

SECTION IX. PERFORMANCE STANDARDS.

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[Amended 05/05/2010; 01/02/16; 10/04/17;05/06/2020; 05/20/2020; 07/20/2022; 10/05/2022; 05/03/2022; 05/17/2023; 07/19/2023;10/18/2023; 09/04/2024; 11/20/2024]

A. GENERAL

1. Industrial waste waters may be discharged to municipal sewers only and in such quantities and/or of such quality as to be compatible with commonly accepted municipal sewage operations, and subject to the approval of the Scarborough Sanitary District.
2. Such wastes may require pretreatment at the industrial site in order to render them amenable to municipal treatment processes.
3. Pretreatment includes, but is not limited to screening, grinding, sedimentation, ph adjustment, surface skimming, chemical oxidation and reduction and dilution.
4. The disposal of industrial waste waters by means other than the municipal sewerage system must comply with the laws of the State of Maine and the Town concerning water pollution. Wash water or other process water carrying stone dust, stone particles, silt or other mineral matter will not be accepted into the municipal system. Representatives of the Town and for the Maine Department of Environmental Protection may enter into premises for the purpose of gauging, sampling and testing any waste water streams which may enter into water courses.
5. Dust, dirt and fly ash shall not exceed 0.3 grains per cubic foot of flue gas at stack temperature of 500 degrees Fahrenheit and shall in no manner be destructive, unhealthful, hazardous, nor shall visibility be impaired by the emission of a haze which unduly impedes vision within apparent opaqueness equivalent to No. 1 of the Ringlemann Chart as measured at any boundary line, using the procedures of the American Society of Testing Materials. Representatives of the Town and for the Maine Department of Environmental Protection may enter onto premises for the purpose of testing any and all sources of potential air pollution.
6. The limitations of paragraph 5, shall not apply to emission resulting from soot, blowing on any heat-transfer operation regardless of fuel source provided such emissions do not exceed an aggregate duration of more than one hour in any 24 hour period. Any industry emitting toxic or odoriferous substances must submit detailed plans to minimize such emissions to the Building Inspector before a permit is granted. Limitations of toxicity and odors of these substances shall be as set forth by the State of Maine.
7. All air pollution control shall comply with minimum State requirements and detailed plans submitted to the Building Inspector for approval, before a permit is granted.
8. Noise: Noise is required to be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness. Noise may be equal but not exceed, during any consecutive 8-hour period, an average of 75 decibels at 600 cps measured at any boundary line. During the peak activity of 60 minutes in a 24-hour period a noise may not exceed 100 decibels at 600 cps when measured at the source.
9. Upset conditions, breakdowns, or scheduled maintenance of any water and air pollution control equipment shall not be deemed to be in violation of established limits as specified above. Such person responsible for such emissions will with all practical speed, initiate and complete appropriate reasonable action to correct the conditions causing such emissions to exceed said limits. The Town may take said appropriate and reasonable actions and assess the cost to the violator or owner.

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10. No permit shall be issued in an industrial district for any use which may be offensive because of noise or vibration, odors or fumes, smoke or dirt, or because of fire or explosion or any other hazard or nuisance.

11. In case of doubt, the Building Inspector may employ such independent, recognized consultant necessary, at the expense of the applicant, to assure compliance with performance standards and all other requirements of this Ordinance related to the public health, safety and welfare and the abatement of nuisances.

12. Swimming pools shall be accessory buildings. Swimming pools of more than 100 sq. ft. of surface area, except above ground pools, shall be enclosed by a fence of at least 4 ft. in height, equipped with self-locking doors of such structure as to exclude children. Above ground pools of more than 100 sq. ft. surface area shall be enclosed by sides, barriers or a fence, any of which singly or in combination must be at least 4 ft. in height and shall be equipped with either (a) self-locking platform doors of such structure as to exclude children or (b) portable ladders which shall be removed when pool is not in use.

13. Tenting Camping Seasonal:

1. During the period beginning on April 1 and ending on December 1 of each year, tenting and camping in camping trailers or otherwise shall be allowed within such district or districts as the Town Zoning Ordinances allow.

2. During the period beginning on April 1 and ending on December 1 of each year, seasonal retail stores for selling food including candy and dairy products and variety merchandise shall be allowed within such district or districts.

3. Such district or districts shall be subject to the following restrictions:

a. No person may establish, own or operate a seasonal campground without a permit issued annually by the Building Inspector for which the applicant shall pay a license fee per camp site located in or planned to be located in such seasonal campground. Such fees shall be as specified in the Municipal Schedule of License, Permit and Application Fees established by order of the Town Council. A schedule of such fees shall be filed with the Town Clerk and may be changed from time to time. Such permit shall only be issued if the campground is found to conform to the requirements of this ordinance and all other pertinent municipal ordinances, state statutes, and rules and regulations of state departments having jurisdiction. [09/06/95]

b. Fires to be permitted only in specifically designated places and only under conditions and at times approved by the Fire Chief.

c. Service facilities which meet the following specifications be provided and continuously maintained in condition and in good operating order at all times when seasonal campground is open for business.

i. A continuous, adequate, safe and potable supply of water.

ii. Toilet facilities shall meet all requirements of the State Plumbing Code, and shall be specifically approved by the municipal health officer.

iii. The storage, collection and disposal of refuse shall not create health hazards, rodent harborage, insect breeding area, accident hazards of air pollution.

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d. No sign shall exceed 50 square feet in area. Signs shall deal only with goods or services provided in the premises. The source of light of an illuminated sign must be shielded or concealed.

14. Parking & Storage. Parking or storage for more than one commercial motor vehicle is specifically prohibited as an accessory use in the R-2, R-3, R-4, and R-4A Districts except as accessory to a farm, truck garden or nursery. Parking or storage of more than two commercial motor vehicles is specifically prohibited as an accessory use in the RF District except as accessory to a farm, truck garden or nursery. Commercial vehicles shall not be parked or stored with engines, motors, or accessory motors in operation for an excessive period of time. [Amended 12/86][05/03/2023]

In any commercial district, the outdoor parking or storage of more than four commercial vehicles or fleet of vehicles in service for a permitted use must be approved by the Planning Board and shall be in an area to the rear or side of the building that is not easily seen from any street, or must incorporate appropriate screening so that vehicles are not easily seen from the street. The Planning Board may place a limit on the number of vehicles permitted to be parked or stored on a commercial property. Any parking spaces used for more than four fleet vehicles shall be in addition to the required parking pursuant to Section XI. [adopted 05/03/2023]

In any industrial district, the outdoor parking or storage of commercial vehicles is permitted in an approved parking space. [adopted 05/03/2023]

15. Number will be for further use. [Amended 05/20/2020]

16. Boat Storage. No vessel exceeding twenty-four (24) feet in length shall be stored or parked on any residential property unless the vessel is stored or parked so as not to violate the minimum front, rear and side yards for structures.

17. Timber Harvesting. On any lot where timber harvesting occurs, a minimum 50-foot wide buffer area shall be maintained between the property line and the harvesting activity. Slash shall be disposed of in such manner that it lies on the ground and no part thereof extends more than four feet above the ground.

18. Recycling Facilities.[03/06/96]

a. No Recycling Facility, as defined in Section VI of this Ordinance, shall be operated until a site plan is approved by the Scarborough Planning Board under the Scarborough Site Plan Review Ordinance. [03/06/96]

b. Any Recycling Facility which collects, stores or processes any material outdoors must comply with the same standards for screening as apply to automobile graveyards and junkyards under subchapter I of chapter 183 of Title 30-A of the Maine Revised Statutes. [03/06/96]

c. Any Recycling Facility which collects, stores or processes any material outdoors must receive an annual license from the Scarborough Town Council, which shall apply the same standards and procedures as apply to automobile graveyards and junkyards under subchapter I of chapter 183 of Title 30-A of the Maine Revised Statutes. [03/06/96]

d. All Recycling Facilities shall be subject to at least an annual inspection conducted by the Code Enforcement Officer and such other municipal officials as the Code Enforcement Officer may

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designate for the purpose of determining compliance with all applicable Town ordinances and with all conditions of site plan approval. [03/06/96]

B. PERFORMANCE STANDARDS--IN-HOME OFFICES (2/01/95)

In any district, the Code Enforcement Officer may issue a permit for the operation of an in-home office by one or more residents of a dwelling unit as an accessory use to the dwelling unit. An in-home office shall not be considered a home occupation requiring a special exception permit if the following conditions are met:

- a.** customers or clients do not come to the dwelling to receive goods or services;
- b.** communication with customers, clients and business associates is principally by mail, electronic mail, telephone or other telecommunication device, and deliveries or pick-ups by truck, if any, occur at an average frequency not substantially greater than the ordinary frequency of delivery truck traffic at a single family residence.
- c.** there are no signs or any other exterior indications of the in-home office activity;
- d.** the activities conducted within the in-home office are limited to processes, such as data processing, word processing, desktop publishing and electronic research, which do not create noise, pollution or nuisance conditions detectable outside the dwelling;
- e.** the in-home office does not employ any persons who are not residents of the dwelling unit; and
- f.** there are no signs (other than a name on a mail box which complies with U.S. Postal Service regulations), exterior exhibits, exterior exhibits, exterior storage of materials or any other exterior indications of the in-home office.

The permit for an in-home office shall set forth the foregoing conditions and shall not be valid until the applicant agrees, by signing the permit, to operate the in-home office in compliance with those conditions. The permit shall list the names of the persons who will operate the in-home office and shall remain valid only so long as one or more of those listed persons continues to reside in the dwelling unit.

C. PERFORMANCE STANDARDS -- BOARDING CARE FACILITIES FOR THE ELDERLY

The following standards shall apply to all Boarding Care Facilities for the Elderly.

- 1.** The minimum lot size shall be 5 acres.
- 2.** The maximum density of residents' rooms shall be 14 rooms per acre and the total number of beds shall not exceed 1.3 times the number of residents' rooms.
- 3.** No cooking facilities shall be permitted in any residents' rooms.
- 4.** Occupancy of the residents' rooms shall be limited to persons over the age of 62 or households with at least one resident over the age of 62.

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5. Notwithstanding Section IX (A)(15)(a) of this ordinance, buildings in which residents' rooms are located may be up to three (3) stories in height, provided they do not exceed thirty-five (35) feet in height.

6. The facility must be served by both public water and public sewer.

7. For facilities located in residential districts, the minimum front yard shall be 75 feet and the minimum side and rear yards shall be 50 feet. For facilities located in business districts, the minimum yard standards in the space and bulk regulations of that district shall apply. [Amended 06/20/12]

D. ACCESSORY OUTSIDE DISPLAYS. [04/94][06/03/98]

In any district a retail sales or service business, which operates principally within a building, may display merchandise or render services (other than dispensing of motor fuels) outside the building, provided such display or service is incidental and secondary to the business conducted within the building. No merchandise displayed under this subsection may be located in any required yard or buffer area, in any parking space required to meet the minimum standards of Section XI of this Ordinance or in any location which would interfere with (1) safe movement of pedestrians into and out of the building, (2) safe movement of pedestrians between parking areas and the building or (3) safe flow of traffic on the site. No such Accessory Outside Display shall be located on any property, which has received site plan approval from the Scarborough Planning Board under the Scarborough Site Plan Review Ordinance after April 6, 1994 except in areas designated for outside display on the site plan.

E. ACCESSORY OUTSIDE VENDING MACHINES. [04/94][06/03/98][09/05/12]

In the B-1, B-2, B-3, TVC, TVC-2, TVC-3, TVC-4 BO-R, I-O and Industrial Districts, and on the premises of a non-conforming use in any other district if such use is allowed in the B-1, B-2, B-3, TVC, TVC-2, TVC-3, TVC-4, BO-R, I-O or Industrial Districts, vending machines may be located outdoors, provided they are incidental and secondary to the principal use of the premises. No vending machines allowed under this subsection may be located in any required yard or buffer area, in any parking space, loading berth or loading bay required to meet the minimum standards of Section XI of this Ordinance or in any location which would interfere with (1) safe movement of pedestrians into and out of the building(s) on the premises, (2) safe movement of pedestrians between parking areas and the building(s) or (3) safe flow of traffic on the site. No such accessory outside vending machines shall be located on any property which has received site plan approval from the Scarborough Planning Board under the Scarborough Site Plan Review Ordinance after April 6, 1994 except in locations designated for outside vending areas on the site plan. As used in this subsection (E), the term "vending machines" includes self-service mechanical dispensers such as soft drink machines, candy machines, cigarette machines and news racks and free-standing containers or racks from which customers pick up merchandise to be purchased inside the building, but excludes motor fuel pumps.

F. PERFORMANCE STANDARDS--TRANSMISSION TOWERS [Added 5/17/95]

The purpose of these standards are to allow for the appropriate siting of transmission towers and telecommunications facilities for wireless transmission and reception for the use and benefit of the general public, while minimizing adverse visual effects of transmission towers and telecommunication facilities through careful design, siting, and vegetative screening; avoiding potential damage to adjacent properties from tower failure and falling ice through proper engineering; and promoting cooperation of

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service providers and the collocation of antennas. All new transmission towers and telecommunications facilities, or the increase in height of an existing transmission tower, as applicable, shall conform to the following standards and be reviewed and permitted under the Site Plan Review Ordinance by the Planning Board or as a Special Exception by the Board of Appeals, unless the changes to a tower comply with subsection 2(k). below.

1. Priority of Locations.

Applicants shall use the following procedure when proposing the siting and installation of any transmission tower or telecommunications facility. The siting of transmission towers, wireless transmission or reception antennas, and wireless telecommunications facilities must be located according to the priorities below: (a) new wireless transmission or reception antennas on existing transmission towers; (b) new transmission towers in the Industrial (I) and Light Industrial (LI) Districts; (c) new telecommunication facilities mounted on, or within, buildings and structures in the districts where they are permitted or special exception uses; and (d) new transmission tower in the Transmission Tower Overlay District (TTOD). The application shall demonstrate that a location of higher priority cannot reasonably fulfill the applicant's requirements for coverage improvements in the intended geographic area.

- a. Existing Transmission Towers – When available, new wireless transmission or reception antennas shall be installed on existing transmission towers, provided that such installation will comply with the performance standards of this subsection.
- b. New Transmission Towers within the I or LI Districts – New transmission towers are permitted in the I and LI Districts, but the Planning Board may not approve an application for a new transmission tower in the I or LI Districts unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a) above cannot reasonably accommodate the applicant's proposed facility.
- c. New Telecommunication Facilities – New telecommunication facilities are permitted, but the Planning Board may not approve an application for a new telecommunications facility unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a-b) above cannot reasonably accommodate the applicant's proposed facility. The application and design of a new telecommunication facility shall comply with the performance standards of this subsection.
- d. New Transmission Towers within the Transmission Tower Overlay District -New transmission towers are permitted in the TTOD, but the Planning Board may not approve an application for a new transmission tower within the TTOD unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a-c) above cannot reasonably accommodate the applicant's proposed facility.

As stated above, an applicant must submit substantial evidence and justification to demonstrate that a location of higher priority cannot reasonably accommodate the applicant's proposed facility. Justification may include evidence that: existing towers are not of sufficient height to

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meet the applicants engineering requirements; existing towers do not have sufficient strength, capacity or expansion capabilities for additional antennas as determined by a Maine P.E.; a facility in a different location would not be suitable to adequately serve the intended geographic area necessary to meet the applicants requirements; a new transmission tower would cause electromagnetic interference with antennas on existing towers or structures in proximity to a proper location in the I or LI District; no buildings or structures were identified that could accommodate or would be suitable for installing a telecommunications facility, or where the owner of the building or structure rejected the installation of such a facility; and/or other reasons that a new transmission tower or telecommunications facility cannot meet the applicant's engineering requirements for the geographic area. This evidence shall be submitted to the Planning Board for review as part of any application for a new installation.

2. Standards for Transmission Towers.

In addition to the priority of location requirements in Section IX(F)(1) above, transmission towers must comply with the following performance standards:

a. Height.

(i) Within the Transmission Tower Overlay District the standard height limit for a new transmission tower shall be 130 feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may allow the standard height limit to be exceeded by up to an additional 20 feet, to a maximum of 150 feet, if the increase in height enables the collocation of additional antennas that otherwise could not be accommodated on the tower and results in no material increase in the visual impacts of the tower as determined by the Planning Board. The Planning Board may also require the height of a tower be reduced down by as much as 20 feet, to a maximum of 110 feet if the Board finds through review that reducing the tower height most effectively screen and mitigate the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces. When considering a reduction in the maximum tower height, the Planning Board shall ensure that such a reduction still accommodates the collocation requirements of subsection g.

(ii) Within the Industrial and Light Industrial Districts the height limit for a new transmission tower or the expansion of an existing transmission tower shall be 200 feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may require the height of a tower be reduced down by as much as 20 feet, to a maximum of 180 feet if the Board finds through review that reducing the tower height would materially reduce the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces, including to avoid the need for FAA lighting.

b. Minimum Lot Size and Setbacks.

(i). Within the I and LI Districts there is no minimum lot size for transmission towers, but the standard setback from the base of the tower to all property lines shall be a distance equivalent to 100% of the total tower height, including any attached transmitting or receiving antennas and devices. Accessory structures shall meet the minimum setbacks for the zoning district. The Planning Board may decrease the standard 100% setback if the applicant secures an easement(s) from the abutting property(s) that allows for a lesser setback. The easement shall allow the tower to be located closer to the property line than

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the 100% requirement above. An easement from an abutting property shall not however enable a tower to be sited closer to the abutting property line than the minimum front, side and rear yard setback requirements of the zoning district and the combined distance of the easement from the property boundary and the setback must be equivalent to 100% of the tower height.

(ii) Within the Transmission Tower Overlay District, the minimum lot size for a new transmission tower shall be twenty-five (25) acres. The standard setback from the base of the tower to all property lines shall be a distance equivalent to 150% of the total tower height, including any attached transmitting or receiving antennas and devices. Accessory structures shall meet the minimum setbacks for the zoning district. The Planning Board shall have the discretion to either increase the standard setback up to 300% or decrease the standard setback down to 100% of the total tower height if it finds through review that siting the tower in a different location will better screen and buffer the tower from view of the surrounding properties, abutters, roadways and public spaces. The Planning Board may also decrease the standard 150% setback if the applicant secures a restrictive easement(s) from the abutting property(s) that allows for a lesser setback. The restrictive easement shall prohibit dwellings within the easement area so as to allow the tower to be located closer to the property line than the 150% requirement above. A restrictive easement from an abutting property shall not however enable a tower to be sited closer to the abutting property line than the minimum front, side and rear yard setback requirements of the zoning district, but the combined distance of the restrictive easement from the property boundary and the lot setback must be equivalent to 150% of the tower height.

After a transmission tower is approved and installed, the Planning Board may allow a reduction in the minimum lot size from 25 acres to a minimum of 5 acres and a setback distance equivalent to 150% of the total tower height including any attached transmitting or receiving antennas and devices. This lot size reduction is allowed only through Planning Board review to enable additional uses and/or subdivision of the parcel. The allowed reduction in original lot size shall not however reduce or lessen the buffering requirements under subsection (c) below and shall not increase the visual impact of the tower on surrounding properties, roadways and/or public spaces.

c. Buffering.

(i) Within the I and LI Districts, transmission towers shall be surrounded by a buffer of dense tree growth and vegetation that screens the facility and minimizes the visual impact from all directions. If the majority of the site is heavily vegetated with mature tree growth and effectively screens the facility, the Planning Board may require the existing vegetation to be preserved, and supplemented with new plantings where necessary, except for the minimum amount of clearing necessary to install the facility and provide access and utilities. If the site is already developed for a commercial or industrial use, the Planning Board shall have the authority to allow a reduced buffer based on site conditions and the current use of the property so long as the visual impacts of the tower are minimized to the extent practical.

(ii) Within the Transmission Tower Overlay District, all transmission towers shall be surrounded by a buffer of dense tree growth and vegetation that screens the facility and minimizes its visual impact from abutting properties, roadways and public spaces.

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If the majority of the site is heavily vegetated with mature tree growth and effectively screens the facility, the Planning Board may require the existing vegetation to be preserved, and supplemented with new plantings where necessary, except for the minimum amount of clearing necessary to install the facility and provide access and utilities. If heavy vegetation and mature tree growth are not present to effectively screen the facility on one or more property lines or from surrounding roadways or public spaces, the Planning Board shall have the authority to require the tower to be sited in an alternative location on the property that exhibits an adequate buffer or screening as provided for under subsection (b)(ii) above. The Planning Board shall have the authority to require the landscape buffer be protected by a landscape easement specifying that the trees within the buffer not be removed or topped, unless the trees are dead or dying. This landscape easement may include a distance equivalent to 150% of the total tower height, be within the carrier's lease, and/or apply to buffering and vegetation on other areas of the site that provide effective screening.

d. Visual Impact Analysis.

In order to review and assess the suitability of the proposed buffering of a tower (under subsection c.), the optimal tower setback from adjacent property lines (under subsection b), the proposed color, style and height of the tower (under subsections a. and e.), and the towers overall visual impacts and effects, the Planning Board may require photo simulations of the tower within the landscape from a variety of perspectives, including surrounding roadways, abutting properties, and public spaces. In addition, the Planning Board may also require other simulations of the tower height and location within the landscape using a balloon test or similar method typical in the industry. Using this visual impact analysis the Planning Board shall have the authority and discretion to mitigate and minimize the visual impact of a tower by: specifying the required tower setback and location as provided for under subsection b., requiring changes and/or enhancements to the buffering as provided for under subsection c.; and regulating the tower height and style as provided for under subsections a. and e.

e. Tower Style.

Tower types shall be limited to monopole-style towers painted in a sky tone above the top of surrounding trees and in an earth tone below tree-top level or stealth towers exhibiting concealed antennas or camouflaging treatment, such as mono-pine towers, as determined by the Planning Board.

f. Lighting.

Towers and attached antennas and devices shall not be artificially lighted, unless required by the FAA or other federal or state agency. If lighting is required, the Planning Board may review the available lighting alternatives and require the design that would cause the least impact to surrounding properties and views.

g. Colocation.

All new transmission towers shall be designed and constructed to accommodate the colocation of additional antennas, equipment and facilities on the tower and site. To meet this standard the applicant, owner and all other tower users shall allow other commercial wireless telecommunication service providers using functionally compatible technology to collocate; shall provide a mechanism for the construction and maintenance of collocated antennas and infrastructure; and shall provide for reasonable sharing of costs

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in accordance with industry standards. To ensure colocation and prevent the need for additional new towers within the same coverage area, the Planning Board may require an existing or new tower to be increased in height up to the maximum height allowed and/or make other accommodations in order to provide for colocation. When designing a tower and site for colocation the facility should be designed to accommodate the inclusion of at least three additional telecommunication service providers and shall have the structural integrity to accommodate these additional antennas and/or an expansion in height of the tower. The Planning Board may waive the requirement for colocation or the number of additional providers to be collocated, but only after the Planning Board reviews and determines with satisfactory evidence that technical constraints prohibit colocation.

h. Advertising.

No advertising or signage is permitted on transmission towers or any attached transmitting and receiving antennas or devices.

i. Coverage.

As part of any proposal the applicant shall submit a radio frequency coverage analysis showing existing or planned wireless facilities within 10 miles of the proposed location. Maps shall be supplied that indicate on street and in building coverage for both existing/planned sites and the proposed location. The coverage analysis for the proposed location must show all available optional antenna heights if it is a co-location or all possible antenna heights starting at a minimum of 90 feet if it is a new facility. The coverage analysis must use each current licensed frequency band by the applicant. An applicant shall demonstrate that there is inadequate coverage for the area covered by the application.

j. Structural Standards.

Transmission towers erected after May 17, 1995 shall meet all applicable requirements of federal and state regulations and shall be designed and installed in accordance with the standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna supporting Structures.

k. Existing Towers.

Transmission towers existing before May 17, 1995 which do not comply with these performance standards or with the use or dimensional requirements of the zoning district in which they are located may continue to be used subject to the provisions of Section III of this Ordinance. The addition, removal or relocation of transmitting or receiving devices on such towers does not constitute the expansion or enlargement of the nonconforming use and does not require review under the Scarborough Site Plan Review Ordinance, provided the total height of the transmission tower, including attached devices, is not increased.

l. Abandonment.

A transmission tower and associated facilities that is not operating for a continuous twelve month period shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to Code Enforcement that the facility has not been abandoned. If the owner fails to show that the facility is in active

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operation, the owner shall have sixty (60) days to remove the facility. The removal of the facility shall include removing the tower and associated facility and returning the site to its pre-construction condition including removing of roads and replanting vegetation.

If the facility is not removed within this period, the Town may remove the facility at the owner's expense. A copy of the relevant portions of a signed lease or other comparable signed legal instrument which requires the applicant to remove the tower and associated facilities and reclaim the site upon abandonment shall be submitted as part of the application. Further, a surety shall be provided to the Town to guarantee the removal of an abandoned tower, prior to the installation of the tower. The applicant must submit a sample form of surety along with its application to pay for the costs of removing the facility if it is abandoned. The surety must be obtained and delivered to the Planning Department after approval of the application by the Planning Board and prior to construction.

m. Shoreland Zoning.

Transmission towers shall not be allowed within any Shoreland Zoning District, including the Shoreland Overlay District and the Resource Protection District. Land within a Shoreland Zoning District however can be counted toward the minimum lot size and/or setback requirements provided the siting of the transmission tower is outside any Shoreland Zoning District.

n. Public Notification.

When an application for a modification to an existing transmission tower or for a new transmission tower is received and accepted by the Town Planner, the Planner shall give a dated receipt to the applicant and shall notify by mail all property owners abutting the tower site or lot once the application has been scheduled for a Planning Board agenda.

3. Standards for Telecommunications Facilities.

In addition to the priority of location requirements in Section IX(F)(1) above, telecommunications facilities must comply with the following performance standards. Where allowed as a special exception use, the Board of Appeals may issue a special exception for the installation of a telecommunication facility only if the facility also meets the standards for special exceptions in Section IV(I)(4). Before making a decision on any telecommunication facility special exception application, the Board of Appeals shall refer the application to the Planning Board for an advisory opinion. The Planning Board shall consider the standards of this subsection and the standards for special exceptions in Section IV(I)(4) in formulating its recommendation.

a. Design. If a telecommunication facility is proposed to be mounted or attached to the exterior of a building or structure the facility shall be designed and located in a manner that is consistent and compatible with the architecture of that building or structure. If applicable, the addition of a facility to the exterior of a building shall also comply with the Design Standards for Scarborough's Commercial Districts, including the standards for rooflines and roof mounted equipment.

b. Utility poles and transmission lines.

For the purposes of these performance standards, telecommunication facilities shall be allowed to be attached or mounted on high voltage public utility transmission line poles and structures, subject to Board of Appeals and/or Planning Board review and approval,

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but shall not be permitted to be attached or mounted on distribution scale utility poles and structures.

c. Ground mounted equipment.

Ground mounted equipment associated with, and accessory to, the telecommunication facility may be allowed through Board review and approval provided the Board finds there is adequate screening of this equipment and that is compatible with the site.

d. Exemption.

Telecommunication facilities that are proposed to be fully enclosed within an existing building and will not alter the exterior dimensions of the building or the exterior appearance of the building to accommodate the facility, shall be exempt from special exception review by the Board of Appeals or site plan review by the Planning Board. These installations may be permitted through review and approval by the Code Enforcement Officer. Ground mounted equipment associated with, and accessory to, the telecommunication facility may be allowed by the Code Enforcement Officer provided there is adequate screening of this equipment and that is compatible with the site.

e. Public Notification.

When an application for a telecommunication facility is received and accepted by the Town Planner or Code Enforcement Officer, the Planner/CEO shall give a dated receipt to the applicant and shall notify by mail all property owners abutting the tower site or lot once the application has been scheduled for a Planning Board or Board of Appeals agenda.

G. PERFORMANCE STANDARDS - ACCESSORY CONTAINERS [09/03/97][09/05/12]

Accessory storage containers may be utilized in the B-1, B-2, B-3, BO-R, RH, RH2, TVC, TVC-2, TVC-3, TVC-4, CPD, I-O and HPZ Districts only, and only as allowed under this Section IX(G)

1. Temporary Use of Accessory Storage Container.

Accessory storage containers may be used on a temporary basis only after being approved by the Code Enforcement Officer, and subject to the following standards.

- a. No more than one temporary container shall be located on a lot at any time.
- b. The temporary container shall comply with all minimum yard size requirements of this ordinance.
- c. The temporary container shall be placed behind the front line of the principal building on the lot, unless the Code Enforcement Officer determines that, due to the size and configuration of the lot and/or the locations of existing buildings or structures on the lot, such placement is not feasible.
- d. The temporary container shall not displace any parking spaces utilized to meet the parking standards of Section XI of this ordinance, unless the applicant provides evidence of written permission to use substitute spaces on an adjacent lot or lots during the entire period of time the temporary container is in place.
- e. The temporary container shall not be placed in any location where it will create pedestrian or vehicular traffic hazards or interfere with orderly traffic circulation.

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- f. The temporary container shall be structurally sound. Its exterior surfaces shall be free of rust, holes, sharp edges, torn or damaged siding, exposed wiring or any other defects, which could endanger health or safety.
- g. The temporary use of accessory storage containers is limited to no more than 60 days per lot per calendar year.
- h. At least five days in advance of the date when the temporary container is to be placed on the lot, the owner or occupant of the lot shall make application to the Code Enforcement Officer for a permit. The application shall be accompanied by the application fee specified in the Town of Scarborough Schedule of License, Permit and Application Fees established by order of the Town Council. The application shall also be accompanied by a refundable deposit in the amount of \$125.00 which shall be forfeited to the Town if the temporary container remains on the lot longer than allowed by subsection (g) above. A separate permit is required each time a temporary container is placed on a lot and no more than two permits shall be issued per lot per calendar year.

2. Non-Temporary Use of Accessory Storage Containers.

Except when used on a temporary basis as provided in Section IX(G)(1) above, no accessory storage container shall be placed on any lot except in a location approved by the Scarborough Planning Board under the Town of Scarborough Site Plan Review Ordinance, and subject to the following standards:

- a. No accessory storage container shall exceed 14 feet in height, 9 feet in width or 55 feet in length.
- b. The total floor area of all accessory storage containers on a lot shall not exceed 495 square feet or 5 percent of the floor area of the principal building or buildings on the lot, whichever is greater.
- c. Accessory storage containers shall comply with all minimum yard size requirements of this ordinance.
- d. Accessory storage containers shall not displace any parking spaces utilized to meet the parking standards of Section XI of this ordinance.
- e. Accessory storage containers shall not be placed in any location where they will create pedestrian or vehicular traffic hazards or interfere with orderly traffic circulation.
- f. The exteriors of accessory storage containers shall contain no signs or advertising material visible from any public way or abutting property.
- g. All accessory storage containers shall be screened by the use of fencing, walls, berms, plantings, natural vegetation or other buildings or structures on the lot so that the accessory storage containers are substantially hidden from abutting properties and any public way.
- h. All accessory storage containers shall be structurally sound. Their exterior surfaces shall be free of rust, holes, sharp edges, torn or damaged siding, exposed wiring or any other defects, which could endanger health or safety.

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An accessory storage container which was located on a lot for a period of at least 60 consecutive days immediately prior to May 20, 1997 may continue to be used subject to the requirements of subparagraphs (c), (g) and (h) above, without Planning Board approval under this paragraph (2).

3. Decisions of the Code Enforcement Officer or Planning Board under this Section IX(G) are final and cannot be appealed to the Board of Appeals. No variances may be granted from the requirements of this Section IX(G).

4. This Section IX(G) does not apply to the Industrial District, where containers which otherwise are described by the definition of accessory storage container may be used as accessory structure to uses allowed in the Industrial District, subject to all applicable provisions of this ordinance.

H. PERFORMANCE STANDARDS - MINI-WAREHOUSE/STORAGE FACILITIES AND CLIMATE CONTROLLED/INTERNAL ACCESS STORAGE FACILITIES [12/03/97][10/04/17]

The following standards shall apply to all Mini-Warehouse/Storage Facilities:

1. Mini-Warehouse/Storage Facilities shall be located only in the Industrial District.
2. Climate Controlled/Internal Access Storage Facilities may be located in the Industrial District and/or the Haigis Parkway District. [Adopted 10/04/17]
3. Mini-Warehouse/Storage Facilities shall be located on lots of no less than one acre and no greater than five acres total lot area. [10/04/17]
4. Impervious surfaces (any material that prevents absorption of storm water into the ground) shall not cover more than fifty percent of the lot on which the Mini-Warehouse/Storage Facility is located.
5. Climate Controlled/Internal Access Storage Facilities will follow the impervious surface requirements of the district where the facility is located. [10/04/17]
6. Vehicle circulation within the facility shall allow for safe access to the individual storage units and shall include fire lanes acceptable to the Town of Scarborough Fire Chief.
7. Off-street parking shall be provided in accordance with Section XI of this Ordinance for any office space and for any dwelling unit located on the property pursuant to paragraph 6 below. Parking spaces shall not be provided for each unit, but the site shall be designed so that vehicles of customers picking up or depositing stored materials may stand temporarily in the aisles and adjacent to the storage units.
8. Notwithstanding anything to the contrary in this Ordinance, the lot on which any Storage Facility is located may contain one dwelling unit as an accessory structure and accessory use to the storage facility, provided the dwelling is occupied only by a resident facility manager or by on-duty employees of the facility. [10/04/17]
9. Notwithstanding anything to the contrary in this Ordinance, a Storage Facility may incorporate more than one storage building and may include an accessory dwelling unit without separately meeting the space and bulk requirements for each building. [10/04/17]
10. No storage unit in a Storage Facility may exceed five hundred square feet of floor area. [10/04/17]
11. The owner of the Storage Facility shall designate a facility manager who can be contacted at a specified address and telephone number, and shall at all times provide the Scarborough Code Enforcement Officer, the Scarborough Fire Department and the Scarborough Police Department with the current address and phone number of the facility manager. The function of the facility

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manager includes, but is not limited to: providing proper policing of the area for trash, debris and vandalism; reporting to the police department any evidence of storage of contraband property or materials unlawfully possessed by customers of the facility; reporting to the fire department and the code enforcement officer any evidence of storage of dangerous or hazardous materials. [10/04/17]

12. The storage of hazardous, explosive or radioactive materials and of flammable liquid or gaseous materials is prohibited in a Storage Facility. The facility manager shall provide written notice of this prohibition to each customer at the time of rental of a unit. [10/04/17]
13. No activities other than rental of the storage units and pick up and deposit of the stored personal property shall be allowed on the Storage Facilities property. Examples of prohibited activities include, but are not limited to: wholesale or retail sales, auctions, garage sales; the service, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other equipment; and the operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment or other similar tools. The facility manager shall provide written notice of this prohibition to each customer at the time of rental of a unit. [10/04/17]
14. No outside storage of customers' goods or materials is allowed on the property of the Storage Facility. This provision does not prevent storage of household articles customarily stored outdoors by the manager of the facility if the manager resides on the property. [10/04/17]
15. The use of a Storage Facility or any portion thereof may not be changed to any other use, even though such use is otherwise permitted under this Ordinance, until the proposed new use is first reviewed and approved by the Planning Board under the provisions of the Site Plan Review Ordinance. [10/04/17]
16. Each customer, at the time of rental of a unit, shall be required to sign a lease or rental agreement which reserves to the owner and the owner's representatives, agents and employees the right to enter into and inspect the unit and its contents at any time without prior notice and which authorizes the owner and the owner's representatives, agents and employees to allow the Town of Scarborough Code Enforcement Officer, Fire Chief, Police Chief and their designated representatives to enter into and inspect the unit and its contents at any time without prior notice to the customer.

Notwithstanding anything to the contrary in this Ordinance or in 1 M.R.S.A. § 302, the standards of paragraph 1 through 16 above shall apply to any application for a Storage Facility which has not received site plan approval from the Scarborough Planning Board prior to October 27, 1997 and to any application to expand, extend, enlarge, reconstruct, rebuild or replace a Mini-Warehouse/Storage Facility existing on October 27, 1997. [12/03/97][10/04/17]

I. PRIVATE WAY RESIDENTIAL DEVELOPMENT [11/01/06]

1. Purpose

The Town of Scarborough recognizes there is significant level of single family residential development that occurs that does not require development approval under the Town's Subdivision or Site Plan Review Ordinances. However, the development impacts in this type of development have many individual and incremental similarities with a traditional Town regulated residential subdivision or site plan development; such as impacts on natural resources, infrastructure serviceability and maintenance responsibility, fire protection, and drainage and traffic impacts to abutters and Town infrastructure. Consequently, the Town sees a necessity to manage this type of development at a level consistent, and

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in an orderly manner, with the development issues commonly associated with a subdivision or site plan to meet the municipality's responsibility for the health, safety and welfare of the Public.

2. Applicability

This Section IX(I) shall apply to the creation of or development on any new single family residential lot that acquires the required street frontage on an existing or proposed private way, and that is not subject to the Town of Scarborough Subdivision Ordinance or Site Plan Review Ordinance. Only lots used for single family dwelling purposes may acquire required street frontage under this Section IX(I).

3. Definitions

As used in this Section IX(I), the following terms shall have the following meanings:

50-foot wide right of way: Includes an existing right of way originally laid out and described as a three rod road.

Existing: In actual existence on November 1, 2006.

New single family residential lot: A single family residential lot created pursuant to this Section IX(I) on or after November 1, 2006 that meets the bulk and space requirements for the district in which it is located and acquires the required street frontage from a proposed or existing private way. Also, an existing single family residential lot re-configured as a result of the location of a private way created under this Section IX(I) and that acquires its required frontage on a private way.

No-disturb buffer: An area within 25 feet, horizontal distance, of the upland edge of a wetland, as defined under Section VIIA(I), which is not otherwise regulated under the Town of Scarborough Shoreland Zoning Ordinance. Disturbance of the no-disturb buffer by clearing, mowing or construction of a structure is prohibited. The no-disturb buffer shall be delineated in compliance with Section IX(I)(9)(1) below.

Private way: A right of way for travel by motor vehicles which is not owned or maintained by the Town of Scarborough or any other public entity.

4. General Requirements

- a. The right of way of a private way created after November 1, 2006 shall be a minimum 50 feet wide.
- b. The building envelope on a lot which has its street frontage on a private way shall meet standard zoning building setbacks and a minimum of 15 feet setback from an identified and delineated no-disturb buffer in compliance with Section IX(I)(9). Nothing in this requirement supersedes applicable requirements under the Town of Scarborough Shoreland Zoning Ordinance.
- c. On any private way created under this Section XI(I), the initial lot (first in time) to acquire the required street frontage on the private way is not required to utilize the private way for physical access to the lot, if another means of physical access is available. However, if and when an additional lot or lots subsequently acquire the required street frontage on the private way, then the initial lot must thereafter use the private way for physical access. Physical access for a second and subsequent lots to acquire the required street frontage on a private way shall be from the private way. However, this requirement shall not apply to an existing single-family lot with an existing single-family dwelling and driveway if such existing driveway provides access to a public street and the creation of the private way will not result in any alteration to the intersection of that existing driveway with the public way.

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- d. No new lot created after November 1, 2006 shall meet its street frontage requirement on a private way providing street frontage for two or more lots unless the private way is improved with a road constructed in compliance with Section IX(I)(8) below, and, if an existing private way must also be utilized for access between such new lot and the nearest public way, then such existing private way must also comply with the infrastructure and construction standards of Section IX(I)(8).
- e. New single family lots created under this Ordinance are subject to any traffic impact fee ordinances enacted prior to the approval of the proposed private way development. A re-configured existing lot with an existing single family home is exempted from any traffic impact fee under this ordinance.
- f. After November 1, 2006, any private way approved under this Section IX(I) must connect either to a public way or to an existing private way having a minimum 50-foot wide right of way. If the road infrastructure in an existing accepted Town way is either not constructed or does not meet the standards of Section IX(I)(8), then the applicant shall construct or upgrade the existing road to the standards of Section IX(I)(8).
- g. No more than a cumulative total of six (6) lots shall acquire the required street frontage on a private way built to the standards of Section IX(I)(8). The cumulative total shall include all proposed and existing lots on an existing private way created prior to, or after, November 1, 2006. When the total number of new and existing lots acquiring the required street frontage on a proposed and/or existing private way exceeds six (6), the road shall be designed and constructed to the standards of the Town of Scarborough Street Acceptance Ordinance.
- h. The cumulative total length of a dead end private way shall not exceed 2000 feet. The cumulative total length of the private way shall include the length of an existing private way that provides access to the proposed private way development. The length shall be measured from the intersection of the private way road at the Town right of way along the centerline alignment of the private way to the end of the private way right of way. If the cumulative total length of a proposed and existing private way exceeds 2000 feet, a secondary intersection connection to an existing Town accepted way must be provided.
- i. When this Section IX(I) requires construction of a road, no certificate of occupancy shall be issued for any lot which acquires its required street frontage on the private way until either the road improvements are completed and the required documentation in Section IX(I)(8)(c)2 is provided and accepted by the Town Engineer, or a performance guaranty in compliance with Section 9 Performance Guarantee of the Scarborough Subdivision Ordinance is provided and accepted by the Town Engineer for the value of the remaining road infrastructure improvements.
- j. The Planning Department shall not approve a private way which would cause any lot or lots to become nonconforming with the dimensional requirements of this Ordinance. In the event an existing lot becomes a corner lot, as defined in this Ordinance, as a result of the creation of a private way, the buildings or structures on such lot shall be deemed to conform with the dimensional requirements of this Ordinance to the same extent as they conformed prior to the creation of the private way.
- k. A private way which provides required street frontage for two or more lots shall provide emergency vehicular access and fire suppression water supply in compliance with Section IX(I)(10).

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5. Application Submission Requirements

The Planning Department shall review and act upon applications for the creation or use of a private way to provide street frontage for a lot or lots. The submission for a private way shall include the following:

- a. Review Documents
 1. A recording plat. A plan of land laying out the private way and lot[s]. See Section IX(I)6, Plat Requirements for plat detail requirements.
 2. A design of the road infrastructure. The design shall include a plan and profile of the road, and layout of utilities to service the lot[s], such as drainage, power, telephone, etc. See Section IX(I)8, Road Infrastructure and Construction Standards for infrastructure design documentation requirements.
 3. A draft of the Maintenance Declaration, if applicable. See Section IX(I)7, Maintenance Agreement for declaration requirements.
 4. A cover letter describing where and what the project is and the name and address of the applicant.
- b. Final Documentation
 1. The applicant shall record the original recording plat plan in the Cumberland County Registry of Deeds (“CCRD”) within 30 days of approval. If the plan is not recorded within the required time frame, the approval shall be void.
 2. The applicant shall provide to the Planning Department one electronic file and four paper copies of the recorded plat with the planning department’s signature and CCRD attested data, and a copy of the executed and recorded maintenance declaration with the CCRD recording data. [amended 05/06/2020]
 3. In addition to other requirements under a building permit application, no building permit will be issued until the required plat and maintenance declaration documentation is submitted and accepted by the Town and recorded in the CCRD.

6. Plat Requirements

The plan shall be prepared by a Licensed Professional Land Surveyor in the State of Maine and meet the following requirements;

- a. All points of the private way shall be permanently field marked by a Licensed Professional Land Surveyor in the State of Maine.
- b. The plan shall be drawn on a paper plan sheet measuring 24” x 36” and shall be sealed and signed by the surveyor preparing the plan. [Amended 05/06/2020]
- c. The plan shall be labeled “Plan of a Private Way-[STREET NAME]”.
- d. The plan and survey work shall meet accepted survey practice sufficiently to show and establish on the ground the precise location of the private way, easements with recipients noted, lots with building envelopes and all existing natural and manmade features, such as, but not limited to streams, drainage courses, wetlands and no disturb buffer, utility pole lines, structures, etc. If wetlands are identified the following note shall be placed on the plan: “The no disturb buffer shall remain in their natural vegetated condition. No alteration of these buffers shall occur except for the removal of dead or dying trees without

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the prior approval of the Town Engineer and, if required, the State of Maine Department of Environmental Protection.”

- e. If the project requires fire tank protection infrastructure, the plan shall identify the easements to the Town of Scarborough.
- f. The plan shall contain the following notes: “The Town of Scarborough shall not be responsible for maintenance, repair, plowing, street signage or other similar services or infrastructure for the private way shown on the plan. When the private way provides required street frontage for a cumulative total of more than six (6), the hammerhead shall comply with the requirements of the Scarborough Street Acceptance Ordinance.”
- g. The plan shall provide a signature block to be signed by the Town Engineer, Town Planner or Assistant Town Planner.

7. Maintenance Agreement

When a private way provides access for 2 or more new lots to be created after November 1, 2006, the owners of the lots to be served by the private way and the owners of any portion of the private way shall be jointly and severally liable to the Town of Scarborough to adequately maintain the private way.

The applicant shall submit a Maintenance Declaration shall specify the rights and responsibilities of the owners among themselves with respect to:

- a. Responsibility for the road infrastructure construction, maintenance, repair, plowing, and street identification signage.
- b. A detailed statement of how the ownership interests in the private way will be structured; i.e. whether ownership will be single or joint, whether lot owners will own the fee or have easements, etc.
- c. A statement that in the event any of the lots shown are divided or in the event any remaining land of the declarant is subsequently divided into lots which are served by the private way, then such resulting lot or lots shall become subject to the Maintenance Declaration and to any modifications to the Maintenance Declaration advisable to adjust the duties and responsibilities equitably among the owners of the lots served by the private way
- d. An acknowledgement by the declarant and other persons signing the Maintenance Declaration that the Town of Scarborough is not responsible for the construction, maintenance, repair or plowing of the private way infrastructure.
- e. A statement that the duties and obligations imposed by the Maintenance Declaration run with the land and shall be transferred to donees, purchasers or other transferees of any portion of the real estate subject to the Maintenance declaration and that, upon such transfer, the Planning Department shall be notified in writing and provided with a copy of any changes or amendments to the Maintenance Declaration.
- f. A requirement that the Maintenance Declaration be referenced in all deeds to any lots served by the private way.
- g. If the private way subject to the Maintenance declaration is an extension of an existing private way which served lots created prior to November 1, 2006, a statement that the applicant for private way approval has contacted the owners of such lots, has offered them the opportunity to make their properties subject to the Maintenance Declaration and that they have either

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accepted or declined that offer; and that the Declarant has submitted to the Planning Department a notarized affidavit confirming the Declarant's compliance with this paragraph.

- h. An acknowledgement that all persons executing the Maintenance Declaration are aware that no lot served by the private way shall be sold and no building permit shall be issued for any lot served by the private way until the Maintenance Declaration is recorded in the Cumberland County Registry of Deeds.
- i. The maintenance declaration shall clearly reference, as identified on the plan, the lots to be served by the declaration.

A sample Maintenance Declaration is attached to this Ordinance as Appendix D

8. Private Way Road Infrastructure Design and Construction Standards

The design of the road and utility infrastructure shall be reviewed and approved by the Town Engineer.

a. Road Design

- 1. The road horizontal and vertical alignment design criteria shall comply with the requirements of the Residential Access Street classification in the Street Acceptance Ordinance. The length shall be measured as shown on drawing number 2 in Appendix D.
- a. A dead end private way shall provide a hammerhead end treatment. The hammerhead shall be shown on the plan to be recorded at the Cumberland County Registry of Deeds.
 - i. The hammerhead end treatment for a private way that provides required street frontage for a cumulative total of six (6) or fewer lots shall be configured to allow a fire truck to turn around in compliance
 - ii. with Section IX(I)10. The location of the hammerhead shall be located at or past the furthest driveway of the approved lots from the existing public road. The furthest driveway may be used for the short perpendicular leg of the hammerhead turn around. The required infrastructure for the short leg of the hammerhead outside of the right of way shall be contained within an easement of an approved dimension by the Town Engineer for emergency vehicle maneuvering.
 - iii. The hammerhead end treatment for a private way that provides required street frontage for a cumulative total of more than six (6) lots shall conform to the alignment and dimensional standards in the Street Acceptance Ordinance. The location of the hammerhead shall be located past the furthest driveway of the approved lots from the existing public road. Lot access shall not be allowed from the hammerhead. The hammerhead road infrastructure shall be contained within the road right of way in compliance with the Street Acceptance Ordinance.
- 2. The road typical section shall comply with drawing number 1 in Appendix D. The intersection of the private road at a Town Way shall be paved and comply with drawing number 4 in Appendix D.
- 3. All intersections of a private way, whether existing or proposed, with a Town or other private way shall comply with the Maine Department of Transportation standards for

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intersection sight distance. The submitted analysis shall be prepared by a Professional Engineer, or Surveyor, licensed by the State of Maine, qualified for such analysis.

4. The location of a driveway for access to a lot may cross a no disturb buffer, but the amount of disturbance shall be kept to a minimum. However, a driveway located through a wetland may be subject to the State of Maine Natural Resource Protection Act and/or Army Corp of Engineers wetland filling requirements.

b. Utilities Location & Design

1. The location of utilities to service the lots shall comply with drawing number 3 in Appendix D. If power, telephone and cable TV service is overhead, the pole alignment shall maintain a minimum offset distance from the edge of travel lane to the face of the pole of 7 feet. The design of the utilities shall comply with the requirements of the utility companies providing service.
2. A stormwater management plan must be prepared identifying specifications of the stormwater management infrastructure. The plan shall be prepared by a Professional Engineer licensed by the State of Maine. The stormwater infrastructure shall be designed for a 25-year, 24-hour storm recurrence interval, and shall include green infrastructure and low impact practices.
3. The Town Engineer may require a street light at a proposed intersection with a Town Public Way when the private way provides required street frontage for a cumulative total of more than six (6) lots. When required by the Town Engineer, the street light fixture and configuration shall comply with the Town's street light policy. The cost of installation and maintenance shall be borne by the owners of the lots which acquire their required street frontage from the private way and identified in the maintenance declaration.

c. Construction Standards

1. All materials and construction of the road and drainage infrastructure shall comply with the requirements of the Street Acceptance Ordinance or specific utilities standards. An (E&S) erosion control management plan and narrative must be prepared, submitted and must comply with requirements set forth in Chapter 420 the Town of Scarborough Erosion and Sedimentation Control at Construction Sites Ordinance. The (E&S) plan shall describe a sequence of actions and timelines for the control, containment and disposal of disturbed soils by the use of appropriate erosion control (BMP's) best management practice during the construction period. Erosion control BMP's shall comply with the Maine Erosion & Sedimentation Control BMP Manual prepared by the Maine Department of Environmental Protection,
2. The construction of the road shall be inspected by a Professional Engineer licensed by the State of Maine. The engineer shall provide a signed written report to the Town Engineer that in his opinion the construction is in compliance with the Road Infrastructure Design and Construction standards and the fire department protection design standards. The report shall attach documentation supporting compliance with the Town's specifications such as granular material gradations, compaction test results, storm drain material specifications, etc.

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d. Easements

1. Utility easements shall be provided consistent with the standards of the utility companies providing service. In addition, easements shall be provided for the road drainage infrastructure where it exceeds the private right of way and that will be maintained under the maintenance agreement for the private way. All easements must provide metes and bounds line data with type & recipient identified on the plan to be recorded. If any easements are to be granted to the Town of Scarborough, the applicant shall prepare and record easement deeds to the Town of Scarborough; the language of the easement deed shall be approved by the Town prior to recording. The Planning Department is hereby authorized to accept such easement deeds on behalf of the Town.

e. Private Way Road & Development Name

1. The road and development name of the private way shall comply with the Town of Scarborough Ordinance Chapter 309, "Street/Development Name & Number Ordinance" regulating street & development names and numbering system. The initial cost and maintenance replacement for installing the private street and stop sign shall be the responsibility of the applicant. The design and installation of the signage shall comply with the Public Works standards.

9. Natural Resource Mapping and Identification

1. The application for a private way shall include wetland delineation in conformance with the Army Corp of Engineers wetland classification standards and prepared by a qualified wetland specialist in such identification work. On each lot which acquires its frontage from the private way, the boundary line for the wetlands on the lot shall be delineated on the recording plat, and the boundaries of the no-disturb buffer, as defined in Section IX(I)(3), shall be marked on the lot by permanent markers located and set by a Professional Land Surveyor, licensed by the State of Maine. Permanent markers shall consist of 3'-0" x 3/8" diameter reinforcing bars installed with a 9"-12" projection above grade. The iron reinforcing bars shall be fitted with RED plastic caps inscribed with the words, "No Disturb Buffer". Markers shall be located at all angle points as well as equidistant points at a maximum spacing of 50ft. Additionally, a split rail fence, or some equivalent hard landscape feature, may be required by the Planning Department as part of the review of a building permit application by the Town of Scarborough Planning Department Staff. The building permit application shall include a detailed site specific development plan at a scale of 1inch=20ft, or a scale approved by the Town Engineer. The site plan shall include the property lines, proposed and existing easements, building envelop, existing and proposed tree clearing limits, location of the no disturb buffer and markers, the house and driveway, and sewer, water, electrical and telephone services, and any other site improvement.

10. Fire Protection Infrastructure Standards

1. Fire protection infrastructure standards shall be required when a road is required to be constructed by Section IX(I)4d and shall be in compliance with the following National Fire Protection standards.

a. Access

- i. A private way shall provide a minimum unobstructed width of 20 feet with an unobstructed vertical clearance of 13 feet-6 inches.

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- ii. The road within the private way shall provide sufficient width for fire apparatus to execute a turning maneuver with a minimum 50 feet outside radius.
 - iii. Any dead-end private way greater than 150 feet in length shall provide a hammerhead turnaround.
 - iv. The road shall be able to support the imposed fire apparatus load of 70,000 lbs.
 - v. If fire protection infrastructure for the project requires underground fire tanks, a 30 ft by 50 ft easement to the Town shall be required.
- b. Fire Suppression Water Supply
- i. Fire hydrants shall be required in those areas of Scarborough that are served by either the Portland Water District or the Biddeford & Saco Water Company. Hydrants located within a private right of way shall be considered private hydrants and shall be the responsibility of the residents of the lots which acquire their required street frontage from the private way. Fire hydrant installations shall meet the following requirements.
 - a. The hydrant shall be installed approximately every 500 feet. The exact location shall be determined and approved by the Fire Department prior to installation.
 - b. Hydrants are to be installed in accordance with the National Water Works Association and the local water utility requirements. c. Hydrants shall be located 7-8 feet behind the face of curb, edge of pavement or edge of travel lane. This dimension shall be measured to the front cap on the main steamer port of the hydrant.
 - d. All hydrants shall be inspected and flow tested prior to approval by the Fire Department as ready for service.
 - e. A 5 feet wide level work area shall be provided around the hydrant.
 - ii. Underground storage tank systems are required in those areas of Scarborough that are not served by a public water supply. The underground fire storage tank system shall meet the following requirements.
 - a. Each system shall be installed approximately every 1200 to 1400 feet along the proposed road system. The exact location shall be determined and approved on site by the Fire Department prior to installation.
 - b. Each system installation shall provide a minimum capacity of 10,000 gallons and designed and installed in accordance with the Scarborough Fire Department Fire Suppression Underground Fire Storage Tank Requirements, which are available from the Fire Department.
 - c. Each system installation shall be inspected prior to approval by the Fire Department as ready for service.
 - iii. The installation of a residential sprinkler system may be considered by the Fire Department as an alternative to an installation of hydrants or underground storage tank systems. The approval, of the use and specific sprinkler system, shall be determined by the Fire Department on a case-by-case basis.

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- iv. Ownership of the fire suppression water supply shall depend on the required system. A hydrant system connected to a water utility shall be owned by the owners of the lots which acquire their required street frontage from the private way in compliance with the particular water utility standards. Maintenance of the hydrants shall be the responsibility of the lot owners and the details of the maintenance shall be made part of the maintenance declaration required in Section IX(I)7 Maintenance Agreement. An underground storage tank system shall be owned and maintained by the Fire Department once the system has been approved by the Fire Department as ready for service and the required underground storage tank system easement deed to the Town, has been accepted by the Town.

11. Fees

- 1. An application fee shall be paid at the time of submission to the Planning Department. The fee is listed in Chapter 311, Schedule of Fees, of the Town Ordinances. The applicant is responsible for the cost incurred by the Town for assistance provided to the Town for review of the application by consultants.

J. PERFORMANCE STANDARDS – ACCESSORY UNITS [11/05/03][Amended 02/15/12][Amended 07/19/2023]

The following standards are intended to allow the addition and use of one accessory unit to a single family dwelling in a manner that will preserve the single family residential character of the property and neighborhood. The Code Enforcement Officer may issue a permit for the construction on an accessory unit only if the Accessory Unit adheres to the following standards:

- 1. The owner(s) of the lot on which the principal structure is located must reside in the principal structure or the accessory unit, either of which residence may be seasonal. An accessory unit may be located on a lot which the owner occupies as a seasonal residence; however, neither the accessory unit nor the single-family dwelling shall be rented for less than 28 continuous days. For this purpose, “season” means any three consecutive months during a twelve (12) month period.
- 2. The number of occupants of the accessory unit is limited to two.
- 3. The living space of an accessory unit shall be a minimum of 190 square feet and not exceed the following percentage of living space of the single family dwelling to which the unit is accessory or the following maximum amounts, whichever are applicable:

If the living space of the single family dwelling is:	The living space of the accessory unit shall not exceed:
Under 2,000 sq. ft.	40% or 750 sq. ft., whichever is greater
2,000 sq. ft. or more, but less than 3,000 sq. ft.	35% or 750 sq. ft., whichever is greater
3,000 sq. ft. or more, but less than 5,000 sq. ft.	30% or 1,050 sq. ft., whichever is greater
Over 5,000 sq. ft.	20% or 1,500 sq. ft., whichever is greater

- 4. Accessory dwelling units are exempt from density requirements or lot area requirements related to the area in which the accessory dwelling unit is constructed.
- 5. Accessory dwelling units are exempt from rate of growth permit requirements.

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6. Only one accessory unit per principal structure shall be permitted on a lot.
7. An accessory dwelling unit may be constructed only: a) Within an existing dwelling unit on the lot; b) Attached to or sharing a wall with a single-family dwelling unit; or c) As a new structure on the lot for the primary purpose of creating an accessory dwelling unit.
8. Accessory units are permitted on nonconforming lots, but the structures in which they are located (attached or detached), shall meet the lot coverage requirements for the district in which they are located.
9. Any new structure constructed on the lot to be an accessory dwelling unit must meet the existing dimensional requirements as required by the municipality for an accessory structure.
10. Proper ingress and egress shall be provided to the accessory unit.
11. Attached and internal accessory units shall retain and respect the existing streetscape, character of the neighborhood, and preserve the single-family appearance, architectural style, and character of the original dwelling and property. Outside stairways (either open or closed) that service accessory units on upper stories are permitted, provided that they are integrated into and consistent with the architecture of the building. Outside stairways serving upper stories shall not be located on the side of the building that faces the street, except in the case of a building on a corner lot that fronts two or more streets, a stairway may be allowed on one of the sides of the building that faces a street if no reasonable alternative exists.
12. All municipal and state buildings codes in effect at the time of application must be followed.
13. An applicant for a permit for an accessory unit may also apply to the Zoning Board of Appeals for a limited reduction of yard size under Section V.B.5 of this Ordinance where such reduction is reasonably necessary to allow construction of the accessory unit.
14. Should the owner(s) of the principal structure be found in non-compliance with the standards contained in this section, the non-compliance shall be considered a violation of this Ordinance, and the structure shall revert to a single family dwelling or the previous use.
15. For an accessory dwelling unit located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit, dimensional requirements and setback requirements must be the same as the dimensional requirements and setback requirements of the single-family dwelling unit.
16. In order for an accessory unit to be located in a detached accessory structure, the following requirements must be met: [09/05/07]
 - i. The detached accessory structure must be located no further than 100 feet from the nearest point of the principal structure;
 - ii. The detached accessory structure must be designed and constructed in the style of a garage, barn, storage building, carriage house, accessory cottage, or similar structure customarily located on the same lot with a single-family residence.
17. For an accessory dwelling unit permitted in an existing accessory building or secondary building or garage as of July 1, 2023, the required setback requirements apply.
18. The accessory unit and the principal structure must be serviced by common utility meters, unless the utility company providing the service refuses to do so. Should a utility company be unwilling to service the accessory unit with a common meter, the applicant must provide the Code Enforcement Officer with a letter signed by the utility company so stating, with specific reasons for the refusal.
19. In order for an accessory unit to be added to an unsewered lot, the lot must comply with the requirements of the state minimum lot size law, 12 M.R.S.A. §§ 4807 – 4807-G for multiple unit housing as well as all the provisions of the Maine State Plumbing Code and the Town of

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Scarborough Plumbing Ordinance. The applicant shall have the burden to establish the lot area, which burden may include a survey signed and sealed by a Professional Land Surveyor, at the discretion of the Code Enforcement Officer. The septic system on the property in question shall be functioning properly at the time of application for accessory unit approval.

20. The owner of an accessory dwelling unit must provide written verification that each unit of the accessory dwelling unit is connected to adequate water and wastewater services prior to certification of the accessory dwelling unit for occupancy or similar type of approval process.

Written verification must include the following:

- i. If an accessory dwelling unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;
- ii. If an accessory dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with Subsurface Wastewater Disposal Rules.
- iii. If an accessory dwelling unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and
- iv. If an accessory dwelling unit is connected to a well, proof of access to potable water. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

K. PERFORMANCE STANDARDS – HOSPICE (Amended 08/17/05)

In the RF, RFM, R2, R3, R4, VR2, and VR4 zoning districts, the Board of Appeals may issue a special exception for the establishment of a hospice facility. In addition to meeting the standards for special exceptions in Section IV(I)4, the following standards shall also apply to any hospice facility.

1. The minimum lot area shall be four times the required minimum lot area for the zoning district in which it is proposed, except in the Rural Residence and Farming District in which the required minimum lot area shall be 5 acres.
2. Notwithstanding Section IX(A)(15)(a) of this Ordinance, buildings containing hospice facilities may be up to three (3) stories in height, provided it does not exceed thirty-five (35) feet in height.
3. The facility must be served by both public water and public sewer, excepting hospice facilities located in the RF zoning district.
4. The facility shall conform to the minimum yard requirements for the zoning district in which it is located, but greater setbacks and buffering, and lesser building coverage and total impervious coverage limitations, may be required by the Zoning Board of Appeals to meet the standards for special exceptions.

L. PERFORMANCE STANDARDS – ADDICTION TREATMENT FACILITY (Amended 11/16/05)

The following standards shall apply to all Addiction Treatment Facilities:

1. No addiction treatment facility shall be located where the patient entrance to the treatment facility would be closer than 1,500 feet, measured in a straight line without regard to intervening structures, objects or municipal boundaries, to the nearest point on the boundary of any property which is located in a residential zone.

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2. No addiction treatment facility shall be located where the patient entrance to the treatment facility would be closer than 1,000 feet, measured in a straight line without regard to intervening structures or objects, to the nearest boundary of any property which is occupied by a residence, school, playground, park, day care center or nursery school, or is owned by the Town of ScarboroughA

M. PERFORMANCE STANDARDS – HIGH TECHNOLOGY FACILITIES [adopted 04/16/08][Amended 07/18/12]

All high technology research facilities, light assembly, and light manufacturing uses permitted in the B2, B3, BOR, RH, RH2, CPD, I and HP districts may be undertaken only after the Planning Board has reviewed and approved the use in accordance with the Site Plan Review Ordinance and if the Planning Board finds that the proposed use, with any reasonable conditions the Planning Board deems necessary, will conform to the following standards and requirements:

1. The use will not create any unhealthy or offensive smoke, dust, odor, or airborne discharge;
2. The use will not create any offensive noise or vibration to abutting landowners;
3. The use will not involve the handling, storage, or disposal of hazardous waste material in a manner that will threaten public health;
4. The use will not include any outdoor storage of equipment or material;
5. The use will not create unsafe traffic conditions or excessive traffic that would either adversely affect neighborhood character or unduly burden the ability of the Town to maintain the existing roads;
6. The design and external appearance of any proposed building and site improvements will constitute an attractive and compatible addition to its neighborhood and be consistent the Design Standards for Scarborough’s Commercial Districts;
7. All activities associated with the use(s) shall take place entirely within its principal structure(s)

M.1. PERFORMANCE STANDARDS – RESEARCH, DEVELOPMENT, AND LIGHT INDUSTRIAL USES [Adopted 06/20/12]

For any research, development, and light industrial use that requires review under the Site Plan Review Ordinance, in addition to compliance with the Site Plan Review Ordinance and all other requirements of this ordinance, the Planning Board shall find that the use will conform to the following performance standards:

1. The use will not create any unhealthy or offensive smoke, dust, odor, or airborne discharges;
2. The use will not create any offensive noise or vibration to abutting landowners;
3. The use will not involve the handling, storage, or disposal of hazardous waste material in a manner that will threaten the public health; and
4. The design and external appearance of the proposed buildings, structures, and site improvements will constitute an attractive and compatible addition to the neighborhood and be consistent with the Town’s commercial design standards.

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M.2. PERFORMANCE STANDARDS – FOOD PROCESSING FACILITIES IN THE HAIGIS PARKWAY DISTRICT [Adopted 07/15/15]

Food processing facilities permitted in the HP District may be undertaken only after the Planning Board has reviewed and approved the use in accordance with the Site Plan Review Ordinance and has found that the proposed use will conform to the following performance standards and locational requirements:

1. The food processing facility shall be located within two thousand two hundred fifty (2250) feet of the point of intersection of the centerlines of Scottow Hill Road and the Haigis Parkway;
2. The food processing facility shall be sited in a location, and designed in a manner, that is compatible with surrounding uses. This may include the need for screening and buffering between the facility and adjacent uses and properties. The buffering and visual screen may include the preservation of natural vegetation, new landscaping, berms or other means to fulfill this standard;
3. The design and external appearance of the food processing facility and site improvements will constitute an attractive and compatible addition to the zoning district and be consistent with the Design Standards for Scarborough's Commercial Districts;
4. The facility will not create any unhealthy or offensive odor, emissions or other airborne discharges;
5. The facility will not include any outdoor storage of equipment, materials or processing byproduct or waste; and
6. The facility will not create any offensive noise or vibration to abutting landowners.

M.3. PERFORMANCE STANDARDS – SMALL BATCH PROCESSING FACILITIES [Adopted 10/07/15]

Small batch processing facilities may be undertaken only after the Planning Board has reviewed and approved the use in accordance with the following performance standards and requirements:

1. Small batch processing facilities shall be limited to no greater than 5,000 square feet of floor area including any accessory uses, such as a retail area, a tap room, sampling area, storage or warehousing;
2. The design and external appearance of the small batch processing facility and site improvements will constitute an attractive and compatible addition to the neighborhood, shall be of a scale of, and compatible with, other non-residential uses allowed in the same zone, and will be consistent with the Design Standards for Scarborough's Commercial Districts;
3. The facility will not create any unhealthy or offensive odor, emissions, dust or other airborne discharges;
4. The facility will not include any outdoor storage of equipment, materials or processing byproduct or waste;
5. The facility will not create any offensive noise or vibration, heat or glare to abutting landowners; and

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6. The facility will not create unsafe traffic conditions or a volume of truck traffic in excess of other non-residential uses allowed in the same zone that would either adversely affect neighborhood character or be incompatible with abutting properties or uses.

N. PERFORMANCE STANDARDS – SMALL WIND ENERGY SYSTEMS [Adopted 07/15/09]

Small wind energy systems (SWES) are considered accessory uses and structures in all districts except the Resource Protection District (as delineated in the Shoreland Zoning Ordinance for the Town of Scarborough). The Code Enforcement Officer may issue a building permit for the installation and operation of a SWES provided the following performance standards are met. A SWES which complies with the performance standards of this section is not subject to the space and bulk regulations of the zoning district in which it is located.

1. Space and Bulk –

- a. **Number of SWES** – With the exception of SWES allowed per subsection N.(12) below, the number of SWES shall be limited as follows:

On lots less than one (1) acre in size a maximum of one (1) SWES is permitted per lot;

On lots one (1) acre to five (5) acres in size a maximum of two (2) SWES is permitted per lot;

On lots greater than five (5) acres in size, there is no maximum number of SWES per lot.

SWES, and the number of systems, shall be designed, sized and installed to generate energy only for the building(s) located on the same lot. This standard is not intended to prohibit the transfer of excess energy to the power grid.

- b. **Height** – The height of a SWES shall be limited to one hundred and seventy-five (175') feet. SWES height shall be measured from the average elevation of the finished grade at the base of the tower to highest point of the SWES.
- c. **Setbacks** – The SWES shall be set back a minimum 75% of the system's height, as measured per subsection N.1.b. above, from all property lines or shall comply with the minimum front, side or rear yard setback requirements of the zoning district in which it is located whichever is greater. The Code Enforcement Officer may relax the 75% of the SWES height setback standard if the applicant secures a restrictive easement(s) from the abutting property(s) that allows for a lesser setback. The restrictive easement shall restrict the uses and structures within the easement area so as to allow the SWES to be located closer to the property line than the 75% requirement above. A restrictive easement from an abutting property shall not however enable a SWES to be sited closer to the abutting property line than the minimum front, side and rear yard setback requirements of the zoning district.
- d. **Town Exemption** – A SWES located on property owned by the Town of Scarborough shall not be subject to the Space and Bulk Standards listed above, provided the purpose of the SWES is to reduce energy consumption and energy costs for public buildings and provided the plans for the SWES are approved by the Town Council after public notice, notice to abutters and public hearing

2. **SWES Energy Generation** – SWES shall be limited to a power generation capacity of 20 kilowatts in residential districts and 60 kilowatts in commercial and industrial districts.

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3. Design and Aesthetics –

- a. **Tower** – The new installation of a tower for a SWES designed to generate electricity shall be a monopole-style tower (freestanding or guyed wire). The new installation of a lattice tower shall be allowed for SWES designed to pump water. Electricity generating SWES affixed to lattice towers existing as of June 26, 2009, that otherwise comply with this subsection shall be permitted.
- b. **Color** – SWES shall be a non-reflective, neutral color (light gray, white, brushed aluminum etc.)
- c. **Signage** – SWES shall not display signage or other forms of advertising, except warning, direction and manufacturing labels, none of which shall exceed six (6) square feet in area.
- d. **Appendages** – Appendages to a SWES tower may be permitted, but are limited to appendages that will not affect the normal operation, safety or stability of the SWES.

4. Safety –

- a. **Access** – Any climbing apparatus on a SWES tower shall be a minimum of eight (8') feet from the ground.
- b. **Blade Clearance** – The SWES's blades shall not rotate to within ten (10') feet of the ground at their lowest point.

5. **Lighting** - Exterior lighting on a SWES may be permitted but the lightings placement on the SWES shall comply with the maximum building height limit of the zoning district in which the SWES is sited, except for lighting that may be required by the Federal Aviation Administration.

6. **Electrical Service** - Electrical wiring and connections from the wind energy system to the building(s) they serve shall be underground, unless an applicant demonstrates to the Code Enforcement Office that the subsurface conditions of a particular site makes the installation of an underground electrical service impracticable.

7. Noise –

- a. **Over-Speed Control** - The SWES shall be equipped with both a manual and automatic brake, governing, furling or feathering mechanism that controls and moderates the rotation of the system's blade and prevents over-speed. Conformance with this requirement shall be confirmed and documented by the wind energy system's manufacturer.
- b. **Db(A) Level** – The SWES shall be designed and operated to not exceed 20 db(A) above the ambient noise level at the closest property line. After approval and installation of the SWES, the Code Enforcement Officer may require the applicant to perform sound measurements to determine conformance with this standards.

8. **Foundation** – The foundation design for a SWES shall comply with the SWES manufacturer's minimum standards regarding the specific wind energy system and the soils type at which the installation is proposed.

9. **Submission Requirements For Permitting** - A plot plan; specifications and an illustration of the SWES provided by the manufacturer; a detailed description of how the SWES, and the lot on which it is proposed, complies with the performance standards of this subsection N; structural drawings of the wind tower, base and foundation prepared by the manufacturer or a professional engineer; and electrical and building permit applications shall be submitted prior to Code Enforcement review and approval.

10. **Meteorological Tower** – As defined in Section VI. Definitions of the Zoning Ordinance, meteorological towers are structures intended to collect data to determine the appropriate siting of a

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SWES. These towers are permitted as a temporary use to remain installed for a maximum of two (2) years. The Town encourages applicants interested in installing SWES to first collect the necessary data through the use of a meteorological tower or other appropriate device to help determine the appropriate location and height for a SWES as well as to ensure a SWES is a worthwhile investment on the subject property. Meteorological towers shall comply with the SWES performance standards of this subsection with the exception of subsection N.3.a Tower, subsection N.3..b. Color and subsection N.6. Electrical Service.

11. Removal Requirements –

- a. Unsafe SWES** – A SWES that is found to be unsafe by Code Enforcement shall either be repaired to correct the safety issue or shall be removed by the property owner.
- b. Abandonment** – A SWES that is not working or is not being used for a consecutive twelve (12) month period shall be removed by the property owner.

12. SWES within Common Open Space – To the extent permitted by applicable state and/or federal law, SWES may be allowed by the Planning Board within the common open space of a residential subdivision reviewed under Section VII. or Section VIIA. of the Zoning Ordinance, subject the following requirements:

- a.** The open space shall be of sufficient size and dimensions to accommodate the SWES(s) and the 75% setback requirement of subsection.N.1.c. above, within the boundaries of the open space.
- b.** The installation of a SWES, and necessary associated improvements, shall not impact wetlands or otherwise compromise the intent of a conservation subdivision to protect wetlands or other natural resources.
- c.** The SWES shall comply with all the performance standards other than subsection N.1. Number of SWES, and shall require Planning Board approval of the location of the SWES within the subdivision prior to application to Code Enforcement. The number of SWES shall be determined by the Planning Board and shall be based on the forecasted energy consumption of the dwellings and uses with the subdivision as well as the site’s ability to comply with subsection 12.a. and 12.b. a. above.

O. PERFORMANCE STANDARDS – SOLAR ENERGY SYSTEMS

Solar energy systems are considered accessory uses and structures in all residential, mixed use, commercial and industrial districts in the Town of Scarborough. The Code Enforcement Officer may issue a building permit for the installation of a solar energy system provided the following performance standards are met. Solar energy systems include photovoltaic, solar hot water, and solar space heating.

1. Roof and Building Mounted Solar Energy Systems -

- a.** Roof mounted solar energy systems shall conform to the maximum building height restrictions within the district in which it is located;
- b.** The solar energy systems shall be designed, sized and installed to only generate electricity, hot water, or heat for the building(s) located on the same lot. This standard is not intended to prohibit the transfer of excess energy to the power grid.
- c.** Electrical, plumbing and/or building permits from Code Enforcement shall be required.

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2. Ground Mounted Solar Energy Systems (Solar Arrays) -

- a. The maximum height of a ground mounted solar energy systems shall be a twenty (20) feet. The height of a ground mounted solar energy system shall be measured from the ground level at the base of the solar energy system to its highest point, including the system's pedestal. [amended 01-20-16]
- b. Ground mounted solar energy systems shall conform to the yard requirements of the applicable zoning district or be setback a distance equal to the total height of the system, whichever is greater.
- c. Electrical wiring and connections from the solar energy system to the building(s) they serve shall be underground.
- d. The solar energy systems shall be designed, sized and installed to only generate electricity, hot water or heat for the building(s) located on the same lot. This standard is not intended to prohibit the transfer of excess energy to the power grid.
- e. Electrical, plumbing, and/or building permits from Code Enforcement shall be required.

3. Solar Energy Systems within Common Open Space – To the extent permitted by applicable state and/or federal laws, solar energy systems may be allowed by the Planning Board within the common open space of a residential subdivision subject to the following requirements: [adopted 01-20-16]

- a. The solar energy systems within common open space shall comply with the performance standards 2.a., 2.c., and 2.e. of the subsection above.
- b. If proposed within a conservation subdivision required under Section VII.A. of this Ordinance, the installation of solar energy systems, and any necessary associated improvements, shall avoid impacting wetlands within the subdivision open space areas.
- c. The location and number of solar energy systems shall be determined by the Planning Board and shall be based on the forecasted energy consumption of the dwellings and uses within the subdivision as well as the site's ability to accommodate these systems without impacting the other purposes of the common open space.

O.1 PERFORMANCE STANDARDS – UTILITY-SCALE SOLAR ENERGY SYSTEMS [Adopted 10/21/2021][Amended 11/03/2021][Amended 10/05/2022]

The purpose of these standards is to allow for the appropriate siting of Utility-Scale Solar Energy Systems as a clean, renewable energy source and to help promote sustainable initiatives in town. The intent is to facilitate the effective and efficient use of Solar Energy Systems while protecting the public health, safety, and welfare of Scarborough Citizens.

All Utility-Scale Solar Energy Systems are considered principal uses and structures in the RF, RFM, I, LI. For purposes of this Ordinance. Utility-Scale Solar Energy Systems shall meet the following: (a) a commercial facility with primary purpose to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means; (b) is a system that is designed primarily to export energy to the electrical grid; and (c) produces not less than one megawatt and not more than five megawatts of electricity.

All Utility-Scale Solar Energy Systems may be undertaken only after the Planning Board has found that the proposed use will conform to the following performance standards requirements:

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1. Dimensional Requirements:

- a. Height - Utility-Scale Energy Systems shall conform to the building/structure height requirements of the zoning districts in which they are permitted, not to exceed 20 feet.
 - b. Setbacks - The minimum setback shall conform to the requirements of the zoning district or 50 feet from lot line, whichever is greater. Setbacks shall be measured from the edge of the perimeter fence enclosure to the property boundary.
 - i. For Utility-Scale Solar Energy Systems constructed on a property with a closed and capped landfill and which is subject to a MEDEP Solid Waste permit which would restrict the installation of a fence at least 50 feet from the property boundary, the setback shall be 65-feet from the property boundary and is to be measured from the edge of the solar array to the property boundary. The perimeter fence is still required and shall be erected between the property boundary as allowed per MEDEP Solid Waste permit. [adopted 11-03-2021]
- Lot Size - The minimum lot size for a Utility-Solar Energy Systems shall be 25 acres.

2. Standards for Utility-Scale Solar Energy Systems:

- a. Utility Connections - Utility connections from the solar photovoltaic installation shall be placed underground, depending on appropriate soil conditions, shape and topography of the site, and any requirements of the utility provider.
- b. Visual Impact - Visual impacts shall be minimized by preserving natural vegetation, screening abutting properties, and protecting scenic resources. Buffer requirements of Section VIII. of the Zoning Ordinance shall apply.
- c. Natural Resources - Wetland, vernal pools, surface waters, and slopes greater than twenty percent (20%) shall be conserved. Whenever possible, the area surrounding the array shall be planted with native wildflower meadow seed mix to stabilize the soil, encourage infiltration of runoff and increase pollinator habitat. The Planning Board may allow limited crossings for driveways or utilities to provide access to an upland area that is otherwise deemed to meet all other standards for the development of a Utility-Scale Solar Energy System.
- d. Land Clearing and Erosion Control – Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of Utility-Scale Solar Energy Systems. Adherence to the provisions of the Maine Department of Environmental Protection’s Maine Erosion and Sediment Control Best Management Practices is mandatory. An erosion and sedimentation control plan and narrative is required, and must comply with requirements set forth in Chapter 420 Town of Scarborough Erosion and Sedimentation Control at Construction Sites Ordinance. Herbicide use is prohibited. No prime agricultural soil or significant volume of topsoil shall be removed from the site to install a Utility-Scale Solar Energy System or its accompanying infrastructure. Removal of mature trees is discouraged and the imposition of mitigation measures or restrictions on tree clearing shall be prescribed by the Planning Board in order to prevent habitat fragmentation of existing forested landscapes and to protect hydrological regimes and other essential ecosystem functions. In the event that a site’s vegetation is disturbed or must be removed to provide for solar access during the construction of the project, a revegetation plan is required and must be prepared by a qualified professional. The plan shall indicate the existing nature of the vegetation to be removed; describe revegetation activities and how they create beneficial

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habitat by using native vegetation in all disturbed areas of the site not used to achieve operational efficacy of the Utility-Scale Solar Energy System; and a maintenance plan. The Planning Board may approve an alternate revegetation plan that uses native vegetation but does not necessarily establish a beneficial habitat.

1. For projects removing one or more acres of continuous forested landscape the project shall be required to ensure the minimum setback area is vegetated at a density comparable to the pre-existing vegetated area that is to be removed, except for areas required for access crossing.
- e. Operations & Maintenance Plan – As part of a Utility-Scale Solar Energy System site plan, the project applicant shall include an operation and maintenance plan, which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.
- f. Enclosure – The Utility-Scale Solar Energy Systems shall be surrounded by a perimeter fence. Where applicable for screening from abutting properties in accordance with Section VIII of the Zoning Ordinance. The fence shall be constructed of high quality, long lasting materials incorporating an appropriate level of architectural design determine by the Planning Board. Where chain link fence is determined an appropriate use, the fence shall be either painted a dark color or coated with dark vinyl.
- g. Signage – Signs on Utility-Scale Solar Energy Systems shall comply with all applicable standards in this zoning ordinance. All sites shall be required, at minimum, to identify the system owner and provide a 24-hour emergency contact phone number at the entrance of the site.
- h. Emergency Services – The system owner of a Utility-Scale Solar Energy System shall provide a copy of the project summary, electrical schematic, and an emergency response plan. The system owner shall identify a responsible person for public inquiries throughout the life of the installation.
- i. Installation Conditions – The system owner of a Utility-Scale Solar Energy System shall maintain the facility in good condition. Maintenance shall include, but not be limited to painting, structural repairs, and integrity of perimeter fencing. Site access shall be maintained to a level acceptable to the Fire Chief. The system owner shall be responsible for the cost of maintaining the access road(s) unless the road(s) is accepted as a public way.
- j. Applicable Permitting – Prior to approval the Planning Board shall determine all applicable Federal and State permits have been received by the applicant. In addition, prior to the issuance of a building permit the applicant will need to provide an interconnection agreement from the energy provider.

3. Decommissioning and Removal of Utility-Scale Solar Energy Systems: [Amended 10/05/2022]

- a. Removal – Any Utility-Scale Solar Energy System that has reached the end of its useful life or has been abandoned consistent with this ordinance shall be removed. The system owner shall physically remove the installation no more than twelve (12) months after the date of discontinued operations. The system owner shall notify the Code Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

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1. Physical removal of all Utility-Scale Solar Energy Systems, structures, equipment, perimeter fencing, and transmission lines for the site.
 2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Code Enforcement Officer may allow the system owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
 - i. Projects removing one or more acres of continuous forested landscape, as noted in section 2.d.1 above, shall revegetate the same area where vegetation was removed and at a density comparable to the pre-existing vegetation. A revegetation plan shall be prepared by a qualified professional. The plan shall indicate the existing nature of the vegetation that was removed, describe revegetation activities, and include a maintenance plan. The revegetation plan shall be a component of the surety as required in section 3.c. below.
- b. Abandonment.
- i. Absent written notice of a propose date of discontinued operations or written notice of extenuating circumstances, a Utility-Scale Solar Energy System shall be considered abandoned when it fails to generate electricity for a continuous twelve (12) month period. Determination of abandonment shall be made by the Code Enforcement Officer. The Code Enforcement Officer shall notify the system owner of an abandoned facility in writing and order the removal of the facility within one hundred and twenty (120) days of receipt of the written notice. The system owner shall have forty-five (45) days from the receipt of the notice to demonstrate to the Code Enforcement Officer that the system has not been abandoned. If the system owner fails to show that the system is inactive operation, the system owner shall have ninety (90) days to reactivate the system or commence removal of the facility in accordance with the requirement of this provision.
 - ii. Failing to remove the system in accordance with the requirements of this Article is considered a violation of this Article. The Town retains the right to use any all legal or available means necessary to cause an abandoned, hazardous, or decommissioned Utility-Scale Solar Energy System to be removed.
- c. Surety – If the facility is not removed within the designated period. The Town may remove the facility at the owner’s expense. A copy of the relevant portions of a signed lease or other comparable signed legal instrument which requires the applicant to remove the Solar Energy System and associated facilities and reclaim the site upon abandonment or decommissioning shall be submitted as part of the application. Further, a surety shall be proved to the Town to guarantee the removal of an abandoned Solar Energy System, prior to the installation of the facility. The applicant must submit a sample form of surety with its application to pay for the costs of removing the facility if it is abandoned. The surety must be obtained and delivered to the Planning Department after approval of the application by the Planning Board and prior to construction.

4. Public Notification:

When an application is deemed to be complete, the Planning Department shall, at the applicant’s expense, give written notification to all abutting property owners within five hundred (500) feet

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of the parcel on which the proposed development is located of the date, time, and place of the meeting at which the application will be considered. Notification shall be sent at least ten (10) days prior to the first meeting at which the complete application is to be reviewed. Failure of any property owner to receive the notification shall not necessitate another hearing or invalidate any action of the Board. For the purposes of this Section, the owners of the abutting properties shall be considered to be the parties listed by the tax assessor for the Town of Scarborough. The Planning Board shall provide an opportunity for public comment prior to actin on an application.

P. PERFORMANCE STANDARDS – ACCESSORY AGRICULTURAL ACTIVITIES [Adopted 05/05/2010][Amended 09/02/2020; 10/18/23]

Accessory Agricultural Activities must be carried out in conformance with the following performance standards:

1. Chickens may be kept on a lot in accordance with the following standards:
 - a. Up to five (5) chickens may be kept on a lot with a lot area of less than ten thousand (10,000) square feet.
 - b. Up to ten (10) chickens may be kept on a lot with a lot area of ten thousand (10,000) square feet or more but less than forty thousand (40,000) square feet.
 - c. Any number of chickens may be kept on a lot with a lot area of forty thousand (40,000) square feet or more.
 - d. All chickens must be female unless on lots in the RF with a lot area of at least eighty thousand (80,000) square feet. [Amended 09/02/2020]
 - e. On lots with a lot area of less than forty thousand (40,000) square feet, the chickens must be kept in an enclosure or fenced area at all times. This requirement can be met through the use of a mobile enclosure or a so called “chicken tractor”.
 - f. The chickens must be confined within a henhouse during non-daylight hours.
 - g. The henhouse must be enclosed on all sides, have a roof and door, and the access doors must be able to be shut and locked. The henhouse must be constructed from substantial materials and be visually compatible with the property. The hen house must be setback from any property line at least fifteen feet or the minimum required setback for the district in which it is located, whichever is greater
 - h. The henhouse and enclosure must be maintained so that it is clean, dry, and odor free. All manure or other wastes must be stored in a fully enclosed structure or in airtight containers and must be periodically removed from the property or composted so there is no accumulation of waste material on the lot.
2. Small animals (such as sheep, goats, pot-belly pigs, or fowl that typically weigh not more than 100 pounds at maturity) other than domestic pets or chickens may be kept on a lot that has a lot area of at least 40,000 square feet.
3. Large animals (such as horses, cows, hogs, or llamas that typically weigh more than 100 pounds at maturity) may be kept on a lot that has a lot area of at least 80,000 square feet.
4. Any building or structure that is used to house animals other than domestic pets or chickens must meet the setback requirements for the zone in which it is located.

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5. The sale of any type of seafood may only be permitted by those who meet all Federal, State and municipal requirements to do so.
6. Accessory agricultural activities that include any type of seafood are not subject to site plan review, but do require a permit from the Zoning Administrator to verify licensing requirements and safe storage practices are in place.
7. The sale of products produced on the property or seafood caught or harvested by the owner in excess of what is consumed by the occupants of the property is permitted. The sales must occur in a designated area not more than twenty (20) square feet in area and may include a display stand or table. The stand or table may only be in place during the season when products are being sold and must be removed during the “off-season”.

Q. PERFORMANCE STANDARDS – COMMERCIAL AGRICULTURE AND COMMERCIAL ANIMAL HUSBANDRY INCLUDING PROCESSING [Adopted 05/05/2010]

Commercial Agriculture and Commercial Animal Husbandry must be carried out in conformance with the following performance standards:

1. A lot must have a lot area of at least one (1) acre to have any permanent agricultural buildings or structures.
2. Commercial Animal Husbandry is allowed only on lots with a lot area of two (2) acres or more.
3. Any building or structure that is used to house animals other than domestic pets and any facilities for the storage or handling of manure or materials that contain manure must conform to the setback requirements of the zone in which it is located. The facilities must be operated and maintained in accordance with the latest edition of the Maine Department of Agriculture’s Manual of Best Management Practices for Maine Agriculture.
4. Facilities for the processing of agricultural products must be designed and primarily used to process products raised as part of the Commercial Agriculture and/or Commercial Animal Husbandry use but the processing of other agricultural products not raised as part of the Commercial Agriculture or Animal Husbandry use is allowed provided that the processing facilities are accessory and subordinate to the principal agricultural use of the property.
5. Processing facilities must be operated and maintained in accordance with the latest edition of the Maine Department of Agriculture’s 01-001 Chapter 343 Rule, “Food Processing and Manufacturing” requirements.

R. PERFORMANCE STANDARDS – FARM STANDS [Adopted 05/05/2010] [Amended 10/18/23]

A Farm Stand must conform to the following performance standards:

1. A farm stand must be associated with and accessory to a Commercial Agriculture, Commercial Animal Husbandry or Commercial Fishing and Harvesting use.
2. A farm stand must be located on a parcel that is actively used for the Commercial Agriculture or Commercial Animal Husbandry use or in the case of Commercial Fishing and Harvesting, be the primary residence of the owner of the commercial operation.
3. A farm stand may be a free-standing structure or outdoor location or may be part of another building or structure (for example, an area in a barn or house that is used for sales).

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4. The total area devoted to retail sales is limited to four hundred (400) square feet. This includes the area of a free-standing building or structure, the area for outside display and/or sales, the outdoor area used for retail sales if there is no building or structure, and the area used for sales in another building.
5. The sale of products is limited to: a) those grown, raised, caught, harvested or produced by the Commercial Agriculture, Commercial Animal Husbandry or Commercial Fishing and Harvesting use with which the farm stand is associated, b) processed products that are made from products grown or raised by the agricultural use (for example, cheese or ice cream made from milk, yarn made from wool, processed foods such as apple butter or salsa made from items grown by the use, or baked goods made using items grown by the agricultural use), c) agriculture products including processed products that are not produced by the agricultural use with which the stand is associated, d) live or fresh fish, shellfish and lobsters, and e) handmade art and craft products.
6. The farm stand must be located on the parcel so that it meets side and rear setback requirements but a free-standing farm stand is not required to meet the front setback requirements.
7. The farm stand must be located so that it provides appropriate parking and access for customers. Customer vehicles must not be required to back out on to a public street.
8. The farm stand may be open for business only when it is selling products that are grown, raised, caught, harvested or produced as part of the Commercial Agriculture or Commercial Animal Husbandry use.
9. A farm stand is not subject to site plan review but does require a permit from the Zoning Administrator.

S. PERFORMANCE STANDARDS – AGRICULTURAL PRODUCTS STORES [Adopted 05/05/2010] [Amended 10/18/2023]

An Agricultural Products Store must conform to the following performance standards:

1. An agricultural product store must be associated with and accessory to a Commercial Agriculture, Commercial Animal Husbandry, or Commercial Fishing and Harvesting use.
2. A store must be located on a parcel that is actively used for the Commercial Agriculture and/or Commercial Animal Husbandry use or in the case of Commercial Fishing and Harvesting, be the primary residence of the owner of the commercial operation.
3. The primary vehicle access to the store must be from a street/road that is classified by the Town as an arterial, collector, or minor collector.
4. An agricultural products store may be a free-standing building or may be part of another building or structure (for example, an area in a barn or house that is used for sales)
5. A free-standing building used for retail sales or the area used for sales in another building is limited to one thousand (1,000) square feet of sales area. An additional outside area of not more than five hundred (500) square feet may be used for the display and/or sales of products. These limits shall not apply to greenhouses or areas for the growing and/or display of nursery stock or other plants for sale as part of the agricultural use.
6. The sale of products may include: a) those grown, raised, caught, harvested or produced by the Commercial Agriculture, Commercial Animal Husbandry or Commercial Fishing and Harvesting

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use with which it is associated, b) processed products that are made from products grown or raised by the use (for example, cheese or ice cream made from milk, yarn made from wool, processed foods such as apple butter or salsa made from items grown by the use, or baked goods made using items grown by the use), c) agriculture products including processed products that are not produced by the Commercial Agriculture or Commercial Animal Husbandry use with which the store is associated, and d) handmade art and craft products.

7. The building in which the store is located must meet the front, side, and rear setback requirements for the district in which it is located

8. The store must be located so that it provides appropriate parking and access for customers. Parking must be provided in accordance with the requirements of Section XI. for retail uses.

9. The store may be open for business only when it is selling products that are grown, raised, caught, harvested or produced as part of the Commercial Agriculture, Commercial Animal Husbandry or Commercial Fishing and Harvesting use.

10. The construction of a building or the conversion of an existing building for use as an agricultural products store is subject to minor site plan review.

T. PERFORMANCE STANDARDS – BED AND BREAKFASTS [Adopted 05/05/2010]

A Bed and Breakfast (B&B) must conform to the following performance standards:

1. A B&B that is located in a rural or residential zone must have its primary vehicle access from a street/road that is classified by the Town as an arterial, collector, or minor collector. This requirement does not apply to a B&B located in mixed-use or nonresidential zone.

2. The parking for a B&B that is located in a rural or residential zone may not be located in the required front yard.

3. A B&B that is located in a rural or residential zone shall maintain a residential character in the design of the building and site improvements including the location of parking.

4. If the lot on which the B&B is located abuts a lot that is in residential use, a vegetated buffer strip at least fifteen (15) feet in width shall be established and maintained between any parking or service areas and the property line. The buffer strip shall screen the parking and/or service areas from view from the abutting property.

5. The provision of food and beverage service is limited to the guests of the B&B during their stay.

6. The owner or manager of the B&B must reside in a dwelling unit within the B&B during times the B&B is open for business.

U. PERFORMANCE STANDARDS – COMMERCIAL OUTDOOR RECREATION [Adopted 05/05/2010]

A Commercial Outdoor Recreation use must conform to the following performance standards:

1. The primary recreational activity must occur in the outdoors.

2. Structural development must be limited to facilities and buildings that support the primary recreational activity and shall be the minimum necessary to accommodate the use. Buildings or structures may not be or house the primary recreational activity. Examples of allowed buildings and

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structures include maintenance and storage buildings, an office related to the use, rest rooms, an equipment rental building, a warming hut or club house, and facilities for the sale of refreshments to people using the facility.

3. All buildings, facilities and areas used for recreation activities must conform to the setbacks for the district in which it is located.
4. The use must provide adequate off-street parking that is appropriate for the anticipated use of the facility and that will prevent the parking of vehicles along public roads.
5. If the use will operate on a regular basis, an improved parking lot must be provided.
6. If the use will operate intermittently or will have increased use on an intermittent basis, parking for these times may be provided in unimproved or field type parking areas.
7. The recreational activity must not create any adverse impacts for abutting properties as a result of noise or odors.

V. PERFORMANCE STANDARDS – HOME OCCUPATIONS [Adopted 05/05/2010]

In those zoning districts where home occupation is allowed as a special exception, the Board of Appeals may issue special exception approval for the establishment of a home occupation. In addition to meeting the standards for special exceptions in Section IV.I.4 of this Ordinance, all home occupations must adhere to the following standards:

1. The occupation or profession shall be carried on wholly within the principal building or within a building accessory thereto.
2. The home occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes.
3. No more than one person who is not a resident of the dwelling unit shall be employed in the home occupation.
4. Exterior signage shall be permitted in accordance with the home occupation sign provisions under Section XII. Sign Regulations subsection E.
5. There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building (except as expressly permitted by the district regulations of this Ordinance). This prohibition shall not apply to the storage of lobster traps.
6. No nuisance shall be generated, including but not necessarily limited to offensive noise, vibration, smoke, dust, odors, heat or glare.
7. The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood.
8. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users or customers the home occupation may attract during peak operating hours.
9. The home occupation may utilize:

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- a. Not more than twenty percent (20%) of the dwelling unit floor area, provided that for the purposes of this calculation, unfinished basement and attic spaces are not included;
 - b. Unfinished attic and basement spaces; and
 - c. Space within an accessory building totaling not more than one thousand (1,000) square feet of floor area.
10. Home occupations may include retail sales subject to the following limitations:
- a. The total area devoted to retail sales is limited to four hundred (400) square feet and must be fully enclosed within a building.
 - b. The sale of products is limited to: products and articles produced, assembled or processed on the premises; and seafood caught or harvested off the premises by persons who reside in the dwelling unit or by the one employee permitted under paragraph 3 above.
11. A fisherman, lobsterman or shellfish harvester need not obtain home occupation approval except to engage in retail sales allowed under paragraph 10.b above.
12. Motor vehicle repairs and motor vehicle towing businesses are not allowed as home occupations.

W. PERFORMANCE STANDARDS – SMALL-SCALE ENERGY FACILITIES [Adopted 06/20/12; Amended 05/17/2023]

All small-scale energy facilities shall comply with the following performance standards:

1. The energy facility shall be accessory to a permitted use in the district in which it is located or shall be part of a planned development approved by the Planning Board.
2. The facility shall be designed and used primarily to provide power to the principal use or building to which it is accessory or the planned development in which it is located. This requirement is not intended to prohibit the sale of surplus power to the electric grid. [Amended 05/17/2023]
3. The generator, fuel storage, and related equipment shall be located in a fully enclosed building except for self-contained equipment, and wind or solar related elements of the facility. [Amended 05/17/2023]
4. The facility, including all buildings and elements located outside of a building shall be sited and designed to be compatible with the principal building or the overall planned development and located to the side or rear of the primary structure. [Amended 05/17/2023]
5. They shall be screened from public and private ways, main entrances, public spaces, and abutting residential neighborhoods. [Adopted 05/17/2023]
6. If the facility relies on a fuel source that is delivered by truck, the volume of truck traffic shall be compatible with the principal use/building or the planned development. The use of trash or refuse derived fuel (RDF) as the primary fuel source shall not be allowed.
7. The facility shall conform to the Town's performance standards for noise and odor.

X. PERFORMANCE STANDARDS – GASOLINE FILLING STATIONS [Amended 06/20/12]

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Gasoline filling stations, whether a principal or accessory use, shall comply with the following standards. These standards shall apply to all new gasoline filling stations and to existing gasoline filling stations which are expanded or enlarged by increasing the size of buildings or structures, by increasing the number of fuel pumps or by adding any of the activities or uses listed in subparagraph (f) below. New gasoline filling stations and gasoline filling stations which are expanded or enlarged by increasing the size of buildings or structures or by increasing the number of fuel pumps must also obtain site plan approval pursuant to the Scarborough Site Plan Review Ordinance.

1. A gasoline filling station shall be located on a lot of no less than 40,000 square feet or the minimum lot area required in the zoning district, whichever is greater. (09/19/01).
2. A gasoline filling station existing on October 5, 1992 which does not comply with the space and bulk regulations for the zoning district, does not comply with the requirements of subsection (a) above, or is not a permitted or planned development use within the zoning district shall be deemed a non-conforming use, which can be expanded or enlarged only in compliance with Section (III)(F) of this Ordinance. Otherwise, the lot on which a gasoline filling station is located and all buildings and structures used in connection with the gasoline filling station shall comply with all space and bulk regulations for the zoning district, and no variance shall be granted from any of them or from the requirements of subsection (a) above.
3. A gasoline filling station shall be served by public sewer and public water and shall provide public rest rooms, one for males and one for females, for use by customers.
4. There shall be at least one attendant on duty at all times when a gasoline filling station is open for business.
5. A gasoline filling station may include as accessory uses or may be operated as an accessory use to the following:
 - a. Retail sales. If a gasoline filling station is operated as an accessory use on a site containing a retail sales use or uses with a total retail floor area of greater than 30,000 square feet, the gasoline filling station shall be subject to the following additional conditions:
 - No curb cuts or access points to streets shall be allowed beyond those needed to serve the retail sales use or uses on the site, as determined by the Planning Board;
 - The gasoline filling station must be situated on the site in a well-landscaped location which minimizes its visibility from streets, as determined by the Planning Board.
 - b. Fully enclosed automobile repair and service facilities serving the general public.
 - c. Retail sale of propane gas, compressed natural gas or similar fuels.
 - d. Retail sales of automobile supplies and accessories for the convenience of travelers.
 - e. Hand washing of automobiles, or waxing, polishing, cleaning and detailing of automobiles in fully enclosed structures.
 - f. Restaurants.

As used in this Section, the term retail sales use includes businesses such as “wholesale clubs” which offer membership to the general public. (09/19/01)

6. A gasoline filling station may not include as an accessory use and may not be operated as an accessory use to the following:
 - a. Wholesale distribution, storage or sale of fuels.

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- b.** Automobile sales.
- c.** Automobile painting or body shops.
- d.** Junkyards or salvaging operations.
- e.** Distribution or transportation facilities or trucking terminals.
- f.** Hotels or motels.
- g.** Truck stops dispensing motor fuel primarily to trucks and similar commercial vehicles and/or providing overnight accommodations or food service for truck crews.
- h.** Facilities for servicing, storing or repairing commercial or fleet vehicles and which do not provide retail services to the general public.
- i.** Self-service, automatic or semiautomatic car washes.
- j.** Towing and wrecker service.

If any of the above uses or activities listed in this subsection (f) is permitted in the zoning district, it may be located on the same property as a gasoline filling station, but such use or activity and the gasoline filling stations shall be considered a principal use and each shall comply separately with all applicable requirements of this zoning ordinance.

7. If a gasoline filling station is part of a planned development that includes other buildings and uses, the gasoline filling station shall be integrated into the overall planned development in terms of the site design, the vehicular access and traffic circulation, the building orientation(s), and the building architecture.

8. A gasoline filling station shall provide the number of off-street parking spaces required for retail sales and services based on the floor area of the filling station, as per Section XI of this Ordinance. In addition, any accessory use allowed per subsection (e.) shall also provide off-street parking in accordance with the standards for off-street parking under Section XI.

9. Except as allowed in accordance with section IX.D. Accessory Outdoor Displays, the placement, storage or display of any goods, wares or merchandise outside the enclosed portions of the buildings or structures is prohibited. This subsection shall not prevent the placement at the fuel pump islands or products, such as motor oil, automotive fluids and wiper blades, which are dispensed or installed while vehicles are standing at the fuel pumps. (11/04/92)

10. All gasoline filling stations developed after September 20, 2001 shall be designed and constructed in accordance with the "Design Standards for Scarborough's Commercial Districts" adopted by the Scarborough Planning Board. [09/19/01]

11. Fuel pump canopies installed after September 20, 2001 must have a pitched roof and must be consistent with the "Design Standards for Scarborough's Commercial Districts" adopted by the Scarborough Planning Board. [09/19/01]

12. All gasoline filling stations developed after September 20, 2001 shall maintain a green strip buffer at least 15 feet in depth along the entire front lot line, except for driveway entrances, and along the entire rear lot line. Where the rear lot line abuts a lot located wholly or partly within a residential zone, the depth of the green strip buffer shall be increased to 30 feet. [09/19/01]

13. All gasoline filling stations developed or expanded after September 20, 2001 shall incorporate a storm water management system designed to contain fuel or other automotive fluids on site in the event of a spill. Such system must be reviewed and approved by the Town Engineer. [09/19/01]

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Y. MANUFACTURED HOUSING COMMUNITIES Adopted [07/20/2022]

- (1) Each manufactured home shall face and abut on a driveway or clear unobstructed space that provides access to a public street or privately owned road within a Manufactured Housing Community.
- (2) No manufactured home shall be permitted to be installed closer than 5 feet to the side lines which define the manufactured housing community lot, nor shall it be installed so that it is closer than 10 feet to any other manufactured home or to any building not on the same manufactured housing community lot.
- (3) The minimum lot area for Manufactured Housing Community lots shall be at least 2,100 square feet.
- (4) A Manufactured Housing Community must comply with the setback requirements that are applicable in the underlying zoning district.
- (5) Any proposed expansion of a Manufactured Housing Community must obtain either a special exception permit in zoning districts where a Manufactured Housing Community is a special exception, or approval through a miscellaneous appeal in zoning districts that do not permit Manufactured Housing Community.
- (6) A Manufactured Housing Community shall comply with the provisions of Chapter 1019.

Z. SINGLE FAMILY DWELLING UNITS

30-A MRSA §4364-A Permits up to four dwelling units per lot with the following stipulations. [Adopted 07/19/2023]

Dwelling Units Permitted		
Lot Status	Inside Growth Areas	Outside Growth Areas
Vacant	4 total dwelling units	2 total dwelling units
Contains one existing unit	2 additional units ¹	2 additional units ¹
Contains two or more existing units	No additional units	

¹ One additional dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each.

1. If more than one dwelling unit has been constructed on a lot as a result of the allowance under this section or section 4364-B Accessory Dwelling Units, the lot is not eligible for any additional increases in density.
2. All space and bulk standards shall apply in accordance with the corresponding zoning designation of the lot.
3. The owner of a housing structure must provide written verification to the municipality that the structure is connected to adequate water and wastewater services before the municipality may certify the structure for occupancy. Written verification under this subsection must include:

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- a. If a housing structure is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the structure and proof of payment for the connection to the sewer system;
 - b. If a housing structure is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42;
 - c. If a housing structure is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the structure, proof of payment for the connection and the volume and supply of water required for the structure; and
 - d. If a housing structure is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.
4. A housing structure must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, Chapter 3 and municipal shoreland zoning ordinances.
 5. This section may not be construed to exempt a subdivider from the requirements for division of a tract or parcel of land.
 6. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

AA. CANNABIS CULTIVATION FACILITIES, CANNABIS MANUFACTURING FACILITIES, AND CANNABIS TESTING FACILITIES[Adopted 09/04/2024]

1. Licensing. Persons or entities wishing to establish a Cannabis Cultivation Facility, Cannabis Manufacturing Facility, or Cannabis Testing Facility within the Town of Scarborough shall first obtain a license from the Scarborough Town Council and shall be subject to the provisions of the Cannabis Establishments Licensing Ordinance and this Ordinance.
2. Residential Property Setbacks. Cannabis Cultivation Facilities may not be located on property within 1,000 feet of the property line of a lot on which a dwelling is located in a Residential Zoning District, measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the residential property line and the closed portion of the structure or building in which the Cannabis Cultivation Facility is located; or within 1,000 feet of the front door of an existing single-family home in existence at the time of the adoption of this ordinance. A Cannabis Cultivation Facility licensed and operating prior to the adoption of this section that does not meet this performance standard may continue under the nonconformance provisions in Section III of this Ordinance.