

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 1, 2024
JOINT BUDGET JOINT WORKSHOP WITH BOARD OF EDUCATION
RE: FY2025 MUNICIPAL/SCHOOL BUDGETS – 5:30 P.M.
HYBRID REGULAR MEETING – 7:00 P.M.

TO VIEW TOWN COUNCIL MEETING & OFFER PUBLIC COMMENT:

<https://scarboroughmaine.zoom.us/j/89372757051>

TO VIEW TOWN COUNCIL MEETING ONLY:

<https://www.youtube.com/channel/UCD5Y8CFy5HpXMftV3xX73aw>

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

- Item 1.** Call to Order.
- Item 2.** Pledge of Allegiance.
- Item 3.** Roll Call.
- Item 4.** General Public Comments.
- Item 5.** Minutes: April 17, 2024 - Town Council Meeting.
- Item 6.** Adjustment to the Agenda.
- Item 7.** Items to be signed: a. Treasurer's Warrants.
- Item 8.** Town Manager Report.

***Procedure for Addressing Council [Councilor Chair will explain process]**

Order No. 24-033, 7:00 p.m. Public hearing on the proposed FY2025 Municipal/School Budget.
[Town Manager/Superintendent of Schools]

Order No. 24-035, 7:00 p.m. Public hearing and second reading on the proposed repeal and replacement of Chapter 405A Floodplain Management Ordinance as required to maintain standing in the National Flood Insurance Program (NFIP) and to recognize the areas of special flood hazard, Zones A, AE, and VE for the Town of Scarborough, Cumberland County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Cumberland County, Maine" dated June 20, 2024, with accompanying "Flood Insurance Rate Map" dated June 20, 2024, as amended. *[Planning Director]*

Order No. 24-040, 7:00 p.m. Public hearing and second reading on the proposed changes to Chapter 1018 – the Town of Scarborough Cannabis Establishment Licensing Ordinance. *[Assistant Town Manager]*

Proclamation 24-002. Act on the request to proclaim the month of May 2024 as Building Safety Month.
[Zoning Administrator]

Proclamation 24-003. Act on the request to proclaim May 5-11, 2024 as Municipal Clerk's Week.
[Town Clerk]

OLD BUSINESS:

Order No. 24-036. Second reading to adopt new Chapter 1104B – the Town of Scarborough Commercial Property Assessed Clean Energy Program (C-Pace) and authorize the Town Manager to enter into a Participation Agreement with Efficiency Maine on behalf of the Town of Scarborough. *[Sustainability Coordinator]*

NEW BUSINESS:

Order No. 24-041. First reading and refer to the Planning Board, the proposed amendments to Chapter 405B Site Plan Review, IV Performance and Design Standards, D. Parking Areas; E. Pedestrian Ways, Space and Alternative Transportation; F. Landscape, Buffering and Greenspace; K. Outdoor Storage; Appendix Plant Material List; and Chapter 405B-1 Design Standards for Commercial Districts. *[Planning Director]*

Order No. 24-042. First reading and schedule a public hearing and second reading to repeal in its entirety Chapter 415A Scarborough Roadway Impact Fee Ordinance: Dunstan Corner Capital Improvement District; repeal in its entirety Chapter 415B Scarborough Roadway Impact Fee Ordinance: Haigis Parkway / Route One Capital Improvement District, repeal in its entirety Chapter 410 Scarborough Roadway Impact Fee Ordinance: Payne Road Area Capital Improvement Districts; and replace with amended Chapter 415 Impact Fee Ordinance with an effective date of July 1, 2024. *[Planning Director, Town Engineer]*

Order No. 24-043. Act on the request from the Police Chief and the Community Services Director to accept grants on behalf of the VIPS [Volunteer in Police Service] and Community Services in the amount of \$2,500 each from the Scarborough Chamber of Commerce. *[Police Chief/Director of Community Services]*

Order No. 24-044. Act on the request to sign the Warrants for the Regular Municipal and School Budget Validation Referendum, scheduled for Tuesday, June 11, 2024, at the Scarborough High School – Alumni Gym; appoint the warden and warden clerk, set the hours for voter registration, and act on appointments of election clerks, pursuant to Chapter 200 – Article VIII. Nomination and Elections, Title 21-A, §503 and authorize the Town Clerk to make any additional appointments as necessary. *[Town Clerk]*

Item 9. Non-Action Item.

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

Item 11. Council Member Comments.

Item 12. Adjournment.



To: Scarborough Town Council
From: Thomas J. Hall, Town Manager
RE: Town Manager's Report
Date: May 1, 2024

Below is an initial list of items that will be included in the Town Manager's Update at the regular public meeting of May 1, 2024. I will provide a verbal update on each of these items and will likely include other items of interest.

- **FY25 Budget Review**- Directive to reduce Net Budget By \$2.2M
 - Finance Committee Department Sessions - April 11 and 12
 - Finance Committee Review Sessions - April 18 and April 24
 - Public Hearing - May 1, 2024
 - Adoption - May 15, 2024
- **January Storm Damage**-
 - Federal Disaster Declaration issued
 - Scarborough to host two open houses for FEMA Recovery matters
 - Proceeding with public infrastructure repairs-
 - Higgins Beach work- complete
 - Black Point Road- met with DEP and PNIA
 - Maine Geological Survey consultation
 - Summer 2024 Traffic Plan
 - "Municipal Exemption"
 - Engineering Design
- **Ice Storm/Snow Storm Damage**
 - Tree damage town wide
 - Town to removal debris within Town right-of-way- On-going effort
 - Contracted with Bartlett Tree next week
- **Eastern Trail - Close The Gap**
 - Agreement with CSX on Aerial Easement and Construction Agreement
- **Gorham Connector**
 - Scarborough to host public meeting
 - **HOLD June 27, 2024** - Wentworth Cafeteria
- **Award of \$1.4M NOAA Coastal Zone Management Grant**
 - Announcement Ceremony - April 22 (Earth Day)
 - Field Exercise and Roundtable at Town Hall

- **FEMA Disaster Recovery Center** - PSB Classroom
 - Selected Dates: 4/18, 4/30, 5/2 and 5/9 - afternoons
 - "Town Hall" Meeting - 4/18 at 6:00 PM
 - Supplement to Wells and Harpswell - open to the public
- **Erosion at Pilsbury Shores (Pine Point)**
 - Met with residents on April 23, 2024
 - Conservation Easement limiting factor
- **Passing of Josh Roy** - Former Public Works/current SSD employee
- **Ad-Hoc Community Center Committee**
 - Open House Last week
 - Committee work completed in June 2024
 - Town Council Workshop in July - report/presentation
- **Business Community Engagement** - 5/23 at Landry French Offices @ 7:45
 - Landscape Standards - Order No. 24-041
 - Impact Fees - Order No. 24-042
- **Land Bond Survey** - Parks and Conservation Land Board
 - Trust for Public Land technical assistance
 - Guidance for potential Land Bond Question to voters
- **Revaluation Notices**
 - Mailed to every taxpayer
 - To Be Received by the end of May- before School Budget Validation Vote
 - Communications Committee to provide input

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 1, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 24-033, 7:00 p.m. Public hearing on the proposed FY2025 Municipal/School Budget and the second reading will be scheduled for Wednesday, May 15, 2024. *[Town Manager/Superintendent of Schools]*

<i>Town Manager/Superintendent of Schools</i>	<i>Ought to Pass</i>
<hr/>	<hr/>
Sponsor	Recommendation
<i>04/03/2024 – Vote: 6 Yeas and 1 Nay (Councilor Hamill)</i>	
<hr/>	
First Reading/Vote	
<i>05/01/2024</i>	
<hr/>	
Public Hearing	
<i>05/15/2024 – Vote:</i>	
<hr/>	
Second Reading/Final Approval/Vote	

Scarborough Town Council Meeting

Council Meeting Date: May 1, 2024

ACTION ITEM: Order No. 24-033.
SUBJECT: 7:00 p.m. public hearing on the proposed FY2025 Municipal/School Budget . <i>[Town Manager/Superintendent of Schools]</i>
PURPOSE: To approve a new budget for FY2025 for the new year to meet the needs of the municipality
BACKGROUND: In accordance with Article V, Section 502 of the Charter, the Town Manager submitted a budget for Fiscal Year 2025 to the Town Council for their consideration. The Town Finance Committee will conduct a complete and thorough review of the proposed budget and could recommend certain adjustments to the proposed budget. Such adjustments will be offered in the second and final reading.
FISCAL IMPACT:
STATUS / PROCESS TO DATE: <ul style="list-style-type: none">• Proposed FY2025 Budget Presentation by the Town Manager and School Superintendent: March 27, 2024• Joint Council/BOE Workshop: April 3, 2024• First reading before the Town Council: April 3, 2024• Public Hearing before the Town Council: May 1, 2024
PROPOSED ACTION: Second reading on Order No. 24-033, the proposed FY25 Municipal/School Budgets will be scheduled for Wednesday, May 15, 2024.
ATTACHMENTS: <ul style="list-style-type: none">• Proposed Budget Order.

Budget Order for Fiscal Year 2025

Be it ordered that the Scarborough Town Council conducts the public hearing on FY2025 Budget and **schedules the schedule the second reading for Wednesday, May 15, 2024**, the line item appropriations and expenditures for all offices, agencies and departments of the Town as follows:

SUMMARY MUNICIPAL OPERATING BUDGET 2024	
TOTAL EXECUTIVE	4,627,451
TOTAL HUMAN RESOURCE/GENERAL ASSISTANCE	729,839
TOTAL FINANCE ALL DIVISIONS	1,485,382
TOTAL MUNICIPAL INFORMATION SYSTEMS	2,393,829
TOTAL PLANNING DEPARTMENT ALL DIVISIONS	1,015,913
TOTAL COMMUNITY SERVICES ALL DIVISIONS	3,894,514
TOTAL LIBRARY NET – TOWN APPROPRIATION	1,340,938
TOTAL SEDCO	316,078
TOTAL FIRE ALL DIVISIONS	7,611,022
TOTAL POLICE ALL DIVISIONS	8,488,242
TOTAL PUBLIC WORKS ALL DIVISIONS	8,623,246
TOTAL ENGINEERING & TECHNICAL SERVICES	656,237
TOTAL DEBT (Town Only)	5,058,942

Be it further ordered that the Scarborough Town Council hereby appropriates the sum of **\$400,000** for Resident Senior Property Tax Relief as authorized under – Chapter 313 – Property Tax Assistance Ordinance; and,

Be it further ordered that the Scarborough Town Council hereby appropriates, for school purposes, the Education Operating Budget (including school debt), the sum of **\$66,562,878** and the Town of Scarborough raises as the local share for the Education Operating Budget, the sum of **\$56,792,182** and,

Be it further ordered that the Scarborough Town Council hereby appropriates, for school purposes, the Education Adult Education and Food Services, the sum of **\$2,618,550** and the Town of Scarborough raises as the local share for the Education Adult Education and Food Services Budgets, the sum of **\$73,789** and,

Be it further ordered, that the Town Council hereby authorizes the Chairperson of the Town Council to sign the Municipal Expenditure Warrant approving all expenditures paid at the regular meetings of the Town Council and;

Be it further ordered that the Town of Scarborough hereby appropriates the Town's due portion of the County Tax, in the amount of **\$3,342,311** for the period July 1, 2024, through June 30, 2025; and a six-month County Assessment transition of **\$287,875** covering year 2 of 5; and,

Be it further ordered that the Scarborough Town Council hereby approves adding **\$18,346,291** to the Capital Budget and appropriates for Capital purposes, the sum of **\$681,000** for school capital programs and **\$691,000** for town capital; for a total Capital Appropriation of **\$1,372,000** be funded from property taxes.

Be it further ordered that the Town Council hereby authorizes the following utilization of funds from dedicated accounts:

Restricted Fund Balance:

\$1,535,000 from Restricted for Education to reduce the local share of the Education and Adult Ed Operating Budgets
\$1,207,225 from Downtown TIF Account to support Public Safety Building Debt Service
\$316,078 from Downtown TIF Account to support SEDCO operating costs
\$355,610 from Downtown TIF Account to support personnel costs
\$212,000 from Downtown TIF Account to support operating expenses
\$4,000,000 from Grants for repair of Black Point Road

Committed Fund Balance:

\$1,200,000 from Rescue Equipment Reserve to reduce the tax rate
\$443,890 from School Development Impact Fee Account to pay Debt Service for eligible Capital Improvements
\$1,000,000 from Payne Road District 3 account for Mussey Road Intersection Improvements
\$1,005,000 from Downtown TIF Account to pay for eligible Capital Improvements
\$154,000 from the Recreation Fee Account for Hurd Park & Ferry Beach Capital Improvements

Be it further ordered, that the Town Council hereby authorizes the use of **\$985,000** from Unassigned Fund Balance; and,

Be it further ordered that the Total Gross Budget appropriation of **\$144,274,537**, this total less estimated revenues and other credits of **\$56,861,896** result in a Net appropriation of **\$87,412,641**, which shall be raised from taxation. The Scarborough Town Council further fixes **Tuesday, October 15, 2024**, and **Monday, March 17, 2025**, as the dates upon each of which one-half of such tax is due and payable, and pursuant to 36 M.R.S.A. Section 505.4 with interest to accrue upon taxes due and unpaid after each such date at the rate of **8.50%** per annum.

Be it further ordered that the Scarborough Town Council hereby appropriates an estimated **\$500,000** for overlay, which may be adjusted and shall be finally determined by the Town Assessor pursuant to Title 36 MRSA Section 710 within State restrictions; and (such estimated amount is incorporated within the Total Gross Budget as identified within this order); and,

Be it further ordered that the Scarborough Town Council hereby appropriates an estimated **\$4,350,000** for Tax Increment Financing Revenues to be deposited into Tax Increment Financing Development Program Funds, an estimated **\$1,715,000** of which is authorized to be paid pursuant to applicable credit enhancement agreements, both of which amounts may be adjusted and shall be finally determined by Town staff based on actual assessed values and applicable Tax Increment Financing Districts, Development Programs and credit enhancement agreements approved by the Town Council and State Department of Economic and Community Development (such estimated amounts are incorporated within the Total Gross Budget as identified within this order).

Be it further ordered, that in accordance with 36 M.R.S.A Section 506, the Tax Collector/Treasurer is authorized to accept prepayment of taxes not yet committed or prior to any due date and pay no interest thereon. In accordance with 36 M.R.S.A. Section 506-A, a taxpayer who pays an amount in excess of that finally assessed shall be repaid the amount of overpayment plus interest from the date of overpayment at the annual rate of **4.50%**.

Be it further ordered, that the Town Council hereby authorizes the Finance Director and/or Treasurer to withhold monies payable to the Town of Scarborough to cover taxes due pursuant to M.R.S.A. Title 36, Section 905 and to invest funds in accordance with M.R.S.A. Title 30-A, Section 5706; authorizes the Tax Collector to sign on behalf of the Town, the necessary deeds and liens and tax settlements; in accordance with 36 M.R.S.A. Section 906, the Tax Collector and Treasurer are authorized to apply any tax payment received as payment for any property tax against outstanding or delinquent taxes due on that property in chronological order beginning with the oldest unpaid tax bill and processed in the order of liens and fees, interest and then to principal and, after the date of perfection of the tax, the Tax Collector is authorized to discharge any obligation to collect unpaid property taxes in the amount of **\$5.00** or less and remove same from the municipal books, pursuant to 36 M.R.S.A. Section 970-A.

Be it further ordered, that if the 2025 Municipal Budget exceeds the Property Tax Levy Limit for fiscal 2025, pursuant to Title 30-A, Section 5721-A of the Maine Revised Statutes, as amended, it is the intent of the Town Council to increase the commitment to greater than the Property Tax Levy Limit.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 1, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 24-035. Move approval of the second reading on the proposed repeal and replacement of Chapter 405A Floodplain Management Ordinance as required to maintain standing in the National Flood Insurance Program (NFIP) and to recognize the areas of special flood hazard, Zones A, AE, and VE for the Town of Scarborough, Cumberland County, Maine, identified by the Federal Emergency Management Agency in a report entitled “Flood Insurance Study – Cumberland County, Maine” dated June 20, 2024, with accompanying “Flood Insurance Rate Map” dated June 20, 2024. *[Planning Director]*

Planning Director

Ought to Pass

Sponsor

Recommendation

04/03/2024 – Vote: 7 Yeas

First Reading/Vote

05/01/2024

Public Hearing

05/01/2024 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: May 1, 2024

ACTION ITEM: Order No. 24-035**SUBJECT:**

Second reading on the proposed repeal and replacement of Chapter 405A Floodplain Management Ordinance as required to maintain standing in the National Flood Insurance Program (NFIP) and to recognize the areas of special flood hazard, Zones A, AE, and VE for the Town of Scarborough, Cumberland County, Maine, identified by the Federal Emergency Management Agency in a report entitled “Flood Insurance Study – Cumberland County, Maine” dated June 20, 2024, with accompanying “Flood Insurance Rate Map” dated June 20, 2024, as amended. *[Planning Director]*

PURPOSE:

To hold a public hearing for the proposed new Chapter 405A Floodplain Management To review the proposed new Chapter 405A Floodplain Management Ordinance and referenced Flood Insurance Rate Map” dated June 20, 2024, as amended.

BACKGROUND:

Flood zone determination for each property in Scarborough is defined by the Federal Emergency Management Agency (FEMA). FEMA uses flood maps as a tool to indicate which areas are most at risk of being flooded in a community. They maintain and update data through their flood maps and risk assessments. The purpose of the flood maps, aside from using them to make informed decisions about how to reduce or manage risk, is to help mortgage lenders determine insurance requirements.

According to FEMA, flooding is one of the most common and costly disasters. Risk can change over time from new development, weather patterns, and other factors. The current FEMA flood maps used by the Town of Scarborough are from 1986. FEMA began a remapping process around 2012, resulting in preliminary updating flood maps in 2017. After a lengthy appeal process and map revisions for some communities, the Town of Scarborough received a Letter of Final Determination (LFD) from FEMA in December 2023, indicating June 20, 2024 as the effective date of the new Digital Flood Insurance Rate Maps (DFIRMs) for Cumberland County.

As a coastal community, Scarborough participates in FEMA’s National Flood Insurance Program. The NFIP works with communities required to adopt and enforce floodplain management regulations. Other benefits include federal flood insurance to those who have federally backed mortgages in the floodplain and eligibility for disaster funding and low interest loans when the county is in a declared disaster area. With the new FEMA flood maps going into effect, Scarborough must adopt an updated Floodplain Management Ordinance

which references the new map date on or before June 20, 2024 in order to avoid being suspended from the NFIP.

Impact in Scarborough

- Current Flood Zone - 1749 Properties Affected
- Pending Flood Zone - 2323 Properties Affected
- Properties that were not in Flood Zone that are now - 679 Newly Affected Properties
- Properties that were in Flood Zone that now are not - 105 Properties Removed from Flood Zone

Some properties will now be within the new special flood hazard areas (SFHA). An SFHA is an area with a 1% annual chance of flood that meets or exceeds that base flood elevation.

There are 3 major impacts that property owners that will now be within an SFHA need to be aware of:

- They may now be required to obtain flood insurance if they have a federally secured mortgage on their dwelling.
- They will be subject to floodplain management standards when making improvements to their property, such as additions, remodels, new structures, or even septic system replacements.
- They will be subject to substantial improvement/substantial damage provisions, which involves repairs or improvements to the building with a cost equal to or exceeding 50% of the market value of the building alone. At that point, the entire building will need to be brought into compliance with the floodplain management standards.

For those that were already in a SFHA, but find that their base flood elevation has increased, they may experience a rate change in their flood insurance policy, and will also be subject to floodplain management standards for any new construction or substantial improvement or substantial damage. The same can be said for any properties that were in a SFHA and experience a flood zone change. For any property owners that find they are no longer in a SFHA and wish to or are allowed by their mortgage holder to discontinue their flood insurance, they may be able to receive a prorated refund on their insurance premium for the current year only.

Also affected by the change are property owners who have been in the flood zone but submitted a request for a letter of map change (LOMC) in the past. FEMA reviewed these properties and placed them in 4 different categories for when the updated maps go into effect:

1. LOMCs Incorporated - Will be reflected in the new FIRM and will remain in effect until then.

2. LOMCs Not Incorporated - Will not be reflected in the new FIRM because of scale limitations or being outside the new special flood hazard areas, but will be revalidated upon the effective date of the new FIRM.
3. LOMCs Superseded - Will no longer be effective due to the new flood hazard information.
4. LOMCs To Be Redetermined - Previous LOMC information will be reviewed and, if appropriate, a new determination will be made by FEMA.

There were no LOMCs in category #1 and #4. The Town has issued letters to property owners in category 3 to make them aware that their status has changed and, in most cases, they will now find their property in a special flood hazard area and be subject to the regulatory requirements in the Floodplain Management Ordinance. Properties in category 2 will not be impacted as their LOMC will be revalidated free of charge 1 day after the new FIRM becomes effective. This only involves properties that, in years past, applied for and received a LOMC.

Timeline:

- 2017: FEMA delivers preliminary flood maps
- 2018: Town of Scarborough and neighboring communities submit appeals of the preliminary flood maps
- 2019: FEMA denies Scarborough's appeal as well as all communities in Cumberland and York Counties, except South Portland and Old Orchard Beach
- December 2023: Scarborough receives letter of Final Map Determination from FEMA indicating that flood hazard determinations are now considered final, and that NFIP communities must adopt the new Flood Insurance Study and Flood Insurance Rate Maps by the effective date of June 20, 2024.
- January 2024: Scarborough receives letter from State of Maine regarding rollout requirements for the new Digital Flood Insurance Rate Maps (DFIRMs) for Cumberland County, effective June 20, 2024.

Planning Board Public Hearing Update:

At the first reading on April 3, 2024, Town Council requested the Planning Board review the idea of increasing the amount of Freeboard required from one foot to two feet.

Freeboard is defined as a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Freeboard is not required by NFIP standards, but communities are encouraged to adopt at least a one-foot freeboard to account for the one-foot rise built into the concept of designating a floodway and the encroachment requirements where floodways have not

been designated. Freeboard results in significantly lower flood insurance rates due to lower flood risk. Scarborough currently requires one foot of freeboard.

Scarborough's Shoreland Zoning requirements include requirements that the lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils.

At its Public Hearing on April 16, 2024, the Planning Board reviewed the proposed amendments to the Chapter 405A Floodplain Management Ordinance. After consultation with the Board Chair, the recommendation is as follows:

1. In response to the Council's initial inquiry whether increasing minimum freeboard elevation from 1 to 2 feet, the Board is in favor of this increase. This is for a multitude of reasons, including climate change impacts, sea level rise, and their effects on the town's resources as a result of recurring flooding to the Nonesuch River, Red Brook and other water bodies of special significance to the Town.
2. The Board also discussed the potential to separate minimum freeboard elevation based on proximity to freshwater versus saltwater. One other community in the state separates these standards, and the Board recommends that the Town continue to adopt one universal minimum elevation of 2 feet, as most water bodies in Scarborough are brackish.

FISCAL IMPACT:

Will have direct effect on individual property owners depending upon mortgage status and current floodplain insurance status.

STATUS / PROCESS TO DATE:

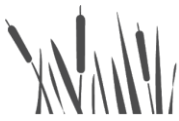
- Town Council Workshop: March 20, 2024
- Town Council First Reading: April 3, 2024
- Planning Board Public Hearing: April 16, 2024
- Town Council Public Hearing and Second Reading: May 1, 2024

PROPOSED ACTION:

Hold a public hearing for the proposed repeal and replacement of Chapter 405A Floodplain Management Ordinance as required to maintain standing in the National Flood Insurance Program (NFIP) and to recognize the areas of special flood hazard, Zones A, AE, and VE for the Town of Scarborough, Cumberland County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Cumberland County, Maine" dated June 20, 2024, with accompanying "Flood Insurance Rate Map" dated June 20, 2024, as amended.

ATTACHMENTS:

- Existing Chapter 405A Floodplain Management Ordinance
- Replaced Chapter 405A Floodplain Management Ordinance

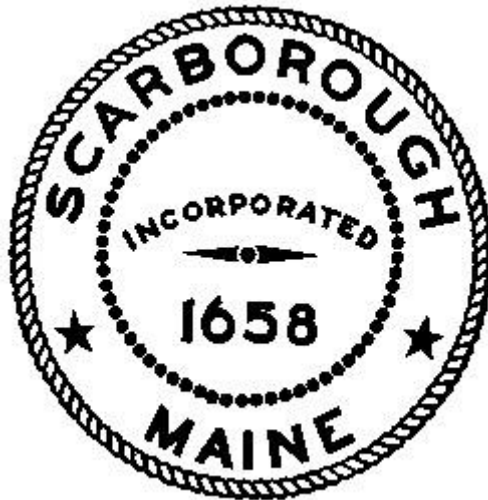


- December 20, 2024 Letter from FEMA
- January 8, 2024 Letter from DACF Directing Action
- Planning Board Recommendation April 16, 2024
- Draft Planning Board Minutes April 16, 2024
- Conservation Commission Recommendation

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following new Chapter 405A Town of Scarborough Floodplain Management Ordinance does hereby repeal this Ordinance and replaces it with the new Floodplain Management Ordinance recommended by the Planning Director.

CHAPTER 405A

TOWN OF SCARBOROUGH FLOODPLAIN MANAGEMENT ORDINANCE



Enacted on March 7, 2007
Amended October 17, 2007

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CHAPTER 405A
TOWN OF SCARBOROUGH
FLOODPLAIN MANAGEMENT ORDINANCE

ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Scarborough, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Scarborough, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Scarborough, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Scarborough has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Scarborough having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Scarborough, Maine.

The areas of special flood hazard, Zones A, A1-30, AO, and V1-30, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Scarborough, Maine, Cumberland County," dated December 19, 1984 with accompanying "Flood Insurance Rate Map" dated April 2, 1992, which are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer except as provided in Article VII. This permit shall be in addition to any other permits, which may be required pursuant to the codes and ordinances of the Town of Scarborough, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;
[Items H-K.3. apply only to new construction and substantial improvements.]
- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones A1-30, AO, and V1-30, from data contained in the "Flood Insurance Study - Town of Scarborough, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and IX.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form 81-65, 02/06, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI; (amended 10/17/2007)
 - 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zones V1-30, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
 - 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 - 4. a certified statement that bridges will meet the standards of Article VI.M.;
 - 5. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee for all minor development and for all new construction or substantial improvements as set forth in the Schedule of Fees shall be paid to the Town Clerk or Code Enforcement Officer and a copy of a receipt for the same shall accompany the application. (amended 10/17/2007)

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1. the base flood and floodway data contained in the "Flood Insurance Study - Town of Scarborough, Maine," as described in Article I.;
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
 - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
 - 1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the

elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and,
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

- B. Water Supply - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- C. Sanitary Sewage Systems - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into floodwaters.
- D. On Site Waste Disposal Systems - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. Watercourse Carrying Capacity - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. Residential - New construction or substantial improvement of any residential structure located within:
 - 1. Zones A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 - 2. Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
 - 3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified.
 - 4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
 - 5. Zones V1-30 shall meet the requirements of Article VI.P.
- G. Non Residential - New construction or substantial improvement of any non-residential structure located within:
 - 1. Zones A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood

Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; or,
 - c. together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Article VI.G.1.
4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or
 - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.
5. Zones V1-30 shall meet the requirements of Article VI.P.

H. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zones A1-30 shall:
 - a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.
2. Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.

3. Zone AO shall have the lowest floor (including basement) of the manufactured home elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; and,
 - c. meet the anchoring requirements of Article VI.H.1.c.
4. Zone A shall:
 - a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and
 - b. meet the anchoring requirements of Article VI.H.1.c.
5. Zones V1-30 shall meet the requirements of Article VI.P.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A1-30 shall either:
 - a. be on the site for fewer than 180 consecutive days,
 - b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
 - c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.
2. Zones V1-30 shall meet the requirements of either Article VII.1.a. or b., or Article VI.P.

J. Accessory Structures - Accessory Structures, as defined in Article XIV, located within Zones A1-30, AO, and A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
4. be located outside the floodway;
5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. Floodways -

1. In Zones A1-30 riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 2. In Zones A1-30 and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/ January 1995, as amended).
 3. In Zones A1-30 and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- L. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any structure in Zones A1-30, AO, and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
1. Enclosed areas are not "basements" as defined in Article XIV;
 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of

flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,
 4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. Bridges - New construction or substantial improvement of any bridge in Zones A1-30, AO, A, and V1-30 shall be designed such that:
1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
 2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- N. Containment Walls - New construction or substantial improvement of any containment wall located within:
1. Zones A1-30, A, and V1-30 shall:
 - a. have the containment wall elevated to at least one foot above the base flood elevation;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.
 2. Zone AO shall have adequate drainage paths around containment walls on slopes, to guide floodwater away from the proposed walls.
 3. Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; and,
 - c. shall meet the requirements of Article VI.N.1.b. & c.
- O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A1-30, AO, A, and V1-30, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

P. Coastal Floodplains -

1. All new construction located within Zones A1-30, A, and V1-30 shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
2. New construction or substantial improvement of any structure located within Zones V1-30 shall:
 - a. be elevated on posts or columns such that:
 - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
 - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
 - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
 - b. have the space below the lowest floor:
 - (1) free of obstructions; or,
 - (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
 - (3) constructed with non-supporting breakaway walls, which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
 - c. require a registered professional engineer or architect to: (amended 10/17/2007)
 - (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55/June, 2000); and,
 - (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.
3. The use of fill for structural support in Zones V1-30 is prohibited.
4. Human alteration of sand dunes within Zones V1-30 is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.

6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and V.L. are met:
 - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
 - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
 - d. The structure shall have unfinished interiors and shall not be used for human habitation.
 - e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
 - f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

Article VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit.

1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.

5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure, which is constructed or substantially improved, shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:
 1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,
 2. for structures in Zones V1-30, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
 1. review the required certificate(s) and the applicant's written notification; and,
 2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.

- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the Town of Scarborough may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - 1. a showing of good and sufficient cause; and,
 - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 - 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,

- d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - 1. other criteria of Article X and Article VI.K. are met; and,
 - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 - 1. the development meets the criteria of Article X, paragraphs A. through D. above; and,
 - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
 - 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 - 2. such construction below the base flood level increases risks to life and property; and,
 - 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- G. Appeal Procedure for Administrative and Variance Appeals
 - 1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
 - 2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
 - 3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.

4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE XI - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure:

Means a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade:

Means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Shallow Flooding:

Means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard:

Means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood:

Means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement:

Means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall:

Means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building:

See Structure.

Certificate of Compliance:

A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer:

A person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances. (amended 10/17/2007)

Conditional Use:

Means a use that because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Development:

Means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. (*The new wording of this definition is directly from the FEMA regulations at 44 CFR 59.1*) (amended 10/17/2007)

Elevated Building:

Means a non-basement building:

- a. built, in the case of a building in Zones A1-30, A, or AO, to have the top of the elevated floor, or in the case of a building in Zones V1-30 to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A1-30, A, or AO, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Zones V1-30, Elevated Building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

Elevation Certificate:

An official form (FEMA Form 81-31, 02/06, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

Flood or Flooding:

Means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding

anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study:

Means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM):

Means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study:

See Flood Elevation Study.

Floodplain or Flood-prone Area:

Means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management:

Means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations:

Means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing:

Means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway:

See Regulatory Floodway.

Floodway Encroachment Lines:

Mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard:

Means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could

contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use:

Means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure:

Means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum:

Means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor:

Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this Ordinance.

Manufactured Home:

Means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision:

Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level:

Means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development:

Means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD):

Means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)."

New Construction:

Means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

100-year flood:

See Base Flood.

Recreational Vehicle:

Means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway:

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and

- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine:

Means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area:

See Area of Special Flood Hazard.

Start of Construction:

Means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure:

Means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage:

Means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement:

Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the

local code enforcement official and which are the minimum necessary to assure safe living conditions; or

- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

Variance:

Means a grant of relief by a community from the terms of a floodplain management regulation.

Violation:

Means the failure of a structure or development to comply with a community's floodplain management regulations.

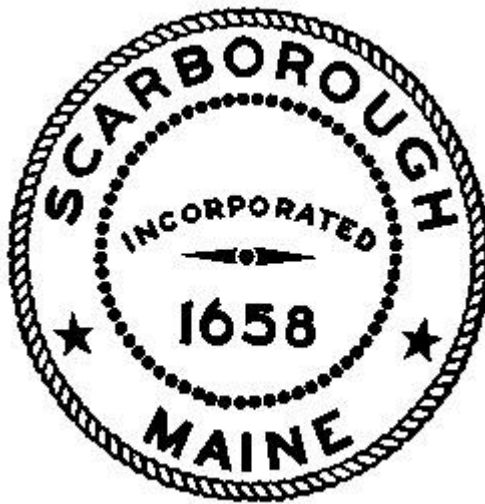
ARTICLE XV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following new Chapter 405A Town of Scarborough Floodplain Management Ordinance does hereby repeal and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

CHAPTER 405A

TOWN OF SCARBOROUGH FLOODPLAIN MANAGEMENT ORDINANCE



ENACTED: May 15, 2024

EFFECTIVE: June 20, 2024

CERTIFIED BY: _____
Signature

CERTIFIED BY: _____
Print Name

Title

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Scarborough, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Scarborough, Maine has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Scarborough, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Scarborough has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Scarborough having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Scarborough, Maine.

The areas of special flood hazard, Zones A, AE, and VE for the Town of Scarborough, Cumberland County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Cumberland County, Maine" dated June 20, 2024, with accompanying "Flood Insurance Rate Map" dated June 20, 2024, as amended, are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

The Code Enforcement Officer shall be designated as the local Floodplain Administrator. The Floodplain Administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the National Flood Insurance Program.

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer, except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Scarborough, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address, and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;

- C. A site plan showing locations of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.3. apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones AE and VE from data contained in the "Flood Insurance Study - Cumberland County, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.M. and IX.D.; or,
 - (2) in the absence of all data described in Article III.H.1.b.(1), information to demonstrate that the structure shall meet the elevation requirement in Article VI.H.2.b., Article VI.I.2.b., or Article VI.J.2.b.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement;
 - 4. lowest machinery and equipment servicing the building; and,
 - 5. level, in the case of non-residential structures only, to which the structure will be floodproofed.
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by:
 - 1. a Professional Land Surveyor that the grade elevations shown on the application are accurate; and,
 - 2. a Professional Land Surveyor, registered professional engineer or architect that the base flood elevation shown on the application is accurate.
- K. The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form FF-206-FY-22-153, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article VI.I., and other applicable standards in Article VI;
 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE and Coastal AE Zone, will meet the criteria of Article VI.R.; and other applicable standards in Article VI;
 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.N.2.a.;
 4. a certified statement that bridges will meet the standards of Article VI.O.;
 5. a certified statement that containment walls will meet the standards of Article VI.P.
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee for all minor development and for all new construction or substantial improvements as set forth in the Schedule of Fees shall be paid to the Town Clerk or Code Enforcement Officer and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 1. the base flood and floodway data contained in the "Flood Insurance Study - Cumberland County, Maine," as described in Article I;

2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.(1); Article VI.M.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b.(1), the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an “under construction” Elevation Certificate completed by a Professional Land Surveyor based on the Part I permit construction for verifying compliance with the elevation requirements of Article VI, paragraphs H., I., J., or R. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.I.1. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
 3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes but is not limited to: accessory structures as provided for in Article

V.I.L., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance, and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

A. **All Development** - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse, or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and,
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.

B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. **Utilities** - New construction or substantial improvement of any structure (including manufactured homes) located within:

1. Zones A and AE shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least one foot above the base flood elevation.
2. Zone VE shall meet the requirements of Article VI.R.2.

G. **Physical Changes to the Natural Landscape** - Certain development projects, including but not limited to, retaining walls, sea walls, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.

1. All development projects in Zones AE and VE that cause physical changes to the natural landscape shall be reviewed by a Professional Engineer to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazard boundary line.
 - a. If the Professional Engineer determines, through the use of engineering judgement, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.
 - b. If the Professional Engineer determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.
2. If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated.
3. If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, but no later than 6 months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

H. **Residential** - New construction or substantial improvement of any residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated:

- a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article IX.D., or;
- b. in the absence of all data described in Article VI.H.2.a., to at least two feet above the highest adjacent grade to the structure.

3. Zone VE and Coastal AE Zone (as defined) shall meet the requirements of Article VI.R.

I. Non-Residential - New construction or substantial improvement of any non-residential structure located within:

- 1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K., and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
- 2. Zone A shall have the lowest floor (including basement) elevated:
 - a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article IX.D., or;
 - b. in the absence of all data described in Article VI.I.2.a., to at least two feet above the highest adjacent grade to the structure; or,
 - c. together with attendant utility and sanitary facilities, be floodproofed to one foot above the elevation established in Article VI.I.2.a. or b. and meet the floodproofing standards of Article VI.I.1.a., b., and c.
- 3. Zone VE and Coastal AE Zone (as defined) shall meet the requirements of Article VI.R.

J. Manufactured Homes - New or substantially improved manufactured homes located within:

- 1. Zone AE shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) All components of the anchoring system described in Article VI.J.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.
2. Zone A shall:
- a. be elevated on a permanent foundation, as described in Article VI.J.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article IX.D.; or,
 - b. in the absence of all data described in Article VI.J.2.a., to at least two feet above the highest adjacent grade to the structure; and,
 - c. meet the anchoring requirements of VI.J.1.c.
5. Zone VE and Coastal AE Zone (as defined) shall meet the requirements of Article VI.R.

K. Recreational Vehicles - Recreational Vehicles located within:

- 1. Zones A and AE shall either:
 - a. be on the site for fewer than 180 consecutive days; and,
 - b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.J.1.

- 2. Zone VE and Coastal AE Zone (as defined) shall meet the requirements of either Article VI.K.1.a. and b., or Article VI.R.

L. **Accessory Structures** - New construction or substantial improvement of Accessory Structures, as defined in Article XIV, shall be exempt from the elevation criteria required in Article VI.H. & I. above, if all other requirements of Article VI and all the following requirements are met.

- 1. Accessory Structures located in Zone A and AE shall:

- a. meet the requirements of Article VI.A.1. through 4., as applicable;

- b. be limited in size to a one-story two car garage;

- c. have unfinished interiors and not be used for human habitation;

- d. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and, when possible, outside the Special Flood Hazard Area;

- e. be located outside the floodway;

- f. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure;

- g. have hydraulic openings, as specified in Article VI.N.2., in at least two different walls of the accessory structure; and

- h. be located outside the Coastal AE Zone.

- 2. Accessory Structures in Zone VE and Coastal A Zones shall meet the requirements of Article VI.R.

M. **Floodways** -

- 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones A and AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.M.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
3. In Zones A and AE riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

N. **Hydraulic Openings/Flood Vents** - New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs H., I., or J. and is elevated on posts, columns, piers, piles, or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIV;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

O. **Bridges** - New construction or substantial improvement of any bridge in Zones A, AE, and VE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings or columns) is elevated to at least one foot above the base flood elevation; and,
2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.M.; and,
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

P. **Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones A, AE, and VE shall:
 - a. have the containment wall elevated to at least one foot above the base flood elevation;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

Q. **Wharves, Piers, and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in and over water and seaward of the mean high tide if the following requirements are met:

1. in Zones A and AE, wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; or,
2. in Zone VE, wharves, piers, and docks shall have a registered professional engineer develop or review the structural design, specifications, and plans for the construction.

R. **Coastal Floodplains** -

1. New construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in Article VI.R.7.
2. New construction or substantial improvement of any structure located within Zone VE or Coastal AE Zone shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least one foot above the base flood elevation. Systems, fixtures, equipment, and components shall not be mounted on or penetrate through walls intended to break away under flood loads.
3. New construction or substantial improvement of any structure located within Zone VE and Coastal AE Zones (as defined) shall:
 - a. be elevated on posts or columns such that:
 - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to at least one foot above the base flood elevation;
 - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
 - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
 - b. have the space below the lowest floor:
 - (1) free of obstructions; or,
 - (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
 - (3) constructed with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
 - c. require a registered professional engineer or architect to:
 - (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55); and,

- (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.R.3.
4. The use of fill for structural support in Zone VE and Coastal AE Zones is prohibited.
5. Human alteration of sand dunes within Zone VE and Coastal AE Zones is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
6. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
7. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.I. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.M., and VI.N. are met:
 - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
 - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
 - d. The structure shall have unfinished interiors and shall not be used for human habitation.
 - e. Any mechanical, utility equipment, and fuel storage tanks must be anchored and either elevated or floodproofed to at least one foot above the base flood elevation.
 - f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and, when possible, outside the Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied may serve as the permit application for the Conditional Use Permit.
2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:
 1. an Elevation Certificate completed by a Professional Land Surveyor for compliance with Article VI, paragraphs H., I., J., or R.; and,
 2. for structures in Zone VE and Coastal AE Zone (as defined), certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.R.3.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:

1. review the required certificate(s) and the applicant's written notification; and,
2. upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the Town of Scarborough may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and,
2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances; and,
3. a showing that the issuance of the variance will not conflict with other state, federal, or local laws or ordinances; and,
4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as is deemed necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

1. the criteria of Article X.A. through C. and Article VI.M. are met; and,
2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of Article X.A. through C.; and,
2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

- F. Variances may be issued for new construction and substantial improvement of Agricultural Structures being used for the conduct of agricultural uses provided that:
1. the development meets the criteria of Article X.A. through C.; and,
 2. the development meets the criteria of Article VI.M. and Article VI.N.
- G. Any applicant who meets the criteria of Article X.A. through C. and Article X.D., E., or F. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage; and,
 2. such construction below the base flood level increases risks to life and property; and,
 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks, and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- H. Appeal Procedure for Administrative and Variance Appeals
1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
 2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the documents constituting the record of the decision appealed from.
 3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
 4. The person filing the appeal shall have the burden of proof.
 5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing and shall issue a written decision on all appeals.
 6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE XI - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to other actions, the Code Enforcement Officer, upon identifying a violation, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of:
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law, and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

Adjacent Grade - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Agricultural Structure - structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

Area of Special Flood Hazard - land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood - a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - any area of a building that includes a floor that is subgrade (below ground level) on all sides.

Breakaway Wall - a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building - see **Structure**.

Certificate of Compliance - a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Coastal AE Zone - The portion of the Coastal High Hazard Area with wave heights between 1.5 feet and 3.0 feet and bounded by a line labeled the "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM). VE Zone floodplain construction standards are applied to development, new construction, and substantial improvements in the Coastal AE Zone.

Coastal High Hazard Area - An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal High Hazard Areas are designated as Zone VE and Zone AE bounded by a line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM).

Code Enforcement Officer - a person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

Conditional Use - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Containment Wall - a wall surrounding all sides of an above ground tank to contain any spills or leaks.

Development - any manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Elevated Building - a non-basement building that is:

- a. built, in the case of a building in Zones A or AE, so that the top of the elevated floor, or in the case of a building in Zone VE or Coastal AE Zone, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, posts, or piers; and,
- b. adequately anchored to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.N. In the case of Zone VE and Coastal AE Zone, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.R.3.b.(3).

Elevation Certificate - an official form (FEMA Form FF-206-FY-22-152, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program.

Existing Manufactured Home Park or Subdivision - a manufactured home park or subdivision that was recorded in the deed registry prior to the adoption date of the community's first floodplain management regulations.

Flood or Flooding -

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.

- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Floodprone Area - any land area susceptible to being inundated by water from any source (see **Flood or Flooding**).

Floodplain Management - the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are

necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or,
 2. Directly by the Secretary of the Interior in states without approved programs.

Limit of Moderate Wave Action (LiMWA) - The landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are bounded by a line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM). The LiMWA line delineates that portion of the Special Flood Hazard Area (SFHA) landward of a VE zone in which the principal sources of flooding are astronomical high tides, storm surges, or tsunamis, not riverine sources. These areas may be subject to wave effects, velocity flows, erosion, scour, or combinations of these forces. The floodplain development and construction standards for VE Zones will be applied in the Coastal AE Zone.

Locally Established Datum - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.N. of this Ordinance.

Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes

park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes but is not limited to: accessory structures as provided for in Article VI.L., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - the national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and has been called "1929 Mean Sea Level" (MSL).

New Construction - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD) - the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon the vertical data used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound and subsidence, and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - a vehicle that is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and,
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, and,
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,

- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

Variance - a grant of relief by a community from the terms of a floodplain management regulation.

Violation - the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

ARTICLE XVI - DISCLAIMER OF LIABILITY

The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.



Federal Emergency Management Agency

Washington, D.C. 20472

December 20, 2023

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
19P

Jonathan Anderson
Chairperson, Town Council
Town of Scarborough
P.O. Box 360
Scarborough, Maine 04070

Community Name: Town of Scarborough,
Cumberland County,
Maine
Community No.: 230052
Map Panels Affected: See FIRM Index

Dear Chairperson Anderson:

This is to notify you of the final flood hazard determination for Cumberland County, Maine (All Jurisdictions), in compliance with Title 44, Chapter I, Part 67, Section 67.11, Code of Federal Regulations (CFR). This section requires that notice of final flood hazards shall be sent to the Chief Executive Officer of the community, all individual appellants, and the State Coordinating Agency, and shall be published in the *Federal Register*.

The statutory 90-day appeal period that was initiated for your community when the Department of Homeland Security's Federal Emergency Management Agency (FEMA) published a notice of proposed flood hazard determinations for your community in the local newspaper has elapsed. FEMA did receive an appeal regarding the proposed flood hazard determinations during that time. The technical data submitted in support of the appeal has been evaluated and the appeal has been resolved in accordance with the requirements of 44 CFR Part 67. We determined that changes were warranted based on the submitted data and have incorporated the applicable changes on the final copies of the Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) for your community.

Accordingly, the flood hazard determinations for your community are considered final. The final notice for flood hazard determinations will be published in the *Federal Register* as soon as possible. The FIS report and FIRM for your community will become effective on June 20, 2024. Before the effective date, we will send your community final printed copies of the FIS report and FIRM. For insurance purposes, the community number and new suffix code for the panels being revised are indicated on the FIRM and must be used for all new policies and renewals.

Because the FIS report for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter.

It must be emphasized that all the standards specified in 44 CFR Part 60.3(e) of the National Flood Insurance Program (NFIP) regulations must be enacted in a legally enforceable document. This includes adoption of the current effective FIS report and FIRM to which the regulations apply and other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish initial eligibility in the NFIP. Your community can meet any additional requirements by taking one of the following actions in this Paragraph of the NFIP regulations:

1. Amending existing regulations to incorporate any additional requirements of 44 CFR Part 60.3(e);
2. Adopting all the standards of 44 CFR Part 60.3(e) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of 44 CFR Part 60.3(e).

Also, prior to the effective date, your community is required, as a condition of continued eligibility in the NFIP, to adopt or show evidence of adoption of the floodplain management regulations that meet the standards of 44 CFR Part 60.3(e) of the NFIP regulations by the effective date of the FIRM. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

Many states and communities have adopted building codes based on the International Codes (I-Codes); the model I-Codes (2009 and more recent editions) contain flood provisions that either meet or exceed the minimum requirements of the NFIP for buildings and structures. The model codes also contain provisions, currently found in an appendix to the International Building Code, that apply to other types of development and NFIP requirements. In these cases, communities should request review by the NFIP State Coordinator to ensure that local floodplain management regulations are coordinated (not duplicative or inconsistent) with the State or Local building code. FEMA's resource, *Reducing Flood Losses through the International Code: Coordinating Building Codes and Floodplain Management Regulations, 5th Edition (2019)*, provides some guidance on this subject and is available at <https://www.fema.gov/emergency-managers/risk-management/building-science/building-codes/flood>.

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended, and 44 CFR Part 59.24.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letters of Map Change (LOMC) actions (i.e., Letters of Map Amendment, Letters of Map Revision) that will be affected when the revised FIRM panels referenced above become effective. If no LOMCs were issued previously for your community, you are receiving a SOMA for informational purposes only.

Once the FIS report and FIRM are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance requirements, and many other planning applications. Copies of the digital files of the FIRM panels may be obtained by calling our FEMA Mapping and Insurance eXchange (FMIX), toll free, at (877) 336-2627 (877-FEMA MAP) or by visiting the Map Service Center at <https://www.msc.fema.gov>. In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

For assistance with your floodplain management ordinance or enacting the floodplain management regulations, please contact Susan Baker, NFIP State Coordinator for Maine by telephone at (207) 287-8063. If you should require any additional information, we suggest that you contact the Director, Mitigation Division of FEMA, Region 1 at (617) 956-7576 for assistance. If you have any questions concerning mapping issues in general or the enclosed SOMA, please call our FMIX at the telephone number shown above. Additional information and resources you may find helpful regarding the NFIP and floodplain management can be found on our website at <https://www.fema.gov/flood-maps>. Copies of these documents may also be obtained by calling our FMIX.

Sincerely,



Luis V. Rodriguez, P.E.
Director, Engineering and Modeling Division
Risk Management Directorate | Resilience

Enclosure:
Final SOMA

cc: Community Map Repository
Autumn Speer, Planning Director, Town of Scarborough

FINAL SUMMARY OF MAP ACTIONS

Community: SCARBOROUGH, TOWN OF

Community No: 230052

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the effects of the enclosed revised FIRM panels(s) on previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs), Letter of Map Revision based on Fill (LOMR-Fs), and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on June 20, 2024.

1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		

2. LOMCs Not Incorporated

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels or will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

FINAL SUMMARY OF MAP ACTIONS

Community: SCARBOROUGH, TOWN OF

Community No: 230052

2A. LOMCs on Revised Panels

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
LOMA	190100004D&D	01/17/1996	36 OLD NECK ROAD	2300520021D	23005C0804F
LOMA	98-01-196A	03/04/1998	2A WILDROSE LANE - LOT 1B	2300520021D	23005C0808F
LOMA	98-01-828A	08/12/1998	221 SPURWINK ROAD - ASSESSMENT MAP R-97, LOT 14	2300520010D	23005C0809F
LOMA	99-01-712A	05/07/1999	PROPERTY MAP U.13 - LOT 1A	2300520021D	23005C0804F
LOMA	00-01-0174A	12/17/1999	101 EAST GRAND AVENUE	2300520023D	23005C0811F
LOMA	00-01-0846A	09/12/2000	7 WILDROSE LANE	2300520010D	23005C0808F
LOMA	04-01-1182A	06/07/2004	LOT 66, SECTION 9, OCEAN VIEW HARBOR -- 7 CATHERINE DRIVE	2300520021D	23005C0812F
LOMA	06-01-0090A	11/16/2005	1 CHASEDEER LANE	2300520021D	23005C0804F
LOMA	06-01-B154A	02/23/2006	Tax Assessor's Map R098, Parcel 12 (ME)	2300520010D	23005C0809F
LOMA	06-01-B139A	04/21/2006	6 Wiley Way -- Tax Map R098, Parcel 10 (ME)	2300520010D	23005C0809F
LOMA	08-01-1273A	11/06/2008	9 THUNDER ROAD	2300520015D	23005C0777F
LOMA	09-01-0523A	03/26/2009	TAX MAP U-36, LOT 6 -- 20 MILLIKEN ROAD	2300520020D	23005C0784F
LOMA	12-01-0211A	12/06/2011	TAX MAP R077, LOT 19 -- 52 US ROUTE 1	2300520010D	23005C0802F
LOMA	12-01-0348A	02/09/2012	TAX MAP R096, LOTS 5 & 9 --- 302 HIGHLAND AVENUE	2300520010D	23005C0806F 23005C0808F
LOMA	13-01-1784A	05/16/2013	TAX MAP R100, LOT 5 -- 83 SPURWINK ROAD	2300520022D	23005C0808F
LOMA	14-01-1035A	12/30/2013	Lot Lot 36, Olde Millbrook Subdivision - 14 Olde Mill Road	2300520021D	23005C0804F
LOMA	14-01-1437A	03/18/2014	TAX MAP 73, LOT 14 -- 59 BLACK POINT ROAD	2300520021D	23005C0804F

FINAL SUMMARY OF MAP ACTIONS

Community: SCARBOROUGH, TOWN OF

Community No: 230052

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
LOMA	14-01-3039A	09/16/2014	LOT 5 - 14 Milliken Road	2300520020D	23005C0784F
LOMA	14-01-3184A	09/25/2014	TAX MAP R-90, LOT 16C -- 6 OLD NECK ROAD	2300520022D	23005C0812F
LOMA	15-01-1668A	06/29/2015	8 WILEY WAY	2300520010D	23005C0809F
LOMA	16-01-0747A	02/03/2016	BEAVER CREEK SUBDIVISION, LOT 2A -- 4 WILDROSE LANE	2300520010D	23005C0808F
LOMA	16-01-1974A	08/12/2016	82 FOGG ROAD	2300520021D	23005C0808F
LOMA	17-01-0451A	12/22/2016	15 THUNDER ROAD	2300520015D	23005C0777F
LOMA	17-01-1417A	05/19/2017	OCEAN VIEW HARBOR, SECTION 3, LOT 12 -- 40 OLD NECK ROAD	2300520021D 2300520022D	23005C0812F
LOMA	17-01-2528A	10/02/2017	11 STARBIRD ROAD	2300520010D	23005C0809F
LOMA	17-01-2680A	10/24/2017	BEAVER CREEK SUBDIVISION, LOT 3 -- 6 WILDROSE LANE	2300520010D	23005C0808F
LOMR-F	18-01-0960A	04/02/2018	9 CANTERBURY LANE	2300520021D 2300520022D	23005C0808F
LOMA	19-01-0878A	04/19/2019	17 MILLIKEN ROAD	2300520020D	23005C0784F
LOMA	19-01-1152A	06/13/2019	17 MILLIKEN ROAD (GARAGE)	2300520020D	23005C0784F
LOMA	20-01-0300A	01/10/2020	19 MILLIKEN ROAD	2300520020D	23005C0784F
LOMA	20-01-1544A	09/08/2020	Lot 86, Block -/2, Olde Millbrook Subdivision -- 17 Fern Circle	2300520021D	23005C0804F
LOMA	21-01-0353A	01/15/2021	6 ROSE HILL WAY	2300520020D	23005C0784F

2B. LOMCs on Unrevised Panels

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		

FINAL SUMMARY OF MAPACTIONS

Community: SCARBOROUGH, TOWN OF

Community No: 230052

3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new or revised flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
LOMA	195100098D&D	05/20/1988	65 FOGG ROAD	2
102	1-89-13	06/21/1989	V-ZONE DETERMINATION FOR FIRM PANEL 0022 - AT HIGGINS BEACH, BERENSON PROPERTY	4
102	1-89-12	06/21/1989	V-ZONE DETERMINATION FOR FIRM PANEL 0022 - AT HIGGINS BEACH, GUSTAFSON PROPERTY	4
LOMA	199300047R01	11/12/1992	8 MORNING STREET	6
102A	93-01-047P	11/01/1993	LCX REALTY, INC. PROPERTY OFF KING ST., PINE POINT	4
LOMA	95-01-004A	12/14/1994	UNIT 68, BUILDING 3 - SANDPIPER 2 CONDO	2
LOMA	199500493R01	01/17/1996	24 CLAY PITS RD	6
102A	96-01-069P	11/18/1996	LIBBY RIVER/ATLANTIC OCEAN - PINTAIL POINT SUBDIVISION	4
LOMA	500009425R01	06/12/1997	9 FERN CIRCLE	4
LOMA	500012805R01	07/31/1997	24 CLAY PITS RD	4
LOMA	98-01-1038A	02/03/1999	SANDPIPER II CONDOMINIUMS	4
LOMR-F	00-01-0528A	06/08/2000	67 FOGG ROAD	6
LOMA	01-01-0130A	12/05/2000	5 HAMPTON CIRCLE	2
LOMA	01-01-1228A	09/05/2001	LOT 6, DUNEFIELD II--6 DUNEFIELD LANE	4
LOMA	01-01-1174A	09/14/2001	#7 AVENUE SEVEN	2

FINAL SUMMARY OF MAP ACTIONS

Community: SCARBOROUGH, TOWN OF

Community No: 230052

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
102	01-01-045P	11/19/2001	FOGG, SILVER & S. BRANCH BROOKS - RIVER WOODS SUBD.	4
LOMA	02-01-1794A	10/30/2002	11 HEMLOCK CIRCLE	2
LOMA	03-01-0300A	12/20/2002	54 WINNOCKS NECK ROAD	2
LOMA	03-01-1740A	08/28/2003	LOT 63, OLDE MILLBROOK SUBDIVISION--17 HEMLOCK CIRCLE	2
LOMA	04-01-0222A	11/17/2003	5 FERN CIRCLE	3
LOMA	04-01-0396A	01/02/2004	20 CLAY PITS ROAD	4
102	04-01-031P	06/28/2004	ATLANTIC OCEAN - MOISTER PROPERTY	4
LOMA	04-01-1450A	08/19/2004	52 WINNOCKS NECK ROAD	2
LOMA	06-01-0091A	11/16/2005	40 CLAY PITS ROAD -- LOT 4A	2
LOMA	06-01-0093A	11/22/2005	42 CLAY PITS ROAD	2
LOMA	06-01-B127A	06/13/2006	7 Starbird Road -- Tax Map R099, Lot 6	2
LOMA	06-01-B839A	09/19/2006	1 RIVER BEND LANE (ME)	2
LOMA	06-01-B879A	10/12/2006	14 PARTRIDGE LANE -- Lot 94, Olde Millbrook (JEG)	2
LOMA	07-01-0770A	05/29/2007	LOT 95, OLDE MILLBROOK -- 18 PARTRIDGE LANE (ME)	2
LOMA	08-01-0513A	04/29/2008	OLDE MILLBROOK, LOT 68 -- 7 HEMLOCK CIRCLE	2
LOMA	09-01-0320A	12/18/2008	446 BLACKPOINT ROAD -- TAX MAP U-17, LOT 3	2
LOMA	09-01-0404A	02/03/2009	PILLSBURY SHORES PINE POINT, LOT 69 -- 81 KING STREET	2

FINAL SUMMARY OF MAP ACTIONS

Community: SCARBOROUGH, TOWN OF

Community No: 230052

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
LOMA	09-01-1276A	08/06/2009	TAX MAP U23, LOT 111 – 27 EAST GRAND AVENUE	2
LOMA	09-01-1553A	11/10/2009	Scarborough Tax map U007 Lot 34 Deed Book 10 425 Page 312	2
LOMA	10-01-1092A	06/15/2010	537 U.S. ROUTE 1	2
LOMA	10-01-1245A	07/08/2010	3 HAMPTON CIRCLE	3
LOMA	10-01-1752A	08/10/2010	LOT 62, OLDE MILLBROOK -- 19 HEMLOCK CIRCLE	2
LOMA	10-01-1980A	09/02/2010	LOT 65, OLDE MILLBROOK--13 HEMLOCK CIRCLE	2
LOMA	10-01-2044A	10/05/2010	378 Pine Point Road	4
LOMA	11-01-0332A	01/04/2011	71 EAST GRAND AVENUE	3
LOMA	11-01-0168A	01/25/2011	FISHERMANS COVE SUBD., LOTS 1, 2, & 3 – 82 KING STREET	4
LOMA	11-01-0661A	02/10/2011	LOT 1 & UNLABELED LAND FRONTING ON MOORS POINT ROAD	2
LOMA	11-01-1837A	04/25/2011	Lot 4, Plan of Sea Meadow Subdivision Subdivision - 3 Sea Meadow Lane	2
LOMA	11-01-2350A	08/11/2011	MAP U-22, LOT 42 – 9 AVENUE 4	2
LOMA	12-01-0995A	02/16/2012	6 SACCARAPPA LANE	2
LOMA	12-01-1259A	04/17/2012	MAP U-1, LOT 104 --- 42BAYVIEW AVENUE	4
LOMA	12-01-2252A	09/11/2012	TAX MAP U002, LOT 125A -- 8 MORNING STREET	2
LOMA	13-01-1165A	03/19/2013	TAX MAP R090, LOT 22A -- 1 WHISPERING SURF LANE	2
LOMA	13-01-1668A	04/11/2013	TAX MAP 4-001, PARCEL 103 -- 3 MORNING STREET	2

FINAL SUMMARY OF MAP ACTIONS

Community: SCARBOROUGH, TOWN OF

Community No: 230052

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
LOMA	13-01-1912A	06/13/2013	TAX MAP U-22, PARCEL 16 -- 34 JONES CREEK DRIVE	2
LOMA	13-01-1987A	06/18/2013	LOT 3 - 38 Clay Pits Road	2
LOMA	13-01-2739A	10/17/2013	TAX MAP R-90, LOT 16C -- 6 OLD NECK ROAD	6
LOMA	13-01-3039A	10/31/2013	LOT Parcel 118D, BLOCK map U22, Pine Point - 19 East Grand Ave	6
LOMA	14-01-0677A	12/17/2013	Units 16 & 17, Pine Point Tourist Court Condos - 19 East Grand Avenue	6
LOMA	14-01-0731X	01/07/2014	LOT PARCEL 118D, BLOCK U22, PINE POINT - 19 EAST GRAND AVENUE	6
LOMA	14-01-1269A	03/11/2014	TAX MAP U21, PARCEL 15 -- 78 KING STREET	2
LOMA	14-01-1440A	04/03/2014	TAX MAP U22, PARCEL 90 -- 4 KING STREET	4
LOMA	14-01-1971A	04/22/2014	LOT PARCEL 118D, BLOCK U22, PINE POINT - 19 EAST GRAND AVENUE (UNITS 16&17)	2
LOMA	14-01-2687A	08/05/2014	TAX MAP U002, PARCEL 33 -- 36 BAYVIEW AVENUE	2
LOMA	14-01-3637A	10/07/2014	Lot 113, William Moulton's Plan of Pine Point Subdivision - 36 Jones Creek Drive	2
LOMA	14-01-3258A	10/14/2014	TAX MAP U-22, PARCEL 28 -- 62 JONES CREEK DRIVE	2
LOMA	14-01-3353A	10/21/2014	15 EAST GRAND AVENUE	2
LOMA	14-01-3331A	12/18/2014	OCEAN VIEW HARBOR, LOT 11 -- 38 OLD NECK ROAD	2
LOMA	15-01-0998A	02/19/2015	13 EAST GRAND AVENUE	2
LOMA	15-01-1434A	04/16/2015	Lot 97, Olde Mill Brook Subdivision - 19 Hawthorn Circle	4
LOMA	17-01-0173A	11/03/2016	423 Black Point Road	2

FINAL SUMMARY OF MAPACTIONS

Community: SCARBOROUGH, TOWN OF

Community No: 230052

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
LOMA	17-01-0712A	02/08/2017	3 SOUTHGATE BUSINESS PARK CONDOMINIUM- 3 SOUTHGATE ROAD	4
LOMA	17-01-1134A	03/22/2017	3 East Grand Avenue	2
LOMA	17-01-1149A	04/19/2017	5 MOORS POINT ROAD	2
LOMA	17-01-1294A	05/05/2017	Pine Point Tourist Court Condominiums Subdivision - 19 East Grand Avenue	2
LOMA	17-01-2263A	08/30/2017	8 MOORS POINT ROAD	2
LOMA	18-01-0594A	12/21/2017	5 Avenue Six	2
LOMA	18-01-0766A	01/24/2018	Lot 46, William Moulton's plan of Pine Point Subdivision - 74 King Street	2
LOMA	20-01-0276A	01/03/2020	OCEAN VIEW HARBOR, SECTION 8, LOT 49 - 3 RHONDA DRIVE	2
LOMA	22-01-0797A	09/06/2022	59 EAST GRAND AVENUE	2
LOMA	22-01-1058A	09/07/2022	35 East Grand Avenue	2

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.
6. Superseded by another LOMC.

4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures is no longer valid, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and if appropriate issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BUREAU OF RESOURCE INFORMATION & LAND USE PLANNING
93 STATE HOUSE STATION
AUGUSTA, MAINE 04333

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

January 8, 2024

Nicholas McGee, Town Council Chair
Town of Scarborough
P.O. Box 360
Scarborough, ME 04070

[E-Mail Return Receipt Requested]

RE: New FEMA Flood Insurance Rate Maps and requirement for adoption into local ordinance for compliance with the National Flood Insurance Program (NFIP)

Dear Town Council Chair McGee:

Your community should have received a Letter of Final Determination (LFD) from the Federal Emergency Management Agency (FEMA) which sets the effective date of the new Digital Flood Insurance Rate Maps (DFIRMs) for Cumberland County for June 20, 2024. The LFD marks the beginning of a six-month time period for communities to update their local Floodplain Management Ordinances to reflect any changes since the last ordinance was adopted and to incorporate the new map date. **Your community must adopt an updated Floodplain Management Ordinance which references the new map date on or before June 20, 2024, in order to avoid being immediately suspended from the NFIP.**

Participation in the NFIP provides protection to those members of your community who may be affected by flooding. In addition, federal flood insurance is available to those who have federally backed mortgages in the floodplain. Another important benefit is your community's eligibility for disaster funding and low interest loans when your county is in a declared disaster area. This is all possible by way of your community's commitment to adopt, administer, and enforce its floodplain ordinance and your commitment to regulate development within flood prone areas.

Adoption of the new maps prior to the final map date will assure uninterrupted and continued participation in the NFIP. Enclosed is a copy of the most current state model Floodplain Management Ordinance that has been customized specifically for your community. **Please review this document carefully.** The enclosed ordinance contains all the changes that have occurred at the federal and state level since your ordinance was last adopted. Since FEMA has

SUE BAKER, PROGRAM MANAGER
MAINE FLOODPLAIN MANAGEMENT PROGRAM
17 ELKINS LANE, WILLIAMS PAVILLION



PHONE: (207) 287-2801
FAX: (207) 287-2353
WWW.MAINE.GOV/DACF/

very specific requirements regarding ordinance language, we encourage communities to adopt the ordinance without changes. However, if you would like to make any changes, you should discuss them with this office prior to local consideration. If the community changes the numbering system, a draft should be provided to this office for review. This is to ensure that the ordinance remains compliant and contains the correct cross references. Please make sure your community does not adopt any prior versions of the ordinance that we may have previously sent to your community.

We filled in the application fee (Article III) and permitting authority (Article II) using the ordinance that is in effect now for your community. The application fee is set by the municipality so if you would like to review other fee options or change it, just let us know.

Some communities have expressed concern about adopting maps that do not become effective until several months after they are adopted. We highly recommend that the community set the effective date of the ordinance to coincide with the day the new maps become effective.

Once your ordinance has been adopted and certified by the Town Clerk, please send this office an electronic copy (if possible) and one clerk certified printed copy. We will provide copies to the FEMA regional office and the regional planning commission. An electronic copy will be filed here at the Maine Floodplain Management Program.

If you have not already done so, please provide us with contact information for the person who will be responsible locally for coordinating the ordinance update process. We would also like to know the scheduled dates for your public hearing and town meeting as we must track this information for the affected communities. Please contact Janet Parker at 287-9981 or janet.parker@maine.gov as soon as this information is available.

Over the next few months, we expect to host at least one public outreach meeting in the Cumberland County area. This will be a public informational session so that we can answer questions as to how folks will be affected by the new maps, particularly with regard to flood insurance. We hope you will have at least one local official in attendance and that you'll provide notice so that property owners have the opportunity to get their individual questions answered. Please feel free to contact me (287-8063 or sue.baker@maine.gov) or Janet (287-9981 or janet.parker@maine.gov) at any time throughout this process if you have questions or need additional assistance.

Best Regards,



Sue Baker, CFM
State NFIP Coordinator

Enclosures: Customized 2023 Model Ordinance
Adoption Instructions

Update of Ordinance Changes
Optional/Alternate Language

Cc: Thomas Hall, Town Manager
Tody Justice, Town Clerk
Autumn Speer, Planning Director
Brian Longstaff, Zoning Administrator
Katie Rand, FEMA Region I
Greater Portland Council of Governments

Planning Board Recommendation

Hearing Date: April 16, 2024

RE: Repeal and replacement of Chapter 405A Floodplain Management Ordinance as required to maintain standing in the National Flood Insurance Program (NFIP) and to recognize the areas of special flood hazard, Zones A, AE, and VE for the Town of Scarborough, Cumberland County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Cumberland County, Maine" dated June 20, 2024, with accompanying "Flood Insurance Rate Map" dated June 20, 2024, as amended.

Chairman McGee and members of the Town Council,

On April 16, 2024, in accordance with the Town of Scarborough Zoning Ordinance, the Planning Board reviewed the proposed amendments to the Chapter 405A Floodplain Management Ordinance. The Zoning Ordinance requires that the Planning Board give its recommendation to the Town Council regarding the land use implications of the request. After consultation with the Board Chair, the recommendation is as follows:

1. In response to the Council's initial inquiry whether increasing minimum freeboard elevation from 1 to 2 feet, the Board is in favor of this increase. This is for a multitude of reasons, including climate change impacts, sea level rise, and their effects on the town's resources as a result of recurring flooding to the Nonesuch River, Red Brook and other water bodies of special significance to the Town.
2. The Board also discussed the potential to separate minimum freeboard elevation based on proximity to freshwater versus saltwater. One other community in the state separates these standards, and the Board recommends that the Town continue to adopt one universal minimum elevation of 2 feet, as most water bodies in Scarborough are brackish.

If you would like further clarification or discussion on these items, the Planning Department would be happy to provide any requested information in consultation with the Planning Board.

Sincerely,



Autumn Speer
Director of Planning & Code Enforcement

DRAFT MINUTES
SCARBOROUGH PLANNING BOARD MEETING
Tuesday, April 16, 2024 – 6:30 P.M.

Members Present:

Rachel Hendrickson – Chair
Rick Meinking - Vice Chair
Roger Beeley – Secretary
Jennifer Ladd (ABSENT)
James Hebert
Noah Perlut – 1st Alternate
Bennett Flanders – 2nd Alternate

Staff Present:

Autumn Speer – Planning Director (ABSENT)
Angela Blanchette –Town Engineer
Eric Sanderson – Senior Planner
Doreen Christ – Recording Secretary

1. Media Options

2. Opening Meeting

2.01 Call to Order. Rachel Hendrickson chaired this meeting and called it to order at 6:30 pm.

2.02 Pledge of Allegiance.

2.03 Roll Call. Doreen Christ did the Roll Call. Jennifer Ladd – Board Member was absent at this meeting.

In Jennifer Ladd's absence, Noah Perlut – 1st Alternate was elevated to a full voting member for the entire meeting.

3. Minutes

3.01 Approval of Minutes (March 18, 2024). There were no changes, additions, or corrections made to this set of meeting minutes; therefore, the following motion was made.

MOTION: *by Rick Meinking, seconded by James Hebert, to move to approve the Planning Board Meeting Minutes for March 18, 2024, as written.*

VOTED: *5-0 (Passed).*

4.01 The Planning Board will conduct a Public Hearing on a proposal to repeal and replace Chapter 405A Floodplain Management Ordinance. This is required to maintain standing in the National Flood Insurance Program and recognize areas of special flood hazard and flood zones identified by the Federal Emergency Management Agency (FEMA).*

This item was presented by Brian Longstaff - Zoning Administrator for the Town of Scarborough.

This is Public Hearing for the repeal and replacement of the current Flood Plain Ordinance to comply with the new standards and maps that will become effective June 20, 2024. This is to maintain a good standing as a National Flood Insurance Program (NFIP) participating community. He gave a quick overview of the new maps and the new Ordinance.

The NFIP was created by Congress in 1968. Scarborough has been a member for the past 50 years. The Flood Insurance Rate Maps are produced by FEMA. They map and display the one percent annual chance areas of the Town that would experience flooding. There is a regulatory side that the Town does and the insurance side that the NFIP does.

Flood insurance is required for anybody who has a federally-backed loan or mortgage. The Town has participated since 1975. The last maps were in 1985. There are 252 policies and total coverage is \$76,806,000. The total claims, since 1978, is 135 with the total payout being \$648,286. This amount does not include the recent flooding events. FEMA develops the maps and determines what the base flood elevations are in the various areas of Town. Different modeling techniques are used.

He explained the Base Flood Elevation (BFE) and how it can fluctuate, depending on where you are – type of terrain and hydrology. Scarborough is predominately in the coastal area and has a lot of marsh area. The BFE is how high flood water is likely to rise during that 1 percent annual chance flood event. The flood insurance rate panels are FIRM panels. These can be found on the Town's and FEMA Websites. There is a page specially created for this map process.

He explained Why do Maps Change? He said Scarborough has had a lot of development, flood hazards change over time, and also changing weather and terrain changes. It is important to update the maps. He showed the existing Scarborough Maps – 1986 and new maps (June 20, 2024). The required actions are to adopt the new FEMA flood maps, adopt an updated Floodplain Management Ordinance which references the new map date on or before June 20, 2024, and to send the Maine Floodplain Management Program and electronic and paper copy of the adopted Ordinance.

There are 2,323 affected properties: current flood zone – 1,749 parcels, Floodplain for the first time an additional 679 new parcels, and 105 parcels no longer in the Floodplain. He then explained the Summary of Map Action (SOMA). This is a listing of what is expected to happen to existing Letters of Map Amendment (LOMA) and Letters of Map Revision (LOMA). He explained that 76 will be removed (the Town has let those owners know) and 34 will be revalidated. If an owner is listed in the Floodplain for the first time, they will be contacted by their mortgagee and told that they need to get flood insurance. If an owner is no longer in a Floodplain the owner will be contacted that they no longer need that insurance.

He mentioned Summary of Map Actions (SOMA). This lists the reason the determination will be superseded. The two most important are the lowest adjacent grade and lowest finished floor are below the proposed Base Flood Elevation and revised hydrologic and hydraulic analyses.

Ordinance changes – there have been a few State Model Ordinance Changes. The Town's were last updated in 2007. Designation is needed for a Floodplain Administrator, which will be Brian Longstaff.

He then explained the Limit of Moderate Wave Actions (LiMWA). In Zone A, there is no BFE, so it will default to the lowest floor at two feet above the highest adjacent grade to the building. Wave action was determined to be greater than three feet. Since that time, there has been a lot of damage done by waves less than three feet, but higher than 1-1/2 feet. If in an AE Zone, you need to build to standards of a velocity zone.

In his presentation he listed the timeline moving forward. This will be going before the Town Council for Public Hearing #1 on May 1, 2024, then a second reading and adoption on May 15, 2024 and then the maps and Ordinance become effective on June 20, 2024.

Brian Longstaff then mentioned Freeboard, of which the Town Council wanted a discussion by this Board. Freeboard is a higher standard than the base flood elevation. Nationally, FEMA requires that you elevate to at least base flood elevation. In Maine, there has been a one-foot mandatory elevation. He said he was asked whether to adopt a higher standard. In his presentation, he had a listing of communities in Maine, in which the Town of Damariscotta, City of Saco, and Town of Berwick have the higher standard of three feet. Brian Longstaff stated that he had no opinion on this. Resources are listed on the Website.

Rachel Hendrickson opened this item up for Public Comment. **Karin Shupe – a Pine Point Road resident and Town Council liaison to the Planning Board** mentioned Freeboard and stated that Town Council is looking to this Board for an opinion on the one-foot mandatory elevation. Other Towns surrounding Scarborough have raised their's to two feet. There being no further public comment, the public portion was closed.

Rachel Hendrickson then opened this item up to the Board for the following discussion. The Board discussed the topic of Freeboard. Rick said he did not object to making it a two-foot Freeboard. Brian Longstaff stated that this pertains to all structures/buildings. Roger thought it to be wiser to plan for that. James felt granting of two feet is warranted. Noah agreed with the Board. Bennett also agreed with the two feet. He said climate change is happening. This would make us be better prepared for the future. Rachel commented that we will see an increase in sea level rise and flooding. She agreed two feet to be appropriate. Brian Longstaff then mentioned that one of the Councilor's asked if you can have different split zones. The Town of Damariscotta is the only community to do this and based their determination on salt water vs. fresh water. The consensus of the Board was that there is no need for a split system.

An excerpt of these meeting minutes will be forwarded to the Town Council for their meeting on May 1, 2024.

MEMO

TO: Scarborough Town Council
FROM: Jami Fitch, Sustainability Manager on behalf of the Conservation Commission
DATE: May 1, 2024
RE: Chapter 405A, Scarborough Floodplain Management Ordinance
ENCL: SLAWG White Paper: Why Should Scarborough adopt a 3-foot Freeboard Requirement in its Floodplain Management Ordinance?

At their 4/24/24 meeting, the Scarborough Conservation Commission voted to recommend that the Town's Floodplain Management Ordinance include a 3-foot freeboard requirement to improve the resilience of structures. This recommendation protects property owners from structural damage or loss and helps the community adapt to the increasing frequency and severity of rising seas and storm surge.

The Commission makes this recommendation based on the following factors:

1. **Accelerated sea level rise**

In 2011, Scarborough joined Saco, Biddeford, and Old Orchard Beach to form the Sea Level Adaptation Working Group (SLAWG). The purpose of SLAWG was to develop and implement regional climate change adaptation strategies to respond to rising sea levels and become more resilient to coastal storms. **One of the recommendations in SLAWG's 2011 report was to adopt a 3-foot freeboard requirement for properties adjacent to tidal water. At the time this recommendation was made, sea level rise was predicted to reach 2-feet by 2100. Today, experts predict sea level rise to reach 3.9-feet by 2100.**

2. **Negligible increase in construction costs**

Per the attached SLAWG White Paper, there is a negligible cost difference between raising a building one-foot or three-feet above base flood elevation. Most of the cost in a building elevation project is related to setting up a building on steel beams and

jacking it up; the actual height of the lowest floor (or how high the building is raised) makes little difference.

3. **Significant savings in flood insurance premiums**

According to analysis done by the [Massachusetts StormSmart Coasts Program](#), the cost of **National Flood Insurance Program (NFIP) premiums can decrease as much as 60% with a 3-foot freeboard**. This decrease is due to the reduced risk of damage from flooding.

The Conservation Commission has advocated for a 3-foot freeboard since 2011 when sea level rise predictions were significantly lower than they are today. Scarborough has seen the damaging effects of storm surge on multiple occasions in 2024 alone. Severe weather events are expected to increase in frequency, and higher seas will exacerbate flooding and associated loss of property. Now is the time to act to make our community more resilient to sea level rise and storm surge, and adopting a 3-foot freeboard requirement is an important first step.

Why Should Scarborough adopt a 3-foot Freeboard Requirement in its Floodplain Management Ordinance?

Why do we have a floodplain ordinance in each community?

In order for its citizens who own property in the floodplain to be able to purchase federally-backed flood insurance, municipalities must adopt a special floodplain management ordinance, written by the Federal Emergency Management Agency (FEMA). Therefore, Biddeford, Saco, Old Orchard Beach and Scarborough have each adopted a floodplain management ordinance, which regulates all construction activities in the 100-year floodplain – the area that has a 1 percent chance of flooding in any given year. Within this floodplain, most owners purchase federally-backed flood insurance. For those property owners with a mortgage, such insurance is required by their lending institution. When new construction or extensive renovations occurs, currently the ordinance requires the property owner to obtain a surveyor to prepare an “elevation certificate,” to identify the height of the predicted 100-year flood at the building site, so the construction can be properly protected from future flooding. Tidal floodplains are the tidally influenced 100-year A, AE, AO, V, or VE flood zones from the effective FEMA Flood Insurance Rate Map (FIRM). Effective FEMA FIRMs are available at Town offices, or from the [FEMA Map Service Center](#).

What triggers the requirement to elevate a building above the flood height?

Currently, for all new construction, all new buildings are required to be elevated at least one foot above the 100-year floodplain (one foot of freeboard). If an existing building which has never been elevated is damaged during a flood event by more than 50% of its market value, the floodplain management ordinance requires it to be elevated when it is rebuilt, to at least one foot above the 100-year floodplain. If an existing building is torn down and rebuilt, or extensive renovations are made that are worth more than 50% of the market value of the building, that new or renovated building must also be elevated at least one foot above the 100-year floodplain. The distance between the predicted height of the 100-year flood and the base floor of an elevated building is known as the “freeboard.”

How does these regulations relate to the DEP Sand Dune Regulations?

Coastal properties in the sand dune system are regulated by the Maine DEP Sand Dune Regulations ([Coastal Sand Dune Rules](#)) of the Natural Resources Protection Act. Sections of the coastal sand dunes are defined as “Erosion Hazard Areas” , or EHAs. These areas include the frontal dune (D1), V-zone, AO-zone, and dynamic back dune (D2) areas that may be impacted in a storm after 2 feet of sea level rise. Within EHAs, DEP requires any building that is damaged by flooding by more than 50% of its value to be elevated to three feet above the existing grade level, or to the elevation height required by the local floodplain management ordinance (whichever is greater). This means that currently, in most cases, properties in these state regulated sand dune areas along our tidal shores already are required by the State DEP, to be elevated higher than the required minimum one foot of freeboard in the local floodplain management ordinance. Erosion Hazard Areas have been mapped as part of the [Coastal Sand Dune Geology Maps](#).

The existing floodplain ordinance and Coastal Sand Dune Rule Erosion Hazard Area freeboard requirements are shown in Figure 1.

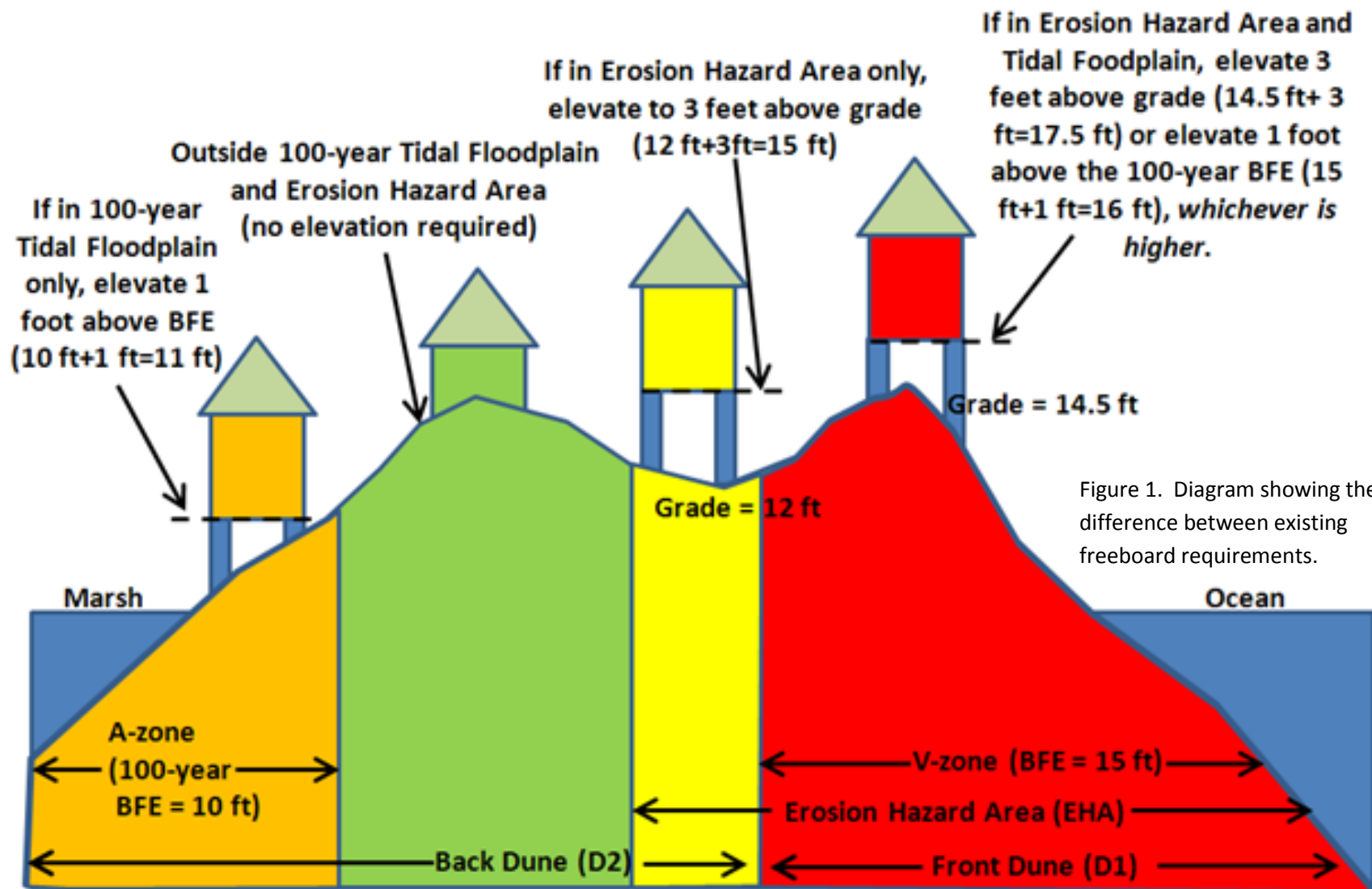


Figure 1. Diagram showing the difference between existing freeboard requirements.

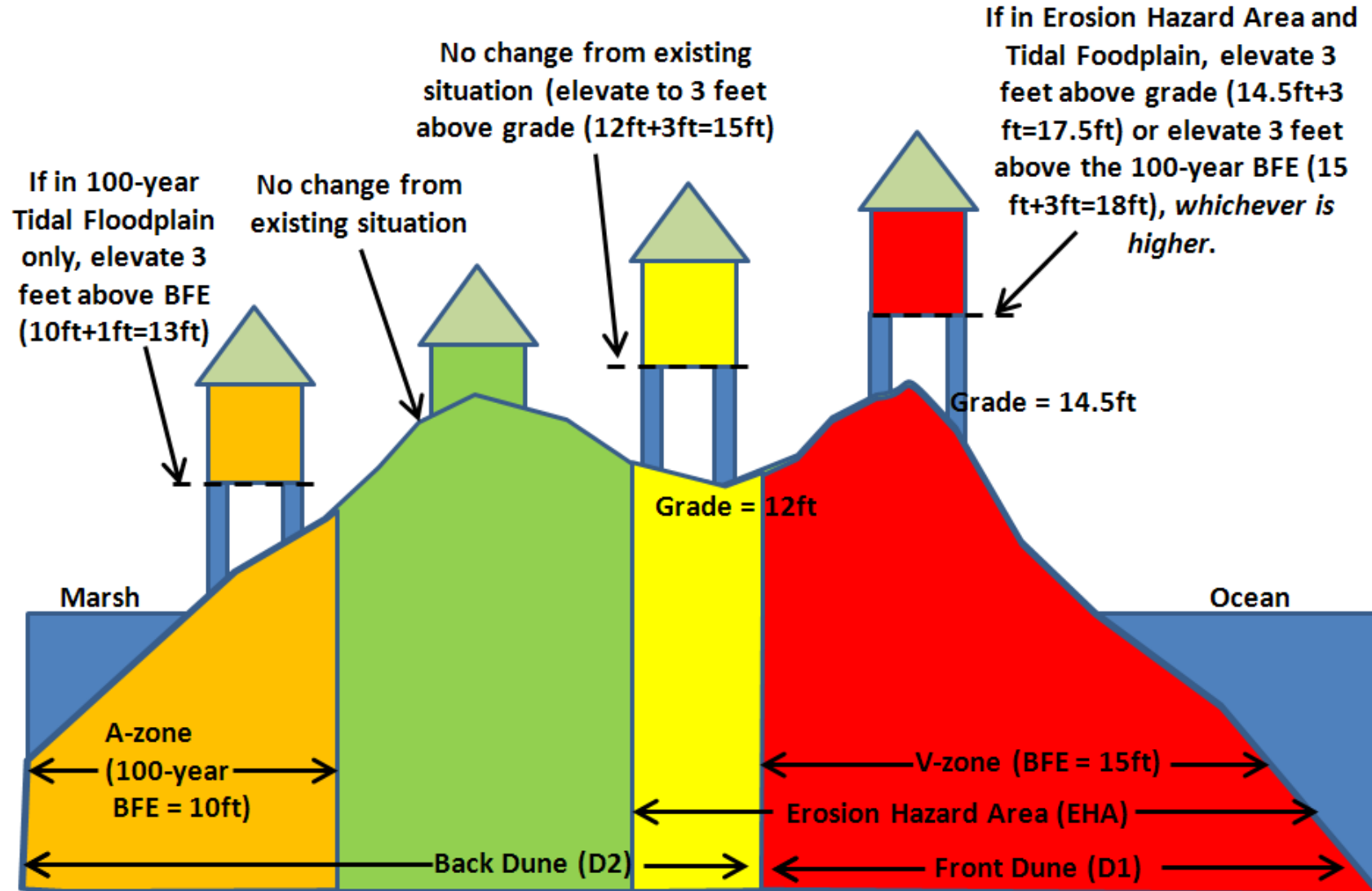
Existing Regulations (Coastal Sand Dune Rules and Municipal Floodplain Ordinance)

What does the Sea Level Adaptation Working Group (SLAWG) recommend to be changed?

The SLAWG recommends that all of the cities and towns in Saco Bay adopt three feet of freeboard for properties adjacent to salt water, so that if or when buildings are damaged and required to be elevated, or when new buildings are constructed, they will be rebuilt higher than the one foot freeboard that is required today. This will create extra space under newly elevated buildings to accommodate the rising of mean sea level by the year 2100, and will help the community to adapt to the increasing frequency and severity of ocean storms and surges. This will decrease the existing vulnerability of structures that are already mapped within the tidal floodplain. It is recommended that outside of tidal areas, on inland, freshwater streams, rivers and ponds, the current floodplain management standard remain the same, with just a one-foot freeboard requirement. The proposed changes to the floodplain ordinance are illustrated in Figure 2 and 3, and a comparison between existing and proposed changes is shown in Table 1.

Figure 2. Photos Illustrating Two Homes in Old Orchard Beach:





Potential Revised Regulation (Revised Municipal Floodplain Ordinance)

Summary of the Impacts of the New Proposed Freeboard Requirement			
Map Color Code	Scenario	Requirements with Existing Local Floodplain Ordinance and/or State Sand Dune Regulations	Requirements with New, Proposed Floodplain Ordinance Change, Increasing “Freeboard” to 3 feet
orange	An orange dot shows an existing building footprint, located in the 100-year Tidal Floodplain only.	Must elevate a minimum of 1 foot above the 100-year Base Flood Elevation , <ul style="list-style-type: none"> for new construction, for rebuilding after over 50% flood damage, or for renovations over 50% of market value 	Must elevate a minimum of 3 feet above the 100-year Base Flood Elevation , <ul style="list-style-type: none"> for new construction, for rebuilding after over 50% flood damage, or for renovations over 50% of market value
yellow	A yellow dot shows an existing building footprint, located in the State-Controlled Erosion Hazard Area only	Must elevate a minimum of 3 feet above existing grade , <ul style="list-style-type: none"> for new construction, for rebuilding after over 50% flood damage, or for renovations over 50% of market value 	No change from Existing Situation
red	A red dot shows an existing building, located in both the State-Controlled Erosion Hazard Area, and the 100-year Tidal Floodplain	Must elevate a minimum of 3 feet above existing grade, or elevate a minimum of 1 foot above the 100-year Base Flood Elevation, whichever is greater , <ul style="list-style-type: none"> for new construction, for rebuilding after over 50% flood damage, or for renovations over 50% of market value 	Must elevate minimum of 3 feet above existing grade, or elevate a minimum of 3 feet above the 100-year Base Flood Elevation, whichever is greater , <ul style="list-style-type: none"> for new construction, for rebuilding after over 50% flood damage, or for renovations over 50% of market value
green	A green dot shows an existing building, located outside of both the State-Controlled Erosion Hazard Area, and the 100-year Tidal Floodplain	No change from Existing Situation	No change from Existing Situation

Table 1. Summary of the impacts of the new proposed freeboard requirement.

How would the proposal to increase freeboard to 3 feet in tidal areas benefit property owners and the community?

Buildings with higher freeboard will withstand bigger floods and surges, with less damage to building contents, appliances, or utility systems. For those who purchase flood insurance, their flood insurance premiums will be significantly lowered. The requirement only would “kick in,” when a building is already extensively damaged by a flood or is being extensively renovated, and is needed to be elevated anyway. According to the builders our committee has consulted, there is a negligible cost difference between raising a building three feet rather than one foot, above the “BFE” or “base flood elevation” of the 100-year flood. A typical building elevation project would cost between \$30,000 to \$60,000, for an average 1,500 to 2,000 square-foot house. Most of the project cost in a building elevation project is in setting up a building on steel beams and jacking it up; the actual height of the lowest floor (or how high the building is jacked up) makes little difference. The marginal cost to add two extra feet of freeboard, would only add about \$1,000 to a \$60,000 elevation project. However, the flood insurance premiums will go down dramatically with the increase to three feet of freeboard. This will lead to an immediate ongoing savings to the property owners who have flood insurance, which will more than offset any minor construction up-charge for the extra building elevation. Some estimates in potential savings are provided in the Table 2 below from the Massachusetts Coastal Program. For more information on the cost savings associated with increasing freeboard, see the [Massachusetts Stormsmart Coast website](#).

Table 2. Example of Savings on NFIP Premiums* with Extra Freeboard, from Mass. Office of Coastal Zone Management

	V Zone ¹		A Zone ²	
	Annual savings	30-year savings	Annual savings	30-year savings
1' freeboard	\$1,360 (25%)	\$40,800	\$502 (41%)	\$15,060
2' freeboard	\$2,730 (50%)	\$81,900	\$678 (55%)	\$20,340
3' freeboard	\$3,415 (62%)	\$102,450	\$743 (60%)	\$22,290

*NFIP premiums based on May 2007 rates for a one-floor residential structure with no basement built after a FIRM was issued for the community (post-FIRM rates differ from pre-FIRM rates). \$500 deductible/ \$250,000 coverage for the building/\$100,000 for contents.

What about commercial properties?

The SLAWG does not recommend making a distinction between commercial and residential properties in the setting of freeboard requirements. However, individual Saco Bay communities may consider allowing commercial properties to continue to be subject to the one foot freeboard requirement, if they feel that commercial compliance with a higher freeboard would be unworkable. The number of commercial properties that are currently in the 100-year Tidal Floodplain that would be required to increase freeboard, and thus decrease vulnerability, is shown in Table 4.

What about setback and height requirements?

Generally, the maximum height requirement in Shoreland Zones is 35 feet. Each community also has zoning standards for setbacks from property lines. When a building is elevated after a damaging flood, there may be setback issues, as the higher level of the base floor may require a longer staircase, with a longer run. Also, if the building was already 35 feet high, and it needed to be raised by several feet, the top would exceed the maximum requirement. The SLAWG recommends amending the local zoning ordinance to exempt stairs and entry structures from property line setbacks in these

post-flood elevation situations, and to allow the distance from the top of the building to the base floor elevation to remain constant, without the need for a variance, when there is a required building elevation.

How will existing properties be affected by the new proposed 3-foot freeboard requirement?

The SLAWG committee has summarized the impacts of the new proposed freeboard requirement, and has estimated how many buildings in each of the member communities will be affected. The number varies in each town. See the accompanying figures and tables below for details.

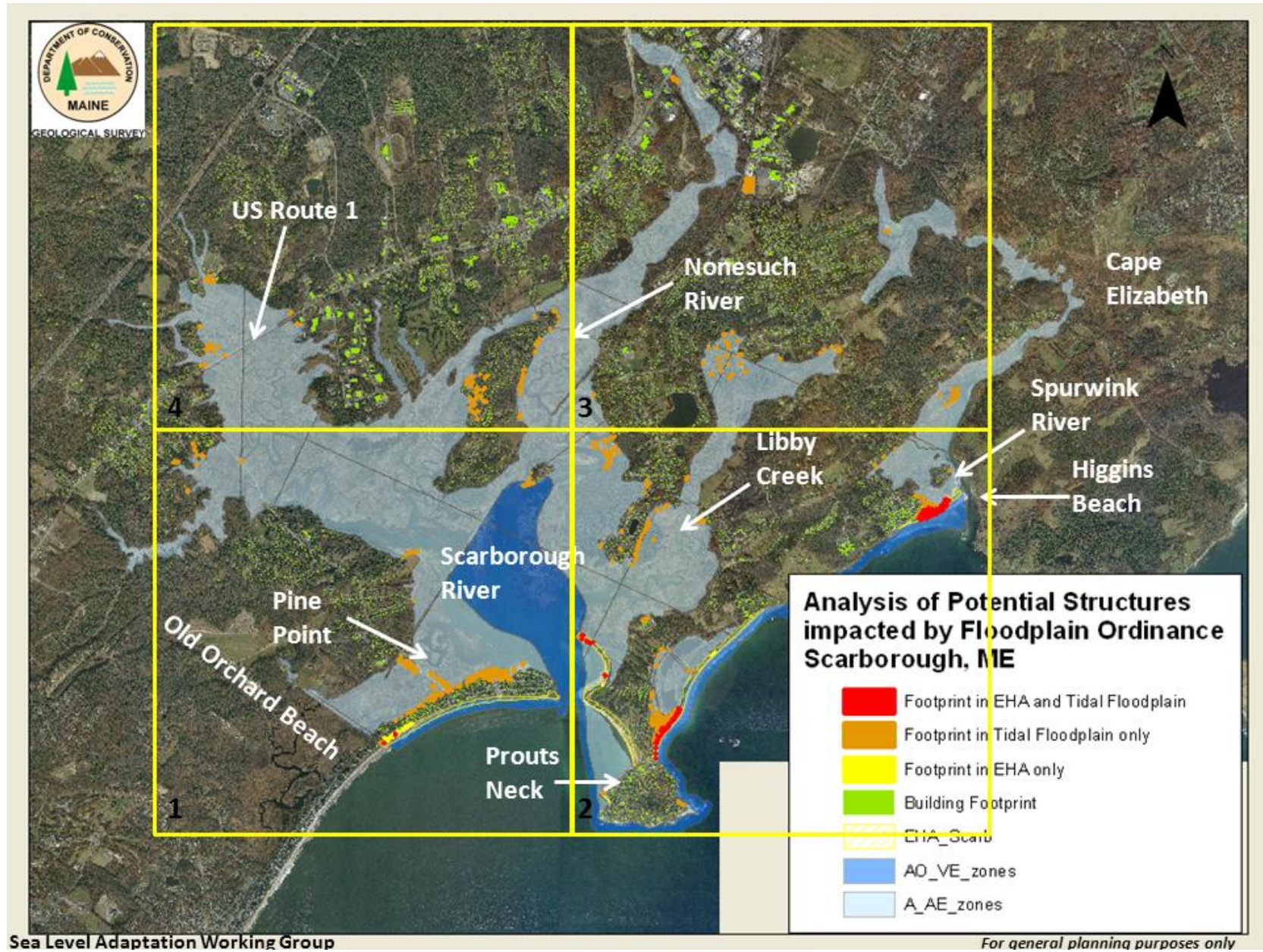
Town	# buildings in 100-yr Tidal Floodplain only	Taxable Building Value	# buildings in Erosion Hazard Area only	Taxable Building Value	# buildings in 100-year Tidal Floodplain and Erosion Hazard Area	Taxable Building Value
Scarborough	1213	\$ 123,886,800	160	\$21,277,900	121	\$17,124,300
Old Orchard Beach	551	\$ 99,849,600	287	\$78,661,200	213	\$56,768,500
Saco	326	\$ 36,574,700	253	\$30,018,800	190	\$19,455,500
Biddeford	231	\$ 94,118,400	292	\$43,993,300	99	\$17,471,300
Totals	2365	\$364,180,900	992	\$173,951,200	623	\$110,819,600

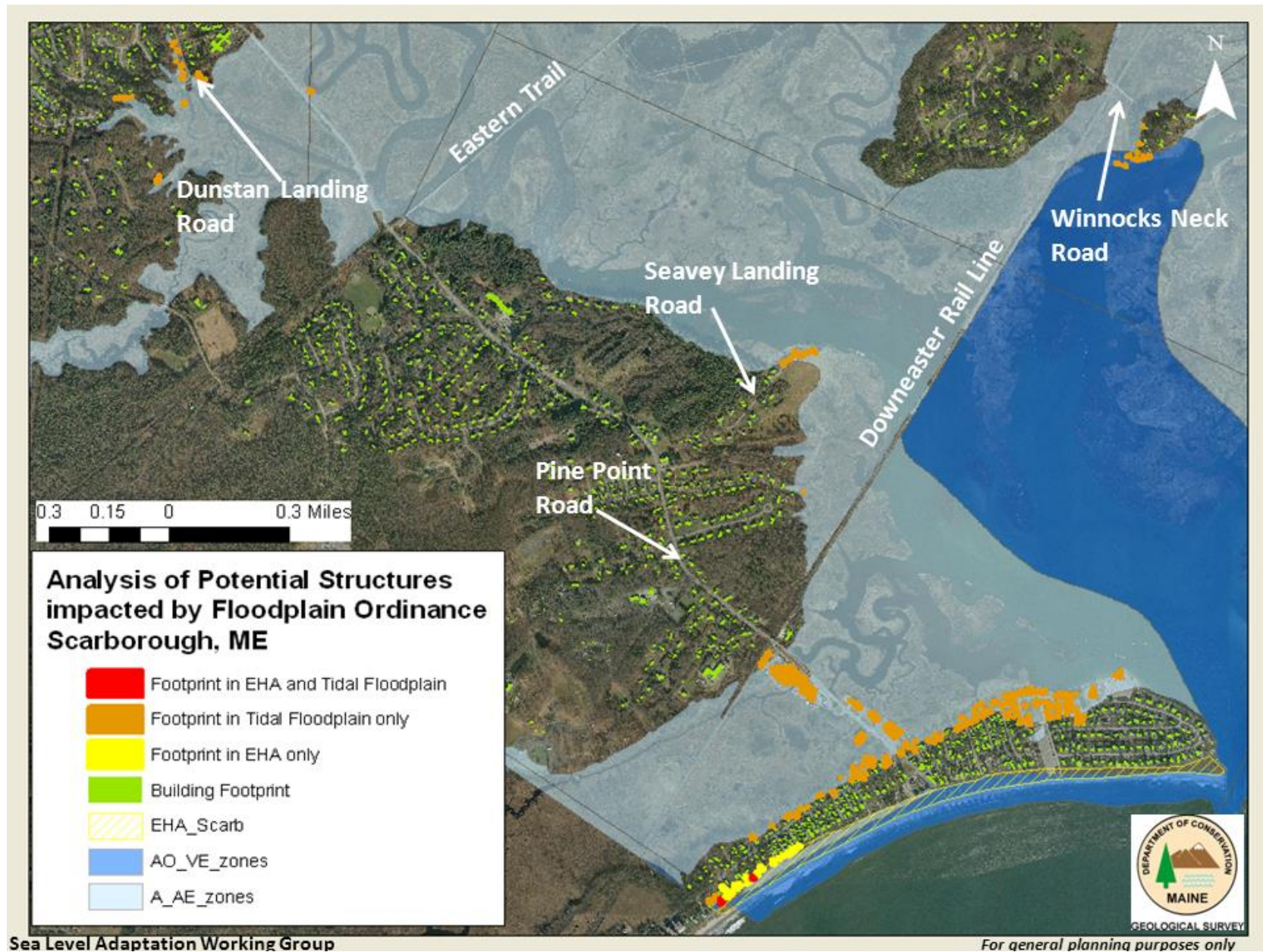
Table 3. Table showing the number of buildings and associated taxable value that are currently mapped within the effective 100-year tidal floodplain, the Erosion Hazard Area, and both areas. These buildings could be subject to a proposed increase in freeboard requirements, thereby reducing vulnerability.

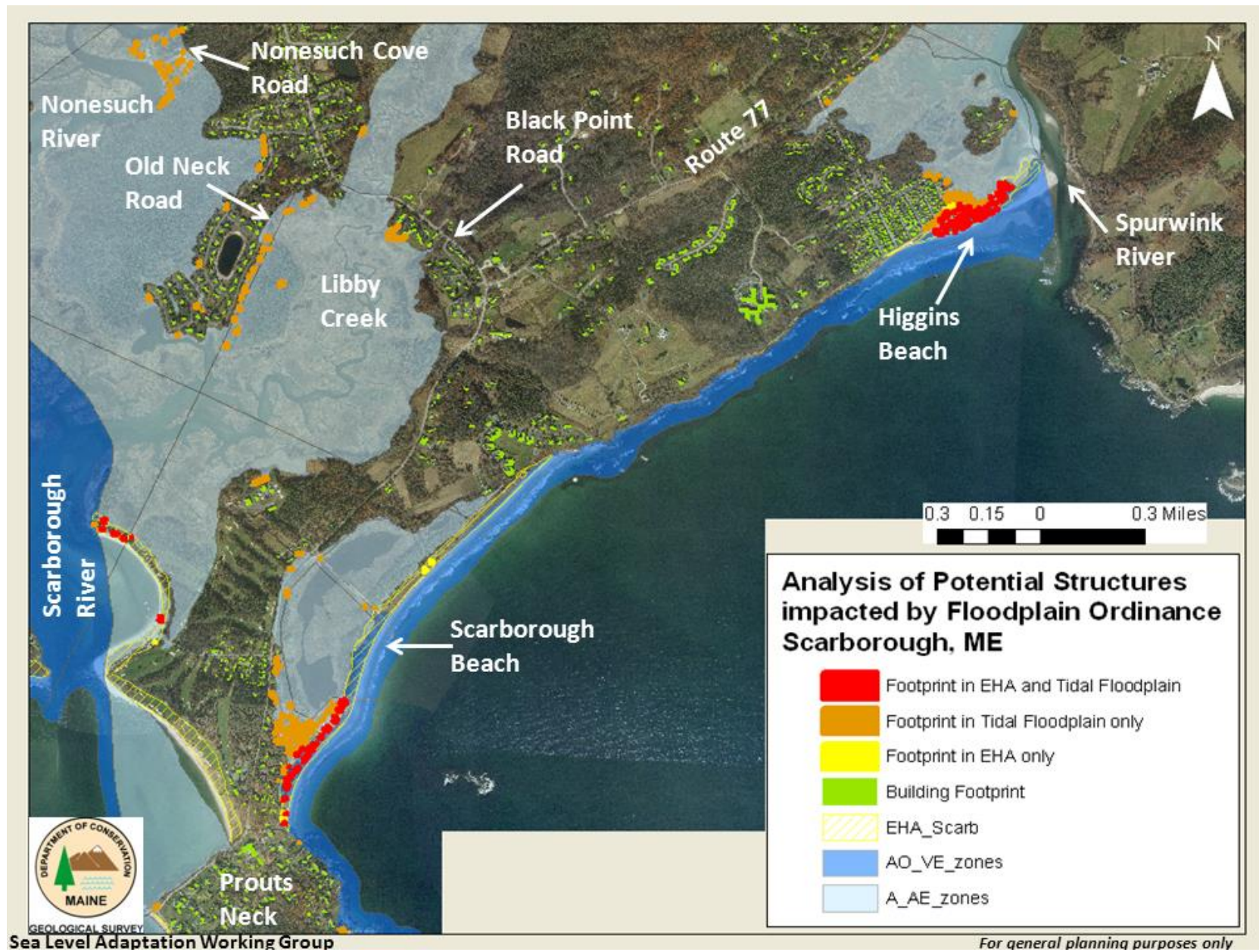
Scarborough, ME	Total Number of Buildings	Taxable Building Value	Number of Commercial Buildings	Taxable Building Value	Percent of Buildings that are Commercial
Building Footprint in...					
100-year Tidal Floodplain Only	1213	\$ 123,886,800	35	\$ 11,667,200	2.9%
Erosion Hazard Area Only	160	\$21,277,900	1	\$210,200	0.6%
Tidal Floodplain and Erosion Hazard Area	121	\$17,124,300	1	\$210,200	0.8%

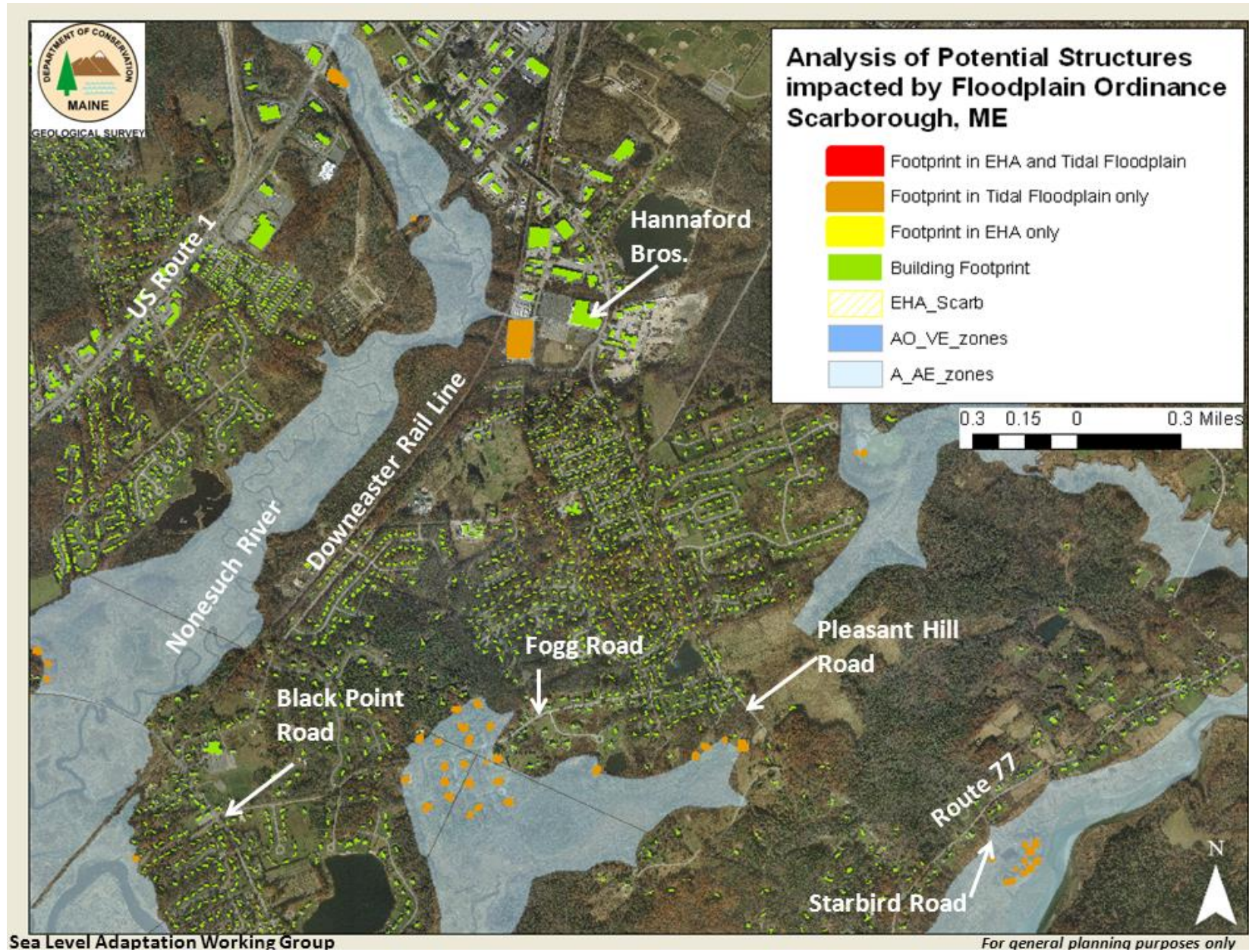
Scarborough Commercial = Land Use Code of Commercial, Industrial, or Vacant C/I

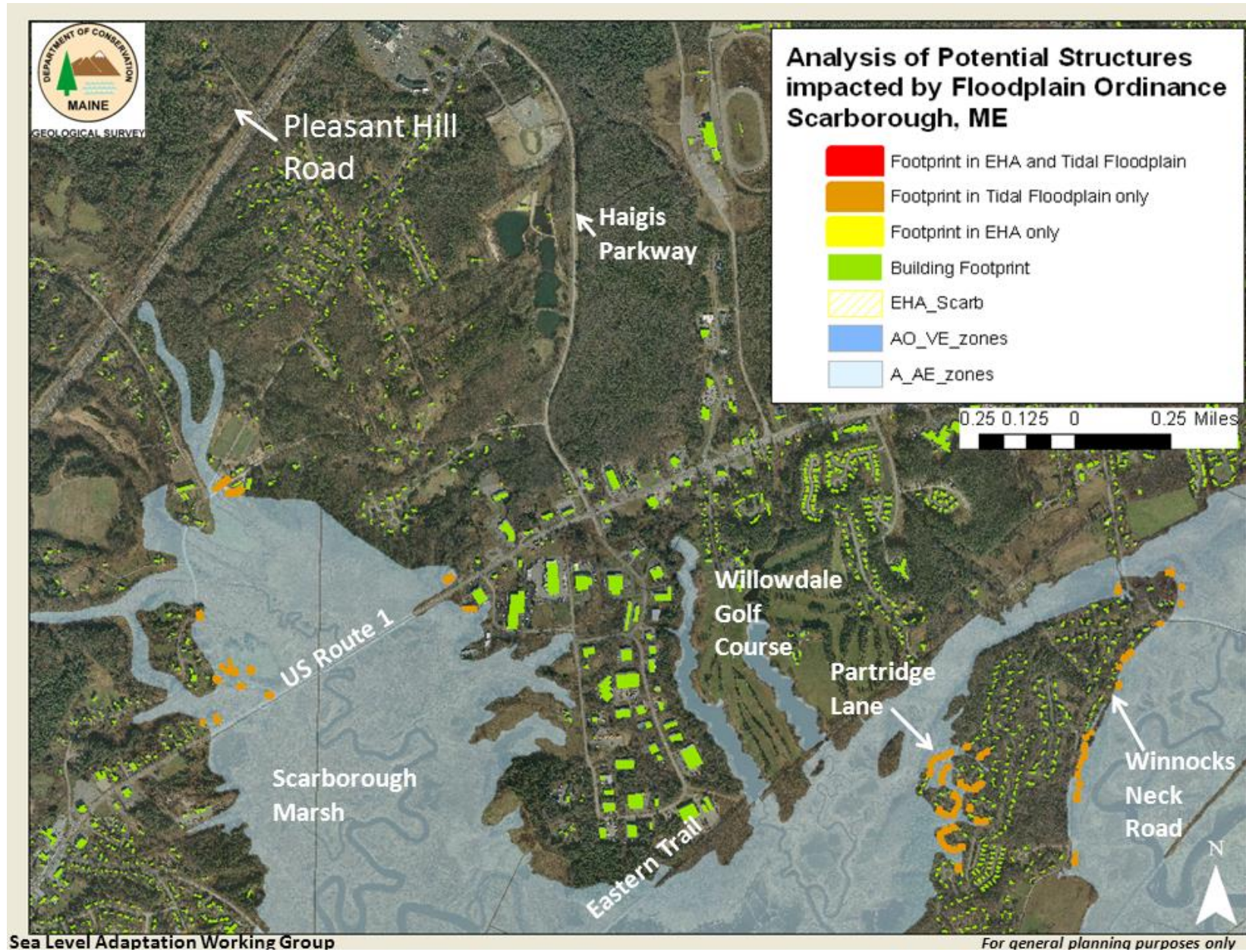
Table 4. Comparison of the total number of buildings and commercial buildings currently mapped within the 100-year tidal floodplain and Erosion Hazard Area. These buildings could be subject to higher freeboard requirements, thereby reducing vulnerability.











AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 1, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 24-040. Move approval of the second reading on the proposed changes to Chapter 1018 – the Town of Scarborough Cannabis Establishment Licensing Ordinance.
[Assistant Town Manager]

Assistant Town Manager

Ought to Pass

Sponsor

Recommendation

04/17/2024 – Vote: 5 Yeas and 1 Nay (Councilor Cushing)

First Reading/Vote

05/01/2024

Public Hearing

05/01/2024 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: May 1, 2024

ACTION ITEM: Order No. 24-040.
SUBJECT: <p>7:00 p.m. Public hearing and second reading on the proposed changes to Chapter 1018 – the Town of Scarborough Marijuana Establishment Licensing Ordinance. <i>[Assistant Town Manager]</i></p>
PURPOSE: <p>Revise Section 11: Odor Observation and Enforcement. The revised language is modeled after language within the good neighbor ordinance, expands the enforcement authority to the police department, and includes provisions that refer licenses back to the Town Council following five (5) verified odor reports within the 12 month licensing period.</p>
BACKGROUND: <p>Despite Cannabis Licensing changes adopted in August, 2023 the Town continues to receive reports of Odor from residential abutters to cannabis cultivation establishments. The enforcement language adopted in August, 2023 contained a very specific report threshold prior to the reports being verified by a Town official. These changes are made in an effort to dispatch Town officials (either Police or Code Enforcement) upon receipt of a singular complaint.</p>
FISCAL IMPACT: N/A
STATUS / PROCESS TO DATE: <ul style="list-style-type: none"> • Discussion and consideration at Ordinance Committee in March and April. • April 10: Ordinance Committee recommended to move proposed amendments to Chapter 1081: Cannabis Establishments Ordinance forward to Town Council • Town Council First Reading: April 17, 2024 • Town Council Public Hearing and Second Reading: May 1, 2024
PROPOSED ACTION: <p>Move approval of second reading on the proposed changes to Chapter 1018 – the Town of Scarborough Marijuana Establishment Licensing Ordinance. <i>[Assistant Town Manager]</i></p>
ATTACHMENTS: <ul style="list-style-type: none"> • Chapter 1018: Cannabis Licensing Ordinance

Chapter 1018
Town of Scarborough
Cannabis Establishments Licensing 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 1018 - the Town of Scarborough Cannabis Establishments Licensing Ordinance, be and hereby is amended, as follows (additions are underlined; deletions are struck through):

Section 1. Purpose.

The purpose of this Ordinance is to regulate and license Cannabis Establishments as defined in this Ordinance and by the State of Maine under the Marijuana Legalization Act, 28-B M.R.S.A. Chapter 1, and the Maine Medical Use of Marijuana Act, 22 M.R.S.A. Chapter 558-C, as may be amended, in order to promote the health, safety, and general welfare of the residents of Scarborough. [Amended 08/16/2023]

Persons or entities wishing to establish a Cannabis Establishment within the Town of Scarborough shall first obtain a license from the Scarborough Town Council (hereinafter “the Town Council”) and shall be subject to the provisions of this Ordinance. [Amended 08/16/2023]

Section 2. Authority.

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

Section 3. Definitions.

The following definitions shall apply to this Ordinance:

Adult use cannabis shall mean “adult use cannabis” as that term is defined in 28-B M.R.S.A. §102(1), as may be amended. [Amended 08/16/2023]

Adult Use Cannabis Cultivation Facility shall mean a “cultivation facility” as that term is defined in 28-B M.R.S.A. §102(13), as may be amended. [Amended 08/16/2023]

Adult use cannabis product shall mean “adult use cannabis product” as that term is defined in 28-B M.R.S.A. §102(2), as may be amended. [Amended 08/16/2023]

Adult Use Cannabis Products Manufacturing Facility shall mean a “products manufacturing facility” as that term is defined in 28-B M.R.S.A. §102(43), as may be amended. [Amended 08/16/2023]

Adult Use Cannabis Testing Facility shall mean a “testing facility” as that term is defined in 28-B M.R.S.A. §102(54), as may be amended. [Amended 08/16/2023]

Applicant shall mean a person that has submitted an application for licensure as a Cannabis Establishment pursuant to this Ordinance. [Amended 08/16/2023]

Cannabis Odor Panel shall mean the panel of municipal staff tasked with investigating odor complaints in sections 11; 3 and 11;4. The Odor Panel shall include three of the following positions; Assistant Town Manager, a representative of the Fire Department, a representative of the Police Department, the Zoning Administrator, and a Code Enforcement Officer. [Adopted 08/16/2023]

Cultivate or *cultivation* shall mean the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of Cannabis for use or sale. It does not include manufacturing. [Amended 08/16/2023]

De Minimis changes shall mean minor changes to a submitted floor plan of less ~~than~~ than -50%, improvements to odor mitigation plans, enhancements to security plans, or changes to ownership interest or officers of not greater than 50%. [Adopted 08/18/2021]

Licensed premises shall mean the premises, or facility, specified in an application for a State or Local License pursuant to this Ordinance that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, or test adult use cannabis, adult use ~~cannabis products~~ cannabis products, medical cannabis or medical cannabis products in accordance with the provisions of this Ordinance and the requirements of State law and regulations. [Amended 08/16/2023]

Licensee shall mean a person licensed pursuant to this Ordinance.

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

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

Manufacture or manufacturing shall mean the production, blending, infusing, compounding or other preparation of cannabis products, including, but not limited to, cannabis extraction or preparation by means of chemical synthesis. It does not include cultivation. [Amended 08/16/2023]

Cannabis shall mean “cannabis” as that term is defined in 28-B M.R.S.A. §102(27) as may be amended. [Amended 08/16/2023]

Cannabis concentrate shall mean the resin extracted from any part of a cannabis plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. In determining the weight of cannabis concentrate in a cannabis product, the weight of any other ingredient combined with cannabis to prepare a cannabis product may not be included. [Amended 08/16/2023]

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. [Amended 08/16/2023]

Medical Cannabis shall mean the medical use of cannabis, with the term “medical use” as defined in 22 M.R.S §2422(5), as amended. [Amended 08/16/2023]

Medical Cannabis caregiver shall mean a “caregiver” as that term is defined in 22 M.R.S.A. §2422(8-A), as may be amended. [Amended 08/16/2023]

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

Medical Cannabis cultivation area shall mean a “cultivation area” as that term is defined in 22 M.R.S.A. §2422(3), as may be amended. [Amended 08/16/2023]

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 licensed under this ordinance to cultivate, prepare and package medical cannabis at a location that is not the residence of the Registered Caregiver or Qualifying Patient. [Amended 08/16/2023]

Medical Cannabis Dispensary shall mean a “registered dispensary” as that term is defined in 22 M.R.S.A. §2422(6), as may be amended. [Amended 08/16/2023]

Medical Cannabis product shall mean a “cannabis product” as that term is defined in 22 M.R.S.A. §2442(4-L), as may be amended. [Amended 08/16/2023]

Medical Cannabis Products Manufacturing Facility shall mean a “manufacturing facility” as that term is defined in 22 M.R.S.A. §2422(4-R), as may be amended. [Amended 08/16/2023]

Medical cannabis qualifying patient shall mean a “qualifying patient” as that term is defined in 22 M.R.S.A. §2422(9), as may be amended. [Amended 08/16/2023]

Medical cannabis registered caregiver shall mean a “registered caregiver” as that term is defined in 22 M.R.S.A. §2422(11), as may be amended. [Amended 08/16/2023]

Medical Cannabis Testing Facility shall mean a “cannabis testing facility” as that term is defined in 22 M.R.S.A. §2422(5-C), as may be amended. [Amended 08/16/2023]

Plant Canopy shall mean “Plant canopy” as that term is defined in 28-B M.R.S.A. §102(41), as may be amended.

Owner shall mean a person whose beneficial interest in a Cannabis Establishment is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a Cannabis Establishment and/or has a controlling interest in a Cannabis Establishment. [Amended 08/16/2023]

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

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

State Licensing Application shall mean the application form and supporting materials required by the State for the purpose of a person obtaining a State license, registration or certification for the cultivation, manufacture, distribution, testing and sale of adult use Cannabis, adult use Cannabis products, medical Cannabis and/or medical Cannabis products in this State. [Amended 08/16/2023]

State Licensing Authority shall mean the authority (or authorities) created by the State for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of adult use Cannabis, adult use Cannabis products, medical Cannabis and/or medical Cannabis products in this State. [Amended 08/16/2023]

Section 4. License Required.

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

Any grandfathered use pursuant to Section 10.5.A of this Licensing Ordinance shall obtain a license from Town Council within 6 months of the adoption of this Ordinance; however, the standards of Section 10.A.(2, 3, 4) are not applicable to licensing process of these grandfathered activities.

Section 5. License Application. [Amended 08/16/2023]

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

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

A. Name of Applicant.

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

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

C. Recent passport-style photograph(s) of the applicant(s)- or governmental issued photo identification

~~D. The applicant's driver's license.~~

- E. A sketch showing the configuration of the subject premises, including building footprint, plant canopy square footage calculations, interior layout with floor space to be occupied by the business, and parking plan. The sketch must be drawn to scale with marked dimensions.
- F. The location of the proposed Cannabis Establishment, including a legal description of the property, street address, and telephone number. The applicant must also demonstrate that the property meets the zoning requirements for the proposed use. [Amended 08/16/2023]
- G. If the applicant has had a previous license under this Ordinance or other similar Cannabis Establishment license applications in another town in Maine, in the Town of Scarborough, or in another state denied, suspended or revoked, they must list the name and location of the Cannabis Establishment for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and they must list whether the applicant has been a partner in a partnership or an officer, director, or principal stockholder of a corporation that is permitted/licensed under this Ordinance, whose license has previously been denied, suspended or revoked, listing the name and location of the Cannabis Establishment for which the permit was denied, suspended, or revoked as well as the date of denial, suspension or revocation. [Amended 08/16/2023]
- H. If the applicant holds any other permits/licenses under this Ordinance or other similar Cannabis Establishment license from another town, the Town of Scarborough, or state the applicant shall provide the names and locations of such other permitted/licensed businesses, including the current status of the license or permit and whether the license or permit has been revoked. [Amended 08/16/2023]
- I. The type of Cannabis Establishment for which the applicant is seeking a license and a general description of the business including hours of operation.
- J. Sufficient documentation demonstrating possession or entitlement to possession of the proposed licensed premises of the Cannabis Establishment pursuant to a lease, rental agreement, purchase and sale agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.
- K. A copy of a Town Tax Map depicting the property lines of any public or preexisting private ~~school within~~ school within one thousand (1000) feet of the subject property. ~~For the~~ For the purposes of this Ordinance, "school" includes a public school, private school, or public preschool program all as defined in 20-A M.R.S.A. §1, ~~or~~ or any other educational facility that serves children from prekindergarten to grade 12, as well as any preschool or daycare facility licensed by the Maine Department of Health and Human Services.
- L. Evidence of all required state authorizations, including evidence of a caregiver registration in good standing, a conditional license pursuant to Title 28-B, food license, and any other required state authorizations.
- M. A copy of the security plan as required by Section 10(A)(6) of this Ordinance.
- N. A copy of the odor and ventilation mitigation plan as required by Section 10(A)(7) of this Ordinance.

- O. A copy of the operations plan, as required by Section 10(A)(8) of this Ordinance.
- P. Consent for the right to access the property as required by Section 10(B) of this Ordinance.
- Q. Evidence of insurance as required by Section 10(C)(1) of this Ordinance.
- R. Medical cannabis registered caregivers and other applicants submitting applications and supporting information that is confidential under 22 M.R.S.A. §2425-A(12), as may be amended, and the Maine Freedom of Access Act, 1 M.R.S.A. §402(3)(F), shall mark such information as confidential. [Amended 08/16/2023]

Section 6. Application and License Fees. [Amended 08/18/2021; 08/16/2023]

- A. Applicant Fee. An applicant must pay a \$350 application fee upon submission. Applicants are also responsible for the Town's expenses associated with the review of an application, including the cost of any third-party review if necessary.
- B. License Fee. Local License fees are set forth below and shall be paid annually:
 - 1. Adult Use Cannabis Cultivation Facility:
 - (a) Tier 1: 0 to 500 SF of plant canopy: \$750.
 - (b) Tier 2: 501-2,000 SF of plant canopy: \$3,000.
 - (c) Tier 3: 2,001-7,000 SF of plant canopy: \$7,500.
 - (d) Tier 4: greater than 7,000SF of plant canopy: \$10,000
 - 2. Adult Use or Medical Cannabis Testing Facility: \$1,000
 - 3. Adult Use or Medical Cannabis Products Manufacturing Facility: \$2,500
 - 4. Medical Cannabis Cultivation Facility: \$750
- C. Application Change Fee: License holders seeking to make de minimum changes to an existing license: \$150. [Adopted 08/18/2021]

Section 7. Licensing Authority and Procedure. [Amended 08/18/2021]

- A. The initial application for a license shall be processed by the Town Clerk and reviewed and approved by the Town Council.
- B. Complete application. In the event that the Town Clerk determines that a submitted application is not complete, the Town Clerk shall notify the Applicant within ten (10) business days that the application is not complete and shall inform the Applicant of the additional information required to process the application.
- C. Public hearing.
 - 1. A public hearing by the Town Council on an application for a license shall be scheduled after receipt of a completed application. The Town Clerk shall publish public notice of

the hearing not less than ten (10) days prior to the hearing in a newspaper of general circulation in Cumberland County.

2. When an application is determined to be complete, the Town Clerk shall, at the applicant's expense, give written notification to all abutting property owners within five-hundred (500) feet of the parcel on which the proposed license is sought of the date, time, and place of the meeting at which the application will be considered. Notification shall be sent at least ten (10) days prior to the first meeting at which the complete application is to be reviewed. Failure ~~of any~~ of any property owner to receive the notification shall not necessitate another hearing or invalidate any action of the Board. For purposes of this section, the owners of the abutting properties shall be considered to be the parties listed by the tax assessor for the Town of Scarborough.
- D. A renewal application shall be subject to the same application and review standards as applied to the initial issuance of the license. Renewal applications from applicants in good standing, with no change, or de minimis, to the original application, may be approved by the Town Manager or their designee, so long as all other criteria and requirements as outlined in this Section and Section 10, have been met. The Town as part of the renewal process, shall consider compliance from prior years, and based upon that review, may recommend conditions to any future license to correct, abate, or limit past problems to forward to the Town Council for action. [Amended 08/18/2021]
- E. Responsibilities and review authority.
1. The Town Clerk shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Ordinance. The Town Clerk shall consult with other Town Departments and any appropriate State Licensing Authority as part of this investigation.
 2. No Local License shall be granted by the Town Council until the Police Chief, the Fire Chief, and the Code Enforcement Officer have all made the determination that the Applicant complies with this and all other local ordinance and state laws and provides a written recommendation to the Town Clerk. Where an agent of the Town determines that is necessary for the Town to consult with a third-party expert consultation to the applicant. Before doing so, however, the Town shall give reasonable notice to the applicant of its determination of need, including the basis for the determination; the third-party that the Town propose to engage; and then estimated fee for the third-party consultation. The applicant shall have the opportunity respond for up to (10) business days from receipt of the Town's notice before the Town engages the third-party. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance or State law, or are reasonably necessary to secure compliance with any ordinance provision or State law, it shall be the duty of the Applicant or licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the Town authorized to make the inspection at any reasonable time that admission is requested.
 3. The Town Council shall have the authority to approve license and renewal applications, subject to the exception outlined in 7(D) above, and impose any conditions on a license that may be necessary to insure compliance with the requirements of this Chapter or to

address concerns about operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the license. [Amended 08/18/2021]

4. The Town Manager, or designee, with the endorsement of the Council Chair, shall have the authority to approve de minimis changes to an existing license subject to continued compliance with this Section and Section 10 below. [Adopted 08/18/2021]

Section 8. License Expiration and Renewal. [Amended 08/18/2021; 08/16/2023]

- A. A new license, when granted, shall be valid until August 31st, immediately following said granting of said license, except that new licenses granted during July and August shall be valid until August 31st of the following calendar year. [Amended 08/16/2023]
- B. Renewal applications must be submitted at least 45 days prior to the date of expiration of the annual Local License. An application for the renewal of an expired license shall be treated as a new license application.
- C. Licenses issued under this Ordinance are not transferable to a new owner. A transfer in ownership interest, change in the officers of an owner, of greater than 50% of the ownership interest or officer shall require a new license. Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A Licensee who seeks to operate in a new location shall acquire a new Local License for that location. [Amended 08/18/2021]

Section 9. Denial, Suspension or Revocation of License.

- A. A Local License under this Ordinance shall be denied to the following persons:
 1. A person who fails to meet the requirements of this Ordinance. Where an Applicant is an entity rather than a natural person, all natural persons with an ownership interest shall meet these requirements.
 2. A person who has had a license for a Cannabis Establishment revoked by the Town or by the State. [Amended 08/16/2023]
 3. An Applicant who has not acquired all necessary State approvals and other required local approvals prior to the issuance of a Local License.
- B. The Town may suspend or revoke a license for any violation of this Chapter, Chapter 1000a, Chapter 405, or any other applicable building and life safety code requirements. The Town may suspend or revoke a license if the licensee has a State License for a Cannabis Establishment suspended or revoked by the State. The Licensee shall be entitled to notice and a hearing prior to any suspension or revocation, except where the reason for suspension or revocation could reasonably threaten health, safety, or welfare, as long as notice and a hearing is provided as soon as practicable. [Amended 08/16/2023]

Section 10. Performance Standards for License [amended 08/18/2021]

A. General.

1. All Cannabis Establishments shall comply with applicable state and local laws and regulations. [Amended 08/16/2023]

2. Cannabis Establishments shall only be located within the zoning districts permitted in the Scarborough Zoning Ordinance. [Amended 08/16/2023]
3. Cannabis Establishments may not be located on property within 1,000 feet of the property line of a preexisting school as required and defined in Section 5(K) of this Ordinance. [Amended 08/16/2023]
4. Required setbacks shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the school property line and the property line of the parcel of land on which the Cannabis Establishment is located. If the Cannabis Establishment is located within a commercial subdivision, the required setback shall be measured from the closest portion of a building that is used for the Cannabis Establishment to the property line of the school. Presence of a town, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section. [Amended 08/16/2023]
5. Pursuant to 22 M.R.S.A. §2429-D(3), Caregiver Retail Stores, Medical Cannabis Dispensaries, Medical Cannabis Testing Facilities, Medical Cannabis Manufacturing Facilities and Medical Cannabis Cultivation Facilities that were operating with Town approval prior to December 13, 2018, are grandfathered in their current location and current use and shall be treated as legally non-conforming uses in accordance with Article III of the Scarborough Zoning Ordinance, provided, however, that said Cannabis Establishments shall apply for and obtain a license. If any non-conforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by the Zoning Ordinance for the district in which such land is located. [Amended 08/16/2023]
6. Security measures at all Cannabis Establishment premises shall include, at a minimum, the following:
 - a. Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week, with thirty (30) day video storage, to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises; and
 - b. Door and window combination video and motion detector intrusion system and contact sensors with audible alarm and remotely accessible smart phone monitoring, maintained in good working condition; and
 - c. A mounted and non-removable locking safe or locked room with a security door and contact alarm permanently affixed to the premises that is suitable for storage of all cannabis, cannabis products, and currency ~~cash~~ stored overnight on the licensed premises; and [Amended 08/16/2023]
 - d. Exterior lighting that illuminates the exterior walls of the licensed premises during dusk to dawn, that is either constantly on or activated by motion detectors, and complies with applicable provisions of the lighting performance standards in the Town of Scarborough Zoning Ordinance and the Good Neighbor Ordinance; and
 - e. Deadbolt locks on all exterior doors and any other exterior access points, excepting windows which shall have locks and bars or equipped with monitored glass-break sensors; and

- f. Methods to ensure that no person under the age of twenty-one (21) shall have access to cannabis and cannabis products. [Amended 08/16/2023]
7. Odor and Ventilation. All Cannabis Establishments shall have odor mitigation systems to ensure that the smell of Cannabis shall not be detectable beyond the property boundary, subject to the enforcement process outlined in Section 11. A Cannabis Establishment, and property owner, are responsible for taking any and all measures necessary to ensure this standard is met. Cannabis Cultivation Facilities, or other Cannabis Establishments with increased probability to emit odors, will be subject to the following stipulations:
- a. Install an activated carbon, or equivalent, odor mitigation system with a minimum air exchange rate of fifteen (15) air changes per hour in the following areas:
 - 1. mature flower rooms
 - 2. cure rooms
 - 3. trim rooms and packaging rooms
 - 4. hallways adjacent to the mature floor rooms
 - 5. other areas with high odor potential

Alternative odor control technologies may be considered with documentation of efficacy.

- b. Replace activated Carbon Media or other filters used to mitigate odor in accordance with the manufacturer's specifications but not less than an annual basis. Carbon Media includes but is not limited to carbon filters, carbon canister filters and pre-filters.
- c. All odor mitigation equipment used by an applicant or License holder shall always be in operation unless (1) the interruption is caused by a power outage or power failure; (2) the interruption is caused by routine maintenance, as recommended by the manufacturer, or emergency maintenance, to the odor mitigation equipment; or (3) the Town, in writing, permits otherwise. In the event there is a power outage or power failure, the License shall do whatever is reasonably necessary (e.g., informing Central Maine Power of any power disruption) to ensure power is restored to its facility as soon as reasonably practicable. For any disruption due to maintenance, the License holder shall ensure the odor mitigation equipment is returned to service or replaced as soon as reasonably practicable.
- d. No exterior venting of cannabis odor unless the applicant or License holder: (1) notifies the Town; (2) provides evidence of the cannabis odor being properly treated before exhausted outside; and (3) Town approves of the exterior venting of the cannabis odor. The Town shall not deny an applicant or License holder from venting odor outside unless either fails to provide sufficient evidence that the odor will be properly treated before its exhausted outside, or the License holder has been fined more than once by the Town for an odor violation.
- e. No window air conditioning units or window fans are permitted.
- f. All windows must always remain closed.
- g. Maintenance Records for all odor mitigation equipment shall be maintained for a period of two (2) years from the date of maintenance. Maintenance Records means

records of purchases of replacement carbon filters or other odor mitigation equipment, performed maintenance tracking, documentation and notification of malfunctions or power outages, scheduled and performed training sessions, and monitoring of administrative controls. All Maintenance Records shall be made available for review, upon request from the Town.

- h. Submit an Odor Mitigation Plan at the initial application stage of seeking a License. A License holder shall not be required to re-submit an Odor Mitigation Plan upon renewing the License unless there have been changes to the facility floor plan or system design as described in the existing Odor Mitigation Plan. The Odor Mitigation Plan must, at a minimum, include the following information:

1. FACILITY ODOR EMISSIONS INFORMATION

- Facility floor plan. *This section should include a facility floor plan, with locations of odor-emitting activity(ies) and emissions specified. Relevant information may include, but is not limited to, the location of doors, windows, ventilation systems, and odor sources. If a facility has already provided the locations of specific odor-emitting activities and emissions in its business license application floor plan, it may instead reference the facility's business file number(s) and the relevant sections within such application where the floor plan is located.*
- System design. *The system design should describe the odor control technologies that are installed and operational at the facility (e.g., carbon filtration) and to which odor-emitting activities, sources, and locations they are applied (e.g., bud room exhaust).*
- Specific odor-emitting activity(ies). *This section should describe the odor-emitting activities or processes (e.g., cultivation) that take place at the facility, the source(s) (e.g., budding plants) of those odors, and the location(s) from which they are emitted (e.g., flowering room).*
- Phases (timing, length, etc.) of odor-emitting activities. *This section should describe the phases of the odor-emitting activities that take place at the facility (e.g., harvesting), with what frequency they take place (e.g., every two weeks on Tuesdays), and for how long they last (e.g., 48 hours).*
- Odor Mitigation Specification Template. *Form can be found on the Town's Cannabis Establishment License webpage.*

2. ADMINISTRATIVE CONTROLS

- Procedural Activities. *This section should describe activities such as building management responsibilities (e.g., isolating odor-emitting activities from other areas of the buildings through closing doors and windows).*
- Staff training procedures *This section should describe the organizational responsibility(ies) and the role/title(s) of the staff members who will be trained about odor control; the specific administrative and engineering activities that the training will encompass; and the frequency, duration, and format of the training (e.g., 60 minute in-person training of X staff, including the importance of closing doors and windows and ensuring exhaust and filtration systems are running as required).*

- Recordkeeping systems and forms *This section should include a description of the records that will be maintained (e.g., records of purchases of replacement carbon filter, performed maintenance tracking, documentation and notification of malfunctions, scheduled and performed training sessions, and monitoring of administrative controls). Any examples of facility recordkeeping forms should be included as appendices to the Plan.*
8. Cannabis Waste and Disposal. No cannabis, cannabis products, cannabis plants, or other cannabis waste may be stored outside, other than in secured, locked containers. Any wastewater shall be treated such that it will not create excessive odors, contamination, or pollution. [amended 08/16/2023]
 9. Signs. In addition to the sign regulations contained in Chapter 405, Zoning Ordinance, signage must comply with the requirements in 22 M.R.S.A. §2429-B and 28-B M.R.S.A. §702.

B. Right of Access /Inspection.

1. Every Cannabis Establishment shall allow the Scarborough Code Enforcement Officer (“CEO”), Fire Department, and Police Department to enter the premises at reasonable times for the purpose of checking compliance with all applicable State laws and this Ordinance.
2. All Cannabis Establishments shall agree to be inspected annually by the Scarborough Fire Department and have a Knox Box installed at the structure's exterior entrance for emergency access. Knox Boxes shall be obtained and installed in coordination with the Scarborough Fire Department.

C. Insurance and Indemnification.

1. Each Cannabis establishment shall procure and maintain commercial general liability coverage in the minimum amount of \$1,000,000 per occurrence for bodily injury, death, and property damage.
2. By accepting a license issued pursuant to this Ordinance, the licensee knowingly and voluntarily waives and releases the Town, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of any Cannabis Establishment owners, operators, employees, clients, or customers for a violation of local, State or federal laws, rules, or regulations.
3. By accepting a license issued pursuant to this Ordinance, the permittee/licensee agrees to indemnify, defend, and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, and insurers against all liability, claims, and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of a licensed Cannabis Establishment.

D. State Law

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

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

Section 11. Odor Observation and Enforcement [Adopted 08/16/2023]

Per Section 10(7), odor of cannabis by a Licensee shall not be detectable beyond the property boundary. Cannabis odor observation shall be undertaken to arrive at a determination that a cannabis odor exists beyond the property line. All cannabis odor observations made by the Town shall be made in writing. This Section only applies to Licensed Cannabis Establishments.

- A. This section of the ordinance may be enforced by any Code Enforcement or Law Enforcement officer.
- B. No person shall interfere with, oppose, or resist any authorized person charged with the enforcement of this ordinance while such person is engaged in the performance of her/his duty.
- C. Violations of this ordinance shall be prosecuted in the same manner as other civil violations; provided, however, that for an initial violation of this ordinance, a written notice of violation may be given to the alleged violating owner of the licensed premises which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken on the initial violation if the cause of the violation has been removed or the condition abated or fully corrected within the time period specified in the written notice of violation. If the cause of the violation is not abated or fully corrected within the time period specified in the written notice of violation, or if the licensee commits a subsequent violation of the same provision or provisions; of this ordinance specified in the written notice, then no further action is required prior to prosecution of the civil violation. If, due to a multi-tenant situation or other ~~thereasons~~, the alleged violating licensee cannot be identified -in order to serve the notice of intention to prosecute, the notice as required shall be deemed to be given upon mailing such notice by registered or certified mail to the ~~alleged violating licensee at her/his last known address or at the owner of the place~~ licensed premises where the violation occurred, and shall be posted in a conspicuous location at that premises, -in which event the specified time period for abating or appealing the violation shall commence at the date of the day following the mailing of such notice.

After the fifth (5th) violation within the license period, the licensee(s) shall have their license referred to the Town Council for a suspension or revocation hearing within thirty (30) days of the complaint being verified.

~~A cannabis odor complaint shall be defined as a receiving four (4) or more written cannabis complaints, from a minimum of two (2) parties, one of which must be from a residence or business within 750 feet of the suspected licensed premises emitting the odor. The four (4) complaints must be reported within four (4) days of each other.~~

- ~~1. Within forty eight (48) hours of receiving a cannabis odor complaint, as defined above, a Code Enforcement Officer shall investigate the complaint and notify the Licensee(s) and Landlord~~

~~of the licensed premises that a cannabis odor complaint has been received. The Code Enforcement Officer's investigation shall include an initial inspection and, if odor is not detected, a second inspection of the abutting properties to investigate whether the cannabis odor is present. If odor is not detected at either of the two inspections, the complaint will be recorded as unconfirmed and Licensee(s) and Landlord will be notified of this finding. If cannabis odor is detected, the Licensee(s) and Landlord will be notified that the complaint has been verified and the CEO shall provide verbal notice of violation and instruct the Licensee or Landlord to comply with this Ordinance. The Licensee or Landlord will be required to notify the Code Enforcement Department, in writing, of corrective action taken to resolve the violation within ten business days of receiving the verbal notice of violation. Failure of the Licensee and/or Landlord to provide written notification of corrective action taken within 10 business days of the verbal notice will result in penalties assessed for each day thereafter until written notice of corrective action taken is received.~~

- ~~2. If a second cannabis odor complaint, as defined above, attributed to the same Licensee or Licensed Premises is received, the process outlined in one (1) above, will be followed.~~
- ~~3. If a third cannabis odor complaint, as defined above, attributable to the same Licensee or Licensed Premises is received, the Cannabis Odor Panel ("Odor Panel") will be convened to investigate the cannabis odor complaint. The Licensee (if known) and the Landlord must be notified of the date and time when the Odor Panel will meet, and be permitted to witness the Odor Panel's investigation. The Licensee and/or Landlord may send a representative to meet the Odor Panel on their behalf. The investigation of the complaint shall include an initial inspection and, if odor is not detected, a second inspection shall be conducted by a minimum of three (3) Odor Panel members within four (4) days of receiving the third complaint. If odor is not detected at either of the two inspections, the complaint will be recorded as unconfirmed and Licensee(s) and Landlord will be notified of this finding. If cannabis odor is detected at either inspection, the Licensee(s) and Landlord will be notified and subject to the following:~~
 - ~~a. Notify the Licensee of the third violation in writing;~~
 - ~~b. Assess a fine for the violation, and;~~
 - ~~c. Require the Licensee to submit a written report from a mechanical engineer or odor management specialist with recommendations for modification/improvement of the odor mitigation system within thirty(30) days of receipt of notice of violation, and;~~
 - ~~d. Require implementation of recommendations within sixty (60) days.~~
 - ~~e. Unless an extension to submit the report and/or notice of compliance is granted by the Code Enforcement Department, failure of the Licensee to meet the deadlines for steps c. or d. shall result in an immediate suspension of the Local License until the report or notice of compliance is submitted to the Code Enforcement Department.~~
- ~~4. If, after completing the process outlined in step three (3) above, a fourth complaint is received, the Cannabis Odor Panel will be convened to investigate the cannabis odor complaint. The Licensee (if known) and the Landlord must be notified of the date and time when the Odor Panel will meet, and be permitted to witness the Odor Panel's investigation. The Licensee and/or Landlord may send a representative to meet the Odor Panel on their behalf. The investigation of the complaint shall include an initial inspection and, if odor is not detected, a~~

~~second inspection shall be conducted by a minimum of three (3) Odor Panel members within four (4) days of receiving the third complaint. If odor is not detected at either of the two inspections, the complaint will be recorded as unconfirmed and Licensee(s) and Landlord will be notified of this finding. If cannabis odor is detected at either inspection, the Licensee(s) and Landlord will be notified and the applicable licenses will be subject to a revocation hearing by the Town Council within 30 days of the complaint being verified.~~

~~While a licensee or landlord is within the administrative enforcement process, which shall be defined as the period between being notified a complaint has been verified and the required follow-up action or communication, complaints will continue to be verified by the CEO but they will not be subject to subsequent notices of violation or penalties.~~

~~All complaints and any related documentation associated with the investigation of the cannabis odor complaints shall be made available to the Licensee or Landlord, at no cost, within ten business days of the Town Council meeting to consider the Licensee's Local License or the Landlord's property.~~

~~In the event the Town Council suspends or revokes a Licensee's Local License, the Town Council shall give the Licensee, if permitted under State law, a reasonable period to remove all Cannabis from the Licensee's Licensed Premise. All odor mitigation equipment must remain in operation and in compliance with this Ordinance until the Cannabis is removed from the Licensed Premises. In the event the Town Council suspends and/or revokes the Licensee's Local License and the Licensee is operating as an Adult Use Cannabis Establishment, the Town shall notify the Office of Cannabis Policy of the suspension or revocation.~~

~~At any point the CEO or Odor Panel is unable to verify the odor complaints, the violation process reverts back to the previous completed step of the enforcement process as described herein. If a Landlord or Licensee has not received any verbal or written notice of violation under this Section for one year from the date of the last verbal or written notice of violation, the violation process reverts to the beginning of the violation process as described herein.~~

Section 12. Violations and Penalties.

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

- A. Any violation of this Ordinance, including the operation of a Cannabis Establishment without a valid Local License ~~and failure~~and failure to comply with any condition, shall be subject to civil penalties in the minimum amount of \$100 and the maximum amount of \$2,500. Every day a violation exists constitutes a separate violation. Any such fine may be in addition to any suspension or revocation imposed in accordance with the provisions of this Ordinance. In any court action, the Town may seek injunctive relief in addition to penalties, and shall be entitled to recover its costs of enforcement, including its attorney's fees.
- B. In addition to any other remedies provided by this Ordinance, the Town may take all necessary steps to immediately shut down any Cannabis business and post the business and the space that it occupies against occupancy for the following violations: operating a Cannabis business without a Local License or State License; failure to allow entrance and inspection to any Town official on official business after a reasonable request; and any other violation

that the Town determines as the potential to threaten the health and/or safety of the public, including significant fire and life safety violations.

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

Section 13. Appeals.

- A. Any appeal of a decision of the Town Council to issue, issue with conditions, deny, or revoke a license shall be to the Superior Court in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.
- B. Any order, requirement, decision, or determination made, or failure to act, in the enforcement of this ordinance by the CEO or Police Chief is appealable to the Zoning Board of Appeals.

Section 14. Severability.

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

Section 15. Other Laws.

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

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 1, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Proclamation 24-002. Move approval on the request to proclaim the month of May 2024, as Building Safety Month. *[Zoning Administrator]*

Zoning Administrator

Ought to Pass

Sponsor

Recommendation

N/A

First Reading/Vote

N/A

Public Hearing

05/01/2024 – Vote:

Second Reading/Final Approval/Vote

Proclamation 24-002

Proclaiming May 2024 as Building Safety Month

BE IT RESOLVED, by the Council of the Town of Scarborough, Maine in Town Council assembled that,

WHEREAS, the Town of Scarborough is committed to recognizing that our growth and strength depends on the safety and essential role our homes, buildings and infrastructure play, both in everyday life and when disasters strike, and;

WHEREAS, the Town of Scarborough is confident in the resilience of these buildings that make up our community is achieved through the devotion of vigilant guardians—building safety and fire prevention officials, architects, engineers, builders, tradespeople, design professionals, laborers, plumbers and others in the construction industry—who work year-round to ensure the safe construction of buildings, and;

WHEREAS, these guardians are dedicated members of the International Code Council, a nonprofit that brings together local, state, territorial, tribal and federal officials who are experts in the built environment to create and implement the highest-quality codes to protect us in the buildings where we live, learn, work and play, and;

WHEREAS, these modern building codes include safeguards to protect the public from hazards such as hurricanes, snowstorms, tornadoes, wildland fires, floods and earthquakes, and;

WHEREAS, Building Safety Month is sponsored by the International Code Council to remind the public about the critical role of our communities' largely unknown protectors of public safety—our local code officials—who assure us of safe, sustainable and affordable buildings that are essential to our prosperity, and;

WHEREAS, “Mission Possible,” the theme for Building Safety Month 2024, encourages us all to raise awareness about building safety on a personal, local and global scale, and;

WHEREAS, each year, in observance of Building Safety Month, people all over the world are asked to consider the commitment to improve building safety, resilience and economic investment at home and in the community, and to acknowledge the essential service provided to all of us by local and state building departments, fire prevention bureaus and federal agencies in protecting lives and property.

NOW, THEREFORE, BE IT RESOLVED, that the Scarborough Town Council, does hereby proclaim the month of May 2024 as:

Building Safety Month

throughout Town of Scarborough Maine, and we urge all citizens to join us as we participate in Building Safety Month activities.

Signed and dated this 1st day of May, 2024, on behalf of the Town Council and the Town Manager of Scarborough, Maine.

Signed by:

Nicholas S. McGee
Council Chair

Signed by:

Thomas J. Hall
Town Manager

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 1, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Proclamation 24-003. Move approval on the request to proclaim May 5-11, 2024, as Municipal Clerk’s Week. *[Town Clerk]*

<i>Town Clerk</i>	<i>Ought to Pass</i>
<hr/> Sponsor	<hr/> Recommendation
<i>N/A</i>	
<hr/> First Reading/Vote	
<i>N/A</i>	
<hr/> Public Hearing	
<i>05/01/2024 – Vote:</i>	
<hr/> Second Reading/Final Approval/Vote	

Proclamation 24-003

55th Annual Professional Municipal Clerk's Week

May 5-11, 2024

BE IT RESOLVED, by the Council of the Town of Scarborough, Maine in Town Council assembled that,

WHEREAS, The Office of the Professional Municipal Clerk, a time honored and vital part of local government exists throughout the world, and;

WHEREAS, The Office of the Professional Municipal Clerk is the oldest among public servants, and;

WHEREAS, The Office of the Professional Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and;

WHEREAS, Professional Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.

WHEREAS, The Professional Municipal Clerk serves as the information center on functions of local government and community.

WHEREAS, Professional Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Professional Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, provincial, county and international professional organizations.

WHEREAS, it is most appropriate that we recognize the accomplishments of the Office of the Professional Municipal Clerk.

NOW, THEREFORE, BE IT RESOLVED, that the Scarborough Town Council, does hereby proclaim May 5 through 11, 2024 as:

Professional Municipal Clerk's Week

throughout Town of Scarborough Maine, and further extend appreciation to our Professional Municipal Clerk's, Yolande [Tody] Justice, Kristen Barth, Katie Duross and Jennifer Peterson and to all Professional Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Signed and dated this 1st day of May, 2024, on behalf of the Town Council and the Town Manager of Scarborough, Maine.

Signed by:

Nicholas S. McGee
Council Chair

Signed by:

Thomas J. Hall
Town Manager

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 1, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 24-036. Move approval of the second reading to adopt new Chapter 1104B – the Town of Scarborough Commercial Property Assessed Clean Energy Program (C-Pace) and authorize the Town Manager to enter into a Participation Agreement with Efficiency Maine on behalf of the Town of Scarborough. *[Sustainability Coordinator]*

Sustainability Coordinator

Ought to Pass

Sponsor

Recommendation

04/03/2024—Vote: 5 Yeas and 2 Nays (Chairman McGee and Councilor Hamill)

First Reading/Vote

04/17/2024

Public Hearing

05/01/2024 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: May 1, 2024

ACTION ITEM: Order No. 24-036.

SUBJECT:

Second reading to adopt new Chapter 1104B – the Town of Scarborough Commercial Property Assessed Clean Energy Program (C-Pace) and authorize the Town Manager to enter into a Participation Agreement with Efficiency Maine on behalf of the Town of Scarborough.
[Sustainability Coordinator]

PURPOSE:

To review the proposed new Chapter 1104B Commercial Property Assessed Clean Energy Program Ordinance which is required for property owners to participate in the program.

BACKGROUND:

In 2021, the Legislature enacted [L.D. 340, An Act to Allow for the Establishment of Commercial Property Assessed Clean Energy Programs](#) (The “C-PACE Act”). The C-PACE Act authorizes Efficiency Maine Trust (the “Trust”), a third party contracted by the Trust, or a municipality that has adopted a C-PACE ordinance to establish a C-PACE program.

Commercial PACE (C-PACE) means commercial property assessed clean energy. C-PACE is an economic development tool for municipalities to encourage energy-efficient buildings and create a more competitive environment for retaining and attracting new businesses by lowering energy costs.

A Municipality can: (1) Establish its own C-PACE program and administer the functions of the C-PACE Program itself; or, (2) Participate in the Efficiency Maine Trust C-PACE Program and enter into a contract with the Trust to administer certain functions of the C-PACE Program for the Municipality.

The Sustainability Committee and staff recommend adopting under option 2.

In option 2, Municipalities are relieved of the majority of administrative burdens while still able to stimulate the adoption of energy savings improvements for commercial properties within their communities. Under both options 1 and 2, Municipalities wishing to participate in the C-PACE Program must adopt a C-PACE Ordinance as required by the Maine C-PACE Act. The Trust has developed a model C-PACE Ordinance.

A municipality that wishes to exercise option 2 must also enter into a C-PACE Municipality Participation Agreement with the Trust that establishes the Trust as the Municipality’s C-PACE Program Administrator for certain designated functions.

- 1. Project Initiation:** The municipality must execute a C-PACE Assessment Agreement, along with the Property Owner and its Capital Provider, for each C-PACE project within their municipality. The C-PACE Assessment Agreement authorizes the creation of a C-

PACE Lien on the Property receiving the Energy Savings Improvements. The process of completing this program responsibility is as follows:

- During the development of a C-PACE Project, the Capital Provider and Property Owner will sign the C-PACE Assessment Agreement.
- The Municipality will then sign the C-PACE Assessment Agreement, approved as to form and substance by the Municipality.
- All parties must sign the C-PACE Assessment Agreement prior to the submission of a C-PACE project application to Efficiency Maine, though the effectiveness of the Agreement is conditioned on final project approval by Efficiency Maine and closing of the C-PACE loan.
- Once a project approval is provided by Efficiency Maine and the C-PACE financing transactions closes, a notice of the C-PACE Agreement will be filed in the registry of deeds, which filing will create a lien on the Property implementing the Energy Savings Improvements until the amounts due under the C-PACE Financing are paid in full. The form C-PACE Assessment Agreement places the obligation for recording the Notice of C-PACE Agreement on the Capital Provider.

Annual C-PACE Assessments and Collections: The municipality will not need to finance or fund any C-PACE projects and will incur no liability for payment of the loan. The C-PACE Assessment Agreement details the responsibilities of the Municipality and Capital Provider with regard to billing and collection of the C-PACE assessments, but in summary:

The Capital Provider will provide the Municipality with a “Payment Due Notice” specifying the amount due from the Property Owner in repayment of the C-PACE loan for the subject year. The Municipality will assess the Property in the amount specified in the Payment Due Notice and designate the Capital Provider as agent for the billing of the C-PACE assessment amount and the collection of payments from the Property Owner.

The C-PACE assessment payments are to be applied by the Capital Provider to the C-PACE loan balance. The Capital Provider will provide periodic reports to the Municipality on the status of the C-PACE payments from each Property Owner and will provide notice to the Municipality of any delinquency or default of a C-PACE assessment payment.

The Capital Provider shall provide notice to the Municipality and the Property Owner when the C-PACE Financing amount has been paid in full and shall cooperate with the Municipality and the Property Owner in the preparation and recording of a release and discharge of the C-PACE Lien on the subject Property when the C-PACE Financing has been satisfied. {P2178537.1}

Default and Foreclosure: See Attachment *Municipality Participation Guide*

SUSTAINABILITY COMMITTEE REVIEW

The Sustainability Committee received an overview presentation from James Neal from Efficiency Maine at their meeting on September 27, 2023. At the meeting the Sustainability Committee requested the item move to Ordinance Committee for consideration.

ORDINANCE COMMITTEE REVIEW

Mr. Neal provide a brief overview of the program at the [Ordinance Committee Meeting on October 12, 2023 \(youtube.com\)](#). No action was taken at that time. At the request of the Sustainability Committee, the Ordinance Committee reviewed the proposal again on March 13, 2024, and recommended the draft ordinance be presented to Town Council.

More information is available at the following:

[Commercial Property Assessed Clean Energy \(C-PACE\) - Efficiency Maine](#)

FISCAL IMPACT:

No direct fiscal impact to the Town.

STATUS / PROCESS TO DATE:

- Sustainability Committee: September 27, 2023
- Ordinance Committee: October 12, 2023
- Ordinance Committee: March 20, 2024
- Town Council First Reading: April 3, 2024
- Town Council Public Hearing: April 17, 2024
- Town Council Second Reading: May 1, 2024

PROPOSED ACTION:

Move approval adopt new Chapter 1104B – the Town of Scarborough Commercial Property Assessed Clean Energy Program (C-Pace) and authorize the Town Manager to enter into a Participation Agreement with Efficiency Maine on behalf of the Town of Scarborough.
[Sustainability Manager]

ATTACHMENTS:

- Proposed Chapter 1104B Commercial Property Assessed Clean Energy Program Ordinance
- Municipality Participation Agreement
- Municipality Assessment Agreement
- Municipality Participation Guide

CHAPTER 1104-B
TOWN OF SCARBOROUGH
COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY
(C-PACE) ORDINANCE

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following recommendation of the new Chapter 1104B – the Town of Scarborough Commercial Property Assessed Clean Energy Program (C-Pace), be and hereby, be adopted, as follows:

1. Purpose and authority

- A. Purpose. By and through this Ordinance, the Town of Scarborough Maine, declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Commercial Property Assessed Clean Energy (“C-PACE”) program so that owners of qualifying property can access financing for energy savings improvements to their commercial properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and state laws.
- B. Enabling legislation. The Town enacts this Ordinance pursuant to Public Law 2021, Chapter 142 of the 130th Maine State Legislature, “An Act to Allow for the Establishment of Commercial Property Assessed Clean Energy Program,” also known as “the Commercial Property Assessed Clean Energy Act” or “the Commercial PACE Act” (codified at 35-A M.R.S. §10201 *et seq.*).

2. Title

This Ordinance shall be known and may be cited as “The Town of Scarborough’s Commercial Property Assessed Clean Energy (“C-PACE”) Ordinance” (this “Ordinance”).

3. Definitions

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings. As used in this Ordinance, the following words and phrases shall have the meanings indicated:

Town. The Town of Scarborough.

Commercial PACE or (“C-PACE”). Means Commercial Property Assessed Clean Energy.

Commercial PACE Agreement. An agreement that authorizes the creation of a Commercial PACE Assessment on Qualifying Property and that is approved in writing by all owners of the Qualifying Property at the time of the agreement and by the municipal officers of the Town.

Commercial PACE Assessment. An assessment made against Qualifying Property to finance an Energy Savings Improvement.

Commercial PACE District. The area within which the Town establishes a Commercial PACE Program hereunder, which is all that area within the Town boundaries.

Commercial PACE Lien. A lien, secured against a Qualifying Property that is created by a Commercial PACE Assessment.

Commercial PACE Loan. A loan, payable through a Commercial PACE Assessment and secured by a C-PACE Lien, made to the owner(s) of a qualifying property pursuant to a Commercial PACE Program to fund Energy Savings Improvements.

Commercial PACE Program. A program established under this Ordinance pursuant to the Commercial PACE Act under which commercial property owners can finance Energy Savings Improvements on Qualifying Property.

Energy Savings Improvement. An improvement or series of improvements to Qualifying Property that are new and permanently affixed to Qualifying Property and that:

- A. Will result in increased energy efficiency or substantially reduced energy use and:
 - (1) Meet or exceed applicable United States Environmental Protection Agency and United States Department of Energy “Energy Star” program or similar energy efficiency standards established or approved by the Trust; or
 - (2) Involve weatherization of commercial or industrial property in a manner approved by the Trust; or
- B. Involve a renewable energy installation, an energy storage system as defined in 35-A M.R.S. § 3481(6), an electric thermal storage system, electric vehicle supply equipment or heating equipment that meets or exceeds standards established or approved by the Trust. Heating equipment that is not a Renewable Energy Installation must be heating equipment that produces the lowest carbon emissions of any heating equipment reasonably available to the property owner, as determined by the Trust, and must meet the requirements of 35-A M.R.S. §10204 (1)(B).

Qualifying Property. Real commercial property in the Town that:

- A. Does not have a residential mortgage;
- B. Is not owned by a residential customer or small commercial customer as defined in 35-A M.R.S. §3016(1)(C) and (D), respectively;
- C. Consists of 5 or more rental units if the property is a commercial building designed for residential use;
- D. Is not owned by a federal, state or municipal government or public school; and
- E. Is located in a municipality that participates in a Commercial PACE Program.

Registered Capital Provider or Capital Provider. An approved lender proving financing for the Energy Savings Improvements through a C-PACE Program and registered with Efficiency Maine Trust.

Renewable Energy Installation. A fixture, product, system, device or interacting group of devices installed behind the meter at a Qualifying Property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including but not limited to, photovoltaic systems, solar thermal systems, highly efficient wood heating systems, geothermal systems and wind systems that do not on average generate more energy or heat than the peak demand of the property.

Trust. The Efficiency Maine Trust established in 35-A M.R.S. §10103 and/or its agents, if any.

4. Program established; Amendments.

- A. Establishment. The Town hereby establishes a Commercial PACE Program allowing owners of Qualifying Property located in the Town who so choose to access financing for Energy Savings Improvements to their Qualifying Property, with such financing to be repaid through a Commercial PACE Assessment and secured by a Commercial PACE Lien.
- B. The Town may:
 - (1) Administer the functions of the Commercial PACE Program, including, but not limited to, entering into Commercial PACE Agreements with commercial property owners and collecting Commercial PACE Assessments, or designate an agent to act on behalf of the Town for such billing and collection purposes; or
 - (2) Enter into a contract with the Trust to administer some or all functions of the Commercial PACE Program for the Town, including billing and collection of Commercial PACE Assessments, subject to the limitations set forth in Section 10205, subsection 5 of the Commercial PACE Act.
- C. Amendment to or Repeal Commercial PACE Program. The Town may from time to time amend this Ordinance to use any funding sources made available to it or appropriated by it for the express purpose of its Commercial PACE Program, and the Town shall be responsible for administration of loans made from those funding sources. The Town may also repeal this Ordinance in the same manner as it was adopted, provided, however, that such repeal shall not affect the validity of any Commercial PACE Agreements entered into by the Town prior to the effective date of such repeal, or a Commercial PACE Loan or Commercial PACE Lien arising out of such Agreements.

5. Financing; Private Lenders; Terms.

C-PACE Loans may be provided by any qualified Capital Provider private lender participating in the C-PACE Program and a C-PACE Agreement may contain any terms agreed to by the lender and the property owner, as permitted by law, for the financing of Energy Savings Improvements. Unless the Town specifically designates funding sources made available to it or appropriated by it for the express purpose of its Commercial PACE Program and agrees to provide financing for Energy Savings Improvements, the Town will not finance or fund any loan under the Commercial PACE Program, and shall serve only as a program sponsor to facilitate loan repayment by including the Commercial PACE Assessment on the property tax bill for the property, and shall incur no liability for the loan.

6. Program Requirements and Administration

- A. Agreement Required. All commercial property owners seeking financing for Energy Savings Improvements on Qualifying Property pursuant to the Commercial PACE Program must enter into a Commercial PACE Agreement, approved as to form and substance by the Town, authorizing the creation of a Commercial PACE Assessment and acknowledging the creation of a Commercial PACE Lien. A notice of the Commercial PACE Agreement will be filed in the registry of deeds, which filing will create a lien until the amounts due under the agreement are paid in full.
- B. Underwriting Standards. A Commercial PACE Agreement entered into pursuant to the Commercial PACE Program must satisfy the minimum underwriting requirements of the Commercial PACE Act and such additional requirements established by the Trust.

- C. Collection of assessments. A commercial property owner participating in the Commercial PACE Program will repay the financing of Energy Savings Improvements through an assessment on their property similar to a tax bill. A Commercial PACE Assessment constitutes a lien on the Qualifying Property until it is paid in full and must be assessed and collected by the Town or its designated agent, the Trust, or a 3rd-party administrator contracted by the Trust, consistent with applicable laws. The Town may, by written agreement, designate the applicable third-party Capital Provider as its agents for the billing and collection of Commercial PACE assessment payments in satisfaction of the Commercial PACE Loan. Where Commercial PACE assessment payments are received directly by the Town along with other municipal tax payments, such payments received from property owners shall first be applied to Town taxes, assessments, and charges. The Town shall have no ownership of the Commercial PACE assessments collected except for any administrative costs provided under the Commercial PACE Program. The Town shall pay all Commercial PACE assessment payments in any calendar month to the applicable Capital Provider or the Commercial PACE program administrator within 30 days after the end of the month in which such amounts are collected. The Town shall have no obligation to make payments to any Capital Provider with respect to any Commercial PACE repayment amounts or loan obligations other than that portion of the Commercial PACE Assessment actually collected from a property owner for the repayment of a Commercial PACE Loan.

If the Trust or a 3rd-party administrator contracted by the Trust or an agent of the Town collects Commercial PACE Assessments on behalf of the Town, the Trust or agent shall periodically report to the Town on the status of the Commercial PACE Assessments in the Town and shall notify the Town of any delinquent Commercial PACE Assessments. Upon receiving notification from the Trust or agent of a delinquent Commercial PACE Assessment, the Town shall notify the holder of any mortgage on the property of the delinquent assessment.

- D. Notice; filing. A notice of a Commercial PACE Agreement must be filed in the appropriate registry of deeds. The filing of this notice creates a Commercial PACE Lien against the property subject to the Commercial PACE Assessment until the amounts due under the terms of the Commercial PACE Agreement are paid in full. The notice must include the information required by the Commercial PACE Act.
- E. Priority. A Commercial PACE Lien secures payment for any unpaid Commercial PACE Assessment and, together with all associated interest and penalties for default and associated attorney's fees and collection costs, takes precedence over all other liens or encumbrances except a lien for real property taxes of the municipality and liens of municipal sewer, sanitary and water districts. From the date of recording, a Commercial PACE Lien is a priority lien against a property, except that the priority of such a Commercial PACE Lien over any lien, except a lien for real property taxes of the Town or a lien of a municipal sewer, sanitary or water district, that existed prior to the Commercial PACE Lien is subject to the written consent of such existing lienholder.
- F. Mortgage lender notice and consent. Any financial institution holding a lien, mortgage or security interest in or other collateral encumbrance on the property for which a Commercial PACE Assessment is sought must be provided written notice of the commercial property owner's intention to participate in the Commercial PACE Program and must provide written consent to the commercial property owner and Town that the borrower may participate and enroll the collateral property in the Commercial PACE Program. This written consent must be filed in the registry of deeds and must include a written acknowledgement and understanding

by the financial institution holding the lien, mortgage or security interest in or other collateral encumbrance on the property as required by the Commercial PACE Act.

7. Collection, default; foreclosure.

- A. A Commercial PACE Assessment and any interest, fees, penalties and attorney's fees incurred in its collection must be collected in the same manner as the real property taxes of the Town. A Commercial PACE Assessment for which notice is properly recorded under this section creates a lien on the property. The portion of the assessment that has not yet become due is not eliminated by foreclosure, and the lien may not be accelerated or extinguished until fully repaid.
 - (1) If a Commercial PACE Assessment is delinquent or in default and the borrower or property owner is delinquent in any tax debt due to the Town, collection may occur only by the recording of liens and by foreclosure under 36 M.R.S. §§ 942 and 943. Liens must be recorded and released in the same manner as liens for real property taxes.
 - (2) If only a Commercial PACE Assessment is delinquent but the borrower or property owner is current on payment of all municipal taxes due to the Town, then a Commercial PACE lienholder shall accept an assignment of the Commercial PACE Lien, as provided in the written agreement between Town and the Capital Provider. The assignee shall have and possess all the same powers and rights at law as the Town and its tax collector with regards to the priority of the Commercial PACE Lien, the accrual of interest and fees and the costs of collection. The assignee shall have the same rights to enforce the Commercial PACE Lien as any private party or lender holding a lien on real property, including, but not limited to, the right of foreclosure consistent with 14 M.R.S. §§ 6203-A and 6321 and any other action in contract or lawsuit for the enforcement of the Commercial PACE Lien.
- B. Judicial or nonjudicial sale or foreclosure. In the event of a judicial or nonjudicial sale or foreclosure of a property subject to a Commercial PACE Lien by a lienholder that is not a Commercial PACE lienholder, the Commercial PACE Lien must survive the foreclosure or sale to the extent of any unpaid installment, interest, penalties or fees secured by the lien that were not paid from the proceeds of the sale. All parties with mortgages or liens on that property, including without limitation Commercial PACE lienholders, must receive on account of such mortgages or liens sale proceeds in accordance with the priority established in this chapter and by applicable law. A Commercial PACE Assessment is not eliminated by foreclosure and cannot be accelerated. Only the portion of a Commercial PACE Assessment that is in arrears at the time of foreclosure takes precedence over other mortgages or liens; the remainder transfers with the property at resale.
- C. Unless otherwise agreed upon by the Capital Provider, all payments on a Commercial PACE Assessment that become due after the date of transfer by judicial or nonjudicial sale or foreclosure must continue to be secured by a lien on the property and are the responsibility of the transferee.
- D. Release of lien. The Town will discharge a Commercial PACE Lien created under the Commercial PACE Act and this Ordinance upon full payment of the amount specified in the Commercial PACE Agreement. A discharge under this subsection must be filed in the appropriate registry of deeds and must include reference to the notice of Commercial PACE Agreement previously recorded pursuant to the Commercial PACE Act and this Ordinance.

8. Liability of municipal officials; liability of Town

- (1) Notwithstanding any other provision of law to the contrary, Town officers and Town officials, including without limitation, Tax Assessors and Tax Collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a Commercial PACE Program, including without limitation, claims for or related to uncollected Commercial PACE Assessments under this Ordinance.
- (2) Other than the fulfillment of its obligations specified in a Commercial PACE Agreement, the Town has no liability to a commercial property owner for or related to Energy Savings Improvements financed under a Commercial PACE Program.

9. Conformity to Changed Standards.

This Ordinance is intended to comply with the Commercial PACE Act and the administrative rules of the Trust issued in connection with the Commercial PACE Act, as the same may be amended. If the Trust or any State or federal agency adopts standards, promulgates rules, or establishes model documents subsequent to the Town's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Town shall take necessary steps to conform this Ordinance and its Commercial PACE Program to those standards, rules or model documents.

C-PACE MUNICIPALITY PARTICIPATION AGREEMENT

This C-PACE Municipality Assessment Agreement (“Agreement”), dated as of {INSERT DATE} is entered into by and between Efficiency Maine Trust, an independent quasi-state agency of the State of Maine with offices located at 168 Capitol Street, Suite 1, Augusta, ME 04330 (the “**Trust**”) and Town of Scarborough, a municipal corporation existing under the laws of the State of Maine, with offices located at 259 US Route One Scarborough, Maine 04070 (the “**Municipality**”).

WHEREAS, Title 35-A M.R.S. §§10201 et seq., enacted by PL 2021, c.142, “An Act to Allow for the Establishment of Commercial Property Assessed Clean Energy Programs” (the “**C-PACE Act**”), authorizes the Trust and municipalities adopting a Commercial PACE Ordinance (as defined in the C-PACE Act) to establish commercial PACE programs under which commercial property owners may finance Energy Savings Improvements on Qualifying Property (each as defined in the C-PACE Act and the C-PACE Program Regulations (the “**Regulations**”)) by utilizing a municipal assessment and collection mechanism to provide security for repayment of the financing pursuant to the terms of the C-PACE Act (a “**C-PACE Program**”).

WHEREAS, the Trust has developed a C-PACE Program and the Municipality has adopted a Commercial PACE Ordinance for the purpose of establishing and participating in a C-PACE Program.

WHEREAS, pursuant to the C-PACE Act, the Municipality wishes to enter into a contract with the Trust to administer certain aspects of the C-PACE Program with respect to Property Owners holding Qualified Property within the Municipality.

WHEREAS, the Trust is willing to provide certain C-PACE Program administration services for the Municipality under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Trust and Municipality agree as follows:

Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms under the C-PACE Act, the Regulations, and the C-PACE Program Guidelines (the “**Guidelines**”).

1. The Trust will provide general marketing services for the C-PACE Program and provide model C-PACE Ordinances, C-PACE Agreements, and forms, documents, and educational materials for use by the Municipality and Property Owners holding Qualifying Property in the Municipality. The Trust will provide general program support for Property Owners holding Qualifying Property in the Municipality who make an application for participation in the C-PACE Program.
2. The Trust agrees to serve as Program Administrator with respect to C-PACE Program applications submitted by Property Owners holding Qualified Property in the Municipality, administering those aspects of the C-PACE Program specified herein.
3. The Trust will review applications of Capital Providers wishing to participate in the C-PACE Program in accordance with the Guidelines and approve such applications that demonstrate the capacity to meet the requirements of the Regulations). The Trust will maintain a list of approved Registered Capital Providers available to Property Owners holding Qualifying Property in the Municipality.
4. The Trust will review applications to the C-PACE Program by or on behalf of Program applicants and shall determine whether the application satisfies the requirements for a Qualifying Property and Qualifying Project under the Regulations and Guidelines. If the Trust determines that the C-PACE

Program application meets the standards and requirements set forth in the Regulations and Guidelines, the Trust will issue a Notice of Approval to the Property Owner and the Capital Provider providing the C-PACE financing.

5. For those Property Owners with a Qualifying Property in the Municipality for which a Notice of Approval is issued, the Municipality shall be required to execute a C-PACE Assessment Agreement with the Property Owner and Capital Provider pursuant to which the Municipality will agree to assess the subject Qualifying Property to facilitate repayment of the C-PACE Loan to the Capital Provider. The Municipality shall undertake such actions as required under the C-PACE Assessment Agreement and C-PACE Act as necessary to establish the C-PACE Lien and facilitate repayment of the C-PACE Loan to the Capital Provider through the assessment process.

6. The Municipality agrees to comply with the terms of the C-PACE Act and the Municipality's Commercial PACE Ordinance, including, without limitation, procedures on collection and foreclosure of C-PACE Assessments where the Property Owner also is delinquent in any tax debt due to the Municipality, and the assignment of the C-PACE Lien to the Capital Provider for collection and foreclosure where the C-PACE Assessment is delinquent but the Property Owner is current on municipal taxes. In accordance with the C-PACE Act, the Municipality agrees to release the C-PACE Lien upon full payment of the C-PACE Loan.

7. The Municipality shall provide written notice to the Trust if any property within the Municipality subject to a C-PACE Lien is delinquent in payment of the C-PACE Assessment and is subject to foreclosure on a lien for any tax debt due to the Municipality or if the Municipality makes an assignment of the C-PACE Lien to the Capital Provider.

8. Notwithstanding any provision of law to the contrary, staff or trustees of the Trust, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a C-PACE Program established under the C-PACE Act, including, without limitation, claims for or related to uncollected C-PACE Assessments.

9. Pursuant to the C-PACE Act, other than the fulfillment of its obligations specified in a C-PACE Assessment Agreement, neither the Trust nor a Municipality has any liability to a Property Owner for or related to Energy Savings Improvements financed under a C-PACE Program.

10. The services to be provided by the Trust are limited to the services specified herein. The Trust assumes no responsibility, and undertakes no liability, for the filing or recording of any required documents or instruments, the perfection of any C-PACE Liens, the terms, performance, or enforcement of any C-PACE Loan, the collection of any C-PACE Assessments, any C-PACE Loan servicing or recordkeeping, the collection of delinquent accounts, or any other matters between the Property Owner, the Capital Provider, and the Municipality.

11. This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all previous discussions, understandings and agreements between the parties relating to the subject matter of this Agreement. If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision or section will not affect any of the remaining clauses, provisions or sections, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision or section has not been contained in it.

12. The term of this Agreement shall commence on the date first written above and shall continue until all C-PACE Loans issued in connection with C-PACE Program applications administered by the Trust under this Agreement have been paid in full or deemed no longer outstanding. The Municipality may discontinue participation in the C-PACE Program under this Agreement at any time on sixty (60) days' written notice to the Trust, provided that the obligations of the Municipality under this Agreement shall continue to apply to C-PACE Loans, C-PACE Liens, and C-PACE Assessments in place prior to the termination date.

IN WITNESS WHEREOF, the Municipality and the Trust have each caused this Agreement to be executed and delivered as of the date first written above.

Town of Scarborough

By:

Its:

EFFICIENCY MAINE TRUST

Michael D. Stoddard
Executive Director

C-PACE ASSESSMENT AGREEMENT

THIS C-PACE ASSESSMENT AGREEMENT (the “**Agreement**”) is made as of {INSERT DATE}, between {INSERT NAME}, a _____ organized under the laws of the State of _____ {IF FOREIGN ENTITY ADD: and authorized to do business in the State of Maine}, whose address is {INSERT ADDRESS} [IF INDIVIDUAL(S), MODIFY ACCORDINGLY] [NOTE: ALL OWNERS OF THE QUALIFYING PROPERTY MUST BE PARTY AND SIGN] ([collectively,] the “**Property Owner**”), {CAPITAL PROVIDER NAME AND ADDRESS} (together with its assigns, nominees and/or designees, the “**Capital Provider**”) and the {CITY/TOWN OF} {INSERT NAME OF PARTICIPATING MUNICIPALITY} (the “**Municipality**”), a municipal corporation existing under the laws of the State of Maine. Each of Property Owner, Capital Provider and the Municipality is referred to herein as a “**Party**” and, collectively, as the “**Parties**.”

RECITALS

- A. Title 35-A M.R.S. §§10201 *et seq.* established “An Act to Allow for the Establishment of Commercial Property Assessed Clean Energy Programs” (the “**C-PACE Act**”) and authorized Efficiency Maine Trust (the “Trust”) and municipalities adopting a Commercial PACE Ordinance (as defined in the C-PACE Act) to establish commercial PACE programs under which commercial property owners may finance Energy Savings Improvements on Qualifying Property (each as defined in the C-PACE Act and the Trust’s administrative rules) by utilizing a municipal assessment and collection mechanism to provide security for repayment of the financing pursuant to the terms of the C-PACE Act. (a “**C-PACE Program**”).
- B. The Trust has developed a C-PACE Program and the Municipality has adopted a Commercial PACE Ordinance for the purpose of establishing and participating in a C-PACE Program.
- C. Property Owner has applied for participation in the C-PACE Program with respect to that certain property located within the Municipality as more fully described on Exhibit A to this Agreement (the “**Property**”) and to obtain C-PACE financing from the Capital Provider for the acquisition and installation of Energy Savings Improvements at the Property (the “**Project**”) in an amount up to that detailed on Exhibit A hereof (as the same may be amended in writing by the Parties), which financing will be secured by a C-PACE assessment lien (the “**C-PACE Lien**” or “**Assessment Lien**”) against the Property pursuant to the terms of the C-PACE Act.
- D. Prior to closing on the C-PACE Financing (as defined below), the Trust, or its designated agent, will review the Property Owner’s C-PACE Program application and will make a determination that the proposed Project will, if installed and operated as represented, satisfy the requirements and standards as set forth in the C-PACE Program Guidelines and applicable administrative rules of the Trust, with final approval of the Project by the Trust being a condition precedent to closing of the C-PACE Financing transaction by the Parties.
- E. The Capital Provider has determined that the Property Owner and the proposed Project satisfy the minimum underwriting requirements of the C-PACE Act and applicable administrative rules of the Trust and has agreed to provide a loan under the C-PACE Program for the Energy Savings Improvements to be installed at the Property (the “**C-PACE Financing**”).

F. The Municipality has determined that the Property Owner's proposed Project is in conformity with its C-PACE Ordinance and has agreed to impose the C-PACE Assessment to facilitate payment of the Property Owner's C-PACE Financing obligation to the Capital Provider.

G. The Property Owner, being all of the owners of the qualifying Property, wishes to enter this Agreement and affirm the imposition of the C-PACE Assessment and grant of the C-PACE Assessment Lien to secure the C-PACE Financing.

H. The Parties wish to confirm the process for assessment, payment, and collection of the C-PACE Financing amounts.

NOW, THEREFORE, in consideration of the foregoing and the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I - AUTHORIZATION OF C-PACE ASSESSMENT AND LIEN

Section 1.01. C-PACE Financing of Energy Savings Improvements. The Capital Provider has determined that the Property Owner and proposed Project satisfy the minimum underwriting requirements of the C-PACE Program and has agreed to provide the C-PACE Financing to the Property Owner to finance the acquisition, construction and installation of the Energy Savings Improvements, and the Property Owner hereby agrees to use the proceeds of such C-PACE Financing solely to acquire, construct, and install the Energy Savings Improvements (and to pay the allowable fees and costs required to be paid in connection therewith, including audits, energy savings improvement development, and application fees) and to cause the C-PACE Financing to be repaid on the terms set forth in the C-PACE Financing documents and this Agreement.

Section 1.02. Terms of Financing. The C-PACE Financing amount, interest rate, repayment schedule, maturity and other material terms of the C-PACE Financing are set forth in Exhibit A hereto. If the C-PACE Financing amount, interest rate, repayment schedule, maturity or other material terms of the C-PACE Financing are modified or amended by the Parties between the date of execution of this Agreement and the date of closing of the C-PACE Financing transaction, the Parties shall, as a condition of closing, execute and deliver an Amended and Restated Exhibit A in the form attached as Exhibit A-1 hereto, which Amended and Restated Exhibit A shall be incorporated herein and made part hereof.

Section 1.03. Security/Collateral for the C-PACE Financing; C-PACE Lien. To secure repayment of the C-PACE Financing, the Property Owner hereby agrees to the imposition of a C-PACE Assessment on the Property in the amount of the C-PACE Financing and hereby grants a C-PACE Lien on the Property for the benefit of and enforceable by the Municipality and Capital Provider, and its successors and assigns, pursuant to the C-PACE Act. The Parties hereby agree to cause a notice of this Agreement in the form attached hereto as Exhibit B to be recorded in the appropriate Registry of Deeds thereby perfecting the C-PACE Lien to evidence and secure the C-PACE Financing (the "**Notice of C-PACE Agreement**"). The Notice of C-PACE Agreement must be accompanied by an executed Mortgage Lender Consent, as may be required from each financial institution holding a lien, mortgage, or other collateral encumbrance on the Property, showing voluntary consent to the enrollment of the Property in the C-PACE Program, acknowledging the priority status of the C-PACE Lien, and acknowledging the foreclosure process for C-PACE liens under the C-PACE Act. The Property Owner acknowledges and agrees to the imposition of the C-PACE Assessment and C-PACE Lien on the Property as a priority lien running with the title to the Property (junior only to real property taxes and liens of municipal sewer, sanitary, and water districts) to secure the C-PACE Financing, enforceable against the Property as provided in the C-PACE Act until the amounts due under the C-PACE Financing documents are paid in full.

Section 1.04. Recording of Notice of C-PACE Agreement; Project Completion. The recording of a Notice of C-PACE Agreement creates a C-PACE Lien subject to the C-PACE Assessment and such notice may only be recorded upon closing of the C-PACE Financing transaction between Property Owner and Capital Provider. The Parties agree to execute the Notice of C-PACE Agreement in connection with closing of the C-PACE Financing transaction and the Capital Provider shall be responsible to record the Notice of C-PACE Agreement and Mortgage Lender Consent in the appropriate Registry of Deeds and to provide copies of the executed Notice of C-PACE Agreement and Mortgage Lender Consent to the Trust with 10 days after closing. The Property Owner shall be required to keep the Capital Provider apprised of Project status and completion. After the Completion Date, as set forth below, the Capital Provider, with cooperation and assistance from the Property Owner as necessary, shall prepare and submit to the Municipality and the Trust a statement certifying that the Project is complete (a “**Completion Certificate**”). The Project shall be deemed completed on the date (such date, the “**Completion Date**”) that: (i) the construction/installation of the Project is completed, (ii) the Energy Savings Improvements have been put into service, (iii) all approvals and reports required to be submitted to the Trust pursuant to the C-PACE Act, the C-PACE Program Guidelines, and administrative rules of the Trust have been submitted, and (iv) all other requirements of the C-PACE Financing documents have been met.

ARTICLE II - C-PACE FINANCING AND ASSESSMENT PAYMENTS

Section 2.01. C-PACE Financing Payments. The following governs the manner and timing of C-PACE Assessment payments:

(a) *Manner of Payments.* Property Owner shall make payments of principal and interest due under the C-PACE Financing documents by way of C-PACE Assessments to be placed against the Property each year during the term of the C-PACE Financing documents. The C-PACE Assessments (and any interest, fees, penalties, and attorney's fees incurred in its collection) will be collected in the manner set forth in this Agreement.

(b) *Capital Provider Notice.* Capital Provider shall provide the Municipality and Property Owner with written notice on or before July 1 each year specifying the total C-PACE Financing amount (principal and interest) due from the Property Owner and to be assessed against the Property for the subject tax year (the “**Payment Due Notice**”).

(c) *Municipal Assessment.* The Municipality shall make a C-PACE Assessment or Assessments against the Property in the total amount of the Payment Due Notice each year for the subject tax year. Pursuant to the C-PACE Act, the C-PACE Assessment constitutes a lien on the Property until it is paid in full. The Municipality agrees to make C-PACE Assessments against the Property for repayment of C-PACE Financing amounts to the Capital Provider and shall maintain a record of such assessments and take such other action as necessary for the establishment of liens against the Property as contemplated in the C-PACE Act.

(d) *Designation of Capital Provider as Agent to Issue C-PACE Assessment Billing and Receive C-PACE Assessment Payments.* After receipt of the Payment Due Notice from the Capital Provider, the Municipality's Assessor shall commit the C-PACE Assessment amount to the Capital Provider for billing and collection. The Municipality designates Capital Provider as its agent to issue C-PACE Assessment billing to the Property Owner in the assessed amounts due for the subject period and to receive direct payment of the C-PACE Assessment amounts, which payments shall be applied by Capital Provider to the Property Owner's repayment obligation under the C-PACE Financing documents. C-PACE Assessment billing by the Capital Provider hereunder as the

Municipality's agent shall have the same effect as if the C-PACE Assessment billing were issued by the Municipality to the Property Owner directly.

(e) *Reporting.* Capital Provider shall periodically report to the Municipality on the status of the C-PACE Assessment payments and shall notify the Municipality and the Trust promptly of any delinquent C-PACE Assessment payments.

(f) *Remittance of C-PACE Payments by Municipality to Capital Provider.* It is the intent of the Parties that the C-PACE Assessment amounts shall be paid directly by Property Owner to Capital Provider. In accordance with the C-PACE Act, the Capital Provider has a contractual right to receive C-PACE Assessment payments. If the Municipality receives C-PACE Assessment payments from the Property Owner, the Municipality shall remit such payments to the Capital Provider, which payments shall be applied by Capital Provider to the Property Owner's repayment obligation under the C-PACE Financing documents. The Municipality shall remit all C-PACE Assessment payments it receives to Capital Provider within 30 days after receipt of such payments. In no event shall the Municipality be responsible to remit or pay over to Capital Provider any amount in excess of the Assessment payments actually received by the Municipality from the Property Owner. The Municipality has no independent obligation to repay the C-PACE Financing amounts on behalf of the Property Owner. For the avoidance of doubt, pursuant to the C-PACE Act, notwithstanding any provision of law to the contrary, municipal officers and Municipal officials, including, without limitation, tax assessors, tax collectors, and treasurers, and staff or trustees of the Trust, are not personally liable to any other person for claims, of whatever kind or nature, under or related to a C-PACE program established under the C-PACE Act, including, without limitation, claims for or related to uncollected C-PACE Assessments.

(g) *Continuing Payment Obligation; No Prepayment.* The Property Owner acknowledges and agrees that (i) the C-PACE Assessment Lien against the Property shall run with the title to the Property and automatically bind all successor owners of the Property until paid in full, and (ii) the C-PACE Financing may not be prepaid in whole or in part except as set forth in the C-PACE Financing documents.

(h) *Notice of Satisfaction; Release of Lien.* The Capital Provider shall provide notice to the Municipality and the Property Owner when the C-PACE Financing amount has been paid in full and shall cooperate with the Municipality and the Property Owner in the preparation and recording of a release and discharge of the C-PACE Lien on the subject Property when the C-PACE Financing has been satisfied.

ARTICLE III - PROPERTY OWNER'S REPRESENTATIONS AND WARRANTIES

The Property Owner represents and warrants as follows, which representations and warranties shall be true and correct as of the date hereof and at all times thereafter until the C-PACE Financing is paid in full, each of which shall be true and binding on any future Property Owner.

Section 3.01. Organization and Authority. The Property Owner is duly organized, validly existing and in good standing in the state of its organization and with authority to do business under the laws of the State of Maine. The Property Owner has all necessary power and authority to own the Property and to conduct its business and enter into the transactions contemplated hereby. The Property Owner has the right to enter into and perform this Agreement, and the execution, delivery and performance of this Agreement and all other documents executed in connection therewith have been duly authorized, executed and delivered and constitute valid and binding obligations of the Property Owner, each enforceable in accordance with its respective terms.

Section 3.02. Title. The Property Owner has good and insurable title to the Property subject only to the permitted encumbrances approved by Capital Provider. The Property Owner shall cause any current mortgagee, as of the execution date of this Agreement, holding a mortgage lien against the Property as of such date, to consent to and subordinate the lien of such mortgage filed against the Property to the Assessment Lien by Mortgage Lender Consent which shall be recorded prior to recordation of notice of this Agreement. The Property Owner, through the Capital Provider, shall ensure that all financial institutions and lenders holding a lien, mortgage, or other collateral encumbrance on the Property receive notice and provide consent as required by the C-PACE Act.

Section 3.03. No Overdue Taxes or Payments. The Property is (i) current on real estate taxes, personal property taxes and municipal sewer, sanitary, and water district charges; (ii) has no outstanding and unsatisfied tax or municipal sewer, sanitary, or water district liens; (iii) is not subject to a mortgage or other lien on which there is a recorded notice of default, foreclosure, or delinquency that has not been cured; and (iv) there are no overdue payments on mortgages secured by the Property.

Section 3.04. No Misrepresentation or Material Nondisclosure. The Property Owner has not made and will not make to the Municipality, the Capital Provider, or the Trust, in this Agreement or otherwise, any untrue statement of a material fact, nor has it omitted and nor will it omit to state a material fact necessary to make any statement made not misleading.

Section 3.05. Commercial Purpose. The Property Owner will use the proceeds of the C-PACE Financing Advance only for the purposes specified in the Recitals to this Agreement in accordance with the C-PACE Act. The primary purpose of the C-PACE Financing is for a commercial and business purpose, and the proceeds of the C-PACE Financing will not be used primarily for personal, family, or household purposes.

ARTICLE IV - DEFAULT AND FORECLOSURE

Section 4.01. Delinquency, Collection and Foreclosure. If a C-PACE Assessment is delinquent or in default, collection and foreclosure shall proceed as set forth in Section 10205(5) of the C-PACE Act and the statutes referenced therein. The C-PACE Assessment Lien shall take precedence over all other liens or encumbrances as permitted by the C-PACE Act.

(a) The C-PACE Assessment levied pursuant to the C-PACE Act, and payment thereof (together with the interest, fees and any penalties thereon) shall constitute a C-PACE Assessment Lien against the Property until paid in full. Delinquencies shall be subject to the procedures outlined in Section 10205(5) of the C-PACE Act and the statutes referenced therein.

(b) If a C-PACE Assessment is delinquent or in default and the Property Owner is delinquent in any tax debt due to the Municipality, collection shall be instituted by the Municipality and may occur only by the recording of liens and by foreclosure under Title 36, M.R.S. sections 942 and 943. Liens must be recorded and released in the same manner as liens for real property taxes. If the Municipality acquires the Property through tax lien foreclosure or otherwise pursuant to 36 M.R.S. §§942 and 943, then the Municipality shall cause to be paid to the Capital Provider all delinquent amounts payable under the C-PACE Financing at the time of foreclosure (whether from the proceeds of sale or other amounts collected by the Municipality after satisfaction of delinquent taxes) but only to the extent that the Municipality has received such amounts through the foreclosure process and there are funds remaining after satisfaction of delinquent taxes, interest, fees and costs owed to the Municipality, and any unpaid C-PACE Financing installments shall continue as against the Property as an enforceable Assessment Lien with full rights of collection as set forth in the C-PACE Act. For the avoidance of doubt, it is agreed and understood by the Parties that in no event

shall the Municipality be obligated to make C-PACE Assessment payments during any period in which it is deemed the owner of the Property acquired through the statutory tax lien foreclosure process. It is agreed and understood that unpaid future C-PACE Assessment payments shall be the obligation of the person or entity that subsequently acquires title to the Property subject to the C-PACE Lien.

(c) If only a C-PACE Assessment is delinquent but the Property Owner is current on payment of all municipal taxes due to the Municipality, then the Municipality shall, and does hereby in such event, assign the C-PACE Assessment Lien to the Capital Provider, and the Capital Provider shall, and does hereby in such event, accept an assignment of the C-PACE Assessment Lien from the Municipality. If only a C-PACE Assessment is delinquent but the Property Owner is current on payment of all municipal taxes due to the Municipality, the Capital Provider then shall have and possess all the same powers and rights at law as the Municipality and its tax collector with regards to the priority of the C-PACE lien, the accrual of interest and fees, and the costs of collection. The Capital Provider shall have the same rights to enforce the C-PACE lien as any private party or lender holding a lien on real property and shall have all such other rights as set forth in the C-PACE Act, including the right of foreclosure consistent with Title 14, sections 6203-A and 6321 and any other action in contract or lawsuit for the enforcement of a C-PACE Lien. The Capital Provider, as assignee of the lien, shall recover costs and reasonable attorney's fees incurred as a result of any foreclosure action or other legal proceeding brought pursuant to this subsection, which may be collected by the Capital Provider at any time after it has made demand for payment.

ARTICLE V – MISCELLANEOUS

Section 5.01. Effectiveness of this Agreement. It is agreed and understood by the Parties that, without regard to the date of execution of this Agreement by any Party hereto, the effectiveness of this Agreement is expressly conditioned on the issuance by the Trust of a Notice of Approval for the Property Owner's C-PACE Program application for the subject Property and the closing of the C-PACE Financing transaction. Pursuant to Section 1.02 of this Agreement, the Parties agree that if the C-PACE Financing amount, interest rate, repayment schedule, maturity or other material terms of the C-PACE Financing are modified or amended by the Parties between the date of execution of this Agreement and the date of closing of the C-PACE Financing transaction, the Parties shall, as a condition of closing, execute and deliver an Amended and Restated Exhibit A in the form attached as Exhibit A-1 hereto, and Capital Provider shall provide the Trust with a final, fully-executed copy of this Agreement, with any amendments thereto, within 10 days after closing of the C-PACE Financing transaction.

Section 5.02 No Waiver. No waiver of any default or breach by the Property Owner hereunder shall be implied from any failure by any other Party to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver. Waivers of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition.

Section 5.03. Successors and Assigns. This Agreement is binding upon and made for the benefit of the Property Owner, the Capital Provider, the Municipality and the Trust, their successors and permitted assigns, and no other person or persons shall have any right of action hereunder.

Section 5.04. Notices. Any notice and other communications hereunder shall be in writing and shall be delivered in person or mailed by reputable overnight courier or by registered or certified mail, return receipt requested, postage prepaid, to the other Parties, at the address set forth at the caption of this Agreement. The addresses of any Party may be changed by notice to the other Party given in the same manner as provided above.

Section 5.05. Amendments. No amendment, modification, termination, or waiver of any provisions of this Agreement shall be effective unless in writing and signed by all of the Parties.

Section 5.06. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision. It is the intent of the parties hereto that the transactions contemplated herein shall comply with and achieve the intent of the C-PACE Act. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the court may modify this Agreement to give effect to the original intent of the parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 5.07. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Maine.

Section 5.08. No Waiver of Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the Municipality or the Trust and their officials, employees, trustees, or agents, or any other person acting on behalf of the Municipality or the Trust and, in particular, governmental immunity afforded or available pursuant to Maine common law, the Maine Tort Claims Act, and the Constitutions of the State of Maine and United States.

Section 5.09. Third-Party Beneficiary. The Parties acknowledge that the Trust will rely on the terms of this Agreement and the representations and undertakings of the Parties contained herein and on the Property Owners' and Capital Provider's C-PACE Program application submittals. The Trust is deemed a third-party beneficiary of those provisions in this Agreement that grant or allow the Trust to exercise rights, receive documents and information in connection with the administration of the C-PACE Program, and are otherwise intended for the benefit of the Trust and its agents.

IN WITNESS WHEREOF, the Property Owner, the Municipality, and the Capital Provider have executed this Agreement as of the date first written above by and through their duly authorized representatives.

[MUNICIPALITY]

By _____
Name _____
Title _____

{CAPITAL PROVIDER}

By _____
Name _____
Title _____

NOTE: ALL OWNERS OF THE QUALIFYING

PROPERTY MUST AGREE AND EXECUTE; SEE
35-A MRS 10202(2)]
{ INSERT NAME OF PROPERTY OWNER(S) }

By _____
Name _____
Title _____

Exhibit A

Property Owner: _____

Property Location:

Street Address: _____

Municipality: _____

Tax Map and Lot No.: _____

Registry of Deeds Book and Page: _____

Capital Provider: _____

Capital Provider Address and Contact Information: _____

C-PACE Financing Amount: _____

Term of C-PACE Loan: _____

Interest Rate: _____

Payment Schedule

Exhibit A-1
Amended and Restated

(If Necessary: To be executed and delivered prior to closing if the C-PACE Financing amount, interest rate, repayment schedule, maturity or other material terms of the C-PACE Financing are modified or amended by the Parties between the date of execution of the C-PACE Assessment Agreement and the date of closing of the C-PACE Financing transaction)

Exhibit A to the C-PACE Assessment Agreement between the Parties identified below for the subject Property is hereby amended and restated as follows:

Property Owner: _____

Property Location:

Street Address: _____

Municipality: _____

Tax Map and Lot No.: _____

Registry of Deeds Book and Page: _____

Capital Provider: _____

Capital Provider Address and Contact Information: _____

C-PACE Financing Amount: _____

Term of C-PACE Loan: _____

Interest Rate: _____

Payment Schedule

Capital Provider certifies that with this amendment, the C-PACE Assessment Agreement and C-PACE Financing continue to comply with the minimum underwriting requirements of the C-PACE Act as of the date of closing.

When completed and executed by the Parties, this Amended and Restated Exhibit A shall be deemed incorporated in and made part of the C-PACE Assessment Agreement executed by the Parties for the subject Property.

Date: _____

[C-PACE CAPITAL PROVIDER/LENDER]:

By: _____

Name: _____

Its: _____

[PROPERTY OWNER]:

By: _____

Its: _____

[PROPERTY OWNER]:

By: _____

Its: _____

[MUNICIPALITY]

By: _____

Name: _____

Title: _____

Exhibit B

NOTICE OF C-PACE ASSESSMENT AGREEMENT

Notice is hereby given that the parties identified below have entered into a C-PACE Assessment Agreement (“Agreement”) relative to the Property identified below pursuant to the terms of Title 35-A M.R.S. §§10201 *et seq.*, “An Act to Allow for the Establishment of Commercial Property Assessed Clean Energy Programs” (the “C-PACE Act”) and that an assessment is made against the Property in the amount of the C-PACE Financing. The amounts financed under the Agreement are secured by a C-PACE assessment on the Property and, pursuant to 35-A M.R.S. §10205(2), the filing of this Notice creates a C-PACE lien against the Property subject to the C-PACE assessment until the amounts due under the Agreement are paid in full. Pursuant to 35-A M.R.S. §10205(2), notice is hereby given of the following:

DATE OF C-PACE AGREEMENT:

C-PACE FINANCING AMOUNT:

PROPERTY OWNER(S):

(Names and Addresses)

PROPERTY SUBJECT TO

C-PACE ASSESSMENT:

A certain property located in the City/Town of _____, County of _____, and State of Maine with a street address of:

Tax Map: _____, Lot No. _____

Registry of Deeds Book and Page: _____

(As more particularly described in **Exhibit A** hereto).

DURATION OF C-PACE AGREEMENT:

MUNICIPALITY:

C-PACE LENDER FILING NOTICE:

(Name and Address)

VERIFICATION OF MORTGAGE

LENDER CONSENT:

Verification is hereby made that any financial institution(s) holding a lien, mortgage, or security interest in or other collateral encumbrance on the property subject to the C-PACE assessment has provided consent to the Property Owner(s) and Municipality pursuant to 35-A M.R.S. §10205(4) that the borrower(s) may participate and enroll the subject property in the C-PACE Program. A copy of such consent(s) is/are attached as **Exhibit B** hereto.

Executed as a sealed instrument as of this ____ day of _____, 20__.

WITNESS:

[C-PACE CAPITAL PROVIDER/LENDER]:

By: _____

Name: _____

Its: _____

STATE OF _____

County of _____, SS

_____, 20__

Then personally appeared the above-named _____, in his/her capacity as _____ of _____ and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of said

_____.

Before me,

Notary Public/Maine Attorney-at-Law

Printed Name: _____

My Commission Expires: _____

[PROPERTY OWNER]:

By: _____

Its: _____

STATE OF _____

County of _____, SS _____, 20__

Then personally appeared the above-named _____, in his/her capacity as _____ of _____ and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of said _____.

Before me,

Notary Public/Maine Attorney-at-Law

Printed Name: _____

My Commission Expires: _____

[PROPERTY OWNER]:

By: _____

Its: _____

STATE OF _____

County of _____, SS _____, 20__

Then personally appeared the above-named _____, in his/her capacity as _____ of _____ and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of said _____.

Before me,

Notary Public/Maine Attorney-at-Law

Printed Name: _____

My Commission Expires: _____

[MUNICIPALITY]

By _____
Name _____
Title _____

STATE OF _____
County of _____, SS _____, 20__

Then personally appeared the above-named _____, in his/her capacity as
_____ of _____ and acknowledged the foregoing instrument to be his/her
free act and deed in his/her said capacity and the free act and deed of said
_____.

Before me,

Notary Public/Maine Attorney-at-Law
Printed Name: _____
My Commission Expires: _____

EXHIBIT A to NOTICE OF C-PACE AGREEMENT

(Description of Premises)

EXHIBIT B to NOTICE OF C-PACE AGREEMENT

(Copy of Executed Mortgage Lender Consent)



Efficiency Maine C-PACE Program Municipality Participation Guide

C-PACE Program Benefits

Why a Municipality Should Consider Participating

- Commercial PACE (C-PACE) means commercial property assessed clean energy. C-PACE is an economic development tool for municipalities. Energy-efficient buildings create a more competitive environment for retaining and attracting new businesses by lowering energy costs. Energy upgrades also create jobs and reduce greenhouse gases and other pollutants.
- *Many owners lack capital to implement energy improvements.* C-PACE provides up to 100% up-front, long-term financing to commercial property owners for Energy Savings Improvements. The costs of energy audits, construction, commissioning and post-construction performance measurement and verification (M&V) can be wrapped into C-PACE financing.
- C-PACE stimulates the implementation of energy savings improvements with 100% private market capital and requires no investment from the Municipality.
- *Owners often want to sell the building before an energy upgrade loan is repaid.* The C-PACE assessment obligation is attached to the property and can transfer to the new owner. Payments do not accelerate in case of sale or default.
- The C-PACE program requires that the estimated cost savings from Energy Savings Improvements equal or exceed the up-front investment and financing costs, leading the expected cash flow to be positive over the useful life of the improvements.
- As a property tax assessment, where permissible under lease agreements, C-PACE payments – together with the energy cost savings associated with the improvements – may be passed along to tenants.
- C-PACE has created a secured, clean energy financing product for Capital Providers. The security comes from the C-PACE Lien on a property. The lien, like property tax assessments, sits in a senior position to other encumbrances on the property, including mortgage debt and liens (other than Municipal Liens). The security provided by the tax assessment results in several compelling features, including longer-term financing and transferability of the repayment obligations to subsequent owners of the property.
- C-PACE financing strengthens the business case for investment in longer payback and deeper building retrofits beyond what may be possible with traditional financing.

Municipality Participation

Municipality Options for Participation

Maine Municipalities have two options for participation in the C-PACE Program.

A Municipality can:

- (1) Establish its own C-PACE program and administer the functions of the C-PACE Program itself; or,
- (2) Participate in the Efficiency Maine Trust C-PACE Program and enter into a contract with the Trust to administer certain functions of the C-PACE Program for the Municipality.

In option 1, Municipalities would have more control over the program design within their municipality, but they would be subject to significantly greater administrative burden, including developing and implementing their own program guidelines, recruiting and registering Capital Providers, accepting project applications and reviewing and approving projects for adherence to the rules and regulations. Municipality-based programs are typically less successful in large part to the unwillingness of Capital Providers to participate in smaller market size C-PACE programs.

In option 2, Municipalities are relieved of the majority of administrative burdens while still able to stimulate the adoption of energy savings improvements for commercial properties within their communities.

Under both options 1 and 2, Municipalities wishing to participate in the C-PACE Program must adopt a C-PACE Ordinance as required by the Maine C-PACE Act. The Trust has developed a model C-PACE Ordinance. A municipality that wishes to exercise option 2 must also enter into a C-PACE Municipality Participation Agreement with the Trust that establishes the Trust as the Municipality's C-PACE Program Administrator for certain designated functions. A Maine municipality that adopts a C-PACE Ordinance not materially different from the Trust's model C-PACE Ordinance and executes a C-PACE Municipality Participation Agreement with the Trust is a "Participating Municipality." A commercial property must be located in a Participating Municipality in order to be eligible for C-PACE financing through the Efficiency Maine C-PACE Program.

Municipalities interested in becoming a Participating Municipality under the Efficiency Maine Trust C-PACE program should closely review the following documents from the **C-PACE Program Guidelines** (available at Efficiencymaine.com/C-PACE):

- **Appendix B: Model C-PACE Ordinance**
- **Appendix C: C-PACE Municipality Participation Agreement**
- **Appendix D: C-PACE Assessment Agreement**

Participating Municipality Responsibilities

Responsibilities of the Municipality within the Efficiency Maine Trust C-PACE Program

The responsibilities below represent option 2 above. Option 1 would contain significantly greater municipality responsibilities. The below identified responsibilities have been simplified for understanding and further detail can be found in the aforementioned documents.

1. **Project Agreements:** The municipality must execute a C-PACE Assessment Agreement, along with the Property Owner and its Capital Provider, for each C-PACE project within their municipality. The C-PACE Assessment Agreement authorizes the creation of a C-PACE Lien on the Property receiving the Energy Savings Improvements. The process of completing this program responsibility is as follows:
 - During the development of a C-PACE Project, the Capital Provider and Property Owner will sign the C-PACE Assessment Agreement.
 - The Municipality will then sign the C-PACE Assessment Agreement, approved as to form and substance by the Municipality.
 - All parties must sign the C-PACE Assessment Agreement prior to the submission of a C-PACE project application to Efficiency Maine, though the effectiveness of the Agreement is conditioned on final project approval by Efficiency Maine and closing of the C-PACE loan.
 - Once a project approval is provided by Efficiency Maine and the C-PACE financing transactions closes, a notice of the C-PACE Agreement will be filed in the registry of deeds, which filing will create a lien on the Property implementing the Energy Savings Improvements until the amounts due under the C-PACE Financing are paid in full. The form C-PACE Assessment Agreement places the obligation for recording the Notice of C-PACE Agreement on the Capital Provider.
2. **Annual C-PACE Assessments and Collections:** The municipality will not need to finance or fund any C-PACE projects and will incur no liability for payment of the loan. The C-PACE Assessment Agreement details the responsibilities of the Municipality and Capital Provider with regard to billing and collection of the C-PACE assessments, but in summary: The Capital Provider will provide the Municipality with a "Payment Due Notice" specifying the amount due from the Property Owner in repayment of the C-PACE loan for the subject year. The Municipality will assess the Property in the amount specified in the Payment Due Notice and designate the Capital Provider as agent for the billing of the C-PACE assessment amount and the collection of payments from the Property Owner. The C-PACE assessment payments are to be applied by the Capital Provider to the C-PACE loan balance. The Capital Provider will provide periodic reports to the Municipality on the status of the C-PACE payments from each Property Owner and will provide notice to the Municipality of any delinquency or default of a C-PACE assessment payment.

The Capital Provider shall provide notice to the Municipality and the Property Owner when the C-PACE Financing amount has been paid in full and shall cooperate with the Municipality and the Property Owner in the preparation and recording of a release and discharge of the C-PACE Lien on the subject Property when the C-PACE Financing has been satisfied.

3. **Default and Foreclosure:** The process for collection of delinquent C-PACE assessments is governed by the Maine C-PACE Act. If a C-PACE Assessment is delinquent or in default, collection and foreclosure shall proceed as follows:
- If both the C-PACE Assessment is delinquent or in default **AND** the borrower or property owner is delinquent in any tax debt due to the Municipality, the process is as follows:
 1. Collection may occur only by the recording of liens and by foreclosure under 36 M.R.S. §§ 942 and 943. The Municipality would institute the foreclosure process for both the delinquent tax and C-PACE assessments, and liens must be recorded and released in the same manner as liens for real property taxes.
 2. If the Municipality acquires the Property through tax lien foreclosure, then the Municipality shall cause to be paid to the Capital Provider all delinquent amounts payable under the C-PACE Financing at the time of foreclosure. *(This is true only to the extent that the Municipality has received such amounts through the foreclosure process and there are funds remaining after satisfaction of delinquent taxes, interest, fees, and costs owed to the Municipality.)*
 3. The portion of the C-PACE assessment that has not yet become due at the time foreclosure is not eliminated by foreclosure and remains as a lien against the Property with full rights of collection as set forth in the C-PACE Act.
 4. The form C-PACE Assessment Agreement provides that in no event shall the Municipality be obligated to make C-PACE Assessment payments during any period in which it is deemed the owner of the Property acquired through the statutory tax lien foreclosure process.
 5. Unpaid future C-PACE Assessment payments shall be the obligation of the person or entity that subsequently acquires title to the Property subject to the C-PACE Lien.
 - If **only** the C-PACE Assessment is delinquent, but the borrower or property owner is current on payment of all municipal taxes due to the Municipality, the process is as follows:
 1. The Capital Provider will take an assignment of the C-PACE Lien, as provided in the C-PACE Assessment Agreement.
 2. Per the C-PACE Act, the Capital Provider then shall have and possess all the same powers and rights at law as the Municipality and its tax collector with regards to the priority of the C-PACE lien, the accrual of interest and fees, and the costs of collection.
 3. The Capital Provider shall have the same rights to enforce the C-PACE lien as any private party or lender holding a lien on real property and shall have all such other rights as set forth in the C-PACE Act, including the right of foreclosure consistent with Title 14, sections 6203-A and 6321 and any other action in contract or lawsuit for the enforcement of a C-PACE Lien.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 1, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 24-041. Move approval of the first reading and refer to the Planning Board, the proposed amendments to Chapter 405B Site Plan Review, IV Performance and Design Standards, D. Parking Areas; E. Pedestrian Ways, Space and Alternative Transportation; F. Landscape, Buffering and Greenspace; K. Outdoor Storage; Appendix Plant Material List; and Chapter 405B-1 Design Standards for Commercial Districts and to schedule the Town Council public hearing upon receipt of the Planning Board’s review. [*Planning Director*]

Planning Director

Ought to Pass

Sponsor

Recommendation

05/01/2024—Vote:

First Reading/Vote

TBD

Public Hearing

TBD

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: May 1, 2024

ACTION ITEM: Order No. 24-041

SUBJECT:

First reading and refer to the Planning Board, the proposed amendments to Chapter 405B Site Plan Review, IV Performance and Design Standards, D. Parking Areas; E. Pedestrian Ways, Space and Alternative Transportation; F. Landscape, Buffering and Greenspace; K. Outdoor Storage; Appendix Plant Material List; and Chapter 405B-1 Design Standards for Commercial Districts. *[Planning Director]*

PURPOSE:

To review ordinance amendments updating Chapter 405B Site Plan Ordinance with revised and consolidated landscaping and screening requirements and repealing landscape section from Chapter 405B-1 Commercial Design Standards.

BACKGROUND:

The Comprehensive Plan identifies five *Visions* for the Town of Scarborough:

Vision 3: Our ordinances will support the diversity and characteristics of existing and emerging neighborhoods, centers and open spaces. – Simplify Zoning Ordinance

In 2023 the Planning Department in coordination with the LRPC began working on a long-term project that includes simplifying our existing ordinances (Vision 3) and finding opportunities to incorporate changes where recommended with these consolidations.

The project includes reviewing the Zoning Ordinance, Site Plan Ordinance, Commercial Design Guidelines, Subdivision Ordinance and other policies in the Town for opportunities to consolidate/merge ideas and review and enhance existing requirements. The overall goal is to create a more cohesive set of standards, while removing ambiguity and subjectivity in the review process.

These efforts also consider the other visions of the Comprehensive Plan and Town goals and seeks to incorporate those ideas as well.

The **Zoning Ordinance**, Chapter 405 includes the following related elements:

- Uses and Bulk Standards
- Buffers
- Performance Standards
- Signage
- Parking

The **Site Plan Ordinance** Chapter 405 B Includes the following related elements:

- Site Design and Access

- Parking Areas and Circulation
- Pedestrian Spaces and Transportation
- Landscape and Buffers
- Stormwater Management
- Lighting
- Architectural Standards
- Signage
- Utilities
- Outdoor Storage
- Preservation and of Resources
- Environmental Considerations

The **Design Standards for Commercial Districts** published in 2001, amended in 2009 includes the following elements:

- Circulation Planning
- Parking Areas
- Pedestrian Spaces
- Sidewalks
- Service Areas
- Buffering and Screening
- Stormwater Management
- Architectural Standards
- Materials
- Landscape Standards
- Plant List
- Sign Standards
- Lighting

The various pieces of these ordinances and standards have been divided up and assigned to the board or committee that is best suited for review and additions.

ORDINANCE COMMITTEE REVIEW

The current section for review is the proposed **Landscape and Screening Standards** that will be incorporated in Chapter 405B Site Plan Review ordinance. The landscape and screening standards found in Design Standards for Commercial Districts will be repealed. Over time, the Design Standards for Commercial Districts will be repealed in its entirety and its contents will be merged into Chapter 405B Site Plan ordinance or other applicable sections.

When presenting these items before the committees for review, staff starts with a color-coded markup to better understand the merging of the two/three documents and suggestions.

The Long Range Planning Committee (LRPC) reviewed the drafts on June 6, July 12, August 9. On September 15, 2023, the LRPC recommended the draft be moved forward to Ordinance Committee. Also included in this draft is an expanded version of the Conservation Commissions recommendation to the plant list that they recommended for approval on April 10, 2023. Staff has also sought landscape profession input. The sources for landscape materials is shown in the color coded version.

Staff presented these amendments to the Ordinance Committee on October 12, 2023 and again on February 14, 2024.

The changes proposed include:

- Clarified applicability, adding language to ensure redevelopment must comply with standards
- Added definitions
- Added specific requirements for minimum landscaping required based on the type of use proposed
- Established specific distances and planting required for residential adjacency
- Provided specific parking lot landscape requirements, including screening and parking lot islands
- Defined foundation planting requirements
- Defined screening requirements for service, mechanical areas and outdoor storage
- Provided requirements for tree preservation, if proposed
- Included site amenity requirements and bicycle facility specifications
- Included snow storage requirements and expanded location requirements
- Updated the approved plant species list, including native and North American species
- Defined what percentages are required and provided opportunity for some flexibility in planting
- Updated the minimum size requirements for plantings
- Consolidated the installation, guarantee and maintenance requirements as well as included time limits for installation
- Added specific requirements for the landscaping plan and provided a table to be included on all plans, enabling a much more efficient staff and Planning Board review
- Added specific waivers that are available with Planning Board approval

FISCAL IMPACT: N/A

STATUS / PROCESS TO DATE:

- Conservation Commission (plant list only): April 10, 2023
- Long Range Planning Committee: June 6, 2023
- Long Range Planning Committee: July 12, 2023
- Long Range Planning Committee: August 9, 2023
- Long Range Planning Committee: September 15, 2023
- Ordinance Committee: October 12, 2023
- Ordinance Committee: February 14, 2024

PROPOSED ACTION:

First reading and refer to the Planning Board, the proposed amendments to Chapter 405B Site Plan Review, IV Performance and Design Standards, D. Parking Areas; E. Pedestrian Ways, Space and Alternative Transportation; F. Landscape, Buffering and Greenspace; K. Outdoor Storage; Appendix Plant Material List; and Chapter 405B-1 Design Standards for Commercial Districts.



ATTACHMENTS:

- Color Coded Draft
- Redlines Chapter 405B Site Plan Ordinance
- Redlined Chapter 405B-1 Commercial Design Standards

SOURCES:

PURPLE – CHAPTER 405B SITE PLAN REVIEW OR ZONING ORDINANCE

BLUE – COMMERCIAL DESIGN STANDARDS

GREEN – PROPOSED – LRPC REVIEW

SECTION F. LANDSCAPE AND SCREENING STANDARDS

1. PURPOSE

~~Scarborough's commercial districts shall be unified by a rich variety of street trees, flowering shrubs, and masses of color.~~

Landscaping shall be used to complement the architecture, enhance the human scale, reinforce circulation paths, highlight entrances, provide shade, and add color and seasonal interest. Greenspace shall be designated to preserve the natural features or resources of a site, to provide areas for active or passive recreation, or for visual and aesthetic benefits.

2. APPLICABILITY

All landscaping approved ~~installed~~ after the date of effect of this Ordinance shall comply with these requirements. This includes, but is not limited to, new landscape, replacement planting, or any other landscaping proposed through the Site Plan or Subdivision process.

The provisions of this section shall not apply to individual single and two-family dwellings and their accessory buildings, structures and areas for parking.

Replacement planting for projects approved prior to this ordinance shall adhere to the plant species list in Section 16. for vegetation selection.

3. GENERAL STANDARDS

Trees and plantings shall be coordinated with the on-site architecture by complementing the building elevations without blocking storefronts, signs, or lighting and reinforce wayfinding by emphasizing entrances and circulation patterns.

~~A varying, but simple, collection of plant materials and species is encouraged to create a distinctive, yet low maintenance environment. A list of suggested plantings in Scarborough is included in an appendix to this ordinance.~~

~~Landscaping shall be an integral part of all site plan developments. Trees, shrubs, and other landscape elements can be used to accentuate buildings, create a sense of identity, and provide human scale. The applicant shall carefully evaluate the physical characteristics of each site and~~

~~each plant when making the final selection to ensure that the plantings will survive and thrive in their selected location.~~

A varying, but simple, collection of plant materials and species is encouraged to create a distinctive, yet low maintenance environment. Plantings plans shall strike a balance between monoculture (the use of a single species) and too much variety.

Shrubs, perennials, annuals, ornamental grasses, etc. used along the roadways should be planted in masses or 'drifts' that emphasize colors and textures, rather than used as single specimens.

Native species should be selected for their benefits of conserving water, protecting soil from erosion, and creating habitat and providing food for many different animals including birds, pollinators, and small mammals. Invasive species are prohibited.

4. DEFINITIONS

Bare-Root Plants: Bare-root plants are grown in the field, then harvested. The soil is washed or shaken from their roots after digging. Nearly all are dormant.

Balled-and-Burlapped Plants: Balled-and-burlapped (or B&B) trees and shrubs are grown in nursery rows.

Buffer: Landscaped areas, berms, fencing, walls or other physical features that are planted or installed to physically and visually separate land uses.

Container Grown Plants: Container-grown refers to a plant that has been grown in a container or one that has been transplanted into a container from the field.

Diameter at Breast Height (DBH): DBH is the diameter of a tree measured 4.5 feet above the ground.

Greenspace: Greenspaces are pervious areas of grass, trees or other vegetation, for recreation or aesthetic purposes.

Invasive Plants: An invasive plant is defined as a plant that is not native to a particular ecosystem, whose introduction does or is likely to cause economic or environmental harm or harm to human health.

Landscape Plan: A component of a development plan which shows the quantity, species, and size of all pro- posed vegetation.

Native Plants: A native or indigenous plant species is one that occurs in a particular place without the aid of humans. They are well adapted to the climate, light, and soil conditions that characterize their ecosystem. Species native to North America are generally recognized as those occurring on the continent prior to European settlement.

Site Furniture: Constructed, above-ground objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, and fountains that have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces used by the public.

5. MINIMUM LANDSCAPING REQUIRED

A minimum percentage of the total area being developed shall be landscaped in accordance with the following percentages:

- Multifamily dwellings: ~~20%~~ **15%**
- Mixed-use buildings, commercial, retail and lodging use: 15%
- Office and professional uses: 15%
- Institutional and civic uses: 15%
- Industrial and manufacturing uses: 10%

Tree and shrub requirements for multi-family, commercial, institutional and civic uses:

- For every 500 square feet of landscaping required, or portion thereof, at least one (1) large tree and two (2) shrubs are required.
- Two (2) small ornamental trees may be substituted for one (1) required large tree, not to exceed 50% of the required large trees.

Tree and shrub requirements for industrial and manufacturing uses:

- For every 1,000 square feet of landscaping required, or portion thereof, at least one (1) large tree and two (2) shrubs are required.
- Two (2) small ornamental trees may be substituted for one (1) required large tree, not to exceed 50% of the required large trees.

Each development shall provide at least two (2) different species. No more than 50% of all trees, per development, shall be of the same species. This standard applies only to trees being planted to meet requirements, not to existing trees.

Ground cover is required. Landscaped area that is not planted with trees and shrubs must be planted in ground cover plants, which may include grasses and lawn areas. Mulch (as a ground cover) must be confined to areas underneath plants and is not a substitute for ground cover plants.

Stormwater treatment areas including retention and detention areas shall not be counted toward the required minimum landscaped area.

6. BUFFER YARD - STREETScape

Planting plans shall emphasize large shade trees within or near the right-of-way in order to create a more unified streetscape. Large spreading deciduous trees shall be planted in appropriate locations along town roads and private access drives to define the edge of the travel way, provide shade for pedestrians, clean the air, and add scale to transportation corridors and commercial developments.

A vegetated buffer yard shall be established and/or maintained along the front property line of a lot where it abuts a public street as defined in the specific Zoning District for which the property is located. The minimum streetscape buffer yard shall be 10' deep for all streets not specifically designated.

Within a required buffer yard large trees shall be required at a rate of one (1) per thirty (30) feet. Trees may be planted in irregular groupings to accommodate utility conflicts and/or allow for design flexibility.

~~The buffer yard shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to waterbodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review.~~

A buffer yard may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, stormwater treatment areas and storage or service facilities may not be located within the buffer strip.

~~Trees shall be planted a minimum of five (5) feet from the edge of the roadway. Trees and other landscaping planted at intersections shall preserve an adequate sight triangle as determined by the traffic engineer.~~

~~Planting plans for commercial properties along Route One shall be coordinated with the recommendations in Guiding Growth and Public improvements on Route One.~~

Landscape buffer strip requirements may be used to meet the overall landscape requirements established in Section E.

7. BUFFER YARD - RESIDENTIAL ADJACENCY

~~Buffering or screening will be required in certain areas to ensure compatibility between unharmonious land uses, particularly between commercial and residential properties. Plantings, earth berms, Stone walls, grade changes, fences, distance, and other means can be used effectively to create the necessary visual and psychological separation.~~

~~**Buffers & Screening.** Plant materials and other landscape elements shall be used to create suitable buffers between residential and commercial properties. The design of buffers shall consider the appearance from both commercial and residential viewpoints. Evergreen plantings are particularly effective for year round buffering.~~

~~Appropriateness. The selection of the proper type of buffer shall result from a thorough understanding of existing site conditions, distances to property lines, the intensity of the proposed land use, and the degree of concern expressed by the Planning Department,~~

~~Planning Board, and abutting landowners. Discussions regarding the need for buffers and appropriate sizes and types shall begin at the sketch plan review.~~

~~Design. Buffers and screens shall be considered an integral part of the Site Plan. Stone walls, plantings, fencing, land forms, etc. used for buffers shall be similar in form, texture, scale, and appearance to other landscape elements. Structural measures (e.g., screening walls) shall likewise be related to the architecture in terms of scale, materials, forms, and surface treatment.~~

~~**Maintenance.** Buffers shall be maintained in a condition that assures their continual effectiveness. Where plantings do not survive, or grow to a point where they no longer serve as effective buffers, they shall be replaced to meet the intent of the approved plan. Walls, fencing, or other forms of screening likewise shall be maintained in good condition.~~

Buffering shall be used to minimize any adverse impacts or nuisances on the site or from adjacent areas. Buffers shall be provided to shield structures and uses from the view of abutting properties, where the abutting properties would otherwise be adversely impacted.

A residential adjacency buffer yard is required when a side or rear yard abuts a residential district as defined in the specific Zoning District for which the property is located.

Buffer yards shall be installed by the more intense use. All ~~side and rear yards~~ required buffer yards abutting residential uses or districts shall maintain the district boundary in its natural state. Where no natural buffering can be maintained all side and rear yards abutting residential uses or districts shall be landscaped to provide a visual screen between districts.

Buffers may include fences, plantings, berms, grade changes and walls used to minimize any adverse impacts and nuisances on a given site or abutter.

Where residential adjacency buffers are required, the Planning Board may require evergreen or deciduous trees within these buffer areas as follows:

- Evergreen buffers require three (3) rows of staggered plantings. The rows shall be eight (8) feet apart and the evergreens planted six (6) feet on center.
- Deciduous buffers require trees with a minimum of 3-inch caliper and rows and spacing to be determined by the Board based on the characteristics of the site and uses.

8. PARKING LOT LANDSCAPING REQUIRED

Landscaping is necessary in parking lots to enhance their appearance, lessen the scale of paved areas, define edges, and provide shade and cover. ~~Existing natural groupings or clusters of trees shall be preserved in parking areas~~

~~Landscaping is necessary in parking lots to improve the visual appearance, reduce the scale of paved areas, define edges, provide shade, and add seasonal interest. Trees, shrubs, and ornamentals shall be planted in large groups, or drifts, appropriate to the scale of the space.~~

~~Parking lots shall be separated from the street by plantings, earth berms, walls, and/or other landscape elements to minimize the view of vehicles, while still allowing the public to see the building.~~

~~Screening. Where front parking is permitted between the building and the road, it shall be screened by berms, fencing, low walls, trees, shrubs, perennial masses, or a combination of elements. The ultimate height of the screen shall be 3± feet to minimize the view of the vehicle while still providing a clear view of the building and signage.~~

~~**Boulevard Effect.** Large spreading deciduous trees shall be planted in appropriate locations along Scarborough's roads to define the edge of the travel way, provide shade for pedestrians, clean the air, and add scale to commercial corridors.~~

Parking Lot Screening. Plantings, trees, and other landscape elements shall separate parking lots from neighboring streets to minimize views of vehicles and paved areas, while still enabling views of the building. Where parking is provided between the building and the street, it shall be screened in accordance with the following:

- ~~Landscape screening shall contain one (1) large tree per thirty (30) linear feet and a continuous screen not less than three (3) feet in height in a minimum planting bed depth of five (5) feet. The five (5) foot planting bed is in addition to the depth required for the streetscape buffer yard.~~

The continuous screen may be comprised of:

- ~~Evergreen Shrubs provided every four (4) to six (6) linear feet within the required planting strip~~
- ~~Three (3) feet tall fence or boulders in combination with shrubs; or~~
- ~~Combination of the above~~

~~Planted screening must be capable of providing a solid screen of at least thirty-six (36) inches in height in two years.~~

~~**Total Landscape Area.** 10-15% of the total area of a parking lot shall be landscaped. In general, larger and more visible parking lots shall have more intensive landscape treatments. Driveways leading into and around parking lots are not calculated in determining the area of a lot. The Planning Board will have discretion in the amount of landscaping required.~~

~~The following standards shall apply within parking areas: At a minimum, between 10% and 15% of the parking lot shall be landscaped. The higher percentage (15%) shall be used for larger parking lots consisting of 40 or more spaces. The lower percentage of 10% shall be used for smaller parking lots containing fewer than 40 parking spaces.~~

Parking Lot Landscaping Required. Parking lot landscaping shall be in accordance with the following:

- ~~Planting islands shall be included at a rate of one (1) island per fifteen (15) spaces.~~

- ~~Not more than ten (10) consecutive parking spaces shall be provided without a landscaped island.~~
- Landscape islands shall be required on both ends of all parking aisles, both single and double loaded, if such spaces are not adjacent to another landscaped area or entryway.
- ~~Landscaped areas used for separation between banks of parking stalls shall be a minimum of nine feet in width.~~
- ~~Planting islands shall be a minimum of 9 feet in width.~~
- Landscape islands shall be a minimum of 160 square feet, typically nine (9) feet wide and eighteen (18) feet deep, and shall contain at least one (1) large tree and four (4) shrubs.
- Parking lot entryways shall contain at least one (1) large tree and four (4) shrubs on each side.
- Vehicular use areas including drive aisles and/or parking space shall be screened from all abutting property by a continuous landscaped area not less than five (5) ~~ten (10)~~ feet deep. Stormwater treatment may be located in these areas upon approval by the Town Engineer.
- ~~Areas adjacent to walkways shall be landscaped with trees, shrubs, ground cover, benches or other materials. Walkways in parking areas shall include landscaped islands for visual relief, shade, and scale.~~

Parking Lot Landscaping General Standards.

- ~~**Location of Trees.** Trees in parking lots shall be planted in informal groups, straight rows, or irregular groupings as space permits, or concentrated in certain areas. Trees shall be planted a minimum of five feet from the end of parking lot islands~~
- ~~**Coordination with Landscaping.** Areas adjacent to walkways shall be landscaped with trees, shrubs, benches, flower beds, ground covers, or other such materials. Walkways in parking lots shall include landscaped islands to provide visual relief, shade, and scale. Shrubs shall be used with care to avoid blind spots. Special features, such as benches, flower beds, planters, and artwork can be used to enhance the walkway. Trees along all walkways shall be trimmed to provide adequate sight distance and to remove potential obstacles. Vertical clearances of at least eight feet shall be maintained.~~
- Trees in parking lots shall be planted in informal groups, straight rows, or concentrated in certain areas. Large trees shall be planted at least five feet from the end of parking lot islands for both motorist visibility and tree health.

Parking Lot Landscaping requirements may be used to meet the overall landscape requirements established in Section E.

9. FOUNDATION LANDSCAPING REQUIRED

Trees and plantings shall be coordinated with the on-site architecture by complementing the building elevations without blocking storefronts, signs, or lighting and reinforce wayfinding by emphasizing entrances and circulation patterns.

~~**Coordination with Architecture.** Trees shall be carefully selected and located to complement the building elevation without blocking storefronts, signs, or lighting.~~

~~Accent Plantings.~~ The installation of special planting beds is encouraged in appropriate areas for visual accents in the landscape. These can include daylily beds, butterfly gardens, bog gardens, fragrant gardens, shade gardens, yellow foliage gardens, early blooming gardens, texture gardens, etc

Planting beds are required along exposed building edges, foundations and uninterrupted walls. Plantings shall provide either a formal pattern or a naturalistic blend of heights, colors, and textures for visual relief.

In addition, all paved surfaces, excluding those adjacent to service areas and/or the rear of buildings, of parking areas shall be separated from buildings by a minimum five (5) feet landscape strip and a five (5) foot walkway.

- A minimum of one (1) shrub shall be provided every four (4) to six (6) linear feet within the required planting strip. Shrubs may be clustered to avoid utility conflicts.
- Small ornamental trees may be provided in the planting strip and substitute for four (4) shrubs.

Plantings shall be massed to soften edges, corners, and pavement areas, and to integrate the building into the landscape.

Large rocks may be used as landscape elements sparingly and as accents in mass plantings. Where used, they shall be buried for at least half of their depth one third of their depth.

Where mulch is used, it shall consist of dark, decomposed shredded bark, with pieces less than one (1) inch in any one dimension.

Foundation landscaping requirements may be used to meet the overall landscape requirements established in Section E.

10. SCREENING - SERVICE AND MECHANICAL AREAS

~~In particular, buffers shall be used to screen garbage collection areas, loading areas, waste storage, commercial vehicle parking and the like. Buffers may include fences, plantings, berms, and walls used to minimize any adverse impacts and nuisances on a given site or abutter.~~

~~Screening.~~ Service areas shall be screened to minimize visibility from sensitive viewpoints such as public and private roadways, main entrances, abutting neighborhoods, public open spaces, and pathways in these situations. Service areas shall be screened with architectural elements such as walls or fences

Refuse containers or disposal areas shall be screened from view by placement of a solid wood or vinyl fence or masonry wall as tall as the refuse containers, but no less than five (5) feet in height. All refuse materials shall be contained within the refuse area. Refuse containers and disposal areas shall be located to the side or rear of buildings, sites and in no instance shall be located in the front setback of a site.

- Structural screens and fencing shall complement the design of the main structure by repetition of materials, detailing, scale, and color.
- Where chain link fencing is required for safety, it shall be painted black or a similar dark color, or coated with dark vinyl. Plastic slats in chain link fencing are not permitted.
- Gates shall be designed to prevent sagging.
- Screening may be further enhanced with evergreen trees, shrubs, and earth berms.

All mechanical equipment, transformers, propane tanks and similar shall be screened from any public right-of way or adjacent residential use or zoning districts. Fencing, landscape or a combination shall be required

Screening requirements may be used to meet the overall landscape requirements established in Section E.

11. SCREENING - OUTDOOR STORAGE

Outdoor storage shall be permitted only as allowed by the Scarborough Zoning Ordinance.

The outside storage of goods, materials, merchandise, automobiles, automobile parts, ~~waste collection facilities, dumpsters,~~ containers, and the like shall be located to the side or rear of sites and screened from view, subject to the review and approval by the Planning Board. The Planning Board may require additional screening elements.

Areas for outdoor storage or containers shall be designed as an integral part of the site, landscaping, and architectural plan and shall be setback and screened from public and private ways, main entrances, public spaces, and abutting residential neighborhoods.

Screening requirements may be used to meet the overall landscape requirements established in Section E.

12. LANDSCAPE PRESERVATION AND PROTECTION

Wherever practical, existing specimen trees, native species over 20" at DBH, tree clusters or other significant vegetation shall be preserved. Further, transplanting and reusing on-site trees and other vegetation is strongly encouraged.

~~**Existing Trees / Plants.** Wherever practical, existing or unique trees or other significant plantings shall be preserved. The landscape plan shall illustrate which vegetation will be preserved and what protection measures will be taken during construction. Transplanting and reusing trees and other plantings is strongly encouraged.~~

When preservation is proposed, a tree inventory and survey showing the location, size, species and condition of existing protected trees on a lot, must be submitted and approved with the site plan application. The landscape plan shall illustrate which vegetation will be preserved and what

protection measures will be implemented including the following minimums:

- Site features must be designed to minimize disturbance to protected trees.
- Tree wells or cut areas may be used to preserve the original grade around the tree. Raising the grade around protected tree trunks is prohibited.
- In the drip line of protected trees, no cut or fill may be at least four (4) inches deep unless a qualified arborist or forester evaluates and approves the disturbance.
- Finished grades must slope away from trunks to avoid water concentrated at tree bases.
- During construction, perimeter fencing must be erected around protected trees, at least six (6) feet from the trunk or one-half of the drip line, whichever is more.
- Storage or movement of equipment, material, debris, or fill in the tree protection zone is prohibited.
- Damaging attachments, wires, signs or permits cannot be fastened to protected trees.
- The developer is responsible for coordination with utility companies when trenching near protected trees. Trenches or footings should be at least eight (8) feet from trunk bases. Tunneling under large diameter roots may be required to prevent root damage.

Preserved landscaping may be used to meet the overall landscape requirements established in Section E.

13. SITE AMENITIES

~~Major~~**Public** entrances to new or renovated buildings shall be complemented with outdoor seating or use areas. Canopies, recessed entrances, seating areas, decorative plantings, lawn areas and other elements ~~may~~ **shall** be incorporated around the building entry to serve as pedestrian space or gathering areas.

~~Entrances to buildings shall be designed to provide outdoor spaces for a variety of uses—seating/resting, dining, displays, and aesthetic enhancement—to create a pedestrian-friendly environment.~~

~~**Planning.** Outdoor use areas should be located in sunny, highly visible locations and sized to fit the anticipated uses. The design should be a collaborative effort between architect, landscape architect, engineers, artists, and other design professionals.~~

~~**Materials.** Outdoor use areas shall be constructed of high quality, easily maintained materials. All elements within the space shall be coordinated with the architecture and site elements to achieve a unified look. The use of decorative paving is encouraged for sitting areas, pedestrian plazas, building entrances, or other designed open spaces. See Landscaping for plantings and street furniture standards.~~

~~**Entrances.** Major entrances to new or renovated buildings shall be emphasized through the use of canopies, recessed entries, seating areas, decorative plantings and lighting, sculpture, and other elements~~

14. ALTERNATIVE TRANSPORTATION AND BICYCLE FACILITIES

Provisions shall be made for alternative transportation if the site is located on a bus or bicycle route. Such provisions may consist of bus shelters, bicycle racks, or individual travel lanes for either mode of transportation.

Bicycle parking facilities are required for non-residential and multi-family uses. One (1) bicycle parking facility must be provided for every ten (10) vehicle parking spaces required. Bicycle parking design must follow standards recommended by the Association of Professional and Bicycle Professionals. The location of bicycle facilities is subject to the approval by the Planning Board during the site plan process.

15. SNOW STORAGE

Provisions shall be made for snow storage in the design of all parking areas. The areas shall be shown on the site plan to avoid conflicts with landscaping, visibility, drainage, or icing during the winter season.

Landscape materials surrounding parking lots and in islands shall be able to tolerate large quantities of snow stored during winter months. Delicate plant material shall not be used in areas where they are likely to be buried under snow.

All walkways and sidewalks shall be designed for efficient snow removal to enable year-round use.

Designated snow storage locations shall be required as follows:

- Located near the sides or rear of parking areas and driveways, away from primary street frontage.
- Located to maximize solar exposure to the greatest extent possible.
- Located so that snow moving equipment is not required to enter the public streets to move snow to the storage areas.
- Located in a manner to preserve sight lines of vehicles entering and exiting the site.
- Shall not block any required access, sidewalk, bicycle facility, trail or public path.
- Shall not block drainage areas.
- Shall not be located in or near any stormwater treatment areas including retention and detention areas.
- May be located within parking areas, but such areas may not be counted towards required off-street parking.
- May be located within required landscaping areas, but the areas shall be planted with landscaping tolerant of snow storage.
- Snow storage areas shall be located to avoid piling of snow against existing trees.

16. APPROVED PLANT SPECIES LIST

Plant material shall be selected with consideration to public health and safety. Plants to be avoided include those with poisonous fruits, large thorns, or invasive growth patterns, or shrubs that could provide hiding places along pathways or block the view of moving vehicles. The applicant shall use plant material and species that require a low degree of maintenance and that are resistant to insect infestation, drought, disease, road salt, and auto emissions, and are tolerant of local winter conditions.

~~All parking lot landscaping shall be hearty and appropriate for parking lot conditions and snow storage.~~

~~**Selection.** The use of plant materials and landscape elements that require a low degree of maintenance is strongly encouraged. All plantings shall be resistant to insect infestation, drought, disease, roadside salt, and auto emissions, and hardy to Maine winters~~

~~**Simplicity.** Planting design shall stress simplicity in form and limit the number of species.~~

~~A variety of appropriate shrubs and ornamental plantings shall be used throughout the commercial districts to add seasonal color, provide visual interest, help define spaces, screen undesirable elements, and emphasize circulation routes.~~

~~**Variety in Plantings.** The use of flowering shrubs, evergreen shrubs, perennials, annuals, vines, ornamental grasses, and other plant material is highly recommended, in addition to street trees, evergreen trees, and ornamental trees.~~

All parking lot landscaping shall be appropriate for parking lot conditions. Trees that may damage automobiles (dripping sap, messy fruit, or hard seeds such as acorns) are discouraged in or around parking lots.

~~**Mass Plantings.** Shrubs and perennials shall generally be planted in large masses or 'drifts,' rather than as individual specimens, to provide a pleasing effect for both motorists and pedestrians.~~

~~**Safety.** Plant material shall be selected with due consideration to public health and safety. Avoid plants with poisonous or messy fruits or leaves, large thorns, or overly aggressive growth patterns. Large shrubs which could provide hiding places along pathways or block the view of moving vehicles shall be avoided~~

~~**Low Maintenance Materials.** The use of plant materials and landscape elements that require a low degree of maintenance is strongly encouraged. Planting characteristics to be considered include: drought resistance (except where irrigated), tolerance to auto emissions, disease and insect resistance, lack of thorns that could trap debris, and relatively light leaf litter for ease of fall cleanups.~~

Invasive species shall not be used. The Do Not Sell Invasive plant list can be found here: [Maine Natural Areas Program Invasive Plant Fact Sheets](#)

The plants on the approved plant species list below have been derived from a number of sources to increase the use of native plants in Scarborough. This list is subject to periodic review based

on factors that may change the viability or appropriateness of plantings.

All required trees shall be selected from the preferred or acceptable alternative list below, based on the size required for the landscape element. A minimum of sixty (60) percent of the total number of required trees shall be selected from the preferred species list.

When the ordinance requires a shrub, only plants classified as shrubs, perennials, ferns and grasses may be used. A minimum of forty (40) ~~sixty (60)~~ percent of the total number of shrubs shall be selected from the preferred species lists. Up to twenty-five (25%) percent of shrubs may be selected from an unlisted species subject to Site Plan approval. The [Maine Audubon Society](#) and the [University of Maine Cooperative Extension](#) provide extensive plant lists appropriate for Maine.

PURPLE – CHAPTER 405B

GREEN – STAFF ADDITIONS

ORANGE – PROPOSED BY CONSERVATION

RED – PROPOSED BY PROFESSIONAL REVIEW

LARGE DECIDUOUS TREES		
Preferred Species		
Scientific Name	Common Name	Mature Height
Acer x freemanii	Armstrong Maple	40-55'
Acer rubrum	Red Maple	50-60'
Acer saccharinum	Silver Maple	60-80'
Acer saccharum	Sugar Maple	60-70'
Betula alleghaniensis	Yellow Birch	70-85'
Betula borealis	Northern Birch	30-60'
Betula nigra	River Birch	40-70'
Betula papyrifera	Paper Birch	60-70'
Betula populifolia	Gray Birch	20-40'
Carya ovata	Shagbark Hickory	70-90'
Cladrastis kentukea	Yellowwood	30-50'
Fagus grandifolia	American Beech	50-100'
Larix laricina	Larch, Hackmatack, Tamarack	50-60'
Nyssa sylvatica	Tupelo Black Gum	40-70'
Platanus occidentalis	Sycamore American Buttonwood	60-80'
Prunus serotina	Black Cherry	50-80'
Quercus alba	White Oak	60-70'
Quercus bicolor	Swamp Oak	50-60'
Quercus coccinea	Scarlet Oak	30-50'
Quercus macrocarpa	Bur Oak	60-100'
Quercus rubra	Northern Red Oak	60-80'
Tilia americana	American Basswood, American Linden	60-80'

Ulmus americana	Princeton American Elm	60-70'
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LARGE DECIDUOUS TREES		
Acceptable Alternative Species		
Scientific Name	Common Name	Mature Height
Aesculus x carnea	Red Horse Chestnut	30-40'
Aesculus hippocastanum	Horse Chestnut	50-75'
Betula jacquemonti	Himalayan Birch	30-40'
Catalpa speciosa	Catalpa	40-60'
Carpinus betulus	European Hornbeam	40-60'
Cercidiphyllum japonicum	Katsura Tree	40-60'
Fagus sylvatica	European Beech	50-60'
Ginkgo biloba	Maidenhair Tree	60-100'
Gleditsia triacanthos	Thornless Honey Locust	65-100'
Gymnocladus dioicus	Kentucky Coffee Tree	60-80'
Juglans nigra	Black Walnut	50-90'
Liriodendron tulipifera	Tulip Poplar Tree	60-90'
Liquidambar styraciflua	American Sweetgum	50-60'
Magnolia acuminata	Cucumber Tree	40-70'
Metasequoia glyptostroboides	Dawn Redwood	75-100'
Platanus x acerfolia	London Planetree	70-100'
Quercus palustris	Pin Oak	50-70'
Quercus robur	English Oak	40-70'
Salix alba 'Tristis'	Weeping Willow	50-75'
Taxodium distichum	Bald Cypress	35-100'
Tilia cordata	Littleleaf Linden	50-70'
Tilia tomentosa	Silver Linden	50-70'
Zelkova serrata	Zelkova	80-100'

LARGE EVERGREEN TREES		
Preferred Species		
Scientific Name	Common Name	Mature Height
<i>Abies balsamea</i>	Balsam Fir	60-70'
<i>Abies concolor</i>	White Fir	30-50'
<i>Abies fraseri</i>	Fraser Fir	30-50'
<i>Chamaecyparis thyoides</i>	Atlantic White Cedar	30-50'
<i>Juniperus virginiana</i>	Eastern Red Cedar	20-60'
<i>Picea glauca</i>	White Spruce	60-90'
<i>Picea rubens</i>	Red Spruce	60-80'
<i>Picea mariana</i>	Black Spruce	50-70'
<i>Pinus banksiana</i>	Jack Pine	50-60'
<i>Pinus rigida</i>	Pitch Pine	30-40'
<i>Pinus resinosa</i>	Red/Norway Pine	60-80'
<i>Pinus strobus</i>	Eastern White Pine	70-80'
<i>Thuja occidentalis</i>	Cedar Northern White	20-40'

LARGE EVERGREEN TREES		
Acceptable Alternative Species		
Scientific Name	Common Name	Mature Height
<i>Chamaecyparis</i> spp.	Cypress	10-60'
<i>Picea abies</i>	Norway Spruce	70-120'
<i>Picea engelmannii</i>	Engelmann Spruce	80-130'
<i>Picea omorika</i>	Serbian Spruce	50-60'
<i>Picea pungens</i>	Colorado Spruce	30-60'
<i>Pinus flexilis</i>	Limber Pine	60-80'
<i>Pinus nigra</i>	Austrian Pine	60-180'
<i>Pinus sylvestris</i>	Scots Pine	30-80'
<i>Thuja plicata</i>	Western Red Cedar/Arborvitae	50-70'

SMALL ORNAMENTAL TREES		
Preferred Species		
Scientific Name	Common Name	Mature Height
<i>Acer pensylvanicum</i>	Striped Maple	15-25'
<i>Amelanchier canadensis</i>	Eastern Serviceberry	30-40'
<i>Amelanchier arborea</i>	Downy Serviceberry	20-40'
<i>Amelanchier x grandiflora</i>	Apple Serviceberry	15-25'
<i>Amelanchier laevis</i>	Alleghany Serviceberry	15-40'
<i>Carpinus caroliniana</i>	American Hornbeam	10-25'
<i>Cercis canadensis</i>	Eastern Redbud	20-30'
<i>Cornus alternifolia</i>	Alternate Leaf Dogwood	15-25'
<i>Cornus florida</i>	Flowering Dogwood	12-20'
<i>Corylus Americana</i>	American Hazelnut	8-12' (also shrub)
<i>Crataegus crus-galli</i>	Cockspur Hawthorn	15-30'
<i>Hamamelis virginiana</i>	Common Witch-Hazel	15-20'
<i>Ostrya virginiana</i>	Eastern Hop Hornbeam	20-30'
<i>Oxydendrum arboretum</i>	Sourwood	20-25'
<i>Prunus virginiana</i>	Common Chokeberry	20-30'
<i>Sorbus americana</i>	American Mountain Ash	10-30'
<i>Cornus alternifolia</i>	Pagoda Dogwood	10-20'
<i>Viburnum lentago</i>	Nannyberry	10-30' (also shrub)

SMALL ORNAMENTAL TREES		
Acceptable Alternative Species		
Scientific Name	Common Name	Mature Height
Acer campestre	Hedge Maple	20-25'
Acer griseum	Paperbark Maple	20-30'
Acer palmatum	Japanese Maple	10-25'
Acer triflorum	Three Flower Maple	25-30'
Amelanchier alnifolia	Western Serviceberry	10-15'
Chionanthus Virginicus	American Fringetree	12-20'
Cornus kousa	Kousa Dogwood	20-30'
Cornus mas	Cornealian Cherry Dogwood	15-25'
Cotinus obovatus	American Smoketree	20-30'
Crataegus viridis	Winter King Hawthorne	20-35'
Halesia Carolina	Carolina Silverbell	30-40'
Hamamelis vernalis	Witchhazel	6-10' (also shrub)
Hamamelis x intermedia	Witchhazel	12-15'
Maackia amurensis	Amur Maackia	20-30'
Magnolia x liliiflora	Lily Magnolia	8-12' (also shrub)
Magnolia loebneri	Loebner Magnolia	20-30'
Magnolia soulangiana	Saucer Magnolia	20-25'
Magnolia stellata	Star Magnolia	15-20'
Malus species	Flowering Crabapple	15-25'
Pinus mugo	Mugo Pine	20-25'
Prunus x accolade	Accolade Flowering Cherry	20-25'
Prunus sargentii	Sargent Cherry	20-40'
Stewartia pseudocamellia	Stewartia	20-40'
Syringa reticulata	Japanese Tree Lilac	20-30'

SHRUBS			
Preferred Species			
Scientific Name	Common Name	Scientific Name	Common Name
Aesculus parviflora	Bottlebrush Buckeye	Leucothoe fontanesiana	Drooping Laurel
Amelanchier arborea	Downy Serviceberry	Lindera benzoin	Spicebush
Amelanchier canadensis	Canadian Serviceberry	Myrica gale	Sweet Gale
Amelanchier stolonifera	Running Serviceberry	Myrica pennsylvanica	Bayberry
Aronia arbutifolia	Red Chokeberry	Physocarpus opulifolius	Ninebark
Aronia melanocarpa	Black Chokeberry	Prunus maritima	Beach Plum
Ceanothus americanus	New Jersey Tea, Redroot	Rhus aromatica	Fragrant Sumac
Cephalanthus occidentalis	Buttonbush	Rhus hirta	Smooth Sumac
Clethra alnifolia	Sweet Pepperbush	Rhus typhina	Staghorn Sumac
Comptonia peregrina	Sweetfern	Rosa carolina	Pasture Rose, Carolina Rose
Corylus Americana	American Hazelnut	Rosa palustris	Swamp rose
Cornus racemosa	Gray Dogwood	Rosa virginiana	Virginia Rose
Cornus sericea	Redosier Dogwood	Rubus odoratus	Flowering Raspberry
Diervilla lonicera	Bush Honeysuckle	Sambucus	Elderberry
Illex glabra	Inkberry	Vaccinium corymbosum	Highbush Blueberry
Ilex verticillata	Winterberry	Viburnum spp.	Viburnum
Juniperus communis	Common Juniper	Xanthorhiza simplicissima	Yellowroot
Kalmia angustifolia	Sheep Laurel		

SHRUBS			
Acceptable Alternative Species			
Scientific Name	Common Name	Scientific Name	Common Name
Azalea spp.	Azalea	Hydrangea spp.	Hydrangea
Buxus spp.	Boxwood	Pieris spp.	Andromeda
Cotoneaster spp.	Cotoneaster	Rhododendron spp.	Rhododendron
Deutzia gracilis	Slender Deutzia	Rose spp.	Rose
Enkianthus campanulatus	Redveined Enkianthus	Salix spp.	Willow
Fothergilla gardenia	Dwarf Fothergilla	Spiraea spp.	Spiraea
Fothergilla major	Bottlebrush Bush	Syringa spp.	Lilac
Forsythia spp.	Forsythia	Weigela spp.	Weigela

PERENNIALS			
Preferred Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Achillea millefolium</i>	Yarrow	<i>Iris versicolor</i>	Blue Flag Iris
<i>Actaea rubra</i> , <i>Actaea pachypoda</i>	Red Baneberry, White baneberry	<i>Liatris spicata</i>	Gayfeather
<i>Anemone canadensis</i>	Canadian Anemone	<i>Lobelia cardinalis</i>	Cardinal Flower
<i>Aquilegia canadensis</i>	Eastern Red Columbine	<i>Lupinus perennis</i>	Wild Lupine
<i>Asclepias tuberosa</i>	Butterfly weed	<i>Monarda didyma</i>	Scarlet Bee Balm, Oswego Tea
<i>Columbine aquilegia</i>	Columbine	<i>Monarda fistulosa</i>	Wild Bergamot
<i>Coreopsis lanceolata</i>	Lanceleaf Coreopsis	<i>Polygonatum pubescens</i>	Solomon's Seal
<i>Coreopsis verticillata</i>	Moonbeam Coreopsis	<i>Rudbeckia hirta</i>	Black-Eyed Susan
<i>Echinacea purpurea</i>	Purple coneflower	<i>Symphyotrichum novae-angliae</i>	New England Aster
<i>Eutrochium purpureum</i>	Joe Pye Weed	<i>Symphyotrichum novi-belgii</i>	New York Aster

PERENNIALS			
Acceptable Alternative Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Astilbe varieteis</i>	Astilbe	<i>Hosta spp.</i>	Hosta
<i>Agastache</i>	Anise Hyssop	<i>Leucanthemum</i>	Ox-eye Daisy
<i>Aruncus dioicus</i>	Goatsbeard	<i>Malva alcea</i> 'fastigiata'	Hollyhock Mallow
<i>Baptisia</i>	Wild Indigo	<i>Nepeta x faassenii</i>	Walker's Low Catmint
<i>Epimedium</i>	Barrenwort	<i>Perovskia atriplicifolia</i>	Russian Sage
<i>Geranium spp.</i>	Geraniums	<i>Phlox spp.</i>	Garden Phlox
<i>Hemerocallis species</i>	Daylilies	<i>Sedum telephium</i>	Autumn Joy Sedum
<i>Heuchera spp.</i>	Coral Bells		

FERNS			
Preferred and Acceptable Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Adiantum pedatum</i>	Maidenhair Fern	<i>Osmundastrum cinnamomeum</i>	Cinnamon Fern
<i>Athyrium angustum</i>	Lady Fern	<i>Osmunda claytoniana</i>	Interrupted Fern
<i>Dennstaedtia punctilobula</i>	Hayscented Fern	<i>Osmunda regalis</i> var. <i>spectabilis</i>	Royal Fern
<i>Matteuccia struthiopteris</i> var. <i>pensylvanica</i>	Ostrich Fern	<i>Polystichum acrostichoides</i>	Christmas Fern
<i>Onoclea sensibilis</i>	Sensitive Fern		

GRASSES			
Preferred Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Ammophila breviligulata</i>	Beachgrass	<i>Deschampsia cespitosa</i>	Tufted Hairgrass
<i>Andropogon gerardii</i>	Big Bluestem	<i>Deschampsia flexuosa</i>	Crinkled Hairgrass
<i>Carex appalachica</i>	Appalachian Sedge	<i>Panicum virgatum</i>	Switchgrass
<i>Carex pensylvanica</i>	Pennsylvania Sedge	<i>Juncus</i> spp.	Rush
<i>Chasmanthium latifolium</i>	Northern Sea Oats	<i>Schizachyrium scoparium</i>	Little Bluestem
<i>Eragrostis spectabilis</i>	Purple Lovegrass	<i>Sporobolus heterolepis</i>	Prairie Dropseed

GRASSES			
Acceptable Alternative Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Calamagrostis x acutiflora</i>	Feather-Reed Grass	<i>Miscanthus sinensis</i>	Maiden Grass
<i>Calamagrostis brachytricha</i>	Feather-Reed Grass	<i>Molinia caerulea</i> subsp. <i>Arundin</i>	Moor Grass
<i>Festuca glauca</i>	Blue Fescue	<i>Pennisetum alopecuroides</i>	Fountain Grass
<i>Hakonechloa macra</i>	Hakone Grass		

GROUNDCOVERS			
Preferred and Acceptable Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Arctostaphylos uva-ursi</i>	Bearberry	<i>Juniperus horizontalis</i>	Creeping Juniper
<i>Cornus canadensis</i>	Bunchberry	<i>Mitchella repens</i>	Partridgeberry
<i>Gaultheria procumbens</i>	Checkerberry, Wintergreen	<i>Vaccinium angustifolium</i>	Lowbush blueberry

Plant materials shall meet the following minimum sizes, unless alternative sizes are required given a particular site or location:

Landscape Element	Minimum Size
Large Deciduous Trees	2 ½ " caliper
Large Evergreen Trees	5-7' in height
Small Ornamental Trees	2" caliper
Shrubs	35 gallons
Perennials	13 gallon
Ferns	13 gallon
Grasses	13 gallon
Groundcovers (plugs acceptable)	1 gallon

VEGETATION	MINIMUM SIZE
Canopy Trees	2 ½" caliper
Flowering Trees	2" caliper
Evergreen Trees	5 to 7' in height
Deciduous Shrubs	24" in height
Evergreen Shrubs	18" height / spread
Perennials	2 year clumps
Ornamental Grasses	2 year clumps
Ground Covers	3" pots

~~The use of bare root plant material is prohibited.~~

The Planning Board may require larger plants for special locations, such as within the Route One right-of-way and along Haigis Parkway.

17. INSTALLATION, GUARANTEE AND MAINTENANCE

Installation. The ultimate form and height of plantings shall be considered so they will not create unsafe conditions or block sight lines for pedestrians, bicyclists, or motorists as they mature.

Trees shall be planted in locations where their root development and branching patterns will not interfere with window displays, signage, underground or overhead utilities, streets, and sidewalks.

The installation of underground irrigation is encouraged in front setbacks, public spaces, and other highly visible areas. It shall be coordinated so it does not cause overflow or flooding in pedestrian use areas, such as walkways, sidewalks, or parking lots.

The Town recognizes the seasonal nature of landscape installation; however, all landscaping shall be installed according to the approved site plan prior to Certificate of Occupancy or within six (6) months after the Certificate of Occupancy has been issued and a performance guarantee has been provided and accepted by the Town.

Maintenance. Landscape plans shall anticipate a three (3) to eight (8) year growing cycle to achieve maturity for shrubs and fifteen (15) to twenty (20) plus years for trees. The plan shall be designed and plantings selected with due consideration for maintenance requirements.

A written maintenance plan shall be provided for the landscape elements to be installed on the site. The plan shall include initial installation, guarantee period, replacement policy, annual maintenance, and irrigation provisions. Maintenance plans shall include alternatives to regular mowing and pesticide use if possible. This shall be established on the landscape plan with standard notes.

~~The planting plans presented to the Planning Board shall anticipate a 3-8 year growing cycle to achieve maturity for shrubs, and ~~ts~~ 20 years or more for trees. Proper maintenance shall be assured so the site continues to improve as the landscaping achieves maturity. The Site Plan shall be designed and plantings selected with due consideration for maintenance requirements.~~

~~**Maintenance Plan.** As part of the Site Plan application for buildings > 2,000 SF, a written maintenance plan shall be provided for all landscape elements to be installed on the property.~~

~~**Details of Plan.** Topics to be addressed shall include (but not be limited to) initial installation, guarantee period, replacement policy, periodic and seasonal maintenance, special considerations, use of pesticides and fertilizers, irrigation, and seasonal displays~~

Trees and shrubs in and near parking areas and walkways shall be trimmed and maintained so that they do not block views needed for safe movement of motorists and pedestrians. Vertical clearances of at least eight (8) feet shall be maintained. Shrubs in parking lot islands shall not exceed three (3) feet in height to avoid blocking visibility.

~~**Pedestrian Movement.** The lower branches of trees planted near pathways and sidewalks shall be at least eight feet above the pavement to minimize interference with pedestrian movement throughout the year.~~

~~Trees shall be used throughout Scarborough's commercial district, planted within the right of way, near buildings, and throughout parking lots. Trees shall be sited to achieve full maturity and display their natural form.~~

All plant material shall be allowed to achieve their natural forms without excessive pruning. Shaping evergreen shrubs into tight geometrical forms shall be avoided.

Guarantee. All lawns and plant materials shall be guaranteed for a period of not less than two (2) years. The developer shall submit a copy of a guarantee and a contract with the landscape contractor, indicating the terms of the guarantee period, or may obtain a letter of credit. The guarantee period does not begin until all landscaping has been installed.

Where plant materials specified on the planting plan do not survive or are damaged, they shall be replaced and/or reinforced in accordance with the two-year performance guarantee to maintain conformance with the approved planting plan and to provide the necessary landscape effect.

Plants that die must be replaced in kind, unless another species is more appropriate given the site's growing conditions. A fine may be levied if the landscaping has not been maintained, and new plants required to be planted.

18. LANDSCAPE PLAN REQUIRED

If site improvements will create ten (10) or more new parking spaces or create 2,000 sq. ft. or more of new building footprint, a landscape plan shall be prepared by a landscape architect registered in Maine.

Preparation. ~~As part of the Site Plan application for site improvements involving parking lots with more than ten cars and/or more than 2,000 SF of building, a landscape plan shall be prepared by a landscape architect registered in Maine, or other qualified professional familiar with local growing conditions.~~

The Planning Board, at their discretion, may require a peer review of landscape plans.

Landscaping for multiple building developments shall be coordinated with all other elements of the site. As part of the application for Site Plan approval, applicants shall submit a master landscape plan that shows how landscaping will be used to complement proposed buildings, reinforce circulation paths, help define pedestrian use areas, highlight entrances, provide shade, and add seasonal interest to the landscape.

Plantings used in stormwater treatment facilities should be designed by a qualified professional familiar with the growing requirements of wetland species.

The planting plan shall illustrate how plantings shall be coordinated with the location of underground and overhead utilities and lighting.

Each landscape plan shall include the following table filled out for the specific site:

Minimum Landscape Required	Required	Provided
Minimum Landscape Area (square feet)		
Minimum Trees Required		
Trees (Preferred Species)	Min 60% = ##	% and #
Trees (Alternative Species)	Max 40% = ##	% and #
Minimum Shrubs Required		
Shrubs (Preferred Species)	Min 40% = ##	% and #
Shrubs (Alternative Species)	Max 60% = ##	% and #
Shrubs (Unlisted)	Max 25% = ##	% and #
Buffer Yard - Streetscape	Required	Provided
Street Name		
Street Frontage Depth		
Street Frontage Length (excluding entryways) (linear feet)		
Street Frontage Area (square feet)		
Street Trees		
Buffer Yard - Residential Adjacency (if required)	Required	Provided
RA Type Required		
RA Buffer Depth (feet)		
RA Buffer Length (linear feet)		
RA Buffer Area (square feet)		
RA Buffer Trees		
Parking Lot Screening (if required)	Required	Provided
Parking Lot Screen Depth (feet)		
Parking Lot Screen Length (excluding entryways) (linear feet)		
Parking Lot Screen Area (square feet)		
Parking Lot Screening Shrubs		

Parking Lot Landscape	Required	Provided
Parking Calculation Type		
Parking Spaces		
Parking Islands (number)		
Parking Islands Total Area (square feet)		
Parking Island Trees		
Parking Island Shrubs		
Entryway Trees		
Entryway Shrubs		
Continuous 5' Landscape Area - All Applicable Sides (square feet)		
Foundation Landscape	Required	Provided
Landscape Bed Depth (feet)		
Landscape Bed Length - All Applicable Sides (linear feet)		
Landscape Bed Area - All Applicable Sides (square feet)		
Landscape Bed Shrubs		
Landscape Bed Ornamental Trees (if provided)		
Additional Screening (if required)	Required	Provided
Dumpster Area Fence		
Dumpster Areas Shrubs		
Mechanical Screening Fence		
Mechanical Screening Shrubs		

19. SITE PLAN WAIVERS - LANDSCAPE

The Planning Board may review and approve requests for waivers to landscaping standards for the following:

1. The Planning Board may reduce the amount of landscaping required for parking lots if additional landscaping of equal or greater value is provided on other areas on site.
2. The Planning Board may approve an alternative interior parking island design to address stormwater runoff if recommended for approval by the Town Engineer.
3. The Planning Board may approve stormwater treatment areas located in the streetscape buffer yard if recommended for approval by the Town Engineer.
4. The Planning Board may approve an alternative planting plan if the site is not able to accommodate the required plantings, only as follows:

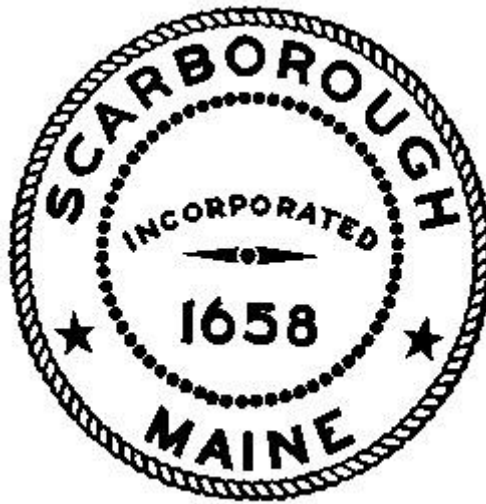
- One large tree may be substituted by two (2) ornamental trees
- 5. The Planning Board may waive or decrease the five (5) foot landscape strip requirement between all parking areas and buildings if the development is in an urban setting.
- 6. The Planning Board may waive residential adjacency buffer requirements if the site is in conjunction with a master planned development or within a mixed-use district.
- 7. The Planning Board may waive the required snow storage areas if a snow storage management plan is submitted and approved by the Town that includes the following:
 - Designated temporary or interim snow storage areas that do not interfere with more than one-third (1/3) of the project required minimum parking.
 - Interim snow storage shall be removed within five (5) calendar days following a storm cycle.
 - Interim snow storage shall not be in a location that will damage trees, landscape or other facilities.
 - Interim snow storage shall not block any required access, sidewalk, trail or public way.
 - Snow shall be hauled to approved and permitted locations. The location shall be provided.
 - Snow hauling shall generally be completed during non-business hours.
 - The snow management plan shall designate the removal methods.

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following Chapter 405B Town of Scarborough Site Plan Review Ordinance is amended as recommended by the Planning Director.

CHAPTER 405B

SITE PLAN REVIEW ORDINANCE

TOWN OF SCARBOROUGH



Revised as of August 17, 2005
Amended November 7, 2007 - Amended January 6, 2010
Amended May 5, 2010 - Amended March 19, 2014
Amended March 18, 2015 - Amended November 1, 2017
Amended June 5, 2019 - Amended April 21, 2021
Amended January 4, 2023 – Amended July 19, 2023
Amended October 18, 2023 Amended June xxx, 2024

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**CHAPTER 405B
TOWN OF SCARBOROUGH
SITE PLAN REVIEW**

I. Purpose

The Town of Scarborough finds that uses and structures for which site plan submissions are required are potentially significant additions to the community's built and natural environment as well as to the residential, commercial or industrial neighborhood in which they are proposed. The purpose of site plan review is to ensure that the design, layout and construction of these additions to the community constitute suitable development and will not result in a detriment to the neighborhood, community or environment. The standards and requirements of this ordinance are intended to assure that adequate provisions are made for: traffic safety, access and circulation; emergency access and response; stormwater management; protection of natural features and the environment; water supply and sewage disposal; and minimizing impacts to abutting properties or uses.

II. Applicability

A. Activities Requiring Site Plan Review [amended 04/21/2021]

Site Plan approval is required before any building or structure is erected or externally enlarged and before any parking, loading, or vehicular or pedestrian use is established, enlarged or changed, with the exception of the activities found below in Section II(B). Activities subject to site plan review shall be divided into two classes: Major Development Review and Minor Development Review.

1. Major Development Review. Planning Board approval is required for any activity described above, except for any activity that may be eligible for Minor Development Review outlined below, or as exempt as provided in Section II.B.
2. Minor Development Review. Town Planner approval is required for any permitted uses in the Industrial District, the Light Industrial District, and those uses in the Crossroads Planned Development District which are permitted only within the "inclusionary area" as outlined in Section XX.C.I.B.iv of the Scarborough Zoning Ordinance.

Notwithstanding the above, the following activities in the Industrial District, the Light Industrial District, and those uses in the Crossroads Planned Development District which are permitted only within the "inclusionary area" as outlined in Section XX.C.I.B.iv require Major Development Review from the Planning Board:

- a. Activities with one-acre or more of disturbance;
- b. Activities that are forecasted to generate more than 35 trip ends during any peak hour; and
- c. Activities that require amendments to state or federal permits.

The Town Planner (or designee) may refer approval of a permitted use defined as requiring minor development review to the Planning Board for Major Development Review when the nature of the application warrants a public hearing or poses the potential for significant

impacts on municipal facilities or natural resources, as determined by the Town Planner (or designee). Additionally, an applicant may request that a project be reviewed by the Planning Board through Major Development Review instead of Minor Development Review for any reason.

B. Activities Exempt from Site Plan Review [amended 05/05/2010; 01/04/2023]

The following activities shall not require site plan approval; however, such activities may require building permits, plumbing permits or other local or State approvals:

1. The construction of, or addition to, single and two-family dwellings and their accessory buildings, structures and areas for parking and vehicular or pedestrian use. More than one single family or two-family dwellings developed on a single lot under unified ownership, as defined in Section II(d)(9) of the Zoning Ordinance, are not exempt from Site Plan Review.
2. Alterations to a building which in total do not increase the floor area of the building by more than 100 square feet.
3. Municipal buildings or uses, but shall be reviewed by the Planning Board for an advisory opinion to the Town Council or the applicable Town Department.
4. Buildings, structures and areas of impervious surface, the principal use of which is the conduct of accessory agriculture, commercial agriculture, or commercial animal husbandry, as are defined in Section VI. Definitions of the Town of Scarborough Zoning Ordinance.
5. Farm stands with no more than 400 square feet of retail sales area.
6. Temporary use of accessory storage containers.
7. Timber harvesting.

III. Application & Review Procedures [amended 04/21/2021; 07/19/2023]

The following procedures and application requirements shall govern development proposals for major and minor development review.

A. Major Development Review [amended 04/21/2021]

1. Sketch Plan Review

Prior to submitting a formal site plan review application, the applicant may submit a sketch plan for review by the Planning Board. The sketch plan shall be conceptual and sketch plan review shall be considered an informal, informational review and discussion. The purpose of the sketch plan review process is to enable the applicant to present a concept plan for a development to the Planning Board in order for the Board to understand the type and scale of the proposed development as well as the associated on and off-site issues. Further, this process is intended to provide the applicant with preliminary feedback from the Board in order to identify any issues or revisions that should be addressed in the site plan review application.

The following information should be submitted or presented for discussion during sketch plan review:

- a. The proposed site, including its boundaries, size, location, and landscape.
- b. The environmental characteristics or constraints of the site, such as waterbodies, wetlands, floodways, steep slopes, etc.
- c. The proposed use and scale of development, including a conceptual site plan, landscape plan, and building elevations.
- d. Total disturbed area.
- e. An overview of any traffic issues or implications.
- f. An overview of the local regulations and State permits that may apply to the proposed project and any requested waivers of such regulations.

The sketch plan review shall be conceptual and informational, and there shall be no formal action by the Planning Board. Further, the submittal and review of a sketch plan shall not be considered the creation of a pending proceeding under 1 M.R.S.A. § 302. Following sketch plan review, an applicant must submit a formal site plan review application in order to seek site plan approval.

2. Site Plan Application Procedures & Action [amended 06/05/19]

- a. An application for site plan review shall be submitted to the Planning Department with the requisite fees and submission requirements, as outlined in Section VI.A of this ordinance. Upon receipt of any application that meets the submission requirements the Town Planner shall schedule the site plan for review on the next available Planning Board meeting agenda. An initial determination as to the completeness of the application shall be made by the Town Planner and Town Engineer, subject to final determination by the Planning Board. The Planning Board reserves the right to request additional plans or information, as stated in Section III(3)(i), depending on the nature of the proposal and its anticipated impacts. The Planning Board may also engage the services of one or more professional consultants to review the materials submitted by the applicant, the cost of which shall be paid by the applicant as provided in Section VI(B) of this ordinance.
- b. When an application for site plan review is determined to be complete, the Planning Department shall, at the applicant's expense, give written notification to all abutting property owners within five-hundred (500) feet of the parcel on which the proposed development is located of the date, time, and place of the meeting at which the application will be considered. Notification shall be sent at least ten (10) days prior to the first meeting at which the complete application is to be reviewed. Failure of any property owner to receive the notification shall not necessitate another hearing or invalidate any action of the Board. For purposes of this section, the owners of the abutting properties shall be considered to be the parties listed by the tax assessor for the Town of Scarborough. The Planning Board shall provide an opportunity for public comment prior to taking action on any site plan application.

- c. No application for site plan review shall be considered complete nor acted upon by the Planning Board until all special exceptions or variances which may be required for a development have been approved. The Planning Board may conduct its shoreland zoning or subdivision review concurrently with a project's site plan review.
- d. The Planning Board may make a decision at the initial Planning Board meeting at which a site plan is heard or may request additional meetings to receive revised plans or additional information pertaining to the proposal, and then issue a decision. The Planning Board may deny the application, approve the site plan as submitted, or approve the site plan with such conditions as the Board finds necessary to ensure compliance with the standards of this ordinance and other applicable ordinances of the Town of Scarborough.
- e. If a site plan application is denied, a substantially similar application shall not be brought before the Planning Board within one (1) year from the date of the denial of the original application. This limitation may be waived if the majority of the Board finds that substantial new evidence exists or an error or mistake of law or misinformation concerning the original application is identified.
- f. Any appeal of a Planning Board decision on an application for site plan review shall be taken directly to Cumberland County Superior Court. Decisions of the Planning Board are not appealable to the Scarborough Board of Appeals.
- g. Upon written request, the Town Planner may approve transfer of Site Plan approval granted to the project owner to an alternative developer or property owner, or the Planner may refer any request for transfer to the Planning Board for decision. A transfer shall be approved only if the new developer or owner has the financial and technical capacity to comply with the requirements of the site plan approval.
- h. Final approval shall expire one (1) year from the date of such approval unless the applicant has started substantial construction. The Town Planner may extend final approval for one (1) additional year for good cause, provided a written request for extension is submitted before the expiration of the approval. At her/his option, the Town Planner may refer any request for extension to the Planning Board for decision. [amended 11/01/17]
- i. The property shown on the approved site plan may be developed and used only as shown on the plan. All elements and features of the plan and all representations made by the applicant which appear in the record of the Planning Board proceedings are conditions of approval. No change from the conditions of approval is permitted unless an amended site plan is approved by the Planning Board. Minor deviations that do not alter the essential nature of the approval or affect approval criteria may be approved by the Town Planner (or designee) and with endorsement of the Planning Board Chair.
- j. The text of paragraph (i), above, shall be included as a note on the approved site plan.

- k. A request to amend an approved site plan shall be processed in the same manner as an application for site plan review, except that the Town Planner may grant preliminary waivers of submission requirements, subject to review of such waivers by the Planning Board when the Board takes up the request for amendment.

3. Submission Requirements

The applicant shall submit to the Planning Board the following plans and information in a form required by the Planning Department:

- a. A boundary survey prepared by a professional land surveyor licensed by the State of Maine indicating the boundary lines, dimensions, encumbrances, water bodies, water features, zoning designation(s) and topography of the site. This boundary survey shall be prepared at a scale no greater than one (1) inch = forty (40) feet. Plans showing engineering details submitted as part of the site plan application may be prepared by either a professional land surveyor or by a professional engineer.
- b. A site plan(s), at a scale no greater than one (1) inch = forty (40) feet, showing all existing and proposed buildings, contour elevations, structures, parking spaces and layout, driveways, driveway openings, service areas, proposed outside display or vending areas, proposed grades and drainage facilities, proposed water and sewage facilities or connections, landscaping plan including proposed trees and planting areas, proposed locations of fences, walls, signs and advertising features, proposed walkways and pedestrian amenities, total disturbed areas, and a lighting plan. The site plan shall also include a locus map showing the relationship of the project to the surrounding area at a scale no greater than one inch equals 2,000 feet. The site plan shall also show all contiguous land owned by the applicant or the owner of the land proposed for development.
- c. Building plans showing the floor plans, an outside access plan, and all elevations. The elevations shall indicate the proposed material and color of all of the proposed principal buildings and structures. The Planning Board may also require elevations of the accessory buildings and structures depending on their size and location.
- d. Stormwater management systems, details and calculations in compliance with Section IV.G of this Ordinance.
- e. An erosion and sedimentation control plan and narrative in accordance to Chapter 420 - Town of Scarborough Erosion and Sedimentation Control at Construction Sites Ordinance.
- f. A written statement prepared by a Maine Licensed Professional Engineer that describes the potential traffic flow patterns into and upon the site for both vehicles and pedestrians, the expected peak hour trip generation associated with the proposal, and the measured sight distance of each proposed driveway access. A traffic impact study shall be submitted for any project forecasted to generate 35 or more trip ends during any peak hour or if a project is forecasted to cause an existing access with less than 35 peak hour trip ends to exceed this threshold. The

Planning Board or Town staff may also require a traffic study if specific safety or capacity issues have been identified for the general vicinity of the development. The scope of the study shall be determined based on discussions with the Town's Traffic Engineer and be completed by a Registered Professional Engineer with significant experience in traffic engineering. The study should be appropriate for the level of impact. At a minimum the study shall contain the following information: collision history at the intersection of the proposed street/driveway, capacity evaluation at the proposed driveway, sight distance analysis, Road Impact Fee calculations and the need for improvements such as turning lanes, signalization, etc. In compiling a traffic study, trip generation shall be based upon the most recent edition of the ITE's "Trip Generation" Manual and shall include an evaluation of each peak hour condition.

- g. Any proposed off-site improvements to roads, sidewalks, natural areas or other infrastructure as may be necessary to accommodate the proposed development.
- h. A lighting plan in compliance with Section IV(H) of this ordinance.
- i. Reports from the Police Chief, Fire Chief, and to the extent applicable, from the Water District and Sanitary District, containing their requirements or recommendations.
- j. Such other information or plans as may be necessary to enable the Town Planner, Town Engineer, Code Enforcement Officer, and Planning Board to determine that the proposed structure and use of the land will conform to the provisions of this ordinance, the Scarborough Zoning Ordinance and, where applicable, the Scarborough Shoreland Zoning Ordinance and all other applicable Town Ordinances.
- k. A list of any requested waivers of required submissions and waivers from the standards of this ordinance.
- l. A description of method to be used to permanently delineate wetlands and wetland buffers to prevent encroachment. [08/17/2005]
- m. The location and description of all historic and archeological resources on the parcel as identified by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or Section VII.H. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance together with a narrative describing how these resources can be preserved and incorporated into the development plan. If an identified resource will be removed, altered, or not included as part of the development plan, a statement shall be provided as to why the resource cannot be preserved and the options considered but rejected for including it as part of the development plan. [03/19/2014][Amended 03/18/2015]

The Planning Board may waive any of the above submission requirements if the Board finds that the required information is not necessary due to special circumstances of a particular site plan, or the nature or scale of the proposed development. Requirements set forth in Chapter 419 Town of Scarborough Post-Construction Stormwater Infrastructure Management Ordinance and in Chapter 420 Town of Scarborough Erosion and Sedimentation Control at Construction

Sites Ordinance are required by the Maine Department of Environmental Protection and the Environmental Protection Agency and are not waivable.

B. Minor Development Review [amended 04/21/2021]

1. An application for site plan review shall be submitted to the Planning Department with the requisite fees and submission requirements, as outlined in Section VI.A of this Ordinance. The Town Planner (or designee) reserves the right to request additional plans or information, as stated in Section III.A(3)(i), depending on the nature of the proposal and its anticipated impacts. The Town Planner (or designee) may also engage the services of one or more professional consultants to review the materials submitted by the applicant, the cost of which shall be paid by the applicant as provided in Section VI.B of this ordinance.
2. After the Town Planner (or designee) determines that an application is complete, the applications are distributed to the Town Engineer, Zoning Administrator, Fire Chief (or designee), Police Chief (or designee), and the Director of Public Works (or designee) for review and comment.
3. The Planning Department shall also, at the applicant's expense, give written notification to all abutting property owners within five hundred (500) feet of the parcel on which the proposed development is located, and must include a brief description of the proposed project, the name of the applicant, the location where the application is available for inspection, how written comments on the application may be submitted. Failure of any property owner to receive the notification shall not invalidate any action of the Town Planner. For purposes of this section, the owners of the abutting properties shall be considered to be the parties listed by the tax assessor for the Town of Scarborough.
4. Within 30 days of determining the application complete, and after a ten (10) day public comment period following mailing of the notice to abutting property owners, the Town Planner (or designee) shall review all submitted comments and act on the application to either: a. send the application to Major Development Review; or b. approve, approve conditionally, or deny the application. The decision of the Town Planner (or designee) shall be provided in writing to the applicant.
5. If a site plan application is denied, a substantially similar application shall not be brought before the Town Planner (or designee) within one (1) year from the date of the denial of the original application. This limitation may be waived if the Town Planner finds that substantial new evidence exists or an error or mistake of law or misinformation concerning the original application is identified.
6. Any appeal of the Town Planner's decision on an application for Minor Development Review shall be taken directly to the Planning Board; provided the appeal is made within 30 days of the issuance of the decision. Upon such an appeal, the Planning Board shall review the application as a Major Development Review; including all procedures and submission requirements of section III.A.
7. Upon written request, the Town Planner may approve transfer of Minor Development Site Plan approval granted to the project owner to an alternative developer or property owner, or the Planner may refer any request for transfer to the Planning Board for

decision. A transfer shall be approved only if the new developer or owner has the financial and technical capacity to comply with the requirements of the site plan approval.

8. Final approval shall expire one (1) year from the date of such approval unless the applicant has started substantial construction. The Town Planner may extend final approval for one (1) additional year for good cause, provided a written request for extension is submitted before the expiration of the approval. At her/his option, the Town Planner may refer any request for extension to the Planning Board for decision.
9. The property shown on the approved site plan may be developed and used only as shown on the plan. All elements and features of the plan and all representations made by the applicant which appear in the application are conditions of approval. No change from the conditions of approval is permitted unless an amended site plan is approved by the Town Planner (or designee). Minor deviations that do not alter the essential nature of the approval or affect approval criteria may be approved by the Town Planner (or designee).
10. The text of paragraph 9, above, shall be included as a note on the approved site plan.
11. A request to amend an approved site plan shall be processed in the same manner as an application for site plan review, except that the Town Planner (or designee) may grant preliminary waivers of submission requirements.

IV. Performance & Design Standards [amended 04/21/2021; 07/19/2023]

The following minimum performance and design standards shall apply to all site plans and shall serve as the minimum requirements for approval of any application. However, where the Planning Board or Town Planner (together the “Applicable Reviewing Authority”) as applicable finds that due to the nature or special circumstances of a particular plan the requirements of certain standards are not requisite to the interest of public health, safety and general welfare, the Applicable Review Authority may waive such requirements, subject to appropriate conditions to achieve the intent of this ordinance. Requirements set forth in Chapter 419 Town of Scarborough Post-Construction Stormwater Infrastructure Management Ordinance and in Chapter 420 Town of Scarborough Erosion and Sedimentation Control at Construction Sites Ordinance are required by the Maine Department of Environmental Protection and the Environmental Protection Agency and are not waivable.

A. Site Utilization & Layout

The primary goal of the site plan review process is to produce attractive and functional sites that compliment and conform to both the natural and built environment in which they are proposed. To this end, the built portions of a site shall be laid out in only the most environmentally suitable locations for development. Structures and impervious areas shall be designed around, and away from, resource areas such as wetlands, steep slopes, water bodies and other unique natural features. Once the build-able portion of a site is identified, the principal building(s) is the most critical amenity to orient and position, as it is the focal point of the site in regards to use, visitation, and aesthetics. The principal building(s) shall be oriented on the site in a way that is compatible with neighboring structures and the development pattern in the vicinity. The building(s) shall also be positioned to provide an aesthetic and functional relationship with surrounding streets and sidewalks to ensure

attractive and efficient vehicle and pedestrian access. Parking areas, driveways, access points and sidewalks shall be designed around, and to serve, the principal building(s) and shall also compliment the neighboring development patterns and transportation networks as well as the Comprehensive Plan guidelines.

B. Site Access [amended 04/21/2021]

Vehicle access to and from the site shall be safe and convenient, shall minimize conflict with the existing flow of traffic, and shall be from roads that have adequate capacity to accommodate the additional traffic generated by the development. Access management techniques such as limiting the number of driveways and combining driveways preserves mobility and improves safety, and shall be incorporated to the extent feasible.

As used in this Section IV(B), the term “street or driveway” includes both public and private local, collector and arterial streets, as well as entrance roads.

1. Entrance Location & Design

- a. Any street or driveway access shall be separated from any other street or driveway, existing or proposed, on-site or off-site, in accordance with the following table. The Applicable Reviewing Authority may relax these standards only upon finding, based on a traffic study, that the location of the street or driveway closer than these minimums is necessary for effective utilization of the site or to enable the sharing of an access with an adjacent lot to reduce the total number of necessary curb cuts, and will not cause unreasonable congestion or unreasonable safety hazards. Driveway separation shall be measured from the edge of the proposed street/driveway entrance to the edge of the alternative entrance, excluding the radii.

The location of the site’s access shall also consider the existing location of driveways and entrances across a road or highway and shall attempt to meet the same separation standards established below. Entrances having the same centerline and situated directly across a road or highway from a proposed street or driveway shall not apply to this spacing requirement.

POSTED SPEED IN M.P.H.	SEPARATION IN FEET
25 or less	90’
30	105’
35	130’
40	175’
45	265’
50	350’

55 or more	525'
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- b. Any street or driveway access shall be so designed in profile and grading and so located as to provide the minimum sight distance measured in each direction as specified in the Maine Department of Transportation's "Entrance Rules - Chapter 299, Part B" (as may be amended from time to time).
- c. Driveway grades at street intersections shall not be more than five percent (5%) up or down for the first fifty (50) feet from the street, unless otherwise approved by the Applicable Reviewing Authority.
- d. Streets and driveways shall be located not less than 125 feet from the tangent point of the curb radius of any intersection. However, a greater distance or movement restrictions shall be provided if necessary based on the results of a vehicle queuing analysis at the intersection.
- e. When serving an individual site, no part of any street or driveway shall be located within a minimum of ten (10) feet of a side property line. Alternatively, when a street or driveway serves two (2) or more adjacent sites, the Applicable Reviewing Authority may allow the street or driveway to be located on or within ten (10) feet of a side property line between the sites. The sharing of street or driveway accesses between sites should be incorporated whenever feasible to limit curb cuts.
- f. Where a site has frontage on two or more streets, the Applicable Reviewing Authority will require that the access to the site be provide off the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. For developments with significant traffic volumes of 50 or more peak trips, the Applicable Reviewing Authority will consider access to more than one street, providing a traffic study clearly demonstrates a traffic safety and congestion benefit will result.
- g. There shall be no more than one full service street or driveway connection from any lot to any street, except when an additional entrance/exit must be provided to prevent traffic hazards or congestion. If two curb cuts are found to be necessary for congestion or safety reasons they shall be separated in accordance with the separation requirements in Section IV(B)(1)(a), above.
- h. Streets and driveways shall intersect the road at an angle as near to ninety (90) degrees as site conditions will permit and in no case less than seventy-five (75) degrees.
- i. Streets and driveways intersecting collector and arterial roadways shall be adequately lit.
- j. The level of service at a proposed signalized intersection shall be "D" or better. At an existing signalized intersection, the level of service shall not be reduced below "D" by the development. If an existing signalized intersection is operating below a LOS "D" pre-development, then the development shall not increase the

delay at the intersection, unless this standard is waived by the Applicable Reviewing Authority. At an un-signalized intersection, if the level of service is forecasted to be less than a “D” post-development, than the installation of a traffic signal and/or additional turning lanes shall be investigated. If these improvements are found not to be warranted, then a level of service less than “D” may be acceptable.

C. Internal Vehicular Circulation [amended 04/21/2021]

The layout and circulation pattern within the site shall provide for the safe and convenient movement of passenger, service, and emergency vehicles through the site. The circulation layout shall also provide a safe, accessible pedestrian environment as well as encourage intra-parcel travel, minimizing curb cuts and unnecessary roadway travel in keeping with the access management goals of section B.

1. Street and driveway dimensions. The dimensions of streets and driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to visit the site on a daily basis. The required minimum and maximum dimensions for driveways are indicated below. Streets and driveways serving large volumes of daily traffic or truck traffic shall be required to establish high to maximum dimensions.

LAND USE	ONE-WAY WIDTH (FEET)	TWO-WAY WIDTH (FEET)
Residential	12 to 14	20 to 24
Commercial & Industrial generating between 10 - 50 truck trips per hour	15 to 25	26 to 30
Commercial & Industrial generating 50 or more truck trips per hour	Maine DOT Criteria to Apply	Maine DOT Criteria to Apply

2. A site development access driveway profile shall be designed to conform to the natural topographic features of the site, to the extent feasible. Driveways serving residential development shall be between 0.75% and 15% up or down. Driveways serving commercial or industrial developments shall be between 0.75% and 8% up or down.
3. The construction and materials used for a driveway, street, parking lot and drainage infrastructure shall comply with the latest standard specifications issued by The State of Maine Department of Transportation and as approved by the Applicable Reviewing Authority. Specific construction details for this infrastructure shall also be approved by the Applicable Reviewing Authority.

4. The layout and design of driveways and parking areas shall provide for safe and convenient circulation of vehicles throughout the site and shall provide the necessary curbing, directional markings, and signage to achieve this requirement. The layout, design and circulation pattern must also provide for pedestrians and cyclists as well as emergency, delivery, and service vehicles.
5. Traffic calming measures shall be included where appropriate to discourage speeding within the site and between abutting sites. Measures may include speed tables, on-street parking, raised crosswalks, vertical curbing, curvilinear road alignments, roadside plantings, neck-downs, curbed islands, signage or other traffic calming techniques.
6. Where feasible, connections between parking lots and driveways on adjacent parcels shall be provided to facilitate deliveries and minimize turning movements onto primary roads. Internal connections shall be designed to provide safe, direct access between adjacent lots in a manner that prevents their use as vehicle shortcuts. The site plan shall show stub outs, or other driveway or parking lot linkages, anticipating future vehicular connections to abutting undeveloped property.
7. Identifiable routes of access for emergency and service vehicles shall be provided to and around the buildings on the site.
8. Drive-through lanes shall minimize conflicts with pedestrian circulation routes. Motorists shall be made aware of pedestrians through signage, lighting, raised crosswalks, changes in paving or other devices. The site plan shall be designed to minimize queuing in parking lots or other areas which would cause congestion or unsafe conditions.
9. Service drives shall be separated from internal walkways, parking areas, or pedestrian use areas by landscaped islands, grade changes or other devices to minimize pedestrian contact.

D. Parking Areas [amended 04/21/2021]

Parking lots shall be designed to complement adjacent buildings, the site, and the neighborhood by not being a dominant visual element. Every effort shall be made to reduce the scale of parking lots for aesthetic and stormwater reasons. Parking areas shall balance the needs of both vehicles and pedestrians. Parking lots shall be accessible and organized to serve the motorist, while being safe and pedestrian-friendly.

1. Off-street parking shall conform to Section XI., Off-Street Parking & Loading Requirements, of the Zoning Ordinance.
 - a. If an applicant can demonstrate to the Applicable Reviewing Authority that the nature or operation of the proposed use will not necessitate the minimum parking space requirements found in Section XI., the Applicable Reviewing Authority shall have the authority to approve a site plan showing fewer parking spaces than are required. This allowance may only be provided, however, if the site plan incorporates a landscaped area that is feasible and adequate to accommodate the requisite parking under Section XI., should there be a future change in the nature or operation of the use necessitating the required parking.

- b. The Board of Appeals may also permit a reduction in the required parking spaces as per Section XI(F) of the Zoning Ordinance.
 - c. For uses that experience high turn-over traffic volumes (i.e. typical visitation is less than one-hour) the Applicable Reviewing Authority may require the dimensions of parking spaces in close proximity of the building entrance to be 10 feet wide by 20 feet long.
 - d. The Applicable Reviewing Authority may approve parking spaces for use by employees or residential parking to be 8 feet wide. All 8 foot wide parking spaces that are provided for employees and residential uses must be in physically segregated parking areas and the design of such parking areas must be shown on an approved site plan. No more than 10% of off-street parking spaces may be designed with a width of less than 9 feet.
2. There shall be adequate provisions for ingress and egress to all parking spaces. The following aisle widths shall be required to ensure adequate and safe access to parking spaces. Only one-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than ninety (90) degrees.

PARKING ANGLE DEGREE	MINIMUM AISLE WIDTH (FEET)
0° parallel parking	12'
30°	12'
45°	13'
60°	18'
90° perpendicular parking	25'

3. Parking lots shall be designed as part of the overall plan for the site, and shall be coordinated with building entrances, lighting, and landscaping.
- ~~a. Whenever feasible, the majority of parking areas shall be located at the rear or sides of the building(s) being served, except where parking would be located adjacent to a residential neighborhood or when the parking is part of a multi-building site. Where such placement is not possible, the parking area shall be screened with evergreen trees, earth berms, fences, or shrubs.~~
4. There shall be adequate provisions made for handicap parking in accordance with the ADA Standards for Accessible Design and marked by the international symbol of accessibility. Handicap accessible spaces shall be designated in the closest located spaces on a site to the accessible entrances. Such spaces shall be provided in accordance with the following table and shall be designed in accordance with the ADA Design Standards.

TOTAL SPACES	TOTAL ACCESSIBLE SPACES REQUIRED COLUMN A	SPACES WITH 60" WIDE ACCESSIBLE AISLE	VAN ACCESSIBLE SPACES WITH 96" WIDE ACCESSIBLE AISLE
1 to 25	1	0	1
26 to 50	2	1	1
51 to 75	3	2	1
76 to 100	4	3	1
101 to 150	5	4	1
151 to 200	6	5	1
201 to 300	7	6	1
301 to 400	8	7	1
401 to 500	9	7	2
501 to 1000	2% of total parking provided	7/8 of column A	1/8 of column A
1001 and over	20 plus 1 for each 100 over 1000	7/8 of column A	1/8 of column A

This table is in accordance with the ADA Design Guide, U.S. Department of Justice, Civil Rights Division, Disability Rights Section

- ~~5. Parking areas shall be landscaped and screened in accordance with the following standards:~~
- ~~a. Paved surfaces of parking areas shall be separated from buildings by a minimum of five (5) feet of landscaping and a five (5) foot walkway. Beyond the 5 foot minimum, the width of the landscaping shall be proportional to the height of the building.~~
 - ~~b. The scale and impervious area of parking lots with more than 15 spaces shall be broken up with trees, landscaped islands, grade changes, low walls, or other features.~~
 - ~~c. At a minimum, between 10% and 15% of the parking lot shall be landscaped. The higher percentage (15%) shall be used for larger parking lots consisting of 40 or~~

~~more spaces. The lower percentage of 10% shall be used for smaller parking lots containing fewer than 40 parking spaces. Planting islands shall be a minimum of 9 feet in width. All parking lot landscaping shall be hearty and appropriate for parking lot conditions. Existing natural groupings or clusters of trees shall also be preserved.~~

- ~~d. Where front parking is permitted between the building and the road it shall be screened by trees, berms, fencing, shrubs, low walls, perennial masses, or a combination of these elements. The height of the screening shall be approximately 3 feet to minimize the view of the parking lot and vehicles, while providing a clear view of the building and signage.~~
5. Parking areas with a single point of access are strongly discouraged. Dead-end parking lots shall not contain more than ten (10) spaces. Where dead-end lots must be used, adequate space shall be provided to safely turn a vehicle around to avoid backing out.
6. Directional signage and markers shall be utilized in diagonal parking lot arrangements.
- ~~7. Provisions shall be made for snow storage in the design of all parking areas. The areas shall be shown on the site plan to avoid conflicts with landscaping, visibility, drainage, or icing during the winter season.~~

E. Pedestrian Ways, Space & Alternative Transportation

[amended 11/07/2007; 04/21/2021]

Developments shall provide attractive, safe, and functional walkways within the site and for connection of the site to the Town's sidewalk system when a public sidewalk exists or is planned in the vicinity of the site. Walkways shall be designed to direct pedestrians to the main entrances of the buildings from the public right-of-ways, abutting properties and businesses, and the parking areas on the site. Entrances to buildings shall also be designed to provide some outdoor space for pedestrian use, such as seating, dining, or lawn area.

1. Continuous internal walkways shall be provided from any existing or planned public sidewalk in the street(s) adjacent to the site to the principal customer entrances on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as transit stops, street crossings, and building entrances.
2. If a sidewalk does not exist in the street(s) adjacent to the site but the Town has identified the construction of a sidewalk for this portion of the street(s) in the Town Wide Transportation Study (March 2005) the applicant shall be responsible for the construction of a sidewalk along the full width of the frontage or in a location otherwise determined by the Applicable Reviewing Authority. The applicant shall not be responsible for the construction of a sidewalk in a location for which the Town Council has already adopted and funded a Sidewalk Capital Improvement Plan.
3. If a sidewalk is required to be constructed, the sidewalk shall be located within the right-of-way of the public street unless the width of the right-of-way will not allow for this. In this case, the sidewalk shall be located on the parcel in the area immediately adjacent to the street right-of-way unless the topography or natural

characteristics of the site or existing development make this impractical. When determining the location and alignment of new sidewalks, existing street trees shall be avoided and preserved to the extent possible. ~~to further the goals of “subsection F Landscaping, Buffering and Greenspace” of this Ordinance.~~

4. If the sidewalk will be located outside of the street right-of-way, the applicant shall convey an easement to the Town for the sidewalk area.
5. When a sidewalk is constructed wholly within the street right-of-way it must conform to the design and construction requirements set forth in the Town’s Street Acceptance Ordinance (Chapter 701) for the class of street. When a sidewalk is constructed wholly or partly outside of the street right-of-way the location and design of the sidewalk must be approved by the Applicable Reviewing Authority as part of the site plan approval.
6. Internal walkways shall be a minimum of 4 feet in width for ADA compliance and shall be raised and separated from vehicular traffic by 6 inch curbing except at crosswalks and access areas.
7. Within larger parking lots where the main building entrance will be 50+ feet from at least half of the parking spaces, a network of walkways shall be provided. These walkways shall be separated from parking bays and travel aisles by raised curbing or landscape buffering and shall be aligned with the main entry or a focal point on the building for way finding. The width of these internal parking lot walkways shall be five feet or more to enable the use of shopping carts or heavy pedestrian traffic.
8. Walkways shall be located where motorists can anticipate pedestrians. Likewise, walkways shall be designed to give pedestrians a view of oncoming vehicles and shall avoid bisecting drive-through lanes, access and service drives, and other high-traffic routes.
9. Internal crosswalks shall be provided and marked by a change in pavement texture, pattern, or color to maximize pedestrian safety. The materials selected shall be highly durable and low maintenance. Raised crosswalks shall be considered at key locations as a traffic calming device as well as to make crosswalks more visible.
- ~~10. Areas adjacent to walkways shall be landscaped with trees, shrubs, ground cover, benches or other materials. Walkways in parking areas shall include landscaped islands for visual relief, shade, and scale.~~
- ~~11. All walkways and sidewalks shall be designed for efficient snow removal to enable year-round use.~~
- ~~12. Major entrances to new or renovated buildings shall be complemented with outdoor seating or use areas. Canopies, recessed entrances, seating areas, decorative plantings, lawn areas and other elements may be incorporated around the building entry to serve as pedestrian space or gathering areas.~~
- ~~13. Provisions shall be made for alternative transportation if the site is located on a bus or bicycle route. Such provisions may consist of bus shelters, bicycle racks, or individual travel lanes for either mode of transportation.~~

~~F. Landscaping, Buffering & Greenspace [amended 04/21/2021]~~

~~Landscaping shall be used to complement the architecture, enhance the human scale, reinforce circulation paths, highlight entrances, provide shade, and add color and seasonal interest. Buffering shall be used to minimize any adverse impacts or nuisances on the site or from adjacent areas. Greenspace shall be designated to preserve the natural features or resources of a site, to provide areas for active or passive recreation, or for visual and aesthetic benefits.~~

- ~~1. Native species shall be used to the greatest extent possible in all landscaping designs. If site improvements will create ten (10) or more new parking spaces or create 2,000 sq. ft. or more of new building footprint, a landscape plan shall be prepared by a landscape architect registered in Maine.~~
- ~~2. The applicant shall use plant material and species that require a low degree of maintenance and that are hearty and resistant to insect infestation, drought, disease, road salt, and auto emissions, and are tolerant of local winter conditions.~~
- ~~3. Wherever practical, existing specimen trees, tree clusters or other significant vegetation shall be preserved. The landscape plan shall illustrate which vegetation will be preserved and what protection measures will be implemented. Further, transplanting and reusing on-site trees and other vegetation is strongly encouraged.~~
- ~~4. A varying, but simple, collection of plant materials and species is encouraged to create a distinctive, yet low maintenance environment. A list of suggested plantings in Scarborough is included in an appendix to this ordinance. Plant materials shall meet the following minimum sizes, unless alternative sizes are required given a particular site or location:~~

VEGETATION	MINIMUM SIZE
Canopy Trees	2 ½" caliper
Flowering Trees	2" caliper
Evergreen Trees	5 to 7' in height
Deciduous Shrubs	24" in height
Evergreen Shrubs	18" height / spread
Perennials	2-year clumps
Ornamental Grasses	2-year clumps
Ground Covers	3" pots

- ~~5. Landscaping is necessary in parking lots to enhance their appearance, lessen the scale of paved areas, define edges, and provide shade and cover. The following standards shall apply within parking areas:
 - ~~a. At a minimum, between 10% and 15% of the parking lot shall be landscaped. The higher percentage (15%) shall be used for larger parking lots consisting of 40 or more spaces. The lower percentage of 10% shall be used for smaller parking lots containing fewer than 40 parking spaces. Planting islands shall be a minimum of 9 feet in width. All parking lot landscaping shall be hearty and appropriate for parking lot conditions and snow storage.~~
 - ~~b. Trees in parking lots shall be planted in informal groups, straight rows, or concentrated in certain areas. Trees shall be planted at least five feet from the end of parking lot islands for both motorist visibility and tree health.~~
 - ~~c. Plantings, trees, and other landscape elements shall separate parking lots from neighboring streets to minimize views of vehicles and paved areas, while still enabling views of the building.~~
 - ~~d. Trees and shrubs in and near parking areas shall be trimmed and maintained so that they do not block views needed for safe movement of motorists and pedestrians.~~~~
- ~~6. Trees and plantings shall be coordinated with the on site architecture by complementing the building elevations without blocking storefronts, signs, or lighting.~~
- ~~7. Large spreading deciduous trees shall be planted in appropriate locations along town roads and private access drives to define the edge of the travelway, provide shade for pedestrians, clean the air, and add scale to transportation corridors and commercial developments.~~
- ~~8. Landscape plans presented to the Applicable Reviewing Authority shall anticipate a 3 to 8 year growing cycle to achieve maturity for shrubs and 15 to 20+ years for trees. The plan shall be designed and plantings selected with due consideration for maintenance requirements.
 - ~~a. A written maintenance plan shall be provided for the landscape elements to be installed on the site. The plan shall include initial installation, guarantee period, replacement policy, annual maintenance, and irrigation provisions. All lawns and plant materials shall be guaranteed for a period of not less than 2 years.~~
 - ~~b. The use of plant materials and landscape elements that require a low degree of maintenance is strongly encouraged. Vegetation to consider includes drought resistance, tolerance to auto emissions, disease resistance, and relatively light leaf litter.~~~~
- ~~9. Buffers shall be provided to shield structures and uses from the view of abutting properties, where the abutting properties would otherwise be adversely impacted. In particular, buffers shall be used to screen garbage collection areas, loading areas, waste storage, commercial vehicle parking and the like. Buffers may include fences,~~

~~plantings, berms, and walls used to minimize any adverse impacts and nuisances on a given site or abutter.~~

~~10. Special landscaping and buffer requirements pertain to development along the Route One Corridor. Sites abutting Route One shall provide a green strip buffer along Route One at a depth of no less than 15 feet from the sideline of Route One. This 15 ft. may include trees, grass, plantings, berms, and mounds as well as sidewalks, fences or other landscape elements. The trees and plant materials within this buffer shall also conform to the planting schedule of the document entitled: Guiding Growth & Public Improvement on Route One, Scarborough, Maine, authored by Terrence J. Dewan & Associates, dated June 1993.~~

~~11. In cases where the Scarborough Zoning Ordinance requires buffers for commercial or industrial developments that abut residential zoning districts or uses, the Applicable Reviewing Authority may require evergreen or deciduous trees within these buffer areas. An evergreen buffer requires three (3) rows of staggered plantings. The rows shall be eight (8) feet apart and the evergreens planted six (6) feet on center. Deciduous buffers require trees with a minimum of 3 inch caliper and rows and spacing to be determined by the Board based on the characteristics of the site and uses.~~

F. Landscape and Screening Standards [amended 04/21/2021; amended xx/xx/2024]

1. Purpose

Landscaping shall be used to complement the architecture, enhance the human scale, reinforce circulation paths, highlight entrances, provide shade, and add color and seasonal interest. Greenspace shall be designated to preserve the natural features or resources of a site, to provide areas for active or passive recreation, or for visual and aesthetic benefits.

2. Applicability

All landscaping approved after the date of effect of this Ordinance shall comply with these requirements. This includes, but is not limited to, new landscape, replacement planting, or any other landscaping proposed through the Site Plan or Subdivision process.

The provisions of this section shall not apply to individual single and two-family dwellings and their accessory buildings, structures and areas for parking.

Replacement planting for projects approved prior to this ordinance shall adhere to the plant species list in Section F.16. for vegetation selection.

3. General Standards

Trees and plantings shall be coordinated with the on-site architecture by complementing the building elevations without blocking storefronts, signs, or lighting and reinforce wayfinding by emphasizing entrances and circulation patterns.

A varying, but simple, collection of plant materials and species is encouraged to create a distinctive, yet low maintenance environment. Plantings plans shall strike a balance between monoculture (the use of a single species) and too much variety.

Shrubs, perennials, annuals, ornamental grasses, etc. used along the roadways should be planted in masses or 'drifts' that emphasize colors and textures, rather than used as single specimens.

Native species should be selected for their benefits of conserving water, protecting soil from erosion, and creating habitat and providing food for many different animals including birds, pollinators, and small mammals. Invasive species are prohibited.

4. Definitions

Bare-Root Plants: Bare-root plants are grown in the field, then harvested. The soil is washed or shaken from their roots after digging. Nearly all are dormant.

Balled-and-Burlapped Plants: Balled-and-burlapped (or B&B) trees and shrubs are grown in nursery rows.

Buffer: Landscaped areas, berms, fencing, walls or other physical features that are planted or installed to physically and visually separate land uses.

Container Grown Plants: Container-grown refers to a plant that has been grown in a container or one that has been transplanted into a container from the field.

Diameter at Breast Height (DBH): DBH is the diameter of a tree measured 4.5 feet above the ground.

Greenspace: Greenspaces are pervious areas of grass, trees or other vegetation, for recreation or aesthetic purposes.

Invasive Plants: An invasive plant is defined as a plant that is not native to a particular ecosystem, whose introduction does or is likely to cause economic or environmental harm or harm to human health.

Landscape Plan: A component of a development plan which shows the quantity, species, and size of all pro- posed vegetation.

Native Plants: A native or indigenous plant species is one that occurs in a particular place without the aid of humans. They are well adapted to the climate, light, and soil conditions that characterize their ecosystem. Species native to North America are generally recognized as those occurring on the continent prior to European settlement.

Site Furniture: Constructed, above-ground objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, and fountains that have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces used by the public.

5. Minimum Landscaping Required

A minimum percentage of the total area being developed shall be landscaped in accordance with the following percentages:

- a. Multifamily dwellings: 15%
- b. Mixed-use buildings, commercial, retail and lodging use: 15%
- c. Office and professional uses: 15%

- d. Institutional and civic uses: 15%
- e. Industrial and manufacturing uses: 10%

Tree and shrub requirements for multi-family, commercial, institutional and civic uses:

- a. For every 500 square feet of landscaping required, or portion thereof, at least one (1) large tree and two (2) shrubs are required.
- b. Two (2) small ornamental trees may be substituted for one (1) required large tree, not to exceed 50% of the required large trees.

Tree and shrub requirements for industrial and manufacturing uses:

- a. For every 1,000 square feet of landscaping required, or portion thereof, at least one (1) large tree and two (2) shrubs are required.
- b. Two (2) small ornamental trees may be substituted for one (1) required large tree, not to exceed 50% of the required large trees.

Each development shall provide at least two (2) different species. No more than 50% of all trees, per development, shall be of the same species. This standard applies only to trees being planted to meet requirements, not to existing trees.

Ground cover is required. Landscaped area that is not planted with trees and shrubs must be planted in ground cover plants, which may include grasses and lawn areas. Mulch (as a ground cover) must be confined to areas underneath plants and is not a substitute for ground cover plants.

Stormwater treatment areas including retention and detention areas shall not be counted toward the required minimum landscaped area.

6. Buffer Yard - Streetscape

Planting plans shall emphasize large shade trees within or near the right-of-way in order to create a more unified streetscape. Large spreading deciduous trees shall be planted in appropriate locations along town roads and private access drives to define the edge of the travel way, provide shade for pedestrians, clean the air, and add scale to transportation corridors and commercial developments.

A vegetated buffer yard shall be established and/or maintained along the front property line of a lot where it abuts a public street as defined in the specific Zoning District for which the property is located. The minimum streetscape buffer yard shall be 10' deep for all streets not specifically designated.

Within a required buffer yard large trees shall be required at a rate of one (1) per thirty (30) feet. Trees may be planted in irregular groupings to accommodate utility conflicts and/or allow for design flexibility.

A buffer yard may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, stormwater treatment areas and storage or service facilities may not be located within the buffer strip.

Trees and other landscaping planted at intersections shall preserve an adequate sight

triangle as determined by the traffic engineer.

Landscape buffer strip requirements may be used to meet the overall landscape requirements established in Section F.5.

7. Buffer Yard – Residential Adjacency

Buffering shall be used to minimize any adverse impacts or nuisances on the site or from adjacent areas. Buffers shall be provided to shield structures and uses from the view of abutting properties, where the abutting properties would otherwise be adversely impacted.

A residential adjacency buffer yard is required when a side or rear yard abuts a residential district as defined in the specific Zoning District for which the property is located.

Buffer yards shall be installed by the more intense use. All required buffer yards abutting residential uses or districts shall maintain the district boundary in its natural state. Where no natural buffering can be maintained all side and rear yards abutting residential uses or districts shall be landscaped to provide a visual screen between districts.

Buffers may include fences, plantings, berms, grade changes and walls used to minimize any adverse impacts and nuisances on a given site or abutter.

Where residential adjacency buffers are required, the Planning Board may require evergreen or deciduous trees within these buffer areas as follows:

- a. Evergreen buffers require three (3) rows of staggered plantings. The rows shall be eight (8) feet apart and the evergreens planted six (6) feet on center.
- b. Deciduous buffers require trees with a minimum of 3-inch caliper and rows and spacing to be determined by the Board based on the characteristics of the site and uses.

8. Parking Lot Landscaping Required

Landscaping is necessary in parking lots to enhance their appearance, lessen the scale of paved areas, define edges, and provide shade and cover.

Parking Lot Screening. Plantings, trees, and other landscape elements shall separate parking lots from neighboring streets to minimize views of vehicles and paved areas, while still enabling views of the building. Where parking is provided between the building and the street, it shall be screened in accordance with the following:

- a. Landscape screening shall contain a continuous screen not less than three (3) feet in height in a minimum planting bed depth of five (5) feet. The five (5) foot planting bed is in addition to the depth required for the streetscape buffer yard.

The continuous screen may be comprised of:

- a. Shrubs provided every four (4) to six (6) linear feet within the required planting strip
- b. Three (3) feet tall fence or boulders in combination with shrubs; or
- c. Combination of the above

Planted screening must be capable of providing a screen of at least thirty-six (36) inches in height in two years.

Parking Lot Landscaping Required. Parking lot landscaping shall be in accordance with the following:

- a. Planting islands shall be included at a rate of one (1) island per fifteen (15) spaces.
- b. Landscape islands shall be required on both ends of all parking aisles, both single and double loaded, if such spaces are not adjacent to another landscaped area or entryway.
- c. Landscape islands shall be a minimum of 160 square feet, typically nine (9) feet wide and eighteen (18) feet deep, and shall contain at least one (1) large tree and four (4) shrubs.
- d. Parking lot entryways shall contain at least one (1) large tree and four (4) shrubs on each side.
- e. Vehicular use areas including drive aisles and/or parking space shall be screened from all abutting property by a continuous landscaped area not less than five (5) ten (10) feet deep. Stormwater treatment may be located in these areas upon approval by the Town Engineer.
- f. Trees in parking lots shall be planted in informal groups, straight rows, or concentrated in certain areas. Large trees shall be planted at least five feet from the end of parking lot islands for both motorist visibility and tree health.
- g. Areas adjacent to walkways shall be landscaped with trees, shrubs, ground cover, benches or other materials. Walkways in parking areas shall include landscaped islands for visual relief, shade, and scale.

Parking Lot Landscaping requirements may be used to meet the overall landscape requirements established in Section F.5.

9. Foundation Landscaping Required

Trees and plantings shall be coordinated with the on-site architecture by complementing the building elevations without blocking storefronts, signs, or lighting and reinforce wayfinding by emphasizing entrances and circulation patterns.

Planting beds are required along exposed building edges, foundations and uninterrupted walls. Plantings shall provide either a formal pattern or a naturalistic blend of heights, colors, and textures for visual relief.

In addition, all paved surfaces, excluding those adjacent to service areas and/or the rear of buildings, of parking areas shall be separated from buildings by a minimum five (5) feet landscape strip and a five (5) foot walkway.

- a. A minimum of one (1) shrub shall be provided every four (4) to six (6) linear feet within the required planting strip. Shrubs may be clustered to avoid utility conflicts.

- b. Small ornamental trees may be provided in the planting strip and substitute for four (4) shrubs.

Plantings shall be massed to soften edges, corners, and pavement areas, and to integrate the building into the landscape.

Large rocks may be used as landscape elements sparingly and as accents in mass plantings. Where used, they shall be buried for at least one third of their depth.

Where mulch is used, it shall consist of dark, decomposed shredded bark, with pieces less than one (1) inch in any one dimension.

Foundation landscaping requirements may be used to meet the overall landscape requirements established in Section F.5.

10. Screening – Service and Mechanical Areas

Refuse containers or disposal areas shall be screened from view by placement of a solid wood or vinyl fence or masonry wall as tall as the refuse containers, but no less than five (5) feet in height. All refuse materials shall be contained within the refuse area. Refuse containers and disposal areas shall be located to the side or rear of buildings, and in no instance shall be located in the front setback of a site.

- a. Structural screens and fencing shall complement the design of the main structure by repetition of materials, detailing, scale, and color.
- b. Where chain link fencing is required for safety, it shall be painted black or a similar dark color, or coated with dark vinyl. Plastic slats in chain link fencing are not permitted.
- c. Gates shall be designed to prevent sagging.
- d. Screening may be further enhanced with evergreen trees, shrubs, and earth berms.

All mechanical equipment, transformers, propane tanks and similar shall be screened from any public right-of way or adjacent residential use or zoning districts. Fencing, landscape or a combination shall be required

Screening requirements may be used to meet the overall landscape requirements established in Section F.5.

11. Screening – Outdoor Storage

Outdoor storage shall be permitted only as allowed by the Scarborough Zoning Ordinance.

The outside storage of goods, materials, merchandise, automobiles, automobile parts, containers, and the like shall be located to the side or rear of sites and screened from view, subject to the review and approval by the Planning Board. The Planning Board may require additional screening elements.

Areas for outdoor storage or containers shall be designed as an integral part of the site, landscaping, and architectural plan and shall be setback and screened from public and private ways, main entrances, public spaces, and abutting residential neighborhoods.

Screening requirements may be used to meet the overall landscape requirements established in Section F.5.

12. Landscape Preservation and Protection

Wherever practical, existing specimen trees, native species over 20" at DBH, tree clusters or other significant vegetation shall be preserved. Further, transplanting and reusing on-site trees and other vegetation is strongly encouraged.

When preservation is proposed, a tree inventory and survey showing the location, size, species and condition of existing protected trees on a lot, must be submitted and approved with the site plan application. The landscape plan shall illustrate which vegetation will be preserved and what protection measures will be implemented including the following minimums:

- a. Site features must be designed to minimize disturbance to protected trees.
- b. Tree wells or cut areas may be used to preserve the original grade around the tree. Raising the grade around protected tree trunks is prohibited.
- c. In the drip line of protected trees, no cut or fill may be at least four (4) inches deep unless a qualified arborist or forester evaluates and approves the disturbance.
- d. Finished grades must slope away from trunks to avoid water concentrated at tree bases.
- e. During construction, perimeter fencing must be erected around protected trees, at least six (6) feet from the trunk or one-half of the drip line, whichever is more.
- f. Storage or movement of equipment, material, debris, or fill in the tree protection zone is prohibited.
- g. Damaging attachments, wires, signs or permits cannot be fastened to protected trees.
- h. The developer is responsible for coordination with utility companies when trenching near protected trees. Trenches or footings should be at least eight (8) feet from trunk bases. Tunneling under large diameter roots may be required to prevent root damage.

Preserved landscaping may be used to meet the overall landscape requirements established in Section F.5.

13. Site Amenities

Public entrances to new or renovated buildings shall be complemented with outdoor seating or use areas. Canopies, recessed entrances, seating areas, decorative plantings, lawn areas and other elements shall be incorporated around the building entry to serve as pedestrian space or gathering areas.

14. Alternative Transportation and Bicycle Facilities

Provisions shall be made for alternative transportation if the site is located on a bus or bicycle route. Such provisions may consist of bus shelters, bicycle racks, or individual travel lanes for either mode of transportation.

Bicycle parking facilities are required for non-residential and multi-family uses. One (1) bicycle parking facility must be provided for every ten (10) vehicle parking spaces required. Bicycle parking design must follow standards recommended by the Association of Professional and Bicycle Professionals. The location of bicycle facilities is subject to the approval by the Planning Board during the site plan process.

15. Snow Storage

Provisions shall be made for snow storage in the design of all parking areas. The areas shall be shown on the site plan to avoid conflicts with landscaping, visibility, drainage, or icing during the winter season.

Landscape materials surrounding parking lots and in islands shall be able to tolerate large quantities of snow stored during winter months. Delicate plant material shall not be used in areas where they are likely to be buried under snow.

All walkways and sidewalks shall be designed for efficient snow removal to enable year-round use.

Designated snow storage locations shall be required as follows:

- a. Located near the sides or rear of parking areas and driveways, away from primary street frontage.
- b. Located to maximize solar exposure to the greatest extent possible.
- c. Located so that snow moving equipment is not required to enter the public streets to move snow to the storage areas.
- d. Located in a manner to preserve sight lines of vehicles entering and exiting the site.
- e. Shall not block any required access, sidewalk, bicycle facility, trail or public path.
 - i. Shall not block drainage areas.
 - ii. Shall not be located in or near any stormwater treatment areas including retention and detention areas.
 - iii. May be located within parking areas, but such areas may not be counted towards required off-street parking.
 - iv. May be located within required landscaping areas, but the areas shall be planted with landscaping tolerant of snow storage.
 - v. Snow storage areas shall be located to avoid piling of snow against existing trees.

16. Approved Plant Species List

Plant material shall be selected with consideration to public health and safety. Plants to be avoided include those with poisonous fruits, large thorns, or shrubs that could provide hiding places along pathways or block the view of moving vehicles. The applicant shall use plant material and species that require a low degree of maintenance and that are resistant to insect infestation, drought, disease, road salt, and auto emissions, and are tolerant of local winter conditions.

All parking lot landscaping shall be appropriate for parking lot conditions. Trees that may damage automobiles (dripping sap, messy fruit, or hard seeds such as acorns) are discouraged in or around parking lots.

Invasive species shall not be used. The Do Not Sell Invasive plant list can be found here: [Maine Natural Areas Program Invasive Plant Fact Sheets](#)

The plants on the plant species list below have been derived from a number of sources to increase the use of native plants in Scarborough. This list is subject to periodic review based on factors that may change the viability or appropriateness of plantings.

All required trees shall be selected from the preferred or acceptable alternative list below, based on the size required for the landscape element. A minimum of sixty (60) percent of the total number of required trees shall be selected from the preferred species list.

When the ordinance requires a shrub, only plants classified as shrubs, perennials, ferns and grasses may be used. A minimum of forty (40) percent of the total number of shrubs shall be selected from the preferred species lists. Up to twenty-five (25%) percent of shrubs may be selected from an unlisted species subject to Site Plan approval. The [Maine Audubon Society](#) and the [University of Maine Cooperative Extension](#) provide extensive plant lists appropriate for Maine.

LARGE DECIDUOUS TREES		
Preferred Species		
Scientific Name	Common Name	Mature Height
<i>Acer x freemanii</i>	Armstrong Maple	40-55'
<i>Acer rubrum</i>	Red Maple	50-60'
<i>Acer saccharinum</i>	Silver Maple	60-80'
<i>Acer saccharum</i>	Sugar Maple	60-70'
<i>Betula alleghaniensis</i>	Yellow Birch	70-85'
<i>Betula borealis</i>	Northern Birch	30-60'
<i>Betula nigra</i>	River Birch	40-70'
<i>Betula papyrifera</i>	Paper Birch	60-70'
<i>Betula populifolia</i>	Gray Birch	20-40'
<i>Carya ovata</i>	Shagbark Hickory	70-90'
<i>Cladrastis kentukea</i>	Yellowwood	30-50'
<i>Fagus grandifolia</i>	American Beech	50-100'
<i>Larix laricina</i>	Larch, Hackmatack, Tamarack	50-60'
<i>Nyssa sylvatica</i>	Tupelo Black Gum	40-70'
<i>Platanus occidentalis</i>	Sycamore American Buttonwood	60-80'
<i>Prunus serotina</i>	Black Cherry	50-80'
<i>Quercus alba</i>	White Oak	60-70'
<i>Quercus bicolor</i>	Swamp Oak	50-60'
<i>Quercus coccinea</i>	Scarlet Oak	30-50'
<i>Quercus macrocarpa</i>	Bur Oak	60-100'
<i>Quercus rubra</i>	Northern Red Oak	60-80'
<i>Tilia americana</i>	American Basswood, American Linden	60-80'
<i>Ulmus americana</i>	Princeton American Elm	60-70'

LARGE DECIDUOUS TREES		
Acceptable Alternative Species		
Scientific Name	Common Name	Mature Height
Aesculus x carnea	Red Horse Chestnut	30-40'
Aesculus hippocastanum	Horse Chestnut	50-75'
Betula jacquemonti	Himalayan Birch	30-40'
Catalpa speciosa	Catalpa	40-60'
Carpinus betulus	European Hornbeam	40-60'
Cercidiphyllum japonicum	Katsura Tree	40-60'
Fagus sylvatica	European Beech	50-60'
Ginkgo biloba	Maidenhair Tree	60-100'
Gleditsia triacanthos	Thornless Honey Locust	65-100'
Gymnocladus dioicus	Kentucky Coffee Tree	60-80'
Juglans nigra	Black Walnut	50-90'
Liriodendron tulipifera	Tulip Poplar Tree	60-90'
Liquidambar styraciflua	American Sweetgum	50-60'
Magnolia acuminata	Cucumber Tree	40-70'
Metasequoia glyptostroboides	Dawn Redwood	75-100'
Platanus x acerfolia	London Planetree	70-100'
Quercus palustris	Pin Oak	50-70'
Quercus robur	English Oak	40-70'
Salix alba 'Tristis'	Weeping Willow	50-75'
Taxodium distichum	Bald Cypress	35-100'
Tilia cordata	Littleleaf Linden	50-70'
Tilia tomentosa	Silver Linden	50-70'
Zelkova serrata	Zelkova	80-100'

LARGE EVERGREEN TREES		
Preferred Species		
Scientific Name	Common Name	Mature Height
<i>Abies balsamea</i>	Balsam Fir	60-70'
<i>Abies concolor</i>	White Fir	30-50'
<i>Abies fraseri</i>	Fraser Fir	30-50'
<i>Chamaecyparis thyoides</i>	Atlantic White Cedar	30-50'
<i>Juniperus virginiana</i>	Eastern Red Cedar	20-60'
<i>Picea glauca</i>	White Spruce	60-90'
<i>Picea rubens</i>	Red Spruce	60-80'
<i>Picea mariana</i>	Black Spruce	50-70'
<i>Pinus banksiana</i>	Jack Pine	50-60'
<i>Pinus rigida</i>	Pitch Pine	30-40'
<i>Pinus resinosa</i>	Red/Norway Pine	60-80'
<i>Pinus strobus</i>	Eastern White Pine	70-80'
<i>Thuja occidentalis</i>	Cedar Northern White	20-40'
LARGE EVERGREEN TREES		
Acceptable Alternative Species		
Scientific Name	Common Name	Mature Height
<i>Chamaecyparis</i> spp.	Cypress	10-60'
<i>Picea abies</i>	Norway Spruce	70-120'
<i>Picea engelmannii</i>	Engelmann Spruce	80-130'
<i>Picea omorika</i>	Serbian Spruce	50-60'
<i>Picea pungens</i>	Colorado Spruce	30-60'
<i>Pinus flexilis</i>	Limber Pine	60-80'
<i>Pinus nigra</i>	Austrian Pine	60-180'
<i>Pinus sylvestris</i>	Scots Pine	30-80'
<i>Thuja plicata</i>	Western Red Cedar/Arborvitae	50-70'

SMALL ORNAMENTAL TREES		
Preferred Species		
Scientific Name	Common Name	Mature Height
<i>Acer pensylvanicum</i>	Striped Maple	15-25'
<i>Amelanchier canadensis</i>	Eastern Serviceberry	30-40'
<i>Amelanchier arborea</i>	Downy Serviceberry	20-40'
<i>Amelanchier x grandiflora</i>	Apple Serviceberry	15-25'
<i>Amelanchier laevis</i>	Alleghany Serviceberry	15-40'
<i>Carpinus caroliniana</i>	American Hornbeam	10-25'
<i>Cercis canadensis</i>	Eastern Redbud	20-30'
<i>Cornus alternifolia</i>	Alternate Leaf Dogwood	15-25'
<i>Cornus florida</i>	Flowering Dogwood	12-20'
<i>Corylus Americana</i>	American Hazelnut	8-12' (also shrub)
<i>Crataegus crus-galli</i>	Cockspur Hawthorn	15-30'
<i>Hamamelis virginiana</i>	Common Witch-Hazel	15-20'
<i>Ostrya virginiana</i>	Eastern Hop Hornbeam	20-30'
<i>Oxydendrum arboretum</i>	Sourwood	20-25'
<i>Prunus virginiana</i>	Common Chokeberry	20-30'
<i>Sorbus americana</i>	American Mountain Ash	10-30'
<i>Cornus alternifolia</i>	Pagoda Dogwood	10-20'
<i>Viburnum lentago</i>	Nannyberry	10-30' (also shrub)

SMALL ORNAMENTAL TREES		
Acceptable Alternative Species		
Scientific Name	Common Name	Mature Height
<i>Acer campestre</i>	Hedge Maple	20-25'
<i>Acer griseum</i>	Paperbark Maple	20-30'
<i>Acer palmatum</i>	Japanese Maple	10-25'
<i>Acer triflorum</i>	Three Flower Maple	25-30'
<i>Amelanchier alnifolia</i>	Western Serviceberry	10-15'
<i>Chionanthus Virginicus</i>	American Fringetree	12-20'
<i>Cornus kousa</i>	Kousa Dogwood	20-30'
<i>Cornus mas</i>	Cornealian Cherry Dogwood	15-25'
<i>Cotinus obovatus</i>	American Smoketree	20-30'
<i>Crataegus viridis</i>	Winter King Hawthorne	20-35'
<i>Halesia Carolina</i>	Carolina Silverbell	30-40'
<i>Hamamelis vernalis</i>	Witchhazel	6-10' (also shrub)
<i>Hamamelis x intermedia</i>	Witchhazel	12-15'
<i>Maackia amurensis</i>	Amur Maackia	20-30'
<i>Magnolia x liliiflora</i>	Lily Magnolia	8-12' (also shrub)
<i>Magnolia loebneri</i>	Loebner Magnolia	20-30'
<i>Magnolia soulangiana</i>	Saucer Magnolia	20-25'
<i>Magnolia stellata</i>	Star Magnolia	15-20'
<i>Malus species</i>	Flowering Crabapple	15-25'
<i>Pinus mugo</i>	Mugo Pine	20-25'
<i>Prunus x accolade</i>	Accolade Flowering Cherry	20-25'
<i>Prunus sargentii</i>	Sargent Cherry	20-40'
<i>Stewartia pseudocamellia</i>	Stewartia	20-40'
<i>Syringa reticulata</i>	Japanese Tree Lilac	20-30'

SHRUBS			
Preferred Species			
Scientific Name	Common Name	Scientific Name	Common Name
Aesculus parviflora	Bottlebrush Buckeye	Leucothoe fontanesiana	Drooping Laurel
Amelanchier arborea	Downy Serviceberry	Lindera benzoin	Spicebush
Amelanchier canadensis	Canadian Serviceberry	Myrica gale	Sweet Gale
Amelanchier stolonifera	Running Serviceberry	Myrica pennsylvanica	Bayberry
Aronia arbutifolia	Red Chokeberry	Physocarpus opulifolius	Ninebark
Aronia melanocarpa	Black Chokeberry	Prunus maritima	Beach Plum
Ceanothus americanus	New Jersey Tea, Redroot	Rhus aromatica	Fragrant Sumac
Cephalanthus occidentalis	Buttonbush	Rhus hirta	Smooth Sumac
Clethra alnifolia	Sweet Pepperbush	Rhus typhina	Staghorn Sumac
Comptonia peregrina	Sweetfern	Rosa carolina	Pasture Rose, Carolina Rose
Corylus Americana	American Hazelnut	Rosa palustris	Swamp rose
Cornus racemosa	Gray Dogwood	Rosa virginiana	Virginia Rose
Cornus sericea	Redosier Dogwood	Rubus odoratus	Flowering Raspberry
Diervilla lonicera	Bush Honeysuckle	Sambucus	Elderberry
Illex glabra	Inkberry	Vaccinium corymbosum	Highbush Blueberry
Ilex verticillata	Winterberry	Viburnum spp.	Viburnum
Juniperus communis	Common Juniper	Xanthorhiza simplicissima	Yellowroot
Kalmia angustifolia	Sheep Laurel		
SHRUBS			
Acceptable Alternative Species			
Scientific Name	Common Name	Scientific Name	Common Name
Azalea spp.	Azalea	Hydrangea spp.	Hydrangea
Buxus spp.	Boxwood	Pieris spp.	Andromeda
Cotoneaster spp.	Cotoneaster	Rhododendron spp.	Rhododendron
Deutzia gracilis	Slender Deutzia	Rose spp.	Rose
Enkianthus campanulat.	Redveined Enkianthus	Salix spp.	Willow
Fothergilla gardenia	Dwarf Fothergilla	Spiraea spp.	Spiraea
Fothergilla major	Bottlebrush Bush	Syringa spp.	Lilac
Forsythia spp.	Forsythia	Weigela spp.	Weigela

PERENNIALS			
Preferred Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Achillea millefolium</i>	Yarrow	<i>Iris versicolor</i>	Blue Flag Iris
<i>Actaea rubra</i> , <i>Actaea pachypoda</i>	Red Baneberry, White baneberry	<i>Liatris spicata</i>	Gayfeather
<i>Anemone canadensis</i>	Canadian Anemone	<i>Lobelia cardinalis</i>	Cardinal Flower
<i>Aquilegia canadensis</i>	Eastern Red Columbine	<i>Lupinus perennis</i>	Wild Lupine
<i>Asclepias tuberosa</i>	Butterfly weed	<i>Monarda didyma</i>	Scarlet Bee Balm, Oswego Tea
<i>Columbine aquilegia</i>	Columbine	<i>Monarda fistulosa</i>	Wild Bergamot
<i>Coreopsis lanceolata</i>	Lanceleaf Coreopsis	<i>Polygonatum pubescens</i>	Solomon's Seal
<i>Coreopsis verticillata</i>	Moonbeam Coreopsis	<i>Rudbeckia hirta</i>	Black-Eyed Susan
<i>Echinacea purpurea</i>	Purple coneflower	<i>Symphyotrichum novae-angliae</i>	New England Aster
<i>Eutrochium purpureum</i>	Joe Pye Weed	<i>Symphyotrichum novi-belgii</i>	New York Aster
PERENNIALS			
Acceptable Alternative Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Astilbe varieteis</i>	Astilbe	<i>Hosta</i> spp.	Hosta
<i>Agastache</i>	Anise Hyssop	<i>Leucanthemum</i>	Ox-eye Daisy
<i>Aruncus dioicus</i>	Goatsbeard	<i>Malva alcea</i> 'fastigiata'	Hollyhock Mallow
<i>Baptisia</i>	Wild Indigo	<i>Nepeta x faassenii</i>	Walker's Low Catmint
<i>Epimedium</i>	Barrenwort	<i>Perovskia atriplicifolia</i>	Russian Sage
<i>Geranium</i> spp.	Geraniums	<i>Phlox</i> spp.	Garden Phlox
<i>Hemerocallis</i> species	Daylilies	<i>Sedum telephium</i>	Autumn Joy Sedum
<i>Heuchera</i> spp.	Coral Bells		
FERNS			
Preferred and Acceptable Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Adiantum pedatum</i>	Maidenhair Fern	<i>Osmundastrum cinnamomeum</i>	Cinnamon Fern
<i>Athyrium angustum</i>	Lady Fern	<i>Osmunda claytoniana</i>	Interrupted Fern
<i>Dennstaedtia punctilobula</i>	Hayscented Fern	<i>Osmunda regalis</i> var. <i>spectabilis</i>	Royal Fern
<i>Matteuccia struthiopteris</i> var. <i>pensylvanica</i>	Ostrich Fern	<i>Polystichum acrostichoides</i>	Christmas Fern
<i>Onoclea sensibilis</i>	Sensitive Fern		

GRASSES			
Preferred Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Ammophila breviligulata</i>	Beachgrass	<i>Deschampsia cespitosa</i>	Tufted Hairgrass
<i>Andropogon gerardii</i>	Big Bluestem	<i>Deschampsia flexuosa</i>	Crinkled Hairgrass
<i>Carex appalachica</i>	Appalachian Sedge	<i>Panicum virgatum</i>	Switchgrass
<i>Carex pensylvanica</i>	Pennsylvania Sedge	<i>Juncus</i> spp.	Rush
<i>Chasmanthium latifolium</i>	Northern Sea Oats	<i>Schizachyrium scoparium</i>	Little Bluestem
<i>Eragrostis spectabilis</i>	Purple Lovegrass	<i>Sporobolus heterolepis</i>	Prairie Dropseed
GRASSES			
Acceptable Alternative Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Calamagrostis x acutiflora</i>	Feather-Reed Grass	<i>Miscanthus sinensis</i>	Maiden Grass
<i>Calamagrostis brachytricha</i>	Feather-Reed Grass	<i>Molinia caerulea</i> subsp. <i>Arundin</i>	Moor Grass
<i>Festuca glauca</i>	Blue Fescue	<i>Pennisetum alopecuroides</i>	Fountain Grass
<i>Hakonechloa macra</i>	Hakone Grass		
GROUNDCOVERS			
Preferred and Acceptable Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Arctostaphylos uva-ursi</i>	Bearberry	<i>Juniperus horizontalis</i>	Creeping Juniper
<i>Cornus canadensis</i>	Bunchberry	<i>Mitchella repens</i>	Partridgeberry
<i>Gaultheria procumbens</i>	Checkerberry, Wintergreen	<i>Vaccinium angustifolium</i>	Lowbush blueberry

Plant materials shall meet the following minimum sizes, unless alternative sizes are required given a particular site or location:

Landscape Element	Minimum Size
Large Deciduous Trees	2 ½" caliper
Large Evergreen Trees	5-7' in height
Small Ornamental Trees	2" caliper
Shrubs	3 gallons
Perennials	1 gallon
Ferns	1 gallon
Grasses	1 gallon
Groundcovers (plugs acceptable)	1 gallon

The Planning Board may require larger plants for special locations, such as within the Route One right-of-way and along Haigis Parkway.

17. Installation, Guarantee and Maintenance

Installation. The ultimate form and height of plantings shall be considered so they will not create unsafe conditions or block sight lines for pedestrians, bicyclists, or motorists as they mature.

Trees shall be planted in locations where their root development and branching patterns will not interfere with window displays, signage, underground or overhead utilities, streets, and sidewalks.

The installation of underground irrigation is encouraged in front setbacks, public spaces, and other highly visible areas. It shall be coordinated so it does not cause overflow or flooding in pedestrian use areas, such as walkways, sidewalks, or parking lots.

The Town recognizes the seasonal nature of landscape installation; however, all landscaping shall be installed according to the approved site plan prior to Certificate of Occupancy or within six (6) months after the Certificate of Occupancy has been issued and a performance guarantee has been provided and accepted by the Town.

Maintenance. Landscape plans shall anticipate a three (3) to eight (8) year growing cycle to achieve maturity for shrubs and fifteen (15) to twenty (20) plus years for trees. The plan shall be designed and plantings selected with due consideration for maintenance requirements.

A written maintenance plan shall be provided for the landscape elements to be installed on the site. The plan shall include initial installation, guarantee period, replacement policy, annual maintenance, and irrigation provisions. Maintenance plans shall include alternatives to regular mowing and pesticide use if possible. This may be established on the landscape plan with standard notes.

Trees and shrubs in and near parking areas and walkways shall be trimmed and maintained so that they do not block views needed for safe movement of motorists and pedestrians. Vertical clearances of at least eight (8) feet shall be maintained. Shrubs in parking lot islands shall not exceed three (3) feet in height to avoid blocking visibility.

All plant material shall be allowed to achieve their natural forms without excessive pruning. Shaping evergreen shrubs into tight geometrical forms shall be avoided.

Guarantee. All lawns and plant materials shall be guaranteed for a period of not less than two (2) years. The developer shall submit a copy of a guarantee and a contract with the landscape contractor, indicating the terms of the guarantee period, or may obtain a letter of credit. The guarantee period does not begin until all landscaping has been installed.

Where plant materials specified on the planting plan do not survive or are damaged, they shall be replaced and/or reinforced in accordance with the two-year performance guarantee to maintain conformance with the approved planting plan and to provide the necessary landscape effect.

Plants that die must be replaced in kind, unless another species is more appropriate given the site's growing conditions. A fine may be levied if the landscaping has not been maintained, and new plants required to be planted.

18. Landscape Plan Required

If site improvements will create ten (10) or more new parking spaces or create 2,000 sq. ft. or more of new building footprint, a landscape plan shall be prepared by a landscape architect registered in Maine.

The Planning Board, at their discretion, may require a peer review of landscape plans.

Landscaping for multiple building developments shall be coordinated with all other elements of the site. As part of the application for Site Plan approval, applicants shall submit a master landscape plan that shows how landscaping will be used to complement proposed buildings, reinforce circulation paths, help define pedestrian use areas, highlight entrances, provide shade, and add seasonal interest to the landscape.

Plantings used in stormwater treatment facilities should be designed by a qualified professional.

The planting plan shall illustrate how plantings shall be coordinated with the location of underground and overhead utilities and lighting.

Each landscape plan shall include the following table filled out for the specific site:

Minimum Landscape Required	Required	Provided
Minimum Landscape Area (square feet)		
Minimum Trees Required		
Trees (Preferred Species)	Min 60% = ##	% and #
Trees (Alternative Species)	Max 40% = ##	% and #
Minimum Shrubs Required		
Shrubs (Preferred Species)	Min 40% = ##	% and #
Shrubs (Alternative Species)	Max 60% = ##	% and #
Shrubs (Unlisted)	Max 25% = ##	% and #

Buffer Yard - Streetscape	Required	Provided
Street Name		
Street Frontage Depth		
Street Frontage Length (excluding entryways) (linear feet)		
Street Frontage Area (square feet)		
Street Trees		
Buffer Yard - Residential Adjacency (if required)	Required	Provided
RA Type Required		
RA Buffer Depth (feet)		
RA Buffer Length (linear feet)		
RA Buffer Area (square feet)		
RA Buffer Trees		
Parking Lot Screening (if required)	Required	Provided
Parking Lot Screen Depth (feet)		
Parking Lot Screen Length (excluding entryways) (linear feet)		
Parking Lot Screen Area (square feet)		
Parking Lot Screening Shrubs		
Parking Lot Landscape	Required	Provided
Parking Calculation Type		
Parking Spaces		
Parking Islands (number)		
Parking Islands Total Area (square feet)		
Parking Island Trees		
Parking Island Shrubs		
Entryway Trees		
Entryway Shrubs		
Continuous 5' Landscape Area - All Applicable Sides (square feet)		
Foundation Landscape	Required	Provided
Landscape Bed Depth (feet)		
Landscape Bed Length - All Applicable Sides (linear feet)		
Landscape Bed Area - All Applicable Sides (square feet)		
Landscape Bed Shrubs		
Landscape Bed Ornamental		

Trees (if provided)		
Additional Screening (if required)	Required	Provided
Dumpster Area Fence		
Dumpster Areas Shrubs		
Mechanical Screening Fence		
Mechanical Screening Shrubs		

19. Waivers Landscape and Screening Standards

The Planning Board may review and approve requests for waivers to landscaping standards for the following:

- a. The Planning Board may reduce the amount of landscaping required for parking lots if additional landscaping of equal or greater value is provided on other areas on site.
- b. The Planning Board may approve an alternative interior parking island design to address stormwater runoff if recommended for approval by the Town Engineer.
- c. The Planning Board may approve stormwater treatment areas located in the streetscape buffer yard if recommended for approval by the Town Engineer.
- d. The Planning Board may approve an alternative planting plan if the site is not able to accommodate the required plantings, only as follows:
 - i. One large tree may be substituted by two (2) ornamental trees
- e. The Planning Board may waive or decrease the five (5) foot landscape strip requirement between all parking areas and buildings if the development is in an urban setting.
- f. The Planning Board may waive residential adjacency buffer requirements if the site is in conjunction with a master planned development or within a mixed-use district.
- g. The Planning Board may waive the required snow storage areas if a snow storage management plan is submitted and approved by the Town that includes the following:
 - i. Designated temporary or interim snow storage areas that do not interfere with more than one-third (1/3) of the project required minimum parking.
 - ii. Interim snow storage shall be removed within five (5) calendar days following a storm cycle.
 - iii. Interim snow storage shall not be in a location that will damage trees, landscape or other facilities.
 - iv. Interim snow storage shall not block any required access, sidewalk, trail or public way.

- v. Snow shall be hauled to approved and permitted locations. The location shall be provided.
- vi. Snow hauling shall generally be completed during non-business hours.
- vii. The snow management plan shall designate the removal methods.

G. Stormwater Management [amended 04/21/2021]

Adequate provisions shall be made for the control, collection and disposal of all stormwater runoff from the site. Drainage plans, details, and calculations shall address the two, ten and twenty-five year, twenty-four hour storm events. These plans shall be designed to compliment the hydrology and natural features of the site and shall not cause adverse impacts to abutters, downstream properties, or receiving waters. Post-development stormwater flow rates must be equal to or less than pre-development stormwater flow rates.

1. Stormwater management areas shall be treated as integral, attractive and natural parts of the landscape. Natural areas shall be used to retain and drain stormwater to the extent possible.
2. When areas of the site are to be paved they may be designed and constructed with pervious and semi-pervious alternatives to bituminous pavement. Alternative parking surfaces, such as porous pavement, are intended to minimize storm water run-off and facilitate infiltration and natural hydrological functions to the extent feasible.
3. Stormwater treatment basins shall be patterned after natural features and shall avoid hard geometric shapes. These basins shall be planted with wetland species to improve their aesthetic and habitat values.
4. Abrupt changes to natural drainage ways and grades shall be avoided. Natural drainage ways shall not be filled unless specifically permitted by the Applicable Reviewing Authority and transitional grading shall be used to blend all earthworks into the natural contours of the site.
5. Drainage systems shall be designed so as to not impact streets, adjacent properties, downstream properties, and local soils and vegetation. The system shall also consider and incorporate the upstream runoff that may pass over the site. Systems should include green infrastructure and low impact development practices.
6. The water quality of receiving waters shall not be degraded by the stormwater runoff from the site. Oil and grease traps, on-site vegetated waterways, drainage swales, and vegetated buffer strips shall be utilized as needed to aid in the prevention of degraded receiving waters.
7. Where ground protection and rip rap is necessary in visible locations it shall be constructed of hand-placed rock or geo-grid, rather than course rip-rap.
8. Wherever feasible, drainage basins shall be designed to be shared between abutting properties to lessen the amount of land area devoted to stormwater management.

9. If applicable, the site must comply with and submit all documentation required in accordance to Chapter 419 – Town of Scarborough Post-Construction Stormwater Infrastructure Management Ordinance.
10. Erosion and sedimentation control plan and narrative is required in accordance to Chapter 420 – Town of Scarborough Erosion and Sedimentation Control at Construction Sites Ordinance.

H. Outdoor Lighting Standards [amended 04/21/2021; 10/18/2023]

1. Purpose

Outdoor lighting shall be designed to balance visibility and safety on the site, while respecting abutting properties and minimizing light pollution and sky glow. Function, safety, energy consumption and demand, and aesthetic goals shall be achieved with fixtures, color rendering and locations that are planned as part of the overall site design.

2. Applicability

All outdoor lighting installed after the date of effect of this Ordinance shall comply with these requirements. This includes, but is not limited to, new lighting, replacement lighting, or any other lighting whether attached to structures, poles, the earth, or any other location.

The provisions of this section shall not apply to individual single and two-family dwellings and their accessory buildings, structures, and areas for parking.

The provisions of this section shall not apply to streetlights installed in public rights-of-way. See the Town of Scarborough Streetlight policy.

Temporary outdoor decorative lighting (including lighting for temporary uses, special events, and seasonal holiday lighting) is exempt where the lighting does not exceed sixty (60) consecutive days or more than 120 days during any one-year period and does not cause undue burden on adjacent properties.

3. General Standards

The location, design, and color of fixtures (poles and luminaries) shall complement the architecture, landscaping, parking areas, and street furnishings of the site to be developed or redeveloped in terms of form, style, and placement.

Lighting shall not cause spillover onto neighboring residential properties or create dangerous conditions due to glare on adjacent roadways.

4. Definitions

Astronomic Time Switch: An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.

Decorative Lighting: Lighting that does not impact the function and safety of an area but is purely decorative, or used to illuminate architecture and/or landscaping, and installed for aesthetic effect.

Footcandle: The unit of measure expressing the quantity of light received on a surface.

Full cut-off fixture: Full-cutoff fixtures permit zero light intensity at or above horizontal (90° above nadir) and limited to a value not exceeding 10% of lamp lumens at or above 80°.

Glare: Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

IES: Illuminating Engineering Society.

Lamp: A generic term for a source of optical radiation (i.e. “light”), often called a “bulb” or “tube”.

Light Pollution: Any adverse effect of artificial light including, but not limited to, glare, light trespass, skyglow, energy waste, compromised safety and security, and impacts on the nocturnal environment.

Light Trespass: Light that falls beyond the property it is intended to illuminate.

Luminaire: The complete lighting unit (fixture), consisting of a lamp, or lamps and ballast(s) (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

Mounting Height: The height of the photometric center of a luminaire above grade level.

Sky Glow: The brightening of the nighttime sky that results from scattering and reflection of artificial light by moisture and dust particles in the atmosphere. Skyglow is caused by light directed or reflected upwards or sideways and reduces one’s ability to view the night sky.

Uplight: For an exterior luminaire, light directed in the hemisphere at or above the horizontal plane.

Vertical Illuminance: Illuminance measured or calculated in a plane perpendicular to the site boundary or property line.

5. Lighting Plan Required

A lighting plan shall be furnished with all site plan applications or amended site plan applications. It shall include the following:

- a. Narrative that describes the hierarchy of site lighting, how lighting will be used to provide safety and security, and aesthetic effects. The lighting plan narrative shall describe how the facades of individual buildings and/or landscaping will be lit (if at all) and the design intent behind such lighting.
- b. Photometric diagram showing the illumination levels that will result from the proposed lighting; including the location of all lighting fixtures proposed to illuminate the buildings, entryways, travelways, loading areas, service areas, walkways and landscaping on the site.
- c. Calculation Summary indicating foot-candle levels on the lighting plan, noting the maximum, average, and minimum, as well as the uniformity ratio of maximum to minimum and average to minimum levels to avoid “hot” spots of light.

- d. Summary of the IES lighting standards applied to the site and table showing compliance not exceeding minimum requirements.
- e. Lighting manufacturer-supplied specifications that include photographs of the fixtures, lamp source type, lumen output, color rendering and wattage. This specification must contain the exact make and model number of the light fixture.
- f. Mounting height with distance noted to the nearest property line for each luminaire. All façade mounted lights are also required to be shown on the architectural elevations.
- g. Permanently installed decorative outdoor lighting, such as string lights or patio lights, must be included on the lighting plan submitted with site plan submittals.
- h. Types of timing devices used to control the hours set for illumination, as well as the proposed hours when each fixture will be operated.
- i. An environmental impact statement may be required as to the impact of the exterior lighting proposed on adjacent open space or waterways to include flora, fauna, and the night sky. Location of species sensitive to light at night needs to be indicated.
- j. A note stating no substitutions, additions, or changes may be made without prior approval by the governing authority; and that all lighting not on the plan shall be removed and no additional lighting shall be installed without prior approvals.
- k. Maintenance and Replacement Plan discussing lighting maintenance.

6. Lighting Levels

For safety and energy conservation purposes, illumination levels shall not exceed the current recommended minimums by the [Illuminating Engineering Society](#) (IES) except as outlined below:

- a. Light levels at the property line should not exceed 0.1 foot-candles (fc) adjacent to business properties, and 0.05 fc at residential property boundaries.

7. Permitted Lighting

- a. All lamps source to be used on site are required to be classified as dark sky compliant and full cutoff, except as otherwise permitted in this ordinance.
- b. Exterior light sources shall be LED or the current highest efficiency available.
- c. Warm lighting color temperature is to be specified for all exterior light applications. Provide a maximum color temperature of 3000K, with a color rendering index (CRI) of 80.

8. Time Limits for Outdoor Lighting

- a. All outdoor lighting located more than 30 feet from any building or outdoor product display or storage area shall be turned off no later than 30 minutes after the business closes and remain off for the remainder of the night or until the

business reopens. All exterior lights that remain on during after-hours must be dimmed to fifty (50) percent of their total lumen output until 30 minutes before business reopens. An astronomic time switch or other permanent lighting control device must be provided to facilitate controlled dimming.

- b. All landscape lighting must be turned off when the business is closed.
- c. All temporary or permanent decorative outdoor lights must be turned off when the business is closed. Temporary decorative lights not related to the functionality of the business that are seasonal and/or related to a Federal Holiday may remain on at the business' discretion.

9. Fixture Height and Placement

The location and alignment of fixtures shall be coordinated with the orientation of buildings, the layout of parking and landscaped islands, and the driveway patterns. Light fixtures shall be sited within raised landscaped areas to avoid damage from vehicles and plows. Light poles must not obstruct sidewalks or bicycle paths.

The following requirements apply:

- a. Façade mounted lights adjacent to driveways or access ways shall not exceed 25 feet in height from ground level.
- b. Façade mounted lights adjacent to sidewalks shall be a minimum of twelve (12) feet high from ground level and not exceed sixteen (16) feet from ground level.
- c. Indirect landscape lighting (uplighting and washes) may be used.
- d. High branch-mounted flood-lights aimed toward the ground are prohibited.
- e. Bollard fixtures (full cutoff) are permitted up to 3-4 feet in height from ground level.
- f. Ornamental fixtures are permitted up to 12 feet in height from ground level upon approval by the Planning Board.
- g. Parking Areas light fixtures shall have a maximum overall pole height of 20 feet from grade level to the top of the fixture.

10. Outdoor Recreation Facilities

- a. Any light source permitted by this Ordinance may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided all of the following conditions are met:
- b. All fixtures used for event lighting shall be fully shielded, or be designed or provided with full cut-off capability, so as to minimize up-light, spill-light, and glare.
- c. All events shall be scheduled so as to complete all activity before or as near to 10:30 p.m. as practical, but under no circumstances shall any illumination of the

playing field, court, or track be permitted after 11:00 p.m. except to conclude a scheduled event that was in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.

- d. The maximum height permitted is to be determined during the site plan process as approved by the Planning Board.

11. Prohibited Fixtures and Lighting

- a. Bare lamps are not allowed, unless permitted as temporary outdoor lighting or approved as permanent decorative lighting by the Planning Board through the waiver process.
- b. Neon tubes as lighting features are not allowed on building exteriors. The use of internally illuminated bands of color and/or light is prohibited.
- c. Non-cutoff fixtures, other than those specifically permitted by this ordinance.
- d. Mercury vapor lamps.
- e. Outdoor floodlighting by flood light projection above the horizontal plane.
- f. Search lights, flood lights, laser source lights, or any similar high intensity light, except in emergencies by police, fire, or medical personnel or at their direction; or for meteorological data gathering purposes.
- g. Any lighting device located on the exterior of a building or on the inside of a window which is visible beyond the boundaries of the lot or parcel with intermittent fading, flashing, blinking, rotating or strobe light illumination.

12. Waivers

The Planning Board may review waivers to lighting standards for the following:

- a. Maximum pole and fixture height greater than 20' for large parking lots over 150 spaces if the increase in height can significantly reduce the number of fixtures necessary. Under no circumstances shall the combined height of the pole and light exceed 30' in height. Poles within 200' of residential property lines shall not exceed 20' in height.
- b. Non-cut-off fixtures, such as decorative or historic lamps, may be allowed by the Planning Board where they are designed to be lower luminance, limited in number, or distant from abutting residential uses.
- c. Nonconforming (exposed lamps) permanent decorative lighting may be permitted by the Planning Board where they are limited in number, or distant from abutting residential uses.

13. Signs

Standards for external and internal sign illumination are provided in Section XII of the Zoning Ordinance. Lighting used for the external illumination of signs is included toward the Total Outdoor Light Output standards.

I. Architecture & Signage

The architecture of the building(s) and the aesthetics of the signage on a site shall follow traditional New England building forms and shall be designed to complement the neighborhood or village in which the site is located.

1. The signage for a site shall comply with Section XII, Sign Regulations of the Zoning Ordinance and shall be reviewed in conjunction with the site plan.
2. Buildings shall present an inviting, human-scaled façade to the street, internal drives, parking areas, and abutting properties. Wherever possible, entrances shall be clearly visible from the street and reinforced through site and architectural features designed to direct visitors to the building.
3. Building materials shall be treated as important design elements that define the appearance of the structure and strengthen the sense of identity throughout Scarborough. The use of materials that give the appearance of New England architectural forms are strongly encouraged.
4. Rooflines shall be designed to provide diversity in the form of the building and add visual interest to the streetscape. Specifically, rooflines shall be designed to reduce the mass of large buildings, emphasize building entrances, provide shelter or shade for pedestrians, and incorporate elements unique to Maine and New England.
5. Large retail buildings, linear commercial buildings, national franchise buildings, and service stations shall all comply with the specific requirements for such structures found in the *Design Standards for Scarborough's Commercial Districts, January 27, 2003*.

J. Public & Private Utilities [amended 04/21/2021]

1. The Applicable Reviewing Authority may require electric, cable television, and telephone lines to be underground. If these services are underground in the street or on adjoining properties, the new service shall be placed underground. Any utility installations permitted above ground shall be designed and located so as to have a harmonious relation to both neighboring properties and the site.
2. The site shall be served by an adequate supply of drinking water as well as sufficient flows for fire suppression. If a development intends to be served by a public water supply, the applicant shall furnish a written statement from the water supplier confirming that the project can be served.
3. The project shall provide for an adequate means of sewage disposal, whether it is on-site or tied into the public sewage collection and treatment system. An on-site system shall be in conformance with Scarborough's Local Plumbing Ordinance, Chapter 404A. If a development intends to be served by a public sewage system, the applicant shall furnish a written statement from the sanitary district confirming the project can be served.

K. Outdoor Storage

~~Outdoor storage shall be permitted only as allowed by the Scarborough Zoning Ordinance. The outside storage of goods, materials, merchandise, automobiles, automobile parts, waste collection facilities, dumpsters, containers, and the like shall be located to the side or rear of sites and screened from view, if feasible.~~

- ~~1. Fencing or vegetation shall be used to screen dumpsters or recycling areas from view. These facilities shall be consolidated where possible.~~
- ~~2. Areas for outdoor storage or containers shall be designed as an integral part of the site, landscaping, and architectural plan and shall be setback and screened from public and private ways, main entrances, public spaces, and abutting residential neighborhoods.~~

K. Design Standards for Commercial Districts [amended 04/21/2021]

In addition to complying with the foregoing performance and design standards, all site plans for properties located in the Residence and Professional Office District (RPO), the Local Business District (B-1), the Town and Village Centers District (TVC), the General Business District (B-2), the Highway Business District (B-H), the Haigis Parkway District (HP), and any commercial uses within the Traditional Neighborhood Development Overlay (TND) shall comply with the more specific Design Standards for Scarborough's Commercial Districts. In determining whether a project is designed in accordance with the Commercial Design Standards, the Applicable Reviewing Authority may engage the services of appropriate professionals to review (at the applicant's expense) the materials submitted. In the event of a conflict or inconsistency between any requirement of the Design Standards and a requirement of this Ordinance, the Scarborough Zoning Ordinance, the Scarborough Shoreland Zoning Ordinance, or the Scarborough Subdivision Regulations, the more restrictive requirement shall apply.

L. L. Preservation of Historic and Archeological Resources

Any historic or archeological resource that has been identified by the Maine Historic Preservation Commission, the Town's adopted Comprehensive Plan, or Section VII.H. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance should be preserved and incorporated into the development plan in a manner that retains its historic or archeological value if feasible. If an identified resource will be removed or will be altered in a manner that diminishes its historic or archeological value, the burden is on the applicant to demonstrate that options for preserving the resource have been explored. The Planning Board, Planning Department, and the applicant may consult the State Historic Preservation Office, the Scarborough Historical Society, or similar organizations with the mission of historic and archeological preservation on options for preserving the resource. If the resource will be removed, the applicant must demonstrate that reasonable efforts have been made to preserve the resource value or relocate it to another location. [03/19/2014][Amended 03/18/2015]

M. Municipal Capacity and State Agency Review

Within the Town's designated growth areas as depicted in the current version of the Comprehensive Plan, the Town of Scarborough's Planning Board has municipal capacity to review development activities that otherwise would require review by the Maine Department

of Environmental Protection under the Site Location of Development Law. This authority has been provided for under 38 M.R.S.A. Section 488(19). Municipal capacity shall only apply to development projects that are located wholly within the Town of Scarborough and wholly within a designated growth area. All other development projects that meet or exceed the thresholds for Site Location of Development Law shall be reviewed by the Maine Department of Environmental Protection accordingly. Municipal capacity within the Town's growth areas shall apply to both new development projects and modifications to past development projects that may have existing Site Location of Development approvals.

In addition to meeting, the standards and requirements of this Ordinance, the Scarborough Zoning Ordinance, and any other applicable local ordinances, site plans that include a minimum of three (3) acres or more of building and impervious coverage shall also be submitted and reviewed by the State of Maine regarding significant wildlife and fisheries habitat and natural resources and significant historic and archeological resources as follows:

1. The Maine Department of Inland Fisheries and Wildlife shall be provided with a complete site plan application and shall have the ability to review and provide advisory comments on the site plan's impact on any significant wildlife habitat, aquatic habitat, fisheries habitat, or wildlife travel corridor. The Planning Board shall not issue a final decision on a site plan application until it receives comments from the Maine Department of Inland Fisheries and Wildlife or thirty (30) days from the submission of the application to the department, whichever comes first. [03/19/2014]
2. The Maine Historic Preservation Commission shall be provided with a complete site plan application and shall have the ability to review and provide advisory comments on the presence of any significant historic or archeological resources that may exist on the site. The Planning Board shall not issue a final decision on a site plan application until it receives comments from the Maine Historic Preservation Commission or thirty (30) days from the submission of the application to the department, whichever comes first. [03/19/2014]

V. Site Conditions & Environmental Considerations

Before and during construction, the applicant or developer shall abide by the following conservation, erosion, and sediment control measures as well as the site construction, safety, and hazardous waste standards.

A. Conservation, Erosion, & Sediment Control [amended 04/21/2021]

1. All sites must comply with Chapter 420 – Town of Scarborough Erosion and Sedimentation Control at Construction Sites Ordinance.
2. Stripping of vegetation, re-grading and other development shall be performed in such a way as to minimize erosion.
3. Development shall preserve prominent natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water run-off.
4. Wherever feasible, natural vegetation shall be retained, protected, and supplemented.

5. The extent of disturbed area and the duration of exposure shall be proposed by the applicant for consideration by the Applicable Reviewing Authority. The proposal shall conform to time schedules acceptable to the Applicable Reviewing Authority or to the Town Planner and Town Engineer if the Applicable Reviewing Authority so directs.
6. Disturbed soils shall be stabilized as efficiently as possible.
7. Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
8. The permanent vegetation and mechanical erosion control measures shall be installed in conformance with a specified schedule as approved by the Applicable Reviewing Authority or by the Town Planner and Town Engineer if the Applicable Reviewing Authority so directs.
9. Until the disturbed area is stabilized, sediment in the runoff shall be trapped and contained by the use of debris basins, sediment basins, silt traps, silt fencing or other acceptable measures.
10. Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the developer causing the sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any resulting damages in an efficient manner.
11. Any developer conducting an activity on or across a stream, watercourse or swale or upon a floodway or right-of-way thereof shall maintain, as nearly as possible, the state of the stream, watercourse, swale, floodway or right-of-way during the activity. Following the activity, the water feature shall be returned to its original, or equal, condition.
12. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

B. Site Conditions

1. During construction, the site shall be maintained and left each day in a safe and sanitary manner. Any condition which could lead to personal injury or property damage shall be immediately corrected by the developer upon order by the Code Enforcement Officer or other authorized personnel. The developer shall make provisions for the disposal of oil, grease, and any other materials or equipment which may pose a threat to public health and safety. The site shall be regularly sprayed to control dust from construction activity.
2. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris, and excess or scrap building materials. Such material shall be removed or destroyed upon the request, and to the satisfaction, of the Code Enforcement Officer and must be accomplished prior to the issuance of an occupancy permit.
3. No substantial change shall be made in the elevation or contour of any lot or site by the removal or addition of earth, except as shown on an approved site plan. Minimal

changes in elevations may be made only after approval by the Code Enforcement Officer. All permitted changes necessitated by field conditions shall be shown on the as built plans.

4. Prior to or during construction, the Code Enforcement Officer may require the installation or construction of improvements in order to prevent or correct a temporary condition on the site that could cause personal injury, damage to property, erosion, flooding, heavy construction traffic, creation of steep grades, or pollution. Required improvements may include berms, mulching, sediment traps, detention and retention basins, grading, plantings, retaining walls, culverts, pipes, guardrails, temporary roads, and other improvements specific to a condition. All temporary improvements shall remain in place and operation until otherwise directed by the Code Enforcement Officer.

VI. Fees

A. Application Fee

At the time of submission of a site plan review application, the applicant shall pay to the Town Treasurer an application fee. Said fee shall be non-refundable and shall be computed as specified in the *Schedule of Licenses, Permit and Application Fees* established by the Town Council.

B. Development Review and Construction Inspection Fee

Prior to the issuance of a building permit for the construction authorized by the site plan approval, the applicant shall pay to the Town Treasurer a Development Review and Construction Inspection Fee. Said fee shall be non-refundable and shall be computed and paid as follows:

1. The amount of the fee shall be determined by the Town Engineer, and shall include the actual costs incurred by the Town to engage consultants to undertake review of the applicant's site plan submissions plus the estimated cost to the Town of retaining the services of a qualified construction or site inspector under the employ of a licensed professional engineer to observe and inspect any improvements associated with the site plan approval.
2. If, upon completion of the required improvements, the actual cost of monitoring and inspection exceeds the amount paid at the time of issuance of the building permit, the applicant shall pay the additional amount to the Town Treasurer before the certificate of occupancy for the building or site shall be issued. If, upon completion of the required improvements, the actual cost of monitoring and inspection is less than the amount paid the Town shall return the unused portion to the applicant.

VII. Enforcement, Occupancy and Performance Guaranty

[amended 04/21/2021]

This ordinance shall be enforced by the Town of Scarborough Code Enforcement Officer. It shall be a violation of this ordinance (1) to undertake an activity requiring site plan review without first obtaining site plan approval from the Applicable Reviewing Authority, (2) to develop or use any property for which a site plan has been approved except in the manner shown on the

approved site plan and as per Section III(B)(8) of this ordinance, or (3) to violate any condition of approval of an approved site plan. Any person who violates this ordinance shall be penalized pursuant to 30-A M.R.S.A. section 4452. Each day a violation exists constitutes a separate violation.

A. Occupancy Permit and Performance Guaranty

An occupancy permit for the use or occupancy of any land, building, structure or part thereof requiring site plan approval shall be issued in accordance with Section IV(G), Certificate of Occupancy, of the Town of Scarborough Zoning Ordinance.

No occupancy for full or partial occupancy shall be issued by the Code Enforcement Officer until the Town Engineer, Town Planner or their designee are satisfied that the property has been constructed in accordance with the approved site plan and conditions of approval, or that the Town has received a performance guarantee for the completion of specific outstanding site elements within a specified timeframe, as well as final documentation required in all applicable Town ordinances including but not limited to as-builts.

A performance guarantee may be in the form of cash, certified check payable to the Town of Scarborough, or an irrevocable letter of credit in a form and from an issuer acceptable to the Town Treasurer. The amount of a performance guarantee shall be determined by the Town Engineer or her/his designee, following the submission of a cost estimate by the applicant, and shall be in an amount at least equal to the total cost of the remaining work to be completed. [amended 11/01/17]

As-built plans shall be prepared by an engineer, architect, landscape architect, or land surveyor registered in Maine. Prior to the release of the letter of credit and inspection fee account, the developer shall submit to the Planning Office a digital copy of the final site plan approved by the Planning Board, including all approved amendments to the plan during construction. The digital data shall be a single composite AutoCAD (up to Release 2019) drawing file as well as a .pdf file may be submitted via e-mail, or other format acceptable to the Town Engineer. The following standards shall be followed:

1. Plan units: decimal feet, NAD83, Maine State Plane West, vertical datum NAVD1988. (2) Georeferencing: drawing features should be tied into state plane coordinates.
2. Rotation of grid north maintained. Plan data should not be "rotated" in any way which might compromise data coordinate integrity. (Alternately, a "dview twist" or similar CAD display operation will allow for convenient plotting/layout fitting while still properly maintaining spatial reference.)
3. Coordinates shall be shown on at least four corners of the site plan. Coordinates shall be referenced to the Maine State Coordinate System.
4. AutoCAD (up to Release 2019) drawing or equivalent.
5. Any dependent external referenced (xref's) should be bound to the drawing file(s).
6. Drawing layers should be named in a logical fashion to allow identification of features; preferably, all drawings should be accompanied by a file that describes the layer structure.

7. Significant proposed polygon features, i.e., building footprints, parking areas, and driveways, should be closed 2-D polylines (looped for closure).

VIII. Severability and Conflicts

A. Severability

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.

B. Conflict

In the event that any provision of this ordinance is in conflict with or inconsistent with any provision of any other ordinance of the Town of Scarborough, the provision which establishes the most stringent requirement shall prevail.

IX. Meanings of Words

Where words or terms used in this ordinance are defined in the Town of Scarborough Zoning Ordinance, the Town of Scarborough Subdivision Ordinance or the Town of Scarborough Shoreland Zoning Ordinance, such definitions shall apply to this ordinance as well. Words or terms not so defined shall have their ordinary, customary meanings.

Appendix—Plant Materials List

The plants on this list have been derived from a number of sources to inspire a greater landscape variety in Scarborough. The final selection of materials shall consider the specific growing requirements and characteristics of each plant and the conditions of the site.

STREET TREES		ORNAMENTAL TREES	
Aesculus hippocastan	Baumanii Horsechest	Acer campestre	Hedge Maple
Acer campestre	Hedge Maple	Acer ginnala	Amur Maple
Acer ginnala	Amur Maple	Aesculus carnea	Red Horsechestnut
Acer x. freemanii	Armstrong Maple	Amelanchier canadensis	Serviceberry
Acer x. freemanii	Autumn Blaze Maple	Carpinus betulus	European Hornbeam
Acer rubrum	Red Maple	Carpinus carolinianum	American Hornbeam
Acer saccharum	Sugar Maple	Celtis occidentalis	Hackberry
Acer tataricum	Tartarian Maple	Cornus kousa	Kousa Dogwood
Acer triflorum	Three-flower Maple	Cornus mas	Cornealancherry Dogwood
Amelanchier	Shadblow	Cotinus obovatus	American Smoketree
Betula nigra	River Birch	Crataegus crus-galli	Cockspur Hawthorne
Carpinus betula fastig.	Upright Hornbeam	Crataegus viridis	Winter King Hawthorne
Carpinus caroliniana	American Hornbeam	Halesia carolina	Carolina Silverbell
Cercidiphyllum japon.	Katsura Tree	Maackia amurensis	Maackia
Cladrastis lutea	Yellowwood	Magnolia loebneri	Loebner Magnolia
Corylus colurna	Turkish Filbert	Magnolia stellata	Star Magnolia
Crataegus crusgalli	Cockspur Hawthorn	Malus species	Crabapple
Fraxinus americana	White Ash	Nyssa sylvatica	Tupelo
Ginkgo biloba	Maidenhair Tree	Ostrya virginiana	Ironwood
Gleditsia triacanthos	Thornless Honey Locust	Phellodendron arboretum	Amur Corktree
Gymnocladus dioicus	Kentucky Coffee Tree	Prunus sargentii	Sargent Cherry
Liriodendron tulipifera	Tulip Poplar Tree	Prunus subhirtell	Higan Cherry
Magnolia acuminate	Cucumber Tree	Pyrus calleryana	Bradford Pear
Prunus accolade	Accolade Cheery	Sorbus alnifolia	Korean Mountain Ash
Prunus maackii	Amur Chokecherry	Syringa reticulata	Tree Lilac 'Ivory Silk'
Quercus alba	White Oak		
Quercus bicolor	Swamp White Oak	EVERGREEN TREES	
Quercus coccinea	Scarlet Oak	Abies concolor	White Fir
Quercus imbricaria	Shingle Oak	Abies fraseri	Fraser Fir

<i>Quercus palustris</i>	Pin Oak	<i>Picea abies</i>	Norway Spruce
<i>Quercus robur</i>	Upright English Oak	<i>Picea glauca</i>	White Spruce
<i>Quercus rubra</i>	Red Oak	<i>Picea omorika</i>	Serbian Spruce
<i>Quercus shumardi</i>	Shumard Red Oak	<i>Picea pungens</i>	Colorado Spruce
<i>Sophora japonica</i>	Regent Scholartree	<i>Pinus resinosa</i>	Red/Norway Pine
<i>Tilia cordata</i>	Littleleaf Linden	<i>Pinus strobus</i>	Eastern White Pine
<i>Ulmus parvifolia</i>	Lacebark Elm	<i>Thuja occidentalis</i>	American Arborvitae
<i>Ulmus americana</i>	Princeton American Elm	<i>Tsuga canadensis</i>	Canadian Hemlock
<i>Zelkova serrata</i>	Greenvase Zelkova	<i>Tsuga caroliniana</i>	Carolina Hemlock

FLOWERING & ORNAMENTAL SHRUBS		PERENNIALS	
<i>Aesculus parviflora</i>	Bottlebrush Buckeye	<i>Achillea millefolium</i>	Yarrow
<i>Aronia arbutifolia</i>	Red Chokeberry	<i>Aster x frikartii</i>	New England Aster
<i>Cotinus coggygria</i>	Common Smoketree	<i>Astilbe varieteis</i>	Astilbe
<i>Cotoneaster adpressa</i>	Creeping Cotoneaster	<i>Coreopsis verticillata</i>	Moonbeam Coreopsis
<i>Deutzia gracilis</i>	Slender Deutzia	<i>Echinacea purpurea</i>	Purple coneflower
<i>Enkianthus campanulat.</i>	Redveined Enkianthus	<i>Hemerocallis species</i>	Daylilies
<i>Forsythia 'Sunrise'</i>	Sunrise Forsythia	<i>Liatris spicata</i>	Gayfeather
<i>Hydrangea paniculata</i>	Panicle Hydrangea	<i>Malva alcea 'fastigiata'</i>	Hollyhock Mallow
<i>Ilex verticillata</i>	Winterberry	<i>Perovskia atriplicifolia</i>	Russian Sage
<i>Myrica pensylvanica</i>	Bayberry	<i>Rudbeckia 'Goldsturm'</i>	Black Eyed Susan
<i>Potentilla fruticosa</i>	Bush Cinquefoil	<i>Sedum telephium</i>	Autumn Joy Sedum
<i>Prunus maritima</i>	Beach Plum		
<i>Rhododendron species</i>	Rhododendron Species	ORNAMENTAL GRASSES	
<i>Rosa rugosa</i>	Beach Rose	<i>Deschampsia caespitosa</i>	Tufted hair Grass
<i>Viburnum prunifolium</i>	Blackhaw Viburnum	<i>Miscanthus sinensis</i>	Purple Silver Grass
<i>Viburnum sargentii</i>	Sargent Viburnum		
<i>Viburnum trilobum</i>	Amer. Cranberrybush		
<i>Xanthorrhiza simplicissima</i>	Yellowroot		

DESIGN STANDARDS

for Scarborough's Commercial Districts



Adopted July 16, 2001

[Amended February 18, 2009]

**[Amended October 18, 2023; Lighting Standards
Repealed, See Chapter 405B Section H]**

Planning Board Policy Approving Site Planning Goals

The Planning Board approves the attached Site Planning Goals as guidelines to assist applicants in designing proposals which will comply with the standards of Section C of the Site Plan Review Ordinance. Proposals that are designed in accordance with the Site Planning Goals will be presumed to comply with the standards of Section C. Proposals that are not designed in accordance with the Site Planning Goals will need to demonstrate compliance with each of the standards of Section C. In determining whether a project is designed in accordance with the Site Planning Goals or meets the standards of Section C, the Planning Board may engage the services of appropriate professionals to review, at the applicant's expense, the materials submitted by the applicant.

DEFINITION OF TERMS

These definitions are provided to assist the reader while using Scarborough's Design Standards.

Adaptive Reuse - The development of a new use for a preexisting building. If a historic structure is involved, the conversion strives to maintain the structure's historic character.

Americans with Disabilities Act. A 1990 federal law designed to bring disabled Americans into the economic mainstream to provide them equal access to jobs, transportation, public facilities, and services.

Architectural Feature -A prominent or significant part or element of a building, structure or site.

Bollards -Posts used in the landscape for functional (e.g., separation of pedestrian and vehicular traffic) or decorative purposes.

~~**Buffering** -Landscaped areas, berms, fencing, walls or other physical features that are planted or installed to physically and visually separate land uses.~~

Building Mass The height, width, and depth of a structure.

Cape Cod Curbs -A relatively low fiat asphalt curb, typically used at the edge of parking lots or roadways to minimize snow plow damage.

Community Character - The image of a community as defined by such factors as its built environment, natural features, open space, architectural styles of houses and buildings, infrastructure, and the type and quality of public facilities and services.

Compact Parking -A parking space with a dimension of 8' in width and 15 feet in depth.

Cross Easement _The reciprocal legal right to pass from one property to another.

Curb Cut - The opening along the curb line at which point vehicles may enter or leave the roadway.

Fenestration - Window treatment in a building or on a building facade.

Gateways -Entrances into recognizable places or areas of significant changes in land use.

Human Scale. The relationships of a development and/or its elements in terms of size, height, bulk, intensity, and aesthetics, to human beings.

~~**Landscape Plan** -A component of a development plan which shows the quantity, species, and size of all proposed vegetation.~~

Massing - The grouping of three-dimensional forms to achieve variation (as in a building or landscape planting).

Mixed-Use Development -The combination of two or more land uses within one building, project, or site. The most common combination of uses is business/retail and residential.

Modular Pavers -Preformed paving blocks that are installed on the ground to form patterns.

Neckdowns -Located at the openings of curb lines, the curb width is extended, usually 7-8", to decrease the distance between opposing curb lines and to prohibit parking. Sometimes referred to as "bump outs."

Outdoor Storage - The keeping, in an unenclosed area, of any goods, materials, merchandise, junk, or vehicles in the same place for more than twenty-four hours.

Parapet - The extension of the main walls of a building above the roof line.

Peer Review - The use of qualified professionals to review specific aspects of a Site Plan application for conformance with the Town's Ordinances or Design Standards.

Performance Guarantee -Any security that may be accepted by a municipality to assure that improvements required as part of an application for development will be satisfactorily completed.

Reader boards -A sign affiliated with a business or institution that contains temporary announcements about events or activities occurring on the premises.

Redevelopment - The reconstruction, reuse or change in use of any developed property including an increase in intensity of use or structural enlargement.

Rehabilitation/Renovation/Restoration - To construct an addition, make alterations, or to upgrade to the design and layout of a building.

Scale .The relationships of a development and/or its elements in terms of size, height, bulk, intensity, and aesthetics, to one another and the surroundings.

Service Areas -A designated area, either attached to or separated from the main commercial building, where a business accommodates services such as product shipping and delivery, trash pickup, machinery and equipment repair, utility storage, etc.

Sight Triangle -A triangular shaped portion of land established at street intersections in which nothing is erected, placed, or planted that would limit or obstruct the motorists vision as they enter or depart the intersection.

~~**Site Furniture** —Constructed, above-ground objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, and fountains that have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces used by the public.~~

Strip Commercial Centers- Continuous or intermittent linear roadside development, generally one store deep and characterized by multiple roadway access points, highly visible off-street parking and an assortment of commercial uses with direct access to abutting roads.

Stacking Lanes -A designated area of a parking lot that accommodates the queuing of cars (for instance, at a drive-through restaurant).

Temporary Signs -A sign which is installed for a limited time and is not constructed or intended for long-term use.

Vernacular Architecture -Architectural forms which are indigenous to an area, having developed in response to available materials, environmental conditions, and local cultural traditions.

INTRODUCTION

Each property within Scarborough's commercial district is unique. Development plans should be based upon a careful understanding of the site in order to meet the **requirements of the business while improving the** functionality, safety, and visual character of Scarborough's commercial community.

Site Planning Goals

- Distinctive, attractive gateways that welcome people to Scarborough.
- Quality development that respects the uniqueness of each property and reinforces Scarborough's sense of place and character.
- Public open space throughout the commercial area to enhance its appearance and support pedestrian use.
- An attractive, functional, and safe environment that is conducive to commerce and other permitted activities.
- Quality redevelopment of transitional or substandard properties.
- Protection for abutting residential properties through sensitive site planning, buffering, and architectural design.
- Upgrading the visual character and human scale of commercial districts through particular attention to architecture, site planning, signage, and lighting.
- Encourage increased walking and cycling activity within commercial district's by providing safe, attractive, interconnected facilities.
- Universal accessibility for all that meets the Americans with Disabilities Act (ADA).
- Sound access management throughout the commercial district to maintain efficient traffic flow and high levels of safety.

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The preservation of mature trees, combined with masses of plantings, create a distinctive, attractive environment the landscape buffer also helps separate the cars from the pedestrian path to the right.

OBJECTIVES

Good site planning shall result in an attractive, safe, and economically viable relationship between buildings, parking, signage, lighting, landscaping, and the surrounding environment. Site plans shall minimize the visual effects of parking, feature high-quality landscaping, accommodate pedestrian movement where possible, and encourage connections to nearby properties.

DESIGN STANDARDS

Proximity of Buildings to Roadways.

Buildings shall be located as close to the front property line as possible to provide scale and interest to the auto and pedestrian environment. The majority of parking shall be located at the rear or side of the building.

Relationships to Residential Properties.

The facades of buildings which abut or are visible from residential neighborhoods shall use forms, materials, and details which are residential in nature and appearance. Services areas, parking lots, outdoor storage yards, and other similar features shall avoid facing residential neighborhoods.

Licensed Professionals. All plans for development/redevelopment shall be designed by appropriate licensed professionals (e.g., architects, landscape architects, civil engineers, traffic engineers) to address issues of public health, safety, and welfare.

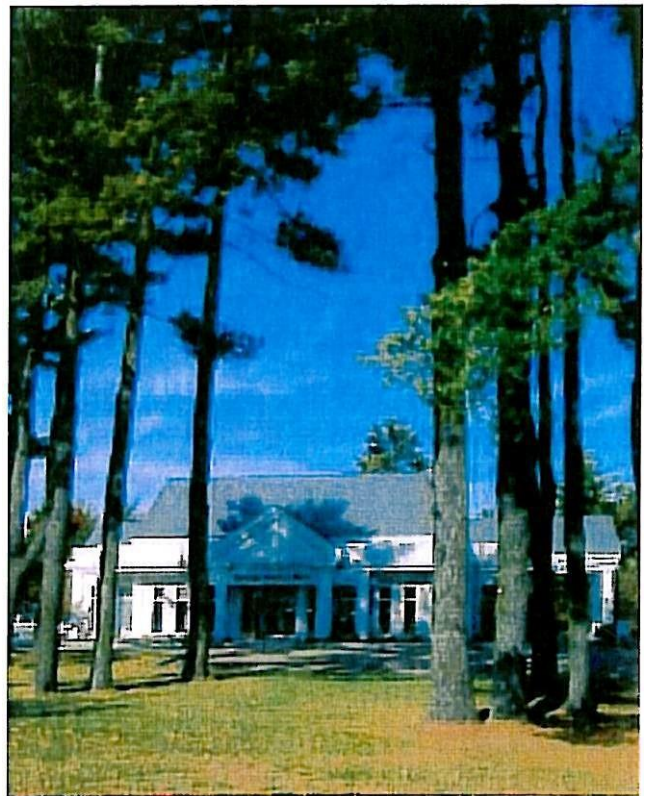
Access Management. Site plan involving curb cuts onto major roadways shall demonstrate an adherence to sound access management principles to promote efficient traffic flow and maintain a high level of safety for pedestrians and motorists.

~~**Landscaping.** The Space between the roadway and the front of the building shall be attractively landscaped with trees, flowering shrubs, fencing, stone walls, and other elements. Existing healthy trees and shrubs shall be preserved or transplanted~~

~~to another area of the site wherever possible. Properties located along Route One shall comply with the recommendations of Guiding Growth and Public Improvements on Route One.~~

Standard Note. All plans submitted for Planning Board Approval shall contain the following standard note:

The property shown on this plan may be developed and used only as depicted on this approved plan. All elements and features of the plan and all representations made by the applicant concerning the development and use of the property which appear in the record of the Planning Board proceedings are conditions of the approval. No change from the conditions of approval is permitted unless an amended plan is first submitted to and approved by the Planning Board.



Preservation of the mature pines add visual interest and reduce the impact of front parking.



Pedestrian walkways are clearly identified through changes in color and materials.



An example of a high-quality contemporary office building that has retained many of the natural features of the site.



The proportions and site features give this building a strong sense of scale. The stone wall, plantings, and walkway lighting create a welcome entrance. The building used to be a flat-roofed commercial structure.



A human-scaled shopping plaza that offers a variety of interesting and inviting exterior spaces



This well-detailed outdoor space provided an attractive opportunity for pedestrians. The wooden trellis and landscaping complement the building and add human scale.

OBJECTIVES

All development activities shall be characterized by safe, user-friendly, and efficient traffic flow. Access management principles shall be followed to reduce the number of curb cuts, provide a safer vehicular and pedestrian environment, encourage intra-parcel travel, and minimize the number of trips on roadways.

DESIGN STANDARDS

Curb Cuts on Major Roads. Site plans shall be designed to minimize the number of curb cuts on major roadways to increase vehicular and pedestrian safety.

Shared Access. Entrances to abutting commercial properties shall be combined to the maximum extent possible.

Internal Traffic Flow. To ensure the safety of motorists, delivery trucks, and pedestrians, the site plan shall clearly delineate internal traffic patterns. Site plans shall be designed by a professional engineer familiar with the Scarborough Ordinances. Parking space, directional arrows, crosswalks, and other markings on the ground shall be delineated with pavement paint or other suitable material to ensure safe circulation.

Internal Connections. Where feasible, connections between parking lots and driveways on adjacent parcels shall be provided to facilitate deliveries and minimize turning movements onto major roadways. Internal connections shall provide safe, direct access between adjacent lots in a manner that prevents them from becoming vehicular shortcuts. Cross easements shall be provided as required to facilitate circulation. The site plan shall anticipate future vehicular connections to abutting undeveloped property.

Internal Pedestrian Connections. Safe pedestrian connections between abutting land uses shall be provided where possible to encourage foot traffic and minimize vehicular movement.

Traffic Calming. Traffic calming measures shall be included where appropriate to discourage speeding within the site and between abutting properties. Measures may include speed tables, on-street

parking, raised crosswalks, vertical curbing, curvilinear road alignment, roadside plantings, neck-downs, curbed islands, and signage.

Drive-Throughs. Access routes leading to or from takeout windows or other drive-throughs shall minimize conflicts with pedestrian circulation routes. Motorists shall be made aware of pedestrians through signage, lighting, raised crosswalks, changes in paving, or other devices. The site plan shall be designed to prevent queuing in parking lots or other areas which would cause congestion or unsafe conditions.

Pedestrian and Bicycle Movement. The circulation plan shall provide safe pedestrian and bicycle movement within the site. The plan shall demonstrate how linkages can be made to adjacent properties, both developed and undeveloped. Pedestrian and bicycle connections between abutting properties shall be coordinated with vehicular routes to encourage foot traffic and minimize vehicular movement.

Refuge Zones. Pedestrian islands (five feet minimum width) shall be installed in driveways and streets where the crossing distance is greater than 32 ft.



This curbed, landscaped island divides entering and exiting traffic. The identification sign is located away from the intersection to avoid interfering with the motorists' line of sight.

Outparcel Development. Plans for multi-building developments shall accommodate future buildings, access roads, sidewalks, esplanades, and signage in a coordinated fashion. See *Mull/Building Development pp. 14-15*, for further standards.

Service Drives. Service drives shall be separated from internal walkways, parking areas, or pedestrian use areas by landscaped islands, grade changes, or other devices to minimize pedestrian contact.



This planted bed serves as an attractive way to separate entering and exiting traffic. The planting bed has also helped preserved a large, mature tree located on the site.



This fast-food restaurant is an 011tparcel of a larger commercial retail development. Circulation, including drive-through, parking, and pedestrian access, has been carefully integrated into the surrounding site.



An island provides a refuge zone for pedestrians crossing this wide driveway. Permanent crosswalks would have minimized annual maintenance costs.



The predominance of curb cuts along this roadway creates an unsafe/uninviting environment for the pedestrian.

OBJECTIVES

Parking lots shall be designed to complement adjacent buildings, the site, and the commercial district without becoming a dominant visual element. Every effort shall be made to reduce the scale of parking lots by minimizing the total amount of paved surface visible from the road.

Parking lots shall be designed as inviting, pedestrian-friendly places by careful attention to landscaping, lighting, and internal walkways. With proper planning, parking lots can balance the needs of both the vehicle and the pedestrian.

DESIGN STANDARDS

Siting. Whenever possible, the majority of parking areas shall be located at the rear or sides of commercial buildings, except where parking would be located adjacent to a residential neighborhood, or when included as part of a multi-building site plan (see pp. 13-14). Where land use conflicts occur, (e.g., unavoidable siting of a parking lot next to a home) the lot shall be screened with evergreen trees, earth berms, fences, or shrubs.

Orientation. Parking lots shall be designed as part of the overall plan for the site, and coordinated with building entrances, lighting, and landscaping.

Scale. The scale of parking areas with more than 1s spaces shall be broken up with trees, landscaped islands, grade changes, low walls, or other appropriate features. See Landscaping for specific standards regarding parking areas.

~~**Relationship to Buildings.** Paved surfaces of parking lots shall be separated from buildings by a minimum of five feet of landscaping and/or a paved walkway. The width of the landscaping shall be proportional to the height of the building.~~

~~**Screening.** Where front parking is permitted between the building and the road, it shall be screened by berms, fencing, low walls, trees, shrubs, perennial masses, or a combination of elements. The~~

~~ultimate height of the screen shall be 3± feet to minimize the view of the vehicle while still providing a clear view of the building and signage.~~

~~**Landscaping in Parking Lots.** Between 10% and 15% of the parking lot shall be landscaped. The higher percentage shall be used for larger lots (more than 40 cars) and those that are most exposed to public view. Planting islands shall be a minimum of 9' in width. All parking lot landscaping shall be hearty and appropriate for parking lot conditions. Natural groupings or clusters of trees are also encouraged. See Landscaping for further standards.~~

Dead End Parking Lots. Parking lots with a single point of access are strongly discouraged. Dead-end parking lots shall not contain more than ten spaces. Where dead-end lots are unavoidable, space shall be provided to safely turn a vehicle around without having to back out.

Shared Parking. Shared parking is strongly encouraged where appropriate, particularly where abutting land uses have differing hours of peak parking demand. Cross easements may be required to allow shared parking.

Safety. Crosswalks shall be marked by a change in pavement texture, pattern, or color to maximize



An attractively landscaped parking lot that is a positive asset to the surrounding commercial area. Bike racks are conveniently situated near surrounding shops.

~~pedestrian safety in parking areas and other potentially hazardous areas. Care shall be taken in the selection of shrubs, ornamental grasses, walls, or other landscape elements to maintain visibility.~~

Side Lot Parking. Parking on the side of buildings shall not extend closer to the street than the front facade. The space between the end of the parking lot and the roadway shall be landscaped according to an overall plan for the property.

~~**Snow Storage.** Provisions shall be made for snow storage in the design of all parking areas. The areas shall be shown on the Site Plan to avoid conflicts with landscaping, visibility, drainage, or icing during winter months.~~

Buildings in Existing Parking Lots. The development of smaller commercial buildings on out-parcels is strongly encouraged to break up the scale of large parking areas.



~~Landscaped islands should have been used here to provide scale, reinforce internal circulation, and guide pedestrians.~~



~~Wide parking lot islands provide ample room for tree growth and snow storage.~~



~~A low wall and ornamental plantings effectively screen this parking lot from view.~~



~~While asphalt curbing is inexpensive to install, it is very prone to snowplow damage.~~

OBJECTIVES

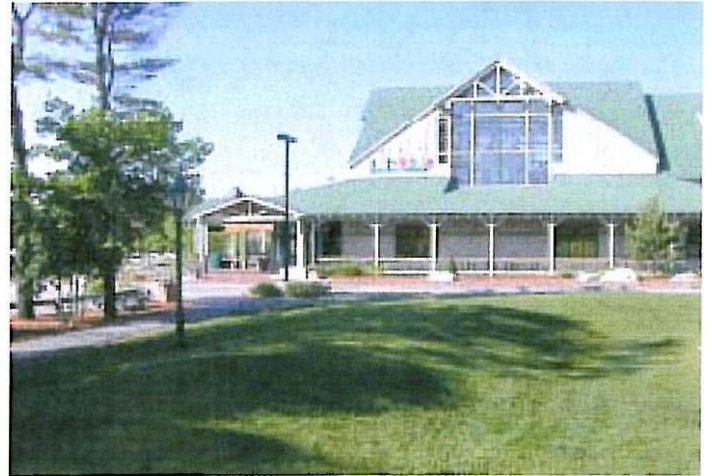
~~Entrances to buildings shall be designed to provide outdoor spaces for a variety of uses—seating/resting, dining, displays, and aesthetic enhancement—to create a pedestrian-friendly environment.~~

DESIGN STANDARDS

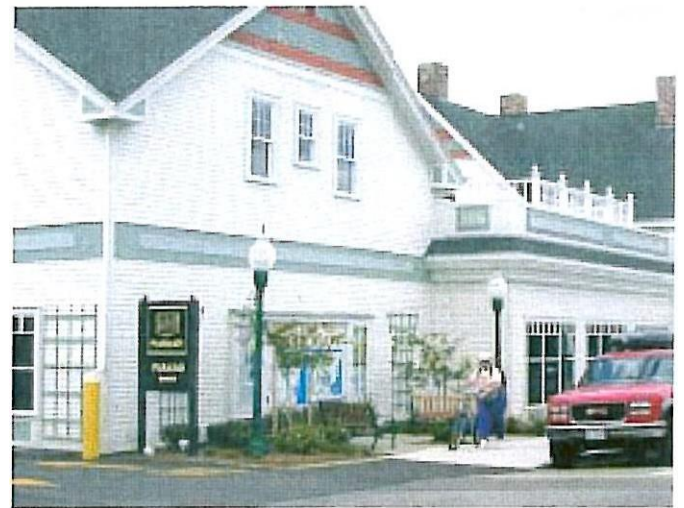
~~**Planning.** Outdoor use areas should be located in sunny, highly visible locations and sized to fit the anticipated uses. The design should be a collaborative effort between architect, landscape architect, engineers, artists, and other design professionals.~~

~~**Materials.** Outdoor use areas shall be constructed of high-quality, easily maintained materials. All elements within the space shall be coordinated with the architecture and site elements to achieve a unified look. The use of decorative paving is encouraged for sitting areas, pedestrian plazas, building entrances, or other designed open spaces. See Landscaping for plantings and street furniture standards.~~

~~**Entrances.** Major entrances to new or renovated buildings shall be emphasized through the use of canopies, recessed entries, seating areas, decorative plantings and lighting, sculpture, and other elements.~~



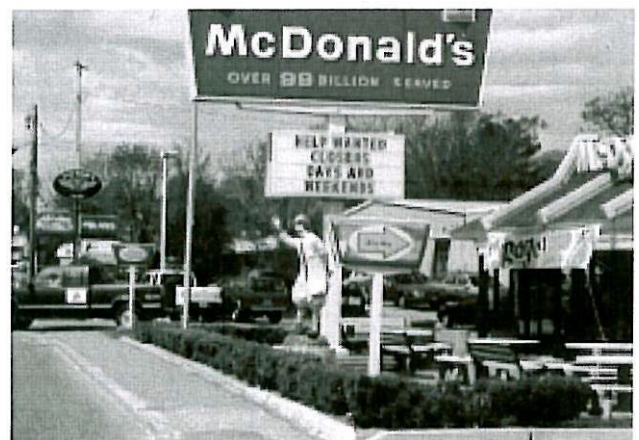
~~welcome visual relief and all opportunity for programmed activities.~~



~~A small sitting area next to a new drug store offers a place to meet and relax in a commercial environment~~



~~An informal dining area in front of a deli provides an attractive setting for customers. Parking is screened by an attractive wooden fence. An informal lawn area provides~~



~~An outdoor eating area located within the front setback is separated from traffic by a subtle grade change and a hedge. However, advertising features visually overwhelm the space.~~

OBJECTIVES

Public sidewalks should be provided wherever possible throughout Scarborough's commercial areas. Existing and proposed road corridors should include sidewalks, planted esplanades, crosswalks, and pedestrian amenities to encourage a safe flow of non-motorized traffic.

There are many areas in Scarborough's commercial areas which are currently not pedestrian or bicycle friendly. The long-term objective is to encourage an interconnected network of sidewalks that encourage exercise for the general population.

DESIGN STANDARDS

Public Sidewalks. Wherever possible, sidewalks and planted esplanades shall be provided within or near the right-of-way on both sides of all streets to encourage safe pedestrian movement. Facilities shall be coordinated with abutting land uses to create interconnections throughout the commercial area and linkages to surrounding residential neighborhoods. lighting and other amenities abutting walkways should be at human scale.

Coordination with Site Plan. All new sidewalks shall be coordinated with the Site Plan to avoid conflicts with landscaping, utilities, grading, drainage structures, signs, and other elements. MI walks shall be designed to facilitate snow removal and allow year-round use. Sheet flow of stormwater across sidewalks shall be avoided. Underground storm drainage systems are strongly encouraged.

Material Selection. Concrete sidewalks with granite curbing shall be used on sidewalks within the public ROW.

Crosswalks. Where sidewalks intersect with commercial drives or roads, crosswalks shall be installed to alert the motorist and improve visibility. Crosswalks shall offer a noticeable change in texture and color. Materials for crosswalks shall be highly durable and slip resistant.

Lighting. Sidewalks shall be lit to the minimum standards recommended by the Illuminating Engineering Society of North America (IESNA) to promote safe use during evening hours.

Accessibility. All new and renovated facilities shall be located, designed, and detailed in full compliance with the Americans with Disabilities Act (ADA), as revised.



This photo simulation, illustrates the improvements sidewalks and pedestrian amenities can add to a public roadway.

OBJECTIVES

Commercial properties shall provide attractive, safe, and functional walkways between the public right-of-way and the main entrance. Internal walkways shall invite pedestrians onto the property and make them feel welcome.

DESIGN STANDARDS

Internal Walkways. Continuous internal walkways shall be provided from the public sidewalk to the principal customer entrance of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, and building entrances.

Location. Walkways shall be located where motorists can anticipate pedestrians and react accordingly. Likewise, walkways shall be designed to give the pedestrian a full view of oncoming vehicles, with minimal interference from trees, shrubs, and parked cars. Walkways shall avoid drive-through lanes, access and service drives, and other high-traffic routes. Traffic control signs, light fixtures, trees, or other potential obstacles shall be located far enough from walkways to prevent interference with pedestrian movement.



An internal walkway that is an integral part of the site plan.

Orientation. Walkways in parking lots shall be aligned with the main entry or a focal point on the building to assist in wayfinding.

Curbing. Internal walkways shall be separated from parking bays and/or travel lanes by raised curbing. Granite is preferred for its longevity, low maintenance, and appearance.

Width. Internal walkways shall be a minimum of five feet wide to allow two people to pass comfortably. Additional width may be necessary in certain conditions, e.g., where shopping carts may be used, where heavy pedestrian traffic is anticipated, or where cars overhang the walkway.



This circulation system results in excessive width in front of the storefronts and creates an auto-oriented environment. The painted walkway offers little contrast and leads to tire parking aisle.



This raised walkway provides a high level of contrast with the surrounding parking lot. However the width is compromised by the overhang of cars, making pedestrian movement difficult.

~~**Coordination with Landscaping.** Areas adjacent to walkways shall be landscaped with trees, shrubs, benches, flower beds, ground covers, or other such materials. Walkways in parking lots shall include landscaped islands to provide visual relief, shade, and scale. Shrubs shall be used with care to avoid blind spots. Special features, such as benches, flower beds, planters, and artwork can be used to enhance the walkway. Trees along all walkways shall be trimmed to provide adequate sight distance and to remove potential obstacles. Vertical clearances of at least eight feet shall be maintained.~~



~~An internal walkway oriented toward the main entry of a restaurant. The planting strips with ornamental grasses and perennials separate the pathway from vehicles.~~

Crosswalks. Internal crosswalks shall be marked by a change in pavement texture, pattern, or color to maximize pedestrian safety in parking areas and other potentially hazardous areas. The materials selected for road crossings shall be highly durable and low maintenance. Raised crosswalks shall be considered at key locations as a traffic calming device to make crosswalks more visible. Signs may be warranted in certain situations as determined by the Institute for Traffic Engineers (ITE). Materials selected for crosswalks shall allow safe bicycle movement across the surface.

~~**Drainage.** Sheet flow of stormwater across walkways shall be avoided. Culverts shall be sized to prevent ponding and provide uninterrupted use of the walkway.~~

Maintenance. All internal walkways shall be designed to facilitate maintenance by the property owner. The site plan shall coordinate the location of walkways with utilities, plantings, drainage, and other site elements that could affect long-term maintenance.



~~Decorative plantings can add to the attractiveness of walkways while helping to set them apart from parking lots.~~



~~A wide walkway that provides a well-marked, attractive pathway to the main entrance. Separated walkways are more desirable than systems that end behind parked cars.~~

Snow Storage. All walkways shall be designed for ease of snow removal to encourage year-round use. Site plans shall indicate locations for snow storage in areas where they will not interfere with pedestrian movement, block visibility, or cause dangerous conditions from freezing meltwater.

Accessibility. Walkways shall be located, designed, and detailed in full compliance with the Americans with Disabilities Act (ADA), as revised.



The walkway in the parking lot leads to a well-defined crosswalk to maintain continuity.



The pedestrian circulation system in this shopping center includes well marked crosswalks and sidewalks.



This internal walkway crosses over a curb, making access difficult for people with disabilities.



A highly visible internal crosswalk that effectively connects the parking lot to the storefronts.

OBJECTIVES

Multiple building developments shall exhibit a high degree of coordination in site planning, architectural design, site design, and site detailing. MB physical components shall be designed to complement an overall plan.

DESIGN STANDARDS

Master Plan. For multi-building developments (MBD's), a conceptual master plan shall be prepared to show the Town the general location of future buildings, parking lots, roads and driveways, walkways, common open spaces, utilities, service areas, stormwater management, and other components of site development. The master plan shall also show how traffic, stormwater, and utilities will be coordinated with adjacent properties. The plan shall also illustrate the measures that will be taken to preserve significant natural or cultural features, such as wetlands, specimen trees, or stone walls.

Phasing Plan. As part of the Site Plan application, the applicant shall provide a phasing plan that illustrates the sequence of development and what steps will be taken to ensure compatibility between current and future activities.

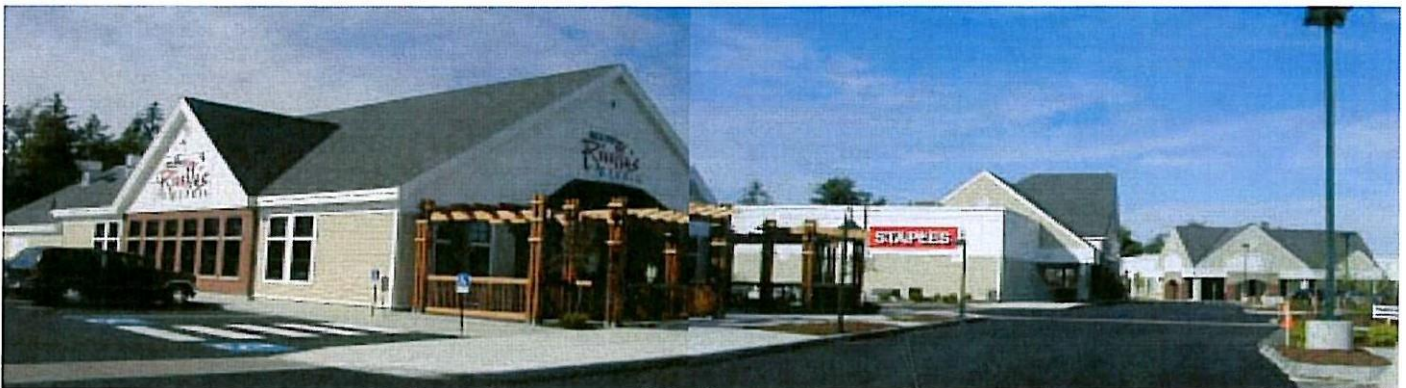
Building Orientation. All buildings in MBD's shall be oriented to create usable, safe and attractive pedestrian spaces, preserve significant site features and minimize the appearance of parking areas.



The buildings in this MBD have been sited to reinforce pedestrian circulation patterns and reduce the scale of the overall development.

Focal Points. In MBD's, a limited number of buildings or other elements shall be designed as focal points. These structures shall be visually more prominent, enhanced by height, massing, distinctive architectural treatment, lighting, landscaping, or other distinguishing features.

Outdoor Spaces. MBD's shall include outdoor use areas such as greens, plazas, and courtyards. Buildings may be oriented toward open spaces rather than roadways. In these situations, buildings shall have a major access on the space as well as a secondary access point(s) oriented to parking areas. Outdoor spaces shall be coordinated with the pedestrian circulation plan to encourage pedestrian use, with provisions for seating and outdoor activities. Outdoor spaces shall be designed to separate pedestrian and vehicular traffic with landscaping, grade changes, and other site features.



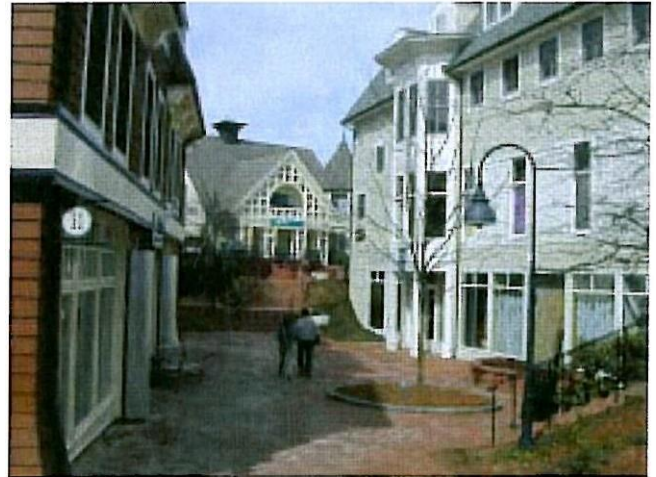
Similar roof pitches, pedestrian use areas, and traditional building materials help unify this multi-building development.

Drive Through Facilities. Where drive-through facilities are a component of a MBD, the building and site plan shall emphasize pedestrian access.

Signage Plan. Applicants for MBD's shall submit a master signage plan that shows how graphics will complement and unify the proposed development. See **Signage**.

~~**Landscape Plan.** Landscaping for MBD's shall be coordinated with all other elements of the site. As part of the application for Site Plan approval, applicants shall submit a master landscape plan that shows how landscaping will be used to complement proposed buildings, reinforce circulation paths, help define pedestrian use areas, highlight entrances, provides shade, and adds seasonal interest to the landscape. See **Landscape Chapter** for further standards on landscape materials.~~

~~**Shared Stormwater Management.** Wherever appropriate, treatment basins shall be designed to be shared by multiple building sites to minimize the land area devoted to stormwater management. (See Stormwater Management, p. 19 for further details).~~



This MBD encourages pedestrian use and enjoyment through well-connected sidewalks, mature landscaping, high quality lighting and paved public plaza.



This MBD is unified by a common architectural style and coordinated landscaping, lighting, and outdoor spaces.



Buildings in this multi-building development are oriented to a grid pattern, with strong pedestrian circulation.

OBJECTIVES

Service areas shall be integrated into the overall site plan. They shall be designed to meet the functional needs of the facility while minimizing any traffic or visual conflicts, audible noise, or smells.

DESIGN STANDARDS

Locations. All facilities for service, including waste collection and storage facilities, off-street loading and unloading areas, loading docks, storage facilities, dumpsters, fueling areas, and vehicle service and maintenance areas, shall be located at the side or rear of the principal building. Locations that face public roadways or abutting residential properties shall be avoided. Overhead doors or other vehicle entrances or exits shall not be located on any facade that faces a public street or residential neighborhood.

Design. Service areas shall be sized to fit the specific needs of the building and its intended operations. The smallest size needed to meet the building's requirements is encouraged.

~~**Screening.** Service areas shall be screened to minimize visibility from sensitive viewpoints such as public and private roadways, main entrances, abutting neighborhoods, public open spaces, and pathways in these situations. Service areas shall be screened with architectural elements such as walls or fences. Screening may be further enhanced with evergreen trees, shrubs, and earth berms.~~

~~**Screening Design.** Structural screens and fencing shall complement the design of the main structure by repetition of materials, detailing, scale, and color. Where chain link fencing is required for safety, it shall be landscaped and painted black or a similar dark color, or coated with dark vinyl. Plastic slats in chain link fencing are not permitted. Gates shall be designed to prevent sagging.~~

Service Access. Service areas shall be sited to accommodate the turning movements of vehicles used for trash pickup, deliveries, and similar functions without conflicting with other vehicles.

Coordination. Prior to Town submittal, the applicant shall contact the representatives of utility companies, fuel suppliers, trash haulers, the fire department, and others who may have input into the design and siting of service areas and facilities.

Protection. Where architectural screening or freestanding fencing is used for screening, it shall be protected with granite posts or concrete filled steel bollards, or reinforced in a manner that will prevent damage from service vehicles.

Recycling Facilities. The installation and use of recycling bins is encouraged. All recycling facilities shall be screened in a manner similar to other service areas. Dumpsters and recycling areas shall be consolidated where possible.



~~*A variable height fence used to provide visual separation between a convenience store and its residential neighbor. The fence is attractive on both sides.*~~



This service area is effectively integrated into the side of the building. The evergreen buffer acts as an appropriate and attractive screen.



This service area is screened by a solid wall topped by a trellis structure that repeats design elements used elsewhere.

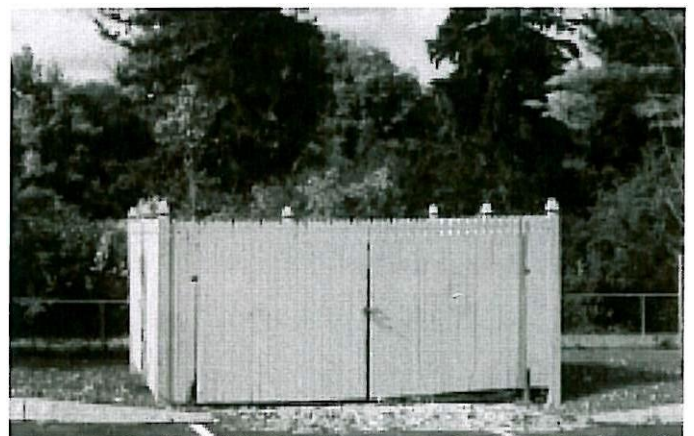


This service area is effectively buffered by grade changes and evergreen trees.

OBEDESIGN STANDARDS



This trash enclosure was not properly sized to handle the dumpster needed for the facility.



A typical trash enclosure that could be improved by plantings, detailing to match nearby buildings, reinforcing the design.

OBJECTIVES

~~Buffering or screening will be required in certain areas to ensure compatibility between unharmonious land uses, particularly between commercial and residential properties. Plantings, earth berms, Stone walls, grade changes, fences, distance, and other means can be used effectively to create the necessary visual and psychological separation.~~

DESIGN STANDARDS

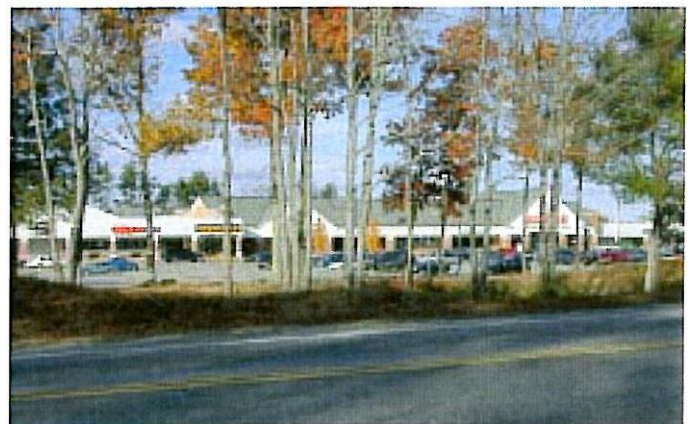
~~**Appropriateness.** The selection of the proper type of buffer shall result from a thorough understanding of existing site conditions, distances to property lines, the intensity of the proposed land use, and the degree of concern expressed by the Planning Department, Planning Board, and abutting landowners. Discussions regarding the need for buffers and appropriate sizes and types shall begin at the sketch plan review.~~

~~**Design.** Buffers and screens shall be considered an integral part of the Site Plan. Stone walls, plantings, fencing, land forms, etc. used for buffers shall be similar in form, texture, scale, and appearance to other landscape elements. Structural measures (e.g., screening walls) shall likewise be related to the architecture in terms of scale, materials, forms, and surface treatment.~~

~~**Maintenance.** Buffers shall be maintained in a condition that assures their continual effectiveness. Where plantings do not survive, or grow to a point where they no longer serve as effective buffers, they shall be replaced to meet the intent of the approved plan. Walls, fencing, or other forms of screening likewise shall be maintained in good condition.~~



~~Landscape buffers can separate land uses and soften the presence of buildings.~~



~~This stand of trees creates an effective visual buffer between the road and the plaza parking lot.~~

OBJECTIVES

To comply with Town requirements and MeDEP Stormwater Management law, site plans may be required to incorporate treatment basins or other measures to maintain the quality of stormwater runoff. All stormwater management areas shall be treated as integral and attractive parts of the landscape.

DESIGN STANDARDS

Location. Where stormwater treatment basins or other related facilities are required, they shall be located in the least visible portion of the site. Where visible, they should be graded to conform to natural contours and planted to integrate them into the natural landscape.

Design. Stormwater treatment basins shall be patterned after naturalistic landforms, avoiding hard geometric shapes. Side slopes shall be landscaped with appropriate plantings to reduce erosion and screen the basin. Islands can be effective in breaking up the mass of a treatment pond while increasing habitat opportunities.

Grading. Abrupt changes in grades and steep side slopes (>3:1) shall be avoided. Transitional grading shall be used to blend all earthworks into the natural contours of the land where possible.

Structures. Man-made drainage structures (e.g., culverts, manholes, and outfalls) that are visible from roadways or residential neighborhoods shall be screened with vegetation or treated to reduce their visibility and integrate them into the landscape.

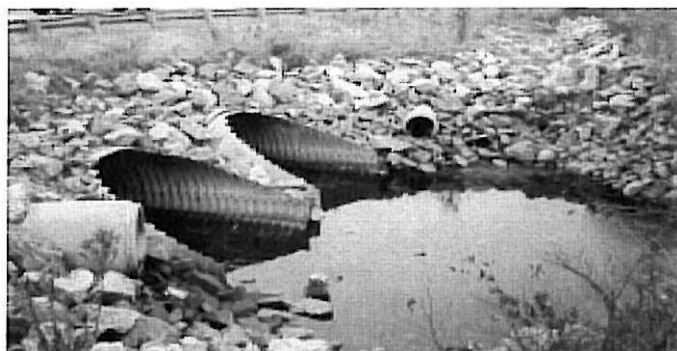
Planting Design. Plantings used in stormwater treatment ponds should be designed by a qualified professional familiar with the growing requirements of wetland species.

Shared Basins. Wherever appropriate, treatment basins shall be designed to be shared by abutting properties to minimize the amount of land area devoted to stormwater management.

Rip-Rap. Where ground protection is necessary in highly visible locations (e.g., at spillways and culverts), it shall be constructed of hand placed rock or geo-grid, rather than coarse rip-rap. The use of coarse crushed rock in visible roadside ditches is discouraged. The use of Permeon (Desert Varnish) is encouraged to hasten the weathering process on rip-rap and other stone surfaces.



Stormwater treatment ponds can be designed to create attractive focal points in the landscape.



Rip-rap is often necessary to control erosion and stabilize slopes. Hand-placed stone or natural landscaping would have improved the appearance of this treatment pond.



A stormwater treatment pond that is contoured to blend into the surrounding landscape.

INTRODUCTION

These Design Standards establish criteria for new or renovated buildings in Scarborough's commercial districts. They anticipate a greater sense of continuity and identity by illustrating high quality architectural design. They are not intended to dictate building styles.

Architectural Goals

Architecture that offers a positive experience from three perspectives: by the motorist driving along the road corridor, by the pedestrian viewing the buildings up close, and in relation to surrounding buildings that tie into the community's identity.

- Good neighborhood buildings that thoughtfully consider scale, form, orientation, height, setback, massing, materials, and architectural features.
- Buildings that are designed to human scale that address the comfort, enjoyment, and safety of the users.
- Buildings that are designed as permanent, positive additions to the commercial district, constructed of high quality, long lasting materials.
- Street corners that are treated as special places.
- Architecture that utilizes energy conservation measures wherever possible.
- Older buildings that are restored and/or reused to maintain the integrity of Scarborough's historic heritage.

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Drawing from traditional forms, the scale of this commercial building is reduced by variations in roofline, massing, and high-quality architectural details.

OBJECTIVES

The purpose of these standards is to encourage architecture within Scarborough's commercial districts that draw its inspiration from traditional New England examples. Building design shall reinforce a human scaled environment through careful consideration of architectural forms, massing, detailing, number and use of materials, and color.

DESIGN STANDARDS

Design. New buildings shall be designed to fit the individual characteristics of their particular site. The architecture shall be influenced by traditional New England building forms and town-making patterns, the specific needs of the intended users, the nature of the intended use, and other site-specific factors. Contemporary architectural styles are appropriate, provided they meet these standards.

Human Scale. Buildings and site elements shall be designed to human scale. The forms, massing, and openings of buildings shall be proportional to the size of a human figure. Many architectural elements can add scale to a building: water tables, integral planters, recessed openings, windows with divided panes, building mounted light fixtures, dormers, cupolas, projecting rooflines, covered walkways, colonnades, and similar features.

Licensed Architects. Any structure subject to site plan review shall be designed by an architect licensed in the State of Maine.

Freestanding Accessory Structures. Non-habitable structures, such as freestanding ATMs, garages, service stations, canopies, storage units, recycling sheds, trash enclosures, cart corrals, and utility buildings shall meet the same design standards as the principal building(s) on the site. The design of freestanding structures shall be coordinated with the principal building through repetition of architectural forms, materials, colors, and detailing.

Energy Conscious Design. Commercial architecture and site planning shall promote energy conservation wherever possible. Consideration shall be given to solar orientation and siting, use of maximum insulating materials, reduced lighting loads, and landscaping for windbreaks and shading.



Examples of high-quality Maine architecture -a medical office, a retail store, and a library -that have been designed at human scale and fit their unique sites.



Three examples of buildings that have little reference to traditional New England forms or materials.

Finely detailed commercial buildings using traditional New England forms and materials. Entrances are well marked and provide users with areas for shelter and/or interaction.



A free standing ATM and remote teller located in the rear of the building designed to complement the main bank building in color scale, and detailing.



This restaurant occupies a highly visible corner location, yet provides the public with a scale less, blank wall that does not contribute to the aesthetics of the street.



A free-standing canopy designed with the same form and detailing as the main building. The signage is well integrated into the facades.



A commercial building that lacks scale. There are virtually no distinguishing features to give the structure character or relate it to the context of New England.



All office complex that offers a variety of exterior spaces and relates well to surrounding residential areas by paying particular attention to design, scale, and details.



This car wash does not reflect the architectural treatment of the large retail establishment and appears out of place in the parking lot.

OBJECTIVES

Many existing commercial buildings may be coming before the Planning Board for Site Plan approval as they undergo major renovations or additions. This is an opportunity to add visual interest to the building and to strengthen its relationship with the site and nearby structures. The Town expects high quality architectural and site design for all renovated structures.

DESIGN STANDARDS

Alterations. Where the existing building currently meets the design standards, proposed renovations must be designed to respect the proportions, fenestration patterns, and details of the original building. Where the existing building does not meet the design standards, the owner is strongly encouraged to upgrade the entire structure.

Design. Applications to the Planning Board that involve renovations and additions shall show all improvements as well as the existing structure. A narrative shall accompany the application which explains the designer's intent to relate the old with the new.

Materials. Where existing buildings meet the design standards, additions or renovations shall complement or match the materials, form, color, and detailing of the original structure. Where the original building does not meet the standards, the owner shall demonstrate how the materials used in the renovation will complement the existing structure.

Architectural Features. Renovations shall retain any distinctive architectural features or examples of skilled craftsmanship.

Architectural Features. Renovations shall retain any distinctive architectural features or examples of skilled craftsmanship.



The repetition of architectural and landscape details help to integrate a shopping center with a historic building.



A shingle-style renovation transformed a small nondescript building into a noteworthy restaurant.



The additions on both sides of this restaurant do not relate to the form of the central structure.

OBJECTIVES

All buildings shall present an inviting, human scaled facade to the street, internal drives, parking areas, and surrounding neighborhoods. Wherever possible, entrances shall be clearly visible from the street and reinforced through site and architectural features.

DESIGN STANDARDS

Facade Treatment. The facade containing the main entrance shall be treated as a front facade and shall be designed in a manner that is consistent with the design standards. Building entrances shall be designed to be visible from the street and provide unobstructed areas for pedestrians. The front facade shall contain a clearly defined, highly visible customer entrance and three or more of the following elements to add scale to the building:

- canopies
- overhanging rooflines to provide shelter for pedestrians
- recesses or projections in keeping with the scale of the building
- arcades
- raised corniced parapets over entrances
- gables and donners
- pilasters
- peaked roof forms
- outdoor sifting or dining areas
- display windows that are visible from the sidewalk
- architectural details such as moldings which are integrated into the building design
- other features which are designed to add scale and visual interest to the facade.

For retail structures, the front facade or any other facade that faces a public or private street shall have display windows, entry areas, or other transparent features along 40% or more of its horizontal length. This standard may be waived if other architectural elements are used to provide scale and visual interest to the front facade in keeping with these Design Standards.

Offsets. No uninterrupted length of any facade shall exceed 100 horizontal feet. Facades greater than 100

feet in length shall incorporate wall plane projections or recesses having a depth of at least 3% of the length of the facade and extending at least 20 percent of the length of the facade. Where the plane of a wall is broken, the offset shall be proportional to the building's height and length. Strong shadow lines, changes in rooflines, pilasters and other architectural details, patterns in the surface material, and wall openings can all be effectively used to add visual interest and scale to the facade. Projections used to break up the mass of the building shall extend to the ground.

Rear and Side Facades. Blank walls facing public roads, residential neighborhoods, or abutting properties are prohibited. Where rear or side facades are visible from adjacent properties or roadways they shall be designed to match or complement the architectural treatment of the primary facade to give it scale and visual interest.



Facade treatments on these two commercial buildings wrap around the corners to present a unified design from all visible faces.

Site Design. Signage, lighting, landscaping, and other exterior elements shall all be designed to complement and be in scale with the facade, avoid visual or functional conflicts, and retain visibility.

Trim. Windows, door openings, ventilation openings, and other forms of exterior fenestration in frame construction shall be trimmed.

Window Shapes. Windows should be vertical in orientation, or square.

Shutters. If shutters are used, they must be sized to fit the openings and provided for all windows on a given wall.

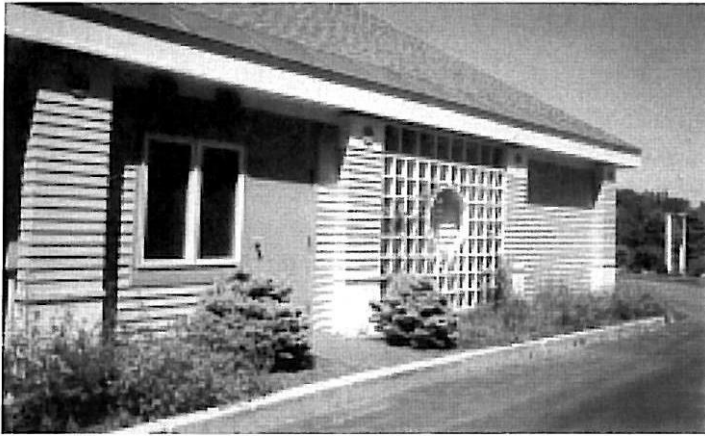


While the front plane of the wall of this building is broken, the offset does not collude to the ground. The projection becomes a billboard and the building is seen as a large box.



The scale of this 'big box' has been effectively reduced by architectural elements and detailing. The overhang provides protection for pedestrians and emphasizes the entrance.

Three views of a branch bank set in a mixed-use village setting. All facades were treated with equal importance. The front (top) faces the street and is built to the sidewalk, encouraging pedestrian traffic. The side of the building (middle) facing a single-family home is residential in scale and design. The canopy at the rear (bottom) provides a transition area between the parking lot and the back entrance.



Small scale buildings, especially those viewed at close range, offer all opportunity to display a high level of detailing to enrich the pedestrian environment.



Highly articulated windows work successfully as design details in the front facade of this contemporary medical building.



This building & ventilation equipment and service connections are highly visible, adding unnecessary clutter

Functional Elements. All vents, downspouts, flashing, electrical conduits, meters, HVAC equipment, service areas, loading docks, service connections, and other functional elements shall be treated as integral parts of the architecture, starting at the conceptual building design phase. When these elements need to be part of the facade (e.g., downspouts, vents) they shall be incorporated into the architecture through detailing or matching colors. Meters, utility banks, HVAC equipment, and other exterior service elements shall be contained in service closets, behind walls, or located out of view from the public. Building elevations presented for Planning Board review shall show the location and treatment of all functional elements.

Vending Machines. Where vending machines are provided, they shall be sited in locations that are not visible from the street. The site plan and architectural elevations shall show the location of all vending machines.

Illustrations. All elevations of proposed buildings shall be evaluated as part of the design review. The Planning Board may request perspectives of the building to illustrate the three-dimensional relationship between the front and side elevations. Elevations and perspective drawings shall include all landscape elements (trees, shrubs, lighting, street furnishings, etc.) that will be seen in conjunction with the facade.



The building's meters and service connections are located out of sight in this service cabinet.

OBJECTIVES

Building materials shall be treated as significant design elements that define the appearance of the structure and strengthen the sense of identity throughout Scarborough. The use of materials that give the appearance of New England architecture is strongly encouraged.

DESIGN STANDARDS

Materials Encouraged. Traditional, high-quality building materials common to northern New England (e.g., brick, clapboard, shingles or other similar products) shall be used as the primary siding material. Contemporary materials that have the same visual characteristics (e.g., cement plank clapboards or vinyl siding) are acceptable if attention is paid to detailing (e.g., comers, trim at openings, changes in material). Painted MDO plywood is acceptable when used in combination with traditional materials to give it scale. Long-term maintenance needs shall be a consideration in the selection of all building materials.

Materials Prohibited. Highly reflective or processed materials (e.g., metal or plastic panels, brushed aluminum, bronzed glass, concrete block, T-111, untreated plywood, dryvit, etc.) and multicolored brick (incorporating occasional white bricks in a random pattern) shall not be used on the primary or front-facing facade.

Colors. Traditional colors commonly found in New England villages are appropriate for all components of the building. Facade colors shall be low reflectance. The use of high intensity, high reflectance, chrome, metallic, or fluorescent colors or black is prohibited as the primary color.



Cement plank clapboard is a new material that resembles traditional wooden siding with less maintenance.

Trim. Where trim is used, it shall be a color that complements to the building's primary color. Neon tubing shall not be allowed as an exterior trim or accent material.

Detailing. Arbitrary changes in materials or embellishments that are not in keeping with the rest of the building are discouraged.



Three building that use traditional materials: brick, granite, and wood.



Reflective metallic siding



Metal panels



Multicolored brick



Split face block



Highly reflective glazed tile with bright plastic accents

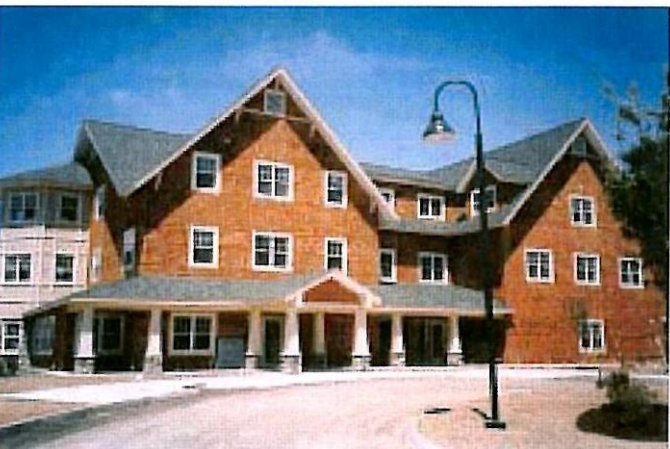
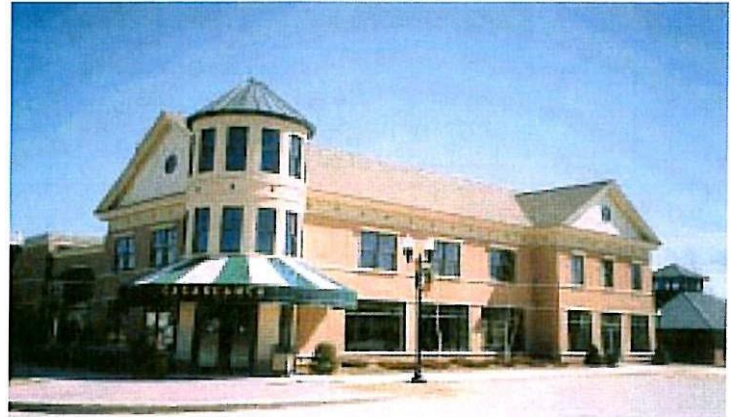
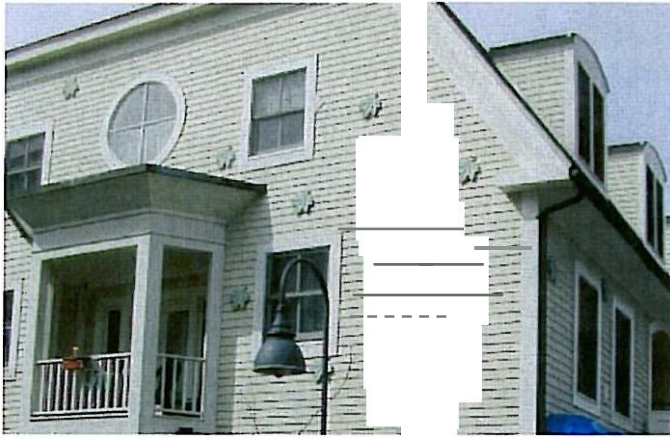


Textured plywood and arbitrary changes in materials



Painted concrete block

Examples of primary building materials and treatments that are prohibited in Scarborough's commercial districts.



Examples of the richness and variety of traditional New England color schemes.

OBJECTIVES

Awnings and canopies can enhance the appearance and function of a building by providing shade, shelter, shadow patterns, and visual interest. Where awnings are used, they shall complement the design, materials, color, and appearance of the building.

DESIGN STANDARDS

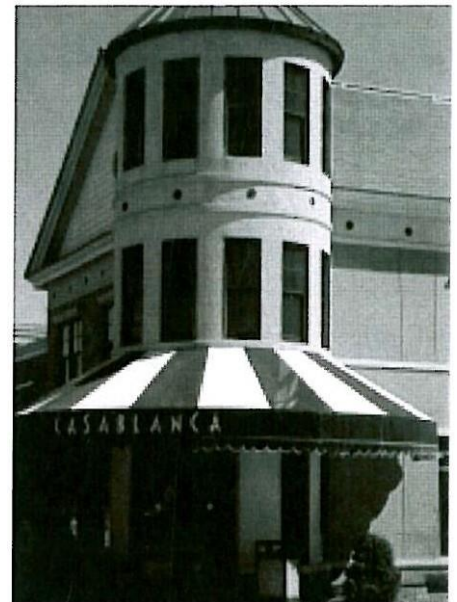
Location. Where awnings are used, both fixed or retractable, they shall be an integral element of the architecture. Awnings shall be located directly over windows or doors to provide protection from the elements.

Materials. Awnings and canopies shall not be made of reflective materials, such as metal or plastic. Their color shall match or complement the facade of the building.

Design Elements. Graphics used on awnings for identification or advertising shall be designed as an integral part of the signage program for the property, and shall be coordinated with other sign elements in terms of typeface, color, and spacing. Awnings shall not be used as advertising features or light sources. Backlit awnings are prohibited. Graphics on canopies are counted toward the total signage area.



Canopies over the doorways emphasize the main entrance and provide effective protection from the elements.



Backlit, highly reflective canopies are not appropriate in Scarborough. These canopies (above and to the right) function primarily as a large sign, which is not acceptable.

OBJECTIVES

Rooflines shall be designed to provide diversity in the form of the building and add visual interest to the streetscape. When used properly, rooflines can reduce the mass of large buildings, emphasize entrances, and provide shelter and shade for the pedestrian.

DESIGN STANDARDS

Pitched Roofs. Buildings with pitched roofs are strongly encouraged. Where pitched roofs are used, the minimal pitch shall be at least **5/12**. Projecting rooflines shall be designed to create strong shade/shadow patterns.

Shapes to be Avoided. False mansard, A-frames, and other non-traditional roof forms shall not be used as the primary roofline.

Flat Roofs. Flat roofs, especially on single-story isolated buildings, are discouraged in most applications. Where flat rooflines are used, the design shall create no horizontal line greater than 100 feet without a break, using features found on traditional New England buildings. See pp. 15-16 *Large Scale Buildings* for additional design standards. Flat roofs on multi-story office buildings are appropriate when designed in conformance with the *Office Building* design standards.

Parapets. Where parapets are used to break up a flat roofline, the height of the parapet shall be at least five percent of the total length of the wall.

Preferred Materials for Pitched Roofs. Composite asphalt shingles and standing-seam non-glare metal are preferred for visible roofing. High gloss roofing materials shall not be used. Roofing materials shall complement the color and texture of the building's facade. Roof colors shall be muted earth tones or a color that is darker than the facade. Stripes and patterns on the roof are strongly discouraged.

Roof-Mounted Equipment. Mechanical and other equipment mounted on rooftops must be screened from public view or grouped in a location where visibility is limited. Where used, screening for roof-mounted equipment shall be designed as an integral part of the architecture to complement the building's mass and appearance.

Roof-Mounted Signs. Roof mounted signs are prohibited by the Sign Regulations in the Zoning Ordinance.



The scale of this linear shopping plaza has been effectively reduced through variations in roof planes, dormers and a cupola.



Standing seam metal roofing is a traditional material common in older commercial buildings in New England.



A cupola projecting from this steeply pitched roof is an example of traditional forms used in a contemporary structure. Roof-mounted mechanical equipment has been effectively screened by balustrades.

OBJECTIVES

Buildings located on comers are particularly important because they help define the character of two streets. These high-visibility locations shall be emphasized by quality architecture and site development.

DESIGN STANDARDS [Amended 02-18-09]

Siting on Corner Lots. A building on the corner of two public streets shall be located close to the intersection and shall exhibit a strong relationship to both streets that it fronts. Where zoning allows, the Planning Board may permit a limited amount of parking and vehicular travel ways between the building and the property lines along one or more of the streets, but the majority of the parking shall be located to the side or rear of the building. The amount of parking and vehicular travel ways permitted between the building and the property lines along each street shall depend on both the zoning district and the context of the site.

Corner Buildings. Buildings on comers shall be a minimum of two stories or twenty feet (20') in height to add mass and visual prominence to the street.

Facade Treatment. Both facades of comer buildings shall be designed according to the standards in Facade Design, p. 5. Blank or unadorned facades facing streets on comer buildings are prohibited. The facade of the upper floor(s) shall be visually related to the ground floor through repetition of design elements, e.g., color, materials, window treatment, and detailing that will unify the structure and help frame the ground floor.

Corner Treatment. The architectural treatment of the street comer of the building shall emphasize its prominent position. This can be accomplished by greater massing and height, unique detailing, lighting, and other facade treatment to emphasize the front comer of the building. This comer treatment shall be designed to be visible from both streets. Where practical, an entrance to the building shall be located on the comer.

Focal Points. Comer locations offer opportunities to create dynamic focal points in the streetscape. These

can take the form of distinctive architectural elements, signs, sculpture, lighting, or landscaping. Focal points shall be visually related to the building as a whole, providing an accent without overwhelming it.



A retail building that is well-sited in its corner location. Attention to design detail gives the building human scale and visual interest.

OBJECTIVES

National franchises (e.g., restaurants, service stations, retail stores) are a welcome and permitted use within Scarborough's commercial districts. However, the design of these buildings can contribute to the loss of identity for Scarborough by the repetition of generic architectural forms that are found throughout the country. Buildings for these types of uses shall reflect an awareness of New England architectural traditions in their form, detailing, and materials.

DESIGN STANDARDS

Franchise Styles. Architectural forms primarily derived from building styles from other regions of the country are prohibited. New England regional prototypes from national franchises are permitted, provided they meet the Design Standards. Buildings that are stylized to the point where the structure is a form of advertising are not acceptable.

Coordination of Site Features. Applicants shall provide the Planning Board with illustrations that demonstrate how site features and accessory structures will be coordinated with the principle building. These may include dumpster screens, storage buildings, refrigeration lockers, playgrounds, signage, and lighting.



A fast food restaurant t/rat was designed to complement t/re vision for a /highway corridor



An addition to house an indoor playground bears 110 relationship to the existing structure.



The designs used for national franchises are often repeated across the country. Generic architecture has little or no reference to traditional New England forms and can further the loss of identity in Scarborough.



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Examples of building forms used for national franchises (left column). Examples of architecture from the same franchises which have been designed to local design standards (right column).

OBJECTIVES

Due to their visibility and mass, large scale buildings (20,000 square feet or greater), such as 'big box' retail or grocery stores, can greatly enhance or detract from the visual character of the commercial district. These buildings shall be designed as attractive pieces of commercial architecture that are consistent with the scale and form found in Scarborough traditional buildings.

DESIGN STANDARDS

Design and Massing. Large structures shall be designed to break up their mass into smaller visual components through the use of projections, recesses, and varied facade treatments. (See pp. 5-8, *Facade Treatment*).

Site Design. Scale reductions of large buildings shall be reinforced by appropriate site features such as pedestrian shelters, large trees, clearly-defined entrances, and site furnishings.

Architectural Details. Architectural details shall be used to reduce the scale and uniformity of large buildings. Elements such as colonnades, pilasters, gable ends, canopies, display windows, and light fixtures can be effective measures to add human scale.

Facades and Exterior Walls. Horizontal facades greater than too feet in length shall incorporate wall plane projections or recesses having a depth of at least 3% of the length of the facade and extending at least 20% of the length of the facade. Nor uninterrupted length of any facade shall exceed 100 horizontal feet.

Other devices to add interest to long walls include strong shadow lines, changes in rooflines, pilasters and architectural details, patterns in the surface material, and wall openings. All facade elements shall be coordinated with the landscape plan to ensure balance, proportion, and continuity.

Ground floor facades that face public streets shall have display windows, entry areas, or other such transparent features along 40% or more of their horizontal length.



The mass of this large building has been reduced by a columns and subtle changes in geometry.



Main entrances on large-scale buildings shall be designed as prominent focal points to orient customers.



A large retail establishment that still projects the image of a big box, despite the canopy and entrance treatment.

Smaller Retail Stores. Where principal buildings contain additional, separate stores which in total occupy less than 20,000 square feet of gross floor area, with separate, exterior customer entrances, the following standards shall apply:

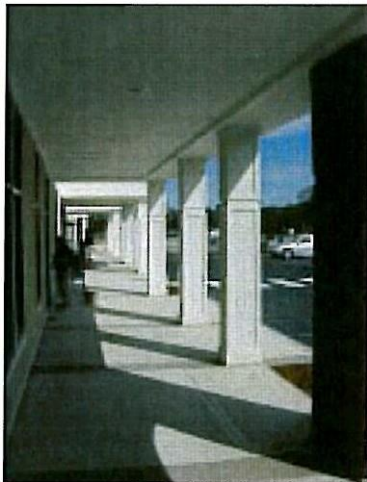
- The street level facade of such stores shall be transparent between the height of three feet and eight feet above the walkway grade for no less than 40% of the horizontal length of the building facade of such additional stores.
- Windows shall be trimmed and include visually prominent sills, shutters or other such forms of framing.

Entryways. Each principal building shall have a clearly defined, highly visible customer entrance featuring three or more of the following:

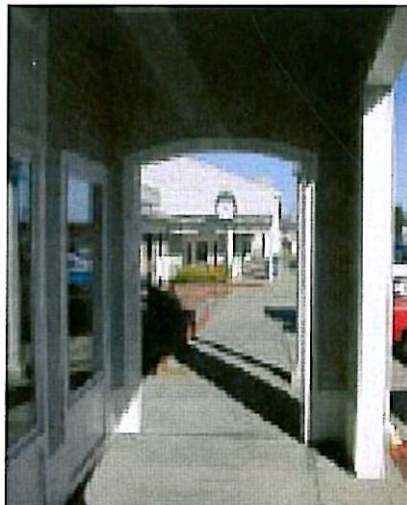
- Canopies
- Overhangs or recesses provide shelter
- Arcades that lead to entrances
- Raised corniced parapets over the door
- Peaked roof forms
- Outdoor patios
- Architectural details such as tile work and moldings which are integrated into the building structure and design, or
- Other features which are designed to add scale and visual interest to the buildings.

Where additional stores are located in the principal building, and customer entrances to such stores are outdoors, each additional store shall conform to the above requirements. All components used to enhance entranceways or provide a distinctive look shall be designed or detailed as integral parts of the whole building.

Multiple Entrances. All sides of a large scaled building that face an abutting public or private street shall feature at least one customer entrance to facilitate pedestrian access, minimize walking distances from cars, and reduce the scale of facades. Where a building abuts more than two streets, this requirement shall apply to only two sides of the building, including the side facing the primary public street and another side facing a second street.



Arcades call be an effective way to add little scale to large buildings. Architectural detailing and shadow patterns creates an inviting space.



The entrances to this larger grocery store are emphasized by projecting canopies, distinctive openings, and a covered arcade.

Features and Amenities. Large scale buildings shall contribute to the establishment or enhancement of the pedestrian environment by providing at least two of the following:

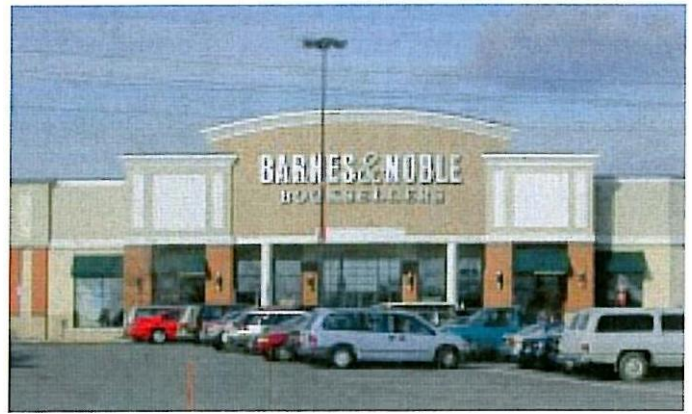
- Patio/seating area
- Pedestrian area with benches
- Window shopping walkway
- Outdoor playground area
- Kiosk area
- Water fountain
- Clock tower
- Other focal features or amenities that enhance the pedestrian environment.

Any such area shall have direct access to the public sidewalk. Such features shall be constructed of materials that are equivalent in quality to the building and landscape.

Outdoor Sales and Storage. Where allowable, areas for outdoor sales, storage, or service shall be designed as an integral part of the site and architectural plan, and shall meet the Service Areas standards (See Site Planning, *Service Areas*).

Cart Storage. Shopping carts must be stored inside the building, or in 'cart corrals', out of the way of pedestrian circulation. Cart storage areas shall meet the standards for accessory structures.

(See *General Architectural Principles*, p. 2)



Examples of large retail buildings that have been effectively designed to avoid the appearance of a 'big box'.



This retail store, attached to a large grocery store, has been designed as a11 individual building, with a separate entrance and architectural detailing. A covered walkway connects all the storejw1ts.

OBJECTIVES

Linear commercial structures (e.g., strip shopping centers, multi-tenant offices, or commercial buildings) shall be designed with facade and roofline elements that reduce their scale and add architectural interest.

DESIGN STANDARDS

Design. Buildings with multiple storefronts (e.g., strip shopping centers, one story office buildings) shall be visually unified through the use of complimentary architectural forms, similar materials and colors, consistent details, and coordinated signage. Variations in the front setbacks are strongly encouraged to add visual interest,

create spaces for common entries, outdoor eating / social spaces, and landscaped spaces.

Scale. Linear structures shall include architectural elements designed to provide shelter, encourage pedestrian movement, and visually unite the building. These can include covered walkways, open colonnades, arcades, and similar features.

Entrances. Pedestrian entrances to each building shall be clearly delineated to convey a sense of individuality. This can be accomplished by architectural detailing, roofline breaks, landscaping, lighting or a combination of these elements. Where covered walkways are used, they should extend the full length of the facade.

Rooflines. Variations in rooflines, detailing, and building heights shall be included to break up the scale of connected linear buildings.

Focal Points. Linear commercial buildings shall include a focal point _such as raised entrance way, clock tower, or other architectural elements - to add visual interest and help reduce the scale of the building.

Colonnades add visual interest to linear buildings, while providing scale and protection from the elements.



A commercial building that uses a clock tower as a focal point. Offset in the roofline helps to break up the mass of the building



Covered walkways add a shadow line which can reduce the scale of a long building and unify the facade.



A multi-tenant building with no variation in the roofline or facades to break up the scale.



A linear building that has been effectively scaled down by variations in the roofline and facade. Each storefront is treated as a separate entity. Variety in the use of materials adds visual interest to all facades. The covered walkway encourages pedestrian movement and window shopping.

OBJECTIVES

Service stations, car washes, and convenience stores shall be designed with facade and roofline elements that reduce their scale and add architectural interest.

DESIGN STANDARDS

Orientation. Service stations, convenience stores, and similar uses shall be sited to face the street. Pump islands and canopies shall be located in the rear so the primary building is the major feature seen from the road.

Architecture. The architecture shall be designed so all four sides are in compliance with these design guidelines. Windows or other forms of fenestration shall be included on the facade facing the street which shall be treated as a front facade (see *Facade Design*, p. 6-7). The front facade shall include a pedestrian entrance from the street.

Canopies. Service station canopies shall be visually compatible with the main structure through consistency in roof pitch, architectural detailing, materials, and color. Pitched roofs and fascia trim are preferred for canopies. Bands of bold color on the canopy and backlighting inside the canopy are prohibited.

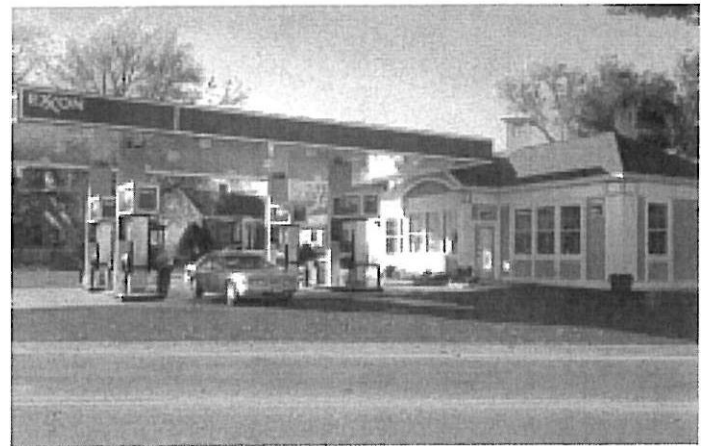
Large Openings. Openings for car washes or service bays must be integrated with the design of the building and sited so they are not directly visible from public roadways or adjacent residential areas.

Site Design. The site design must address the issues of off-site noise exposure, underground drainage systems to keep water off public streets (in the case of car washes), snow storage, circulation patterns, room for vehicle stacking, and other issues peculiar to these uses.

Pedestrian Circulation. Connections to the public sidewalk shall be included in the site plan to encourage pedestrian use. Access routes leading to or from service stations and convenience stores shall minimize conflicts with pedestrian circulation.



This service station canopy is designed to be an extension of the building. The columns, roofline, details, and signage contribute to a sense of continuity in the architecture.



The flat-roofed canopy bears no design relationship to the well-detailed convenience store in terms of form, materials, or architectural style. The store was designed to fit into tire residential surroundings.

OBJECTIVES

In the HP, RH and BOR Districts, large scale, multi-story office, research and hi-tech buildings (40,000 square feet or greater) are allowed and encouraged. These buildings shall be designed as attractive pieces of commercial architecture that help define the Town of Scarborough. Given the context and type of development in the HP, RH and BOR Districts, the Planning Board may apply alternative design standards to large scale office, research and hi-tech buildings which vary from a few specific sections of the Design Standards. These alternative standards are outline below. Other than these alternatives, the remainder of the Design Standards for Scarborough's Commercial Districts shall apply.

DESIGN STANDARDS

Permitted Materials. Metal panels and brushed aluminum are contemporary materials used in large scale office, research and hi-tech building construction. The Planning Board may allow non-reflective metal panels and brushed aluminum to be incorporated into the facade design of these structures. These materials shall be supplemented with the tradition, high quality building materials common to northern New England to maintain a regional vernacular and sense of identity throughout Scarborough.

Roof Treatment. Under the Flat Roofs Standard in the ROOFLINE Section (pp. 13), flat roofs are discouraged in most applications. In the HP, RH and BOR Districts, flat roofs are anticipated and acceptable on office, research and hi-tech buildings which are three or more stories in height. In these instances, changes in the roofline, pilasters, trim and other architectural detailing shall be used to vary and break up a flat roofline. Further, roof-mounted equipment must be screen from public view in accordance with the Roof-Mounted Equipment Standard on pp. 13.



Examples of multi-story office, research and hi-tech buildings that have employed metal panels and brushed aluminum, coupled with brick and other traditional northern New England building materials.



Each of these buildings exhibit predominately flat roofs, but the roof lines vary with the introduction of different roofline elevations and screened rooftop equipment and mechanicals.



OBJECTIVES

Drive-throughs shall be subordinate to the design of the main building to maintain the pedestrian orientation of the structure. Architectural design and circulation planning for buildings with drive-throughs require careful consideration to integrate them into the Scarborough environment. Drive-through operations and other automobile-oriented facilities shall be designed with facade and roofline elements that reduce their scale and add architectural interest.

DESIGN STANDARDS

Drive-Throughs. Where drive-through windows are allowed, they shall be incorporated into the design of the building through their scale, color, detailing, massing, and other architectural treatments.

Location. Drive-throughs shall avoid facing public or private roadways and shall generally be located at the side or rear of the building. Where drive-throughs are located at the rear, the site should be designed to ensure the safety of the employees and patrons.

Canopies. Drive-through canopies shall be visually compatible with the main structure. This can be accomplished through consistency in roof pitch, architectural detailing, materials, and color. Pitched roofs and fascia trim are preferred for canopies. Bands of bold color on the canopy and backlighting inside the canopy are prohibited.

Pedestrian Circulation. Access routes leading to or from drive-through facilities shall minimize conflicts with pedestrian circulation. Where walkways must cross driveways, motorists shall be made aware of pedestrians through signage, lighting, raised crosswalks, changes in paving, or other devices.



These banks' drive-through windows have been designed as integral parts of the buildings. They repeat the rooflines, forms, and materials.

BACKGROUND

~~Landscaping shall be an integral part of all site plan developments. Trees, shrubs, and other landscape elements can be used to accentuate buildings, create a sense of identity, and provide human scale. The applicant shall carefully evaluate the physical characteristics of each site and each plant when making the final selection to ensure that the plantings will survive and thrive in their selected location.~~

~~A Scarborough Plant Materials List has been developed to encourage property owners to look at many options in both form and species (see pp. 9-10). The list shall be considered a starting point in selecting plants.~~

Landscape Goals

- ~~• Reinforce the identity of Scarborough's commercial districts through the use of plant materials in scale with their surroundings.~~
- ~~• Enhance the attractiveness and scale of commercial development through the use of colorful plant materials with interesting forms and massing.~~
- ~~• Help define areas where pedestrians are safely separated from the road.~~
- ~~• Reinforce wayfinding by emphasizing entrances and circulation patterns.~~
- ~~• Increase the attractiveness of parking lots by reducing their scale, providing shade, and adding seasonal interest.~~
- ~~• Provide screening for less attractive parts of a site or incompatible land uses.~~

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~~Landscaping is an integral part of site development. With proper planning, trees, shrubs, and other plantings can provide shade, emphasize entrances, screen undesirable views, and add yearlong color and interest.~~

OBJECTIVES

~~Landscaping shall be used to complement the architecture, enhance human scale, reinforce circulation paths, highlight entrances, provide shade, and add seasonal interest. Scarborough's commercial districts shall be unified by a rich variety of street trees, flowering shrubs, and masses of color.~~

DESIGN STANDARDS

Preparation. ~~As part of the Site Plan application for site improvements involving parking lots with more than ten cars and/or more than 2,000-SF of building, a landscape plan shall be prepared by a landscape architect registered in Maine, or other qualified professional familiar with local growing conditions. The Planning Board, at their discretion, may require a peer review of landscape plans.~~

Selection. ~~The use of plant materials and landscape elements that require a low degree of maintenance is strongly encouraged. All plantings shall be resistant to insect infestation, drought, disease, roadside salt, and auto emissions, and hardy to Maine winters.~~

~~Plant material shall be selected with consideration to public health and safety. Plants to be avoided include those with poisonous fruits, large thorns, or invasive growth patterns, or shrubs that could provide hiding places along pathways or block the view of moving vehicles.~~

Coordination with Utilities. ~~The planting plan shall illustrate how plantings shall be coordinated with the location of underground and overhead utilities and lighting. The planting plan shall show screening for transformers, propane tanks, and similar utilitarian elements.~~

Variety. ~~A variety of plant materials that exhibit seasonal color and interesting texture is encouraged to create a distinctive, yet low maintenance environment. Plantings plans shall strike a balance between monoculture (the use of a single species) and too much variety. A list of suggested plant is included on pages 9-10.~~

Simplicity. ~~Planting design shall stress simplicity in form and limit the number of species. Shrubs, perennials, annuals, ornamental grasses, etc. used along the roadways should be planted in masses or 'drifts' that emphasize colors and textures, rather than used as single specimens.~~

Irrigation. ~~The installation of underground irrigation is encouraged in front setbacks, public spaces, and other highly visible areas. It shall be coordinated so it does not cause overflow or flooding in pedestrian use areas, such as walkways, sidewalks, or parking lots.~~

Integration. ~~Plantings shall be massed to soften edges, corners, and pavement areas, and to integrate the building into the landscape.~~

Boulevard Effect. ~~Large spreading deciduous trees shall be planted in appropriate locations along Scarborough's roads to define the edge of the travel way, provide shade for pedestrians, clean the air, and add scale to commercial corridors.~~

Existing Trees / Plants. ~~Wherever practical, existing or unique trees or other significant plantings shall be preserved. The landscape plan shall illustrate which vegetation will be preserved and what protection measures will be taken during construction. Transplanting and reusing trees and other plantings is strongly encouraged.~~



An example of a simple planting plan that features drifts of perennials and ornamental grasses to accentuate the front of a medical office building.

Safety. The ultimate form and height of plantings shall be considered so they will not create unsafe conditions or block sight lines for pedestrians, bicyclists, or motorists as they mature.

Rocks. Large rocks shall be used as landscape elements very sparingly and only as accents in mass plantings. Where used, they shall be buried for at least half of their depth.

Ground Cover. Extensive areas of bark mulch shall not be used as a substitute for live ground cover. Where mulch is used, it shall consist of dark, decomposed shredded bark, with pieces less than 1" in any one dimension.

Buffers & Screening. Plant materials and other landscape elements shall be used to create suitable buffers between residential and commercial properties. The design of buffers shall consider the appearance from both commercial and residential viewpoints. Evergreen plantings are particularly effective for year-round buffering.

Minimum Plant Sizes. Unless otherwise required by site conditions, plant materials shall meet the following minimum sizes:

Canopy Trees	2-1/2" caliper
Flowering Trees	2" caliper
Evergreen Trees	5-7' height
Deciduous Shrubs	24" height
Evergreen Shrubs	18" ht/spread
Perennials	2-year clumps
Ornamental Grasses	2-year clumps
Ground Covers	3" pots



Existing trees were presented to maintain visual interest, provide shade, and retain site character.

The Planning Board may require larger plants for special locations, such as within the Route One ROW and along Haigus Parkway. The use of bare root plant material shall be avoided.

Guarantee Period. All lawns and plant materials shall be guaranteed for a period of not less than 2 years. The developer shall submit a copy of a guarantee and a contract with the landscape contractor, indicating the terms of the guarantee period, or may obtain a letter of credit.

Resources. The following sources are recommended for additional information on the planting and care of trees:

Architectural Graphic Standards. Planting Details, James Urban, ASIA. pp. 178-182. 1998.

Principles and Practice of Planting Trees and Shrubs. International Society of Arboriculture. 1997.

American Standard for Nursery Stock: ANSI Z60.1-1996. American Association of Nurserymen. 1997.



The entrance to this medical building is reinforced by plantings that provide seasonal interest.



Examples of landscape improvements for large office and warehouse buildings. The emphasis is on preservation of existing trees, simple plantings, and earth berms to help reduce the scale of the buildings.

OBJECTIVES

Landscaping is necessary in parking lots to improve the visual appearance, reduce the scale of paved areas, define edges, provide shade, and add seasonal interest. Trees, shrubs, and ornamentals shall be planted in large groups, or drifts, appropriate to the scale of the space.

DESIGN STANDARDS

Total Landscape Area. 10-15% of the total area of a parking lot shall be landscaped. In general, larger and more visible parking lots shall have more intensive landscape treatments. Driveways leading into and around parking lots are not calculated in determining the area of a lot. The Planning Board will have discretion in the amount of landscaping required.

Undesirable Plant Materials. Trees that may damage automobiles (dripping sap, messy fruit, or hard seeds such as acorns) are discouraged in or around parking lots.

Location of Trees. Trees in parking lots shall be planted in informal groups, straight rows, or irregular groupings as space permits, or concentrated in certain areas. Trees shall be planted a minimum of five feet from the end of parking lot islands.

Screening. Parking lots shall be separated from the street by plantings, earth berms, walls, and/or other landscape elements to minimize the view of vehicles, while still allowing the public to see the building.

Safety. Where trees abut pedestrian walkways or places where people will be walking in parking lots, their lower branches shall be pruned to at least eight feet above the paved surface to avoid becoming an obstacle. Shrubs in parking lot islands shall not exceed 3' in height to avoid blocking visibility.

Parking Stall Separation. Landscaped areas used for separation between banks of parking stalls shall be a minimum of nine feet in width.

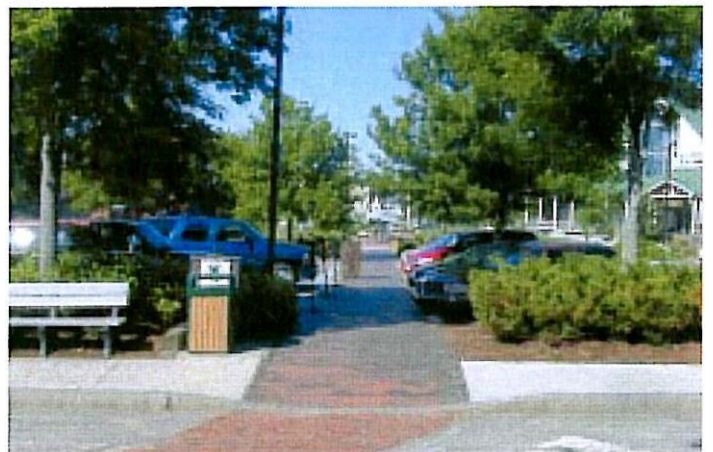
Snow Storage. Landscape materials surrounding parking lots and in islands shall be able to tolerate large quantities of snow stored during winter months. Delicate plant material shall not be used in areas where they are likely to be buried under snow.



Plants selected for parking lots shall be able to withstand severe growing conditions and weather



A low earth berm effectively screens a parking lot of Ornamental trees or plantings added to the berm would provide a greater degree of attractiveness, as well as separation from the roadway.



These trees have been pruned so they minimize interference at
Landscaping/5

eye level for both drivers and pedestrians.



Parking lot islands shall be large enough for trees to achieve full maturity and to prevent damage from car doors and snowplows.



This island of hostas adds a spot of color to the parking lot and can withstand harsh winter conditions.



Parking lot islands provide an opportunity to use a variety of plant species to break up the mass of pavement and introduce interesting textures.



Large groups of shrubs plus more trees would have screened the parking lot and resulted in a more attractive setting.

OBJECTIVES

Trees shall be used throughout Scarborough's commercial district, planted within the right of way, near buildings, and throughout parking lots. Trees shall be sited to achieve full maturity and display their natural form. Planting plans shall emphasize large shade trees within or near the rights of way in order to create a more unified streetscape.

DESIGN STANDARDS

Suitability. Trees shall be resistant to insect infestation, drought, disease, roadside salt, and auto emissions. All plant material shall be suitable to Scarborough's growing conditions. A list of street trees for Scarborough is included in the Scarborough Plant Materials List, *pp.9-10*.

Coordination with Route One Plans. Planting plans for commercial properties along Route One shall be coordinated with the recommendations in Guiding Growth and Public Improvements on Route One, which was adopted as part of the Scarborough Comprehensive Plan, 1994.

Coordination with Architecture. Trees shall be carefully selected and located to complement the building elevation without blocking storefronts, signs, or lighting.

Roadside Plantings. Trees shall be planted a minimum of 5' from the edge of the roadway. Trees and other landscaping planted at intersections shall preserve an adequate sight triangle as determined by the traffic engineer.

Pedestrian Movement. The lower branches of trees planted near pathways and sidewalks shall be at least eight feet above the pavement to minimize interference with pedestrian movement throughout the year.

Root Zones. Trees shall be planted in locations where their root development and branching patterns will not interfere with window displays, signage, underground or overhead utilities, streets, and sidewalks.



Trees have been pruned to prevent interference with pedestrian movement. An adequate amount of room has been provided to accommodate root development.



Masses of trees can help tie buildings into the site and provide attractive patterns of light and shade.



These mature maples were carefully saved during the development of this shopping area. The trees add character, visual interest, and shade.

OBJECTIVES

A variety of appropriate shrubs and ornamental plantings shall be used throughout the commercial districts to add seasonal color, provide visual interest, help define spaces, screen undesirable elements, and emphasize circulation routes.

DESIGN STANDARDS

Variety in Plantings. The use of flowering shrubs, evergreen shrubs, perennials, annuals, vines, ornamental grasses, and other plant material is highly recommended, in addition to street trees, evergreen trees, and ornamental trees. A listing of plantings that is suitable for Scarborough is provided at the end of this chapter. See **Scarborough Plant Materials List**, pp. 10-11.

Selection. The selection of plantings shall consider ultimate height and spread, maintenance, pest and disease tolerance and their nuisance potential (severe thorns, excessive leaf litter, etc.). Invasive species shall not be used.

Foundation & Wall Plantings. Planting beds are recommended along exposed building edges, foundations and uninterrupted walls. Plantings shall provide either a formal pattern or a naturalistic blend of heights, colors, and textures for visual relief.

Accent Plantings. The installation of special planting beds is encouraged in appropriate areas for visual accents in the landscape. These can include daylily beds, butterfly gardens, bog gardens, fragrant gardens, shade gardens, yellow foliage gardens, early blooming gardens, texture gardens, etc.



Ornamental grasses can provide an aesthetically effective, low maintenance way to add year round texture.

Mass Plantings. Shrubs and perennials shall generally be planted in large masses or 'drifts,' rather than as individual specimens, to provide a pleasing effect for both motorists and pedestrians.

Safety. Plant material shall be selected with due consideration to public health and safety. Avoid plants with poisonous or messy fruits or leaves, large thorns, or overly aggressive growth patterns. Large shrubs which could provide hiding places along pathways or block the view of moving vehicles shall be avoided.



Masses of daylilies (above) or groups of flowering shrubs (below) make a bright, colorful statement in front of these commercial buildings.

OBJECTIVES

The planting plans presented to the Planning Board shall anticipate a 3-8 year growing cycle to achieve maturity for shrubs, and ~~to 20~~ years or more for trees. Proper maintenance shall be assured so the site continues to improve as the landscaping achieves maturity. The Site Plan shall be designed and plantings selected with due consideration for maintenance requirements.

DESIGN STANDARDS

Maintenance Plan. As part of the Site Plan application for buildings > 2,000 SF, a written maintenance plan shall be provided for all landscape elements to be installed on the property.

Details of Plan. Topics to be addressed shall include (but not be limited to) initial installation, guarantee period, replacement policy, periodic and seasonal maintenance, special considerations, use of pesticides and fertilizers, irrigation, and seasonal displays.

Natural Forms. All plant material shall be allowed to achieve their natural forms without excessive pruning. Shaping evergreen shrubs into tight geometrical forms shall be avoided.

Low Maintenance Materials. The use of plant materials and landscape elements that require a low degree of maintenance is strongly encouraged. Planting characteristics to be considered include: drought resistance (except where irrigated), tolerance to auto emissions, disease and insect resistance, lack of thorns that could trap debris, and relatively light leaf litter for ease of fall cleanups.

Replacement Planting. Where plant materials specified on the planting plan do not survive or are damaged, they shall be replaced and/or reinforced in accordance with the two-year performance guarantee to maintain conformance with the approved planting plan and to provide the necessary landscape effect.



Shrubs have been excessively pruned so their natural form is no longer apparent.



A mature shrub next to a driveway could cause problems with visibility for cars exiting the driveway.



Care must be taken to insure that trees are given room to achieve full maturity and natural form, illustrated at right. Tight planting pockets and installation too close to buildings may put stress on trees and plants and can present a problem when removing dead materials (below).



OBJECTIVES

The plants on this list have been derived from a number of sources to inspire a greater landscape variety in Scarborough. The final selection of materials shall consider the specific growing requirements and characteristics of each plant and the conditions present within the site.

STREET TREES

Aesculus hippocastanum	Baumanii Horsechest.
Acer campestre	Hedge Maple
Acer ginnala	Amur Maple
Acer x. freemanii	Armstrong Maple
Acer x. freemanii	Autumn Blaze Maple
Acer rubrum	Red Maple
Acer saccharum	Sugar Maple
Acer tataricum	Tartarian Maple
Acer triflorum	Three-flower Maple
Amelanchier	Shadblow
Betula nigra	River Birch
Carpinus betula fastig.	Upright Hornbeam
Carpinus caroliniana	American Hornbeam
Cercidiphyllum japon.	Katsura Tree
Cladrastis lutea	Yellowwood
Corylus colurna	Turkish Filbert
Crataegus crusgalli	Cockspur Hawthorn
Fraxinus Americana	White Ash: 'Aut. Purp'
	'Aut. Applause'
Ginkgo biloba	Maidenhair Tree (m)
Gleditsia triacanthos	Thornless Honey Locust
Gymnocladus dioica	Kentucky Coffee Tree
Liriodendron tulipifera	Tulip Poplar tree
Magnolia acuminata	Cucumber tree
Prunus accolade	Accolade Cherry
Prunus maackii	Amur Chokecherry
Pyrus calleryana	Cleveland Pear
Quercus alba	White Oak
Quercus bicolor	Swamp White Oak
Quercus coccinea	Scarlet Oak
Quercus imbricaria	Shingle Oak
Quercus palustris	Pin Oak
Quercus robur	Upright English Oak
Quercus rubra	Red Oak
Quercus shumardi	Shumard Red Oak
Sophora japonica	Regent Scholartree
Tilia cordata	Littleleaf Linden
Ulmus parvifolia	Lacebark Elm
Ulmus Americana	Princeton American
Elm; Frontier Elm	
Zelkova serrata	Greenvase Zelkova

ORNAMENTAL TREES

Acer campestre	Hedge Maple
Acer ginnala	Amur Maple
Aesculus carnea	Red Horsechestnut
Amelanchier Canadensis	Serviceberry
Carpinus betulus	European Hornbeam
Carpinus carolinianum	American Hornbeam
Celtis occidentalis	Hackberry
Cornus kousa	Kousa Dogwood
Cornus mas	Cornealancherry
	Dogwood
Cotinus obovatus	American Smoketree
Crataegus crus galli	Cockspur Hawthorne
inermis 'cruzam'	
Crataegus viridis	Winter King Hawthorn
Halesia Carolina	Carolina Silverbell
Maaeki amurensis	Maaekia
Magnolia loebneri	Lochner Magnolia
Magnolia stellata	Star Magnolia
Malus species	Crabapple
Nyssa sylvatica	Tupelo
Ostrya virginiana	Ironwood
Phellodendron arboretum	Amur Corktree
Prunus sargentii	Sargent Cherry
Prunus subhirtell	Higan Cherry
'Autumnal is'	
Pyrus calleryana	Bradford Pear
Sorbus alnifolia	Korean Mountain Ash
Syringa reticulata	Tree Lilac 'Ivory Silk'



EVERGREEN TREES

Abies concolor	White Fir
Abies fraseri	Fraser Fir
Picea abies	Norway Spruce

Picea-glauea-	White-Spruce-
Picea-omorika-	Serbian-Spruce-
Picea-pungens-	Colorado-Spruce-
Pinus-resinosa-	Red/Norway Pine-
Pinus-strobes-	Eastern-White Pine-
Thuja-occidentalis-	American-Arborvitae-
Tsuga-Canadensis-	Candian-Hemlock-
Tsuga-caroliniana	Carolina-Hemlock



FLOWERING AND ORNAMENTAL SHRUBS

Aesculus-parviflora	Bottlebrush-Buckeye-
Aronia-arbutifolia-	Red-Chokeberry-
Berberis-thunbergii	Barberry
'Crimson-Pygmy'	
Cotinus-coggygria-	Common-Smoketree-
Cotoneaster-adpressa-	Creeping-cotoneaster-
Cotoneaster-divaricatus-	Spreading-cotoneaster-
Cotoneaster-horizontalis-	Rockspray-Cotoneaster-
Deutzia-gracilis-	Slender-Deutzia-
Enkianthus-campanulat-	Redveined-Enkianthus-
Eunymus-alatus-comp-	Dwarf-Burning-Bush-
Forsythia-'Sunrise'-	Sunrise-Forsythia-
Hydrangea-paniculata-	Panicle-Hydrangea-
Ilex-verticillata	Winterberry
Myrica-pensylvanica	Bayberry
Potentilla-fruticosa-	Bush-Cinquefoil-
Prunus-maritime-	Beach-Plum-
Rhododendron-species	Rhododendron-species-
Rosa-rugosa-	Beach-Rose
Viburnum-prunifolium-	Blackhaw-Viburnum-
Viburnum-sargentii-	Sargent-Viburnum-
Viburnum-trilobum-	Amer. Cranberrybush-
Xanthorhiza	Yellowroot
simplicissima	Deschampsia-

PERENNIALS

Achillea-millefolium-	Yarrow
Aster-x-frikartii-	New-England-Aster-
Astilbe-varieties-	Astilbe
Coreopsis-vertidillata-	Moonbeam-Coreopsis-
Echinacea-purpurea-	Purple-coneflower-
Hemerocallis-species-	Daylilies
Liatris-spicata	Gayfeather-
Malva-aleca-'Fastigiata'-	Hollyhock-Mallow-
Perovskia-atriplicifola-	Russian-Sage-
Rudbeckia-'Goldsturm'-	Black-Eyed-Susan-
Sedum-telephium	Autumn-Joy-Sedum



ORNAMENTAL GRASSES

caespitosa-Festuca-	Tufted-Hair-Grass-
ovina-'glauea'-	
Miscanthus-sinensis	Purple-Silver-Grass



BACKGROUND

Signs play a central role in providing information, wayfinding, and setting the tone for Scarborough's commercial districts. They inform motorists and pedestrians, while having a direct effect on the overall appearance of the roadway.

Signage Goals

- Provide basic, legible information about commercial establishments with attractive, highly legible signage.
- Encourage forethought in the design, size, placement, and graphic format of all signage used in the commercial areas of Scarborough.
- Create distinctive commercial corridors and nodes, where signage is compatible with quality architecture and site design.
- Reduce visual clutter along Scarborough's major roadways.
- Protect the investment of commercial interests throughout Scarborough by establishing a quality benchmark for future signage, in keeping with the design standards.

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A simple, attractive sign that relates to the buildings style and materials.

OBJECTIVES

Commercial uses in Scarborough shall be identified by attractive, legible signs that serve the needs of the individual business, complement the site and the architecture, and are legible to both the motorist and pedestrian. All new and replacement signs erected within Scarborough's commercial districts shall be designed to meet these standards.

DESIGN STANDARDS

Signage Plan. A Signage Plan shall be submitted as part of the Site Plan application. It shall be developed by design professionals experienced in commercial signage or environmental graphics. The applicant shall expect to resubmit the plan to the planning staff if the building's tenant is unknown at the time of application.

Compatibility. Sign shall be designed to achieve a high level of visual compatibility with the building(s) and its surroundings through the use of similar detailing, form, color, lighting, and materials.

Design. The shape of the sign shall complement the architectural features on the building. Simple geometric shapes are preferred for all signage. Signs shall be trimmed and detailed to complement the building.



These discreet facade-mounted signs are well-integrated into their commercial buildings.

Lettering Size. As a general rule, the minimum lettering size for identification signs shall be six inches in height. Smaller letters are generally unreadable at high speeds and may require motorists to slow down to read them, which could potentially be a safety hazard.

Location. Signs shall be mounted in locations that do not block motorists' line of sight or create a hazard for pedestrians or bicyclists. Roof mounted signs are strongly discouraged. Roof mounted signs that project above the roofline are prohibited.

Street Numbers. The principal site identification sign shall contain the street address shown in a prominent location to facilitate wayfinding and 911 emergency response.

Advertising Features. Objects other than signs designed primarily to attract public attention are prohibited in the commercial district because they distract motorists and contribute to visual clutter. Examples of prohibited advertising features include greater-than-life size models of food or other products, replicas of spokes-people associated with commercial products, rows of flags or banners, and internally-lit bands of color.

Standard Note. Any modifications to signage that has been approved by the Planning Board shall comply with the Standard Note. No change from the conditions of approval is permitted unless an amended plan is first submitted to and approved by the Planning Board.





Highly legible signs near roadways characterized by simplicity in materials, forms, and letting.



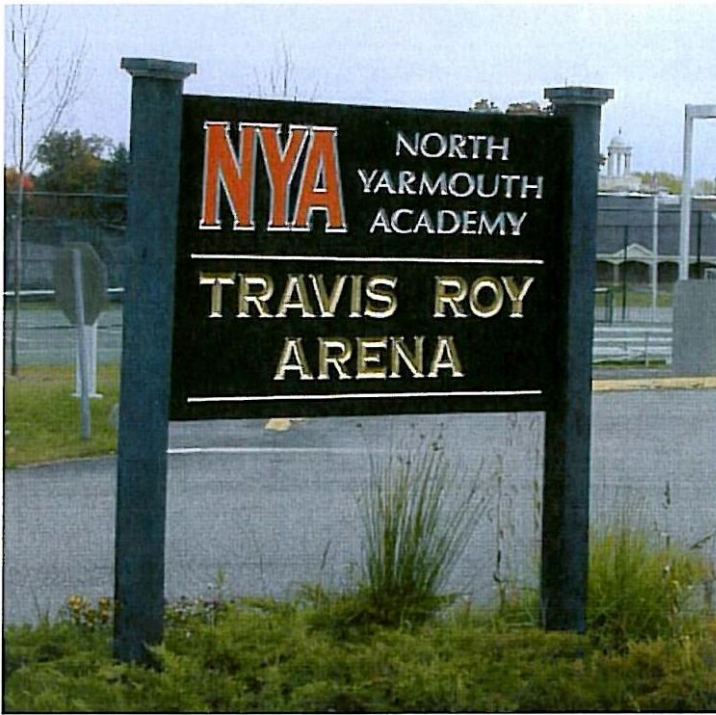
Internally lit letters and logos are preferred over whole panels. Signage is scaled to the architectural elements that surrounds it.



This site directional clearly identifies destinations with a minimum of wording, allowing motorists to make decisions without having to stop.



The main sign provides enough information to orient people. The sign would be more legible without the lower panels.



These signs achieve compatibility through the repetition of form, detailing, and materials.

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Advertising features distract motorists, add to visual clutter and diminish Scarborough's sense of identity.



Information overload contributes to roadside clutter and diminishes the value of individual signs.



A sign that is out of scale with its surroundings.

OBJECTIVES

Signs used to identify a business shall be kept simple and direct in message and content. They shall convey only the most essential information about the business. Motorists should not be distracted by signs containing excessive information.

DESIGN STANDARDS

Content. Identification signs shall contain a maximum of either 30 letters or 7 bits of information. A bit can be a syllable or a symbol. Repetitious information between signs and buildings shall be avoided, regardless of the sign area allowed.

Advertising. The use of 'sponsor' logos, slogans, or other messages on a tenant sign to promote products or services other than the primary tenant, is strongly discouraged. If a sign is sponsored, the name of the sponsor and/or its logo shall not occupy more than 25% of the total face of the sign.

Readerboards. Readerboards, with stationary or electronic text, are strongly discouraged within Scarborough's commercial districts, and prohibited within the HPZ district. Where readerboards are part of a permanent sign, they shall contain no more than three lines of text. Lettering height shall be a maximum of 6". The readerboard shall be fully integrated into the overall sign design by virtue of its form, scale, color, and detailing. Readerboards will be considered part of the total signage area.



Readerboards are strongly discouraged throughout the commercial districts.



A sign where the sponsor covers 75% of the sign area.



A typical sign treatment for a large retailer



National chains respond favorably to design standards.

OBJECTIVES

Facade mounted signs used to identify commercial properties shall provide the necessary information without overwhelming the building.

DESIGN STANDARDS

Design. Facade mounted signs shall be designed as an integral element of the architecture. The shape and materials of the sign shall complement the architectural features on the building.

Location. Signs shall not be mounted in locations that obscure architectural details on the building. Signage shall be mounted on vertical surfaces without projecting above the fascia trim. In general, signs shall be located a minimum of 18" from the corner of the building.

Hardware. Signage shall be mounted with concealed hardware. Metal hardware shall be stainless steel or galvanized to prevent rust and corrosion that could stain or discolor the building. Where hardware will be painted to blend with the sign, rust inhibiting paint shall be used to prevent rust streaks.



This sign is well integrated with the architecture, using only the essential information about the retailer.



For the same type of establishment, the sign in the lower example serves as a billboard, with extraneous information.



This facade-mounted sign integrates well with the building design. Its placement emphasizes the corner entrance.



Mounting hardware can emphasize a sign and greatly enhance the building's appearance.

OBJECTIVES

Multi-tenant commercial properties shall provide legible, attractive signs that help people identify the property without contributing to the visual clutter in the commercial district. Signage shall stress the identity of the place and de-emphasize individual tenants that occupy it.

DESIGN STANDARDS

Hierarchy of Signs. A hierarchy of sign age shall be established to facilitate wayfinding and minimize site clutter. Multi-tenant properties shall be identified by a simple identification sign in a highly visible location.

Identification Signs. Multi-tenant buildings or multi-building sites shall have one identification sign conveying an overall identity for the property. This sign shall be located near the main entrance to reinforce circulation patterns and minimize visual clutter.

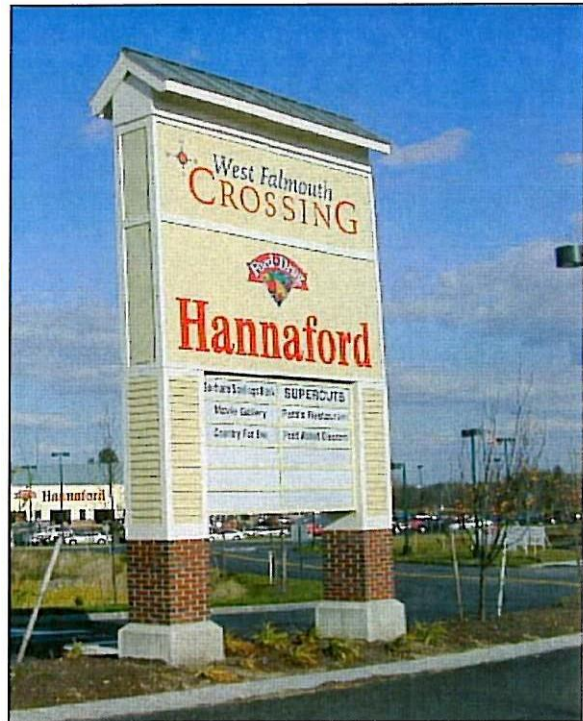
Identification signs that also list multiple tenants shall exhibit a logical hierarchy in the display of information (i.e., address, name of building/development, primary tenant, other tenants). Only essential information (the name of the tenant) shall be displayed on the main sign. Phone numbers, hours of operation, advertising slogans, etc. should not be listed.

Street Numbers. The main identification sign for multi-tenant properties shall incorporate the street address into the sign to facilitate wayfinding and 911 emergency response.

Compatibility. The design of multi-tenant signs shall be coordinated with the design of the principle building(s) in terms of color, materials, detailing, and style.

Color Consistency. Multi-tenant signs shall conform to a simple color and graphic palette in order to minimize the confusion and clutter of the sign. In general, multi-tenant signs shall have no more than three colors.

Landscaping. Landscaping surrounding signs for multi-tenant buildings shall be consistent with the landscape treatment for the entire property.



Multi-tenant signs that establish a clear hierarchy within their shopping complexes. The detailing matches that found in the architecture. The lower sign is somewhat over scaled.



The shopping center -c logo (at top) is overpowered by the individual signs below. There is too much information for a motorist to absorb while driving.



A multi-tenant sign with a clear hierarchy of information. The name of the plaza is at the top in bolder lettering. Individual tenants are listed on contrasting backgrounds for legibility.



The names of individual tenants on these signs (both above) compete for attention, making it easy difficult to read while driving by.

OBJECTIVES

Lighting for externally-lit signs shall be designed as an integral part of the sign design. Lighting shall not create glare that would distract motorists or pedestrians, nor shall the degree of illumination disturb the surrounding residential areas or contribute to light pollution. See **Lighting Chapter** for additional information.

DESIGN STANDARDS

Light Level. The illumination level on the vertical surface of the sign shall be bright enough to provide a noticeable contrast with the surrounding building or landscape without causing undue glare or reflection.

Lighting. Lighting fixtures shall be carefully located, aimed, and shielded so that light is directed only onto the sign facade. Lights shall not be aimed toward adjacent streets, sidewalks, or abutting properties. Ground-mounted lighting shall be screened or partially buried to minimize the view of the light source.

Light Sources. Top-mounted lighting fixtures shall be used if they are directed downward in a manner that hides the light source. Uplighting may be used if the fixture can be aimed to prevent spillage beyond the sign.

Design. Light fixtures and mounting devices shall be selected to complement the color and design of the sign and the architecture. Concealed light sources are strongly encouraged.



In both examples above and below the top-mounted light fixtures are well-located, aimed, and shielded so that only the sign is lit



These top-mounted light fixtures are not well shielded nor integrated into the sign.

OBJECTIVES

Internally lit signs shall consist of light lettering and/or symbols on a dark background, and shall not act as light fixtures in their own right.

DESIGN STANDARDS

Design. Internally-lit signs shall consist of light lettering and/or symbols set against a dark background to minimize the amount of light emanating from the sign. Internally-lit letters and symbols are preferred over whole panels that are internally lit. Letters and/or symbols on panels shall constitute no more than 40% of the sign's surface area.

Mounting Systems. Signs shall be mounted in a manner that provides adequate support for the weight of the sign. Mounting systems shall be designed to be compatible with the architecture in terms of color, forms, and style. Electrical connections, wiring, junction boxes, and other similar devices shall not be visible from pedestrian pathways or roadways.

Intensity. Internally-lit signs shall not act as light fixtures or cause glare on nearby pathways or roadways. Lighting levels shall not exceed 1 fc of illumination measured 10 feet from the base.

Maintenance. Signs shall be located where they can be easily maintained. Non-functioning bulbs shall be replaced immediately.



An effective use of individual internally-lit letters to create a simple identity for a commercial building.



The sign's dark background and light lettering emphasize the bank's name while minimizing glare. Information occupies about 40% of the sign.



The white background of this sign will increase glow

OBJECTIVES

Most commercial uses in Scarborough's commercial districts rely upon temporary signs on occasion to convey specific information, alert the public to special events, or announce new businesses. The design and placement of temporary signs shall be closely related to existing sign systems, landscape improvements, and the building design to avoid visual clutter.

DESIGN STANDARDS

Content and Design. The same standards established for the content and design of permanent signs shall be applied to temporary signage.

Location. Temporary signs shall be installed in locations that do not create a hazard for pedestrians or vehicles.

Size. The total size of temporary signs, regardless of function, shall not exceed 20% of the business' total signage area.

Lighting. Temporary signs shall not include any additional source of illumination, either internal or external.



Examples of temporary signs that are prohibited.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 1, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 24-042. Move approval of the first reading to repeal in its entirety Chapter 415A Scarborough Roadway Impact Fee Ordinance: Dunstan Corner Capital Improvement District; repeal in its entirety Chapter 415B Scarborough Roadway Impact Fee Ordinance: Haigis Parkway / Route One Capital Improvement District, repeal in its entirety Chapter 410 Scarborough Roadway Impact Fee Ordinance: Payne Road Area Capital Improvement Districts; and replace with amended Chapter 415 Impact Fee Ordinance with an effective date of July 1, 2024, and schedule a public hearing and second reading for Wednesday, May 15, 2024.
[Planning Director, Town Engineer]

Planning Director, Town Engineer

Ought to Pass

Sponsor

Recommendation

05/01/2024—Vote:

First Reading/Vote

05/15/2024

Public Hearing

06/05/2024 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: May 1, 2024

ACTION ITEM: Order No. 24-042**SUBJECT:**

First reading and schedule a public hearing and second reading to repeal in its entirety Chapter 415A Scarborough Roadway Impact Fee Ordinance: Dunstan Corner Capital Improvement District; repeal in its entirety Chapter 415B Scarborough Roadway Impact Fee Ordinance: Haigis Parkway / Route One Capital Improvement District, repeal in its entirety Chapter 410 Scarborough Roadway Impact Fee Ordinance: Payne Road Area Capital Improvement Districts; and replace with amended Chapter 415 Impact Fee Ordinance with an effective date of July 1, 2024. *[Planning Director, Town Engineer]*

PURPOSE:

To review ordinance amendments to consolidate existing impact fees into one chapter, create a new recreation impact fee, repeal three Payne Road Impact fees and establish two new roadway impact fees with an effective date of July 1, 2024.

BACKGROUND:

State Statute 4354 Impact Fees (1987) authorizes municipality's to require construction of off-site capital improvements or the payment of impact fees instead. A municipality may impose an impact fee either before or after completing the infrastructure improvement.

The requirements may include construction of capital improvements or impact fees instead of capital improvements including the expansion or replacement of existing infrastructure facilities and the construction of new infrastructure facilities.

Applicable Infrastructure Facilities May Include:

- Wastewater collection and treatment facilities
- Municipal water facilities
- Solid waste facilities
- Public safety equipment and facilities
- Roads and traffic control devices
- Parks & other open space or recreational areas, and
- School facilities

Impact fees are intended to pay for the portion of new capital improvements that are needed to service growth. Fees must be reasonably related to the development's share of the cost of infrastructure or, if the improvements were constructed prior to the development, the fee must be reasonably related to the portion or percentage of the infrastructure used by the development. Fees are designed to pay for capital improvements, not maintenance, operating costs or service delivery.

Impact fee funds must be segregated from general revenues and a schedule to use the funds consistent with the capital investment component of the comprehensive plan must be established. A mechanism to refund impact fees that exceed costs or that were not used must also be established.

EXISTING ORDINANCES

Scarborough began imposing impact fees on development in 1990 with traffic/roadway improvement fees that applied to the Payne Road corridor, which was part of a PACTS Regional approach to the corridor. Additional traffic impact fees have been added over the last 30 years.

The School Impact Fee was added in 2002. Many existing fees are outdated, or soon will be, as the improvements contemplated as the basis for the fee will be completed

- Chapter 415 Impact Fee Ordinance (2002, 2020)
 - Chapter 1 - General Provisions
 - Chapter 2 - School Impact Fees
- Chapter 415 A – Dunstan Corner Capital Improvement District (2006, 2011)
- Chapter 415 B – Haigis Parkway / Route One Capital Improvement District (2011)
- Chapter 410 Roadway Impact Fee Ordinance: Payne Road Area Capital Improvement District (1990, 2017)

PROPOSED AMENDMENTS

- Chapter 415 – Impact Fee Ordinance
 - Section I - General Provisions - Combined from all
 - Section II – School Impact Fees
 - Section III – Recreation Impact Fees (New)
 - Section IV - Reserved for Open Space
 - Section V - Roadway Impact Fees –
 - General Roadway Impact Fee Standards – Consolidated
 - Dunstan Corner District (MOVED)
 - Haigis Parkway / Route One District (MOVED)
 - Payne Road Area District 5 (MOVED)
 - Payne Road / Ginn Road District (NEW)
 - Payne Road / Nonesuch River District (NEW)
- Repeal Chapter 415 A – Dunstan Corner Capital Improvement District
- Repeal Chapter 415 B – Haigis Parkway / Route One Capital Improvement District
- Repeal Chapter 410 Roadway Impact Fee Ordinance: Payne Road Area Capital Improvement District (includes Area 1, 2, and 3)

NEW TRANSPORTATION IMPACT FEE ANALYSIS

As presented, the draft ordinance will require new development to pay 50% of the overall design and construction costs associated with capacity improvements along two areas on the Payne Road corridor. The existing Traffic Impact Fee Ordinance does not require new development to pay towards the significant traffic that is anticipated to utilize the Maine

Turnpike Exit 42 to travel north on Payne Road to Scarborough's new developments. Improvements within Payne Road Districts 1, 2, 3 and 4 will soon be complete, and these Districts will be repealed. Impact fees from the development community will now shift to the next pinch points in our transportation network along this essential corridor.

Requiring a Traffic Impact Fee that is 50% of the estimated overall design and construction costs for the two new Payne Road Traffic Impact Fee Districts is based on the following factors:

- 1) It is anticipated that projects of this magnitude would require funding through a combination of Developer, Town, State, and Federal funding sources. Responsibility of the equitable share from each stakeholder would be based on the impacts that the development or other factors have on the districts.
- 2) The business community has voiced concerns that the Town should not only look to new development to fund the cost of services that benefit all residents or which have external factors of commuting thru-traffic on our local roadways.
- 3) Staff looked at initial cost estimates for necessary mitigation work associated with the Scarborough Downs development. The Maine Department of Transportation issued a Traffic Movement Permit outlining offsite projects to mitigate impacts from the approximately 3,000 trips generated by this new development. Analysis of the breakdown of the cost share for this project showed that the developer paid for 59% of the total project cost. The cost estimates for this work were developed in 2021 and totaled \$14,000,000. Actual project costs have been significantly higher than the 2021 estimates, therefore the 59% cost share for the developer is considered extremely low. This analysis is considered conservative when predicting the cost of project design and construction.

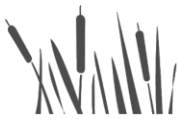
FISCAL IMPACT: TBD

STATUS / PROCESS TO DATE:

- Town Council Workshop: October 4, 2023
- Ordinance Committee: March 13, 2024
- SEDCO Presentation: March 21, 2024
- Transportation Committee Review: March 26, 2024
- Town Council First Reading: May 1, 2024
- SEDCO Developer Forum: TBD
- Town Council Public Hearing: May 15, 2024
- Town Council Second Reading: June 5, 2024

PROPOSED ACTION:

Move approval of the first reading to repeal in its entirety Chapter 415A Scarborough Roadway Impact Fee Ordinance: Dunstan Corner Capital Improvement District; repeal in its entirety Chapter 415B Scarborough Roadway Impact Fee Ordinance: Haigis Parkway / Route One Capital Improvement District, repeal in its entirety Chapter 410 Scarborough Roadway Impact Fee Ordinance: Payne Road Area Capital Improvement Districts; and replace with amended Chapter 415 Impact Fee Ordinance, and schedule a public hearing and second reading for Wednesday, May 15, 2024.



ATTACHMENTS:

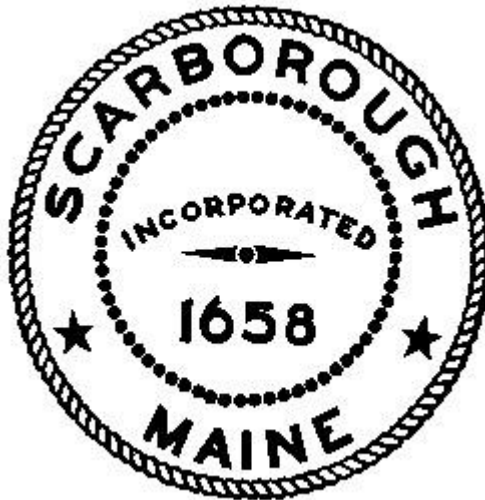
- Proposed Chapter 415 Impact Fee Ordinance
- Repealed Chapter 410
- Repealed Chapter 415A
- Repealed Chapter 415B
- Recreation Impact Fee Methodology
- Impact Fee Calculations – Payne Road and Ginn Road
- Impact Fee Calculations – Payne Road Nonesuch River
- Traffic Impact Fee Comparison

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following Chapter 415 Town of Scarborough Impact Fee Ordinance is amended as recommended by the Planning Director.

CHAPTER 415

TOWN OF SCARBOROUGH

IMPACT FEE ORDINANCE



ADOPTED JANUARY 02, 2002; EFFECTIVE JANUARY 03, 2002
AMENDED MARCH 3, 2003; UPDATED FEBRUARY 01, 2020
UPDATED xx, 2024

DRAFT

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**CHAPTER 415
TOWN OF SCARBOROUGH
DEVELOPMENT IMPACT FEE ORDINANCE**

SECTION 1. IMPACT FEE GENERAL PROVISIONS~~CHAPTER I – General Provisions~~

A. Authority.

This ordinance is enacted pursuant to the authority of 30-A M.R.S.A. § 4354 and 30-A M.R.S.A. § 3001.

B. Purpose.

The Scarborough Town Council, ~~having commissioned and reviewed an Impact Fee Feasibility Analysis dated September 2001,~~ has determined that new development creates demands on municipal government to provide new public facilities and to expand, improve or replace existing public facilities. The Town Council concludes that in order to provide an equitable source of funding for such new, expanded, improved or replacement facilities, it is appropriate to establish a program of development impact fees and to charge a proportionate share of the costs of new, expanded, improved or replacement facilities to the developers and/or occupants of the developments which make the new, expanded, improved or replacement infrastructure necessary.

C. Definitions.

Unless otherwise defined in this ordinance, terms used in this ordinance shall have the same meanings as defined terms in Chapter 405, Zoning Ordinance of the Town of Scarborough, Maine. ~~(“Zoning Ordinance”). The following terms shall have the following meanings:~~

~~**Affordable Housing Unit:** A dwelling unit developed by a governmental agency or by a non-profit housing corporation (as defined in 30-A M.R.S.A. § 5002) which is permanently restricted by recorded deed restriction or covenant and/or regulatory restriction to occupancy only by lower income households, as that term is defined in 30-A M.R.S.A. § 5002.~~

D. Use of Impact Fees.

~~**D.**~~

Impact fees collected by the Town pursuant to this ordinance may be used only for financing facility improvements which the Town Council has determined are made necessary by new development. The Town Council has determined that fees imposed by schedules in subsequent ~~chapters~~ sections of this ordinance are reasonably related to the demands created by new development and are reasonably related to the portion or percentage of existing infrastructure used by new development. Impact fees collected pursuant to this ordinance shall be used exclusively for capital improvements, and shall not be used for operational expenses. The Town of Scarborough shall expend funds collected from impact fees solely for the purposes for which they were collected.

E. Segregation of Impact Fees from General Revenues.

Impact fees collected pursuant to this ordinance shall be maintained by the Town Treasurer in a separate impact fee account and shall be segregated from the Town's general revenues. The Town Treasurer shall deposit impact fees in special non-lapsing accounts dedicated for funding of the improvements for which the fee is collected.

F. Collection of Impact Fees.

~~a. — Payment of Impact Fees~~

The Code Enforcement Officer of the Town of Scarborough shall not issue any building permit required under the Zoning Ordinance until the applicant has paid any impact fees required by this ordinance ~~or has recorded an agreement for deferral of impact fees pursuant to Chapter 1, Section 6, Subsection (b) below.~~ Upon collecting such impact fee, the Code Enforcement Officer shall remit the funds to the Town Treasurer who shall deposit the funds as required in Section ~~E5~~ above. The Code Enforcement Officer shall make a record of the name and mailing address of the applicant paying the impact fee, the tax map and lot numbers of the property for which the impact fee is collected, the amount collected, and the date the impact fee is received, and shall maintain such record in the files relating to the property for which the impact fee was paid.

~~b. — Deferral of Impact Fees~~

~~Where the applicant for a building permit is over 55 years of age, has owned and occupied an existing single-family dwelling in Scarborough at any time during the previous 12 months and seeks the building permit in order to construct a new single-family dwelling which the applicant will own and occupy in place of the existing dwelling, the Town treasurer may enter into an agreement to defer collection of all or part of the impact fees imposed by this ordinance until such time as ownership of the new dwelling is transferred to any person except a person who is a surviving joint tenant or heir of the applicant and is both over 55 years of age and a resident of the dwelling at the time of the transfer. Such agreement shall be in writing, shall be joined by all owners of the property, including mortgagees and lien holders of record at the time of execution of the agreement, shall by its terms create a consensual lien on the property, shall be binding on the applicant's heirs, successors and assigns, and shall be recorded in the Cumberland County Registry of Deeds by the applicant prior to the issuance of the building permit.~~

I.G. Refund of Unused Impact Fees.

Impact fees collected pursuant to this ordinance shall be utilized by the Town according to the schedules specified in subsequent ~~sections chapters~~ of this ordinance for the completion of specific capital improvements, but in no event later than ten years after the date upon which the impact fee was collected. Any impact fees which are not so utilized and any impact fees collected which exceed the Town's actual costs of implementing the infrastructure improvements for which such fees were collected ~~may shall~~ be refunded. ~~The process for requesting refunds is outlined in each subsequent impact fee section. Refunds shall be paid to the owner of record of the property for which the impact fee was collected, determined as of the date the refund is made.~~

J.H. Amendment of Fees.

The impact fees established in this ordinance are based upon the Town Council's best estimates of the costs of the construction of the facilities for which the fees are collected and, where appropriate, upon estimates of state and/or federal funding contributions. The Council may, by amendments to this ordinance, change the amounts of the impact fees from time to time as warranted by new information or changed circumstances.

H.I. A. Inflation Adjustment.

The School and Recreation impact fees established by the Town Council in this ordinance shall be adjusted annually by the Town Treasurer to account for inflation. Commencing on February 1, 2003 and on each February 1st thereafter, the Treasurer shall increase each impact fee by the dollar amount (rounded to the nearest ten dollar increment) obtained by multiplying the amount of the fee then-in-effect by the inflation rate. As used in this paragraph, the term "inflation rate" means the percentage increase, if any, during the previous calendar year in the Consumer Price Index – All Urban Consumers, Northeast Urban Area, All Items, base period 1982-84 = 100 (not seasonally adjusted) published by the United States Department of Labor Bureau of Labor Statistics. If there has been no such increase, there shall be no adjustment under this paragraph. Each year on February 1st, the Treasurer shall publish a schedule of impact fees adjusted pursuant to this paragraph (the "adjusted impact fees") and provide a copy of such schedule to the Code Enforcement Officer. The adjusted impact fees shall apply to all building permits issued on or after March 5 in the calendar year 2003 and on or after February 1st of each calendar year thereafter, whether or not the applications for building permits were filed prior to such dates. ~~[March 3, 2003].~~

I.J. Impact Fee Not Required for Replacement Dwelling Units.

An impact fee shall not be required for:

1. the placement or construction on a lot of a dwelling unit which replaces a dwelling unit which was located on the same lot at any time between January 3, 2000 and January 3, 2002;
2. the placement on a mobile home park site of a mobile home which replaces a mobile home which was located on the same site at any time between January 3, 2000 and January 3, 2002;
3. the placement or construction on a lot of a dwelling unit which replaces a dwelling unit which is or was located on the same lot and for which an impact fee has already been paid under this ordinance; or
4. the placement on a mobile home park site of a mobile home which replaces an existing mobile home which is or was located on the same site and for which an impact fee has already been paid under this ordinance.

K. Schedule of Fees.

All impact fee and charges established herein shall be specified in Chapter 311 Schedule of License, Permit and Application Fees established by the Town Council.

J.L. Severability.

Should any section or provision of this ordinance be determined in a court to be unconstitutional, invalid or unenforceable, such determination shall not affect the validity of any other portion of the ordinance or of the remainder of the ordinance as a whole.

SECTION II. SCHOOL IMPACT FEES

—CHAPTER II—School Impact Fees

L.A. Use of School Impact Fees.

The fees collected under this ~~section chapter~~ of this ordinance shall be used to fund one or more of those projects identified in the major capital improvement applications submitted to the Maine Department of Education, dated July 26, 2001, for the Scarborough Middle School, the Scarborough High School, the Wentworth Intermediate School and the primary schools, the Town Council having determined that a portion of the costs of such school projects is made necessary by the projected increases in enrollment due to anticipated new residential housing construction. Those improvements are scheduled to be completed by January 3, 2012, unless the completion dates are extended by order of the Town Council.

M.B. Calculation and Collection of School Impact Fees. [Updated 02/26/2020]

Prior to the issuance of a building permit for any new dwelling unit, the Code Enforcement Officer shall collect a school impact fee according to the following schedule:

Type of Dwelling	Amount
Single family dwelling	\$4,630
Two-family dwelling	\$1,770 per unit
Multiplex	\$1,150 per unit
Mobile home in a mobile home park	\$1,150
Affordable housing unit	\$2,330

N.C. Exemptions.

~~4.~~ A school impact fee is not required for a dwelling unit within a development consisting of three or more dwelling units all of which are permanently restricted by recorded deed restriction or covenant and/or regulatory restriction to occupancy by elderly households only. For this purpose, “elderly household” means a household which includes at least one person aged 55 or older and no occupant less than 55 years of age other than a full-time caregiver to or a spouse or companion of the elderly person(s).

O.D. Impact Fees to Terminate Upon Completion of Projects.

When the school projects identified in Chapter ~~415H~~, Section ~~II1-above~~ have been completed and all debt incurred in connection therewith has been repaid, the Town Council shall amend this ordinance either by repeal of this chapter, or by amendment of this chapter if circumstances at the time warrant the continuation of school impact fees.

SECTION III. RECREATION IMPACT FEES

A. Use of Recreation Impact Fees.

Impact fees collected under the provisions of this ordinance shall only be used to pay for the expansion or replacement of existing infrastructure facilities and the construction of new infrastructure facilities as identified in the Parks and Facilities Master Plan accepted March 1, 2023, by the Scarborough Town Council. Those improvements are scheduled to be completed by June 30, 2034, unless the completion dates are extended by order of the Town Council. No portion of the fee shall be used for routine maintenance or operation activities.

B. Applicability.

This Ordinance shall apply to the issuance of any building permit for a new residential structure within the Town of Scarborough with the following exceptions:

1. This Ordinance shall not apply to the issuance of a building permit for the repair, replacement or reconstruction of a residential structure that was unintentionally damaged or destroyed by fire, flood or other natural disaster, provided the number of dwelling units is not increased.
2. This Ordinance shall not apply to additions to residential structures existing at the time of the adoption of this ordinance.

C. Calculation and Collection of Recreation Impact Fees.

The amount of the recreation impact must be reasonably related to the development's share of the cost of infrastructure improvements made necessary by the development or, if the improvements were constructed at municipal expense prior to the development, the fee must be reasonably related to the portion or percentage of the infrastructure used by the development.

The recreation impact shall be based upon the number of bedrooms per residential unit, and shall be based upon the Town's impact fee calculation methodology. This methodology has been adopted by the Town Council and is on file and available for review in the Town Planner's office.

Prior to the issuance of a building permit for any new dwelling unit, the Code Enforcement Officer shall collect a recreation impact fee according to the following schedule:

<u>Type of Dwelling</u>	<u>Amount</u>
<u>Single Family Dwelling</u>	<u>\$400 per bedroom, not to exceed \$1,600</u>
<u>Two-Family Dwelling</u>	<u>\$400 per bedroom, per unit</u>
<u>Multifamily</u>	<u>\$400 per bedroom</u>

<u>Senior Housing Unit</u>	<u>\$400 per bedroom</u>
<u>Affordable Housing Unit</u>	<u>\$400 per bedroom</u>

D. Waiver of Impact Fees.

The Town Council may, by formal vote following a public hearing, waive the payment of a required Recreation Impact fee, in whole or in part, if it finds that:

1. The developer or property owner who would otherwise be responsible for the payment of the impact fee voluntarily agrees to construct an improvement for which the impact fee would be collected, or an equivalent improvement approved by the Town Council.
2. The developer of a subdivision offers to dedicate and/or improve public lands or recreational amenities and the Town Council finds these public lands or recreational amenities to be of town-wide benefit.

E. Refund of Fees.

1. If a building permit or other relevant permit is surrendered or expires without commencement of construction, the developer shall be entitled to a refund, without interest, of the impact fee paid as a condition of its issuance. A request for a refund shall be made in writing to the Town Planner, and shall occur within ninety (90) days of the expiration of the permit.
2. If the funds collected annually are not expended or obligated by contract for their intended purpose by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid, the prorated share of the funds shall be returned to the current owner of the property for which the fee was paid, provided that a request is made in writing to the Town Planner within one hundred eighty (180) days of the expiration of the ten (10) year period.

SECTION IV. RESERVED

SECTION V. ROADWAY IMPACT FEES

A. Roadway Impact Fee Applicability

This ordinance shall apply to all new development seeking subdivision or site plan approval, the expansion of previously approved subdivisions or site plans, all new extractive industry operations, and to any change in use requiring site plan approval, when the proposed development, whether located within or outside of a designated Roadway Impact Fee District generates additional traffic within said district.

B. Roadway Impact Fee Exemptions

The following development and construction shall be exempt from this ordinance:

1. Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips.
2. Construction of accessory buildings or structures which do not generate additional vehicle trips.
3. The replacement of a building or structure destroyed or damaged by fire, flood or natural disaster with a new building or structure of the same size or use which does not generate additional vehicle trips.

C. Roadway Impact Fee Procedures

1. Any person who seeks a permit or approval for any development, activity or use described in Section V(A) of this Ordinance is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance.
2. Preliminary determinations regarding whether a proposed development will generate traffic within a designated Roadway Impact Fee District shall be made by the Town Planner and the Town's consulting traffic engineer. Actual traffic generation, impacts, and the corresponding fee, shall be determined through a traffic analysis in accordance with Section V(D) of this ordinance, which may accompany a more comprehensive traffic impact study depending on the scope of the development, prepared by a Registered Professional Engineer with significant experience in traffic engineering and to be paid for by the developer. This traffic analysis shall be reviewed and approved by the Town's consulting engineer and shall be incorporated into the review and approval of a development project by the Planning Board, or the Planning and Code Enforcement Department when applicable.

D. Roadway Impact Fee Calculations

A roadway impact fee shall be applied to development projects located in whole or in part within the Town of Scarborough that generate additional traffic within a designated Roadway Impact Fee District. Impact fees are structured to be in proportion to the development project's share of infrastructure costs necessitated by the development and as enabled by Title 30-A M.R.S.A., §4354. The process for impact fee calculation is as follows:

1. As per Section V(C) above, a traffic analysis shall be conducted by a Registered Professional Engineer with significant experience in traffic engineering in order to determine the traffic impact, and requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that pass through a designated Roadway Impact Fee District in the P.M. peak commuter hour.
2. The impact fee calculation for individual development projects shall use generally accepted standards, such as the most current Institute of Transportation Engineers "Trip Generation" Handbook of traffic generation data or estimates from field measurements or data collected at similar development types, and shall be based on the P.M. peak commuter hour of traffic (between 3:00 and 6:00 PM on a weekday).

3. The costs assigned to trips shall be based upon a fee per new trip (a.k.a. primary trip) to be generated by a development project that passes through a designated Roadway Impact Fee District within the P.M. peak commuter hour. All new trips that pass through a designated Roadway Impact Fee District, regardless of whether they pass through the specific intersections, shall be counted as new trips. Other types of traffic associated with a development project, such as the capture of trips passing a site (a.k.a. pass-by trips) or trips in the area that are rerouted (a.k.a. diverted trips) shall not be utilized in the assessment.
4. For any development requiring subdivision review, site plan review or other Planning Board review, the Planning Board shall determine the total impact fee for the development calculated pursuant to the specific roadway impact fee district, and then shall establish a payment schedule which apportions the impact fee to component parts of the development based on the estimated trip generation for each component part. Depending on the nature of the development, a component part may be a lot, a building, a dwelling unit (as defined in the Scarborough Zoning Ordinance), a unit of occupancy (as defined in the Scarborough Zoning Ordinance), or some combination thereof. The payment schedule shall specify the portion of the impact fee attributable to each component part and the point during the construction of the development at which the impact fee for each component part must be paid. The payment schedule shall be incorporated into the Planning Board's written approval document and endorsed on any final plan for the development.
5. For any development not requiring Planning Board review but requiring the payment of an impact fee under this ordinance, the Town Engineer shall determine the impact fee and payment schedule, pursuant to the specific roadway impact fee district.
6. If, after a development has been approved, changes are proposed which would change the trip generation for the development or a component part of the development, then, on the initiative of the Town or the developer, the impact fee and payment schedule may be recalculated, and such recalculated impact fee and payment schedule shall apply to all subsequent permits issued within the development.

E. Roadway Impact Fee Payment

The roadway impact fee amount, as determined in accordance with the specific roadway impact fee district of this ordinance, shall be paid to the Town according to the payment schedule established under Section V(D), except as follows:

1. For an extractive industry project, the impact fee amount shall be paid prior to the release of the attested final plan to the developer for recording at the Cumberland County Registry of Deeds.

Payments shall be tendered to the Town Engineer. Upon determining that the payment is the correct amount, the Town Engineer shall issue a receipt for the payment and deliver the payment to the Town Treasurer.

F. Use of Roadway Impact Fee Funds

1. Funds generated by this ordinance will be used for the purpose of completing the capital improvements identified in the specific master plan for roadway infrastructure improvements within each Roadway Impact Fee District.
2. No funds shall be used for periodic or routine maintenance.
3. In the event that bonds or similar debt instruments are issued for advanced provision of capital improvements for which roadway impact fees may be expended, impact fee funds may be used to pay debt service on such bonds or similar debt instruments to the extent that the improvements provided are a component of the master plan for roadway infrastructure improvements, as per Section V(F.1) of this ordinance.
4. Funds may be used to provide refunds in accordance with Section V(G) below.
5. Funds shall not be used to pay for any site specific geometry improvements at a developments entrance, etc., that are required of a development project that is proposed and constructed within a public right-of-way or on any lot abutting a roadway section within a designated Roadway Impact Fee District. Such project and site specific improvements shall be the responsibility of the developer.

G. Refund of Roadway Impact Fees

1. If a building permit, site plan, subdivision plan, private way or extractive industries plan is surrendered or expires without commencement of construction; or a subdivision plan or extractive industries approval expires without recordation of the plan at the registry of deeds, the developer shall be entitled to a refund, without interest, of the specific roadway impact fee paid as required by this ordinance. The developer must submit a formal application request for such a refund to the Town Engineer not later than fifteen (15) days after the expiration of the building permit, site plan, subdivision plan, private way or extractive industries approval.
2. Any funds not expended or obligated by contract by the end of the calendar quarter immediately following twenty (20) years from the date the fee was paid shall, upon application for a refund by the developer, be returned to the developer without interest, provided that the developer submits an application for a refund to the Town Engineer within 180 days after expiration of the twenty (20) year period.

H. Roadway Impact Fee District - Dunstan Corner District

1. **Purpose.** Dunstan Corner is one of Scarborough's town centers within which four locally and regionally significant roads intersect. The capacity of Route One, and it's intersections with Pine Point Road (Route 9), Broadturn Road and Payne Road, are critical to the mobility of regional vehicular traffic through Dunstan Corner and the access of local vehicular traffic to destinations within Dunstan Corner. In order for Dunstan Corner to continue to serve and evolve as a town center, while also maintaining and increasing vehicular mobility and access,

the area was in need of adequate roadway infrastructure to support future development and the accompanying traffic generation and demands.

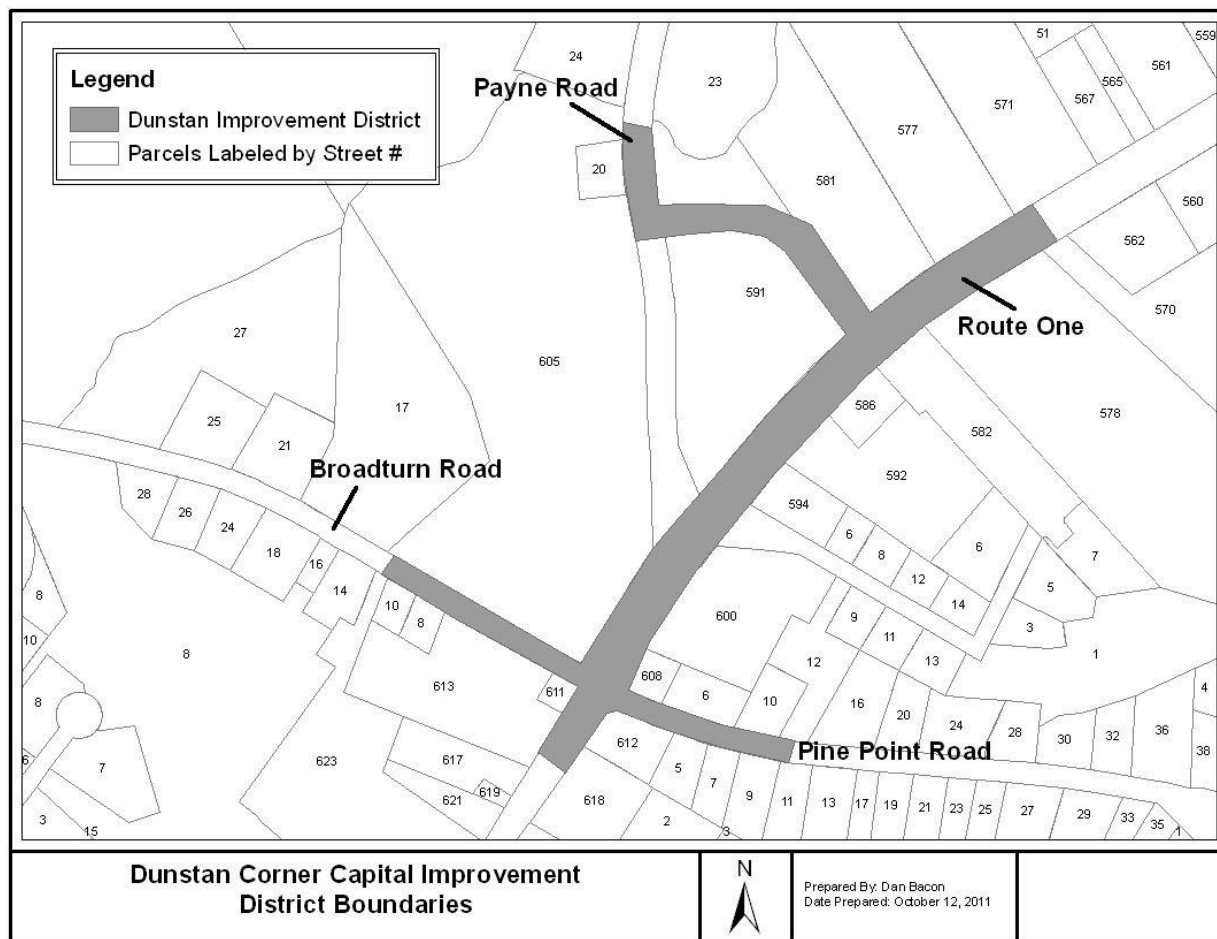
- 2. Master Plan.** The Town has completed a master plan for roadway infrastructure improvements that accommodates the traffic growth projected through 2026 which established the additional vehicular capacity and adequate levels of service necessary to serve, accommodate and benefit new development. The purpose of the Dunstan Corner District is to procure the Town's share of the cost of implementing these roadway infrastructure improvements from future development projects that are benefiting from the increased capacity. The remaining roadway infrastructure improvement costs were funded through cost sharing between PACTS (Portland Area Comprehensive Transportation System) and the Maine Department of Transportation.

As per Section V(F1) of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the following master plan:

- a. Dunstan Corner, Scarborough, Maine, PIN 17343.00, September 28, 2011, Preliminary Design Scale 1" - 40', HNTB Corporation. (amended 11/16/2011)
- b. The above cited plans may be amended by the Town Council, in accordance with Chapter 302, Scarborough Town Council Rules, Policies and Procedures Manual, if the amendments to the master plan are consistent with and further the purpose of this ordinance.

- 3. Dunstan Corner District Boundaries.** The Dunstan Corner District is depicted on the map below and encompasses the following sections of roadway:

- a. Route 1 beginning 550 feet south of Broadturn Road extending northerly 2000 feet.
- b. Pine Point Road beginning at its intersection with Route 1 extending easterly 850 feet.
- c. Payne Road beginning at its proposed relocated intersection with Route 1 extending 1550 feet to align with the existing Payne Road.
- d. A proposed roadway beginning at Route 1 opposite the relocated Payne Road, westerly to Higgins Street.
- e. All of Harlow Street and Higgins Street.



4. Dunstan Corner District Fee. The Dunstan Corner District fee determination shall be based on the following:

- The Town cost of the master plan for roadway infrastructure improvements in the Dunstan Corner District will amount to \$1,430,000, which is to be funded from this impact fee ordinance. (amended 02/07/2007)(amended 11/16/2011)
- The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately 1020 trip ends in the P.M. peak commuter hour of traffic.
- Each additional trip generated by new development will benefit from the 1020 trip ends of capacity and will utilize one trip end of that additional capacity.
- The fee per trip, therefore, shall be \$1,402. This fee per trip equals \$1,430,000 / 1020 trip ends. (amended 02/07/2007)(amended 11/16/2011)

5. Impact Fee Trust Funds. There is hereby established a Dunstan Corner District Trust Fund to segregate the impact fee revenue generated by this ordinance from the Town's general

revenues. Funds withdrawn from this trust fund account shall be used in accordance with Section V(F) of this ordinance.

I. Roadway Impact Fee District – Haigis Parkway / Route One District

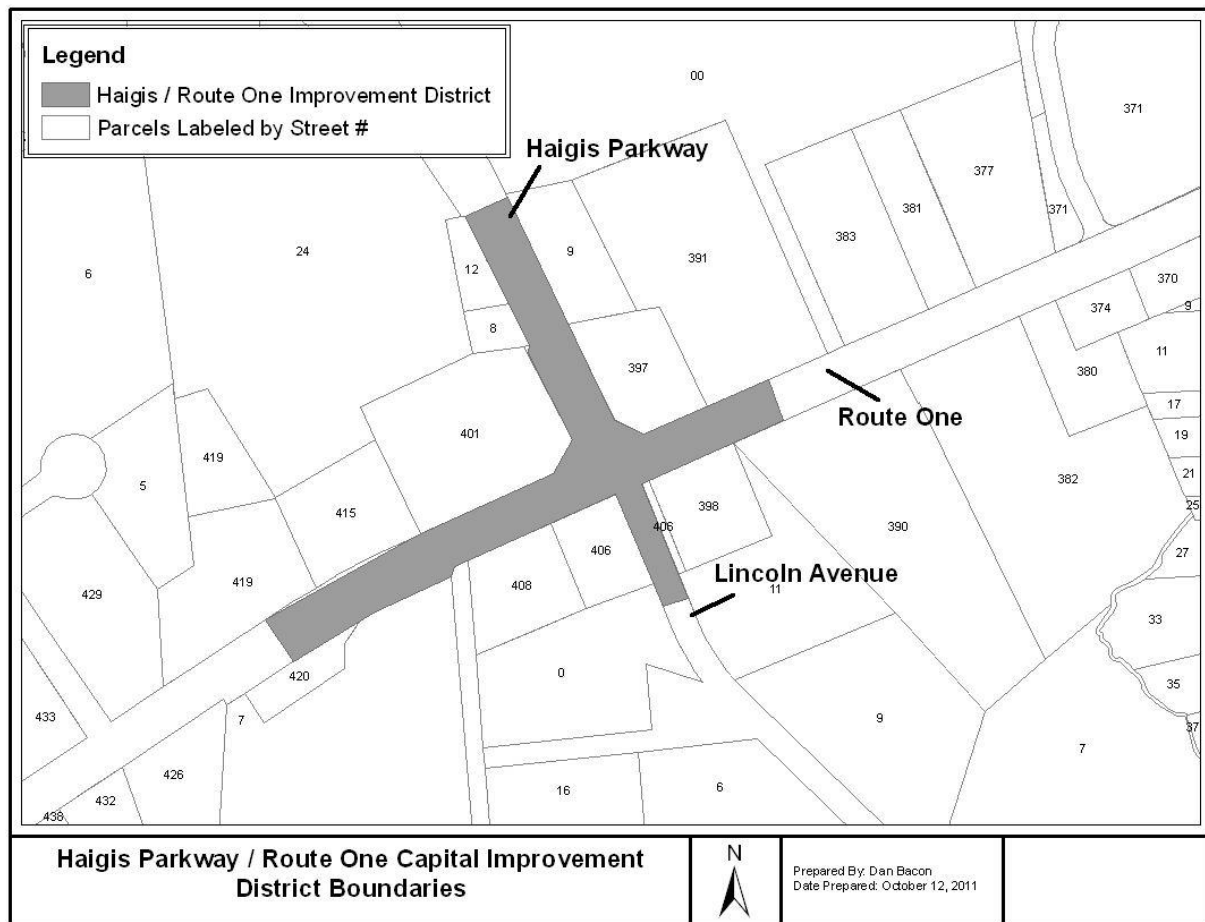
1. **Purpose.** The Haigis Parkway / Route One / Lincoln Avenue intersection is one of the most significant intersections in the Town of Scarborough and is critical to the current and future mobility of local and regional motorists. This intersection currently serves local and regional travel on Route One, the Haigis Parkway, and Lincoln Avenue and provides important connections to Payne Road, the Maine Turnpike and the Scarborough industrial park. In addition, this intersection is an important facility for managing future traffic demands, both to provide an alternative to the high traffic volumes on Payne Road as well as to accommodate the future growth and development that is planned for land accessible from the Haigis Parkway and Route One.

In order for the Haigis Parkway / Route One / Lincoln Avenue intersection to continue to adequately serve local and regional transportation needs, while also providing additional capacity to support future development and the accompanying traffic generation and demands, roadway infrastructure improvements were warranted. These improvements are highlighted in the Town-Wide Transportation Study and in the Transportation Policy Objectives of the Town's Comprehensive Plan.

2. **Master Plan.** To that end the Town has completed a master plan for roadway infrastructure improvements that accommodates the traffic growth projected through 2026 and which established the additional vehicular capacity and adequate levels of service necessary to serve, accommodate, and benefit new development. These roadway infrastructure improvements also include provisions for pedestrians in order to enhance the walk-ability and pedestrian safety of this section of Route One. The purpose of the Haigis Parkway / Route One District is to reimburse the portion of the Town's cost of constructing these roadway infrastructure improvements that benefit new development by providing additional vehicular capacity.

As per Section V(F1) of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the following master plan:

- a. Drawing Name: "Intersection Improvements Route 1 & Haigis Parkway, Scarborough, Maine, Cumberland County" dated August 2010 and prepared by Gorrill-Palmer Consulting Engineers, Inc.
3. **Haigis Parkway / Route One District Boundaries.** The Haigis Parkway / Route One District is depicted on the map below:



4. Haigis Parkway / Route One District Fee. The fee determination shall be based on the following:

- a. The Town cost of the master plan for roadway infrastructure improvements in the Haigis Parkway / Route One District amounts to \$1,005,000, which is to be funded from this impact fee ordinance. *(This cost total is less than the total project cost for the Fiscal Year 2010 CIP Project because the improvements associated with the Dunstan Corner intersection plan, the Southgate intersection plan, landscaping enhancements, and the Haigis/Scottow Hill Rd. and Route One/Enterprise Dr. improvements were not included).
- b. The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately 1015 trip ends in the P.M. peak commuter hour of traffic.
- c. Each additional trip generated by new development will benefit from the 1,015 trip ends of capacity and will utilize one trip end of that additional capacity.
- d. The fee per trip, therefore, shall be \$990.00. This fee per trip equals \$1,005,000 / 1,015 trip ends.

5. **Impact Fee Trust Funds.** There is hereby established a Haigis Parkway / Route One District Trust Fund to segregate the impact fee revenue generated by this ordinance from the Town's general revenues. Funds withdrawn from this trust fund account shall be used in accordance with Section V(F) of this ordinance.

J. Roadway Impact Fee District – Payne Road District 5

1. **Purpose.** The Town must expand and maximize the efficiencies of its road system in order to provide adequate levels of service in the Payne Road Area of the Town so that new development in the Payne Road, Gorham Road, and County Road Area and elsewhere that affects traffic in the Payne Road Area is to be accommodated safely and without decreasing current levels of service. This must be done to promote and protect the public health, safety and welfare.
2. **Master Plan.** The report entitled “Scarborough, Maine Road Computation Procedure-Payne Road Area Impact Fee”, dated September 11, 1990, sets forth in more detail a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs of additional rights-of-way, road construction and road improvements, and traffic signal upgrades in the Town. Further refinement of the District scope of work has taken place through public engagement, as well as with State and Regional Agencies, which is incorporated into the preliminary design included in the “North Scarborough Three Intersection Design, Draft Preliminary Design” dated August 2019, which alleviates constraints on the Gorham Rd and ultimately on the Payne Rd District. A portion of the improvements are being paid for by a private developer through their individual Traffic Movement Permit requirements with the Maine Department of Transportation.
3. **Payne Road District 5 Boundaries.** The Payne Road District 5 encompasses the following sections of roadway:
 - a. **District 5 - Route 114, between Maine Turnpike and Beech Ridge Road, which are directly impacted by the two County Road intersections at Saco St and Gorham Rd.**
4. **Payne Road District 5 Fee.** At the option of the developer, the amount of the road impact fee may be determined by a fee schedule established by the Town Council. The provisions of this paragraph shall govern the setting of the impact fee schedule by the Town Council and the computation of impact fees by the Town, except as expressly provided elsewhere in this Ordinance.
 - a. **The amount of the impact fee to be paid shall be determined in accordance with the schedule of fees approved by order of the Town Council.**
 - b. **Where a development involves a mixed use, the fees shall be determined in accordance with the applicable schedule by apportioning space to uses specified on the applicable schedule.**

- c. Where a development involves an activity not specified on the applicable fee schedule, the Town shall use the fee applicable to the most nearly comparable type of land use on the fee schedule.
 - d. Where an extension is sought for a building permit, the amount of the fee shall be the difference between the fee applicable at the time of the extension and any amount previously paid pursuant to this ordinance.
 - e. Impact fees for change of use, redevelopment, or expansion or modification of an existing use which has previously paid an impact fee or which did not require payment of an impact fee when originally approved and which requires the issuance of a building permit shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use.
5. **Impact Fee Trust Funds.** There is hereby established a Payne Road District 5 Trust Fund to segregate the impact fee revenue generated by this ordinance from the Town's general revenues. Funds withdrawn from this trust fund account shall be used in accordance with Section V(F) of this ordinance.

K. Roadway Impact Fee District – Payne Road / Ginn Road District

1. **Purpose.** The intersection of Payne Road at Ginn Road is a critical intersection along the Payne Road corridor for future roadway improvements. Payne Road is an important North/South corridor in the Town, and is particularly valuable as an alternative corridor to Route 1 and mitigating traffic on the Route 1 corridor. It is also important to the future development of the Scarborough Downs neighborhood and in connecting Haigis Parkway and Exit 42 from the Maine Turnpike to Scarborough Downs and the Maine Mall area.

In order to accommodate future development and pedestrian, cyclist, and traffic growth needs in the Town of Scarborough, the intersection of Payne Road and Ginn Road will need to be improved to support multimodal traffic along this corridor. The proposed improvements are included in the 2024 Town Wide Transportation Study.

2. **Master Plan.** To that end the Town has finalized a Master Plan for roadway infrastructure improvements that will accommodate future traffic growth and will provide space for pedestrians and cyclists to safely travel along Payne Road. These improvements will benefit new development on and around the Payne Road corridor, as well as alleviating some of the congestion on Route 1.

As per Section V (F1) of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the "Payne Road Conceptual Plan" prepared by Barton & Loguidice, dated December 2023, which following master plan: sets forth in more detail a reasonable methodology and analysis for the determination of the impact of new development on the need for costs of additional rights-of-way, road construction and road improvements in the Town.

4. Payne Road / Ginn Road District Fee. The fee determination shall be based on the following:

- 16

d. The total fee per trip, therefore, shall be \$5,568. The developer portion for the fee per trip shall be 50% of the total per trip cost or \$2,784.

5. **Impact Fee Trust Funds.** There is hereby established a Payne Road / Ginn Road District Trust Fund to segregate the impact fee revenue generated by this ordinance from the Town's general revenues. Funds withdrawn from this trust fund account shall be used in accordance with Section V(F) of this ordinance.

L. Roadway Impact Fee District – Payne Road / Nonesuch River District

1. **Purpose.** Libby Bridge on Payne Road over the Nonesuch River, and the associated approaches to the bridge, is a critical segment of the Payne Road corridor for future roadway improvements. Payne Road is an important North/South corridor in the Town, and is particularly valuable as an alternative corridor to Route 1 and mitigating traffic on the Route 1 corridor. It is also important to the future development of the Scarborough Downs neighborhood and in connecting Haigis Parkway and Exit 42 from the Maine Turnpike to Scarborough Downs and the Maine Mall area.

In order to accommodate future development and pedestrian, cyclist, and traffic growth needs in the Town of Scarborough, Libby Bridge and the approaches to Libby Bridge will need to be improved to support multimodal traffic along this corridor. The proposed improvements are included in the 2024 Town Wide Transportation Study.

2. **Master Plan.** To that end the Town has completed a Master Plan for roadway infrastructure improvements that will accommodate future traffic growth and will provide space for pedestrians and cyclists to safely travel along Payne Road. These improvements will benefit new development on and around the Payne Road corridor, as well as alleviating some of the congestion on Route 1.

As per Section V(F1) of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the "Payne Road Conceptual Plan" prepared by Barton & Loguidice, dated December 2023, which sets forth in more detail a reasonable methodology and analysis for the determination of the impact of new development on the need for costs of additional rights-of-way, road construction and road improvements in the Town.

3. **Payne Road / Nonesuch River District Boundaries.** The Payne Road / Nonesuch River District Boundary is depicted on the map below:

5. **Impact Fee Trust Funds.** There is hereby established a Payne Road / Ginn Road District Trust Fund to segregate the impact fee revenue generated by this ordinance from the Town's general revenues. Funds withdrawn from this trust fund account shall be used in accordance with Section V(F) of this ordinance.

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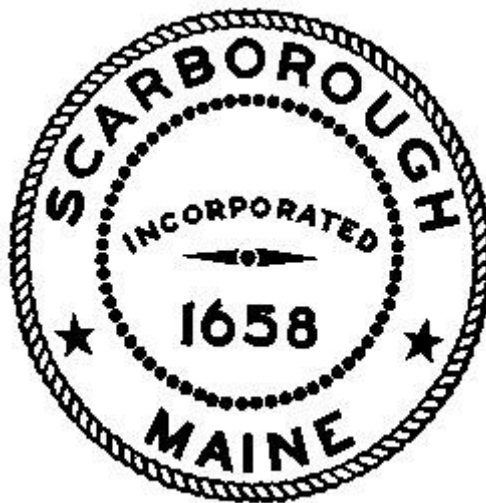
BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following Chapter 410 Town of Scarborough Roadway Impact Fee Ordinance: Payne Road Area Capital Improvement Districts is hereby repealed in its entirety and is replaced with amendments to Chapter 415 Town of Scarborough Impact Fee Ordinance as recommended by the Planning Director.

CHAPTER 410

TOWN OF SCARBOROUGH

SCARBOROUGH ROADWAY IMPACT FEE ORDINANCE:

PAYNE ROAD AREA CAPITAL IMPROVEMENT DISTRICTS



**ADOPTED OCTOBER 17, 1990
AMENDED SEPTEMBER 6, 1995
AMENDED DECEMBER 7, 2011
AMENDED NOVEMBER 1, 2017**

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**CHAPTER 410
TOWN OF SCARBOROUGH
ROAD IMPACT FEE ORDINANCE**

**BE IT ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF
SCARBOROUGH, MAINE, IN TOWN COUNCIL ASSEMBLED:**

Section One: Purpose

This Ordinance imposes an impact fee on land development requiring review under the Town's subdivision or site plan regulations for providing new roads and related facilities necessitated by new development that impacts traffic in the Payne Road Area of the Town as defined herein. It also provides for the placement of impact fee revenues into road impact fee trust funds established for that purpose and for the administration of the impact fee ordinance, including the expenditure of funds derived from road impact fees and the refunds of unexpended funds.

Section Two: Legislative Findings

The Town Council of Scarborough, Maine finds, determines and declares as follows:

A. The Town must expand its road system in order to provide adequate levels of service in the Payne Road Area of the Town if new development in the Payne Road Area and elsewhere that affects traffic in the Payne Road Area is to be accommodated safely and without decreasing current levels of service. This must be done to promote and protect the public health, safety and welfare;

B. The State of Maine has authorized municipalities to adopt impact fees for various purposes, including the construction of off-site capital improvements, such as roads and traffic control devices pursuant to 30-A M.R.S.A. 4354;

C. The imposition of impact fees is a preferred method of insuring that new development bears a proportionate share of the cost of capital investments necessary to accommodate such development. Appropriate locations for new development in the Town and the capital improvements necessary to accommodate such development are identified in the Town's Comprehensive Plan and capital improvements program.

D. New development generates additional traffic, necessitating the acquisition of rights-of-way, road construction and road improvements;

E. The fees established by Section Six hereof are derived from, are based upon, and do not exceed the costs of providing additional rights-of-way, road construction and road improvements necessitated by the new developments for which the fees are levied.

F. The report entitled "Scarborough, Maine Road Computation Procedure-Payne Road Area Impact Fee", dated September 11, 1990, sets forth in more detail a reasonable methodology

and analysis for the determination of the impact of new development on the need for an costs of additional rights-of-way, road construction and road improvements in the Town.

Section Three: Title, Authority, and Applicability

A. Title.

This Ordinance shall be known and may be cited as the “Scarborough Road Impact Fee Ordinance”.

B. Authority.

The Town Council of the Town of Scarborough, has the authority to enact this ordinance pursuant to 30-A M.R.S.A. 4354, and its statutory and constitutional home rule powers.

C. Applicability.

This ordinance shall apply to all new development seeking subdivision or site plan approval or the extension of previously approved subdivisions or site plans or to any change in use when the proposed development impacts traffic in the “Payne Road Area” if a building permit is issued on or after the date this Ordinance is enacted.

Section Four: Definitions

A. “Developer”

Is a person commencing a land development activity which generates or attracts traffic in the Payne Road Area and which requires subdivision or site plan approval from the Town of Scarborough.

B. “Capital improvement”

Includes transportation planning, preliminary engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting and construction of all the necessary features for any road construction project, including but not limited to:

- (1) construction of new through lanes
- (2) construction of new turn lanes
- (3) construction of new bridges
- (4) construction of new drainage facilities in conjunction with new roadway construction
- (5) purchase and installation of traffic signalization (including new and upgraded signalization)
- (6) construction of curbs, medians, and shoulders
- (7) relocating utilities to accommodate new roadway construction

Capital improvements do not include site-related improvements defined herein.

C. “Development”

Means any change in land use or any construction of buildings or structures or any change in the use of any structure that procedures vehicle trips within the Payne Road Area.

D. “Expansion of road capacity”

Means all road and intersection capacity enhancements, including but not limited to: extensions, widening, intersection improvements, upgrading signalization, and expansion of bridges.

E. “Roads”

Means and includes arterial streets and transportation facilities associated with the arterial and state-aid highway network within the Payne Road Area of the Town and under the jurisdiction of the Town or the State of Maine.

F. “Site-related improvements”

Are capital improvements and right-of-way dedications for direct access improvements to and/or within the development in question. Direct access improvements include but are not limited to the following:

- (1) access roads leading to the development
- (2) driveways and roads within the development
- (3) acceleration and deceleration lanes, and right and left turn lanes leading to those roads and driveways
- (4) traffic control measurers for those roads and driveways

G. “Independent Fee Calculation Study”

Means the traffic engineering and/or economic documentation prepared by a developer to allow the determination of the impact fee other than by the use of the methodology outlined in Section Six of this Ordinance.

H. “Mandatory or Required right-of-way dedications and/or roadway improvements”

Means such non-compensated dedications and/or roadway improvements required by the Town during subdivision or site plan review.

I. “Payne Road Area”

Means the area of Scarborough, including Payne Road and State Route 114 as follows:

District 1 - Payne Road, South Portland line to I-295 Bridge

District 2 - Payne Road, I-295 Bridge through Route 114 intersection

District 3 - Payne Road, South of Route 114 to Holmes Road

District 4 - This District was repealed by the Scarborough Town Council on December 7, 2011, because the improvements in this district were accomplished.

District 5 - Route 114, between Maine Turnpike and Beech Ridge Road

Section Five: Imposition of Road Impact Fee

A. Any person who, after the effective date of this ordinance, seeks to develop land by applying for subdivision or site plan approval, or for an extension of subdivision or site plan approval issued prior to the effective date hereof, to make an improvement to land or to change the use of any land or building which will generate additional traffic in the Payne Road Area, regardless of whether the development itself is located within the Payne Road Area is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance. Preliminary determinations regarding whether a proposed development will generate traffic in the Payne Road Area shall be made by the Town Planner and the Town's consulting traffic engineer. Actual impacts shall be determined by a traffic study prepared by a traffic engineer at the developer's expense and approved by the Town's consulting engineer, unless the developer agrees with the Town's determination.

B. No new building permit for any activity requiring payment of an impact fee pursuant to this Ordinance shall be issued or renewed unless and until the road impact fee hereby required has been paid.

C. No extension of a building permit issued prior to the effective date of this ordinance, for any activity requiring payment of an impact fee pursuant to this Ordinance shall be granted unless and until the road impact fee hereby required has been paid.

Section Six: Computation of Road Impact Fee

A. At the option of the developer, the amount of the road impact fee may be determined by a fee schedule established by the Town Council. The provisions of this paragraph shall govern the setting of the impact fee schedule by the Town Council and the computation of impact fees by the Town, except as expressly provided elsewhere in this Ordinance.

(1) The amount of the impact fee to be paid shall be determined in accordance with the schedule of fees approved by order of the Town Council.

(2) Where a development involves a mixed use, the fees shall be determined in accordance with the applicable schedule by apportioning space to uses specified on the applicable schedule.

(3) Where a development involves an activity not specified on the applicable fee schedule, the Town shall use the fee applicable to the most nearly comparable type of land use on the fee schedule.

(4) Where an extension is sought for a building permit, the amount of the fee shall be the difference between the fee applicable at the time of the extension and any amount previously paid pursuant to this ordinance.

(5) Impact fees for change of use, redevelopment, or expansion or modification of an existing use which has previously paid an impact fee or which did not require payment of an impact fee when originally approved and which requires the issuance of a building permit shall

be based upon the net positive increase in the impact fee for the new use as compared to the previous use.

B. Alternative method for computation of fees

A developer may prepare and submit an independent fee calculation study for the land development activity. The independent fee calculation shall be prepared and presented by professionals and shall establish to a reasonable certainty that the impact of the proposed activity differs substantially from other land use activity for which fees have been established. The documentation submitted shall show the basis upon which the independent fee calculation was made. The Town shall consider the documentation submitted by the developer but is not required to accept any documentation which it deems to be inaccurate or unreliable and may require the developer to submit additional or different documentation for consideration. If the independent fee calculation study is approved, the Town shall adjust the fee in accordance with that calculation. Appeals of action of the Town pursuant to this section may be taken to the Town Manager by filing a written request within 10 days of final determination.

Section Seven: Payment of Fee

A. The developer shall pay the road impact fee required by this ordinance to the Building Inspector or her/his designee prior to the issuance of a building permit. [amended 11/01/17]

B. All funds collected shall be properly identified by road impact fee district and promptly transferred for deposit in the appropriate Road Impact Fee Trust Fund to be held in separate accounts as determined in Section Nine of this Ordinance and used solely for the purposes specified in this Ordinance.

Section Eight: Road Impact Fee Districts

A. There are hereby established four (4) road impact fee districts as defined in Section 4(I) of this Ordinance.

Section Nine: Road Impact Fee Trust Funds Established

A. There are hereby established four (4) separate Road Impact Fee Trust Funds, one for each road impact fee district established by Section Eight of this Ordinance.

B. Funds withdrawn from these accounts must be used in accordance with the provisions of Section Ten of this Ordinance.

Section Ten: Use of Funds

A. Funds collected from road impact fees shall be used for the purpose of capital improvements to and expansion of transportation facilities associated with the Payne Road Area.

B. No funds shall be used for periodic or routine maintenance.

C. Funds shall be used exclusively for capital improvements or expansion within the road impact fee district, including district boundary roads, as identified in the Report entitled Computation Procedure, from which the funds were collected or for projects in other road impact districts which are of benefit to the road impact district from which the funds were collected. Funds shall be expended in the order in which they are collected.

D. In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which road impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in paragraph A of this section and are located within the appropriate impact fee districts created by this Ordinance or as provided in paragraph C of this section.

E. At least once each fiscal period the Town Manager shall present to the Town Council a proposed capital improvement program for roads, assigning funds, including any accrued interest, from the several Road Impact Fee Trust Funds to specific road improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same Road Impact Fee Trust Funds until the next fiscal period except as provided by the refund provisions of this Ordinance.

F. Funds may be used to provide refunds as described in Section Eleven.

Section Eleven: Refund of Fees

A. If a building permit is surrendered or expires without commencement of construction, the developer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance except that the Town shall retain three (3) percent of the impact fee paid to offset a portion of the costs of collection. The developer must submit an application for such a refund to the Code Enforcement Officer not later than fifteen (15) days after the expiration of the permit.

B. Any funds not expended or obligated by contract by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall, upon application of the developer, be returned to the developer, provided that the developer submits an application for a refund to the Code Enforcement Officer within 180 days of the ten (10) year period.

Section Twelve: Exemptions

A. Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips shall be exempt from payment of the traffic impact fee.

B. Construction of accessory buildings or structures which do not generate additional vehicle trips shall be exempt from the payment of traffic impact fees.

C. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use shall be exempt from the payment of the impact fee.

Any claim of exemption shall be made prior to the time for payment of the impact fee. Any claim not so made shall be deemed waived.

Section Thirteen: Credits

A. Credit for the dedication of land for rights of way shall be valued at the most recent assessed value by the Town Assessor or by fair market value established by private appraisers acceptable to the Town. Credit for the dedication of land shall be provided when property has been conveyed at no charge to, and accepted by, the Town in a manner satisfactory to the Town Council.

B. Credit for construction of capital improvements shall be given only where:

(1) the Town and applicant agree in writing that it would be more cost effective or expeditious for the applicant to construct improvements authorized for funding under this Ordinance, or

(2) for the cost of constructing capital improvements as a condition of Planning Board approval under the Site Plan or subdivision ordinance of the Town, provided such capital improvements would be eligible for designation by the Town Council for funding under this Ordinance. In such cases, the applicant shall submit acceptable engineering drawings and specifications, and construction cost estimates to the Town which shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates, if the Town determines that estimates submitted by the applicant are either unreliable or inaccurate. Upon final determination of all credits, the Town shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate and return such signed document to the Town before credit will be given. The failure of the applicant to sign, date and return such document with the balance of the impact fees and building permit fees within 60 days shall nullify the credit.

C. Except as otherwise provided in subparagraph D, credit against impact fees otherwise due will remain provisional until:

(1) construction is completed and accepted by the Town or the State, whichever is applicable, and

(2) a suitable maintenance and warranty bond is received and approved by the Town, were applicable.

D. Security shall be given for provisional credit in the form of a performance bond, irrevocable letter of credit or escrow agreement posted with and approved by the Town Manager and Town Attorney in an amount determined by the Town Manager. If the Project will not be constructed within two years of the acceptance of the offer by the Town, the amount of the

security shall be increased by 10% compounded for each year of life of the security. If the construction project is not to be completed within five years of the date of the developer's offer, the Town Council must approve the construction project and its scheduled completion date prior to the acceptance of the offer by the Town. The security or replacement shall state the date for commencement of the project and the time period for estimated completion. This date and/or time period may be extended by the Town for good cause shown conditioned upon extension of the security.

E. Credit may also be given for the costs of constructing capital improvements required as a condition of Planning Board subdivision approval or a Department of Environmental Protection Site Location of Development License if the development was approved prior to enactment of this ordinance but building permits are issued after enactment. Credit shall be in an amount determined by the Planning Board, based upon the scope of the development approved by the Planning Board and/or DEP and the value of the capital improvements actually constructed. Credit shall be given only to the extent that the traffic impact of the proposed development, as determined at the time of construction, does not exceed the impacts anticipated by the subdivision or site location of development approval. The developer shall have the burden of establishing the cost of capital improvements constructed.

F. Any claim for credit must be made prior to the time for payment of impact fees. Any claim not so made shall be deemed waived.

G. Credits shall not be transferred from one project or development to another without the approval of the Town Council.

H. Determination pursuant to this Paragraph may be appealed to the Town manager by filing a written request with the Town Manager within 30 days of the determination

ORDER SETTING IMPACT FEES

AND DESIGNATING APPROVED PROJECTS

BE IT ORDERED by the Scarborough Town Council that pursuant to the Town of Scarborough Road Impact Fee Ordinance, the fees and charges shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council for development from the Highway Impact Fee Trust Fund.

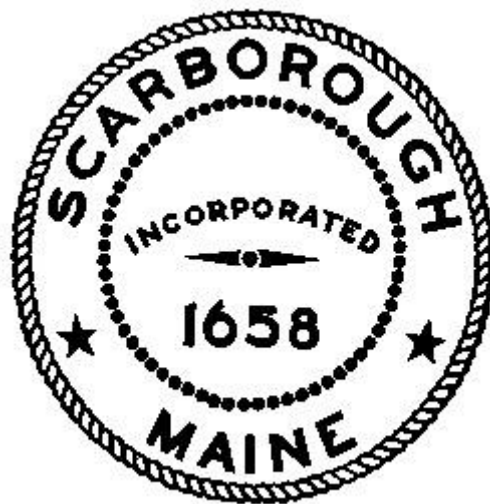
BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following Chapter 415A Town of Scarborough Roadway Impact Fee Ordinance: Dunstan Corner Capital Improvement Districts is hereby repealed in its entirety and is replaced with amendments to Chapter 415 Town of Scarborough Impact Fee Ordinance as recommended by the Planning Director.

CHAPTER 415A

TOWN OF SCARBOROUGH

SCARBOROUGH ROADWAY IMPACT FEE ORDINANCE:

DUNSTAN CORNER CAPITAL IMPROVEMENT DISTRICT



**ADOPTED AUGUST 16, 2006
AMENDED FEBRUARY 7, 2007
AMENDED NOVEMBER 16, 2011**

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**ROADWAY IMPACT FEE ORDINANCE:
DUNSTAN CORNER CAPITAL IMPROVEMENT DISTRICT
TOWN OF SCARBOROUGH**

Section I. Title

This Ordinance shall be known and may be cited as the “Scarborough Roadway Impact Fee Ordinance: Dunstan Corner Capital Improvement District”. It is adopted under the authority of Title 30-A M.R.S.A., § 4354, and the Town’s statutory and constitutional home rule powers.

Section II. Purpose

Dunstan Corner is one of Scarborough’s town centers within which four locally and regionally significant roads intersect. The capacity of Route One, and it’s intersections with Pine Point Road (Route 9), Broadturn Road and Payne Road, are critical to the mobility of regional vehicular traffic through Dunstan Corner and the access of local vehicular traffic to destinations within Dunstan Corner. In order for Dunstan Corner to continue to serve and evolve as a town center, while also maintaining and increasing vehicular mobility and access, the area is in need of adequate roadway infrastructure to support future development and the accompanying traffic generation and demands.

The Town has completed a master plan for roadway infrastructure improvements that will accommodate the traffic growth projected for the next twenty years and will establish the additional vehicular capacity and adequate levels of service necessary to serve, accommodate and benefit new development. The purpose of the Dunstan Corner Capital Improvement District is to procure the Town’s share of the cost of implementing these roadway infrastructure improvements from future development projects. The remaining roadway infrastructure improvement costs will be funded through cost sharing between PACTS (Portland Area Comprehensive Transportation System) and the Maine Department of Transportation. (amended 02/07/2007)(amended 11/16/2011)

Section III. Applicability

- A.** This ordinance shall apply to all new development seeking subdivision or site plan approval, the expansion of previously approved subdivisions or site plans, all new extractive industry operations, and to any change in use requiring site plan approval when the proposed development, whether located within or without the Dunstan Corner Capital Improvement District, generates additional traffic within the Dunstan Corner Capital Improvement District. (amended 02/07/2007)
- B.** The following development and construction shall be exempt from this ordinance:
 - 1.** Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips.
 - 2.** Construction of accessory buildings or structures which do not generate additional vehicle trips.

3. The replacement of a building or structure destroyed or damaged by fire, flood or natural disaster with a new building or structure of the same size or use which does not generate additional vehicle trips.

Section IV. Impact Fee Procedures

- A. Any person who seeks a permit or approval for any development, activity or use described in Section III(A) of this Ordinance is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance. (amended 02/07/2007)
- B. Preliminary determinations regarding whether a proposed development will generate traffic within the Dunstan Corner Capital Improvement District shall be made by the Town Planner and the Town's consulting traffic engineer. Actual traffic generation, impacts, and the corresponding fee, shall be determined through a traffic analysis (in accordance with Section V of this ordinance), which may accompany a more comprehensive traffic impact study depending on the scope of the development, prepared by a Registered Professional Engineer with significant experience in traffic engineering and to be paid for by the developer. This traffic analysis shall be reviewed and approved by the Town's consulting engineer and shall be incorporated into the review and approval of a development project by the Planning Board, or the Planning and Code Enforcement Department when applicable.

Section V. Impact Fee Calculations

An impact fee shall be applied to development projects located in whole or in part within the Town of Scarborough that generate additional traffic within the Dunstan Corner Capital Improvement District. This impact fee is structured to be in proportion to the development project's share of infrastructure costs necessitated by the development and as enabled by Title 30-A M.R.S.A., §4354. The process for this impact fee calculation is as follows:

- A. As per Section IV(B) above, a traffic analysis shall be conducted by a Registered Professional Engineer with significant experience in traffic engineering in order to determine the traffic impact, and requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that pass through the Dunstan Corner Capital Improvement District in the P.M. peak commuter hour.
- B. The impact fee calculation for individual development projects shall use generally accepted standards, such as the most current Institute of Transportation Engineers "Trip Generation" Handbook of traffic generation data or estimates from field measurements or data collected at similar development types, and shall be based on the P.M. peak commuter hour of traffic (between 3:00 and 6:00 PM on a weekday).
- C. The costs assigned to trips shall be based upon a fee per new trip (a.k.a. primary trip) to be generated by a development project that passes through the Dunstan Corner Capital Improvement District within the P.M. peak commuter hour. All new trips that pass through the District, regardless of whether they pass through the Dunstan Corner or

Payne Road/Route One intersections, shall be counted as new trips. Other types of traffic associated with a development project, such as the capture of trips passing a site (a.k.a. pass-by trips) or trips in the area that are rerouted (a.k.a. diverted trips) shall not be utilized in the assessment.

D. The fee determination shall be based on the following:

1. The Town cost of the master plan for roadway infrastructure improvements in the Dunstan Corner Capital Improvement District will amount to \$1,430,000, which is to be funded from this impact fee ordinance. (amended 02/07/2007)(amended 11/16/2011)
2. The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately 1020 trip ends in the P.M. peak commuter hour of traffic.
3. Each additional trip generated by new development will benefit from the 1020 trip ends of capacity and will utilize one trip end of that additional capacity.
4. The fee per trip, therefore, shall be \$1,402. This fee per trip equals \$1,430,000 / 1020 trip ends. (amended 02/07/2007)(amended 11/16/2011)

E. For any development requiring subdivision review, site plan review or other Planning Board review, the Planning Board shall determine the total impact fee for the development calculated pursuant to Section V, subsections A through D above, and then shall establish a payment schedule which apportions the impact fee to component parts of the development based on the estimated trip generation for each component part. Depending on the nature of the development, a component part may be a lot, a building, a dwelling unit (as defined in the Scarborough Zoning Ordinance), a unit of occupancy (as defined in the Scarborough Zoning Ordinance), or some combination thereof. The payment schedule shall specify the portion of the impact fee attributable to each component part and the point during the construction of the development at which the impact fee for each component part must be paid. The payment schedule shall be incorporated into the Planning Board's written approval document and endorsed on any final plan for the development.

F. For any development not requiring Planning Board review but requiring the payment of an impact fee under this ordinance, the Town Engineer shall determine the impact fee and payment schedule, pursuant to Section V, subsections A through E above.

G. If, after a development has been approved, changes are proposed which would change the trip generation for the development or a component part of the development, then, on the initiative of the Town or the developer, the impact fee and payment schedule may be recalculated, and such recalculated impact fee and payment schedule shall apply to all subsequent permits issued within the development.

Section VI. Impact Fee Payment (amended 02/07/2007)

The impact fee amount, as determined in accordance with Sections IV and V of this ordinance, shall be paid to the Town according to the payment schedule established under Section V, except as follows:

- A. For an extractive industry project, the impact fee amount shall be paid prior to the release of the attested final plan to the developer for recording at the Cumberland County Registry of Deeds.

Payments shall be tendered to the Town Engineer. Upon determining that the payment is in the correct amount, the Town Engineer shall issue a receipt for the payment and deliver the payment to the Town Treasurer.

Section VII. Dunstan Corner Capital Improvement District Boundaries

The Dunstan Corner Capital Improvement District is depicted on the map attached to this Ordinance as Appendix A and encompasses the following sections of roadway:

- Route 1 beginning 550 feet south of Broadturn Road extending northerly 2000 feet.
- Pine Point Road beginning at its intersection with Route 1 extending easterly 850 feet.
- Payne Road beginning at its proposed relocated intersection with Route 1 extending 1550 feet to align with the existing Payne Road.
- A proposed roadway beginning at Route 1 opposite the relocated Payne Road, westerly to Higgins Street.
- All of Harlow Street and Higgins Street.

Section VIII. Impact Fee Trust Fund

- A. There is hereby established a Dunstan Corner Capital Improvement District Trust Fund to segregate the impact fee revenue generated by this ordinance from the Town's general revenues.
- B. Funds withdrawn from this trust fund account shall be used in accordance with Section IX of this ordinance.

Section IX. Use of Impact Fee Funds

- A. Funds generated by this ordinance will be used for the purpose of completing the capital improvements identified in the master plan for roadway infrastructure improvements within Dunstan Corner Capital Improvement District.
- B. No funds shall be used for periodic or routine maintenance.
- C. In the event that bonds or similar debt instruments are issued for advanced provision of capital improvements for which road impact fees may be expended, impact fee funds may be used to pay debt service on such bonds or similar debt instruments to the extent that

the improvements provided are a component of the master plan for roadway infrastructure improvements, as per Section IX(A) of this ordinance.

- D.** Funds may be used to provide refunds in accordance with Section X.
- E.** Funds shall not be used to pay for any site specific road improvements, such as right-turn entry lanes, site driveway islands, etc., that are required of a development project that is proposed and constructed on any lot abutting a roadway section within the Dunstan Corner Capital Improvement District. Such project and site specific improvements shall be the responsibility of the developer.

Section X. Refund of Impact Fees

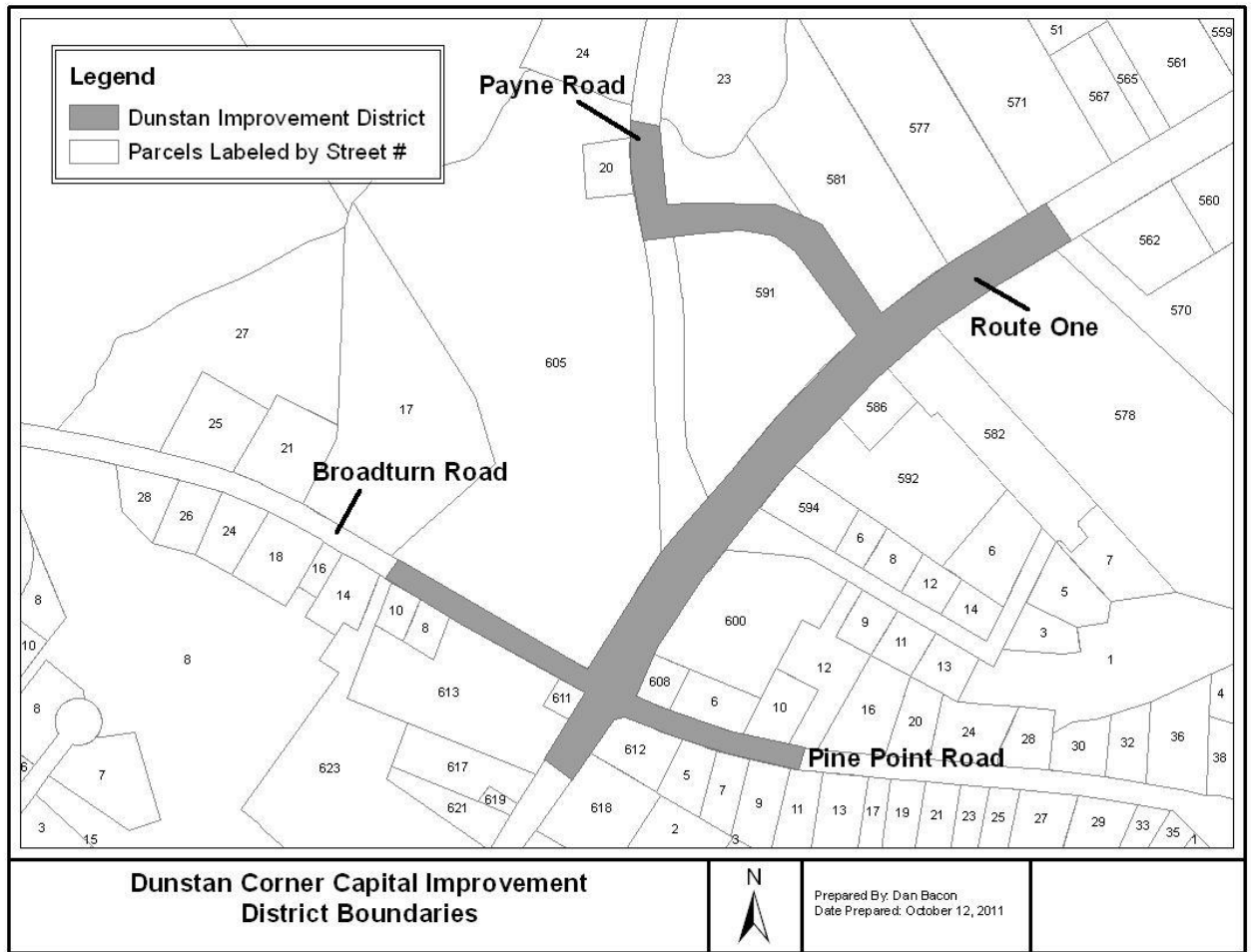
- A.** If a building permit or site plan is surrendered or expires without commencement of construction; or a subdivision plan or extractive industries approval expires without recordation of the plan at the registry of deeds, the developer shall be entitled to a refund, without interest, of the impact fee paid as required by this ordinance. The developer must submit an application for such a refund to the Town Engineer not later than fifteen (15) days after the expiration of the building permit, site plan, subdivision plan or extractive industries approval.
- B.** Any funds not expended or obligated by contract by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall, upon application for a refund by the developer, be returned to the developer without interest, provided that the developer submits an application for a refund to the Town Engineer within 180 days after expiration of the ten (10) year period.

Section XI. Master Plan for Roadway Infrastructure Improvements

- A.** As per Section IX(A) of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the following master plan:

Dunstan Corner, Scarborough, Maine, PIN 17343.00, September 28, 2011, Preliminary Design Scale 1" = 40', HNTB Corporation. (amended 11/16/2011)
- B.** The above cited plans may be amended by the Town Council, in accordance with Chapter 302, Scarborough Town Council Rules, Policies and Procedures Manual, if the amendments to the master plan are consistent with and further the purpose of this ordinance.

Appendix A.



BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following Chapter 415B Town of Scarborough Roadway Impact Fee Ordinance: Haigis Parkway / Route One Capital Improvement Districts is hereby repealed in its entirety and is replaced with amendments to Chapter 415 Town of Scarborough Impact Fee Ordinance as recommended by the Planning Director.

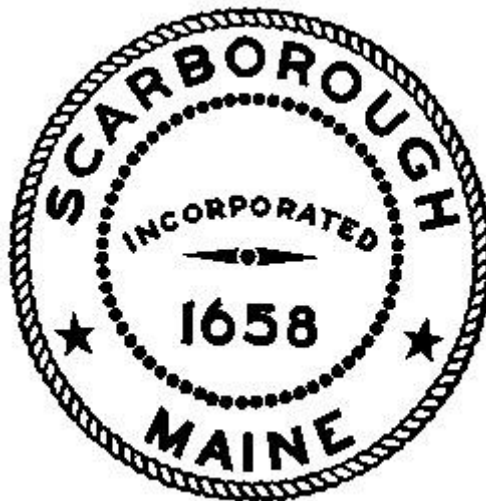
CHAPTER 415B

TOWN OF SCARBOROUGH

SCARBOROUGH ROADWAY IMPACT FEE ORDINANCE:

HAIGIS PARKWAY / ROUTE ONE CAPITAL IMPROVEMENT

DISTRICT



ADOPTED November 2, 2011

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HAIGIS PARKWAY / ROUTE ONE CAPITAL IMPROVEMENT DISTRICT TOWN OF SCARBOROUGH

Section I. Title

This Ordinance shall be known and may be cited as the “Scarborough Roadway Impact Fee Ordinance: Haigis Parkway / Route One Capital Improvement District”. It is adopted under the authority of Title 30-A M.R.S.A., § 4354, and the Town’s statutory and constitutional home rule powers.

Section II. Purpose

The Haigis Parkway / Route One / Lincoln Avenue intersection is one of the most significant intersections in the Town of Scarborough and is critical to the current and future mobility of local and regional motorists. This intersection currently serves local and regional travel on Route One, the Haigis Parkway, and Lincoln Avenue and provides important connections to Payne Road, the Maine Turnpike and the Scarborough industrial park. In addition, this intersection is an important facility for managing future traffic demands, both to provide an alternative to the high traffic volumes on Payne Road as well as to accommodate the future growth and development that is planned for land accessible from the Haigis Parkway and Route One.

In order for the Haigis Parkway / Route One / Lincoln Avenue intersection to continue to adequately serve local and regional transportation needs, while also providing additional capacity to support future development and the accompanying traffic generation and demands, roadway infrastructure improvements are warranted. These improvements are highlighted in the Town-Wide Transportation Study and in the Transportation Policy Objectives of the Town’s Comprehensive Plan.

To that end the Town has completed a master plan for roadway infrastructure improvements that will accommodate the traffic growth projected for the next fifteen years and will establish the additional vehicular capacity and adequate levels of service necessary to serve, accommodate, and benefit new development. These roadway infrastructure improvements also include provisions for pedestrians in order to enhance the walk-ability and pedestrian safety of this section of Route One. The purpose of the Haigis Parkway / Route One Capital Improvement District is to reimburse the portion of the Town’s cost of constructing these roadway infrastructure improvements that benefit new development by providing additional vehicular capacity.

Section III. Applicability

- A.** This Ordinance shall apply to all new development seeking subdivision or site plan approval, the expansion of previously approved subdivisions or site plans, new development enabled by land divisions exempted from subdivision review as per Title 30-A M.R.S.A. §4401(4), all new extractive industry operations, and to any change in use when the proposed development, whether located within or

outside the Haigis Parkway / Route One Capital Improvement District, generates additional traffic within the Haigis Parkway / Route One Capital Improvement District.

B. The following development and construction shall be exempt from this ordinance:

1. Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips.
2. Construction of accessory buildings or structures which do not generate additional vehicle trips.
3. The replacement of a building or structure destroyed or damaged by fire, flood or natural disaster with a new building or structure of the same size or use which does not generate additional vehicle trips.

Section IV. Impact Fee Procedures

- A.** Any person who seeks a permit or approval for any development, activity or use described in Section III.A of this Ordinance is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance.
- B.** Preliminary determinations regarding whether a proposed development will generate traffic within the Haigis Parkway / Route One Capital Improvement District shall be made by the Town Planner and the Town's consulting traffic engineer. Actual traffic generation, impacts, and the corresponding fee, shall be determined through a traffic analysis (in accordance with Section V. of this ordinance), which may accompany a more comprehensive traffic impact study depending on the scope of the development, prepared by a Registered Professional Engineer with significant experience in traffic engineering and to be paid for by the developer. This traffic analysis shall be reviewed and approved by the Town's consulting engineer and shall be incorporated into the review and approval of a development project by the Planning Board, or the Planning and Code Enforcement Department when applicable.

Section V. Impact Fee Calculations

An impact fee shall be applied to development projects located in whole or in part within the Town of Scarborough that generate additional traffic within the Haigis Parkway / Route One Capital Improvement District. This impact fee is structured to be in proportion to the development project's share of infrastructure costs necessitated by the development and as enabled by Title 30-A M.R.S.A., §4354. The process for this impact fee calculation is as follows:

- A.** As per Section IV(B) above, a traffic analysis shall be conducted by a Registered Professional Engineer with significant experience in traffic engineering in order to determine the traffic impact, and requisite impact fee total, as measured by

additional vehicle trips to be generated by a development project that pass through the Haigis Parkway / Route One Capital Improvement District in the P.M. peak commuter hour.

- B.** The impact fee calculation for individual development projects shall use generally accepted standards, such as the most current Institute of Transportation Engineers “Trip Generation” Handbook of traffic generation data or estimates from field measurements or data collected at similar development types, and shall be based on the P.M. peak commuter hour of traffic (between 3:00 and 6:00 PM on a weekday).
- C.** The costs assigned to trips shall be based upon a fee per new trip (a.k.a. primary trip) to be generated by a development project that passes through the Haigis Parkway / Route One Capital Improvement District within the P.M. peak commuter hour. All new trips that pass through the District shall be counted as new trips. Other types of traffic associated with a development project, such as the capture of trips passing a site (a.k.a. pass-by trips) or trips in the area that are rerouted (a.k.a. diverted trips) shall not be utilized in the assessment.
- D.** The fee determination shall be based on the following:

 - 1.** The Town cost of the master plan for roadway infrastructure improvements in the Haigis Parkway / Route One Capital Improvement District amounts to \$1,005,000, which is to be funded from this impact fee ordinance.
*(This cost total is less than the total project cost for the Fiscal Year 2010 CIP Project because the improvements associated with the Dunstan Corner intersection plan, the Southgate intersection plan, landscaping enhancements, and the Haigis/Scottow Hill Rd. and Route One/Enterprise Dr. improvements were not included).
 - 2.** The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately 1015 trip ends in the P.M. peak commuter hour of traffic.
 - 3.** Each additional trip generated by new development will benefit from the 1015 trip ends of capacity and will utilize one trip end of that additional capacity.
 - 4.** The fee per trip, therefore, shall be \$990.00. This fee per trip equals \$1,005,000 / 1015 trip ends.
- E.** For any development requiring subdivision review, site plan review or other Planning Board review, the Planning Board shall determine the total impact fee for the development calculated pursuant to Section V, subsections A through D above, and then shall establish a payment schedule which apportions the impact

fee to component parts of the development based on the estimated trip generation for each component part. Depending on the nature of the development, a component part may be a lot, a building, a dwelling unit (as defined in the Scarborough Zoning Ordinance), a unit of occupancy (as defined in the Scarborough Zoning Ordinance), or some combination thereof. The payment schedule shall specify the portion of the impact fee attributable to each component part and the point during the construction of the development at which the impact fee for each component part must be paid. The payment schedule shall be incorporated into the Planning Board's written approval document and endorsed on any final plan for the development.

- F.** For any development not requiring Planning Board review but requiring the payment of an impact fee under this Ordinance, the Town Engineer shall determine the impact fee and payment schedule, pursuant to Section V, subsections A through E above.
- G.** If, after a development has been approved, changes are proposed which would change the trip generation for the development or a component part of the development, then, on the initiative of the Town or the developer, the impact fee and payment schedule may be recalculated, and such recalculated impact fee and payment schedule shall apply to all subsequent permits issued within the development.

Section VI. Impact Fee Payment

The impact fee amount, as determined in accordance with Sections IV and V of this Ordinance, shall be paid to the Town according to the payment schedule established under Section V, except as follows:

- A.** For an extractive industry project, the impact fee amount shall be paid prior to the release of the attested final plan to the developer for recording at the Cumberland County Registry of Deeds.
- B.** For a new residential dwelling(s) proposed on a lot(s) created by a land division(s) exempted from subdivision review as per Title 30-A M.R.S.A. §4401(4), the impact fee amount shall be paid prior to the issuance of a building permit for construction.

Payments shall be tendered to the Town Engineer. Upon determining that the payment is in the correct amount, the Town Engineer shall issue a receipt for the payment and deliver the payment to the Town Treasurer.

Section VII. Haigis Parkway / Route One Capital Improvement District Boundaries

The Haigis Parkway / Route One Capital Improvement District is depicted on the map attached to this Ordinance as Appendix A.

Section VIII. Impact Fee Trust Fund

- A.** There is hereby established a Haigis Parkway / Route One Capital Improvement District Trust Fund to segregate the impact fee revenue generated by this Ordinance from the Town's general revenues.
- B.** Funds withdrawn from this trust fund account shall be used in accordance with Section IX. of this ordinance.

Section IX. Use of Impact Fee Funds

- A.** Funds generated by this ordinance will be used for the purpose of financing the capital improvements identified in the master plan for roadway infrastructure improvements within the Haigis Parkway / Route One Capital Improvement District.
- B.** No funds shall be used for periodic or routine maintenance.
- C.** Given that bonds may be issued to finance the implementation of the capital improvements identified in the master plan for roadway infrastructure improvements within the Haigis Parkway / Route One Capital Improvement District, impact fee funds may be used to pay debt service on such bonds to the extent that the improvements provided are a component of the master plan for roadway infrastructure improvements, as per Section IX. A. of this ordinance.
- D.** Funds may be used to provide refunds in accordance with Section X.
- E.** Funds shall not be used to pay for any site specific road improvements, such as right-turn entry lanes, site driveway islands, etc., that are required of a development project that is proposed and constructed on any lot abutting a roadway section within the Haigis Parkway / Route One Capital Improvement District. Such project and site specific improvements shall be the responsibility of the developer.

Section X. Refund of Impact Fees

- A.** If a building permit or site plan is surrendered or expires without commencement of construction; or a subdivision plan or extractive industries approval expires without recordation of the plan at the registry of deeds, the developer shall be entitled to a refund, without interest, of the impact fee paid as required by this ordinance. The developer must submit an application for such a refund to the Town Engineer not later than fifteen (15) days after the expiration of the building permit, site plan, subdivision plan or extractive industries approval.
- B.** Any funds not expended or obligated by contract by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall,

upon application for a refund by the developer, be returned to the developer without interest, provided that the developer submits an application for a refund to the Town Engineer within 180 days after expiration of the ten (10) year period.

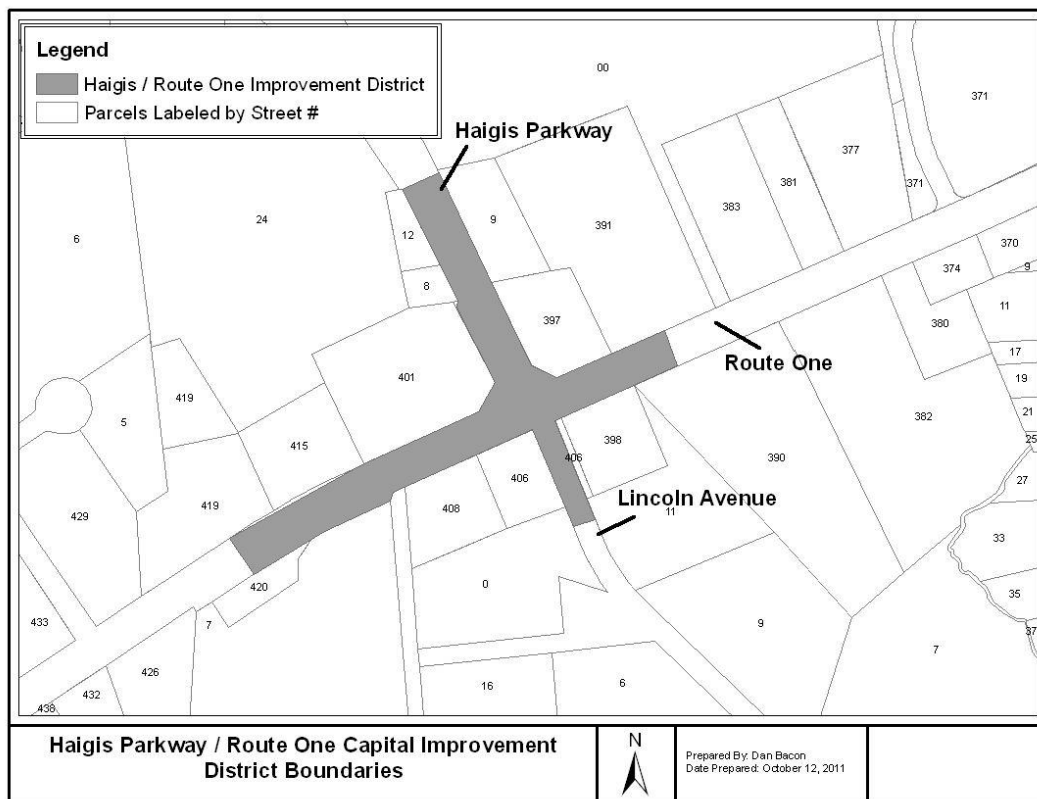
Section XI. Master Plan for Roadway Infrastructure Improvements

- A. As per Section IX. A. of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the following master plan:

Drawing Name: "Intersection Improvements Route 1 & Haigis Parkway, Scarborough, Maine, Cumberland County" dated August 2010 and prepared by Gorrill-Palmer Consulting Engineers, Inc.

- B. The above cited plans may be amended by the Town Council, in accordance with Chapter 302, Scarborough Town Council Rules, Policies and Procedures Manual, if the amendments to the master plan are consistent with and further the purpose of this ordinance.

Appendix A.



TOWN OF SCARBOROUGH RECREATION IMPACT FEE METHODOLOGY

This methodology sets out the procedure for determining the impact fee that should be paid by development for recreational facilities and open space.

The amount of the recreation impact must be reasonably related to the development's share of the cost of infrastructure improvements made necessary by the development or, if the improvements were constructed at municipal expense prior to the development, the fee must be reasonably related to the portion or percentage of the infrastructure used by the development.

Parks and Facilities Master Plan Applicable Cost: \$10,859,900

New Projects:	\$5,262,700
Expansion Projects:	\$526,500
Replacement Projects:	\$5,070,700

Percentage of Total Cost Assigned to New Development: 20% - \$2,171,980

Total Units Per Year (10 years) – 2,610
Total Bedrooms Per Year (10 years)(assumes 3 br and under) – 5,330
Total Cost Per Bedroom (10 Years) - \$408
Total Persons per Year (10 Years) – 5,234
Total Cost Per Person (10 Years) - \$415

Recreation Impact Fee: \$400 per bedroom

Total Potential Captured (10 years): \$2,132,000

Summary of Calculation Assumptions:

Permit Allocation Estimates Based on 2023 Rate of Growth	Average Annual Permits	3 Bedroom Limits	3 Bedroom Allowed
Area 1 Rural outside of Growth Areas - 25 per year	25	None	25
Area 2 In Designated Growth Areas 210 per three years	70	35%	25
Area 3 In Designated Growth Area, The Downs - 400 per three years	133	35%	47
Affordable & Workforce 100 per three years	33	20%	7

Permit Allocation Estimates by Bedroom Size	0-1 Bedroom	2 Bedroom	3+ Bedrooms
Area 1 Rural outside of Growth Areas - 25 per year	0%_	0%	100%
Area 2 In Designated Growth Areas 210 per three years	35%	30%	35%
Area 3 In Designated Growth Area, The Downs - 400 per three years	34%	36%	30%
Affordable & Workforce 100 per three years	40%	45%	15%
Annual Totals	0-1 Bedroom	2 Bedroom	3+ Bedrooms
Total Units Per Year	83	81	97
Household Size Per Unit Type	1.41	2.13	2.42
Persons Per Year	117.03	172.53	234.74

10 Year Totals	
Permits 10 years	2,610
Persons 10 Years	5,243
2021 ACS Population	21,539
Population Percentage of New	20%

Impact Fee Area 1: Intersection of Payne Road and Ginn Road
Scarborough, Maine
Preliminary Cost Estimate
February 2024

Item Number	Item Description	Unit	Quantity	Cost/Unit	Total Cost
1	Roadway	SF	79,762.65	\$ 14.00	\$ 1,116,677.10
2	Sidewalk	SF	28,277.27	\$ 6.00	\$ 169,663.62
3	Esplanade	SF	14,802.11	\$ 5.00	\$ 74,010.55
4	Curb Type 1	LF	2,981.29	\$ 200.00	\$ 596,258.00
5	Pedestrian Traffic Items	LS	1.00	\$ 72,000.00	\$ 72,000.00
6	Clearing	AC	1.02	\$ 26,000.00	\$ 26,520.00
7	Minor Items (10% of Above)	LS	1.00	\$ 205,512.93	\$ 205,512.93
8	Right of Way	SF	45,823.58	\$ 13.00	\$ 595,706.54
				Subtotal	\$ 2,856,348.74
9	Mobilization (10%)	LS	1.00	\$ 285,634.87	\$ 285,634.87
10	Maintenance of Traffic (10%)	LS	1.00	\$ 285,634.87	\$ 285,634.87
11	Erosion Control (5%)	LS	1.00	\$ 142,817.44	\$ 142,817.44
12	Contingency (20%)	LS	1.00	\$ 571,269.75	\$ 571,269.75
				Subtotal	\$ 4,141,705.67
13	Engineering Design (10%)	LS	1.00	\$ 414,170.57	\$ 414,170.57
14	Construction Engineering (10%)	LS	1.00	\$ 414,170.57	\$ 414,170.57
15	Traffic Signals Design by Sebago	LS	1.00	\$ 779,045.00	\$ 779,045.00
				Project Total	\$ 5,749,091.80

Construction Cost Estimate Projected to 2035			
Annual % difference	Decimal	Cost in 2024	Cost in 2035
5.00%	0.05	\$ 5,749,091.80	\$ 9,832,897.98

Per Trip Impact Fee Summary					
Annual % Difference	Cost in 2035	Existing Trips	Proposed Trips	Change in Trips	Cost Per Trip
5.00%	\$9,832,897.98	2611	4377	1766	\$ 5,567.89

Funding of Improvements - Cost Sharing			
Anticipated Funding Source	Percentage	Cost per Trip	Total Contribution
State and Local Contribution	50%	\$ 5,567.89	\$ 2,783.95
New Development	50%	\$ 5,567.89	\$ 2,783.95

* Note that these costs do not include any considerations for bonding or outside funding sources as part of the project total, the projected costs, or the cost per trip.

Impact Fee Area 2: Payne Road Nonesuch River
Scarborough, Maine
Preliminary Cost Estimate
February 2024

Item Number	Item Description	Unit	Quantity	Cost/Unit	Total Cost
1	Roadway	SF	192,789.32	\$ 14.00	\$ 2,699,050.48
2	Sidewalk	SF	59,215.49	\$ 6.00	\$ 355,292.94
3	Esplanade	SF	25,175.99	\$ 5.00	\$ 125,879.95
4	Curb Type 1	LF	6,135.99	\$ 200.00	\$ 1,227,198.00
5	Curb Type 5	LF	4,379.36	\$ 75.00	\$ 328,452.00
6	Paved Median	SF	1,266.03	\$ 12.00	\$ 15,192.36
7	Grassed Median	SF	18,337.10	\$ 10.00	\$ 183,371.00
8	Clearing	AC	2.96	\$ 26,000.00	\$ 76,960.00
9	Minor Items (10% of Above)	LS	1.00	\$ 501,139.67	\$ 501,139.67
10	ROW - Bridges to Mussey	SF	75,598.26	\$ 4.50	\$ 340,192.17
11	ROW - Mussey to Gorham	SF	12,526.59	\$ 16.00	\$ 200,425.44
				Subtotal	\$ 6,053,154.01
12	Mobilization (10%)	LS	1.00	\$ 605,315.40	\$ 605,315.40
13	Maintenance of Traffic (10%)	LS	1.00	\$ 605,315.40	\$ 605,315.40
14	Erosion Control (5%)	LS	1.00	\$ 302,657.70	\$ 302,657.70
15	Contingency (20%)	LS	1.00	\$ 1,210,630.80	\$ 1,210,630.80
				Subtotal	\$ 8,777,073.32
16	Engineering Design (10%)	LS	1.00	\$ 877,707.33	\$ 877,707.33
17	Construction Engineering (10%)	LS	1.00	\$ 877,707.33	\$ 877,707.33
18	Bridge Estimate	LS	1.00	\$ 3,449,150.00	\$ 3,449,150.00
				Project Total	\$ 13,981,637.98

Construction Cost Estimate Projected to 2035			
Annual % difference	Decimal	Cost in 2024	Cost in 2035
5.00%	0.05	\$ 13,981,637.98	\$ 23,913,345.73

Per Trip Impact Fee Summary					
Annual % Difference	Cost in 2035	Existing Trips	Proposed Trips	Change in Trips	Cost Per Trip
5.00%	\$23,913,345.73	2833	6170	3337	\$ 7,166.12

Funding of Improvements - Cost Sharing			
Anticipated Funding Source	Percentage	Cost per Trip	Total Contribution
State and Local Contribution	50%	\$ 7,166.12	\$ 3,583.06
New Development	50%	\$ 7,166.12	\$ 3,583.06

* Note that these costs do not include any considerations for bonding or outside funding sources as part of the project total, the projected costs, or the cost per trip.

TRAFFIC IMPACT FEES COMPARISON
Scarborough, Maine

AR Building Development Project on Mussey Road (120 housing units)				
Impact Fee Districts	Current Ordinance Impact Fee	Proposed Ordinance Impact Fee	Difference	% Increase
Haigis District Fee	\$ 5,940.00	\$ 5,940.00	\$ -	0%
Dunstan District Fee	\$ 8,412.00	\$ 8,412.00	\$ -	0%
Oak Hill Mitigation Fee	\$ 13,590.00	\$ 13,590.00	\$ -	0%
Payne Rd District #1 Fee	\$ 448.29	\$ -	\$ (448.29)	-100%
Payne Rd District #2 Fee	\$ 5,263.56	\$ -	\$ (5,263.56)	-100%
Payne Rd District #3 Fee	\$ 4,491.45	\$ -	\$ (4,491.45)	-100%
Payne Rd District #5	\$ 15,367.80	\$ 15,367.80	\$ -	0%
Payne Rd - Ginn Rd District Fee	\$ -	\$ 25,055.55	\$ 25,055.55	100%
Payne Rd - Nonesuch District Fee	\$ -	\$ 32,247.54	\$ 32,247.54	100%
	\$ 53,513.10	\$ 100,612.96	\$ 47,099.79	88%

Note: Cost per Unit with new Ordinance will be \$838.44

Oak Hill Plaza Apartment Bldg (approved in 2019)				
Impact Fee Districts	Current Ordinance Impact Fee	Proposed Ordinance Impact Fee	Difference	% Increase
Haigis District Fee	\$ 11,880.00	\$ 11,880.00	\$ -	0%
Dunstan District Fee	\$ 8,412.00	\$ 8,412.00	\$ -	0%
Oak Hill Mitigation Fee	\$ 14,345.00	\$ 14,345.00	\$ -	0%
Payne Rd District #1 Fee	\$ -	\$ -	\$ -	0%
Payne Rd District #2 Fee	\$ 584.84	\$ -	\$ (584.84)	-100%
Payne Rd District #3 Fee	\$ -	\$ -	\$ -	0%
Payne Rd District #5	\$ 2,049.04	\$ 2,049.04	\$ -	0%
Payne Rd - Ginn Rd District Fee	\$ -	\$ -	\$ -	0%
Payne Rd - Nonesuch District Fee	\$ -	\$ -	\$ -	0%
	\$ 37,270.88	\$ 36,686.04	\$ (584.84)	-2%

Mussey Road Hotel (126 units)				
Impact Fee Districts	Current Ordinance Impact Fee	Proposed Ordinance Impact Fee	Difference	% Increase
Haigis District Fee	\$ -	\$ -	\$ -	0%
Dunstan District Fee	\$ -	\$ -	\$ -	0%
Oak Hill Mitigation Fee	\$ -	\$ -	\$ -	0%
Payne Rd District #1 Fee	\$ 1,344.87	\$ -	\$ (1,344.87)	-100%
Payne Rd District #2 Fee	\$ 3,509.04	\$ -	\$ (3,509.04)	-100%
Payne Rd District #3 Fee	\$ 7,485.75	\$ -	\$ (7,485.75)	-100%
Payne Rd District #5	\$ 3,073.26	\$ 3,073.26	\$ -	0%
Payne Rd - Ginn Rd District Fee	\$ -	\$ 38,975.30	\$ 38,975.30	0%
Payne Rd - Nonesuch District Fee	\$ -	\$ 50,162.84	\$ 50,162.84	0%
	\$ 15,412.92	\$ 92,211.40	\$ 76,798.48	498%

Note: Cost per Unit with new Ordinance will be \$731.84

Downs Development Traffic Movement Permit Required Improvements				
Impact Fee Districts	Total Cost of Offsites	Approx Trips Covered by TMP	Cost per trip**	Cost Sharing %
Cost of Offsite Improvements*	\$ 14,000,000.00	3,000	\$ 4,666.67	
DOT Share of Project	\$ 3,000,000.00			21%
Town Share	\$ 2,800,000.00			20%
Developer Share	\$ 8,200,000.00			59%

*** Engineers Estimate of Downs Development Offsite Improvements in 2021**

**** Downs Development still paying for Impacts to Dunstan and Haigis Parkway Districts in addition to these numbers**

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 1, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 24-043. Move approval on the request from the Police Chief and the Community Services Director to accept grants on behalf of the VIPS [Volunteer in Police Service] and Community Services in the amount of \$2,500 each from the Scarborough Chamber of Commerce. [*Police Chief/Director of Community Services*]

Police Chief/Director of Community Services

Ought to Pass

Sponsor

Recommendation

N/A

First Reading/Vote

N/A

Public Hearing

05/01/2024 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: May 1, 2024

ACTION ITEM: Order No. 24-043
SUBJECT: Act on the request from the Police Chief and the Community Services Director to accept grants on behalf of the VIPS [Volunteer in Police Service] and Community Services in the amount of \$2,500 each from the Scarborough Chamber of Commerce. <i>[Police Chief/Director of Community Services]</i>
PURPOSE: To accept a \$2,500 Grant being award to the VIPS and Community Services, from the Scarborough Chamber of Commerce.
BACKGROUND: The Town was made aware the Scarborough Chamber of Commerce would be awarding the VIP Program and Community Services each a \$2,500 Grant for use in the Community. Applications were submitted in January and notification of the award was given in mid to late March, to both organizations, that they had been selected as two of 10 organization to receive one of the \$2,500 grants.
FISCAL IMPACT: \$2,500 each
STATUS / PROCESS TO DATE: <ul style="list-style-type: none">• Departments received notification of Grant: Mid to late March.• Final Action before the Town Council: May 1, 2024
PROPOSED ACTION: Recommend to move approval of Order No. 24-043.
ATTACHMENTS: <ul style="list-style-type: none">• Letter from Chamber of Commerce• Award letters to the Police Department and Community Services



The Scarborough Chamber of Commerce initiated Scarborough Concerts in that Park with modest beginnings on the lawn of the Public Library, where crowds of 30-40 were a big success. When Memorial Park opened, we were encouraged by the Town Manager to move our series to the new park. Soon after, the partnership between Scarborough Community Services and the Chamber was formed to present the now 6-week series of shows we know today. This FREE event is now one of Scarborough's largest FREE events for the community. This brings in over 40 area businesses as sponsors and attendees from over 18 different communities into Scarborough with crowds ranging from 800 to 3,000 people per show depending on the performers and weather.

Without sounding like we're tooting our own horn, we like to feel this is one of the gems of living / working / playing in Scarborough, adding to the quality of life as it were.

2024 marks the 25th season of Concerts in the Park in Scarborough. What better way to help celebrate and mark this milestone than to recognize other gems within our community? To celebrate this milestone anniversary, we wanted to recognize 10 other gems we feel contribute greatly to our wonderful community \$25,000 in grants, each receiving \$2,500.

Organizations were nominated by our Board of Directors, vetted, reviewed and selected by an ad hoc committee.

The Scarborough Volunteers in Police Service (VIPS) and Scarborough Community Services have been selected to each receive a \$2,500 grant, for service (seen & unseen), to thousands within our great community.

Sincerely,

Art Dillon
Scarborough Chamber of Commerce
Concerts in the Park Chair



SCARBOROUGH



COMMUNITY CHAMBER OF COMMERCE
In Partnership with the Portland Regional Chamber of Commerce

Dear Volunteers in Police Service,

First and foremost, thank you for all you do to contribute to our great Scarborough Community! We are proud to partner with your organization to help us celebrate our 25th Season of Concerts in the Park. Thank you for your thoughtful application and your patience as we navigated the selection process. I'm happy to announce you have been selected as one of the 10 organizations to receive one of our \$2,500.00 grants!

We are planning an announcement in the Town Newsletter to be published June 15, 2024 and with a press release to help reinforce all of the good work you do. At this time, we would also like to invite you to our Annual Meeting on June 25th, 5:30pm-6:30pm to be recognized. Town Manager Tom Hall will also be presenting our State of the Town review. This networking event will be held at the Hannaford Corporate offices here in Scarborough.

We would also like to present you with a check prior to our Concerts in the Park series at Memoria Park on Thursday June 27th. There, you will be recognized and have an opportunity to speak along with a photo opportunity we can send into the Leader. Please park in the high school parking lot and arrival time should be no later than 6:00 pm with the presentation to take place approximately 6:20 as we kick off the show.

If you have questions, please reach out to me at aldillon@maine.rr.com and I am happy to help.

We appreciate your time and your contributions to our town and look forward to celebrating with you in the coming months.

Sincerely,

Art Dillon, Secretary

Scarborough Community Chamber of Commerce.

SCARBOROUGH



COMMUNITY CHAMBER OF COMMERCE
In Partnership with the Portland Regional Chamber of Commerce

Dear Scarborough Community Services,

First and foremost, thank you for all you do to contribute to our great Scarborough Community! We are proud to partner with your organization to help us celebrate our 25th Season of Concerts in the Park. Thank you for your thoughtful application and your patience as we navigated the selection process. I'm happy to announce you have been selected as one of the 10 organizations to receive one of our \$2,500.00 grants!

We are planning an announcement in the Town Newsletter to be published June 15, 2024 and with a press release to help reinforce all of the good work you do. At this time, we would also like to invite you to our Annual Meeting on June 25th. 5:30pm-6:30pm to be recognized. Town Manager Tom Hall will also be presenting our State of the Town review. This networking event will be held at the Hannaford Corporate offices here in Scarborough.

We would also like to present you with a check prior to our Concerts in the Park series at Memoria Park on Thursday August 1st. There, you will be recognized and have an opportunity to speak along with a photo opportunity we can send into the Leader. Please park in the high school parking lot and arrival time should be no later than 6:00 pm with the presentation to take place approximately 6:20 as we kick off the show.

If you have questions, please reach out to me at aldillon@maine.rr.com and I am happy to help.

We appreciate your time and your contributions to our town and look forward to celebrating with you in the coming months.

Sincerely,

Art Dillon, Secretary

Scarborough Community Chamber of Commerce.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 1, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 24-044. Move approval on the request to sign the Warrants for the Regular Municipal and School Budget Validation Referendum, scheduled for Tuesday, June 11, 2024, at the Scarborough High School – Alumni Gym; appoint the warden and warden clerk, set the hours for voter registration, and act on appointments of election clerks, pursuant to Chapter 200 – Article VIII. Nomination and Elections, Title 21-A, §503 and authorize the Town Clerk to make any additional appointments as necessary. *[Town Clerk]*

<i>Town Clerk</i>	<i>Ought to Pass</i>
<hr/>	<hr/>
Sponsor	Recommendation
 N/A	
<hr/>	
First Reading/Vote	
 N/A	
<hr/>	
Public Hearing	
 05/01/2024 – Vote:	
<hr/>	
Second Reading/Final Approval/Vote	

Scarborough Town Council Meeting

Council Meeting Date: May 1, 2024

ACTION ITEM: Order No. 24-044**SUBJECT:**

Act on the request to sign the Warrants for the Regular Municipal and School Budget Validation Referendum, scheduled for Tuesday, June 11, 2024, at the Scarborough High School – Alumni Gym; appoint the warden and warden clerk, set the hours for voter registration, and act on appointments of election clerks, pursuant to Chapter 200 – Article VIII. Nomination and Elections, Title 21-A, §503 and authorize the Town Clerk to make any additional appointments as necessary. *[Town Clerk]*

PURPOSE:

The purpose of the June 11, 2024, Elections is to vote on the Regular Municipal and School Budget Validation Referendum

BACKGROUND:

Pursuant to the Town Charter, the Town Council sets the date and time for each election that is conducted, unless otherwise stated in State Law.

FISCAL IMPACT: N/A**STATUS / PROCESS TO DATE:**

- Single action on Election Warrants: Town Council May 1, 2024

PROPOSED ACTION:

Recommend to move approval of Order No. 24-044.

ATTACHMENTS:

- Copy of the proposed Election Warrant with a list of potential election staff.

WARRANT
REGULAR MUNICIPAL AND SCHOOL BUDGET VALIDATION REFERENDUM
(20-A M.R.S.A. § 1486 and 2307)
TOWN OF SCARBOROUGH

TUESDAY, JUNE 11, 2024
DAY AND DATE OF ELECTION

Municipality: Scarborough

Voting District: Town Wide

Voting Place Name: Scarborough High School

Voting Location: 11 Municipal Drive

Polls Open at 7:00 A.M.

Polls Close at 8:00 P.M.

Absentee Ballot Processing (check all that apply):

Processed by: Clerk (Centrally) ☒ Clerk (At Polls)

Date/Time of Processing:

☒ **Friday, June 7, 2024***

1- Hour Inspection Time Period: 9:00 a.m., if no inspection is requested or 10:00 a.m., if an
Time Processing Begins: inspection is requested.

☒ **During** Election Day (6/11/2024) Processing Time(s): 8:00 a.m., 10:00 a.m. & 7:30 p.m.

Only after 8:00 p.m. on Election Day (6/11/2024): _____

County of Cumberland, ss

State of Maine

To: Mark A. Holmquist, the Police Chief of Scarborough:

You are hereby required in the name of the State of Maine to notify the voters of the Town of Scarborough of the Regular Municipal and School Budget Referendum Election, as described in this warrant.

To the Voters of the Town of Scarborough:

You are hereby notified that an election for the purpose of a Regular Municipal Election will be held on Tuesday, June 11, 2024, at the Scarborough High School Alumni Gymnasium, located at 11 Municipal Drive:

FOR BOARD OF EDUCATION

Term of 3 Years

Vote for Two

Lindstorm, Mary Shannon

Peterson, Alissa K.

School Budget Validation Referendum Question No. 1:

YES Do you favor approving the Scarborough School budget for the upcoming school
NO year that was adopted at the latest Town of Scarborough budget meeting?

The polls shall be opened at 7:00 A.M. and closed at 8:00 P.M.

Absentee Ballots shall be processed as noted above.

The Registrar of Voters will hold office hours during regular business hours of the Town Hall and at the Polls to correct any error or change a name or address on the voting list; to accept the registration of any person eligible to vote and to accept new enrollments.

A person who is not registered as a voter may not vote in any Scarborough election.

Given under our hand this 1st day of May, 2024, at Scarborough, Maine.

_____	_____
_____	_____
_____	_____

A True Copy Attested:	Date:
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ELECTION WORKERS FOR THE JUNE 11, 2024 ELECTION:

JoAnn Albright
Joyce Alden
Diane Allen
Ronald Allen
Linda Bailer
Janice Barker
Chris Bachmeyer
Barbara Belicose
Barbara Boutet
Janice Breton
Margot Brill
Alyson Bristol
Mary Ellen Brown
Cathy Brunt
Carol Call
Anne Campbell
James Chapman
Joyce Clark
Linda Cohen
Ashley Collins
Nina Comiskey
William Cullen
Beverly Dahms
Donna Daigneault
Rebecca Darling
M. Jane Davis
Vera Dobbs
Gail Dobriko
Stanley Dunlap
Patricia Dunn
Marie Eschner
Stephen Gaal
Laurie Gauci

Peter Gauci
Mary Getchell
Charlene Gillchrest
Mary-Louise Gould
Elizabeth Grant
Darlene Greenfield
Deborah Jean Grew
Susan Griffin
Garth Grimmer
Jean Grimmer
James Hall
Brian Harrington
Brenda Harrison
Catherine Hendrix
Ellen Hinchee
Donna Hinds
James Horrigan
Mary Hoven
Donna Jackman
Laurel Jackson
Shirley Jackson
Heather Jamieson
Patricia Jones
Maureen Kearney
Justin LeBlanc
Lorraine LaChapelle
Alfred LeDoux
Karen Littlefield
Karolyn Lowe
Anne Lunt
Deborah Lynch
Margaret Metzger
Tammalene Mitman

Roland Moore
Sandra Monroy-Irish
Jane Murphy
Peggy Murray
Charlotte Nolan
Thomas Nolan
Robert Osborn
Thomas Osborne
Edward Pettit
Pauline Pinkos
Cheryl Plowman
Francis Quinn
Janice Rogan
Virgina Secco
Helen Seder
Heidi Seely
Margaret Smetana
Christopher Smick
Blue Smith
Denise Smith
Joan Steinberg
Bob Sturges
Diana Taylor
Jayne Thornton
Nadja Wallace
Diane Warren
Maureen Weeks
Sarah Willcox
Paul Wolf
Robert Wooten
Janet Yusim
Doris Zampini

Allen Paul—Deputy Warden
Cynthia Kueck—Warden
William Penley—Warden