

**MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 4, 2019
REGULAR MEETING – 5:30 P.M.**

Item 1. Call to Order. Chairman Johnson called the regular meeting of the Scarborough Town Council to order at 5:30 p.m.

Item 2. Pledge of Allegiance.

Item 3. Roll Call. Roll was called by Thomas J. Hall, Town Manager. The following Councilors were present:

Councilor John R. Cloutier	Councilor Jean-Marie Caterina
Councilor Peter F. Hayes	Councilor Kenneth M. Johnson
Councilor Betsy B. Gleysteen	Councilor Donald R. Hamill - Vice Chair
Chairman Paul M. Johnson	

Order No. 19-090. Act on the request for an executive session pursuant to Title 1 M.R.S.A. §405(6)(c) in consultation with legal counsel relating to the proposed Credit Enhancement Agreement. [Town Manager] Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval on the request for an executive session pursuant to Title 1 M.R.S.A. §405(6)(c) in consultation with legal counsel relating to the proposed Credit Enhancement Agreement, to come back to public session.

Vote: 7 Yeas.

The Town Council adjourned to executive session at 5:31 p.m. Chairman Johnson reconvened the meeting at 6:58 p.m. Chairman Johnson noted a correction on the executive session in that the Statute reference had been correct, but the reason should discussion on economic development.

Item 4. General Public Comments.

- Susan Hamill of Bay Street stated that she appreciated what the Council does and didn't realize how much time it took to serve on the Council. She spoke on the Revaluation; the Library expansion and the 2021 Budget season.

Item 5. Minutes: November 20, 2019 - Regular Town Council Meeting. Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval of the minutes of the November 20, 2019, regular Town Council meeting.

Vote: 7 Yeas.

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

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

Order No. 19-091, 7:00 p.m. Public hearing and action on the new request for a Food Handlers License from Zhiyong Chen, d/b/a CJ Asian Inc., located at 426 US Route One, Suite #2. [Town Clerk] The Town Clerk gave a brief overview on this Order. Chairman Johnson opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:04 p.m.

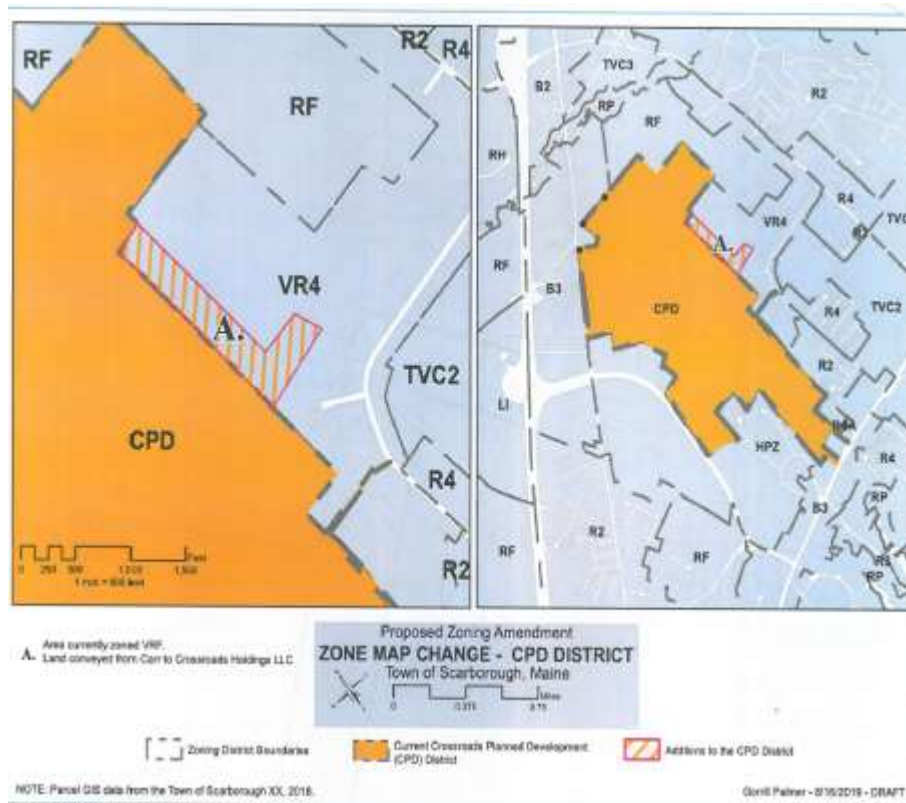
Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval on the new request for a Food Handlers License from Zhiyong Chen, d/b/a CJ Asian Inc., located at 426 US Route One, Suite #2.

Vote: 7 Yeas.

OLD BUSINESS:

Order No. 19-075. Second reading on the proposed amendments to the Town of Scarborough Zoning Map of the Crossroads Planned Development District. [Tabled from the November 20, 2019 Town Council meeting.] [Developer] Dan Bacon, Development Director of M & R Holdings, gave a brief overview on this Order. Roccy Risbara of Crossroads Holdings, LLC also spoke of this Order. They responded to questions from the Town Council. Jay Chase, Town Planner, also responded to questions from the Town Council.

Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval of the second reading on the proposed amendments to the Town of Scarborough Zoning Map of the Crossroads Planned Development District, as follows:



Vote: 1 Yeas.

6 Nays [Chairman Johnson, Councilors Cloutier, Gleysteen, Hamill, Hayes and Johnson].

Order No. 19-092. Act on the request to move approval of the names posted to the Coastal Waters and Harbor Committee as follows: move Vincent Clough from the 1st Alternate position to a full voting member with a term to expire in 2021 and Jeff Caldwell as the 1st Alternate with a term to expire in 2020. [Appointments/Negotiations Committee] Councilor Hamill gave a brief overview on this Order.

Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval of the names posted to the Coastal Waters and Harbor Committee as follows: move Vincent Clough from the 1st Alternate position to a full voting member with a term to expire in 2021 and Jeff Caldwell as the 1st Alternate with a term to expire in 2020.

Vote: 7 Yeas.

NEW BUSINESS:

Order No. 19-093. First reading and refer to the Planning Board the proposed changes to Chapter 405 – Town of Scarborough Zoning Ordinance, relating to Marijuana Establishments. [Ordinance Committee] Larissa Crockett, Assistant Town Manager, gave a brief overview on this Order and presented a power-point presentation on the recommended amendments and responded to questions from the Town Council. Jay Chase, Town Planner, also responded to questions from the Town Council.

The following individuals spoke on this Order:

- Alyson Bristol of Bayview Avenue voiced her concerns with the proposed amendments. She presented a map of the Rural Farm areas where these businesses could locate. She also spoke of the odor issue that could come from these facilities. She did not think this should be allowed in the RF Zone and should only be allowed in the Industrial Zone.
- Terry Kane of Gunstock Road also voiced his concerns and asked that the Council wait and see what happens. We can also choose later on to do something. He found that many of the coastal communities have opted out; what not us? He suggested to wait and get the facts first before moving forward.
- Alecia Emrich of Haystack Circle spoke in support of no retail shops here. She couldn't see why we would allow anything related to marijuana. She asked the Council to take the time and gather knowledge and to see what happens.
- Nick Messer of Holmes Road noted that he has been in business for 6 years and the Town of Elliot just opted in.
- Jill Polster of Portland and general counsel for a number cannabis clients, spoke on the 2016 citizen initiative and that is was to legalize marijuana. She urged the Council to support this Ordinance. There are 20 to 25 growers already in Scarborough and have been for many years. The Office of Marijuana Regulation covers this area now.
- Tom Falby of Burnham Road commented on the rural farming aspect. He went on to speak on the hemp plants and felt that the smell issue was taken way out of context.

Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval first reading and refer to the Planning Board the proposed changes to Chapter 405 – Town of Scarborough Zoning Ordinance, relating to Marijuana Establishments and schedule the public hearing upon receipt of the Planning Board's recommendations.

CHAPTER 405 TOWN OF SCARBOROUGH ZONING ORDINANCE

Proposed Amendments to the Zoning Ordinance relating to Marijuana Establishments:

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

1. AMEND SECTION VI. DEFINITIONS, by adding the following:

Marijuana Cultivation Facility shall mean a facility licensed for the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale; to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package marijuana; to sell marijuana to products manufacturing facilities, and to other cultivation facilities. This term includes Adult Use Marijuana Cultivation Facilities as defined in the Marijuana Legalization Act and Medical

Marijuana Cultivation Facilities as defined in the Scarborough Marijuana Establishment Licensing Ordinance, as may be amended.

Marijuana Manufacturing Facility shall mean a facility licensed for the production, blending, infusing, compounding or other preparation of marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. The Facility may also purchase marijuana from a cultivation facility or another manufacturing facility, manufacture, label and package marijuana and marijuana products. It does not include cultivation or testing. This term shall mean both an Adult Use Marijuana Products Manufacturing Facility and Medical Marijuana Manufacturing Facility as defined in the Marijuana Legalization Act and the Maine Medical Use of Marijuana Act, as may be amended.

Marijuana Testing Facility shall mean a facility licensed to develop, research and test marijuana, marijuana products for contaminants, safety or potency. "Testing" or "test" does not include cultivation or manufacturing. This term shall mean both an Adult Use Marijuana Testing Facility and Medical Manufacturing Testing Facility as defined in the Marijuana Legalization Act and the Maine Medical Use of Marijuana Act, as may be amended.

2. AMEND SECTION IX. PERFORMANCE STANDARDS, by adding the following:

Y. PERFORMANCE STANDARDS – MARIJUANA CULTIVATION FACILITY IN THE RF DISTRICT

1. A marijuana cultivation facility is allowed only on lots with a minimum lot area of 80,000 square feet.
2. A marijuana cultivation facility may only occur within a fully enclosed structure which in the RF includes permanent buildings as well as temporary shelters, including but not limited to greenhouses, hoop houses, and tension fabric shelters. All structures shall conform to the setback requirements of the RF district.
3. Any building or structure or activity related to the planting, propagation, growing or harvesting of marijuana 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.

Z. PERFORMANCE STANDARDS – MARIJUANA MANUFACTURING FACILITY IN THE RF DISTRICT

1. A marijuana manufacturing facility in the RF must be associated with and accessory to a marijuana cultivation facility use.
2. A marijuana manufacturing facility in the RF must be located on a parcel that is actively used for the marijuana cultivation facility use.
3. A marijuana manufacturing facility in the RF must be designed and primarily used to process products raised as part of the marijuana cultivation facility use on site.
4. The marijuana manufacturing facility may be a free-standing building, structure or outdoor location or may be part of another building or structure (for example, an area in a barn).
5. The facility shall not exceed 2,000SF of gross floor area.
6. The marijuana manufacturing facility will not include any outdoor storage of processing byproduct or waste, other than what may be kept inside a common trash dumpster.
7. The establishment of a marijuana manufacturing facility is subject to site plan review.

3. AMEND SECTION XIV. RURAL FARMING DISTRICT (RF), by adding the following:

B. PERMITTED USES

22. Marijuana Cultivation, subject to performance standards of section IX.Y of this Ordinance

23. Marijuana Manufacturing Facility, subject to performance standards of section IX.Z of this Ordinance.

4. AMEND SECTION XVIII.B HAIGIS PARKWAY DISTRICT (HP), by adding the following:

B. PERMITTED USES

27. Marijuana Manufacturing Facility

28. Marijuana Testing Facility

5. AMEND SECTION XVIII.F. PINE POINT INDUSTRIAL OVERLAY DISTRICT (I-O), by adding the following:

B. PERMITTED USES

24. Marijuana Manufacturing Facility

25. Marijuana Testing Facility

26. Marijuana Cultivation Facility conducted within a fully enclosed structure

6. AMEND SECTION XX. BUSINESS OFFICE-RESEARCH DISTRICT (BOR), by adding the following:

B. PERMITTED USES

23. Marijuana Manufacturing Facility

24. Marijuana Testing Facility

7. AMEND SECTION XX.C CROSSROADS PLANNED DEVELOPMENT DISTRICT (CPD), by adding the following:

B. PERMITTED USES

55. Marijuana Manufacturing Facility

56. Marijuana Testing Facility

8. SECTION XXI. INDUSTRIAL DISTRICT (I), by adding the following:

B. PERMITTED USES

27. Marijuana Manufacturing Facility

28. Marijuana Testing Facility

29. Marijuana Cultivation Facility conducted within a fully enclosed structure

9. SECTION XXI.B. LIGHT INDUSTRIAL DISTRICT (LI), by adding the following;

C. PERMITTED USES

25. Marijuana Manufacturing Facility

26. Marijuana Testing Facility

27. Marijuana Cultivation Facility conducted within a fully enclosed structure

Vote: 6 Yeas. 1 Nay [Councilor Gleysteen]

Order No. 19-094. First reading and schedule a public hearing on the adoption of proposed Chapter 1018 – the Town of Scarborough Marijuana Establishment Licensing Ordinance. [Ordinance Committee]

The following individuals spoke on this Order:

- Marvin Gates of Black Point Road voiced his concerns around the odor issue. He felt there should be some type of electronic equipment that could detect odor. If there is no enforcement mechanism that applies to, then what use is it? He appreciated the work that had been done on this.
- Tom Falby of Burnham Road referenced LD335 - An Act To Require the State To Distribute 25 Percent of Adult Use Marijuana Retail Sales and Excise Tax Revenue to Generating Municipalities State.
- Nick Messer of Holmes Road stated that he had not had any complaints on smell and gets along with his neighbors.
- Alyson Bristol of Bayview Lane commend the Ordinance Committee and the Assistant Town Manager for all of their work on this issue. She clarified what she meant as rural area [Highland Avenue, Black Point Road, etc.] and added it would be great to be able to have an overlay. She also added that Scarborough Voters voted Question 1 down in 2016.

Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval of the first reading on the adoption of proposed Chapter 1018 – the Town of Scarborough Marijuana Establishment Licensing Ordinance and schedule a public hearing to coincide with the public hearing on Order No. 19-093, amendments to Chapter 405 regarding Marijuana Establishments.

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 1018 - the Marijuana Establishment Licensing Ordinance of the Town of Scarborough, Maine, is adopted as follows:

**CHAPTER 1016 – TOWN OF SCARBOROUGH
MARIJUANA ESTABLISHMENTS AND
MEDICAL MARIJUANA ESTABLISHMENTS ORDINANCE**

PURPOSE

The purpose of this Ordinance is to provide for and regulate the issuance of Local Licenses for Marijuana Establishments as defined in this Ordinance and by the State of Maine under the Marijuana Legalization Act, Title 28-B M.R.S.A. Chapter 1, and to provide for and regulate the issuance of Local Licenses for Medical Marijuana Establishments as defined in this Ordinance and by the State of Maine under the Maine Medical Use of Marijuana Act, Title 22 M.R.S.A. Chapter 558-C.

AUTHORITY

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

DEFINITIONS

As used in this Ordinance, the following words and phrases shall have the meanings ascribed to them in this section.

Adult use marijuana shall mean “adult use marijuana” as that term is defined in Title 28-B M.R.S.A. §102(1).

Adult use marijuana product shall mean “adult use marijuana product” as that term is defined in Title 28-B M.R.S.A. §102(2).

Applicant shall mean a person that has submitted an application for licensure as a Marijuana Establishment pursuant to this Ordinance.

Cultivate or cultivation shall mean the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale. It does not include manufacturing.

Harvested marijuana shall mean “harvested marijuana” as that term is defined in Title 22 M.R.S.A. §2422(3-C).

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

Licensee shall mean a person licensed pursuant to this Ordinance or, in the case of a holder of an occupational license, a natural person licensed pursuant to this Ordinance.

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

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

Manufacture or manufacturing of marijuana shall mean the production, blending, infusing, compounding or other preparation of marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. It does not include cultivation.

Marijuana shall mean “marijuana” as that term is defined in Title 28-B M.R.S.A. §102(27).

Marijuana concentrate shall mean the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. In determining the weight of marijuana concentrate in a marijuana product, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included.

Marijuana Cultivation Facility shall mean a “cultivation facility” as that term is defined in Title 28B M.R.S.A. §102(13). A Marijuana Cultivation Facility is an entity licensed to cultivate, prepare and package adult use marijuana and to sell adult use marijuana to Marijuana Establishments.

Marijuana Establishment shall mean a “marijuana establishment” as that term is defined in Title 28B M.R.S.A. §102(29). A Marijuana Establishment is a Marijuana Cultivation Facility, a Marijuana Products Manufacturing Facility, or a Marijuana Testing Facility.

Marijuana Products Manufacturing Facility shall mean a “products manufacturing facility” as that term is defined in Title 28-B M.R.S.A. §102(43). A Marijuana Products Manufacturing Facility is an entity licensed to purchase adult use marijuana; to manufacture, label and package adult use marijuana products; and to sell adult use marijuana products from a Marijuana Cultivation Facility only to other Marijuana Products Manufacturing Facilities

Marijuana Testing Facility shall mean a “testing facility” as that term is defined in Title 28-B M.R.S.A. §102(54). A Marijuana Testing Facility is facility licensed to develop, research and test marijuana, marijuana products and other substances.

Medical marijuana shall mean the medical use of marijuana, with the term “medical use” as defined in Title 22 M.R.S.A. § 242 2 (5).

Medical marijuana caregiver shall mean a “caregiver” as that term is defined in Title 22 M.R.S.A. §2422(8-A).

Medical marijuana cultivation area shall mean a “cultivation area” as that term is defined in Title 22 M.R.S.A. §2422(3).

Medical Marijuana Cultivation Facility shall mean a medical marijuana cultivation area used or occupied by one or more medical marijuana registered caregivers. A medical marijuana cultivation facility is prohibited from selling medical marijuana to medical marijuana qualifying patients, medical marijuana caregivers or medical marijuana registered caregivers on premise. A medical marijuana cultivation facility shall not be used or occupied by a “collective” as that term is defined in 22 M.R.S.A. §2422(1-A).

Medical Marijuana Dispensary shall mean a “registered dispensary” as that term is defined in Title 22 M.R.S.A. §2422(6).

Medical Marijuana Establishment shall mean a Medical Marijuana Dispensary, a Medical Marijuana Cultivation Facility, a Medical Marijuana Retail Store, a Medical Marijuana Products Manufacturing Facility, or a Medical Marijuana Testing Facility.

Medical marijuana product shall mean a “marijuana product” as that term is defined in Title 22 M.R.S.A. §2442(4-L).

Medical Marijuana Products Manufacturing Facility shall mean a “manufacturing facility” as that term is defined in Title 22 M.R.S.A. §2422(4-H).

Medical marijuana qualifying patient shall mean a “qualifying patient” as that term is defined in Title 22 M.R.S.A. §2422(9).

Medical marijuana registered caregiver shall mean a “registered caregiver” as that term is defined in Title 22 M.R.S.A. §2422(11).

Medical Marijuana Retail Store shall mean a retail establishment operated by a single medical marijuana registered caregiver where harvested marijuana is sold by that medical marijuana registered caregiver to medical marijuana qualifying patients for patients’ medical use and may include an area for consultation with patients. Two or more medical marijuana registered caregivers are prohibited from forming, owning or operating a medical marijuana retail store as a single medical marijuana retail store.

Medical Marijuana Testing Facility shall mean a “marijuana testing facility” as that term is defined in Title 22 M.R.S.A. §2422(5-C).

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

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

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

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

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

MARIJUANA ESTABLISHMENTS AND MEDICAL MARIJUANA ESTABLISHMENTS
Marijuana Establishments and Medical Marijuana Establishments shall be allowed, subject to the requirements and restrictions of this Ordinance.

PROHIBITED ACTIVITIES

(No Marijuana Establishment or Medical Marijuana Establishment shall be established or operated within the Town without first receiving and then maintaining all approvals required under this Ordinance

No Marijuana Establishment or Medical Marijuana Establishment shall conduct any activity for which it has not received the required State License and Local License.

LICENSE REQUIRED

State License. A Marijuana Establishment shall not operate until it is licensed by the State Licensing Authority pursuant to the requirements of Title 28-B M.R.S.A. Chapter 1. An Applicant may not operate a Marijuana Establishment without a State License and all other necessary Town approvals. A Medical Marijuana Establishment shall not operate until it is licensed, registered or certified, as applicable, by the State Licensing Authority pursuant to the requirements of Title 22 M.R.S.A. Chapter 558-C. An Applicant may not operate a Medical Marijuana Establishment without any required State License and without all other necessary Town approvals.

Local License. A Local License issued under the provisions of this Ordinance is required for any Marijuana Cultivation Facility or Marijuana Products Manufacturing Facility. A Marijuana Testing Facility does not require a Local License. A Local License issued under the provisions of this Ordinance is required for any Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturing Facility, Medical Marijuana Dispensary or Medical Marijuana Retail Store. A Medical Marijuana Testing Facility does not require a Local License.

LICENSE CLASSES

A Class I license shall be required for Marijuana Products Manufacturing Facilities. A Class I license shall be required for Medical Marijuana Products Manufacturing Facilities.

A Class II license shall be required for Marijuana Cultivation Facilities. A Class II license shall be required for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries and Medical Marijuana Retail Stores.

LICENSING AUTHORITY

The initial application for a Class II license shall be processed by the Town Clerk but reviewed and may be approved by the Town Council. Application shall be made on a form prepared by the Town and must include all information required by this Ordinance.

A Class II renewal application shall be subject to the same review standards as applied to the initial issuance of the license and the same notice requirement as a Class I new application. As part of the renewal process, the Town Clerk shall consider compliance from prior years, and based upon that review, may add conditions to any future license to correct, abate or limit past problems. In the event that the Town Clerk determines that a hearing on a Class II renewal application is necessary and appropriate, the Town Clerk may elect to defer action on a renewal application and refer the matter to the Town Council for public hearing and action.

Responsibilities and review authority.

- (1) The Town Clerk shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Article. The Town Clerk may consult with other Town Departments and any appropriate State Licensing Authority as part of this investigation.
- (2) The Licensing Authority shall have the authority to impose any conditions on a license that may be necessary to insure compliance with the requirements of this Chapter or to address concerns about operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the license.
- (3) No Local License shall be granted by the Licensing Authority until the Police Chief, the Fire Chief, the Health Inspector and, if applicable, the Code Enforcement Officer have all made a positive recommendation upon the Applicant's ability to comply with this Ordinance. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance or State law, or are reasonably necessary to secure compliance with any ordinance provision or State law, it shall be the duty of the Applicant or licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the Town authorized to make the inspection at any reasonable time that admission is requested.

Confidentiality.

Medical marijuana registered caregivers and other applicants submitting applications and supporting information that is confidential under Title 22 M.R.S.A. §2425-A (12) and the Maine Freedom of Access Act, Title 1 M.R.S.A. §403(3) (F), shall mark such information as confidential.

An individual who possesses a valid Maine medical marijuana registered caregiver registry identification card need not identify himself or herself in an application for a license for a medical marijuana establishment. The cardholder must identify himself or herself and provide the relevant cards to the Town Clerk for examination, but the identity of the cardholder shall not be a public

record and the Town Clerk shall not share the identity of the cardholder, except as necessary by law in the performance of his or her duties. At the time of application, the cardholder may appoint a representative to appear before the Licensing Authority on his or her behalf.

LICENSING PROCESS

APPLICATION

Application required. Each Applicant for a Class I or Class II license shall complete and file an application on a form prescribed by the Town Clerk, together with a license fee as required by Chapter 311 – Schedule of Fees and as specified in the Schedule of License, Permit, Inspection and Application Fees, together with the following submissions:

- (1) If a State License is required for the proposed use, a copy of the Applicant's State License Application and supporting documentation as filed with the State Licensing Authority, and any amendments thereto.
- (2) Evidence of all State approvals or conditional approvals required to operate a Marijuana Establishment or Medical Marijuana Establishment, including, but not limited to, a State License as defined by this Ordinance, a State retail certificate, or a State health license.
- (3) If not included in the Applicant's State License Application, attested copies of the Articles of incorporation and bylaws if the Applicant is a corporation, operating agreement if the Applicant is a limited liability company, evidence of partnership if the Applicant is a partnership, or articles of association and bylaws if the Applicant is an association.
- (4) If not included in the Applicant's State License Application, an affidavit that identifies all owners, officers, members, managers, or partners of the Applicant, their ownership interests, and their places of residence at the time of the application and for the immediately preceding three (3) years.
- (5) If not included in the Applicant's State License Application, a release authorized by Title 16 M.R.S.A. §620(6), as may be amended, with the application for each Applicant and for each officer, owner, member, manager, or partner of the Applicant seeking a Local License.
- (6) Evidence of all land use approvals or conditional land use approvals required to operate a Marijuana Establishment or Medical Marijuana Establishment, pursuant to the Ordinances, including, but not limited to, a building permit, special exception approval, site plan approval, change of use permit or certificate of occupancy.
- (7) Evidence of all other local approvals or conditional approvals required to operate a Marijuana Establishment or Medical Marijuana Establishment pursuant to the Code of Ordinances, including, but not limited to, food license or victualers license.
- (8) A description of the premises for which the Local License is sought, including a floor plan of the premises showing how the floor space is or will be used, parking for the premises, total floor area of the building(s), and the nature and location of any existing or proposed exterior lighting and signage.
- (9) A copy of the Applicant's security plan and operations manual.

Complete application. In the event that the Town Clerk determines that a submitted application is not complete, the Town Clerk shall notify the Applicant within ten (10) business days that the application is not complete and shall inform the Applicant of the additional information required to process the application.

Background checks. The Town Clerk shall order background checks of each applicant and renewal applicant. If the applicant is a business entity, every officer, director, manager and general partner of the business entity is required to submit to a criminal history record check. Failure to submit required releases for a background check is grounds for denial of a license. The cost of the background check shall be borne by the applicant.

Public hearing. A public hearing on an application for a Class II license shall be scheduled after receipt of a completed application by the Town Clerk. The Town Clerk shall post and publish public notice of the hearing not less than seven (7) days prior to the hearing. The Town Clerk shall give public notice by posting a sign in a conspicuous place on the premises identified in an Application for Local License and by publication in a newspaper of general circulation in Cumberland County at the expense of the applicant.

Advertisements for public hearing shall contain the location of the proposed medical marijuana production facility and the identity of the owner of the real estate and the identity of the designated representative.

LICENSE FEES

Fees for a Local License shall be as set forth in the Schedule of License, Permit, Inspection and Application Fees established by Town Council order and shall be paid annually.

LICENSE EXPIRATION AND RENEWAL

Each Local License issued shall be effective for one year from the date of issuance.

Renewal applications must be submitted prior to the date of expiration of the annual Local License. An application for the renewal of an expired license shall be treated as a new license application.

DENIAL, SUSPENSION OR REVOCATION OF LICENSE

In addition to the provisions set forth in Chapter 1000a, the following applies:

A Local License under this Ordinance shall be denied to the following persons:

- (1) A person who fails to meet the requirements of this Ordinance. Where an Applicant is an entity rather than a natural person, all natural persons with an ownership interest shall meet these requirements.
- (2) A person who has had a license for a Marijuana Establishment and/or Medical Marijuana Establishment revoked by the Town or by the State.
- (3) An Applicant who has not acquired all necessary State approvals and other required local approvals prior to the issuance of a Local License.

The Town may suspend or revoke a license for any violation of this Chapter, Chapter 1000a, Chapter 405, or any other applicable building and life safety code requirements. The Town may suspend or revoke a license if the licensee has a State License for a Marijuana Establishment and/or Medical Marijuana Establishment suspended or revoked by the State. The Licensee shall be entitled to notice and a hearing prior to any suspension or revocation.

OPERATING REQUIREMENTS

The Licensee shall comply with all of the following requirements during the term of the Local License:

Display of License. The current Local License shall be displayed at all times in a conspicuous location within the Licensed Premises.

Location. All Licensed Premises shall be fixed, permanent locations. Licensees shall not be permitted to operate Marijuana Establishments or Medical Marijuana Establishments in temporary locations such as mall kiosks or farm stands.

Compliance with other laws. A Marijuana Establishment and a Medical Marijuana Establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing Marijuana Establishments and/or Medical Marijuana Establishments, the stricter law or regulation shall control.

TRANSFER OF OWNERSHIP AND CHANGE OF LOCATION

Licenses issued under this Ordinance are not transferable to a new owner. Any change in ownership or change in the officers of an owner shall require a new license. Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A Licensee who seeks to operate in a new location shall acquire a new Local License for that location.

APPEALS

Any appeal of a decision of the Town Clerk under the provisions of this Ordinance shall be made to the Town Council. The Town Council shall conduct a *de novo* hearing in which it will hear evidence on the application and make its own findings of fact and conclusions of law on the issue of whether the application meets the requirements of this Ordinance.

Any appeal of a decision of the Town Council shall be to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

VIOLATIONS AND PENALTIES

The operation of any Marijuana Establishment or Medical Marijuana Establishment without the required Local License or in violation of the requirements of this Chapter shall be a violation of this Chapter. Violations shall be subject to fines as set forth in this Chapter. Each day of a violation shall constitute a separate violation. Any such fine may be in addition to any suspension or revocation imposed in accordance with the provisions of this Ordinance or Chapter 1000a. In any court action, the Town may seek injunctive relief in addition to penalties. The Town shall be entitled to recover its costs of enforcement, including its attorney's fees.

SEVERABILITY

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

OTHER LAWS

Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in the Maine Marijuana Legalization Act, Title 28-B M.R.S.A. Chapter 1. In the event of a conflict between the provisions of this Chapter and the provisions of the Maine Marijuana Legalization Act or any other applicable State or local law or regulation, the more restrictive provision shall control.

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

EFFECTIVE DATE

This Ordinance shall take effect pursuant to the Town Charter. However, no application for any Local License for Marijuana Establishments shall be acted upon until the effective date of regulations promulgated and adopted pursuant to Title 28-B M.R.S.A. Chapter 1.

Vote: 6 Yeas. 1 Nay [Councilor Gleysteen].

Order No. 19-095. First reading and waive the second reading on the request from the Finance Sub-Committee of the Ad-Hoc Community Center Advisory Committee, to allocate up to an amount not to exceed \$10,000 for an outside consultant and to authorize the Town Manager to redirect the \$10,000 for the Town-Wide Survey for this allocation. [Finance Sub-Committee of the Ad-Hoc Community Center Advisory Committee] Matt Sither, a member of the Finance Sub-Committee, gave a brief overview on this Order and responded to questions from the Town Council. Matt Tonello, Co-Chair of the Ad-Hoc Community Center Advisory Board, voiced his support on this Order and commented on its members being committed to fulfill this charge for the Town. He urged the Council to support this recommendation and thanked Matt Sither for his work on the Committee.

Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval of the first reading and waive the second reading on the request from the Finance Sub-Committee of the Ad-Hoc Community Center Advisory Committee, to allocate up to an amount not to exceed \$16,000 for an outside consultant and to authorize the Town Manager to redirect \$16,000 from Management Information Systems - Staff Full Time Pay, for this allocation.

Vote: 5 Yeas. 2 Nay [Councilors Gleysteen and Johnson].

Order No. 19-096. Act on the request from the Ad-Hoc Community Center Advisory Committee, to amend their charge, approved on September 4, 2019, to extend their reporting time from December 15, 2019 to January 17, 2020. [Ad-Hoc Community Center Advisory Committee] Matt Tonello, Co-Chair of the Ad-Hoc Community Center Advisory Committee, gave a brief overview on this Order.

Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval on the request from the Ad-Hoc Community Center Advisory Committee, to amend their charge, approved on September 4, 2019, to extend their reporting time from December 15, 2019 to January 17, 2020.

Vote: 7 Yeas.

Order No. 19-097. Act on the appointment of Nick Cloutier, as the Assessor for the Town of Scarborough, effective December 30, 2019. [Town Manager] Larissa Crockett, Assistant Town Manager, gave a brief overview on this Order and introduced Nick Cloutier. Nick Cloutier, gave a little overview on how he became interested in becoming an Assessor and how he would be available to residents, if he were appointed.

Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval on the appointment of Nick Cloutier, as the Assessor for the Town of Scarborough, effective December 30, 2019.

Vote: 7 Yeas.

Order No. 19-098. Act to authorize the Town Manager to sign a renewal lease agreement with Abigail Carroll and Nonesuch Oysters, LLC, for use of the south side of the Town Pier for an upweller float for oysters. [Town Manager] Thomas J. Hall, Town Manager, gave a brief overview on this Order. Abigail Carroll, also made comments. Ms. Carroll also commended on this Order.

Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval to authorize the Town Manager to sign a renewal lease agreement with Abigail Carroll and Nonesuch Oysters, LLC, for use of the south side of the Town Pier for an upweller float for oysters.

Vote: 7 Yeas.

Order No. 19-099. Act on the request from the Deputy Tax Collector for a waiver of foreclosure on the following properties: 8 David Drive – Map T003/Lot 008, 30 Matthews Way – Map T003/Lot 030, 13 Crystal Lane – Map T003/Lot 013, 19 Crystal Lane – Map T003/Lot019, 11 David Drive – Map T003/Lot 011 and 184 Balsam Street and authorize the Town Manager to sign the necessary documentation. [Deputy Tax Collector] Thomas J. Hall, Town Manager, gave a brief overview on this Order and responded to questions from the Town Council.

Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval on the request from the Deputy Tax Collector for a waiver of foreclosure on the following properties: 8 David Drive – Map T003/Lot 008, 30 Matthews Way – Map T003/Lot 030, 13 Crystal Lane – Map T003/Lot 013, 19 Crystal Lane – Map T003/Lot019, 11 David Drive – Map T003/Lot 011 and 184 Balsam Street and authorize the Town Manager to sign the necessary documentation.

Vote: 7 Yeas.

Order No. 19-100. Act on the request from the Council Chair for the appointments to the Council Standing Committee and Committee Liaisons Appointments-Standing Committees. [Council Chair] Chairman Johnson gave a brief overview on this Order.

Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval on the request from the Council Chair for the appointments to the Council Standing Committee and Committee Liaisons Appointments-Standing Committees, as follows:

Town Council Standing Committees

Appointments and Negotiations Committee:

Councilor Hamill, Chair
Councilor Hayes
Councilor Caterina

Fair Hearing Authority:

Councilor Cloutier, Chair
Councilor K. Johnson
Councilor Caterina

Ordinance Committee:

Councilor Caterina, Chair
Councilor Hamill
Councilor K. Johnson

Communications:

Councilor K. Johnson, Chair
Councilor Cloutier
Councilor Gleysteen

Finance Committee:

Councilor Hayes, Chair
Councilor Cloutier
Councilor Gleysteen

Rules & Policies Committee:

Councilor Gleysteen, Chair
Councilor Cloutier
Councilor Caterina

Town Council Liaison Appointments

ADA Advisory Committee: Councilor K. Johnson

BOE: Councilor Gleysteen

Cable Television Committee: Councilor K. Johnson

Chamber Of Commerce: Councilor Caterina

Coastal Waters and Harbor Advisory Committee: Councilor Hamill

Community Services and Recreation Advisory Board: Councilor Hayes

Conservation Commission: Councilor Cloutier

Eastern Trail Alliance: Councilor K. Johnson

Firing Range: Councilor Caterina - Chair

GPCOG/PACTS (3 Councilors): Chairman Johnson, Councilors Johnson and Cloutier

METRO Coalition: Councilor Cloutier

Historic Preservation: Councilor Caterina

Library Trustees: Councilor Hayes

Long Range Planning Committee: Councilor Caterina [Councilor Hamill – Alternate]

Pest Management Committee: Councilor Gleysteen

Planning Board: Councilor K. Johnson

Housing Alliance: Councilor Hayes

SEDCO: Councilor Cloutier

Senior Advisory Board: Councilor Gleysteen

Shellfish Conservation Commission: Councilor Hamill

Sustainability Committee: Councilor Caterina

Transportation Committee: Councilor Hayes

Ad-Hoc Community Center Advisory Committee: Chairman Johnson and Councilor Cloutier

ecomaine: Councilor Cloutier

MMA Policy Committee: Councilor Caterina

Vote: 7 Yeas.

Item 8. Non Action Item. None at this time.

Item 9. Standing and Special Committee Reports and Liaison Reports. None at this time.

Item 10. Town Manager Report. Thomas J. Hall, Town Manager, gave the following update:

- There have been weekly meetings with Chair and Vice Chair of the Town Council.
- There would be a 5:00 p.m. workshop prior to the December 18th Town Council to review the Annual Report on the Scarborough Downs Project. Also on this Agenda there will be a report from the Public Safety Building Committee
- The meetings in January on the Wednesday, January 8th and Wednesday, January 22nd.
- The KRT Manual has been delivered and is available, adding that it is a very large Manual.

Chairman Johnson noted the Town Council would be having a Goals Workshop the first of the year on a Saturday morning. He would be reaching out to everyone soon as to the date.

Item 11. Council Member Comments.

- Councilor Hayes wished every Happy Holidays!
- Councilor Caterina noted that the Tree Lighting would be on December 7th at 5:00 p.m. in Memorial Park. The next Ordinance Committee meeting would be on Thursday, December 19th.
- Councilor Hamill was pleased at how this meeting went and looked forward to more like this.

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

Vote: 7 Yeas.

Meeting adjourned at 9:48 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk