 2007]
[With Amendments as of February 6, 2008
[With Amendments as of February 20, 2008]
[With Amendments as of February 20, 2008]
[With Amendments as of April 30, 2008]
[With Amendments as of May 21, 2008]
[With Amendments as of September 28, 2008]
[With Amendments as of November 5, 2008]
[With Amendments as of March 4, 2009]
[With Amendments as of May 20, 2009]
[With Amendments as of August 19, 2009]
[With Amendments as of March 3, 2010]
[With Amendments as of May 5, 2010]
[With Amendments as of May 19, 2010]
[With Amendments as of July 21, 2010]
[With Amendments as of September 15, 2010]
[With Amendments as of December 1, 2010]
[With Amendments as of April 6, 2011]
[With Amendments as of February 15, 2012]
[With Amendments as of June 20, 2012]
[With Amendments as of July 18, 2012]
[With Amendments as of September 5, 2012]

[With Amendments as of July 2013]
[With Amendments as of August 2013]
[With Amendments as of March 6, 2014]
[With Amendments as of August 18, 2014]
[With Amendments as of October 15, 2014
with an effective date of November 15, 2014]
[With Amendments as of December 3, 2014]
[With Amendments as of March 18, 2015]
[With Amendments as of July 15, 2015]
[With Amendments as of December 2, 2015]
[With Amendments as of January 20, 2016]
[With Amendments as of March 2, 2016]
[With Amendments as of June 15, 2016]
[With Amendments as of September 7, 2016]
[With Amendments as of March 15, 2017]
[With Amendments as of July 19, 2017]
[With Amendments as of September 6, 2017]
[With Amendments as of March 7, 2018]
[With Amendments as of June 20, 2018]
[With Amendments as of November 28, 2018]
[With Amendments as of March 6, 2019]
[With Amendments as of May 15, 2019]
[With Amendments as of June 5, 2019]
[With Amendments as of July 17, 2019]
[With Amendments as of January 22, 2020]
[With Amendments as of May 6, 2020]
[With Amendments as of May 20, 2020]
[With Amendments as of June 3, 2020]
[With Amendments as of September 2, 2020]
[With Amendments as of February 17, 2021]
[With Amendments as of April 21, 2021]
[With Amendments as of November 3, 2021]
[With Amendments as of May 4, 2022]
[With Amendments as of July 20, 2022]
[With Amendments as of October 5, 2022]
[With Amendments as of January 4. 2023]
[With Amendments as of May 3, 2023]
[With Amendments as of May 17, 2023]
[With Amendments as of June 7, 2023]
[With Amendments as of July 19, 2023]
[With Amendments as of October 18, 2023]
[With Amendments as of September 4, 2024]
[With Amendments as of November 20, 2024]
[With Amendments as of January 8, 2025]
[With Amendments as of January 22, 2025]
[With Amendments as of February 19, 2025]
[With Amendments as of May 7, 2025]
[With Amendments as of August 20, 2025]
[With Amendments as of September 17, 2025]