

**Amendment to Zoning Ordinance Concerning
Change of Ownership of Guest Rooms in Nonconforming Hotels or Motels**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Section III (Nonconformance) of the Zoning Ordinance of the Town of Scarborough, Maine is amended by adding the following new subsection G:

**G. CHANGE OF OWNERSHIP OF GUEST ROOMS IN
NONCONFORMING HOTELS OR MOTELS**

1. As used in this subsection G, the term “hotel or motel” includes any facility offering lodging accommodations for hire in guest rooms, including hotels, motels, inns, tourist courts, motor courts, motor lodges, guest cabins and any other establishments subject to licensing under the Town of Scarborough Innkeepers License Ordinance. The term “non-conforming hotel or motel” means an existing hotel or motel which is not an allowed use in the zoning district where it is located. A nonconforming hotel or motel shall not be defined by or governed by the definition of “hotel/motel” in section VI, which is intended to apply only to new uses.
2. If the ownership of a nonconforming hotel or motel is changed so that one or more of the guest rooms is individually owned, such change shall be considered a change in the nonconforming use, unless the use of the premises is restricted to continued use as a hotel or motel by condominium declaration, deed restriction or restrictive covenants recorded in the Cumberland County Registry of Deeds. The document recorded in the Registry of Deeds must include all of the following restrictions:
 - (a) A schedule of maximum daily rates must be posted in each room in compliance with 30-A M.R.S.A. § 3802(1).
 - (b) A guest register must be maintained in compliance with 30-A M.R.S.A. § 3821.
 - (c) The hotel or motel must maintain a license under 30-A M.R.S.A. § 3811 and the Town of Scarborough Innkeepers License Ordinance.
 - (d) No kitchens shall be added to any room.
3. In addition, the document recorded in the Registry of Deeds must include ___ or more of the following restrictions:

- (a) At least ____% of the rooms must be offered to and actually be available for occupancy by members of the general public for at least 180 days in any 365-day period.
 - (b) At all times when the hotel or motel is open for business, at least ____% of the rooms must be available for nightly rentals.
 - (c) Housekeeping and linen service must be provided.
 - (d) Room keys for each room shall be distributed by front desk/office personnel to guests upon their arrival and collected from guests upon their departure.
 - (e) No rooms shall be expanded or enlarged or combined with other rooms.
 - (f) A sign must be displayed on the exterior of the premises containing the word "hotel," "motel," "inn," or similar designation indicating the availability of rooms for rent to the general public.
4. If a change of guest room ownership is not restricted as specified above, it shall be allowed only pursuant to a miscellaneous appeal for a change in nonconforming use under section III.F of this ordinance, except that the miscellaneous appeal procedure shall be modified as follows:

- (a) An advisory opinion from the Planning Board under section IV(C)(5) shall not be required. However, the change of use of a nonconforming hotel or motel shall require approval of a site plan by the Planning Board under the Scarborough Site Plan Review Ordinance, whether or not site plan review would otherwise be required by that ordinance.
- (b) A Board of Appeals decision to approve a change of use of a nonconforming hotel shall be conditioned upon and shall not take effect until approval of a site plan by the Planning Board under the Scarborough Site Plan Review Ordinance and, if three or more new dwelling units will be created, approval of a subdivision plan by the Planning Board under the Scarborough Subdivision Ordinance.
- (c) In approving a change of use of a nonconforming hotel or motel, the Board of Appeals may identify one or more of the standards for special exceptions of section IV(I)(4) as items to be addressed by the Planning Board during site plan and/or subdivision review, and the Board of Appeals may condition its approval on a determination by the Planning Board that the site plan and/or

subdivision plan adequately addresses the special exception standards so identified.

5. Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this section III.G shall apply to proceedings pending at the time of its passage.