MINUTES
TOWN COUNCIL
WEDNESDAY - NOVEMBER 4, 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 7:02 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, was 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

Item 4. General Public Comments.

- Denise Hamilton of Two Rod Road, congratulated the newly elected officials and emphasized the commitment required to serve in public office. She acknowledged recent skim coating on Homes Road as a temporary fix and advocated for a long-term solution due to heavy traffic. Hamilton requested evaluation of the transition area causing noise issues. She raised concerns regarding the IFNW beach management agreement, questioning the public's access to the tentative agreement and the lack of enforcement for documented violations, suggesting that without adequate personnel, further restrictions may be ineffective.
- Nancy Glover of South Portland and a protester at the Manson Libby Road, highlighted the severe impact of ICE's policies in Southern Maine, noting 480 apprehensions, with only one involving a violent criminal. The murder of Johan Sebastian Duran Guerrero by an ICE agent has intensified demands for systemic change. She advocated for an ordinance similar to South Portland's to report violations and address concerns regarding cooperation between Scarborough Police and ICE, which has led to aggressive actions against peaceful protesters.
- Via Zoom – Matthew Keith of Pleasant Avenue, expressed gratitude and congratulated the local candidates who won, while also recognizing two exemplary candidates, Shannon Lindstrom and Larry Cain, who did not win. He praised Ms. Lindstrom for her independent campaign during a strong blue wave and commended Counselor Cain for his dedicated service, expressing disbelief at his defeat and hoped for his future candidacy. Keith emphasized the importance of their contributions to the community.

Item 5. Minutes: October 21, 2026 - Town Council Meeting. Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval of minutes from the October 21, 2026, regular 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:

- **Scottow Hill Road** - No decision on MIAF Grant
    - Found out today that we did not receive the Grant.

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- Will bring the matter back to Council for further discussion

- **IF&W Update -** Productive meeting on October 30, 2026
  - Tentative agreement on one-year extension of Beach Management Agreement - include Town-proposed additional language focusing enhanced efforts, zero-tolerance from April 1 to May 15
  - Commitment to better record-keeping - measure success
  - Discussed improved habitat at Pine Point and the need to revisit the "Restricted Area" as some point in the future
  - IF&W unilaterally considering imposing additional restrictions on the 2.8 acre Wildlife Management Area at Higgins Beach
- **School Projects** -
  - Design Development phase coming to a close, bidding in Q1 2027
  - Ongoing discussions regarding traffic mitigation and improvements
  - Preparing for a Spring 2027 bond issue based on estimated drawdown
- **Portland West** -
  - MDOT evaluating four alternative approaches
  - Concepts proposed for discussion and feedback
  - Transportation Committee meeting with MDOT and Gorham to discuss
- **Election Update** - Robust Absentee Voting
  - At close of open absentee period- 8183 issued, 819 outstanding
  - Turnout close to the 2024 Presidential election
- **Paving Update** -
  - Added: Municipal Drive, Gorham Road and Holmes Road
  - Re-stripping to occur this week
  - Remaining roads will be done in the Spring
- **Mobile Saunas on Town Property** -
  - Tabled to LRPC for review and recommendation
  - LRPC will not consider until July 2027, intend to approach Ordinance Committee once it is reconstituted
- **Upcoming Workshops** -
  - November 18 - New Councilor Welcome Reception
- **Boston Post Cane Holder- Geraldine Hodgkin** -
  - Turned 100 year old last week and doing well
- **Notice Small Business Administration – Drought Assistance**
  - Benefit small businesses and private nonprofits.
  - Coordinating things with SEDCO to make sure that our folks are aware of what resources are available.
- **Shellfish Commission – Closure** -
  - Possible closure of all flats
  - Shellfish Commission to hold a public hearing on November 10th.

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- Decision is ultimately under the Commission's authority according to the Shellfish Conservation Ordinance
- Requires approval from the Department of Marine Resources.
- The Council is not involved in this decision-making process.

- **Welcome to new Councilors –**
  - Welcomed to the new Councilors
  - Thank you to Councilors Cain, Donovan and Anderson for their service to the Community

The Town Manager responded to questions from the Town Council.

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

- Councilor Shupe, stated that the Conservation Commission has been collaborating with the Ordinance Committee on developing Low Impact Development Standards, required by the state. This year-long initiative has included meetings and workshops, with the first workshop held last month. Efforts would continue with the Ordinance Committee in January and February. Although the Standards are state-mandated, the goal is to establish stricter regulations to better protect urban and impaired streams and marshes. She encouraged everyone to stay informed, as crucial information will be shared.
- Councilor Anderson stated that the Transportation Committee meeting the traffic calming improvements around Payne Road and Scott Hill Road were discussed. It was recommended that new councilors attend the next session due to ongoing projects with the Maine DOT. Joint meetings with School Department and Transportation Committees were suggested for off-site traffic improvements. He went on to highlight the SEDCO celebration and included a 16.9% job increase in Scarborough and a 2.5% unemployment rate. The discussion also underscored the positive impact of TIFs, which generated $629.6 million in new value, highlighting their strategic potential for community affordability.
- Councilor Hayes asked Councilor Anderson what the timeline of Portland West looked like. The Long-Range Planning Committee is scheduled to meet on November 13th. The Communications Committee discussed the completion of councilor conversations and the focus on a radio project. Community requests have emerged for broad-based meetings in areas like Hillcrest to engage larger audiences. Suggestions include targeting specific topics such as the budget or traffic during meetings, followed by open Q&A sessions. Additionally, a group of about 15 Communication Ambassadors would be recognized for their efforts to ensure representation across Scarborough, addressing concerns that certain regions feel isolated or unheard.
- Chairman Fellows noted that the Council is undergoing a transitional period with three new members joining in two weeks, after which committee assignments would be determined. He went on to highlight the recent SECO event include awards to local businesses, such as Cindy Taylor's Historic Preservation Project and Ken's Seafood, which will celebrate its centennial next year. The Black Point Surf Shop also received recognition, emphasizing the importance of local entrepreneurs to the community.

Item 10. RESOLUTIONS/PROCLAMATIONS. None at this.

Item 11. PUBLIC HEARINGS:

Order No. 26-094. 7:00 p.m. Public Hearing and action on the new request for a Food Handlers License from Todd McKay, d/b/a Nothing Bundt Cakes, located at 550 Gallery Blvd and from Thang Suan Tung, d/b/a Hosanna Sushi, located at 70 Market Street. ***[Town Clerk's Office]*** A brief overview was given on this Order. Chairman Fellows opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:40 p.m.

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Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval on the new request for a Food Handlers License from Todd McKay, d/b/a Nothing Bundt Cakes, located at 550 Gallery Blvd and from Thang Suan Tung, d/b/a Hosanna Sushi, located at 70 Market Street.

Vote: 7 Yeas. Motion Carried

Order No. 26-095. 7:00 p.m. Public Hearing and action on the new request for a Massage Therapist License from Heidi Hoeckel, working at Healios Corporation, located at 20 Black Point Road. ***[Town Clerk's Office]*** A brief overview was given on this Order. Chairman Fellows opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:41 p.m.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval on the new request for a Massage Therapist License from Heidi Hoeckel, working at Healios Corporation, located at 20 Black Point Road.

Vote: 7 Yeas. Motion Carried.

Item 12. OLD BUSINESS:

Order No. 26-073. Second reading the proposed amendments to Chapter 405 Zoning Ordinance, Section VI Definitions, to add and amend definitions pertaining to Timber Harvesting; and updating Commercial Zoning Districts to increase streetscape buffer minimum requirements to 20' for all streets. ***[Planning Director]*** Autumn Speer, Planning Director, gave a brief overview on this Order. The following spoke:

- Averyl Hill Maple Avenue, spoke in support of the Tree Harvesting Ordinance, emphasizing its thorough review by Committees and the Council. It aims to prevent illegal clear-cutting, such as incidents on Route 1 and Mussey Road, which have caused environmental harm. The Ordinance proposes mandatory buffers to safeguard areas from development, addressing community concerns about aesthetics and environmental integrity and aligns with the Council's 2026 goal to limit tree cutting in commercial developments, making it crucial for the town's future protections. She urged the council to pass it without amendments that could weaken its effectiveness..
- Crescie Maurer of Meeting House Road and a member of the Conservation Commission, spoke in favor of the ordinance and emphasized the importance of a 20-foot buffer for commercial properties. She suggested that amendments could allow waivers for specific hardships and believe the ordinance aligns with upcoming low-impact development requirements, adding that it would help preserve heritage trees, manage stormwater runoff, and maintain significant tree cover without obstructing property visibility.
- Nina McKee of Black Point Road, expressed relief over the focus on tree preservation following a distressing incident where a developer removed an entire street of trees on Chamberlain and Highland Avenue. She found the destruction horrific and believed the new ordinance would prevent such actions in the future, emphasizing the importance of trees and suggesting that awareness should be raised regarding tree cutting practices.
- Via Zoom – Matthew Keith of Pleasant Avenue, expressed strong support for the proposal discussed, emphasizing the importance of proactive measures in light of statewide changes to regulations that affect our town. Additionally, he acknowledge Councilor John Anderson and former Councilor Sither for their significant inspiration and support during my involvement in the community. He thanked Councilor Anderson, for his guidance and dedication.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval of the second reading the proposed amendments to Chapter 405 Zoning Ordinance, Section VI Definitions, to add and amend definitions pertaining to Timber Harvesting; and updating Commercial Zoning Districts to increase streetscape buffer minimum requirements to 20' for all streets; as follow:

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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]

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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.
[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	~~10~~20	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]

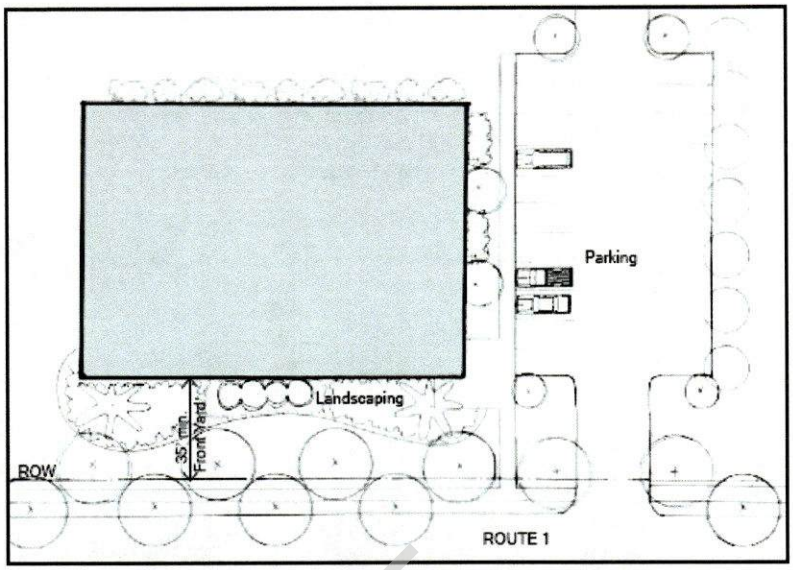
The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection (C)(3) of this district. In a development with more than one principal building, the 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]

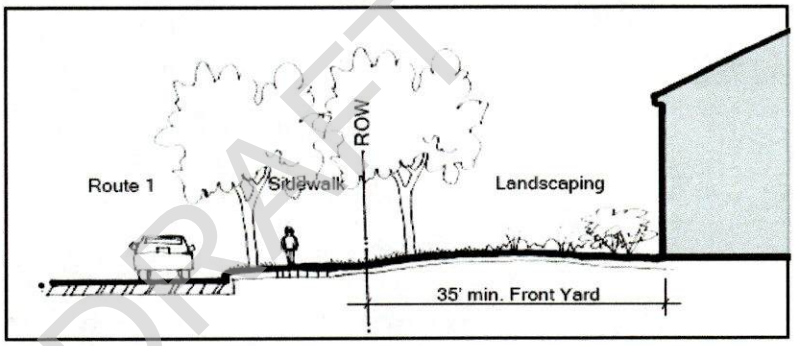
[1] When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yards.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

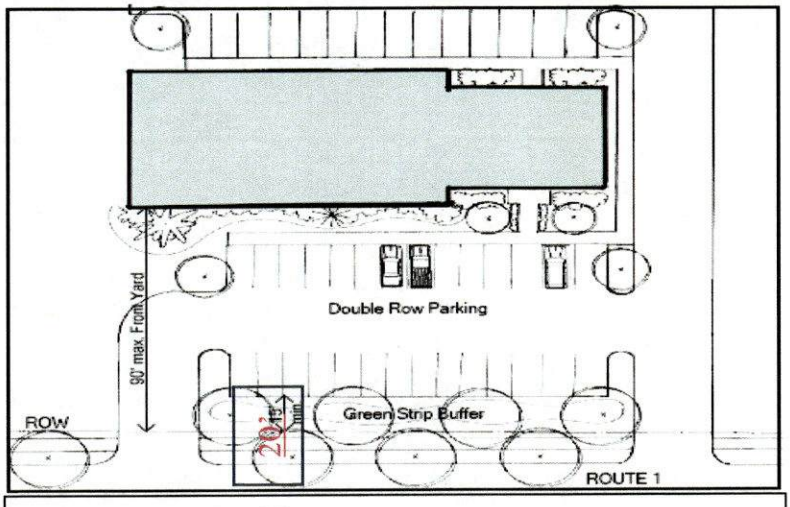
1. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.

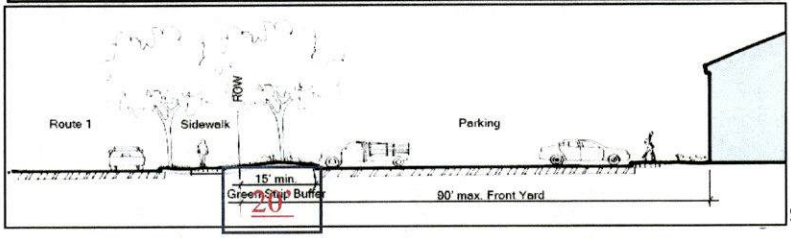




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2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one double-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or "green strip buffer",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



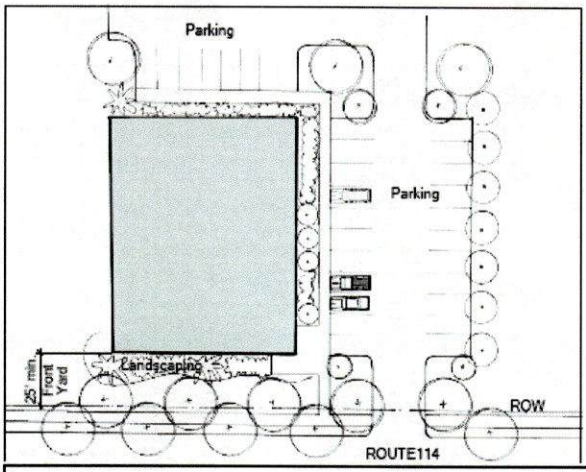


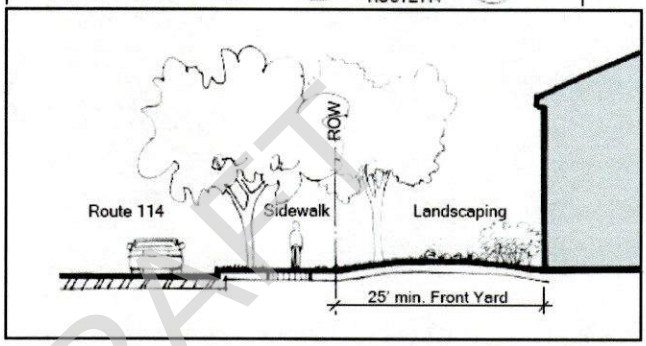
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SECTION XVII.A. RESIDENCE AND PROFESSIONAL OFFICE DISTRICT RPO.

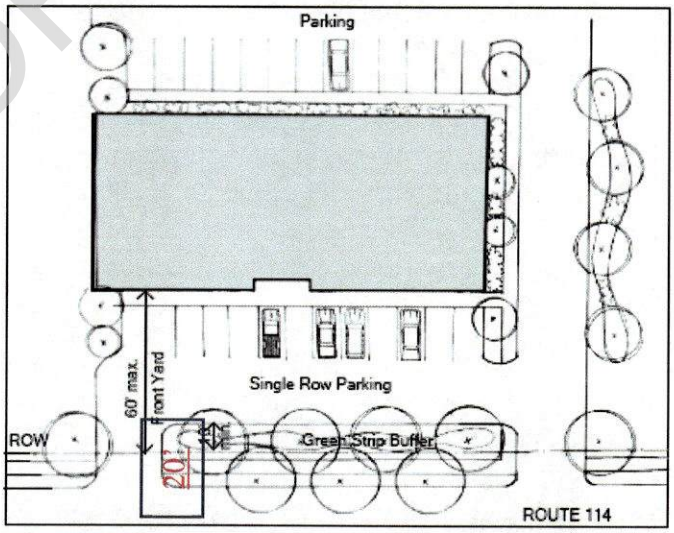
Standards for Front Yards and Off-Street Parking on Lots abutting Rte. 114 and other major collector streets:

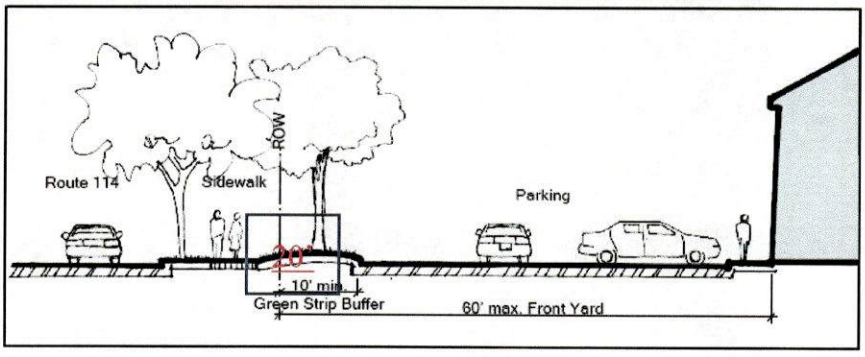
3. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.





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 2010 feet.



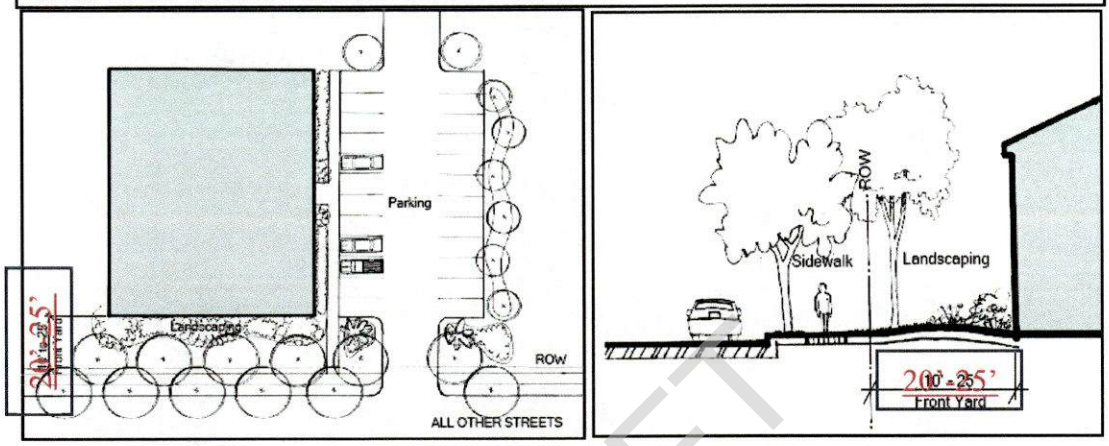


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Standards for Front Yards and Off-Street Parking on Lots abutting all other streets:

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(I) shall not be required.~~

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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.

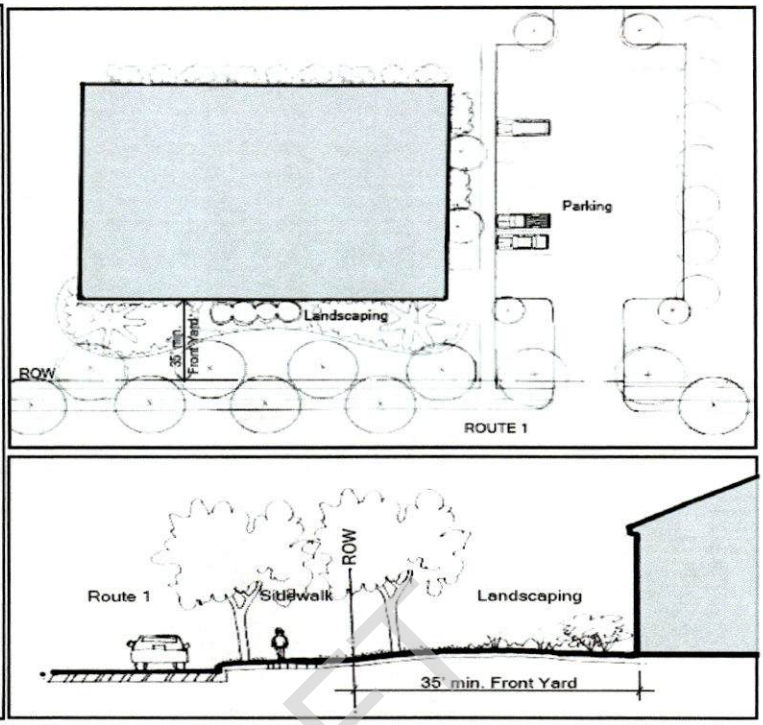
The following are specific standards for the orientation of the buildings to the street and the location and layout of site parking, which correspond with the minimum and maximum front yard standards under subsection D(2) of this district:

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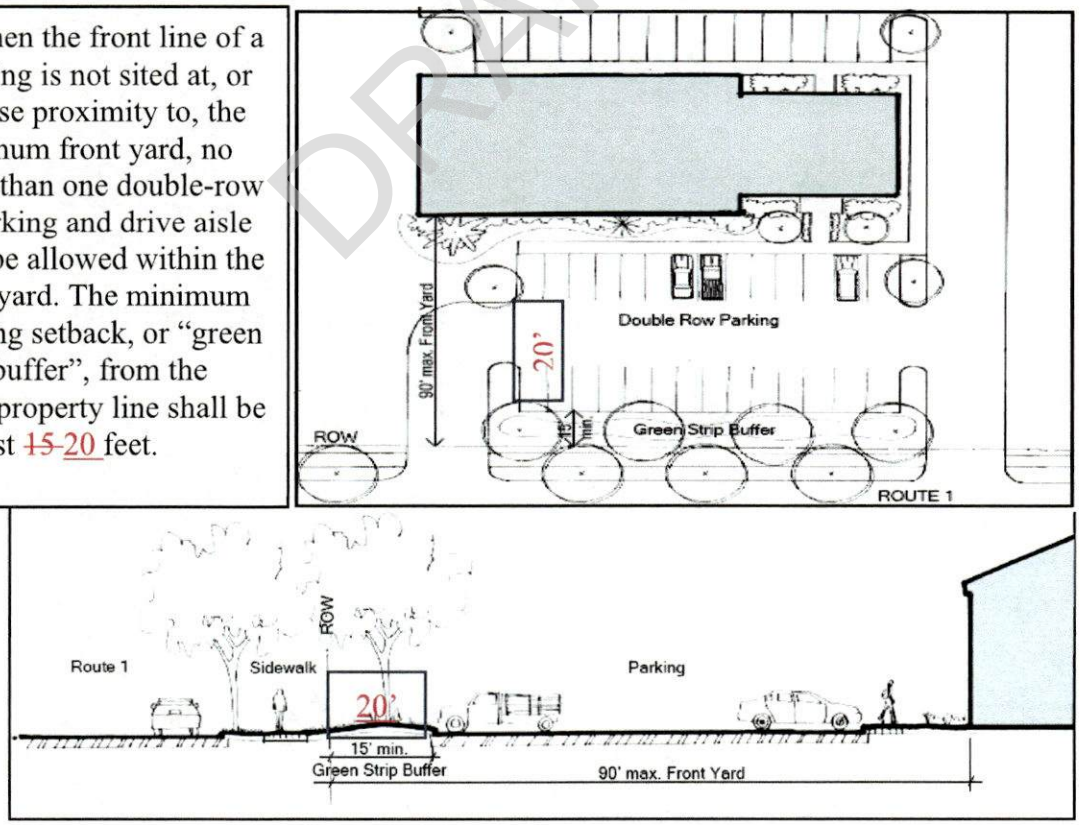
[1] *When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.*
[2] *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.



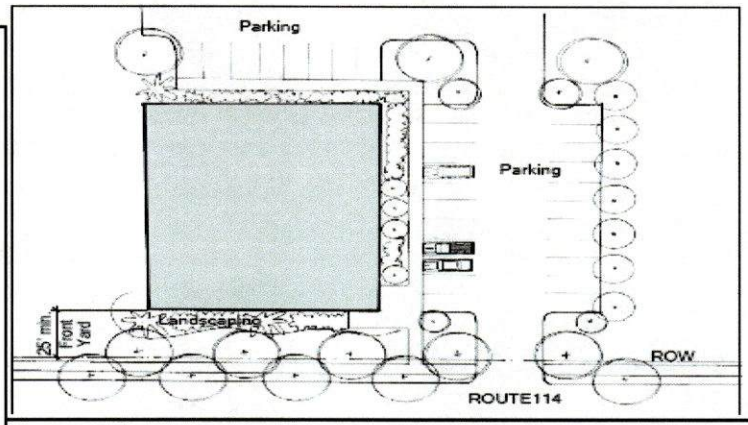
2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one double-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or "green strip buffer", from the front property line shall be at least ~~15~~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

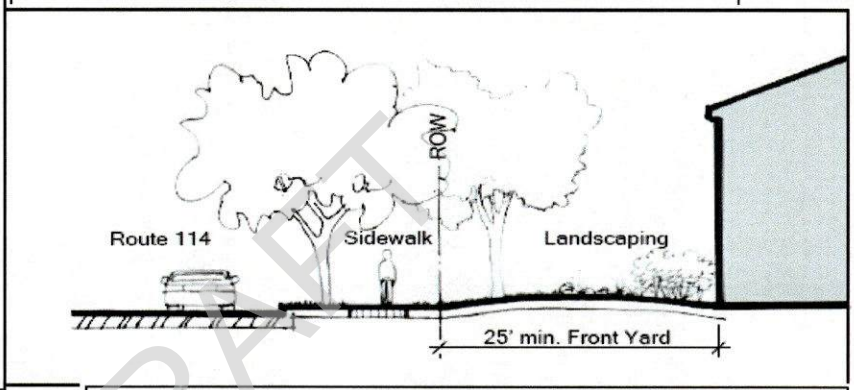


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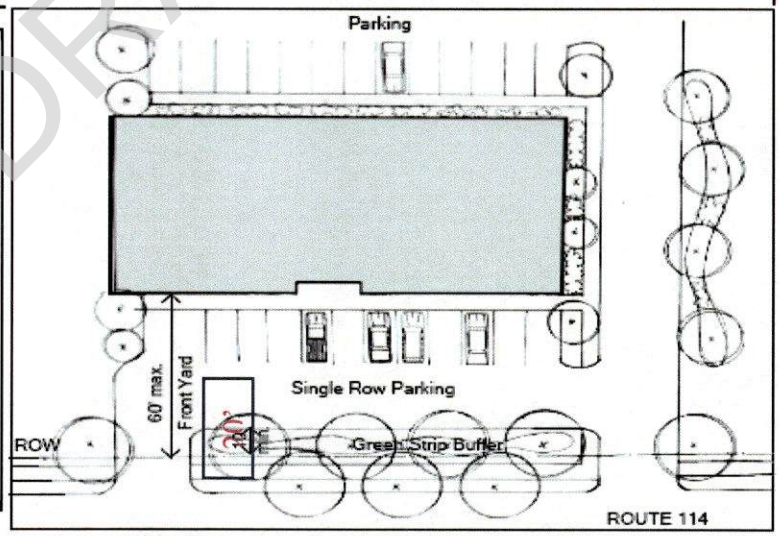
Standards for Front Yards and Off-Street Parking on Lots abutting Rte. 114 and other major collector streets:

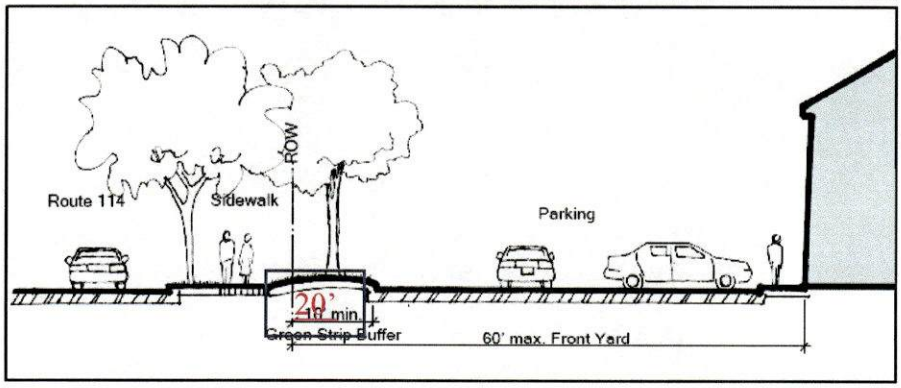
3. When the front line of a building is sited at, or in close proximity to, the minimum front yard, no parking shall be allowed within the front yard. The front yard shall be used for landscaping features, street trees, sidewalks, pedestrian amenities, and access drive(s) to the site.





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.

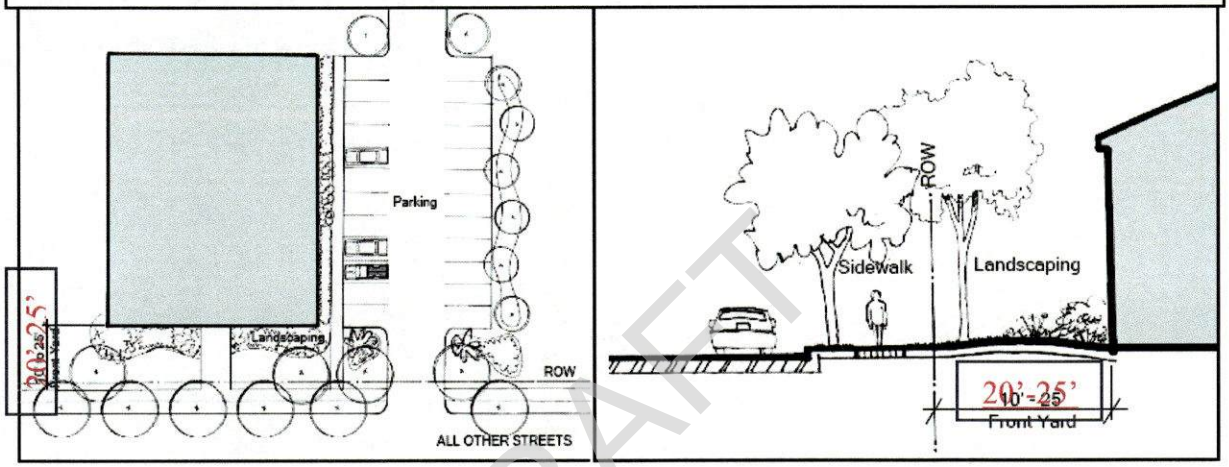




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Standards for Front Yards and Off-Street Parking on Lots abutting all other streets:

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.



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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.

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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]

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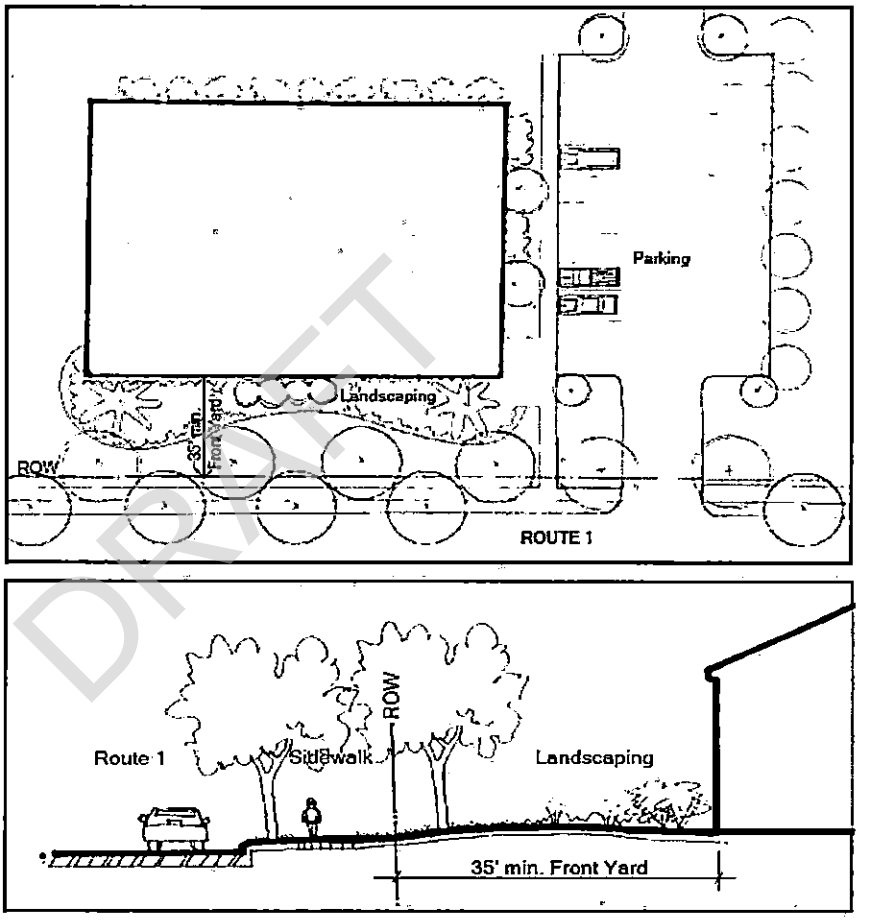
[1] When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yards.

[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.

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]

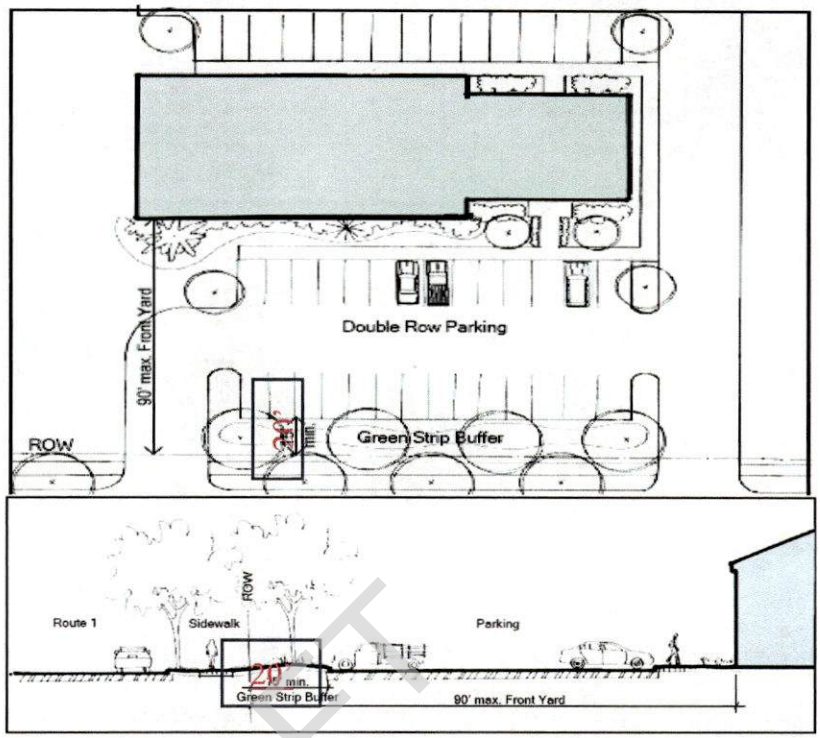
Standards for Front Yards and Off-Street Parking on Lots abutting Route 1:

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.



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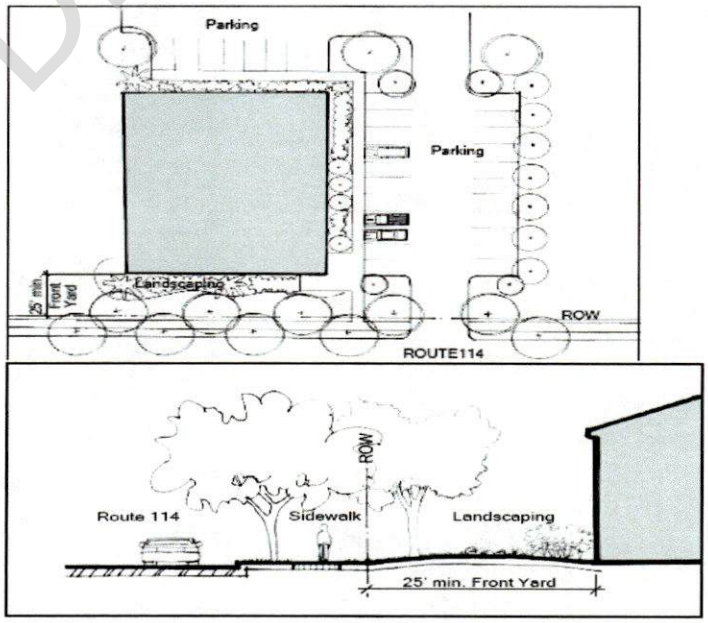
2. When the front line of a building is not sited at, or in close proximity to, the minimum front yard, no more than one double-row of parking and drive aisle may be allowed within the front yard. The minimum parking setback, or "green strip buffer", from the front property line shall be at least 20~~15~~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



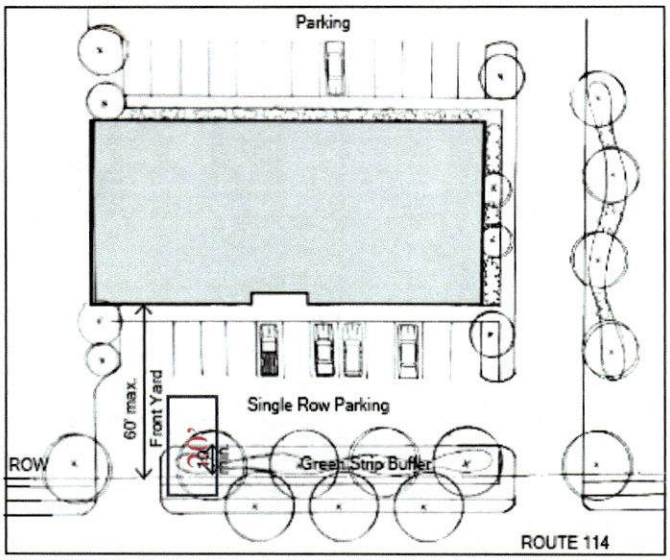
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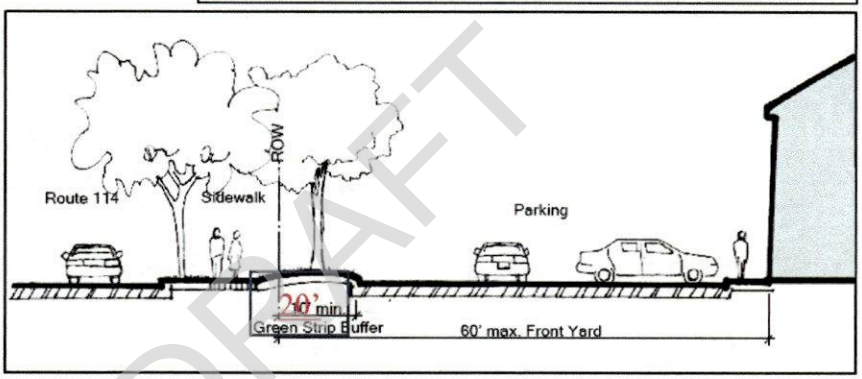
Standards for Front Yards and Off-Street Parking on Lots abutting Rte. 114, Rte. 22 and Rte. 207:[Amended 08/19/09]

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.



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~~10~~ feet.

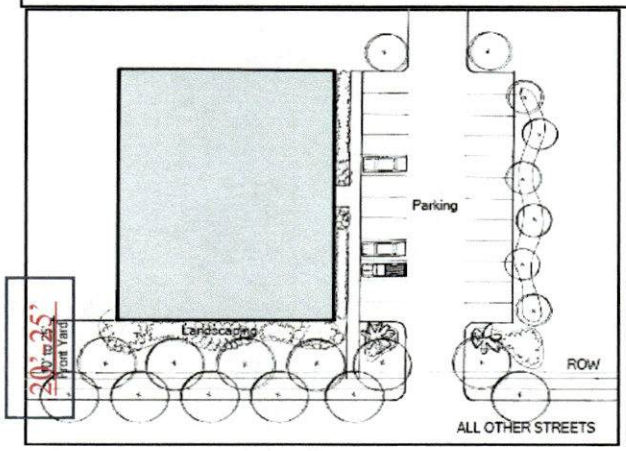


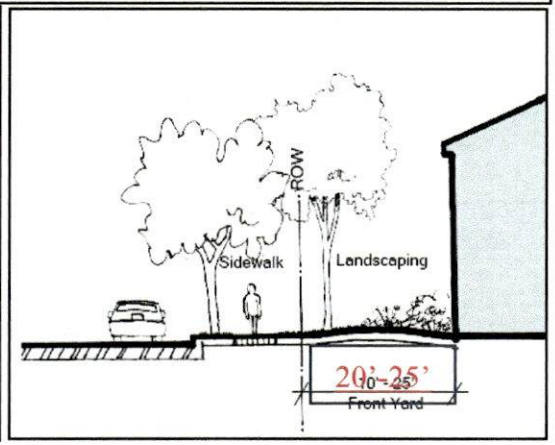


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Standards for Front Yards and Off-Street Parking on Lots abutting all other streets:

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 ; 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~~20	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.

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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

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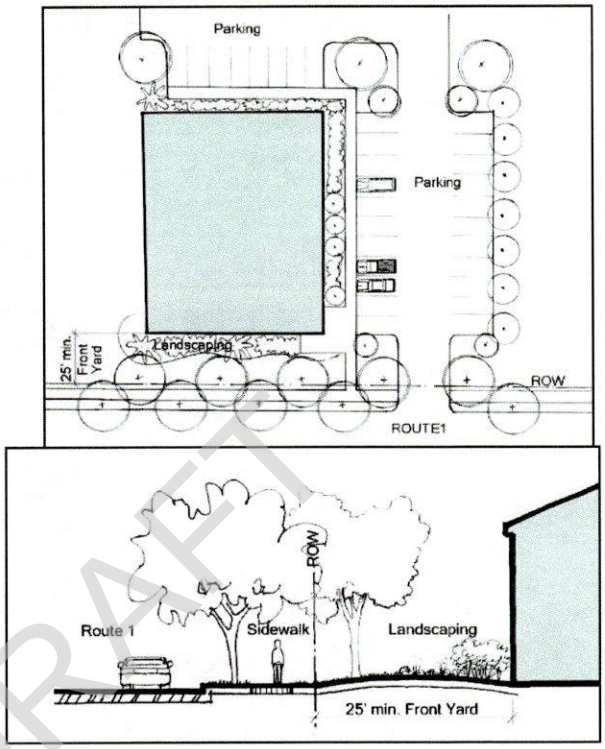
[1] *When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yards.*

[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.*

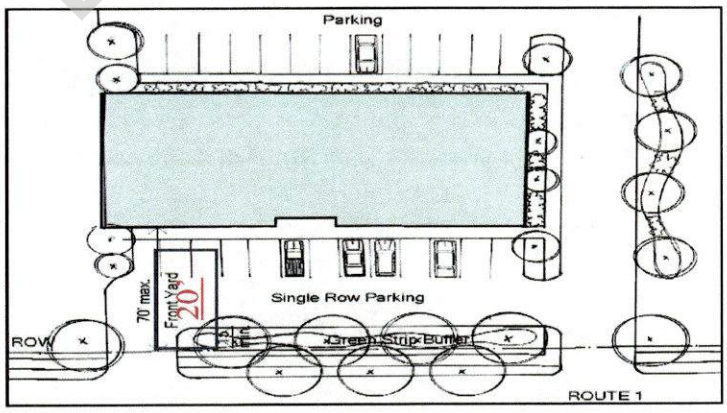
building, the requirements for the location of the off-street parking shall only apply to the principal building or group of principal buildings, located closest to the abutting street(s)~~:~~

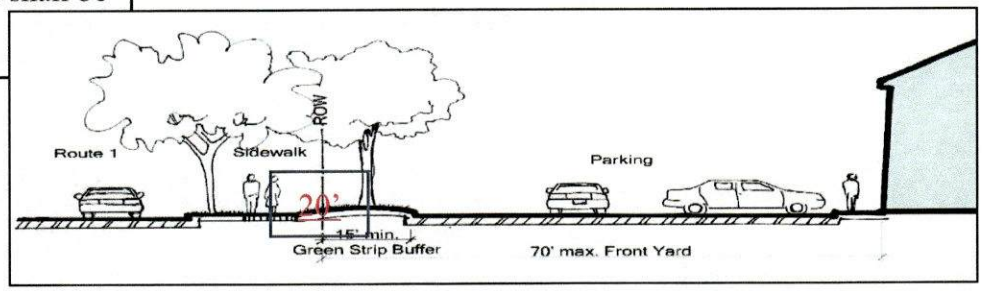
Standards for Front Yards and Off-Street Parking on Lots abutting Route 1 and other arterial and collector streets, including Route 114, Route 207 and Mussey Road:

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~~15~~ feet.

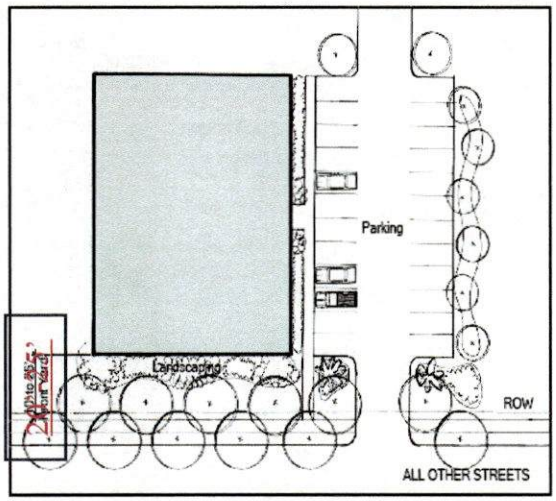


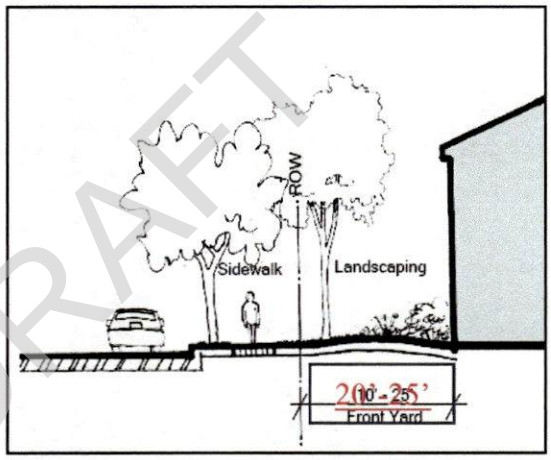


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Lots abutting all other streets:

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.





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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~~20	30	15[1 & 2]

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[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 101Life Safety Code and the Scarborough Fire Department approves the reduced yard.*

[2] *When 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 [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	2015	15[1 & 2]

[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 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 (20~~15~~) 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.~~

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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 (20~~15~~) feet when it is adjacent to Payne Road or Gorham Road (Route 114) and twenty~~ten~~ (20~~10~~) 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.~~

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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 ~~fifteen~~ (20~~15~~) feet when it is adjacent to Route One or Payne Road and twenty ~~ten~~ (20~~10~~) 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.~~

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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 (20~~15~~) 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.~~

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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	

[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 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

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			district

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~~T~~t~~he 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 VIIE. 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.~~

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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~~20	15 [1 & 2]

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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.

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Order No. 26-074. Second reading on the proposed amendments to Chapter 405B Site Plan Review Ordinance, Section II Applicability, Section III Application and Review Procedures and Section IV. Performance and Design Standards, Section B. Landscape and Screening Standards. ***[Planning Director]*** Autumn Speer, Planning Director, gave a brief overview on this Order.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval of the second reading the proposed amendments to Chapter 405B Site Plan Review Ordinance, Section II Applicability, Section III Application and Review Procedures and Section IV. Performance and Design Standards, Section B. Landscape and Screening Standards.

Amendment 1:

Motion by Councilor Cain, seconded by Councilor Anderson. to move approval to amend the main motion to accept Staff Recommendations, as noted by the yellow highlights to Chapter 405B in Attachment 3.

Amendment 1 - Vote: 7 Yeas. Motion Carried.

Amendment 2:

Motion by Councilor Cain, seconded by Councilor Anderson, to move approval to amend the main motion as amended, to Section 4. Definitions: Significant Tree Definition to read: **Significant Tree**: A non-invasive tree species with a minimum DBH of ~~20~~ 24 inches or ~~30~~ 36 inches cumulative DBH for a multi-stemmed tree.

Amendment 2 - Vote: 4 Yeas, 3 Nays [Councilors Anderson, Hayes and Shupe]. Motion Carried.

Amendment 3:

Motion by Councilor Cain, seconded by Councilor Anderson, to move approval to amend the main motion as amended to Section 6. Buffer Yard – Streetscape to read:

Section 6 Buffer Yard – Streetscape

a. Increase tree spacing from ~~15'~~ to 20'
b. Restore the statement:
    i. 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.
c. Remove the requirement for understory planting and preservation in all other cases.

Amendment 3 - Vote: 6 Yeas, 1 Nay [Councilor Shupe]. Motion Carried.

Amendment 4:

Motion by Councilor Cain, seconded by Councilor Anderson, to move approval to amend the main motion as amended to Section 20. Waivers and Landscape Screening Standards to add the following:

a. The Planning Board may waive or decrease the required streetscape buffer yard up to ten (10) feet for new development in an urban setting or for redeveloped properties.

Amendment 4 - Vote: 5 Yeas. 2 Nays [Councilors Anderson and Shupe]. Motion Carried.

Main Motion as Amended:

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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) Staff requested amendments from first reading are highlighted in yellow:

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.

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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:

~~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. Alterations to a building which in total do not increase the floor area of the building by more than 100 square feet.~~

3. 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.

~~4. 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.~~

~~5. Farm stands with no more than 400 square feet of retail sales area.~~

~~6. Temporary use of accessory storage containers.~~

~~7. Timber harvesting.~~

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.

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~~a.~~e. Temporary use of accessory storage containers.

~~b.~~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.

~~c.~~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.

~~1.~~ **3. 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:~~

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i. Disturb less than ~~Activities with~~ one~~-~~ acre ~~or more of disturbance~~; and

ii. ~~Activities that are~~F ~~f~~orecasted 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.**~~

4. **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.

5. **Site Plan Review Process Summary Table.**

Activity	CEO Review	Administrative Review	Minor Site Plan Review	Major Site Plan Review
All Timber Harvest	✓			
Tree Removal (other than Timber Harvest)	Any tree removal in the Shoreland Zone, including within the Resource Protection Zone and the Stream Protection Overlays		< 1 acre on all parcels in non-residential zoning districts and subdivisions	≥ 1 acre on all parcels in non-residential zoning districts and subdivisions
New planting or replacement of existing landscaping		All parcels in non-residential zoning districts and subdivisions		

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

~~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.**~~3.~~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.~~

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~~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.~~

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~~

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~~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 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 Director of Planning and Codes ~~Town Planner (or designee)~~ may grant preliminary waivers of submission requirements.

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

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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.

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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.

~~c.~~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

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approval. ~~At her/his option,~~T ~~t~~he ~~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 (j~~i~~), 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.

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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~~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

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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~~

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~~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 landscapinge, replacement planting, or any other landscaping proposed through the Site Plan or Subdivision process.

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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 B~~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. The selection of a New England native species is preferred due to ~~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.

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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. Refer to the Maine Department of Agriculture, Conservation and Forestry's "Do Not Sell List," "Plant Watch List" and "Plants of Special Concern" for further guidance.

Landscape Plan: A component of a development plan which shows the quantity, species, and size of all pro-posed 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

(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 Tree: A non-invasive tree species ~~tree~~ with a minimum DBH of 24 inches or 36 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%

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~~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 ~~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 20~~10~~' deep for all streets ~~not specifically designated.~~, unless otherwise defined by the specific Zoning District in which the property is located. 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.

~~a.~~

b. Buffer yards shall preserve all existing trees. 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. Where an existing vegetated buffer yard does not exist or does not meet minimum requirements, additional planting shall be required to meet the requirements of Section B.6.c.

~~Buffer yards function to define the edge of the travel way, provide shade for pedestrians, clean the air, and add scale to transportation corridors and commercial developments.~~

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~~Landscape plansBuffer yardsnative, non-invasive~~

c. ~~of Section B.6.e.Planting plans shall emphasize large shade trees within or near the right-of-way in order to create a more unified streetscape.~~ Within a required buffer yard, ~~-~~large trees shall be required at a rate of one (1) per ~~thirty~~ twenty (20) ~~(30)~~ 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, theThe remaining buffer yard area not covered with trees shall be planted with native, non-invasive or approved non-native 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 lLarge 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.~~

d. 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.

e. Trees and other landscaping planted at intersections shall preserve an adequate sight triangle as determined by the ~~traffic~~ Towne Engineer or their designee.

f. ~~Landscape buffer strip~~Buffer yard requirements may be used to meet the overall landscape requirements established in Section B~~F~~.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:

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~~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.

~~c.~~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

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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 B~~F~~.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 (l) inch in any one dimension.

g. Foundation landscaping requirements may be used to meet the overall landscape requirements established in Section B~~F~~.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.

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~~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 B~~F~~.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 B~~F~~.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 required~~proposed~~, 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, DBH ~~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.

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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 d~~D~~amaging 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)~~

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~~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 B~~F~~.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 large 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 large 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 thirty-three (33%) ~~fifty percent (50%)~~ of the number of trees planted.

iv. All replacement trees shall be subject to landscaping Performance Guarantees for each replacement tree.

e. The removal of dead, diseased or dying trees, resulting from natural causes, is permissible without the need for mitigation. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season. Diseased condition must be attested to by a licensed forester or arborist.

f. Replacement trees may be used to meet the overall landscape requirements established in Section B.5.

~~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

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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.

~~i.~~vi. Shall not block drainage areas.

~~ii.~~vii. Shall not be located in or near any stormwater treatment areas including retention and detention areas.

~~iii.~~viii. May be located within parking areas, but such areas may not be counted towards required off-street parking.

~~iv.~~ix. May be located within required landscaping areas, but the areas shall be planted with landscaping tolerant of snow storage.

~~v.~~x. Snow storage areas shall be located to avoid piling of snow against existing trees.

~~16.~~17. Approved Plant Species List

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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.

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LARGE DECIDUOUS TREES		
Preferred Species		
Scientific Name	Common Name	Mature Height
Acer x freemanii	Armstrong Maple	40-55’
Acer rubrum	Red Maple	50-60’
Acer saccharinum	Silver Maple	60-80’
Acer saccharum	Sugar Maple	60-70’
Betula alleghaniensis	Yellow Birch	70-85’
Betula borealis	Northern Birch	30-60’
Betula nigra	River Birch	40-70’
Betula papyrifera	Paper Birch	60-70’
Betula populifolia	Gray Birch	20-40’
Carya ovata	Shagbark Hickory	70-90’
Cladrastis kentukea	Yellowwood	30-50’
Fagus grandifolia	American Beech	50-100’

Larix laricina	Larch, Hackmatack, Tamarack	50-60’
Nyssa sylvatica	Tupelo Black Gum	40-70’
Platanus occidentalis	Sycamore American Buttonwood	60-80’
Prunus serotina	Black Cherry	50-80’
Quercus alba	White Oak	60-70’
Quercus bicolor	Swamp Oak	50-60’
Quercus coccinea	Scarlet Oak	30-50’
Quercus macrocarpa	Bur Oak	60-100’
Quercus rubra	Northern Red Oak	60-80’
Tilia americana	American Basswood, American Linden	60-80’
Ulmus americana	Princeton American Elm	60-70’

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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’
Platanuis 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’

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

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

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

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SHRUBS			
Preferred Species			
Scientific Name	Common Name	Scientific Name	Common Name
Aesculus parviflora	Bottlebrush Buckeye	Leucothoe fontanesianana	Drooping Laurel
Amelanchier arborea	Downy Serviceberry	Lindera benzoin	Spicebush
Amelanchier canadensis	Canadian Serviceberry	Myrica gale	Sweet Gale
Amelanchier stolonifera	Running Serviceberry	Myrica pennsylvanica	Bayberry
Aronia arbutifolia	Red Chokeberry	Physocarpus opulifolius	Ninebark
Aronia melanocarpa	Black Chokeberry	Prunus maritima	Beach Plum
Ceanothus americanus	New Jersey Tea, Redroot	Rhus aromatica	Fragrant Sumac
Cephalanthus occidentalis	Buttonbush	Rhus hirta	Smooth Sumac
Clethra alnifolia	Sweet Pepperbush	Rhus typhina	Staghorn Sumac
Comptonia peregrina	Sweetfern	Rosa carolina	Pasture Rose, Carolina Rose
Corylus Americana	American Hazelnut	Rosa palustris	Swamp rose
Cornus racemosa	Gray Dogwood	Rosa virginiana	Virginia Rose
Cornus sericea	Redosier Dogwood	Rubus odoratus	Flowering Raspberry
Diervilla lonicera	Bush Honeysuckle	Sambucus	Elderberry
Illex glabra	Inkberry	Vaccinium corymbosum	Highbush Blueberry
Ilex verticillata	Winterberry	Viburnum spp.	Viburnum
Juniperus communis	Common Juniper	Xanthorhiza simplicissima	Yellowroot
Kalmia angustifolia	Sheep Laurel		

SHRUBS			
Acceptable Alternative Species			
Scientific Name	Common Name	Scientific Name	Common Name
Azalea spp.	Azalea	Hydrangea spp.	Hydrangea
Buxus spp.	Boxwood	Pieris spp.	Andromeda
Cotoneaster spp.	Cotoneaster	Rhododendron spp.	Rhododendron
Deutzia gracilis	Slender Deutzia	Rose spp. (excluding rugosa)	Rose
Enkianthus campanulat.	Redveined Enkianthus	Salix spp.	Willow
Fothergilla gardenia	Dwarf Fothergilla	Spiraea spp. (excluding japonica)	Spiraea
Fothergilla major	Bottlebrush Bush	Syringa spp. (excluding reticulata)	Lilac
Forsythia spp.	Forsythia	Weigela spp.	Weigela

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

GRASSES

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

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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	6~~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

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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:

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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 #

Landscape Preservation and Protection (If required)	Existing	Provided
Heritage Tree Mitigation (5 trees per each tree removed)	# on Site	# to remain; # to remove; # mitigated;
Significant Tree Mitigation (2.5 trees per each tree removed)	# on Site	# to remain; # to remove; # mitigated
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		

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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.

f. The Planning Board may waive or decrease the required streetscape buffer yard up to ten (10) feet for new development in an urban setting or for redeveloped properties.

~~e.~~g. 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.

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~~f.~~h. 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.~~i. 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.~~j. 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.

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Order No. 26-081. Second reading on the proposed changes to Chapter 405 - Town of Scarborough Zoning Ordinance, Section VI. Definitions and add definitions pertaining to Data Centers. ***[Planning Director]*** Autumn Speer, Planning Director, gave a brief overview on this Order. The following individuals spoke:

- Denise Hamilton of Two Rod Road, supported banning data centers as a primary use in Scarborough, but seeks clarification on two issues before the vote. She questioned whether server rooms must be within the main business building or if they can be in separate structures, and how "large-scale" operations are defined—whether there is a specific threshold or if it depends on administrative interpretation. She emphasized the importance of reducing ambiguity to avoid future loopholes and appreciated the efforts of all parties involved in the process.
- Sophie Warren, a State Representative for a portion of Scarborough, expressed her gratitude for Denise Hamilton's comments and diligence in the planning and ordinance review processes. She emphasized the importance of ensuring the ordinance change aligns with fair legislative practices and cautioned against unintended consequences affecting the Scarborough marsh and local natural spaces. She hoped for bipartisan support and urges that any questions be addressed, acknowledging the thorough leadership demonstrated throughout the process.
- Via Zoom – Matthew Keith of Pleasant Avenue, expressed strong support for the Council's efforts to expedite the removal of the moratorium in Scarborough and appreciated their actions and the necessity of moving forward swiftly.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval of the second reading the proposed changes to Chapter 405 - Town of Scarborough Zoning Ordinance, Section VI. Definitions and add definitions pertaining to Data Centers, 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):

SECTION VI. DEFINITIONS

Except where specifically defined herein, all words used in this Ordinance shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall' is always mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied"; the terms "building inspector" and "code enforcement officer" are synonymous. [12/01/04] [10/04/17]

Data Center:

The use of land, buildings or structures for housing computer servers, data-storage systems, networking equipment, or other electronic equipment used to store, process, manage, or transmit digital information. A data center includes related and accessory equipment and facilities necessary to support its operation, including electrical rooms, substations, transformers, battery systems, uninterruptible power supplies, backup generators, fuel storage, cooling equipment, chillers, cooling towers, air handlers, liquid-cooling systems, water treatment or storage systems, fire- suppression systems, security facilities, network connections, and offices or maintenance areas that are incidental to the data-center use. A data center does not include a server room, telecommunications closet, computer equipment room, or similar accessory space that is customarily incidental to another principal use, such as an office, school, municipal building, hospital, research facility, financial institution, industrial facility, or retail business, where the primary use of the property is not the storage, processing, management, or transmission of

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digital information for third parties or large-scale internal operations. Data Centers are prohibited in all zoning districts.

High Technology Facility:

The use of land, buildings or structures for research, development, light assembly, or light manufacturing activities that does not create any danger to health or safety in surrounding areas, does not create offensive noise, vibration, smoke, dust, odor, heat or glare, that by reason of the high value of the product in relation to its size and weight does not create large volumes of truck traffic, and that conforms to the performance standards of Section IX(M). High Technology Facility excludes Data Center uses.

Research, Development, and Light Industrial:

The use of land, buildings or structures for research, development, light assembly, or light manufacturing activities that does not create any danger to health or safety in surrounding areas and does not create offensive noise, vibration, smoke, dust, odor, heat or glare, and that conforms to the performance standards of Section IX(M.1). Research, Development, and Light Industrial excludes Data Center uses.
[Adopted 06/20/12]

Vote: 7 Yeas. Motion Carried.

Order No. 26-085. Second reading to establish a new Ordinance entitled "*Municipal Polices Regarding Federal Immigration Enforcement.*" *[Town Council]* Chairman Fellows gave a brief overview on this Order. The following individuals spoke:

- Jennifer Jortberg of Scarborough and representing the Community Coalition to Remove ICE advocated for this ordinance to limit Police cooperation with ICE, citing community concerns and stressed the need for a transparent reporting process for complaints against municipal employees. She stressed the importance of passing and effectively enforcing the ordinance, ensuring accountability for officers who violate its intentions.
- Sophie Warren, State Representative for a portion of Scarborough, emphasized the community's commitment to ensuring safety for all members, regardless of legal status. She acknowledged concerns raised during a council meeting about the discretion local officials have in enforcing laws, especially regarding federal immigration enforcement and the use of translation services. She stressed the need for comfort and trust in local police among undocumented individuals, who may fear reporting crimes and endorsed a proposed ordinance as an important first step, calling for continued work and adjustments to ensure effective implementation and support from the state level.
- Mary Daly of Ferry Road, summarizes a phone call between a community member and a town councilor regarding escalating tensions at an ICE facility. The caller expressed concern about armed individuals at the facility, while the councilor suggests contacting local police, indicating that ICE agents are equipped to manage situations. She reflected on the conversation's implications, feeling unsafe in her community and perceiving the councilor's comments as threatening, demanding clarity on their meaning.
- Chris Smick of Scarborough, expressed gratitude to the Council for a recent ordinance that challenges the federal administration's actions. He emphasized the courage required to confront a perceived lawlessness and misinformation regarding immunity among federal officials. He anticipates a critical period ahead, suggesting that the administration may either reduce its activities or escalate arrests and deportations, thereby instilling fear. He voiced concern over increasing tensions and urges the council to pass the ordinance, as he believes it would soon face significant challenges.

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- Via Zoom – Matthew Keith of Pleasant Avenue, advocated for increased local action concerning the treatment of protesters and immigrants in relation to police involvement. He acknowledged the limited power at the town level to remove a facility but emphasizes the importance of community efforts to mitigate negative impacts. He urged the council to prioritize these issues moving forward and applauds their progress and called for ongoing discussions about what more can be done to support Scarborough residents affected by these matters.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval of the second reading to establish a new Ordinance entitled "*Municipal Polices Regarding Federal Immigration Enforcement,"* as follows:

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following Chapter 314 Ordinance Establishing Municipal Policies Regarding Federal Immigration Enforcement, Town of Scarborough, Maine, is hereby established:

CHAPTER 314

ORDINANCE ESTABLISHING MUNICIPAL POLICIES REGARDING FEDERAL IMMIGRATION ENFORCEMENT

Be it ordained by the Town Council of the Town of Scarborough as follows:

SECTION 1. PURPOSE AND INTENT

The Town of Scarborough recognizes that immigration enforcement is the responsibility of the federal government and that the Town's limited employees, facilities, equipment, funds and other resources should primarily be dedicated to municipal responsibilities, public safety and the needs of Scarborough residents.

The purpose of this ordinance is to:

1. Establish clear and consistent procedures for Town employees when interacting with immigration authorities;
2. Ensure that Town resources are not used for federal civil immigration enforcement except when required by state or federal law or judicial order;
3. Protect the privacy and due-process rights of persons interacting with Town government to the fullest extent permitted by law; and
4. Ensure that requests from immigration authorities are handled consistently and appropriately by designated Town officials.

Nothing in this ordinance shall be interpreted to interfere with the Town's obligation to comply with federal or state law, a valid judicial order, or lawful federal law-enforcement activity.

SECTION 2. DEFINITIONS

For purposes of this ordinance:

A. "Immigration authority" means a federal, state, or local officer, employee or other person performing immigration enforcement functions, including the Department of Homeland Security.

B. "Immigration enforcement" means any effort to investigate, enforce or assist in the investigation or enforcement of any federal civil immigration law and include any effort to investigate, enforce or assist in the investigation or enforcement of any violations of Title 8 of the United States Code.

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C. “Town employee” means any employee, officer, official or agent of the Town of Scarborough acting in their official capacity.

D. “Town resources” means Town employees, funds, vehicles, equipment, facilities, information systems, databases and other property owned, leased or controlled by the Town.

SECTION 3. USE OF TOWN RESOURCES

Except where required by state or federal law or judicial order, no Town employee or department shall knowingly use Town resources to assist, cooperate with or facilitate immigration enforcement.

This prohibition includes, but is not limited to:

A. Providing Town employees solely to assist immigration enforcement;

B. Using Town vehicles, equipment, technology or other property to facilitate immigration enforcement;

C. Establishing traffic control or perimeters solely for the purpose of facilitating immigration enforcement; and

D. Providing Town facilities or other Town resources for the purpose of conducting immigration enforcement.

Nothing in this section prohibits a Town employee from responding to an emergency, protecting public safety, investigating a criminal offense, or otherwise performing their ordinary municipal responsibilities.

SECTION 4. ACCESS TO NONPUBLIC TOWN PROPERTY

Immigration authorities shall not be granted voluntary access by a Town employee to nonpublic areas of Town-owned or Town-controlled property for purposes of immigration enforcement unless:

A. The access is required by state or federal law;

B. The immigration authority presents a valid judicial warrant or other legally sufficient judicial order; or

C. The Town Attorney determines that access is otherwise legally required.

Town employees shall not independently determine the legal sufficiency of a subpoena, warrant, or immigration-enforcement document. Such requests shall be referred promptly to the Town Manager or the Town Attorney.

Nothing in this section limits access to portions of Town property that are lawfully open to the general public.

SECTION 5. INFORMATION REQUESTS

Except where required by state or federal law or judicial order, Town employees shall not knowingly collect or disclose information for the purpose of assisting immigration enforcement when that information is not otherwise collected or maintained as part of the Town’s lawful municipal functions.

A request for information relating to immigration enforcement shall be referred to the Town Manager or the Town Attorney for review.

Nothing in this section prohibits:

A. The collection or maintenance of information required for legitimate municipal purposes;

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B. The disclosure of information required by The Freedom of Access Act, other law, judicial subpoena or judicial order;

C. The cooperation in the investigation of a criminal offense unrelated to a person's immigration status, or allowed by state law; or

D. Any disclosure necessary to protect an individual's life or prevent an imminent threat to public safety.

SECTION 6. NO IMMIGRATION-ONLY ENFORCEMENT BY TOWN EMPLOYEES

No Town employee shall stop, arrest, detain or continue to detain a person solely for purposes of civil immigration enforcement, except to the extent expressly required by state or federal law.

Nothing in this section limits the authority or duty of Scarborough Police Officers to enforce Maine criminal law or otherwise perform their lawful public-safety duties.

Nothing in this ordinance shall be interpreted to restrict cooperation with federal, state or local law-enforcement agencies concerning criminal investigations where the primary purpose of the investigation is not immigration enforcement.

SECTION 7. AGREEMENTS WITH FEDERAL IMMIGRATION AUTHORITIES

Town departments and employees may not negotiate nor enter into any agreement, contract or other arrangement that authorizes an immigration authority to use Town employees or resources for immigration enforcement unless expressly authorized or required by state or federal law or judicial order.

Any proposed agreement involving immigration enforcement shall be referred to the Town Manager and Town Attorney before negotiation.

SECTION 8. DESIGNATED RESPONSE PROCEDURE

The Town Manager shall establish a written procedure for responding to requests from immigration authorities.

The procedure shall:

A. Identify the Town officials authorized to receive and respond to such requests;

B. Require Town employees to promptly refer requests for access to nonpublic property or confidential information to the designated official;

C. Establish procedures for reviewing warrants, subpoenas, detainers and other legal documents relating to immigration;

D. Provide Town employees with guidance concerning public and nonpublic areas of Town property; and

E. Ensure that employees understand when they are legally required to cooperate and when cooperation is discretionary.

SECTION 9. DOCUMENTATION AND REPORTING

When a Town employee or department receives a request from an immigration authority to assist in immigration enforcement, the employee shall, to the extent permitted by law, document the request and

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refer it to the employee's supervisor and the Town Manager. When documenting any verbal request, the Town employee shall not record the name, other personally identifiable information, or confidential information of the person of whom information is sought. The Town employee shall only record the following information if known:

1. The person or entity making the request;
2. The Town department receiving the request;
3. The general nature of the request; and
4. Whether the request was granted, denied or referred for legal review.

At least annually, the Town Manager shall provide the Town Council with a report identifying, to the extent permitted by law, the number of requests received and a summary of the four factors listed above. The report shall not contain confidential information or personally identifiable information when disclosure is prohibited by law. The Police Chief shall maintain records of requests to the Police Department and to provide sufficient details of the records consistent with federal and state law necessary to allow the Town Manager to create this report.

SECTION 10. EMPLOYEE TRAINING

The Town Manager shall provide appropriate training to Town employees regarding this ordinance.

Training shall include, as appropriate:

A. The distinction between administrative immigration documents and judicial warrants;

B. The distinction between public and nonpublic areas of Town property;

C. Procedures for responding to immigration authorities;

D. Procedures for handling information requests related to immigration or requests from an immigration authority;

E. Procedures for distinguishing public records from confidential information; and,

F. The employee's obligation to refer legal questions to the appropriate Town official.

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SECTION 11. COMPLIANCE WITH STATE AND FEDERAL LAW

Nothing in this ordinance shall:

A. Prevent the Town or any employee from complying with federal or state law;

B. Prevent compliance with a valid judicial warrant, judicial subpoena or court order;

C. Interfere with a state or federal law enforcement officer's lawful authority;

D. Restrict lawful cooperation concerning criminal activity; or

E. Confer upon the Town authority to regulate or interfere with immigration enforcement.

SECTION 12. SEVERABILITY

If any provision of this ordinance is determined to be invalid or unenforceable, that determination shall not affect the validity or enforceability of the remaining provisions.

SECTION 13. EFFECTIVE DATE

This ordinance shall take effect in accordance with the Charter and ordinances of the Town of Scarborough.

Vote: 6 Yeas, 1 Nay [Councilor Doherty].

Order No. 26-090. Second reading on the request to repeal the 180-day temporary moratorium entitled "Town of Scarborough Ordinance Establishing a Temporary Moratorium on Data Centers," that was approved by the Town Council on June 3, 2026. ***[Town Manager]*** Thomas J. Hall, Town Manager, gave a brief overview on this Order.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval on the request to repeal the 180-day temporary moratorium entitled "Town of Scarborough Ordinance Establishing a Temporary Moratorium on Data Centers," that was approved by the Town Council on June 3, 2026.

Vote: 7 Yeas. Motion Carried.

Chairman Fellows called for a brief recess at 9:22 p.m. The meeting was reconvened at 9:29 p.m.

Item 13. NEW BUSINESS:

Order No. 26-096. First reading and schedule a public hearing and second reading on the proposed amendments to Chapter 311 Schedule of Fees to add applicable tree preservation in lieu fees. ***[Planning Director]*** Autumn Speer, Planning Director, gave a brief overview on this Order.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval of the first reading on the proposed amendments to Chapter 311 Schedule of Fees to add applicable tree preservation in lieu fees and schedule a public hearing and second reading for Wednesday, November 18, 2026, 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 311 Town of Scarborough Schedule of License, Permit and Application Fees, be and hereby is amended, as follows as presented (additions are underlined and in red font):

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CHAPTER 311
TOWN OF SCARBOROUGH
SCHEDULE OF LICENSE, PERMIT AND APPLICATION FEES

Chapter 405B - Site Plan Review	**Fee**
Planning Administrative Renew Fee (Adopted 05/07/2014; Amended 02/04/2026)	$75.00
Site Plan Minor Amendment (Adopted 02/04/2026)	$250.00
Site Plan Application Fee (plus fee per Square Feet)(Adopted 05/07/2014)	$500.00
Site Plan Amendment Fee (plus fee per Square Feet)(Adopted 05/07/2014)	$250.00
Under 1,000 Square Feet (Amended 05/07/2014)	$0.00
1,000 to 2,000 Square Feet (Amended 05/07/2014)	$250.00
>2,000 to 5,000 Square Feet (Amended 05/07/2014)	$500.00
>5,000 to 10,000 Square Feet (Amended 05/07/2014)	$1,000.00
>10,000 Square feet and over, plus $25.00 per 1,000 above 10,000 square feet (Amended 05/07/2014)	$1,000.00

Inspection fee for inspections conducted by Town Staff, per hour (Section 11) (Adopted 06/02/2021) (Amended 05/03/2023)	$100.00
Significant Tree Fee In-lieu (per tree)	$5,000.00
Heritage Tree Fee In-lieu (per tree)	$25,000.00

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

Order No. 26-097. First reading and schedule a public hearing and second reading to authorize the Town Manager, to sign any related paperwork to transfer the following town owned properties to the Scarborough Land Trust: 37 Woodspell Road – Map U048 Lot 024A; 47 Elmwood Avenue – Map R057 Lot 0001B; 0 Hampton Circle – Map U017 Lot 008; 11 Rhonda Drive – Map U016 Lot 030; 12 Rhonda Drive – Map U016 Lot 028; 13 Rhonda Drive – Map U016 Lot 029; 00 Broadturn Road – Map R009 Lot 004; 00 Fengler Road – Map R009 Lot 006B; and Carpenter Court – Map R047 Lot 005A. ***[Parks and Conservation Land Board]*** Thomas J. Hall, Town Manager, gave a brief overview on this Order. Stephen Zamierowski, Chair of the Parks and Conservation Land Board [PCLB] also spoke on the results of the recommendation from PCLB. The following individual spoke:

- Andrew Mackie, Executive Director of the Scarborough Land Trust, stated the Land Trust is making a request for a conservation easement on two parcels, allowing the town to retain ownership while the Land Trust holds the easement. This aims to enhance property management, ensuring clear boundaries, public access, control over invasive species, and wildlife management under a comprehensive plan. Additionally, there is a request to expand an existing conservation easement on a larger town property designated as open space.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval of the first reading to authorize the Town Manager, to sign any related paperwork to transfer the following town owned properties to the Scarborough Land Trust: 37 Woodspell Road – Map U048 Lot 024A; 47 Elmwood Avenue – Map R057 Lot 0001B; 0 Hampton Circle – Map U017 Lot 008; 11 Rhonda Drive – Map U016 Lot 030; 12 Rhonda Drive – Map U016 Lot 028; 13 Rhonda Drive – Map U016 Lot 029; 00 Broadturn Road – Map R009 Lot 004; 00 Fengler Road – Map R009 Map 006B; and Carpenter Court – Map R047 Lot 005A and schedule a public hearing and second reading for Wednesday, November 18, 2026.

Vote: 7 Yeas. Motion Carried

Order No. 26-098. First reading and schedule a second reading to authorize the Town Manager, to sign any related paperwork to transfer the following town owned property to the Scarborough Land Trust: Broadturn Road/Tibbett's Farm – Map R006 Lot 001. ***[Town Manager]*** Thomas J. Hall, Town Manager, gave a brief overview on this Order. The following individual spoke on this Order:

- Crescie Maurer of Meeting House Road and a member of the Conservation Commission, supported transfer of a former sludge site property for conservation She went on to address key concerns such as environmental issues due to the lack of town services and potential exposure to hazardous substances. The site's proximity to conserved lands makes it valuable for conservation, aligning with open space plans. Its location and requirements for housing development raise doubts about the feasibility of affordable housing, suggesting that its greatest potential value lies in being conserved land.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval of the first reading to authorize the Town Manager, to sign any related paperwork to transfer the following town owned property to the Scarborough Land Trust, to transfer ownership of the following Town-owned property

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to the Scarborough Land Trust: Broadturn Road/Tibbett's Farm – Map R006 Lot 001 and schedule a second reading for Wednesday, November 18, 2026.

Chairman Fellows addressed a point of order from Councilor Anderson regarding the time being 10:00 p.m. and stated that the Council is already deliberating this Order and we would need to make a motion prior to discussing a new Order.

The Town Council deliberated this issue as to whether a portion of this property could be used for affordable or workforce housing. After much debate, it was agreed that the second reading would be scheduled for the first meeting in January.

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

Motion by Chairman Fellows, seconded by Councilor Anderson, to move approval to suspend the rules to go past 10:00 p.m. to complete the business agenda.

Vote: 7 Yeas. Motion Carried.

Order No. 26-099. Act on the request from the Town Clerk to certify the results of the Municipal General/Referendum Elections and Special School Board Election, that were held on Tuesday, November 3, 2026. ***[Town Clerk's Office]*** A brief overview was given on this Order.

Motion by Councilor Anderson, seconded by Councilor Hayes, to move approval to certify the results of the Municipal General/Referendum Elections and Special School Board Election, that were held on Tuesday, November 3, 2026, as follows:

Presented for certification by the Town Council, are the election results for the Municipal Elections that were held on Tuesday, November 3, 2026:

Town Council – 3 Year Term

5366	AGARWAL, ISHA*
4434	CAIN, LAWRENCE W.
2438	COFONE, SAMUEL J.
7050	FLAHERTY, SEAN P.*
4499	HAMILTON, DENISE R.
6617	SARGENT, JESSICA M.*
1815	WERTS, RUSSELL WAYNE
9799	BLANKS

Question 1: Radio Project

6706	YES
6092	NO
1208	BLANKS

Sanitary District – 3 Year Term

7636	GARRETT, MATTHEW P.*
8469	GREENLEAF, JASON A.*
5000	LAFRENIERE Jr., DENIS J.
5949	McDOUGAL, BENJAMIN T.*
14964	BLANKS

Board of Education to fill vacancy with a term to expire in 2028

5820	GUILLERAULT, ANDEW N/*
4754	ZAMIEROWSKI, STEPHEN Z.

There are approximately 19,135 active voters on our voter registration list for this Election, which does not include same day registration. There were 14,047 voters who cast ballots in the November 3, 2026 Municipal Election, of which 8,844 were absentee ballots. The percentage for overall voter turnout for this Election was 73%.

Vote: 7 Yeas. Motion Carried.

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

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Item 15. Council Member Comments.

- Councilor Cain thanked the council and town staff for a rewarding experience. Despite a disappointing election outcome, he congratulated winners on their successful campaigns and appreciate the support from my family and friends. He noted that his wife Kathy's assistance was invaluable. The council's collaborative efforts have led to positive outcomes for Scarborough, and hoped this productive governance continues. He gained a new appreciation for our community and its dedicated citizen committees, making it a pleasure to participate in local government. Thanked everyone for the opportunity.
- Councilor Anderson, appreciated the collaborative achievements of the council over the past year, highlighting specific efforts in conservation and community issues. He commended individual council members for their outstanding contributions and qualities: Scott's compassion, Larry's extraordinary insights, Karen's dedication to conservation, Bill's wisdom, Michelle's public engagement focus, Liam's humor, Tody's calming presence, Corey's effective leadership, and Tom's consistent guidance. He expressed pride in their collective accomplishments and emphasized the positive impact of each member on the community.
- Councilor Donovan, expressed gratitude to the senior staff of Scarborough for their dedication and hard work, highlighting their preparedness and effectiveness. He reflected on his extensive experience in municipal and regulatory law, he emphasized the exceptional qualities of the town manager and his team. He acknowledged the demands of town council work and thanked his wife for her support during his service, which involved numerous evening meetings.
- Chairman Fellows expressed appreciation for colleagues Bill, John, and Larry for their contributions and service on the Scarborough Town Council. He praised Bill for his professional demeanor and advocacy for the community, commended John for his prolific work and innovative use of technology, and recognized Larry's substantial efforts on various projects, including school and municipal budgets. He then presented Council Cain with a plaque acknowledging his service, noting it was not anticipated he would lose the election.
- Councilor Hayes reflected on the past year, and could confidently say it has been fabulous, with outstanding leadership from Chairman Fellows. The Council has navigated unpredictable challenges, particularly during the ICE issue, while maintaining a collaborative and respectful dialogue. She was proud of our professional approach and the discussions the Council has behind the scenes. She will miss working with Councilor Cain greatly, but she also want to welcome the three new Councilor, who ran great campaigns and are ready to take on new responsibilities.

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

Vote: 7 Yeas. Motion Carried.

Meeting Adjourned at 10:23 p.m.

Respectfully submitted,

Yolande P. Justice
Clerk to the Council

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