

**PROPOSED  
(General Housekeeping)  
AMENDMENTS**



**TOWN OF  
NORTH YARMOUTH  
LAND USE ORDINANCE**

## I. GENERAL PROVISIONS

### SECTION 1.8 CONTRACT ZONING

#### **A. Authorization:**

Pursuant to 30-A M.R.S. § 4352(8), contract zoning is hereby authorized for rezoning of property where, for reasons such as the unusual nature or unique location of the development proposed, the ~~Board of Selectmen~~ Select Board finds it necessary or appropriate to modify the zoning district regulations applicable to a parcel of land, which will allow reasonable uses of the land which would not have been permitted by the existing zoning district regulations but which remain consistent with the Town of North Yarmouth Comprehensive Plan and compatible with the existing and permitted uses within the existing zoning district classification.

In consideration of a request for a change in zoning classification for a particular property or group of properties under this section, the ~~Board of Selectmen~~ Select Board may impose certain conditions and restrictions on the use of the property where it finds that such conditions and restrictions are necessary to protect the public health, safety, and general welfare and when the ~~Board of Selectmen~~ Select Board seek to advance desired land use objectives consistent with the Comprehensive Plan, and where such uses provide a public purpose or benefit.

#### **C. Conditions and Restrictions:**

Conditions and restrictions imposed by the ~~Board of Selectmen~~ Select Board under the authority of this section shall relate only to the physical development and operation of the property and may include, but shall not be limited to, the following:

1. Limitation of the number and type of permitted uses of the property.
2. The height and lot coverage of any structure.
3. The setback of any structure.
4. The lot standards.
5. The hours of operation for the proposed use.
6. The installation, operation and maintenance of physical improvements, such as parking lots, traffic control devices, fencing, shrubbery and screening.
7. The creation of open space areas or buffer zones.
8. The dedication of property for public purposes, such as streets, parks, utility systems, and conservation easements.

#### **D. Notice Requirements and Procedures:**

1. The ~~Board of Selectmen~~ Select Board shall hear the request for a contract zoning proposal in a public meeting and will decide whether to continue consideration of the proposal by referring the matter to the Planning Board for an advisory recommendation.

3. The Planning Board shall make a recommendation to the ~~Board of Selectmen~~ Select Board on the proposal and its conformance with the Town's Comprehensive Plan and land use goals. This recommendation is advisory in nature; the ~~Board of Selectmen~~ Select Board may act independently of the recommendation of the Planning Board.
4. The ~~Board of Selectmen~~ Select Board shall hold a public hearing and, following any testimony, approve, modify or deny the contract zoning request. If the ~~Board of Selectmen~~ Select Board modifies the proposal by doing any one or more of the following, the proposal will need to be referred again to the Planning Board for a public hearing and subsequent recommendation to the ~~Board of Selectmen~~ Select Board.
  - a. Adds to the list of permitted uses;
  - b. Eliminates or makes less restrictive performance standards;
  - c. Reduces setback requirements;
  - d. Increases the density beyond that allowed in the zone;
  - e. Makes any other change or changes which substantially modify the proposed agreement that was presented to the Planning Board.

### **III. ADMINISTRATION AND ENFORCEMENT**

#### **SECTION 3.2 APPROVALS AND PERMITS REQUIRED [Amended 5/17/08]**

- B. Driveway/Road Entrance Permit from Code Enforcement Officer:** No person may build or construct a driveway or road that provides access to a public street without first obtaining a Driveway/Road Entrance Permit from the CEO in accordance with Section 8.4 and the town's Roadway Ordinance. Driveway/Road Entrance Permit Requirements.
- D. Site Plan Review Permit from the Planning Board:** No use of land, buildings or structures listed in Article VII. Zoning District Regulations, Table 7-1 and identified as requiring Site Plan Review shall commence until after Site Plan Review approval has been obtained from the Planning Board in accordance with Article IV. Site Plan Review and Conditional Use Procedures and the provisions of this Ordinance. Further, a Site Plan Review permit is required for all development proposals involving new construction, changes of use, or expansion of a structure or development, or expansion of a use by way of new construction. These provisions are also applicable to clearing and/or altering of land, construction of parking lots and roads and addition or alteration of accessory uses associated with land use activities listed in Table 7-1. Land Uses by District, requiring Site Plan Review. (See Article IV. Site Plan Review and Conditional Use Procedures, Article X. Performance and Design Standards for Site Plan Review and Subdivision, the town's Roadway Ordinance, and other provisions of this Ordinance, as applicable.) [Amended 06/16/12]

#### **SECTION 3.7 FEES**

The ~~Board of Selectmen~~ Select Board shall establish fees for all permits where permit fees have not been specified within this Ordinance. A copy of the fee schedule shall be available from the Code Enforcement Officer.

#### **SECTION 3.8 PERFORMANCE GUARANTEES**

- B. Types of Guarantees:** With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

1. Either a certified check payable to the town of North Yarmouth or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;
2. A performance bond payable to the town issued by a surety company, approved by the ~~Selectmen~~ Select Board;
3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision or development, from which the town may draw if construction is inadequate, approved by the ~~Selectmen~~ Select Board; or
4. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the Road Commissioner, Town Engineer, ~~Selectmen~~ Select Board, and/or Town Attorney.

**J. Default:** If upon inspection, the Road Commissioner or other qualified individual retained by the town finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the CEO, the ~~Selectmen~~ Select Board, the Planning Board, and the applicant or developer. The ~~Selectmen~~ Select Board shall take any steps necessary to preserve the Town's rights.

### **SECTION 3.10 LEGAL ACTION AND VIOLATIONS [Amended 5/17/08]**

**B. Notice:** If the Code Enforcement Officer finds that any provision of this Ordinance is being or has been violated, he shall notify in writing the person(s) responsible for such violation and order the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be forwarded to the ~~Administrative Assistant~~ Town Manager and the ~~Board of Selectmen~~ Select Board, and maintained as a permanent record.

**C. Enforcement Action:** When the above action does not result in the correction or abatement of the violation or nuisance condition, the ~~Board of Selectmen~~ Select Board, upon notice from the CEO, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of civil penalties, that may be appropriate or necessary to enforce the provisions of the Ordinance in the name of municipality. The ~~Board of Selectmen~~ Select Board, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

## **IV. SITE PLAN REVIEW AND CONDITIONAL USE PROCEDURES**

### **SECTION 4.4 PROCEDURES**

#### **A. Pre-application Conference:**

6. Site Plan Review Applications within the Royal River Corridor Overlay District: The CEO shall notify the ~~Conservation Commission~~ **Royal River Conservation Trust** of the date, time and place of the pre-application conference at least seven (7) days prior to the conference if the proposed use is to be located within the Royal River Corridor Overlay District.

- #### **B. Application Submission and Review Procedures:**
- The applicant shall prepare and submit a Site Plan Review application, including a development plan and supporting documentation meeting the submission requirements set forth below. This material shall be submitted to the CEO. The CEO shall make a preliminary determination of whether the application is complete before the application is placed on the Planning Board's agenda. The applicant shall notify by first-class mail all property owners within 500 feet of the parcel on which a proposed development is located at least 14 days prior to the meeting at which the application is to be considered. The applicant shall submit evidence of such notification. The notice shall include an accurate description of the project and the availability of the application for review. If the proposed use is located within the Groundwater Overlay District, the applicant shall mail a complete copy of the application to the Yarmouth Water District at least two weeks prior to the date of the first meeting at which the application is to be considered. [Amended 6/12/10]

1. At the first meeting at which the application is considered, the Planning Board shall authorize the CEO to give a dated receipt to the applicant. The CEO shall notify the ~~Selectmen~~ **Select Board**, Fire Chief, Road Commissioner, Building Inspector, Plumbing Inspector, ~~Conservation Commission~~ **Royal River Conservation Trust**, Yarmouth Water District and other interested parties, as appropriate. [Amended 6/12/10]

#### **D. Fees:**

- c. **Establishment of Fees:** The ~~Selectmen~~ **Select Board** may, from time to time and after consultation with the Planning Board and/or CEO, establish the appropriate application fees and technical review fees following posting of the proposed schedule of fees and public hearing.

## **V. SUBDIVISION REVIEW PROCEDURES AND CRITERIA**

### **SECTION 5.5 MINOR SUBDIVISION**

- #### **C. Submissions:**
- The final plan application shall consist of the following items:

3. **Final Plan:** The subdivision plan for a Minor Subdivision shall consist of one reproducible, stable-based transparency to be recorded at the Cumberland County Registry of Deeds and a paper copy for review by the Planning Board. The reproducible transparency shall be embossed with the seal of the individual responsible for preparation of the plan. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than two hundred (200) feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than twenty four (24) by thirty six (36) inches in size, and shall have a margin of two (2) inches outside of the borderlines on the left side

for binding and a one- inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Planning Board. A copy of the subdivision plan(s) shall be reduced to a size of ~~(8½) by eleven (11) inches or~~ eleven (11) by seventeen (17) inches. Ten (10) copies of the reduced plan(s) plus all accompanying information shall be submitted to the CEO. The CEO shall ~~mail~~ provide a complete copy of the application to each Planning Board member no less than seven (7) days prior to the meeting. If any part of the subdivision is located within the Groundwater Protection Overlay District, a reduced copy of the plan and all accompanying material shall be ~~mailed~~ provided to the Yarmouth Water District no less than seven (7) days prior to the meeting. A reduced copy of the plan and all accompanying material shall be ~~mailed to~~ provided to the ~~Chairperson of the Conservation Commission~~ [redacted] no less than seven (7) days prior to the meeting, if appropriate. Following approval of the Final Plan by the Planning Board, the applicant shall submit a copy of the Final Plan as recorded at the Cumberland County Registry of Deeds, to include all recording information and Planning Board signatures, to the CEO.

4. **Application Requirements:** The application for approval of a Minor Subdivision shall include the following information. The Planning Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S. §4404 or Section 5.12 Subdivision Review Criteria, are met.
  - s. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the town or a Planning Board approved land trust, conservation organization or other public entity, of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the applicant or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the town, written evidence that the ~~Selectmen~~ Select Board are satisfied with the legal sufficiency of the written offer to convey title shall be included. If any of the open space and/or facilities are to be reserved by the individual unit owners as common open space, the developer shall be required prior to final subdivision plan approval to incorporate a homeowners' association consisting of the individual unit owners, which incorporation must comply with Section 11.10. Home Owner/Property Owners' Associations.

## SECTION 5.6 PRELIMINARY PLAN FOR MAJOR SUBDIVISION

**B. Submissions:** The preliminary plan application shall consist of the following items:

3. **Preliminary Plan:** The preliminary plan shall be submitted in twelve (12) copies of one or more maps or drawings, which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than one hundred (100) feet to the inch. Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred (200) feet to the inch provided all necessary detail can easily be read. A copy of the subdivision plan(s) shall be reduced to a size of ~~(8½) by eleven (11) inches or~~ eleven (11) by seventeen (17) inches. The CEO shall ~~mail~~ provide a copy of the reduced plan(s) plus all accompanying information ~~shall be mailed~~ to each Planning Board member no less than seven (7) days prior to the meeting. If any part of the subdivision is located within the Groundwater Protection Overlay District, a reduced copy of the plan and all accompanying material shall be ~~mailed~~ provided to the Yarmouth Water District no less than seven (7) days prior to the meeting. A reduced copy of the plan and all accompanying material shall also be mailed to provided the ~~Chairperson of the Conservation Commission~~ [redacted] no less than seven (7) days prior to the meeting, if applicable.

## SECTION 5.7 FINAL PLAN FOR MAJOR SUBDIVISION

### B. Submissions:

12. Road/street plans, meeting the requirements of Articles VIII, X, and the town's Roadway Ordinance.
16. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the town of all public ways and open spaces shown on the Plan, and copies of agreements or other documents, such as homeowner's association bylaws, showing the manner in which open spaces and/or facilities to be retained by the developer or lot owners are to be maintained shall be submitted. If any of the open space and/or facilities are to be reserved by the individual unit owners as common open space, the developer shall be required prior to final subdivision plan approval to incorporate a homeowners' association consisting of the individual unit owners, which incorporation must comply with Section 11.10. Home Owner/Property Owners' Associations. The Planning Board may require written evidence from an attorney that the required documents are legally sufficient to preserve and maintain common open space, recreation land and other common facilities. If proposed streets and/or open spaces or other land is to be offered to the town, written evidence that the ~~Selectmen~~ Select Board are satisfied with the legal sufficiency of the written offer to convey title shall be included.

## SECTION 5.8 FINAL APPROVAL AND FILING FOR MINOR AND MAJOR SUBDIVISIONS

- E. The approval by the Planning Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the town, approval of the plan shall not constitute an acceptance by the town of such areas. The Planning Board shall require the plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the ~~Selectmen~~ Select Board covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

## SECTION 5.10 INSPECTIONS AND ENFORCEMENT

### A. Inspection of Required Improvements

1. At least 5 days prior to commencing construction of required improvements, the developer shall:
  - b. Deposit with the ~~Selectmen~~ Select Board a check made out to the town of North Yarmouth for the amount of two percent (2%) of the estimated costs of the required improvements. These funds shall be used by the town to hire the services of a Maine registered professional engineer to review the specifications for all improvements, and to inspect the construction, including, but not limited to: roads, streets, lighting, sidewalks, storm water facilities, water lines, sewer lines, etc. and all conditions of final approval. If these funds are sufficient to cover the cost of said review and inspection, the remaining funds shall be returned to the developer after satisfactory completion of the improvements, including cleanup. If the funds are not enough to cover said review and inspection, the developer shall pay all costs over and above the two percent (2%) directly to the reviewing engineer as billed.
6. Upon completion of road construction and prior to acceptance of the road by the town (town's Roadway Ordinance, a written certification signed by a Maine registered professional engineer shall be submitted to the Town Manager for ~~the Selectmen~~ Select Board review at the expense of the applicant, certifying that the proposed street meets or exceeds the design and construction ~~requirements for these regulations~~ requirements of the town's Roadway Ordinance. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the ~~Selectmen~~ Select Board.

## **B. Violations and Enforcement:**

6. No lot in a subdivision may be sold, leased, or otherwise conveyed before the road or street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multiplex development shall be occupied before the road or street upon which the unit is accessed is completed in accordance with these regulations and the town's Roadway Ordinance.

## **VI. VARIANCES AND APPEALS**

### **SECTION 6.1 APPOINTMENT AND COMPOSITION**

There shall be a Zoning Board of Appeals (ZBA) consisting of five (5) voting members and two (2) alternate members appointed by the ~~Board of Selectmen~~ Select Board with staggered five (5) year terms. Voting members shall elect a Chairman and Secretary from its membership. An alternate may vote only in the absence of a regular member. The ZBA must be maintained in accordance with the provisions of Title 30-A M.R.S., Section 2691, Board of Appeals.

### **SECTION 6.3 ADMINISTRATIVE APPEALS, VARIANCES AND MISCELLANEOUS APPEALS [Amended 6/12/10]**

#### **A. Procedures:**

4. **Public Hearing:** The Zoning Board of Appeals (ZBA) shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of a complete written application, unless this time period is extended by the parties. The public hearing shall be conducted in accordance with the procedure set forth in 30-A M.R.S., Section 2691, Board of Appeals. The CEO, Planning Board and ~~Selectmen~~ Select Board may be parties to the hearing. Notification of all appeals shall be given to the Planning Board, if applicable, and abutting property owners indicating the nature of the appeal and the time and place of the public hearing. Failure of any property owner to receive a notice shall not invalidate any action of the ZBA.
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6. **Decision by Zoning Board of Appeals (ZBA):**
    - e. **Statement of Findings:** The ZBA shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The ZBA shall cause written notice of its decision to be mailed or hand-delivered to the applicant, and to the Department of Environmental Protection for appeals applicable to the Resource Protection and Residential Shoreland Districts, within seven (7) days of the Board's decision. Copies of written decisions of the ZBA shall be given to the Planning Board, Code Enforcement Officer, and the ~~Board of Selectmen~~ Select Board.



**VII. ZONING DISTRICT REGULATIONS**

**TABLE 7.2 SPACE AND DIMENSIONAL REQUIREMENTS (Continued from prior page)**

District	Minimum Lot Size (Acres)	Maximum Residential Density <sup>1</sup> (Acres)	Maximum Lot Coverage	Street Frontage	Structure Setback From Property Lines	Maximum Structure Height
<b>Royal River Corridor Overlay</b>	Three (3) acres	Same as underlying district	Same as underlying district			
<b>Groundwater Protection Overlay</b>	Single lots not part of a subdivision must meet the minimums for the underlying district; no reduction in lot size shall be permitted.	Same as underlying district	Same as underlying district			

**Cross Reference Notes for other provisions with dimensional requirements:**

~~Section 8.4 Driveway/Road Entrance Permit Requirements—Minimum site distance and driveway/road entrance spacing requirements, etc. for access to a state highway or town road.~~

**VIII. GENERAL REQUIREMENTS: APPLICABLE TO ALL LAND USES**

**SECTION 8.3 BACK LOTS AND STREET ACCESS REQUIREMENTS**

A. Single– family dwellings, duplex dwellings and non-residential structures shall be permitted on back lots provided they are served by a private right-of-way no less than fifty (50) feet wide, and subject to the following conditions:

2. All residential and non-residential lots and other lots with buildings for human occupation shall have adequate access roads for emergency vehicles to enter, turn around, and exit. ([town’s Roadway Ordinance](#))
5. **Private Roads Serving Three or More Residential Units and/or Non-residential Uses:** This subsection is applicable to situations that do not meet the definition of a subdivision. Any access road serving three or more lots shall be constructed within a right-of-way with a minimum width of 50 feet, and with a minimum traveled way width meeting Table 2 in section 8.4 H.4 [and the town’s Roadway Ordinance](#). Drainage culverts at the intersection of the access road and the public street shall be no less than ~~15-inch~~ [eighteen \(18\) inch](#) aluminized corrugated metal pipe or equivalent as determined by the Road Commissioner. The access road shall be built to maintain a minimum depth also described in Table 2 in section 8.4 H.4. [and the town’s Roadway Ordinance](#).

## SECTION 8.4 DESIGN AND CONSTRUCTION STANDARDS FOR ROADS AND DRIVEWAYS

**A. Purpose** Applications for new private roads after the effective date of this amendment shall not be approved by the Code Enforcement Officer unless the proposed road construction meets the design and other standards set forth in the [town's Roadway Ordinance and Section 8.4](#) ~~Section 8.4 and elsewhere in this ordinance~~, as applicable, ~~in~~excluding the minimum roadway widths set forth in Table 8.2 in this section. However, if the applicant requests waiver of the roadway width otherwise applicable to new private roads, the Planning Board may apply a lesser roadway width per Table 8.2 to applications for new private roads after the effective date of this amendment if the waiver standards set forth in this section have been met. On or after the effective date of this amendment, applications for extensions of private roads in existence as of the effective date of this amendment, are subject to this section, including Table 8.2 [and the town's Roadway Ordinance](#).

### **C. Layout.**

4. In front of areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased by such amount on each side as may be deemed necessary by the Planning Board to assure the free flow of through traffic without interference by parked or parking vehicles and to provide adequate and safe parking space for such commercial or business district. In no case shall the street have a right-of-way width and pavement width less than that specified in Table 2 [and the town's Roadway Ordinance](#).
8. The design of subdivision streets shall provide for the continuation of streets to and from adjacent subdivisions and/or undeveloped land, where the Planning Board determines that interconnection of streets is physically feasible and would contribute to the safety and function on the street system. If connection to an existing street is not possible at the time of the subdivision, a temporary dead end street shall end in a hammerhead turn-around designed in accordance with ~~Section 8.4~~ [the town's Roadway Ordinance](#). A right-of-way shall be extended from the hammerhead turn-around to the neighboring property line for future extension. The right-of-way shall be dedicated to the town. This shall be labeled "Future Street Extension" on all plans of the project and noted in all deeds. Reserved street for future street connection to adjoining undeveloped property shall be dedicated to the town. The developer of the adjoining property can be required by the Planning Board to connect to and build over the reserved strips. Reserved strips not to be used shall be dispensed with according to 23 M.R.S. Section 3027.

### **D. Street signs and names.**

1. **Streets:** Streets which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets within the Town and shall be subject to the approval of the Planning Board with recommendations from Road Commissioner [and Fire Rescue Chief](#).
2. **Street name:** signs shall be furnished and installed by the Town but appropriate fees charged to the applicant to do so. The type, size and location shall ~~be subject to approval by Road Commissioner~~ [follow the town's Roadway Ordinance](#).

### **E. Design and construction standards.**

1. **Urban:** Urban standards shall apply to all roads that are constructed using subsurface drainage and curbing. Urban standards may be applied to rural roads at the Planning Board's discretion if conditions so warrant, such as topography, soil conditions and aesthetics. Urban design standards shall be defined as paved streets with such appurtenances as curbs, esplanades, a byway, and an enclosed storm drainage system with catch basins, manholes, and associated piping.

b. Road classifications as described in B(1) standards shall be used for all street designs in the Town, except as specified above. Road design standards shall be defined as paved streets with gravel shoulder, side ditches for the transportation of stormwater and a byway. The Planning Board shall require the provision of a byway under the [town's Roadway Ordinance road design standards](#), which for purposes of this subsection B(1) shall include only a free walk or paved shoulder; provided, however, a paved shoulder may be substituted for a free walk; or the requirement of a byway may be waived altogether.

3. **Dimensions of street construction:** The dimensions for street construction shall be shown in Table 8.2 [and listed in the town's Roadway Ordinance.](#)

#### **E. Roadway Construction Materials**

1. General roadway construction materials as specified herein shall conform to the current specifications of the Maine Department of Transportation.

a. Standards and dimensions tabulated herein shall be considered as minimum. The applicant shall be required to investigate and determine the types and classifications of the soils

1. Computations shall be made to determine pavement design standards for construction, which shall be submitted to the Road Commissioner for review.

2. If the existing native soil through the subbase course area can be defined as being equal in quality and thickness to the minimum requirements specified herein, the Planning Board may waive a portion or all of the minimum requirements for subbase courses. In any event, the ultimate density of any material left in place shall conform to the minimum requirements for compaction specified herein.

3. If, during construction, subsurface soils vary from the original classification, the pavement design shall be modified to reflect the new soil types. Revised pavement designs shall be submitted to a third-party engineer for approval at the owner's expense.

4. [All aspects of works using geo-textile shall be in conformance with MDOT.](#)

#### **4. Private streets Table 8.2**

The construction of private streets shall meet the following minimum standards: All newly created Private Streets, after the adoption of this ordinance must meet the dimensional standards of column three (3) unless granted a waiver through the Planning Board.

**Table 8.2**  
Number of Dwelling Units Served

	1	2	3
Minimum roadway width (feet)	<b>3 to 5 16*</b>	<b>6 to 10 18*</b>	<b>11 or more</b>
Minimum base (inches)	<del>15</del> <u>18</u>	<del>15</del> <u>18</u>	<del>15</del> <u>18</u>
Gravel	<del>3</del> <u>6</u>	<del>3</del> <u>6</u>	<del>3</del> <u>6</u>
<u>Paving</u>	<u>2</u>	<u>2</u>	<u>2</u>
Maximum length	None	None	None
Maximum grade	10%	10%	10%
Minimum grade	0.5%	0.5%	0.5%
Minimum center-line radius (feet)	100	100	100
Minimum tangent between curves of reverse alignment (feet)	50	50	50
Minimum angle at street intersections	<del>75</del> <u>60°</u>	<del>75</del> <u>60°</u>	<del>75</del> <u>60°</u>
Turnaround at dead end	T	T	T

**J. Road and Driveway Entrances**

**3. Safe Sight Distances:**

a. Access shall be designed in profile and grading and located to achieve the required sight distance measured in each direction along the public road while maintaining adequate distances from adjacent driveways/roads and intersections.

1. Sight distance is measured to and from the point on the centerline of the proposed access that is located ten (10) feet from the edge of traveled way. The height of the hypothetical person's view is considered to be three and a half (3½) feet above the pavement and the height of the object being viewed is considered to be four and a half (4¼) feet above the pavement.

~~b. Measurements: For the purpose of the sight distance standards, the following provisions shall apply:-~~

~~1. The sight distance shall be based on the posted speed limit, or traffic speed study showing the 85<sup>th</sup> percentile speed (the speed at which 85 percent of the vehicles are traveling).~~

~~2. Measurements shall be from the driver's seat of a vehicle that is 10 feet behind the curb (or edge of shoulder) line with the height of eye 3½ feet above the pavement and height of object 4¼ feet.~~

b. Driveway/ road and intersection road placement shall be such that an existing vehicle has an unobstructed sight distance according to the following schedule:

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

### **SECTION 10.25 PROTECTION OF SIGNIFICANT WILDLIFE HABITAT**

**C.** Since wildlife management must take into account many site-specific variables, applicants proposing to develop land within or adjacent to identified wildlife resources must consult with the [Code Enforcement Office](#) ~~North Yarmouth Conservation Commission~~, Maine Department of Inland Fisheries and Wildlife or a wildlife biologist certified by the Wildlife Society and approved by the Planning Board and obtain a written report to submit with the application. This report shall assess the potential impact of the development on the significant habitat and shall describe appropriate mitigation measures to ensure that the subdivision/development will have no/minimal adverse impacts on the habitat and the species the habitat supports.

### **SECTION 10.27 BACK LOTS AND ACCESS**

**A.** Single-family dwellings, duplex dwellings and non-residential structures shall be permitted on back lots provided they are served by a private right-of-way no less than fifty (50) feet wide, and subject to the following conditions:

**5. Private Roads Serving Three or More Residential Units and/or Non-residential Uses:** This subsection is applicable to situations that do not meet the definition of a subdivision. Any access road serving three or more lots shall be constructed within a right-of way with a minimum width of fifty (50) feet, and with a minimum traveled way width of ~~48~~ [twenty \(20\)](#) feet. Drainage culverts at the intersection of the access road and the public street shall be no less than fifteen (15) inch aluminized corrugated metal pipe or equivalent as determined by the North Yarmouth Road Commissioner. The access road shall be built to [the standards as defined by the town's Roadway Ordinance](#). ~~maintain a minimum depth of 15 inches of the bank run gravel and have drainage ditches and culverts at all appropriate points.~~

### **SECTION 10.28 ACCESS MANAGEMENT STANDARDS**

#### **C. Safe Sight Distances:**

3. Measurements: for purposes of the sight distance standards, the following provisions shall apply:

b. [Sight distance is measured to and from the point on the centerline of the proposed access that is located ten \(10\) feet from the edge of traveled way. The height of the hypothetical person's view is considered to be three and a half \(3½\) feet above the pavement and the height of the object being viewed is considered to be four and a half \(4¼\) feet above the pavement.](#)

~~b.—Measurements shall be from the driver's seat of a vehicle that is 10 feet behind the curb (or edge of shoulder) line with the height of eye 3½ feet above the pavement and height of object 4½ feet.~~

## SECTION 10.29 SUBDIVISION STREET CONNECTIVITY REQUIRED IN THE VILLAGE CENTER AND VILLAGE RESIDENTIAL DISTRICTS

### **C. Requirements:**

7. **Waivers:** The Planning Board may waive the requirement for connectivity when existing natural features and natural resources are located in such a fashion as to prevent connections to an existing or future public street, and/or when the only connection available is with an incompatible adjacent use, such as a gravel pit or an industrial use. When the Planning Board waives the requirements for connectivity, the following standards shall apply:
  - a. No dead end street or portion of a street shall exceed five hundred (500) feet in distance from a public through street to the center of the turn-around. The aforementioned public through street may include a portion of the proposed subdivision street that has been accepted by the ~~Board of Selectmen~~ Select Board as a Town Road.
  - b. All dead end streets shall end in a hammerhead turn-around designed in accordance with *Article VIII Section 8.4 Design and Construction Standards for Roads and Driveways* and the town's Roadway Ordinance.

## SECTION 10.30 SUBDIVISION STREET LENGTH AND CONNECTION REQUIREMENTS IN THE FARM AND FOREST DISTRICT AND RESIDENTIAL SHORELAND DISTRICT

### **B. Standards:**

3. **Connectivity Requirements:** The design of subdivision streets shall provide for the continuation of streets to and from adjacent subdivisions and/or undeveloped land, where the Planning Board determines that interconnection of streets is physically feasible and would contribute to the safety and function on the street system. If connection to an existing street is not possible at the time of the subdivision, a temporary dead end street shall end in a hammerhead turn-around designed in accordance with the, *Article VIII Section 8.4 Design and Constructions Standards for Roads and Driveways* and the town's Roadway Ordinance. A right-of-way shall be extended from the hammerhead turn-around to the neighboring property line for future extension. The right-of-way shall be dedicated to the town. This shall be labeled "Future Street Extension" on all plans of the project and noted in all deeds. Reserved street for future street connection to adjoining undeveloped property shall be dedicated to the town. The developer of the adjoining property can be required by the Planning Board to connect to and build over the reserved strips. Reserved strips not to be used shall be dispensed with according to 23 M.R.S. Section 3027.

## **XI. STANDARDS FOR SPECIFIC ACTIVITIES**

### SECTION 11.2 AFFORDABLE HOUSING

#### **C. Standards and Requirements:**

7. **Long-Term Affordability Required for All Affordable Housing:** Long-term affordability must be assured for a period no less than twenty-five (25) years through deed restrictions or some other recorded instrument acceptable to the Town Attorney. The developer of affordable housing shall include provisions for preserving affordability, which shall be reviewed by the town attorney prior to ~~Selectmen~~ Select Board and Planning Board review of the proposed long-term affordability agreement. A third party that has the expertise and resources to undertake and continue the task of assuring the long-term affordability of the housing may administer the affordability program. The following standards shall be applied to affordable owner occupied and rental housing:

## SECTION 11.3 CLUSTERED HOUSING DEVELOPMENT AND OPEN SPACE DEVELOPMENT

**B. Applicability:** This section is applicable to the development of residential subdivisions, as follows:

2. **Village Center District and Village Residential District:** The provisions of this section shall be **optional** in the Village Center District and Village Residential District. Applicants shall be encouraged to utilize cluster housing development when these designs can be shown to increase housing affordability and/or enhance neighborhood cohesion, aesthetics, open space and recreational amenities.
  - b. If the Planning Board, after a site walk and after such consultation with the ~~North Yarmouth Conservation Commission~~ [redacted] as the Planning Board deems appropriate, concludes that the parcel shown on the alternative sketch plan contains open fields, pasture, wetlands, waterways, wildlife habitat, scenic vistas, historic and/or archeological assets, rare flora or fauna or notable stands of forest, any of which could be preserved by clustering, the Planning Board may request that the applicant revise the application and propose a clustered housing development.

## SECTION 11.8 EXTRACTION OF EARTH MATERIALS (MINERAL EXTRACTION)

**C. Standards:**

11. **Performance Guarantee:** A surety bond or performance guarantee shall be posted with the Town Treasurer by the applicant in an amount and form approved by the permitting authority with the advice of the ~~Selectmen~~ Select Board sufficient to guarantee performance and conformity with the provisions of this Ordinance and approval of the permit for the excavation and removal of lands.

## SECTION 11.9 WIRELESS COMMUNICATIONS FACILITIES

**L. Removal of Abandoned Wireless Communication Facility (WCF):**

4. At the time of approval, the applicant for a new tower shall post a performance guarantee in the form of a continuous corporate surety bond, an irrevocable letter of credit, or an escrow account in favor of the town equal to one hundred twenty five percent (125%) of the estimated demolition and removal cost of the tower and associated facilities if abandoned at any time by the applicant. Such performance guarantee shall be satisfactory to the ~~Selectmen~~ Select Board as to the issuer, form, sufficiency, surety and manner of execution. All performance guarantees shall be on a continuous basis, with any provision for cancellation to include that a minimum thirty (30) day notice of cancellation or non-renewal be sent by certified mail to the town of North Yarmouth. If there are two or more users of a single tower or WCF, then this provision shall not apply until all users cease using the tower or WCF.

