

CHAPTER 401

FEES AND PERMIT ORDINANCE

Town of Yarmouth, Maine

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CHAPTER 401

FEES AND PERMITS ORDINANCE

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FEES AND PERMITS ORDINANCE

ARTICLE I

A. TITLE

This ordinance shall be known and may be cited as the "Fees and Permits Ordinance of the Town of Yarmouth, Maine."

B. PURPOSE

The purpose of this Ordinance is to establish a schedule of fees for permits and licenses to facilitate control and/or inspection of construction work, business operations and recreational activities in the interest of the health, safety and general welfare of the community.

ARTICLE II

A. APPROVAL

Approval for issuance of any license or permit shall be at the discretion of the Town Council or Licensing Board having power to issue such license or permit, and with such restrictions and regulations as deemed necessary. The acquisition of any license or permit shall be a privilege and not a right of the applicant.

In its deliberations in reviewing applications, the Town Council or the Licensing Board, as the case may be, shall consider the record of each applicant for prior business for which the license or permit is required or relating to any other business owned by applicant in the Town. Good moral character and integrity of applicant shall be considered in determining proper qualifications and fitness so as regulations which may be pertinent.

ARTICLE III – Food Service -this section removed 5/17/12

ARTICLE IV

A. SPECIAL AMUSEMENT PERMIT

Persons making application for a Special Amusement Permit, as defined in the Special Amusement Permit Ordinance, shall pay a fee of \$50.00.

ARTICLE V

A. PEDDLERS FEE

Persons making application for a Peddlers License as defined in the Peddlers Ordinance shall pay a fee of \$50.00.

ARTICLE VI

A. BUILDING PERMITS

No person, firm or corporation shall erect, remodel, demolish or relocate any structure within the Town without a building permit.

B. FEE SCHEDULE

The schedule of permit fees shall be as follows:

1. Residential: Minimum Fee \$50.00
New Construction: Finished Areas \$00.25/per sq.ft.
Unfinished Areas \$ 00.10/per sq.ft.
Note: Including all floor levels from the lowest to the highest floor level.

Renovation and Alteration: The Lesser of:

- a. \$10.00 per \$1,000.00 of estimated construction cost, or
- b. \$0.25 per square foot for each room involved in the renovation project.

2. Commercial: Minimum Fee \$100.00
New Construction: Finished Areas \$00.30/sq.ft.
Unfinished Areas \$00.10/per sq.ft.
Note: Including all floor levels from the lowest to the highest floor level.

Renovation and Alteration: The Lesser of:

- a. \$10.00 per \$1,000.00 of estimated construction cost, or
- b. \$0.30 per square foot for each room involved in the renovation project.

Permit fees for governmental, tax exempt non-profit organizations, churches, and schools shall be capped at \$1,000. This provision shall be retroactive to January 1, 2006.

3. Change of Use (no charge if permit issued) \$50.00
4. Decks and Sheds \$25.00
(up to 400 sq.ft. then \$.10/per sq.ft. additional)
5. Demolition Permit \$25.00
6. Window Replacement No Charge

C. BELATED PERMITS

Persons, firms or corporations found to be responsible for failing to obtain a building permit prior to commencement erecting, remodeling, demolishing or relocating a structure shall be required to pay double the fee set forth in Section VI.B. with a minimum amount of \$100.00

Any persons, firms or corporations found to be commencing erection, remodeling, demolishing, or re-locating a structure without having first obtained a permit as

required, on three or more occasions in any 12-month period, may be subject to a fine of not less than \$2,500.00 plus double the permit fee amount due, plus court expenses, said sums to be recovered to the use of the Town upon complaint or upon other appropriate action before an appropriate action before an appropriate court.

Notwithstanding these penalty and double fee provisions, the Director of Planning and Development, with the approval of the Town Manager, may waive such double fees and court actions if the Director shall find the failure to obtain such permits was inadvertent, or arises out of emergency circumstances, or discovery of conditions not reasonably foreseeable and for which as soon as practical upon discovery and/or securing the structure and safety of the building owners or occupants, applications for all necessary permits have been submitted.

D. DISPLAY OF PERMIT

Upon receipt of a building permit said permit is to be conspicuously posted at the work site.

E. RE-INSPECTION FEE

\$25.00 1ST
\$25.00 2ND
\$100.00 3RD or more

Note: Re-inspection fees are assessed at the discretion of the Inspector.

ARTICLE VII

A. ELECTRICAL

No person, firm or corporation shall install electrical services within the Town without an electrical permit.

B. FEE SCHEDULE

The schedule of permit fees for installation of electrical services, space heating, motors, appliances and signs as follows:

- | | |
|---|-------------------|
| 1. New Construction/Addition/Renovations: | \$.05 per sq.ft. |
| Minimum inspection fee | \$25.00 |
| 2. New Service or Upgrade Service | \$25.00 |
| 3. Swimming Pool | \$25.00 |
| 4. Administrative Fee (required on all permits) | \$25.00 |

C. WORK NOT DESCRIBED

All other work not described herein requires a minimum fee of \$50.00

D. MINIMUM FEE

When the work requires a fee of less than \$50.00 the minimum fee shall be \$50.00

E. LATE PERMITS

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Any work which shall require a permit and is begun prior to issuance of a permit shall be subject to a fee two times the scheduled fee or \$100.00, which ever is greater.

Any persons, firms or corporations found to be commencing erection, remodeling, demolishing, or re-locating a structure without having first obtained a permit as required, on three or more occasions in any 12-month period, may be subject to a fine of not less than \$2,500.00 plus double the permit fee amount due, plus court expenses, said sums to be recovered to the use of the Town upon complaint or upon other appropriate action before an appropriate action before an appropriate court.

Notwithstanding these penalty and double fee provisions, the Director of Planning and Development, with the approval of the Town Manager, may waive such double fees and court actions if the Director shall find the failure to obtain such permits was inadvertent, or arises out of emergency circumstances, or discovery of conditions not reasonably foreseeable and for which as soon as practical upon discovery and/or securing the structure and safety of the building owners or occupants, applications for all necessary permits have been submitted.

F. RE-INSPECTION FEES:

\$25.00 1ST
\$25.00 2ND
\$100.00 3RD or more

Note: Re-inspection fees are assessed at the discretion of the Inspector.

ARTICLE VIII

A. APPEALS

Appeals to any Board or Commission must be accompanied by a fee to cover the administrative costs and advertising.

B. FEE SCHEDULE

The General Board of Appeal fee is hereby established as \$100.00

The Zoning appeal fee for Disability Variances under Chapter 701 of the Yarmouth Town Code is hereby established as \$20.00

Application fees to the General Board of Appeals for Special Exceptions under Chapter 701 are hereby established at \$100.00, except Home Occupations which shall be \$20.00

ARTICLE IX

A. SUBDIVISIONS

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Persons making application for subdivision are required to pay a fee to partially defray the cost of technical, legal administrative services in reviewing and processing the plans.

B. FEE SCHEDULE FOR APPLICATIONS

\$250.00/lot or dwelling unit.

Subdivision Amendments - \$100.00 per amended or revised lot.

Department mailing of notices: \$5.00 per addressee, payable prior to the mailing.

C. FEE SCHEDULE FOR INSPECTIONS

No person shall commence construction of a major subdivision without payment of an inspection fee at least 95 days in advance of the construction start date. This will be equal to the following:

Two (2) percent of the cost of the required improvements.

ARTICLE X

A. ADMINISTRATIVE / INSPECTION FEE

A fee of \$25.00 must be paid for the issuance of a Street Opening Permit and inspection of the work, plus the following charges which are hereby established as being not in excess of the reasonable cost of replacement and future shim of the openings in the public way.

B. STREET OPENING CHARGES – PER SQUARE YARD OR LN/FT

Pavement Restoration Fee - Includes all pavement Surfaces (sidewalks, curbs & Streets)	\$ 75.00 Per SY
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Bituminous curbing (by itself)	\$15.00 per Ln/Ft
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Plain Gravel Surface - No Charge – Responsibility of applicant
Portland cement Concrete Sidewalk – No Charge – Responsibility of applicant

Grass Esplanade or Median Strip – No Charge – Responsibility of applicant

C. Minimum Charge

There is a minimum charge equivalent to 3 square yards for any pavement opening to be accessed at the appropriate unit rate above. For curbing, the charge is assessed for what is actually disturbed.

Inspections

All work associated with the Towns sewer and drainage system, including culverts and catch basins, require inspections by the Town prior to backfilling. All other work within the right of way that disturbs any of the items above requires an inspection when the project is completed. A 24 hr notice is required for inspections. Contact 846-2401 to schedule an inspection.

ARTICLE XI

A. PLUMBING PERMITS

1. Sub-system disposal work shall be charged a base fee of 150% of the State Minimum Sub-surface fee.
2. Internal plumbing fees shall be \$10.00 per fixture or a minimum of \$40.00.

B. LATE PERMITS

Any work which shall require a permit and is begun prior to issuance of a permit shall be subject to a fee two times the scheduled fee or \$100.00, whichever is greater.

Any persons, firms or corporations found to be commencing erection, remodeling, demolishing, or re-locating a structure without having first obtained a permit as required, on three or more occasions in any 12-month period, may be subject to a fine of not less than \$2,500.00 plus double the permit fee amount due, plus court expenses, said sums to be recovered to the use of the Town upon complaint or upon other appropriate action before an appropriate action before an appropriate court.

Notwithstanding these penalty and double fee provisions, the Director of Planning and Development, with the approval of the Town Manager, may waive such double fees and court actions if the Director shall find the failure to obtain such permits was inadvertent, or arises out of emergency circumstances, or discovery of conditions not reasonably foreseeable and for which as soon as practical upon discovery and/or securing the structure and safety of the building owners or occupants, applications for all necessary permits have been submitted.

RE-INSPECTION FEES

\$25.00 1ST
\$25.00 2ND
\$100.00 3RD or more

Note: Re-inspection fees are assessed at the discretion of the Inspector.

ARTICLE XII

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A. ALARM SYSTEMS PERMIT

In accordance with the Alarm Systems Ordinance, fees shall be paid as follows:

A permanently connected alarm	\$15.00
Renewal	\$5.00
A telephone alarm	\$20.00
Renewal	\$20.00
Audible alarm	no fee
After three false alarms: Police	\$25.00
Fire	\$100.00

ARTICLE XIII

A. HARBOR AND WATERFRONT

Persons requiring mooring space in the tidal waters of the Town of Yarmouth shall make application through the Town Clerk for a permit which shall be approved by the Harbor Master in accordance with the following:

B. REGISTRATION

Each mooring placed within the tidal water of the Town of Yarmouth shall be registered annually with the Town of Yarmouth, prior to May 1st of each year, and a registration fee in accordance with Appendix A of Chapter 308 of the Yarmouth Town Code, shall be paid to the Town at the time of registration. For the purpose of this Section, the term "resident" shall include owners of property subject to real estate taxation in the Town of Yarmouth.

C. FEE SCHEDULE FOR OLD SHIPYARD ROAD LAUNCH AND PARKING

Old Shipyard Rd Ramp Use- Individual (Recreational)
payment of launch fees includes parking pass

Daily Launch	\$15.00
Daily Launch- Canoes and Kayaks	\$5.00

Seasonal Launch (good for one calendar year only)	\$125.00
Seasonal Launch- Canoes and Kayaks	\$50.00

Book of Ten (10) Launches	\$125.00
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*Seasonal Launch Pass for those holding a current Yarmouth Commercial Clam harvesting license.	\$50.00
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Old Shipyard Rd Ramp Use- Commercial Haulers	
Seasonal Commercial Launch	\$450.00 /vehicle

Commercial Ramp use without a Seasonal Pass \$50.00 per day
Limited to two (2) uses per year

Commercial Launch Ramp use by commercial haulers shall be limited to Monday through Friday only June 15 to October 1 unless weekend use is approved by appointment with the Harbormaster.

Old Shipyard Rd Launch Area Parking
payment of launch fees includes parking pass

Daily parking for vehicle with or without trailer \$5.00
Seasonal daytime parking pass \$50.00

Overnight parking with permission of the Harbormaster \$5.00/night-
additional

The Town Manager shall designate and mark not less than five (5) parking for one (1) hour or less No fee

No parking fees shall be required from November 1 to April 15, inclusive

D. MOORING FEES

Royal River Mooring Area
Mooring-Resident and Non-Resident \$130.00
Mooring – Marina \$455.00
Mooring – Senior Citizen \$80.00
Commercial Fishing \$80.00

All Other Waters of Yarmouth
Mooring-Resident \$130.00
Mooring – Non-Resident \$205.00
Mooring – Marina \$455.00
Mooring – Resident Senior Citizen \$80.00
Mooring – Non-Resident Senior Citizen \$155.00
Commercial Fishing \$80.00

Associations: as per Chapter 308 IV.9 \$80.00

Moshier and Lane Island \$25.00

Any person who shall be denied a mooring permit due to a lack of capacity shall be placed on a waiting list to be selected in accordance with the priority system in Chapter 308 and the chronological order. Provided, however, no person shall remain on the waiting list longer than one season without annual payment of a waiting list fee

Waiting list fee (annual after the first year) \$10.00

ARTICLE XIV

A. SHELLFISH LICENSE

In accordance with the Municipal Shellfish Ordinance, fees shall be as follows:

Resident Commercial: \$200.00

Non-resident Non-reciprocating Commercial: \$400.00

Resident Recreational: \$30.00

Non-resident, Non-reciprocating Recreational: \$60.00

Three-day Recreational license (pursuant to Article II.B.5): \$20.00

Resident/Non-resident Recreational license fees are waived for individuals of age 65 or older.

Effective with Resident and Non-Resident Commercial licenses issued or renewed in 2017, the fees shall be as follows:

Resident Commercial: \$500.00

Provided, however, that the license fee shall be reduced up to \$300 for Conservation work in the prior license year as provided in Article V. B. of Chapter 305 of the Yarmouth Town Code (Shellfish Conservation Ordinance).

Non-Resident Commercial: \$750.000

Provided, however, that the license fee shall be reduced up to \$300 for Conservation work in the prior license year as provided in Article V.B. of Chapter 305 of the Yarmouth Town Code (Shellfish Conservation Ordinance).

ARTICLE XV

A. SANITARY LANDFILL

Fees for demolition material disposal as defined in Solid Waste Ordinance shall be paid in accordance with following the schedule:

Wood Demolition Material

\$15 per cubic yard

\$ 2 Minimum fee

Fee for miscellaneous material disposal shall be paid in accordance with the following schedule:

Asphalt Shingles

\$20 per cubic yard

\$ 2 Minimum fee

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Scrap Metal

Free – gas/oil tanks need to be drained and cut in half (Fluids must be drained from all power equipment)

Tires (with and without rims):

\$ 4 per tire 20” or less

\$10 per tire 20” or more

Appliances

Stoves, washers, dryers, microwaves

\$ 4 per item (required Mercury check for switches)

Appliances containing CFC’s

Refrigerators, Freezers, De-Humidifiers

\$ 8 per item

Bulky Waste**Furniture and Individual Items:**

Couches, sofas, easy chairs, mattresses, box springs, all upholstered furniture, plastic toys, humidifiers, fiberglass or wood composite doors & windows, tub & shower enclosures, plastic enclosed appliances

ALL CHARGES BELOW ARE PER ITEM

\$ 2 Minimum charge

\$ 4 Small items

\$ 8 Medium items (chairs, desk, table)

\$10 Large items (mattresses, couches, recliners)

Other Bulky Items

Carpet, linoleum, ceiling tile, vinyl siding, insulation:

\$10 per cubic yard (3’x3’x3’)

Propane Tanks

Free – 1lb cylinders

\$ 2 per 20lb cylinders

\$ 4 per 50lb cylinders

Concrete, bricks, stone, fill, sweepings

\$15 per cubic yard

Trees & Wood Waste

\$15 per cubic yard for Larger than 12” in Diameter

B. DEDGE MATERIALS

Dredge materials approved by the Maine Department of Environmental Protection for beneficial re-use practices on town owned property shall be subject to a charge

of \$5.00 per cubic yard. All revenues from the dredge materials re-use fee shall be dedicated to the Harbor dredging capital reserve fund.

C. VEHICLE PERMIT FEE

Annual vehicle permit stickers as provided in Chapter 306 (III) (E) shall be \$25.00 for the first vehicle and \$5.00 for each additional vehicle registered and operated from the same household. All stickers shall expire annually on December 31.

ARTICLE XVI

A. TRAILER CAMP LICENSE

Persons making application for a Trailer Camp license required to pay a fee, as referenced in the Trailer Ordinance, as follows:

Trailer Camp up to ten trailers	\$50.00
Each additional trailer unit	\$10.00

ARTICLE XVII

A. DOG IMPOUNDMENT

In accordance with the Dog Control Ordinance, prior to release of an impounded dog the owner shall pay the following to the Town Clerk, Animal Control Officer, or Designated Animal Shelter:

An impoundment fee of \$40.00 for each dog except upon the second impoundment of the same dog the fee shall be \$60.00, and upon the third and all subsequent impoundments of same the fee shall be \$75.00;

An Animal Shelter boarding fee for each day or portion of a day that the dog is maintained in the shelter, and all reasonable expenses that may be required including, but not limited to, veterinary care received while at the shelter.

ARTICLE XVIII

A. COIN OPERATED AMUSEMENT DEVICES

In accordance with Section 441 through 450 of MRSA, the annual fee for coin operated amusement devices, pin machines and video games shall be \$25.00 per machine, expiring annually on June 30 of each year.

ARTICLE XIX

A. PUBLIC PROPERTY LICENSING ORDINANCE

Persons making application for a Public Property License as defined in the Public Property Licensing Ordinance shall be a fee of \$100.00 to be used to defray the costs of processing this application and administering this Ordinance.

ARTICLE XX

A. LIQUOR LICENSE

Persons making application for a Liquor License as defined by the state law shall pay a fee of \$50.00 plus advertising costs for the public notice.

ARTICLE XXI

A. SITE PLAN REVIEW

Persons making application for a Site Plan Review to the Planning Board shall pay a fee of \$100 per 1000 square feet; up to \$3000. In addition, the applicant shall pay \$5.00 per addressee for the Department to send notices. This fee is payable prior to the mailing.

ARTICLE XXII

A. SHORELAND REVIEWS

Persons making application for a shoreland review to the Department of Planning and Development shall pay a fee of \$150.00. Persons making an application for a shoreland review of the Yarmouth Planning Board shall pay a fee of \$250.00 (Effective retroactively to August 16, 1992). In addition, the applicant shall pay \$5.00 per addressee for the Department to send notices to owners of property within 500' of the property under consideration for shoreland review applications to the Planning Board. This fee is payable prior to the mailing.

ARTICLE XXIII

A. OUTSIDE CONSULTING FEES

1. The Planning Board may require the applicant for a subdivision or site plan review to deposit in an escrow account with the Town funds sufficient to cover 100% of the cost of an independent professional review of any plan or aspect thereof which due to the size, location, effect on the environment, design complexity, traffic impact or other similar reason the Board deems significant to warrant such review.
2. An estimate will be obtained from the selected consultant for the projected cost of the review. No Further review of the application will be made until three-fourths (3/4) of this estimate is paid to the Town. All time scheduling requirements of review are also suspended until this deposit is made. Review work which would overrun the original estimate will be reported by the consultant to the Town and

the applicant before the review is continued. The Board will then require an additional escrow deposit by the applicant to cover three-fourths (3/4) of the revised estimate.

3. Peer review of any or all components of applications under the Route One Corridor Design Guidelines may be requested by the applicant, the Director of Planning and Development, or the Planning Board. The applicant shall deposit in an escrow account with the Town sufficient funds to cover 100% of the cost of any such peer review.
4. Any unencumbered funds remaining in escrow account, once the Planning Board makes a decision, will be returned to the applicant.

ARTICLE XXIV

A. ZONING AMENDMENTS

Zoning amendment: \$350.00

Department mailing of notices: \$5.00 per addressee, payable prior to the mailing.

ARTICLE XXV

A. CHEBEAGUE TRANSPORTATION COMPANY PARKING FACILITY USER FEE

Persons requesting a permit to use a parking space in the Chebeague Transportation parking lot located on the property of Winifred Blanchard off the Wharf Road in Yarmouth, Maine (hereafter the "Wharf Road Parking Area") shall pick up a permit from the dispatch office of the Yarmouth Police Department in accordance with the procedure outlined in the Parking regulations Governing Usage of the Wharf Road Parking Area. The fee for usage of said spaces and any deposit required shall be as established by order of the Yarmouth Town Council as the same may be amended from time to time.

B. ADMINISTRATION

The Yarmouth Town Council shall from time to time enact regulations as may be necessary to promote usage of the 15 spaces by Yarmouth residents on a space available basis.

C. PENALTY

1. Failure to return the parking permit within the time period authorized shall result in a penalty, which shall be as follows:
 - i. If the permit is returned after the maximum twenty-four (24) hour time period, the penalty shall be \$5.00 for each hour over the 24-

hour limit, which amount shall be paid in full prior to issuance of another parking permit to said resident.

- ii. If any Yarmouth resident fails to return the permit in a timely manner more than two (2) times in any three month period, said resident shall be prohibited from obtaining a permit for a period of six months from the date the permit is returned to the Town.

D. FEE WAIVER BY COUNCIL

The Yarmouth Town Council may hear and decide on all requests to reduce or waive payment of any fee required under this Ordinance. In making a decision to reduce or waive a fee the Town Council shall determine that due to the particular circumstances of the request, the payment of the proscribed fee is inappropriate.

ARTICLE XXVI

A. SEWER USER FEE

There shall be four rate classes or tiers for properties connected to the town sewer system:

- **Low Users-** As Defined by Chapter 304
Annual Fee: \$100
- **Standard Users-** As Defined by Chapter 304.
Annual Fee: \$350
- **High Users-** As Defined by Chapter 304.
Annual Fee: \$575
- **Industrial Users-** As Defined by Chapter 304.
Annual Fee: \$ 1,550 plus \$0.02 per cubic foot of metered water use in excess of the High User rate class range upper limit as defined by Chapter 304.

Senior Discounts- Owner occupied single family units where the owner(s) is age 70 or older as of October 1 of the billing year shall have the billing rate discounted by 20%. If there is more than one owner of record for the property, the discount shall apply so long as at least one owner age 70 or greater is living on the premises or until ownership changes. It is the responsibility of the owner(s) to file information with the Town Engineer to establish eligibility.

Owner occupied multiple condominium units served by a single meter shall be eligible for the Senior Discount so long as 50% or more of the units served under the building meter would qualify for the Senior Discount as a single family unit if separately metered.

Rental housing units, if metered separately to each unit, shall be eligible for the Senior Discount so long as one or more of the tenants of that unit is age 70 or older as of October 1 of the billing year. It shall be the responsibility of the tenant to file information annually with the Town Engineer to (re)establish eligibility for the discount on or before October 1.

Senior and Low Income residential buildings, including rentals, shall have the billing rate discounted by 20%.

Low Income Discount:- Single family homeowners, and condominium owners only if metered individually per individual condo unit, and rental unit tenants only if metered separately per apartment shall receive a discount of 50% if such owner or tenant files information with the Town Engineer annually on or before October 1 establishing the owner or tenant :

1. Qualified for the Federal Low Income Home Energy Assistance Program (LIHEAP) in the immediately prior federal qualification period, or

Any person who qualifies for both the Senior Discount and the Low Income Discount shall receive a total discount of 60%.

CHAPTER 402

SPECIAL AMUSEMENT ORDINANCE

Town of Yarmouth, Maine

Recodified: 1/15/98

Amended 5/20/93

Amended: 6/18/15

Amended: 11/16/17

SPECIAL AMUSEMENT ORDINANCE

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SPECIAL AMUSEMENT ORDINANCE

ARTICLE I

A. TITLE

This ordinance shall be known and may be cited as the "Special Amusement Ordinance of the Town of Yarmouth, Maine."

B. PURPOSE

The purpose of this Ordinance is to control the issuance of special permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor.

C. DEFINITIONS

"Entertainment" The word entertainment shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full time or part time employees of the licensed premises whose incidental duties include activities with an entertainment value.

"Licensee" The word licensee means the holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine.

ARTICLE II

A. PERMIT REQUIRED

1. No licensee for the sale of liquor to be consumed on his/her licensed premises shall permit, on his/her licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained a special amusement permit.
2. The fee for a special amusement permit shall be as provided in Chapter 401 of the Yarmouth Town Code.
3. The Municipal Officers shall grant a permit and after reasonable notice to the municipality and the applicant, hold a public hearing at which the testimony of the applicant and that of any interested members of the public shall be taken.
4. The Municipal Officers shall grant a permit unless they find that issue of the permit would be detrimental to the public health, safety or welfare, or would violate Municipal ordinances or rules and regulations.
5. A permit shall be valid only for the license year of the existing license.

B. SUSPENSION OR REVOCATION OF A PERMIT

The Municipal Officers who have issued a permit may, after a public hearing proceed by notice to interested parties, suspend or revoke any permits which they have issued under this Section on the grounds that the music, dancing or entertainment so permitted constitutes a detriment to the public health, safety or welfare, or violates Municipal ordinances or rules and regulations.

C. RULES AND REGULATIONS

The Municipal Officers are hereby authorized to establish written rules and regulations governing the issuing suspension and revocation of these permits, the classes of permits, the music, dancing or entertainment permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare.

1. These rules and regulations shall be as follows:

- a. All special amusement permits are issued subject to the provisions of State Laws and Federal Laws, Municipal ordinances and rules and regulations made pursuant thereto, and all municipal, State and Federal licenses and permits required by such laws, ordinances or rules and regulations must be kept in full force and effect by licensees during the entire effective license period of the special amusement permit.
- b. Permits erroneously issued by the Licensing Board will be considered void and shall be returned to the Licensing Board.
- c. Wherever reference is made in the following rules and regulations to acts or omissions forbidden on the part of the licensee, corporation or individual, it shall be held and construed to mean acts of such licensee, corporation or individual or their clerk, servant or agent. Whoever is found in charge of a licensed premise or making service or waiting on trade in such licensed premise shall be prima facie construed to be a clerk, servant and agent of the licensee.
- d. No licensee shall have or permit on his/her licensed premises any slot machine, punch board or any mechanisms which dispenses money or other valuable thing which is redeemable or exchangeable for money or other valuable thing, other than premises properly licensed. Free replays shall not be considered a thing of value. All other types of machines or mechanisms designed for amusement or entertainment may be permitted on licensed premises. Pool tables may be used in designated areas. The licensee and the owner shall be required to furnish such additional information to the Licensing Board as the Licensing Board in its sole discretion deems necessary for the proper supervision of such activity.

- e. All premises granted permits and appurtenant or adjoining premises used by the licensee in the operation of the business shall be kept in a clean, tidy and sanitary condition at all times. All premises licensed shall have both hot and cold running water available at all times, and shall have suitable toilet facilities for both sexes.
- f. No licensee shall show effects of, nor allow any of his/her employees, agents or entertainers to consume or to show any effect of liquor while on duty or performing on licensed premises.
- g. No money deposited on application for an amusement permit will be refunded after one year from the date of such application.
- h. No licensee, his/her agent or employee shall allow in or upon his/her licensed premises any improper conduct, disorder, illegality, disturbances, lewdness, immoral activities, or language, songs, entertainment, literature, pictures, raffle tickets, or advertising material of indecent, profane or obscene nature, or cause to have printed or distributed any lewd, immoral, indecent, or obscene literature, pictures or advertising material of indecent, profane or obscene nature, except that premises properly licensed may permit raffle tickets.
- i. No person under 18 years of age shall be allowed to entertain with or without compensation in licensed premises while liquor is being served or consumed, except that Class A restaurants, clubs, or hotel dining rooms persons 17 years of age who are members of a musical group may entertain. Any person under 17 years of age will be permitted to entertain provided his/her parent is present.
- j. Licensees holding special amusement permits may charge admission in designated areas.
- k. All licensed golf clubs, indoor tennis clubs and indoor skating clubs shall conform to all laws, rules and regulations pertaining to on-premise licenses, including the requirement of having suitable toilet facilities for both sexes.
- l. The purpose of this section is to regulate nudity as a form of live entertainment in those establishments at which alcoholic beverages are served or consumed.
 - (1) No license shall permit entertainment on the licensee's premises whether provided by the professional entertainer(s), employees of the licensed premises, or any other person, when the entertainment involves:

- (a.) The performance of acts, or simulated act, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
- (b.) The actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus, or genitals;
- (c.) The actual or simulated displaying of the genitals, pubic hair, buttocks, anus, or any portion of the female breasts at or below the areola area thereof;
- (d.) The permitting by any license of any person to remain in or upon the licensed premises who exposes to any public view any portion of his or her genitals or anus or female breasts below the areola thereof.
- (e.) For purposes of this section, the words, "displaying" and "exposes" shall mean being unclothed or uncostumed or not covered by fully opaque cloth or textile material, or employing and devise or covering which is intended to give the appearance of or to simulate the genitals, pubic hair, buttocks, anus or the portions of the female breasts at or below the areola areas hereof.

D. PERMIT AND APPEAL PROCEDURES

1. Any licensee requesting an amusement permit from the Municipal Officers shall be notified in writing of their decision no later than (15) fifteen days from the date the request was received. In the event that a license is denied a permit, the licensee shall be provided with the reasons for the denial in writing.
2. Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may within 30 days of the denial, suspension or revocation, appeal the decision to the General Board of Appeals. The Board may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety or welfare, or that the denial, revocation or suspension was arbitrary and capricious. All appeals shall be pursuant to the provisions in this Ordinance and the procedures outlined in Chapter 203, General Board of Appeals Ordinance.

E. ADMISSION

A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor license who has been issued an amusement permit may charge admission in designated areas approved by the Municipal permit.

ARTICLE III

A. PENALTY

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than Twenty-Five Dollars (\$25.00) for the first offense, and up to One Hundred (\$100.00) for subsequent offenses, to be recovered, on complaint, to the use of the Town of Yarmouth.

CHAPTER 403

ALARM SYSTEMS ORDINANCE

Town of Yarmouth, Maine
Recodified: 1/15/98

CHAPTER 403

ALARM SYSTEMS ORDINANCE

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ALARM SYSTEMS ORDINANCE

ARTICLE I

A. TITLE

This ordinance shall be known and may be cited as the “Alarm Systems Ordinance of the Town of Yarmouth, Maine.”

B. PURPOSE

The purpose of this Ordinance is to establish appropriate guidelines for the installation of alarm systems for notification of the Town of Yarmouth’s Department of Public Safety.

C. DEFINITIONS

1. Alarm System: A system including any mechanism, equipment or device designed to automatically transmit or cause the transmission of a signal, message or warning from a private facility to any of the Town’s public alarm systems or to the Communication Center, or to cause the activation of an audible device whose purpose or result is to obtain emergency response by the Department of Public Safety.
2. Permanently Connected Alarm System: An alarm system which transmits a signal to the Communications Center or other location by means of a wire or cable connection or radio equipment which is used only or primarily for that purpose.
3. Telephonic Alarm System or “Dialer”: An alarm system which operates automatically through the use of public telephone facilities to connect to a telephone within the Communications Center or other location.
4. Audible Alarm System: An alarm system which cause an audible signal to sound at or near the alarm premises, for the purpose of obtaining emergency response by the Department of Public Safety.
5. Non-Emergency Alarms: Signals transmitted by an alarm system as a result of human error or equipment malfunction.

ARTICLE II

A. PERMITS

1. No person shall operate or maintain an alarm system as defined in ARTICLE I without first obtaining a permit.

2. The Town Manager shall be authorized to institute such guidelines as he/she deems desirable for determining the installation procedures for alarm systems.
3. Applications for permits to install, maintain or operate an alarm system shall be filed with the Town Manager or his/her designee, on forms supplied by the Town. Said applications shall set forth the name, address, and telephone number of both the installer of the systems and the person or business on whose premises the system will be installed, as well as a description of the system and the location where it is proposed to be installed. The application shall also set forth the name, address, and telephone number of at least three individuals who have keys or access to the premises and/or alarm equipment. Permits shall be renewed annually, on the same form as is used for the original application, and the person applying for renewal shall indicate thereon any changes in the information already supplied.
4. The application fee for a permanently connected alarm system shall be fifteen dollars (\$15.00), and fee for such permit shall be five dollars (\$5.00).
5. The application fee for a telephonic alarm system permit shall be twenty dollars (\$20.00), and fee for such permit shall be twenty dollars (\$20.00).
6. There shall be no application fee or renewal fee for a permit for an audible alarm system.
7. The Town Manager shall approve such application if he/she finds that said alarm system will not interfere with the orderly conduct of Town business; and that the person installing the system maintains an adequate service organization to repair, maintain or otherwise service alarm systems sold, leased, or installed by him.
8. The Town Manager may impose other reasonable conditions on the exercise of said permits and shall retain final authority to decide the reasonableness of any other conditions.
9. The Town Manager, or his/her designee, shall have the sole right to inspect, or cause to be inspected by the system installer, any alarm system on premises where it is intended to function prior to issuance of any permit for operation of such system, and he/she may inspect or cause an inspection, by the system installer or individual qualified in alarm systems installation, of such system at any time after the issuance of a permit to determine whether it is being used in conformity with the terms of the permit and the provision of this Ordinance.
10. No person shall install, operate or maintain a telephonic alarm system which automatically transmits or causes transmission of a signal, message or warning to the Town's Communications Center telephone lines, except to such telephone number or numbers as designated by the permit issued under the provisions of

this Ordinance. The Town Manager may refuse to issue a permit for such a system if in his/her opinion the existing telephone capacity of the Communications Center is not sufficient to accommodate the new system. No more than six such permits will be issued for each available incoming telephone line at the Communications Center or other reception point. Furthermore, no such system shall be designed or adjusted to make more than two (2) calls per incident to the Communications Center.

11. The Town Manager may revoke any permit issued pursuant to the provisions of this Ordinance, after giving written notice to the permit holder and an opportunity for the permit holder to be heard, if he/she determines that the alarm system installed pursuant to said permit has been installed, maintained, or operated in violation of the provisions of this Ordinance, or of any term of condition of said permit, or for failure to pay any fee specified in

ARTICLE III

A. TRANSMISSION OF NON-EMERGENCY ALARMS

1. Any permit holder whose system causes the transmission of a non-emergency alarm more than three (3) times in any one calendar year period shall pay a fine as described in ARTICLE IV Section IV.A for each instance of a non-emergency alarm in excess of three (3) such alarms in any one calendar year period.
2. Any permit holder whose system causes the transmission of two or more non-emergency alarms within a twenty-four hour period shall, upon request, immediately disconnect the system, and shall not reconnect it until it has been inspected in accordance with Section II.A.9 of this Ordinance.
3. If after reasonable effort the Town is unable to locate and notify the permit holder or installer of a system which has transmitted two or more non-emergency alarms within a twenty-four hour period, the Town shall have the right to disconnect the system from the Communications Center without prior notice to the permit holder. The Town shall make a reasonable effort to notify the permit holder by mail of any action taken under this Section.
4. Upon receipt of an alarm message or signal from an alarm system for which a permit has been issued under this Ordinance, and subject to the availability of and equipment, the Town will dispatch representatives of the Department of Public Safety to the alarm location to take appropriate action. If the premises in which the alarm system is installed appear to be secure and there is no evidence to indicate that there is an emergency situation requiring the presence or action of the Department of Public Safety, the Town's obligation to the permit holder shall have been discharged upon completion of one telephone call to the permit holder, the system installer, or any of the individuals named on the permit application as required in Section II.A.3 of this Ordinance.

ARTICLE IV

A. FINES

1. Burglary Alarms \$25.00
2. Fire Alarms \$100.00

B. PENALTY

Whoever violates any of the provisions of this Ordinance shall, upon conviction therefore, be punished of not more than one hundred dollars (\$100.00).

CHAPTER 405

CONCEALED WEAPONS ORDINANCE

Town of Yarmouth, Maine
Recodified: 1/15/98

CHAPTER 405

CONCEALED WEAPONS ORDINANCE

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CONCEALED WEAPONS ORDINANCE

ARTICLE I

A. TITLE

This Ordinance shall be known and may be cited as the Concealed Weapons Ordinance of the Town of Yarmouth.

B. PURPOSE

The purpose of this Ordinance is to regulate the use of Concealed Weapons as defined in Title 25, Section 2001 through 2006 of the Maine Revised Statutes.

ARTICLE II

A. PERMIT AND LICENSE REQUIRED

It shall be unlawful for any person to carry a concealed weapon without first obtaining a permit and license therefor as provided herein.

B. APPLICATION

Applicants, who must be legal residents of the Town of Yarmouth, for license under this Ordinance must file with the Chief of Police a sworn application in writing on a form to be furnished by said Chief.

C. INVESTIGATION AND ISSUANCE

1. Upon receipt of such application the Chief of Police shall cause such investigation of the applicant's background to be made, for a period of up to thirty days from the date of application, which background shall meet the following requirements:
 - a. 18 years of age or older;
 - b. No conviction of a crime which has been punishable by a maximum term of imprisonment equal to or exceeding one year;
 - c. Of good moral character as defined in Subsection 4, Section 2003, Title 25, Maine Revised Statutes.
2. If as a result of such investigation the applicant's background is found to be satisfactory the Chief of Police shall issue such license.
3. If as a result of such investigation the applicant's background is found to be unsatisfactory the Chief of Police shall deny such application.

4. In the case of denial said applicant shall have the right to appeal, within thirty days from the date of denial, to the Town Council who shall grant final approval or disapproval by majority vote of the full Council.

ARTICLE III

A. PENALTY

Any person violating any provision of this Ordinance shall, upon conviction thereof be punished by a fine not to exceed two hundred dollars (\$200.00).

CHAPTER 406

COMMERCIAL LAUNCH ORDINANCE

Town of Yarmouth, Maine
Recodified: 1/15/98

CHAPTER 406

COMMERCIAL LAUNCH ORDINANCE

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COMMERCIAL LAUNCH ORDINANCE

ARTICLE I

A. TITLE

This Ordinance shall be known and may be cited as the Commercial Launch Ordinance of the Town of Yarmouth.

B. PURPOSE

The purpose of this Ordinance is to regulate the use of boat launching and hauling at any Town launching facility including the Town Landing in Yarmouth Harbor.

C. DEFINITIONS

"Commercial" - Any person or entity engaged in the sale, delivery, rental or charter of watercraft.

ARTICLE II

A. FEE TO BE PAID

Any commercial user who utilizes any Town launching facility shall be required to pay a fee established under Chapter 401 Article XIII.C of the Town Code.

B. PENALTY

The Harbor Master may provide an initial warning with the first failure to obtain the necessary permit and shall require proof in advance that the commercial user has paid the necessary fee for that launch prior to any additional use of a Town launch facility. Any additional failure to obtain the appropriate permit shall result in the ban of said commercial hauler from using the Town launching facilities for the remainder of the season and, further, such commercial hauler shall, upon conviction therefore, be punished by a fine not to exceed two hundred dollars (\$200.00).

CHAPTER 407

FIRE AND EMERGENCY MEDICAL SERVICE FEES

Town of Yarmouth, Maine

Effective: 7/1/2001

Amended: 9/4/2003

Amended: 2/16/2006

Amended: 4/18/13

Amended: 5/23/17

FIRE AND EMERGENCY SERVICES FEES

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FIRE AND EMERGENCY SERVICES FEES

ARTICLE I

A. PURPOSE

The purpose of this ordinance is to establish a basis for charges and fees for emergent and non-emergent fire and emergency medical services provided by the Yarmouth Fire Rescue, such fees and charges to be remitted to the Treasurer of the Town of Yarmouth. Such fees and charges are necessitated to offset the capital, reserve, debt, and operating expenses of providing quality fire and emergency medical services.

ARTICLE II

A. FEES ESTABLISHED

Any person who shall receive emergency medical or fire department services requested by such person or on behalf of such person by any other person acting in good faith and in the interests of the health or safety of such service recipient shall pay to the Town of Yarmouth a fee for services in accordance with Appendix I of this Chapter, said Appendix I to be amended from time to time by majority vote of the Yarmouth Town Council.

ARTICLE III

A. BILLING

The Treasurer shall establish and shall provide forms and procedures for the billing of fire and emergency medical and rescue services, including the establishment of delinquency periods, interest penalties, and collection procedures.

B. MEDICARE AND Maine Care

It shall be the policy of the Town of Yarmouth to accept Medicare and Maine Care payments and assignments on all applicable accounts pursuant to all governing rules, procedures, and schedules established thereunder.

C. AGENT INVOICE

It shall be the policy of the Town of Yarmouth to directly invoice any applicable health, automobile or other insurance carrier, agent, governmental program or service, or similar coverage provider disclosed to the Town by the emergency medical, rescue or fire services recipient, subject to the authorization of such service recipient.

D. UNPAID BALANCES

The service recipient shall be responsible for any unpaid balances for services provided except:

1. Where the Town has agreed to accept assignment of the charges of fees from a third party payor, or
2. Where the service recipient has a demonstrated financial hardship and has applied to the Treasurer for waiver or forgiveness of such unpaid balances in part or in full.
3. Where the service recipient is enrolled in any pre-paid individual, family or group subscription service program which the Town of Yarmouth may establish for emergency fire, rescue, or medical services.

E. CONTRACT BILLING SERVICES

The Town of Yarmouth reserves the right to contract with any public, private or commercial billing services for the billing and collection of charges and fees for services, and such charges and fees shall be due and payable and subject to the same collection procedures, authorities, or penalties as if billed by the Town of Yarmouth directly.

F. MUTUAL AID

It is the policy of the Town of Yarmouth to bill any emergency medical, rescue or fire service recipient under the same rates and subject to the same procedures, rules and exemptions when such service is rendered in whole or in part by any other public agency for which the Town has mutual aid agreements. The Town shall by agreement or payment provide for the satisfaction of all bills or charges that may be charged by the mutual aid provider.

1. This policy shall not apply to non-emergency transports arranged with other public, private, or non-profit agencies or hospitals, nor to helicopter transport or other special medical transport services, nor transport to hospital services beyond a 25-mile radius from the Yarmouth Town Hall.

G. EFFECTIVE DATE

This ordinance and Appendix I hereto, shall be effective upon adoption.

APPENDIX I SCHEDULE OF FEES

FIRE AND EMERGENCY MEDICAL SERVICES

EMERGENCY MEDICAL SERVICES

Basic Life Support Transport (BLS)	\$550.00
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Advanced Life Support Transport (ALS 1)	\$750.00
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Advanced Life Support Transport (ALS 2)	\$900.00
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Ground Loaded Mileage	\$12.00/Mile
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Treatment/ No Transport Fee	\$125.00
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(Treatment/No Transport calls are for responses that require use of medical equipment or medications for care of the patient, but where patient was not transported to a medical care facility.)

FIRE RESCUE SERVICES

Vehicle Extrication	\$400.00
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Hazardous Materials Response	\$ By Statute
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False\Nuisance Alarms (After 3 in a 30 - day period)	\$100.00
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Standby**for public gatherings or events, downed power lines, Bomb threats or similar concerns	\$25.00/hr/person
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Apparatus Standby for Events	\$100.00/event/apparatus
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****Not including standby for mutual aid services**

CHAPTER 501

PUBLIC GROUNDS ORDINANCE

Town of Yarmouth, Maine

Recodified: 1/15/98

Amended: 9/8/05

CHAPTER 501

PUBLIC GROUNDS ORDINANCE
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PUBLIC GROUNDS ORDINANCE

ARTICLE I

A. TITLE

This Ordinance shall be known and may be cited as the Public Grounds Ordinance of the Town of Yarmouth.

ARTICLE II

A. OPERATION OF VEHICLES

No vehicle shall be driven on or over any part of public grounds without specific authorization of the Town Manager except within the traveled portion of public ways or within those portions of public grounds which are specifically designated for vehicular travel.

B. HOOFED ANIMALS

No hoofed animals are allowed on any paved areas of public grounds except as specifically permitted by the Town Council or its duly appointed agent.

C. OBSTRUCTION OF PEDESTRIAN TRAFFIC

Three or more persons shall not stand together, on or in, any street or sidewalk in such manner as to obstruct the free passage therein, for pedestrians attempting to lawfully walk these streets or sidewalks.

D. HOURS OF USE AT ROYAL RIVER PARK

1. The Royal River Park shall be open for use by the general public during daylight and evening hours throughout the year, and it shall be closed to public use from 11:00 P.M. until one hour before sunrise of the immediately following day during which time it shall be unlawful for any person to be within the limits of the Royal River Park or related parking areas, except for special events approved by the Town Council or Community Services Department.
2. Any person who knowingly fails or refuses to leave the Royal River Park or related parking areas during such times when the park is closed to general public use, when requested or directed to leave by any police officer or agent of the Community Services Department shall be guilty of criminal trespass pursuant to Title 17A MRSA §402.

ARTICLE III

A. PENALTY

Whoever violates any of the provisions of this Ordinance to which a particular penalty is not annexed shall be punished by a fine of not less than Twenty-Five

Dollars (\$25.00) nor more than One Thousand Dollars (\$1,000.00) for each violation, to be recovered on complaint, to the use of the Town of Yarmouth.

ARTICLE IV

A. SCHEDULE OF GENERAL AND SPECIAL REGULATIONS ON VARIOUS TOWN PROPERTIES

Except as provided hereinafter, the following rules and regulations apply to all municipal properties of the Town of Yarmouth.

1. No person shall deposit or leave any trash, litter, or refuse except in designated containers or disposal areas.
2. No person shall set, leave, bait, or tend any animal traps, water sets, or snares.
3. No person shall deface, injure, destroy, vandalize, or remove any fences, signs, gates, benches, structures, amenities, buildings or any other public improvements.
4. No person shall place, construct or assemble any fence, tree house, permanent tree stand, building, structure, latrine, lean-to, bridge, culvert, or conduit, without the explicit permission of the Town as provided in Section 4.2 hereinafter.
5. No person shall set, kindle, burn, or allow any fire, without the explicit permission of the Town as provided in Section 4.2 hereinafter.
6. No person may camp or tent on any Town properties after 11:00 p.m. or the authorized evening hours of operation, whichever is earlier, without the explicit permission of the Town as provided in Section 4.2 hereinafter.
7. Except for brushing or maintenance of approved trails systems no person shall cut or remove any trees, limbs, shrubs or bushes nor remove any vegetation, without the explicit permission of the Town as provided in Section 4.2 hereinafter. This shall not be construed to prohibit the gathering of nuts, fruits, ferns, leaves, berries, cones, ornamentation, scientific or educational purposes.
8. No person shall apply any herbicide, fungicide, or pesticide, without the explicit permission of the Town as provided in Section 4.2 hereinafter.
9. Motor vehicles, bicycles, all terrain vehicles and other motorized equipment shall be prohibited from all areas except roadways, parking areas, and tracts specifically established or designated for such use, without the explicit permission of the Town as provided in Section 4.2 hereinafter.
10. The Town Manager, under the direction of the Town Council, or with the advice and consent of the Citizens Advisory Committee or Agency assigned may adopt

or establish additional rules and regulations as are reasonable and necessary to accomplish the following purposes:

- a. To assure healthful, safe, and sanitary conditions on the subject property.
- b. To promote peaceful and considerate public use and enjoyment of Town properties and to minimize any nuisance, disturbance or interference, or safety concerns on adjoining or nearby lands that may be caused by such public use or enjoyment of Town lands.
- c. To protect or enhance the scenic, recreational and environmental values of the property and to prevent erosion, unreasonable disturbance of natural habitat and wildlife, or to prevent pollution.
- d. To allocate the limited use of time and space fairly and equitably among various persons or groups seeking use of the properties.
- e. To provide for efficient care and maintenance of the properties.

B. EXEMPTIONS

All activities listed in this schedule of General and Special Regulations shall not be unlawful if undertaken with the explicit approval of the department, agency, or officer of the Town assigned primary oversight responsibility for the use of the subject property. Approval shall only be granted if the Department, Agency or Officer determines that such requested activity is consistent with the general public purposes for which the property is intended and shall not unreasonably injure or risk injury to the subject property or to the public use and enjoyment thereof.

1. Nothing herein shall prohibit the care, maintenance, control of improvement of Town properties undertaken by any agency, department or officer of the Town or with the authority of the Town.

C. SPECIAL REGULATIONS FOR ROYAL RIVER PARK

1. The Royal River Park shall be open for use by the general public during daylight and evening hours throughout the year, and it shall be closed to public use from 11:00 P.M. until one hour before sunrise of the immediately following day during which time it shall be unlawful for any person to be within the limits of the park or related parking areas, except for special event approved by the Town Council or Community Services Department.
2. No person shall allow animal feces of any animal or pet under their control to be deposited or to remain on any walkway, lawn or pedestrian area.
3. No person shall allow any confetti, streamers, or litter to be tossed, or deposited in the park.

4. No solicitations, sales peddling, or vending of goods, services, or commodities for profit shall be permitted in the park.

D. SPECIAL REGULATIONS FOR PRATTS BROOK PARK

1. Pratt's Brook Park shall be open for use by the general public during daylight and evening hours throughout the year, and it shall be closed to public use from 11:00 P.M. until one hour before sunrise of the immediately following day during which time it shall be unlawful for any person to be within the limits of the park or related parking areas, except for special event approved by the Town Council or Community Services Department.
2. All terrain vehicles (ATV's), motor bikes, mountain bikes, and motor vehicles shall be prohibited at all times except in specially designated areas, for such use, if any.
3. Snowmobiles shall be prohibited from use on all trails and areas except for such trails specifically laid out and authorized as snowmobile trails across the park lands. This shall not be construed to prohibit the use of snowmobiles and/or snow grooming equipment for the maintenance and grooming of ski trails as authorized by the Community Services Department.

CHAPTER 502

CATV ORDINANCE

Town of Yarmouth, Maine
Recodified: 1/15/98

CATV ORDINANCE
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CATV ORDINANCE

ARTICLE I

A. TITLE

This ordinance shall be known and may be cited as the CATV Ordinance of the Town of Yarmouth, Maine.

B. DEFINITIONS

1. "C.A.T.V." shall mean any community antenna television system or facility that, in whole or in part, receives directly or indirectly, over the air, and amplifies or otherwise modifies signals transmitting programs broadcast by one or more television or radio stations, or originates its own signal or signals produced through any of its community access channels and distributes such signals by wire or cable to subscribing members of the public who pay for such services, but such term shall not include any such facility that serves only the residents of one or more apartment dwellings under common ownership, control or management.
2. "Cable Television Co." shall mean any person, firm or corporation owning, controlling, operating, managing or leasing a CATV system within the Town of Yarmouth, sometimes hereinafter referred to as "the company".
3. "Town" shall mean the Town of Yarmouth organized and existing under the laws in the State of Maine and the area within its territorial limits.

ARTICLE II

A. FRANCHISE REQUIRED

No person, firm or corporation shall install, maintain or operate within the Town or any of its public streets or other public areas any equipment or facilities for the operation of a CATV system unless a franchise authorizing the use of said public street or areas has first been obtained pursuant to the provisions of this Ordinance and unless said franchise is in full force and effect.

B. FRANCHISE CONTRACT

1. The Municipal Officers of the Town may contract on such terms, conditions and fees as are in the best interest of the municipality and its residents with one or more cable television companies for the operation of a CATV system within the Town, including the granting of a franchise or franchises for the operation thereof for a period not to exceed ten years.
2. Applicants for a franchise shall pay a non-refundable filing fee to the Town of \$100 to defray the cost of public notice, and advertising expenses relating to

such application. The applications shall be filed with the Town Clerk and shall contain such information as the Town may require, including but not limited to a general description of the applicant's proposed operation, a schedule of proposed charges, a statement detailing its previous two fiscal years, an estimated ten year financial projection of its proposed system and its proposed annual Town franchise fee or the basis for same, and a statement detailing the prior operational experience of the applicant in both CATV and microwave service including that of its officers, management and staff to be associated with the proposed operation.

3. Said Franchise Contract may be revoked by the Municipal officers for a good and sufficient cause after due notice to the company and a public hearing thereon; with the right to appeal to the Cumberland County Superior Court under Rule 80-B of the Court Rules of Civil Procedure in accordance with due process.

ARTICLE III

A. CATV REGULATORY BOARD

The Town Manager is hereby authorized to enter into interlocal agreement with the Town of Cumberland for the purpose of establishing a CATV Regulatory Board.

B. DUTIES OF THE BOARD

1. The CATV Regulatory Board shall have a chairman, vice-chairman, and a secretary and shall have the following duties:
2. Adopt such rules and regulations as it may deem necessary for monitoring and regulating of the system, said rules and regulations being subject to the approval of the Town Council of each Town which is the signatory to the interlocal agreement mentioned in ARTICLE III, Section III.A.
3. Make recommendations to the Cable Television Company concerning educational and local interest programming.
4. Resolve complaints, disputes, or disagreements between subscribers and the company.
5. Have the authority to conduct public hearings and issue such appropriate orders as it may deem to correct any deficiencies in the operation of said system. The Board's decisions and findings shall be final and binding upon all parties including the company, except such a decision or finding may be appealed to the Municipal Officers and/or to the Cumberland County Superior Court under said Rule 80-B.

6. Regulate rates and charges to subscribers of the Cable Television Company, pursuant to such terms, conditions and criteria as are agreed upon in the franchise agreement.
7. Shall prepare specifications for bids for CATV franchises and invite bids for said franchise receipt of bids, it shall study same and make recommendations being subject to the approval of each Town Council of each town which is the signatory to the interlocal agreement mentioned in ARTICLE III, Section III.A.
8. After the awarding of the franchise, shall negotiate the franchise agreement between the company and the municipalities who are signatories to the agreement mentioned in ARTICLE III, Section III.A, said recommendations being subject to the final and full approval of each municipality.

CHAPTER 503

PERSONNEL POLICY

Town of Yarmouth, Maine

Recodified: 1/15/98

Amended: 6/17/1993

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PERSONNEL POLICY

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PERSONNEL POLICY

ARTICLE I

A. TITLE

1. This Ordinance shall be known and may be cited as the Personnel Policy of the Town of Yarmouth.
2. The general purpose of this policy is to establish a system of personnel administration that meets the social, economic and program needs of the people of Yarmouth. This policy provides the means to recruit, select, develop and maintain an effective and responsive work force and includes policies and procedures for employee hiring and advancement, training and career development, job classification, salary administration, retirement fringe benefits, discipline, and other related activities.

B. Non-Discrimination

As an equal opportunity employer, it is the policy of the Town of Yarmouth to seek and employ qualified personnel in all of its locations; to provide equal opportunities for the advancement of employees, including upgrading, promotion and training, and to administer these activities in a manner which will not discriminate against any person because of race, color, sex, sexual orientation, age, religion, national origin, ancestry or physical/ mental handicap.

C. DEFINITIONS

“Appointing authority” means the Town Manager or the Town Council.

“Employee” denotes any person appointed to a regular position by the Town Manager or the Town Council.

“Full-time employee” denotes an employee who is scheduled to work a minimum 35 - hour work week on a work year basis.

“Regular part-time employee” denotes an employee who is scheduled to work a minimum of 25 hours per week for 50 weeks or more, or 35 hours per week for 36 weeks per year or more, or some other combination equating to not less than 1250 hours per year, but less than full-time.

“Part-time employee” denotes an employee who is scheduled to work less than a full time or regular part-time employee, or at intermittent, varying, seasonal or on call times during the work year.

ARTICLE II

A. ADMINISTRATION

The Town Manager shall be the administrator of the personnel policy. It shall be his/her duty to:

1. Encourage and exercise leadership in the development of sound personnel practices among the departments of the Town of Yarmouth.
2. Advise the Council on manpower needs and utilization.
3. Foster and develop programs for the improvement of employee effectiveness, including training, safety, health, counseling, proper courtesy when dealing with the public and respect for municipal property.
4. Establish and maintain records of all employees in the public service, in which here is set forth as to each employee the class, title, pay or status, sick leave, vacation time, and other relevant data.
5. Apply and carry out this policy and to perform any act which may be necessary or desirable to carry out the purposes and provisions of this policy.

ARTICLE III

A. APPLICABILITY

This policy shall be applicable to all employees appointed by the Town Council, or the Town Manager or his/her agent except the following:

1. The Town Attorney;
2. Employee positions included in a recognized collective bargaining unit;
3. Regular part time employees except as specifically noted herein;
4. Part-time employees except as specifically noted herein;
5. Any other employee covered by a specific employment contract to the extent that the employment contract specifically varies from this policy.

B. HOURS OF WORK

1. The hours of work, the starting and quitting time, and lunch periods and payroll period will be established within each department with the Town Manager's approval.

2. The hours of work, the starting and quitting time or the lunch period may be changed by the department head after consultation with department employees, subject to approval by the Town Manager.

C. SUBSTITUTIONS

The right to substitute scheduled work hours, shifts or days may be permitted by the Department Head or his/her authorized representative.

D. OVERTIME

1. When circumstances warrant, overtime work may be required. Hourly employees shall receive time and one half their base hourly rate for all hours worked in excess of forty hours in any one work week or in excess of the limits of the Fair Labor Standards Act, whichever is greater.
2. In lieu of the overtime pay provisions of Section III.D.1 above, hourly employees may elect to receive compensatory time off at a rate of 1.5 times the amount of time worked in excess of forty hours per week. Employees may elect to accumulate up to 81 hours of compensatory time off (54 hours of overtime worked) which may be used with the prior approval of the employee's supervisor.
3. In computing hours for the purpose of overtime, "HOURS WORKED" shall not include:
4. Hours compensated for by sick leave.
5. Hours compensated for by bereavement period.
6. Hours compensated for by jury pay.
7. Hours compensated but not worked for vacation leave, disciplinary or administrative suspension, or time spent in residence or travel for voluntary training and conferences which is in excess of the normal work day, hours, or week.
8. It is understood that salaried positions that are qualified exceptions under the Fair Labor Standards Act provisions for executive, administrative, and professional employees are paid on the basis of job responsibility and it is the responsibility of the person filling the position to accomplish the work assigned to the position regardless of the hours required to do the work, within reason.

E. ATTENDANCE

Employees shall be at their respective places of work in accordance with the general or departmental regulation pertaining to the hours of work. All departments shall keep daily attendance records and furnish to the Town Manager such periodical reports as he/she shall request.

1. Any employee who has worked overtime at any time in the work week shall not be required to take time off during his/her regularly scheduled hours for the purpose of equalizing such overtime.
2. Unexcused absence or tardiness shall result in progressive disciplinary action.
3. Any unexcused absence of three (3) consecutive scheduled work days or shifts shall constitute voluntary job abandonment and the employee shall be deemed terminated, not in good standing
4. Personal Days: Full-time hourly administrative, library, and community services staff may be awarded 8 hours of paid personal time off, with the scheduling approval of the appropriate supervisor, for each calendar quarter in which the employee has met the attendance and performance standard described below during the prior calendar quarter. Any earned and unused personal time off shall be forfeited at the end of the calendar quarter for which the time was earned. To qualify for the personal time award for any calendar quarter the employee must have met the following standards:
 - a. No time missed for non-job related illness or injury, and
 - b. No disciplinary action taken beyond a verbal warning
 - c. No time missed for job related accidents, injuries, or illnesses, but not including initial medical screening/emergency treatment or diagnosis and any follow up appointments for examinations and treatments if scheduled during work hours.

Nothing herein shall preclude granting of additional time off with pay for outstanding or significant work performance and achievements as recommended by the immediate supervisor and approved by the Town Manager on a case-by-case basis.

F. NEPOTISM

It is the policy of the Town to discourage employing relatives in the same division of a department. Town Manager's approval shall be required for any deviation from this policy. This Section shall apply to part-time, regular part-time and to full-time employees.

ARTICLE IV

A. HOLIDAYS

1. All full-time employees, including those on probation who have served at least 30 days, shall be entitled to paid holidays as follows:
 - a. New Year's Day
 - b. Martin Luther King Day
 - c. Presidents' Day

- d. Patriots' Day
 - e. Memorial Day
 - f. Independence Day
 - g. Labor Day
 - h. Columbus Day
 - i. Veterans' Day
 - j. Thanksgiving Day
 - k. Day after Thanksgiving Day
 - l. Christmas Day
2. When a holiday falls on a Sunday, the following Monday shall be deemed a holiday. When a holiday falls on Saturday, it shall be observed on the preceding Friday. In case a holiday falls on a vacation period, it is not counted as part of annual vacation allowance; an additional day of vacation may be added to the earned vacation time.
 3. Employees, the nature of whose job requires them to work on any of these holidays, shall receive straight hourly base pay in addition to his/her holiday straight hourly base pay.
 4. If the holiday falls on a normal day off, an additional compensatory day will be granted.
 5. Holiday pay shall be computed as the base hourly wage rate times the normally scheduled work hours in a work day.
 6. Whenever any conflict or doubt arises as to the date of the holiday observance, the date shall be as determined by the Town Manager.
 7. All regular part-time employees shall be eligible to receive holiday pay equivalent to the employee's normal work day (total hours) as determined by the supervisor. Regular part-time employees are eligible to receive such holiday pay only if he/she is scheduled to work during the same payroll period in which the holiday falls.

B. VACATION

Vacation privileges are available to full-time employees. Each full-time employee shall earn vacation with pay on the following basis:

1. Those having more than one (1) year of continuous service and less than six (6) years of continuous service shall be entitled to a vacation of 80 hours during the 12-month period following the employee's anniversary date of hire.
2. Those having completed six (6) years of continuous service shall be entitled to vacation of 120 hours during each 12-month period following the employee's anniversary date of hire.

3. Those having completed twelve (12) years of continuous service shall be entitled to a vacation of 160 hours weeks during each 12-month period following the employee's anniversary date of hire.
4. Those hired prior to January 1, 2000 and having completed twenty (20) years of continuous service shall be entitled to a vacation of 200 hours during each 12-month period following the employee's anniversary date of hire.
5. Vacations shall be granted at such time or times as shall be mutually agreeable to the employees and their department heads. Due consideration shall be given to an employee's seniority in regard to scheduling vacation.
6. Unused vacation hours may not accrue beyond the employee's next anniversary date of hire, and unused vacation time may not be converted to a wage value. However, an employee may carry up to forty (40) hours accumulated vacation leave for up to one-hundred twenty (120) calendar days beyond his/her anniversary date of hire with the prior approval of the Town Manager for good cause.
7. An employee shall not be allowed to work and be paid double his/her usual wage during his/her vacation period.
8. Accrued vacation leave shall be paid to an employee in good standing upon his/her separation from the service, or to his/her beneficiary or to his estate upon his/her death.
9. At the employee's option, the employee may trade in, on a 2:1 basis, up to eighty (80) unused earned sick leave hours at the time of the employee's anniversary date of hire for forty (40) supplemental vacation hours provided that the employee will retain a minimum of 240 hours of accumulated sick leave after the trade, and further provided that the supplemental vacation hours shall be taken within three (3) months following the employee's anniversary date of hire. Earned sick leave hours traded in shall be considered sick leave days taken for all purposes under Article IV (C).

C. SICK LEAVE

1. Sick leave shall accrue to full-time employees at the rate of 8 hours for each full calendar month of service accumulative to a maximum of 480 hours. Full time employees hired prior to January 1, 1992 may accumulate up to 960 hours.
2. Sick leave may be used only when personal illness or physical incapacity of such a degree renders the employee unable to perform the duties of his/her position, or the employee has a contagious disease and should temporarily

avoid close contact with other employees or citizens. If the illness or injury of a close family member requires the care and attention of an employee, up to forty (40) hours per year of accumulated sick leave may be used to provide such care and attention.

3. If requested by his/her department head, based upon a "just cause" basis, the employee shall furnish a certificate from an attending physician.
4. Whenever possible, the employee shall notify his/her immediate supervisor at least three (3) hours before the beginning of his/her scheduled shift as to his/her unexpected absence due to sick leave reasons.
5. Upon death, retirement or voluntary termination in good standing with ten (10) years uninterrupted service to the town, an employee shall be paid one-third (1/3) of unused sick leave, to a maximum of 160 hours. Full time employees hired prior to January 1, 1992 shall be paid one-half (1/2) of unused sick time to a maximum of 480 hours.
6. In lieu of payment for unused sick leave, employees in good standing may elect to credit the entire unused sick leave amount, up to 480 hours, to MSRS or credited service. (See MRSA Sect. 18356).
7. The Town shall establish a Retiree Health Savings Plan through the ICMA-RC or comparable plan and institution for all hourly wage (non-salaried) employees. The town shall contribute annually to the employee's Retiree Health Savings Plan a sum equal to \$6.25 for each unused earned sick leave hour which is in excess of the 480 hours sick leave accumulation cap for employees hired on or after January 1, 1992. The town shall contribute annually to the employee's Retiree Health Savings Plan a sum equal to \$8.75 for each unused earned sick leave hour which is in excess of the 960 hours sick leave accumulation cap for employees hired prior to January 1, 1992.

D. TOWN OF YARMOUTH EXTENDED SICK LEAVE POLICY

PURPOSE: To establish a procedure through which eligible employees may voluntarily donate a portion of their accrued vacation, personal leave or unused holiday compensation leave balance to credit the paid sick leave allowances of another employee of the Town of Yarmouth who has exhausted sick leave, vacation, holiday time and comp. time hours due to his/her extended illness or disability.

POLICY: All full-time or regular part-time employees will be considered eligible to participate in this program.

PROCEDURES:

1. Donations of accrued vacation, personal days or holiday hours must be in whole days calculated as 8 hour increments, with a minimum of one day per donation, multiple days can be donated.
2. The program will be administered through the Payroll Office and Town Manager. The employee who is to be a recipient of donated hours must consent to receive such donations and must have exhausted all other accrued compensable leave. The availability or use of compensable leave, whether earned or donated, shall not be deemed to constitute a job retention right beyond such rights extended by law or policy. No employee receiving worker's compensation benefits for lost wages shall be eligible to receive donated time.
3. Any employee wishing to donate accrued vacation, holiday compensation time, or personal leave time must authorize such donation in writing and must specify the type and total of hours to be donated and the employee to be benefited.
4. All donations made and used will be based on the benefited employee's base hourly rate of pay. No adjustment shall be made for pay differentials between the hourly rate of the donor and donee. In no event shall payments to an employee from earned and donated sources exceed his/her regular scheduled pay period earnings.
5. All donations will be processed when a written authorization is received from the employee. Once the application to donate is received, the donor releases all rights to recover any time listed in the application, no exceptions or appeals will be allowed.
6. If the benefited employee shall return to work before exhausting all donated time, he/she will be credited with 40 hours of sick leave or the amount of unused donated time, whichever is less.
7. The maximum number of days to be awarded shall not be more than 12 weeks.
8. Donated sick time paid to any benefited employee shall be treated as wages and therefore taxable income to the recipient.
9. Time donated by the donating employee shall not be treated as income to the donating employee unless required by the IRS or Maine Revenue Services.
10. The Town will not inform the recipient of the names of those donating days or the amount of time donated by any individual employee or department.

DONATIONS OF SICK LEAVE OR VACATION BY EMPLOYEES:

1. Are voluntary
2. Are made from accrued vacation, personal days or holiday leave time balances
3. May not be made from future (yet unearned) vacation, personal days or holiday leave hours
4. Must be in 1 day increments, with a minimum of 1 day (1 day = 8 hours)
5. Are irrevocable, and if any donated hours over 40 hours remain at the end of the recipient's catastrophic leave, they shall be lost.

6. Are taxable on the part of the recipient when paid, in accordance with IRS regulations, and are subject to withholding as required by law.
7. Does not extend Family Medical leave rights.

TO RECEIVE SICK LEAVE DONATIONS:

1. An employee must be absent from work due to his/her own catastrophic illness or injury (as verified by a physician's statement) or to attend his/her immediate family member who has a catastrophic illness or injury (as verified by a physician's statement) for more than twelve consecutive work days.
2. An employee must have exhausted all earned leave balances (sick leave, vacation, comp. time, and holiday credits), except however, the appointing authority may approve the solicitation/acceptance of leave donations prior to all balances being exhausted, when the physician's statement and leave balances indicate the probable exhaustion of balances within two pay periods.
3. No donated time can be used by the recipient for vacation time.
4. Employees who have a leave of absence status will not be able to receive any days from the bank.
5. Additional time (compensation) received by the employee shall be less any applicable tax, retirement or benefit withholdings.

ADMINISTRATIVE RESPONSIBILITY: The Finance Director shall be responsible for maintaining this program.

**TOWN OF YARMOUTH
EXTENDED SICK LEAVE POLICY
VACATION, UNUSED HOLIDAY AND PERSONAL DAYS WAIVER AND
DONATION AUTHORIZATION FORM**

Having read and understood the Town of Yarmouth's Extended Sick Leave Policy and subject to the terms and conditions set forth therein, I hereby voluntarily waive my entitlement to and donate: _____ hours of: my accrued vacation, and/or
_____ hours of my accrued holiday compensation hours, and/or
_____ hours of my earned personal days off.

Such donation shall be credited to the sick leave hours in equal number of hours to _____ (name of benefited employee).

EMPLOYEE DONATING DAYS:

Print Name:

_____ (First) _____ (Last)

Department:

I understand that, upon submission of this form, the Town of Yarmouth payroll office shall deduct such accruals as I have indicated above from my payroll accrual totals and such deductions are irrevocable.

Employee's Signature:

Date:

Return form to the Finance Director

**TOWN OF YARMOUTH
EXTENDED SICK LEAVE POLICY
SICK LEAVE REQUEST FORM**

EMPLOYEE REQUESTING SICK DAYS:

Print

Name: _____

(First)

(Last)

Department: _____

Nature of illness/injury: _____

(attach Doctor's note)

Illness/injury is for: Self _____ or Family Member _____

Expected duration of leave: _____
(Attach Doctor's note)

Is this illness/injury covered by Worker's
Compensation? _____

Are you or will you be receiving compensation from any insurance plan (income
protection, etc.) regarding this illness/injury? _____

Having read and understood the Town of Yarmouth's Extended Sick Leave
Policy and subject to the terms and conditions set forth therein, I hereby request
_____ sick days.

Employee's Signature: _____

Date: _____

Return form to the Finance Director

E. BEREAVEMENT LEAVE

Any full-time or regular part-time employee who suffers the death of a spouse, child or stepchild shall be granted, upon notice to his/her department head, a leave of absence of up to three work days. Any employee who suffers the death of a parent, brother, sister, step-parent or grandparent shall be granted, upon notice to his/her department head, a leave of absence of a minimum of one work day and up to a maximum of three (3) work days at the discretion of his/her department head. During such leave, employees shall be compensated at the regular rate of pay. If an employee shall require additional time, he/she may draw upon accumulated sick leave or vacation time, if available. Any full-time employee who suffers the death of another close family relative may be granted up to three (3) work days bereavement and funeral leave without compensation at the direction of the Town Manager. A work day shall be equivalent to the number of work hours that the employee would have been assigned to work but for the bereavement leave, all as determined by the supervisor.

F. LEAVE OF ABSENCE

In those cases where unusual circumstances compel a full-time employee to be away from work, he/she shall request leave without pay from the department head in advance, giving the reason for and the probable duration of the leave. The department head shall, with due regard to the employee's needs, approve or disapprove the leave, in writing, and in case of disapproval shall advise the employee the reasons thereof.

G. MILITARY SERVICE

1. Whenever any employee has entered into the United States Military Services, his/her seniority, vacation (as provided for in this policy), and reinstatement shall be governed by applicable federal law.
2. An employee who at the time of leaving active employment to enter military service of the United States has qualified for a vacation in the year of such entrance and who has not received a vacation or vacation allowance shall be granted such allowance.
3. The Town shall pay an employee called for active military reserve service the difference between his/her military reserve pay and his/her base weekly Town earnings upon presentation of an official statement of such military pay amounts, and dates of service. Such pay differential shall only apply if the Town base pay is greater than the military reserve pay and shall be limited to a period not greater than eighteen months in any three year period.
4. The Town shall pay an employee who is meeting his/her military reserve training requirements the difference between his/her military reserve training pay and his/her base weekly Town earnings upon presentation of an official

statement of military reserve pay amounts and dates of service. Such pay differential shall only apply if the Town base pay is greater than the military reserve training pay and shall be limited to a period not greater than two weeks in any twelve month period.

H. JURY PAY

The Town shall pay a full time or regular part time employee called for jury duty the difference between his/her regular pay and his/her juror's pay upon presentation of an official statement of jury pay received. Employees excused from jury duty must report back to work during their normal shift hours.

I. INSURANCE

1. Life - The Town pays one hundred (100%) per cent of the employer and employee share of Basic Group Life Insurance for full-time employees who accept life insurance coverage under the Maine State Retirement System Group Life Insurance Plan.
2. Hospitalization - For full time employees, as defined, Town participation in the cost of Group Hospital, Surgical and/or Major Medical Insurance premiums is eighty-five percent (85%) of a single person, dependent, or family subscription level premium. Coverage is currently provided through the Maine Municipal Employees Health Trust (MMEHT). Employees may elect the POS C plan or an alternative lower premium plan as may be available through MMEHT.
3. Effective January 1, 2016 the Town will offer the PPO 500 Plan through the MMEHT with the same Employer/Employee premium cost share of 85% / 15%.
4. In addition, for those employees who elect the PPO 500 Plan the Town shall establish on January 1, 2016 a Health Reimbursement Account to reimburse the first calendar year annual \$500 of eligible Deductibles and/or Co-Insurance payments for the employees, and the first annual additional \$500 for dependents covered (combined total of \$1,000/year). The program shall be administered in accordance with applicable HRA Administrator and IRS Rules and the Town shall pay the administrative fees therefor. HRA benefits are deemed tax exempt payments and not reported as income.
5. Buy Outs:

The Town agrees to pay a lump sum of twelve hundred dollars (\$1,200) per year to any employee who elects no Health Insurance for an entire year. The Town agrees to pay a lump sum of twelve hundred dollars (\$1,200) per year to any employee with eligible dependents or families who elects no Health Insurance for an entire year for those dependents. These buy-out options are

cumulative up to \$2,400 and, may be pro-rated monthly. Buy-outs should only be chosen by employees who can provide alternative health overages.

6. For employees regularly working at least 28 hours per week but less than 35 hours per week, the Town will provide 85% premium contribution for the single person coverage level under the MMEHT PPO 500 plan or contribution in an equal amount to an alternative plan as may be available through MMEHT. Employees may elect to add dependent or family coverage with no additional Town contribution.
7. For employees regularly working at least 20 hours per week but less than 28 hours per week, may elect to enroll in any MMEHT Plan made available through the Town for the single, dependent or family coverage levels. There shall be no Town contribution toward the premium.
8. Domestic Partner Coverage
 - a. The Town will authorize employees to “pick-up”, at their own expense, health coverage for a domestic partner. The town’s premium participation or buy-out option shall not include the domestic partner portion. A domestic partner shall be defined as by 24-A MRSA Section 2741-A.
9. Income Protection - The Town affords full time employees the opportunity to participate in the Maine Municipal Association Income Protection Plan with the cost of premiums to be borne by the employee.
10. Dental – For full time employee’s the Town agrees to pay the employee coverage under Option A of the Maine Municipal Employees Health Trust Dental Plan or a comparable program, group or carrier. Pursuant to the program rules, employees may elect to cover eligible dependents at the employee’s own cost. Automatic payroll deductions will be instituted from employee’s pay checks to cover any such elected coverage.
11. Workers Compensation Insurance -The Town of Yarmouth provides workers compensation insurance protection for all its employees as required by law. In addition, the Town will pay for up to three days of sick leave to any employee unable to work because of a job related injury or illness if such lost time is not compensated by the worker’s compensation coverage.
12. Medical Cost Reimbursement Accounts – For full time employee’s the Town shall offer to establish and maintain medical cost reimbursement third party accounts authorizing employees to defer up to \$1,500 per year from wages on a pre-tax basis which may be used to reimburse the employee for medical, dental, vision or other uninsured family medical care costs.

J. RETIREMENT

In addition to Social Security, the Town offers opportunities for retirement planning or deferred compensation programs to its full-time employees.

1. Maine State Retirement System participation is available to all full-time employees. Benefits, contributions and program rules are all established by the Retirement System and are applicable to participating employees.
2. In lieu of the Maine State Retirement System plan, full-time employees may elect to participate in the International City Management Associations Retirement Corporation (ICMA), Section 401 deferred compensation program. The Town will match, up to 6% of employee earnings, which are contributed to the deferred compensation program. All program rules, investment options, and payment options are established by ICMA-RC and are applicable to participating employees. Effective July 1, 2008, the Town will amend the plan to provide an even match contribution of up to 7% for employees who elect to defer up to 7% of employee base earnings.
3. In addition to MSRS and /or the ICMA-RC Section 401 options, any full-time employee may elect to participate in the International City Management Association Retirement Corporation, Section 457 deferred compensation program. An employee may elect to defer as much or little of his/her earnings to the Section 457 program as allowed by law and ICMA-RC rules. The Town does not match the employee contributions. All program rules, investment options and payment options are established by ICMA-RC and are applicable to participating employees.

K. SOCIAL SECURITY

The Town participates jointly with employees in Social Security payments. Benefits provided include a retirement feature, survivor's payments if death occurs before retirement, disability insurance and Medicare coverage.

ARTICLE V

Disciplinary Action and Grievances

The following provision applies to all non-probationary employees.

A. DISCIPLINE, DISCHARGE AND SUSPENSION

1. The Town shall base disciplinary actions or measures on a "good and sufficient cause" basis.
2. The appointment authority shall have the right to demote, discharge or suspend without pay for no more than fourteen (14) calendar days any employee whose work performance or conduct, in the judgment of the appointing authority, justifies such action. Notice of such action against an employee must be in writing and filed with the employee not later than the effective date of the action.

Such notice shall specify the penalty and contain a statement of the reason or reasons therefore. The employee shall have the right of appeal as outlined in the Grievance Procedure.

B. GRIEVANCE PROCEDURE

1. Any employee who deems himself or herself aggrieved will have recourse to a strictly impartial hearing, providing the following steps are taken:
 - a. Step 1. The employee should present the grievance orally within seven (7) days of its occurrence to his/her department head or immediate supervisor. In the event the grievance is not resolved at this level within seven (7) working days, the employee may then refer to step 2.
 - b. Step 2. The unresolved complaint may be referred in writing to the Town Manager through the employee's immediate supervisor within ten (10) calendar days. The Town Manager, department head and employee will meet to discuss the grievance. The Manager shall give a written reply within one week. The decision of the Manager shall be final.

ARTICLE VI

A. POLITICAL ACTIVITIES

While working for the Town, employees shall refrain from seeking or accepting nomination or election to any office in the Town government, and from using their influence publicly in any way for or against any candidate for elective office in the Town government. Town employees shall not circulate petitions or campaign literature for elective Town officials, or be in any way concerned with soliciting or receiving subscriptions, contributions or political service from any person for any political purpose pertaining to the government of the Town. This rule is not to be construed to prevent Town employees from becoming, or continuing to be, member of any political organization, from attending political organization meetings, from expressing their views on political matters or from voting with complete freedom in any election.

B. BULLETIN BOARDS

A least one bulletin board will be set up within easy access to each department for the purpose of advertising job position openings, public notices, department regulations, etc.

C. JOB POSTING

1. In the event of the opening or reopening of a job or department, the jobs made available shall be posted for a period of forty-eight (48) hours. Selection of employees shall be governed by:

- a. Evidence of skills, ability or knowledge of operation disclosed by the personnel file or written experience records of the employee from former employers, or evidence showing completion of training period from a recognized institution for training.
 - b. Adaptability.
 - c. Length of continued service.
- 2. Any employee who disqualifies himself/herself after being awarded a job will not be eligible to seek another job for three (3) months. An employee will not be permitted to seek another job during his/her trial period.
- 3. The trial period for transferring from one job or department to another shall be thirty (30) days. During the thirty (30) day trial period the employee may be returned to his or her former position and pay without penalty at the discretion of the Town or the employee.

D. EMPLOYMENT

- 1. The employment of all personnel shall be the responsibility of the department head and the Town Manager, except in the case of (1) department heads which shall be subject to the approval of the Town Council, and (2) those officials specifically designated by the Town Charter, ARTICLE II, Sec. 3 as Council appointments.
- 2. All applicants must submit a written application for employment.
- 3. All employees are considered probationary for the first six months of employment. If they are to be retained as regular employees for the purpose of figuring benefits, seniority, etc., the initial date of employment is considered as the anniversary date of the individual. Any probationary employee may be dismissed at any time, with or without cause, by the Town Manager. Probationary employees accrue, but may not take sick, or vacation leave.
- 4. Employees must maintain any applicable state, professional or federal licenses, certifications and authorities essential to their job performance which are required by law or agency rule. Examples for illustrative purposes only may include: a valid Maine Drivers License, certification from the MCJTA, local plumbing inspection certification, American Red Cross, WSI certification, etc.

E. TOWN TRAINING PROGRAMS

Wages, hours, and working conditions applicable to training programs instituted by the Town shall be established by the Town Manager subject to approval of the Council.

F. PROMOTION

The Town Council desires that Town employees be given maximum opportunity for advancement in the service. Present employees shall be given first consideration in filling a vacancy and may be given training opportunities to qualify for promotion, but it is recognized that, from time to time, the good of the service will require that a vacancy be filled from outside the service. Such a decision shall be made only after careful review of the qualifications of all Town employees who apply for the position.

G. RESIGNATION

All employees resigning from the service of the Town shall give a reasonable written notice, normally two weeks, but at least one work week shall be required. The notice of resignation shall be in writing. Failure to give the minimum notice shall render the employee's status to "not in good Standing" unless waived by the Town Manager for good cause.

H. TRAVEL

1. Municipal employees who are on official business of the Town away from the office shall be paid for expenses of such trips. The mode of travel shall be by the methods of transportation which will result in the greatest advantage to the Town.
2. When travel is by private automobile, the employee shall be remunerated for the use of his/her vehicle at the rate determined by the Town Manager.
 - a. When two or more persons travel together on official business, costs shall be paid to one employee based on the total official mileage involved.
 - b. Costs such as tolls and parking meters shall be added if actual expense occurred.
3. All authorizations for remuneration or reimbursements for travel expenses shall be made by the Town Manager prior to the trip.
4. Travel costs shall not be incurred for travel between employee's home and principal point of employment in a regular and routine performance of work.

I. SAFETY

1. All accidents to personnel, no matter how minor, during the work schedule must be reported immediately to the department head and a written report shall be made on forms for that purpose.

2. All employees suffering an accident may be sent to a doctor at the direction of the Department Head or at the request of the employee for examination at Town expense.

J. SUGGESTIONS

The Town Council welcomes constructive suggestions from employees which might help improve working conditions or policies. Suggestions are also welcome which might render better service to the taxpayers or help cut down unnecessary labor and supply costs.

GENERAL ASSISTANCE ORDINANCE



**Prepared by Maine Municipal Association
August 2006**

GENERAL ASSISTANCE ORDINANCE

The Municipality of _____ enacts the following General Assistance Ordinance. This Ordinance is filed with the Department of Health & Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the _____ day of _____, _____, by the municipal officers:
(day) (month) (year)

_____	_____
(Print Name)	(Signature)

_____	_____
(Print Name)	(Signature)

_____	_____
(Print Name)	(Signature)

_____	_____
(Print Name)	(Signature)

_____	_____
(Print Name)	(Signature)

_____	_____
(Print Name)	(Signature)

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ARTICLE I

Statement of Policy

The Municipality of _____ administers a program of general assistance (GA) available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided within this ordinance, Department of Health and Human Services (DHHS) GA policy and in 22 M.R.S.A. § 4301 et seq.

Every effort will be made to recognize the dignity of the applicant while encouraging self-reliance. The program will strive to help eligible persons achieve self-maintenance by promoting the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. The general assistance program will place no unreasonable restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on sex, age, race, nationality, religion, sexual orientation or disability. The municipality is committed to including qualified individuals with disabilities, in municipal services, programs, and activities. As a result, the municipality will promote a GA program that when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. GA applicants with physical or mental disabilities that require a reasonable accommodation in order to access and/or utilize the municipal GA program are encouraged to provide the municipality with advance notice regarding the accommodation request.

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. GA applicants will be provided information regarding their rights and responsibilities under the GA program. Within 24 hours of receiving an application, the administrator will provide the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also provide the applicant written notice that the applicant may appeal to the municipal fair hearing authority if dissatisfied with the decision. When an

applicant is determined to be eligible, assistance appropriate to the need will be furnished within 24 hours after the completed application is submitted except when the administrator issues non-emergency assistance conditionally on the successful completion of a workfare assignment (*see section 5.6 of this ordinance*).

The administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential as a matter of law (*see 22 MRSA §4306*).

The administrator will post notice stating the day(s) and hours the administrator will be available. The administrator, or other designated person/entity, will be available to take applications in the event of an emergency at all other times. A copy of this ordinance and Maine General Assistance law will be readily available to any member of the public upon request. Notice to this effect will be posted.

ARTICLE II

Definitions

Section 2.1—Common Meaning of Words

Unless otherwise apparent or defined, all words in this ordinance will have their common meaning.

Section 2.2—Special Definitions

Applicant. A person who has submitted, either directly or through an authorized representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application. In addition, all persons on whose behalf an authorized application has been submitted or on whose behalf benefits have been granted shall be considered applicants.

Application Form. A standardized form used by the general assistance administrator for the purpose of allowing a person to apply for general assistance and confirming the fact that a person has made application. The application form must be signed by the applicant to be considered complete.

Basic Necessities. Food, clothing, shelter, fuel, electricity, non-elective essential medical services as prescribed by a physician, nonprescription drugs, basic telephone service where it is necessary for medical reasons, property taxes when a tax lien placed on the property threatens the loss of the applicant's place of residence, and any other commodity or service determined essential by the municipality.

"Basic necessities" do not include:

- Phone bills
- Cable or satellite dish television
- Mail orders
- Vehicle payments
- Credit card debt
- Furniture
- Loan re-payments

- Cigarettes
- Alcohol
- Pet care costs
- Vacation costs
- Legal fees
- Late fees
- Key deposits
- Security deposits for rental property(except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full) (22 M.R.S.A. § 4301(1)).

Case Record. An official file containing application forms; correspondence; narrative records and all other communications pertaining to an applicant or recipient; written decisions regarding eligibility including reasons for those decisions as well as the types and amounts of assistance provided; and all records concerning an applicant's request for fair hearing and those fair hearing decisions.

Categorical Assistance. All state and federal income maintenance programs.

Claimant. A person who has requested a fair hearing.

Deficit. An applicant's deficit is the appropriate overall maximum level of assistance for the household as provided in section 6.8 of this ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the appropriate overall maximum level of assistance, the household has no deficit.

Disabled Person. A person who is presently unable to work or maintain a home due to a physical or mental disability that is verified by a physician or qualified mental health provider.

Dwelling Unit. A building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit (22 M.R.S.A. § 4301(2)).

Eligible Person. A person who is qualified to receive general assistance from the municipality according to the standards of eligibility set forth in this ordinance (22 M.R.S.A. § 4301(3)).

Emergency. Any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person At the municipality's option, a situation which is imminent and which may result in undue hardship or unnecessary cost to the individual or municipality if not resolved immediately. (22 M.R.S.A. § § 4301(4), 4308(2), 4310).

General Assistance Program. A service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person is in need and is found to be otherwise eligible to receive general assistance (22 M.R.S.A. § 4301(5)).

General Assistance Administrator. A municipal official designated to receive applications, make decisions concerning an applicant's right to receive assistance, and prepare records and communications concerning assistance. He or she may be an elected overseer or an authorized agent such as a town manager, welfare director, or caseworker (22 M.R.S.A. § 4301(12)).

Household. "Household" means an individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The income of

household members not legally liable shall be considered as available to the applicant only when there is a pooling of income (22 M.R.S.A. § 4301(6)).

Income. “Income” means any form of income in cash or in kind received by the household including:

- Net remuneration for services performed
- Cash received on either secured or unsecured credit
- Payments received as an annuity, retirement or disability benefits
- Veterans’ pensions and/or benefits
- Retirement accounts or benefits
- Workers’ compensation
- Unemployment benefits
- Federal and/or state tax returns
- Benefits under any state or federal categorical assistance
- program such as, TANF, Supplemental Security Income, Social Security and any other payments from governmental sources (unless specifically prohibited by any law or regulation)
- Court ordered support payments, e.g., child support
- Income from pension or trust funds
- Household income from any other source, including relatives or unrelated household members
- Student loans
- Rental income

The following items shall not be considered as income or assets that must be liquidated for the purposes of deriving income:

- 1) Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;
- 2) Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or

- 3) Earned income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need, the period of time used as a basis for the calculation shall be a 30-day period commencing on the date of the application. This prospective calculation shall not disqualify an applicant who has exhausted income to purchase basic necessities, provided that the income does not exceed the income standards established by the municipality (22 M.R.S.A. § 4301(7)).

- 4) Certain public benefit programs are specifically exempt from being counted as income for purposes of GA. These programs include:
- Food Stamps (7 USCS § 2017(b))
 - Li-Heap (42 USCS § 8624)
 - Family Development Accounts (22 M.R.S. § 3762)
 - Americorp VISTA program benefits (42 USCS § 5044 (f))
 - Property tax rebates issued under the Maine Residents Property Tax Program (AKA “Circuitbreaker” Program) (36 M.R.S.A. § 6216)
 - Aspire Support Service Payments (10-144 CMR Chapter 323)

Initial Applicants. A person who has not applied for assistance in this or any other municipality are considered initial applicants.

Just Cause. A valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility or from attending a scheduled fair hearing (22 M.R.S.A. § § 4301(8), 4316-A(5)).

Lump Sum Payment. A one-time or typically nonrecurring sum of money issued to an applicant or recipient. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property

damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a nonliquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses. (22 MRSA § 4301 (8-A)).

Material Fact. A material fact is a fact that necessarily has some bearing on the determination of an applicant's general assistance eligibility, and which would, if disclosed to the administrator, have some determinable effect on the calculation of eligibility or the issuance of a grant of assistance.

Maximum Levels of Assistance. The amount of financial assistance for a commodity or service as established in section 6.8 of this ordinance or the actual cost of any such basic necessity, whichever is less.

Misconduct. For purposes of the GA work requirement (*see 22 MRSA §4316-A*) misconduct shall have the same meaning as misconduct defined in 26 MRSA §1043 (23). (*See Appendix I of this ordinance for the official definition of misconduct.*) Generally, employees are guilty of misconduct when the employee violates his or her duties or obligations to the employer. Employees who engage in a pattern of irresponsible behavior to the detriment of the employer's interest may also be found guilty of misconduct.

Municipality. Any city, town or plantation administering a general assistance program.

Municipality of Responsibility. The municipality which is financially liable for the support of an eligible person at the time of application (22 M.R.S.A. § § 4301(9), 4307).

Need. The condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the

individual's family are less than the maximum levels of assistance (22 M.R.S.A. § § 4301(10), 4308).

Net General Assistance Costs. Those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program (22 M.R.S.A. §§ 4301(11), 4311).

Period of Eligibility. The time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance provided, however, in no event shall this period extend beyond one month (22 M.R.S.A. § 4309(1)).

Pooling of Income. "Pooling of income" means the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumed pooling of income.

Real Estate. Any land, buildings, homes, mobile homes and any other things affixed to the land (22 M.R.S.A. § 4301(13)).

Recipient. A person who has applied for and is currently receiving general assistance.

Repeat Applicants. All applicants for general assistance that are not initial applicants are repeat applicants. For purposes of this ordinance repeat and subsequent shall have the same meaning.

Resident. A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the

municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (22 M.R.S.A. § 4307).

Resources. Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: “available” and “potential”. Potential resources are programs, services, non-liquid assets, or trusts that typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released.

Potential resources include but are not limited to any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support payments, and jointly held resources where the applicant or recipient share may be available to the individual (22 M.R.S.A. § 4317). Potential resources include the TANF (previously known as AFDC) program, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for which the applicant does not have to take any unreasonable steps to secure (e.g., relocation beyond the immediate region). At the discretion of the GA administrator a necessary minimum balance required by a financial institution in order to obtain free checking or in order to maintain the account shall not be considered an available resource.

The municipal GA administrator reserves the right to inform GA clients of services, commodities or facilities made available by private organizations or charities. Although GA applicants/recipients may be informed of the existence of a charitable resource

and/or organization, GA eligibility shall not be based or conditioned on the use of a private charitable resource(s).

30-Day Need. An applicant's 30-day need is the sum of the household's prospective 30-day costs, from the date of application, for the various basic necessities. For the purpose of this calculation, the 30-day cost for any basic need shall be the household's actual 30-day cost for the basic necessity or the maximum 30-day cost for the basic necessity as established by this ordinance, whichever is less.

Unforeseen Repeat Applicants. Are repeat applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source and who have unexpectedly become unemployed through no fault of their own or whose benefits (e.g., through an available resource) have ceased through no fault of their own.

Unmet Need. An applicant's unmet need is the household's 30-day need as established by section 6.6 of the ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the household's 30-day need, the household does not have an unmet need.

Work Requirements. Work requirements are those obligations the municipal administrator places on applicants for general assistance as directed and/or authorized by 22 M.R.S.A. § 4316-A to the extent such obligations ensure a continuing potential eligibility for general assistance when complied with, result in ineligibility when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, maintaining employment, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

ARTICLE III

Administrative Rules and Regulations

The following are rules and regulations for the administration of general assistance.

Section 3.1—Confidentiality of Information

Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released (22 M.R.S.A. § 4306).

Release of Information. Applicants, recipients and their legal representatives have the right to review their case records. No record will be released to a third party, however, unless the administrator receives a consent form signed by the applicant expressly authorizing the release of his or her records to the specified parties. Whenever the administrator releases any information, he/she will make a notation in the applicant's file stating to whom the record was released and the date. The administrator may charge a reasonable fee for the reproduction of any records when appropriate.

Information from Other Sources; Penalty. Information furnished to the municipality by the Department of Health and Human Services or any other agency or institution pursuant to 22 M.R.S.A. § 4314, is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of vital statistic records such as those concerning birth, marriage and death. (22 M.R.S.A. § 2706).

Any representative of a financial institution (except national banks) or any employer of a general assistance applicant who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100. Any person, including the applicant, who knowingly and willfully makes a false representation of a

material fact to the administrator is committing a Class E crime (22 M.R.S.A. § § 4314, 4315).

Misuse of Information. Misuse of any information relating to an applicant or recipient is a punishable offense (22 M.R.S.A. § 42(2)).

Section 3.2—Maintenance of Records

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S.A. § 4306). These records are necessary to:

- a) provide a valid basis of accounting for municipal expenditures;
- b) document and support decisions concerning an applicant or recipient; and
- c) ensure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.

Case Records. The administrator will establish and maintain a separate case record, either in paper format or digital format for each applicant or recipient. Each case record will include at least:

- | | |
|---------------------------------|----------------------------------|
| • household applications | deficit or unmet need, |
| • budget sheets | whichever is less) |
| • information concerning the | • written decisions |
| types and amounts of | • requests for fair hearings and |
| assistance provided | the fair hearing authority |
| • narrative statements | decisions |
| describing the nature of the | • workfare participation records |
| emergency situation | • repayments to the |
| whenever general assistance | municipality |
| is granted in amounts greater | • narrative writings |
| than the applicant's | documenting the need for |
| mathematical eligibility (i.e., | general assistance, the |

- results of home visits,
- collateral information,
- referrals, changes in status
- client authorization(s) for the release of GA information and/or reason(s) for the release of confidential information
- adjustments in aid, and suspension or termination of eligibility
- physician's documentation
- Supplemental Security Income (SSI) interim assistance reimbursement authorization forms
- vendor forms

Case records will not include information or material that is irrelevant to either the applicant's or recipient's application or the administrator's decisions.

Retention of Records. General assistance records shall be retained for a minimum of three full years. The three year period shall coincide with the State's fiscal year which begins July 1 and ends on the following June 30. Records may be destroyed after three years by one of the two preferred methods of destruction for confidential records, i.e., supervised shredding, burning or appropriate digital deletion/destruction process. In the event a client's records contain SSI reimbursement forms, the client's records should be maintained so that the municipality may seek reimbursement.

ARTICLE IV

Application Procedure

Section 4.1—Right to Apply

Who May Apply. Anyone may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative must apply in person, except in special emergency situations as provided in section 4.9 of this ordinance or except when the applicant is a resident of an emergency shelter and the municipality has made an agreement with that emergency shelter to presume shelter residents to be eligible for general assistance (22 M.R.S.A. §4304(3)). In such cases, the administrator may require a representative to present a signed statement documenting that he/she is in fact authorized to apply for general assistance on behalf of the named applicant. The applicant or representative must complete a written application and any other required forms so that the administrator can determine eligibility (22 M.R.S.A. § § 4305, 4308). With notice, all members of the household receiving general assistance may be required to physically present themselves to the administrator.

Application Via Telephone. When a person has an emergency but is unable to apply in person due to illness, disability, lack of child care, lack of transportation or other good cause, and he/she cannot send an authorized representative, the administrator will accept an application by telephone. The telephone application process will include the administrator receiving written verification by mail and visiting the applicant's home with his or her permission (22 M.R.S.A. § 4304).

Written Application Upon Each Request. Each request for assistance will be administered in accordance with these guidelines. The administrator will make an independent determination of eligibility for general assistance each time a person applies (22 M.R.S.A. § § 4308, 4309).

Applications Accepted; Posted Notice. Application forms will be available during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance and the name of the administrator available to take emergency applications at all other times. In addition, the posted notice shall include the fact that the municipality must issue a written decision on all applications within 24 hours, and the DHHS toll-free telephone numbers for reporting alleged violations or complaints. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator. In an emergency, however, the administrator or his or her designee will be available to accept applications for assistance whenever necessary (22 M.R.S.A. § 4304).

Section 4.2—Application Interview

Except when it is impractical, the general assistance administrator will interview each applicant personally before making a decision. The interview will be conducted in private, although the applicant may be accompanied by a legal representative, friend or family member.

Section 4.3—Contents of the Application

At a minimum, the application will contain the following mandatory information:

- | | |
|--|---|
| a) applicant's name, address, date of birth, Social Security number or appropriate United States Customs and Immigration Services (USCIS) documentation, and phone number; | household members for whom the applicant is seeking assistance; |
| b) names, date(s) of birth, and Social Security number(s) or appropriate USCIS documentation of other | c) total number of individuals living with the applicant; |
| | d) employment and employability information; |

- e) all household income, resources, assets, and property;
- f) household expenses;
- g) types of assistance being requested;
- h) penalty for false representation;
- i) applicant's permission to verify information;
- j) signature of applicant and date.

In the event an initial applicant is unable to provide identification records (e.g., Social Security card/number) because the record may have been lost, stolen or misplaced, the initial applicant may be provided a reasonable amount of time, e.g., five working days, in order to obtain copies of identification records. Provided the initial applicant makes a good faith effort to obtain the item/record sought, GA required to cure an immediate and/or emergency need shall not be withheld. In such cases the municipality may elect to provide only a prorated amount of GA, e.g., five day's worth, while the applicant proceeds to obtain the required information.

Section 4.4—General Assistance Administrator's Responsibilities at the Time of the Application

The administrator will make every effort to inform all applicants of their rights and responsibilities as well as the general program requirements associated with applying for and receiving general assistance, including application requirements, eligibility guidelines, applicant rights, and applicant reimbursement obligations.

Application Requirements. The administrator will help the applicant fill out the application form as described in the preceding section. The administrator will inform the applicant of any other information or documentation that the applicant will have to provide in order for the administrator to evaluate the applicant's eligibility for assistance. The administrator will fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

Eligibility Requirements. The administrator will inform, either verbally or in writing, the applicant of the eligibility requirements of the program, including:

- the income standard of need;
- the applicant's ongoing use-of-income, work-related, and resource-related responsibilities, as described in the section immediately below;
- the financial reduction in assistance that is the consequence of spending household income on non-basic necessities; and
- the disqualification penalties associated with committing fraud, failing to perform work-related assignments without just cause, or failing to make a good faith effort to secure potential resources when the requirement to attempt to obtain those resources has been explained to the applicant in writing.

Applicant Rights. The administrator will inform all applicants of their rights to:

- review the municipal General Assistance ordinance and Maine General Assistance law;
- apply for assistance;
- receive a written decision concerning eligibility within 24 hours of applying for assistance;
- confidentiality;
- contact the DHHS;
- challenge the administrator's decision by requesting a fair hearing.

Reimbursement/Recovery. The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. The municipality may also, as appropriate, contact the client's legal representative to inform him or her of the client's obligation to repay the municipality under the GA program. In addition to seeking repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for

the applicant's support (spouses, parents of persons under the age of 25, see Article VIII, "Recovery of Expenses") (22 M.R.S.A. § § 4318, 4319). Whenever applicable, the administrator will explain the various liens a municipality may place against a recipient's real or personal property, such as the mortgage or capital improvement lien, the Workers' Compensation lump sum payment lien, or the SSI "interim assistance agreement" lien, as these liens are described in Article VIII, "Recovery of Expenses".

Section 4.5—Responsibilities of the Applicant at the Time of Application

The applicant has the responsibility at the time of each application to provide accurate, complete and current household information and verifiable documentation concerning:

- Income
- Resources
- Assets
- Employment
- Use of income
- Names and addresses of any relatives legally liable for the applicant's support
- Any change in this information from a previous application that would affect household eligibility (22 M.R.S.A. §4309).

In addition, the applicant must accurately report and provide verifiable documentation that shows the applicant:

- a) has remained employed, if previously employed, and not quit work without just cause or been discharged from employment for misconduct;
- b) has been seeking employment, if previously unemployed or employed on a part-time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;

- c) has made use of all available and potential resources when directed in writing to such a program by the administrator, including, but not limited to, other government benefit programs or the assistance of liable relatives of sufficient means; and
- d) has participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the administrator, in order to diminish the applicant's need for general assistance (22 M.R.S.A. § §4316-A, 4317).

Section 4.6—Action on Applications

Written Decision. The general assistance administrator will give a written decision to the applicant concerning his or her eligibility within 24 hours after the applicant submits a written application. Assistance will be furnished to eligible applicants within that period except when the municipality is permitted by law (and pursuant to section 5.6 of this ordinance) to issue assistance conditionally on the successful completion of a workfare assignment (22 M.R.S.A. § § 4305, 4316-A, 4321). A written decision will be given each time a person applies, whether assistance is granted, denied, reduced or terminated.

Content. The written decision will contain the following information:

- a) the type and amount of aid the applicant is being granted or the applicant's ineligibility;
- b) the period of eligibility if the applicant is eligible for assistance;
- c) the specific reasons for the decision;
- d) the applicant's right to a fair hearing; and

- e) the applicant's right to notify the DHHS if he/she believes the municipality has acted illegally (22 M.R.S.A. § 4321).

Section 4.7—Withdrawal of an Application

An application is considered withdrawn if:

- a) the applicant requests in writing that his or her application be withdrawn; or
- b) the applicant refuses to complete or sign the application or any other form needed by the general assistance administrator.

Section 4.8—Temporary Refusal to Accept Application

Under special circumstances, the general assistance administrator may temporarily refuse to accept applications. Such circumstances may include, but are not limited to, the following:

- a) When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will only be accepted when his or her conduct is under control.
- b) If the administrator believes that an applicant's behavior presents a threat to the health or safety of the public or to a municipal employee, or if such behavior is violent, or if an applicant has engaged in abusive, disruptive or harassing behavior and has been required to leave on more than one occasion, then the applicant may be required to designate a third party to apply for assistance on his or her behalf and the applicant may be prohibited from entering the municipal building;

- c) When a third person applies for assistance on behalf of the applicant that person may be required to provide written verification that he/she has been duly authorized to act as a representative for the applicant (22 M.R.S.A. § 4308).

Section 4.9—Emergencies

An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which if not alleviated immediately could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household (22 M.R.S.A. § 4301(4)). Although they may be considered otherwise ineligible to receive general assistance, persons who apply for assistance to alleviate an emergency may be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency (22 M.R.S.A. § 4308).

A municipality may provide emergency assistance when the municipality determines that an emergency is imminent and that failure to provide assistance may result in undue hardship and unnecessary costs to either the client or the municipality.

Disqualification. A person who is currently disqualified from receiving General Assistance due to a violation of sections 5.5, 5.6, 5.7, 5.8 or 6.4 of this ordinance is ineligible to receive emergency assistance (22 M.R.S.A. § 4308(2)(A)). However, dependents of a disqualified person may be eligible for assistance. For the purposes of this section, “dependents” are defined as: 1) a dependent minor child; 2) an elderly, ill or disabled person; or 3) a person whose presence is required to provide care for any child under the age of 6 years or any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that all household income will be considered available to them.

Assistance Prior to Verification. Whenever an applicant informs the administrator that he/she needs assistance immediately, the administrator will grant, pending verification, the assistance within 24 hours, provided that:

- a) after interviewing the applicant the administrator has determined that the applicant will probably be eligible for assistance after a verification of information is completed; and
- b) the applicant submits documentation when possible, to verify his or her need. The administrator may contact at least one other person to confirm the applicant's statements about needing emergency assistance. No further assistance will be authorized until the applicant's eligibility is confirmed (22 M.R.S.A. § 4310).

Telephone Applications. If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, or other good cause, and if there is no authorized representative who can apply on behalf of the applicant, the administrator shall accept an application over the telephone (22 M.R.S.A. § 4304).

The administrator will not grant any assistance as the result of a telephone application if the applicant refuses to allow the administrator to verify the information either by visiting his or her home or by mail and the administrator cannot determine his or her eligibility through any other means.

Limitation on Emergency Assistance. Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace the misspent money (22 MRSA § § 4308(2) & 4315-A).

All applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert

the emergency situation. According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

- a) The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.
- b) The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his or her basic necessities for the applicable time period, including evidence of all income and resources received over that period of time.
- c) The administrator shall calculate all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this ordinance for the specific basic necessity or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.
- d) From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.
- e) The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in subsection (d), even when such a grant will not totally alleviate the emergency situation.

- f) The administrator may waive this limitation on emergency assistance in life threatening situations or for initial applicants; that is, persons who have never before applied for general assistance.
- g) Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

Section 4.10—Residence

The administrator shall provide general assistance to all eligible persons applying for assistance who are residents of this municipality. A resident is a person who has no other residence and is physically present in this municipality and who intends to remain here and establish a household.

The municipality also recognizes its responsibility to provide assistance to eligible persons who apply here and who are not residents of this municipality or any other municipality. If a person who is not a resident of any municipality applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until he/she establishes a residence in another municipality (22 M.R.S.A. § 4307).

Moving/Relocating. The municipality will not consider moving or transporting an applicant or recipient into another municipality unless the person requests assistance to relocate to another municipality. If the administrator determines the applicant is eligible and grants financial assistance to help with the requested relocation, this municipality will be responsible for providing assistance to the applicant for 30 days after he/she moves provided the recipient remains eligible.

Institutions. If a resident of this municipality enters an institution located in another municipality (such as a group home, shelter, rehabilitation center, nursing home, or

hospital) and requests assistance while at the institution, he/she will be the responsibility of this municipality for up to 6 months after he/she enters the institution if the conditions of 22 M.R.S.A. § 4307 and §4313 are met. The municipality thereafter retains responsibility for an applicant in an institution only if the applicant has maintained a home in this municipality to which he/she intends to return. The municipality also recognizes its responsibility for applicants residing in an institution in this municipality if such an applicant had no residence prior to entering the institution (22 M.R.S.A. § 4307(4)).

Temporary Housing. Hotels/motels and similar places of temporary lodging are considered institutions (*-above*) if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging.

Note: Municipalities which illegally deny housing assistance and, as a result of the denial, the applicant stays in temporary lodging are responsible for the applicant for up to 6 months and may be subject to other penalties (22 M.R.S.A. § 4307(4)).

Disputes. When the administrator believes that an applicant is a resident of another municipality but that municipality disputes its responsibility the administrator will notify the DHHS in Augusta (287-3654 or 1-800-442-6003). If the applicant applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until the DHHS has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the DHHS will recover the amount due from the other municipality. (22 M.R.S.A. § § 4307(5), 4307(6)).

ARTICLE V

Eligibility Factors

A person will be eligible for general assistance if he/she is in need and has complied with the eligibility requirements set forth below.

Section 5.1—Initial Application

Initial Application. For initial applicants, except as provided immediately below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct (22 M.R.S.A. § 1043 (23)) (*see section 5.5 of this ordinance*). An initial applicant is a person who has never before applied for general assistance in any municipality in Maine (22 M.R.S.A. § 4308(1)).

“Need” means that the applicant’s income (including prorated income, where applicable), property, credit, assets or other resources are less than the overall maximum level of assistance contained in section 6.8 of this ordinance or the applicant’s 30-day need, whichever is less, and he/she does not have adequate income or other resources available to provide basic necessities.

Subsequent Applicants. Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they must be in need and meet all other eligibility requirements. The eligibility of repeat applicants may also be adversely affected to the extent they have not used their income and resources to secure basic necessities.

Section 5.2—Eligibility for Categorical Assistance

Receipt of categorical assistance will not disqualify a person from receiving general assistance if the applicant is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of Food Stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S.C. § 2017 (b)).

In addition, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his or her fuel needs (42 U.S.C. §8624(f)). The calculation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under “Types of Income” at section 6.7 of this ordinance.

Applicants or recipients must apply for other program benefits within 7 days after being advised in writing to do so by the general assistance administrator. Persons who, without just cause, make no good faith effort to obtain a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S.A. § 4317).

Section 5.3—Personal Property

- a) **Liquid Assets.** No person owning assets easily convertible into cash, including but not limited to, bank deposits, stocks, bonds, certificates of deposit, retirement accounts, life insurance policies and other marketable security, will be eligible for general assistance unless and until he or she uses these assets to meet his or her basic needs, and thereby exhausts them.

At the discretion of the GA administrator, liquid assets do not mean a reasonable minimum balance necessary for obtaining free checking. Although one checking

account per household may be allowed, any monies over the minimum required to obtain free checking are to be considered available liquid assets.

- b) **Tangible Assets.** No person owning or possessing personal property, such as but not limited to: a motor vehicle, or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household, will be eligible for general assistance. Exceptions may be made when a person is making an initial application or is an unforeseeable repeat applicant as defined in Section 2.2 or when reasonable efforts to convert assets to cash at fair market value are unsuccessful.

Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.

- c) **Automobile Ownership.** Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment or for seeking employment, obtaining medical care, rehabilitation or training facilities, or for any other reason the GA administrator determines reasonable for the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater than \$8000 may be required, with written, 7-day notice, to make a good faith effort to trade that automobile for an automobile with a market value of less than \$8000. Any income received by the applicant by virtue of such a trade down must be used for his or her basic necessities. Failure to liquidate or trade down the excess value of any automobile asset can result in disqualification (22 M.R.S.A. § 4317).

The municipality will neither pay nor consider as necessary any car payment or vehicle maintenance cost including insurance for which the applicant is responsible. However, provided the vehicle value is \$8000 or less and the applicant is utilizing the vehicle for any of the above mentioned "essential"

reasons, the municipality in its discretion may choose to not consider reasonable car payments, reasonable car insurance and reasonable associated costs of maintenance as “misspent” income. General assistance for travel-related needs shall be computed in accordance with section 6.8(F)(7), (8) “Work Related/Travel Expenses.”

- d) **Insurance.** Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may, at the discretion of the GA administrator, be considered as a tangible asset.
- e) **Transfer of Property.** Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will issue. There will be a presumption that the applicant transferred his or her assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of a good faith transaction.

Section 5.4—Ownership of Real Estate

- a) **Principal Residence.** For purposes of General Assistance solely, the applicant’s principal residence, including any adjoining land, is considered an exempt resource, even if temporarily unoccupied because of employment, job training, education, illness or disaster, provided there is demonstrated an intent to return. If the applicant owns land in excess of the minimum lot size for the zone or district in which the home is located, then that land may be considered a potential resource if:

1. The applicant has received General Assistance for the last 120 consecutive days; and
2. The applicant has the legal right to sell the land (e.g., any mortgagee will release any mortgage, any co-owners agree to the sale, zoning or other land use laws do not render the sale illegal or impracticable); and
3. The applicant has the financial capability to put the land into a marketable condition (e.g., the applicant can pay for any necessary surveys); and
4. The land is not utilized for the maintenance and/or support of the household; and
5. A knowledgeable source (e.g., a realtor) indicates that the land in question can be sold at fair market value, for an amount which will aid the applicant's financial rehabilitation; and
6. No other circumstances exist which cause any sale to be unduly burdensome or inequitable.

If the above conditions are met, then the administrator may condition the receipt of future assistance on the applicant's good faith efforts to sell, or render saleable, land which could be used to provide necessary support for the applicant (e.g., the applicant owns 100 "excess" acres. Sale of 10 of the acres would provide for the necessary support and therefore not all the land need be sold at the present time.) Assistance shall not be denied during the time that the applicant is making a good faith effort to sell or render saleable the land in question.

Once the applicant ceases to receive assistance the obligations under this section shall also cease.

b) **Other Property.** If the applicant or dependents own real property other than that occupied as the principal residence, continued eligibility will depend on the applicant making a reasonable effort to:

1. Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or
2. Obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to a third party in order to become eligible for general assistance will be ineligible.

If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the municipality may claim a lien against the property.

The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient (*see also section 6.8 of this ordinance*) (22 M.R.S.A. § 4320).

Section 5.5—Work Requirement

All general assistance recipients are required to register for work, look for work, work to the extent of available employment, and otherwise fulfill the work requirements, unless the applicant is exempt from such requirements as provided below.

Employment; Rehabilitation. All unemployed applicants and members of their households who are 16 years of age or older and who are not attending a full-time primary or secondary school intended to lead to a high school diploma will be required to accept any suitable job offer and/or meet with job counselors, attend employment workshops and rehabilitative services, except as provided below (*see “Exemptions”*). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

A “suitable job” means any job, which the applicant is mentally and physically able to perform. “Available for work” means that applicants must make themselves available for

work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.

Verification. Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. "Pursuit of employment" means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers.

For the duration of any repeat applicant's period of unemployment or partial employment, the administrator will establish the number of employers per week to whom each non-exempt applicant shall be required to apply in order to fulfill his or her work search requirements. The number of weekly employer contacts required by the administrator shall be reasonably related to the number of potential employers in the region and the number of hours in the week the applicant has available for work search activities after considering all time the applicant must devote to existing employment obligations, workfare obligations, and required classroom or on-site participation in job training, educational, or rehabilitation programs. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.

Ineligibility. After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for 120 days if they, without just cause:

- a) refuse to register for employment with the Maine Job Service;
- b) refuse to search diligently for employment when the search is reasonable and appropriate; recipients who unreasonably seek work at the same places

repeatedly will not be considered to be performing a diligent worksearch and will be disqualified;

- c) refuse to accept a suitable job offer;
- d) refuse to participate in an assigned training, education or rehabilitation program that would assist the applicant in securing employment;
- e) fail to be available for work; or
- f) refuse to participate or participate in a substandard manner in the municipal work program (*see section 5.6*).

Ineligibility Due to Job Quit or Discharge for Misconduct. No applicant, whether an initial or repeat applicant, who has quit his or her full-time or part-time job without just cause or who has been discharged from employment for misconduct (*see Appendix I, 26 M.R.S.A. § 1043 (23) for the definition*) will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment (22 M.R.S.A. § § 4301(8), 4316-A (1-A)).

Just Cause. Applicants will be ineligible for assistance for 120 days if they refuse to comply with the work requirements of this section without just cause. With respect to any work requirement, just cause will be considered to exist when there is reasonable and verifiable evidence that:

- a) the applicant has a physical or mental illness or disability which prevents him/her from working;
- b) the work assignment pays below minimum wages;
- c) the applicant was subject to sexual harassment;
- d) the applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;

- e) the applicant has no means of transportation to or from work or a training or rehabilitation program;
- f) the applicant is unable to arrange for necessary child care or care of ill or disabled family members; or
- g) any reason found to be good cause by the Maine Department of Labor, or any other verifiable reason the administrator considers reasonable and appropriate will be accepted as just cause. (22 M.R.S.A. § 4316-A(5)).

Applicant's Burden of Establishing Just Cause. If the administrator finds that the applicant has violated a work-related rule without just cause, it shall be the responsibility of the applicant to establish the presence of just cause (22 M.R.S.A. § 4316-A).

Eligibility Regained. Persons who are disqualified for 120 days because they violated a work requirement may regain their eligibility if and only when they become employed or otherwise satisfy the administrator that they are complying with the work requirement by fulfilling the work requirement or requirements they violated.

For the purpose of regaining eligibility by becoming employed, "employment" shall mean employment by an employer as defined in 26 M.R.S.A. § § 1043 et seq., or the performance of a service for an employer who withholds from the employee a social security tax pursuant to federal law.

The special provisions regarding the opportunity to regain eligibility after a disqualification for workfare violations are detailed in section 5.6 of this ordinance, under "Eligibility Regained".

Dependents. Failure of an otherwise eligible person to comply with the work requirements shall not affect the eligibility of any member of the person's household who is not capable of working, including:

- a) a dependent minor child;
- b) an elderly, ill, or disabled person; and

- c) a person whose presence is required in order to provide care for any child under 6 years of age or for any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one (or more) member(s) of a household is disqualified and assistance is requested for those remaining members of the household who are dependents, the eligibility of those dependents will be calculated as though the household is composed of the dependents only, except that all household income will be considered as available to them.

Exemptions. The above work requirements do not apply to any person who is elderly, physically or mentally ill or disabled. Any person whose presence is required to care for any pre-school age child or for any ill or disabled member of the household is also exempt from these requirements.

The requirements of this section will not be imposed so as to interfere with an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, classroom or on site participation in a training program which is either approved by the Department of Labor or determined by the Department of Labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Labor.

Section 5.6—Municipal Work Program

Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a non-profit organization, as a condition of receiving assistance (22 M.R.S.A. § 4316-A(2)).

As part of the municipal work program, the municipality can require recipients to participate in training, education, or rehabilitative programs that will assist the recipient

in securing employment. The work requirement provisions found in section 5.5 regarding just cause, dependents, and exemptions also apply to the municipal workfare program.

Consent. Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

Subtracting Value of Workfare Performed from Client's GA Debt. Pursuant to 22 MRSA § 4318 individuals owing the municipality funds for general assistance provided to them are obligated to repay the municipality when and if they become able (*see Article VIII*). However, persons performing workfare shall have the value of the workfare performed deducted from any and all GA debt including GA liens (e.g., Workers' Compensation Settlement, SSI Retroactive Payment, Capital Improvement, Home Mortgage) that might exist against their settlements, payments or other such property.

Limitations. The work requirement is subject to the following limitations (22 M.R.S.A. § 4316-A(3)).

- 1) No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is calculated at a rate of at least the prevailing minimum wage under state or federal law at the time the workfare was performed.
- 2) No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs.

- 3) In no case shall eligible persons performing work under this subsection replace regular municipal employees.
- 4) In no case will work performed under this subsection interfere with an eligible person's:
 - a) existing employment;
 - b) ability to follow up on a bona fide job offer;
 - c) attendance at an interview for possible employment;
 - d) classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
 - e) classroom or on site participation in a training program which is approved by the Department of Labor or determined by the Department of Labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree-granting program administered by the DHHS or the Department of Labor.
- 5) In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with his or her regular employment would result in the person working more than 40 hours per week.
- 6) In no case will an eligible person be required to perform work beyond his or her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309).

If the administrator requires a doctor's statement to verify an applicant's illness or disability and the applicant is not currently under the care of a provider, the municipality may pay for the doctor's evaluation if the applicant has no means to pay for the exam. However in such a case the administrator will choose the doctor. If there is a no-cost or low-cost health care option, the municipality may elect to refer the client to such a resource. The administrator will not require

verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S.A. § 4316(5)).

- 7) In no case may an eligible person with an immediate need (i.e., a person in an emergency situation who has not been disqualified from receiving assistance for committing a program violation) be required to perform work under this subsection prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the eligible person that he/she is willing to work to maintain eligibility for general assistance. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following “workfare first” policy.

“Workfare First” Policy. Under the authority of 22 M.R.S.A. § 4316-A(2)(D), the administrator may, in accordance with the following guidelines, require a recipient of general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.

- 1) In no circumstance will emergency general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.
- 2) All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:
 - a) a specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;
 - b) the period of eligibility for which the general assistance grant is being issued (in days or weeks, but not to exceed 30 days);

- c) the rate, at a dollar-per-hour basis (but not less than the prevailing minimum wage), upon which the duration of the workfare assignment is calculated;
 - d) the actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;
 - e) the specifics of the workfare assignment(s), including the general nature of the type of work being assigned, location(s) of work-site, date(s) and time(s) of assigned workfare, workfare supervisors' names and contact telephone numbers; and
 - f) any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.
- 3) As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.
- 4) If a portion of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with section 6.10 of this ordinance.
- 5) Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just

cause reasons shall be reassigned or excused at the discretion of the GA administrator.

Work-Related Expenses. A participant's expenses related to work performed under this section will be added to the amount of net general assistance to be provided to the person (22 M.R.S.A. § 4316.2(E)). The municipality will provide any special clothes or equipment the recipient needs to perform his or her work assignment.

Disqualification. Any person who either willfully fails to perform or willfully performs below average standards the work assigned by the municipality, will be ineligible for assistance for 120 days (22 M.R.S.A. § 4316-A(1)). As soon as the administrator knows that a recipient failed to fulfill the work assignment, the administrator will notify the recipient in writing that he/she is disqualified for 120 days starting from the last date of authorized assistance unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

Eligibility Regained. Recipients who are disqualified from receiving assistance because they have violated the requirements of the municipal work program may regain their eligibility under the following conditions.

Recipients who fail to complete the first municipal work assignment they have been given will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible (*see section. 5.5, "Dependents"*).

If during the 120-day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause failed to perform, the disqualified recipient will be given one opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible.

If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency. However, the provision of such emergency assistance will not bar the administrator from subsequently enforcing the previously issued 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

Recipients who have asked for the opportunity to regain their eligibility during a 120 day disqualification period and who agreed to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the administrator will enforce the 120-day disqualification for the term of its initial duration.

If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial 120-day period of ineligibility for failing to comply with the municipal work program, that participant will be ineligible for a new 120-day period beginning with the new disqualification date, but will be provided no opportunity to requalify.

Any recipient who intentionally causes damage to property, harasses or harms other employees or who otherwise conducts themselves in a disruptive manner and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

Reports. The administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the DHHS (22 M.R.S.A. § 4316-A(2)).

Section 5.7—Use of Resources

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource that may reduce his or her need for general assistance (*see section 2.2 for definition of “Resources”*). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S.A. § 4317).

Minors. A minor under the age of 18 who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance only if the minor is residing in the home of his or her parent, legal guardian or other adult relative, in which case the entire household will be evaluated for eligibility. Exceptions to this limitation on eligibility will be made when:

- 1) the minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or
- 2) the minor has no living parent or the whereabouts of the both parents are unknown; or
- 3) no parent will permit the minor to live in the parent’s home; or
- 4) the minor has lived apart from both parents for at least one year before the birth of any dependent child; or
- 5) the DHHS determines that the physical or emotional health or safety of the minor or the minor’s dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
- 6) the DHHS determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility (22 M.R.S.A. § 4309(4)).

Any person under the age of 25 who is applying independently from his or her parents for general assistance will be informed that until he or she reaches the age of 25, the applicant's parents are still legally liable for his or her support and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his or her parents are financially capable of repaying the municipality (22 M.R.S.A. § 4319).

With regard to such application, the municipality may seek verification of the applicant's need for general assistance by contacting his or her parents. If the applicant's parents declare a willingness to provide the applicant with his or her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his or her parents for basic needs, the administrator may find the applicant not to be in need of general assistance for the reason that his or her needs can be provided by a legally liable relative.

Mental or Physical Disability. Any applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been recommended by a physician, psychologist or other professional retraining or rehabilitation specialist when the services are available to the applicant and would not constitute a financial burden or create a physical risk to the individual.

Written Notice; Disqualification. The administrator will give each applicant written notice whenever the applicant is required to utilize any specific potential resource(s). Any applicant who refuses to utilize potential resources, without just cause, after receiving written 7-day notice will be ineligible for further assistance until he/she has made a good faith effort to utilize or obtain the resources. General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

Forfeiture of Benefits. Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, a knowing or intentional violation of program rules or a refusal to comply with that program's rules without just cause will be ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture.

To the extent the forfeited benefits were provided not in the form of income but, rather, in the form of a specific, regularly issued resource of a calculable value, that resource, up to its forfeited value, need not be replaced with general assistance for a period of 120 days from the date of the forfeiture—unless the municipality is prohibited by federal or state law from considering the forfeited resource as available with respect to local public assistance programs (22 M.R.S.A. § 4317).

Section 5.8—Period of Ineligibility

No one will have his or her assistance terminated, reduced, or suspended prior to being given written notice and an opportunity for a fair hearing (22 M.R.S.A. § § 4321-4322). Each person will be notified in writing of the reasons for his or her ineligibility, and any person disqualified for not complying with the ordinance will be informed in writing of the period of ineligibility.

Work Requirement. Applicants/recipients who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility) (*see sections 5.5, 5.6*). If an applicant/recipient is provided assistance and does not comply with the work requirement, the applicant/recipient shall be disqualified for 120 days following the end of the period covered by the grant of assistance. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of ineligibility.

Fraud. People who commit fraud are disqualified from receiving assistance for a period of 120 days (*see section 6.4, "Fraud"*). The administrator shall give recipients written notice that they are ineligible as soon as the administrator has sufficient knowledge and information to render a decision. If the disqualification for fraud is issued before the expiration of a grant of assistance, the period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of ineligibility.

ARTICLE VI

Determination of Eligibility

Section 6.1—Recognition of Dignity and Rights

Any determination or investigation into an applicant's eligibility will be conducted in a manner that will not violate the applicant's privacy or personal dignity or violate his or her individual rights.

Section 6.2—Determination; Redetermination

The administrator will make an individual, factual determination of eligibility each time a person applies or reapplies for general assistance. The administrator will make a redetermination of eligibility at least monthly but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis, but may elect to disburse that applicant's assistance periodically, e.g., weekly, throughout a 30-day period of eligibility pursuant to that initial eligibility determination.

The administrator may redetermine a person's eligibility at any time during the period he or she is receiving assistance if the administrator is notified of any change in the recipient's circumstances that may alter the amount of assistance the recipient may receive. Once a recipient has been granted assistance, the administrator may not reduce or rescind the grant without giving prior written notice to the recipient explaining the reasons for the decision and offering the recipient an opportunity to appeal the decision to the fair hearing authority (22 M.R.S.A. § 4309).

Section 6.3—Verification

Eligibility of applicant; duration of eligibility. The overseer shall determine eligibility each time a person applies or reapplies for general assistance. The period of eligibility will not exceed one month. At the expiration of this period applicants/recipients may reapply for assistance and the person's eligibility will be redetermined.

Applicant's responsibilities. Applicants and recipients for general assistance are responsible for providing to the overseer all information necessary to determine eligibility. If further information or documentation is necessary to demonstrate eligibility, the applicant must have the first opportunity to provide the specific information or documentation required by the overseer. When information required by the overseer is unavailable, the overseer must accept alternative available information, which is subject to verification.

Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her:

- Need
- Income
- Employment
- Use of income
- Expenses
- Assets & liabilities
- Use of available resources
- Household composition

Initial Applicants. A person who has not applied for assistance in this or any other municipality are considered initial applicants and must have their eligibility determined solely on the basis of need. Initial applicants are not subject to eligibility conditions placed on repeat applicants (*see below*). However, such applicants are still responsible for providing the GA administrator with reasonably obtainable documentation adequate

to verify that there is a need for assistance. In addition, initial applicants must also comply with both lump sum and relevant work rules (i.e. job quit).

Repeat Applicants. All applicants for general assistance that are not initial applicants are repeat applicants. The eligibility of repeat applicants must be determined on the basis of need and all other conditions of eligibility established by law and this municipal ordinance.

The administrator will require documentation of a repeat applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities. In addition, repeat applicants instructed to seek employment shall verify their work search results, e.g., provide a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted, as required by the GA administrator.

Repeat applicants are also responsible for providing any changes of information reported on previous applications including changes in his/her household or income that may affect his/her eligibility.

Unforeseen Repeat Applicants. Unforeseen repeat applicants are applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source who have unexpectedly become unemployed through no fault of their own or whose income and/or benefits (e.g., through an available resource) have ceased through no fault of their own. Such unforeseen repeat applicants may be considered initial applicants for purposes of verification requirements and misspent income if the administrator finds that imposing the general verification requirements and misspent income rules imposed on repeat applicants would be unreasonable or inappropriate.

Overseer's responsibilities. In order to determine an applicant's eligibility for general assistance, the overseer first must seek information and documentation from the applicant. Once the applicant has presented the necessary information, the overseer is

responsible for determining eligibility. The overseer will seek verification necessary to determine eligibility. In order to determine eligibility, the overseer may contact sources other than the applicant for verification only with the specific knowledge and consent of the applicant, except that the overseer may examine public records without the applicant's knowledge and consent.

Appropriate sources, which the overseers may contact, include, but are not limited to:

- DHHS and any other department/agency of the state or non-profit organizations
- financial institutions
- creditors
- utility companies
- employers
- landlords
- physicians
- persons with whom the applicant/recipient is a cohabitant
- legally and non-legally liable relatives

Assistance will be denied or terminated if the applicant is unwilling to supply the overseer with necessary information, documentation, or permission to make collateral contacts, or if the overseer cannot determine that eligibility exists based on information supplied by the applicant or others.

Redetermination of eligibility. The overseer may redetermine a person's eligibility at any time during the period that person is receiving assistance if the overseer is informed of any change in the recipient's circumstances that may affect the amount of assistance to which the recipient is entitled or that may make the recipient ineligible, provided that once a determination of eligibility has been made for a specific time period, a reduction in assistance for that time period may not be made without prior written notice to the recipient with the reasons for the action and an opportunity for the recipient to receive a fair hearing upon the proposed change.

Penalty for Refusing to Release Information. Any person governed by 22 M.R.S.A. § 4314 who refuses to provide necessary information to the administrator after it has been requested must state in writing the reasons for the refusal within 3 days of receiving the request. Any such person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than \$25 nor more than \$100 which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the administrator is guilty of a Class E crime (22 M.R.S.A. § § 4314(5), 4314(6), 4315).

Section 6.4—Fraud

It is unlawful for a person to make knowingly and willfully a false representation of a material fact to the administrator in order to receive general assistance or cause someone else to receive general assistance (22 M.R.S.A. § 4315). False representation shall consist of any individual knowingly and willfully:

- a) making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;
- b) concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant's household is not entitled; or
- c) using general assistance benefits for a purpose other than that for which they were intended.

No person may be denied assistance solely for making a false representation prior to being given an opportunity for a fair hearing.

Period of Ineligibility. When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making

himself or herself eligible for general assistance, the administrator shall notify that applicant in writing that he or she has been disqualified from receiving assistance for 120 days. For the purpose of this section, a material misrepresentation is a false statement about eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted.

The notification of ineligibility issued by the administrator shall inform the applicant of his or her right to appeal the administrator's decision to the fair hearing authority (FHA) within 5 working days of receipt. The period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of ineligibility, whichever is later.

Right to a Fair Hearing. Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority (FHA) in accordance with Article VII of this ordinance. No recipient shall have his or her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the FHA may appeal that decision to the Superior Court pursuant to Rule 80-B of the Maine Rules of Civil Procedure (22 M.R.S.A. § 4309(3)).

Reimbursement. If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, the recipient will be required to reimburse the municipality for any assistance received to which he/she was not entitled.

Dependents. In no event will the ineligibility of a person under this section serve to disqualify any eligible dependent in that household (22 M.R.S.A. § 4309(3)). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be

calculated as though the household is comprised of the dependents only, except that the entire household income will be considered available to them.

Section 6.5—Period of Eligibility

The administrator will grant assistance to all eligible persons for a period that is sufficient to meet their need but in no event may a grant of assistance cover a period in excess of one month (22 M.R.S.A. § 4309). Upon receiving a completed and signed application the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis.

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator shall render a notice of "ineligibility" and advise the applicant that he or she has a right to reapply as soon as he or she has the necessary information and/or as soon as is practicable for the applicant.

Although eligibility is determined on a 30-day basis, for reasons of administrative efficiency the administrator may elect to disburse an applicant's assistance for shorter periods of time, such as weekly, throughout the 30-day period of eligibility. When the administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that 30-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a redetermination of eligibility.

Section 6.6—Determination of Need

The period of time used to calculate need will be the next 30-day period from the date of application (22 M.R.S.A. § 4301(7)). The administrator will calculate applicants' expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in section 6.8, whichever is less. The sum of these

expenses, as calculated for a prospective 30-day period, is the applicant's 30-day need. Applicants will not be considered eligible if their income and other resources exceed this calculation except in an emergency (22 M.R.S.A. § 4308(2)) (*see section 4.9 of this ordinance*).

Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the beginning of section 6.8 (22 M.R.S.A. § § 4301(10), 4305(3-B)). The difference between the applicant's income and the overall maximum levels of assistance established by this ordinance is the applicant's deficit.

Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity (*see Appendixes A-H of this ordinance*) shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency (22 M.R.S.A. § 4305(3-A)).

Income for Basic Necessities. Applicants are required to use their income for basic necessities. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the 30-day period prior to an application for assistance on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective 30-day income for the purposes of computing eligibility (22 M.R.S.A. § 4315-A). Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need

assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum level of assistance.

Use-of-Income Requirements. The administrator may require that anyone applying for general assistance provide documentation of his or her use of income. This documentation can take the form of cancelled checks and/or receipts which demonstrate that the applicant has exhausted all household income received over the last 30-day period. Except as is deemed appropriate by the GA administrator for “unforeseen” repeat applicants (*See Section 6.3 of this ordinance*), repeat applicants may be required to verify that expenditure of income was for basic necessities. Income expended that cannot be verified will generally be considered available and in such case will be added to the 30-day prospective income.

Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, and food up to the ordinance maximums; telephone costs at the base rate if the household needs a telephone for medical reasons, the cost of nonelective medical services as recommended by a physician which are not otherwise covered by medical entitlement, Hospital Free Care or insurance; the reasonable cost of essential clothing and non-prescription drugs, and the costs of any other commodity or service determined essential by the administrator.

Items not considered to be basic necessities and thus will not be allowed in the budget computation include:

- Internet services
- Cable or satellite television
- Cellular phones
- Cigarettes/alcohol
- Gifts purchased
- Pet care costs
- Costs of trips or vacations
- Paid court fines
- Repayments of unsecured loans
- Legal fees
- Late fees
- Credit card debt.

The municipality reserves the right to apply specific use-of-income requirements to any applicant, other than an initial applicant, who fails to use his or her income for basic necessities or fails to reasonably document his or her use of income (22 M.R.S.A. § 4315-A). Those additional requirements will be applied in the following manner:

- 1) The administrator may require the applicant to use some or all of his or her income, at the time it becomes available, toward specific basic necessities. The administrator may prioritize such required expenditures so that most or all of the applicant's income is applied to housing (i.e., rent/mortgage), energy (i.e., heating fuel, electricity), or other specified basic necessities;
- 2) The administrator will notify applicants in writing of the specific use-of-income requirements placed on them;
- 3) If upon subsequent application it cannot be determined how the applicant's income was spent, or it is determined that some or all of the applicant's income was not spent as directed and was also not spent on basic necessities, the applicant will not be eligible to receive either regular or emergency general assistance to replace that income; and
- 4) If the applicant does not spend his or her income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.

Calculation of Income and Expenses. When determining eligibility, the administrator will subtract the applicant's net income from the overall maximum level of assistance found at the beginning of section 6.8. If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (*see section 4.9*). If income is less than the overall maximum level of assistance, the applicant has a deficit.

The municipality will provide assistance in an amount up to the deficit to the extent the applicant also has an unmet need and is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in section 6.8 of this ordinance for specific basic necessities except in an emergency or when the administrator elects to consolidate the applicant's deficit, as provided immediately below.

Consolidation of Deficit. As a general rule and to the extent of their deficit, applicants will be eligible for assistance for any basic necessity up to, but not exceeding, the maximum amount allowed for that necessity in this ordinance or the actual 30-day cost of the necessity, whichever is less. Under certain circumstances, however, and in accordance with the following conditions, the administrator may consolidate the applicant's deficit and apply it toward a basic necessity in an amount greater than the ordinance maximum for that necessity.

- 1) The practice of consolidating the deficit and applying it toward a basic necessity in amounts greater than the ordinance maximum shall be the exception rather than the rule;
- 2) The total general assistance grant cannot exceed the total deficit unless the applicant is in an emergency situation; and
- 3) The need for the application of the recipient's consolidated deficit toward a basic necessity was not created by the recipient mispending his or her income or resources in violation of the use-of-income requirements of this ordinance.

Section 6.7—Income

Income Standards. Applicants whose income exceeds the overall maximum level of assistance provided in section 6.8 shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant's income and expenses each time an applicant applies.

Calculation of Income. To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30-day period commencing on the date of application, and identify any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was not spent during the previous 30-day period on basic necessities, as well as any income that was spent on basic necessities in unreasonable excess of the ordinance maximums for specific basic necessities. If a household's income exceeds the amount of the household's need for basic necessities, up to the maximum levels contained in section 6.8, applicants will not be considered in need.

Exceptions will be made in emergency situations, which may necessitate that the maximum levels be exceeded (22 M.R.S.A. § 4308) (*see section 4.9 of this ordinance*). To calculate weekly income and expenses, the administrator will use actual income received or actual anticipated income.

Types of Income. Income that will be considered in determining an applicant's need includes:

- a) **Earned income.** Income in cash or in kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee, is considered earned income. If a person is self-employed, total income will be computed by subtracting reasonable and actual business expenses from gross income. When income consists of wages, the amount computed will be the income available after taxes, social security and other payroll deductions required by state, federal, and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income.

Note: Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will be deducted from an applicant's income (22 M.R.S.A. § 4301(7)).

- b) **Income from Other Assistance or Social Services Programs.** State/federal categorical assistance benefits, SSI payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits Food Stamps and fuel assistance payments made by the Home Energy Assistance Program (HEAP and EPIC) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive. Although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/ECIP benefit has sufficiently credited their account or otherwise prevented the fuel-related costs for the prospective 30-day period.

The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his or her total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his or her utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward non-heating purposes solely on the basis of the recipient's receipt of HEAP/ECIP.

Other programs whose income cannot be counted for purposes of GA eligibility include:

- Family Development Accounts (22 M.R.S. § 3762)
- Americorp VISTA program benefits (42 USCS § 5044 (f))
- Property tax rebates issued under the Maine Residents Property Tax Program (so-called “Circuitbreaker” program) (36 M.R.S.A. § 6216)

- c) **Court-Ordered Support Payments.** Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the State Department of Health and Human Services’ Child Support Enforcement Unit. In order to be eligible for future GA, applicants being referred to DHHS for such enforcement services shall be required to follow-through with such services. Because child support payments are considered a resource, applicants must make a good faith effort to secure such payments.
- d) **Income from Other Sources.** Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S.A. § 4301(7)).
- e) **Earnings of a Son or Daughter.** Earned income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.
- f) **Income from Household Members.** Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool

or share their income and expenses as a family or intermingle their funds so as to provide support to one another.

- g) **The Pooling or Non-Pooling of Income.** When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income (22 M.R.S.A. § 4301(12-A)).

One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable documentation affirmatively demonstrating a pattern of non-pooling for the duration of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, cancelled checks, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his or her pro-rata share of household costs.

If the applicant is unable to successfully rebut the municipality's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his or her income and his or her pro-rata share of actual household expenses.

- h) **Lump Sum Income.** A lump sum payment received by any GA applicant or recipient prior to the date of application for general assistance will be considered as income available to the household. However, verified required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of bills earmarked for the purpose for which the

lump sum payment was made) and any amount of the lump sum payment which the applicant can document was spent on basic necessities, as described below, will not be considered available income.

Where a household receives a lump sum payment at any time prior to the date of application for general assistance, the administrator will assess the need for prorating an applicant's eligibility for general assistance according to the following criteria (22 M.R.S.A. § 4301(7), (8-A)):

- 1) identify the date the lump sum payment was received;
- 2) subtract from the lump sum payment all required payments;
- 3) subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities as defined by the general assistance program such as: reasonable payment of funeral or burial expenses for a family member; any reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities. Repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid must also be subtracted. (22 M.R.S.A. § 4301(7), (8-A));
- 4) add to the remainder all income received by the household between the date of receipt of the lump sum payment and the date of application for general assistance; and
- 5) divide the sum created in subsection (4) by the greater of the verified actual monthly amounts for all of the household's basic necessities or 150% of the applicable federal poverty guidelines. 22 M.R.S.A. § 4305(3-B)

This dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period of proration, whichever is less.

The household of an initial applicant that is otherwise eligible for emergency assistance may not be denied emergency assistance to meet an immediate need solely on the basis of the proration of a lump sum payment. (22 MRSA § 4308)

Section 6.8—Basic Necessities; Maximum Levels of Assistance

Overall Maximum Levels of Assistance. Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in Appendices B-H of this ordinance, an applicant's eligibility for general assistance will be first determined by subtracting his or her income from the overall maximum level of assistance designated in Appendix A for the applicable household size (22 M.R.S.A. § 4305 (3-B)). The difference yielded by this calculation shall be the applicant's deficit.

Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain themselves or their families. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to section 4.9 of this ordinance.

Maximum Levels of Assistance for Specific Basic Necessities. The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance set forth below. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit toward assistance

with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to unless the administrator determines that there are exceptional circumstances and an emergency is shown to exist, in which case these absolute levels will be waived in order to meet immediate needs. In all cases either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need.

In roommate situations, the applicant's need for common living expenses for rent, fuel, electricity, etc., will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person. In addition, as a general rule the municipality will not provide a benefit toward a basic need by paying a bill that is issued to a person not living with the applicant's household or that has otherwise been incurred by a person who has not been found eligible to receive assistance.

Temporary exceptions to this general rule may be made by the administrator in the following circumstances: (1) a recent, unplanned separation has occurred in the household resulting in the sustained or permanent absence of a former household member in whose name the bill was customarily issued; (2) the applicant and members of the applicant's household were or will be the sole recipients of the commodities or services covered by any bill to be paid or partially paid with general assistance; and (3) the applicant will make a good faith effort to direct the vendor to issue future bills in the name of the applicant or other responsible person residing in the household.

A) **Food**. The administrator will provide food assistance to eligible persons up to the allowed maximum amounts designated by the U.S.D.A. Thrifty Food Plan for the appropriate household size.

For this purpose, the municipality hereby incorporates by reference the U.S.D.A. Thrifty Food Plan, as distributed by the Maine Department of Health and Human

Services on or about October of each year. See Appendix B of this ordinance for the current year's food maximums.

In determining need for food the administrator will not consider the value of the food stamps an applicant receives as income (22 M.R.S.A. § 4301.7(A); 7 U.S.C. §2017(b)). The municipality will authorize vouchers to be used solely for approved food products.

The administrator will exceed the maximums when necessary for households having members with special dietary needs. The administrator may require a doctor's statement verifying there is a special dietary need requiring an expenditure for food that is greater than the ordinance maximums.

- B) **Housing**. The administrator will provide assistance with rent or mortgage payments that are reasonable and/or within the allowed maximum levels. See Appendix C of this ordinance for the current year's housing maximums. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his or her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed.

Rental Payments to Relatives. The municipality may elect to not issue any rental payment to an applicant's relatives unless the rental relationship has existed for at least three months and the applicant's relative(s) rely on the rental payment for their basic needs. For the purpose of this section, a "relative" is defined as the applicant's

parents, grandparents, children, grandchildren, siblings, parent's siblings, or any of those relative's children (22 M.R.S.A. § 4319(2)).

Rental Payments to Non-Relatives. When applicants are living in private homes with the owner or sharing dwelling units with people who are not pooling income or who are not legally liable relatives, the amount allowed as the applicant's shelter expense will be the applicant's pro rata share of the actual, total shelter cost, up to the ordinance maximum (22 M.R.S.A. § 4301(6)).

Any housing assistance issued to a recipient in such a circumstance will be issued, whenever reasonably possible, to the landlord or property owner with the most superior interest in the property; i.e., to a landlord before a tenant, or to a mortgagee before a mortgagor.

When the municipality issues in aggregate more than \$600 in rental payments to any landlord in any calendar year, a 1099 form declaring the total amount of rental payments issued during the calendar year will be forwarded to the Internal Revenue Service (IRS) pursuant to IRS regulation (see section 6041(a) of Internal Revenue Code).

Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, make a good faith effort to obtain a lodging license from the Department of Health and Human Services, Division of Health Engineering, pursuant to 10-144A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

Mortgage Payments. In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In

making this determination, the administrator will consider the extent and liquidity of the applicant's proprietary interest in the housing. Factors to consider in making this determination include:

- (1) the marketability of the shelter's equity;
- (2) the amount of equity;
- (3) the availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs;
- (4) the extent to which liquidation may aid the applicant's financial rehabilitation;
- (5) a comparison between the amount of mortgage obligations and the anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing;
- (6) the imminence of the applicant's dislocation from owned housing because of his or her inability to meet the mortgage payments;
- (7) the likelihood that the provision of housing assistance will prevent such dislocation; and
- (8) the applicant's age, health, and social situation.

These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide.

The administrator shall consider issuing a benefit in response to the applicant's request for mortgage assistance to the extent the applicant is otherwise eligible for general assistance if after reviewing the above criteria the administrator determines that:

- (1) the monthly mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size;
- (2) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or reamortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and
- (3) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continued right of possession of the property.

If a mortgage payment is necessary, the administrator will pay the actual amount due, up to the amount allowed according to the maximum levels listed below. After an initial application, assistance with such payments will be given only after the applicant has made all reasonable efforts to borrow against the equity of his or her home. If there is not sufficient equity in the home with which to secure a loan, and if the monthly mortgage payments are not realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he/she is responsible for finding alternative housing within his or her ability to pay and will be obligated to make all reasonable efforts to secure such housing.

Liens. The municipality may place a lien on the property in order to recover its costs of granting assistance with mortgage payments. In addition, a municipality may claim a lien against the owner of real estate for the amount of money spent by it to make capital improvements to the real estate. (22 M.R.S.A. § 4320). No lien may be enforced against a recipient except upon his or her death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance, or who would again become eligible for general assistance if the lien were enforced.

If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment or capital improvement it must file a notice of the lien with the county registry of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality's or the state's interest in an amount equal to the sum of that mortgage or capital improvement payment and all subsequent mortgage or capital improvement payments made on behalf of the same eligible person, plus interest and costs.

Not less than 10 days prior to filing the lien in the registry, the municipal officers must send notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested, that a lien on the property is going to be filed with the registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment. This notice must include the same information that appeared on the original intent-to-file notice sent to the recipient.

The municipality may charge interest on the amount of money secured by the lien. The municipal officers will establish the interest rate not to exceed the maximum rate of interest allowed by the State Treasurer to be charged against delinquent taxes. The interest will accrue from the date the lien is filed.

Property Taxes. In the event an applicant requests assistance with his or her property taxes, the administrator will inform the applicant that there are two procedures on the local level to request that relief: the poverty abatement process (36 M.S.R.A. § 841(2)) and General Assistance. If the applicant chooses to seek

property tax assistance through General Assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

- a) the property tax in question is for the applicant's place of residence;
- b) there is a tax lien on the property which is due to mature within 60 days of the date of application;
- c) as a matter of municipal policy or practice, or on the basis of information obtained from the applicant's mortgagee, if any, it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and
- d) the applicant, with sufficient notice, applies for property tax relief through the Maine Resident Property Tax Program, when available.

Housing Maximums. The maximum levels of housing assistance contained in this ordinance have been derived either from a locally accomplished fair market rental survey or the fair market rental values developed by the United States Department of Housing and Urban Development (HUD). If the maximum levels of housing are derived from the HUD values made effective as of every October 1, and adjusted to disregard the current and averaged utility allowances as developed by the Maine State Housing Authority, those levels are hereby incorporated by reference. See Appendix C of this ordinance for the current year's housing maximums.

If and when the maximum levels of housing contained in this ordinance are derived from a locally developed fair market rental survey, a record of that survey will be submitted to the DHHS, General Assistance Unit, and the maximum levels of housing assistance will be incorporated into this ordinance pursuant to the ordinance adoption and amendment procedures found at 22 M.R.S.A. § 4305.

- C) **Utilities.** Expenses for lights, cooking, and hot water will be budgeted separately if they are not included in the rent. Applicants are responsible for making arrangements with the utility company regarding service, including entering into a special payment arrangement if necessary.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not obligated to pay back bills or utility security deposits. Exceptions may be made in emergency situations pursuant to section 4.9.

Disconnection of utility service will not be considered an emergency in all cases. The administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The administrator will consider the household composition, the time of year, the age and health of the household members, and other appropriate factors in reaching a decision.

Applicants who had sufficient income, money, assets or other resources to pay their utility bill when it was received, but who spent all or part of their income on items which were not basic necessities, will not be eligible to receive general assistance to replace those funds.

Applicants have the burden of providing evidence of their income and use of income for the applicable time period (22 M.R.S.A. § 4308(2)) (*see section 4.9 and 6.3*).

The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicant's responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

Electricity Maximums for Households Without Electric Hot Water. See Appendix D of this ordinance for the current year's electricity maximums.

Electricity Maximums for Households that Use Electrically Heated Hot Water. See Appendix D of this ordinance for the current year's electricity maximums.

Non-Electric Utilities. The allowed amount for water and sewer utility service will be budgeted at a 30-day reasonable usage rate.

- D) **Fuel.** Expenses for home heating will be budgeted according to the actual need for fuel during the heating season (September through May) provided such expenses are reasonable, and at other times during the year when the administrator determines the request for fuel assistance is reasonable and appropriate.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in section 4.9. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicants' control, and process the emergency request accordingly, pursuant to section 4.9 of this ordinance.

See Appendix E of this ordinance for the current year's fuel maximums.

- E) **Personal Care and Household Supplies.** Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items, up to the maximums below. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags light bulbs

and supplies for children under 5 years of age. See Appendix F of this ordinance for the current year's personal care and household supplies maximums.

F) **Other Basic Necessities.** Expenses falling under this section will be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.

- 1) **Clothing.** The municipality may assist a household with the purchase of adequate clothing. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. In some circumstances, clothing will be a postponable item. Exceptions to this would be, for example, if fire, flood or unusually cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment, or a household member is without adequate clothing.
- 2) **Medical.** The municipality will pay for essential medical expenses, other than hospital bills (*see below*), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devices, treatments, or services that are determined to be 'medically necessary' by a licensed physician. The municipality will grant assistance for medical services only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his or her need to seek general assistance for medical expenses. The municipality will grant assistance for non-emergency medical services only if a physician verifies that the services are essential.

Provided there is no cost to the applicant, the administrator may require a second medical opinion from a physician designated by the municipality to verify the necessity of the services.

Generally, the municipality will issue general assistance at the established Medicaid rates for all medical services, prescriptions, or other medical commodities. Before authorizing general assistance for any medical expenses, the administrator will inform the pharmacy or medical service provider of the municipality's intention to pay for the medical service at the Medicaid rate, and ask to be billed accordingly.

Ordinary medical supplies/non-prescription drugs will be budgeted at the actual amount when the applicant can demonstrate a need for such items. Allowable supplies include bandages, aspirin, cough syrup, and other generic brand, non-prescription medicines. In addition, the basic monthly rate for telephone service will be budgeted when a telephone is essential to the health and safety of the household. In order for telephone service to be considered an allowable expense the applicant must provide a written statement from a physician certifying that the telephone is essential.

- 3) **Hospital Bills.** In the event of an emergency admission to the hospital, the hospital must notify the administrator within 5 business days of the admission. Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a hospital fails to give timely notice to the administrator, the municipality will have no obligation to pay the bill.

Any person who cannot pay his or her hospital bill must apply to the hospital for consideration under the Hospital's Free Care Program as provided in Title 22 M.R.S.A. § 396-F(1). Anyone who is not eligible for the hospital's free care program may apply for general assistance. Applicants must apply for

assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that they are not eligible for the hospital's free care program.

Before the administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility, the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he/she applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at section 6.6 of this ordinance.

- 4) **Dental.** The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.
- 5) **Eye Care.** In order to be eligible to receive general assistance for eyeglasses, an applicant must have his or her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide

assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources and generally only at the Medicaid rate.

- 6) **Telephone Charge.** A payment for basic telephone will only be allowed if a telephone is necessary for medical reasons as verified by a physician. At the discretion of the GA administrator, minimum/basic telephone services may be allowed for households with children, for households where job search or job related reasons exist and/or for any other reasons the administrator deems necessary.
- 7) **Work-Related Expenses.** In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include childcare costs, work clothes, supplies and transportation at the actual costs not to exceed the ordinance maximum (*see Appendix G for this year's maximum mileage allotment*). The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.
- 8) **Travel Expenses.** In determining need, necessary travel which is not work-related will be budgeted if the applicant can satisfy the administrator that the prospective need for travel is necessary. For applicants in rural areas, weekly transportation to a supermarket will be considered, as will any medically necessary travel. See Appendix G for the current rate at which such necessary travel will be budgeted. This rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.
- 9) **Burials, Cremations.** Under the circumstances and in accordance with the procedures and limitations described below (*see section 6.9*), the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons. See Appendix H for the current maximums.

10) **Capital Improvements.** The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when:

- 1) the failure to do so would place the applicant(s) in emergency circumstances;
- 2) there are no other resources available to effect the capital repair; and
- 3) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation.

In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 M.R.S.A. § 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished in the same manner as for mortgage payments, as described in subsection (B) “Liens”, above.

Section 6.9—Burials; Cremations

Funeral Director Must Give Timely Notice. In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of three business days following the funeral director’ receipt of the body, whichever is earlier (22 M.R.S.A. §4313(2)). This contact by the funeral director shall begin the process of developing an application for

burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to make a good-faith effort to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses, and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact to the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.

Application for Assistance Shall be Calculated on Behalf of the Deceased. For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be completed by the administrator on behalf of the deceased.

With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under section 4.10 of this ordinance.

Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

The Financial Responsibility of Certain Family Members. Grandparents, parents, siblings, children and grandchildren of the deceased, who live in Maine or own property

in Maine, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator with any reasonably requested information regarding their income, assets, and basic living expenses.

Consideration of the Financial Responsibility of Family Members. Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the municipality will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.

Proration of Familial Responsibility. A proration of familial financial responsibility will be used when no legally liable relative possesses an obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found to have a financial capacity to make a partial financial contribution, or the administrator is unable to determine the financial capacity of one or more of said relatives.

Under these circumstances, each legally liable relative is considered to be responsible for his or her pro rata share of the total municipal contribution that would exist if no legally liable relatives had a financial capacity to contribute. Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit the aggregate of all pro rata shares less the share of any legally liable relative who refuses to cooperate with the administrator by providing information or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can

financially contribute or partially contribute toward the burial or cremation to the extent of that relative's share.

Eight Days to Determine Eligibility. The administrator may take up to 8 days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation. The 8-day eligibility determination period from the date of contact by the funeral director shall be used as necessary to make third-party collateral contacts, verify the listing of legally liable family members and determine their respective financial capacities to contribute to the burial or cremation, contact the personal representative of the deceased's estate, if any, and other related administrative tasks. The administrator shall not use this 8-day period allowed by law to unreasonably delay the municipality's decision.

The Municipal Obligation to Pay When Legally Liable Relatives or Others Can Contribute. The figures provided in this section are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source. To the extent any legally liable relatives of the deceased have a financial capacity to pay for the burial or cremation, that financial capacity shall be deducted from the maximum burial costs allowed by this section. In addition, any other benefits or resources that are available, such as Social Security burial benefits, veterans' burial benefits, or contributions from other persons, will be deducted from the maximum amount the municipality will pay, except there will be no deduction from the municipal benefit level with respect to any contribution provided for the purpose of publishing an obituary notice up to an aggregate contribution limit for this purpose of \$75 when a paid receipt demonstrating the purchase of an obituary notice is provided to the administrator.

Burial Expenses. The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremated. See Appendix H for the maximum levels of assistance granted for the purpose of burials.

Cremation Expenses. In the absence of any objection by any family members of the deceased, or when neither the administrator nor the funeral director can locate any family members, the administrator may issue general assistance for cremation services. See Appendix H for the maximum levels of assistance granted for the purpose of cremations.

Section 6.10—Notice of Decision

Written Decision. The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving a completed and signed application (22 M.R.S.A. § 4305(3)) (*see Article IV, section 4.6*).

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator may decide to render a notice of “ineligibility” and provide the applicant with another application to submit as soon as is practicable for the applicant.

In order to ensure that applicants understand their rights, it is the responsibility of the general assistance administrator to explain the applicants’ right to a fair hearing in the written notice of decision.

Contents. After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. In addition to the contents of a written decision listed in section 4.6 of this ordinance, the notice will state that applicants:

- a) have the right to a fair hearing and the method by which they may obtain a fair hearing and;

- b) have the right to contact the DHHS if they believe the municipality has violated the law. The decision will state the method for notifying the department.

Disbursement of General Assistance. Except when determined impractical by the administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the administrator shall document the circumstances for issuing general assistance in the form of cash (22 M.R.S.A. § 4305(6)).

ARTICLE VII

The Fair Hearing

Section 7.1—Right to a Fair Hearing

Within 5 working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his or her authorized representative has the right to request a fair hearing (22 M.R.S.A. § 4322). The right to review a decision of the general assistance administrator is a basic right of the applicant to a full evidentiary hearing and is not limited solely to a review of the decision.

Section 7.2—Method of Obtaining a Fair Hearing

Upon receiving notification of the decision of the general assistance administrator, all claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the general assistance administrator. If the client is satisfied with the adjustment or explanation, the administrator will make an entry in the case record and file any correspondence involved.

Written Request. To obtain a fair hearing, the claimant, or his or her authorized representative, must make a written request within 5 working days of receiving the administrator's decision to grant, deny, reduce or terminate assistance, or within 10 working days after any other act or failure to act. The administrator will make available a printed form for requesting a fair hearing and will assist the claimant in completing it if necessary. On the printed form, the claimant will give the following information:

- a) the decision on which review is sought;
- b) the reason(s) for the claimant's dissatisfaction and why the claimant believes he/she is eligible to receive assistance; and

- c) the relief sought by the claimant.

The administrator cannot deny or dismiss a request for a hearing unless it has been withdrawn (in writing) by the claimant.

Scheduling the Fair Hearing. Upon receipt of the completed written request the fair hearing authority must meet and hold the hearing within 5 working days. The administrator will notify the claimant in writing when and where the hearing will be held (22 M.R.S.A. § 4322). In addition to the date, time and place of the hearing, the notice of fair hearing sent to the claimant shall include, at a minimum, the claimant's rights to:

- a) be his or her own spokesperson at the fair hearing, or be represented by legal counsel or other spokesperson at the hearing, at the claimant's own expense;
- b) confront and cross-examine any witnesses presented at the hearing against the claimant; and
- c) present witnesses on his or her own behalf.

Arrangements for the date, time, and place of the hearing will take into consideration the convenience of the claimant and hearing authority. The claimant will be given timely notice to allow for preparation and will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case.

Section 7.3—The Fair Hearing Authority

The municipal officers will appoint a fair hearing authority (FHA) that will determine, based on all the evidence presented at the fair hearing, whether the claimant(s) were eligible to receive assistance at the time they applied for GA. The FHA is charged with the responsibility of ensuring that general assistance is administered in accordance with the state law and local ordinance.

The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as the FHA , or, if designated, the board of appeals created under 30-A M.R.S.A. § 2691 (22 M.R.S.A. § 4322). In determining the organization of the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as FHA must:

- a) not have participated in the decision which is the subject of the appeal;
- b) be impartial;
- c) be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination; and
- d) be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the administrator operated, and interpreting to the administrator any evidence of unsound, unclear, or inadequate policies, practices or actions.

Section 7.4—Fair Hearing Procedure

When a claimant requesting a fair hearing is notified of the date, time, and place of the hearing in writing, he/she will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case. The claimant shall be permitted to review his or her file prior to the hearing. At a minimum, the claimant will be told the following information, which will govern all fair hearings. All fair hearings will:

- a) be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, his or her agents, counsel and witnesses;
- b) be opened with a presentation of the issue by the fair hearing authority;
- c) be conducted informally, without technical rules of evidence, but subject to the requirements of due process;

- d) allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;
- e) give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses presented at the hearing; and examine all evidence presented at the hearing;
- f) result in a decision, based exclusively on evidence or testimony presented at the hearing; and
- g) be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing authority must be made available to the claimant or his or her representative. The claimant will be responsible for preparing a written transcript if he/she wishes to pursue court action.

The fair hearing authority shall admit all evidence if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs (22 M.R.S.A. § 4322).

Claimant's Failure to Appear. In the event the claimant fails to appear, the FHA will send a written notice to the claimant that the GA administrator's decision was not altered due to the claimant's failure to appear. Furthermore, the notice shall indicate that the claimant has 5 working days from receipt of the notice to submit to the GA administrator information demonstrating "just cause," for failing to appear. For the purposes of a claimant's failure to appear at a fair hearing, examples of "just cause" include:

- a) a death or serious illness in the family;

- b) a personal illness which reasonably prevents the party from attending the hearing;
- c) an emergency or unforeseen event which reasonably prevents the party from attending the hearing;
- d) an obligation or responsibility which a reasonable person in the conduct of his or her affairs could reasonably conclude takes precedence over the attendance at the hearing; or
- e) lack of receipt of adequate or timely notice; excusable neglect, excusable inadvertence, or excusable mistake.

If the claimant (or their attorney) establishes just cause, the request for the hearing will be reinstated and a hearing rescheduled.

In the event a claimant who is represented by legal counsel fails to appear at a fair hearing, legal counsel shall not testify in place of the claimant on matters of 'fact' but may cross examine witnesses and make 'legal' arguments on behalf of the claimant.

Section 7.5—The Fair Hearing Decision

The decision of the fair hearing authority will be binding on the general assistance administrator, and will be communicated in writing to the claimant within 5 working days after completion of the hearing. Written notice of the decision will contain the following:

- a) a statement of the issue;
- b) relevant facts brought out at the hearing;
- c) pertinent provisions in the law or general assistance ordinance related to the decision; and
- d) the decision and the reasons for it.

A copy of the notice of the decision will be given to the claimant. The hearing record and the case record will be maintained by the general assistance administrator.

The written notice of the decision will state that if the claimant is dissatisfied with the fair hearing decision, he/she has a further legal right to appeal the decision pursuant to the Maine Rules of Civil Procedure, Rule 80B. To take advantage of this right, the claimant must file a petition for review with the Superior Court within 30 days of receipt of the fair hearing decision.

When the decision by the fair hearing authority or court authorizes assistance to the claimant, the assistance will be provided within 24 hours.

ARTICLE VIII

Recovery of Expenses

Recipients. The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or his or her executors or administrators in a civil action. However, prior to recovering assistance granted, the municipality shall “offset” the value of any workfare performed by a GA recipient, at a rate not less than minimum wage.

Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him/her in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the person would again become eligible for general assistance (22 M.R.S.A. § 4318).

Recipients Anticipating Workers’ Compensation Benefits. The municipality shall claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the Workers’ Compensation Act or similar law of any other state (22 M.R.S.A. § 4318, 39-A M.R.S.A. § 106). After issuing any general assistance on behalf of a recipient who has applied for or is receiving Workers’ Compensation, the municipality shall file a notice of the municipal lien with the general assistance recipient and the Office of Secretary of State, Uniform Commercial Code division.

The notice of lien shall be filed on a UCC-1 form which must be signed by the recipient of general assistance who has applied for or is receiving Workers’ Compensation. Any general assistance applicant who has applied for or who is receiving Workers’ Compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible to receive general assistance until he or she provides the required

signature. The municipality shall also send a photocopy of that filing to the recipient's Worker's Compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the administrator's discretion, to the Workers' Compensation Board. The lien shall be enforced at the time any lump sum Workers' Compensation benefit is issued.

Recipients of SSI. All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim Assistance Agreement form distributed by the DHHS that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317, and who refuses to sign the Interim Agreement SSI authorization form will be found ineligible to receive general assistance until he or she provides the required signature (22 M.R.S.A. § 4318).

Relatives. The spouse of an applicant, and the parents of any applicant under the age of 25, are liable for the support of the applicant (22 M.R.S.A. § 4319). In addition, grandchildren, children, siblings, parents and grandparents are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility (22 M.R.S.A. § 4319).

ARTICLE IX

Severability

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the ordinance.

GENERAL ASSISTANCE ORDINANCE

APPENDICES A-D

2017-2018

The Municipality of Yarmouth adopts the MMA Model Ordinance GA Appendices (A-D) for the period of Oct. 1, 2017—September 30, 2018. These appendices are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the 21st (day) of September (month) 2017 (year)
by the municipal officers:

(Print Name) Patricia Thompson

April Humphrey

(Print Name) April Humphrey

David Craig

(Print Name) David Craig

(Print Name) James MacLeod

(Print Name) Timothy Shannon

(Print Name)

(Signature)

April Humphrey

(Signature)

David Craig

(Signature)

(Signature)

Timothy Shannon

(Signature)

(Signature)

Heating Fuel

When considering requests for heating fuel, eligible applicants will be granted assistance with the actual amount necessary up to the following maximums:

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	February	225
October	100	March	225
November	200	April	125
December	200	May	50
January	225		

When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon.

When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. However, no eligible applicant shall be considered to need more than:

- 7 tons of coal per year
- 8 cords of wood per year
- 126,000 cubic feet of natural gas per year, or
- 1000 gallons of propane.

PERSONAL CARE & HOUSEHOLD SUPPLIES
(Appendix F, as Revised 09/2007)

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

NOTE: For each additional person add \$1.25 per week or \$5.00 per month.

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<u>Number of Children</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.30	\$100.00
4	\$27.90	\$120.00

2008-2009 Mileage Rate

This municipality adopts the State of Maine travel expense reimbursement rate as set by the Office of the State Controller. The current rate (until June 30, 2009) for approved employment and necessary medical travel etc. is 42 cents (42¢) per mile.

Please refer to the Office of State Controller for changes to this rate: Telephone: 626-8420 or visit: <http://www.state.me.us/osc/>

Funeral Maximums

Burial Maximums

The maximum amount of general assistance granted for the purpose of burial is **\$1,125**. Additional costs may be allowed by the GA administrator, where there is an actual cost, for:

- the wholesale cost of a cement liner if the cemetery by-laws require one;
- the opening and closing of the grave site; and
- a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery or in a cemetery under municipal control, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to:

- removal of the body from a local residence or institution
- a secured death certificate or obituary
- embalming
- a minimum casket
- a reasonable cost for necessary transportation
- other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.

Cremation Maximums

The maximum amount of assistance granted for a cremation shall be **\$785**. Additional costs may be allowed by the GA administrator where there is an actual cost, for:

- a cremation lot in the least expensive section of the cemetery
- a reasonable cost for a burial urn not to exceed \$50
- transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

26 MRSA §1043 (23)

Misconduct. “Misconduct” means a culpable breach of the employee’s duties or obligations to the employer or a pattern of irresponsible behavior, which in either case manifests a disregard for a material interest of the employer. This definition relates only to an employee’s entitlement to benefits and does not preclude an employer from discharging an employee for actions that are not included in this definition of misconduct. A finding that an employee has not engaged in misconduct for purposes of this chapter may not be used as evidence that the employer lacked justification for discharge. [1999, c. 464, §2 (rpr).]

A. The following acts or omissions are presumed to manifest a disregard for a material interest of the employer. If a culpable breach or a pattern of irresponsible behavior is shown, these actions or omissions constitute “misconduct” as defined in this subsection. This does not preclude other acts or omissions from being considered to manifest a disregard for a material interest of the employer. The acts or omissions included in the presumption are the following:

- (1) Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;
- (2) Unreasonable violation of rules that are reasonably imposed and communicated and equitably enforced;
- (3) Unreasonable violation of rules that should be inferred to exist from common knowledge or from the nature of the employment;
- (4) Failure to exercise due care for punctuality or attendance after warnings;
- (5) Providing false information on material issues relating to the employee’s eligibility to do the work or false information or dishonesty that may substantially jeopardize a material interest of the employer;
- (6) Intoxication while on duty or when reporting to work or unauthorized use of alcohol while on duty;
- (7) Using illegal drugs or being under the influence of such drugs while on duty or when reporting to work;
- (8) Unauthorized sleeping while on duty;
- (9) Insubordination or refusal without good cause to follow reasonable and proper instructions from the employer;
- (10) Abusive or assaultive behavior while on duty, except as necessary for self-defense;
- (11) Destruction or theft of things valuable to the employer or another employee;
- (12) Substantially endangering the safety of the employee, coworkers, customers or members of the public while on duty;
- (13) Conviction of a crime in connection with the employment or a crime that reflects adversely on the employee’s qualifications to perform the work; or
- (14) Absence for more than 2 work days due to incarceration for conviction of a crime.

[1999, c. 464, §2 (new).]

Appendix I

Effective: 10/01/09-10/1/10

B. “Misconduct” may not be found solely on:

- (1) An isolated error in judgment or a failure to perform satisfactorily when the employee has made a good faith effort to perform the duties assigned;
 - (2) Absenteeism caused by illness of the employee or an immediate family member if the employee made reasonable efforts to give notice of the absence and to comply with the employer’s notification rules and policies; or
 - (3) Actions taken by the employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment.
- [1999, c. 464, §2 (new).]

2017-2018 GA Overall Maximums

Metropolitan Areas

COUNTY	Persons in Household				
	1	2	3	4	5*
Bangor HMFA: Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	714	788	994	1,242	1,506
Penobscot County HMFA: Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	605	682	847	1,095	1,269
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	641	726	915	1,169	1,397
Portland HMFA: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland , Standish, Westbrook, Windham, Yarmouth, Buxton, Hollis, Limington, Old Orchard Beach	1,002 833	1,131 975	1,431 1,222	1,931 1,635	2,097 1,717
York/Kittery/S.Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York	982	1,025	1,333	1,714	2,173
Cumberland County HMFA: Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	761	807	1,072	1,561	1,780

Appendix B

Effective: 10/01/17 to 09/30/18

2017-2018 Food Maximums

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. As of October 1, 2017, those amounts are:

Number in Household	Weekly Maximum	Monthly Maximum
1	44.65 <i>45.12</i>	192 <i>194</i>
2	81.86 <i>83.62</i>	352 <i>357</i>
3	117.21 <i>118.84</i>	504 <i>511</i>
4	148.84 <i>150.93</i>	640 <i>649</i>
5	176.74 <i>179.30</i>	760 <i>771</i>
6	212.33 <i>215.12</i>	913 <i>925</i>
7	234.65 <i>237.67</i>	1,009 <i>1022</i>
8	268.14 <i>271.86</i>	1,153 <i>1169</i>

Note: For each additional person add \$144 per month.

2017-2018 GA Housing Maximums (Heated & Unheated Rents)

NOTE: NOT ALL MUNICIPALITIES SHOULD ADOPT THESE SUGGESTED HOUSING MAXIMUMS! Municipalities should ONLY consider adopting the following numbers, if these figures are consistent with local rent values. If not, a market survey should be conducted and the figures should be altered accordingly. The results of any such survey must be presented to DHHS prior to adoption. Or, no housing maximums should be adopted and eligibility should be analyzed in terms of the Overall Maximum—Appendix A. (*See Instruction Memo for further guidance.*)

Non-Metropolitan FMR Areas

<u>Aroostook County</u>				
Bedrooms	<u>Unheated</u>		<u>Heated</u>	
	Weekly	Monthly	Weekly	Monthly
0	111	476	130	559
1	111	476	134	578
2	130	558	159	684
3	167	718	204	878
4	177	762	221	949
<u>Franklin County</u>				
Bedrooms	<u>Unheated</u>		<u>Heated</u>	
	Weekly	Monthly	Weekly	Monthly
0	117	503	137	587
1	117	503	141	607
2	137	591	167	717
3	173	743	209	898
4	258	1,108	302	1,300
<u>Hancock County</u>				
Bedrooms	<u>Unheated</u>		<u>Heated</u>	
	Weekly	Monthly	Weekly	Monthly
0	124	535	147	633
1	139	599	167	720
2	183	788	213	915
3	227	976	270	1,159
4	242	1,041	294	1,264
<u>Kennebec County</u>				
Bedrooms	<u>Unheated</u>		<u>Heated</u>	
	Weekly	Monthly	Weekly	Monthly
0	131	564	154	662
1	131	564	158	679
2	168	724	198	851
3	219	943	262	1,126
4	226	971	278	1,194

Appendix C

Effective: 10/01/17-09/30/18

Metropolitan FMR Areas

<u>Portland HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		196 <i>157</i>	844 <i>674</i>	219 <i>150</i>	942 <i>775</i>
1		219 <i>182</i>	943 <i>781</i>	247 <i>210</i>	1,064 <i>905</i>
2		285 <i>229</i>	1,227 <i>983</i>	315 <i>264</i>	1,354 <i>1137</i>
3		386 <i>315</i>	1,658 <i>1355</i>	428 <i>359</i>	1,841 <i>1543</i>
4		412 <i>320</i>	1,771 <i>1377</i>	464 <i>373</i>	1,994 <i>1606</i>
<u>York/Kittery/S. Berwick HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		192	824	214	922
1		195	837	223	958
2		263	1,129	292	1,256
3		335	1,441	378	1,624
4		430	1,847	481	2,070
<u>Cumberland Cty. HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		140	603	163	701
1		144	619	172	740
2		202	868	231	995
3		299	1,288	342	1,471
4		338	1,454	390	1,677
<u>Sagadahoc Cty. HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		145	623	168	721
1		157	675	185	796
2		185	795	214	922
3		243	1,045	286	1,228
4		296	1,274	348	1,497
<u>York Cty. HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		136	587	159	685
1		159	684	187	805
2		203	875	233	1,002
3		275	1,184	318	1,367
4		269	1,156	320	1,374

2017-2018 GA MAXIMUMS SUMMARY SHEET

Note: The overall maximums found in *Appendices A, B, C, D, E, and F* are effective from **October 1, 2017 to September 30, 2018.**

APPENDIX A - OVERALL MAXIMUMS

<u>County</u>	<u>Persons in Household</u>					
	1	2	3	4	5	6
	\$1,002	\$1,131	\$1,431	\$1,931	\$2,097	\$2,172
	838	975	1220	1438	1717	

NOTE: For each additional person add \$75 per month.

(The applicable figures from Appendix A, *once adopted*, should be inserted here.)

APPENDIX B - FOOD MAXIMUMS

<u>Number in Household</u>	<u>Weekly Maximum</u>	<u>Monthly Maximum</u>
1	44.65 45.12	192 194
2	81.86 83.02	352 357
3	117.21 118.84	504 511
4	148.84 150.93	640 649
5	176.74 179.30	760 771
6	212.33 215.12	913 925
7	234.65 237.67	1,009 1022
8	268.14 271.86	1,153 1169

NOTE: For each additional person add \$144 per month.

APPENDIX C - HOUSING MAXIMUMS

<u>Number of Bedrooms</u>	<u>Unheated</u>		<u>Heated</u>	
	<u>Weekly</u>	<u>Monthly</u>	<u>Weekly</u>	<u>Monthly</u>
0	\$196 157	\$844 674	\$219 186	\$942 775
1	\$219 182	\$943 781	\$247 210	\$1,064 905
2	\$285 229	\$1227 983	\$315 264	\$1,354 1137
3	\$386 315	\$1658 1355	\$428 359	\$1,841 1543
4	\$412 320	\$1,771 1377	\$464 373	\$1,994 1606

(The applicable figures from Appendix C, *once adopted*, should be inserted here.)

FOR MUNICIPAL USE ONLY

APPENDIX D - UTILITIES

ELECTRIC

NOTE: For an electrically heated dwelling also see "Heating Fuel" maximums below. But remember, an applicant is *not automatically* entitled to the "maximums" established—applicants must demonstrate need.

1) **Electricity Maximums for Households *Without Electric Hot Water*:** The maximum amounts allowed for utilities, for lights, cooking and other electric uses *excluding* electric hot water and heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.90 <i>19.70</i>	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

NOTE: For each additional person add \$7.50 per month.

2) **Electricity Maximums for Households *With Electrically Heated Hot Water*:** The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses *excluding* heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$20.65 <i>20.00</i>	\$89.00 <i>80.00</i>
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$38.75 <i>37.30</i>	\$167.00 <i>160.00</i>
6	\$41.00	\$176.00

NOTE: For each additional person add \$10.00 per month.

NOTE: For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum for heating fuel as provided below.

APPENDIX E - HEATING FUEL

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

FOR MUNICIPAL USE ONLY

NOTE: When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

APPENDIX F - PERSONAL CARE & HOUSEHOLD SUPPLIES

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

NOTE: For each additional person add \$1.25 per week or \$5.00 per month.

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<u>Number of Children</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.30	\$100.00
4	\$27.90	\$120.00

FOR MUNICIPAL USE ONLY

CHAPTER 505

WAR MEMORIAL ORDINANCE

Town of Yarmouth, Maine
10/02/2003

CHAPTER 505

WAR MEMORIAL ORDINANCE
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WAR MEMORIAL ORDINANCE

ARTICLE I

A. TITLE

This Ordinance shall be known and may be cited as the War Memorial Ordinance of the Town of Yarmouth, Maine

B. PROHIBITION OF REMOVAL, REPLACEMENT OR OBSCURATION

1. The War Memorial erected in 1952 on the Memorial Green on Main Street shall not be removed or replaced except by approval of the voters in a referendum election.
2. No building, structure or construction shall substantially alter or obscure the War Memorial or its setting and public presentation.
 - a. This paragraph 2 shall not be construed to prohibit the temporary erection of tents, displays, booths, platforms, or structures for community activities and celebration.
 - b. This paragraph 2 shall not be construed to prohibit the construction, repair or replacement of utilities, street and sidewalk improvements or the placement of benches, lights, trash receptacles and similar park and pedestrian furnishings.
 - c. This paragraph 2 shall not be construed to prevent landscaping, gardening or tree placement, care and removal, as may be required or desired from time to time.

ARTICLE II

A. PENALTIES

Any person or persons found to have committed a violation of this Ordinance under ARTICLE 1 shall be subject to a civil penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500, 00) for each such violation, to be recovered by complaint to the use of the inhabitants of the Town of Yarmouth.

CHAPTER 506

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

Town of Yarmouth, Maine
Adopted 9/16/10

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

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PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

ARTICLE I

A. PURPOSE

By and through this Chapter, the Town of Yarmouth declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Chapter to be in conformity with federal and State laws.

B. ENABLING LEGISLATION

The Town enacts this Chapter pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, et seq.).

ARTICLE II

A. TITLE

This Chapter shall be known and may be cited as “the Town of Yarmouth Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).

B. DEFINITIONS

CHAPTER 506

Except as specifically defined below, words and phrases used in this Chapter shall have their customary meanings; as used in this Chapter, the following words and phrases shall have the meanings indicated:

Energy saving improvement: means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

- a. Will result in increased energy efficiency and substantially reduced energy use and:
 - i. Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or
 - ii. involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
- b. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

Municipality: shall mean the Town of Yarmouth, Maine.

PACE agreement: means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

PACE assessment: means an assessment made against qualifying property to repay a PACE loan.

PACE district: means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality's boundaries.

PACE loan: means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

PACE mortgage: means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

PACE program: means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

Qualifying property: means real property located in the PACE district of the Municipality.

Renewable energy installation: means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

Trust: means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE III

A. ESTABLISHING; FUNDING

The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.

B. AMENDMENT OT PACE PROGRAM

In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE IV

A. STANDARDS ADOPTED; RULES PROMULGATED; MODEL DOCUMENTS

If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE V – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

A. PROGRAM ADMINISTRATION

1. **PACE Administration Contract.** Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:
 - a. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
 - b. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
 - c. the Trust, or its agent, will disburse the PACE loan to the property owner;
 - d. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
 - e. the Trust, or its agent, will be responsible for collection of the PACE assessments;
 - f. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
 - g. the Municipality, or the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.
2. **Adoption of Education and Outreach Program.** In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.
3. **Assistance and Cooperation.** The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.
4. **Assessments Not a Tax.** PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

B. LIABILITY OF MUNICIPAL OFFICIALS; LIABILITY OF MUNICIPALITY

1. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of

whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

2. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

CHAPTER 507

SENIOR TAX ASSISTANCE YARMOUTH (STAY)

Town of Yarmouth, Maine

Adopted 9/15/16

Amended: 2/16/17

Amended: 10/19/17

SENIOR TAX ASSISTANCE YARMOUTH (STAY)

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SENIOR TAX ASSISTANCE YARMOUTH (STAY)

ARTICLE I

Purpose

The purpose of this ordinance is to establish a Program to provide property tax assistance to persons 67 years of age and over who reside in the Town of Yarmouth. Under this Program, the Town of Yarmouth will provide refund payments to those individuals who maintain a homestead in the Town of Yarmouth and meet the criteria established by this Chapter.

ARTICLE II

Definitions

As used in this article, the following terms shall have the meanings indicated:

Benefit base: property taxes assessed against a qualifying applicant during the tax year on the qualifying applicant's homestead or rent constituting property taxes paid by the resident individual during the tax year on a homestead not exceeding \$3,800.

Homestead: For purposes of this Chapter, "homestead" shall have the same meaning as defined in 36 M.R.S.A. § 5219-KK(1)(C). Generally, a homestead is a dwelling owned or rented by the person seeking tax assistance under this Chapter or held in a revocable living trust for the benefit of that person. The dwelling must be occupied by that person and that person's dependents as a home.

Rent constituting property tax: 20% of the gross rent actually paid in cash or its equivalent during the twelve month period ending March 31 immediately preceding the application deadline established hereunder solely for the right of occupancy of a homestead. For the purposes of this Chapter, "gross rent" means rent paid at arm's length solely for the right of occupancy of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement.

Qualifying applicant: A person who is determined by the Town Manager or his designee, after review of a complete application under Article IV of this Chapter, to be eligible for a refund payment under the terms of this Chapter.

ARTICLE III

Criteria for participation

In order to participate in the property tax assistance program, an applicant shall demonstrate all of the following:

- a. The applicant shall be 67 years of age or more at the time of application.
- b. The applicant shall have a homestead in the Town of Yarmouth at the time of the application and for the entire calendar year prior to the date of application.
- c. The applicant has been a resident of the Town of Yarmouth for at least 10 consecutive years immediately preceding the date of application for participation in the Program.
- d. The applicant shall meet the application and eligibility criteria set forth in Articles IV and V this Chapter.

ARTICLE IV

Application and payment procedures

- a. Persons seeking to participate in the property tax assistance program shall submit an application to the Town Manager no later than the last business day of the month of April of the fiscal year in which the refund is requested. Applications are required for every year the applicant seeks to participate in this Program. The application form for the Program shall be made available upon request in the Town Manager's office and shall include, at a minimum, the applicant's name, homestead address and contact information. Attached to all applications shall be proof of household income.
- b. Applicants shall also submit proof of property taxes assessed on the Yarmouth homestead in the current fiscal year or rent constituting property taxes paid on the Yarmouth homestead during the prior 12 month period (April-March) for which the refund is requested.

Applications must include a completed IRS Form W-9 to be considered complete and eligible for Program participation.

- c. The Town Manager shall review and determine if the application is complete and accurate and if the applicant is otherwise eligible to participate in the Program. The Town Manager shall notify an applicant if an application is determined to be incomplete. The Town Manager's decision on eligibility to participate in the Program shall be final.

Article V

Determination of eligibility and amount

A. If the Town Manager determines that the applicant is eligible to participate in the Program, he shall determine the total amount of such eligibility in accordance with the following formula. Eligibility under this article shall be proportional to the applicant's income in relation to the applicant's benefit base. For purposes of calculating eligibility under this Chapter, the applicant's income shall include total household income and the benefit base shall not exceed \$38350 regardless of actual property taxes assessed or rent constituting property taxes payable. Applicants with household income greater than an amount equal to 90% of the current U.S. Department of Housing and Urban Development Metropolitan Area Median Family Income shall not be eligible for benefits under this Chapter. Notwithstanding the following formulas, the maximum benefit allowed under this Chapter shall be \$900 or the maximums hereinafter set forth, whichever is less. Eligibility shall be the lesser of the following amounts:

- 1) Fifty percent of the amount by which the benefit base (not to exceed \$3,800) exceeds 4% of the applicant's household income (not to exceed 90% of the current HUD Median Family Income (MFI) for the Portland Metropolitan Area).
$$(\text{Benefit base} - 4\% \text{ of Income}) / 2 = \text{Benefit Amount}$$

- 2) Notwithstanding the formula, above, refund amounts shall be capped for households or individuals in accordance with the following:

If household income is equal to or less than 60% of the Median Family Income (MFI) for the Greater Portland (Maine) Metropolitan Area as reported US Department of Housing Development (HUD)*, the refund shall be capped at \$900.

If household income is equal to or less than 70% of the Median Family Income for the Greater Portland (Maine) Metropolitan Area as reported US Department of Housing Development (HUD)*, the refund shall be capped at \$720.

If household income is equal to or less than 80% of the Median Family Income for the Greater Portland (Maine) Metropolitan Area as reported US Department of Housing Development (HUD)*, the refund shall be capped at \$540.

If household income is equal to or less than 90% of the Median Family Income for the Greater Portland (Maine) Metropolitan Area as reported US Department of Housing Development (HUD)*, the refund shall be capped at \$360.

If household income is greater than 90% of the Median Family Income for the Greater Portland (Maine) Metropolitan Area as reported US Department of Housing Development (HUD)*, the application shall be denied.

* The most recently published HUD report as of January 15 of the application year shall control.

- B. No renter or owner of a homestead property shall be eligible for refund if the property shall be exempt from property tax assessment for the tax year; and no renter or property owner shall of a homestead property shall be eligible for a refund if the property shall be benefited by a Credit Enhancement Agreement providing greater than a 50% reimbursement of taxes paid under any Tax Increment Financing plan offered by the Town of Yarmouth for the tax year.
- C. In event the applicant's rented or leased premises shall include landlord provision of heat and/or electricity, the Town Manager shall deduct from the rental payment calculation in accordance with the applicable allowances in Appendices A-F of Chapter 504 of the Yarmouth Town Code (General Assistance Ordinance).

Article VI

Limitations on payments

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

Article VII

Creation of program fund

The program fund from which payments shall be made under the terms of this Chapter shall be created as follows:

- A. As funds are available, the Town Council may annually appropriate monies from the general fund or other sources to support this Program.
- B. Any surplus monies available after all payments have been made shall be carried forward within the Fund to the next fiscal year.

- C. Any additional funds that may be received by dedication, gift, donation, or by supplemental appropriation as may be approved.

Article VIII

Timing of Payments

A person who qualifies for payment under this Program shall be mailed a check for the benefit amount for which they are eligible under Article V on or about May 15, with or without proration as provided hereinabove in Article VI.

Article IX

One applicant per household

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

CHAPTER 509

Retail Marijuana Establishments and Retail Social Clubs Ordinance

Town of Yarmouth, Maine

Adopted 1/18/18

Retail Marijuana Establishments and Retail Social Clubs Ordinance

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Marijuana Establishments and Retail Social Clubs Ordinance

ARTICLE I

Section 1. Authority.

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

Section 2. Definitions.

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2442.

Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. § 2442.

Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

Section 4. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

Section 5. Penalties.

This ordinance shall be enforced by the municipal officers or their designee. Violations of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. § 4452.

CHAPTER 601

SUBDIVISION ORDINANCE

Town of Yarmouth, Maine

Recodified: 1/15/98

Amended: 7/17/1998

Amended 7/25/2006

Amended 10/18/07

Amended: 8/25/08

Amended 9/18/08

Amended: 6/18/15

Repealed and Replaced 9/15/16

SUBDIVISION ORDINANCE

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Technical Appendices

Appendices A-C below detail roadway, sidewalk and related infrastructure specifications. Such appendices shall be updated from time to time by the Town Engineer to reflect the most current information, and shall become effective upon public hearing and approval by the Planning Board.

A. Roadway Design & Construction Standards:

1. Roadway Geometric Standards
2. Roadway and Sidewalk Material Standards

B. Design & Construction Cross Section Diagrams:

1. Residential Collector Street
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C. Traffic Study Specifications

SUBDIVISION ORDINANCE

ARTICLE I

A. TITLE

This Ordinance shall be known and may be cited as the Subdivision Ordinance of the Town of Yarmouth, Maine.

B. AUTHORITY AND PURPOSE

1. Under the authority of MRSA, Title 30-A, Chapter 187, Section 4401 et.seq., this Subdivision Ordinance, is hereby adopted.
2. The purpose of this Ordinance shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community.

C. DEFINITIONS

Accessory Dwelling Unit (ADU): A secondary dwelling unit that has been added onto, or created within a single family home or an associated Accessory Structure. One ADU is permitted per lot. An ADU approved under the Site Plan Review Ordinance shall not be considered a separate unit for the purposes of applying the area and density requirements of this Ordinance. An ADU approved under the Site Plan Review Ordinance does not require review under this Ordinance or under 30-A M.R.S.A., Chapter 187, subchapter 4, the municipal reviewing authority having determined that review under the Site Plan Review Ordinance is at least as stringent as that required under subchapter 4.

Comprehensive Plan: Any part or element of the overall plan or policy for development of the Town as defined in Title 30-A, M.R.S.A., Chapter 187.

Construction Drawings: Drawings showing the location, profile, grades, size and types of drains, sewers, water mains, underground fire alarm ducts, underground power ducts and underground telephone ducts, pavements, cross-section of streets, miscellaneous structures, etc.

Easement: The right to use or restrict the use of, land of another for or to specified purposes. The Planning Board, or Planning Director shall review and approve the nature and substance of all proposed easements.

Engineer: Professional Engineer licensed by the State of Maine.

Final Subdivision Plan: The final drawings on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, may be filed for record with the Municipal Clerk and County Registry of Deeds.

Legislative Body: Town Council.

Municipal Engineer: A professional engineer registered by the State of Maine who is appointed by the Town Manager.

Official Submittals Date: The time of submission of a Pre-application Plan, Final Plan for Minor Subdivision, Preliminary Plan for Major Subdivision or Final Plan for Major Subdivision shall be considered the submission date of the application for such Plan approval to the Board, complete and accompanied by any required fee and all data required by this Ordinance.

Preliminary Subdivision Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Private Infrastructure: Any required improvements for provision of utilities, stormwater management, circulation, safety or other functions that are intended to be owned and maintained by property owners or property owners' associations.

Private Road: A vehicular access way shared by and serving two or more lots, which may or may not allow public access, and that may be established only under the terms of this Ordinance, Chapter 601, Subdivision, Article V, B.1.f, Technical and Design Standards.

Street: A publicly dedicated way accepted by the Town or approved by the Planning Board with the proposed improvements conditioned by a performance bond in accordance with ARTICLE VI.A

Street Tree: Trees located within or adjacent to the public street right of way, to create a tree-lined or tree-canopy condition.

Subdivisions: A subdivision is the division of a tract or parcel of land into 3 or more lots within any 5-year period, whether accomplished by sale, lease, development, building or otherwise, and as provided in MSRA 30-A Chapter 187, Section 4401, except when the division is accomplished inheritance, order of court or gift to a relative, unless the intent of such gift is to avoid the objectives of this Section.

In determining whether a parcel of land is divided into 3 or more lots, land retained by the subdivider for his/her own use as a single family residence of at least 5 years shall not be included.

No sale or lease of any lot or parcel shall be considered as being a part of a subdivision if such lot or parcel is 40 acres or more in size, except where the intent of such sale or lease is to avoid the objectives of this Ordinance.

Subdivision, Major: Any subdivision containing more than four (4) lots or any subdivision requiring any new street extension, or extension of Municipal facilities.

Subdivision Minor: A subdivision containing not more than four (4) lots.

Subdivider: Assessed owner or owners of land to be subdivided.

Subdivider's Agent: That person who has written authorization to act for the assessed owner or owners of land to be subdivided.

D. REVIEW STANDARDS

The Planning Board shall consider the following criteria, and before granting approval, shall determine that the proposed subdivision:

1. **Pollution:** The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - a. The elevation of the land above sea level and its relation to the flood plains;
 - b. The nature of soils and subsoils and their ability to adequately support waste disposal;
 - c. The slope of the land and its effect on effluents;
 - d. The availability of streams for disposal of effluents; and
 - e. The applicable state and local health and water resource rules and regulations;
2. **Sufficient water:** The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
3. **Municipal water supply:** The proposed subdivision will not cause an

unreasonable burden on an existing water supply and the project can be served as planned, if one is to be used;

4. **Erosion:** The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
5. **Traffic:** The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and shall adhere to the street connectivity requirements of Article I.E.7, Street Access to Adjoining Property, herein. If the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by MSRA Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
6. **Sewage disposal:** The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
7. **Municipal solid waste disposal:** The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;
8. **Aesthetic, cultural and natural values:** The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline; The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees (10" in diameter or more), the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as reasonably practicable.
9. **Conformity with local ordinances and plans:** The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans, and shall be designed so as to be consistent with master plans and facilities plans and with off premises infrastructure,

including but not limited to sewer and stormwater, streets, trails, pedestrian and bicycle network, environmental management or other public facilities

10. **Financial and technical capacity:** The subdivider has adequate financial and technical capacity to meet the standards of this section;
11. **Surface Waters:** Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond, or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water;
12. **Ground water:** The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
13. **Flood areas:** Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation; The Planning Board shall, when receiving and reviewing subdivisions assure that:
 - a. All such proposals are consistent with the need to minimize flood damage; and
 - b. All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage; and
 - c. Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - d. In the case of subdivisions or other developments greater than 50 lots or 5 acres (whichever is the lesser), that all proposals include base flood elevation data.
14. **Freshwater wetlands:** All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;

15. **Farmland:** All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;
16. **River, stream or brook:** Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;
17. **Storm water:** The proposed subdivision will provide for adequate storm water management;
18. **Spaghetti-lots prohibited:** If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
19. **Lake phosphorus concentration:** The long-term cumulative effects of the proposed subdivision will not unreasonably increase the phosphorus concentration in a Great Pond, (as defined in MRSA Title 38 Section 480-B), during the construction phase and life of the proposed subdivision, *or in the absence of a Great Pond, otherwise cause phosphorous concentration in fresh water bodies.*
20. **Impact on adjoining municipality:** For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; See also Joint Meeting provision, Article 1(E)(9) below. and
21. **Lands subject to liquidation harvesting:** Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days

regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

E. GENERAL REQUIREMENTS

In reviewing applications for the subdivision of land, the Board shall consider the following general requirements. In all instances the burden of proof shall be upon the person proposing the subdivision.

1. Blocks:

- a. The length, width and shape of blocks shall be determined with due regard to:
 - i. Provisions of adequate building sites suitable to the special needs of the type of use contemplated.
 - ii. Zoning requirements as to lot sizes and dimensions.
 - iii. Needs for convenient access, circulation, control and safety of street traffic.
 - iv. Limitations and opportunities of topography.
- b. Blocks shall not be less than 400 feet, nor more than 1200 feet in length except as the Planning Board considers necessary to secure the efficient use of land or desired features of street pattern. In blocks exceeding 800 feet in length, the Planning Board may require the reservation of a 20 foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a 5 foot wide paved footpath be included. The Planning Board shall require the subdivider to provide for the proper maintenance of any such easement.

2. Lots:

- a. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
 - b. Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated.
 - c. Double frontage lots and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, across where there shall be no right of access, shall be provided along the lines of lots abutting such a traffic artery or other disadvantageous use.
 - d. Side lot lines shall be substantially at right angles or radial to street lines.
3. **Easements for Natural Drainage Ways:** Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a storm-water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width or construction, or both. Such easement or right-of-way shall be not less than 30 feet in width.
4. **Utilities**
- a. The size, type and location of public utilities, such as street lights, electricity, telephones, gas lines, fire hydrants, etc., shall be approved by the Board and installed in accordance with Appendix A and B.
 - b. Utilities shall be installed underground except as otherwise approved by the Board.
5. **Trees, Open Space, Trail Connectivity**
- a. **Street trees:** Street trees shall be required unless waived by the Planning Board as per Article V.B. Street trees are required on new and existing public street frontages including two trees per lot or tree spacing of 35' on center, whichever is greater. Preservation of existing healthy trees may be credited toward the tree requirement if determined by the Planning Board to meet the intent of this section. If conditions or constraints warrant a waiver of the required number of street trees as recommended by the Town Tree Warden, a fee of \$200 per tree may be required by the Planning Board in lieu of providing such trees, which funds shall be dedicated to the Yarmouth Tree Trust. Where such improvements are

required, they shall be incorporated in the Final Plan and executed by the subdivider as construction of the subdivision progresses. Appropriate protection will be provided for the most healthy and favorable Street Trees and, if lost due to construction, shall be replanted according to the requirements of the Tree Committee or Town Tree Warden.

- b. The subdivision shall include suitable easements, rights and improvements to connect or continue off-premises public infrastructure including but not limited to existing or planned trails or open spaces as may be required by the Planning Board.

- 6. **Connect with Public Infrastructure:** All developments shall be designed so as to be consistent with applicable master plans and facilities plans and, if and as applicable, to connect with off premises infrastructure associated with such plans, including but not limited to public water, sewer and stormwater, street networks, trails, pedestrian and bicycle network, environmental management or other public facilities.

7. **Street Access to Adjoining Property:**

- 1) In the case of residential subdivisions:

- a. The proposed street layout of public streets and private streets shall be coordinated with the street system of the surrounding areas. Wherever possible, streets shall provide for the continuation or appropriate connection to streets in surrounding areas and provide means of ingress and egress for surrounding acreage tracts.
- b. When connecting streets within residential neighborhoods, new streets shall contribute to a neighborhood street system characterized by a network of interconnected streets, which minimizes through-traffic in residential neighborhoods. The layout of subdivision lots, streets, and pedestrian ways shall promote multiple paths of travel to get to destinations within and between neighborhoods by foot and bicycle, as well as auto.
- c. The interconnection of new and existing streets is further subject to the following provisions to minimize and mitigate through-traffic in residential neighborhoods:
 - i. **Traffic Calming Measures:** Where a determination is made that a proposed street connection will result in substantial increases in traffic volume and speed on the effected public

streets, the planning board may require appropriate traffic calming solutions , such as but not limited to stop signs, speed humps or tables, chicanes, or geometric condition designed to slow traffic, to mitigate the impact; and

- ii. **Traffic Monitoring:** In any circumstances where a street connection is provided, the planning board may condition subdivision approval to require the developer to monitor future traffic patterns to determine whether new or additional traffic calming measures should be employed to mitigate the post development impact of connecting new and existing streets. The extent and design of traffic calming measures shall be determined by the Public Works Authority.
- iii. **Post-Monitoring Vehicle Restriction:** In cases where post development monitoring shows that increased traffic volume and speed is such that further traffic calming would be insufficient to mitigate traffic negative impacts of through traffic, the Public Works Authority may require that the connection be modified to exclude regular vehicular traffic, while retaining bicycle, pedestrian, and emergency vehicle connections.
- iv. **Non-Connection for Vehicles:** Where: **a)** on the basis of the findings of analysis by a Professional Traffic Engineer Licensed in the State of Maine, a determination is made by the Planning Board that a proposed street connection is projected to result in a substantial increase in traffic volume and speed on the affected public streets; or **b)** in cases where the environmental or excessive cost factors render the connection not feasible or substantially impracticable; the planning board may waive a proposed street connection for vehicular purposes.

In circumstances where vehicular connections are waived or restricted per section (4) above, the Planning Board may require that adequate right-of-way is reserved to permit the extension of the street and/or provisions made for pedestrian, bicycle, and/or emergency use, and for potential vehicle connections as may develop in the future.

2) In the case of non-residential subdivisions:

- a. Where, in the opinion of the Planning Board it is desirable to provide for street access to adjoining streets or property, the Board may require that proposed public or private streets or ways be extended by dedication to the boundary of such adjoining streets or property.

8. All subdivisions shall be designed and constructed in conformance with Article V, Technical and Design Standards, and Technical Appendices.

ARTICLE II

SUBMISSION REQUIREMENTS

A. Conceptual Plan: No applicant shall file an application for subdivision approval until such time as he/she has submitted for review by the Planning Board a conceptual plan, 13 copies, plus an electronic (PDF) version, consisting of the following:

1. General topography;
2. General street and lot layout;
3. Location of flood plains on the property; and
4. The location of the zoning district boundaries.

B. Preliminary Plan: The Preliminary Plan shall be submitted with three full size plan sets and ten reduced plan sets at 11" X 17" on one or more maps or drawings which shall be printed or reproduced on paper, plus an electronic (PDF) version of all plans and submissions. The number and format of copies may be revised from time to time as determined by the Director of Planning & Development, which shall be noted on the subdivision application if different from above. Such plans shall show all dimensions in feet or decimals of a foot, drawn to a scale of 1 inch equals not more than one hundred feet, showing or accompanied by the following information:

1. Location Map: The Preliminary Plan shall be accompanied by a Location Map drawn at a scale of not over six hundred feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area. The Preliminary Plan shall show all the area within one thousand feet of any property line of the proposed subdivision. Within such area, the Location Map shall show:
 - a. All existing subdivisions and approximate tract lines of acreage parcels together with the names of the record owners of all adjacent parcels of land, those directly abutting or directly across any street adjoining the proposed subdivision.
 - b. Locations, widths and names of existing, filed or proposed streets, easements, and building lines pertaining to the proposed subdivision and to the adjacent properties.

- c. The boundaries and designations of zoning districts, parks and other public spaces.
 - d. An outline of the proposed subdivision including all contiguous land owned by the subdivider, together with its street system and an indication of the future probable street system of the remaining portion of the tract, if the Preliminary Plan submitted covers only part of the subdivider's entire holding.
2. Proposed subdivision name or identifying title and the name of the municipality.
 3. Name and address of record owner, subdivider and designer of Preliminary Plan.
 4. Number of acres within the proposed subdivision, location of existing and proposed property lines, existing easements, buildings, watercourses and other essential existing physical features.
 5. The names of all subdivisions immediately adjacent the names of owners of record of adjacent acreage.
 6. The provisions of the Zoning Ordinance applicable to the area to be subdivided and any zoning district boundaries affecting the subdivision.
 7. The location and size of any existing sewers and water mains, culverts and drains on the property to be subdivided.
 8. Location, names and present widths of existing and proposed streets, highways, easements, building lines, alleys, parks and other public open spaces.
 9. The width and location of any streets within the area to be subdivided, and the width, location, grades, and street profiles of all streets or other public ways proposed by the subdivider.
 10. Contour lines at intervals of two feet or at such intervals as the Planning Board may require, based on United States Geological Survey datum.
 11. A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification.

12. Typical cross sections of the proposed grading for roadways and sidewalks.
13. Date, true north point and graphic scale.
14. Deed description map of survey of tract boundary made and certified by a registered land surveyor, tied into established reference points.
15. Connection with existing water supply or alternative means of providing water supply to the proposed subdivision meeting the requirements of Article V.T.
16. Connection with existing sanitary sewerage system or alternative means of treatment and disposal proposed meeting the requirements of Article V.U.
17. If a private sewage disposal system is proposed, the location and results of tests to ascertain subsurface soils and ground water conditions meeting the requirements of Article V.U.
18. Provisions for collecting and discharging storm drainage, in the form of a drainage plan.
19. Preliminary designs of culverts which may be required.
20. The proposed lot lines with dimensions, lot area, lot numbers, zoning setback lines and suggested locations of buildings.
21. The location of temporary markers adequate to enable the Board to locate readily and appraise the basic layout in the field.
22. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
23. The location of all natural features or site elements to be preserved.
24. A grading plan may be required for any or all lots as determined by the Planning Board.
25. Preliminary layout of any bridges required.
26. Landscape Plan showing vegetation to be preserved and planted.

c. Final Plan: The final plan shall consist of the required number of copies of all maps or drawings plus an electronic (PDF) version, which shall be

printed or reproduced in the same manner as the Preliminary Plan. Space shall be reserved thereon for endorsement by all appropriate agencies. The final plan shall show:

1. All of the information presented on the Preliminary Plan and Location Map and any amendments thereto suggested or required by the Board.
2. The name, registration number, seal and signature of the land surveyor, architect or planning consultant who prepared the plan.
3. Street names and lines, pedestrian ways, lanes, easements and areas to be reserved for or dedicated to public use.
4. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments as herein required, and shall be referenced as shown on the Plan.
5. Sufficient data acceptable to the Municipal Engineer to determine readily the location, bearing and length of every lot line, and boundary line and to reproduce such lines upon the ground. Where practical these should be tied to reference points previously established.
6. The survey of the outside boundaries of the tract and the computation of the lot lines shall be performed to an accuracy of one foot in 5,000 feet. If requested by the Planning Board, the surveyor shall furnish copies of computation sheets for outside boundaries showing:
 - a. Sketch of traverse lines;
 - b. Closures;
 - c. Adjustments;
 - d. Coordinates; and
 - e. Computation of outside boundaries.
7. Contour lines at intervals of two feet or at such intervals as the Planning Board may require, based on United States Geological Survey datum.
8. Granite monuments shall be set at all outside corners of the proposed subdivision tract and checked by the Town Engineer prior to final approval.

9. By proper designation, all public open space for which offers of cession are made by the subdivider and those spaces to which title is reserved by him.
10. Lots and blocks within the subdivision numbered in accordance with local practice.
11. Written offers of cession to the Municipality of all public open space shown on the Plan, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the subdivider, are to be maintained.
12. Written evidence that the Municipal Officers are satisfied with the legal sufficiency of the documents referred to in Paragraph (1), above. Such written evidence shall not constitute an acceptance by the Municipality of any public open space referred to Paragraph (1), above.
13. If the proposed subdivision in any way is subject to review by Federal review agencies or State of Maine Department of Environmental Protection (MDEP), then a copy of the Federal or MDEP application and decision shall be provided as part of the official submission of the Final Plan. If MDEP or other required Federal or State approvals are pending, approval by the Planning Board shall be conditional upon receiving of all such Federal or State permits or approvals; or may be tabled at the discretion of the Planning Board until such permits or approvals are received.
14. **Section 488 Exemptions:** Whenever the subdivision is exempt from Title 38, chapter 3, subchapter I, article 6, because of the operation of Title 38, section 488, subsection 5, that fact must be expressly noted on the face of the Subdivision plan to be recorded in the registry of deeds pursuant to 30-A M.R.S. Section 4406.

ARTICLE III

SUBDIVISION REVIEW PROCESS, MINOR AND MAJOR SUBDIVISIONS

A. APPLICATION PROCEDURE

1. **Notice:** All subdivisions shall submit a conceptual and final plan. Major subdivisions shall submit a conceptual, preliminary, and final plan. Minor subdivisions may elect to submit a preliminary plan.
 - a. For all subdivisions applications, the Department of Planning and Development shall send a notice, including a description of the nature of the proposal, the address and map and lot location, and the time and place of the Planning Board meeting and the public comment time period.
 - b. The Department shall mail the notice by first class postage to owners of all property within a minimum of 500' of the property under consideration, up to a distance of 1,000' of the property if it is determined by the Director of Planning and Development that the impacts of the subdivision might affect such properties, and to the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision. The notice shall be mailed at least 7 days before the first workshop meeting on the subdivision on the Planning Board agenda and 7 days before any scheduled public hearings on the Preliminary or Final Subdivision. If, following a public hearing, the Planning Board tables or postpones the subdivision to a date and time certain, no additional mailed notice is required for that date and time of meeting.
 - c. The Director shall place a notice to be published at least 2 times in a newspaper of general circulation in the Town of Yarmouth. The date of the first publication must be at least 7 days before the public hearing.

All publishing and mailing of notices shall conform with applicable State requirements including MRS Title 30-A Section 4403.

2. **Review by Municipal Committees:** The Planning Board may request copies of the application to be forwarded by the applicant to the Yarmouth Parks and Land Committee, Tree Committee, and Sports and Recreation Committee, Harbor and Waterfront Committee or other Municipal committee. The comments of the committees are advisory to the Planning Board and shall pertain to the application's conformance with Section I.D, Review Standards, of this Article. The Planning Board may postpone final decisions regarding the application until such time as the comment from

the Municipal committee(s) has been submitted. If so requested, such committees shall make best efforts to respond with written comments to the Planning Board within 45 days of the date of the Conceptual Plan presentation to the Planning Board.

- a. The respective committees may be requested to evaluate the proposed subdivision to determine such issues including but not limited to the following:
 - i. Whether there exists within such proposed land development unusual topographical or geographic features, natural views, scenes or vistas, natural resources, public access to contemplated or existing trail systems or Town- owned property, or other natural, cultural, historical or environmental resources worthy of preservation or protection;
 - ii. Whether there exists within such proposed land development recreational areas or open spaces suitable to the recreational needs of the proposed land development and the long range recreational goals of the Town;
 - iii. Whether the proposed land development is in conformance with the Comprehensive Plan and the Open Space Master Plan of the Town;
 - iv. Whether the proposed land development is in conformance with or compatible to the matters contained in the Open Space Map Overlays (Trails, Resource Protection-Tidal Marsh and Important Visual Open Spaces).
 - v. Whether an alternative Development Plan to preserve at least 25% of the gross land area as open space is required, in cases in which the site under consideration exceeds 20 acres or is identified on the Open Space Maps (as per paragraph iv, above.)
3. **Review:** The Planning Board shall review the conceptual plan at its regular meeting with opportunity for public comment.
4. **Site Walk:** After reviewing the conceptual plan, the Planning Board shall schedule a site walk at a mutually agreeable time, or determine that a site walk is not necessary.

5. **Classification:** At such Conceptual Plan review, the Planning Board will classify the conceptual plan into one of two categories as defined herein:
 - a. Minor Subdivision
 - b. Major Subdivision

B. REVIEW OF MINOR SUBDIVISIONS

1. **General:** The Planning Board may require, where it deems it necessary for the protection of public health, safety and welfare, that a Minor Subdivision comply with all or any of the requirements specified for Major Subdivisions.
2. **Procedure:** Within six months after classification of the conceptual plan as a Minor Subdivision by the Planning Board, the subdivider shall submit an application for approval of a final plan at least ten (10) days prior to a scheduled meeting of the Board. Failure to do so shall require re-submission of the plan to the Planning Board for reclassification.
3. All applications for plan approval for Minor Subdivisions shall be accompanied by a fee set by the Yarmouth Town Council and payable by check to the Town of Yarmouth.
4. The subdivider, or his/her duly authorized representative, shall attend the meeting of the Planning Board to discuss the Final Plan.
5. Within forty-five (45) days from the date of submission, or at the date of the next available Planning Board meeting, whichever is later, the Planning Board shall approve, modify and approve, or disapprove the Final Plan, unless such time frame is extended by mutual agreement. The Board shall specify in writing its reasons for any such modification or disapproval. If the Board fails to take action within such time, the Final Plan shall be deemed disapproved.

C. PRELIMINARY PLAN FOR MAJOR SUBIDIVISION

1. **Procedure:**
 - a. The application for conditional approval of the Preliminary Plan shall be accompanied by a fee set by the Town Council of Yarmouth.
 - b. The subdivider, or his/her duly authorized representative, shall attend the meeting of the Planning Board to discuss the

Preliminary Plan.

- c. Within forty-five (45) days after formal submission of a Preliminary Plan, or at the next available Planning Board meeting, whichever is later, the Planning Board shall take action to give preliminary approval, with or without modifications, or disapprove such Preliminary Plan, unless such time frame is extended by mutual agreement. The reasons of any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within such time period shall constitute disapproval of the Preliminary Plan. Prior to preliminary approval, the Planning Board may hold a public hearing.
- d. When granting preliminary approval to a Preliminary Plan, the Planning Board shall state the conditions of such approval, if any, with respect to:
 - (1) The specific changes which it will require in the Final Plan;
 - (2) The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare;
 - (3) The amount of improvement or the amount of all bonds therefore which it will require as prerequisite requisite to the approval of the Final Subdivision Plan.
- e. The decision of the Planning Board plus any conditions imposed shall be noted on three (3) copies of the Preliminary Plan. One copy shall be returned to the subdivider, one retained by the Planning Board and one forwarded to the Town Manager.
- f. Preliminary approval of a Preliminary Plan shall not constitute approval of the Final Plan, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any. Prior to approval of the Final Subdivision Plan, the Planning Board may require additional changes as a result of new information obtained at a public hearing.

- g. Subdivisions reviewed under this Chapter shall not require review under Chapter 702, Site Plan, for normal roadway, grading, drainage, and utility infrastructure associated with land subdivisions. Subdivisions that include new buildings or additions to buildings or otherwise trigger Chapter 702 review for other than roadway and infrastructure improvements shall be subject to Chapter 702 if and as applicable.

D. FINAL PLAN FOR MAJOR AND MINOR SUBDIVISION

1. Procedure

- a. The subdivider shall, within six months after the preliminary approval of the Preliminary Plan, file with the Planning Board an application for approval of the Final Subdivision Plan in the form described herein. Final Plan is not submitted to the Planning Board within six months after the approval of the Preliminary Plan, the Planning Board may refuse without prejudice to act on the Final Plan and require resubmission of the Preliminary Plan. All applications for Final Plan approval for Major Subdivisions shall be accompanied by a fee set by the Town of Yarmouth payable by check to the Town of Yarmouth.
- b. A public hearing may be held by the Planning Board within forty-five (45) days after formal submission of a Final Plan, or at the next available Planning Board meeting, whichever is later, unless such time frame is extended by mutual agreement. A hearing shall be advertised in a newspaper of local circulation at least ten (10) days before such hearing and notice of said hearing shall be posted in at least three (3) prominent places at least ten (10) days prior to the hearing.
- c. The Planning Board shall, within sixty (60) days from submission of the Final Plan approve, modify and approve or disapprove the Final Plan and make findings on whether the subdivision meets the standards of Article I.D and E, (Review Standards and General Requirements). The reasons of any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within such sixty (60) day period shall constitute disapproval of the Final Plan.
- d. Upon approval of a final subdivision plan and prior to its recording in the Cumberland County Registry of Deeds, a performance guarantee shall be provided pursuant to the provisions of Article VI.A of this

Chapter.

2. Plan Revisions after Approval

- a. The planning authority may approve alterations to an approved recording plat when all of the following conditions are met; otherwise, a new subdivision plat must be submitted to the Planning Board:
 1. The rearrangement of lot lines does not increase the number of lots within a block or subdivision unit or area;
 2. The alteration will not substantially affect any street, alley, utility easement or drainage easement;
 3. The alteration meets all of the minimum requirements of this Chapter, Chapter 701 (Zoning) of this code and other applicable state and local codes;
 4. The alteration is approved by the Public Works Director, the Fire Chief, Town Engineer and Planning Director. Such approved alterations shall be properly recorded in the registry within thirty (30) days thereof or they shall be null and void. Recording of approved alterations also shall be in accordance with the requirements of 30-A M.R.S.A. Section 4407.

3. Final Approval and Filing

- a. Upon completion of the requirements stated above and notation to that effect upon the Plan, it shall be deemed to have final approval and shall be properly signed by a majority of the members of the Planning Board and shall be filed by the applicant with the Planning Director. The Plan shall then be filed with the Cumberland County Registry of Deeds, subject to the performance guarantee requirements of Article VI.A. Any subdivision Plan not so filed or recorded within 180 days of the date upon which such Plan is approved and signed by the Planning Board as herein provided shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not exceed two additional periods of 180 days. The Board may decline to grant extension if the circumstances surrounding the property have substantially changed in a manner that would warrant new review to determine if the subdivision standards will be met, or if the ordinances and regulations governing the subject property have changed to an extent that the subdivision would be substantially non-compliant and the Board

determines that the subject property should be subject to the changed ordinances and regulations.

- b. At the time the Planning Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. The applicant may file a section of the approved Plan with the Planning Director and the Registry of Deeds if said section constitutes at least 10% of the total number of lots contained in the approved Plan. In these circumstances, Plan approval of the remaining sections of the Plan shall remain in effect for three years or a period of time mutually agreed to by the Municipal Officers, Planning Board and the subdivider.
4. **Final Recording Plat Submission:** Upon recording of the subdivision plat at the Cumberland County Registry of Deeds, a mylar and 2 paper copies of the plat showing book and page and date of recording shall be submitted to the Town Engineer, along with an electronic plan set in both AutoCAD and PDF formats. The Town Engineer shall forward a copy of the recorded plat to the Town Assessor and GIS Technician.
5. **Public Acceptance of Streets, Easements, and Open Space:** The approval by the Planning Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the Municipality of any street, easement, or other open space shown on such Plan. When a park, playground, or other recreation area shall have been shown on the Plan, approval of the Plan shall not constitute an acceptance by the Municipality of such area. The Planning Board shall require the Plan to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provisions for the cost of grading, development, equipment, and maintenance of any such street, easement or other open space shown on such plan.
6. **Maintenance Procedures for Private Roads and infrastructure**
 - a. **Owners Responsibility:** The person or corporation in control of the property is responsible for, and liable for, any violations of this subsection. This includes, but is not limited to, the developer, property owner, the Property Owners Association and its officers, if applicable, or others who may own or exercise control over the property.

- b. ***Property Owners Associations Required:*** Subdivisions or developments with private roads, stormwater management facilities, or other such privately owned infrastructure, hereafter referred to as private infrastructure, must have a mandatory property owners association which includes all property served by such private infrastructure. The association shall own and be responsible for the maintenance of private infrastructure and appurtenances. The association documents must establish a reserve fund for the maintenance of roads and other improvements. The association documents shall be reviewed and approved by the Town Engineer as to sufficiency with regard to this subsection. The documents shall be recorded at the Cumberland County Registry of Deeds along with the final recording plat. Lot deeds must convey membership in the association and provide for the payment of dues and assessments required by the association. The association may not be dissolved without the prior written consent of the Town Department of Planning and Development. No portion of the association documents pertaining to the maintenance of the private roads and private infrastructure assessments therefore may be amended without the written consent of the Town Engineer.
- c. ***Private Street Lot:*** Private roads and private infrastructure must be constructed within a separate lot owned by the property owners association or within a dedicated easement area. An easement covering the infrastructure shall be granted to the Town and respective utilities providing unrestricted use of the property for utilities and the maintenance of same as applicable. This right shall extend to all utility providers including tele/cable companies, operating within the Town. The easement shall permit, but not obligate the Town to remove any vehicle or obstacle within the street or lot that impairs emergency access, or otherwise perform measures to ensure safe access or function.
- d. ***Construction and Maintenance Cost:*** The Town shall not pay for any portion of the cost of constructing or maintaining a private road or private infrastructure. Any emergency measures or measures to ensure safe access or function shall be subject to reimbursement of reasonable costs by the home owner association. Failure to reimburse such reasonable costs shall cause a lien to be placed by the Town upon the properties encompassed by property owners association.
- e. ***Town Utilities:*** Water, sewer, drainage facilities, street lights and signs placed within the private roads and private infrastructure shall

be installed to utility and town standards and pertinent sections of the code of ordinances.

- f. ***Plans & Inspections:*** Developments proposed with private roads and private infrastructure must submit to the Town the same plans and engineering information required to construct public streets and utilities. Requirements pertaining to inspection and approval of improvements prior to final plat approval shall apply. Fees charged for these services shall also apply. The Town may periodically inspect private roads and infrastructure and require repairs necessary to insure emergency access or proper function.

7. Inspection of Required Improvements

- a. At least five (5) days prior to commencing construction of required improvements the subdivider shall:
 - i. Pay an inspection fee equal to two (2) percent of the cost of the required improvements, payable by check to the Town of Yarmouth stating the purpose of the fee. The subdivider shall notify the Town Engineer in writing of the time when he/she proposes to commence construction of such improvements so that the Town Engineer can cause inspection to be made to assure that all Municipal specifications and requirements shall be met during the construction of required improvements, and to assure satisfactory completion of improvements and utilities required by the Planning Board.
 - ii. The subdivider shall arrange a pre-construction meeting with the Town Engineer on the site with the subdivider, the contractor, and the appropriate members of the subdivider's technical team. Prior to the pre-construction meeting, a final set of construction drawings shall be provided to the Town Engineer.
- b. If the Town Engineer or appointed engineer shall find, upon inspection of the improvements performed before expiration date of the performance guarantee, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he/she shall so report to the Board. The Town Engineer shall then notify the subdivider and, if necessary, the financial institution, and take all necessary steps to preserve the Municipality's rights under the guarantee. No plan shall be approved by the Planning Board as long as the subdivider is in default on a

previously approved plan.

- c. If at any time before or during the construction of the required improvements the subdivider demonstrates to the satisfaction of the Town Engineer or appointed engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer or appointed engineer may, upon approval of the Planning Board, authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Town Engineer or appointed engineer shall issue any authorization under this Section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.
 - d. The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the legislative body.
8. **Final Record Construction Drawings:** Upon completion of construction and prior to release of the performance guarantee, record drawings of all required improvements shall be submitted to the Town Engineer in AutoCAD and PDF format.

ARTICLE IV

ENFORCEMENT

1. No plan of a subdivision of land within the Town of Yarmouth which would constitute a subdivision as defined herein shall hereafter be filed or recorded in the Registry of Deeds until a Final Plan thereof shall have been approved by the Planning Board in accordance with all of the requirements, design standards, and construction specifications set forth elsewhere in this standard, nor until such approval shall have been entered on such Final Plan by the Planning Board.
2. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Planning Board and recorded in the Registry of Deeds.
3. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this Section or commits any other violation of this Chapter, shall be subject to enforcement provisions of Title 30-A, Section 4452 as amended. The Attorney General, the Town of Yarmouth or the appropriate Municipal Officers may institute proceedings to enjoin the violation of this Section.
4. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Planning Board.
5. Not only is making a subdivision without Planning Board approval a violation of law, but so also within such subdivision is grading or construction of roads, grading of land or lots, or construction of buildings until such time as Final Plan of such subdivision shall have been duly prepared, submitted, reviewed, approved, and endorsed as provided in this Ordinance, and until the original copy of the Final Plan so approved and endorsed has been duly recorded with all easements and conditions in the Cumberland County Registry of Deeds.
6. Legal Action and Violation – Failure to comply with these provisions shall constitute a violation of this Chapter and shall be subject to the same enforcement actions and procedures as set forth in Chapter 701, Zoning, Article VI, Administration and Enforcement, including but not limited to assessment of fines and penalties.

ARTICLE V

TECHNICAL AND DESIGN STANDARDS

A. STREET NAMES: Streets which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets within the Municipality and shall be subject to the approval of the Board.

B. STREET CLASSIFICATIONS

1. Definitions

- a. **Residential Collector Street:** A street which carries residential neighborhood traffic, but which provides no or limited residential frontage and has an ADT in excess of 500. If the anticipated ADT will exceed 3000, the street shall be classified as a street of a higher order than residential collector and become subject to higher design standards as determined by the Town Engineer. A dead-end residential collector street is not permitted.
- b. **Residential Subcollector Street:** A frontage street which provides access to abutting properties and which may also conduct traffic from residential access streets that intersect it and has an ADT that does not exceed 500. (Each half of a loop subcollector street may be regarded as a single subcollector street and the total traffic volume conveyed on a loop subcollector street shall not exceed 1000 ADT.) Maximum length of a dead-end residential subcollector street shall be 1000 feet.
- c. **Residential Access Street:** A frontage street which provides access to abutting properties and designed to carry no more traffic than that which is generated on the street itself and has an ADT that does not exceed 200. (Each half of a loop access street may be regarded as a single access street and the total traffic volume conveyed on a loop access street shall not exceed 400 ADT.) Maximum length of a dead-end residential access street shall be 1000 feet.
- d. **Rural Residential Subcollector Road:** A frontage road located in the LDR or RR District which provides access to abutting properties and which may also conduct traffic from rural residential access roads that intersect it and has an ADT that does not exceed 500. (Each half of a loop subcollector road may be regarded as a single subcollector road and the total traffic volume conveyed on a loop subcollector road shall not exceed 1000 ADT.) Maximum length of a dead-end rural residential subcollector road shall be

1000 feet.

- e. **Rural Residential Access Road:** A frontage road located in the LDR or RR District which provides access to abutting properties and designed to carry no more traffic than that which is generated on the road itself and has an ADT that does not exceed 200. (Each half of a loop access road may be regarded as a single access road and the total traffic volume conveyed on a loop access road shall not exceed 400 ADT.) Maximum length of a dead- end rural residential access road shall be 1000 feet.
- f. **Private Road:** Private roads serve as feeders to access, sub-collectors, and collector residential streets or roads, and may be the principal entrance road (driveway) of a residential development. Private streets are permitted only when the average daily traffic is less than 100 (10 dwellings) on a gravel surfaced street or 200 (20 dwellings) on a paved street. Maximum length of a dead- end private road shall not exceed 1000 feet, and specifications vary by number of dwelling units as detailed in Appendix A. 1. Street types Rural Residential Access Roads and Rural Access Streets may be designated Private Roads by the subdivision subject to approval of the Planning Board, which may require public access to such streets.
- g. **Industrial and Commercial Streets:** These streets shall be defined as streets servicing this type of development and become subject to higher design standards as determined by the Municipal Engineer.

C. TRIP GENERATION RATES: The following chart shall be used to determine the anticipated average daily traffic (ADT) levels of proposed residential development:

<u>Average Weekday Housing Types</u>	<u>Trip Generation Rates</u>
Single-family detached	10 Trips/D.U.
Duplex (twin) Multiplex	8 Trips/D.U.
Townhouses, Apartments, Etc.	
Mobile Home	5.5 Trips/D.U.
Retirement Home	3.5 Trips/D.U.
D.U.= Dwelling Unit	

D. ACCESS, RESERVE STRIPS, DESIGN

1. Reserve Strips:

- a. There shall be no reserve strips controlling access to streets except where the control of such strips is definitely placed with the community under conditions approved by the Planning Board.

2. Road and Street Design Standards:

- a. Design standards as tabulated herein and as shown on typical sections in Appendix A & B shall be used for all public or private road or street designs in the Town of Yarmouth, unless otherwise agreed to and permitted in writing by the Planning Board. All public or private roads or streets shall be constructed in accordance to the specifications outlined in Appendix A & B. as defined by the applicable street classification.

E. POST APPROVAL CONSTRUCTION SPECIFICATIONS

1. Specifications and details of all products to be used on any road improvement project shall be submitted to the Engineer in triplicate for approval prior to the start of construction. The submittals shall include, but not be limited to:

- | | |
|---------------------------------------|---|
| a. manhole frames & covers, | j. Yarmouth Water District approval |
| b. catch basin pipe-sewer & drainage, | k. pump station analysis, force main calculations |
| c. brick, | l. Standard Details for pipe bedding and backfilling; manholes, catch basins and sewer laterals |
| d. street lights, | |
| e. cement, | |
| f. CMP approval, | m. vacuum testing |
| g. Curbing, | n. firm to be used |
| h. N.E.T. approval, | o. guard rail |
| i. stone, sand and gravel sample | p. certificate of insurance |

2. Also, a certificate of compliance stating the contractor/ developer has read and

understands the Town ordinance and will perform all work in accordance with the Town ordinance and the Maine Department of Transportation Standard Specifications.

F. CULVERTS

<u>Location</u>	<u>Minimum Diameter</u>
Roadway	18 inches
Driveway	15 inches

G. SIGHT DISTANCES: Please refer to Chapter 604 Article 4.d.c

H. DRIVEWAYS: Driveways shall be located not less than 40 feet from the tangent point of the curb radius of any intersection. Driveways to corner lots shall gain access from the street of lower classification when a corner lot is bounded by streets of two different classifications. All driveway aprons shall be paved with 1 $\frac{3}{4}$ " Base course or Bituminous Concrete and 1 $\frac{1}{4}$ " Surface course of Bituminous Concrete from the gutter side or edge of street to the street right-of-way.

I. TURNAROUNDS

1. Installation of a circle or cul-de-sac requires written permission of Town Engineer and will not be permitted if a hammerhead can be installed.

a. Circle

Radii of turnaround	
Property line	75 feet
Outer Edge of pavement	65 feet
Inner edge of pavement	45 feet

b. Hammerhead

Specifications for hammerhead turnarounds are provided in Appendix B.7

J. UNSUITABLE MATERIAL

The subdivider shall be required to investigate and determine the types and classifications of the sub-surface soils. If in the opinion of the Municipal Engineer, unsuitable sub-surface soils are encountered during construction, the subdivider shall be required to excavate and remove the unsuitable material and replace it with granular material as specified in the standard specifications of the Maine Department of Transportation. (Section 703.20 Gravel Borrow)

K. ROADWAY CONSTRUCTION MATERIALS STANDARDS

1. Roadway construction materials standards as specified herein shall conform to the current specifications of the Maine Department of

Transportation as specified in Appendix A.

L. STORM DRAINAGE DESIGN STANDARDS

1. **Intent:** An adequate piped storm drainage system including appurtenances such as catch basins and manholes shall be provided for proper drainage of storm water collected in streets and areas tributary to the street system. Discharge of the collected storm drainage shall be by piped system or ditches, when approved by the Planning Board. Appropriate conveyances for outlets to drainage systems must be provided. A minimum easement width of 30 feet will be required.

2. Design Standards

- a. All storm water systems within the subdivision shall be designed to meet the criteria of a twenty-five (25) year recurrence event on rainfall data from weather bureau records in Portland. Flows shall be computed by the USDA Soil Conservation Service T-20 and TR-55 with design computations being submitted for approval.
- b. Upstream drainage shall be accommodated by an adequately sized system through the proposed subdivision for existing conditions and future potential development in the upstream drainage area or areas tributary to the proposed subdivision, as determined by the Planning Board.
- c. Existing downstream drainage facilities shall be studied to determine the effect of the proposed subdivision's drainage. The developer shall demonstrate to the satisfaction of the Planning Board that the storm drainage from the proposed subdivision will not, in any way, overload existing storm drainage systems downstream from the proposed subdivision.
- d. 300 feet shall be considered as the maximum length for carrying open storm water in a street gutter prior to intake at a catch basin. No storm water will be permitted to drain across a street or across an intersection.
- e. Design standards for drainage systems shall be approved by the Planning Board. Minimum pipe size for any storm drainage pipe shall be 12 inches in diameter.
- f. Where subsurface soils are of the nature requiring an underdrainage system, underdrains shall be installed and discharged in a positive

manner.

- g. House foundation drains may be connected to the storm drainage system upon approval by and under the direction of the Municipal Engineer.

M. GRADING

All streets, roads and alleys shall be graded to their full width by the subdivider so that pavements and sidewalks can be constructed on parallel profiles. Due to special topographical conditions, deviation from the above will be allowed only with special approval of the Planning Board.

1. **Preparation:** Before grading is started, the entire right-of-way area shall be cleared of all stumps, roots, brush and other objectionable material and all trees not intended for preservation.
2. **Cuts:** Tree stumps and other organic materials shall be removed to a depth of 2 feet below the subgrade. Rocks and boulders when encountered shall be removed to subgrade.
3. **Fill:** All material used in the construction of embankments shall meet the requirements of Sections 203.09 through 203.16 of the Maine Department of Transportation Standard Specifications. Excess materials including organic materials, soft clays, wet and non-compatible materials, etc., shall be removed from the street site. The fill shall be spread in layers not to exceed 12" loose and compacted. The filling of utility trenches and other places shall be mechanically compacted.
4. **Side Slopes:** All side slopes shall be at a slope of 4 horizontal to 1 vertical unless shown otherwise on typical cross sections in Appendix B.
5. **Ledge:** All ledges, within the roadway construction limits, shall be removed to a depth of 1' below subgrade.
6. **Guard Rail:** Guard rails shall be installed in areas deemed necessary by the Town Engineer. Guard rails shall be in accordance with MDOT specification 606.01, Type 3b.

N. GRAVEL AND PAVEMENT

The appropriate sections of the Bases and Pavements Divisions of the Maine Department of Transportation Standard Specifications currently in effect at the date of submission of the preliminary plan shall be applicable to this Section

except as noted in Appendix A.2, and as follows:

1. Aggregate Sub-Base and Aggregate Base-Gravel: Specifications for Aggregate Sub-Base and Aggregate Base-Gravel are provided in Appendix A.2.
2. Pavement
 - i. Where pavement placed joins an existing pavement, the existing pavement shall be cut along a smooth line and to a neat, even, vertical joint. Broken or raveled edges will not be permitted, nor deviation from grade.
 - ii. Grading for the surface course of Hot Mix Asphalt shall meet the requirements for 9.5MM MDOT 401.
 - iii. Grading for the base course of Hot Mix Asphalt shall meet the requirements for Surface Course 9.5mm or 12.5 mm MDOT 401.

O. CURBING

Section 609 of the Maine Department of Transportation Standard Specifications shall be applicable to this Section except as follows:

1. Curbing shall be limited to Type 1 and Slipform Concrete curb, per Town Standards.
2. Slipform concrete curb with a minimum reveal of six (6) inches shall be required.

P. SIDEWALKS

1. Section 608 of the Maine Department of Transportation Standard Specifications, latest revision, shall be applicable to this Section.
2. Sidewalks shall be provided on at least one side of the street unless waived by the Planning Board.

Q. STORM DRAIN CONSTRUCTION STANDARDS

1. Materials: All pipes specified in the section shall be rigid. No coiled piping will be permitted for storm drain construction. The following material shall be utilized for storm drain construction:

- a. Reinforced Concrete Pipe: Reinforced Concrete Pipe shall be Class IV and meet the requirements of ASTM Designated C-76. Pipe classes shall be as required to meet soil and traffic loads with a factor of safety of 1.2 on the .01 inch crack strength with a class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70.
 - i. Polyvinyl Chloride: PVC Gravity Sewer pipe shall meet the requirements of ASTM Designations D-3034-73-SDR35.
 - ii. Corrugated Polyethylene Pipe: Corrugated Polyethylene Pipe shall be smooth bore, double wall and shall meet the requirements of ASTM F667 and F667M.
 - iii. Underdrain Pipe: Underdrain Pipe may be Polyvinyl Chloride or Corrugated Polyethylene meeting similar requirements to that of standard drain pipe.
 - iv. Manholes - Manholes shall be of precast concrete section construction. Precast sections shall meet the requirements of ASTM Designation C-478. Cones shall be truncated. Frame and covers shall be of cast iron meeting Town standards for sewer construction. Brick inverts shall be shaped to the crown of the pipe for sizes up on 18 inch, and to spring line for larger pipes. All shelves shall be bricked and pitched 1"/ft toward the channel.
 - v. Catch Basins - Catch Basins shall be of precast concrete construction. Castings shall be square cast iron as required for the particular inlet condition with the gratings perpendicular to the curb line.

2. General Construction Requirements

- a. Trenching - All trenching shall be accomplished in accordance with all appropriate State and federal safety requirements.
- b. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus 2 feet.
- c. Pipe shall be bedded in 3/4" crushed stone as approved by the Town Engineer with a minimum depth of six (6) inches below the pipe invert and extending to the top of pipe.
- d. Drain alignment shall be straight in both horizontal and vertical alignment.

- e. Manholes shall be provided at all changes in vertical and horizontal alignment, and at all junctions. On straight runs manholes shall be placed at a maximum of 400 foot intervals.
- f. Catch basin leads shall enter the drainage system at manholes only. The difference in elevation between the inverts of the lead and the main drain shall not exceed 12 inches.
- g. All drain outlets shall be riprapped to prevent erosion. Facilities for energy dissipation shall be provided. All work shall be in accordance with MDOT specifications Section 610.
- h. Underdrains shall be installed in accordance with MDOT specifications Section 605.04 underdrain construction, except steel and aluminum pipe material shall not be allowed.

R. MONUMENTS

- 1. Granite monuments 4" square, 3' long with a flat top shall be set at all street corners, at all points where the street line intersects the exterior of the subdivisions and at angle points and points of curve in each street. The top of the monument shall have an indented cross to identify properly the location and shall be set flush with the finished grade.
- 2. All other lot corners shall be marked with iron pipe not less than 3/4" in diameter and 36" long and driven so as to be 6 inches above the finished grade.
- 3. All granite monuments shall be four feet long and six inches above ground except in lawns, drives, and parking lots where they shall be flush. If the subsurface is ledge between one and three feet deep, a two foot diameter concrete encasement based on the ledge shall be required. If the ledge is less than one foot deep, a one inch steel rod shall be grouted into the ledge.

S. STREET AND STORM DRAINAGE PLANS

- 1. Construction plans for streets and storm drainage systems shall be designed and prepared by a professional engineer registered in the State of Maine. Plans shall show the plan, profile, cross-sections and details of appurtenances. Three (3) copies shall be submitted to the Planning Board for their review and referral to the Municipal Engineer or other designated registered engineer by the Planning Board.

2. No construction will be permitted until the Planning Board has approved construction drawings. The developer is alerted to other approvals and permits which are required prior to construction. Upon completion of construction and prior to acceptance of the streets, a final set of reproducible record drawings will be required.

T. WATER SUPPLY

1. A public water supply system including fire protection shall be approved by the Yarmouth Water District and shall meet all applicable regulatory, statutory, and District design and installation standards. Such infrastructure shall be installed at the expense of the subdivider, or if in the opinion of the Board, service to each lot by a public water system is not feasible, the Board may allow individual wells to be used, which shall likewise be installed at the expense of the subdivider.
2. Because they are difficult to maintain in a sanitary condition, dug wells shall be permitted only when it is not economically or technically feasible to develop other ground water sources.
3. If a central water supply system is provided by the subdivider, location and protection of the source, and design, construction, and operation of the distribution system and appurtenances and treatment facilities shall conform to applicable statute and design and regulatory standards as per State Plumbing Code and all conform to the requirements of The Maine Drinking Water Program, Division of Environmental Health, Maine Department of Health and Human Services.

U. SEWAGE DISPOSAL

1. Sewage Disposal shall conform to the regulations of "Sewerage Ordinance, Town of Yarmouth, Maine."
2. In the case of on site sewerage disposal, the Planning Board may require on site soils investigations prior to final approval.

ARTICLE VI

PERFORMANCE GUARANTEE, WAIVERS, APPEALS, AND SEPARABILITY

A. PERFORMANCE GUARANTEE FOR REQUIRED IMPROVEMENTS

1. **Required Improvements:** The following are required improvements: monuments, street signs, streets, sidewalks, water supply, sewage disposal and storm drainage, except where the Board may waive or vary such improvements in accordance with the provisions of this Ordinance. Where landscaping, street trees, esplanades and open green spaces are required by the Planning Board, these improvements are considered to be required improvements.
2. **Performance Guarantee:** Before the Planning Department releases the final signed recording plat for a major or minor subdivision to be recorded in the Cumberland County Registry of Deeds, the subdivider shall, in an amount set by the Town Manager, file with the Municipal Treasurer a performance guarantee to cover the full cost of required improvements. The performance guarantee shall be either an irrevocable letter of credit or a cash escrow unless otherwise approved by the Town offices. Any such guarantee shall be satisfactory to the Municipal Officers, Municipal Engineer and Municipal Attorney as to form sufficiency, manner of execution and surety. If the applicant will be using an Irrevocable Letter of Credit from a Financial Institution as the performance guarantee, the Planning Board may approve the plan with the condition that the signed plat be held by the Town Manager until the applicant has obtained the signed letter of credit in a form satisfactory to the Town Manager to ensure the completion of all public improvements to the satisfaction of the Town Engineer and Town Manager. A period of one (1) year (or such other period as the Planning Board may determine appropriate, not to exceed three (3) years) shall be set forth in the guarantee time within which required improvements must be completed. The Planning Board may grant up to two, one-year extensions, beyond the three year period, but in no case shall the period exceed five years. The performance guarantee shall include an amount required for recreation land or improvements as specified.
3. **Release of Performance Guarantee:** Before a subdivider may be released from any obligation required by his/her performance guarantee, the Town Engineer shall determine that all improvements have been satisfactorily completed in accordance with all applicable standards, State and local codes and ordinances.

4. **Guarantee Period:** The subdivider shall be responsible for the satisfactory condition of all required improvements for a guarantee period of a minimum of one year from the release of the Performance Guarantee. Such guarantee period shall not expire between the months of October through April.

B. WAIVER

1. Where the Planning Board finds that, due to special circumstances of a particular plan, the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.
2. In granting modifications, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

C. APPEALS

An appeal from a decision of the Planning Board shall be taken directly to Superior Court. Decisions of the Planning Board are not appealable to the General Board of Appeals.

D. SEPARABILITY AND EFFECTIVE DATE

1. The invalidity of any provision of this Ordinance shall not invalidate any other part.
2. This Ordinance shall take effect immediately on adoption of the same by the Council.
3. To the extent there are any conflicts between the various provisions of this Ordinance or between the provisions of this Ordinance and any other Town ordinance, the more restrictive provisions shall apply.

Technical Appendices

Appendices A-C below detail roadway, sidewalk and related infrastructure specifications. Such appendices shall be updated from time to time by the Town Engineer to reflect the most current information, and shall become effective upon public hearing and approval by the Planning Board.

A. Roadway Design & Construction Standards:

1. Roadway Geometric Standards
2. Roadway and Sidewalk Material Standards

B. Design & Construction Cross Section Diagrams:

1. Residential Collector Street
2. Residential Sub-Collector Street
3. Residential Access Road
4. Rural-Residential Sub-Collector Street
5. Rural-Residential Access Road
6. Private Roads
 - a. 1-2 Dwelling units
 - b. 3-6 Dwelling units
 - c. 6-10 Dwelling units
 - d. 11-20 Dwelling units
7. Minimum Hammerhead Turn-Around Requirements
8. Sidewalk ADA Access Ramp Details
 - a. One-Way Pedestrian Ramp
 - b. Two-Way Pedestrian Ramp
 - c. Perpendicular Ramp – Wide Sidewalk, No Esplanade
 - d. Parallel Ramp – Narrow Sidewalk, No Esplanade
 - e. Perpendicular Ramp – Narrow Sidewalk, With Esplanade
 - f. Diagonal Ramp at Intersection with Esplanade
 - g. Preferred Ramp at Major Intersection

C. Traffic Study Specifications

A. Roadway Design & Construction Charts:

1. Roadway Geometric Standards
2. Roadway and Sidewalk Material Standards

A.1 Roadway Geometric Standards

DESCRIPTION	TYPE OF STREET OR ROAD							
	Residential			Rural - Residential		Private Road		
Geometric Criteria	Collector Street	Sub-Collector Street	Access Street ⁸	Sub-Collector Road	Access Road ⁸	Number of Dwelling Units ¹		
						1-2	3-5	6-20
ADT ¹	>500 < 3000 ²	-	-	-	-	<20	<50	
Dead End	-	< 500	< 200	≤ 500	< 200	-	-	<100
Loop	-	≤ 1,000	≤ 400	≤ 1,000	≤ 400	-	-	<200
Max. Length Dead End	n/a	1,000'	1,000'	1,000'	1,000'	1,000'	1,000'	1,000'
Turn Around At Dead End ³	n/a	T	T	T	T	T	T	T
Right of Way Width	60'	50'	50'	50'	50'	30' ⁷	30' ⁷	40' ⁷
Pavement Width (travel width on private roads)	24'	24'	22'	22'	20'	14' ⁵	16' ⁵	18' ⁵
Curbing at Radius ⁴	Type #1	Type #1	Type #1	n/a	n/a	n/a	n/a	n/a
Curbing at Remaining Locations	Type #3	Type #3	Type #3	n/a	n/a	n/a	n/a	n/a
Sidewalk Width	5'	5'	5'	n/a	n/a	n/a	n/a	n/a
Roadway Crown	3%	3%	3%	3%	3%	3%	3%	3%
Minimum Grade	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%
Maximum Grade	8%	8%	8%	8%	8%	6% without pavement 8% with pavement		
Minimum Centerline Radius	350'	150'	100'	150'	100'	100'	100'	100'
Minimum Tangent between Curves of Reverse Alignment	150'	100'	50'	100'	50'	50'	50'	50'
Minimum Distance between Street Intersection on:								
Same side	400'	300'	300'	300'	300'	n/a	50'	100'
Either aligned to or opposite side	250'	150'	150'	150'	150'	n/a	50'	100'
Sight Distance	See Chapter 604 Section IV. d.c							
K Factor-Crest Vertical Curve	30	15	15	30	15	15	15	15
K Factor-Sag Vertical Curve	35	20	29	35	20	20	20	20
Design Speed – MPH	30	25	25	30	25	25	25	25
Maximum Grade at Intersection (within 75' of Intersections) ⁶	3%	3%	3%	3%	3%	3%	3%	3%
	Intersection Angle 90 for a min. of 50' from the intersection							
Minimum Property Line Radi at Intersections	10'	10'	10'	10'	10'	n/a		
Curb and Pavement Radi at Intersections ⁹	20'	20'	20'	20'	20'	n/a		

¹ See Ch. 601 Article IV. Section C. Trip Generation Rates

² If the anticipated ADT will exceed 3000, the street shall be classified as a street of a higher order than residential collector and become subject to higher design standards as determined by the Town Engineer.

³ Refer to Appendix C in Ch.601

⁴ Curbing Materials:
Granite Stone Curbing Type #1
Slip Form Concrete Curbing Type #3

⁵ Constructed width is with or without pavement.

⁶ All residential and rural-residential streets and roads shall also comply to additional specifications in Chapter 604

⁷ Row width as noted but not less than 8' is required for each underground utility.

⁸ May be designated as private, subject to approval by the Planning Board.

⁹ At intersections where no sidewalk exists or is proposed there shall be constructed a handicap accessible apron and landing area of at least 50 sq. ft. as per Appendix B8.

A.2 Roadway & Sidewalk Material Standards

DESCRIPTION	TYPE OF STREET OR ROAD								
	Residential			Rural - Residential		Private Road ¹			
Materials	Collector Street	Sub-Collector Street	Access Street	Sub- Collector Road	Access Road	Number of Dwelling Units ²			
						1-2	3-5	6-10	11-20
Gravel									
Type “D” Aggregate Sub-Base MDOT Section 703.06 (c) ³	18”	15”	15”	15”	15”	15”	15”	15”	15"
Type “A” Aggregate Base MDOT Section 703.06 (a)	3”	3”	3”	3”	3”	n/a	3"	3"	3"
Hot Mix Asphalt Pavement - Roadway									
Total Thickness	4”	4”	4”	4”	4”		n/a		4"
Base Course 19mm MDOT 401	2½”	2½”	2½”	2½”	2½”		n/a		2½”
Surface Course 9.5mm or 12.5 mm MDOT 401	1½”	1½”	1½”	1½”	1½”		n/a		1½”
Bituminous Concrete Sidewalk							*		
Type “D” Aggregate Sub-Base	10”	10”	10”	10”	n/a		n/a		n/a
Type “A” Aggregate Base	2”	2”	2”	2”	n/a		n/a		n/a
Pavement Requirements - Sidewalk									
Base Course 12.5 mm MDOT 401	1 ¼ "	1 ¼ "	1 ¼ ”	1 ¼ ”	n/a		n/a		n/a
Surface Course 12.5 mm MDOT 401	1 ¼ ”	1 ¼ ”	1 ¼ ”	1 ¼ ”	n/a		n/a		n/a

¹ See Ch. 601 Article IV. Section C. Trip Generation Rates

²

Construction materials shall be in conformance with the Town's Sewer, Subdivision, and other applicable ordinances, and the Town's contractor's handbook, and shall be approved by the Town Engineer

³ Particles or rock shall not exceed 3" in any dimension.

* Pedestrian pathway may be required for private roads.

Material Testing: All gravel, drain sand, and stone used on the project shall be tested by an approved soils testing laboratory and submitted to the Town Engineer prior to the start of any roadway or pipe work. All costs for testing shall be borne by the Contractor/Developer. The Town Engineer at his/her discretion shall have any questionable material tested at the Town's expense. All material not meeting specification shall be removed and replaced, with material meeting specifications.

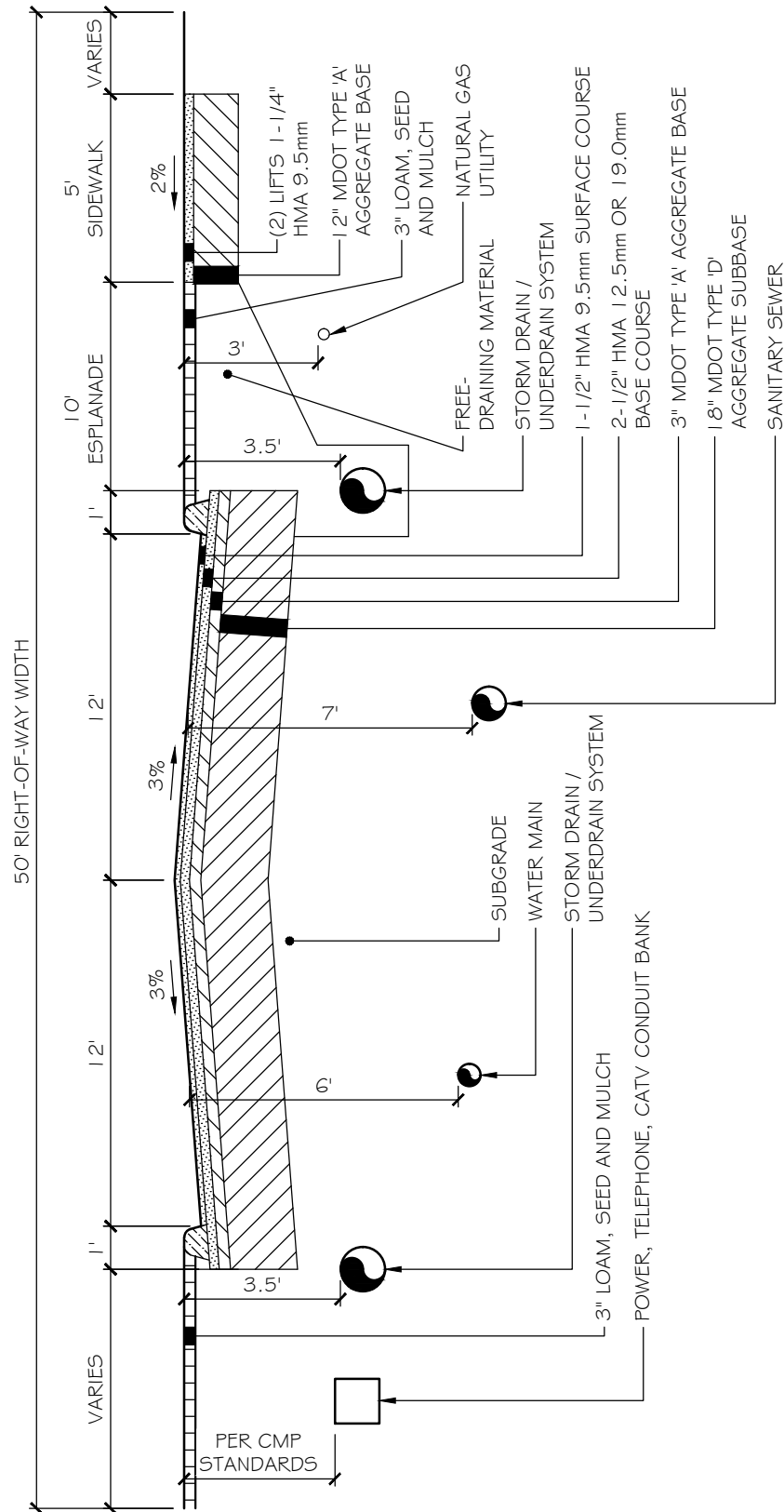
Curbing Materials:

Granite Stone Curbing:	Type #1
Slip Form Concrete Curbing:	Town Standard

B. Design & Construction Cross Section Diagrams:

Standards and dimensions tabulated herein shall be considered as minimum.

1. Residential Collector Street
2. Residential Sub-Collector Street
3. Residential Access Road
4. Rural-Residential Sub-Collector Street
5. Rural-Residential Access Road
6. Private Roads
 - a. 1-2 Dwelling units
 - b. 3-6 Dwelling units
 - c. 6-10 Dwelling units
 - d. 11-20 Dwelling units
7. Minimum Hammerhead Turn-Around Requirements
8. Sidewalk ADA Access Ramp Detail
 - a. One-Way Pedestrian Ramp
 - b. Two-Way Pedestrian Ramp
 - c. Perpendicular Ramp – Wide Sidewalk, No Esplanade
 - d. Parallel Ramp – Narrow Sidewalk, No Esplanade
 - e. Perpendicular Ramp – Narrow Sidewalk, With Esplanade
 - f. Diagonal Ramp at Intersection with Esplanade
 - g. Preferred Ramp at Major Intersection



NOTE:
SIDEWALK AGGREGATE BASE WIDTH SHALL BE 6' WIDE.



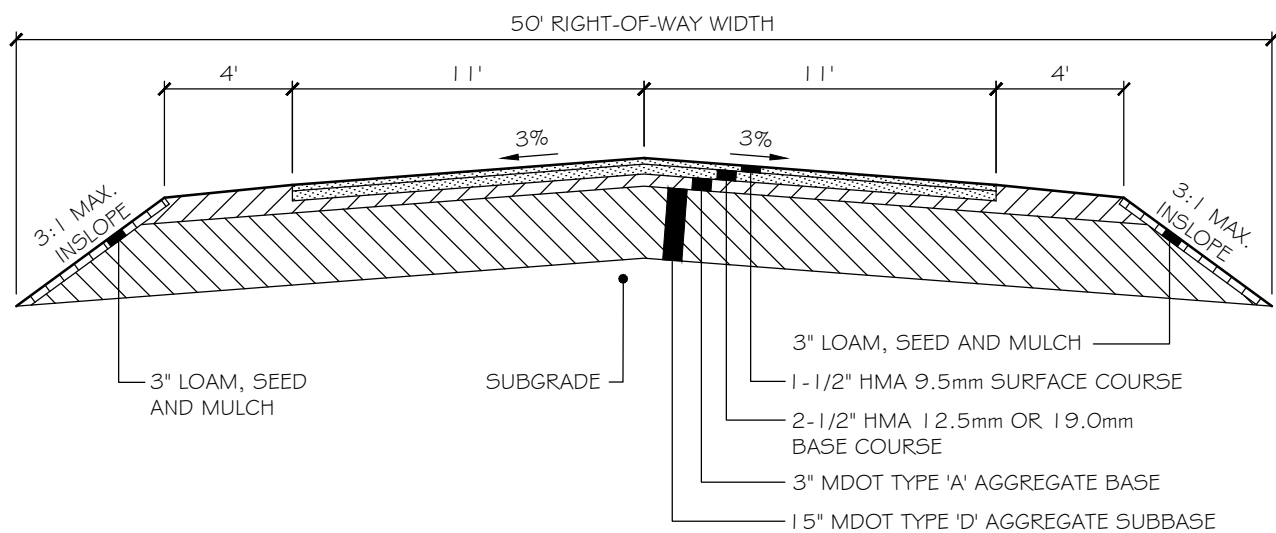
TOWN OF YARMOUTH
200 MAIN STREET
YARMOUTH, ME 04096
207-846-2401

RESIDENTIAL SUB-COLLECTOR STREET
RIGHT-OF-WAY SHALL BE 50' WIDTH
SEE APPENDIX A ROADWAY GEOMETRIC
AND MATERIAL STANDARDS

File: I6003-DETAILS.dwg Date: 02/11/16

Appendix:

B2



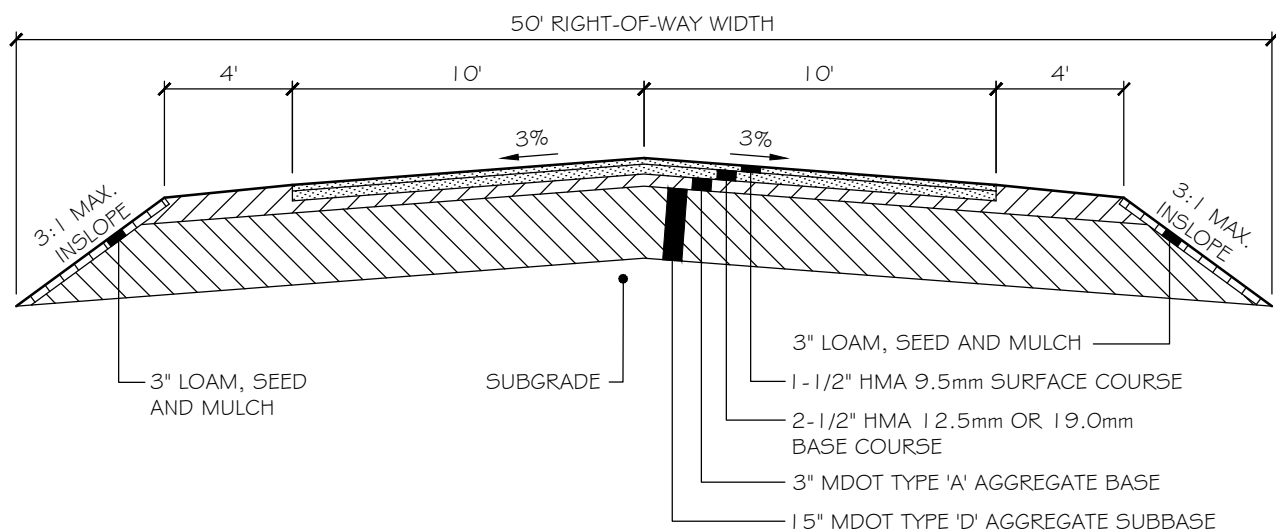
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 207-846-2401

**RURAL RESIDENTIAL
 SUB-COLLECTOR ROAD**
 RIGHT-OF-WAY SHALL BE 50' WIDTH
 SEE APPENDIX A ROADWAY GEOMETRIC
 AND MATERIAL STANDARDS

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Appendix:

B4



TOWN OF YARMOUTH
 200 MAIN STREET
 YARMOUTH, ME 04096
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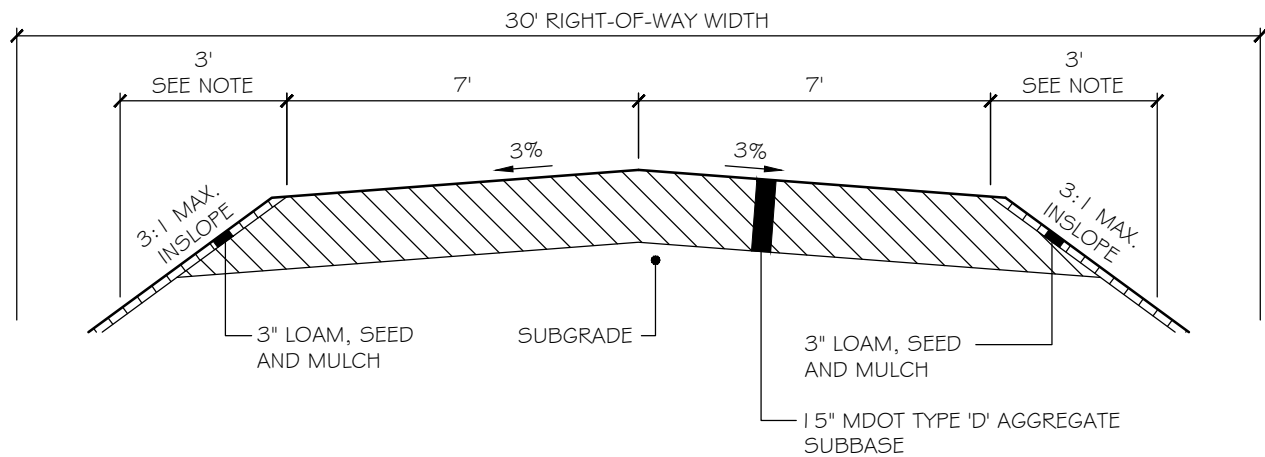
RURAL RESIDENTIAL ACCESS ROAD

RIGHT-OF-WAY SHALL BE 50' WIDTH
 SEE APPENDIX A ROADWAY GEOMETRIC
 AND MATERIAL STANDARDS

File: I 6003-DETAILS.dwg Date: 08/15/16

Appendix:

B5



NOTE:
 3' WIDE INSLOPE VEGETATION CLEAR ZONE WITH NO
 VEGETATION HIGHER THAN 18" ABOVE ROAD FINISH GRADE.



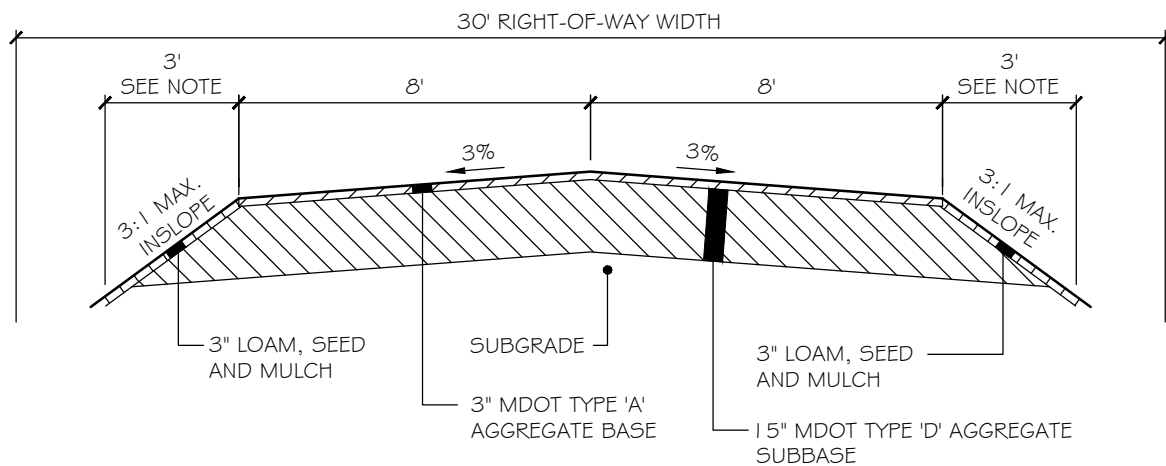
TOWN OF YARMOUTH
 200 MAIN STREET
 YARMOUTH, ME 04096
 207-846-2401

PRIVATE ROAD (1-2 DWELLINGS)
 RIGHT-OF-WAY SHALL BE 30' WIDTH
 SEE TABLE A DESIGN AND CONSTRUCTION CHART FOR
 ROADWAY CONSTRUCTION STANDARDS

File: 16003-DETAILS.dwg Date: 02/11/16

Appendix:

B6a



NOTE:
3' WIDE INSLOPE VEGETATION CLEAR ZONE WITH NO
VEGETATION HIGHER THAN 18" ABOVE ROAD FINISH GRADE.



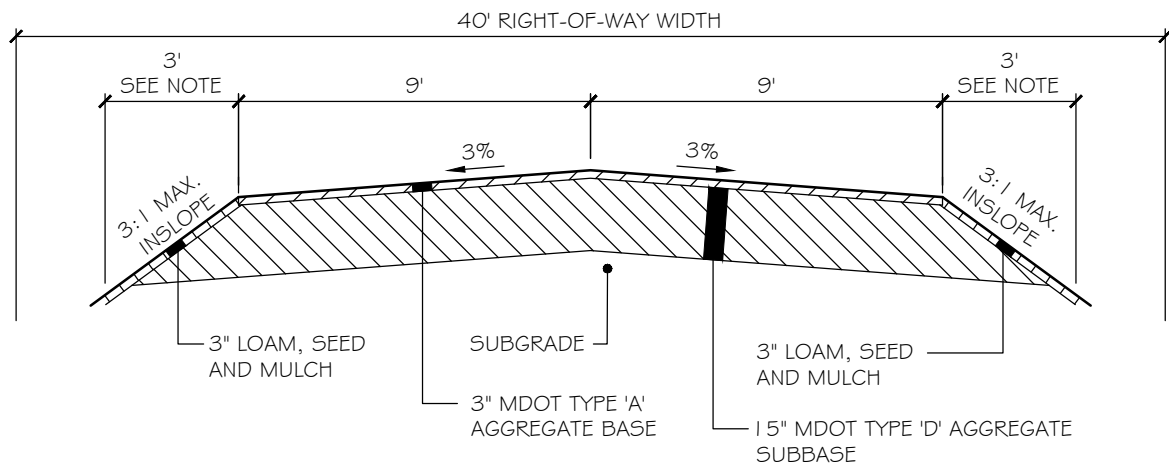
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PRIVATE ROAD (3-5 DWELLINGS)
RIGHT-OF-WAY SHALL BE 30' WIDTH
SEE APPENDIX A ROADWAY GEOMETRIC
AND MATERIAL STANDARDS

File: 16003-DETAILS.dwg Date: 02/11/16

Appendix:

B6b



NOTE:
3' WIDE INSLOPE VEGETATION CLEAR ZONE WITH NO
VEGETATION HIGHER THAN 18" ABOVE ROAD FINISH GRADE.



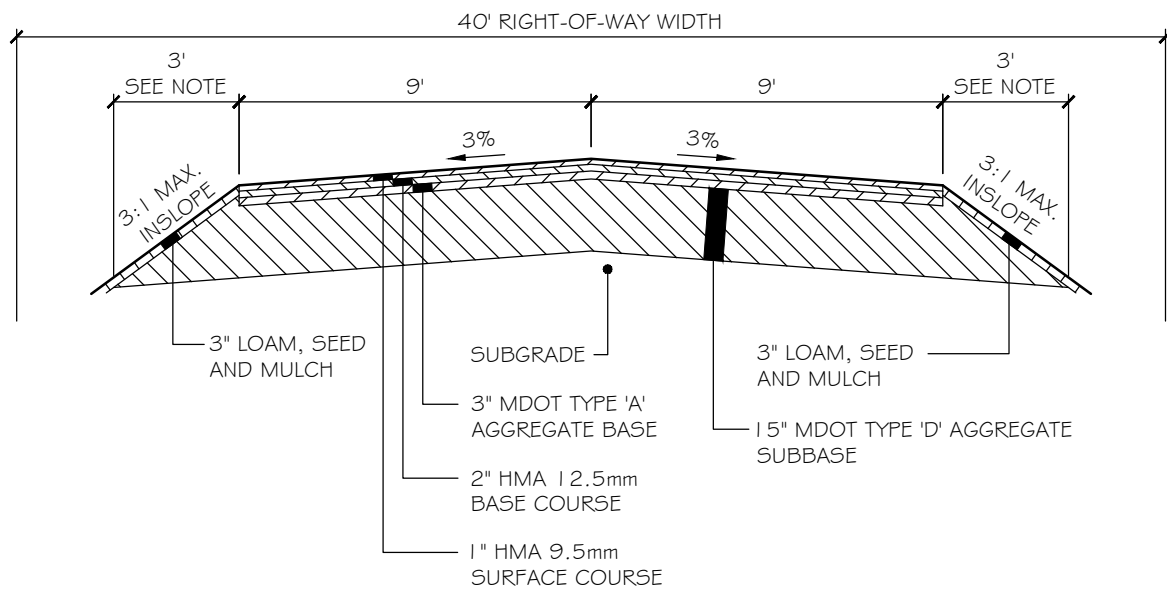
TOWN OF YARMOUTH
200 MAIN STREET
YARMOUTH, ME 04096
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PRIVATE ROAD (6-10 DWELLINGS)
RIGHT-OF-WAY SHALL BE 40' WIDTH
SEE APPENDIX A ROADWAY GEOMETRIC
AND MATERIAL STANDARDS

File: 16003-DETAILS.dwg Date: 02/11/16

Appendix:

B6c



NOTE:
3' WIDE INSLOPE VEGETATION CLEAR ZONE WITH NO
VEGETATION HIGHER THAN 18" ABOVE ROAD FINISH GRADE.



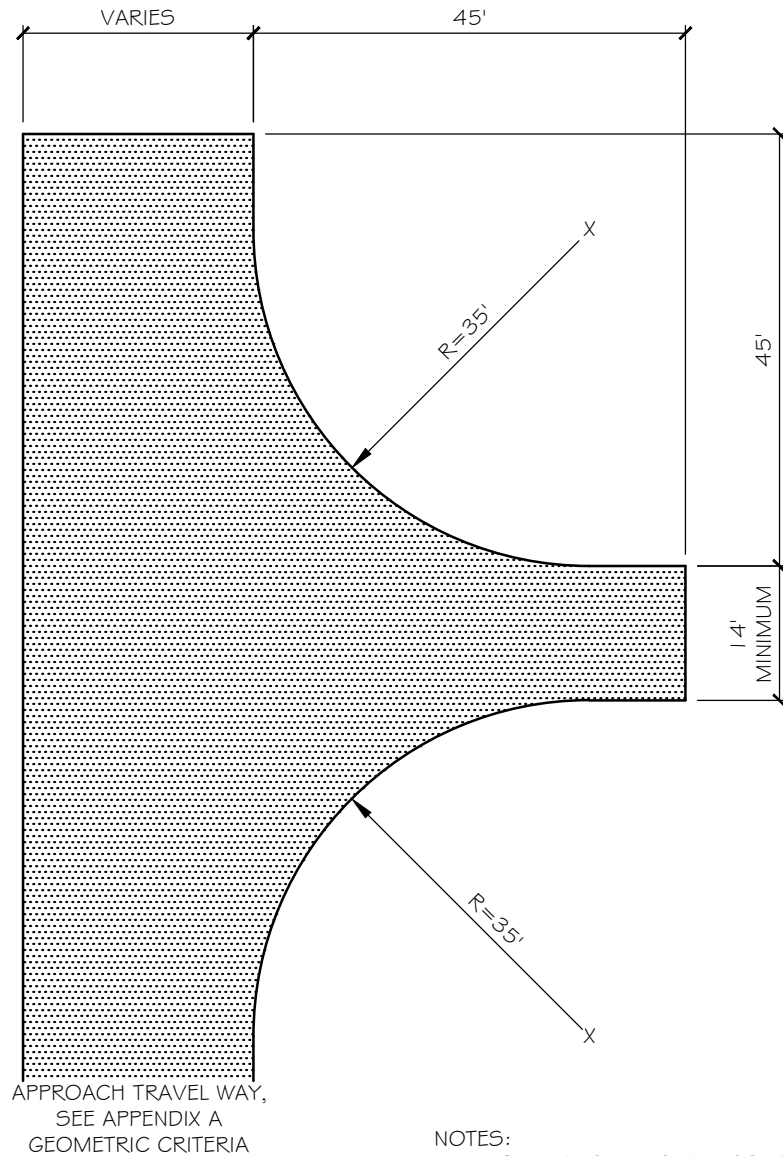
TOWN OF YARMOUTH
200 MAIN STREET
YARMOUTH, ME 04096
207-846-2401

PRIVATE ROAD (11-20 DWELLINGS)
RIGHT-OF-WAY SHALL BE 40' WIDTH
SEE APPENDIX A ROADWAY GEOMETRIC
AND MATERIAL STANDARDS

File: 16003-DETAILS.dwg Date: 10/13/16

Appendix:

B6d



NOTES:

1. TURN-AROUND SHALL CONFORM TO ALL STREET AND ROAD CONSTRUCTION STANDARDS, SEE APPENDIX A.
2. DRIVEWAY ENTRANCES SHALL NOT BE ALLOWED OFF THE ENDS OR RADII OF THE TURN-AROUND.
3. SNOW STORAGE SHALL BE PROVIDED FOR OFF THE ENDS AND RADII OF THE TURN-AROUND SUCH THAT FULL ROADWAY DIMENSIONS MAY BE MAINTAINED DURING THE WINTER MONTHS.



SCALE in FEET
1"=20'



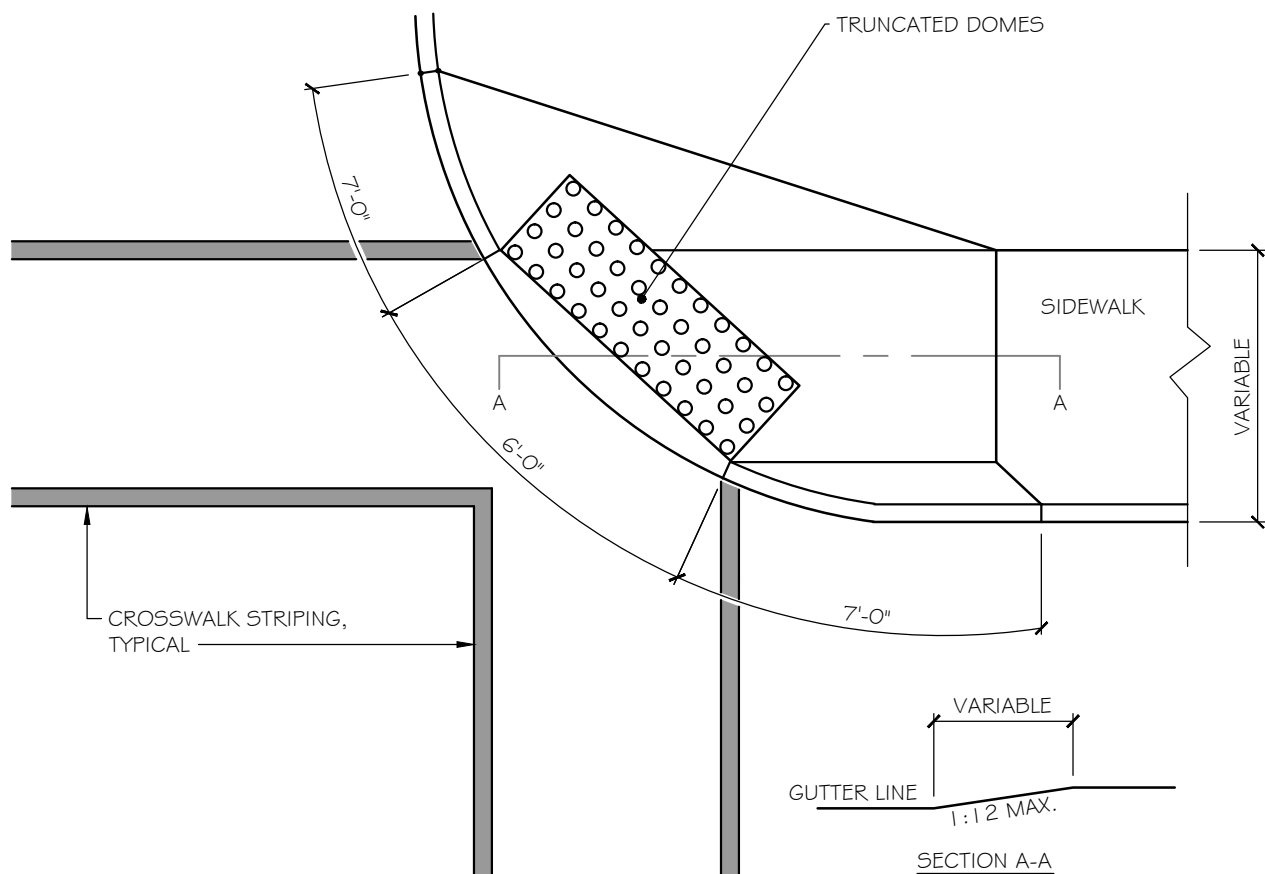
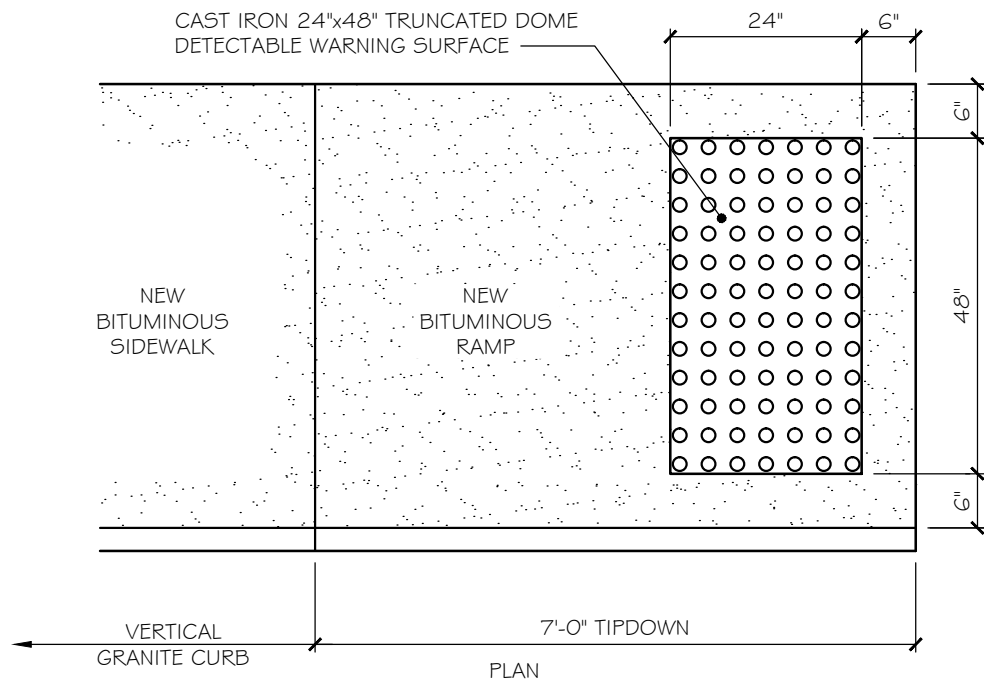
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207-846-2401

MINIMUM HAMMERHEAD
TURN-AROUND REQUIREMENTS

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Appendix:

B7



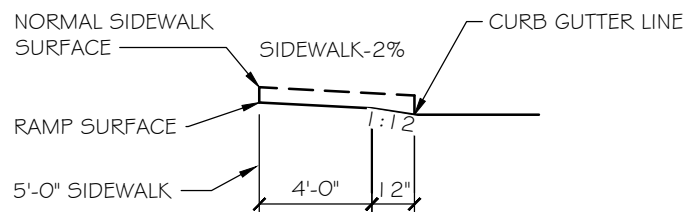
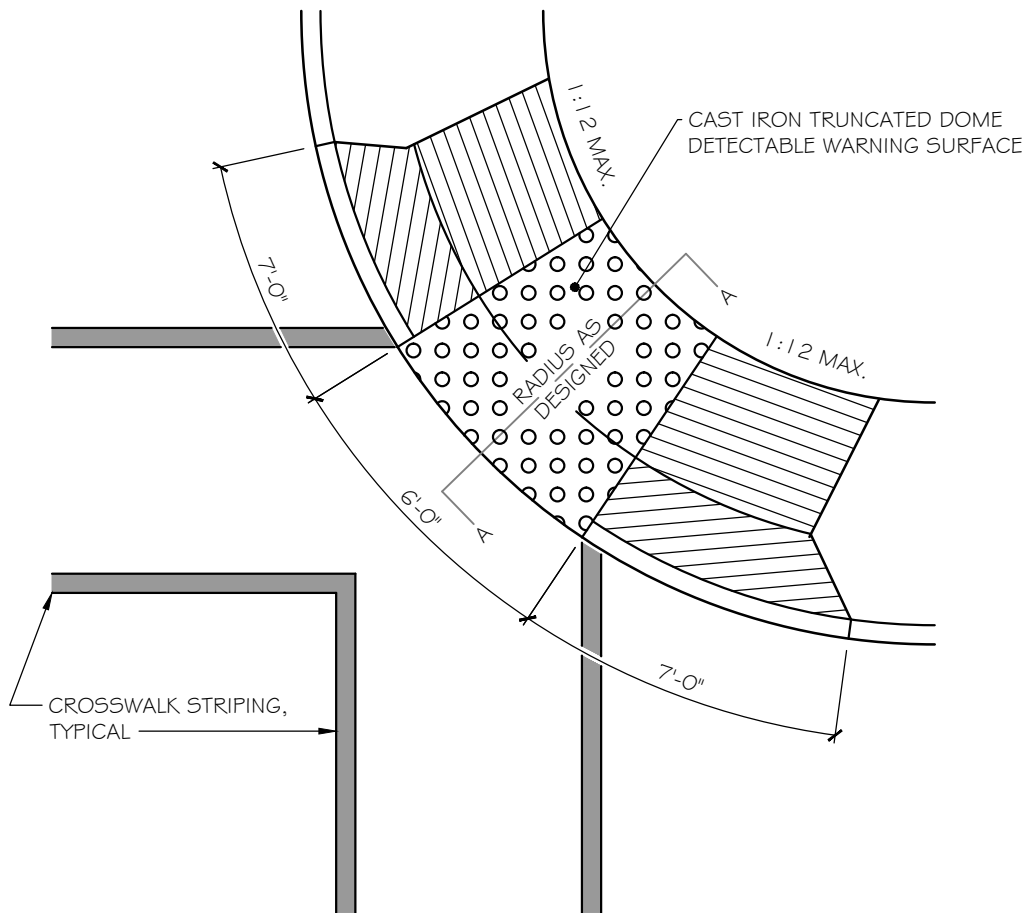
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ONE-WAY PEDESTRIAN RAMP

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Appendix:

B8a



SECTION A-A



TOWN OF YARMOUTH
200 MAIN STREET
YARMOUTH, ME 04096
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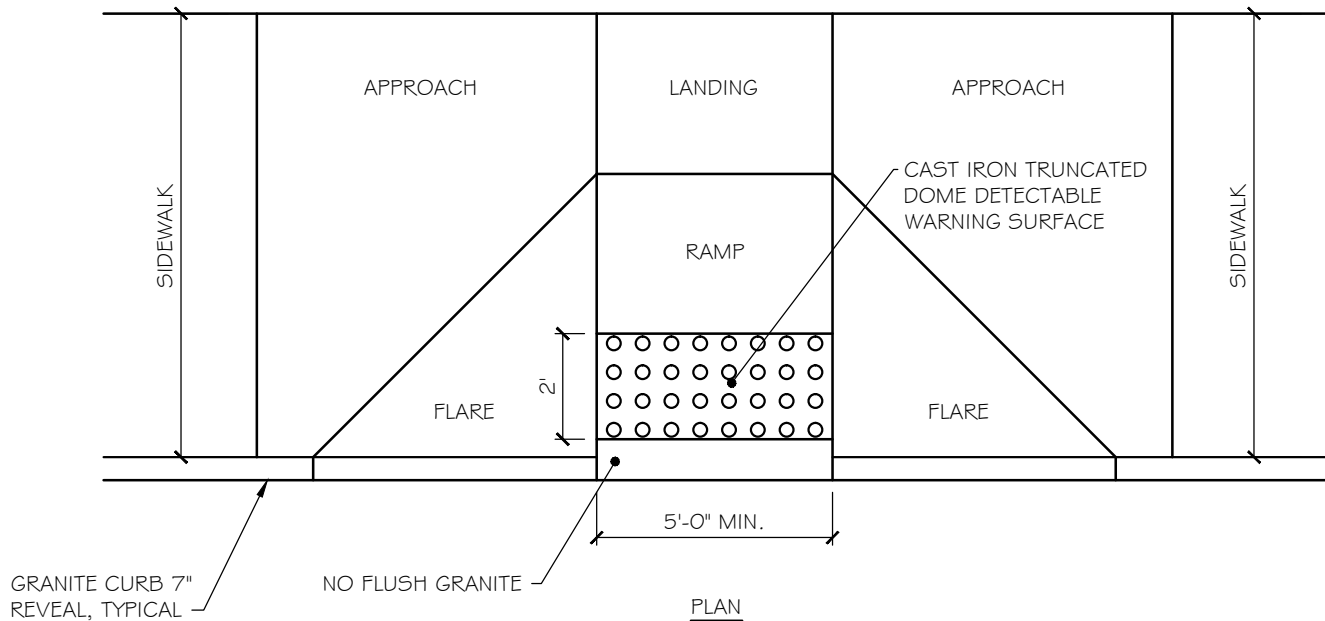
TWO-WAY PEDESTRIAN RAMP

File: I 6003-DETAILS.dwg Date: 10/13/16

Appendix:

B8b

<u>DESIGN ELEMENT</u>	<u>SLOPE IN DIRECTION OF TRAVEL</u>	<u>CROSS SLOPE</u>
APPROACH	8.33% MAXIMUM	2%
LANDING	2%	2%
RAMP	8.33% MAXIMUM	MATCH STREET GRADE
FLARE	10% MAX. AT CURB FACE	-
SIDEWALK	MATCH STREET GRADE	2%



NOTES:

1. ALL RAMPs SHALL COMPLY WITH ADA STANDARDS.
2. NO FLUSH GRANITE TO BE USED.



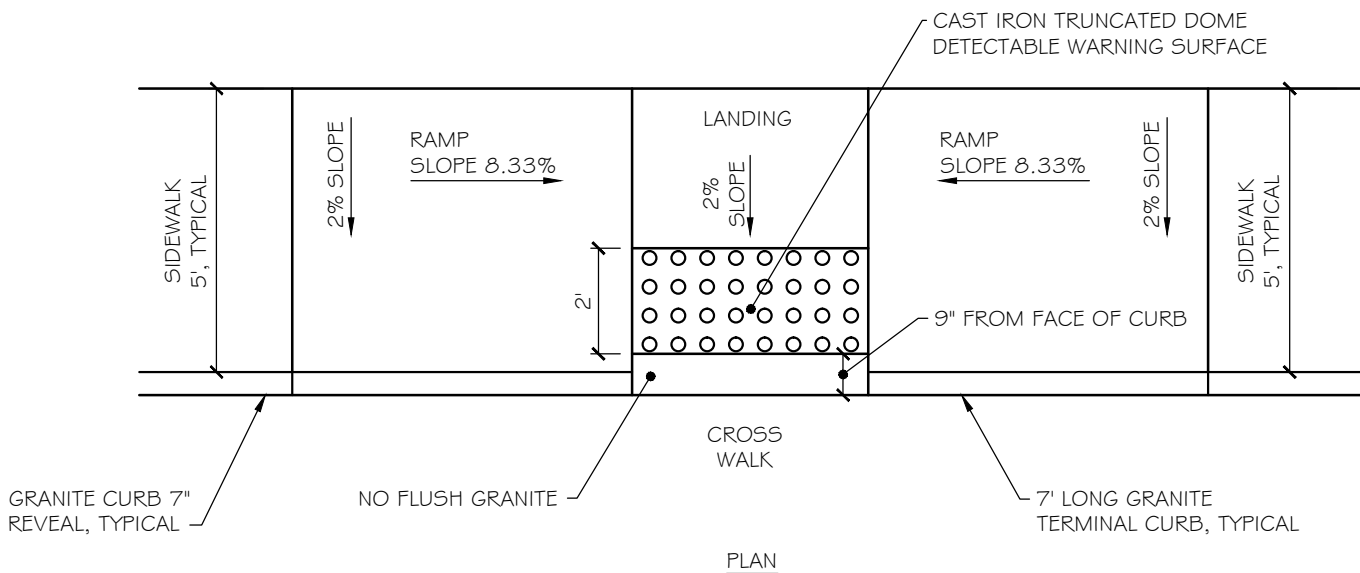
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 207-846-2401

PERPENDICULAR ADA RAMP
 LAYOUT FOR WIDE SIDEWALK WITH
 NO ESPLANADE

File: I6003-DETAILS.dwg Date: 10/13/16

Appendix:

B8c



NOTES:

1. ALL RAMP SLOPES SHALL COMPLY WITH ADA STANDARDS.
2. NO FLUSH GRANITE TO BE USED.
3. SIDEWALK MATERIAL PER SIDEWALK MATERIAL POLICY.



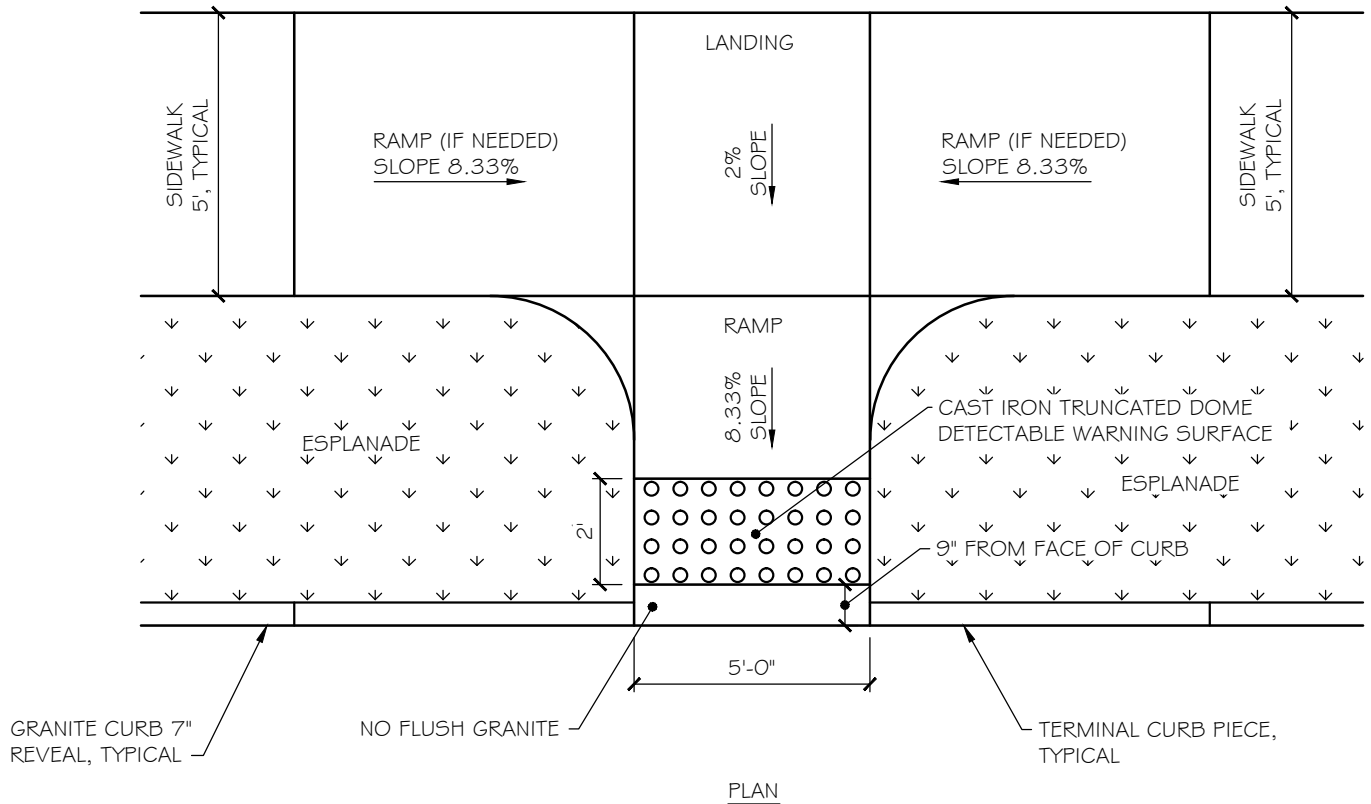
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 200 MAIN STREET
 YARMOUTH, ME 04096
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PARALLEL SIDEWALK RAMP
 LAYOUT FOR NARROW SIDEWALK
 WITH NO ESPLANADE

File: I6003-DETAILS.dwg Date: 08/20/16

Appendix:

B8d



NOTES:

1. ALL RAMPs SHALL COMPLY WITH ADA STANDARDS.
2. NO FLUSH GRANITE TO BE USED.
3. SIDEWALK MATERIAL PER SIDEWALK MATERIAL POLICY.



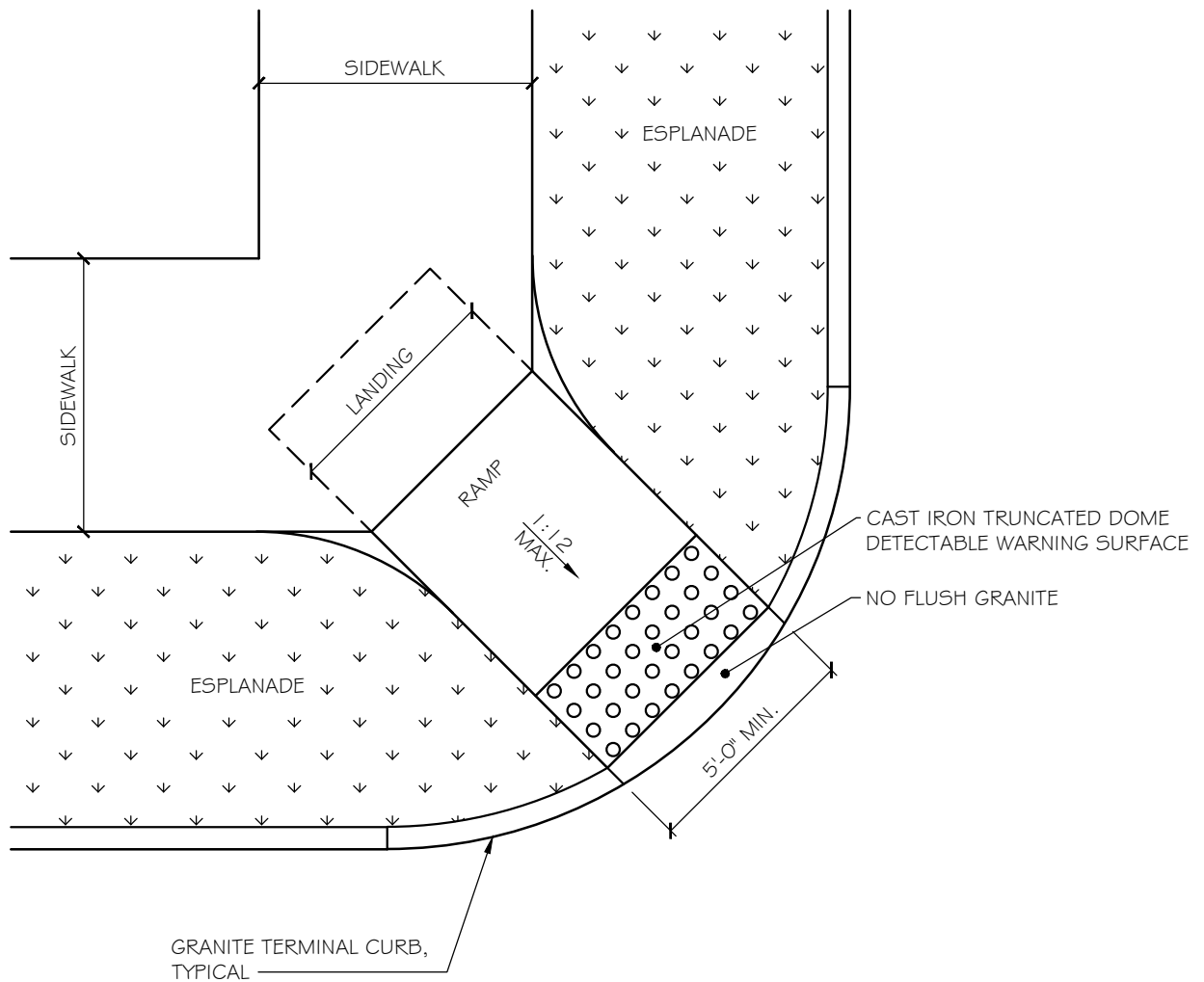
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PERPENDICULAR ADA RAMP
 LAYOUT FOR NARROW SIDEWALK
 WITH ESPLANADE

File: I6003-DETAILS.dwg Date: 10/13/16

Appendix:

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NOTES:

1. ALL RAMPs SHALL COMPLY WITH ADA STANDARDS.
2. NO FLUSH GRANITE TO BE USED.
3. SIDEWALK MATERIAL PER SIDEWALK MATERIAL POLICY.
4. LANDING AREA MAY BE REQUIRED BASED ON SIDEWALK DIMENSIONS.



TOWN OF YARMOUTH
 200 MAIN STREET
 YARMOUTH, ME 04096
 207-846-2401

DIAGONAL SIDEWALK RAMP
 LAYOUT AT INTERSECTION FOR
 SIDEWALK WITH ESPLANADE

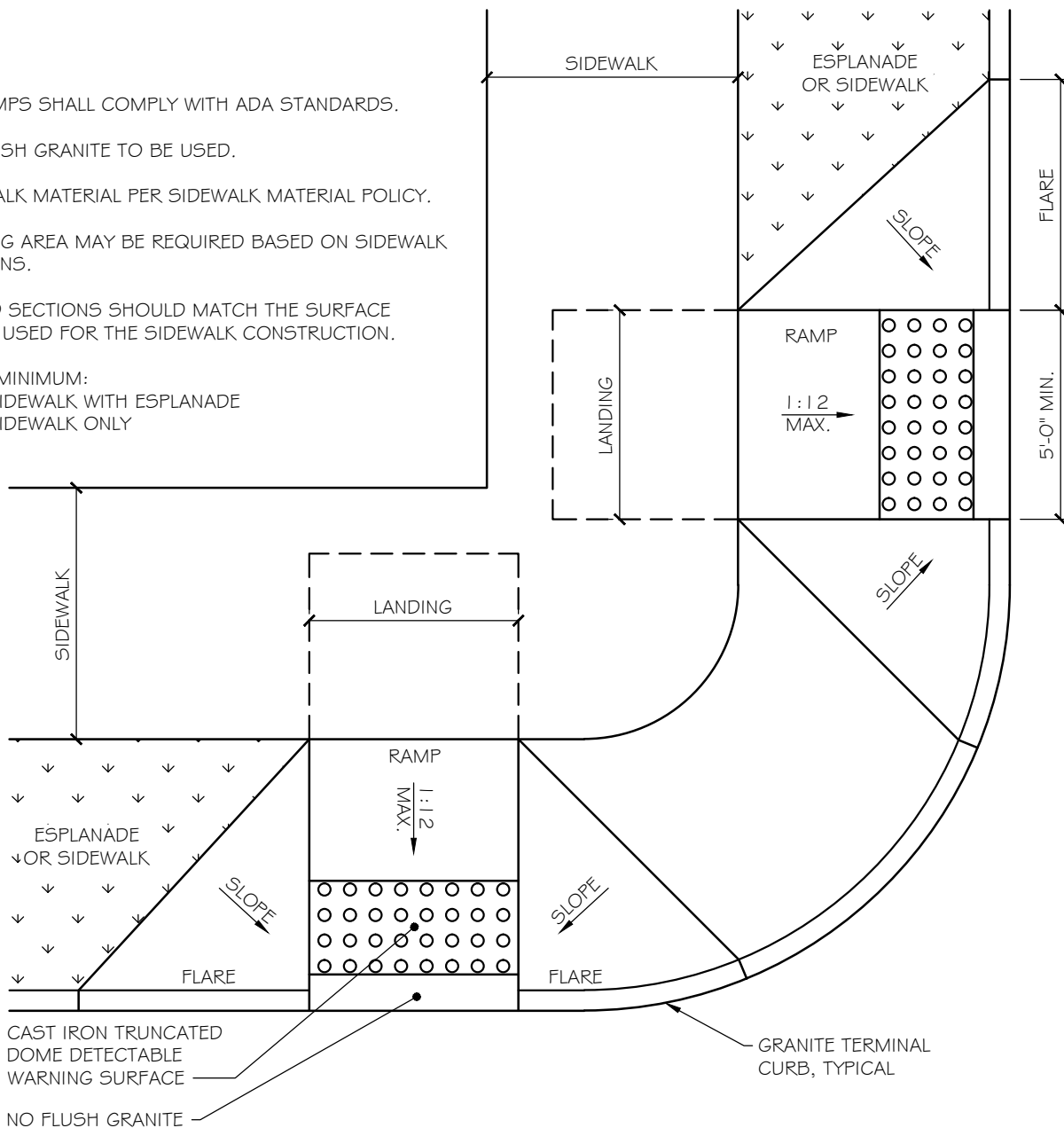
File: I6003-DETAILS.dwg Date: 10/13/16

Appendix:

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NOTES:

1. ALL RAMP SHALL COMPLY WITH ADA STANDARDS.
2. NO FLUSH GRANITE TO BE USED.
3. SIDEWALK MATERIAL PER SIDEWALK MATERIAL POLICY.
4. LANDING AREA MAY BE REQUIRED BASED ON SIDEWALK DIMENSIONS.
5. FLARED SECTIONS SHOULD MATCH THE SURFACE MATERIAL USED FOR THE SIDEWALK CONSTRUCTION.
6. FLARE MINIMUM:
 5'-0" - SIDEWALK WITH ESPLANADE
 7'-0" - SIDEWALK ONLY



TOWN OF YARMOUTH
 200 MAIN STREET
 YARMOUTH, ME 04096
 207-846-2401

PREFERRED SIDEWALK RAMP
 LOCATION AT MAJOR
 INTERSECTION

File: I 6003-DETAILS.dwg Date: 10/13/16

Appendix:

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Appendix C

Traffic Study Specifications

For the purposes of this section, passenger car equivalents (PCE) shall be defined as the number of passenger cars or, in the case of non-passenger vehicles, the number of passenger cars that would be displaced by non-passenger vehicles. One tractor trailer combination is the equivalent of two passenger cars.

Developments that generate 100 PCE or more, thus requiring a Traffic Movement Permit (TMP), shall meet the requirements of TMP regulations of State Law, in addition to all applicable transportation subdivision or site plan standards of the Town Code. For more information concerning state TMP requirements, please refer to <http://www.maine.gov/mdot/traffic-counts/traffic-mvmnt-app.php> or contact the Maine Department of Transportation (MDOT).

The Chief of Police, Town Engineer, and/or Public Works Director, in consultation with the applicant's engineer, shall determine the need for and scope of the traffic study. Development that generate less than 100 passenger car equivalents (PCE) may require a traffic study if any of the following factors exist:

- (1) it requires a scoping meeting because it generates 25 PCE or more;
- (2) it is located on an arterial;
- (3) it is located within ½ mile of a high crash location;
- (4) it is located within ¼ mile of an intersection that has been identified in a previous traffic study as a failing intersection, with an overall level of service below level of service D, or
- (5) conditions in the local traffic network or development characteristics otherwise warrant a traffic study.

If a traffic study is required, it shall meet the following standards:

1. Traffic studies shall be prepared, stamped and signed by a Professional Engineer licensed in the State of Maine.
2. Scope of Study: The requirements for the study shall be based on standard transportation engineering practices. A typical traffic study includes the following major sections:
 - A description of the development proposal
 - A description of existing conditions.
 - Estimated trip generation by the development and design hour volume for affected driveway(s) and study intersections.
 - Trip generation will be based upon the latest edition of the ITE Trip Generation publication unless suitable documented local data that meets ITE methodology is available.
 - Trip distribution
 - Capacity analysis for adjacent roadways and for any existing or proposed driveways.
 - Traffic crash analysis for adjacent roadways.
 - Key findings concerning traffic impacts, problems, and deficiencies.
 - Proposed traffic improvements.
 - Summary of findings and recommendations for transportation improvements and other impact mitigation measures.

CHAPTER 602

TRAFFIC ORDINANCE

Town of Yarmouth, Maine

Recodified: 1/15/1998

Amended: 8/19/1999

Amended: 8/16/2001

Amended: 4/18/2002

Amended: 3/23/2003

Amended: 6/12/2003

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Amended: 6/12/14

Amended: 10/29/15

Amended: 3/17/16

CHAPTER 602

TRAFFIC ORDINANCE

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TRAFFIC ORDINANCE

ARTICLE I

A. TITLE

This Ordinance shall be known and may be cited as the Traffic Ordinance of the Town of Yarmouth.

B. PURPOSE

The purpose of this Ordinance is to regulate traffic and the use of the streets, ways and roads of the Town and to provide for the enforcement of traffic regulations.

C. DEFINITIONS

All Night Parking – The words “all night parking” shall mean the parking of a vehicle for a period of time other than one hour between the hours of 12:00 A.M. and 6:00 A.M. Any physicians or other persons on bona fide emergency calls are not bound by this Section.

All Terrain Vehicles (ATV) – The words “all-terrain vehicle” shall mean a motor driven off-road recreational vehicle capable of cross-country travel on ice and snow, swampland or other natural terrain. For purposes of this ordinance “all- terrain vehicle” does not include a snowmobile, an airmobile, a construction or logging vehicle used in performance of its common function, a farm vehicle used for farming purposes, a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

Immobilization Device – The word “immobilization device” shall mean a device which will render a vehicle inoperable, more commonly referred to as a “boot.”

Impoundment – The towing of a motor vehicle and having it stored at the place of employment of the towing company or any other secure facility.

Official Traffic Control Device – The words “official traffic control device” shall mean all signs, signals, markings and devices placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

Park – The word “park” shall mean the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading.

Person – The word “person” shall mean every natural person, firm, co-partnership, association or corporation.

Roadway – The word “roadway” shall mean that portion of a street, way or road designed or ordinarily used for vehicular traffic.

Standing – The word “standing” shall mean any stopping of a vehicle, whether occupied or not.

Street, Way or Road – The words “street, way or road” shall mean the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of traffic.

Turnaround – The word “turnaround” shall mean a space dedicated at the end of a dead end street or property owned by the Town of Yarmouth to be used specifically as a vehicle turn around.

Vehicle – The word “vehicle” shall mean every device in, upon, or by which any person or property is or may be transported upon a street, way or road except devices moved by human power or used exclusively upon stationary rails or tracks.

Overweight Trucks – The words “overweight trucks” shall mean any truck whose gross weight exceeds 9 tons.

ARTICLE II

A. STATE LAWS INCORPORATED

All State Motor Vehicle Laws are hereby incorporated herein by reference. No person shall violate any motor vehicle law of the State within the Town.

B. SIGNS REQUIRED

No provision of this Ordinance for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular Section does not state that signs are required, such Section shall be effective without signs being erected to give notice thereof.

C. AUTHORIZED SIGNS, SIGNALS OR MARKINGS

1. No person shall place, maintain, or display upon or in view of any street, way or road any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device. No person shall place or maintain any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to a street, way or road signs giving useful directional information of a type that cannot be mistaken for an official sign.

2. Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the Town Manager or his/her appointed agents are hereby empowered to remove same or cause it to be removed without notice.

D. FOLLOWING TRAFFIC DIRECTION

No person shall refuse, fail or neglect to follow the direction of a constable, police officer or other authorized persons directing traffic on a street, way or road.

E. REQUIRED OBEDIENCE

Except when otherwise directed by a police officer, or other authorized person, the driver of any vehicle and every pedestrian shall obey the instructions of any traffic control device installed under the provision of either this Ordinance or State law.

F. PRIMA FACIE EVIDENCE OF OPERATION

No person shall allow, permit, or suffer any vehicle registered in his/her name to stand or park in any street, way or road in violation of any provisions of this Ordinance. The fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered.

G. TRUE NAME TO BE GIVEN

It shall be unlawful for any person, whereby any police officer or other authorized person, to appear to answer for an offense against any provision of this Ordinance, to give other than his/her true name and address.

H. TEMPORARY TRAFFIC CONTROL DEVICE

The police or other authorized persons are hereby authorized to place temporary no parking signs, detour signs, and to route traffic by personal direction of police officers of the Town of Yarmouth in circumstances of emergency or congestion such as, but not limited to, fires, funerals, church services, parades, sporting events, and also where the traffic generated by private business locations requires such directional control for public safety or convenience during a fire, accident, emergency or special event. A police officer may temporarily close a way to vehicular traffic or to vehicles of a certain description or divert pedestrian or vehicular traffic.

I. SNOW ACCUMULATION

When the width of a roadway is decreased by reason of snow accumulation, or by any other reason, to less than twelve feet, the Town Manager or his/her appointed agents are authorized to prescribe temporary traffic and parking regulations and to place any traffic control devices as may be necessary to give notice of such regulations.

J. SNOW REMOVAL EMERGENCY PERIODS

The period beginning November 15 and ending April 15 is hereby declared to be a snow removal emergency period. During this period, no vehicle shall be parked in

such a manner as to hinder the plowing or removal of snow from the streets, ways or roads, nor shall any all night parking be allowed. In the event of inclement weather, the Chief of Police or Public Works Director may institute a parking ban upon any street, way or road and shall provide for temporary public notice and announcement by radio, television, or cable TV of such temporary ban.

K. APPLICATION OF ORDINANCE TO EMERGENCY VEHICLES

1. An operator of an emergency vehicle, except when otherwise directed by a police officer, may do the following:
 - a. Park or stand notwithstanding the provision of this Ordinance.
 - b. Proceed past a red light or stop signal or stop sign, but only after slowing down to the extent necessary for safe operation.
 - c. Exceed the maximum prima facie speed limit as long as life or property is not endangered.
2. The exceptions enumerated in this Section shall apply to authorized emergency vehicles as defined in M.R.S.A. Title 29A, 2054-5.
3. The foregoing exemptions shall not, however, protect the driver of any such vehicle from the consequences of his/her reckless disregard of the safety of others.
4. The exceptions enumerated in this Section shall not apply to emergency vehicles returning from an emergency.

L. INTERFERENCE WITH TRAFFIC CONTROL DEVICES

No person without lawful authority shall attempt to, or, in fact, alter, deface, injure, knock down or remove any official traffic control device.

M. DUTY TO REPORT ACCIDENT

The driver of any vehicle involved in any accident resulting in: (A) bodily injuries to or death of any person; or (B) apparent property damage of One Thousand Dollars (\$1000.00) or more, must be reported immediately to a law enforcement officer by the quickest means of communication as is provided by Title 29A, 2251 Sections 1 and 2.

N. REMOVAL OR TRAFFIC TICKET

No person shall remove from any vehicle a traffic law violation ticket, notice or citation placed on or in such vehicle by a police officer, except for the purpose of answering such notice or citation as required therein.

O. PROCESSIONS: FUNERAL IDENTIFICATION

A funeral composed of a procession of vehicles shall be identified as such by the display of a pennant or other identifying insignia upon the outside of each vehicle or by such other methods as may be determined and designated by the police.

P. PARADE AND PROCESSIONS: PERMITS

No procession, or parade shall occupy, march or proceed along any street, way or road, to the exclusion or interruption of other persons in their right and use thereof, except in accordance with a written permit issued by the Police Department.

Q. OBSTRUCTING TRAFFIC

Whoever places rocks, stones, snow, ice or other obstruction in such a manner as to obstruct traffic on a street, way or road and leaves it there shall be punished by a fine of not more than \$100.00 for each offense, to be recovered on complaint, to the use of the Town of Yarmouth.

R. APPLICATION TO GOVERNMENT VEHICLES

The provisions of this Ordinance shall apply to the driver of any vehicle owned by or used in the service of the United States Government, this State, County or Town, and it shall be unlawful for any such driver to violate any of the provisions of this Ordinance except as otherwise permitted herein or by State law.

S. DRIVING ON SIDEWALKS PROHIBITED

No person shall operate any motor vehicle along, nor shall any motor vehicle in any way occupy or obstruct, any Town sidewalk except for municipal vehicles or agents of the municipal government in conjunction with maintenance activities.

T. ALL-TERRAIN VEHICLES

No person shall operate an all-terrain vehicle within the Town of Yarmouth upon public land, including park lands, owned or leased to the Town of Yarmouth, unless specifically allowed by ordinance. This provision shall support and shall not in any manner limit the restrictions upon the use of all-terrain vehicles upon private property or over public or private ways, as provided by M.R.S.A. 12 Section 13157 as may be amended. It shall also not prohibit the use of all-terrain vehicles by municipal government in conjunction with maintenance and/or public safety.

ARTICLE III

A. WARNING DEVICES

No person shall sound an automobile horn, bell or other sound device on a vehicle anywhere in the Town at any time, except when necessary for safe driving.

B. OBEDIENCE TO STOP SIGNS

The operator of any vehicle shall bring such vehicle to a full stop immediately before entering or crossing an intersection at which a stop sign has been erected, yielding the right-of-way to all vehicles or pedestrians approaching from either direction on

the intersecting street, providing, however, that whenever a traffic officer is stationed at such intersection, such officer shall have the right to regulate traffic threat.

C. SCHEDULE OF STOP SIGNS

Emplacement of stop signs will be as directed by the Town Council who will establish by resolution a schedule of all installations of such signs.

D. OBEDIENCE TO ONE-WAY STREET

Vehicular traffic shall move only in the indicated direction upon those streets which are designated as one-way streets, when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited. The police or other authorized persons are hereby authorized and directed to erect and maintain said signs.

E. AUTHORITY TO DESIGNATE TEMPORARY ONE-WAY STREETS

In the event of an emergency requiring one-way traffic for the avoidance of traffic congestion which would be prejudicial to the health, safety and welfare of the inhabitants of the Town or property located therein, the police or other authorized persons shall have the power to designate streets or parts thereof as subject to one-way traffic. This designation will be effective only when suitable signs have been conspicuously placed on or about the entrance to and exits from the affected areas, such designation and signs to be removed at the termination of such emergency. In addition to emergency conditions, the following occasions shall be proper for the application of the above power: (A) any event, meeting, or occasion attracting or likely to attract a large number of persons; (B) excavations or other repairs or construction to streets.

F. SCHEDULE OF ONE-WAY STREET

Emplacement of traffic control devices which designate one-way streets will be as directed by the Town Council who will establish by resolution a schedule of all installations of such devices.

G. OBEDIENCE TO YIELD SIGNS

The operator of a vehicle shall yield the right-of-way before entering or crossing an intersection at which a yield sign has been erected, provided, however, that whenever a traffic officer is stationed at such intersection, such officer shall have the right to regulate traffic threat. The Town Council shall have the authority to designate the location of yield signs on traveled ways not under the administrative control of the Department of Transportation, State of Maine.

H. OBEDIENCE TO PEDESTRIAN CROSSING SIGNS

Where traffic control signals are not in place or in operation, the operator of a vehicle shall yield the right-of-way to a pedestrian crossing a public way within any marked crosswalk or at any intersection protected by a stop sign. When any vehicle is stopped at a crosswalk or intersection to permit a pedestrian to cross, the driver of

any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

I. SCHEDULE OF YIELD SIGNS

Emplacement of traffic control devices which require vehicles to yield at certain intersections of streets, ways or roads will be directed by the Town Council who will establish by resolution a schedule of all installations of such devices.

J. OVERWEIGHT TRUCKS

1. Where signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of nine (9) tons, nor shall any person operate any vehicle licensed for in excess of nine (9) tons at any time upon streets designated by resolution of the Town Council.
2. This Section shall not apply to emergency vehicles, school buses, garbage trucks and other vehicles making deliveries or pick-ups on the above-named streets.

K. SCHEDULE OF LIMITED HAZARD WAYS

Emplacement of traffic control devices which designate a limited hazard way or control the use of a way so designated will be as directed by the Town Council who will establish by Resolution a schedule of said ways and the types and location of control devices to be installed.

1. During the period beginning May 15 and ending September 30 of each year, vehicular access to Wharf Road beyond the intersection of Wharf Road with the right-of-way to the Parking Lot located on the land now or formerly owned by Winifred G. Blanchard shall be limited as follows from Friday at 3:00 P.M. to Monday at 6:00 A.M. of each week. When a holiday during that period falls on a Monday, the period of restricted access shall extend through Tuesday at 6:00 A.M.
2. Vehicles owned or operated by residents of Harmony Hill right of way or of Wharf Road below the right of way to the Blanchard Parking Lot and their guests or service, repair or utility vehicles whose destination is one of the homes located along the Harmony Hill right of way or Wharf Road;
3. Public school buses transporting students to and from school activities;
4. Regularly scheduled mass transit passenger vehicles; and dunnage carriers operated between the Blanchard Parking Lot and the wharf;
5. Police, fire, rescue and ambulance emergency vehicles;
6. Vehicles owned or operated by commercial fishermen; and

7. Vehicles with handicapped plates or transporting handicapped passengers.

L. AUTHORITY TO POST TEMPORARY WEIGHT RESTRICTIONS

The Town Manager is authorized pursuant to Title 29-A Section 2395 to adopt rules and to post or cause to be posted roads to temporarily restrict operation of trucks and vehicles with a registered weight limit in excess of 23,000 lbs in order to prevent excessive damage to the road during spring thaw conditions. Such rules shall be consistent with Rules promulgated by the Maine Department of Transportation and shall provide for the same exceptions and conditions therein.

ARTICLE IV

A. PROHIBITED PARKING

1. Except as otherwise covered in ARTICLE IV (Sect. 602.IV M), no person shall stand or park a vehicle upon a street, way or road for the principal purpose of:
 - a. Displaying it for sale;
 - b. Washing, greasing or repairing such vehicle except for repairs necessitated by an emergency;
 - c. Advertising;
2. The sale of any personal property;
3. The exercise of any business, profession, or calling.

B. STOPPING, STANDING OR PARKING PROHIBITED AT SPECIFIC LOCATIONS

No person shall stop, stand, or park a vehicle in any of the following places, nor shall any person move a vehicle not owned by him/her into any of the said places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, other authorized persons, or traffic-control device:

1. On a sidewalk;
2. In front of a public or private driveway;
3. Within an intersection;
4. Within 10 feet of a fire hydrant;
5. On a crosswalk;
6. Within 10 feet of the near corner of the curbs at the intersection;

7. Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway unless otherwise indicated by signs or pavement markings;
8. Between a safety zone and the adjacent curb;
9. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station;
10. Along side or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic;
11. On the roadway side of any vehicle stopped or parked at the edge or curb or street or double parked, so called;
12. Upon any bridge or other elevated structure upon a highway;
13. At any place where official signs prohibit stopping;
14. Within 500 feet from the scene of a fire, vehicular accident or any other emergency situation designated by authorized persons;
15. Along or within any bikeway or in any specially designated safety zone specifically regulated by Council Resolution for a specific purpose including, but not limited to, foot paths, jogging trails and ways created for recreational use;
16. On either side of Wharf Road from Cousins Street to the Cousins Island Wharf;
17. No parking shall be permitted in an area 25 feet in either direction from the center of a crosswalk location on Main Street directly in front of Curtis Hall of North Yarmouth Academy. Additionally, no stopping, standing, loading or unloading of passengers or cargos shall be permitted within this zone: except that school busses may load and unload passengers into or from the crosswalk area;
18. At the terminus of a turnaround or at the end of any dead end street or Town-owned turn around; (See Appendix G.)
19. Within 50' of the nearest rail of a railroad crossing.

C. SNOW REMOVAL

No vehicle shall be parked at any time on any street, way or road so as to interfere with or hinder the plowing or removal of snow from any street, way or roadway. The police may cause any vehicle so parked on any street, way or road to be removed from the street in accordance with the provisions of Section IV.D of this Ordinance.

1. No person shall lay, throw, place or plow any snow or ice from private property into any public way. If in the removal of snow or ice from private property it is necessary to temporarily place snow or ice on any public street, such snow or ice shall be immediately removed by and at the expense of the person that caused it to be placed thereon or caused the hiring of a person to remove said snow and ice.

D. OBSTRUCTION IN STREETS

Any vehicle of any kind or description parked upon a street, way or road at a place, in a manner, or for a length of time prohibited by ordinance of the Town of Yarmouth is hereby declared to be an obstruction in such street, way or road and a menace to the safe and proper regulation of traffic.

1. **Authority to Remove or Immobilize**

Any vehicle left parked or standing in any manner prohibited by Ordinance may be removed by or under the direction of, or at the request of the Police Chief or any police officer of the Town to a garage or storage place. Such police officer may use such force as may be necessary to enter such vehicle and cause the same to be placed in a condition to be moved, and may employ any reputable person, engaged in the business of towing or storing vehicles for such purpose. Notwithstanding any language herein contained, the removal and storage of a vehicle pursuant to this Ordinance, and the payment of the charges specified herein, shall in no way relieve or prevent prosecution for the violation of any provision of the Ordinance.

2. **Notice to Owner**

The Police Department shall make reasonable effort to notify as promptly as possible the owner of any such vehicle of its removal from the streets, ways or roads, and as soon as possible a written notice that such vehicle has been impounded shall be sent by the Police Chief to the owner at his/her last known address as shown by the records of the Secretary of State. If the owner is unknown, the Police Chief shall cause to be published in any newspaper printed in the City of Portland notice of such impounding, giving the registration number, the motor number and the name, type and year of said vehicle.

3. **Release of Vehicle**

Before the owner of such vehicle, or his/her representative, may remove it from the possession of the person towing or storing it, he/she shall:

- a. Furnish satisfactory evidence of his/her identity and of his/her ownership of said vehicle to the Police Chief and to the person having possession of said vehicle;
- b. Pay, or arrange to pay, to the person having possession of said vehicle reasonable towing and storage charges.

4. The Town assumes no responsibility for damages resulting from the towing or any vehicle under this Section.

E. PARKING ON PAVED OR IMPROVED SURFACE

No vehicle shall be parked on the paved or improved surface of any uncurbed street, way or road when it is practicable to park elsewhere.

F. PARKING ON LEFT

No vehicle shall be parked or stopped on the left side of any street, way or road so that it is facing oncoming traffic.

G. EXCEPTION FOR NON-RESIDENTS

Anything in this ARTICLE to the contrary notwithstanding, the Police Chief is authorized to waive payment on any parking violation ticket issued to a non-resident when in the opinion of the Police Chief such violation is due to lack of knowledge of the violated provision of this Ordinance provided, however, that this waiver shall not be extended to any violation deemed by the Police Chief to be deliberate, continued, or flagrant, and provided that in no event shall this waiver extend to violation of the provision prohibiting parking in front of a hydrant area, fire house or rescue unit garage.

H. PARALLEL PARKING REQUIRED, EXCEPTION

1. No person shall allow, permit or suffer any vehicle registered in his/her name to stand or be parked on any street other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement and within twelve inches of the curb or edge of the roadway.
2. Any person may back a vehicle to, but not onto, a curb or sidewalk if there is no curb for the purpose of loading or unloading merchandise or materials for a period not in excess of thirty (30) minutes. No person shall so back a vehicle to a curb for a period in excess of thirty (30) minutes unless specifically authorized by a police officer.

I. DIAGONAL PARKING

Diagonal parking is hereby prohibited on all streets in the Town.

J. STANDING OF LARGE VEHICLES REGULATED

No owner, driver or person in charge of any vehicle which has a carrying capacity of more than three thousand (3,000) pounds, or which including load is more than eighteen (18) feet in length, or which including load is more than eight (8) feet in width, or which including load is more than twelve (12) feet and six (6) inches in height, shall permit the same to stand upon any street, way or road for a longer period than one (1) hour at any one time.

K. TRUCK LOADING AND UNLOADING

Trucks are prohibited from loading and unloading freight, goods and merchandise at all places, stores and buildings in a fire zone, as designated by Resolution of the Council, from 9:00 A.M. to 5:00 P.M. on any day except Sunday and public holidays, when it is reasonably possible to perform such work off the street or in an adjacent alley, unless such loading or unloading can be done within five (5) minutes.

L. PUBLIC UTILITY VEHICLES

Vehicles operated by the Town or by public utility companies, used for installation, repair and maintenance purposes, may be exempted by the police upon notice to the Town Clerk in each case, temporarily for the period while actually at work at a definite location, from any of the requirements of this ARTICLE, provided that during such exemption period, work will be conducted with all reasonable dispatch, and that such precautions as the police may require in the interest of public safety shall be taken. The police are authorized to place temporary signs prohibiting parking in such places at the scene of work as in their discretion they deem necessary to facilitate traffic and the work in progress. Subject to the necessary exceptions provided by this Section, this ARTICLE shall nevertheless, be observed insofar as practicable. Upon receipt of such notice, the Town Clerk shall notify the Police Chief, the Rescue Chief, and the Superintendent of Public Works of such operations.

M. EXCEPTIONS TO PARKING

Rules restricting parking shall not apply in situations enumerated below:

1. Physicians, nurses and rescue unit personnel while making professional or emergency calls, provided the vehicle of such persons bears the distinguishing marks of some medical or rescue insignia, conspicuously displayed.
2. Vehicles making deliveries to homes or businesses when the delivery vehicle is parked for less than thirty (30) minutes.

N. AUTHORITY TO DESIGNATE THE HAZARDOUS OR CONGESTED PLACES; PARKING RESTRICTED

1. The Police Chief with the approval of the Council is hereby authorized to determine and designate by proper signs, places not exceeding one hundred (100) feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.
2. When official signs are erected at hazardous or congested places as authorized herein, no person shall stop, stand, or park a vehicle in any such designated place.

O. AUTHORITY TO REGULATE PARKING ADJACENT TO SCHOOL PROPERTY

The police are hereby authorized to cause temporary signs to be erected, indicating no parking adjacent to any school property, when such parking would, in his/her

opinion, interfere with traffic or create a hazardous situation. When official signs are erected indicating no parking adjacent to any school property, no person shall park a vehicle in any such designated place.

P. AUTHORITY TO REGULATE PARKING AND TRAFFIC ON TOWN-OWNED PROPERTY

The Town Manager is hereby authorized to regulate parking on Town-owned property. The Town Manager also is authorized to control the use of any vehicles on Town-owned property. The Town Manager is hereby advised and directed that parking at the Royal River Park parking lot should be prohibited between the hours of one hour before sunrise and one hour after sunset.

Q. SCHEDULE OF SPECIAL PARKING REGULATIONS

A schedule of Special Parking Regulations and authority for emplacement of traffic control devices for enforcement of said regulations will be as established by Resolution of the Town Council.

R. DEAD-END STREETS

A schedule of dead-end streets and authority for emplacement of traffic control devices signifying the status of said streets will be established by Resolution of the Town Council.

S. HANDICAPPED PARKING

1. No person shall park a vehicle in a parking space designated for use by handicapped persons unless such vehicle displays a special registration plate or placard issued pursuant to Title 29A, M.R.S.A. Section 521 or a similar plate or placard issued by another state.
2. For purposes of this Section:
 - a. Public parking space is “designated” for use by handicapped persons if it is marked by a posted sign consisting of a profile view of a wheelchair with occupant in which on blue background has the following warning” Handicapped Parking: Special Plate Required. Unauthorized vehicles are subject to a fine.” Such sign must be adjacent to and visible from the parking space it marks.
 - b. A parking space on private property is “designated” for use by handicapped persons if it is (1) marked by a sign conforming to the standards set forth Subsection IV, S, 2a and (2) identified in a handicapped parking schedule maintained in police department files.

T. HANDICAPPED PARKING ON PRIVATE PROPERTY

The Chief of Police, or his/her designated agent, may enter into agreements with owners of private off-street parking to provide for the policing of parking spaces

reserved by such owners for use by handicapped persons. Such spaces shall be marked by the owner in the manner set forth in Section IV.S above; their number and location shall be recorded in a handicapped parking schedule maintained in police department files.

U. OVERNIGHT PARKING AT TOWN LANDING PROHIBITED

1. There shall be no overnight parking at the Town Landing off Old Shipyard Road, at the Madeleine Point mooring area parking lot, Sandy Point Beach parking area, on or along Old Town Landing Road, or the Littlejohn Island dock area, except as authorized by the Harbormaster or his/her designated agent.
2. An overnight parking permit may be obtained from the Harbormaster or his/her designated agent during normal business hours. The permit issued shall be displayed on the driver's side of the dashboard such that the date said overnight parking is authorized is visible through the windshield.
3. Any vehicle left overnight at the Town Landing without a permit shall be subject to towing or immobilization in accordance with Section IV.D. of this ARTICLE.

V. MAILBOXES IN THE RIGHT-OF-WAY

1. Private Improvements in the right-of-way
Any structures, landscaping features, fences, gates, irrigation systems, dog containment wiring, mailboxes and posts, lighting systems, signs, decorative features placed in and along any right-of-way shall be at the sole risk and liability of the property owner who causes or is benefited by such structure or features.

No such structure or features shall be placed except in accordance with all applicable standards and permitting requirements of the Yarmouth Town Code including, but not limited to, Chapters 701 (Zoning), 702 (Site Plan Review), 604 (Right of Way), 401 (Fees and Permits), and 301 (Building Code).

2. The Town of Yarmouth assumes no liability or responsibility for damages to such structures or features due to the normal construction, maintenance, plowing, sweeping, painting, cleaning or utilization of the right of way.
 - a. Notwithstanding the provision of this subsection, the Town of Yarmouth will provide and install a replacement mailbox and post to any resident or business which suffers loss or irreparable damage to a mailbox or post as a direct result of being stuck by a municipally operated snow plow or by the pushing of a snow banking against mailbox during snowplowing or snow removal efforts. The Town shall provide a standards issue plain mailbox on a 4"x4" pressure treated 5' post, regardless of the nature, type, or size of the mailbox or post damaged or destroyed. If frozen ground conditions preclude setting the mailbox post in the ground, a temporary post and box

placed in a 5 gallon bucket of sand will be provided until ground conditions permit a permanent replacement.

Any mailbox or post set by the Town shall be in a location at such a height and configuration as to comply with U.S. Postal Service installation standards and minimize risk to motorists.

3. The Town of Yarmouth assumes no liability to motorists, pedestrians, or others for any injury or damages caused directly or indirectly by such structures or features.
4. The property owner who causes or benefits by the placement of such structure or feature agrees to remove such structure or feature at his/her own expense within 72 hours of notice to remove for the purposes of road, utility drainage or sidewalk construction, repair or maintenance undertaken or commissioned by the Town of Yarmouth.

ARTICLE V

A. PENALTY

1. Whoever violates any of the provisions of this Ordinance, to which a particular penalty is not annexed, shall be punished by a fine of not more than One Hundred Dollars (\$100.00) for the first offense and up to Three Hundred Dollars (\$300.00) for each subsequent offense to be recovered, on complaint, to the use of the Town of Yarmouth.
2. Any vehicle found in violation of any provision of Article IV of this Ordinance, and the registered owner has three or more unpaid parking tickets for any vehicle registered in his or her name, may be towed or impounded with the use of an immobilization device.
3. The registered owner of any vehicle in violation shall be responsible for full payment of any outstanding parking tickets. In addition a \$50.00 immobilization device disengagement fee (if utilized) must be paid as well as any towing and/or storage fees.
4. The Town Council shall, from time-to-time, establish a schedule of fines.

ARTICLE VI

A. REPEAL

All Provisions of any ordinance or by-laws of the Town of Yarmouth which are inconsistent with the provisions herein contained are hereby repealed.

APPENDIX A STOP SIGN SCHEDULE

ABBY LANE
at Portland
ACORN CIRCLE
at Oakwood
ANDERSON AVENUE
at West Main
ALMONTE AVENUE
at Cousins
APPLECREST DRIVE
at West Main
at West Main
ASHLAND AVENUE
at Cousins
ASTILBE DRIVE
at Portland
AUTUMN LANE
at Leighton
BAKER STREET
at Church
at Cumberland
BALSAM LANE
at North
BARTLETT CIRCLE
at Deering
BATES STREET
at Hillside
at West Main
BAYVIEW STREET
at East Main
at Spring
BECKWITH STREET
at West Main
BEECHTREE LANE
at Boxwood
BENNETT ROAD
at Portland
at Rand
BERRYFIELD ROAD
at Granite
BIRCHWOOD AVENUE
at Cousins

CONCORD CIRCLE

BITTERSWEET CIRCLE
at Applecrest
BLUEBERRY COVE
at Bayview
BLUFF ROAD
at Bluff
at East Main
BOWDOIN STREET
at West Main
at Hillside
BOXWOOD DRIVE
at Applecrest
BRIDGE STREET
at Willow
at Main
BROADARROW TRAIL
at Bayview
BROOKSIDE DRIVE
at North
BROWNS POINT ROAD
at Bayview
BURBANK ROAD
at Larrabees
BURNELL DRIVE
at North
CEDAR RIDGE
at Balsam
CENTER STREET
at Cumberland
at Main
CHANNEL POINT ROAD
at Seaborne
CHURCH STREET
at Hillside
at West Elm
CLEAVES STREET
at Main
CLIPPER CIRCLE
at Holbrook
COLLINS ROAD
at East Main

GAIL LANE

at North
 CUMBERLAND STREET
 at Hillside
 at South
 at West Elm
 CURTIS ROAD
 at Princes Point
 DARTMOUTH STREET
 at Littlejohn
 DEACON ROAD
 at Anderson
 at Newell
 DEERING STREET
 at West Elm
 at Woodbury
 DEPOT ROAD
 at East Elm
 DRINKWATER POINT ROAD
 at Gilman
 EAST ELM STREET
 at Main
 at North
 EAST MAIN STREET
 at Spring
 at Lafayette
 EBEN HILL ROAD
 at Sea Meadows
 EIDER POINT DRIVE
 at Granite
 ELLEN CIRCLE
 at Melissa
 ELMWOOD AVENUE
 at Cousins
 ESSEX DRIVE
 at West Elm
 EVERGREEN DRIVE
 at Pleasant
 FAIRWIND LANE
 at Lafayette
 FIDDLERS LANE
 at Ledge
 FIELDSTONE DRIVE
 at West Main
 GABLES DRIVE
 at North

at Rogers
 GILMAN ROAD
 at Princes Point
 at Lafayette
 GLEN DRIVE
 at McCartney
 GOODINGS END
 at Pleasant
 GRANITE STREET
 at East Main
 GREENLEAF STREET
 at Rogers
 GRIST MILL LANE
 at Main
 GROVES ROAD
 at Cousins
 HARBOR VIEW DRIVE
 at Bayview
 HAWTHORNE CIRCLE
 at Applecrest
 HAYFIELD ROAD
 at Old County
 HEMLOCK TERRACE
 at Northwood
 HICKORY DRIVE
 at Applecrest
 HIGH STREET
 at Portland
 HILLCREST AVENUE
 at Cousins
 HILLSIDE STREET
 at West Main
 at Bates
 (N. Corner)
 at Cumberland
 (S. Corner)
 HILLTOP CIRCLE
 at Bates
 HOLBROOK ROAD
 at West Elm
 INDIAN RIDGE ROAD
 at East Main
 JOHN HOWLAND DRIVE
 at North
 KELLY DRIVE
 at Melissa

LADY SLIPPER LANE
 at Sea Meadows
 LANDING WOODS ROAD
 at Mast Lane
 LARRABEES LANDING
 at Gilman
 LEDGE ROAD
 at North
 at Granite
 LEDGEWOOD DRIVE
 at Hillside
 at Oakwood
 LEIGHTON ROAD
 at North
 at East Elm
 LITTLEJOHN ROAD
 at Littlejohn
 MADELEINE POINT ROAD
 at Cousins
 MADISON DRIVE
 at Rainbow Farm
 MAIN STREET
 at Lafayette
 at Marina
 MAPLEWOOD AVENUE
 at Cousins
 MARINA ROAD
 at Lafayette
 MARSHVIEW CIRCLE
 at Sisquisic
 MAST LANE
 at Harborview
 MAYBERRY STREET
 at Portland
 MCCARTNEY STREET
 at West Elm
 MELISSA DRIVE
 at Rogers
 (E. Corner)
 (W. Corner)
 at North
 at East Elm

 MILL STREET
 at Main

MORTON ROAD
 at Drinkwater Point
 at Princes Point
 MOUNTFORD ROAD
 at Ledge
 NEWELL ROAD
 at West Main
 NORTH ROAD
 at East Main
 NORTHWOOD ROAD
 at North
 at East Elm
 OAKWOOD DRIVE
 at Oakwood
 at West Elm
 ODELL WAY
 at Ledge Road
 OLD FIELD ROAD
 at Concord Circle
 OLD SHIPYARD ROAD
 at Bayview
 OLD TOWN LANDING
 at Princes Point
 PARK STREET
 at Melissa
 PATTY LANE
 at Main
 at Church
 PINWOOD ROAD
 at North
 at Autumn
 PLEASANT STREET
 at Lafayette
 at Lafayette
 PLIMOTH WAY
 at John Howland
 PORTLAND STREET
 at Route One
 at Main
 PRINCES POINT ROAD
 at Lafayette
 at Gilman
 at Morton
 RAINBOW FARM ROAD
 at West Main
 at West Main

RAND ROAD
at Portland
at Watson
REBECCA LANE
at Rogers
RIVERBEND DRIVE
at East Elm
ROCKY HILL ROAD
at High
at Marina
ROGERS ROAD
at North
ROYALL MEADOW ROAD
at Gilman
ROYAL POINT ROAD
at Gilman
RYAN DRIVE
at Rogers
SANDPIPER COVE ROAD
at Sea Spray
SANDY BROOK LANE
at High
SARAH GOULD ROAD
at Sea Meadows
SCHOOL STREET
at Main Street

SEA MEADOWS ROAD
at Cousins
SEA SPRAY REACH
at Princes Point
SEABORNE DRIVE
at Drinkwater Point
at Drinkwater Point
SEABURY LANE
at Bayview
SEAL IANE
at Cousins
SEQUOIA DRIVE
at Granite
SHOREVIEW DRIVE
at Cousins
SISQUISIC TRAIL
at Sisquisic
at Bayview

SLIGO ROAD
at West Main
SMITH STREET
at Pleasant
at Lafayette
SOUTH STREET
at West Elm
at Main
at Cumberland
(E. Corner)
(W. Corner)
SPAR CIRCLE
at Sisquisic
SPRING STREET
at Route 1
STARBOARD REACH
at Fairwind
STOCKBRIDGE DRIVE
at Melissa
STORER STREET
at Portland
SUMMER STREET
at Bates
at West Main
SUNSET POINT ROAD
at Princes Point
SWEETSER FARM ROAD
at North Road
SWEETSER ROAD
at Rogers
SYCAMORE DRIVE
at Hickory
TALBOT ROAD
at Cousins
TANGLEWOOD LANE
at West Main
TANNERY LANE
at Bowdoin
TENNEY STREET
at West Elm
TRANSFER STATION ROAD
at East Main
TREATMENT PLANT ROAD
at Princes Point
UPLAND LANE
at Rainbow Farm

Opp. Spar Circle

VILLAGE BROOK DRIVE
at West Elm

WATERS EDGE DRIVE

at Bayview

WATSONS CIRCLE

at Rand

WEST ELM STREET

at Main

WHARF ROAD

at Cousins

WINDING WAY

at Portland

WILLOW STREET

at Bridge (Both southbound and northbound)

at East Main

at Route 1

WOODBURY STREET

at Cumberland

WOODLAND DRIVE

at Bayview

WOODS CIRCLE

at Portland

YANKEE DRIVE

at Willow

at East Main

YARMOUTH HIGH SCHOOL DRIVE

at Portland

YARMOUTH WOODS ROAD

at Route 1

at Route 1

YORK

at Main

APPENDIX B SCHEDULE OF ONE-WAY STREETS

The following streets, ways or roads shall be traveled on in one direction only. (See ARTICLE III, Section III.F.)

BARLETT CIRCLE – Counterclockwise

LITTLEJOHN ROAD – Northeast from Map 61, Lot 19 to Dartmouth Street

OLD SHIPYARD ROAD (TOWN LANDING) – shall be one-way counter clockwise beginning and ending at a point approximately 450ft northerly of the town landing parking and boat launch area.

APPENDIX C SCHEDULE OF YIELD SIGNS

The intersections of the following streets, ways and roads shall be marked with yield signs. (See ARTICLE III, Section III.I.)

SCHOOL at Route One
SEABORNE at Drinkwater Point
YORK at Route One

APPENDIX D SCHEDULE OF PUBLIC WAYS

The following streets, ways or roads are restricted from use by overweight vehicles. (See ARTICLE III, Section III.J.)

All of NEWELLROAD – South Street from Main to West Elm

GILMAN ROAD from Route 88 to Princes Point Road

LITTLEJOHN ROAD – Northeast from Map 61, Lot 19

BARTLETT CIRCLE – Counterclockwise

APPENDIX E

SCHEDULE OF SPECIAL PARKING REGULATIONS

The following special parking regulations are herewith established. (See ARTICLE IV, Section IV.Q.)

Access Road for Yarmouth High School	No parking either side.
Bayview Street	No Parking on either side from the intersection with East Main Street easterly a distance of 350 feet.
Baywood Lane	No parking within 50 ft. of the intersection at the westerly end of the public way.
Center Street	No parking adjacent to triangular lot in the middle of Center Street where it adjoins Main Street.
Center Street:	No parking either side nearer than twenty five (25) feet from the intersection of Main Street.
Cleaves Street	No parking either side from the Town Hall rear entrance to Main Street. No parking on the southerly side from the Town Hall rear entrance to the railroad crossing. Cousins Street: No parking either side from the intersection with Wharf Road to the intersection with Shoreview Drive.
Cousins Street:	No parking either side from the intersection with Wharf Road to the intersection with Shoreview Drive.
East Elm Street (both sides)	Parking limited to 30 minutes (both sides) from a point 30 feet northerly of the intersection with Main Street and running northerly a distance of 150 feet.

East Elm Street	No parking either side from Main Street for a distance of thirty feet (30')
East Elm Street (both sides):	Parking limited to 30 minutes (both sides) in designated spaces northerly of the intersection with Main Street and running northerly a distance of 150 feet.
East Elm Street (both sided):	No parking from the 30 minute designated spaces to Melissa Drive, except in designated spaces.
East-Elm Street	No parking east side from Melissa Drive to Maine Central Railroad tracks. Westerly side to Riverbend Drive.
High Street	No parking on the southerly side from the intersection with Portland Street to the intersection with Sandy Brook Lane.
Lafayette Street	No Parking on the easterly side from a point at the northerly limit of the I-295 overpass to a point a distance of 200 ft northerly
Littlejohn Island Road	No parking on either side except in designated locations. From May 1 to November 30 annually, five (5) designated spaces near the_municipal dock shall be restricted to residents only and further restricted to parking from 6:00 A.M. until 9:00 P.M. daily. Persons parking or leaving a vehicle in one of the five (5) designated spaces must display a window sticker permit issued by the Town of Yarmouth, which window sticker may be the same evidence of residence for access

to the municipal recycling center or for other similar purposes. There shall be no charge for issuance of such parking permit window stickers. For purposes of this regulation only "resident" shall include any legal resident or property taxpayer of the Town of Yarmouth, Maine or legal resident of the Town of North Yarmouth, Maine or any person issued a current mooring permit for the Littlejohn Island designated municipal mooring area by the Yarmouth Harbormaster. The Town Manager may provide for issuance of a window sticker parking permit of specially designated design or color, as determined by the Town Manager for any mooring permit holder or North Yarmouth resident eligible for such permit, who may not otherwise be eligible for a general purpose window sticker as described above.

From May 1 to November 30 annually one (1) designated space near the municipal dock shall be restricted to permit-holders only, and further restricted to parking from 6:00 A.M. until 9:00 P.M. daily. Parkers must display a daily permit windshield placard or tag issued on a first-come, first-served basis at the Yarmouth Police Department, or other location designated by the Yarmouth Town Manager. There shall be no charge for issuance of parking permits, but a refundable deposit shall be

required. Advance reservations of permits shall not be accepted and permits shall not be issued prior to 5:45 A.M. Residence or mooring holder status shall not be a prerequisite for issuance of a daily permit.

Madeleine Point Road

No parking on either side from Cousins Street to Benjamin Way except in designated spaces. Parking within 250 feet of the intersection with Benjamin way shall be restricted to Yarmouth residents only and Madeleine Point mooring holders:

Parking nearest to the municipal dock shall be designated and marked as follows: One (1) space to be reserved for handicapped parking only; three (3) spaces to be reserved for Commercial Fishermen Only (Monday through Saturday); two (2) spaces to be reserved for 2 hours or less only; and one (1) space to be reserved for 15 minutes.

Main Street

No parking either side from Lafayette Street to a point 10 feet beyond fire hydrant at top of hill.

Main Street

No parking between signs from a point east of the fire hydrant to a point in front of #73 Main Street. Both sides.

Main Street

No parking for more than two (2) hours between Elm and Center Streets from 8:00 AM to 5:00 PM Sundays and Holidays excepted.

Main Street	No parking nearer than thirty (30) feet from the corner of East and West Elm Streets
Main Street	No parking within thirty (30) feet of the intersection with Bridge Street
Main Street	No parking within thirty (30) feet of the intersection with Mill Street.
Main Street	At Portland Street – no parking either side nearer than thirty (30) feet from corner of Main Street
Main Street (Southerly side)	No parking for more than thirty (30) minutes between Portland Street and Marina Road from 8:00 AM to 5:00 PM, Sundays and holidays excepted.
Main Street (Northerly side)	No parking for more than two (2) hours between Portland Street and Marina Road from 8:00 AM to 5:00 PM, Sundays and holidays excepted.
Main Street (West side)	No parking for more than thirty (30) minutes between Portland Street and Marina Road between 8:00 A.M. and 5:00 P.M. Sundays and holidays excepted.
Main Street (In front of Town Hall)	No parking either side from intersection of Cleaves Street and School Street easterly a distance of 200 feet.
Main Street	At Cleaves Street – no parking any time from Cleaves Street easterly to entrance to Police Department.
Main Street	No parking any time from the corner of Cleaves Street westerly

	to a point in front of Hancock Lumber both sides.
Main Street (across from Key Bank)	No parking on the northerly side of Main Street from the intersection of York Street westerly a distance of fifty feet (50')
Main Street	At School Street – no parking any time easterly of corner of School Street.
Main Street	All permitted parking on east side of street southeasterly of East Elm Street to first driveway shall be limited to fifteen (15) minutes and no delivery vehicles.
Main Street	Except as otherwise provided no parking for more than two (2) hours between East Elm Street and a point in front of Hancock Lumber. Both sides between 8:00 A.M. and 5:00 P.M. Sundays and holidays excepted. Both sides.
Marina Road	No parking both sides from Main Street to Lafayette Street except in designated marked spaces.
McCartney Street	No parking either side from West Elm to stop sign at the traffic circle in front of elementary school.
Meadow Way	No parking on either side from Granite Street to a point opposite of #170. All parking westerly of said point shall be limited to the hours of one hour before sunrise and one hour following sunset of the same day in designated area.

Melissa Drive	No parking along the southerly side of the street from the intersection with East Elm St to point opposite the intersection of Stockbridge Rd;
Melissa Drive	No parking along the northerly side of the street from the intersection with East Elm St to a point easterly 450 feet along Melissa Drive.
Mill Street	No parking on left coming from Main.
Mill Street	No parking on either side.
North Road	No parking on either side from the easterly side of the Public Works Garage to Melissa Drive.
Old Shipyard Road	No parking on either side – tow away zone.
Park Street	No parking on either side, except that parking shall be permissible from sunrise to sunset in three (3) designated spaces at the easterly end of the roadway.
Patty Lane	No parking on the easterly side between the entrance to the Latchstring Park parking area and the intersection with Main Street
Portland Street	No parking either side nearer than thirty (30) feet from Corner of Main.
Portland Street	No parking anytime either side from Main Street to Mayberry Lane except in designated marked spaces.

Portland Street	Two parking spaces on the easterly side of Portland Street nearest the intersection of Main Street shall be restricted to 30 minutes parking only from 8:00 AM to 5:00 PM; Sundays and holidays excepted.
Route 88 (Spring Street)	No parking on eastern side from intersection of East Main Street to Bayview Street.
School Street	No parking between Main Street and Route One.
Storer Street	No Parking on either side.
Talbot Road	No Parking either side, except that parking shall be permissible between 5:00 Am and 9:00 PM daily in that portion of Talbot Road outside the traveled way on Cousins Island immediately adjacent to the causeway to Littlejohn Island.
Town Landing	No overnight parking except by permit of the Harbormaster.
US Route One	No parking on the east side between the two entrances to Yarmouth Green.
US Route One	No parking from Day's Crabmeat to Freeport town line.
West Elm Street	No parking either side from Main to entrance to Latchstring Park.
West Elm Street	No parking along curb from Main Street to Yarmouth High School.
West Main Street	At East Elm and West Elm Streets – no parking any time to intersection of Bates Street.

Wharf Road

No parking either side from
Cousins Street to Wharf.

APPENDIX F SCHEDULE OF FINES

Persons charged with a violation of parking regulations set forth in ARTICLE IV of the Traffic Ordinance may waive court action of said violation by payment of the following specified fee within seven (7) days of the date of said violation.

First Offense	\$ 15.00
Second and each subsequent offense within a one-year period	\$ 30.00

First Offense for Parking too Close to a Fire Hydrant, Violation of Snow Removal, and Handicapped Areas	\$ 25.00
Second and each subsequent offense within a one-year period.....	\$ 50.00

Impoundment (Boot) Removal Fee	\$ 50.00
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APPENDIX G

SCHEDULE OF TOWN TURN-AROUNDS

The following streets, ways, roads are restricted from parking in the Town turn-around.
(See Article IV, Section 18.B.)

Astilbe Lane
Autumn Lane
Berryfield Road
Broad Arrow Trail
Cleaves Street
Eider Point Road
Essex Drive
Fairwind Lane
Fillers Lane
Gables Drive
Granite Street Extension
Grist Mill Lane
Hayfield Road
Hillcrest Avenue
John Howland Drive
Kelley Drive
Landing Woods Road
Lone Pine Lane
Madison Drive
Mast Lane
Odel Way
Old Field Road
Sand Piper Cove Road
Sarah Goud Road
Sea Meadows Lane
Stockbridge Drive
Sunset Point – Pump Station
Sycamore Drive
Tanglewood Lane
Tenny Street
Upland Lane
Winding Way
Woodland Drive

CHAPTER 603

DIRECTIONAL SIGN ORDINANCE

Town of Yarmouth, Maine
Recodified: 1/15/98

CHAPTER 603

DIRECTION SIGN ORDINANCE
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DIRECTION SIGN ORDINANCE

ARTICLE I

A. TITLE

This Ordinance shall be known as the Directional Sign Ordinance of the Town of Yarmouth, Maine.

B. PURPOSE

The purpose of this Ordinance is to promote the health, safety and general welfare by (1) providing tourists, travelers and other users of the public ways in the Town of Yarmouth with information and guidance concerning public accommodations, facilities, commercial services and points of scenic, cultural, historic, educational, recreational and religious interest; (2) reducing visual distractions which pose a hazard to drivers of motor vehicles and other users of the public ways; and (3) preserving, enhancing and protecting the natural scenic beauty and other aesthetic features of the Town.

C. AUTHORITY

This Ordinance is enacted pursuant to 30 M.R.S.A., Sections 1917 and 2151, and 23 M.R.S.A., Section 1922, as amended and supplemented to date.

D. DEFINITIONS

1. Sign. Sign means any structure, display, logo, device or representation which is designed or used to advertise or call attention to anything, person, activity or place and is visible from any public way.
2. Directional Sign. Directional sign means any Official Public Directional Sign or Official Business Directional Sign as defined herein.
3. Official Public Directional Sign. Official Public Directional Sign means a sign erected and maintained in accordance with the Maine Traveler Information Services Act, 23 M.R.S.A., Sections 1901-1925, which provides a Welcome to Yarmouth.
4. Official Business Directional Sign. Official Business Directional Sign means a sign erected and maintained in accordance with the Maine Traveler Information Services Act, 23 M.R.S.A., Sections 1901-1925, which points the way to public accommodations and facilities, commercial services for the traveling public, and points of scenic, historical, cultural, recreational, educational and religious interest. All such accommodations, facilities, services and points of interest must be located within the Town of Yarmouth, and must be principal uses in Yarmouth as defined in the Yarmouth Zoning Ordinance or within five (5) miles radius of said sign if the business is located outside the corporate boundaries of Yarmouth.

5. Group Sign Board. Group Sign Board means an Official Business Directional Sign which consists of two or more Component Signs.
6. Component Sign. Component Sign means an Official Business Directional Sign which points the way to only one public accommodation, facility, commercial service or point of interest, and is placed within a Group Sign Board.
7. Individual Directional Sign. Individual Directional Sign means an Official Business Directional Sign which points the way to only one public accommodation, facility, commercial service or point of interest, and which is not placed within a Group Sign Board.

ARTICLE II

A. SIGN REGULATIONS

1. Compliance with Ordinance, Statute and Regulations.
No person may erect or maintain any Directional Sign visible from a public way in the Town of Yarmouth except as provided in this Ordinance. All Directional Signs erected or maintained in the Town of Yarmouth shall also comply with the provisions of the Maine Traveler Information Services Act, 23 M.R.S.A., Sections 1901-1925 and any regulations of the Maine Department of Transportation promulgated thereunder.

B. SIZE, SHAPE AND COLOR

1. Official Public Directional Signs shall be 48 inches tall by 48 inches wide, shall bear the words "Welcome to Yarmouth" and the logo of a clipper ship. Lettering shall be white on blue background.
2. Group Sign Boards shall be 48 inches tall by 48 inches wide, except that upon the recommendation of the Town Manager and approval by the Town Council, a Group Sign Board may be 82 inches tall and 82 inches wide. Group Sign Boards shall bear the logo of a clipper ship and shall contain two or more Component Signs which shall comply with the requirements of subsection 3 of this Section.
3. Individual Directional Signs and Component shall be 8 1/2 inches tall by 40 inches wide. They shall bear the name of one public accommodation, facility, service or point of interest and directions pointing the way to such public accommodation, facility, service or point of interest. Lettering shall be on a single line and shall be reflectorized white on blue background. No logos or symbols shall be allowed.

C. LOCATION

All Directional Signs shall be located on public property. The location of Official Public Directional Signs and Group Sign Boards shall be determined by the Town Manager subject to approval by the Town Council. Location of Individual Directional Signs shall be determined by the Yarmouth Building Inspector, subject to review by the Town Council pursuant to Section III.A.2 of this Ordinance. Individual Directional Signs shall only be located where the traveler must change directions from one public way to another to reach the business.

D. INSTALLATION AND REMOVAL

The Yarmouth Public Works Department will be responsible for installation and removal of Directional Signs in accordance with this Ordinance. All Directional Signs which do not conform to this Ordinance shall be removed forthwith.

E. INSPECTION

The Building Inspector is responsible for inspection of all Directional Signs.

F. REPAIR AND REPLACEMENT

Any Directional Sign erected pursuant to this Ordinance which is lost, stolen, defaced, or deteriorated shall be repaired or replaced by the Public Works Department upon notification by the Building Inspector. The cost of such repair or replacement shall be charged as provided in Section III.D of this Ordinance.

ARTICLE III

A. PERMITS

1. Application. Any person wishing to have an Official Business Directional Sign erected shall make application for a permit to the Yarmouth Building Inspector on a form approved by the Building Inspector.
2. Issuance of Permits, Standards. The Building Inspector shall issue a permit if he/she determines that there is a need for such Official Business Directional Sign to guide the traveling public, to avoid confusion, or to reduce or eliminate a safety risk. If the Building Inspector determines that there is no such need, then he/she shall deny the application and forward the same to the Town Manager, who shall place the application on the agenda for the next regular meeting of the Yarmouth Town Council. The Town Council shall then determine whether or not there is a need for the sign to guide the traveling public, to avoid confusion, or to reduce or eliminate a risk, and shall grant or deny the application accordingly. No Individual Directional Signs for businesses on Main Street and Route 1 shall be located on Route One.
3. Limitation on Number of Signs. The Building Inspector shall issue no more than four (4) permits for Individual Directional Signs for any one public accommodation, facility, service or point of interest. Any person who wishes to

erect more than four (4) Individual Directional Signs shall make written application for such additional signs to the Town Manager, who shall place such application on the agenda for the next regular meeting of the Yarmouth Town Council. The Town Council shall issue permits for such additional signs if it determines that there is a need for more than four (4) Individual Directional Signs to guide the traveling public, to avoid confusion, or to reduce or eliminate a safety risk.

B. FEES

1. Permit Fees. The Town of Yarmouth shall collect an annual fee as follows for each permit issued pursuant to this Ordinance.
2. \$30.00 for each Component Sign.
3. \$30.00 for each Individual Directional Sign.
4. The appropriate fee shall be submitted with each application for a permit or renewal of a permit under this Ordinance.

C. RENEWAL

Renewal. Permits issued pursuant to this Ordinance shall be valid through the 31st day of December of the year of issuance, and may be renewed by submitting a renewal application on a form approved by the Building Inspector together with the appropriate application fee to the Building Inspector on or before December 31st of the year of issuance. If, upon the receipt of any renewal application, the Building Inspector determines that there is no longer a need for the sign or signs to guide the traveling public, to avoid confusion, or to reduce or eliminate a safety risk, then the Building Inspector shall deny the renewal request and forward the same to the Town Manager for determination by the Town Council in the manner prescribed in subsection III.A.2 of this Ordinance. Any permit which is not renewed shall expire on the first day of January of the year following the year of issuance.

D. COSTS

The Town of Yarmouth shall provide and pay for Official Public Directional Signs and the posts and frames of Group Sign Boards. Applicants for permits for Official Business Directional Signs shall pay for the Component Signs to be placed within Group Sign Boards, and the posts, frames and signs for Individual Directional Signs. The costs of erecting Individual Directional Signs and placing Component Signs within a Group Sign Board shall be paid by the applicant.

ARTICLE IV

A. VALIDITY AND PENALTY

1. Validity and sever ability. In the event that any section, subsection or portion of this Ordinance shall be declared by any court to be invalid for any reason, such a decision shall not affect the validity of the other sections, subsections or other portions of this Ordinance.
2. Penalty. Whoever violates any of the provisions of this Ordinance shall, upon conviction thereof, be punished by a civil penalty not to exceed one hundred dollars (\$100.00). Each day of a violation of this Ordinance shall constitute a separate offense.

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RIGHT OF WAY ORDINANCE

Town of Yarmouth, Maine

Street Opening Ordinance repealed and replaced with Right of Way Ordinance
10/15/1998

Amended: 5/18/2006

Amended: 6/18/15

RIGHT OF WAY ORDINANCE

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RIGHT OF WAY ORDINANCE

ARTICLE I

A. INTENT AND PURPOSE

The purpose of this Ordinance is the regulation of the use of public Right of Ways in the interest of public safety and convenience, and the operation and protection of public works infrastructure. Excavation and restoration standards are required to preserve the integrity, operational safety, and function of the public Right of Way.

B. ADMINISTRATION

The Director is the principal Town official responsible for the administration of the Right of Ways, Right of Way Permits, and the ordinances related thereto. The director of the public works authority shall establish Rules & Regulations governing street excavations and implementing this ordinance. The Director may delegate any or all of the duties hereunder.

C. DEFINITIONS

The following words and phrases, when used in this ordinance, shall have the meanings respectively ascribed to them:

Dig Safe shall mean the "Underground Protection of Facilities Act," commonly known as the Dig Safe law, found at 23 MRSA § 3360-A. Any excavation undertaken or authorized by this ordinance shall comply with all requirements of this law. In the State of Maine a One-Call system has been established for obtaining locations of underground facilities prior to excavation. The utilities required to join the One-Call Dig Safe system include those who furnish electricity, gas, oil, cable TV, telephone, or telegraph services by underground lines. Utilities not required to join are water districts, sewer districts, municipal underground facilities, and utilities having fewer than 5 full-time employees or fewer than 300 customers. The excavator is solely responsible to notify all possible utilities with underground facilities at least 3 full business days prior to the start of any excavation, trenching, or boring work.

Director shall mean Public Works Administrator and/or designee as assigned by issuing authority.

Emergency shall mean any event which may threaten public health or safety, including, but not limited to, damaged or leaking water or gas conduit systems, damaged, plugged, or leaking sewer or storm drain conduit systems, damaged underground electrical and communications facilities, or downed overhead pole structures.

Excavate shall mean to dig into or in any way remove or physically disturb or penetrate any part of a Right of Way.

Facility or Facilities shall mean any tangible asset in the Right of Way required to provide Utility Service.

Licensed excavator shall mean any person who has been issued a license by the Town to excavate in public places in the Town.

Newly constructed, reconstructed or rehabilitated streets shall mean any street that has been newly constructed, reconstructed or rehabilitated within the past five-(5) years.

Permittee shall mean a person who has obtained a permit as required by this ordinance.

Person shall mean any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

Pole placement shall mean an excavation associated solely with a single placement or replacement of a utility pole.

Public place shall mean any public street, way, place, alley, sidewalk, park, square, plaza, or any other similar public property owned or controlled by the Town and dedicated to public use, and any dedicated-but-unaccepted street or way.

Rehabilitation shall mean that activity of work on any street which provides structural improvement having a minimum service life of fifteen (15) years with minor maintenance, which includes pavement overlay of one and one-half (1½) inches minimum depth, and partial or full depth reconstruction.

Right of Way shall mean the area on, below, or above a public roadway, highway, street, cartway, bicycle lane and public sidewalk in which the Town has an interest, including other dedicated Right of Ways for travel purposes and utility easements of the Town. A Right of Way does not include the airwaves above a Right of Way with regard to cellular or other non-wire telecommunications or broadcast service.

Rules & Regulations shall mean the Director of the public works authority shall establish rules & regulations governing street excavations and implementing this ordinance. The Director may delegate any or all of the duties hereunder.

Substructure shall mean any pipe, conduit, duct, tunnel, manhole, vault, buried cable, or wire, utility system appurtenance, or any other similar structures located below the surface of any public place.

Town shall mean Town of Yarmouth and/or its Public Works Authority.

Utility shall mean a public utility, as defined in 35-A M.R.S.A. § 102 as it may be hereinafter amended and shall specifically include the non-regulated activities of such a utility.

D. PROTECTIVE MEASURES AND ROUTING OF TRAFFIC

- (a) **Safe crossings.** The permittee shall in general maintain safe crossings for two (2) lanes of vehicle traffic where possible and safe crossings for

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pedestrians at intervals of not more than two hundred (200) feet. If any excavation is made across any public street, alley or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least forty-eight inches (48") in width shall be maintained along such sidewalk line.

- (b) **Barriers and warning devices.** It shall be the duty of every permittee cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for safety of the general public. Traffic control near all excavations affecting vehicular, pedestrian and other traffic shall be subject to final review and approval of the Director. Barriers, warning signs, lights, etc., shall conform to the latest edition of the "Manual on Uniform Traffic Control Devices" (MUTCD).
- (c) **Normalization of traffic conditions.** The permittee shall take appropriate actions to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.
- (d) **Closing of streets.** When traffic conditions permit, the Director, with the approval of the police department of the Town, may by written approval (or by verbal approval in the case of emergency), permit the closing of streets and alleys to all traffic for a period of time prescribed by him or her, if in his or her opinion it is necessary. The written approval of the Director may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given. In case of emergency work during non-business hours, the utility company having such emergency shall contact the Town Dispatch Center at 846-3333 before closing a street to traffic.
- (e) **Warning signs to channel traffic.** Warning signs shall be placed in accordance with the applicable section of the most current edition of the MUTCD in advance of the construction operation to alert traffic within a public street, and cones or other approved devices shall be placed to safely channel traffic, in accordance with the instructions of the Director, after his or her review of the proposed traffic control measures for the project.
- (f) **Special police protection for interference with school walks route map.** The permittee shall hereby be informed that the Town has or may have a "school walk route map", and that the Director will require special police protection at locations where the permittee, by his or her work, interferes with these designated school walk routes or crossing locations. Copies of school walk route maps for various locations in the Town may be procured from the Director.
- (g) **Interference with arterial streets.** Construction activities (unless an emergency condition exists) shall not interfere with the normal flow of traffic on arterial streets of the Town. A list of arterial streets shall be kept at the offices of the public works authority.

E. RELOCATION AND PROTECTION OF UTILITIES

The permittee shall not interfere with any existing facility without the written consent of the Town and the owner of the facility. If it becomes necessary to relocate an existing facility, this shall be done by its owner. No facility owned by the Town shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee. The cost of moving privately owned facilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the facility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across the work. The permittee shall secure approval of method of support and protection from the owner of the facility. In case any of the pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure, the permittee shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee. It is the intent of this section that the permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such facility damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The Town shall not be made a party to any action because of this section. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage.

The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, traffic signal cables and loops and all other vital equipment as designated by the Town and/or Dig-Safe.

F. ABANDONMENT OF STRUCTURE

- (a) Whenever the use of a substructure is abandoned or becomes an unusable facility, except the abandonment of service lines designed to serve single properties, the person or utility owning, using, controlling, or having an interest therein, shall within thirty (30) days after such abandonment, file with the Town a statement in writing giving in detail the location of the substructure so abandoned. If such abandoned substructure is in the way, or subsequently becomes in the way, of an installation of the Town or any other public body, the owner of such substructure, after having been contacted by the excavator, shall establish if the substructure is abandoned and make the first cut or tap before allowing the substructure to be removed by the excavator.
- (b) When gas or other flammable service to buildings is discontinued, the existing service line for such service shall be terminated at a point outside the building.

G. PROTECTION OF PUBLIC PROPERTY

- (a) The permittee shall not remove, even temporarily, any trees or shrubs which exist in a public place without first obtaining the consent of the appropriate Town department or Town official having control of such property.
- (b) Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point, or a permanent survey bench mark within the Town, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the Town to do so. Permission to remove or disturb such monuments, reference points or benchmarks shall be granted only when no alternate route for the proposed substructure or conduit is available. If the Town is satisfied that no alternate route is available, permission shall be granted only upon condition, by an agreement in writing, that the person or utility applying for such permission shall pay all expenses incident to the proper replacement of this monument by the Town.
- (c) No person or utility shall remove, damage, haul away or cause misalignment of any curbing, including radius curb and catch basin, stones, for any reason whatsoever without first receiving written permission from the Town.
- (d) No person or utility shall remove, damage, haul away, or otherwise disturb any manhole and/or catch basin castings, frames, and/or covers owned by the Town without first receiving written permission from the Town. Any manhole and/or catch basin castings, frames and/or covers missing, damaged, or disturbed shall be repaired and/or replaced by the Town, and the cost will be charged to the permittee.

H. PROMPT COMPLETION OF WORK

After an excavation is commenced, the permittee shall carry out with diligence and expedition all excavation work covered by the permit and shall promptly complete such work and restore the street or sidewalk as specified in this ordinance and the Rules & Regulations enacted by the public works authority. The permittee shall perform such restoration work so as not to obstruct, impede or create a safety hazard to public travel.

All excavations shall be covered or backfilled at the end of each workday. Covered shall mean steel plated over the entire trench plus 2' around the edges. The steel shall be of strength to hold pedestrian traffic. Barriers approved by the Director must be installed if the excavation is to be plated.

All road trenches must be paved within 24 hours of opening. All driveway crossings must be paved within 48 hours of opening.

I. URGENT WORK

When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the Town shall have the full power to order, at the time the permit is granted, that a crew and adequate facilities be employed by the permittee beyond normal working hours, including up to twenty-four (24) hours a day, to the end that such excavation work may be completed as soon as possible.

J. EMERGENCY ACTION

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Nothing in this ordinance shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe which may be a threat to life or property, or for making emergency repairs, provided that the person making such excavation shall apply to the Town for such a permit on the first working day after such work is commenced. Before any excavation work is started, the person or utility excavating must contact all utilities for on the spot locations.

K. NOISE, DUST AND DEBRIS

Each permittee shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. To the fullest extent practicable, the permittee shall act to reduce noise, dust, and unsightly debris in the performance of the excavation work. Excavation work, including the use of any tool, appliance, or equipment, shall be performed between the hours of **7:00 a.m. and 7:00 p.m. only**, exclusive of emergency work. Time waiver requests may be submitted to the public works authority for work outside of this time period and will be subject to neighborhood concerns. ***Excavation work shall not occur on Sundays, holidays or on major holiday weekends***, unless expressly authorized by the public works authority or as a result of emergency need.

L. EXCAVATIONS DURING WINTER

- (a) No person or utility shall be granted a street opening permit or open any street or sidewalk from the time of November 1st of each year to April 15th of the following year unless an emergency or special condition exists and permission is obtained in writing from the Town.
- (b) Any person or utility wishing to obtain a street opening permit between these aforementioned dates shall first explain fully in writing the emergency situation or special condition existing to the Town before a permit may be granted. If an emergency condition which could endanger life or property exists, excavation work shall not be delayed by this section; however, a written explanation shall be delivered to the Town as soon as possible and a street opening permit obtained for the opening made. A moratorium surcharge shall be added to the regular permit fee for any permit issued between the aforementioned dates for an excavation that is not due to an emergency condition.
- (c) For the purpose of this section, an emergency shall be defined as one of the following: damaged or leaking water or gas conduit systems, damaged, plugged or leaking sewer or storm drain conduit systems, damaged underground electrical and communications facilities, or downed overhead pole structures; all remaining excavations will be considered non-emergency situations and may only be authorized upon written documentation of special circumstances.

M. RESTORATION OF STREETS AND SIDEWALKS

All street and sidewalk restorations, including temporary and permanent work within any street shall be performed by and at the Permittee's sole expense and in accordance with the Town's code of ordinances and according to the Rules & Regulations promulgated by said authority pursuant to Section 1-2 of this code. All

repairs and restoration work shall be completed by the Permittee in a manner and to the extent deemed acceptable to the Director.

N. WARRANTY OF WORK

The permittee shall, for a period of two (2) years thereafter, be fully liable for all defects in materials and workmanship relating to such replacement or realignment and shall promptly repair or replace the same upon notice of the public works authority and to the satisfaction thereof.

A. Pavement repairs guaranteed by each permittee shall meet all of the following conditions in order to remain in conformance with this ordinance

- (1) The entire area shall be free from delamination of the approved surface material.
- (2) No distortion of one-half inch (1/2" or greater shall exist over more than five percent (5%) of the total surface area of the repair.
- (3) No cracks of one-quarter inch (1/4") or greater shall exist in the surface or edges of the repair totaling more than five percent (5%) of the repair perimeter.
- (4) The hot-mixed asphalt within the trench shall not be completely flushed and bleeding.

B. Non-conformance with any of the above conditions shall constitute a breach of guarantee and subject the permittee to remedial actions as provided in the Rules & Regulations.

C. Severe [over one inch (1")] distortion conditions shall be considered Tort liability and street defect conditions and shall necessitate that full repairs be completed within twenty-four (24) hours of notification by the Town.

O. LIABILITY OF TOWN INSURANCE

This ordinance shall not be construed as imposing upon the Town or any official or employee any liability or responsibility for damages to any person injured by the performance of an excavation work for which a permit is required under this ordinance, nor shall the Town or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any excavation work. In the case of a dedicated-but-unaccepted street or way, this ordinance shall not be construed as authorizing any action which is inconsistent with any private rights in said street or way, nor shall the issuance of any permit hereunder be construed as an acceptance of said street or way by the Town for highway or any other purposes.

For purposes of this section, every licensed excavator shall maintain at all times comprehensive general liability and property damage insurance coverage in a suitable amount, not less than \$300,000, protecting himself, his agents and the Town from all such claims for damages or injuries and naming the Town as an additional insured. All such insurance shall include, without being limited to; endorsements for completed operations and special hazards/underground collapse, and shall be primary to any insurance or self-insurance of the Town. Evidence of such coverage shall be a condition precedent to the issuance of any license hereunder and shall be submitted in a form satisfactory to the public works authority.

P. MAINTENANCE OF EXCAVATION AREAS

- A. If any part of any excavation, including the excavation, backfilling and repairs fails to conform with the standards of this chapter and the rules, the Town shall notify the permittee and require the appropriate corrective actions to be undertaken. Permittee shall take corrective action within twenty-four (24) hours after the issuance of notice if the failure could trigger tort liability or liability for a street defect, as defined in 23 M.R.S.A § 3651, et seq. In all other instances, permittee shall have a reasonable time as provided in section 1-21 to undertake corrective action.
- B. If the permittee fails to respond within the required time period, the Town shall cause the necessary repairs to be accomplished, and shall keep an account of the expense thereof, and in such case the permittee shall be billed an amount equal to one hundred fifty (150) percent of the whole of the expense incurred by the Town. Bills rendered in accordance with this section shall be due and payable by the permittee immediately upon receipt. The Town shall issue no further or new permits to the permittee until full payment of the billed costs have been received.
- C. If for any reason, the Town has to perform repair work to an excavation after the permittee's guarantee period has started, that guarantee period shall start over again upon completion of the repairs.

Q. INSPECTIONS

- A. The Town shall make such inspections as are reasonably necessary in the enforcement of this ordinance and the Rules & Regulations.
- B. The public works authority may order such actions as it deems necessary to ensure that this ordinance and the Rules & Regulations implementing it are not violated.
- C. In the event that any dispute exists as to the amount, nature, or scope of the work required under this ordinance or the Rules & Regulations, the decision and judgment of the responsible Town official will be final and binding unless appealed to or stayed by a court of competent jurisdiction.

R. TESTING REQUIREMENTS

The Town may order a test (at its own initial expense) on any subsequent restoration of a street excavation in order to determine if the work has been or is being completed in accordance with Town specifications and regulations. If the test shows the street restoration phase or phases to be in material violation of this ordinance and the Rules & Regulations, the permittee shall pay the cost of the testing and all required subsequent tests to verify the proper restoration in accordance with this ordinance and the Rules & Regulations.

S. MAINTENANCE OF DRAWINGS

Every person or utility owning, using, controlling or having an interest in substructures under the surface of the public way or public property, used for the purpose of supplying or conveying gas, electricity, communications, impulse, water,

steam, ammonia or oil in the Town, shall file with the Town a map or set of maps each drawn to a scale of not less than one (1") inch to fifty (50') feet, showing in detail the plan, location, size and kind of installation, if known, of all new or renewed substructures. These maps shall be provided to the Town no later than sixty (60) days after the completion date of construction in paper and in digital file form acceptable to the public works authority.

T. FEES AND CHARGES

- (a) Each street opening permit may be assessed two (2) fees; an administrative charge, a permanent pavement restoration charge.
 - (1) **Administrative:** This fee shall reimburse the Town for the direct cost of labor and equipment necessary to administer this ordinance and the Rules & Regulations and the rehabilitation of Town streets primarily due to excavations.
 - (2) **Permanent pavement restoration:** This fee shall cover the Town's cost of permanently restoring the disturbed pavement area and shall be based on the final measured size of each permitted street opening.
- (b) All fees shall be enacted annually by order of the Town Council. The public works authority shall endeavor to notify currently licensed excavators in advance of any fee revisions.
- (c) **Upon permit application, the administrative charge and the estimated permanent pavement restoration charge, a fee shall be paid to the street openings clerk unless waived by the public works authority as provided below. No permit shall be issued without appropriate payment of fees. Utility applicants in good standing shall be granted the option of being invoiced by the Town for these fees.**
- (d) Waiver of fees:
 - (1) To prevent untimely delays to construction activities within the limits of Town and/or MDOT planned reconstruction areas, the Town shall waive street opening repair charges for utilities and individuals having work to do in such areas until the time reconstruction takes place.
 - (2) The director may waive all permit fees in streets or sidewalk/driveway areas to contractors under contract to the Town or MDOT.
 - (3) To promote the use of tunneling, jacking, and boring technologies, permanent restoration and moratorium/remaining life fees will not be assessed to any excavation area achieved by these technologies which does not result in pavement damage.
 - (4) The Town Manager may authorize special waivers of permit fees if special conditions exist which can be supported by the director in writing.

U. VIOLATIONS

- (a) Any person or utility failing to comply with or violating any provision of this ordinance or the rules shall be served by the public works authority with written notice stating the nature of the failure or violation and providing a reasonable time limit for the necessary corrective actions. Such person or utility shall, within the period of time stated in such notice, permanently cease or correct all failures or violations.
- (b) In order to ensure public safety, the public works authority shall have the right to verbally notify and require immediate corrective actions of any person or utility whose failure to comply with this ordinance or the rules could cause a safety hazard.
- (c) Any person or utility who shall continue any failure or violation beyond the time limit required for compliance in any notice given pursuant to this ordinance or the rules shall be guilty of a violation of this ordinance.
- (d) Any person or utility violating any of the provisions of this ordinance or the rules shall be liable to the Town for any expense, loss, or damage occasioned by the Town by reason of such violation. The Town may seek injunctive relief for the purposes of enforcing this ordinance or the rules.
- (e) Any violation of this ordinance which is also a violation of 35-A MRS.A. § 2509 or 2511 or a violation of 23 M.R.S.A. § 3353 or 3355 shall subject the permittee or party to a fine as provided in said statutes, as said statutes may be amended from time to time.
 - (1) Any violation of this ordinance other than the violations of state law prescribed in the preceding paragraph shall subject the permittee or party to a \$50.00 fine per day for each day that a violation continues.
- (f) Any permittee or party who continues to violate any section of this ordinance or the rules and fails to correct violations in a timely manner shall receive no further permits and will be invoiced for permanent repairs until such time as the Town is satisfied that the permittee or party shall have corrected all violations in compliance with the terms of this ordinance and the Rules & Regulations.
- (g) The Town reserves the right to notify a permittee's insurance and/or bond carrier of repeated violations.
- (h) All roadway trenches must be paved within 24 hours of excavation and driveway trenches within 48 hours. All trenches not paved within this period of time will be in violation of this ordinance.

V. FAILURE TO OBTAIN A PERMIT

Failure to Obtain a Permit: Any person or utility found to be conducting any excavation activity within the public right-of-way without having first obtained the required permit(s) shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a permit before work may be restarted. A surcharge of two hundred fifty dollars (\$250.00) shall be required in addition to all applicable permit fees.

W. APPEALS PROCESS

- (a) Whenever a person shall deem themselves aggrieved by an order made by the public works authority, the person may file an appeal to the General Board of Appeals within ten (10) days of the date of the order, and the person shall be afforded a hearing on the matter before the General Board of Appeals, and unless by their authority the aggrieved order is revoked, such order shall remain in force and be forthwith complied with by the person.
- (b) In cases of applicability or interpretation of the rules, the General Board of Appeals may revoke such order made by the public works authority.
- (c) The General Board of Appeals has the authority to extend the time limit of any order, or grant exceptions to, waive requirements of, or grant a variance from the specific provisions of the rules, only upon giving due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

ARTICLE II

UTILITY LOCATION PERMIT

A. DEFINITIONS

Application: A written statement, requesting a location permit from the licensing authority, describing the work proposed by the applicant.

General Location (or permit area): That portion of the highway to be occupied or crossed by the proposed installation.

Specific Location Plan: A plan or sketch showing the location within the highway or the principal units of the proposed installation.

B. APPLICATION

The application is designed for publication without plans. The statement in the application must provide:

1. Description of the general location.
2. Description of the proposed installation.
3. Minimum depth below ground or height above ground.

Four copies of each application shall be submitted to **the Town Office, 200 Main St, Yarmouth Maine 04096.**

Any number of general locations and proposed installations may be included in one application. However, each general location and the applicable propose installation shall be stated separately.

C. PLANS

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Unless otherwise noted general location maps (provided by the Utility Section), 4 copies showing each or all general locations and specific location plans, 4 copies for each specific location, shall be submitted with the application.

An as-built survey of the Utility post construction to a scale of 40' = 1" on a 24" x 36" Vellum must be provided. A Digitized electronic drawing file copy, in an approved format, on a 3-1/2" inch floppy disk or CD will be required for larger projects as determined by the Town.

D. GENERAL LOCATION

The purpose of the general location (or permit area) description is to fix the location along the highway, to identify the highway system and to determine the licensing authority. The location shall be established by reference to a town line, readily identified intersection, major stream crossing, railroad crossing, or bridge number.

A general location map is required and shall be tied to the highway system. The map may be a photocopy of a portion of an accurate area map or sketch traced from such a map.

E. PROPOSED INSTALLATION

Describe the immediate proposed installation and the ultimate reasonable replacement or addition, which may be anticipated without seeking a new permit. Indicate the size, type and purpose of pipes, poles, voltage and phase of electrical line, number of cables or strands, etc. Mention hydrants, services, protective and supporting equipment and associated appurtenances or any other proposed utility not listed above.

In urban or congested areas, the proposed installation should be in compliance with the existing Municipal Construction Standards. If not, the application should be accompanied with a statement indicating reasons for non-compliance.

F. SPECIFIC LOCATION PLAN

The specific location plan or sketch shall show the location of the principal units of the installation. Longitudinal distances between control points, bends, manholes, poles, etc. shall be given. Offset distances from the highway centerline, edge of pavement, curb or other well-defined applicable reference shall be given. Offsets shall be to the centerline of underground installations. Offsets shall be in feet and inches to the near side of poles, hydrants, etc, which are less than 10 feet from the face of curb or outer edge of shoulder. The safety minimum offset for the location is acceptable for all poles, which will be at, or beyond that offset. Edge of traveled way or assumed Right of Way lines, and other pertinent highway features shall be indicated.

A separate specific location plan shall be submitted for each proposed installation. No more than two highways should be shown on one sheet.

G. SUPPORTING DATA

The application should contain or be accompanied by a statement indicating:

1. That a copy of the application has been given to the municipal officers.
2. The newspaper in which the application will be published.
3. Any proposed joint use or ownership of the facility.
4. Any existing facility or permit of the applicant at this location.
5. Any existing facility of others with which the proposed installations may conflict.
6. Person available to review proposed locations at the site. NAME, ADDRESS, TELEPHONE NUMBER
7. An as-built survey of the Utility post construction to a scale of 40' = 1" on a 24" x 36" Vellum must be provided. A Digitized electronic drawing file copy on a 3 ½ inch floppy disk or CD will be required for larger projects as determined by the Town. The Director shall approve the format of the digitized file drawing.

H. PUBLICATION

Per MSRA Title 35A Chapter 25 Section 2503, the applicant shall give public notice by publishing the text of the application once in a newspaper circulated in the municipality or municipalities encompassing the limits of the proposed location. The publication shall include a statement equivalent to the following: "Any person, firm, or corporation claiming to be adversely affected by this proposed location, shall file a written objection with the Town stating the cause of said objection within fourteen (14) days after the publication of this notice." Evidence of publication shall be submitted to the Town before a permit can be issued.

I. BRIDGES

If the installation is to be made on or close to a bridge, the application must be accompanied by plans showing the location, method of construction, clearances and other data pertinent to the safety and use of the bridge. For detailed requirements and more information of installations adjacent and/or attachments to bridges, please contact Bridge Maintenance, Maine Department of Transportation, in the Augusta office.

J. HIGHWAY CONSTRUCTION

In order that an adequate permit may be issued for the location of utility plant relocated because of highway construction or retained within the limits of highway construction, the utility shall submit a statement in substantially the same form and substance as an application for a Location Permit with these exceptions or additions the same form and substance as an application for a Location Permit with these exceptions or additions.

1. Reference shall be made to the highway construction project.
2. The specific location plan shall show highway stations, except for project for which highway construction plans are not available.

3. If highway construction is a federal aid project, the specific location plan shall show the normal edge of pavement, the curb or outside edge of shoulder, Right of Way line and other pertinent highway features.

If highway construction is in an urban or congested area the Municipal Construction Standards shall be followed with exceptions only if an undue hardship may be created.

K. APPLICATION

The Application shall be of sufficient detail to permit review without the need of a site visit.

L. PERMITS

As far as practicable, the utility's description and specific location plan will be made a part of the permit.

M. HIGHWAY CONSTRUCTION

Title 35A M.S.R.A. Section 2503 Ordinance 9 requires the licensing authority to issue Location Permit for facilities relocated because of highway construction

Highway construction changes the relationship between existing utility plant and the new highway without any utility relocation. The licensing authority should issue a Location Permit to confirm that any utility plant which has not been relocated does not impair the highway improvement or interfere with the free and safe flow of traffic.

When Right of Way is taken from a utility for highway Right of Way and the utility must, or chooses to, leave its plant in the public way, the licensing authority should issue a Location Permit as evidence of the legality of the location.

Federal regulations require the equivalent of the above wherever utility plant is to be retained, relocated or constructed within the limits of federal aid highway project.

N. WORK NOT REQUIRING A PERMIT

A new location permit is not required for:

- a. Replacements, repairs or reconstruction in place.*
- b. Additions provided for in the original permit.
- c. Improvements provided for in the original permit.
- d. Services.
- e. Hydrants, transformer, street lights, valves, switches, etc. and associated equipment.
- f. The applicant is advised to read the law for conditions under which a Location Permit is not required.

*If the existing installation appears to impair the highway improvement or to interfere with the free and safe flow of traffic, and if anything more than a minor replacement or reconstruction is planned the utility should move its plant to a location which is in compliance with the current standards.

O. ADVANCE INSTALLATION

A Conditional Location Permit for Utilities may be issued to allow a utility to be placed in advance of this permit process, but the applicant does so at his/her own Risk *. Any conditions, changes, re-locations resulting from the formal permit being issued will be the sole responsibility of the applicant for compliance. The Conditional Permit shall be issued in written letterform on a case by case basis. No formal Application is attached.

*However, if the existing installation appears to impair the highway improvement or to interfere with the free and safe flow of traffic and if anything more than a minor replacement or reconstruction is planned the utility should move its plant to a location which is in compliance with the current standards.

The Town objects to each application for a Utility Location Permit pending review by a representative of the Town. Issuance of the permit shall be evidence that the objection has been withdrawn.

ARTICLE III

STREET OPENING PERMIT

A. REQUIRED

No person or utility shall make any excavation, modify, or fill any excavation excluding previously permitted locations in any public place without first obtaining a permit to do so from the Town except as otherwise provided in this ordinance. Any excavation within the Town's streets, sidewalks, esplanades or other public Right of Way shall only be permitted in accordance with this code or the Rules & Regulations. The granting of such a permit shall cover all required activities to conform to this ordinance and the Rules & Regulations.

B. APPLICATION

1. No street opening permit shall be issued unless a written application on a form provided by the Town for the issuance of an street opening permit is submitted to the Town. The written application shall contain such information as reasonably required by the public works authority and identified in the Rules & Regulations. The permit shall expire thirty (30) days from the date of issuance.
2. In order to obtain a permit, the applicant must be current on all of its financial obligations to the Town.
3. All applicants with the exception of utilities in good standing as defined in the Town municipals standards or in accordance with the Rules & Regulations and shall be required to post a two (2) year bond or appropriate security deposit in order to apply for any permits.

C. GENERAL CONDITIONS

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Permits shall be granted only if the applicant has properly notified all utilities, contacted "Dig-Safe", and obtained an authorization number to proceed. Any conflicts with utilities shall be the sole responsibility of the applicant and shall be resolved to the utilities' satisfaction.

D. ANNUAL WORK PROGRAM TO BE SUBMITTED BY UTILITIES

Each year on or before **March 31st**, each utility shall submit to the public works authority its planned work program for the ensuing year, which shall not include emergencies defined in **ARTICLE III SECTION A** and normal house service lines. Thereafter, the Town shall have the right to deny permit applications for excavations not contained within each utility's respective planned work program, except for emergencies and house service lines.

E. DURATION

Excavation work must be started no later than thirty (30) days from the date of issue of the street-opening permit. After the expiration of this thirty- (30) day period, such permit shall become null and void unless renewed by the Director. Permits can be extended up to a maximum of one year at the discretion of the Director.

F. FEES AND CHARGES

Fees and charges shall be adopted by the Town Council.

G. BONDS

Bonds or deposits shall be required of all applicants other than utilities in good standing under the Town municipal standards or in accordance with the Rules & Regulations in order to guarantee their performance. Bonds shall be posted for a minimum of two (2) years and shall not exceed Twenty-five Thousand Dollars (\$25,000). The required bond value shall be equivalent to the estimated cost of the number of excavations performed in the previous season, or Twenty-five Thousand Dollars (\$25,000) whichever is less. Instead of a bond, an applicant may substitute a deposit equal to the anticipated cost of excavation repair for each application it seeks. Deposits shall be refunded upon approved completion of all conditions of this ordinance and the Town municipal standards or in accordance with the Rules & Regulations.

ARTICLE IV

DRIVEWAY/ENTRANCE PERMIT

A. PURPOSE

This Division provides for the review of any entrance onto a public way for compliance with sound construction and design practices to ensure that traffic safety, drainage and public improvements are not adversely affected. A permit is not required for paving, sealing, or repairs unless the driveway is relocated.

B. PERMIT REQUIRED

- A. No driveway, entrance or approach or other improvement within the limits of the Right of Way for any public road may be constructed, altered or relocated except in accordance with an Entrance Permit issued by the Town upon application.

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- B. The Town Council may establish the fee for such permit
- C. The entrance permit shall be valid for a period of twelve months from the date of original issue.
- D. No entrance, approach or other improvement constructed on the Right of Way shall be relocated or its dimensions altered without an Entrance Permit from the Town.
- E. The Owner is responsible for future maintenance of the entrance within the limits of the Right of Way and shall maintain the entrance in accordance with the approved permit.

C. TOWN HELD HARMLESS

The applicant shall hold harmless the Town and its duly authorized agents and employees against any action for personal injury or property damage sustained by reason of the exercise of an Entrance Permit.

D. APPROVAL CRITERIA

- A. General: Entrances should be designed and constructed to provide safe access to the public way. Applicants are encouraged to comply with the **“Access Management Handbook for Local Officials” as developed by the Maine Department of Transportation, 1994.**
- B. Applicant: The applicant for a permit shall be the owner of the property being served. Any driveway or approach constructed by the Owner shall be for the bonafide purpose of securing access to the Owner’s property and not for the purpose of parking or servicing vehicles on the road Right of Way.
- C. Sight Distance Criteria:
 - 1. All entrances shall be so located such that vehicles approaching or using the entrance will be able to obtain adequate sight distance in both directions along the public way or to maneuver safely and without interference with traffic.
 - 2. Measurements to determine sight distance shall be made in the proposed entrance at a point ten (10’) feet from the edge of shoulder line with the height of eye three and one-half (3.5’) feet above the pavement. The sight distance shall be computed from this point measuring along the roadway to a point where an approaching height of object four and one quarter (4.25’) feet is first seen.
 - 3. Driveway placement shall be such that an exiting vehicle has an unobstructed sight distance according to the following schedule

Highway Speed (MPH)	Minimum Sight Distance (in feet)
25	250
30	300

35	350
40	400
45	450
50	500
55	550

D. Geometry:

1. The entrance shall be designed such that the grade within the Right of Way does not exceed 10%.
2. For uncurbed public ways the entrance shall in general slope away from the road surface at a rate of not less than one quarter inch per foot, nor more than one inch per foot for a distance of not less than the prevailing width of the existing shoulder, but in no case less than four (4) feet from the edge of pavement.
3. The entrance should intersect the traveled way at a horizontal angle of 90 degrees but in no case shall the horizontal angle be less than 75 degrees.
4. No part of the entrance shall extend beyond the property lot frontage for the lot being served.
5. The entrance shall not be located close to an intersection and should be back at least 50 feet.

E. Drainage:

1. Existing roadside drainage in gutter or ditch lines shall not be altered or impeded by the applicant. The applicant must provide at his/her expense suitable and approved drainage structures at all entrances.
2. Surface drainage shall be provided so that all surface water on the areas adjacent to the road shall be carried away from the roadway.
3. Where a drainage culvert is required to maintain roadside drainage the Town must approve the pipe diameter/length and type pipe material prior to installation. In any case, the pipe size shall be at least 12 inches in diameter.

F. Construction:

1. The Owner is responsible for all construction and restoration of disturbed areas for the entrance within the limits of the Right of Way.
2. The entire portion of any entrance within the limits of the Right of Way shall be constructed with a minimum 15-inch well-grade gravel base course (MDOT Type C).
3. If the entrance grade within the Right of Way exceeds five (5%) percent slope then the entrance shall have a paved surface within the limits of the Right of Way.

G. Curb and Sidewalk:

1. When sidewalk or curb exists at the proposed entrance the applicant shall remove and replace such materials at the applicant's expense. Any granite curb to be removed by the applicant will remain the property of the Town.
2. Where curb exists, curb tip-downs shall be provided at each side of a new entrance.
3. Where sidewalk is removed to accommodate a new entrance a new walk surface of equal type construction is to be provided. The sidewalk area at all entrances is to meet handicap accessibility requirements and conform to the American with Disabilities Act guidelines. In general sidewalks shall meet the following:
 - (a.) The maximum sidewalk longitudinal transition slope is not to exceed 1 vertical to 12 horizontal.
 - (b.) The maximum sidewalk cross-slope is not to exceed 2%.
 - (c.) No abrupt changes in grade are permitted and the maximum curb reveal crossing a walkway is ½ inch or less.

APPENDIX A
SAMPLE UTILITY LOCATION PERMIT APPLICATION

**Town of Yarmouth
Public Works Department
Application for Utility Location Permit**

DATE_____

The _____(Name of Utility)

duly authorized under the laws of the State of Maine to construct, maintain and operate _

(Type of Utility)

within the Right of Way of highways within the State, hereby applies, pursuant to Title 35A M.R.S.A., Section 2503, as amended, (1967, 1973, 1987), for a Location Permit for the following installation in the Town

Description:

Minimum Depth of Cover _____
(If applicable)

“Any person, firm or corporation claiming to be adversely affected by this proposed location shall file a written objection with the Town, stating the cause of said objection within fourteen (14) days after the publication of this notice.”

* _____

The text of this application will be published:

NAME OF NEWSPAPER

By_____
SIGNATURE

*The entire application above this line.
is to be published

TITLE

APPENDIX B
SAMPLE STREET OPENING PERMIT APPLICATION

Town of Yarmouth
Public Works Department
APPLICATION FOR STREET OPENING

(For Office Use Only)

Application No.:

Date/Time

Received:-

Fee \$:

Applicant:		Contractor Performing Work:		Property Owner:	
		Same			
Address:		Address:			
		Same			
Applicant's Phone No.: 846-9917		Contractor's Phone No.:		Owner's Phone No.:	
24-Hour On Call Phone No.		Contact Person (if different from applicant)			
Location of Excavation: _____					Map Lot:
Purpose of Work:					
Proposed Starting Date	Proposed Completion Date	Dig Safe Ticket #	Except in an Emergency, no excavation is permitted from Nov. 1st of each year to April 1st of the following year.		

Describe Proposed Opening on Sketch Below or Attach Sketch or Plan to This Application

Show distance of opening from curb or pavement edge, width, depth and length of opening, nearest intersecting street, street numbers and abutting properties, existing utilities, proposed locations of barricades, warning signs, detour signs and detour routes.

--



Check here if sketch or plan is attached. Please reference the sketch or plan to this application.

Notice To Applicant

1. This form is an application only & no excavation work is to commence until the Street Opening Permit has been issued.
2. No excavation work is to commence until DIG SAFE and all underground facility operators have been duly notified of the work 3 business days in advance in accordance with the current State of Maine statutory requirements.
3. All work must conform to the requirements of the Street Opening Permit and the current copy of the "**Rules & Regulations**" as issued by the Town.
4. **Fee-** .Make Checks Payable to "Town of Yarmouth"
5. Final inspections required - See details on reverse side

Statement of Agreement

I am duly authorized to execute this application and have reviewed and will comply with the above. I further agree to comply with all requirements of the Street Opening Permit and agree to pay any subsequent charges which may become due as a result of my failure to comply with any of the permit requirements of the ROW Ordinance.

SIGNATURE OF APPLICANT _____

DATE: _____

APPENDIX C
SAMPLE DRIVEWAY/ENTRANCE LOCATION PERMIT APPLICATION

Town of Yarmouth
Public Works Department
APPLICATION FOR ENTRANCE

(For Office Use Only)
Application No.: _____
Date Received: _____

Applicant:		Contractor Performing Work:		Property Owner:	
Address:		Address:		Address:	
Applicant's Phone No.:		Contractor's Phone No.:		Owner's Phone No.:	
24-Hour On Call Phone No.			Contact Person (if different from applicant)		
Location of Entrance: _____ (Street/Box Number & Name of Street)					Lot Highway Frontage: _____ FT
Tax ID of Property:		Map Page:		Subdivision Name:	
		Map		Subdivision Lot:	
Lot:					

Principle Use of Property: ☐ Residential ☐ Other _____
☐ Commercial _____
 (Describe Use)

Detail Existing Entrances (distances in feet)

ID No	Width Entrance		Surface Type (Within Town Way)	Culvert <input type="checkbox"/>					Sidewalk <input type="checkbox"/>		Public Catch Basins	
	At Edge Of Road	At Property Line		Pipe Size	Pipe Type	Length	Depth of Cover	Edge of Road to Pipe Center	Curb Type	Surface Type	Yes	No
1												
2												

Detail Proposed Entrances (distances in feet)

ID No	Width Entrance		Surface Type (Within Town Way)	Culvert <input type="checkbox"/>					Sidewalk <input type="checkbox"/>		Replaces Exist Entrance ID No.
	At Edge Of Road	At Property Line		Pipe Size	Pipe Type	Length	Depth of Cover	Edge of Road to Pipe Center	Curb Type	Surface Type	
3											
4											

Proposed Starting Date	Proposed Completion Date	Dig Safe Ticket #
------------------------	--------------------------	-------------------

Application No.: _____

Describe Proposed Entrance(s) on Sketch Below or Attach Sketch or Plan to This Application

Show proposed entrance locations, width and arrangement; distance between entrances; setback (from edge of traveled way) of buildings, gasoline pumps, etc.; location of existing culverts, pipes, catch basins or manholes, curbing, gutter, and sidewalks; and the location of proposed culverts, ditches, curbing, and sidewalks.

☐ Check here if sketch or plan is attached. Please reference the sketch or plan to this application.

Notice To Applicant

1. This form is an application only & no entrance work is to commence until the Entrance Permit has been issued.
2. No excavation work is to commence until DIG SAFE and all underground facility operators have been duly notified of the work 3 business days in advance in accordance with the current State of Maine statutory requirements.
3. All work must conform to the requirements of the Entrance Permit and the current copy of the "**Rules & Regulations**" as issued by the Town.
4. Fee _____.

Statement of Agreement

I am duly authorized to execute this application and have reviewed and will comply with the above. I further agree to comply with all requirements of the Entrance Permit and agree to pay any subsequent charges which may become due as a result of my failure to comply with any of the permit requirements of the Right of Way Ordinance.

Signature of Applicant

Date

(For Office Use Only)

☐ Check here if Entrance Site Inspection Report is attached

APPENDIX D

FEES & PERMITS

STREET OPENING, SEWER, AND STORM DRAIN CONNECTIONS

A. Administrative / Inspection Fee

A fee of \$25.00 must be paid for the issuance of a Street Opening Permit and inspection of the work, plus the following charges which are hereby established as being not in excess of the reasonable cost of replacement and future shim of the openings in the public way.

B. Street Opening Charges – Per square Yard or Ln/Ft

Pavement Restoration Fee - Includes all pavement Surfaces (sidewalks, curbs & Streets)	\$ 75.00 Per SY
--	-----------------

Bituminous curbing (by itself)	\$15.00 per Ln/Ft
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Plain Gravel Surface - No Charge – Responsibility of applicant

Portland cement Concrete Sidewalk – No Charge – Responsibility of applicant

Grass Esplanade or Median Strip – No Charge – Responsibility of applicant

C. Minimum Charge

There is a minimum charge equivalent to 3 square yards for any pavement opening to be accessed at the appropriate unit rate above. For curbing, the charge is assessed for what is actually disturbed.

Inspections

All work associated with the Towns sewer and drainage system, including culverts and catch basins, require inspections by the Town prior to backfilling. All other work within the right of way that disturbs any of the items above requires an inspection when the project is completed. A 24 hr notice is required for inspections. Contact 846-4971 to schedule an inspection.

CHAPTER 605

STREET ADDRESSING ORDINANCE

Town of Yarmouth, Maine

Adopted 10/17/96

Effective 1/1/97

Recodified: 1/15/98

CHAPTER 605

STREET ADDRESSING ORDINANCE

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STREET ADDRESSING ORDINANCE

ARTICLE I

A. TITLE

This ordinance shall be known and may be cited as the Street Addressing Ordinance of the Town of Yarmouth.

B. PURPOSE

The purpose of this Ordinance is to enhance public safety through the easy and rapid location of properties by law enforcement, fire, rescue and emergency medical personnel of the Town of Yarmouth.

C. DEFINITIONS

Roads – for the purposes of this Chapter, a road shall mean any highway, lane, drive, street, or thoroughfare, whether private or public and whether or not paved if such road serves two or more developable parcels of land.

ARTICLE II

A. NAMING SYSTEM

Each road shall be assigned an official name in accordance with the following criteria:

1. No two roads shall be given the same name (e.g. Pine Road, Pine Lane)
2. No two roads shall have similar sounding names or names with similar or identical pronunciation (e.g. Beech Street, Beach Street, Peach Street).
3. Each road shall have the same name throughout its entire length.

B. OFFICIAL MAP AND LIST

There is hereby adopted an official street name map of the Town of Yarmouth dated October 17, 1996 which shall establish a record of road names with a cross reference to previously established official, historic or common usage names.

1. The Town Clerk shall file a copy of said official street name map and list in the official records of the Town of Yarmouth and shall record a copy of same in the Cumberland County Registry of Deeds.
2. The Town Manager shall maintain a copy of said map and list available for public inspection, and is hereby authorized and directed to revise and update such map and list with additions, deletions, modifications and corrections which are necessary and proper to effect the purposes of this ordinance.

C. NAMES POSTED

The Department of Public Works is hereby authorized to post and maintain official street name identifier signs at intersections of roads, both public and private.

1. This authorization shall not be construed to create a duty of the Town of Yarmouth to erect or maintain such signs, except that any signs erected or maintained shall be placed in accordance with the Manual of Uniform Traffic Control Devices (U.S. Department of Transportation, Federal Highway Administration) 1988 edition as may be revised from time to time.

ARTICLE III

A. NUMBERING SYSTEM

Each house, business or principal structure shall be assigned a street address number or house number pursuant to the following criteria:

1. All number origins shall begin at the road end which is the nearest travel distance to the designated center of the Town of Yarmouth, which is hereby established at the East Main Street (Route 88) bridge over the Royal River.
 - a. In the event that such system does not provide clear priority or conflicts with the purposes of this ordinance, the origin shall be the end of the road which is the nearest travel route from the North Road Fire/Rescue building.
2. Numbers shall be assigned at every 25 foot interval along both sides of the road, with even numbers appearing on the left of the road and odd numbers appearing on the right side of the road, as determined by the number of origin.
3. The number assignment for each structure shall be that of the number interval falling closest to the driveway entrance. In the event of more than one driveway entrance, the one which is closest to the front door or main entrance of such structure shall be used for number assignment.
4. For structure which are situated at an intersection of one or more road, the orientation of the front door or main entrance shall be used to determine both the street number and street name assignment
5. For multi-tenanted parcels or properties with more than one principal structure, the owner, association, or local management official responsible for maintenance of common areas shall be responsible to assign apartment, suite, or unit numbers as needed.
6. The Town Manager is hereby authorized to assign all street address names and numbers pursuant to the criteria of this ordinance and the Official Street Name Map as herein before established, and to notify the owners of principal structures

of such assignments. The Town Manager shall cooperate with Postmaster for the Town of Yarmouth to resolve any conflicts and provide reasonable notice and assistance to citizens in the implementation and maintenance of this street naming and addressing system.

ARTICLE IV

A. STREET NUMBERS TO BE POSTED

All owners of principal structures shall, on or before February 15, 1997 display and maintain in a conspicuous place on said structure, or, in the alternative, at or near the driveway entrance which establishes the street number, the assigned number in accordance with the following criteria

1. The number shall be a minimum height of 2½ inches if placed within 50 feet of the driveway entrance, or 4 inches if placed a distance greater than 50 feet from the driveway entrance.
2. The number shall be of a color to contrast with or be distinctly visible from any background color, and shall be conspicuous to a reasonable person with normal visual acuity in a motor vehicle at the street during daylight hours and fair weather conditions.
3. Every person whose duty is to display the assigned number shall remove any different number or street name that might reasonably be mistaken for, or confused with, the assigned number and road name in conformance with this ordinance.

ARTICLE V

A. EFFECTIVE DATE

This ordinance shall become effective, January 1, 1997

ARTICLE VI

A. NEW SUBDIVISION, NEW CONSTRUCTION

1. Whenever any residence or other structure is constructed or developed, it shall be the duty of the owner to obtain and post an assigned number in accordance with this ordinance.
 - A. The Code Enforcement Officer shall verify that such assigned number is properly posted prior to issuance of any required certificate of occupancy pursuant to Chapter 701 of the Yarmouth Town Code.
2. Any prospective subdivider shall as a condition of any final subdivision application filed with the Planning Board pursuant to Chapter 601 of the

CHAPTER 605

Yarmouth Town Code, file a plan showing the proposed road name(s) and lot numbering system which shall conform to the criteria of this ordinance. Approval by the Planning Board shall constitute the assignment of road names and numbers to the lots in the subdivision.

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ZONING ORDINANCE

Town of Yarmouth, Maine

Recodified: 1/15/98
Amended: 2/16/98
Amended: 7/17/98
Amended: 10/15/98
Amended: 11/19/98
Amended: 8/19/99
Amended: 7/20/2000
Amended: 10/19/2000
Amended: 6/14/01
Amended: 7/23/02
Amended: 11/20/03
Amended: 3/04/04
Amended: 6/6/05
Amended: 9/15/05
Amended: 1/23/06
Amended: 6/15/2006
Amended: 7/25/2006
Amended: 9/21/06
Amended: 2/15/2007
Amended: 4/19/07
Amended: 10/18/07
Amended: 11/15/07
Amended: 2/14/08
Amended: 7/15/08
Amended: 8/25/08
Amended: 9/18/08
Amended: 12/18/08
Amended: 1/15/09

Amended: 2/19/09
Amended: 3/19/09
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Amended: 8/20/09
Amended: 9/17/09
Amended: 10/1/09
Amended: 3/4/10
Amended: 7/10/10
Amended: 8/23/10
Amended: 3/24/11
Amended: 4/21/11
Amended: 5/19/11
Amended: 11/17/11
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Amended: 1/19/17
Amended: 6/15/17
Amended: 3/15/18
Amended: 6/14/18
Amended: 7/26/18

ZONING ORDINANCE

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ARTICLE I

ZONING ORDINANCE

TITLE, PURPOSE, INTENT AND DEFINITIONS

ARTICLE I

A. TITLE

This Ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Yarmouth, Maine".

B. PURPOSE

The purpose of this Ordinance is to promote the health, safety and general welfare; to encourage the most appropriate use of land throughout the Town; to promote traffic safety; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to conserve natural resources, and to provide for adequate public services.

C. INTENT

It is the intent of this Ordinance that any use not specifically allowed as either a permitted or special exception use is specifically prohibited. As new uses occur over time, or existing uses are found to be omitted, the only procedure allowing such uses is by action of the Town Council in accordance with ARTICLE IV.U

D. DEFINITIONS

The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "Building" includes the word "Structure", and the word "Dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel"

In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control. (Note: To assist in ease of reference, an effort has been made throughout this Ordinance to capitalize defined terms. However, any failure to do so in a particular instance shall not change the meaning of such term as defined in this Ordinance.)

Terms not defined shall have the customary dictionary meaning. Other terms shall be defined as follows:

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Accessory Dwelling Unit: A secondary dwelling unit that has been added onto, or created within a single family home or an associated Accessory Structure. One ADU is permitted per lot. An Accessory Dwelling Unit approved under the Site Plan Review Ordinance shall not be considered a separate unit for the purposes of applying the area and density requirements of this Ordinance. An Accessory Dwelling Unit approved under the Site Plan Review Ordinance does not require review under this Ordinance or under 30-A M.R.S.A., Chapter 187, subchapter 4, the municipal reviewing authority having determined that review under the Site Plan Review Ordinance is at least as stringent as that required under subchapter 4.

Accessory Structure or Use: A use or Structure which is incidental and subordinate to the principal use or Structure. Accessory Uses, when aggregated, shall not subordinate the principal use of the Lot. A deck or similar extension of the principal Structure or a garage attached to the principal Structure by a rood or a common wall is considered part of the principal Structure.

Acre: For purposes of this Ordinance an Acre shall be considered to be 43,560 square feet.

Addition: An enclosed space added to an existing dwelling unit which will be habitable living space. The Addition must have a roof and walls. Specifically excluded are decks and porches. The living space above a garage is considered an Addition.

Adult Business: means any business in any use category, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials or devices of any kind which appeal primarily to prurient interests and which depict or describe specified sexual activities.

Agriculture: The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

Alteration: Structural change, rearrangement, changes of location or addition to a Building, other than repairs and modification in Building equipment.

Alternative Tower Structure (ATS): Clock towers, bell steeples, light poles, water towers, electrical transmission line towers, smokestacks, and similar mounting structures that camouflage, conceal or support the presence of antennas or towers.

Animal Husbandry: Permits dairying, raising of livestock, breeding or keeping of animals, fowl or birds as a business or gainful occupation.

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Animal, Farm for Personal Use: The keeping of bovines, horses, birds, goats, sheep, pigs and other related animals for personal pleasure and/or consumption.

Antenna/Antenna Array: A system of one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency (RF) signals through electromagnetic energy. These include, but are not limited to, omni-directional antennas (whip or rod), directional antennas (panel) and parabolic antennas (dish or disc).

Antenna Support Structure: Any pole, telescoping mast, tower tripod, or any other structure which attaches to a tower and supports one or more antenna(s).

Bank: A financial institution which includes Savings and Loans Institutions, Credit Unions, Commercial Bank and Savings Banks.

Banner: Any sign of lightweight fabric or other material that is permanently mounted to a pole or a Building by permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Basal Area: the area of cross-section of a tree stem at 4 1/2' feet above ground level and inclusive of bark.

Basal Area (Residual): the sum of the Basal Area of trees remaining on a harvested site.

Basement: Any portion of a Structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Bathroom: An area containing a water closet, lavatory, and a shower or bathtub.

Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

Bin: A compartment, box frame or enclosed place, used as a repository for coal or other commodities

Breeze way: Any structure having a roof and at least one side without a wall, connecting two adjacent structures.

Building: Any structure enclosed by exterior walls. When a structure is divided into separate parts by unpierced walls extending from the ground up, each part is deemed a separate building. A garage or other Structure connected to another Building by a breeze way only, shall be deemed a separate Building.

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Building Area: Total of areas taken on a horizontal plane at the main finished grade level of the principal Building and all Accessory Buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.

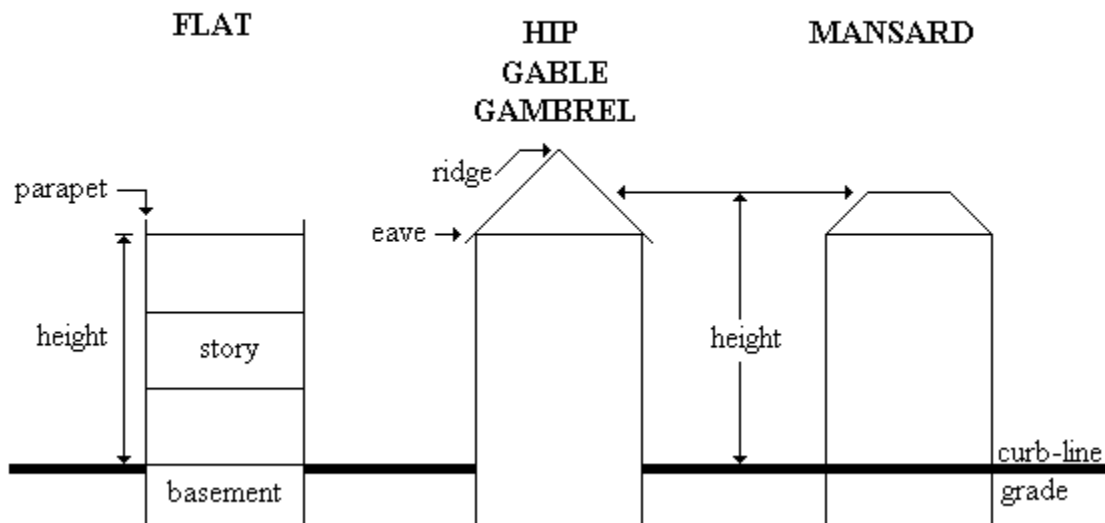
Building Face: The exterior wall of a Building exposed to public view where the main entrance is located.

Building Face, area: The area of the face measured by the length time the height.

Building Face, height: The Vertical distance to the highest point of the roof for flat roofs: to the deck line of mansard roofs; and to the average height between eaves and the roof ridge for gable, hip and gambrel roofs, measured from average grade.

Building Front Line: Line parallel to the front lot line transecting that point in the Building face which is closest to the front lot line. This face includes porches whether enclosed or unenclosed, but does not include steps.

Building Height: Vertical distance measured from the average elevation of the proposed finished grade at the front of the Building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs. This definition does not apply in the SOD.



Building Story: A Building story is an enclosed habitable floor area within a building separated by more than six feet (vertical distance) from another enclosed habitable floor area.

Bulk Fuel Storage: The storage of oil, gas and other fuels in tanks or bins, which may be filled and emptied by delivery vehicles or other means.

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Canopy: A material, including but not limited to, cloth, wood, masonry, metal, plastic, canvas, etc., fastened or held horizontally above a person or an object for covering, protection, or ornamentation.

Cantilevered Pier: Any structure which is pinned to ledge or other upland feature and projects out over water or intertidal zones without direct contact to such.

Clinic: An office Building used by members of the medical professions for the diagnosis and outpatient treatment of human ailments.

Club, Private: Building or use catering exclusively to club members and their guests for recreational purposes, and not operated primarily for profit.

Coastal Wetland: See “**Wetland, Coastal**”.

Coin Operated Amusement Devices: One or more pinball machines, video games or other similar devices including those operated electronically or by remote control.

Commercial Greenhouses: Commercial establishment where plants, vegetables, trees and other vegetation are grown in enclosed structures for sale on or off site. No more than twenty percent (20%) of on-site gross sales shall be other than fruits, vegetables, plants, seeds, trees and including soil, fertilizer for retail use.

Conditional Zoning: The process by which the Town Council may rezone property to permit the use of that property subject to conditions not generally applicable to other properties similarly zoned.

Contract Zoning: The process by which the property owner, in consideration of the rezoning of his/her property, agrees to the imposition of certain conditions or restrictions not generally imposed on other similarly zoned properties.

Coverage: That percentage of the lot area covered by all Structures, Buildings, Driveways, parking lots and other non-vegetated surfaces.

Craft Shop: Shop or studio of an artist, potter, sculptor, silversmith, wood carver or similar craftsman, provided that in the Village District all work and storage shall be conducted within a Building.

Day Care: There are three types of Day Care.

Family Day Care Home - A facility located in a single family detached residence which receives not more than 8 children including the family's natural or adopted children under first grade. It is considered an Accessory Use to single family dwellings for the purposes of this Ordinance.

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Group Day Care Home - A facility located in an owner occupied single family detached residence which receives not more than 12 children including the family's natural or adopted children under 6 during the day.

Day Care Center Facilities - Facilities providing care for children under 18 years of age on a regular or nonrecurring basis which do not fall within the two above definitions.

Development: A change in land use involving alteration of the land, water or Vegetation, or the addition or Alteration of Structures or other construction not naturally occurring.

Direct Illumination: Illumination from an outdoor lighting fixture that is able to strike a person directly before being reflected off another surface, including, but not limited to, a Building facade, a street, sidewalk, or the ground.

District: A section or sections of the Town of Yarmouth for which regulations governing the use of Buildings and premises, the size of yards, and intensity of use are uniform.

Dock: Any structure, whether permanent or temporary which acts as a landing place for water craft. This includes any combination or individual placement of piers, ramps or floats.

Driveway: A vehicular access-way less than five hundred (500) feet in length serving two single family dwellings or one two-family dwelling, or less.

Dwelling Unit: One or more habitable rooms arranged for the use of one or more individuals living together as a family, with a Kitchen, Bathroom, and sleeping facilities including a motel, hotel, boardinghouse, Inn, Bed and Breakfast, or similar structure. Outside of the SOD the definition shall not include a motel, hotel, boarding house, Inn, Bed and Breakfast, or similar commercial use.

Dwelling, Attached: A dwelling with two or more party walls, or one party wall in the case of a dwelling at the end of a group of attached dwellings.

Dwelling, Detached: A dwelling which is designed to be and is substantially separate from any other Building or Buildings except Accessory Buildings.

Dwelling, Single Family Detached: A Building designed and/or used exclusively for residential purposes for one (1) family only and containing not more than one (1) dwelling unit.

Dwelling, Two Family Detached: A detached Building used for residential occupancy by two families living independently of each other.

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Elderly Housing shall mean housing:

- a. provided under any State or Federal program specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
- b. intended for, and solely occupied by, persons 62 years of age or older; or
- c. intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this paragraph, regulations adopted by the Department of Housing and Urban Development, which require at least the following factors, shall be used:
- d. The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is impractical, that such housing is necessary to provide important housing opportunities for older persons; and
- e. that at least 80% of the units are occupied by at least one person 55 years of age or older per unit; and
- f. the publication of and adherence to, policies and procedures which demonstrate intent by the owner or manager to provide housing for persons 55 years or older.
- g. Housing shall not fail to meet the definition of "elderly housing" by reason of unoccupied units, provided that the units are reserved for occupancy by persons who meet the age requirements of Paragraphs B and C.

Equipment Facility: Any structure used to contain ancillary equipment for a WCF which includes cabinets, shelters, a buildout of an existing structure, pedestals and other similar structures.

Erodable Soils: Soils classified as being highly erodable by the Cumberland County Soil and Water Conservation District based on the most recent edition of Soil Survey of Cumberland County, Maine by the USDA and Maine Agricultural Experiment Station.

Essential Services: : The construction, Alteration or maintenance of gas, electrical or non-wireless communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar

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accessories, but shall not include Buildings which are necessary for the furnishing of such services, if such Buildings exceed 599 square feet in area and are located outside the SOD and RPD.

Excavation: The digging and removal of soil including topsoil and the removal of any other earth material.

Expansion of a Structure: An increase in the footprint, floor area or volume of a structure, including all extensions such as, but not limited to attached decks, garages, porches and greenhouses.

Expansion of a Use: The addition of one or more months to a use's operating season; or the use of more footprint or floor area or ground area devoted to a particular use.

Expansion of a Non-Conforming Structure: An increase in the floor area or volume of a non-conforming structure, including extensions such as, but not limited to, attached decks, garages, porches, and greenhouses.

Expansion of a Non-Conforming Use: The addition of weeks or months to a use's operating season or the extension of a use into any land area, Building or part of either not manifestly in existence or arranged or designed for such use at the time it became non-conforming.

FAA: Federal Aviation Agency

Facade: (see Building Face)

Family: One or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth, adoption or marriage, but no unrelated group shall consist of more than five (5) persons as distinguished from a group occupying a boarding house, lodging house, or hotel.

FCC: Federal Communications Commission

Filling: Using soil, any other earth material, or any synthetic material to fill any depressions or voids in the land. Fill also includes Building up an existing surface with such materials.

Flag: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols used as a symbol of a government, political subdivision or other entity.

Flashing Light: Any lighting that illuminates intermittently.

Float: A floating platform which accesses navigable water, including a moored float.

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Floodway: Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floor Area: Sum of the gross horizontal area of the floors of a Building, plus the horizontal area of any unenclosed portions of a Structure such as porches and decks.

Foot-candle: The illumination of a surface one foot distant from a source of one candela, equal to one lumen per square foot.

Footprint : The entire area of ground covered by the structure(s) on a lot, including, but not limited to, cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

Forest Canopy: The more or less continuous cover formed by tree crowns in a wooded area.

Forest Stand: A contiguous group of trees of sufficiently uniform quality, to be a distinguishable unit.

Freshwater Wetland: See “Wetland, Freshwater”

Functionally Water Dependent Use: see “Water Dependent Use, Functionally”.

Gasoline Station: Building or land that is used for the sale of motor fuel, oil and motor vehicle accessories, and which may include facilities for lubricating, washing or servicing motor vehicles, but not including painting or major repairs.

Glare: Lighting emitting from a light source with intensity great enough to reduce a viewer’s ability to see and in extreme cases causing momentary blindness.

Gravel Pit or Mine: Area for removal of gravel or similar material for commercial or, personal use.

Ground Cover: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Hazard Tree: A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property

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damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Health Services: Establishments providing support to the medical profession and patients via miscellaneous types of medical supplies and services.

Height, Wireless Communications Facility Tower or Alternative Tower

Structure: The vertical distance measured from the lowest point within ten (10) feet of the base of the structure on the ground to the highest point of the tower or ATS, including the base pad, all antennas and other attachments. When towers are mounted upon Buildings or other structures, the total vertical height is measured from the lowest point within ten (10) feet of the ground level of the Building or Structure to the highest point of all appurtenances on the tower.

Home Occupation: An Accessory Use conducted within a dwelling unit or Accessory Structure by the residents thereof, which is clearly incidental and secondary to the dwelling used for living purposes and does not change the character of the residential use of the property and surrounding residential uses. (See ARTICLE II.J).

Hospital: Includes sanitarium, clinic rest home, and nursing home, convalescent home, home for the aged, and any other place for the diagnosis, treatment of human ailments.

Hotel: A Building containing individual sleeping rooms or suites, having each a private bathroom attached thereto, for the purpose of providing overnight lodging facilities to the general public for compensation with or without meals, excluding accommodations for employees, and in which ingress and egress to and from all rooms is made through an inside office or lobby supervised by a person in charge at all hours

Indirect Illumination: Light that is reflected off another surface before reaching the eye, such as, but not limited to, illumination from a shielded street light that is first reflected off the street and then into a motorists eyes.

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Individual Retail: Any business or businesses that involve, in whole or in part, retail and/or wholesale sales, that:

- a. share check stands or storage areas,

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- b. share management, or
- c. are owned, leased, possessed or otherwise controlled, in any manner, directly or indirectly,
 - i. by the same individual(s) or entity(ies), including but not limited to corporation(s), partnership(s), limited liability company(ies) or trust(s), or
 - ii. by different individuals or entities, including but not limited to corporations, partnerships, limited liability companies or trusts where
 - (a) such individual(s) or entity(ies) have a controlling ownership or contractual right with the other individual(s) or entity(ies), or
 - (b) the same individual(s) or entity(ies) act in any manner as an employee, owner, partner, agent, stockholder, director, member, officer or trustee of the entity(ies), and are located within one or more separate Buildings or Structures within 800 feet of one another, regardless whether they are attached or detached.

Indoor Lighting: Lighting fixture located inside any Building.

Industrial: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Inn or Lodging House: A commercial structure built or a dwelling converted for commercial purpose to accommodate for fee travelers and other transient guests, who are staying for a limited duration, with sleeping and dining facilities and services, having ten or fewer sleeping rooms and in which some sitting and dining rooms may be used or intended for use in common by such guests. There shall be no kitchen facilities in rented units or rooms. There shall be no separate ownership of individual rooms or units.

Institutional Use: A nonprofit or quasi-public use or institution such as a church, library, public or private school, hospital or municipally owned, controlled, or operated Building, Structure or land used for public purpose.

Interior Lighting: A lighting fixture providing an illumination source, including, but not limited to, an incandescent bulb, mercury, sodium or neon-filled bulb, and the hardware containing the illumination source and supporting it.

Intertidal Zone: The area located between the Upland Edge of Coastal Wetlands and the average low water line.

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Kitchen: An area with a cooking appliance, refrigerator, sink with hot and cold water, food and utensil storage, and not less than 4 square feet of contiguous countertop work area.

Lagoon: A basin for the storage and/or treatment of liquids.

Landfill: The disposal of waste by burying it under a shallow layer of earthen materials.

Land Not Suitable For Development: The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the Minimum Lot Size or net residential acreage an Open Space Residential Development:

- a. Land, which is situated below the normal high water line of any fresh Water body or the Upland Edge of a Coastal Wetland.
- b. Land which is located within the 100 year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the subdivider shows proof through the submittal of materials prepared by a Registered Land Surveyor which show that the property in question lies at least two (2) feet above the 100 year flood level. The elevation of filled or made land shall not be considered.
- c. Land that has been created by filling or draining a pond or Wetland.
- d. Land within the Resource Protection District.

Licensed Forester: A forester licensed under 32 M.R.S.A. Chapter 76.

Light Manufacturing: Manufacturing, Packaging, Processing and Testing - printing or publishing plant, bottling works, manufacturing establishment or other assembling, packaging, finishing or processing use, provided that all operations shall be such as to confine disturbing smoke, fumes, dust, odors and noise to the premises, and that no operations shall constitute a hazard by reason of the potential for fire, explosion, radiation release or other casualty.

Loading Space: Off-street space used for the temporary location of one licensed motor vehicle, which is at least twelve feet high, not including access Driveways, and having direct access to a street or alley.

Lot: Land occupied or to be occupied by a Building and its Accessory Buildings, together with the required open spaces, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated.

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Lot Area: The area of land enclosed within the boundary lines of a lot, minus land below the Normal High-Water Line of a Water Body or Upland Edge of a Wetland, and areas beneath Roads serving more than two lots.

Lot Corner: Lot which has an interior angle of less than 135 degrees at the intersection of two streets. A lot abutting a curved street shall be considered a corner lot of the tangents to the curve at the points of intersection if the side lot lines intersect at an interior angle less than 135 degrees.

Lot Depth: Mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the Building front line.

Lot Frontage: Distance measured across the width of the lot at the Building front line, or the proposed Building front line.

Lot Line: Property lines bounding a lot.

Lot Width: Width measured at the point where the main Building is closest to the street. In the Shoreland zone, the minimum lot width is the closest distance between the side lot lines of a lot. When only two lot lines extend into the Shoreland zone, both lot lines shall be considered side lot lines.

Lumen: The unit of luminous flux in the International System, equal to the luminous flux emitted in a solid angle of one steradian by a uniform point source having an intensity of one candle.

Market Value: The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Marina: A business establishment having frontage on navigable water and, as its principal use, providing for offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Marine Related Offices: Offices which handle matter which are principally devoted to boats, ships, navigation, fishing, other marine harvesting or fish processing. Marine related offices may be the business offices of firms which design, manufacture, service, store, buy or sell boats and related marine equipment.

Manufactured housing: Manufactured housing means a structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a Building site. The term includes any type of Building which is constructed at a manufacturing facility and transported to a Building site where it is used for housing and may be purchased or

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sold by a dealer in the interim. For purposes of this Ordinance, there are two types of manufactured housing:

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes," and which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit; or any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States code, Title 42, Section 5401, et seq.; and
2. Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, chapter 957 of the Maine Revised Statutes Annotated, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

Marquee: Any permanent roof-like structure projecting beyond a Building or extending along and projecting beyond the wall of a Building, generally designed and constructed to provide protection from the weather.

Medical Building: A building that contains establishments dispensing health services.

Message Lighting: Moving or intermittent lighting which denotes a message excluding temperature and time data.

Mixed Use Structures: A building or structure with a variety of complementary and integrated uses in a compact urban form.

Mobile Home Park: Mobile Home Park means a parcel of land under unified ownership approved by the Town in accordance with the standards of this Ordinance for the placement of three or more units of manufactured housing.

Mobile Home Park Lot: Mobile home park lot means the area of land on which an individual home is situated within a mobile home park and which is reserved for use

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by the occupants of that home. Each lot, which shall not be individually owned, shall be shown on the site plan for the mobile home park.

Moored Float: A floating, platform which is anchored or secured to the bottom.

Motel: A Building or group of Buildings which contain living or sleeping accommodations used regularly, seasonally or occasionally for transient occupancy.

Motor Vehicle Sales Showroom: Enclosed establishment for the display and sale of new and used motor vehicles, trailers, mobile homes, and boats.

Moving Lighting: Any non-stationary lighting.

Multiplex: A multiplex is a Building including 3 or more attached dwellings. Dwelling units may be arranged in a variety of configurations: side by side, or back to back. The essential feature is the small number of units attached. No more than eight (8) dwelling units shall be attached in a group and groups shall average no more than six (6) units per structure or less except in the case of a single structure where eight (8) units are allowed. When multiplex Buildings are included in elderly housing developments common spaces such as recreation, community or laundry rooms are not considered dwelling units.

Municipal Uses and Buildings: (Interchangeably called “Civic Uses and Buildings”) Land uses and activities, buildings, structures, improvements and facilities of the Town of Yarmouth or the Yarmouth Water District; which shall include entities of which the Town of Yarmouth is a member, partner, or party of significant controlling interest. Significant controlling interest shall mean voting or management authority in such entity which represents not less than 30% of the voting or management authority. Any not-for-profit community based entity which exists primarily for delivery of public good and services and which receives not less than 30% of its annual operation revenues through appropriations of funds by the Town of Yarmouth for delivery of such public services (e.g. Historical Society, Merrill Memorial Library) or which operates from a facility substantially controlled by the Town of Yarmouth through lease, contractual agreement, deed restriction or similar mechanism shall be included among those entities as to which the Town of Yarmouth is a party.

Nacelle: The mechanical and electrical conversion component mounted on top of the tower to which the blades or components are attached, whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

Net Metering: The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

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Native: Indigenous to the local forests.

Net Residential Acreage: The total acreage available for the subdivision or development and shown on the proposed plan, minus:

1. The land dedicated or in use for private or public Roads including all vehicular rights of way.
2. Multiplex developments parking areas.
3. Land which is cut off from the main parcel by a Road, existing land uses, or where no means of access has been provided so that it is isolated and unavailable for Building purposes or for common use.
4. Land not suitable for development as defined in this article.

Non-native Invasive Species of Vegetation: Species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Normal High Water Mark Line (Non-Tidal Waters): That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with Rivers that support non-forested Wetland Vegetation and hydric soils and that are at the same or lower elevation as the water level of the River during the period of normal high-water are considered part of the River. [**NOTE:** adjacent to tidal water, setbacks are measured from the Upland Edge of the Coastal Wetland.]

Outdoor Lighting: An illumination source outside any Building, including, but not limited to, an incandescent bulb, mercury, sodium or neon-filled bulb, and the hardware containing the illumination source and supporting it. Lighting fixtures underneath a roof of an open-sided Building, including, but not limited to, storage sheds, canopies and gas station marquees over gas pumps, are deemed to be outdoor lighting.

Outdoor lighting fixture: Lighting fixture located outside any Building, whether the fixture is free-standing on its own pole or other structure, or is attached to any part of the facade or roof of a building. Includes the hardware that houses the illumination source and into which the illumination source is attached, which also includes, but is not limited to, the hardware casing and the neck of a fixture that is attached to a pole, the side of a Building or some other surface.

Paper Street: For the purpose of this ordinance and for determining minimum setback requirements a Paper Street is considered to be any undeveloped or unaccepted way shown on an approved plan or subdivision plat recorded at the

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Cumberland County Registry of Deeds, or official Yarmouth tax maps prior to December 31, 1997.

Parking Space: Off-street space which is at least 18 feet long by 9 feet wide used for the temporary location of one licensed motor vehicle, not including access Driveway and having direct access to a street or alley. Where oversize or large vehicles will be parked, the size of parking space may be larger.

Permanent Foundation: Includes all of the following:

- a. A full, poured concrete or masonry foundation;
- b. A full concrete frost wall or a mortared masonry wall, with or without a concrete floor;
- c. A reinforced floating concrete pad, provided that an engineer licensed by the State of Maine certifies that the pad is adequate if the pad will be placed on soil with high frost susceptibility; and
- d. Any foundation which meets the requirements of the Yarmouth Building Code for single family dwellings.

Permitting Authority: The Planning Board or the General Board of Appeals or Director of Planning and Development Department and his or her designee.

Person or Party: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Personal Services: Includes barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, Laundromat, dry cleaner, photographic studio and businesses providing similar services of a personal nature.

Pier: Any structure built on piles or cribs which crosses the intertidal zone or water or within a Wetland.

Pier, Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Pier, Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Pond: A pond is any inland body of water which in a natural state has a surface area of less than 10 Acres where the artificially formed or increased inland body of water is completely surrounded by land held by a single landowner. This definition

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includes Water Bodies which are created by the impoundment of natural streams or brooks, as well as dug Water Bodies. This definition specifically excludes water retention facilities constructed for the purpose of limiting the run-off of surface water in conjunction with development and lagoons.

Power Grid: The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

Principal Structure: A principle structure other than one which is used for purposes wholly incidental or accessory to the use of another Structure or use on the same lot.

Principal Use: A use other than one which is wholly incidental or accessory to another use on the same lot.

Public Facility: Any facility, including, but not limited to, Buildings, property, recreation areas, and Roads which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Quarrying: Open excavation used for obtaining building stone, slate, limestone, granite or similar material.

Ramp: Any structure connecting a dock to a float.

Recreation, Commercial: Includes recreational activities operated primarily for profit.

Recreation Facility: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recent Floodplain Soils: The following soil series as described and identified by the most recent National Cooperative Soil Survey:

Alluvial	Limerick	Rumney
Charles	Lovewell	Saco
Cornish	Medomak	Suncook
Fryeburg	Ondawa	Sunday
Hadley	Podunk	Winooski

Religious Institution: Includes church, temple, parish house, and convent, seminary and retreat house.

Research Facility: A research, laboratory, light assembly to light manufacturing facility, which does not create any danger to health and safety in surrounding areas, which does not create offensive noise, vibration, smoke, dust, odor, heat or glare, and which by reason of high value in relation to size and weight of product or

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merchandise handled, does not create large volumes of truck traffic. Research facility does not include genetic research or bioengineering establishments.

Residual Basal Area: The average of the Basal Area of trees remaining on a harvested or cleared site.

Residential Porch Light: A light located within a roofed porch or entry of a dwelling unit. Residential porch lights are not deemed to be outdoor lighting under this Section.

Restaurant: An establishment which prepares and/or serves food and beverages to persons primarily seated within the Building. A restaurant does not provide any drive-through service.

Restaurant/carry-out: An establishment which by design of facility or services prepares food or beverages to be consumed outside the Building.

Restaurant/drive-through: An establishment which may contain indoor and/or outdoor seating and has a drive through facility which permits customers to obtain prepared food and drink while remaining in their vehicles.

Restaurant/service area: Includes the area for preparation and sale of food and beverage and the area accessible to the public.

Retail Store: Store or shop that sells goods or services to the ultimate consumer excluding free standing retail stands, gasoline service facilities, new and used car sales and services, trailer and mobile home sales and services. Retail stores shall not provide tables and chairs for the consumption of food or beverage inside or outside the Building. Outdoor sales which are related to a retail store are permitted.

Riprap: Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) vertical or less.

River: A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

[NOTE: The portion of a River that is subject to tidal action is a Coastal Wetland.]

Road: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a Driveway as defined.

Salt Marsh: Areas of Coastal Wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is Saltmarsh

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Cordgrass (*Spartina Alterniflora*). More open areas often support Widgeon Grass, Eelgrass, and Sago Pondweed.

Salt Meadow: Areas of a Coastal Wetland that support salt tolerant plant species bordering the landward side of Salt Marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include Salt Meadow Cordgrass (*Spartina Patens*) and Black Rush; Common Threesquare occurs in fresher areas.

Sapling - a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling - a young tree species that is less than four and one half (4.5) feet in height above ground level.

Service area: Includes that area for preparation and sale of food and beverage and the area accessible to the public.

Service Drop: Any utility line extension which does not cross or run beneath any portion of a Water Body provided that:

1. In the case of electric service
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service upon a Roadway right-of-way; and
 - b. the total length of the extension is less than one thousand (1,00) feet,
2. In the case of telephone service
 - a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback, Front Yard: Distance between a structure and the street right-of-way

Setback, Rear Yard: Distance between a structure and the rear lot line.

Setback, Resource: The nearest horizontal distance from the Normal High Water Line of a Water Body, or Tributary Stream, or Upland Edge of a Wetland, to the nearest part of a Structure, Road, parking space or other regulated object or area.

Setback, Side Yard: Distance between a structure and a side lot line.

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Shadow Flicker: Alternate changes in light intensity caused by moving blades casting shadows on the ground and stationary objects.

Shopping Center: A group of commercial establishments planned, and managed as a total entity, with customer and employee parking provided on-site.

Shore Frontage: The length of a lot bordering on a Water Body or Wetlands measured in a straight line between the intersections of the lot lines with the Shoreline.

Shoreland Zone: The land area located within two hundred and fifty (250) feet, horizontal distance, of

- the Normal High-Water line of any River
- the Upland Edge of a Coastal Wetland including all areas affected by Tidal action;
- or within seventy-five (75) feet of the Normal High-Water line of a Stream.

Shoreline: The Normal High-Water Line, or Upland Edge of a Freshwater or Coastal Wetland.

Sign: Any device, structure, Building or part thereof, for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

Sign, Advertising, or Billboard: Sign which directs attention to a business, industry, profession, service, commodity, or entertainment conducted, sold or offered elsewhere than upon the same lot.

Sign, Animated: Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Sign, area: The space, on the largest single face of a sign, within and including a perimeter which forms the outside shape of a sign. Where signs are established back to back the larger face shall be calculated for purposes of determining allowable area. The space of a sign having no such perimeter or border shall be computed by enclosing the entire copy area within the outline of either a parallelogram, triangle, circle or any other easily recognized geometric shape and then computing the area. Where a sign is of three dimensional, round, or irregular shape, the largest cross section shall be used in a flat projection for the purpose of computing sign area.

Sign, Building: Any sign attached to any part of a Building, as contrasted to freestanding sign.

Sign, Business: Sign which directs attention to a business, industry, profession, service, commodity or entertainment sold or offered upon the same lot on which it is displayed, including real estate signs.

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Sign, Canopy: Any sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Sign, Changeable Copy: A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign.

Sign, Directional: A sign as defined in Section 2722, Title 32, Chapter 38 M.R.S.A.

Sign, Freestanding: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any Building or other structure.

Sign, Incidental: A sign generally informational, that has a purpose secondary to the use of the lot in which it is located, such as no parking, entrance, loading only, telephone, and other similar directives.

Sign, Marquee: Any sign attached to, in any manner, or made a part of a marquee.

Sign, Nonconforming: Any sign that does not conform to the requirements or this ordinance.

Sign, Pennant: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Sign, Portable: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way; unless said vehicle is used in the normal day-to-day operations of the business. (Does not include menus and sandwich board signs.)

Sign, Projecting: Any sign affixed to a Building or wall in such a manner that its leading edge extends more than six inches beyond the surface or such Building or wall.

Sign, Roof: Any sign erected and constructed wholly on and over the roof of a Building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Sign, Roof Integral: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign

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extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

Sign, Suspended: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Sign, Temporary: Any sign that is used only temporarily and is not permanently mounted.

Sign, Window: Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Slash: The residue, e.g., treetops and branches, left on the ground after a timber harvest or other removal of vegetation.

Small Wind Energy System (SWES): A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of one hundred (100) kilowatts or less and will be used primarily for onsite consumption. An SWES may also be mounted on an existing Structure such as a roof, chimney, or wall of a building.

Solid Waste: By products and other discarded materials which are not gaseous or liquid.

Special Exception: A special exception is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, areas, location, or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special exceptions, if specific provision for such special exception is made in this Zoning Ordinance.

Specified sexual activities: means: (1) human genitals in a state of sexual stimulation or arousal; (2) acts of human masturbation, sexual intercourse or sodomy; (3) fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Sports Club: A club business or association, which provides some recreational or health activity including but not limited to tennis, racquetball, swimming, health or fitness facilities but excluding amusement centers, video game parlors and amusement rides.

Spotlight/Floodlight: An illumination source that focuses most of the light it produces onto a specific surface.

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Standard Boundary Survey: A standard Boundary Survey is defined as a sufficient investigation, study, and evaluation of all factors affecting and influencing the location of the boundaries, and including rights of way and easements of record within or immediately surrounding a certain lot, parcel or quantity of real estate.

Steep Slope: A portion of land with a grade of 20% or greater.

Storage Building: A Building, not exceeding one thousand square feet, used only for the non-commercial storage of materials or private property. A Storage Building may contain no more than one commercially registered motor vehicle.

Storm-damaged tree - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or Wetland within the Shoreland Zone.

Street:

1. An existing State, County, or Town public way; or
2. A street dedicated for public use and shown upon a plan duly approved by the Planning Board and recorded in the Cumberland County Registry of Deeds; or
3. A street or way dedicated for public use and shown on a plan duly filed and recorded in the Cumberland County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans; or
4. A street or way conforming to any of the above definitions which has been lawfully discontinued, abandoned, or vacated after September 1, 1997.

String Lighting: Lighting arranged in a series horizontally or vertically.

Structure: Anything, temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind, or anything constructed or erected on or in the ground. The term includes Structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy

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anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

Structure Height: The vertical distance between the mean original (prior to construction) grade at the downhill side of the Structure and the highest point of the Structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area. This definition shall apply only in the SOD.

Subsurface Sewage Disposal System: Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licenses under 38 M.R.S.A. section 414, any surface waste water disposal system or any municipal or quasi-municipal sewer or waste water treatment system.

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Temporary outdoor lighting: The specific illumination of an outside area or object by any man made device located outdoors that produces light by any means, but is not intended as permanent lighting, for a period of less than 7 days with at least 180 days passing before being used again.

Temporary Storage: Use of existing Buildings for a period of two years, and no longer, for the storage within these existing Buildings of non-hazardous goods which shall be of a non-perishable nature and shall not cause odors.

Tidal Waters: All waters affected by tidal action during the maximum spring tide.

Timber Harvesting: The cutting and removal of timber, for the primary purpose of selling or processing forest products.

Total Height: The vertical distance measured from a point on the ground at the original grade to the highest point of the wind generator blade when the tip is at full vertical.

Tower: The monopole, guyed monopole or lattice structure that supports a wind generator and attached blades above the ground.

Tower Height: The height above grade of the fixed portion of the tower, excluding the wind turbine.

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Transportation Termini: Includes trucking terminals, freight yards and public transportation terminals.

Tree - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

Tributary Stream: A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected to hydrologically with other Water Bodies. Tributary Stream does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural Vegetation cover has been removed by human activity. This definition does not include the term "Stream" as defined elsewhere in this Ordinance, and only applies to that portion of the Tributary Stream located within the Shoreland Zone of the receiving Water Body or Wetland. A Tributary Stream is not a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining stormwater or a grassy swale. [Note: Water setback requirements apply to Tributary Streams within the Shoreland Zone.]

Upland Edge of a Wetland: The boundary between upland and Wetland. For purposes of a Coastal Wetland, this boundary is the line formed by the landward limits of the salt tolerant Vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a Freshwater Wetland, the Upland Edge is formed where the soils are not saturated for a duration sufficient to support Wetland Vegetation; or where the soils support the growth of Wetland Vegetation, but such Vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

Use, Permitted: Use specifically allowed in the district, excluding illegal uses and nonconforming uses.

Variance: A variance is a relaxation of the terms of this zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area and size of structure or size of yards and open spaces, establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or in an adjoining zoning district.

Vegetation: All live trees, shrubs and other plants including without limitation, trees both over and under four (4) inches in diameter measured at four and one half (4 ½) feet above ground level.

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Velocity Zone: An area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Viewing Booth: means any booth, cubicle, room or stall within the premises of an Adult Business used to display by audio or visual reproduction, projection or other means, any of the materials described in subparagraph above, but does not include a motion picture theater with permanent seating for 10 or more persons.

Viewshed: The geographic area as viewed from a scenic resource, which includes the proposed activity. The viewshed may include the total visible activity from a single observer position or the total visible activity area from multiple observer's positions.

Volume of a Structure: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Warehouse: Terminal facilities, used primarily for the storage of goods and materials, for handling freight with or without maintenance facilities.

Waste Lighting: Lighting emitted by an outdoor light fixture that shines beyond the boundaries of the property on which the outdoor lighting fixture is located causing a nuisance.

Water Body: A river, stream, brook, pond, or tidal water.

Water Course: A drainage ditch, swale, stream or other natural or man-made system of transporting storm water.

Water Dependant Use, Functionally: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities including commercial non- recreational boat storage Buildings, (but excluding private boat houses), fin fish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control puposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

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Water, Inland, Normal High Water Mark: See “Normal High Water Line”.

Wetland: A Coastal Wetland or a Freshwater Wetland adjacent to a River.

Wetland, Coastal: All tidal and sub-tidal lands all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal Wetlands may include portions of coastal sand dunes.

[**Note:** all areas below the maximum spring tide level are Coastal Wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to Salt Marshes and Salt Meadows.]

Wetland, Forested: A Freshwater Wetland dominated by woody Vegetation that is six (6) meters tall (approximately twenty (20') feet or taller.

Wetland, Freshwater: Freshwater swamps, marshes, bogs and similar areas other than Forested Wetlands which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of Wetland vegetation typically adapted for life in saturated soils, (as determined through the use of the “Corps of Engineers Wetlands Delineation Manual”, January, 1987 as the same may be amended, supplemented or replaced from time to time; and not considered part of a great pond, Coastal Wetland, River, Stream or brook, pursuant to Title 38 MRSA Section 480-B(4). Freshwater Wetlands may contain small Stream channels or inclusions of land that do not conform to the criteria of this definition.

Windfirm: The ability of a Forest Stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

Wetlands Associated with Rivers: Wetlands contiguous with or adjacent to a river, and which during normal high water, are connected by surface water to the river. Also included are wetlands which are separated from the river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below high water line of the river. Wetlands associated with great ponds or rivers are considered to be part of that river.

Wholesale Distribution Facilities: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers; or acting as agents or brokers and buying merchandise for or selling merchandise to, such individuals or companies.

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Wind Turbine: The blades and associated mechanical and electrical conversion components mounted on top of the supporting tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

Wireless Communications: Any personal wireless services as defined in the Federal Telecommunications Act of 1996 which includes FCC licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed.

Wireless Communication Facility (WCF): A facility that transmits, receives, distributes, provides or offers telecommunications services, radio or television signals, or any other spectrum-based transmissions/receptions, together, with the facility's associated antennas, microwave dishes, horns, cables, wires, conduits, ducts, lightning rods, electronics and other types of equipment for the transmission, receipt, distribution or offering of such signals; wireless communication towers, antenna support structures, and other structures supporting said equipment and any attachments to those structures including guy wires and anchors, equipment Buildings, generators, parking areas, utility services, Driveways and Roads and other accessory features.

Wireless Communication Facility – Co-Located: A wireless telecommunications facility that includes a wireless communication tower or ATS supporting one or more antennas and owned or used by more than one public or private entity.

Wireless Communication Tower (Tower): A structure designed and constructed specifically to support an antenna array. A tower may be a monopole, self-supporting (lattice) tower, guy-wire support tower and other similar structure, and includes all supporting lines, cables, wires, and braces.

Woody Vegetation: Live trees or woody, non-herbaceous shrubs.

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The following provisions shall apply to all districts except where listed:

A. EXCAVATION AND REMOVAL OF LANDS AND FILLING OF LANDS

1. All excavation and removal of lands and filling of lands as a permitted use shall be in accordance with CHAPTER 702, Site Plan Review, Municipal Code, Town of Yarmouth.
2. All excavation and removal of lands and fillings of lands less than 1,000 cubic yards is allowed in all zones subject to applicable site plan standards.
3. This Section shall not prohibit normal excavation for construction of a building for which a Building permit has been issued.
4. Excavations normally associated with approved subdivision or site plans and municipal projects are exempt from these provisions.

B. RUINS

No owner or occupant of land in any district shall permit fire ruins or other ruins to be left, but within one year from the date of the disaster shall remove or refill the same to clear ground level or shall repair, rebuild or replace the structure.

C. SIGNS, GENERAL PROVISIONS

1. Purpose: It is the intent of these regulations to provide for attractive, coordinated, informative and efficient signs with the express purpose of protecting property values, and enhancing the physical appearance of the Town and guarding against threats to the public safety.
2. Signs and outdoor display structures shall not be erected, attached to, suspended, altered, or reconstructed until a permit has been issued by the Planning Department to the owner or person in control of the sign. Any new sign shall conform to all regulations.
3. A nonconforming sign lawfully existing at the time of adoption of this subsection or subsequent amendment may continue although such sign does not conform to the provision of this Section.
4. A nonconforming sign damaged or destroyed by accident or by act of God may be replaced within a one (1) year period following the damage or destruction provided that a duly issued permit has been obtained. With respect to height, size, and lighting, the replacement sign shall replicate or be less non-conforming than the original. Any other changes from the original shall be approved by the Planning Department in accordance with the review procedures and standards set forth in this Article.

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5. Permits are not required for:

- a. personal occupant signs, 2 square feet or less;
- b. historical designation signs;
- c. temporary real estate, (For Sale, rent or lease) signs;
- d. traffic and informational signs erected by governmental agencies.
- e. utility signs
- f. temporary road hazard and traffic control signs
- g. flags and insignias of any recognized government
- h. special purpose temporary signs

(1) These exemptions shall not relieve the owner or person in control of the sign or signs from the necessary safe condition and maintenance so as not to be detrimental to the public health, safety or scenic beauty of the Town or to constitute a traffic hazard.

(2) All temporary signs erected for a special event such as an election or sale shall be placed by the advertiser no more than four (4) weeks prior to the event and shall be removed within five (5) days after the event

i. Municipal athletic facilities not in view of a public street

(1) However, the Community Services Director or High School Athletic Director shall approve the design and content of all signs to be installed.

6. Whenever a sign shall become structurally unsafe or endanger the safety of the Building or the public, the Planning Department shall order such sign to be made safe or removed. Such order shall be complied with within ten (10) days of the receipt thereof by the person owning or using the sign, or by the owners of the Building or premises on which such sign is affixed or erected.

7. The owner(s) of any location where business goods are no longer sold or produced or where services are no longer provided shall have ninety (90) days to remove any remaining or derelict on-premises signs following notification by the Town.

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8. Where due written notification has been given by the Planning Department and compliance has not been made within the required ninety (90) day period, the Town may cause removal of such sign and charge the cost of such removal to the owner.
9. The following general regulations shall apply to all permitted and legally nonconforming signs:
 - a. Only those signs identifying the name, business, occupant, service, address or product offered or sold on the premises shall be permitted. Community bulletin boards shall also be permitted.
 - b. Permanent business signs within the interior of a structure designed to be seen and read from the exterior shall be considered as part of any maximum sign area.
 - c. Signs attached to a principal structure shall not extend above the roof line or the parapet.
 - d. No portable, animated, flashing or apparently moving signs shall be permitted.
 - e. The top of freestanding signs shall not exceed the following height limit.

<u>Sign Size in sq. ft.</u>	<u>Maximum Height in ft.</u>
0-49	16
50-75	20
>75	25

- f. The area surrounding freestanding signs shall be kept neat, clean and landscaped.
- g. Signs, permanent or temporary, other than Municipal or State signs, shall not be erected within the right-of-way of any street or approved sight easements, nor shall any sign be located so as to constitute a traffic hazard.
- h. A sign with a double signboard or display area shall be construed to be one sign for the purpose of this Ordinance.
- i. Off-premise advertising signs shall not be permitted in the Town.
- j. Approval of electric signs shall be based on conformance with the National Electric Code and/or sealed by a nationally recognized testing laboratory.

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- k. Directional signs shall be allowed only in designated areas with the approval of the Planning Department.

10. Sign Dimensions

- a. The following sign size regulations shall apply:
 - (1.) The total gross advertising area of all signs on an individual lot of record including attached and free standing signs, shall not be greater than five percent (5%) of the Building face if any signs have internal lighting and six and one-half percent (6 1/2%) if no signs have internal lighting. Signs in the WOC I and WOC III Districts shall be no greater than 10% of the area of the Building face.
 - (2.) In any district a home occupation sign not exceeding two (2) square feet in surface is permitted which announces the name, address, profession or home occupation of the occupant of the premises on which said sign is located.

11. Review standards – sign permit applications

- a. Review Criteria
The Planning Department shall use, but is not limited to, the following criteria in its determination to deny, grant, or grant with conditions any sign permit application waiver request within its reviewing authority:
 - I. The proposed location, design, and construction shall be in keeping with the Town's Comprehensive Plan and other applicable Town codes and ordinances.
 - II. The location, size, lighting, or design of the sign will not be hazardous to vehicular traffic or pedestrian safety.
 - III. The sign will not adversely impact or detract from surrounding properties or the property where the sign is to be located.
 - IV. The sign will not adversely impose on natural, scenic, or historic features in the neighborhood.
 - V. The sign will not detract from the design of the Building or Structure on which it is to be attached.
- b. Assurances
The Planning Department may require that the applicant to file a performance bond or similar assurance representative of projected Town liability resulting from, but not limited to:

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- I. Environmental safe guards
- II. Safety precaution
- III. Removal requirements, and/or
- IV. Failure of the applicant to perform in accordance with the terms of this Ordinance or any conditions of any approval.

c. Limiting Conditions

Although not limited to the list that follows, the Planning Department may add as a criteria of approval conditions with regard to:

- I. Aesthetic appearance such as, but not limited to;
 - (a.) number
 - (b.) location
 - (c.) size
 - (d.) height
 - (e.) lighting
 - (f.) glare
 - (g.) materials
 - (h.) limitations relative to period(s) of display
 - (i.) hours of operation
 - (j.) landscaping
 - (k.) maintenance requirements
 - (l.) time of removal
 - (m.) alteration and/or replacement compliance
 - (n.) permit expiration date, and/or
 - (o.) terms of additional Board review.

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II. Waivers

The Planning Department, prior to the application for, or issuance of, any sign permit, shall approve the proposed sign design, lighting, and landscaping. In the event that the applicant and the Planning Department are unable to agree on appropriate sign designs, the applicant shall appear before the Planning Board for additional review.

Notwithstanding any requirements of Town codes or ordinances, the Permitting Authority may waive any sign standard(s) where it finds that Town objectives, goals, and policies will be better served.

- (a.) Any standard that is expressly prohibited, limited, restricted, or specified by State, County, or Federal regulation shall not be waived unless the applicant provides authenticated written documentation approving any such waiver from the respective authority(s).

12. Baseball and Softball Diamonds

Notwithstanding any other sign regulations to the contrary, signs may be installed on the outfield fences of all baseball and softball diamond fields in the Town of Yarmouth, subject to the following:

- a. Individual signs are to be no more than 3' x 9'. The total area of signs installed on the outfield fences is not to exceed 1,728 square feet per field, but in no case shall there be more than one sign per outfield fence section.
- b. All signs are to be installed no earlier than the first day of April and removed no later than the last day of July, except that all signs on the outfield fences at Bennett Field shall be removed one week before the first day of Clam Festival.
- c. Signs on all outfield fences of ball diamond fields shall be a single uniform color background, on both sides, for each field with the exception of existing signs on the North Road field.
- d. Text and graphics shall be on only one side of the sign, and the signs shall be installed so the text and graphics face in toward the field.
- e. The Community Services Director, High School Athletic Director, or North Yarmouth Academy Athletic Director shall approve the design and content of all signs to be installed on fields under their respective responsibility.

D. SIGN STANDARDS VILLAGE I & II DISTRICTS

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1. No sign permit may be issued for a sign which will adversely impact neighboring property.
2. Signs attached to a principal structure shall not extend above the eaves.
3. Only signs constructed of wood or fabric or materials imitating natural materials shall be permitted.
4. Interior lit signs are prohibited.
5. Advertising awnings and advertising umbrellas shall not be permitted
6. The total gross advertising area of all signs including attached and free standing signs, on any one property shall not be greater than three percent (3%) of the area of the largest building face provided that the application meets the review criteria of subsection "Review Standards – Sign Permit Applications", Article II.C.11 above.
7. Up to three (3) governmental flags per property are permitted.
8. Maximum size of sign per business:
Village I & II 20 sq. ft.
 - a. Notwithstanding the limitations of ARTICLE II.C.11, above, in no case shall the combined total gross advertising area for all signs, including attached and free standing signs exceed 20 square feet.
9. Any decision relative to signs and permits for signs by the Planning Department may be appealed to the Planning Board within thirty (30) days of such written decision.

E. SIGNS IN RP AND SOD DISTRICTS

In addition to the provisions of the Zoning Ordinance addressing signs the following provisions shall govern the use of signs in the Resource Protection and Shoreland Overlay Districts:

1. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
2. Signs relating to trespassing, hunting, and marine harvesting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
3. No sign shall extend higher than twenty (20) feet above the ground.
4. Signs may be illuminated only by shielded, non-flashing lights.

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5. Signs relating to public safety, installed by public agencies, shall be permitted without restriction.

F. SIGNS IN THE “C”, COMMERCIAL, “C-III”, COMMERCIAL III AND THE “RPD”, RESOURCE PROTECTION DISTRICTS

Notwithstanding sign regulations to the contrary, all signs in the “C” Commercial, “C-III”, Commercial III, and “RPD”, Resource Protection District shall be consistent with the Route One Corridor Design Guidelines, as approved August 19, 1999.

G. WATER RECREATION AND WATER STORAGE FACILITIES

1. Any temporary or permanent facility for water recreation such as private swimming pools, containing 5,000 gallons of water or more, outdoor water storage tanks, swimming clubs, commercial fishing pond, or any other water storage facility such as reservoirs, fish hatcheries, lobster pounds and sewage lagoons shall comply with the following requirements:
 - a. All facility structures shall conform with all applicable setback requirements for the district in which it is located;
 - b. The facility shall be enclosed by a fence no less than four (4) feet high to prevent uncontrolled access by small children, unless the facility is an above-ground pool the sides of which are at least four (4) feet high, in which case no fence shall be required; Notwithstanding the foregoing, no fence shall be required for a Pond located in the RR District.
 - c. The facility, if operated to attract visitors, shall comply with parking requirements established under the following Sections of the Ordinance;
2. Before a permit shall be issued to the operator or owner of the facility, other than a private swimming pool, a plan shall be submitted to the Board of Appeals showing size of facility, proposed use, surrounding properties and their usage, and any other pertinent information;
3. For private swimming pools, the Planning Director shall issue a permit, if the pool is in conformance with this Ordinance. ARTICLE VI.A.4 of this Ordinance shall be construed to include any facilities described in this Section.

H. OFF-STREET PARKING AND LOADING

1. Parking: Off-street parking spaces shall be provided in accordance with the specifications of this Section. However, under site plan review, the Permitting Authority, may waive parking requirements, considering such criteria as site

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constraints, provisions for shared parking, available on street parking, alternative modes of commuting (bicycle, walking, rideshare), and access to transit.

Uses	Parking Spaces Required
Residential	2 per dwelling unit
Church and school	1 per 4 members
Theater	1 per 4 seats
Hospital and Nursing Home	1 per 3 beds and one for each employee based on the expected average employee occupancy
Professional offices and business services, medical clinic and retail business in commercial districts	3 for every 1000 sq.ft. of net office area (maximum)
Retail business and personal service establishments	4 for every 1000 sq. ft. of net retail area (maximum)
Restaurants*	1 per 2 ½ seats
Restaurants –carry out*	1 per 50 sq.ft. of service area
Industrial	1 per 1.2 employees, based on the highest expected average employee occupancy
Funeral Homes	1 per 75 sq.ft. of floor space in slumber rooms, parlors, and individual service rooms
Marinas	1 per 3 slips or mooring spaces
Boat building/repair	1 per 1.2 employees
Charter boats/excursions	1 per 2 persons of boat capacity
Museum	1 per 250 sq.ft. of display area

* Sidewalk Café and outdoor seating shall be exempt for the first 12 seats; additional seating shall require 1 space per 4 seats.

2. Off-street loading: Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled, shall be provided for all commercial and industrial uses. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

I. TEMPORARY STRUCTURES

Temporary structures used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for

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temporary structures shall be issued for a six-month period and may be renewed by the Planning Director. Residing in Basement of foundation structures before the completion of the total structure shall not be permitted.

J. HOME OCCUPATIONS

Any home occupation shall be permitted as an Accessory Use in any zoning district that allows residential uses use if it complies with the requirements of this Section. A written description of the business and any supporting materials must be submitted to the Planning Department. The written description shall provide reasonable evidence that the proposal will meet the performance criteria outlined in 1 through 10 below. If a proposal for a Home Occupation does not strictly meet the performance criteria the applicant may apply to the Zoning board under Article VII.B.b (Special Exceptions) for consideration of the Special Exception criteria in order to achieve the spirit and intent of the Home Occupation definition in Article I.D.

1. The home occupation shall be carried on by a member of the family residing in the dwelling unit only. One employee who is not part of the family is permitted. In addition to the residents of the dwelling unit one employee who is not residing in the dwelling unit is permitted. No more than one full-time employee or that number of part-time employees required to do the work of one full-time employee may be employed in the home occupation on the site at any one time.
2. The home occupation shall be carried on wholly within the principal or Accessory Structures except that materials or equipment may be stored on site subject to provision three below.
3. Exterior displays, exterior storage of materials, and exterior indication of the home occupation or variation from the residential character of the principal structure shall not be permitted except for signs permitted in six (6) below. All materials or equipment shall be stored inside an enclosed structure or screened year round from abutters and the general public.
4. Objectionable circumstances such as but not limited to noise, vibration, smoke, dust, electrical disturbance, odors, heat, storage of hazardous materials, or glare shall not be produced.
5. Traffic generated shall be in keeping with the character of the neighborhood.
6. In any district, a home occupation sign not exceeding two (2) square feet in surface is permitted which announces the name, address, profession or home occupation of the occupant of the premises on which said sign is located.
7. The home occupation may utilize not more than twenty percent (20%) of the dwelling unit finished living space.
8. The home occupation may utilize one Accessory Structure.

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9. No more than two customers shall be served at any given time.
10. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate parking may be required to provide for the vehicle of any additional employee and for a maximum of two (2) customers.

K. HEIGHT REGULATIONS

The height limitations for all districts should be 35 feet, except for silos for storage of feed crops, steeples, wireless communication towers, Alternative Tower Structures, and except when otherwise authorized by the General Board of Appeals, in cases where it is consistent with the objectives of the comprehensive plan, will not adversely affect surrounding areas, and is in scale with its environs, this restriction shall not apply, providing however, in the SOD and RPD the maximum structure height is 35'.

L. BUFFER AREAS

No Building shall be erected or any use permitted in nonresidential districts which abut residential districts unless the following front, side and rear yard requirements are satisfied:

1. Wherever commercial, industrial, or mixed use structures are proposed, front, side and rear yards abutting residential districts or adjacent to or across a street from residential districts shall maintain the district boundary in its natural state to provide a visual screen between districts of at least 25 feet unless waived by the permitting authority.
2. Where no natural buffer exists all such side and rear yard abutting residential districts shall be landscaped to provide a visual screen between districts. Because of varying site conditions, landscaping for the purposes of this Section may include tree plantings, hedges, fencing, walling and combinations thereof.

M. OPEN SPACE RESIDENTIAL DEVELOPMENT

1. Purpose
The purpose of this article is to provide a voluntary mechanism to encourage the preservation of open space, forests, wildlife habitat, contiguous protected areas, natural topography, and the rural character of the Town of Yarmouth through a flexible and economical alternative to conventional residential subdivisions.
2. Objectives
 - a. To encourage an efficient use of land, which allows development yet reduces land consumption, and preserves rural character in harmony with surrounding environs.

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- b. To encourage open space residential developments by providing developers with incentives such as reduced infrastructure costs due to a more compact subdivision design and Road design flexibility, as well as opportunities for receiving unit bonuses.
 - c. To preserve plant and animal habitat, wildlife corridors, scenic views, water quality, undeveloped lengths of shoreline, and large contiguous open spaces and connected corridors.
 - d. To promote active and passive recreational opportunities accessible to both residents of a development as well as the citizens of Yarmouth at large.
 - e. To encourage a more creatively designed development than would be possible through the strict application of other Sections of the Ordinance.
3. Applicability and Review Process of Open Space Residential Development
- a. A developer may propose an Open Space Residential Development on any size parcel provided that the parcel could be developed as a conventional (or regular) subdivision in the zoning District in which the parcel is located.
 - b. The Planning Board may require a developer to submit, at the conceptual stage of a proposed subdivision or multiplex development, an alternative development plan that incorporates open space by using the provisions set out in Article II.M, if the site under consideration exceeds 20 Acres.
 - c. The Planning Board may require a proposed residential development to use the provisions of Open Space Residential Development to accomplish the goal of preservation of open spaces if one or more of the following criteria apply:
 - i. If, after review of conceptual plans and a site review of the proposed development, the Parks and Public Lands Management Committee recommends preservation of significant natural features;
 - ii. If the Planning Board determines a need for a buffer area between the proposed development and adjacent land (developed or undeveloped) or between the proposed development and a major traveled way or visual access point;
 - iii. If a proposed development exceeds 20 Acres.

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- d. Proposals for Open Space Residential Developments shall follow the review process and guidelines as outlined in Chapter 601 Yarmouth Subdivision regulations and Chapter 702 Yarmouth Site Plan Regulations.

4. Development Standards Relative to Minimum Open Space

- a. A minimum of 25% of the original parcel must be preserved as open space. Open space shall be defined as land not developed for residential uses. Open space does not include common areas as defined below. Walking, hiking, and biking trails which have a pervious surface are not considered shared recreational facilities, and may be included within the required minimum percentage open space. The applicant shall provide a plan showing all common areas and open space.
- b. Common Area(s) include
 - i. Accessory Structures and land primarily designed for residents' uses, including, but not limited to, roads, parking areas, rights of way, utilities, and septic fields.
 - ii. Shared recreational facilities shall be defined in M.8.a. Shared recreational facilities shall be defined as Accessory Structures and improvements necessary and appropriate for educational, recreational, cultural, social, or other nonresidential uses permitted in the underlying zone. Shared recreational facilities shall be allowed on common land not designated as part of the minimum required open space, as long as the requirements of the Yarmouth Subdivision and Site Plan Regulations are met.
- c. The applicant must demonstrate that 75% of the minimum open space requirements are met by one contiguous parcel or no more than two separate parcels of land no less than 100 ft. wide.
- d. No more than 50% percent of the required minimum percentage open space which is used to calculate density bonus(es) shall include any of the following areas: steep slopes in excess of 20%, rock outcroppings, flood plains, utilities, and wetlands.
- e. The applicant shall provide a plan showing all common areas and open space, and shall designate such areas as defined below:
 - i. Active Use Open Space: Designation of active use open space shall be for passive noncommercial amenities and recreational uses which, when developed, maintain the integrity of the natural landscape and provide use amenities. Unpaved walking, hiking, and biking trails which have a pervious surface are included. These open space areas are for the use

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and enjoyment of the development residents and Yarmouth residents if so designated.

- ii. Limited Use Open Space: Designation of limited use open space shall be for agricultural and managed forestlands.
- iii. Conservation Open Space: Designation of conservation open space is required for significant or unique environmentally sensitive areas, including but not limited to Wetlands, freshwater wetlands over two acres, wildlife habitat, endangered flora / fauna, streambeds and Water Bodies, river frontage, significant stands of trees, scenic vistas, archeological sites and graveyards. Land area within conservation open space shall permanently remain in its natural state except for maintenance and access to archeological sites and graveyards.

5. Development Standards Relative to Open Space Plan Design and Access

- a. The applicant must demonstrate that the design of the open space, which results in density bonus units, is beneficial open space. "Beneficial" in this context means that the open space as planned clearly and substantially meets the purpose and applicable objectives of the Open Space Residential Development ordinance. Areas dedicated to onsite septic disposal systems, roadways, or similar infrastructure purposes may be included in the Open Space designated area, but shall be excluded from the acreage calculation for Open Space Designation.
- b. The applicant must demonstrate that there is safe and convenient pedestrian access to open space from all the lots in the residential development that do not adjoin the open space.
- c. The Planning Board shall consider the scale of development and proximity to existing designated open spaces and trails in evaluating the adequacy of the open space plan.
- d. The Planning Board may require a visual buffer or vegetative screen, upon finding that the unique characteristics of the development area and proposed design warrant such. This may be achieved through retention of significant trees or additional landscaping.

6. Dimensional Standards – Minimum Lot size, Perimeter Setbacks, Setbacks

- a. The Planning Board, in reviewing proposed Open Space Residential Developments, may modify said provisions related to minimum lot size, lot width and setback size, to permit innovative approaches to housing and environmental design.

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- b. Structures are exempt from front, side and rear setbacks, provided that no Structure may be placed closer to the original perimeter side or rear property line than is allowed within the underlying zoning district.
- c. Each dwelling unit shall have adjacent to it an exclusive use area of at least 300 square feet. The exclusive use area may contain patios, decks, fences, landscaping, gardens, and other outdoor facilities. Where fee simple ownership lots are established, said lots shall be deemed exclusive use area for the units thereon.

7. Lot Density Calculations and Density Bonuses

- a. Lot Density shall be calculated by using Net Residential Acreage as defined in Article II. The resultant acreage is then divided by the minimum lot size of the district to derive the maximum number of residential units permitted without density bonus units. In cases where the number of residential units permitted equals a decimal number, the number shall be rounded to the nearest whole number.
- b. Density Bonus Allowances: In addition, The Planning Board shall approve a density bonus that increases the maximum number of residential units allowed if the project meets any one or more of the five criteria outlined below. The maximum number of residential units is multiplied by the applicable density bonus percentage(s) to determine the total number of residential units permitted. In cases where the number of residential units permitted equals a decimal number, the number shall be rounded to the nearest whole number.
 - i. Protection of additional open space through an easement or deed restriction:
 - (a) Where the proposed Development protects the minimum 25% of the area as open space in perpetuity, the development will be awarded a density bonus of 5%, or
 - (b) Greater than or equal to 40% of the parcel area as open space in perpetuity, the development will be awarded a density bonus of 15%, or
 - (c) Greater than or equal to 65% of the parcel area as open space in perpetuity, the development will be awarded a density bonus of 25%,
 - ii. Protection of agricultural and forest land:
Where the development protects > 10 Acres of sustainably managed agricultural or forest land and provides a mechanism for the protection through an easement or deed restriction, the development will be

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awarded a density bonus of 5%. These restrictions shall be incorporated into the conservation easement of the grantee of the open space. In order to be considered sustainably managed forestland, a management plan must be developed by a licensed forester.

iii. Public access :

Where the public is granted access to the open space and use thereof, the development will be awarded a density bonus of 10%. Public access, which may be restricted to pedestrian traffic, qualifies for this density bonus. The instrument granting public access, acceptable to the Planning Board, may reasonably restrict the use of motorized vehicles.

iv. Protection of contiguous open space:

Where the development protects open space that is contiguous with other protected open spaces on adjacent parcels, such that the total contiguous protected open space is > 15 Acres, the development will be awarded a density bonus of 5%. If a proposed development abuts Town-owned property, the Planning Board shall consider the need for an access easement or right-of-way to such land and may require access.

v. Provision of affordable housing:

For every X percent of affordable housing units provided for a period not less than 30 years, the development will be awarded a density bonus of X/2. For the purposes of this subsection only, a resolution of endorsement by the Yarmouth Town Council as to affordability shall be the standard for determining both affordability and the proposed mechanism for such affordability.

8. Ownership, Protection, and Maintenance of Open Space

a. Ownership:

All common lands and improvements shall be described and identified as to location, site, use, and control in a covenant. Such covenant shall set forth the method of assessment for the maintenance of such land per best management practices. It shall provide voting and use rights for the open space when applicable and may charge dues to cover expenses, which may include tax liabilities of the open space. Articles of Association or Incorporation must be acceptable to the Town Council and Town Legal Counsel prior to issuance of a Building permit. The cost of such legal review shall be borne by the applicant. Any changes in such articles of Association or Incorporation which relate to said open space shall require the prior written approval of the Town Council and Town Legal Counsel. The covenant shall be written to run with the land and become part of the deed to each lot or dwelling unit

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within the development. Open space land shall be held, managed, and maintained by the developer until owned and controlled by the homeowners' association or other approved entity. Open space shall be permanently protected by:

- i. Conveyance to a homeowners' association. A homeowners' association is a private non-profit corporation, association, or other non-profit legal entity established by the developer. Membership in said homeowners' association shall be mandatory for property owners and made a required covenant in any deed issued or passed, or
- ii. Private ownership protected by deed covenants and restrictions in perpetuity, and use limited to conservation, Agriculture, forest and other uses consistent with the purposes of this ordinance, or
- iii. Conveyance to the Town of Yarmouth or an acceptable alternative, which meets the spirit and intent of this ordinance and is approved by the Planning Board after review by Town Legal Counsel.

b. Protection:

Conveyances of open space land to a homeowners' association shall be subject to a permanent conservation easement granted to the Town of Yarmouth. Conservation easements are tied to the title of the land and shall be recorded at the County Registry of Deeds. Provisions of such conservation easements are subject to the approval of the Planning Board with recommendations from the Parks and Public Lands Management Committee and may include provisions for no further subdivision; no residential or industrial development; no commercial uses except for Agriculture and forestry-related uses conducted according to Best Management Practices; no Roads; whether or not public access will be restricted or permitted; monitoring and easement oversight by the Town of Yarmouth or other agent assigned by the Town (such as a land trust or other conservation organization).

N. SITE PLAN – REPEALED 6/7/90- NEW ORDINANCE CHAPTER 701 SITE PLAN REVIEW

O. ACCESS

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1. No permit for the erection, conversion, or Alteration of any Building or Structure that increases the number of Dwelling units, permanent or temporary, shall be issued unless there exists a street giving access to such proposed structure. Before such a permit shall be issued, such street shall have been suitably improved to the satisfaction of the Town Engineer and the Planning Board in accordance with the applicable design and construction standards and specifications of the Town of Yarmouth. Alternatively, and at the discretion of the Planning Board, a performance bond sufficient to cover the full cost of such improvement as estimated by the Town Manager shall be furnished to the Town by the owner. Such performance bond shall be issued by a bonding or surety company approved by the Town Manger and shall also be approved by the Town Manager as to form, sufficiency and manner of execution.

Notwithstanding the above access requirements, nothing herein shall be deemed to prohibit an Addition to or Alteration of an existing Building or structure as long as the number of dwelling units are not increased.

2. Where the enforcement of the provisions of this Section would entail unnecessary hardship, or where the circumstances of the case do not require the structure to be related to the existing or proposed streets or highways, the applicant for such a permit may appeal from a decision of the Planning Director and the same provisions for the granting of a variance shall be applied by the Board of Appeals in considering the appeal. The Board of Appeals may, in passing on such appeal, impose any reasonable conditions that will protect any future street or highway layout and which will serve to protect the public health, welfare and safety. For the purposes of this Section, the term "access" shall mean that the lot upon which such structure is proposed to be erected directly abuts on a street and has sufficient frontage thereon to allow the ingress and egress of fire trucks, ambulances, police cars and other emergency vehicles, and, the frontage requirements of this Ordinance shall presumptively be sufficient for that purpose.

P. AMENDMENTS AND VARIANCES

This Ordinance may be amended by majority vote of the legislative body. Copies of all amendments to the Shoreland Zone, including related standards and definitions, shall be attested and signed by the Municipal Clerk, and shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town Council and prior to the effective date of such amendments. Amendments of the Shoreland Zone and related standards and definitions shall be in effect upon approval by the Commissioner or within forty-five (45) days of his/her receipt of the amendment, if the Commissioner fails to act within the forty-five (45) day period. Any application submitted to the municipality for a permit in the Shoreland Zone within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner or is otherwise in effect. If amendments are made in the SOD and RPD boundaries on the Official Zoning Map, such changes shall be made on the Town of Yarmouth Official Zoning

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Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection. Copies of all variances granted in the Shoreland Zone shall also be submitted to the Commissioner. Proof of mailings of amendments and variances shall be maintained by the Planning Director as a permanent record.

Q. CAMPGROUNDS

1. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:
2. Camping areas shall contain a minimum of 5,000 square feet of suitable land, not including Roads and Driveways, for each site. Land supporting Wetland Vegetation, and land below the Normal High Water Line of a Water Body shall not be included in calculating land area per site.

The area intended for temporary placement of the recreational vehicle, tent, or shelter and utility and service Buildings shall be set back a minimum of 75 feet horizontal distance from the Normal High Water line of a Water Body, Tributary Stream, or the Upland Edge of a Wetland.

3. **Individual Private Campsites.** Individual private campsites not associated with campgrounds in the Shoreland Zoning Area are subject to the following conditions:
 - a. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
 - b. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
 - c. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
 - d. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

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- e. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- f. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- g. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

R. DOCKS, PIERS, WHARVES, MOORED FLOATS, BREAKWATERS, CAUSEWAYS, MARINAS, BRIDGES OVER 20 FEET IN LENGTH, AND USES PROJECTING INTO WATER BODIES AND SHORELINE STABILIZATION

- 1. Purpose: The intent of this Ordinance is to provide for the safe and appropriate construction of structures which provide for water access without creating undue adverse effects on the marine environment. Some areas of Town are potentially sensitive to dock construction, therefore environmental impact analysis may be required to assess potential impacts as part of the review process.
- 2. All docks create some environmental impact. While single docks may not create significant impacts, cumulative impacts of several docks may cause adverse environmental effects. The intent is also to minimize the cumulative impact of such situations on the marine environment, scenic character, and navigation.
- 3. Standards of Review: When reviewing a proposed pier, dock, wharf, breakwater, causeway, marina, bridges over 20 feet in length or other structures projecting into Water Bodies, in any area where such structures are not prohibited, the Permitting Authority shall review the proposal's conformance with the following standards.
 - a. The Permitting Authority may require the applicant to submit an environmental impact analysis assessing the proposal's potential impact on natural areas, including cumulative impacts of the proposed structure in conjunction with other structures.

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- b. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- c. The location shall not interfere with developed beach areas, moorings, and points of public access or other private docks.
- d. The facility shall be located and constructed so as to create minimal adverse effects on fisheries, existing scenic character, or areas of environmental significance, such as: clam flats, eel grass beds, salt marshes, mussel bars and regionally, statewide and national significant wildlife areas as determined by Maine Department of Inland Fisheries and Wildlife (I.F.W.).
- e. The activity will not unreasonably interfere with the natural flow of any surface or subsurface waters or impede the navigability of a river or channel. In making a determination regarding potential impediments to navigation, the Permitting Authority may request comments from the Harbor and Waterfront Committee.
- f. The facility shall be no larger in height, width or length than necessary to carry on the activities and be consistent with the surrounding character, and use the area. A temporary pier, dock or wharf in Non Tidal waters shall not be wider than six (6) feet for non-commercial uses.
- g. New permanent piers and docks on Non Tidal waters shall not be permitted unless it is clearly demonstrated to the Permitting Authority that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- h. Areas, such as, but not limited to: high intensity uses as in cooperative or community docks, need for handicap access, or unusual wind and tide conditions requiring a larger float for stability.
- i. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as required, a second structure may be allowed and may remain as long as the lot is not further divided.
- j. Vegetation may be removed in excess of the standards in Article IV.R. 7.(k) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Permitting Authority. Construction equipment must access the shoreline by barge when feasible as determined by the Permitting Authority.

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- i. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment access way must be restored.
 - ii. Revegetation must occur in accordance with Article IV. R. Section 7 (n) of this ordinance.
4. The following maximum dimensional requirements shall apply for private docks, located outside of the WOC, WOC II, WOCIII, GD, and Industrial Zones. The requirements for ramp and float size may be waived by the Planning Board if it finds that the proposal has special needs requiring additional area, such as, but not limited to; high intensity uses as in cooperative or community docks, need for handicap access, or unusual wind and tide conditions requiring a larger float for stability. Maximum Pier width shall not be waived.
 - a. Pier: Six (6) feet in overall width
 - b. Ramp: Three and one half (3.5) feet in width
 - c. Float: Three hundred twenty (320) square feet.
5. MITIGATION
The Permitting Authority may require a mitigation of adverse impacts and may impose any reasonable conditions to assure such mitigation as is necessary to comply with these standards. For the purpose of this Section, "mitigation" means any action taken or not taken to avoid, minimize, rectify, reduce, eliminate or compensate for any actual or potential adverse impact on the significant environmental areas, including minimizing an impact by limiting the dimensions of the Structure and type of materials used; the magnitude, duration, or location of an activity; or by controlling the time of an activity.

S. PERFORMANCE STANDARDS FOR MANUFACTURED HOUSING LOCATED ON INDIVIDUALLY OWNED LOTS

1. Manufactured housing as defined and allowed under this Ordinance to be placed or erected on individual house lots on undeveloped lots where single family dwellings are allowed shall be required to meet the following design standards:
 - a. There shall be a pitched roof having a 2 in 12 or greater pitch covered with roofing shingles;
 - b. The exterior walls shall be covered with materials similar to traditional site-built houses. These materials may include clapboards, simulated clapboards such as conventional vinyl or metal siding, wood shingles or

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shakes or similar materials, but shall not include smooth, ridged or corrugated metal or plastic panels;

- c. The minimum horizontal dimension shall be 14 feet and the minimum floor area shall be 600 square feet;
- d. The house will be anchored on a permanent foundation;
- e. Any fuel storage tanks shall be enclosed or buried;
- f. All plumbing and utility connections shall comply with local, state and national codes;

2. All Additions to manufactured housing shall meet the following criteria:

- a. The Addition is of a similar architectural design and constructed of similar materials as the manufactured housing unit;
- b. The Addition is permanently attached to the unit to create one integral structure; and
- c. The Addition is placed on a permanent foundation.
- d. All disturbed areas of the site, not otherwise revegetated, shall be loamed, fertilized and seeded;
- e. All exterior doors shall be provided with steps of a suitable design and construction to provide all-season access.

T. LOT AREA AVERAGING

Except within the Shoreland Overlay and Resource Protection Districts, the Planning Board may allow a reduction in lot sizes in single family detached subdivisions provided that the same number of lots in the same subdivision are oversized by an equal or greater area, where it finds that because of natural features, topography, or the character of surrounding development that such a reduction will benefit the overall design of the subdivision. The maximum permitted reduction shall not exceed 25% of the minimum required lot area. The maximum number of lots permitted to be reduced in lot size shall not exceed 25% of the total lots in the subdivision. The Planning Board may adjust rear, side and front setbacks for each affected lot by no more than 25% at its discretion.

U. OPEN SPACE REQUIREMENT-repealed 7/25/2006

V. DAY CARE STANDARDS

1. Purpose

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It is the intent of these provisions to allow places for the care of children in a healthy and safe environment in a manner which will not be disruptive to a neighborhood. Places for the care of children should be considered a public service and are integral components of neighborhood life.

2. Licensing and Registration Required

- a. All facilities providing care of children shall be licensed by the Maine Department of Health and Human Services, evidence of said licensing shall be provided to the Department of Planning and Development.

3. Standards for all facilities providing care of children.

In addition to standards used by the Maine Department of Health and Human Services in licensing Day Care Facilities the following standards shall be used to review the appropriateness of applications for all facilities providing care of children.

- a. Access to outdoor play area. All facilities must have access to an outdoor play area with sufficient space for safe play for all children.

Provision of indoor play area. All facilities must have a minimum of 35 square feet of indoor play space per child. Indoor spaces shall be properly lit, including natural lighting. Areas for administrative use, bathrooms, hallways, storage and kitchen areas, shall not be counted in calculating this required square footage.

- b. Minimum Fencing Required. Four foot fence around outdoor play area unless the area can be determined to be well protected by location and natural barriers.

Location of play areas. The play area must not be located near hazardous areas (such as busy streets, wells, open water, etc) unless protected by either natural boundaries or adequate fencing.

- c. Outdoor storage of equipment. All moveable play equipment shall be stored in an appropriate container or enclosure when not in use.
- d. Parking areas. A parking area shall be designed to provide a safe location for loading and unloading children.

4. The Permitting Authority shall consider the necessity for additional appropriate conditions and safeguards to protect the health, safety and welfare of the children using the Home or Facility including the necessity for additional fences, barriers, other safety devices and buffers.

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5. The applicant shall get approval from the Plumbing Inspector that the sewerage disposal system can handle the needs of the proposed use.
6. Group Day Care homes shall have at least 1,000 square feet of lot area per child received into the home including the family's natural or adopted children under the first grade.

W. ADULT BUSINESS ESTABLISHMENTS

1. Location of Adult Businesses Restricted
No Adult Business shall be located:
 - a. in any zoning district other than the Commercial District
 - b. in any location where the customer entrance to the Adult Business would be closer than 250 feet, measured in a straight line without regard to intervening structures or objects, to the nearest point on the boundary of any property which is:
 - (1) occupied by a residence, school, park, playground, church or Public building,
 - (2) located in a residential zone, or
 - (3) occupied by another Adult Business
2. Outside Displays Prohibited.
No materials or devices displaying or exhibiting specified sexual activities shall be visible from the exterior of the Building in which the Adult Business is located.
3. Viewing Booths Prohibited
No viewing booths may be located on the premises of an Adult Business.
4. Effective Date
Notwithstanding anything to the contrary in 1 M.R.S.A. §302, these amendments shall apply to any application or request to locate or operate an Adult Business submitted to the Town of Yarmouth or to any of its officers or employees on or after May 20, 1993.

X. LIGHTING; VILLAGE I AND II DISTRICTS

While outdoor lighting does serve public and private safety and welfare, it is found that some of the illumination of current powerful outdoor lighting is wasted due to penetration beyond the area for which it is intended. This Section shall apply to the placement and design of any outdoor lighting in the Village Districts.

1. Purpose

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This Section establishes standards for minimizing the unintended and undesirable side effects of outdoor lighting in the Village District while supporting the intended and desirable safety, welfare and aesthetic purposes of outdoor lighting. It is a purpose of this Section to:

- a. minimize nuisance glare by controlling the direct illumination from outdoor lights onto only those areas for which it is intended.
- b. promote indirect illumination from outdoor lighting to enhance the safety, welfare and enjoyment of motorists, bicyclists and pedestrians.
- c. protect the legitimate privacy of abutting property owners through the control of outdoor lighting by minimizing the spillage of waste light.

2. Non-conforming Outdoor Lighting

- a. As of the effective date of this Section, all outdoor lighting that does not conform to every requirement of this Section shall be non-conforming outdoor lighting. Such non-conforming outdoor light shall be grandfathered and may be continued and maintained at the current level.
- b. Whenever any outdoor lighting fixture that was existing on the effective date of this Section is replaced by a new outdoor light fixture the new fixture shall conform to the maximum height and minimum shielding requirements of the Section.

3. Exemption

Traffic lighting and pedestrian control lighting in the public right-of-way are exempt from this Section.

4. Prohibited Lighting

- a. Moving lighting
- b. Flashing lighting
- c. Message lighting
- d. Roof mounted lighting

5. General Requirements; Outdoor Lighting

- a. The illumination source of an outdoor lighting fixture shall be located at least ten (10) feet, as measured horizontally on the face of the earth, from any lot line of any abutting property. However, structures that support the illumination source such as, but not limited to poles may be placed closer than ten (10) feet to a lot line.

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- b. Where the distance from the front lot line is less than ten (10) feet from the paved surface of the public right-of-way, the illumination source of public street lights may be located less than ten (10) feet from the abutting front lot line.
- c. Pedestrian walkway lighting fixtures that at no point are more than three (3) feet above the ground may not be placed closer than ten (10) feet from a lot line. All pedestrian lighting shall conform to all other requirements of this Section.
- d. Soffit lighting, where feasible, shall be encouraged and may be required by the Planning Board as part of any Site Plan Review.
- e. A photo metric plan and fixture data shall be submitted as part of any Site Plan Review when required by the Planning Board.
- f. The maximum height of an illumination source of an outdoor lighting fixture above the average ground grade shall conform to the following table. Average ground grade shall be determined within a circle of 10-foot radius on the ground with its center point directly below the illumination source.

Maximum Height of Illumination Source

<u>Location</u>	<u>Average Height Above Ground (feet)</u>
Village/Commercial property	14
Village/Residential property	12

- g. Building attached lighting shall not exceed the maximum heights or the eaves/gable roof edge, whichever is lower.
- h. The illumination source of all outdoor lighting except spotlights/floodlights shall be permanently covered on the top and sides by the lighting fixture which shall completely block the passage of light. The side covering, or shade, shall extend downward vertically below the lowest point of illumination.
- i. Lighting shall conform as nearly as possible to the following table when measured approximately 3' above grade:

<u>Location</u>	<u>Average Maximum Illumination (foot candles)</u>
Parking Lot	1.5
Property Lines	.5
Site	.5

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6. Spotlights/Floodlights

Spotlights/floodlights may only be used to illuminate Buildings and structures in accordance with the provisions of this Section.

- a. Under no circumstances shall spotlights/floodlights be used to illuminate any parking areas, loading areas or gas station area.
- b. The illumination from spotlight/floodlights shall be directed onto the full facade of a Building sign or structure so that light that spills beyond any edge of the Building sign or structure is minimized.
- c. No spotlight/floodlight shall be located closer than ten (10) feet to any lot line.
- d. All spotlights/floodlight shall be permanently shielded on the rear and sides by the lighting fixture which shall completely block light.

7. Exclusion

In built-up areas within which historically, or by zoning, distances between Buildings may be less than 10 feet, or distance of Buildings from any lot line may be less than ten (10) feet, nothing in this Section shall be construed to prohibit private or public outdoor lighting as may be deemed necessary by the codes official to meet Building or electrical codes. However, all other requirements of this Section shall be met, including, but not limited to, maximum height requirements and minimum shielding requirements and where the minimum setback of outdoor lighting can be met in said areas, it shall be met.

8. Temporary Residential Party Lights

Nothing in this Section shall be construed to prohibit the occasional use of temporary outdoor lighting on residential properties and other non-commercial properties for social gatherings. However, such temporary outdoor lighting used for more than any seven (7) consecutive day period shall meet all the regulations of this Section.

9. Temporary Outdoor Lighting

Nothing in this Section shall be construed to prohibit the use of temporary outdoor lighting from November 15 to January 15.

10. String Lighting

String lights are allowed in rear yards, and are allowed in café seating patios or sidewalk café applications in predominantly horizontal plane configuration comprising repeated standard base hanging luminaires with design of such café lighting to be limited to soft character lighting with minimal glare and no use of colored lights, subject to approval by the Planning Board.

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Y. BUFFERS, VILLAGE I & II DISTRICTS

1. Buffers Defined

Buffers are fences and landscaping used to minimize any adverse impacts or nuisance on the site or from adjacent areas.

2. Required

Buffers shall be considered in or for the following areas and purposes:

- a. Along property lines, to shield various uses from each other.
- b. Along interior Roads running parallel to Roads exterior to the site, to prevent confusion, particularly at night.
- c. To totally screen garbage/trash collection areas, loading and unloading areas, electrical transformers, air conditioning units, utility service areas, and similar functions from public view.

3. Natural Features as Buffers

Natural features shall be maintained wherever possible to provide a buffer between the proposed development and noncompatible abutting properties and public Roadways. When natural features such as topography, gullies, stands of trees, shrubbery, rock outcrops do not exist or are insufficient to provide a buffer, other kinds of buffers shall be considered.

4. Sufficiency of Buffers

Buffers shall be sufficient to shield structures and uses from the view of non compatible abutting properties and public Roadways, and to otherwise prevent any nuisances including but not limited to all loading and unloading operations, storage areas, commercial vehicle parking, waste disposal and collection areas.

5. Maintenance of Fencing and Screening

Fencing and screening shall be durable and properly maintained at all times by the owner and shall be so located within the property line as to allow access for maintenance on both sides without intruding upon abutting properties.

6. Maintenance of Buffer Areas

All buffer areas shall be maintained in a neat and sanitary condition by the owner.

7. Landscape and Buffer Requirements in the Village I and II Districts

- a. Unless otherwise specifically indicated by the Planning Board, all plant materials required under this Section for site plan review shall meet the following minimum size standards at time of planting:

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Plant Material Type	All Plantings (minimum sizes)
Canopy Tree, single stem	2.5 inch caliper
Canopy Tree, multi stem	10 feet (height)
Clump	
Ornamental Tree	1.5 inch caliper
Evergreen Tree	5-7 feet (height)
Shrub, deciduous	24 inches (height)
Shrub, evergreen	18 inches if upright (height)

- b. All plantings required under this Section shall be of a type and species appropriate for the soil types and climatic conditions. Approved plantings are those species indicated available and guaranteed by local nursery sources.
- c. The Owner(s) of any premises approved by the Planning Board shall have a continuing obligation to maintain required planting in accordance with the terms of the site plan approval and in a good and healthy condition.

Z. WIRELESS COMMUNICATION FACILITIES

- 1. Performance standards and submission requirements for wireless communication facilities
This section is designed and intended to balance the interests of the residents of the Town of Yarmouth and wireless communications providers and customers in the siting of wireless communications facilities within the town. These standards are also intended to:
 - a. Minimize the adverse impacts of such facilities, including visual impacts, environmental impacts, impacts to historically significant areas, and safety impacts.
 - b. Permit the construction of new towers only where all other reasonable opportunities have been exhausted.
 - c. Encourage the users of towers and antennas to configure and locate them in a way that minimizes the need for additional towers in the Town of Yarmouth.
- 2. Exemptions
The following wireless communication facilities are exempt from these regulations:

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- a. One operated solely by a federally licensed amateur radio operator as part of the Amateur Radio Service ("ham" radio operator), with a maximum tower height of seventy-five (75) feet, and which is not additionally licensed or used for any commercial purpose, other than by the licensed amateur radio operator.
- b. One used solely for single channel business communications, such as pagers and two-way radios, with a maximum tower height of seventy-five (75) feet, except that no tower for such use is permitted in the V Village or Village II District.
- c. One solely for municipal, public safety, or public works use, with a maximum tower height of one hundred (100) feet.

3. Space and Bulk

a. Tower Height

Towers shall not exceed a height of one hundred (100) feet, except that where evidence of acceptable design and co-location is provided, the Planning Board may approve an additional twenty-five (25) feet of tower height per each additional wireless communication service co-locator, not to exceed the following maximum tower heights:

"RR" Rural Residential; "LDR" Low Density Residential	150'
"MDR" Medium Density Residential:	
"IND" Industrial; "C" Commercial; Commercial II; Commercial III	175'

b. Antennas

(1) Height

Installing antennas on Alternative Tower Structures is permitted, provided the resulting Alternative Tower Structure height does not exceed the following maximum heights:

"RR" Rural Residential; "LDR" Low Density Residential	150'
"MDR" Medium Density Residential; "IND" Industrial; "C" Commercial; Commercial II; Commercial III.....	175'
"WOC I" Water Oriented Commercial; "WOC III", "V" Village; Village II District.....	present highest point of Building or Structure

Installing Antennas on an existing Alternative Tower Structure in the IND Industrial District, when such Structure exceeds 175', shall be permitted provided there results no additional height to the Structure.

(2) Mounting and dimensions

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The mass and dimensions of antennas on a tower or Alternative Tower Structure shall be governed by the following criteria:

- (a.) Whip antennas shall not exceed 20' in length for an individual antenna, and shall be limited to two (2) per mount, with no more than three (3) mounts at a given level.
- (b.) Microwave dish antennas. The aggregate diameters of microwave dish antennas mounted within a 20' vertical section of a tower may not exceed 24', with no single dish being more than 8' in diameter and 5' in depth, unless otherwise required per the path reliability and/or tower structural studies.
- (c.) Panel antennas. The horizontal centerline of all panel antennas of a single carrier must be aligned in the same horizontal plane, with each antenna not to exceed 8' in length or 2' in width.

c. Lot Area

A new wireless telecommunications tower shall not be constructed on a lot that does not conform to the minimum lot area required in the zoning district even if such lot is a lawful non-conforming lot of record.

d. Setbacks

- (1) The center of the base of any telecommunications tower must meet the following setback criteria or the required minimum setback of the District in which it is located, whichever is greater:

"RR" Rural Residential; "LDR" Low Density Residential; "MDR" Medium Density Residential:	100% of tower height
"IND" Industrial; "C" Commercial; Commercial II; Commercial III:	50% of tower height, Except that the minimum setback shall be 100% of tower height to any property line which abuts a lot in the RR, LDR, MDR, V, V II, or WOC II District or a lot in residential use

- (2) Equipment facilities shall meet the required District setback.
- (3) If more than one tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.

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- (4) Notwithstanding the height and setback limitations within a zoning district, in order to accommodate the co-location of an additional antenna, a tower, existing as of (date of adoption) January 16, 1998, may be modified or rebuilt to a taller height, not to exceed a total maximum of thirty (30) feet more than the tower's height as of (date of adoption) January 16, 1998, but only if that additional height will not require any lighting or obstruction painting. The additional tower height shall not require increased lot setbacks.
- (5) There shall be no setback requirements for antennas mounted on Alternative Tower Structures. The standard District setbacks shall continue to apply for Alternative Tower Structures and equipment facilities, where applicable.

4. Co-location requirements

a. On existing towers:

- (1) Applicants for site plan review for a new wireless communication tower must send written notice by pre-paid first class United States mail to all other such tower and Alternative Tower Structure owners and licensed wireless communication providers in the Town utilizing exiting towers and Alternative Tower Structures and to owners of such towers and Alternative Tower Structures within a 1 mile search radius of the proposed tower, stating their siting needs and/or co-location capabilities. Evidence that this notice requirement has been fulfilled shall be submitted to the Planning Board and shall include a name and address list, copy of the notice which was sent, and a statement, under oath, that the notices were sent as required. An application for a new tower must include evidence that existing or previously approved towers and Alternative Tower Structures within the Town and search area cannot accommodate the communications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence would be documentation from a qualified and licensed professional engineer that:
 - (a.) Planned necessary equipment would exceed the structural capacity of existing and approved towers and Alternative Tower Structures, considering the existing and planned use of those towers and Alternative Tower Structures, and the existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;

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- (b.) Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower or Alternative Tower Structure, and the interference cannot be prevented at a reasonable cost;
 - (c.) Existing or approved towers and Alternative Tower Structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or approved; or
 - (d.) Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers and Alternative Tower Structures.
 - (2) Shared use shall be conditioned on the applicant's agreement to pay a reasonable fee and costs of adapting existing facilities to the proposed use.
 - (3) Once the Planning Board has determined that telecommunications equipment proposed by the applicant cannot be accommodated on an existing or approved tower or Alternative Tower Structure, each tower or Alternative Tower Structure so found is presumed unable to accommodate similar equipment that may be proposed in the future unless the Board determines, after additional information is provided, that new technology or other considerations enables the existing or approved tower or Alternative Tower Structure to accommodate the equipment.
 - (4) The Planning Department will maintain a list of existing and approved towers and Alternative Tower Structures, including name and address of owner(s), within the Town of Yarmouth.
- b. Construction of new towers
- A proposal to construct a new co-located communication tower taller than the maximum height permitted for a single wireless communication service must include evidence that the tower can structurally support a minimum of three (3) antenna arrays for each anticipated co-locating entity. (See Section II.Z.3.a Tower Height, above.)

Prior to the issuance of any Building permits for a co-located tower in excess of the height of a single user tower, the applicant will submit to the Code Enforcement Officer executed agreements documenting commitments to co-locate from the number of co-locators approved by the Planning Board.

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5. Interest of telecommunication entity

A proposal to construct or modify a wireless communication tower must include evidence of a commitment from a duly licensed entity to utilize the tower to provide wireless communication services. All wireless communication entities which are contracted to locate on the tower must join as applicants.

6. Submissions

In addition to all of the relevant site plan review submission requirements listed in Chapter 702, the following submissions shall be required unless waived by the Planning Board:

- a. A report from a Registered Professional Engineer in the State of Maine that describes the tower, the technical reasons for the tower design and the capacity of the tower, including the number(s), type(s), and volume(s) of Antenna(s) that it can accommodate and the basis for the calculation of capacity.
- b. Written approval by all applicable state and federal agencies, including but not limited to the FAA and FCC, including a description of any conditions or criteria for the approval, or a statement from the agency that no approval is required.
- c. A letter of intent that commits the tower owner and his or her successors in interest to:
 - (1) respond in a timely, comprehensive manner to a request for information from a potential co-location applicant;
 - (2) negotiate in good faith for shared use by third parties that have received an FCC license or permits;
 - (3) allow shared use if an applicant agrees in writing to pay reasonable charges.
- d. Evidence that co-location on existing or approved towers or Alternative Tower Structures is not possible, per Section II.Z.4 above. If the proposed tower cannot be accommodated on an existing or approved tower site, the applicant must assess whether such tower site could be changed to accommodate the proposed tower, and generally describe the means and projected cost of shared use of the existing or approved tower site.
- e. Proof of financial capacity to build, maintain, and remove the proposed tower.
- f. An inventory of all of the provider's existing and approved towers, Antennas or sites within the Town of Yarmouth and locations in surrounding

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communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application.

- g. Photos showing site Vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties.
- h. Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.
- i. Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and tress. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- j. Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing Building or Structure, provide measurements and elevations of the Structure.
- k. A visual analysis, which may include photo montage, field mock up, or other techniques, which identifies the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from public areas as well as from private residences and from archaeological and historic resources including historic districts, areas and Structures, specifically those listed in the National Register of Historic Places or those that are eligible for such listing. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his/her review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed communication service.
- l. Identify any other telecommunication facilities existing or proposed on the site.
- m. Details of all Accessory Structures including Buildings, parking areas, utilities, gates, access Roads, etc.
- n. Structural requirements:

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- (1) Telecommunication towers shall be designed and installed in accordance with the most current standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.
- (2) The applicant's engineer shall provide documentation showing that the proposed transmission tower meets or exceeds the most current standards of the American National Standards Institute ANSI/EIA/TIA-222 for Cumberland County relative to wind and 1/2" ice loads when the tower is fully loaded with antennas, transmitters, and other equipment as described in the submitted plan.
- (3) For towers or Antennas placed on Buildings or Alternative Tower Structures, the applicant shall also provide written certification that the Building or ATS itself is structurally capable of safely supporting the tower or Antennas and their accompanying equipment.

7. Design Standards

a. Wireless communication facilities:

- (1) Except where dictated by federal or state requirements, the Planning Board may require that a proposed tower be camouflaged or designed to blend with the surroundings. This may include, but is not limited to, having a galvanized finish, being painted "flat" blue gray or in a sky tone above the top of surrounding trees and earth tone below treetop level.
- (2) Equipment facilities shall be adjacent to the tower base unless an alternative location will be less visually obtrusive or topographic considerations require an alternative location.
- (3) Equipment facilities shall be no taller than one story in height and shall be treated to look like a Building or facility typically found in the area.
- (4) No obstruction painting or any lighting shall be permitted on any towers, except where dictated by federal or state requirements. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and views.
- (5) Manually operated or motion detecting security lighting is permitted.

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(6) The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and/or community features).

(7) Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury

b. Antenna arrays

Antenna arrays located on an existing structure or Alternative Tower Structure shall be placed in such a manner so as to not be visible from a ground level view adjacent to the structure. If, however, circumstances do not permit such placement, the antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure.

8. Location

a. Wireless telecommunication facilities shall not be sited in areas of high visibility unless the Planning Board finds that no other location is technically feasible. If the facility is to be sited above the ridgeline it must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment.

b. No facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.

9. Additional standards and criteria

a. Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.

b. Creative design measures have been employed to camouflage facilities by integrating them with existing Buildings and among other uses.

c. Other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the effect of the location on visually sensitive areas such as residential communities, historical areas and open space areas.

10. Waiver provision

The Planning Board, in its sole discretion, may modify or waive any of the submission requirements, application procedures, or standards of this Section Z. when it determines that, because of the type or size of the project or circumstances of the site, such requirements would not be applicable or would be unnecessary to determine compliance with the approval standards. The

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Planning Board must additionally determine that such modification or waiver would not adversely affect properties in the vicinity or the general safety and welfare of the Town. The burden of proof regarding any such modification or waiver rests solely with the applicant and must be shown to be consistent with federal and state law.

Notwithstanding the authority of the Planning Board to grant a waiver, in no instance may the height of a new tower exceed 250' or may the height of an Alternative Tower Structure be increased to more than 250'.

11. Amendments

Any change to existing, previously approved and proposed towers requires site plan approval as noted in the definitions of major and minor development in Chapter 702. Changes include, but are not limited to, modifications to approved height and to approve attachments such as antennas and dishes as well as requests for additional attachments.

12. Removal of abandoned wireless communication facility

- a. The owner of a wireless communication facility shall notify the Code Enforcement Officer of the date of cessation of use of the facility or any component(s) thereof within one month from the date of such cessation. If the owner fails to give the notice required by this paragraph, the Code Enforcement Officer shall make a determination of such date, which determination shall be conclusive.
- b. Any WCF or component thereof that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of an abandoned WCF or component thereof shall remove it within ninety (90) days of receipt of notice from the Code Enforcement Officer of determination of abandonment.

All above ground structures, equipment, foundations, guy anchors, utilities and access Roads or driveways specifically constructed to service the tower, structures, equipment or utilities shall be removed, and the land returned to a condition as near to the original pre-construction condition as possible.

- c. At the time of approval, the applicant for a new tower shall post a performance guarantee in the form of a continuous corporate surety bond, an irrevocable letter of credit, or an escrow account in favor of the Town equal to 125% of the estimated demolition and removal cost of the tower and associated facilities if abandoned at any time by the applicant. Such performance guarantee shall be satisfactory to the Town Manager as to the issuer, form, sufficiency, surety and manner of execution. All performance guarantees shall be on a continuous basis, with any provision for

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cancellation to include that a minimum 30 day notice of cancellation or non-renewal be sent by certified mail to the Town of Yarmouth.

- d. If there are two or more users of a single tower or WCF, then this provision shall not apply until all users cease using the tower or WCF.
- e. If all antennas above a manufactured connection on a tower are removed, the resulting unused portions of the tower shall subsequently be removed within six (6) months.
- f. The replacement of all or portions of a WCF previously removed requires a new site plan approval per Chapter 702.

13. Inspections

- a. Inspection of towers by a Registered Professional Engineer in the State of Maine shall be performed to insure structural integrity. such inspections shall be performed as follows:
 - (1) Monopole towers - at least once every seven years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence.
 - (2) Self-supporting towers - at least once every five years following completion of construction. The inspection shall take place between the fourth and fifth year of the repeat sequence.
 - (3) Guyed towers - at least once every three years following completion of construction. The inspection shall take place between the second and third year of the repeat sequence.
- b. The inspection report shall be submitted to the Town Engineer within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO, upon recommendation by the Town Engineer, may require repair or demolition of the tower.
- c. The cost of such inspections, reports, repairs or demolition required under this Section of the Ordinance shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days or less as required by the CEO and agreement by the Town Engineer for safety reasons.
- d. Failure to provide required inspection reports in the required time schedule shall be deemed *prima facie* evidence of abandonment.

AA. WELAND BUFFERS AND SETBACK REQUIREMENTS

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1. Purpose: The purpose of these requirements is to protect water quality, aquatic life, and wildlife habitat in and adjacent to Wetlands town-wide, and, to protect private and public property from flooding and poor drainage conditions caused by locating Buildings in or close to these areas. The regulations are intended to protect natural resource areas that are not currently covered within the Shoreland Overlay or Resource Protection Overlay Districts.

A buffer consisting of natural vegetation not less than 25' wide shall be left undisturbed between Wetlands and all areas cleared for Development, including, but not limited to, lawns, gardens, landscaped plant beds, Driveways, parking lots, Buildings, and other Structures.

Provided, however, that the Planning Board may reduce or waive the buffer requirement for good cause and upon a showing that the reduction or waiver will not cause or lead to unreasonable adverse impact to the health, function or value of the Wetland resource. In making such a determination, the Planning Board may impose conditions of approval upon such waiver or reduction in order to protect the resource.

A setback of not less than 50' shall be maintained between Wetlands and any structures. Provided, however, that the Planning Board may reduce or waive the buffer requirement for good cause and upon a showing that the reduction or waiver will not cause or lead to unreasonable adverse impact to the health, function or value of the Wetland resource. In making such a determination, the Planning Board may impose conditions of approval upon such waiver or reduction in order to protect the resource.

2. Applicability: The requirements of this section apply only in newly created major subdivisions (as defined in Chapter 601 of the Yarmouth Town Code) approved by the Yarmouth Planning Board after July 25, 2006.

In the event that the requirements of this section overlap the requirements of Shoreland Overlay or the Resource Protection District, the requirements the more restrictive section shall apply.

Buffers and setbacks shall be measured from the upland edge of the wetland. Where uncertainty exists as to the precise boundaries of protected resources for the purposes of establishing buffers and setbacks, the Planning Board shall be the final authority as to location. In making determinations, the Planning Board may require applicants to file plans drawn and approved by qualified professionals and may consider the advice of state and federal agencies and peer reviewers.

3. Maintenance of Buffers: Buffers shall remain undisturbed, except for the removal of trees that pose a safety hazard. No tree cutting or clearing of vegetation can

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be done within the buffer without prior approval of the Code Enforcement Officer. No trash, Building materials, compost piles, Buildings, automobiles, equipment, machinery, car parts, gravel, rocks, soil, Slash or debris of any kind shall be placed or stored in the buffer area. Stormwater runoff shall enter the buffer area as sheet flow only. Channeling stormwater runoff through the buffer area is not permitted.

The boundaries of buffer areas shall be marked on site with snow fencing or equivalent measures and approved by the Code Enforcement Officer prior to site clearing or any development activity.

4. Exemptions:

- A. Buffers and setbacks are not required adjacent to the following areas:
 - 1. Swales, ditches, and impoundments created for drainage purposes;
 - 2. Artificial impoundments of streams constructed prior to the enactment of this amendment;
 - 3. Low value Wetlands, averaging thirty (30') feet or less in width, as determined by measuring the width of five (5) evenly spaced sections, that function primarily as drainage swales in upland areas.
 - 4. Wetlands 500 square feet or less.
- B. Buffers and setbacks do not apply to the following projects:
 - 1. Stormwater management facilities;
 - 2. Road crossings, bridges, culverts, and the installation of utilities needed to access property on the other side of Wetlands and Water Bodies;
 - 3. Docks, boat ramps, and other structures necessary for direct access to Water Bodies.
 - 4. Portions of Wetlands filled or altered under a permit issued by the Maine DEP under the Natural Resources Protection Act or by the US Army Corps of Engineers.

BB. SMALL WIND ENERGY SYSTEMS

- 1. Purpose: The purpose of this ordinance is to promote alternative energy production on a scale adequate to meet the needs of a typical home or small business. The provisions of this ordinance are intended to regulate placement and construction of Small Wind Energy Systems (SWES) in appropriate locations while minimizing potential visual, environmental, and operational impacts on the Town and its residents.
- 2. Location: An SWES is an Accessory Use permitted in all zoning districts except the Resource Protection District (RPD), Village I, Village II, or Village III Districts.

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3. Permitting Requirements: Notwithstanding the submission requirements outlined herein, no SWES shall be erected, constructed, or installed without first receiving site plan approval in accordance with Chapter 702. Furthermore, a building and electrical permit shall be required for all new SWES and physical modifications to existing SWES. For the purposes of this ordinance, the classification of an application as requiring major or minor site plan review shall be determined by the Total Height of the proposed SWES.
 - a. Minor Site Plan Application: Where a proposed SWES has a Total Height no greater than seventy five (75) feet and meets other performance standards in this ordinance, the Planning Director shall review said application for compliance. The Planning Director, at his/her discretion, may refer an application for an SWES to the Planning Board for review.
 - b. Major Site Plan Application: Where a proposed SWES has a Total Height greater than seventy five (75) feet, the Planning Board shall review said application for compliance.

All site plan applications shall be accompanied by a site plan drawn at a scale sufficient to allow review of the following information:

- (1) Location of the proposed SWES and related equipment;
- (2) Property boundaries and dimensions;
- (3) Setback requirements;
- (4) General topography (steep slopes, wetlands, streams, flood plains);
- (5) Location and distance to overhead utility lines within 200' of the proposed SWES;
- (6) Graphic scale and north arrow;
- (7) Location and distance to roads, and all inhabited structures within 1,000' of the proposed SWES;

Additional Information:

- (8) SWES specifications, including manufacturer, model, rotor diameter;
- (9) maximum recommended height; proposed Tower height, type, and support system; generator nameplate capacity, lighting specifications, if any;
- (10) If connecting to the power grid, a copy of the application for interconnection with the electric utility provider;
- (11) Sound level analysis prepared by the SWES manufacturer or qualified engineer;
- (12) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to current National Electric Code;

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- (13) If an SWES is affixed to an occupied structure, evidence and certification by a structural engineer that the proposed project is structurally feasible;
- (14) At the discretion of the Permitting Authority, the applicant may be requested to provide a visual impact analysis including, but not limited to: photo simulation(s), mapping of Viewshed within one-quarter $\frac{1}{4}$ mile of the proposed SWES, scaled elevation drawings of the SWES as it relates to adjacent structures and vegetation, and a narrative indicating the extent that the SWES would be visible from scenic resources and nearby properties. Where more than one SWES is proposed, visual impact analysis shall be required;
- (15) Landscaping plan, indicating any proposed plantings to screen the SWES and any ground mounted electrical and control equipment; and,
- (16) Any additional information the Permitting Authority deems appropriate to determine compliance with ordinances and documented goals and policies of the Town of Yarmouth.

4. Design Standards:

The application shall be evaluated for compliance with the following standards;

- a. Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the Total Height of the SWES and measured from the center of the Tower base.

Minimum Setback Requirements

<u>Occupied Buildings on Participating Landowner Property</u>	0
<u>Occupied Buildings on Abutting Property</u>	1.5 X SWES Total Height
<u>Property Lines of Abutting Property and Utility Lines</u>	1.1 X SWES Total Height
<u>Public Roads</u>	1.5 X SWES Total Height

- (1) Guy wires used to support a tower are exempt from the SWES setback requirements. However, guy wires must not cross onto abutting properties or rights of way, unless an easement is obtained from the owner of the abutting property onto which the guy wires cross.
- b. Height: The maximum Total Height of an SWES is one hundred (100) feet. Upon demonstration by the applicant that additional height is practical, the Planning Board may waive the Total Height to a maximum of one hundred twenty five (125) feet.
- c. Sound Level:
 - (1) The SWES shall not exceed fifty-five (55) decibels using the A scale (dBA), as measured at the side property lines during daylight

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hours, and forty-five (45) decibels using the A scale (dBA) at night time;

- (2) The SWES shall be equipped with an auto braking, governing or feathering system to prevent uncontrolled rotation.
- d. Shadow Flicker: An SWES shall be sited and screened with vegetative plantings in such a manner to minimize the impacts of shadow flicker on occupied structures, both the participating property and on properties within 1,000 feet of the SWES. The applicant shall have the burden of proving that the shadow flicker shall not have a significant adverse impact on neighboring properties. Significant shadow flicker is defined as more than twenty five (25) hours per year on abutting occupied buildings.
- e. Signs: Logos, advertising, and signs including flags, streamers, and decorative items, both temporary and permanent, are strictly prohibited on the SWES, except for manufacturer identification or appropriate warning signs.
- f. Aviation: It is the applicant's responsibility to verify construction of an SWES complies with all applicable Federal Aviation Administration regulations.
- g. Visual Impacts:
 - (1) The SWES shall be painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include, but are not limited to: white, off-white, and gray.
 - (2) Exterior lighting is prohibited on an SWES, unless required by the Federal Aviation Administration (FAA).
- h. Access: The Tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of twelve (12) feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- i. Blades used as part of the SWES shall not exceed a diameter of twenty (20) feet for residential properties and thirty (30) feet for non-residential properties.
- j. The minimum distance between the ground and any Wind Turbine blade shall be at least twenty five (25) feet, as measured from the lowest point in the blade's rotational circle.

5. Abandonment of Use:

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- a. At such time that an SWES is scheduled to be abandoned or discontinued, the applicant will notify the Planning Department by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
 - b. Upon abandonment or discontinuation of use, the owner shall physically remove the SWES within ninety (90) days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Planning Director or his/her designee. "Physically remove" shall include, but not be limited to:
 - (1) Removal of the Wind Turbine and Tower and related above-grade structures.
 - (2) Restoration of the location of the SWES to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.
 - c. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous twenty four (24) month period. After the twenty four (24) months of inoperability, the Planning Director or his/her designee may issue a Notice of Abandonment to the owner of the SWES. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from receipt of notice. After review of the information provided by the owner, the Planning Director or his/her designee shall determine if the SWES has been abandoned. If it is determined that the SWES has not been abandoned, the Planning Director or his/her designee shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
 - d. If the owner fails to respond to the Notice of Abandonment or if, after review by the Planning Director or his/her designee, it is determined that the SWES has been abandoned or discontinued, the owner of the SWES shall remove the wind generator and tower at the owner's sole expense within three (3) months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the Planning Director or his/her designee may refer the issue to the Town Manager who may pursue legal action to have the SWES removed at the owner's expense.
6. **Waiver of Required Information:** The Permitting Authority may waive the submittal of required materials upon finding that the specific information is unnecessary in order to review the application's conformance with this ordinance.
7. **Sunset Provision:** These entire provisions for SWES (Chapter 701 Article II.BB) shall expire and be automatically repealed in its entirety on August 1, 2010 unless the Town Council shall earlier revise or repeal this subsection 7.

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CC. SIDEWALK CAFÉ

1. Purpose: The purpose of this ordinance is to facilitate the establishment of outdoor seating in the public sidewalk directly adjacent to establishments providing food and beverages. Street Furniture shall be defined as tables, chairs, umbrellas, lighting, plants, planters, trash receptacles and any other items of the sidewalk café.
2. Permitting requirements: A Sidewalk Café is a permitted use in all zoning districts. Permits for operation of a sidewalk café shall be subject to the following design standards and guidelines:
 - a. A minimum four (4) foot unobstructed pathway shall be maintained at all times.
 - b. Placement of seating adjacent to on-street parking shall provide a minimum two (2) foot clearing to accommodate opening/closing of car doors;
 - c. Street Furniture shall not be affixed to the sidewalk, and shall be removed at an appropriate time to facilitate winter snow removal;
 - d. No amplified sound, food preparation, storage or cooling equipment shall be allowed on the sidewalk;
 - e. The area shall be kept in a clean and sanitary condition at all times;
 - f. Street Furniture shall include provision of a trash receptacle;
 - g. Operation of sidewalk café shall be limited to the hours of the establishment;
 - h. Consumption of alcohol shall not be permitted unless explicitly permitted by the Town of Yarmouth;
 - i. Said permit shall be effective for a period of one (1) year from date of issuance;

Prior to the issuance of a Sidewalk Café Permit, said applicant shall sign a "Sidewalk License Agreement", between the applicant and the Town of Yarmouth.

Amendment to approved location and layout of Street Furniture shall be subject to the approval of the Planning Department.

The Planning Department may deny, revoke, or suspend said permit for deviation from any of the above referenced design standards or guidelines. Denial, revocation or suspension of such permit may be appealed to the Planning Board. Variances from this ordinance shall not be considered.

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A. NONCONFORMANCE

1. Continuation of Nonconformance

It is the intent of this Ordinance to promote land use conformities. However, any lawful element of Buildings, Structures, land, or parts thereof existing at the time of adoption or amendment of this Ordinance, and made nonconforming by the provisions of this Ordinance or any amendments thereto, may be allowed to continue, subject to the provisions of this Section. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

2. Transfer of Ownership

Non-conforming Structures, Lots and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming Structure or Lot, subject to the provisions of this Ordinance.

3. Repair and Maintenances

This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and Structures including repairs and renovations which do not involve expansion of the non-conforming use or Structure, and such other changes in a non-conforming use or Structure as federal, state or local Building and safety codes may require.

B. NONCONFORMING LOTS OF RECORD

1. Non-conforming Lots

A non-conforming Lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a Variance, provided that such Lot is in separate ownership and not contiguous with any other Lot in the same ownership, and that all provisions of this Ordinance except Lot Area, Lot Width, and Road and Shore Frontage can be met. Variances relating to setback or other requirements not involving Lot Area, Lot Width, or Road or Shore Frontage shall be obtained by action of the General Board of Appeals.

2. Contiguous Built Lots

- a. If two or more contiguous Lots or parcels are in single or joint ownership of record at the time of adoption or amendment of this Ordinance, if all or part of the Lots do not meet the dimensional requirements of this Ordinance, and if a principal use or Structure exists on each Lot, the non-conforming Lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

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- b. If two or more principal uses or Structures existed on a single Lot of record on the effective date of this Ordinance, each may be sold on a separate Lot provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with. When such Lots are divided each Lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. Contiguous Lots – Vacant or Partially Built

If two or more contiguous Lots or Parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, and if any of these Lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the Lots are vacant or contain no Principal Structure, then the Lots shall be combined to the extent necessary to meet the dimensional requirements of this Ordinance.

This shall not be construed to limit the development rights, as set forth elsewhere in this ordinance, of legally existing nonconforming lots of records which are changed in size or boundaries provided such lots do not become more nonconforming.

C. NONCONFORMING BUILDINGS, STRUCTURES AND SITE IMPROVEMENTS

1. No Building or Structure or site improvements such as parking, Driveway or lighting as required under CHAPTER 702, which is nonconforming with respect to the space and bulk requirements of this Ordinance may be expanded, enlarged or increased in height unless such expanded or enlarged or higher portion complies with the space and bulk requirements of this Ordinance or a variance is granted by the Zoning Board of Appeals. However, a Building which is nonconforming with respect to yard setback requirements may be expanded if the area of expansion does not reduce the existing yard setbacks of the Building.
2. Any non-conforming structure which is wholly or partially removed, damaged or destroyed may be reconstructed or replaced provided that a permit from the Planning Department is obtained within two years of the date of said damage, destruction or removal. The Planning Board may, for good cause shown by the applicant, grant up to a one year extension of that time period. An as-built survey of existing conditions may be required at the discretion of the Planning Director or his/her designee prior to any demolition. An as-built survey of post construction conditions may be required at the discretion of the Planning Director or his/her designee prior to issuance of an occupancy permit.

Non-conforming structures damaged, destroyed or removed and not replaced within the above described time limits shall not be replaced unless said replacement conforms to all applicable codes and ordinances.

ARTICLE III

D. NONCONFORMING USES OF LAND

1. No nonconforming use of land shall be enlarged or increased nor extended to occupy a greater area of land than that occupied at the effective date of adoption or amendment of this Ordinance.
2. No nonconforming use of land shall be moved in whole or in part to any portion of the lot which was not occupied by such use at the effective date of adoption or amendment of this Ordinance.
3. If any nonconforming use of land ceases for any reason for a period of more than two years, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located. A lot on which a non-conforming use is discontinued for a period exceeding two years, or is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension of that time period. In the Shoreland Overlay District the initial discontinued use shall not exceed one (1) year. This provision shall not apply to the resumption of a use of a residential Structure in the Shoreland Overlay District provided that the Structure has been used or maintained for residential purposes during the preceding five (5) year period.
4. Change of Use. An existing non-conforming use may not be changed to another non-conforming use unless the Planning Board determines that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use. In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety according to Special Exceptions criteria Article VII.B.2.b(1)(d) and Chapter 702 Site Plan Regulations Article I.H.

E. NONCONFORMING USES OF STRUCTURES

1. No existing structure devoted to a nonconforming use shall be enlarged, extended, or expanded except in changing the use of the structure to conforming use.
2. Any nonconforming use may be extended throughout any parts of a Building which were manifestly in existence and arranged or designed for such use at the time of the adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such Building.

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3. If a nonconforming use of a structure is superseded by a permitted use, the nonconforming use shall not thereafter be resumed.
4. If any nonconforming use of a structure ceases for any reason for a period of more than two years, any subsequent use of such structure shall conform to the regulations specified by this Ordinance for the district in which such structure is located. A lot on which a non-conforming use is discontinued for a period exceeding two years, or is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension of that time period.
5. Change of Use. An existing non-conforming use may not be changed to another non-conforming use unless the Planning Board determines that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use. In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety according to Special Exceptions criteria Article VII.B.2.b(1)(d) and Chapter 702 Site Plan Regulations Article I.H.

F. NONCONFORMING LOTS OF RECORD AND USES OF LAND STRUCTURES IN THE VILLAGE AND VILLAGE II ZONES

A nonconforming use of a building, structure, or land for Bulk Fuel Storage in the Village Zone on a conforming or nonconforming lot of records may be extended or enlarged to a maximum of 150% of the original dike footprint containment area to include not more than 200,000 gallons of heating oil and to include not more than 2,000 gallons of propane as of the date of the adoption of this amendment of the Ordinance.

ARTICLE IV

ARTICLE IV

A. ZONING MAP AND DISTRICTS

The zoning map officially entitled "Town of Yarmouth Official Zoning Map" is hereby adopted as part of this Ordinance. The Town of Yarmouth Zoning Map shows a division of the Town into the following districts:

"RR"	Rural District
"LDR"	Low Density Residential District
"MDR"	Medium Density Residential District
"RPD"	Resource Protection District
"IND"	Industrial District
"C"	Commercial District
"COMM II"	Commercial II District
"COMM III"	Commercial III District
"V"	Village District
"V II"	Village II District
"WOC I"	Water Oriented Commercial I
"WOC II"	Water Oriented Commercial II
"WOC III"	Water Oriented Commercial III
"SOD"	Shoreland Overlay District
"MHP"	Mobile Home Park Overlay District
"GD"	General Development District

B. COPIES OF ZONING MAP

Regardless of the existence of other printed copies of the zoning map, which from time to time may be made or published, the official zoning map which shall be located in the Town Hall shall be the final authority as to the current zoning status of the land and water areas, Buildings and other Structures in the Town.

C. DISTRICT BOUNDARIES

District boundaries shown within the lines of Roads, streams and transportation right-of-ways shall be deemed to follow the center lines. The abandonment and non-use of Roads shall not affect the location of such district boundaries. When the Planning Director cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the zoning map, or by the fact that it clearly coincides with a property line, he/she shall refuse action, and the Board of Appeals, upon appeal, shall interpret the location of the district boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this Ordinance.

D. LOTS

1. Any boundary line (other than a street line) on a corner lot shall be considered to be a side line and not a rear line (for yard setback purposes), if that boundary line is side line of the property abutting it. For structures located on corner lots, the

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structure shall have a front yard setback to each street right of way and two side yard setbacks only. Corner lots are not subject to a rear yard setback.

2. All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall not project into any minimum front, side or rear yard setback area.
3. Every lot shall have the required frontage on a street, as defined herein under Article I.D. Definitions, or on a private road, as defined and provided for in Chapter 601, Subdivision, subject to the provisions of ARTICLE II.O. The minimum street frontage, measured along the lot line at the street, shall be at least equal to the minimum lot width.
4. When a lot of record at the time of enactment of this Zoning Ordinance is transacted by a zoning district boundary, the regulations set forth in this Ordinance applying to the least restrictive zone of such lot may also be deemed to govern in the area beyond such zoning district boundary but only to an extent not more than thirty (30) feet beyond said zoning district boundary. This provision does not apply within the SOD and RPD.
5. A lot in the MDR zone that was described in a subdivision approved by the Planning Board after June 11, 1977 but before March 12, 1987, shall be considered an individual buildable lot and not affected by the provisions of ARTICLE IV.D.3.
6. The front yard setback on a lot located in either the LDR or RR zones may be reduced to the average front yard setback of single family residences located on the same street (on the same side of the street) provided that the front yard setback may not be reduced to less than fifteen feet without a variance.
7. When calculating setbacks from Paper Streets, lot owners may use the side yard setback requirement in the district in which a parcel is located and not the front yard setback requirement where said lot is located on the corner of a paper street and a Town accepted way.
8. If any Lot falls within the Shoreland Overlay District (SOD) in whole or in part, and if the minimum Shoreline Frontage of Lot Area requirements provided for Lots in the SOD are more restrictive than those applicable in the underlying zoning district, then the SOD requirements shall control.
9. A lot in the LDR zone that was described in a subdivision approved by the Planning Board after June 11, 1977 but before January 13, 1979, or any lot described in a subdivision approved prior to June 11, 1977 with a lot size of at least one acre, shall be considered an individual buildable lot, notwithstanding the provisions of Article III.B.1 (Nonconforming Lots of Record).

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E. DISTRICT OBJECTIVE AND LAND USE CONTROLS

The following tables state the objectives of each district and the regulations for each district. No Building or land shall hereafter be used or occupied and no Building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.

1. No Building shall hereafter be erected or altered:
 - a. to exceed the height;
 - b. to accommodate or house a greater number of families;
 - c. to occupy a greater percentage of lot area, or
 - d. to have narrower or smaller rear yards, front yards, side yards, inner or outer courts than is specified herein for the district in which such Building is located, or
 - e. except that in the LDR and RR Districts, the Planning Director may allow uninhabited sheds to be constructed within fifteen (15) feet of the lot line.
 - f. except that in the MDR District, the Planning Director may allow uninhabited sheds to be constructed within ten (10) feet of the lot line.
 - g. No part of a yard or other open space about any Building required for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space similarly required for another Building except that in any district, construction pursuant to the Americans with disabilities Act (ADA) or the Maine Human Rights Act (5 MRSA Sec. 4594 et seq.) shall be exempt from yard setback and lot coverage restrictions, for the primary level, as set forth in this ordinance, provided such construction:
 - (i.) Does not exceed the minimum standards imposed by the ADA or Human Rights Act; and
 - (ii.) the infringement into the required yard setback is the least possible amount to conform to the ADA or Human Rights Act.
 - (iii.) Piers, docks, wharves, breakwaters, causeways, marinas, bridges and boat houses may be exempt from rear yard requirements by the Planning Board under ARTICLE II.M, provided other requirements are met and the rear yard faces water

F. "RR"- RURAL RESIDENTIAL

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The rural residential district is located in a generally rural area and intended to remain in that character. The district allows residential uses at low density and recreational and agricultural pursuits.

Permitted Uses:

Agriculture & Forestry	Accessory Uses and Buildings
Churches	Cluster Development Dwelling
Essential Services	Family Day Care Home
Farm Animals for Personal Use	Manufactured Housing
Municipal Uses and Buildings	Storage Buildings
Dwelling	Two Family Detached Dwelling
Home Occupations (pursuant to II.J)	Multiplex
Antenna array on Alternative Tower Structure, except no microwave dish antennas are permitted	
Wireless communication facility (see Article II.Z & Ch. 702, Site Plan Review Ordinance), except no microwave dish antennas are permitted	
ADU-Accessory Dwelling Units (pursuant to Ch. 702)	

Special Exception

Public Utilities	Cemeteries
Excavation of Land	Schools
Animal Husbandry	Group Day Care Home
Day Care Center facility within Churches and Community Buildings (requires site plan review)	
Expansion of existing commercial greenhouses to no more than 50% of the floor area in existence at the effective date of this Ordinance	
^a Adopted 2/16/95	
^b Adopted 1/16/98	
^c Adopted 2/16/95	
^d Adopted 1/15/98	

Rural Residential Minimum Dimensional Requirements

(May be modified in accordance with the Ordinance)

	Single Family and other uses	Two Family Detached	Multiplex
Area	3 Acres	6 Acres	
Acres/unit			2.5
Lot Width	225 feet	225 feet	
Front Yard	40 feet	40 feet	
Side Yard	20 feet	20 feet	
Rear Yard	40 feet	40 feet	

1. RR - Backlot

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Notwithstanding the requirements of ARTICLE II.O, Access and ARTICLE IV.D.5, minimum street frontage one family home may be located on a lot, herein called a back lot, subject to the standards set forth in this Section. These provisions also apply to the LDR and MDR zones per Sections IV.G.1 and IV.H.1 respectively.

A lot of record as of June 14, 1990, including a lot which is nonconforming because it does not meet the lot frontage or lot width requirements of this zoning district, may be divided to create not more than one back lot, provided the standards of this section are met.

a. Standards:

- (1) One lot has at least 50 feet of frontage on a public street, and if nonconforming as to lot frontage or lot width, the frontage of that lot is not reduced, except that an easement may be provided for access to a back lot, and the remaining lot area of the original lot is no less than the applicable minimum lot size of the zone in which it is located.
- (2) The back lot meets the applicable minimum lot size of the zone in which it is located.
- (3) Access to the back lot is provided by a private Driveway to be constructed within a 30 foot right of way which the back lot owner either owns or has an easement to cross and which intersects with an accepted Street. The improved portion of the Driveway shall be a minimum of 14 feet in width.
- (4) The private Driveway does not provide access to more than two back lots and its intersection with a public Road is a minimum of 50 feet from another private Driveway accessing a back lot.
- (5) The home to be constructed on the back lot shall be at least distance equal to the applicable lot width of the zone in which it is located from the public Road providing access to the lot. In addition the setback requirements of the zone in which the home is located shall apply.
- (6) Building permit applications are reviewed and approved in writing by Town officials, including the Town Engineer and Building Inspector, in accordance with the following standards:
 - (a.) The Fire Chief and Town Engineer shall ensure that emergency vehicles are provided with adequate turn around space and adequate access to the house. The turn around shall be at least 75' away from the Building and constructed per the attached detail, unless waived by the Town Engineer.

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- (b.) The Town Engineer shall approve detailed construction drawings to ensure that the driveway design and construction meet the following standard engineering and construction specifications:
 - i.) All erosion and sedimentation control devices shall use the Best Management Practices as defined by the Cumberland County Soil and Water Conservation Service, and shall be in place prior to the start of any construction.
 - ii.) The access Road shall be constructed in accordance with the attached cross section. The requirements will be 14' minimum travel width and 15" depth of type-C MDOT gravel.
 - iii.) All drainage improvements shall be completed in accordance with the Best Management practices as defined by the Cumberland County Soil and Water Conservation Service.
 - iv.) All culverts shall be sized to accept a 25 year storm event. Documentation and drainage calculations shall be provided to the Town Engineer when requested. The homeowner shall pay for the drainage analysis.
 - v.) No access Road shall exceed a 6% grade for gravel or 8% grade for pavement unless waived by the Town Engineer.
 - vi.) Construction material shall be in conformance with the Town's Sewer, Subdivision, and other applicable ordinances, and the Town's contractor's handbook, and shall be approved by the Town Engineer.
 - vii.) The homeowner shall pay for all test pit work. The testing may include gradation, compaction, or other applicable tests to verify that the materials meet Town specifications.
- (c.) All applicable Federal, State, and local permits have been obtained.
- (7) The Town Engineer shall inspect and certify in writing that all improvements have been made in accordance with the Town

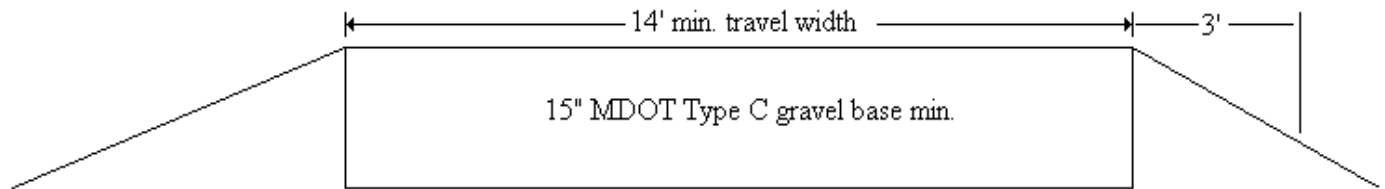
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Ordinances. The certification shall be given to the Code Enforcement Officer for his/her records.

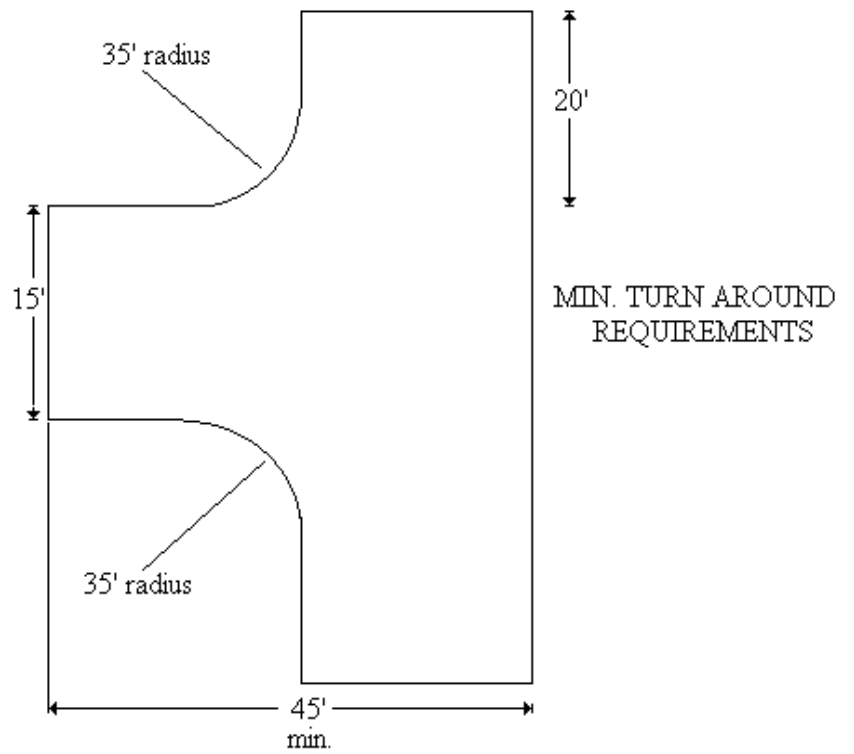
- (8) No certificate of occupancy shall be issued until completion of all Roadway improvements have been certified by the Town Engineer.
- (9) No certificate of occupancy shall be issued until the applicant shows evidence satisfactory to the Planning Director or their designee that there is an adequate supply of potable water for the residence.

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RR ACCESS ROAD CONSTRUCTION STANDARDS



All vegetation shall be cut to ground level within 3' of the traveled way and to 18' above the roadway



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G. “LDR” – LOW DENSITY RESIDENTIAL

The low density residential district provides Yarmouth with residential areas which provide a wholesome living environment.

Permitted Uses:

Single Family Detached Dwelling	Multiplex
Two Family Detached Dwelling	Agriculture
Cluster Development (see Article II.M)	Church
Accessory Uses and Buildings	Family Day Care Home
Farm Animals for Personal Use	Manufactured Housing
Storage Buildings	Essential Services
Municipal Uses and Buildings	
Antenna array on Alternative Tower Structure, except no microwave dish antennas are permitted	
Wireless communication facility (see Article II.Z & Ch. 702, Site Plan Review Ordinance), except no microwave dish antennas are permitted ^b	
Home Occupations (pursuant to II.J)	
Accessory Dwelling Units	

Special Exception

Public Utilities	Cemeteries
Private Clubs – (on at least 5 Acres)	Schools
Animal Husbandry	Group Day Care Home
Day Care Center facility within Churches and Community Buildings (requires site plan review)	

Low Density Residential Minimum Dimensional Requirements

(May be modified in accordance with the Ordinance)

	Single Family and other uses	Two Family Detached	Multiplex
Area	2 Acres	4Acres	30 Acres
Acres/unit ^a			1.7
Lot Width ^c	200 feet	200 feet	
Front Yard	40 feet	40 feet	
Side Yard	20 feet	20 feet	
Rear Yard	40 feet	40 feet	

a- adopted 2/16/95: Lot size, setback, lot coverage, and frontage requirements waived for “essential services”

b- must be served by sewer

c- width must be maintained from the front lot line to the minimum front yard set back

1. LDR – Back lot (RR back Lot provisions shall apply, subject to the dimensional requirements of the LDR zone.)

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H. “MDR” – MEDIUM DENSITY RESIDENTIAL

The medium density residential district is expected to provide public sewer and water in all areas of the district. The purpose of this District is to provide a wholesome living environment readily accessible to the Town center.

Permitted Uses:

Single Family Detached Dwelling	Multiplex
Two Family Detached Dwelling	Storage Buildings
Cluster Development (see Article II.M)	Churches
Accessory Uses and Buildings	Family Day Care Home
Farm Animals for Personal Use on lots of two Acres or more	
Manufactured Housing	Essential Services
Municipal Uses and Buildings	Home Occupations
Antenna array on Alternative Tower Structure, except no microwave dish antennas are permitted	
Wireless communication facility (see Article II.Z & Ch. 702, Site Plan Review Ordinance), except no microwave dish antennas are permitted	
Accessory Dwelling Units	

Special Exception

Public Utilities	Funeral Homes
Hospitals	Schools
Private Clubs	Group Day Care Home
Day Care Facility within Churches and Community Buildings (require site plan review)	
Conversion of a residential Structure, in existence prior to March 12, 1973, to a Two-family Detached Dwelling. No conversion shall result in a total of more than two (2) dwelling units per lot.	
Farm Animals for Personal Use on Lots of less than two (2) Acres.	
Expansion of existing Commercial Greenhouse to no more than 30% of the floor area in existence at the date of this Ordinance	

Medium Density Residential Minimum Dimensional Requirements ^d (May be modified in accordance with the Ordinance)

	Single Family and other uses	Two Family Detached	Multiplex
Area	1 Acres	2 Acres	10
Acres/unit ^a			1
Lot Width ^c	130 feet	130 feet	
Front Yard	15 feet	15 feet	
Side Yard	10 feet	10 feet	
Rear Yard	15 feet	15 feet	

a- must be served by sewer

b- width must be maintained from the front lot line to the minimum front yard set back

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d- adopted 2/16/95: Lot size, setback, lot coverage, and frontage requirements waived for "essential services"

1. MDR Backlot (RR back Lot provisions shall apply, subject to the dimensional requirements of the MDR zone.)

I. "RPD" – RESOURCE PROTECTION DISTRICT

The Resource Protection District (RPD) includes areas within the SOD in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. The provisions of the (SOD) shall apply to all lands within the (RPD), and in the event of any conflict, the RPD provisions shall control.

1. The RPD Shall Include

- a. Freshwater Wetlands (of ten or more contiguous Acres; or of less than 10 contiguous Acres adjacent to a surface Water Body, excluding any River, Stream or brook, such that in a natural state, the combined surface area is in excess of 10 Acres) and Coastal Wetlands.
- b. All areas within
 - (1) The 100 year flood plain of the Royal River, the Cousins River and Pratt's Brook, and all other Tidal Waters, as designated on the Flood Insurance Rate Maps or Flood Hazard Boundary Maps prepared by the Federal Emergency Management Agency (FEMA) or the flood of record, or in absence of these, by soils types identified as recent floodplain soils, or
 - (2) 100 feet horizontal distance of the Normal High Water Line or the Upland Edge of that portion of the Royal River upstream of the St. Lawrence and Atlantic Railway trestle near East Elm St., the Cousins River, and Pratt's Brook, whichever of the two is more inclusive.
- c. 100 year flood plains adjacent to all other Rivers, as shown on FEMA's Flood Insurance Rate Maps, or Flood Hazard Boundary Maps. This district shall also include 100 year flood plains adjacent to Tidal Waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- d. Areas of two or more contiguous Acres with sustained slopes of 20% or greater.
- e. Areas of two (2) or more contiguous Acres supporting Wetland vegetation and hydric soils, which are not part of a Freshwater or Coastal Wetland as defined, and which are not surificially connected to a Water Body during the period of normal high water.

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- f. Land areas along rivers which are subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to Tidal Waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
 - g. The Resource Protection District, as defined above does not extend into the GD, WOC I, or WOC III Districts.
- 2. Permitted Uses in the RPD and SPD (All uses not explicitly permitted as Permitted Uses or Special Exceptions are prohibited.)
 - a. Agriculture (Planning Board permit required)
 - b. Filling or other earthmoving activity of less than 10 cubic yards. (CEO permit required)
 - c. Filling or other earthmoving activity of more than 10 cubic yards. (Planning Board permit required)
 - d. Farm animals for personal use. (Planning Board permit required)
 - e. Piers, docks, wharves, causeways, ramps and floats. (Planning Board permit required for permanent Structures in Non-Tidal Waters per Article II.R.3.f and all causeways and wharves; CEO permit for temporary Structures and permanent piers, docks, and floats in Tidal Waters that do not exceed the size limits specified in Article II.R.4.)
 - f. Stairways, steps or similar structures may be allowed in accordance with Chapter 701 Article IV.R.7.c.6. (CEO permit required)
 - g. Removal of safety hazard or diseased Vegetation (CEO permit required along with documentation from a Licensed Forester or an ISA Certified Arborist at the CEO's discretion).
 - h. Non-intensive recreational uses not requiring Structures such as hunting, fishing, and hiking. (Permitting not necessary but must meet SOD standards).
 - i. Motorized vehicular traffic on existing Roads and trails. (permitting not necessary but must meet SOD standards)
 - j. Forest management activities except for timber harvesting. (permitting not necessary but must meet SOD standards)
 - k. Timber Harvesting (State of Maine permitting required)

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- l. Clearing or removal of vegetation for activities other than timber harvesting (CEO permit required)
- m. Fire prevention activities. (permitting not necessary but must meet SOD standards)
- n. Wildlife management practices. (permitting not necessary but must meet SOD standards)
- o. Soil and water conservation practices. (permitting not necessary but must meet SOD standards)
- p. Surveying and resource analysis. (permitting not necessary but must meet SOD standards)
- q. Emergency operations. (permitting not necessary but must meet SOD standards)
- r. Aquaculture (Planning Board permit required)
- s. Small non-residential facilities for educational scientific, or nature interpretation purposes. (Planning Board permit required)
- t. Structures accessory to allowed uses. (Planning Board permit required)
- u. Conversion of seasonal residences to year round residences (LPI permit required)
- v. Home Occupations (Planning Board permit required)
- w. Private sewage disposal systems for allowed uses (LPI permit required)
- x. Public and private recreational areas involving minimal structural development (Planning Board permit required)
- y. Individual private campsites (CEO permit required)
- z. Land management Roads (Planning Board permit required)
- aa. Signs (CEO permit required)
- bb. Uses similar to allowed uses (CEO permit required)
- cc. Uses similar to uses requiring a CEO permit (CEO permit required)

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- dd. Uses similar to uses requiring a Planning Board permit (Planning Board permit required)

3. Special Exceptions

Essential Services and Single Family residential Structures are allowed by special exception approval and shall conform to the special performance standards listed below:

4. Special Performance Standards

- a. Expansions of non-conforming uses are prohibited.
- b. Expansions of non-conforming residential Structures may be permitted as allowed in the Shoreland Overlay District (SOD)
- c. The clearing, cutting or removal of vegetation within the RPD shall be limited to that which is necessary for uses expressly authorized in the RPD. Legally existing nonconforming cleared opening may be maintained, but shall not be enlarged, except as allowed by this Ordinance. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody Vegetation shall be regulated under the provisions of this section.
- d. Where feasible, the installation of Essential Services shall be limited to existing public ways and existing service corridors. The installation of Essential Services other than Road-side distribution lines, is not allowed in a RPD or Stream Protection District, except to provide services to a Permitted Use within said District, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such Structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.
- e. Single Family Home. In addition to the criteria specified in IV.R.12 excepting Structure setback requirements, the Planning Board may approve a permit for a single family residential Structure in a RPD provided that the applicant demonstrates that all of the following conditions are met:
 - (1) There is no location on the property, other than a location within the Resource protection District, where the Structure can be built.
 - (2) The Lot on which the Structure is proposed is undeveloped and was established and recorded in the Cumberland County Registry of Deeds before the adoption of the Resource Protection District.

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- (3) All proposed Buildings, sewage disposal systems and other improvements are:
1. Located on natural ground slopes of less than 20%; and along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all Buildings, including Basements, are elevated at least one foot above the 100 year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal Flood-Plain Ordinance.
If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be ½ the width of the 100-year flood-plain.
- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and Accessory Structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All Structures except functionally water-dependent Structures are set back from the Normal High Water Line of a Water Body, Tributary Stream or Upland Edge of a Wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of Vegetation to be removed, the proposed Building site's elevation in regard to the flood-plain, and its proximity to moderate value and high value Wetlands.

J. "IND" - INDUSTRIAL

To provide controlled areas within the Town of Yarmouth for manufacturing, processing, treatment, research, warehousing and distribution, and to which end all the performance standards set forth in this Ordinance shall apply.

1. Maximum Building coverage 20%. All outside storage shall be appropriately screened on all sides.

Permitted Uses:

- a. Manufacturing Processing
- b. Treatment and Extraction
- c. Warehousing and outdoor storage
- d. Road and Rail Distribution Facilities
- e. Research Facilities
- f. Accessory Uses

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- g. Public Utilities
 - h. Wireless communication facility (See Article II.Z & Ch. 702, Site Plan Review Ordinance) ^a
 - i. Antenna array on Alternative Tower Structure
 - j. Municipal Uses and Buildings
- a-adopted 1/15/98

Special Exception

none

Industrial District Minimum Dimensional Requirements

(May be modified in accordance with the Ordinance)

<u>Lot Size</u>	<u>1 Acre</u>
<u>Width</u>	<u>100 feet</u>
<u>Front Set Back</u>	<u>50 feet</u>
<u>Side Set Back</u>	<u>N/A</u>
<u>Rear Set Back</u>	<u>N/A</u>

K. "C"- COMMERCIAL

To provide general retail sales, services and business space within the Town of Yarmouth and oriented to automobile, bicycle, and pedestrian access. These shall be in compliance with the performance standards of this and all other applicable ordinances of the Town of Yarmouth.

Permitted Uses

- a. Retail store
- b. Restaurant
- c. Motor vehicle sales showroom and service
- d. Automobile service facility
- e. Trailer and mobile home sales and service
- f. One coin-operated amusement device
- g. Warehousing and wholesale distribution but not including junkyards and salvage operations
- h. Business and professional offices
- i. Hotels, motels, lodging houses and inns
- j. Private club
- k. Transportation termini
- l. Farm animals for personal use
- m. Hospitals and health care centers
- n. Banks
- o. Sport clubs
- p. Accessory buildings and uses
- q. General services and contractors, such as plumbing supply and services, automobile repair, body work and painting, construction contracting, glass services and sales and retail sales related to the service or contractor business

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- r. Gasoline stations
- s. Autobody and painting shop
- t. Public utilities
- u. Municipal uses and buildings
- v. Light manufacturing
- w. Research facilities
- x. Day care center facilities
- y. Churches
- z. Essential services ^a
- aa. Wireless communication facility (see Article II.Z. & Chapter 702, Site Plan Review Ordinance) ^b
- bb. Antenna array on alternative tower structure
- cc. Assisted Living Facilities
- dd. Single Family dwellings in existence as of January 9, 2008
- ee. Accessory Dwelling Units
- ff. Home Occupations
- gg. Mixed use structures containing dwelling units and other permitted uses.

^a Adopted 02/16/95

^b Adopted 01/15/98

1. Performance Standards

- a. Front setback:
 - (1) 30 feet from the edge of pavement of U.S. Route 1 and at least 20 feet from the front property line whichever is less.
 - (2) 25 feet from streets (property line) other than U.S. Route 1.
- b. Side setback - 10 feet.
- c. Rear setback - 5 feet.
- d. No parking or paved areas (except at access points) within 35 feet (35') of U.S. Route 1 right of way.
- e. No parking or drives within fifteen feet (15') of a side or rear property line, except where access between abutting properties is permitted by the owners, otherwise this area must be landscaped.
- f. Minimum lot size - 15,000 square feet.
- g. Maximum lot coverage - no more than 75% of lot may be covered with Building, parking drives, walks and impervious surfaces.

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- h. Minimum street frontage - 150 feet.
- i. Signage shall not be affected by the setback requirement above.
- j. Additions or enlargements to structures may be the same distance to a property line as the original structure even if the original structure is closer to a property line than the setbacks required above provided the area of such Additions and enlargements which encroach into the setback may be no greater than 50% of the floor space of that portion of the existing Building which encroaches into the setback area as of November 10, 1988.
- k. Dwelling Units located in mixed use structures shall meet the minimum standards of the definition of dwelling unit in Article I. Maximum density provisions will not apply.
- l. No more than 25% of structures containing both residential and commercial uses shall be dedicated to residential use.

L. COMMERCIAL – II DISTRICT

To provide an area for light manufacturing, warehousing and general services within the Town of Yarmouth.

Permitted Uses

- a. Light manufacturing.
- b. Warehousing and wholesale distribution exclusive of junkyards and salvaging operations.
- c. General services and contractors, such as plumbing supply and services, automobile repair, body work and painting, construction contracting, glass services and sales and retail sales related to the service or contractor business.
- d. Business and professional office.
- e. Research facilities.
- f. Day care center facility.
- g. Municipal uses and buildings.
- h. Accessory uses and buildings.
- i. Transportation termini.
- j. Farm animals for personal use.
- k. Essential services ^a
- l. Wireless communication facility (see Article II.Z. & Chapter 702, Site Plan Review Ordinance ^b
- m. Antenna array on alternative tower structure ^b

^a Adopted 02/16/95

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^b Adopted 01/15/98

1. Performance Standards

- a. Front setbacks 25 feet from streets as determined by the edge the right of way.
- b. Side setback - 15 feet.
- c. No parking or drives within 10 feet of a side property line except where access between abutting properties is permitted by the owners otherwise this area must be landscaped.
- d. Rear setback - 5 feet.
- e. Minimum lot size - 15,000 square feet.
- f. Maximum lot coverage - no more than 90% of lot may be covered with Buildings, parking drives, walks and impervious surfaces.
- g. Minimum street frontage - 150 feet.

M. COMMERCIAL – III DISTRICT

Purpose: To promote the development of medium to large scale commercial facilities in attractive surroundings which utilize access to U.S. Route One and I-95, while not creating undue impacts on environmentally sensitive lands or residential neighborhoods. To this end density of development is limited; buffer and landscaped areas, and direct access to U.S. Route One are required.

1. Permitted Uses

In the Commercial II & III District the following uses shall be permitted:

- a. Business and professional offices.
- b. Warehouse and wholesale distribution facilities, but not including junkyards or salvage operations.
- c. Research and development facilities including light manufacturing.
- d. Accessory Uses and Buildings customarily appurtenant to the permitted uses.
- e. Special exceptions:
- f. Essential services

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- g. Municipal Uses and Buildings.
 - h. Wireless communication facility (see ARTICLE II.Z. & Chapter 702, Site Plan Review Ordinance)
 - i. Antenna array on Alternative Tower Structure.
2. In the Commercial III District the following uses shall be permitted as special exceptions according to the provisions of ARTICLE VII of this CHAPTER.
- a. Day Care Facilities.
 - b. Public utilities and public service facilities to accommodate the public service needs of the various permitted uses and special exception uses allowed in the district.
3. Dimensional Requirements:
The following dimensional provisions shall control development in the C III district.
- a. Minimum Lot size 2 Acres
 - b. Front setback 75 feet
 - c. Side setback 50 feet
 - d. Rear setback 50 feet
4. Parking areas:
No parking areas, Driveways or paved areas, except access drives, are permitted within 25 feet of the Route One or I-95 right of way or 25 feet of the side or rear property lines.
5. Maximum Lot Coverage:
No more than 60% of the total land area shall be covered with buildings, parking areas, Driveways, pedestrian walkways, or impervious surfaces.
6. Minimum Street Frontage:
50 feet
7. Specific Noise Limitations:
In addition to such other requirements as may be imposed upon a development herein under applicable law regarding regulation of sound levels, where a development abuts a residential zone or a residential use, the use of exterior public address systems and exterior sirens, bells, whistles, alarms or other noise making devises is prohibited, except to the extent required by applicable law.

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8. Exterior Storage:

All material and supplies are to be stored within Buildings. Trash and recycling containers, dumpsters and equipment such as grounds keeping machines, material handling vehicles, snow blowers, trailers and trucks may be stored outdoors if screened or enclosed so as not to be visible from nearby streets, residences or abutting properties.

9. Signage:

Signage shall be in conformance with ARTICLE II.C & F of the Zoning Ordinance.

10. Loading Activity:

Where a development in the C III District abuts land in a residential district or in residential use no outdoor loading or unloading of freight transported by licensed commercial vehicles or movement of shipping related vehicles shall take place between the hours of 8:00 p.m. and 6:00 a.m.

11. Performance Standards:

The Planning Board in the review of Major Site Plans and Subdivisions, or Planning Director in the review of Minor Site Plans, or building permit applications which do not require site plan or subdivision review shall review all applications for conformance with the following performance standards:

a. Lighting Plan:

New Buildings and parking areas are to provide for adequate exterior lighting in ways that minimize views of light fixtures from nearby Roadways and abutting properties. Notwithstanding site plan technical standards relating to lighting the Planning Board may reduce the required light levels found in Chapter 702, Section I. J. 4. of the Site Plan Ordinance to protect neighboring property owners from glare.

b. Landscape Plan:

Development proposals shall include a landscape program to illustrate the proposed development and maintenance of open space, Roads, and service and parking areas. All land areas not covered by Structures, parking areas or other facilities shall be landscaped and maintained. Existing Vegetation may be used when determined by the Planning Board to comply with the purpose of this Section.

c. Buffer:

Where a development located in the C III District abuts land in a residential zone or a residential use, a 50 foot wide buffer area is required on the commercial development's property. In those areas where natural Vegetation fails to provide a dense and continuous buffer, the Planning Board may require dense evergreen plantings of either natural massing configurations or up to 3 staggered rows, whichever is most appropriate to

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the character of the surrounding area. Spacing as close as 6' on center may be required, depending on plant species, growth habits, and screen requirements.

N. “V” – VILLAGE

Village Zone: The purpose of the Village Zone is to provide an area of diversity and vitality which contains a complimentary mixture of small scale business, professional and retail shops and offices, as well as governmental services and residential uses. A number of outstanding Buildings are located in this area, and it shall be a prime goal of this Ordinance to encourage the retention of the exterior architectural features while realizing that changing economic and social conditions may make interior renovations and a variety of uses necessary. Emphasis is placed on retention of the residential component and remaining open space in the village.

Permitted Uses

- a. Any permitted use in the M.D.R. not including Special Exception uses of the M.D.R.
- b. Business offices and professional offices.
- c. Local retail stores and craft shops.
- d. Personal services.
- e. Municipal uses and buildings.
- f. Family day care home.
- g. Inns, provided that signage is limited to 12 square feet.
- h. Private club.
- i. Public utilities.
- j. Schools
- k. Restaurants
- l. Restaurants - carry out
- m. Essential services ^a
- n. Antenna array on alternative tower structures (See Article II. §Z. & Chapter 702, Site Plan Review Ordinance), except no microwave dish antennas are permitted ^b
- o. Wireless communication facility (see Article II. §Z. & Chapter 702, Site Plan Review Ordinance ^b
- p. Mixed-use structures containing dwelling units and other permitted uses

SPECIAL EXCEPTIONS

- a. Group day care home.
- b. Day care center facility as a use within churches and community buildings (requires site plan review).
- c. Expansion of an Existing Bulk Fuel Storage Facility provided the expansion is approved by the Planning Board pursuant to the Site Plan Review ordinance and the Planning Board finds that the expansion meets the Special exception criteria contained in Article I through vii of VIIB.2.b(1)(d)

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of this Ordinance

^a Adopted 02/16/95

^b Adopted 01/15/98

^c Adopted 10/15/98

1. Minimum Lot Size - 10,000 sq. ft.
2. Minimum Lot Width and Frontage - Fifty (50) feet.
3. Minimum Front, Rear and Side Setbacks - Fifteen (15) feet.
4. Special Performance Standards
 - a. For any use, the total footprint square footage of any Addition or Accessory Building(s) shall not exceed 50% of the original Building(s).
 - b. Only Buildings existing before the effective date of this ordinance (March 13, 1986) may be used for nonresidential uses except that; Buildings built prior to March 13, 1986; may be removed and replaced by new Buildings located on the same parcel provided that the existing Building does not rest on a masonry or wood pile foundation and the Building is found, by the Planning Board, to be in a dilapidated condition. For the purpose of this Section, masonry shall be defined as consisting of brick, concrete block, poured concrete, stone, rubble or a combination thereof; dilapidated shall be defined as lacking the structural integrity necessary for the continued habitation of the building. In making the decision of whether a Building is in a dilapidated condition the Planning Board may require a report from an independent engineer, the Yarmouth Code Enforcement Officer, or other professionals with expertise in evaluating the structural condition of Buildings.

This exception is not intended to allow existing residential or storage Buildings to be replaced by Buildings intended for commercial use. Therefore dilapidated Buildings originally used as residences shall only be replaced by residential or residential accessory Buildings. Dilapidated storage Buildings may only be replaced by new storage Buildings. Dilapidated commercial Buildings may be replaced by new commercial, residential or storage buildings. Dilapidated Buildings housing mixed uses may be replaced by residential, storage, or comparable Mixed Use Structure.

- c. Accessory Buildings are permitted only for the purpose of converting existing outdoor storage space to indoor storage space. Such accessory Buildings may not be converted to other uses.

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- d. Residential structures shall contain no more than four (4) dwelling units and require 10,000 sq. ft. of lot space per dwelling unit, except that structures on lots created before the effective date of this Ordinance with less than 40,000 square feet of lot area may contain up to four (4) dwelling units.
- e. Municipal Buildings used primarily for Town Office purposes are exempt from these Special Performance Standards for the Village District.
- f. Buildings, parking areas and all walkways shall not exceed 50% coverage of each lot, except for churches in existence prior to March 13, 1986. This 50% coverage may be exceeded only as noted in subsection n. below. Building, parking areas and all walkways for churches in existence before March 13, 1986, may cover 70% of each lot if the amount of the space not covered by Buildings, parking areas and walkways, between the building or parking lot and the street remains unchanged.
- g. Section repealed 3/19/09 TC meeting 9-08/09 Item No: 74.
- h. Section repealed 3/19/09 TC meeting 9-08/09 Item No: 74.
- i. Section repealed 3/19/09 TC meeting 9-08/09 Item No: 74.
- j. Structures on separate individual lots at the effective date of this Ordinance may not be joined or attached to one another.
- k. Restaurants and Restaurants/carry-out shall only be permitted within Buildings in existence on August 1, 1993, and will conform to the following standards:
 - (1) There shall be no advertising placed in windows or doorways of the Building.
 - (2) No kitchen ventilation hoods will be mounted on the front or street side of the Building and will be located to minimize impact on neighboring properties.
 - (3) All dumpsters will be screened from view and will be located to minimize impact on neighboring properties.
- l. All Building exterior wall finishes, including trim, shall have a predominately brick, natural stone, wood or wood appearance surface, but not including concrete block. Concrete block may only be visible as part of the Building's foundation.
- m. Pitched, gabled, or hipped roofs are encouraged. Flat roofs are allowed only if the roof materials are not visible from street grade. Heating,

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ventilation, and air conditioning equipment on any roof shall be screened from view. Such screening shall provide for noise attenuation.

- n. A residential expansion to an existing commercial Building is allowed, based on the following standards:
 - (1) Residential expansion approved under this subsection (IV.N.4.n) may not subsequently be converted to a commercial use.
 - (2) The expansion may include an increase in Building footprint coverage in excess of 50% only to accommodate exterior access to the residential unit(s).
 - (3) Notwithstanding the parking requirements of Article II.H, one on-site parking space is required for each dwelling unit added to a commercial Building under the provisions of this section.

O. VILLAGE – II DISTRICT

The purpose of the Village II zone is to retain a primarily residential living area with limited compatible, low intensity businesses, offices and inn uses which do not impair the existing residential use or the historic significance of the area. The retention of lawns, trees and open space is important.

1. Permitted Uses

- a. Any permitted use in MDR at the same densities as the MDR not including Special Exceptions of the MDR.
- b. Business offices and professional offices.
- c. Family day care home.
- d. Inns, provided that signage is limited to six (6) square feet, meals are served to overnight guests only, the owner or operator lives on site. Inns are not permitted on the same lot or in the same structure as offices.
- e. Conversion of a structure in existence prior to February 12, 1981, to a maximum of three (3) dwelling units. No conversion shall result in a total of more than three (3) dwelling units per lot. Density requirements do not apply. Where a portion of the structure is in office use only, two (2) dwellings are permitted.
- f. Antenna array on Alternative Tower Structures (See ARTICLE II.Z. & Chapter 702, Site Plan Review Ordinance), except no microwave dish antennas are permitted.

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2. Essential Services

3. Special Exceptions

- a. Group day care home.
- b. For any use permitted in the MDR, the lot size permitted in the MDR is required. For all other uses, 10,000 square feet is required.

4. Dimensional Requirements

Minimum lot width and frontage and yard requirements are the same as the VI, Village I.

5. Special Performance Standards

- a. Where more than 50% of the square foot floor space of any Building or group of Buildings on the same lot is used for residential purposes, no more than 50% of the square footage floor space may be used or converted to offices.
- b. Buildings, parking areas and walkways shall not exceed 50% coverage of each lot.
- c. Only Buildings existing before the effective date of this Ordinance may be used for nonresidential uses. For any use, the total footprint square footage of any Addition or Accessory Building(s) shall not exceed 50% of the original Building(s).
- d. A structure in residential use or partial residential use must retain at least one dwelling unit when a portion of the structure is converted to nonresidential uses. Where the structure or Building has become vacant, and if the last use made of the structure was residential or partial residential, this requirement shall still apply. There shall be no parking requirement for a dwelling unit retained during such a conversion.
- e. New Buildings or existing Buildings with Additions shall not exceed a 4,000 square foot footprint.
- f. Section repealed 3/19/09 TC meeting 9-08/09 Item No: 74.
- g. Section repealed 3/19/09 TC meeting 9-08/09 Item No: 74.
- h. Structures on separate individual lots at the effective date of this Ordinance may not be joined or attached to one another.

P. "WOC I" – WATER ORIENTED COMMERCIAL

1. Purpose

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To provide an area not only to serve recreational and commercial marine interest, but also at the same time, to permit a diversity of activities that add interest and economic viability to the harbor. The intent is to preserve and maintain for the citizens of Yarmouth the harbor, including its scenic value, views from the land, its accessibility to the public, and its economic value or uses that are dependent on a harbor location. This District specifically prohibits commercial uses and activities which are more suited to highway location because of their scale and their need for access and parking facilities.

PERMITTED USES

- a. Marinas and related services, such as:
 - i. chandleries
 - ii. sail lofts
 - iii. boat brokerage
 - iv. boat building and repair
 - v. retail boat and motor sales
 - vi. boat storage
 - vii. boat refueling
 - b. Single family detached dwellings,
 - c. Retail stores and craft shops.
 - d. Restaurant, including walk-up, takeout window.
 - e. Professional offices. (Limited to 2nd floor if non-marine related.)
 - f. Municipal uses and buildings.
 - g. Shellfish wholesaling in conjunction with on-site retail sales.
 - h. Boat charters and excursions. (Not regular ferry services.)
 - i. Museum, art gallery, aquarium.
 - j. Fabrication, storage, and repair of fishing equipment.
 - k. Piers, docks, wharfs, bulkheads, retaining walls (subject to the provisions of ARTICLE II.R.
 - l. Essential services ^a
 - m. Antenna array on alternative tower structures (See Article II. §Z. & Chapter 702, Site Plan Review Ordinance.) ^b
 - n. Home Occupations (pursuant to II.J)
- ^a Adopted 02/16/95 ^b Adopted 01/15/98

WOC I District Minimum Dimensional Requirements

(May be modified in accordance with the Ordinance)

Lot Size	2 Acre
Width	200 feet
Front Set Back	70 feet
Side Set Back	10 feet
Rear Set Back	75 feet

- 2. Minimum Lot Size - Single Family Detached

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- a. This lot shall be for the exclusive use of the single family dwelling and not used or counted for area of other uses.
3. Special Performance Standards for WOC I in addition to all other applicable standards in this Ordinance:
- a. For the purpose of lot density calculations, any land above Shoreline shall be considered in the lot size.
 - b. The use must be consistent with the purpose of this District as stated above.
 - c. Coverage shall not exceed more than 70% of each lot.
 - d. Building foot prints shall cover no more than 20% of each lot.
 - e. No Building built after the effective date of this Ordinance shall have a foot print greater than 4,000 square feet, except for Buildings used entirely for boat building and repair and boat sales which may have a foot print up to, but not exceeding 12,000 square feet. Any Building built after the effective date of this Ordinance that is greater than 4,000 square feet may not be used for any other use than boat building and repair and boat sales.
 - f. New buildings shall be no taller than forty-two (42) feet unless approved by the Permitting Authority upon finding that reasonable consideration has been given to design and position of the structure to minimize adverse visual impact or obstruction to abutting properties. An addition to an existing structure shall be no taller than the height of the existing structure or forty- two (42) feet, whichever is taller.
 - g. There shall be no Buildings, second floor decks or enclosed first floor decks or automobile parking areas within 25 feet of the Shoreline. There shall be no paving except for pedestrian walkways and launching ramps within 10 feet of Shoreline. If any Structures or paving are within 50 feet of Shoreline, appropriate steps will be required to prevent any erosion of the banking.
 - h. Buildings within 75 feet of mean high water must be at least 50 feet from other buildings.
 - i. Buildings taller than 25 feet shall be positioned so as to minimize visual impact.
 - j. First floor Building space may not be used for other than Functionally Water Dependant Uses.

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- k. All rooftop mechanical equipment shall be screened to minimize any adverse visual impacts.
- l. At least sixty-five (65) percent of the square footage floor space of each Building or complex of Buildings under single ownership must be used for marinas and related services, shellfish wholesaling in conjunction with on-site retail sales, boat charters and excursions, fabrication, storage, and repair of fishing equipment, or marine related offices.

Q. WOC II – WATER ORIENTED COMMERCIAL II

1. Purpose

- a. The intent of the W.O.C. II zone is to provide for a mix of residential, transient residential and restaurant uses which promote and enhance the quality of water oriented residential activities.
- b. This district specifically prohibits commercial activities which are better suited to highway locations because of their scale and need for substantial parking facilities.

2. Permitted Uses and Special Exceptions

a. Permitted Uses

- (1) Any permitted use in L.D.R. at same densities as L.D.R.
- (2) One coin operated amusement device.
- (3) The conversion of existing seasonal or year round inns, hotels, motels and restaurants to seasonal or year round single or two family detached dwellings provided that the total project land area provides a minimum of one Acre per dwelling and is in conformance with Sections , and of this Section. For the purpose of this Section, conversion of a hotel, motel or inn is defined as the change of use of Buildings and associated lands which were previously used, at least partially, as transient lodging.
- (4) Municipal uses and Buildings.

b. Special Exceptions

- (1) Public utilities.
- (2) Hotels, motels, and inns at a density not to exceed one bedroom or suite available for rent per Acre of land. For the purpose of this

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Section, a suite is defined as a group of rooms being used as transient dwelling units.

(3) Restaurants

3. Dimensional Requirements

a. Minimum Dimensional Requirements (in feet).

	<u>Hotels, motels and Inns</u>	<u>Conversion of existing inns, hotels, or motels to single family and two family detached</u>	<u>All other used</u>
Min. Lot Size (in Acres)	17	17	2
Lot Density	1 unit/Acre	1 dwelling/Acre	-
Frontage	200	200	200
Width	200	200	200
Front Setback	25	25	70
Side Setback Min.	30	30	30
Rear Setback	25	25	75
Distance btwn Buildings	25	25	-

- b. Height: Overall 35' provided that an addition to an existing structure be no higher than the height of the existing roof or whichever is lower.
- c. Where a conversion is proposed and existing structures do not meet the side, rear, front and/or building setbacks of this Section, or the shoreline setbacks of Article IV.R of this Ordinance, the conversion may be permitted and structures not meeting the setback requirements shall be considered nonconforming structures under the Zoning Ordinance.

4. Conversion Lot Size

- a. In conjunction with a conversion plan subject to Article IV.Q.5 the conversion of a hotel, motel or inn may include the separate ownership of land under Buildings. The minimum lot size (in Acres) applicable to conversions refers to the entire land area included in the conversion plan.
- b. Any Building Alteration required to bring a unit into compliance with the conversion plan shall be completed prior to transfer of the unit(s) located in that Building.
- c. If a single family or two family detached dwelling, located within the flood plain, approved as part of a conversion plan, should be destroyed by an act of God or other disaster it may be rebuilt in the same location or on an unused portion of the site, in areas not designated as significant view

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corridors, site amenities, vehicle and pedestrian access ways, parking Article IV.Q.5 and storage areas and significant passive and active open spaces, subject to the approval of the Planning Board for conformance with the standards found in Article IV.Q.5 and compliance with other applicable federal or state statutes or regulations or local ordinances.

5. Performance Standards for Conversions

The following standards apply to the conversion of a hotel, motel or inn to single or two family dwellings:

- a. **Conversion Plan:** Prior to the transfer of ownership for an individual unit, the owner of the hotel, motel or inn must receive Planning Board approval of the conversion plan. For the purpose of this Section, a conversion of a hotel, motel or inn will require final Planning Board approval for conformance with the criteria set forth in the Subdivision Ordinance and this Ordinance, irrespective of whether the conversion is defined as a subdivision or site plan at the time of application. The Planning Board shall review the submission as a final plan; no preliminary approval shall be required. Approval of the Conversion Plan by the Planning Board shall constitute final approval pursuant to Article II., Section 2.4 of the Subdivision Ordinance and the Site Plan Review Ordinance. In addition to subdivision and site plan review, the Planning Board must find the proposed conversion in conformance with this Section and any other applicable ordinance such as but not limited to ordinances regulating Shoreland areas, Wetlands, buffer areas and signage.
- b. **Transition Period:** For a period not to exceed three years from the date of Planning Board approval of the conversion plan of the hotel, motel or inn, to single or two family detached dwellings, any commercial uses and activities, such as restaurant, offices, and lodging, including transient unit rentals, existing prior to the conversion may be continued. At the end of the transition period the only uses permitted shall be those permitted in single or two family dwellings and Accessory Uses such as storage as authorized by the conversion plan. The conversion plan may be vacated by the owner in accordance with this Section within the three year period provided that the applicant has not transferred ownership of an individual unit. If the entire property subject to the conversion plan is transferred during the transition period, the owner or his/her heirs or assigns may vacate the conversion plan provided all other requirements of this Section are met.

Any such conversion plan recorded, or any portion thereof, may be vacated within three years from the date of Planning Board approval with the consent of the Planning Board at any time before the sale of any unit therein, by written instrument, signed by the Town and the owners of the converted hotel, motel or inn, declaring the same to be vacated. The

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Planning Board shall grant the vacation request upon finding that no individual unit has been transferred prior to submission of the vacation request.

Any instrument so executed vacating the conversion plan shall be duly filed and recorded in the County Registry of Deeds by the owners of the subject property.

- c. **Performance Guarantee:** The Planning Board shall require a performance guarantee consisting of a bond, escrow account or letter of credit, in an amount and form satisfactory to the Town Manager, to insure that the physical transformations of the conversion are carried out in accordance with the approved plan.
- d. **Conversion Plan Components:** The conversion plan application is subject to the submission deadlines and noticing requirements applicable to site plan applications, in addition to the requirements of ARTICLE II Section 2.4 (Final Plan for Major Subdivision) of the Subdivision Ordinance and the Site Plan Review Ordinance (Site Plan Submission Procedure), as well as the submission requirements of other applicable ordinances. The applicant shall submit a conversion plan including the following information:
 - e. **Building and Site Plans:** The conversion plan shall show existing conditions and proposed revisions to Buildings, including changes to Building exteriors, kitchens, partitions, and floor plans, and the site, including the number of single and two family detached dwellings proposed, vehicle and pedestrian access ways, water and sewer services, parking and storage areas, landscaping features, significant private and public view corridors, site amenities such as tennis courts, swimming pools and gardens, docks and moorings, exterior lighting, utility easements and significant passive and active open spaces.
 - f. **Project Description:** The conversion plan application shall include a written project description stating all current uses and activities on the site as well as all proposed uses and activities on the site. The description shall also set forth the conversion time period and the estimated cost of Building changes and site improvements necessitated by the conversion.
 - g. **Review Standards:** The Planning Board shall review all proposals for conformance with the following standards:
 - (1) The proposed conversion shall meet all requirements of Article I, (Guidelines) and Article II, (Final Plan) of the Subdivision Ordinance, and Chapter 702, and other applicable standards in the

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Zoning Ordinance including but not limited to buffers, signage, Shoreland areas, Wetlands and docks.

- (2) **Municipal Facilities and Services:** The proposed conversion shall not cause an undue adverse effect on Municipal infrastructure, facilities or services, or in any way create or allow to continue an unsafe or unhealthy situation. In reviewing the plan's conformance with this standard, the Planning Board may solicit comment from the Town Manager, Town Engineer, Fire Chief, Police Chief, and Planning Director to insure that the proposed conversion can be adequately served by Municipal facilities and services such as Roadways, sewers, fire apparatus and police or fire personnel.
- (3) **Site Layout:** The layout and design of Buildings, Roadways, parking areas, open space, recreation amenities, landscaping, drainage facilities and control mechanisms, site utilities, lighting, amenities and storage and other site improvements are located and designed in such a way as to preserve the character of the areas as a cohesive neighborhood and to preserve the natural topography, vegetation, streams, water features, and other existing features of the site; ensure the orientation of Buildings to provide adequate natural light within dwellings; and preserve and enhance outdoor open spaces and recreation areas.
- (4) **Exterior Storage:** The conversion plan shall indicate all outdoor storage areas excluding firewood storage. The areas are to be screened with dense and continuous landscaping, fencing or walls and not interfere with pedestrian or vehicle access ways.
- (5) **Building Expansions:** The Conversion Plan shall identify specific Building areas, volume and heights in which existing Buildings may be expanded; construction of a Building expansion identified in the Conversion Plan shall not be considered a revision to the Conversion Plan.

6. Revisions to Approved Conversion Plan

Except as otherwise provided herein, any revision to site layout, Buildings, amenities or site features of an approved conversion plan must be reviewed by the Planning Board for conformance with this Section.

R. "SOD" – SHORELAND OVERLAY DISTRICT

1. Purpose

The purposes of this ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect Buildings

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and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect Freshwater and Coastal Wetlands; to control Building sites and placement of Structures and land uses to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in Shoreland areas.

2. Authority and Enforcement

This ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.). The Department of Planning and Development shall be responsible for enforcing the provisions of this district.

3. Applicability

This district applies to:

- a. all land areas within 250 feet, horizontal distance, of the normal high water line of any River or Upland Edge of a Salt Water Body;
- b. within 250 feet, horizontal distances of the Upland Edge of a Coastal or Fresh Water Wetland;
- c. within 75 feet, horizontal distance, of the Normal High-Water Line of Streams;
- d. all lands within the Resource Protection District (RPD), and any structure built on, over, or abutting a Dock, Wharf or Pier, or other Structure extending or located below the Upland Edge of a Water Body or within a Wetland.

For lands within RPD, WOC I, WOC II, WOC III, and GD, if and to the extent that any of provisions of SOD conflict with the provisions of the RPD, WOC I, WOC II, WOC III, and GD, the provisions of the RPD, WOC I, WOC II, WOC III, and GD districts shall control in the respective districts.

4. Land Use Requirements

Except as hereinafter specified, no Building, Structure or land shall hereafter be used or occupied, and no Building or Structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations for the district in which it is located and all the applicable regulations of the SOD, unless a variance is granted.

5. Non-conformance

The provisions of Article III (Non-conformance) of the Zoning Ordinance shall apply to properties wholly or partially located within the RPD or SOD, except to the extent they are modified by this Section.

- a. Nonconforming Structures; General

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(1) Expansions

All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream or wetland setback requirement contained in Article IV R. 7 (c) (1) . A non-conforming Structure may be added to or expanded after obtaining a permit from the Permitting Authority, if the standards of this subsection are met, and if such Addition or expansion does not increase the non-conformity of the Structure.

- (a.) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream or upland edge of a wetland is prohibited, even if the expansion will not increase non-conformity with the water body, tributary stream, or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.
- (b.) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Article IV.R, 5 (a).
 - (i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- (c.) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Article IV .R. 5 (a) or Article IV. R. 5.(a) (1), above.
 - (i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or

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upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

- (ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Article IV.R. 5(a)(1)(b)(i) and Article IV. R. 5 (a) (1)(c)(i), above.
- (iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Article IV.R. 5(a)(1)(b)(i) and Article IV. R. 5 (a) (1)(c)(i), above.
- (d.) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the

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footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

- (2) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Permitting Authority basing its decision on the criteria specified in Section IV.R.5.a(3)
- (3) Relocation
 - (a.) A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Permitting Authority, and that the relocation does not decrease the structure's setback from the Water Body, Tributary Stream, or Upland Edge of a Wetland.
 - (b.) In determining whether the Structure relocation meets the setback requirements to the greatest practical extent the Permitting Authority shall consider the size of the lot; the slope of the land; the potential for soil erosion; the location of other structures on the property and on adjacent properties; the location of the septic system and other on-site soils suitable for septic systems, (provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules if a subsurface disposal system is being or is to be used;) the physical condition and type of foundation present, if any; and the type and amount of vegetation to be removed to accomplish the relocation. When necessary to remove Vegetation in order to relocate a Structure, the Permitting Authority shall require replanting of native Vegetation to compensate for the destroyed Vegetation in accordance with Article IV.R.7.n. In addition, the area from which the relocated Structure was removed must be replanted with Vegetation. Replanting shall be required as follows:
 - 1. Trees removed in order to relocate a Structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees

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must be planted no further from the water or Wetland than the trees that were removed.

Other woody and herbaceous Vegetation, and ground cover, that are removed or destroyed in order to relocate a Structure must be re-established. An area at least the same size as the area where Vegetation and/or ground cover was disturbed, damaged, or removed must be re-established within the setback area. The Vegetation and/or ground cover replanted must consist of similar native vegetation and/or ground cover as that which was disturbed, destroyed or removed.

In all cases, when a Structure is relocated on a parcel the original location of the Structure shall be replanted with Vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

(4) Reconstruction or Replacement

- (a.) Any non-conforming structure which is located less than the required setback from the Normal High-Water line of a Water Body, Tributary Stream or Upland Edge of a Wetland and which is wholly or partially removed, damaged or destroyed regardless of the cause, by more than 50% of the market value of the Structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit from the Planning Board is obtained within eighteen (18) months of the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with Article IV.R.5.a.(3) of this Ordinance. In no case shall a Structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement Structure is less than the required setback it shall not be any larger than the original Structure, except as allowed pursuant to Section IV.R.6.a(1) above, as determined by the non-conforming Footprint of the reconstructed or replaced Structure at its new location. If the total amount of Footprint of the original Structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed Structure shall be replaced or reconstructed at less than the setback requirement for a new Structure. When it is necessary to remove Vegetation in order to replace

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or reconstruct a Structure, Vegetation shall be replanted in accordance with section IV.R.5.a(3) of this Ordinance.

- (b.) Any non-conforming structure, which is located less than the required setback from a Water Body, Tributary Stream, or Wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the Structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the CEO within 12 months of such damage, destruction, or removal.
- (c.) In determining whether the Building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, the criteria in section IV.R.5.a(3).
- (d.) Non-conforming structures damaged, destroyed or removed and not replaced within the time limitations set forth above in this subsection IV.R.5.a(4), of said damage, destruction or removal shall not be replaced unless the replacement is conforming to all setbacks in place at the time of proposed replacement.

(5) Change of Use of a Non-Conforming Structure

- (a.) The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the Water Body, Tributary Stream, or Wetland, or on the subject or adjacent properties, public facilities and services in the area, or natural resources than the existing use.
- (b.) In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, commercial fishing and maritime activities, and other Functionally Water Dependent Uses.

b. Non-conforming Uses

(1) Expansions

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Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Permitting Authority as applicable, be expanded within existing residential structures or within permitted expansions of such structures.

(2) Resumption Prohibited

A lot, Building, or Structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension of that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the Structure has been used or maintained for residential purposes during the preceding five (5) year period.

(3) Change of Use

An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including Functionally Water Dependent Uses in the WOC I and WOC III Districts, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to the criteria listed in IV.R.6.a. 4(Change of Use of a Non-conforming Structure.)

c. Non-Conforming Lots

Lots within the SOD are governed by Article II of this Ordinance.

6. Land Use Standards

a. Permitted Uses

All uses permitted in the underlying zoning district are permitted in the SOD subject to the densities, land use standards, and performance standards of the underlying district, as well as the regulations of the SOD.

b. Special Exceptions

Any special exceptions permitted in the underlying district is a special exceptions in the SOD, subject to the densities, land use standards, and performance standards of that district, as well as the regulation of the SOD.

7. Shoreland Overlay District Standards

To the extent that the following standards conflict with those of the underlying district, the more stringent standards shall be required in all districts except the WOC I, WOC II, WOC III, and GD Districts.

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a. Stream Protection District

The Stream Protection District includes all land areas, as shown on the Official Zoning Map, within seventy-five (75) feet, horizontal distance, of the Normal High-Water line of a Stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the Normal High-Water line of a River or within two hundred and fifty (250) feet, horizontal distance, of the Upland Edge of a Freshwater or Coastal Wetland. Where such Stream and its associated Shoreland area are located within two hundred and fifty (250) feet, horizontal distance, of any of the above Water Bodies or Wetlands that land area shall be regulated under the terms of the Shoreland Districts associated with that Water Body or Wetland. The standards of the underlying district shall apply except to the extent they are explicitly modified by the performance standards of this District. All land use activities in the Stream Protection District shall be governed by the land use standards applicable to the RPD.

b. Dimensional Standards

- (1) Minimum Lot Sizes shall be determined by the Dimensional Standards set forth in the underlying district.
- (2) Land below the Normal High-Water line of a Water Body or Upland Edge of a Wetland and land beneath Roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- (3) Lots located on opposite sides of a public or private Road shall be considered each a separate tract or parcel of land unless such Road was established by the owner of land on both sides thereof after September 22, 1971.
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the Shoreline shall be equal to or greater than the Shore Frontage requirement for a lot within the underlying District.
- (5) Except in the WOC I, WOC II, WOC III, and GD, if more than one (1) residential Dwelling Unit or more than one (1) principal governmental, institutional, commercial or industrial Structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional Dwelling Unit, Principal Structure, or use.
- (6) In addition to the standards of the underlying district, minimum Shore Frontage and area for new lots shall be as follows:

<u>Residential per dwelling unit</u>	<u>Min. Shore Frontage (ft)</u>	<u>Min. Land Area sq.ft.</u>
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Adjacent to Tidal Areas	150	30,000
Adjacent to Non Tidal Areas	200	40,000
Governmental, Institutional, Commercial or Industrial per principal structure		
	Min. Shore Frontage (ft)	Min. Land Area sq.ft.
Adjacent to Tidal Areas		
Exclusive of those areas zoned WOC I	200	40,000
Adjacent to Tidal Areas		
Zoned WOC I	NONE	NONE
Adjacent to Non Tidal Areas	300	60,000
Public and Private Recreational Facilities		
	200	40,000

c. Principal and Accessory Structures

- (1) All new principal and Accessory Structures shall be set back at least seventy-five (75), feet horizontal distance, from the Normal High-Water line of Water Bodies, Tributary Streams, or the Upland Edge of a Wetland, except that in the Industrial and Commercial Districts the setback from the Normal High-Water line shall be at least one hundred (100) feet, horizontal distance, and in the Water Oriented Commercial I (WOC I), Water Oriented Commercial III (WOC III), and General Development (GD) Districts the setback shall conform to the requirements of those districts. In the RPD the setback requirement shall be two hundred fifty (250) feet, horizontal distance, except for Structures, Roads, trails, parking spaces or other regulated objects specifically allowed in that District in which case the setback requirements specified above shall apply.

In addition

- (a.) The Water Body, Tributary Stream, or Wetland setback provision shall not apply to Structures which require direct access to the Water Body or Wetland as an operational necessity, such as piers, docks, and retaining walls, or to other Functionally Water-Dependent Uses.
- (b.) All principal structures along the non-tidal portions of the Cousins River, the Royal River, and Pratt's Brook shall be set back on hundred (100) feet, horizontal distance, from the Normal High-Water line, or Upland Edge of a Wetland and shall be screened from the Water Body by existing Vegetation, if any. This provision does not apply to structures related to hydro power facilities or to structures located within the WOC I, WOC III, or GD District.

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- (c.) For Principal Structures, water and Wetland setback measurements shall be taken from the top of a Coastal Bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map appended to this ordinance. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to offer a determination. If agreement is still not reached, the applicant may appeal the matter to the General Board of Appeals. This subsection shall become effective July 1, 2009.
 - (d.) Swimming pools and tennis courts shall be located consistent with the standards for Principal and Accessory Structures as provided in Article IV.R.7.c.1
- (2) The Planning Board shall have the authority to increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but are not to be limited to, areas of steep slope, shallow or erodable soils; or where an adequate vegetative buffer does not exist.
- (3) The lowest floor elevation or openings of all Structures, including Basement shall be elevated at least one foot above the elevation of the one hundred (100) year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils.
- (4) With the exception of General Development Districts located adjacent to coastal wetlands and rivers that do not flow to great ponds, and Commercial Fisheries/Maritime Activities Districts, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

In a General Development District located adjacent to coastal wetlands, or rivers that do not flow to great ponds, or in a Commercial Fisheries/Maritime Activities District, non-vegetated

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surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

- (5) Notwithstanding the requirements stated above, steps, stairways or similar Structures may be allowed with a permit from the Planning Department, to provide Shoreline access in areas of steep slopes or unstable soils or to provide access to a permitted pier or dock provided that the structure is limited to a maximum of four (4) feet in width; that the Structure does not extend below or over the Normal High-Water Line of a Water Body or Upland Edge of a Wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on, or is otherwise available to, the property, and that no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a Forested Canopy is not present) is created, and that no cleared line of sight to the water is created if reasonably practical.

d. Parking Areas

- (1) Parking areas shall meet the Shoreline and Tributary Stream setback requirements for Structures for the District in which such areas are located, except that in the WOC I and GD Districts parking areas shall be set back at least twenty five (25) feet, horizontal distance, from the Shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the WOC I District shall be no less than fifty (50) feet, horizontal distance, from the Shoreline or Tributary Stream if the Permitting Authority finds that no other reasonable alternative exists further from the Shoreline or Tributary Stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a Water Body, Tributary Stream or Wetland and where feasible, to retain all runoff on-site.

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e. Roads and Driveways

The following standards shall apply to the construction of Roads and/or Driveways and drainage systems, culverts and other related features.

- (1) The surface of roads and driveways shall be set back at least seventy-five (75) feet, horizontal distance, from the Normal High-Water line of Water Bodies, Tributary Streams, or the Upland Edge of a Wetland, but if no reasonable alternative exists, (as determined by the Planning Board), the Planning Board may reduce the Road and/or Driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the Water Body, Tributary Stream or Wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the Water Body, Tributary Stream, or Wetland.
- (2) On slopes of greater than twenty (20) percent the Road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase, or part thereof, in slope above twenty (20) percent.
- (3) The above paragraph shall not apply to approaches to water crossings or to Roads or Driveways which provide access to permitted functionally Water Dependant Structures and facilities, which are located nearer to the Shoreline or Tributary Stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and Driveways providing access to permitted Structures within the setback area shall comply fully with the requirements of this section except for that portion of the Road or Driveway necessary for direct access to the Structure.
- (4) Existing public Roads may be expanded within the legal Road right-of-way regardless of their setback from a Water Body, Tributary Stream or Wetland.
- (5) New permanent Roads and Driveways are prohibited in the RPD except that the Planning Board may grant a permit to construct a Road or Driveway to provide access to permitted uses or approved special exceptions within the District. A Road or Driveway may also be approved by the Planning Board in a RPD, upon a finding that no reasonable alternative route or location is available outside the RPD. When a Road or Driveway is permitted in a RPD, the Road and/or Driveway shall be set back as far as practical from the Normal High-Water Line of a Water Body, Tributary Stream, or Upland Edge of a Wetland.

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- (6) Road and Driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Article IV.R.1.
- (7) Road and Driveway grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet, horizontal distance, which shall be no greater than 15%.
- (8) In order to prevent Road and Driveway surface drainage from directly entering Water Bodies, Tributary Streams or Wetlands, Roads and Driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip that is a minimum of (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the Normal High-Water Line of a Water Body, Tributary Stream, or Upland Edge of a Wetland.

Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

- (9) Ditch relief (cross drainage) culverts, drainage swales and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the Road, Driveway or ditch. To accomplish this, the following standards shall apply:

- (a.) Ditch relief culverts, drainage swales and associated water turnouts shall be spaced along the Road or Driveway at intervals no greater than indicated in the following table:

Road Grade (percentage)	Spacing (feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- (10) Drainage swales may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

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- (11) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the Road or Driveway.
- (12) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.
- (13) Ditches, culverts, bridges, swales, water turnouts and other Stormwater runoff control installations associated with Roads and Driveways shall be maintained on a regular basis to assure effective functioning.

f. Storm Water Runoff

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.
- (3) The Permitting Authority, may require the retention of existing groundcover, shrubs or other plants, located on slopes adjacent to the coast or rivers, to avoid erosion.

g. Essential Services

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services is not allowed in a Resource Protection District or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such Structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

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- h. Mineral Exploration and Extraction
Mineral Exploration and Extraction activities shall not be allowed in the SOD.
- i. Agriculture
 - (1) All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the former Maine Department of Agriculture on November 1, 2001, and the nutrient management law (7 M.R.S.A sections 4201-4209) or subsequent revisions thereof.
 - (2) Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance, of Water Bodies, Tributary Streams, or Wetlands. All manure storage areas within the SOD must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
 - (3) Agricultural activities involving any tillage of soil within the RPD or tillage of greater than twenty thousand (20,000) square feet in surface area, lying either wholly or partially in the SOD or the spreading, disposal or storage of manure within the Shoreland area shall require approval of the Cumberland County Soil and Water Conservation District and a Soil and Water Conservation Plan to be filed with the Planning Department. Non-conformance with the provisions of said plan shall constitute a violation of this ordinance.
 - (4) There shall be no new tilling of undisturbed soil within seventy-five (75) feet, horizontal distance, from water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands.
 - (5) After the effective date of this district, newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance of Water Bodies and Coastal Wetlands; nor within twenty-five (25) feet, horizontal distance, of Tributary streams and Freshwater Wetlands. Livestock grazing must be conducted in accordance with a Soil and Water Conservation Plan approved by the Cumberland County Soil and Water Conservation Service.
- j. Timber Harvesting (NOTE: Pursuant to 38 MRSA Section 438-A(5), the Town regulations for timber harvesting were repealed).
- k. Clearing or Removal of Vegetation for Activities other than Timber Harvesting

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1. In the SOD, within a strip of land extending seventy-five (75) feet, horizontal distance, from the Normal High-Water Line of any Water Body, Tributary Stream, or the Upland Edge of a Wetland, a buffer strip of Vegetation shall be preserved as follows:
 - (a.) There shall be no cleared opening greater than 250 square feet in the Forest Canopy (or other existing woody Vegetation if a Forested Canopy is not present) as measured from the outer limits of the tree crown. However, a single footpath not to exceed six (6) feet in width for accessing the shoreline as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
 - (b.) Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural Vegetation is maintained. For the purposes of this Section a "well-distributed stand of trees " shall be defined as maintaining a minimum rating score of 16 or more in each 25 foot by 50 foot rectangular (1250 square feet) area as determined by the following rating system.

**Diameter of Tree at 4 ½ feet
(four and one half)**

<u>Above Ground Level (inches)</u>	<u>Points</u>
2 - < 4 inches.....	1
4 -< 12 inches.....	2
8< - > 12 inches.....	4
12 inches or greater	8

The following shall govern in applying this point system:

- i. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- ii. Each successive plot must be adjacent to, but no overlap a previous plot;
- iii. Any plot not containing the required points must have no Vegetation removed except as otherwise allowed by this Ordinance;
- iv. Any plot containing the required points may have Vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance
- v. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

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For the purposes of this section “other natural Vegetation” is defined as retaining existing Vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4.5) feet above ground level for each 25-foot by 50-foot rectangle area. If five (5) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 (five) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4.5' (four and one half feet) above the ground level may be removed from the Shoreland Zone in any ten (10) year period.

[Note: As an example, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 20 points (36-16=20) may be removed from the plot provided that no cleared openings are created.]

- (c.) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (d.) In order to maintain a buffer strip of Vegetation, when the removal of storm-damaged, dead or Hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Article IV.r.7(l), below, unless existing new tree growth is present.
- (e.) The provisions contained in this section k do not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.
- (f.) In order to maintain the vegetation in the shoreland buffer, clearing or removal of vegetation for allowed activities, including associated construction and equipment operation, within or outside the shoreland buffer, must comply with the requirements of Article IV.R.7.(k)(1)

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- (g.) In order to protect water quality and wildlife habitat, existing Vegetation within the 75 foot buffer under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a permitted footpath or other Permitted Use.
- 2. At distances greater than seventy-five (75) feet, horizontal distance, from the Normal High-Water Line of any Water Body, Tributary Stream, or the Upland Edge of a Wetland, except to allow for the development of permitted uses,
 - (a.) in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 ½ (four and one half) feet above ground level shall be permitted on any lot. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to Basal Area.
 - (b.) In no event shall cleared openings for any purpose, including but not limited to, principal and Accessory Structures, Driveways, lawns, and sewage disposal areas, exceed in the aggregate, twenty five (25)% of the lot area within the SOD or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the Shoreland zone, including the buffer area, but shall not apply to any Commercial or Industrial districts or the WOC I and GD Districts or commercially developed lot(s) in the WOC III District.

Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this district.
 - (c.) Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this Section.
 - (d.) Revegetation may be required. The provisions regarding clearing of vegetation may be retroactively imposed on areas previously cleared under the timber harvesting section if a Shoreland permit application is submitted for a development within two years of the date of harvest.

I. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

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1. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
 - (a.) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
 - (b.) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
 - (c.) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
 - (d.) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
 - (e.) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8)

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inches in diameter measured at four and one half (4.5) feet above the ground level.

2. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

- (a.) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

- I. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
- II. Stumps from the storm-damaged trees may not be removed;
- III. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
- IV. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

- (b.) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

m. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section IV.R.7.k, provided that all other

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applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section IV.R.7.k apply;
2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section IV.R.7.c are not applicable;
3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section IV.R.7.i are complied with;
5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along
 - (a) A coastal wetland; or
 - (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
6. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
 - (a.) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

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- (b.) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
- (c.) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program:
http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm

- 7. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

n. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section IV.R.7.k, to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- 1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- 2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- 3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed

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before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

4. Revegetation activities must meet the following requirements for trees and saplings:
 - (a.) All trees and saplings removed must be replaced with native noninvasive species;
 - (b.) Replacement vegetation must at a minimum consist of saplings;
 - (c.) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
 - (d.) No one species shall make up 50% or more of the number of trees and saplings planted;
 - (e.) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - (f.) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
 - (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
 - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
 - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
 - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the

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standards contained within this chapter for minimum of five (5) years.

6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
 - (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
 - (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

o. Erosion and Sedimentation Control

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (a.) Mulching and re-vegetation of disturbed soil.
 - (b.) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (c.) Permanent stabilization structures such as retaining walls or rip-rap.
 - (d.) The retention of trees, shrubs and ground cover on steep slopes or erodable soils.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

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- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of rip-rap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a.) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b.) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c.) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water volumes associated with a twenty five (25) year storm event or greater, and shall be stabilized with vegetation or lined with rip-rap.

p. **Soils**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the

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evaluator deems appropriate. The soils report shall include recommendations to counteract soil limitations where they exist.

- q. **Water Quality**
No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the Water Body, Tributary Stream or Wetland.
- r. **Archaeological Sites**
Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the Permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application. A permit is not required for an archaeological excavation as long as the Excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- s. **Septic waste disposal**
All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:
 - (1.) Clearing or removal of woody Vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the Normal High Water Line of a Water Body or the Upland Edge of a Wetland and
 - (2.) A holding tank is not allowed for a first-time residential uses in the Shoreland Zone.

8. Administration

- a. **Shoreland Permits Required**
No person shall, without first obtaining a permit if required, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or Structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to the Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed. Any

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permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

b. Permitting Authority

The following Authorities are responsible for the review and approval of Shoreland Permits for the listed activities:

(1) Planning Department

- (a.) One and two family residential Structures, and their Accessory Structures, located outside of the RPD and more than 75 feet from the Normal High Water Line of Rivers, streams or Tributary Streams, or the Upland Edge of a Wetland.
- (b.) Expansions of non-conforming uses outside of the RPD or more than 75 feet from the Normal High-Water Line of Water Body, Tributary Stream or Upland Edge of a Wetland.
- (c.) Filling and earthmoving activities up to one thousand (1,000) cubic yards of material.
- (d.) The construction of stairways and similar structures used to provide Shoreline access in areas of steep slopes or unstable soils or to provide access to a permitted Pier or Dock consistent with Article IV.R.7.c(5) pursuant to the standards of this ordinance.
- (e.) Individual Signs
- (f.) Clearing of less than 1,000 square feet of existing vegetation or the cutting of less than 250 square feet of canopy of trees, outside of the 75 foot setback from Water Bodies, Tributary Streams or Wetlands, for permitted activities other than Timber Harvesting.
- (g.) The normal upkeep and maintenance of non-conforming uses and Structures including repairs and renovations which do not involve expansion of the non-conforming use or Structure, and other such changes in a non-conforming use or Structure as federal, state or local Building and safety codes may require.
- (h.) The removal and replacement of a non-conforming Residential Structure if the replacement meets setbacks from water.
- (i.) Removal of noxious, non-native invasive, hazardous, or contagious diseased trees or vegetation within seventy-five

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(75) feet, horizontal distance, of the Normal high Water Line of a Water Body, Stream, Tributary Stream or Upland Edge of Wetland or within the RPD as certified by a Licensed Forester or an ISA Certified Arborist or professional forester if required at the discretion of the Planning Department.

- (j.) Piers, ramps and floats that do not exceed the site limits specified in Article II.R.4 for piers, ramps, and floats.

9. Planning Board

- a. Expansion, relocation, reconstruction or replacement of non-conforming Structures within the RPD or less than 75 feet from the Normal High-Water Line of a Water Body, Tributary Stream or Upland Edge of a Wetland.
- b. The change of use of a non-conforming structure and;
- c. All construction activity within the SOD and RPD not under the approval authority of the Planning Department.

10. Permit Application

- a. Every applicant for a Shoreland Permit shall submit a written application, including a scaled site plan, or survey plan at the discretion of the Permitting Authority, on a form provided by the municipality, to the Planning Department.
- b. All applications shall be signed by an owner(s) or other individual who can show evidence of right, title or interest in the property, or by an agent or representative, tenant, contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- c. All applications shall be dated, and the Planning Department shall note upon each application the date and time of its receipt.
- d. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

NOTE: Pursuant to 38 MRSA Section 439-B excavation contractors working in the Shoreland Overlay District should take notice that whenever an excavation contractor will perform an activity that requires or results in more than one

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(1) cubic yard of soil disturbance, the person responsible for the management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day the earth moving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

11. Procedure for Administering Permits and Review Criteria

- a. Permits shall be approved if the application is found to be in conformance with the purposes and provisions of the SOD, and the underlying district. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the applicable standards, purposes and provisions of this Ordinance.
- b. After the submission of a complete application to the Planning Department, the Planning Director shall determine the appropriate Permitting Authority, based on Section 9 and 10 of this ordinance. If the Planning Board is the Permitting Authority, it shall hold a public hearing in accordance with Chapter 702 Article I.E. Notification, prior to the Planning Board rendering a decision the Permitting Authority shall consider the following criteria:
 - (1) Will maintain safe and healthful conditions;
 - (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
 - (3) Will adequately provide for the disposal of all sewage and wastewater;
 - (4) Will not have an unreasonable adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
 - (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters and other identified scenic resources;

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- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial, fishing, or maritime activities in the Commercial, WOC I, WOC III, GD, or Industrial Districts,
- (8) Will avoid problems associated with floodplain development and use, and
- (9) Has been designed in conformance with the land use standards of the SOD.

c. Mitigation

The Permitting Authority may require mitigation of adverse impacts of proposed development in the SOD and may impose any reasonable conditions to assure such mitigation as is necessary to comply with these standards. For the purposes of this Section, "mitigation" means any action taken or not taken to avoid, minimize, rectify, reduce, eliminate or compensate for any actual or potential adverse impact on the Shoreland area, including minimizing an impact by limiting the dimensions of the Structure and type of materials used.

d. Expiration of Permit

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the date of issuance of the permit, the applicant shall have one additional year to complete the project at which time the permit shall expire.

e. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

- f. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a Structure if the Structure would be located in a n unapproved subdivision or would violate any other local Ordinance or regulation or statute administered by the municipality.

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S. “MHP” – MOBILE HOME PARK OVERLAY DISTRICT

The mobile home park overlay district is located in a number of locations throughout Town, as shown on the Town zoning map, and is intended to permit mobile home parks in Yarmouth. The purpose of the overlay district is to make designated areas available for development as mobile home parks, pursuant to 30A M.R.S.A. Section 4358. The Town has determined that the areas located in this overlay district are environmentally suited for mobile home park development subject to compliance with the performance standards of this Section. The land may be developed according to the underlying zone designation, or the criteria of the MHP overlay district.

1. Permitted Uses

- a. All uses permitted in the underlying zone district subject to the densities and performance standards of that district.
- b. Mobile home park subject to compliance with the performance standards of this Section.
- c. Essential services

2. Special Exceptions

Any special exception permitted in the underlying district subject to the densities and performance standards of that district.

3. Performance Standards for Mobile home Parks

- a. Except as otherwise provided below, mobile home parks shall comply with all applicable state laws and Municipal ordinances and regulations, including the state subdivision law and the Zoning, Sewer, Subdivision and Site Plan Ordinances of the Town of Yarmouth. In addition to any other reviews that may be required, any proposed mobile home park development, expansion or amendment shall be reviewed by the Planning Board for compliance with the requirements of this Section.
- b. Lot Size, Width and Density: Lots shall meet the following lot size, lot width and density requirements:
 - (1) Lots served by public sewer:
 - (2) Minimum Lot Size 6,500 square feet
 - (3) Minimum Lot Width 50 feet
 - (4) Lots served by individual subsurface waste systems:

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- (5) Minimum Lot Size 20,000 square feet
- (6) Minimum Lot Width 100 feet
- (7) Lots served by a central subsurface waste water disposal system approved by the Maine Department of Human Services:
- (8) Minimum Lot Size 12,000 square feet
- (9) Minimum Lot Width 75 feet
- c. The overall density of any mobile home park served by a central subsurface waste water disposal system shall not exceed one dwelling unit per 20,000 square feet of total mobile home park area.
- d. The overall area of a Mobile Home Park shall not be required to be greater than the combined area of its Mobile Home Park Lots plus:
- e. The area required for Road rights of way;
- f. The area required for buffer strips, if any;
- g. For Mobile Home Parks served by a public sewer, an additional area for open space, storage or recreation, which additional area shall be ten per cent (10%) of the combined area of the individual lots within a Mobile Home Park; and
- h. The area of any setbacks required under Title 38 of the M.R.S.A. or any ordinance adopted by the Town pursuant to Title 38.
- i. Lot Setbacks: Structures located on lots in a Mobile Home Park shall meet the following lot setback requirements:
 - (1) For lots 12,000 square feet in area or larger, structures shall meet the following setbacks:
 - a. Front setback 20 feet
 - b. Side setback 20 feet
 - c. Rear setback 10 feet
 - d. Carports of non-combustible materials are not subject to side yard setback requirements.

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- (2) For lots less than 12,000 square feet in area, structures shall meet the following setbacks:
 - a. Front setback 10 feet
 - b. Side setback 10 feet
 - c. Rear setback 10 feet
 - (3) To avoid monotony, the Planning Board may allow the front setbacks on a private Road within a Mobile Home Park to be varied provided that a minimum 10 foot front setback is maintained and the average front setback for all units on the private way is at least 20 feet.
 - (4) Notwithstanding Articles IV.S.3.i.(1) and IV.S.3.i.(2) above, any manufactured housing unit or Structure on a Mobile Home Park Lot that is adjacent to a public Road shall be set back from the public Road 70 feet, the setback distance applicable to other single family dwellings in this district.
 - (5) Notwithstanding Article IV.S.3.i. of this Section, Structures on a Mobile Home Park Lot located within a Shoreland area shall meet all required setbacks for that area.
 - (6) A minimum twenty (20) foot separation shall be maintained between all manufactured homes in all directions.
 - (7) To provide more usable yard space on one side of the home, the Planning Board may allow the reduction of side yard setbacks to 5 feet provided a distance of 20 feet is maintained between units and the cumulative side yard setbacks are at least 40 feet for lots in excess of 12,000 square feet and at least 20 feet for all other lots.
- j. Individual Lot Standards:
Individual lots shall not include any of the following:
- (1) Any land area which is covered by water including lakes, ponds, Streams, Rivers, oceans or intertidal areas.
 - (2) Any land area identified as Freshwater or Coastal Wetlands as defined by the U.S. Army Corps of Engineers or by Title 38 of the M.R.S.A.
 - (3) Any area of one or more contiguous Acres with sustained slopes of 25% or more.

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- (4) Any land located within utility easements or rights-of-way, if the restrictions preclude use of that land for development.
 - (5) Any land area identified as floodplain and important natural drainage areas and systems.
 - (6) Any land identified as having soil that is very poorly drained in accordance with the classifications of the National Cooperative Soil Survey as defined in the most recent Soil Survey Manual of Cumberland County, Maine, Soil Conservation Service.
- k. Lot Coverage:
All Structures on the lot, including manufactured housing and Accessory Structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.
- l. Design Standards for mobile homes in a Mobile Home Park:
Mobile homes to be placed or erected on a Mobile Home Park Lot shall meet the following design standards:
- (1) There shall be a pitched roof having a pitch of 2 or more horizontal units for every 12 horizontal units of measure or greater centered with roofing shingles;
 - (2) Exterior walls of mobile homes shall be covered with materials that are residential in character, such as clapboards or simulated clapboards, such as conventional vinyl or metal siding, wood shingles or shades or similar materials but not including smooth, ribbed or corrugated metal or plastic panels;
 - (3) The minimum horizontal dimension shall be 14 feet and the minimum floor area shall be 600 square feet;
 - (4) The house shall be anchored on a permanent foundation;
 - (5) Any fuel storage tanks shall be enclosed or buried;
 - (6) All plumbing and utility connections shall comply with local, state and national codes;
 - (7) All exterior doors shall be provided with steps of suitable design and construction to provide all season access.
- m. Landscaping:
The development plan shall provide for adequate landscaping within the project. The Planning Board shall approve a plan which includes a plant

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listing of size and location and a maintenance plan shall be provided to ensure the upkeep of plants shown on the plan.

n. Buffering.

- (1) A fifty (50) foot wide buffer strip shall be provided along any mobile home park boundary that abuts land used or zoned for residential use if the per Acre density of home within the Mobile Home Park is at least two times greater than:
- (2) The density of residential development on immediately adjacent parcels of land, or
- (3) If the immediately adjacent parcels of land are undeveloped, the maximum net residential density permitted by applicable Municipal ordinances or state law.
- (4) No Structures, streets, utilities, or lots may be placed in the buffer strip, except that utilities may cross the buffer strip to provide services to the Mobile Home Park.

o. Open Space:

For Mobile Home Parks served by a public sewer, an additional area for green space, storage and recreation, amounting to 10% of the total area of the lots shall be reserved by the developer as open space. The Planning Board shall review the area(s) designated as open space to assure that the area(s) is accessible and usable by all residents of the park.

- (1) The reserved open space area shall less than 5% and shall be accessible directly from Roads within the park. At least 50% of the required open space shall consist of land that is suitable for active recreation and no more than 25% shall consist of land designated for storage.
- (2) Remaining designated open space shall be usable for recreational, agricultural or other outdoor living purposes and for preserving natural features including, but not limited to, large trees, tree groves, woods, ponds, Streams, glens, rock outcrops, natural plant life and wildlife cover, deer yards, and to the greatest extent possible, shall be contiguous open space. The use of any such open space may be further limited or regulated by the imposition of reasonable conditions at the time of final subdivision and site plan approval by the Planning Board where necessary to protect adjacent properties or uses, or the open space itself.

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- (3) Some or all of the open space may be dedicated to the Town, subject to acceptance by the Town Council.
- (4) Some or all of the open space may be dedicated to a non-profit land trust for conservation or passive or active recreation purposes.
- (5) Any dedication under Articles IV.S.3.o(3) or IV.S.3.o.(4) above must be made through appropriate legal instruments, reviewed and approved by the Town attorney.
- (6) As part of the Mobile Home Park review process, the developer shall submit, prior to final subdivision plan approval, a copy of proposed Mobile Home Park rules and a plan specifying how and under what conditions the open space area is to be used and maintained. The plan shall specify the areas to be dedicated to open space, recreation and storage. Open space areas shall be maintained and used for their stated purpose, and a note shall be placed on the subdivision plat stating that the open space areas shown on the plat shall not be developed as Mobile Home Park Lots.

p. Roads

- (1) Streets within a Mobile Home Park that are to be dedicated to the Town for acceptance as Town ways shall be designed and constructed in accordance with the standards contained in Article IV of the Town's Subdivision Ordinance;
- (2) Streets within a Mobile Home Park that are to be privately owned Roads shall be built according to acceptable engineering standards, shall be designed by a professional engineer registered in the State of Maine, and shall meet the following minimum design standards:
 - (a.) Right of way width, 23 feet
 - (b.) Width of paved traveled way, 20 feet
 - (c.) Paved width of one-way road, 14 feet

q. Private Roads within a Mobile Home Park that intersect with public ways adjacent to the Mobile Home Park shall meet the following standards:

- (1) The desired angle of intersection shall be 90 degrees, and the minimum angle of intersection shall be 75 degrees.
- (2) The maximum permissible grade within 75 feet of the intersection shall be 2% (two).

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- (3) The minimum sight distance shall be 10 feet for every mile per hour of posted speed limit on the existing public way. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with a height of 3.5 (three and one half) feet above the pavement and the height of object 4.5 (four and one half) feet. Where the Planning Board finds it necessary, the Mobile Home Park land bordering the intersection shall be cleared of all growth and sight obstructions to achieve the required visibility.
- (4) The centerline of any privately owned Road within a park intersecting an existing public way shall be at least 125 feet from the centerline of any other street intersecting that public street.
- (5) Cul-de-sac turnarounds shall have a minimum radius of 80 feet at the outer edge of the pavement, exclusive of any parking areas.
- (6) On-street parking shall be prohibited on privately owned Roads in a Mobile Home Park, unless a paved parking lane, with a width of at least 8 (eight) feet is provided.
- (7) The interior road system of a Mobile Home Park shall intersect with a public way.
- (8) No Mobile Home Park Lot shall have direct vehicular access onto an existing public way.
- (9) Any Mobile Home Park expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public ways.
- (10) A Mobile Home Park shall contain pedestrian walkway between all units and all service and recreational facilities. Such walkways shall be adequately surfaced and lit and shall connect with existing sidewalks, if any are adjacent to the Mobile Home Park. A portion of the Road surface may be reserved for walkways provided the Roadway width is widened accordingly. Walkways shall be a minimum width of 3 feet.

r. Parking Requirements

- (1) At least 2 off-street parking spaces shall be provided and maintained for each Mobile Home Park Lot.

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- (2) In addition to occupant parking, off-street guest and service parking shall be provided within the boundaries of the park at a ratio of 1 space for each 4 Mobile Home Park Lots and shall be reserved for that use. The Planning Board may waive this requirement if a parking lane is provided and will accommodate all required spaces.
- s. Groundwater Protection:
For Mobile Home Parks not served by a public sewer, the application shall include an assessment of the impacts of park development on groundwater quality prepared by a Certified Geologist or Registered Professional Engineer and shall include the following:
- (1) A map showing basic soil types.
 - (2) The depth to the water table at representative points throughout the Mobile Home Park.
 - (3) Drainage conditions throughout the Mobile Home Park.
 - (4) Data on existing groundwater quality, either from test wells in the Mobile Home Park or from existing wells on neighboring properties.
 - (5) An analysis and evaluation of the effect of the Mobile Home Park on groundwater resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the Mobile Home Park, at the Mobile Home Park boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance. For Mobile Home Parks within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations shall also be provided.
 - (6) A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the Mobile Home Park and within 200 feet of its boundaries.
- t. Utilities:
The Planning Board shall not require electrical utilities and telephone lines to be located underground within a Mobile Home Park.
- u. Lighting:
Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways. Lights shall be designed, located, sized and directed to avoid adverse impact on adjacent properties and be in conformance with the technical standards of the Town's Site Plan Ordinance.

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- v. Storage:
At least 300 cubic feet of enclosed tenant storage shall be conveniently provided on or near each Mobile Home Park Lot for the storage of materials and equipment. Such enclosed storage shall not be considered as required open space.
- w. Storm Drainage:
A storm drainage plan shall be prepared by a professional engineer showing ditching culverts, storm drains, easements, and other proposed improvements sufficient to accommodate a 25-year storm event.

4. Administration

- a. Mobile Home Park Lots and the buildable area of those lots must be designated on the subdivision plan and site plan for the proposed Mobile Home Park.
- b. A person proposing development or expansion of a Mobile Home Park has the burden of proving that the development will not pollute a public water supply or aquifer or violate any state law relating to land development, subdivision or use.
- c. No Mobile Home Park approved under this Section may be converted to another use without Planning Board approval and without meeting the appropriate district dimensional and setback requirements. The subdivision plan for the Mobile Home Park development, expansion or amendment shall include the following note:

"This subdivision plan is approved solely as a 'Mobile Home Park' as defined in 30-A M.R.S.A. Section 4358; the area of each lot of this subdivision is lawfully less than the minimum lot size otherwise required under the Town's Zoning Ordinance solely because of its status as a lot within a Mobile Home Park under unified ownership. If any or all of the lots depicted upon this subdivision plan cease to be used as a Mobile Home Park as so defined, this subdivision plan must first be revised to comply with the Town's then current land use ordinances."

T. "GD" – GENERAL DEVELOPMENT DISTRICT

The General Development District (GD) is intended to preserve, maintain, and allow moderate growth and expansion as well as modernization and improvement of Shoreland Areas that have existing discernible patterns of significant commercial, industrial, or recreational uses, which may also include areas of mixed use and residential development as long as the designation is not based solely on residential use. The intent of the district is to preserve and maintain for the citizens of Yarmouth use of and access to these areas, including their economic and

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recreational values, diversity of activities that add interest and economic vitality of the community, scenic values, and views from the land.

Permitted Uses

- a. Single Family Detached Dwelling
- b. Two Family Dwelling
- c. Multiplex
- d. Open Space Residential Development
- e. Accessory Uses and Buildings
- f. Mixed Use Structure
- g. Inns, motels and hotels
- h. Bed and Breakfast
- i. School Dormitory
- j. Business or Professional Office
- k. Bank
- l. Retail
- m. Craft Shop
- n. Personal Services
- o. Restaurant
- p. Restaurant – Carry Out
- q. Municipal Uses and Buildings
- r. Museum
- s. Live Theater
- t. Public Utilities
- u. Religious Assembly
- v. Medical Building
- w. School
- x. Light Manufacturing
- y. Aquaculture
- z. Research Facility
- aa. Essential Services
- bb. Antenna/Antenna Array
- cc. Docks, piers, wharves, moored floats, breakwaters, causeways, marinas, bridges over twenty (20) feet in length, and uses projecting into water bodies over or below the normal high-water line or within a wetland
- dd. Filling or other earthmoving activity
- ee. Stairways, steps or similar structures may be allowed in accordance with Chapter 701 Article IV.R.7.c.6. (Planning Department permit required)

Special Exception

none

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1. General Development District Minimum Dimensional Requirements (May be modified in accordance with the Ordinance)

	Single and Two Family	Other Uses
Area	10,000 square feet	20,000 square feet
Lot Width	75 feet	100 feet
Shoreland Setback	25 feet	25 feet ^a
Front Yard	15 feet	10 feet
Side Yard	10 feet	10 feet
Rear Yard	15 feet	15 feet
Lot Coverage ^b	70%	70%
^a – except for water dependent uses, structures, and equipment and for pedestrian walkways and launching ramps. See section d below. ^b –total footprint area of all structures, parking lots, and other non-vegetated surfaces.		

2. General Development District Special Performance Standards in addition to all other applicable standards in this Ordinance:

- a. Density Calculations – For the purpose of lot density calculations, any land above Shoreline shall be considered in the lot size.
- b. Building Height – New Buildings shall be no taller than forty-two (42) feet unless approved by the Permitting Authority upon finding that reasonable consideration has been given to design and position the structure to minimize adverse visual impact or obstruction to abutting properties. An addition to an existing structure shall be no taller than the height of the existing building or forty-two (42) feet, whichever is taller.
- c. Shoreline Setbacks and Landscape Buffers – Except for Water Dependent Uses, Structures, and equipment necessary for Water Dependent Uses, there shall be no Buildings, decks, pavement, or automobile parking areas within twenty-five (25) feet of the Shoreline, except for launching ramps and for non-motorized trails, for which up to fifty (50) percent of the trail length can be as close as ten (10) feet from the Shoreline. Any significant areas of exposed mineral soil between a trail and a the Shoreline must be planted with native vegetation and trail banks and side slopes greater than fifty (50) percent and retaining walls greater than four (4) feet must be designed by a professional engineer or landscape architect. Water access sites shall be permitted at two-hundred (200) foot intervals along the trail. If any Structures or paving are within fifty (50) feet of Shoreline, appropriate steps will be required to prevent erosion of the banks. A non-conforming structure may be added to or expanded after obtaining a permit from the Permitting Authority, if

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shoreline setbacks are met to the greatest practical extent. In determining whether the Building expansion meets the setback to the greatest practical extent the Planning Board or its designee shall consider the criteria in section IV.R.6.a(3).

Dense landscape buffers shall be provided in required Shoreline setback areas. Where dense landscape buffers currently exist, they will not be disturbed. The buffer shall consist of dense native plantings to provide visual screening to abutting residentially used lots and is subject to the maintenance rights and responsibilities of the SOD District. Other than for the purpose of maintaining a healthy buffer, there shall be no cutting or removal of vegetation within the new and existing buffers, provided, however, that this shall not preclude the control of noxious and non-native invasive vegetation by cutting or removal by mechanical or chemical means with the approval of the Permitting Authority and consistent with all applicable laws and ordinances. To protect water quality, no pesticides, herbicides, fertilizers and other chemicals shall be allowed in setback and buffer areas without Planning Board approval and shall be required to follow the most current edition of the Maine DEP Best Management Practices Manual for Erosion and Sediment Control.

- d. Development of Allowed Uses and Structures – When development of allowed uses and Structures is proposed, it shall connect to the town sewer and public water systems, when available. To the extent that commercial marine trades or working waterfront uses are proposed, the “Best Management Practices Manual for Maine’s Boatyards and Marinas” (December 2005 or most current edition) published by the Maine Department of Environmental Protection shall be a guidance document for the applicant and Permitting Authority for any permitting conditions and compliance requirements including but not limited to yard run-off collection and a pollution prevention/ spill response plan, including boat storage, wash down and bottom painting areas.
- e. Site Layout – The layout and design of Buildings, Roadways, parking areas, open space, recreation amenities, landscaping, drainage facilities and control mechanisms, site utilities, lighting, amenities and storage and other site improvements shall be located and designed in such a way as to preserve the character of the area and to preserve the natural topography, vegetation, streams, water features, scenic views, and other existing features of the site; ensure the orientation of Buildings to provide adequate natural light within dwellings; and preserve and enhance outdoor open spaces and recreation areas.
- f. Exterior Storage – All outdoor storage areas shall be screened with dense and continuous landscaping, fencing, walls, or combination thereof and shall not interfere with pedestrian or vehicle access ways.

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U. CHANGES AND AMENDMENTS

1. This Ordinance may be amended and its regulations, boundaries, and district classifications changed by the Town Council at a regular or special meeting provided that the following criteria are met:
 - a. Amendments may be initiated by the Planning Board, Town Council, Land Owner; his/her authorized agent, or persons with a written option to purchase the property or its equivalent.
 - b. All requests for amendments to the text of the Zoning Ordinance, or for changes in zone boundary lines, or other proposals to change the zoning map, initiated by other than the Planning Board or the Town Council shall be accompanied by a fee in the amount of Two Hundred Fifty Dollars (\$250.00). No such request or proposal shall be referred to the Planning Board for public hearing unless and until said fee is paid.
 - c. Notices
 - (1) For all zoning map changes and zoning text amendments, the Planning Director will develop a notice, including a description of the nature of the proposal, a map of all property to be rezoned (for map changes), and the time and place of the Planning Board meeting.
 - (2) The Planning Department will mail the notice by first class postage to owners of all property proposed for a zoning map change and to owners of all properties abutting those proposed for the zoning map change. The notice will be mailed at least fourteen (14) days before the meeting (workshop of public hearing) at which the proposal first appears on the Planning Board agenda. The fee for the mailing will be as established by the Town council in the Fees and Permits Ordinance.
 - (3) Mailings of notices for zoning text amendments will be at the discretion of the Planning Director, after consultation with the Chairman of the Planning Board. Any such mailings will be conducted as noted above.
 - (4) For zoning text amendments and zoning map changes, the notice shall be posted in the Town Office at least 14 days prior to the Planning Board public hearing on the request. In addition, the notice must be published at least 2 times in a newspaper of general circulation in the Town of Yarmouth. The date of the first publication must be at least 14 days before the public hearing, and the date of the second publication must be at least 7 days before the public

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hearing. All posting, publishing, and mailing of notices shall conform to applicable State requirements.

- d. No proposed zoning map changes or zoning text amendments shall be referred to the Town Council for consideration until the Planning Board has held a public hearing on the proposal.
2. All proposals for change of zone shall include:
 - a. A map showing existing and proposed zone lines.
 - b. Address or exact location of the request.
 - c. Name and address of property owner and/or applicant.
 - d. Statement regarding existing and proposed land use.
 - e. Existing and proposed zone classification.
 - f. Statement indicating the developer has the financial ability to complete the proposed development.
3. All requests for change of zone that propose new construction shall be accompanied by a site plan drawn in accordance with Chapter 702.
4. The Planning Board shall review all proposed site plans and make its recommendations to the Town Council regarding the land use implications of the proposal. When said plan and change of zone is finally approved by the Town Council no changes or Alterations in the approved use shall be made without resubmitting the proposed changes for approval of the Planning Board.
5. If a petitioner fails to begin construction in a substantial manner and in accordance with an approved within one year from the effective date of the rezoning, the Planning Board may initiate rezoning to the original zone classification.
6. No request for change of zone shall be considered within one year from the date of Town Council denial of the same request.

V. CONDITIONAL OR CONTRACT ZONING

Authorization for conditional or contract zoning recognizes that circumstances existing when adherence to uniform design or performance criteria can preclude creative, safe and sensible land uses and development which would otherwise advance the goals of the Comprehensive Plan and the public health, safety and general welfare. Conditional or Contract Zoning is a discretionary legislative process reviewed on a case-by-case basis. As such, contract or conditional Zoning decisions

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are particular to the circumstance of each lot or structure applicable to review, does not establish nor rely upon precedence, and is available only when the Town Council determines it advances the public good.

1. Conditional or Contract Zoning, as defined by this Ordinance, is authorized for zoning map changes when, in order to further the public health, safety and/or general welfare, the Town Council finds it necessary to impose certain conditions or restrictions upon the applicant's use of the land, which conditions or restriction are not imposed upon other similarly zoned properties.
 - a. Alternatively, the Town Council may find it necessary or desirable to waive or modify one or more standard conditions applicable to a particularly lot, Building, or use of a parcel within a district, and impose special conditions or restrictions not imposed upon other properties within the zone.

In such circumstances the provisions and authorities of contract or conditional zoning Article IV.V may apply even when the contract or conditional rezoning modifies applicable standards within a zone (as applies to the subject property only) and does not change the zoning district or designation itself. Such alternative application shall not be authorized:

- (1) To create or authorize a use not permitted within the zoning district.
 - (2) Except when all other conditions, procedures, and requirements of this Section are met.
 - (3) Except when the general purposes and goals of the district, as defined by the Comprehensive Plan, are advanced by such conditional or contract zoning.
 - (4) To be applied in the Village I or Village II District unless the applicant submits, in addition to the requirements of Article IV.V.8., Building plans and profiles of sufficient detail to allow a determination as to appropriateness of exterior architectural design features, construction materials, landscaping and aesthetic visual impacts.
2. Rezoning under this subsection must be consistent with the Comprehensive Plan for the Town of Yarmouth and must establish rezoned areas which are consistent with the existing and permitted uses within the original zone. The term "consistent" as used in this subsection shall mean "not contradictory or incompatible with".
3. All requests for Conditional or Contract Zoning must be accompanied by a site plan containing the information required by Article IV.V.7 of this Section. Requests for Conditional or Contract Zoning shall be filed initially with the

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Planning Board, along with an application fee of \$250.00 as per Article X.IV. of the Fees and Permits Ordinance.

4. Notice

- a. For all conditional and contract zoning proposals, the Planning Director will develop a notice, including a description of the nature of the proposal, the proposed conditions and restrictions, a map of all property to be subject to the conditional rezoning or contract zone agreement, and the time and place of the Planning Board meeting.
 - b. The Planning Department will mail the notice by first class postage to owners of all property which will be subject to the conditional rezoning or contract zone agreement and to owners of all properties within five hundred (500) feet of the property or area subject to the conditional rezoning or contract zone agreement. The notice will be mailed at least fourteen (14) days before the meeting (workshop or public hearing) at which the proposal first appears on the Planning Board agenda. The fee for the mailing will be as established by the Town Council in the Fees and Permits Ordinance.
 - c. The notice shall be posted in the Town Office at least 14 days prior to the Planning Board public hearing on the request. In addition, the notice must be published at least 2 times in a newspaper of general circulation in the Town of Yarmouth. The date of the first publication must be at least 14 days before the public hearing, and the date of the second publication must be at least 7 days before the public hearing. All posting, publishing, and mailing of notices shall conform with applicable State requirements.
5. The Planning Board shall conduct a public hearing on the proposed contract or conditional zoning proposal and then shall make a written recommendation to the Town Council regarding the proposed rezoning and any recommended conditions or restrictions.
 6. The Town Council shall hold a public hearing on the proposed rezoning, at which time the Town Council shall consider the rezoning request, the Planning Board recommendation, and any proposed conditions and restrictions. Notice shall be given to the owners of abutting property and published in accordance with the procedures for amendment of a zoning ordinance or zoning map.
 7. When site plan or subdivision review is required for the use proposed, preliminary site plan review or preliminary subdivision review must be completed before the Town Council takes final action to approve or deny the rezoning request.
 8. The preliminary subdivision plan or site plan shall include, at a minimum, the following items:

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- a. Existing and proposed lots, permitted Building areas of each lot, Roadways and easements;
 - b. Conceptual treatment of the scale and size of potential Buildings and the conceptual exterior or design thereof;
 - c. Conceptual treatment of stormwater, sanitary and solid waste management, utility services, vehicular/pedestrian access and circulation, parking, lighting, landscaping, screening, outdoor storage, and other on-site or off-site improvements;
 - d. Total land area;
 - e. Existing and proposed zoning districts; and
 - f. Any existing natural land features such as topography, soils classifications, mature Vegetation, waterways, Wetlands, and wildlife habitats;
 - g. A context map showing the entire area which will be affected by the proposal. A context map should include all streets, sidewalks, intersections, drainage paths, property lines, buildings, zoning districts, and natural features of the area.
 - h. A narrative describing the proposal, its common scheme of development and listing potential land uses and estimated impacts to Municipal facilities. Such estimates are to include, but are not limited to, the anticipated gallons per day of waste water to be generated by the proposal and the number of vehicles entering and leaving the site during the day, and at peak traffic hours.
9. The Planning Board may conduct the preliminary site plan or subdivision review concurrently with its review of the request for rezoning, and the public hearing required by Article IV.V of this Section may be substituted for a public hearing otherwise required for site plan or subdivision review. The Planning Board shall review the proposed site plan or subdivision under the Zoning Ordinance provisions which would apply if the request for rezoning is granted, and may conditionally approve the preliminary site plan or the preliminary subdivision plan subject to the requested rezoning, such approval not to become effective until the rezoning becomes effective.
10. If the applicant does not file a completed application for final subdivision or site plan approval from the Planning Board within twelve months after the rezoning becoming effective, the property shall revert automatically to its former designation. The Planning Board may grant extensions of the period between

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the effective rezoning and the filing of the complete final application in increments of twelve months not to exceed a total of three years.

11. If the Town Council approves a request for Conditional or Contract Zoning, the Council must simultaneously approve an agreement or declaration setting forth the conditions and restrictions to apply to the property, including time limits for compliance with all conditions and restrictions where appropriate. In the case of a Contract rezoning, the rezoning shall not be effective until the agreement is executed, delivered to the Council and recorded by the applicant in the Cumberland County Registry of Deeds. In the case of a Conditional rezoning, the rezoning shall not be effective until the declaration is approved by the Town Council and recorded in the Cumberland County Registry of Deeds. The conditions and restrictions set forth in the agreement or declaration shall run with the land and bind all future owners of the land, or any other person who claims an interest in the property, and may be removed only by subsequent action of the Town Council expressly removing, relieving, or discharging one or more the specific conditions or restrictions after a public hearing and recommendations by the Planning Board. If the conditions and restrictions are not fulfilled or complied with within the specified time limits, if any, any, the Town Council may extend the time limits or may initiate a rezoning to the original zoning district classification. The Town Council may require a bond, escrow agreement, irrevocable letter of credit or other surety in such form as is approved by the Town Manager as being reasonably necessary to assure compliance with the conditions or restrictions required by the rezoning. Such bonds shall be posted before the agreement or declaration is recorded in the Registry of Deeds.
12. All development and use of the rezoned property must comply with the performance standards of this Ordinance and with the use standards, space standards and other standards for the zoning district in which the rezoned property is placed. Conditions imposed by the Town Council may be more restrictive, but not less restrictive, than the applicable requirements of this Ordinance. Conditions and restrictions imposed by the Town Council shall relate to the physical development or operation of the property and may include, but shall not be limited to, the following:
 - a. Limitations on the number and types of uses permitted.
 - b. Restrictions on the scale and density of the development, including but not limited to height, lot coverage or setbacks.
 - c. Specifications for the design and layout of Buildings and other on or off-site improvements, including but no limited to parking lots, traffic control devices, sewer improvements, landscaping, lighting, or drainage control devices.
 - d. Schedules for commencement and completion of construction.

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- e. Performance guarantees securing completion and maintenance of improvements, and guarantees against defects.
 - f. Preservation of open space and buffers, and protection of natural areas and historic sites.
 - g. Contributions towards the provisions of Municipal services required by the development.
 - h. Provisions for enforcement and remedies for breach of any conditions or restriction.
 - i. Provisions for reservations or land dedications for public purposes.
13. All conditions and restrictions imposed as part of a rezoning pursuant to this Section are hereby incorporated by reference in this Zoning Ordinance as part of the applicable zone and shall be set out in full in an appendix to this Ordinance.

W. ~~SETBACK REDUCTION-2/15/07~~

X. VILLAGE III DISTRICT

The purpose of the Village III is to promote residential living area with limited compatible, low intensity businesses, and mixed-use commercial and residential structures. The Village III District area serves as important roadway linkage connecting the Village and Route One commercial corridor as well as an important bicycle and pedestrian connector to both sides of the Royal River and Route One. The Village III District area includes important and historic development linkages to the Royal River and the zoning designation is intended to allow appropriate development, connections and access to the river which are more intensive than other segments of the river designated for primarily for river resource protection. The Village III District also provides a transition zone between the commercial Route One corridor and village area.

1. Permitted Uses

- a. Single and two-family residences
- b. Municipal Uses and Buildings
- c. Medical Office and Treatment Buildings
- d. Private Clubs
- e. Accessory Buildings and Uses
- f. Schools
- g. Professional offices of not more than 1500 sf per business or 4500 sf per structure
- h. Day Care Center Facilities
- i. Inns or Lodging Houses not to exceed 8 rental bedrooms per structure
- j. Restaurants and cafes associated with Inns or Lodging houses with seating not to exceed 16 persons at any one time.

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- k. Retail merchandise and service shops with combined customer service and display areas not to exceed 1200 square feet per business nor more than a cumulative total of 3000 square feet per structure or lot.
- l. Essential services
- m. Antenna array on alternative tower structures (See ARTICLE II.Z. & Chapter 702, Site Plan Review Ordinance), except no microwave dish antennas are permitted
- n. Multi-family structures, nursing homes, assisted living facilities, and Mixed Use Structures with the following standards:
 - i. Maximum lot coverage (gross) shall not exceed sixty (60) %
 - ii. Maximum lot coverage (net of land not suitable for development) shall not exceed ninety (90) %.
 - iii. In any Mixed Use Structure, no more than thirty five (35) % of the gross building floor area, not including Accessory Structures, shall be used for commercial or non-residential purposes.

2. Performance Standards

- a. Principal structures shall have a maximum building footprint of 4000.
- b. Parking for multifamily and mixed use residential structures shall be provided at a minimum of 1.35 parking spaces per dwelling unit but not more than 2 parking spaces per dwelling unit.
 - i. The Planning Board may waive, modify, temporarily postpone these parking standards, or authorize off-site parking in lieu of these standards provided the Planning Board finds that such waiver, modification, postponement of off-site alternative shall not create unreasonable burdens to adjoining properties or create unsafe conditions for the pedestrians or motorists.
- c. Unless otherwise noted bulk and space requirements are the same as VI.
- d. Sign provisions are the same as the Village I District
- e. Except as provided, above, parking standards are the same as the Village I District.

Current Chapter 701 VI Bulk and Space Requirements:

Minimum lot size – ten thousand (10,000) square feet.

Minimum lot width – fifty (50) feet

Minimum front, rear, and side setbacks – fifteen (15) feet

Maximum coverage – fifty (50) %

One dwelling unit per ten thousand (10,000) square feet

Y. “WOC III” WATER ORIENTED COMMERCIAL III

CHAPTER 701

ARTICLE IV

[See Conditional Rezoning Declarations Appendix C for language. Town Council Meeting No. 8 -08/09 February 19, 2009, Item No. 62]

ARTICLE V

A. INDUSTRIAL PERFORMANCE STANDARDS - GENERAL

1. Industrial waste waters may be discharged to Municipal sewers only and in such quantities and/or such quality as to be compatible with commonly accepted Municipal sewage treatment operations, and subject to the approval of the Municipality.
2. Such wastes may require pretreatment at the industrial site in order to render them amenable to Municipal treatment processes.
3. Pretreatment includes, but is not limited to screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution.
4. The disposal of industrial waste waters by means other than the Municipal sewerage system must comply with the laws of the State of Maine concerning water pollution and the Municipality. Wash water or other process water carrying stone dust, stone particles, silt or other mineral matter will not be accepted into the Municipal system. Representatives of the Municipality and for the Maine Department of Environmental Protection may enter onto premises for the purpose of gauging, sampling and testing any waste water systems which may enter into water courses.
5. All air pollution control shall comply with minimum Federal, State and local requirements and detailed plans submitted to the Planning Director for approval.
6. Noise. Noise is required to be muffled so as not to be objectionable due to the intermittence, beat frequency, or shrillness. Noise may equal but not exceed, during any consecutive 8-hour period an average of 75 decibels at 600 cps measured at any boundary line. During the peak activity of 60 minutes in a 24-hour period a noise may not exceed 100 decibels at 600 cps when measured at the source.
7. Upset conditions, breakdowns, or scheduled maintenance of any water and air pollution control equipment and conditions during construction shall not be deemed to be in violation of established limits as specified above. Such person responsible for such emission will with all practical speed, initiate and complete appropriate reasonable action to correct the conditions causing such emissions to exceed said limits.

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8. In case of doubt, the Planning Director may employ such independent, recognized consultant necessary, at the expense of the applicant, to assure compliance with performance standards of this Article and abatement of nuisances.

ARTICLE VI

A. ADMINISTRATION AND ENFORCEMENT

1. Enforcement Officer:
A Code Enforcement Officer (CEO) shall be appointed or re-appointed by July 1, annually. It shall be the duty of the Planning Director or his/her duly authorized Code Enforcement Officer of the Town of Yarmouth to enforce the provisions of this Ordinance. If the Planning Director or his/her duly authorized Code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, Buildings, or Structures, removal of illegal Buildings or Structures or of Additions, Alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.
2. Legal Action and Violation:
When any violation of any provision of this Ordinance shall be found to exist, the Planning Director or his/her duly authorized Code Enforcement Officer shall notify the Town Manager who shall then initiate any and all actions to be brought in the name of the Town. In addition, the Town Manager may enter into administrative consent agreements in the name of the Town for the purposes of eliminating violations and recovering penalties without court action.
3. Fines:
Any person, firm or corporation being the owner of or having control or use of any Building or premises who violates any of the provisions hereof, shall be guilty of a misdemeanor and on conviction thereof, shall be fined not less than \$50.00 nor more than \$200.00. Each day such a violation is permitted to exist after notification thereof shall constitute a separate offense. All fines collected hereunder shall inure to the Town of Yarmouth.
4. Building Permit:
No Building or other structure shall be erected, moved, added to, or structurally altered without a permit, therefore, issued by the Planning Director or his/her duly authorized Code Enforcement Officer. No Building permit shall be issued except in conformity with the provisions of this Ordinance, except after written order from the Board of Appeals. The Building permit shall be valid for one (1) year from the date of issue. If construction has not been completed within the twelve

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(12) -month period, the permit may be renewed without charge for a second twelve-month (12) period. Thereafter, if construction has not been completed, a new permit shall be applied for and the fee paid. All Building permits heretofore issued shall be subject to the provisions of this paragraph. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

5. Application for Building Permit:

All applications for Building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of Buildings already existing, if any, and the location and dimensions of the proposed Building or Alteration. The application shall include such other information as lawfully may be required by the Planning Director or his/her duly authorized Code Enforcement Officer to determine conformance with and provide for the enforcement of this Ordinance.

6. Certificate of Occupancy:

It shall be unlawful to use or occupy or permit the use or occupancy of any Building or premises, or both or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or Structure until a Certificate of Occupancy shall have been issued therefore by the Planning and/or his/her duly authorized Code Enforcement Officer and endorsed to the effect that the proposed use of the Building or land conforms with the requirements of this Ordinance.

- a. No Building permit shall be issued until an application has been made for a Certificate of Occupancy, and the Certificate of Occupancy shall be issued in conformity with the provisions of this Ordinance upon completion of the work. A temporary Certificate of Occupancy may be issued by the Planning Director and/or his/her duly authorized Code Enforcement Officer for a period of six months during its completion, provided that such temporary Certificate may require such conditions and safeguards as will protect the health, welfare, and safety of the occupants and the public.
- b. The Planning Director and/or his/her duly authorized Code Enforcement Officer shall maintain a public record of all Certificates of Occupancy.
- c. Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance.

ARTICLE VII

ARTICLE VII

A. GENERAL BOARD OF APPEALS

1. Appointment and Composition:

The General Board of Appeals is established pursuant to the provisions in Chapter 203, General Board of Appeals Ordinance.

2. Votes Required for Passage

Every motion to grant an administrative appeal, a variance appeal, a special exception, and a mislocated building appeal, shall require for passage the affirmative vote of at least four members of the Board of Appeals. The failure of such a motion to obtain four votes shall constitute a denial of the application. Every other motion shall require the affirmative vote of a majority of those present and voting on the question.

B. POWERS AND DUTIES

1. Appeals

Appeals shall lie from the decision of the Planning Director or his/her duly authorized agent to the General Board of Appeals and from the General Board of Appeals to the Superior Court according to the provisions of Maine Revised Statutes.

2. The General Board of Appeals shall have the following powers and duties under this Ordinance:

a. Administrative Appeals

To hear and decide where it is alleged there is an error in any order, requirement, decision, or determination made by any officer in the interpretation of this Ordinance. The action of the officer may be modified or reversed by the General Board of Appeals. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this Ordinance is not appealable to the General Board of Appeals but may be appealed directly to Superior Court.

b. Special Exceptions

To hear and decide only those special exceptions which are authorized by this Ordinance and which are specifically listed in the various zoning districts as special exceptions. To decide such questions as are involved in determining whether such special exceptions should be granted; and by majority vote to grant such special exceptions with such conditions and safeguards as are appropriate under this Ordinance, or to deny such special exceptions when not in harmony with the purposes and intent of this Ordinance.

ARTICLE VII

(1) Special Exception Permits

- (a.) Special Exceptions. Uses designated as Special Exceptions within this Ordinance are intended as potential land uses in the districts in which they are so designated, subject to the issuance of a Special Exception permit by the General Board of Appeals in compliance with this Section, except as otherwise provided in subparagraph (c). Any use which was commenced prior to the effective date of adoption or amendment of this Ordinance and would require a Special Exception permit under the terms of this Ordinance or subsequent amendment is a nonconforming use, and any expansion of such use shall require a Special Exception permit in compliance with this Section, except as otherwise provided in VII.B.2.b.(1)(c)
- (b.) Application for Special Exception Permit. When the owner of property or the owner's authorized agent is informed by the Planning Department or otherwise determines that a Special Exception permit is required, an application for the permit shall be filed with the General Board of Appeals on forms provided for that purpose. The application shall provide all information required for a Building permit application under this Ordinance plus information upon which the General Board of Appeals may make findings of fact as to each of the standards set forth in Article VII.B.2.b.(1)(d) of this Section. The application shall be accompanied by an application fee in such amount as the Town Council may from time to time determine, and shall be heard pursuant to the procedures set forth in Article IV.W of this Article.
- (c.) Review. The General Board of Appeals shall hear and approve, approve with modifications or conditions, or disapprove all applications for Special Exception permits that do not require Planning Board review. Any proposed special exception use that requires site plan review and approval by the Planning Board will not require General Board of Appeals review. Any proposed special exception use that requires site plan review and approval by the Director of Planning and Development will also require General Board of Appeals review and approval. The Boards may approve a Special Exception permit only for a use which is specifically designated by this Ordinance as a Special Exception in the district where the use will be located.

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- (d.) Standards for Special Exceptions. Before it issues a Special Exception permit, the Board of Appeals shall find, as a matter of fact, that the proposed use meets the following criteria:
- i.) The proposed use will not create unsanitary or unhealthful conditions by reason of sewage disposal, emissions to the air or water, or other aspects of its design or operation.
 - ii.) The proposed use will not create unsafe vehicular or pedestrian traffic conditions when added to existing and foreseeable traffic in its vicinity.
 - iii.) The proposed use will not create public safety problems which would be substantially different from those created by existing uses in the neighborhood or require a substantially greater degree of Municipal fire or police protection than existing uses in the neighborhood.
 - iv.) The proposed use will not result in unreasonable sedimentation or erosion, or have an adverse effect on water supplies.
 - v.) The proposed use will be compatible with existing uses in the neighborhood, with respect to physical size, visual impact, intensity of use, proximity to other Structures and density of development.
 - vi.) If located in a Resource Protection District or Shoreland Zone, the proposed use (1) will not result in damage in spawning grounds, fish, aquatic life, bird and other wildlife habitat; (2) will conserve Shoreland Vegetation; (3) will conserve visual points or access to water as viewed actual points of access to waters; (5) will conserve natural beauty; (6) will avoid problems associated with flood plain development and use; and (7) will comply with the performance standards of Article II of this Ordinance.
 - vii.) The applicant has sufficient right, title or interest in the site of the proposed use to be able to carry out the proposed use.
 - viii.) The applicant has the technical and financial ability to meet the standards of this Section and to comply with

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any conditions imposed by the General Board of Appeals pursuant to Article VII.B.2.b.(1)(e) of this Section.

- (e.) Conditions of Special Exceptions. Upon consideration of the standards listed in Article VII.B.2.b.(1)(b) of this Section, the General Board of Appeals may attach such conditions, in addition to those required by other provisions of this Ordinance, as it finds necessary to insure compliance with those standards and all other applicable requirements of this Ordinance. Violation of any of those conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: type of Vegetation, increased setbacks and yards, specified sewage disposal and water supply facilities, landscaping and planting screens, hours of operation, operational controls, professional inspection and maintenance, sureties, location of Piers, Docks, parking and signs, and types of construction.

c. Variance Appeals

To hear and decide, upon appeal, in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. The General Board of Appeals may grant a variance and may prescribe reasonable conditions and safeguards as are appropriate under this Ordinance.

- (1) A variance is authorized only for height, area, lot coverage and size of Structure or size of yards and open spaces, and for relief from the demolition restriction of Article IX.B, (Buildings Subject to Demolition Prohibition). Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or in an adjoining zoning district.
- (2) The Board may grant variances when it finds that literal or strict application of the Code to the applicant and his/her property would cause undue hardship, in all of the following ways, as provided under 30-A M.R.S.A., Section 4253,4:
 - (a.) The lot in question cannot yield a reasonable return unless a variance is granted.
 - (b.) The need for a variance is due to the unique circumstances of the lot and not to the general conditions in the neighborhood.

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- (c.) The granting of the variance will not alter the essential character of the locality; and
 - (d.) The hardship is not the result of action taken by the applicant or a prior owner.
- (3) Notwithstanding the variance standards, above, the code enforcement officer is authorized to issue a permit to an owner of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability. The code enforcement officer may impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with a disability lives in the dwelling. For the purposes of this section, the term "structures necessary for access to or egress from the dwelling" includes ramps and associated railings, walls or roof systems necessary for the safety or effectiveness of the ramps. For the purposes of this section, "disability" has the same meaning as a physical or mental disability under Title 5, section 4553-A.
- (4) In lieu of the variance appeal standards as set forth in Article VII.B.2.c, above, the Board may grant setback variances for single family dwellings located outside the Shoreland Overlay District when the Board determines, upon appeal, that strict application of the zoning ordinance to the applicant and the applicants property would cause undue hardship. The term undue hardship as used in this subsection shall mean the following:
 - (a.) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
 - (b.) the granting of the variance will not alter the essential character of the locality; and
 - (c.) the hardship is not the result of action taken by the applicant or a prior owner; and
 - (d.) the granting of the variance will not substantially reduce or impair the use of abutting property; and

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- (e.) the granting of the variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.
 - (5) A variance granted under this subsection is strictly limited to permit a single family dwelling that is the primary year-round residence of the applicant.
 - (6) A variance granted under this subsection may not exceed 20% of a setback requirement and may not be granted if it would cause the area of the dwelling to exceed maximum permissible lot coverage.
 - (7) For all variances requested within the Shoreland Overlay District, SPD, or the RPD, a copy of each Variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the General Board of Appeals. Any comments received from the Commissioner prior to the action by the General Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.
 - (8) For all Variances approved within the Shoreland Overlay District, SPD, or the RPD the Department of Environmental Protection shall be notified by the Planning Director within seven (7) days of the Decision.
- d. Mislocated Building Appeal
- Except within the SOD, RPD and SPD the General Board of Appeals shall hear and decide, upon appeal in specific cases where existing Buildings are found to be in violation of the setback requirements and where such location of Buildings will not be contrary to the public interest whether an appeal should be granted. In order to grant a mislocated Building appeal the Board must find there was no willful or premeditated act (or gross negligence) to build within the Structural setback.
3. Whenever the Board grants a variance under this Section , a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form and shall be recorded by the applicant in the Cumberland County Registry of Deeds within 90 days of final approval of the variance or the variance shall be invalid. No rights may accrue to the variance recipient or his/her heirs, successors or assigns unless and until the recording is made within 90 days.

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C. APPLICATION PROCEDURE

1. In all cases a person aggrieved by a decision of any officer of the Town in the application or interpretation of this Ordinance shall be appealed pursuant to the provisions in this Ordinance and the procedures outlined in Chapter 203, General Board of Appeals Ordinance.
2. In appeals involving special exceptions, General Board of Appeals shall notify by mail the owners of all property within 300 feet of the property involved of the nature of the appeal and of the time and place of the public hearing thereon.
3. In the case of administrative or variance appeals, or interpretation, the General Board of Appeals shall notify by mail only the owners of property abutting the property for which an appeal is taken of the nature of the appeal and of the time and place of the public hearing thereon.
4. For the purposes of this Section, the owners of property shall be considered to be the parties listed by the assessor of taxes for the Town of Yarmouth as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the General Board of Appeals.
5. Following the filing of an appeal, the General Board of Appeals for the Town of Yarmouth shall notify forthwith the Planning Director or his/her duly authorized Code Enforcement Officer and the Planning Board, and the appeal shall be in order for hearing at the next meeting of the General Board of Appeals following by at least ten (10) days the mailing of notices.
6. The Planning Director or his/her duly authorized Code Enforcement Officer shall attend all hearings and may present to the General Board of Appeals all plans, photographs, or other material he/she deems appropriate for an understanding of the appeal.
7. A right of appeal under the provisions of this Ordinance secured by vote of the General Board of Appeals shall expire if the work or change involved is not commenced within six months of the date of which the appeal is granted, and if the work or change is not substantially completed within one year of the date on which such appeal is granted. The General Board of Appeals may, for good cause shown, extend the time for commencement and/or completion of the work or change if the scope of the work or change reasonably requires such longer time periods.
8. The General Board of Appeals and the Planning Department are not liable for reliance on incorrect or inaccurate information submitted or presented on behalf of the applicant. The applicant is responsible for providing reasonable documentation or verification of facts asserted. The General Board of Appeals

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may require information such as, but not limited to, standard boundary surveys, copies of registered deeds and materials as may be required under Article VI.A.4 of the Zoning Ordinance. The Planning Department may require up to eight copies of applications or required information for distribution to the Board and staff.

ARTICLE VIII

ARTICLE VIII

A. SEVERABILITY

Should any section or provision of this Ordinance be declared by the Courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

B. CONFLICTS

To the extent there are any conflicts between the various provisions of this Ordinance or between the provisions of this Ordinance and any other Town ordinance, the more restrictive provisions shall apply.

C. CAPTIONS

Any captions of sections or provisions of this Ordinance are for the convenience and ease of reference only, and shall not modify or limit or affect the meaning of any of the provisions of the Ordinance.

D. NOTES

Portions of this Zoning Ordinance have been adopted pursuant to the Chapter 1000 Guidelines for Municipal Shoreland Zoning Ordinances, adopted by the Board of Environmental Protection pursuant to the Mandatory Shoreland Zoning Act, 38 M.R.S.A. Sections 435-449, most recently amended May 1, 2006. (Chapter 1000"). Chapter 1000 contains various "NOTES", which are intended to help to explain the meaning, scope, and/or application of various provisions of Chapter 1000. Many of these "NOTES"; have been reprinted within this Zoning Ordinance, identifiable by the caption "NOTE"; neither this explanatory statement nor any of the "NOTES" contained in this Zoning Ordinance are official parts of the Ordinance. This statement and the "NOTES" are provided for explanatory purposes only.

ARTICLE IX

Building Demolitions

A. Area and Buildings Subject to Demolition Delay.

No application for the act of Demolition of a Building which is 75 years or older, AND is situated (in whole or in part) within the overlay zone area depicted upon the map (*Demolition Delay Overlay Zone*) attached hereto as Exhibit A, shall be approved by the Code Enforcement Officer (“**CEO**”) until the Planning Board:

1. Makes a determination as to its significance, concluding whether or not such Building is a Building of Value, and
2. If determined that it is a Building of Value, has the opportunity to pursue alternatives to Demolition (mutually acceptable to the Planning Board and the applicant) that will preserve, rehabilitate, relocate or restore it. This ordinance shall apply to all Buildings in the Demolition Delay Overlay Zone, not being limited to Buildings previously landmarked, designated or included in any historic register.

B. Buildings Subject to Demolition Prohibition.

In addition, no application shall be approved for the act of Demolition of a Building within the Demolition Delay Overlay Zone that:

1. is listed on the National Register of Historic Places, including, without limitation, those Buildings named on Exhibit B, attached hereto, whether or not it is located within the Demolition Delay Overlay Zone; OR
2. is determined by the Maine Historic Preservation Commission to be eligible for listing on the National Register of Historic Places;
3. Reserved

UNLESS in the case of this Section B:

- i. a Variance is granted by the General Board of Appeals under Chapter 701, Article VII.B.2.c; OR
- ii. the subject Building qualifies for Immediate Demolition as provided for in Section 10, below;OR
- iii. In the case of Substantial Modification, the Board may allow for the Demolition if it determines that the proposed design retains and respects the significant character defining features of the building. In such case, the Demolition shall be predicated on approvals and permit issuance for the Substantial Modification plans.

C. Definitions.

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For the purposes of this ordinance, the following terms shall have the meanings set forth below:

1. The term “**Demolition**” is defined as the demolition, razing or tearing down of a Building, or a Substantial Modification to the exterior thereof. As the term is used in this ordinance, an “application for Demolition” may consist of an application for a building permit for a proposed renovation, alteration, or addition to a Building which entails a Substantial Modification to the Building, rather than or in addition to an ordinary application for demolition permit.
2. “**Substantial Modification**” is defined as an alteration to a Building involving removal or alteration of fifty (50 %) percent or more of the roof area and/or any exterior walls, or any portion of an exterior wall or roof area enfronting or facing and prominently visible from a street or thoroughfare.
3. The “**Demolition Delay**” comprises an initial ninety (90) day period (subject to an additional 30 day stay of Demolition Permit as specified in paragraph I.2.b below), potentially followed (in the event of a determination by the Planning Board that the Building is a Building of Value) by an additional period of up to 180 days, but in no event to continue beyond a cumulative total period of 270 days from the date of application for Demolition permit, unless otherwise agreed to in writing by the applicant.
4. The terms “**Building**” and “**Structure**” shall have the meanings given to them in **Ch. 701, Art.I.D. Definitions**, but additionally, for the purposes of this **Article IX**, the term “Building” shall include either or both of Building and/or Structure or portions thereof.
5. The term “**Building of Value**” is defined as a Building or portions thereof worthy of preservation, due to any of a variety of relevant considerations, including, without limitation, architectural, cultural, historical, or archaeological significance, contribution to an overall setting or streetscape, or otherwise of a character defining a particular area, neighborhood or streetscape, such that preservation would be deemed important to the maintenance of the character of such area, neighborhood or streetscape.

D. Objectives.

The objectives of Demolition Delay are to provide specified and limited time(s) and opportunity within which:

1. to examine and give thoughtful analysis to an assessment of the significance of a Building, and the contribution it makes to the character of the Town and its immediate area, neighborhood and streetscape, and the desirability of its retention, either in place or through relocation, determining whether it is a Building of Value; and

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2. if determined to be a Building of Value, to pursue a range of appropriate possibilities and measures for its preservation, rehabilitation, relocation, and/or conservation and adaptive re-use, and to guide alterations associated with Substantial Modifications to ensure that historic character defining features are preserved and protected.

E. Plan for Redevelopment.

Any application or proposal for Demolition of a Building (other than immediate Demolition for reason of removing a clear and present danger to public health and safety pursuant to Section J below) shall be accompanied by a conceptual or sketch plan and brief narrative description of the Applicant's proposed re-use or re-development of the Building site. In the case of Substantial Modification, the applicant shall submit a Final Site Plan as per Chapter 702, showing the proposed development on the site.

F. Procedure.

Upon receiving an application or request to demolish a Building or undertake a Substantial Modification, the CEO shall date the application and promptly forward a copy of the application (and any supporting material) to the Director of Planning and Development and the Town Council. This date of receipt shall be the starting date of the initial 90-day Demolition Delay period, and the possible future commencement of an additional delay period.

G. Public Hearing

The Planning Board will conduct a Public Hearing within 90 days of the date of receipt of the applicant's application for Demolition, unless an extension is agreed to by both the Planning Board and the applicant. The purpose of the Public Hearing shall be to determine whether the Building is a Building of Value. The hearing shall be conducted with the Planning Board's public hearing procedures according to the Planning Board Rules and Regulations, and written notice of the public hearing shall be given by first class mail to the applicant, to all registered owners of any properties within 500 feet of the applicant's lot, and to the Village Improvement Society and Yarmouth Historical Society. Such notice shall include the definition of a Building of Value. The Planning Board shall notify the Town Council and shall post the meeting notice in Town Hall and on the Town's website, and shall publish notice of the date, time and place of the hearing in a newspaper of general circulation in the Town at least 7 days prior to the Hearing. Applicants shall be responsible for the cost of notice mailings and publication in the same manner as for subdivision notices.

H. Evaluation of Building.

During the initial 90-day period of Demolition Delay leading up to the Public Hearing, the Planning Board, its designees, and other persons interested in proposing possible alternatives to Demolition (and their authorized agents and contractors) shall be granted access to the Building at reasonable times and

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under reasonable conditions by the applicant, for the purpose of assessment and evaluation, all at their own risk and expense.

I. Determination of Significance.

After the Public Hearing, or at a subsequent meeting of the Planning Board (but in no case more than 90 days from the date of receipt of the application for Demolition) the Planning Board shall determine whether or not in the Planning Board's judgment the Building is a Building of Value.

1. The Planning Board shall consider the following criteria in making its determination as to whether the subject Building, or portions thereof, is NOT a Building of Value:
 - a. It does not contribute generally to the qualities that give the area, neighborhood or streetscape cultural, historical, architectural or archaeological significance; or
 - b. Where the location, design, setting, materials, workmanship and association have been so altered or have so deteriorated that the overall integrity of the Building has been irretrievably lost.
2. The following actions may be taken following a determination by the Planning Board:
 - a. If the Planning Board determines that the Building **IS** a Building of Value, the CEO shall be prohibited from issuing the permit to demolish for an additional delay period of 180 days. The Planning Board shall also notify the Town Council and publish notice on the Town's website of its determination of significance. The additional delay period shall be for the purposes of:
 - (1) seeking alternatives to Demolition; and/or
 - (2) in the case of Substantial Modification, efforts to modify the design to retain or respect the significant character defining features of the Building; and/or
 - (3) application to the Maine Historic Preservation Commission for a determination of eligibility of the subject Building for inclusion in the National Register of Historic Places; and
 - (4) Authorize and enable the Planning Board (acting through its designees) to obtain photographic, metric and other professional documentation of the Building of Value, in conjunction with interested historical preservation organizations or parties, and their agents or contractors (at no expense to the applicant), who shall be given reasonable access to the Building for that purpose.

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The period for pursuing alternatives to Demolition shall be not more than 180 days beyond the Planning Board's determination that it is a Building of Value, or a total of 270 days from the date of receipt of request for Demolition, whichever is less, unless an extension is agreed to by both the Planning Board and the applicant.

In the case of Substantial Modification, the Board may waive the delay period if it determines that the proposed design retains and respects the significant character defining features of the building. In such case, the waiver shall be predicated on approvals and permit issuance for the Substantial Modification plans.

- b. If the Planning Board determines that the Building is **NOT** a Building of Value, the CEO shall then be authorized to issue the permit to demolish or proceed with Substantial Modification after a 30 day stay (to coincide with the appeal period) from the date of such determination. The Planning Board shall also notify the Town Council and publish notice on the Town's website of its determination that the Building is **NOT** a Building of Value.
3. Failure to make a determination that the Building is a Building of Value within the initial 90 day Demolition Delay period (or any agreed upon extension) shall constitute Planning Board approval of the application for Demolition.

J. Immediate Demolition.

The Planning Board may shorten or terminate the Demolition Delay and approve the Demolition if the Applicant provides convincing evidence (consisting minimally of the report of an independent professional structural engineer, addressed to the Office of Planning and Development) that the Building is unsafe and poses an imminent threat to the public health and safety. In an emergency situation, e.g., in the case of a clear and present danger to public health and safety due to structural instability or fire hazard conditions, any one or more of the Director of Planning and Development, the Code Enforcement Officer, and/or the Fire Chief, may recommend in writing to the Town Manager, and the Town Manager shall have the authority, to shorten or immediately terminate the Demolition Delay.

K. Enforcement.

In the event a Building is demolished before the Demolition Delay review process is complete, or if the applicant is otherwise in violation of the terms of this ordinance, the applicant shall be subject to the provisions of **Ch. 701, Article VI.A. (Administration and Enforcement)**. In addition, the Town Manager may impose a restriction on issuance of any building permits for the subject property and/or revoke any permits currently outstanding, for a period of up to two years. In the case of a threatened or impending Demolition or commencement of

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demolition contrary to this ordinance, the Town shall be entitled to the grant of immediate injunctive relief, to prevent such Demolition.

L. Effective Date.

This ordinance as originally enacted shall be effective retroactively to the date of its public hearing before the Yarmouth Planning Board on January 17, 2018, and shall apply to any Demolition permit applications applied for after that date but not issued prior to the date of enactment, April 12, 2018, by the Town Council. Further, in the event that the Town Council should conclude that a moratorium on Demolitions is warranted, any such moratorium declared by the Town Council shall be fully binding on any applications for Demolition which are then in process under this ordinance.

M. Appeals. Appeal of any decision of the Planning Board under this Article (other than a Variance Appeal) shall be to Superior Court as provided in 30-A MRSA Sections 4482 and 4482-A, notwithstanding the provisions of Chapter 203(F).



Demolition Delay
Overlay Zone
Ch. 701
Article IX

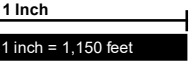
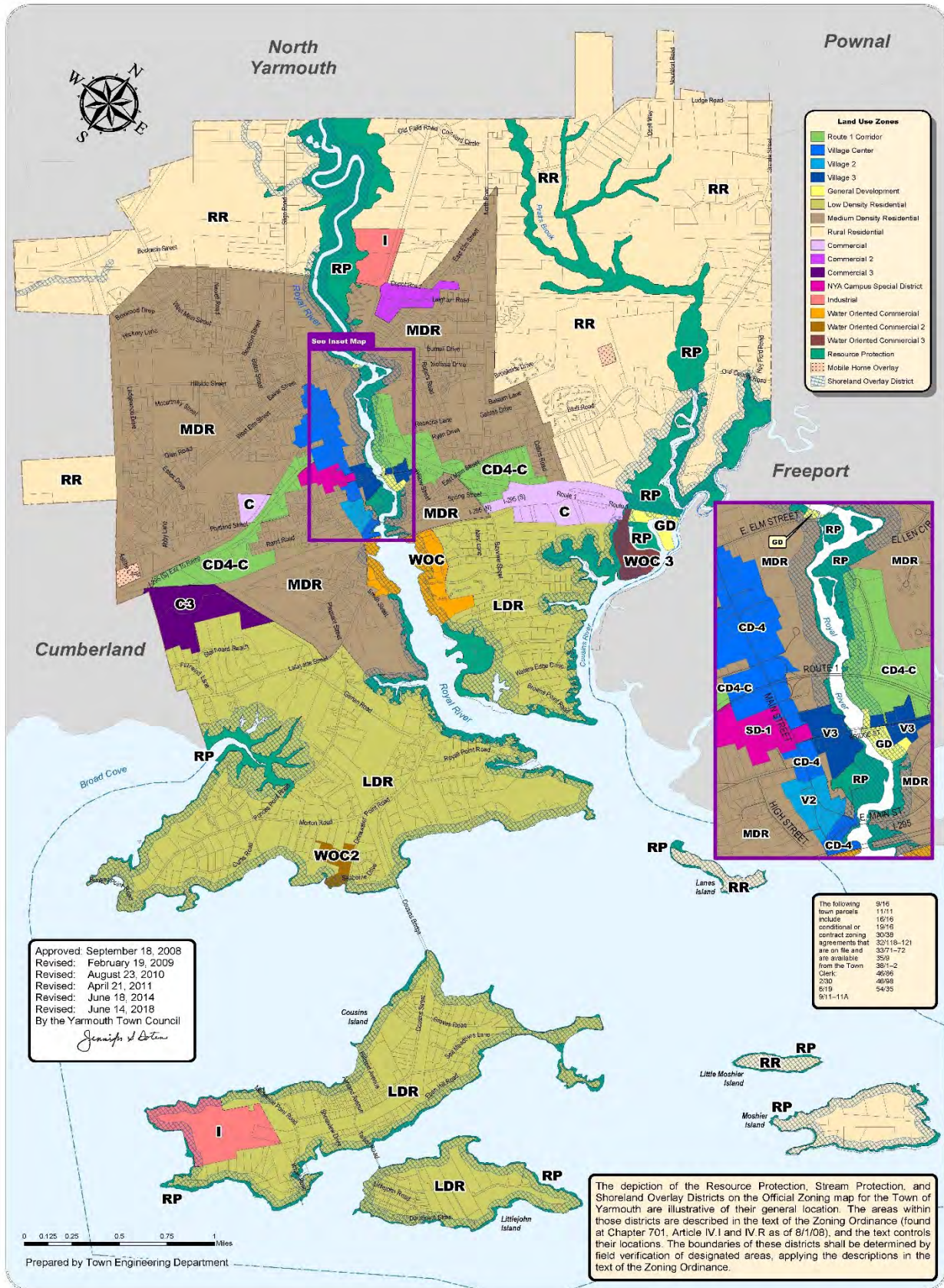


Exhibit B - Properties Listed or Eligible for Listing on National Register of Historic Places

NAME	ADDRESS	eligible or listed	MHPC #	NR listed date
aid to navigation	s. end Cousins Island	E	496-0032	
Royal River Bridge	over river .25 mi NE of Sligo Rd	E	496-0028	
Grand Trunk RR Bridge	N of E. Elm St over river	E	496-0025	
Holyoke-Loring Barn	100 Bridge St	E	496-0031a	
holyoke-Loring House	100 Bridge St	E	496-0031	
barn	80 Bridge ST	E	496-0030a	
Royal River Manufacturing CO Office	80 Bridge St	E	496-0030	
Royal River Manufacturing Co Mill	81 Bridge St	E	496-0003	
Royal River Manufacturing Co. Dam	Bridge St	E	496-0029	
Yarmouth Post Office	233 Main Street/Route 115	E	496-0036	
Merrill Memorial Library	215 Main Street/Route 115	E	496-0009	
Main St Bridge	Main Street/Route 115	E	496-0037	
Casco Lodge	189Main Street/Route 115	E	496-0038	
	185 Main Street/Route 115	E	496-0039	
	185 Main Street/Route 115	E	496-0040	
	169 Main Street/Route 115	E	496-0041	
	169 Main Street/Route 115	E	496-0042	
	167 Main Street/Route 115	E	496-0043	
	167 Main Street/Route 115	E	496-0044	
	163 Main Street/Route 115	E	496-0045	
David Shepley House	153 Main Street/Route 115	E	496-0046	
Allen H. Weld House	149 Main Street/Route 115	E	496-0047	
barn	149 Main Street/Route 115	E	496-0048	
artilery piece	198 Main Street/Route 115	E	496-0057	
American Legion	198 Main Street/Route 115	E	496-0056	
Yarmouth Post Office	188 Main Street/Route 115	E	496-0058	
Payne Elwell House	162 Main Street/Route 115	E	496-0059	
Silvanus Blanchard House	158 Main Street/Route 115	E	496-0060	
barn	158 Main Street/Route 115	E	496-0061	
Cutler Gymnasium	148 Main Street/Route 115	E	496-0062	
Curtis Building	148 Main Street/Route 115	E	496-0063	
Stafford Auditorium	148 Main Street/Route 115	E	496-0064	
NYA - Dole house	128 Main Street/Route 115	E	496-0065	
John Sargent House	124 Main Street/Route 115	E	496-0066	
	22 York Street	E	496-0068	
	17 York Street	E	496-0069	
barn	17 York Street	E	496-0070	
	310 Gilman Rd	E		
	210 Gilman Rd	E		
	299 Gilman Rd	E		
	60 Gilman Rd	E		
	509 Lafayette St	E		
	272 Princes Pt. Rd.	E		
MERRILL, CAPTAIN REUBEN, HOUSE	97 WEST MAIN STREET L			7/12/1974
	129 Main St. Academy Hall, and 141		496-0050	
NORTH YARMOUTH ACADEMY	Main St. Russell Hall L		496-0049	3/4/1975
MITCHELL HOUSE	40 MAIN STREET L			1/20/1978
NORTH YARMOUTH AND FREEPORT BAPTIST				
MEETINGHOUSE	HILLSIDE STREET L			11/20/1978
CAMP HAMMOND	74 MAIN STREET L			2/1/1979
BLANCHARD, CAPTAIN S C, HOUSE	46 MAIN STREET L			5/7/1979
GRAND TRUNK RAILROAD STATION	ME 115 L			7/10/1979
CENTRAL PARISH CHURCH	146 MAIN STREET L			6/23/1988
FIRST PARISH CONGREGATIONAL CHURCH	135 MAIN STREET L			6/20/1995
COUSINS ISLAND CHAPEL	COUSINS ROAD L			6/20/1997
PRINCE, CUSHING AND HANNAH, HOUSE	189 GREELY ROAD L			7/1/1999

Town of Yarmouth Official Zoning Map



APPENDIX B

Below are the Conditional and Contract Zoning Agreements that are one file and available from the Town Clerk.

Name	Physical Location	Map/Lot	Date	Type
W. Main St Schools	West Main St	46/98	2/16/95	Conditional
Black Ash Site	Forest Falls Dr	11/11	3/16/95	Conditional
Realty Resources	John Howland	16/16	5/18/95	Contract
Martin Meier	Portland/W. Elm	30/38	9/11/95	Affordable Hsg
Scott & Leigh Canfield	Main St/Intermed	38/1&2	1/5/96	Contract
Harold Moulton	Sweetsir Farm	19/16	8/8/96	Contract
NYA	Main St/Fine Arts	32/118	10/24/97	Contract
P. Smith & L. Leboeuf	Willow St	33/71&72	6/11/98	Cont. & Cond
NYA	Main St/Science	32/118-121	4/3/03	Contract
Habitat for Humanity	Drinkwater/Gilman	2/30	4/27/07	Contract
Even Keel Road	Even Keel Road	*	2/19/09	Conditional
• M9/16, 11/11A, M35/9				
Merrill Chapin	233 West Main St	46/86	8/23/10	Contract
Scott & Leigh Canfield	Main St/Intermed	38/1&2	5/27/11	Contract
Robert Catell	Bayview St	6/19	4/1/11	Contract
Pogy Shores	Off Wharf Road	54/35	5/1/11	Contract
Charles Wallace	469 West Elm	30/23	pending-unsigned	Contract
William Schaffer/Cooper	20 Cumberland	41/82	2/22/12	Contract
J&A Lawrence/Schaffer-Cooper		41/82A	3/5/14	Amendment
Dan & Deb Sheehan	373 Cousins St	55/83	9/11/15	Contract
Paula Groves	21 Almonte Ave	55/85	12/23/15	Contract

APPENDIX C

CONDITIONAL REZONING DECLARATIONS Tax Map 9 Lots 16, 11, and 11-A and Map 35 Lot 9 (See Attached Map)

WHEREAS, The Yarmouth Town Council finds that the properties off Even Keel Road designated on the Assessor's Tax Maps of the Town of Yarmouth dated April 1, 2008 as Map 9 Lot 16, Map 9 Lot 11, and Map 9 Lot 11-A and Map 35 Lot 9 are currently designated as Resource Protection District on the Official Zoning Map of the Town of Yarmouth and as provided by Article IV Section I and

WHEREAS, pursuant to Title 30-A MRSA, Section 4352(8) and Chapter 701, Article IV, Section V of the Yarmouth Town Code, and notwithstanding subsection V(1) (3) thereunder, the Town Council finds that the area would be more appropriately zoned and designated as a Water Oriented Commercial District with special conditions to improve and protect environmental and habitat concerns, and to allow currently non-conforming marine trades commercial activities and residential uses to become conforming and eligible for limited expansion and enlargement consistent with the provisions of the Yarmouth Town Code and these Conditional Rezoning Declarations, and subject to the approval of the Maine Department of Environmental Protection pursuant to Maine DEP Rules Chapter 1000 (Guidelines for Municipal Shoreland Zoning Ordinances) Article 13.D (General Development District I), and

WHEREAS, the Town Council seeks to secure the cooperation of all the lot owners with the Town of Yarmouth and/or amongst themselves for the maintenance of Even Keel Road to meet the reasonable travel requirements and fire protection goals, to encourage the extension of or connection to public sewer and water services, and to provide for routine road maintenance that guards against erosion and uncontrolled run-off from the roadway,

NOW, THEREFORE, be it ordained by the Yarmouth Town Council in town council assembled that the properties located at Tax Map 9 Lots 16, 11, and 11-A and Map 35 Lot 9 ("the Lots") are hereby conditionally rezoned from Resource Protection District (RPD) to Water Oriented Commercial III (WOC III) as hereinafter described and declared.

1. ZONE CHANGE AUTHORIZED

The use, occupancy, and development of the "Lots" will, in addition to other applicable provisions of law, ordinance or regulation, be subject to the following restrictions and conditions on the physical conditions of the development, expansion, or modernization or operation of new or existing commercial buildings or uses:

- (a) Any Commercial use, occupancy or development of any of the lots, excluding home occupations, shall be limited to and controlled by all conditions, notations, restrictions and understandings that may be voted or imposed by the Yarmouth Planning Board on any development, expansion, or modernization or operation of new or existing commercial buildings or uses requiring review and approval by the Planning Board under the Zoning and/or Site Plan ordinances of the Town of Yarmouth and any amendments thereto that the Planning Board may, upon application, vote to authorize or establish.

- (b) The “Lots” shall be limited in use to the uses now or in the future that are permitted uses within WOC III as hereinafter described or any future amendments thereto, except that any structures or uses legally continued or established under the WOC III standards shall be recognized as legally existing non-conforming uses or structures if such future ordinance amendments were to create non-conformity.
- (c) Any lots that make up the WOCIII District may grant a conservation easement on a portion of their property to the TOWN or another 3rd Party land trust or land conservation organization for the purpose of further protection of the tidal marsh resource and stewardship of low impact public access without prejudice of other rights applicable to the WOCIII District. This shall not be a condition of this declaration or the effect of this zoning district declaration and shall not necessarily preclude the construction or maintenance of trails, boardwalks, or other means of pedestrian and hunter low impact access to the shores and waters along the Cousins River or its tributaries.
- (d) Any use, change or development of Map 9 Lot 16 and Map 35 Lot 9 shall be subject to additional special regulations or performance standards as hereinafter provided. Such regulations shall be in addition to and not instead of the general standards and conditions applicable throughout the WOC III zone.

2. EFFECTIVE DATE OF ZONE CHANGE

The subject parcels shall be automatically rezoned WOC III upon adoption by the Yarmouth Town Council and approval of the Maine DEP.

3. WATER ORIENTED COMMERCIAL DISTRICT III (WOC III)

The Water Oriented Commercial III District is hereby established within Article IV of Chapter 701 of the Yarmouth Town Code (Zoning Ordinance) and becomes a part of said Chapter 701. The WOC III zone is authorized, subject to the approval of the Maine DEP pursuant to Chapter 1000 (Guidelines for Municipal Shoreland Zoning Ordinances) Article 13.D (General Development District I)

WOC III Purposes

The WOC III is designated to provide an area to serve commercial boat building and related training, research and development for Maine’s boat building and design trades, and access to the navigable portion of the Cousins River. The intent is to preserve, maintain and allow moderate growth and expansion as well as modernization and improvement to existing and historical boat building and boat servicing activities on the Cousins River, or the conversion of such spaces to less intensive residential uses where preservation or growth of the marine activities is impractical. The District is located in an area of important habitat and with salt marshes and erodible soils and slopes, so the standards for the district seek to protect the environment, surface water quality, and habitat while permitting appropriate marine trades. The district also includes very low density residential uses and scenic vistas that the standards seek to protect.

WOC III Area Defined:

Four parcels off Even Keel Road in Yarmouth described on the Assessor's Tax Maps of the Town of Yarmouth, Maine Dated April 1, 2008 as Map 9 Lot 16, Map 9 Lot 11 and Map 9 Lot 11A, and Map 35 Lot 9.

Permitted Uses and Structures:

- Boating building, design, testing, and repair, boat and marine equipment sales, millwork and woodworking, and related marine trades education, training and apprenticeship programs.
- Chandlery and marine related retail sales up to 1000 square feet of indoor retail area.
- Recreational and small craft boating, docking and water access
- Land side boat storage
- Fabrication, repair and storage of recreational and commercial fishing vessels and equipment.
- Wholesale landing and sales of shellfish, seafood and sea products all accessory to boating trades.
- Boat fueling accessory to the permitted boating trades activities on site.
- Sail lofts and sail making
- Piers, docks, wharves, bulkheads, retaining walls, boat ramps, travel lifts and marine railways (subject to the provisions of Art. II.R)
- Small marine related professional offices as secondary uses in permitted structures
- Single family detached dwellings.
- Accessory dwelling units
- Essential Services
- Accessory buildings

Special Exception Uses and Structures:

- Marine industries trades museum or educational facility, provided such uses are accessory to other permitted commercial marine trades operations and uses
- On-site residential accommodations that are proximate to and functionally associated with any commercial marine trades activity on the lot.
- Chandlery and marine related retail sales greater than 1000 square feet
- Municipal buildings and uses

Dimensional Standards (minimums per dwelling unit or principal structure):

Lot Size-	1 Acre
Minimum shore frontage	150 ft
Lot Width-	Not Applicable
Front Setback-	40 feet
Side Setback-	40 feet
Rear Setback-	40 feet

Special Performance Standards:

Except as provided in the Special Performance Standards for Map 9 Lot 16 and for Map 35 Lot 9, below, the following performance standards shall apply:

Only lots in existence and used for commercial marine trades as of April 1, 2008 may be used or developed for commercial marine trades. Non-vegetated surfaces shall cover no more than 20% of the lot, excluding land below the normal high water line of the Cousins River or its tributaries.

No building shall have a footprint greater than 4000 square feet except that buildings used exclusively for sail lofts or boat building or boat repair and ancillary services may have a footprint up to 12,000 square feet.

No building shall be taller than 35 feet.

Except for Water Dependent Uses and Structures, no building or structure shall be located within 25 feet of normal high water of the Cousins River or related salt marshes and wetlands.

All residential structures and structures accessory to residential uses shall have a setback a minimum of 75 feet from the normal high water of the Cousins River or related salt marshes and wetlands.

No vehicles or equipment shall be parked or stored within 75 feet of the normal high water line of the Cousins River except as necessary for water dependent uses.

Map 9 Lot 16 shall provide a buffer with adjacent residential properties as defined below and delineated on a plan entitled "Even Keel Buffer sketch" dated 2.18.08 and attached hereto as Exhibit A. This buffer may be modified by mutual agreement of the abutting properties.

- Buffer 1- A minimum 10 foot wide buffer measured from the shared property line between Map 9 Lot 16 and Map 9 Lot 11 or from the interior edge of all parts of any existing right-of-way that are located in whole or in part within 10 ft of the above-referenced shared property line. The 10 ft wide buffer shall consist of dense natural plantings to provide visual screening to abutting residentially used lots and is subject to the maintenance rights and responsibilities of the Shoreland Overlay District provisions of Chapter 701 of the Yarmouth Town Code.
- Buffer 2- A 25-ft 'no-cut", naturally existing strip running along the shared property line between Map 9 Lot 16 and Map 9 Lot 11A. Other than for the purpose of maintaining the currently cleared portion of the existing right-of-way there shall be no cutting or removal of vegetation within Buffer 2.

Special Performance Standards for Map 9 Lot 16:

Any commercial use expansion, development or redevelopment at Map 9 Lot 16 that is subject to review by the Yarmouth Planning Board under Chapter 702 of the Yarmouth Town Code (Site Plan Review Ordinance) shall be required to include the following minimum improvements in addition to the standards of review and approval generally applicable in the WOC III District and Chapter 702, all to be interpreted and applied by the Yarmouth Planning Board pursuant to Chapter 702.

- Proper sewer disposal with septic service or connection to the town sewer system.
- Potable water supply with on site well or connection to the public water system.
- Fire protection with on-site storage and dry hydrant or connection to the public water system with adequate fire provisions; or sprinkler installations of all structures greater than 12000 square feet.
- Road access and maintenance plan as may be satisfactory to Fire Chief
- Removal of old boats, materials, supplies, and trash from buffering and screening areas.
- Waste management plan for all refuse, discarded materials, and trash including required screening of any dumpster or staging areas.
- To the extent that any of the subject lots are used for commercial marine trades or working waterfront, the “Best Management Practices Manual for Maine’s Boatyards and Marinas” (December 2005 or most current edition) published by the Maine Department of Environmental Protection shall be a guidance document for the applicant and Yarmouth Planning Board for any permitting conditions and compliance requirements including but not limited to yard run-off collection and a pollution prevention/ spill response plan, including boat storage, wash down and bottom painting areas.
- Notwithstanding the general performance standards for WOC III, the following special standards shall apply to Map 9 Lot 16:
 - Building height greater than 35 feet but not more than 42 feet may be approved by the Planning Board upon finding that reasonable consideration has been given to design and position the structure to minimize adverse visual impact or obstruction to abutting properties.
 - No vehicles or equipment shall be parked or stored within 25 feet of the normal high water line of the Cousins River except as necessary for water dependant uses.
 - Non-vegetated surfaces shall cover no more than 70% of the lot, excluding land below the normal high water line of the Cousins River or its tributaries.
 - Minimum shore frontage and minimum lot area standards shall not apply.

Except residential accommodations that are proximate to and functionally associated with permitted commercial marine trades activities, single family detached dwellings on Map 9 Lot 16 shall not be permitted except upon review and approval of the Yarmouth Planning Board under the Special Exception criteria on a lot legally divided and conveyed from Map 9 Lot 16. This provision shall not apply in the event that the Map 9 Lot 16 shall be used for no purposes other than residential, conservation, and/or municipal uses.

Additional Special Performance Standards for Map 35 Lot 9

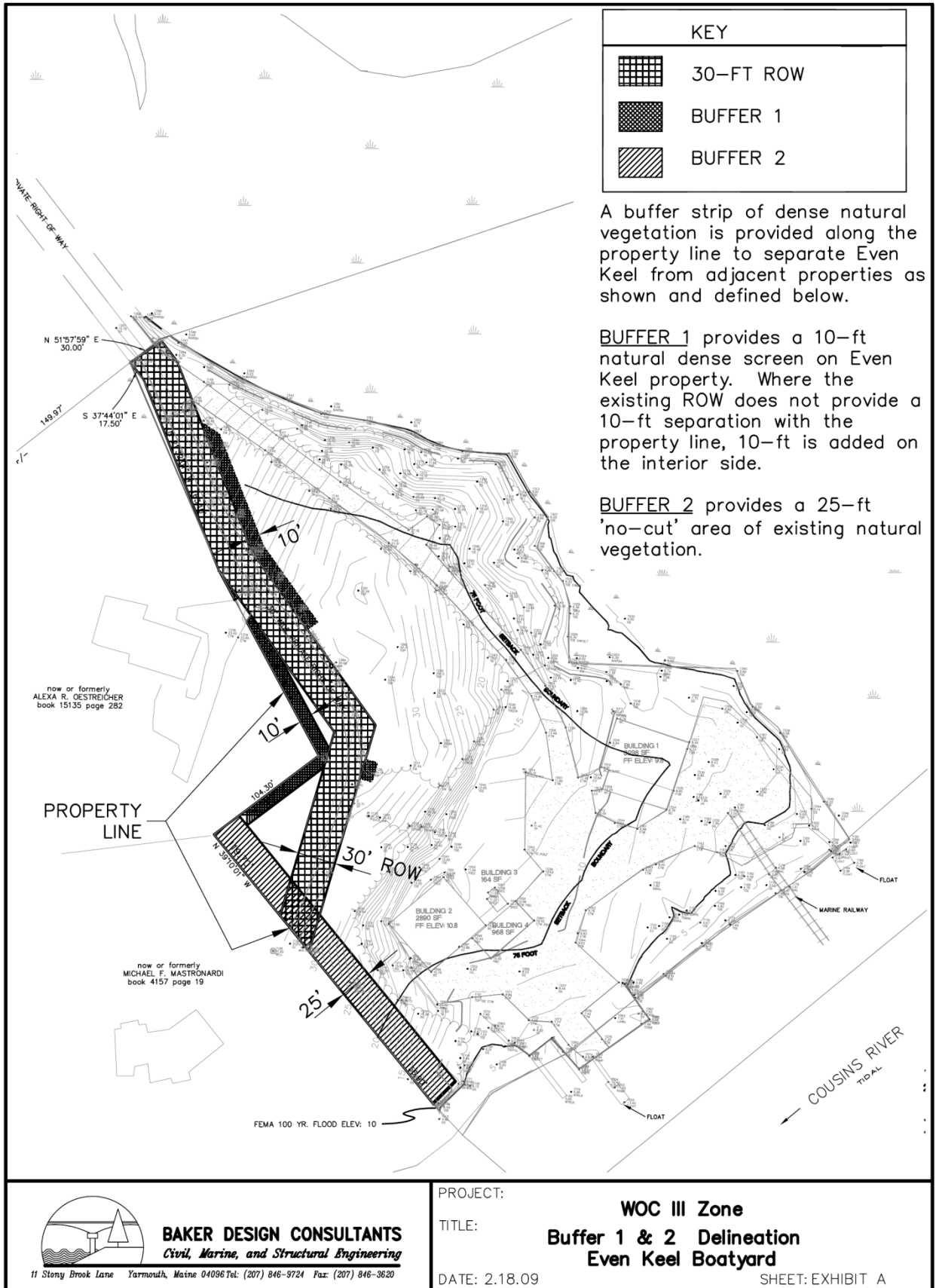
- Except as provided below, there shall be no cutting, clearing, or development in any area beyond an established and approved “building window” as depicted in Exhibit B attached hereto and made a part of this Conditional Zoning Declaration. Said “building window” and exhibit meaning to establish an area set of setback for buildings and clearing of 100 feet horizontal distance from the normal high water line of the Cousins River and tributaries.
- Clearing of trees and opening of a tree canopy shall be limited to that area shown on Exhibit B as the proposed “building window”. Prior to occupancy of any new construction, the limits of the “building window” shall be permanently marked or

monumented. The Town of Yarmouth, through its Code Enforcement Officer, shall be authorized to make periodic announced inspections of the lot to determine that the limits and restrictions both within and outside of the “building window” are honored. All such inspections shall require a minimum of seven (7) days advance notice in writing.

- In order to protect against erosion and run-off of pesticides, herbicides, fertilizers and other chemicals, the application and use of such materials shall be limited to only areas within the building window and shall follow the most current edition of the Maine DEP Best Management Practices Manual for Erosion and Sediment Control.
- No cutting, clearing or removal of trees and vegetation shall be allowed outside the “building window” area except for the provision of trails and boardwalks or to allow for solar access for alternative energy purposes as may be approved by the Yarmouth Planning Board, and for removal of dangerous trees. Such cutting, clearing or removal of trees and vegetation shall also conform to the requirements of Article IV.R.8.k of this Ordinance. Provided, however, that this shall not preclude the control of noxious and invasive vegetation by cutting or removal by mechanical or chemical means with the approval of the Yarmouth Planning Board and consistent with all applicable laws and ordinances. Nothing herein shall preclude the construction or maintenance of trails, boardwalks, or other means of pedestrian, hunter and other low impact access to the shores and waters along the Cousins River nor the landing and temporary storage of canoes, kayaks, or other small watercraft powered by engines of 3 horse power, or less, during the boating season. Nor shall this prevent or restrict the granting of public access and or conservation easements on or over any portion of the lot.
- Notwithstanding the above restriction limiting new construction use or occupancy only to those areas within the identified “building window”, nothing herein shall preclude the maintenance or use of the existing Even Keel and Heron Point Roads, including the construction, repair, or improvement of utility services, nor the creation of not more than two access driveways to service and provide reasonable access to any approved development on Map 35 Lot 9. Provided however, any construction or improvements to the roadways or drive(s) outside the “building window” shall be subject to review and approval by the Yarmouth Planning Board and shall be considered and approved, denied, or approved with conditions under standards and authorities equal to those applicable to the standards of review for roads and driveways located in the Resource Protection District pursuant to the Yarmouth Zoning Ordinance.

4. FUTURE EXERCISE OF LEGISLATIVE ACTION

Nothing in these Declarations shall be construed so as to preclude the future exercise of the Town of Yarmouth's legislative authority relative to the zoning of the subject premises. In the event that the zoning of the “Lots” or any portion thereof, is changed by the Town Council, all legally existing structures and uses shall be allowed to continue as a nonconformity or nonconforming use, whichever the case may be, in accordance with the provisions of the Zoning Ordinances that may be in effect at the time of said zone change.



CHAPTER 702

SITE PLAN REVIEW ORDINANCE

Town of Yarmouth, Maine

Re-codified: 01/15/98

Amended: 7/17/1998

Amended: 10/19/2000

Amended: 9/15/05

Amended: 7/25/2006

Amended: 10/18/07

Amended: 2/14/08

Amended: 8/25/08

Amended: 9/18/08

Amended: 6/18/15

Amended: 1/19/17

Amended: 6/15/17

SITE PLAN REVIEW ORDINANCE

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SITE PLAN REVIEW ORDINANCE

ARTICLE I

A. FINDINGS AND PURPOSE

The Town Council finds that location and development of buildings, structures, and site improvements made by public and private land owners, affect the economic, social and environmental resources of the Town of Yarmouth and that many developments, because of their magnitude and character, may cause significant alterations to the natural and built environments of the Town; that authority is rightfully vested in our Municipal government to regulate the location, character and impact of developments which may substantially affect the quality of live in Yarmouth. Therefore, it is the intent of this Ordinance to adequately regulate development within the Town so that such developments will be designed and located in a manner that will have a minimal adverse impact on the natural environment and the Town Character and protect the health, safety and general welfare of the people.

B. DEFINITIONS

For the purpose of this Section, all terms and words shall have their ordinary meaning except as provided herein and defined in Ch. 701 Article I section D of Chapter 701.

1. Major Development:

- a. The construction of any new structure(s) except as provided in Section I.C;
- b. The construction or alteration of any surface parking area(s) providing five or more parking spaces (equivalent of 855 square feet);
The construction of building addition(s), cumulatively having either a total floor area of 1,000 square feet or more, or an additional floor area equal to or larger than the existing building within any three (3) year period; or,
- c. A change(s) in the use of all or any portion of a building cumulatively affecting a total floor area of 1,000 square feet or more in any existing building within a three (3) year period;
- d. Filling, grading or excavation projects which move an amount equal to or in excess of 1,000 cubic yards of materials;
- e. Mobile Home Park Developments;
- f. Wireless communication facility, with a tower taller than eighty (80) feet.

2. Minor Development: (at the discretion of the Planning Director multiple items in combination may be referred to the Planning Board)

- a. The construction or alteration of any parking area(s) providing four or less parking spaces (equivalent of 684 square feet);

- b. The construction of any impervious surfaces in excess of 200 square feet (cumulatively) within a three(3) year period;
 - c. The construction of any building addition(s) having a total floor area in excess of 100 square feet but less than 1,000 square feet cumulatively within a three(3) year period;
 - d. The alteration of a water course, ditch or swale;
 - e. The changes of use of any portion of any existing building in excess of 100 square feet but less than 1,000 square feet within any three(3) year period;
 - f. The change in on-site vehicle circulation of any existing parking lot or driveway;
 - g. Filling, grading or excavation projects which move in excess of 100 cubic yards, but less than 1,000 cubic yards of materials;
 - h. Alteration to site layout, footprint, or number of units of any existing multiple family developments.
 - i. Wireless communication facility, with a maximum tower height of eighty (80) feet.
 - j. Wireless communication antenna array on an alternative tower structure.
 - k. New antenna array on a co-located wireless communication facility.
 - l. Modification of existing or approved antenna array.
 - m. Accessory Dwelling Units
3. Change of Use:
For the purpose of this Section “change of use” shall mean any conversion, alteration or modification to an existing vacant or occupied space, which creates the need for additional parking pursuant to ARTICLE II.H (Off Street Parking) of the Zoning Ordinance.

C. EXEMPTIONS

- 1. Single or two family dwellings outside of the W.O.C. II zone, including their basement, excavations are exempt from the requirements of site plan review.
- 2. External changes made to existing building for the purpose of closing an entrance or creating a new entrance is also exempt from site plan review.
- 3. Municipal public works, water utility projects done within public right-of-way, and public easements.
- 4. Filling, grading or excavation projects which move not more than one hundred (100) cubic yards of material;

D. APPROVALS

No person shall commence any development subject to this ARTICLE without obtaining approval under this ARTICLE.

1. Major Development: All projects defined as a major development shall require the approval of the Planning Board as provided by this ARTICLE.
2. Minor Development: Projects defined as a minor development shall require the approval of the Director of Planning and Development or his/her duly authorized agent as provided by this ARTICLE.
3. The Director of Planning and Development may refer to approval of a minor site plan to Planning Board when the nature of the application warrants a public hearing or poses the potential for significant impacts of Municipal facilities or natural resources.
4. Appeals of the final action of minor site plans, submitted by the applicant or an abutter, shall be heard by the Planning Board.

E. NOTIFICATION

1. For all site plan applications, the Department of Planning and Development shall mail a notice to property owners in the vicinity of the development, as detailed below, including a description of the nature of the applicant's proposal and the time and place of the Planning Board meeting if the project requires Planning Board review, or the public comment time period required if the project is a minor development.
 - a. For major site plan applications and for any minor site plan that is referred by the Planning and Development Director to the Planning Board, the Department shall mail the notice by first class postage to all owners of property as of the latest Assessor's address record on file within a minimum of 500 feet of the property under consideration, and, if the proposed development is located within 1,000 feet of any public or private school, to the superintendent or head of such school. If it is determined by the Director of Planning and Development that the impact of the site plan has the potential of significant impacts to properties beyond 500 feet, the Department may send notices to a distance of up to 1,000 feet of the proposed development. The notice will be mailed at least 10 days before the meeting (workshop or public hearing) at which the application first appears on the Planning Board agenda.
 - b. For minor site plan applications, the Department will mail such notice as detailed above within 7 days of determination of completeness of a complete application, as determined by the Director. The Director of Planning and Development shall not make a decision on the proposal for a period of ten (10) days after the mailing of abutter notification to provide an opportunity for public comment.

2. The agendas of Planning Board meetings shall be published by the Planning Department in a local newspaper at least seven (7) days before the date of the meeting. The agenda notice shall include a brief description of the proposal and the ordinance(s) by which the proposal is to be reviewed. All publishing and mailing of notices shall conform with applicable State requirements.

F. APPLICATION AND REVIEW PROCESS

The following application process shall be followed to facilitate site plan review of proposed major and minor developments, respectively.

1. Review of Site Plans for Major Development
 - a. Upon Receipt of an application for site plan review of a major development, the Director of Planning and Development shall schedule the development for conceptual or final site plan review at the next available Planning Board workshop. The director of Planning and Development may advise the applicant whether conceptual review is appropriate prior to submission of a final site plan; however, the applicant shall determine whether to seek conceptual or final site plan review prior to submitting an application for final site plan review. Neither conceptual nor final site plan review shall occur unless there is evidence that the required public notice has been given and the material required by Section I.G.2 (concept plans) or Section I.G.3 (final plans) is filed with the Director of Planning and Development while determinations as to the completeness of applications for final site plan review shall be made by the Planning Board at a regular or special Planning Board meeting, in conformity with Section I.F1.c.
 - b. Conceptual Review. Conceptual review is intended to provide the applicant with an opportunity to discuss the proposed development and obtain the Board's comments prior to expending significant resources in furtherance of specific development plans. The Planning Board may identify issues that are not to be addressed in the final site plan application. No decision is made during conceptual review.
 - c. Final Site Plan Review. Within 60 days after determining that an application is a complete, final application, the Planning Board shall conduct a public hearing on the proposed major development, unless either the applicant or the board determines that additional workshops are necessary. The Planning Board shall issue a written decision approving, approving with conditions, denying or tabling the final site plan, pursuant to Section I.J. If the Planning Board tables the item, an additional public hearing must be held.
 - d. Statement of Findings. All findings and decisions by the Planning Board or by the Director of Planning and Development denying or conditionally approving any site plan shall be made in writing or reduced to writing within 30 days of the decision and shall state the reason(s) therefore sufficient to appraise the applicant and any interested member of the public of the basis for the decision.
2. Minor Developments: Site Plan applications for minor developments are reviewed by the Town staff for conformance with this ARTICLE. The process begins with the submission of eight (8) copies of the complete application and

evidence of notification to the Director of Planning and Development. The application is distributed to the Town Engineer, Director of Planning and Development, Code Enforcement Officer, Fire Chief, Police Chief and the Yarmouth Water District. After a ten (10) day public comment period the Director of Planning and Development shall review all submitted comments and in writing approve, approve conditionally, or deny the application in accordance with Section I.J. The decision of the Director of Planning and Development as well as findings of fact, shall be provided in writing to the applicant, Chairman of the Planning Board, Town Manager, and other Town staff within fourteen (14) days subsequent to the end of the public comment period. The finding of fact shall consist of the rational basis of the Director of Planning and Development's decision. Prior to distributing an application to Town Officials, the Town Planner must deem the application complete pursuant to Section I.G.3.

3. Appeals: The Director of Planning and Development's decisions regarding minor site plans are appealable by the applicant or an abutter to the Planning Board within 30 days of the date of the issuance of the decision. Site plan decisions of the Planning Board are appealed to the Cumberland County Superior Court.
4. Applications requiring General Board of Appeals Review: Before deeming an application a complete final application, the Planning Board or Director of Planning and Development shall require from the applicant, evidence of the General Board of Appeals' approval, for applications requiring review by the General Board of Appeals.
5. Applications requiring other Public Agency Review:
 - a. The Planning Board or Director of Planning and Development may approve complete final applications subject to the condition that all necessary permits be received from agencies such as, but not limited to, the Army Corps of Engineers, Maine State Department of Environmental Protection, or Maine State Department of Health and Human Services. However, the Planning Board or Director Planning and Development may require that approvals required by state or federal law be submitted to the Town prior to final approval upon finding that the permits from the state or federal agencies may have a significant effect on the site plan application, such as, but not limited to, the potential re-citing of buildings or parking areas, the relocation of driveways or the change of storm water management features.
 - b. Review by Municipal Committees: The Planning Board may request copies of the application to be forwarded by the applicant to the Yarmouth Lands Management Committee and Sports and Recreation Committee, Harbor and Waterfront Committee or other Municipal committee. The comments of the committees are advisory to the Planning Board and shall pertain to the application's conformance with Section I.H (Review Criteria) of this ARTICLE. The Planning Board may postpone final decisions regarding the application

until such time as the comment from the Municipal committee(s) has been submitted.

6. Applications shall not be considered as having pending status and shall be subject to changes in local, state or federal laws until the time they have been deemed to be complete final applications by the Planning Board or the Director of Planning and Development.

G. APPLICATION REQUIREMENTS

1. Required Number of Copies: Applications for major site plans are to consist of eighteen (18) copies of required information. The applications are to be submitted no later than twenty-one (21) days prior to the meeting at which the item is to be heard. Application for minor site plans are to consist of eight (8) copies. All applications are to be submitted to the Yarmouth Planning Department.
2. Concept Plans: The Planning Board may review applications, as conceptual applications, that do not meet the final site plan requirements listed in Section I.G.3. At a minimum, conceptual applications shall include the following information:
 - a. Conceptual Site Plan Requirements
 - i. Name and address of the landowner and developer (if different)
 - ii. Graphic scale and north arrow;
 - iii. Property boundaries, land area and zoning designations of the site;
 - iv. The size, shape and location of existing and proposed buildings on the site including dimensions of the buildings and setbacks from property lines.
 - v. Context Map illustrating the area surrounding the site
 - b. Project Description: The project description is to describe the proposal, its scheme of development and proposed land uses.
3. Final Site Plan: The final site plan application shall include all information required in Section I.G.2, Concept Plans, and in addition shall require the following information:
 - a. Boundary Survey: Prepared by a licensed surveyor indicating the boundaries, encumbrances and topography of the site.
 - b. Storm Water Management Plan: Prepared by a professional engineer licensed in the State of Maine analyzing the proposal's impact on existing storm water facilities and watersheds. The storm water management plan shall include a map of watersheds significantly impacted by the proposal and identify all areas of existing or anticipated flooding, location of existing and

- proposed culverts, pipes, detention ponds and flow restrictions to be affected by the proposal. The storm water management plan shall comply with the performance standards found in ARTICLE I.H.10.
- c. Finish Grading Plan: Prepared by a professional engineer or landscape architect licensed in the State of Maine indicating the final grading of the site, the amount of fill to be imported to or exported from the site and graphic arrows indicating the direction of storm water run off.
 - d. Site improvement Details: Including sufficient information to enable to creation of an itemized cost estimate for all required on or off site improvements including but not limited to landscaping, exterior light fixtures, walkways, drainage management facilities, roadways, utilities, traffic improvements and sewer improvements.
 - e. Building Elevations: Scale plans of exterior building surfaces including materials, doorways and advertising features.
 - f. Additional Information: Additional information as deemed necessary to review the proposal's conformance with the site plan review criteria and technical standards. Additional information may address items such as, but not limited to, traffic, wetlands, high intensity soils, or environmental analyses or the interpretation of the data by Municipal consultants. Additional information shall be financed pursuant to CHAPTER 401, (Consulting Fees).
 - g. General topography of the site.
 - h. Medium intensity soils classifications of the soils located on the site.
 - i. The size, shape and location of existing and proposed buildings on the site including dimensions of the buildings and setbacks from property lines.
 - j. The location and layout design of vehicular parking and circulation areas including curb cuts, driveways, parking space and vehicle turn around area dimensions.
 - k. Proposed finish grades and graphic arrows indicating the direction of storm water runoff
 - l. Conceptual treatment of on and off site storm water management facilities
 - m. Existing and proposed sewer and water services including connections.
 - n. Landscaping buffers, screens and plantings.
 - o. Location of outdoor storage areas, fences, signs, advertising features and solid waste receptacles.
 - p. Streets, sidewalks, intersections, storm water drainage ways, sanitary sewer lines and pump stations, nearby properties and buildings, zone districts and geographic features such as, but not limited to, wetlands, natural features, historic sites, flood plains, significant scenic areas and significant wildlife habitats as provided in the Comprehensive Plan.
 - q. Plans for all proposed exterior lighting including the location, type of light, radius of light, manufacturer's specifications sheet and the ground level intensity in foot-candles.
4. Waiver of Required Information: The Planning Board or Director of Planning and Development may waive the submittal of required application material for major

or minor developments respectively upon finding that the specific information is unnecessary in order to review the application's conformance with this ARTICLE.

H. REVIEW CRITERIA

The Planning Board shall approve a site plan application whenever it finds that:

1. **Conformance with Comprehensive Plan:** The proposed development is located and designed in such a way as to be in conformance with the Town's Comprehensive Plan.
2. **Traffic:** The proposed development will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways, public road or pedestrian walkways existing or proposed. The Planning Board may require mitigation when the proposed development is anticipated to result in a decline in service, below level of service "c", of nearby roadways of intersections. Levels of service are defined by the 1985 Highway Capacity manual published by the Highway Research Board.
3. **Parking and Vehicle Circulation:** The proposed plan provides for adequate parking and vehicle circulation. The amount of dedicated parking provided on-site or within a reasonable walking distance from the site meets the requirements of ARTICLE II.H of the Zoning Ordinance (Off Street Parking and Loading), the size of the parking spaces, vehicle aisle dimensions and access points are in conformance with the Technical Standards of Section J of this document.
4. **Sanitary Sewerage:** The proposed development will not cause an unreasonable adverse effect to the Municipal sewerage treatment facilities and will not aggravate and existing unhealthy situation such as the bypassing of untreated sewerage into Casco Bay, the Royal River, or its tributaries. If a subsurface wastewater disposal system is to be used, the system conforms to the requirements of the State Plumbing Code.
5. **Water:** The proposed development will not cause the depletion of local water resources or be inconsistent with the service plan of the Yarmouth Water District.
6. **Fire Safety:** The proposed development is located and designed in such a way as to provide adequate access and response time for emergency vehicles or mitigates inadequate access or response time by providing adequate fire safety features such as but not limited to fire lanes, smoke and fire alarms and sprinkler systems, as part of the proposed development.
7. **Buffering:** The proposal provides for adequate on-site buffering in the vicinity of property boundaries, when required by this subsection. On-site buffering is required wherever commercial, industrial or mixed use developments are proposed adjacent to or across a street from residential districts or agricultural uses, where multi-family buildings are to be located adjacent to single family

uses or districts, and when required by ARTICLE IV.S.3 of the Yarmouth Zoning Ordinance (Mobile Home Park Performance Standards). Buffer areas shall consist of an area ranging from a minimum of five feet to a maximum of twenty-five feet in width, adjacent to the property boundary, in which no paving, parking or structures may be located. The Planning Board may allow a buffer area of less width when site conditions, such as natural features, vegetation, topography, or site improvements, such as additional landscaping, berming, fencing or low walls, make a lesser area adequate to achieve the purposes of this Section. Landscaping and screening, such as plantings, fences or hedges, are to be located in buffer areas to minimize the adverse impacts on neighboring properties from parking and vehicle circulation areas, outdoor storage areas, exterior lighting and buildings.

8. Natural Areas: The proposal does not cause significant adverse impacts to natural resources or areas such as wetlands, significant geographic features, significant wildlife and marine habitats and natural fisheries. The proposal is consistent with the recommendations of the Maine Department of Inland Fisheries and Wildlife as found in the document titled "The Identification and Management of Significant Fish and Wildlife Resources in Southern Coastal Maine," February 1988.
9. Lighting: The proposal shall provide exterior lighting sufficient for the safety and welfare of the general public while not creating an unsafe situation or nuisance to neighboring properties or motorists traveling nearby roadways.
10. Storm Water Management: The plan provides for adequate storm water management facilities so that the post development runoff rate will be no greater than the predevelopment rate or that there is no adverse downstream impact. Proposed storm water detention facilities shall provide for the control of two year and twenty-five year storm frequency rates. The design, construction and maintenance of private facilities are maintenance of private storm water management facilities.
11. Erosion and Sedimentation Control: The proposed development includes adequate measures to control erosion and sedimentation and will not contribute to the degradation of nearby streams, watercourses or coastal lowlands by virtue of soil erosion or sedimentation. The erosion control measures are to be in conformance with the most current edition of the "Environmental Quality handbook, Erosion and Sedimentation Control", prepared by the Maine Soil and Water Conservation Commission.
12. Buildings: The bulk, location and height of proposed buildings or structures will not cause health or safety problems to existing uses in the neighborhood, including without limitation those resulting from any substantial reduction to light and air or any significant wind impact. To preserve the scale, character, and economy of the Town in accordance with the Comprehensive Plan no Individual

Retail use with a Footprint greater than 55,000 square feet shall be permitted. Structures defined as Shopping Centers shall be limited to a Footprint of 75,000 square feet. When necessary to accommodate larger projects, several Individual Retail Structures with Footprints of not more than 55,000 square feet each may be placed on the same lot, provided that all other standards are met. No less than 40 feet shall be allowed as separation distance between buildings. Efforts to save and plant native trees between and among structures shall be encouraged.

13. Existing Landscaping: The site plan minimizes to the extent feasible any disturbance or destruction of significant existing vegetation, including mature trees over four (4) inches in diameter and significant vegetation buffers.
14. Infrastructure: The proposed development is designed so as to be consistent with off premises infrastructure, such as but not limited to sanitary and storm sewers, waste water treatment facilities, roadways, sidewalks, trail systems and street lights, existing or planned by the Town.
15. Advertising Features: The size, location, design, color, texture, material and lighting of all permanent signs and outdoor lighting fixtures are provided with a common design theme and will not detract from the design of proposed buildings or neighboring properties.
16. Design Relationship to Site and Surrounding Properties: The proposed development provides a reasonably unified response to the design constraints of the site and is sensitive to nearby developments by virtue of the location, size, design, and landscaping of buildings, driveways, parking areas, storm water management facilities, utilities storage areas and advertising features.
17. Scenic Vistas and Areas: The proposed development will not result in the loss of scenic vistas or visual connection to scenic areas as identified in the Town's Comprehensive Plan.
18. Utilities: Utilities such as electric, telephone and cable TV services to proposed buildings are located underground except when extraordinary circumstances warrant overhead service. Propane or natural gas tanks are located in safe and accessible areas, which are properly screened.
19. Technical Standards: The proposed development meets the requirements of ARTICLE I.J (Technical Standards) of this Ordinance, except as waived by the Planning Board.
20. Route One Corridor Design Guidelines: Notwithstanding the technical standards of this ordinance and the requirements of Article II, General provisions of the Zoning Ordinance, development and redevelopment within the "C", Commercial

and "C-III", Commercial II districts shall be consistent with the Route One Corridor Design Guidelines, as approved August 19, 1999.

21. The applicant has sufficient right, title or interest in the site of the proposed use to be able to carry out the proposed use.
22. The applicant has the technical and financial ability to meet the standards of this Section and to comply with any conditions imposed by the Board pursuant to ARTICLE I.I
23. Special exception standards
 - a. The proposed use will not create unsanitary or unhealthful conditions by reason of emissions to the air, or other aspects of its design or operation.
 - b. The proposed use will not create public safety problems which would be substantially different from those created by existing uses in the neighborhood or require a substantially greater degree of municipal police protection than existing uses in the neighborhood.
 - c. The proposed use will be compatible with existing uses in the neighborhood, with respect to visual impact, intensity of use, proximity to other structures and density of development.
 - d. If located in a Resource Protection District or Shoreland Overlay Zone, the proposed use (1) will conserve visual points or access to water as viewed from public facilities; (2) will conserve natural beauty; and (3) will comply with performance standards of Article II of Chapter 701, Zoning Ordinance.

I. CONDITIONAL APPROVALS

The Director of Planning and Development or Planning Board may impose any condition upon approval of any site plan for the following reasons:

1. to minimize or abate, to the extent feasible, any adverse impact of the proposed development on the value or utility of other private property, or on public property or facilities; or
2. to bring the development into compliance with the requirements of Section I.H (Review Criteria) and Section I.J (Technical Standards); or
3. to mitigate any other adverse effects of the proposed development.
4. Such conditions may include, but are not limited to the employment of specific engineering, construction or design technologies, modes of operation, or traffic patterns and may also include the construction of on or off site improvements including, without limitation, street, intersection improvements, sidewalks, sewers, and drainage courses. All such conditions shall be consistent with the purposes set forth in ARTICLE I, Section A, H, J, and K of this ordinance.

5. Additional conditions for special exception uses may include, but are not limited to: increase setbacks and yards, specified sewage disposal and water supply facilities, landscaping, and planting screens, type of vegetation, hours of operation, operational controls, professional inspection and maintenance, sureties, types of construction, and location of piers, docks, parking and signs.

J. TECHNICAL STANDARDS

The Following performance standards shall apply to all site plans, provided, however, where the Planning Board finds that, due to special circumstances of a particular plan, the provision of certain required performance standards which are not requisite in the interest of public health, safety, and general welfare, the Planning Board may waive such requirements, subject to appropriate conditions.

1. Parking Spaces: All parking spaces are to be 9x19 feet.
2. Aisle Width: The width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirements set forth below. Only one-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than ninety degrees.

<u>Parking Angle (degrees)</u>	<u>Aisle Width (feet)</u>
0 (parallel parking)	12'
30	12'
45	13'
60	18'
90 (perpendicular parking)	25'

3. Driveway Standards:
 - a. Sight Distance: Any exit driveway or access road shall be so designed in profile and grading and so located as to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the existing driveway with the front of the vehicle a minimum of ten (10) feet behind the curb line or edge or shoulder with the height of the eye three and seventy five hundredths (3.75) feet to the top of an object four and five-tenths (4.5) feet above the pavement.

<u>Allowable Speed (Miles per hour)</u>	<u>Minimum Required Sight (distance)</u>
25	160
40	275
45	325
50	350
55	425

- b. Distance from Intersections: Where a site occupies a corner of two (2) or more intersecting roads, no driveway entrance or exit shall be located within fifty (50) feet of the point of tangency of the existing or proposed curb radius of that site.
- c. Shared Driveways: No part of any driveway shall be located within a minimum of ten (10) feet of a side property line. However the Planning board may permit a driveway serving two (2) or more adjacent sites to be located on or within ten (1) feet of a side property line between the adjacent sites.
- d. Distance between Driveways: Where two (2) or more two-way driveways connect a single site to any one (1) road, a minimum clear distance of one hundred (100) feet measured along the right-of-way line shall separate the closest edges of any two (2) such driveways. If one (1) driveway is two way and one (1) is a one-way driveway, the minimum distance shall be seventy-five (75) feet.
- e. Driveway Angles:
 - i. Two-way operation – driveways used for two way operation shall intersect the road at an angle of as near ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees.
 - ii. One-way operation – Driveways used by vehicles in one (1) direction of travel (right turn only) shall not form an angle smaller than forty five (45) degrees with a road unless acceleration and deceleration lanes are provided.
- f. Driveway Dimensions: The dimensions of driveways shall be designed to accommodate adequately the volume and character of vehicles anticipated to be attracted daily onto the land development for which a site plan is prepared. The required maximum and minimum dimensions for driveways are indicated below. Driveways serving large volumes of daily traffic or traffic of over fifteen (15) percent, truck traffic shall be required to utilize high-to-maximum dimensions.

	<u>One-way Operation Driveway Width (feet)</u>	<u>Two-Way Operation Driveway Width (feet)</u>
3 to 10 dwelling units	10-15	15-25
10 or over dwelling units	15-25	20-35
Commercial & industrial	15-30	25-35

- g. Driveway Surfacing: Any driveway shall be constructed with the surface approved by the Planning Board in accordance with the specifications of the Municipal Engineer. Such surface shall extend to the paved portion of the road and shall extend throughout the area defined by the required driveway dimensions specified above.

- h. Driveway Profile: Any vertical curve on a driveway shall be flat enough to prevent the dragging of any vehicle undercarriage. Should the sidewalk be so close to the curb at a depressed curb driveway as to cause the ramp to be too steep and be likely to cause undercarriage drag, the sidewalk shall be appropriately lowered to provide a suitable ramp gradient.
- i. Driveway Grades: Driveways shall not have a grade in excess of ten (10) percent over the entire length. On arterials, the grade shall not be more than five (5) percent for the first twenty-five (25) feet from the road unless otherwise approved by the Planning Board.
- j. Acceleration Lanes: Where a driveway serves right-turning traffic from a parking area providing two hundred (200) or more parking spaces and the road has an A.D.T. volume exceeding seven thousand five hundred (7,500) vehicles, an acceleration lane shall be provided which is at least two hundred (200) feet long and at least ten (10) feet wide measured from the road curb line. A minimum thirty-five (35) feet curb return radius shall be used from the driveway to the acceleration lane.
- k. Deceleration Lanes: Where the same conditions exist as in the previous paragraph and a driveway serves as an entrance to a land development, a deceleration lane shall be provided for traffic turning right into the driveway from the road. The deceleration lane shall be at least two hundred (200) feet long and at least ten (10) feet wide measured from the road curb line. A minimum thirty-five (35) foot curb return radius shall be used from the deceleration lane into the driveway.

4. Exterior Lighting:

- a. Style: The style of the light and light standard shall be consistent with the architectural style of the principal building.
- b. Maximum Height: The maximum height of freestanding lights shall be the same as the principal building but not exceeding twenty-five (25) feet.
- c. Lights at Property Boundaries: Where lights along property lines will be visible to adjacent residents, the lights shall be appropriately shielded.
- d. Lighting of Parking Areas: The Planning Board shall determine the necessity for lighting depending upon the nature of the intended use. All parking areas to be lighted shall provide a minimum of three (3) foot-candles at intersections and a total average illumination of one and one-half (1-1/2) foot-candles throughout the parking areas as required. Such lighting shall be shielded in such a manner as not to create a hazard or nuisance to the adjoining properties or the traveling public.
- e. Required Light Levels:
 - (1) Parking lots: an average of one and five-tenths (1.5) foot-candles throughout.
 - (2) Intersections: three (3) foot-candles.
 - (3) Maximum at property lines: One (1.0) foot-candle.
 - (4) In residential areas: average of six-tenths (0.6) foot-candle.

- f. String Lights: Display lighting shall be shielded and shall be located and maintained as not to constitute a hazard or nuisance to the traveling public or to neighbors. String lights are allowed in rear yards, and are allowed in café seating patios or sidewalk café applications in predominantly horizontal plane configuration comprising repeated standard base hanging luminaires with design of such café lighting to be limited to soft character lighting with minimal glare and no use of colored lights, subject to approval by the Planning Board.
- 5. Buffers: Buffers are used in conjunction with dedicated spaces to minimize the visual impact of adverse characteristic such as, but not limited to, storage areas, parking spaces, driveways, and loading area of the site from neighboring properties. Buffers shall include up to fifty (50) feet of existing vegetation or the installation of fences, new landscape materials, berms and mounds to achieve filtered or impenetrable views from abutting properties.
- 6. Sanitary Sewage: All site plan applications, which propose to utilize the Municipal sewer system, shall include sufficient design details to ensure conformance of the proposal with CHAPTER 304 (Sewerage Ordinance) of the Municipal Code.
- 7. Water System: All site plan applications, which propose to be served by the Yarmouth Water District or its designee, shall receive the approval for conformance with the technical standards of the district.
- 8. Fire Safety: All site plan applications shall meet the requirements of CHAPTER 317 (Sprinkler Ordinance) of the Yarmouth Municipal Code.
- 9. Storm Water management Facilities: Proposed storm water management facilities are to be reviewed by the Town Engineer or their designee for conformance with accepted engineering design.
- 10. 100-999 cubic yards. Excavation and removal of lands and filling of lands in excess of 100 cubic yards and less than 1000 cubic yards shall be reviewed in accordance with the following criteria:
 - a. Filling, grading, lagooning, dredging, earth- moving activities, and other site alterations shall be conducted as to prevent to the maximum extent possible, soil erosion and sedimentation of surface waters. To this end, all construction and site alterations shall be accomplished in conformance with the erosion prevention provisions of the “Best Management Practices” (BMP’s), March 1991 (as developed by the Cumberland County Soil and Water Conservation District and the Department of Environmental Protection.)

- b. This Section shall not prohibit normal excavation for construction of a building for which a building permit has been issued or construction normally related to road projects.
- 11. More than 1000 cubic yards. Excavation and removal of lands and filling of lands equaling 1000 cubic yards or more shall be reviewed in accordance with the following criteria:
 - a. Specific plans are established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon the completion of operations, it shall not be at a slope steeper than one (1) foot vertical to two (2) feet horizontal.
 - b. The operation is shielded from surrounding property with adequate screening and creates no disturbance of a water source.
 - c. No excavation shall be extended below the grade of adjacent streets unless 100 feet from the street line or unless provision has been made for reconstruction of the street at a different level.
 - d. Sufficient top soil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions.
 - e. A surety bond, one payable to the Town of Yarmouth and issued by a commercial surety company authorized to do business within the State of Maine, is posted by the owner with the Treasurer of Yarmouth by the applicant in an amount recommended by the Town Manager or his/her agent and approved by the Planning board as sufficient to guarantee conformity with the provisions of the grant of approval.
- 12. Any Site Plan review shall include the following criteria to insure the protection of public health, safety and general welfare:
 - a) fencing, landscaped buffer strips;
 - b) advertising signs, lighting;
 - c) parking spaces, loading and unloading areas;
 - d) entrances and exits;
 - e) time period for operation;
 - f) hours of operation;
 - g) methods of operation;
 - h) weight and loading limit of trucks;
 - i) potential sand and gravel spillage upon public streets;
 - j) rehabilitation proposals,
 - k) street trees of 2 ½ (two and one half) to 3 (three) inch caliper every 50' of street frontage,
 - l) sidewalks on at least one side of the street
 - m) bike racks
- 13. Accessory Dwelling Unit: any request shall include a plot/site plan showing the following:
 - a. Lot boundaries and dimensions at scale.

- b. Zoning district.
- c. Date of plan.
- d. Property owner with deed reference.
- e. Lot area.
- f. Location and setback of all buildings.
- g. Date of construction of single-family dwelling.
- h. Separate floor layout of all finished levels.
- i. All plumbing facilities, kind and location.
- j. Use of all rooms.
- k. All entrances/exits.
- l. All partitions, temporary or permanent.
- m. Location and type of all appliances.
- n. Rights of way, public and private
- o. All easements
- p. Street names
- q. Sewerage facilities
- r. Off-street parking spaces

Purpose:

The purpose of this section is to promote the public health, safety and general welfare of the community by providing diverse housing choices and to help increase the supply of housing without new land acquisition costs.

In permitting an ADU, the Planning Director and/or CEO shall find that:

- a. Exterior design of the accessory unit is compatible with the existing residence on the lot through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.
- b. The exterior design is in harmony with, and maintains the scale of the neighborhood.
- c. The accessory unit does not result in excessive noise, traffic or parking congestion.
- d. The property fronts on a public water main and public sewer line each with the capacity to serve the additional accessory unit.
- e. Major access stairs, deck entry doors, and major windows will generally be limited to the walls facing the primary residence. Windows that impact the privacy of the neighboring side or rear yard have been minimized. The design of the accessory unit shall relate to the design of the primary residence and shall not visually dominate it or the surrounding properties.
- f. The orientation and location of the buildings, structures, open spaces and other features of the site plan are such that they maintain natural resources including heritage or significant trees and shrubs to the extent feasible and minimize alteration of natural land forms.
- g. Building profiles, location and orientation relate to natural land forms.

- h. One parking space shall be provided on-site for each a studio and or one bedroom accessory unit. Two parking spaces shall be provided on site for each a two bedroom accessory unit. Parking of the accessory unit is in addition to the required parking for the primary residence. Required parking spaces for the primary residence and the accessory dwelling unit may be provided in tandem on a driveway. A tandem arrangement consists of one car behind the other. No more than two cars in tandem may be counted towards meeting the parking requirement.
- i. A single-family dwelling exists on the lot or will be constructed in conjunction with the accessory unit. Only one ADU is permitted per lot.
- j. Accessory dwelling units are not eligible for variances to setbacks.
- k. Before obtaining a building permit for an ADU the property owner shall file with the registry of deeds a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:
 - a. The accessory unit shall not be sold separately.
 - b. The unit is restricted to the approved size.
 - c. The use permit for the accessory unit shall be in effect only so long as either the main residence, or the accessory unit, is occupied by the owner of record as the principal residence.
 - d. The above declarations are binding upon any successor in ownership of the property;
 - e. The deed restrictions shall lapse upon removal of the accessory unit.
- l. Units within an Accessory Structure shall not exceed 900 square feet. If an ADU occupies an entire single floor, the Planning Department may allow for an increase in the allowed size of the ADU in order to efficiently use all of the floor area, so long as all other standards of this section are met.
- m. An ADU may have no more than two (2) bedrooms.
- n. The water and sewage facilities shall meet all existing laws and codes.
- o. Approval of an accessory apartment shall be conditional on obtaining applicable building, plumbing, electrical and any other necessary municipal permits.
- p. The Fire Chief must review and sign off on the application.
- q. Unless part of the design of an existing single family dwelling the dwelling(s) shall have only one (1) front entrance and all other entrances shall be on the side or in the rear of the dwelling. A front entrance leading to a foyer with entrances leading from the foyer to the two (2) dwelling units is permitted. Outside stairways (either open or enclosed), that service an Accessory Dwelling Units on upper stories are not permitted.
- r. For an ADU located within an existing garage or other outbuilding, the structure is not required to approximate the exterior features of the existing single family dwelling, but any exterior modifications should be consistent with the architectural style of that structure unless the building is upgraded per the requirement of new structures or unless the new structure is designed in a traditional New England form such as a barn.

- s. An existing single family dwelling that is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height or setback requirements may be expanded to incorporate an Accessory Apartment subject to the requirements of Chapter 701 of the Yarmouth Code Article III for the expansion of other non-conforming single family dwellings.
- t. ADU's may be permitted on back lots.
- u. ADU's are not permitted on a lot with a non-conforming use.
- v. ADU's are not permitted on a lot with mixed uses.
- w. When an owner wishes to eliminate the accessory apartment proof of the removal of the second kitchen and the restoration of the apartment to its status before the conversion shall be submitted to the satisfaction of the Planning Department. The owner shall record a Release of the Declaration of Restrictions on the Land after inspection and confirmation by the Code Enforcement Officer.

K. REVISIONS TO APPROVED SITE PLANS

The site shall be developed and maintained as depicted in the site plan and the written submissions of the applicant. Modification of any approved site plan shall require the prior approval of a revised site plan by the Planning Board or the Director of Planning and Development pursuant to the terms of this ARTICLE. Any such parcel lawfully altered prior to June 7, 1990 shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including but not limited to topography, vegetation and impervious surfaces shown on the site plan. No action, other than an amendment approved by the Director of Planning and Development for minor site plan or Planning Board for major site plan, and field changes approved by the Town Engineer as provided herein, by any authority or department shall authorize any such modification or alteration. Field changes by the Town Engineer are limited to minor variations necessary to deal with unforeseen difficulties that arise during the course of construction involving such technical detail as utility location and substitution of equivalent plantings and shall not include any substantial alteration of the approved plan or change any condition imposed by the Director of Planning and Development or Planning Board.

L. EXPIRATIONS

1. Applications: A site plan application must be diligently pursued from the date of submission. The Director of Planning and Development or Planning board shall notify the applicant in writing whether the application is complete. If an application is not complete, the written notice shall set forth those items, which have not yet been submitted, and that the applicant will have one hundred twenty (120) days to complete its application. If the applicant fails to submit any item specified within one hundred twenty (120) days of the date of said notice from the Director of Planning and Development or Planning Board, the application shall be deemed null and void. Nothing in this Section shall prevent the Planning

Board or Director of Planning and Development from requiring additional information as otherwise permitted or required by the terms of this ARTICLE.

2. Approvals: Site Plan approvals are valid for one year and may be extended for one additional year by the Director of Planning and Development for minor site plans or by the Planning Board for major site plans. Building permits must be received and performance guarantees must be approved prior to the expiration date of the approval.

M. POST-APPROVAL SUBMISSIONS

Following site plan approval and prior to issuance of any building permit, developer shall submit copies of the contract plans and specifications, in reproducible form, showing the design of all infrastructure improvements, including without limitation all streets, sewers, drainage structures, and landscaping, for the review and approval of the Town Engineer for compliance with the Town's construction standards.

Thereafter, all departures from such plans shall be approved by the Town Engineer as field changes pursuant to subsection I.J. above. Nothing herein shall diminish the obligation of the developer to supply plans or specifications as provided in this ARTICLE.

N. ENFORCEMENT

1. All construction or alterations to the site performed under the authorization of building permits or certificates of occupancy issued for development within the scope of this ordinance shall be in conformance with the approved final site plan or an amendment thereto under Section I.K.
2. When the Director of Planning and Development or his/her duly authorized agent finds a violation of this Ordinance, the Director of Planning and Development or his/her duly authorized agent shall notify the Town manager in writing who shall have the authority to initiate any and all actions, legal or equitable, to be brought in the name of the Town. Any construction or site work not in conformity with an approved site plan shall constitute a violation of this ordinance.
3. The Director of Planning and Development or his/her duly authorized agent or the Town Engineer shall have the authority to issue a stop work order upon a finding by either of them that work has been commenced or completed prior to receipt of all approvals required by this Ordinance or contrary to the terms of an approved site plan. Work shall recommence only after such order has been lifted.
4. Any person, firm or corporation being the owner of or responsible for the control or use of any building or premises who violates any provision of this Ordinance, commits a civil violation and shall be fined no less than \$100 and not more the \$2500, provided that the maximum penalty shall exceed \$2500 but not \$25,000 if there has been a previous determination, by a court of competent jurisdiction, that the same party violated this Ordinance within the previous two years. Each day

such a violation continues to exist after notification thereof shall constitute a separate offense. All fines collected hereunder shall inure to the Town of Yarmouth.

O. SITE PLAN PERFORMANCE GUARANTEE AND INSPECTION FEE

The developer shall pay a site plan inspection fee, which fee shall consist of the actual costs, including administrative cost, for inspection by the Town Engineer or his/her designee all required site plan improvements, which improvements include but are not limited to building setbacks, sanitary sewers, storm drains, drainage and erosion control, catch basins, manholes, other improvements constructed chiefly below grade, curbing, paving, sidewalks, lighting, and landscaping. Following site plan approval and prior to the issuance of a building permit, the developer shall post with the Town a performance guarantee in the form and amount approved by the Town Manager specifying the completion of the improvements within two (2) years from the date of such guarantee. The developer shall provide a one year defect bond upon completion of all public improvements. The amount of the defect bond shall be ten percent (10%) of the amount of those public improvements approved as part of the site plan. At the same time that the developer posts a performance guarantee, the developer also shall pay to the Town Engineer the site plan inspection fee equal to two percent (2%) of the estimated cost of required site plan improvements, not including principal structures.

CHARACTER—BASED DEVELOPMENT CODE

ROUTE 1 CORRIDOR & VILLAGE CENTER



YARMOUTH, MAINE

ROUTE 1 CORRIDOR ADOPTED 5.16.13

CHAPTER 703 REPEALED & REPLACED 04.12.18

VILLAGE CENTER & ROUTE 1 CORRIDOR

ORGANIZATION OF THE CODE

The Code is divided into 7 sections as follows:

PREFACE

ARTICLE 1

GENERAL



Provides background, intent, and how to use Chapter 703.

ARTICLE 2

REGULATING PLAN



Serves as a replacement for zoning map, locating each District and its boundaries.

ARTICLE 3

CHARACTER DISTRICTS



Provides for assignment of and standards for Character Districts and Civic Zones.

ARTICLE 4

SPECIAL DISTRICTS



Identifies and describes the Special Districts included in Chapter 703.

ARTICLE 5

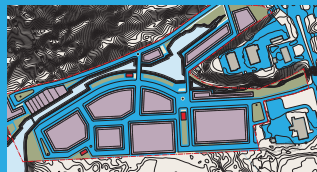
BUILDING & LOT PLANS & STANDARDS



Provides standards for Building & Lot Plans.

ARTICLE 6

DEVELOPMENT PLANS & STANDARDS



Provides standards for Development Plans.

ARTICLE 7 DEFINITIONS

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PREFACE

SECTION A. INTRODUCTION

Chapter 703 is a Character-Based Development Code. A Character-Based Development Code is a type of zoning code that is intended to facilitate the predictable contextually-based planning and development of walkable mixed-use human-scaled places of character. This is accomplished by providing a range of standards not only for use, but also for the other elements of development and building that define a place, such as Public Frontage, Private Frontage, Building Form, Building Placement, Thoroughfare, Yard Type, Building Type, Density, Civic Space, and Parking Standards. **Illustration P.A.1 (Thoroughfare and Frontages)** shows the general relationships among the Private Frontage, the Public Frontage and the other parts of the Thoroughfare.

The intent of this Character-Based Development Code is:

1. to set a new course for the Route 1 Corridor and to transform the Route 1 Corridor over time to become an extension of the traditional village center; and
2. to preserve, protect and enhance the character of the Village.

A Route 1 Corridor Planapalooza, a citizen-focused planning effort that grew out of the 2010 Comprehensive Plan, was held in September 2012 and was attended by over 100 citizens. The vision generated during the Route 1 Corridor Planapalooza (see **Illustration P.A.2, Illustrative Master Plan**), seeks to transform what is now a high speed highway lined with auto-oriented development into a slow flow street that is safe for pedestrians, cyclists, and people of all ages

and abilities. As a Complete Street, Route 1 would continue to efficiently serve vehicles, while allowing Buildings to be pulled closer to the street with parking moved to the back.

While the code allows more intensive development in the Route 1 Corridor, it does not require land owners to meet the character-based standards unless they choose to redevelop, develop or substantially alter their property. Over time, the Route 1 Corridor should become more pedestrian oriented.

A Village Planapalooza II was held in September 2014. The vision generated during the Village Planapalooza II is for the protection and enhancement of the historic character of the Village, improved connectivity to surrounding neighborhoods, improved safety and transportation options for cyclists, motorists and pedestrians, and restoration and repair of the streetscape, particularly in

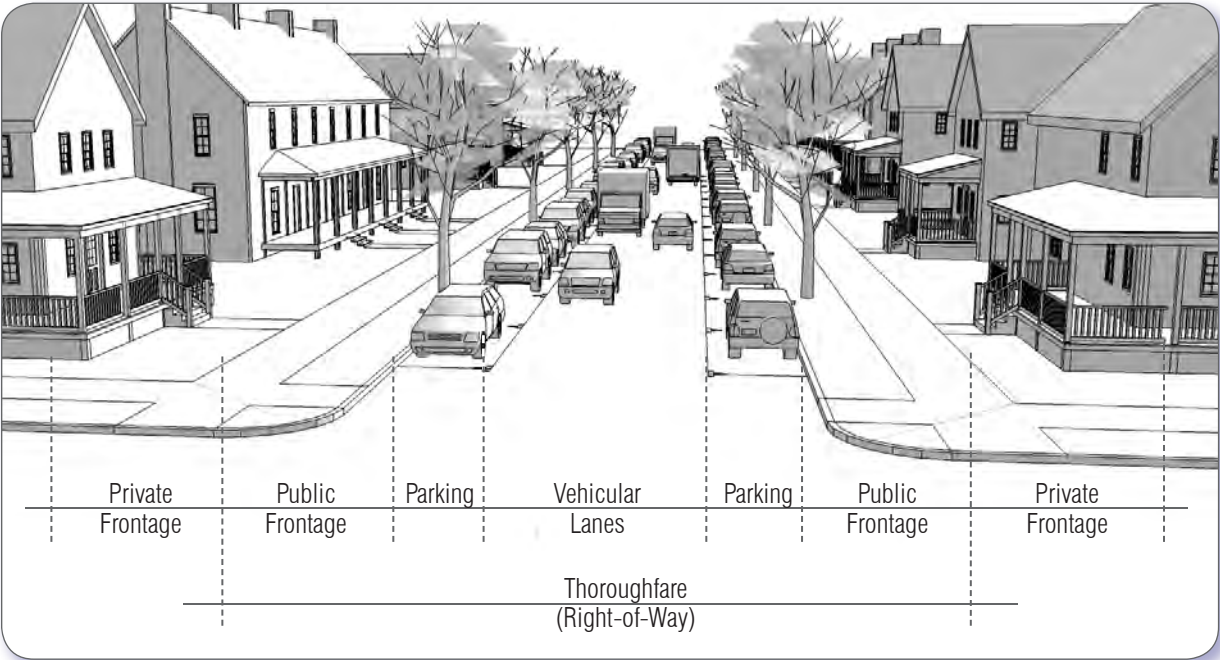
areas where Buildings have been replaced with parking.

Chapter 703 provides for creation of certain Character Districts and one Special District, as follows:

1. CD4 Village Center. This District consists of a medium density area, centered along and abutting historic Main Street, that has a mix of Building types and residential, retail, office and other commercial uses; there are shallow or no front Setbacks and narrow to medium side Setbacks; it has variable private landscaping; and it has streets with curbs, sidewalks, and street trees that define small to medium blocks.

2. CD4-C Route One Corridor. The areas covered by this Character District consist of conventionally developed predominantly retail areas along Route One from Exit 15

ILLUSTRATION P.A.1 THOROUGHFARE AND FRONTAGES



to Exit 17. In many areas, there is a very wide public right away that makes it seem like the area has deep front setbacks; however, the Setbacks from the right of way are modest. The intent of this District is for redevelopment in a form that will transition these areas into a more pedestrian accommodating environment with a human scaled development pattern. CD4-C provides for development in a more mixed use, walkable pattern which can transform the existing development over time. This District provides for a medium-to-high density development node with a mix of Building types and commercial, retail, and residential uses; it accommodates for both pedestrian and vehicular activity. There are shallow or no front Setbacks and medium to no side Setbacks. The District calls for variable private landscaping and streets with curbs, sidewalks and street trees that define medium to large blocks.

3. SD1 NYA Campus Special District.

This District consists of secondary education campuses with a mix of Building types and educational or related uses; it addresses public Thoroughfares in the same manner as the Adjacent Character District and is otherwise buffered from Adjacent Character Districts.

SECTION B. OVERVIEW

Chapter 703 provides standards and requirements for (a) Buildings and Lots and (b) Developments. Those for Buildings and Lots apply whenever a lot is subdivided and/or a Building is built. Those for Developments

apply only under certain circumstances.

Chapter 703 is organized into Articles as follows:

Article 1, “General” includes provisions concerning purpose, applicability, administration, existing conditions, interpretation, amendment, definitions, adoption of the regulating plan and standards, establishment of a Consolidated Review Committee, plan submission, review and approval, appeals, waivers and variances and enforcement.

Article 2, “Regulating Plan” includes requirements for the Regulating Plan and amendment of the Regulating Plan.

Article 3, “Character Districts” includes provisions regarding the Character Districts, and their elements and standards, as well as provisions relating to the assignment of Character Districts on the Regulating Plan and Development Plans.

Article 4, “Special Districts” includes provisions for districts that can accommodate development that cannot comply with the requirements applicable to the Character Districts.

Article 5, “Building & Lot Plans and Standards” includes provisions for Building & Lot Plan preparation, submission and approval, and Lot and Building standards, such as Building Placement and Yard Types, Building Form, Lot dimensions and coverage, uses, parking, Building Types, architectural, landscape and signage.

Article 6, “Development Plans & Standards”

specifies the circumstances under which a Development Plan is required, preparation, submission and approval of Development Plans, standards and requirements for Thoroughfares, Block Perimeter, Density, Special Districts and Special Requirements.

Article 7, “Definitions”, which includes definitions of terms used in the Code. Defined terms are notated by initial capital letters when used throughout this Code. (e.g. Garage, Green)

SECTION C. INFORMATIONAL ONLY

This Preface is informational, not regulatory. It is intended to assist users of Chapter 703. The governing regulations of Chapter 703 are contained in the Articles that follow.

SECTION D. ILLUSTRATIVE PLAN

This Illustrative Plan is informational, not regulatory. It is intended to assist users of Chapter 703. The governing regulations of Chapter 703 are contained in the Articles that follow.

ILLUSTRATION P.A.2 ILLUSTRATIVE MASTER PLAN (NOT TO SCALE)





MAIN STREET/VILLAGE AREA

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ARTICLE 1 — GENERAL

SECTION A. AUTHORITY; COMMON REFERENCE

1. AUTHORITY.

- a. The action of the Town of Yarmouth, Maine, in the adoption of this Chapter 703 is authorized under the Town's Charter and Maine Revised Statutes Section 30-A M.R.S.A. Section 3001.
- b. This Chapter was adopted to promote the health, safety and general welfare of the Town and its citizens, including protection of the environment, conservation of land, energy and natural resources, reduction in vehicular traffic congestion, more efficient use of public funds, health benefits of a pedestrian environment, and improvement of the built environment.
- c. The Town Council has determined that this Chapter is consistent with the Town's Comprehensive Plan. This Chapter has been adopted pursuant to and in

accordance with the Town Comprehensive Plan.

2. COMMON REFERENCE.

This Chapter may be referred to as the "Town of Yarmouth Character-Based Development Code".

SECTION B. PURPOSE AND INTENT

This Chapter has been adopted to provide for walkable character-based mixed use development in the Route 1 Corridor and the Village, each as defined in Article 1.C.1 below, and to enable, encourage and qualify the implementation of the following policies:

1. That development and re-development should be compact, pedestrian-oriented and Mixed Use in appropriate areas and that larger development include a mix of residential and commercial uses.

2. That ordinary activities of daily living should occur within walking or biking distance of most dwellings.
3. That interconnected networks of Thoroughfares should be designed to disperse traffic and reduce the length of automobile trips.
4. That a range of housing types and price levels should be provided to accommodate diverse ages and incomes.
5. That Open Spaces should be available within developed areas and significant natural features should be preserved, including, to the extent possible, mature existing trees_
6. That Buildings and landscaping should contribute to the physical definition of Thoroughfares as Civic places.
7. That development should adequately accommodate automobiles while respecting the pedestrian and the spatial form of public areas.
8. That the design of streets and Buildings should reinforce safe environments, but not at the expense of accessibility.
9. That architecture and landscape design should grow from local climate, topography, history, and Building practice.
10. That Buildings should utilize energy efficient methods.
11. That Civic Buildings and public gathering places should be provided at locations that reinforce community identity and support self-government.
12. That Civic Buildings should be distinctive and appropriate to a role more important

than the other Buildings that constitute the fabric of the Character-Based Zoning District in which they are located.

13. That the preservation and renewal of historic Buildings should be facilitated.
14. That meaningful choices in living arrangements should be provided.
15. That the Character District descriptions on **Table 3.A (Character District Descriptions)** shall constitute the Intent of this Chapter with regard to the general character of each of these environments.

These policies are in pursuit of a character that exemplifies the historic qualities of Yarmouth, and values the healthy balance of uses that comprise the Village Center. This is a changing dynamic condition, and while there is no prescribed proportion or mix of uses, this code enables the Village to grow and change with time and trends. Through monitoring and awareness of incremental changes as they occur, the Town can promote a continued well balanced presence of housing and commercial uses that serve all constituents of Yarmouth and sustain a vital and vibrant community.

SECTION C. APPLICABILITY

1. GENERAL.

This Chapter 703, (this “Chapter”) and the standards hereof shall be applicable to the areas of the Town described on **Map 1.G (Regulating Plan)**, and all Development, Improvements, land, Structures, construction, Buildings and Lots in the Character-Based Zoning Districts and Special Districts.

2. EXCLUSIVE ZONING REGULATION.

Except as may be otherwise specifically provided in **Article 1.C.3**, this Chapter shall be the exclusive and mandatory zoning regulation for the Character-Based Zoning District and the provisions of this Chapter shall be applied to such area.

3. RELATIONSHIP TO OTHER PROVISIONS.

- a. The provisions of this Chapter shall take precedence over those of other codes, ordinances, regulations, and standards that may be in conflict with this Chapter, except the Town and State Health and Safety Codes and except as may otherwise be provided in Section 1.C.3.c.ii.
- b. The Town Municipal Code (collectively, the “Existing Local Codes”), including without limitation Chapters 601 (Subdivision), 701 (Zoning) and 702 (Site Plan Review) thereof, shall continue to be applicable to matters not covered by this Chapter, except where the Existing Local Codes would be in conflict with this Chapter and except as may otherwise be provided in Section 1.C.3.c.
- c. Notwithstanding anything to the contrary contained or implied in Sections 1.C.3.a or 1.C.3.b, the following **shall not be applicable** within the Character-Based Zoning Districts:
 - i. the trip generation provisions of Chapter 601;
 - ii. the accessory dwelling unit permitting process of Chapter 702;
 - iii. the Backlot provisions of Chapter 701;
 - iv. the Sign Standards Village II Districts of Chapter 701, Article II, Section D;
 - v. Signs in the “C” Commercial, “C-III” Commercial III District of Chapter 701, Article II, Section F;
 - vi. Signs in SOD District of Chapter 701, Article II, Section E, to the extent related to SOD District;
 - vii. the Route 1 Corridor Design Guidelines approved August 19, 1999;
 - viii. Off-Street Parking & Loading, Chapter 701, Article II, Section H;
 - ix. Buffer Areas of Chapter 701, Article II, Section L;
 - x. Open Space Residential Development of Chapter 701, Article II, Section M;
 - xi. Access provisions of Chapter 701, Article II, Section O shall be subject to Chapter 703, Article 5, Section F.4 hereof;
 - xii. Lighting: Village II Districts, Chapter 701, Article II, Section X;
 - xiii. Village II Districts, Chapter 701, Article II, Section Y;
 - xiv. Chapter 701, Article IV, Section V relating to Conditional or Contract Zoning;
- d. The following provisions of the Town Municipal Codes **shall remain in full force and effect** and continue to be applicable within the Character-Based Zoning Districts, including but not limited to:
 - i. Chapter 701, Article IV, Section I, relating to the Resource Protection District and Stream Protection District;

- ii. Chapter 701, Article IV, Section R, relating to the Shoreland Overlay District.
- iii. Chapter 701, Article II, Section A.A., relating to wetlands.
- iv. Chapter 702 (Site Plan) Article I.H (Review Criteria) except 3 (Parking), 7 (Buffering) and 20 (Rt. 1 Design Guidelines);
- v. Chapter 701.II.J, Home Occupations;
- vi. Chapter 702.I.G Application Requirements; and,
- vii. Chapter 701.II.CC, Sidewalk Cafe.
- viii. Chapter 701.II.M, Open Space Residential Development, Dimensional Standards, Modified dimensional standards for OSRD subdivisions previously approved by the Planning Board.
- ix. Chapter 702, Article I.O, and Chapter 601, Article VI, (Performance Guarantee).
- x. Chapter 701, Article VI, Administration and Enforcement.
- xi. Chapter 701, Article III, Nonconformance, and Article IV, R.5, Nonconformance in the SOD.
- xii. Chapter 701, Article IX, Demolition Delay
- xiii. Chapter 701, Article I.D(Definitions, Building Heights)

4. COMPLIANCE.

Except for non-conformances allowed pursuant to Article 1.Q, within the Character-Based

Zoning Districts, all Development, land, Improvements, construction, Structures, Buildings and Lots, and all plans, applications and submissions required under this Chapter must comply with this Chapter and the standards hereof.

SECTION D. AMENDMENT OF CHAPTER

This Chapter may be amended in the same manner as the Zoning Ordinance of the Town of Yarmouth, following the procedures of Chapter 701,Article IV.U.

SECTION E. CONSTRUCTION

- a. Provisions of this Chapter are activated by “shall” when required; “should” when recommended; and “may” when optional.
- b. The standards and Tables herein are an integral part of this Chapter.
- c. The diagrams, photographs and illustrations in this Chapter are provided only to indicate the general character or placement of and/or reference to the various Character Districts and elements thereof shown thereon.
- d. The illustrations in Table 6.E.4 (Public Planting) and Table 6.E.5 (Public Lighting) are provided only as an approximation of the Public Planting and Public Lighting.
- e. All graphical and tabular depictions entitled “Illustration” or denoted as “Illustrative” are provided for illustrative, explanatory purposes only and are not regulatory.

f. Where in conflict, numerical metrics shall take precedence over graphic metrics.

SECTION F. DEFINITIONS

Capitalized terms used throughout this Chapter may be defined in Article 7 “Definitions” or elsewhere in this Chapter. Those terms not defined in Article 7 or elsewhere in this Chapter shall be accorded their commonly accepted meanings. In the event of conflicts between the definitions in this Chapter and the definitions of the existing local codes, those of this Chapter shall take precedence, except in the case of Shoreland Zoning.

SECTION G. PREPARATION AND ADOPTION OF INITIAL REGULATING PLANS

An initial Regulating Plan for each area of the Town to be covered by this Character-Based Development Code, reflecting the Character Districts, and Special District, shall be prepared on behalf of the Town, submitted to the Planning Board for consideration and recommendation to the Town Council and considered, approved and adopted by the Town Council. This Chapter shall be effective with respect to such area of the Town when the Regulating Plan has been adopted for such area.

SECTION H. AMENDMENT OF REGULATING PLAN

Each Regulating Plan in effect from time to time, may be amended upon initiative of the Town or upon application of the owner of the parcel the zoning of which is proposed to be

changed by such amendment pursuant to Article 2.C.

SECTION I. DETERMINATION OF STANDARDS

The Town Council has established the standards in this Chapter and has made such standards applicable as provided hereby to the Character Districts, and Special Districts thereof.

SECTION J. REVIEW AUTHORITY

1. PLANNING BOARD

The Planning Board is hereby authorized to process Building and Lot Plans and applications for approval thereof and to review Development Plans and applications for approval thereof for all development that is considered Major Development under **Chapter 702 (Site Plan), Article I.B.**, except that new structures less than 1,000 sf gross floor area shall be reviewed by the Planning Department.

2. PLANNING DEPARTMENT

The Planning Department is hereby authorized to process Building and Lot Plans and applications for approval thereof for all development that is considered Minor Development under **Chapter 702 (Site Plan), Article I.B.** except that new structures less than 1,000 sf gross floor area shall be reviewed by the Planning Department.

3. CONDUCT OF PROCEEDINGS AND DECISIONS, PUBLIC NOTICE & OPPORTUNITY TO BE HEARD

The Planning Board and Planning Department conduct of its meetings and processing of Plans shall include provisions for public notice and opportunity to review and comment on plans as detailed under **Chapter 702 (Site Plan), Article I.E.**

SECTION K. ADMINISTRATION

1. GENERAL.

Except as otherwise provided herein, this Chapter shall be administered by the Town Department of Planning and Development (hereinafter the "Planning Department"). All applications required under this Chapter shall be submitted to Town Planning Department to review the same for completeness and compliance with this Chapter. Upon determination by the Town Planning Department that an application is complete and in compliance with this Chapter, the Planning Department shall provide written acknowledgement thereof to the applicant and shall forward the same to appropriate review and approval authorities for further action.

2. BUILDING & LOT PLANS.

Proposed Building and Lot Plans and applications for approval that are determined by the Town Planning Department to be complete and in compliance with this Chapter, shall be forwarded to the Planning Board for further processing, review, consideration and/or action, as applicable, in accordance with **Article 1.M.1**, below.

3. DEVELOPMENT PLANS.

Proposed Development Plans and applications for approval of the same that are determined by the Town Planning Department to be complete and in compliance with this Chapter, shall be forwarded to the Planning Board for further processing, review, consideration and/or action in accordance with **Article 1.M.2, or 1.M.3** as applicable, below.

4. REGULATING PLAN AMENDMENTS.

Proposed Regulating Plan Amendments and applications for approval that are determined by the Town Planning Department to be complete and in compliance with this Chapter, shall be forwarded to the CRC and Planning Board for further processing, review, consideration and/or action, as applicable, in accordance with **Article 1.M.3**, below.

SECTION L. PLAN AND AMENDMENT SUBMISSIONS

1. BUILDING & LOT PLANS.

No Development, improvement, subdivision, or construction of or on any Building, Lot or parcel of land shall occur without prior submission of a complete application for approval of a Building and Lot Plan that complies with **Article 5.B** and approval thereof pursuant to this Chapter.

Limitations & Exceptions: A Building and Lot Plan is not required for single or two family homes or for maintenance of an existing Structure or Building. Buildings or Building additions with a footprint of 250 square feet or less may be exempted from all or part of

the full review process at the discretion of the Planning Director, who will advise the applicant as to the extent of submissions needed for administrative approval of such small development.

2. DEVELOPMENT PLANS

No Development, improvement, subdivision, re-subdivision, division, or construction of or on any Building, Lot or parcel of land shall occur without prior submission of a complete application for approval of a Development Plan that complies with **Article 6.B** and approval thereof pursuant to this Chapter if:

- a. the subject land is a Development Parcel (as defined in **Section 6.A.1**, e.g. over 2 acres), Subdivision, Thoroughfare change, or Regulating Plan Amendment); or
- b. a Development Plan is otherwise required under this Chapter.

3. REGULATING PLAN AMENDMENT.

- a. Except as provided in paragraph 3.b below relating to a Regulating Plan Amendment, no Development, improvement, subdivision, re-subdivision or construction shall occur and no Building and Lot Plan or Development Plan may be submitted or approved except pursuant to the Regulating Plan. If any Development, improvement, subdivision, re-subdivision, construction Building and Lot Plan or Development Plan does not comply with the applicable adopted Regulating Plan or standards applicable pursuant to such Regulating Plan, a regulating Plan Amendment must be obtained in accordance with **Article 2.C** hereof for any approval of such Building and Lot Plan or Development Plan

to become effective.

- b. For a Building and Lot Plan needing a Regulating Plan Amendment, a Building and Lot Plan shall be submitted simultaneously with and as a part of an application for a Regulating Plan Amendment by any private party.
 - i. For Regulating Plan Amendments for which a new Character or Special District is proposed, a complete Building and Lot Plan is required.
 - ii. For Regulating Plan Amendments proposing to change the current designated or assigned Character or Special District to another existing Character or Special District, a Conceptual Building and Lot Plan is required.
- c. For a Development Plan needing a Regulating Plan Amendment, and for any Regulating Plan Amendment involving new Thoroughfares or a new Character or Special District or land area of two acres or larger, a Development Plan shall be submitted simultaneously with and as a part of an application for Regulating Plan Amendment.
- d. Nothing herein shall preclude the Town of Yarmouth, (whether acting through its Planning Board, Planning Department, or Town Council), from initiating a Regulating Plan Amendment, for which a Development Plan and/or Building and Lot Plan may be submitted but is not required.

SECTION M. PLAN AND AMENDMENT REVIEW AND ACTION

1. BUILDING & LOT PLANS.

- a. The Planning Board shall review each Building and Lot Plan to determine whether it complies with the Regulating Plan, this Chapter and other applicable Town laws, ordinances and regulations without the necessity of any Waiver or Variance, and if so, shall approve such Building and Lot Plan, or if not, shall not approve the same and shall state the reason(s) therefor in writing.
- b. If a Building and Lot Plan requires or requests a Waiver or Waivers, the Planning Board shall review the Waiver request for determination of whether such Waiver shall be granted.

If such plan complies with the Regulating Plan, this Chapter and other applicable Town laws, ordinances and regulations, and the Planning Board determines the Waiver request shall be granted, the Planning Board shall approve such Plan, or if not, shall not approve the same and shall state the reason(s) therefor in writing.

- c. If a Building and Lot Plan requires or requests a Variance or Variances, such plan shall be submitted to the Planning Board. The Planning Board shall review the same to determine whether the parts thereof that do not require a Variance comply with the Regulating Plan, this Chapter and other applicable Town laws, ordinances and regulations. If so, the Planning Board shall approve such plan subject to such Variance being granted, or if not, shall not approve

the same and shall state the reason(s) in writing.

If so approved by the Planning Board, subject to such Variance being granted, the plan shall then be referred to the General Board of Appeals, with a Planning Board recommendation, for determination of whether such Variance shall be granted.

In review of such Variance, the General Board of Appeals shall not conduct a de novo review of the overall compliance of the plan with this code as determined by the Planning Board, but shall limit its jurisdiction of review to the Variance under consideration. If the Variance request is granted, then such plan is approved. In the event that the General Board of Appeals does not approve such Variance, the Board shall state the reason(s) therefore in writing.

- d. The In reviewing a Building and Lot Plan, the Planning Board or Planning Authority shall follow the procedures spelled out in **Chapter 702 (Site Plan), Article I.F. 1 and 2**, for major and minor development.

2. DEVELOPMENT PLANS NOT REQUIRING REGULATING PLAN AMENDMENT.

- a. Each Development Plan that does not require a Regulating Plan Amendment shall be reviewed by the Planning Authority to determine whether it complies with the Regulating Plan, this Chapter and other applicable Town laws, ordinances and regulations. The Planning Authority shall within 30 days of its receipt of the completed application from the Planning Department submit its findings and recommendations in writing to the Planning Board for their review and approval.

b. If such Development Plan requires a Waiver or Variance, the Planning Authority shall submit its findings and recommendations for Development Plan review and Waiver(s) to the Planning Board, and/or to the General Board of Appeals for Variance(s) for further review and determination pursuant to **Article 1.M.2.c**, below.

c. The Planning Board shall review a Development Plan recommended to it by the Planning Authority pursuant to **Article 1.M.2.a** and shall within 28 days of its receipt of the recommendation make a determination whether such Plan complies with the Regulating Plan, this Chapter, and other applicable Town laws, ordinances, and regulations. If such Development Plan requires a Waiver, the Planning Board shall consider the Waiver request concurrently with its review of the rest of the application. If such Development Plan requires a Variance, the Planning Board shall make its determination with respect to all parts of the application which do not require a Variance.

d. If the Development Plan so complies, and any required Waiver is granted by the Planning Board and/or Variance is granted by the General Board of Appeals, and if the Development Plan otherwise so complies, the Planning Board shall approve the Development Plan. Otherwise, the Planning Board shall reject such Development Plan. The Planning Department shall notify the applicant in writing of the Planning Board's action.

e. If the Planning Board rejects the Waiver, or if the General Board of Appeals rejects the Variance, the Planning Board shall reject such Development Plan. The Planning

Department shall notify the applicant in writing of the Planning Board's action and findings in support of such action.

f. Nothing herein shall preclude the Planning Board and applicant from modifying such Development Plan or conditioning approval on modifications to such Plan to reach compliance with the Regulating Plan, this Chapter and other applicable Town codes, ordinances, and regulations.

3. DEVELOPMENT PLANS AND/OR BUILDING AND LOT PLANS SUBMITTED AS PART OF APPLICATION FOR REGULATING PLAN AMENDMENT.

a. A Development Plan and/or Building and Lot Plan (conceptual or Complete as per **Article 1.L.3.b** above) that is submitted as part of an application for Regulating Plan Amendment shall be reviewed by the Planning Authority to assess for its report and recommendation to the Planning Board whether such Regulating Plan Amendment is consistent with the goals and policies of the Yarmouth Comprehensive Plan, and if the Development Plan and/or Building and Lot Plan will, if such Regulating Plan Amendment is approved, comply with the Regulating Plan, as so amended, this Chapter and other applicable Town laws,

b. The Planning Board shall review a proposed Regulating Plan Amendment along with its associated Development Plan and/or Building and Lot Plan pursuant to **Article 1.M.3.a**, above, and shall, at the next available public hearing but not less than three weeks after its receipt of the Planning Authority report and recommendation, make a determination as to the consistency of the proposed

Regulating Plan Amendment with the Yarmouth Comprehensive Plan and whether such Development Plan and/or Building and Lot Plan will, if such Regulating Plan Amendment is approved, comply with the Regulating Plan, as so amended, this Chapter, and other applicable Town codes, ordinances, and regulations.

- c. If such Development Plan and/or Building and Lot Plan requires a Waiver, the Planning Board shall consider the Waiver request concurrently with its review of the rest of the application. If such Development Plan and/or Building and Lot Plan will so comply and is deemed to be consistent with the Yarmouth Comprehensive Plan, and any required Waiver is granted by the Planning Board, the Planning Board shall, approve, or in the case of preliminary plans, grant preliminary approval of such Development Plan and/or Building and Lot Plan conditioned on the Town Council approval of the Regulating Plan Amendment. In cases where such conditional approval is granted and the Planning Board has made a finding of consistency with the Yarmouth Comprehensive Plan, the Planning Board shall recommend to the Town Council that the Regulating Plan Amendment be approved.
- d. If such Development Plan will not so comply, and/or that the Waiver request, if any, is rejected, the Planning Board shall not approve the Development Plan and/or Building and Lot Plan. In such cases, or if the Planning Board otherwise determines that the proposed Regulating Plan Amendment is not consistent with this Chapter and the Yarmouth Comprehensive Plan, the Planning Board shall recommend

to the Town Council that the Regulating Plan Amendment not be approved. Nothing herein shall preclude the applicant and the Planning Board from extending the review time frames or adding a workshop or preliminary review, by mutual agreement between the parties.

- e. Upon receipt of the Planning Board's recommendation regarding a Development Plan and/or Building and Lot Plan and proposed Regulating Plan Amendment pursuant to **Article 1.M.3.a or 1.M.3.b**, the Town Council shall review, consider and take action on the related Regulating Plan Amendment pursuant to **Article 2.C** hereof.
- f. If the Town Council approves the Regulating Plan Amendment, then the Planning Board approval of such Development Plan and/or Building and Lot Plan and associated Waiver(s), if any, becomes effective upon the effective date of such Regulating Plan Amendment. If the applicant has submitted a Conceptual Building and Lot Plan in support of the Regulating Plan Amendment (as per **Article 1.L.3.b** above), or has otherwise received only a preliminary plan approval, a Complete Building and Lot Plan shall be submitted for review and approval as provided for in **Section M.1**, above.

SECTION N. WAIVERS & VARIANCES

1. WAIVERS.

The Town Council has adopted this Chapter as a character-based development code intended to facilitate contextually-based planning and development of walkable, mixed-use, human-scaled places of character. It is the intent of

this Chapter to allow, through Waivers, greater flexibility in planning and implementing development than might be allowed under a traditional, “Euclidean” zoning code. It is also the intent of this Chapter to review individual development proposals in light of the overall Regulating Plan for the entire Character-Based Zoning District, incorporating concepts similar to cluster zoning. Accordingly, this Chapter hereby authorizes the Planning Board to allow waivers from the provisions of this Chapter for a Building and Lot Plan or a Development Plan, if the Planning Board determines that:

- a. Allowance of the Waiver is consistent with the purposes and intent of this Chapter as set forth in **Article 1, Section B**; and
- b. The Waiver does not exceed 35% of any limit established by a metric standard, provided that:
 - i. The applicant can demonstrate to the satisfaction of the Planning Board that the need for a Waiver arises from a legal or practical necessity for unique conditions applicable to the lot, use, or proposed Building and Lot Plan such as security, privacy, operational, health or safety exigencies, legal requirements, or historic preservation concerns; and
 - ii. This Waiver limitation of 35% shall not apply to any parking standard or metric; and
 - iii. The applicant shall provide data and documentation of compelling and convincing evidence of substantial need for the Waiver, which shall not be granted merely for the convenience or preference of the applicant; and
 - iv. The resulting Waiver, if granted, shall

be of the least adjustment reasonably necessary to satisfy the practical, programmatic or functional needs of the proposed Development; and

- v. The applicant has instituted plan features to mitigate the visual impacts of the Waiver; and
- vi. The Waiver does not significantly compromise, subvert, or undermine the intent of this Chapter; and
- vii. The applicant addresses the specific Waiver criteria, if and as applicable, for the categories of Waivers for which such criteria are provided in **Article I.N.1.c**, below.

c. Specific Topic Waiver Criteria:

- i. **Parking:** The Planning Board may grant a Waiver of maximum or minimum parking requirements if the following Waiver standards are met. Notwithstanding paragraph N.1.b above, such parking Waiver may exceed 35% of the applicable parking requirement up to a maximum of 75%, if:
 - a) A parking analysis is provided that demonstrates the projected parking demand for the proposed Development using accepted professional methods that document the need for the lesser or greater amount of parking.
 - b) A parking management plan is provided that considers such factors as site constraints, provisions for shared parking, available on street parking, alternative modes

of commuting (bicycle, walking, rideshare), and/or access to transit in support of the requested Waiver.

ii. **Frontage Buildout (Table 5.F.2) and Phased Development Option:**

Where a phased development project is proposed, or where the lot dimensions relative to the Development program make compliance impracticable, the Frontage Buildout requirements of Tables 5.2.F may be modified by the Planning Board provided that:

- a) The Building(s) are designed and located such that the long side of the Building(s) are sited along the street frontage to the maximum length practicable for the Building program/use; and
- b) Building(s) drives and other site features are sited to enable and accommodate future Building additions or additional Buildings to be constructed along the street frontage so as to ultimately meet the required Frontage Buildout; and
- c) The Development employs architectural features such as Streetscreens, breezeways, pergolas, or other devices to create a strong vertical front built Element to achieve the visual effect of a Building form that achieves the required Frontage Buildout.

iii. **Façade Glazing:** Where Shopfront private frontage type (Table 5.H.2) façade glazing requirements apply to commercial first floor uses, the percent glazing may be reduced as per **Section N.1.b** above for the following uses:

- a) Uses that are not retail business or service establishments; or
- b) Financial service establishments.

d.. Allowance of a Waiver under this subsection is considered an integral part of the application of this Character Based Development Code and is not considered the granting of a Variance, as that term is defined under Maine law. An applicant for any Waiver or Waivers shall submit a comprehensive request with supporting documentation for any and all Waivers requested for a given property or Development in a single application process. No Waiver shall be granted that would constitute a violation of Shoreland, Stream Protection, or Resource Protection (Nonconformance) and, as applicable, **Article IV, Section R(5)** (non-conformance in the Shoreland Overlay District) of the Zoning Ordinance of the Town of Yarmouth.

Waivers granted under this section are particular to the circumstance of each Lot, Building or Structure applicable to review, do not establish nor rely upon precedence, and are available only when the Planning Board determines it advances the purposes of this Chapter.

2. VARIANCES.

Any variation required or requested for a Building & Lot Plan or a Development Plan and not available by Waiver as described under Subsection 1 above is allowable only if approved by the General Board of Appeals as a Variance under Chapter 701, Article VII, Section B(2)(c) of the Zoning Ordinance of the Town of

Yarmouth, except that no Variance is allowed for a variation for which a Waiver request under Section 1.N.1 has been denied by the Planning Board.

SECTION O. APPEALS

A final decision of the Planning Authority on an application for a minor Building and Lot Plan may be appealed to the Planning Board in like manner as provided for minor site plans under **Chapter 702, Site Plan, Article I.F.3.**

A final decision of the Planning Board on an application for a Development Plan may be appealed to the Superior Court pursuant to Maine Rule of Civil Procedure 80B.

SECTION P. VIOLATIONS

This Chapter incorporates, in full, the provisions of Chapter 701 Article VI (Administration and Enforcement) of the Zoning Ordinance of the Town. As used therein, the term “this Ordinance” includes this Chapter.

SECTION Q. NON-CONFORMING USES, LOTS, BUILDINGS, STRUCTURES & IMPROVEMENTS

1. GENERAL.

This Chapter incorporates, in full, the provisions of **Chapter 701 Article III** (Nonconformance) and, as applicable, Article IV, Section R(5)

(non-conformance in the Shoreland Overlay District) of the Zoning Ordinance of the Town of Yarmouth.

2. CERTAIN SUBDIVISIONS, DEVELOPMENT, ETC.

- a. Without limitation to **Article 1.1.Q.1.** above and in addition thereto, if the conditions of clauses 2.b below are met, an existing Lot on which there is situated or conducted an existing permitted non-conforming Structure, Improvement, or use (in each case, the “Existing Parcel”), may be subdivided in such a manner that creates:
 - i. one Lot consisting of the portion of the Existing Parcel on which the permitted non-conforming Structure, Improvement or use and associated Parking Area are situated or conducted becomes a separate Lot (the “Non-Conformity-Bearing Lot”), and
 - ii. one or more Lots consisting together of the remaining portion of the Existing Parcel (the “Remainder Lots”); and
 - iii. the Remainder Lots may be developed or redeveloped.
- b. The following are the conditions which must be satisfied to be eligible under Section 2.a:
 - i. the Remainder Lots, and all development, redevelopment, Structures, Improvements, Buildings and uses thereof must conform to all standards and requirements of this Chapter and Chapter 601 [Subdivision]; and
 - ii. the Non-Conformity-Bearing Lot and

all Structures and Improvements thereon must meet all Building and Lot standards and requirements of **Chapter 703 Article 5** other than the Building Placement, Private Frontage Type, Lot Occupation and Yard Type.

- c. The effect of the subdivision, development or redevelopment pursuant to and as described in **Article 1.Q.2.a & 1.Q.2.b**, above, shall be as follows:

- i. the Non-Conformity-Bearing Lot shall thereafter constitute a permitted non-conforming Lot and the permitted non-conforming status of the Structure, Improvement or use of or on the Non-Conformity-Bearing Lot shall continue notwithstanding such subdivision, development or redevelopment; and
- ii. the permitted non-conforming status of any Structure, Improvement or Use on the Remainder Lots, and of the Remainder Lots themselves, shall cease.

thereon must meet all Building and Lot standards and requirements of **Chapter 703 Article 5** other than Building Placement, Lot Occupation, Private Frontage Type, and Yard Type. Such development shall, however, meet those provisions to the extent practicable, such as by placing additions to existing Buildings or Structures that exceed maximum setbacks as close to the maximum setback as possible given the functional requirements of the property.

3. NONCONFORMING BUILDING OR STRUCTURE ON SMALL LOT

- a. If an existing Lot on which there is situated or conducted an existing permitted non-conforming Building or Structure, Improvement, or Use (in each case, the “Existing Parcel”) which Lot is too small to avail the subdivision process described in **Section Q.2** above due to the non-feasibility of the creation of a second developable Lot, as determined by the Planning Authority or the Planning Board, then all Buildings, Structures and Improvements

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ARTICLE 2 — REGULATING PLAN

SECTION A. GENERAL

1. ROUTE 1 CORRIDOR & VILLAGE REGULATING PLAN.

The initial Route 1 Corridor Regulating Plan was adopted on May 16, 2013. An expanded Regulating Plan, including amendments to the initial Route 1 Corridor Character District was adopted on [Date of Enactment].

2. CONTENTS OF REGULATING PLAN.

The Regulating Plan and each amendment thereto shall reflect the Character Districts, Thoroughfares, Special Requirements, and Special Districts of the area covered thereby. The Route 1 Corridor and Village Regulating Plan is shown on **Map 2.A (Regulating Plan)**.

SECTION B. COMPLIANCE

Except for non-conformances allowed pursuant to Article 1, all Development, land, construction, Structures, Buildings and Lots within the Route 1 Corridor and the Village, and all submissions required or permitted under this Chapter must comply with this Chapter.

SECTION C. REGULATING PLAN AMENDMENT

1. WHEN REGULATING PLAN AMENDMENT NECESSARY.

If a Building or Lot Plan, Development Plan or Development, Improvement, subdivision, re-subdivision or construction does not comply with the applicable Regulating Plan or applicable standards hereof, but which the applicant believes to be consistent with

Yarmouth's Comprehensive Plan, it may be the subject of an application for a Regulating Plan Amendment. Such Regulating Plan Amendment must be obtained as a condition to submission or approval of any Building or Lot Plan, Development Plan, or commencement of a Development, improvement, subdivision, re-subdivision, or construction of or on any Building, Lot, or other parcel of land.

2. APPLICATION FOR REGULATING PLAN AMENDMENT

The Regulating Plan may not be amended except pursuant to an application for Regulating Plan Amendment.

3. PREPARATION AND REQUIREMENTS

An application for Regulating Plan Amendment shall be prepared in accordance with **Article 2.D** below and shall conform to the requirements of **Article 2.E** and other provisions hereof.

4. PLAN SUBMISSION

An application for a Regulating Plan Amendment shall be submitted and processed in accordance with **Article 1.K and 1.L**.

5. ACTION ON PLAN

Any application for Regulating Plan Amendment shall be processed and be subject to submission, consideration and recommendation to the Town Council and approval by the Town Council as a zoning map amendment under Town Municipal Code **Chapter 701, Article IV.U**, subject, however, to the provisions of this **Article 2.C**.

SECTION D. PREPARATION

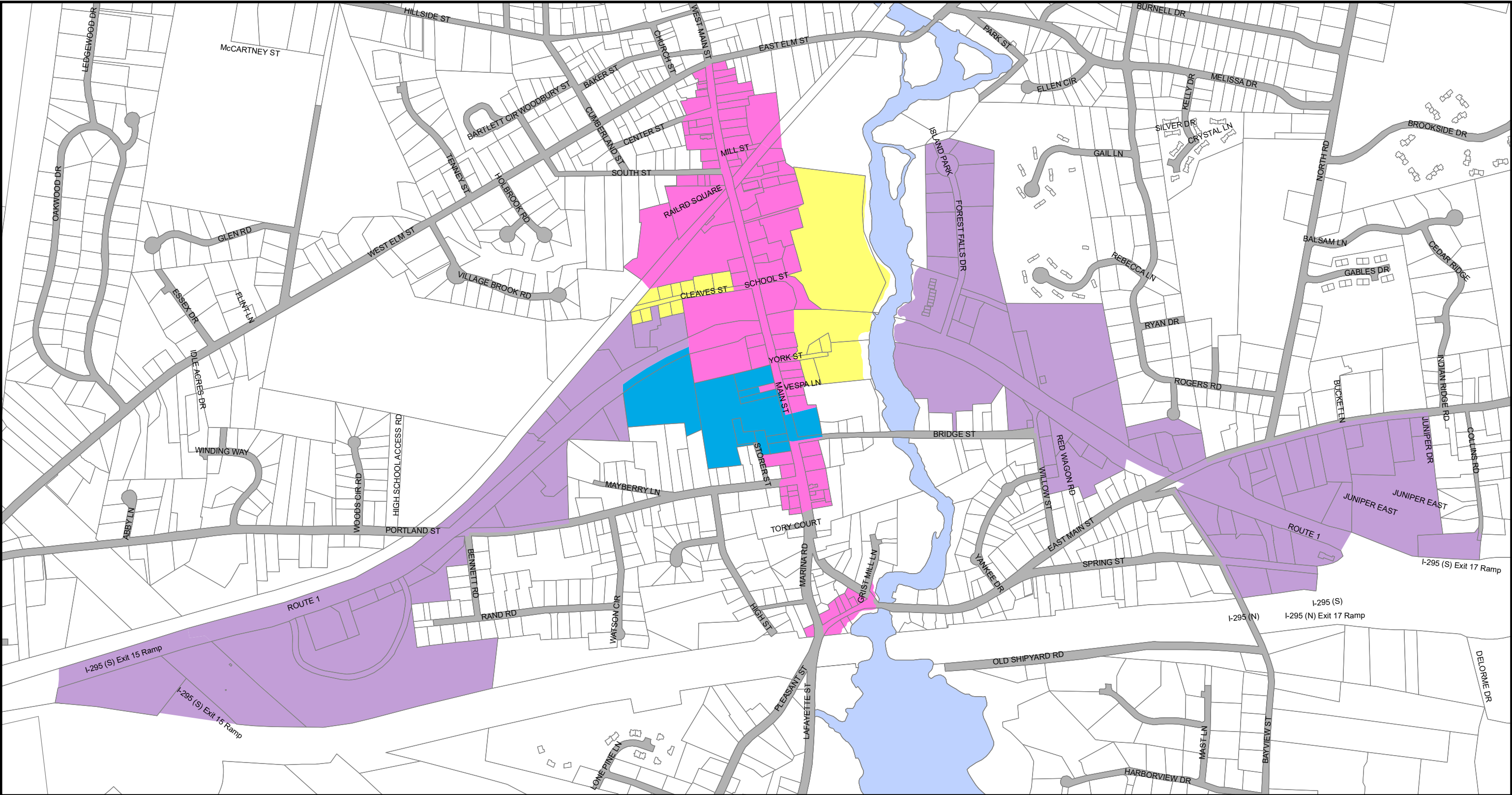
Unless prepared by the Town Planning Department in connection with a proposed Regulating Plan Amendment initiated by the Town, each application for a Regulating Plan Amendment required to be submitted under this Chapter shall be prepared and submitted by or on behalf of the Owner of the applicable property.

SECTION E. APPLICATION REQUIREMENTS

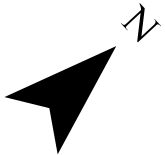
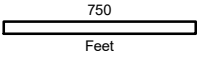
Each application for a Regulating Plan Amendment submitted under this Chapter shall include as a part thereof in addition to all other application requirements for zoning map amendments under Town **Chapter 701, Article IV.U**, with respect to the affected property and all adjacent property, all existing and proposed Character Districts, Thoroughfares, Special Requirements and Special Districts, and a Development Plan that complies with **Article 6**.

SECTION F. SPECIAL REQUIREMENTS

A Regulating Plan amendment may be subject to any of the Special Requirements listed in **Article 6 Section I**.



Revision Date:
April 2018
Map created by
Spatial Alternatives



Regulating Plan Yarmouth, ME

Council Draft Character Based Code

- Village Center (CD4)
- Route 1 Corridor (CD4-C)
- North Yarmouth Academy (SD1)
- Medium Density Residential (MDR)



ARTICLE 3— CHARACTER DISTRICTS

SECTION A. GENERAL

1. GENERAL.

- a. This Article applies to Character Districts with the respective requirements applicable to each. Development, land, improvements, construction, subdivision, resubdivision, Structures, Buildings and Lots within each Character District, as applicable, shall include the respective elements and shall comply with the respective requirements applicable to each.
- b. A Character District is one of several areas on the Regulating Plan, to which certain development, lot and Building standards are applied, including, without limitation, Thoroughfare Standards, Building Form, Building and Lot Use, Parking Standards, Yard Types, Density Standards, Building Type Standards, Frontage Standards,

Architectural Standards, Landscape Standards and Signage Standards to result in all property within a particular Character District having an intended and consistent character.

2. CHARACTER DISTRICT DESCRIPTIONS.

Within the area subject to the Regulating Plan, there are two (2) Character Districts, as follows:

- a. Character District CD4 (Village Center) is described generally on **Table 3.A (Character District Descriptions)**;
- b. Character District CD4-C (Route One Corridor) is described generally on **Table 3.A (Character District Descriptions)**;

SECTION B. DESIGNATION OF CHARACTER DISTRICTS

Character Districts shall be designated and

mapped on the Regulating Plan and on each proposed Regulating Plan Amendment and Development Plan.

SECTION C. ELEMENTS AND STANDARDS

Development, land, Structures, Buildings and Lots within each Character District shall include the elements indicated for such Character District throughout this Chapter and shall comply with the applicable Character District general description and intent thereof as described in and reflected by **Table 3.A (Character District Descriptions)** and the standards applicable to such Character District set forth in **Tables 5.F.2A-5.F.2C (Character District Standards)** and elsewhere in this Chapter.

TABLE 3.A CHARACTER DISTRICT DESCRIPTIONS

CD4 Village Center



CD4 Village Center. This District consists of a medium Density area that has a historic mix of Building Types and Residential, Retail, office and other commercial uses; there are shallow or no front Setbacks and narrow to medium side Setbacks; it has variable private landscaping; and it has Streets with Curbs, Sidewalks, and street trees that define small to medium Blocks.

TABLE 3.A CHARACTER DISTRICT DESCRIPTIONS (CONTINUED)

CD4-C Route 1 Corridor



CD4-C Route One Corridor. This District consists of a medium- to-high density development with a mix of Building Types and Commercial, Retail and residential uses; it accommodates pedestrian, bicycle, and vehicular activity; there are shallow or no front Setbacks and shallow or no side Setbacks; it has variable private landscaping; and it has Streets with Curbs, Bikeways, Sidewalks and street trees that define medium to large Blocks.

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ARTICLE 4 — SPECIAL DISTRICTS

SECTION A. GENERAL

1. DEFINITION.

A Special District is an area which, due to its intrinsic size, Building and Lot Use, Building Placement, Yard Type, Building Elements, Building Form, Building Type or other elements cannot not conform to one or more of the applicable Character Districts or standards therefor specified in this Chapter.

2. APPLICABILITY.

This Article 4 applies to Special Districts to the extent provided herein. Development, land, improvements, construction, subdivision, re-subdivision, Structures, Buildings and Lots within each Special District shall include the elements and shall comply with the standards approved for such Special District.

Any property in SD1 that is divested by North Yarmouth Academy or designated for

permanent use for other than NYA related purposes may be considered for Regulating Plan Amendment to the adjacent or other appropriate district as set forth in **Article 2.C.**

SECTION B. DESIGNATION OF SPECIAL DISTRICTS

Any Special Districts shall be designated and mapped on the Regulating Plan and shall be depicted on each proposed Regulating Plan Amendment and Development Plan.

SECTION C. ELEMENTS AND STANDARDS

Each Special District shall be provided standards for Thoroughfares, Building Placement, Building and Lot Use, Parking Standards, Density Standards, Frontages, Architecture, Landscaping and Signage, and any other elements as shall be developed in consultation with the Planning Department and

approved by the Town Council pursuant to the approval of such Special District.

Unless already so included, the standards for each Special District shall upon approval by the Town Council be set forth in this Chapter and **Table 4.C (Special District Standards)**.

SECTION D. SPECIAL DISTRICTS

1. GENERAL.

There is one (1) Special District in the Regulating Plan, as follows:

NYA Campus Special District SD1: This Special District is for educational institutions in a traditional historic campus setting, with Frontages along public Thoroughfares being consistent with the Adjacent Character District and other boundaries Adjacent to Character Districts being buffered.

2. SPECIAL DISTRICT STANDARDS.

The following standards shall be applicable to all Special Districts:

- a. Development within a Special District shall comply with this **Article 4.D, Articles 5.N, 5.O, 6.D.5, 6.G.3, and 6.G.5**, and the standards and requirements of **Table 4.C (Special District Standards)**.
- b. Except as expressly provided in this Article 4.D, no other setbacks, buffer or screening requirements are provided for in this Chapter.
- c. The following shall be applicable to all Buildings and Lots in the NYA Campus Special District (SD1):
 - i. Lots and Buildings on Lots Adjacent to any Character District shall follow, to the extent practical, the Building Placement, Building Form, Architectural, Landscaping, Yard Type, Building Type, Private Frontage, Public Frontage, Setback, and Lot Occupation standards of such adjacent District. If Adjacent to more than one Character District, the less restrictive standards shall apply.
 - ii. Except for such Adjacent Character District Standards, Development within the NYA Campus Special District shall otherwise comply with all standards and requirements applicable to such Special District, the applicable Building and Lot Principal Use standards of **Table 5.J.1 (Building & Lot Principal Use)**.

All points of Adjacency of such Special District with any public Thoroughfare shall include a minimum 6 foot wide sidewalk.
 - iii. Any part of a Lot Adjacent to a Thoroughfare shall be considered a Frontage. With respect to Lots Adjacent to more than one Thoroughfare, the Principal Frontage shall be indicated by the Applicant in the Special District Plan and all other Frontages of such Lot shall be considered Secondary Frontages.
 - iv. A Lot may contain any number of Principal Buildings and any number of Outbuildings. Outbuildings shall be located in the Third Lot Layer or 20 feet from any external property boundary.
 - v. All non-Building components shall

be located in the Second Lot Layer or Third Lot Layer, or 20 feet from any external property boundary, including but not limited to outdoor bleachers and ball fields, and shall be screened from the Frontage of any public Thoroughfare by Building, Streetscreen, decorative fence, or landscape screen.

- vi. All loading and storage for Buildings shall be located along a side Elevation or at the rear Elevation. When located along a side Elevation, loading and storage areas shall be located in the Third Lot Layer and screened from the Frontage of any public Thoroughfare by a Building, Streetscreen, decorative fence, or landscape screen.
- vii. Parking for Buildings and Lots shall be provided in accordance with **Tables 5.K.1 and 5.K.2 (Parking Requirements and Shared Parking Factor)** as if the NYA Campus Special District were in Character District CD4-C.
- viii. Parking Lots and Parking Areas shall be landscaped and designed in accordance with **Article 5.N.1.gg**.
- ix. Access Driveways shall be 24 feet maximum width at the Frontage and through the depth of the First Lot Layer.
- x. Parking shall be located in the Second and/or Third Lot Layers.
- xi. The Uses allowed within the NYA Campus Special District shall be the Principal Uses set forth in **Table 5.J.1 (Building & Lot Principal Use)**.

TABLE 4.C SPECIAL DISTRICT STANDARDS

SD1	
ALLOCATION OF DISTRICTS	n/a
BASE RESIDENTIAL DENSITY	n/a
BLOCK SIZE	n/a
BLOCK PERIMETER	n/a
THOROUGHFARES	
Lane	allowed
Road	allowed
Village Street	allowed
Main Street	not allowed
Mixed Use Street	allowed
Avenue	not allowed
Alley	allowed
CIVIC SPACES	
Park	allowed
Green	allowed
Square	allowed
Plaza	allowed
Playground	allowed
LOT OCCUPATION	
Lot Width	n/a
Lot Coverage	n/a
Lot Size	n/a
SETBACKS	
Front Setback	n/a
Side Setback	n/a
Rear Setback	n/a
BUILDING DISPOSITION	
Edgeyard	n/a
Sideyard	n/a
Rearyard	n/a
YARD TYPES	n/a
BUILDING FORM	n/a
BUILDING USE	See Table 5.J.1, Building & Lot Principal Use
Building Height*	35 ft*
* Height measured per Chapter 701 “Building Height”. Height for Civic Buildings may be up to 55’ if authorized by the Town Council.	
NOTE: ADDITIONAL SPECIAL DISTRICT STANDARDS AND REQUIREMENTS ARE SET FORTH ELSEWHERE WITHIN THIS CHAPTER	



ARTICLE 5 —

BUILDING AND LOT PLANS & STANDARDS

SECTION A. GENERAL

This Article applies to all Buildings and Lots located or proposed within the Character-Based Zoning District, except as otherwise provided in **Article 1.Q**.

SECTION B. BUILDING & LOT PLANS

1. PLAN REQUIRED.

Except for non-conformances allowed pursuant to **Article 1.Q**, no Building shall be constructed, or Substantially Modified, and no Lot shall be developed, subdivided, or re-subdivided, except in compliance with this

Article and the Regulating Plan and pursuant to a Building and Lot Plan that has been prepared, submitted and approved in accordance with this Article and all standards and requirements applicable thereto.

2. PREPARATION AND REQUIREMENTS.

Each Building and Lot Plan shall be prepared in accordance with **Article 5.C** below and shall conform to the requirements of **Article 5.D** and other provisions hereof.

3. PLAN SUBMISSION.

Each Building and Lot Plan shall be submitted to the Consolidated Review Committee for review and action in accordance with **Article 1.L**.

4. PLAN APPROVAL.

Action shall be taken on each application for approval of Building and Lot Plan in accordance with **Article 1.M.1** hereof.

SECTION C. PREPARATION

Each Building and Lot Plan required under this Article shall be prepared and submitted by or on behalf of the Owner of the applicable property.

SECTION D. PLAN REQUIREMENTS

Each Building and Lot Plan submitted under this Article shall:

1. COMPLIANCE.

Comply with any applicable Development Plan, the applicable Regulating Plan, and all standards and requirements of this Chapter as applicable to the Character District or Special District in which the land covered by such Building and Lot Plan is situated; and

2. CONTENTS.

Show the following, in compliance with the standards and requirements of the Regulating Plan and this Chapter as applicable to the Character District or Special District in which the land covered by such Building and Lot Plan is situated:

- a. Building Placement, including without limitation Setbacks and Lot Layers

- b. Yard Type
- c. Building Form
- d. Building and Lot Use
- e. Building Type
- f. Loading, Service, and Waste Receptacle Locations
- g. Parking, meeting the requirements of **Article 5.K**
- h. Architectural drawings meeting the requirements of standards of **Article 5.M**
- i. Landscaping meeting the standards of **Article 5.N and 6.E.2.c and d**
- j. Signage meeting the standards of **Article 5.O**
- k. Any applicable Open Space preservation and/or Special Requirements and features from **Article 6.H and 6.I.**
- l. Lighting and photometric plan meeting the standards of **Article 5.P**, showing the lighting fixtures proposed to illuminate all Buildings, roadways, service areas, landscaping, parking areas, and pedestrian areas.
- m. Evidence of Ownership
- n. Estimated project cost

3. PLANS.

The information required shall be depicted on plans of suitable scale acceptable to the Planning Department, (e.g. 20 to 50 feet to the inch) no larger than 24 x 36 inches, and shall be based on and accompanied by a standard boundary survey as described in **Chapter 702 Article I.G.**

SECTION E. CIVIC BUILDINGS AND LOTS

1. DEFINITIONS.

- a. Civic Spaces are open areas dedicated for Civic use as defined in Article 7 (Definitions). The Civic Space Types are shown on **Table 6.G (Civic Spaces)**.
- b. Civic Buildings are Buildings operated for Civic purposes as listed in **Table 5.J.1 (Building and Lot Principal Use)** and as defined in **Article 7 (Definitions)**.

2. REQUIREMENTS.

- a. Civic Space shall be designed generally as described in **Table 6.G (Civic Spaces)**, as related to the Character District or Special District within which it falls.

- b. Civic Buildings shall be subject to the requirements of this Article unless and to the extent otherwise determined by the Town Council.

SECTION F. LOTS

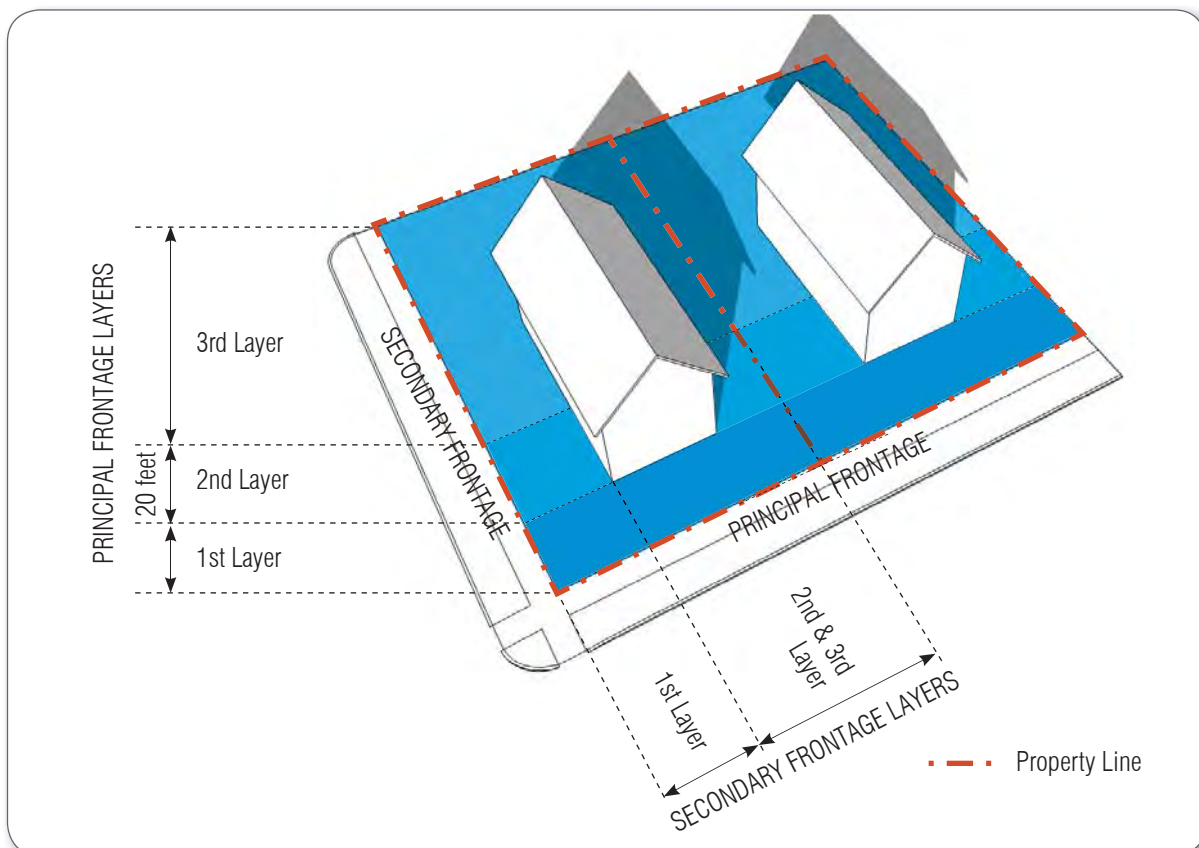
1. LOT LAYERS.

Lots are composed of three Lot Layers, the First Lot Layer, the Second Lot Layer and the Third Lot Layer, as shown in **Illustration 5.F.1 (Lot Layers)** and as defined in Article 7 (Definitions).

2. LOT DIMENSIONS.

Newly platted Lots and Buildings:

ILLUSTRATION 5.F.1 LOT LAYERS



- a. within each Character District shall be dimensioned and placed according to **Tables 5.F.2A-5.F.2C (Character District Standards)**; and
- b. within each Special District shall be dimensioned and placed as set forth or referenced in any applicable standards of **Table 4.C (Special District Standards)**.

3. LOT COVERAGE.

- a. Lot Coverage within each Character District shall not exceed the applicable standards in **Tables 5.F.2A-5.F.2C (Character District Standards)**;
- b. Lot Coverage within each Special District shall not exceed any applicable standard set forth or referenced in **Table 4.C (Special District Standards)**.

4. LOT ENFRONTMENT.

Each Lot shall Enfront a vehicular Thoroughfare; provided that up to 20% of the Lots within a Development Plan site may Enfront a Path or Passage if such Lots have legal and physical vehicular access to a vehicular Thoroughfare via Driveway or other means.

ILLUSTRATION 5.F.2A CHARACTER DISTRICT STANDARDS

VILLAGE CENTER CD4

CD4 Village Center. This District consists of a medium density area centering on Main Street that has a historic mix of Building types and Residential, Retail, Office and other Commercial uses; there are shallow or no front Setbacks and narrow to medium side Setbacks; it has variable private landscaping; and it has streets with Curbs, Sidewalks, and street trees that define small to medium Blocks.

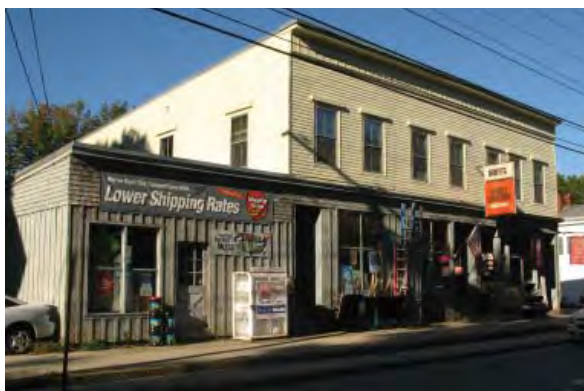
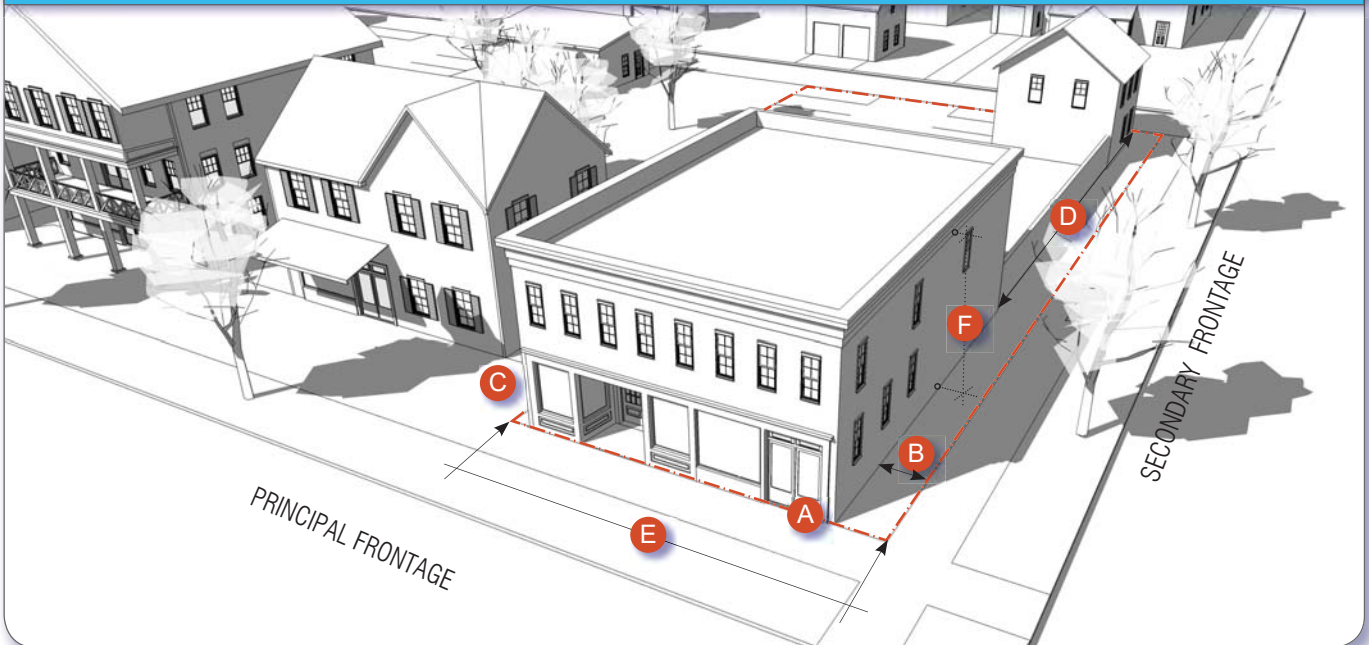


TABLE 5.F.2A CHARACTER DISTRICT STANDARDS
VILLAGE CENTER CD4

CD4 Village Center



KEY - - - Property Line (ROW)

BUILDING PLACEMENT — PRINCIPAL BUILDING

Front Setback, Principal Frontage	0 ft min, 16 ft max	A
Front Setback, Secondary Frontage	2 ft min, 12 ft max	B
Side	0 ft min	C
Rear Setback	greater of 3 ft min or 15 ft from center line of alley, if any or from any abutting residential zone	D

YARD TYPES

(see **Table 5.G.1**)

Edgeyard	permitted
Sideyard	permitted
Rearyard	permitted

BUILDING & LOT PRINCIPAL USE

See **Table 5.J.1**

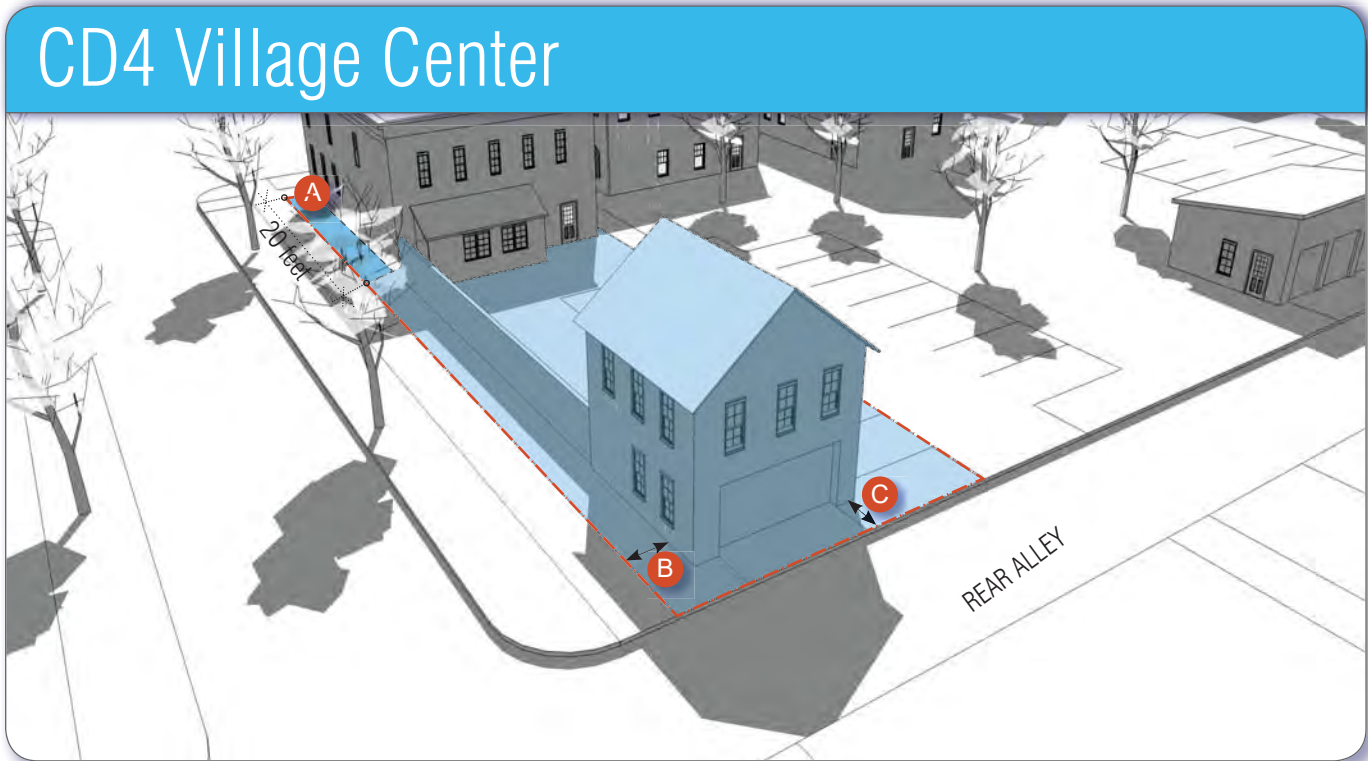
LOT OCCUPATION

Lot Width	18 ft min, 120 ft max	E
Lot Coverage	85% max	
Frontage Buildout	40% min, 100% max at front setback	

BUILDING FORM — PRINCIPAL BUILDING

Building Height	3 stories and 35' max	F
First Story Height	10 ft min, 25 ft max	
Upper Story Height	10 ft min, 15 ft max	
Facade Glazing	20% min - 70% max non-shopfront, 70% min shopfront	
Roof Type	flat, hip, gambrel, gable, mansard	
Roof Pitch, if any	8:12 - 14:12	

TABLE 5.F.2A CHARACTER DISTRICT STANDARDS
VILLAGE CENTER CD4



KEY - - - - Property Line (ROW) ■ First Lot Layer ■ Second Lot Layer ■ Third Lot Layer

BUILDING PLACEMENT — OUTBUILDING

Front Setback	Principal Bldg setback + 20 ft min	A
Side Setback	0 ft min	B
Rear Setback	3 ft min	C

PARKING

LOCATION	
Third Lot Layer	Principal Bldg setback + 20 ft
REQUIRED SPACES / QUANTITY OF USE ^z	
Residential Uses	See Table 5.K.1
Retail Uses	See Table 5.K.1
Office Uses	See Table 5.K.1
Lodging Uses	See Table 5.K.1
Civic and Other Uses	See Table 5.K.1

Subject to adjustment for Shared Parking (see **Table 5.K.2**).

PRIVATE FRONTAGES & ENCROACHMENTS

PRIVATE FRONTAGE TYPES (see Table 5.H.2)	
Common Yard	permitted
Porch	permitted
Forecourt	permitted
Stoop	permitted
Shopfront	permitted
ENCROACHMENT OF BUILDING ELEMENTS	
Enclosed landings, stairs, stoops, bays, ramps and similar projections may encroach upon the indicated setbacks by the following distances.	
Front Setback, Principal Frontage	8 ft max
Front Setback, Secondary Frontage	8 ft max
Rear Setback	5 ft max

TABLE 5.F.2A CHARACTER DISTRICT STANDARDS
VILLAGE CENTER **CD4**

BUILDING TYPES

Cottage	permitted
House	permitted
Duplex	permitted
Apartment	permitted
Rowhouse	permitted
Live/Work	permitted
Small Commercial	permitted
Flex Building	not permitted

ILLUSTRATION 5.F.2B CHARACTER DISTRICT STANDARDS

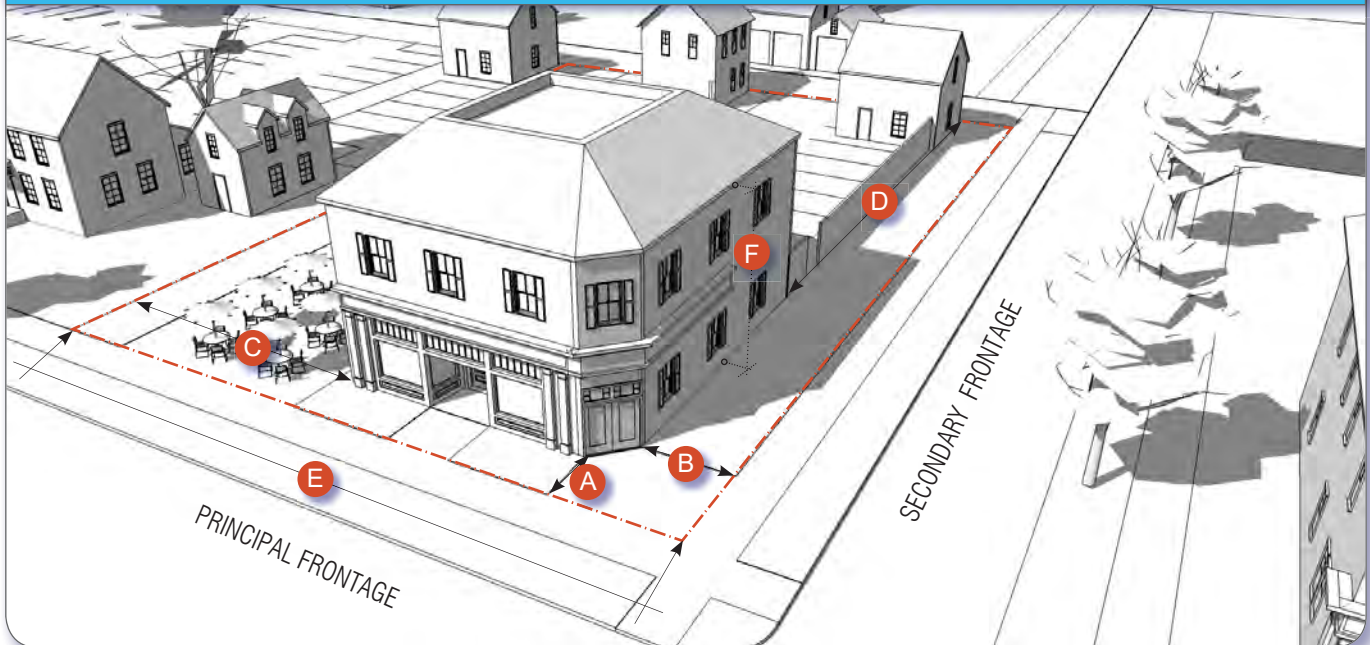
ROUTE ONE CORRIDOR CD4-C

CD4-C Route One Corridor. This District consists of a medium- to -high density development node with a mix of Building types and residential, retail, and other commercial uses; it accommodates for pedestrian, bicycle, and vehicular activity; there are shallow or no front Setbacks and shallow or no side Setbacks; it has variable private landscaping; and it has Streets with curbs, bikeways, sidewalks and street trees that define medium to large blocks.



TABLE 5.F.2B CHARACTER DISTRICT STANDARDS
ROUTE ONE CORRIDOR CD4-C

CD4 Route One Corridor



KEY - - - - - Property Line (ROW)

BUILDING PLACEMENT — PRINCIPAL BUILDING

Front Setback, Principal Frontage	0 ft min, 15 ft max	A
Front Setback, Secondary Frontage	2 ft min, 12 ft max	B
Side Setback	0 ft min	C
Rear Setback	greater of 3 ft min or 15 ft from center line of alley or from abutting residential zone	D

YARD TYPES

(see **Table 5.G.1**)

Edgeyard	permitted
Sideyard	permitted
Rearyard	permitted

LOT OCCUPATION

Lot Width	18 ft min, 200 ft max	E
Lot Coverage	85% max	
Frontage Buildout	50% min	

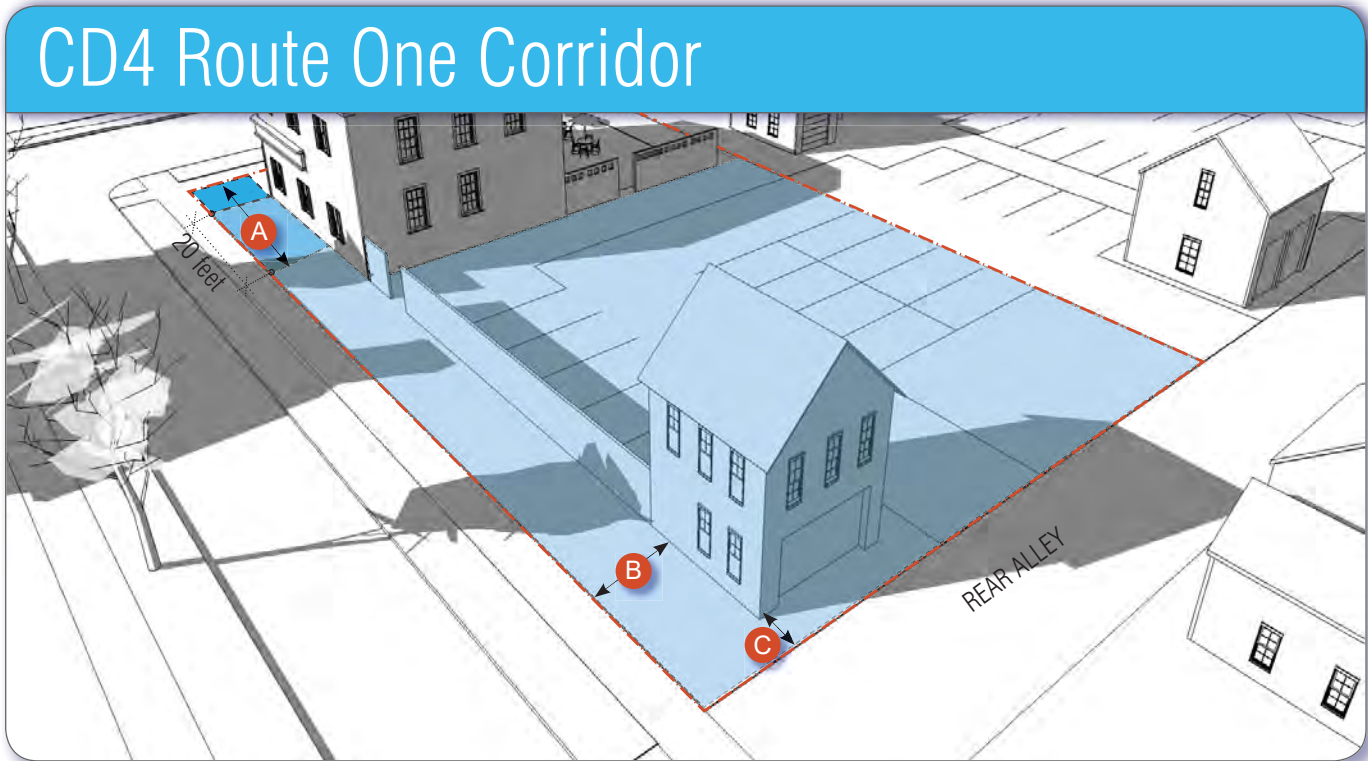
BUILDING FORM — PRINCIPAL BUILDING

Building Height	3 stories and 35' max	F
First Story Height	10 ft min, 25 ft max	
Upper Story Height	10 ft min, 15 ft max	
Facade Glazing	20% min - 70% max non-shopfront, 70% min shopfront	
Roof Type	flat, hip, gable, gambrel, mansard	
Roof Pitch, if any	8:12 - 14:12	

BUILDING & LOT PRINCIPAL USE

See **Table 5.J.1**

TABLE 5.F.2B CHARACTER DISTRICT STANDARDS
ROUTE ONE CORRIDOR CD4-C



KEY - - - - Property Line (ROW) ■ First Lot Layer ■ Second Lot Layer ■ Third Lot Layer

BUILDING PLACEMENT — OUTBUILDING

Front Setback	Principal Bldg setback + 20 ft min	A
Side Setback	5 ft min	B
Rear Setback	3 ft min	C

PARKING

LOCATION	
Third Lot Layer	Principal Bldg setback + 20 ft
REQUIRED SPACES / QUANTITY OF USE ^Z	
Residential Uses	n/a
Retail Uses	See Table 5.K.1
Office Uses	See Table 5.K.1
Lodging Uses	See Table 5.K.1
Civic and Other Uses	See Table 5.K.1

^Z Subject to adjustment for Shared Parking (see **Table 5.K.2**).

PRIVATE FRONTAGES & ENCROACHMENTS

PRIVATE FRONTAGE TYPES (see Table 5.H.2)	
Common Yard	permitted
Porch	permitted
Forecourt	permitted
Stoop	permitted
Shopfront	permitted
ENCROACHMENT OF BUILDING ELEMENTS	
Enclosed landings, stairs, stoops, bays, ramps and similar projections may encroach upon the indicated setbacks by the following distances.	
Front Setback, Principal Frontage	10 ft max
Front Setback, Secondary Frontage	10 ft max
Rear Setback	5 ft max

TABLE 5.F.2B CHARACTER DISTRICT STANDARDS
ROUTE ONE CORRIDOR **CD4-C**

BUILDING TYPES

Cottage	permitted
House	permitted
Duplex	permitted
Apartment	permitted
Rowhouse	permitted
Live/Work	permitted
Small Commercial	permitted
Flex Building	permitted

SECTION G. BUILDING PLACEMENT & YARD TYPES

1. BUILDING PLACEMENT.

Buildings shall be located in relation to the boundaries of their Lots:

- a. within each Character District according to **Tables 5.F.2A-5.F.2C (Character District Standards)**; and
- b. within each Special District, according to any applicable standards set forth on **Table 4.C (Special District Standards)**.

2. YARD TYPES.

Buildings and Lots shall conform to the Yard Type standards:

- a. within each Character District, as set forth on **Table 5.G.1 (Yard Types)**; and
- b. within each Special District, as set specified in any applicable Yard Type standards set forth or referenced in **Table 4.C (Special District Standards)**.

3. PRINCIPAL BUILDING.

Within each Character District:

- a. the Principal Building shall be oriented toward and situated generally at the Frontage, as illustrated generally in **Illustration 5.G.2 (Principal Building/Backbuilding/Outbuilding)**, or oriented toward and situated generally at a Path, Passage or waterbody to the extent allowed in **Article 5.F.4**.

4. BACKBUILDING / OUTBUILDING.

Within each Character District, one Backbuilding and one Outbuilding may be built on each Lot to the rear of the Principal Building, as illustrated generally in **Illustration 5.G.2 (Principal Building/Backbuilding/Outbuilding)**.

5. BUILDING FACADES.

- a. Within each Character District, Building Facades shall be built:
 - i. if Adjacent to a Thoroughfare, parallel to a rectilinear Frontage Line or to the tangent of a curved Principal Frontage Line, or
 - ii. to the extent that Buildings and Lots are allowed to Enfront a Path, Passage or waterbody by **Article 5.F.4**, parallel to a rectilinear front Lot Line or to the tangent of a curved front Lot Line Adjacent to such Path, Passage or waterbody.
- b. In each Character District, the Façade of the Principal Building shall be built along the minimum percentage of the front Lot Line width at the Setback, as specified as Frontage Buildout on **Tables 5.F.2A – 5.F.2C (Character District Standards)**. A Streetscreen may be substituted for a Façade for up to 20% of the applicable Frontage Buildout requirement.

6. BUILDING SETBACKS.

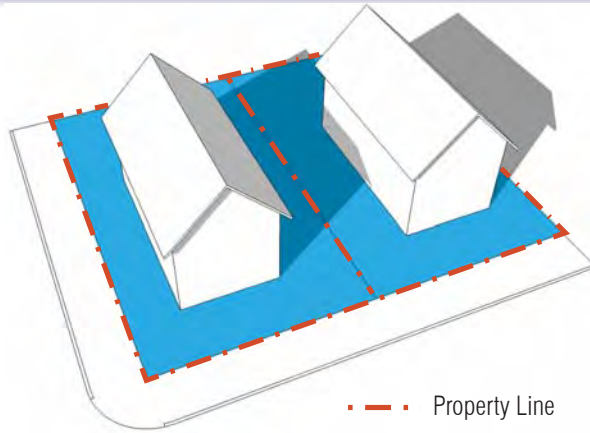
- a. Within Character District CD4-C, Setbacks for Buildings shall be as shown in **Tables 5.F.2A – 5.F.2C (Character District Standards)**. See **Illustration 5.G.3 (Setback Designations)**.
- b. Within each Special District, Setbacks for Buildings shall comply with any applicable

TABLE 5.G.1 YARD TYPES

Edgeyard

CD4

CD4-C

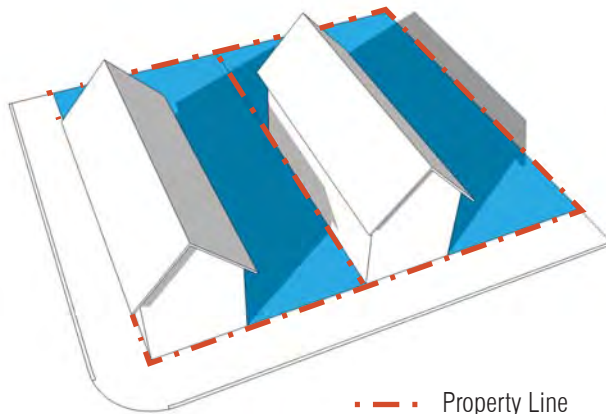


Specific Types - cottage, house, apartment, small commercial Building, flex Building. A Building that is set back from the frontage and at the rear, and is separated from other Buildings on both sides. Such Building may be built at or set back from the Frontage line. The front yard is intended to be visually continuous with the yards of adjacent Buildings. The rear yard can be secured for privacy by fences and a well- placed Backbuilding and/or Outbuilding.

Sideyard

CD4

CD4-C

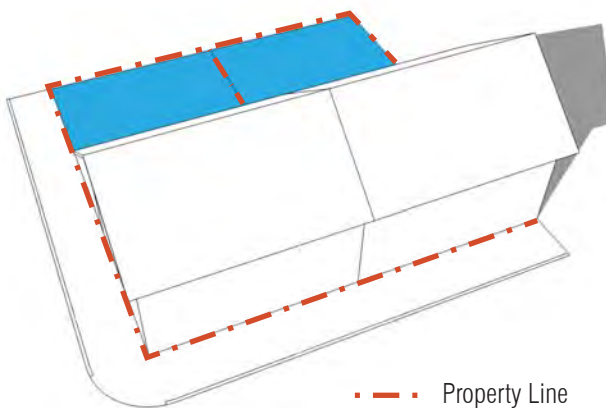


Specific Types - single house, duplex, zero lot line house, and commercial. A Building that occupies one side of the Lot with a Setback to the other side. A shallow Frontage Setback defines a more urban condition. If the Adjacent Building is similar with a blank side wall, the yard can be quite private. A Sideyard House may be a neighboring Sideyard House.

Rearyard

CD4

CD4-C



Specific Types - Rowhouse, Live-Work unit, shopfront, apartment, Flex Building. A Building that occupies the full Frontage, leaving the rear of the Lot as the sole yard. This is a very urban type as the continuous Facade steadily defines the public Thoroughfare. The rear Elevations may be articulated for functional purposes. In its Residential form, this type is the Rowhouse. For its Commercial form, the rear yard can accommodate substantial parking.

standards set forth or referenced in **Table 4.C (Special District Standards)**.

- c. To accommodate slopes over ten percent, relief from front Setback requirements may be granted by Waiver.

ILLUSTRATION 5.G.2 PRINCIPAL BUILDING/BACKBUILDING/OUTBUILDING

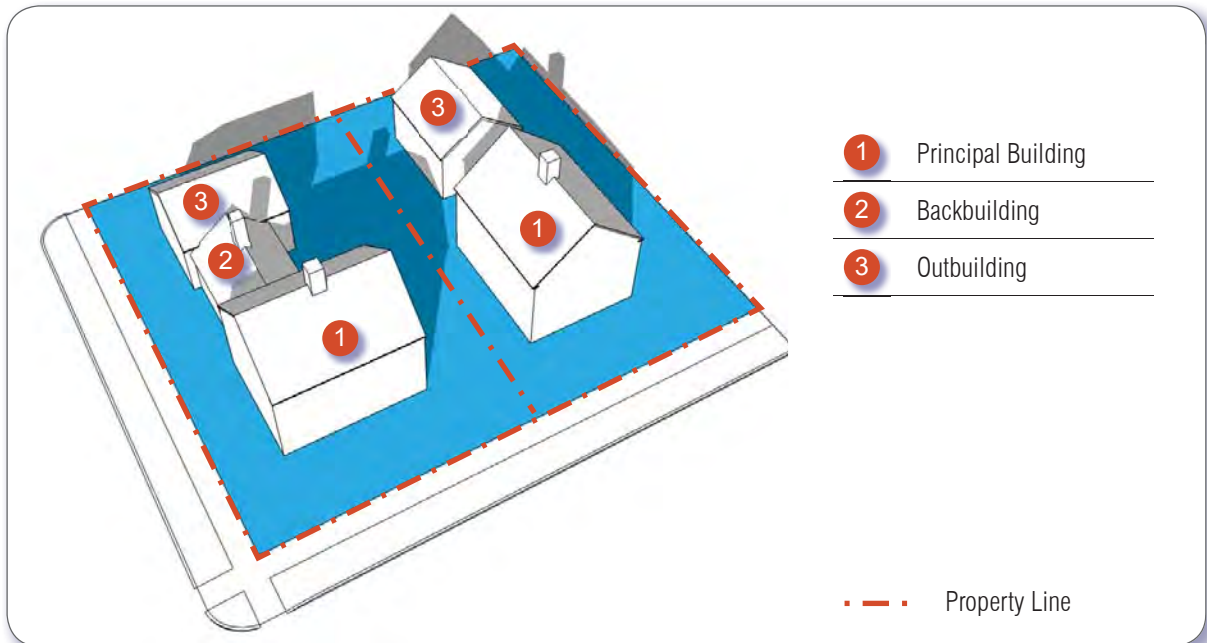
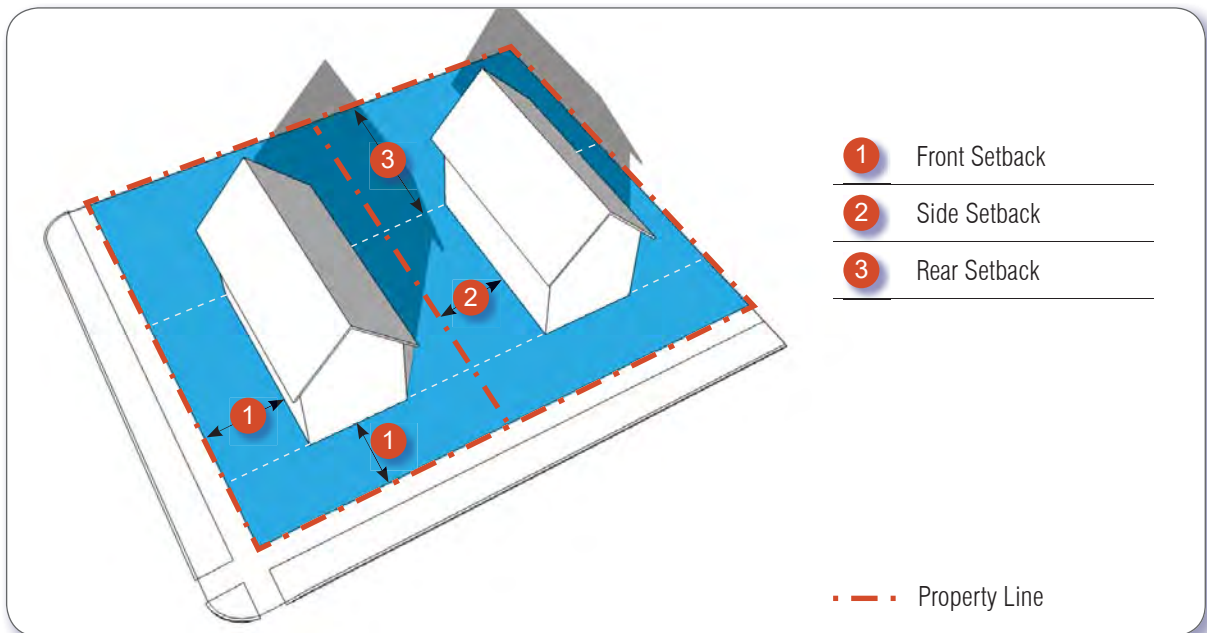


ILLUSTRATION 5.G.3 SETBACK DESIGNATIONS



SECTION H. BUILDING FORM & BUILDING TYPE

1. PRIVATE FRONTAGE - GENERAL.

The Private Frontage of Buildings:

- a. within each Character District shall conform to and be allocated in accordance with **Table 5.H.2 (Private Frontage Types)** and **Tables 5.F.2A-5.F.2C (Character District Standards)**; and
- b. within each Special District shall conform to and be allocated in accordance with any applicable standards set forth on or referenced in **Table 4.C (Special District Standards)**.

2. PRIVATE FRONTAGE ON CORNER LOTS.

Buildings on Corner Lots shall have two Private Frontages, a Principal Frontage and a Secondary Frontage, as illustrated generally in **Illustration 5.H.1 (Frontage & Lot Lines)**. Prescriptions for the Second Lot Layer and Third Lot Layer of Corner Lots pertain only to the Principal Frontage. Prescriptions for the First Lot Layer of Corner Lots pertain to both Frontages. See **Illustration 5.F.1 (Lot Layers)**.

3. BUILDING & STORY HEIGHT.

- a. Building and story heights within each Character District shall conform to **Tables 5.F.2A-5.F.2C (Character District Standards)**.
- b. Building Heights within each Special District shall conform to any applicable standards set forth or referenced in **Table 4.C (Special District Standards)**.

- c. In calculating height, Mezzanines extending beyond 33% of the floor area below shall be counted as an additional Story.
- d. In calculating height of a Parking Structure or Garage, each above-ground level counts as a single Story regardless of its relationship to habitable Stories.
- e. In calculating the height of a Building, none of the following shall be considered: masts, belfries, cupolas, clock towers, chimney flues, water tanks, or elevator bulkheads.

4. ROOF TYPE & PITCH.

Building roof type and pitch within each Character District shall conform to **Tables 5.F.2A-5.F.2C (Character District Standards)**.

5. FAÇADE GLAZING.

Window glazing of Building Facades within each Character District shall conform to **Tables 5.F.2A-5.F.2C (Character District Standards)**.

6. HABITABLE AREA OF ACCESSORY DWELLING UNIT.

The habitable area of an Accessory Dwelling Unit within a Principal Building, Backbuilding or Outbuilding shall not exceed 900 square feet.

7. STREETSCREENS.

Any Streetscreen shall be built co-planar with the Façade and shall be between 3.5 and 6 feet in height. Streetscreens shall have continuity of form for their entire length.

8. BUILDING TYPE.

Buildings in each Character District shall be of one or more of the Building Types specified for such Character District in **Table 5.H.3 (Building Types)**.

ILLUSTRATION 5.H.1 FRONTAGE AND LOT LINES

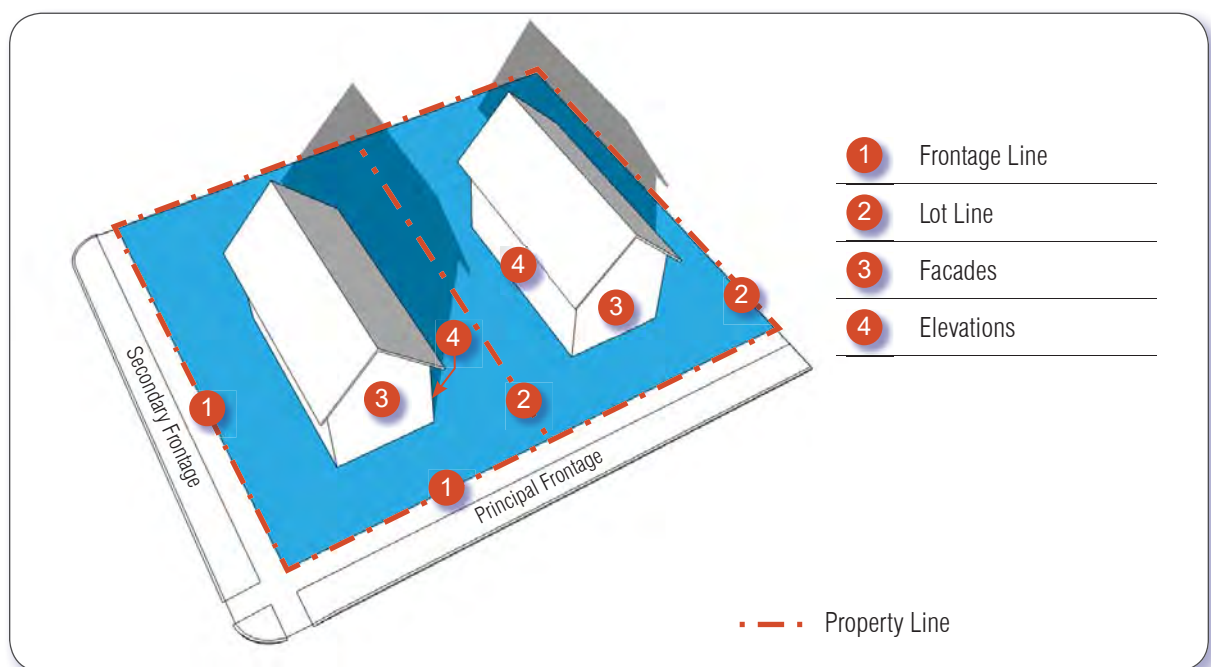
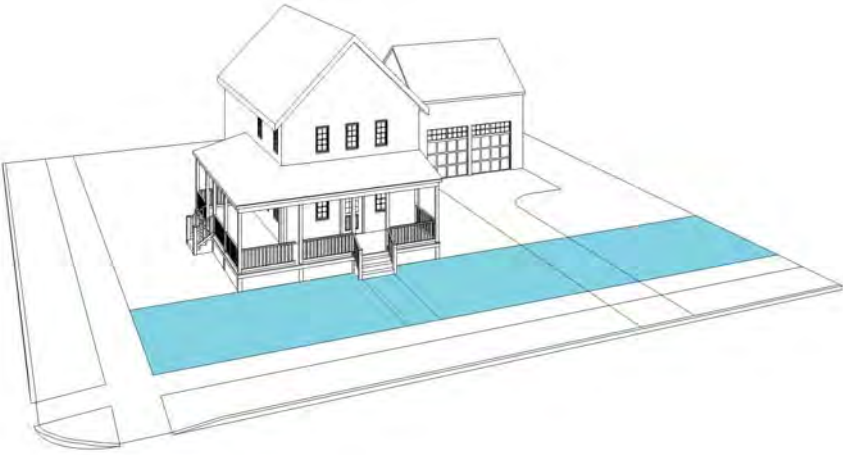


TABLE 5.H.2 PRIVATE FRONTAGE TYPES

Common Yard

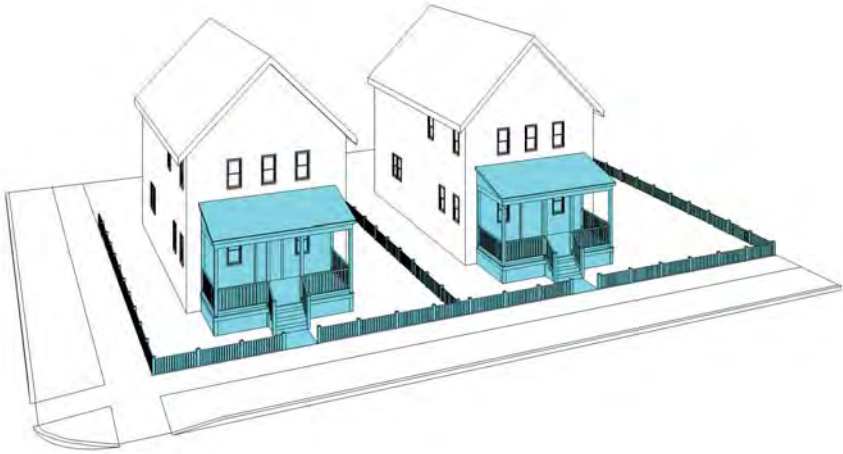
CD4CD4-C

A perspective line drawing of a two-story house with a front porch. The house is set back from a street. A large, rectangular area in front of the house is shaded in light blue, representing a common yard. The yard is unfenced and extends to the street line. The house has a gabled roof and a small garage on the right side.

A planted Frontage wherein the Facade is set back substantially from the Frontage Line. The front yard created remains unfenced and is visually continuous with adjacent yards, supporting a common landscape. The deep Setback provides a buffer from the higher speed Thoroughfares.

Porch

CD4CD4-C

A perspective line drawing of two adjacent two-story houses. Each house has a front porch. The porches are shaded in light blue. A dark blue fence runs along the front of the porches, separating them from the street. The houses are set back from the street.

A planted Frontage wherein the Facade is set back from the Frontage Line with an attached porch or stoop permitted to Encroach. This may be used with or without a fence to maintain street spatial definition. Porches shall be no less than 8 feet deep.

TABLE 5.H.2 PRIVATE FRONTAGE TYPES (CONTINUED)

Stoop

CD4

CD4-C



A Frontage wherein the Facade is aligned close to the Frontage Line with the first Story elevated from the Sidewalk sufficiently to secure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground-floor Residential use.

Forecourt

CD4

CD4-C



A Frontage wherein a portion of the Facade is close to the Frontage Line and the central portion is set back. The Forecourt created is suitable for vehicular drop-offs. This type should be allocated in conjunction with other Frontage types. Large trees within the Forecourts may overhang the Sidewalks.

TABLE 5.H.2 PRIVATE FRONTAGE TYPES (CONTINUED)


Shopfront	CD4	CD4-C
		<p>A Frontage wherein the Facade is aligned close to the Frontage Line with the Building entrance at Sidewalk grade. This type is conventional for Retail use. It has a substantial glazing on the Sidewalk level and may have an awning that may overlap the Sidewalk to within 2 feet of the Curb. Syn: Retail Frontage.</p>

TABLE 5.H.3 BUILDING TYPES

Cottage

CD4

CD4-C

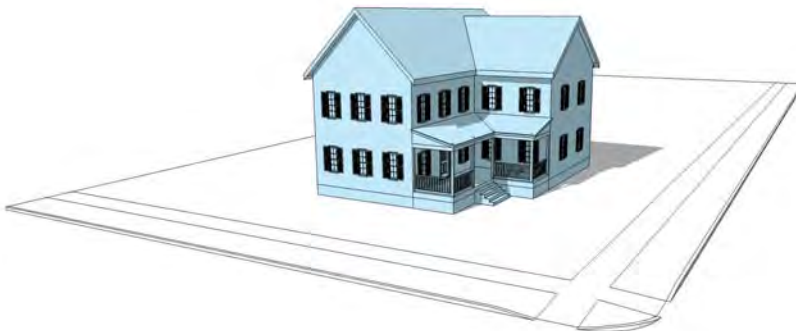


Cottage: a Building having an Edgelyard yard type, initially intended as a single-family dwelling, usually on a small Lot that may be shared with an Accessory Building in the back yard.

House

CD4

CD4-C

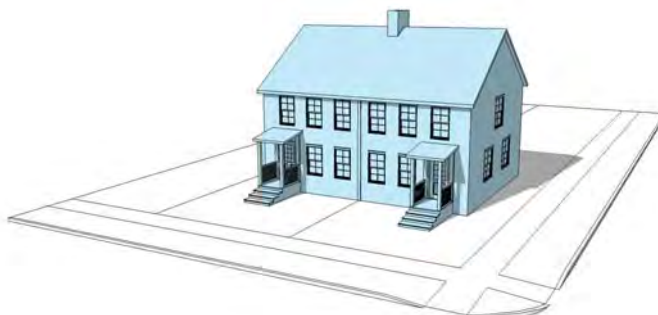


House: Building having an Edgelyard yard type, initially intended as a single-family dwelling on a medium to large Lot, often shared with an Accessory Building in the back yard.

Duplex

CD4

CD4-C



Duplex: a Building that occupies one side of the Lot with the Setback to the other side, initially intended as a single-family dwelling, usually on a small Lot that may be shared with an Accessory Building in the back yard.

TABLE 5.H.3 BUILDING TYPES (CONTINUED)

Apartment

CD4

CD4-C



Apartment: a Building with an Edgeyard yard or Rear yard type, initially intended for a Residential Principal Use, may be for rent, or for sale as a condominium.

Rowhouse

CD4

CD4-C



Rowhouse: a Building Type having a Rearyard Yard Type, initially intended for single-family dwelling, that shares a party wall with another of the same type and occupies the full Frontage Line. See Rearyard Building. (Syn: Townhouse).

Live / Work

CD4

CD4-C



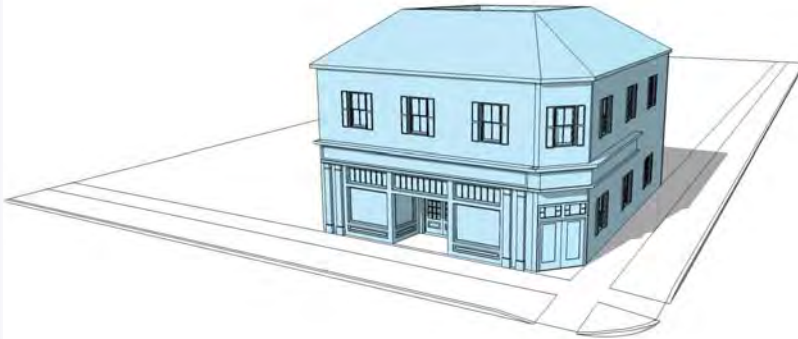
Live-Work: a Mixed Use unit designed to accommodate commercial use and a Residential use. The commercial function may be anywhere in the unit. (Syn.: flexhouse.)

TABLE 5.H.3 BUILDING TYPES (CONTINUED)

Small Commercial Building

CD4

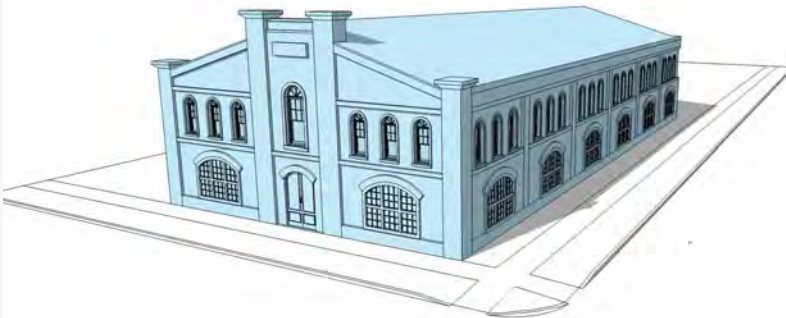
CD4-C



Small Commercial Building: a Building having a Shopfront at the ground floor that may be used for Retail, Office, Medical, Commercial, Artisanal Light Industrial, Workshop, Service, Personal Service, Civic, Education, or other permitted functions. The floors above may be used for a Residential Principal function or for any other permitted function.

Flex

CD4-C



Flex Building: a medium to large sized Building having a ground floor that may be used for Retail, Service, or other functions permitted in the applicable Character District. The floors above may be used for Service, Office, Residential uses; or it may be a single-use Building, typically Retail, , or Service, where ground floor retail is not appropriate.

SECTION I. ENCROACHMENTS

Encroachments of Building Elements shall be allowed within each Character District as set forth in **Tables 5.F.2A-5.F.2C (Character District Standards)**.

SECTION J. USES

1. PRINCIPAL USES.

- a. Buildings and Lots in each Character District shall conform to the Principal Uses on **Table 5.J.1 (Building and Lot Principal Use)**, for such Character District. Multiple Principal Uses may exist within a Building or Lot.
- b. Buildings and Lots in each Special District shall conform to any applicable Principal Uses specified or referenced in **Table 5.J.1 (Building & Lot Principal Use)**.

2. ACCESSORY USES.

Buildings and Lots may contain or accommodate one or more Accessory Uses, as defined in **Article 7 (Definitions)**. Home Occupations shall be allowed in any District as per **Chapter 701, Article II.J**.

TABLE 5.J.1 BUILDING & LOT PRINCIPAL USE

Permitted Districts:	CD4	CD4 -C	SD1
RESIDENTIAL			
Single Detached Dwelling	Y	Y	Y
Accessory Dwelling Unit	Y	Y	
Attached Dwelling – Duplex	Y	Y	Y
Attached Dwelling - Multi Plex (3-8)	Y	Y	
Attached Dwelling – Multifamily (>8)	Y	Y	
Attached Dwelling – Mixed Use	Y	Y	
Artist Live/Work Space	Y	Y	
LODGING — SPECIAL			
Adult Day Care	Y	Y	
Assisted Living Facilities (See Definition)	Y	Y	
Boarding House	Y	Y	
Convalescent Nursing Home	Y	Y	
Dormitory		Y	Y
Group Home (See Definition)	Y	Y	
LODGING — GENERAL			
Hotel		Y	
Motel		Y	
Inn (6-12 rooms)	Y	Y	
Bed & Breakfast (1-5 rooms)	Y	Y	
Hostel	Y	Y	
OFFICE			
Lab - Large (5,000 sf or larger)		Y	
Lab - Small (Less than 5,000 sf)	Y	Y	
Office – General		Y	
Office - Micro (Less than 3,000 sf)	Y	Y	Y
RETAIL / PERSONAL SERVICES / ARTISAN			
Animal (Small) Boarding / Kennel / Shelter (less than 3,000 sf)		Y	
Animal Hospital / Veterinarian Office	Y	Y	
Auction House		Y	
Bank / Credit Union	Y	Y	
Cinema, maximum 2 screens	Y	Y	
Cinema, greater than 2 screens		Y	
Drive Through - Bank / Credit Union / Pharmacy/Grocery		Y	
Eating/Drinking Establishments - Small (Less than 80 seats) (Excluding Drive Through)	Y	Y	
Eating/Drinking Establishments - Large (> 80 seats) (Excluding Drive Through)		Y	
Gen. Mdse / Retail –Small (Under 4,000 sf)	Y	Y	
Gen. Mdse / Retail – Large (4,000 sf up to 40,000 sf) (May include small equipment rental)		Y	
Y: Permitted by Right * If a use is not permitted by right, it is not permitted			

TABLE 5.J.1 BUILDING & LOT PRINCIPAL USE

Permitted Districts:

CD4

CD4
-C

SD1

RETAIL / PERSONAL SERVICES / ARTISAN (CONT'D)			
Marijuana Retail Establishment, or Social Club			
Personal Services - Small (<4,000 sf)	Y	Y	
Personal Services - Large (>4,000 sf)		Y	
Pet Grooming, no Overnight Boarding	Y	Y	
Printing Shop	Y	Y	
Studio (See Definitions)	Y	Y	
CIVIC **			
Aquarium		Y	
Civic Spaces (See Table 6.G)	Y	Y	Y
Community Center	Y	Y	Y
Conference Center, Under 4,000 sf		Y	Y
Conference Center, Under 2,500 sf	Y		
Funeral Home		Y	
Library	Y	Y	Y
Municipal Uses and Buildings	Y	Y	Y
Museum / Gallery	Y	Y	Y
Nature / Conservation Center	Y	Y	
Parking Structure (Parking Garage) as per Article 5.L.5	Y	Y	Y
Parking Lot - Subject to standards of Article 5.L	Y	Y	Y
Post Office	Y	Y	
Public Transit Facility		Y	
Performing Arts Center/Auditorium	Y	Y	Y
Recreational Facility, Public	Y	Y	Y
Seasonal Outdoor Market/Farmers Market (Max 2 days per week)	Y	Y	
Sports Stadium			Y
Transit Shelter	Y	Y	Y
Worship, Place of	Y	Y	Y
AGRICULTURE			
Commercial Greenhouse/Garden		Y	
Community Garden		Y	Y
Food Pantry, Under 5,000 sf	Y	Y	Y
Food Pantry, 5,000 sf or greater		Y	
VEHICLE / VESSEL			
Automobile Body Shop		Y	
Automobile / Vehicle Service/Parts Suppliers		Y	
Automobile Sales, Rental or Storage – New / Used		Y	
Boat Service / Marine Parts		Y	
Boat Sales / Rentals/ Storage (All Boat Parking Subject to Liner Building as per Parking structures)		Y	
Fuel Service Station		Y	

Y: Permitted by Right

* If a use is not permitted by right, it is not permitted

TABLE 5.J.1 BUILDING & LOT PRINCIPAL USE (CONTINUED)

Permitted Districts:			
	CD4	CD4 -C	SD1
VEHICLE / VESSEL (CONT'D)			
Marina/Boatyard			
Marine Services			
Truck Sales/Services/Rental/RV Rental			
RECREATIONAL			
Recreational Facility – Indoor – Comm'l		Y	
INSTITUTIONAL			
Hospital		Y	
Medical Clinic	Y	Y	
MFG / WHSE			
Bakery – Wholesale		Y	
Brewery, Nano (See Definition)	Y	Y	
Brewery, Small (See Definition)		Y	
Building Material Sales	Y***	Y	
Contractor Yard			
Distribution Center			
Food Processing - Artisanal	Y	Y	
Light Industrial			
Machine Shop		Y	
Manufacturing, Light, Under 10,000 sf		Y	
Warehouse			
Warehouse – Self Storage			
Wholesale Sales			
Winery, Small (See definition)		Y	
Woodworking Shop	Y	Y	
EDUCATION			
Day Care – Small (<7 children)	Y	Y	Y
Day Care – Large (>6 children)	Y	Y	Y
Primary	Y	Y	Y
Secondary	Y	Y	Y
College, University or Trade School		Y	Y
College, University or Trade School, Under 6,000 sf	Y		
OTHER: UTILITIES			
Wireless Communication Facilities (Subject to 701.II.Z)	Y	Y	Y
Public Utilities - CRC may refer to Planning Board	Y	Y	Y
<p>Y: Permitted by Right</p> <p>* If a use is not permitted by right, it is not permitted</p> <p>*** In existence as of April 12, 2018</p>			

SECTION K. PARKING CALCULATIONS

1. PARKING REQUIREMENTS.

- a. Actual Parking on a Lot shall be determined based on the quantity of Principal Use(s) of the Lot and the number of spaces of Actual Parking required to be attributable to the Lot, as determined pursuant to **Article 5.K.2** by **Table 5.K.1 (Parking Requirements)**.
- b. The number of spaces of Actual Parking attributable to a Lot shall not be greater or less than the number of spaces of parking determined by **Table 5.K.1 (Parking Requirements)**, unless modified pursuant to **Article 5.K.5, (Parking Adjustment) below**, based on the quantity of Principal Use(s) of the Lot.

TABLE 5.K.1 PARKING REQUIREMENTS

PRINCIPAL USE	Parking maximum and minimum range:
Residential	1 per dwelling unit Min; 2 Max.
Lodging	1 per 2 bedrooms Min; 1 per bedroom Max
Office	2 per 1,000 sf, Min; 4 per 1,000 sf Max
Retail	2 per 1,000 sf Min; 4 per 1,000 sf Max
Restaurants	1 per 4 seats Min; 1 per 2.5 seats Max
Other	3 per 1,000 sf or as per use Parking Analysis

- c. Parking spaces closest to the primary entrance shall be reserved for the requisite number of handicap spaces.
- d. Up to 10% of spaces in close proximity to the primary entrance may be signed to give preference to reduced mobility individuals.

- e. For every 30 parking spaces, one electrical vehicle charging station, (level 2 or equivalent or better), shall be provided.
- f. One bicycle rack (capacity for 2 bicycles) shall be provided for every 20 parking spaces or major fraction thereof, or for retail or for commercial use with on-street parking or less than 20 spaces, one bicycle rack per 2,000 sf of floor area for public visitation.

2. ACTUAL PARKING.

For purposes of this **Article 5.K “Actual Parking attributable to a Lot”** shall mean and be calculated as the sum of the following:

- a. all parking spaces within the Lot,
- b. all parking spaces which are Adjacent to a Frontage Line created by an adjoining Thoroughfare, and on the same side of the Thoroughfare as the Lot, and
- c. if elected by the applicant, all parking spaces within a Parking Lot or Parking Structure available by parking agreement or easement which are within the same Block as the Lot or Adjacent to the Block in which the Lot is situated.
- d. Any fractional spaces of Actual Parking shall be rounded down to the nearest whole number.

3. SHARED PARKING FACTOR.

For purposes of this **Article 5.K**, the number of parking spaces of Actual Parking required to be attributable to a Lot pursuant to **Article 5.K.2.b** may be reduced, at the election of the applicant, by dividing the number of spaces of Actual Parking required to be attributable to the

Lot by the applicable Shared Parking Factor.

The applicable Shared Parking Factor is determined under **Table 5.K.2 (Shared Parking Factor)** for any two Principal Uses within the Lot or within the Lot and any other Lot within the same Development Plan or multiple lots under a common development scheme.

TABLE 5.K.2 SHARED PARKING FACTOR

Use	with		Use
RESIDENTIAL			RESIDENTIAL
LODGING			LODGING
OFFICE			OFFICE
RETAIL/ RESTAURANT			RETAIL/ RESTAURANT
	1	1	
	1.1	1.1	
	1	1	
	1.4	1.4	
	1.2	1.2	
	1.7	1.7	
	1.3	1.3	
	1.2	1.2	
	1	1	

4. LINER BUILDINGS.

In determining compliance with **Article 5.K.2**, Liner Buildings less than 30 feet deep and no more than two Stories shall not be counted.

5. PARKING AND TRANSPORTATION MANAGEMENT OPTION.

The permitting authority may adjust parking requirements considering such criteria as site constraints, available off site parking (on- or off-street), alternative modes of commuting (bicycle, walking, rideshare, transit), etc. In such cases, the applicant shall develop a Parking Management Plan or, for larger projects, a Transportation Demand

Management (TDM) Plan. Such management plans provide a framework for shared or episodic parking solutions, and for TDM plans a comprehensive strategy to reduce parking demand through a combination alternative commute arrangements such as ride-sharing, car-sharing, transit, bicycling, walking, etc. A TDM plan shall include a program narrative, designation of a TDM coordinator, a user survey, parking reduction targets, alternative commute strategies and related infrastructure, incentives and inducements, education, and monitoring and reporting. Failure to achieve target parking reductions shall require remedies to revise the program or provide more parking.

**SECTION L.
PARKING, LOADING, DRIVEWAY,
SERVICE, STORAGE, DRIVE-THROUGH &
WASTE RECEPTACLE LOCATIONS AND
STANDARDS**

1. LOCATION; ACCESS

- All Parking Areas and detached Garages located within Lots shall be located in the Second Lot Layer or Third Lot Layer, as applicable to the Character District.
- All loading, storage, service, drive-through, and waste receptacle locations within Lots shall be located in the Third Lot Layer.
- Parking, loading, service, storage, drive-through, and waste receptacle locations shall be accessed by Alleys or Lanes when such are available.
- Access Management:** Parking and

ILLUSTRATION 5.L DRIVE-THROUGH ILLUSTRATIONS

EXAMPLE DRUGSTORE



EXAMPLE BANK



circulation patterns shall be integrated with neighboring properties to the maximum practical extent to reduce curb openings and allow for vehicle and pedestrian circulation between adjacent properties without re-entering the adjacent roadway, and to enable shared parking arrangements.

2. SCREENING.

Drive-throughs, Parking Areas and Parking Lots, loading areas, service areas, storage areas, and waste receptacles shall be screened from the Frontage by a Building or Streetscreen , except at any Driveway. See **Illustration 5.L (Drive-Through Illustration)**. Parking Structures shall be screened from the Frontage by a Liner Building as required by **Article 5.M.7.d**.

3. DRIVEWAY WIDTH.

Driveways at Frontages shall be no wider than 24 feet in the First Lot Layer.

4. PEDESTRIAN EXITS.

Pedestrian exits from all Parking Lots, Garages, and Parking Structures shall be directly to a Frontage Line and not directly into a Building, except for underground parking accommodations.

5. LINER BUILDINGS REQUIRED.

Parking Structures shall have Liner Buildings lining at least the first and second Stories of the Parking Structure from the street view.

SECTION M. ARCHITECTURAL STANDARDS

The Architectural Standards in this **Article 5.M** shall be applicable to Buildings, Lots, Improvements, and Structures. Except as otherwise expressly provided for, such Architectural Standards shall not be applicable to Backbuildings and Outbuildings. The major goal of these architectural standards is to ensure that new development and redevelopment in any Character or Special District is attractive and visually compatible and complementary with the established and traditional historic form, scale, character and architecture of Yarmouth Village with regard to those categories of major architectural elements delineated below: **Composition, Walls, Attachments and Elements, Roofs, Openings Windows and Doors, and Miscellaneous.** These standards are to be administered with discretion to ensure that the overall intent of traditional patterns and historic character is achieved as a whole relative to the neighborhood context, and to

allow adjustments to meet ADA requirements, or other such circumstances.

1. COMPOSITION.

With respect to **composition**, the following Architectural Standards shall be applicable to the composition of Buildings, Improvements and Structures:

- a. **Buildings of three stories** shall be designed to have a defined base, a middle, and top that includes an articulated cornice and roof, appropriate to the Building style, which shall be accomplished by such measures as:
 - i. The **top** shall also include the upper Story.
 - ii. **Base transition line** locations shall depend on the overall height of the Building, with such transition line usually occurring above the first floor.
 - iii. The **design of the base** of a Building, as well as the quality and durability of its materials, shall be emphasized.
 - iv. The **upper transition line** shall occur below the upper floor windows. In many cases, the windows within the top may be square or shorter than those of the floors below.
 - v. **Transition lines** may consist of a continuous, shallow balcony, a short setback, or a slightly articulated trim course.
 - vi. The **transition** may be supported by a change of window rhythm or size and a change in material or color.
 - vii. An **articulated cornice** shall be

provided where the of the Building wall meets the roof.

- b. Greater relative care shall be given to the design and the allocation of expense and **workmanship to Building Facades** than that given to other Elevations that are not readily visible from any street.
- c. **Frontages** of new Buildings shall be harmonious with the Block face on both sides of the Thoroughfare which the Building enfronts.
- d. **Building Facades** shall be highly fenestrated, utilize classic composition and proportions, and composed to avoid a monolithic or monotonous effect, through use of such measures as:
 - i. **Blank walls** are prohibited at Frontages.
 - ii. The **Facades** of Buildings with continuous façades of 60 feet or greater in width shall be provided with an entrance for every 50 feet of Façade where practicable, and shall be designed with projecting or recessed offsets not less than 2 feet deep, and at intervals of not greater than 50 feet.
 - iii. The first floor and all other floors shall have a **coordinated composition**, which will usually be indicated by the alignment of upper floor windows and other features with openings and features of the first floor.
- e. **Principal Buildings** shall have a **Principal Entrance(s)** which shall generally face any Adjacent Thoroughfare. Entryways shall clearly be the main focus of the Façade, and for multifamily, commercial, or mixed use Buildings, shall be directly accessible

to the lobby, common area, and elevator lobby, if provided. Principal Buildings shall generally be placed parallel to the Adjacent Thoroughfare with a constant setback.

- f. **Residential finished floor** level of the first floor shall be 2 feet to 6 feet above Sidewalk or adjacent grade level in the front, but may be on grade in the rear. Residential windows at the sill shall generally be 5 feet min. from the grade of the adjoining Sidewalk. First floors of Buildings with Shopfront Frontages shall be located at Sidewalk grade.

2. WALLS.

With respect to walls of Buildings, Structures and Improvements, the following shall be applicable:

- a. **Material choices** shall be appropriate to the chosen architectural style and shall be authentic, durable, and representative of or visually compatible with the predominant materials in use within the visual vicinity of Yarmouth Village. This may be accomplished by such measures as:
 - i. **Exterior materials** shall be durable and of high quality, with a life expectancy exceeding 25 years.
 - ii. **Building walls and gables** of Principal Buildings shall be natural stone, painted or unpainted brick or painted or opaque stained smooth-cut wood shingle, wood tongue and groove, wood clapboard siding, wood board-and-batten siding or smooth cementitious siding with all exposed surfaces painted. Façade materials or cladding comprising Exterior Insulated

- Finish System (EIFS), (including stucco, Driv-It, or similar products), and vinyl or aluminum siding are generally not allowed on Facades.
- iii. If the **Building walls** of a Principal Building are stone or brick then the Backbuilding or Outbuilding may also be masonry, otherwise all Backbuildings and Outbuildings shall be made of wood or cementitious siding or wood shingles.
 - iv. **Reflective wall materials** are prohibited.
 - v. **Smooth-face concrete block** is prohibited as an exterior material. Split-face block may be used on Elevations not exposed to Thoroughfares.
 - vi. **Brick** shall be of standard dimensions or Roman sized and shall have minimal color variation.
 - vii. **Columns** shall be brick, natural stone, painted synthetic or composite wood, painted or opaque stained wood.
 - viii. **Foundation walls**, retaining walls, piers and pilings shall be block or poured concrete. Exposed block or concrete shall not exceed 12 inches in height or must be finished in native stone, or painted or unpainted brick or other appropriate durable cladding or surface treatment.
- b. **Façade design and composition** shall be representative of or compatible with the character of Buildings in the visual vicinity of Yarmouth Village, through such design measures as the following:
 - i. **Building wall materials** may be combined on each Facade with the heavier below the lighter.
 - ii. **Building walls and gables** of Backbuildings and Outbuildings shall be designed to harmonize with the form, color, and details of their associated primary structure.
 - iii. **Building walls** shall be one color per material used. Paint for masonry applications shall have a flat finish.
 - iv. **Mortar color** value (lightness/darkness) for natural brick or stone shall be in the tan or warm range, not white.
 - v. **Facades** (and both front Facades of a corner Building) of any one Building shall be made of the same materials and similarly detailed.
 - vi. **Columns** shall be proportioned according to the standards set forth in Traditional Construction Patterns by Steve Mouzon.
 - vii. **Intercolumniation** (distance between columns) on the ground floor shall be vertically proportioned.
 - viii. Except for hedge Streetscreens, **Streetscreens** shall be constructed of a material matching any Adjacent Facade.
 - ix. **Columns** shall have capitals and bases, except Doric columns with no base.
 - c. **Construction methods** shall encourage the traditional building methods of

Yarmouth Village, incorporating such practices as the following:

- i. **Board-and-batten siding** shall have “boards” no more than 12 inches in width and “battens” no more than 2 inches in width. Board-and-batten siding shall be installed so there are no visible joints in the underlying board material.
- ii. **Foundation openings** shall be appropriately scaled and sized, shall occur in sufficient quantities, and shall respond to the grade of the lot to allow for drainage and ventilation.
- iii. **No more than three (3) materials** may be used on the Facade of a Building in addition to the basement or undercroft.
- iv. **Stone** shall be native material and laid in local historic patterns. Use of native New England stone is encouraged.
- v. **Brick** shall be laid in a horizontal running bond, common bond, English bond or Flemish bond pattern with raked mortar joints of not greater than 3/8 inch in height. Variations such as soldier course and other articulated brick coursing are allowed.
- vi. **Shingles and siding** shall be 8 inches maximum to the weather. Shingles shall be machine cut with the bottom edges aligned.
- vii. **Arches and piers** shall be natural stone or brick. Piers shall be no less than 12 x 12 inches in plan. Arches shall be no less than 8 inches thick.
- viii. **Posts** shall be painted or opaque

stained wood or painted synthetic or authentic wood no less than 6 x 6 inches.

- ix. **Foundation walls** shall be exposed a minimum of 6 inches and a maximum of 36 inches above grade.
- x. **Surface-applied waterproofing** shall not be visible.
- xi. **Exterior trim** shall be indistinguishable from wood when painted. Trim shall be pine graded better than number 2, fiber-reinforced cementitious trim, or PVCBD-based products.
- xii. All **exposed wood**, except cedar shake shingles, shall be painted or opaque stained.

3. ATTACHMENTS & ELEMENTS.

With respect to attachments and Elements of Buildings, Structures and Improvements:

- a. **Porches** shall be proportional to the scale of the rest of the Building, and should be architecturally harmonious with the Building to which it is attached.
- b. **Porches** shall be designed to address functionality, appearance, and durability standards by such measures as:
 - i. **Porches and posts** shall be made of painted or opaque-stained wood or synthetic composite material (except for cedar or ironwood which may be untreated).
 - ii. **Porch decking** shall be made of painted or opaque-stained wood, (except for cedar or ironwood which

- may be untreated), natural or painted brick, ceramic tile, natural stone or stained concrete faced on three sides with brick or natural stone.
- iii. **Porch railings** should be made of wood or metal. Metal railings shall be painted or rust proof.
 - iv. **Stoops** shall be finished in painted or opaque-stained wood or composite wood (except cedar or ironwood which may be untreated), synthetic composite material, natural stone, or painted or unpainted brick.
 - v. **Porch posts** may be wood or masonry.
 - vi. **Porches** may be enclosed with glass or screens.
 - vii. **Stoops** shall be at least 4 to 6 feet deep.
- c. **Balconies** shall meet character and functionality standards through Building design features that complement the Building by such measures as:
- i. **Balconies** shall be used as a single, continuous element at the location of the upper or lower transition lines or separately as a periodic element of the Facade composition.
 - ii. **Balconies** shall be made of painted or opaque-stained wood or synthetic composite material.
 - iii. **Balconies** shall be visibly supported by brackets or beams and shall be at least 4 feet deep.
 - iv. **Roof Decks**, if visible from any Thoroughfare, shall be recessed from the eave by 3' or 1' from the front plane of the Building.
- d. **Chimneys**, chimney enclosures, and fireplaces shall meet the following character and functionality standards through Building design features that complement the Building by such measures as:
- i. **Chimneys, chimney enclosures and fireplaces**, shall be of masonry, finished with painted or natural brick, or native stone.
 - ii. **Chimneys** shall be a minimum of 16 inches to 20 inches rectangular in plan and consistent with the architectural style and scale of the Building and capped to conceal spark arresters. Vented gas fireplaces or similar appliances shall not be located on Facades, and the firebox shall not extend beyond the plane of the exterior wall, unless incorporated fully within a chimney structure.
 - iii. **Flues** shall be tile or metal left to age naturally or painted black and shall be no taller than required by the Building Code. Flues shall be no taller than required by the Building Code.
 - iv. **Each chimney** shall have a projecting cap.
 - v. **Chimneys** shall extend below the ground as true masonry Structures.
 - vi. **Chimney pots** and expressive chimney cap details are encouraged.
- e. A **satellite dish** or antenna shall be as small as feasible and placed in the least visible location on the property allowing

adequate signal reception

- f. **Decks** shall meet character and functionality standards through built design features that complement the Building by such measures as:
 - i. **Decks** shall be permitted only in rear yards and on roof tops and shall be made of synthetic or composite painted or opaque stained wood, or in the case of roof top decks, stained concrete, concrete pavers, bricks or brick pavers or ceramic tile. They shall not be visible from streets or paths.
 - ii. **Decks and stairs to decks** shall be painted or opaque-stained, with the exception of the “floor” and the treads which may be painted, stained or left unfinished.
- g. **Bay (which may include bow) windows** shall meet character and functionality standards through built design features that complement the Building by such measures as :
 - i. **Bay windows** shall have a full foundation that extends all the way to the ground or be visually supported with brackets or corbels of appropriate size.
 - ii. **Bay windows** shall be a 4 feet deep maximum and shall be three-sided.
 - iii. **Bay windows** shall be built of wood or other material indistinguishable from wood when painted.
- h. **Posts, columns, and balustrades** shall be built of painted or opaque-stained wood or painted synthetic wood.

- i. **Solar shingles, panels and arrays** that complement the Building design and character standards are encouraged.

- j. **Open exterior stairs and fire escapes** above the first floor are discouraged, and are prohibited where visible from any Thoroughfare, except where no reasonable alternative safety egress is available and subject to Planning Board review

- k. **Cupolas** are allowed and may extend above the applicable height limit as defined and provided for in **Article 7**, and must be designed and scaled as integral and appropriate to the building to which it is attached.

4. ROOFS:

- a. With respect to **roofs of Buildings**: Roof composition, functionality, and façade surface material shall meet Building design standards that complement the character of the Building by such measures as:

- i. **Roof materials** shall be in keeping with the architectural character and style of the Principal Building, Backbuilding, Outbuilding, or Structure they cover.
- ii. Principal Buildings, Backbuildings, Outbuildings, and other Buildings and Structures may have **Green Roofs**. Green Roofs shall be considered pervious for purposes of impervious surface calculation except in the Shoreland Overlay District.
- iii. **Flashing** shall be galvanized metal or copper.

- b. **Roof type and roof pitch**, if any, of

- Principal Buildings, Backbuildings, and Outbuildings shall comply with the standards in **Tables 5.F.2A- 5.F.2C (Character District Standards)**. Roof type, rooftop, and pitch shall meet character and functionality standards through Building design features that complement the Building.
- c. **Flat roofs** shall meet Building design standards that complement the character of the Building by such measures as:
 - i. **Flat roofs** are permitted only as provided in **Tables 5.F.2A-5.F.2C (Character District Standards)**. If they are occupiable and accessible from an interior room they shall be edged by a railing or parapet.
 - ii. **Flat roofs** must use white membrane/ high albedo (light or reflective) roofing materials, except where Green Roofs are utilized.
 - d. **Roof penetrations**, other than chimneys, shall be placed so as not to be visible from streets or paths to the extent practicable, and shall be black or match the color of the roof except those made of metal which may be left natural. Natural roof ventilation using linear soffit vents, ridge vents and dormer vents is required. Roof vents such as turbines or power roof ventilators are not permitted unless not readily visible from the Principal Frontage.
 - e. The location and masking of **rooftop machinery and equipment** (other than solar equipment) shall be as consciously designed as any other aspect of the Building. Screening shall be incorporated in a manner consistent with the overall architectural design of the Building.
 - f. Buildings that have **gutters, downspouts or rain chains, splash blocks or downspouts** connected to rain barrels or underground drainage systems or cisterns shall meet character and functionality standards through built design features that complement the Building by such measures as:
 - i. **Gutters, downspouts and projecting drain pipes** shall be made of galvanized steel, wood, or painted aluminum to match the fascia or wall material, or raw copper.
 - ii. **Gutters** are required where eaves extend over adjacent private or public property line(s).
 - iii. **Gutters** shall be square, half-round or ogee in profile.
 - iv. **Downspouts** shall be arranged as an integral part of the Facade composition, and shall generally be placed at the corners of the Building least visible from Frontages.
 - v. **Splash blocks** must be made of concrete, brick or gravel.
 - vi. **Drip edge** is acceptable except at entry points, with suitable ground splash surface treatment.
 - g. **Roof and eave overhangs** shall be appropriate to the style of the Building, usually less than 18 inches.
 - i. **Eaves** shall be continuous, unless overhanging a balcony or porch.
 - ii. **Eaves** should have an overhang that is 12 to 24 inches.
 - iii. **Eaves on Backbuildings,**

Outbuildings and other Structures shall match the eaves of the Principal Building on the Lot if the latter are shallow, or shall be approximately half the depth of the eaves of the Principal Building on the Lot if the latter are deep.

- iv. **Eaves** that encroach into adjacent private properties, subject to easement, shall be a maximum of 2 feet and shall be provided with gutters that must empty within the property of the house for which they are installed.
- v. **Rafter tails**, if exposed, shall not exceed 8 inches height at their ends.
- vi. **Gable ends** shall have historically accurate and appropriately detailed rake and fascia trim.
- vii. The **underside of soffits** and roof overhangs shall be elaborated and well finished.
- viii. **Overlapping or “nested” gables** are prohibited unless the smaller gable is part of a balcony or porch.
- h. **Dormers** shall be roofed with a symmetrical gable, hip, vaulted, eyebrow, or shed roof, shall be placed flush with, or a minimum of 18 inches from, Building side walls. Dormers shall have at least one window. The number of windows in each dormer shall be consistent with the style of the Building to which they are attached.

5. OPENINGS, WINDOWS & DOORS.

The following Architectural Standards shall be applicable to openings, windows and doors of Buildings:

- a. **Material choices** shall be appropriate to the chosen architectural style and shall be authentic, durable, and representative of or visually compatible with the predominant materials in use within the visual vicinity or in the Yarmouth Village area:
 - i. **Residential windows** shall be made of PVC, wood, or aluminum-clad or vinyl clad wood. Storefront windows may include aluminum frames.
 - ii. **Glass** shall complement and enhance the Building façade with design considerations including performance, safety, wind/snow loads, and thermal stress and shall meet the Maine Energy Code.
 - iii. **glass shall be transparent** with a Visual Transmittance (VT) of at least .60.
 - iv. **Shutters**, if provided, shall be made of painted wood or synthetic wood and shall be sized, shaped and proportioned to match the associated openings.
 - v. **Vents in foundation walls** shall be painted cast iron or aluminum grates, pierced natural stone or natural or painted brick.
 - vi. **Principal Entrance Doors** shall generally be stained or painted wood. Insulated metal or fiberglass doors, if allowed, shall have traditional details such as frame and panel below and multiple lights (windows) above.
 - vii. **Utility vents** shall not be located on primary Façades.
- b. **Façade design and composition**, shall

be representative of or compatible with the character of Buildings in the visual vicinity of Yarmouth Village, through such design measures as the following:

- i. All **openings**, including porches, and windows, with the exception of those in Shopfront Frontage, shall be square or vertical in proportion as appropriate to the style of the Building.
- ii. **Operable windows** are required for a majority of the windows on all Facades except for those of Shopfront Frontages.
- iii. All **window design** shall be compatible with the style, materials, color and details of the Building.
- iv. **Windows at Frontages** and through those parts of a Building within the First and Second Lot Layers shall be double-hung, casement or awning windows.
- v. **Windows in Facades** shall be no closer than one foot to the corners of the Building, except Shopfronts.
- vi. **Window panes** throughout a Building shall be uniform in size or proportion, provided that openings may become proportionally smaller on the upper stories.
- vii. **Walls of Buildings along Frontages** shall have windows or doors, or a combination of both, spaced no further apart than 20 feet.
- viii. **First floor walls** shall have at least one window per bay and exposed basement walls shall have at least one small window per elevation

as appropriate for an occupied foundation. .

- ix. **Lintels and sills** on Adjacent windows shall be aligned to create a harmonious Facade.
- x. **Shutters** shall be louvered, planked or paneled and shall be applied to all or none of the typical windows on any given Elevation.
- xi. **Windows** shall be fully articulated with a lintel, face frame and drip mold.
- xii. **Storm windows and screens** shall be integral with the window. If window screens are provided they shall cover the entire operable portion of the window.
- xiii. **Garage doors** are discouraged on primary Facades. If located on the primary Façade, garage doors shall be recessed at least 3 feet from the plane of the Façade.
- xiv. **Building entrances** shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, and other design elements appropriate to the architectural style and details of the Building as a whole.
- xv. **Transoms and sidelights** are encouraged.
- xvi. The **Principal Entrance** of a Building shall generally be located within the primary Façade. Side entry Buildings are allowed provided that the Principal Entrance is expressed at the street Frontage Line.

- xvii. **Openings above the first Story** shall not exceed 50% of the total Building wall area, with each Facade being calculated independently.
- xviii. **Doors that operate as sliders** are prohibited along Frontages.
- c. **Construction methods** shall reflect the traditional building methods of Yarmouth Village, incorporating such practices as the following:
 - i. **Windows** in wood or cementitious sided houses shall have a flat casing, 5/4 inch in depth. Brickmold casing shall be used in masonry walls.
 - ii. **Multiple windows** in the same rough opening shall be separated by a 4 inch min. Mullion.
 - iii. **Muntins** at Frontages, if any, shall be true divided lites or simulated divided lites fixed on the exterior surface with spacer bars to cast a shadow.
 - iv. **Single glass panes** shall be no larger than 20 square feet.
 - v. **Sidelights** shall not exceed 18 inches in width.
 - vi. **Lintels** of stone or pre-cast concrete shall extend horizontally beyond the window opening dimension equal to the height of the lintel. Brick soldier lintels shall extend one brick beyond the opening.
 - vii. **Windows** may be subdivided into lites by muntins, and the lites shall be square or vertical in proportion.
 - viii. **Doors** at a minimum shall have a lintel, face frame and drip mold.
 - ix. **Doors and Garage doors** shall have windows and raised panels where facing any Thoroughfare, except carriage house style garage doors or where transom windows are provided in lieu of garage door windows.
 - x. **Garage doors** shall not cumulatively exceed 40 percent of the Building face or 9 feet wide, whichever is greater. Each garage bay shall have its own door.
 - xi. **Doors**, except Garage doors, shall be constructed of planks or raised panels (not flush with applied trim) which express the construction technique.
 - xii. **Driveway gates** shall have a maximum opening width of 12 feet.
- d. **Prohibited:**
 - i. **Doors and windows** that operate as sliders are prohibited along Frontages
 - ii. **Aluminum storm windows or doors** are generally not allowed.
 - iii. **Flush-mounted and projecting windows** (not including bay windows) are prohibited where visible from Frontages.

6. SHOPFRONT FRONTAGES.

The following Architectural Standards shall be applicable to Shopfront Frontages; provided that if any standard of this **Article 5.M.6** is in conflict with any other standard or requirement of this Chapter, the provision of this **Article 5.M.6** shall govern:

- a. For Principal Buildings located on a corner, the **Principal Entrance** shall either be oriented at the corner, or to face the larger Thoroughfare.
- b. Except for the glazed part thereof, **Shopfront** Frontages shall be made of wood, which shall be painted or transparent or opaque stained, stone, metal, or unpainted or painted brick, including terra cotta, or painted or unpainted composites.
- c. All **glass** shall meet the standards specified in **Article 5.M 5**.
- d. Neither **reflective (mirror), colored, nor spandrel glass** shall be permitted on the Facade.
- e. **Ceiling height** of non-residential first floor Stories shall be 10 feet minimum.
- f. One **continuous load-bearing beam** shall carry the entire load of the Facade to the partition walls or bay delineations so that the **Shopfront Frontage** may be changed with no structural impediment.
- g. **Shopfront Frontages** shall have internal structural support blocking to allow installation of signs and awnings whether or not signs or awnings are installed at the time of initial construction.
- h. **A paved walkway** shall connect the front entry to the nearest sidewalk.
- i. **Doors, windows, awnings, signage and lighting** shall meet character and functionality standards to achieve a simple classic storefront with such features as large glass panels below, divided light transoms above and sheltering awnings at the entry. Storefronts shall feature design elements to complement the Building by such measures as :
 - i. **Windows** shall sit on a 12 to 14 inch high kneewall.
 - ii. **Mullions** (dividers between window units) are encouraged in first story Façades.
 - iii. **Muntins** (dividers between glass panes) in first story Façades should be true divided light or permanent 3-dimensional muntins.
- j. **Awnings** are permitted provided they complement architectural features (such as cornices, columns, pilasters, or decorative details).
 - i. **Awnings, lights and signs** may encroach into setbacks and across right of way lines but not onto private properties. A minimum of eight foot height clearance from the pavement must be maintained.
 - ii. **Awnings** shall be a minimum depth of 4 feet.
 - iii. **Awnings** shall have no side panels or soffit.
 - iv. **Awnings** shall be rectangular in elevation and triangular in cross-section with straight edges and shall have a metal structure covered with non-translucent canvas, synthetic canvas or painted metal.
 - v. **Awnings** of the quarter-round or domed variety are prohibited.
 - vi. **Awnings** shall not be internally illuminated other than soffit sidewalk lighting.

- vii. **Awnings** may be retractable.
- viii. All **awnings** on a single business shall be identical in color and form.
- k. Businesses are encouraged to place **tables, chairs and temporary displays** on the public sidewalk provided a minimum 5 foot wide clear corridor is maintained for pedestrians.
- l. Any **security shutters** shall be designed to be visually integrated with the Façade composition.

7. MISCELLANEOUS.

The following additional miscellaneous Architectural Standards shall be applicable to all Buildings, Structures and Improvements:

- a. The use of **recycled and/or locally-sourced materials** is strongly encouraged.
- b. **Low-VOC** (Volatile Organic Compound) paints, sealants, and stains are strongly encouraged on all surfaces requiring such treatment.
- c. **Facade colors** shall be harmonious with respect to the Building and Adjacent Buildings.
- d. The following **items are prohibited** at Frontages: clothes drying apparatus, HVAC equipment utility or gas meters, antennas, satellite dishes, garbage containers, permanent grills, swimming pools, clothes lines, hot tubs and spas, unless no other location is feasible.
- e. **Flagpoles** are permitted.
- f. **Light fixtures** shall be compatible with the style of the Building to which they are attached or otherwise associated.
- g. Any **security system signs** shall be affixed to a Building.
- h. A **real estate sign** advertising a property for sale or lease is permitted.
- i. **Utility boxes and gas meters** shall be located at the rear of Buildings where practicable and if located Adjacent to Rear Lanes, Alleys or Rear Access Easements, shall require durable protective bollards set in concrete. The bollards must be painted a light color for visibility.
- j. **Utility boxes and meters** shall not be obstructed by landscaping or hardscape such that meter readers and maintenance personnel are unable to open or access utilities devices.
- k. **Trash collection sites** shall be fully enclosed on three sides and enclosed on the fourth side with a self-closing gate. Materials and details shall be compatible with the Principal Building on the Lot. Both vehicle and pedestrian access to trash collection sites shall be provided.
- l. Ground level **mechanical/telecommunication equipment** shall be designed so it does not encroach on walkways or parking areas, and shall not be visible from any Public Frontage.
- m. Buildings that are stylized in an attempt to use the **Building itself as advertising** shall be prohibited, particularly where the proposed architecture is the result of corporate or franchise architecture.
- n. The following shall not be permitted:

- i. panelized extension wall materials;
 - ii. Exterior fluorescent lights, other than compact fluorescent lights in the incandescent spectrum;
 - iii. Colored light bulbs except seasonal displays;
 - iv. Above-ground swimming pools, plastic or vinyl pool tiles, or “Cool Deck” pool surfaces in the 1st or 2nd Lot Layers;
 - v. Signs on private property except as otherwise provided herein;
 - vi. External alarm systems; and
 - vii. Stucco over wood
- o. The **same Building Facade**, massing, floor plan, footprint, materials, or architectural style may not be constructed within a Block, or within ten surrounding Buildings, whichever is further; provided that mirror Elevations or styles may be built across the street from one another.
- p. In developments of **Lots accommodating 16 or more Buildings** having a potential single family Residential Principal Use, a minimum of four substantially different Facades and styles shall be provided per floor plan.
- q. Any **fence, wall, or Streetscreen** shall:
- i. Be no more than 6 feet in height, measured from the average undisturbed grade of the Adjacent land at the property line;
 - ii. Have a finished side facing any Adjacent property, Thoroughfare, or water body;
 - iii. Be maintained in a good, sturdy, upright condition, free of missing parts or broken slats or boards.
- r. There shall be no **parking or driveway** in the Frontage area between the Principal Building and the Frontage Line except to provide direct access to a garage entrance.
- s. **String lights** are allowed in rear yards and are allowed in cafe seating patios or sidewalk café applications in predominantly horizontal plane configuration comprising repeated standard base hanging luminaires with design of such lighting subject to approval by the Planning Board as provided for in **Chapter 702 (Site Plan) Article J.4.f.**



String Light Examples

- t. **Buildings and Structures of Value** may be altered or demolished only in accordance with municipal preservation standards and protocols.

SECTION N. PRIVATE LOT LANDSCAPE STANDARDS

1. PURPOSE

Trees and other landscaping contribute to the scenic beauty of the village and increase property values while enhancing the quality of life within the village. They also tend to soften the visual effects of development by creating a natural setting.

Trees and wooded areas are an important community asset that provides desired environmental effects. Trees act as a barrier to noise; help to prevent soil erosion and encourage water absorption; create nesting areas for birds and other wildlife; mitigate the effects of sun, cold and wind; and filter the air of pollutants.

2. GENERAL.

These standards apply to all Development undergoing Building and Lot Plan and Development Plan review. They shall be advisory with respect to ongoing landscape treatments on private property not subject to such review, except for placement dimensions and the prohibited plant list of **Article 5.N.1.kk**, below.

- a. **Impermeable surface**, when taken with the Lot area covered by Buildings and Structures, shall be confined to the ratio of Lot Coverage specified in **Tables 5.F.2A-5.F.2C (Character District Standards)**.
- b. **Placement of Plant Materials**. The spacing and placement of plants shall be adequate and appropriate for the typical

size, shape and habit of the plant species at maturity.

- c. **Placement of Trees**. Without limitation to **Article 5.N.1.b** above, proposed Trees shall be centered horizontally and minimally:
 - i. Three (3) feet from walkways, curbs and other impervious surfaces or pavement when planted in a continuous bed;
 - ii. Five (5) feet from street lights, underground utilities, utility meters and service lines, fences, walls and other ground level obstructions;
 - iii. Six (6) feet from porch eaves, and awnings and similar overhead obstructions associated with the ground level of Buildings; and
 - iv. Eight (8) feet from balconies, verandas, Building eaves and cornices, and similar overhead obstructions associated with the upper stories of Buildings.
- d. **Tree Size**. At installation, required trees shall be a minimum height of eight (8) feet and two (2) inches in caliper at chest height (deciduous species).
- e. **Shrubs**. At installation, shrubs shall be a five (5) gallon container minimum. Shrubs shall be 18 to 24 inches minimum clear from any sidewalk or pavement edge at the Lot line.
- f. **Hazardous Landscape**. Ground vegetation or Shrub plantings with spines, thorns or needles that may present hazards to pedestrians, bicyclists or vehicles are prohibited in the first two (2) feet of the First Lot Layer.

- g. **Bare / Exposed Ground.** All bare or exposed ground on the site and/or in landscaped areas shall be covered with live plant materials and/or mulch, with the following exceptions:
 - i. Naturally occurring dunes, creek beds, rock outcroppings or similar landscape features typically lacking in vegetation.
 - ii. Agricultural fields seasonally tilled for cultivation.
 - iii. Hiking trails and/or traces.
 - iv. Clay or sand surfaces associated with recreation fields and facilities.
 - v. Pea stone or crushed rock in Building drip edge and utility enclosures.
 - vi. Boulders and native stones used as accents in planting beds.
- h. **Artificial Plants / Turf.** Artificial plants or artificial turf are prohibited, excluding active recreation sports fields that are typically subject to intense use and soil compaction which inhibits the establishment of turfgrass, and where paving or grass paving systems will not suffice given the purpose and level of use of the area.
- i. **Water Features.** Constructed water features such as fountains, streams and ponds that operate with water recirculation systems shall be designed to prevent seepage and leaks.
- j. **Buffers / Screens.** Parking Areas, Parking Lots, Loading Areas, drive-through facilities, storage, dumpsters, tanks and other similar or unsightly site features shall be screened from view from any Frontage or from neighboring properties by Buildings, by a Streetscreen or by landscaping; provided that this shall not be required for any portion of a Parking Area, Parking Lot or Loading Area that is in alignment with the Driveway providing access thereto.
- k. **Plant Materials.** Except as otherwise required by **Article 5.N.1** above, all plant materials shall meet with the minimum container size, class and other requirements outlined in **American Standards for Nursery Stock (ANSI Z60.1-2004)** published by the American Nursery and Landscape Association (ANLA) or other local Nursery Association Standards. Use of only native plants is strongly encouraged. See list of approved public plant material, **Table 6.E.4.**
- l. **Mitigation of Wind Erosion.** Wind erosion shall be mitigated and controlled through dust abatement and similar practices during the period of site work and construction.
- m. **Compacted Soils.** Landscape soils that have been compacted during construction activities shall be loosened and aerated to a depth of at least six (6) inches before planting.
- n. **Condition of Plants.** Plants shall have normal, well-developed branches and vigorous root systems.
- o. **Temporary Spray Irrigation.** Temporary spray irrigation systems may be used to establish seeded areas for grass and groundcover.
- p. **Maintenance.** Except in areas of naturally occurring vegetation and undergrowth, landscaped areas shall be maintained by the Owner as follows:
 - i. All grass and vegetation shall be lightly

fertilized to avoid fertilizer pollution to groundwater, streams and ponds;

- ii. No disturbed ground shall be left exposed. Turfgrass and other approved and appropriate groundcovers or mulch shall cover all non-paved and non-built developed areas;
- iii. All screening and fencing shall be kept in good condition at all times;
- iv. Turfgrass lawns shall be kept properly mowed and edged, plants shall be kept properly pruned and disease-free, and planting beds shall be kept mulched, groomed and weeded; and
- v. Any planting(s) required under this **Article 5.N**, which are significantly damaged, removed, infested, disease ridden, or dead shall be replaced within one year or by the next planting season, whichever occurs first.
- q. **Planted Trees.** Any planted trees shall be species appropriate for the area and shall be selected from the Publid Planting List on **Table 6.E.4**, below.
- r. **Paving.** The First Lot Layer may not be paved, with the exception of Driveways as specified in **Article 5.L** and Shopfront Frontages as provided in **Section 5.M.6.h**.
- s. **Trees Required.** A minimum of one tree shall be planted within the First Lot Layer for each 30 feet of Frontage Line or portion thereof.
- t. **Lawns** are allowed.
- u. **Minimum Landscaped Area.** The minimum required landscape area shall be thirty (30) percent of the First Lot Layer of

the Principal Frontage and the Secondary Frontage, and not less than twenty (20) percent landscaped area for the entire site except where the lot coverage maximum exceeds 80%.

- v. **Preservation of Existing Trees & Vegetation.** Preservation of on-site existing trees and vegetation is encouraged and may be used to fulfill the landscape requirements. On plans submitted for approval, groups of trees and individual trees to be preserved shall be identified with lines and shading that clearly distinguishes these areas from other information appearing on the documents. The plans shall indicate in bold text that the group of trees or the individual tree and the area surrounding the drip line is not to be disturbed.
- w. **Preservation of Root Zones.** The root zones of existing Trees and vegetation to be preserved shall be preserved and protected from clearing, compaction or construction activities and shall be enclosed by a temporary protective fence.
- x. **Natural / Naturalized Areas.** Natural or naturalized areas shall not require irrigation.
- y. **Noxious or invasive species.** No noxious or invasive plant species identified on the Prohibited Plant List in **Article 5.N.1.kk** below shall be installed and all plants of such species shall be removed.
- aa. **Existing Vegetation.** The size and limits of existing vegetation shall be indicated on the Landscape Plan portion of the Building and Lot or Development Plan.
- bb. **Significant or Legacy Trees.** Priority shall be given to preserving and protecting

significant trees or Legacy Trees that provide screening, buffering, wildlife habitat and/or linkages to wildlife habitat, or that are important due to their size, species, or prominence, all as recommended by the Town Tree Warden.

cc. **Open & Civic Space.** Open spaces and Civic Space shall remain fenced and protected during all Adjacent site work and construction activities unless alterations to them are otherwise specified by the plans.

dd **Remediation of Compaction.** All landscape areas compacted during construction activities shall be tilled and reconditioned to provide an arable topsoil layer that can support the long term health and vitality of the landscaping.

ee. **Parking Areas / Parking Lots.** Parking Areas and Parking Lots that contain more than nine spaces shall conform to the following:

- i. Parking Areas and Parking Lots shall contain one landscape island for every twenty (20) parking spaces. Parking Lots with more than one landscape island shall have such islands distributed throughout the Parking Lot
- ii. For every 2,000 square feet of Parking Area or Parking Lot, at least one tree shall be installed or preserved within the Parking Area or Parking Lot except to the extent that trees outside of the Lot containing the Parking Area or Parking Lot are allowed to satisfy this requirement as set forth below.
- iii. No parking space shall be more than seventy-two (72') feet from a tree within the Lot, as measured from the center of

the tree to the nearest line demarcating the space.

- iv. Except for trees allowed to be counted outside the Parking Area or Parking Lot, new trees shall be installed and/or existing trees preserved in tree islands and/or at the perimeter of the Parking Area or Parking Lot, provided that the perimeter of the Parking Area or Parking Lot where trees are installed or preserved to meet this requirement lies within the Lot on which the Parking Area or Parking Lot is located.
- v. Trees outside of the Parking Area or Parking Lot located within 20 feet of the closest portion of such Parking Area or Parking Lot, including but not limited to trees within Thoroughfare Rights-of-Ways and Civic Spaces, may be counted toward satisfying the requirements.

gg. **Protection from Vehicular Damage:**

All Landscaping required pursuant to this **Article 5.N** Adjacent to the paved portion of any Parking Area, Parking Lot, Loading Area, Driveway or Thoroughfare shall be located in a manner to protect the vegetation from vehicular damage. Without limiting the foregoing, all trees within tree islands or along the perimeter of the Parking Area or Parking Lot shall be separated from Parking Area or Parking Lot paved surfaces by at least three (3') feet.

hh. **Sight Distance:** No plant material required under these provisions shall result in view obstruction such that necessary sight distance is restricted to such extent as to interfere with the safe movement of vehicles and pedestrians within the Lot or entering or

exiting the lot.

- ii. **Pedestrian Walkway:** In addition to any walkway or sidewalk around such Parking Area or Parking Lot, each Parking Area or Parking Lot that exceeds sixty (60) spaces shall have at least one pedestrian walkway through the lot of a minimum width of five (5) feet that is paved differently from the parking spaces with respect to texture, material, style, and/or color.
- jj. **Porous or Permeable Paving:** Porous or permeable paving materials are encouraged in order to increase storm water infiltration on site.
- kk. **Prohibited Plant List**

Scientific Name - Common Name

Acer platanoides - Norway Maple

Alliaria petiolata - Garlic mustard

Berberis thunbergii - Japanese barberry

Celastrus orbiculata - Asiatic bittersweet

Cynanchum louiseae - Black swallowwort

Eleagnus umbellata - Autumn olive

Euonymus alatus - Burning Bush

Fallopia japonica - Japanese knotweed

Frangula alnus - Glossy buckthorn

Hydrilla verticillata - Impatiens

glandulifera - Himalayan balsam

Lonicera morrowii - Morrow honeysuckle

Lonicera tartarica - Tartarian honeysuckle

Lythrum salicaria - Purple loosestrife

Myriophyllum heterophyllum - Variable-leaf milfoil

Myriophyllum spicatum - Eurasian milfoil

Phragmites australis - Common reed

Poa nemoralis - Wood blue grass

Potamogeton crispus - Curly pondweed

Rhamnus cathartica - Common buckthorn

Rosa multiflora - Multiflora or Rambler rose

SECTION O. SIGNAGE STANDARDS

1. GENERAL.

Signage shall conform to the standards of this **Article 5.0** and **Table 5.0 (Signage Standards)**, and shall conform to the General Provisions of **Chapter 701, Article II,C**, except where and to the extent in conflict with the Signage Standards of this **Article 5.0**:

- a. There shall be no Signage permitted additional to that specified in this **Article 5.0**.
- b. An address number shall be required for each Building in compliance with **Table 5.0 (Signage Standards)**.
- c. Sign area shall be measured using the smallest rectangle that fully encompasses the entire extent of letters, logo, and background.
- d. Changeable message signs with message change more frequent than once every four hours, moving, animated, or blinking signs are prohibited.
- e. Signs or awnings that extend over the public right of way shall require a Town license.

- f. Internally illuminated (translucent) signs, LCD signs and other electronic sign types are prohibited.
- g. Temporary, Bow, Banner and Similar Sign Standards: In addition to all other applicable standards, each temporary sign or banner allowed under this Article shall comply with the following limitations:
 - i. Special event signs shall be removed no later than 4 days after the event which is the subject matter thereof.
 - ii. General advertising banners shall be removed 30 days after the temporary sign or banner is placed, and shall not recur more than once per calendar year per lot, except as provided for in Multi-Business Sign.
 - iii. All such signs shall be made of weatherproof materials.



Bow Sign

- h. There shall be no internally illuminated building elements such as canopies, bands or similar features.
- i. Use of bright or colored lighting elements on building exteriors or within building windows to call attention to a commercial enterprise is not allowed.

TABLE 5.0 SIGNAGE STANDARDS



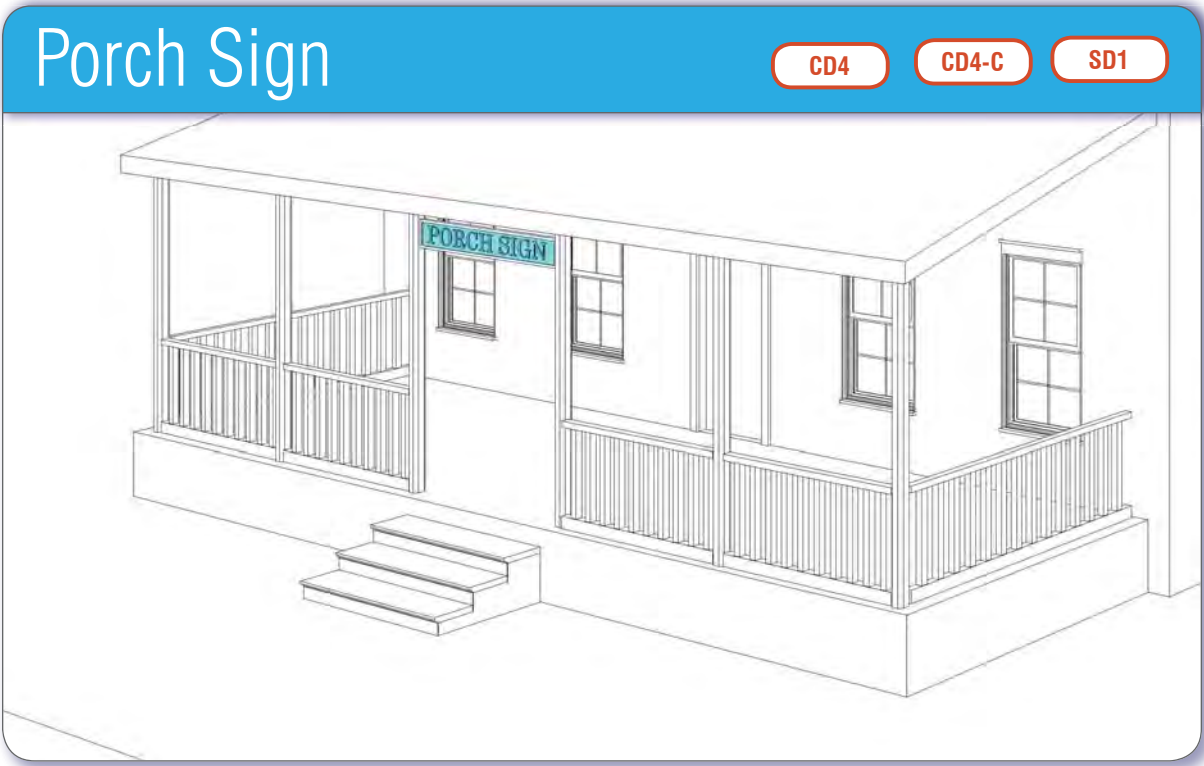
DESCRIPTION

A sign that consists of a numeric reference to a Structure or street, mounted on the Building.

DIMENSIONS	
Quantity (max)	1 per address
Area	max 2 sf
Width / Height	max 24 in / max 12 in
Depth / Projection	max 3 in
Clearance	min 4.5 ft
Letter Height	min 4 in, max 6 in, measured vertically

STANDARDS
In addition to all other applicable standards, each Address Sign allowed under this Article 5.0:
a. Shall have the address number attached to the Building in proximity to the Principal Entrance or at a mailbox.
b. Address signs shall be easily visible.
c. Address signs shall be constructed of durable materials

TABLE 5.0 SIGNAGE STANDARDS



DESCRIPTION

Signs that are mounted on a porch. Signs must be placed parallel to the Building Facade.

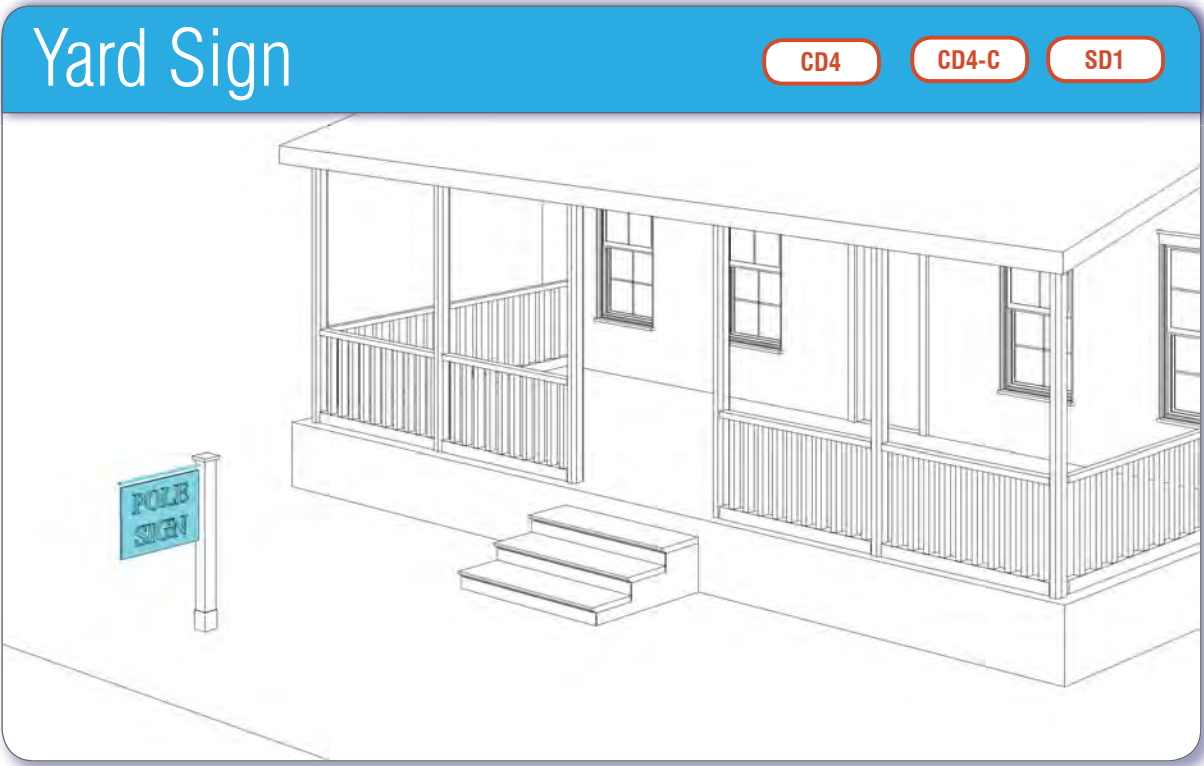
DIMENSIONS	
Quantity (max)	1 per address (2 / corner bldgs)
Area	max 6 sq ft
Width / Height	max 90% width of Entrance / max 2 ft
Depth / Projection	n/a
Clearance	min 7 ft
Letter Height	max 8 in

STANDARDS

In addition to all other applicable standards, each Porch Sign allowed under this Article 5.0 shall:

- a. be hung above the entrance to the porch or elsewhere on the architrave (beam at top of columns);
- b. be permanently installed parallel to the Facade of the Building;
- c. Porch Signs may be externally lit by lights shielded from direct view to reduce glare.

TABLE 5.0 SIGNAGE STANDARDS



DESCRIPTION

Signs that are mounted in a yard between the public Right-of-Way (ROW) and the Building Facade. Signs mounted in a yard may be placed parallel or perpendicular to the ROW.

DIMENSIONS	
Quantity (max)	1 per Building
Area - Single Tenant	12 sf
Area - Multi Tenant	18 sf
Width / Height of Sign panel	max 48 in / max 40 in
Clearance	n/a
Height	6 ft
Letter Height	max 10 in
Distance from frontage line	min 2 ft

STANDARDS
In addition to all other applicable standards, each Yard Sign allowed under this Article 5.0: a. may be externally illuminated by lights shielded from direct view to reduce glare; b. can be single- or double- post; c. shall be set perpendicular to the Building; and d. 18 sf allowed for Multi Tenant only if to provide additional sign for additional tenant.

TABLE 5.0 SIGNAGE STANDARDS



DESCRIPTION

Signs that are mounted on a lot between the public Right-of-Way (ROW) and the Building Facade.

DIMENSIONS	
Quantity (max)	1 per lot
Area	max 80 sf
Width / Height	max 8 ft / max 10 ft
Clearance	n/a
Letter Height	max 10 in
Distance from frontage line	min 2 ft

STANDARDS

In addition to all other applicable standards, each Multi-Business Sign allowed under this Article 5.0 may:

- a. have individual signage for each business not exceeding 8 sq ft;
- b. contain only the names of the businesses and logos; and
- c. be externally illuminated by lights shielded from direct view to reduce glare; or
- d. provide a larger business center or primary tenant name sign with a rotating banner sign for each tenant business not to exceed 30 days per business banner, for a total sign area not to exceed 80 sf.; or
- e. provide a larger business center or primary tenant name sign with individual signs meeting size limits above for each subordinate business, for a total sign area not to exceed 80 sf.

TABLE 5.0 SIGNAGE STANDARDS



DESCRIPTION

An Awning that contains a retail tenant Sign which may be painted, screen printed, or applied on the Awning.

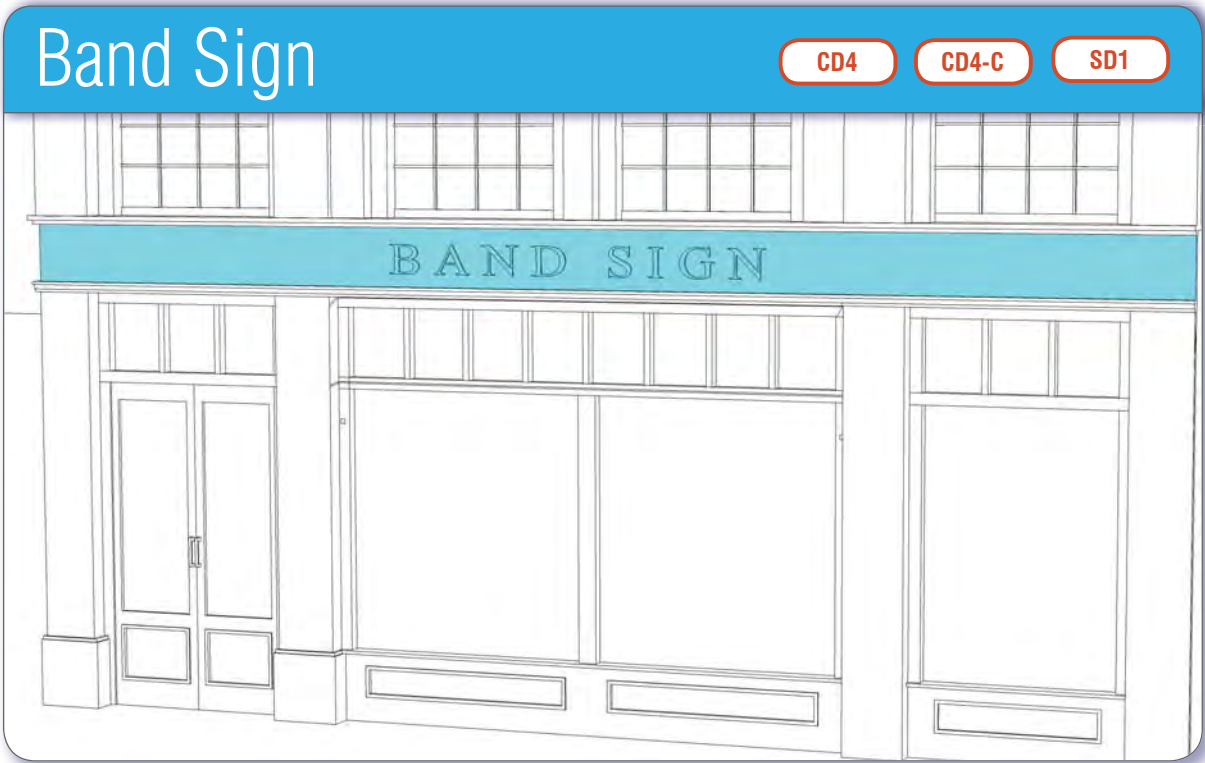
DIMENSIONS	
Quantity (max)	1 per window
Width / Height	max width = width of Facade max height= n/a letters, numbers, and graphics covering no more than 70% of the valance area
Depth / Projection	max 8 ft fully extended, or edge of sidewalk, whichever is less
Ground Clearance	min 8 ft
Letter Height	min 5 in, max 10 in
Valance Height	max 12 in
Distance from frontage line	min 2 ft

STANDARDS

In addition to all other applicable standards, each Awning Sign allowed under this Article 5.0 shall:

- a. be only on an Awning that complies with the Architectural Standards of this Chapter;
- b. be limited to the Valance of the Awning;
- c. contain only the business name, logo, and/or street address;
- d. not be internally illuminated or backlit.; and
- e. shall be made of opaque material.

TABLE 5.0 SIGNAGE STANDARDS



DESCRIPTION		
<p>A Sign that is flat against the Facade consisting of individual cut letters applied directly to the Building, or painted directly on the surface of the Building. Band signs are placed directly above the main entrance and often run horizontally along the entablature of traditional Buildings. Band Signs are typically intended to be seen from a distance and are often accompanied by additional pedestrian-scaled Signage.</p>		
DIMENSIONS		STANDARDS
Quantity (max)	1 per Building face Plus 1 per first floor frontage business	<p>In addition to all other applicable standards, each Band Sign allowed under this Article 5.0 shall:</p> <ul style="list-style-type: none">a. be applied to the first story Facade and not project vertically above the roof line;b. include only letters, background, lighting, and an optional logo, with such information shall consist only of the name and/or logo of the businesses located in such Building;c. not list products, sales, or other promotional messages, or contact information;d. have letters individually attached to the wall, on a separate background panel affixed to the wall, or printed or etched on the same surface as the background;e. be externally illuminated by lights shielded from direct view to reduce glare;f. not have exposed electrical raceways, conduits or wiring;g. be placed in consideration of the Building architecture and in vertical alignment with the center of an architectural element such as a storefront window or entrance, or centered over the bay or overall space occupied by the business, all without interruption or obscuring an architectural element or causing visual disharmony; andh. be coordinated in terms of scale, placement, colors and materials with any other Band Sign on the Façade of the Building.
Area	1.5 sf per linear ft Facade	
Width / Height	max 90% width of Facade / max 3 ft	
Depth / Projection	max 7 in	
Ground Clearance	n/a	
Letter Height	max 18 in	

TABLE 5.0 SIGNAGE STANDARDS



DESCRIPTION

A Sign mounted perpendicular to a Building Facade Wall, typically hung from decorative cast or wrought iron brackets in a manner that permits them to swing slightly. These signs are small, pedestrian-scaled, and easily read from both sides. Blade signs should be hung well out of reach of pedestrians and all exposed edges of the sign should be finished. May also be referred to as a projecting sign.

DIMENSIONS	
Quantity (max)	1 per business, no closer than 18 ft from another Blade Sign
Area	max 6 sf
Width / Height	max 4 ft / max 2 ft
Depth / Projection	max 4 ft
Clearance	min 8 ft clear above the sidewalk
Letter Height	max 8 in

STANDARDS

In addition to all other applicable standards, each Blade Sign allowed under this Article 5.0 shall:

- a. be permanently installed perpendicular to the Façade except on corner installations.
- b. one Blade Sign for each business operating on the Lot.

TABLE 5.0 SIGNAGE STANDARDS



DESCRIPTION

A Sign that is located along the face where it projects perpendicular to the Facade. These Signs often extend beyond the parapet of the Building, but may also terminate below the cornice or eave. Marquee Signs often have neon lettering used in conjunction with painted lettering.

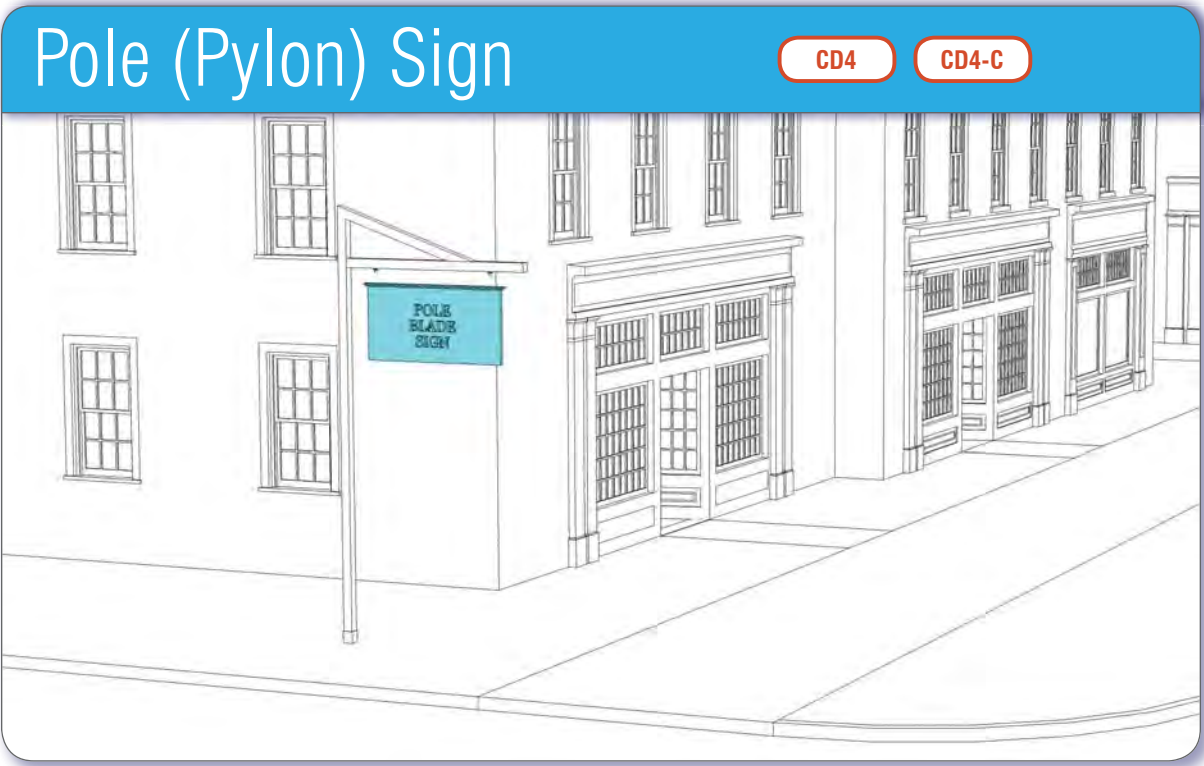
DIMENSIONS	
Quantity (max)	1 per Principal Frontage
Width / Height	centered on and no more than 4 ft wider than Principal Entrance Bay
Depth / Projection	min 4 ft, max 10 ft
Clearance	min 10 ft from sidewalk
Letter Height	removable letter height max 6 in, business name and logo height max 36 in
Distance from Curb	min 3 ft

STANDARDS

In addition to all other applicable standards, each Marquee Sign allowed under this Article 5.0 shall:

- a. not be internally lighted or backlit except behind the panels from which removable letters are hung and shall be lighted with neon tubing or other external means;
- b. be located only above the Principal Entrance of a Building and attached parallel to the Facade;
- c. not have any supports more than eight (8) feet deep and all anchors, bolts, and supporting rods must be concealed within its interior;
- d. if overhanging the public right of way, require a license from the Town Council; and
- e. together with all anchors, bolts, supporting rods and braces, be constructed of high quality non-combustible or non-corrodable components and materials and shall be designed by a structural engineer and be subject to approval by the Building Inspector.

TABLE 5.0 SIGNAGE STANDARDS

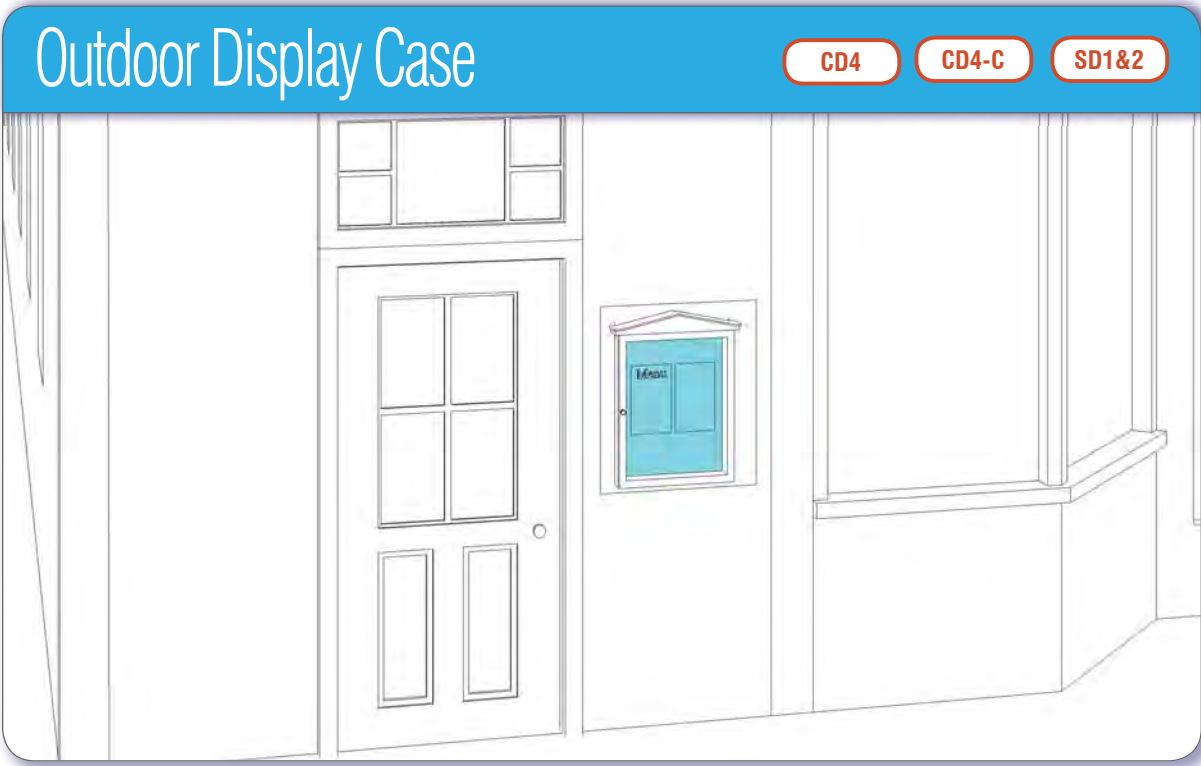


DESCRIPTION

Signs that are mounted on a lot between the public Right-of-Way (ROW) and the Building Facade.

DIMENSIONS		STANDARDS
Quantity (max)	1 per Principal Frontage	
Area	max 18 sf	
Width / Height	max 6 ft / max 3 ft	
Clearance	min 13 ft over public sidewalk min 10 ft over private sidewalk	
Height max	Pole: 18 ft; Sign: 15 ft	
Letter Height	n/a	

TABLE 5.0 SIGNAGE STANDARDS



DESCRIPTION

Display Case signs are typically found on institutional or commercial Buildings, such as churches, restaurants, museums, schools, performing arts and community centers. They may contain information about current events or offerings.

DIMENSIONS	
Quantity (max)	1 per Principal Frontage
Area	max 12 sf
Width / Height	max 3.5 / max 3.5
Depth / Projection	max 5 in
Clearance	min 4 ft
Letter Height	n/a

STANDARDS

In addition to all other applicable standards, each Outdoor Display Case allowed under this Article 5.0 shall:

- a. be attached to and parallel with the first floor Façade;
- b. not exceed twelve (12) square feet, except in the case of Theatres, in which case they shall not exceed 20 square feet;
- c. may be externally illuminated or by a recessed light source within the cabinet;
- d. not be attached to or be placed within Shopfront windows; and
- e. design and materials shall be consistent with Building on which display case is located.

TABLE 5.0 SIGNAGE STANDARDS



DESCRIPTION

Plaques are found on historic Buildings, and might identify the name of the Building or builder, or on professional office Buildings, might name the firm or partners in a firm.

DIMENSIONS	
Quantity (max)	1 per Principal Frontage
Area	max 3 sf
Width / Height	max 18 in / max 2 ft
Depth / Projection	max 3 in
Height	max 7 ft
Letter Height	n/a

STANDARDS

In addition to all other applicable standards, each Plaque allowed under this Article 5.0 shall:

- a. consist of a panel applied to a Building wall within ten (10) feet of an entrance to the Building;
- b. be constructed of high quality durable materials.

TABLE 5.0 SIGNAGE STANDARDS



DESCRIPTION

A Sign that provides secondary Signage and may be used to announce daily specials, sales, or point to shops located off the sidewalk. They may be painted wood panels or cut wood shapes. Traditional slate boards are highly recommended. Chaser lights or aluminum signs may not be used. May also be referred to as a Sandwich Board.

DIMENSIONS	
Quantity (max)	1 per first floor frontage business, no closer than 18 ft from another sidewalk sign
Area	max 8 sf
Width / Height	max 24 in / max 48 in
Depth / Projection	n/a
Clearance	n/a
Letter Height	n/a

STANDARDS
In addition to all other applicable standards, each Sidewalk Sign allowed under this Article 5.0: <ul style="list-style-type: none">a. shall consist of freestanding, double-sided signs placed at the entrance to a business in a primarily pedestrian environment;b. shall be moved inside during high winds or other weather conditions that might pose a hazard to public safety;c. shall maintain a minimum 5 foot clear pedestrian travel way on the sidewalk;d. shall not interfere with parked car doors; ande. shall be removed when not open for business.

TABLE 5.0 SIGNAGE STANDARDS



DESCRIPTION

Signs that are flat against the Facade. They are intended to be visible from a greater distance. Wall and Building signs that do not provide Signage for a specific business (e.g. artistic Wall Mural) are subject to approval by the Planning Director.

DIMENSIONS	
Quantity (max)	1 per building face plus one per first floor Frontage business
Area	1.5 sf per linear foot of facade (in plane of sign)
Width / Height	Ground floor: max 96 in / max 26 in; Upper floors: max 120 in / max 48 in
Depth / Projection	3 inches max
Clearance	4 feet min
Letter Height	Ground floor: 24" Upper floor: n/a

STANDARDS

In addition to all other applicable standards, each Wall and Building Sign allowed under this Article 5.0 shall:

- a. not project vertically above the roof line;
- b. include only letters, background, lighting, and an optional logo, and such information shall consist only of the name and/or logo of the businesses located in such Building;
- c. not list products, sales, or other promotional messages, or contact information;
- d. have letters individually attached to the wall, on a separate background panel affixed to the wall, or printed or etched on the same surface as the background;
- e. be externally illuminated by lights shielded from direct view to reduce glare or halo lighting behind opaque lettering;
- f. not have exposed electrical raceways, conduits or wiring;
- g. be placed in consideration of the Building architecture and in vertical alignment with the center of an architectural element such as a storefront window or entrance, or centered over the bay or overall space occupied by the businesses, all without interruption or obscuring an architectural element or causing visual disharmony; and
- h. be coordinated in terms of scale, placement, colors and materials with any other such Sign on the Facade of the Building.
- i. Scale shall be subordinate to the facade on which it is placed, with lettering generally not exceeding 3' in height on upper floors except for logo, insignia, or first letter of names, which shall be scaled appropriately.

TABLE 5.0 SIGNAGE STANDARDS



DESCRIPTION

Signs that are professionally painted consisting of individual letters and designs, applied directly on the inside of a window, or hanging adjacent to the inside face of glass.

DIMENSIONS	
Quantity (max)	1 per window
Area	max 25% of glass onto which it is applied
Width / Height	varies
Depth / Projection	n/a
Clearance	n/a
Letter Height	max 8 in

STANDARDS

In addition to all other applicable standards, each Window Sign allowed under this Article 5.0:

- a. shall be of one of the following types:
 - i. Letters painted or applied directly on the window
 - ii. Hanging signs that hang from the ceiling behind the window
 - iii. Door signs applied to or hanging inside the glass portion of an entrance doorway;
- b. shall not interfere with the primary function of windows, which is to enable passersby and public safety personnel to see through windows into premises and view product displays; and
- c. may list services and/or products sold on the premises, or provide phone numbers, operating hours or other messages, provided that the total aggregate area of these messages shall not exceed the limit provided above.
- d. Prohibited Window Signs:
 - i. Neon, LED, LCD signs,;
 - ii flashing or moving signs;

SECTION P.
LIGHTING STANDARDS

- 1. Streetlights shall be of the general type illustrated for the applicable Character District indicated in **Table 6.E.5 (Public Lighting)**.
- 2. No lighting level measured at the property line shall exceed the following intensity levels in the indicated Character Districts and Special District.

TABLE 5.P.1 LIGHTING INTENSITY LEVELS

CD-3T	1.0 foot-candles
CD4	1.0 foot-candles
CD4-C	1.0 foot-candles
SD1	1.0 foot-candles

- 3. All **exterior lighting fixtures** shall have full cut off / fully shielded luminaires, except for architectural, landscape, and special feature lighting if and as approved by the Consolidated Review Committee as justified by unique design character. A lighting and photometric plan shall be submitted showing the lighting fixtures proposed to illuminate all Buildings, roadways, service areas, landscaping, parking areas, and pedestrian areas.
- 4. **Specifications and illustrations** of all proposed lighting fixtures including mounting heights, photometric data, Color

Rendering Index (CRI) and Correlated Color Temperature (CCT) on the Kelvin Scale of all lamps (bulbs), and other descriptive information shall be provided. Color Temperature shall be in the range of 3,000 – 4000 Kelvin, with the lower range in residential settings, with a CRI exceeding 80.

- 5. **Buffers, screen walls, fencing**, and other landscape elements should be coordinated with the lighting plan to eliminate dark spots and potential hiding places, employing Crime Prevention through Environmental Design (CPTED) principles.
- 6. Lighting design should include the installation of timers, photo sensors, and other **energy saving devices** to reduce the overall energy required for the Development and eliminate unnecessary lighting. Where residential areas abut, lighting in parking lots shall be reduced to an average of 0.2 footcandles (fc) within one hour after closing.
- 7. Unless otherwise specified in **Table 5.P.2** below, exterior lighting shall conform to the recommendations put forth in Lighting for **Exterior Environments RP-33-99**, or its successor, published by the **Illuminating Engineering Society of North America (IESNA)**. Proposed uses that demonstrate a need to exceed the specific site lighting limits shown below for safe and reasonable exercise of the proposed use must provide a professionally produced lighting plan which adheres to the current Illuminating Engineering Society of North America (IESNA) recommendations for the proposed use.

8. **Uniformity:** As measured in foot candles at grade, maximum to minimum illumination levels shall not exceed a ratio of twenty (20) to one (1).

TABLE 5.P.2 LIGHTING REQUIREMENTS

Application	Average FC		Maximum FC		Maximum Average to Minimum Ratio	Luminaire Height
	Horizontal	Vertical	Horizontal	Vertical		
General	1.25		5		4:1	
Pedestrian Areas	1.0	2.2	4		4:1	12 ft to 16 ft
Parking Lots	.6		1.8		3:1	20 ft to 30 ft
Driveways	1.5		4.5		3:1	20 ft
Gas Station Canopies	10		20		2:1	Recessed in Canopy



ARTICLE 6 —

DEVELOPMENT PLANS & STANDARDS

SECTION A. GENERAL

1. DEFINITION.

A “Development Parcel” is a parcel of land:

- a. Which either alone or together with one or more other parcels under a common development scheme, program or plan is five (5) gross acres or more; or
- b. With respect to the development of which any new Thoroughfare or extension or change of the design of any existing Thoroughfare will be made or proposed; or
- c. With respect to which any Character District designation, Special District designation or general Thoroughfare

alignment is proposed to be changed by a Regulating Plan amendment.

- d. Which constitutes a subdivision under **Chapter 601 (Subdivision)**.

SECTION B. DEVELOPMENT PLANS

1. DEVELOPMENT PLAN REQUIRED.

None of the following shall occur except pursuant to and in compliance with a Development Plan that has been prepared, submitted and approved in accordance with this Article and all standards and requirements applicable thereto:

- a. approval of any subdividing, re-subdividing, Developing or improving a

- Development Parcel; or
- b. approval of any Building and Lot Plan on any part of a Development Parcel; or
- c. approving any Regulating Plan Amendment involving creation of a new Character District or Special District; or
- d. any new Thoroughfare or extension or change of the design of any existing Thoroughfare.

2. PREPARATION AND REQUIREMENTS.

Each Development Plan shall be prepared in accordance with **Article 6.C** below and shall conform to the requirements of **Article 6.D** and other provisions hereof. See **Illustration 6.B (Example Development Plan)**.

3. PLAN SUBMISSION.

Development Plans shall be submitted as follows:

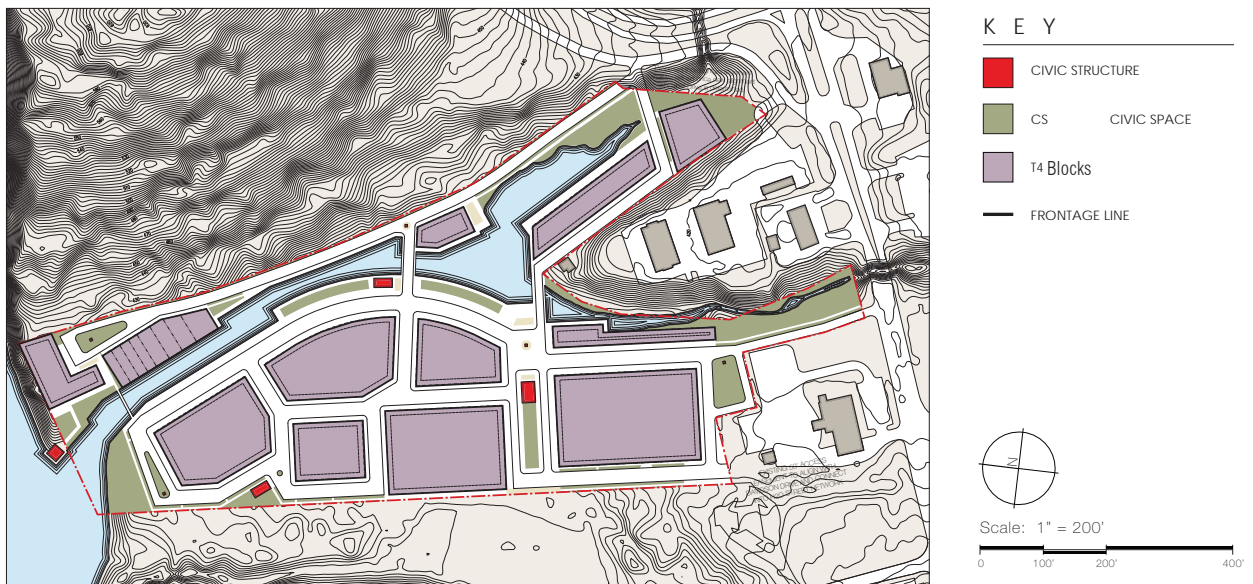
- a. If a Development Plan does not relate to a proposal to amend the Regulating Plan, such Development Plan shall be submitted with an application for approval of the same in accordance with **Article 1.K.3**.
- b. If a Development Plan is required as a part of an application for a Regulating Plan Amendment, the Development Plan shall be submitted in accordance with **Article 1.K.3**.

4. ACTION ON PLAN.

An application for approval of a Development Plan submitted pursuant to:

- a. **Article 6.B.3.a** (not requiring Regulatory Plan Amendment) shall be processed and acted upon in accordance with **Article 1.M.2.** hereof;
- b. **Article 6.B.3.b (requiring Regulatory Plan Amendment)** shall be processed and acted upon in accordance with **Article**

ILLUSTRATION 6.B EXAMPLE DEVELOPMENT PLAN



1.M.3 hereof.

SECTION C. PREPARATION

Unless prepared by the Planning Department in connection with a proposed amendment of the Regulating Plan initiated by the Town, each Development Plan required to be submitted under this Chapter shall be prepared and submitted by or on behalf of the Owner of the applicable property.

SECTION D. PLAN REQUIREMENTS

1. GENERAL.

Each Development Plan submitted under this Chapter shall include standards and requirements for the Development Plan area and one or more maps reflecting each of the items listed in **Article 6.D.2** below, all in compliance with the standards and requirements of this Chapter and the Character District or Special District in which the land covered by such Development Plan is situated as determined by:

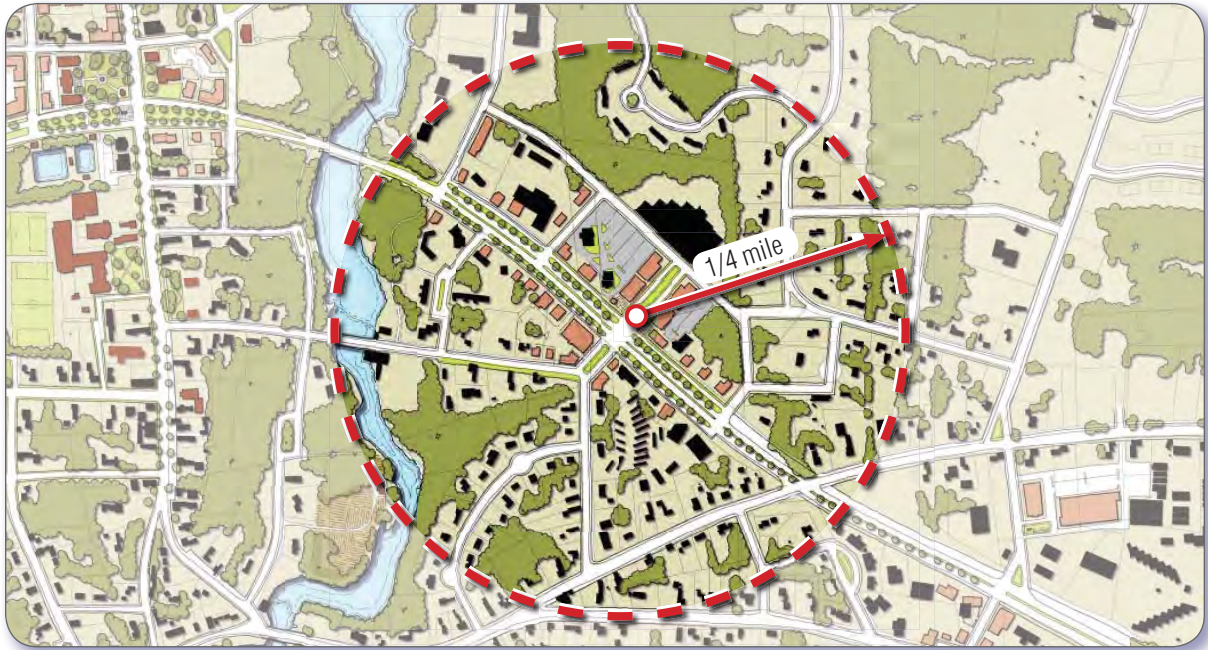
- a. the Regulating Plan then in effect if such Development Plan is not being submitted as part of an application for Regulating Plan Amendment; or
- b. the proposed Regulating Plan Amendment if such Development Plan is being submitted as part of an application for a Regulating Plan Amendment.

2. ITEMS REQUIRED ON DEVELOPMENT PLAN.

The following items shall be shown on each Development Plan, each in compliance with this Chapter and, as applicable under **Article 6.D.1** above, the existing or proposed Regulating Plan:

- a. existing and any proposed Thoroughfares, including any extension or change of design;
- b. Thoroughfare Types and Standards;
- c. Thoroughfare sections and specifications consistent with **Chapter 601, (Subdivision, Technical Appendix, Roadway Design and Construction Chart)**, if applicable, or subject to the approval of the Town Engineer if not otherwise specified;
- d. Pedestrian Sheds and their respective Common Destinations;
- e. existing and any required or proposed Civic Spaces and Civic Buildings;
- f. existing and any proposed Character Districts;
- g. existing and proposed Special Districts, if any;
- h. existing and proposed Special Requirements, if any;
- i. The proposed mix of uses and residential density per Character District. A Development Plan with three or more Building and Lot Plan sites in any mixed use Character District (all variations of CD4) is encouraged to include a mix of residential and commercial functions;
- j. the proposed Block Structure for the site in

ILLUSTRATION 6.D STANDARD PEDESTRIAN SHED



compliance with applicable Block Perimeter Standards, if the Development Plan site is 5 gross acres or more;

k. Public Landscaping;

l. A conceptual or illustrative Building and Lot Plan for a first phase of Development;

m. If associated with a Regulating Plan Amendment, a massing diagram of the proposed or allowable Development;

n. All existing and proposed Preserved or created Open Space; and

o. All Buildings of Value present on the site.

3. PEDESTRIAN SHEDS.

Any proposed Development Plan shall include demonstration of connections and creation of non-motorized pathways and circulation systems within the Development Plan

Pedestrian Shed(s) and demonstrate connection to any existing or planned trails, Open Spaces, or related public facilities in the vicinity. See **Illustration 6.D (Standard Pedestrian Shed)**.

4. CHARACTER DISTRICTS.

Character Districts shall be designated according to and as required by **Article 3.B**.

5. SPECIAL DISTRICTS.

Special Districts, if any, shall be designated according to **Article 4**.

6. THOROUGHFARE NETWORK.

The Thoroughfare network shall be laid out according to **Article 6.E (Thoroughfares)**.

SECTION E. THOROUGHFARES

1. GENERAL.

Thoroughfares comprise vehicular parking lanes, vehicular travel lanes, Bicycle Accommodations and the Public Frontage. Public Frontage comprises the Sidewalks, tree planting area, Planters, and street trees.

2. THOROUGHFARE STANDARDS.

Any Thoroughfares on a Development Plan shall comply with the standards set forth in this **Article 6.E.2** as follows:

- a. General.
 - i. Thoroughfares shall be intended for use by vehicular and non-vehicular traffic and to provide access to Lots and Open Spaces.
 - ii. Thoroughfares shall consist generally of vehicular lanes, Sidewalks, Bikeways and Public Frontages.
 - iii. Thoroughfares shall be designed in context with the urban form and desired design speed of the Character Districts through which they pass.
 - iv. The Public Frontages of Thoroughfares that pass from one Character District to another shall be adjusted where appropriate or, alternatively, the Character District may follow the alignment of the Thoroughfare to the depth of one Lot, retaining a single Public Frontage throughout its trajectory.
 - v. Pedestrian access, circulation, convenience, and comfort shall be primary considerations of the Thoroughfare, with any design conflict between vehicular and pedestrian movement generally decided in favor of the pedestrian.
- vi. Thoroughfares shall be designed to define Blocks not exceeding any applicable perimeter size prescribed in **Table 6.F (Block Perimeter Standards)**, measured as the sum of Lot Frontage Lines and subject to adjustment by Waiver at the edge of a Development Parcel.
- vii. Thoroughfares shall terminate at other Thoroughfares, forming a network, with internal Thoroughfares connecting wherever possible to those on adjacent sites.
- viii. Cul-de-sacs and dead end Thoroughfares are not allowed unless approved by Waiver to accommodate specific site conditions, and except that one single Lot may Enfront a dead end Thoroughfare to create a back Lot.
- ix. Each Lot shall Enfront a vehicular Thoroughfare, except that 20% of the Lots within a Character District may Enfront a Passage.
- x. Thoroughfares shall conform to the Thoroughfare Standards of **Table 6.E.2A-6.E.2I (Thoroughfare Assemblies and Standards)**. See **Illustration 6.E.1 (Turning Radius)**.
- xi. Standards for any new types of Thoroughfares, if any, within proposed new Special or Character Districts associated with a Regulating Plan

Amendment shall be established as part of the Regulating Plan Amendment approval and all Thoroughfares within such a Special or Character District shall conform to existing or any such new Thoroughfare Standards.

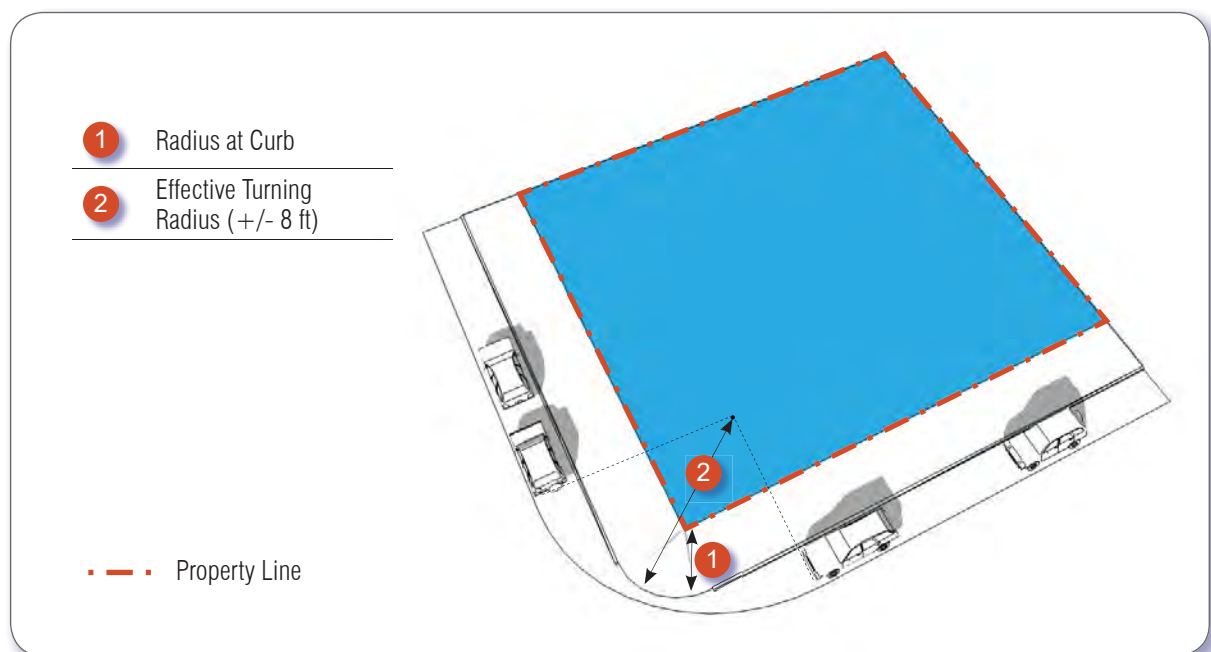
- xii. Thoroughfares may be public (dedicated for Town ownership) or private;
- xiii. All Thoroughfares in any mixed use district (all variations of the CD4 districts), whether publicly or privately owned and maintained, shall be open to the public.
- xiv. All Thoroughfares shall comply with the Complete Streets Policy adopted by the Town.
- xv. Thoroughfare design and construction standards shall adhere to **Chapter 701 (Subdivision) Technical Appendices (Infrastructure Specifications)**, as determined to be the closest fit by

the Consolidated Review Committee, provided that the specifications of **Table 6.E.2A - 6.E.2I** shall pertain where in conflict with such Chapter 701 provisions.

b. Vehicular Lanes & Bicycle Accommodations.

- i. Thoroughfares may include vehicular lanes in a variety of widths for parked and for moving vehicles, including bicycles, subject to the standards for vehicular lanes shown in **Table 6.E.2A-6.E.2I (Thoroughfare Assemblies and Standards)**.
- ii. A bicycle network consisting of Multi-Use Paths, Buffered Bicycle Lanes, Protected Bicycle Lanes, and Shared Use Lanes should be provided throughout the area, with Bicycle Routes and other Bikeways being marked and such network being connected to existing or proposed

ILLUSTRATION 6.E.1 TURNING RADIUS



regional networks wherever possible.

See Table 6.E.3 (Bikeway Types).

- iii. Advisory bike lanes are bicycle priority areas delineated by dashed white lines. The automobile zone should be configured narrowly enough so that two cars cannot pass each other in both directions without crossing the advisory lane line. Motorists may enter the bicycle zone when no bicycles are present. Motorists must overtake with caution due to potential oncoming traffic. See **Table 6.E.3F**. Such lanes are also beneficial to pedestrians in areas without dedicated sidewalks.
- c. Pedestrian Accommodations.
- i. Pedestrian accommodations for all users shall be provided in all Development in keeping with the Complete Streets Policy. Walkways or Sidewalks along all Thoroughfares, trails and/or maintained paths or other pedestrian infrastructure shall be provided.
 - ii. Pedestrian paths of travel to and within all sites shall be delineated in all Development Plans and Building and Lot Plans, with direct, convenient, and protected access to all Building entrances and site amenities.
 - iii. Where Thoroughfares require Sidewalks, equivalent or better alternative means of pedestrian access may be considered by the reviewing authority.

3. PUBLIC FRONTAGES

- a. The Public Frontage shall contribute to the character of the Character District

or Special District, and include the types of Sidewalk, Curb, planter, bicycle facility, and street trees, allocated within Character Districts and designed in accordance with **Table 6.E.2A-6.E.2I (Thoroughfare Assemblies and Standards)**, **Table 6.E.3 (Bikeway Types)**, **Table 6.E.4 (Public Planting)**, and **Table 6.E.5 (Public Lighting)**.

- b. Within the Public Frontages, the prescribed types of Public Planting and Public Lighting shall be as shown in **Table 6.E.2A-6.E.2I (Thoroughfare Assemblies and Standards)**, **Table 6.E.4 (Public Planting)**, and **Table 6.E.5 (Public Lighting)**; provided that the spacing may be adjusted by Waiver to accommodate specific site conditions.
- c. The introduced landscape shall consist primarily of durable native species and hybrids that are tolerant of soil compaction and require minimal irrigation, fertilization and maintenance.
- d. The Public Frontage shall include trees planted in a regularly-spaced Allee pattern of single or alternated species with shade canopies of a height that, at maturity, clears at least one Story.

4. PUBLIC LANDSCAPING

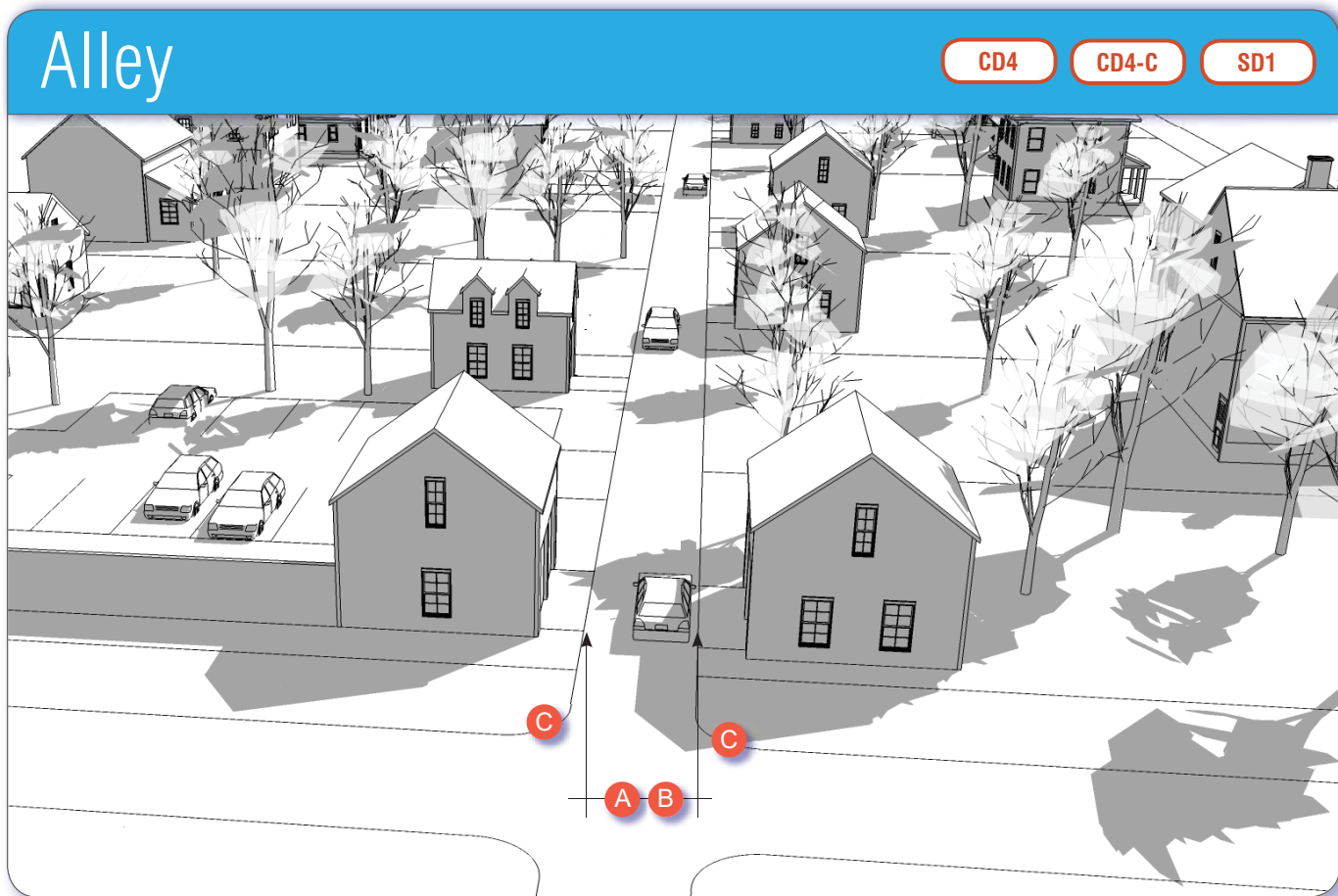
Thoroughfare Trees and any other landscaping with the Public Frontage shall comply with the standards of **Article 5.N, (Private Lot Landscape Standards)** and with the following additional standards :

- a. Thoroughfare Trees shall be placed

minimally two (2) feet from walkways, curbs, and other impervious surfaces if planted in a tree well or continuous planter; or with such placement as described in **Article 5.N.1.b.**

- b. The soil structure of planting strips shall be protected from compaction with a temporary construction fence. Standards of access, excavation, movement, storage and backfilling of soils in relation to the construction and maintenance of deep utilities and manholes shall be specified.
- c. For additional guidance, Reference is made also to the following horticultural publication : http://americanhort.org/documents/ansi_nursery_stock_standards_americanhort_2014.pdf as the same may be revised or supplemented from time to time.

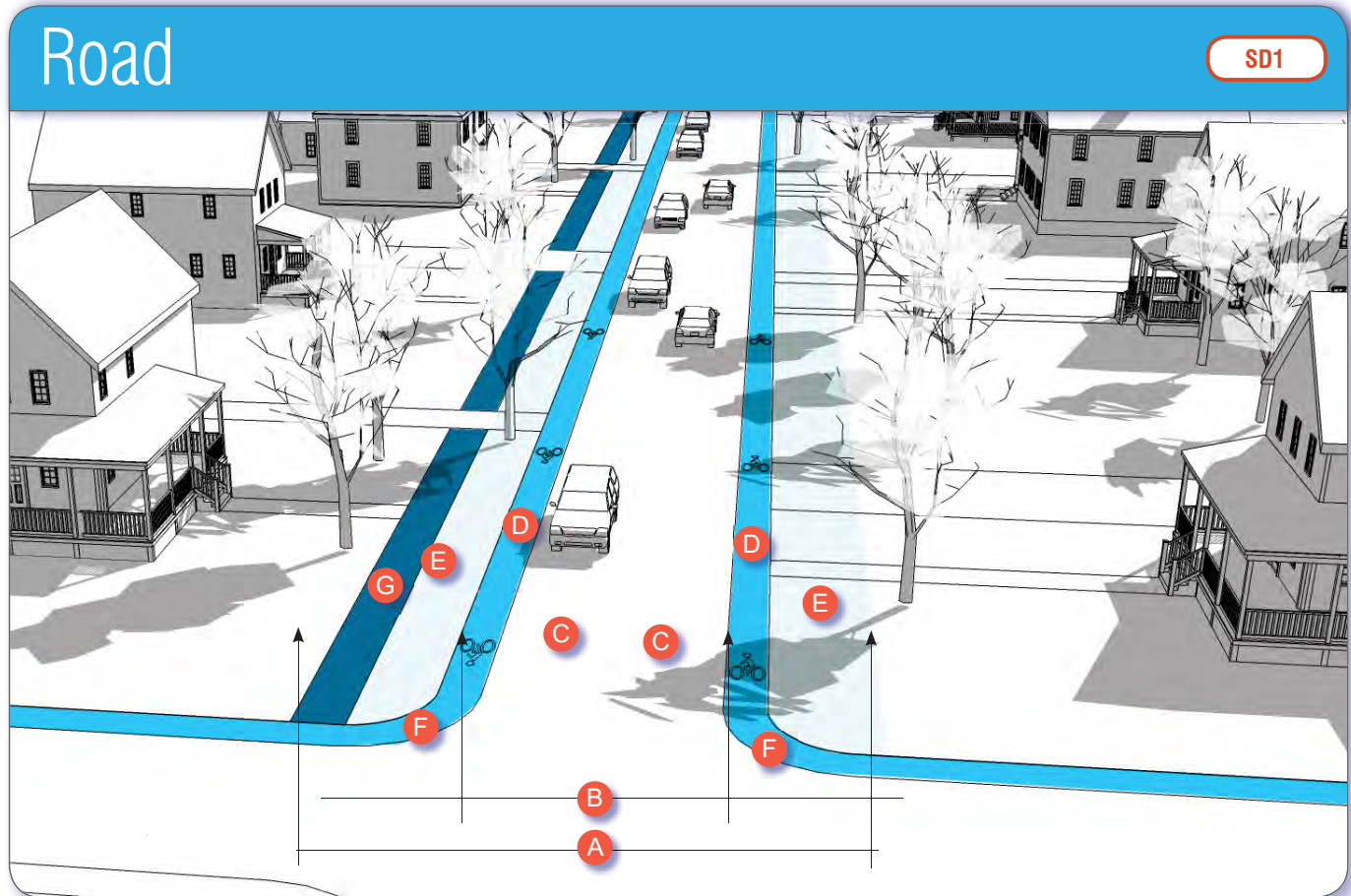
TABLE 6.E.2A THOROUGHFARE ASSEMBLIES AND STANDARDS - ALLEY



THOROUGHFARE TYPE	ALLEY	
Right of Way	24 ft max	A
Pavement	12-16 ft	B
Movement	Yield Movement	
ASSEMBLIES		
Traffic Lanes	n/a	
Traffic Lane Width	n/a	
Bikeway Type	Shared use	
Parking Lanes	none	
Parking Lane Width	n/a	

PLANTER		
Planter Type	none	
Planter Width	n/a	
Landscape Type	none	
Species	n/a	
WALKWAY		
Walkway Type	Shared Use	
Walkway Width	n/a	
CURB		
Curb Radius	Taper	C
Curb Type	Inverted Crown	
LIGHTING		
	none required	

TABLE 6.E.2B THOROUGHFARE ASSEMBLIES AND STANDARDS - ROAD

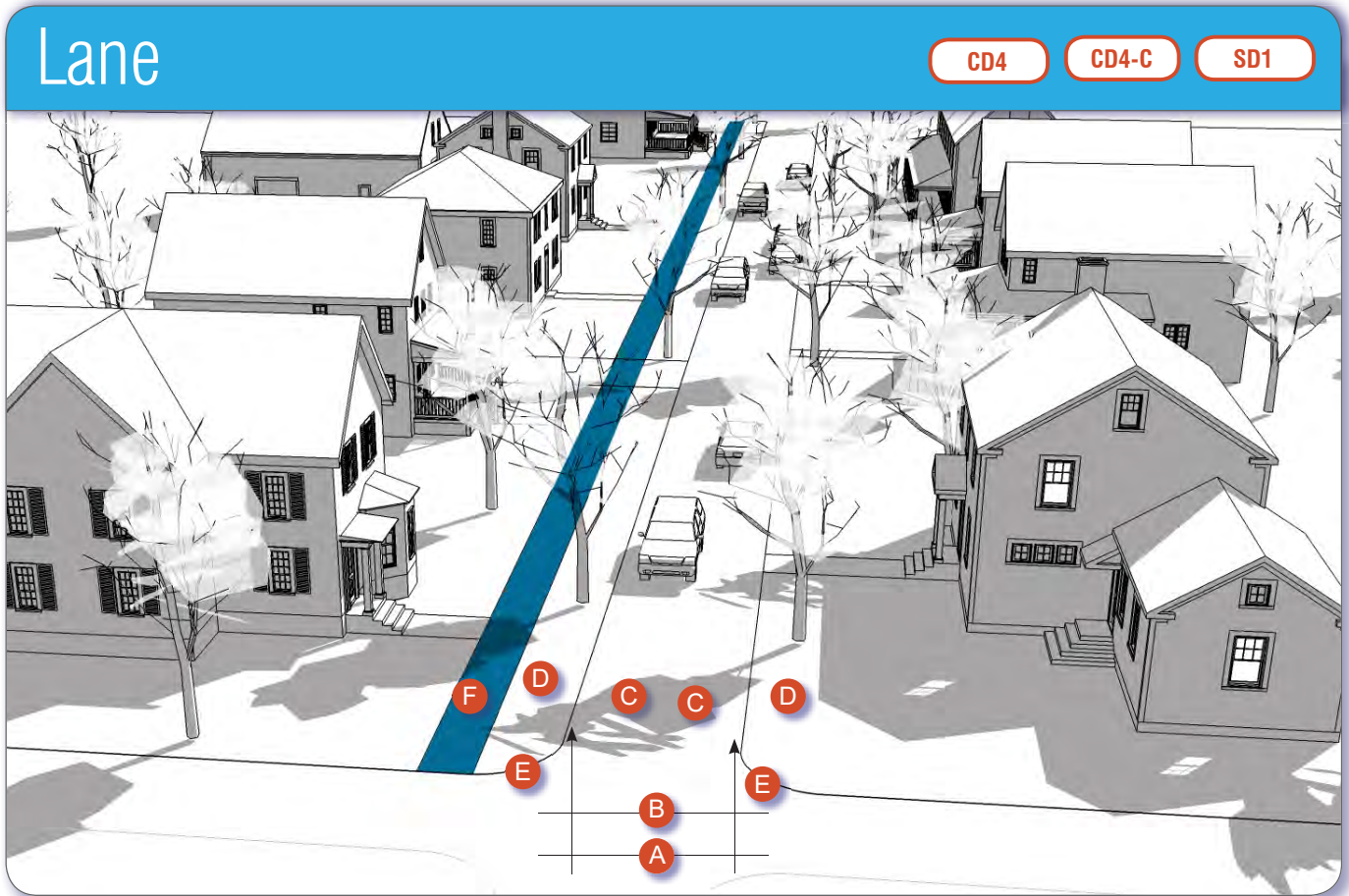


SD1

THOROUGHFARE TYPE	ROAD	
Right of Way	36 - 56 ft	A
Pavement	22 ft max to fog line	B
Movement	Free Movement	
ASSEMBLIES		
Median Width	none	
Traffic Lanes	2 lanes	
Traffic Lane Width	11 ft max	C
Parking Lanes	none	
Parking Lane Width	none	
Bikeway Type	All types per Table 6.E.3. *	D

PLANTER		
Planter Type	Continuous Swale	E
Planter Width	8 - 16 ft	
Landscape Type	Irregular, Trees Clustered	
Species	See Table 6.E.4	
WALKWAY		
Walkway Type	Shared-Use Path, Sidewalk	
Walkway Width Min	10 ft / 6 ft	G
CURB		
Curb Radius	10 - 30 ft	F
Curb Type	Open Swale or curb	
LIGHTING		
	See Table 6.E.5	

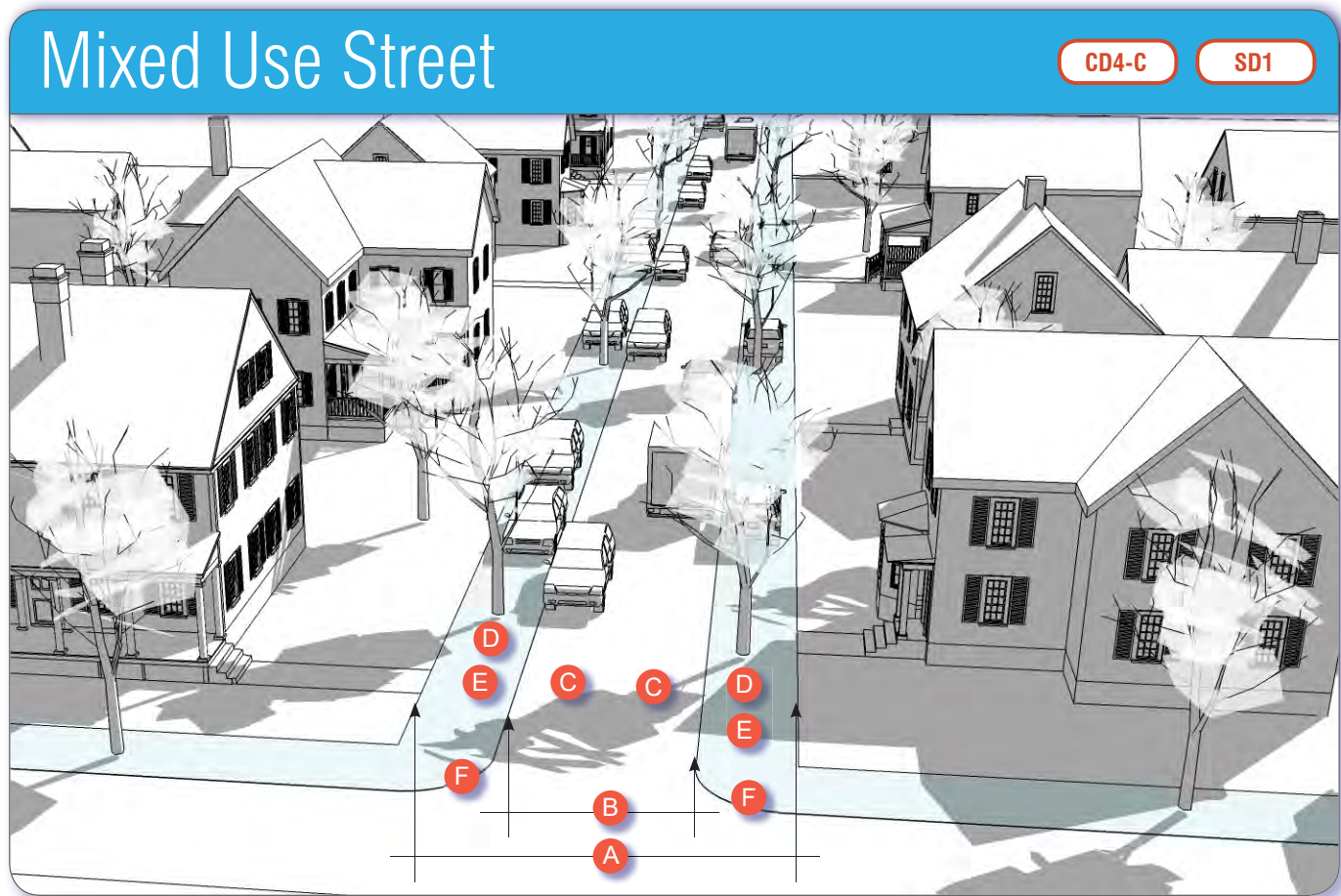
TABLE 6.E.2C THOROUGHFARE ASSEMBLIES AND STANDARDS - LANE



THOROUGHFARE TYPE	LANE	
Right of Way	24 - 50 ft	A
Pavement	14 - 20 ft	B
Movement	Yield / Slow Movement	
ASSEMBLIES		
Traffic Lanes	2 lanes	
Traffic Lane Width	7 - 10 ft	C
Parking Lanes	none	
Parking Lane Width	n/a	
Bikeway Type	Shared Use Lane	

PLANTER		
Planter	Continuous	D
Planter Width	6 - 16 ft	
Landscape Type	Irregular, Trees Clustered	
Species	See Table 6.E.4	
WALKWAY		
Walkway Type	Sidewalk, 1 side	
Walkway Width	6 ft min	F
CURB		
Curb Radius	5 ft	E
Curb Type	Open Swale	
LIGHTING	See Table 6.E.5	

TABLE 6.E.2D THOROUGHFARE ASSEMBLIES AND STANDARDS - MIXED USE STREET

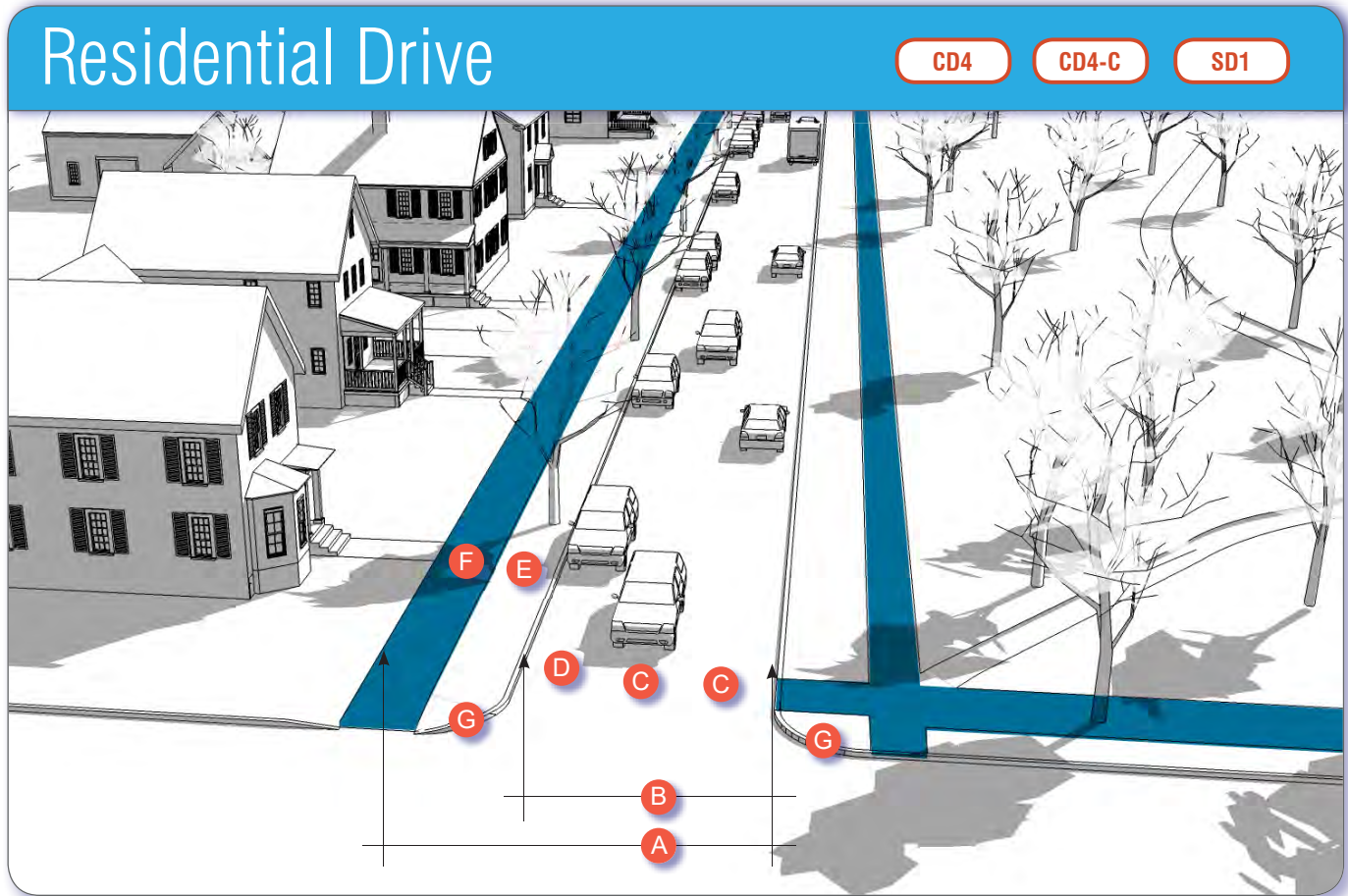


THOROUGHFARE TYPE	MIXED USE STREET	
Right of Way	32 - 50 ft	A
Pavement	16 - 30 ft	B
Movement	Yield/Slow Movement	
ASSEMBLIES		
Traffic Lanes	2 lanes	
Traffic Lane Width	8 - 10 ft	C
Parking Lanes	Parallel, 1 or both sides, intermittent	D
Parking Lane Width	7 - 8 ft on stabilized shoulder	
Bikeway Type	Shared Use Lane	

Note: This Thoroughfare type is intended for use with internal mixed use parcels with enough depth to have a short internal (local) street.

PLANTER		
Planter Type	Intermittent Esplanade	E
Planter Width	8 - 16 ft	
Landscape Type	Trees Clustered	
Species	See Table 6.E.4	
WALKWAY		
Walkway Type	Sidewalk 1 or both sides	
Walkway Width	6 ft - 8 ft	
CURB		
Curb Radius	5 ft	F
Curb Type	Raised Curb	
LIGHTING		
	See Table 6.E.5	

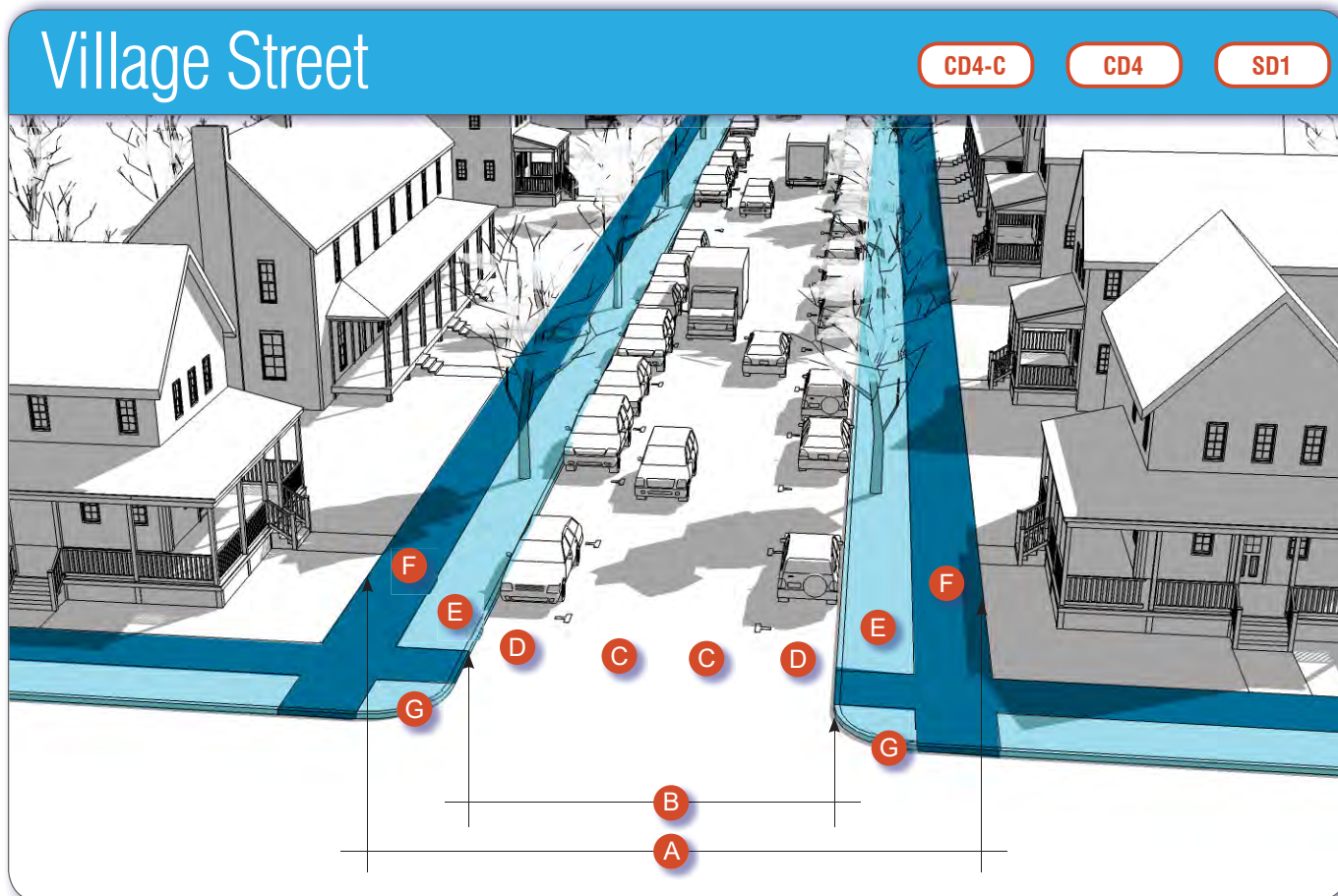
TABLE 6.E.2E THOROUGHFARE ASSEMBLIES AND STANDARDS - RESIDENTIAL DRIVE



THOROUGHFARE TYPE	RESIDENTIAL DRIVE	
Right of Way	33 - 50 ft	A
Pavement	17 - 28 ft	B
Movement	Slow	
ASSEMBLIES		
Traffic Lanes	1 - 2 lanes	
Traffic Lane Width	9 - 10 ft	C
Parking Lanes	Parallel, 1, Optional	D
Parking Lane Width Unmarked	8 ft	
Bikeway Type	Shared Use Lane, Protected or Buffered Bike Lane, Multi-Use Path. See Table 6.E.3	

PLANTER		
Planter	Continuous	E
Planter Width	8 - 12 ft	
Landscape Type	Trees at 30 ft o.c. average	
Species	See Table 6.E.4	
WALKWAY		
Walkway Type	Sidewalk, 1 or both sides	F
Walkway Width	6 - 10 ft	
CURB		
Curb Radius	10 -20 ft	G
Curb Type	Raised Curb	
LIGHTING		
	See Table 6.E.5	

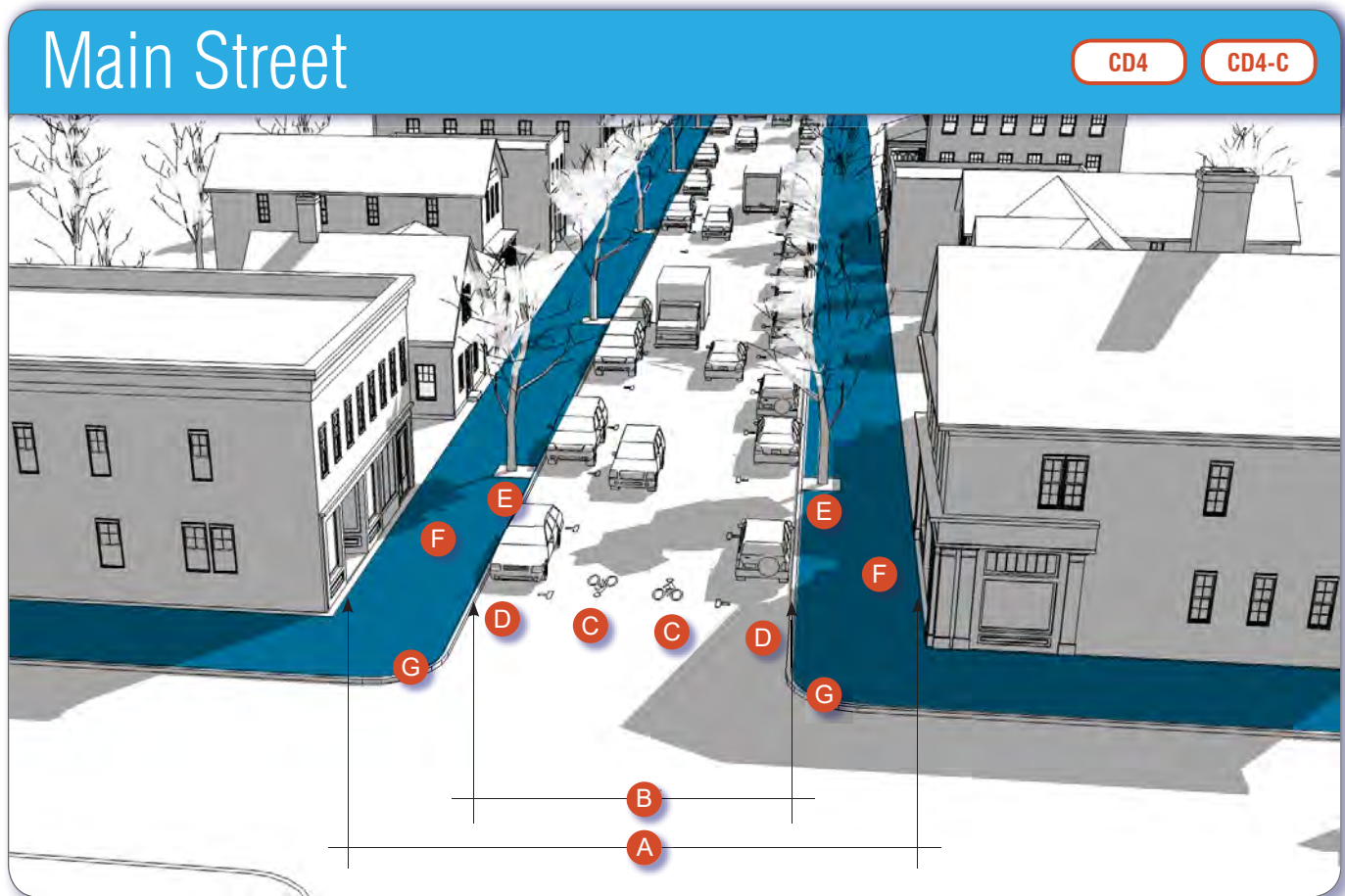
TABLE 6.E.2F THOROUGHFARE ASSEMBLIES AND STANDARDS - VILLAGE STREET



THOROUGHFARE TYPE	VILLAGE STREET	
Right of Way	47 - 76 ft	A
Pavement	26 - 36 ft	B
Movement	Slow	
ASSEMBLIES		
Traffic Lanes	2 lanes, unmarked	
Traffic Lane Width	9 - 11 ft	C
Parking Lanes	Parallel, 1 or both sides	D
Parking Lane Width	8 ft	
Bikeway Type	Shared Use Lane, Buffered or Protected Bike Lane. See Table 6.E.3.	

PLANTER		
Planter Type	Continuous	E
Planter Width	8 - 12 ft	
Landscape Type	Trees at 30 ft o.c. average	
Species	See Table 6.E.4	
WALKWAY		
Walkway Type	Sidewalk, one or both sides	F
Walkway Width	6 - 8 ft	
CURB		
Curb Radius	5 - 10 ft	G
Curb Type	Raised Curb	
LIGHTING	See Table 6.E.5	

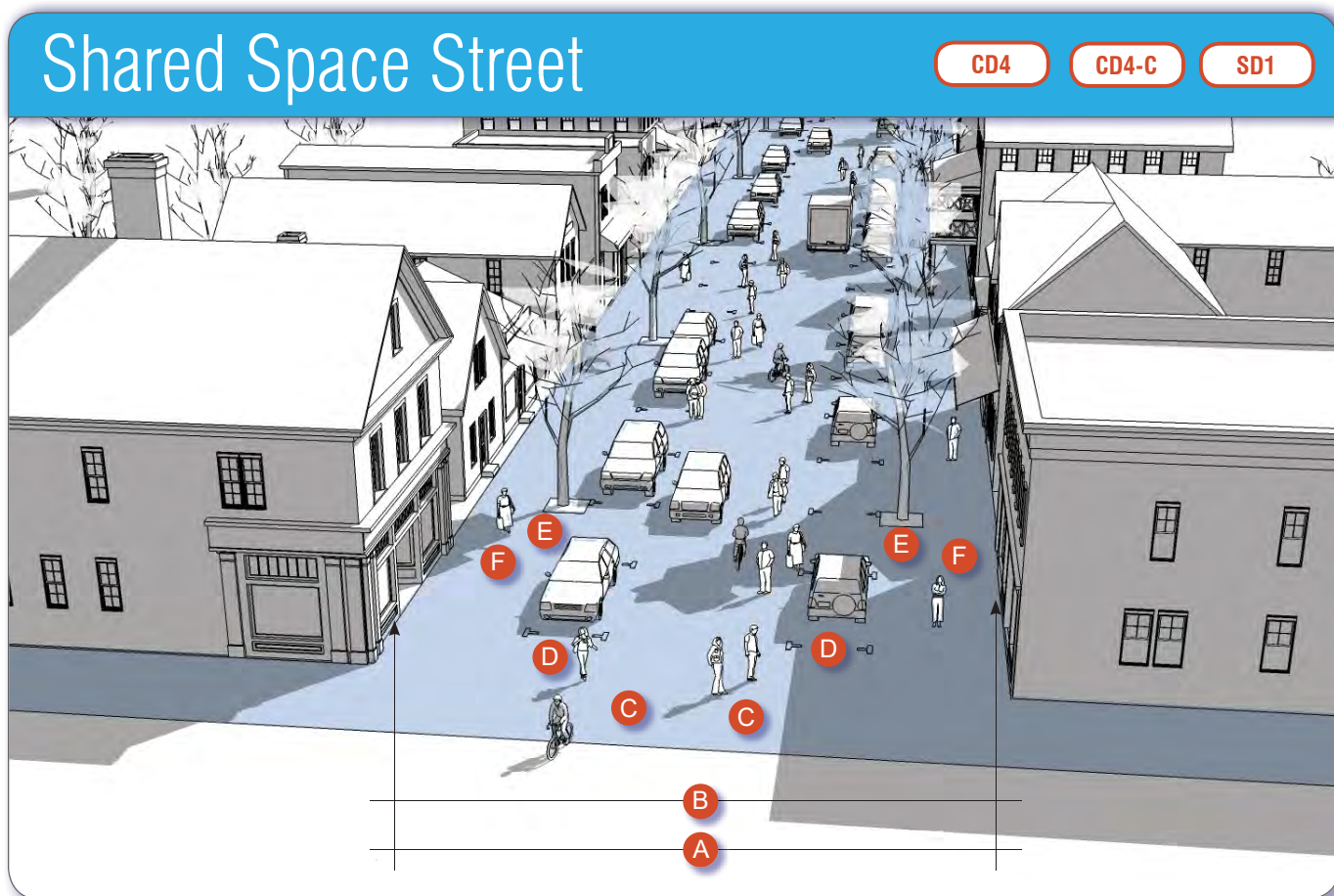
TABLE 6.E.2G THOROUGHFARE ASSEMBLIES AND STANDARDS - MAIN STREET



THOROUGHFARE TYPE	MAIN STREET	
Right of Way Width	58 - 76 ft	A
Pavement Width	34 - 38 ft	B
Movement	Slow	
ASSEMBLIES		
Traffic Lanes	2 lanes	
Traffic Lane Width	9 - 11 ft	C
Parking Lanes	Parallel, 2	D
Parking Lane Width	8 ft, marked	
Bikeway Type	Shared Use Lane, Buffered Bike Lane, Protected Bike Lane. See Table 6.E.3 .	

PLANTER		
Planter Type	Tree Well	E
Planter Width	4 - 6 ft	
Landscape Type	Trees at 30 ft o.c. average	
Species	See Table 6.E.4	
WALKWAY		
Walkway Type	Sidewalk, both sides	F
Walkway Width	12 - 20 ft	
CURB		
Curb Radius	5 - 10 ft	G
Curb Type	Raised Curb	
LIGHTING	See Table 6.E.5	

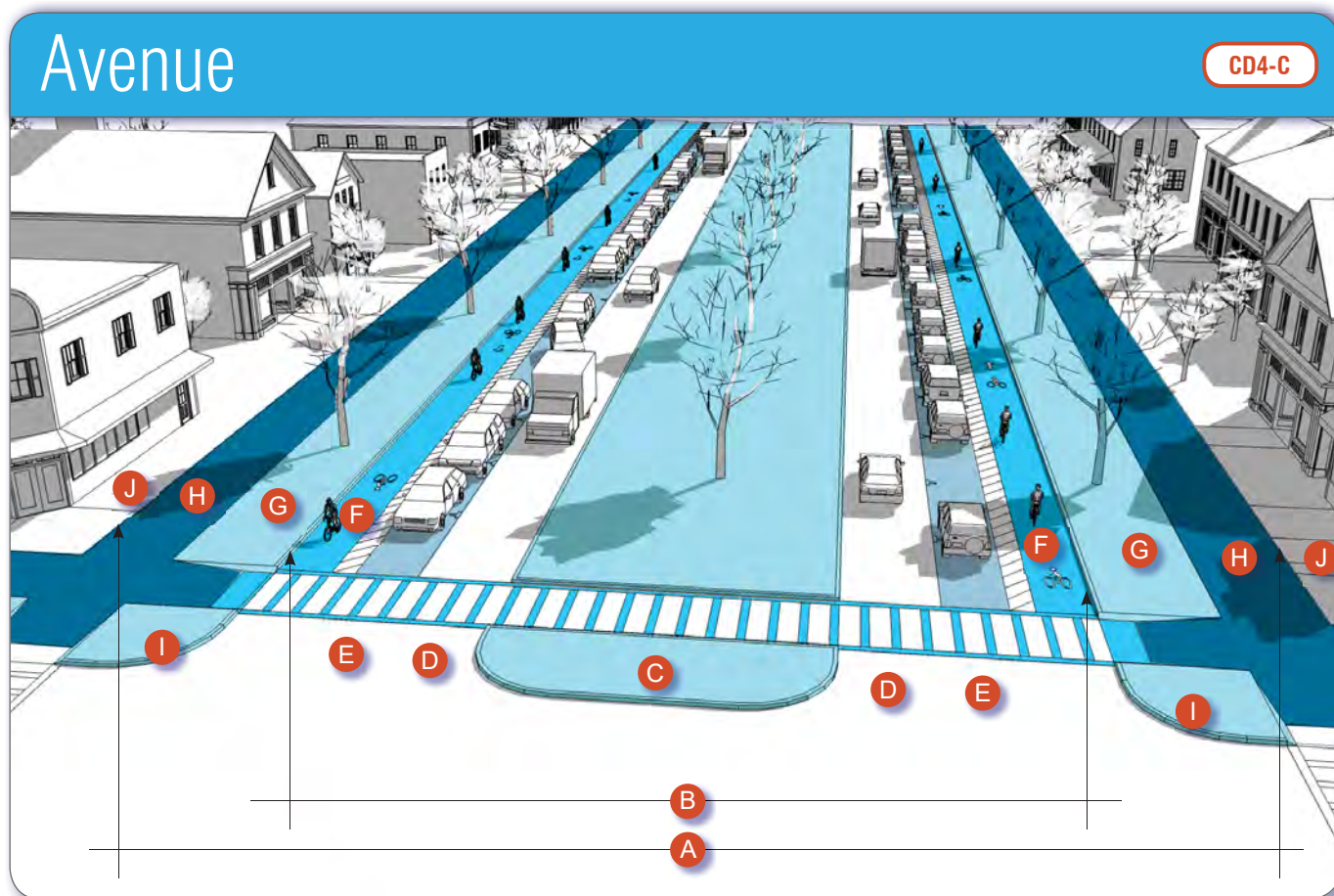
TABLE 6.E.2H THOROUGHFARE ASSEMBLIES AND STANDARDS - SHARED SPACE STREET



THOROUGHFARE TYPE	SHARED SPACE STREET (aka WOONERF)	
Right of Way	30 - 76 ft	A
Pavement	30 - 76 ft	B
Movement	Yield Condition	
ASSEMBLIES		
Traffic Lanes	2 lanes, unmarked	
Traffic Lane Width	7 - 10 ft, unmarked	C
Parking Lanes	Parallel, 1 or both sides, indicated with paving treatment or bollards	D
Parking Lane Width	8 ft, unmarked	
Bikeway Type	Unmarked	

PLANTER		
Planter Type	Tree Well	E
Planter Width	4 - 6 ft	
Landscape Type	Trees at 30 ft o.c. average	
Species	See Table 6.E.4	
WALKWAY		
Walkway Type	All Shared Space, with 12 - 20 ft between parked cars and Building Facades	F
Walkway Width	n/a	
CURB		
Curb Radius	n/a	
Curb Type	none	
LIGHTING	See Table 6.E.5	

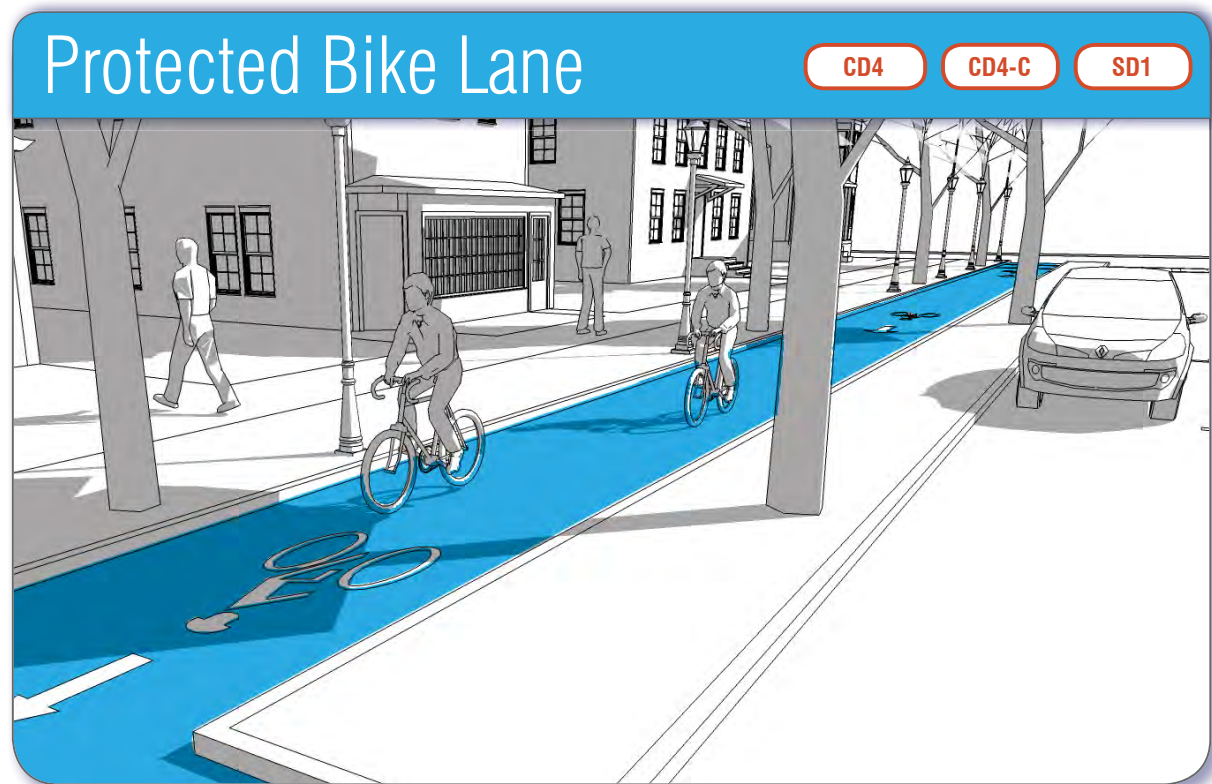
TABLE 6.E.21 THOROUGHFARE ASSEMBLIES AND STANDARDS - AVENUE



THOROUGHFARE TYPE	AVENUE	
Right of Way	70 - 210 ft	A
Pavement	36 - 50 ft	B
Movement	Slow	
ASSEMBLIES		
Median Width	6 - 24 ft	C
Traffic Lanes	2 lanes	
Traffic Lane Width	10 - 11 ft	D
Parking Lanes	Parallel, 2 sides	E
Parking Lane Width	8 ft, marked	
Bikeway Type	Protected Bike Lane, Buffered or Protected Bike Lane, Shared Use Lane, Multi-Use Path. See Table 6.E.3.	F

PLANTER		
Planter Type	Continuous	G
Planter Width	6 - 20 ft	
Landscape Type	Trees at 30 ft o.c. average	
Species	See Table 6.E.4	
WALKWAY		
Walkway Type	Sidewalk, both sides	H
Walkway Width	6 - 20 ft	
CURB		
Curb Radius	10 - 20 ft	I
Curb Type	Raised Curb	
FRONTAGE		
Frontage Verge Depth	6 - 15 ft	J
LIGHTING	See Table 6.E.5	

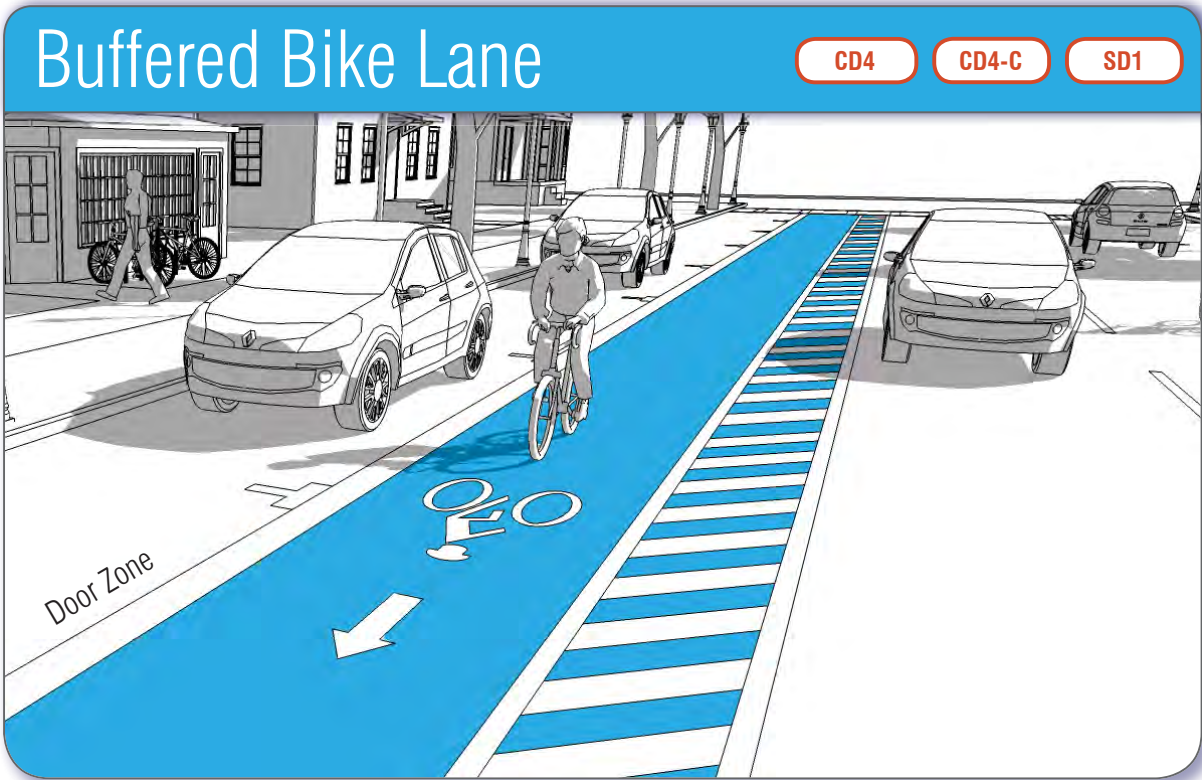
TABLE 6.E.3A BIKEWAY TYPES - PROTECTED BIKE LANE



Riding Surface Width	5 ft min; 10 ft min dual direction
Lane Marking	Bike stencil in protected lane (Optional)
Buffer	3 ft min with curb and planter strip
Movement	With traffic or dual direction
Intersection Detailing	Signalized, bicycle Box
Bicycle Parking	Rack, bicycle shelter, bicycle station



TABLE 6.E.3B BIKEWAY TYPES - BUFFERED BIKE LANE



Riding Surface Width	5 ft min each way
Lane Marking	Bike stencil, door zone stripe
Buffer	3 ft min, painted buffer
Movement	With traffic or Contra-flow
Intersection Detailing	Signalized, bicycle Box
Bicycle Parking	Rack, bicycle shelter, bicycle station



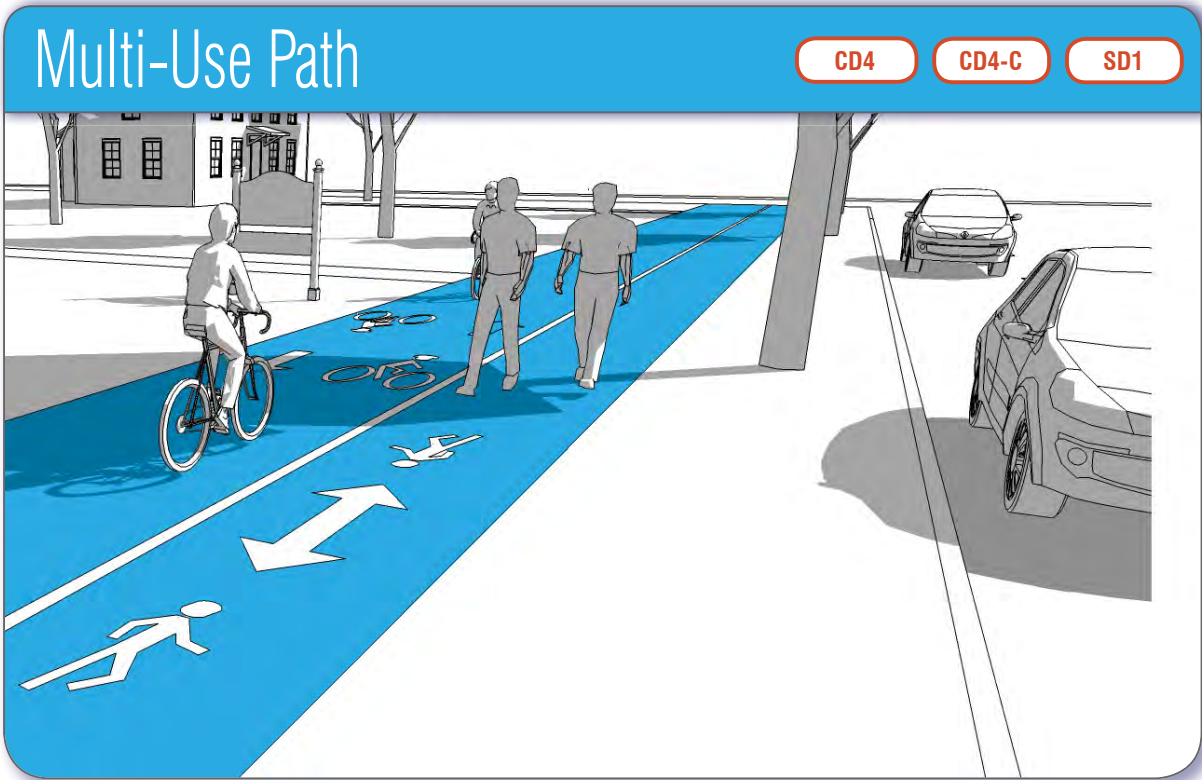
TABLE 6.E.3C BIKEWAY TYPES - SHARED-USE LANE



Riding Surface Width	Same as vehicular lane
Lane Marking	Shared Lane Marking, Centered in Vehicle Lane
Buffer	none
Movement	With Traffic
Intersection Detailing	Signed
Bicycle Parking	Rack, bicycle shelter



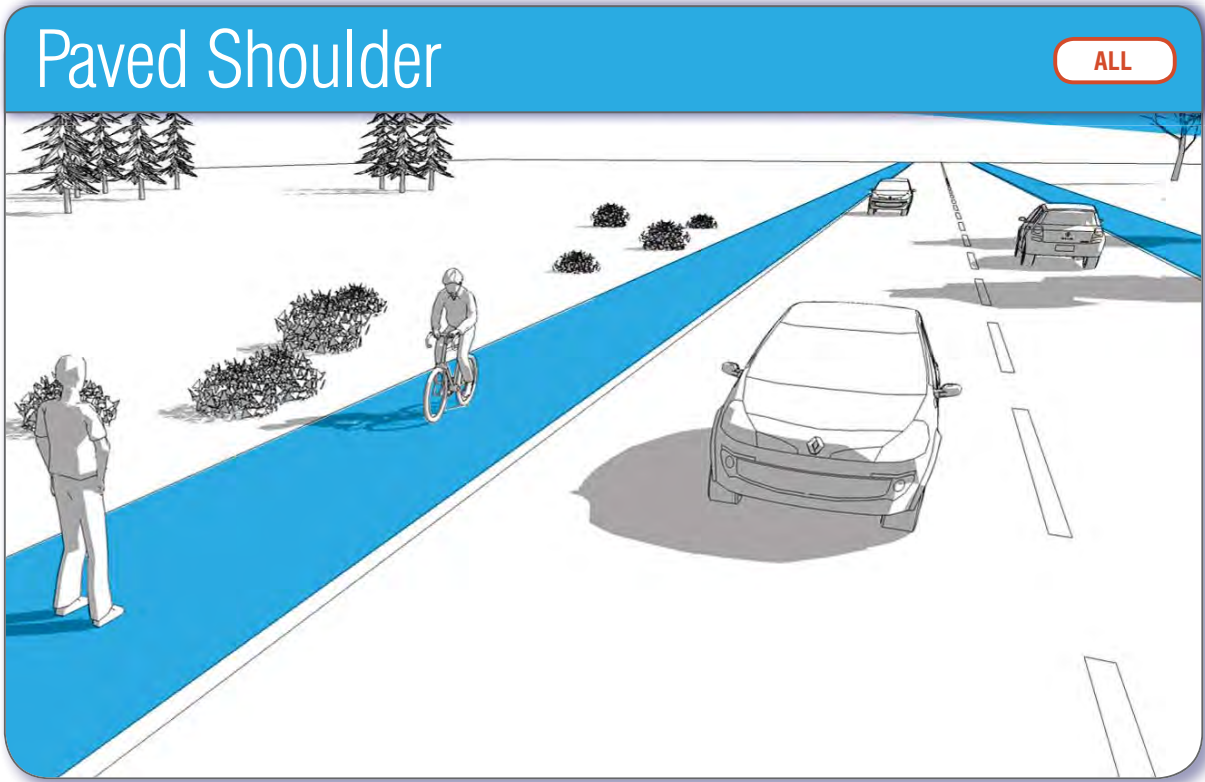
TABLE 6.E.3D BIKEWAY TYPES - MULTI-USE PATH



Surface Width	10 ft min
Lane Marking	Bike and pedestrian stencils(Optional)
Buffer	3 ft min, with curb and planter strip
Movement	With traffic or dual direction
Intersection Detailing	Signed, signalized
Bicycle Parking	Rack, bicycle shelter, bicycle station



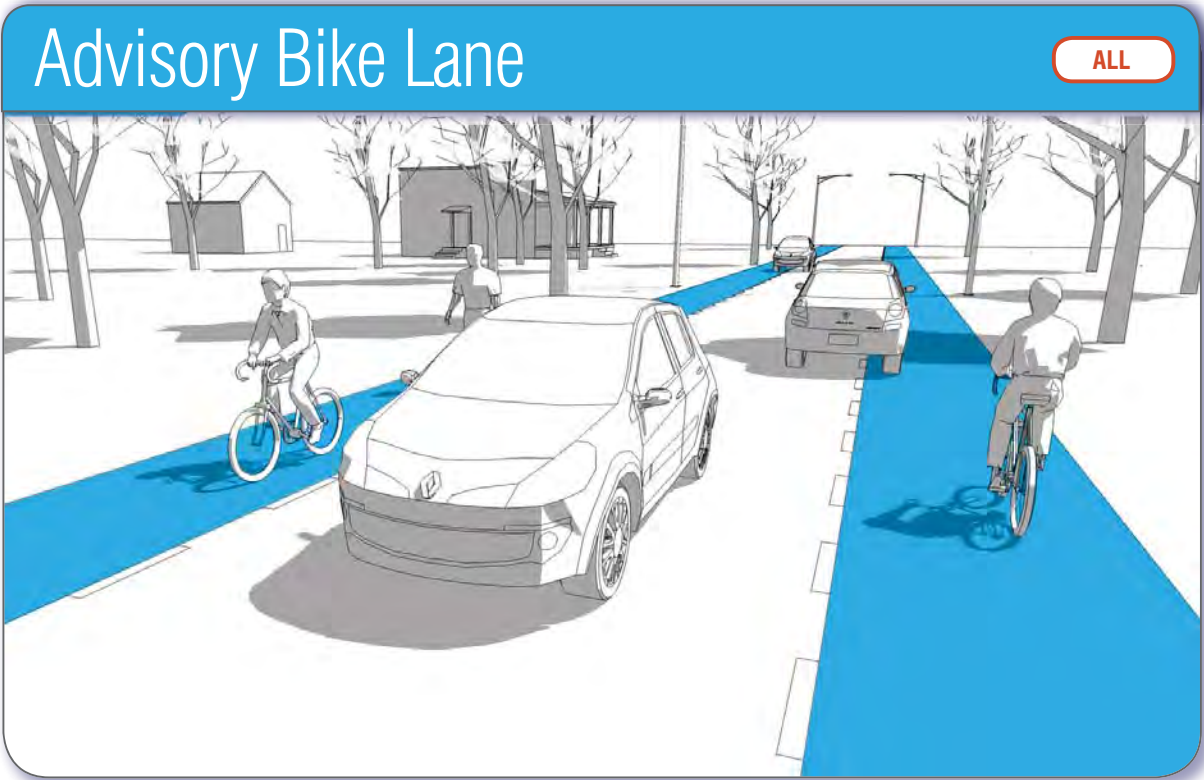
TABLE 6.E.3E BIKEWAY TYPES - PAVED SHOULDER



Riding/ Walking Paved Surface Width	5 - 8 ft
Lane Marking	6" wide Fog Stripe
Buffer	none
Movement	Bicycles travel with traffic; Pedestrian walk against traffic
Intersection Detailing	Signed
Bicycle Parking	Rack



TABLE 6.E.3F BIKEWAY TYPES - ADVISORY BIKE LANE



Riding/Walking Surface Width	Two 5-6 ft. minimum width multi-use lanes, flanking a single 13 ft minimum width motor vehicle travel lane in the center
Lane Marking	Dashed side lines defining the two multi-use lanes, with no center line in the vehicle travel lane
Buffer	none
Movement	Motor vehicles travel down the center vehicle lane, with slow yield movement; when encountering an on-coming vehicle, vehicle may move to the right across the dotted line if there is no cyclist or pedestrian there. Motor vehicles must yield to cyclists and pedestrians.
Intersection Detailing	Signage at the entry to that roadway section, advising motorists of change in traffic pattern, and instructing them to yield to cyclists and pedestrians.
Bicycle Parking	N/A, no motor vehicle parking



TABLE 6.E.4 PUBLIC PLANTING

Landscape Material shall generally be selected from this approved listing.

FLOWERING AND ORNAMENTAL SHRUBS.

Aesculus parviflora - Bottlebrush Buckeye
Aronia arbutifolia - Red Chokeberry
Berberis thunbergii - Barberry 'Crimson Pygmy'
Cotinus coggygia - Common Smoketree
Cotoneaster adpressa - Creeping cotoneaster
Cotoneaster divaricatus - Spreading cotoneaster
Cotoneaster horizontalis - Rockspray Cotoneaster
Deutzia gracilis - Slender Deutzia
Enkianthus campanulatus - Redveined Enkianthus
Forsythia 'Sunrise' - Sunrise Forsythia
Hydrangea paniculata - Panicle Hydrangea
Ilex verticillata - Winterberry
Myrica pensylvanica - Bayberry
Potentilla fruticosa - Bush Cinquefoil
Prunus maritima - Beach Plum
Rhododendron species
Rosa rugosa - Beach Rose
Viburnum prunifolium - Blackhaw Viburnum
Viburnum sargentii - Sargent Viburnum
Viburnum trilobum - American Cranberrybush
Xanthorhiza simplicissima - Yellowroot

PERENNIALS.

Achillea millefolium - Yarrow
Aster x frikartii - New England Aster
Astilbe varietis - Astilbe
Coreopsis verticillata - Moonbeam Coreopsis
Echinacea purpurea - Purple coneflower
Hemerocallis species - Daylilies
Liatris spicata - Gayfeather
Malva alcea 'Fastigiata' - Hollyhock Mallow
Perovskia atriplicifolia - Russian Sage
Rudbeckia 'Goldsturm' - Black-Eyed Susan
Sedum telephium - Autumn Joy Sedum

STREET TREES.

Aesculus hippocastanum Baumanii - Horsechestnut
Acer campestre - Hedge Maple
Acer ginnala - Amur Maple
Acer x. freemanii - Armstrong Maple
Acer x. freemanii - Autumn Blaze Maple
Acer rubrum - Red Maple
Acer saccharum - Sugar Maple
Acer tataricum - Tartarian Maple
Acer triflorum - Three-flower Maple
Amelanchier - Autumn Sunset shadblow
Betula nigra - River Birch
Carpinus betula - Upright Hornbeam
Carpinus caroliniana - American Hornbeam
Celtis laevigata - Sugarberry
Celtis occidentalis - Hackberry
Cercidiphyllum japonicum - Katsura Tree
Cladrastis kentukea - Yellowwood
Corylus columna - Turkish Filbert
Crataegus crusgalli - Cockspur Hawthorn
Ginkgo biloba - Maidenhair Tree
Gleditsia triacanthos Thornless - Honey Locust
Gymnocladus dioica - Kentucky Coffee Tree
Liriodendron tulipifera - Tulip Poplar tree
Magnolia acuminata - Cucumber tree
Nyssa sylvatica - Tupelo
Ostrya virginiana - Ironwood
Phellodendron arboreum - Amur Corktree
Prunus subhirtell 'Autumnalis' - Higan Cherry
Prunus accolade - Accolade Cherry
Prunus maackii - Amur Chokecherry
Pyrus calleryana - Cleveland Pear
Quercus alba - White Oak
Quercus bicolor - Swamp White Oak
Quercus coccinea - Scarlet Oak
Quercus palustris - Pin Oak
Quercus phellos - Willow Oak
Quercus robra - Upright English Oak
Quercus rubra - Red Oak
Quercus shumardi Shumard - Red Oak
Sophora japonica Regent - Scholartree
Sorbus alnifolia - Korean Mountain Ash
Syringa reticulata - Japanese Tree Lilac
Tilia cordata - Littleleaf Linden
Ulmus parvifolia - Lacebark Elm
Ulmus americana - Princeton American Elm
Ulmus americana - Frontier Elm

TABLE 6.E.4 PUBLIC PLANTING CON'T

Zelkova serrata - Greenvase Zelkova







ORNAMENTAL TREES.

Acer campestre - Hedge Maple
Acer ginnala - Amur Maple
Aesculus pavia - Red Buckeye
Amelanchier canadensis - Serviceberry
Calicanthus floridus - Carolina Alspice
Carpinus betulus - European Hornbeam
Carpinus carolineanum - American Hornbeam
Clethra alnifolia - Sweet Pepperbush
Cornus kousa - Kousa Dogwood
Cornus mas - Cornealiancherry Dogwood
Cotinus obovatus - American Smoketree
Crataegus crus-galli - Cockspur Hawthorne
inermis 'cruzam
Crataegus viridis 'Winter King' - Winter King
Hawthorne
Halesia carolina - Carolina Silverbell
Maacki amurensis - Maackia
Magnolia stellata - Star Magnolia
Malus species - Crabapple
Nyssa sylvatica - Tupelo
Pyrus calleryana 'Bradford' - Bradford Pear
Sorbus alnifolia - Korean Mountain Ash
Syringa reticulata 'Ivory Silk' - Tree Lilac

EVERGREEN TREES.

Abies concolor - White Fir
Picea pungens - Colorado Spruce
Pinus strobus - Eastern White Pine

TABLE 6.E.5 PUBLIC LIGHTING

LIGHTING TYPE	CD4	CD4-C	SD1
Cobra Head			
	Y	Y	Y
Pipe			
	Y	Y	Y
Post			
	Y	Y	Y
Column			
	Y	Y	Y
Double Column			
	Y	Y	Y
Bollard			
	Y	Y	Y

Y Permitted by Right

SECTION F.
BLOCK PERIMETER

Each Block shall conform to the applicable Block Perimeter Standards set forth in **Table 6.F (Block Perimeter Standards)**.

SECTION G.
CIVIC SPACES

1. CIVIC SPACES REQUIRED.

Any Development Plan having an area of aggregate 2 gross acres or more or any development plan shall provide as follows:

- a. Each Pedestrian Shed of which the area covered by the plan is a part shall contain at least one Main Civic Space conforming to one of the types specified in **Table 6.G (Civic Spaces)**, unless topographic conditions, pre-existing Thoroughfare alignments or other circumstances prevent such location. Civic Spaces should connect to existing Civic Spaces, trails, Paths, or other bike/ped connectors.
- b. Within 1/4 mile (1,320 feet) of every Lot in Residential use, a Civic Space designed and equipped as a Playground conforming to **Table 6.G (Civic Spaces – Playground)** shall be provided; and
- c. Each Civic Space shall have a minimum

of 50% of its perimeter enfronting a Thoroughfare, except for Playgrounds.

2. CIVIC SPACES - DESIGN.

Civic Spaces shall be designed as generally described in **Table 6.G (Civic Spaces)**.

3. CIVIC SPACES IN SPECIAL DISTRICTS.

Civic Spaces may be permitted within Special Districts.

4. CIVIC BUILDING STANDARDS.

Any Civic Building provided or required pursuant to this Chapter:

- a. should be located within or adjacent to a Civic Space, or at the axial termination of a significant Thoroughfare; and
- b. shall be subject to the standards of Article 5 (Building and Lot Plans & Standards) unless and to the extent otherwise determined by the Town Council.

5. CIVIC BUILDINGS IN SPECIAL DISTRICTS.

Civic Buildings may be permitted within Special Districts.

TABLE 6.F BLOCK PERIMETER STANDARDS

	CD4	CD4-C	SD1
By Right	2,000 ft max	2,500 ft max	2,500 ft max

TABLE 6.G CIVIC SPACES

Sports Complex

CD4-C

SD1



A Civic Space that consolidates programmed and/or athletic fields and associated facilities. A Sports Complex may be spatially defined by landscaping rather than Building Frontages. Its landscape shall consist of paths and trails, trees, and lawns or fields, formally or informally disposed.

Park/Open Space

CD4

CD4-C

SD1



A natural preserve available for unstructured recreation or conservation. A park may be independent of surrounding Building Frontages. Its landscape may consist of Paths and trails, meadows, waterbodies, woodland and open shelters, all naturalistically disposed. Parks may be lineal, following the trajectories of natural corridors.

Greenway

CD4

CD4-C

SD1



A linear Civic Space that may follow natural corridors providing unstructured and limited amounts of structured recreation. A Greenway may be spatially defined by landscaping rather than Building Frontages. Its landscape shall consist of paths and trails, waterbodies, and trees, naturalistically disposed.

Square

CD4

CD4-C

SD1



A Civic Space available for unstructured recreation and Civic purposes. A Square is spatially defined by Building Frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important Thoroughfares.

TABLE 6.G CIVIC SPACES (CONT'D)

Plaza

CD4

CD4-C

SD1



A Civic Space available for Civic purposes and Commercial activities. A Plaza shall be spatially defined by Building Frontages. Its landscape shall consist primarily of pavement. Trees are optional. Plazas should be located at the intersection of important streets.

Green

CD4

CD4-C

SD1



A Civic Space, available for unstructured recreation. A Green may be spatially defined by landscaping rather than Building Frontages. Its landscape shall consist of lawn and trees, naturalistically disposed.

Pocket Park

CD4

CD4-C

SD1



A Civic Space available for informal activities in close proximity to neighborhood residences. A Pocket Park is spatially defined by Building Frontages or street patterns. Its landscape shall consist of paths, lawns and trees, formally disposed. Pocket Parks shall be in public places or in more intimate mid-block locations.

Playground

CD4

CD4-C

SD1



A Civic Space designed and equipped for the recreation of children. A playground may include an open shelter. Playgrounds shall be interspersed within Residential areas and may be placed within a Block. Playgrounds may be included within parks and greens.

SECTION H. OPEN SPACE

[RESERVED]

SECTION I. SPECIAL REQUIREMENTS

A Development Plan may be required to designate any of the following Special Requirements, developed in consultation with the Planning Department, CRC, and/or Planning Board, as appropriate:

1. RETAIL FRONTAGE.

Block frontages may be designated for mandatory and/or recommended Retail Frontage requiring or advising that each Building satisfy the Frontage Buildout requirement with a Shopfront Frontage at Sidewalk level along the entire length of the Private Frontage, except at any allowed Driveways or Streetscreen areas. The Shopfront Frontage shall be no less than 70% glazed in clear glass and shaded by an awning overlapping the Sidewalk as generally illustrated in **Table 5.H.2 (Private Frontage Types)** and specified in **Article 5**. The first floor shall be confined to Retail Principal Use through the depth of the Second Lot Layer. **See Illustration 5.F.1 (Lot Layers).**

2. TERMINATED VISTAS.

Designations for mandatory and/or recommended Terminated Vista locations, may require or advise that the Building or Structure that terminates the vista be provided with architectural articulation of a type and character that responds visually to the location, as approved by the Consolidated Review Committee and/or Planning Board as appropriate.

- a. Architectural features required at a Terminated Vista shall intersect the centerline axis of the view to which they respond, and may encroach into the front setback if necessary.

- b. Terminated Vista features may comprise a Cupola, chimney, steeple, entry feature, tower or other significant architectural features.

3. CROSS BLOCK PASSAGE.

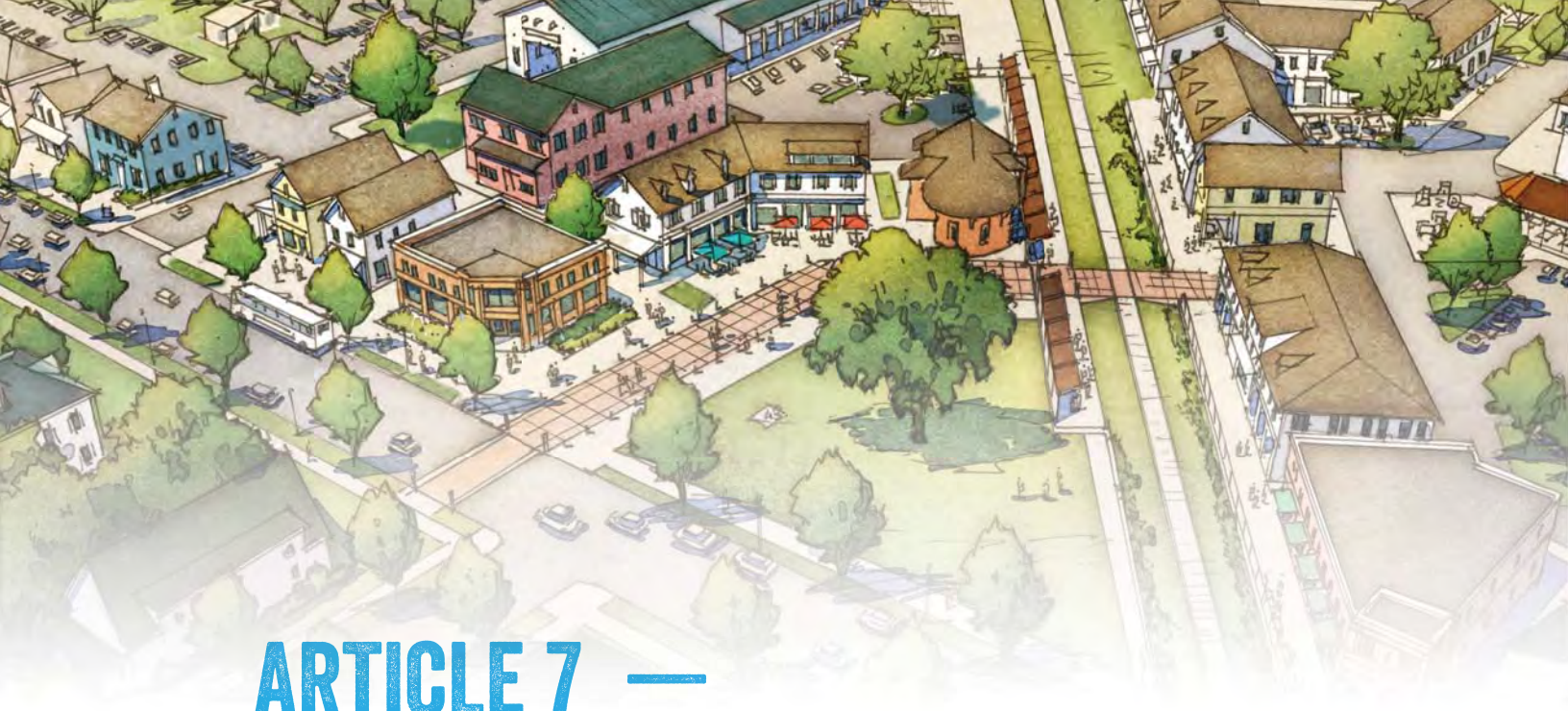
A designation for Cross Block Passages, requiring that a minimum 10-foot-wide pedestrian access be reserved between Buildings.

4. BUILDINGS OF VALUE.

Buildings and Structures of Value may be altered or demolished only in accordance with the provisions of **Chapter 701 (Zoning), Article IX, (Demolition Delay)**.

5. RESIDENTIAL DEVELOPMENT.

A Development Plan with three or more Building and Lot Plan sites in any mixed use Character District (all variations of CD4) is encouraged to include a mix of residential and commercial functions.



ARTICLE 7 — DEFINITIONS

This Chapter provides definitions for terms used herein that are technical in nature or that otherwise may not reflect a common usage of the term. Items in bold refer to Articles, Sections, or Tables in this Chapter, or Existing Local Codes.

Accessory Building: an Outbuilding with an Accessory Use.

Accessory Dwelling Unit (ADU): an Accessory Dwelling Unit approved under the Site Plan Review Ordinance shall be considered a secondary dwelling unit that has been added onto, or created within a single family home or an associated Accessory Structure. One ADU is permitted per lot. An Accessory Dwelling Unit approved under the Site Plan Review Ordinance does not require review under this Ordinance or under 30-A M.R. S. A., Chapter 187, subchapter 4, the municipal reviewing authority having determined that review under the Site Plan

Review Ordinance is at least as stringent as that required under subchapter 4.

Accessory Use: a subordinate use of a Building, Structure, or Lot customarily incidental to a Principal Use located within the same Building, Structure or Lot. Not synonymous with Accessory Dwelling Unit.

Actual Parking: the number of parking spaces required to be attributable to a Lot as determined under **Article 5.K.**, including **Tables 5.K.1 and 5.K.2.**

Adjacent: having any distance of real property boundary in common with another property, or being separated from the other property boundary by a right-of-way, Alley or easement.

Administrative Adjustments: As defined in **Article 1.N.1.d.**

Advisory Bike Lane: a type of Bikeway as

described in **Article VI.E.2.b.iii**, and depicted in **Table 6.E.3F (Bikeway Types)**.

Allee: a regularly spaced and aligned row of trees usually planted along a Thoroughfare or Path.

Alley: a vehicular way located to the rear of Lots providing access to service areas, parking, and Outbuildings and containing utility easements. See **Table 6.E.2 (Thoroughfare Assemblies and Standards)**.

Apartment: a Residential unit sharing a Building and a Lot with other units and/or uses; may be for rent, or for sale as a condominium.

Artisanal Food Production: Facilities, producing handcrafted and limited production food items, not exceeding 2,000 sf of gross floor area and not exceeding three truck deliveries per week and a maximum of five full time equivalent employees, including retail outlet on premises.

Artist Live-Work Space: a residence occupied by a practicing artist that also serves as the artist studio or production area.

Assisted Living Facility: a managed residential facility in which residents live in independent dwelling units with available services such as meals, personal care, medication administration, homemaker services and emergency response system, which are provided by the service provider.

Attic: the interior part of a Building contained within a pitched roof structure.

Avenue: a Thoroughfare of high vehicular capacity and low to moderate speed, acting as a short distance connector between

urban centers, and usually equipped with a landscaped median. See **Table 6.E.2 (Thoroughfare Assemblies and Standards)**.

Backbuilding: a single-story structure connecting a Principal Building to an Outbuilding. See **Illustration 5.G.2 (Principal Building/Backbuilding/Outbuilding)**.

Bed and Breakfast: an owner-occupied Lodging type offering 1 to 5 bedrooms, permitted to serve breakfast in the mornings to guests.

Bicycle Lane: a dedicated lane for cycling within a moderate-speed vehicular Thoroughfare, demarcated by striping. See **Table 6.E.2 (Thoroughfare Assemblies and Standards)**, and **Table 6.E.3 (Bikeway Types)**.

Bicycle Route: a Thoroughfare suitable for the shared use of bicycles and automobiles moving at low speeds.

Bicycle Trail: a bicycle way running independently of a vehicular Thoroughfare.

Bikeway: a path, lane or other accommodation for bicycle traffic (whether dedicated or for shared use), including those types enumerated in **Table 6.E.3 (Bikeway Types)**. (Syn: **Bicycle Accommodation**)

Block: the aggregate of private Lots, Civic Spaces, Civic Buildings, Passages, Alleys and Lanes, circumscribed by Thoroughfares.

Block Face: the aggregate of all the Building Facades on one side of a Block.

Block Structure: all of the various elements

comprising a Block.

Block Perimeter: the total circumference of a Block expressed in lineal feet. See **Table 6.F (Block Perimeter Standards)**.

Boarding House: an owner-occupied residence that rents rooms on a monthly or longer term basis.

Brewery, Nano: Breweries, with no more than 5 barrels of capacity on site and no more than 500 barrels of production per year with public tours or tasting room.

Brewery, Small: Breweries, with no more than 15 barrels of capacity on site and no more than 1,500 barrels of production per year, with public tours or tasting room.

Buffered Bike Lane: a travel lane on a Thoroughfare intended for use by bicycles, separated from an adjacent motor vehicular travel lane by a painted buffer, and from an adjacent lane of parked vehicles by another painted buffer, in accordance with the standards set forth in **Table 6.E.3B**.

Building: man-made construction completely enclosed by a roof, window, doors and solid exterior walls, and designed, built, or occupied as a shelter or enclosure for persons, animals, or property, and for the legal occupancy of which a Certificate of Occupancy is required, or has been issued prior to the effective date of hereof. Not synonymous with Structure.

Building Element (or Element): any component or part of a Building.

Building Form: referring to the form and appearance of a Building as defined by the metrics provided for in **Article 5H** and as

prescribed in **Table 5.F.2 (Character District Standards)**.

Building Height: shall be defined and calculated as provided for in **Chapter 701, Article I.D (Definitions)**; in cases outside of the Shoreland Zone see the term “Building Height”; and in cases within the Shoreland Zone, see the term “Structure Height” both of which definitions are hereby incorporated by reference.

Building Type: one of various types of Buildings depicted and described in **Table 5.H.3, Building Types**, including Cottage, House, Duplex, Apartment, Rowhouse, Live/Work, small Commercial Building, and Flex Building.

Buildings of Value: Buildings (and Structures) that are worthy of preservation, due to any of a variety of relevant considerations, including, without limitation, architectural significance, contribution to an overall setting or streetscape, historical significance, or otherwise of a character defining a particular Character District such that preservation or incorporation into a Development Plan and/or Building and Lot Plan could be deemed important to the maintenance of the character of such district. See **Article 5.M.7.s**.

By Right: characterizing a proposal or component of a proposal under Building and Lot Plans & Standards (**Article 5**) that complies with this Chapter and is permitted and processed administratively, without public hearing.

Character-Based Development Code

Districts: the aggregate of the various Character Districts and Special Districts as

designated on the Regulating Plan.

Character District: Defined in **Article 3.A.1.b**. See also **Table 3.A (Character District Descriptions)**.

Civic: the term describing activities, uses, purposes and organizations which are dedicated to arts, culture, education, religion, recreation, government/municipal services, transit, municipal parking, gardening, horticulture, public gathering, assembly or meeting.

Civic Building: a Building operated by a not-for-profit organization or governmental entity dedicated to Civic activities, uses, and purposes.

Civic Space: an outdoor Open Space of one of the Civic Space Types permanently dedicated for Civic activities, uses, and/or purposes. Civic Space Types are defined by the combination of certain physical constants including the relationships among their intended use, their size, their landscaping and their Enfronting Buildings. See **Table 6.G (Civic Spaces)**.

Commercial: the term collectively defining Office, Retail, and Lodging Uses.

Common Destination: an area of focused community activity, usually defining the approximate center of a Pedestrian Shed. It may include without limitation one or more of the following: a Civic Space, a Civic Building, a Commercial center, or a transit station, and may act as the social center of a neighborhood.

Common Yard: describing a type of Private Frontage as depicted in **Table 5.H.2. (Private Frontage Types)**.

Complete Street: a Complete Street is a Thoroughfare that safely accommodates the needs of all users – pedestrians, users of wheelchairs and other mobility devices, bicyclists, transit users, and motor vehicle users.

Configuration: the form of a Building, including its massing, Private Frontage, and height.

Consolidated Review Committee (CRC): a committee comprising a representative from each of the various regulatory departments and agencies that have jurisdiction over the permitting of a project. See **Article 1.J**.

Corridor: a lineal geographic system incorporating transportation trajectories.

Cottage: See **Table 5.H.3 (Building Types)**

Cross Block Passage: a passage way crossing through the interior of a Block, connecting two Thoroughfares.

Cupola: a cupola, dome, widow's walk or other similar feature that is nonhabitable mounted on a building roof for observation purposes. Such a feature is exempt from height limits provided that it does not extend beyond the exterior walls of the building, has a floor area not exceeding 64 square feet, and does not extend above the height of the building by more than eight feet.

Curb: the edge of the vehicular pavement that may be raised or flush to a Swale. It usually incorporates the drainage system. See **Table 6.E.2 (Thoroughfare Assemblies and Standards)**.

Design Speed: is the velocity at which a

Thoroughfare tends to be driven without the constraints of signage or enforcement. There are four ranges of speed: Very Low: (below 20 MPH); Low: (20-25 MPH); Moderate: (25-35 MPH); High: (above 35 MPH). Lane width is determined by desired Design Speed. See **Table 6.E.2 (Thoroughfare Assemblies and Standards)**.

Development: a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of Buildings or Structures or other construction not naturally occurring.

Development Parcel: defined in **Article 6.A.1**.

Development Plan: a plan for development of a Development Parcel prepared in accordance with the requirements of **Article 6**.

Distillery, Small: Distilleries, with no more than 15 barrels of capacity on site and no more than 1,500 barrels of production per year with public tours or tasting room.

Driveway: a vehicular lane within a Lot, often leading to a Garage. See **Article 5.L (Parking, Loading and Driveway Locations and Standards)**.

Edgeyard: a Yard Type that occupies the center of its Lot with Setbacks on all sides. See **Table 5.G.1 (Yard Types)**.

Effective Parking: the amount of parking required for Mixed Use after adjustment by the Shared Parking Factor. See **Table 5.K.1 (Parking Requirements)**.

Effective Turning Radius: the measurement of the inside Turning Radius taking parked cars into account. See **Illustration 6.E.1 (Turning**

Radius).

Element: see Building Element.

Elevation: an exterior wall of a Building not along a Frontage Line. See **Illustration 5.H.1 (Frontage and Lot Lines)**. See: Facade.

Encroach: to break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a Setback, into the Public Frontage, or above a height limit.

Encroachment: any structural Element that breaks the plane of a vertical or horizontal regulatory limit, extending into a Setback, into the Public Frontage, or above a height limit, or the breaking of such limit by a structural Element.

Enfront: to place an Element along a Frontage, as in “porches Enfront the street.”

Existing Local Codes: other Chapters of the Town of Yarmouth Ordinances applicable to Lots and Development (s), including, without limitation, those enumerated in **Section 1.C.3** of this **Chapter 703**.

Facade: the exterior wall of a Building that is set along a Frontage Line. See **Illustration 5.H.1 (Frontage and Lot Lines)**. See Elevation.

Flex Building: describing a type of Building as depicted in **Table 5.H.3 (Building Types)**.

Forecourt: describing a type of Private Frontage as depicted in **Table 5.H.2 (Private Frontage Types)**.

Frontage: the area between a Building Facade and a Path, Passage, waterbody, Civic Space,

or the vehicular lanes of a Thoroughfare having Vehicular Lanes, inclusive of the built and planted components of such area. Frontage is divided into Private Frontage and Public Frontage. See **Illustration P.A.1 (Thoroughfares & Frontages)**, **Table 6.E.2A to 6.E.2I (Thoroughfare Assemblies and Standards)** and **Table 5.H.2 (Private Frontage Types)**.

Frontage Buildout: the percentage of the Lot Width that is occupied by a Building along the Front Setback, as required in **Table 5.F.2**. such Street Frontage that is completely and permanently undevelopable, such as flood plains or pre-existing irreversible legal restrictions to development may be subtracted from Frontage Buildout percentage and Lot Width maximum requirements.

Frontage Line: a Lot Line bordering a Public Frontage. Facades facing Frontage Lines define the public realm and are therefore more regulated than the Elevations facing other Lot Lines. See **Illustration 5.H.1 (Frontages and Lot Lines)**.

Garage: an enclosed area integral to a Principal Building or an Outbuilding that provides as an Accessory Use space for parking or storage of vehicles incidental to the Principal function of the Lot or Principal Building on the Lot. Not synonymous with Parking Structure.

Green: a Civic Space type described in **Table 6.G (Civic Spaces)**.

Green Roof: a roof of a Building on which plants are grown.

Greenway: a Civic Space type described in

Table 6.G (Civic Spaces).

Group Home: Agency-owned or operated facilities that provide an alternative living environment for persons with developmental disabilities, sensory impairments, physical disabilities, emotional disabilities, multiple disabilities or chronic illnesses who are in need of personal services, supervision and/or assistance essential for self-protection or sustaining the activities of daily living and consequently are unable to live with their own families or in a more independent setting, which are overseen by the Maine Department of Health and Human Services.

Home Occupation: An Accessory Use conducted within a dwelling unit or Accessory Structure by the residents thereof, which is clearly incidental and secondary to the dwelling used for living purposes and does not change the character of the residential use of the property and surrounding residential uses.

House: See **Table 5.H.3 (Building Types)**.

Improvements: any man-made alteration of land, a Lot, a Building or a Structure.

Inn: a Lodging type, offering 6 to 12 bedrooms, permitted to serve breakfast in the mornings to guests. See **Table 5.J.1 (Building & Lot Principal Use)**.

Inverted Crown: Surface shaping of the roadway with the low point in the middle, causing surface runoff to flow down the center of the roadway.

Land Not Suitable for Development: shall have the meaning accorded that term in **Ch. 701, Article I.D. (Definitions)**.

Liner Building: a Building that is at least 24 feet deep measured from the Façade and is specifically designed to mask a parking lot or a Parking Structure.

Live-Work: See **Table 5.H.3 (Building Types)**.

Lodging: premises available for daily and weekly renting of bedrooms. See **Table 5.J.1 (Building & Lot Principal Use)**.

Lot: a lot or parcel of land of record, as recorded in the Cumberland County Registry of Deeds.

Lot Coverage: that percentage of the lot area covered by all Structures, Buildings, Driveways, parking lots and other non-vegetated surfaces. Credit for permanent pervious porous or permeable pavers shall be calculated at 50% percent of the applicable non-impervious area as determined by the Town Engineer, and subject to a maintenance agreement if and as required by the Town Engineer. (Such Lot Coverage credit not applicable in Shoreland Zone.)

Lot Layer: a range of depth of a Lot within which certain elements are permitted. See **Illustration 5.F.1 (Lot Layers)**.

Lot Line: the boundary that legally and geometrically demarcates a Lot.

Lot Occupation: the degree to which a Lot is or may be built upon or improved, expressed as a percentage of total Lot area, as set forth in the Standards for each of the Character-Based Districts.

Lot Width: the length of the Principal Frontage Line of a Lot.

Main Civic Space: the primary outdoor gathering place for a community. The Main Civic Space may be associated with an important Civic Building.

Manufacturing: premises available for the creation, assemblage and/or repair of artifacts, using table-mounted electrical machinery or artisanal equipment, and including their Retail sale. See **Table 5.J.1 (Building & Lot Principal Use)**.

Mezzanine: a low story between two others in a building, typically between the ground and first floors.

Mixed Use: multiple uses within the same Building or in multiple Buildings by adjacency or proximity.

Mullion/muntin: A mullion is a heavy vertical or horizontal member between adjoining window units. Muntins are the narrow strips of wood that divide the individual panes of glass in a traditional sash.

Multi-Use Path: a type of Bikeway as described and depicted in **Table 6.E.3 (Bikeway Types)**, accommodating pedestrians, bicyclists and mobility devices.

Neighborhood Greenway: a type of Civic Space described in **Table 6.G (Civic Spaces)**.

Net Site Area: all developable land within a site including Thoroughfares but excluding land allocated as Land not Suitable for Development.

Non-Conformity Bearing Lot: shall have the meaning given it in **Article 1.Q**.

Office: premises available for the transaction of general business but excluding Retail, artisanal

and Manufacturing Uses. See **Table 5.J.1 (Building & Lot Principal Use)**.

Open Space: land (including Preserved Open Space) intended to remain undeveloped; it may be for Civic Space.

Open Space - Preserved: Open Space that has been preserved under Article 6.H.

Outbuilding: an Accessory Building or Structure, usually located toward the rear of the same Lot as a Principal Building, and sometimes connected to the Principal Building by a Backbuilding. See **Illustration 5.G.2 (Principal Building/Backbuilding/Outbuilding)**.

Owner: the holder of right, title and interest in a Development Parcel or property subject to Building and Lot Plan and/or Development Plan.

Park: a Civic Space described in **Table 6.G (Civic Spaces)**.

Parking Area: an off-street, ground-level open area within a Lot for parking vehicles as an Accessory Use incidental to a Principal Use of the Lot or Principal Building on the Lot. Not synonymous with Parking Lot.

Parking Lot: an off-street, ground-level open area within a Lot for parking vehicles as a Principal Use function. Not synonymous with Parking Area.

Parking Structure: a Building containing one or more Stories of parking above grade.

Passage: a pedestrian connector, open or roofed, that passes between Buildings to provide shortcuts through long Blocks and

connect rear parking areas to Frontages.

Path: a pedestrian way traversing a Park or rural area, with landscape matching the contiguous Open Space, ideally connecting directly with the Sidewalk network.

Paved Shoulder: a type of Bikeway as described and depicted in **Table 6.E.3 (Bikeway Types)**.

Pedestrian Shed: An area that is centered on a Common Destination. Its size is related to average walking distances for the applicable type. See Pedestrian Shed - Standard, Long or Linear. (Syn: walkshed, walkable catchment.)

Pedestrian Shed - Linear: a Pedestrian Shed that is elongated along an important Corridor. A Linear Pedestrian Shed extends approximately 1/4 mile from each side of the Corridor. The resulting area may be shaped like a lozenge.

Pedestrian Shed - Long: a Pedestrian Shed that is an average 1/2 mile radius or 2640 feet.

Pedestrian Shed - Standard: a Pedestrian Shed that is an average 1/4 mile radius or 1320 feet.

Personal Services: a retail establishment catering to personal needs, including but not limited to health, fitness, beauty, hair and skin care, tailoring, shoe repair, laundry and dry cleaning, travel, pet grooming (excluding overnight boarding), etc.

Placement: the placement of a Building on its Lot. See **Illustrations 5.G.3 (Setback Designations), 5.F.1 (Lot Layers)** and **Illustration 5.G.2 Principal Building/Backbuilding/Outbuilding**.

Planning Department: the Director of Planning & Development or his/her authorized agent.

Planter: the element of the Public Frontage which accommodates street trees, whether continuous or individual, or by intermittent esplanade.

Playground: a type of Civic Space described in **Table 6.G (Civic Spaces)**.

Plaza: a type of Civic Space described in **Table 6.G (Civic Spaces)**.

Pocket Park: a type of Civic Space described in **Table 6.G (Civic Spaces)**.

Porch: describing a type of Private Frontage as depicted in **Table 5.H.2 (Private Frontage Types)**.

Principal Building: the main Building on a Lot, usually located toward the Frontage. **Illustration 5.G.2 (Principal Building/Backbuilding/Outbuilding)**.

Principal Entrance: the main point of access for pedestrians into a Building.

Principal Frontage: On corner Lots, the Private Frontage designated to bear the address and Principal Entrance to the Building, and the measure of minimum Lot width. Prescriptions for the location of parking in certain Lot Layers pertain only to the Principal Frontage. Prescriptions for the First Lot Layer pertain to both Frontages of a corner Lot. See Frontage.

Principal Use: a predominant and primary use of a Building or a Lot, described in **Table 5.J.1 (Building and Lot Principal Use)**.

Private Frontage: the privately held area between the Frontage Line and the Principal Building Facade. See **Table 5.H.2 (Private Frontage Types)** and **Illustrations P.A.1 (Thoroughfares and Frontages)** and **Illustration 5.H.1 (Frontage and Lot Lines)**.

Private Frontage Types: the aspect of a Building as seen from the Thoroughfare, on which a Building fronts, as prescribed and depicted in **Table 5.H.2 (Private Frontage Types)**, which includes Common Yard, Porch, Stoop, Forecourt and Shopfront Types.

Protected Bike Lane: a type of bikeway as described and depicted in **Table 6.E.3 (Bikeway Types)**, having a prescribed degree of physical separation and/or barrier protection from adjacent or parallel motor vehicle travel lanes.

Public Frontage: the area between the Frontage Line and (a) in the case of a Lot that Enfronts a Thoroughfare, the Curb of the vehicular lanes, or (b) in the case of a Lot that Enfronts a Path, Passage, waterbody, or Driveway, such Path, Passage, waterbody, or Driveway. See **Table 6.E.2 (Thoroughfare Assemblies and Standards)** and **Illustration P.A.1 (Thoroughfares and Frontages)**.

Rear Alley: see Alley

Rearyard: a Yard Type that occupies the full Frontage Line, leaving the rear of the Lot as the sole yard. See **Table 5.G.1 (Yard Types)**.

Regulating Plan: the zoning map or set of maps that shows the Character Districts and Special Districts, Thoroughfares and Special Requirements if any, of areas subject to regulation by this Chapter.

Residential: Use characterizing premises available for long-term human dwelling.

Retail: Use characterizing premises available for the sale of merchandise and/or food service.

Table 5.J.1 (Building and Lot Principal Uses).

Rowhouse: See **Table 5.H.3 (Building Types).**

Secondary Frontage: on corner Lots, the Private Frontage that is not the Principal Frontage. As it affects the public realm, its First Lot Layer is regulated. See **Illustration 5.H.1 (Frontage & Lot Lines).**

Setback: the area of a Lot measured from the Lot line to a Building Facade or Elevation that is maintained clear of permanent Buildings or Structures, with the exception of permitted Encroachments as indicated in **Illustration 5.G.3 (Setback Designations).**

Shared Parking Factor: an accounting for parking spaces that are available to more than one Use. See **Table 5.K.2 (Shared Parking Factor).**

Shared Space Street: a public space or Thoroughfare designed for shared use by bicycles, motorists and/or pedestrians. (Syn: woonerf)

Shared Use Lane: a type of bikeway as described and depicted in **Table 6.E.3 (Bikeway Types).**

Shared Use Path: See Multi-Use Path.

Shopfront: describing a type of Private Frontage as depicted in **Table 5.H.2 (Private Frontage Types).**

Shoreland Zone: see definition in **Chapter**

701, Article I.D. (Definitions) which is incorporated herein by reference.

Shoreline: see definition in **Chapter 701, Article I.D. (Definitions)** which is incorporated herein by reference.

Sidewalk: the paved section of the Public Frontage dedicated exclusively to pedestrian activity.

Sideyard: a Yard Type having a Setback on one side and a Building occupying the other side with minimal or no Setback.

Sideyard Building: See **Table 5.H.3 (Building Types).**

Slip Road: a type of service lane.

Special District: Defined in Section 4.A.1.

Special Flood Hazard Area: a designation by the Federal Emergency Management Agency (FEMA) that may include the V (Velocity) Zones and Coastal A Zones where Building construction is forbidden, restricted, or contingent upon raising to the Base Flood Elevation.

Special Requirements: provisions of **Articles 2.F (Special Requirements)** and **6.H (Special Requirements)** of this Chapter and/or the associated designations on a Regulating Plan or other map for those provisions.

Sports Complex: a type of Civic Space described in **Table 6.G (Civic Spaces).**

Square: a type of Civic Space described in **Table 6.G (Civic Spaces).**

Stoop: a type of Private Frontage as depicted in **Table 5.H.2 (Private Frontage Types).**

Story: a habitable level within a Building, excluding an Attic or raised (daylight) basement. See **Tables 5.F.2A-5.F.2E (Character District Standards)**. Mezzanines extending beyond 33% of the floor area below shall be counted as an additional Story.

Streetscreen: a freestanding wall built along the Frontage Line, or coplanar with the Facade. It may mask a parking lot from the Thoroughfare, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm. (Syn: streetwall.) See **Article 5.H.7**.

Structure: any vertical Improvement that is not intended for habitation, including without limitation a park shed, bicycle storage facility, transit stop, ticket booth, utility facilities, and boathouses. Not synonymous with Building.

Studio: a workplace for arts and arts related production, including but not limited to photography, painting, sculpture, dance, artisanal printing, media arts, film, music, recording, etc.

Substantial Modification: alteration to a Building that is valued at more than 50% of the replacement cost of the entire Building.

Swale: a low or slightly depressed natural area providing drainage.

Terminated Vista: a location at the axial conclusion of a Thoroughfare or other visual axis. A Building located at a Terminated Vista designated on a Regulating Plan is required or recommended to be designed in response to the axis.

Thoroughfare: a way for use by vehicular and pedestrian traffic and to provide access to Lots and Open Spaces, consisting of Vehicular

Lanes and the Public Frontage. See **Table 6.E.2 (Thoroughfare Assemblies and Standards)** and **Illustration P.A.1 (Thoroughfares & Frontages)**.

Townhouse: See Rowhouse, Table 5H.3, (Building Types).

Turning Radius: the curved edge of a Thoroughfare at an intersection, measured at the inside edge of the vehicular tracking. The smaller the Turning Radius, the shorter the pedestrian crossing distance and the more slowly the vehicle is forced to make the turn. See **Table 6.E.2 (Thoroughfare Assemblies and Standards)** and **Illustration 6.E.1 (Turning Radius)**.

Use: the functions, activities or uses accommodated by a Building or Lot. See **Table 5.J.1 (Building & Lot Principal Use)** and **Table 5.J.2 (Permitted Accessory Uses)**.

Variance: has the meaning given to that term under **Article 1.N.2**.

Verge: a narrow strip of grass bordering on a Pathway, Sidewalk, or Thoroughfare.

Waiver: has the meaning given to that term under **Article 1.N.1**.

Wetland: (including Coastal, Forested, and Freshwater Wetlands) shall be as defined in **Chapter 701, Article I.D (Definitions)**.

Winery, Small: Wineries, with no more than 15 barrels of capacity on site and no more than 1,500 barrels of production per year, with public tours or tasting room.

Yield: a Thoroughfare that has two-way traffic but only one effective travel lane necessitating slow movement and driver negotiation.