

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.