

**MINUTES  
SCARBOROUGH TOWN COUNCIL  
WEDNESDAY – AUGUST 17, 2016  
REGULAR MEETING – 6:00 P.M.**

**Item 1. Call to Order.** Chairman Donovan called the regular meeting of the Scarborough Town Council at 6:16 p.m.

**Item 2. Pledge of Allegiance.**

**Item 3. Roll Call.** Roll was called by Yolande P. Justice, Town Clerk. Thomas J. Hall, Town Manager was also present. The following Town Councilors were present:

Shawn A. Babine, Vice-Chair	Katherine A. St. Clair [Absent]
Robert W. Rowan	Peter F. Hayes
Jean-Marie Caterina	Christopher J. Caiazzo
William J. Donovan, Chairman	

**Item 4. General Public Comments.** None at this time.

**Item 5. Minutes: July 20, 2016 – Regular Meeting.** Motion by Councilor Babine, seconded by Councilor Caterina, to move approval of the minutes of the July 20, 2016, regular meeting.

Vote: 6 Yeas.

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

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

**Order No. 16-49, 6:00 p.m. Public hearing on the new request from Emily Dunuwila, for a Combined Massage Establishment/Massage Therapist, d/b/a Empower Massage Therapy, located at 51 U.S. Route One.** Chairman Donovan opened the public hearing. As there were no comments either for or against, the hearing was closed at 6:18 p.m.

Motion by Councilor Babine, seconded by Councilor Rowan, to move approval on the new request from Emily Dunuwila, for a Combined Massage Establishment/Massage Therapist, d/b/a Empower Massage Therapy, located at 51 U.S. Route One.

Vote: 6 Yeas.

**OLD BUSINESS:** None at this time.

**NEW BUSINESS:**

**Order No. 16-50. First reading and refer to the Planning Board for a public hearing, the proposed amendment to Chapter 405, the Zoning Ordinance, Section XVII.B Haigis Parkway District (HP).** Karen Martin, President of Scarborough Economic Development, gave a brief overview on this Order and responded to questions from the Town Council.

The following individual spoke on this order:

- Ben Devine a commercial developer who has developed properties in Scarborough, did attend the workshop prior to this evenings meeting, felt that the proposed amendments were in order.

Motion by Councilor Babine, seconded by Councilor Caterina, to move approval of the first reading and refer to the Planning Board for a public hearing, the proposed amendment to Chapter 405, the Zoning Ordinance, Section XVII.B Haigis Parkway District (HP), as follows:

**Proposed Amendment to the Zoning Ordinance  
Regarding Multi-Family Housing in the Haigis Parkway District (HP)**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendment to the Zoning Ordinance of the Town of Scarborough, Maine, be and hereby are adopted:

Amend SECTION XVIII.B HAIGIS PARKWAY DISTRICT (HP) Subsection B. as follows (additions are underlined; deletions are struck through):

**B. RESIDENTIAL USES**

**The following residential uses are permitted only in planned developments:**

- 24. Boarding care facilities for the elderly, subject to the performance standards of Section IX(C)
- 25. Nursing homes
- 26. Dwelling units in a mixed-use building, limited to ~~no more than twelve (12) dwelling units per building~~ a maximum building footprint of 12,500 square feet and only as part of a mixed-use planned development as specified under subsection II.C.5.
- 27. Multi-family dwellings, limited to ~~no more than twelve (12) dwelling units per building~~ a maximum building footprint of 12,500 square feet and only as part of a mixed-use planned development as specified under subsection II.C.5.
- 28. Live / work units and only as part of a mixed-use planned development as specified under subsection II.C.5.

Amend SECTION XVIII.B HAIGIS PARKWAY DISTRICT (HP) Subsection C.3. as follows (additions are underlined; deletions are struck through):

**3. Maximum Building Coverage, Lot Coverage, and Building Height.**

<u>Use Types</u>	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height (ft.)
<u>Non-Residential Uses</u>	50%	75%	75', not to exceed 6 stories
<u>Residential Uses</u>	<u>50%</u>	<u>75%</u>	<u>45', not to exceed 3 stories</u>

Vote: 6 Yeas.

**Order No. 16-51. First reading and schedule a public hearing and second reading on the proposed amendments to Chapter 302 – the Scarborough Town Council Rules, Policies and Procedures Manual.** Councilor Babine gave an overview on the proposed amendments.

Motion by Councilor Babine, seconded by Councilor Rowan, to move approval of the first reading and schedule a public hearing and second reading on the proposed amendments to Chapter 302 – the Scarborough Town Council Rules, Policies and Procedures Manual.

Motion by Councilor Babine, seconded by Councilor Caiazzo, to move approval to divide the question to take the non-substantive and substantive amendments separately.

Vote: 6 yeas

Motion by Councilor Babine, seconded by Councilor Rowan, to move approval of the first reading and schedule a public hearing and second reading on the proposed non-substantive amendments to Chapter 302 – the Scarborough Town Council Rules, Policies and Procedures Manual; as follows:

Title Changes: update table of contents and cover page; page 1 - Section 100.0 Preface; page 2 - 102.0 Organization; page 7 - Section 130.0 Breach of Rules and Orders; page 8 – Section 200.0 Title Header; page 12 - Section 203.0.d Members to the Rules & Policies Committee and page 13 – Section 300.00 Title Header

Grammatical Changes, Title and label capitalizations, word use: page 1 – Section 100.0 Preface; page 3 – Section 107.0 Agendas; page 11 – Section 202.3 Decorum and Section 202.3.a.

Eliminate “Consent Agendas”: page 2 – Section 101.12 Consent Agenda and page 4 – Section 107.0 Agendas [list item #9].

Restructure and Re-label lists: page 3 – Section 107.0 Agendas.

Set limitations for Council Member comments: page 11 – Section 202.2.d Council Member Comments.

Eliminates an outdated media source. Retitles and abbreviates intent of original policy that remains relevant: page 13 – Section 301.0 Use of Town Letterhead Policy and Section 302.0 Council Correspondence Policy.

Vote 6 Yeas.

Motion by Councilor Babine, seconded by Councilor Rowan, to move approval of the first reading and schedule a public hearing and second reading on the proposed substantive amendments to Chapter 302 – the Scarborough Town Council Rules, Policies and Procedures Manual; as follows:

Authorization for Resolves and/or Proclamation: page 4 – Section 108.0 Enactment: Form.

Identify Council Action items by sponsor and Committee action and Recommendations: page 1 – New Sections - Section 108.2 and Section 108.2.a.

Increase thresholds: page 4 – Section 111.0 Reading on Two Separate Days: Waiver and page 5 – Yeas and Nays Taken: When

Changes to Council Committee Descriptions and the context in which they function: page 11 – Section 203.a. 3 Members of the Finance Committee.

Changes to Council Committee descriptions and the context in which they function: page 12 – Section 203.0.d: 3 Member of the Rules and Policies Committee

Increase Council Chair Authority to Act: page12 – Section 203.1

Changes Travel Policy to Reimbursements for Professional Development: page 13 - 303.0 Town Council Travel Policy; page 13 – Section 303.1. Conference/Workshop Expenditures; page 14 – Section 303.2. Request for Advance Payment and page 14 – Section 304.0 Reimbursements.

Vote: 5 Yeas, 1 Nay [Councilor Caiazzo]

Motion reflecting all recommended changes:

**CHAPTER 302**  
**SCARBOROUGH TOWN COUNCIL**  
**RULES & PROCEDURES**  
**RULES, POLICIES & PROCEDURES MANUAL**

**SCARBOROUGH TOWN COUNCIL**  
**RULES, ~~POLICIES~~ & PROCEDURES ~~MANUAL~~**

**Section 100: TOWN COUNCIL RULES OF ORDER**

**100.0: Preface.**

The Scarborough Town Council will maintain ~~this~~ these Rules, ~~Policies~~ & Procedures ~~Manual~~ as an operational guide for staff, council members and the general public. The manual will be regarded as a continuously developing and changing document to meet the needs of the changing times and circumstances. This development and change process, while ultimately the responsibility of the Council, is a task in which all affected are expected and invited to participate and contribute.

**101.0: Definitions.**

For the purposes of this manual and each of its sections, the following definitions shall apply:

**101.1: Rules of Order**

Are general procedural rules and orders adopted by a majority of the Town Council for the members of the Council to follow. Unless otherwise modified herein, Roberts Rules of Order will prevail. [amended 10/21/09]

**101.2: Policy(ies)**

Are a plan or course of action, guiding principle(s) or procedure(s) considered to be expedient, prudent and advantageous to the Town and/or Town Council.

**101.3: Procedures**

Are step-by-step directions that should be performed in order to obtain the intended outcome of an Order, Resolution, Proclamation, and/or Policy.

**101.4: Resolutions**

Also referenced as **Resolves**, are an expression of opinion, principles, facts or purposes adopted by the Council as direction to the staff and/or general public.

**101.5: Proclamations**

Are expressions of support, recognition or sentiments on behalf of the Town of Scarborough.

**101.6: Orders**

And/or **Ordinances** are a by-law, law or legal requirement adopted by the Council, as authorized by state statute and town charter to exercise any power or function which the Legislature has power to confer upon it.

**101.7: Petitions**

Are formal written requests addressed to a person(s) in authority that asks for some action or benefit, or the redress of a grievance. A petition may also be a formal application in writing made to the Council requesting action concerning some matter.

**101.8: Majority**

The majority of the elected Council shall constitute a quorum for the transaction of business. Pursuant to Section 210 of the Charter in that every ordinance, order, and resolve shall require on final passage the affirmative vote of four (4) members of the Town Council, except where a rule provides otherwise. However, in the event of less than four (4) members of the Town Council are present, then a majority of those Council members present shall constitute a quorum for the purpose of calling the meeting to adjourn to a date specific.[adopted 10/21/09]

**101.9: Quorum**

The number of elected Council members required for final passage on every ordinance, order, and resolve, except where a rule provides otherwise. [adopted 10/21/09]

**101.10: Abstain**

It is the duty of every member of the Council that is present must vote. There may be circumstances whereby a member may be required to abstain in the case of a real or perceived [conflict of interest](#); however, it is the duty of the members of the Town Council to determine whether there is a conflict of interest [Section 130.2][adopted 10/21/09]

**101.11: Immediate Family**

Immediate family is defined to mean spouse, domestic partner (as defined by the Maine Municipal Employee Health Trust), child parents, brothers, sisters, mother-in-law, father-in-law, grandfather, grandmother, grandchildren, step-father, step-mother, step-children or other relatives living in the same household.

**101.12: Consent Agenda**

~~The purpose of a Consent Agenda is to expedite the conduct of routine business during council meetings in order to allocate more meeting time to discussion on substantive issues. The Consent Agenda should consist of routine financial, legal and administrative matters that require council action. The Council Chairman determines whether an item belongs on the Consent Agenda. Consent Agenda items are expected to be non-controversial and not requiring discussion. The Consent Agenda is voted on in a single majority vote, but it may be divided into several, separate items. The~~

~~Chair will ask if any member wish to remove an item from the Consent Agenda for separate consideration as Adjustments to the Agenda, and if so, the Chair will schedule it to be taken up later on the agenda. Consent Agenda items may include, but are not limited to, approval of minutes, proclamations, resolutions and resolves; final approval of appointments to town committees/board; reports provided for information only; correspondence requiring no action, and staff appointments requiring Council action.~~

### **102.0: Organization.**

The Scarborough Town Council Rules ~~& Procedures and Policy Manual~~ shall be organized by general sectioning, such that those sections will be titled: [amended 10/21/09]

- a) **Section 100:** Town Council Rules of Order
- b) **Section 200:** Town Council Meeting(s) Policies and Procedures
- c) **Section 300:** Other Town Council Policies

### **103.0: Regular Meetings.**

The regular meetings of the Town Council shall be held in the room known as the Town Council Chamber of the Town Hall at 7:00 P.M., Eastern Standard Time, on the first and third Wednesdays of each calendar month, with the exception of the months of July and August when only one meeting will be held on the third Wednesday of each of the two months.

**103.1:** When said days fall on a holiday or on Election Day, the regular meeting shall be held on the following Monday, at the same time and place.

**103.2:** The date of any regular meeting may be changed by an order or resolve passed at the previous meeting upon the vote of five members of the Council, provided, however, that said change in date will still provide for two regular meetings in one month, with the exception of the months of July and August when only one meeting will be held on the third Wednesday of each of the two months.

**103.3:** No new business shall be taken up after 10:00 p.m.  
[amended 04/19/00; amended 03/21/01; corrected 06/06/01].

### **104.0: Special Meetings.**

Special meetings may be held on the call of the Council Chair or by written signature or voice confirmation of four Councilors, if unavailable by signature.

**104.1:** Notice of the meeting will be given in person or left at the place of residence of each Councilor. If practical, such notice shall be given not less than 24 hours before the meeting. Such notice will state the time and place of such meeting and business to be transacted, along with the names of the Councilors calling for the meeting.

**104.2:** No business shall be transacted at this meeting except as stated in the notice. Notice will also be posted near the main entrance to the Municipal Building, visible from outside the building.

**104.3:** Members of the media will be notified in person, by telephone or facsimile transmission.  
[adopted 02/28/1998]

### **105.0: Televising Council Meetings/Workshops and/or Related Meetings. [adopted 09/04/02]**

All Council meetings, both regular and special, whenever possible shall be televised live and recorded for rebroadcast at a later date.

**105.1:** Committee meetings dealing with legislative or financial matters shall also be televised; all other committee meetings (e.g. Appointments Committee) shall be at the discretion of the committee chair.

**105.2:** Council workshops may be televised or taped at the call of the Council Chair.

**105.3:** All meetings/workshops that are taped shall be broadcast at a later date. [adopted 09/04/2002]

**106.0: *Quorum: Adjourned Meetings.***

A majority of the members of the Town Council shall constitute a quorum for the purpose of calling the meeting to adjourn to a date specific. [amended 10/21/09]

**106.1:** At least twenty-four hours notice of the time and place of holding such adjourned meeting shall be given to all members who are not present at the meeting from which adjournment is taken.

**107.0: *Agendas.***

The Council shall take up items, which appear on its agenda in the following order, unless a majority of those Councilors present and voting vote to take an item out of order.

1. Call to Oorder by the Chair
2. Pledge of Allegiance
3. Roll Call by the recording secretary
4. General Public Comments [~~limited to three (3) minutes or less—refer to Section 202~~]  
~~[adopted 10/21/09]~~
5. Acceptance of minutes
6. Adjustments to the Agenda [adopted 10/21/09]
7. Items to be signed; i.e., treasurer’s warrants
8. Public Hearings
9. ~~Consent Agendas [amended 04/04/01]~~
10. Proclamations, Resolutions and Resolves
11. ~~Unfinished Old~~ Business: Ordinances, orders or resolves not reached on the agenda of the previous meeting, including items tabled and second readings [~~limited to three (3) minutes—refer to Section 202~~] [~~amended 10/21/09~~]
12. New Business: Ordinances and orders [~~limited to three (3) minutes—refer to Section 202~~] [~~amended 10/21/09~~]
13. Non-Action Items. (amended 04/19/00)
14. Standing and Special Committee Reports and Liaison Reports [amended 10/21/09]
15. Town Manager’s Report [adopted 10/21/09]
16. Council member comments [~~limited to ten (10) minutes~~]
17. Adjournment
18. Executive sessions, which may be scheduled or held anywhere on the agenda

**108.0: *Enactment: Form.***

The Town Council shall act only by ordinance, order, resolve or proclamation. However, if a resolve or proclamation is recognizing an accomplish, then the Town Manager and Council Chair, at their discretion, shall be authorize to sign the document on behalf of the Town Council.

**108.1:** All ordinances, orders, and resolves, except orders and resolves making an appropriation of money, shall be confined to one subject, which shall be clearly expressed in the title. The appropriation order or resolve shall be confined to the subject of appropriations only.

**108.2:** All ordinances, order, resolves and proclamations when presented on the Agenda shall note the action’s sponsor and committee/board recommendation, if the action item has been reviewed by a municipal committee.

**108.2.a:** All committee/board recommendations shall be in the form of “Unanimous – Ought To Pass”, Unanimous – Ought Not To Pass”, “Ought To Pass”, “Ought Not to Pass”.

**109.0: Ordinances: Style.**

All by-laws passed by the Town Council shall be termed “ordinances” and the enacting style shall be:  
“Be it ordained by the Town Council of the Town of Scarborough, Maine,  
in Town Council assembled.”

**110.0: Order and Resolve: Style.**

In all votes of command, the forms of expression shall be “ordered”; and of opinions, principles, facts, or purposes, the form shall be “resolved.”

**111.0: Reading on Two Separate Days: Waiver [amended 08/01/77]**

No ordinance or order authorizing the expenditure of ~~\$500.00~~ \$1,000.00 or more shall be passed until it has been read on two separate days, except when the requirement of reading on two separate days has been dispensed with by a vote of five of the members of the Town Council.

**111.1:** A reading is not an official first or second reading for the purpose of this section unless a Councillor specifically designates the reading as such in the motion for approval. The motion shall be in the following form:

*“Move approval of the first (second) reading of \_\_\_\_\_.”*

**111.2:** When the general budget appropriation resolve shall have been enacted, except for expenditures and transfers from the Contingent Account and year-end adjustment of balances, no order, ordinance, or resolve shall be passed adding any new project or expenditure unless by vote of five of the members of the Council.

**112.0: Second Reading: Waiver [amended 02/18/70].**

Any other order or resolve may be passed after a first reading (which may be by title only if no member of the Council objects), unless on motion, a majority of those members present vote in favor of a second reading on a separate day.

**113.0: First Reading: Waiver.**

Every ordinance, order or resolve shall have a first reading unless the reading is dispensed with by the unanimous vote of those present, in which case reading shall be by title only.

**114.0: Yeas and Nays Taken: When.**

The yeas and nays shall be taken upon the passage of all ordinances and orders authorizing the expenditure of money in the amount of ~~\$500.00~~ \$1,000.00 or more and entered upon the record of the proceedings of the Town Council by the clerk. The yeas and nays shall be taken on the passage of an order or resolve when called for by any member of the Town Council.

**115.0: Ordinances: Effective When. [amended 08/01/77]**

After receiving final passage by the Town Council, an ordinance shall take effect at 12:00 A.M. on the day following enactment or at a later date specified within the ordinance, except that emergency ordinances shall take effective as specified in Section 118.

**116.0: Order, Resolve: Effective When.**

All orders or resolves shall take effect after passage.

**117.0: Emergency Ordinances.**

The Town Council may, by vote of five of its members, pass emergency ordinances to take effect at the time indicated therein, but such emergency ordinance shall contain a section in which the emergency is set forth and defined, provided however, that the declaration of such emergency by the Town Council shall be conclusive.

**118.0: Item for Meetings: Filed When.**

No ordinance, order, or resolve shall be in order for action at any meeting of the Town Council unless such ordinance, order, or resolve shall be filed in the office of the Town Clerk on or before 2:00 p.m. in the afternoon on the Wednesday prior to the regular meeting held on the following Wednesday and before 2:00 p.m. in the afternoon of the business day next to the day of any other special meeting. [amended 12/01/04]

**118.1:** In the event that the Town Clerk's Office is not open on Wednesday, then the deadline for filing will fall at 2:00 p.m. on Tuesday the day before the original filing deadline. Members of the public wishing to place an item on the agenda shall do so with the support of a Councillor. Agenda items shall not be removed from the agenda after the agenda has been published. [adopted 04/19/00; amended 12/01/04]

**119.0: Chair to be Presiding Officer.**

The Chair shall take the chair at the time appointed for the meeting, call the members to order, cause the roll to be called, and, a quorum being present, cause the minutes of the preceding meeting to be read and proceed to business.

**120.0: Role of Vice Chair.**

The Town Council shall elect a Councillor to serve as Vice Chair by a majority vote. The Vice Chair will serve in the absence or disability of the Chair and perform any duties as designated by the Chair. The term of Vice Chair will be concurrent with the Chair. [amended 04/04/01].

**121.0: Preserve Order: Decide All Questions of Order.**

The Chair shall preserve decorum and order, may speak to points of order in preference to other members, and shall decide all questions of order and subject to an appeal to the Council by motion regularly seconded, and no other business shall be in order until the question on appeal is decided.

**122.0: Declare Votes: Cause Return of Votes.**

The Chair shall declare all votes, but if any member doubts a vote, the Chair shall cause a return of the members voting in the affirmative and in the negative without debate.

**123.0: Debate: Rules of.**

When a question is under debate, the Chair shall receive no motion but to adjourn, or for the previous question, or to lay on the table, or to postpone to a day certain or to refer to a committee or some administrative official, or to amend, or to postpone indefinitely; which several motions shall have

precedence in the order in which they stand arranged. The Town Manager shall have the right to take part in the discussion, but may not vote.

**124.0: Motion to Adjourn: Lay on Table.**

The Chair shall consider a motion to adjourn as always in order except on immediate repetition; and that motion and the motion to lay on the table, or to take from the table, shall be decided without debate.

**125.0: Reconsideration.**

When a vote is passed, it shall be in order that only those Council members who voted in the majority can sponsor an item for reconsideration, or in the negative on a tie vote, to move a reconsideration thereof at the same, or the next stated meeting, but not afterwards; and when a motion of reconsideration is decided, that vote shall not be reconsidered.

**125.1:** No motion to reconsider a vote passed at a previous meeting shall be in order for consideration at the next meeting unless an item to that effect is contained on the agenda for such next meeting, or unless five of the members consent to such reconsideration. Only a Council member who voted in the majority can make the motion to reconsider. [amended 10/21/09]

**125.2:** A petition once presented to and finally acted upon by the Town Council shall not again be received by the Town Clerk for presentation to the Council in the same or substantially the same form for a period of one year next succeeding the Council's final actions on the original petition.

**125.3:** A member of the Town Council, voting with the majority on the original petition, shall be privileged to reintroduce such a petition.

**126.0: Motion for Previous Question.**

Upon the motion for the previous question being made and seconded, the Chair shall put the question in the following form:

“Shall the main question be put?”

**126.1:** And all debates upon the main question shall be suspended until the motion for the previous question shall be decided. After the adoption of said motion for the previous question by a majority vote, the sense of the Council shall be forthwith taken upon all pending amendments, and then upon the main question.

**127.0: Not to be Debated or Amended.**

No debate shall be allowed on a motion for the previous question. Neither is it susceptible of amendment.

**127.1:** All questions of order arising incidentally thereon must be decided without discussion whether appeal be had from the chair or not.

**128.0: Manner of Speaking.**

When a member is about to speak, said member shall respectfully address the Chair, confine comments to the question under debate, and avoid personalities.

**129.0: Not to Interrupt.**

No member speaking shall be interrupted by another, but by a call to order or to correct a mistake.

**130.0: Breach of Rules and Orders.**

Please refer to Section 200 – Town Council ~~Policies &~~ Procedures – Page 8.

**131.0: Member Excused from Voting: When.**

All members present when a question is put shall give their vote, unless the Council, for special reasons, shall excuse any member.

**131.1:** Application to be so excused must be made before the Council is divided, or before the calling of the yeas and nays, and decided without debate.

**132.0: Motion to be Reduced to Writing: When.**

Every motion shall be reduced to writing, if the Chair shall so direct.

**133.0: Division of Question.**

Any member may require the division of a question when the sense will admit it. When a single motion contains a number of parts, each of which is capable of standing alone, the parts can be separated and voted on as if they were distinct questions. Division of the question takes precedence over the main motion and must be dealt with before moving on the main motion. [amended 10/21/09]

**134.0: Motion for Referral.**

A motion for referral to a committee or administrative official, until it is decided, shall preclude all amendments to the main question.

**135.0: Priority of Business.**

All questions relating to priority of business to be acted upon shall be decided without debate.

**136.0: Suspension of Rules: Amendment or Repeal.**

The rules shall not be dispensed with or suspended unless five of the members of the Council consent thereto.

**136.1:** No rule or order shall be amended or repealed without notice, in writing, being given at the preceding meeting.

**Section 200: TOWN COUNCIL ~~POLICIES &~~ PROCEDURES**

**200.0: Breach of Rules and Orders [amended 10/21/09].**

The proper operation of democratic government requires that Town Councilors be fair, impartial and responsive to the needs of the people and each other in the performance of the respective functions and duties; that decisions and policy be made in proper channels of the Town's governmental structure; that public office not be used for personal gain; and that such Councilors maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, a Code of Ethics is hereby established for all Town Councilors which is not intended to deny Council members their constitutional rights nor violate their civil rights.

**200.1: Standards of Conduct.** The purpose of this Code is to establish ethical standards of conduct for all Town Councilors by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interest of the Town of Scarborough.

**200.2: Conflicts of Interest.** No Councilor shall participate directly by means of deliberation, approval or disapproval, or recommendation, in the purchase of goods and services for the Town, and the award of any contracts with the Town, except that he/she may be allowed to submit bids for same in accordance with the Town ordinances; and under the laws of the State of Maine, where to his/her knowledge there is a financial interest, or special interest other than that possessed by the public generally, in such purchase or award, held by:

**200.2.a:** himself/herself or a member of his/her immediate family;

**200.2.b:** a business in which he/she or a member of his/her immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or

**200.2.c:** any other person or business with whom he/she or a member of his/her immediate family are in business, or are negotiating or have an arrangement concerning future employment.

**200.3: Disclosure of Confidential Information.** No Town Councilor shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the Town, nor shall he/her use such information to advance the financial or private interest of himself/herself or others. For purposes of this subsection, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such Town Councilor only because of his/her position with the Town, and is not a matter of public record. Information received and discussed during an executive session of the Scarborough Town Councilor any Town agency shall be considered within the constraints of this section, and shall not be disclosed to any third part unless permitted by affirmative vote of such body.

**200.4: Gifts and Favors.** No Town Councilor shall accept any gift in excess of \$50, whether in the form of service, loan, thing or promise, from any person and/or business which to his/her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town; nor shall any Town Councilor: (1) accept any gift, favor or thing that tends to influence him/her in the discharge of his/her official duties; or (2) grant in the discharge of his/her official duties any improper favor, service or thing.

**200.5: Use of Town Property.** Nothing herein shall prohibit the use of Town buildings and equipment at rates and/or on terms as may be established.

**200.6: Disclosure of Interest in Agenda Items.** Any Town Councilor who believes he/she or a member of his/her immediate family, has a financial or special interest, other than an interest held by the public generally in any proposed order, ordinance or resolve on the agenda of the Scarborough Town Council, shall disclose the nature and extent of such interest, and have it recorded by the Clerk on the Town records of such item.

**200.6a:** Once such disclosure has been made, such Town Councilor shall refrain and shall be relieved, in the discretion of the other members of the Council, from voting or otherwise participating in the deliberations and decision making process on such item.

**200.6b:** Nothing herein shall be construed to prohibit any Town Councilor from representing his/her own personal interest in any such item.

**200.7: Disclosure Statement by Town Councilors.** Every Town Councilor shall file with the Town Clerk within thirty (30) days after the effective date of this Section, and during the month of April during each calendar year thereafter, a written statement under oath containing the following information, to the best of his/her knowledge and belief:

**200.7.a:** The name of each person or business doing business with the Town in an amount in excess of one thousand dollars (\$1,000.00) during the preceding calendar year from which such Councilor, or a member of his/her immediate family, has received money or other thing of value in an amount in excess of one thousand dollars (\$1,000.00) during the preceding calendar year, including campaign contributions.

**200.7.b:** For purposes of this Code, a list prepared by the Finance Officer of those persons or businesses doing business with the Town in amount in excess of one thousand dollars (\$1,000.00) for the preceding calendar year shall be determinative for purposes of reporting under this section.

**200.7.c:** Income from, and financial investments in, policies of insurance, and deposits and accounts from commercial or savings banks, savings and loan associations, or credit unions shall not be considered to be a financial interest within the meaning of this section.

**200.8: Political Activities.** No Town Councilor shall participate in any political activity which would be in conflict or incompatible with the performance of his/ her official functions and duties for the Town. In conjunction therewith:

**200.8.a:** No Town Councilor may use his/her official authority or position for the purposes of influencing or interfering with or affecting the results of any election, nor shall he/she solicit funds or contributions or accept or receive funds or contributions from Town employees for political purposes. No Town Councilor may distribute pamphlets or handbills while he/she is performing their official functions and duties with the Town. Nothing herein shall be construed to prohibit any Town Councilor from participating in the political process in their capacity as private citizens.

**200.9: Penalties.** In addition to any other penalties or remedies as may be provided by law, violation of this Code shall constitute cause for censure, after notice and hearing conducted in private by the Town Council or if otherwise requested in writing by the Councilor to conduct the hearing in public session. A majority of the Scarborough Town Council shall conduct such proceedings.

**200.10: Separability.** If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Code.

**201.0: Appointments To Town Committees/Boards.**

Appointments to town committee/boards must go through a two-meeting process. Name(s) of individual(s) will be posted at one Council meeting and approved at the next Council meeting. Current members will serve until a replacement is named by the Appointments Committee and certified by the Council. The term for new appointees will be for one year unless otherwise determined by the Town Council. [amended 09/04/02; amended 04/01/15]

## **202.0: Procedures For Addressing The Council.**

Any person wishing to address the Town Council will be given an opportunity to do so in accordance with the following procedures:

### **202.1: Procedure.**

A Public Comment Period shall be conducted prior to the start of any Council business at each regular Town Council meeting, at which time citizens shall be given the opportunity to be heard on matters concerning Town business in general. Additional public comment shall be allowed during public hearings and on agenda items. Such public forums and/or public comment periods may be waived if no member of the public wishes to speak. Persons wishing to speak will preface their comments by giving their name and address. [amended 10/21/09]

### **202.2: Time Limit.**

All such public forums, public comment periods and public hearings shall be conducted under the following guidelines:

**202.2.a: General Public Comment:** Persons addressing the Town Council during the public comment period at the beginning of the meeting shall limit their comments to (3) three minutes. Individuals may be permitted to speak more than once at the discretion of the Chair of the Council. The first (30) thirty minutes of the Council meeting will be allocated for general public comment. If it appears that the public comment period will exceed 30 minutes, public comment may be suspended by the Chair, so the Town Council may conduct its business, in any case to occur prior to adjournment. [amended 10/21/09]

**202.2.b.: Public Hearing Comment:** Persons addressing the Town Council during a public hearing shall limit their comments to the particular agenda item and shall limit their comments to (3) three minutes. Individuals may be permitted to speak more than once at the discretion of the Chair of the Council. [amended 04/18/01][amended 10/21/09].

**202.2.c: Public Comment on Agenda Items:** Following the reading of each agenda item, the Chair shall ask if any member of the public wishes to speak on that item. Persons who have previously addressed the Town Council during the public comment portion and wishes to speak on an agenda item may do so only if there is new and pertinent information to be added and limit their comments to (3) three minutes. [amended 10/21/09]

**202.2.d: Council Member Comments:** Each Council Meeting Agenda schedules an opportunity for Council Member to share personal comments that may be of community interest, at the close of each meeting. Town Council members shall limit their comments to (10) ten minutes. Individual Councilors may be permitted to speak more than once at the discretion of the Chair of the Council.

### **202.3: Decorum.**

Persons present at Council meetings, including Elected Officials, are requested not to applaud or otherwise express approval or disapproval of any statements made or action taken at such meeting.

**202.3.a:** Citizens Persons addressing the Council shall direct their remarks exclusively to the Council Chair unless the Chair allows otherwise. Citizens Persons will strive to be accurate in their statements and avoid making personal, rude or provocative remarks. All statements should

respect the dignity and seriousness of the proceeding. ~~Citizens~~ Persons conduct themselves in a manner expected of all meeting participants. [amended 04/18/01; amended 04/01/15]

**202.3.b.:** It shall be at the discretion of the Council Chair to ask any persons making in-appropriate statements, and/or conducting themselves in a disrespectful manner to cease such action or risk being asked to be seated or removed. [adopted 10/21/09]

**203.0: Council Standing Committees [amended 01/07/98][amend 10/21/09].**

At the commencement of the municipal year, or soon thereafter as possible, there shall be chosen the following Standing Committees, each Standing Committee to consist of such members of the Council as the Town Council may designate:

**203.0.a: 3 Members to the Finance Committee:**

The Finance Committee will review the Town Manager's proposed budget after it has been presented to the Town Council for a first reading and in accordance with Section 502 of the Town Charter.

The Finance Committee shall review appropriation requests and revenue estimates for all offices, agencies and departments of the Town, including the Department of Education, ~~with the exception of the Department of Education – pursuant to Articles IV and V of the Town Charter –~~ The Finance Committee shall and prepare recommended line item appropriation amendments, with the exception of the Department of Education Budget, to the proposed budget to the Town Council prior to the public hearing and final reading. The Finance Committee shall recommend, only, a total appropriation for the Department of Education. Pursuant to Article V of the Town Charter, the Town Council retains the ultimate responsibility of reviewing and approving the total budget with or without amendments.

In consultation with the Town Manager and staff, the Finance Committee may prepare and recommend for approval by the Town Council, policies and/or procedures relating to the financial affairs of the Town.

**203.0.b: 3 Members to the Appointments Committee:**

The Appointments Committee shall meet from time to time and review applications for vacancies on the various Town committees/boards and make their recommendations in accordance with Section 2019.0 of the Rules and Policies Manual.

**203.0.c.: 3 Members to the Ordinance Committee:**

The members of the Ordinance Committee shall review proposed ordinances or amendments and make recommendations thereon to the Council for final action.

Minor amendments are amendments that do not alter the substance to ordinances generated from other standing committees may be recommended administratively to the Council without review by the Ordinance Committee. From time to time the Town Council may appoint a committee that may not require its recommendations to be reviewed by the Ordinance Committee.

**203.0.d: 3 Members to the Rules and Policies Committee:**

The Rules and Policies Committee shall review proposed Policies Chapter 101 – Town Council Adopted Policies and Chapter 302 – ~~the Rules & Procedures and Policies Manual~~ from time to

time to ensure that it is in compliance with State Law and the local Charter. All recommendations will be brought forward for approval by the Town Council.

**203.1:**The Council Chair shall select committee members after seeking input from Councilors on committee preference. Committee appointments are subject to confirmation by a majority of the Council. The Council Chair shall serve as an ex-officio member of all Council Standing Committees and may vote only in the absence of any regular member.

**203.2:** The Councilor first named shall serve as Committee Chair. In the case of a member's resignation or inability to serve, the Council Chair shall designate a new committee member. Committee members shall be chosen at the first regular meeting of the Town Council following the meeting in which the Council Chair is elected.

**203.3:** Members of the Town Council may attend and participate at the Council Committee meetings, but shall only vote at meetings for the committee of which they are a member. Citizens will be allowed to give input at the discretion of the Committee Chair.

**203.3.a:** A quorum of a Town Council Committee shall consist of two members of that Committee.

#### **204.0: Other Committees/Boards**

**204.1: Special Committees/Boards** – Committees/Boards that are created by the Town Council and for which serve a specific purpose for an indefinite period of time and those Committee/Boards that are required by State Statute. [e.g. Conservation Commission; Planning Board; Shellfish Conservation Commission].

**204.2: Ad-hoc Committees/Boards** – Those Committees/Boards that are appointed by the Town Council for a specific purpose and/or for a specified duration [e.g. Payne Road Study Committee, Energy Study Committee].

**204.3: Review of Committees/Boards** – The Town council shall conduct an annual review of all committees/boards and other than standing committees of the Council, to ensure that there is still a valid need for such committees/boards. The workshop shall be held within the first quarter of the year. [Adopted 09-18-2013]

#### **SECTION 300.0: OTHER TOWN COUNCIL PROCEDURES POLICIES**

##### **~~301.0: Use of Town Letterhead Policy [adopted 06/16/02]- Individual Opinion Disclaimers.~~**

~~Councilors will be reasonable in making personal statements insofar that they will not project a personal opinion as the official position of the Town Council.~~

~~If a Councillor uses town letterhead to express an opinion that is not the official position of the Town Council, then the letter shall include a disclaimer stating the opinions presented are those of the individual Councillor.~~

##### **~~302.0: Council Correspondence Policy [adopted 08/18/99].~~**

~~Correspondence received in the Clerk's office for individual Councilors is opened by the Town Clerk or the Clerk's designee. The Town Clerk will notify individual Councilors, as soon as is practical, when correspondence is received. Thereafter, copies of all such correspondence will be included in each Councilor's packet and provided to the Town Manager. Each Councillor will provide the clerk with their~~

~~preference regarding where such notification will be made. (When the originator has copied all Councilors, the Clerk will simply note this information on the correspondence unless the originator has done so.)~~

~~**302.1:** When material is marked “CONFIDENTIAL”, the Councilor addressed will be notified personally and will have an opportunity to review the material prior to general distribution to the Council. This would not preclude the Town Clerk and Town Manager to determine what, if any, further distribution should be made of the correspondence.~~

~~**302.2:** Correspondence received or produced by individual Councilors will be provided to the Town Clerk as soon as practical by the individual Councilor. The material will be distributed to the full Council by inserting in their individual mail folders. The Town Manager will be provided copies by the Clerk. Any mail not personally picked up by individual Councilors will be included in the Councilors’ packet for distribution.~~

~~**302.3:** This procedure does not apply to commercial mail, such as solicitations, brochures, etc.~~

**303.0: Town Council Reimbursement for Professional Development Travel Policy [adopted 02/18/98][amended 04/19/00].**

**303.1: ~~Council Policy for~~ Conference/Workshop Expenditures [adopted 04/19/00].**

~~The Town of Scarborough recognizes the constructive value of professional conferences, seminars, meeting, and training individual Town Councilors may actively participate in that support their elected role. The Finance Committee shall recommend be responsible in setting annual funding for Council professional development., subject to approval of the Council, and shall have the authority to administer The Town Manager shall administer the use of those funds in accordance with the standard operating procedures that are consistent with Scarborough municipal employee rules and policies.~~

~~From time to time members of the Town Council are expected to attend workshops or conferences related to their roles as elected representatives of the citizens of Scarborough. Participation at these events will be with the prior knowledge of the full Council and the costs will be covered within the current municipal budget.~~

~~**303.1.a:** Expenditures may include: associated travel costs (long distance and local), registration fees, lodging, meals, tips, publications and other reasonable costs associated with the event. Materials purchased will remain the property of the Town.~~

~~**303.1.b:** Some costs will be handled by Councilors personally with the expectation that reimbursement will be made by the Town.~~

~~**303.1.c:** Two methods are available to the Councilors for reimbursement:~~

**303.2: Request for Advance Payment.**

~~If desired a Councilor may submit a Request for Advance Payment based on a detail of estimated expenditures:~~

~~**303.2.d:** In this case a reconciliation of the Advance will be completed by the Councilor, including all receipts, and submitted to the Manager’s Assistant within 60 days after the event.~~

~~**303.2.e:** If the expenditures exceed the amount of the advance the Town will reimburse the difference to the Councilor within 20 days of receipt of the reconciliation.~~

~~303.2.f: If expenditures are less than the amount of the advance the Councillor will reimburse the Town within 20 days of submission of the reconciliation.~~

~~303.2.f.1. Note: If receipts are not submitted within 60 days of the event, the amount of the advance will be reported as personal income to the Councillor per IRS regulations.~~

~~**304.0: Reimbursement.**~~

~~A Councillor may elect to cover related costs and submit all receipts after the event for reimbursement.~~

~~Requests for reimbursement must be made within 60 days after the event. Reimbursement will be made by the Town within the same 20-day period as described above.~~

~~304.1: Requests for reimbursement must be completed no later than 30 days after the end of the fiscal year in which the expenditure was incurred.~~

~~304.2: Reasonable attempts will be made to secure accommodations and long distance travel fares at competitive rates for the location of the conference/workshop. Councillors are encouraged to take advantage of early registration rates when possible.~~

~~304.3: When meals are included in registration fees paid the Town will not reimburse for these same meals unless scheduling conflicts did not allow the Councillor to take advantage of the included meals.~~

~~304.4: Alcohol is not a reimbursable expense.~~

**Order No. 16-52. Act to adopt the FY2016/2017 School Budget Resolutions, as required by State Statute.** Motion by Councilor Caterina, seconded Councilor Hayes, to move approval to adopt the FY2016/2017 School Budget Resolutions, as required by State Statute: as follows:

**Scarborough School Department  
2016-2017 Budget Resolutions  
(based on State Subsidy Funding enacted by  
Legislature as part of their biennial budget)**

**ARTICLE I.** To see what sum the municipality will appropriate for the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act.  
**Recommend \$ 34,024,879**

and to see what sum the municipality will raise as the municipality's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688.

**Recommend \$ 29,684,258**

Explanation: The school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that a municipality must raise in order to receive the full amount of state dollars.

**ARTICLE II.** To see what sum the municipality will raise and appropriate for the annual payments on debt service previously approved by the municipality for non-state-funded school construction projects, or non-state-funded portions of school construction projects in addition to the funds appropriated as the local share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12.  
**Recommend \$5,761,633**

Explanation: Non-state-funded debt service is the amount of money needed for the annual payments on the municipality/district long-term debt for major capital school construction projects that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the voters.

**ARTICLE III.** To see what sum the municipality will raise and to appropriate that sum in additional local funds for school purposes under Maine Revised Statutes, Title 20-A, 15690.

**Recommend \$4,288,119**

Explanation: The additional local funds are those locally raised funds over and above the school administrative unit's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual payment on non-state-funded debt service that will help achieve the municipality budget for educational programs.

**ARTICLE IV.** To see what sum the municipality will authorize the School Board to expend for the fiscal year beginning July 1, 2016 and ending June 30, 2017 from the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools.

**Recommend \$45,855,066**

**Pursuant to Maine Revised Statutes, Title 20-A, section 1485, voters and the Town Council authorize the School Board to expend the above funds in the following State-mandated categories:**

**ARTICLE IV-A.** To see what sum the school administrative unit will be authorized to expend for Regular Instruction.

**Recommend \$19,199,277**

**ARTICLE IV-B.** To see what sum the school administrative unit will be authorized to expend for Special Education.

**Recommend \$7,125,737**

**ARTICLE IV-C.** To see what sum the school administrative unit will be authorized to expend for Career and Technical Education.

**Recommend \$259,555**

**ARTICLE IV-D.** To see what sum the school administrative unit will be authorized to expend for Other Instruction.

**Recommend \$1,005,316**

**ARTICLE IV-E.** To see what sum the school administrative unit will be authorized to expend for Student and Staff Support.

**Recommend \$4,481,517**

**ARTICLE IV-F.** To see what sum the school administrative unit will be authorized to expend for System Administration.

**Recommend \$1,012,196**

**ARTICLE IV-G.** To see what sum the school administrative unit will be authorized to expend for School Administration.

**Recommend \$1,689,833**

**ARTICLE IV-H.** To see what sum the school administrative unit will be authorized to expend for Transportation and Buses.

**Recommend \$1,455,813**

**ARTICLE IV-I.** To see what sum the school administrative unit will be authorized to expend for Facilities Maintenance.

**Recommend \$3,839,189**

**ARTICLE IV-J.** To see what sum the school administrative unit will be authorized to expend for Debt Service and Other Commitments.

**Recommend \$5,761,633**

**ARTICLE IV-K.** To see what sum the school administrative unit will be authorized to expend for All Other Expenditures. **Recommend \$25,000**

**ARTICLE V.** To see if the municipality will appropriate **\$182,805** for Adult Education and raise **\$99,552** as the local share; with authorization to expend any additional, incidental or miscellaneous receipts in the interest and for the well-being of the Adult Education program.

**Recommend \$99,552 (Local)**

Vote: 6 Yeas.

**Order No. 16-53. Act on the request from the Deputy Tax Collector to authorize the Town Manager to sign a release deed on property located at 331 Pleasant Hill Road – Map R099/Lot 038.** Motion by Councilor Babine, seconded by Councilor Caterina, to move approval on the request from the Deputy Tax Collector to authorize the Town Manager to sign a release deed on property located at 331 Pleasant Hill Road – Map R099/Lot 038.

Vote: 6 Yeas.

**Order No. 16-54. Act on the request for a Mass Gathering Permit from Taylor Crabbe to hold the *Insane Inflatable 5K* on Friday, September 16<sup>th</sup> and Saturday, September 17<sup>th</sup>, at Scarborough Downs, located at 90 Payne Road.** Fire Chief Thurlow gave a brief overview and responded to questions from the Town Council.

Motion by Councilor Babine, seconded by Councilor Caterina, to move approval on the request for a Mass Gathering Permit from Taylor Crabbe to hold the *Insane Inflatable 5K* on Friday, September 16<sup>th</sup> and Saturday, September 17<sup>th</sup>, at Scarborough Downs, located at 90 Payne Road.

Vote: 6 Yeas.

#### **Item 8. Non Action Items.**

#### **Item 9. Standing and Special Committee Reports and Liaison Reports.**

- Councilor Caiazzo noted that the School Board there was a flyer laying at your place regarding Superintendent's Entry Plan. He also gave an update on the Energy Committee.
- Councilor Hayes gave an update on the following: the Coastal and Harbor Committee; the Shellfish Commission and the Senior Advisory Group.
- Councilor Babine gave an update on the following: the MMA Committee; the Library Trustees Board and the Finance Committee.
- Councilor Caterina gave an update on the following: the Conservation Commission and the Ordinance Committee.

#### **Item 10. Town Manager Report.** Thomas J. Hall, Town Manager, gave an overview on the following:

- Gateway Signs are in. Service Clubs in the area helped support the cost.
- Gave an update on Partridge Lane.
- He had been invited to set on a panel at the MMA Conference regarding energy savings.
- In the mist of various recruits for positions that are available, a couple being the Assistant Town Manager and the Sustainability Coordinator.
- The tax commitment will be made this week. He also gave an update on the Law Court's decision relating to the appeal made by residents regarding the Board of Assessment Review's decision.

**Item 11. Council Member Comments.**

- Councilor Caterina reminded residents about the public water source located at the Dunstan Fire Station 639 US Route One.
- Councilor Caiazzo noted that SummerFest would be held this Friday, August 19<sup>th</sup> at the High School. He went on to clarify his comments regarding the amendment made earlier relating to the Budget process and the School Budget.
- Councilor Hayes state to everyone, to enjoy the rest of the summer.
- Chairman Donovan thanked the Cornerstone Church for its invitation for lunch. He then went on to give an update regarding the Fireworks Survey. He thought a workshop would be needed so the Council can listen to both sides. He too commented on the Law Court's decision relating to the appeal by local residents. He mentioned the organics issue and how one would enforce a town-wide policy, we currently have a policy that applies to town open space.

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

Vote: 6 Yeas.

Meeting adjourned at 7:39 p.m.

Respectfully submitted,

Yolande P. Justice  
Town Clerk