

North Yarmouth Land Use Ordinance Audit Proposed Updates and Recommendations

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1. Proposed Ordinance Reorganization

Section 100: General

- 101: Title (1.1)
- 102: Authority (1.2)
- 103: Purpose (1.3)
- 104: Conflict with other ordinances (1.4)
- 105: Separability (1.5)
- 106: Effective date (1.6)
- 107: Amendments to this Ordinance (1.7)
- 108: Contract zoning (1.8)

Section 200: Administration

- 201: Administrative Bodies and Personnel (3.1, 6.1)
- 202: Permits (3.2 and 3.3)
 - Procedures (3.3)
 - Permit applications and fees (3.7)
 - Expiration of Permits (3.4)
 - Transfer of Permits (3.5)
- 203: Certificate of Occupancy (3.6)
- 204: Enforcement Procedure (3.10)
- 205: Appeals (6.2, 6.3)
- 206: Administrative Appeals Procedure (6.3)
- 207: Variance Appeals Procedure (6.3)
- 208: Conditional Use Permits (4.6, conditional use part of table 7-1)

Section 300: Nonconforming Provisions

- 301: General Provisions (2.1, 2.2, 2.6)
- 302: Nonconforming Structures (2.3)
- 303: Nonconforming Uses (2.4)
- 304: Nonconforming Lots (2.5)

Section 400: Definitions

(Current Section 12)

Section 500: Zoning Districts

- 501: Establishment of Zoning Districts (7.1)
- 502: Establishment of an Official Zoning Map (7.2)
- 503: Zoning Districts (7.3)
 - A) Village Center District
 - B) Village Residential District
 - C) Farm & Forest District
 - D) Natural Resource Protection District (7.3, 9.1)
 - a. Description
 - b. Special exception for single-family homes (7.5)

Table 503: Land Use by Zoning District (7.4, Table 7-1)

- 504: Shoreland District (7.3, 9.1)

Description

Land Use Restrictions (prohibited uses)

- 505: Royal River Corridor Overlay District (7.3, 9.3)

Description

Land Use Restrictions (prohibited uses)

- 506: Groundwater Protection Overlay District (4.5, 7.3, 9.2)

Description

Land Use Restrictions (prohibited uses)

- 507: Space and Dimensional Requirements (7.6)

Table 507: Dimensional Table (Table 7.2)

- 508: Additional Building Standards for the Village Center District (10.4)

Section 600: Performance Standards

(Current Section 8, 10, 11)

Section 700: Site Plan Review

- 701: Purpose (4.1)
- 702: Applicability (4.2)
- 703: Review and Approval Authority (4.3)

- 704: Procedures (part of 4.4)
- 705: Submission Requirements (part of 4.4)
 - Include additional submission requirements for GPO (4.5, 9.2)
- 706: Fees (part of 4.4)
- 706: Review and Performance Standards (site plan parts of Section 10)
- 707: Waivers
- 708: Post-Approval Activities
 - Expiration of Approval (new language)
 - Minor Changes to Approved Plans (4.4 F)
 - Amendments (4.4 G)
 - Inspection and Enforcement
 - Performance guarantees (3.8)

Section 800: Subdivision

- 801: Purpose (5.1)
- 802: Authority and Administration (5.2)
- 803: Review procedures for minor subdivision (combine 5.3, 5.4, 5.5)
- 804: Review procedures for major subdivision (combine 5.3, 5.4, 5.6, 5.7)
- 805: Submission Requirements (combine from 5.3, 5.4, 5.5, 5.6, 5.7)
- 806: Performance and Design Standards (5.12, subdivision parts of Section 10)
- 807: Waivers (5.11)
- 808: Final Approval and Filing (5.8)
- 809: Post-Approval Activities
 - Revisions to Approved Plans (5.9)
 - Expiration of Approval (5.8F)
 - Inspection and Enforcement (5.10)
 - Performance Guarantees (3.8)

Section 900: Signs

(current section 8.7, parts of section 9, 10.18)

2. Audit Recommendations by Ordinance Section

Amendments

(Current section 1.7, proposed section 107)

- Expand and clarify process to amend ordinance in more detail

Administration

(Current section 3, proposed section 200)

- Site plan, subdivision, conditional use application information (3.2) should be in their sections, not here
- Variance information (3.2) should not be with permits, should be in variance section
- Review building permit process and submission requirements (3.3) for clarity and consistency

Zoning & Land Use

(Current Section 7, proposed Section 500)

- Land use table should be organized alphabetically.
- Make sure all uses mentioned in the ordinance elsewhere are in the table.
- All uses in the table should be defined in the definitions section.

Building Standards

(Section 10.4, Proposed section 508)

- Review this section for duplication with other sections of the ordinance (i.e., 10.4.A.2, Nonconforming Buildings)
- Review text to see if sections can be simplified (i.e., does each section need purpose & applicability?)
- “Pocket Neighborhood” needs to be defined and added as a use

Performance Standards

(current Sections 8, 9, 10, 11 – proposed section 600)

- Proposed new section 600: Performance Standards that combines standards from these 3 sections.
- Move standards from 8, 9, 10, and 11 that only apply to site plan and subdivision to their respective sections (700 and 800). Keep some section 10 standards (like parking) that apply to all development in the general performance standards section (600).
- Apply a consistent structure to standards. For instance, some performance standards have applicability and general requirements, others have purpose and standards, etc.
- Combine duplicate regulations: (i.e. 11.4, Home Occupations and 11.10, Home Based Occupation; 8.9 Stormwater and 10.22 Stormwater)
- Check standards for duplicated state requirements (i.e. 8.2, Wells; 8.11, Animal Husbandry; Stormwater standards in 8, 9, 10, 11)

- Ensure all standards are defined, clear, and able to be objectively evaluated/enforced (i.e., in 9.2.H.4, it's impossible to divert stormwater away from the GPO if your building is in the GPO.)
- Check standards for hidden submission requirements – i.e., 11.2.c.(7) requires affordable housing agreements to be reviewed by the Select Board and town attorney; 11.9.B(1) requires HOA agreements to be reviewed by the town attorney. If this review is required, it should be listed in the relevant sections of site plan/subdivision chapters, with format (letter or oral comments at meeting) specified.

Site Plan Review

(current section 4, proposed section 700)

- Establish a threshold of site plan review. In many towns, minor site plan (under 5,000 SF ground disturbance) is reviewed by staff/contract planners only.
- Section 4.4, proposed new section 704: Procedures to clarify the difference between pre-application meeting, sketch plan, and final plan stages and clarify procedures and timelines.
 - Application deadlines and timelines for staff to review should be clarified, and potentially altered to allow for more time for staff to process applications.
 - Consistent timelines should be established.
 - Clarify in what cases and at what point in the review process site walks, abutter notices, and public hearings are required.
- Section 4.4, proposed new section 705: Submission Requirements to establish consistent submission requirements for number/size of paper copies, electronic copies, and get rid of outdated requirements (like “autocad drawings”).
 - Submission requirements will be listed for each stage of the process established in procedures, to ensure submission requirements are not duplicated.
 - Submission requirements included in other parts of the ordinance (i.e., Groundwater Protection Overlay in 9.2 and in 4.5) will be moved to this section.
 - Clarify timing and requirements for submissions from other agencies (i.e., DHHS, Yarmouth Water District.)
 - Add an approval letter from the fire chief and road commissioner to submission requirements, so applicants know at an earlier stage that their fire suppression/sprinkler plans are adequate

- Section 4.6, proposed new section 210: Conditional Use Permits should be moved to the Administration chapter, with clear procedures and submission requirements established.
- Proposed new section 706: Performance Standards to include site plan standards from current section 10.
- Proposed new section 707: Waivers to establish clear waiver process and timeline.
- Proposed new section 708: Post-Approval Activities will compile all regulatory and administrative items that occur after site plan approval. This section will add new language on the expiration and extension of site plan approval, include current minor changes (4.4F) and amendments (4.4G), enforcement and inspection for approved site plans, and performance guarantees for approved site plans (language from 3.8).

Subdivision Review

(current section 5, proposed section 800)

- Proposed new section 803 (Review Procedures for Minor Subdivision) and 804 (Review Procedures for Major Subdivision) to clarify the different stages of subdivision review and establish consistent procedural requirements. Stages should have a consistent timeline. Sections should clarify in what cases, and at what point in the review process, site walks, abutter notices, and public hearings are required.
- Proposed new section 805 Submission Requirements will list requirements for each stage of review, corresponding to 803 and 804. This will include: sketch plan requirements for minor and major subdivisions, final plan requirements for minor subdivisions, preliminary plan for major subdivision, and final plan for major subdivision.
 - Add an approval letter from the fire chief and road commissioner to submission requirements, so applicants know at an earlier stage that their fire suppression/sprinkler plans are adequate.
 - Clarify timing and requirements for submissions from other agencies (i.e., DHHS, Yarmouth Water District.)
- Phasing for major subdivisions (currently in section 3) should be moved to review procedures for major subdivisions and connect to a submission requirement
- Proposed new section 806: Performance and Design Standards to contain performance standards for subdivision review currently in section 10 and subdivision review criteria in 5.12.
 - Standards should be clear about what is required for new subdivisions vs what is required for amended subdivisions (that were started before the standards were in place.)

- Include all relevant open space standards here.
- Proposed new section 809: Post Approval Activities to contain all items that pertain to an approved subdivision. This includes revisions/amendments to approved plans, expiration of approval, inspection and enforcement, and subdivision performance guarantees.

Definitions

(current section 12, proposed section 400)

- Definitions are found in different chapters in the ordinance – like in 8.4 roadways
- Some definitions in Section 12 have standards within the definition
- Make sure all uses, requirements, standards are defined (ie “buffer”, “parking lot island”, “farmstand”) is defined in this chapter

Signs

- Proposed new section 900 to combine sign regulations currently in sections 8, 9, and 10.
- Include a table to clarify sign numbers and dimensions allowed in each zoning district.

Roads

- Table 8.2 (Roadway standards) is missing items in some columns.
- Move Section 8.4, design and construction standards for Roads and Driveways, to the Roadway Ordinance
- Sections 10.30, 10.31, 10.32, and 10.33 should also be in the roadway ordinance

3. General Recommendations

Town Policies and Procedures

- Charge escrow to applicants for the cost of consultant development review. This is a minor cost (~\$1,000-\$2,000) in terms of the cost of overall development for most applicants, but it can make a big impact to the town’s budget and ability to pursue longer-term planning projects.
- Hold monthly staff meetings with planner, CEO, Fire Chief, and Public Works Director (and any other relevant staff) to review ongoing development applicants
- Add more time between submission deadlines and PB meetings so staff has adequate time to review and follow up with applicants about missing/incomplete items.

General Clean-Up

- Remove references to expired items
- Edit for typos and missing table fields (Roadway table, table on p.242)
- Consistent naming throughout ordinance
- Eliminate cross-references within text
- Eliminate footnotes in tables (land use, dimensional) where possible
- Fix incorrect references (i.e., many references to 10.24 Water Quality that should be 10.25 Water Quality.)

Usability Improvements beyond the LUO:

- Update all forms (application, waiver request) and checklists
 - Create a “cheat sheet” for people trying to build in town and use the ordinance that tells them what sections they need to reference, including the building standards (10.4), and road standards in the roadway ordinance
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4. Suggested Policy Review Topics

Potential Policy/Ordinance Updates

- Discuss process to amend LUO; clarify roles of Planning Board, Select Board, etc. in amendment process.
- Consider adding a threshold for “minor site plan review” that has less requirements than a major site plan review, and can be completed by town staff or in one Planning Board meeting.
- Consider allowing final state agency approvals to be provided as a condition of approval that the applicant submits to the town/CEO – these often take many months to receive from DEP or other state agencies, prolonging the planning board process.
- Planning Board applications typically take 3-4 meetings due to LUO public hearing requirements, which can be burdensome for applicants who need approval before they can obtain bank financing. Consider whether these public hearing requirements should be eased.
- Back Lots are prohibited in subdivisions but allowed elsewhere. Best practice would be to eliminate ability to make back lots outside of a subdivision.
- “Pocket Neighborhood” from 10.4 should be added to the use table and defined. This is a policy discussion for the town – where should pocket neighborhoods be allowed?

- Town staff, Planning Board, and code users could provide input on how Building Standards (Section 10.4) is working and if any changes to content or procedure should be considered.
 - Phasing in subdivisions based on school capacity is difficult to apply and does not correspond to a specific submission requirement or standard.
 - Add Fire Chief's recommendations to relevant ordinance sections: require businesses to have Knox boxes, clarify when new houses need sprinklers or cisterns
 - Improve and clarify regulation around driveway placement for new development (no driveways off a hammerhead/turnaround)
 - Clarify sidewalk and road upgrade requirements for subdivisions in 10.32, distinguishing between new roads and road extensions, and consider setting a threshold (i.e., when it reaches 10 houses) at which a road must be upgraded.
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5. Suggested Next Steps

1. Recodification of Land Use Ordinance
 - a. A full recodification will complete the proposed reorganization, and clean up definitions, standards, submission requirements, and procedures.
 - b. Suggested areas for policy updates will be noted during this process.
 - c. General clean up items (like fixing typos and correcting references) will alongside the reorganization work.
2. Usability improvements
 - a. In conjunction with the recodification, pursue usability upgrades like new forms and checklists and a guide for developers to use the new code.
3. Policy updates
 - a. The Town can make a work plan to address policy updates needed in the code, which range from changes to procedural requirements to more in-depth discussions about where certain uses and divisions of land should be allowed.
 - b. Initial policy updates are suggested here; Select Board, Planning Board, and town staff will likely have more to add to this list for consideration.