

MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JANUARY 17, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Item 1. Call to Order. Chairman McGee called the regular meeting of the Scarborough Town Council to order at 7:05 p.m.

Item 2. Pledge of Allegiance.

Item 3. Roll Call. Roll was called by Yolande P. Justice, Town Clerk. Liam Gallagher, Assistant Town Manager, was also present. Those Councilors present:

Councilor April V. Sither	Councilor Jean-Marie Caterina
Councilor Donald W. Cushing, Jr.	Councilor Donald R. Hamill
Councilor Karin B. Shupe	Councilor Jonathan E. Anderson
Chairman Nicholas S. McGee	

Item 4. General Public Comments.

- Alyson Bristol of Bayview Avenue, commented on the storms that had happened in the past week. She thanked the Town’s presence during these two storms. She also thanked the Sanitary District.
- Richard Hayes of Martin Avenue, asked the Town Council to do something about the cannabis issue in town. He felt there were too many businesses in town. Please do something.
- Nina McKee of Black Point Road congratulated the Council for Order No. 24-007 - Moratorium and she also agreed with the prior comments made.
- Paula O’Brien of Pond View Drive, spoke on private trash pickup and how much it has increased from \$1,500 to \$5,300 and that did not include recycling. She would like to see what the Town could do to help these residents.

Item 5. Minutes: January 3, 2024 - Town Council Meeting. Motion by Councilor Caterina, seconded by Councilor Sither, to move approval of the January 3, 2024 meeting minutes as written.

Vote: 7 Yeas. Motion Passes.

Item 6. Adjustment to the Agenda. None at this time.

Item 7. Items to be signed: a. Treasurer’s Warrants. Treasurer’s Warrants were signed prior to the meeting.

Item 8. Town Manager Report. Liam Gallagher, Assistant Town Manager, gave the following updates:

- **Storm Damage** -
 - Three storms - two causing severe coastal flooding
 - Federal Disaster Declaration expected
 - Work well underway to evaluate damage.
 - Higgins Beach - Ramp, Pump Station, Sea Wall
 - Co-op/Pine Point - Dunes, Commercial Pier
 - Black Point Road/Prouts Neck - Jersey Barriers
 - Eastern Trail
 - Payne Road

- Preliminary Public Assistance Package Submitted to FEMA today
- Outstanding work from our Public Safety Staff, Public Works Staff, and Private Partners
 - EMD Coordination and Planning
 - 2 Structure Fires
 - 600,000 Gallons of Water Removed from Pine Point
- **FEMA Flood Maps** -
 - New maps issued on December 20, 2023
 - Amendments to Floodplain Management Ordinance
 - Required Changes must be completed by June 20, 2024
 - Staff working on timeline and communications plan
 - Future Council Workshop
- **School Building Project** -
 - New Charge
 - Community Survey Development in process (statistically valid)
 - Councilor Corner Live - January 25, 2024
- **Eastern Trail - Close The Gap** –
 - Resumption of Key Stakeholder Meetings. Next meeting January 30
- **Dredge Update** -
 - Final Stage- mouth of the river (mooring field to main channel)
 - Western Beach - Public to avoid
 - Storm Impact - Brief delay and very minor damage to equipment - no substantial setback
 - Approximately 2-3 weeks to completion
- **Revaluation Communication Plan** -
 - Outreach to Neighborhood groups
 - Councilor Anderson Liaison
 - Workshop this evening
- **Avenue 2 Update** - Update on NRPA application for path relocation
- **Traffic Calming Policy** - Draft policy distributed for review
 - Maple Avenue Meeting - January 24, 2024 - draft policy to be discussed
- **Q2 Financial Update** - Finance Director to provide on February 7, 2024
- **FY25 Budget** - Presentation to Council - March 27, 2024
 - Sidewalks

Order No. 23-140, 7:00 p.m. Public hearing and second reading on the new requests for a Cannabis Establishment License from Michael Shannon, d/b/a Shannon's Best Buds, located at 15 Holly Street #205B for a Medical Cannabis Products Manufacturing Facility and Christopher McNeil d/b/a Rose Smoke, LLC, located at 3 Commercial Road for a Medical Cannabis Products Manufacturing Facility. [Tabled from January 3, 2024] [Assistant Town Manager] Liam Gallagher, Assistant Town Manager, gave a brief overview on this Order. Chairman McGee opened the public hearing. The following individuals spoke:

- Paula O'Brien of Pond View Drive, spoke against this request and complained about the smell.

There being no further comments either for or against, the hearing was closed at 7:29 p.m.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval of the second reading on the new requests for a Cannabis Establishment License from Michael Shannon, d/b/a Shannon's Best Buds, located at 15 Holly Street #205B for a Medical Cannabis Products Manufacturing Facility and Christopher McNeil d/b/a Rose Smoke, LLC, located at 3 Commercial Road for a Medical Cannabis Products Manufacturing Facility.

Vote: 6 Yeas. 1 Nay [Councilor Hamill] Motion Passes.

Order No. 24-002, 7:00 p.m. Public hearing and second reading on the proposed amendments to Chapter 1002 – the Town of Scarborough Shellfish Ordinance. [Shellfish Conservation Commission] Councilor Hamill gave a brief overview on this Order. Chairman McGee opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:35 p.m..

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval of the second reading on the proposed amendments to Chapter 1002 – the Town of Scarborough Shellfish Ordinance and schedule a public hearing and second reading for Wednesday, January 17, 2024, as follows:

Chapter 1002 – the Town of Scarborough Shellfish Conservation Ordinance

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to Chapter 1002 – the Town of Scarborough Shellfish Conservation Ordinance, be and hereby is amended, as follows (additions are underlined; deletions are struck through):

1. Authority:

This Ordinance is enacted in accordance with 12 M.R.S.A., Section 6671.

2. Purpose:

To establish a shellfish conservation program for the Town of Scarborough which will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:

- a. Licensing
- b. Limiting the number of shellfish harvesters
- c. Restricting the time and area where digging is permitted
- d. Limiting the minimum size of clams taken
- e. Limiting the amount of clams taken daily by a harvester
- f. Engaging in activities intended to protect and enhance the resource such as transplanting or seeding of shellfish. [Adopted 06-03-15]

3. Shellfish Conservation Committee:

The Shellfish Conservation Program for the Town of Scarborough will be administered by the Shellfish Conservation Committee consisting of 7 members to be appointed by the Town Council for terms of 3 years. The Committee's responsibilities include:

- a. Establishing annually, in conjunction with the Dept. of Marine Resources, the number of shellfish digging licenses to be issued.
- b. Surveying the clam flats to maintain current information on shellfish resources.
- c. Submitting to the Town Council, proposals for the expenditures of funds for the purpose of shellfish conservation.
- d. Keeping this Ordinance under review and making recommendations for its amendments.
- e. Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the D.M.R.
- f. Approving conservation closures and openings in conjunction with the Area Biologists of the D.M.R. [amended 01/03/01].
- g. Submitting an annual report to the Municipality and the D.M.R. covering the above topics and all other committee activities.

4. Definitions:

a. Resident

The term "resident" refers to a person who has physically resided at a fixed, permanent and principal home in the town for at least ~~six months~~ twelve months next prior to the date of application for a license under this Ordinance or, in the case of student, to a student living temporarily outside of Scarborough while enrolled in a college, university or post-secondary school, provided such student maintains his or her fixed permanent principal home in Scarborough. [amended 07/17/02]

b. Non-resident

The term "non-resident" means anyone not qualified as a resident under this Ordinance.

c. Shellfish, Clams

When used in the context of this Ordinance, the words "shellfish and clams" mean soft-shell clams MYA ARENARIA.

d. Municipality

Refers to the Town of Scarborough, Maine.

e. Conservation Projects

Conservation Projects may include seeding projects, crab projects, school projects, surveys or any other project accepted by the Shellfish Conservation Commission. [Adopted 06-03-15]

5. Licensing - Municipal Shellfish Digging is required:

It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current license issued by this municipality as provided by this Ordinance.

A Commercial Digger must also have a valid STATE OF MAINE COMMERCIAL SHELLFISH LICENSE issued by the Department of Marine Resources, if state law makes possession of the state license a prerequisite to issuance of a municipal license. ~~The State License must be renewed by April 30th of each year. Proof of obtaining a current State License must be presented to the Town Clerk by June 1st or the Scarborough Commercial License will be revoked~~

A. Designation, Scope and Qualifications:

1. Resident Commercial Shellfish License:

The license is available to residents of the Town of Scarborough who are 18 years or older and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.[amended 03/21/13]

2. Non-resident Non-reciprocating Commercial Shellfish License:

The license is available to non-residents of this municipality who are 18 years or older and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.[amended 03/21/13]

3. Resident Student Commercial License:

The license is available to residents of the Town of Scarborough who are full time students between the minimum age of twelve (12) years old and the maximum age of twenty-two (22) years old on May 1 of the year in which the application is made. Applicants must show proof of age and proof of school attendance and students attending college must also show proof of a minimum of twelve (12) college credit hours per semester to be considered full-time students. Applicants under the age of 18 must also have the signature of a parent or guardian on the application for the license to be valid. This license entitles the holder to dig or take any amount of shellfish from the shores and flats of this municipality. [amended 01/03/01] [amended 07/17/02] [amended 06-03-15]

4. Non-resident Student Commercial License:

The license is available to non-residents of the Town of Scarborough who are full time students between the minimum age of twelve (12) years old and the maximum age of twenty-two (22) years old on May 1 of the year in which the application is made. Applicants must show proof of age and proof of school attendance and students attending college must also show proof of a minimum of twelve (12) college credit hours per semester to be considered full-time students. Applicants under the age of 18 must also have the signature of a parent or guardian on the application for the license to be valid. This license entitles the holder to dig or take any amount of shellfish from the shores and flats of this municipality. [amended 01/03/01] [amended 07/17/02]

5. Over 60 Resident Commercial Bushel License:

The license is available to residents of the Town of Scarborough who are 60 years old and over. Applicants must show proof of age and residence. This license entitles the holder to dig or take one (1) bushel of shellfish from the shores and flats of this municipality at each tide. [amended 02/18/98] [amended 01/20/99]

6. Residential Recreational Shellfish License:

The license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use the holder and his or her family. It is a violation of this ordinance for any person to sell, or otherwise receive remuneration for, any shellfish harvested pursuant to a residential recreational shellfish license. Any holder of a recreational license who is cited by the Shellfish Conservation Officer for selling or otherwise receiving remuneration for any shellfish harvested pursuant to that license, in addition to being subject to the other penalties provided

in this ordinance, shall be ineligible for a recreational license in the next licensing year following that violation. The Shellfish Conservation Officer's determination of violation may be appealed in the same manner as a license suspension under Section 5(H)(3). [amended 06-03-15]

6-a. Non-resident Recreational Shellfish License:

The license is available to non-residents of the Town of Scarborough and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of the holder and his or her family. It is a violation of this ordinance for any person to sell, or otherwise receive remuneration for, any shellfish harvested pursuant to a non-resident recreational shellfish license. Any holder of a non-resident recreational shellfish license who is cited by the Shellfish Conservation Officer for selling or otherwise receiving remuneration for any shellfish harvested pursuant to that license, in addition to being subject to the other penalties provided in this ordinance, shall be ineligible for a recreational license in the next licensing year following that violation. The Shellfish Conservation Officer's determination of violation may be appealed in the same manner as a license suspension under Section 5(H). [03/19/03] [amended 06-03-15]

7. 70 65 and Over Resident Complimentary Shellfish License:

The license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use the holder and his or her family. It is a violation of this ordinance for any person to sell, or otherwise receive remuneration for, any shellfish harvested pursuant to a 65 and over residential complimentary recreational shellfish license. Any holder of a 65 and over resident complimentary recreational shellfish license who is cited by the Shellfish Conservation Officer for selling or otherwise receiving remuneration for any shellfish harvested pursuant to that license, in addition to being subject to the other penalties provided in this ordinance, shall be ineligible for a recreational license in the next licensing year following that violation. The Shellfish Conservation Officer's determination of violation may be appealed in the same manner as a license suspension under Section 5(J)

7.a. 70 65 and Over Non-Resident Complimentary Shellfish License:

The license is available to non-residents of the Town of Scarborough and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of the holder and his or her family. It is a violation of this ordinance for any person to sell, or otherwise receive remuneration for, any shellfish harvested pursuant to a 65 and over non-resident complimentary recreational shellfish license. Any holder of a 65 and older non-resident complimentary recreational shellfish license who is cited by the Shellfish Conservation Officer for selling or otherwise receiving remuneration for any shellfish harvested pursuant to that license, in addition to being subject to the other penalties provided in this ordinance, shall be ineligible for a recreational license in the next licensing year following that violation. The Shellfish Conservation Officer's determination of violation may be appealed in the same manner as a license suspension under Section 5(J).

7 8. Resident Recreational Day Licenses.

This license entitles residents and real estate taxpayers of the Town of Scarborough to dig or take up to one peck of shellfish from the shores and flats of this municipality during a single calendar day specified in the license. The duration of this license is one calendar day only. [02/18/98]

~~8. 9.~~ Non-resident Recreational Day Licenses.

This license entitles non-residents of the Town of Scarborough to dig or take up to one peck of shellfish from the shores and flats of this municipality during a single calendar day specified in the license. The duration of this license is one calendar day only. [02/18/98]

9. 10. License must be signed.

The licensee must sign the license to make it valid.

~~10-11. Commercial and Recreational License Applicant. may only apply for one type. A commercial and recreational license applicant may apply for those licenses that they qualify for; however, an applicant can only hold no more than one license. only apply for one type of commercial license under this Ordinance.~~

B. Contents of Application:

Any person may apply to the Town Clerk for the license required by this ordinance on forms provided by the municipality.

1. Contents of the Application:

The application must be in the form of an affidavit and must contain the applicant’s name, current address, birth date, height, weight, signature and whatever other information the Town Clerk may require.

2. False Statements.

Any person who provides information in support of an application under this ordinance must do so in the form of an affidavit. If the applicant provides false information, the applicant forfeits the right to a license and a license previously issued to that applicant shall become void. Any other person who gives false information in support of an application under this ordinance commits a violation of this ordinance punishable under section 5(K). [02/18/98].

C. Fees:

The fees for the licenses are as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council, and must accompany in full the application for the respective license. ~~Fees for non-resident licenses shall not exceed twice the amount charged for the equivalent resident licenses. License fees for residents and non-residents will be established in accordance to M.R.S.A. Title 12. Section 6671.3-A.(B).~~ The Town Clerk shall pay all fees received to the Town Treasurer. Fees received for shellfish licenses shall be used by the Town for shellfish management, conservation and enforcement. Fees are non-refundable, except that the holder of a student commercial license who surrenders the license within seventy-five (75) after the date of issuance shall receive a refund of one-half the license fee. [01/05/00]

D. Conservation Activities: [Adopted 06-03-15]

The Town encourages all shellfish diggers to protect and enhance the resource by participating in conservation activities such as seeding clam beds, participating in shellfish surveys, and participating in other approved resource management activities. All Commercial License holders 18 years of age or older

~~may are be~~ required to participate in shellfish conservation projects seeding as deemed necessary by the Shellfish Conservation Committee. Seeding or other approved conservation activities also may be undertaken on a volunteer basis. Commercial License Holders who complete the specified number of hours of conservation activities which may include required shellfish seeding hours and volunteer hours for a total of twelve (12), will be eligible for priority license renewal pursuant to Section 5.E.4.(a) of this Ordinance.

The Shellfish Conservation Committee will approve all accepted conservation activities by a majority vote. The names and number of hours completed on an accepted conservation activity will be recorded in writing by the Shellfish Conservation Officer and submitted to the Shellfish Committee or to the Town Clerk on a monthly basis for their records. All conservation time must be submitted by January 15th by close of business, unless the 15th falls on a weekend, then must be submitted the following Monday.

It shall be the sole responsibility of the Commercial License holder to contact the Shellfish Committee Members or the Shellfish Officer to determine the conservation available to participate in. The Shellfish Committee Chair, with consent of the majority membership of the Committee, may designate special conservation work during any period of State closure of the Town of Scarborough shellfish beds. The Chair may poll the Committee by telephone, email, fax or in person for the purposes of this section. Each Commercial License holder is encouraged to contribute at least half of their voluntary conservation activity in the form of low tide work. All crab trapping is considered low tide work. The conservation year will run from May 1st to November 30th. Surveys of the shellfish resource shall be conducted annually conservation activity, with the date and location to be determined by the Shellfish Commission or the Marine Resource Officer. ~~School conservation activities have a deadline of December 31st and are limited to a maximum of three (3) hours per project and six (6) hours total allowed.~~

The Shellfish Conservation Committee may waive all or part of the requirement for shellfish seeding for an applicant who provides the Committee with a written statement from a physician indicating that the applicant was not able to participate in any regularly scheduled shellfish seeding due to incapacitation by illness or injury. The Committee may also allow the following alternative conservation work, on an hour for hour basis, upon the request of an applicant made at a regular monthly meeting of the Committee. Such alternative work may be used to meet the shellfish seeding requirement or may be used to qualify as additional volunteer conservation activity:

- i. Another time to complete conservation time for an applicant who demonstrates to the Committee that the illness or incapacitation of a parent, spouse or child prevented that person from participating in regularly scheduled conservation time; or,
- ii. Alternate, less strenuous work for an applicant who provides the Committee with a written statement from a physician indicating that the applicant is not physically able to participate in regular conservation work.
- iii. At the discretion of the Project Leader, any scheduled conservation project may be canceled and/or terminated due to severe weather or safety concerns for those involved. Any participate present or arriving within ten minutes at the designated meeting area and start time must still sign in and sign out. These participants will receive the allotted hours of conservation time for that particular project regardless of performing the activity.

E. Issuance of Shellfish Licenses: [amended 06-03-15]

Clam resources vary in density and size distribution from year to year and over the limited soft clam producing area of the Town. It is essential that the town carefully husband its shellfish resources. Following the annual review of the town's clam resources, its size distribution, abundance and the

warden's reports, as required by Section 3, the Shellfish Conservation Committee, in consultation with the D.M.R. area biologist, will determine whether limiting commercial or recreational shellfish licenses is an appropriate shellfish management option for the following year.

1) Prior to February 1 of 1998 and each succeeding year, the committee shall report its findings and document recommendations for the allocation of commercial and recreational licenses to be made available for the following license-year to the Commissioner of Marine Resources for concurrence.

2) After receiving approval of proposed license allocations from the Commissioner of Marine Resources and prior to February 21 of 1998 and each succeeding year, the Shellfish Conservation Committee shall notify the Town Clerk in writing of the number and allocation of shellfish licenses to be issued.

3) Notice of the number of licenses and the procedure for application shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes.

4) The Town Clerk shall accept applications for shellfish licenses annually commencing on the first ~~day of March through to the first Monday and Tuesday in April. Monday in April, or on the first town office business day thereafter if the first Monday is not a business day.~~ [03/19/03]

(a) Commercial Renewal Licenses.

(i): ~~On the first Monday of April and on the next subsequent business day, t~~The Clerk shall issue license only to holders of resident and non-resident commercial shellfish licenses who seek renewal and who have completed at least 12 hours of approved conservation activities which may include mandatory shellfish seeding as well as voluntary conservation work approved under this Ordinance during the term of their current licenses or at least 4 hours of such work if the holder is 70 years of age or older. Such applicants may apply by mail ~~pursuant to subparagraph (ii) below~~ or must appear in person at the office of the Town Clerk during that two day period and pay the application fee at the time of issuance of the license. The Clerk shall issue commercial licenses to such qualified applicants on a first come, first served basis during those two business days. Any holder of a commercial license whose status as a resident or non-resident has changed at the time of application or who did not complete the requisite hours of approve conservation activities shall not be entitled to apply for renewal under this subsection (a) but may apply for a new license under subparagraph (b) below. [03/16/2005][amended 06-03-15]

(ii): ~~Effective March 1, 1998 in lieu of applying in person pursuant to subparagraph (I) above, an a~~Applicants for a renewal resident or non-resident commercial license may apply by mail. Applications by mail must be received at the Town Clerk's office on a day that office is open for business no earlier than March 1 and no later than ~~the Tuesday following the first Monday in April March 31.~~ The application must be accompanied by the required license fee, a copy of the applicant's driver's license, a copy of the applicant's motor vehicle registration certificate, and any other information upon which the applicant relies to document residency. The Clerk shall mark all applications with the date and time of receipt. If more than one application is received at the same time, the Clerk shall determine their order or receipt of random drawing and mark them accordingly. The Clerk's marks concerning order of receipt

shall be conclusive for purposes of applying the first-come first-served provisions of paragraph (i) above.

(b) Non-Renewal Resident Commercial and Non-Resident Non-Reciprocating Commercial Licenses.

(i) On the third and fourth subsequent business days following the renewal process as noted in paragraphs 4.a (i)(ii) above, the Clerk shall accept applications for any remaining resident commercial shellfish licenses and non-resident non-reciprocating commercial shellfish licenses. Applicants must apply in person and be 18 years of age at the time of application, at the office of the Town Clerk. The Clerk shall not issue any licenses during the third and fourth business days, but shall inform each applicant that licenses will be awarded on the basis of a lottery and advise each applicant of the time and place where the lottery will be held. On the fifth subsequent business day, the Clerk shall conduct a lottery for the issuance of the remaining resident commercial shellfish licenses and a lottery for the issuance of non-resident non-reciprocating commercial shellfish licenses. In order to be entered into the lottery, an applicant must be present and must tender the application fee at the time of the lottery drawing. The Clerk shall award the remaining resident commercial shellfish licenses by drawing the names of qualified applicants at random and then shall award the non-resident non-reciprocating commercial shellfish licenses by drawing the names of qualified applicants at random.

(ii) If, after June 1 annually, any allocated licenses remain unissued, on the first *consecutive* Monday, Tuesday and Wednesday in June applications shall be taken and placed in a lottery pool. Applicants must apply in person and be 18 years of age at the time of application. On the following Friday, applicants' names shall be drawn at random by the Town Clerk. Physical presence and full payment are required at the time of drawing, and all applicants must meet eligibility requirements for the license category that they apply for. The lottery shall be conducted in the same fashion as the lottery under section 5(E)(4)(b)(i).

(iii) Lottery Bonus Points shall be awarded to applicants who have successfully applied in previous years, as follows:

Applicants who apply to multiple lotteries in a row without winning a permit can earn bonus points (extra chances in drawing). Points are non-transferrable and are accumulated, as follows:

0-5 Lotteries: 1 Points/Lottery

6-10 Lotteries: 2 Points/Lottery

11-15 Lotteries: 3 Points/Lottery

16+ Lotteries: 10 Points/Lottery

Bonus points are tracked by the Town Clerk using your name and date of birth. To receive bonus points, an applicant must enter the correct name and date of birth on the application. The applicant will also need to indicate that they applied for the lottery the last year that it was held. The Town Clerk upon receiving an application will review the applicant's record and provide applicants with a number of bonus points which will be entered in the lottery.

An applicant will forfeit bonus points if the applicant:

- Fails to apply for bonus point in any one (1) Lottery; or,

- Obtains a Municipal Residential and/or non-residential Commercial Shellfish License through the Lottery; or,
- Is selected for a Municipal Residential and/or non-residential Commercial Shellfish License, but declines it, and/or fails to meet the criteria for legally possessing it; or,
- Is found to have not legally applied in the current year; or,
- Enters the incorrect name or date of birth on the application or fails to indicate that the applicant applied for a permit in the previous year.

(c) Resident Student Commercial Renewal Licenses, Non-Resident Student Commercial Renewal Licenses and Over 60 Resident Commercial Bushel Renewal Licenses. Shall be renewable in the same manner as Resident and Non-Resident Commercial Licenses under Section 5.E.4(a), except that required shellfish seeding hours and additional voluntary conservation hours shall be:

Resident & Non-Resident Student Commercial Licenses under the age of 18. [amended 06/03/15]	No conservation time required. [Voluntary participation is encouraged.] [amended 06/03/15]
Resident & Non-Resident Student Commercial Licenses 18 years of age or older at time the license is issued. [adopted 06-03-15]	Twelve (12) hours of approved conservation activities. [adopted 06/03/15]
Over 60 Resident Commercial Bushel Licenses	Eight (8) Hours of approved conservation activities. [03/16/2005] [11/02/2005][amended 06/03/15]
All Commercial License Holders 70 or Older	Four (4) hours of approved conservation activities. [03/16/2005] [11/02/2005] [amended 06/03/15]

Any holder of a student commercial license or over 60 license whose status as a resident or non-resident has changed at the time of application or who did not complete the requisite hours of approved conservation activities shall not be entitled to apply for renewal under this subsection (a) but may apply for a new license under subparagraph (d) below.

(d) Non-Renewal Resident Student Commercial Licenses, Non-Resident Student Commercial Licenses and Over 60 Resident Commercial Bushel Licenses. Applications for new (non-renewal) Resident Student Commercial Licenses, Non-Resident Student Commercial Licenses and Over 60 Resident Commercial Bushel License shall be processed in the same manner as applications for non-renewal Resident Commercial and Non-Resident Non-Reciprocating Commercial Licenses under Section 5.E.4(b), except that for Resident Student Commercial Licenses and Non-Resident Student Commercial Licenses the clerk shall continue drawing names after all licenses have been awarded and until all applicants have been placed on a list in the order their names have been drawn. Any Student Commercial License which is surrendered after issuance shall be made available to the remaining applicants on that list in the order their names were drawn, and then to other applicants on a first-come, first-served basis.

(e) Resident Recreational Licenses.

Commencing on the second Monday in April annually the Town Clerk shall accept applications for resident recreational shellfish licenses. Applicants must appear in person at the office of the Town Clerk. Licenses shall be awarded on a first come, first served basis.

(f) 65 and Over Complimentary Resident Recreation Licenses. Commencing on the second Monday in April annually, the Town Clerk shall accept application for 65 and over resident recreational shellfish licenses. Applicants must appear in person at the office of the Town Clerk. Licenses shall be awarded on a first come, first served basis.

(fg) Non-resident Recreational Licenses.

~~On Commencing on~~ the second Monday, ~~Tuesday and Wednesday until noon~~, in April annually, the Town Clerk shall accept applications for non-resident recreational licenses. Applicants must ~~apply~~ appear in person at the office of the Town Clerk. Licenses shall be awarded on a first come, first served basis. ~~and shall have their names placed in a lottery pool. On that Wednesday at 3:00 p.m., the licenses shall be awarded to applicants drawn at random from the pool by the Clerk and shall not exceed ten percent (10%) of the number of allocated resident recreational shellfish licenses. Physical presence and full payment are required at the time of drawing. The lottery shall be conducted in the same fashion as the lottery under section 5(D)(4)(b)(i).~~

(h) 65 and Over Complimentary Non-resident Recreational Licenses.

~~On the Commencing on the second Monday, Tuesday and Wednesday until noon, in April annually, the Town Clerk shall accept application for the 65 and over non-resident recreational shellfish licenses. Applicants must apply appear in person at the office of the Town Clerk. Licenses shall be awarded on a first come, first served basis. and shall have their names placed in a lottery pool. On the Wednesday at 3:00 p.m., the licenses shall be awarded to applicants drawn at random from the pool by the Clerk and shall not exceed ten percent (10%) of the number of allocated 65 and over resident recreational shellfish licenses. Physical presence is required at the time of drawing. The lotter shall be conducted in the same fashion as the lotter under section 5(E)(b)(i).~~

(g i) Remaining Licenses.

If, after August 1 annually, any allocated licenses remain unissued, the clerk shall issue such licenses on a first-come, first served basis, without regard to the residency of the applicant or the allocation between resident and non-resident licenses. [03/16/2005] [11/02/2005]

(h-j) Day Licenses.

After all available resident and non-resident recreational licenses have been issued under Section 5(~~DE~~)(4)(~~d-e~~) and 5(~~DE~~)(4)(~~eg~~) above, the clerk may receive applications for and issue resident recreational day licenses and non-resident recreational day licenses, on a first-come, first-served basis ~~without regard to residency of the applicant~~. Applicants must appear in person at the office of the Town Clerk no earlier than five (5) calendar days before the day for which the license is requested. An applicant may obtain ~~only one~~ a day license for up to three (3) consecutive days at a time and must appear in person ~~on a separate day for each license requested~~. Each license issued under this section shall specify the calendar day for which it is issued and shall be valid for that day only. If multiple licenses are requested, a license for each day shall be issued. [03/16/2005] [11/02/2005]

(i) One – Peck Day License must be used on the date listed on the license. In the event of flat closures, per the State, please contact the Town Clerk’s Office at 207-730-4020 the

day of the closure to inform staff your license was not used. If the office is closed, you must leave a voicemail stating your name, contact information and date of the closure. In some cases, a credit for the unused licenses may be issued at the discretion of the Town Clerk. All credits must be used within 30 days of the original license date or the credit will be forfeited.

F. License expiration date:

Each license issued under authority of this Ordinance expires at midnight the 30th of April next following the date of issue. Day Licenses shall expire at midnight on the date they are issued for.

G. Reciprocal Harvesting Privilege:

Licenses from any other municipality co-operating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of their management program, may harvest shellfish according to the terms of their licenses.

H. Children 16 years or younger may accompany a recreational license holder:

The recreational license holder and accompanying children are entitled to dig no more than the previously stated amount, “one peck of shellfish in any one day for the use of the holder and his or her family.” [amended 07/17/02][amended 06/03/15]

I. Suspension: [amended 04/18/01] [amended 03/01/06]

1. Any shellfish licensee having one conviction for a violation of this Ordinance or for a violation occurring within the Town of Scarborough of any state statute regulating the digging or taking of shellfish shall have his or her shellfish license automatically suspended for a period of 14 days. Subsequent convictions during the same license year (May 1 - April 30) shall result in an automatic suspension of sixty (60) days. A licensee shall have his or her record cleared if there are no convictions within one year from the time of a conviction. As used in this paragraph, the term “digging” means using a shovel, spade, rake, tool or hands to uncover shellfish from the ground and the term “taking” means removing a marine organism from its natural habitat. [amended 04/18/01][amended 06/03/15]
2. Any shellfish licensee having one conviction for a violation occurring within the Town of Scarborough of 12 M.R.S.A. § 6625 (governing identification and tagging of shellfish) shall have his or her shellfish license automatically suspended for a period of seven (7) days. Subsequent convictions during the same license year (May 1 - April 30) shall result in an automatic suspension of fourteen (14) days. A licensee shall have his or her record cleared if there are no convictions within one year from the time of a conviction. [amended 04/18/01] [amended 06/03/15]
3. A licensee whose shellfish license has been suspended pursuant to this section shall automatically have his or her license reinstated after the period of suspension has been served. [amended 04/18/01] [amended 06/03/15]
4. The suspension shall be effective from the third business day after the date of mailing of a Notice of Suspension by the Town Clerk to the Licensee or upon presentation of a Notice of Suspension by the Town Marine Resource Officer, whichever is earlier. [amended 02/18/98].
5. Any licensee whose shellfish license has automatically been suspended pursuant to this section shall be entitled to a hearing before the Shellfish Conservation Committee upon filing of a written Request for Hearing with the Town Clerk within 30 days following the effective date of suspension. Filing of the request for hearing with the Town Clerk stays the suspension until the end of the seventh day following the decision of the Shellfish Conservation Committee. The licensee may appeal the decision of the Shellfish Committee before the Town Council by filing a written Request for Appeal with the Town Clerk within 7 days of the decision of the Shellfish

Conservation Committee. Filing of the Request for Appeal with the Town Clerk stays the suspension until the Town Council has rendered its decision. [amended 04/18/01]

6. No holder of a commercial license under this Ordinance shall dig or take shellfish during any time that holder's State of Maine Shellfish License is suspended. During any such period of suspension, the holder's license under this Ordinance is automatically suspended. [amended 02/18/09]

J. Opening and Closing of Flats:

The Shellfish Conservation Committee, with the approval of the Commissioner of Marine Resources, may open and close the areas for shellfish harvest (the "Conservation Areas"). Except in the case of emergencies, the Shellfish Conservation Committee shall follow the following procedure prior to opening or closing a Conservation Area:

1. Upon determination by the Shellfish Conservation Committee or by the Chair of the Committee that the opening or closing of a Conservation Area should be considered, the Chair shall place the proposed opening or closing on an agenda for a public hearing.
2. No less than 7 days prior to the hearing, a notice of the hearing describing the location of the Conservation Area proposed to be opened or closed shall be: (a) posted at the Town Office; (b) published in a newspaper of general circulation in the Town of Scarborough; and, (c) communicated to the Department of Marine Resources. The notice may also be placed on the Scarborough Shellfish Conservation Officer's telephone recording.
3. At the public hearing, the Shellfish Conservation Committee shall present and entertain evidence obtained from shellfish surveys and other sources. Members of the public may then comment on such evidence and may present additional evidence relevant to the proposed opening or closing.
4. At the conclusion of the evidence, the Shellfish Conservation Committee shall make findings of fact based on the evidence presented, shall reach conclusions based on those findings of fact, shall order whether the Conservation Area in question shall be opened or closed, and may set such time limitations and other harvesting conditions as are consistent with good conservation practices.
5. The order of the Shellfish Conservation Committee shall be forwarded to the Commissioner of Marine Resources and shall not take effect until approved by the Department of Marine Resources.

In the event the Shellfish Conservation Committee determines that an emergency closing of a Conservation Area is necessary, the Committee may take action without following the procedures described above, provided that the Committee makes a reasonable effort to give adequate public notice and allow for public participation. [amended 01/03/01]

K. Hours Prohibited:

It shall be unlawful to dig any shellfish anywhere in the Town of Scarborough between the hours of one half hour after sundown and one half hour before sunrise. (amended 10/17/2007)[amended 03/21/13]

L. Penalty:

Any person who violates any provision of this ordinance commits a crime, not a civil violation, punishable by a fine of up to \$1,500 per offense, as provided in 12 M.R.S.A. §6671(10). Any person holding a commercial license under this Ordinance who aids or abets the harvest of shellfish in violation

of this Ordinance also commits a violation of this Ordinance and shall be subject to the same fines as the person he or she assisted. [amended 04/04/2007]

M. Administrative Suspension of Recreational License:

If the Shellfish Conservation Officer determines that the holder of a recreational license has sold or otherwise received remuneration for shellfish harvested pursuant to the recreational license, or that the holder of a license has violated Section 5(N) of this ordinance the Shellfish Conservation Officer may impose an administrative suspension of the License and of eligibility for a license in the next licensing year. The Shellfish Conservation Officer shall give written notice to the license holder of the administrative suspension, which shall be effective from the third business day after mailing of the Notice of Suspension or upon presentation of the Notice of Suspension by the Shellfish Conservation Officer, whichever is earlier. The license holder may appeal the administrative suspension in the same manner as an automatic suspension under section 5.H.(3). The Shellfish Conservation Officer may, at their discretion, employ the administrative suspension in addition to or as an alternative to the penalties provided in section 5.K. The administrative suspension process and determinations resulting from that process are separate from and shall not be affected by the pendency or outcome of any court proceeding for the imposition of penalties under section 5.K. [amended 02/18/98] [amended 06/03/15]

N. Clam Size and Tolerance of Harvest:

- 1) Clam size and tolerance of harvest. A person shall not harvest or possess softshell clams which are less than two (2) inches in the longest diameter to the amount of more than ten (10) percent of any lot.
- 2) The method of determining tolerance. The tolerance of ten (10) percent must be determined by a numerical count of not less than one (1) nor more than four (4) pecks taken at random from various parts of the lot. If the lot contains less than one (1) peck, the tolerance must be determined by numerical count of the entire lot.

O. Unlawful Sale of Shellfish.

It is a violation of this Ordinance for any holder of a license under this Ordinance to sell or otherwise receive remuneration for any shellfish dug or taken within the Town of Scarborough by any person who does not hold a valid shellfish license issued by the Commissioner of Marine Resources pursuant to 12 M.R.S.A. § 6601. [02/18/98]

P. Method of Harvest.

The only acceptable method of harvest shall be by use of the hand-held clamrake, with a handle no more than eighteen inches in length. Use of shovels, spades and pitchforks shall be prohibited. [03/01/06]

Vote: 7 Yeas. Motion Passes.

Order No. 24-003, 7:00 p.m. Public hearing and second reading on the proposed amendment to Chapter 311 – the Town of Scarborough Schedule of Fees relating to Non-Resident Day Passes. [Shellfish Conservation Commission] Councilor Hamill gave a brief overview on this Order. Chairman McGee opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:36 p.m.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval of the second reading on the proposed amendment to Chapter 311 – the Town of Scarborough Schedule of Fees relating to Non-Resident Day Passes and schedule a public hearing and second reading for Wednesday, January 17, 2024, as follows:

**CHAPTER 311
TOWN OF SCARBOROUGH
SCHEDULE OF LICENSE, PERMIT AND APPLICATION FEES**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to Chapter 311 - the Town of Scarborough Schedule of License, Permit and Applications Fees Ordinance, be and hereby is amended, as follows (additions are underlined; deletions are struck through):

<u>Chapter 1002 - Shellfish Ordinance, Fees</u>	<u>Fee</u>
Resident Commercial	\$200.00
Non-resident Non-reciprocating Commercial	\$400.00
Resident Student Commercial	\$100.00
Non-resident Student Commercial	\$200.00
Over - 60 Years Resident Commercial (Bushel)	\$100.00
Resident Recreational - (Over 65 Free)	\$25.00
All Day Licenses — Resident <u>Recreational Day Pass</u> and Non-resident (amended 04/06/05)	\$10.00
<u>Non-Resident Recreational Day Pass</u>	<u>\$20.00</u>

Vote: 7 Yeas. Motion Passes.

OLD BUSINESS: None at this time.

NEW BUSINESS:

Order No. 24-005. First reading and refer to the Planning Board, the proposed amendments to Chapter 405 – the Zoning Ordinance, Section XIX.D. Regional Business District. Regional Business District B-2 – D. Special Exceptions and in Section IX. Performance Standards. [Planning Director] Autumn Speer, Planning Director, gave a brief overview on this Order and responded to questions.

The following individuals spoke:

- Alyson Bristol of Bayview Avenue, she did not agree with the proposed amendments and voiced her concerns.
- Eamonn Dundon, Director of Advocacy from the Portland Regional Chamber, supported the recommendations and asked that the Council move this forward to the Planning Board.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval of the first reading and refer to the Planning Board, the proposed amendments to Chapter 405 – the Zoning Ordinance, Section XIX.D. Regional Business District. Regional Business District B-2 – D. Special Exceptions and in Section IX. Performance Standards, as follows:

**Chapter 405 - Town of Scarborough
Zoning Ordinance**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following changes to Chapter 405 the Zoning Ordinance of the Town of Scarborough, Maine, as follows:

1. Amend Section XIX. Regional Business District B-2.D. Special Exceptions, by adding the new language underlined below:

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]
5. Multifamily dwellings, converted from lodging uses in existence as of January 1, 2023. Subject to the Performance Standards of Section IX. (Z) of this Ordinance

2. Amend Section IX. Performance Standards, by adding a new subsection Z. MULTIFAMILY DWELLINGS – CONVERSIONS FROM LODGING USE, as follows:

Z. MULTIFAMILY DWELLINGS – CONVERSIONS FROM LODGING USE

Existing lodging uses may be converted to multifamily dwellings in their entirety when permitted as a Special Exception in the B-2 zoning district, subject to the Special Exception approval process through the Zoning Board of Appeals and subject to the following Performance Standards.

(1) All conversions must obtain building permits and meet all applicable Building Code and life safety requirements for any renovations or modifications required.

(2) All residential units must be self-contained, independent living quarters including a separate kitchen, bath and sleeping space for each unit.

(3) Accessibility requirements shall be considered when reviewing requests for conversion.

(4) A minimum of 50% of all units must qualify as Renter-Occupied Workforce Housing or Renter-Occupied Affordable Housing units and deed restricted.

(5) A minimum of 10% of all units must qualify as Renter-Occupied Affordable Housing units as defined by the Zoning Ordinance and deed restricted.

(6) Affordable Housing and Workforce Housing units must be distributed proportionally across bedroom mix and units must be of the same quality, size and amenity composition as market rate units.

(7) Amenities for residents must be provided and considered when reviewing requests for conversion, including resident amenities, internal pedestrian circulation, on-site management and any additional services offered.

(8) All units must require 12 months lease agreements.

(9) Adequate on-site parking must be provided for. Each unit shall require one parking space.

(10) All units in a conversion proposal shall be exempt from any rate of growth requirements. Any new construction of units or additional units over the original unit count in the lodging use shall be subject to rate of growth requirements.

(11) All minor modifications to the site including parking lot modification, landscaping, pedestrian amenities, outdoor amenities and in-kind architectural changes are subject to the Minor Development Review Site Plan process requiring Town Planner approval. Any proposed alterations which increase the floor area of the building by more than 100 square feet are subject to the Major Development Review Site Plan process requiring Planning Board approval.

Vote: 5 Yeas. 2 Nays [Councilors Anderson and Hamill]. Motion Passes.

Order No. 24-006. First reading and schedule a public hearing and second reading on the proposed amendment to Chapter 311 – the Town of Scarborough Schedule of Fees relating to Lift Assist. [Fire Chief] Deputy Chief Duross and Fire Chief Kindelan, gave a brief overview on this Order and responded to questions from the Town Council.

Motion Councilor Caterina, seconded by Councilor Sither, to move approval of the first reading on the proposed amendment to Chapter 311 – the Town of Scarborough Schedule of Fees relating to Lift Assist and schedule a public hearing and second reading for Wednesday, February 7, 2024, as follows:

**Chapter 311 – the Town of Scarborough
Schedule of Fees Ordinance**

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following changes to Chapter 311 – the Town of Scarborough Schedule of Fees Ordinance, be and hereby is amended, by adding the following new section (additions are underlined; deletions are struck through):

Base Rescue Charges:	
Based on bundled rate plan adopted May 1, 2013, these rates shall automatically adjust by 5 % annually in accordance with current Maine State Law.	
Basic Life Support Non-Emergency (adopted 05/01/2013) (amended 05/07/2014) (05/20/15; amended 05/18/16; amended 03/15/17; amended 05/17/17; updated 01/01/19; updated 01/01/2020)	\$605.60
Basic Life Support Emergency (adopted 05/01/2013) (amended 05/07/2014) (05/20/15; amended 05/18/16; amended 03/15/17; amended 05/17/17; updated 01/01/19; updated 01/01/2020; amended 06/02/2021), updated (2/1/2024)	\$757.10
Advance Life Support Level 1 Emergency (adopted 05/01/2013) (amended 05/07/2014) (05/20/15; amended 05/18/16; amended 03/15/17; amended 05/17/17; updated 01/01/19; updated 01/01/2020), updated (2/1/2024)	\$930.65
Advance Life Support Level 2 Emergency (adopted 05/01/2013) (amended 05/07/2014) (05/20/15; amended 05/18/16; amended 03/15/17; amended 05/17/17; updated 01/01/19; updated 01/01/2020)	\$1,325.63

Additional Rescue Charges:	
Mileage/Non-Covered Mileage (adopted 05/07/2014) (05/20/1; amended 05/18/165; amended 05/17/17; updated 01/01/19; updated 01/01/2020; amended 06/02/2021)	\$15.26
Evaluation/No Transport (amended 05/05/04)(amended 05/06/09)(amended 01/18/12),	\$125.00
<u>Lift Assist – Emergency medical service response to assist lifting a person in a licensed and staffed medical institution or facility.</u>	<u>\$300.00 per response</u>
Paramedic Intercept Fee (05/21/2008; updated 01/01/2020), updated (2/1/2024)	\$300.00
Fees are set by State Statutes – pursuant to Title 22, Health and Welfare, subtitle 2, §1711, pertaining to <i>Fees charges</i> , and as amended from time to time. (adopted 05/07/2014)	

Vote: 7 Yeas. Motion Passes.

Order No. 24-007. First reading and schedule the second reading to repeal and replace the 90-day Moratorium that the Town Council approved on August 16, 2023 and enact a new Cannabis Moratorium that would apply Town-wide. [Ordinance Committee] Liam Gallagher, Assistant Town Manager, gave a brief overview on this Order.

The following individuals spoke:

- Nina McKee of Black Point Road, felt these licenses were out of control and urged the Council to vote in support of the moratorium.
- Alyson Bristol of Bayview Avenue, spoke in favor of this moratorium.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval of the first reading to repeal and replace the 90-day Moratorium that the Town Council approved on August 16, 2023 and enact a new Cannabis Moratorium that would apply Town-wide and schedule the second reading for Wednesday, February 7, 2024, as follows:

**TOWN OF SCARBOROUGH ORDINANCE ESTABLISHING A MORATORIUM
ON ADULT USE CANNABIS CULTIVATION FACILITIES AND MEDICAL
CANNABIS CULTIVATION FACILITIES**

WHEREAS, the Maine Medical Use of Cannabis Act, 22 M.R.S. § 2429-D, and the Cannabis Legalization Act, 28-B M.R.S. §§ 401-402, specifically authorize municipalities to opt-in to allow and regulate Cannabis Establishments; and,

WHEREAS, the Town of Scarborough currently allows certain Cannabis Establishments, including Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities, to operate in the Town, subject to a license under the Cannabis Establishment Licensing Ordinance and applicable approvals under the Zoning Ordinance;

and,

WHEREAS, since the adoption of the above ordinances there has been an increasing number of requests regarding the establishment or expansion of Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities through Town; and,

WHEREAS, operations related to Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities raise a number of concerns related to public safety and welfare, including, but not limited to, potential adverse effects on neighborhoods, security of the facilities, and odors that may create a public nuisance or hazard; and,

WHEREAS, on May 3, 2023, the Town Council adopted a 90-day emergency moratorium on the acceptance, processing, or acting upon any application for any approval, including but not limited to a building permit, certificate of occupancy, site plan review, conditional use, license or any other approval, relating to the establishment, operation, or expansion of a business or operation for an Adult Use Marijuana Cultivation Facility or Medical Marijuana Cultivation (the name since changed to “cannabis” pursuant to state law and ordinance amendment) in the Pine Point Overlay District, in the Town, and voted to extend the moratorium for an additional 180-days on August 16, 2023 which is set to expire on February 12, 2024; and,

WHEREAS, the Town’s existing ordinances do not provide an adequate mechanism to regulate and control Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities in the Town and are inadequate to prevent the potential for serious public harm from the development of future Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities; and,

WHEREAS, the Town needs a reasonable amount of time to continue to study the land use and licensing implications of Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities and to develop reasonable regulations governing their location and operation; and,

NOW THEREFORE, pursuant to the authority granted to it by 30-A M.R.S. § 4356, be it hereby ordained by the Town Council of the Town of Scarborough, Maine, as follows:

1. DEFINITIONS.

As used in this Ordinance, the following terms have the following meanings:

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

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

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

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

“Medical Cannabis Cultivation Facility” shall mean a medical cannabis cultivation area used or occupied by one or more medical cannabis registered caregivers and a facility to cultivate, prepare and package medical cannabis at a location that is not the residence of a registered caregiver or qualifying patient.

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

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

“Medical Cannabis Testing Facility” shall mean a “cannabis testing facility” as that term is defined in 22 M.R.S. §2422(5-C), as may be amended.

2. APPLICABILITY AND PURPOSE.

Notwithstanding the provisions of 1 M.R.S. § 302, this Ordinance shall apply to any proposal to establish, operate, or expand a business or operation for an Adult Use Cannabis Cultivation Facility or Medical Cannabis Cultivation Facility in the Town of Scarborough, whether or not an application or a proceeding to establish or operate a business or operation for a Adult Use Cannabis Cultivation Facility or Medical Cannabis Cultivation Facility would be deemed a pending proceeding under 1 M.R.S.A. § 302.

3. PROHIBITION.

During the time this Ordinance is in effect, no official, officer, board, body, agency, agent or employee of the Town of Scarborough shall accept, process or act upon any application for any approval, including but not limited to a building permit, certificate of occupancy, site plan review, conditional use, license, or any other approval, relating to the establishment, operation, or expansion of a business or operation for an Adult Use Cannabis Cultivation Facility or Medical Cannabis Cultivation Facility. No person shall establish or operate a business or operation for an Adult Use Cannabis Cultivation Facility or Medical Cannabis Cultivation Facility that was proposed on or after the effective date of this Ordinance or shall expand the operations of any Adult Use Cannabis Cultivation Facility or Medical Cannabis Cultivation Facility that was established or operated prior to the effective date of this Ordinance. This prohibition does not apply to the operation of existing licensed Adult Use Cannabis Cultivation Facilities or Medical Cannabis Cultivation Facilities as of the date of enactment of this Ordinance, although it does apply to any proposed expansion of an existing licensed business or operation.

4. ENFORCEMENT, VIOLATION AND PENALTIES.

This Ordinance shall be enforced by the Code Enforcement Officer of the Town of Scarborough. Any person who violates Section 3 of this ordinance shall be subject to civil penalties and other remedies as provided in 30-A M.R.S.A. § 4452.

5. EFFECTIVE DATE.

This Ordinance takes effect immediately upon adoption and shall expire on the 180th day thereafter, unless earlier extended, repealed or modified by the Scarborough Town Council.

6. SEVERABILITY.

Should any section or provision of this Ordinance be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.

Vote: 7 Yeas. Motion Passes.

Order No. 24-008. Act on the request from the Police Chief to accept a \$1,500 donation from Stacey Woidt to be used for basic necessities for individuals or families in need. [Police Chief] Liam Gallagher, Assistant Town Manager, gave a brief overview on this Order.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the request from the Police Chief to accept a \$1,500 donation from Stacey Woidt to be used for basic necessities for individuals or families in need.

Vote: 7 Yeas. Motion Passes.

Order No. 24-009. Act on the request, pursuant to Title 23, M.R.S.A. §3025 and the requirements of Section 4, of the Scarborough Street Acceptance Ordinance, to approve the acceptance of public infrastructure, as noted and recommended by the Town Engineer. [Town Engineer] Angela Blanchette, Town Engineer, gave a brief overview on this Order and responded to questions from the Town Council.

The following individual spoke:

- Nina McKee of Black Point Road, asked if the abutters had been notified and whether they approved. Chairman McGee and the Town Engineer responded.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the request, pursuant to Title 23, M.R.S.A. §3025 and the requirements of Section 4, of the Scarborough Street Acceptance Ordinance, to approve the acceptance of public infrastructure [portions of Hackamore Avenue and Pacer Way], as noted and recommended by the Town Engineer.

Vote: 7 Yeas. Motion Passes.

Order No. 24-010. Act on the request from the Shellfish Conservation Commission to approve the Shellfish Allocations for the 2024 Season. [Shellfish Conservation Commission] The Town Clerk gave a brief overview on this Order, noting that the only license change was adding the 10 Non-Resident Day Passes.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the request from the Shellfish Conservation Commissions to approve the Shellfish Allocations for the 2024 Season, as follows:

<i>Class</i>	<i>Subclass</i>	<i>Amount</i>	<i>Cost</i>
Commercial	Resident	30	\$200.00
Commercial	Nonresident	3	\$400.00
Commercial	Senior Resident – 1 bushel	2	\$100.00
Commercial	Junior/Student Resident	10	\$100.00
Commercial	Junior/Student Nonresident	1	\$200.00

Recreational	Resident	200	\$25.00
Recreational	Nonresident	20	\$50.00
Recreational	Senior Resident	140	\$0.00
Recreational	Senior Nonresident	14	\$0.00
Recreational	Day- Resident	10 per day	\$10.00
Recreational	Day- Non-resident	10 per day	\$20.00

Vote: 7 Yeas. Motion Passes.

Order No. 24-011. Act on the request to approve the names to the Ad-Hoc Open Space Committee. [*Councilor Shupe*] Councilor Shupe gave a brief overview on this Order.

The following individual spoke:

- Nina McKee of Black Point Road, felt that the focus should be on the Schools and not the community center.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the following names to the Ad-Hoc Open Space Committee:

Committee	Nominee
Conservation Commission	Maggie Vishneau
Parks and Conservation Land Board	Doug Williams
Community Services Advisory Committee	Patricia Brigham
Long Range Planning Committee	Robyn Saunders (Marvin Gates and Robert Odlin alternates)
Shellfish Committee	Daryen Granata
Coastal Waters and Harbor Advisory Committee	Liam Erickson
Scarborough Land Trust	Andrew Mackie
Friends of Scarborough Marsh	Crescencia (Crescie) Mauer
Scarborough Fish and Game Association	Mike Kane

Vote: 7 Yeas. Motion Passes.

Order No. 24-012. Act on the request to approve the charge for the School Building Committee – Phase I. [*Chairman McGee*] Chairman McGee gave a brief overview on this Order. Shannon Lindstrom, Chair of the Board of Education, also spoke on this recommendation.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the charge for the School Building Committee – Phase I, as follows:

School Building Advisory Committee (Phase I)

Committee Created:

There is hereby created a School Building Advisory Committee (SBAC) to consist of all interested residents of Scarborough that meet the following criteria:

- 1) Must be a current resident of Scarborough.

- 2) Must submit an application no later than February 9, 2024.
- 3) Must commit to the attendance requirements established herein.

Building Committee Leadership Team Created:

The Building Committee Leadership Team (BCLT) shall consist of nine members as follows:

- 1) Two Town Council Members or their respective designees.
- 2) Two Board of Education Members or their respective designees.
- 3) A Chairperson, elected by the full SBAC.
- 4) A Vice-Chairperson, elected by the full SBAC.
- 5) Three At-Large members, elected by the full SBAC.

Non-voting advisory members to BCLT:

The Superintendent of Schools and the Town Manager (or their respective designees) shall be non-voting ex-officio members and shall serve as the staff liaisons to the Committee. The Facilities Manager, the school Business Manager, and town Finance Director shall be invited to participate in Committee meetings to serve as a non-voting staff resource.

Committee Charge:

The SBAC shall be a joint ad hoc advisory committee of the Board of Education and Town Council, assisting them in their respective responsibilities for development of a solution to current and future space deficiencies within the K-8 schools. The BCLT shall act as the leadership of the SBAC and implement any necessary protocols, establish meetings, sub-committees and make appointments to accomplish the following:

- 1) Organize appropriate sub-committees as necessary to evaluate the following:
 - a. Analyze the results of a town-wide school support survey and use the information to guide final recommendation to the Town Council and Board of Education
 - b. Conduct an analysis of assumptions and accuracies of:
 - i. School Enrollment projections
 - ii. Space needs analysis
 - iii. Current facilities deficiencies/opportunities
 - iv. Business Case
 - v. Any other findings that warrant review
- 2) Provide a final recommendation report on a path forward by May 1, 2024. The report will be used in a joint BOE/Town Council workshop to be held on May 15, 2024.

The expectation is that the SBAC will recommend whether a renovation/expansion approach, a unified approach, a hybrid approach, or other variation should be the path pursued for the community.

Public Input and Outreach:

The Committee shall seek public engagement and input in its deliberations through a multi-channel public outreach campaign, which may include websites, social media, e-mail, public signage, notices in the newspaper and direct mail. All relevant documents, meeting minutes and reports produced by the SBAC via the town website.

Committee Reports:

The Committee chairs will regularly update the School Board and Town Council on the progress of the Committee.

Attendance Requirements:

All SBAC members are required to participate in at least one sub-committee as appointed to by the BCLT. If a member misses more than three sub-committee and/or SBAC meetings without BCLT approval, it will result in dismissal from the SBAC. Appointments to fill vacancies are to be made at the discretion of the BCLT as necessary.

Other:

It is the intent of the Town Council and Board of Education to implement a Phase II Committee Charge and scope of work after the completion of Phase I and formal acceptance of the recommendations by each respective body.

Vote: 7 Yeas. Motion Passes.

Item 9. Non-Action Item. None at this time.

Item 10. Standing and Special Committee Reports and Liaison Reports.

- Councilor Sither gave an update on the Communications Committee.
- Councilor Anderson gave an update on Councilor Corner Live that is scheduled for Thursday, January 25, 2024 at 6:00 p.m. at the Public Safety Building. He then gave an update on the Finance Committee and noted that the Maple Avenue meeting was rescheduled for Wednesday, January 24, 2024 at 6:00 p.m. at Town Hall.
- Councilor Caterina gave updates on the MMA Legislative Policy Committee and the AD-Hoc Community Center Committee.
- Councilor Shupe gave an update on the Appointments/Negotiations Committee and posted the following names:

Board of Assessment Review:

Reappoint Christopher Herrick as a full voting member with a term to expire 2026.

Community Services Advisory Board:

Reappoint Patricia Brigham and Emily Loder as full voting members with a term to expire 2026.

Conservation Commission:

Reappoint Randi Hogan as a full voting member, move Cathleen Miller from first alternate to a full voting member with a term to expire 2025, Abel Plaud from second alternate to a full voting member with a term to expire 2024, appoint Bennett Flanders as first alternate with a term to expire 2026, and appoint Loren Johnston as second alternate with a term to expire 2026.

Housing Alliance Committee:

Reappoint Robert Nadeau as a full voting member with a term to expire 2026 and appoint Bill Shanahan as a full voting member with a term to expire 2026.

Parks and Conservation Land Board:

Reappoint Richard Murphy and Jessica Sargent as full voting members with a term to expire 2026.

Personnel Board of Appeals:

Reappoint Jennifer Beeley and Denise Smith as full voting members with a term to expire 2026 and appoint Penny Whitney-Asdourian as second alternate with a term to expire 2026.

Planning Board:

Reappoint Roger Beeley as a full voting member and Bennett Flanders as a second alternate with a term to expire 2026.

Sustainability Committee:

Reappoint J. Anton Bodor as a full voting member and Patrice Kastenholtz as second alternate with a term to expire 2026.

Transportation Committee:

Reappoint Thomas Barclay as a full voting member and Craig Robinson as first alternate with a term to expire 2026.

Zoning Board of Appeals:

Reappoint Michelle Stephenson as a full voting member and Joseph Doherty as second alternate with a term to expire 2026.

- Councilor Cushing would be attending the ecomaine Board meeting tomorrow.

Item 11. Council Member Comments. None at this time.

Order No. 24-013. Act on the request for an executive session pursuant to Title 1, §405.6.(a) regarding the Town Manager’s Performance Evaluation. [*Chairman McGee*] In response to a Point of Order from the Assistant Town Manager, the Town Clerk stated that the Council will open the doors from executive session to public session and adjourn the meeting.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the request for an executive session pursuant to Title 1, §405.6.(a) regarding the Town Manager’s Performance Evaluation and to open back to public session to adjourn the meeting.

Vote: 7 Yeas.

Meeting recessed to executive session at 9:34 p.m. Chairman McGee reconvened the meeting in public session at 10:27 p.m. and aske for a motion to adjourn.

Item 12. Adjournment. Motion by Councilor Caterina, seconded by Councilor Sither, to move approval to adjourn the regular meeting of the Scarborough Town Council.

Vote: 7 Yeas. Motion Passes.

Meeting adjourned at 10:27 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk