

**Town of North Yarmouth
Select Board Meeting Agenda
Tuesday, January 5, 2021
<https://us02web.zoom.us/j/88013845869>
Budget Workshop 6:00 PM / Business Meeting - 7:00 PM**

I. Call to Order

- Pledge of Allegiance

The format and structure for Select Board meetings are authorized and governed by our Town Charter and the Select Board Bylaws with overarching guidance from Maine Statutes. Select Board members are not collectively or individually allowed to speak about personnel matters and may only address personnel matters in an executive session per State Statute Title 1 § 401-410.

II. Minutes of Previous Meeting(s)

- December 15, 2020

III. Public Hearing

- Proposed Changes to the Floodplain Ordinance

IV. Public Comment - Non-Agenda Items

Comments regarding issues, concerns, commendations, or matters of general public information are welcome. The public is encouraged when commenting or expressing points of view about an individual(s) that they do so in a respectful and constructive manner. Topics relating to personnel matters cannot be acknowledged.

COVID-19 Procedures - Public Communications:

- 1) ZOOM - Virtual Attendance
- 2) EMAIL: Individuals may email questions or comments to dwalker@northyarmouth.org or manager@northyarmouth.org.

Comments and or questions will be addressed by a Select Board or the Town Manager at the meeting if feasible at that time. Communications must include the individual's name and legal residence.

V. Management Reports & Communications

- Town Manager's Report
- Charging Stations Update - Ryan Keith/Lisa Thompson

VI. Old Business

- Special Town Meeting Warrant
- Animal Control Ordinance - Final Review
- Regulations for the Use of Parks and Recreation Areas Ordinance - Final Review

VII. New Business

- Personnel Policy Updates
- Town Manager Bi-annual Review

VIII. Accounts Payable

- Review & Approval

IX. Any Other Business

Select Board Members: A reminder, the "any other business" section on the agenda is not to include previously discussed items, any formerly "settled items," personal matters, or Town personnel matters. Please submit your other business item(s) to the Town Manager, Chairman, or Vice Chairman prior to the meeting by email or written letter dropped off at the Town Office. Thank you.

X. 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.

January 5, 2021

Agenda - Section II. Meeting Minutes

- *Move to approve the minutes for December 15, 2020, as presented. Second, discussion and vote follow.*

**Town of North Yarmouth
Select Board
Meeting Minutes of Tuesday, December 15, 2020
REMOTE BUSINESS MEETING**

Call to Order – Steven Berry, James Moulton, Brian Sites, and Austin Harrell were present. The Town Manager, Rosemary Roy, was also present. Chairperson Berry called the meeting to order.

Minutes of Previous Meeting(s) – Chairperson Berry moved to approve the minutes of November 17, 2020, as amended and presented. Selectperson Moulton seconded the motion. Discussion: none.

Vote: 3 - Yes 0 -No 1 - Abstained (Selectperson Harrell).

Chairperson Berry moved to approve the minutes for December 1, 2020, as presented. Selectperson Harrell seconded the motion. Discussion: none. **Vote: 4 - Yes - 0 No.**

Public Comment - Non-Agenda Items – Chairperson Berry read a letter addressed to the Select Board from Paul Hodgetts, 1095 Sligo Road. Mr. Hodgetts asked if the town conducted an impact study on its infrastructure before new development was approved. Mr. Hodgetts also stated his disagreement with the Special Town Meeting scheduled on January 28, 2021, due to the length of time passed since the public hearing on the proposed Land Use Ordinance changes. Also, Mr. Hodgetts disagreed because of the public hearing format back in March 2020 and the possible health risk of having the meeting. The Town Manager stated that studies were conducted before development; the Chairperson noted that the Special Town Meeting decision was difficult. Selectperson Moulton expressed his concerns with the new office hours due to the tax deadline of December 15, 2020. The Town Manager responded that the clerks can have two individuals in the office at a time; that the Special Town Meeting could be canceled if cases of COVID-19 arise; and, lastly, the Planning Board's meetings are public on Zoom and that hearings/meetings were conducted on the matter before COVID-19.

Judy Potter, 551 Walnut Hill Road, stated that she did not feel that the public meeting on March 5, 2020, was advertised well enough to be considered at the Special Town Meeting on January 28, 2021. The Chairperson stated that he would look into Ms. Potter's concern. Ms. Potter stated that the school budget and further development is a concern for her. She also stated that the Board should have a moratorium on building in North Yarmouth. Selectperson Sites said that other towns surrounding North Yarmouth would continue their development, causing North Yarmouth to isolate themselves from protentional opportunities. Selectperson Sites also stated that the Town's desirability would not change with a temporary moratorium. Selectperson Sites said that smart building would be a better option for the town. Judy Potter also asked if the development on top of the "Smith" hill was included in the TIF. The Town Manager responded affirmatively. The Town Manager stated that each plan is different based on what the developer proposes, and the Planning Board approves that based on the Land Use Ordinance regulations. Selectperson Moulton asked why the development across from the Fire Rescue Station has 20-foot setbacks while the development on the "Smith" hill does not. The Town Manager stated that Stone Post Subdivision is in a contract zoning area while Meadowbrook Division was not. Selectperson Moulton again asked why the setback was 20-feet. Selectperson Moulton asked the Town Manager who the developers were involved in the Meadow Brook Sub Division. Ms. Potter inquired about plans provided to the Planning Board by a developer regarding the buildings' spacing at their previous meeting. The Town Manager responded, referring to what was submitted to the Planning Board.

Management Reports & Communications:

Town Manager's Report – The Town Manager provided her full report to the Board. The Town Manager's report can be found on the town's website, www.northyarmouth.org.

Chairperson Berry moved to appoint Selectperson Sites to be a representative of PACTS for a term to expire June 30, 2021. Selectperson Moulton seconded the motion. Discussion: none.

Vote: 3 - Yes 0 - No 1 - Abstained (Selectperson Sites)

The Town Manager provided financial reports for November to the Board.

Old Business:

Survey on Town Recreation – Chairperson Berry moved to authorize the Town Manager and the Living Well in North Yarmouth committee to proceed with the residential survey on recreation. Selectperson Moulton seconded the motion. Discussion: none. **Vote: 4 - Yes - 0 No.**

Sharp's Field – The Town Manager stated in discussing the matter with the town attorney is one, the handshake agreement cannot be recognized as legal and binding as the discussion did not take place in a Board meeting. The current Select Board cannot alter the conditions of the sale of the property that has already taken place. However, the Board could take on the matter as a new item to be presented to the townspeople. Selectperson Moulton stated that he spoke with Matthew Sharp and Scott Seaver, previous Town Administrator for North Yarmouth. Selectperson Moulton stated that the discussion entailed the understandings that were agreed on. The decision to designate Sharp's Field as a permanent open space should be decided by the townspeople. Chairperson Berry stated that the decision should be brought to the townspeople as the matter was never brought forth to the townspeople when the property was sold. Selectperson Sites also said that he thought the decision should be made now on the subject to have the matter addressed as it has been recently and currently discussed by the Select Board. Selectperson Moulton stated that the time to have a meeting on the issue should be soon to decide before the property's monetary interest is realized. The Town Manager recommended that she ask the attorney to help create a warrant article presented to the Board at a later meeting. By consensus, the Board agreed to have the Town Manager work with the attorney to generate such a warrant article.

Special Town Meeting Warrant – Chairperson Berry moved to endorse the Special Town Meeting Warrant for January 28, 2021, as presented. Selectperson Sites seconded the motion. Discussion: Selectperson Moulton and Sites stated that they were concerned with the number of warrant articles on the Special Town Meeting warrant. The Town Manager responded that the Board voted to address all the items recommended by the Planning Board based on the number of housekeeping articles included with their requests. Selectperson Moulton said that he was confused with the warrant articles and would ask many questions at a town meeting for clarification. Selectperson Moulton stated that he was not convinced that the articles were emergency legislation. The Town Manager responded that the number of articles that were presented either would be voted on January 28, 2021, or as a future town meeting. Lorraine and Rick Robinson, 17 Lufkin Road, commented that they were against having the Special Town Meeting on January 28, 2021. Selectperson Moulton inquired on when the next election was. The election was confirmed to be on March 23, 2021. Selectperson Moulton and Sites told the Board that they had received multiple calls regarding the Special Town Meeting; Sites elaborated that when speaking with residents, they said to him that they were concerned with the warrant articles presented and the congregation of people in that space. Selectperson Moulton asked why the changes are an emergency and what do the changes allow that the current ordinance does not? Selectperson Harrell suggested a forum before the meeting to provide more information to the public. Selectperson Moulton concurred and further stated that individuals who needed information about future meetings to be informed. The Town Manager responded that the Planning Board could hold a forum to educate the public. Chairperson Berry withdrew his motion.

Chairperson Berry moved to reconsider and nullify the vote taken on December 1, 2021, to hold a Special Town Meeting on January 28, 2021. Selectperson Sites seconded the motion. Discussion: Selectperson Moulton asked for clarification on the motion. **Vote: 4 - Yes - 0 No.**

Chairperson Berry moved to table the Special Town Meeting warrant agenda item. Selectperson Sites seconded the motion. Discussion: Selectperson Moulton asked if the Board would have a public hearing. The Town Manager clarified that the Planning Board would hold a public forum before the town meeting.

Vote: 4 - Yes - 0 No.

New Business:

Committee Charges – Annual Review – The Board reviewed the charges. No action was taken.

Finance Policy Updates – Chairperson Berry moved to amend the town Financial Policies as presented by the Town Manager. Selectperson Harrell second the motion. Discussion: none. **Vote: 4 - Yes - 0 No.**

Facility Use Policy Updates Chairperson Berry moved to amend the town's Facility Use Policy, as presented by the Town Manager. Selectperson Moulton seconded the motion. Discussion: none. **Vote: 4 - Yes - 0 No.**

Floodplain Ordinance – Proposed Changes – Chairperson Berry moved to hold a public hearing on Tuesday, January 5, 2021, at 7:00 PM regarding the repeal of the town’s current Floodplain Ordinance and the new Floodplain Ordinance adoption. Selectperson Moulton seconded the motion. Discussion: none.

Vote: 4 - Yes - 0 No.

Accounts Payable – Chairperson Berry moved to approve accounts payable warrants 25 and 26 in the amount of \$974,115.19, as presented for FY21. Selectperson Sites seconded the motion. Discussion: Chairperson Berry asked about a charge for B. H. Milliken. The Town Manager responded that the cost was for installing EV chargers at the Community Center. **Vote: 4 - Yes - 0 No.**

Any Other Business – none.

Adjournment - Chairperson Berry moved to adjourn.

Prepared By: Draven Walker
Executive Assistant/Recording Secretary

Select Board

Steven Berry, Chair

James Moulton, Vice Chair

Brian Sites

Austin Harrell

January 5, 2021

Section III. Public Hearing - Repeal and Replacement Adoption of the Floodplain Management Ordinance

PRIMARY PROCESS

Open the Hearing - *Move to open the Public Hearing on the Repeal and Replacement Adoption of the Floodplain Management Ordinance.* Second, discussion and vote follow.

1. **Presentation/Explanation** - A brief presentation/summary by the Chair or Town Manager is expected.
2. **Public Participation** - The Select Board shall recognize the individuals in the order that they present themselves to the podium. Name and street address should be stated by each individual, making a statement to the Board.
3. **Board Inquiries/Discussions** - After public participation, the Board may further discuss the subject matter if deemed necessary.
4. **Close the Hearing** - *Move to close the Public Hearing on the Repeal and Replacement Adoption of the Floodplain Management Ordinance.* Second, discussion and vote follow.

ACTION ITEM

Move to put the adoption of the Repeal and Replacement of the Floodplain Management Ordinance before the voters for ratification at the April 2021 annual town meeting. Second, discussion and vote follow.

MANAGER'S NOTES

Included herein is an explanation of changes and a draft Floodplain Ordinance. Janet Parker of the Maine Floodplain Management Program, Department of Agriculture, Conservation and Forestry approached the town in March of this year to address these changes and prepare a new Floodplain Ordinance for the town ratification. As stated in the information provided, the town's cleanest way to adopt is to repeal and replace the current ordinance.

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.

2017 Updates to the State Model Ordinance

The primary update for 2017 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.

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 A1-30, for the Town of North Yarmouth, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – North Yarmouth, Maine" dated January 16, 1981 with accompanying "Flood Insurance Rate Map" dated July 16, 1981 or "Flood Boundary and Floodway Map" dated July 16, 1981, are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIII), 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. 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 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 A1-30, from data contained in the "Flood Insurance Study - Town of North Yarmouth, 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. and VIII.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.2.b., Article VI.G.2.a. or b., or Article VI.H.2.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; and,
 - 4. 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 a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article VI.G.; 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.L.2.a.;
 - 3. a certified statement that bridges will meet the standards of Article VI.M.;
 - 4. a certified statement that containment walls will meet the standards of Article VI.N.

- 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 and Permit Fees Ordinance 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, 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.K.; and Article VIII.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., or H. 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.1.a., b., and c. 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., 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.
- 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 IX 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 VII 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. **Residential** - New construction or substantial improvement of any residential structure located within:
 1. Zones A1-30 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.D.; or,
 - b. in the absence of all data described in Article VI.F.2.a., to at least two feet above the highest adjacent grade to the structure.
 - G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
 1. Zones A1-30 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 VIII.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. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zones A1-30 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.H.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.H.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 VIII.D.; or,
 - b. in the absence of all data as described in Article VI.H.2.a., to at least two feet above the highest adjacent grade to the structure; and,
 - c. meet the anchoring requirements of Article VI.H.1.c.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and A1-30 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.H.1.

J. **Accessory Structures** - Accessory Structures, as defined in Article XIII, located within Zones A and A1-30, shall be exempt from the elevation criteria required in Article VI.F. & G. above, 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.

K. **Floodways** -

- 1. In Zones A1-30 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 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 A1-30 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.K.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 A1-30 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.

- L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones A and A1-30 that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F., G., or H. 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;
 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. **Bridges** - New construction or substantial improvement of any bridge in Zones A and A1-30 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.K.; 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. **Containment Walls** - New construction or substantial improvement of any containment wall located within:
1. Zones A and A1-30 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.
- O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and A1-30, in and over water and seaward of mean high tide, if the following requirements are met:
1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and,
 2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

ARTICLE VII - 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 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 an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F., G., or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer 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 - 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 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,

- 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. other criteria of Article IX and Article VI.K. 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 A. through D. above; 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. Any applicant who meets the criteria of Article IX, paragraphs A. through E. 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. 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 papers 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 Code Enforcement Officer 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 X - 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 XI - 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 XII - 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 XIII - 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 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.

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.

Development - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

Elevated Building - means a non-basement building

- a. built, in the case of a building in Zones A or A1-30, 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 A1-30, **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.L.

Elevation Certificate - An official form (FEMA Form 81-31, as amended) that:

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

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).

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

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.L. 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., 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 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 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 -

- a. means 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 foot, 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 - 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).

January 5, 2021

Section V. Management Reports & Communications

- Town Manager's Report - The manager will provide a verbal report only.
- Charging Stations Update - Ryan Keith/Lisa Thompson

Report(s) herein.

Car Charging Stations Simplified

The town has two 240-volt Level 2 EVSE rated at 30 amps that deliver 7.2 kilowatts (240 x 30/1000). In one hour, that will send 7.2 kWh of electricity to a plug-in vehicle capable of servicing cars with onboard chargers rated at 7.2 kW or less. The town pays roughly .16 kWh including delivery or only $7.2 \times .16 = \$1.152$ per hour is our cost without solar; with solar this power, is created by the sun.

If someone visits the Community Center, it would most likely not be for all-day unless it was an employee. For example, a long-range car or largest battery car such as the Tesla would take roughly 6 hours to charge if the battery was completely dead; once fully charged, it would automatically stop drawing power. The 6-hour usage cost would be \$6.912. If a credit card is used, an additional 2.75 % is assessed to the user. Realistically considering the facility, it is foreseen an individual will plug in for maybe an hour or two, accumulating a cost under \$5.00 depending on the event or need for use. The same may be for those just needing to charge their vehicle, as they may not have the time to charge fully.

The solar panels on the roof so far this year appear to be 8 to 9 months of the year; the town is not pay anything for power. Whatever we charge the public, it would be considered town revenue. At \$7.00 a day, two charging stations, two cars plugged in for 12 hours a day, the town could see approximately \$829.44 a month; this would be extremely unlikely. Keep in mind the person would need to be in the building or sitting in their car for six hours for \$6.92, not worth the time—most people with electric vehicles plug-in at night at home, leaving with a full charge in the morning. My guess would be maybe someone uses it once or twice a week for a few hours and maybe \$10.00 profits.

The town would need to purchase a card reader to provide a form of payment for users to pay their 1.15 per hour. These readers would be installed at each charging station. I have done some research and have found that these machines are very temperamental, needing routine service. They are expensive to install and come with monthly fees. These are not your desktop slide machines. These upfront and running costs may not be recouped from revenue at this time. Maybe in 10 years, it might be something to consider looking at again, but my recommendation is at this time, it would undoubtedly be a loss. Thank you for your time!

Ryan Keith, Code Enforcement Office

Town of North Yarmouth

Manager's Note: The charging stations were a donation from Nissan in working with ReVision Energy. One of the terms of the gift is that they are available to the public for at least two years at no charge. It was not plainly conveyed in the initial discussions, but we have confirmed with ReVision that this term is correct.

January 5, 2021

Section V. Old Business

- Special Town Meeting Warrant - Included herein is a revised Warrant with Exhibit A for the Board's review and consideration. The warrant has been reduced to ten articles; two only to be addressed if prior articles do not pass.
 1. *Move to call forth a Special Town Meeting to be held on Thursday, January 28, 2021, at 6:00 pm at the Wescustogo Hall & North Yarmouth Community Center. Second, discussion and vote follow.*
 2. *Move to endorse the Special Town Meeting Warrant for January 28, 2021, as presented. Second, discussion and vote follow.*

Note: Covid-19 conditions continue to be monitored and may impact the decision to hold the town meeting.

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- Animal Control Ordinance - Final Review - Some minor changes have been made since the Board last reviewed and held a public hearing on this proposed new town ordinance. The changes are included herein. It is the intent to put this ordinance before the townspeople at the April 2021 annual town meeting. A second public hearing is required, and February 2, 2021, at the Board's business meeting, is recommended.

Move to hold a Public Hearing on the Animal Control Ordinance on Tuesday, February 2, 2021. Second, discussion and vote follow.

-
- Regulations for the Use of Parks and Recreation Areas Ordinance - Final Review - Some minor changes have been made since the Board last reviewed and held a public hearing on this ordinance. The changes are included herein. It is the intent to put this ordinance before the townspeople at the April 2021 annual town meeting. A second public hearing is required, and February 2, 2021, at the Board's business meeting, is recommended.

Move to hold a Public Hearing on the Regulations for the Use of Parks and Recreation Areas Ordinance on Tuesday, February 2, 2021. Second, discussion and vote follow.



Town of North Yarmouth, Maine
Special Town Meeting Warrant
January 28, 2021

To: Clark M. Baston, a resident in the Town of North Yarmouth, County of Cumberland, and the State of Maine.

GREETINGS: In the name of the State of Maine, you are hereby required to notify and warn the inhabitants of the Town of North Yarmouth, Maine qualified by law to vote in town affairs, to meet at the Wescustogo Hall & North Yarmouth Community Center located in North Yarmouth, Maine on Thursday the 28th day of January A.D. 2021, at six (6) o'clock in the evening, then and there to act upon Articles 1 through 10 as set out below, to wit:

The Registrar of Voters gives notice that citizens will be able to register to vote January 28, 2021, from 5:30 AM to the meeting's close.

ARTICLE 1: To elect a Moderator by written ballot to preside over said meeting.

LEGISLATIVE ARTICLES

Copies of the proposed ordinance amendments in Articles 2 through 10, Exhibit A are available for inspection in the Town Clerk's office, as well as on the town's web site at northyarmouth.org, and will be available at the town meeting.

ARTICLE 2: Shall the Town vote to adopt the proposed amendment to the ordinance entitled "Town of North Yarmouth, Maine Land Use Ordinance" Chapter III. Administration and Enforcement, Section 3.3 Building/Land Use Permits, § A, 8. as presented?

Planning Board recommends approval.

ARTICLE 3: Shall the Town vote to adopt the proposed amendments to the ordinance entitled "Town of North Yarmouth, Maine Land Use Ordinance" Chapter V. Subdivision Review Procedures and Criteria, Section 5.7 Final Plan for Major Subdivision § A, 8, as presented?

Planning Board recommends approval.

ARTICLE 4: Shall the Town vote to adopt the proposed amendments to the ordinance entitled "Town of North Yarmouth, Maine Land Use Ordinance" Chapter VII. Zoning District Regulations, Section 7.4 District Land Use Table § A, Table 7.1 Land Uses by Zoning District, and Table 7.2 Space and Dimensional Requirements, as presented?

Planning Board recommends approval.

ARTICLE 5: Shall the Town vote to adopt the proposed amendments to the ordinance entitled "Town of North Yarmouth, Maine Land Use Ordinance" Chapter VII. Zoning District Regulations - Table 7.1 Land Uses by Zoning District, "Apartments (up to 4 units)" shall be added, and Footnote 9 shall be removed?

Planning Board recommends approval.

Explanation: *If warrant Article 4 passes, Article 5 does not need to be adopted.*

ARTICLE 6: Shall the Town vote to adopt the proposed amendments to the ordinance entitled "Town of North Yarmouth, Maine Land Use Ordinance" Chapter VIII. General Requirements: Applicable to all Land Uses, Section 8.4 Design and Construction Standards for Roads and Driveways § B, 1, Table 8-1, as presented?

Planning Board recommends approval.

ARTICLE 7: Shall the Town vote to adopt the proposed amendments to the ordinance entitled “Town of North Yarmouth, Maine Land Use Ordinance” Chapter X. Performance and Design Standards for Site Plan Review and Subdivision Review, Section 10.2 General Layout of Development § B, 1, Section 10.4 Building Design Standards § A and B, 1 through 5, Section 10.6 Drive-Through Facilities § A, Section 10.22 Recreation and Open Space Land in Developments numeration and § B., Section 10.28 Access Management Standards numeration and § D-8, and Section 10.31 Pedestrian Ways and Bicycle Access, Circulation and Facilities numeration and § B, 6a, and Section 10.33 Off Street Parking numeration and § C-3, as presented?

Planning Board recommends approval.

ARTICLE 8: Shall the Town vote to adopt the proposed amendments to the ordinance entitled “Town of North Yarmouth, Maine Land Use Ordinance” Chapter X. Performance and Design Standards for Site Plan Review and Subdivision Review, Section 10.33 Off Street Parking, Parking Guidelines “Multiplex Housing” shall be replaced with Apartments (up to 4 Units), as presented?

Planning Board recommends approval.

Explanation: If warrant Article 7 passes, Article 8 does not need to be adopted.

ARTICLE 9: Shall the Town vote to adopt the proposed amendments to the ordinance entitled “Town of North Yarmouth, Maine Land Use Ordinance” Chapter XI. Standards for Specific Activities, Section 11.2 § C, 4, Section 11.7 § A and B, 1 through 6, as presented?

Planning Board recommends approval.

ARTICLE 10: Shall the Town vote to adopt the proposed amendments to the ordinance entitled “Town of North Yarmouth, Maine Land Use Ordinance” Chapter XII. Definitions, as presented?

Planning Board recommends approval.

Given unto our hands this 5th day of January 2021 at North Yarmouth, Maine.

Select Board

Steve Berry, Chairman

James Moulton, Vice Chairman

Austin Harrell

Brian Sites



A true copy of the warrant,

Attest: _____, Debbie Allen Grover, Town Clerk

RETURN OF THE WARRANT

North Yarmouth, Maine _____, 2021

Pursuant to the within warrant to me directed, I have notified and warned the inhabitants of said Town qualified as herein expressed, to meet at said time and place, and for purposes therein named, by posting an attested copy of said warrant at the Town Office, North Yarmouth Variety, Blue Seal Farm & Home, NY Fire Rescue Station and Toddy Brook Café in said town, being public and conspicuous places in said town, on the ____ day of _____, 2021, being at least seven days before the meeting.

Clark M. Baston, Resident



**Town of North Yarmouth - Proposed Amendments to the Land Use Ordinance
January 28, 2021 - Special Town Meeting
EXHIBIT A**

WARRANT ARTICLE 2

III. ADMINISTRATION AND ENFORCEMENT

SECTION 3.3 BUILDING/LAND USE PERMITS [Amended 5/17/08]

A. Submissions: The application shall be accompanied by the following information:

8. If the proposed development is located within the Village Center District, a scaled drawing providing evidence that the proposed building, renovation, or addition complies with Section 10.4 Building Standards.

WARRANT ARTICLE 3

V. SUBDIVISION REVIEW PROCEDURES AND CRITERIA

SECTION 5.7 FINAL PLAN FOR MAJOR SUBDIVISION

A. Procedure:

8. The Planning Board shall notify the North Yarmouth Road Commissioner, School Superintendent, local law enforcement, the Yarmouth Water District (if applicable) and North Yarmouth Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of streets and roads, and the size and construction characteristics of any permitted building types with multiple residential units, (apartments), multiplex, and commercial or industrial buildings. The Planning Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.

WARRANT ARTICLE 4

VII. ZONING DISTRICT REGULATIONS

SECTION 7.4 DISTRICT LAND USE TABLE

- A. General:** All land use activities shall conform to the use, development, and performance and design standards of the district(s) in which such use is located, and all standards identified in Article XI Performance and Design Standards for Specific Activities. The following Table 7-1. Land Uses by District identifies which uses of land, buildings, or structures are permitted by right, permitted subject to review, and/or permitted subject to the issuance of a conditional use permit in the various districts. Throughout this Ordinance reference is made to Table 7-1. in which allowed uses, permitted uses, conditional uses and prohibited uses are organized by categories of use such as "residential uses" or "institutional uses." These headings or categories shall carry no legal meaning, but rather serve only for organizational purposes.

**WARRANT ARTICLE 4
(continued)**

| TABLE 7.1 LAND USES BY ZONING DISTRICT [Amended 5/17/08¹] | | | | | | | |
|--|-----------------------|----------------------------|------------------------|----------------------------|------------------------------|-----------------------------|-----------------------------|
| A = Allowed Use; P = Permitted Use (CEO Review); SPR = Site Plan Review (Planning Board Review) CU = Conditional Use (Planning Board Review); N = Prohibited Use | | | | | | | |
| USES | Village Center | Village Residential | Farm and Forest | Resource Protection | Residential Shoreland | Royal River Overlay* | Groundwater Overlay* |
| Residential Uses | | | | | | | |
| Single-family detached dwelling ² | P | P | P | N ³ | P | SPR | P |
| Duplex | P | P | P | N | P | N | P |
| Manufactured housing - individual lot ⁴ | P | P | P | N | P | SPR | P |
| Conversions - seasonal to year-round residences | P | P | P | N | P | SPR | P |
| Mobile Home Park | CU/SPR | SPR | N | N | N | N | N |
| Multiplex | SPR | SPR | N | N | N | N | SPR |
| Apartments | CU/SPR | N | N | N | N | N | CU/SPR |
| Multiple Residential units above-ground floor mixed-use in a permitted Building Type ⁹ | SPR | SPR N | N | N | N | N | SPR |
| Accessory Apartment ⁵ [Amended 5/17/08] | P | P | P | N | N | N | P |
| Accessory use – Home Occupation ⁶ | P | P | P | N | SPR | SPR | SPR |
| Home heating fuel tanks & fuel storage (greater than 660 gallons of liquid fuel ⁷ per parcel of land) | SPR | SPR | SPR | N | N | N | N |
| Accessory use – Home Based Occupation ⁸ [Amended 5/30/09] | P | P | P | N | N | SPR | SPR |
| Commercial and Industrial Uses | | | | | | | |
| Beauty salons | SPR | CU/SPR | N | N | N | N | CU/SPR |
| Bed and breakfast | SPR | SPR | SPR** | N | N | N | SPR |
| Boat builders and refinishers | SPR | N | N | N | N | N | N |
| Business/professional office less than 2,000 sq.ft. gross floor area | SPR | SPR | CU/SPR* * | N | N | N | SPR |
| Business/professional office, 2,000 to 10,000 sq.ft. gross floor area | SPR | N | N | N | N | N | SPR |
| Retail sales/services, less than 2,000 sq.ft. gross floor area | SPR | SPR | N | N | N | N | SPR |
| Retail sales/services, 2,000 to 10,000 sq.ft. gross floor area | SPR | N | N | N | N | N | CU/SPR |
| Notes: *Overlay Districts are regulations and standards in addition to those of the underlying district. Where there is a discrepancy, the more restrictive provision applies. All uses, including “Allowed Uses” must comply with the Overlay District Performance Standards. The Royal River Corridor Overlay District includes the Royal River, Chandler Brook and the East Branch. **Can only be conversions of buildings in existence as of June 14, 2005. | | | | | | | |

¹ Tables were also reformatted to include blank lines for future amendments.

² Includes “community living arrangements” for 8 or fewer persons with disabilities as defined in 30-A M.R.S.A. Section 4357-A

³ Single-family residential structures may be allowed by special exception only according to the provisions of Section 7-5.

Special Exceptions. Two-family residential structures are prohibited.

⁴ Shall meet the requirements of Section 11-5. Manufactured Housing On Individual Lots

⁵ Shall meet the requirements of Section 11-1. Accessory Apartments

⁶ Shall meet the requirements of Section 11-4. Home Occupations

⁷ Propane tanks, or other tanks with liquefied gaseous fuels are allowed. Home heating fuel tanks and fuel storage of 660 gallons or less is allowed with all residential uses.

⁸ Signs, exterior displays and any other indications of a home based occupation in a residential zone require conditional use approval from the Planning Board [Amended 5/30/09]

⁹ See Article X Section 10.4 for permitted Building Types.

WARRANT ARTICLE 4
(continued)

TABLE 7.1 LAND USES BY ZONING DISTRICT (continued from prior page)

**A = Allowed Use; P = Permitted Use (CEO Review); SPR = Site Plan Review (Planning Board Review)
CU = Conditional Use (Planning Board Review); N = Prohibited Use**

| USES | Village Center | Village Residential | Farm and Forest | Resource Protection¹ | Residential Shoreland¹ | Royal River Overlay* | Groundwater Overlay* |
|--|-----------------------|----------------------------|------------------------|--|--|-----------------------------|-----------------------------|
| Utility Uses | | | | | | | |
| Essential services, excepting the following (a. and b.) ² [Amended 5/17/08] | P | P | P | SPR | SPR | P | CU/SPR |
| a. Roadside distribution lines (34.5kV and lower) | P | P | P | P | P | P | P |
| b. Non-roadside or cross-country distribution lines | P | P | P | SPR | SPR | SPR | P |
| Service drops, as defined, to allowed uses ³ | A | A | A | P | A | P | A |
| Public utility buildings | SPR | SPR | SPR | SPR | SPR | SPR | SPR |
| Oil pipelines | CU/SPR | CU/SPR | CU/SPR | CU/SPR | CU/SPR | CU/SPR | N |
| Telecommunications towers | SPR | CU/SPR | SPR | N | SPR | N | SPR |
| Institutional Uses | | | | | | | |
| Public and private schools | SPR | SPR | CU/SPR | N | N | N | SPR |
| <u>Public and private schools over 50,000 sq ft</u> | <u>CU/SPR</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>CU/SPR</u> |
| Day care and nursery schools | SPR | SPR | CU/SPR | N | N | N | SPR |
| Church including accessory residence | SPR | SPR | N | N | N | N | SPR |
| Cemetery 5 | SPR | SPR | P | N | N | N | N |
| Library and museum | SPR | SPR | N | N | N | N | SPR |
| Fraternal and social institutions | SPR | CU/SPR | CU/SPR | N | N | N | CU/SPR |
| Municipal and other governmental buildings | SPR | SPR | SPR | N | N | N | SPR |
| New municipal transfer stations | SPR | SPR | SPR | N | N | N | N |
| Municipal recycling facility | SPR | SPR | N | N | N | N | SPR |
| Nursing home/congregate care | SPR | CU/SPR | N | N | N | N | SPR ⁴ |
| Small non-residential facilities less than 5,000 sq.ft gross floor area for educational, scientific, or nature interpretation purposes | SPR | SPR | SPR | N | SPR | N | SPR |

Notes: *Overlay Districts are regulations and standards in addition to those of the underlying district. Where there is a discrepancy, the more restrictive provision applies. All uses, including "Allowed Uses" must comply with the Overlay District Performance Standards. The Royal River Corridor Overlay District includes the Royal River, Chandler Brook and the East Branch.

¹ See restrictions Section 9-1. Residential Shoreland District and Resource Protection District Standards.

² Utilities (gas, water, power lines etc.) excluding service drops and buildings, as defined in Article XII. Definitions.

³ Electric and/or telephone utility line extensions, see restrictions in Section 9-1. Residential Shoreland District and Resource Protection District Standards.

⁴ Must be served by sewer or advanced wastewater treatment systems for on-site sewage disposal.

⁵ See Family Burial Ground

**WARRANT ARTICLE 4
(continued)**

TABLE 7.2 SPACE AND DIMENSIONAL REQUIREMENTS

| District | Minimum Lot Area (Acres) | Maximum Residential Density ¹ (Acres) | Maximum Lot Coverage (%) ² | Street Frontage ³ (Feet) | Structure Setback From Property Lines (Feet) ⁶ | | | Maximum Structure Height (Feet) ⁴ |
|-------------------------------------|--------------------------|--|---------------------------------------|--|---|---------|---------|--|
| | | | | | Front | Side | Rear | |
| Village Center | 1 acre ⁴ | N/A | 70% | 180 '-100' | 0'-20' MAX | 25' MAX | 5' MIN | 3 stories, no higher than 50 feet |
| Village Residential | 1 acre | 1 Residential unit per acre; Subdivisions – 1 residential unit per net residential acre | 30% | Routes 9, 115 and 231 – 200 feet; Other streets – 100 feet | 20' MIN | 10' MIN | 10' MIN | 2.5 stories, no higher than 35 feet |
| Farm and Forest ⁵ | 3 acres | 1 Residential unit per 3 acres; Subdivisions– 1 residential unit per 3 net residential acres | 20% | MIN 200 feet | 50' MIN | 20' MIN | 20' MIN | 2.5 stories, no higher than 35 feet |
| Residential Shoreland | 3 acres | 1 Residential unit per 3 acres; Subdivisions – 1 residential unit per 3 net residential acres | 20% | MIN 200 feet | 50' MIN | 20' MIN | 20' MIN | 35' |
| Resource Protection | 3 acres | 1 Residential unit per 3 acres; Subdivisions – 1 residential unit per 3 net residential acres | 20% | MIN 200 feet | 50' MIN | 20' MIN | 20' MIN | 35' |

¹ See Subsection C. for calculation of “net residential acreage”, which is only applicable to subdivisions

² See Subsection D. for Pocket Neighborhood Standards.

³ Not applicable to wireless communications towers, windmills, antennas, barn silos and structures having no floor area

⁴ Minimum Lot Size:

- a. The minimum lot size can be reduced in the Village Center to 20,000 square feet when the lot is served by an advanced wastewater treatment system, or the existing system is retrofitted with an advanced wastewater system that meets or exceeds the state definition providing 50 percent or more reduction in nitrates and has demonstrated that water quality will not be degraded.
- b. The minimum lot size can be further reduced below 20,000 sf when that lot treats its wastewater on a separate lot that complies with Maine Subsurface Wastewater Disposal criteria.
- c. gallon per day design flows may be utilized when presented and proven to not exceed the assumed 4 bedroom or 360 gpd flows of a typical residential home per lot. This type of development requires Planning Board approval.
- d. Pocket Neighborhoods allow for the use of reduced lot size below 20,000 sf (as described in b. above) and can use gallons per day design flow (as described in c. above), if designed to comply with the standards of Subsection D.

⁵ Open space or clustered subdivisions are mandatory and at least 50 percent of the total parcel must be preserved in open space pursuant to Section 11-3. Cluster Housing Development and Open Space Development.

⁶ In the Village Center District, Civic buildings (institutional uses) are exempt from maximum setback requirements. The recommended maximum front yard setback for Civic Buildings (institutional uses) is 60'.

WARRANT ARTICLE 5
See explanation in warrant.

WARRANT ARTICLE 6

VIII. GENERAL REQUIREMENTS: APPLICABLE TO ALL LAND USES

SECTION 8.4 DESIGN AND CONSTRUCTION STANDARDS FOR ROADS AND DRIVEWAYS

B. Classification.

Streets are classified according to the average daily traffic (ADT) they are intended to serve, as calculated by the number of average daily trips, as follows:

1. Average daily trip.

Table 8.1
Average Weekday Trip
Generation Rates

| Housing Type (trips per dwelling unit) | |
|---|-----|
| Single- family detached | 10 |
| <u>D</u> uplex, Multiplex , Townhouse, Apartments, <u>C</u> on <u>o</u> minium, etc | 8 |
| Mobile Home | 5.5 |
| Retirement Home | 3.5 |

WARRANT ARTICLE 7

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

SECTION 10.2 GENERAL LAYOUT OF DEVELOPMENT

B. Lots: [Amended 4/9/16]

- ~~1.— If more than one residential dwelling unit or more than one principal non-residential structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure. For purposes of this section, an accessory apartment shall not be counted as a residential unit or principal structure. If more than one principal building is located on a lot, the lot size and location of each building shall be such that a separate lot conforming to the provisions of this Ordinance could be created for each building. The creation of a separate lot shall be demonstrated by submitting a plan to the CEO showing how the land could be divided to create conforming lots.~~
1. If more than one building is located on a lot, a plan must be submitted to the CEO to show how the lot can be divided by theoretical lot lines to create multiple building lots that conform to the standards of this Ordinance. Theoretical lot lines show compliance with the standards of this Ordinance without causing legal subdivision of land. Theoretical lot lines may not span multiple lots of record.

SECTION 10.4 BUILDING DESIGN STANDARDS

~~**A. Applicability:** The following standards apply to all multiplex developments, and all commercial, industrial, institutional and other non-residential development that requires site plan approval.~~

~~**B. Standards:**~~

- ~~1.— New structures and additions to or expansions of existing structures shall be designed and constructed so that they are visually integrated with existing buildings and features, both on the site and on adjacent properties, with respect to size, scale, building materials and setbacks from streets.~~
- ~~2.— No less than 20 percent of the front façade of any building shall be window area.~~
- ~~3.— Minimum front yard building setback: 20 feet~~

**WARRANT ARTICLE 7
(continued)**

~~4. Parking is permitted only to the sides or to the rear of buildings. No such parking shall be permitted in the area between the street on which the building fronts and a line parallel to the street intersecting the front of the building at its greatest distance from the street line, and paving shall not cover more than 25 percent~~

~~of such area. The use of shared parking, shared driveways and the cross-connection of parking lots is strongly encouraged. This paragraph shall not require the relocation of parking spaces existing on the effective date of this Ordinance (June 14, 2005).~~

~~5. **Drive-Through Facilities**[†]: Any use that provides drive-through service must be located and designed to minimize the impact on neighboring properties and traffic circulation. No drive-through facility shall be located in the area of the site adjacent to a residential use. Communication systems must not be audible on adjacent properties in residential use. Vehicular access to the drive-through shall be through a separate lane that prevents vehicle queuing within normal parking areas. Adequate queuing space must be provided to prevent any vehicles from having to wait on a public street, within the entry from the street, or within designated parking areas. The drive-through must not interfere with any sidewalk or bicycle path.~~

~~† Drive through eateries are prohibited; drive through bank tellers are conditional uses in Village Center District~~

SECTION 10.6 DRIVE-THROUGH FACILITIES

A. Any use that provides drive-through service must be located and designed to minimize the impact on neighboring properties and traffic circulation. No drive-through facility shall be located in the area of the site adjacent to a residential use. Communication systems must not be audible on adjacent properties in residential use. Vehicular access to the drive-through shall be through a separate lane that prevents vehicle queuing within the normal parking area. Adequate queuing space must be provided to prevent any vehicles from having to wait on a public street, within the entry from the street. The drive-through must not interfere with any sidewalk or bicycle path.

SECTION 10.22-23 RECREATION AND OPEN SPACE LAND IN DEVELOPMENTS

B. Retention of Useable Open Space and Recreation Land in Residential Developments:

| Guidelines for the Percentage of Total Parcel to be Reserved for Common Open Space and Recreation Land | | |
|--|-------------------------------|---|
| Type of Development | Average Size of Lots | Percentage of Total Parcel to be Reserved |
| Single Family Lots | 80,000 square feet or greater | 1.6% |
| | 40,000 square feet | 3.3% |
| | 20,000 square feet | 6.5% |
| | 15,000 square feet | 8.7% |
| | 10,000 square feet | 13.0% |
| Multi-family units (Duplex & Multiplex) | | 1,300 square feet per unit |

SECTION 10.2829 ACCESS MANAGEMENT STANDARDS

D. Access Management and Safety Standards:

8. Access Ways to Non-Residential Developments or to Multiplex Developments shall be designed to avoid queuing of entering vehicles on any public road. Left lane storage capacity shall be provided to meet anticipated demand. The Planning Board may require a traffic assessment to determine if a turning lane is necessary.

SECTION 10.3132 PEDESTRIAN WAYS AND BICYCLE ACCESS, CIRCULATION AND FACILITIES

B. Standards:

**WARRANT ARTICLE 7
(continued)**

6. Parking Plans:

- a. The parking plan shall delineate bicycle-parking facilities for commercial, recreational, and institutional and multiplex developments. Such facilities shall be located as close as possible to the principal building(s). The provision of bicycle parking may be used to offset the number of automobile spaces required.

SECTION 10.3334 OFF STREET PARKING

C. Parking Layout and Design:

3. Off-street parking ~~for multiplex development, and commercial, industrial and institutional uses~~ shall be located behind or to the side of the principal building and shall be landscaped. All parking spaces, access drives, and impervious surfaces must be located at least 5 feet from any side or rear lot line, except where standards for buffer yards require a greater distance, or where two adjacent lots share a parking lot.

**WARRANT ARTICLE 8
See explanation in warrant.**

WARRANT ARTICLE 9

XI. PERFORMANCE AND DESIGN STANDARDS FOR SPECIFIC ACTIVITIES - Warrant Article 16

SECTION 11.2 AFFORDABLE HOUSING

C. Standards and Requirements:

4. An affordable housing development may be developed as a clustered housing development pursuant to Section 11.3. Clustered Housing Developments, ~~and/or as multiplex housing pursuant to Section 11.7. Multiplex Housing.~~ Affordable housing may be condominiums.

~~SECTION 11.7. MULTIPLEX DWELLINGS~~

~~A. **Applicability:** The construction of any new multiplex dwelling or the conversion of an existing single family dwelling or duplex dwelling into a multiplex dwelling shall comply with the following standards and any other applicable provisions of this Ordinance, including Article X. Performance and Design Standards for Site Plan Review and Subdivision Review. The review of multiplex dwellings shall be pursuant to Article VII. Zoning District Regulations.~~

~~B. Standards:~~

- ~~1. The number of multiplex units allowed on a tract or parcel shall be calculated by dividing the net residential acreage of the tract or parcel by the minimum lot area per dwelling unit required by the appropriate zoning district for the multiplex development.~~
- ~~2. Multiplex housing is housing containing 2 or more attached dwelling units, each of which has independent outside access. Multiple units may be arranged in a variety of configurations. Each individual building may contain no more than 4 units. Existing structures, including large older homes, may be converted to multiplex housing as long as the conversion otherwise meets this definition. Multiplex housing may include condominiums.~~
- ~~3. A buffer shall be established between the multiplex housing and any dwelling on abutting tracts or parcels, which buffers shall be sufficient to minimize any potential nuisance, including but not limited to headlights, noise, storage areas and solid waste storage. This buffering shall consist of landscaping, fencing or grading or a combination of some or all of these techniques, and shall be in accordance with Section 10.13 Landscaping, Buffers and Screening.~~

- ~~4. The scale and surface area of parking areas, driveways and paved areas shall be compatible with adjacent structures, must be properly screened (see subsection 3 above) and must provide parking in accordance with Section 10.34 Off Street Parking.~~
- ~~5. It shall be the responsibility of the owner(s) to provide for rubbish disposal, snow removal, and site maintenance. A wooden or masonry screen shall enclose all outdoor storage areas for waste collection at least 6 feet in height.~~
- ~~6. Useable open space and recreation land shall be required in all multiplex developments pursuant to Section 10.22 Useable Open Space and Recreation Land in Developments.~~

WARRANT ARTICLE 10

XII. DEFINITIONS

Complete Substantial Construction: The completion of a portion of the improvements that represents no less than 30 percent of the costs of the proposed improvements within a development or subdivision. If a subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. ~~If a subdivision is a multiplex development, or if~~ the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

Multiplex Housing: ~~Multiplex housing is housing containing 2 or more attached dwelling units, each of which has independent outside access. Multiple units may be arranged in a variety of configurations. Each individual building may contain no more than 4 units. Existing structures, including large older homes, may be converted to multiplex housing as long as the conversion otherwise meets this definition. Multiplex housing may include condominiums.~~

Proposed Animal Control Ordinance - Changes to Sections VII and IX

VII. Possession of Leash Required

An owner/keeper shall have a leash, as defined above, in his/her possession for each dog, which is off-leash, always, except when the dog or dogs are on the premises of the owner/keeper or other private property if permitted to be there. A leash shall not include an electronic control collar or other device.

1. Animals are required to be leashed at all times at the following Town parks:

- a. Baston Park**
- b. Chandler Brook Preserve**
- c. Old Town House Park**

IX. Commercial Businesses

Groups or organized groups (profit or non-profit) must obtain **written** permission from the Town Manager for use. **FEE SHALL APPLY.**

- A. All town ordinances and state law regarding dogs shall apply to Commercial Businesses.**
- B. Commercial Businesses shall not have more than six (6) dogs under the control of a single person at any time.**

**Regulations for the use of Parks and Recreation Areas Ordinance
Proposed Changes - Bold/Underlined/Blue**

SECTION 5: DESIGNATED AREAS

5.1 **Parks** - For purposes of establishing rules and regulations, the following areas are designated as parks within the Town of North Yarmouth.

- A. Old Town House Park - All Town owned acreage ~~behind the Old Town House~~ ~~on~~ located on Memorial Highway including the boat launch; animals must be leashed at all times.

- B. Baston Park; animals must be leashed at all times.

- E. Chandler Brook Preserve; animals must be leashed at all times.

January 5, 2021

Section VI. New Business

- Personnel Policy Updates - Included herein are proposed amendments to the Personnel Policy. The Town Manager will go through each of the changes to provide explanations and answer any questions the Select Board may have.

Move to accept the proposed amendments to the town Personnel Policy as presented by the Town Manager. Second, discussion and vote follow.

- Town Manager Bi-annual Review - Per the Town Manager's contract, the Select Board shall hold a bi-annual meeting with the Town Manager to discuss any performance matters. The manager's contract is enclosed herein.

Move to schedule an executive session with the Town Manager for Tuesday, January 19, 2021, at the Board's regular business meeting. Second, discussion and vote follow.

II. GENERAL PROVISIONS

212 CELL PHONE USAGE

This guideline aims to outline the standards for using cellular phones to ensure the safety of personnel and individuals traveling the roadways and keeping a professional demeanor while on duty.

While department issued and personal phones in the workplace can assist in the Town's mission, they can also contribute to an unprofessional appearance, with the diversity and multitude of alert tones, music ring tones, etc. Given the proliferation of cell phones, PDA's, and smartphones, each can have unique ringtones for message alerts. In addition, cell phone messaging and texting while driving creates both a danger for personnel and the public.

- A. Text messaging/email or other activities will not be permitted while operating any town-owned vehicle.
- B. Cell phone use will not be permitted while operating any town-owned vehicles.
- C. Employees shall not engage themselves in a personal cell phone conversation or text messaging while engaging with the public, while involved in patient care, patient transport, and or on the scene of any emergency call.
- D. Bluetooth or wireless equipment permanently installed in a vehicle for a cell phone's hands-free operation may be utilized when appropriate.
- E. Cell phone use will be prohibited during training and meetings unless used for department business or a family emergency.

IV. EMPLOYMENT PROVISIONS

404 EMPLOYMENT CLASSIFICATIONS

- G. Department Heads: The following positions are defined as Department Heads: Assistant Town Manager, Public Works ~~Foreman~~ Director, Fire Rescue Chief, Community Center Director, and Code Enforcement Officer. The designation of a Department Head is subject to change under the direction of the Town Manager.

409 EDUCATION AND TUITION REIMBURSEMENT

- F. Employees who are also members of the Fire Rescue Department will be paid at their Fire Rescue Department rate when attending training for the department during their regular workday hours.

V. COMPENSATION

504 PAY PERIODS / TIME WORKED

~~E. On-call / per diem employees are paid for time earned at the end of each quarterly period. These employees shall submit their time cards to their supervisor for processing two (2) weeks preceding the processing of the last quarterly payroll. Quarterly payrolls are on or about 9/30, 12/31, 3/31 & 6/30 depending on the generation of the regular payroll cycle.~~

E. On-Call Employees: On-call employees are paid for time earned at the end of each quarterly period. The Fire Rescue Chief shall submit the hours worked as recorded in the Emergency Reporting software by the Officer in charge of the incident or training event. Payroll will be processed on or about September 30th, December 31st, March 31st, and 30th depending on when the quarterly cycle is generated.

F. Live-In Students: Live-in students are paid for call-time earned at the end of each month based on the regular payroll cycle. The Fire Rescue Chief shall submit the hours worked as recorded in the Emergency Reporting software program by the Officer in charge of the incident or training event during that period.

Town of North Yarmouth - Personal Policy Updates

- G. Per Diem Employees: Per diem employees are paid for time earned bi-weekly. These employees shall submit their timecards to their supervisor for processing no later than 17:00 on the Thursday workday proceeding the two (2) week pay period.

VI. EMPLOYEE BENEFITS

602 HOLIDAYS

The Town recognizes the following twelve (12) days as full-time employee paid holidays at the straight time:

| | |
|------------------------|---|
| New Year's Day | Labor Day |
| Martin Luther King Day | Columbus Day |
| President's Day | Veteran's Day |
| Patriot's Day | Thanksgiving Holiday (Wednesday & Thursday) Day and the Friday Following |
| Memorial Day | Christmas Eve - ½ Day |
| Independence Day | Christmas Day |

604 SICK LEAVE

- A. Use of Sick Leave: (paragraph two)

Sick leave for full-time employees is accrued at the rate of one (1) day per month (per regularly scheduled hours) commencing with the date of initial employment. Sick leave will accrue to a maximum of 120 days ~~per year~~.

606 HEALTH INSURANCE

- ~~D. Effective July 1, 2007, for full-time employees hired prior to July 1, 2008, Single and Family coverage at 100% is provided at the expense of the Town to the employee. For any full-time employees hired after July 1, 2008, single and family coverage will be provided at 80% paid by the Town and 20% paid by the employee.~~
- D. Effective July 1, 2014, full-time employees hired before January 1, 1996, single and family benefit coverage shall be paid 100% by the Town. For full-time employees hired after January 1, 1996, single and family benefit coverage shall be paid at 80% by the Town and 20% by the employee.
- ~~E. Effective July 1, 2010, any increase in insurance premiums, will be split equally between the Town and the employee regardless of their date of hire.~~

606 DENTAL INSURANCE

The Dental Insurance Plan offered to the employees by the Town is the Maine Municipal Employees Health Trust Delta Dental Plan.

- ~~A. Single and Family coverage at 100% is provided at the expense of the Town to the employee.~~
- ~~B. Effective July 1, 2010, any increase in insurance premiums, will be split equally between the Town and the employee regardless of their date of hire.~~
- ~~C. As of March 2011, there is a benefit grid which defines what benefits are being awarded to which category of employee.~~
- A. Effective July 1, 2014, full-time employees hired before January 1, 1996, single and family benefit coverage shall be paid 100% by the Town. For full-time employees hired after January 1, 1996, single and family benefit coverage shall be paid at 80% by the Town and 20% by the employee.

610 INCOME PROTECTION

Income Protection Insurance (IPP), a short-term disability plan covering non-occupationally incurred disabilities, is available to full-time employees upon commencement of their employment, at their own expense.

- A. Employees enrolling in IPP may choose their benefit level: 40%, 55%, or 70% of salary. Should an employee become disabled due to a non-work-related illness or injury, if enrolled, he/she may be eligible to receive IPP benefits for up to 52 weeks per period of disability. Benefits begin on the first day the employee is certified disabled due to an accident or on the 8th day after an employee is certified disabled due to an illness.
- B. The maximum benefit an employee may receive is \$1,000 per week.
- C. Employee Options for Remaining Balance of Wages
 - 1. An employee using IPP can supplement the remaining unpaid balance of income through earned vacation and sick pay.
 - 2. If the employee's sick and vacation pay is exhausted, the employee could supplement the remaining unpaid balance of income through the Employee Sick Leave Bank. A maximum of 35 days (280 hours/7weeks), if available in the sick bank and the employee has donated earned sick time to the sick bank in the past.

620 EARNED PAY LEAVE

- A. Effective Date: January 1, 2021, M.R.S. Title 26 § 637
- B. Commences: At the start of employment, a qualified employee shall earn one (1) hour of Earned Paid Leave for every 40 hours worked and accrual no more than 40 hours of leave in one year.
- C. Employee Qualification: Full-time, part-time, temporary, and per diem employees are eligible for Earned Paid Leave benefits. Seasonal workers may be exempt from depending on the amount of time worked.
- D. Waiting Period: A 120-day waiting period may be imposed before newly hired employees can use the Earned Pay Leave.
- E. Use of Time: Earned Paid Leave shall be used in increments of one (1) hour.
- F. Pay Rate: Employees will be paid at the base rate of pay they are currently earning.
- G. Implementing Leave: Employees may use Earned Pay Leave for any reason and will not be retaliated against for taking paid leave, nor will the employee be disciplined for using Earned Pay Leave.
- H. Existing Benefits: Using earned leave may not result in the loss of any employee benefits accrued before the date on which the leave commenced. However, Earned Pay Leave is not an additional benefit to regularly earned vacation and sick leave benefits.
- I. Roll Over Time: Unused accrued leave will roll over and be available to the employee in their next year of employment unless the employer front-loads the benefit.
- J. Notice, Reasons, and Written Documentation:
 - 1. General Notice: The employee must provide a two (2) week written notice of their intent to use Earned Pay Leave.
 - 2. Emergency Notice: May always be used in an emergency, illness, or sudden necessity. The employee must provide notice as soon as possible when using accrued Earned Paid Leave in this situation.
 - 3. Restrictions: The Town may restrict the use of planned leave during certain times of year to ensure there is no impact on operations.

Town of North Yarmouth, Maine
Town Manager Employment Agreement

This Employment Agreement ("Agreement") made and entered into this the 18th day of June 2019 with an effective date commencing July 1, 2019 with the Town of North Yarmouth, Maine (hereinafter "TOWN") and ROSEMARY E. ROY (hereinafter "TOWN MANAGER") (collectively, "the Parties"), pursuant to these terms and conditions:

WHEREAS, this Agreement is a singular Agreement between the TOWN MANAGER and the TOWN, and is not part of a general "plan or "program" for employees as a group. The TOWN MANAGER hereby agrees that this Agreement is an ad hoc individual contract with the TOWN MANAGER.

WHEREAS, the TOWN wishes to continue the employment services of ROSEMARY E. ROY as the TOWN MANAGER consistent with the provisions of the Town Charter as revised and effective July 1, 2013;

WHEREAS, the Parties hereto desire to (1) secure and retain the services of the TOWN MANAGER and to provide inducement for her to remain in such employment, and (2) define the compensation, duties and benefits of the TOWN MANAGER's employment, and (3) to provide a just means for terminating the TOWN MANAGER's contract of employment at such time as she may be unable to discharge her duties due to disability, resignation or termination by the TOWN;

WHEREAS, employee wishes to accept employment as TOWN MANAGER of said TOWN under the terms and conditions stated herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and intending to be legally bound hereby, the TOWN and the TOWN MANAGER agree to the following:

1. **DUTIES:** The Town of North Yarmouth hereby agrees to employ ROSEMARY E. ROY as TOWN MANAGER to perform the functions and duties so specified for Town Manager by the Town Charter, State Statutes, and any applicable job description, and consistent with municipal ordinances and policies, as may be amended from time to time, and to perform such other proper duties as assigned by the Select Board.
2. **COMPENSATION:** The TOWN agrees to pay TOWN MANAGER an annual salary of \$ \$76,549.00 to be earned and payable in installments in accordance with the Town's usual payroll practices, and procedures, cost of living adjustments shall apply as approved on an annual budgetary basis.
3. **TERMS OF EMPLOYMENT:**
 - a. The contract shall be for a term of three (3) years from July 1, 2019, until June 30, 2022 ("Expiration Date").
 - b. The TOWN MANAGER shall be subject to a bi-annual performance review and annual performance review on or prior to the anniversary of hire (June 27, 2014).
 - c. This agreement may be extended by a negotiated successor agreement, or it may be terminated by either party on or before June 30, 2022, as detailed in Section 10.
4. **RETIREMENT PLAN:** Participation in the Social Security System is mandatory, with both the TOWN

and the TOWN MANAGER making the statutorily required contributions. In addition, the TOWN MANAGER may elect to participate in the ICMA-RC plan in place for full-time Town employees.

a. The Town of North Yarmouth will contribute 5% of the Town Manager's annual salary to the Plan in year one (1) of the contract and 7% in years two (2) and three (3). It is not mandatory that the Employee contributes, but participation by the Employee is available.

5. HEALTH AND DENTAL INSURANCE COVERAGE:

a. The TOWN MANAGER continues to be eligible for the enrollment in the TOWN provided health and dental insurance plans as may be offered to other employees as amended from time to time. TOWN MANAGER will make contributions as described in the Town's Personnel Policy as may be amended from time to time.

b. The TOWN shall provide TOWN MANAGER with life insurance equal to the amount of one times the TOWN MANAGER's annual salary, through the Maine Municipal Employees Health Trust (MMEHT) insurance program.

6. INDEMNIFICATION: The TOWN shall defend, hold harmless and indemnify TOWN MANAGER against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of TOWN MANAGER's duties for the TOWN. The TOWN will defend compromise or settle as appropriate any such claim or suit and pay the amount of any settlement or judgment, and the TOWN MANAGER agrees to cooperate and assist the TOWN in any such matter. This section does not apply to any claims resulting from TOWN MANAGER's willful misconduct, known illegal acts, violation of TOWN policies or ordinances, or for claims arising outside of TOWN MANAGER duties as Town Manager.

7. VACATION AND SICK LEAVE:

a. TOWN MANAGER shall be granted three (3) weeks of paid vacation time annually in accordance with the TOWN's personnel policy. The TOWN MANAGER shall provide at least thirty (30) days prior notice of planned vacation time to the Chairperson of the Select Board.

b. TOWN MANAGER shall earn and accumulate sick leave at the rate prescribed by the applicable personnel policy for salaried employees as may be amended from time to time.

8. HOURS OF WORK: The parties acknowledge that the TOWN MANAGER position is an exempt, salaried position that requires the TOWN MANAGER to work hours in addition to the normal office hours of the municipal office in the performance of her duties. As such, the TOWN MANAGER is not eligible for compensatory time or overtime. The TOWN agrees that consistent with the varying time requirements of the position; the TOWN MANAGER may be permitted to occasionally be absent during normal office hours as long as she ensures that the office is sufficiently staffed during any such period.

9. BUSINESS EXPENSES: The TOWN shall reimburse TOWN MANAGER for all approved and documented TOWN business-related expenses (conference, training, education, mileage, etc.) to include a thirty-five dollar (\$35.00) monthly stipend as reimbursement for personal cell phone usage for Town business, subject to the annual budget as duly authorized.

10. TERMINATION:

- a. **IF FOR CAUSE:** At any time during the term of this Agreement, the TOWN may, upon a finding of cause, terminate the TOWN MANAGER's employment following written notice and a hearing before the Select Board. In the event the TOWN MANAGER's employment with the TOWN is terminated for cause, the TOWN's only obligation to the TOWN MANAGER is to pay all compensation and unpaid earned and accrued benefits as of the date of termination.
- b. **IF BY RESIGNATION:** In the event the TOWN MANAGER resigns her position with the TOWN before the expiration of the aforesaid term of employment, the TOWN MANAGER shall give the TOWN a minimum of thirty (30) day notice in advance, said notice to be given to the Chairperson of the Select Board.
- c. **IF FOR DISABILITY:** Should the TOWN MANAGER be permanently disabled or otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health for a period of three (3) successive months beyond any accrued leave the TOWN shall have the right to terminate this Agreement; however, the TOWN MANAGER shall be paid for all compensation and benefits accrued but unpaid as of the date of termination.
- d. **IF FOR CONVENIENCE (Termination without Cause):** Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Select Board to terminate the employment of the TOWN MANAGER upon payment of a severance benefit equivalent to ninety (90) calendar days of pay. The TOWN will pay all compensation and benefits accrued but unpaid as of the date of termination. The TOWN MANAGER hereby acknowledges that this arrangement is fair and reasonable. Prior to such payment, and in consideration of this severance amount, TOWN MANAGER agrees to execute a general release and waiver of claims against the TOWN and agrees to do so in consideration of said severance payment.
- e. **BY EXPIRATION OF TERM:** In the event the term of this Agreement expires without any successor agreement in place, TOWN MANAGER's employment with the TOWN will be considered terminated as of the Expiration Date, and the TOWN's obligation to the TOWN MANAGER thereafter is payment of a severance benefit equivalent to ninety (90) calendar days of pay, and the TOWN will pay all compensation and accrued benefits earned as of the date of termination. Nothing in this Agreement is intended to prevent the TOWN and the TOWN MANAGER from mutually entering into an interim employment arrangement beyond the Expiration Date while a successor agreement is being negotiated.

11. GENERAL PROVISIONS:

- a. This Agreement shall become effective as of the date of commencement as contained herein.
- b. If any provision, or portion thereof, contained in this Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of this Agreement shall not be affected and shall remain in full force and effect.
- c. No term or provision of this Agreement shall be deemed to have been waived by either party unless such waiver is in writing and signed by the party making the waiver.
- d. This Agreement may only be amended, modified or extended by a writing duly executed by both Parties.
- e. The subject headings of the Sections of this Agreement are included for the purpose of convenience

only and shall in no way affect the meaning, construction or interpretation of any provision of this Agreement.

- f. In the case of any ambiguity between this Agreement and the personnel policies of the Town, this Agreement will control.
- g. This Agreement and the interpretation thereof shall be governed by the laws and in the courts of the State of Maine.
- h. Notwithstanding Section 11(g) above, the Parties agree to first submit any dispute over the terms and interpretation of this Agreement to mediation prior to bringing any action in court, and agree to share the costs of any such mediation, except that each party shall be solely responsible for their own attorney's fees and costs.

IN WITNESS WHEREOF, and intending to be legally bound, the parties have, in good faith, executed this Agreement the day and year written above.

Rosemary E. Roy, Town Manager

____/____/____
Date

Select Board

Jennifer Speirs, Chairperson

____/____/____
Date

Steve Morrison, Vice Chairperson

____/____/____
Date

Anne Graham, Selectperson

____/____/____
Date

Jim Moulton, Selectperson

____/____/____
Date

William Whitten, Selectperson

____/____/____
Date

January 5, 2021

Agenda - Section VII. Accounts Payable

Item(s):

- *Move to approve accounts payable warrants 27 and 28 in the amount of \$126844.19, as presented for **FY21**. Second, discussion and vote follow.*