

MEMORANDUM

TO: Ben Scipione, Code Enforcement Officer

CC: Diane Barnes, Town Manager
Tracey Cox, Executive Assistant

From: Ben Smith, AICP, North Star Planning *BSM*

RE: Land Use Ordinance update suggestions

Date: September 22, 2022

Staff has requested a list of potential ordinance updates for the coming year that the Planning Board may want to consider working into their ordinance review work plan.

The comments offered on the following pages are based on our working experience with the ordinance as it relates primarily to the review of Site Plan and Subdivision projects with the Planning Board. They are not based on a cover-to-cover methodical review of the LUO, and are meant to add to the list of changes offered by staff with the dates of 6/29 and 8/23/2022.

For a deeper dive into the ordinance, NSP could undertake an ordinance audit that would be a more focused, comprehensive review of the LUO, checking for inconsistencies, errors/typos, verifying definitions and standards match, and calling out suggested changes in process, submission requirements, and how the document itself is organized. Such an effort might be in the \$4,000-\$5,000 range, and might be a 2 month project resulting in a more detailed report including a suggestions for a prioritized workplan to start making updates.

A step beyond an audit would be a recodification of the LUO. This would involve a reorganization of the existing ordinance language with the goal of having all performance standards in one location together, all zoning and special districts in another location together, etc. That work would include housekeeping level changes for clarification, but no policy changes in the LUO. The goal of that work is twofold – both to make the LUO easier to use and understand and to identify gaps, duplications, contradictions, and future needs in definitions, standards, and other criteria. Such an effort could be a 9-12 month project, and be in the \$20,000-\$24,000 range.

North Star Planning Comments regarding potential
North Yarmouth ordinance changes 2022-2023

- Section 9 – Special District Standards should be included in Section 7 – Zoning District Regulations. Additionally consider work to combine/condense groundwater protection overlay submission requirements into the general submission requirements. Pull out the most important standards to take from this list because right now is it really long
- Section 9.1 – Residential Shoreland District and Resource Protection District Performance Standards include much more than just performance standards. This appears to be the state required Shoreland Zoning and is often a standalone ordinance in other communities.
- All sign regulations should be in one section of the ordinance
- Section 11 – Standards for Specific Activities and Section 8 – General Requirements: Applicable to all Land Uses should be combined, and items that are regulated by outside agencies should be removed (8.10 – Wells, 8.6 – Sewage Disposal, etc)
- Many performance standards are scattered around the ordinance – these should be consolidated. Examples include stormwater standards, soil and erosion control Additionally, a number of performance standards could get combined into broader sections for clarity. For example, Access Management, Subdivision Street Connectivity, Drive Through Facilities, Internal Vehicular Circulation should be combined and renamed “Vehicular Access” or “Access and Circulation/Connectivity”
- Submission requirements should be tied to specific standards in the ordinance. Examples of submission requirements that are not tied to standards are for costs related to various town services and the estimated net increase in taxable assessed valuation when complete (5.7.B.19 and 5.7.B.20)
- Section 6 – Variances and Appeals. Administrative appeals heard by the ZBA are in other communities usually limited to orders, requirements, decisions or determinations of the CEO. They don’t typically include appeals of Planning Board decisions – those are usually appealed to the Superior Court.
- Separate site plan and subdivision performance standards from each other, as they are not all applicable to both types of reviews
- For amended subdivision and site plans, clarify that submissions and Board scope of review is limited to the proposed changes.
- Site plan performance standards should be moved after site plan submission requirements and subdivision performance standards should be moved after subdivision submission requirements
- Public Hearings are optional for all Site Plan and Subdivision Reviews – ordinance should specify when they are required
- Separate out major and minor site plan submission requirements. Many communities have staff approval committees to review and approve minor site plans.
- Standardize pre-application submission items and review timelines across Site Plan and Subdivision
- Should have the same site visit/walk timeline/schedule for site plan and subdivision
- Provide more clear/precise submission checklist for applicant to fill out that focuses solely on submission requirements

- Section 4.3 B. waivers, says pre-application meeting is optional, but in Section 4.4A. says applicant is required to attend a pre-application meeting language around pre-application meetings needs to be consistent
- Section 5.4A “letter from Yarmouth Water District” should get incorporated into submission requirements
- Subdivision submission requirements include potentially duplicate submission requirements for “right, title and interest” as well as the deed.
- There should be some discussion about Brook Pond, Vernal Pool, and Wetland Buffers relative to the High Value and Low Value determinations and requirements.
- Section 10.4 should be District Standards in Section 5 for the Village Center Zone or it should be clear that the Building Design standards only apply to the VC Zone.
- Back lot conflicts/confusion
 - 8.3.4 – General Requirements: Applicable to all Land Uses and 10.28 – Performance and Design Standards for Site Plan Review and Subdivision Review, Back Lots and Street Access Requirements [Amended 6/19/21], “Back lots shall be prohibited in subdivisions after the adoption of this Ordinance (June 14, 2005).
 - If back lots are not allowed in subdivisions while they are allowed when creating new lots outside of subdivision, that could be an incentive to make development plans that avoid the Board review process.
- Site Plan submission requirements, g. In addition to the information required above, the Planning Board may require any of the following additional information for a major development...” Major development should be defined or require these for all projects
- Are Pocket Neighborhoods allowed in all districts or only the Village Center? Definitions and standards should be located in applicable sections of the ordinance, rather than everything in Section 7.6 – Space and Dimensional requirements
- Performance Guarantees
 - Move from Section 3 – Administration and Enforcement to the applicable sections in Site Plan and Subdivision Review
 - Clarify the amount of the guarantee is for public improvements or to protect the public interest (which might include private landscaping and lighting).
 - The Board should approve the amount of the guarantee, but form of the guarantee should be acceptable to the Town Manager, as the role in town that administers finances and can hold funds.
- Phasing
 - Doesn’t belong in Section 3.8 – Performance guarantees (only to the extent the performance guarantee must be in place for the current project phase).
 - Phasing requirement for major subdivisions in Section 5.8.C – Final approval and filing for Minor and Major Subdivisions (If the superintendent of schools indicates that there is less than 20 percent excess classroom capacity existing in the school(s) which will serve the subdivision...) is not a good standard. Not practical to phase small projects, projects that don’t have a lot of infrastructure.