Chapter 421 – Town of Scarborough
Temporary Seasonal Authorization of Outdoor Services Ordinance

Adopted June 21, 2023

[Amended April 17, 2024; April 16, 2025; April 15, 2026]

Section 1. Purpose: To implement this ordinance to allow businesses who wish to expand their current services to include outdoor services for the summer season beginning May 1, 2026, through November 15, 2026.

Section 2. Provisions: Notwithstanding any Town ordinance provisions to the contrary, the outdoor activity, display, sale of merchandise, and sale, service and consumption of food or drinks, including alcoholic beverages for restaurant and retail sales and services (together referred to as "outdoor services") in certain temporary outdoor areas on private property is permitted subject to the following:

1) All properly licensed and/or permitted businesses at the time of enactment of this ordinance in the Town of Scarborough wishing to create or expand existing outdoor services shall first apply to the Town of Scarborough's Planning Department and receive correspondence of approval from the Town;

2) In addition to the creation or expansion of outdoor services areas, temporary awnings, tents or other temporary structures may be permitted to protect the outdoor service areas from the elements;

3) All applications for outdoor services shall be submitted by entities properly licensed and/or permitted by the appropriate state and local agencies to perform the sales and services;

Approval for outdoor services under this temporary ordinance shall be granted through the Planning Department in coordination with the Administrative Review Team described below. To receive approval for outdoor services businesses must demonstrate how they shall:

1) Refrain from creating or increasing noise, such as playing or allowing amplified music, in violation of Chapter 616, the Good Neighbor Ordinance.

2) Not encroach on public right-of-ways.

3) Not interfere with handicap parking spaces.

4) Maintain adequate parking for patrons (the expansion or creation of outdoor services associated with approved uses may not exceed the approved capacity of the business unless additional parking is available.

5) Maintain safe pedestrian and vehicular access.

6) Maintain all access required under the Americans with Disabilities Act.

7) Not impede fire and emergency access nor not block fire lanes.

8) Provide physical barriers between the outdoor services areas and the parking field.

9) Demonstrate that any temporary structure complies with the rules and policies of the Town.

10) Outdoor service areas can only be used between the hours of 9am and 9pm Sunday to Thursday and 9am to 10pm Friday and Saturday.

11) Shall be in compliance with the provisions of the Maine Alcoholic Beverages and Lottery Operations - Division of Liquor Licensing and Enforcement and other federal, state and local laws or regulations. Additionally, any business legally serving alcoholic beverages in the outdoor services area shall clearly delineate, by use of physical markers and barricade, areas where alcoholic beverages are to be served and consumed, and such consumption shall not take place outside of the marked areas. Signage reading, "No Alcohol Beyond This Point" shall be posted at all exit points and as necessary.

12) Each business seeking approval for outdoor services under this Ordinance shall apply to the Planning Department.

13) All applications shall be approved or denied by an Administrative Review Team consisting of the Town Planner, or their designee, the Zoning Administrator, or their designee, the Police Chief, or their designee, and the Fire Chief, or their designee. Approvals require unanimous decision of the administrative review team. Appeals of any denials may be made in accordance with the provisions of Chapter 405, section V.B.1.

The application shall include the following:

1) A narrative and plan describing the nature of the use, including responses or illustrations demonstrating how the proposal meets the requirements stated above.

2) A plan, survey, or aerial of the lot on which the proposed outdoor services will be located with clearly marked limits and capacity of the proposed outdoor services area.

3) Details of the proposed barriers used to delineate the outdoor service area.

4) Details of any temporary awning, tents or other temporary structures proposed (depending on size and materials additional permits may be required).

5) If parking capacity is to be met utilizing off-site parking spaces the application shall include the proposed location, capacity and rights of use of such off-site parking spaces.

6) Any additional materials as deemed necessary by the Administrative Review Team to ensure compliance with the standards.

If after the establishment of the outdoor services area the Administrative Review Team determines that the activity is proposing unforeseen hazards and concerns for public health, welfare, and safety the Town may suspend or revoke any permits under this order. Suspended or revoked activities may resubmit an application following the procedures above for review and reconsideration.

Approved outdoor service areas are valid and allowed until the expiration of this Ordinance or any extensions, modifications or replacements thereto, unless revoked by the Town.

Section 3. Sunset Clause. This ordinance shall expire on the 15th day of November, 2026.