

**MINUTES
TOWN COUNCIL
WEDNESDAY – SEPTEMBER 2, 2026
HYBRID REGULAR MEETING – 7:00 P.M.**

Item 1. Call to Order. Chairman Fellows called the regular meeting of the Scarborough Town Council to order at 7:00 p.m.

Item 2. Pledge of Allegiance.

Item 3. Roll Call. Roll was called by Yolande P. Justice, Clerk to the Council. Thomas J. Hall, Town Manager and Liam Gallagher, Assistant Town Manager, were present. Those Councilors present:

Councilor Scott W. Doherty	Councilor Jonathan E. Anderson
Councilor Lawrence W. Cain	Councilor William J. Donovan
Councilor Karin B. Shupe	Councilor Michelle T. Hayes
Chairman Cory R. Fellows	

Prior to public comment Chairman Fellows noted that public comments are taken without immediate responses, and the Council appreciates your understanding. He further commented on the ICE issue, noting the Council is arranging an executive session with outside counsel to discuss potential legal implications and actions and that draft ordinance language is also under consideration. He reminded the public that comments are limited to 3 minutes each, and speakers should direct their remarks to the Council Chair and not the audience.

Item 4. General Public Comments.

In the Room

- Sullivan Ricker of Waterboro, commented that. ICE's unlawful actions extended beyond immigrant communities. In June, armed ICE agents entered the Community Baptist Church's clothing barn, questioning the pastor about immigrants and searching without a warrant. We've also seen ICE agents at the local health facility. This situation poses a threat to all, emphasizing the need for action. He closed his comments by quoting Woodrow Wilson and Lao Tzu.

Via Zoom

- Patricia Jones, a resident of Kaler-Vaill Retirement Home, located on the Black Point Road commented on the new on-demand bus service starting in October, which currently extends only to Fogg Road, two miles away. The residents, aged 80 and older, urgently need transportation for medical appointments and shopping. They have previously approached the transportation committee for support and are now reaching out to the town council to support extending the service to Kaler-Vaill to improve accessibility before October.
- Emily Delmonico of Kaler-Vaill, who recently turned 100, reflected on her life at Kaler-Vaill with 15 other women. Following her children's advice, she had to give up her car, complicating her access to medical appointments. Unlike other facilities, such as Piper Shores that offer transportation, residents at Kaler-Vaill must depend on one another, making it challenging as they age. While neighbors assist when possible, the reliance on others can be awkward due to concerns about gas expenses and time. She hoped for improved transportation options to ensure their needs are met.

In the Room:

- Sophia Warren, State Representative from Scarborough expressed her gratitude for the dedicated work of public officials. She commented on the community's responsive handling of

data center proposals and ICE issues with challenges faced in other states, highlighting the tireless efforts of officials and their significant impact. She acknowledged that the role can be thankless but emphasized that the contributions are greatly appreciated by many, both present and absent from the meeting.

- Stephen Zameirowski of Theresa Massa Way, expressed support for the local sale option sales tax, emphasizing the importance of capturing out-of-state consumers to ensure financial benefits for Scarborough. He urge the Council not to concede to the hospitality lobby and stressed the necessity of hospitality and meals revenues for community improvement.
- Denise Swartz, a Scarborough resident, shared her shock of the traumatic event related to Johan Sebastian Guerrero's incident. Describing the scene as an execution and she voiced concern for Guerrero's three-year-old child present in the back seat. She urged the community to remember the horror of that day, stressing that such violence is unacceptable.
- Denise Hamilton of Two Rod Road, voiced concerns regarding the workshop about the local option sales tax. Highlighting the financial return disparity between Scarborough and Durham and advocating for at least a 100% return for Scarborough. She also pointed out inaccuracies in the Manger's report regarding the Scottow Hill Road project's timeline, confirming with the DOT that final grant agreement decisions would not occur until March 2027, potentially delaying the project beyond the April deadline.
- Tom Nolan of Waldron Drive, expressed his gratitude to Chairman Fellows for sharing good news and commends the group for their work on the ICE issue. He emphasized the urgency of addressing the situation, noting that safety is not guaranteed for anyone. He conveyed a sense of unease as the election season approached and hoped for progress in resolving the ICE issue before then. He thanks the group again for their efforts.
- Sandy Agrafiotis of South Berwick, noted she and maybe 20 people who were here to support your efforts against ICE and to thank you. She went on to say is that they have been to various places in the streets for quite a few months are seeing a much greater number of people driving by with very positive supportive responses. We've got cheers, honks, waves, and I think that that's a sign that even if there are only 20 people speaking to you that the numbers are growing and that many of our fellow citizens would like to see this issue end.

Item 5. Minutes: August 19, 2026 - Town Council Meeting. Motion by Councilor Hayes, seconded by Councilor Anderson, to move approval of the minutes from the August 19, 2026, regular Town Council meeting, as written.

Vote: 7 Yeas. Motion Carried

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 prior to the meeting.

Item 8. Town Manager's Report. Thomas J. Hall, Town Manager, gave the following updates:

- **Tax Rate Set - \$11.68**
 - Tax Rate was a \$0.33 increase, representing a 3.09% increase
 - Net Budget decreased by \$296,100 representing a 4.69% increase
 - Tax bill to be sent by Sept. 3
- **Scottow Hill Road Closure**
 - Survey and preliminary design underway- Scottow and Payne crossings

- MIAF Grant award announcement expected early September
- Budget authority secured for all options
- Town Council Decision in September/October
- **Data Center Moratorium**
 - GPCOG white paper
 - Sustainability Committee deliberations/recommendation
 - Ordinance Committee - September
 - Town Council Adoption - October
- **IF&W Update** - Preparing Response
 - Additional language in Beach Management Agreement
 - Focus on enhanced efforts, zero-tolerance from April 1 to May 15
- **Downs Traffic Movement Permit**
 - Town involved in discussions with MDOT and Downs Team
 - Focused on Payne Road Corridor and Haigis Parkway
- **Short-Term Rental Program**
 - Registration Open/website updated
 - 250 letters sent to known/suspected STRs for awareness
 - 50+ applied for registration
- **Portland West**
 - MDOT evaluating four alternative approaches
 - Concepts proposed for discussion and feedback
 - Meeting on September 22
 - Virtual Meeting on September 24
- **Metro Pilot Launch**
 - Attendance at Summerfest
 - Project Kickoff Event - October 2 at 9:00 AM at PSB
- **Nomination Papers for Local Elected Office** - Ballots finalized
 - Local Open Seats:
 - 3 Town Council seats
 - 3 Sanitary District Trustees
 - 1 Board of Education
 - Candidates Night - September 22 at 6:00 PM
- **Alternative Meeting Location**
 - Reserve Chamber A and B for Absentee Voting
 - Relocate meetings to PSB Classroom 10/1 thru 11/2
 - PSB A/V Capabilities enhanced
- **Upcoming Workshops**
 - Sept. 16 - Climate Action Plan
 - Sept. 30* - Executive Session with Town Attorney
 - Oct. 14 - Scottow Hill Road

Chairman Fellows noted that in addition to the Portland West item, there would be a virtual meeting on the September 24th and that due to scheduling conflicts the October 7th meeting would be moved to September 30th and the second meeting in October would still be October 21st.

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

- Councilor Cain noted there would be no Finance Committee meeting for September. The Community Services meeting is set for September 10th, and went on to give an update regarding the school project. The initial traffic reports for elementary schools indicated no need for off-site work. A public forum is tentatively planned for November 18th to update the community, with the next Committee meeting on September 15th.
- Councilor Shupe Ordinance Committee next week, Wednesday, September 9th, to review the Sign Ordinance and Data Centers.
- Chairman Fellows noted that the Long Range Planning Committee would be meeting next week, Friday, September 11th. He also attended the May Municipal Association (MMA) Legislative Policy Committee meeting in Augusta, where there was discussion and support for the regional option sales tax concept, although MMA may not sponsor it directly. The workshop from earlier ties into this, and there's emphasis on home rule and unfunded state mandates, as well as housing mandates. These topics may further develop into a more defined policy agenda in the upcoming weeks.
- Councilor Anderson thanked all the councilors for attending Summerfest and being at the booth. Summerfest was a huge success this year, it was really great. For upcoming Councilor Corner Articles, Chairman Fellows, the September 15th issue and Councilor Hayes the September 30th issue.
- Councilor Hayes noted that at last week's Communications meeting we had discussed plans to email the 15 attendees who signed up as communication ambassadors, with a job description for feedback. Discussions revolved around the ambassador process and potential numbers. Additionally, more conversations with councilors would be organized for quarter 4. She went on to give highlights from Summerfest reminiscent of simpler times and enjoyment among attendees.

Item 10. RESOLUTION/PROCLAMATIONS. None at this.

Item 11. PUBLIC HEARINGS:

Order No. 26-067. 7:00 p.m. Public hearing and second reading on the order authorizing issuance of up to \$6,000,000 in bonds of the town to fund the cost of a joint project with Old Orchard Beach to upgrade the municipal critical two-way communications systems for Police, Fire, EMS, Public Works, Community Services and School Department and to place the following question on the November 3, 2026, Municipal Ballot: Shall the Order entitled "ORDER AUTHORIZING ISSUANCE OF UP TO \$6,000,000 IN BONDS OF THE TOWN TO FUND THE COST OF "TOWN RADIO PROJECT" be approved? [Town Council] Chairman Fellows noted that there had been an in-depth presentation at the first reading and then opened the public hearing. There being no comments either for or against the hearing was closed at 8:00 p.m.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval of the second reading second reading on the order authorizing issuance of up to \$6,000,000 in bonds of the town to fund the cost of a joint project with Old Orchard Beach to upgrade the municipal critical two-way communications systems for Police, Fire, EMS, Public Works, Community Services and School Department and to place the following question on the November 3, 2026, Municipal Ballot: Shall the

Order entitled “**ORDER AUTHORIZING ISSUANCE OF UP TO \$6,000,000 IN BONDS OF THE TOWN TO FUND THE COST OF “TOWN RADIO PROJECT”**” be approved?, as follows:

Referendum Question No. 1:

Shall the Order entitled “**ORDER AUTHORIZING ISSUANCE OF UP TO \$6,000,000 IN BONDS OF THE TOWN TO FUND THE COST OF “TOWN RADIO PROJECT”**” be approved?

**FINANCIAL
STATEMENT**

1. Total Indebtedness as of November 1, 2026:

A.	Bonds outstanding and unpaid:	\$ 72,625,000
B.	Bond Anticipation Notes Outstanding:	\$ 8,245,000
C.	Bonds authorized and unissued:	\$162,273,036
D.	Bonds to be issued if this Article is approved:	\$ 6,000,000

2. Costs:

At an estimated maximum interest of **4.00%**
for a maximum **ten (10)** year maturity,
the estimated costs of this bond issue will be:

Principal:	\$ 6,000,000
Interest:	\$ <u>1,320,000</u>
Total Debt Service	\$ 7,320,000

3. Validity:

The validity of the bonds and of the voters’ ratification of the bonds may not be affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the electors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

/s/ _____
Town Treasurer

Vote: 7 Yeas. Motion Carried.

Order No. 26-068. 7:00 p.m. Public hearing and second reading on the proposed amendments to Chapter 1002, Section 4. Definitions and Section 5. Licensing and new Section 6. Suspension and Penalties. [Marine Resource Officer] Dayren Granata, Marine Resource Officer, gave a brief overview. Chairman Fellows opened the public hearing. There being no comments either for or against the hearing was closed at 8:17 p.m.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval of second reading on the proposed amendments to Chapter 1002, Section 4. Definitions and Section 5. Licensing and new Section 6. Suspension and Penalties, as follows:

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following changes reflects only that portion to Chapter 1002 the Shellfish Conservation Ordinance, of the Town of Scarborough, Maine, that will be changed, is hereby amended, as follows (additions are underlined; deletions are struck through):

**CHAPTER 1002
TOWN OF SCARBOROUGH
SHELLFISH CONSERVATION ORDINANCE**

Section 1. Authority:

This Ordinance is enacted in accordance with 12 M.R.S.A., Section 6671.

Section 2. Purpose:

To establish a shellfish conservation program for the Town of Scarborough which will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:

- a. Licensing
- b. Limiting the number of shellfish harvesters
- c. Restricting the time and area where digging is permitted
- d. Limiting the minimum size of clams taken
- e. Limiting the amount of clams taken daily by a harvester
- f. Engaging in activities intended to protect and enhance the resource such as transplanting or seeding of shellfish. [Adopted 06/03/15]

Section 3. Shellfish Conservation Commission:

The Shellfish Conservation Program for the Town of Scarborough will be administered by the Shellfish Conservation Commission consisting of 7 members to be appointed by the Town Council for terms of 3 years. The Commission's responsibilities include:

- a. Establishing annually in conjunction with the Dept. of Marine Resources, the number of shellfish digging licenses to be issued.
- b. Surveying the clam flats to maintain current information on shellfish resources.
- c. Submitting to the Town Council, proposals for the expenditures of funds for the purpose of shellfish conservation.
- d. Keeping this Ordinance under review and making recommendations for its amendments.
- e. Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the D.M.R.
- f. Approving conservation closures and openings in conjunction with the Area Biologists of the D.M.R. [Amended 01/03/01].
- g. Submitting an annual report to the Municipality and the D.M.R. covering the above topics and all other Commission activities.

Section 4. Definitions:

a. Resident

The term “resident” refers to a person who has physically resided at a fixed, permanent and principal home in the town for at least twelve months next prior to the date of application for a license under this Ordinance or, in the case of student, to a student living temporarily outside of Scarborough while enrolled in a college, university or post-secondary school, provided such student maintains his or her fixed permanent principal home in Scarborough. [Amended 07/17/02; 01/17/24]

b. Non-resident

The term “non-resident” means anyone not qualified as a resident under this Ordinance.

c. Shellfish, Clams

When used in the context of this Ordinance, the words “shellfish and clams” means Soft-Shell Clams (~~Mya~~YA arenaria ARENARIA), Northern Quahogs (Mercenaria mercenaris), Razor Clams, commonly known as Atlantic Jackknife (Ensis directus), Atlantic Surf Clam (Spisula solidissima), Eastern (aka American) Oysters (Crassostrea virginica), and European Oysters (Ostrea edulis). The term “Shellfish” shall include both shell stock and shucked shellfish.

d. Municipality

Refers to the Town of Scarborough, Maine.

e. Conservation Projects

Conservation Projects may include seeding projects, crab projects, school projects, surveys or any other project accepted by the Shellfish Conservation Commission and/or the Marine Resource Officer. [Adopted 06/03/15; Amended 02/05/2025]

Section 5. Licensing - Municipal Shellfish Digging is required:

It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current license issued by this municipality as provided by this Ordinance.

A Commercial Digger must also have a valid **STATE OF MAINE COMMERCIAL SHELLFISH LICENSE** issued by the Department of Marine Resources, if state law makes possession of the state license a prerequisite to issuance of a municipal license.

A. Designation, Scope and Qualifications:

1. Resident Commercial Shellfish License:

The license is available to residents of the Town of Scarborough who are 18 years or older and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.[Amended 03/21/13]

2. Non-resident Non-reciprocating Commercial Shellfish License:

The license is available to non-residents of this municipality who are 18 years or older and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.[Amended 03/21/13]

3. Resident Student Commercial License:

The license is available to residents of the Town of Scarborough who are full time students between the minimum age of twelve (12) years old and the maximum age of twenty-two (22) years old on May 1 of the year in which the application is made. Applicants must show proof

of age and proof of school attendance and students attending college must also show proof of a minimum of twelve (12) college credit hours per semester to be considered full-time students. Applicants under the age of 18 must also have the signature of a parent or guardian on the application for the license to be valid. This license entitles the holder to dig or take any amount of shellfish from the shores and flats of this municipality. [Amended 01/03/01; 07/17/02; 06/03/15]

4. Non-resident Student Commercial License:

The license is available to non-residents of the Town of Scarborough who are full time students between the minimum age of twelve (12) years old and the maximum age of twenty-two (22) years old on May 1 of the year in which the application is made. Applicants must show proof of age and proof of school attendance and students attending college must also show proof of a minimum of twelve (12) college credit hours per semester to be considered full-time students. Applicants under the age of 18 must also have the signature of a parent or guardian on the application for the license to be valid. This license entitles the holder to dig or take any amount of shellfish from the shores and flats of this municipality. [Amended 01/03/01; 07/17/02]

5. Over 60 Resident Commercial Bushel License:

The license is available to residents of the Town of Scarborough who are 60 years old and over. Applicants must show proof of age and residence. This license entitles the holder to dig or take one (1) bushel of shellfish from the shores and flats of this municipality at each tide. [Amended 02/18/98; 01/20/99; 02/04/2026]

6. Residential Recreational Shellfish License:

The license is available to residents and real estate taxpayers who are 16 years old and over of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for personal use. It is a violation of this ordinance for any person to sell, or otherwise receive remuneration for, any shellfish harvested pursuant to a residential recreational shellfish license. Any holder of a recreational license who is cited by the Shellfish Conservation Officer for selling or otherwise receiving remuneration for any shellfish harvested pursuant to that license, in addition to being subject to the other penalties provided in this ordinance, shall be ineligible for a recreational license in the next licensing year following that violation. The Shellfish Conservation Officer's determination of violation may be appealed in the same manner as a license suspension under Section ~~5(H)~~ 6(A)(3). [Amended 06/03/2015; 02/05/2025]

6-a. Non-resident Recreational Shellfish License:

The license is available to non-residents who are 16 years old and over of the Town of Scarborough and entitles the holder to dig and take no more than one peck of shellfish in any one day for personal use. It is a violation of this ordinance for any person to sell, or otherwise receive remuneration for, any shellfish harvested pursuant to a non-resident recreational shellfish license. Any holder of a non-resident recreational shellfish license who is cited by the Shellfish Conservation Officer for selling or otherwise receiving remuneration for any shellfish harvested pursuant to that license, in addition to being subject to the other penalties provided in this ordinance, shall be ineligible for a recreational license in the next licensing year following that violation. The Shellfish Conservation Officer's determination of violation may be appealed in the same manner as a license suspension under Section ~~5(H)~~ 6(A). [Amended 03/19/2003; 06/03/2015; 02/05/2025]

7. 65 and Over Resident Shellfish License:

The license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for personal use. It is a violation of this ordinance for any person to sell, or otherwise receive remuneration for, any shellfish harvested pursuant to a 65 and over residential recreational shellfish license. Any holder of a 65 and over resident recreational shellfish license who is cited by the Shellfish Conservation Officer for selling or otherwise receiving remuneration for any shellfish harvested pursuant to that license, in addition to being subject to the other penalties provided in this ordinance, shall be ineligible for a recreational license in the next licensing year following that violation. The Shellfish Conservation Officer's determination of violation may be appealed in the same manner as a license suspension under Section ~~5(J)~~ 6(A). [Adopted 01/17/2024; Amended 02/05/2025; 02/04/2026]

7.a. 65 and Over Non-Resident ~~Complimentary~~ Shellfish License:

The license is available to non-residents of the Town of Scarborough and entitles the holder to dig and take no more than one peck of shellfish in any one day for personal use. It is a violation of this ordinance for any person to sell, or otherwise receive remuneration for, any shellfish harvested pursuant to a 65 and over non-resident recreational shellfish license. Any holder of a 65 and older non-resident recreational shellfish license who is cited by the Shellfish Conservation Officer for selling or otherwise receiving remuneration for any shellfish harvested pursuant to that license, in addition to being subject to the other penalties provided in this ordinance, shall be ineligible for a recreational license in the next licensing year following that violation. The Shellfish Conservation Officer's determination of violation may be appealed in the same manner as a license suspension under Section ~~5(J)~~ 6(A). [Adopted 01/17/2024; Amended 02/05/2025; 02/04/2026]

8. Resident Recreational Day Licenses.

This license entitles residents and real estate taxpayers who are 16 years old and over of the Town of Scarborough to dig or take up to one peck of shellfish for personal use, from the shores and flats or this municipality during a single calendar day specified in the license. The duration of this license is one calendar day only. [Adopted 02/18/1998; Amended 02/05/2025]

9. Non-resident Recreational Day Licenses.

This license entitles non-residents who are 16 years old and over of the Town of Scarborough to dig or take up to one peck of shellfish for personal use, from the shores and flats or this municipality during a single calendar day specified in the license. The duration of this license is one calendar day only. [Adopted 02/18/1998; Amended 02/05/2025]

10. License must be signed.

The licensee must sign the license to make it valid.

11. Commercial and Recreational License Applicant.

A commercial and recreational license applicant may apply for those licenses that they qualify for; however, an applicant can hold no more than one license. [Amended 01/17/24; 02/04/2026]

B. Contents of Application:

Any person may apply to the Town Clerk for the license required by this ordinance on forms provided by the municipality.

1. Contents of the Application:

The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, signature and whatever other information the Town Clerk may require.

2. False Statements.

Any person who provides information in support of an application under this ordinance must do so in the form of an affidavit. If the applicant provides false information, the applicant forfeits the right to a license and a license previously issued to that applicant shall become void. Any other person who gives false information in support of an application under this ordinance commits a violation of this ordinance punishable under Section ~~5(K)~~ 6(A). [Adopted 02/18/98].

C. Fees:

The fees for the licenses are as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council, and must accompany in full the application for the respective license. License fees for residents and non-residents will be established in accordance to M.R.S.A. Title 12, Section 6671.3-A.(b). The Town Clerk shall pay all fees received to the Town Treasurer. Fees received for shellfish licenses shall be used by the Town for shellfish management, conservation and enforcement. Fees are non-refundable, except that the holder of a student commercial license who surrenders the license within seventy-five (75) days after the date of issuance shall receive a refund of one-half the license fee. [Amended 01/05/00; 01/17/24; 01/17/24]

D. Conservation Activities: [Adopted 06-03-15]

The Town encourages all shellfish diggers to protect and enhance the resource by participating in conservation activities such as seeding clam beds, participating in shellfish surveys, and participating in other approved resource management activities. All Commercial License holders 18 years of age or older are required to participate in shellfish conservation projects as deemed necessary by the Shellfish Conservation Commission and/or the Marine Resource Officer. Seeding or other approved conservation activities also may be undertaken. Commercial License Holders who complete the specified number of hours of conservation activities which may include required shellfish seeding hours and volunteer hours for a total of twelve (12), will be eligible for license renewal pursuant to Section 5.E.4.(a) of this Ordinance. An additional .5 hours for each hour of survey conducted. [Amended 01/07/2024; 02/05/2025; 02/04/2026]

The Shellfish Conservation Commission will approve all accepted conservation activities by a majority vote. The names and number of hours completed on an accepted conservation activity will be recorded in writing by the Marine Resource Officer and submitted to the Shellfish Commission or the Town Clerk on a monthly basis for their records. All conservation time must be submitted by January 15th by close of business, unless the 15th falls on a weekend, then must be submitted the following Monday. [Amended 01/07/2024; 02/05/2025]

It shall be the sole responsibility of the Commercial License holder to contact the Shellfish Commission Members or the Marine Resource Officer to determine the conservation available to participate in. The Shellfish Commission Chair, with consent of the majority membership of the Commission, may designate special conservation work during any period of State closure of the Town of Scarborough shellfish beds. The Chair may poll the Commission by telephone, email, fax or in person for the purposes of this section. Each Commercial License holder is

encouraged to contribute at least half of their voluntary conservation activity in the form of low tide work. All crab trapping is considered low tide work. The conservation year will run from April 1st to November 30th. Surveys of the shellfish resource shall be conducted annually as a conservation activity, with the date and location to be determined by the Shellfish Commission or the Marine Resource Officer. [Amended 01/07/2024; 02/05/2025]

The Shellfish Conservation Commission may waive all or part of the requirement for shellfish seeding for an applicant who provides the Commission with a written statement from a physician indicating that the applicant was not able to participate in any regularly scheduled shellfish seeding due to incapacitation by illness or injury. The Commission may also allow the following alternative conservation work, on an hour for hour basis, upon the request of an applicant made at a regular monthly meeting of the Commission. Such alternative work may be used to meet the shellfish seeding requirement or may be used to qualify as additional volunteer conservation activity:

- i. Another time to complete conservation time for an applicant who demonstrates to the Commission that the illness or incapacitation of a parent, spouse or child prevented that person from participating in regularly scheduled conservation time; or,
- ii. Alternate, less strenuous work for an applicant who provides the Commission with a written statement from a physician indicating that the applicant is not physically able to participate in regular conservation work.
- iii. At the discretion of the Project Leader, any scheduled conservation project may be canceled and/or terminated due to severe weather or safety concerns for those involved. Any participant present or arriving within ten minutes at the designated meeting area and start time must still sign in and sign out. These participants will receive the allotted hours of conservation time for that particular project regardless of performing the activity.

E. Issuance of Shellfish Licenses: [Amended 06/03/15]

Clam resources vary in density and size distribution from year to year and over the limited soft clam producing area of the Town. It is essential that the town carefully husband its shellfish resources. Following the annual review of the town's clam resources, its size distribution, abundance and the warden's reports, as required by Section 3, the Shellfish Conservation Commission, in consultation with the D.M.R. area biologist, will determine whether limiting commercial or recreational shellfish licenses is an appropriate shellfish management option for the following year.

- 1) Prior to February 1 of 1998 and each succeeding year, the Commission shall report its findings and document recommendations for the allocation of commercial and recreational licenses to be made available for the following license-year to the Commissioner of Marine Resources for concurrence.
- 2) After receiving approval of proposed license allocations from the Commissioner of Marine Resources and prior to February 1 of 1998 and each succeeding year, the Shellfish Conservation Commission shall notify the Town Clerk in writing of the number and allocation of shellfish licenses to be issued.
- 3) Notice of the number of licenses and the procedure for application shall be published in a trade or industry publication, or in a with general circulation, as well as the town's social media sites or online postings, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes. [Amended 02/04/2026]

4) The Town Clerk shall accept applications for shellfish licenses annually commencing on the first day of March through to the first Monday and Tuesday in April. [Amended 03/19/03; 01/17/24]

(a) Commercial Renewal Licenses.

(i): The Clerk shall issue licenses only to holders of resident and non-resident commercial shellfish licenses who seek renewal and who have completed at least 12 hours of approved conservation activities which may include mandatory shellfish seeding as well as voluntary conservation work approved under this Ordinance during the term of their current licenses or at least 4 hours of such work if the holder is 70 years of age or older. Such applicants may apply by mail or must appear in person at the office of the Town Clerk during that two day period and pay the application fee at the time of issuance of the license. The Clerk shall issue commercial licenses to such qualified applicants on a first come, first served basis during those two business days. Any holder of a commercial license whose status as a resident or non-resident has changed at the time of application or who did not complete the requisite hours of approved conservation activities shall not be entitled to apply for renewal under this subsection (a) but may apply for a new license under subparagraph (b) below. [Amended 03/16/2005; 06/03/2015; 01/17/2024; 02/05/2025]

(ii): Effective March 1, 1998 in lieu of applying in person pursuant to subparagraph (I) above, Applicants for a renewal resident or non-resident commercial license may apply by mail. Applications by mail must be received at the Town Clerk's office on a day that office is open for business no earlier than March 1 and no later than the Tuesday following the first Monday in April. The application must be accompanied by the required license fee, a copy of the applicant's driver's license, a copy of the applicant's motor vehicle registration certificate, and any other information upon which the applicant relies to document residency. The Clerk shall mark all applications with the date and time of receipt. If more than one application is received at the same time, the Clerk shall determine their order or receipt of random drawing and mark them accordingly. The Clerk's marks concerning order of receipt shall be conclusive for purposes of applying the first-come first-served provisions of paragraph (i) above. [Amended 01/17/24]

(b) Non-Renewal Resident Commercial and Non-Resident Non-Reciprocating Commercial Licenses.

(i) On the third and fourth subsequent business days following the renewal process as noted in paragraphs 4.a (i)(ii) above, the Clerk shall accept applications for any remaining resident commercial shellfish licenses and non-resident non-reciprocating commercial shellfish licenses. Applicants must apply in person and be 18 years of age at the time of application, at the office of the Town Clerk. The Clerk shall not issue any licenses during the third and fourth business days, but shall inform each applicant that licenses will be awarded on the basis of a lottery and advise each applicant of the time and place where the lottery will be held. On the fifth subsequent business day, the Clerk shall conduct a lottery for the issuance of the remaining resident commercial shellfish licenses and a lottery for the issuance of non-resident non-reciprocating commercial shellfish licenses. In order to be entered into the lottery, an applicant must be present and must tender the application

fee at the time of the lottery drawing. The Clerk shall award the remaining resident commercial shellfish licenses by drawing the names of qualified applicants at random and then shall award the non-resident non-reciprocating commercial shellfish licenses by drawing the names of qualified applicants at random. [Amended 01/17/24]

(ii) If, after June 1 annually, any allocated licenses remain unissued, on the first consecutive Monday, Tuesday and Wednesday in June applications shall be taken and placed in a lottery pool. Applicants must apply in person and be 18 years of age at the time of application. On the following Monday, applicants' names shall be drawn at random by the Town Clerk. Physical presence and full payment are required at the time of drawing, and all applicants must meet eligibility requirements for the license category that they apply for. The lottery shall be conducted in the same fashion as the lottery under Section 5(E)(4)(b)(i). [Amended 02/05/2025]

(iii) Lottery Bonus Points shall be awarded to applicants who have successfully applied in previous years, as follows:

Applicants who apply to multiple lotteries in a row without winning a permit can earn bonus points (extra chances in drawing). Points are non-transferrable and are accumulated, as follows:

0-5 Lotteries: 1 Points/Lottery
6-10 Lotteries: 2 Points/Lottery
11-15 Lotteries: 3 Points/Lottery
16+ Lotteries: 10 Points/Lottery

Bonus points are tracked by the Town Clerk using your name and date of birth. To receive bonus points, an applicant must enter the correct name and date of birth on the application. The applicant will also need to indicate that they applied for the lottery the last year that it was held. The Town Clerk upon receiving an application will review the applicant's record and provide applicants with a number of bonus points which will be entered in the lottery.

An applicant will forfeit bonus points if the applicant:

- Fails to apply for bonus point in any one (1) Lottery; or,
- Obtains a Municipal Residential and/or non-residential Commercial Shellfish License through the Lottery; or,
- Is selected for a Municipal Residential and/or non-residential Commercial Shellfish License, but declines it, and/or fails to meet the criteria for legally possessing it; or,
- Is found to have not legally applied in the current year; or,
- Enters the incorrect name or date of birth on the application or fails to indicate that the applicant applied for a permit in the previous year. [Adopted 01/17/24]

(c) Resident Student Commercial Renewal Licenses, Non-Resident Student Commercial Renewal Licenses and Over 60 Resident Commercial Bushel Renewal Licenses.

Shall be renewable in the same manner as Resident and Non-Resident Commercial Licenses under Section 5.E.4(a), except that required shellfish seeding hours and additional voluntary conservation hours shall be:

Resident & Non-Resident Student Commercial Licenses under the age of 18. [Amended 06/03/15]	No conservation time required. [Voluntary participation is encouraged.] [Amended 06/03/15]
Resident & Non-Resident Student Commercial Licenses 18 years of age or older at time the license is issued. [adopted 06-03-15]	Twelve (12) hours of approved conservation activities. [Adopted 06-03-15]
Over 60 Resident Commercial Bushel Licenses	Eight (8) Hours of approved conservation activities. [Amended 03/16/05; 11/02/05; 06/03/15]
All Commercial License Holders 70 or Older	Four (4) hours of approved conservation activities. [Amended 03/16/05; 11/02/2005; 06/03/15]

Any holder of a student commercial license or over 60 license whose status as a resident or non-resident has changed at the time of application or who did not complete the requisite hours of approved conservation activities shall not be entitled to apply for renewal under this subsection (a) but may apply for a new license under subparagraph (d) below.

(d) Non-Renewal Resident Student Commercial Licenses, Non-Resident Student Commercial Licenses and Over 60 Resident Commercial Bushel Licenses.

Applications for new (non-renewal) Resident Student Commercial Licenses, Non-Resident Student Commercial Licenses and Over 60 Resident Commercial Bushel License shall be processed in the same manner as applications for non-renewal Resident Commercial and Non-Resident Non-Reciprocating Commercial Licenses under Section 5.E.4(b), except that for Resident Student Commercial Licenses and Non-Resident Student Commercial Licenses the clerk shall continue drawing names after all licenses have been awarded and until all applicants have been placed on a list in the order their names have been drawn. Any Student Commercial License which is surrendered after issuance shall be made available to the remaining applicants on that list in the order their names were drawn, and then to other applicants on a first-come, first-served basis.

(e) Resident Recreational Licenses.

Commencing on the second Monday in April annually the Town Clerk shall accept applications for resident recreational shellfish licenses. Applicants must appear in person at the office of the Town Clerk. Licenses shall be awarded on a first come, first served basis.

(f) 65 and Over ~~Complimentary~~ Resident Recreation Licenses.

Commencing on the second Monday in April annually, the Town Clerk shall accept application for 65 and over resident recreational shellfish licenses. Applicants must appear in person at the office of the Town Clerk. Licenses shall be awarded on a first come, first served basis. [Adopted 01/17/24]

(g) Non-resident Recreational Licenses.

Commencing on the second Monday in April annually, the Town Clerk shall accept applications for non-resident recreational licenses. Applicants must appear in person at the office of the Town Clerk. Licenses shall be awarded on a first come, first serve basis. [Amended 01/17/24]

(h) 65 and Over ~~Complimentary~~ Non-resident Recreational Licenses.

Commencing on the second Monday-in April annually, the Town Clerk shall accept application for the 65 and over non-resident recreational shellfish licenses. Applicants must appear in person at the office of the Town Clerk. Licenses shall be awarded on a first come, first served basis. [Amended 01/17/24]

(i) Remaining Licenses.

If, after August 1 annually, any allocated licenses remain unissued, the clerk shall issue such licenses on a first-come, first served basis, without regard to the residency of the applicant or the allocation between resident and non-resident licenses. [Amended 03/16/05; 11/02/05]

(j) Day Licenses.

After all available resident and non-resident recreational licenses have been issued under Section 5(E)(4)(d) and 5(E)(4)(e) above, the clerk may receive applications for and issue resident recreational day licenses and non-resident recreational day licenses, on a first-come, first-served basis. Applicants must appear in person at the office of the Town Clerk no earlier than five (5) calendar days before the day for which the license is requested. The five (5) calendar days starts the day the initial visit to obtain the permit is made. An applicant may obtain only a day license for up to three (3) days [within the five (5) calendar days noted above] and must appear in person for each license requested. Each license issued under this Section shall specify the calendar day for which it is issued and shall be valid for that day only. If multiple licenses are requested, a license for each day shall be issued. [Amended 03/16/2005; 11/02/2005; 01/17/2024]

(i) One – Peck Day License must be used on the date listed on the license. In the event of flat closures, per the State, please contact the Town Clerk’s Office at 207-730-4020 the day of the closure to inform staff your license was not used. If the office is closed, you must leave a voicemail stating your name, contact information and date of the closure. In some cases, a credit for the unused licenses may be issued at the discretion of the Town Clerk. All credits must be used within 30 days of the original license date or the credit will be forfeited. [Adopted 01/17/24]

F. License expiration date:

Each license issued under authority of this Ordinance expires at midnight the 30th of April next following the date of issue. Day licenses shall expire at midnight on the day they are issued for. [Amended 01/17/24]

G. Reciprocal Harvesting Privilege:

Licenses from any other municipality co-operating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of their management program, may harvest shellfish according to the terms of their licenses.

H. Children 16 years or younger may accompany a recreational license holder:

The recreational license holder and accompanying children are entitled to dig no more than the previously stated amount, “one peck of shellfish in any one day for personal use.” [Amended 07/17/2002; 06/03/2015; 02/05/2025]

~~I. Suspension:~~

~~1. Any shellfish licensee having one conviction for a violation of this Ordinance or for a violation occurring within the Town of Scarborough of any state statute regulating the digging or taking of shellfish shall have his or her shellfish license automatically suspended for a period of 14 days. Subsequent convictions during the same license year (May 1–April 30) shall result in an automatic suspension of sixty (60) days. A licensee shall have his or her record cleared if there are no convictions within one year from the time of a conviction. As used in this paragraph, the term “digging” means using a shovel, spade, rake, tool or hands to uncover shellfish from the ground and the term “taking” means removing a marine organism from its natural habitat. [Amended 04/18/01; 06/03/15]~~

~~2. Any shellfish licensee having one conviction for a violation occurring within the Town of Scarborough of 12 M.R.S.A. § 6625 (governing identification and tagging of shellfish) shall have his or her shellfish license automatically suspended for a period of seven (7) days. Subsequent convictions during the same license year (May 1–April 30) shall result in an automatic suspension of fourteen (14) days. A licensee shall have his or her record cleared if there are no convictions within one year from the time of a conviction. [Amended 04/18/01; 06/03/15]~~

~~3. A licensee whose shellfish license has been suspended pursuant to this section shall automatically have his or her license reinstated after the period of suspension has been served. [amended 04/18/01; 06/03/15]~~

~~4. The suspension shall be effective from the third business day after the date of mailing of a Notice of Suspension by the Town Clerk to the Licensee or upon presentation of a Notice of Suspension by the Town Marine Resource Officer, whichever is earlier. [amended 02/18/98].~~

~~5. Any licensee whose shellfish license has automatically been suspended pursuant to this section shall be entitled to a hearing before the Shellfish Conservation Commission upon filing of a written Request for Hearing with the Town Clerk within 30 days following the effective date of suspension. Filing of the request for hearing with the Town Clerk stays the suspension until the end of the seventh day following the decision of the Shellfish Conservation Commission. The licensee may appeal the decision of the Shellfish Commission before the Town Council by filing a written Request for Appeal with the Town Clerk within 7 days of the decision of the Shellfish Conservation Commission. Filing of the Request for Appeal with the Town Clerk stays the suspension until the Town Council has rendered its decision. [Amended 04/18/01; 03/01/06;]~~

~~6. No holder of a commercial license under this Ordinance shall dig or take shellfish during any time that holder’s State of Maine Shellfish License is suspended. During any such period of suspension, the holder’s license under this Ordinance is automatically suspended. [Amended 02/18/09]~~

I J. Opening and Closing of Flats:

The Shellfish Conservation Commission, with the approval of the Commissioner of Marine Resources, may open and close the areas for shellfish harvest (the "Conservation Areas"). Except in the case of emergencies, the Shellfish Conservation Commission shall follow the following procedure prior to opening or closing a Conservation Area:

1. Upon determination by the Shellfish Conservation Commission or by the Chair of the Commission that the opening or closing of a Conservation Area should be considered, the Chair shall place the proposed opening or closing on an agenda for a public hearing.
2. No less than 7 days prior to the hearing, a notice of the hearing describing the location of the Conservation Area proposed to be opened or closed shall be: (a) posted at the Town Office; (b) published in a newspaper of general circulation in the Town of Scarborough; and, (c) communicated to the Department of Marine Resources. The notice may also be placed on the Scarborough Shellfish Conservation Officer's telephone recording.
3. At the public hearing, the Shellfish Conservation Commission shall present and entertain evidence obtained from shellfish surveys and other sources. Members of the public may then comment on such evidence and may present additional evidence relevant to the proposed opening or closing.
4. At the conclusion of the evidence, the Shellfish Conservation Commission shall make findings of fact based on the evidence presented, shall reach conclusions based on those findings of fact, shall order whether the Conservation Area in question shall be opened or closed, and may set such time limitations and other harvesting conditions as are consistent with good conservation practices.
5. The order of the Shellfish Conservation Commission shall be forwarded to the Commissioner of Marine Resources and shall not take effect until approved by the Department of Marine Resources and notification by the Municipality to the public for five (5) days prior to the initial opening and closing of flats.

In the event the Shellfish Conservation Commission determines that an emergency closing of a Conservation Area is necessary, the Commission may take action without following the procedures described above, provided that the Commission makes a reasonable effort to give adequate public notice and allow for public participation. [Amended 01/03/2001; 02/05/2025]

J K. Hours Prohibited:

It shall be unlawful to dig any shellfish anywhere in the Town of Scarborough between the hours of one half hour after sundown and one half hour before sunrise. [Amended 10/17/07; 03/21/13]

~~L. Penalty: Any person who violates any provision of this ordinance will be held accountable, as provided in 12 M.R.S.A. §6671(10) and (10-A). Any person holding a commercial license under this Ordinance who aids or abets the harvest of shellfish in violation of this Ordinance also commits a violation of this Ordinance and shall be subject to the same fines as the person he or she assisted. [Amended 04/04/07; 02/04/2026]~~

K P. Method of Taking Soft Shell Clams.

Pursuant to Title 12 Section 6623, it shall be unlawful to fish for or take soft shell clams. [Amended 03/01/06; 02/04/2026]

L. Method of Taking all Other Shellfish Not Listed in Section Above.

All shellfish harvesting in the Town of Scarborough is conducted by Clam Hoe or handpicking.

M. Atlantic Surf Clam (Surf Clams) Harvesting License Exception Area.

The harvesting of Atlantic Surf Clams (*Spisula solidissima*), also known as Surf Clams [1] on Pine Point Beach defined as from the Scarborough River Jetty to the Scarborough, Old Orchard Beach Town line, shall be exempt from any license requirement through the Town of Scarborough.

N. Methods of Harvesting Shellfish Prohibited in the Town of Scarborough.

The regulated area includes the entire salt marsh and intertidal zone within the Scarborough River estuary, bounded seaward by Ferry Rock to the east and the Pine Point Jetty to the west. This area includes all mudflats, salt marshes, or other land below the high-water mark and above subtidal lands landward of the line connecting Ferry Rock and the Pine Point Jetty.

Within this regulated area, it is unlawful to harvest or attempt to harvest shellfish by any of the following methods:

- Towing any dredge, drag, or other harvesting implement by watercraft.
- Diving, including the use of SCUBA equipment, snorkeling equipment, or any other artificial breathing device that allows a person to breathe underwater.
- Using any pump, suction, or other mechanical suction device.
- Bull raking.
- Harvesting shellfish by cutting through or breaking the ice. Harvesting is permitted only through open water.

Permitted methods of harvest are limited to hand digging with a traditional clam hoe or by picking shellfish directly from the mud by hand.

O. Shellfish Size and Tolerance of Harvest

1. Minimum sizes for shellfish regulated under this ordinance are pursuant to 12 M.R.S.A., 12 M.R.S.A. §§6671 and 6681 and Maine Department of Marine Resources regulations as amended from time to time.

- a) Softshell Clams: It is unlawful for any person to take, possess, ship, transport, buy or sell softshell clams within the Municipality, which are less than two (2) inches in the longest diameter.
- b) Quahogs: It shall be unlawful to take, possess, ship, transport, buy or sell quahogs within the Municipality that are less than one (1) inch in thickness as measured across the hinge.
- c) Razor Clams: It shall be unlawful to take, possess, ship, transport, buy or sell razor clams that are less than four (4) inches within the Municipality.
- d) American Oysters: It shall be unlawful to take, possess, ship, transport, buy or sell American oysters with the Municipality whose shells are less than 2.5 inches in the longest diameter.
- e) European Oysters: It shall be unlawful to take, possess, ship, transport, buy or sell European oysters within the Municipality whose shells are less than three (3) inches in the longest diameter.

2. The possession of more than one peck of clams by not possessing both a valid State Commercial Shellfish Harvesting license and Town of Scarborough Commercial Shellfish license shall constitute a violation of this Ordinance.

P. Method of Determining Tolerance

1. The methods of determining tolerance shall be in accordance with 12 M.R.S.A. §§ 6671 and 6681 and Maine Department of Marine Resources regulations as amended from time to time.

- a) Softshell Clams: Any licensed person may possess softshell clams that are less than two (2) inches if they comprise less than 10% of any lot. The tolerance shall be determined by numerical count of not less than one (1) peck, but no more than four (4) pecks taken at random from various parts of the lot or by a count of the entire lot if it contains less than one (1) peck.
- b) Quahogs: Any person may possess quahogs that are less than one inch if they comprise less than 5% of any bulk pile. The tolerance is determined by numerical count of not less than one peck nor more than 4 pecks taken at random from various parts of the bulk pile or by a count of the entire pile if it contains less than one peck.
- c) Razor Clams: Notwithstanding any other provision of this ordinance, no minimum tolerance is established at this time for razor clams.
- d) American Oysters: Any person may possess American oysters that are less than 2.5 inches if they comprise less than 10% of any bulk pile. The tolerance is determined by numerical count of not less than one peck nor more than 4 pecks taken at random from various parts of the bulk pile or by a count of the entire pile if it contains less than one peck.
- e) European Oysters: Any person may possess European oysters that are less than 3 inches if they comprise less than 10% of any bulk pile. The tolerance is determined by numerical count of not less than one peck nor more than 4 pecks taken at random from various parts of the bulk pile or by a count of the entire pile if it contains less than one peck.

Section 6. Suspension and Penalty

A. Suspension:

1. Any shellfish licensee having one conviction for a violation of this Ordinance or for a violation occurring within the Town of Scarborough of any state statute regulating the digging or taking of shellfish shall have his or her shellfish license automatically suspended for a period of 14 days. Subsequent convictions during the same license year (May 1 - April 30) shall result in an automatic suspension of sixty (60) days. A licensee shall have his or her record cleared if there are no convictions within one year from the time of a conviction. As used in this paragraph, the term “digging” means using a shovel, spade, rake, tool or hands to uncover shellfish from the ground and the term “taking” means removing a marine organism from its natural habitat. [Amended 04/18/01; 06/03/15]

2. Any shellfish licensee having one conviction for a violation occurring within the Town of Scarborough of 12 M.R.S.A. § 6625 (governing identification and tagging of shellfish) shall have his or her shellfish license automatically suspended for a period of seven (7) days. Subsequent convictions during the same license year (May 1 - April 30) shall result in an automatic suspension of fourteen (14) days. A licensee shall have his or her record cleared if there are no convictions within one year from the time of a conviction. [Amended 04/18/01; 06/03/15]

3. A licensee whose shellfish license has been suspended pursuant to this Section shall automatically have his or her license reinstated after the period of suspension has been served. [amended 04/18/01; 06/03/15]

4. The suspension shall be effective from the third business day after the date of mailing of a Notice of Suspension by the Town Clerk to the Licensee or upon presentation of a Notice of Suspension by the Town Marine Resource Officer, whichever is earlier. [amended 02/18/98].

5. Any licensee whose shellfish license has automatically been suspended pursuant to this Section shall be entitled to a hearing before the Shellfish Conservation Commission upon filing of a written Request for Hearing with the Town Clerk within 30 days following the effective date of suspension. Filing of the request for hearing with the Town Clerk stays the suspension until the end of the seventh day following the decision of the Shellfish Conservation Commission. The licensee may appeal the decision of the Shellfish Commission before the Town Council by filing a written Request for Appeal with the Town Clerk within 7 days of the decision of the Shellfish Conservation Commission. Filing of the Request for Appeal with the Town Clerk stays the suspension until the Town Council has rendered its decision. [Amended 04/18/01; 03/01/06]

6. No holder of a commercial license under this Ordinance shall dig or take shellfish during any time that holder's State of Maine Shellfish License is suspended. During any such period of suspension, the holder's license under this Ordinance is automatically suspended. [Amended 02/18/09]

B M. Administrative Suspension of Recreational License:

If the Shellfish Conservation Officer determines that the holder of a recreational license has sold or otherwise received remuneration for shellfish harvested pursuant to the recreational license, or that the holder of a license has violated Section 5(~~N P~~) of this ordinance the Shellfish Conservation Officer may impose an administrative suspension of the License and of eligibility for a license in the next licensing year. The Shellfish Conservation Officer shall give written notice to the license holder of the administrative suspension, which shall be effective from the third business day after mailing of the Notice of Suspension or upon presentation of the Notice of Suspension by the Shellfish Conservation Officer, whichever is earlier. The license holder may appeal the administrative suspension in the same manner as an automatic suspension under Section 5(~~H~~) 6(A)(3). The Shellfish Conservation Officer may, at their discretion, employ the administrative suspension in addition to or as an alternative to the penalties provided in Section ~~5.K~~ 6.D. The administrative suspension process and determinations resulting from that process are separate from and shall not be affected by the pendency or outcome of any court proceeding for the imposition of penalties under Section ~~5.K~~ 6.D. [Amended 02/18/98; 06/03/15]

N. ~~Clam Size and Tolerance of Harvest:~~

~~1) Clam size and tolerance of harvest. A person shall not harvest or possess softshell clams which are less than two (2) inches in the longest diameter to the amount of more than ten (10) percent of any lot.~~

~~2) The method of determining tolerance. The tolerance of ten (10) percent must be determined by a numerical count of not less than one (1) nor more than four (4) pecks taken at random from various parts of the lot. If the lot contains less than one (1) peck, the tolerance must be determined by numerical count of the entire lot.~~

C O. Unlawful Sale of Shellfish.

It is a violation of this Ordinance for any holder of a license under this Ordinance to sell or otherwise receive remuneration for any shellfish dug or taken within the Town of Scarborough

by any person who does not hold a valid shellfish license issued by the Commissioner of Marine Resources pursuant to 12 M.R.S.A. §6601. [Amended 02/18/98]

D.L. Penalty:

Any person who violates any provision of this ordinance will be held accountable, as provided in 12 M.R.S.A. §6671(10) and (10-A). Any person holding a commercial license under this Ordinance who aids or abets the harvest of shellfish in violation of this Ordinance also commits a violation of this Ordinance and shall be subject to the same fines as the person he or she assisted. [Amended 04/04/07; 02/04/2026]

Vote: 7 Yeas. Motion Carried.

Order No. 26-071. 7:00 p.m. Public Hearing and action on the new request for a Food Handlers License from Leah Rice, d/b/a Buttah Foods, located at 2 Timber Sands Drive and Akshay Patel, d/b/a Scarborough Spirits and Smoke Store, LLC, located at 400 Expedition Drive, Unit 2A. [Town Clerk's Office] A brief overview given on this Order. Chairman Fellows opened the public. There being no comments either for or against the hearing was closed at 8:22 p.m.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval on the new request for a Food Handlers License from Leah Rice, d/b/a Buttah Foods, located at 2 Timber Sands Drive and Akshay Patel, d/b/a Scarborough Spirits and Smoke Store, LLC, located at 400 Expedition Drive, Unit 2A.

Vote: 7 Yeas. Motion Carried.

Order No. 26-072. 7:00 p.m. Public Hearing and action on the new request for a Mobile Sauna License from Aschel Gregory d/b/a Rove Sauna, LLC, located at 134 Black Point Road. [Town Clerk's Office] A brief overview given on this Order. Chairman Fellows opened the public. The following individual spoke on this Order:

- Aschel Gregory, of Rove Sauna, LLC, thanked the Town Council for approving the Ordinance and her request for the License.

There being no further comments either for or against the hearing was closed at 8:24 p.m.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval on the new request for a Mobile Sauna License from Aschel Gregory d/b/a Rover Sauna, LLC, located at 134 Black Point Road.

Vote: 7 Yeas. Motion Carried.

Item 12. OLD BUSINESS: None at this time.

Item 13. NEW BUSINESS:

Order No. 26-073. First reading and refer to the Planning Board, the proposed amendments to Chapter 405 – Zoning Ordinance, Section VI Definitions to add and amend definitions pertaining to Timber Harvesting. [Planning Director] Autumn Speer, Planning Director, gave an overview on this Order and on Order No. 26-074. No public comments were made.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval of the first reading and refer to the Planning Board, the proposed amendments to Chapter 405 – Zoning Ordinance, Section VI Definitions to add and amend definitions pertaining to Timber Harvesting and schedule Town Council public hearing and second reading after Planning Board review, as follows

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to Chapter 405 the Town of Scarborough Zoning Ordinance, be and hereby is amended, as follows as presented (additions are underlined and in red font, moved text is underlined and in green font):

Chapter 405 Zoning Ordinance

Section VI Definitions:

Disturbed Area:

Means all land areas of a Parcel that are stripped, graded, grubbed, filled, or excavated at any time during the Site preparation or removing vegetation for, or construction of, a project. Cutting of trees, without grubbing, stump removal, disturbance, or exposure of soil is not considered Disturbed Area. Disturbed Area does not include routine maintenance but does include redevelopment and new Impervious Areas. “Routine maintenance” is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces provided that an applicant or permittee can prove the original line and grade and hydraulic capacity shall be maintained and original purpose of the gravel surface remains the same is considered routine maintenance. Replacement of a building is not considered routine maintenance of the building and is therefore considered Disturbed Area. [Adopted 07/19/23]

Forestry:

The use of land for the raising and harvesting of timber, pulp wood, and other forestry products for commercial purposes, including the temporary operation of a sawmill and/or chipper. The operation of a sawmill and/or chipper must be primarily used to process timber harvested on the premises, but may also process timber harvested off the premises provided this processing is accessory and subordinate to the principal forestry use of the property. The term “forestry” does not include the clearing of land for approved construction. [05/05/10]

Forest Management Activities:

Timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control.

Forestry Operations Notification (FON):

Process required to notify the Department of Agriculture, Conservation, and Forestry, Bureau of Forestry, of proposed commercial timber harvesting activities. In general, landowners are required to notify the Bureau of Forestry, in writing, before timber is cut or removed, when the primary purpose of the harvest is to sell or use the timber as forest products.

Timber Harvesting:

The cutting and removal of timber for the primary purpose of selling or processing forest products. ~~trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction. See Section IX Performance Standards.~~

Timber Harvesting Activities:

Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting, the mining of gravel used for the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO.

SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO.

[Amended 08/19/09] [Amended 05/20/2020; 07/19/2023; 05/20/2026]

3. Yard Standards - The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under subsection (E) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s). [Adopted 08/19/09]

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yards (ft.)
Route 1	35	90	15 ^{1 & 2}
Route 114 & other major collector streets	25	60 (except that this maximum shall not apply to single-family and two-family dwellings)	15 ^{1 & 2}
All other streets	~~40~~ <u>20</u>	25 (except that this maximum shall not apply to single-family and two-family dwellings)	15 ^{1 & 2}

E. SITE LAYOUT AND OFF-STREET PARKING STANDARDS

The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this district. In this district, buildings shall be located relatively close to the street to provide human scale development, village character, and auto and pedestrian utility. As exhibited by the varying minimum and maximum front setback standards under subsection (C)(3), Yard Standards, the proximity of the front line of a building(s) shall depend on the street that the lot fronts. The front line of buildings are required to be closer to local streets than they are to Route 1 and major collector streets including Route 114. [Adopted 08/19/09]

The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection (C)(3) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s). As stated under subsection C.3. of this district, the maximum front yard requirement and the off-street parking location requirements shall not apply to single-family and two-family dwellings: [Adopted 08/19/09]

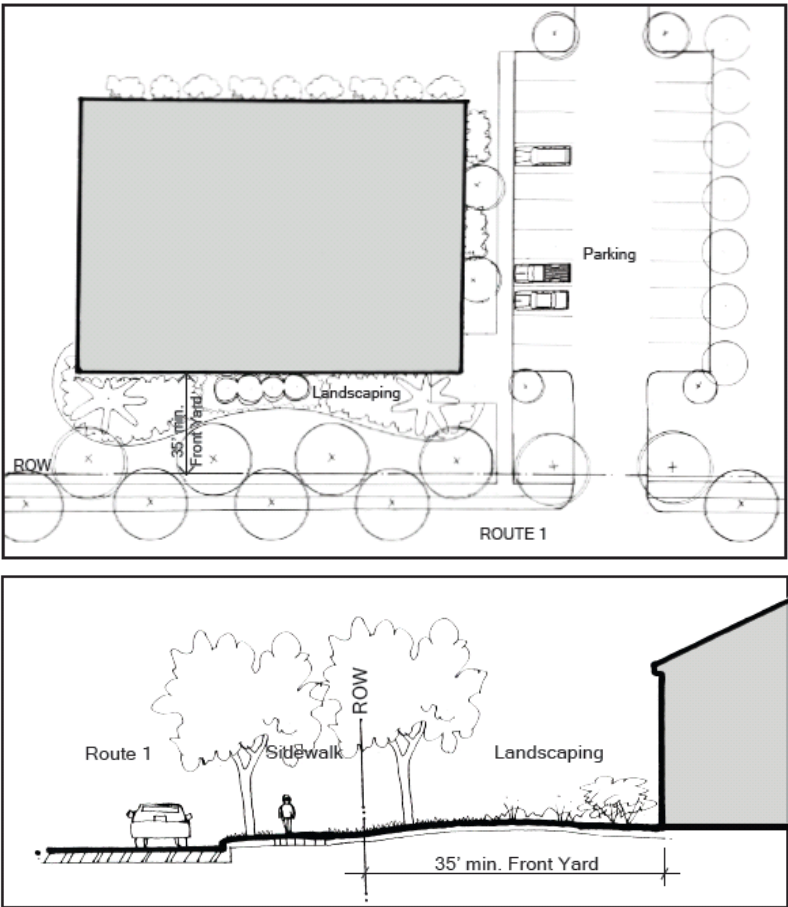
¹ When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yards.

² When the yard abuts a residential district, the minimum yard shall be 25 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

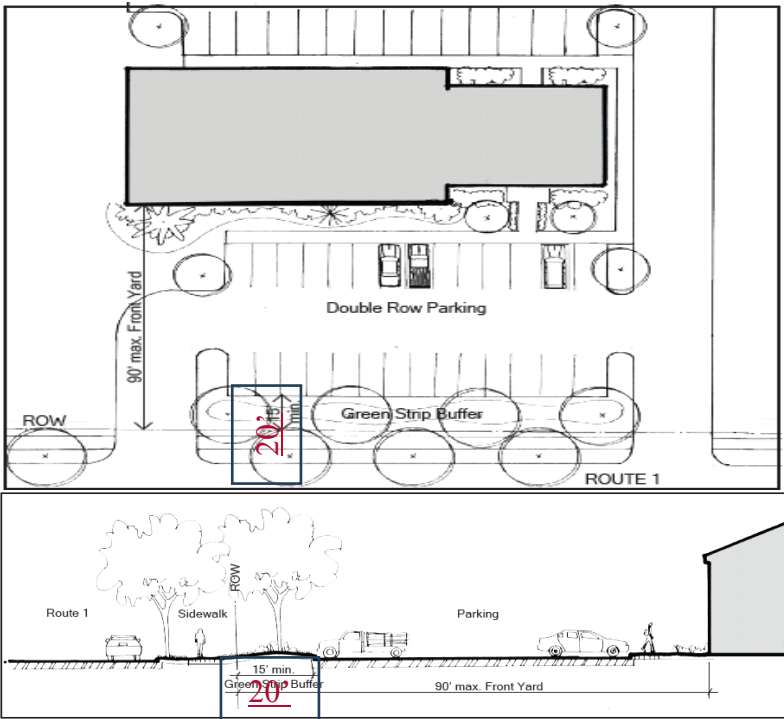
SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO.

Standards for Front Yards and Off-Street Parking on Lots abutting Route 1:

1. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



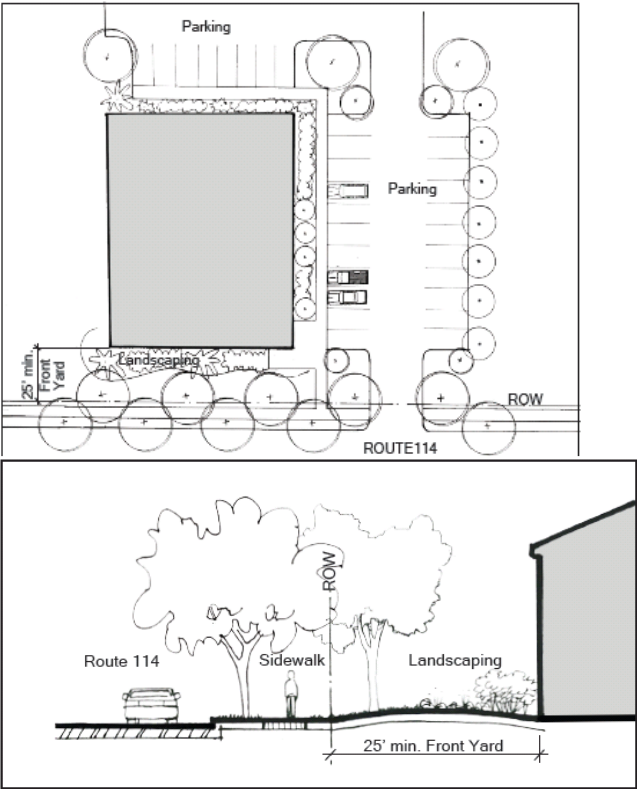
2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one double-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or “green strip buffer”, from the front property line shall be at least ~~20~~¹⁵ feet.



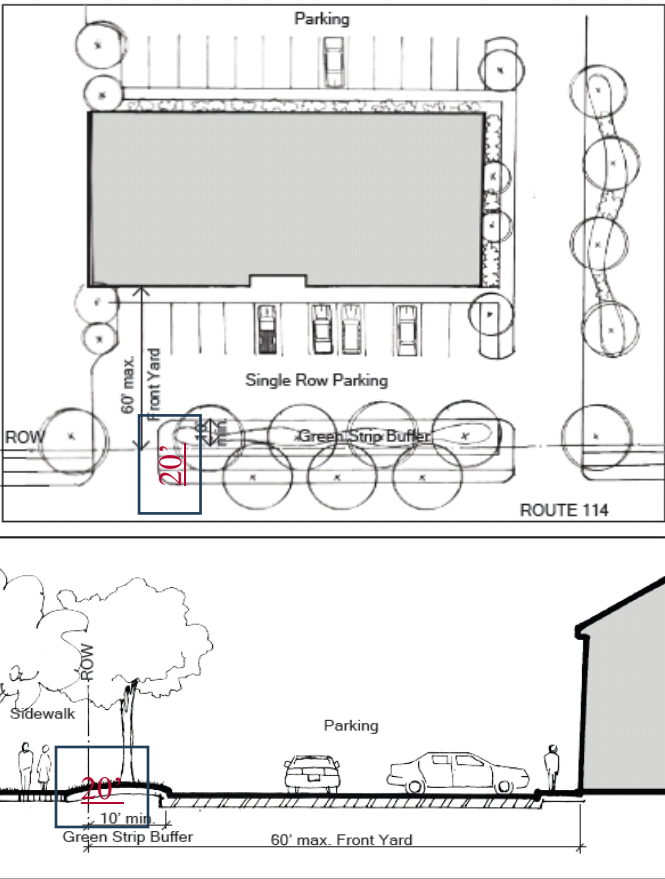
SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO.

Standards for Front Yards and Off-Street Parking on Lots abutting Rte. 114 and other major collector streets:

3. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



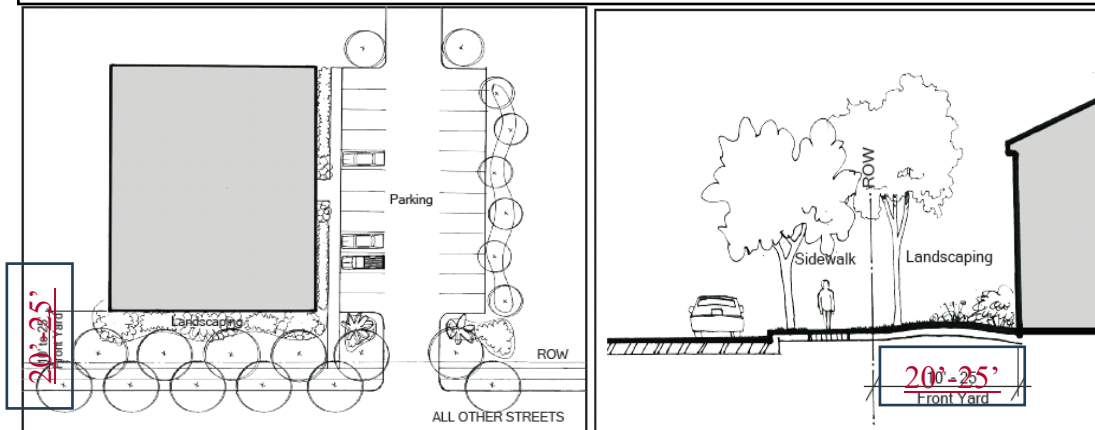
4. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one single-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or “green strip buffer,” from the front property line shall be at least ~~20~~20 feet.



SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO.

Standards for Front Yards and Off-Street Parking on Lots abutting all other streets:

5. No parking shall be allowed in the front yard of lots abutting all other streets. All off-street parking shall be located in the side and rear yards behind the front line of the principal building(s). The front yard shall be used for landscaping features, street trees, sidewalks, and pedestrian amenities. An access drive(s) to the site may cross the front yard but may not be located in the area between the front of the building and the front property line.



General Off-Street Parking Standards:

1. Off-street parking shall be provided in accordance with the requirements of Section XI if this Ordinance, except as those requirements are augmented or modified below.
2. Notwithstanding anything to the contrary in Section III or Section XI of this Ordinance, parking spaces existing in a front yard setback as of (the effective date of the amendments) shall be relocated to comply with the requirements of this section in the event of any change to the site which requires Planning Board approval under the Town of Scarborough Site Plan Review Ordinance. This requirement may be waived if the Planning Board determines that the relocation of some or all of the parking spaces is not feasible due to the shape, size or topography of the lot or the location of an existing principal building(s) on the lot.
3. In order to reduce the establishment of unnecessary parking spaces and impervious area, which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments. This allowance may also be exercised in developments that include a mix of residential and non-residential uses, such as second story dwelling units above non-residential uses or live-work units, subject to the same requirement that the parking facility will substantially meet the intent of the parking requirements. ~~In the RPO District, approval of this allowance by the Board of Appeals under Section XI(f) shall not be required.~~

**SECTION XVIII.A. TOWN AND VILLAGE CENTERS DISTRICT TVC [09/05/2007]
[Amended 01/20/16; 05/20/2020; 01/08/2025; 05/20/2026]**

D. SPACE AND BULK REGULATIONS

The following space and bulk regulations are applicable to conventional developments:

2. Yard Standards - The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under subsection (F) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building located closest to the abutting street.

[Amended 05/20/2020]

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yard (ft.)
Route 1	35	90	15 ^{1 & 2}
Route 114 & other major collector streets	25	60	15 ^{4 & 5}
All other streets	~~20~~ 10	25	15 ^{4 & 5}

F. SITE LAYOUT AND OFF-STREET PARKING STANDARDS, APPLICABLE TO CONVENTIONAL DEVELOPMENTS

The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this district. In this district buildings shall be located relatively close to the street to provide human scale development, village character, and auto and pedestrian utility. As exhibited by the varying minimum and maximum front setback standards under subsection (D)(2) Yard Standards, the proximity of the front line of a building(s) shall depend on the street that the lot fronts. The front line of buildings are required to be closer to local streets than they are to Route 1 and major collector streets including Route 114.

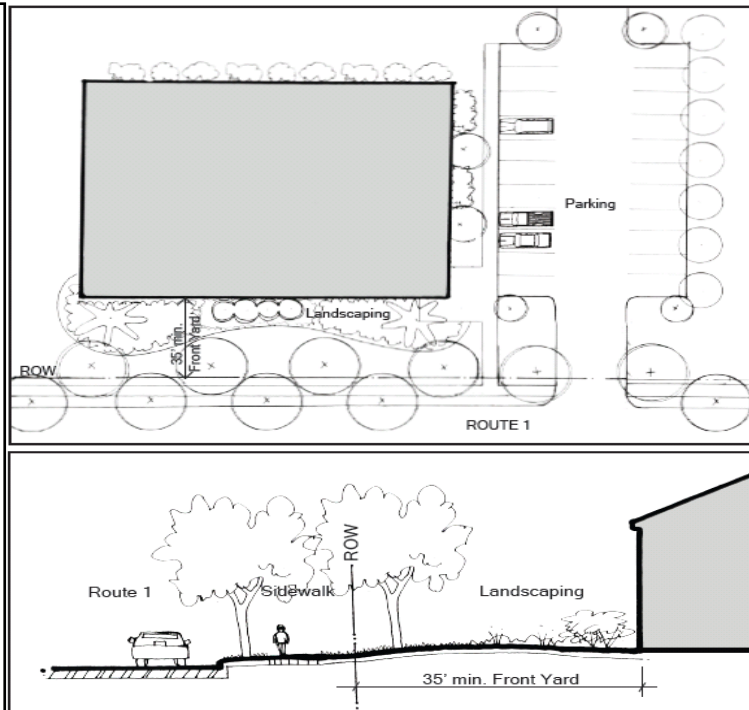
The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection D(2) of this district:

¹ When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

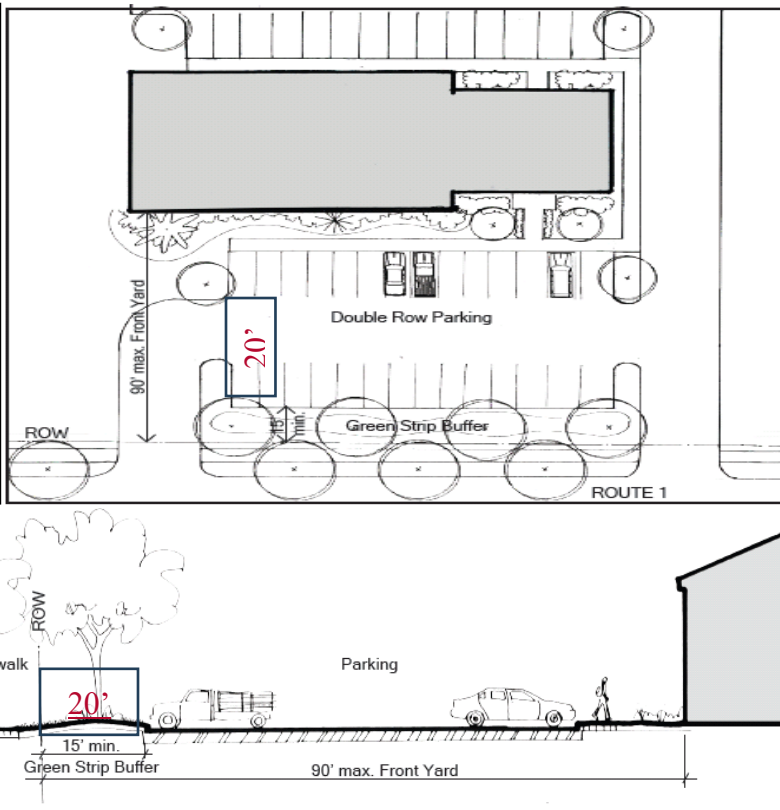
² When a site abuts a residential district, the minimum yard shall be 25 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

Standards for Front Yards and Off-Street Parking on Lots abutting Route 1:

1. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.

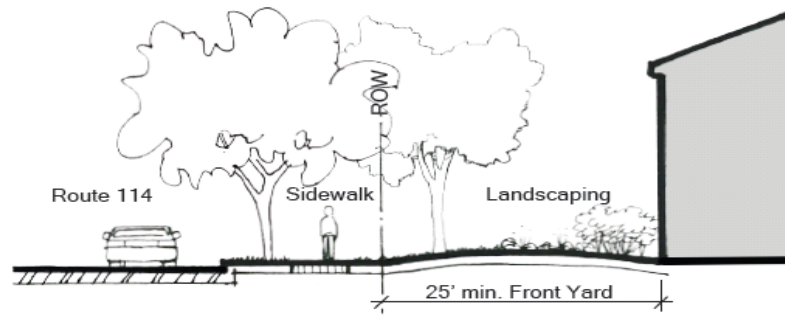
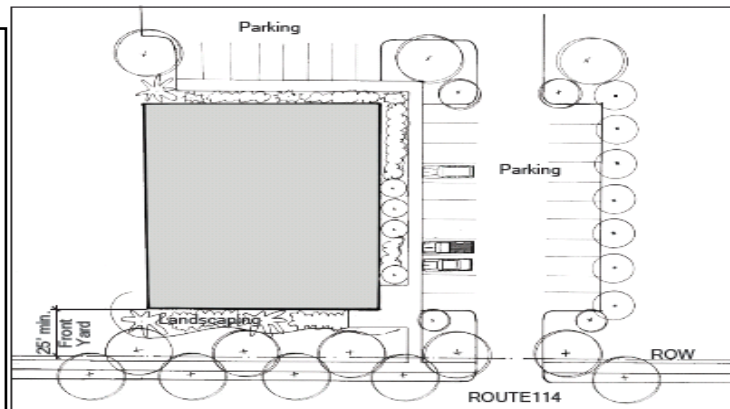


2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one double-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or “green strip buffer”, from the front property line shall be at least ~~15~~20 feet.

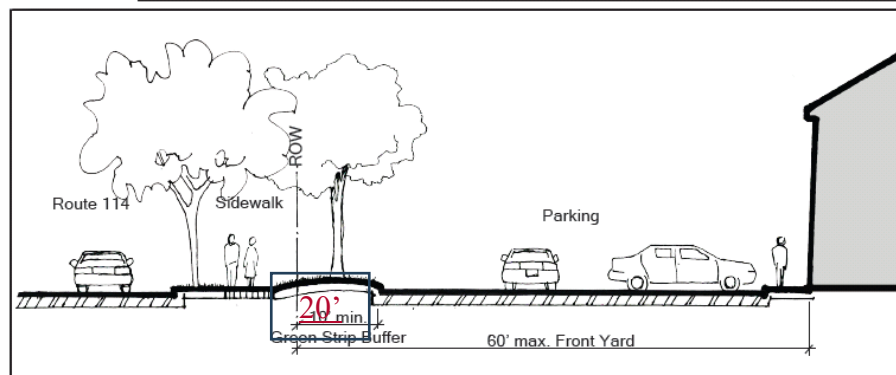
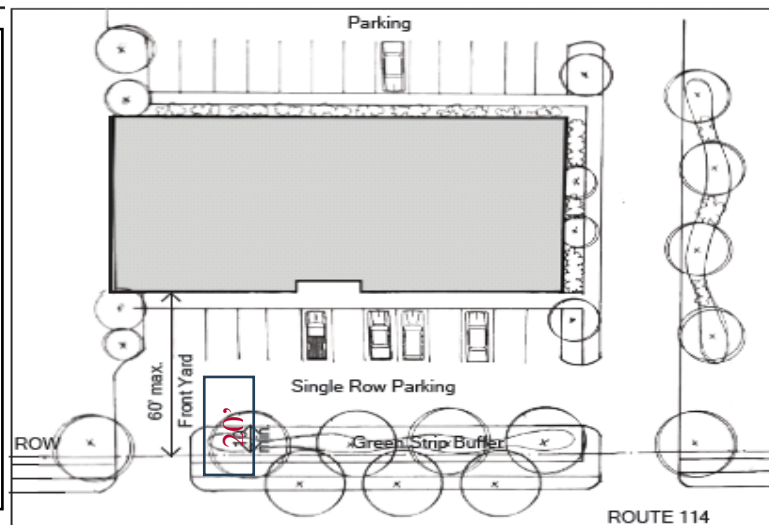


Standards for Front Yards and Off-Street Parking on Lots abutting Rte. 114 and other major collector streets:

3. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.

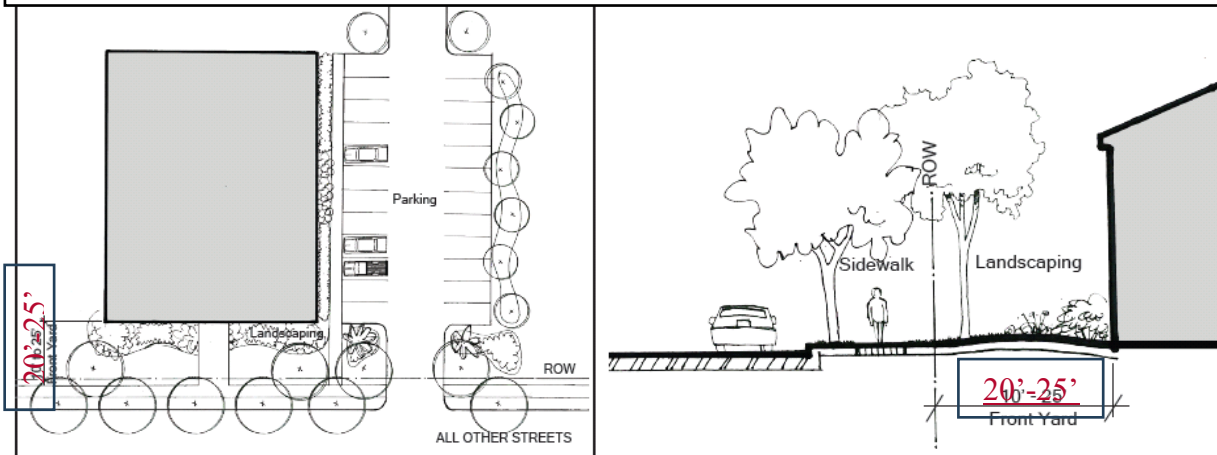


4. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one single-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or “green strip buffer”, from the front property line shall be at least ~~10~~20 feet.



Standards for Front Yards and Off-Street Parking on Lots abutting all other streets:

5. No parking shall be allowed in the front yard of lots abutting all other streets. All off-street parking shall be located in the side and rear yards behind the front line of the principal building(s). The front yard shall be used for landscaping features, street trees, sidewalks, and pedestrian amenities. An access drive(s) to the site may cross the front yard but may not be located in the area between the front of the building and the front property line.



SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2

SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2 [09/05/2007][Amended 08/19/09; 05/20/2020; 07/19/2023; 01/08/2025; 05/20/2026]

3. Yard Standards - The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under subsection (E) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building located closest to the abutting street(s). [Amended 11/07/07][Amended 05/20/2020]

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yards (ft.)
Rte. 1	35	90	15 ^{1 & 2}
Rte. 114, Rte. 207, and Rte. 22	25	60 (except that this maximum shall not apply to single-family and two-family dwellings)	15 ^{1 & 2}
All other streets	~~10~~ 20	25 (except that this maximum shall not apply to single-family and two-family dwellings)	15 ^{1 & 2}

Municipal buildings and uses, schools, libraries and museums shall be exempt from the maximum front yard requirement above and the standards for front yards and off-street parking under subsection (E)(1) thru (5) of this zoning district. Though exempt from this requirement, any front yard parking shall be substantially screened from abutting streets by street trees, landscaping and other buffering amenities and shall be designed to reinforce a village streetscape.

E. SITE LAYOUT AND OFF-STREET PARKING STANDARDS

The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this district. In this district, buildings shall be located relatively close to the street to provide human scale development, village character, and auto and pedestrian utility. As exhibited by the varying minimum and maximum front setback standards under subsection (C)(2). Yard Standards, the proximity of the front line of a building(s) shall depend on the street that the lot fronts. The front line of buildings are required to be closer to local streets than they are to Route 1 and other major streets including Route 114, Route 22 and Route 207. [Amended 08/18/09]

¹ When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yards.

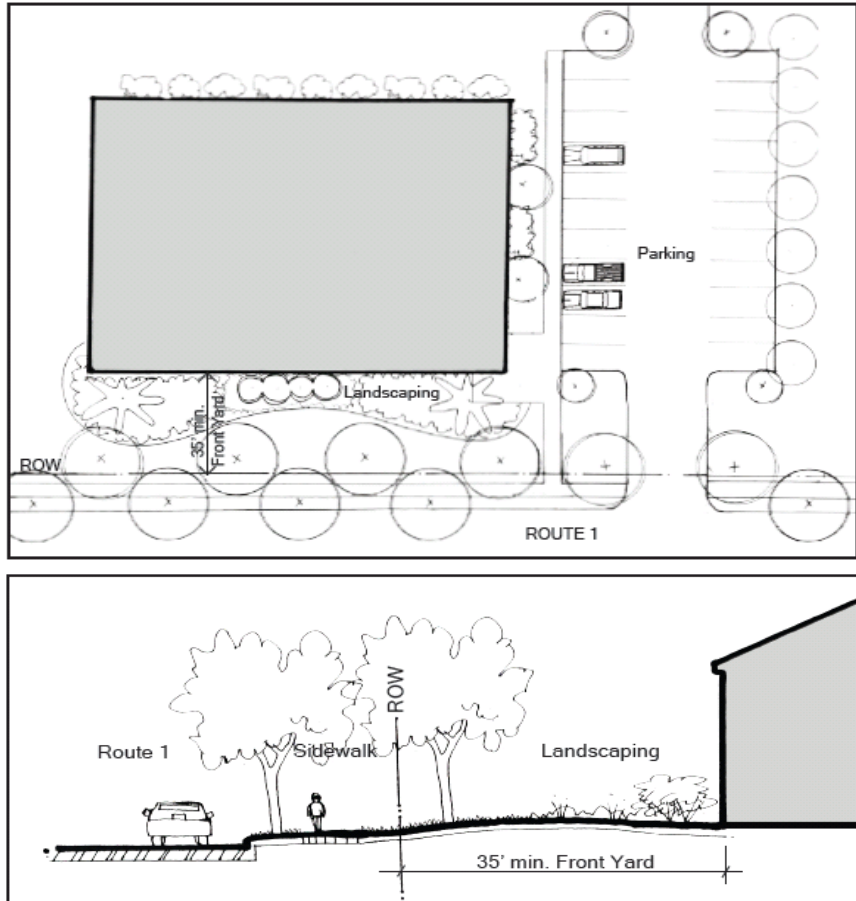
² When the yard of a mixed use or non-residential use abuts a RF (Rural Residence and Farming) District the minimum yard shall be 50 ft. and the buffering requirement of Section VIII of this Ordinance shall apply. When the yard abuts all other residential districts the minimum yard shall be 25 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2

The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection (C)(2) of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s). As stated under subsection C.3. of this district, the maximum front yard requirement and the off-street parking location requirements shall not apply to single-family and two-family dwellings: [Amended 11/07/07; 08/19/09]

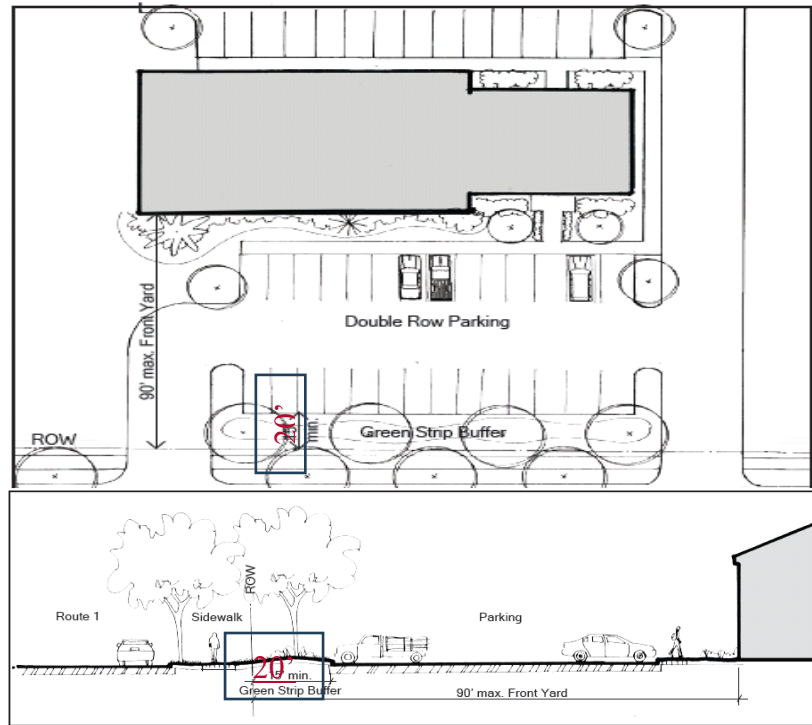
Standards for Front Yards and Off-Street Parking on Lots abutting Route 1:

1. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



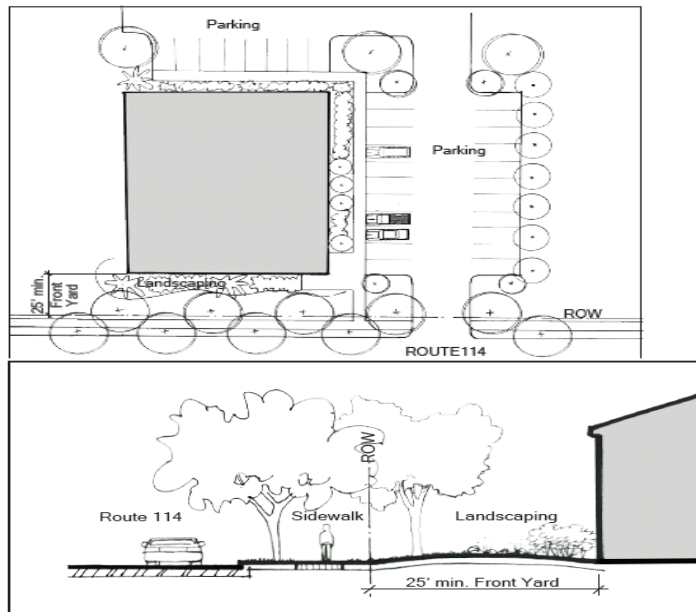
SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2

2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one double-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or “green strip buffer”, from the front property line shall be at least ~~20~~5 feet.



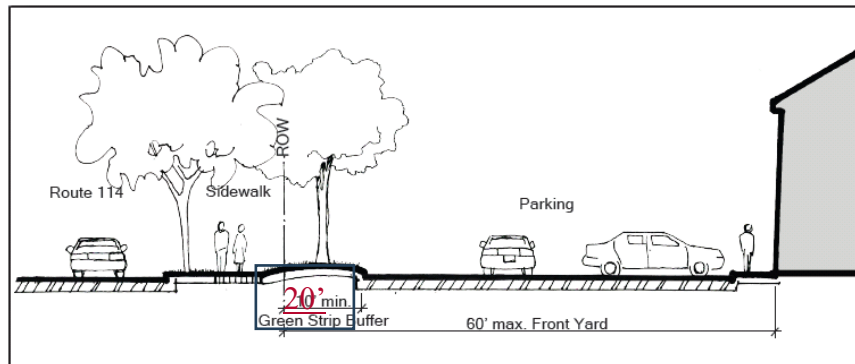
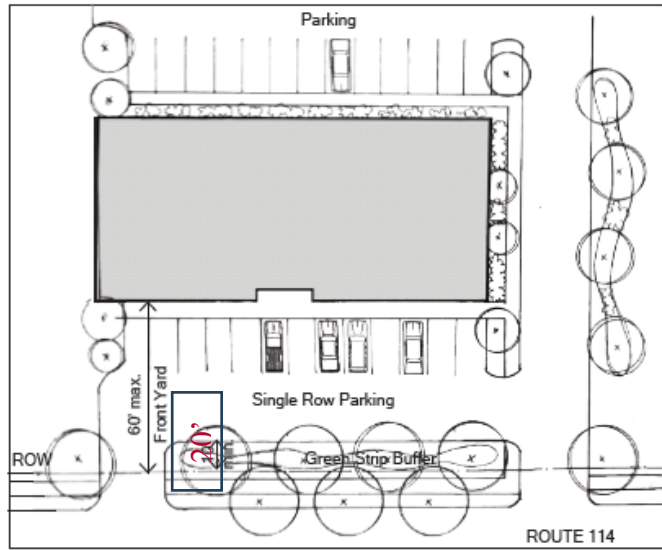
Standards for Front Yards and Off-Street Parking on Lots abutting Rte. 114, Rte. 22 and Rte. 207:[Amended 08/19/09]

3. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



SECTION XVIII.C. TOWN AND VILLAGE CENTERS TRANSITION DISTRICT, TVC2

4. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one single-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or “green strip buffer,” from the front property line shall be at least ~~20~~^{20'} feet.



Standards for Front Yards and Off-Street Parking on Lots abutting all other streets:

5. No parking shall be allowed in the front yard of lots abutting all other streets. All off-street parking shall be located in the side and rear yards behind the front line of the principal building(s). The front yard shall be used for landscaping features, street trees, sidewalks, and pedestrian amenities. An access drive(s) to the site may cross the front yard but may not be located in the area between the front of the building and the front property line.



SECTION XVIII.D. TOWN AND VILLAGE CENTERS FRINGE DISTRICT, TVC3

SECTION XVIII.D. TOWN AND VILLAGE ; 07/19/2023 FRINGE DISTRICT, TVC3

[adopted 11/07/2007][Amended 03/04/09; 04/06/2011; 05/20/2020; 07/19/2023; 01/08/2025; 05/20/2026]

2. Yard Standards - The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under subsection F. of this district. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building located closest to the abutting street(s). [Amended 05/20/2020]

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yards (ft.)
Route 1, Route 114, or Mussey Road	25	70 (except that this maximum shall not apply to single-family and two-family dwellings.)	15 ^{1 & 2}
All other streets	~~10~~ <u>20</u>	25 (except that this maximum shall not apply to single-family and two-family dwellings.)	15 ^{1 & 2}

Municipal buildings and uses, elementary and secondary schools, and libraries and museums shall be exempt from the maximum front yard requirement above and the standards for front yards and off-street parking under subsection (E)(1) thru (3) of this zoning district. Though exempt from this requirement, any front yard parking shall be substantially screened from abutting streets by street trees, landscaping and other buffering amenities and shall be designed to reinforce a village streetscape.

E. SITE LAYOUT AND OFF-STREET PARKING STANDARDS [amended 03-04-09]

The design of a development site, and more specifically the orientation of the buildings to the street and the location and layout of site parking, is fundamental to realizing the purpose of this district. In this district buildings shall be located relatively close to the street to provide human scale development, village character, and auto and pedestrian utility. As exhibited by the varying minimum and maximum front setback standards under subsection (C)(2) Yard Standards, the proximity of the front line of a building(s) shall depend on the street that the lot fronts. The front line of buildings are required to be closer to local streets than they are to Route 1 and other arterial and collector streets, including Route 114, Route 207 and Mussey Road.

The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection (C)(2) of this district. In developments with more than one principal

¹ When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yards.

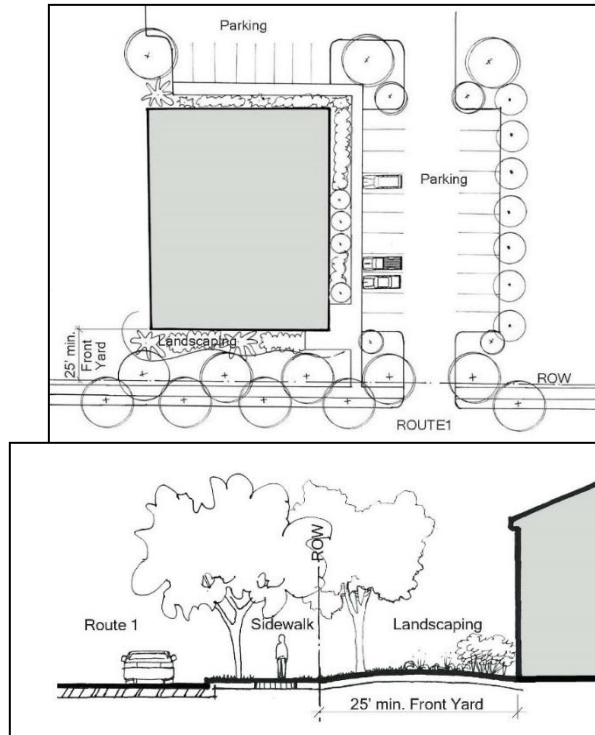
² When the yard abuts a residential district the minimum yard shall be 25 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

SECTION XVIII.D. TOWN AND VILLAGE CENTERS FRINGE DISTRICT, TVC3

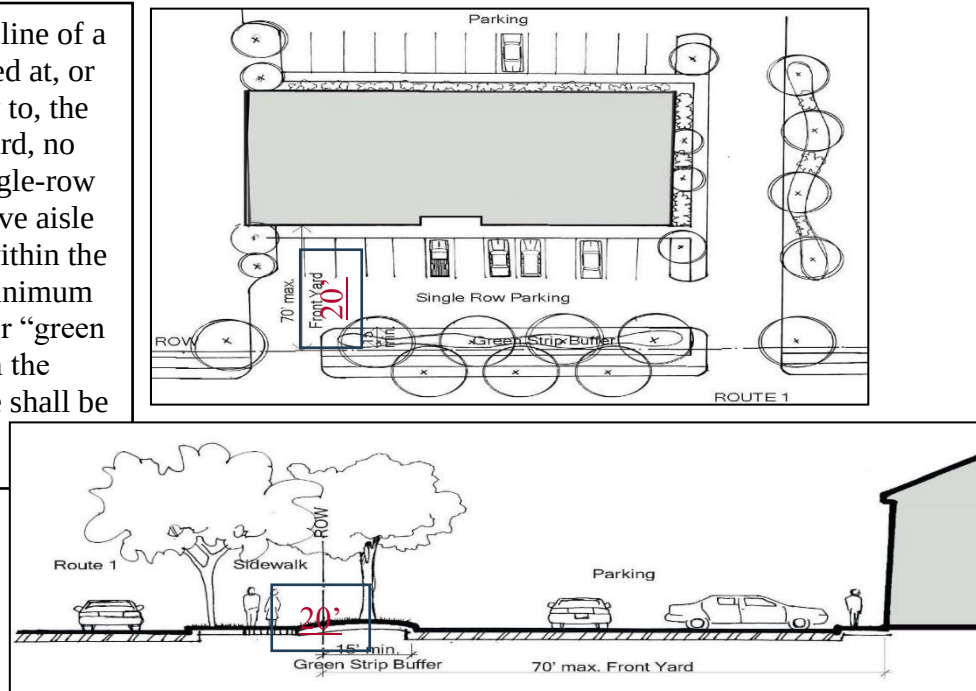
building, the requirements for the location of the off-street parking shall only apply to the principal building or group of principal buildings, located closest to the abutting street(s):

Standards for Front Yards and Off-Street Parking on Lots abutting Route 1 and other arterial and collector streets, including Route 114, Route 207 and Mussey Road:

1. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.



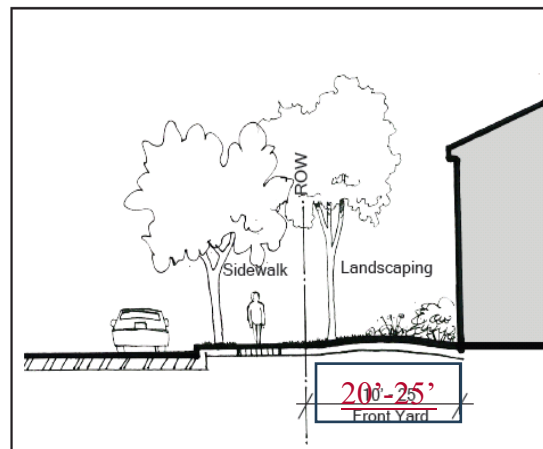
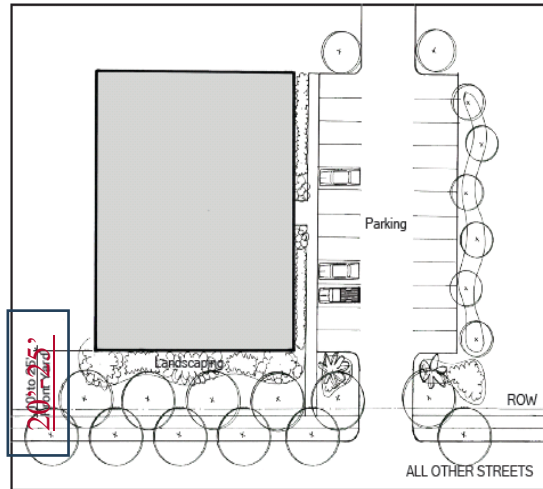
2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one single-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or “green strip buffer”, from the front property line shall be at least ~~20~~²⁵ feet.



SECTION XVIII.D. TOWN AND VILLAGE CENTERS FRINGE DISTRICT, TVC3

Lots abutting all other streets:

3. No parking shall be allowed in the front yard of lots abutting all other streets. All off-street parking shall be located in the side and rear yards behind the front line of the principal building(s). The front yard shall be used for landscaping features, street trees, sidewalks, and pedestrian amenities. An access drive(s) to the site may cross the front yard but may not be located in the area between the front of the building and the front property line.



SECTION XVIII.E. TOWN AND VILLAGE CENTERS 4 DISTRICT – TVC-4

SECTION XVIII.E. TOWN AND VILLAGE CENTERS 4 DISTRICT – TVC-4

[Amended 07/19/2023; 01/08/2025; 05/20/2026]

2. **Standards** – The following minimum and maximum front yard standards apply in conjunction with the Site Layout and Off-Street Parking Standards under Subsection (F~~G~~) of this District. In a development with more than one principal building, the maximum front yard requirement shall only apply to the principal building, or group of principal buildings, located closest to the abutting street(s). The maximum front yard requirement shall not apply to single-family and two-family dwellings.

Abutting Streets	Minimum Front Yard (ft.)	Maximum Front Yard (ft.)	Side and Rear Yard (ft.)
Pine Point Road	35	90	15 ^{1 & 2}
Snows Canning Road	25	60	15 ^{1 & 2}
All other streets	~~10~~ <u>20</u>	30	15 ^{1 & 2}

¹When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

²When a site abuts a residential district the minimum yard shall be 25th and the buffering requirements of Section VIII of this Ordinance shall apply.

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP [Amended 05/20/2020; 02/17/2021; 09/04/2024; 01/08/2025; 05/20/2026]

D. SPACE AND BULK STANDARDS

The following space and bulk regulations are applicable to CONVENTIONAL DEVELOPMENTS:

2. Minimum Yard Standards

Abutting Streets	Minimum Front Yard (ft.)	Minimum Side and Rear Yard (ft.)
Payne Road and Haigis Parkway	25	15 ^{1& 2}
All other streets	<u>2015</u>	15 ^{1 & 2}

¹When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

² When a site abuts a residential district, the minimum yard shall be 50 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

II. ADDITIONAL DEVELOPMENT STANDARDS

A. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS [Amended 02/17/2021]

To ensure attractive, high-quality development that is designed and developed in a manner that minimizes impacts on the community and adjacent properties, all uses are subject to following performance standards:

6. Landscape and Streetscape Buffer

Landscaping and streetscape buffer strips shall be used throughout the district to reinforce the parkway landscape, provide an attractive streetscape on any new streets, and provide buffering and screening between uses and development sites. To this end, a landscaped or naturally vegetated buffer strip shall be established and/or maintained along the property line(s) of a lot where it abuts a street. The width of the buffer strip shall be a minimum of twenty-five (25) feet when it abuts Haigis Parkway and a minimum of fifteen-twenty (2015) feet to all other streets, and shall be designed to separate the development from the street, enhance the visual environment, and help screen parking from view from the street. ~~The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to water bodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review. In other areas, the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance. The buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip.~~

SECTION XIX. REGIONAL BUSINESS DISTRICT B-2.

SECTION XIX. REGIONAL BUSINESS DISTRICT B-2. [04/16/08][Amended 08/19/09; 01/08/2025; 05/20/2026]

E. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS [Adopted 08/19/09]

1. Streetscape Buffer Strip: A landscaped or naturally vegetated buffer strip shall be established and/or maintained along the front property line of a lot where it abuts a public street. The width of the buffer strip shall be a minimum of ~~fifteen~~twenty (2015) feet when it is adjacent to Payne Road or Gorham Road (Route 114) and ~~twentyten~~ (2010) feet when it is adjacent to any other public street. The buffer strip shall be designed to separate the development from the street and to enhance the visual environment of the street. ~~The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to water bodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review. In addition, the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance. The buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip.~~

SECTION XIXA. GENERAL BUSINESS DISTRICT B3

SECTION XIXA. GENERAL BUSINESS DISTRICT B3 [04/16/2008][Amended 01/08/2025; 05/20/2026]

G. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

1. Streetscape Buffer Strip: A landscaped or naturally vegetated buffer strip shall be established and/or maintained along the front property line of a lot where it abuts a public street. The width of the buffer strip shall be a minimum of ~~twenty~~ twenty five (2015) feet when it is adjacent to Route One or Payne Road and ~~twenty~~ ten (2010) feet when it is adjacent to any other public street. The buffer strip shall be designed to separate the development from the street and to enhance the visual environment of the street. ~~The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to water bodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review. In addition,~~ The buffer strip must be landscaped in accordance with the Site Plan Review Ordinance. ~~The buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip.~~

SECTION XX. BUSINESS OFFICE-RESEARCH DISTRICT BOR.

SECTION XX. BUSINESS OFFICE-RESEARCH DISTRICT BOR. [Adopted 11/07/07]
[Amended 12/01/10; 05/20/2020; 04/21/2021; 01/08/2025; 05/20/2026]

D. ADDITIONAL DEVELOPMENT STANDARDS

1. Streetscape Buffer Strip: A landscaped or naturally vegetated buffer strip shall be established and/or maintained along the front property line of a lot where it abuts a public street. The width of the buffer strip shall be a minimum of twenty-five (25) feet when it is adjacent to Route One and ~~fifteen-twenty~~ (2015) feet when it is adjacent to any other public street. The buffer strip shall be designed to separate the development from the street and to enhance the visual environment of the street. ~~The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to waterbodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review. In other areas, T~~the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance. ~~The buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip.~~

SECTION XXA. RUNNING HILL – GORHAM ROAD MIXED USE DISTRICT, RH

SECTION XXA. RUNNING HILL – GORHAM ROAD MIXED USE DISTRICT, RH
[Amended 07/16/14; 07/19/2023; 08/20/2025; 05/20/2026]

2. Yard Standards - The following minimum front yard standards apply in conjunction with subsection G. of this district.

Abutting Streets	Minimum Front Yard (ft.)	Side and Rear Yard (ft.)
Running Hill Road and Gorham Road	30 or the height of the building fronting Running Hill Road or Gorham Road, whichever is greater	15 ^{1 & 2}
All other streets	~~10~~ 20	15 ^{1 & 2}
Single-family dwellings existing as of September 1, 2008	The space and bulk regulations of the RF District shall apply	

¹When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

² When a site abuts a residential district the minimum yard for a use other than a single-family dwelling shall be 100ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

5. Yard Standards and Building Distance Requirements – The following minimum front yard standards apply in conjunction with subsection H. of this district.

Abutting Streets	Minimum Front Yard (ft.)	Side and Rear Yard (ft.)
Running Hill Road and Gorham Road – Buildings	30’ or the height of the building fronting Running Hill Road or Gorham Road, whichever is greater	15’ ^{1 & 2}
All other streets	~~10~~ 20’	15’ ^{1 & 2}

6. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
Determined by the Planning Board under subsection H. of this district	85%	Determined by the Planning Board under subsection H. of this district	60 feet if the building is approved by the Planning Board under subsection H. of this

			district
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F. BUILDING ORIENTATION, STREETScape, ACCESS MANAGEMENT AND OFF-STREET PARKING STANDARDS, APPLICABLE TO CONVENTIONAL DEVELOPMENTS

The design of a development site, and more specifically the orientation of buildings to Running Hill Road and Gorham Road, the streetscape of Running Hill and Gorham Roads, access management as well as the location, layout and form of site parking, are fundamental to realizing the purpose of this district.

1. Streetscape – A landscaped buffer strip shall be established along the front property line of a lot where it abuts Running Hill Road or Gorham Road. The width of the landscaped buffer strip shall be a minimum of thirty (30) feet. ~~Where trees exist within the buffer strip the Planning Board may require these trees to be saved to preserve this corridor. Where significant trees do not exist~~ the buffer strip shall be landscaped in accordance with the Site Plan Review Ordinance, ~~the Design Standards for Scarborough's Commercial Districts~~ and any subsequent Running Hill Road or Gorham Road corridor landscaping plan. ~~In addition to landscaping, the buffer strip may contain sidewalks or pedestrian trails, freestanding signage, and an access drive to the site.~~

H. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS

The Running Hill – Gorham Road Mixed Use District (RH) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough's Commercial Districts and provide more specific requirements for development in the RH District.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VIIIE. Planned Development.

1. PLANNED DEVELOPMENT STANDARDS

A planned development shall be designed in a manner that reinforces the RH District as a mixed-use center. Buildings, parking, pedestrian amenities, landscaping, streets and common space shall be arranged in a compact, interconnected development pattern that exhibits a human scale and a mix of land uses.

a. Running Hill and Gorham Road Streetscapes – The streetscapes along Running Hill Road and Gorham Road are critical to establishing attractive gateways into Scarborough with shade trees and a generous landscaped buffer strip along the road right-of-way. This landscape buffer shall meet or exceed the thirty (30') foot width required of conventional developments. The planned development process will be used to identify areas along these roads where existing trees and vegetation shall be preserved as well as areas in which new shade trees and landscaping shall be planted to enhance this corridor. Buildings may be visible from these roads but shall be setback from and separated from the street by this landscaped buffer. ~~In addition to landscaping, sidewalks, pedestrian trails, freestanding signage and access drives are permitted within the buffer strip, but parking is not.~~

SECTION XX.B. RUNNING HILL – GORHAM ROAD TRANSITION DISTRICT RH2

SECTION XX.B. RUNNING HILL – GORHAM ROAD TRANSITION DISTRICT RH2

[Amended 07/16/2014][Amended 05/20/2020; 07/19/2023; 05/20/2026]

2. Yard Standards - The following minimum front yard standards apply in conjunction with subsection G. of this district.

Abutting Streets	Minimum Front Yard (ft.)	Side and Rear Yard (ft.)
Running Hill Road and Gorham Road	30 or the height of the building fronting Running Hill Road or Gorham Road, whichever is greater	15 ^{1 & 2}
All other streets	~~10~~ <u>20</u>	15 ^{1 & 2}

SECTION. XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD)

SECTION XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD)

[Adopted 08/21/13; Amended 10/07/15; 05/16/18; 05/20/2020; 04/21/2021; 05/17/2023; 11/15/2023; 09/04/2024; 01/08/2025; 05/20/2026]

C. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS (CPD)

1. All development within the District must be consistent with the Site Plan Review Ordinance.

D. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO PLANNED DEVELOPMENTS

8. Streetscape Treatment -- The streetscape along internal streets and driveways within a Planned Development shall exhibit a compact layout, form and scale. The streetscape shall be designed with shade trees on both sides; road widths that are of a compact, urban scale; human-scale street lighting; frequent intersections and crosswalks; and sidewalks. The streetscape of internal streets may also include on-street parking on one or both sides of the streets or driveways.

The streetscape along Haigis Parkway, Route One and Payne Road that border the district shall incorporate a landscaped or natural vegetated buffer strip. The width of the buffer strip shall be a minimum of twenty-five (25) feet when it abuts the Haigis Parkway and fifteen (15) feet when it abuts Route One and Payne Road. The minimum streetscape buffer yard for all other streets shall be determined by the Planning Board during the Master Plan phase.

Vote: 6 Yeas. 1 Nay [Councilor Doherty]. Motion Carried.

Order No 26-074. First reading and refer to the Planning Board, the proposed amendments to Chapter 405 B Site Plan Review Ordinance, Section II. Applicability to differentiate types of review required. [Planning Director] Autumn Speer, Planning Director, gave an overview on this Order. No public comments were made.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval of the first reading and refer to the Planning Board the proposed amendments to Chapter 405 B Site Plan Review Ordinance, Section II. Applicability to differentiate types of review required and schedule Town Council public hearing and second reading after Planning Board review.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval to amend the main motion, to remove the Administrative Review element from the Ordinance relating to tree removal for residential trees for residential only.

Vote on amendment: 6 Yeas 1 Nay [Councilor Cain]

Main Motion as Amended:

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to Chapter 405B the Town of Scarborough Site Plan Review Ordinance, be and hereby is amended, as follows as presented (additions are underlined and in red font, moved text is underlined and in green font):

CHAPTER 405B TOWN OF SCARBOROUGH SITE PLAN REVIEW

I. Purpose

The Town of Scarborough finds that uses and structures for which site plan submissions are required are potentially significant additions to the community's built and natural environment as well as to the residential, commercial or industrial neighborhood in which they are proposed. The purpose of site plan review is to ensure that the design, layout and construction of these additions to the community constitute suitable development and will not result in a detriment to the neighborhood, community or environment. The standards and requirements of this ordinance are intended to assure that adequate provisions are made for: traffic safety, access and circulation; emergency access and response; stormwater management; protection of natural features and the environment; water supply and sewage disposal; and minimizing impacts to abutting properties or uses.

II. Applicability

A. Activities Requiring Site Plan Review [amended 04/21/2021]

Site Plan approval is required before any of the following activities take place, with the exception of the activities found in Section II.B:

1. Tree removal.
2. Timber Harvest subject to Chapter 405 Section IX.A.17.
3. Planting or replacement of landscaping.

4. Any activity creating Disturbed Area.
5. Change of Use.
6. Construction or expansion of any building or structure.
7. Construction, changes, or expansion of any parking, loading, or vehicular or pedestrian use.
8. Construction of a Private Way.
9. Any activity causing a net increase in impervious area.
- ~~1. building or structure is erected or externally enlarged and before any parking, loading, or vehicular or pedestrian use is established, enlarged or changed, with the exception of the activities found below in Section II(B). Activities subject to site plan review shall be divided into two classes: Major Development Review and Minor Development Review.~~

B. Activities Exempt from Site Plan Review [amended 05/05/2010; 01/04/2023]

The following activities shall not require site plan approval; however, such activities may require building permits, plumbing permits or other local or State approvals:

- ~~The construction of, or addition to, single and two family dwellings and their accessory buildings, structures and areas for parking and vehicular or pedestrian use. More than one single family or two family dwellings developed on a single lot under unified ownership, as defined in Section II(d)(9) of the Zoning Ordinance, are not exempt from Site Plan Review.~~
- ~~Alterations to a building which in total do not increase the floor area of the building by more than 100 square feet.~~
- 1. Municipal buildings or uses, but shall be reviewed by the Planning Board for an advisory opinion to the Town Council or the applicable Town Department. Advisory opinion requests shall follow the Major Site Plan process and submittal requirements.

C. Site Plan Review Types

Activities subject to site plan review shall be divided into four classes: CEO Review, Administrative Review, Minor Site Plan Review and Major Site Plan Review.

1. CEO Review. Requires Code Enforcement Officer approval or determination of review authority.
 - a. Timber Harvesting, subject to FON notification to the Town of Scarborough; acknowledgment of tree clearing and disturbed area limitations and buffer requirements.
 - b. Any tree removal in the Shoreland Zone, including within the Resource Protection Zone and the Stream Protection Overlays.
 - c. The construction of, or addition to, residential structures with four or fewer dwelling units and their accessory buildings, structures, and areas for vehicular or pedestrian use.
 - d. The construction of accessory dwelling units.
 - e. Temporary use of accessory storage containers.
 - f. Buildings, structures and areas of impervious surface, the principal use of which is the conduct of accessory agriculture, commercial agriculture, or commercial animal

husbandry, as are defined in Section VI. Definitions of the Town of Scarborough Zoning Ordinance and permitted in conformance with applicable performance standards in Section IX. Performance Standards.

g. Farm stands with no more than 400 square feet of retail sales area.

2. Administrative Review. Requires Director of Planning and Codes or designee approval, unless otherwise stated. May be elevated to Minor or Major Site Plan Review.

a. Tree removal, not creating Disturbed Area, on existing lots or vacant parcels in residential zoning districts and subdivisions.

b. Planting or replacement of landscaping, in conformance with Chapter 405B Section IV.B. for multi-family, mixed-use, and non-residential structures.

c. Construction of, or addition to, a building or alterations to a site, excluding residential structures with four or fewer dwelling units, which in total do not increase the floor area of the building or impervious area by more than 100 square feet.

d. Change of use for an existing and approved site plan or the change of use for a site with no existing site plan.

e. Private Ways, in accordance with Chapter 405 Section IX.I, subject to Town Engineer review and approval.

~~Buildings, structures and areas of impervious surface, the principal use of which is the conduct of accessory agriculture, commercial agriculture, or commercial animal husbandry, as are defined in Section VI. Definitions of the Town of Scarborough Zoning Ordinance.~~

~~Farm stands with no more than 400 square feet of retail sales area.~~

~~Temporary use of accessory storage containers.~~

~~Timber harvesting.~~

~~**1. Minor Site Plan Development Review.** Requires Director of Planning and Codes, or designee, and Planning Board Chair approval. Submittals may be elevated to Major Site Plan Review by staff or applicants may request a project be reviewed by the Planning Board through Major Site Plan Review instead of Minor Site Plan Review for any reason. Town Planner approval is required for any permitted uses in the Industrial District, the Light Industrial District, and those uses in the Crossroads Planned Development District which are permitted only within the "inclusionary area" as outlined in Section XX.C.I.B.iv of the Scarborough Zoning Ordinance.~~

a. Tree removal up to one acre, other than permitted Timber Harvesting, on all sites excluding lots in residential zoning districts.

b. Any activity, excluding residential structures with four or few dwelling units, creating less than one acre of Disturbed Area.

c. Construction of, or addition to, a building or alterations to a site, excluding residential structures with four or few dwelling units, which in total do not increase the floor area of the building or impervious area by more than 1,000 square feet.

d. Permitted uses ~~Notwithstanding the above, the following activities in the~~within the following Zoning districts: ~~-Industrial District, the Light Industrial District, and those uses in the Crossroads Planned Development District -which are permitted only within~~

the “inclusionary area” as outlined in Section XX.C.I.B.iv, which require Major Development Review from the Planning Board:

- i. Disturb less than Activities with one acre or more of disturbance; and
- ii. Activities that are F-forecasted to generate more less than 35 trip ends during any peak hour; and
- iii. Activities that require Require no amendments to state or federal permits.

The Town Planner (or designee) may refer approval of a permitted use defined as requiring minor development review to the Planning Board for Major Development Review when the nature of the application warrants a public hearing or poses the potential for significant impacts on municipal facilities or natural resources, as determined by the Town Planner (or designee). Additionally, an applicant may request that a project be reviewed by the Planning Board through Major Development Review instead of Minor Development Review for any reason.

3. Major Site Plan Development Review. Requires Planning Board approval.

- a. Tree removal of one acre or greater, other than permitted Timber Harvesting, on all sites excluding lots in residential zoning districts.
- b. Any activity, regardless of use, creating one acre or greater of Disturbed Area.
- c. Construction of, or addition to, a building or alterations to a site, excluding residential structures with four or few dwelling units, which increase the floor area of the building or impervious area by more than 1,000 square feet.
- d. Permitted Uses within the following Zoning districts: Industrial District, Light Industrial District, and Crossroads Planned Development District, which:
 - i. Disturb one acre or greater; or
 - ii. Forecasted to generate 35 or more trip ends during any peak hour; or
 - iii. Require state or federal permits.

4. Site Plan Review Process Summary Table.

<u>Activity</u>	<u>CEO Review</u>	<u>Administrative Review</u>	<u>Minor Site Plan Review</u>	<u>Major Site Plan Review</u>
<u>All Timber Harvest</u>	<u>✓</u>			
<u>Tree Removal (other than Timber Harvest)</u>	<u>Any tree removal in the Shoreland Zone, including within the Resource Protection Zone and the Stream Protection Overlays</u>	<u>All tree removal, not creating Disturbed Area, on all parcels in residential zoning districts and subdivisions</u>	<u>< 1 acre on all parcels in non-residential zoning districts and subdivisions</u>	<u>≥ 1 acre on all parcels in non-residential zoning districts and subdivisions</u>
<u>New planting or replacement of existing landscaping</u>		<u>All parcels in non-residential zoning districts and subdivisions</u>		

<u>Activity</u>	<u>CEO Review</u>	<u>Administrative Review</u>	<u>Minor Site Plan Review</u>	<u>Major Site Plan Review</u>
<u>Activities Creating Disturbed Area</u>	<u>Construction of residential structures with four or fewer dwelling units creating < 1 acre of Disturbed Area</u>		<u>Any activity, excluding residential structures with four or fewer dwelling units, creating < 1 acre of Disturbed Area</u>	<u>Any activity, regardless of use, creating ≥ 1 acre of Disturbed Area</u>
<u>Change of Use (no site modifications required)</u>		✓		
<u>Construction of, or addition to, a building or alterations to a site for any reason</u>	<u>Residential structures with four or fewer dwelling units and their accessory buildings, structures, and areas for vehicular or pedestrian use</u>	<u>All, excluding residential structures with four or fewer dwelling units, ≤ 100 sq ft of new floor area or impervious area</u>	<u>All, excluding residential structures with four or fewer dwelling units, ≤ 1,000 sq ft of new floor area or impervious area (see below)</u>	<u>All, excluding residential structures with four or fewer dwelling units, > 1,000 sq ft of new floor area or impervious area (see below)</u>
<u>Industrial District, Light Industrial District, and Crossroads Planned Development Zoning Districts</u>			<u>Disturb < 1 acre; and forecasted to generate < 35 trip ends during any peak hour; and require no state or federal permits</u>	<u>Disturb ≥ one acre; or forecasted to generate ≥ 35 trip ends during any peak hour; or Require state or federal permits</u>

~~is required for any activity described above, except for any activity that may be eligible for Minor Development Review outlined below, or as exempt as provided in Section II.B.~~

~~**2.1. Minor Development Review.** Town Planner approval is required for any permitted uses in the Industrial District, the Light Industrial District, and those uses in the Crossroads Planned Development District which are permitted only within the “inclusionary area” as outlined in Section XX.C.I.B.iv of the Scarborough Zoning Ordinance.~~

~~Notwithstanding the above, the following activities in the Industrial District, the Light Industrial District, and those uses in the Crossroads Planned Development District which are permitted only within the “inclusionary area” as outlined in Section XX.C.I.B.iv require Major Development Review from the Planning Board:~~

- ~~i. Activities with one acre or more of disturbance;~~
- ~~ii.i. Activities that are forecasted to generate more than 35 trip ends during any peak hour; and~~
- ~~iii.i. Activities that require amendments to state or federal permits.~~

~~The Town Planner (or designee) may refer approval of a permitted use defined as requiring minor development review to the Planning Board for Major Development Review when the nature of the application warrants a public hearing or poses the potential for significant impacts on municipal facilities or natural resources, as determined by the Town Planner (or designee). Additionally, an~~

~~applicant may request that a project be reviewed by the Planning Board through Major Development Review instead of Minor Development Review for any reason.~~

~~B. Activities Exempt from Site Plan Review [amended 05/05/2010; 01/04/2023]~~

~~The following activities shall not require site plan approval; however, such activities may require building permits, plumbing permits or other local or State approvals:~~

- ~~1. The construction of, or addition to, single and two family dwellings and their accessory buildings, structures and areas for parking and vehicular or pedestrian use. More than one single family or two family dwellings developed on a single lot under unified ownership, as defined in Section II(d)(9) of the Zoning Ordinance, are not exempt from Site Plan Review.~~
- ~~2.1. Alterations to a building which in total do not increase the floor area of the building by more than 100 square feet.~~
- ~~3.1. Municipal buildings or uses, but shall be reviewed by the Planning Board for an advisory opinion to the Town Council or the applicable Town Department.~~
- ~~4.1. Buildings, structures and areas of impervious surface, the principal use of which is the conduct of accessory agriculture, commercial agriculture, or commercial animal husbandry, as are defined in Section VI. Definitions of the Town of Scarborough Zoning Ordinance.~~
- ~~5.1. Farm stands with no more than 400 square feet of retail sales area.~~
- ~~6.1. Temporary use of accessory storage containers.~~
- ~~7.1. Timber harvesting.~~

III. Application & Review Procedures [amended 04/21/2021; 07/19/2023]

The following procedures and application requirements shall govern development proposals for ~~major and minor all types of site plan development~~ review.

A. CEO Review and Submittal Requirements

All projects requiring CEO review and approval, must adhere to the requirements in the applicable building permit applications and checklists.

B. Administrative Review and Submittal Requirements

All projects requiring administrative review and approval, must adhere to the requirements in the applicable administrative review permit applications and checklists.

C. ~~B. Minor Site Plan Development Review and Submittal Requirements [amended 04/21/2021]~~

1. An application for ~~minor~~ site plan review shall be submitted to the Planning Department with the requisite fees and submission requirements, as outlined in Section VI.A. of this Ordinance. The ~~Town Planner~~ Director of Planning and Codes, ~~-(or designee)-~~ reserves the right to request additional plans or information, as ~~stated in Section III.~~ as stated in Section III.E. A(3)(i). depending on the nature of the proposal and its anticipated impacts. The Director of Planning and Codes ~~Town Planner~~, ~~-(or designee)~~ may also engage the services of one or more professional consultants to review the materials submitted by the applicant, the cost of which shall be paid by the applicant as provided in Section VI.B. of this ordinance.
2. After the ~~Town Planner~~ (Director of Planning and Codes, or designee) determines that an application is complete, the applications are distributed to the Development Review Committee, including the Town Engineer, Zoning Administrator, Fire Chief (or designee), Police Chief (or designee), and the Director of Public Works (or designee) for review and comment.

3. The Planning Department shall also, at the applicant's expense, give written notification to all abutting property owners within five hundred (500) feet of the parcel on which the proposed development is located, and must include a brief description of the proposed project, the name of the applicant, the location where the application is available for inspection, how written comments on the application may be submitted. Failure of any property owner to receive the notification shall not invalidate any action of the ~~Town Planner~~ Director of Planning and Codes. For purposes of this section, the owners of the abutting properties shall be considered to be the parties listed by the tax assessor for the Town of Scarborough.
4. Within 30 days of determining the application complete, and after a ten (10) day public comment period following mailing of the notice to abutting property owners, the ~~Town Planner~~ Director of Planning and Codes, ~~(or designee,)~~ shall review all submitted comments and act on the application to either: a. send the application to Major Site Plan Development Review; or b. approve, approve conditionally, or deny the application. The decision of the ~~Town Planner~~ Director of Planning and Codes, ~~(or designee)~~ shall be provided in writing to the applicant.
5. If a site plan application is denied, a substantially similar application shall not be brought before the ~~Town Planner~~ (Director of Planning and Codes, or designee,) within one (1) year from the date of the denial of the original application. This limitation may be waived if the Director of Planning and Codes ~~Town Planner~~ finds that substantial new evidence exists or an error or mistake of law or misinformation concerning the original application is identified.
6. Any appeal of the ~~Town Planner's~~ Director of Planning and Codes's decision on an application for Minor ~~Development~~ Site Plan Review shall be taken directly to the Planning Board; provided the appeal is made within 30 days of the issuance of the decision. Upon such an appeal, the Planning Board shall review the application as a Major Development Review; including all procedures and submission requirements of section III.D.A.
7. Upon written request, the ~~Town Planner~~ Director of Planning and Codes may approve transfer of Minor Development Site Plan approval granted to the project owner to an alternative developer or property owner, or the Planner may refer any request for transfer to the Planning Board for decision. A transfer shall be approved only if the new developer or owner has the financial and technical capacity to comply with the requirements of the site plan approval.
8. Final approval shall expire one (1) year from the date of such approval unless the applicant has started substantial construction. The ~~Town Planner~~ Director of Planning and Codes may extend final approval for one (1) additional year for good cause, provided a written request for extension is submitted before the expiration of the approval. ~~At her/his option, T~~ the Director of Planning and Codes ~~Town Planner~~ may refer any request for extension to the Planning Board for decision.
9. The property shown on the approved site plan may be developed and used only as shown on the plan. All elements and features of the plan and all representations made by the applicant which appear in the application are conditions of approval. No change from the conditions of approval is permitted unless an amended site plan is approved by the Director of Planning and Codes, ~~Town Planner~~ ~~(or designee)~~. Minor deviations that do not alter the essential nature of the approval or affect approval criteria may be approved by the ~~Town Planner~~ ~~(or designee)~~; Director of Planning and Codes.
10. The text of paragraph 9, above, shall be included as a note on the approved site plan.

—A request to amend an approved site plan shall be processed in the same manner as an application for site plan review, except that the ~~Town Planner (or designee)~~ Director of Planning and Codes may grant preliminary waivers of submission requirements.

D. A. Major Development Site Plan Review and Submittal requirements [amended 04/21/2021]

1. Optional Sketch Plan Review

Prior to submitting a formal major site plan review application, the applicant may submit an optional sketch plan for review by the Planning Board. The sketch plan shall be conceptual and sketch plan review shall be considered an informal, informational review and discussion. The purpose of the sketch plan review process is to enable the applicant to present a concept plan for a development to the Planning Board in order for the Board to understand the type and scale of the proposed development as well as the associated on and off-site issues. Further, this process is intended to provide the applicant with preliminary feedback from the Board in order to identify any issues or revisions that should be addressed in the site plan review application.

The following information should be submitted or presented for discussion during sketch plan review:

- a. The proposed site, including its boundaries, size, location, and landscape.
- b. The environmental characteristics or constraints of the site, such as waterbodies, wetlands, floodways, steep slopes, etc.
- c. The proposed use and scale of development, including a conceptual site plan, landscape plan, and building elevations.
- d. Total disturbed area.
- e. An overview of any traffic issues or implications.
- f. An overview of the local regulations and State permits that may apply to the proposed project and any requested waivers of such regulations.

The sketch plan review shall be conceptual and informational, and there shall be no formal action by the Planning Board. Further, the submittal and review of a sketch plan shall not be considered the creation of a pending proceeding under 1 M.R.S.A. § 302. Following sketch plan review, an applicant must submit a formal site plan review application in order to seek site plan approval.

2. Major Site Plan Application Procedures & Action [amended 06/05/19]

- a. An application for site plan review shall be submitted to the Planning Department with the requisite fees and submission requirements, as outlined in Section VI.A. of this ordinance. Upon receipt of any application that meets the submission requirements the ~~Town Planner~~ Director of Planning and Codes, or designee, -shall schedule the site plan for review on the next available Planning Board meeting agenda. An initial determination as to the completeness of the application shall be made by the Director of Planning and Codes ~~Town Planner~~ and Town Engineer, subject to final determination by the Planning Board. The Planning Board reserves the right to request additional plans or information, as stated in Section III.E.(3)(i), depending on the nature of the proposal and its anticipated impacts. The Planning Board may also engage the services of one or more professional consultants to review the materials submitted by the applicant, the cost of which shall be paid by the applicant as provided in Section VI.(B.) of this ordinance.

- b. When an application for site plan review is determined to be complete, the Planning Department shall, at the applicant's expense, give written notification to all abutting property owners within five-hundred (500) feet of the parcel on which the proposed development is located of the date, time, and place of the meeting at which the application will be considered. Notification shall be sent at least ten (10) days prior to the first meeting at which the complete application is to be reviewed. Failure of any property owner to receive the notification shall not necessitate another hearing or invalidate any action of the Board. For purposes of this section, the owners of the abutting properties shall be considered to be the parties listed by the tax assessor for the Town of Scarborough. The Planning Board shall provide an opportunity for public comment prior to taking action on any site plan application.
- c. Sites that have received formal notice of violation of the Zoning Ordinance or Shoreland Zoning Ordinance, from the Town of Scarborough, must wait twelve months from the date of compliance until submitting for new applications for site plan review, not including any required site plan review for mitigating such violations.
- ~~e.d.~~ No application for site plan review shall be considered complete nor acted upon by the Planning Board until all special exceptions or variances which may be required for a development have been approved. The Planning Board may conduct its shoreland zoning or subdivision review concurrently with a project's site plan review.
- ~~d.e.~~ The Planning Board may make a decision at the initial Planning Board meeting at which a site plan is heard or may request additional meetings to receive revised plans or additional information pertaining to the proposal, and then issue a decision. The Planning Board may deny the application, approve the site plan as submitted, or approve the site plan with such conditions as the Board finds necessary to ensure compliance with the standards of this ordinance and other applicable ordinances of the Town of Scarborough.
- ~~e.f.~~ If a site plan application is denied, a substantially similar application shall not be brought before the Planning Board within one (1) year from the date of the denial of the original application. This limitation may be waived if the majority of the Board finds that substantial new evidence exists or an error or mistake of law or misinformation concerning the original application is identified.
- ~~f.g.~~ Any appeal of a Planning Board decision on an application for site plan review shall be taken directly to Cumberland County Superior Court. Decisions of the Planning Board are not appealable to the Scarborough Board of Appeals.
- ~~g.h.~~ Upon written request, the ~~Town Planner~~ Director of Planning and Codes may approve transfer of Site Plan approval granted to the project owner to an alternative developer or property owner, or the ~~Planner~~ Director may refer any request for transfer to the Planning Board for decision. A transfer shall be approved only if the new developer or owner has the financial and technical capacity to comply with the requirements of the site plan approval.
- ~~h.i.~~ Final approval shall expire one (1) year from the date of such approval unless the applicant has started substantial construction. The ~~Director of Planning and Codes~~ Town Planner may extend final approval for one (1) additional year for good cause, provided a written request for extension is submitted before the expiration of the approval. ~~At her/his option, I~~ the Town Planner Director of Planning and Codes may refer any request for extension to the Planning Board for decision. [amended 11/01/17]

~~i.j.~~ The property shown on the approved site plan may be developed and used only as shown on the plan. All elements and features of the plan and all representations made by the applicant which appear in the record of the Planning Board proceedings are conditions of approval. No change from the conditions of approval is permitted unless an amended site plan is approved by the Planning Board. Minor deviations that do not alter the essential nature of the approval or affect approval criteria may be approved by the ~~Town Planner (or designee)~~ Director of Planning and Codes through the Administrative review process -and with endorsement of the Planning Board Chair.

~~j.k.~~ The text of paragraph (ji), above, shall be included as a note on the approved site plan.

~~k.l.~~ A request to amend an approved site plan shall be processed in the same manner as an application for site plan review, except that the ~~Town Planner~~ Director of Planning and Codes may grant preliminary waivers of submission requirements, subject to review of such waivers by the Planning Board when the Board takes up the request for amendment.

E. 3. Minor and Major Site Plan Submission Requirements

The applicant shall submit to the Planning Board the following plans and information in a form required by the Planning Department:

- a. A boundary survey prepared by a professional land surveyor licensed by the State of Maine indicating the boundary lines, dimensions, encumbrances, water bodies, water features, zoning designation(s) and topography of the site. This boundary survey shall be prepared at a scale no greater than one (1) inch = forty (40) feet. Plans showing engineering details submitted as part of the site plan application may be prepared by either a professional land surveyor or by a professional engineer.
- b. A site plan(s), at a scale no greater than one (1) inch = forty (40) feet, showing all existing and proposed buildings, contour elevations, structures, parking spaces and layout, driveways, driveway openings, service areas, proposed outside display or vending areas, proposed grades and drainage facilities, proposed water and sewage facilities or connections, tree survey including existing tree stands, Heritage Trees and all Significant Trees, landscaping plan including protected trees, proposed trees and planting areas, proposed locations of fences, walls, signs and advertising features, proposed walkways and pedestrian amenities, total disturbed areas, and a lighting plan. The site plan shall also include a locus map showing the relationship of the project to the surrounding area at a scale no greater than one inch equals 2,000 feet. The site plan shall also show all contiguous land owned by the applicant or the owner of the land proposed for development.
- c. Building plans showing the floor plans, an outside access plan, and all elevations. The elevations shall indicate the proposed material and color of all of the proposed principal buildings and structures. The Planning Board may also require elevations of the accessory buildings and structures depending on their size and location.
- d. Stormwater management systems, details and calculations in compliance with Section IV.G of this Ordinance.
- e. An erosion and sedimentation control plan and narrative in accordance to Chapter 420 - Town of Scarborough Erosion and Sedimentation Control at Construction Sites Ordinance.

- f. A written statement prepared by a Maine Licensed Professional Engineer that describes the potential traffic flow patterns into and upon the site for both vehicles and pedestrians, the expected peak hour trip generation associated with the proposal, and the measured sight distance of each proposed driveway access. A traffic impact study shall be submitted for any project forecasted to generate 35 or more trip ends during any peak hour or if a project is forecasted to cause an existing access with less than 35 peak hour trip ends to exceed this threshold. The Planning Board or Town staff may also require a traffic study if specific safety or capacity issues have been identified for the general vicinity of the development. The scope of the study shall be determined based on discussions with the Town's Traffic Engineer and be completed by a Registered Professional Engineer with significant experience in traffic engineering. The study should be appropriate for the level of impact. At a minimum the study shall contain the following information: collision history at the intersection of the proposed street/driveway, capacity evaluation at the proposed driveway, sight distance analysis, Road Impact Fee calculations and the need for improvements such as turning lanes, signalization, etc. In compiling a traffic study, trip generation shall be based upon the most recent edition of the ITE's "Trip Generation" Manual and shall include an evaluation of each peak hour condition.
- g. Any proposed off-site improvements to roads, sidewalks, natural areas or other infrastructure as may be necessary to accommodate the proposed development.
- h. A lighting plan in compliance with Section IV(H) of this ordinance.
- i. Reports from the Police Chief, Fire Chief, and to the extent applicable, from the Water District and Sanitary District, containing their requirements or recommendations.
- j. Such other information or plans as may be necessary to enable the Director of Planning and Codes, Town Planner, Town Engineer, Code Enforcement Officer, and Planning Board to determine that the proposed structure and use of the land will conform to the provisions of this ordinance, the Scarborough Zoning Ordinance and, where applicable, the Scarborough Shoreland Zoning Ordinance and all other applicable Town Ordinances.
- k. A list of any requested waivers of required submissions and waivers from the standards of this ordinance.
- l. The location of all wetlands and vernal pools on the site and a description of method to be used to permanently delineate wetlands, and wetland buffers, and vernal pool buffers to prevent encroachment. [08/17/2005]
- m. The location and description of all historic and archeological resources on the parcel as identified by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or Section VII.H. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance together with a narrative describing how these resources can be preserved and incorporated into the development plan. If an identified resource will be removed, altered, or not included as part of the development plan, a statement shall be provided as to why the resource cannot be preserved and the options considered but rejected for including it as part of the development plan. [03/19/2014][Amended 03/18/2015]

The Planning Board may waive any of the above submission requirements if the Board finds that the required information is not necessary due to special circumstances of a particular site plan, or the nature or scale of the proposed development. Requirements set forth in Chapter 419 Town of Scarborough Post-Construction Stormwater Infrastructure Management Ordinance and in Chapter 420 Town of

Scarborough Erosion and Sedimentation Control at Construction Sites Ordinance are required by the Maine Department of Environmental Protection and the Environmental Protection Agency and are not waivable.

~~B. Minor Development Review [amended 04/21/2021]~~

- ~~1. An application for site plan review shall be submitted to the Planning Department with the requisite fees and submission requirements, as outlined in Section VI.A of this Ordinance. The Town Planner (or designee) reserves the right to request additional plans or information, as stated in Section III.A(3)(i), depending on the nature of the proposal and its anticipated impacts. The Town Planner (or designee) may also engage the services of one or more professional consultants to review the materials submitted by the applicant, the cost of which shall be paid by the applicant as provided in Section VI.B of this ordinance.~~
- ~~2.1. After the Town Planner (or designee) determines that an application is complete, the applications are distributed to the Town Engineer, Zoning Administrator, Fire Chief (or designee), Police Chief (or designee), and the Director of Public Works (or designee) for review and comment.~~
- ~~3.1. The Planning Department shall also, at the applicant's expense, give written notification to all abutting property owners within five hundred (500) feet of the parcel on which the proposed development is located, and must include a brief description of the proposed project, the name of the applicant, the location where the application is available for inspection, how written comments on the application may be submitted. Failure of any property owner to receive the notification shall not invalidate any action of the Town Planner. For purposes of this section, the owners of the abutting properties shall be considered to be the parties listed by the tax assessor for the Town of Scarborough.~~
- ~~4.1. Within 30 days of determining the application complete, and after a ten (10) day public comment period following mailing of the notice to abutting property owners, the Town Planner (or designee) shall review all submitted comments and act on the application to either: a. send the application to Major Development Review; or b. approve, approve conditionally, or deny the application. The decision of the Town Planner (or designee) shall be provided in writing to the applicant.~~
- ~~5.1. If a site plan application is denied, a substantially similar application shall not be brought before the Town Planner (or designee) within one (1) year from the date of the denial of the original application. This limitation may be waived if the Town Planner finds that substantial new evidence exists or an error or mistake of law or misinformation concerning the original application is identified.~~
- ~~6.1. Any appeal of the Town Planner's decision on an application for Minor Development Review shall be taken directly to the Planning Board; provided the appeal is made within 30 days of the issuance of the decision. Upon such an appeal, the Planning Board shall review the application as a Major Development Review; including all procedures and submission requirements of section III.A.~~
- ~~7.1. Upon written request, the Town Planner may approve transfer of Minor Development Site Plan approval granted to the project owner to an alternative developer or property owner, or the Planner may refer any request for transfer to the Planning Board for decision. A transfer shall be approved only if the new developer or owner has the financial and technical capacity to comply with the requirements of the site plan approval.~~
- ~~8.1. Final approval shall expire one (1) year from the date of such approval unless the applicant has started substantial construction. The Town Planner may extend final approval for one (1)~~

~~additional year for good cause, provided a written request for extension is submitted before the expiration of the approval. At her/his option, the Town Planner may refer any request for extension to the Planning Board for decision.~~

~~9.1. The property shown on the approved site plan may be developed and used only as shown on the plan. All elements and features of the plan and all representations made by the applicant which appear in the application are conditions of approval. No change from the conditions of approval is permitted unless an amended site plan is approved by the Town Planner (or designee). Minor deviations that do not alter the essential nature of the approval or affect approval criteria may be approved by the Town Planner (or designee).~~

~~10.1. The text of paragraph 9, above, shall be included as a note on the approved site plan.~~

~~11.1. A request to amend an approved site plan shall be processed in the same manner as an application for site plan review, except that the Town Planner (or designee) may grant preliminary waivers of submission requirements.~~

IV. Performance & Design Standards [amended 04/21/2021; 07/19/2023] [06/26/2024] [09/04/2024]

B. Landscape and Screening Standards [amended 04/21/2021; amended 06/26/2024]

1. Purpose

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

2. Applicability

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

The provisions requirements of this section shall not apply to individual single and two-family dwellings and their accessory buildings, structures and areas for parking residential structures with four or fewer dwelling units, except for preferred and acceptable plant species lists, when tree planting or replacement is required.

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

3. General Standards

- a. Trees and plantings shall be coordinated with the on-site architecture by complementing the building elevations without blocking storefronts, signs, or lighting and reinforce wayfinding by emphasizing entrances and circulation patterns.
- b. A varying, but simple, collection of plant materials and species is encouraged to create a distinctive, yet low maintenance environment. Plantings plans shall strike a balance between monoculture (the use of a single species) and too much variety.
- c. Shrubs, perennials, annuals, ornamental grasses, etc. used along the roadways should be planted in masses or 'drifts' that emphasize colors and textures, rather than used as single specimens.

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

4. Definitions

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

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

Big Tree: In Maine, a “big tree” is a tree that has been officially recognized on the Maine Register of Big Trees, a state registry that documents the largest trees of both native and naturalized species in the state. This registry is part of Maine’s Project Canopy program, which also connects to the National Register of Champion Trees.

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

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

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

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

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

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

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

Protected Tree: The following are Protected Trees in the Town of Scarborough:

Heritage Tree: Heritage trees are trees of special importance to the Town of Scarborough due to their notable size, notable age, unique or rare species, cultural or historically important location, ecological contributions and or any combination of such traits. Heritage Trees are any tree that meets at least one of the following criteria:

- (a) The tree is listed on the Register of Big Trees published by the Maine Department of Agriculture, Conservation & Forestry (the “Big Tree List”); Removal is not permitted; or
- (b) The tree is 90 years or older as determined by a Qualified Tree Professional or scientist qualified in determining the age of trees, such as a botanist; or
- (c) The tree has a DBH of 60 inches or greater; or

(d) A tree designated and documented through a process defined by the Scarborough Tree Board.

Significant Trees: A non-invasive species tree with a minimum DBH of 20 inches or 30 inches cumulative DBH for a multi-stemmed tree.

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

Tree Protection Zone: An area around one or more Significant or Heritage Trees to be fenced and unaltered during construction activity and located a minimum distance from the tree trunk of six feet or one half the radius of the dripline, whichever is greater.

5. Minimum Landscaping Required

- a.** A minimum percentage of the total area being developed shall be landscaped in accordance with the following percentages:
 - a.i.** Multifamily dwellings: 15%
 - b.ii.** Mixed-use buildings, commercial, retail and lodging use: 15%
 - c.iii.** Office and professional uses: 15%
 - d.iv.** Institutional and civic uses: 15%
 - e.v.** Industrial and manufacturing uses: 10%
- b.** Tree and shrub requirements for multi-family, commercial, institutional and civic uses:
 - a.i.** For every 500 square feet of landscaping required, or portion thereof, at least one (1) large tree and two (2) shrubs are required.
 - b.ii.** Two (2) small ornamental trees may be substituted for one (1) required large tree, not to exceed 50% of the required large trees.
- c.** Tree and shrub requirements for industrial and manufacturing uses:
 - a.i.** For every 1,000 square feet of landscaping required, or portion thereof, at least one (1) large tree and two (2) shrubs are required.
 - b.ii.** Two (2) small ornamental trees may be substituted for one (1) required large tree, not to exceed 50% of the required large trees.
- d.** Each development shall provide at least two (2) different species. No more than 50% of all trees, per development, shall be of the same species. This standard applies only to trees being planted to meet requirements, not to existing trees.
- e.** Ground cover is required. Landscaped area that is not planted with trees and shrubs must be planted in ground cover plants, which may include grasses and lawn areas. Mulch (as a ground cover) must be confined to areas underneath plants and is not a substitute for ground cover plants.
- f.** Stormwater treatment areas including retention and detention areas shall not be counted toward the required minimum landscaped area.

6. Buffer Yard - Streetscape

- ~~a. a. A vegetated buffer yard shall be required to be established, and/or maintained, and shown on the site plan along the front property line of a lot where it abuts a public street, as defined in the specific Zoning District for which the property is located. The minimum streetscape buffer yard shall be 2040' deep for all streets not specifically designated., unless otherwise defined by the specific Zoning District in which the property is located.~~
- ~~a.~~
- ~~b. Buffer yards function to define the edge of the travel way, retain natural character, provide shade for pedestrians, clean the air, and add scale to transportation corridors and commercial developments.~~
- ~~— Landscape plans Buffer yards shall preserve all existing trees and native, non-invasive understory vegetation in the required buffer yard area.~~
- ~~c. Where an existing vegetated buffer yard does not exist or does not meet minimum requirements, additional planting shall be required to meet the vegetated buffer yard requirements of Section B.6.e. Planting plans shall emphasize large shade trees within or near the right of way in order to create shade and a more unified streetscape.~~
- ~~— The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to water bodies, wetlands, or other areas with significant natural resource values unless an alternative treatment is approved by the Planning Board as part of the site plan review.~~
- ~~d. Within a required buffer yard, large trees shall be required at a rate of one (1) per thirtyfifteen (1530) linear feet of frontage. Trees may be staggered or planted in irregular groupings to accommodate utility conflicts and/or allow for design flexibility. In addition, the remaining buffer yard area not covered with trees shall be planted with native, non-invasive understory shrubs, perennials, and groundcover or combination thereof.. All landscaping to be preserved or planted in the buffer yard shall be shown on the submitted Landscape Plan.~~
- ~~— Buffer yard tree plantings shall include a mix of large spreading deciduous trees and evergreen species shall be planted in appropriate locations along town roads and private access drives to define the edge of the travel way, provide shade for pedestrians, clean the air, and add scale to transportation corridors and commercial developments.~~
- ~~a. A vegetated buffer yard shall be established and/or maintained along the front property line of a lot where it abuts a public street as defined in the specific Zoning District for which the property is located. The minimum streetscape buffer yard shall be 10' deep for all streets not specifically designated.~~
- ~~a. Within a required buffer yard large trees shall be required at a rate of one (1) per thirty (30) feet. Trees may be planted in irregular groupings to accommodate utility conflicts and/or allow for design flexibility.~~
- ~~e. A buffer yard may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip buffer yard is maintained. Parking, internal roadways, structures, stormwater treatment areas, and storage or service facilities may not be located within the buffer strip yard.~~
- ~~f. Trees and other landscaping planted at intersections shall preserve an adequate sight triangle as determined by the traffic Towne Engineer or their designee.~~
- ~~g. Landscape buffer strip Buffer yard requirements may be used to meet the overall landscape requirements established in Section BF.5.~~

7. Buffer Yard – Residential Adjacency

- a. Buffering shall be used to minimize any adverse impacts or nuisances on the site or from adjacent areas. Buffers shall be provided to shield structures and uses from the view of abutting properties, where the abutting properties would otherwise be adversely impacted.
- b. A residential adjacency buffer yard is required when a side or rear yard abuts a residential district as defined in the specific Zoning District for which the property is located.
- c. Buffer yards shall be installed by the more intense use. All required buffer yards abutting residential uses or districts shall maintain the district boundary in its natural state. Where no natural buffering can be maintained all side and rear yards abutting residential uses or districts shall be landscaped to provide a visual screen between districts.
- d. Buffers may include fences, plantings, berms, grade changes and walls used to minimize any adverse impacts and nuisances on a given site or abutter.
- e. Where residential adjacency buffers are required, the Planning Board may require evergreen or deciduous trees within these buffer areas as follows:
 - a.i. Evergreen buffers require three (3) rows of staggered plantings. The rows shall be eight (8) feet apart and the evergreens planted six (6) feet on center.
 - b.ii. Deciduous buffers require trees with a minimum of 3-inch caliper and rows and spacing to be determined by the Board based on the characteristics of the site and uses.

8. **Parking Lot Landscaping and Screening Required**

Landscaping is necessary in parking lots to enhance their appearance, lessen the scale of paved areas, define edges, and provide shade and cover.

- a. **Parking Lot Screening Required**. Plantings, trees, and other landscape elements shall separate parking lots from neighboring streets to minimize views of vehicles and paved areas, while still enabling views of the building. Where parking is provided between the building and the street, it shall be screened in accordance with the following:
 - a.i. Landscape screening shall contain a continuous screen not less than three (3) feet in height in a minimum planting bed depth of five (5) feet. The five (5) foot planting bed is in addition to the depth required for the streetscape buffer yard.
 - ii. The continuous screen may be comprised of:
 - ~~a.a)~~ Shrubs provided every four (4) to six (6) linear feet within the required planting strip
 - ~~b.b)~~ Three (3) feet tall fence or boulders in combination with shrubs;
or
 - ~~c.c)~~ Combination of the above
 - iii. Planted screening must be capable of providing a screen of at least thirty-six (36) inches in height in two years.
- b. **Parking Lot Landscaping Required**. Parking lot landscaping shall be in accordance with the following:
 - a.i. Planting islands shall be included at a rate of one (1) island per fifteen (15) spaces.

- ~~b~~.ii. Landscape islands shall be required on both ends of all parking aisles, both single and double loaded, if such spaces are not adjacent to another landscaped area or entryway.
- ~~e~~.iii. Landscape islands shall be a minimum of 160 square feet, typically nine (9) feet wide and eighteen (18) feet deep, and shall contain at least one (1) large tree and four (4) shrubs.
- ~~d~~.iv. Parking lot entryways shall contain at least one (1) large tree and four (4) shrubs on each side.
- ~~e~~.v. Vehicular use areas including drive aisles and/or parking space shall be screened from all abutting property by a continuous landscaped area not less than five (5) ten (10) feet deep. Stormwater treatment may be located in these areas upon approval by the Town Engineer.
- ~~f~~.vi. Trees in parking lots shall be planted in informal groups, straight rows, or concentrated in certain areas. Large trees shall be planted at least five feet from the end of parking lot islands for both motorist visibility and tree health.
- ~~g~~.vii. Areas adjacent to walkways shall be landscaped with trees, shrubs, ground cover, benches or other materials. Walkways in parking areas shall include landscaped islands for visual relief, shade, and scale.
- ~~c~~. Parking Lot Landscaping requirements may be used to meet the overall landscape requirements established in Section BF.5.

9. Foundation Landscaping Required

- ~~a~~. Trees and plantings shall be coordinated with the on-site architecture by complementing the building elevations without blocking storefronts, signs, or lighting and reinforce wayfinding by emphasizing entrances and circulation patterns.
- ~~b~~. Planting beds are required along exposed building edges, foundations and uninterrupted walls. Plantings shall provide either a formal pattern or a naturalistic blend of heights, colors, and textures for visual relief.
- ~~c~~. In addition, all paved surfaces, excluding those adjacent to service areas and/or the rear of buildings, of parking areas shall be separated from buildings by a minimum five (5) feet landscape strip and a five (5) foot walkway.
 - ~~a~~.i. A minimum of one (1) shrub shall be provided every four (4) to six (6) linear feet within the required planting strip. Shrubs may be clustered to avoid utility conflicts.
 - ~~b~~.ii. Small ornamental trees may be provided in the planting strip and substitute for four (4) shrubs.
- ~~d~~. Plantings shall be massed to soften edges, corners, and pavement areas, and to integrate the building into the landscape.
- ~~e~~. Large rocks may be used as landscape elements sparingly and as accents in mass plantings. Where used, they shall be buried for at least one third of their depth.
- ~~f~~. Where mulch is used, it shall consist of dark, decomposed shredded bark, with pieces less than one (1) inch in any one dimension.
- ~~g~~. Foundation landscaping requirements may be used to meet the overall landscape requirements established in Section BF.5.

10. Screening – Service and Mechanical Areas

- a. Refuse containers or disposal areas shall be screened from view by placement of a solid wood or vinyl fence or masonry wall as tall as the refuse containers, but no less than five (5) feet in height. All refuse materials shall be contained within the refuse area. Refuse containers and disposal areas shall be located to the side or rear of buildings, and in no instance shall be located in the front setback of a site.
 - a.i. Structural screens and fencing shall complement the design of the main structure by repetition of materials, detailing, scale, and color.
 - b.ii. Where chain link fencing is required for safety, it shall be painted black or a similar dark color, or coated with dark vinyl. Plastic slats in chain link fencing are not permitted.
 - c.iii. Gates shall be designed to prevent sagging.
 - d.iv. Screening may be further enhanced with evergreen trees, shrubs, and earth berms.
- b. All mechanical equipment, transformers, propane tanks and similar shall be screened from any public right-of way or adjacent residential use or zoning districts. Fencing, landscape or a combination shall be required
- c. Screening requirements may be used to meet the overall landscape requirements established in Section BF.5.

11. Screening – Outdoor Storage

- a. Outdoor storage shall be permitted only as allowed by the Scarborough Zoning Ordinance.
- b. The outside storage of goods, materials, merchandise, automobiles, automobile parts, containers, and the like shall be located to the side or rear of sites and screened from view, subject to the review and approval by the Planning Board. The Planning Board may require additional screening elements.
- c. Areas for outdoor storage or containers shall be designed as an integral part of the site, landscaping, and architectural plan and shall be setback and screened from public and private ways, main entrances, public spaces, and abutting residential neighborhoods.
- d. Screening requirements may be used to meet the overall landscape requirements established in Section BF.5.

12. Landscape Preservation and Protection Required

- ~~— Protected Trees. Significant Trees and Wherever practical, H-existing eritage Tspecimen trees; native species over 20” at DBH, tree clusters or other significant vegetation shall be preserved. Further, transplanting and reusing on-site trees and other vegetation is strongly encouraged.~~
- a. When tree preservation is requiredproposed, a tree inventory and survey ~~showing the location, size, species and condition of existing protected trees on a lot,~~ must be submitted and approved with the site plan application. The inventory and survey plan landscape plan shall illustrate which vegetation will be preserved, ~~and~~ what protection measures will be implemented, as well as any proposed –on-site replacement, including the following minimums:
 - i. Location, size, species, and condition of existing protected trees on a lot.

- ii. Location of all Heritage Trees to remain and/or to be mitigated for. Heritage Trees designated as Big Trees shall not be removed.
- iii. Location of all Significant Trees to remain and/or to be mitigated for.
- iv. Location of on-site replacement and mitigation required in accordance with Section IV.B.13.
- v. Site features must be designed to minimize disturbance to protected trees through the following:
 - a) Establishment of Tree Protection Zone during construction activities.
 - b) Tree wells or cut areas may be used to preserve the original grade around the tree. Raising the grade around protected tree trunks is prohibited.
 - c) In the drip line of protected trees, no cut or fill may be at least exceed four (4) inches deep unless a qualified arborist or forester evaluates and approves the disturbance.
 - d) Finished grades must slope away from trunks to avoid water concentrated at tree bases.
 - ~~— During construction, perimeter fencing must be erected around protected trees, at least six (6) feet from the trunk or one half of the drip line, whichever is more.~~
- vi. Statement on the plan stating:
 - a) Storage or movement of equipment, material, debris, or fill in the tree protection zone is prohibited.
 - b) The fastening of dDamaging attachments, wires, signs, -or permits cannot be fastened to protected trees is prohibited.
- vii. The developer is responsible for coordination with utility companies when trenching near protected trees is required. Trenches or footings should be out of the at least Tree Protection Zone plus an additional two (2) feet. eight (8) feet from trunk bases. Tunneling under large diameter roots may be required to prevent root damage.
- ~~a. Site features must be designed to minimize disturbance to protected trees.~~
- ~~b.a. Tree wells or cut areas may be used to preserve the original grade around the tree. Raising the grade around protected tree trunks is prohibited.~~
- ~~c.a. In the drip line of protected trees, no cut or fill may be at least four (4) inches deep unless a qualified arborist or forester evaluates and approves the disturbance.~~
- ~~d.a. Finished grades must slope away from trunks to avoid water concentrated at tree bases.~~
- ~~e.a. During construction, perimeter fencing must be erected around protected trees, at least six (6) feet from the trunk or one half of the drip line, whichever is more.~~
- ~~f.a. Storage or movement of equipment, material, debris, or fill in the tree protection zone is prohibited.~~
- ~~g.a. Damaging attachments, wires, signs or permits cannot be fastened to protected trees.~~
- ~~h. The developer is responsible for coordination with utility companies when trenching near protected trees. Trenches or footings should be at least eight (8) feet from trunk bases. Tunneling under large diameter roots may be required to prevent root damage.~~
- b. Preserved landscaping may be used to meet the overall landscape requirements established in Section BF.5.

13. Tree Removal Mitigation.

- a. Heritage trees designated as Big Trees, shall not be removed.
- b. If protected tree removal cannot be avoided for Significant Trees, tree removal mitigation is required as follows:
 - i. On-site replacement at a rate of 2.5 trees for each Significant Tree removed.
- c. If protected tree removal cannot be avoided for Heritage Trees, not designated as Big Trees, tree removal mitigation is required as follows:
 - ii. On-site replacement, at a rate of 5 trees for each Heritage Tree removed
- d. Replacement requirements:
 - i. All replacement requirements shall be rounded up to the nearest whole number.
 - ii. All replacement trees must be selected from preferred tree species found in Ch. 405B.IV.B.16.
 - iii. If more than five (5) replacement trees are required, no species shall make up more than fifty percent (50%) of the number of trees planted.
 - iv. All replacement trees shall be subject to landscaping Performance Guarantees for each replacement tree.

13.14. Site Amenities

- a. Public entrances to new or renovated buildings shall be complemented with outdoor seating or use areas. Canopies, recessed entrances, seating areas, decorative plantings, lawn areas and other elements shall be incorporated around the building entry to serve as pedestrian space or gathering areas.

14.15. Alternative Transportation and Bicycle Facilities

- a. Provisions shall be made for alternative transportation if the site is located on a bus or bicycle route. Such provisions may consist of bus shelters, bicycle racks, or individual travel lanes for either mode of transportation.
- b. Bicycle parking facilities are required for non-residential and multi-family uses. One (1) bicycle parking facility must be provided for every ten (10) vehicle parking spaces required. Bicycle parking design must follow recognized professional standards. The location of bicycle facilities is subject to the approval by the Planning Board during the site plan process.

15.16. Snow Storage

- a. Provisions shall be made for snow storage in the design of all parking areas. The areas shall be shown on the site plan to avoid conflicts with landscaping, visibility, drainage, or icing during the winter season.
- b. Landscape materials surrounding parking lots and in islands shall be able to tolerate large quantities of snow stored during winter months. Delicate plant material shall not be used in areas where they are likely to be buried under snow.

- ~~c.~~ All walkways and sidewalks shall be designed for efficient snow removal to enable year-round use.
- ~~d.~~ Designated snow storage locations shall be required as follows:
 - ~~a.i.~~ Located near the sides or rear of parking areas and driveways, away from primary street frontage.
 - ~~b.ii.~~ Located to maximize solar exposure to the greatest extent possible.
 - ~~c.iii.~~ Located so that snow moving equipment is not required to enter the public streets to move snow to the storage areas.
 - ~~d.iv.~~ Located in a manner to preserve sight lines of vehicles entering and exiting the site.
 - ~~e.v.~~ Shall not block any required access, sidewalk, bicycle facility, trail or public path.
 - ~~f.vi.~~ Shall not block drainage areas.
 - ~~g.vii.~~ Shall not be located in or near any stormwater treatment areas including retention and detention areas.
 - ~~h.viii.~~ May be located within parking areas, but such areas may not be counted towards required off-street parking.
 - ~~i.ix.~~ May be located within required landscaping areas, but the areas shall be planted with landscaping tolerant of snow storage.
 - ~~j.x.~~ Snow storage areas shall be located to avoid piling of snow against existing trees.

16.17. Approved Plant Species List

- ~~a.~~ Plant material shall be selected with consideration to public health and safety. Plants to be avoided include those with poisonous fruits, large thorns, or shrubs that could provide hiding places along pathways or block the view of moving vehicles. The applicant shall use plant material and species that require a low degree of maintenance and that are resistant to insect infestation, drought, disease, road salt, and auto emissions, and are tolerant of local winter conditions.
- ~~b.~~ Invasive species shall not be used. The Do Not Sell Invasive plant list can be found here: [Maine Natural Areas Program Invasive Plant Fact Sheets](#)
- ~~c.~~ All parking lot landscaping shall be appropriate for parking lot conditions. Trees that may damage automobiles (dripping sap, messy fruit, or hard seeds such as acorns) are discouraged in or around parking lots.

~~Invasive species shall not be used. The Do Not Sell Invasive plant list can be found here: [Maine Natural Areas Program Invasive Plant Fact Sheets](#)~~

- ~~d.~~ The plants on the plant species list below have been derived from a number of sources to increase the use of native plants in Scarborough. This list is subject to periodic review based on factors that may change the viability or appropriateness of plantings.
- ~~e.~~ All required trees shall be selected from the preferred or acceptable alternative list below, based on the size required for the landscape element. A minimum of sixty (60) percent of the total number of required trees shall be selected from the preferred species list.

- f. When the ordinance requires a shrub, only plants classified as shrubs, perennials, ferns and grasses may be used. A minimum of forty (40) percent of the total number of shrubs shall be selected from the preferred species lists. Up to twenty-five (25%) percent of shrubs may be selected from an unlisted species subject to Site Plan approval. The Maine Audubon Society and the University of Maine Cooperative Extension provide extensive plant lists appropriate for Maine.

LARGE DECIDUOUS TREES		
Preferred Species		
Scientific Name	Common Name	Mature Height
<i>Acer x freemanii</i>	Armstrong Maple	40-55'
<i>Acer rubrum</i>	Red Maple	50-60'
<i>Acer saccharinum</i>	Silver Maple	60-80'
<i>Acer saccharum</i>	Sugar Maple	60-70'
<i>Betula alleghaniensis</i>	Yellow Birch	70-85'
<i>Betula borealis</i>	Northern Birch	30-60'
<i>Betula nigra</i>	River Birch	40-70'
<i>Betula papyrifera</i>	Paper Birch	60-70'
<i>Betula populifolia</i>	Gray Birch	20-40'
<i>Carya ovata</i>	Shagbark Hickory	70-90'
<i>Cladrastis kentukea</i>	Yellowwood	30-50'
<i>Fagus grandifolia</i>	American Beech	50-100'
<i>Larix laricina</i>	Larch, Hackmatack, Tamarack	50-60'
<i>Nyssa sylvatica</i>	Tupelo Black Gum	40-70'
<i>Platanus occidentalis</i>	Sycamore American Buttonwood	60-80'
<i>Prunus serotina</i>	Black Cherry	50-80'
<i>Quercus alba</i>	White Oak	60-70'
<i>Quercus bicolor</i>	Swamp Oak	50-60'
<i>Quercus coccinea</i>	Scarlet Oak	30-50'
<i>Quercus macrocarpa</i>	Bur Oak	60-100'
<i>Quercus rubra</i>	Northern Red Oak	60-80'
<i>Tilia americana</i>	American Basswood, American Linden	60-80'
<i>Ulmus americana</i>	Princeton American Elm	60-70'

LARGE DECIDUOUS TREES		
Acceptable Alternative Species		
Scientific Name	Common Name	Mature Height
Aesculus x carnea	Red Horse Chestnut	30-40'
Aesculus hippocastanum	Horse Chestnut	50-75'
Betula jacquemonti	Himalayan Birch	30-40'
Catalpa speciosa	Catalpa	40-60'
Carpinus betulus	European Hornbeam	40-60'
Cercidiphyllum japonicum	Katsura Tree	40-60'
Fagus sylvatica	European Beech	50-60'
Ginkgo biloba	Maidenhair Tree	60-100'
Gleditsia triacanthos	Thornless Honey Locust	65-100'
Gymnocladus dioicus	Kentucky Coffee Tree	60-80'
Juglans nigra	Black Walnut	50-90'
Liriodendron tulipifera	Tulip Poplar Tree	60-90'
Liquidambar styraciflua	American Sweetgum	50-60'
Magnolia acuminata	Cucumber Tree	40-70'
Metasequoia glyptostroboides	Dawn Redwood	75-100'
Platanus x acerfolia	London Planetree	70-100'
Quercus palustris	Pin Oak	50-70'
Quercus robur	English Oak	40-70'
Salix alba 'Tristis'	Weeping Willow	50-75'
Taxodium distichum	Bald Cypress	35-100'
Tilia cordata	Littleleaf Linden	50-70'
Tilia tomentosa	Silver Linden	50-70'
Zelkova serrata	Zelkova	80-100'

LARGE EVERGREEN TREES		
Preferred Species		
Scientific Name	Common Name	Mature Height
<i>Abies balsamea</i>	Balsam Fir	60-70'
<i>Abies concolor</i>	White Fir	30-50'
<i>Abies fraseri</i>	Fraser Fir	30-50'
<i>Chamaecyparis thyoides</i>	Atlantic White Cedar	30-50'
<i>Juniperus virginiana</i>	Eastern Red Cedar	20-60'
<i>Picea glauca</i>	White Spruce	60-90'
<i>Picea rubens</i>	Red Spruce	60-80'
<i>Picea mariana</i>	Black Spruce	50-70'
<i>Pinus banksiana</i>	Jack Pine	50-60'
<i>Pinus rigida</i>	Pitch Pine	30-40'
<i>Pinus resinosa</i>	Red/Norway Pine	60-80'
<i>Pinus strobus</i>	Eastern White Pine	70-80'
<i>Thuja occidentalis</i>	Cedar Northern White	20-40'
LARGE EVERGREEN TREES		
Acceptable Alternative Species		
Scientific Name	Common Name	Mature Height
<i>Chamaecyparis</i> spp.	Cypress	10-60'
<i>Picea abies</i>	Norway Spruce	70-120'
<i>Picea engelmannii</i>	Engelmann Spruce	80-130'
<i>Picea omorika</i>	Serbian Spruce	50-60'
<i>Picea pungens</i>	Colorado Spruce	30-60'
<i>Pinus flexilis</i>	Limber Pine	60-80'
<i>Pinus nigra</i>	Austrian Pine	60-180'
<i>Pinus sylvestris</i>	Scots Pine	30-80'
<i>Thuja plicata</i>	Western Red Cedar/Arborvitae	50-70'

SMALL ORNAMENTAL TREES		
Preferred Species		
Scientific Name	Common Name	Mature Height
<i>Acer pensylvanicum</i>	Striped Maple	15-25'
<i>Amelanchier canadensis</i>	Eastern Serviceberry	30-40'
<i>Amelanchier arborea</i>	Downy Serviceberry	20-40'
<i>Amelanchier x grandiflora</i>	Apple Serviceberry	15-25'
<i>Amelanchier laevis</i>	Alleghany Serviceberry	15-40'
<i>Carpinus caroliniana</i>	American Hornbeam	10-25'
<i>Cercis canadensis</i>	Eastern Redbud	20-30'
<i>Cornus alternifolia</i>	Alternate Leaf Dogwood	15-25'
<i>Cornus florida</i>	Flowering Dogwood	12-20'
<i>Corylus Americana</i>	American Hazelnut	8-12' (also shrub)
<i>Crataegus crus-galli</i>	Cockspur Hawthorn	15-30'
<i>Hamamelis virginiana</i>	Common Witch-Hazel	15-20'
<i>Ostrya virginiana</i>	Eastern Hop Hornbeam	20-30'
<i>Oxydendrum arboretum</i>	Sourwood	20-25'
<i>Prunus virginiana</i>	Common Chokeberry	20-30'
<i>Sorbus americana</i>	American Mountain Ash	10-30'
<i>Cornus alternifolia</i>	Pagoda Dogwood	10-20'
<i>Viburnum lentago</i>	Nannyberry	10-30' (also shrub)

SMALL ORNAMENTAL TREES		
Acceptable Alternative Species		
Scientific Name	Common Name	Mature Height
<i>Acer campestre</i>	Hedge Maple	20-25'
<i>Acer griseum</i>	Paperbark Maple	20-30'
<i>Acer palmatum</i>	Japanese Maple	10-25'
<i>Acer triflorum</i>	Three Flower Maple	25-30'
<i>Amelanchier alnifolia</i>	Western Serviceberry	10-15'
<i>Chionanthus Virginicus</i>	American Fringetree	12-20'
<i>Cornus kousa</i>	Kousa Dogwood	20-30'
<i>Cornus mas</i>	Cornealian Cherry Dogwood	15-25'
<i>Cotinus obovatus</i>	American Smoketree	20-30'
<i>Crataegus viridis</i>	Winter King Hawthorne	20-35'
<i>Halesia Carolina</i>	Carolina Silverbell	30-40'
<i>Hamamelis vernalis</i>	Witchhazel	6-10' (also shrub)
<i>Hamamelis x intermedia</i>	Witchhazel	12-15'
<i>Maackia amurensis</i>	Amur Maackia	20-30'
<i>Magnolia x liliiflora</i>	Lily Magnolia	8-12' (also shrub)
<i>Magnolia loebneri</i>	Loebner Magnolia	20-30'
<i>Magnolia soulangiana</i>	Saucer Magnolia	20-25'
<i>Magnolia stellata</i>	Star Magnolia	15-20'
<i>Malus species</i>	Flowering Crabapple	15-25'
<i>Pinus mugo</i>	Mugo Pine	20-25'
<i>Prunus x accolade</i>	Accolade Flowering Cherry	20-25'
<i>Prunus sargentii</i>	Sargent Cherry	20-40'
<i>Stewartia pseudocamellia</i>	Stewartia	20-40'
<i>Syringa reticulata</i>	Japanese Tree Lilac	20-30'

SHRUBS			
Preferred Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Aesculus parviflora</i>	Bottlebrush Buckeye	<i>Leucothoe fontanesiana</i>	Drooping Laurel
<i>Amelanchier arborea</i>	Downy Serviceberry	<i>Lindera benzoin</i>	Spicebush
<i>Amelanchier canadensis</i>	Canadian Serviceberry	<i>Myrica gale</i>	Sweet Gale
<i>Amelanchier stolonifera</i>	Running Serviceberry	<i>Myrica pennsylvanica</i>	Bayberry
<i>Aronia arbutifolia</i>	Red Chokeberry	<i>Physocarpus opulifolius</i>	Ninebark
<i>Aronia melanocarpa</i>	Black Chokeberry	<i>Prunus maritima</i>	Beach Plum
<i>Ceanothus americanus</i>	New Jersey Tea, Redroot	<i>Rhus aromatica</i>	Fragrant Sumac
<i>Cephalanthus occidentalis</i>	Buttonbush	<i>Rhus hirta</i>	Smooth Sumac
<i>Clethra alnifolia</i>	Sweet Pepperbush	<i>Rhus typhina</i>	Staghorn Sumac
<i>Comptonia peregrina</i>	Sweetfern	<i>Rosa carolina</i>	Pasture Rose, Carolina Rose
<i>Corylus Americana</i>	American Hazelnut	<i>Rosa palustris</i>	Swamp rose
<i>Cornus racemosa</i>	Gray Dogwood	<i>Rosa virginiana</i>	Virginia Rose
<i>Cornus sericea</i>	Redosier Dogwood	<i>Rubus odoratus</i>	Flowering Raspberry
<i>Diervilla lonicera</i>	Bush Honeysuckle	<i>Sambucus</i>	Elderberry
<i>Illex glabra</i>	Inkberry	<i>Vaccinium corymbosum</i>	Highbush Blueberry
<i>Ilex verticillata</i>	Winterberry	<i>Viburnum</i> spp.	Viburnum
<i>Juniperus communis</i>	Common Juniper	<i>Xanthorrhiza simplicissima</i>	Yellowroot
<i>Kalmia angustifolia</i>	Sheep Laurel		
SHRUBS			
Acceptable Alternative Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Azalea</i> spp.	Azalea	<i>Hydrangea</i> spp.	Hydrangea
<i>Buxus</i> spp.	Boxwood	<i>Pieris</i> spp.	Andromeda
<i>Cotoneaster</i> spp.	Cotoneaster	<i>Rhododendron</i> spp.	Rhododendron
<i>Deutzia gracilis</i>	Slender Deutzia	<i>Rose</i> spp.	Rose
<i>Enkianthus campanulatus</i>	Redveined Enkianthus	<i>Salix</i> spp.	Willow
<i>Fothergilla gardenia</i>	Dwarf Fothergilla	<i>Spiraea</i> spp.	Spiraea
<i>Fothergilla major</i>	Bottlebrush Bush	<i>Syringa</i> spp.	Lilac
<i>Forsythia</i> spp.	Forsythia	<i>Weigela</i> spp.	Weigela

PERENNIALS			
Preferred Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Achillea millefolium</i>	Yarrow	<i>Iris versicolor</i>	Blue Flag Iris
<i>Actaea rubra</i> , <i>Actaea pachypoda</i>	Red Baneberry, White baneberry	<i>Liatris spicata</i>	Gayfeather
<i>Anemone canadensis</i>	Canadian Anemone	<i>Lobelia cardinalis</i>	Cardinal Flower
<i>Aquilegia canadensis</i>	Eastern Red Columbine	<i>Lupinus perennis</i>	Wild Lupine
<i>Asclepias tuberosa</i>	Butterfly weed	<i>Monarda didyma</i>	Scarlet Bee Balm, Oswego Tea
<i>Columbine aquilegia</i>	Columbine	<i>Monarda fistulosa</i>	Wild Bergamot
<i>Coreopsis lanceolata</i>	Lanceleaf Coreopsis	<i>Polygonatum pubescens</i>	Solomon's Seal
<i>Coreopsis verticillata</i>	Moonbeam Coreopsis	<i>Rudbeckia hirta</i>	Black-Eyed Susan
<i>Echinacea purpurea</i>	Purple coneflower	<i>Symphotrichum novae-angliae</i>	New England Aster
<i>Eutrochium purpureum</i>	Joe Pye Weed	<i>Symphotrichum novi-belgii</i>	New York Aster
PERENNIALS			
Acceptable Alternative Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Astilbe varieteis</i>	Astilbe	<i>Hosta</i> spp.	Hosta
<i>Agastache</i>	Anise Hyssop	<i>Leucanthemum</i>	Ox-eye Daisy
<i>Aruncus dioicus</i>	Goatsbeard	<i>Malva alcea</i> 'fastigiata'	Hollyhock Mallow
<i>Baptisia</i>	Wild Indigo	<i>Nepeta x faassenii</i>	Walker's Low Catmint
<i>Epimedium</i>	Barrenwort	<i>Perovskia atriplicifolia</i>	Russian Sage
<i>Geranium</i> spp.	Geraniums	<i>Phlox</i> spp.	Garden Phlox
<i>Hemerocallis</i> species	Daylilies	<i>Sedum telephium</i>	Autumn Joy Sedum
<i>Heuchera</i> spp.	Coral Bells		
FERNS			
Preferred and Acceptable Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Adiantum pedatum</i>	Maidenhair Fern	<i>Osmundastrum cinnamomeum</i>	Cinnamon Fern
<i>Athyrium angustum</i>	Lady Fern	<i>Osmunda claytoniana</i>	Interrupted Fern
<i>Dennstaedtia punctilobula</i>	Hayscented Fern	<i>Osmunda regalis</i> var. <i>spectabilis</i>	Royal Fern
<i>Matteuccia struthiopteris</i> var. <i>pensylvanica</i>	Ostrich Fern	<i>Polystichum acrostichoides</i>	Christmas Fern
<i>Onoclea sensibilis</i>	Sensitive Fern		

GRASSES			
Preferred Species			
Scientific Name	Common Name	Scientific Name	Common Name

<i>Ammophila breviligulata</i>	Beachgrass	<i>Deschampsia cespitosa</i>	Tufted Hairgrass
<i>Andropogon gerardii</i>	Big Bluestem	<i>Deschampsia flexuosa</i>	Crinkled Hairgrass
<i>Carex appalachica</i>	Appalachian Sedge	<i>Panicum virgatum</i>	Switchgrass
<i>Carex pensylvanica</i>	Pennsylvania Sedge	<i>Juncus</i> spp.	Rush
<i>Chasmanthium latifolium</i>	Northern Sea Oats	<i>Schizachyrium scoparium</i>	Little Bluestem
<i>Eragrostis spectabilis</i>	Purple Lovegrass	<i>Sporobolus heterolepis</i>	Prairie Dropseed
GRASSES			
Acceptable Alternative Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Calamagrostis x acutiflora</i>	Feather-Reed Grass	<i>Miscanthus sinensis</i>	Maiden Grass
<i>Calamagrostis brachytricha</i>	Feather-Reed Grass	<i>Molinia caerulea</i> subsp. <i>Arundin</i>	Moor Grass
<i>Festuca glauca</i>	Blue Fescue	<i>Pennisetum alopecuroides</i>	Fountain Grass
<i>Hakonechloa macra</i>	Hakone Grass		
GROUNDCOVERS			
Preferred and Acceptable Species			
Scientific Name	Common Name	Scientific Name	Common Name
<i>Arctostaphylos uva-ursi</i>	Bearberry	<i>Juniperus horizontalis</i>	Creeping Juniper
<i>Cornus canadensis</i>	Bunchberry	<i>Mitchella repens</i>	Partridgeberry
<i>Gaultheria procumbens</i>	Checkerberry, Wintergreen	<i>Vaccinium angustifolium</i>	Lowbush blueberry

g. Plant materials shall meet the following minimum sizes, unless alternative sizes are required given a particular site or location:

Landscape Element	Minimum Size
Large Deciduous Trees	2 ½" caliper
Large Evergreen Trees	5-7' in height
Small Ornamental Trees	2" caliper
Shrubs	3gallons
Perennials	1 gallon
Ferns	1 gallon
Grasses	1 gallon
Groundcovers (plugs acceptable)	1 gallon

h. The Planning Board may require larger plants for special locations, such as within the Route One right-of-way and along Haigis Parkway.

17.18. Installation, Guarantee and Maintenance

Installation. The ultimate form and height of plantings shall be considered so they will not create unsafe conditions or block sight lines for pedestrians, bicyclists, or motorists as they mature.

- a. Trees shall be planted in locations where their root development and branching patterns will not interfere with window displays, signage, underground or overhead utilities, streets, and sidewalks.
- b. The installation of underground irrigation is encouraged in front setbacks, public spaces, and other highly visible areas. It shall be coordinated so it does not cause overflow or flooding in pedestrian use areas, such as walkways, sidewalks, or parking lots.
- c. The Town recognizes the seasonal nature of landscape installation; however, all landscaping shall be installed according to the approved site plan prior to Certificate of Occupancy or within six (6) months after the Certificate of Occupancy has been issued and a performance guarantee has been provided and accepted by the Town.

Maintenance. Landscape plans shall anticipate a three (3) to eight (8) year growing cycle to achieve maturity for shrubs and fifteen (15) to twenty (20) plus years for trees. The plan shall be designed and plantings selected with due consideration for maintenance requirements.

- a. A written maintenance plan shall be provided for the landscape elements to be installed on the site. The plan shall include initial installation, guarantee period, replacement policy, annual maintenance, and irrigation provisions. Maintenance plans shall include alternatives to regular mowing and pesticide use if possible. This may be established on the landscape plan with standard notes.
- b. Trees and shrubs in and near parking areas and walkways shall be trimmed and maintained so that they do not block views needed for safe movement of motorists and pedestrians. Vertical clearances of at least eight (8) feet shall be maintained. Shrubs in parking lot islands shall not exceed three (3) feet in height to avoid blocking visibility.
- c. All plant material shall be allowed to achieve their natural forms without excessive pruning. Shaping evergreen shrubs into tight geometrical forms shall be avoided.

Guarantee. All lawns and plant materials shall be guaranteed for a period of not less than two (2) years. The developer shall submit a copy of a guarantee and a contract with the landscape contractor, indicating the terms of the guarantee period, or may obtain a letter of credit. The guarantee period does not begin until all landscaping has been installed.

- a. Where plant materials specified on the planting plan do not survive or are damaged, they shall be replaced and/or reinforced in accordance with the two-year performance guarantee to maintain conformance with the approved planting plan and to provide the necessary landscape effect.
- b. Plants that die must be replaced in kind, unless another species is more appropriate given the site's growing conditions. A fine may be levied if the landscaping has not been maintained, and new plants required to be planted.

18.19. Landscape Plan Required

- a. If site improvements will create ten (10) or more new parking spaces or create 2,000 sq. ft. or more of new building footprint, a landscape plan shall be prepared by a landscape architect registered in Maine.
- b. The Planning Board, at their discretion, may require a peer review of landscape plans.
- c. Landscaping for multiple building developments shall be coordinated with all other

elements of the site. As part of the application for Site Plan approval, applicants shall submit a master landscape plan that shows how landscaping will be used to complement proposed buildings, reinforce circulation paths, help define pedestrian use areas, highlight entrances, provide shade, and add seasonal interest to the landscape.

- d. Plantings used in stormwater treatment facilities should be designed by a qualified professional.
- e. -The planting plan shall illustrate how plantings shall be coordinated with the location of underground and overhead utilities and lighting.
- f. Each landscape plan shall include the following table filled out for the specific site:

Minimum Landscape Required	Required	Provided
Minimum Landscape Area (square feet)		
Minimum Trees Required		
Trees (Preferred Species)	Min 60% = ##	% and #
Trees (Alternative Species)	Max 40% = ##	% and #
Minimum Shrubs Required		
Shrubs (Preferred Species)	Min 40% = ##	% and #
Shrubs (Alternative Species)	Max 60% = ##	% and #
Shrubs (Unlisted)	Max 25% = ##	% and #

<u>Landscape Preservation and Protection (If required)</u>	<u>Existing</u>	<u>Provided</u>
<u>Heritage Tree Mitigation (5 trees per each tree removed)</u>	<u># on Site</u>	<u># to remain; # to remove; # mitigated;</u>
<u>Significant Tree Mitigation (2.5 trees per each tree removed)</u>	<u># on Site</u>	<u># to remain; # to remove; # mitigated</u>
Buffer Yard - Streetscape	Required	Provided
Street Name		
Street Frontage Depth		
Street Frontage Length (excluding entryways) (linear feet)		
Street Frontage Area (square feet)		
Street Trees		
Buffer Yard - Residential Adjacency (if required)	Required	Provided
RA Type Required		
RA Buffer Depth (feet)		
RA Buffer Length (linear feet)		
RA Buffer Area (square feet)		
RA Buffer Trees		
Parking Lot Screening (if required)	Required	Provided
Parking Lot Screen Depth (feet)		
Parking Lot Screen Length (excluding entryways) (linear feet)		
Parking Lot Screen Area (square feet)		
Parking Lot Screening Shrubs		
Parking Lot Landscape	Required	Provided
Parking Calculation Type		
Parking Spaces		
Parking Islands (number)		
Parking Islands Total Area (square feet)		
Parking Island Trees		
Parking Island Shrubs		
Entryway Trees		
Entryway Shrubs		
Continuous 5' Landscape Area - All Applicable Sides (square feet)		
Foundation Landscape	Required	Provided
Landscape Bed Depth (feet)		
Landscape Bed Length - All Applicable Sides (linear feet)		
Landscape Bed Area - All		

Applicable Sides (square feet)		
Landscape Bed Shrubs		
Landscape Bed Ornamental Trees (if provided)		
Additional Screening (if required)	Required	Provided
Dumpster Area Fence		
Dumpster Areas Shrubs		
Mechanical Screening Fence		
Mechanical Screening Shrubs		

19.20. Waivers Landscape and Screening Standards

The Planning Board may review and approve requests for waivers to landscaping standards for the following:

- a. The Planning Board may reduce the amount of landscaping required for parking lots if additional landscaping of equal or greater value is provided on other areas on site.
- b. The Planning Board may approve an alternative interior parking island design to address stormwater runoff if recommended for approval by the Town Engineer.
- c. The Planning Board may approve stormwater treatment areas located in the streetscape buffer yard if recommended for approval by the Town Engineer.
- d. The Planning Board may approve an alternative planting plan if the site is not able to accommodate the required plantings, only as follows:
 - i. One large tree may be substituted by two (2) ornamental trees
- e. In-Lieu Payment to Tree Mitigation Fund. An applicant may request that the Planning Board make a determination that on-site replacement is not feasible under the specific circumstances of the project. If on-site replacement is not provided as mitigation, a narrative, accompanied by such site plan drawings as may be necessary and appropriate, shall be provided explaining in detail why on-site replacement is not feasible or practicable. If the Planning Board makes such a determination, the applicant shall pay an in-lieu compensation fee to the Tree Mitigation Fund, per replacement tree in an amount specified in Chapter 311 Schedule of License, Permit, and Application Fees established by Town Council order.
- e-f. The Planning Board may waive or decrease the five (5) foot landscape strip requirement between all parking areas and buildings if the development is in an urban setting.
- f.g. The Planning Board may waive residential adjacency buffer requirements if the site is in conjunction with a master planned development or within a mixed-use district.
- g-h. The Planning Board may waive the required snow storage areas if a snow storage management plan is submitted and approved by the Town that includes the following:
 - i. Designated temporary or interim snow storage areas that do not interfere with more than one-third (1/3) of the project required minimum parking.
 - ii. Interim snow storage shall be removed within five (5) calendar days following a storm cycle.

- iii. Interim snow storage shall not be in a location that will damage trees, landscape or other facilities.
- iv. Interim snow storage shall not block any required access, sidewalk, trail or public way.
- v. Snow shall be hauled to approved and permitted locations. The location shall be provided.
- vi. Snow hauling shall generally be completed during non-business hours.
- vii. The snow management plan shall designate the removal methods.

h.i. The Planning Board may consider waivers for the number of bicycle parking facilities for parking lots with 50 or more parking spaces provided.

Vote: 6 Yeas. 1 Nay [Councilor Doherty]. Motion Carried

Chairmen Fellows called for a brief recess at 9:22 p.m. The meeting was reconvened 9:27 p.m.

Order No. 26-075. Act on the request, pursuant to Title 23, M.R.S.A. §3025 and the requirements of Section 4, of the Scarborough Street Acceptance Ordinance, to approve the acceptance of public infrastructure, as noted and recommended by the Town Engineer and to accept a portion of Larrabee Farm Road as a public way and accept a quit claim deed for the road with covenant from Grondin Aggregates LLC. Thomas J. Hall, Town Manager, gave an overview on this Order.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval of the street acceptance that is recommended by the Town Engineer and to accept a portion of Larrabee Farm Road as a public way and accept a quit claim deed for the road with covenant from Grondin Aggregates LLC and authorize the Town Manager to sign said document.

Motion by Councilor Doherty, seconded by Councilor Donovan, to move approval to table this Order until the 3 residents have been notified of this recommendation.

7 Yeas. Motion Carried.

Order No. 26-076. Act on the request to approve the Town Manager's Employment Agreement. [Town Council] Chairman Fellows gave a brief overview on this Order.

Motion by Councilor Donovan, seconded by Councilor Anderson, to move approval on the request to approve the Town Manager's Employment Agreement.

Vote: 6 Yeas. 1 Nay [Councilor Doherty]. Motion Carried.

Item 14. Non-Action Item. None at this time.

Item 15. Council Member Comments.

- Councilor Doherty commented on concerns from Diane McMullen's concerns about vague parking ordinances at Pine Point, noting that businesses have specific rules while residents often

park in their yards during busy times. The recent enforcement of restrictions had led to frustrations, particularly due to the absence of similar rules for a town-owned lot. He emphasizes that residents contribute to reducing congestion and advocates for clearer communication and a potential referendum on parking policies.

- Councilor Cain noted the Chairman Fellows received the Conservationist of the Year award on behalf of the people of Scarborough at the Scarborough Land Trust event. The award recognizes the significant support from local taxpayers funding the bond initiatives. The insight of the nonprofit to acknowledge this community contribution was commendable, and the Council Chairman delivered an impressive speech accepting the honor.
- Chairman Fellows stated that it was an honor to accept the award for the people of Scarborough,. He added that the award is depicted as a 3D relief map of the coastal area, which now hangs below the clock in Chamber A. He also noted progress toward the conservation goal of 30% land protection, currently at nearly 25%.

Item 16. Adjournment. Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval to adjourn the regular meeting of the Scarborough Town Council.

Vote: 7 Yeas. Motion Carried.

Meeting adjourned at 9:49 p.m.

Respectfully submitted,

Yolande P. Justice
Clerk to the Council