

**Town of North Yarmouth
Select Board Meeting Agenda
Tuesday, March 19, 2024
Regular Business Meeting
6:30PM**

Wescustogo Hall & North Yarmouth Community Center

Select Board Members

Amy Haile, Chair
Karl Cyr, Board Member

Andrea Berry, Vice Chair
Paul Hodgetts, Board Member

Katherine Maloney, Board Member

1. Call to Order

A. Pledge of Allegiance

2. Appointments

A. Animal Control Officer – Michael Dark
B. GPCOG Delegates & Alternates

3. Special Presentation

A. Greely Boys Class B Indoor Track 2024 State Champions
B. Nordic Ski Team State Champions

4. Announcements

5. Public Comment-Non-Agenda Items

6. New Business

A. Ed MacDonald Safety Scholarship Grant Acceptance
B. Floodplain Management Ordinance
C. LUO- Proposed Amendments to Section 1.7
D. Planning Board & Shellfish Applications & Interview Process

7. Old Business

A. Property Tax Assistance Ordinance Amendment-Presentation
B. LD 2003-Send to PB for Public Hearing
C. Land Use Audit-Send to PB for Public Hearing
D. Sign Ordinance Amendment
E. Yarmouth's Dam Removal Initiative
F. Committee Policy Amendment-Discussion

8. Consent Agenda

A. Payroll Warrants & Municipal Accounts Payable Warrants
B. Select Board Minutes of 2/20/2024
C. Select Board Special Meeting Minutes of 02/27/2024
D. FY 24 Audit and Fixed Assets Engagement Letters

9. Management Reports & Communications

A. Select Board Committee Reports:

- | | |
|-----------------------------------------------------|---------------------------------------------------|
| 1. EDSC-Kit Maloney | 6. Recreation Advisory Board-Karl Cyr |
| 2. Parks-Karl Cyr | 7. School Fund Committee-Paul Hodgetts |
| 3. Joint Standing Committee-Amy Haile, Andrea Berry | 8. Prince Memorial Library-Amy Haile |
| 4. Waste Reduction Committee-Andrea Berry | 9. Shellfish Commission-Karl Cyr |
| 5. Walnut Hill Parkway-Paul Hodgetts, Kit Maloney | 10. Budget Committee-Andrea Berry |
| | 11. Open Space & Planning-Andrea Berry & Karl Cyr |

B. Town Manager's Report

10. Any Other Business

11. Adjournment

REMINDERS TO THE ATTENDING PUBLIC: Please mute all digital devices; Select Board meetings are open to the public, but the public may not speak unless recognized by the Chairperson first. **Workshops:** The public is welcome to attend workshops and listen to the discussion that takes place. The purpose of holding a workshop is to provide the Select Board with the opportunity to focus on specific town matters to later present at a regular business meeting. Therefore, public participation is limited to only regular business meetings of the Select Board.

Town of North Yarmouth Select Board Business

Summary of Recommended Motions & Other Action Items

March 19, 2023

3. *Appointments*

A. Animal Control Officer – Michael Dark

Suggested Motion

Appoint Michael Dark as ACO for a term ending 6/30/2024.

Motion _____, Second _____ Vote _____

B. GPCOG Delegates and Alternates

The Greater Portland Council of Government's (GPCOG) General Assembly & Annual Summit are coming up on Thursday, May 30, 2024. The event will be in person on the beautiful campus of St. Joseph's College in Standish. The lead-in to the Annual Summit is the GPCOG General Assembly meeting. GPCOG's General Assembly is made of delegates from GPCOG members, and Town of North Yarmouth is allowed two delegates and an alternate. Last year, our delegates were:

Delegate 1: Amy Haile

Delegate 2: Kit Maloney

Alternate: NA

Suggested Motion

Appoint _____ and _____ as member delegates.

Motion _____, Second _____ Vote _____

6. *New Business*

A. Ed MacDonald Safety Scholarship Grant Acceptance

The North Yarmouth Fire Department has been awarded \$1,850 from the Ed MacDonald Safety Scholarship to fund a Low Angle Rescue Class for the department.

Town of North Yarmouth

Select Board Business

Summary of Recommended Motions & Other Action Items

This grant is offered through MMA’s Workers’ Compensation Fund. The purpose of this grant is to assist its’ Workers’ Compensation Fund members in their safety efforts. This grant is designed to fund equipment or items that reduce the risk of injury to workers and promote safe and healthy conditions in the workplace.

Suggested Motion

Accept the grant funds and authorize the Town Manager to execute documents.

Motion _____, Second _____ Vote _____

B. Floodplain Management Ordinance

North Yarmouth recently received a Letter of Final Determination (LFD) from the Federal Emergency Management Agency (FEMA) which sets the effective date of the new Digital Flood Insurance Rate Maps for Cumberland County for June 20, 2024.

The LFD marks the beginning of a six-month time period for communities to update their local Floodplain Management Ordinances to reflect any changes since the last ordinance was adopted and to incorporate the new map date.

Participation in the NFIP provides protection to those members of North Yarmouth who may be affected by flooding. In addition, federal flood insurance is available to those who have federally backed mortgages in the floodplain. Another benefit is that North Yarmouth is eligible for disaster funding and low interest loan when our county is in a declared disaster area.

If the updated Floodplain Management Ordinance is not adopted prior to June 20th, North Yarmouth will be suspended from the National Flood Insurance Program on June 21st. Flood insurance policies cannot be renewed, and new policies cannot be written if our community is suspended.

*State of Maine Department of Agriculture, Conservation & Forestry, Bureau of Resource Information & Land Use Planning

Suggested Motion

Authorize the proposed ordinance amendment to go on the Annual Town Meeting Warrant.

Motion _____, Second _____ Vote _____

Town of North Yarmouth

Select Board Business

Summary of Recommended Motions & Other Action Items

C. LUO-Proposed Amendments to Section 1.7

State statute dealing with zoning ordinances (30-A M.R.S. § 4352) does not specify the process or procedure for LUO amendments, it merely requires a public hearing at the planning board before a zoning ordinance or amendment can be adopted. The Town's LUO (section 1.7) does not have a procedure (including time frames) for amending zoning ordinances.

This proposal specifies the process and procedure including timelines for amendments to the LUO.

Suggested Motion

Send the proposed amendments to LUO-Section 1.7 to the Planning Board for a Public Hearing.

Motion _____, Second _____ Vote _____

7. *Old Business*

A. Property Tax Assistance Ordinance Amendment

One of the Select Board Goals for fiscal year 2024 is to review and make amendments to the Property Tax Assistance Ordinance.

After legal review of the existing ordinance, certain sections needed to be updated as follows:

- The reference to Title 36, Chapter 908-A is incorrect.
- The ordinance uses the term "credit" instead of "benefit"- changes were made throughout.
- The statute requires benefits for renters as well, and so "rent constituting property taxes accrued: needed to be spelled out in the ordinance.
- The statute says to calculate benefits "in a way that provides greater benefits proportionally to applicants with lower incomes in relation to their property taxes accrued or rent constituting property taxes accrued". This proposed amendment takes this into account.
- Proposing to increase Household Income to \$50,000.
- Household Income shall have the same meaning as "income", as defined in 36 M.R.S § 6201 (9).
- Applicants who do not file an income tax return but receive Social Security benefits must submit their SSA-1099 form with the application.

Town of North Yarmouth

Select Board Business

Summary of Recommended Motions & Other Action Items

- Applications filed on or after July 1, 2025 for the FY 26 benefit year, must show proof that they have received a tax credit under the provisions of the State of Maine Property Tax Fairness Credit Program in accordance with 36 M.R.S. § 5219-KK.

B. LD 2003 – Send to Planning Board for a Public Hearing

LD 2003 was passed by the State Legislature and signed by the Governor in April 2022, and went into effect July 27, 2022. The goal of the new law is to alleviate the housing affordability issues in Maine by increasing housing opportunities.

LD 1706 amends LD 2003 by extending the implementation date of July 1, 2003 to July 1, 2024, for municipalities that enact ordinances by voters at an annual town meeting.

The law requires towns and cities to increase housing density allowed in their zoning ordinance in several different ways:

- It requires municipalities to allow additional units on lots zoned for single-family homes.
- It requires municipalities to allow at least one accessory dwelling unit on lots with existing single-family homes.
- In some areas, it requires municipalities to allow 2 ½ times the currently allowed housing units for developments where most of the units meet standard affordability definitions.
- The extent of the law’s requirements are determined by “growth areas”.

*Southern Maine Planning and Development Commission

Suggested Motion

Send the proposed ordinance to the Planning Board for a Public Hearing.

Motion _____, **Second** _____ **Vote** _____

C. Land Use Audit – Send to Planning Board for a Public Hearing

North Satr Planning was engaged to undertake a review of North Yarmouth’s Land Use Ordinance (LUO) in 2023. The purpose of the review was to meet the following goals as noted in the work plan:

- Make submission requirement and the development review process easier to understand.
- Address submission requirement that are not linked to the review standards: and
- Remove or amend standards that go beyond State requirements, or those of surrounding communities.

Town of North Yarmouth Select Board Business

Summary of Recommended Motions & Other Action Items

The proposed modifications to the LUO are technical in nature and help to clarify the existing development review process and establish a process consistent with best practices. Additionally, NSP staff noted some potential policy changes to the LUO that would require dedicated committee work or a broader public process as part of their review of the ordinance.

Suggested Motion

Send the proposed technical modifications to the Planning Board for a Public Hearing.

Motion _____, Second _____ Vote _____

D. Sign Ordinance Amendment

Suggested Motion

Send the proposed Sign Ordinance to the Planning Board for a Public Hearing.

8. *Consent Agenda*

A. Municipal Accounts Payable Warrants

#68 \$ 6,415.79

#70 \$ 811,577.27

#71 \$ 6,958.79

#74 \$ 181,399.07

Municipal Payroll Warrants

#69 \$ 51,101.97

#72 \$ 49,697.69

#73 \$ 726.64

#75 \$ 2,949.88

B. Select Board Minutes-2/20/2024

C. Select Board Minutes-2/27/2024

D. FY 24 Audit and Fixed Assets Engagement Letters

Suggested Motion

To approve the consent agenda as presented.

Motion _____, Second _____ Vote _____



TOWN OF NORTH YARMOUTH

The Town Where Others Began.

To: **Michael Dark**

Pursuant to: M.R.S.A. Title 7 § 3947

The undersigned municipal officers of the Town of North Yarmouth do hereby vote to appoint and confirm you as the **Animal Control Officer**, for the Town of North Yarmouth, Maine.

Your term of office is to expire on June 30, 2024

Given under our hands on this 19th day of March 2024.

* * * * *

(Optional Record of Oath)

State of Maine

County of Cumberland, ss _____, 2024

Personally, appeared the above-named **Michael Dark**, who has been duly appointed and confirmed as North Yarmouth **Animal Control Officer**, in said municipality and took the oath necessary to qualify for office and perform the duties thereof for the above-stated term according to law.

Before me,

Signature of Clerk or other person
authorized to give oath

North Yarmouth Fire
Rescue

Memo

To: Diane Barnes
From: Greg Payson
cc:
Date: Date
Re: March 19th, 2024 Selectboard meeting

Diane

Can we add to the agenda of the 03/19/2024 selectboard meeting to accept \$1850.00 from the Ed MacDonald Safety Scholarship to pay for a Low Angle Rescue Class for the department?

On behalf of the MMA Workers Compensation Fund, we are pleased to advise your Safety Scholarship application has been approved for you to hold the Low Angle Rescue training to take place within 2 months. Thank you for your participation in the Ed MacDonald Safety Scholarship Program and for your dedicated efforts to improve workplace safety.

The Scholarship has been approved for the maximum group amount of \$1,850.

Once the training has been completed, please send us the supporting documentation including receipts, proof of payment (cancelled check, treasurer's warrant, "paid" stamped invoice, etc.) and proof of completion of the training (copy of certificates or attendance sheet) so that reimbursement can be made. The scholarship must be used within one year from the date of this letter or it will expire without reimbursement. Awards may only be used for the training as submitted in the scholarship application.

Thank You

Greg



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BUREAU OF RESOURCE INFORMATION & LAND USE PLANNING
93 STATE HOUSE STATION
AUGUSTA, MAINE 04333

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

January 8, 2024

Amy Haile, Select Board Chair
Town of North Yarmouth
10 Village Square Road
North Yarmouth, ME 04097

[E-Mail Return Receipt Requested]

RE: New FEMA Flood Insurance Rate Maps and requirement for adoption into local ordinance for compliance with the National Flood Insurance Program (NFIP)

Dear Select Board Chair Haile:

Your community should have received a Letter of Final Determination (LFD) from the Federal Emergency Management Agency (FEMA) which sets the effective date of the new Digital Flood Insurance Rate Maps (DFIRMs) for Cumberland County for June 20, 2024. The LFD marks the beginning of a six-month time period for communities to update their local Floodplain Management Ordinances to reflect any changes since the last ordinance was adopted and to incorporate the new map date. **Your community must adopt an updated Floodplain Management Ordinance which references the new map date on or before June 20, 2024, in order to avoid being immediately suspended from the NFIP.**

Participation in the NFIP provides protection to those members of your community who may be affected by flooding. In addition, federal flood insurance is available to those who have federally backed mortgages in the floodplain. Another important benefit is your community's eligibility for disaster funding and low interest loans when your county is in a declared disaster area. This is all possible by way of your community's commitment to adopt, administer, and enforce its floodplain ordinance and your commitment to regulate development within flood prone areas.

Adoption of the new maps prior to the final map date will assure uninterrupted and continued participation in the NFIP. Enclosed is a copy of the most current state model Floodplain Management Ordinance that has been customized specifically for your community. **Please review this document carefully.** The enclosed ordinance contains all the changes that have

SUE BAKER, PROGRAM MANAGER
MAINE FLOODPLAIN MANAGEMENT PROGRAM
17 ELKINS LANE, WILLIAMS PAVILLION



PHONE: (207) 287-2801
FAX: (207) 287-2353
WWW.MAINE.GOV/DACF/

occurred at the federal and state level since your ordinance was last adopted. Since FEMA has very specific requirements regarding ordinance language, we encourage communities to adopt the ordinance without changes. However, if you would like to make any changes, you should discuss them with this office prior to local consideration. If the community changes the numbering system, a draft should be provided to this office for review. This is to ensure that the ordinance remains compliant and contains the correct cross references. Please make sure your community does not adopt any prior versions of the ordinance that we may have previously sent to your community.

We filled in the application fee (Article III) and permitting authority (Article II) using the ordinance that is in effect now for your community. The application fee is set by the municipality so if you would like to review other fee options or change it, just let us know.

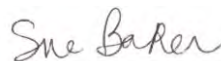
Some communities have expressed concern about adopting maps that do not become effective until several months after they are adopted. We highly recommend that the community set the effective date of the ordinance to coincide with the day the new maps become effective.

Once your ordinance has been adopted and certified by the Town Clerk, please send this office an electronic copy (if possible) and one clerk certified printed copy. We will provide copies to the FEMA regional office and the regional planning commission. An electronic copy will be filed here at the Maine Floodplain Management Program.

If you have not already done so, please provide us with contact information for the person who will be responsible locally for coordinating the ordinance update process. We would also like to know the scheduled dates for your public hearing and town meeting as we must track this information for the affected communities. Please contact Janet Parker at 287-9981 or janet.parker@maine.gov as soon as this information is available.

Over the next few months, we expect to host at least one public outreach meeting in the Cumberland County area. This will be a public informational session so that we can answer questions as to how folks will be affected by the new maps, particularly with regard to flood insurance. We hope you will have at least one local official in attendance and that you'll provide notice so that property owners have the opportunity to get their individual questions answered. Please feel free to contact me (287-8063 or sue.baker@maine.gov) or Janet (287-9981 or janet.parker@maine.gov) at any time throughout this process if you have questions or need additional assistance.

Best Regards,



Sue Baker, CFM
State NFIP Coordinator

Enclosures: Customized 2023 Model Ordinance
Adoption Instructions

Update of Ordinance Changes
Optional/Alternate Language

Cc: Diane Barnes, Town Manager
Debbie Grover, Town Clerk
Paul Whitmarsh, Planning Board Chairperson
Ben Scipione, Code Enforcement Officer
Katie Rand, FEMA Region I
Greater Portland Council of Governments

2022 Updates to the State Model Floodplain Management Ordinance

Department of Agriculture, Conservation & Forestry/Floodplain Management Program
December, 2022

This document outlines the 2022 changes to the state model ordinance for communities that have Digital Flood Insurance Rate Maps and those communities that do not yet have digital maps. The cleanest way for communities to adopt is usually to repeal and replace your current ordinance. If your community chooses to make amendments only, you will need to review the model ordinance language section by section and word for word against your current ordinance to make sure that small wording changes, punctuation, and minor errors will be corrected.

The Program is unable to provide a strikethrough/underline version of all the changes. Municipal ordinance adoption dates vary widely, so the community should rely on the update sheets that have been created each time changes have been made.

Please note that there are several versions of the model ordinance and they are dependent on the zones on the community's FIRM so the numbering system may be slightly different than the model we created for the community.

Article II – Permit Required

The federal NFIP regulations at 44 CFR 59.22.b.1. require the community designate a local official or board to act as the Floodplain Administrator. It is recommended that this be same as the permitting authority named in the second paragraph. FEMA identified this as a deficiency in the state model ordinance, so this is a required change.

Article III – Application for Permit

H.4. “lowest machinery and equipment servicing the building;”

Article VI – Development Standards

Two new paragraphs have been added:

F. Utilities. This clarifies that all mechanicals and utilities servicing newly constructed and substantially improved buildings must be elevated. If a community participates in the Community Rating System, this language must be in the ordinance.

G. Physical Changes to the Natural Landscape. The federal NFIP regulations at 44 CFR 65.3 states that “a community’s base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions”. Our model ordinances have historically not contained language addressing these types of projects and the potential need to obtain a Letter of Map Revision.

Practical guidance for meeting this section is based on one of two scenarios:

(1) P.E. certification that the development will not change the base flood elevation, flood zone designation, or the boundary of the special flood hazard area, or

(2) An engineering analysis must be completed to show any change in the base flood elevation or boundary of the special flood hazard area. The integrity of the map must be preserved by submitting a Letter of Map Revision (LOMR) request so the map can be revised to reflect the new conditions at a site.

L. Accessory Structures. FEMA issued new policy guidance in February 2020 (FEMA Policy #104-008-03). This was followed up with a new Floodplain Management Bulletin P-2140 in July 2020 titled *Floodplain Management Requirements for Agricultural Structures and Accessory Structures*. The new bulletin supersedes previous guidance. The FEMA guidance limits the size to a one story two car garage so the State was required to reinstate a size-limit. Agricultural Structures are now defined and are allowed to use hydraulic openings/flood vents by variance only.

N. Hydraulic Openings/Flood Vents. The heading of this paragraph has been changed from “Enclosed Areas Below the Lowest Floor”. The standards remain the same.

Article X – Appeals and Variances

F. This is a new paragraph that allows a variance to use hydraulic openings/flood vents in Agricultural Structures. This is required in the 2020 FEMA policy and guidance.

G. The cross references have been updated.

Article XIV – Definitions

Agricultural Structure. A definition has been added.

Containment Wall. A definition has been added to clarify the intended use of these walls around above ground tanks as a means to contain spills or leaks.

Existing Manufactured Home Park or Subdivision. A definition has been added as this is a required definition in the federal regulations at 44 CFR 59.1.

Article XVI – Disclaimer of Liability

This section has been added at the request of the FEMA Regional Office.

2023 Updates to the State Model Floodplain Management Ordinance

August 2023

Revisions have been made that require elevation certificates to be signed by Professional Land Surveyors only. The model ordinance is affected by this language change in the following articles:

Article III.J. - Application for Permit

Article V.F.1 - Review Standards for Flood Hazard Development Permit Applications

Article VIII.A. - Certificate of Compliance

Article XIV – Definitions

DFIRM: Digital Flood Insurance Rate Map has been deleted as all maps are referred to as “Flood Insurance Rate Maps” or “Flood Hazard Boundary Maps”.

Elevation Certificate – delete subsection “b. is required for purchasing flood insurance”; collapse remaining text into one sentence.

Elevation Certificate and Floodproofing Certificate have been updated and the form number has been changed.

Alternate Language for State Model Floodplain Management Ordinance

Article IV – Application FEE

In recognition of the varying degree of difficulty and amounts of time required for reviewing and processing flood hazard development permit applications, some communities are inserting language for a split or sliding fee schedule.

Some communities already have fee structures in other ordinances that are set according to the value of the proposed project. In order to promote consistency between their ordinances they might choose to adopt a similar fee structure for the floodplain ordinance. Other communities want the flexibility of allowing their Board of Selectmen to reassess and establish fees annually, without specifying the exact amount within the ordinance. Many communities simply assess a larger fee for new construction or substantial improvement projects (which often require more time and effort to review) and a smaller fee for all other (minor) projects.

Some options may be:

1. Assess a fee that is a percentage of the proposed project value, (i.e. 1%/\$1000)
2. Set fees according to monetary thresholds based on the value of the proposed project

Examples:

\$10 - project value < \$1,000

\$20 - project value ≥ \$1,000 but < \$10,000

\$30 - project value ≥ \$10,000 but < \$25,000

\$40 - project value ≥ \$25,000 but < \$50,000

\$50 - project value ≥ \$50,000

3. Split Fee Example:
A nonrefundable application fee of \$25 for minor development or \$50 for new construction or substantial improvements shall be paid to the City/Town Clerk and a copy of a receipt for the same shall accompany the application.
4. Allowing the Board of Selectman to annually establish a fee.

Example:

A nonrefundable application fee, as established annually by the Board of Selectmen shall be paid to the City/Town Clerk and a copy of a receipt for the same shall accompany the application.

5. Some larger towns or cities may want to consider assessing fees based on the amount of time required to process the application.

Example:

Applications shall be submitted to the Town Clerk accompanied by the prescribed application fee. The application fee shall be determined by the Board of Selectmen upon recommendation of the Planning of Board. The fee shall be designed to approximate the costs incurred by the Town for administering the ordinance. Upon receipt of an application and the required fee, the Town Clerk will stamp the application with the date of receipt and forward the application to the Code Enforcement Officer.

FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
TOWN OF NORTH YARMOUTH, MAINE



ENACTED: _____
Date

EFFECTIVE: _____
Date

CERTIFIED BY: _____
Signature

CERTIFIED BY: _____
Print Name
Title _____

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

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60.3(d coastal) Rev ~~4/18~~ 8/23
Prepared on ~~5/5/20~~ 12/6/2023 by DACF/JP

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ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of North Yarmouth, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of North Yarmouth, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of North Yarmouth, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of North Yarmouth has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of North Yarmouth having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of North Yarmouth, Maine.

The areas of special flood hazard, Zones A and ~~A1-30AE~~, for the Town of North Yarmouth, Cumberland County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – ~~North Yarmouth Cumberland County, Maine~~," dated ~~January 16, 1981~~ June 20, 2024, with accompanying "~~Flood Insurance Rate Map~~" dated ~~July 16, 1981~~ or "~~Flood Boundary and Floodway Map~~" dated ~~July 16, 1981~~, June 20, 2024, as amended are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

The Planning Board shall be designated as the local Floodplain Administrator. The Floodplain Administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the National Flood Insurance Program.

Before any construction or other development (as defined in Article ~~XIII~~XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Planning Board, except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of North Yarmouth, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board and shall include:

A. The name, address, and phone number of the applicant, owner, and contractor;

B. An address and a map indicating the location of the construction site;

C. A site plan showing ~~location~~ locations of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

D. A statement of the intended use of the structure and/or development;-
2

E. A statement of the cost of the development including all materials and labor;

F. A statement as to the type of sewage system proposed;

G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2 apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:

1. base flood at the proposed site of all new or substantially improved structures, which is determined:

 a. in Zones A1-30AE, from data contained in the "Flood Insurance Study - ~~Town of North Yarmouth~~ Cumberland County, Maine," as described in Article I; or,

 b. in Zone A:

 (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.~~K~~M. and ~~VIII~~X.D.; or,

 (2) in the absence of all data described in Article III.H.1.b.(1), information to demonstrate that the structure shall meet the elevation requirement in Article VI.~~F~~2H.4.b., Article VI.~~G~~2I.4.a. or b., or Article VI.~~H~~2J.4.b.

2. highest and lowest grades at the site adjacent to the walls of the proposed building;

3. lowest floor, including basement; and whether or not such structures contain a basement;

 4. lowest machinery and, equipment servicing the building; and,

4
 5. level, in the case of non-residential structures only, to which the structure will be floodproofed.

I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;

J. A written certification by:

 1. a Professional Land Surveyor that the grade elevations shown on the application are accurate; and,

 2. a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation ~~and grade elevations~~ shown on the application ~~are~~is accurate;

K. The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form ~~81-65FF-206-FY-22-153~~, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article VI.~~GI.~~; and other applicable standards in Article VI;

2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.~~LN.2.a.;~~

3. a certified statement that bridges will meet the standards of Article VI.~~MO.~~;

4. a certified statement that containment walls will meet the standards of Article VI.~~N.3P.~~

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee ~~as specified in the Town of North Yarmouth Application License~~ \$25.00 for all minor development and ~~Permit Fees Ordinance~~ \$ 50.00 for all new construction or substantial improvement shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Planning Board shall:

A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications:

1. the base flood and floodway data contained in the "Flood Insurance Study - ~~Town of North Yarmouth~~ Cumberland County, Maine," as described in Article I;

2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained

pursuant to Article III.H.1.b.(1); Article VI.~~KM~~.; and Article ~~VIII~~X.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b.(1), the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
 - D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
 - 1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an “under construction” Elevation Certificate completed by a Professional Land Surveyor, ~~registered professional engineer or architect~~ based on the Part I permit construction, for verifying compliance with the elevation requirements of Article VI, paragraphs ~~F., G.H., I., or H.J.~~ Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 - 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI. ~~G.I.1. a., b., and e.~~ The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
 - 3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI. ~~J.L.~~, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article ~~I.XX~~ of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance, and certifications of design standards required under the provisions of Articles III, VI, and ~~V.H.VIII~~ of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. **All Development** - All development shall:
 - 1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - 2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and, ⁵
 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

- F
- F. Utilities - New construction or substantial improvement of any structure (including manufactured homes) located within Zones A and AE shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least one foot above the base flood elevation.
- G. Physical Changes to the Natural Landscape - Certain development projects, including but not limited to, retaining walls, sea walls, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.
1. All development projects in Zone AE that cause physical changes to the natural landscape shall be reviewed by a Professional Engineer to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazard boundary line.
 - a. If the Professional Engineer determines, through the use of engineering judgement, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.
 - b. If the Professional Engineer determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.
 2. If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated.
 3. If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, but no later than 6 months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

H. Residential - New construction or substantial improvement of any residential structure located within:

~~Zones A1-30~~

1. **Zone AE** shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated:

a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article ~~VIII~~**IX**.D.; or,

b. in the absence of all data described in Article VI.~~FH~~**FH**.2.a., to at least two feet above the highest adjacent grade to the structure.

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I. Non-Residential - New construction or substantial improvement of any non-residential structure located within:

1. ~~Zones A1-30~~**Zone AE** shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:

a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

floodproofed.

Ⓔ

2. Zone A shall have the lowest floor (including basement) elevated:

- a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article ~~V.H.IX~~.D.; or,
- b. in the absence of all data described in Article VI.~~G~~.2.a., to at least two feet above the highest adjacent grade to the structure; or,
- c. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.~~G~~.1.a., b., and c.

~~H.~~

J. **Manufactured Homes** - New or substantially improved manufactured homes located within:

1. ~~Zones A1-30~~Zone AE shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
- ~~all~~
- (3) All components of the anchoring system described in Article VI.~~HJ~~.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.~~HJ~~.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article ~~V.H.IX~~.D.; or,
- b. in the absence of all data ~~as~~ described in Article VI.~~HJ~~.2.a., to at least two feet above the highest adjacent grade to the structure; and,
- c. meet the anchoring requirements of Article VI.~~HJ~~.1.c.

~~I~~

K. **Recreational Vehicles** - Recreational Vehicles located within:

1. Zones A and ~~A1-30~~AE shall either:

- a. be on the site for fewer than 180 consecutive days; and,

b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.HJ.1.

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L. **Accessory Structures** — New construction or substantial improvement of Accessory Structures, as defined in Article ~~XIII, located within Zones A and A1-30~~XIV, shall be exempt from the elevation criteria required in Article VI.F. & GH. & I. above, if all other requirements of Article VI and all the following requirements are met.

1. Accessory Structures located in Zones A and AE shall:

a. meet the requirements of Article VI.A.1. through 4., as applicable;

b. be limited in size to a one-story two car garage;

c. have unfinished interiors and not be used for human habitation;

~~1. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;~~

d. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and, when possible, outside the Special Flood Hazard Area.

e. be located outside the floodway;

f. when possible, be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

~~2. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.~~

~~K.~~

g. have hydraulic openings, as specified in Article VI.N.2., in at least two different walls of the accessory structure.

M. **Floodways** -

1. In ~~Zones A1-30~~Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Boundary and Floodway Insurance Rate Map",² unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones A and ~~A1-30~~AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other

development shall not be permitted in the floodway as determined in Article VI.~~KM~~.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

3. In Zones A and ~~A1-30AE~~ riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the

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adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

~~L. Enclosed Areas Below the Lowest Floor~~

~~N. Hydraulic Openings/Flood Vents~~ - New construction or substantial improvement of any structure in Zones A and ~~A1-30AE~~ that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs ~~F., G.H., I., or HJ.~~ and is elevated on posts, columns, piers, piles, or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article ~~XIII~~XIV;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

 a. be engineered and certified by a registered professional engineer or architect; or,

 b. meet or exceed the following minimum criteria:

 (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

 (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

 (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

~~M.~~

~~O. Bridges~~ - New construction or substantial improvement of any bridge in Zones A and ~~A1-30AE~~ shall be designed such that:

 1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and,

 2. a registered professional engineer shall certify that:

 a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.~~KM.~~; and,

 b. the foundation and superstructure attached thereto are designed to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

~~N~~
P. **Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones A and ~~A1-30AE~~ shall:

- a. have the containment wall elevated to at least one foot above the base flood elevation;
- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
- c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

~~Q.~~
Q. **Wharves, Piers, and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and ~~A1-30AE~~, in and over water, and seaward of ~~the~~ mean high tide, ~~if the following requirements are met: shall comply with all applicable local, state, and federal regulations.~~

~~wharves, piers,~~

R. Coastal Floodplains -

- 1. New construction located within Zones A and ~~docksAE~~ shall ~~comply with all applicable local, state,~~ be located landward of the reach of mean high tide except as provided in Article VI.R.2.
- 2. Conditional Use - Lobster sheds and ~~federal regulations;~~ fishing sheds may be located seaward of mean high tide and, shall be exempt from the elevation requirement in Article VI.I. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.M., and VI.N. are met:

~~for commercial wharves, piers, and docks, a registered professional engineer. The conditional use shall ~~develop~~ be limited to low value structures such as metal or ~~review~~ wood sheds 200 square feet or less and shall not exceed more than one story.~~

- b. The structure shall be securely anchored to the structural design, specifications wharf or pier to resist flotation, collapse, and ~~plans~~ lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
- c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
- d. The structure shall have unfinished interiors and shall not be used for human habitation.
- e. Any mechanical, utility equipment, and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
- f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and, when possible, outside the Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for the construction conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Planning Board that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE ~~VH~~VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the ~~Code Enforcement Officer~~Planning Board subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the ~~Code Enforcement Officer~~Planning Board an Elevation Certificate completed by a Professional Land Surveyor, ~~registered professional engineer, or architect~~, for compliance with Article VI, paragraphs ~~F., GH., I., or HJ.~~
- B. The applicant shall submit written notification to the ~~Code Enforcement Officer~~Planning Board that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the ~~Code Enforcement Officer~~Planning Board shall:

1. review the Elevation Certificate and the applicant's written notification; and,
2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE ~~VIII~~IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, or local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

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- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE ~~IX~~ - APPEALS AND VARIANCES

The Board of Appeals of the Town of North Yarmouth may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - 1. a showing of good and sufficient cause; and,
 - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances; and,
 - 3. a showing that the issuance of the variance will not conflict with other state, federal, or local laws or ordinances; and,
 - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,

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- c. that the granting of a variance will not alter the essential character of the locality; and,
- d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

~~other~~

- 1. ~~the~~ criteria of Article ~~IX~~X.A. ~~through C.~~ and Article VI.~~K~~M. are met; and,
- 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

- 1. the development meets the criteria of Article ~~IX, paragraphs X.A.~~ through ~~D. above;C.;~~ and,
- 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

~~F~~

F. Variances may be issued for new construction and substantial improvement of Agricultural Structures being used for the conduct of agricultural uses provided that:

- 1. the development meets the criteria of Article X.A. through C.; and,
- 2. the development meets the criteria of Article VI.M. and Article VI.N.

G. Any applicant who meets the criteria of Article ~~IX, paragraphs X.A.~~ through C. and Article X.D., E., or F. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

- 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage; and,
- 2. such construction below the base flood level increases risks to life and property; and,
- 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks, and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

~~G.~~

H. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the [papersdocuments](#) constituting the record of the decision appealed from.

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3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.

4. The person filing the appeal shall have the burden of proof.

5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.

6. The Board of Appeals shall submit to the Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the ~~Code Enforcement Officer~~ Planning Board to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE ~~XXI~~ - ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.

B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE ~~XXII~~ - VALIDITY AND SEVERABILITY

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

ARTICLE ~~XXIII~~ - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes

a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE ~~XXXIV~~ - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - ~~means a small detached~~ structure that which is on the same parcel of property as a principal structure and the use of which is incidental ~~and subordinate~~ to the principal structure.

Adjacent Grade - ~~means~~ the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Agricultural Structure - structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

Area of Special Flood Hazard - ~~means~~ the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood - ~~means the~~ flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - ~~means any~~ area of the building having its floor subgrade (below ground level) on all sides.

Building - see **Structure**.

Certificate of Compliance - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Conditional Use - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Containment Wall - a wall surrounding all sides of an above ground tank to contain any spills or leaks.

Development - ~~means any man made change to improved or unimproved real estate, including this includes,~~ but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Elevated Building - ~~means~~ a non-basement building that is:

a. built, in the case of a building in Zones A or A1-30AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, posts, piers, or shear walls; and,

b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or ~~A1-30AE~~, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.~~EN~~.

Elevation Certificate - ~~Anan~~ official form (FEMA Form ~~81-31FF-206-FY-22-152~~, as amended) that :

is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; ~~and, is required for purchasing flood insurance.~~

Existing Manufactured Home Park or Subdivision - a manufactured home park or subdivision that was recorded in the deed registry prior to the adoption date of the community's first floodplain management regulations.

Flood or Flooding -

~~means:~~

a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.

b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - ~~means~~ an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - ~~means~~ an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Flood-prone Area - ~~means~~ any land area susceptible to being inundated by water from any source (see ~~flooding~~). **Flood or Flooding**.

Floodplain Management - ~~means~~ the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - ~~means~~ zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - ~~means~~ any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - ~~mean~~ the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard ~~means~~ a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave

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action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use --means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or,
 2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum --means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.~~EN~~ of this ordinance.

Manufactured Home --means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision --means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level --means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development --means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J.L., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems, or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) --means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and ~~also~~ has been called "1929 Mean Sea Level (MSL)".

New Construction --means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD) --means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon the vertical datum data used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth earth's crust, glacial rebound and subsidence, and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - ~~means~~ a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and,
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

~~means~~

- a. the channel of a river or other water course 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~~ feet designated height, and,
- b. when not designated on the community's "Flood Insurance Rate Map," it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - ~~means~~ relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction --means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of

permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - ~~means~~, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - ~~means~~, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - ~~means~~ any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,

b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

Variance - ~~means~~ a grant of relief by a community from the terms of a floodplain management regulation.

Violation - ~~means~~ the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE ~~XIV~~XV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

ARTICLE XVI - DISCLAIMER OF LIABILITY

The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
TOWN OF NORTH YARMOUTH, MAINE

ENACTED: _____
Date

EFFECTIVE: _____
Date

CERTIFIED BY: _____
Signature

CERTIFIED BY: _____
Print Name

Title

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of North Yarmouth, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of North Yarmouth, Maine has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of North Yarmouth, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of North Yarmouth has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of North Yarmouth having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of North Yarmouth, Maine.

The areas of special flood hazard, Zones A and AE, for the Town of North Yarmouth, Cumberland County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Cumberland County, Maine," dated June 20, 2024, with accompanying "Flood Insurance Rate Map" dated June 20, 2024, as amended are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

The Planning Board shall be designated as the local Floodplain Administrator. The Floodplain Administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the National Flood Insurance Program.

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Planning Board, except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of North Yarmouth, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board and shall include:

- A. The name, address, and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;

- C. A site plan showing locations of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2 apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones AE, from data contained in the "Flood Insurance Study - Cumberland County, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.M. and IX.D.; or,
 - (2) in the absence of all data described in Article III.H.1.b.(1), information to demonstrate that the structure shall meet the elevation requirement in Article VI.H.4.b., Article VI.I.4.a. or b., or Article VI.J.4.b.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement;
 - 4. lowest machinery and equipment servicing the building; and,
 - 5. level, in the case of non-residential structures only, to which the structure will be floodproofed.
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by:
 - 1. a Professional Land Surveyor that the grade elevations shown on the application are accurate; and,
 - 2. a Professional Land Surveyor, registered professional engineer or architect that the base flood elevation shown on the application is accurate.

- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form FF-206-FY-22-153, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article VI.I.; and other applicable standards in Article VI;
 - 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.N.2.a;
 - 3. a certified statement that bridges will meet the standards of Article VI.O.;
 - 4. a certified statement that containment walls will meet the standards of Article VI.P.
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$25.00 for all minor development and \$ 50.00 for all new construction or substantial improvement shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Planning Board shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1. the base flood and floodway data contained in the "Flood Insurance Study - Cumberland County, Maine," as described in Article I;
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained

pursuant to Article III.H.1.b.(1); Article VI.M.; and Article IX.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b.(1), the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
 - D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
 - E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
 - F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
 1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an “under construction” Elevation Certificate completed by a Professional Land Surveyor based on the Part I permit construction for verifying compliance with the elevation requirements of Article VI, paragraphs H., I., or J. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.I.1. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
 3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes but is not limited to: accessory structures as provided for in Article VI.L., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation

Certificates, Floodproofing Certificates, Certificates of Compliance, and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. **All Development** - All development shall:
1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. use construction materials that are resistant to flood damage;
 3. use construction methods and practices that will minimize flood damage; and,
 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Utilities** - New construction or substantial improvement of any structure (including manufactured homes) located within Zones A and AE shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least one foot above the base flood elevation.
- G. **Physical Changes to the Natural Landscape** - Certain development projects, including but not limited to, retaining walls, sea walls, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.
1. All development projects in Zone AE that cause physical changes to the natural landscape shall be reviewed by a Professional Engineer to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazard boundary line.

- a. If the Professional Engineer determines, through the use of engineering judgement, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.
 - b. If the Professional Engineer determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.
2. If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated.
 3. If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, but no later than 6 months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

H. **Residential** - New construction or substantial improvement of any residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated:
 - a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article IX.D.; or,
 - b. in the absence of all data described in Article VI.H.2.a., to at least two feet above the highest adjacent grade to the structure.

I. **Non-Residential** - New construction or substantial improvement of any non-residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zone A shall have the lowest floor (including basement) elevated:
 - a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article IX.D.; or,
 - b. in the absence of all data described in Article VI.I.2.a., to at least two feet above the highest adjacent grade to the structure; or,
 - c. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.I.1.a., b., and c.

J. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zone AE shall:
 - a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) All components of the anchoring system described in Article VI.J.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:
 - a. be elevated on a permanent foundation, as described in Article VI.J.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article IX.D.; or,
 - b. in the absence of all data described in Article VI.J.2.a., to at least two feet above the highest adjacent grade to the structure; and,
 - c. meet the anchoring requirements of Article VI.J.1.c.

K. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and AE shall either:

- a. be on the site for fewer than 180 consecutive days; and,
- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.J.1.

L. **Accessory Structures** – New construction or substantial improvement of Accessory Structures, as defined in Article XIV, shall be exempt from the elevation criteria required in Article VI.H. & I. above, if all other requirements of Article VI and all the following requirements are met.

1. Accessory Structures located in Zones A and AE shall:

- a. meet the requirements of Article VI.A.1. through 4., as applicable;
- b. be limited in size to a one-story two car garage;
- c. have unfinished interiors and not be used for human habitation;
- d. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and, when possible, outside the Special Flood Hazard Area.
- e. be located outside the floodway;
- f. when possible, be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
- g. have hydraulic openings, as specified in Article VI.N.2., in at least two different walls of the accessory structure.

M. **Floodways** -

- 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2. In Zones A and AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.M.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
3. In Zones A and AE riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

N. **Hydraulic Openings/Flood Vents** - New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs H., I., or J. and is elevated on posts, columns, piers, piles, or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIV;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

O. **Bridges** - New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and,
2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.M.; and,

- b. the foundation and superstructure attached thereto are designed to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

P. Containment Walls - New construction or substantial improvement of any containment wall located within:

1. Zones A and AE shall:

- a. have the containment wall elevated to at least one foot above the base flood elevation;
- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
- c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

Q. Wharves, Piers, and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water, and seaward of the mean high tide shall comply with all applicable local, state, and federal regulations.

R. Coastal Floodplains -

- 1. New construction located within Zones A and AE shall be located landward of the reach of mean high tide except as provided in Article VI.R.2.
- 2. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.I. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.M., and VI.N. are met:
 - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
 - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
 - d. The structure shall have unfinished interiors and shall not be used for human habitation.
 - e. Any mechanical, utility equipment, and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.

- f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and, when possible, outside the Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Planning Board that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Planning Board subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Planning Board an Elevation Certificate completed by a Professional Land Surveyor for compliance with Article VI, paragraphs H., I., or J.

- B. The applicant shall submit written notification to the Planning Board that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Planning Board shall:
 - 1. review the Elevation Certificate and the applicant's written notification; and,
 - 2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, or local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the Town of North Yarmouth may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - 1. a showing of good and sufficient cause; and,

2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances; and,
 3. a showing that the issuance of the variance will not conflict with other state, federal, or local laws or ordinances; and,
 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. the criteria of Article X.A. through C. and Article VI.M. are met; and,
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
1. the development meets the criteria of Article X.A. through C.; and,
 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Variances may be issued for new construction and substantial improvement of Agricultural Structures being used for the conduct of agricultural uses provided that:
1. the development meets the criteria of Article X.A. through C.; and,
 2. the development meets the criteria of Article VI.M. and Article VI.N.
- G. Any applicant who meets the criteria of Article X.A. through C. and Article X.D., E., or F. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage; and,
2. such construction below the base flood level increases risks to life and property; and,
3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks, and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

H. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the documents constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE XI - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

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

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the principal structure.

Adjacent Grade - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Agricultural Structure - structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

Area of Special Flood Hazard - the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood - a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - area of the building having its floor subgrade (below ground level) on all sides.

Building - see **Structure**.

Certificate of Compliance - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Conditional Use - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Containment Wall - a wall surrounding all sides of an above ground tank to contain any spills or leaks.

Development - any man made change to improved or unimproved real estate. this includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Elevated Building - a non-basement building that is:

- a. built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, posts, piers, or shear walls; and,
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.N.

Elevation Certificate - an official form (FEMA Form FF-206-FY-22-152, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program.

Existing Manufactured Home Park or Subdivision - a manufactured home park or subdivision that was recorded in the deed registry prior to the adoption date of the community's first floodplain management regulations.

Flood or Flooding -

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Flood-prone Area - any land area susceptible to being inundated by water from any source (see **Flood or Flooding**).

Floodplain Management - the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved state program as determined by the Secretary of the Interior, or,
 - 2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.N. of this ordinance.

Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes but is not limited to: accessory structures as provided for in Article VI.L., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems, or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and has been called "1929 Mean Sea Level (MSL)".

New Construction - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD) - the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon the vertical data used by other North American countries

such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound and subsidence, and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and,
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

- a. the channel of a river or other water course 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 a designated height, and,
- b. when not designated on the community's "Flood Insurance Rate Map", it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the

start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

Variance - a grant of relief by a community from the terms of a floodplain management regulation.

Violation - the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

ARTICLE XVI - DISCLAIMER OF LIABILITY

The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

2009 Amendments to Maine Floodplain Management Model Ordinances

Additions are underlined and deletions are strikethrough.

ARTICLE III – APPLICATION FOR PERMIT

H) Included the reference to "North American Vertical Datum (NAVD)".

K) The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65, ~~01/03~~ 03/09, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;

ARTICLE X or XI – ENFORCEMENT AND PENALTIES

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, ~~shall~~ may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;

ARTICLE XIV – DEFINITIONS

Elevation Certificate - An official form (FEMA Form 81-31, ~~02/06~~ 03/09, as amended) that:

Locally Established Datum - included reference to "North American Vertical Datum(NAVD)".

Mean Sea Level - included reference to "North American Vertical Datum (NAVD)".

North American Vertical Datum (NAVD) - means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earths crust, glacial rebound, and subsidence and the increasing use of satellite technology.

2015 through 2019 Updates to the State Model Floodplain Management Ordinance

Department of Agriculture, Conservation & Forestry/Floodplain Management Program

February 5, 2019

This document outlines the changes to the state model ordinance for communities that will be adopting Digital Flood Insurance Rate Maps. The cleanest way for communities to adopt is usually to repeal and replace your current ordinance. If your community chooses to make amendments only, you will need to review the model ordinance language section by section against your current ordinance to make sure that small wording changes, punctuation, and minor errors will be corrected.

2015 Updates to the State Model Ordinance

All references to the State Planning Office have been deleted.

- All dates for FEMA forms and publications (for example, the Elevation Certificate, Floodproofing Certificate, Coastal Construction Manual) have been removed as the forms always have an expiration date and publications are updated occasionally.
- A definition for North American Vertical Datum (NAVD) has been added as the elevations on all DFIRMS are now shown in this datum. They were previously shown in National Geodetic Vertical Datum (NGVD).

Article I: Purpose and Establishment

The last paragraph of Article I has been changed to reflect adoption of the countywide Flood Insurance Study and the Digital Flood Insurance Rate Map panels for your community only.

Article VI.K.: Floodways

Under Article VI.K.2.b.

The FEMA publication *Guidelines and Specifications for Study Contractors* is outdated. FEMA now has a web address with guidance documents, so instead of referencing a particular publication, it now says:

- b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

Please note for future reference: The FEMA web address for the guidelines is at

www.fema.gov/guidelines-and-standards-flood-risk-analysis-and-mapping

Article VI.P. Coastal Floodplains

Under Article VI.P.2.b.(3) the following underlined language was added however, it was removed from the ordinance in 2019:

- (3) constructed to enclose less than 300 square feet of area with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

The regulatory side of the NFIP does not have a size limit, however, the flood insurance side of the Program assesses a higher premium for breakaway walls that enclose 300 square feet or greater. The larger the square footage of the enclosure, the higher the cost of insurance. In **2019**, we removed the size limit and have added a disclosure: ***NFIP flood insurance premiums will be higher for breakaway walls that exceed 299 square feet. The larger the square footage of the enclosure, the higher the cost of insurance. Developers are advised to inquire into flood insurance premiums rates before commencing construction.***

(over)

2016 Updates to the State Model Ordinance

Article VI.J.: Accessory Structures

After discussing this with FEMA, we have removed VI.J.1. which specified a 500 square foot limit and a \$3,000 value limitation for accessory structures.

FEMA *Technical Bulletin TB-1 Openings in Foundation Walls and Walls of Enclosures* states that detached garages and detached storage buildings may be permitted without requiring them to be elevated if they comply with all of the requirements for enclosures (found under Article VI.L.) Garages and other accessory buildings must be used only for parking of vehicles and storage, utilities must be elevated, flood damage resistant materials must be used below the BFE, the requirements for flood openings must be satisfied, and they must be anchored to resist flotation, collapse, or lateral movement under flood conditions.

J. **Accessory Structures** - Accessory Structures, as defined in Article XIV, located within Zones AE, AO, AH, and A, shall be exempt from the elevation criteria required in Article VI.F. & G., if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. have unfinished interiors and not be used for human habitation;
2. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
3. be located outside the floodway;
4. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
5. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

2019 Updates to the State Model Ordinance

The primary update for 2019 is for Zone A. The ordinance has always allowed the communities to utilize base flood elevation data from federal, state, or other technical sources. If there is no existing base flood information, the applicant was required to calculate the base flood elevation. The ordinance now allows the applicant to build so that the lowest floor of the building is two feet higher than the highest adjacent grade to the building. This means no below grade crawl spaces or basements should be allowed. In a Zone A, flood insurance is rated on the elevation differential between the highest adjacent grade to the building and the lowest floor. The lower the floor is below the highest adjacent grade, the more expensive flood insurance becomes. Amendments located at Article III.H.; Article V.B.2.; and Article VI.F., G., and H.

Accessory Structure

The definition has been changed so that it is in line with FEMA guidance.

Section 1.7 AMENDMENTS TO THIS ORDINANCE

A. Initiation of proposed amendments.

A proposed amendment to the Town of North Yarmouth Zoning Map or to the text of this Ordinance may be initiated in the following ways:

1. Upon application by an individual, corporation, or other entity having right, title or interest in property within the Town of North Yarmouth that will be affected by said proposed amendment (“Requested Amendment”).
2. Upon the written petition of a number of registered voters equal to at least 10% of the number of votes cast in the Town at the last gubernatorial election (“Citizen-Initiated Amendment”).
3. The Select Board may initiate a proposed amendment and refer it to the Planning Board for review as provided under this Section (“Town-Initiated Amendment”).
4. The Planning Board may recommend to the Select Board any non-policy, administrative amendments to the Ordinance, without prior referral from the Select Board.

B. Procedure for Requested Amendments.

1. Application form. All proposed Requested Amendments shall be submitted to the Code Enforcement Office on an application form provided by the Town, which will include, at a minimum, the following information:
 - (a) Name and address of the applicant(s);
 - (b) For proposed text amendments, copies of the sections of this Ordinance in which text changes are proposed, and draft text changes to be considered along with a written summary describing the changes proposed;
 - (c) For proposed map amendments, the address or location of the subject property, the location and dimensions of any changed zoning district boundary, and a location map that shows the relationship of the location to the surrounding area, with any proposed zoning district boundary changes shown on the applicable Assessor’s Tax Map and shall indicate Tax Map and lot number(s);
 - (d) Statement regarding the way in which the proposed amendment complies with paragraph 5; and
 - (e) Documentation of right, title or interest in property within the Town of North Yarmouth.

2. Fees and Deposits. To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with a Requested Amendment, the following fees and deposits in such amount(s) and for such purpose(s) as the Select Board may from time to time establish by order shall be paid by the applicant to the Town at the time of filing the proposed amendment:
 - (a) Publishing and public notice fee;
 - (b) A non-refundable application fee; and
 - (c) Independent consulting and peer review escrow deposit.

No such request or proposal shall be referred to the Select Board or Planning Board unless the fees are paid. All fees shall be non-refundable except for unexpended escrow deposits.

3. Referral.
 - (a) Following the receipt of a complete application for a Requested Amendment, the Code Enforcement Office shall submit the application to the Select Board.
 - (b) The applicant, or the applicant's designated representative, shall be notified of any meetings at which the applicant's proposed amendment application will be reviewed. If the applicant or the applicant's designated representative is not present at any meeting at which the amendment application is scheduled to be reviewed, the application may be denied.
 - (c) The Select Board shall consider the Requested Amendment and vote whether to forward it to the Planning Board for public hearing in accordance with 30-A M.R.S. § 4352(9). Such a vote is a purely legislative determination in the sole discretion of the Select Board, and is not appealable. If the Select Board decides not to forward the proposal to the Planning Board, the Code Enforcement Office shall inform the applicant in writing.
4. Public Hearing. If the Select Board forwards a Requested Amendment to the Planning Board, the Planning Board shall conduct at least one public hearing, and shall give notice of the hearing in accordance with the requirements of 30-A M.R.S. § 4352(9), as amended, and where applicable, 30-A M.R.S. § 4352(10), as amended. The applicant shall be responsible for paying the cost of such notices. The Planning Board shall hold the required public hearing within 35 days of presentation of the amendment application to the Planning Board.
5. Recommendation. Within 35 days of the Planning Board public hearing, the Planning Board shall prepare and submit a written recommendation on the proposed amendment to the Select Board, which may hold its own public hearing. In making its recommendation, the Planning Board shall review the Requested Amendment in accordance with the following considerations:

- (a) Whether the Requested Amendment is consistent with the purposes of this Ordinance as set forth in Section 1.3;
- (b) Whether the Requested Amendment will be materially detrimental to the public welfare or injurious to the subject property or properties in the vicinity where it is located;
- (c) Whether the Requested Amendment is consistent with the Town of North Yarmouth Comprehensive Plan, as amended; and
- (d) Whether the Requested Amendment is consistent with all other applicable regulations of the Town and with all applicable state and federal statutes.

The written recommendation may include the Planning Board's proposed changes to the Requested Amendment' draft language and/or draft map change.

6. Select Board Action.

- (a) Within 35 days of receiving the Planning Board recommendation, the Select Board shall consider the Planning Board recommendation on the Requested Amendment and consider whether any additional changes are necessary.
- (b) If the Select Board proposes no additional substantive changes to the Requested Amendment, it shall vote either to deny the application or to accept the application and include the Requested Amendment on the next annual town meeting warrant. Such a vote is a purely legislative determination in the sole discretion of the Select Board, and is not appealable.
- (c) If the Select Board proposes substantive changes to the Requested Amendment, it shall return the proposal to the Planning Board to repeat paragraphs 4, 5 and 6.

7. Technical Assistance. The Select Board may, at its discretion, forward a copy of the application, the plans and all supporting documentation to any appropriate technical or legal expert for review. The applicant shall pay for the review by any such experts and all associated costs.

C. Procedure for Citizen-Initiated Amendments.

- 1. Certification. Within 20 days after the date on which a petition for Citizen-Initiated Amendment is filed, the Town Clerk will determine whether the petition has a sufficient number of valid signatures under the provisions of this Ordinance and state law and will promptly send written notice of the determination to the petitioner by registered mail.
- 2. Referral. If the Town Clerk determines that the petition is valid, the Select Board shall automatically forward a Citizen-Initiated Amendment to the Planning Board for

public hearing in accordance with 30-A M.R.S. § 4352(9). The Planning Board shall hold the required public hearing within 35 days of presentation of the amendment petition to the Planning Board.

3. Select Board Action. Following the Planning Board public hearing, the Select Board shall, at its option, either insert an article on the Citizen-Initiated Amendment in the next warrant issued or shall within 60 days call a special town meeting for its consideration, in accordance with 30-A M.R.S. § 2522.

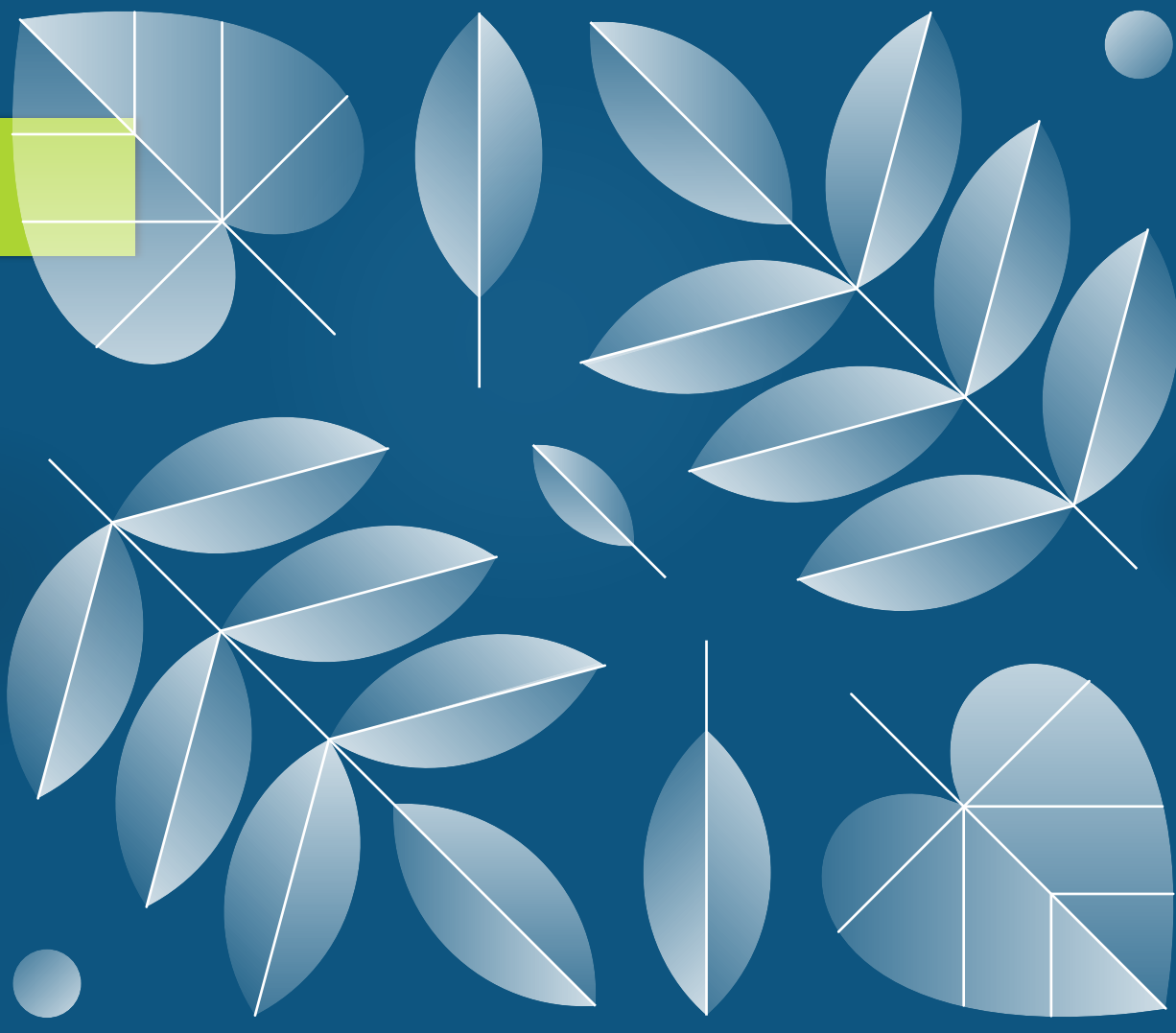
D. Procedure for Town-Initiated Amendments.

1. Referral. The Select Board shall refer any Town-Initiated Amendment to the Planning Board for review and public hearing in accordance with 30-A M.R.S. § 4352(9). The Planning Board shall hold the required public hearing within 35 days of presentation of the proposed amendment to the Planning Board. Within 35 days of the Planning Board public hearing, the Planning Board shall prepare and submit to the Select Board a written recommendation on the proposed amendment that meets the requirements of paragraph B.5 above.
2. Select Board Action. Following receipt of the Planning Board recommendation, the Select Board shall consider the Planning Board recommendation on the Town-Initiated Amendment and consider whether any additional changes are necessary. The Select Board may make such changes to the Town-Initiated Amendment as it deems proper and, if such changes are material, shall refer the revised Town-Initiated Amendment back to the Planning Board for further review and hearing in accordance with paragraph 1. Once the Planning Board review process is completed, the Select Board shall vote whether to include the Town-Initiated Amendment on a special or annual town meeting warrant, at the sole discretion of the Select Board.

E. Shoreland Zoning Amendments.

Copies of amendments relative to the shoreland zone, as that term is defined in Section XII, shall be attested and signed by the Town Clerk and submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within 45 days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit in the shoreland zone, submitted to the town within the 45-day review period shall be governed by the terms of the amendment if the Commissioner approves such amendment.

North Yarmouth
Property Tax
Assistance Program
Proposed Changes
March 19, 2024



Current Program

Purpose

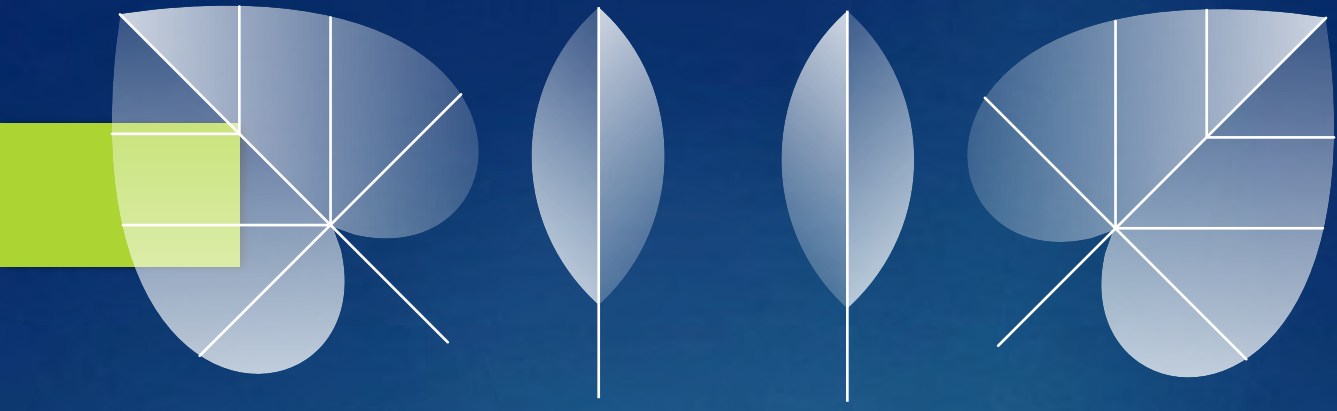
- ▲ Provide property tax assistance

Eligibility

- ▲ 70 years of age or older
- ▲ \$40,000 household income or below

Benefit for Qualified Residents

- ▲ \$1,000 flat benefit



Rationale for Changes

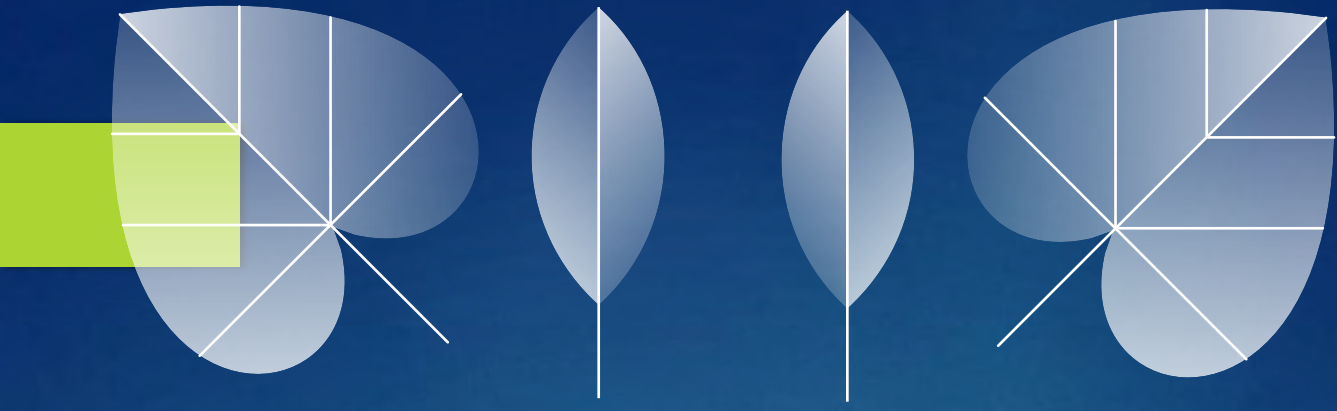


Right size benefits based on need

- ▶ Tiered benefits based on the proportion of property taxes to household income
- ▶ Can provide more assistance to more people

Streamline application process

- ▶ Working with state programs to determine household income



Proposed Changes

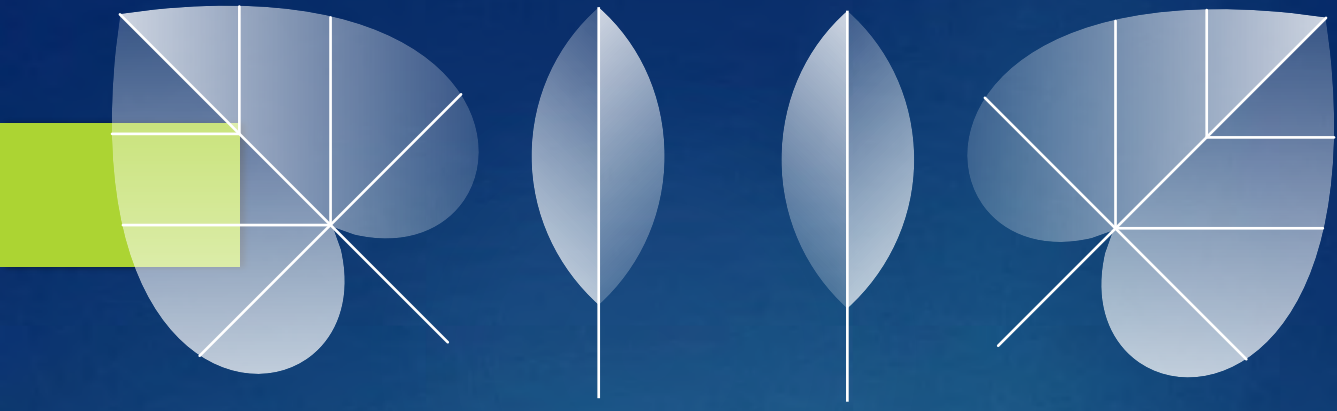


Tiered Benefits Based on Tax v. Income

Increase Maximum Benefit to \$1500

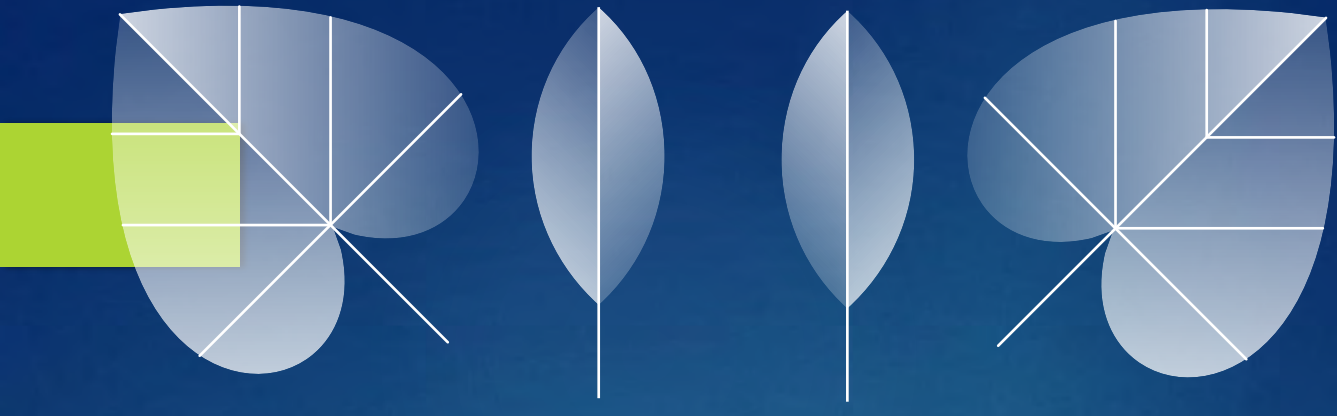
Increase Maximum Household Income to \$50,000

Definition of household income



Proposed Changes 2024

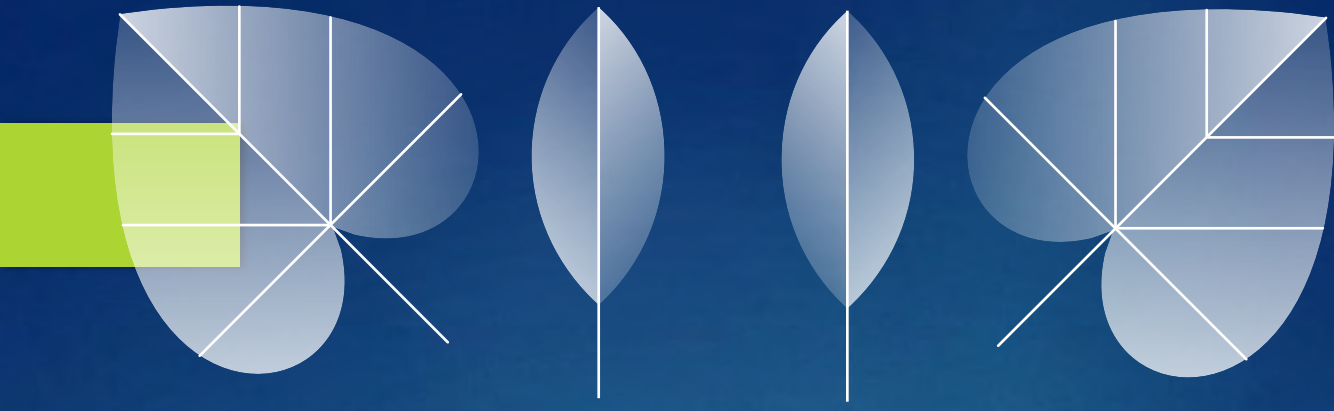
Benefit Base Percentage of Property Tax to Household Income	Benefit Amount
8%-12%	\$350.00
12.01%-16%	\$500.00
16.01%-20%	\$750.00
20.01%-24%	\$1,000.00
24.01%-28%	\$1,250.00
28.01% and over	\$1,500.00



Proposed Changes 2025

Applicants must:

- ▶ Demonstrate receiving a tax credit under the provisions of the State of Maine Property Tax Fairness Credit Program in accordance with 36 M.R.S. § 5219-KK
- ▶ Submit their SSA-1099 form with the application if they do not file an income tax return but receive Social Security benefits.
- ▶ File for tax assistance no later than July 31st.
- ▶ Eligibility shall be the lesser of the following amounts:
 - ▶ Amount of benefit calculated under Section 5.3 of the Ordinance;
 - ▶ A pro rata share of available monies in the Program Fund;
 - ▶ Property taxes paid or rent constituting property taxes paid, less the amount received under the State of Maine Property Tax Fairness Credit Program.



Final Takeaways

- ▲ Increase in household income from \$40,000 to \$50,000.
- ▲ Household income shall have the same meaning as “income” defined in 36 M.R.S. § 6201(9).
- ▲ Benefits will be calculated to provide greater benefits proportionally to applicants with lower incomes in relation to their property taxes accrued or rent constituting property taxes accrued (Section 6232 of Title 36).
- ▲ For applications filed on or after July 1, 2025, for the FY 26 taxes, applicants must apply and receive a tax credit under the State of Maine Property Tax Fairness Credit Program.



**TOWN OF NORTH YARMOUTH
PROPERTY TAX ASSISTANCE ORDINANCE**

SECTION 1. Title, Purpose, Authority

Subsection 1.1 Purpose:

The purpose of this Ordinance is to establish a program to provide property tax assistance to persons **70** ~~(seventy)~~ years of age and over, whose household income is **\$4050,000** or less, who reside in the Town of North Yarmouth. Under this program, the Town of North Yarmouth will provide a tax ~~credit benefit~~ to those individuals who qualify as North Yarmouth resident beneficiaries of the ~~State of Maine Residents Property Tax Program~~ Municipal Property Tax Assistance Program ("Program") pursuant to Chapter ~~908907~~-A of Title 36 of the Maine Revised Statutes and meet the criteria established by this Ordinance.

SECTION 2. Definitions

Subsection 2.1 Benefit Base: Property taxes paid by 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.

~~Subsection 2.1~~ Subsection 2.2 Homestead: A homestead is a dwelling owned or rented by the person seeking tax assistance under this Ordinance or held in a revocable living trust for the benefit of that person. The dwelling must be the applicant's primary place of residence.

Subsection 2.3 Household Income: Household income shall have the same meaning as "income," as that term is defined in 36 M.R.S. § 6201(9), as may be amended from time to time.

~~Subsection 2.2~~ Subsection 2.4 Qualifying Applicant: A qualifying applicant is a person who is determined by the Town Manager, after review of a complete application under Section 4 of this Ordinance, to be eligible for a tax ~~credit benefit~~ under the terms of this Ordinance.

Subsection 2.5 Rent Constituting Property Taxes: This term shall have the same meaning as that term is defined in 36 M.R.S. § 5219-KK(1)(E), as may be amended from time to time.

SECTION 3. Criteria for Participation

Subsection 3.1 - In order to participate in the ~~Property Tax Assistance~~ Program, an applicant shall demonstrate all of the following:

- 3.1.1 The applicant shall be **70** ~~(seventy)~~ years of age or more at the time of application.
- 3.1.2 The applicant shall have a homestead in the Town of North Yarmouth at the time of the application and for the entire year prior to the date of application.
- 3.1.3 The applicant has been a resident of the Town of North Yarmouth for at least 10 ~~(ten)~~ years immediately preceding the date of application for participation in the Program.
- 3.1.4 For applications filed on or after July 1, 2025, applicants must demonstrate that they have received a tax credit under the provisions of the State of Maine Property Tax Fairness Credit Program, in accordance with 36 M.R.S. § 5219-KK.

SECTION 4. Application ~~and for Property Tax Credit Procedures~~ Assistance

Subsection 4.1 - Person(s) seeking to participate in ~~the this Property Tax Assistance~~ Program shall submit an application to the Town Manager no later than ~~June 30th~~ July 31st. Applications are required every year to participate in this ~~program~~ Program. The Town Manager shall provide an application form for the

**TOWN OF NORTH YARMOUTH
PROPERTY TAX ASSISTANCE ORDINANCE**

~~program~~Program, which shall include, at a minimum, the applicant's name, homestead address and contact information. Attached to all applications shall be proof of household income. Applicants who do not file an income tax return but receive Social Security benefits must submit their SSA-1099 form with the application. 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.

SECTION 5. Determination of Eligibility and Amount of Eligibility

Subsection 5.1 - Eligibility under this ordinance is designed to provide greater benefits proportionally to applicants with lower household income in relation to their benefit base.

Subsection 5.4-2 - If the Town Manager determines that the applicant is eligible to participate in the Program, he/she shall determine the total amount of such eligibility. Eligibility shall be the lesser of the following amounts:

5.2.1 The amount of the benefit calculated under Section 5.3 of this Ordinance;

5.4.2 A pro rata share of the Available-~~available~~ monies in the ~~Town Tax Assistance~~ Program fundFund established under Section 6 of this Ordinance, based on the calculated amount of the benefit-~~or~~; and

5.4.3 \$1,000.00 per householdProperty taxes paid or rent constituting property taxes paid, less the amount received under the State of Maine Property Tax Fairness Credit Program (for applications filed on or after July 1, 2025).

Subsection 5.3 – Eligible applicants may qualify for benefits based on a calculation of the applicant's benefit base as a percentage of their household income under the following formula:

[(benefit base/household income) x 100 = benefit base as a percentage of household income.]

The table below lists the benefits that correspond with the benefit base as a percentage of household income.

<u>Benefit Base as Percentage of Household Income (Range)</u>	<u>Benefit Amount</u>
<u>8%-12%</u>	<u>\$350.00</u>
<u>12.01%-16%</u>	<u>\$500.00</u>
<u>16.01%-20%</u>	<u>\$750.00</u>
<u>20.01%-24%</u>	<u>\$1,000.00</u>
<u>24.01%-28%</u>	<u>\$1,250.00</u>
<u>28.01% and over</u>	<u>\$1,500.00</u>

Subsection 5.2-4 - The Town Manager shall report to the Select Board at the first meeting in August of each year, the projected ~~credits~~benefits and number of eligible applicants requesting assistance ~~for the program fund~~under the Program.

SECTION 6. Program Fund - Limitations Upon CreditsBenefits

**TOWN OF NORTH YARMOUTH
PROPERTY TAX ASSISTANCE ORDINANCE**

Subsection 6.1 - ~~Credits~~ Benefits under this Ordinance shall be conditioned upon the existence of sufficient monies in the Property Tax Assistance Program Fund ("Program Fund") the year in which participation is sought. If there are not sufficient monies in the Program Fund to pay all qualifying applicants under this Ordinance, ~~credits~~ benefits shall be limited to the amounts available in the Fund. In the event that a lack of funding results in no benefit ~~credit~~ or less than the full benefit ~~credit~~ to a qualifying applicant, the request will not carry over to the next year.

SECTION 7. Creation of the Program Fund

Subsection 7.1 - The Program Fund from which tax benefits ~~credits~~ shall be made under the terms of this Ordinance shall be created as ~~follows:~~ specified in Subsection 7.2.

Subsection 7.2 - As funds are available, the Select Board shall request from the Annual Town Meeting to appropriate monies from the general fund or other Town sources to support this Program. Any surplus monies available after all benefits ~~credits~~ have been made shall be retained in the specified fund for use of the Program in future years ~~program use~~.

SECTION 8. Timing of Tax Credits Benefits

Subsection 8.1 - A person who qualifies for a tax ~~credit~~ benefit under this Program shall have their ~~credit~~ benefit applied to their outstanding real estate taxes no later than **October 1st** for the year in which participation is sought.

SECTION 9. Limitations Upon Tax Credits Benefits

Subsection 9.1 - Only one qualifying applicant per household shall be entitled to ~~credit~~ a benefit under this Program each year. The right to file an application under this Ordinance is personal to the applicant and does not survive the applicant's death, but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney-in-fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the 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 tax ~~credit~~ benefit shall be made under this Ordinance.

ADOPTED: May 30, 2009

AMENDED: June 18, 2011

AMENDED: April 8, 2017

AMENDED: _____

North Yarmouth
Senior Property Tax

FY 24

FY 24 Senior Tax Subsidy	32 - \$32,000
	15 - Denials

Denials \$40,001-\$50,000	6
\$50,001-\$60,000	5
In excess of \$70,000	1
In excess of \$100,000	2
In excess of \$200,000	1

FY 23

FY 23 Senior Tax Subsidy	34 - \$34,000
	19 - Denials

Denials \$40,001-\$50,000	8
\$50,001-\$60,000	7
\$60,001-\$70,000	2
\$70,001-\$80,000	1
In excess of \$200,000	1

State of Maine Property Tax Relief Programs:

1. State Property Tax Deferral Program -Guide is being updated for applicants and Municipalities.

1. What is the State Property Tax Deferral Program?

The State Property Tax Deferral Program is a program that allows certain individuals to defer (postpone) payment of the property taxes on their homesteads until they pass away, move, or sell their property. During the period when the taxes are being deferred, the State reimburses the municipality for the deferred taxes. The deferred tax, plus interest, is then required to be repaid to the State by the individual or their estate when they pass away, move, sell the property, or move the property (if mobile or floating home) out of Maine.

2. Who qualifies for the program?

To be eligible for the program, you must be at least 65 years old or unable to work due to a disability. In addition, all owners must have combined liquid assets of less than \$75,000 (\$50,000 if a single owner) and combined income of less than \$40,000. For applications filed after January 1, 2024, all owners must have combined liquid assets of less than \$150,000 (\$100,000 if a single owner) and combined income of less than \$80,000.

3. What qualifies as a disability?

To qualify under the disability section, you must have been determined by a state or federal government agency to have a permanent and total impairment or condition that prevents you from being employed.

4. What are liquid assets?

Liquid assets are anything of value that can be converted to cash in three months or less, including:

- Bank accounts and CDs;
- Money market and mutual funds;
- Life insurance policies;
- Stocks and bonds; and
- Lump-sum payments and inheritances.

5. Does my property qualify for the program?

In addition to the requirements above, to be eligible for the program you must own and occupy the property as your principal residence, and you must be receiving a homestead exemption on the property. [Homestead Exemption Program FAQ | Maine Revenue Services](#). Property eligible for deferral includes both your principal residence plus up to 10 contiguous acres. If your homestead is located in a multi-unit building, the eligible property is the portion of the building used as your principal dwelling plus the percentage of the value of the common areas and the land on which the building is located.

6. Are there additional restrictions on eligible property?

Yes. You must own your property in fee simple (in other words, there can't be any limitations on your ability to sell or encumber the property), there must be no municipal liens on your property, you cannot be participating in a municipal deferral program, and there must be nothing preventing deferral in any federal law or rule. For applications filed after January 1, 2024, certain municipal liens are permissible, but there must be no more than 2 years of delinquent property taxes at the time of application for deferral.

7. How do I apply for the program?

You must file an application with your local municipal assessor between January 1 and April 1. The application is available on the MRS website at www.maine.gov/revenue/tax-return-forms/property-tax. The municipal assessor will verify certain information, then forward the application to MRS for review. MRS will review your application and may request additional information from you to confirm your eligibility for the program.

8. Do I have to apply for the program every year?

No. Once your application is approved, you may continue to defer the property taxes on your homestead in future years as long as there is no change in circumstances that might lead to disqualification or removal. For a description of changes that would disqualify you from the program, see paragraph 6 on additional restrictions above.

9. What should I do if my application is rejected?

If MRS determines that you are not eligible to participate in the program, MRS will send you a notice of the denial. You may file an appeal of the denial with the State Board of Property Tax Review within 30 days of receipt of the notice. Information on appeals can be found on the Board's website at: www.maine.gov/dafs/boardproptax/appeals/index.shtml.

10. What does deferral mean?

Once you are accepted into the program, MRS will pay the property taxes on your homestead directly to the municipality. MRS will also place a lien on your homestead as security for the taxes we pay on your behalf, plus interest. MRS will send you a notice each year with your current balance. You can continue to defer payment on the taxes and interest until certain repayment events occur.

11. When do I have to repay the deferred taxes?

You can request that your property be removed from the program at any time. You will be responsible for paying all of the deferred taxes plus interest when the property is removed. In addition, any of the following repayment events will also require removal of

the property from the program and you or your estate will be required to repay the tax and interest on all deferred years:

- You pass away;
- You sell the homestead;
- You no longer use the property as your homestead, unless you are absent for health reasons; or
- In the case of a mobile or floating home, you remove the property from the State.

<https://www.maine.gov/revenue/taxes/tax-relief-credits-programs/property-tax-relief-programs/deferral-program>

2. Property Tax Exemptions

Certain classes of property are tax exempt by law.

Fully exempt property tax may include real estate or personal property owned by governmental entities, school systems, and other institutions.

Partially exempt property tax relates to the following categories:

Homestead Exemption -This program provides a measure of property tax relief for certain individuals that have owned homestead property in Maine for at least 12 months and make the property they occupy on April 1 their permanent residence. Property owners would receive an exemption of \$25,000.

- [Homestead Exemption Application \(PDF\)](#)
- [Homestead Exemption FAQs](#)

Renewable Energy Investment Exemption -This program exempts renewable energy equipment, such as solar panels, from property tax beginning April 1, 2020. Taxpayers must apply for the credit by April 1 of the first year the exemption is requested.

- [Renewable Energy Investment Exemption Application \(PDF\)](#)

Veteran Exemption - A veteran who served during a recognized war period and is 62 years or older; or, is receiving 100% disability as a Veteran; or, became 100% disabled while serving, is eligible for \$6,000.

- [Veteran Exemption Application \(PDF\)](#)
- [Flowchart of Veteran's Exemption Qualifications \(PDF\)](#)

In 2022, the Maine Legislature enacted an expanded benefit for veterans through the Property Tax Fairness credit. While this benefit is based on the property tax paid by veterans, the benefit is administered through the individual income tax. For more information, see the [Property Tax Fairness credit](#).

Paraplegic Veteran - A veteran who received a federal grant for a specially adapted housing unit may receive \$50,000.

- [Veteran Exemption Application \(PDF\)](#)

Blind Exemption - An individual who is determined to be legally blind receives \$4,000.

- [Blind Exemption Application \(PDF\)](#)

Business Equipment Tax Exemption - [36 M.R.S. §§ 691 - 700-B](#).

- [More Information](#)

Partial exemptions must be adjusted by the municipality's certified assessment ratio.

All of the above exemptions require completion of an application to the local town office where the property is located. Exemption claims may require additional information to support the claim for exemption, and must be delivered to the Assessor's office no later than April 1.

For more information see [36 M.R.S. §§ 651 - 684](#).

<https://www.maine.gov/revenue/taxes/tax-relief-credits-programs/property-tax-relief-programs/property-tax-exemptions>

3. Property Tax Fairness Credit

Property Tax Fairness Credit Summary

Eligible Maine taxpayers may receive a portion of the property tax or rent paid during the tax year on the Maine individual income tax return whether they owe Maine income tax or not. If the credit exceeds the amount of your individual income tax due for the tax year, the excess amount of credit will be refunded to you.

Who is eligible for the Property Tax Fairness Credit?

Homeowners or renters who meet all of the following requirements:

1. Were Maine residents during any part of the tax year;
2. Owned or rented a home in Maine during any part of the tax year and lived in that home during the year as a primary residence;

3. Paid property tax* or rent on the primary residence in Maine during the tax year;
4. Meet certain income and property tax and/or rent paid limitations during the tax year; and
5. Are not married filing separately.

*For tax years beginning on or after January 1, 2022, property tax paid includes amounts paid on the taxpayer's behalf during the tax year by the State to the municipality under the Property Tax Deferral Program.

See the applicable Schedule PTFC/STFC for each tax year to see if you qualify:

- [Tax Year 2023 \(PDF\)](#)
- [Tax Year 2022 \(PDF\)](#)
- [Tax Year 2021 \(PDF\)](#)
- [Tax Year 2020 \(PDF\)](#)

How does someone apply for the refundable credit?

To claim the credit, file Form 1040ME and Schedule PTFC/STFC for the tax year during which the property tax or rent was paid.

Is assistance available to apply for the credit?

Yes, Maine Revenue Services will assist taxpayers with Form 1040ME and Schedule PTFC/STFC. For help, email income.tax@maine.gov

Where can taxpayers get Form 1040ME and Schedule PTFC/STFC?

Forms are available in the [Forms section](#)

[E-mail Questions](#)

To view PDF or Word documents, you will need the [free document readers](#). Alternate formats can be requested [via email](#).

<https://www.maine.gov/revenue/taxes/tax-relief-credits-programs/income-tax-credits/property-tax-fairness-credit>

Chapter 5: HOUSING OPPORTUNITY PROGRAM: MUNICIPAL LAND USE AND ZONING ORDINANCE RULE

Summary: This chapter sets forth the provisions which require municipalities to create or amend local ordinances to allow for (1) additional density for affordable housing developments in certain areas; (2) multiple dwelling units on lots designated for housing; and (3) one accessory dwelling unit located on the same lot as a single-family dwelling unit in any area where housing is permitted.

Note: This chapter incorporates by reference certain material. The Appendix lists the material that is incorporated by reference, the date for each reference, and the organization where copies of the material are available.

SECTION 1. PURPOSE AND DEFINITIONS**A. PURPOSE**

1. This chapter sets forth the provisions which require municipalities to create or amend local ordinances to allow for (1) additional density for affordable housing developments in certain areas; (2) multiple dwelling units on lots designated for housing; and (3) one accessory dwelling unit located on the same lot as a single-family dwelling unit in any area where housing is permitted.
2. Municipalities need not adopt this rule language or the statutory language in 30-A M.R.S. §§ 4364 to 4364-B word for word. The Department encourages municipalities to consider local planning documents and other special local considerations, and to modify language into one that meets the needs of a particular community and the minimum requirements of this legislation. Municipalities may wish to adopt ordinances that are more permissive, provided that such ordinances are equally or more effective in achieving the goal of increasing housing opportunities. If a municipality does not adopt ordinances to comply with 30-A M.R.S. §§ 4364 to 4364-B, this legislation will preempt municipal home rule authority.
3. These rules do not:
 - a) Abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this rule, as long as the agreement does not abrogate rights pursuant to the United States Constitution or the Constitution of Maine;
 - b) Exempt a subdivider from the requirements in Title 30-A Chapter 187 subchapter 4;

- c) Exempt an affordable housing development, a dwelling unit, or accessory dwelling unit from the shoreland zoning requirements established by the Department of Environmental Protection pursuant to Title 38 Chapter 3 and municipal shoreland zoning ordinances;
- d) Abrogate or annul minimum lot size requirements under Title 12 Chapter 423-A; or
- e) Apply to a lot or portion of a lot that is within the watershed of a water source located in Lewiston or Auburn and that is used to provide drinking water by a water utility that has received a waiver from filtration pursuant to 40 C.F.R. §§ 141.70 to 141.76, as determined by the Maine Department of Health and Human Services.

B. DEFINITIONS

All terms used but not defined in this chapter shall have the meanings ascribed to those terms in Chapter 187 of Title 30-A of the *Maine Revised Statutes*, as amended. Municipalities need not adopt the terms and definitions outlined below word for word. The Department encourages municipalities to consider local planning documents and other special local considerations, and to modify language into one that meets the needs of a particular community. Municipalities may wish to adopt terms and definitions that are more permissive, provided that such terms and definitions are equally or more effective in achieving the goal of increasing housing opportunities.

Accessory dwelling unit. "Accessory dwelling unit" means a self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land. An accessory dwelling unit must be a minimum of 190 square feet and municipalities may impose a maximum size.

Affordable housing development. "Affordable housing development" means

- 1. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and
- 2. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the *United States Housing Act of 1937*, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs.
- 3. For purposes of this definition, "housing costs" include, but are not limited to:

- a) For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and
- b) For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

Area median income. "Area median income" means the midpoint of a region's income distribution calculated on an annual basis by the U.S. Department of Housing & Urban Development.

Attached. "Attached" means connected by a shared wall to the principal structure or having physically connected finished spaces.

Base density. "Base density" means the maximum number of units allowed on a lot not used for affordable housing based on dimensional requirements in a local land use or zoning ordinance. This does not include local density bonuses, transferable development rights, or other similar means that could increase the density of lots not used for affordable housing.

Centrally managed water system. "Centrally managed water system" means a water system that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, *Rules Relating to Drinking Water*. This water system may be privately owned.

Comparable sewer system. "Comparable sewer system" means any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*.

Comprehensive plan. "Comprehensive plan" means a document or interrelated documents consistent with 30-A M.R.S. § 4326(1)-(4), including the strategies for an implementation program which are consistent with the goals and guidelines established pursuant to Title 30-A Chapter 187 Subchapter II.

Conditional use. "Conditional use" means a use permitted on a lot in a zoning district by a municipal legislative body, subject to certain conditions not generally applicable to other lots located in that zoning district.

Density requirements. "Density requirements" mean the maximum number of dwelling units allowed on a lot, subject to dimensional requirements.

Designated growth area. "Designated growth area" means an area that is designated in a municipality's or multi-municipal region's comprehensive plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is directed. Designated growth areas may also be referred to as priority development zones or other terms with a similar intent. If a municipality does not have a comprehensive plan,

“designated growth area” means an area served by a public sewer system that has the capacity for the growth-related project, an area identified in the latest Federal Decennial Census as a census-designated place or a compact area of an urban compact municipality as defined by 23 M.R.S. § 754.

Dimensional requirements. “Dimensional requirements” mean requirements which govern the size and placement of structures including, but limited not to, the following requirements: building height, lot area, minimum frontage and lot depth.

Duplex. “Duplex” means a structure containing two (2) dwelling units.

Dwelling unit. “Dwelling unit” means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments.

Existing dwelling unit. “Existing dwelling unit” means a residential unit in existence on a lot at the time of submission of a permit application to build additional units on that lot. If a municipality does not have a permitting process, the dwelling unit on a lot must be in existence at the time construction begins for additional units on a lot.

Implementation date. “Implementation date” means:

1. January 1, 2024, for municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality; and
2. July 1, 2024, for all other municipalities.
3. For purposes of this definition, “further action or approval by the voters of the municipality” means municipalities that have a town meeting form of government.

Land use ordinance. “Land use ordinance” means an ordinance or regulation of general application adopted by the municipal legislative body which controls, directs, or delineates allowable uses of land and the standards for those uses.

Lot. “Lot” means a single parcel of developed or undeveloped land.

Multifamily dwelling. “Multifamily dwelling” means a structure containing three (3) or more dwelling units.

Municipality. “Municipality” means a city or a town, excluding all unorganized and deorganized townships, plantations, and towns that have delegated administration of land use controls to the Maine Land Use Planning Commission pursuant to 12 M.R.S. § 682(1).

Potable. “Potable” means safe for drinking as defined by the U.S. Environmental Protection Agency’s (EPA) Drinking Water Standards and Health Advisories Table and Maine’s interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS), Resolve 2021 Chapter 82, *Resolve, To Protect*

Consumers of Public Drinking Water by Establishing Maximum Contaminant Level for Certain Substances and Contaminants.

Principal structure. "Principal structure" means a structure in which the main or primary use of the structure is conducted. For purposes of this rule, principal structure does not include commercial buildings.

Quadplex. "Quadplex" means a structure containing 4 (four) dwelling units.

Residential use. "Residential use" means a use permitted in an area by a municipal legislative body to be used for human habitation. Residential uses may include single-family, duplex, triplex, quadplex, and other multifamily housing; condominiums; time-share units; and apartments. For purposes of this rule, the following uses are not included under this definition, unless otherwise allowed in local ordinance: (1) Dormitories; (2) Congregate living facilities; (3) Campgrounds, campsites, hotels, motels, beds and breakfasts, or other types of lodging accommodations; and (4) Transient housing or short-term rentals.

Restrictive covenant. "Restrictive covenant" means a provision in a deed, or other covenant conveying real property, restricting the use of the land.

Setback requirements. "Setback requirements" mean the minimum horizontal distance from a lot line, shoreline, or road to the nearest part of a structure, or other regulated object or area as defined in local ordinance.

Single-family dwelling unit. "Single-family dwelling unit" means a structure containing one (1) dwelling unit.

Structure. "Structure" means anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons as defined in 38 M.R.S. §436-A(12).

Triplex. "Triplex" means a structure containing three (3) dwelling units.

Zoning ordinance. "Zoning ordinance" means a type of land use ordinance that divides a municipality into districts and that prescribes and reasonably applies different regulations in each district.

SECTION 2. AFFORDABLE HOUSING DENSITY

A. GENERAL

This Section requires municipalities to allow an automatic density bonus for certain affordable housing developments approved on or after the implementation date, as outlined below. This section only applies to lots in zoning districts that have adopted density requirements.

B. ELIGIBILITY FOR DENSITY BONUS

1. For purposes of this section, a municipality shall verify that the development:

- a) Is an affordable housing development as defined in this chapter, which includes the requirement that a majority of the total units on the lot are affordable;
- b) Is in a designated growth area pursuant to 30-A M.R.S. §4349-A(1)(A) or (B) or served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system;
- c) Is located in an area in which multifamily dwellings are allowed per municipal ordinance;
- d) Complies with minimum lot size requirements in accordance with Title 12 Chapter 423-A; and
- e) Owner provides written verification that each unit of the housing development is proposed to be connected to adequate water and wastewater services prior to certification of the development for occupancy or similar type of approval process. Written verification must include the following:
 - i. If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;
 - ii. If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S. §4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*.
 - iii. If a housing unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and
 - iv. If a housing unit is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 section 10.25(J), *Land Use Districts and Standards*. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

2. Long-Term Affordability

Prior to granting final approval of an affordable housing development, including but not limited to issuing an occupancy permit, a municipality must require that

the owner of the affordable housing development (1) execute a restrictive covenant that is enforceable by a party acceptable to the municipality; and (2) record the restrictive covenant in the appropriate registry of deeds to ensure that for at least thirty (30) years after completion of construction:

- a) For rental housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and
- b) For owned housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

C. DENSITY BONUS

If the requirements in Section 2(B)(1) and (2) are met, a municipality must:

1. Allow an affordable housing development to have a dwelling unit density of at least 2.5 times the base density that is otherwise allowed in that location; and
2. Require no more than two (2) off-street parking motor vehicle spaces for every three (3) dwelling units of an affordable housing development.

If fractional results occur when calculating the density bonus in this subsection, the number of units is rounded down to the nearest whole number. Local regulation that chooses to round up shall be considered consistent with and not more restrictive than this law. The number of motor vehicle parking spaces may be rounded up or down to the nearest whole number.

SECTION 3. DWELLING UNIT ALLOWANCE

A. GENERAL

This section requires municipalities to allow multiple dwelling units on lots where residential uses are allowed, including as a conditional use, beginning on the implementation date, subject to the requirements below. The requirements listed in Section 3 apply to municipalities with and without zoning. Private, state or local standards such as homeowners' association regulation, deed restrictions, lot size, set back, density, septic requirements, minimum lot size, additional parking requirements, growth ordinance permits, shoreland zoning and subdivision law, may also apply to lots.

B. REQUIREMENTS

1. Dwelling Unit Allowance
 - a) If a lot does not contain an existing dwelling unit, municipalities must allow up to four (4) dwelling units per lot if the lot is located in an area in which housing is allowed, meets the requirements in 12 M.R.S. Ch. 423-A, and is:

- i. Located within a designated growth area consistent with 30-A M.R.S. §4349 A(1)(A)-(B); or
 - ii. Served by both a public, special district or other centrally managed water system and a public, special district or other comparable sewer system in a municipality without a comprehensive plan.
- b) If a lot does not contain an existing dwelling unit and does not meet i. or ii. above, a municipality must allow up to two (2) dwelling units per lot located in an area in which housing is allowed, provided that the requirements in 12 M.R.S. Ch. 423-A are met. The two (2) dwelling units may be (1) within one structure; or (2) separate structures.
- c) If a lot contains one existing dwelling unit, a municipality must allow the addition of up to two (2) additional dwelling units:
- i. One within the existing structure or attached to the existing structure;
 - ii. One detached from the existing structure; or
 - iii. One of each.
- d) If a lot contains two existing dwelling units, no additional dwelling units may be built on the lot unless allowed under local municipal ordinance.
- e) A municipality may allow more units than the minimum number of units required to be allowed on all lots that allow housing.

2. Zoning

With respect to dwelling units allowed under this Section, municipalities with and without zoning ordinances must comply with the following:

- a) If more than one dwelling unit has been constructed on a lot as a result of the allowance pursuant to this Section, the lot is not eligible for any additional units or increases in density except as allowed by the municipality. Municipalities have the discretion to determine if a dwelling unit or accessory dwelling unit has been constructed on a lot for purposes of this provision.
- b) Municipalities may establish a prohibition or an allowance for lots where a dwelling unit in existence after the implementation date is torn down and an empty lot results.

3. Dimensional and Setback Requirements

- a) A municipal ordinance may not establish dimensional requirements, including but not limited to setback requirements, for dwelling units allowed pursuant to this Section that are more restrictive than the

dimensional requirements, including but not limited to setback requirements, for single-family housing units.

4. A municipality may establish requirements for a lot area per dwelling unit as long as the additional lot area required for each additional dwelling unit is proportional to the lot area per dwelling unit of the first unit.
5. Water and Wastewater
 - a) The municipality must require an owner of a proposed housing structure to provide written verification that each proposed structure is to be connected to adequate water and wastewater services prior to certification of the development for occupancy or similar type of approval process. Written verification must include the following:
 - i. If a housing structure is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;
 - ii. If a housing structure is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S. §4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*.
 - iii. If a housing structure is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and
 - iv. If a housing structure is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 section 10.25(J), *Land Use Districts and Standards*. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

C. MUNICIPAL IMPLEMENTATION

In adopting an ordinance, a municipality may:

1. Establish an application and permitting process for dwelling units;
2. Impose fines for violations of building, site plan, zoning, and utility requirements for dwelling units; and
3. Establish alternative criteria that are less restrictive than the requirements of Section 3(B)(4) for the approval of a dwelling units only in circumstances in

which the municipality would be able to provide a variance pursuant to 30-A M.R.S. §4353(4)(A), (B), or (C).

SECTION 4. ACCESSORY DWELLING UNITS

A. GENERAL

1. A municipality must allow, effective on the implementation date, one accessory dwelling unit to be located on the same lot as a single-family dwelling unit in any area in which residential uses are permitted, including as a conditional use, subject to the requirements outlined below. The requirements listed in Section 4 apply to municipalities with and without zoning. Private, state or local standards such as homeowners' association regulation, deed restrictions, set back, density, septic requirements, shoreland zoning and subdivision law may also apply to lots.
2. A municipal ordinance that allows more than one accessory dwelling unit or that allows accessory dwelling units to be established in relation to duplex, triplex, quadplex, and other multi-unit buildings shall be considered consistent with the goals of 30-A M.R.S. §§ 4364 to 4364-B.
3. A municipality may not categorically prohibit accessory dwelling units in the shoreland zone that would otherwise meet the shoreland zoning requirements established by the Department of Environmental Protection, Title 28, Chapter 3, and municipal shoreland zoning ordinances.

B. REQUIREMENTS

1. Accessory Dwelling Unit Allowance

An accessory dwelling unit may be constructed only:

- a) Within an existing dwelling unit on the lot;
- b) Attached to a single-family dwelling unit; or
- c) As a new structure on the lot for the primary purpose of creating an accessory dwelling unit.

A municipality may allow an accessory dwelling unit to be constructed or established within an existing accessory structure, except the setback requirements of Section 4(B)(3)(b)(i) shall apply.

2. Zoning

With respect to accessory dwelling units, municipalities with zoning ordinances and municipalities without zoning must comply with the following conditions:

- (a) At least one accessory dwelling unit must be allowed on any lot where a single-family dwelling unit is the principal structure;

- (b) If more than one accessory dwelling unit has been constructed on a lot as a result of the allowance pursuant to this Section, the lot is not eligible for any additional units or increases in density, except as allowed by the municipality. Municipalities have the discretion to determine if a dwelling unit or accessory dwelling unit has been constructed on a lot for purposes of this provision; and
- (c) An accessory dwelling unit is allowed on a lot that does not conform to the municipal zoning ordinance if the accessory dwelling unit does not further increase the nonconformity, meaning the accessory dwelling unit does not cause further deviation from the dimensional standard(s) creating the nonconformity, excluding lot area.

3. Other

With respect to accessory dwelling units, municipalities must comply with the following conditions:

- a) A municipality must exempt an accessory dwelling unit from any density requirements or lot area requirements related to the area in which the accessory dwelling unit is constructed;
- b) For an accessory dwelling unit located within the same structure as a single-family dwelling unit or attached to a single-family dwelling unit, the dimensional requirements, excluding lot area requirements, and setback requirements must be the same as the dimensional requirements and setback requirements of the single-family dwelling unit;
 - i. For an accessory dwelling unit permitted in an existing accessory building or secondary building or garage as of the implementation date, the required setback requirements in local ordinance of the existing accessory or secondary building apply.
- c) A municipality may establish more permissive dimensional requirements and setback requirements for an accessory dwelling unit.
- d) An accessory dwelling unit may not be subject to any additional motor vehicle parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the accessory dwelling unit is located.
- e) An accessory dwelling unit that was not built with municipal approval must be allowed if the accessory dwelling unit otherwise meets the requirements for accessory dwelling units of the municipality and under this Section.

4. Size

- a) An accessory dwelling unit must be at least 190 square feet in size, unless the Technical Building Code and Standards Board, pursuant to

10 M.R.S. §9722, adopts a different minimum standard; if so, that standard applies.

- b) Municipalities may set a maximum size for accessory dwelling units in local ordinances, as long as accessory dwelling units are not less than 190 square feet.

5. Water and Wastewater

A municipality must require an owner of an accessory dwelling unit to provide written verification that the proposed accessory dwelling unit is to be connected to adequate water and wastewater services prior to certification of the accessory dwelling unit for occupancy or similar type of approval process. Written verification must include the following:

- a) If an accessory dwelling unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;
- b) If an accessory dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S. §4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*;
- c) If an accessory dwelling unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and
- d) If an accessory dwelling unit is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 section 10.25(J), *Land Use Districts and Standards*. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

C. MUNICIPAL IMPLEMENTATION

In adopting an ordinance under this Section, a municipality may:

- 1. Establish an application and permitting process for accessory dwelling units that does not require planning board approval;
- 2. Impose fines for violations of building, zoning and utility requirements for accessory dwelling units; and
- 3. Establish alternative criteria that are less restrictive than the above criteria in Section 4 for the approval of an accessory dwelling unit only in circumstances in

which the municipality would be able to provide a variance pursuant to 30-A M.R.S. §4353(4)(A), (B), or (C).

D. RATE OF GROWTH ORDINANCE

A permit issued by a municipality for an accessory dwelling unit does not count as a permit issued toward a municipality's rate of growth ordinance pursuant to 30-A M.R.S. §4360.

STATUTORY AUTHORITY:

PL 2021 Ch. 672, PL 2023 Ch. 192, and PL 2023, Ch. 264, codified at 30-A M.R.S. §§ 4364, 4364-A, 4364-B.

EFFECTIVE DATE:

April 18, 2023 – filing 2023-056

AMENDED

October 1, 2023—filing 2023-181

APPENDIX

List of Reference Material

Reference Material	Location to Obtain Document
U.S. Environmental Protection Agency's (EPA) Drinking Water Standards and Health Advisories Table, March 2018.	U.S. Environmental Protection Agency Office of Water Drinking Water Hotline 1-800-426-4791
10-144 C.M.R. Ch. 231, Rules Relating to Drinking Water, May 9, 2016	Maine Department of Health & Human Services Maine Center for Disease Control & Prevention 11 State House Station Augusta, Maine 04333 207-287-8016
Resolve 2021, Ch. 82, Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Levels for Certain Substances and Contaminants	Maine State Legislature Legislative Information Office- Document Room 100 State House Station Augusta, ME 04333 207-287-1408 webmaster_house@legislature.maine.gov
01-672 C.M.R. Ch. 10, Land Use Districts and Standards, December 30, 2022	Maine Department of Agriculture, Conservation & Forestry Bureau of Resource Information and Land Use Planning Land Use Planning Commission 22 State House Station Augusta, Maine 04333 207-287-2631
10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules, August 3, 2015	Maine Department of Health & Human Services Maine Center for Disease Control & Prevention 11 State House Station Augusta, Maine 04333 207-287-8016

MEMORANDUM

TO: Diane Barnes, Town Manager

From: Ben Smith, AICP, Principal, North Star Planning *BS*

CC: Ben Scipione, Code Enforcement Officer
Jamel Torres, Senior Planner, North Star Planning
Kate Burch, Planner, North Star Planning

RE: Technical Modifications to the Land Use Ordinance

Date: January 29, 2024

Overview

North Star Planning (NSP) was engaged to undertake a review of North Yarmouth's Land Use Ordinance (LUO) in 2023. The purpose of the review was to meet the following goals as noted in the work plan:

1. Making submission requirements and the development review process easier to understand;
2. Addressing submission requirements that are not linked the review standards: and
3. Removing or amending standards that go beyond State requirements, or those of surrounding communities.

The proposed modifications to the LUO are technical in nature and help to clarify the existing development review process and to establish a process consistent with best practices. Additionally, NSP staff noted some potential policy changes to the LUO that would require dedicated committee work or a broader public process as part of our review of the ordinance.

August 2023 Work Plan

Below is the checklist from the Ordinance Work Plan, 2023-2024 noting the work completed for the project. As noted in the approved work plan, the items below are listed in priority order. As such, NSP staff was able to complete most of the items listed below within the project budget. The remaining items could form the start of a work plan for the coming year.

Items Completed:

- Development Review Process
 - ✓ Update and clarify Site Plan and Subdivision submission requirements and review process.
 - ✓ Separate and relocate elements from Section 10 to the either Site Plan Review or Subdivision Review, as appropriate.
 - ✓ Update standards that aren't related to findings
- Table 7.1 and Table 7.2 formatting and footnote updates
 - ✓ Footnotes should be clarified and checked to ensure they have a valid reference to the corresponding table.
 - ✓ Footnotes that include definitions or standards should be moved to relevant sections of the ordinance.
- Standards Review
 - ✓ Combine standards for duplicated local requirements (i.e. Sections 11.4, Home Occupations and 11.10, Home Based Occupation)
 - ✓ For standards that duplicate state regulations, revise to reference relevant state law.
 - ✓ Review standards for hidden definitions and submission requirements.

Items Partially or Not Completed:

- Definitions
 - All permitted and conditional uses in the ordinance should be defined in the ordinance.

NSP staff created a document that includes a list land uses, as provided in Table 7.1. Land Uses by Zoning District, that are not defined in Section 12 of the LUO. Given the amount of land uses that are not defined in the ordinance, the town should discuss how to approach this portion of the project NSP recommends a more complete overhaul of definitions based on land use categories, rather than adding definitions for terms more commonly found in a building code or plumbing code..
- Relocate Special District Standards in Section 9 to the relevant subsections of Zoning District Regulations in Section 7.

Recommendations

Please note that within the draft ordinance language attached to this memo, a more detailed overview is provided at the beginning of each section.

Development Review Process

NSP Staff has proposed modifications to the Site Plan Review and Subdivision Ordinances related to the following –

- Updates and clarification to Site Plan Review and Subdivision submission requirements and review process.
- Separation and relocation of specific submission requirements and standards from Section 10 in the LUO to the Site Plan Review or Subdivision Ordinances.
- Updates to standards in the Site Plan Review and Subdivision Ordinances that are not related to findings of fact and the review criteria.

These proposed modifications have been redlined in the existing Site Plan Review and Subdivision Ordinances. The proposed modifications are also summarized in separate documents attached to this memorandum.

Table 7.1 Formatting and Footnote Updates

NSP staff has proposed modifications to Table 7.1 – Land Uses by Zoning District related to the following –

- A new footnotes key is recommended to be located just before the table of land uses. The new key includes all of the footnotes from Table 7.1 in ascending order. The reasoning for the new key is to help limit confusion and to provide some organization to the table. The existing footnotes have been renumbered accordingly.

These proposed modifications have been redlined in the existing Table 7.1. The proposed modifications are also summarized in a separate document attached to this memorandum.

Table 7.2 Formatting and Footnote Updates

NSP staff has proposed modifications to Table 7.2 – Space and Dimensional Requirements related to the following –

- A new footnotes key is recommended to be located just before the table of land uses. The new key includes all of the footnotes from Table 7.2 in ascending order. The reasoning for the new key is to help limit confusion and to provide some organization to the table. The existing footnotes have been renumbered accordingly.

These proposed modifications have been redlined in the existing Table 7.2. The proposed modifications are also summarized in a separate document attached to this memorandum.

Standards Review

NSP staff has proposed modifications to the following sections in the LUO –

- Section 8 – General Requirements: Applicable to All Land Uses
- Section 9 – Special District Standards
- Section 10 – Performance and Design Standards for Site Plan Review and a Subdivision Review
- Section 11 – Standards for Specific Activities

These proposed modifications include the moving, editing, deleting, etc. of ordinance language that is either duplicative, not relevant to a specific section, or irrelevant to the development review process altogether. These proposed modifications have been redlined in the existing sections of the LUO. The proposed modifications are also summarized in a separate document attached to this memorandum.

Definitions

NSP staff reviewed the uses noted in Table 7.1 – Land Uses by Zoning District and created a list of land uses that are not defined in Section 12 of the LUO. These land uses without definitions are noted in a separate document attached to this memorandum. NSP did not attempt to define these uses but would suggest each use is defined in the LUO in the future.

VIII. GENERAL REQUIREMENTS: APPLICABLE TO ALL LAND USES

...

SECTION 8.7 SIGNS

...

F. Municipal Exemption. Any governmental signs erected and maintained by the Town of North Yarmouth for public safety and welfare or pursuant to and in discharge of any governmental function, or required by law, ordinance or governmental regulation are not subject to the requirements contained in this Section 8.7.

...

X. PERFORMANCE AND DESIGN STANDARDS FOR SITE PLAN REVIEW AND SUBDIVISION REVIEW

...

SECTION 10.18 SIGNS

...

N. ~~Municipal and Public Safety signs that do not comply with Town Ordinances must have Site Plan Review by Planning Board.~~ **Municipal Exemption. Any governmental signs erected and maintained by the Town of North Yarmouth for public safety and welfare or pursuant to and in discharge of any governmental function, or required by law, ordinance or governmental regulation are not subject to the requirements contained in this Section 10.18.**

Town of North Yarmouth Committee Policy

Section 1. Purpose

The purpose of this policy is to set forth the duties and responsibilities of the Select Board (Board) in regards to Town boards and committees whether Elected, Appointed, Ad-Hoc or Sub-committees. To establish the process for acquiring committee members, and to ensure that Town boards and committees are active, have set goals and objectives, and are fulfilling to their members.

Section 2. Definition

Committee: Throughout this policy, the term “committee” shall be used interchangeably to mean a board, a commission, a committee or a sub-committee.

Section 3. Committee Duties & Responsibilities

- A) The following committees shall be considered standing and can only be abolished by Charter action: Board of Assessment Review, Budget Committee, Cemetery Commission, Planning Board, Parks & ~~Recreation~~ Committee, Shellfish Conservation Commission, Economic Development & Sustainability Committee, North Yarmouth School Fund Trustees, and the Zoning Board of Appeals.
- B) Any committee not otherwise mentioned in paragraph A shall be considered ad hoc.
- 1) Ad hoc committees serve at the pleasure of the Board and their positions on matters formally submitted to the Board are advisory in nature.
 - 2) Ad hoc committees shall have a wide latitude to execute their charge but must seek Board guidance in situations that warrant it. Committees shall work with the Select Board and or Town Manager in cases that have significant public impact and guidance is requested.
 - 3) Each ad hoc committee shall remain in existence for a maximum of one (1) year; however, the Board may extend their establishment of any ad hoc committee for additional terms. Each such term shall be up to one (1) year as necessary. Ad hoc terms shall coincide with the Town’s fiscal year and begin on July 1st and expire on June 30th of each year.
 - 4) Exception: The Wescustogo Hall Committee derived from the 1997 agreement is subject to the stipulations delineated within that agreement. There shall be five (5) members, three (3) citizens (staggered terms) and two (2) Select Board members; terms are three (3) years; Select Board member’s terms must be active to serve.
- C) Committees of three (3) or more members shall elect from their membership a chairperson and a secretary at its first regular meeting.
- 1) The Chair or his/her designee shall have the following responsibilities:
 - a. Serve as the official spokesperson of the Committee;
 - b. Preside over all meetings of the committee to maintain order and determine the course of proceedings;
 - c. Establish the schedule and agendas of the Committee; and

Town of North Yarmouth Committee Policy

- d. Ensure that the Select Board Chairperson is regularly apprised of the committee's activities.
 - 2) Each Secretary shall keep a record of the committee's meetings, discussions, and decisions.
 - 3) Committees shall be responsible for consulting with the Select Board on any proposed significant changes in the committee's objectives, financial requests, or defined project plans to ensure activities correspond with the desires of the Board and are in the best interest of the Town.
 - 4) All meetings shall be held in a regular open public session at a Town facility or remotely per each committee's adopted Remote Participation Policy with proper notification as required by Maine State Statute.
 - 5) No matters of decision shall take place electronically via email, text, landline, cell phone or by social media.
 - 6) Committee members shall follow the Town's Communications & Social Media Policy adopted July 21, 2015.
- E) In addition to the duties and responsibilities set forth by the Town's Charter or by State law, including the Freedom of Access Act (FOAA), each committee shall prepare an annual report. The report shall be due to the Town Clerk following the conclusion of each fiscal year and contain information relating to the activities of said year.
- F) Committees shall be responsible for providing records and maintaining communications with the Town to include agendas, minutes, financial, website and other information.
- G) Agendas shall be posted and or received by the Town Manager or his/her designee no later than 48 hours prior to the meeting.
- H) Minutes shall be approved at the subsequent committee meeting and then posted and or provided to the Town Manager or his/her designee within 48 hours.

Section 4. Board Duties and Responsibilities

- A) The Board shall annually at the beginning of each fiscal year meet with each committee to review their past and present activities. At this time the Board will review the charge of the committee for modifications and may prioritize the goals and objectives for the committee.
- B) The Board shall make appointments to committees from time to time in such numbers as they deem appropriate. In the case of elected positions described in Article IV of the Town's Charter, the Board shall have the authority to appoint members to otherwise elected committee positions in the event of removal, disability, or resignation and in the event no qualified candidate is elected on a secret ballot. Such appointments shall be for the unexpired term of such position.
- C) The Board may, at its discretion, create or eliminate any or all ad hoc committees.

Town of North Yarmouth Committee Policy

- D) The Town Manager or his/her designee is responsible for communicating the various committees, memberships and their charges to the community.

Section 5. Qualifications & Appointment Process

- A) All interested individuals shall submit a town committee volunteer application to the town manager for review by the Board. The application includes a short bio, their qualifications and why they are interested.
- B) The committee chairperson of a committee an applicant is applying for, after the appointment process, may submit to the town manager or select board chairperson, their recommendations on appointments.
- C) The select board is responsible for establishing its own process for appointing individuals to various boards and committees. The select board has the authority to use its discretion when appointing individuals to ad-hoc and charter committees that do not conflict with the charter or state law.
- D) The select board, when appointing individuals to quasi-judicial bodies that require the specific expertise in state and local laws, may require further information than what is required from other applicants. This may include information that is confidential in nature such as specific qualifications and references that show that the applicant is able to perform the duties outlined in the charter and state statute.

Section 6. Membership

- A) It is the responsibility of the Town Manager or his/her designee to maintain a listing of all Town committees, their members, and the member contact information.
- ~~(B) Interested individuals shall submit a Town committee volunteer application to the Town Manager for review by the Board. The application includes a short bio, their qualifications, and why they are interested.~~
- ~~(C) The Committee Chairperson, during the appointment process, may submit to the Town Manager, their recommendations on appointments.~~
- ~~(D)~~ (B) The Board has the authority when establishing an ad-hoc committee, to set the numbers of members and their respective terms in accordance with the Town Charter and applicable State laws.

Section 7. Code of Conduct

- A) A member of the Committee in his or her relations with fellow committee members, should:
- 1) Not make statements or promises of how he or she will vote on matters that will come before the Committee and or Select Board.

Town of North Yarmouth Committee Policy

- 2) Make decisions only after all facts on a question have been presented and discussed.
- 3) Refrain from communicating the position of the Committee unless the full Committee has previously agreed on both the position and the language of the statement conveying the position.
- 4) Refrain from expressing personal opinions “as a member” following a committee vote or following the Select Board’s decision on the matter.
- 5) Treat with respect the rights of all members of the Committee despite differences of opinion.
- 6) Treat all staff as professionals that respect the abilities, experience, and dignity of each individual.
- 7) Insure that all requests for staff support go through the Town Manager’s office.

Section 8. Broadcasting Committee Meetings

Section 9. Appointment & Oath Forms

- A) Only members of the standing committees designated in section 3A shall be required to sign appointment & oath forms.

Select Board

Amy Haile, Chairperson

Andrea Berry, Vice Chairperson

Karl Cyr

Paul Hodgetts

Katherine Maloney

ADOPTED: September 3, 2013
AMENDED: September 6, 2016
AMENDED: September 19, 2017
AMENDED: [TBD]

**Town of North Yarmouth
Select Board
Meeting Minutes February 20, 2024, 6:30 PM**

Select Board Members

Amy Haile, Chairperson
Karl Cyr, Board Member

Andrea Berry, Vice Chairperson
Paul Hodgetts, Board Member

Katherine Maloney, Board Member

1. Call to Order (16:30 – 17:00)

Pledge of Allegiance. Amy Haile, Chairperson, Andrea Berry, Vice Chairperson, Katherine Maloney, Board Member, Karl Cyr, Board Member, Paul Hodgetts, Board Member, Diane Barnes, Town Manager in attendance.

2. Presentations (17:00 – 52:00 Audio for presentation cut out from 19:00 – 24:20; video includes powerpoint slides, commentary below)

A. FY 23 Audit Presentation

Ron Smith, CPA, from RHR Smith & Company, presented the audit and financial statements. This company audits two-thirds of the schools and municipalities in the State of Maine. A copy of the Town of North Yarmouth fiscal year 2023 Audit Report is available at the website, <https://www.northyarmouth.org/select-board/pages/audits-reports>. A copy of the presentation slideshow is attached.

Responsibilities and Deliverables:

- An annual independent audit of financial statements is required by law.
- The objective is to express an opinion on whether the financial statements are fairly represented in all material respects, in accordance with generally accepted accounting standards (GAAS).
- The audit tests samples of the data presented. They checked a lot of items this year, and worked with the Town Manager to clean up and make sure the books were up to date. Three accountants were supplied to finish the audit through some Town turnover.
- The Town of North Yarmouth continues to make improvements to make sure they're following best accounting practices.
- Confidently stated that the books are fairly presented. The financial statements are free from material misstatement and the information therein can be relied upon and read clearly, so the Town of North Yarmouth received the highest opinion, that of unmodified.

Budget Highlights:

- The general fund expenditure budget increased to reflect the utilization of committed and unassigned fund balance.
- General fund actual revenues were more than budgeted amounts by \$231,387.
- General fund expenditures were under budgeted amounts by \$382,019.
- All expenditures were within budget with the exception of municipal administration and solid waste and recycling.
- General fund balance went up roughly \$600,000 over FY 22.
- Most of the budget expenditure amount was due to an underspent overlay increase.

Statement C, Balance Sheet:

- Beginning FY 23 with about a million on hand caused some tough financial moments. Having 60-90 days of the operating budget on hand is advisable.
- Based on a \$14,000,000 budget for the Town of North Yarmouth, 60 days is \$2,300,000. With the overlay and increased revenues collected for the year, the end of FY 23 cash and cash equivalents are just shy of that 60-day mark. The unassigned fund balance equals 1.8 million. This puts the Town in a good position in the event of a storm, where

funds are slow to come in for disaster relief. This amount is still comparatively low.

- Many other municipalities are at the 90-day mark in unassigned with adequate reserves set aside for town projects.
- The Town should be proud of today's financial position.

Schedule A, Budgetary Comparison Revenues:

- Excise Tax, State Revenue Sharing, and Property tax collections were all higher than expected for the year.
- Community Center fees were lower than expected, but on the road to recovery.
- Interest income was not in the original budget but will be moving forward.

Schedule B, Budgetary Comparison Operation Expenditures:

- Administration was 48,000 over budget for contracts and professional services.
- Solid Waste and Recycling was also 48,000 over budget.
- These were known overages.
- Most other departments were below budget, more than making up for the overages.
- Overall budget expenditures without overlay finished \$120,000 less than expected.
- Overlay use for abatements was under budget by another 265,000.

Auditor's Communications:

- No material misstatements.
- No disagreements with management. Good working relationship.
- Nice to see progress made in the Town of North Yarmouth.
- Towns are scheduling pre-audits. COVID relief funds have dried up and people are looking to plan for normality.
- The state should be receiving \$2.5 billion in infrastructure funding to be spent over the next 3 years from the Build Back Better plan. Municipalities may be able to apply for infrastructure grant funding from this source soon. <https://www.maine.gov/bil/about>
- The audit ensured that best practice issues were addressed, including bank and general fund reconciliations, and internal controls.
- The Town is moving into FY 24 and the future with the books in the best shape they've been in during his watch.

Takeaways:

- The Town's unassigned fund balance is currently at a level to sustain government operations for a period of approximately two months.
- FY 23 Unassigned FB \$1,874,208, an increase of \$784,621.
- FY 23 GF Cash on hand \$2,129,276, an increase of \$405,882.
- FY 21-22 fund balance was not fully liquid; by the end of FY 23 the unassigned fund balance was roughly 60-days' worth of operations fully liquid.
- Good news and continued progress. When the audit presents a confirmation of what has already been presented by management, that's a successful audit.

Select Board questions:

Karl Cyr: What does overlay really mean in plain English?

A: Ron Smith stated that there is a statute that clearly defines the process and math of the overlay and what it can be used for, and he will forward that to Diane. An overlay is a process that allows the Town to make adjustments for assessing errors or revaluations. Diane Barnes stated that the Town has a warrant article that allows tax abatements to be charged to overlay each year. The tax commitment may not be the ending amount raised due to corrections and abatements each year and the overlay allows the flexibility to make those corrections without going over budget.

Andrea Berry: It's exciting and impressive to see the Town with 60 days operations in unassigned fund balance, thank you Diane, but 90 days is optimal and the next step to prepare for. As we go into budget season, are there places that require specific attention to address this in the budget?

A: Two options. North Yarmouth is growing and the TIF creates many opportunities and vehicles to take advantage of. Capital Projects is also an area the Town is light on. The infrastructure money available through the state is a once in a lifetime opportunity that

the Town can utilize. The state is still waiting on the committed ARPA funds to be spent before making this next round of funding available to municipalities.

Amy Haile: What types of projects can that include?

A: Roads, bridges, water and waste water, broadband, public safety protocol, communications, anything that will help the strain on the infrastructure in the event of another emergency. Now is the time to evaluating the town's assets in that regard.

Diane Barnes: No questions. Thank you to Ron and staff for the work they've done to bring North Yarmouth to its current position. She agreed that the Town is in a good position to move forward and will be even better in FY 24.

Amy Haile: We've come a long way and that's great. Thanks to Diane for all the work she put in; it's her strength and she does it well. Excited to see all the changes being made.

3. Appointments (52:00 – 54:00)

A. Planning Board Alternate Resignation-Alexander Urquhart

Discussion: Alex has moved to Portland as he had mentioned would be happening.

Motion to accept the resignation of Alexander Urquhart.

Motion by Amy Haile. Seconded by Katherine Maloney. Motion passed 5-0.

B. Local Health Officer-Gregory Payson-3-yr. term ending 6/30/2026

Discussion: None

Motion to appoint Gregory Payson as the Local Health Officer with a 3-yr. term ending 6/30/2026.

Motion by Amy Haile. Seconded by Karl Cyr. Motion passed 5-0.

4. Announcements (54:00 – 55:05)

Amy Haile: It's playoff season for Greeley High School, and there is a lot to be proud of.

- Greeley Boys Indoor Track Team – State Champions.
- Greeley Girls Nordic Skiing Team - State Champions
- Greeley Girls Indoor Track Team – Runners-up
- Greeley Boys Basketball Team – Made it to the Class A playoffs but lost in the quarterfinal.
- Greeley Girls Basketball Team – 6th-ranked seed upset the 3rd-ranked seed, to play again in the semi-final on 2/21.
- Greeley Drama will be staging Footloose, and tickets will be on sale in the next few weeks.

5. Public Comment – Non-agenda Items (55:05 – 1:05:15)

Please state name and address and keep comments to 3 minutes.

Nelson Smith, 364 Ledge Rd –

Concerned with the Royal River Dam developments in Yarmouth. There is no definitive answer as to how much the water supply will drop. Remembers from time of being active in the fire department that the river as a strong water supply factors into rating and manpower and possibly insurance rates for residents along Route 9. The Town needs to get involved in the discussion. Once a decision is made it will be almost impossible to change. This won't affect Yarmouth as they are mostly on a hydrant system, but North Yarmouth, Gray and New Gloucester will be affected. He would like to know if we are for or against this and will we be working with the other towns on this. The video conference will make it hard for locals to have much impact.

Discussion: Paul Hodgetts asked if this could be added to the agenda as a discussion. Amy Haile said

she would like to bring someone in to discuss the proposal, the timeline and different impacts to consider, but yes, it could be added to an agenda. Andrea Berry and Karl Cyr will be talking to Alan Stearns from Royal River to gather more information. Paul Hodgetts said that the Royal River Trust had confirmed it would be anywhere from a three to five foot drop over a year ago. Andrea Berry stated she would be meeting with Yarmouth Councilor Karin Orenstein who is working on this to find out more about the Yarmouth side of the project. As a council, we should be putting together a list of questions to start the conversation. What are the environmental, recreational, fire safety and infrastructure impacts that need to be pulled together into a proposal? Amy Haile stated that it would be good to collaborate with other towns like Pownal and at GPCOG meetings who may have similar concerns.

Nelson Smith came back to the podium to add that there are ISO people involved who were active in the Fire Chief's Association. It's a several year process. It's a very serious thing when you try to put a fire hose in the river in an emergency and get mud. Winslow is an example of large-scale effects on fire protection.

Paul Whitmarsh, 110 Wild Turkey Lane –

With Alex moving and having to resign from the Planning Board and us having a regular Planning Board member vacancy for about the last about five 5½ months. It's pertinent to bring this up again. About six months ago I had emailed the Select Board addressing asking them to look at bringing code of conduct charges against the Planning Board member when they take a legal vote. The response That I received was that they were going take some time to reflect on this and get feedback before determining a response and it's been six months and no response. It makes one wonder too now that we will have two vacancies and not having this response puts a bit of a chill on people wanting to serve on the Planning Board. I do know that the latest member of the PB actually originally wanted to serve on the EDSC and was convinced to serve on the PB instead. So, I Just would like to see that addressed at some point.

6. New Business (1:05:15 – 1:27:50)

A. Well and Good Brewing Company, LLC-New Liquor License

Discussion: Andrea Berry asked if there was any other information they should be aware of. Diane Barnes stated that the project had gone through the planning board process and that granting the license was all that was in front of the board for approval, nothing else pertaining to the business. Paul Whitmarsh, 110 Wild Turkey Lane, asked if this needed to go through a public hearing as there was some discussion surrounding this with the Trudy Bird project last year. Diane Barnes stated public hearing isn't required, but the law states that one may be held. Andrea Berry stated that it had gone through the planning board and the public would have already had the opportunity to comment.

Motion to grant a liquor license to the Well and Good Brewing Company, LLC.

Motion by Amy Haile. Seconded by Katherine Maloney. Motion passed 4-1 abstained, Karl Cyr due to a conflict of interest.

B. Well and Good Brewing Company, LLC-Holding Tank Installation Application/Agreement (HHE-233)

Diane Barnes stated that as part of the Application/Agreement for Holding Tank Installation, the Municipal Officers must sign a "Municipal Officers Statement."

- We have reviewed the information submitted in support of this application.
- We find that the installation of the holding tank will not violate any local ordinances.
- We will authorize the LPI to enforce the requirement of this agreement, the Subsurface Wastewater Disposal Rules and any local ordinances, including record-keeping and required pumping.
- Recommend that the LPI issue the necessary permits for the installation of the holding tank.

The project has been reviewed and approved by the Planning Board and the Code Enforcement office. The signatures required are primarily an administrative task. She included the signed site plan approval

letter from the Planning Board and all other pertinent documents. The system has been adequately designed by Mark Cenci and does not violate any local ordinances and will meet its intended use application.

Discussion: Paul Hodgetts asked about the routine pumping procedures. Byron Kern of Well and Good Brewing Company, LLC, (13 Smithwood Dr.) stated that the pumping company has inspected and signed off, as well as code enforcement and wastewater design Mark Cenci, and this is the last step of the approval process. There is an alarm on the tank, so the pumping company will be called to take care of this when it goes off until he can work out a schedule. Operations will be ironed out as the business gets up and running, but he expects this will happen every one to two weeks. It will be pumped regularly, and the ideal time frame will become clear after they are up and running. The planning board also discussed the time frame and maintenance.

Motion to approve and sign the Municipal Officers Statement included in the HHE-233 Application/Agreement for Holding Tank Installation for Well and Good Brewing Company, LLC.

Motion by Amy Haile. Seconded by Andrea Berry. Motion passed 4-1 abstained, Karl Cyr due to a conflict of interest.

C. Shellfish Commission Update

Leonard Kaminow, 95 Farms Edge Road, Current Chairman of the Shellfish Commission – There are vacancies on the board, and it is a joint commission between Yarmouth and North Yarmouth, 3 members for each town. They are charged with trying to make the clam flats as productive as possible, the clam survey, and creating educational programs. There are 5 licenses currently available for commercial diggers held by the same companies for a long time, but there are a lot of closures in the area. There are also residential licenses available at \$25 a year, but only 3 were used in North Yarmouth in 2023. The state survey does sampling for pollution in the area, and when they find pollutants it's usually septic runoff, but sometimes is due to dogs or waterfowl. If two polluted samples are found in the same area, an assessment is done on the neighboring septic system.

Paul Hodgetts asked if the Yarmouth flats are only available to Yarmouth and North Yarmouth residents. The state mandates that 10% of the commercial licenses have to given outside of the community, so currently one of the commercial licenses is held by a company from Scarborough. There are people waiting for commercial licenses to harvest green crabs.

Amy Haile asked if there is a limit to recreational licenses in the area and stated that there is a lot to be learned by being a part of the commission. It might be a draw for people who are active environmentalists. There is no limit to recreational licenses.

Katherine Maloney asked about the time commitment. Meetings are an hour and a half per month for ten months on Tuesdays at 6:30. Members are encouraged to go on the surveys.

Andrea Berry said that maybe they should advertise the citizen science portion of the commission.

7. Old Business (1:27:50 – 1:59:00)

A. LUO-Advanced Wastewater Treatment Systems

Diane Barnes stated that nothing changed from the last meeting discussion. She did include a table that will need to be included, if it is put on the warrant articles for Town Meeting. The proposed new Land Use Ordinance "Advanced Wastewater Treatment Systems" has been through a public hearing with the Planning Board. The Planning Board has submitted the proposed ordinance for approval of the Select Board to be included in the Annual Town Meeting Warrant in June.

If the Select Board approves adding this section to the Land Use Ordinance, then the Town Manager will ask legal to draft the warrant article.

Paul Hodgetts asked whether the table was new. Paul Whitmarsh, 110 Wild Turkey Lane, from the Planning Board stated that the table that the Town Manager added to the packet is the table from the Land Use Ordinance that includes the footnote that was in question at the last meeting. They just hadn't included the complete table when originally presented and it needed to be clarified.

Motion to approve including the Advanced Wastewater Treatment Systems ordinance on the Annual Town Meeting Warrant in June 2024.

Motion by Amy Haile. Seconded by Andrea Berry. Motion passed 5-0.

B. Committee Forum Proposed Date – 6/1/2024

This is a forum for the committees and community to come together and select board goals. This will be open to the public and recorded and an open community meeting. Structure for the meeting may make it hard to be captured in a recording. The Community Center is available June 1st at 10:00 am. General consensus to schedule the meeting for June 1st from 10:00 am to noon.

C. LUO Audit Meeting with Planner Proposed Date - 3/12/2024

This will be a conversation with North Star to present audit pieces to help find parts of the land use ordinance that could be edited for better use. The time available is before the Planning Board meeting on 3/12/2024 at 5:30 pm. Katherine Maloney won't be able to make it, but there was a consensus on meeting time from the rest of the board members.

D. Senior Tax Program

Katherine Maloney and Diane Barnes are continuing to do the research necessary to put together some options for changes to the program. Research is being done on benefit base (tax bill) in comparison to income as well as options for offering proportional benefits on a sliding income scale. The state has specific regulations regarding the way the income bands can be set up.

Mike Mallory, 551 Walnut Hill Rd, stated that Scarborough has a online form that people fill in with their age, income level, and tax bill amount and it generates the benefit. We should be raising the income threshold. Scarborough's age threshold is 62 and different towns have different age restrictions.

Amy Haile stated that the Town will take Maine law into consideration as changes are made to the program. Katherine Maloney stated that digging into the numbers has made it clear that the social security income is not giving enough of the story when compared to tax bills.

E. Discuss Reflections from Charter Commission Forum

This was an opportunity to discuss Don Gerrish's 1/30/2024 Charter Commission presentation.

Katherine Maloney felt it was a helpful and informative presentation discussing available governance styles. She feels another meeting to gather public opinion on the subject would be an important next step.

Karl Cyr stated he was glad that they did the forum, and that it brought up key points like being able to use a referendum vs. town meeting without making drastic changes to ordinance. It brought up weighing the issue of quality vs. quantity and that town meetings may be a better representation of people who are involved and paying attention. A referendum vote may allow for more participation, but it may be less informed. There were also comments that might allow for opening the charter for rework without changing the form of government. The charter commission might be worth doing whether it results in a government change or not.

Paul Hodgetts likes the thought of experimenting with a ballot within the current select board/town meeting style first.

Andrea Berry felt the forum helped with understanding the flexibility and changes available without any charter change. Strong opinions were heard, and the meeting was meant to be an information session, so she agreed with Katherine that it might be helpful to hear more from the community and gather a wider pool of thoughts and ideas. Some changes have gone out via referendum in the past. She would like to continue to discuss the items well suited to referendum vs. needing a broader discussion.

Amy Haile was glad for the information. She was hoping for a clearer picture of what type of government works for a specific size or population of town. There is a lot of flexibility available to experiment and try new things, but no clear answer as to when a change is necessary. The most powerful thing he said is that 'it works until it doesn't'. What does it mean for the process to not work? The indicator for that will be trust in the process. It's okay to not like the outcome of a vote if we all continue to have trust in the process. It's nice to have the flexibility to gather information and experiment with referendum rather than open the full charter commission right away.

8. Consent Agenda (1:59:00 – 1:59:25)

A. Municipal Accounts Payable and Payroll Warrants

Municipal Accounts Payable Warrants

#65 \$ 12,731.80

#67 \$ 133,597.59

Municipal Payroll Warrants

#66 \$ 47,992.56

B. Select Board Minutes of 2/06/2024

Motion to approve the consent agenda as presented.

Motion by Amy Haile. Seconded by Paul Hodgetts. Motion passed 5-0.

9. Management Reports & Communications (1:59:25 – 2:06:35)

A. Town Manager's Report:

Diane Barnes stated she received an update from Casella on the truck's arrival last week.

Unfortunately, it's looking like another delay with a mid-May arrival. Automated service will not likely begin until June or July. She contacted Toter to let them know of the delay. There will be a last-minute educational push after the truck is received.

She joined a webinar hosted by Prairie Robotics and WasteZero on keeping PAYT when the switch is made to an automated collection service. She learned about new innovative ways to maintain the PAYT and all of the benefits associated with a unit-based program, and how our town and residents can save money, generate revenue, keep tonnage and tipping fees down and help the environment. Casella has to allow it and they haven't made the commitment to it yet.

B. Committee Updates:

Andrea Berry stated that the Waste Reduction Committee will continue to try to pull things out of the waste stream to lower the cost. Getting food waste out of the waste stream is a huge way for the town to save money. March 9th at noon there will be bring your own lunch and learn about reducing your food waste. Garbage to Garden has had to drop off a fifth container to help with food waste collection. The more we actively and effectively recycle and manage food waste the more costs are kept down with waste management.

Andrea Berry continued to share that the Open Space ad hoc committee member job posting is up on the website and she and Karl are officially collecting applications through the end of February. Hoping to schedule interviews for the end of March. Only three applications so far.

10. Any Other Business (2:06:35 – 2:08:25)

Karl Cyr brought up the question of using the Old Town Park for a connection on the snowmobile trail route. Concerns have been brought up about conservation easement locations. No further information at this point, but discussions continue. A federal conservation easement intersection would stop this project.

11. Adjournment (2:08:25 – 2:08:35)

Motion to adjourn made by Amy Haile. Seconded by Paul Hodgetts. Motion passed 5-0.

Select Board

Amy Haile, Chairperson

Andrea Berry, Vice Chairperson

Paul Hodgetts

Karl Cyr

Katherine Maloney

**Town of North Yarmouth
 Select Board/Planning Board Special Meeting Minutes
 Tuesday, February 27, 2024, 6:30PM
 GPCOG LD 2003 Presentation
 Wescustogo Hall & North Yarmouth Community Center**

Select Board Members

Amy Haile, Chairperson
 Andrea Berry, Vice Chairperson
 Karl Cyr, Select Board Member
 Paul Hodgetts, Select Board Member
 Katherine Maloney, Select Board Member

Planning Board Members

Paul Whitmarsh, Chair/Alternate
 Trey Milam, Secretary
 Jeffrey Brown, Planning Board Member
 Jonathan Miller, Planning Board Member
 Sanford Peabody, Planning Board Member

Role Call

Amy Haile, Chairperson, Andrea Berry, Vice Chairperson, Karl Cyr, Board Member, Paul Hodgetts, Board Member, and Diane Barnes, Town Manager, in attendance. Katherine Maloney, Board Member, excused.

Jeffrey Brown, Planning Board Member, Jonathan Miller, Planning Board Member, Sanford Peabody, Planning Board Member, Ben Scipione, Code Enforcement Officer, and Casey Bacon, CEO Administrative Assistant, in attendance. Paul Whitmarsh, Chair/Alternate and Trey Milam, Secretary, excused.

1. New Business (16:10 – 1:26:30)

A. LD 2003 Presentation by GPCOG

Presented by Matthew Panfil, Planning Director and Christian Roadman, Senior Planner.

Christian Roadman presented LD 2003 requirements (16:10 - 41:30):

- Affects housing and property rights.
- Allows properties to be used in flexible ways.
- Includes a series of minimum requirements passed down by the state.
- Changes to current land use ordinances are necessary to make sure the North Yarmouth zoning code is in compliance.
- The largest and most specific changes will apply to the Village Center area.
- Any area with residential use must allow between 2 and 4 multiple dwelling units on lots.
- Standalone single-family zoning is no longer permitted.

Existing Ordinance	LD 2003
Current affordable housing density bonus only applies outside village center.	Requires a more generous bonus applicable within the village center.
Allows additional dwelling units (ADUs) in many situations. Exempt from some requirements meant to lessen administrative load.	Requires ADUs be allowed in any area for residential use with no additional parking requirement.
Currently Village Center has no minimum lot size but has allowable building types with maximum units.	Affordable housing density bonus multiplies the current allowable units by 2.5.

LD 2003 Practical implications

1. Affordable Housing Density Bonus (only applies to Village Center)
 - North Yarmouth Comprehensive Plan labels the Village Center as a designated growth area.
 - LD 2003 affordable housing density bonus multiplies the current allowable units by 2.5.

- Requirements still apply, including capacity and space for utilities, water, and wastewater, state minimum lot sizes for septic.
 - Allows for parking requirements but caps the requirement at 2 spaces per 3 dwelling units.
2. Multiple Dwelling Units (all scenarios allow for attached or detached units)
 - Within the Village Center, up to 4 dwelling units must be allowed on an empty lot.
 - Within the Village Center, for lots with dwelling units already constructed, zoning must allow additional units.
 - Outside the Village Center, 2 dwelling units must be allowed on an empty lot.
 - Outside the Village Center, for lots with a dwelling unit already constructed, zoning must allow an additional unit.
 - Requirements still apply including utilities, lot size, parking, rate of growth, etc.
 3. Accessory Dwelling Units (ADUs)
 - Any lot with a single-family home can have an ADU inside, attached or detached on the same lot.
 - Still have to meet wastewater and water requirements.
 - Still have to meet setback requirements.
 - Not subject to parking restrictions or rate of growth ordinance.

Municipal Options:

1. Municipalities may define ADUs within zoning laws.
2. Municipalities may limit combined Multiple Dwelling Unit and Accessory Dwelling Unit bonuses.
3. Municipalities may set a maximum ADU size (minimum is set at 190 sf).
4. Municipalities may set teardown exceptions.

Next Steps:

1. Drafting regulations (minimum recommendations have been drafted by GPCOG)
2. Public information sessions and education
3. Adopt changes to zoning ordinance at Town Meeting.

Other useful resources:

1. [North Yarmouth Land Use Ordinance](#)
2. [DECD LD 2003 Guidance](#)
3. [Final Legal Rule](#)

Amy Haile, Chairperson asked about requirements. Christian Roadman reiterated that applicable rules and regulations still apply, but LD 2003 dwelling unit minimums must be allowed when a lot meets the other requirements.

Amy Haile, Chairperson asked if it was possible to set a legal zoning ordinance within the deadline and review and revise the ordinance later. Christian Roadman and Matthew Panfil agreed that would be a reasonable approach.

Matthew Panfil discussed recommended changes to land use ordinance (LUO) (41:30 – 57:10):

- He wrote the draft to allow minimal changes to the current North Yarmouth zoning ordinance.
- The tear down exception in the draft does not allow for additional units if a current structure is demolished. This is the least development friendly option.
- Accessory dwelling units still must meet zoning requirements, lot size, utilities, setbacks, etc.
- Shoreland zoning still applies.
- Depending on the lot, many natural limitations may still prevent development.
- Without sewer, a lot must have 20,000 square feet per unit, which translates to 2 dwelling units per acre.
- The draft does not change existing density, just changes ‘units’ to ‘dwellings’. Current LUO

allows 1 dwelling per 3 acres.

- The draft avoids subdivision law but doesn't change density. If someone holds 15 acres, they can construct 5 dwellings.

Andrea Berry, Vice Chair Select Board, asked to clarify if the new law affected current LUO lot parameters.

- The 15 acres doesn't get divided under LD 2003 requirements. LD 2003 allows the owner to build accessory dwellings or extra principal dwellings depending on current LUO lot restrictions.
- To be considered affordable housing development, 51% of units must be at 80% for rental area median income. It's hard to imagine what an affordable housing unit would look like in Village Center, with the current lot requirements for septic.

Paul Hodgetts, Select Board Member, unless it's Deacon Hayes down the road. It's not spread out with 36 bedrooms on 2 acres of land.

Jeff Brown, Planning Board Member, asked about Section 11.1.B.7.

- Section 11.1.B.7 is unclear and will be revised. State minimum will apply unless Technical Building Code and Standards Board requirements are different.
- North Yarmouth is unique in the current zoning limits of one bedroom per accessory dwelling unit. That remains unchanged in the draft.
- Table 7.2 Space and Dimensional Requirements
 - Changed to minimum lot area per unit instead of min and max units per lot.
 - Village residential still requires 1 acre per dwelling unit. ADUs still have to be within 30% lot coverage requirement.

Jeff Brown, Planning Board Member, asked about Section 11.2.1.B. Minimum Lot Size Requirements. Currently there are no lot size requirements for Village Center. The footnote states that without sewer the 20,000 sq ft. requirement remains for septic. In the new rules, can we build 2 units per half acre?

- Section 11.2.1.B. Minimum Lot Size Requirements
 - All lots must comply with 12 M.R.S. §4807-A. Minimum lot size required.
 - 20,000 sq ft lot size per unit. Multi-unit apartment buildings use a different formula.

Paul Hodgetts, Select Board Member, asked if people can build on a half-acre or sell a half-acre lot.

- Yes, within Village Center half acre lots would be acceptable. Septic requirement is still 20,000 sq ft per unit. Village Center has no minimum lot size, but elsewhere there are lot minimums requiring 1 to 3 acres per unit.

Jeff Brown, Planning Board Member, asked if someone has 3 acres in Farm/Forest can they build an extra Dwelling unit on the lot?

- No, due to lot size requirements they still need three more acres to add a principal dwelling unit. Lot size requirements still apply to principal dwelling units. An accessory dwelling unit could be added.
- If they have a single-family dwelling on 6 acres, they can add another principal dwelling unit without question.
- 10.4.1 'Lots with Existing Dwelling: All Zoning Districts: 3 additional units' changed to 'Lots with Existing Dwelling: All Zoning Districts: 2 additional units' during the meeting.

Chair of Planning Board emailed questions (57:10 – 1:05:20):

1. Is the state redefining affordable housing overall or just for the purposes of LD 2003? Are they eliminating affordable housing for low and moderate income?
 - US HUD requirements are 120 for ownership, 80 for rental. This is what Maine Housing uses to fund a project.
2. Proposed section 11.2.1 references the state statute but not land use ordinance table 7.2 footnote 4. Should it reference both? Is the requirement for the type of septic system for reduced acreage, okay?
 - That is in the definition of comparable sewer system. The reference to subsurface wastewater disposal systems will specify the type that is acceptable.
3. Proposed section 11.2.1 removes review and approval from the planning board. Should this

have been removed?

- This doesn't exempt the planning board from site plan review, but the wastewater and water would have to meet standards in the referenced sections.
4. Additional units can be added, either attached or detached or both. Are these additional units restricted in size to no greater than 40% of the primary structure?
 - There is nuance here that needs to be considered. If someone has one principal dwelling unit on a lot that is big enough for more principal dwelling units and decides to build 2 more principal dwelling units on their lot, each could be eligible for accessory dwelling units. The wording of the final ordinance will determine if accessory units are allowed after more principal units are built.
 5. In the Village Center, on a lot of 1 acre or more with an existing structure, does this allow for the current structure to be demolished to allow for subdivision and more units.
 - The way the proposed ordinance is written doesn't allow for additional ADUs after demolition of an existing structure.
 6. Are you working with NorthStar on this? The numbering sequence differs from the current LUO.
 - No. Matthew just worked within our current LUO to create recommendations for compliance with LD 2003. Tried to integrate with current ordinance as much as possible.

GPCOG will put together a list of FAQs based on questions and emails received after this meeting. They will come back to the next meeting with enhanced visuals as well.

Public Comment/Questions (1:05:20 – 1:26:30)

1. Richard Parenteau, 52 Pine Ridge Road - Current land use ordinance uses affordable housing density bonus. It also uses affordable housing designation as an exemption to our housing cap. Will your proposed changes define affordable housing to be a consistent definition for both of those.
 - Matt will double check current affordable housing language but believes the changes he proposed will be applicable across the board. What you can no longer do is count additional dwelling units as defined in the building cap.
2. Richard Parenteau, 52 Pine Ridge Road - What is the deadline for these changes to take effect?
3. Richard Parenteau, 52 Pine Ridge Road - The current proposal doesn't allow for both the addition of principal dwelling units and additional dwelling units added to each principal dwelling. How is that addressed within the proposed changes to LUO? The speaker advocates for just having one or the other.
 - Matt will double check exact wording and add to FAQs. The proposed language states that you can only add an accessory unit to a lot with an existing single-family dwelling. Without the existing dwelling you wouldn't be able to add an ADU.
4. Richard Parenteau, 52 Pine Ridge Road - The way the edits are currently drafted, structures torn down will count as one dwelling.
 - Current edits are written with the most restrictive language, but this is an area the town has some liberty to adjust.
5. Richard Parenteau, 52 Pine Ridge Road - In the example of the 15-acre lot in Farm/Forest that allows for 5 principal dwelling units to be built, how does frontage factor in?
 - Traditionally you would factor frontage into the subdivision of that lot. LD 2003 changes do not require subdivision of that lot before building. It simply allows a person with a 15-acre lot to build up to 5 principal dwelling units and maybe allows for each unit to have an, attached or detached, additional dwelling unit, depending on the wording of the ordinance. Without the subdivision, setbacks and frontage requirements apply to the full 15-acre parcel, not the individual units. The same would apply in the less restrictive Village Center. Building additional units does not require additional frontage.
6. Lincoln Merrill, 1572 North Road – Current 2-acre lot with dwelling is no longer conforming to Farm/Forest standards after the change to the 3-acre minimum. Does LD 2003 allow for building another dwelling on this lot?

- An ADU would be allowed, but not another principal dwelling structure. An additional dwelling unit, either attached or detached to the original structure would be allowed. To add another principal dwelling unit, 4 more acres would be required.
7. Lincoln Merrill, 1572 North Road – Another parcel of land has 52 acres. Would 2 units be allowed per 3 acres on this parcel?
 - No. One principal dwelling unit per 3 acres of land without needing to go through subdivision process. In the current proposed language, further development of additional dwelling units for each principal unit wouldn't be allowed.
 8. Lincoln Merrill, 1572 North Road – There wouldn't be any extra frontage requirements for that lot? I could create a family compound on 52 acres with 17 principal dwelling units on it.
 - In this case, because you aren't subdividing the lot, that lot would be able to have X number of units within the current ordinance. Cannot say what the ownership structure would be in that case. If people wanted their own lot, you might be able to create a tax split? 3 units would still be considered a minor subdivision, but 5 structures or more would be a major subdivision and subject to the subdivision process.
 9. Lincoln Merrill, 1572 North Road – What is the definition of a lot for these purposes? My 52 acres is not currently defined into lots. Is this lots that a developer would come in and set up for a subdivision? Can people make con-conforming lots?
 - The lot is the lot as registered at the Cumberland County Registry of Deeds. You still cannot subdivide into non-conforming lots. Lot size in the land use ordinance still applies.
 - Jeff Brown followed up to ask if creating multiple dwellings on a lot with an existing dwelling still required subdivision review? If you build another dwelling on a lot, doesn't that constitute creating another lot?
 - Matthew will get more clarification on this and get back to the group. 3 units would be considered a minor subdivision, but 5 structures or more would be a major subdivision and subject to the subdivision process.
 10. Mike Mallory, 551 Walnut Hill Road – This change doesn't require you to build a certain way on your land? If I only want to build one dwelling on my land, I don't have to confine the building to a corner of the land to allow for future development?
 - No, LD 2003 does not make the owner use the land in a specific way. It allows for the development of additional units on lots that meet all other requirements.
 11. Mike Mallory, 551 Walnut Hill Road – How does this mesh with the current variance process? If applying for a variance under ordinance or state law, does LD 2003 change that process?
 - This should not affect how variances are granted or change the process, but that may change on a case-by-case basis. DEP permits will still go through the state, board of appeals would only look at the variance after the applicable approval from the state.
 12. Rachael Whitmarsh, 110 Wild Turkey Lane – Is it going to fall on the Code Enforcement office to make sure this is all being implemented correctly? These things would currently go through site plan review, or the planning board would have oversight and work with the code office.
 - Bigger projects will still go through the planning board, but there will be a lot of calls from individuals wanting to build another dwelling on their lots. FAQ documents will be developed and help with the day-to-day, but this will be an added administrative burden on the CEO. Check with legal counsel before rejecting the changes.
 13. Andrea Berry, Vice Chairperson – If we reject the changes, won't state law simply supersede ordinance?
 - That would be up to the courts, but it will be the argument of the plaintiff.
 14. Amy Haile, Chairperson – We are being invited to follow the rules here, correct? There really isn't a choice.
 - Matthew has given the Town recommendations based on minimum requirements for compliance. A starting point, from which the Town can review and go further if desired.
 15. Amy Haile, Chairperson – Where are we now? The ordinance changes suggested seem reasonable and the Planning Board will be relied upon for thoughts and insights. Where do we

go from here?

- Collect questions, make revisions that have already been requested. There is another meeting on March 27th for a final follow up with GPCOG. GPCOG has no legal standing by which to change the ordinance. The changes will be reviewed by legal, and the Planning Board will have a Public Hearing. The final ordinance changes will be brought to the Town Meeting to be voted into ordinance.
16. Diane Barnes, Town Manager – Can the changes be redlined within the current ordinance to be brought to legal?
- GPCOG will redline a copy of the current ordinance for final approval.
17. Amy Haile, Chairperson – NorthStar is also looking over the land use ordinance, could these changes be coordinated into those changes?
- Diane Barnes stated that NorthStar would be meeting with the Town on the 12th. Matthew Panfil stated that he would be happy to coordinate with NorthStar. The draft will be submitted as
18. Judy Potter, 551 Walnut Hill Road – Are you saying that the Planning Board’s public hearing will be before this next public forum?
- No. The schedule is as follows.
 - 2/27/2024 - 1st public forum.
 - 3/12/2024 - NorthStar meeting with Select and Planning Boards.
 - 3/27/2024 - GPCOG public forum
 - April - Planning Board will set a date and publish notice for the public hearing.
 - May - Public Hearing date and time TBA.
 - 6/17/2024 – 6:30 pm Town Meeting. The public will vote to codify changes to land use ordinance.

Any further comments or questions can be directed to:

GPCOG Senior Planner Christian Roadman: croadman@gpcog.org

GPCOG Planning Director Matthew Panfil: mpanfil@gpcog.org

Diane Barnes, North Yarmouth Town Manager: dbarnes@northyarmouth.org

2. Adjournment – (1:26:30)

Motion to adjourn by Amy Haile, seconded by Andrea Berry, motion passed 4-0.

Select Board

Amy Haile, Chairperson

Andrea Berry, Vice Chairperson

Paul Hodgetts

Karl Cyr

Katherine Maloney



Proven Expertise & Integrity

February 21, 2024

Ms. Diane Barnes, Town Manager
Town of North Yarmouth
10 Village Square Road
North Yarmouth, Maine 04097

Dear Ms. Barnes,

We are pleased to confirm our understanding of the services we are to provide the Town of North Yarmouth for the year ended June 30, 2024. We will audit the financial statements of the governmental activities, any business-type activities, any aggregate discretely presented component units, each major fund, and any aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements of the Town of North Yarmouth of and for the year ended June 30, 2024. Accounting standards generally accepted in the United States of America provide for certain **required supplementary information (RSI), such as management's discussion and analysis (MD&A),** to supplement the basic financial statements of the Town of North Yarmouth. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic or historical context. As part of our engagement, we will apply certain limited procedures to the Town of North Yarmouth RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with **management's responses to our inquiries, the basic financial statements, and other knowledge we obtained** during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. **Management's Discussion and Analysis**

We have also been engaged to report on supplementary information other than RSI that accompanies the Town of North Yarmouth's financial statements. We will subject the supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statements.

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and will include tests of the accounting records of the Town of North Yarmouth and other procedures we consider necessary to enable us to express such opinions. We will issue a written report upon completion of our audit of Town of North Yarmouth's financial statements. Our report will be addressed to the Selectboard of the Town of North Yarmouth. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or may withdraw from this engagement.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements as required by *Government Auditing Standards*. The report on internal control and on compliance and other matters will include a paragraph that states (1) that the purpose of the report is solely to describe the scope of testing of internal control and compliance, and the results of that testing, and not to provide an opinion on the **effectiveness of the entity's internal control on compliance**, and (2) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The paragraph will also state that the report is not suitable for any other purpose. If during our audit we become aware that Town of North Yarmouth is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. Our responsibility as auditors is limited

to the period covered by our audit and does not extend to later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Town of North Yarmouth's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

Other Services

We will also assist the Town of North Yarmouth in: preparing draft financial statements that are based on management's chart of accounts and trial balance and any adjusting, correcting, and closing entries that have been approved by management; preparing draft Management's Discussion and Analysis and notes to the financial statements based on information determined and approved by management; reviewing Town of North Yarmouth-maintained depreciation schedules for which management has determined the method of depreciation, rate of depreciation, and salvage value of the asset, all in conformity with U.S. generally accepted accounting principles, permissible nonattest services under the AICPA Code of Conduct and nonaudit services under *Government Auditing Standards* for attest/audit engagements. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. Management responsibilities for these services are listed below.

We will perform the nonattest/nonaudit services in accordance with applicable professional standards, including the Code of Conduct issued by the American Institute of Certified Public Accountants. These services are limited to the financial statements and depreciation schedule services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for establishing and maintaining effective internal controls, including evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; following laws and regulations; and ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles, for the preparation and fair presentation of the financial statements and all accompanying information in conformity with U.S. generally accepted accounting principles, and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants and for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, and contracts or grant agreements, or abuse that we report.

You are responsible for the preparation of the supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statements and related notes and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and related notes and that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

Audit Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, or other confirmations we request and will locate any documents selected by us for testing.

We will provide copies of our reports to oversight agencies; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of RHR Smith & Company and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to an oversight agency or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of RHR Smith & Company personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by an oversight agency. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party (ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Ronald H.R. Smith is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses, will not exceed the amount broken down as follows:

June 30, 2024:	
Financial Statement Audit	\$17,000

Additional annual price of Single Audit (if necessary) - \$5,000 for one major program and \$3,000 for each major program thereafter

Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the

date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

You may request that we perform additional services not addressed in this engagement letter. If this occurs, we will communicate with you regarding the scope of the additional services and the estimated fees. We also may issue a separate engagement letter covering the additional services. In the absence of any other written communication from us documenting such additional services, our services will continue to be governed by the terms of this engagement letter.

We appreciate the opportunity to be of service to the Town of North Yarmouth and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very Best,



RHR Smith & Company, CPAs
RHRS/YB/24

RESPONSE:

This letter correctly sets forth the understanding of the Town of North Yarmouth.

Management signature: _____

Title: _____

Date: _____

215 Pleasant St. Fl. 4 – PO Box 3634
Fall River, Massachusetts 02722

Tel: (508)679-6079 (508)999-0020
Fax: (508)672-4938

Report on the Firm's System of Quality Control

To RHR Smith & Company, CPAs and the Peer Review Committee of New England Peer Review:

We have reviewed the system of quality control for the accounting and auditing practice of RHR Smith & Company, CPAs (the Firm) in effect for the year ended September 30, 2020. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The Firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The Firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the Firm's compliance therewith based on our review.

Required Selections and Considerations

Engagements selected for review included audit engagements performed under Government Auditing Standards including compliance audits under the Single Audit Act. As a part of our peer review, we considered reviews by regulatory entities as communicated by the Firm, if applicable, in determining the nature and extent of our procedures.

Deficiency Identified in the Firm's System of Quality Control

We noted the following deficiency during our review:

1. The Firm's quality control policies and procedures with respect to engagement performance do not provide reasonable assurance that the Firm adequately performs and documents governmental audit engagements in accordance with professional standards. Consequently, on engagements performed under government auditing standards we noted that the firm's documentation incorrectly identified engagements as being low risk. On one engagement reviewed, not enough testing was done to satisfy the low risk rating. In our opinion, this matter contributed to the governmental audit engagement not being performed in accordance with professional standards in all material respects.

Opinion

In our opinion, except for the deficiency previously described, the system of quality control for the accounting and auditing practice of RHR Smith & Company, CPAs in effect for the year ended September 30, 2020 has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency (igs)* or *fail*. RHR Smith & Company, CPAs has received a peer review rating of *pass with deficiency*.

D.E. Rodrigues & Company, Inc.

May 27, 2021

Where Your Financial Success Begins

Member: American Institute of Certified Public Accountants - Division for Firms
Web: WWW.Rodriguesaccounting.com Email: Doug@rodriguesaccounting.com



Proven Expertise & Integrity

February 21, 2024

Ms. Diane Barnes, Town Manager
Town of North Yarmouth
10 Village Square Road
North Yarmouth, Maine 04097

Dear Ms. Barnes,

We are pleased to confirm our understanding of the nature and limitations of the services we are to provide the Town of North Yarmouth for the fiscal year ended 2024.

We will apply the agreed-upon procedures which the Town of North Yarmouth has specified, indicated below, to provide for Fixed Assets services for the fiscal year ended 2024.

Our Responsibilities and Services to be Performed:

- Maintain a list of the Town of North Yarmouth's fixed assets as they have been provided and updated annually by the Town of North Yarmouth.
- Classify and identify the useful lives of those fixed assets in accordance with IRS standards and other applicable regulatory authority guidelines, using information provided by the Town of North Yarmouth.
- Provide annual depreciation amounts in accordance with IRS standards and other applicable regulatory authority guidelines for the preparation of the Town of North Yarmouth's financial statements.
- Provide a listing of the Town of North Yarmouth's fixed assets report on an annual basis for the Town of North Yarmouth's review and use for the preparation of the Town of North Yarmouth's financial statements.

This engagement is solely to assist the Town of North Yarmouth with the above-mentioned Fixed Asset services. Our engagement to apply agreed-upon procedures will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of those parties specified above. Consequently, we make no representation regarding the sufficiency of the procedures described above for any purpose. If, for any reason, we are unable to complete the procedures, we will describe any restrictions on the performance of the procedures in a report or will not issue a report as a result of this engagement.

Because the agreed-upon procedures listed above do not constitute an examination, we will not express an opinion on Fixed Asset services. In addition, we have no obligation to perform any procedures beyond those listed above.

Ron Smith is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

Town of North Yarmouth's Responsibilities:

During our engagement, the Town of North Yarmouth's management is responsible to provide us with annual additions and deletions to the fixed asset database in compliance with the Town of North Yarmouth's own adopted policies and procedures, including, but not limited to:

- all required or requested documentation to verify fixed asset purchase details (including which Town of North Yarmouth account(s) were expensed for the asset in their accounting system)
- all documentation needed to appropriately identify and classify the fixed asset
- all documentation needed to verify ownership of the fixed asset
- any specific details regarding the useful life of the fixed asset (as applicable)
- specific details regarding any asset retirement obligations or restrictions on the fixed asset

Unless unforeseeable problems are encountered, the engagement should be completed by June 30, 2025.

The above-mentioned Fixed Asset services will be provided at a flat rate charge of \$450 to be billed on an annual basis. The fee estimate is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

We appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. If the need for additional procedures arises, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter. If additional specified parties of the report are added, we will require that they acknowledge in writing their responsibility for the sufficiency of procedures.

RHRS/FA1/24

RESPONSE:

This letter correctly sets forth the understanding of the Town of North Yarmouth.

By: _____

Title: _____

Date: _____