

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 form 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 or 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 initiated 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 “contract 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.