

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 5, 2024
CANCELED - WORKSHOP ON SHORT-TERM RENTALS – 5:30 P.M.
HYBRID REGULAR MEETING – 7:00 P.M.

TO VIEW TOWN COUNCIL MEETING & OFFER PUBLIC COMMENT:

<https://scarboroughmaine.zoom.us/j/84571977684>

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: May 15, 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.
 - Reval Update - Town Assessor.

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

Order No 24-046, 7:00 p.m. Public hearing and action on the renewal requests for a Special Amusement Permit from the following businesses American Legion, Black Point Inn, Black Tie, Inc., Higgins Beach Inn, Nonesuch Brewing, Salty Bay, and Throttle Car Club. (Tabled from the May 15, 2024 Town Council Meeting) *[Town Clerk]*

Order No 24-047, 7:00 p.m. Public hearing and action the request from Scarborough Beach State Park to permit a temporary event overflow parking lot at 395 Black Point Road for Scarborough Beach State Park seasonal use, pursuant to Chapter 602B - the Town of Scarborough Temporary Event Overflow Parking Ordinance. *[Applicant/Planning Director]*

Proclamation 24-004. Act on the request to designate the month of July as Park and Recreation Month. *[Town Manager]*

OLD BUSINESS:

Order No. 24-027. First reading and schedule a public hearing and second reading on the proposed amendments to Chapter 311: the Town of Scarborough Schedule of License, Permit and Application Fees regarding the proposed Annual Mooring Wait List Fee.(Tabled from the March 20, 2024, Town Council meeting.) *[Town Staff]*

Order No. 24-040. Second reading on the proposed changes to Chapter 1018 – the Town of Scarborough Cannabis Establishment Licensing Ordinance.(Tabled from the May 1, 2024 Town Council Meeting.) *[Assistant Town Manager]*

NEW BUSINESS:

Order No. 24-048. First reading and schedule a second reading, to extend the Town-wide Moratorium on Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities, that the Town Council approved on February 7, 2024. *[Assistant Town Manager]*

Order No. 24-049. First reading and schedule a second reading, to approve the expenditure, in an amount not to exceed, \$800,000 from the Land Acquisition Reserve Fund for the purpose of purchasing property located at 65 Hanson Road [Silver Brook Preserve II], identified by the Scarborough Tax Assessors Map R001/Lot 003, as recommended by the Parks and Conservation Land Board, and authorize the Town Manager, to execute any and all documents as are necessary to protect the Town's interest. *[Parks and Conservation Land Board]*

Item 9. Non-Action Item.

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

Item 11. Council Member Comments.

Item 12. Adjournment.

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SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 5, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No 24-046. Move approval on the renewal requests for a Special Amusement Permit from the following businesses American Legion, Black Point Inn, Black Tie, Inc., Higgins Beach Inn, Nonesuch Brewing, Salty Bay, and Throttle Car Club. (Tabled from the May 15, 2024, Town Council Meeting] [*Town Clerk*]

Town Clerk

Ought to Pass

Sponsor

Recommendation

*05/15/2024 – Vote: 7 Yeas to table the above
Businesses to the June 5, 2024 meeting.*

06/05/2024

First Reading/Vote

*05/15/2024 – Continue Public hearing on above
Business to the June 5, 2024 meeting.*

06/05/2024

Public Hearing

N/A

Second Reading/Final Approval/Vote

AGENDA
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Order No 24-047. Move approval on the request from Scarborough Beach State Park to permit a temporary event overflow parking lot at 395 Black Point Road for Scarborough Beach State Park seasonal use, pursuant to Chapter 602B - the Town of Scarborough Temporary Event Overflow Parking Ordinance. *[Applicant/Planning Director]*

Applicant/Planning Director

Ought to Pass

Sponsor

Recommendation

06/05/2024 – Vote:

First Reading/Vote

06/05/2024

Public Hearing

N/A

Second Reading/Final Approval/Vote

AGENDA
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Proclamation 24-004. Move approval on the request to designate the month of July as Park and Recreation Month. *[Town Manager]*

Town Manager

Ought to Pass

Sponsor

Recommendation

06/05/2024 – Vote:

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 5, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 24-027. Move approval of the first reading on the proposed amendments to Chapter 311: the Town of Scarborough Schedule of License, Permit and Application Fees regarding the proposed Annual Mooring Wait List Fee and schedule a public hearing and second reading for Wednesday, June 26, 2024. (Tabled from the March 20, 2024, Town Council meeting.) [*Town Staff*]

<i>Town Staff</i>	<i>Ought to Pass</i>
<hr/>	<hr/>
Sponsor	Recommendation
 <i>03/20/2024 – Vote: 7 Yeas – to table this Order for further review by the Coastal Waters & Harbor Committee.</i>	
<i>06/05/2024 – Vote:</i>	
<hr/>	
First Reading/Vote	
 <i>06/26/2024</i>	
<hr/>	
Public Hearing	
 <i>06/26/2024</i>	
<hr/>	
Second Reading/Final Approval/Vote	

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 5, 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.(Tabled from the May 1, 2024 Town Council Meeting.) [*Assistant Town Manager*]

Assistant Town Manager

Ought to Pass

Sponsor

Recommendation

04/17/2024 – Vote:

First Reading/Vote

05/01/2024

Public Hearing

05/01/2024 – Vote: 6 Yeas to table the second Reading to the June 5, 2024, Town Council Meeting.

06/05/2024 – Vote:

Second Reading/Final Approval/Vote

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 5, 2024
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Assistant Town Manager

Ought to Pass

Sponsor

Recommendation

06/05/2024 – Vote:

First Reading/Vote

N/A

Public Hearing

06/26/2024 – Vote:

Second Reading/Final Approval/Vote

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 5, 2024
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Order No. 24-049. Move approval of the first reading to approve the expenditure, in an amount not to exceed, \$800,000 from the Land Acquisition Reserve Fund for the purpose of purchasing property located at 65 Hanson Road [Silver Brook Preserve II), identified by the Scarborough Tax Assessors Map R001/Lot 003, as recommended by the Parks and Conservation Land Board, and authorize the Town Manager, to execute any and all documents as are necessary to protect the Town’s interest and schedule the second reading for Wednesday, June 26, 2024. [*Parks and Conservation Land Board*]

Parks and Conservation Land Board

Ought to Pass

Sponsor

Recommendation

06/05/2024 – Vote:

First Reading/Vote

N/A

Public Hearing

06/26/2024 – Vote:

Second Reading/Final Approval/Vote

To: Scarborough Town Council
From: Thomas J. Hall, Town Manager
RE: Town Manager's Report
Date: June 5, 2024

Below is an initial list of items that will be included in the Town Manager's Update at the regular public meeting of June 5, 2024. I will provide a verbal update on each of these items and will likely include other items of interest.

- **Absentee Voting** -
 - May 13 through June 6
 - Special Circumstance required on June 10
 - Council Chambers B
- **Harbor Master/MRO** -
 - Daryen Granata hired -start date of June 10, 2024
- **Affordable Housing Grand Openings** -
 - Village Commons - June 18 at 2:00 PM
 - Jocelyn Place - June 20 at 11:00 AM
- **ecomaine Annual Meeting** -
 - June 20 at 11:00 AM at Thompson's Point
 - Eco-Excellence Award- Piper Shores
- **Electricity Contract** –
 - 48 month contract
 - Annual savings of \$94K - \$376K total savings
 - 100% Certified Green Renewable Energy
- **Upcoming Workshops** -
 - June 5 - Short-Term Rentals
 - June 27- School Building Committee
 - July 17 - November Ballot Questions
 - August 21 - Community Center Presentation
- **.Eastern Trail - Close The Gap** -
 - Agreement with CSX on Aerial Easement and Construction Agreement
- **Revaluation Update- Tax Assessor**

2024 Revaluation (Part 5)

TOWN COUNCIL MEETING

JUNE 5, 2024

*PART 1: SEPTEMBER 20, 2023

*PART 2: JANUARY 17, 2024

*PART 3: FEBRUARY 8, 2024

*PART 4: APRIL 17, 2024

~GO TO: WWW.SCARBOROUGHMAINE.ORG/REVALUATION FOR PRIOR PRESENTATIONS



OUTLINE

- **Notice Letters & Flyer**
- **Property Search Tools**
- **Status Updates**
- **FAQs**
- **What's Next...**

❖ **Attachments:**

- ~ Sample Revaluation Notice
- ~ "About Your Assessment" Flyer
- ~ Revaluation Communications Timeline (1/17/24)

2024 Revaluation Assessment Notices

Notice Letter

- Individualized (Property-Specific)
- Old / New Assessed Value
- Est FY25 Taxes
- Informal Review Hearings
- Tax Relief Programs

TOWN OF SCARBOROUGH
2024 PROPERTY REVALUATION NOTICE

TOTAL PRIOR ASSESSMENT

TOTAL NEW ASSESSMENT

New assessed value based upon the estimated full market value as of April 1, 2024.

ESTIMATED ASSESSMENT AND PROPERTY TAX INFORMATION			
TAX YEAR	ASSESSMENT	TAX RATE	ANNUAL TAXES
2023-2024 (FY 24)	Prior Assessed Value:	15.97/\$1,000	
	Exemptions:	or	**Total:
	Taxable Value:	x 0.01597 =	
2024-2025 (FY 25)	**New Assessed Value:	Est. 11.05/\$1,000	
	Exemptions:	or	Est. Total:
	Taxable Value:	x 0.01105 =	

*If you were enrolled in the State's 2023 Stabilization Program, your actual (reduced) tax bill:

**The assessed values are subject to change before being finalized at tax commitment in late August

***** NOTICE *****

FY25 Tax Projections Subject to Change

The FY25 Tax Rate and Estimated Taxes are projections only and will not be finalized until tax commitment in late August.

TAX RELIEF PROGRAMS

The Town of Scarborough offers property tax relief through several programs (e.g., State exemptions or local property tax assistance). To see if you qualify for these programs, visit www.scarboroughmaine.org/taxrelief.

Assessing Department
259 US Route One | PO Box 360 | Scarborough, Maine 04070 | P: 207.730.4060 | scarboroughmaine.org

2024 Revaluation Assessment Notices

TOWN OF SCARBOROUGH, MAINE

ASSESSING

ABOUT YOUR ASSESSMENT

REVALUATION OVERVIEW

The Assessor's Office conducted a town-wide revaluation this spring, and assessments are now complete. A revaluation is the process of updating real estate property values to reflect their current market value (i.e., to maintain reasonable estimates of what each property could sell for on the open market).

This is the first revaluation in 5 years and is critical for both fairness and compliance with State law. It ensures that all property owners pay their fair share of taxes based on market values and that the tax burden is evenly distributed. Scarborough is currently out of compliance with assessment requirements through Maine State law. When this happens, the State reduces many reimbursements and exemptions, which in turn affects taxpayers.

DETERMINING YOUR VALUE

The new value stated in the enclosed notice reflects your property's fair market value as of April 1, 2024. The Assessor's Office determines these values from a thorough analysis of all available information, especially current sales data. The goal is to appraise thousands of properties, all at one time, in a way that is equitable for all property owners. Here are some tools we use:

Property Records Historical records maintained for all Scarborough properties (e.g., building permits, inspections, maps, etc.)	Vision Database Information on assessments, property features, current sales data, and ownership
GIS Parcel Viewer Interactive application providing property tax/assessment information and geographic data for town parcels	Property Sales Database of real estate sales considered in the Revaluation (4/1/22-4/1/24)

ANALYSIS OF ALL AVAILABLE DATA

The resources above are publicly available. Go to www.scarboroughmaine.org/property-search-tools to access these tools and more information. If a sale has yet to be published online, you may be able to find the information at the Assessor's Office or on real estate websites.

Have questions about the Revaluation?
Visit www.scarboroughmaine.org/revaluation
Call: 207-739-4000 between 7:00 a.m. and 5:00 p.m. Monday-Thursday
Email: reval@scarboroughmaine.org

TOWN OF SCARBOROUGH, MAINE

"About Your Assessment" Flyer

- Revaluation Process
- Review & Appeals
- Conduct Your Own Research

2024 Revaluation
Assessment Notices

Property Search Tools



Overview

Vision Database

Property Sales

GIS Parcel Viewer

Historical Records

www.scarboroughmaine.org/property-search-tools

2024 Revaluation
Status Updates

Status Updates

- **Remaining Notice Mailings**
- **Website Updates**
- **Communications Timeline**
- **Informal Review Hearings**
- **Tax Relief Programs**

2024 Revaluation
Status Updates

FAQs

- **State “Stabilization” Program**
- **Why is my Assessment Increasing?**

2024 Revaluation
FAQ Explanation

**“Paired Sales”
Or
Re-Sold Properties**

- Multiple Sales on Individual Parcels since 2018/2019 (our last Revaluation)
- Old vs. New Valuations and the affected Sale Ratios

2024 Revaluation FAQ Explanation: Example 1

Address: MILL COMMONS DR



Assessment		Ratio <i>Assessed / Sale\$</i>
Old	\$363,500	59%
New	\$555,900	90%

Property Details	
Type	Condo
Style	1 Story
Grade	Good
Living Area	1,576 sqft
Year Built	2019

Sale Date	Sale Price
12/2019	\$375,000
2/2023	\$620,000

% Change → 65%

2024 Revaluation FAQ Explanation: Example 2

Address: SCHOONER RD



Assessment		Ratio
		<i>Assessed / Sale\$</i>
Old	\$416,600	49%
New	\$764,900	90%

Property Details	
Type	Single Fam
Style	Colonial
Grade	Good
Living Area	2,404 sqft
Year Built	1987

Sale Date	Sale Price
10/2018	\$465,000
3/2024	\$850,000

% Change → 83%

2024 Revaluation FAQ Explanation: Example 3

Address: LIBBY ST



Assessment		Ratio <i>Assessed / Sale\$</i>
Old	\$280,700	62%
New	\$424,800	94%

Property Details	
Type	Single Fam
Style	Cape Cod
Grade	Average
Living Area	1,342 sqft
Year Built	1930

Sale Date	Sale Price
1/2019	\$275,000
5/2023	\$452,000

% Change → 64%

2024 Revaluation FAQ Explanation: Example 4

Address: MEMORY LN



Assessment		Ratio <i>Assessed / Sale\$</i>
Old	\$406,800	62%
New	\$601,200	91%

Property Details	
Type	Single Fam
Style	Colonial
Grade	Average +10
Living Area	1,904 sqft
Year Built	2016

Sale Date	Sale Price
7/2019	\$375,000
6/2023	\$660,000

% Change → 76%

2024 Revaluation FAQ Explanation: Example 5

Address: ATLANTIC DR



Assessment		Ratio
		<i>Assessed / Sale\$</i>
Old	\$1,207,400	43%
New	\$2,525,000	90%

Property Details	
Type	Condo
Style	Multi-Story
Grade	VGood +10
Living Area	2,983 sqft
Year Built	1995

Sale Date	Sale Price
5/2018	\$1,500,000
8/2023	\$2,800,000

% Change → 87%

2024 Revaluation
FAQ Explanation

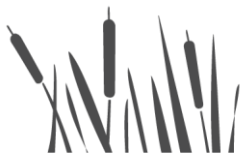
“Re-Sold” Property Examples Summary

Prop Ex. #	Old A/S Ratio		Assessment % Change		New Ratio
4	62%	<i>Higher</i>	48%	<i>Less</i>	91%
3	62%		51%		94%
1	59%		53%		90%
2	49%		84%		90%
5	43%	<i>Lower</i>	109%	<i>More</i>	90%

2024 Revaluation
Concluding Points

What's Next?

- **Remaining Notice Mailings**
- **Informal Hearings: *June - August***
- **Tax Commitment: *Late August***
- **Final Reval Results**
- **Formal Appeals: *Sept – Feb 2025***



[DATE]

Property ID:

Parcel Location:

Map/Lot:

***** THIS IS NOT A TAX BILL *****

NAME 1

NAME 2

ADDRESS 1

ADDRESS 2

ADDRESS 3

Subject: **Revaluation Notice**

Dear Property Owner,

The Town of Scarborough has completed its revaluation of all property. Your new assessment is based upon the estimated full market value as of April 1, 2024. This new value will affect your upcoming fall tax bills for half-year installment payments due October 2024 and March 2025.

IMPORTANT: THIS IS NOT A TAX BILL: You will receive your first FY25 tax bill this fall.

ASSESSMENT INFORMATION: Please see the enclosed flyer which highlights various ways to cross-check your new valuation and property records for accurate information.

INFORMAL REVIEW HEARING: Informal hearings are available to review assessment data. A change in value will be considered if the owner can demonstrate that the appraised value exceeds the market value. If you believe this assessment does not represent fair market value of your property, we respectfully request that you contact the Assessor's Office for an informal hearing via one of the following methods:

1. **Email (*Preferred*):** Email an explanation to us at reval@scarboroughmaine.org. Upload relevant documents, if applicable.
2. **Phone:** Call us at **(207) 730-4060** between 7:00 a.m. and 5:00 p.m., Monday through Thursday to schedule a phone hearing. If you reach voicemail, please leave a brief message with your name, address, telephone number and email address, if applicable. Please also include your preferred availability (days/times of day) for a phone hearing. We'll strive to return all calls and respond to emails within 5 business days. Initial phone hearings will be scheduled **by appointment only** from June-August and conducted in **20 MINUTE** blocks to serve the most people.

****** There will be an opportunity for a second round in-person hearing, as needed. ******

REASONABLE ACCOMMODATION REQUESTS: If neither phone or email are effective ways to communicate for certain residents, arrangements will be made to provide alternative accommodations on a case-by-case basis.

Sincerely,
Nicholas Cloutier
Town Assessor

***** SEE BACK PAGE *****

Assessing Department

259 US Route One | PO Box 360 | Scarborough, Maine 04070 | P: 207.730.4060 | scarboroughmaine.org

**TOWN OF SCARBOROUGH
2024 PROPERTY REVALUATION NOTICE**

TOTAL PRIOR ASSESSMENT

\$453,600

TOTAL NEW ASSESSMENT

\$694,700

New assessed value based upon the estimated full market value as of April 1, 2024.

ESTIMATED ASSESSMENT AND PROPERTY TAX INFORMATION			
TAX YEAR	ASSESSMENT	TAX RATE	ANNUAL TAXES
2023–2024 (FY 24)	<i>Prior Assessed Value:</i> \$453,600	15.97/\$1,000	
	Exemptions: <u>(\$-23,500)</u>	<i>or</i>	<i>*Total:</i>
	Taxable Value: \$430,100	x 0.01597 =	\$6,868.70
2024–2025 (FY 25)	<i>**New Assessed Value:</i> \$694,700	<i>Est. 11.05/\$1,000</i>	
	Exemptions: <u>(\$-25,000)</u>	<i>or</i>	<i>Est. Total:</i>
	Taxable Value: \$669,700	x 0.01105 =	\$7,400.19
<i>*If you were enrolled in the State's 2023 Stabilization Program, your actual (reduced) tax bill: \$ 6,596.15</i>			
<i>**The assessed values are subject to change before being finalized at tax commitment in late August</i>			

***** NOTICE *****

FY25 Tax Projections Subject to Change

*The FY25 Tax Rate and Estimated Taxes are projections only and
will not be finalized until tax commitment in late August.*

TAX RELIEF PROGRAMS

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Assessing Department

259 US Route One | PO Box 360 | Scarborough, Maine 04070 | P: 207.730.4060 | scarboroughmaine.org



ABOUT YOUR ASSESSMENT

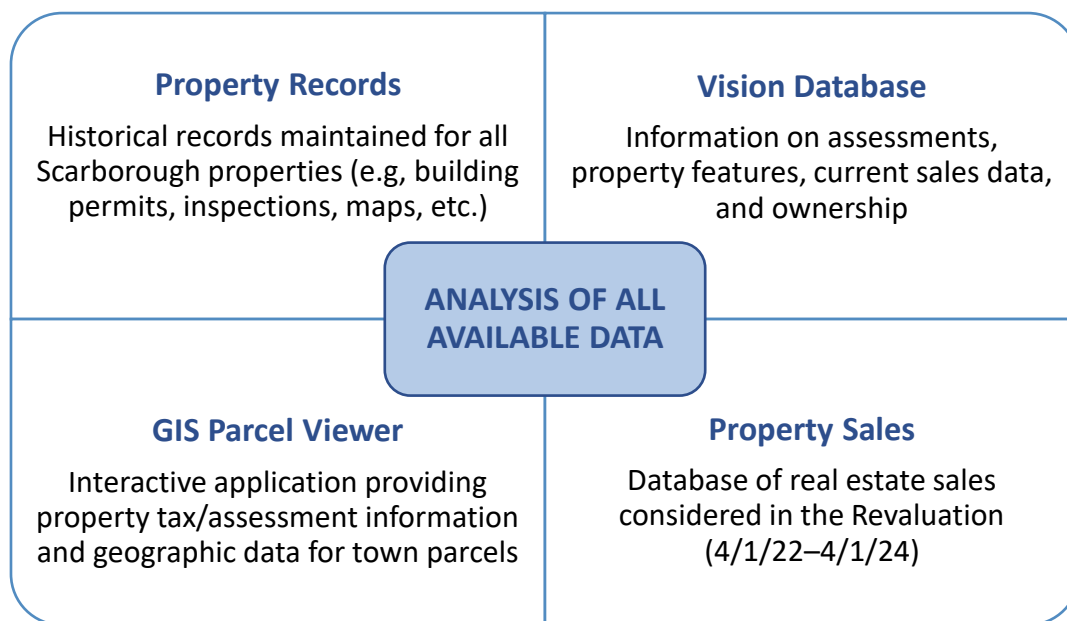
REVALUATION OVERVIEW

The Assessor's Office conducted a town-wide revaluation this spring, and assessments are now complete. **A revaluation is the process of updating real estate property values to reflect their current market value** (i.e., to maintain reasonable estimates of what each property could sell for on the open market).

This is the first revaluation in 5 years and is critical for both **fairness** and **compliance with State law**. It ensures that all property owners pay their fair share of taxes based on market values and that the tax burden is evenly distributed. Scarborough is currently out of compliance with assessment requirements through Maine State law. When this happens, the State reduces many reimbursements and exemptions, which in turn affects taxpayers.

DETERMINING YOUR VALUE

The new value stated in the enclosed notice reflects your property's fair market value as of April 1, 2024. The Assessor's Office determines these values from a thorough analysis of all available information, especially current sales data. The goal is to appraise thousands of properties, all at one time, in a way that is equitable for all property owners. Here are some tools we use:



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Have questions about the Revaluation?

Visit www.scarboroughmaine.org/Revaluation

Call: 207-730-4000 between 7:00 a.m. and 5:00 p.m. Monday-Thursday

Email: reval@scarboroughmaine.org



CONDUCT YOUR OWN ANALYSIS

Here are ways to cross-check your new valuation and property details for accurate information:

Review Your Property Record:

Access your Property Card (“Field Card”) at www.scarboroughmaine.org/property-search-tools. Select “Vision Database,” enter your address, select your property and click “Field Card” (dark orange button in the upper right corner). Please notify our office if you find any discrepancies in your record.

Compare Your Assessed Value to Other Properties:

Use the databases available at www.scarboroughmaine.org/property-search-tools to search other properties that have sold within the last two years and closely resemble yours in terms of key attributes. Ensure you are reviewing homes that are the approximate age and condition, and have similar construction, location or part of town, square footage, and features. Your value should be in line with these sale prices. You may also use real estate websites to find comparable home sales in Scarborough.

ASSESSMENT REVIEW & APPEAL PROCEDURES

The Assessor’s Office strives to follow established industry standards developed for valuing groups of properties at once rather than a single property; however, we recognize that there will be situations where this approach may produce an inaccurate estimate. We are committed to working with property owners to ensure every property is assessed at a reasonable estimate of its fair market value as of April 1, 2024 and will review appeals through the following processes:

Phase I: Informal Review

If after conducting your own analysis you believe the value the Assessor has placed on your property does not reflect the fair market value as of April 1, 2024, you will have an opportunity to have an informal hearing to review the data on your property. Please see the enclosed **Revaluation Notice** for details on how to schedule an informal hearing.

The purpose of the informal appeal is to:

- ✓ Verify information on your property record and correct inaccuracies on the property details
- ✓ Bring new details to the attention of the Assessor’s Office (e.g., damage to property)
- ✓ Discover whether you qualify for any exemptions or assistance programs

Note: You should be aware that whenever an assessment appeal is initiated, the assessment can be lowered, sustained (kept the same), or raised. If we receive new information as a result of the informal appeals process, it will need to be considered. It’s important to weigh the potential benefits and drawbacks before proceeding.

Phase II: Formal Review

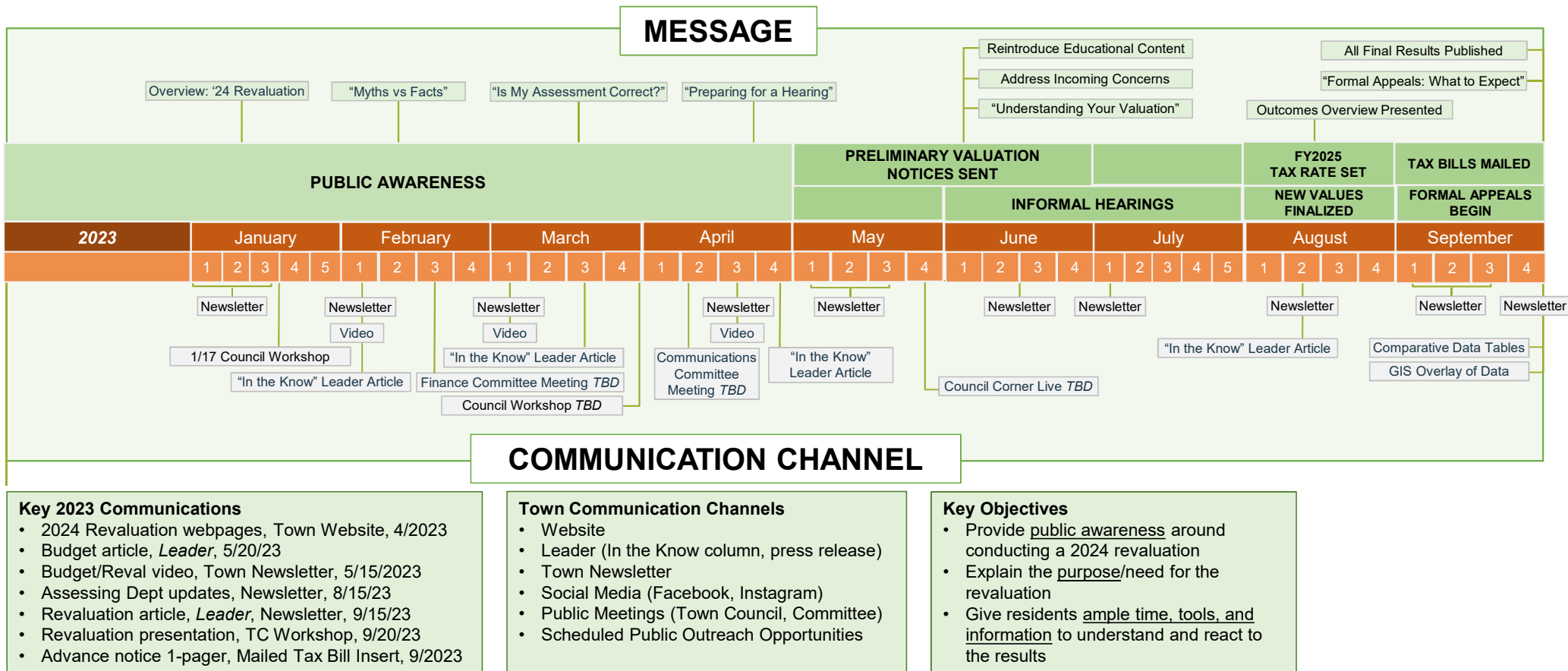
If after the informal appeal you still disagree with the findings, you may file an abatement application with the Assessor’s Office. The Application for Abatement of Property Taxes cannot be filed until after the tax commitment date in late August.

For more information regarding the formal appeal process, visit www.scarboroughmaine.org/appeals.

FREQUENTLY ASKED QUESTIONS

For answers to frequently asked questions about the revaluation process, visit www.scarboroughmaine.org/revalfaq.

2024 Revaluation Communications Timeline



This timeline serves as a general reference tool for 2024 public outreach through the town-wide revaluation process. It is a dynamic guide that is subject to change and adjustments due to a number of variables.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 5, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No 24-046. Move approval on the renewal requests for a Special Amusement Permit from the following businesses American Legion, Black Point Inn, Black Tie, Inc., Higgins Beach Inn, Nonesuch Brewing, Salty Bay, and Throttle Car Club. (Tabled from the May 15, 2024, Town Council Meeting] [*Town Clerk*]

Town Clerk

Ought to Pass

Sponsor

Recommendation

*05/15/2024 – Vote: 7 Yeas to table the above
Businesses to the June 5, 2024 meeting.*

06/05/2024

First Reading/Vote

*05/15/2024 – Continue Public hearing on above
Business to the June 5, 2024 meeting.*

06/05/2024

Public Hearing

N/A

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: June 5, 2024

ACTION ITEM: Order No. 24-046.

SUBJECT:

7:00 p.m. Public hearing and action on the renewal requests for a Special Amusement Permit from the following businesses American Legion, Black Point Inn, Black Tie, Inc., Higgins Beach Inn, Nonesuch Brewing, Salty Bay, and Throttle Car Club. (Tabled from the May 15, 2024 Town Council Meeting) [*Town Clerk*]

PURPOSE:

To allow applicant to have live music/entertainment pursuant to Title 28-A, Section 1053 of the Maine Revised Statutes, as amended, and Chapter 1008 – the Scarborough Special Amusement Ordinance and Chapter 616 – The Good Neighbor Ordinance.

BACKGROUND:

This is the annual renewal for Special Amusement Permits. A Permit is required if a place of business is selling liquor to be consumed on premise. In 2018, pursuant to the Good Neighbor's Ordinance, the Clerk's Office is required to notify abutters within 200 feet of the requests going to the Town Council.

Initial renewal letters were mailed out to all establishments on April 1st with a deadline to submit the completed application and fee by close of business on May 1st. As of close of business on Thursday, May 9th, we have five establishments who have yet to submitted their application with associated fees and each have been sent certified communications: American Legion, Black Point Inn, Higgins Beach Inn, Nonesuch Brewing and Throttle Car Club. It is recommended that that these five establishments be tabled to the June 5, 2024, regular Town Council meeting. All five have submitted applications with a late fee assessed.

Black Tie, Inc. was tabled to the June 5, 2024, regular Town Council meeting due to additional information being needed before providing an exemption to the Good Neighbor Ordinance.

FISCAL IMPACT: \$110 per application [plus the cost of postage for mailing out abutter notices], \$55 to \$110 late fee [if applicable]

STATUS / PROCESS TO DATE:

- Renewal letters were mailed out to all establishments: April 1, 2024
- Late notice letters were mailed out to establishments, certified mail: May 6, 2024
- Late applicants were tabled at the May 15, 2024 Town Council meeting.
- Black Tie, Inc was tabled at the May 15, 2024 Town Council meeting due to additional information being needed for an exception to the Good Neighbor Ordinance.
- All late applications were received and notification to abutters were mailed as soon as Special Amusement applications were received.



- Public hearing and final action on remaining applications: June 5, 2024.

PROPOSED ACTION:

Act on the remaining applicants at the wish of the Town Council.

ATTACHMENTS:

- Copy of the Special Amusement Applications.



TOWN OF
SCARBOROUGH, MAINE

**SPECIAL AMUSEMENT APPLICATION
DANCING & ENTERTAINMENT**

June 1st through May 31st

Fee of \$110.00 plus the cost of notification to property owners within 200 feet of the location

Name of Applicant: American Legion Post #76
Name of Business: _____
Address of Business: 42 Manson Libby Road
Phone Number: (207) 883-3902 Email: americanlegionscarboreugh@gmail.com
Nature of Business: Veterans organization

Has applicant ever had a license to conduct business therein described either denied or revoked?

☐ Yes ☒ No

If yes, please describe circumstances: _____

Time of day activity/event to take place: Year round M-F 3-8 Sat/Su 1-8

If a musical performance will it be electronically amplified: ☐ Yes ☒ No

If yes, please check all that apply [Days of the Week]:

☐ Sunday ☐ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday ☐ Saturday

Request for exemption from the Good Neighbor ordinance:

Are you seeking an exemption from the Good Neighbor Ordinance: ☐ Yes ☒ No

If you believe you should be exempt from the prohibitions on noise listed in the Good Neighbor ordinance, Ordinance 616 Section B (see below), please explain the extent of the exemption sought and the reason why: _____

Notice of the public hearing regarding this application must be given to all property owners within 200 feet of the location identified above. The notices shall be sent out from the Town Clerk's office and shall be paid for by the applicant as part of the application fee.

STATEMENT: Applicant, by signature below, agrees to abide by all laws, orders, ordinances (including the Good Neighbor ordinance, applicable sections shown below), rules and regulations governing the above licensee and further agreed that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect to thereto.

Dated at Scarborough, Maine on this 15 day of May, 2024

[Signature]
(Signature of Applicant)

(If Partnership, by members of Partnership)

(Name and Location of Corporation)

(If Corporation, by a duly authorized Officer)

From the Good Neighbor Ordinance:

B: Noise Abatement.

Loud, offensive noises prohibited.

(1.) No person shall make, continue, or cause to be made or continued any loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others.

(2.) **Definitions.** For the purpose of this article, the following words and phrases shall have the following meanings: **Daytime hours** means the hours between 7:00 a.m. and 9:00 p.m. Monday through Thursday; between 7:00 a.m. and 10 p.m. Friday through Saturday; and between 9:00 a.m. and 9:00 p.m. on Sunday. **Nighttime hours** mean the hours between 9:00 p.m. and 7:00 a.m. Sunday evening through Friday morning; between 10:00 p.m. and 7:00 a.m. Friday evening through 3 Saturday morning; and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning

Specific prohibitions.

A) The following acts, among others, are declared to be loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others in violation of this ordinance, but such enumeration shall not be deemed to be exclusive:

B) The using or operating or the permitting to be played, used, or operated of any radio, receiver, electronically amplified musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of music or sound which is audible outside of any structure during the nighttime hours or which broadcasts the sound in a loud and unreasonable manner during day-time hours which is audible a minimum of 200 feet from the source of the noise except as otherwise permitted, licensed or sponsored by the Town.

Application must be approved by the Municipal Officers of the Town of Scarborough, Maine.

Cumberland, ss. Dated at Scarborough, Maine on this 15 day of MAY, 2024
App Fee and Postage 118.32 Check# 7461 Cash Debit/Credit Received By: KB
55.00 late fee check # 7452

The Municipal Officers of the Town Scarborough, Maine hereby approve the application in accordance with the provisions of Section 1054, of Title 28-A, Maine Revised Statutes, 1964, as amended. Approved on: _____



TOWN OF
SCARBOROUGH, MAINE

**SPECIAL AMUSEMENT APPLICATION
DANCING & ENTERTAINMENT**

June 1st through May 31st

Fee of \$110.00 plus the cost of notification to property owners within 200 feet of the location

Name of Applicant: Ted Poit
Name of Business: Black Point Inn
Address of Business: 510 Black Point Road
Phone Number: 207-883-2500 Email: info@blackpointinn.com
Nature of Business: Hotel

Has applicant ever had a license to conduct business therein described either denied or revoked?

☐ Yes ☒ No

If yes, please describe circumstances: Tuesday 6pm/8pm / Saturday 3pm-10pm

Time of day activity/event to take place: _____

If a musical performance will it be electronically amplified: ☒ Yes ☐ No

If yes, please check all that apply [Days of the Week]:

☐ Sunday ☐ Monday ☒ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday ☒ Saturday

Request for exemption from the Good Neighbor ordinance:

Are you seeking an exemption from the Good Neighbor Ordinance: ☐ Yes ☒ No

If you believe you should be exempt from the prohibitions on noise listed in the Good Neighbor ordinance, Ordinance 616 Section B (see below), please explain the extent of the exemption sought and the reason why: _____

Notice of the public hearing regarding this application must be given to all property owners within 200 feet of the location identified above. The notices shall be sent out from the Town Clerk's office and shall be paid for by the applicant as part of the application fee.

STATEMENT: Applicant, by signature below, agrees to abide by all laws, orders, ordinances (including the Good Neighbor ordinance, applicable sections shown below), rules and regulations governing the above licensee and further agreed that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect to thereto.

Dated at Scarborough, Maine on this 16TH day of MAY, 2024

[Signature]
(Signature of Applicant)

(If Partnership, by members of Partnership)

(Name and Location of Corporation)

(If Corporation, by a duly authorized Officer)

From the Good Neighbor Ordinance:

B: Noise Abatement.

Loud, offensive noises prohibited.

(1.) No person shall make, continue, or cause to be made or continued any loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others.

(2.) **Definitions.** For the purpose of this article, the following words and phrases shall have the following meanings: **Daytime hours** means the hours between 7:00 a.m. and 9:00 p.m. Monday through Thursday; between 7:00 a.m. and 10 p.m. Friday through Saturday; and between 9:00 a.m. and 9:00 p.m. on Sunday. **Nighttime hours** mean the hours between 9:00 p.m. and 7:00 a.m. Sunday evening through Friday morning; between 10:00 p.m. and 7:00 a.m. Friday evening through 3 Saturday morning; and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning

Specific prohibitions.

A) The following acts, among others, are declared to be loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others in violation of this ordinance, but such enumeration shall not be deemed to be exclusive:

B) The using or operating or the permitting to be played, used, or operated of any radio, receiver, electronically amplified musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of music or sound which is audible outside of any structure during the nighttime hours or which broadcasts the sound in a loud and unreasonable manner during day-time hours which is audible a minimum of 200 feet from the source of the noise except as otherwise permitted, licensed or sponsored by the Town.

Application must be approved by the Municipal Officers of the Town of Scarborough, Maine.

Cumberland, ss. Dated at Scarborough, Maine on this 20 day of MAY, 2024
App Fee and Postage 118.32 Check# 777 Cash Debit/Credit Received By: KB
→ 55.00 late fee

The Municipal Officers of the Town Scarborough, Maine hereby approve the application in accordance with the provisions of Section 1054, of Title 28-A, Maine Revised Statutes, 1964, as amended. Approved on: _____



TOWN OF
SCARBOROUGH, MAINE

APR 18 2024
18 2024

**SPECIAL AMUSEMENT APPLICATION
DANCING & ENTERTAINMENT**

June 1st through May 31st

Fee of \$110.00 plus the cost of notification to property owners within 200 feet of the location

Name of Applicant: Black Tie Inc.
Name of Business: Black Tie at the Landing at Pine Point
Address of Business: 353 Pine Point Rd. Scarborough, ME 04074
Phone Number: 207-761-6665 Email: amy@blacktiemaine.com
Nature of Business: Event Center

Has applicant ever had a license to conduct business therein described either denied or revoked?

☐ Yes

☒ No

If yes, please describe circumstances: _____

Time of day activity/event to take place: 8a-12a

If a musical performance will it be electronically amplified: ☒ Yes ☐ No

If yes, please check all that apply [Days of the Week]:

☒ Sunday

☒ Monday

☒ Tuesday

☒ Wednesday

☒ Thursday

☒ Friday

☒ Saturday

Request for exemption from the Good Neighbor ordinance:

Are you seeking an exemption from the Good Neighbor Ordinance: ☒ Yes ☐ No

If you believe you should be exempt from the prohibitions on noise listed in the Good Neighbor ordinance, Ordinance 616 Section B (see below), please explain the extent of the exemption sought and the reason why: _____

At this time we do not have any clients that would like to extend but we would like to have the option for potential clients. We also do not have any residential neighbors.

Notice of the public hearing regarding this application must be given to all property owners within 200 feet of the location identified above. The notices shall be sent out from the Town Clerk's office and shall be paid for by the applicant as part of the application fee.

STATEMENT: Applicant, by signature below, agrees to abide by all laws, orders, ordinances (including the Good Neighbor ordinance, applicable sections shown below), rules and regulations governing the above licensee and further agreed that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect to thereto.

Dated at Scarborough, Maine on this 18th day of April, 2024.

[Signature]
(Signature of Applicant)

(If Partnership, by members of Partnership)

(Name and Location of Corporation)

[Signature]
(If Corporation, by a duly authorized Officer)

From the Good Neighbor Ordinance:

B: Noise Abatement.

Loud, offensive noises prohibited.

(1.) No person shall make, continue, or cause to be made or continued any loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others.

(2.) **Definitions.** For the purpose of this article, the following words and phrases shall have the following meanings: **Daytime hours** means the hours between 7:00 a.m. and 9:00 p.m. Monday through Thursday; between 7:00 a.m. and 10 p.m. Friday through Saturday; and between 9:00 a.m. and 9:00 p.m. on Sunday. **Nighttime hours** mean the hours between 9:00 p.m. and 7:00 a.m. Sunday evening through Friday morning; between 10:00 p.m. and 7:00 a.m. Friday evening through 3 Saturday morning; and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning

Specific prohibitions.

A) The following acts, among others, are declared to be loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others in violation of this ordinance, but such enumeration shall not be deemed to be exclusive:

B) The using or operating or the permitting to be played, used, or operated of any radio, receiver, electronically amplified musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of music or sound which is audible outside of any structure during the nighttime hours or which broadcasts the sound in a loud and unreasonable manner during day-time hours which is audible a minimum of 200 feet from the source of the noise except as otherwise permitted, licensed or sponsored by the Town.

Application must be approved by the Municipal Officers of the Town of Scarborough, Maine.

Cumberland, ss. Dated at Scarborough, Maine on this 18th day of April, 2024
App Fee and Postage 40.08 Check# 36567 Cash Debit/Credit Received By: [Signature]

The Municipal Officers of the Town Scarborough, Maine hereby approve the application in accordance with the provisions of Section 1054, of Title 28-A, Maine Revised Statutes, 1964, as amended. Approved on: _____



BLACK TIE

CATERING & EVENTS

6/4/24

To whom it may concern,

Thank you for giving us some time before responding to your request that we add your restrictions to our business at The Landing. I was quite surprised to learn that the town had any issues with our business. To my knowledge, in fifteen years there has never been a noise complaint and public safety has never been called to the property about an on-site disturbance. In fact, we have always felt like we were a near perfect neighbor and reflect a positive effect on an already special area. In an effort to get some needed clarity on your issues, I reached out to councilor Caterina last week and she suggested I meet with code enforcement director Brian Longstaff and have a conversation. Both people offered willing ears, but neither could explain what the issue was that was necessitating new limitations on our allowable use. Director Longstaff was unaware that this was happening. His helpful suggestion was that we offer to come in and meet with the town and discuss the issues, so we better understand the problem and address what is necessary. Setting an early to mid-evening curfew on live music allowing a two or three night per year reprieve would not work for us. Without painting several pictures, this outlines a bit about us and where we are in our current business cycle.

We were very fortunate to survive the Covid pandemic. In one week in early 2020 we had eight proms cancel and a dozen weddings. We received no more requests for business the entire year. The following year was scarcely better. We have been slowly but surely making our way back. In the past, we had many events that involved live music beyond 10PM. Those events required taking risks that we still cannot afford. A band or performer gets paid in full regardless of attendance once booked. We have a very small venue, less than 300 seats for most music events. That requires us to set a very high-ticket price, hoping the public will respond, paying more for seeing someone in a special atmosphere. This works, but not every time and requires momentum to be profitable. This is something we hope to see again in our future and would not be able to limit our events to a 10PM finish. We are booking weddings, corporate events and proms again but not near our pre covid business. What we are asking is that we can participate in a thoughtful look at what we are doing and seek a resolution that works for both parties. Thank you for your consideration.

Sincerely,

Kevin McQuinn, Amy Collins & Matt Orne

6



TOWN OF
SCARBOROUGH, MAINE

**SPECIAL AMUSEMENT APPLICATION
DANCING & ENTERTAINMENT**

June 1st through May 31st

Fee of \$110.00 plus the cost of notification to property owners within 200 feet of the location

Name of Applicant: CINDY DOXSEY
Name of Business: HIGGINS BEACH INN
Address of Business: 34 OCEAN AVE
Phone Number: 207 883 6684 Email: CINDY@HIGGINSBEACHINN.COM
Nature of Business: INN & RESTAURANTS

Has applicant ever had a license to conduct business therein described either denied or revoked?

☐ Yes ☒ No

If yes, please describe circumstances: _____

Time of day activity/event to take place: 6/10/24 @ 4pm - 7pm

If a musical performance will it be electronically amplified: ☐ Yes ☒ No

If yes, please check all that apply [Days of the Week]:

☐ Sunday ☒ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday ☐ Saturday

Request for exemption from the Good Neighbor ordinance:

Are you seeking an exemption from the Good Neighbor Ordinance: ☐ Yes ☒ No

If you believe you should be exempt from the prohibitions on noise listed in the Good Neighbor ordinance, Ordinance 616 Section B (see below), please explain the extent of the exemption sought and the reason why: _____

Notice of the public hearing regarding this application must be given to all property owners within 200 feet of the location identified above. The notices shall be sent out from the Town Clerk's office and shall be paid for by the applicant as part of the application fee.

STATEMENT: Applicant, by signature below, agrees to abide by all laws, orders, ordinances (including the Good Neighbor ordinance, applicable sections shown below), rules and regulations governing the above licensee and further agreed that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect to thereto.

Dated at Scarborough, Maine on this 15th day of May 2024


(Signature of Applicant)

(If Partnership, by members of Partnership)

Higgins Beach Inn, 34 Ocean Ave
(Name and Location of Corporation)

(If Corporation, by a duly authorized Officer)

From the Good Neighbor Ordinance:

B: Noise Abatement.

Loud, offensive noises prohibited.

(1.) No person shall make, continue, or cause to be made or continued any loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others.

(2.) **Definitions.** For the purpose of this article, the following words and phrases shall have the following meanings: **Daytime hours** means the hours between 7:00 a.m. and 9:00 p.m. Monday through Thursday; between 7:00 a.m. and 10 p.m. Friday through Saturday; and between 9:00 a.m. and 9:00 p.m. on Sunday. **Nighttime hours** mean the hours between 9:00 p.m. and 7:00 a.m. Sunday evening through Friday morning; between 10:00 p.m. and 7:00 a.m. Friday evening through 3 Saturday morning; and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning

Specific prohibitions.

A) The following acts, among others, are declared to be loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others in violation of this ordinance, but such enumeration shall not be deemed to be exclusive:

B) The using or operating or the permitting to be played, used, or operated of any radio, receiver, electronically amplified musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of music or sound which is audible outside of any structure during the nighttime hours or which broadcasts the sound in a loud and unreasonable manner during day-time hours which is audible a minimum of 200 feet from the source of the noise except as otherwise permitted, licensed or sponsored by the Town.

Application must be approved by the Municipal Officers of the Town of Scarborough, Maine.

Cumberland, ss. Dated at Scarborough, Maine on this 15 day of May, 2024

App Fee and Postage 186.76 Check# 735 Cash Debit/Credit Received By: _____
w/late fee

The Municipal Officers of the Town Scarborough, Maine hereby approve the application in accordance with the provisions of Section 1054, of Title 28-A, Maine Revised Statutes, 1964, as amended. Approved on: _____



TOWN OF
SCARBOROUGH, MAINE

**SPECIAL AMUSEMENT APPLICATION
DANCING & ENTERTAINMENT**

June 1st through May 31st

Fee of \$110.00 plus the cost of notification to property owners within 200 feet of the location

Name of Applicant: Jeff Gambardella
Name of Business: Nonesuch River Brewing
Address of Business: 201 Gorham rd
Phone Number: 207-219-8948 Email: Jeff@nonesuchriverbrewing.com
Nature of Business: Restaurant / Brewery

Has applicant ever had a license to conduct business therein described either denied or revoked?

☐ Yes ☒ No

If yes, please describe circumstances: _____

Time of day activity/event to take place: Mon - Sun 11:30 am - 9 pm

If a musical performance will it be electronically amplified: ☒ Yes ☐ No

If yes, please check all that apply [Days of the Week]:

☒ Sunday ☒ Monday ☒ Tuesday ☒ Wednesday ☒ Thursday ☒ Friday ☒ Saturday

Request for exemption from the Good Neighbor ordinance:

Are you seeking an exemption from the Good Neighbor Ordinance: ☐ Yes ☒ No

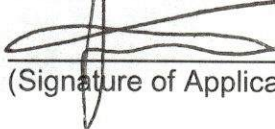
If you believe you should be exempt from the prohibitions on noise listed in the Good Neighbor ordinance, Ordinance 616 Section B (see below), please explain the extent of the exemption sought and the reason why: _____

Notice of the public hearing regarding this application must be given to all property owners within 200 feet of the location identified above. The notices shall be sent out from the Town Clerk's office and shall be paid for by the applicant as part of the application fee.

STATEMENT: Applicant, by signature below, agrees to abide by all laws, orders, ordinances (including the Good Neighbor ordinance, applicable sections shown below), rules and regulations governing the above licensee and further agreed that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect to thereto.

Dated at Scarborough, Maine on this _____ day of _____ 20____


(Signature of Applicant)

(If Partnership, by members of Partnership)

Nonesuch River Brewing LLC
(Name and Location of Corporation)

(If Corporation, by a duly authorized Officer)

From the Good Neighbor Ordinance:

B: Noise Abatement.

Loud, offensive noises prohibited.

(1.) No person shall make, continue, or cause to be made or continued any loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others.

(2.) **Definitions.** For the purpose of this article, the following words and phrases shall have the following meanings: **Daytime hours** means the hours between 7:00 a.m. and 9:00 p.m. Monday through Thursday; between 7:00 a.m. and 10 p.m. Friday through Saturday; and between 9:00 a.m. and 9:00 p.m. on Sunday. **Nighttime hours** mean the hours between 9:00 p.m. and 7:00 a.m. Sunday evening through Friday morning; between 10:00 p.m. and 7:00 a.m. Friday evening through 3 Saturday morning; and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning

Specific prohibitions.

A) The following acts, among others, are declared to be loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others in violation of this ordinance, but such enumeration shall not be deemed to be exclusive:

B) The using or operating or the permitting to be played, used, or operated of any radio, receiver, electronically amplified musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of music or sound which is audible outside of any structure during the nighttime hours or which broadcasts the sound in a loud and unreasonable manner during day-time hours which is audible a minimum of 200 feet from the source of the noise except as otherwise permitted, licensed or sponsored by the Town.

Application must be approved by the Municipal Officers of the Town of Scarborough, Maine.

Cumberland, ss. Dated at Scarborough, Maine on this 14th day of May, 20 24
App Fee and Postage 118.96 Check# 11459 Cash Debit/Credit Received By: kd
+ late fee 59.48 (credit card)

The Municipal Officers of the Town Scarborough, Maine hereby approve the application in accordance with the provisions of Section 1054, of Title 28-A, Maine Revised Statutes, 1964, as amended. Approved on: _____



TOWN OF
SCARBOROUGH, MAINE

**SPECIAL AMUSEMENT APPLICATION
DANCING & ENTERTAINMENT**

June 1st through May 31st

Fee of \$110.00 **plus the cost of notification to property owners within 200 feet of the location**

Name of Applicant:

Salty Bay Seafood Bar & Grill

Name of Business:

Dj Ingersoll Jr

Address of Business:

68 Jones Creek Dr

Phone Number:

619 981 4292

Email:

djingersollcpe@yahoo.com

Nature of Business:

Cornhole

Has applicant ever had a license to conduct business therein described either denied or revoked?

☒ Yes

☐ No

If yes, please describe circumstances:

live music

Time of day activity/event to take place:

every Wednesday 6-8 & Sunday
Saturday

If a musical performance will it be electronically amplified:

☒ Yes

☐ No

If yes, please check all that apply [Days of the Week]:

☒ Sunday

☐ Monday

☐ Tuesday

☒ Wednesday

☐ Thursday

☐ Friday

☒ Saturday

Request for exemption from the Good Neighbor ordinance:

Are you seeking an exemption from the Good Neighbor Ordinance: ☐ Yes

☒ No

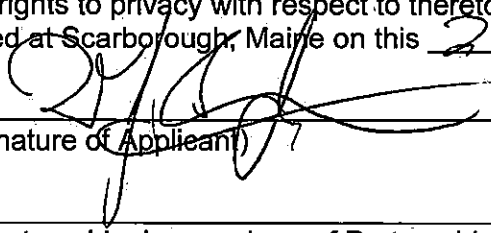
If you believe you should be exempt from the prohibitions on noise listed in the Good Neighbor ordinance, Ordinance 616-Section B (see below), please explain the extent of the exemption sought and the reason why:

Notice of the public hearing regarding this application must be given to all property owners within 200 feet of the location identified above. The notices shall be sent out from the Town Clerk's office and shall be paid for by the applicant as part of the application fee.

STATEMENT: Applicant, by signature below, agrees to abide by all laws, orders, ordinances (including the Good Neighbor ordinance, applicable sections shown below), rules and regulations governing the above licensee and further agreed that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect to thereto.

Dated at Scarborough, Maine on this 29 day of May, 2024


(Signature of Applicant)

(If Partnership, by members of Partnership)

(Name and Location of Corporation)

(If Corporation, by a duly authorized Officer)

From the Good Neighbor Ordinance:

B: Noise Abatement.

Loud, offensive noises prohibited.

(1.) No person shall make, continue, or cause to be made or continued any loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others.

(2.) **Definitions.** For the purpose of this article, the following words and phrases shall have the following meanings: **Daytime hours** means the hours between 7:00 a.m. and 9:00 p.m. Monday through Thursday; between 7:00 a.m. and 10 p.m. Friday through Saturday; and between 9:00 a.m. and 9:00 p.m. on Sunday. **Nighttime hours** mean the hours between 9:00 p.m. and 7:00 a.m. Sunday evening through Friday morning; between 10:00 p.m. and 7:00 a.m. Friday evening through 3 Saturday morning; and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning

Specific prohibitions.

A) The following acts, among others, are declared to be loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others in violation of this ordinance, but such enumeration shall not be deemed to be exclusive:

B) The using or operating or the permitting to be played, used, or operated of any radio, receiver, electronically amplified musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of music or sound which is audible outside of any structure during the nighttime hours or which broadcasts the sound in a loud and unreasonable manner during day-time hours which is audible a minimum of 200 feet from the source of the noise except as otherwise permitted, licensed or sponsored by the Town.

Application must be approved by the Municipal Officers of the Town of Scarborough, Maine.

Cumberland, ss. Dated at Scarborough, Maine on this _____ day of _____, 20____

App Fee and Postage _____ Check# _____ Cash _____ Debit/Credit Received By: _____

The Municipal Officers of the Town Scarborough, Maine hereby approve the application in accordance with the provisions of Section 1054, of Title 28-A, Maine Revised Statutes, 1964, as amended. Approved on: _____

CHK# 7102 \$1165 5/29/2024



TOWN OF
SCARBOROUGH, MAINE

**SPECIAL AMUSEMENT APPLICATION
DANCING & ENTERTAINMENT**

June 1st through May 31st

Fee of \$110.00 plus the cost of notification to property owners within 200 feet of the location

Name of Applicant: Throttle Car Club, LLC
Name of Business: Throttle Car Club, LLC
Address of Business: 10 Dynamic Dr, Scarborough ME 04074
Phone Number: 888-959-8051 Email: UDELSLE@Throttlecarclub.com
Nature of Business: Car enthusiast membership club, events, detailing, storage

Has applicant ever had a license to conduct business therein described either denied or revoked?

☐ Yes ☒ No

If yes, please describe circumstances: _____

Time of day activity/event to take place: Friday music 630/7pm-9, Sat 1-4pm, Sun 2-5

If a musical performance will it be electronically amplified: ☒ Yes ☐ No

If yes, please check all that apply [Days of the Week]:

* Occasional
Sat / Sun.

☒ Sunday ☐ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☒ Friday ☒ Saturday

Request for exemption from the Good Neighbor ordinance:

Are you seeking an exemption from the Good Neighbor Ordinance: ☐ Yes ☒ No

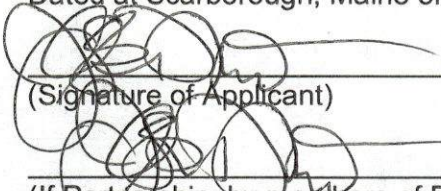
If you believe you should be exempt from the prohibitions on noise listed in the Good Neighbor ordinance, Ordinance 616 Section B (see below), please explain the extent of the exemption sought and the reason why: _____

Notice of the public hearing regarding this application must be given to all property owners within 200 feet of the location identified above. The notices shall be sent out from the Town Clerk's office and shall be paid for by the applicant as part of the application fee.

STATEMENT: Applicant, by signature below, agrees to abide by all laws, orders, ordinances (including the Good Neighbor ordinance, applicable sections shown below), rules and regulations governing the above licensee and further agreed that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect to thereto.

Dated at Scarborough, Maine on this 16th day of May 2024


(Signature of Applicant)

LLC
(If Partnership, by members of Partnership)

(Name and Location of Corporation)

(If Corporation, by a duly authorized Officer)

From the Good Neighbor Ordinance:

B: Noise Abatement.

Loud, offensive noises prohibited.

(1.) No person shall make, continue, or cause to be made or continued any loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others.

(2.) **Definitions.** For the purpose of this article, the following words and phrases shall have the following meanings: **Daytime hours** means the hours between 7:00 a.m. and 9:00 p.m. Monday through Thursday; between 7:00 a.m. and 10 p.m. Friday through Saturday; and between 9:00 a.m. and 9:00 p.m. on Sunday. **Nighttime hours** mean the hours between 9:00 p.m. and 7:00 a.m. Sunday evening through Friday morning; between 10:00 p.m. and 7:00 a.m. Friday evening through 3 Saturday morning; and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning

Specific prohibitions.

A) The following acts, among others, are declared to be loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others in violation of this ordinance, but such enumeration shall not be deemed to be exclusive:

B) The using or operating or the permitting to be played, used, or operated of any radio, receiver, electronically amplified musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of music or sound which is audible outside of any structure during the nighttime hours or which broadcasts the sound in a loud and unreasonable manner during day-time hours which is audible a minimum of 200 feet from the source of the noise except as otherwise permitted, licensed or sponsored by the Town.

Application must be approved by the Municipal Officers of the Town of Scarborough, Maine.

Cumberland, ss. Dated at Scarborough, Maine on this 16th day of May, 2024
App Fee and Postage 179.40 Check# 2022 Cash Debit/Credit Received By: K.D.

The Municipal Officers of the Town Scarborough, Maine hereby approve the application in accordance with the provisions of Section 1054, of Title 28-A, Maine Revised Statutes, 1964, as amended. Approved on: _____

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 5, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No 24-047. Move approval on the request from Scarborough Beach State Park to permit a temporary event overflow parking lot at 395 Black Point Road for Scarborough Beach State Park seasonal use, pursuant to Chapter 602B - the Town of Scarborough Temporary Event Overflow Parking Ordinance. *[Applicant/Planning Director]*

Applicant/Planning Director

Ought to Pass

Sponsor

Recommendation

06/05/2024 – Vote:

First Reading/Vote

06/05/2024

Public Hearing

N/A

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: June 5, 2024

ACTION ITEM: Order No. 24-047.
SUBJECT: 7:00 p.m. Public hearing and action on the request from Scarborough Beach State Park to permit a temporary event overflow parking lot at 395 Black Point Road for Scarborough Beach State Park seasonal use, pursuant to Chapter 602B - the Town of Scarborough Temporary Event Overflow Parking Ordinance. <i>[Applicant/Planning Director]</i>
PURPOSE: To review a request for temporary event overflow parking at 395 Black Point Road for Scarborough Beach State Park.
BACKGROUND: Staff received a request from the Sprague Corporation in 2023 to permit an unimproved grass parking lot for seasonal overflow parking at 395 Black Point Road, across the street from Scarborough Beach State Park. Staff worked with the applicant, interested parties and the Ordinance Committee over the period of several meetings to create a framework the request could be granted under. The approved Chapter 602B Town of Scarborough Temporary Event Overflow Parking Ordinance allows such a request with specific parameters to follow, staff review requirements a public hearing process and an annual renewal process. On April 25, 2024, Scarborough Beach State Park applied for the use of 56 seasonal parking spaces at 395 Black Point Road. The requirements of the permit request have been reviewed and met. See attached staff review. Annual renewal is required for the use of the spaces.
FISCAL IMPACT: NA
STATUS / PROCESS TO DATE: <ul style="list-style-type: none">Public Hearing and action before the Town Council: June 5, 2024
PROPOSED ACTION: Move approval on the request from Scarborough Beach State Park to permit a temporary event overflow parking lot at 395 Black Point Road.
ATTACHMENTS: <ul style="list-style-type: none">Application SubmittalTemporary Parking PlanStaff Review



Civil Engineering | Surveying

April 26, 2024
Revised May 23, 2024

Autumn Speer
Planning Director
Town of Scarborough
259 US Route One
Scarborough, Maine 04070

Tody Justice
Town Clerk
Town of Scarborough
259 US Route One
Scarborough, Maine 04070

Re: Temporary Event Overflow Parking Application Submission (Chapter 602B)
Scarborough Beach State Park Parking – The Sprague Corporation

Dear Autumn and Tody:

On behalf of The Sprague Corporation (“the applicant”), we are submitting an application for a temporary event overflow parking lot at Scarborough Beach State Park on Black Point Road. This project has been designed to meet the requirements outlined in the temporary event overflow parking ordinance (Chapter 602B) adopted by the Town of Scarborough on November 15th, 2023.

Enclosed are the following supporting materials:

- Application Fee (\$5,000)
- Traffic Assessment – VHB
- Topographic Survey – Statewide Surveys, Inc. (Full Size)
- Temporary Overflow Parking Plan – BH2M (Full Size)
- Pedestrian Access Plan
- Vehicle Access and Traffic Control Plan
- Operations and Maintenance Plan

On February 13th, 2024, Sprague Corporation Property Manager Trevor McCourt and I met with Town Planning Staff to determine how best to implement this project in accordance with the ordinance. That discussion has been incorporated into this application. The applicant will keep this temporary overflow parking lot as an unimproved seasonal grass lot, with no major site improvements or impacts to existing trees other than those shown on the attached temporary overflow parking plan from BH2M.

Below are the project’s key details:

- The temporary overflow parking lot will be used seasonally from Memorial Day to Labor Day for a maximum of thirty days (see note #13 on the temporary overflow parking plan), and only once the existing gravel parking lots on the beach side of Black Point Road are full.

- Where possible, the applicant will keep existing trees to provide shade and a limited buffer for abutting lots (see note #10 on the temporary overflow parking plan). The applicant and the Town agree that this should not be an impervious parking lot, as it would be a visual detriment to the surrounding area and could impact abutting lots and natural resources.
- We are aware of the Planning Staff's concern that this project could transform the area into an impervious surface. However, as has been discussed, the applicant has used the area in this way for 5 to 7 years. In that time, dense grass ground cover has been well maintained through weekly mowing. Based on this history and the limited nature of the plan, the applicant is confident it will remain a pervious lot. The enclosed Operations and Maintenance Plan outlines detailed steps the applicant will take to maintain the area's dense grass growth. We encourage the Planning Staff to visit the site so they can examine the grass growth already present after 5 to 7 years of use.

This application has been prepared in compliance with the Permit Application Requirements in Chapter 602B, as outlined below:

1. Attached is a topographic survey from Statewide Surveys, Inc.
2. Scarborough Beach State Park has been co-managed by the applicant and the Park's Operator for 26 years. The Park is typically open from March through October, with its peak season from Memorial Day to Labor Day. Safety and efficiency for Park visitors have always been of utmost importance. For 5 to 7 years, the applicant has been using a grassy area across from the Park as temporary overflow parking during peak season. This practice upholds visitor safety while also providing consistent access to the Park on its busiest days. Thanks to the hard work of the Town Planning Staff and the applicant, the Temporary Event Overflow Parking Ordinance (Chapter 602B) was passed on November 15th, 2023. Through this ordinance, the applicant seeks to gain approval for a formalized version of the overflow parking they have been providing on this lot for 5 to 7 years (see the attached temporary overflow parking plan by BH2M).
 - a. The proposed parking area shown on the temporary overflow parking plan is approximately 24,985 ft². If the entire existing field is utilized, the proposed parking area would be approximately 32,400 ft². This does not exceed the maximum size of 40,000 ft² and therefore complies with the Permit Application Requirements (see plan note #11 on the temporary overflow parking plan).
 - b. The Operator will not use the proposed parking area more than 30 days within a calendar year. The proposed days on which the area shall be used are weekends, holidays, and days with favorable weather conditions, as these are the Park's busiest days (see plan note #13 on the temporary overflow parking plan). For context, the temporary overflow parking area was used 20 days in 2023.
 - c. There are 56 planned spaces for the proposed parking area. This does not exceed the maximum 115 vehicles and therefore complies with the Permit Application Requirements (see plan note #11 on the temporary overflow parking plan).
 - d. The proposed parking area does not encroach on the public right-of-way to Black Point Road (see the temporary overflow parking plan).
 - e. No structures are proposed as part of this project.

- f. The proposed parking area will only be used during the hours of operation of the Park (9AM to 7PM, Monday through Sunday). Generally, the proposed parking area will only be used on peak days such as weekends, holidays, and days with favorable weather conditions. This complies with the Permit Application Requirements (see plan note #14 on the temporary overflow parking plan).
- g. The temporary parking lot will not be open at night, therefore a lighting plan is not required (see plan note #14 on the temporary overflow parking plan).
- h. Service roads and parking spaces are arranged to maximize safe and efficient vehicle and pedestrian traffic, and to allow for free passage of emergency vehicles at all times (see plan note #15 on the temporary overflow parking plan).
- i. The proposed parking area does not impede fire/emergency access, nor does it block fire lanes (see plan note #16 on the temporary overflow parking plan).
- j. The proposed parking area is well drained and provides sufficient space for both vehicles and pedestrians (see topographic survey by Statewide Surveys, Inc. and temporary overflow parking plan by BH2M).
- k. As described above, the applicant will protect as many existing trees as possible and plans to remove only 2 trees (see the temporary overflow parking plan). The applicant will continue to retain, protect, and maintain the area's natural vegetative cover (see the Operations and Maintenance Plan).
- l. As described above, the applicant is not proposing any major improvements to the site so natural drainage patterns remain the same. Due to the pervious nature of the area, water is absorbed directly into the ground and does not cause drainage issues. There will be no adverse impacts on abutters, public right-of-way, or downstream conditions.
- m. The plan proposes crushed stone aprons for the two entrances onto Black Point Road, to prevent sediment transport onto Black Point Road (see the temporary overflow parking plan for the locations of these aprons).
- n. Since the proposed parking area has dense grass coverage, the applicant does not foresee a need for dust control but will apply such means as necessary should an issue arise (see plan note #17 on the temporary overflow parking plan).
- o. The Park's Operator has a positive working relationship with Scarborough emergency services as well as private security at Prouts Neck. There is a long-standing annual meeting with key emergency services personnel to review safety and emergency response protocols. Furthermore, the Park has its own on-site emergency team to serve as a first response. These employees are trained in first aid, CPR, and water rescues. (See plan note #18 on the temporary overflow parking plan.)
- p. Scarborough Beach State Park follows the State of Maine's "carry in, carry out" policy, therefore no waste receptacles need to be provided. This policy has been in place throughout the Park's existence and has proven effective. (See plan note #19 on the temporary overflow parking plan.)
- q. Park employees will collect all refuse accumulated in the proposed parking area on days the lot is in use (see plan note #19 on the temporary overflow parking plan).

3. Included in this application is a Pedestrian Access Plan.
4. Included in this application is a combined Vehicle Access and Traffic Control Plan.
5. Included in this application is a combined Vehicle Access and Traffic Control Plan.
6. Included in this application is an Operations and Maintenance Plan.

Please call me if you have any questions or need additional information. We appreciate the Town collaborating with us to make this project a reality.

Sincerely,



Andrew S. Morrell, PE
Project Engineer

cc: Trevor McCourt, Sprague Corp.



To: Trevor McCourt
The Sprague Corporation
1 Ram Island Farm Road
Cape Elizabeth, ME 04107

Date: February 3, 2023

Memorandum

Project #: 52971.00

From: Jason Ready, PE, PTOE
Mike Cristiani, EI

Re: Traffic Assessment
Scarborough Beach State Park Overflow Parking Lot

Introduction

VHB was requested to provide transportation planning and engineering consulting services regarding a proposed expansion of parking for Scarborough Beach State Park in Scarborough, Maine, off Black Point Road. The proposed parking expansion consists of a new 115-space overflow parking lot which is across the street from the main entrance to Scarborough Beach and within walking distance. Town of Scarborough officials identified safety concerns for pedestrians crossing Black Point Road and the proposed parking lot. This memorandum provides a summary of findings associated with the proposed pedestrian crossing.

Area Information

The site is located on Black Point Road and is primarily accessed from US Route 1 to the north and from Spurwink Road to the east. This project is proposing to maintain the two curb cuts on Black Point Road serving as one entrance and one exit, respectively. The proposed lot is approximately 300 feet from the entrance to the Beach and is intended to reduce the peak season queue by allowing patrons to park their vehicles and enter the park as pedestrians as opposed to queuing on the road in their vehicles.

Black Point Road is classified as a local road with a posted speed limit of 25 miles per hour (mph) in the vicinity of Scarborough Beach. Bicycle and pedestrian traffic was observed at the location during the VHB site visit on January 9, 2023. Although Black Point Road does not have pedestrian accommodations (e.g., sidewalks), there are shoulders provided on both sides of the road that are used by pedestrians.

Safety

VHB investigated the presence of High Crash Locations (HCLs) in the vicinity of the proposed development. In order to evaluate whether a location has a crash problem, MaineDOT uses two criteria to define a HCL. First, an HCL is a location with at least 8 reported crashes in a 3-year period. Second, the location has a Critical Rate Factor (CRF) greater than 1.0. The CRF is a statistical indicator to determine if the location has more crashes than other similar locations in Maine. Based on the crash data provided by MaineDOT, there are no HCLs in the site vicinity. In 2019, there was a single bicycle crash on Black Point Road, approximately a half mile south of the Scarborough Beach State Park entrance.

Traffic Volumes

MaineDOT traffic volume data is available just south of the study area (collected July 10, 2022), with an average daily traffic (ADT) volume of 3,206 vehicles. The weekday AM peak hour volume was 253 vehicles (11 AM-12 PM) and the

Engineers | Scientists | Planners | Designers

500 Southborough Drive, Suite 105B, South Portland, Maine 04106

P 207.889.3150 F 207.253.5596 www.vhb.com

weekday PM peak hour was 289 vehicles (2-3 PM). In comparison, US Route 1 west of Black Point Road has an ADT of 29,000 vehicles, and Black Point Road south of US Route 1 has an ADT of 17,000 vehicles.

Sight Distance

VHB followed the Town of Scarborough sight distance requirements which reference MaineDOT standards. Sight distance is measured to and from the point of centerline of the proposed access that is located 10 feet from the edge of the traveled way.

Based on the posted speed limit of 25 mph along Black Point Road, MaineDOT would require 200 feet of sight distance to be provided in each direction at the driveways. The proposed curb cuts for the proposed parking lot far exceed the minimum sight distance of 200 feet looking both left and right. The sight distance was additionally confirmed by Bill Bray, PE, from *Barton & Loguidice* in their August 2, 2022 memo reviewing the applicant's site plans.

Guidelines

The Town of Scarborough Complete Streets Policy recommends facilities be placed where *"...the corridor provides a primary access to one or more significant destinations such as a community or regional park or recreational area, a school, a shopping/commercial area, a local transportation center or other multimodal center, or an employment center, [and] the corridor is in an area where a relatively high number of users of non-motorized transportation modes can be anticipated."*¹

Though there is an existing crosswalk at the Scarborough Beach driveway, the Town's application for new crosswalk markings provides site criteria guidelines that *"the location is adjacent to a public park, playground, or other such public recreation area, [and] the location has been identified as part of a formal development review process or similar development opportunity."*²

For relevant general guidelines, the Scarborough Crosswalk Marking Policy requires that:

2. All marked crosswalks shall lead from one safe landing zone to another. A safe landing zone is an area where a pedestrian is safe from vehicle conflict while waiting to cross or when finished crossing a roadway. (Safe landing zones can vary by location. In some areas this may be a wide road shoulder, while in others it could be an ADA accessible ramp).
4. Crosswalks shall be placed in areas where there is sufficient stopping sight distance for the posted speed limit and be adequately signed and lighted for nighttime use, if warranted.
5. Pedestrian crosswalks shall not be located on roadways with more than 3 lanes or on roadways with speeds greater than 40 mph[...].
7. Mid-block crosswalks shall be avoided whenever possible, as they are generally not expected by motorists and create an unsafe condition for pedestrians. However, some circumstances warrant their creation such as a location where a trail or a parking area may require a pedestrian to cross a road to reach their destination, or

¹ Scarborough Complete Streets Policy, 8A and 8C

² Scarborough Crosswalk Marking Policy, D.1.C, D.1.L

continue on the trail. These crosswalks shall be appropriately signed for advanced warning, and if possible, lighted and provide pedestrian actuated signals, so as to be more visible to a driver.

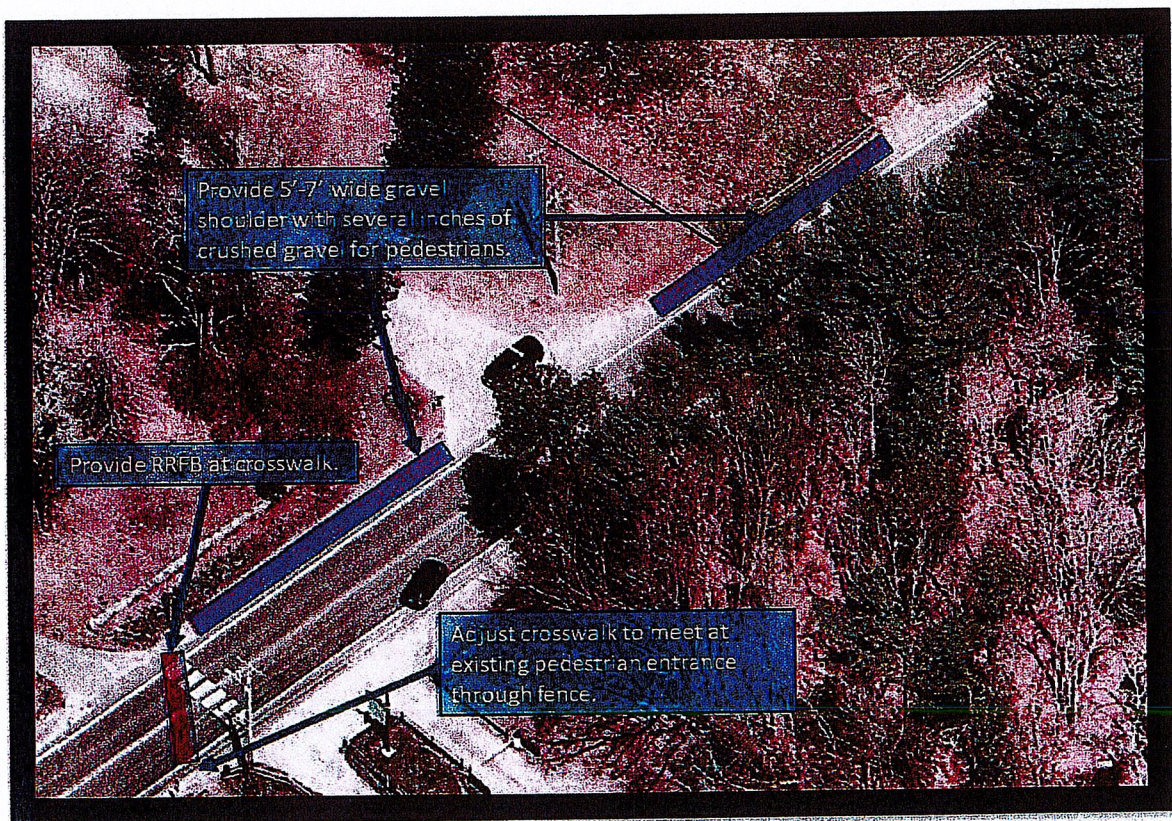
8. Other than at signalized intersections, a new crosswalk shall not be marked within 200 feet of an existing crosswalk.

Recommendations

In accordance with the Town of Scarborough's policies for crosswalks, VHB recommends that the shoulder on the north side of Black Point Road be widened to provide space for pedestrians to walk from the parking lot to the existing crosswalk on the west side of the driveway. Widening the shoulder would be intended to provide a dedicated area for pedestrians to walk to and from the proposed parking lot that meets Town guidelines for a Safe Landing Zone.

VHB recommends that the crosswalk be retained at the existing location on the west side of the existing driveway where there will be limited pedestrian/vehicle conflicts for patrons leaving or exiting the driveway. In comparison, a new crossing at the driveway of the proposed parking lot may increase the number of pedestrian/vehicle conflicts and may cause pedestrians to walk between queuing vehicles turning into the Scarborough Beach driveway.

VHB additionally recommends that a rectangular rapid flashing beacon (RRFB) be installed at the existing crosswalk, meeting Americans with Disabilities Act (ADA) and Manual on Uniform Traffic Control Devices (MUTCD) guidelines. An RRFB meets Town of Scarborough policy for the use of pedestrian actuated signals at mid-block crossings.



Pedestrian Access Plan-Temporary Overflow Parking Lot-Scarborough Beach

When the beach is open to the public the Scarborough Beach Park typically has three employees working. Once the parking lot at the beach is full and the overflow parking lot is needed the roles of these employees will be for one employee to direct cars to this parking lot from the gate. Another employee will be located at the temporary overflow parking lot to direct vehicles to their parking spaces and then making sure that all the pedestrians get access to the beach via a safe method as intended. The employee at the temporary overflow parking lot will assist all visitors as they use the existing crosswalk across Black Point Road to assure all pedestrians are provided safe access to the park entrance.

Pedestrians will be directed from the temporary overflow parking lot to walk along the Northern side of Black Point Road along the 4-foot gravel shoulder provided by the applicant as part of this project (see temporary overflow parking plan for more information). This walkway provides direct access to the existing crosswalk across Black Point Road. As shown on the temporary parking plan, the existing crosswalk will be extended to meet the pedestrian access on the northern side of Black Point Road. With the guidance of the onsite attendant, all visitors will have safe access from the temporary overflow lot to the park entrance. This existing crosswalk will provide direct access to the existing parking lot where pedestrians can access the beach per normal protocol.

Please refer to Vehicle Access/Traffic Control Plan for more information.

**Vehicle Assess and Traffic Control Plan - Temporary Overflow Parking Lot -
Scarborough Beach**

When the beach is open to the public the Scarborough Beach Park typically has three employees working. Once the parking lot at the beach is full and the overflow parking lot is needed the roles of these employees will be for one employee to direct cars to this parking lot from the gate. Another employee will be located at the temporary overflow parking lot to direct vehicles to their parking spaces and then making sure that all the pedestrians get access to the beach via a safe method as intended. The employee at the temporary overflow parking lot will assist all visitors as they use the existing crosswalk across Black Point Road to assure all pedestrians are provided safe access to the park entrance.

All vehicles will be directed to their parking spot by the onsite attendant. The parking attendant will be sure to park vehicles in a way that will allow for emergency vehicle to access all portions of the temporary overflow parking lot to assure safety for all as summarized in plan notes #15 and #16 on the temporary parking plan.

Please refer to Pedestrian Access Plan for more information.

Operations and Maintenance Plan-Temporary Overflow Parking Lot-Scarborough Beach

The temporary parking plan has been completed with many important notes on it that will ensure the parking lot is run safely for both vehicles who visit the site as well as pedestrians. These notes come directly from the standards within the Town Ordinance (Chapter 302B)

The applicant will take steps to make sure this temporary overflow parking area remains grass and pervious. The applicant is willing to fertilize the grass area each spring to assure that a dense grass growth is established each spring. The applicant is also willing to aerate the area and fertilize again in the fall (if needed) after the summer season is over to assure the grass area recovers properly before the winter season. If during the summer when the parking lot is being used there is an area where the grass is not continuing to grow properly the applicant is willing to stop the use of the parking within that area until grass growth has been established (see note #10 on temporary parking plan for more information). The Scarborough Beach State Park has three staff onsite most days the beach is open. As part of their daily duties they can include a regular review of the parking lot to assure grass growth remains.

The aprons off Black Point Road providing egress from the temporary overflow parking lot will be constructed with crushed stone to keep sediment from tracking onto Black Point Road. These aprons will be maintained as needed to assure they are functioning properly.

Hours of operation for the temporary overflow parking lot shall be 9 am to 5 pm Monday thru Sunday. The Scarborough Beach is a seasonal facility open from Memorial Day to Labor Day.

Parking access isles and parking spaces shall be located and developed to permit convenient and safe movement of vehicular and pedestrian traffic and free passage of emergency vehicles.

The proposed overflow parking lot shall not impede fire and emergency access nor block fire lanes.

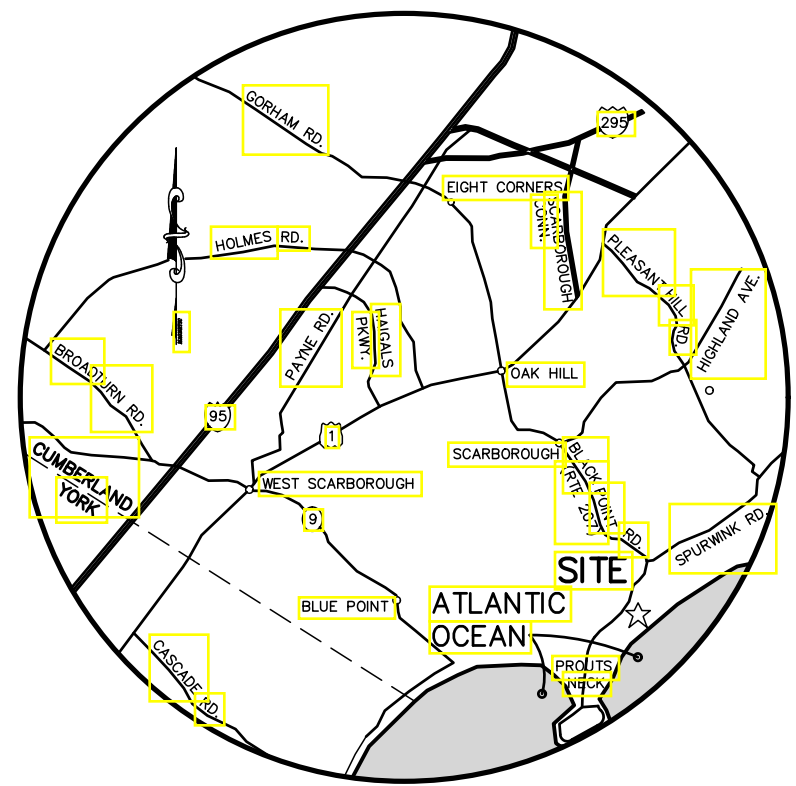
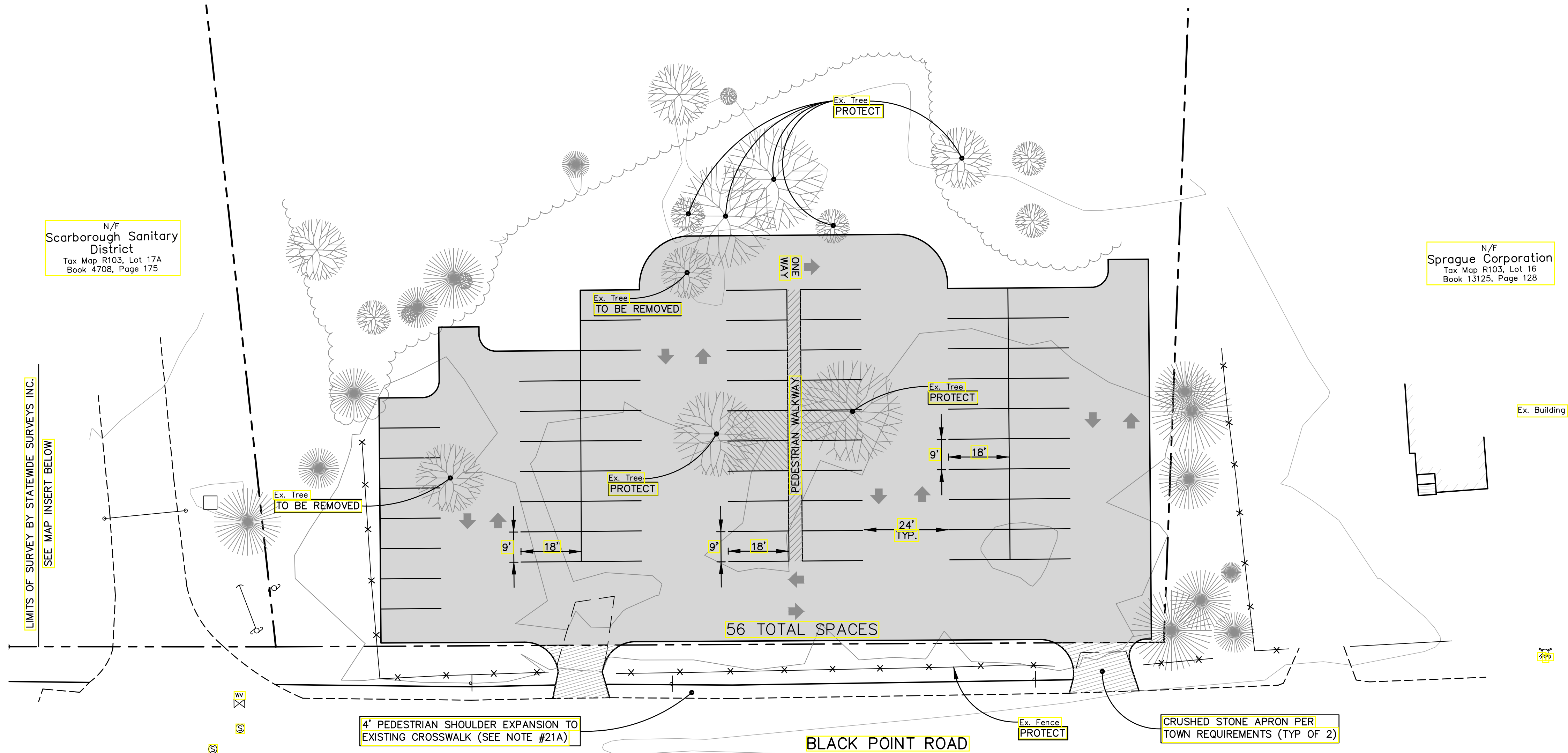
Dust control shall be applied as necessary to prevent dust trespass onto adjoining properties.

The operator shall ensure adequate communication between local law enforcement, fire prevention and emergency personnel and any private security personnel, including emergency response protocols.

All refuse shall be collected from the parking area at least once per day of use, or more often if necessary, and disposed of at a lawful disposal site.

Please refer to pedestrian access plan and vehicle access and traffic control plan for more information.

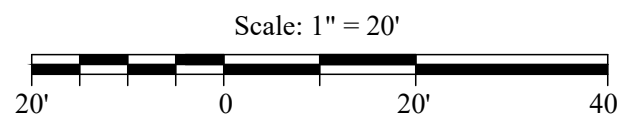
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NOTES:

- OWNER/APPLICANT: THE SPRAGUE CORPORATION 1 RAM ISLAND FARM ROAD CAPE ELIZABETH, MAINE 04107
- ENGINEER: ANDREW S. MORRELL, PE #13285 BH2M 308B MAIN STREET GORHAM, MAINE 04038
- DEED REFERENCE: BOOK 1051, PAGE 481
- TAX MAP REFERENCE: MAP R103, LOT 17
- ZONING: RURAL RESIDENCE, FARMING (RF) TRANSMISSION TOWER OVERLAY
- PROJECT AREA: 59.6 ACRES +/- (SEE TAX MAPS)
- PROPOSED USE: TEMPORARY EVENT OVERFLOW PARKING LOT FOR SCARBOROUGH BEACH
- PLAN REFERENCE: "TOPOGRAPHIC SURVEY AT BLACK POINT ROAD, SCARBOROUGH, MAINE FOR SPRAGUE CORPORATION" BY STATEWIDE SURVEYS, INC. DATED AUGUST 19, 2022 (JOB #220125)
- BH2M HAS NOT COMPLETED A BOUNDARY SURVEY ON THIS PARCEL. SEE TOPOGRAPHIC SURVEY PLAN COMPLETED BY STATEWIDE SURVEYS, INC (PLAN REFERENCE 8A).
- SPRAGUE CORP INTENDS TO USE THE FIELD AREA TO MAXIMIZE THE PARKING AVAILABLE ONSITE. NO TREE CLEARING WILL RESULT EXCEPT FOR THE 2 TREES AS SHOWN ON THIS PLAN. THE LAYOUT OF PARKING SHOWN ON THIS PLAN IS FOR APPROVALS ONLY AND THE APPLICANT RESERVES THE RIGHT TO RECONFIGURE THE LAYOUT ON SITE IF CERTAIN PORTIONS OF THE OVERFLOW PARKING AREA NEED TO BE REESTABLISHED AND NOT USED FOR PARKING WHILE THE GRASS GROWTH IS ESTABLISHED AGAIN (SEE OPERATIONS & MAINTENANCE PLAN FOR MORE INFORMATION).
- AS SHOWN PARKING AREA IS APPROXIMATELY 24,985 S.F. IN SIZE. IF THE ENTIRE EXISTING FIELD IS UTILIZED THE PARKING AREA WILL BE APPROXIMATELY 32,400 S.F. IN SIZE. THE MAXIMUM SIZE OF THE PROPOSED PARKING AREA SHALL NOT EXCEED 40,000 S.F. PER CHAPTER 602B CHAPTER STANDARDS (MAX NUMBER OF VEHICLES CANNOT EXCEED 115).
- THIS TEMPORARY PARKING AREA WILL MEET ALL APPLICABLE STANDARDS WITHIN CHAPTER 602B TOWN OF SCARBOROUGH TEMPORARY EVENT OVERFLOW PARKING ORDINANCE.
- THIS TEMPORARY OVERFLOW PARKING LOT CANNOT BE USED MORE THAN 30 DAYS WITHIN A CALENDAR YEAR.
- HOURS OF OPERATION FOR TEMPORARY OVERFLOW PARKING SHALL BE AS FOLLOWS: 9AM TO 7PM MONDAY THRU SUNDAY (SEASONAL USAGE MEMORIAL DAY TO LABOR DAY).
- SERVICE ROAD(S) AND PARKING SPACES SHALL BE LOCATED AND DEVELOPED TO PERMIT CONVENIENT AND SAFE MOVEMENT OF VEHICULAR AND PEDESTRIAN TRAFFIC AND FREE PASSAGE OF EMERGENCY VEHICLES.
- THE PROPOSED PARKING AREA SHALL NOT IMPEDE FIRE AND EMERGENCY ACCESS NOR BLOCK FIRE LANES.
- DUST CONTROL SHALL BE APPLIED AS NECESSARY TO PREVENT DUST TRESPASS ONTO ADJOINING PROPERTIES. PLANNED MEASURES MUST BE PROVIDED ON THE PROPOSED PLANS.
- THE OPERATOR SHALL ENSURE THAT ADEQUATE COMMUNICATION BETWEEN LOCAL LAW ENFORCEMENT, FIRE PREVENTION, AND EMERGENCY PERSONNEL AND ANY PRIVATE SECURITY PERSONNEL, INCLUDING EMERGENCY RESPONSE PROTOCOLS IS PROVIDED.
- SCARBOROUGH BEACH STATE PARK FOLLOWS THE STATE OF MAINE'S "CARRY IN, CARRY OUT" POLICY, THEREFORE NO WASTE RECEPTACLES NEED TO BE PROVIDED ONSITE.
- FOR MORE INFORMATION SEE FOLLOWING DOCUMENTS FOR FACILITY:
 - PEDESTRIAN ACCESS PLAN
 - VEHICULAR ACCESS PLAN
 - TRAFFIC CONTROL PLAN
 - OPERATIONS AND MAINTENANCE PLAN
- TRAFFIC ENGINEER: JASON READY, PE VHB 500 SOUTHBOROUGH DRIVE, SUITE 105, SOUTH PORTLAND, ME, 04106

SEE TRAFFIC ASSESSMENT DATED FEBRUARY 3, 2023 FOR MORE INFORMATION. AS PART OF THIS PROJECT THE APPLICANT SHALL IMPLEMENT THE RECOMMENDATIONS OF THIS ASSESSMENT AS FOLLOWS:
 - A. WIDENING SHOULDER ON NORTH SIDE OF BLACK POINT ROAD FOR PEDESTRIAN ACCESS (TO 4 FT. WIDE)
 - B. RETAIN CROSSWALK IN CURRENT CONFIGURATION ACROSS BLACK POINT ROAD
- SURVEYOR: DALE BREWER PLS #2348 STATEWIDE SURVEYS INC. 35 EASTMAN ROAD CAPE ELIZABETH, ME 04107



NO.	DATE	REVISION	DESCRIPTION
1	7/6/22		Revised one way parking directions
2	8/8/22		Revised one way parking
3	10/19/22		Revised per Client Request
4	11/14/22		Revised per Client Request
5	4/2/24		Draft Temporary Overflow Parking Plan to Client
6	4/19/24		Draft Temporary Overflow Parking Plan to Town
7	4/26/24		Revised per Town Comments / Submitted Formal Application to Town
8	5/21/24		Revised per Town Comments



BH2M

Berry, Huff, McDonald, Miligan Inc.
Engineers, Surveyors

300B Main Street
Gorham, Maine 04038

Tel: (207) 839-2771
www.bh2m.com

FOR
Sprague Corporation
1 Ram Farm Road
Cape Elizabeth, Maine 04107

TEMPORARY OVERFLOW
PARKING PLAN

SCARBOROUGH BEACH
STATE PARK PARKING

LAND OF
SPRAGUE CORPORATION
BLACK POINT ROAD
SCARBOROUGH, MAINE

DESIGNED	DATE
A. Morrell	June 2022
DRAWN	SCALE
Dept.	1" = 20'
CHECKED	JOB. NO.
W. Pelkey	22131

SHEET

1

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**Temporary Overflow Event Parking Review
Scarborough Beach State Park**

Submittal Date: April 25, 2024

Completeness Review Comments Due: May 16, 2024

Abutter Notice Mailed: May 23, 2024

Public Newspaper Notice: May 29, 2024

Council Public Hearing Date: June 5, 2024

Council Action Deadline: July 5, 2024

Permit Requirements	Included/ Addressed	Proposed	Reviewer	Meets Standards
Outstanding Taxes and Fees owed	NA	NA	Clerk, Assessing	Meets
Existing Conditions Plan	Yes	NA	Planning	Meets
Plan Narrative	Yes	NA	Planning/All	Meets
Size (max 40,000 sq ft)	Note 11	32,400 sq ft	Planning	Meets
Number of Days (max 30)	Note 13	30 days – Memorial Day to Labor Day	Planning	Meets
Parking Spaces (max 115)	Yes	56	Planning	Meets
Parking area shall not encroach on public rights-of-ways.		Meets	Planning	Meets
Temporary Structures	NA	NA	Planning	NA
Hours (9am and 9pm Sunday to Thursday and 9am to 10pm Friday and Saturday)	Note 14	9 am – 7 pm	Planning	Meets
Lighting Plan (night usage)	NA	NA	Planning	NA
Service road(s) and parking spaces shall be located and developed to permit convenient and safe movement of vehicular and pedestrian traffic and free passage of emergency vehicles.	Note 15	See Site Plan	Public Safety	Meets
Parking area shall not impede fire and emergency access nor block fire lanes.	Note 16	See Site Plan	Public Safety	Meets
Each temporary event parking area shall be well drained and so arranged to provide sufficient space for vehicles.	NA	No improvements	Town Engineer	Meets
Trees, underbrush, large rocks and other natural features shall be left intact	Yes	Note 10; Two Oak trees removed	Planning	Meets

Permit Requirements	Included/ Addressed	Proposed	Reviewer	Meets Standards
and undisturbed whenever possible, and natural vegetative cover will be retained, protected and maintained so far as possible to facilitate stormwater drainage, prevent erosion, and preserve scenic attributes.		(closest to Black Point road 20" in diameter and the other is 15" in diameter)		
Overflow parking areas shall not impact the natural drainage patterns on the site. The applicant must demonstrate that the use will not have an adverse impact on drainage patterns from or to an abutting property or public right-of-way.	Yes	No drainage improvements planned	Engineering	Meets
Parking area shall be designed and maintained to prevent soil or debris from being tracked onto a public street and to prevent dust trespass onto neighboring properties. Exiting for overflow parking areas shall be arranged such that the vehicles must pass over an apron of crushed stone, asphalt or other approved surface to allow any mud to track off prior to vehicle entry onto a public street.	Yes	Crushed stone aprons proposed	Engineering	Meets
Dust control shall be applied as necessary to prevent dust trespass onto adjoining properties. Planned measures must be provided on the proposed plans.	Note 17	See Site Plan	Engineering	Meets
Operator shall ensure that adequate communication between local law enforcement, fire prevention, and emergency personnel and any private security personnel, including emergency response protocols is provided.	Note 18	See Site Plan	Public Safety	Meets

Permit Requirements	Included/ Addressed	Proposed	Reviewer	Meets Standards
Grounds shall be maintained free from accumulations of refuse and any health and safety hazards constituting a nuisance. The area where vehicles are parked shall have one (1) fifty (50) gallon refuse container or its equivalent for every twenty-five (25) vehicles and an appropriate number of recycling containers.	Note 19	Carry in/ carry out proposed	Planning	Meets
All refuse shall be collected from the parking area at least once per day of use, or more often if necessary, and disposed of at a lawful disposal site. The Operator may submit a detailed alternative plan for refuse disposal to be reviewed and, if reasonable and appropriate, approved by the Town Council.	Note 19	Carry in/ carry out proposed	Planning	Meets
Pedestrian access plan to demonstrate safe access for the ingress and egress of pedestrians from the overflow parking lot to the event location. This plan may include temporary signage and/or permanent improvements.	Yes – Pedestrian Access Plan	Shoulder improvements on north side of Black Point Rd; existing crosswalk to be repainted and extended toward pedestrian gate; crosswalk attendant will be on-site	Engineering, Public Safety Public Works	Meets – will review with renewal if issues arise
Vehicular access plan to demonstrate vehicle movement for the ingress and egress of vehicles from the overflow parking lot and the event location, and the proposed traffic measures that may be necessary. The plan may include temporary signage and/or permanent improvements.	Yes – Vehicular Access Plan	See Site Plan	Engineering, Public Safety Public Works	Meets

Permit Requirements	Included/ Addressed	Proposed	Reviewer	Meets Standards
Traffic control plan/and or identify personnel required to insure safety to all members of the traveling public, including pedestrians, along all public roadways in the proximity of the event and/or along which the public is likely to travel to reach the event shall be provided.	Yes – Traffic Control Plan	Onsite attendant will direct parking	Engineering, Public Safety Public Works	Meets
Operation & Maintenance Plan detailing the measures that will be taken during and after the event to stabilize, revegetate, aerate, and repair the parking area or related access ways.	Yes – Operations and Maintenance Plan	See attached plan	Engineering	Meets

LISA A. GILBREATH

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pierceatwood.com

Admitted in: KS, MA, ME, MO, NY

May 30, 2024

VIA ELECTRONIC MAIL

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

Re: Scarborough Beach Temporary Event Overflow Parking Application
The Sprague Corporation

Dear Mr. McGee and Members of the Town Council:

On behalf of the Prouts Neck Improvement Association (PNIA), the purpose of this letter is to comment on the Temporary Event Overflow Parking Application submission dated April 3, 2024 (provided to us via email on April 26, 2024), revised May 23, 2024, that was submitted by BH2M on behalf of The Sprague Corporation (Sprague).

We appreciate Sprague's efforts to address the concerns we and Town Staff have raised. Those efforts resulted in a revised proposal that will fit in better with the local community. The PNIA supports the revisions proposed by Sprague in its May 23 application, and the Council's approval of them, as long as the Council's approval is limited to no more than the 56 spaces requested in Sprague's application materials and no unnecessary lighting is added to the project. These limits are important for traffic, safety, and community impact reasons as well as from a beach carrying capacity perspective.

We were pleased to see that, in response to comments from Town Staff, Sprague indicated that it would remove from its application the rectangular rapid flashing beacon (RRFB) at the crosswalk to the parking lot that was recommended in the February 3, 2023 VHB Traffic Assessment. As requested by Town Staff, the existing crosswalk will only be extended and a new crosswalk is no longer proposed. We agree with Sprague that "there have never been any issues with crossing the roadway at this location and the applicant feels these beacons are not warranted in this location." What's more, a flashing beacon – which is not required to comply with any local, state, or federal standard – would provide little, if any, additional safety to users of the parking lot, as the parking lot hours are restricted to daytime use only.

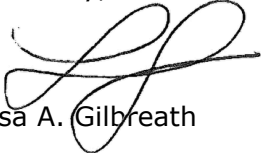
Upon consultation with Town Engineer Angela Blanchette, we understand that the Town is recommending a crossing guard or parking lot attendant in lieu of a RRFB at the crosswalk. PNIA supports Sprague's Pedestrian Access Plan, pursuant to which a Scarborough Beach

Nick McGee, Chair, Town Council
May 30, 2024
Page 2

Park employee "will assist all visitors as they use the existing crosswalk across Black Point Road to assure all pedestrians are provided safe access to the park entrance." PNIA agrees with Sprague that "with the guidance of the onsite attendant, all visitors will have safe access from the temporary overflow lot to the park entrance" such that a RRFB is unnecessary.

We look forward to discussing this much improved application at the Council's June 5, 2024 public hearing.

Sincerely,

A handwritten signature in black ink, appearing to read 'LG', with a stylized flourish extending to the right.

Lisa A. Gilbreath

cc: Eric Sanderson, Assistant Town Planner, Planning & Codes, Town of Scarborough
Brian Longstaff, Zoning Administrator, Town of Scarborough
Autumn Speer, Planning Director, Town of Scarborough
Angela Blanchette, Town Engineer, Town of Scarborough
Andrew Morrell, Project Manager, BH2M
Trevor McCourt, Property Manager, Sprague Corporation
Claudia Richards, Black Point Resource Management
John Hawkins, President, Prouts Neck Improvement Association

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 5, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Proclamation 24-004. Move approval on the request to designate the month of July as Park and Recreation Month. *[Town Manager]*

Town Manager

Ought to Pass

Sponsor

Recommendation

06/05/2024 – Vote:

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote

Town of Scarborough

PROCLAMATION

Designation of July as Park and Recreation Month

WHEREAS parks and recreation is an integral part of communities throughout this country, including Scarborough, Maine; and

WHEREAS parks and recreation promotes health and wellness, improving the physical and mental health of people who live near parks; and

WHEREAS parks and recreation promotes time spent in nature, which positively impacts mental health by increasing cognitive performance and well-being, and alleviating illnesses such as depression, attention deficit disorders, and Alzheimer's; and

WHEREAS parks and recreation encourages physical activities by providing space for popular sports, trails for hiking and biking, beaches for swimming, and many other activities designed to promote active lifestyles; and

WHEREAS parks and recreation is a leading provider of healthy meals, nutrition services and education; and

WHEREAS park and recreation programming and education activities, such as out-of-school time programming, youth sports and environmental education, are critical to childhood development; and

WHEREAS parks and recreation increases a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

WHEREAS parks and recreation is fundamental to the environmental well-being of our community; and

WHEREAS parks and recreation is essential and adaptable infrastructure that makes our communities resilient in the face of natural disasters and climate change; and

WHEREAS our parks and natural recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and

WHEREAS the U.S. House of Representatives has designated July as Parks and Recreation Month; and

WHEREAS Scarborough recognizes the benefits derived from parks and recreation resources.

NOW THEREFORE, BE IT RESOLVED BY the Scarborough Town Council that July is recognized as Park and Recreation Month in the Town of Scarborough.



*IN WITNESS THEROF, I have hereunto set my hand and
caused the Seal of the Town of Scarborough, Maine
to be affixed this the ____ day of June 2024.*

Town Council Chair

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 5, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 24-027. Move approval of the first reading on the proposed amendments to Chapter 311: the Town of Scarborough Schedule of License, Permit and Application Fees regarding the proposed Annual Mooring Wait List Fee and schedule a public hearing and second reading for Wednesday, June 26, 2024. (Tabled from the March 20, 2024, Town Council meeting.) [*Town Staff*]

Town Staff

Ought to Pass

Sponsor

Recommendation

*03/20/2024 – Vote: 7 Yeas – to table this
Order for further review by the Coastal Waters
& Harbor Committee.*

06/05/2024 – Vote:

First Reading/Vote

06/26/2024

Public Hearing

06/26/2024

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: June 5, 2024

ACTION ITEM: Order No. 24-027.
<p>SUBJECT:</p> <p>First reading and schedule a public hearing and second reading on the proposed amendments to Chapter 311: the Town of Scarborough Schedule of License, Permit and Application Fees. (Tabled from the March 20, 2024 Town Council meeting.) <i>[Town Staff]</i></p>
<p>PURPOSE:</p> <p>To make adjustments to certain fees as deem necessary.</p>
<p>BACKGROUND:</p> <p><u>Mooring Fees - Mooring Waiting List, Yearly Fee:</u></p> <p>This proposed annual fee would maintain your name on the waiting [recreational & commercial] list of \$35. The fee would cover the administrative cost for the Town Clerk's office to ensure that your name stays active on the list and that any correspondence that needs to be sent to you to maintain your name, the cost is covered.</p> <p>When you are pulled from the mooring waitlist, that year's mooring waitlist fee will be applied towards that year's mooring cost.</p> <p>In the State of Maine, moorings are in very high demand and it is important that we engage with those on our waitlist. This fee would hold those accountable to ensure the information in the Town Clerk's office is current and accurate and is in compliance with the Town's ordinance.</p> <p>This item was tabled and referred to the Coastal Waters/Harbor Committee for review and recommendation. The Committee discussed this at their May 14, 2024, meeting and the following recommendation was made:</p> <p style="padding-left: 40px;">Recommend \$35 yearly waiting list fee; yearly fee applied over course of time on waiting list to the first year's mooring fee once you are allocated a mooring; whatever you paid, up to the mooring fee, will be credited</p>
FISCAL IMPACT: \$35 per application on the wait list.
<p>STATUS / PROCESS TO DATE:</p> <ul style="list-style-type: none"> • Recommendation on Mooring Wait List Fee: February 8, 2024 - February 14, 2024 • First reading before the Town Council: March 20, 2024 – Tabled and referred to Coastal Waters/Harbor Committee • Discussion and recommendation by Coastal Waters/Harbor Committee: May 14, 2024 • First reading before the Town Council: June 5, 2024
PROPOSED ACTION: Recommend move approval of the first reading on Order No. 24-027.
<p>ATTACHMENTS:</p> <ul style="list-style-type: none"> • Original recommendation from Staff • Recommendation from the Coastal Waters/Harbor Committee

Chapter 311 – the Town of Scarborough Schedule of Fees Ordinance

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

Chapter 1401 – Coastal Water and Harbor Fees [amended 02-20-13]	Fee
Annual Mooring & Pier Use Fees	
Recreational Pier Use - Resident and/or Taxpayer (amended 05/05/04; 12/20/17; 02/15/23)	\$250.00
Recreational Pier Use - Non-Resident (amended 05/05/04; amended 12/20/17; 02/15/23)	\$500.00
Commercial Pier User – Resident and/or Taxpayer (amended 12/20/17; 02/15/23)	\$450.00
Commercial Pier User – Non-Resident (amended 12/20/17; 02/15/23; 05/03/2023)	\$700.00
Recreational Mooring & Pier Use Fee – Resident and/or Taxpayer (amended 12/20/17; 02/15/23; 05/03/2023)	\$300.00
Recreational Mooring & Pier Use Fee – Non-Resident (amended 12/20/17; 02/15/23)	\$500.00
Commercial Mooring & Pier Use Fee – Resident and/or Taxpayer (amended 12/20/17; 02/15/23; 05/03/2023)	\$500.00
Commercial Mooring & Pier Use Fee – Non-Resident (amended 12/20/17; 02/15/23)	\$700.00
One Time Pier Use Fee Resident (adopted 02/15/23; amended 05/03/2023)	\$150.00
One Time Pier Use Fee Non-Resident (adopted 02/15/23)	\$350.00
<u>Mooring Wait List Annual Fee [Once spot is available the wait list fee that is paid for the current year will be applied as a credit toward the regular mooring permit fee.</u>	<u>\$35.00</u>

Recommended from Coastal Waters/Harbor Committee:

Chapter 1401 – Coastal Water and Harbor Fees [amended 02-20-13]	Fee
Annual Mooring & Pier Use Fees	
Recreational Pier Use - Resident and/or Taxpayer (amended 05/05/04; 12/20/17; 02/15/23)	\$250.00
Recreational Pier Use - Non-Resident (amended 05/05/04; amended 12/20/17; 02/15/23)	\$500.00
Commercial Pier User – Resident and/or Taxpayer (amended 12/20/17; 02/15/23)	\$450.00
Commercial Pier User – Non-Resident (amended 12/20/17; 02/15/23; 05/03/2023)	\$700.00
Recreational Mooring & Pier Use Fee – Resident and/or Taxpayer (amended 12/20/17; 02/15/23; 05/03/2023)	\$300.00
Recreational Mooring & Pier Use Fee – Non-Resident (amended 12/20/17; 02/15/23)	\$500.00
Commercial Mooring & Pier Use Fee – Resident and/or Taxpayer (amended 12/20/17; 02/15/23; 05/03/2023)	\$500.00
Commercial Mooring & Pier Use Fee – Non-Resident (amended 12/20/17; 02/15/23)	\$700.00
One Time Pier Use Fee Resident (adopted 02/15/23; amended 05/03/2023)	\$150.00
One Time Pier Use Fee Non-Resident (adopted 02/15/23)	\$350.00
<u>Mooring Wait List Annual Fee: Annual fee will be applied over the course of time on waiting list. Once the mooring is issued and what monies have been paid while on the wait list will be credited, not to exceed the annual mooring fee, for the first year only.</u>	<u>\$35.00</u>

PORTION OF MINUTES FROM THE
COASTAL WATERS AND HARBOR COMMITTEE MEETING
HELD ON MAY 14, 2024

Item 6. Old Business:

- Mooring waitlist fee structure
 - \$35/year to stay on waitlist
 - Fees are related to costs of maintaining list
 - Don wants to see the numbers and how they play out over time
 - Which is why we need the accounting from town manager
 - D. Granata to look at the fee structure

Motion by Daryen Granata to recommend \$35 yearly waiting list fee; yearly fee applied over course of time on waiting list to the first year's mooring fee once you are allocated a mooring; whatever you paid, up the mooring fee will be credited.

Andrew Fortunato seconded: unanimous vote.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 5, 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.(Tabled from the May 1, 2024 Town Council Meeting.) [*Assistant Town Manager*]

Assistant Town Manager

Ought to Pass

Sponsor

Recommendation

04/17/2024 – Vote:

First Reading/Vote

05/01/2024

Public Hearing

05/01/2024 – Vote: 6 Yeas to table the second Reading to the June 5, 2024, Town Council Meeting.

06/05/2024 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: June 5, 2024

ACTION ITEM: Order No. 24-040.**SUBJECT:**

Second reading on the proposed changes to Chapter 1018 – the Town of Scarborough Marijuana Establishment Licensing Ordinance. (Tabled from the May 1, 2024 Town Council meeting.)[*Assistant Town Manager*]

PURPOSE:

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.

BACKGROUND:

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. Upon review by the Town Attorney, updates were made to the enforcement provisions as highlighted in Section 11.C on page 13 and in Section 12.A. on page 15 in the attached document. If acceptable, these recommendations should be offered as an amendment.

At the May 15th Workshop there was consensus support for the concept of creating a new category of a license or registration for the Landlord of an establishment hosting a licensee. This concept needs further refinement and would constitute a substantive change to the ordinance; therefore, the recommendation is to proceed with the current amendments to enhance enforcement abilities and bring forward a new amendment specific to the Landlord license/registration at the June 26th meeting.

FISCAL IMPACT: N/A**STATUS / PROCESS TO DATE:**

- 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
- First reading before the Town Council: April 17, 2024
- Public hearing and second reading before the Town Council: May 1, 2024 – Second reading was tabled to the June 5, 2024, meeting
- Town Council Workshop: May 15, 2024
- Second Reading before the Town Council: June 5, 2024

PROPOSED ACTION:

Move approval of the second reading on the proposed changes to Chapter 1018 – the Town of Scarborough Marijuana Establishment Licensing Ordinance. *[Assistant Town Manager]*

ATTACHMENTS: Chapter 1018: Cannabis Licensing Ordinance

Chapter 1018

Town of Scarborough

Marijuana Establishments Licensing Ordinance

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the new Chapter 1018 – the Town of Scarborough Marijuana Establishments Licensing Ordinance of the Town of Scarborough, Maine is hereby 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~~ 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~~ enforced under the provision in Section 12 of this Ordinance; 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 **enforced under the provisions in 30-A M.R.S. § 4452 and** 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 – JUNE 5, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 24-048. Move approval of the first reading to extend the Town-wide Moratorium on Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities, that the Town Council approved on February 7, 2024 and schedule the second reading for Wednesday, June 26, 2024. *[Assistant Town Manager]*

Assistant Town Manager

Ought to Pass

Sponsor

Recommendation

06/05/2024 – Vote:

First Reading/Vote

N/A

Public Hearing

06/26/2024 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: June 5, 2024

ACTION ITEM: Order No. 24-048.

SUBJECT:

First reading to extend the Town-wide Moratorium on Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities, that the Town Council approved on February 7, 2024.
[Assistant Town Manager]

PURPOSE:

Expansion of existing, cannabis cultivation licenses until October 24, 2024 so that further changes to the Cannabis Licensing Ordinance can be considered.

BACKGROUND:

Following three (3) successive moratoriums to restrict cannabis licensing, and the enactment of increased odor mitigation standards and a revised enforcement provisions, the Town continues to receive odor reports. As a result, the Ordinance Committee and Town Council have expressed interest in considering additional revisions to the Cannabis Licensing Ordinance which may include odor mitigation requirements, enforcement, and zoning.

FISCAL IMPACT:

N/A

STATUS / PROCESS TO DATE:

- Long-standing concerns with cannabis odor in the Pine Point Overlay District, as well as increased concerns in the Pleasant Hill Road corridor, has resulted in two previous emergency moratoriums and the convening of a marijuana working group to study and recommend changes to the licensing ordinance. Despite revisions to the Licensing Ordinance, concerns persist.
- First reading before the Town Council: June 5, 2024
- Second reading before the Town Council: June 26, 2024

PROPOSED ACTION:

Recommend approval of the first reading on Order No. 24-048.

ATTACHMENTS:

- Proposed New moratorium on Cannabis Cultivation Licenses through October 24, 2024

**TOWN OF SCARBOROUGH ORDINANCE EXTENDING THE MORATORIUM
ON ADULT USE CANNABIS CULTIVATION FACILITIES AND MEDICAL
CANNABIS CULTIVATION FACILITIES**

WHEREAS, on February 7, 2024, the Town Council adopted a 180-day moratorium on the acceptance, processing, or acting upon any application for any approval, including but not limited to a building permit, certificate of occupancy, site plan review, conditional use, license or any other approval, relating to the establishment, operation, or expansion of a business or operation for a Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities (“the Moratorium”); and

WHEREAS, the Town Council is currently in the process of revising and developing appropriate land use regulations concerning Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities; and

WHEREAS, during the term of the Moratorium, the Town Council has continued to review and develop adequate regulations to prevent serious public harm from the development Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities in the Town;

WHEREAS, the Moratorium will expire on June 30, 2024;

WHEREAS, State law requires a moratorium to be of a definite term of not more than 180 days, which may be extended for additional 180 day periods, upon a finding that:

- A. The problem giving rise to the need for the moratorium still exists; and
- B. Reasonable progress is being made to alleviate the problem giving rise to the need for the moratorium;

WHEREAS, the Town Council finds that the problem giving rise to the need for the Moratorium still exists; and

WHEREAS, during the term of the Moratorium the Town Council has made reasonable progress to alleviate the problem giving rise to the need for the Moratorium, and has held numerous workshops and meetings with stakeholders, but requires an additional amount to develop regulations governing the location and operation of Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities; and

WHEREAS during the period of this extension of the Moratorium, the Town will continue to diligently work to develop and adopt appropriate land use regulations concerning Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities; and

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

The Moratorium on Adult Use Cannabis Cultivation Facilities and Medical Cannabis Cultivation Facilities adopted by the Town Council on February 7, 2024, is hereby extended for an additional 120 days until October 24, 2024, unless earlier extended, repealed or modified by the Town Council.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 5, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 24-049. Move approval of the first reading to approve the expenditure, in an amount not to exceed, \$800,000 from the Land Acquisition Reserve Fund for the purpose of purchasing property located at 65 Hanson Road [Silver Brook Preserve II), identified by the Scarborough Tax Assessors Map R001/Lot 003, as recommended by the Parks and Conservation Land Board, and authorize the Town Manager, to execute any and all documents as are necessary to protect the Town’s interest and schedule the second reading for Wednesday, June 26, 2024. [*Parks and Conservation Land Board*]

Parks and Conservation Land Board

Ought to Pass

Sponsor

Recommendation

06/05/2024 – Vote:

First Reading/Vote

N/A

Public Hearing

06/26/2024 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: June 5, 2024

ACTION ITEM: Order No. 24-049.

SUBJECT:

First reading and schedule a second reading, to approve the expenditure, in an amount not to exceed, \$800,000 from the Land Acquisition Reserve Fund for the purpose of purchasing property located at 65 Hanson Road [Silver Brook Preserve II], identified by the Scarborough Tax Assessors Map R001/Lot 003, as recommended by the Parks and Conservation Land Board, and authorize the Town Manager, to execute any and all documents as are necessary to protect the Town's interest.
[Parks and Conservation Land Board]

PURPOSE:

To assist in the preservation of land for open space within the Town of Scarborough for public benefit.

BACKGROUND:

The Scarborough Land Trust is a non-profit community-based organization and conserve land where natural resources, scenic vistas and historical significance offer unique value to the community.

In November of 2019, the voters approved an additional \$2.5 million for land conservation and historic preservation. The Parks and Conservation Land Board was created to evaluate properties for conservation and recommend to the Town Council on the use of land bond monies for the purpose of acquisition and stewardship of conserved land.

An application for the subject property was reviewed by the Parks and Conservation Land Board, who have provided a positive recommendation for purchase.

FISCAL IMPACT:

\$2,500,000 Voter Approved Land Bond (TC Order #19-060)
 (\$ 396,099) Alger Hall Building (649 US Rt 1) TC Order #21-052
 (\$ 200,000) Libby Property (196 Gorham Rd) TC Order #21-088
 (\$ 140,000) 91 Burnham Road TC Order #22-113
 (\$ 260,000) 80 Beech Ridge Road TC Order #23-053
 (\$ 130,000) Gorham Road [located at the end of Finch Way] TC Order #23-083
 (\$ 210,000) 50 Hanson Road (R001/Lot 007), TC Order #23-132
 (\$ 350,000) 162 Spurwink Road TC Order #24-037
\$ 813,901 Unspent Land Bond Funds
 (\$210,000) 380 Payne Road, approved per TC Order #22-066 – did not close

STATUS / PROCESS TO DATE:

- Letter of Recommendation from the Parks & Conservation Land Board: May 29, 2024
- First Reading before the Town Council: June 5, 2024

PROPOSED ACTION:

Move approval of the first reading, to approve the expenditure, in an amount not to exceed, \$800,000 from the Land Acquisition Reserve Fund for the purpose of purchasing property located at 65 Hanson Road [Silver Brook Preserve II], identified by the Scarborough Tax Assessors Map R001/Lot 003, as recommended by the Parks and Conservation Land Board, and authorize the Town Manager, to execute any and all documents as are necessary to protect the Town's interest and schedule the second reading for Wednesday June 26, 2024.

ATTACHMENTS:

- Letter of Recommendation from the Parks and Conservation Land Board.
- Application Packet from the Scarborough Land Trust.

PARKS AND CONSERVATION LAND BOARD

Town of Scarborough, Maine



May 29, 2024

Nick McGee, Town Council Chair
Honorable Town Councilors and Town Manager
Town of Scarborough, Maine

Dear Chairman McGee and Friends,

Board Members

Suzanne Foley-Ferguson
Rachel Hendrickson
Richard Murphy
Noah Perlut
Jessica Sargent
Maggie Vishneau
Douglas Williams

Staff Liaison
Todd Souza

Council Liaison
Karin Shupe

The Parks and Conservation Land Board met on May 9, 2024, and voted to recommend that the Town Council authorize \$800,000 be spent from already approved Land Bonds to assist the Scarborough Land Trust (SLT) in purchasing 129.7 acres located at 65 Hanson Road (Silver Brook Preserve II).

This property will connect to 813 acres of contiguous conserved lands in Scarborough, Saco, and Buxton, expanding the size of this area to 943 acres (Appendix III - Map). The purchase will protect approximately 50 acres of upland forests, 75 acres of wetlands, and 3,200 ft. of frontage along Silver Brook and an unnamed brook that feeds into Silver Brook. Large land blocks support the Town's goals of increasing access to land for recreation in the form of trails and connections, as well as protecting habitats for the greatest number of species.

In addition to connectivity, the property itself provides important wildlife habitat. As SLT described in the application (Appendix II - Application):

- Protecting this property will help support continued populations of **wild trout**, as well as American Eel, Blacknosed Dace, Golden Shiner, Lake Chub, and White Sucker.
- The Maine Department of Inland Fisheries and Wildlife (MDIFW) has identified 33 acres as **Deer Wintering Habitat**.
- The Maine Natural Areas Program (MNAP) has identified the property as part of the Greater Maine **New England Cottontail** (NEC) Focal Area. NEC is considered endangered in Maine.
- The Maine **endangered Little Brown Bat** has been observed on SLT's adjacent Broadturn Farm, and it is possible these bats are present on this property as well.
- Nature's Network, a 13-state collaborative effort to identify and conserve connecting intact ecosystems that support imperiled species, has identified **30 acres of the property as Core Habitat** for Imperiled Species and considers the property excellent habitat for the Maine threatened Spotted Turtle.

SLT will create recreational opportunities for hiking, skiing, snowshoeing, wildlife observation, hunting, and fishing

The PCLB reviewed the property in one meeting. The property evaluation score as compared to similarly sized parcels is below:

Warren Woods	161.5 acres	737 points
Benjamin Farm/Pleasant Hill Preserve	136 acres	870 points
Fuller Farm	180 acres	905 points
Libby River Farm	120 acres	910 points
Silver Brook Preserve II	129.7 acres	922 points

The total project cost is \$1,760,811, so the Town's contribution to the project will be 45 percent of the project (Appendix II - Budget). Importantly, the SLT was awarded \$580,000 towards the purchase price and \$25,000 for stewardship from Land for Maine's Future (LMF). This is the first award from LMF for a property in Scarborough in over a decade. A community effort led by SLT will fundraise the remaining portion of the project.

This project is outstanding for all of the aforementioned reasons, and the photos attached provide a glimpse of what will be protected (Appendix IV - Photos).

The Board recommends the purchase and that the development rights on the property be extinguished legally by attaching conditions to the contribution and/or placing a conservation easement on the property. These details are typically negotiated between town and land trust staff and other contributing organizations, and should be included in the Council's direction to the manager.

If you have any questions regarding this property, a representative will be available at your meeting. Scarborough continues to be a leader in conservation, and I am proud to help in that regard. I hope you will be as well.

Sincerely,

Jessica Sargent
Chair, Scarborough Parks and Conservation Land Board

Attachments:

Appendix I - Application to the PCLB

Appendix II - Project Budget

Appendix III - Map of Parcel and Protected Adjacent Land

Appendix IV – Photos

Town of Scarborough, Maine

LAND ACQUISITION APPLICATION FORM

Property Name: Silver Brook Preserve II Date: 4-30-24

Applicant Name: Scarborough Land Trust

GENERAL INFORMATION:

Property Address: 65 Hanson Rd

Scarborough, Maine 04074

Mailing Address: _____

PO Box 1237

Scarborough, ME 04074

Contact Person: Scott Kunkler

Phone # 207-289-1199 e-mail: skunkler@scarboroughlandtrust.org

Landowner(s) -please list full name of all owners (and lien holders, if any)

Roland Libby

Deed type: Release Deed Book / page# 10224/ 214

Current Assessed Value \$501,000

Recent appraised value (if available) \$1,450,000

Existing boundary survey? ☒ Y / ☐ N (circle)

Potential boundary disputes? Y / ☒ N (circle) (if yes, attach explanation)

Any hazardous waste on the property? Y / ☒ N An environmental assessment will be completed.

LAND DESCRIPTION: Tax Map # R001 Lot # 003 Zoning District RF

Total Acres: 129.7 Proposed purchase acres: 129.7 Proposed easement acres 0

Are there any buildings on the property? (Please circle) yes / ☒ no

If yes, are they a part of the proposed purchase? Y / N

BRIEF PROJECT DESCRIPTION:

(Please provide information regarding the suitability for public acquisition, special features, and proximity to existing public lands; include the value to the people of Scarborough and any current or potential uses)

SLT is requesting funding to purchase and conserve 129.7 acres of undeveloped forests, grassland, wetlands, and streams located along Hanson and Tapley roads. The property connects to 813 acres of contiguous conserved lands in Scarborough, Saco, and Buxton, expanding the size of this area to 943 acres. The purchase will protect ~50 acres of upland forests, 75 acres of wetlands, and 3,200 ft. of frontage along Silver Brook and an unnamed brook that feeds into Silver Brook. The wetlands consist of emergent and forested wetlands, both types considered a decreasing wetland type by USFWS. The wetlands are crucial for absorbing impacts of flooding and drought, and provide essential habitat for amphibians, reptiles, and other wildlife. Silver Brook is known by MDIFW to support a population of wild Brook Trout, as well as American Eel, Blacknosed Dace, Golden Shiner, Lake Chub, and White Sucker. MDIFW's website states, "Brook trout populations are heavily influenced by their environment ... they are incredibly resilient in their undisturbed habitats." Protecting this property will help support continued populations of wild trout. The upland forests provide critical terrestrial habitat and food sources for reptiles, amphibians, birds, mammals, and invertebrate, and act as an important migratory stopover for songbirds. The property also provides habitat for deer, turkey, and other game species. MDIFW has identified 33 acres as Deer Wintering Habitat. MNAP has identified the property as part of the Greater Maine New England Cottontail (NEC) Focal Area. NEC is considered endangered in Maine. MDIFW believes the property could support NEC in the thickets and shrubs. A survey of bats on SLT's Broadturn Farm, located adjacent to the property, identified the Maine endangered Little Brown Bat (*Myotis lucifugus*). It is possible these bats are present on this property as well. Nature's Network, a coalition lead by USFWS, has identified 30 acres of the property as Core Habitat for Imperiled Species and considers the property excellent habitat for the Maine threatened Spotted Turtle (*Clemmys guttata*). According to MNAP, the entire property consists of geophysical settings that are under-represented across the Northeast and are key drivers for biodiversity. Vision #1 of the Town of Scarborough's Comprehensive Plan identifies the importance of our open space lands. As part of its action plan, the Town states, "significant natural resources, agricultural land, and open space should be protected, and an interconnected network of public open space developed where feasible." The purchase of this property will help to further this vision, as well as advance the Town's 30 x 30 goal. SLT plans to provide for recreational opportunities such as hiking, skiing, snowshoeing, wildlife observation, hunting, and fishing. SLT will also provide educational programs for people of all ages that bring awareness of the values of Silver Brook, the forests and wetlands that surround it, as well as understand the property's role in mitigating the impacts of climate change.

Do you (the presenter) believe that there will be a willing seller(s) of this site?

Please explain: We recently purchased 50 Hanson Rd from the same owner as this property, and have been in discussions with the family for over a year. In that time, we worked together to determine the area they would like to conserve and completed a survey that reflects that area.

Please attach the following:

- Site Location Map (map provided)
- Assessors Map (with abutting properties)
- Photo(s) (no more than 1 page please)

Directions to the property from Town Hall:

South on US Route 1 to Broadturn Rd. Go west on Broadturn to Hanson Rd. Turn left and go south to the property on the right.

Important Note: The Town Council of the Town of Scarborough requires that all owners of land being proposed for town purchase are willing sellers and have full knowledge that their property is being presented to them for consideration. When and if the Parks and Conservation Land Board recommend a purchase, the owners of the property will be asked to sign below to indicate their willingness to sell. *A signed letter stating the above is also acceptable.*

Owner #1

date

Site Description (To be filled out by Applicant or Representative)

Directions: Please check all that apply to the parcel that is proposed for purchase. If unsure, leave blank.

- ☒ Rare, or endangered species
- ☒ Freshwater rivers, streams, vernal pools
- ☐ Ocean, tidal or estuary
- ☐ Working Farm or Forest
- ☒ Saltmarsh / other wetlands

- ☒ Creates link between public or protected parcels or trails
- ☒ Provides buffer for river, streams or brooks

- ☒ Public access to beaches, marshes, waterways, or other natural areas
- ☒ Public access to trails or other public lands

- ☐ Existing active recreation (ball fields, motorized vehicles, etc.)
- ☐ Potential active recreation
- ☐ Existing passive recreation (birding, hiking, horseback riding, skiing, etc.)
- ☒ Potential passive recreation

- ☒ Scenic views
- ☐ Historical significance (cemetery, monument, archeological site)

- Possibilities for
- ☒ Purchase
- ☐ Easement
- ☐ Donation

Note: This is a quick summary of the Detailed Assessment Form that the committee will be using to evaluate your parcel. The detailed form is available upon request and is based on a point system. The full evaluation has subjective components, as well.

V Site Visit Scheduled: (to be filled out by committee) _____

**Acquisition of Silver Brook Preserve II
Scarborough Land Trust**

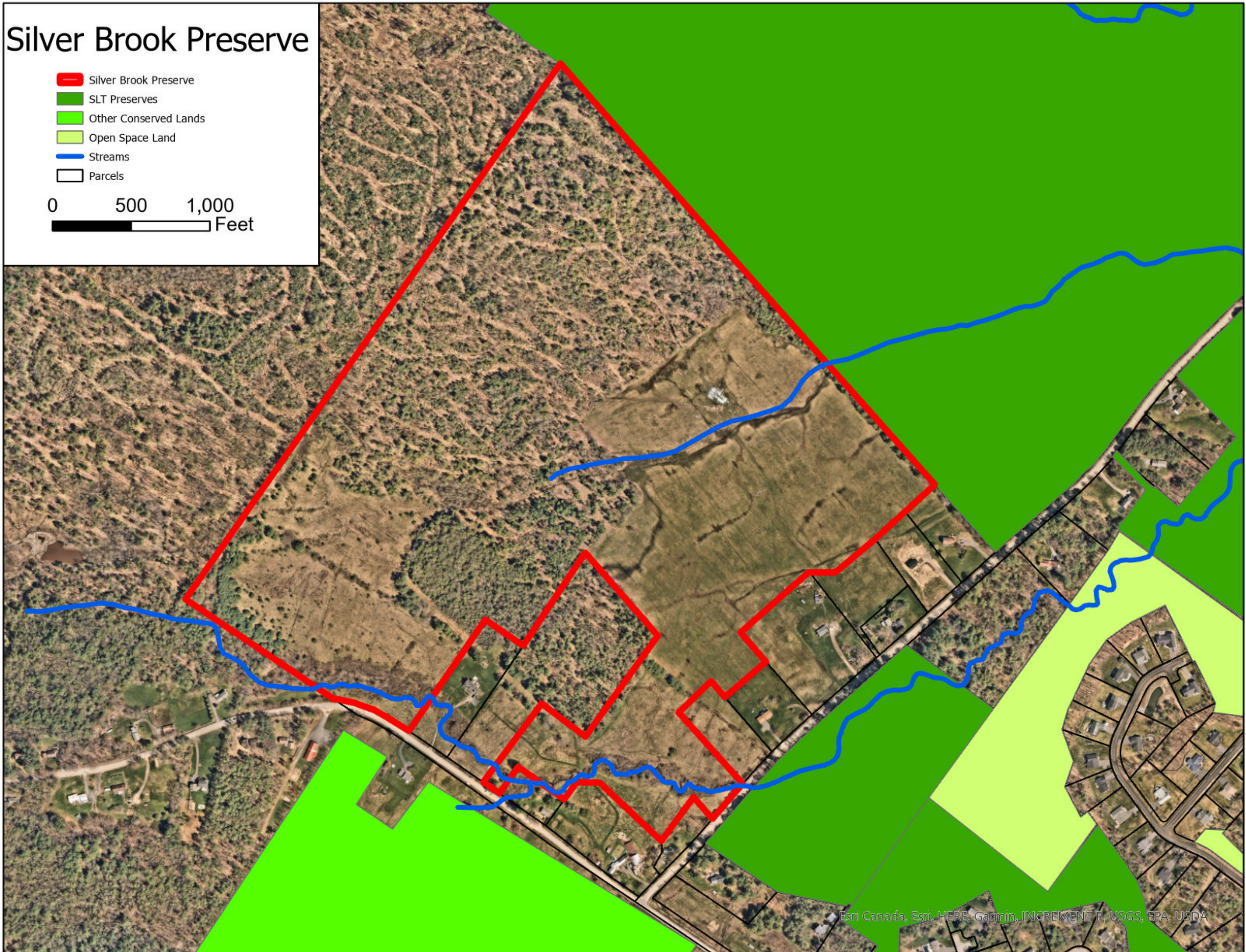
<i>Expense</i>	<i>Estimate</i>	<i>Actual</i>
Purchase price of property		\$1,595,000
Appraisal		\$2,500
Environmental Review	\$2,200	
Survey		\$0
Legal Fees	\$4,000	
Closing costs including title policy	\$3,500	
Stewardship		\$100,000
Land Protection Staff Costs	\$16,640	
Overhead and Administration	\$36,971	
Total		\$1,760,811

<i>Revenue</i>	SLT funding	Land for Maine's Future	Town of Scarborough Land Bond	Total
Purchase price of property	\$215,000	\$580,000	\$800,000	\$1,595,000
Appraisal	\$2,500	\$0	\$0	\$2,500
Environmental Review	\$2,200	\$0	\$0	\$2,200
Survey	\$0	\$0	\$0	\$0
Legal Fees	\$4,000	\$0	\$0	\$4,000
Closing costs including title policy	\$3,500	\$0	\$0	\$3,500
Stewardship costs- Long-term	\$75,000	\$25,000	\$0	\$100,000
Land Protection Staff Costs	\$16,640	\$0	\$0	\$16,640
Overhead and Administration	\$36,971	\$0	\$0	\$36,971
Totals	\$355,811	\$605,000	\$800,000	\$1,760,811

Silver Brook Preserve

-  Silver Brook Preserve
-  SLT Preserves
-  Other Conserved Lands
-  Open Space Land
-  Streams
-  Parcels

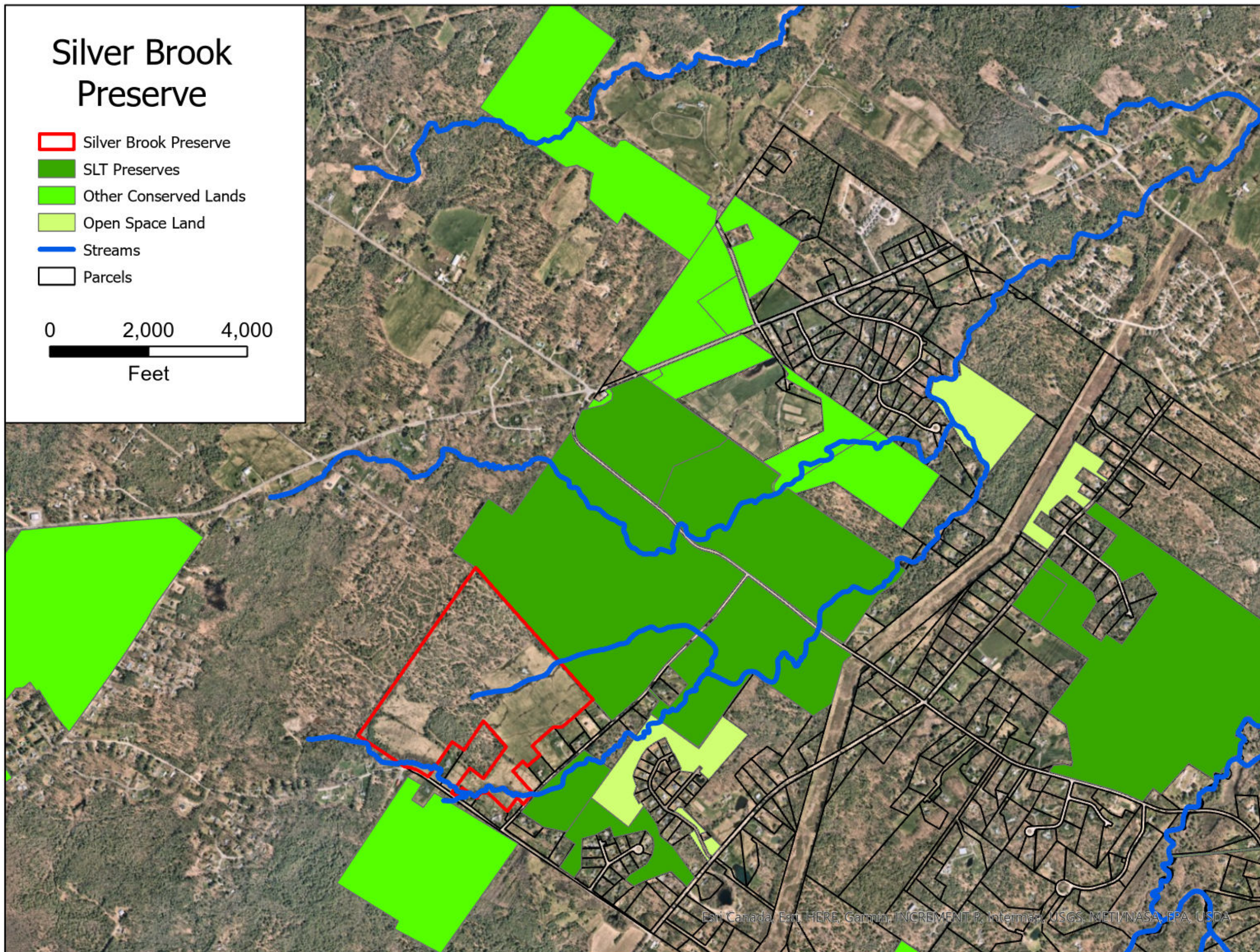
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Silver Brook Preserve

-  Silver Brook Preserve
-  SLT Preserves
-  Other Conserved Lands
-  Open Space Land
-  Streams
-  Parcels

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Silver Brook Preserve II

