CHAPTER 702

SITE PLAN REVIEW ORDINANCE

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SITE PLAN REVIEW ORDINANCE

ARTICLE I

A. FINDINGS AND PURPOSE

The Town Council finds that location and development of buildings, structures, and site improvements made by public and private land owners, affect the economic, social and environmental resources of the Town of Yarmouth and that many developments, because of their magnitude and character, may cause significant alterations to the natural and built environments of the Town; that authority is rightfully vested in our Municipal government to regulate the location, character and impact of developments which may substantially affect the quality of live in Yarmouth. Therefore, it is the intent of this Ordinance to adequately regulate development within the Town so that such developments will be designed and located in a manner that will have a minimal adverse impact on the natural environment and the Town Character and protect the health, safety and general welfare of the people.

B. DEFINITIONS

For the purpose of this Section, all terms and words shall have their ordinary meaning except as provided herein and defined in Ch. 701 Article I section D of Chapter 701, including the following definitions which reference Chapter 601 Article 1.C: Common Plan of Development or Sale, Construction Activity, Discharge, Disturbed Area, and Erosion and Sedimentation Control Best Management Practices.

1. Major Development:

    a. The construction of any new structure(s) except as provided in Section 1.B.2 and Section I.C;
    b. The construction or alteration of any surface parking area(s) providing five or more parking spaces (equivalent of 855 square feet);
    c. The construction of building addition(s), cumulatively having either a total floor area of 1,000 square feet or more, or an additional floor area equal to or larger than the existing building within any three (3) year period; or,
    d. A change(s) in the use of all or any portion of a building cumulatively affecting a total floor area of 1,000 square feet or more in any existing building within a three (3) year period;
    e. Filling, grading or excavation projects which move an amount equal to or in excess of 1,000 cubic yards of materials;
    f. Manufactured Housing Community;
    g. Wireless communication facility, with a tower taller than eighty (80) feet;
    h. Affordable Housing Development.
    i. Electrical Vehicle Charging Facility.
    j. Large and Small Solar Energy Systems.

2. Minor Development: (at the discretion of the Planning Director multiple items in combination may be referred to the Planning Board)

    a. The construction or alteration of any parking area(s) providing four or less parking spaces (equivalent of 684 square feet);
    b. The construction of any impervious surfaces in excess of 200 square feet (cumulatively) within a three(3) year period;
    c. The construction of any building addition(s) having a total floor area in excess of 100 square feet but less than 1,000 square feet cumulatively within a three(3) year period;
    d. The alteration of a water course, ditch or swale;
    e. The changes of use of any portion of any existing building in excess of 100 square feet but less than 1,000 square feet within any three(3) year period;
    f. The change in on-site vehicle circulation of any existing parking lot or driveway;
    g. Filling, grading or excavation projects which move in excess of 100 cubic yards, but less than 1,000 cubic yards of materials;
    h. Alteration to site layout, footprint, or number of units of any existing multiple family developments.
    i. Wireless communication facility, with a maximum tower height of eighty (80) feet.
    j. Wireless communication antenna array on an alternative tower structure.
    k. New antenna array on a co-located wireless communication facility.
    l. Modification of existing or approved antenna array.
    m. Accessory Dwelling Units.
    n. Disturbance of one or more acres of land including disturbance of less than one acre of land if the overall project will disturb one or more acres of land.
    o. Any development utilizing the Dwelling Unit Allowances of Chapter 701, Article II.EE.

3. Change of Use:
   For the purpose of this Section “change of use” shall mean any conversion, alteration or modification to an existing vacant or occupied space, which creates the need for additional parking pursuant to ARTICLEII.H (Off Street Parking) of the Zoning Ordinance.

C. EXEMPTIONS

The following exemptions apply unless a project disturbs one or more acres of land:

1. Single or two family dwellings outside of the W.O.C. II zone, including their basement, excavations are exempt from the requirements of site plan review.

2. External changes made to existing building for the purpose of closing an entrance or creating a new entrance is also exempt from site plan review.

3. Municipal public works, water utility projects done within public right-of-way, and public easements.

4. Filling, grading or excavation projects which move not more than one hundred (100) cubic yards of material;

D. APPROVALS

No person shall commence any development subject to this ARTICLE without obtaining approval under this ARTICLE.

1. Major Development: All projects defined as a major development shall require the approval of the Planning Board as provided by this ARTICLE.

2. Minor Development: Projects defined as a minor development shall require the approval of the Director of Planning and Development or his/her duly authorized agent as provided by this ARTICLE.

3. The Director of Planning and Development may refer to approval of a minor site plan to Planning Board when the nature of the application warrants a public hearing or poses the potential for significant impacts of Municipal facilities or natural resources.

4. Appeals: The Director of Planning and Development's decisions regarding minor site plans are appealable by an aggrieved party to the Planning Board within 30 days of the date of the issuance of the decision. Site plan decisions of the Planning Board are appealed to the Cumberland County Superior Court.

E. NOTIFICATION

1. For all site plan applications, the Department of Planning and Development shall mail a notice to property owners in the vicinity of the development, as detailed below, including a description of the nature of the applicant's proposal and the time and place of the Planning Board meeting if the project requires Planning Board review, or the public comment time period required if the project is a minor development.

    a. For major site plan applications and for any minor site plan that is referred by the Planning and Development Director to the Planning Board, the Department shall ail the notice by first class postage to all owners of property as of the latest Assessor's address record on file within a minimum of 500 feet of the property under consideration, and, if the proposed development is located within 1,000 feet of any public or private school, to the superintendent or head of such school. If it is determined by the

Director of Planning and Development that the impact of the site plan has the potential of significant impacts to properties beyond 500 feet, the Department may send notices to a distance of up to 1,000 feet of the proposed development. The notice will be mailed at least 10 days before the meeting (workshop or public hearing) at which the application first appears on the Planning Board agenda.

b. For minor site plan applications, the Department will mail such notice as detailed above within 7 days of determination of completeness of a complete application, as determined by the Director. The Director of Planning and Development shall not make a decision on the proposal for a period of ten (10) days after the mailing of abutter notification to provide an opportunity for public comment.

2. The agendas of Planning Board meetings shall be published by the Planning Department in a local newspaper al least seven (7) days before the date of the meeting. The agenda notice shall include a brief description of the proposal and the ordinance(s) by which the proposal is to be reviewed. All publishing and mailing of notices shall conform with applicable State requirements.

F. APPLICATION AND REVIEW PROCESS

The following application process shall be followed to facilitate site plan review of proposed major and minor developments, respectively.

1. Review of Site Plans for Major Development
   a. Upon Receipt of an application for site plan review of a major development, the Director of Planning and Development shall schedule the development for conceptual or final site plan review at the next available Planning Board workshop. The director of Planning and Development may advise the applicant whether conceptual review is appropriate prior to submission of a final site plan; however, the applicant shall determine whether to seek conceptual or final site plan review prior to submitting an application for final site plan review. Neither conceptual nor final site plan review shall occur unless there is evidence that the required public notice has been given and the material required by Section I.G.2 (concept plans) or Section I.G.3 (final plans) is filed with the Director of Planning and Development while determinations as to the completeness of applications for final site plan review shall be made by the Planning Board at a regular or special Planning Board meeting, in conformity with Section I.F1.c.

   b. Conceptual Review. Conceptual review is intended to provide the applicant with an opportunity to discuss the proposed development and obtain the Board's comments prior to expending significant resources in furtherance of specific development plans. The Planning Board may identify issues that are not to be addressed in the final site plan application. No decision is made during conceptual review.

c. Final Site Plan Review. Within 60 days after determining that an application is a complete, final application, the Planning Board shall conduct a public hearing on the proposed major development, unless either the applicant or the board determines that additional workshops are necessary. The Planning Board shall issue a written decision approving, approving with conditions, denying or tabling the final site plan, pursuant to Section I.J. If the Planning Board tables the item, an additional public hearing must be held.

d. Statement of Findings. All findings and decisions by the Planning Board or by the Director of Planning and Development denying or conditionally approving any site plan shall be made in writing or reduced to writing within 30 days of the decision and shall state the reason(s) therefore sufficient to appraise the applicant and any interested member of the public of the basis for the decision.

2. Minor Developments: Site Plan applications for minor developments are reviewed by the Town staff for conformance with this ARTICLE. The process begins with the submission of eight (8) copies of the complete application and evidence of notification to the Director of Planning and Development. The application is distributed to the Town Engineer, Director of Planning and Development, Code Enforcement Officer, Fire Chief, Police Chief and the Yarmouth Water District. After a ten (10) day public comment period the Director of Planning and Development shall review all submitted comments and in writing approve, approve conditionally, or deny the application in accordance with Section I.J. The decision of the Director of Planning and Development as well as findings of fact, shall be provided in writing to the applicant, Chairman of the Planning Board, Town Manager, and other Town staff within fourteen (14) days subsequent to the end of the public comment period. The finding of fact shall consist of the rational basis of the Director of Planning and Development's decision. Prior to distributing an application to Town Officials, the Town Planner must deem the application complete pursuant to Section I.G.3.

3. Appeals of the final action of minor site plans, submitted by an aggrieved party, shall be heard by the Planning Board. For the purposes of appeals of minor site plans only, any immediate abutter or any resident or property owner who received notification of the minor site plan per Article I.E.1.b will automatically be deemed to have standing or a basis to assert a grievance.

4. Applications requiring General Board of Appeals Review: Before deeming an application a complete final application, the Planning Board or Director of Planning and Development shall require from the applicant, evidence of the General Board of Appeals' approval, for applications requiring review by the General Board of Appeals.

5. Applications requiring other Public Agency Review:

a. The Planning Board or Director of Planning and Development may approve complete final applications subject to the condition that all necessary permits be received from agencies such as, but not limited to, the Army Corps of Engineers, Maine State Department of Environmental Protection, or Maine State Department of Health and Human Services. However, the Planning Board or Director Planning and Development may require that approvals required by state or federal law be submitted to the Town prior to final approval upon finding that the permits from the state or federal agencies may have a significant effect on the site plan application, such as, but not limited to, the potential re-citing of buildings or parking areas, the relocation of driveways or the change of storm water management features.

b. Review by Municipal Committees: The Planning Board may request copies of the application to be forwarded by the applicant to the Yarmouth Lands Management Committee and Sports and Recreation Committee, Harbor and Waterfront Committee or other Municipal committee. The comments of the committees are advisory to the Planning Board and shall pertain to the application's conformance with Section I.H (Review Criteria) of this ARTICLE. The Planning Board may postpone final decisions regarding the application until such time as the comment from the Municipal committee(s) has been submitted.

6. Applications shall not be considered as having pending status and shall be subject to changes in local, state or federal laws until the time they have been deemed to be complete final applications by the Planning Board or the Director of Planning and Development.

G. APPLICATION REQUIREMENTS

1. Required Number of Copies: Applications for major site plans are to consist of eighteen (18) copies of required information. The applications are to be submitted no later than twenty-one (21) days prior to the meeting at which the item is to be heard. Application for minor site plans are to consist of eight (8) copies. All applications are to be submitted to the Yarmouth Planning Department.

2. Concept Plans: The Planning Board may review applications, as conceptual applications, that do not meet the final site plan requirements listed in Section I.G.3. At a minimum, conceptual applications shall include the following information:

   a. Conceptual Site Plan Requirements

      i. Name and address of the landowner and developer (if different)
      ii. Graphic scale and north arrow;

iii. Property boundaries, land area and zoning designations of the site;
iv. The size, shape and location of existing and proposed buildings on the site including dimensions of the buildings and setbacks from property lines.
v. Context Map illustrating the area surrounding the site

b. Project Description: The project description is to describe the proposal, its scheme of development and proposed land uses.

3. Final Site Plan: The final site plan application shall include all information required in Section I.G.2, Concept Plans, and in addition shall require the following information:

a. Boundary Survey: Prepared by a licensed surveyor indicating the boundaries, encumbrances and topography of the site.
b. Storm Water Management Plan: Prepared by a professional engineer licensed in the State of Maine analyzing the proposal's impact on existing storm water facilities and watersheds. The storm water management plan shall include a map of watersheds significantly impacted by the proposal and identify all areas of existing or anticipated flooding, location of existing and proposed culverts, pipes, detention ponds and flow restrictions to be affected by the proposal. The storm water management plan shall comply with the performance standards found in ARTICLE I.J.9.
c. Finish Grading Plan: Prepared by a professional engineer or landscape architect licensed in the State of Maine indicating the final grading of the site, the amount of fill to be imported to or exported from the site and graphic arrows indicating the direction of storm water run off.
d. Site improvement Details: Including sufficient information to enable to creation of an itemized cost estimate for all required on or off site improvements including but not limited to landscaping, exterior light fixtures, walkways, drainage management facilities, roadways, utilities, traffic improvements and sewer improvements.
e. Building Elevations: Scale plans of exterior building surfaces including materials, doorways and advertising features.
f. Additional Information: Additional information as deemed necessary to review the proposal's conformance with the site plan review criteria and technical standards. Additional information may address items such as, but not limited to, traffic, wetlands, high intensity soils, or environmental analyses or the interpretation of the data by Municipal consultants. Additional information shall be financed pursuant to CHAPTER 401, (Consulting Fees).
g. General topography of the site.
h. High intensity soils classifications of the soils located on the site.
i. The size, shape and location of existing and proposed buildings on the site including dimensions of the buildings and setbacks from property lines.

j. The location and layout design of vehicular parking and circulation areas including curb cuts, driveways, parking space and vehicle turn around area dimensions.
k. Proposed finish grades and graphic arrows indicating the direction of storm water runoff
l. Conceptual treatment of on and off site storm water management facilities
m. Existing and proposed sewer and water services including connections.
n. Landscaping buffers, screens and plantings.
o. Location of outdoor storage areas, fences, signs, advertising features and solid waste receptacles.
p. Streets, sidewalks, intersections, storm water drainage ways, sanitary sewer lines and pump stations, nearby properties and buildings, zone districts and geographic features such as, but not limited to, wetlands, natural features, historic sites, flood plains, significant scenic areas and significant wildlife habitats as provided in the Comprehensive Plan.
q. Plans for all proposed exterior lighting including the location, type of light, radius of light, manufacturer's specifications sheet and the ground level intensity in foot-candles.

4. Waiver of Required Information: The Planning Board or Director of Planning and Development may waive the submittal of required application material for major or minor developments respectively upon finding that the specific information is unnecessary in order to review the application's conformance with this ARTICLE.

H. REVIEW CRITERIA

The Planning Board shall approve a site plan application whenever it finds that:

1. Conformance with Comprehensive Plan: The proposed development is located and designed in such a way as to be in conformance with the Town's Comprehensive Plan.

2. Traffic: The proposed development will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways, public road or pedestrian walkways existing or proposed. The Planning Board may require mitigation when the proposed development is anticipated to result in a decline in service, below level of service "c", of nearby roadways of intersections. Levels of service are defined by the 1985 Highway Capacity manual published by the Highway Research Board.

3. Parking and Vehicle Circulation: The proposed plan provides for adequate parking and vehicle circulation. The amount of dedicated parking provided on-site or within a reasonable walking distance from the site meets the requirements of ARTICLE II.H of the Zoning Ordinance (Off Street Parking and Loading), the size of the parking spaces, vehicle aisle dimensions and access points are in conformance with the Technical Standards of Section J of this document.

4. Sanitary Sewerage: The proposed development will not cause an unreasonable adverse effect to the Municipal sewerage treatment facilities and will not aggravate and existing unhealthy situation such as the bypassing of untreated sewerage into Casco Bay, the Royal River, or its tributaries. If a subsurface wastewater disposal system is to be used, the system conforms to the requirements of the State Plumbing Code.

5. Water: The proposed development will not cause the depletion of local water resources or be inconsistent with the service plan of the Yarmouth Water District.

6. Fire Safety: The proposed development is located and designed in such a way as to provide adequate access and response time for emergency vehicles or mitigates inadequate access or response time by providing adequate fire safety features such as but not limited to fire lanes, smoke and fire alarms and sprinkler systems, as part of the proposed development.

7. Buffering: The proposal provides for adequate on-site buffering in the vicinity of property boundaries, when required by this subsection. On-site buffering is required wherever commercial, industrial or mixed use developments are proposed adjacent to or across a street from residential districts or agricultural uses, where multi-family buildings are to be located adjacent to single family uses or districts. Buffer areas shall consist of an area ranging from a minimum of five feet to a maximum of twenty-five feet in width, adjacent to the property boundary, in which no paving, parking or structures may be located. The Planning Board may allow a buffer area of less width when site conditions, such a natural features, vegetation, topography, or site improvements, such as additional landscaping, berming, fencing or low walls, make a lesser area adequate to achieve the purposes of this Section. Landscaping and screening, such as plantings, fences or hedges, are to be located in buffer areas to minimize the adverse impacts on neighboring properties from parking and vehicle circulation areas, outdoor storage areas, exterior lighting and buildings.

8. Natural Areas: The proposal does not cause significant adverse impacts to natural resources or areas such as wetlands, significant geographic features, significant wildlife and marine habitats and natural fisheries. The proposal is consistent with the recommendations of the Maine Department of Inland Fisheries and Wildlife as found in the document titled “The Identification and Management of Significant Fish and Wildlife Resources in Southern Coastal Maine,” February 1988.

9. Lighting: The proposal shall provide exterior lighting sufficient for the safety and welfare of the general public while not creating an unsafe situation or nuisance to neighboring properties or motorists traveling nearby roadways.

10. Storm Water Management: The plan provides for adequate storm water management facilities so that the post development runoff rate will be no greater

than the predevelopment rate or that there is no adverse downstream impact. Proposed storm water detention facilities shall provide for the control of two year and twenty-five year storm frequency rates. The design, construction and maintenance of private facilities are in conformance with Chapter 330 Post Construction Stormwater Management.

11. Erosion and Sedimentation Control: The proposed development includes adequate measures to control erosion and sedimentation and will not contribute to the degradation of nearby streams, watercourses or coastal lowlands by virtue of soil erosion or sedimentation. The erosion control measures are to be in conformance with Appendix D of Chapter 601 of the Town's Code.

12. Buildings: The bulk, location and height of proposed buildings or structures will not cause health or safety problems to existing uses in the neighborhood, including without limitation those resulting from any substantial reduction to light and air or any significant wind impact. To preserve the scale, character, and economy of the Town in accordance with the Comprehensive Plan no Individual Retail use with a Footprint greater than 55,000 square feet shall be permitted. Structures defined as Shopping Centers shall be limited to a Footprint of 75,000 square feet. When necessary to accommodate larger projects, several Individual Retail Structures with Footprints of not more than 55,000 square feet each may be placed on the same lot, provided that all other standards are met. No less than 40 feet shall be allowed as separation distance between buildings. Efforts to save and plant native trees between and among structures shall be encouraged.

13. Existing Landscaping: The site plan minimizes to the extent feasible any disturbance or destruction of significant existing vegetation, including mature trees over four (4) inches in diameter and significant vegetation buffers.

14. Infrastructure: The proposed development is designed so as to be consistent with off premises infrastructure, such as but not limited to sanitary and storm sewers, waste water treatment facilities, roadways, sidewalks, trail systems and street lights, existing or planned by the Town.

15. Advertising Features: The size, location, design, color, texture, material and lighting of all permanent signs and outdoor lighting fixtures are provided with a common design theme and will not detract from the design of proposed buildings or neighboring properties.

16. Design Relationship to Site and Surrounding Properties: The proposed development provides a reasonably unified response to the design constraints of the site and is sensitive to nearby developments by virtue of the location, size, design, and landscaping of buildings, driveways, parking areas, storm water management facilities, utilities storage areas and advertising features.

17. Scenic Vistas and Areas: The proposed development will not result in the loss of scenic vistas or visual connection to scenic areas as identified in the Town's Comprehensive Plan.

18. Utilities: Utilities such as electric, telephone and cable TV services to proposed buildings are located underground except when extraordinary circumstances warrant overhead service. Propane or natural gas tanks are located in safe and accessible areas, which are properly screened.

19. Technical Standards: The proposed development meets the requirements of ARTICLE I.J (Technical Standards) of this Ordinance, except as waived by the Planning Board.

20. Route One Corridor Design Guidelines: Notwithstanding the technical standards of this ordinance and the requirements of Article II, General provisions of the Zoning Ordinance, development and redevelopment within the "C", Commercial and "C-III", Commercial II districts shall be consistent with the Route One Corridor Design Guidelines, as approved August 19, 1999.

21. The applicant has sufficient right, title or interest in the site of the proposed use to be able to carry out the proposed use.

22. The applicant has the technical and financial ability to meet the standards of this Section and to comply with any conditions imposed by the Board pursuant to ARTICLE I.I

23. Special exception standards

    a. The proposed use will not create unsanitary or unhealthful conditions by reason of emissions to the air, or other aspects of its design or operation.
    b. The proposed use will not create public safety problems which would be substantially different from those created by existing uses in the neighborhood or require a substantially greater degree of municipal police protection than existing uses in the neighborhood.
    c. The proposed use will be compatible with existing uses in the neighborhood, with respect to visual impact, intensity of use, proximity to other structures and density of development.
    d. If located in a Resource Protection District or Shoreland Overlay Zone, the proposed use (1) will conserve visual points or access to water as viewed from public facilities; (2) will conserve natural beauty; and (3) will comply with performance standards of Article II of Chapter 701, Zoning Ordinance.

I. CONDITIONAL APPROVALS

The Director of Planning and Development or Planning Board may impose any condition upon approval of any site plan for the following reasons:

1. to minimize or abate, to the extent feasible, any adverse impact of the proposed development on the value or utility of other private property, or on public property or facilities; or

2. to bring the development into compliance with the requirements of Section I.H (Review Criteria) and Section I.J (Technical Standards); or

3. to mitigate any other adverse effects of the proposed development.

4. Such conditions may include, but are not limited to the employment of specific engineering, construction or design technologies, modes of operation, or traffic patterns and may also include the construction of on or off site improvements including, without limitation, street, intersection improvements, sidewalks, sewers, and drainage courses. All such conditions shall be consistent with the purposes set forth in ARTICLE I, Section A, H, J, and K of this ordinance.

5. Additional conditions for special exception uses may include, but are not limited to: increase setbacks and yards, specified sewage disposal and water supply facilities, landscaping, and planting screens, type of vegetation, hours of operation, operational controls, professional inspection and maintenance, sureties, types of construction, and location of piers, docks, parking and signs.

J. TECHNICAL STANDARDS

The Following performance standards shall apply to all site plans, provided, however, where the Planning Board finds that, due to special circumstances of a particular plan, the provision of certain required performance standards which are not requisite in the interest of public health, safety, and general welfare, the Planning Board may waive such requirements, subject to appropriate conditions.

1. Parking Spaces: All parking spaces are to be 9x18 feet.

2. Aisle Width: The width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirements set forth below. Only one-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than ninety degrees.

Parking Angle (degrees)	Aisle Width (feet)
0 (parallel parking)	12’
30	12’
45	13’
60	18’
90 (perpendicular parking)	25’

3. Driveway Standards:

a. Sight Distance: Any exit driveway or access road shall be so designed in profile and grading and so located as to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the existing driveway with the front of the vehicle a minimum of ten (10) feet behind the curb line or edge or shoulder with the height of the eye three and seventy five hundredths (3.75) feet to the top of an object four and five-tenths (4.5) feet above the pavement.

Allowable Speed (Miles per hour)	Minimum Required Sight (distance)
25	160
40	275
45	325
50	350
55	425

b. Distance from Intersections: Where a site occupies a corner of two (2) or more intersecting roads, no driveway entrance or exit shall be located within fifty (50) feet of the point of tangency of the existing or proposed curb radius of that site.
c. Shared Driveways: No part of any driveway shall be located within a minimum of ten (10) feet of a side property line. However the Planning board may permit a driveway serving two (2) or more adjacent sites to be located on or within ten (1) feet of a side property line between the adjacent sites.
d. Distance between Driveways: Where two (2) or more two-way driveways connect a single site to any one (1) road, a minimum clear distance of one hundred (100) feed measured along the right-of-way line shall separate the closest edges of any two (2) such driveways. If one (1) driveway is two way and one (1) is a one-way driveway, the minimum distance shall be seventy-five (75) feet.
e. Driveway Angles:

   i. Two-way operation – driveways used for two way operation shall intersect the road at an angle of as near ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees.

   ii. One-way operation – Driveways used by vehicles in one (1) direction of travel (right turn only) shall not form an angle smaller than forty five (45) degrees with a road unless acceleration and deceleration lanes are provided.

   f. Driveway Dimensions: The dimensions of driveways shall be designed to accommodate adequately the volume and character of vehicles anticipated to be attracted daily onto the land development for which a site plan is prepared. The required maximum and minimum dimensions for

driveways are indicated below. Driveways serving large volumes of daily traffic or traffic of over fifteen (15) percent, truck traffic shall be required to utilize high-to-maximum dimensions.

	One-way Operation Driveway Width (feet)	Two-Way Operation Driveway Width (feet)
3 to 10 dwelling units	10-15	15-25
10 or over dwelling units	15-25	20-35
Commercial & industrial	15-30	25-35

g. Driveway Surfacing: Any driveway shall be constructed with the surface approved by the Planning Board in accordance with the specifications of the Municipal Engineer. Such surface shall extend to the paved portion of the road and shall extend throughout the area defined by the required driveway dimensions specified above.
h. Driveway Profile: Any vertical curve on a driveway shall be flat enough to prevent the dragging of any vehicle undercarriage. Should the sidewalk be so close to the curb at a depressed curb driveway as to cause the ramp to be too steep and be likely to cause undercarriage drag, the sidewalk shall be appropriately lowered to provide a suitable ramp gradient.
i. Driveway Grades: Driveways shall not have a grade in excess of ten (10) percent over the entire length. On arterials, the grade shall not be more than five (5) percent for the first twenty-five (25) feet from the road unless otherwise approved by the Planning Board.
j. Acceleration Lanes: Where a driveway serves right-turning traffic from a parking area providing two hundred (200) or more parking spaces and the road has an A.D.T. volume exceeding seven thousand five hundred (7,500) vehicles, an acceleration lane shall be provided which is at least two hundred (200) feet long and at least ten (10) feet wide measured form the road curb line. A minimum thirty-five (35) feet curb return radius shall be used from the driveway to the acceleration lane.
k. Deceleration Lanes: Where the same conditions exist as in the previous paragraph and a driveway serves as an entrance to a land development, a deceleration lane shall be provided for traffic turning right into the driveway from the road. The deceleration lane shall be at least two hundred (200) feel long and at least ten (10) feet wide measured form the road curb line. A minimum thirty-five (35) foot curb return radius shall be used form the deceleration lane into the driveway.

4. Exterior Lighting:

a. Style: The style of the light and light standard shall be consistent with the architectural style of the principal building.

b. Maximum Height: The maximum height of freestanding lights shall be the same as the principal building but not exceeding twenty-five (25) feet.
c. Lights at Property Boundaries: Where lights along property lines will be visible to adjacent residents, the lights shall be appropriately shielded.
d. Lighting of Parking Areas: The Planning Board shall determine the necessity for lighting depending upon the nature of the intended use. All parking areas to be lighted shall provide a minimum of three (3) foot-candles at intersections and a total average illumination of one and one-half (1-1/2) foot-candles throughout the parking areas as required. Such lighting shall be shielded in such a manner as not to create a hazard or nuisance to the adjoining properties or the traveling public.
e. Required Light Levels:

(1) Parking lots: an average of one and five-tenths (1.5) foot-candles throughout.
(2) Intersections: three (3) foot-candles.
(3) Maximum at property lines: One (1.0) foot-candle.
(4) In residential areas: average o f six-tenths (0.6) foot-candle.

f. String Lights: Display lighting shall be shielded and shall be located and maintained as not to constitute a hazard or nuisance to the traveling public or to neighbors. String lights are allowed in rear yards, and are allowed in café seating patios or sidewalk café applications in predominantly horizontal plane configuration comprising repeated standard base hanging luminaires with design of such café lighting to be limited to soft character lighting with minimal glare and no use of colored lights, subject to approval by the Planning Board.

5. Buffers: Buffers are used in conjunction with dedicated spaces to minimize the visual impact of adverse characteristic such as, but not limited to, storage areas, parking spaces, driveways, and loading area of the site from neighboring properties. Buffers shall include up to fifty (50) feet of existing vegetation or the installation of fences, new landscape materials, berms and mounds to achieve filtered or impenetrable views from abutting properties.

6. Sanitary Sewage: All site plan applications, which propose to utilize the Municipal sewer system, shall include sufficient design details to ensure conformance of the proposal with CHAPTER 304 (Sewerage Ordinance) of the Municipal Code.

7. Water System: All site plan applications, which propose to be served by the Yarmouth Water District or its designee, shall receive the approval for conformance with the technical standards of the district.

8. Fire Safety: All site plan applications shall meet the requirements of CHAPTER 317 (Sprinkler Ordinance) of the Yarmouth Municipal Code.

9. Storm Water Management Facilities: Proposed storm water management facilities are to be reviewed by the Town Engineer or their designee for conformance with accepted engineering design and Chapter 601 Technical Appendix D Erosion and Sedimentation Control.

10. 100-999 cubic yards. Excavation and removal of lands and filling of lands in excess of 100 cubic yards and less than 1000 cubic yards shall be reviewed in accordance with the following criteria:

    a. Filling, grading, lagooning, dredging, earth- moving activities, and other site alterations shall be conducted as to prevent to the maximum extent possible, soil erosion and sedimentation of surface waters. The Erosion and Sedimentation Control portion of the Stormwater Facilities Standard in ARTICLE I.J.9 shall apply even if only filling is conducted.
    b. This Section shall not prohibit normal excavation for construction of a building for which a building permit has been issued or construction normally related to road projects.

11. More than 1000 cubic yards. Excavation and removal of lands and filling of lands equaling 1000 cubic yards or more shall be reviewed in accordance with the following criteria:

    a. Specific plans are established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon the completion of operations, it shall not be at a slope steeper than one (1) foot vertical to two (2) feet horizontal.
    b. The operation is shielded from surrounding property with adequate screening and creates no disturbance of a water source.
    c. No excavation shall be extended below the grade of adjacent streets unless 100 feet from the street line or unless provision has been made for reconstruction of the street at a different level.
    d. Sufficient top soil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions.
    e. A surety bond, one payable to the Town of Yarmouth and issued by a commercial surety company authorized to do business within the State of Maine, is posted by the owner with the Treasurer of Yarmouth by the applicant in an amount recommended by the Town Manager or his/her agent and approved by the Planning board as sufficient to guarantee conformity with the provisions of the grant of approval.
    f. The erosion and Sedimentation Control portion of the Stormwater Facilities Standard in ARTICLE I.J.9 shall apply even if only filling is conducted.

12. Any Site Plan review shall include the following criteria to insure the protection of public health, safety and general welfare:

    a) fencing, landscaped buffer strips;

b) advertising signs, lighting;
c) parking spaces, loading and unloading areas;
d) entrances and exits;
e) time period for operation;
f) hours of operation;
g) methods of operation;
h) weight and loading limit of trucks;
i) potential sand and gravel spillage upon public streets;
j) rehabilitation proposals,
k) street trees of 2 ½ (two and one half) to 3 (three) inch caliper every 50' of street frontage,
l) sidewalks on at least one side of the street
m) bike racks

13. Accessory Dwelling Unit: any request shall include a plot/site plan showing the following:
    a. Lot boundaries and dimensions at scale.
    b. Zoning district.
    c. Date of plan.
    d. Property owner with deed reference.
    e. Lot area.
    f. Location and setback of all buildings.
    g. Date of construction of single-family dwelling.
    h. Separate floor layout of all finished levels.
    i. All plumbing facilities, kind and location.
    j. Use of all rooms.
    k. All entrances/exits.
    l. All partitions, temporary or permanent.
    m. Location and type of all appliances.
    n. Rights of way, public and private
    o. All easements
    p. Street names
    q. Sewerage facilities
    r. Off-street parking spaces

Purpose:
The purpose of this section is to promote the public health, safety and general welfare of the community by providing diverse housing choices and to help increase the supply of housing without new land acquisition costs.

In permitting an ADU, the Planning Director and/or CEO shall find that:

a. Exterior design of the ADU is compatible with the existing residence on the lot through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.

b. The exterior design is in harmony with, and maintains the scale of the neighborhood.
c. The accessory unit does not result in excessive noise, traffic or parking congestion.
d. The primary residence and the ADU shall connect to public water and public sewer in compliance with all applicable Town of Yarmouth and Yarmouth Water District requirements and ordinances as well as the Maine Subsurface Wastewater Disposal rules. If the primary residence and the ADU cannot connect to public water and/or public sewer, the applicant shall demonstrate by competent third-party evidence that the supply of potable water and/or septic capacity is sufficient for the primary residence and ADU. Approval of an ADU shall be conditional on any required improvements.
e. Major access stairs, deck entry doors, and major windows will generally be limited to the walls facing the primary residence. Windows that impact the privacy of the neighboring side or rear yard shall be minimized. The design of the accessory unit shall relate to the design of the primary residence and shall not visually dominate it or the surrounding properties.
f. The orientation and location of the buildings, structures, open spaces and other features of the site plan are such that they maintain natural resources including heritage or significant trees and shrubs to the extent feasible and minimize alteration of natural land forms.
g. Building profiles, location and orientation relate to natural land forms.
h. A single-family dwelling exists on the lot or will be constructed in conjunction with the ADU. Only one ADU is permitted per lot.
i. Before obtaining a building permit for an ADU the property owner shall file with the registry of deeds a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:
    a. The accessory unit shall not be sold separately.
    b. The unit is restricted to the approved size.
    c. The above declarations are binding upon any successor in ownership of the property;
    d. The deed restrictions shall lapse upon removal of the accessory unit.
j. ADUs shall be at least the minimum size adopted by the Technical Building Code and Standards Board pursuant to 10 M.R.S. §9722 and shall not exceed 900 square feet. If an ADU occupies a portion of an existing Structure either on a single floor or on multiple floors, or an existing detached Structure will be converted to an ADU, the Planning Department may allow for an increase in the allowed size of the ADU up to 1,215 square feet in order to efficiently use all of the floor area, so long as all other standards of this section are met.
k. Approval of an ADU shall be conditional on obtaining applicable building, plumbing, electrical and any other necessary municipal permits.
l. The Fire Chief must review and sign off on the application.
m. Unless part of the design of an existing single family dwelling the dwelling(s) shall have only one (1) front entrance and all other entrances shall be on the

side or in the rear of the dwelling. A front entrance leading to a foyer with entrances leading from the foyer to the two (2) dwelling units is permitted. Outside stairways (either open or enclosed), that service an ADU on upper stories are not permitted.

n. For an ADU located within an existing garage or other outbuilding, the structure is not required to approximate the exterior features of the existing single family dwelling, but any exterior modifications should be consistent with the architectural style of that structure unless the building is upgraded per the requirement of new structures or unless the new structure is designed in a traditional New England form such as a barn.
o. An existing single-family dwelling that is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height or setback requirements may be expanded to incorporate an ADU subject to the requirements of Chapter 701 of the Yarmouth Code Article III for the expansion of other non-conforming single family dwellings.
p. ADUs may be permitted on back lots.
q. ADUs are not permitted on a lot with a non-conforming use, unless that non-conforming use is a single-family dwelling, in which case the ADU shall be allowed.
r. ADUs are not permitted on a lot with mixed uses.
s. When an owner wishes to eliminate the ADU, proof of the removal of the second kitchen and the restoration of the apartment to its status before the conversion shall be submitted to the satisfaction of the Planning Department. The owner shall record a Release of the Declaration of Restrictions on the Land after inspection and confirmation by the Code Enforcement Officer.
t. ADUs are not permitted on lots where the number of dwelling units allowed on a lot has been increased under Chapter 701, Article II.EE, after January 1, 2024.
u. ADUs must comply with all of the standards of Chapter 701, Article IV.R.

K. REVISIONS TO APPROVED SITE PLANS

The site shall be developed and maintained as depicted in the site plan and the written submissions of the applicant. Modification of any approved site plan shall require the prior approval of a revised site plan by the Planning Board or the Director of Planning and Development pursuant to the terms of this ARTICLE. Any such parcel lawfully altered prior to June 7, 1990 shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including but not limited to topography, vegetation and impervious surfaces shown on the site plan. No action, other than an amendment approved by the Director of Planning and Development for minor site plan or Planning Board for major site plan, and field changes approved by the Town Engineer as provided herein, by any authority or department shall authorize any such modification or alteration. Field changes by the Town Engineer are limited to minor variations necessary to deal with unforeseen difficulties that arise during the course of construction involving such technical detail as utility location and

substitution of equivalent plantings and shall not include any substantial alteration of the approved plan or change any condition imposed by the Director of Planning and Development or Planning Board.

L. EXPIRATIONS

1. Applications: A site plan application must be diligently pursued from the date of submission. The Director of Planning and Development or Planning board shall notify the applicant in writing whether the application is complete. If an application is not complete, the written notice shall set forth those items, which have not yet been submitted, and that the applicant will have one hundred twenty (120) days to complete its application. If the applicant fails to submit any item specified within one hundred twenty (120) days of the date of said notice from the Director of Planning and Development or Planning Board, the application shall be deemed null and void. Nothing in this Section shall prevent the Planning Board or Director of Planning and Development from requiring additional information as otherwise permitted or required by the terms of this ARTICLE.

2. Approvals: Site Plan approvals are valid for one year and may be extended for one additional year by the Director of Planning and Development for minor site plans or by the Planning Board for major site plans. Building permits must be received and performance guarantees must be approved prior to the expiration date of the approval.

M. POST-APPROVAL SUBMISSIONS

Following site plan approval and prior to issuance of any building permit, developer shall submit copies of the contract plans and specifications, in reproducible form, showing the design of all infrastructure improvements, including without limitation all streets, sewers, drainage structures, and landscaping, for the review and approval of the Town Engineer for compliance with the Town's construction standards. Thereafter, all departures from such plans shall be approved by the Town Engineer as field changes pursuant to subsection I.J. above. Nothing herein shall diminish the obligation of the developer to supply plans or specifications as provided in this ARTICLE.

N. ENFORCEMENT

1. All construction or alterations to the site performed under the authorization of building permits or certificates of occupancy issued for development within the scope of this ordinance shall be in conformance with the approved final site plan or an amendment thereto under Section I.K.

2. When the Director of Planning and Development or his/her duly authorized agent finds a violation of this Ordinance, the Director of Planning and Development or his/her duly authorized agent shall notify the Town manager in writing who shall have the authority to initiate any and all actions, legal or equitable, to be brought in

the name of the Town. Any construction or site work not in conformity with an approved site plan shall constitute a violation of this ordinance.

3. The Director of Planning and Development or his/her duly authorized agent or the Town Engineer shall have the authority to issue a stop work order upon a finding by either of them that work has been commenced or completed prior to receipt of all approvals required by this Ordinance or contrary to the terms of an approved site plan. Work shall recommence only after such order has been lifted.

4. Any person, firm or corporation being the owner of or responsible for the control or use of any building or premises who violates any provision of this Ordinance, commits a civil violation and shall be fined no less than $100 and not more the $2500, provided that the maximum penalty shall exceed $2500 but not $25,000 if there has been a previous determination, by a court of competent jurisdiction, that the same party violated this Ordinance within the previous two years. Each day such a violation continues to exist after notification thereof shall constitute a separate offense. All fines collected hereunder shall inure to the Town of Yarmouth.

O. SITE PLAN PERFORMANCE GUARANTEE AND INSPECTION FEE

The developer shall pay a site plan inspection fee, which fee shall consist of the actual costs, including administrative cost, for inspection by the Town Engineer or his/her designee all required site plan improvements, which improvements include but are not limited to building setbacks, sanitary sewers, storm drains, drainage and erosion control, catch basins, manholes, other improvements constructed chiefly below grade, curbing, paving, sidewalks, lighting, and landscaping. Following site plan approval and prior to the issuance of a building permit, the developer shall post with the Town a performance guarantee in the form and amount approved by the Town Manager specifying the completion of the improvements within two (2) years from the date of such guarantee. The developer shall provide a one year defect bond upon completion of all public improvements. The amount of the defect bond shall be ten percent (10%) of the amount of those public improvements approved as part of the site plan. At the same time that the developer posts a performance guarantee, the developer also shall pay to the Town Engineer the site plan inspection fee equal to two percent (2%) of the estimated cost of required site plan improvements, not including principal structures.