

**MINUTES  
SCARBOROUGH TOWN COUNCIL  
WEDNESDAY – MAY 20, 2015  
REGULAR MEETING – 6:00 P.M.**

**Item 1. Call to Order.** Council Chair Holbrook called the regular meeting of the Scarborough Town Council to order at 6:00 p.m.

**Item 2. Pledge of Allegiance.**

**Item 3. Roll Call.** The roll was called by Thomas J. Hall, Town Manager.

Shawn A. Babine	Katherine A. St. Clair
William J. Donovan	Edward NMI Blaise, III
Jean-Marie Caterina, Council Vice Chair	Pete F. Hayes
Jessica L. Holbrook, Council Chair	

**Order No. 15-035. Act on the request for an executive session pursuant to Title 1, M.S.R.A §405(6)(E) in consultation with legal counsel relating to pending litigation.** Motion by Councilor Babine, seconded by Councilor St. Clair, to move approval on the request for an executive session pursuant to Title 1, M.S.R.A §405(6)(E) in consultation with legal counsel relating to pending litigation.

Vote: 7 Yeas.

The Town Council adjourned to executive session at 6:03 p.m. Council Chair Holbrook reconvened the meeting at 7:00 p.m. Prior to public comment, Council Chair gave an overview on the decorum that is expected during this time as well as on any action item that is on the agenda.

**Item 4. General Public Comments.**

- Michael Doyle of Falmouth spoke with regards to a letter that the Town of Falmouth received from the Civil Liberties Union that spoke against the code of decorum that the Town of Falmouth had in place adding that Scarborough's were similar in stature and would be challenged. He also want to know when he could expect the information regarding his the request to inspect all invoices covering the legal fees for the Town of Scarborough defending against his suit for copies of emails that he had requested.

**Item 5. Minutes: May 6, 2015 – Regular Meeting.** Motion by Councilor Blaise, seconded by Councilor St. Clair, to move approval of the regular meeting minutes of the May 6, 2015, regular meeting of the Scarborough Town Council.

Vote: 7 Yeas.

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

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

**Order No. 15-036, 7:00 p.m. Public hearing and action on the renewal requests for a Special Amusement Permit from: Black Point Inn, located at 510 Black Point Road; Bayley’s Campground, located at 274 Pine Point Road; Higgins Beach Inn, located at 34 Ocean Avenue; Libby-Mitchell Post 76, located at 40 Manson Libby Road; Loyal Order of Moose, located a 19 Spring Street; and The Landing at Pine Point, located at 353 Pine Point Road.** Council Chair Holbrook opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:05 p.m.

Motion by Councilor Babine, seconded by Councilor Caterina, to move approval of the renewal requests for a Special Amusement Permit from: Black Point Inn, located at 510 Black Point Road; Bayley’s Campground, located at 274 Pine Point Road; Higgins Beach Inn, located at 34 Ocean Avenue; Libby-Mitchell Post 76, located at 40 Manson Libby Road; Loyal Order of Moose, located a 19 Spring Street; and The Landing at Pine Point, located at 353 Pine Point Road.

Vote: 7 Yeas.

**OLD BUSINESS:**

**Order No. 14-103. Second reading on the proposed first amendment to Contact Zone III - Maine Life Care Retirement Community, Inc., located at 15 Piper Road.** Mr. Thomas J. Hall, Town Manager, gave a brief overview on the recommendations.

Motion by Councilor Caterina, seconded by Councilor Babine, to move approval of the second reading on the proposed first amendment to Contact Zone III - Maine Life Care Retirement Community, Inc., located at 15 Piper Road, as follows:

**FIRST AMENDMENT TO CONTRACT ZONING AGREEMENT  
BETWEEN THE TOWN OF SCARBOROUGH AND  
MAINE LIFE CARE RETIREMENT COMMUNITY, INC.**

The First Amendment t Contract Zoning Agreement made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the “Town”), and Maine Life Care Retirement Community, Inc., a Maine non-profit corporation, with an address of 15 Piper Road, Scarborough, ME 04074 (“Maine Life Care”), pursuant to the Contract Zoning provisions of the Scarborough Zoning Ordinance.

WHEREAS, the Town and Maine Life entered a Contract Zoning Agreement dated November 6, 1997 and November 17, 1997 and recorded in the Cumberland County Registry of Deeds, Book 13437, Page 19 and Book 13449, Page 171; and,

WHEREAS, the Town of Scarborough, by and through its town Council has determined that the amendments set forth herein to said rezoning would be pursuant to and consistent with the Town’s local growth program and Comprehensive Plan adopted pursuant to Title 30-A, Maine Revised Statutes, Chapter 187, Sub-part 6-A, and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this First Amendment to the Contract Zoning Agreement.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The provisions of Section 2(a), 2(e) and 2(f) of the Agreement are hereby amended in their entirety to provide:

(a) Building Footprint and Height: The maximum allowable building footprint for the buildings (including the main building, the cottages and garage structures) shall be ~~257,600~~ 288,000 square feet and the maximum building height shall be three (3) stories and as shown on the Site Plan Approved by the Town of Scarborough Planning Board. The main buildings shall be a maximum height of 39 feet to the mid-point of the sloped or hip roofs and 45 feet to the ridge of the roof. The maximum number of stories for the cottages will be 1 story.

(e) Density: The maximum net residential density of the Continuing Care Retirement Community shall be

160 Independent Living apartments, being dwelling units ranging in size from 500 square feet to 1800 square feet;

40 Independent Living Cottage Units, being one story, semi-attached in up to four plex buildings with each unit ranging in size from 700 square feet to 2000 square feet;  
~~20~~ 48 Assisted Living Units, as regulated by Department of Human Services rules relating to residential care or assisted living units; and

40 Skilled Nursing Rooms, as regulated by Department of Human Services Nursing Home licensing requirements.

(f) Residents: Occupancy of the Continuing Care Retirement Community shall be limited to persons 62 years of age or older or households with at least one resident who is 62 years of age or older; provided, however, that in the case of any dwelling occupied by a person age 62 or older and by a person older than 21 and younger than age 62, in the event that the person age 62 or older moves out of the dwelling unit or dies, the younger person may continue to reside the dwelling unit.

3. Maine Life Care shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its execution by the Town Council.

4. Unless extended by the Town by further amendment of this Agreement, construction of the additional improvements to the Property authorized by this Amendment may commence within five (5) years after execution of this Amendment and shall be substantially completed within ten (10) years from the date of this Amendment.

5. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

Witness:  
\_\_\_\_\_

Town of Scarborough  
By: \_\_\_\_\_  
Thomas Hall, Its Town Manager

Maine Life Care Retirement Community, Inc.  
By: \_\_\_\_\_  
James E. Adamowicz, Its Chief Executive Officer

\_\_\_\_\_  
STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2014

Personally appeared the above-named Thomas Hall, Town Manager of said Town of Scarborough, and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized and the free act and deed of said Town of Scarborough.

Before me,

\_\_\_\_\_  
Notary Public/Commission Expires

STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2014

Personally appeared the above-named James E. Adamowicz, Chief Executive Officer of said Maine Life Care Retirement Community, Inc., and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized and the free act and deed of said Maine Life Care Retirement Community, Inc.

Before me,

\_\_\_\_\_  
Notary Public/Commission Expires

Vote: 7 Yeas.

**Order No. 15-026. Second reading on the proposed FY2016 Municipal/School Budget.** The following individuals spoke on this item:

- Leslie Skillins of Portland and a representative from the Trauma Intervention Program spoke on the Municipal Funding for outside agencies that was being eliminated this fiscal year. She gave a brief update on the services the group assisted with for Scarborough. Last year the group received a little over \$3,500 add that both the Police Chief and the Fire Chief were on the Board for this organization. She asked the Town Council to consider \$2,900 to be allocated to the program.
- Larry Hartwell of Puritan Drive, thanked the Municipal and School Staff for assisting him in better understanding the budget process. He felt there was a divide in the community between the School and Municipal Budgets and asked that there on be a 3.5 or 4 percent increase this year.
- Nancy Urb of Pine Ledge Drive, thanked the School Board for the amount of time they had put forth to bring forward a strong budget. Students deserve better and asked that Town Council put the School Boards recommended budget out to the voters.

Council Chair Holbrook noted that if the budget fails before July 1<sup>st</sup> the most recent budget that had been approved by the Town Council and sent to the voters would be the operating budget until a School Budget passes at referendum.

Motion by Councilor Babine, seconded by Councilor Donovan, to move approval of the second reading on the proposed FY2016 Municipal/School Budget.

Motion by Councilor Babine, seconded by Councilor Caterina, to move approval to amend the main motion and move approval to accept the Finance Committee's recommended adjustment to the Proposed 2016 Municipal Budget in the amount of \$289,306, for a new Net Budget of \$17,671,601, as follows:

<u>Operating</u>	<u>As Proposed</u>	<u>Adjustment</u>	<u>Finance Comm</u>
<b>Revenue</b>			
Increase Excise Revenue	4,625,000	75,000	4,700,000
Increase Beach Revenues	275,000	50,000	325,000
Decrease Police Cops Fast Grant	94,623	(54,623)	40,000
Decrease Pay As You Throw Revenues	400,625	(400,625)	-
Increase Bond Premium Carryforward	676,874	160,217	837,091
<b>Municipal Revenue Fin Comm Reduction:</b>		<b>(170,031)</b>	
<b>Appropriations</b>			
Increase Legal Fees	80,000	25,000	105,000
Increase Library 2% COLA	-	14,719	14,719
Decrease Municipal Building Electricity	27,244	(17,244)	10,000
Increase Rescue Paramedic 2 Positions to start April 1, 2016	1,706,301	50,000	1,756,301
Increase ecomaine Tipping Fees	240,990	139,358	380,348
Increase Debt Interest (Town)	153,013	7,204	160,217
<b>Municipal Appropriation Fin Comm Increase:</b>		<b>219,037</b>	
<b>Capital</b>			
<b>Revenues</b>			
Decrease CS Security System Lease Revenues	16,500	(16,500)	-
Holmes/Payne Rd Intersection (From Reserves to Bonds)	110,000	-	110,000
Decrease Revaluation Bond Proceeds	439,500	(439,500)	-
Increase Loader Sale of Town Property	-	65,000	65,000
Increase Pleasant Hill Road State Reimbursement	-	500,000	500,000
<b>Capital Revenue Fin Comm Increase:</b>		<b>109,000</b>	
<b>Appropriations</b>			
Decrease CS Security System Upgrade Municipal Building	16,500	(16,500)	-
Decrease Revaluation (move to F/Y 2017)	439,500	(439,500)	-
Increase PW Loader (gross up cost)	175,000	65,000	240,000
Increase Pleasant Hill Road Improvements	700,000	500,000	1,200,000
<b>Capital Approp. Finance Comm Increase:</b>		<b>109,000</b>	
Decrease Senior Property Tax Relief	130,000	(55,000)	75,000
Increase State Revenue Sharing	736,158	44,762	780,920
<b>Finance Committee Municipal Increase Net Budget:</b>		<b>289,306</b>	

Vote on Amendment: 7 Yeas

Motion by Councilor Babine, seconded by Councilor Caterina, to move approval to amend the main motion as amended and move approval to accept the Finance Committee's recommended adjustment to the Proposed 2016 Education Budget in the amount of \$1,841,777, for a new Net Budget of \$39,130,225.

Motion by Council Chair Holbrook seconded by Councilor St. Clair, to move approval to divide the question due to a potential conflict.

Vote to Divide Question: 6 Yeas. 1 Nay [Councilor Babine].

At this time Councilor Chair Holbrook felt the need to disclose what she felt was a direct financial gain due to the needs of her child. After a discussion was held by the Council on this matter they voted 6 Yeas to allow Councilor Chair Holbrook to participate in both these matters.

Vote on proposed amendments to the Operating Side of Education Budget:

<u>Operating</u>	<u>As Proposed</u>	<u>Adjustment</u>	<u>Finance Comm</u>
<u>Revenue</u>			
Increase Bond Premium Carryforward	-	24,390	24,390
Town Fin Comm Increase Use of Fund Balance	200,000	225,000	425,000
<b>Education Revenue Fin Comm Increase:</b>		<u>249,390</u>	
<u>Appropriations</u>			
Sch Fin Comm Decrease School Budget	36,176,904	(1,122,414)	35,054,490
Sch Fin Comm Decrease Charter School Tuition	269,000	(269,000)	-
Sch Fin Comm Decrease School Budget Food Serv	1,533,002	(37,434)	1,495,568
Sch Fin Comm Decrease School Budget Adult Ed	185,771	(4,219)	181,552
Increase Debt Interest School (Finalized)	5,112,665	5,772	5,118,437
Town Fin Comm Decrease School Budget	-	(90,092)	(90,092)
<b>Education Appropriation Fin Comm Decrease:</b>		<u>(1,517,387)</u>	

Vote on Amendment: 5 Yeas. 2 Nays [Councilors Blaise and Hayes].

Vote on proposed amendments to the Capital side of the Education Budget:

<u>Capital</u>			
<u>Revenues</u>			
Decrease HS 1:1 Computing Bond Proceeds	866,050	(117,575)	748,475
<b>Capital Revenue Fin Comm Decrease:</b>		<u>(117,575)</u>	(117,575)
<u>Appropriations</u>			
Decrease School Capital (1:1 computing HS)	866,050	(117,575)	748,475
Decrease School IT MLTI for 6th graders (in Operating)	75,000	(75,000)	-
<b>Capital Approp. Finance Comm Decrease:</b>		<u>(192,575)</u>	
<b>Finance Committee Education Decrease Net Budget:</b>		<u>(1,841,777)</u>	

Vote on Amendment: 7 Yeas.

Motion by Council Chair Holbrook, seconded by Councilor Caterina, to move approval to amend the main motion as amended and move approval to add \$50,000 to the Municipal Budget for the purpose of funding Outside Agency Requests, the specific recipients to be identified by the Rules and Policies Committee and the final allocation to be decided on by the Finance Committee, for a new Net Budget of \$17,721,601.

Vote on amendment: 6 Yeas. 1 Nay [Councilor Hayes].

Motion by Councilor Babine, seconded by Councilor St. Clair, to move approval to amend the main motion as amended and move approval to reduce appropriations in the Education Capital Budget as amended by \$41,000 and reduce Education Capital Budget revenues by a similar amount, due to reduced costs related to the High School 1-to-1 laptop project.

Vote on Amendment: 7 Yeas.

Motion by Councilor Hayes, seconded by Councilor Babine, to move approval to amend the main motion as amended and move approval to reduce the Education Budget as amended in the amount of \$250,000.

Vote on Amendment: 2 Yeas.

5 Nays [Council Chair Holbrook, Councilors Babine, Caterina, Donovan and St. Clair].

Motion Fails.

Motion by Councilor Blaise, seconded by Councilor Babine, to move approval to amend the main motion as amended and move approval to reduce the Municipal Budget as amended by \$204,206 and to reduce the Education Budget as amended by \$616,342, the purpose of which is to remove funding for cost-of-living increases for all Town and School employees.

Vote on Amendment: 1 Yeas.

6 Nays [Council Chair Holbrook, Councilors Babine, Caterina, Donovan, Hayes and St. Clair].

Motion Fails.

Vote on Main Motion as Amended:

Be it ordered that the Scarborough Town Council moves approval of the second reading, as amended, on the Fiscal Year 2016 Budget on 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:

<b>SUMMARY MUNICIPAL OPERATING BUDGET 2016</b>	
TOTAL ADMINISTRATION	\$ 1,619,494
TOTAL TOWN CLERK/ELECTIONS	185,727
TOTAL HUMAN RESOURCE/GENERAL ASSISTANCE	305,206
TOTAL FINANCE ALL DIVISIONS	986,011
TOTAL MUNICIPAL INFORMATION SYSTEMS	1,172,210
TOTAL PLANNING DEPARTMENT ALL DIVISIONS	906,752
TOTAL COMMUNITY SERVICES ALL DIVISIONS	2,657,693
TOTAL LIBRARY NET – TOWN APPROPRIATION	1,030,538
TOTAL SEDCO	213,657
TOTAL FIRE ALL DIVISIONS	4,227,156
TOTAL POLICE ALL DIVISIONS	5,785,832
TOTAL PUBLIC WORKS ALL DIVISIONS	6,688,592
TOTAL DEBT (Town Only)	<u>4,906,499</u>
<b>MUNICIPAL TOTALS</b>	<b>\$30,685,367</b>

Be it further ordered, that the Scarborough Town Council hereby appropriates the sum of **\$75,000** 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 **\$45,470,876** and the Town of Scarborough raises as the local share for the Education Operating Budget, the sum of **\$38,856,497** 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 2016; 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 **\$2,493,342** for the period July 1, 2015 through June 30, 2016; and,

Be it further ordered, that the Scarborough Town Council hereby appropriates for capital purposes, the sum of **\$1,297,451** for school capital programs and **\$892,030** for town capital equipment and **\$2,657,750** for town capital improvements; for a total Capital Budget of **\$4,847,231** 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 **\$84,861,356**; this total less estimated revenues and other credits of **\$(25,516,188)** result in a Net Appropriation of **\$59,345,168**, which shall be raised from taxation. The Scarborough Town Council further fixes **Thursday, October 15, 2015**, and **Tuesday, March 15, 2016**, 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 2016 Municipal Budget exceeds the Property Tax Levy Limit for fiscal 2016, 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 – SCHEDULE OF FEES**

<b><u>Chapter 402a – Electrical Permit Fees</u></b>	<b><u>Fee</u></b>
Administrative Fee [for each application] (adopted 05/06/09)	\$30.00
<b><u>RESIDENTIAL</u></b>	
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
<b><u>RENOVATIONS</u></b>	
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
<b><u>COMMERCIAL</u></b>	
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

<b><u>Chapter 404a – Local Plumbing Permit Fees Internal Permit Fee Schedule</u></b>	<b><u>Fee</u></b>
Administrative Fee [for internal permit applications](adopted 05/07/2014)	\$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.
<b><u>EXTERNAL PERMIT FEE SCHEDULE COMPLETE SYSTEM</u></b>	
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
<b><u>SYSTEM COMPONENTS (INSTALLED SEPARATELY)</u></b>	
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
<b><u>OTHER</u></b>	
External Permit Amendments (adopted 05/07/2014)	\$75.00
Seasonal Conversion Permit (amended 05/06/09)	\$65.00

<b>Chapter 405 – Zoning</b>	<b>Fee</b>
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 (adopted 05/07/2014)	\$35.00
Planning Administrative Review Fee (adopted 05/07/2014)	\$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)	
Affordable Housing In-Lieu Fee Per Dwelling Unit [Adopted 11/06/2013]	\$20,000
<b>CODE ENFORCEMENT -</b>	
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 (adopted 05/07/2014)	\$10.00 per \$1,000 of est. cost of construction
Sheds less than 250 SF(adopted 05/07/2014)	\$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 <b>Double</b> the Permit Fee	
Each Offense Thereafter <b>Triple</b> 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) (amended 05/07/2014)	\$50.00
<b>Sign Permit Fees</b>	
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 (adopted 05/07/2014)	\$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. For after the fact Certification of Occupancy/Change of Use Permits and Inspections, the fee is doubled (amended 10/06/04) (amended 05/07/2014)	

<b>Chapter 405A - Floodplain Management</b>	<b>Fee</b>
Non-Refundable Permit Application Fee	\$50.00

<b>Chapter 405B - Site Plan Review</b>	<b>Fee</b>
Site Plan Application Fee (plus fee per Square Feet)(adopted 05/07/2014)	\$500.00
Site Plan Amendment Fee (plus fee per Square Feet)(adopted 05/07/2014)	\$250.00
Under 1,000 Square Feet (amended 05/07/2014)	\$0.00
1,000 to 2,000 Square Feet (amended 05/07/2014)	\$250.00
>2,000 to 5,000 Square Feet (amended 05/07/2014)	\$500.00
>5,000 to 10,000 Square Feet (amended 05/07/2014)	\$1,000.00
>10,000 Square feet and over, plus \$25.00 per 1,000 above 10,000 square feet (amended 05/07/2014)	\$1,000.00

<b>Chapter 405C – Shoreland Zoning</b>	<b>Fee</b>
Planning Board Review (adopted 05/07/2014)	\$250.00

<b>Chapter 406 - Subdivision Review</b>	<b>Fee</b>
Subdivision Application Fee (plus fee per lot) (adopted 05/07/2014)	\$750.00
Subdivision Amendment Application Fee (plus fee per lot) (adopted 05/07/2014)	\$250.00
Charge Per Lot (amended 05/05/04)	\$175.00

<b>Chapter 407 - Septic Tank Sludge Disposal Fees</b>	<b>Fee</b>
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

<b>Chapter 408 - Extractive Industry, Waste Control, Landfill, And Land Reclamation</b>	<b>Fee</b>
Plan Review Fee - Minimum fee (amended 05/05/04) (amended 05/07/2014)	\$250.00
Additional Fee Per Acre In Excess Of 10 Acres - Per additional acre over 10 acres (amended 05/05/04)	\$15.00

<b>Chapter 410 - Road Impact Fee Ordinance And Designating Approved Projects</b>			
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.

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

<b><u>Chapter 500 - Trailer &amp; Trailer Camp</u></b>	<b><u>Fee</u></b>
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

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

<b><u>Chapter 601 – Traffic Ordinance [amended 05/02/2012]</u></b>	<b><u>Fee</u></b>
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 (amended 05/07/2014)	\$40.00 per day
Call out fee, to come to shop during non-business hours (amended 05/07/2014)	\$40.00
Vehicle Tow	
Day (amended 05/07/2014)	\$80.00
Night (amended 05/07/2014)	\$90.00
Snow Tow – Range	
Day (amended 05/07/2014)	\$90.00
Night (amended 05/07/2014)	\$100.00
Vehicle Tow w/dollies – Range (amended 05/07/2014)	\$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	

<b><u>Chapter 602A – Mass Gathering</u></b>	<b><u>Fee</u></b>
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
<b><u>Chapter 607 - Alarm Systems</u></b>	<b><u>Fee</u></b>
False Alarm Fee - per occurrence after third false alarm within one year (amended 05/05/04)	\$250.00
<b><u>Chapter 608 – Fireworks Ordinance</u></b>	<b><u>Fee</u></b>
Non-Refundable Local Fireworks Display Permit Application Fee (amended 06/15/05)	\$50.00
<b><u>Chapter 612 – Rules &amp; Regulations for Use of Parks &amp; Recreation Facilities</u></b>	<b><u>Fee</u></b>
Application Fee	\$100.00
Application Fee for Non-Profit or Service Groups	\$50.00
<b><u>Chapter 702 - Street Opening, Fees</u></b>	<b><u>Fee</u></b>
Excavator License Fee Annual (amended 05/07/2014)	\$125.00
Excavation Permit Fee - Each Excavation (amended 05/05/04)	\$50.00
Renewal Of Excavation Permit (amended 05/05/04)	\$50.00
<b><u>Other Charges</u></b>	
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.
<b><u>Chapter 901 – Refuse collection Fee</u></b>	<b><u>Fee</u></b>
1. Commercial Hauler	\$500.00 each
2. Residential Hauler	\$500.00 each
Applications for license renewal received after March 1 <sup>st</sup> shall pay a late fee in the amount of \$100.00 in addition to the regular application fee. (05/03/2006)	
<b><u>Chapter 1002 - Shellfish Ordinance, Fees</u></b>	<b><u>Fee</u></b>
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
<b><u>Chapter 1003 – Hawkers &amp; Peddlers</u></b>	<b><u>Fee</u></b>
License Fee for Hawkers & Peddlers License (05/21/2008)	\$110.00
<b><u>Chapter 1004 - Taxicab Licenses</u></b>	<b><u>Fee</u></b>

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
<b><u>Chapter 1005 - Innkeepers Licenses (06/21/2006)</u></b>	<b><u>Fee</u></b>
Application Fee	\$50.00
Per Room Fee	\$3.00 per room
Maximum Fee Not to Exceed	\$350.00
<b><u>Chapter 1006 - Ferry Beach/Hurd Park Fees Season Passes</u></b>	<b><u>Fee</u></b>
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) (amended 05/07/2014)	\$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) (amended 05/07/2014)	\$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 Season Pass - (includes both Ferry Beach, Higgins Beach and Hurd Park)	FREE
Resident Veteran Lifetime 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 Season Pass.) (Adopted 05/19/2010)	FREE
<b><u>DAILY PARKING RATES (WITHOUT PASS)</u></b>	
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
<b><u>BOAT LAUNCHING FEE</u></b>	
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
<b><u>Chapter 1007 - C.A.T.V. (Cable T.V.) Operators Fees</u></b>	<b><u>Fee</u></b>
Franchise Filing Fee (Amended 05/04/2011)	\$1,000.00
<b><u>Chapter 1008 - Special Amusement Operator License Fees</u></b>	<b><u>Fee</u></b>
Annual License Fee	\$110.00

<b><u>Chapter 1009 – Coin Operated Game License Fees</u></b>	<b><u>Fee</u></b>
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

<b><u>Chapter 1010 - Massage Establishment Annual License Fees</u></b>	<b><u>Fee</u></b>
Massage Establishment	\$55.00
Combined Massage Establishment/Massage Therapist	\$35.00
Massage Therapist	\$30.00

<b><u>Chapter 1011 - Para-Massage Establishment Annual License Fees</u></b>	<b><u>Fee</u></b>
Para-Massage Establishment License	\$55.00
Para-Massager License	\$30.00
Combined Para-Massager Est./Para-Massager License	\$35.00

<b><u>Chapter 1012 - Adult Business - Viewing Booth Annual License Fees</u></b>	<b><u>Fee</u></b>
Annual License For Each Viewing Booth	\$110.00

<b><u>Chapter 1013 - Ice Cream Trucks (06/18/97)</u></b>	<b><u>Fee</u></b>
Application Fee	\$110.00
Each Additional Truck	\$30.00

<b><u>Chapter 1017 – Pawnbroker Fees (02/17/2010)</u></b>	<b><u>Fee</u></b>
Application Fee	\$100.00
SBI Check	\$25.00

<b><u>Chapter 1201 - Cemetery Fees</u></b>	<b><u>Fee</u></b>
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

<b><u>Chapter 1401 – Coastal Water and Harbor Fees [amended 02-20-13]</u></b>	<b><u>Fee</u></b>
<b>Annual Mooring Fee</b>	
Resident And/Or Taxpayer (amended 05/05/04)	\$50.00
Non-Resident (amended 05/05/04)	\$100.00
<b>Annual Pier Maintenance Fee</b>	
Commercial User	\$100.00
Non-Commercial User	\$50.00

<b><u>Assessing Office Charges</u></b>	<b><u>Fee</u></b>
<b>Printouts</b>	
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

<b><u>Fire Department Fees</u></b>	
<b><u>Fire Department Construction Permit &amp; Plans Review Fees</u></b>	<b><u>Fee</u></b>
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.	
<b><u>Additional Fire Dept. Construction Permits &amp; Plans Review Fees</u></b>	
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 05/05/04) (amended 05/06/09)	\$100.00 first occurrence and \$200.00 for second 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
<b><u>Fire Department Fees</u></b>	<b><u>Fee Per Hour</u></b>
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 (amended 05/07/2014)	\$75.00
Utility Truck/Chief or Duty Officers SUV (amended 05/07/2014)	\$50.00
All-Terrain Vehicles (amended 05/07/2014)	\$25.00
Personnel Labor [amended 05/01/2013]	\$45.00
<b><u>Fire Department Rescue Charges</u></b>	<b><u>Fee</u></b>
<b>Base Rescue Charges:</b>	
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) (amended 05/20/2015)	\$533.91
Basic Life Support Emergency (adopted 05/01/2013)(amended 05/20/2015)	\$533.91
Advance Life Support Level 1 Emergency (adopted 05/01/2013) (amended 05/07/2014)	\$\$823.68
Advance Life Support Level 2 Emergency (adopted 05/01/2013) (amended 05/20/2015)	\$1,168.67
<b>Additional Rescue Charges:</b>	
Mileage (adopted 05/07/2014) )(amended 05/20/2015)	\$9.04
No Transport (amended 05/05/04)(amended 05/06/09)(amended 01/18/12)	\$125.00
Paramedic Intercept Fee (05/21/2008)	\$300.00
Fees are set by State Statutes – pursuant to Title 22, Health and Welfare, subtitle 2,§1711, pertaining to <i>Fees charges</i> , and as amended from time to time. (adopted 05/07/2014)	
<b><u>Chapter 1015 -Food Handlers Registration Fee</u></b> <b><u>(adopted 05/03/06)(amended 05/21/08)(amended 05/05/2010)</u></b>	
Food handlers Registration Fee – Year Round Business	\$220.00
Seasonal, catering and in-home food handlers [Seasonal - 6 months or less]	\$110.00
<b><u>Chapter 1016 - Garage/Yard Sale (adopted 03/07/2007)</u></b>	<b><u>Fee</u></b>
Garage/Yard Sale Permit	\$5.00 per sale
<b><u>Horse Beach Permit (per rider) (adopted 10/02/02)</u></b>	<b><u>Fee</u></b>
All Permits (amended 05/06/09; amended 09/16/09)	\$20.00
<b><u>Interest Penalties (adopted 05/02/2007)</u></b>	<b><u>Penalty</u></b>
Interest on fees, charges or payments owed to the Town which are more than 30-days past due	1.5% per month
<b><u>Miscellaneous Fees (adopted 05/03/05) (amended 02/15/06)</u></b>	<b><u>Fee</u></b>
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) (amended 05/07/2014)	\$25.00 per dog
Non-sufficient Funds (adopted 05/07/2014)	\$30.00

<b><u>Notary Fee (amended 3/6/96; 05/05/04; 05/21/2008)</u></b>	<b><u>Fee</u></b>
First 3-pages	\$10.00
Any Documents more than 3-pages	15.00
<b><u>Photocopies</u></b>	<b><u>Fee</u></b>
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
<b><u>Photocopies (amended 3/6/96)</u></b>	<b><u>Fee</u></b>
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 (adopted 05/07/2014)	\$15.00 per hour [or any part thereof]

<b><u>Police Department Charges</u></b>	<b><u>Fee</u></b>
Special Police Charge, Per Hour (amended 05/05/04; 05/02/07; 05/21/2008; 05/04/2011)	\$43.90
Police Cruiser Charge (adopted 05/07/2014)	\$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

<b><u>Public Works Department Charges</u></b>	<b><u>Fee</u></b>
Fee for Building Coordination Form (05/05/04)	\$25.00

<b><u>Voter Registration Fees (amended 09/06/2006)</u></b>	<b><u>Fee</u></b>
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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.	
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<b>Vehicle Registration Fee</b>	<b>Fee</b>
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 Babine - Yea	Councilor St. Clair - Yea
Councilor Donovan - Yea	Councilor Blaise - Nay
Council Vice Chair Caterina - Yea	Councilor Hayes - Nay
Council Chair Holbrook – Yeas	

The Council Chair called for short recess [meeting recessed at 8:36 p.m. The meeting was reconvened at 8:45 p.m.

**Order No. 15-037. Act on the names posted to the various committees/boards at the May 6, 2015, Town Council meeting as recommended by the Appointments Committee.** Motion by Councilor Babine, seconded by Councilor Caterina, to move approval of the names posted at the May 6, 2015, regular Town Council meeting, as follows:

**Coastal Waters and Harbors Committee:**

Appoint Erica Snow as the 1<sup>st</sup> Alternate with a term to expire in 2016.

**Shellfish Conservation Commission:**

Appoint Erica Snow as a full voting member with a term to expire in 2015

Appoint Paul Erickson as 1<sup>st</sup> Alternate with a term to expire in 2015.

**Zoning Board of Appeals:**

Appoint James Hebert as the 2<sup>nd</sup> Alternate with a term to expire in 2016.

**Pest Management Advisory Committee:**

Appoint Chris Herrick as the Member at Large with a term to expire in 2016.

Vote: 7 Yeas.

**NEW BUSINESS:**

**Order No. 15-038. First reading and schedule a public hearing and second reading on the proposed amendments to Chapter 1002 – Shellfish Conservation Ordinance.** Thomas J. Hall, Town Manager, gave a brief overview on the proposed amendments to Chapter 1002 – Shellfish Conservation Ordinance.

Motion by Councilor Hayes, seconded by Councilor St. Clair, to move approval of the first reading on the proposed amendments to Chapter 1002 – Shellfish Conservation Ordinance and schedule a public hearing and second reading for Wednesday, June 3, 2015, as follows:

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

IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, amends Chapter 1002 - the Town of Scarborough Shellfish Conservation Ordinance by adding either the underlined text or deleting the text shown in strikeover type, as shown below:

**1. Authority:**

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

**2. Purpose:**

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

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

**3. Shellfish Conservation Committee:**

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

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

#### 4. Definitions:

**a. Resident**

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

**b. Non-resident**

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

**c. Shellfish, Clams**

When used in the context of this Ordinance, the words “shellfish and clams” mean soft-shell clams MYA ARENARIA.

**d. Municipality**

Refers to the Town of Scarborough, Maine.

**c. Conservation Projects**

Conservation Projects may include seeding projects, crab projects, school projects, surveys or any other projects accepted by the Shellfish Conservation Commission.

#### 5. Licensing - Municipal Shellfish **License Digging** is required:

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

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

**A. Designation, Scope and Qualifications:**

**1. Resident Commercial Shellfish License:**

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

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

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

**3. Resident Student Commercial License:**

The license is available to residents of the Town of Scarborough who are full time students between the minimum age of twelve (12) years old and the maximum age of twenty-two (22) years old on May 1 of the year in which the application is made. Applicants must show proof of age and proof of school attendance, **and except that** students attending college must also show proof of a minimum of twelve (12) college credit hours per semester to be considered full-time students. Applicants under the age

of 18 must also have the signature of a parent or guardian on the application for the license to be valid. This license entitles the holder to dig or take any amount of shellfish from the shores and flats of this municipality. [amended 01/03/01] [amended 07/17/02]

#### **4. Non-resident Student Commercial License:**

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

#### **5. Over 60 Resident Commercial Bushel License:**

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

#### **6. Residential Recreational Shellfish License:**

The license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of ~~himself the holder~~ and his ~~or her~~ family. It is a violation of this ordinance for any person to sell, or otherwise receive remuneration for, any shellfish harvested pursuant to a residential recreational shellfish license. Any holder of a recreational license who is cited by the Shellfish Conservation Officer for selling or otherwise receiving remuneration for any shellfish harvested pursuant to that license, in addition to being subject to the other penalties provided in this ordinance, shall be ineligible for a recreational license in the next licensing year following that violation. The Shellfish Conservation Officer's determination of violation may be appealed in the same manner as a license suspension under Section 5(H)(3).

#### **6-a. Non-resident Recreational Shellfish License:**

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

**7. Resident Recreational Day Licenses.**

This license entitles residents and real estate taxpayers of the Town of Scarborough to dig or take up to one peck of shellfish from the shores and flats or this municipality during a single calendar day specified in the license. The duration of this license is one calendar day only. [02/18/98]

**8. Non-resident Recreational Day Licenses.**

This license entitles non-residents of the Town of Scarborough to dig or take up to one peck of shellfish from the shores and flats or this municipality during a single calendar day specified in the license. The duration of this license is one calendar day only. [02/18/98]

**9. License must be signed.**

The licensee must sign the license to make it valid.

**10. Commercial license applicant may only apply for one type.**

A commercial license applicant may only apply for one type of commercial license under this Ordinance.

**B. Contents of Application:**

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

**1. Contents of the Application:**

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

**2. False Statements.**

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

**C. Fees:**

The fees for the licenses are as specified in the Schedule of License, Permit and Application Fees established by the Town Council, and must accompany in full the application for the respective license. Fees for non-resident licenses shall not exceed twice the amount charged for the equivalent resident licenses. The Town Clerk shall pay all fees received to the Town Treasurer. Fees received for shellfish licenses shall be used by the Town for shellfish management, conservation and enforcement. Fees are non-refundable, except that the holder of a student commercial license who surrenders the license within seventy-five (75) after the date of issuance shall receive a refund of one-half the license fee. [01/05/00]

**D. Conservation Activities:**

The Town encourages all shellfish diggers to protect and enhance the resource by participating in conservation activities such as seeding clam beds, participating in shellfish surveys, and participating in other approved resource management activities. All Commercial License holders 18 years of age or older may be required to participate in shellfish seeding as deemed

necessary by the Shellfish Conservation Committee. Seeding or other approved conservation activities also may be undertaken on a volunteer basis. Commercial License Holders who complete the specified number of hours of conservation activities which may include required shellfish seeding hours and volunteer hours for a total of twelve (12), will be eligible for priority license renewal pursuant to Section 5.E.4.(a) of this Ordinance.

The Shellfish Conservation Committee will approve all accepted conservation activities by a majority vote. The names and number of hours completed on an accepted conservation activity will be recorded in writing by the Shellfish Conservation Officer and submitted to the Shellfish Committee on a monthly basis for their records.

It shall be the sole responsibility of the Commercial License holder to contact the Shellfish Committee Members or the Shellfish Officer to determine the conservation available to participate in. The Shellfish Committee Chair, with consent of the majority membership of the Committee, may designate special conservation work during any period of State closure of the Town of Scarborough shellfish beds. The Chair may poll the Committee by telephone, email, fax or in person for the purposes of this section. Each Commercial License holder is encouraged to contribute at least half of their voluntary conservation activity in the form of low tide work. All crab trapping is considered low tide work. The conservation year will run from May 1<sup>st</sup> to November 30<sup>th</sup>. School conservation activities have a deadline of December 31<sup>st</sup> and are limited to a maximum of three (3) hours per project and six (6) hours total allowed.

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

- i. Another time to complete conservation time for an applicant who demonstrates to the Committee that the illness or incapacitation of a parent, spouse or child prevented that person from participating in regularly scheduled conservation time; or,
- ii. Alternate, less strenuous work for an applicant who provides the Committee with a written statement from a physician indicating that the applicant is not physically able to participate in regular conservation work.

**E. Issuance of Shellfish Licenses Limitation of Diggers:**

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

~~The Shellfish Conservation Committee will approve all accepted conservation projects by a majority vote. The names and number of hours completed on an accepted conservation project~~



will be recorded in writing by the Shellfish Conservation Officer and submitted to the Shellfish Committee on a monthly basis for their records.

~~It shall be the sole responsibility of the Commercial License holder to contact the Shellfish Committee Members or the Shellfish Officer to determine the conservation work available to participate in. The Shellfish Committee Chair, with consent of the majority membership of the Committee, may designate special conservation work during any period of State closure of the Town of Scarborough shellfish beds. The Chair may poll the Committee by telephone, email, fax or in person for the purposes of this section. Each Commercial License holder is required to contribute half their required conservation hours in the form of low tide work. The conservation year will run from May 1 to October 31. School conservation projects have a deadline of December 31 and are limited to a maximum of three (3) hours per project and six (6) hours total allowed. [amended 01/03/01] [amended 07/17/02] [amended 03/17/04][amended 03/21/13]~~

~~The Shellfish Conservation Committee may waive all or part of the requirement for conservation time for an applicant who provides the Committee with a written statement from a physician indicating that the applicant was not able to participate in any regularly scheduled conservation time due to incapacitation by illness or injury. The Committee may also allow the following alternative conservation work, on an hour for hour basis, upon the request of an applicant made at a regular monthly meeting of the Committee:~~

- ~~i. Another time to complete conservation time for an applicant who demonstrates to the Committee that the illness or incapacitation of a parent, spouse or child prevented that person from participating in regularly scheduled conservation time, or~~
- ~~ii. Alternate, less strenuous work for an applicant who provides the Committee with a writing statement from a physician indicating that the applicant is no physically able to participate in regular conservation work. [01/05/00]~~

1) Prior to February 1 of 1998 and each succeeding year, the committee shall report its findings and document recommendations for the allocation of commercial and recreational licenses to be made available for the following license-year to the Commissioner of Marine Resources for concurrence.

2) After receiving approval of proposed license allocations from the Commissioner of Marine Resources and prior to February 1 of 1998 and each succeeding year, the Shellfish Conservation Committee shall notify the Town Clerk in writing of the number and allocation of shellfish licenses to be issued.

3) Notice of the number of licenses and the procedure for application shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes.

4) The Town Clerk shall accept applications for shellfish licenses annually commencing on the first Monday in April, or on the first town office business day thereafter if the first Monday is not a business day. [03/19/03]

**(a) Commercial Renewal Licenses.**

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

(ii): Effective March 1, 1998 in lieu of applying in person pursuant to subparagraph (I) above, an applicant for a renewal resident or non-resident commercial license may apply by mail. Applications by mail must be received at the Town Clerk's office on a day that office is open for business no earlier than March 1 and no later than March 31. The application must be accompanied by the required license fee, a copy of the applicant's driver's license, a copy of the applicant's motor vehicle registration certificate, and any other information upon which the applicant relies to document residency. The Clerk shall mark all applications with the date and time of receipt. If more than one application is received at the same time, the Clerk shall determine their order or receipt of random drawing and mark them accordingly. The Clerk's marks concerning order of receipt shall be conclusive for purposes of applying the first-come first-served provisions of paragraph (i) above.

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

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

licenses by drawing the names of qualified applicants at random and then shall award the non-resident non-reciprocating commercial shellfish licenses by drawing the names of qualified applicants at random.

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

**(c) Resident Student Commercial Renewal Licenses, Non-Resident Student Commercial Renewal Licenses and Over 60 Resident Commercial Bushel Renewal Licenses.** Shall be renewable in the same manner as Resident and Non-Resident Commercial Licenses under Section 5.~~DE~~.4(a), except that required shellfish seeding hours and additional voluntary conservation hours shall be:

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

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

**(d) Non-Renewal Resident Student Commercial Licenses, Non-Resident Student Commercial Licenses and Over 60 Resident Commercial Bushel Licenses.** Applications for new (non-renewal) Resident Student Commercial Licenses, Non-Resident Student Commercial Licenses and Over 60 Resident Commercial Bushel License shall be processed in the same manner as applications for non-renewal Resident Commercial and Non-Resident Non-Reciprocating Commercial Licenses under Section 5.~~DE~~.4(b), except that for Resident Student Commercial Licenses and Non-Resident Student Commercial Licenses the clerk shall continue drawing names after all licenses have been awarded and until all applicants have been placed on a list in the order their

names have been drawn. Any Student Commercial License which is surrendered after issuance shall be made available to the remaining applicants on that list in the order their names were drawn, and then to other applicants on a first-come, first-served basis.

**(d) Resident Recreational Licenses.**

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

**(e) Non-resident Recreational Licenses.**

On the second Monday, Tuesday and Wednesday until noon, in April annually, the Town Clerk shall accept applications for non-resident recreational licenses. Applicants must apply in person at the office of the Town Clerk and shall have their names placed in a lottery pool. On that Wednesday at 6:00 p.m., the licenses shall be awarded to applicants drawn at random from the pool by the Clerk and shall not exceed ten percent (10%) of the number of allocated resident recreational shellfish licenses. Physical presence and full payment are required at the time of drawing. The lottery shall be conducted in the same fashion as the lottery under section 5(~~DE~~)(4)(b)(i).

**(f) Remaining Licenses.**

If, after August 1 annually, any allocated licenses remain unissued, the clerk shall issue such licenses on a first-come, first served basis, without regard to the residency of the applicant or the allocation between resident and non-resident licenses. [03/16/2005] [11/02/2005]

**(g) Day Licenses.**

After all available resident and non-resident recreational licenses have been issued under Section 5(~~DE~~)(4)(d) and 5(~~DE~~)(4)(e) above, the clerk may receive applications for and issue resident recreational day licenses and non-resident recreational day licenses, on a first-come, first-served basis without regard to residency of the applicant. Applicants must appear in person at the office of the Town Clerk no earlier than 5 calendar days before the day for which the license is requested. An applicant may obtain only one day license at a time and must appear in person on a separate day for each license requested. Each license issued under this section shall specify the calendar day for which it is issued and shall be valid for that day only. [03/16/2005] [11/02/2005]

**E. License expiration date:**

Each license issued under authority of this Ordinance expires at midnight the 30th of April next following the date of issue.

**F. Reciprocal Harvesting Privilege:**

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

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

The recreational license holder and accompanying children are entitled to dig no more than the previously stated amount, “one peck of shellfish in any one day for the use of himself the holder and his or her family.” [amended 07/17/02]

## **H. Suspension: [amended 04/18/01] [amended 03/01/06]**

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

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

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

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

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

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

## **I. Opening and Closing of Flats:**

The Shellfish Conservation Committee, with the approval of the Commissioner of Marine Resources, may open and close the areas for shellfish harvest (the “Conservation Areas”).

Except in the case of emergencies, the Shellfish Conservation Committee shall follow the following procedure prior to opening or closing a Conservation Area:

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

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

**J. Hours Prohibited:**

It shall be unlawful to dig any shellfish anywhere in the Town of Scarborough between the hours of one half hour after sundown and one half hour before sunrise. (amended 10/17/2007)[amended 03/21/13]

**K. Penalty:**

Any person who violates any provision of this ordinance commits a crime, not a civil violation, punishable by a fine of up to \$1,500 per offense, as provided in 12 M.R.S.A. §6671(10). Any person holding a commercial license under this Ordinance who aids or abets the harvest of shellfish in violation of this Ordinance also commits a violation of this Ordinance and shall be subject to the same fines as the person he or she assisted. [amended 04/04/2007]

**L. Administrative Suspension of Recreational License:**

If the Shellfish Conservation Officer determines that the holder of a recreational license has sold or otherwise received remuneration for shellfish harvested pursuant to the recreational license, or that the holder of a license has violated Section 5(N) of this ordinance the Shellfish Conservation Officer may impose an administrative suspension of the License and of eligibility

for a license in the next licensing year. The Shellfish Conservation Officer shall give written notice to the license holder of the administrative suspension, which shall be effective from the third business day after mailing of the Notice of Suspension or upon presentation of the Notice of Suspension by the Shellfish Conservation Officer, whichever is earlier. The license holder may appeal the administrative suspension in the same manner as an automatic suspension under section 5.H.(3). The Shellfish Conservation Officer may, ~~in his~~ at their discretion, employ the administrative suspension in addition to or as an alternative to the penalties provided in section 5.K. The administrative suspension process and determinations resulting from that process are separate from and shall not be affected by the pendency or outcome of any court proceeding for the imposition of penalties under section 5.K. [amended 02/18/98]

**M. Clam Size and Tolerance of Harvest:**

- 1) Clam size and tolerance of harvest. A person shall not harvest or possess softshell clams which are less than two (2) inches in the longest diameter to the amount of more than ten (10) percent of any lot.
- 2) The method of determining tolerance. The tolerance of ten (10) percent must be determined by a numerical count of not less than one (1) nor more than four (4) pecks taken at random from various parts of the lot. If the lot contains less than one (1) peck, the tolerance must be determined by numerical count of the entire lot.

**N. Unlawful Sale of Shellfish.**

It is a violation of this Ordinance for any holder of a license under this Ordinance to sell or otherwise receive remuneration for any shellfish dug or taken within the Town of Scarborough by any person who does not hold a valid shellfish license issued by the Commissioner of Marine Resources pursuant to 12 M.R.S.A. § 6601. [02/18/98]

**O. Method of Harvest.**

The only acceptable method of harvest shall be by use of the hand-held clamrake, with a handle no more than eighteen inches in length. Use of shovels, spades and pitch forks shall be prohibited. [03/01/06]

Vote: 7 Yeas.

**Order No. 15-039. Act on the recommendation to appointment Mr. Arthur J. Colvin as the Representative from Scarborough to serve on the Long Creek Watershed Management District Board of Directors.** Thomas J. Hall, Town Manager, gave a brief overview on this item.

Motion by Councilor Babine, seconded by Councilor St. Claire, to move approval on the recommendation to appoint Mr. Arthur J. Colvin as the Representative from Scarborough to serve on the Long Creek Watershed Management District Board of Directors.

Vote: 7 Yeas.

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

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

- Councilor Blaise gave an update on the Eastern Trail Management Committee and on the Eastern Train Alliance.
- Councilor Caterina gave an update on the Legislative Policy Committee and noted that the Conservation Commission meetings have been postponed until June



- Councilor Donovan gave an update on the Energy Committee adding that this Committee has taken on the responsibility of reviewing the One on One Trash issue.
- Councilor Babine gave an update on SEDCO and the Finance Committee,
- Council Chair Holbrook stated that she and Dan Bacon, Town Planner had met with the Greater Portland Landmarks and gave an update on the Hosing Alliance Committee.

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

- Noted that now the Budget is over, he would be back on track with the weekly Manager's Report.
- There would be a "Summit Two" meeting hosted by Karen Martin, Director of SEDCO on Thursday, May 28<sup>th</sup> at the Wentworth Café 6:15 p.m.

**Item 11. Council Member Comments.**

- Councilor Babine stated that one comment that he has heard was what happens when a resident no longer can pay their taxes - What programs and policy are in place for "Aging in Place" and being able to assist residents to stay in town.-
- Councilor Donovan thanked the School Board for their cooperation during the budget process. He congratulated the graduating Seniors who are ending their high school lives to begin their next chapter.
- Councilor Caterina noted that the Legislative Policy Committee is tracking tax issues and hopes that some of the rebate programs are reinstated. She stated that the High Scarborough Education Foundation is sponsoring "Operation Graduation Balloons" for a cost of \$5 per balloon they would be tied onto mailboxes of graduating Seniors.
- Councilor St. Claire thanked Councilor Donovan for his comments during the budget deliberations. Not only are there seniors struggling to pay their taxes – there are also young couples who have the same issue.
- Councilor Blaise the Long Range Planning Committee asked Dan Bacon to look at three beach communities adding there would be a group coming to the area to suggest zoning changes to these areas.
- Councilor Hayes encouraged residents to come to the polls and let the Council know what you are thinking.
- Councilor Chair Holbrook reminded the residents of the Memorial Day Parade on Monday 25<sup>th</sup> at 10:00 a.m. She too commented on the budget process. She noted that she reads all of her emails and apologized for not responding to them all. She also stated that she has her council opinion and a personal opinion and would be voting and encouraged voters to vote as well.

**Item 12. Adjournment.** Motion by Councilor Babine, seconded by Councilor St. Clair, to move approval to adjourn the regular meeting of the Scarborough Town Council.

Vote: 7 Yeas.

Meeting adjourned at 9:06 p.m.

Respectfully submitted,

Yolande P. Justice  
Town Clerk