

**MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 7, 2014
REGULAR MEETING – 7:00 P.M.**

Item 1. Call to Order. Chairman Sullivan called the regular meeting of the Scarborough Town Council to order at 7:01 p.m.

Item 2. Pledge of Allegiance.

Item 3. Roll Call. Roll was by Yolande P. Justice, Town Clerk. Thomas J. Hall, Town Manager, was also present.

Jessica L. Holbrook, Vice Chair	Katherine A. St. Clair [Absent]
William J. Donovan	Edward NMI Blaise, III
Jean-Marie Caterina	James E. Benedict
Richard J. Sullivan, Jr., Council Chair	

Item 4. General Public Comments.

- Nancy Crowell, Director of the Scarborough Public Library stated that she would be assisting with a mock Emergency situation on Saturday, May 17th. For more information please visit the Libraries website.
- Martin Tripp of 26 Oceanwood Avenue supported the current Council and spoke on the budget and the increase in taxes over the years.
- Robert Rovner of King Street spoke on the past budgets and bonds that the Town is currently carrying. The bonds are being carried on the backs of the residents. Residents cannot afford another increase in the tax rate.
- Dick Springer of Piper Shores felt the Town Council is between a rock and a hard place due to the State cuts – blame should not be placed on the Town Council. Scarborough has the lowest tax rate in Cumberland County.
- Mo Erickson of Pine Point Road felt the Council was doing a disservice by not being transparent. She felt that both the Council and School should have a page in one of the local papers to keep people informed as to the workings of the town. She then listed various amounts that she felt could be expended in the next Town budget and wondered if these items were really necessary.
- Mary Starr of Haystack Circle spoke on behalf of education and spoke in support of the current School Budget.
- Amy Chamberlin a resident and mother of students in the system. She went on to voice her support for the current budget.
- Ryan Wynne – the Town’s Beach Monitor Coordinator, introduced himself and asked those who are interested to help monitor the endangered shore birds to please see him or sign-up on the sheet that he had available.

Item 5. Minutes: April 16, 2014 – Regular Meeting. Motion by Councilor Holbrook, seconded by Councilor Blaise, to move approval of minutes of the April 16, 2014, regular Town Council meeting.

Vote: 6 Yeas.

Item 6. Adjustment to the Agenda. Chairman Sullivan noted that Orders 14-35, 14-36, 14-37 relating to the Plover issue will be taken out of order and be brought before the Town Council after the three public hearings.

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

Order No. 14-42, 7:00 p.m. Public hearing and action on the new request for a new Liquor License and a new Food Handlers License from Bayley's Campground, Inc. for the Little River Grill, located at 275 Pine Point Road. Chairman Sullivan opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:23 p.m.

Motion by Councilor Holbrook, seconded by Councilor Caterina, to move approval of the new request for a new Liquor License and a new Food Handlers License from Bayley's Campground, Inc. for the Little River Grill, located at 275 Pine Point Road.

Vote: 6 Yeas.

Order No. 14-43, 7:00 p.m. Public hearing and action on the new request for a new Liquor License and a new Food Handlers License from Sol Food Group Scarborough, LLC, d/b/a El Rayo Taqueria, located at 245 U.S. Route One. Chairman Sullivan opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:24 p.m.

Motion by Councilor Holbrook, seconded by Councilor Caterina, to move approval of the new request for a new Liquor License and a new Food Handlers License from Sol Food Group Scarborough, LLC, d/b/a El Rayo Taqueria, located at 245 U.S. Route One.

Vote: 6 Yeas.

Order No. 14-44, 7:00 p.m. Public hearing and action on the new request for a Food Handlers License from Susan Bayley Clough, d/b/a Emma's Eats, located at the Hurd Park Concession [Pine Point Beach]. Chairman Sullivan opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:25 p.m.

Motion by Councilor Holbrook, seconded by Councilor Caterina, to move approval of the new request a new Food Handlers License from Susan Bayley Clough, d/b/a Emma's Eats, located at the Hurd Park Concession [Pine Point Beach].

Vote: 6 Yeas.

Order No. 14-35. Second reading on the proposed amendments to Chapter 604, the Animal Control Ordinance. The following individuals spoke on this item:

- Katy Foley of 3 lucky Lane spoke on this item. She acknowledged Councilor St. Clair for her attentiveness to the issue. She asked that the Council postpone the vote on this item until the May 21st Council meeting so that Councilor St. Clair could be in attendance. She then spoke on the action the Old Orchard Beach Council took regarding its issue relating to the Piping Plover.
- Doug Lund-Yates of Fowler Farm Road spoke in opposition of the proposed changes to the Ordinance. The new rules would prohibit many working residents from walking their dogs on the beach during the winter months.
- Randi Kirshbaum-Christian of Gunstock Road also spoke on the winter restrictions and asked where this came from what the issue was relating to the Piping Plover. She then asked the Council to revisit the winter restrictions
- Liam Somers of Holmes Road noted that there has been one constant in this process and that there has been no agreement. He then went on to mention the money that the town was spending, which is more money than what the fine of \$12,000.

- Catherine Rogers of Gorham Road spoke against the proposed changes and felt that the Ordinance would be more restrictive.
- Joanne Mahoney of King Street spoke against the proposed changes and then spoke how the changes would affect the areas value. This should be about the nesting of the plovers and put the signs where people can see them.
- Susan Morris from Old Orchard Beached introduced Friday, her service dog and they love to go the Pine Point Beach, but the winter restrictions could affect them from doing so and asked that the Council revisit this issue.
- Barb Price of Ramsey Terrace thanked the Council for their service and she also thank Councilors Caterina and St. Clair for their work on this issue. She asked the Council to postpone their vote until Councilor St. Clair was present.
- Robert Rovner of King Street spoke on the document from Inland Fisheries that had been signed off on and felt that this was more than the plovers – about keeping the dogs of the beach.
- Robin McLaughlin of Vesper Street spoke against the winter restrictions.
- Seth Fernald of Maple Avenue spoke on the winter restrictions and was not sure why it was there.
- Roger Chabot of Houghton Street spoke in favor to extend the restriction from Labor Day to September 15th or October 1st.
- Sean Flaherty of Black Point Road spoke on the proposed changes to Chapter 604. There are bigger problems that need to be addressed other than the plovers.
- Mo Erickson of Pine Point Road felt that this was a perfect time for the Council to listen to the majority.

Motion by Councilor Holbrook, seconded by Councilor Caterina, to move approval of the second reading on the proposed amendments to Chapter 604, the Animal Control Ordinance, as presented this evening.

Motion by Chairman Sullivan, seconded by Councilor Holbrook, to move approval to amend the main motion by replacing the document from the first reading with the document provided this evening to the Council and to members of the public, as follows:

**Proposed Amendments to
CHAPTER 604
TOWN OF SCARBOROUGH
ANIMAL CONTROL ORDINANCE**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to Chapter 604 - the Animal Control Ordinance of the Town of Scarborough, Maine, be and hereby is amended, as follows (*additions are underlined; deletions are struck through*):

604-1 Purpose

The purpose of this ordinance is to require that all animals in the Town of Scarborough be kept under the control of their owner or keeper at all times so that they will not injure persons or other animals, damage property or create a public health threat.

The provisions of this ordinance that apply to the owner of an animal apply equally to any person keeping, or having control, custody, or possession of that animal.

604-2 Definitions

1. ABANDONED ANIMAL:

An animal that has been deserted by its owner or keeper.

2. ANIMAL:

Every living, sentient creature not a human being.

3. ANIMAL CONTROL:

Control of dogs, cats and domesticated or undomesticated animals.

4. ANIMAL CONTROL OFFICER:

Any person appointed by the Town of Scarborough to enforce animal control laws.

5. ANIMAL SHELTER:

A facility that includes a physical structure, or part of a physical structure, that provides temporary or permanent shelter to stray, abandoned, abused or owner-surrendered animals.

6. AT LARGE:

off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the dog.

7. BEACH:

Any beach area within the Town of Scarborough which is used by the general public.

8. DOG:

Any of large and varied groups of domesticated animals in the canine family.

9. LEASH:

Hand held device, 30 feet or less in length, which can be used to restrain a dog if the dog fails to respond to voice commands or if the owner or responsible party is ordered by [the Animal Control Officer](#) or a law enforcement officer to leash the dog and at all times when this Ordinance requires dogs to be leashed. A leash of a length no longer than 12 feet shall be used at all time on Beaches of Scarborough from April 1 to Labor Day, unless otherwise stated herein. A failure to comply with this definition shall constitute a violation of this ordinance. (amended 05/19/2004)

10. OWNER:

Owner or aAny person or persons, firm, association or corporation owning, keeping or harboring an animal or any person having custody, possession, or control of an animal.

11. RESTRICTED PROTECTED AREAS: Restricted Areas are beach Areas that may be designated for special protection for piping plovers or other endangered species based upon scientific and historical data. The following are Restricted Areas and restrictions applying thereto from April 1st to the day after Labor Day:

- a) Higgins Beach – The Restricted Area is defined as that part of the beach from Champion Street to the Spurwink River-no dogs allowed. See aerial map appended hereto for further details. [Exhibit A]
- b) Ferry/Western Beach – The Restricted Area is defined as that portion of the beach commonly known as Ferry Beach, beginning at the southerly end of the municipal parking lot and extending south to Ferry Rock and thence southeast the full length of the beach commonly known as Western Beach – no dogs allowed. See aerial map appended hereto for further details. [Exhibit B]
- c) Pine Point Beach – The Restricted Area is defined as that portion of the beach from the main beach access path at Hurd Park north to the Scarborough River-dogs on leash only. See aerial map appended hereto for further details. [Exhibit C]

1211. RESPONSIBLE DOG OWNER: Is an individual who has possession or custody of a dog and has read and affirmed [at the time of licensure], that they will 1) Maintain control of their dog(s) at all times; 2) They will not allow the dog(s) to charge, chase or display aggression towards any person, other dogs or wildlife; and, 3) Behave in any way that a reasonable person would find disturbing or harassing. Except for hunting purposes a Responsible Dog Owner shall not have more than two dogs under Voice and Sight Control at the same time. A responsible party shall have a leash in his or her possession for each dog off leash. A failure to comply with this definition shall constitute a violation of this ordinance.

1112 13. RESPONSIBLE PARTY:

As used in this ordinance, the term “responsible party” means the owner or any other person who has possession or custody of a dog. If a dog is present on a beach in violation of the restrictions of this section, the owner of the dog and the responsible party are jointly and severally liable for the violation. A failure to comply with this definition shall constitute a violation of this ordinance. (amended 05/19/2004)

121314.VOICE AND SIGHT CONTROL:

As used in this ordinance, the term “voice control” means that the dog returns immediately to and remains by the side of the responsible party in response to the responsible party’s verbal command. “Sight Control” means that a dog is always within sight of the Responsible Party and the dog is capable of complying with Voice Control. A violation of this Ordinance occurs upon a failure to comply with the definition of either Voice Control or Sight Control. If a dog approaches or remains within 10 feet of any person other than the responsible party, that dog is not under voice control and a violation of this Ordinance occurs unless such person (or in the case of a minor child, an adult present with the child) has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog. (amended 05/19/2004)

604-3 Animal Control Officer

A qualified person shall be employed by the police department who shall be known as and perform the duties of Animal Control Officer. The Animal Control Officer shall be principally responsible for the enforcement of all laws related to dogs, cats, and other domesticated animals and also to undomesticated animals.

604-4 At Large Dogs

Dogs shall be considered at large unless leashed or under Voice and Sight Control. It is unlawful for any dog, licensed or unlicensed, to be at large, except when used for hunting. The owner of any dog found at large shall be subject to the civil penalties provided in this ordinance.

604-5 Impoundment or Return of At Large Dogs

All dogs found at large in violation to Title 7, M.R.S.A., Section 3911 may be impounded at the animal shelter or returned to the owner, at the discretion of the Animal Control Officer. If the Animal Control Officer returns the dog to its owner, the owner shall pay a \$15.00 (fifteen dollars) return fee to the Town of Scarborough before the dog is returned. The payment must be made at the police dispatch center, which shall issue a receipt therefor.

604-6 Disposition of Impounded Animal

An owner is entitled to resume possession of any impounded animal provided that all provisions of this ordinance have been met, and that all impoundment fees due under the provisions of this ordinance have been paid. Any animal not claimed after the owner has been notified may be classified as an abandoned animal, and the animal's owner may be subjected to all civil penalties authorized by this ordinance.

604-7 Impoundment Fee

An owner may reclaim an impounded animal by first paying to the Town of Scarborough at the Town Clerk's Office, a fee of \$30.00 (thirty dollars) for each animal impounded. If the Town Clerk's Office is closed, the fee shall be paid at the Police Dispatch Center. Fees must be paid and a receipt from the Town must be presented to the animal shelter before the release of an animal. All fees will be deposited in the separate account required by Title 7, M.R.S.A. 3945.

604-8 Animal Noise

- a. Except as provided in subparagraph (b) and (c) below, no owner shall permit or allow any animal to bark, howl or make other sounds common to its species if such sounds recur in steady, rapid succession for 20 minutes or more or recur intermittently for one hour or more.
- b. Section 604-8(a) shall not apply if any animal is provoked by trespassing people or animals on private property on which the animal is situated or by other legitimate cause for provocation.
- c. Section 604-8(b) shall not apply to farm animals kept on a property located in the R-F or R-F-M Districts under the Scarborough Zoning Ordinance. In all other zoning districts, Section 604-8(a) shall not apply to farm animals kept on a property [the principal use of which is] [a use of which is] the commercial production of farm products and is either a conforming use or a lawful nonconforming use under the Scarborough Zoning Ordinance. For purposes of this exception, dogs are not "farm animals" and kennels are not "farms."

604-9 Control of Animal Waste

An owner must remove and dispose of any feces left by his/her animal on any sidewalk, street, beach, public property or private property (other than the property of the owner of the animal or of a person who has consented to the presence of the animal on his or her property) and deposit such feces into appropriate litter receptacle. An owner whose animal is present on any property from which the animal's feces is required to be removed pursuant to this section must have in his or her possession a

plastic bag or similar utensil not part of the human body for collecting and removing the feces. This regulation shall not apply to any person who, by reason of physical handicap, is unable to comply with the requirement.

604-10. Public Beaches and Shores (amended 05/19/2004)

The following restrictions apply to dogs on beaches:

- a. From April 1 to Labor Day dogs shall be restricted in the ~~Protected~~Restricted Areas of each Beach as set forth by Resolution of the Town Council in Section 604.2(11).
- b. From May 15th to Labor Day (i) no dogs on any Beach from 9:00 a.m. to 5:00 p.m.; and (ii) dogs on leash from 5:00 p.m. to dusk.
- c. From the day after Labor Day to May 14th dogs on leash from 1:00 p.m. to 3:00 p.m.
- d. ~~Whenever the Responsible Party has been directed by a law enforcement officer to leash the dog.~~If directed by the Animal Control Officer or a law enforcement officer a Responsible Party may be required to leash their dog.
- e. No dogs on any beach from 30 minutes after sunset (dusk) to 30 minutes before sunrise (dawn) ~~dawn to dusk dusk to dawn.~~
- f. Whenever a portion of a beach has been roped off, fenced off or otherwise demarcated or posted as a protected area in order to protect the nesting site of a piping plover or of any other endangered species protected under federal law, no dog shall approach within 200 feet of such protected area.
- g. Dogs shall be on leash while entering or exiting vehicles and the Beach.
- h. At all times not otherwise addressed above, dogs shall be under Voice and Sight Control.
 - a. ~~No dog shall be present on any beach at any time unless the dog is accompanied by a responsible party who has voice control (see definition) over the dog and who is carrying a leash in the hand of the responsible party (see definitions) which can be used to restrain the dog.~~
 - b. ~~No dog shall be present on any beach between the hours of 9:00 a.m. and 5:00 p.m. from June 15th through September 15th;~~
 - c. ~~When otherwise allowed to be present on a beach pursuant to this section, all dogs must be leashed at the following times:
 - ~~At all times from June 15th through September 15th, except that a dog under the voice control of its owner or a responsible party shall be permitted to be unleashed between sunrise and 9:00 a.m. (The purpose of this exception is to allow individuals to walk, jog, run or engage in other physical exercise with their dogs in the early hours of the morning.)~~
 - ~~Whenever the owner or responsible party has been directed by a law enforcement officer to leash the dog.~~~~
 - d. ~~Whenever a portion of a beach has been roped off, fenced off or otherwise demarcated and posted as a protected area in order to protect the nesting site of a piping plover or of any another endangered species protected under federal law, no dog shall enter such protected area, and no dog shall approach within 150 feet of such protected area unless the dog is attached to a leash held by a responsible party so that the responsible party can physically restrain the dog from entering the protected area.~~

604-11 Dangerous Dogs

Any person who is assaulted by a dog or any person witnessing an assault against a person or domesticated animal or a person with knowledge of an assault against a minor, within thirty days of the assault, may make a written complaint to the Animal Control Officer that the dog is a dangerous dog. The Animal Control Officer may issue a civil violation citation for keeping a dangerous dog pursuant to 7 M.R.S.A. §3952. After issuing the citation and before hearing in court, if the dog poses an immediate or continuing threat to the public, the Animal Control Officer shall order the owner of the dog to muzzle, restrain or confine the dog to the owner's premises or to have the dog at the owner's expense at a place determined by the Animal Control Officer. If the owner fails to comply with such order, the Animal Control Officer may apply to the District Court, Superior Court or a Justice of the Peace pursuant to 7 M.R.S.A. §3952 for an ex parte order for authorization to take possession of the dog that poses an immediate or continuing threat to the public.

604-12 Trespass

An owner of an animal may not allow that animal to enter onto the property of another after the owner has been warned by the property owner or a representative of the property owner or by the Animal Control Officer or a law enforcement officer that the animal was found on the property of another.

The owner of an animal is responsible, at the owner's expense, for removing such animal found trespassing. The Animal Control Officer, may, at the owner's expense, remove and control the animal if:

- the owner fails to remove the animal after having been notified by the Animal Control Officer that the animal was trespassing; or,
- the animal is an immediate danger to itself, to persons or to another's property.

Any animal so removed shall be subject to the provisions of Sections 604-5, 604-6 and 604-7 in the same manner as an at large dog.

604-13 Tags Licenses[Amended 04/20/2011]

No dog shall be kept within the limits of the Town of Scarborough unless such dog is licensed by its owner in accordance with Maine Law and has acknowledged receipt and affirmation of the requirements of a "Responsible Dog Owner" as defined in Section 604-2-11. The Town Clerk shall provide with each new license issued for a dog a tag indicating the year the license is issued and such other information as may be required under Title 7 M.R.S.A. Part 9 - Chapter 721. Dog Licensing.

604-14 Rabies Tags

Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to a collar of leather, metal or material of comparable strength that must be worn by the dog for which the tag was issued except when the dog is hunting, in training or in an exhibition or on the premises of the owner. When the dog is hunting, in training or in an exhibition, its owner shall produce proof of licensure and proof of rabies immunization within twenty-four hours upon request for the Animal Control Officer.

604-15 Violations/Penalties

Any persons who violates Section 604-8 (Animal Noise) or Section 604-9 (Control of Animal Waste) shall be subject to civil penalties for each violation, as follows:

- First violation: not less than \$50.00 and not more than \$100.00, plus costs.
- Second violation: not less than \$100.00 and not more than \$250.00, plus costs.

Third and subsequent violations: not less than \$250.00 and not more than \$500.00, plus costs.

Any person who violates any other Section of this ordinance shall be subject to a civil penalty of not less than \$100.00 and not more than \$500.00 plus costs for each offense.

All civil penalties collected pursuant to this Ordinance shall be recovered to the use of the Town of Scarborough and deposited in the separate account required by 7 M.R.S.A. Section 3945.

A person issued a civil violation citation for violating this Ordinance may elect to pay the minimum penalty specified above for each violation alleged in the citation, in lieu of appearing in court to answer the citation. Such payment must be received at the Office of the Town Clerk in the amount specified by the Animal Control Officer by the seventh day prior to the court appearance date specified in the citation. Upon receipt of such payment by the Clerk, the Animal Control Officer shall cause the citation to be dismissed. However, the violations alleged in the citation shall be deemed admitted for purposes of assessing any future penalties under this section.

604-16 Severability Clause

If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

Vote on amendment: 5 Yeas. 1 Nay [Councilor Benedict].

Motion by Councilor Holbrook, seconded by Councilor Caterina, to move approval to amend the main motion as amended to section 604-10 as follows:

604.10. Public Beaches and Shores (amended 05/19/2004)

The following restrictions apply to dogs on beaches:

- a. From April 1 to Labor Day dogs shall be restricted in the ~~Protected~~Restricted Areas of each Beach as set forth by Resolution of the Town Council in Section 604.2(11).
- b. From May 15th to Labor Day (i) no dogs on any Beach from 9:00 a.m. to 5:00 p.m.; and (ii) dogs on leash from 5:00 p.m. to dusk.
- c. From the day after Labor Day to May 14th November 30th dogs on leash from 11:00 p.m. to 2:00 p.m. From December 1st to March 31st dogs allowed under Voice and Sight Control.

Vote: 2 Yeas. 4 Nays [Councilors Benedict, Blaise, Donovan and Caterina].

Motion by Councilor Donovan, seconded by Councilor Benedict, to move approval to amend the main motion as amended as follows:

604-10 subsection C and to add a line as follows: "Except from December 1st to March 31st dogs on leash from 1:00 to 3:00 p.m.

There being a brief discussion on this motion, the motion was withdrawn and the following motion was made.

Motion by Councilor Donovan, seconded by Councilor Blaise, to move approval to amend the main motion as amended to Section 604-10 – subsection C by changing the from frame from 11:00 a.m. to 2:00 p.m. to 1:00 p.m. to 3:00 p.m.

Vote on amendment: 6 Yeas.

Motion by Councilor Blaise, seconded by Councilor Benedict, to move approval to amend the main motion to change Labor Day to September 15th throughout the ordinance.

Vote on amendment: 3 Yeas. 3 Nays [Chairman Sullivan, Councilor Caterina and Holbrook]

Tie vote – motion fails.

Vote on main motion as amended:

**CHAPTER 604
TOWN OF SCARBOROUGH
ANIMAL CONTROL ORDINANCE**

604-1 Purpose

The purpose of this ordinance is to require that all animals in the Town of Scarborough be kept under the control of their owner or keeper at all times so that they will not injure persons or other animals, damage property or create a public health threat.

The provisions of this ordinance that apply to the owner of an animal apply equally to any person keeping, or having control, custody, or possession of that animal.

604-2 Definitions

1. ABANDONED ANIMAL:

An animal that has been deserted by its owner or keeper.

2. ANIMAL:

Every living, sentient creature not a human being.

3. ANIMAL CONTROL:

Control of dogs, cats and domesticated or undomesticated animals.

4. ANIMAL CONTROL OFFICER:

Any person appointed by the Town of Scarborough to enforce animal control laws.

5. ANIMAL SHELTER:

A facility that includes a physical structure, or part of a physical structure, that provides temporary or permanent shelter to stray, abandoned, abused or owner-surrendered animals.

6. AT LARGE:

off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the dog.

7. BEACH:

Any beach area within the Town of Scarborough which is used by the general public.

8. DOG:

Any of large and varied groups of domesticated animals in the canine family.

9. LEASH:

Hand held device, 30 feet or less in length, which can be used to restrain a dog if the dog fails to respond to voice commands or if the owner or responsible party is ordered by the Animal Control Officer and a law enforcement officer to leash the dog and at all times when this Ordinance requires dogs to be leashed. A leash of a length no longer than 12 feet shall be used at all time on Beaches of Scarborough from April 1 to Labor Day, unless otherwise stated herein. A failure to comply with this definition shall constitute a violation of this ordinance. (amended 05/19/2004; amended 05/07/2014)

10. OWNER:

Owner or any person or persons, firm, association or corporation owning, keeping or harboring an animal or any person having custody, possession, or control of an animal.

11. RESTRICTED AREAS: Restricted Areas are beach areas that may be designated for special protection for piping plovers or other endangered species based upon scientific and historical data. The following are Restricted Areas and restrictions applying thereto from April 1st to the day after Labor Day [Adopted 05/07/2014]:

- a) **Higgins Beach** – The Restricted Area is defined as that part of the beach from Champion Street to the Spurwink River-**no dogs allowed**. See aerial map appended hereto for further details. [Exhibit A]
- b) **Ferry/Western Beach** – The Restricted Area is defined as that portion of the beach commonly known as Ferry Beach, beginning at the southerly end of the municipal parking lot and extending south to Ferry Rock and thence southeast the full length of the beach commonly known as Western Beach – **no dogs allowed**. See aerial map appended hereto for further details. [Exhibit B]
- c) **Pine Point Beach** – The Restricted Area is defined as that portion of the beach from the main beach access path at Hurd Park north to the Scarborough River-**dogs on leash only**. See aerial map appended hereto for further details. [Exhibit C]

12. RESPONSIBLE DOG OWNER: Is an individual who has possession or custody of a dog and has read and affirmed [at the time of licensure], that they will 1) Maintain control of their dog(s) at all times; 2) They will not allow the dog(s) to charge, chase or display aggression towards any person, other dogs or wildlife; and, 3) Behave in any way that a reasonable person would find disturbing or harassing. Except for hunting purposes a Responsible Dog Owner shall not have more than two dogs under Voice and Sight Control at the same time. A responsible party shall have a leash in his or her possession for each dog off leash. A failure to comply with this definition shall constitute a violation of this ordinance.

13. RESPONSIBLE PARTY:

As used in this ordinance, the term “responsible party” means any person who has possession or custody of a dog. If a dog is present on a beach in violation of the restrictions of this section, the owner of the dog and the responsible party are jointly and severally liable for the violation. (amended 05/19/2004)

14. VOICE AND SIGHT CONTROL:

As used in this ordinance, the term “voice control” means that the dog returns immediately to and remains by the side of the responsible party in response to the responsible party’s verbal command. “Sight Control” means that a dog is always within sight of the Responsible Party and the dog is capable of complying with Voice Control. A violation of this Ordinance occurs upon a failure to comply with the definition of either Voice Control or Sight Control. If a dog approaches or remains within 10 feet of any person other than the responsible party, that dog is not under voice control and a violation of this Ordinance occurs unless such person (or in the case of a minor child, an adult present with the child) has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog. (amended 05/19/2004)

604-3 Animal Control Officer

A qualified person shall be employed by the police department who shall be known as and perform the duties of Animal Control Officer. The Animal Control Officer shall be principally responsible for the enforcement of all laws related to dogs, cats, and other domesticated animals and also to undomesticated animals.

604-4 At Large Dogs

Dogs shall be considered at-large unless leashed or under Voice and Sight Control. It is unlawful for any dog, licensed or unlicensed, to be at large, except when used for hunting. The owner of any dog found at large shall be subject to the civil penalties provided in this ordinance.[Amended 05/07/2014]

604-5 Impoundment or Return of At Large Dogs

All dogs found at large in violation to Title 7, M.R.S.A., Section 3911 may be impounded at the animal shelter or returned to the owner, at the discretion of the Animal Control Officer. If the Animal Control Officer returns the dog to its owner, the owner shall pay a \$15.00 (fifteen dollars) return fee to the Town of Scarborough before the dog is returned. The payment must be made at the police dispatch center, which shall issue a receipt therefor.

604-6 Disposition of Impounded Animal

An owner is entitled to resume possession of any impounded animal provided that all provisions of this ordinance have been met, and that all impoundment fees due under the provisions of this ordinance have been paid. Any animal not claimed after the owner has been notified may be classified as an abandoned animal, and the animal’s owner may be subjected to all civil penalties authorized by this ordinance.

604-7 Impoundment Fee

An owner may reclaim an impounded animal by first paying to the Town of Scarborough at the Town Clerk’s Office, a fee of \$30.00 (thirty dollars) for each animal impounded. If the Town Clerk’s Office is closed, the fee shall be paid at the Police Dispatch Center. Fees must be paid and a receipt from the Town must be presented to the animal shelter before the release of an animal. All fees will be deposited in the separate account required by Title 7, M.R.S.A. 3945.

604-8 Animal Noise

- a. Except as provided in subparagraph (b) and (c) below, no owner shall permit or allow any animal to bark, howl or make other sounds common to its species if such sounds recur in steady, rapid succession for 20 minutes or more or recur intermittently for one hour or more.

- b. Section 604-8(a) shall not apply if any animal is provoked by trespassing people or animals on private property on which the animal is situated or by other legitimate cause for provocation.
- c. Section 604-8(b) shall not apply to farm animals kept on a property located in the R-F or R-F-M Districts under the Scarborough Zoning Ordinance. In all other zoning districts, Section 604-8(a) shall not apply to farm animals kept on a property [the principal use of which is] [a use of which is] the commercial production of farm products and is either a conforming use or a lawful nonconforming use under the Scarborough Zoning Ordinance. For purposes of this exception, dogs are not “farm animals” and kennels are not “farms.”

604-9 Control of Animal Waste

An owner must remove and dispose of any feces left by his/her animal on any sidewalk, street, beach, public property or private property (other than the property of the owner of the animal or of a person who has consented to the presence of the animal on his or her property) and deposit such feces into appropriate litter receptacle. An owner whose animal is present on any property from which the animal’s feces is required to be removed pursuant to this section must have in his or her possession a plastic bag or similar utensil not part of the human body for collecting and removing the feces. This regulation shall not apply to any person who, by reason of physical handicap, is unable to comply with the requirement.

604-10. Public Beaches and Shores (amended 05/19/2004; [Amended 05/07/2014])

The following restrictions apply to dogs on beaches:

- a. From April 1 to Labor Day dogs shall be restricted in the Restricted Areas of each Beach as set forth in Section 604.2(11).
- b. From May 15th to Labor Day (i) no dogs on any Beach from 9:00 a.m. to 5:00 p.m.; and (ii) dogs on leash from 5:00 p.m. to dusk.
- c. From the day after Labor Day to May 14th dogs on leash from 1:00 p.m. to 3:00 p.m.
- d. If directed by the Animal Control Officer or a law enforcement officer a Responsible Party may be required to leash their dog.
- e. No dogs on any beach from 30 minutes after sunset (dusk) to 30 minutes before sunrise (dawn).
- f. Whenever a portion of a beach has been roped off, fenced off or otherwise demarcated or posted as a protected area in order to protect the nesting site of a piping plover or of any other endangered species protected under federal law, no dog shall approach within 200 feet of such protected area.
- g. Dogs shall be on leash while entering or exiting vehicles and the Beach.
- h. At all times not otherwise addressed above, dogs shall be under Voice and Sight Control.

604-11 Dangerous Dogs

Any person who is assaulted by a dog or any person witnessing an assault against a person or domesticated animal or a person with knowledge of an assault against a minor, within thirty days of the assault, may make a written complaint to the Animal Control Officer that the dog is a dangerous dog. The Animal Control Officer may issue a civil violation citation for keeping a dangerous dog pursuant to 7 M.R.S.A. §3952. After issuing the citation and before hearing in court, if the dog poses an immediate or continuing threat to the public, the Animal Control Officer shall order the owner of the dog to muzzle, restrain or confine the dog to the owner’s premises or to have the dog at the owner’s expense at a place determined by the Animal Control Officer. If the owner fails to comply with such order, the Animal Control Officer may apply to the District Court, Superior Court or a Justice of the Peace pursuant to 7 M.R.S.A. §3952 for an ex parte order for authorization to take possession of the dog that poses an immediate or continuing threat to the public.

604-12 Trespass

An owner of an animal may not allow that animal to enter onto the property of another after the owner has been warned by the property owner or a representative of the property owner or by the Animal Control Officer or a law enforcement officer that the animal was found on the property of another.

The owner of an animal is responsible, at the owner's expense, for removing such animal found trespassing. The Animal Control Officer, may, at the owner's expense, remove and control the animal if:

the owner fails to remove the animal after having been notified by the Animal Control Officer that the animal was trespassing; or the animal is an immediate danger to itself, to persons or to another's property.

Any animal so removed shall be subject to the provisions of Sections 604-5, 604-6 and 604-7 in the same manner as an at large dog.

604-13 Licenses[Amended 04/20/2011; Amended 05/07/2014]

No dog shall be kept within the limits of the Town of Scarborough unless such dog is licensed by its owner in accordance with Maine Law and has acknowledged receipt and affirmation of the requirements of a "Responsible Dog Owner" as defined in Section 604-2-11. The Town Clerk shall provide with each new license issued for a dog a tag indicating the year the license is issued and such other information as may be required under Title 7 M.R.S.A. Part 9 - Chapter 721. Dog Licensing.

604-14 Rabies Tags

Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to a collar of leather, metal or material of comparable strength that must be worn by the dog for which the tag was issued except when the dog is hunting, in training or in an exhibition or on the premises of the owner. When the dog is hunting, in training or in an exhibition, its owner shall produce proof of licensure and proof of rabies immunization within twenty-four hours upon request for the Animal Control Officer.

604-15 Violations/Penalties

Any persons who violates Section 604-8 (Animal Noise) or Section 604-9 (Control of Animal Waste) shall be subject to civil penalties for each violation, as follows:

First violation: not less than \$50.00 and not more than \$100.00, plus costs.

Second violation: not less than \$100.00 and not more than \$250.00, plus costs.

Third and subsequent violations: not less than \$250.00 and not more than \$500.00, plus costs.

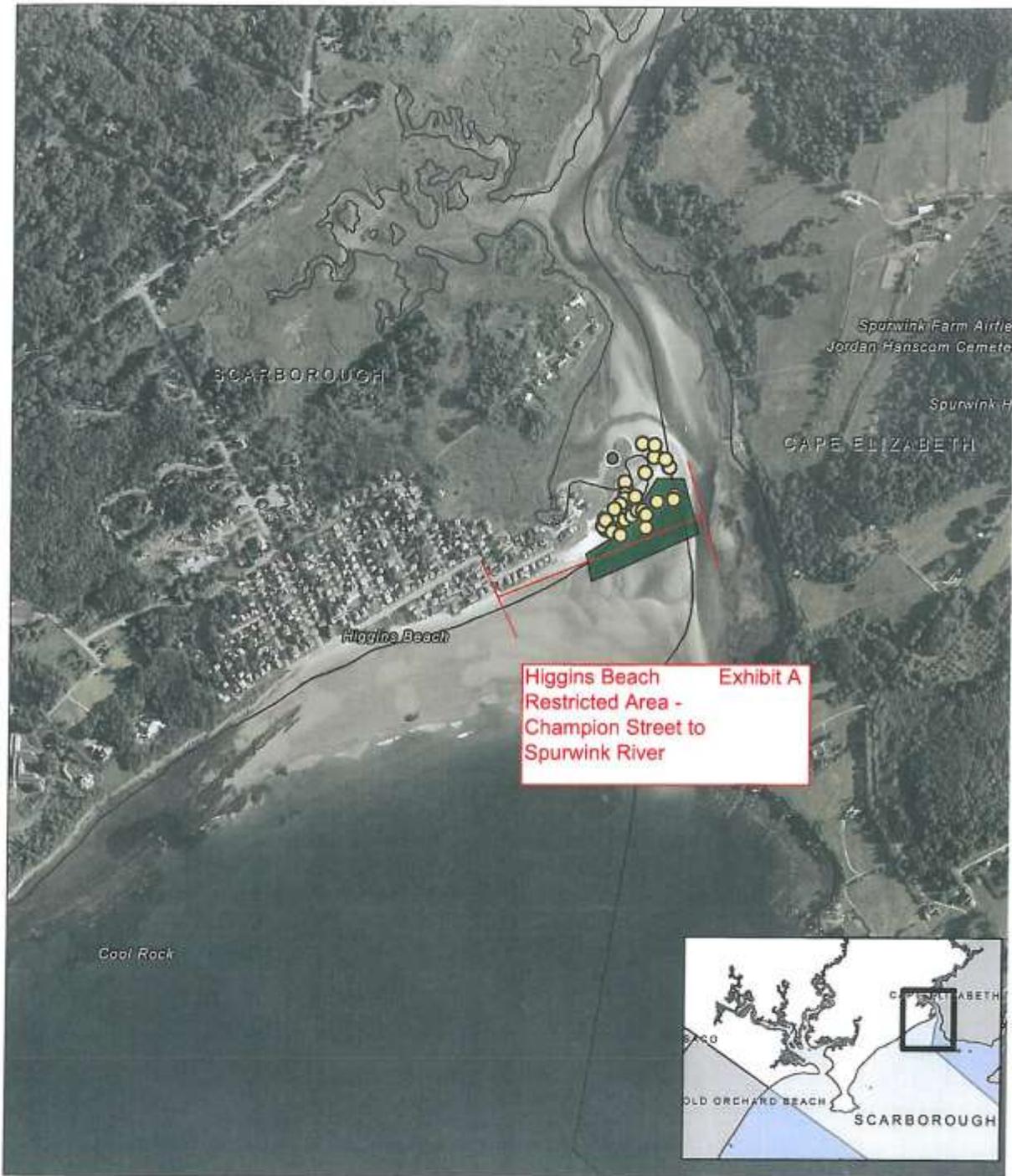
Any person who violates any other Section of this ordinance shall be subject to a civil penalty of not less than \$100.00 and not more than \$500.00 plus costs for each offense.

All civil penalties collected pursuant to this Ordinance shall be recovered to the use of the Town of Scarborough and deposited in the separate account required by 7 M.R.S.A. Section 3945.

A person issued a civil violation citation for violating this Ordinance may elect to pay the minimum penalty specified above for each violation alleged in the citation, in lieu of appearing in court to answer the citation. Such payment must be received at the Office of the Town Clerk in the amount specified by the Animal Control Officer by the seventh day prior to the court appearance date specified in the citation. Upon receipt of such payment by the Clerk, the Animal Control Officer shall cause the citation to be dismissed. However, the violations alleged in the citation shall be deemed admitted for purposes of assessing any future penalties under this section.

604-16 Severability Clause

If any part of this ordinance shall be held valid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.



Piping Plover Nest Locations - Town of Scarborough (Higgins Beach)



- Piping Plover Nest Locations 2000-2013
- Piping Plover Brood Locations 2011 & 2012
- Historic Piping Plover Nest Locations



Projection: UTM, NAD83, Zone 19

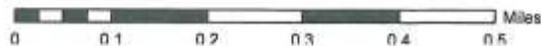
Date: 9/11/2013



Piping Plover Nest Locations - Town of Scarborough (Ferry Beach & Western Beach)



- Piping Plover Nest Locations: 2000-2013
- Piping Plover Brood Locations: 2011 & 2012
- Historic Piping Plover Nest Locations



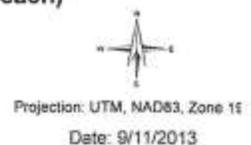
Projection: UTM, NAD83, Zone 19
Date: 9/11/2013



Piping Plover Nest Locations - Town of Scarborough (Pine Point Beach)



- Piping Plover Nest Locations: 2000-2013
- Piping Plover Brood Locations: 2011 & 2012
- Historic Piping Plover Nest Locations



Vote: 5 Yeas. 1 Nay [Councilor Benedict].

Order No. 14-36. Second reading on the proposed amendments to Chapter 604A, the Horse Beach Permit Ordinance. Thomas J. Hall, Town Manager, gave a brief overview on the proposed amendments to Chapter 604A, the Horse Beach Permit Ordinance.

Motion by Councilor Caterina, seconded by Councilor Holbrook, to move approval of the second reading on the proposed amendments to Chapter 604A, the Horse Beach Permit Ordinance, as follows:

**Proposed Amendments to Chapter 604A –
the Town of Scarborough Horse Beach Permit Ordinance**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to Chapter 604A - the Town of Scarborough Horse Beach Permit, be and hereby is amended, as follows :

HORSE BEACH PERMIT ORDINANCE

604A-1. Authority

This Ordinance is enacted pursuant to the authority of 30-A M.R.S.A. § 3001 and also implements 17 M.R.S.A. § 3853-A. The Town Clerk shall have the powers and exercise the duties of the municipal officers under 17 M.R.S.A. § 3853-A.

604A-2. Purpose

The purpose of this Ordinance is to allow horses to be present on Pine Point Beach in Scarborough and Old Orchard Beach in the Town of Old Orchard Beach during appropriate times of year, and subject to appropriate regulation and control. This Ordinance recognizes that Pine Point Beach and Old Orchard Beach form a continuous strand of sand beach and establishes a system of reciprocal licensing for horses on that strand of beach.

604A-3. Definitions

As used in this Ordinance, the following terms have the following meanings:

1. “Beach” means Pine Point Beach and/or Old Orchard Beach.
2. “Old Orchard Beach” means the sand beach bordering the Atlantic Ocean from the Scarborough/Old Orchard Beach town line to the Saco city line.
3. keeping or having custody, possession or control of a horse.
4. “Pine Point Beach” means the sand beach bordering the Atlantic Ocean from the mouth of the Scarborough River to the Old Orchard Beach town line.
5. “Rider” means any person who rides, leads or drives a horse.
6. “Town of Old Orchard Beach” means the municipality so named.

604A-4. Permit Required

No rider shall bring a horse onto the beach without having a permit and displaying on the rider a permit number tag issued by the Town Clerk of either the Town of Scarborough or the Town of Old Orchard Beach. Every rider must have an individual permit and permit number tag.

604A-5. Procedure for Obtaining a Permit

A rider seeking a permit to bring a horse onto the beach must apply in writing to the Town Clerk of the Town of Scarborough or the Town Clerk of the Town of Old Orchard Beach, using forms supplied by such clerk. The application must be accompanied by identification issued by a government agency and by the application fee required by the Schedule of License, Permit and Application Fees in the

municipality where the application is made. If the applicant is a minor, the application must be signed by a parent or guardian, who must supply the required identification (the minor need not supply identification). Along with the permit, the Town Clerk shall also issue a permit number tag, designed to be worn by the rider and visible at a distance, which shall contain the permit number in numerals at least two and one half (2½) inches high, the name of the permit holder and the name of the issuing municipality, and may contain such other information concerning the permit as the Clerk deems appropriate. A permit issued by either municipality shall be valid in both municipalities. Permits are valid only between October ~~15th~~ 1st and ~~May 1st~~ March 31st. All permits, whenever issued, expire on ~~May 1st~~ March 31st. The Town Clerk who issues the permit may suspend or revoke the permit if the rider violates any provision of this ordinance and may decline to issue a subsequent permit to a rider who has violated any provision of this ordinance.

604A-6. Regulation of Horses on the Beach

1. Horses are allowed on the beach only from October ~~15th~~ 1st and ~~May 1st~~ March 31st.
2. Except for gaining access to and egress from the beach, horses are allowed only in the intertidal zone (between the mean high tide line and the mean low water line).
3. Parking of horse trailers is limited to Hurd Park in the Town of Scarborough and the Milliken Street Municipal Parking Lot in the Town of Old Orchard Beach.
4. Any rider or owner who allows a horse to be present on the beach must remove and dispose of animal waste as required by Section 604-9 of the Town of Scarborough Animal Control Ordinance. Violation of Section 604-9 constitutes a violation of this Ordinance.

604A-7. Violation/Penalties

Any person who violates this Ordinance within the Town of Scarborough shall be subject to civil penalties for each violation as follows:

First violation: not less than \$50.00 and not more than \$100.00, plus costs.

Second violation: not less than \$100.00 and not more than \$250.00, plus costs.

Third and subsequent violations: not less than \$250.00 and not more than \$500.00, plus costs.

A person issued a civil violation citation for violating this Ordinance may elect to pay the minimum penalty specified above for each violation alleged in the citation, in lieu of appearing in court to answer the citation. Such payment must be received at the Office of the Scarborough Town Clerk in the amount specified in the citation prior to the court appearance date specified in the citation. Upon receipt of such payment by the Clerk, the Town shall cause the citation to be dismissed. However, the violations alleged in the citation shall be deemed admitted for purposes of assessing any future penalties under this section.

If a horse is present on the beach in violation of this Ordinance and the rider is not the owner, the owner shall be jointly and severally liable with the rider for civil penalties.

604A-8. Enforcement

This Ordinance may be enforced by any officer of the Police Department of the Town of Scarborough.

604A-9. Severability Clause

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

Vote: 6 Yeas.

Order No. 14-37. Second reading on the proposed amendments to Chapter 610 – the Piping Plover Ordinance. The following individuals spoke on this item.

- Liam Somers of Holmes Road spoke on the Animal Control Ordinance. Did not agree with the changes.
- Robert Rovner of King Street stated that there are no Plovers on the beach.

Motion by Councilor Donovan, seconded by Councilor Blaise, to move approval of the second reading on the proposed amendments to Chapter 610 – the Piping Plover Ordinance, as follows:

Proposed Amendments to Chapter 610 –
the Town of Scarborough Piping Plover Ordinance

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to Chapter 610 - the Piping Plover Ordinance of the Town of Scarborough, Maine, be and hereby is amended as follows:

1. Purpose.

The purpose of this Ordinance is to avoid or minimize adverse effects on Piping Plovers and their young by protecting their nesting, brooding, fledging, roosting and foraging activities on beaches within the Town of Scarborough.

2. Definitions.

Beach means any beach area within the Town of Scarborough, which is used by the general public.

Exclosure means an area from which pedestrians and vehicles are excluded by means of symbolic fencing.

Owner of a dog (or owner) means any person having custody, possession or control of a dog.

Piping Plover means the Atlantic Coast Piping Plover (*Charadrius melodus*), identified as a threatened species pursuant to the Federal Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 et seq.

Sand surfer means a recreational device consisting of a board on wheels attached to a large kite or sail and propelled by wind power.

Symbolic fencing means one or two strands of lightweight string, tied between posts to delineate areas where pedestrians and vehicles should not enter.

Wrack line means the line of dried seaweed, marine vegetation and other debris left on the beach by the action of the tides.

3. Piping Plover nesting habitat to be identified.

On or before April 1st of each year, the Town of Scarborough, in conjunction with the Maine Department of Inland Fisheries and Wildlife, the United States Fish and Wildlife Service and/or the Maine Audubon Society, will identify Piping Plover nesting habitat and will mark or arrange for the marking of such habitat with posts and warning signs.

4. Nests and broods protected.

When Piping Plover nests are present, the Town of Scarborough, in conjunction with the Maine Department of Inland Fisheries and Wildlife, the United States Fish and Wildlife Service and/or the Maine Audubon Society, will create or arrange for the creation of an exclosure around such nests in accordance with the guidelines of the United States Fish and Wildlife Service and authorization issued by the Maine Department of Inland Fisheries and Wildlife. Once such exclosures have been created, the following prohibitions shall apply:

- (1) No person shall enter into an enclosure, except for wildlife management purposes authorized by the Maine Department of Inland Fisheries and Wildlife or the United States Fish and Wildlife Service.
- (2) No person shall remove or disturb the wrack line located in front of an enclosure located within 330 feet of a Piping Plover brooding site, unless such activity is approved by the Maine Department of Inland Fisheries and Wildlife or the United States Fish and Wildlife Service.
- (3) No owner of a dog shall cause or permit that dog to enter the enclosure or shall fail to prevent that dog from entering the enclosure. All dogs shall be leashed in accordance with the Animal Control Ordinance, Chapter 604.
- (4) No person shall drive or operate a vehicle, including a non-motorized vehicle, on the wrack line. (a) Non-emergency activities such as removal of dead or injured sea mammals shall require at least two responders, one of which will act as the spotter to and from the scene. (b) All emergency response personnel will account for and avoid nesting sites and chicks to the maximum extent practicable, consistent with the nature and urgency of the emergency. However, it is the policy of the Town of Scarborough that such essential vehicles will avoid driving on the wrack line where possible and will avoid frequent driving on the beach in a way which would create deep ruts that could impede movement of Piping Plover chicks.
- (5) No person shall engage in kite flying, [kitesurfing or parasailing](#) within 650 feet of nesting or territorial adult or unfledged juvenile Piping Plovers between April 1st and August 31st.
- (6) No person shall discharge or cause the discharge of any fireworks on any beach on which Piping Plovers are nesting from April 1st until all chicks are fledged.
- (7) No person shall utilize a sand surfer within 650 feet of nesting or territorial adult or unfledged juvenile Piping Plovers between April 1st and August 31st.

5. Enforcement and penalties.

Any person who violates any provision of this Ordinance commits a civil violation for which a civil penalty of no less than \$50.00 and no greater than \$250.00 shall be imposed. This Ordinance may be enforced by any officer of the Scarborough Police Department.

6. Relation to state and federal laws.

This Ordinance is intended to be consistent with state and federal protections of Piping Plovers and Piping Plover habitat. In the event of any inconsistency between this Ordinance and state or federal laws or regulations, the more stringent provisions shall control.

7. Relation to private protection efforts.

This Ordinance is not intended to supersede or displace any efforts or activities of private individuals or organizations or any protections afforded to Piping Plovers and their habitat by deed restrictions, conservation easements and other types of private covenants. To the extent any such private covenants are more restrictive than the provisions of this Ordinance, this Ordinance does not authorize any departure from the requirements of such covenants.

Vote: 6 Yeas.

Resolution 14-03. Act on the request to approve the resolve to create Protected Beach Areas.[Tabled from the April 2, 2014, Town Council Meeting.] Motion by Councilor Caterina, seconded by Councilor Blaise, to move approval on the request to approve the resolve to create Protected Beach Areas.[Tabled from the April 2, 2014, Town Council Meeting.], as follows:

Resolution 14-03

Resolution to Create Protected Beach Areas

BE IT RESOLVED, by the Council of the Town of Scarborough, Maine in Town Council assembled, that,

WHEREAS, Scarborough’s public beaches are home to the Piping Plover, a threatened species under the Endangered Species Act; and,

WHEREAS, the Comprehensive Plan of the Town of Scarborough establishes the goal that the Town “Protect critical wildlife habitats, including...shore areas for piping plovers”; and,

WHEREAS, the Town Council seeks to regulate the Town’s public beaches so as to not risk harm to Piping Plovers; and,

WHEREAS, the Town Council seeks hereby to provide off leash time for dogs on Scarborough’s beaches to the extent it can be accomplished without creating undue risk to Piping Plovers; and,

WHEREAS, the creation of “Protected Areas” for Piping Plovers on Scarborough’s public beaches can help reduce the risk of harm to Piping Plovers by excluding or leashing dogs in the areas most often occupied by Piping Plovers; and,

WHEREAS, Section 604-10 (a) establishes “Protected Areas”, the specific designation of which is set forth below.

NOW THEREFORE, BE IT RESOLVED, by the Scarborough Town Council in Town Council assembled, to adopt and enact the following:

1. **Protected Areas.**

The Protected Areas and restrictions applying thereto are as follows:

Higgins Beach – The Protected Area is Champion Street to the Spurwink River-no dogs allowed. When Piping Plover chicks are present on Higgins Beach if chicks move south of Champion Street then off leash times become on leash times until chicks have migrated. Daily monitoring of chicks’ location at the direction of the Town Plover Coordinator is required for the continued allowance of off leash privileges. See aerial map appended hereto for further details. [Exhibit A]

Ferry/Western Beach – The Protected Area is all of Western Beach-no dogs allowed. When chicks are present on Western Beach or Ferry Beach dogs must be on leash on Ferry Beach until the chicks have migrated, except may be off leash from the boat ramp northward to the end of Ferry Beach. See aerial map appended hereto for further details. [Exhibit B]

Pine Point Beach – The Protected Area is from the main beach access path at Hurd Park north to the Scarborough River-dogs on leash only. When chicks are present on Pine Point Beach from nests in the Protected Area the Protected Area becomes from Snowberry Park north to the Scarborough River. When chicks are present from nests outside the Protected Area or are found to have moved south of Snowberry Park then no dogs may be off leash on Pine Point Beach until the chicks have migrated. See aerial map appended hereto for further details. [Exhibit C]

Regulations applicable to all beaches:

1. Once chicks migrate from a beach the prior regulations again apply.
2. Under unusual, unanticipated or emergency circumstances the Town Manager is authorized to take such temporary action as may be necessary to protect piping plovers until the Town Council can address the matter.

Signed and dated this 7th day of May, 2014, on behalf of the Scarborough Town Council and the Town Manager of Scarborough, Maine. Signed

Vote: 0 Yeas.

6 Nays [Chairman Sullivan, Councilors Benedict, Blaise, Caterina, Donovan and Holbrook]

Motion fails

Chairman Sullivan called for a brief recess at 8:43 p.m. The meeting was reconvened at 8:47 p.m.

OLD BUSINESS:

Order No. 14-34. Second reading on the proposed Municipal/School Budget for FY2015. The following individuals spoke on this issue:

- Chris Caiazzo, Chair of the School Board Finance Committee spoke on the proposed School Budget FY2015. He did not agree with any further cuts in the School Board's approved budget. He stated what areas would be cut further if the Town Council does reduce funding. He felt that the budget that had been presented was a well thought out process and asked that the Council respect the budget approved by the Board
- Robert Rovner of King Street spoke on the proposed School Budget. He noted that the Town Council had a fiduciary responsibility on behalf of the residents. He could not understand the purchase of the \$40,000 piece of artwork at the Intermediate School. He referenced an article in the newspaper which indicates new hires. There is no further funding from state
- Cindy Kueck of Moors Point Way knows there are pros and cons on the proposed budget. Residents have a right to vote on the proposed budget and she felt that the Town Council should allow this to happen and let the citizens of the town to make this decision.
- Jackie Perry of Black Point Road resident since the 70's – knows what it means to work, retire and live. The \$40,000 for the artwork is not being paid for by the residents, it is being paid for by buy-a-brick fund raiser. She went on to speak in support of the proposed school budget. Let the resident vote and decide whether it is too high or too low.
- Dave Dittmer of Woodside Drive supported the budget that had been approved by the Board of Education and asked that this budget be put forward to the voters.
- Wallace Fengler of Holmes Road spoke of his concern with the increase in the school budget.
- Will Leadley of Two Rod Road thanked both the School and the Town for all their hard work and asked that the voters decide on whether it is too high or too low.
- Kara O'Brian read the following letter into the record from Jeff Ertman of Fairway Drive: "Good afternoon - I'm including all members of both Town Council and School Board to ensure all can see my message and reply if you'd like. I thusly apologize for the group approach to this letter.

Of course we're at that time of year when things can become contentious regarding the school budget situation. I understand that Wednesday's Town Council meeting will include a public forum for those who wish to address the Council on budget matters. Ironically, I am unable to attend Wednesday's meeting to express my support for maintaining the school budget numbers as presented to the Council by Dr. Entwistle and the School Board as that evening coincides with the high school's undergraduate awards ceremony.

Firstly, I **get** that each year the budget process presents the Council with some difficult decisions to make, and I **get** that most residents do not want to see their tax bills rise year after year. You as Council members are charged with having to make these decisions about how and where to provide funding. Please understand that your roles in this process are appreciated.

My understanding is that the school budget as it stands right now is a bare bones budget that contains no extras. A vast majority of the budget consists of contractual obligations. Dr.

Entwistle was hired by the Town of Scarborough for his expertise in being able to run a school department. His job is to ensure that he puts into place a system that will allow students to compete and to thrive. His track record speaks for itself in his previous stops at Belmont, MA and Falmouth, two outstanding school districts. I can only imagine his level of frustration when he is told how he should be doing his job in the form of the budget wrangling. Please put the shoe on the other foot for a moment and consider your own professions - imagine how you might react to being told how to do your job by someone who does not bring your level of expertise in your field. This is in effect what happens each year with the school budget process.

Secondly, I have been advised the Council may opt to exercise an amendment that will shut the public out from the school budget process via a referendum vote. This to me is unacceptable. Many residents who have voted against the school budget in the past because they thought it was too high very specifically expressed that they were not voting against the schools per se, but simply exercising their right to object to an overall budget they deemed to be too high in the only way that was afforded to them under state law, a vote on the school budget. Those who are in favor of the school budget as presented by the School Board want to be able to express their viewpoint as well. My concern is that there are enough members on Council who would vote to reduce the school budget amount, even against the recommendation of the education professionals who prepared this budget. This potential reduction, in my mind, would not be reflective of the overall Scarborough community who value a strong school system or at the very least want to continue to maintain the values of their homes by continuing to fund a school system that can compete and prepare our students for the future.

Lastly, I'm sure you are all aware that Scarborough's mil rate is among the lowest in southern Maine. There is a reason that most communities around us do not seem to have these annual battles over their school budgets - they have already taken steps to ensure that their schools can be appropriately funded by maintaining their tax rates at levels that will provide for what is needed for students' education. Maybe I get so caught up in the process in my own town each year that I do not see that other towns are having the same issues - maybe they are. But when I perpetually see my town at the bottom of that list, I have to point my finger to that as a major source of the issue.

Once again, thanks for the time each of you took to read this letter. I am sorry I will be unable to attend Wednesday's Council meeting. I believe I can reasonably assure you that the majority of parents also unable to attend because of the honors night share most of the opinions I have stated here. I implore your consideration to maintain the budget as it stands as well as ensuring the citizens of Scarborough get the chance to voice their opinions via a budget referendum vote.

Sincerely,
Jeff Ertman “

- Martin Tripp of Oceanwood Drive spoke in opposition of the School Budget.
- Kelly Murphy of and member of the school board. It is a moral obligation to support our students. The art work and the laptops are not in this proposed budget. Like residents, the schools have increases in their utilities as well. We have been doing what we can with what we have. She would vote against and decrease in budget.
- Dick Springer of Piper Road felt that there is a moral obligation to our children. Education does not come free – we must do everything we can to give them the best education we can. The quality of the schools also
- Cheryl Greenleaf of 31 Stanford Lane voiced her support for the School Budget

- Jodi Shea of Windsor Pines and School Board Member spoke in support of the board approved budget and asked that the budget be moved to the residents to make the decision
- Stephanie Strouse of Fowler Farm Road and asked that the proposed budget be put to a vote.
- Donna Beeley of Gunstock Road and School Board member spoke on the proposed budget and asked the Town Council to move the proposed budget to the voters.
- Amy Chamberlain of Ryefield Drive spoke on the proposed school budget and the need to support our children, even if it means a rise in taxes.

Motion by Councilor Holbrook, seconded by Councilor Caterina, to move approval of the second reading on the proposed Municipal/School Budget for FY2015.

Motion by Councilor Holbrook, seconded by Councilor Donovan, to move approval to amend the main motion as follows to accept the Finance Committee’s recommended adjustments to the proposed 2015 Budget and Chapter 311 Schedule of Fees, for a total adjustment of \$258,402

	<u>Adjustment</u>
Increase Contributions to Other Agencies	\$ 50,000
Decrease Library Utilities	(4,200)
Decrease Library Information Systems	(10,000)
Decrease Library Proposed Adult Services Position	(14,265)
Decreased Fire Proposed EMT/FF Positions	(65,990)
Decrease Proposed Communications (2/1/2015 start date)	(58,002)
Decrease Proposed Patrol Position	(19,105)
Decrease Proposed SRO Police Position	(72,420)
Increase Part Time Police Pay Reserves	9,208
Decrease Public Works Operation's Part Time Pay	(5,000)
Decrease Public Works Vehicle Maintenance Overtime	(9,000)
Decrease Police Revenues (OOB Reimbursement)	76,495
Increase Community Services Beach Revenues	(5,000)
Increase State Revenue Sharing	(14,116)
Finance Committee Adjustments 4-22-14	<u><u>\$ (141,395)</u></u>
Decrease Public Works VM Position (to start 2-1-15)	(33,451)
Decrease Debt Service Interest Costs	(16,556)
Increase Worker's Comp reimbursement	(3,000)
Increase Dog Licenses	(2,000)
Increase Excise Revenues	(60,000)
Increase CS Summer Program Revenues	(2,000)
Finance Committee Adjustments 5-7-14	<u><u>\$ (117,007)</u></u>
Total Finance Committee Adjustments:	<u><u>\$ (258,402)</u></u>

Vote on amendment: 6 Yeas.

Motion by Councilor Holbrook, seconded by Councilor Caterina, to move approval to amend the main motion to accept the School Board’s recommended adjustments to the proposed 2015 Education Budget by \$909,806, as follows:

	<u>Adjustment</u>
Education Budget	\$ (895,610)
Education Revenues	\$ (14,196)
	<hr/>
School Board Approved Adjustments	<u><u>\$ (909,806)</u></u>

Vote: 5 Yeas. 1 Nay [Councilor Benedict]

Motion by Councilor Holbrook, seconded by Councilor Donovan, to move approval to amend the main motion as amended to adjust the Education Budget by \$911,000 for a new School Gross and Adult Learning of \$41,965,315, as follows:

	<u>Adjustment</u>
Education Budget	\$ (911,000)
	<hr/>
May 7th Finance Committee Adjustments	<u><u>\$ (911,000)</u></u>

Vote: 2 Yeas. 4 Nays [Chairman Sullivan Councilors Blaise, Caterina and Holbrook]

Motion Fails

Motion by Councilor Holbrook, seconded by Councilor Caterina, to move approval to amend the main motion as amended to adjust the Education Budget by \$587,000 for a new School Gross and Adult Learning of \$42,289,315, which would bring the increase to 3.5% Tax Rate Increase, as follows:

	<u>Adjustment</u>
Education Budget	\$ (587,000)
	<hr/>
3.50% Tax Rate Increase	<u><u>\$ (587,000)</u></u>

Vote: 4 Yeas. 2 Nays [Councilor Benedict and Blaise].

Main Motion as Amended:

Budget Order for Fiscal Year 2015

Be it ordered that the Scarborough Town Council moves approval of the of the Fiscal Year 2015 Budget and the line item appropriations and expenditures for all offices, agencies and departments of the Town as follows, and approves other additional operating expenditures which may result from the receipt of Federal or State funds or other grants and subsidies not requiring local taxation:

SUMMARY MUNICIPAL OPERATING BUDGET 2015	
TOTAL LEGISLATIVE	\$11,573
TOTAL EXECUTIVE ALL DIVISIONS	2,309,888
TOTAL FINANCE ALL DIVISIONS	749,683

TOTAL ASSESSING	263,197
TOTAL MUNICIPAL INFORMATION SYSTEMS	1,107,425
TOTAL PLANNING DEPARTMENT ALL DIVISIONS	913,480
TOTAL COMMUNITY SERVICES ALL DIVISIONS	2,278,403
TOTAL LIBRARY NET – TOWN APPROPRIATION	945,720
TOTAL SEDCO	202,775
TOTAL FIRE ALL DIVISIONS	4,026,611
TOTAL POLICE ALL DIVISIONS	5,561,322
TOTAL PUBLIC WORKS ALL DIVISIONS	6,289,598
TOTAL DEBT (Town Only)	<u>4,641,657</u>
MUNICIPAL TOTALS	\$29,301,332

Be it further ordered, that the Scarborough Town Council hereby appropriates the sum of **\$130,000** for Resident Senior Property Tax Relief as authorized under – Chapter 313 – Property Tax Assistance Ordinance; and,

Be it further ordered, that the Scarborough Town Council hereby appropriates, for school purposes, the Education Operating Budget (including Adult Education, Food Services and school debt), the sum of **\$43,974,495** and the Town of Scarborough raises as the local share for the Education Operating Budget, the sum of **\$36,336,345** and,

Be it further ordered, that the Town Council hereby authorizes the Chairperson of the Town Council to sign the Municipal Expenditure Warrant approving all expenditures paid at the regular meetings of the Town Council and;

Be it further ordered, that the Town of Scarborough hereby adopts the **Schedule of License, Permit and Application Fees** as presented and attached hereto – Chapter 311 – Town of Scarborough, Schedule of License, Permit and Application Fees, for Budget Presentation FY 2015; and,

Be it further ordered, that the Town of Scarborough hereby appropriates the Town’s due portion of the County Tax, in the amount of **\$2,355,415** for the period July 1, 2014 through June 30, 2015; and,

Be it further ordered, that the Scarborough Town Council hereby appropriates for capital purposes, the sum of **\$1,786,153** for school capital programs and **\$1,879,364** for town capital equipment and **\$2,240,460** for town capital improvements; for a total Capital Budget of **\$5,905,977** to be funded from property taxes, lease and bond arrangements and other local, state and federal sources; and,

Be it further ordered, that the Total Gross Budget of **\$82,670,141**; this total less estimated revenues and other credits of **\$(26,485,591)** result in a Net Appropriation of **\$56,184,550**, which shall be raised from taxation. The Scarborough Town Council further fixes **Wednesday, October 15, 2014**, and **Monday, March 16, 2015**, as the dates upon each of which one-half of such tax is due and payable, and pursuant to 36 M.R.S.A. Section 505.4 with interest to accrue upon taxes due and unpaid after each such date at the rate of **7.00%** per annum.

Be it further ordered, that in accordance with 36 M.R.S.A Section 506, the Tax Collector/Treasurer is authorized to accept prepayment of taxes not yet committed or prior to any due date and pay no interest thereon. In accordance with 36 M.R.S.A. Section 506-A, a taxpayer that pays an amount in excess of that finally assessed shall be repaid the amount of overpayment plus interest from the date of overpayment at the annual rate of **3.00%**.

Be it further ordered, that the Town Council hereby authorizes the Finance Director-Tax Collector/Treasurer or Deputy Tax Collector/Treasurer to withhold monies payable to the Town of Scarborough to cover taxes due pursuant to M.R.S.A. Title 36, Section 905; to sign on behalf of the

Town, the necessary deeds and liens and tax settlements; and to invest funds in accordance with M.R.S.A. Title 30-A, Section 5706; in accordance with 36 M.R.S.A. Section 906, the Tax Collector/Treasurer is authorized to apply any tax payment received as payment for any property tax against outstanding or delinquent taxes due on that property in chronological order beginning with the oldest unpaid tax bill and processed in the order of liens and fees, interest and then to principal and, after the date of perfection of the tax, the Tax Collector/Treasurer is authorized to discharge any obligation to collect unpaid property taxes in the amount of \$5.00 or less and remove same from the municipal books, pursuant to 36 M.R.S.A. Section 970-A.

Be it further ordered, that in the event that that the 2015 Municipal Budget exceeds the Property Tax Levy Limit for fiscal 2015, pursuant to Title 30-A, Section 5721-A of the Maine Revised Statutes, as amended, it is the intent of the Town Council to increase the commitment to greater than the Property Tax Levy Limit.

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

<u>Chapter 402a – Electrical Permit Fees</u>	<u>Fee</u>
Administrative Fee [for each application] (adopted 05/06/09)	\$30.00
<u>RESIDENTIAL</u>	
Minimum Fee (amended 05/06/09)	\$30.00
Square footage of any structure (adopted 05/06/09)	\$0.05
Service Inspection (adopted 05/06/09)	\$30.00
Each Garage – Under, Attached, Unattached (amended 05/06/09)	\$30.00
<u>RENOVATIONS</u>	
Rewiring Complete Existing Home – Same as New	
Each Room (amended 05/05/04)	\$15.00
Meter and Panel Upgrade (amended 05/06/09)	\$30.00
Alarm/Low Voltage (adopted 05/06/09)	\$30.00
Pools, In-Ground or Above (amended 05/06/09)	\$30.00
Storage or Utility Buildings (amended 05/06/09)	\$30.00
<u>COMMERCIAL</u>	
Minimum Fee	\$30.00
Square Footage of Any Structure (adopted 05/06/09)	\$0.05
All Signs – Each (amended 05/05/04) (amended 05/06/09)	\$30.00
Yard Lights – Up to 6 (amended 05/05/04) (amended 05/06/09)	\$40.00
Each Additional over 6 Yard Lights (amended 05/06/09)	\$10.00

<u>Chapter 404a – Local Plumbing Permit Fees Internal Permit Fee Schedule</u>	<u>Fee</u>
Administrative Fee [for internal permit applications]	\$20.00
1. The minimum permit fee is: (amended 05/06/09)(amended 02/16/2011)	\$40.00
2. The fixture fee for all fixtures is per fixture and is: The fixture fees are no longer on a sliding scale. (amended 05/06/09)(amended 02/16/2011)	\$10.00 ea.
<u>EXTERNAL PERMIT FEE SCHEDULE COMPLETE SYSTEM</u>	
Non-engineered System (amended 05/06/09)(amended 02/16/2011)	\$250.00
Primitive Disposal System (includes alternative toilet) (amended 05/06/09)	\$130.00

Engineered System (amended 05/06/09)	\$250.00
SYSTEM COMPONENTS (INSTALLED SEPARATELY)	
Treatment Tank (amended 05/06/09)(amended 02/16/2011)	\$150.00
Holding Tank (amended 05/06/09)	\$130.00
Alternative Toilet (amended 05/06/09)	\$65.00
Disposal Area (amended 05/06/09)(amended 02/16/2011)	\$150.00
Engineered Disposal Area (amended 05/06/09)	\$200.00
Separated Laundry Disposal Area (amended 05/06/09)	\$50.00
OTHER	
External permit Amendments	\$75.00
Seasonal Conversion Permit (amended 05/06/09)	\$65.00

Chapter 405 – Zoning	Fee
Requests for Zoning Amendments (Not from Planning Board or Town Council)	\$250.00
Contract Zoning – Non-Refundable Application Fee (11/20/02)(amended 05/05/04)	\$500.00
Zoning Determination Letter	\$35.00
Planning Administrative Review Fee	\$75.00
Review Fee for Private Way Registration (amended 06/02/04)	\$100.00
One (1) Dwelling Unit Credit (<i>as per Section VIID(E)1, Development Transfer Provisions</i>) (July 18, 2007)	\$20,000
Affordable Housing In-Lieu Fee Per Dwelling Unit [Adopted 11/06/2013]	\$20,000
CODE ENFORCEMENT -	
Building Permit Fees [-a minimum of] (amended 05/06/09)	\$35.00
Residential / Commercial Unfinished, per square foot (amended 05/05/04) (amended 05/03/06)	\$0.20
Residential / Commercial Finished, per square foot (amended 05/05/04) (amended 05/03/06)	\$0.40
Renovations/Remodels/Alterations/Minor Additions, Residential/Commercial	\$10.00 per \$1,000 of est. cost of construction
Sheds less than 250 SF	\$35.00
Minimum Application Fee - Will be applied toward the building permit when issued. Applies to new construction and renovations over 1,000 square feet.	\$110.00
First Offense Double the Permit Fee	
Each Offense Thereafter Triple the Permit Fee	
Demolition Permit Fees (amended 05/05/04) (amended 05/06/09)(amended 05/02/2012)	\$50.00
Zoning Board Of Appeals - Per Appeal (amended 05/05/04)	\$250.00
Certificate of Occupancy/Change of Use Fee (no charge if in conjunction with other active permits) (adopted 05/06/09)	\$50.00
Sign Permit Fees	
Permanent Signs – each (amended 05/05/04) (amended 05/06/09)	\$35.00
Temporary Signs – each (amended 05/05/04) (amended 05/06/09)	\$35.00
Plus Deposit Required (refundable deposit for removal of sign) (10/02/02)	\$300.00
Temporary Storage Containers - Per Application (10/01/97) (amended 05/05/04)	\$25.00
Heating Appliance Permit	\$35.00

The fees for electrical permits, plumbing permits and building permits shall include one inspection of the work covered by each permit. Typically permits include the following inspections: A) Foundation; B) Bed bottom for leech fields; C) Leech bed; D) Electrical; E) Plumbing; F) Framing; and, G) Certificate of Occupancy. For each re-inspection thereafter, per-permit, a fee of \$50 shall be charged. If a re-inspection is required because the permit holder called for an inspection before the work was ready for inspection, such re-inspection shall not occur for at least two (2) weeks, unless the permit holder pays a surcharge of \$200 in addition to the \$50 re-inspection fee. <u>For after the fact Certification of Occupancy/Change of Use Permits and inspections, the fee is doubled.</u> (amended 10/06/04)	
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Chapter 405A - Floodplain Management	Fee
Non-Refundable Permit Application Fee	\$50.00

Chapter 405B - Site Plan Review	Fee
Site Plan Application Fee (plus fee per Square Feet)	\$500.00
Site Plan Amendment Fee (plus fee per square feet)	\$250.00
Under 1,000 Square Feet	\$0.00
1,000 to 2,000 Square Feet	\$250.00
>2,000 to 5,000 Square Feet	\$500.00
>5,000 to 10,000 Square Feet	\$1,000.00
>10,000 Square feet and over, plus \$25.00 per 1,000 above 10,000 square feet	\$1,000.00

Chapter 405C – Shoreland Zoning	Fee
Planning Board Review	\$250.00

Chapter 406 - Subdivision Review	Fee
Subdivision Application Fee (plus fee per lot)	\$750.00
Subdivision Amendment Application Fee (plus fee per lot)	\$250.00
Charge Per Lot (amended 05/05/04)	\$175.00

Chapter 407 - Septic Tank Sludge Disposal Fees	Fee
Field Spread - per gal. (amended 05/05/04)	\$0.04
Holding Tank - per gal. (amended 05/05/04)	\$0.08
Disposal Of Treatment Plant Sludge S.S.D. Only - per gal. (amended 05/05/04)	\$0.08
Disposal Of Industrial Sludge & Wastes - per gal. (amended 05/05/04)	\$0.08
Grey Water 2,000 Gallons, Maximum Load - per load (amended 05/05/04)	\$4.00

Chapter 408 - Extractive Industry, Waste Control, Landfill, And Land Reclamation	Fee
Plan Review Fee - Minimum fee (amended 05/05/04)	\$250.00
Additional Fee Per Acre In Excess Of 10 Acres - Per additional acre over 10 acres (amended 05/05/04)	\$15.00

Chapter 410 - Road Impact Fee Ordinance And Designating Approved Projects			
The following fees and charges are established for development and the following projects are designated as eligible for funding from the Highway Impact Fee Trust Fund:			
Fees	Peak Hour Trips		Cost of Trip
A. District 1	N	X	\$149.43

B. District 2	N	X	\$292.42
C. District 3	N	X	\$499.05
D. District 5	N	X	\$1,024.52

Where N = Estimated number of peak hour trips. Total trips generated during the p.m. peak hour for a development can typically be determined by trip rates presented in the 1987 Institute of Transportation Engineers (ITE) “Trip Generation” handbook, or estimated by field measurements collected at similar type developments. If, however, the ITE handbook does not have applicable rates, then the rates should be based on sufficient field data collected at a similar site. There are several types of development (i.e., fast food, shopping plazas, convenience stores, etc.) that simply redirect existing pass-by trips already on the existing roadway system; these trips should not be included in the assessment system. Only “new” trips to the system roadways should be assessed a development fee.

The total Impact Fee for a project shall be the sum of the fees for each district affected.

Projects eligible for funding from the Road Impact Fee Trust Funds are those projects depicted on the 100 scale aerial photographs titled “Long Range Transportation Improvement Program” (April 1989), prepared by Vanasse Hangen Brustling, Inc. as part of the 1988 Maine Mall/Jetport Area Traffic Study conducted for the Portland Area Comprehensive Transportation Study (PACTS) and the Maine Department of Transportation.

<u>Chapter 413 – Growth Ordinance</u>	<u>Fee</u>
Application Fee (amended 11/03/04)	\$1,500.00

<u>Chapter 500 - Trailer & Trailer Camp</u>	<u>Fee</u>
Application Fee, minimum	\$27.50
Each unit in excess of 10 (amended 05/21/2008)	\$3.75
Maximum Fee (amended 05/21/2008)	\$200.00

<u>Chapter 501 - Tenting & Camping Ordinance</u>	<u>Fee</u>
Annual Fee For Tenting/Camping Season License, per lot (amended 05/05/04; 05/21/2008)	\$2.25

<u>Chapter 601 – Traffic Ordinance [amended 05/02/2012]</u>	<u>Fee</u>
Section 26 – Penalties General (05/03-2006)	
Fine for any violation of this ordinance is:	\$80.00
If paid within 30-days of issuance of the ticket the fine is reduced to:	\$40.00
Section 27 – Illegally Parked Vehicles (05/03-2006)	
Fine for illegally parked vehicle, except handicapped parking violation is:	\$80.00
If paid within 30-days of issuance of the ticket parking fine is reduced to:	\$40.00
Fine for parked vehicle violating handicapped parking is:	\$120.00
If paid within 30-days of issuance of the ticket parking fine is reduced to:	\$60.00
Section 30 – Towing Rate Schedule -	
Service Call - Gas, Jumpstarts, lockouts, tire change, etc. Range	\$25.00 to \$40.00
Vehicle Storage, per day, INCLUDING non-business days	\$40.00per day
Call out fee, to come to shop during non-business hours	\$40.00
Vehicle Tow	
Day	\$80.00
Night	\$90.00
Snow Tow – Range	
Day	\$90.00
Night	\$100.00

Vehicle Tow w/dollies – Range	\$80 to \$100
Motorcycle Tow – Same as vehicle due to special equipment	
Pull out – Range	\$40 to \$85
Recovery – Same as tow, depending on time of day. After first hour \$70 per additional hour plus any special equipment, i.e., bulldozer, etc.	
Definition of Hours – Daytime Hours = 0700 to 1800 hours; Night Time Hours = 1800 to 0700 hours	

<u>Chapter 602A – Mass Gathering</u>	<u>Fee</u>
Application Fee, each event; 1,000 – 2,500 (Number of anticipate patrons) [amended 05/05/04; 05/21/2008; 06/06/2012]	\$175.00
Application Fee, each event; 2,501 – 5,000 (Number of anticipate patrons) [adopted 06/06/2012]	\$350.00
Application Fee, each event; >5,000 (Number of anticipate patrons) [adopted 06/06/2012]	\$500.00

<u>Chapter 607 - Alarm Systems</u>	<u>Fee</u>
False Alarm Fee - per occurrence after third false alarm within one year (amended 05/05/04)	\$250.00

<u>Chapter 608 – Fireworks Ordinance</u>	<u>Fee</u>
Non-Refundable Local Fireworks Display Permit Application Fee (amended 06/15/05)	\$50.00

<u>Chapter 612 – Rules & Regulations for Use of Parks & Recreation Facilities</u>	<u>Fee</u>
Application Fee	\$100.00
Application Fee for Non-Profit or Service Groups	\$50.00

<u>Chapter 702 - Street Opening, Fees</u>	<u>Fee</u>
Excavator License Fee Annual	\$125.00
Excavation Permit Fee - Each Excavation (amended 05/05/04)	\$50.00
Renewal Of Excavation Permit (amended 05/05/04)	\$50.00
<u>Other Charges</u>	
1. Removing and replacing regulatory signs	\$50.00 each
2. Removing and replacing street name and stop signs	\$50.00 each
3. Reinstalling street and right of way granite monuments	\$800.00 each
4. Long-term maintenance reserve for bituminous street openings	\$25.00 per sq. yd.

<u>Chapter 901 – Refuse collection Fee</u>	<u>Fee</u>
1. Commercial Hauler	\$500.00 each
2. Residential Hauler	\$500.00 each
Applications for license renewal received after March 1 st shall pay a late fee in the amount of \$100.00 in addition to the regular application fee. (05/03/2006)	

<u>Chapter 1002 - Shellfish Ordinance, Fees</u>	<u>Fee</u>
Resident Commercial	\$200.00
Non-resident Non-reciprocating Commercial	\$400.00
Resident Student Commercial	\$100.00

Non-resident Student Commercial	\$200.00
Over - 60 Years Resident Commercial (Bushel)	\$100.00
Resident Recreational - (Over 65 Free)	\$25.00
All Day Licenses – Resident and Non-resident (amended 04/06/05)	\$10.00
<u>Chapter 1003 – Hawkers & Peddlers</u>	
	<u>Fee</u>
License Fee for Hawkers & Peddlers License (05/21/2008)	\$110.00
<u>Chapter 1004 - Taxicab Licenses</u>	
	<u>Fee</u>
Annual License - Each Taxicab (amended 05/05/04) (amended 05/06/09)	\$150.00
Annual License - Each Operator (amended 05/05/04) (amended 05/06/09)	\$50.00
<u>Chapter 1005 - Innkeepers Licenses (06/21/2006)</u>	
	<u>Fee</u>
Application Fee	\$50.00
Per Room Fee	\$3.00 per room
Maximum Fee Not to Exceed	\$350.00
<u>Chapter 1006 - Ferry Beach/Hurd Park Fees Season Passes</u>	
	<u>Fee</u>
Resident And/Or Taxpayer Season Pass - (includes Ferry Beach, Higgins Beach and Hurd Park) (amended 05/05/04; 05/18/11)[amended 05/02/2012]	\$40.00
Resident - Additional Vehicle Registered to the Same Address	\$5.00
Non-Resident Season Beach Pass - (includes Ferry Beach Higgins Beach and Hurd Park) (amended 05/05/04) [amended 05/02/2012]	\$75.00
Resident Commercial Fisherman Season Beach Pass - (Ferry Beach <u>only</u> , <i>must</i> show State Commercial Fisherman License)	FREE
Resident Senior Citizen Combination Season Pass - (includes Ferry Beach, Higgins Beach and Hurd Park)	FREE
Resident Veteran Lifetime Combination Season Pass – Applications must be filed and applicant must meet the following criteria: must be a resident of the Town of Scarborough and must have received an honorable discharge or general discharge under honorable conditions [copy of DD214 must accompany application]. This pass will not expire and is valid for the lifetime of the holder. (Please note that any Scarborough Veteran age 60 years or older will not be issued a Resident Veteran Season Pass as they are automatically entitled to a free Resident Senior Citizen Combination Season Pass.) (Adopted 05/19/2010)	FREE
<u>DAILY PARKING RATES (WITHOUT PASS)</u>	
Daily Parking: Ferry Beach, Higgins Beach And Hurd Park (amended 05/05/04) [amended 05/02/2012]	\$10.00
End of Day Parking Fee (e.g. Passenger Vehicles, Motor Bikes) – 3 PM to 5 PM (amended 05/03/05)	\$5.00
Larger Vehicle Daily Parking Fee - (R.V.'s, Campers and Buses) (amended 05/05/04)	\$35.00
<u>BOAT LAUNCHING FEE</u>	
Launching from any town facility, includes Ferry Beach Boat Launch and Co-op Boat Launch (Note – Ferry Beach – parking is not included)	
Resident – Daily Boat Launching Fee (amended 05/05/04)	\$10.00
Resident – Seasonal Boat Launching Fee	\$25.00
Resident Commercial Fisherman Seasonal Boat Launch Pass	Free

Non-Resident – Daily Boat Launching Fee (amended 05/05/04)	\$20.00
Non-Resident – Seasonal Boat Launching Fee	\$50.00
<u>Chapter 1007 - C.A.T.V. (Cable T.V.) Operators Fees</u>	<u>Fee</u>
Franchise Filing Fee (Amended 05/04/2011)	\$1,000.00
<u>Chapter 1008 - Special Amusement Operator License Fees</u>	<u>Fee</u>
Annual License Fee	\$110.00
<u>Chapter 1009 – Coin Operated Game License Fees</u>	<u>Fee</u>
Annual License Fee - Per Machine (B-2 Zone)	\$110.00
Annual Video Arcade License Campgrounds (R-F Zone) Maximum of 25 machines (amended 05/03/06)	\$1,500.00
<u>Chapter 1010 - Massage Establishment Annual License Fees</u>	<u>Fee</u>
Massage Establishment	\$55.00
Combined Massage Establishment/Massage Therapist	\$35.00
Massage Therapist	\$30.00
<u>Chapter 1011 - Para-Massage Establishment Annual License Fees</u>	<u>Fee</u>
Para-Massage Establishment License	\$55.00
Para-Massager License	\$30.00
Combined Para-Massager Est./Para-Massager License	\$35.00
<u>Chapter 1012 - Adult Business - Viewing Booth Annual License Fees</u>	<u>Fee</u>
Annual License For Each Viewing Booth	\$110.00
<u>Chapter 1013 - Ice Cream Trucks (06/18/97)</u>	<u>Fee</u>
Application Fee	\$110.00
Each Additional Truck	\$30.00
<u>Chapter 1017 – Pawnbroker Fees (02/17/2010)</u>	<u>Fee</u>
Application Fee	\$100.00
SBI Check	\$25.00
<u>Chapter 1201 - Cemetery Fees</u>	<u>Fee</u>
Sale Of Lots -	
Scarborough Memorial Cemetery Per Grave (amended 05/05/04)	\$400.00
Scarborough Memorial Cemetery – Section D, Lots for Cremations Only (adopted 02/16/2011)	\$220.00
Grave Opening Charges	
Regular Burial (amended 05/05/04 – 05/04/2011)	\$450.00
Cremations/Other (Weekends) (amended 05/05/04 – 05/04/2011)	\$125.00
<u>Chapter 1401 – Coastal Water and Harbor Fees [amended 02-20-13]</u>	<u>Fee</u>
Annual Mooring Fee	
Resident And/Or Taxpayer (amended 05/05/04)	\$50.00
Non-Resident (amended 05/05/04)	\$100.00
Annual Pier Maintenance Fee	
Commercial User	\$100.00

Non-Commercial User	\$50.00
Assessing Office Charges	
Printouts	Fee
Name/Location/Map & Lot	\$25.00
Name/Address/Location/Map & Lot	\$50.00
Name/Location/Map & Lot/Assessment	\$75.00
Name/Address/Location/Map/Lot/Assess	\$75.00
Name/Address/Location/Map/Lot/Assess/Ref.	\$100.00
Valuation Report – Printout per page	\$2.00
Mailing Labels - Each	\$.05
Copy of Property Card	\$2.00
Large Map	\$5.00
Reduced Map	\$2.50
Reduced Set of Maps	\$200.00
Fire Department Fees	
Fire Department Construction Permit & Plans Review Fees	
Fee	
A Fire Department construction permit is required for any new construction, or remodeling of existing commercial space, or erection of any temporary structures for commercial purposes. The permit allows us to review important information concerning life safety issues, the buildings alarm & suppression systems, utility connections, heating system information, water supply, hazardous materials, fire lanes, and a variety of other items prior to the start of construction. (amended 11/05/03)	
Minimum Fee	\$25.00
Construction permit fees for all commercial buildings shall be	\$0.10 per sq. ft.
Commercial structures include any building that is non-residential, or any residential complex that has three or more living units.	
Construction permit fees cover the following services:	
Initial conference and fact finding discussion	
Concept plans review for compliance with local ordinances	
Site Plan review	
Construction plans review	
Follow-up meetings with contractors, architects, and building owners	
Structural building inspections as necessary during construction	
One (1) comprehensive alarm system and fire suppression system test to be scheduled after coordination of reporting information with the Fire Department, and after all components have been installed to the applicable codes and pre-tested through to the monitoring company.	
One (1) final Certificate of Occupancy inspection to be scheduled when all Federal State and Local codes have been met and the building is ready for occupancy.	
Additional Fire Dept. Construction Permits & Plans Review Fees	
Re-inspection of alarm & fire suppression system testing required due to improper pre-testing, installation, or lack of coordination with the Fire Department concerning appropriate reporting requirements. (amended	\$100.00 first occurrence and \$200.00 for second

05/05/04) (amended 05/06/09)	and any subsequent occurrence
Re-inspection fee for Certificate of Occupancy (amended 05/05/04) (amended 05/06/09)	\$100.00 first occurrence and \$200.00 for second and any subsequent occurrence
Commercial Fire Alarm Plan Review & Permit Fee (adopted 05/06/09)	\$100.00
Commercial Sprinkler System Plan Review & Permit Fee (adopted 05/06/09)	\$100.00
Blasting Permit Fee (adopted 05/06/09)	\$50.00
<u>Fire Department Fees</u>	<u>Fee Per Hour</u>
Aerial / Ladder Truck	\$150.00
Pumper Truck	\$125.00
Squad Truck	\$125.00
Command Van	\$100.00
Rescue Unit	\$100.00
Tank Truck 4 x 4/Marine Rescue Boat	\$75.00
Utility Truck/Chief or Duty Officers SUV	\$50.00
All-Terrain Vehicles	\$25.00
Personnel Labor [amended 05/01/2013]	\$45.00
<u>Fire Department Rescue Charges</u>	<u>Fee</u>
Base Rescue Charges:	
Based on bundled rate plan adopted May 1, 2013, these rates shall automatically adjust when and by the same % as those established and approved by the Centers for Medicare & Medicaid Services (CMS).	
Basic Life Support Non-Emergency [adopted 05/01/2013]	\$523.44
Basic Life Support Emergency [adopted 05/01/2013]	\$523.44
Advance Life Support Level 1 Emergency [adopted 05/01/2013]	\$807.53
Advance Life Support Level 2 Emergency [adopted 05/01/2013]	\$1,145.75
Additional Rescue Charges:	
Mileage	\$8.86
No Transport (amended 05/05/04)(amended 05/06/09)(amended 01/18/12)	\$125.00
Paramedic Intercept Fee (05/21/2008)	\$300.00
Rescue Run Reports (amended 01/18/2012) [amended 05/02/2012] Fees are as set by State Statutes - pursuant to Title 22, Health and Welfare, Subtitle 2, §1711, pertaining to <i>Fees charged</i> , and as amended from time to time.	
<u>Chapter 1015 -Food Handlers Registration Fee</u> <u>(adopted 05/03/06)(amended 05/21/08)(amended 05/05/2010)</u>	
Food handlers Registration Fee – Year Round Business	\$220.00
Seasonal, catering and in-home food handlers [Seasonal - 6 months or less]	\$110.00
<u>Chapter 1016 - Garage/Yard Sale (adopted 03/07/2007)</u>	<u>Fee</u>
Garage/Yard Sale Permit	\$5.00 per sale
<u>Horse Beach Permit (per rider) (adopted 10/02/02)</u>	<u>Fee</u>
All Permits (amended 05/06/09; amended 09/16/09)	\$20.00

<u>Interest Penalties (adopted 05/02/2007)</u>	<u>Penalty</u>
Interest on fees, charges or payments owed to the Town which are more than 30-days past due	1.5% per month
<u>Miscellaneous Fees (adopted 05/03/05) (amended 02/15/06)</u>	<u>Fee</u>
Marriage Ceremonies Performed (amended 02/15/06)	\$50.00
Miscellaneous Administrative Fees – Town Clerk’s Office (amended 05/06/09)	\$15.00
Replacement Fee for all Applications and Licenses/Permits (adopted 05/04/2011)	\$5.00
Genealogy / Research – \$3.00 per name, whether or not a record is found, this includes a photocopy. For an attested copy, the fee is as set by the State of Maine Office of Vital Records.	
Dog License Late Fee – Upon receipt of the rabies certificate(s) from the State of Maine the Town Clerk’s Office will notify owner(s) they need to register their dog(s) within 10-days. If a resident fails to license their dog(s) within 10-days of notification from the Town Clerk’s Office a late fee will be charged for each dog. (05/21/2008)	\$25.00 per dog
Non-sufficient Funds	\$30.00
<u>Notary Fee (amended 3/6/96; 05/05/04; 05/21/2008)</u>	<u>Fee</u>
First 3-pages	\$10.00
Any Documents more than 3-pages	\$15.00
<u>Photocopies</u>	<u>Fee</u>
Single Sheets - Their Original	
8 ½ x 11 Regular, each copy	\$0.25
8 ½ x 14 Legal, each copy	\$1.00
11 x 17 Ledger, each copy	\$1.50
<u>Photocopies (amended 3/6/96)</u>	<u>Fee</u>
Single Sheets - Our Document	
8 ½ x 11 or 14 or 17, first page	\$2.00
Each Additional Page	\$0.50
Maps, each copy	\$5.00
Meeting DVD [Copying]	\$25.00
Electronic Responses to Requests	\$15.00 Per Hour [or any part thereof]
<u>Police Department Charges</u>	<u>Fee</u>
Special Police Charge, Per Hour (amended 05/05/04; 05/02/07; 05/21/2008; 05/04/2011)	\$46.35
Police Cruiser Charge	\$46.35 per every four hours
Notice of minimum charge if event is canceled without proper notice	
Police Reports	
First Page (amended 05/05/04)	\$12.00
Each Additional Page (amended 05/05/04)	\$1.50
Fingerprinting	
For Civilians’ Personal Use (not criminal), each set	\$3.00
Copy Of Video Tape	
Blank Tape Provided (amended 05/05/04)	\$12.00

No Tape Provided (amended 05/05/04)	\$15.00
<u>Public Works Department Charges</u>	<u>Fee</u>
Fee for Building Coordination Form (05/05/04)	\$25.00
<u>Voter Registration Fees (amended 09/06/2006)</u>	<u>Fee</u>
Fees are as set by the Secretary of State’s Office pursuant to Title 21-A, Section 2, §4, <i>Fees</i> , and as amended from time to time.	
<u>Vehicle Registration Fee</u>	<u>Fee</u>
Fees are set by the Secretary of State’s Office, Department of Motor Vehicles pursuant to Title 29-A, Subchapter 2 §, <i>Fees</i> , and as amended from time to time. [amended 05/02/2012]	

Roll Call Vote: Councilor Holbrook – Yeas Councilor Blaise – Nay
 Councilor Donovan– Yeas Councilor Benedict – Nay
 Councilor Caterina– Yeas Chairman Sullivan – Yeas

The Town Clerk noted that it was past the 10:00 p.m. deadline to continue with new business and asked if the Council would like to continue past this deadline. The Chairman asked the Council if they wish to suspend the rules to go past 10:00 p.m.

Motion by Councilor Donovan, seconded by Councilor Caterina, to move approval to suspend the rules to go past the 10:00 p.m. deadline to take up the last few items.

Vote: 6 Yeas.

Order No. 14-45. Act to approve the appointment of Michael Bunting to the Scarborough Housing Alliance, as recommended by the Appointments Committee. Motion by Councilor Holbrook, seconded by Councilor Caterina, to move approval of the appointment of Michael Bunting to the Scarborough Housing Alliance, as recommended by the Appointments Committee.

Vote: 6 Yeas.

NEW BUSINESS:

Order No. 14-46. First reading and schedule a public hearing on the proposed amendments to Chapter 313, the Property Tax Assistance Ordinance. Thomas J. Hall, Town Manager, gave a brief overview on the proposed amendments.

Motion by Councilor Blaise, seconded by Councilor Benedict, to move approval of the first reading on the proposed amendments to Chapter 313, the Property Tax Assistance Ordinance, as follows:

**CHAPTER 313
TOWN OF SCARBOROUGH
PROPERTY TAX ASSISTANCE ORDINANCE**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to Chapter 313 - the Town of Scarborough Property Tax Assistance Ordinance, be and hereby is amended, as follows (*additions are underlined; deletions are struck through*):

Section 1. Purpose

The purpose of this Ordinance is to establish a program to provide property tax assistance to persons 62 years of age and over who reside in the Town of Scarborough. Under this program, the Town of Scarborough will provide supplemental cash refund payments to those individuals who qualify as Scarborough resident beneficiaries of the State of Maine Residents Property Tax Fairness Credit Program pursuant to ~~Chapter 907 of~~ Title 36 of the Maine Revised Statutes and meet the criteria established by this Ordinance. [Amended 09/01/2010]

Section 2. Definitions

Homestead: A homestead is a dwelling owned or rented by the person seeking tax assistance under this Ordinance or held in a revocable living trust for the benefit of that person. The dwelling must be occupied by that person and that person's dependents as a home.

Qualifying applicant: A qualifying applicant is a person who is determined by the Tax Assessor or his designee, after review of a complete application under Section 4 of this Ordinance, to be eligible for a refund payment under the terms of this Ordinance.

Section 3. Criteria for Participation

In order to participate in the Property Tax Assistance Program, an applicant shall demonstrate all of the following:

- a. The applicant shall be 62 years of age or more at the time of application. [Amended 09/01/2010]
- b. The applicant has ~~received a refund~~ qualified to receive a tax credit under the provisions of the State of Maine Residents Property Tax Fairness Credit Program Chapter 907 of 36 M.R.S.A.
- c. The applicant has been a resident of the Town of Scarborough for at least ten years immediately preceding the date of application for participation in the Program.

Section 4. Application and Payment Procedures

Persons seeking to participate in the Property Tax Assistance Program shall submit a written request to the Tax Assessor no later than October 15th. Applications are required every year to participate in this program. The Tax Assessor shall provide an application form for the program, which shall include, at a minimum, the applicant's name, homestead address and contact information. Applicants shall submit with the application a signed copy of their Form 1040ME, including Schedule PTFC (Property Tax Fairness Credit) as proof and dollar amount of State Property Tax Fairness Credit eligibility Attached to all applications shall be proof and dollar amount (copy of check) of State Refund under Chapter 907 of Title 36 (State Circuit Breaker Program). The program is based on the State Property Tax Fairness Credit and relates to property taxes paid in the preceding calendar year. The Tax Assessor shall review and determine if the application is complete and accurate and if the applicant is otherwise eligible to participate in the Program. The Tax Assessor shall notify an applicant if an application is determined to be incomplete. The Tax Assessor's decision on eligibility to participate in the Program shall be final. [Amended 09/01/2010]

Section 5. Determination of eligibility and amount of eligibility

If the Tax Assessor determines that the applicant is eligible to participate in the Program, he shall determine the total amount of such eligibility. Eligibility shall be the lesser of the following amounts:

- a. The amount of credit qualified for under the State Property Tax Fairness Credit Program. The amount of the refund awarded by the State under Chapter 907, Title 36 M.R.S.A. (Maine Circuit Breaker Program) or;
- b. A pro-rata share of the available monies in the Program Fund based on the amount of one's State Property Tax Fairness Credit; or,
- c. \$500.00.

The Tax Assessor shall report to the Town Council at their first meeting in December each year the projected payments and number of eligible applicant requesting assistance for the program fund. [Amended 09/01/2010; Amended 04/17/2013]

Section 6. Program Fund - Limitations upon payments

Payments under this Ordinance shall be conditioned upon the existence of sufficient monies in the Program Fund the year in which participation is sought. If there are not sufficient monies in the Program Fund to pay all qualifying applicants under this Ordinance, payments shall be limited to the amounts available in the Fund. In the event that a lack of funding results in no payment or less than the full payment to a qualifying applicant, the request will not carry over to the next year.

Section 7. Creation of the Program Fund

The Program Fund from which payments shall be made under the terms of this Ordinance shall be created as follows:

As funds are available, the Town Council shall annually appropriate monies from the general fund or other sources to support this program. Any surplus monies available after all payments have been made shall revert to the Property Tax Assistance Reserve Account.

Section 8. Timing of Payments

A person who qualifies for payment under this Program shall be mailed a check for the full amount no later than December 15th for the year in which participation is sought. [Amended 04/17/2013]

Section 9. Limitations upon payments

Only one qualifying applicant per household shall be entitled to payment under this Program each year. The right to file an application under this Ordinance is personal to the applicant and does not survive the applicant's death, but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney-in-fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the Tax Assessor shall be disbursed to another member of the household as determined by the Town Assessor or the Town Manager. If the applicant was the only member of a household, then no payment shall be made under this Ordinance.

Vote: 6 Yeas.

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

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

- Councilor Holbrook noted that the Appointments Committee had met earlier and would like to post the name of Sharman Kivatisky to the Historical Preservation Committee.

Item 10. Town Manager Report. None at this time.

Item 11. Council Member Comments.

- Councilor Caterina congratulated the Academic Decathlon Team on placing 3rd in their division at the Nationals.

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

Vote: 6 Yeas.

Meeting adjourned at 10:27 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk.