CHAPTER 701

ZONING ORDINANCE

Town of Yarmouth, Maine

Recodified: 1/15/98
Amended: 2/16/98
Amended: 7/17/98
Amended: 10/15/98
Amended: 11/19/98
Amended: 8/19/99
Amended: 7/20/2000
Amended: 10/19/2000
Amended: 6/14/01
Amended: 7/23/02
Amended: 11/20/03
Amended: 3/04/04
Amended: 6/6/05
Amended 9/15/05
Amended: 1/23/06
Amended: 6/15/2006
Amended: 7/25/2006
Amended: 9/21/06
Amended: 2/15/2007
Amended: 4/19/07
Amended: 10/18/07
Amended: 11/15/07
Amended: 2/14/08
Amended: 7/15/08
Amended: 8/25/08
Amended: 9/18/08
Amended: 12/18/08
Amended: 1/15/09
Amended: 2/19/09
Amended: 3/19/09
Amended: 7/20/09
Amended: 8/20/09
Amended: 9/17/09
Amended: 10/1/09
Amended: 3/4/10
Amended: 7/10/10
Amended: 8/23/10
Amended: 3/24/11
Amended: 4/21/11
Amended: 5/19/11
Amended: 11/17/11
Amended: 1/19/12
Amended: 6/14/12
Amended: 11/15/12
Amended: 12/20/12
Amended: 6/20/13
Amended: 5/15/14
Amended: 6/12/14
Amended: 6/18/15
Amended: 12/17/15
Amended: 01/21/16
Amended: 9/15/16
Amended: 1/19/17
Amended: 6/15/17
Amended: 3/15/18
Amended: 6/14/18
Amended: 7/26/18
Amended: 9/20/18
Amended: 7/25/19
Amended: 8/19/2021
Amended: 2/16/23
Amended: 8/24/23
Amended: 10/19/23
Amended: 2/15/24
Amended: 5/16/24
Amended: 7/25/24
Amended: 10/17/24
Amended: 4/17/25
Amended: 9/18/25
Amended: 10/16/25
Amended: 2/26/26
Amended: 5/21/26

ZONING ORDINANCE

Table of Contents

ARTICLE I 5
A. TITLE 5
B. PURPOSE 5
C. INTENT 5
D. DEFINITIONS 5
ARTICLE II 37
A. EXCAVATION AND REMOVAL OF LANDS AND FILLING OF LANDS 37
B. RUINS 37
C. SIGNS, GENERAL PROVISIONS 37
D. SIGN STANDARDS VILLAGE II DISTRICT 42
E. SIGNS IN RP AND SOD DISTRICTS 43
F. SIGNS IN THE “C”, COMMERCIAL, “C-III”, COMMERCIAL III AND THE “RPD”, RESOURCE PROTECTION DISTRICTS 44
G. WATER RECREATION AND WATER STORAGE FACILITIES 44
H. OFF-STREET PARKING AND LOADING 44
I. TEMPORARY STRUCTURES 49
J. HOME OCCUPATIONS 49
K. HEIGHT REGULATIONS 50
L. BUFFER AREAS 50
M. OPEN SPACE RESIDENTIAL DEVELOPMENT 50
N. SITE PLAN – REPEALED 6/7/90- NEW ORDINANCE CHAPTER 701 SITE PLAN REVIEW 57
O. ACCESS 57
P. AMENDMENTS AND VARIANCES 57
Q. CAMPGROUNDS 58
R. DOCKS, PIERS, WHARVES, MOORED FLOATS, BREAKWATERS, CAUSEWAYS,MARINAS, BRIDGES OVER 20 FEET IN LENGTH, AND USES PROJECTING INTO WATER BODIES AND SHORELINE STABILIZATION 59
S. MANUFACTURED HOUSING COMMUNITIES, MANUFACTURED HOUSING, AND TINY HOMES 61
T. LOT AREA AVERAGING 64
U. OPEN SPACE REQUIREMENT-repealed 7/25/2006 64
V. DAY CARE STANDARDS 64
W. ADULT BUSINESS ESTABLISHMENTS 65
X. LIGHTING; VILLAGE I AND II DISTRICTS 66
Y. BUFFERS, VILLAGE I & II DISTRICTS 69
Z. WIRELESS COMMUNICATION FACILITIES 71
AA. WELAND BUFFERS AND SETBACK REQUIREMENTS 81
BB. SMALL WIND ENERGY SYSTEMS 83
CC. SIDEWALK CAFÉ 87
DD. AFFORDABLE HOUSING PROGRAMS 88
EE. DWELLING UNIT ALLOWANCES 93
FF. SOLAR ENERGY SYSTEMS 95

ARTICLE III 105
A. NONCONFORMANCE 105
B. NONCONFORMING LOTS OF RECORD 105
C. NONCONFORMING BUILDINGS, STRUCTURES AND SITE IMPROVEMENTS 106
D. NONCONFORMING USES OF LAND 107
E. NONCONFORMING USES OF STRUCTURES 107
F. NONCONFORMING LOTS OF RECORD AND USES OF LAND STRUCTURES IN THE VILLAGE AND VILLAGE II ZONES 108
ARTICLE IV 109
A. ZONING MAP AND DISTRICTS 109
B. COPIES OF ZONING MAP 109
C. DISTRICT BOUNDARIES 109
D. LOTS 109
E. DISTRICT OBJECTIVE AND LAND USE CONTROLS 111
F. "RR"- RURAL RESIDENTIAL 112
G. "LDR" – LOW DENSITY RESIDENTIAL 117
H. "MDR" – MEDIUM DENSITY RESIDENTIAL 118
I. "RPD" – RESOURCE PROTECTION DISTRICT 119
J. "IND" - INDUSTRIAL 123
K. "C"- COMMERCIAL 124
L. COMMERCIAL – II DISTRICT 126
M. COMMERCIAL – III DISTRICT 127
N. RESERVED 130
O. VILLAGE – II DISTRICT 130
P. "WOC I" – WATER ORIENTED COMMERCIAL 132
Q. WOC II – WATER ORIENTED COMMERCIAL II 134
R. "SOD" – SHORELAND OVERLAY DISTRICT 139
S. "MHP" – MOBILE HOME PARK OVERLAY DISTRICT – Repealed 4/17/2025 . 169
T. "GD" – GENERAL DEVELOPMENT DISTRICT 169
U. CHANGES AND AMENDMENTS 172
V. CONDITIONAL OR CONTRACT ZONING 174
W. ~~SETBACK REDUCTION 2/15/07~~ 179
X. VILLAGE III DISTRICT 179
Y. "WOC III" WATER ORIENTED COMMERCIAL III 180
ARTICLE V 181
A. INDUSTRIAL PERFORMANCE STANDARDS - GENERAL 181
ARTICLE VI 182
A. ADMINISTRATION AND ENFORCEMENT 182
ARTICLE VII 184
A. GENERAL BOARD OF APPEALS 184
B. POWERS AND DUTIES 184
C. APPLICATION PROCEDURE 190
ARTICLE VIII 192
A. SEVERABILITY 192
B. CONFLICTS 192

C. CAPTIONS 192
D. NOTES 192
ARTICLE IX 193
A. Area and Buildings Subject to Demolition Delay. 193
B. Buildings Subject to Demolition Prohibition. 193
C. Definitions. 194
D. Objectives. 195
E. Plan for Redevelopment. 195
F. Procedure. 195
G. Public Hearing 196
H. Evaluation of Building. 196
I. Determination of Significance. 196
J. Immediate Demolition. 198
K. Enforcement. 198
L. Effective Date. 198
M. Appeals. 198
ARTICLE X, HISTORIC PRESERVATION ADVISORY ORDINANCE 201
1. GENERAL PROVISIONS 201
2. YARMOUTH HISTORIC PRESERVATION COMMITTEE 202
3. DESIGNATION OF HISTORIC DISTRICTS, HISTORIC LANDSCAPE DISTRICTS, HISTORIC SITES, HISTORIC OBJECTS, AND LOCAL HISTORIC LANDMARKS 204
4. ACTIVITIES SUBJECT TO HISTORIC PRESERVATION REVIEW 205
5. ACTIVITIES NOT SUBJECT TO HISTORIC PRESERVATION REVIEW 206
6. APPLICATION PROCEDURES 207
7. ADMINISTRATIVE PROCEDURES 208
8. STANDARDS OF EVALUATION 209
9. IDENTIFICATION OF INITIAL LOCAL HISTORIC LANDMARKS, HISTORIC DISTRICTS, HISTORIC LANDSCAPE DISTRICTS, HISTORIC SITES, AND HISTORIC OBJECTS 210
10. Appendices 212
APPENDIX A 232
APPENDIX B 234
APPENDIX C 235

ZONING ORDINANCE
TITLE, PURPOSE, INTENT AND DEFINITIONS

ARTICLE I

A. TITLE
This Ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Yarmouth, Maine".

B. PURPOSE
The purpose of this Ordinance is to promote the health, safety and general welfare; to encourage the most appropriate use of land throughout the Town; to promote traffic safety; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to conserve natural resources, and to provide for adequate public services.

C. INTENT
It is the intent of this Ordinance that any use not specifically allowed as either a permitted or special exception use is specifically prohibited. As new uses occur over time, or existing uses are found to be omitted, the only procedure allowing such uses is by action of the Town Council in accordance with ARTICLE IV.U

D. DEFINITIONS
The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "Building" includes the word "Structure", and the word "Dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel

In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control. (Note: To assist in ease of reference, an effort has been made throughout this Ordinance to capitalize defined terms. However, any failure to do so in a particular instance shall not change the meaning of such term as defined in this Ordinance.)

Terms not defined shall have the customary dictionary meaning. Other terms shall be defined as follows:

Accessory Dwelling Unit: A self-contained dwelling unit within or attached to a single-family dwelling or detached from the single-family dwelling located on the same parcel of land. An Accessory Dwelling Unit approved under the Site Plan Review Ordinance shall not be considered a separate unit for the purposes of applying the area and density requirements of this Ordinance. An Accessory Dwelling Unit approved under the Site Plan Review Ordinance does not require review under this Ordinance or under 30-A M.R.S.A., Chapter 187, subchapter 4, the municipal reviewing authority having determined that review under the Site Plan Review Ordinance is at least as stringent as that required under subchapter 4.

Accessory Structure or Use: A use or Structure which is incidental and subordinate to the principal use or Structure. Accessory Uses, when aggregated, shall not subordinate the principal use of the Lot. A deck or similar extension of the principal Structure or a garage attached to the principal Structure by a roof or a common wall is considered part of the principal Structure. Electric Vehicle Charging is considered an accessory use so long as it is not an Electric Vehicle Charging Facility.

Acre: For purposes of this Ordinance an Acre shall be considered to be 43,560 square feet.

Addition: An enclosed space added to an existing dwelling unit which will be habitable living space. The Addition must have a roof and walls. Specifically excluded are decks and porches. The living space above a garage is considered an Addition.

Adult Business: means any business in any use category, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials or devices of any kind which appeal primarily to prurient interests and which depict or describe specified sexual activities.

Affordable: The percentage of income a household is charged in rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from rent or the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner’s insurance, condominium fees, and homeowners’ association fees does not exceed 30% of a household’s gross monthly income. This is not an exhaustive list of housing costs.

Affordable Homeownership Unit: A homeownership unit for which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford without spending more than 30% of the household's monthly income on housing costs.

Affordable Housing Development: A development where 51% or more of the total proposed and existing dwelling units on the same lot or within a common scheme of development are designated affordable to a household whose income does not exceed certain thresholds based on the tenure of the household.

Affordable Rental Unit: A rental unit for which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford without spending more than 30% of the household's monthly income on housing costs.

Agricultural Products: Raw unprocessed crops, and/or distilled beverage, but shall not include marijuana related products.

Agriculture: The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

Alteration: Structural change, rearrangement, changes of location or addition to a Building, other than repairs and modification in Building equipment.

Alternative Tower Structure (ATS): Clock towers, bell steeples, light poles, water towers, electrical transmission line towers, smokestacks, and similar mounting structures that camouflage, conceal or support the presence of antennas or towers.

Animal Husbandry: Permits dairying, raising of livestock, breeding or keeping of animals, fowl or birds as a business or gainful occupation.

Animal, Farm for Personal Use: The keeping of bovines, horses, birds, goats, sheep, pigs and other related animals for personal pleasure and/or consumption.

Antenna/Antenna Array: A system of one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency (RF) signals through electromagnetic energy. These include, but are not limited to, omni-directional antennas (whip or rod), directional antennas (panel) and parabolic antennas (dish or disc).

Antenna Support Structure: Any pole, telescoping mast, tower tripod, or any other structure which attaches to a tower and supports one or more antenna(s).

Bank: A financial institution which includes Savings and Loans Institutions, Credit Unions, Commercial Bank and Savings Banks.

Banner: Any sign of lightweight fabric or other material that is permanently mounted to a pole or a Building by permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Basal Area: the area of cross-section of a tree stem at 4 1/2' feet above ground level and inclusive of bark.

Basal Area (Residual): the sum of the Basal Area of trees remaining on a harvested site.

Basement: Any portion of a Structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Bathroom: An area containing a water closet, lavatory, and a shower or bathtub.

Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

Bin: A compartment, box frame or enclosed place, used as a repository for coal or other commodities

Breeze way: Any structure having a roof and at least one side without a wall, connecting two adjacent structures.

Building: Any structure enclosed by exterior walls. When a structure is divided into separate parts by unpierced walls extending from the ground up, each part is deemed a separate building. A garage or other Structure connected to another Building by a breeze way only, shall be deemed a separate Building.

Building Area: Total of areas taken on a horizontal plane at the main finished grade level of the principal Building and all Accessory Buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.

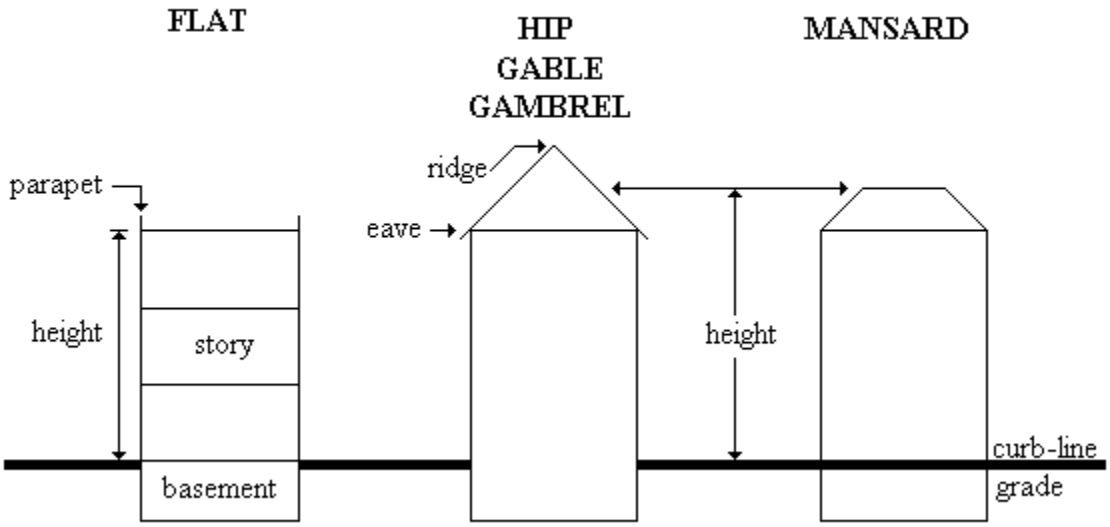
Building Face: The exterior wall of a Building exposed to public view where the main entrance is located.

Building Face, area: The area of the face measured by the length time the height.

Building Face, height: The Vertical distance to the highest point of the roof for flat roofs: to the deck line of mansard roofs; and to the average height between eaves and the roof ridge for gable, hip and gambrel roofs, measured from average grade.

Building Front Line: Line parallel to the front lot line transecting that point in the Building face which is closest to the front lot line. This face includes porches whether enclosed or unenclosed, but does not include steps.

Building Height: Vertical distance measured from the average elevation of the proposed finished grade at the front of the Building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs. This definition does not apply in the SOD.



Building Story: A Building story is an enclosed habitable floor area within a building separated by more than six feet (vertical distance) from another enclosed habitable floor area.

Bulk Fuel Storage: The storage of oil, gas and other fuels in tanks or bins, which may be filled and emptied by delivery vehicles or other means.

Canopy: A material, including but not limited to, cloth, wood, masonry, metal, plastic, canvas, etc., fastened or held horizontally above a person or an object for covering, protection, or ornamentation.

Cantilevered Pier: Any structure which is pinned to ledge or other upland feature and projects out over water or intertidal zones without direct contact to such.

Clinic: An office Building used by members of the medical professions for the diagnosis and outpatient treatment of human ailments.

Club, Private: Building or use catering exclusively to club members and their guests for recreational purposes, and not operated primarily for profit.

Coastal Wetland: See "**Wetland, Coastal**".

Coin Operated Amusement Devices: One or more pinball machines, video games or other similar devices including those operated electronically or by remote control.

Commercial Greenhouses: Commercial establishment where plants, vegetables, trees and other vegetation are grown in enclosed structures for sale on or off site. No more than twenty percent (20%) of on-site gross sales shall be other than fruits, vegetables, plants, seeds, trees and including soil, fertilizer for retail use.

Conditional Zoning: The process by which the Town Council may rezone property to permit the use of that property subject to conditions not generally applicable to other properties similarly zoned.

Contract Zoning: The process by which the property owner, in consideration of the rezoning of his/her property, agrees to the imposition of certain conditions or restrictions not generally imposed on other similarly zoned properties.

Coverage: That percentage of the lot area covered by all Structures, Buildings, Driveways, parking lots and other non-vegetated surfaces.

Craft Shop: Shop or studio of an artist, potter, sculptor, silversmith, wood carver or similar craftsman, provided that in the Village District all work and storage shall be conducted within a Building.

Day Care: There are three types of Day Care.

Family Day Care Home - A facility located in a single family detached residence which receives not more than 8 children including the family's natural or adopted children under first grade. It is considered an Accessory Use to single family dwellings for the purposes of this Ordinance.

Group Day Care Home - A facility located in an owner occupied single family detached residence which receives not more than 12 children including the family's natural or adopted children under 6 during the day.

Day Care Center Facilities - Facilities providing care for children under 18 years of age on a regular or nonrecurring basis which do not fall within the two above definitions.

Development: A change in land use involving alteration of the land, water or Vegetation, or the addition or Alteration of Structures or other construction not naturally occurring.

Direct Illumination: Illumination from an outdoor lighting fixture that is able to strike a person directly before being reflected off another surface, including, but not limited to, a Building facade, a street, sidewalk, or the ground.

District: A section or sections of the Town of Yarmouth for which regulations governing the use of Buildings and premises, the size of yards, and intensity of use are uniform.

Dock: Any structure, whether permanent or temporary which acts as a landing place for water craft. This includes any combination or individual placement of piers, ramps or floats.

Driveway: A vehicular access-way less than five hundred (500) feet in length serving two single family dwellings or one two-family dwelling, or less.

Dwelling Unit: One or more habitable rooms arranged for the use of one or more individuals living together as a family, with a Kitchen, Bathroom, and sleeping facilities including a motel, hotel, boardinghouse, Inn, Bed and Breakfast, or similar structure. Outside of the SOD the definition shall not include a motel, hotel, boarding house, Inn, Bed and Breakfast, or similar commercial use.

Dwelling, Attached: A dwelling with two or more party walls, or one party wall in the case of a dwelling at the end of a group of attached dwellings.

Dwelling, Detached: A dwelling which is designed to be and is substantially separate from any other Building or Buildings except Accessory Buildings.

Dwelling, Single Family Detached: A Building designed and/or used exclusively for residential purposes for one (1) family only and containing not more than one (1) dwelling unit.

Dwelling, Two Family Detached: A detached Building used for residential occupancy by two families living independently of each other.

Elderly Housing shall mean housing:

a. provided under any State or Federal program specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

b. intended for, and solely occupied by, persons 62 years of age or older; or

c. intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this paragraph, regulations adopted by the Department of Housing and Urban Development, which require at least the following

factors, shall be used:

d. The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is impractical, that such housing is necessary to provide important housing opportunities for older persons; and

e. that at least 80% of the units are occupied by at least one person 55 years of age or older per unit; and

f. the publication of and adherence to, policies and procedures which demonstrate intent by the owner or manager to provide housing for persons 55 years or older.

g. Housing shall not fail to meet the definition of "elderly housing" by reason of unoccupied units, provided that the units are reserved for occupancy by persons who meet the age requirements of Paragraphs B and C.

Electric Vehicle (EV): A vehicle that operates, either partially or exclusively, on electrical energy from the electrical grid, or an off-grid source, that is stored on board for motive purposes. “Electric vehicle” includes, but is not limited to, a battery electric vehicle and a plug-in hybrid electric vehicle.

Electrical Vehicle Charging Facility (EVCF): A facility where electric vehicle charging services are offered for a fee as the primary use of the site. Similar to a traditional fueling station, the primary function of an EVCF is to provide charging services (i.e., fuel) for electric vehicles. Unlike an “Electric Vehicle Charging Station”, which may serve as an ancillary use to parking or accessory to the principal use, EVCF are specifically designed to support frequent vehicle turnover and high demand charging needs and must meet the standards outlined in Article II.H.9.

Electric Vehicle Charging Station (EVCS): A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle. For the purposes of this Chapter, an EVCS is a level 2 or higher charging station. Level 2 chargers offer charging through 240 V or 208 V electrical service.

Electric Vehicle Charging Station Electrical Capacity: The electrical capacity has at a minimum:

a. Panel capacity to accommodate a dedicated branch circuit and service capacity to install a 208/240V outlet per charger (a level 2 or higher level charging station);

b. Conduit from an electric panel to future EVCS location(s).

Equipment Facility: Any structure used to contain ancillary equipment for a WCF which includes cabinets, shelters, a buildout of an existing structure, pedestals and other similar structures.

Erodable Soils: Soils classified as being highly erodable by the Cumberland County Soil and Water Conservation District based on the most recent edition of Soil Survey of Cumberland County, Maine by the USDA and Maine Agricultural Experiment Station.

Essential Services: The construction, Alteration or maintenance of gas, electrical or non-wireless communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include Buildings which are necessary for the furnishing of such services, if such Buildings exceed 599 square feet in area and are located outside the SOD and RPD.

Excavation: The digging and removal of soil including topsoil and the removal of any other earth material.

Expansion of a Structure: An increase in the footprint, floor area or volume of a structure, including all extensions such as, but not limited to attached decks, garages, porches and greenhouses.

Expansion of a Use: The addition of one or more months to a use's operating season; or the use of more footprint or floor area or ground area devoted to a particular use.

Expansion of a Non-Conforming Structure: An increase in the floor area or volume of a non-conforming structure, including extensions such as, but not limited to, attached decks, garages, porches, and greenhouses.

Expansion of a Non-Conforming Use: The addition of weeks or months to a use's operating season or the extension of a use into any land area, Building or part of either not manifestly in existence or arranged or designed for such use at the time it became non-conforming.

FAA: Federal Aviation Agency

Facade: (see Building Face)

Family: One or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth, adoption or marriage, but no unrelated group shall consist of more than five (5) persons as distinguished from a group occupying a boarding house, lodging house, or hotel.

FCC: Federal Communications Commission

Filling: Using soil, any other earth material, or any synthetic material to fill any depressions or voids in the land. Fill also includes Building up an existing surface with such materials.

Flag: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols used as a symbol of a government, political subdivision or other entity.

Flashing Light: Any lighting that illuminates intermittently.

Float: A floating platform which accesses navigable water, including a moored float.

Floodway: Floodway means the channel of a river or other watercourse 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.

Floor Area: Sum of the gross horizontal area of the floors of a Building, plus the horizontal area of any unenclosed portions of a Structure such as porches and decks.

Foot-candle: The illumination of a surface one foot distant from a source of one candela, equal to one lumen per square foot.

Footprint: The entire area of ground covered by the structure(s) on a lot, including, but not limited to, cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

Forest Canopy: The more or less continuous cover formed by tree crowns in a wooded area.

Forest Stand: A contiguous group of trees of sufficiently uniform quality, to be a distinguishable unit.

Freshwater Wetland: See “Wetland, Freshwater”

Functionally Water Dependent Use: see “Water Dependent Use, Functionally”.

Gasoline Station: Building or land that is used for the sale of motor fuel, oil and motor vehicle accessories, and which may include facilities for lubricating, washing or servicing motor vehicles, but not including painting or major repairs.

Glare: Lighting emitting from a light source with intensity great enough to reduce a viewer's ability to see and in extreme cases causing momentary blindness.

Gravel Pit or Mine: Area for removal of gravel or similar material for commercial or, personal use.

Ground Cover: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Hazard Tree: A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Health Services: Establishments providing support to the medical profession and patients via miscellaneous types of medical supplies and services.

Height, Wireless Communications Facility Tower or Alternative Tower Structure: The vertical distance measured from the lowest point within ten (10) feet of the base of the structure on the ground to the highest point of the tower or ATS, including the base pad, all antennas and other attachments. When towers are mounted upon Buildings or other structures, the total vertical height is measured from the lowest point within ten (10) feet of the ground level of the Building or Structure to the highest point of all appurtenances on the tower.

Home Occupation: An Accessory Use conducted within a dwelling unit or Accessory Structure by the residents thereof, which is clearly incidental and secondary to the dwelling used for living purposes and does not change the character of the residential use of the property and surrounding residential uses. (See ARTICLE II.J).

Hospital: Includes sanitarium, clinic rest home, and nursing home, convalescent home, home for the aged, and any other place for the diagnosis, treatment of human ailments.

Hotel: A Building containing individual sleeping rooms or suites, having each a private bathroom attached thereto, for the purpose of providing overnight lodging facilities to the general public for compensation with or without meals, excluding

accommodations for employees, and in which ingress and egress to and from all rooms is made through an inside office or lobby supervised by a person in charge at all hours

Indirect Illumination: Light that is reflected off another surface before reaching the eye, such as, but not limited to, illumination from a shielded street light that is first reflected off the street and then into a motorists eyes.

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Individual Retail: Any business or businesses that involve, in whole or in part, retail and/or wholesale sales, that:

a. share check stands or storage areas,

b. share management, or

c. are owned, leased, possessed or otherwise controlled, in any manner, directly or indirectly,

    i. by the same individual(s) or entity(ies), including but not limited to corporation(s), partnership(s), limited liability company(ies) or trust(s), or

    ii. by different individuals or entities, including but not limited to corporations, partnerships, limited liability companies or trusts where

        (a) such individual(s) or entity(ies) have a controlling ownership or contractual right with the other individual(s) or entity(ies), or

        (b) the same individual(s) or entity(ies) act in any manner as an employee, owner, partner, agent, stockholder, director, member, officer or trustee of the entity(ies), and are located within one or more separate Buildings or Structures within 800 feet of one another, regardless whether they are attached or detached.

Indoor Lighting: Lighting fixture located inside any Building.

Industrial: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Inn or Lodging House: A commercial structure built or a dwelling converted for commercial purpose to accommodate for fee travelers and other transient guests, who are staying for a limited duration, with sleeping and dining facilities and

services, having ten or fewer sleeping rooms and in which some sitting and dining rooms may be used or intended for use in common by such guests. There shall be no kitchen facilities in rented units or rooms. There shall be no separate ownership of individual rooms or units.

Institutional Use: A nonprofit or quasi-public use or institution such as a church, library, public or private school, hospital or municipally owned, controlled, or operated Building, Structure or land used for public purpose.

Interior Lighting: A lighting fixture providing an illumination source, including, but not limited to, an incandescent bulb, mercury, sodium or neon-filled bulb, and the hardware containing the illumination source and supporting it.

Intertidal Zone: The area located between the Upland Edge of Coastal Wetlands and the average low water line.

Kitchen: An area with a cooking appliance, refrigerator, sink with hot and cold water, food and utensil storage, and not less than 4 square feet of contiguous countertop work area.

Lagoon: A basin for the storage and/or treatment of liquids.

Landfill: The disposal of waste by burying it under a shallow layer of earthen materials.

Land Not Suitable For Development: The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the Minimum Lot Size or net residential acreage an Open Space Residential Development:

a. Land, which is situated below the normal high water line of any fresh Water body or the Upland Edge of a Coastal Wetland.

b. Land which is located within the 100 year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the subdivider shows proof through the submittal of materials prepared by a Registered Land Surveyor which show that the property in question lies at least two (2) feet above the 100 year flood level. The elevation of filled or made land shall not be considered.

c. Land that has been created by filling or draining a pond or Wetland.

d. Land within the Resource Protection District.

Licensed Forester: A forester licensed under 32 M.R.S.A. Chapter 76.

Light Manufacturing: Manufacturing, Packaging, Processing and Testing - printing or publishing plant, bottling works, manufacturing establishment or other assembling, packaging, finishing or processing use, provided that all operations shall be such as to confine disturbing smoke, fumes, dust, odors and noise to the premises, and that no operations shall constitute a hazard by reason of the potential for fire, explosion, radiation release or other casualty.

Loading Space: Off-street space used for the temporary location of one licensed motor vehicle, which is at least twelve feet high, not including access Driveways, and having direct access to a street or alley.

Lot: Land occupied or to be occupied by a Building and its Accessory Buildings, together with the required open spaces, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated.

Lot Area: The area of land enclosed within the boundary lines of a lot, minus land below the Normal High-Water Line of a Water Body or Upland Edge of a Wetland, and areas beneath Roads serving more than two lots.

Lot Corner: Lot which has an interior angle of less than 135 degrees at the intersection of two streets. A lot abutting a curved street shall be considered a corner lot of the tangents to the curve at the points of intersection if the side lot lines intersect at an interior angle less than 135 degrees.

Lot Depth: Mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the Building front line.

Lot Frontage: Distance measured across the width of the lot at the Building front line, or the proposed Building front line.

Lot Line: Property lines bounding a lot.

Lot Width: Width measured at the point where the main Building is closest to the street. In the Shoreland zone, the minimum lot width is the closest distance between the side lot lines of a lot. When only two lot lines extend into the Shoreland zone, both lot lines shall be considered side lot lines.

Lumen: The unit of luminous flux in the International System, equal to the luminous flux emitted in a solid angle of one steradian by a uniform point source having an intensity of one candle.

Market Value: The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Marina: A business establishment having frontage on navigable water and, as its principal use, providing for offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Marine Related Offices: Offices which handle matter which are principally devoted to boats, ships, navigation, fishing, other marine harvesting or fish processing. Marine related offices may be the business offices of firms which design, manufacture, service, store, buy or sell boats and related marine equipment.

Manufactured housing: Manufactured housing means a structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a Building site. The term includes any type of Building which is constructed at a manufacturing facility and transported to a Building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this Ordinance, there are two types of manufactured housing:

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes," and which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 8 body feet or more in width and 40 body feet or more in length, or, when erected on site, are 320 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit; or any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States code, Title 42, Section 5401, et seq.; and

2. Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, chapter 957 of the Maine Revised Statutes Annotated, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

Manufactured Housing Community: A Manufactured Housing Community means a parcel of land under unified ownership approved by the Town in accordance with

the standards of this Ordinance for the placement of three or more units of manufactured housing.

Manufactured Housing Community Lot: Manufactured housing community lot means the area of land on which an individual home is situated within a manufactured housing community, and which is reserved for use by the occupants of that home. Each lot shall be shown on the site plan for the manufactured housing community.

Manufactured Housing Subdivision or Development: A parcel of land approved by the permitting authority for the placement of manufactured houses on individually owned lots. Also known as a Manufactured Housing Community, or in Title 30-A, Maine Revised Statutes, Section 4358(1)(B), as a mobile home park.

Marquee: Any permanent roof-like structure projecting beyond a Building or extending along and projecting beyond the wall of a Building, generally designed and constructed to provide protection from the weather.

Medical Building: A building that contains establishments dispensing health services.

Medical Cannabis Establishment: A Medical Cannabis Establishment includes Caregiver Retail Stores, Registered Dispensaries, Cannabis Testing Facilities, and Manufacturing Facilities. These terms are as defined in 22 M.R.S.A. § 2422, as may be amended.

Medical Cannabis Cultivation Facility: A Medical Cannabis Cultivation Facility shall mean a medical cannabis cultivation area used or occupied by one or more medical cannabis registered caregivers as defined in 22 M.R.S.A. § 2422, as may be amended. A Medical Cannabis Cultivation Facility cultivates, prepares, and packages medical cannabis at a location that is not the residence of the Registered Caregiver or Qualifying Patient and that is within a fully enclosed structure.

Message Lighting: Moving or intermittent lighting which denotes a message excluding temperature and time data.

Mixed Use Structures: A building or structure with a variety of complementary and integrated uses in a compact urban form.

Moored Float: A floating, platform which is anchored or secured to the bottom.

Motel: A Building or group of Buildings which contain living or sleeping accommodations used regularly, seasonally or occasionally for transient occupancy.

Motor Vehicle Sales Showroom: Enclosed establishment for the display and sale of new and used motor vehicles, trailers, mobile homes, and boats.

Moving Lighting: Any non-stationary lighting.

Multiplex: A multiplex is a Building including 3 or more attached dwellings. Dwelling units may be arranged in a variety of configurations: side by side, or back to back. The essential feature is the small number of units attached. No more than eight (8) dwelling units shall be attached in a group and groups shall average no more than six (6) units per structure or less except in the case of a single structure where eight (8) units are allowed. When multiplex Buildings are included in elderly housing developments common spaces such as recreation, community or laundry rooms are not considered dwelling units.

Municipal Uses and Buildings: (Interchangeably called “Civic Uses and Buildings”) Land uses and activities, buildings, structures, improvements and facilities of the Town of Yarmouth or the Yarmouth Water District; which shall include entities of which the Town of Yarmouth is a member, partner, or party of significant controlling interest. Significant controlling interest shall mean voting or management authority in such entity which represents not less than 30% of the voting or management authority. Any not-for-profit community based entity which exists primarily for delivery of public good and services and which receives not less than 30% of its annual operation revenues through appropriations of funds by the Town of Yarmouth for delivery of such public services (e.g. Historical Society, Merrill Memorial Library) or which operates from a facility substantially controlled by the Town of Yarmouth through lease, contractual agreement, deed restriction or similar mechanism shall be included among those entities as to which the Town of Yarmouth is a party.

Nacelle: The mechanical and electrical conversion component mounted on top of the tower to which the blades or components are attached, whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

Net Metering: The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer’s small wind energy system that is fed back into the electric distribution system over a billing period.

Native: Indigenous to the local forests.

Net Residential Acreage: The total acreage available for the subdivision or development and shown on the proposed plan, minus:

1. The land dedicated or in use for private or public Roads including all vehicular rights of way.

2. Multiplex developments parking areas.

3. Land which is cut off from the main parcel by a Road, existing land uses, or where no means of access has been provided so that it is isolated and unavailable for Building purposes or for common use.

4. Land not suitable for development as defined in this article.

Non-native Invasive Species of Vegetation: Species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Normal High Water Mark Line (Non-Tidal Waters): That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with Rivers that support non-forested Wetland Vegetation and hydric soils and that are at the same or lower elevation as the water level of the River during the period of normal high-water are considered part of the River. [**NOTE:** adjacent to tidal water, setbacks are measured form the Upland Edge of the Coastal Wetland.]

Outdoor Lighting: An illumination source outside any Building, including, but not limited to, an incandescent bulb, mercury, sodium or neon-filled bulb, and the hardware containing the illumination source and supporting it. Lighting fixtures underneath a roof of an open-sided Building, including, but not limited to, storage sheds, canopies and gas station marquees over gas pumps, are deemed to be outdoor lighting.

Outdoor lighting fixture: Lighting fixture located outside any Building, whether the fixture is free-standing on its own pole or other structure, or is attached to any part of the facade or roof of a building. Includes the hardware that houses the illumination source and into which the illumination source is attached, which also includes, but is not limited to, the hardware casing and the neck of a fixture that is attached to a pole, the side of a Building or some other surface.

Paper Street: For the purpose of this ordinance and for determining minimum setback requirements a Paper Street is considered to be any undeveloped or unaccepted way shown on an approved plan or subdivision plat recorded at the Cumberland County Registry of Deeds, or official Yarmouth tax maps prior to December 31, 1997.

Parking Area, Reconstructed: The excavation or grading (not including paving or fine grading) of existing parking areas in excess of 25% of the existing parking area.

Parking Space: Off-street space which is at least 18 feet long by 9 feet wide used for the temporary location of one licensed motor vehicle, not including access Driveway and having direct access to a street or alley. Where oversize or large vehicles will be parked, the size of parking space may be larger.

Permanent Foundation: Includes all of the following:

a. A full, poured concrete or masonry foundation;

b. A full concrete frost wall or a mortared masonry wall, with or without a concrete floor;

c. A reinforced floating concrete pad, provided that an engineer licensed by the State of Maine certifies that the pad is adequate if the pad will be placed on soil with high frost susceptibility; and

d. Any foundation which meets the requirements of the Yarmouth Building Code for single family dwellings.

Permitting Authority: The Planning Board or the General Board of Appeals or Director of Planning and Development Department and his or her designee.

Person or Party: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interested, or other legal entity.

Personal Services: Includes barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, Laundromat, dry cleaner, photographic studio and businesses providing similar services of a personal nature.

Pier: Any structure built on piles or cribs which crosses the intertidal zone or water or within a Wetland.

Pier, Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Pier, Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Pond: A pond is any inland body of water which in a natural state has a surface area of less than 10 Acres where the artificially formed or increased inland body of water is completely surrounded by land held by a single landowner. This definition includes Water Bodies which are created by the impoundment of natural streams or brooks, as well as dug Water Bodies. This definition specifically excludes water retention facilities constructed for the purpose of limiting the run-off of surface water in conjunction with development and lagoons.

Power Grid: The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

Principal Structure: A principle structure other than one which is used for purposes wholly incidental or accessory to the use of another Structure or use on the same lot.

Principal Use: A use other than one which is wholly incidental or accessory to another use on the same lot.

Public Facility: Any facility, including, but not limited to, Buildings, property, recreation areas, and Roads which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Quarrying: Open excavation used for obtaining building stone, slate, limestone, granite or similar material.

Ramp: Any structure connecting a dock to a float.

Recreation, Commercial: Includes recreational activities operated primarily for profit.

Recreation Facility: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recent Floodplain Soils: The following soil series as described and identified by the most recent National Cooperative Soil Survey:

Alluvial	Limerick	Rumney
Charles	Lovewell	Saco
Cornish	Medomak	Suncook
Fryeburg	Ondawa	Sunday
Hadley	Podunk	Winooski

Religious Institution: Includes church, temple, parish house, and convent, seminary and retreat house.

Research Facility: A research, laboratory, light assembly to light manufacturing facility, which does not create any danger to health and safety in surrounding areas, which does not create offensive noise, vibration, smoke, dust, odor, heat or glare, and which by reason of high value in relation to size and weight of product or merchandise handled, does not create large volumes of truck traffic. Research facility does not include genetic research or bioengineering establishments.

Residual Basal Area: The average of the Basal Area of trees remaining on a harvested or cleared site.

Residential Porch Light: A light located within a roofed porch or entry of a dwelling unit. Residential porch lights are not deemed to be outdoor lighting under this Section.

Restaurant: An establishment which prepares and/or serves food and beverages to persons primarily seated within the Building. A restaurant does not provide any drive-through service.

Restaurant/carry-out: An establishment which by design of facility or services prepares food or beverages to be consumed outside the Building.

Restaurant/drive-through: An establishment which may contain indoor and/or outdoor seating and has a drive through facility which permits customers to obtain prepared food and drink while remaining in their vehicles.

Restaurant/service area: Includes the area for preparation and sale of food and beverage and the area accessible to the public.

Retail Store: Store or shop that sells goods or services to the ultimate consumer excluding free standing retail stands, gasoline service facilities, new and used car sales and services, trailer and mobile home sales and services. Retail stores shall not provide tables and chairs for the consumption of food or beverage inside or outside the Building. Outdoor sales which are related to a retail store are permitted.

Riprap: Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) vertical or less.

River: A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.
[NOTE: The portion of a River that is subject to tidal action is a Coastal Wetland.**]**

Road: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a Driveway as defined.

Salt Marsh: Areas of Coastal Wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is Saltmarsh Cordgrass (Spartina Alterniflora). More open areas often support Widgeon Grass, Eelgrass, and Sago Pondweed.

Salt Meadow: Areas of a Coastal Wetland that support salt tolerant plant species bordering the landward side of Salt Marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water.

Indigenous plant species include Salt Meadow Cordgrass (Spartina Patens) and Black Rush; Common Threesquare occurs in fresher areas.

Sapling: a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling: a young tree species that is less than four and one half (4.5) feet in height above ground level.

Service area: Includes that area for preparation and sale of food and beverage and the area accessible to the public.

Service Drop: Any utility line extension which does not cross or run beneath any portion of a Water Body provided that:

1. In the case of electric service
   a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service upon a Roadway right-of-way; and

   b. the total length of the extension is less than one thousand (1,00) feet,

2. In the case of telephone service
   a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

   b. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback, Front Yard: Distance between a structure and the street right-of-way

Setback, Rear Yard: Distance between a structure and the rear lot line.

Setback, Resource: The nearest horizontal distance from the Normal High Water Line of a Water Body, or Tributary Stream, or Upland Edge of a Wetland, to the nearest part of a Structure, Road, parking space or other regulated object or area.

Setback, Side Yard: Distance between a structure and a side lot line.

Shadow Flicker: Alternate changes in light intensity caused by moving blades casting shadows on the ground and stationary objects.

Shopping Center: A group of commercial establishments planned, and managed as a total entity, with customer and employee parking provided on-site.

Shore Frontage: The length of a lot bordering on a Water Body or Wetlands measured in a straight line between the intersections of the lot lines with the Shoreline.

Shoreland Zone: The land area located within two hundred and fifty (250) feet, horizontal distance, of

- the Normal High-Water line of any River
- the Upland Edge of a Coastal Wetland including all areas affected by Tidal action;
- or within seventy-five (75) feet of the Normal High-Water line of a Stream.

Shoreline: The Normal High-Water Line, or Upland Edge of a Freshwater or Coastal Wetland.

Sign: Any device, structure, Building or part thereof, for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

Sign, Advertising, or Billboard: Sign which directs attention to a business, industry, profession, service, commodity, or entertainment conducted, sold or offered elsewhere than upon the same lot.

Sign, Animated: Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Sign, area: The space, on the largest single face of a sign, within and including a perimeter which forms the outside shape of a sign. Where signs are established back to back the larger face shall be calculated for purposes of determining allowable area. The space of a sign having no such perimeter or border shall be computed by enclosing the entire copy area within the outline of either a parallelogram, triangle, circle or any other easily recognized geometric shape and then computing the area. Where a sign is of three dimensional, round, or irregular shape, the largest cross section shall be used in a flat projection for the purpose of computing sign area.

Sign, Building: Any sign attached to any part of a Building, as contrasted to freestanding sign.

Sign, Business: Sign which directs attention to a business, industry, profession, service, commodity or entertainment sold of offered upon the same lot on which it is displayed, including real estate signs.

Sign, Canopy: Any sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Sign, Changeable Copy: A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign.

Sign, Directional: A sign as defined in Section 2722, Title 32, Chapter 38 M.R.S.A.

Sign, Freestanding: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any Building or other structure.

Sign, Incidental: A sign generally informational, that has a purpose secondary to the use of the lot in which it is located, such as no parking, entrance, loading only, telephone, and other similar directives.

Sign, Marquee: Any sign attached to, in any manner, or made a part of a marquee.

Sign, Nonconforming: Any sign that does not conform to the requirements or this ordinance.

Sign, Pennant: Any lightweight plastic, fabric, or other material, whether or not containing a massage of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Sign, Portable: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way; unless said vehicle is used in the normal day-to-day operations of the business. (Does not include menus and sandwich board signs.)

Sign, Projecting: Any sign affixed to a Building or wall in such a manner that its leading edge extends more than six inches beyond the surface or such Building or wall.

Sign, Roof: Any sign erected and constructed wholly on and over the roof of a Building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Sign, Roof Integral: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

Sign, Suspended: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Sign, Temporary: Any sign that is used only temporarily and is not permanently mounted.

Sign, Window: Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Slash: The residue, e.g., treetops and branches, left on the ground after a timber harvest or other removal of vegetation.

Small Wind Energy System (SWES): A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of one hundred (100) kilowatts or less and will be used primarily for onsite consumption. An SWES may also be mounted on an existing Structure such as a roof, chimney, or wall of a building.

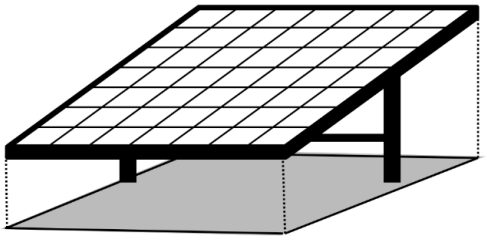
Solid Waste: By products and other discarded materials which are not gaseous or liquid.

Solar Energy System (SES): A structure(s) that is used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power, including all associated equipment such as solar panels, mounting hardware, inverters, and wiring. A solar energy system consists of one (1) or more free-standing ground, roof, or building mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce consumption of utility power or fuels.

Solar Energy System, Ground-Mounted (GM SES): A solar energy system that is free-standing, structurally mounted on or affixed to the ground, and is not directly connected to a building or structure. Ground-mounted solar energy systems are further categorized into two types based on the size of the facility. Facilities larger than 88,000 square feet are not allowed. Facility size is measured by calculating the square footage of the projection of solar panels at maximum tilt on the ground below (see illustration below). Ground-Mounted Solar Energy Systems are a principal use where the electrical or thermal power created is distributed off-site.

Small Ground-Mounted Solar Energy System: A system with a facility size equal to or less than 44,000 square feet (approximately equal to one acre).

Large Ground-Mounted Solar Energy System: A system with a facility size greater than 44,000 square feet, but less than or equal to 88,000 square feet (approximately between 1 and 2 acres).



Projection of Solar Panels on Ground Below

Solar Energy System, Roof Mounted: A solar energy system installed on the roof of a building or structure, or otherwise directly connected to a building or structure.

Solar Energy System, Accessory: Accessory solar energy systems are roof-, building-, or ground-mounted that are intended to supply electrical or thermal power and/or reduce on-site consumption of utility power or fuels by the principal structure or use:

a. Roof-mounted or building-mounted solar energy systems of any size are considered accessory.

b. Ground-mounted solar energy systems of any size are freestanding, structurally mounted on or are affixed to the ground, a pole, or a pedestal, or similar structure, including an Electric Vehicle Charging Station, and are considered accessory.

Special Exception: A special exception is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, areas, location, or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special exceptions, if specific provision for such special exception is made in this Zoning Ordinance.

Specified sexual activities: means: (1) human genitals in a state of sexual stimulation or arousal; (2) acts of human masturbation, sexual intercourse or sodomy; (3) fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Sports Club: A club business or association, which provides some recreational or health activity including but not limited to tennis, racquetball, swimming, health or fitness facilities but excluding amusement centers, video game parlors and amusement rides.

Spotlight/Floodlight: An illumination source that focuses most of the light it produces onto a specific surface.

Standard Boundary Survey: A standard Boundary Survey is defined as a sufficient investigation, study, and evaluation of all factors affecting and influencing the location of the boundaries, and including rights of way and easements of record within or immediately surrounding a certain lot, parcel or quantity of real estate.

Steep Slope: A portion of land with a grade of 20% or greater.

Storage Building: A Building, not exceeding one thousand square feet, used only for the non-commercial storage of materials or private property. A Storage Building may contain no more than one commercially registered motor vehicle.

Storm-damaged tree - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or Wetland within the Shoreland Zone.

Street:

1. An existing State, County, or Town public way; or

2. A street dedicated for public use and shown upon a plan duly approved by the Planning Board and recorded in the Cumberland County Registry of Deeds; or

3. A street or way dedicated for public use and shown on a plan duly filed and recorded in the Cumberland County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans; or

4. A street or way conforming to any of the above definitions which has been lawfully discontinued, abandoned, or vacated after September 1, 1997.

String Lighting: Lighting arranged in a series horizontally or vertically.

Structure: Anything, temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind, or anything constructed or erected on or in the ground. The term includes Structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201,

subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

Structure Height: The vertical distance between the mean original (prior to construction) grade at the downhill side of the Structure and the highest point of the Structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area. This definition shall apply only in the SOD.

Subsurface Sewage Disposal System: Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licenses under 38 M.R.S.A. section 414, any surface waste water disposal system or any municipal or quasi-municipal sewer or waste water treatment system.

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Temporary outdoor lighting: The specific illumination of an outside area or object by any man made device located outdoors that produces light by any means, but is not intended as permanent lighting, for a period of less than 7 days with at lease 180 days passing before being used again.

Temporary Storage: Use of existing Buildings for a period of two years, and no longer, for the storage within these existing Buildings of non-hazardous goods which shall be of a non-perishable nature and shall not cause odors.

Tidal Waters: All waters affected by tidal action during the maximum spring tide.

Tilt: The angle of the solar panels and/or solar collector relative to horizontal.

Timber Harvesting: The cutting and removal of timber, for the primary purpose of selling or processing forest products.

Tiny Home: A Tiny Home is the same as defined by 29-A MRS §101(80-C), as may be amended.

Total Height: The vertical distance measured from a point on the ground at the original grade to the highest point of the wind generator blade when the tip is at full vertical.

Tower: The monopole, guyed monopole or lattice structure that supports a wind generator and attached blades above the ground.

Tower Height: The height above grade of the fixed portion of the tower, excluding the wind turbine.

Transportation Termini: Includes trucking terminals, freight yards and public transportation terminals.

Tree: a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

Tributary Stream: A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected to hydrologically with other Water Bodies. Tributary Stream does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural Vegetation cover has been removed by human activity. This definition does not include the term “Stream” as defined elsewhere in this Ordinance, and only applies to that portion of the Tributary Stream located within the Shoreland Zone of the receiving Water Body or Wetland. A Tributary Stream is not a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining stormwater or a grassy swale. [**Note:** Water setback requirements apply to Tributary Streams within the Shoreland Zone.]

Upland Edge of a Wetland: The boundary between upland and Wetland. For purposes of a Coastal Wetland, this boundary is the line formed by the landward limits of the salt tolerant Vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a Freshwater Wetland, the Upland Edge is formed where the soils are not saturated for a duration sufficient to support Wetland Vegetation; or where the soils support the growth of Wetland Vegetation, but such Vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

Use, Permitted: Use specifically allowed in the district, excluding illegal uses and nonconforming uses.

Variance: A variance is a relaxation of the terms of this zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area and size of structure or size of yards and open spaces, establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or in an adjoining zoning district.

Vegetation: All live trees, shrubs and other plants including without limitation, trees both over and under four (4) inches in diameter measured at four and one half (4 ½) feet above ground level.

Velocity Zone: An area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Viewing Booth: means any booth, cubicle, room or stall within the premises of an Adult Business used to display by audio or visual reproduction, projection or other means, any of the materials described in subparagraph above, but does not include a motion picture theater with permanent seating for 10 or more persons.

Viewshed: The geographic area as viewed from a scenic resource, which includes the proposed activity. The viewshed may include the total visible activity from a single observer position or the total visible activity area from multiple observer's positions.

Volume of a Structure: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Warehouse: Terminal facilities, used primarily for the storage of goods and materials, for handling freight with or without maintenance facilities.

Waste Lighting: Lighting emitted by an outdoor light fixture that shines beyond the boundaries of the property on which the outdoor lighting fixture is located causing a nuisance.

Water Body: A river, stream, brook, pond, or tidal water.

Water Course: A drainage ditch, swale, stream or other natural or man-made system of transporting storm water.

Water Dependent Use, Functionally: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities including commercial non- recreational boat storage Buildings, (but excluding private boat houses), fin fish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Water, Inland, Normal High Water Mark: See "**Normal High Water Line**".

Wetland: A Coastal Wetland or a Freshwater Wetland adjacent to a River.

Wetland, Coastal: All tidal and sub-tidal lands all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal Wetlands may include portions of coastal sand dunes.
[**Note:** all areas below the maximum spring tide level are Coastal Wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to Salt Marshes and Salt Meadows.]

Wetland, Forested: A Freshwater Wetland dominated by woody Vegetation that is six (6) meters tall (approximately twenty (20') feet or taller.

Wetland, Freshwater: Freshwater swamps, marshes, bogs and similar areas other than Forested Wetlands which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of Wetland vegetation typically adapted for life in saturated soils, (as determined through the use of the "Corps of Engineers Wetlands Delineation Manual", January, 1987 as the same may be amended, supplemented or replaced from time to time; and not considered part of a great pond, Coastal Wetland, River, Stream or brook, pursuant to Title 38 MRSA Section 480-B(4). Freshwater Wetlands may contain small Stream channels or inclusions of land that do not conform to the criteria of this definition.

Windfirm: The ability of a Forest Stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

Wetlands Associated with Rivers: Wetlands contiguous with or adjacent to a river, and which during normal high water, are connected by surface water to the river. Also included are wetlands which are separated from the river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below high water line of the river. Wetlands associated with great ponds or rivers are considered to be part of that river.

Wholesale Distribution Facilities: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers; or acting as agents or brokers and buying merchandise for or selling merchandise to, such individuals or companies.

Wind Turbine: The blades and associated mechanical and electrical conversion components mounted on top of the supporting tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

Wireless Communications: Any personal wireless services as defined in the Federal Telecommunications Act of 1996 which includes FCC licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed.

Wireless Communication Facility (WCF): A facility that transmits, receives, distributes, provides or offers telecommunications services, radio or television signals, or any other spectrum-based transmissions/receptions, together, with the facility's associated antennas, microwave dishes, horns, cables, wires, conduits, ducts, lightning rods, electronics and other types of equipment for the transmission, receipt, distribution or offering of such signals; wireless communication towers, antenna support structures, and other structures supporting said equipment and any attachments to those structures including guy wires and anchors, equipment Buildings, generators, parking areas, utility services, Driveways and Roads and other accessory features.

Wireless Communication Facility – Co-Located: A wireless telecommunications facility that includes a wireless communication tower or ATS supporting one or more antennas and owned or used by more than one public or private entity.

Wireless Communication Tower (Tower): A structure designed and constructed specifically to support an antenna array. A tower may be a monopole, self-supporting (lattice) tower, guy-wire support tower and other similar structure, and includes all supporting lines, cables, wires, and braces.

Woody Vegetation: Live trees or woody, non-herbaceous shrubs.

ARTICLE II

The following provisions shall apply to all districts except where listed:

A. EXCAVATION AND REMOVAL OF LANDS AND FILLING OF LANDS

1. All excavation and removal of lands and filling of lands as a permitted use shall be in accordance with CHAPTER 702, Site Plan Review, Municipal Code, Town of Yarmouth.

2. All excavation and removal of lands and fillings of lands less than 1,000 cubic yards is allowed in all zones subject to applicable site plan standards.

3. This Section shall not prohibit normal excavation for construction of a building for which a Building permit has been issued.

4. Excavations normally associated with approved subdivision or site plans and municipal projects are exempt from these provisions.

B. RUINS

No owner or occupant of land in any district shall permit fire ruins or other ruins to be left, but within one year from the date of the disaster shall remove or refill the same to clear ground level or shall repair, rebuild or replace the structure.

C. SIGNS, GENERAL PROVISIONS

1. Purpose: It is the intent of these regulations to provide for attractive, coordinated, informative and efficient signs with the express purpose of protecting property values, and enhancing the physical appearance of the Town and guarding against threats to the public safety.

2. Signs and outdoor display structures shall not be erected, attached to, suspended, altered, or reconstructed until a permit has been issued by the Planning Department to the owner or person in control of the sign. Any new sign shall conform to all regulations.

3. A nonconforming sign lawfully existing at the time of adoption of this subsection or subsequent amendment may continue although such sign does not conform to the provision of this Section.

4. A nonconforming sign damaged or destroyed by accident or by act of God may be replaced within a one (1) year period following the damage or destruction provided that a duly issued permit has been obtained. With respect to height, size, and lighting, the replacement sign shall replicate or be less non-conforming than the original. Any other changes from the original shall be approved by the Planning Department in accordance with the review procedures and standards set forth in this Article.

5. Permits are not required for:

   a. personal occupant signs, 2 square feet or less;

   b. historical designation signs;

   c. temporary real estate, (For Sale, rent or lease) signs;

   d. traffic and informational signs erected by governmental agencies.

   e. utility signs

   f. temporary road hazard and traffic control signs

   g. flags and insignias of any recognized government

   h. special purpose temporary signs

      (1) These exemptions shall not relieve the owner or person in control of the sign or signs from the necessary safe condition and maintenance so as not to be detrimental to the public health, safety or scenic beauty of the Town or to constitute a traffic hazard.

      (2) All temporary signs erected for a special event such as an election or sale shall be placed by the advertiser no more than four (4) weeks prior to the event and shall be removed within five (5) days after the event

   i. Municipal athletic facilities not in view of a public street

      (1) However, the Community Services Director or High School Athletic Director shall approve the design and content of all signs to be installed.

6. Whenever a sign shall become structurally unsafe or endanger the safety of the Building or the public, the Planning Department shall order such sign to be made safe or removed. Such order shall be complied with within ten (10) days of the receipt thereof by the person owning or using the sign, or by the owners of the Building or premises on which such sign is affixed or erected.

7. The owner(s) of any location where business goods are no longer sold or produced or where services are no longer provided shall have ninety (90) days to remove any remaining or derelict on-premises signs following notification by the Town.

8. Where due written notification has been given by the Planning Department and compliance has not been made within the required ninety (90) day period, the Town may cause removal of such sign and charge the cost of such removal to the owner.

9. The following general regulations shall apply to all permitted and legally nonconforming signs:

   a. Only those signs identifying the name, business, occupant, service, address or product offered or sold on the premises shall be permitted. Community bulletin boards shall also be permitted.

   b. Permanent business signs within the interior of a structure designed to be seen and read from the exterior shall be considered as part of any maximum sign area.

   c. Signs attached to a principal structure shall not extend above the roof line or the parapet.

   d. No portable, animated, flashing or apparently moving signs shall be permitted.

   e. The top of freestanding signs shall not exceed the following height limit.

Sign Size in sq. ft.	**Maximum Height in ft.**
0-49	16
50-75	20
>75	25

   f. The area surrounding freestanding signs shall be kept neat, clean and landscaped.

   g. Signs, permanent or temporary, other than Municipal or State signs, shall not be erected within the right-of-way of any street or approved sight easements, nor shall any sign be located so as to constitute a traffic hazard.

   h. A sign with a double signboard or display area shall be construed to be one sign for the purpose of this Ordinance.

   i. Off-premise advertising signs shall not be permitted in the Town.

   j. Approval of electric signs shall be based on conformance with the National Electric Code and/or sealed by a nationally recognized testing laboratory.

k. Directional signs shall be allowed only in designated areas with the approval of the Planning Department.

10. Sign Dimensions

a. The following sign size regulations shall apply:

(1.) The total gross advertising area of all signs on an individual lot of record including attached and free standing signs, shall not be greater than five percent (5%) of the Building face if any signs have internal lighting and six and one-half percent (6 1/2%) if no signs have internal lighting. Signs in the WOC I and WOC III Districts shall be no greater than 10% of the area of the Building face.

(2.) In any district a home occupation sign not exceeding two (2) square feet in surface is permitted which announces the name, address, profession or home occupation of the occupant of the premises on which said sign is located.

11. Review standards – sign permit applications

a. Review Criteria
The Planning Department shall use, but is not limited to, the following criteria in its determination to deny, grant, or grant with conditions any sign permit application waiver request within its reviewing authority:

I. The proposed location, design, and construction shall be in keeping with the Town's Comprehensive Plan and other applicable Town codes and ordinances.

II. The location, size, lighting, or design of the sign will not be hazardous to vehicular traffic or pedestrian safety.

III. The sign will not adversely impact or detract from surrounding properties or the property where the sign is to be located.

IV. The sign will not adversely impose on natural, scenic, or historic features in the neighborhood.

V. The sign will not detract from the design of the Building or Structure on which it is to be attached.

b. Assurances
The Planning Department may require that the applicant to file a performance bond or similar assurance representative of projected Town liability resulting from, but not limited to:

I. Environmental safe guards

II. Safety precaution

III. Removal requirements, and/or

IV. Failure of the applicant to perform in accordance with the terms of this Ordinance or any conditions of any approval.

c. Limiting Conditions
Although not limited to the list that follows, the Planning Department may add as a criteria of approval conditions with regard to:

I. Aesthetic appearance such as, but not limited to;

(a.) number

(b.) location

(c.) size

(d.) height

(e.) lighting

(f.) glare

(g.) materials

(h.) limitations relative to period(s) of display

(i.) hours or operation

(j.) landscaping

(k.) maintenance requirements

(l.) time of removal

(m.) alteration and/or replacement compliance

(n.) permit expiration date, and/or

(o.) terms of additional Board review.

II. Waivers

The Planning Department, prior to the application for, or issuance of, any sign permit, shall approve the proposed sign design, lighting, and landscaping. In the event that the applicant and the Planning Department are unable to agree on appropriate sign designs, the applicant shall appear before the Planning Board for additional review.

Notwithstanding any requirements of Town codes or ordinances, the Permitting Authority may waive any sign standard(s) where it finds that Town objectives, goals, and policies will be better served.

(a.) Any standard that is expressly prohibited, limited, restricted, or specified by State, County, or Federal regulation shall not be waived unless the applicant provides authenticated written documentation approving any such waiver from the respective authority(s).

12. Baseball and Softball Diamonds

Notwithstanding any other sign regulations to the contrary, signs may be installed on the outfield fences of all baseball and softball diamond fields in the Town of Yarmouth, subject to the following:

a. Individual signs are to be no more than 3’ x 9’. The total area of signs installed on the outfield fences is not to exceed 1,728 square feet per field, but in no case shall there be more than one sign per outfield fence section.

b. All signs are to be installed no earlier than the first day of April and removed no later than the last day of July, except that all signs on the outfield fences at Bennett Field shall be removed one week before the first day of Clam Festival.

c. Signs on all outfield fences of ball diamond fields shall be a single uniform color background, on both sides, for each field with the exception of existing signs on the North Road field.

d. Text and graphics shall be on only one side of the sign, and the signs shall be installed so the text and graphics face in toward the field.

e. The Community Services Director, High School Athletic Director, or North Yarmouth Academy Athletic Director shall approve the design and content of all signs to be installed on fields under their respective responsibility.

D. SIGN STANDARDS VILLAGE II DISTRICT

1. No sign permit may be issued for a sign which will adversely impact neighboring property.

2. Signs attached to a principal structure shall not extend above the eaves.

3. Only signs constructed of wood or fabric or materials imitating natural materials shall be permitted.

4. Interior lit signs are prohibited.

5. Advertising awnings and advertising umbrellas shall not be permitted

6. The total gross advertising area of all signs including attached and free standing signs, on any one property shall not be greater than three percent (3%) of the area of the largest building face provided that the application meets the review criteria of subsection “Review Standards – Sign Permit Applications”, Article II.C.11 above.

7. Up to three (3) governmental flags per property are permitted.

8. Maximum size of sign per business:
   Village II 20 sq. ft.

   a. Notwithstanding the limitations of ARTICLE II.C.11, above, in no case shall the combined total gross advertising area for all signs, including attached and free standing signs exceed 20 square feet.

9. Any decision relative to signs and permits for signs by the Planning Department may be appealed to the Planning Board within thirty (30) days of such written decision.

E. SIGNS IN RP AND SOD DISTRICTS

In addition to the provisions of the Zoning Ordinance addressing signs the following provisions shall govern the use of signs in the Resource Protection and Shoreland Overlay Districts:

1. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

2. Signs relating to trespassing, hunting, and marine harvesting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

3. No sign shall extend higher than twenty (20) feet above the ground.

4. Signs may be illuminated only by shielded, non-flashing lights.

5. Signs relating to public safety, installed by public agencies, shall be permitted without restriction.

F. SIGNS IN THE "C", COMMERCIAL, "C-III", COMMERCIAL III AND THE "RPD", RESOURCE PROTECTION DISTRICTS

Notwithstanding sign regulations to the contrary, all signs in the "C" Commercial, "C-III", Commercial III, and "RPD", Resource Protection District shall be consistent with the Route One Corridor Design Guidelines, as approved August 19, 1999.

G. WATER RECREATION AND WATER STORAGE FACILITIES

1. Any temporary or permanent facility for water recreation such as private swimming pools, containing 5,000 gallons of water or more, outdoor water storage tanks, swimming clubs, commercial fishing pond, or any other water storage facility such as reservoirs, fish hatcheries, lobster pounds and sewage lagoons shall comply with the following requirements:

   a. All facility structures shall conform with all applicable setback requirements for the district in which it is located;

   b. The facility shall be enclosed by a fence no less than four (4) feet high to prevent uncontrolled access by small children, unless the facility is an above-ground pool the sides of which are at least four (4) feet high, in which case no fence shall be required; Notwithstanding the foregoing, no fence shall be required for a Pond located in the RR District.

   c. The facility, if operated to attract visitors, shall comply with parking requirements established under the following Sections of the Ordinance;

2. Before a permit shall be issued to the operator or owner of the facility, other than a private swimming pool, a plan shall be submitted to the Board of Appeals showing size of facility, proposed use, surrounding properties and their usage, and any other pertinent information;

3. For private swimming pools, the Planning Director shall issue a permit, if the pool is in conformance with this Ordinance. ARTICLE VI.A.4 of this Ordinance shall be construed to include any facilities described in this Section.

H. OFF-STREET PARKING AND LOADING

1. Parking: Off-street parking spaces shall be provided in accordance with the specifications of this Section. However, under site plan review, the Permitting Authority, may waive parking requirements, considering such criteria as site

constraints, provisions for shared parking, available on street parking, alternative modes of commuting (bicycle, walking, rideshare), and access to transit.

Uses	**Parking Spaces Required**
Residential	2 per dwelling unit
Church	1 per 4 members
School	1 per 4 students
Theater	1 per 4 seats
Hospital and Nursing Home	1 per 3 beds and one for each employee based on the expected average employee occupancy
Professional offices and business services, medical clinic and retail business in commercial districts	3 for every 1000 sq.ft. of net office area (maximum)
Retail business and personal service establishments	4 for every 1000 sq. ft. of net retail area (maximum)
Restaurants*	1 per 2 ½ seats
Restaurants –carry out*	1 per 50 sq.ft. of service area
Industrial	1 per 1.2 employees, based on the highest expected average employee occupancy
Funeral Homes	1 per 75 sq.ft. of floor space in slumber rooms, parlors, and individual service rooms
Marinas	1 per 3 slips or mooring spaces
Boat building/repair	1 per 1.2 employees
Charter boats/excursions	1 per 2 persons of boat capacity
Museum	1 per 250 sq.ft. of display area

* Sidewalk Café and outdoor seating shall be exempt for the first 12 seats; additional seating shall require 1 space per 4 seats.

2. Electrical vehicle charging station (EVCS) requirements: To facilitate and encourage the use of electrical vehicles (EV) and to expedite the establishment of convenient, cost-effective electric vehicle infrastructure, the following minimum requirements for such infrastructure to serve both long-term and short-term parking needs are required. All new or reconstructed areas shall be required to install EVCS and electrical capacity for EV parking spaces in accordance with the specifications of this section when one of the following conditions is met:

    a. The development includes a new off-street parking area with 10 or more spaces; or,

b. The parking capacity of an existing parking area with 20 or more spaces is increased by 30 percent or more (expressed as [number of additional spaces] / [number of existing spaces] x 100); or,

c. A parking area with 20 or more spaces is being reconstructed as defined in ARTICLE II.D.

3. Number of EVCSs required: The number of EVCSs required to be installed at the time of development or reconstruction is stated as a percentage of the total number of required parking spaces for the parking area in Column A of the table below. For reconstructed parking areas, EVCS standards shall apply to the reconstructed parking spaces and not the parking area as a whole.

4. EVCS requirements will be rounded to the closest whole number but there will always be a value of at least one EVCS to be available at the time of the development occupancy or completion.

5. Requirements for increased electrical capacity for future EVCS: To meet the anticipated demand for EVCSs as the technology becomes more widespread, Column B of the table in this section specifies the required increased electrical capacity to enable future EVCS installations. Electric capacity requirements are met by providing a cabinet, box, or enclosure connected to a conduit linking parking spaces with 208/240V or higher voltage AC electrical service suitable for the number of EVCSs.

   a. Capacity requirements will be rounded to the closet whole number of parking spaces. For example, a newly constructed parking area for an office with 12 total spaces would require 2 spaces with increased electrical capacity (as 20% of 12 is 2.4, which rounds down to 2).

6. EVCS and increased electrical capacity requirements by use:

Uses	**Column A: EVCSs Required**	**Column B: Parking Spaces with Increased Electrical Capacity Required**
Residential	10%	1 space per dwelling unit
Church	5%	20%
School	5%	20%
Theater	5%	20%
Hospital and Nursing Home	5%	20%
Professional offices and business services, medical clinic and retail business in commercial districts	5%	20%
Retail business and personal service establishments	5%	20%

Restaurants	5%	20%
Restaurants –carry out*	5%	20%
Industrial	10%	40%
Funeral Homes	5%	20%
Marinas	5%	20%
Boat building/repair	5%	20%
Charter boats/excursions	5%	20%
Museum	5%	20%

7. The EVCS requirements of this section may be revised upward or downward by the Planning Authority as part of an application for site plan review based on verifiable information pertaining to parking. In addition, the Planning Authority may adjust these requirements in the following ways:

    a. The Planning Authority may waive or delay the EVCS requirements due to supply chain disruptions if receipt of electric vehicle charging infrastructure exceeds the site plan approval expiration as defined in Chapter 702, Article I.L.2.

    b. When the cost installing EVCS required by this section would exceed five percent of the total project cost, the property owner and/or applicant may request a reduction in the EVCS requirements and submit cost estimates documenting costs. When site plan approval is not required, the Code Enforcement Officer may administratively approve a reduction of the number of EVCS to limit the EVCS installation costs to not more than five percent of the total project cost.

8. The following exceptions revise the above EVCS requirements:

    a. Single family detached dwellings, two family detached dwellings, and accessory dwelling units are exempt from complying with the EVCS requirements.

9. EVCS installed to meet the requirements in this section, including EVCF as well as EVCS constructed in a standalone installation, shall comply with the following standards:

    a. Size: EVCSs must adhere to the size requirements for a parking space as defined in ARTICLE I.D.

    b. Clearance: Charging station equipment mounted on pedestals, posts, bollards, or other devices shall be a minimum of 24 inches clear from the face of the curb, if any, or from the required dimensions of the parking space.

c. Charging Station Equipment: Charging station outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the top of surface where mounted and shall be designed and located as to not impede pedestrian travel or create trip hazards on sidewalks.

d. Charging Station Equipment Protection: When the electric vehicle parking space is perpendicular or at an angle to curb face and charging equipment, adequate equipment protection, such as wheel stops or concrete-filled steel bollards shall be used.

e. Maintenance: Charging station equipment shall be maintained in all respects, including the functioning of the charging equipment. Contact information shall be provided on the charging station equipment for reporting when the equipment is not functioning or when other problems are encountered.

f. Design: Design should be appropriate for the location and use. EVCSs should be able to be readily identified by electric vehicle users but blend into the surrounding landscape/architecture for compatibility with the character and use of the site. All conduit and electrical service shall be underground.

g. Signage: Signage on or near the EVCS shall include:

   i. Information on the charging station to identify voltage and amperage levels and any time of use, fees, or safety information.
   ii. Restrictions, if removal provisions are to be enforced by the property owner.
   iii. As appropriate, directional signs to effectively guide motorists to the EVCS shall be provided on the site.

h. Operation: The EVCS must be operational during the normal business hours of the use(s) that it serves. EVCS may be de-energized or otherwise restricted after normal business hours of the use(s) it serves.

i. Accessibility: In lots with 5 or more EVCS installed, at least one EVCS shall be designed and constructed in accordance with relevant State and Federal guidelines for accessibility.

10. EVCS parking spaces are to be included in the calculation for both the number of minimum and maximum parking spaces required in this section, as applicable, and in Chapter 703.

11. Off-street loading: Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled, shall be provided for all commercial and industrial uses. Required off-street loading space

is not to be included as off-street parking space in computation of required off-street parking space.

I. TEMPORARY STRUCTURES

Temporary structures used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued for a six-month period and may be renewed by the Planning Director. Residing in Basement of foundation structures before the completion of the total structure shall not be permitted.

J. HOME OCCUPATIONS

Any home occupation shall be permitted as an Accessory Use in any zoning district that allows residential uses use if it complies with the requirements of this Section. A written description of the business and any supporting materials must be submitted to the Planning Department. The written description shall provide reasonable evidence that the proposal will meet the performance criteria outlined in 1 through 10 below. If a proposal for a Home Occupation does not strictly meet the performance criteria the applicant may apply to the Zoning board under Article VII.B.b (Special Exceptions) for consideration of the Special Exception criteria in order to achieve the spirit and intent of the Home Occupation definition in Article I.D.

1. The home occupation shall be carried on by a member of the family residing in the dwelling unit only. One employee who is not part of the family is permitted. In addition to the residents of the dwelling unit one employee who is not residing in the dwelling unit is permitted. No more than one full-time employee or that number of part-time employees required to do the work of one full-time employee may be employed in the home occupation on the site at any one time.

2. The home occupation shall be carried on wholly within the principal or Accessory Structures except that materials or equipment may be stored on site subject to provision three below.

3. Exterior displays, exterior storage of materials, and exterior indication of the home occupation or variation from the residential character of the principal structure shall not be permitted except for signs permitted in six (6) below. All materials or equipment shall be stored inside an enclosed structure or screened year round from abutters and the general public.

4. Objectionable circumstances such as but not limited to noise, vibration, smoke, dust, electrical disturbance, odors, heat, storage of hazardous materials, or glare shall not be produced.

5. Traffic generated shall be in keeping with the character of the neighborhood.

6. In any district, a home occupation sign not exceeding two (2) square feet in surface is permitted which announces the name, address, profession or home occupation of the occupant of the premises on which said sign is located.

7. The home occupation may utilize not more than twenty percent (20%) of the dwelling unit finished living space.

8. The home occupation may utilize one Accessory Structure.

9. No more than two customers shall be served at any given time.

10. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate parking may be required to provide for the vehicle of any additional employee and for a maximum of two (2) customers.

K. HEIGHT REGULATIONS

The height limitations for all districts should be 35 feet, except for silos for storage of feed crops, steeples, wireless communication towers, Alternative Tower Structures, and except when otherwise authorized by the General Board of Appeals, in cases where it is consistent with the objectives of the comprehensive plan, will not adversely affect surrounding areas, and is in scale with its environs, this restriction shall not apply, providing however, in the SOD and RPD the maximum structure height is 35’.

L. BUFFER AREAS

No Building shall be erected or any use permitted in nonresidential districts which abut residential districts unless the following front, side and rear yard requirements are satisfied:

1. Wherever commercial, industrial, or mixed use structures are proposed, front, side and rear yards abutting residential districts or adjacent to or across a street from residential districts shall maintain the district boundary in its natural state to provide a visual screen between districts of at least 25 feet unless waived by the permitting authority.

2. Where no natural buffer exists all such side and rear yard abutting residential districts shall be landscaped to provide a visual screen between districts. Because of varying site conditions, landscaping for the purposes of this Section may include tree plantings, hedges, fencing, walling and combinations thereof.

M. OPEN SPACE RESIDENTIAL DEVELOPMENT

1. Purpose
   The purpose of this article is to provide a voluntary mechanism to encourage the preservation of open space, forests, wildlife habitat, contiguous protected areas,

natural topography, and the rural character of the Town of Yarmouth through a flexible and economical alternative to conventional residential subdivisions.

2. Objectives

   a. To encourage an efficient use of land, which allows development yet reduces land consumption, and preserves rural character in harmony with surrounding environs.

   b. To encourage open space residential developments by providing developers with incentives such as reduced infrastructure costs due to a more compact subdivision design and Road design flexibility, as well as opportunities for receiving unit bonuses.

   c. To preserve plant and animal habitat, wildlife corridors, scenic views, water quality, undeveloped lengths of shorefront, and large contiguous open spaces and connected corridors.

   d. To promote active and passive recreational opportunities accessible to both residents of a development as well as the citizens of Yarmouth at large.

   e. To encourage a more creatively designed development than would be possible through the strict application of other Sections of the Ordinance.

3. Applicability and Review Process of Open Space Residential Development

   a. A developer may propose an Open Space Residential Development on any size parcel provided that the parcel could be developed as a conventional (or regular) subdivision in the zoning District in which the parcel is located.

   b. The Planning Board may require a developer to submit, at the conceptual stage of a proposed subdivision or multiplex development, an alternative development plan that incorporates open space by using the provisions set out in Article II.M, if the site under consideration exceeds 20 Acres.

   c. The Planning Board may require a proposed residential development to use the provisions of Open Space Residential Development to accomplish the goal of preservation of open spaces if one or more of the following criteria apply:

      i. If, after review of conceptual plans and a site review of the proposed development, the Parks and Public Lands Management Committee recommends preservation of significant natural features;

ii. If the Planning Board determines a need for a buffer area between the proposed development and adjacent land (developed or undeveloped) or between the proposed development and a major traveled way or visual access point;

iii. If a proposed development exceeds 20 Acres.

d. Proposals for Open Space Residential Developments shall follow the review process and guidelines as outlined in Chapter 601 Yarmouth Subdivision regulations and Chapter 702 Yarmouth Site Plan Regulations.

4. Development Standards Relative to Minimum Open Space

a. A minimum of 25% of the original parcel must be preserved as open space. Open space shall be defined as land not developed for residential uses. Open space does not include common areas as defined below. Walking, hiking, and biking trails which have a pervious surface are not considered shared recreational facilities, and may be included within the required minimum percentage open space. The applicant shall provide a plan showing all common areas and open space.

b. Common Area(s) include

i. Accessory Structures and land primarily designed for residents' uses, including, but not limited to, roads, parking areas, rights of way, utilities, and septic fields.

ii. Shared recreational facilities shall be defined in M.8.a. Shared recreational facilities shall be defined as Accessory Structures and improvements necessary and appropriate for educational, recreational, cultural, social, or other nonresidential uses permitted in the underlying zone. Shared recreational facilities shall be allowed on common land not designated as part of the minimum required open space, as long as the requirements of the Yarmouth Subdivision and Site Plan Regulations are met.

c. The applicant must demonstrate that 75% of the minimum open space requirements are met by one contiguous parcel or no more than two separate parcels of land no less than 100 ft. wide.
d. No more than 50% percent of the required minimum percentage open space which is used to calculate density bonus(es) shall include any of the following areas: steep slopes in excess of 20%, rock outcroppings, flood plains, utilities, and wetlands.
e. The applicant shall provide a plan showing all common areas and open space, and shall designate such areas as defined below:

i. Active Use Open Space: Designation of active use open space shall be for passive noncommercial amenities and recreational uses which, when developed, maintain the integrity of the natural landscape and provide use amenities. Unpaved walking, hiking, and biking trails which have a pervious surface are included. These open space areas are for the use and enjoyment of the development residents and Yarmouth residents if so designated.

ii. Limited Use Open Space: Designation of limited use open space shall be for agricultural and managed forestlands.

iii. Conservation Open Space: Designation of conservation open space is required for significant or unique environmentally sensitive areas, including but not limited to Wetlands, freshwater wetlands over two acres ,wildlife habitat, endangered flora / fauna, streambeds and Water Bodies, river frontage, significant stands of trees, scenic vistas, archeological sites and graveyards. Land area within conservation open space shall permanently remain in its natural state except for maintenance and access to archeological sites and graveyards.

5. Development Standards Relative to Open Space Plan Design and Access

a. The applicant must demonstrate that the design of the open space, which results in density bonus units, is beneficial open space. “Beneficial” in this context means that the open space as planned clearly and substantially meets the purpose and applicable objectives of the Open Space Residential Development ordinance. Areas dedicated to onsite septic disposal systems, roadways, or similar infrastructure purposes may be included in the Open Space designated area, but shall be excluded from the acreage calculation for Open Space Designation.

b. The applicant must demonstrate that there is safe and convenient pedestrian access to open space from all the lots in the residential development that do not adjoin the open space.

c. The Planning Board shall consider the scale of development and proximity to existing designated open spaces and trails in evaluating the adequacy of the open space plan.

d. The Planning Board may require a visual buffer or vegetative screen, upon finding that the unique characteristics of the development area and proposed design warrant such. This may be achieved through retention of significant trees or additional landscaping.

6. Dimensional Standards – Minimum Lot size, Perimeter Setbacks, Setbacks

    a. The Planning Board, in reviewing proposed Open Space Residential Developments, may modify said provisions related to minimum lot size, lot width and setback size, to permit innovative approaches to housing and environmental design.

    b. Structures are exempt from front, side and rear setbacks, provided that no Structure may be placed closer to the original perimeter side or rear property line than is allowed within the underlying zoning district.

    c. Each dwelling unit shall have adjacent to it an exclusive use area of at least 300 square feet. The exclusive use area may contain patios, decks, fences, landscaping, gardens, and other outdoor facilities. Where fee simple ownership lots are established, said lots shall be deemed exclusive use area for the units thereon.

7. Lot Density Calculations and Density Bonuses

    a. Lot Density shall be calculated by using Net Residential Acreage as defined in Article II. The resultant acreage is then divided by the minimum lot size of the district to derive the maximum number of residential units permitted without density bonus units. In cases where the number of residential units permitted equals a decimal number, the number shall be rounded to the nearest whole number.

    b. Density Bonus Allowances: In addition, The Planning Board shall approve a density bonus that increases the maximum number of residential units allowed if the project meets any one or more of the five criteria outlined below. The maximum number of residential units is multiplied by the applicable density bonus percentage(s) to determine the total number of residential units permitted. In cases where the number of residential units permitted equals a decimal number, the number shall be rounded to the nearest whole number.

        i. Protection of additional open space through an easement or deed restriction:

            (a) Where the proposed Development protects the minimum 25% of the area as open space in perpetuity, the development will be awarded a density bonus of 5%, or
            (b) Greater than or equal to 40% of the parcel area as open space in perpetuity, the development will be awarded a density bonus of 15%, or

(c) Greater than or equal to 65% of the parcel area as open space in perpetuity, the development will be awarded a density bonus of 25%,

ii. Protection of agricultural and forest land:
Where the development protects > 10 Acres of sustainably managed agricultural or forest land and provides a mechanism for the protection through an easement or deed restriction, the development will be awarded a density bonus of 5%. These restrictions shall be incorporated into the conservation easement of the grantee of the open space. In order to be considered sustainably managed forestland, a management plan must be developed by a licensed forester.

iii. Public access :
Where the public is granted access to the open space and use thereof, the development will be awarded a density bonus of 10%. Public access, which may be restricted to pedestrian traffic, qualifies for this density bonus. The instrument granting public access, acceptable to the Planning Board, may reasonably restrict the use of motorized vehicles.

iv. Protection of contiguous open space:
Where the development protects open space that is contiguous with other protected open spaces on adjacent parcels, such that the total contiguous protected open space is > 15 Acres, the development will be awarded a density bonus of 5%. If a proposed development abuts Town-owned property, the Planning Board shall consider the need for an access easement or right-of-way to such land and may require access.

v. Provision of affordable housing:
For every X percent of affordable housing units provided for a period not less than 30 years, the development will be awarded a density bonus of X/2. For the purposes of this subsection only, a resolution of endorsement by the Yarmouth Town Council as to affordability shall be the standard for determining both affordability and the proposed mechanism for such affordability.

8. Ownership, Protection, and Maintenance of Open Space

a. Ownership:
All common lands and improvements shall be described and identified as to location, site, use, and control in a covenant. Such covenant shall set forth the method of assessment for the maintenance of such land per best management practices. It shall provide voting and use rights for the open space when applicable and may charge dues to cover

expenses, which may include tax liabilities of the open space. Articles of Association or Incorporation must be acceptable to the Town Council and Town Legal Counsel prior to issuance of a Building permit. The cost of such legal review shall be borne by the applicant. Any changes in such articles of Association or Incorporation which relate to said open space shall require the prior written approval of the Town Council and Town Legal Counsel. The covenant shall be written to run with the land and become part of the deed to each lot or dwelling unit within the development. Open space land shall be held, managed, and maintained by the developer until owned and controlled by the homeowners' association or other approved entity. Open space shall be permanently protected by:

i. Conveyance to a homeowners' association. A homeowners' association is a private non-profit corporation, association, or other non-profit legal entity established by the developer. Membership in said homeowners' association shall be mandatory for property owners and made a required covenant in any deed issued or passed, or

ii. Private ownership protected by deed covenants and restrictions in perpetuity, and use limited to conservation, Agriculture, forest and other uses consistent with the purposes of this ordinance, or

iii. Conveyance to the Town of Yarmouth or an acceptable alternative, which meets the spirit and intent of this ordinance and is approved by the Planning Board after review by Town Legal Counsel.

b.Protection:

Conveyances of open space land to a homeowners' association shall be subject to a permanent conservation easement granted to the Town of Yarmouth. Conservation easements are tied to the title of the land and shall be recorded at the County Registry of Deeds. Provisions of such conservation easements are subject to the approval of the Planning Board with recommendations from the Parks and Public Lands Management Committee and may include provisions for no further subdivision; no residential or industrial development; no commercial uses except for Agriculture and forestry-related uses conducted according to Best Management Practices; no Roads; whether or not public access will be restricted or permitted; monitoring and easement oversight by the Town of Yarmouth or other agent assigned by the Town (such as a land trust or other conservation organization).

N. SITE PLAN – REPEALED 6/7/90- NEW ORDINANCE CHAPTER 701 SITE PLAN REVIEW

O. ACCESS

1. No permit for the erection, conversion, or Alteration of any Building or Structure that increases the number of Dwelling units, permanent or temporary, shall be issued unless there exists a street giving access to such proposed structure. Before such a permit shall be issued, such street shall have been suitably improved to the satisfaction of the Town Engineer and the Planning Board in accordance with the applicable design and construction standards and specifications of the Town of Yarmouth. Alternatively, and at the discretion of the Planning Board, a performance bond sufficient to cover the full cost of such improvement as estimated by the Town Manager shall be furnished to the Town by the owner. Such performance bond shall be issued by a bonding or surety company approved by the Town Manger and shall also be approved by the Town Manager as to form, sufficiency and manner of execution.

   Notwithstanding the above access requirements, nothing herein shall be deemed to prohibit an Addition to or Alteration of an existing Building or structure as long as the number of dwelling units are not increased.

2. Where the enforcement of the provisions of this Section would entail unnecessary hardship, or where the circumstances of the case do not require the structure to be related to the existing or proposed streets or highways, the applicant for such a permit may appeal from a decision of the Planning Director and the same provisions for the granting of a variance shall be applied by the Board of Appeals in considering the appeal. The Board of Appeals may, in passing on such appeal, impose any reasonable conditions that will protect any future street or highway layout and which will serve to protect the public health, welfare and safety. For the purposes of this Section, the term "access" shall mean that the lot upon which such structure is proposed to be erected directly abuts on a street and has sufficient frontage thereon to allow the ingress and egress of fire trucks, ambulances, police cars and other emergency vehicles, and, the frontage requirements of this Ordinance shall presumptively be sufficient for that purpose.

P. AMENDMENTS AND VARIANCES

This Ordinance may be amended by majority vote of the legislative body. Copies of all amendments to the Shoreland Zone, including related standards and definitions, shall be attested and signed by the Municipal Clerk, and shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town Council and prior to the effective date of such amendments. Amendments of the Shoreland Zone and related standards and definitions shall be in effect upon approval by the Commissioner or within forty-five (45) days of his/her receipt of the

amendment, if the Commissioner fails to act within the forty-five (45) day period. Any application submitted to the municipality for a permit in the Shoreland Zone within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner or is otherwise in effect. If amendments are made in the SOD and RPD boundaries on the Official Zoning Map, such changes shall be made on the Town of Yarmouth Official Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection. Copies of all variances granted in the Shoreland Zone shall also be submitted to the Commissioner. Proof of mailings of amendments and variances shall be maintained by the Planning Director as a permanent record.

Q. CAMPGROUNDS

1. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

2. Camping areas shall contain a minimum of 5,000 square feet of suitable land, not including Roads and Driveways, for each site. Land supporting Wetland Vegetation, and land below the Normal High Water Line of a Water Body shall not be included in calculating land area per site.

   The area intended for temporary placement of the recreational vehicle, tent, or shelter and utility and service Buildings shall be set back a minimum of 75 feet horizontal distance from the Normal High Water line of a Water Body, Tributary Stream, or the Upland Edge of a Wetland.

3. **Individual Private Campsites.** Individual private campsites not associated with campgrounds in the Shoreland Zoning Area are subject to the following conditions:

   a. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

   b. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.

   c. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water

line of other water bodies, tributary streams, or the upland edge of a wetland.

d. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

e. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

f. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

g. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

R. DOCKS, PIERS, WHARVES, MOORED FLOATS, BREAKWATERS, CAUSEWAYS,MARINAS, BRIDGES OVER 20 FEET IN LENGTH, AND USES PROJECTING INTO WATER BODIES AND SHORELINE STABILIZATION

1. Purpose: The intent of this Ordinance is to provide for the safe and appropriate construction of structures which provide for water access without creating undue adverse effects on the marine environment. Some areas of Town are potentially sensitive to dock construction, therefore environmental impact analysis may be required to assess potential impacts as part of the review process.

2. All docks create some environmental impact. While single docks may not create significant impacts, cumulative impacts of several docks may cause adverse environmental effects. The intent is also to minimize the cumulative impact of such situations on the marine environment, scenic character, and navigation.

3. Standards of Review: When reviewing a proposed pier, dock, wharf, breakwater, causeway, marina, bridges over 20 feet in length or other structures projecting into Water Bodies, in any area where such structures are not prohibited, the Permitting Authority shall review the proposal's conformance with the following standards.

a. The Permitting Authority may require the applicant to submit an environmental impact analysis assessing the proposal's potential impact on natural areas, including cumulative impacts of the proposed structure in conjunction with other structures.

b. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

c. The location shall not interfere with developed beach areas, moorings, and points of public access or other private docks.

d. The facility shall be located and constructed so as to create minimal adverse effects on fisheries, existing scenic character, or areas of environmental significance, such as: clam flats, eel grass beds, salt marshes, mussel bars and regionally, statewide and national significant wildlife areas as determined by Maine Department of Inland Fisheries and Wildlife (I.F.W.).

e. The activity will not unreasonably interfere with the natural flow of any surface or subsurface waters or impede the navigability of a river or channel. In making a determination regarding potential impediments to navigation, the Permitting Authority may request comments from the Harbor and Waterfront Committee.

f. The facility shall be no larger in height, width or length than necessary to carry on the activities and be consistent with the surrounding character, and use the area. A temporary pier, dock or wharf in Non Tidal waters shall not be wider than six (6) feet for non-commercial uses.

g. New permanent piers and docks on Non Tidal waters shall not be permitted unless it is clearly demonstrated to the Permitting Authority that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

h. Areas, such as, but not limited to: high intensity uses as in cooperative or community docks, need for handicap access, or unusual wind and tide conditions requiring a larger float for stability.

i. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as required, a second structure may be allowed and may remain as long as the lot is not further divided.

j. Vegetation may be removed in excess of the standards in Article IV.R. 7.(k) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Permitting Authority. Construction equipment must access the shoreline by barge when feasible as determined by the Permitting Authority.

i. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment access way must be restored.

ii. Revegetation must occur in accordance with Article IV. R. Section 7 (n) of this ordinance.

4. The following maximum dimensional requirements shall apply for private docks, located outside of the WOC, WOC II, WOCIII, GD, and Industrial Zones. The requirements for ramp and float size may be waived by the Planning Board if it finds that the proposal has special needs requiring additional area, such as, but not limited to; high intensity uses as in cooperative or community docks, need for handicap access, or unusual wind and tide conditions requiring a larger float for stability. Maximum Pier width shall not be waived.

a. Pier: Six (6) feet in overall width
b. Ramp: Three and one half (3.5) feet in width
c. Float: Three hundred twenty (320) square feet.

5. MITIGATION
The Permitting Authority may require a mitigation of adverse impacts and may impose any reasonable conditions to assure such mitigation as is necessary to comply with these standards. For the purpose of this Section, "mitigation" means any action taken or not taken to avoid, minimize, rectify, reduce, eliminate or compensate for any actual or potential adverse impact on the significant environmental areas, including minimizing an impact by limiting the dimensions of the Structure and type of materials used; the magnitude, duration, or location of an activity; or by controlling the time of an activity.

S. MANUFACTURED HOUSING COMMUNITIES, MANUFACTURED HOUSING, AND TINY HOMES

1. Purpose: The purpose of this section is to identify the standards that are applicable to Manufactured Housing Communities, Manufactured Housing, and Tiny Homes.

2. Manufactured Housing: Manufactured housing as defined and allowed under this Ordinance may be placed or erected on undeveloped lots where single family dwellings are allowed and shall be required to meet the following standards:

   a. Manufactured Housing shall be placed on a permanent foundation that complied with Chapter 301, Building Code Ordinance.

   b. The hitch, axles, and wheels shall be removed from the Manufactured Housing.

   c. The Manufactured Housing shall meet all applicable fire, safety, health, plumbing, electrical, and building code requirements.

   d. The Manufactured Housing shall meet the setback requirements of the applicable zoning district, unless the Manufactured Housing is located on a Manufactured Housing Community Lot, where the setbacks required under paragraph 3.f below are applicable.

   e. All fuel supply systems shall be constructed and installed pursuant to the State Manufactured Housing Board regulations. Outdoor fuel storage shall be screened, but accessible for refueling.

   f. Manufactured Housing may also be an accessory dwelling unit that meets the requirements within Chapter 702, Site Plan Review.

   g. Nothing herein shall prevent the use of modular construction for structures containing multiple dwelling units which otherwise meet the standards of this Ordinance.

3. Manufactured Housing Communities: The following standards apply to Manufactured Housing Communities:

   a. Manufactured Housing Communities require site plan approval pursuant to Chapter 702, Site Plan Review, as well as subdivision review pursuant to Chapter 601, Subdivision. In the event of a conflict between the standards of this section, and other standards of the Code of Ordinances, the more restrictive standard shall control unless the less restrictive standard is applicable under federal or state laws, rules, or regulations.

   b. Manufactured Housing Communities shall be designated on a Manufactured Housing Community Plan that meets the plan requirements of Chapter 702, Site Plan Review, and Chapter 601, Subdivision, as applicable.

   c. The minimum lot size of any Manufactured Housing Community lot shall be determined as follows:

i. The minimum size of any Manufactured Housing Community Lot served by a public sewer system shall be the smaller of 5,000 square feet or the minimum lot size of the smallest residential lot permitted by the Town; or
ii. The minimum lot size of any Manufactured Housing Community Lot served by an individual on-site subsurface wastewater disposal system shall be 20,000 square feet; or
iii. The minimum lot size of any Manufactured Housing Community Lot served by a central on-site subsurface wastewater disposal system approved by the Department of Health and Human Services shall be 12,000 square feet.

d. The minimum lot size for a property on which a Manufactured Housing Community is proposed shall be the combined area of:

i. All Manufactured Housing Community Lots within the Community;
ii. Road rights-of-way within the Community; and
iii. Any setback areas required under Article IV.R, Shoreland Overlay District, of this Chapter.

e. A Manufactured Housing Community shall meet the setback requirements of the applicable zoning district in which it is proposed along the outside perimeter of the Manufactured Housing Community.

f. Manufactured Housing Community Lots within a Manufactured Housing Community shall have setbacks of 10 feet on all sides. The required setbacks of a Manufactured Housing Community Lot may overlap with the setbacks required for the Manufactured Housing Community if the Manufactured Housing Community Lot is located along the outside perimeter of the Manufactured Housing Community.

g. Private roads within a Manufactured Housing Community shall:

i. Be built according to acceptable engineering standards and with a professional engineer's seal as required by the Street Construction Standards adopted by the State Manufactured Housing Board, and
ii. Have a right-of-way of 23 feet in width within which at least 20 feet shall be paved when providing two-way traffic and at least 14 feet providing one-way traffic.

h. Roads that will be offered to the Town for acceptance shall be constructed to meet the public road standards of Chapter 601, Subdivision.

i. Utilities shall not be required to be underground per 30-A MRS §4358, although may be located underground.

4. Tiny Homes: Tiny Homes as defined and allowed under this Ordinance may be placed or erected on undeveloped lots where single family dwellings are allowed and shall be required to meet the following standards:

   a. A Tiny Home shall meet the setback requirements of the applicable zoning district in which it is located, unless a Tiny Home is located on a Manufactured Housing Community Lot, where the setbacks required under paragraph 3.f above are applicable.

   b. A Tiny Home shall meet all applicable fire, safety, health, plumbing, electrical, and building requirements relative to on-site systems and utilities.

   c. A Tiny Home may also be an accessory dwelling unit that meets the requirements within Chapter 702, Site Plan Review.

T. LOT AREA AVERAGING

Except within the Shoreland Overlay and Resource Protection Districts, the Planning Board may allow a reduction in lot sizes in single family detached subdivisions provided that the same number of lots in the same subdivision are oversized by an equal or greater area, where it finds that because of natural features, topography, or the character of surrounding development that such a reduction will benefit the overall design of the subdivision. The maximum permitted reduction shall not exceed 25% of the minimum required lot area. The maximum number of lots permitted to be reduced in lot size shall not exceed 25% of the total lots in the subdivision. The Planning Board may adjust rear, side and front setbacks for each affected lot by no more than 25% at its discretion.

U. OPEN SPACE REQUIREMENT-repealed 7/25/2006

V. DAY CARE STANDARDS

1. Purpose
   It is the intent of these provisions to allow places for the care of children in a healthy and safe environment in a manner which will not be disruptive to a neighborhood. Places for the care of children should be considered a public service and are integral components of neighborhood life.

2. Licensing and Registration Required

   a. All facilities providing care of children shall be licensed by the Maine Department of Health and Human Services, evidence of said licensing shall be provided to the Department of Planning and Development.

3. Standards for all facilities providing care of children.
   In addition to standards used by the Maine Department of Health and Human Services in licensing Day Care Facilities the following standards shall be used to

review the appropriateness of applications for all facilities providing care of children.

a. Access to outdoor play area. All facilities must have access to an outdoor play area with sufficient space for safe play for all children.

Provision of indoor play area. All facilities must have a minimum of 35 square feet of indoor play space per child. Indoor spaces shall be properly lit, including natural lighting. Areas for administrative use, bathrooms, hallways, storage and kitchen areas, shall not be counted in calculating this required square footage.

b. Minimum Fencing Required. Four foot fence around outdoor play area unless the area can be determined to be well protected by location and natural barriers.

Location of play areas. The play area must not be located near hazardous areas (such as busy streets, wells, open water, etc) unless protected by either natural boundaries or adequate fencing.

c. Outdoor storage of equipment. All moveable play equipment shall be stored in an appropriate container or enclosure when not in use.

d. Parking areas. A parking area shall be designed to provide a safe location for loading and unloading children.

4. The Permitting Authority shall consider the necessity for additional appropriate conditions and safeguards to protect the health, safety and welfare of the children using the Home or Facility including the necessity for additional fences, barriers, other safety devices and buffers.

5. The applicant shall get approval from the Plumbing Inspector that the sewerage disposal system can handle the needs of the proposed use.

6. Group Day Care homes shall have at least 1,000 square feet of lot area per child received into the home including the family's natural or adopted children under the first grade.

W. ADULT BUSINESS ESTABLISHMENTS

1. Location of Adult Businesses Restricted
No Adult Business shall be located:

a. in any zoning district other than the Commercial District

b. in any location where the customer entrance to the Adult Business would be closer than 250 feet, measured in a straight line without regard to intervening structures or objects, to the nearest point on the boundary of any property which is:

(1) occupied by a residence, school, park, playground, church or Public building,

(2) located in a residential zone, or

(3) occupied by another Adult Business

2. Outside Displays Prohibited.
No materials or devices displaying or exhibiting specified sexual activities shall be visible from the exterior of the Building in which the Adult Business is located.

3. Viewing Booths Prohibited
No viewing booths may be located on the premises of an Adult Business.

4. Effective Date
Notwithstanding anything to the contrary in 1 M.R.S.A. §302, these amendments shall apply to any application or request to locate or operate an Adult Business submitted to the Town of Yarmouth or to any of its officers or employees on or after May 20, 1993.

X. LIGHTING; VILLAGE I AND II DISTRICTS

While outdoor lighting does serve public and private safety and welfare, it is found that some of the illumination of current powerful outdoor lighting is wasted due to penetration beyond the area for which it is intended. This Section shall apply to the placement and design of any outdoor lighting in the Village Districts.

1. Purpose
This Section establishes standards for minimizing the unintended and undesirable side effects of outdoor lighting in the Village District while supporting the intended and desirable safety, welfare and aesthetic purposes of outdoor lighting. It is a purpose of this Section to:

a. minimize nuisance glare by controlling the direct illumination from outdoor lights onto only those areas for which it is intended.
b. promote indirect illumination from outdoor lighting to enhance the safety, welfare and enjoyment of motorists, bicyclists and pedestrians.

c. protect the legitimate privacy of abutting property owners through the control of outdoor lighting by minimizing the spillage of waste light.

2. Non-conforming Outdoor Lighting

a. As of the effective date of this Section, all outdoor lighting that does not conform to every requirement of this Section shall be non-conforming outdoor lighting. Such non-conforming outdoor light shall be grandfathered and may be continued and maintained at the current level.
b. Whenever any outdoor lighting fixture that was existing on the effective date of this Section is replaced by a new outdoor light fixture the new fixture shall conform to the maximum height and minimum shielding requirements of the Section.

3. Exemption
Traffic lighting and pedestrian control lighting in the public right-of-way are exempt from this Section.

4. Prohibited Lighting

a. Moving lighting

b. Flashing lighting

c. Message lighting

d. Roof mounted lighting

5. General Requirements; Outdoor Lighting

a. The illumination source of an outdoor lighting fixture shall be located at least ten (10) feet, as measured horizontally on the face of the earth, from any lot line of any abutting property. However, structures that support the illumination source such as, but not limited to poles may be placed closer than ten (10) feet to a lot line.
b. Where the distance from the front lot line is less than ten (10) feet from the paved surface of the public right-of-way, the illumination source of public street lights may be located less than ten (10) feet from the abutting front lot line.

c. Pedestrian walkway lighting fixtures that at no point are more than three (3) feet above the ground may not be placed closer than ten (10) feet from a lot line. All pedestrian lighting shall conform to all other requirements of this Section.

d. Soffit lighting, where feasible, shall be encouraged and may be required by the Planning Board as part of any Site Plan Review.

e. A photo metric plan and fixture data shall be submitted as part of any Site Plan Review when required by the Planning Board.

f. The maximum height of an illumination source of an outdoor lighting fixture above the average ground grade shall conform to the following table. Average ground grade shall be determined within a circle of 10-foot radius on the ground with its center point directly below the illumination source.

Maximum Height of Illumination Source

Location	Average Height Above Ground (feet)
Village/Commercial property	14
Village/Residential property	12

g. Building attached lighting shall not exceed the maximum heights or the eaves/gable roof edge, whichever is lower.

h. The illumination source of all outdoor lighting except spotlights/floodlights shall be permanently covered on the top and sides by the lighting fixture which shall completely block the passage of light. The side covering, or shade, shall extend downward vertically below the lowest point of illumination.

i. Lighting shall conform as nearly as possible to the following table when measured approximately 3' above grade:

Location	Average Maximum Illumination (foot candles)
Parking Lot	1.5
Property Lines	.5
Site	.5

6. Spotlights/Floodlights
Spotlights/floodlights may only be used to illuminate Buildings and structures in accordance with the provisions of this Section.

a. Under no circumstances shall spotlights/floodlights be used to illuminate any parking areas, loading areas or gas station area.

b. The illumination from spotlight/floodlights shall be directed onto the full facade of a Building sign or structure so that light that spills beyond any edge of the Building sign or structure is minimized.

c. No spotlight/floodlight shall be located closer than ten (10) feet to any lot line.

d. All spotlights/floodlight shall be permanently shielded on the rear and sides by the lighting fixture which shall completely block light.

7. Exclusion
In built-up areas within which historically, or by zoning, distances between Buildings may be less than 10 feet, or distance of Buildings from any lot line may be less than ten (10) feet, nothing in this Section shall be construed to prohibit private or public outdoor lighting as may be deemed necessary by the codes official to meet Building or electrical codes. However, all other requirements of this Section shall be met, including, but not limited to, maximum height requirements and minimum shielding requirements and where the minimum setback of outdoor lighting can be met in said areas, it shall be met.

8. Temporary Residential Party Lights
Nothing in this Section shall be construed to prohibit the occasional use of temporary outdoor lighting on residential properties and other non-commercial properties for social gatherings. However, such temporary outdoor lighting used for more than any seven (7) consecutive day period shall meet all the regulations of this Section.

9. Temporary Outdoor Lighting
Nothing in this Section shall be construed to prohibit the use of temporary outdoor lighting from November 15 to January 15.

10. String Lighting
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.

Y. BUFFERS, VILLAGE I & II DISTRICTS

1. Buffers Defined
Buffers are fences and landscaping used to minimize any adverse impacts or nuisance on the site or from adjacent areas.

2. Required
Buffers shall be considered in or for the following areas and purposes:
a. Along property lines, to shield various uses from each other.

b. Along interior Roads running parallel to Roads exterior to the site, to prevent confusion, particularly at night.
c. To totally screen garbage/trash collection areas, loading and unloading areas, electrical transformers, air conditioning units, utility service areas, and similar functions from public view.

3. Natural Features as Buffers
   Natural features shall be maintained wherever possible to provide a buffer between the proposed development and noncompatible abutting properties and public Roadways. When natural features such as topography, gullies, stands of trees, shrubbery, rock outcrops do not exist or are insufficient to provide a buffer, other kinds of buffers shall be considered.

4. Sufficiency of Buffers
   Buffers shall be sufficient to shield structures and uses from the view of non compatible abutting properties and public Roadways, and to otherwise prevent any nuisances including but not limited to all loading and unloading operations, storage areas, commercial vehicle parking, waste disposal and collection areas.

5. Maintenance of Fencing and Screening
   Fencing and screening shall be durable and properly maintained at all times by the owner and shall be so located within the property line as to allow access for maintenance on both sides without intruding upon abutting properties.

6. Maintenance of Buffer Areas
   All buffer areas shall be maintained in a neat and sanitary condition by the owner.

7. Landscape and Buffer Requirements in the Village I and II Districts

   a. Unless otherwise specifically indicated by the Planning Board, all plant materials required under this Section for site plan review shall meet the following minimum size standards at time of planting:

Plant Material Type	**All Plantings (minimum sizes)**
Canopy Tree, single stem	2.5 inch caliper
Canopy Tree, multi stem Clump	10 feet (height)
Ornamental Tree	1.5 inch caliper
Evergreen Tree	5-7 feet (height)
Shrub, deciduous	24 inches (height)
Shrub, evergreen	18 inches if upright (height)

   b. All plantings required under this Section shall be of a type and species appropriate for the soil types and climatic conditions. Approved plantings are those species indicated available and guaranteed by local nursery sources.

   c. The Owner(s) of any premises approved by the Planning Board shall have a continuing obligation to maintain required planting in accordance with the terms of the site plan approval and in a good and healthy condition.

Z. WIRELESS COMMUNICATION FACILITIES

1. Performance standards and submission requirements for wireless communication facilities
   This section is designed and intended to balance the interests of the residents of the Town of Yarmouth and wireless communications providers and customers in the siting of wireless communications facilities within the town. These standards are also intended to:

   a. Minimize the adverse impacts of such facilities, including visual impacts, environmental impacts, impacts to historically significant areas, and safety impacts.

   b. Permit the construction of new towers only where all other reasonable opportunities have been exhausted.

   c. Encourage the users of towers and antennas to configure and locate them in a way that minimizes the need for additional towers in the Town of Yarmouth.

2. Exemptions
   The following wireless communication facilities are exempt from these regulations:

   a. One operated solely by a federally licensed amateur radio operator as part of the Amateur Radio Service ("ham" radio operator), with a maximum tower height of seventy-five (75) feet, and which is not additionally licensed or used for any commercial purpose, other than by the licensed amateur radio operator.

   b. One used solely for single channel business communications, such as pagers and two-way radios, with a maximum tower height of seventy-five (75) feet, except that no tower for such use is permitted in the V Village or Village II District.

   c. One solely for municipal, public safety, or public works use, with a maximum tower height of one hundred (100) feet.

3. Space and Bulk

   a. Tower Height
      Towers shall not exceed a height of one hundred (100) feet, except that where evidence of acceptable design and co-location is provided, the Planning Board may approve an additional twenty-five (25) feet of tower

height per each additional wireless communication service co-locator, not to exceed the following maximum tower heights:

"RR" Rural Residential; "LDR" Lowe Density Residential	150'
"MDR" Medium Density Residential:	
"IND" Industrial; "C" Commercial; Commercial II; Commercial III	175'

b. Antennas

(1) Height
Installing antennas on Alternative Tower Structures is permitted, provided the resulting Alternative Tower Structure height does not exceed the following maximum heights:

"RR" Rural Residential; "LDR" Low Density Residential .....150'
"MDR" Medium Density Residential; "IND" Industrial; "C" Commercial; Commercial II; Commercial III.....175'
"WOC I" Water Oriented Commercial; "WOC III", "V" Village; Village II District……..present highest point of Building or Structure

Installing Antennas on an existing Alternative Tower Structure in the IND Industrial District, when such Structure exceeds 175', shall be permitted provided there results no additional height to the Structure.

(2) Mounting and dimensions
The mass and dimensions of antennas on a tower or Alternative Tower Structure shall be governed by the following criteria:

(a.) Whip antennas shall not exceed 20' in length for an individual antenna, and shall be limited to two (2) per mount, with no more than three (3) mounts at a given level.

(b.) Microwave dish antennas. The aggregate diameters of microwave dish antennas mounted within a 20' vertical section of a tower may not exceed 24', with no single dish being more than 8' in diameter and 5' in depth, unless otherwise required per the path reliability and/or tower structural studies.

(c.) Panel antennas. The horizontal centerline of all panel antennas of a single carrier must be aligned in the same horizontal plane, with each antenna not to exceed 8' in length or 2' in width.

c. Lot Area

A new wireless telecommunications tower shall not be constructed on a lot that does not conform to the minimum lot area required in the zoning district even if such lot is a lawful non-conforming lot of record.

d. Setbacks

(1) The center of the base of any telecommunications tower must meet the following setback criteria or the required minimum setback of the District in which it is located, whichever is greater:

"RR" Rural Residential; "LDR" Low Density Residential; "MDR" Medium Density Residential:	100% of tower height
"IND" Industrial; "C" Commercial; Commercial II; Commercial III:	50% of tower height, Except that the minimum setback shall be 100% of tower height to any property line which abuts a lot in the RR, LDR, MDR, V, V II, or WOC II District or a lot in residential use

(2) Equipment facilities shall meet the required District setback.

(3) If more than one tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.

(4) Notwithstanding the height and setback limitations within a zoning district, in order to accommodate the co-location of an additional antenna, a tower, existing as of (date of adoption) January 16, 1998, may be modified or rebuilt to a taller height, not to exceed a total maximum of thirty (30) feet more than the tower's height as of (date of adoption) January 16, 1998, but only if that additional height will not require any lighting or obstruction painting. The additional tower height shall not require increased lot setbacks.

(5) There shall be no setback requirements for antennas mounted on Alternative Tower Structures. The standard District setbacks shall continue to apply for Alternative Tower Structures and equipment facilities, where applicable.

4. Co-location requirements

a. On existing towers:

(1) Applicants for site plan review for a new wireless communication tower must send written notice by pre-paid first class United States mail to all other such tower and Alternative Tower Structure owners and licensed wireless communication providers in the Town utilizing exiting towers and Alternative Tower Structures and to owners of such towers and Alternative Tower Structures within a 1 mile search radius of the proposed tower, stating their siting needs and/or co-location capabilities. Evidence that this notice requirement has been fulfilled shall be submitted to the Planning Board and shall include a name and address list, copy of the notice which was sent, and a statement, under oath, that the notices were sent as required. An application for a new tower must include evidence that existing or previously approved towers and Alternative Tower Structures within the Town and search area cannot accommodate the communications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence would be documentation from a qualified and licensed professional engineer that:

(a.) Planned necessary equipment would exceed the structural capacity of existing and approved towers and Alternative Tower Structures, considering the existing and planned use of those towers and Alternative Tower Structures, and the existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;

(b.) Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower or Alternative Tower Structure, and the interference cannot be prevented at a reasonable cost;

(c.) Existing or approved towers and Alternative Tower Structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or approved; or

(d.) Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers and Alternative Tower Structures.

(2) Shared use shall be conditioned on the applicant's agreement to pay a reasonable fee and costs of adapting existing facilities to the proposed use.

(3) Once the Planning Board has determined that telecommunications equipment proposed by the applicant cannot be accommodated on an existing or approved tower or Alternative Tower Structure, each tower or Alternative Tower Structure so found is presumed unable to accommodate similar equipment that may be proposed in the future unless the Board determines, after additional information is provided, that new technology or other considerations enables the existing or approved tower or Alternative Tower Structure to accommodate the equipment.

(4) The Planning Department will maintain a list of existing and approved towers and Alternative Tower Structures, including name and address of owner(s), within the Town of Yarmouth.

b. Construction of new towers
A proposal to construct a new co-located communication tower taller than the maximum height permitted for a single wireless communication service must include evidence that the tower can structurally support a minimum of three (3) antenna arrays for each anticipated co-locating entity. (See Section II.Z.3.a Tower Height, above.)

Prior to the issuance of any Building permits for a co-located tower in excess of the height of a single user tower, the applicant will submit to the Code Enforcement Officer executed agreements documenting commitments to co-locate from the number of co-locators approved by the Planning Board.

5. Interest of telecommunication entity
A proposal to construct or modify a wireless communication tower must include evidence of a commitment from a duly licensed entity to utilize the tower to provide wireless communication services. All wireless communication entities which are contracted to locate on the tower must join as applicants.

6. Submissions
In addition to all of the relevant site plan review submission requirements listed in Chapter 702, the following submissions shall be required unless waived by the Planning Board:

a. A report from a Registered Professional Engineer in the State of Maine that describes the tower, the technical reasons for the tower design and the capacity of the tower, including the number(s), type(s), and volume(s) of

Antenna(s) that it can accommodate and the basis for the calculation of capacity.

b. Written approval by all applicable state and federal agencies, including but not limited to the FAA and FCC, including a description of any conditions or criteria for the approval, or a statement from the agency that no approval is required.

c. A letter of intent that commits the tower owner and his or her successors in interest to:

(1) respond in a timely, comprehensive manner to a request for information from a potential co-location applicant;

(2) negotiate in good faith for shared use by third parties that have received an FCC license or permits;

(3) allow shared use if an applicant agrees in writing to pay reasonable charges.

d. Evidence that co-location on existing or approved towers or Alternative Tower Structures is not possible, per Section II.Z.4 above. If the proposed tower cannot be accommodated on an existing or approved tower site, the applicant must assess whether such tower site could be changed to accommodate the proposed tower, and generally describe the means and projected cost of shared use of the existing or approved tower site.

e. Proof of financial capacity to build, maintain, and remove the proposed tower.

f. An inventory of all of the provider's existing and approved towers, Antennas or sites within the Town of Yarmouth and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application.

g. Photos showing site Vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties.

h. Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.

i. Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing,

supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and tress. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

j. Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing Building or Structure, provide measurements and elevations of the Structure.

k. A visual analysis, which may include photo montage, field mock up, or other techniques, which identifies the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from public areas as well as from private residences and from archaeological and historic resources including historic districts, areas and Structures, specifically those listed in the National Register of Historic Places or those that are eligible for such listing. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his/her review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed communication service.

l. Identify any other telecommunication facilities existing or proposed on the site.

m. Details of all Accessory Structures including Buildings, parking areas, utilities, gates, access Roads, etc.

n. Structural requirements:

(1) Telecommunication towers shall be designed and installed in accordance with the most current standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.

(2) The applicant's engineer shall provide documentation showing that the proposed transmission tower meets or exceeds the most current standards of the American National Standards Institute ANSI/EIA/TIA-222 for Cumberland County relative to wind and 1/2" ice loads when the tower is fully loaded with antennas, transmitters, and other equipment as described in the submitted plan.

(3) For towers or Antennas placed on Buildings or Alternative Tower Structures, the applicant shall also provide written certification that

the Building or ATS itself is structurally capable of safely supporting the tower or Antennas and their accompanying equipment.

7. Design Standards

   a. Wireless communication facilities:

      (1) Except where dictated by federal or state requirements, the Planning Board may require that a proposed tower be camouflaged or designed to blend with the surroundings. This may include, but is not limited to, having a galvanized finish, being painted "flat" blue gray or in a sky tone above the top of surrounding trees and earth tone below treetop level.

      (2) Equipment facilities shall be adjacent to the tower base unless an alternative location will be less visually obtrusive or topographic considerations require n alternative location.

      (3) Equipment facilities shall be no taller than one story in height and shall be treated to look like a Building or facility typically found in the area.

      (4) No obstruction painting or any lighting shall be permitted on any towers, except where dictated by federal or state requirements. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and views.

      (5) Manually operated or motion detecting security lighting is permitted.

      (6) The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and/or community features).

      (7) Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury

   b. Antenna arrays
      Antenna arrays located on an existing structure or Alternative Tower Structure shall be placed in such a manner so as to not be visible from a ground level view adjacent to the structure. If, however, circumstances do not permit such placement, the antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure.

8. Location

a. Wireless telecommunication facilities shall not be sited in areas of high visibility unless the Planning Board finds that no other location is technically feasible. If the facility is to be sited above the ridgeline it must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment.

b. No facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.

9. Additional standards and criteria

a. Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.

b. Creative design measures have been employed to camouflage facilities by integrating them with existing Buildings and among other uses.

c. Other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the effect of the location on visually sensitive areas such as residential communities, historical areas and open space areas.

10. Waiver provision

The Planning Board, in its sole discretion, may modify or waive any of the submission requirements, application procedures, or standards of this Section Z. when it determines that, because of the type or size of the project or circumstances of the site, such requirements would not be applicable or would be unnecessary to determine compliance with the approval standards. The Planning Board must additionally determine that such modification or waiver would not adversely affect properties in the vicinity or the general safety and welfare of the Town. The burden of proof regarding any such modification or waiver rests solely with the applicant and must be shown to be consistent with federal and state law.

Notwithstanding the authority of the Planning Board to grant a waiver, in no instance may the height of a new tower exceed 250' or may the height of an Alternative Tower Structure be increased to more than 250'.

11. Amendments

Any change to existing, previously approved and proposed towers requires site plan approval as noted in the definitions of major and minor development in Chapter 702. Changes include, but are not limited to, modifications to approved height and to approve attachments such as antennas and dishes as well as requests for additional attachments.

12. Removal of abandoned wireless communication facility

a. The owner of a wireless communication facility shall notify the Code Enforcement Officer of the date of cessation of use of the facility or any component(s) thereof within one month from the date of such cessation. If the owner fails to give the notice required by this paragraph, the Code Enforcement Officer shall make a determination of such date, which determination shall be conclusive.

b. Any WCF or component thereof that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of an abandoned WCF or component thereof shall remove it within ninety (90) days of receipt of notice from the Code Enforcement Officer of determination of abandonment.

All above ground structures, equipment, foundations, guy anchors, utilities and access Roads or driveways specifically constructed to service the tower, structures, equipment or utilities shall be removed, and the land returned to a condition as near to the original pre-construction condition as possible.

c. At the time of approval, the applicant for a new tower shall post a performance guarantee in the form of a continuous corporate surety bond, an irrevocable letter of credit, or an escrow account in favor of the Town equal to 125% of the estimated demolition and removal cost of the tower and associated facilities if abandoned at any time by the applicant. Such performance guarantee shall be satisfactory to the Town Manager as to the issuer, form, sufficiency, surety and manner of execution. All performance guarantees shall be on a continuous basis, with any provision for cancellation to include that a minimum 30 day notice of cancellation or non-renewal be sent by certified mail to the Town of Yarmouth.

d. If there are two or more users of a single tower or WCF, then this provision shall not apply until all users cease using the tower or WCF.

e. If all antennas above a manufactured connection on a tower are removed, the resulting unused portions of the tower shall subsequently be removed within six (6) months.

f. The replacement of all or portions of a WCF previously removed requires a new site plan approval per Chapter 702.

13. Inspections

a. Inspection of towers by a Registered Professional Engineer in the State of Maine shall be performed to insure structural integrity. such inspections shall be performed as follows:

(1) Monopole towers - at least once every seven years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence.

(2) Self-supporting towers - at least once every five years following completion of construction. The inspection shall take place between the fourth and fifth year of the repeat sequence.

(3) Guyed towers - at least once every three years following completion of construction. The inspection shall take place between the second and third year of the repeat sequence.

b. The inspection report shall be submitted to the Town Engineer within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO, upon recommendation by the Town Engineer, may require repair or demolition of the tower.

c. The cost of such inspections, reports, repairs or demolition required under this Section of the Ordinance shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days or less as required by the CEO and agreement by the Town Engineer for safety reasons.

d. Failure to provide required inspection reports in the required time schedule shall be deemed primae facie evidence of abandonment.

AA. WELAND BUFFERS AND SETBACK REQUIREMENTS

1. Purpose: The purpose of these requirements is to protect water quality, aquatic life, and wildlife habitat in and adjacent to Wetlands town-wide, and, to protect private and public property from flooding and poor drainage conditions caused by locating Buildings in or close to these areas. The regulations are intended to protect natural resource areas that are not currently covered within the Shoreland Overlay or Resource Protection Overlay Districts.

   A buffer consisting of natural vegetation not less than 25’ wide shall be left undisturbed between Wetlands and all areas cleared for Development, including, but not limited to, lawns, gardens, landscaped plant beds, Driveways, parking lots, Buildings, and other Structures.

   Provided, however, that the Planning Board may reduce or waive the buffer requirement for good cause and upon a showing that the reduction or waiver will

not cause or lead to unreasonable adverse impact to the health, function or value of the Wetland resource. In making such a determination, the Planning Board may impose conditions of approval upon such waiver or reduction in order to protect the resource.

A setback of not less than 50’ shall be maintained between Wetlands and any structures. Provided, however, that the Planning Board may reduce or waive the buffer requirement for good cause and upon a showing that the reduction or waiver will not cause or lead to unreasonable adverse impact to the health, function or value of the Wetland resource. In making such a determination, the Planning Board may impose conditions of approval upon such waiver or reduction in order to protect the resource.

2. Applicability: The requirements of this section apply only in newly created major subdivisions (as defined in Chapter 601 of the Yarmouth Town Code) approved by the Yarmouth Planning Board after July 25, 2006.

   In the event that the requirements of this section overlap the requirements of Shoreland Overlay or the Resource Protection District, the requirements the more restrictive section shall apply.

   Buffers and setbacks shall be measured from the upland edge of the wetland. Where uncertainty exists as to the precise boundaries of protected resources for the purposes of establishing buffers and setbacks, the Planning Board shall be the final authority as to location. In making determinations, the Planning Board may require applicants to file plans drawn and approved by qualified professionals and may consider the advice of state and federal agencies and peer reviewers.

3. Maintenance of Buffers: Buffers shall remain undisturbed, except for the removal of trees that pose a safety hazard. No tree cutting or clearing of vegetation can be done within the buffer without prior approval of the Code Enforcement Officer. No trash, Building materials, compost piles, Buildings, automobiles, equipment, machinery, car parts, gravel, rocks, soil, Slash or debris of any kind shall be placed or stored in the buffer area. Stormwater runoff shall enter the buffer area as sheet flow only. Channeling stormwater runoff through the buffer area is not permitted.

   The boundaries of buffer areas shall be marked on site with snow fencing or equivalent measures and approved by the Code Enforcement Officer prior to site clearing or any development activity.

4. Exemptions:

   A. Buffers and setbacks are not required adjacent to the following areas:
      1. Swales, ditches, and impoundments created for drainage purposes;

2. Artificial impoundments of streams constructed prior to the enactment of this amendment;
3. Low value Wetlands, averaging thirty (30') feet or less in width, as determined by measuring the width of five (5) evenly spaced sections, that function primarily as drainage swales in upland areas.
4. Wetlands 500 square feet or less.

B. Buffers and setbacks do not apply to the following projects:
1. Stormwater management facilities;
2. Road crossings, bridges, culverts, and the installation of utilities needed to access property on the other side of Wetlands and Water Bodies;
3. Docks, boat ramps, and other structures necessary for direct access to Water Bodies.
4. Portions of Wetlands filled or altered under a permit issued by the Maine DEP under the Natural Resources Protection Act or by the US Army Corps of Engineers.

BB. SMALL WIND ENERGY SYSTEMS

1. Purpose: The purpose of this ordinance is to promote alternative energy production on a scale adequate to meet the needs of a typical home or small business. The provisions of this ordinance are intended to regulate placement and construction of Small Wind Energy Systems (SWES) in appropriate locations while minimizing potential visual, environmental, and operational impacts on the Town and its residents.

2. Location: An SWES is an Accessory Use permitted in all zoning districts except the Resource Protection District (RPD), Village I, Village II, or Village III Districts.

3. Permitting Requirements: Notwithstanding the submission requirements outlined herein, no SWES shall be erected, constructed, or installed without first receiving site plan approval in accordance with Chapter 702. Furthermore, a building and electrical permit shall be required for all new SWES and physical modifications to existing SWES. For the purposes of this ordinance, the classification of an application as requiring major or minor site plan review shall be determined by the Total Height of the proposed SWES.

    a. Minor Site Plan Application: Where a proposed SWES has a Total Height no greater than seventy five (75) feet and meets other performance standards in this ordinance, the Planning Director shall review said application for compliance. The Planning Director, at his/her discretion, may refer an application for an SWES to the Planning Board for review.

b. Major Site Plan Application: Where a proposed SWES has a Total Height greater than seventy five (75) feet, the Planning Board shall review said application for compliance.

All site plan applications shall be accompanied by a site plan drawn at a scale sufficient to allow review of the following information:

(1) Location of the proposed SWES and related equipment;
(2) Property boundaries and dimensions;
(3) Setback requirements;
(4) General topography (steep slopes, wetlands, streams, flood plains);
(5) Location and distance to overhead utility lines within 200’ of the proposed SWES;
(6) Graphic scale and north arrow;
(7) Location and distance to roads, and all inhabited structures within 1,000’ of the proposed SWES;

Additional Information:

(8) SWES specifications, including manufacturer, model, rotor diameter;
(9) maximum recommended height; proposed Tower height, type, and support system; generator nameplate capacity, lighting specifications, if any;
(10) If connecting to the power grid, a copy of the application for interconnection with the electric utility provider;
(11) Sound level analysis prepared by the SWES manufacturer or qualified engineer;
(12) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to current National Electric Code;
(13) If an SWES is affixed to an occupied structure, evidence and certification by a structural engineer that the proposed project is structurally feasible;
(14) At the discretion of the Permitting Authority, the applicant may be requested to provide a visual impact analysis including, but not limited to: photo simulation(s), mapping of Viewshed within one-quarter ¼ mile of the proposed SWES, scaled elevation drawings of the SWES as it relates to adjacent structures and vegetation, and a narrative indicating the extent that the SWES would be visible from scenic resources and nearby properties. Where more than one SWES is proposed, visual impact analysis shall be required;
(15) Landscaping plan, indicating any proposed plantings to screen the SWES and any ground mounted electrical and control equipment; and,

(16) Any additional information the Permitting Authority deems appropriate to determine compliance with ordinances and documented goals and policies of the Town of Yarmouth.

4. Design Standards:

The application shall be evaluated for compliance with the following standards;

a. Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the Total Height of the SWES and measured from the center of the Tower base.

Minimum Setback Requirements	
Occupied Buildings on Participating Landowner Property	0
Occupied Buildings on Abutting Property	1.5 X SWES Total Height
Property Lines of Abutting Property and Utility Lines	1.1 X SWES Total Height
Public Roads	1.5 X SWES Total Height

(1) Guy wires used to support a tower are exempt from the SWES setback requirements. However, guy wires must not cross onto abutting properties or rights of way, unless an easement is obtained from the owner of the abutting property onto which the guy wires cross.

b. Height: The maximum Total Height of an SWES is one hundred (100) feet. Upon demonstration by the applicant that additional height is practical, the Planning Board may waive the Total Height to a maximum of one hundred twenty five (125) feet.

c. Sound Level:

(1) The SWES shall not exceed fifty-five (55) decibels using the A scale (dBA), as measured at the side property lines during daylight hours, and forty-five (45) decibels using the A scale (dBA) at night time;
(2) The SWES shall be equipped with an auto braking, governing or feathering system to prevent uncontrolled rotation.

d. Shadow Flicker: An SWES shall be sited and screened with vegetative plantings in such a manner to minimize the impacts of shadow flicker on occupied structures, both the participating property and on properties within 1,000 feet of the SWES. The applicant shall have the burden of proving that the shadow flicker shall not have a significant adverse impact on neighboring properties. Significant shadow flicker is defined as more than twenty five (25) hours per year on abutting occupied buildings.

e. Signs: Logos, advertising, and signs including flags, streamers, and decorative items, both temporary and permanent, are strictly prohibited on

the SWES, except for manufacturer identification or appropriate warning signs.

f. Aviation: It is the applicant's responsibility to verify construction of an SWES complies with all applicable Federal Aviation Administration regulations.

g. Visual Impacts:

(1) The SWES shall be painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include, but are not limited to: white, off-white, and gray.
(2) Exterior lighting is prohibited on an SWES, unless required by the Federal Aviation Administration (FAA).

h. Access: The Tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of twelve (12) feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

i. Blades used as part of the SWES shall not exceed a diameter of twenty (20) feet for residential properties and thirty (30) feet for non-residential properties.

j. The minimum distance between the ground and any Wind Turbine blade shall be at least twenty five (25) feet, as measured from the lowest point in the blade's rotational circle.

5. Abandonment of Use:

a. At such time that an SWES is scheduled to be abandoned or discontinued, the applicant will notify the Planning Department by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

b. Upon abandonment or discontinuation of use, the owner shall physically remove the SWES within ninety (90) days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Planning Director or his/her designee. "Physically remove" shall include, but not be limited to:

(1) Removal of the Wind Turbine and Tower and related above-grade structures.

(2) Restoration of the location of the SWES to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.

c. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous twenty four (24) month period. After the twenty four (24) months of inoperability, the Planning Director or his/her designee may issue a Notice of Abandonment to the owner of the SWES. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from receipt of notice. After review of the information provided by the owner, the Planning Director or his/her designee shall determine if the SWES has been abandoned. If it is determined that the SWES has not been abandoned, the Planning Director or his/her designee shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

d. If the owner fails to respond to the Notice of Abandonment or if, after review by the Planning Director or his/her designee, it is determined that the SWES has been abandoned or discontinued, the owner of the SWES shall remove the wind generator and tower at the owner's sole expense within three (3) months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the Planning Director or his/her designee may refer the issue to the Town Manager who may pursue legal action to have the SWES removed at the owner's expense.

6. Waiver of Required Information: The Permitting Authority may waive the submittal of required materials upon finding that the specific information is unnecessary in order to review the application's conformance with this ordinance.

7. Sunset Provision: These entire provisions for SWES (Chapter 701 Article II.BB) shall expire and be automatically repealed in its entirety on August 1, 2010 unless the Town Council shall earlier revise or repeal this subsection 7.

CC. SIDEWALK CAFÉ

1. Purpose: The purpose of this ordinance is to facilitate the establishment of outdoor seating in the public sidewalk directly adjacent to establishments providing food and beverages. Street Furniture shall be defined as tables, chairs, umbrellas, lighting, plants, planters, trash receptacles and any other items of the sidewalk café.

2. Permitting requirements: A Sidewalk Café is a permitted use in all zoning districts. Permits for operation of a sidewalk café shall be subject to the following design standards and guidelines:

i. A minimum four (4) foot unobstructed pathway shall be maintained at all times.
ii. Placement of seating adjacent to on-street parking shall provide a minimum two (2) foot clearing to accommodate opening/closing of car doors;
iii. Street Furniture shall not be affixed to the sidewalk, and shall be removed at an appropriate time to facilitate winter snow removal;
iv. No amplified sound, food preparation, storage or cooling equipment shall be allowed on the sidewalk;
v. The area shall be kept in a clean and sanitary condition at all times;
vi. Street Furniture shall include provision of a trash receptacle;
vii. Operation of sidewalk café shall be limited to the hours of the establishment;
viii. Consumption of alcohol shall not be permitted unless explicitly permitted by the Town of Yarmouth;
ix. Said permit shall be effective for a period of one (1) year from date of issuance;

Prior to the issuance of a Sidewalk Café Permit, said applicant shall sign a "Sidewalk License Agreement", between the applicant and the Town of Yarmouth.

Amendment to approved location and layout of Street Furniture shall be subject to the approval of the Planning Department.

The Planning Department may deny, revoke, or suspend said permit for deviation from any of the above referenced design standards or guidelines. Denial, revocation or suspension of such permit may be appealed to the Planning Board. Variances from this ordinance shall not be considered.

DD. AFFORDABLE HOUSING PROGRAMS

It is within the public interest to promote an adequate supply of housing that is affordable to a range of households at different income levels. This section outlines the Town of Yarmouth affordable housing programs.

1. Affordable Housing Incentives

    a. Purpose: The purpose of this section is to incentivize developments to voluntarily provide a portion of affordable units and by doing so support the creation of a more economically diverse and inclusive Yarmouth.

    b. Applicability:

        i. This ordinance may apply to any development project that creates net new dwelling units for rent or sale through new construction, substantial rehabilitation of existing structures, adaptive reuse or

conversion of nonresidential use to residential use, or any combination of these elements.

ii. This ordinance may also apply to projects using public financing requiring affordability restrictions, as defined by tax increment financing, U.S. Department of Housing and Urban Development funds such as HOME or CDBG, other federal, state, or local housing program, or the Low-Income Housing Tax Credit program.

iii. Any development project that designates at least 10 percent of the units in the project that meet the definition of affordable housing unit for rent or sale to an eligible household are eligible for a density bonus and other incentives. Where the number of affordable units results in a fraction of less than 0.5, the number of onsite affordable units is rounded down to the nearest whole number.

c. Standards:

i. In cases where projects are completed in phases, affordable units shall be provided in proportion to the development of market rate units per phase unless otherwise permitted through by the Planning Authority.

ii. Affordable units must be integrated with the rest of the development, must use a common entrance if in a structure containing multiple units, and must provide no indications from common areas that these units are affordable units.

iii. Affordable units shall be dispersed throughout the development and shall be comparable in size, number of bedrooms, materials, interior finishes, amenities and parking to dwelling units in the development in which they are located. Exteriors of affordable units shall be consistent with the exteriors of other units in the development.

iv. Affordable housing units, whether for sale or for rent, shall not be used for short-term rentals.

d. Development Incentives for eligible projects: To facilitate the objectives of this section, the following expedited review process and modifications to the dimensional and parking requirements may be permitted.

i. The Planning Authority shall perform its review of an eligible project in as expedited a manner as is practical, without impairing the scope of thoroughness of its review. The expedited review shall consist of a pre-application meeting with Town of Yarmouth staff and Yarmouth Water District staff, and two Planning Board public hearings consisting of a preliminary review and a final review. Additional meetings with the Planning Board may only be scheduled upon mutual agreement by the Planning Board and the applicant. No applicant shall have public hearings until the application is deemed complete by the Director of Planning & Development or their designee.

ii. In zoning districts or character districts that establish a minimum lot size or a minimum lot area per unit, for each affordable unit offered, two additional units may be included in the development project regardless of minimum lot size or minimum lot area per unit.
iii. Two off-street parking spaces are allowed for every three dwelling units in the development. Where the number of off-street parking spaces results in a fraction, the total number of parking spaces may be rounded up or down to the nearest whole number.

e. Administration and Enforcement:

i. Prior to issuing a Certificate of Occupancy for the development project, the owner of the development project must execute a restrictive covenant that is enforceable by a party acceptable to the Town and record the restrictive covenant in the Cumberland County Registry of Deeds to ensure affordability for at least 30 years after completion of construction.
ii. The restrictive covenant shall outline sales prices, resale prices, initial rents and rent increases, and income verification processes, for affordable units to ensure affordability for the entire affordability term to the extent legally possible. The restrictive covenant shall also outline marketing and tenant selection for the affordable units consistent with state and federal fair housing laws. The restrictive covenant shall also identify a monitoring agent for the affordable units.
iii. The restrictive covenant shall require that occupancy of all of the affordable rental units in the development, or an equivalent number of affordable dwelling units in the project when specific locations for the affordable units are not specified, will remain limited to households at or below 80% of the local area median income at the time of initial occupancy through the term of the restrictive covenant.
iv. The restrictive covenant shall require that occupancy of all of the affordable homeownership units in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy through the term of the restrictive covenant.
v. Affordable housing units for sale, if converted to affordable housing units for rent, or vice versa, shall become subject to the income limits and other requirements of such units.
vi. The Department of Planning & Development shall provide a report to the Planning Board and Town Council evaluating the efficacy of this ordinance and any recommended updates to the ordinance every other year from the effective date of this ordinance.

2. Affordable Housing Developments Density Bonus

a. Purpose: The purpose of this section is to define the performance standards with which affordable housing developments must comply in

order to be eligible for the incentives outlined in P.L. 2021, Chapter 672 and its implementing rules.

b. Affordability Standards:

i. Where 51% or more of the total proposed and existing dwelling units on the same lot or within a common scheme of development are designated as affordable rental units or affordable homeownership units.
ii. Prior to issuing a Certificate of Occupancy for an affordable housing development, the owner of the affordable housing development must execute a restrictive covenant that is enforceable by a party acceptable to the Town and record the restrictive covenant in the Cumberland County Registry of Deeds to ensure affordability for at least 30 years after completion of construction.
iii. The restrictive covenant shall require that occupancy of all of the affordable rental units in the development, or an equivalent number of affordable dwelling units in the project when specific locations for the affordable units are not specified, will remain limited to households at or below 80% of the local area median income at the time of initial occupancy through the term of the restrictive covenant.
iv. The restrictive covenant shall require that occupancy of all of the affordable homeownership units in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy through the term of the restrictive covenant.
v. The restrictive covenant shall outline sales prices, resale prices, initial rents and rent increases, and income verification processes, for affordable units to ensure affordability for the entire affordability term to the extent legally possible. The deed restriction shall also outline marketing and tenant selection for the affordable units consistent with state and federal fair housing laws. The deed restriction shall also identify a monitoring agent for the affordable units.
vi. Affordable homeownership units, if converted to affordable rental units, or vice versa, shall become subject to the income limits and other requirements of such units.

c. Location Standards:

i. The affordable housing development is located in a designated growth area of the Town of Yarmouth Comprehensive Plan or served by a public, special district or other centrally managed water system and a public, special district, or other comparable sewer system.
ii. The affordable housing development is located in an area in which multifamily or multiplex dwellings are allowed by this ordinance or Chapter 703, Character Based Development Code.

iii. If applicable, complies with the minimum lot size requirements in accordance with Title 12 M.R.S. Chapter 423-A.

d. Water and Wastewater Standards. Prior to the issuance of a Certificate of Occupancy, written verification that each unit of the affordable housing development is connected to adequate water and wastewater services shall include the following:

i. If a unit is connected to a public, special district, or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system.
ii. If a unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S. §4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules.
iii. If a unit is connected to a public, special district, or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit.
iv. If a unit is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 section 10.25(J), Land Use Districts and Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

e. Incentives. If the requirements of this section are met, the following incentives are allowed for the affordable housing development:

i. A dwelling unit density bonus of 2.5 times the base density that is otherwise allowed in that location. Where the density bonus results in a fraction, the number of units is rounded up to the nearest whole number. In areas where there are no base density requirements, there is no density bonus.
ii. No more than two off-street parking spaces are required for every three dwelling units in the affordable housing development. Where the maximum off-street parking spaces results in a fraction, the total number of parking spaces may be rounded up or down to the nearest whole number.
iii. The Planning Board, in reviewing proposed Affordable Housing Developments, may modify said provisions related to minimum lot size, minimum lot area per unit, and setback size, as well as to allow stacked units, to permit innovative approaches to housing and environmental design.

iv. The Town shall perform its review of Affordable Housing Developments in as expedited a manner as is practical, without impairing the scope of thoroughness of its review. The expedited review shall consist of a pre-application meeting with Town of Yarmouth staff and Yarmouth Water District staff, and two Planning Board public hearings consisting of a preliminary review and a final review. Additional meetings with the Planning Board may only be scheduled upon mutual agreement by the Planning Board and the applicant.

f. Nothing in this section exempts an affordable housing development to comply with the requirements of Chapter 601, Subdivision, the applicable provisions of this ordinance, including Chapter 701, Article IV.R, and Chapter 702, Site Plan Review.

EE. DWELLING UNIT ALLOWANCES

1. Purpose: Additional dwelling units may be allowed on lots where housing is allowed beginning on January 1, 2024, subject to the following standards.

2. Applicability:

   a. If a lot does not contain an existing dwelling unit, up to four dwelling units per lot are allowed if the lot is located in an area in which housing is permitted and is located in the designated growth area of the most recently adopted Town of Yarmouth Comprehensive Plan.

   b. If a lot does not contain an existing dwelling unit, up to two dwelling units per lot are allowed if the lot is located in an area in which housing is permitted and is located outside the designated growth area of the most recently adopted Town of Yarmouth Comprehensive Plan. The two dwelling units may be in one structure or two separate structures.

   c. If a lot contains one existing dwelling unit, up to two additional dwelling units per lot are allowed, subject to the following:
      i. One within the existing structure or attached to the existing structure; or
      ii. One detached from the existing structure; or
      iii. One within or attached to the existing structure and one detached from the existing structure; or
      iv. Two in a structure detached from the existing structure.

   d. If a lot contains two existing dwelling units, one additional dwelling unit per lot is allowed subject to the following:
      i. The lot must be located in the designated growth area of the most recently adopted Town of Yarmouth Comprehensive Plan, and
      ii. No more than two structures containing dwelling units are allowed.

This provision is not applicable to any lot where an accessory dwelling unit exists on the lot as of or is added after January 1, 2024.

3. Density and Dimensional Standards

   a. The following density standards apply for lots located outside the Growth Area:
      i. For a lot that does not contain a dwelling unit, each allowed dwelling unit must have at least the minimum lot area per dwelling unit for the zoning district in which the lot is located.
      ii. For a lot that contains one dwelling unit, each additional allowed dwelling unit must also have at least the minimum lot area per dwelling unit for the zoning district in which the lot is located.
      iii. If a dwelling unit in existence as of January 1, 2024, is demolished resulting in a lot without a dwelling unit, each allowed dwelling unit must have at least the minimum lot area per dwelling unit for the zoning district in which the lot is located.

   b. The following density standards apply for lots located within the Growth Area:
      i. Notwithstanding the minimum lot area or minimum lot area per unit requirements identified in Article IV, for a lot that does not contain a dwelling unit, up to four dwelling units are allowed regardless of lot area per dwelling unit subject to the limitations of ARTICLE II.EE.3.b.iv below.
      ii. For a lot that contains one dwelling unit and has at least the minimum lot area or minimum lot area per unit identified in Article IV for the zoning district in which the lot is located, the first and second additional allowed dwelling units are allowed without any additional lot area per dwelling unit.
      iii. For a lot that contains two dwelling units and has at least the minimum lot area or minimum lot area per unit identified in Article IV for the zoning district in which the lot is located, one additional dwelling unit dwelling unit is allowed without any additional lot area per dwelling unit.
      iv. Notwithstanding the minimum lot area or minimum lot area per unit requirements identified in Article IV, if a dwelling unit in existence as of January 1, 2024, is demolished resulting in a lot without a dwelling unit and the lot has at least the minimum lot area or minimum lot area per unit for one dwelling unit for the zoning district in which the lot is located, up to four dwelling units are allowed.

   c. For each dwelling unit allowed by this section, the setback requirements of the zoning district in which the lot is located apply.

d. If applicable, the minimum lot size requirements in accordance with 12 M.R.S. §423-A, are required for any dwelling units allowed under this section.

4. Water and Wastewater Standards

   a. Prior to the issuance of a Certificate of Occupancy, written verification that each unit is connected to adequate water and wastewater services shall include the following:
      i. If a unit is connected to a public, special district, or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system.
      ii. If a unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S. §4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules.
      iii. If a unit is connected to a public, special district, or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit.
      iv. If a unit is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 section 10.25(J), Land Use Districts and Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

5. Nothing in this section exempts compliance with the requirements of Chapter 601, Subdivision, the applicable provisions of this ordinance, including Chapter 701, Article IV.R, and Chapter 702, Site Plan Review.

FF. SOLAR ENERGY SYSTEMS

1. Purpose: The purpose of this ordinance is to promote renewable energy production, reduce fossil fuel dependence, and lower emissions while balancing environmental protection and climate resilience. Energy generated from solar energy systems (SES) can be used to offset energy demand on the grid, with benefits for system owners and other electricity consumers. The provisions of this ordinance are intended to regulate placement and construction of SES in appropriate locations while ensuring against unsafe conditions and undue adverse impacts on adjacent properties, critical natural resources, and the visual character of the Town.

2. Location of Ground-Mounted (GM) SES: A GM SES is a special exception use allowed in the following zoning districts:

    a. Small GM SES is a special exception use in the Commercial, Commercial II, Commercial III, and Industrial districts.

    b. Large GM SES is a special exception use in the Commercial, Commercial II, Commercial III, and Industrial districts.

    c. Small and Large GM SES are a special exception use in other zoning districts not identified in a or b above only if the property is considered a brownfield and the property owner is engaged with the Maine Department of Environmental Protection as a participant in the Voluntary Response Action Program (VRAP).

3. Location of Accessory SES:

    a. Building-mounted and roof-mounted SES intended to provide on-site energy for a principal structure or use are considered accessory to that structure or use and are permitted by-right in all zoning districts.

    b. Ground-mounted SES intended to provide on-site energy for a principal structure or use are considered accessory to that structure or use and are permitted by-right in all zoning districts, excluding ground-mounted SES over 1,000 square feet in public open spaces.

4. Dimensional Standards for Ground-Mounted SES: Ground-mounted (GM) SES are subject to the following dimensional standards:

    a. Accessory GM SES:

        i. Maximum height: Accessory GM SES shall not exceed twenty (20) feet when oriented at maximum tilt. The height of an accessory GM SES shall be measured from the ground level at the base of the solar energy system to its highest point at maximum tilt, including the system's pedestal.
        ii. Setbacks: Accessory GM SES shall conform to the setback requirements for structures within the applicable zoning district.
        iii. Where applicable, accessory GM SES shall not be included in calculations for required open space. Additionally, where applicable, accessory GM SES shall not be included in calculations of impervious coverage as long as the area under the panels remains vegetated and there is sufficient space between the panels to allow sunlight necessary to sustain live growth.

    b. Small and Large GM SES:

i. Maximum height: Twenty (20) feet when oriented at maximum tilt. The height of a GM SES shall be measured from the ground level at the base of the solar energy system to its highest point at maximum tilt, including the system's pedestal.
ii. Setbacks: GM SES shall conform to the setback requirements for structures within the applicable zoning district, unless abutting a residential use or public open space, then the setback shall be increased to twice the setback requirements of the zoning district. The setback is measured from the property line to the perimeter fence.
iii. Where applicable, GM SES shall not be included in calculations for required open space. Additionally, where applicable, GM SES shall not be included in calculations of impervious coverage as long as the area under the panels remains vegetated and there is sufficient space between the panels to allow sunlight necessary to sustain live growth.

5. Permitting Requirements:

a. The installation or expansion of all ground-mounted SES, or installation of any associated facilities, shall be reviewed and subject to approval under this section and shall obtain site plan approval as required by Chapter 702, Site Plan Review, and any other necessary Town or state reviews or approvals prior to its installation.

b. Any physical modification to an existing ground-mounted SES that alters the facility size, type, or location of the system or its associated equipment shall require approval under this section and an amendment to the site plan per Chapter 702, Site Plan Review, and any other necessary Town or state reviews or approvals.

c. Like-kind replacements or nonstructural maintenance and repair shall not require approval under this section or Chapter 702, Site Plan Review, but shall require any other necessary Town or state reviews or approvals.

d. Accessory SES are not subject to Chapter 702, Site Plan Review, but must comply with the standards set forth in paragraph 7 below and shall obtain any necessary Town or state approvals prior to the installation or alteration of any such systems.

e. Phasing a project to exceed the size limitations of a ground-mounted SES on a single lot is prohibited.

6. Required Submissions for Small and Large Ground-Mounted SES: In addition to the site plan review submission requirements listed in Chapter 702, the following submissions shall be required unless waived by the Planning Board:

    a. Supplemental information on Right, Title, and Interest:

        i. Name, address, and contact information of the proposed system installer, the project proponent, project proponent agent, all co-proponents or property owners, and all parties with a financial interest in the project, if any.
        ii. If the operator is leasing the site, a copy of the lease agreement or a copy of the lease option agreement (minus financial compensation) and any and all related easements clearly outlining the relationship of the respective parties, inclusive of the rights and responsibilities of the operator, landowner, and any other responsible party and the term or duration of the agreement. Further, the operator shall identify any and all agreements or obligations of the landowner to the operator regarding any premises that are not specifically subject to the lease agreement, but which the operator has certain rights to use as part of the operation of the solar energy system.
        iii. A description of the anticipated quantity of energy to be produced and the entity to which it will be sold.
        iv. Certification that the project complies with the utility notification requirements contained in Maine law and accompanying regulations through the Maine Public Utility Commission, unless the applicant intends, and so states on the application, that the system will not be connected to the electricity grid.
        v. Evidence that the owner or operator has applied for any and all non-municipal permits that may be required for the installation of the proposed system.
        vi. Evidence of meeting the local electric utility's transmission and distribution interconnection requirements for generation, including a copy of the executed Interconnection Agreement, when available.

    b. Supplemental information on Financial Capacity:

        i. Evidence of financial capacity to construct, operate, and decommission the proposed facility, including the abandonment guarantee as required in this section.

    c. Additional Site Plan Requirements:

        i. Site plan of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures or mature vegetation, the distance between the proposed system and all

property lines and existing and proposed on-site buildings and structures, and the tallest finished height of the solar energy system.

ii. Documentation of the major system components to be used, including the panels, mounting system, inverter(s), power transformer, battery, and any other equipment required for a connection to the power grid.

iii. A one- or three-line electrical diagram detailing the solar installation, associated components, and electrical interconnection methods.

iv. A description of any off-site work to be completed by the Applicant or other entity required for the project, including power line upgrades.

v. Location of critical natural resources and habitat, including:

   a. Important plant and animal habitats or rare and irreplaceable natural areas, such as rare and exemplary natural communities, rare plant populations and habitat, threatened and endangered species habitat, essential wildlife habitat, aquatic habitat, and habitat “connectors” as identified by the Maine Department of Inland Fisheries and Wildlife’s Beginning with Habitat Program or the Maine Natural Areas Program.
   b. “Prime Farmland” and “Soils of Statewide Importance” as defined by the USDA’s Natural Resource Conservation Service.
   c. High Value Undeveloped Habitat Blocks, High Value Plant and Animal Habitats and Focus Areas of Ecological Significance as mapped by the Maine Department of Inland Fisheries and Wildlife’s Beginning with Habitat Program.
   d. All habitats identified as “Significant Wildlife Habitats” under Maine’s Natural Resources Protection Act.
   e. Other sensitive habitats, including cold-water fish habitat, wetland areas of any size identified through wetland delineation, eelgrass beds, and forested areas that have not previously been cleared for agriculture.
   f. Location of, and setback distances to, wetlands of any size, vernal pools, streams, shoreland areas, areas of potential tidal marsh migration as mapped by the Maine Natural Areas Program, coastal bluffs and their relative stability as mapped by the Maine Geological Survey, and any areas in the Shoreland Overlay District, Resource Protection District, or Stream Protection District as depicted on the Town of Yarmouth Official Zoning Map, subject to field verification as necessary.
   g. Location of slopes greater than twenty percent (20%) on the project site.
   h. Mature trees with an 8-inch or greater diameter at breast height.

vi. If some or all of the SES, critical equipment, or associated buildings will be located in the floodplain, provide information for how the SES will be resilient to flood impacts, such as elevating electrical components (inverters, controllers, batteries) above the Base Flood Elevation (BFE) with additional freeboard for future precipitation

projections, using corrosion-resistant materials, and/or an adaptive site plan for flood-prone areas.

vii. Locations of, and distances to, National Historic Districts and local Historic Districts, Sites, Objects, Landscape Districts, Landmarks, and other historic or archaeological features.

viii. Photographs of existing conditions and renderings of vegetative screening.

ix. A detailed description for how the project is consistent with the goals of the most recently adopted Town of Yarmouth Comprehensive Plan, Climate Action Plan, and Open Space Plan.

d. Supplemental information on Operations:

i. An operations and maintenance plan, which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance for the projected operating life of the system consistent with all applicable codes and ordinances.

ii. A vegetation management plan indicating how vegetation growth will be maintained under and around the installation at levels needed to reduce the risk of ignition from the electrical system while minimizing mowing to the extent practicable.

iii. An emergency management plan that identifies all potential hazards and the response to such hazards consistent with all applicable codes and ordinances.

iv. A decommissioning plan that addresses the applicable standards as identified in this section.

v. A construction plan and timeline that identifies all known contractors, site control, when the project construction will commence and the anticipated date that the system will be on-line.

7. Performance Standards for Accessory SES:

a. Roof-mounted, building-mounted, and accessory ground-mounted solar energy systems and equipment are permitted by right in conformance with this section and all applicable codes and ordinances.

b. All SES shall be installed in compliance with applicable codes and ordinances.

c. Each SES shall be maintained as necessary to ensure that it is operating safely and as designed over its useful lifetime.

8. Performance Standards for Small and Large Ground-Mounted SES: In addition to the standards in paragraph 7 above, small and large ground-mounted solar energy systems shall comply with the following standards:

a. Siting

i. Solar panels are designed to absorb (not reflect) sunlight; and, as such, solar panels are generally less reflective than other varnished or glass exterior housing pieces. SES shall be sited to minimize or negate any solar glare onto nearby properties or roadways, without unduly affecting the functionality or efficiency of the SES.

iii. A buffer of at least 25 feet shall be maintained in its natural state along all property lines to provide year-round buffering for the lifetime of the SES. Where no natural buffer exists, and to accommodate varying site conditions, landscaping, berming, walls, or a combination thereof, may be used. The Planning Board may require that a natural state buffer be supplemented with additional planting or other features to provide a sufficient functional year-round buffer.

iv. SES shall be located on previously developed, degraded, or marginally productive portions of the property in order to avoid impacts to existing mature vegetation and their critical root zone.

b. Design

i. Utility connections from the SES shall be placed underground. The Planning Board has the authority to waive this requirement based on soil and subsurface conditions or the shape and topography of the site. All utility connections shall be co-located with existing or proposed man-made linear features. If co-location is not possible, utilize routes that have the least overlap with high value natural resources and habitats.

ii. Projects shall avoid disturbance, encroachment, or degradation to natural resources so as to not cause undue adverse impacts to such resources. Designs shall protect wetlands, watersheds, working agricultural lands, surface waters, vernal pools, slopes greater than twenty percent (20%) as well as:

a. Important plant and animal habitats or rare and irreplaceable natural areas, such as rare and exemplary natural communities, rare plant populations and habitat, threatened and endangered species habitat, essential and wildlife habitat, aquatic habitat, and habitat “connectors” as identified by the Maine Department of Inland Fisheries and Wildlife’s Beginning with Habitat Program or the Maine Natural Areas Program.

b. High Value Undeveloped Habitat Blocks, High Value Plant and Animal Habitats and Focus Areas of Ecological Significance as mapped by the Maine Department of Inland Fisheries and Wildlife’s Beginning with Habitat Program.

c. All habitats identified as “Significant Wildlife Habitats” under Maine’s Natural Resources Protection Act.

d. Other sensitive habitats, including cold-water fish habitat, wetland areas of any size identified through wetland delineation, eelgrass beds, and forested areas that have not previously been cleared for agriculture.
e. Areas of potential tidal marsh migration areas as defined by the Maine Natural Areas Program.
f. Coastal bluffs as mapped by the Maine Geological Survey.

iii. The Planning Board may allow limited crossings for driveways or utilities to provide access to an upland area that is otherwise deemed to meet all other standards for the development of a SES.

iv. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the SES, and shall follow low-impact development principles. Adherence to the provisions of the Maine Department of Environmental Protection's Maine Erosion and Sediment Control Best Management Practices is mandatory. The erosion and sedimentation control plan and narrative required by Site Plan Review must comply with requirements set forth in Chapter 601, Subdivision, Appendix D, in addition to the following standards:
a. No Prime Farmland and Soils of Statewide Importance, as defined by the USDA's Natural Resource Conservation Service, or significant volume of topsoil shall be removed from the site to install a Solar Energy System or its accompanying infrastructure.
b. Utilize Stream Smart road/stream crossings, proper erosion control techniques, and minimize the number of stream and wetland crossings to the greatest degree possible.

v. In the event that a site's vegetation is disturbed or must be removed during the construction of the project, a revegetation plan is required and must be prepared by a qualified professional and include:
a. Description and photographic documentation to indicate the existing nature of the vegetation to be removed and description of proposed revegetation activities and invasive species management.
b. Native, pollinator- friendly seed mixtures shall be used in the revegetation of the site. Whenever possible, the area surrounding the SES shall be planted with native wildflower meadow seed mix or native shrubs to stabilize the soil, encourage infiltration of runoff and increase pollinator habitat.
c. Herbicide and pesticide application is prohibited during construction and maintenance, unless required to manage invasive species.

vi. The SES shall be surrounded by a perimeter fence. The fence shall be constructed of high-quality, long-lasting materials and be an unobtrusive color and style so as to blend into the environment as well as possible. Where chain link fence is determined to be

appropriate, the fence shall be either painted a dark color or coated with dark vinyl. The fence shall be wildlife-friendly by being elevated by a minimum of six inches to allow for passage of small terrestrial animals or be a 'Solid Lock Game Fence'. To maximize wildlife's ability to permeate fencing, the fence shall include the placement of five-inch or larger diameter wooden escape poles in two or more corners of the perimeter fence for wildlife to escape the enclosed area.

vii. Signs shall comply with all applicable Town standards. All sites shall be required, at a minimum, to identify the system owner and provide a 24-hour emergency contact phone number at the entrance of the site.

viii. The SES shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority. Where lights along property lines are visible to adjacent residents, lights shall be shielded and meet the standards of Chapter 702.

9. Abandonment of Use, Decommissioning, and Removal

a. Any non-accessory GM SES that has reached the end of its useful life or has been abandoned shall be removed consistent with this section. The system owner shall physically remove the installation no more than 270 days after the date of discontinued operations. The owner and/or operator shall notify the Code Enforcement Officer and Town Engineer by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

i. Physical removal of all Solar Energy Systems, structures, equipment, perimeter fencing, and transmission lines for the site.

ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Code Enforcement Officer, in consultation with the Town Engineer, may allow the system owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation. Native, pollinator-friendly seed mixtures shall be used in revegetation.

b. Once the owner and/or operator have properly removed all components of the SES and associated structures, the owner and/or operator shall notify the Code Enforcement Officer (CEO) in writing and request an inspection. The CEO shall have the authority to employ the services of the Town Engineer or other qualified professionals, at the owner/operator's expense, to verify that the abandonment complies with all applicable standards. If the CEO, in consultation with the Director of Planning and Development and Town Engineer, determines that such removal is

satisfactory, the CEO shall notify the Town Engineer in writing to release the surety.

c. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a SES shall be considered abandoned if it fails to generate electricity for more than one (1) year without first obtaining the written consent of the Code Enforcement Officer. The determination of abandonment shall be made by the Code Enforcement Officer.

d. If the owner or operator of the SES fails to remove the installation in accordance with the requirements of this section within 270 days of the abandonment or the proposed date of decommissioning, the Town shall use reasonable effort to notify the party that the Town intends to use the surety and any and all legal or available means necessary to cause an abandoned, hazardous, or decommissioned solar energy system to be removed.

e. The applicant shall provide financial surety for the decommissioning costs and/or abandonment, in the form of a cash escrow, an irrevocable letter of credit, or a performance bond, for the total cost of decommissioning. The financial surety mechanism shall be effective prior to the commencement of construction. The financial surety amount shall be determined as follows:

    i. The value of the surety shall be based on a professional engineer's estimate submitted by the applicant and approved by the Town Engineer. The Town Engineer may hire, at the applicant's expense, a qualified professional to review the engineer's estimate.
    ii. If the applicant is required to establish and maintain a financial surety for abandonment by another governmental entity, such as the Maine Department of Environmental Protection, the applicant shall ensure that the posting of the financial performance guarantee for abandonment complies with Town standards to streamline the administrative process.

ARTICLE III

A. NONCONFORMANCE

1. Continuation of Nonconformance
   It is the intent of this Ordinance to promote land use conformities. However, any lawful element of Buildings, Structures, land, or parts thereof existing at the time of adoption or amendment of this Ordinance, and made nonconforming by the provisions of this Ordinance or any amendments thereto, may be allowed to continue, subject to the provisions of this Section. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

2. Transfer of Ownership
   Non-conforming Structures, Lots and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming Structure or Lot, subject to the provisions of this Ordinance.

3. Repair and Maintenances
   This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and Structures including repairs and renovations which do not involve expansion of the non-conforming use or Structure, and such other changes in a non-conforming use or Structure as federal, state or local Building and safety codes may require.

B. NONCONFORMING LOTS OF RECORD

1. Non-conforming Lots

   A non-conforming Lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a Variance, provided that such Lot is in separate ownership and not contiguous with any other Lot in the same ownership, and that all provisions of this Ordinance except Lot Area, Lot Width, and Road and Shore Frontage can be met. Variances relating to setback or other requirements not involving Lot Area, Lot Width, or Road or Shore Frontage shall be obtained by action of the General Board of Appeals.

2. Contiguous Built Lots

   a. If two or more contiguous Lots or parcels are in single or joint ownership of record at the time of adoption or amendment of this Ordinance, if all or part of the Lots do not meet the dimensional requirements of this Ordinance, and if a principal use or Structure exists on each Lot, the non-conforming Lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

b. If two or more principal uses or Structures existed on a single Lot of record on the effective date of this Ordinance, each may be sold on a separate Lot provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with. When such Lots are divided each Lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. Contiguous Lots – Vacant or Partially Built

   If two or more contiguous Lots or Parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, and if any of these Lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the Lots are vacant or contain no Principal Structure, then the Lots shall be combined to the extent necessary to meet the dimensional requirements of this Ordinance.

This shall not be construed to limit the development rights, as set forth elsewhere in this ordinance, of legally existing nonconforming lots of records which are changed in size or boundaries provided such lots do not become more nonconforming.

C. NONCONFORMING BUILDINGS, STRUCTURES AND SITE IMPROVEMENTS

1. No Building or Structure or site improvements such as parking, Driveway or lighting as required under CHAPTER 702, which is nonconforming with respect to the space and bulk requirements of this Ordinance may be expanded, enlarged or increased in height unless such expanded or enlarged or higher portion complies with the space and bulk requirements of this Ordinance or a variance is granted by the Zoning Board of Appeals. However, a Building which is nonconforming with respect to yard setback requirements may be expanded if the area of expansion does not reduce the existing yard setbacks of the Building.

2. Any non-conforming structure which is wholly or partially removed, damaged or destroyed may be reconstructed or replaced provided that a permit from the Planning Department is obtained within two years of the date of said damage, destruction or removal. The Planning Board may, for good cause shown by the applicant, grant up to a one year extension of that time period. An as-built survey of existing conditions may be required at the discretion of the Planning Director or his/her designee prior to any demolition. An as-built survey of post construction conditions may be required at the discretion of the Planning Director or his/her designee prior to issuance of an occupancy permit.

   Non-conforming structures damaged, destroyed or removed and not replaced within the above described time limits shall not be replaced unless said replacement conforms to all applicable codes and ordinances.

D. NONCONFORMING USES OF LAND

1. No nonconforming use of land shall be enlarged or increased nor extended to occupy a greater area of land than that occupied at the effective date of adoption or amendment of this Ordinance.

2. No nonconforming use of land shall be moved in whole or in part to any portion of the lot which was not occupied by such use at the effective date of adoption or amendment of this Ordinance.

3. If any nonconforming use of land ceases for any reason for a period of more than two years, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located. A lot on which a non-conforming use is discontinued for a period exceeding two years, or is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension of that time period. In the Shoreland Overlay District the initial discontinued use shall not exceed one (1) year. This provision shall not apply to the resumption of a use of a residential Structure in the Shoreland Overlay District provided that the Structure has been used or maintained for residential purposes during the preceding five (5) year period.

4. Change of Use. An existing non-conforming use may not be changed to another non-conforming use unless the Planning Board determines that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use. In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety according to Special Exceptions criteria Article VII.B.2.b(1)(d) and Chapter 702 Site Plan Regulations Article I.H.

E. NONCONFORMING USES OF STRUCTURES

1. No existing structure devoted to a nonconforming use shall be enlarged, extended, or expanded except in changing the use of the structure to conforming use.

2. Any nonconforming use may be extended throughout any parts of a Building which were manifestly in existence and arranged or designed for such use at the time of the adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such Building.

3. If a nonconforming use of a structure is superseded by a permitted use, the nonconforming use shall not thereafter be resumed.

4. If any nonconforming use of a structure ceases for any reason for a period of more than two years, any subsequent use of such structure shall conform to the regulations specified by this Ordinance for the district in which such structure is located. A lot on which a non-conforming use is discontinued for a period exceeding two years, or is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension of that time period.

5. Change of Use. An existing non-conforming use may not be changed to another non-conforming use unless the Planning Board determines that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use. In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety according to Special Exceptions criteria Article VII.B.2.b(1)(d) and Chapter 702 Site Plan Regulations Article I.H.

F. NONCONFORMING LOTS OF RECORD AND USES OF LAND STRUCTURES IN THE VILLAGE AND VILLAGE II ZONES

A nonconforming use of a building, structure, or land for Bulk Fuel Storage in the Village Zone on a conforming or nonconforming lot of records may be extended or enlarged to a maximum of 150% of the original dike footprint containment area to include not more than 200,000 gallons of heating oil and to include not more than 2,000 gallons of propane as of the date of the adoption of this amendment of the Ordinance.

ARTICLE IV

A. ZONING MAP AND DISTRICTS

The zoning map officially entitled "Town of Yarmouth Official Zoning Map" is hereby adopted as part of this Ordinance. The Town of Yarmouth Zoning Map shows a division of the Town into the following districts:

“RR”	Rural District
“LDR”	Low Density Residential District
“MDR”	Medium Density Residential District
“RPD”	Resource Protection District
“IND”	Industrial District
“C”	Commercial District
“COMM II”	Commercial II District
“COMM III	Commercial III District
“V”	Village District
“V II”	Village II District
“WOC I”	Water Oriented Commercial I
“WOC II”	Water Oriented Commercial II
“WOC III”	Water Oriented Commercial III
“SOD”	Shoreland Overlay District
“GD”	General Development District

B. COPIES OF ZONING MAP

Regardless of the existence of other printed copies of the zoning map, which from time to time may be made or published, the official zoning map which shall be located in the Town Hall shall be the final authority as to the current zoning status of the land and water areas, Buildings and other Structures in the Town.

C. DISTRICT BOUNDARIES

District boundaries shown within the lines of Roads, streams and transportation right-of-ways shall be deemed to follow the center lines. The abandonment and non-use of Roads shall not affect the location of such district boundaries. When the Planning Director cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the zoning map, or by the fact that it clearly coincides with a property line, he/she shall refuse action, and the Board of Appeals, upon appeal, shall interpret the location of the district boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this Ordinance.

D. LOTS

1. Any boundary line (other than a street line) on a corner lot shall be considered to be a side line and not a rear line (for yard setback purposes), if that boundary line is side line of the property abutting it. For structures located on corner lots, the

structure shall have a front yard setback to each street right of way and two side yard setbacks only. Corner lots are not subject to a rear yard setback.

2. All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall not project into any minimum front, side or rear yard setback area.

3. Every lot shall have the required frontage on a street, as defined herein under Article I.D. Definitions, or on a private road, as defined and provided for in Chapter 601, Subdivision, subject to the provisions of ARTICLE II.O. The minimum street frontage, measured along the lot line at the street, shall be at least equal to the minimum lot width.

4. When a lot of record at the time of enactment of this Zoning Ordinance is transacted by a zoning district boundary, the regulations set forth in this Ordinance applying to the least restrictive zone of such lot may also be deemed to govern in the area beyond such zoning district boundary but only to an extent not more than thirty (30) feet beyond said zoning district boundary. This provision does not apply within the SOD and RPD.

5. A lot in the MDR zone that was described in a subdivision approved by the Planning Board after June 11, 1977 but before March 12, 1987, shall be considered an individual buildable lot and not affected by the provisions of ARTICLE IV.D.3.

6. The front yard setback on a lot located in either the LDR or RR zones may be reduced to the average front yard setback of single family residences located on the same street (on the same side of the street) provided that the front yard setback may not be reduced to less than fifteen feet without a variance.

7. When calculating setbacks from Paper Streets, lot owners may use the side yard setback requirement in the district in which a parcel is located and not the front yard setback requirement where said lot is located on the corner of a paper street and a Town accepted way.

8. If any Lot falls within the Shoreland Overlay District (SOD) in whole or in part, and if the minimum Shoreline Frontage of Lot Area requirements provided for Lots in the SOD are more restrictive than those applicable in the underlying zoning district, then the SOD requirements shall control.

9. A lot in the LDR zone that was described in a subdivision approved by the Planning Board after June 11, 1977 but before January 13, 1979, or any lot described in a subdivision approved prior to June 11, 1977 with a lot size of at least one acre, shall be considered an individual buildable lot, notwithstanding the provisions of Article III.B.1 (Nonconforming Lots of Record).

E. DISTRICT OBJECTIVE AND LAND USE CONTROLS

The following tables state the objectives of each district and the regulations for each district. No Building or land shall hereafter be used or occupied and no Building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.

1. No Building shall hereafter be erected or altered:

   a. to exceed the height;

   b. to accommodate or house a greater number of families;

   c. to occupy a greater percentage of lot area, or

   d. to have narrower or smaller rear yards, front yards, side yards, inner or outer courts than is specified herein for the district in which such Building is located, or

   e. except that in the LDR and RR Districts, the Planning Director may allow uninhabited sheds to be constructed within fifteen (15) feet of the lot line.

   f. except that in the MDR District, the Planning Director may allow uninhabited sheds to be constructed within ten (10) feet of the lot line.

   g. No part of a yard of other open space about any Building required for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space similarly required for another Building except that in any district, construction pursuant to the Americans with disabilities Act (ADA) or the Maine Human Rights Act (5 MRSA Sec. 4594 et seq.) shall be exempt from yard setback and lot coverage restrictions, for the primary level, as set forth in this ordinance, provided such construction:

      (i.) Does not exceed the minimum standards imposed by the ADA or Human Rights Act; and

      (ii.) the infringement into the required yard setback is the least possible amount to conform to the ADA or Human Rights Act.

      (iii.) Piers, docks, wharves, breakwaters, causeways, marinas, bridges and boat houses may be exempt from rear yard requirements by the Planning Board under ARTICLE II.M, provided other requirements are met and the rear yard faces water

F. "RR"- RURAL RESIDENTIAL

The rural residential district is located in a generally rural area and intended to remain in that character. The district allows residential uses at low density and recreational and agricultural pursuits.

Permitted Uses:

Agriculture & Forestry
Churches
Essential Services
Farm Animals for Personal Use
Municipal Uses and Buildings
Dwelling
Home Occupations (pursuant to II.J)
Accessory Uses and Buildings
Cluster Development Dwelling
Family Day Care Home
Manufactured Housing
Storage Buildings
Two Family Detached Dwelling
Multiplex

Antenna array on Alternative Tower Structure, except no microwave dish antennas are permitted

Wireless communication facility (see Article II.Z & Ch. 702, Site Plan Review Ordinance), except no microwave dish antennas are permitted

Accessory Dwelling Units

Affordable Housing Development

Accessory Solar Energy Systems

Special Exception

Public Utilities
Excavation of Land
Animal Husbandry
Cemeteries
Schools
Group Day Care Home

Day Care Center facility within Churches and Community Buildings (requires site plan review)

Expansion of existing commercial greenhouses to no more than 50% of the floor area in existence at the effective date of this Ordinance

Facilities for storage and processing of Agricultural Products. Agricultural Products that will be stored or processed may be produced on the premises or produced elsewhere. The facility shall not exceed 3,000 square feet gross floor area per lot. The facility shall not include on-premise retail sales or consumption. Impacts from such use shall not create undue adverse traffic, parking, noise, odor, or other external impacts or nuisance effects. Any such facility visible from a public street or neighboring property shall be architecturally designed to resemble a traditional barn structure.

Such use shall be subject to review by the Planning Board as a Major Site Plan. Any Special Exception and Site Plan Approval by the Planning Board for such use shall be applicable only to the specific products or facility use included in the Special Exception and Site Plan application. Any addition, alteration, of substitution of product(s) or facility use shall require a new application for Special Exception and Site Plan for review and approval by the Planning Board.

Rural Residential Minimum Dimensional Requirements
(May be modified in accordance with the Ordinance)

	Single Family and other uses	Two Family Detached	Multiplex
Area	3 Acres	6 Acres	
Acres/unit			2.5
Lot Width	225 feet	225 feet	
Front Yard	40 feet	40 feet	
Side Yard	20 feet	20 feet	
Rear Yard	40 feet	40 feet	

1. RR - Backlot
Notwithstanding the requirements of ARTICLE II.O, Access and ARTICLE IV.D.5, minimum street frontage one family home may be located on a lot, herein called a back lot, subject to the standards set forth in this Section. These provisions also apply to the LDR and MDR zones per Sections IV.G.1 and IV.H.1 respectively.

   A lot of record as of June 14, 1990, including a lot which is nonconforming because it does not meet the lot frontage or lot width requirements of this zoning district, may be divided to create not more than one back lot, provided the standards of this section are met.

   a. Standards:

      (1) One lot has at least 50 feet of frontage on a public street, and if nonconforming as to lot frontage or lot width, the frontage of that lot is not reduced, except that an easement may be provided for access to a back lot, and the remaining lot area of the original lot is no less than the applicable minimum lot size of the zone in which it is located.

      (2) The back lot meets the applicable minimum lot size of the zone in which it is located.

      (3) Access to the back lot is provided by a private Driveway to be constructed within a 30 foot right of way which the back lot owner either owns or has an easement to cross and which intersects with an accepted Street. The improved portion of the Driveway shall be a minimum of 14 feet in width.

      (4) The private Driveway does not provide access to more than two back lots and its intersection with a public Road is a minimum of 50 feet from another private Driveway accessing a back lot.

(5) The home to be constructed on the back lot shall be at least distance equal to the applicable lot width of the zone in which it is located from the public Road providing access to the lot. In addition the setback requirements of the zone in which the home is located shall apply.

(6) Building permit applications are reviewed and approved in writing by Town officials, including the Town Engineer and Building Inspector, in accordance with the following standards:

(a.) The Fire Chief and Town Engineer shall ensure that emergency vehicles are provided with adequate turn around space and adequate access to the house. The turn around shall be at least 75’ away from the Building and constructed per the attached detail, unless waived by the Town Engineer.

(b.) The Town Engineer shall approve detailed construction drawings to ensure that the driveway design and construction meet the following standard engineering and construction specifications:

i.) All erosion and sedimentation control devices shall use the Best Management Practices as defined by the Cumberland County Soil and Water Conservation Service, and shall be in place prior to the start of any construction.

ii.) The access Road shall be constructed in accordance with the attached cross section. The requirements will be 14’ minimum travel width and 15” depth of type-C MDOT gravel.

iii.) All drainage improvements shall be completed in accordance with the Best Management practices as defined by the Cumberland County Soil and Water Conservation Service.

iv.) All culverts shall be sized to accept a 25 year storm event. Documentation and drainage calculations shall be provided to the Town Engineer when requested. The homeowner shall pay for the drainage analysis.

v.) No access Road shall exceed a 6% grade for gravel or 8% grade for pavement unless waived by the Town Engineer.

vi.) Construction material shall be in conformance with the Town's Sewer, Subdivision, and other applicable ordinances, and the Town's contractor's handbook, and shall be approved by the Town Engineer.

vii.) The homeowner shall pay for all test pit work. The testing may include gradation, compaction, or other applicable tests to verify that the materials meet Town specifications.

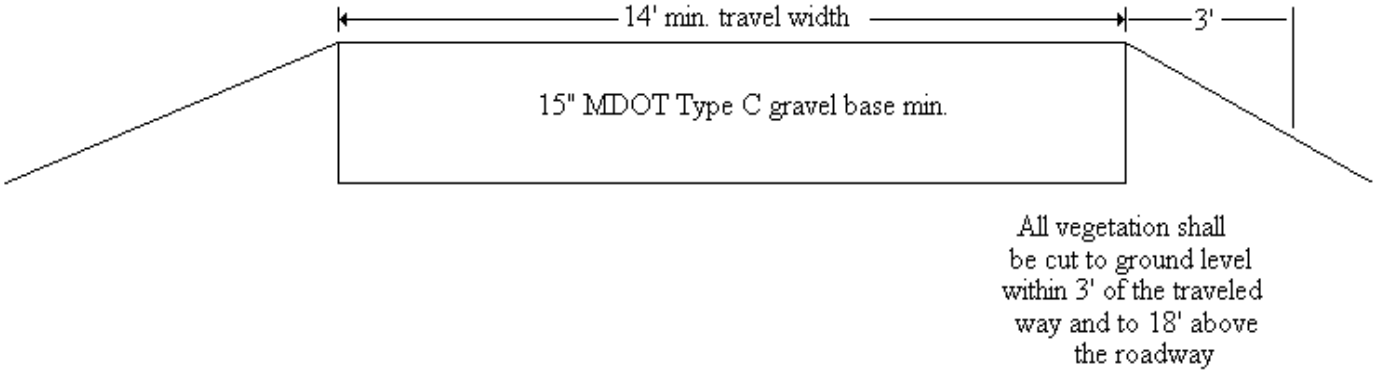
(c.) All applicable Federal, State, and local permits have been obtained.

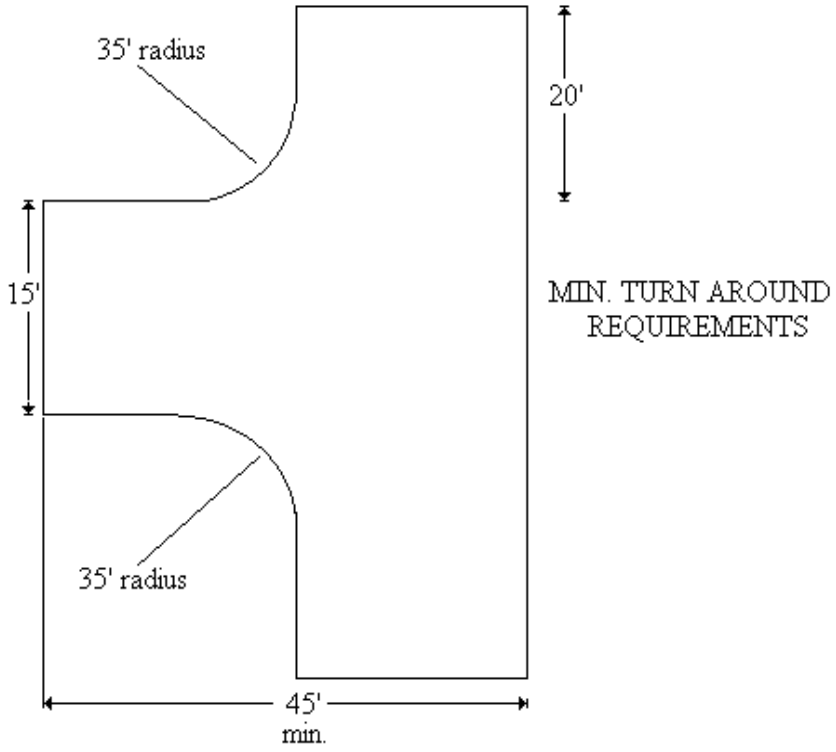
(7) The Town Engineer shall inspect and certify in writing that all improvements have been made in accordance with the Town Ordinances. The certification shall be given to the Code Enforcement Officer for his/her records.

(8) No certificate of occupancy shall be issued until completion of all Roadway improvements have been certified by the Town Engineer.

(9) No certificate of occupancy shall be issued until the applicant shows evidence satisfactory to the Planning Director or their designee that there is an adequate supply of potable water for the residence.

RR ACCESS ROAD CONSTRUCTION STANDARDS





G. "LDR" – LOW DENSITY RESIDENTIAL

The low density residential district provides Yarmouth with residential areas which provide a wholesome living environment.

Permitted Uses:

Single Family Detached Dwelling
Two Family Detached Dwelling
Cluster Development (see Article II.M)
Accessory Uses and Buildings
Farm Animals for Personal Use
Storage Buildings
Municipal Uses and Buildings
Multiplex
Agriculture
Church
Family Day Care Home
Manufactured Housing
Essential Services
Antenna array on Alternative Tower Structure, except no microwave dish antennas are permitted
Wireless communication facility (see Article II.Z & Ch. 702, Site Plan Review Ordinance), except no microwave dish antennas are permitted [b]
Home Occupations (pursuant to II.J)
Accessory Dwelling Units
Affordable Housing Development
Accessory Solar Energy Systems

Special Exception

Public Utilities
Private Clubs – (on at least 5 Acres)
Animal Husbandry
Cemeteries
Schools
Group Day Care Home
Day Care Center facility within Churches and Community Buildings (requires site plan review)

Low Density Residential Minimum Dimensional Requirements

(May be modified in accordance with the Ordinance)

	Single Family and other uses	Two Family Detached	Multiplex
Area	2 Acres	4Acres	30 Acres
Acres/unit [a]			1.7
Lot Width [c]	200 feet	200 feet	
Front Yard	40 feet	40 feet	
Side Yard	20 feet	20 feet	
Rear Yard	40 feet	40 feet	

a- adopted 2/16/95: Lot size, setback, lot coverage, and frontage requirements waived for "essential services"

b- must be served by sewer

c- width must be maintained from the front lot line to the minimum front yard set back

1. LDR – Back lot (RR back Lot provisions shall apply, subject to the dimensional requirements of the LDR zone.)

H. "MDR" – MEDIUM DENSITY RESIDENTIAL

The medium density residential district is expected to provide public sewer and water in all areas of the district. The purpose of this District is to provide a wholesome living environment readily accessible to the Town center.

Permitted Uses:

Single Family Detached Dwelling
Two Family Detached Dwelling
Cluster Development (see Article II.M)
Accessory Uses and Buildings
Farm Animals for Personal Use on lots of two Acres or more
Manufactured Housing
Municipal Uses and Buildings
Antenna array on Alternative Tower Structure, except no microwave dish antennas are permitted
Wireless communication facility (see Article II.Z & Ch. 702, Site Plan Review Ordinance), except no microwave dish antennas are permitted
Accessory Dwelling Units
Affordable Housing Development
Manufactured Housing Community
Accessory Solar Energy Systems
Multiplex
Storage Buildings
Churches
Family Day Care Home
Essential Services
Home Occupations

Special Exception

Public Utilities
Hospitals
Private Clubs
Day Care Facility within Churches and Community Buildings (require site plan review)
Conversion of a residential Structure, in existence prior to March 12, 1973, to a Two-family Detached Dwelling. No conversion shall result in a total of more than two (2) dwelling units per lot.
Farm Animals for Personal Use on Lots of less than two (2) Acres.
Expansion of existing Commercial
Greenhouse to no more than 30% of the floor area in existence at the date of this Ordinance
Funeral Homes
Schools
Group Day Care Home

Medium Density Residential Minimum Dimensional Requirements [d]

(May be modified in accordance with the Ordinance)

	Single Family and other uses	Two Family Detached	Multiplex
Area	1 Acres	2 Acres	10
Acres/unit [a]			1
Lot Width [c]	130 feet	130 feet	
Front Yard	15 feet	15 feet	

Side Yard	10 feet	10 feet
Rear Yard	15 feet	15 feet

a- must be served by sewer
b- width must be maintained from the front lot line to the minimum front yard set back
d- adopted 2/16/95: Lot size, setback, lot coverage, and frontage requirements waived for “essential services”

1. MDR Backlot (RR back Lot provisions shall apply, subject to the dimensional requirements of the MDR zone.)

I. “RPD” – RESOURCE PROTECTION DISTRICT

The Resource Protection District (RPD) includes areas within the SOD in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. The provisions of the (SOD) shall apply to all lands within the (RPD), and in the event of any conflict, the RPD provisions shall control.

1. The RPD Shall Include

   a. Freshwater Wetlands (of ten or more contiguous Acres; or of less than 10 contiguous Acres adjacent to a surface Water Body, excluding any River, Stream or brook, such that in a natural state, the combined surface area is in excess of 10 Acres) and Coastal Wetlands.

   b. All areas within

      (1) The 100 year flood plain of the Royal River, the Cousins River and Pratt's Brook, and all other Tidal Waters, as designated on the Flood Insurance Rate Maps or Flood Hazard Boundary Maps prepared by the Federal Emergency Management Agency (FEMA) or the flood of record, or in absence of these, by soils types identified as recent floodplain soils, or

      (2) 100 feet horizontal distance of the Normal High Water Line or the Upland Edge of that portion of the Royal River upstream of the St. Lawrence and Atlantic Railway trestle near East Elm St., the Cousins River, and Pratt's Brook, whichever of the two is more inclusive.

   c. 100 year flood plains adjacent to all other Rivers, as shown on FEMA's Flood Insurance Rate Maps, or Flood Hazard Boundary Maps. This district shall also include 100 year flood plains adjacent to Tidal Waters as shown on FEMA’s Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

   d. Areas of two or more contiguous Acres with sustained slopes of 20% or greater.

   e. Areas of two (2) or more contiguous Acres supporting Wetland vegetation and hydric soils, which are not part of a Freshwater or Coastal Wetland as

defined, and which are not surficially connected to a Water Body during the period of normal high water.

f. Land areas along rivers which are subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to Tidal Waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

g. The Resource Protection District, as defined above does not extend into the GD, WOC I, or WOC III Districts.

2. Permitted Uses in the RPD and SPD (All uses not explicitly permitted as Permitted Uses or Special Exceptions are prohibited.)

a. Agriculture (Planning Board permit required)

b. Filling or other earthmoving activity of less than 10 cubic yards. (CEO permit required)

c. Filling or other earthmoving activity of more than 10 cubic yards. (Planning Board permit required)

d. Farm animals for personal use. (Planning Board permit required)

e. Piers, docks, wharves, causeways, ramps and floats. (Planning Board permit required for permanent Structures in Non-Tidal Waters per Article II.R.3.f and all causeways and wharves; CEO permit for temporary Structures and permanent piers, docks, and floats in Tidal Waters that do not exceed the size limits specified in Article II.R.4.)

f. Stairways, steps or similar structures may be allowed in accordance with Chapter 701 Article IV.R.7.c.6. (CEO permit required)

g. Removal of safety hazard or diseased Vegetation (CEO permit required along with documentation from a Licensed Forester or an ISA Certified Arborist at the CEO’s discretion).

h. Non-intensive recreational uses not requiring Structures such as hunting, fishing, and hiking. (Permitting not necessary but must meet SOD standards).

i. Motorized vehicular traffic on existing Roads and trails. (permitting not necessary but must meet SOD standards)

j. Forest management activities except for timber harvesting. (permitting not necessary but must meet SOD standards)

k. Timber Harvesting (State of Maine permitting required)

l. Clearing or removal of vegetation for activities other than timber harvesting (CEO permit required)

m. Fire prevention activities. (permitting not necessary but must meet SOD standards)

n. Wildlife management practices. (permitting not necessary but must meet SOD standards)

o. Soil and water conservation practices. (permitting not necessary but must meet SOD standards)

p. Surveying and resource analysis. (permitting not necessary but must meet SOD standards)

q. Emergency operations. (permitting not necessary but must meet SOD standards)

r. Aquaculture (Planning Board permit required)

s. Small non-residential facilities for educational scientific, or nature interpretation purposes. (Planning Board permit required)

t. Structures accessory to allowed uses. (Planning Board permit required)

u. Conversion of seasonal residences to year round residences (LPI permit required)

v. Home Occupations (Planning Board permit required)

w. Private sewage disposal systems for allowed uses (LPI permit required)

x. Public and private recreational areas involving minimal structural development (Planning Board permit required)

y. Individual private campsites (CEO permit required)

z. Land management Roads (Planning Board permit required)

aa. Signs (CEO permit required)

bb. Uses similar to allowed uses (CEO permit required)

cc. Uses similar to uses requiring a CEO permit (CEO permit required)

dd. Uses similar to uses requiring a Planning Board permit (Planning Board permit required)

3. Special Exceptions
Essential Services and Single Family residential Structures are allowed by special exception approval and shall conform to the special performance standards listed below:

4. Special Performance Standards

a. Expansions of non-conforming uses are prohibited.

b. Expansions of non-conforming residential Structures may be permitted as allowed in the Shoreland Overlay District (SOD)

c. The clearing, cutting or removal of vegetation within the RPD shall be limited to that which is necessary for uses expressly authorized in the RPD. Legally existing nonconforming cleared opening may be maintained, but shall not be enlarged, except as allowed by this Ordinance. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody Vegetation shall be regulated under the provisions of this section.

d. Where feasible, the installation of Essential Services shall be limited to existing public ways and existing service corridors. The installation of Essential Services other than Road-side distribution lines, is not allowed in a RPD or Stream Protection District, except to provide services to a Permitted Use within said District, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such Structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

e. Single Family Home. In addition to the criteria specified in IV.R.12 excepting Structure setback requirements, the Planning Board may approve a permit for a single family residential Structure in a RPD provided that the applicant demonstrates that all of the following conditions are met:

(1) There is no location on the property, other than a location within the Resource protection District, where the Structure can be built.

(2) The Lot on which the Structure is proposed is undeveloped and was established and recorded in the Cumberland County Registry of Deeds before the adoption of the Resource Protection District.
(3) All proposed Buildings, sewage disposal systems and other improvements are:
    1. Located on natural ground slopes of less than 20%; and along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all Buildings, including Basements, are elevated at least one foot above the 100 year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal Flood-Plain Ordinance.
    If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be ½ the width of the 100-year flood-plain.

(4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and Accessory Structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
(5) All Structures except functionally water-dependent Structures are set back from the Normal High Water Line of a Water Body, Tributary Stream or Upland Edge of a Wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of Vegetation to be removed, the proposed Building site's elevation in regard to the flood-plain, and its proximity to moderate value and high value Wetlands.

J. "IND" - INDUSTRIAL

To provide controlled areas within the Town of Yarmouth for manufacturing, processing, treatment, research, warehousing and distribution, and to which end all the performance standards set forth in this Ordinance shall apply.

1. Maximum Building coverage 20%. All outside storage shall be appropriately screened on all sides.

Permitted Uses:

a. Manufacturing Processing
b. Treatment and Extraction
c. Warehousing and outdoor storage

d. Road and Rail Distribution Facilities
e. Research Facilities
f. Accessory Uses
g. Public Utilities
h. Wireless communication facility (See Article II.Z & Ch. 702, Site Plan Review Ordinance) [a]
i. Antenna array on Alternative Tower Structure
j. Municipal Uses and Buildings
k. Accessory Solar Energy Systems
a-adopted 1/15/98

Special Exception
Small and Large Ground-Mounted Solar Energy Systems

Industrial District Minimum Dimensional Requirements
(May be modified in accordance with the Ordinance)

Lot Size	1 Acre
Width	100 feet
Front Set Back	50 feet
Side Set Back	N/A
Rear Set Back	N/A

K. "C"- COMMERCIAL

To provide general retail sales, services and business space within the Town of Yarmouth and oriented to automobile, bicycle, and pedestrian access. These shall be in compliance with the performance standards of this and all other applicable ordinances of the Town of Yarmouth.

Permitted Uses
a. Retail store
b. Restaurant
c. Motor vehicle sales showroom and service
d. Automobile service facility
e. Trailer and mobile home sales and service
f. One coin-operated amusement device
g. Warehousing and wholesale distribution but not including junkyards and salvage operations
h. Business and professional offices
i. Hotels, motels, lodging houses and inns
j. Private club
k. Transportation termini
l. Farm animals for personal use
m. Hospitals and health care centers
n. Banks
o. Sport clubs
p. Accessory buildings and uses

q. General services and contractors, such as plumbing supply and services, automobile repair, body work and painting, construction contracting, glass services and sales and retail sales related to the service or contractor business
r. Gasoline stations
s. Autobody and painting shop
t. Public utilities
u. Municipal uses and buildings
v. Light manufacturing
w. Research facilities
x. Day care center facilities
y. Churches
z. Essential services [a]
aa. Wireless communication facility (see Article II.Z. & Chapter 702, Site Plan Review Ordinance) [b]
bb. Antenna array on alternative tower structure
cc. Assisted Living Facilities
dd. Single Family dwellings in existence as of January 9, 2008
ee. Accessory Dwelling Units
ff. Home Occupations
gg. Mixed use structures containing dwelling units and other permitted uses.
hh. Affordable Housing Development
ii. Electric Vehicle Charging Facility
jj. Accessory Solar Energy Systems

[a] Adopted 02/16/95
[b] Adopted 01/15/98

Special Exception
Small and Large Ground-Mounted Solar Energy Systems

1. Performance Standards

a. Front setback:

(1) 30 feet from the edge of pavement of U.S. Route 1 and at least 20 feet from the front property line whichever is less.

(2) 25 feet from streets (property line) other than U.S. Route 1.

b. Side setback - 10 feet.

c. Rear setback - 5 feet.

d. No parking or paved areas (except at access points) within 35 feet (35') of U.S. Route 1 right of way.

e. No parking or drives within fifteen feet (15') of a side or rear property line, except where access between abutting properties is permitted by the owners, otherwise this area must be landscaped.

f. Minimum lot size - 15,000 square feet.

g. Maximum lot coverage - no more than 75% of lot may be covered with Building, parking drives, walks and impervious surfaces.

h. Minimum street frontage - 150 feet.

i. Signage shall not be affected by the setback requirement above.

j. Additions or enlargements to structures may be the same distance to a property line as the original structure even if the original structure is closer to a property line than the setbacks required above provided the area of such Additions and enlargements which encroach into the setback may be no greater than 50% of the floor space of that portion of the existing Building which encroaches into the setback area as of November 10, 1988.

k. Dwelling Units located in mixed use structures shall meet the minimum standards of the definition of dwelling unit in Article I. Maximum density provisions will not apply.

l. No more than 25% of structures containing both residential and commercial uses shall be dedicated to residential use.

L. COMMERCIAL – II DISTRICT

To provide an area for light manufacturing, warehousing and general services within the Town of Yarmouth.

Permitted Uses

a. Light manufacturing.
b. Warehousing and wholesale distribution exclusive of junkyards and salvaging operations.
c. General services and contractors, such as plumbing supply and services, automobile repair, body work and painting, construction contracting, glass services and sales and retail sales related to the service or contractor business.
d. Business and professional office.
e. Research facilities.
f. Day care center facility.
g. Municipal uses and buildings.
h. Accessory uses and buildings.

i. Transportation termini.
j. Farm animals for personal use.
k. Essential services [a]
l. Wireless communication facility (see Article II.Z. & Chapter 702, Site Plan Review Ordinance [b]
m. Antenna array on alternative tower structure [b]
n. Medical Cannabis Establishment
o. Medical Cannabis Cultivation Facility
p. Accessory Solar Energy Systems

[a] Adopted 02/16/95
[b] Adopted 01/15/98

Special Exception
Small and Large Ground-Mounted Solar Energy Systems

1. Performance Standards

a. Front setbacks 25 feet from streets as determined by the edge the right of way.

b. Side setback - 15 feet.

c. No parking or drives within 10 feet of a side property line except where access between abutting properties is permitted by the owners otherwise this area must be landscaped.

d. Rear setback - 5 feet.

e. Minimum lot size - 15,000 square feet.

f. Maximum lot coverage - no more than 90% of lot may be covered with Buildings, parking drives, walks and impervious surfaces.

g. Minimum street frontage - 150 feet.

M. COMMERCIAL – III DISTRICT

Purpose: To promote the development of medium to large scale commercial facilities in attractive surroundings which utilize access to U.S. Route One and I-95, while not creating undue impacts on environmentally sensitive lands or residential neighborhoods. To this end density of development is limited; buffer and landscaped areas, and direct access to U.S. Route One are required.

1. Permitted Uses
In the Commercial II & III District the following uses shall be permitted:

a. Business and professional offices.

b. Warehouse and wholesale distribution facilities, but not including junkyards or salvage operations.

c. Research and development facilities including light manufacturing.

d. Accessory Uses and Buildings customarily appurtenant to the permitted uses.

e. Special exceptions:

f. Essential services

g. Municipal Uses and Buildings.

h. Wireless communication facility (see ARTICLE II.Z. & Chapter 702, Site Plan Review Ordinance)

i. Antenna array on Alternative Tower Structure.

j. Accessory Solar Energy Systems

2. In the Commercial III District the following uses shall be permitted as special exceptions according to the provisions of ARTICLE VII of this CHAPTER.

   a. Day Care Facilities.

   b. Public utilities and public service facilities to accommodate the public service needs of the various permitted uses and special exception uses allowed in the district.

   c. Small and Large Ground-Mounted Solar Energy Systems

3. Dimensional Requirements:
   The following dimensional provisions shall control development in the C III district.

   a. Minimum Lot size 2 Acres

   b. Front setback 75 feet

   c. Side setback 50 feet

   d. Rear setback 50 feet

4. Parking areas:

No parking areas, Driveways or paved areas, except access drives, are permitted within 25 feet of the Route One or I-95 right of way or 25 feet of the side or rear property lines.

5. Maximum Lot Coverage:
   No more than 60% of the total land area shall be covered with buildings, parking areas, Driveways, pedestrian walkways, or impervious surfaces.

6. Minimum Street Frontage:
   50 feet

7. Specific Noise Limitations:
   In addition to such other requirements as may be imposed upon a development herein under applicable law regarding regulation of sound levels, where a development abuts a residential zone or a residential use, the use of exterior public address systems and exterior sirens, bells, whistles, alarms or other noise making devises is prohibited, except to the extent required by applicable law.

8. Exterior Storage:
   All material and supplies are to be stored within Buildings. Trash and recycling containers, dumpsters and equipment such as grounds keeping machines, material handling vehicles, snow blowers, trailers and trucks may be stored outdoors if screened or enclosed so as not to be visible from nearby streets, residences or abutting properties.
9. Signage:
   Signage shall be in conformance with ARTICLE II.C & F of the Zoning Ordinance.

10. Loading Activity:
    Where a development in the C III District abuts land in a residential district or in residential use no outdoor loading or unloading of freight transported by licensed commercial vehicles or movement of shipping related vehicles shall take place between the hours of 8:00 p.m. and 6:00 a.m.

11. Performance Standards:
    The Planning Board in the review of Major Site Plans and Subdivisions, or Planning Director in the review of Minor Site Plans, or building permit applications which do not require site plan or subdivision review shall review all applications for conformance with the following performance standards:

    a. Lighting Plan:
       New Buildings and parking areas are to provide for adequate exterior lighting in ways that minimize views of light fixtures from nearby Roadways and abutting properties. Not withstanding site plan technical standards relating to lighting the Planning Board may reduce the required

light levels found in Chapter 702, Section I. J. 4. of the Site Plan Ordinance to protect neighboring property owners from glare.

b. Landscape Plan:
Development proposals shall include a landscape program to illustrate the proposed development and maintenance of open space, Roads, and service and parking areas. All land areas not covered by Structures, parking areas or other facilities shall be landscaped and maintained. Existing Vegetation may be used when determined by the Planning Board to comply with the purpose of this Section.

c. Buffer:
Where a development located in the C III District abuts land in a residential zone or a residential use, a 50 foot wide buffer area is required on the commercial development's property. In those areas where natural Vegetation fails to provide a dense and continuous buffer, the Planning Board may require dense evergreen plantings of either natural massing configurations or up to 3 staggered rows, whichever is most appropriate to the character of the surrounding area. Spacing as close as 6' on center may be required, depending on plant species, growth habits, and screen requirements.

N. RESERVED

O. VILLAGE – II DISTRICT

The purpose of the Village II zone is to retain a primarily residential living area with limited compatible, low intensity businesses, offices and inn uses which do not impair the existing residential use or the historic significance of the area. The retention of lawns, trees and open space is important.

1. Permitted Uses

a. Any permitted use in MDR at the same densities as the MDR not including Special Exceptions of the MDR.

b. Business offices and professional offices.

c. Family day care home.

d. Inns, provided that signage is limited to six (6) square feet, meals are served to overnight guests only, the owner or operator lives on site. Inns are not permitted on the same lot or in the same structure as offices.

e. Conversion of a structure in existence prior to February 12, 1981, to a maximum of three (3) dwelling units. No conversion shall result in a total of more than three (3) dwelling units per lot. Density requirements do not apply. Where three dwelling units result from a conversion, the provisions

for Affordable Housing Development may apply. Where a portion of the structure is in office use only, two (2) dwellings are permitted.

f. Antenna array on Alternative Tower Structures (See ARTICLE II.Z. & Chapter 702, Site Plan Review Ordinance), except no microwave dish antennas are permitted.

g. Accessory Solar Energy Systems

2. Essential Services

3. Special Exceptions

a. Group day care home.

4. Dimensional Requirements

a. Minimum Lot Width and Frontage – Fifty (50) feet.
b. Minimum Front, Rear and Side Setbacks – Fifteen (15) feet.
c. For any use permitted in the MDR, the lot size permitted in the MDR is required. For all other uses, 10,000 square feet is required

5. Special Performance Standards

a. Where more than 50% of the square foot floor space of any Building or group of Buildings on the same lot is used for residential purposes, no more than 50% of the square footage floor space may be used or converted to offices.

b. Buildings, parking areas and walkways shall not exceed 50% coverage of each lot.

c. Only Buildings existing before the effective date of this Ordinance may be used for nonresidential uses. For any use, the total footprint square footage of any Addition or Accessory Building(s) shall not exceed 50% of the original Building(s).

d. A structure in residential use or partial residential use must retain at least one dwelling unit when a portion of the structure is converted to nonresidential uses. Where the structure or Building has become vacant, and if the last use made of the structure was residential or partial residential, this requirement shall still apply. There shall be no parking requirement for a dwelling unit retained during such a conversion.

e. New Buildings or existing Buildings with Additions shall not exceed a 4,000 square foot footprint.

f. Section repealed 3/19/09 TC meeting 9-08/09 Item No: 74.

g. Section repealed 3/19/09 TC meeting 9-08/09 Item No: 74.

h. Structures on separate individual lots at the effective date of this Ordinance may not be joined or attached to one another.

i. Development in the Village II Zone shall be subject to the Architectural and Landscape Standards of Chapter 703 (Character Based Development Code) Articles 5.M and 5.N.

P. "WOC I" – WATER ORIENTED COMMERCIAL

1. Purpose

To provide an area not only to serve recreational and commercial marine interest, but also at the same time, to permit a diversity of activities that add interest and economic viability to the harbor. The intent is to preserve and maintain for the citizens of Yarmouth the harbor, including its scenic value, views from the land, its accessibility to the public, and its economic value or uses that are dependent on a harbor location. This District specifically prohibits commercial uses and activities which are more suited to highway location because of their scale and their need for access and parking facilities.

PERMITTED USES

a. Marinas and related services, such as:
   i. chandleries
   ii. sail lofts
   iii. boat brokerage
   iv. boat building and repair
   v. retail boat and motor sales
   vi. boat storage
   vii. boat refueling
b. Single family detached dwellings,
c. Retail stores and craft shops.
d. Restaurant, including walk-up, takeout window.
e. Professional offices. (Limited to 2nd floor if non-marine related.)
f. Municipal uses and buildings.
g. Shellfish wholesaling in conjunction with on-site retail sales.
h. Boat charters and excursions. (Not regular ferry services.)
i. Museum, art gallery, aquarium.
j. Fabrication, storage, and repair of fishing equipment.
k. Piers, docks, wharfs, bulkheads, retaining walls (subject to the provisions of ARTICLE II.R.
l. Essential services [a]

m. Antenna array on alternative tower structures (See Article II. §Z. & Chapter 702, Site Plan Review Ordinance.) [b]
n. Home Occupations (pursuant to II.J)
o. Accessory Dwelling Units
p. Accessory Solar Energy Systems

[a] Adopted 02/16/95 [b] Adopted 01/15/98

WOC I District Minimum Dimensional Requirements
(May be modified in accordance with the Ordinance)

Lot Size	2 Acre
Width	200 feet
Front Set Back	70 feet
Side Set Back	10 feet
Rear Set Back	75 feet

2. Minimum Lot Size - Single Family Detached

   a. This lot shall be for the exclusive use of the single family dwelling and not used or counted for area of other uses.

3. Special Performance Standards for WOC I in addition to all other applicable standards in this Ordinance:

   a. For the purpose of lot density calculations, any land above Shoreline shall be considered in the lot size.

   b. The use must be consistent with the purpose of this District as stated above.

   c. Coverage shall not exceed more than 70% of each lot.

   d. Building foot prints shall cover no more than 20% of each lot.

   e. No Building built after the effective date of this Ordinance shall have a foot print greater than 4,000 square feet, except for Buildings used entirely for boat building and repair and boat sales which may have a foot print up to, but not exceeding 12,000 square feet. Any Building built after the effective date of this Ordinance that is greater than 4,000 square feet may not be used for any other use than boat building and repair and boat sales.

   f. New buildings shall be no taller than forty-two (42) feet unless approved by the Permitting Authority upon finding that reasonable consideration has been given to design and position of the structure to minimize adverse visual impact or obstruction to abutting properties. An addition to an

existing structure shall be no taller than the height of the existing structure or forty- two (42) feet, whichever is taller.

g. There shall be no Buildings, second floor decks or enclosed first floor decks or automobile parking areas within 25 feet of the Shoreline. There shall be no paving except for pedestrian walkways and launching ramps within 10 feet of Shoreline. If any Structures or paving are within 50 feet of Shoreline, appropriate steps will be required to prevent any erosion of the banking.

h. Buildings within 75 feet of mean high water must be at least 50 feet from other buildings.

i. Buildings taller than 25 feet shall be positioned so as to minimize visual impact.

j. First floor Building space may not be used for other than Functionally Water Dependant Uses.

k. All rooftop mechanical equipment shall be screened to minimize any adverse visual impacts.

l. At least sixty-five (65) percent of the square footage floor space of each Building or complex of Buildings under single ownership must be used for marinas and related services, shellfish wholesaling in conjunction with on-site retail sales, boat charters and excursions, fabrication, storage, and repair of fishing equipment, or marine related offices.

Q. WOC II – WATER ORIENTED COMMERCIAL II

1. Purpose

a. The intent of the W.O.C. II zone is to provide for a mix of residential, transient residential and restaurant uses which promote and enhance the quality of water oriented residential activities.

b. This district specifically prohibits commercial activities which are better suited to highway locations because of their scale and need for substantial parking facilities.

2. Permitted Uses and Special Exceptions

a. Permitted Uses

(1) Any permitted use in L.D.R. at same densities as L.D.R.

(2) One coin operated amusement device.

(3) The conversion of existing seasonal or year round inns, hotels, motels and restaurants to seasonal or year round single or two family detached dwellings provided that the total project land area provides a minimum of one Acre per dwelling and is in conformance with Sections , and of this Section. For the purpose of this Section, conversion of a hotel, motel or inn is defined as the change of use of Buildings and associated lands which were previously used, at least partially, as transient lodging.

(4) Municipal uses and Buildings.

(5) Accessory Solar Energy Systems

b. Special Exceptions

(1) Public utilities.

(2) Hotels, motels, and inns at a density not to exceed one bedroom or suite available for rent per Acre of land. For the purpose of this Section, a suite is defined as a group of rooms being used as transient dwelling units.

(3) Restaurants

3. Dimensional Requirements

a. Minimum Dimensional Requirements (in feet).

	Hotels, motels and Inns	Conversion of existing inns, hotels, or motels to single family and two family detached	All other used
Min. Lot Size (in Acres)	17	17	2
Lot Density	1 unit/Acre	1 dwelling/Acre	-
Frontage	200	200	200
Width	200	200	200
Front Setback	25	25	70
Side Setback Min.	30	30	30
Rear Setback	25	25	75
Distance btwn Buildings	25	25	-

b. Height: Overall 35' provided that an addition to an existing structure be no higher than the height of the existing roof or whichever is lower.

c. Where a conversion is proposed and existing structures do not meet the side, rear, front and/or building setbacks of this Section, or the shoreline setbacks of Article IV.R of this Ordinance, the conversion may be permitted and structures not meeting the setback requirements shall be considered nonconforming structures under the Zoning Ordinance.

4. Conversion Lot Size

a. In conjunction with a conversion plan subject to Article IV.Q.5 the conversion of a hotel, motel or inn may include the separate ownership of land under Buildings. The minimum lot size (in Acres) applicable to conversions refers to the entire land area included in the conversion plan.

b. Any Building Alteration required to bring a unit into compliance with the conversion plan shall be completed prior to transfer of the unit(s) located in that Building.

c. If a single family or two family detached dwelling, located within the flood plain, approved as part of a conversion plan, should be destroyed by an act of God or other disaster it may be rebuilt in the same location or on an unused portion of the site, in areas not designated as significant view corridors, site amenities, vehicle and pedestrian access ways, parking Article IV.Q.5 and storage areas and significant passive and active open spaces, subject to the approval of the Planning Board for conformance with the standards found in Article IV.Q.5 and compliance with other applicable federal or state statutes or regulations or local ordinances.

5. Performance Standards for Conversions
The following standards apply to the conversion of a hotel, motel or inn to single or two family dwellings:

a. Conversion Plan: Prior to the transfer of ownership for an individual unit, the owner of the hotel, motel or inn must receive Planning Board approval of the conversion plan. For the purpose of this Section, a conversion of a hotel, motel or inn will require final Planning Board approval for conformance with the criteria set forth in the Subdivision Ordinance and this Ordinance, irrespective of whether the conversion is defined as a subdivision or site plan at the time of application. The Planning Board shall review the submission as a final plan; no preliminary approval shall be required. Approval of the Conversion Plan by the Planning Board shall constitute final approval pursuant to Article II., Section 2.4 of the Subdivision Ordinance and the Site Plan Review Ordinance. In addition to subdivision and site plan review, the Planning Board must find the proposed conversion in conformance with this Section and any other applicable ordinance such as but not limited to ordinances regulating Shoreland areas, Wetlands, buffer areas and signage.

b. Transition Period: For a period not to exceed three years from the date of Planning Board approval of the conversion plan of the hotel, motel or inn, to single or two family detached dwellings, any commercial uses and activities, such as restaurant, offices, and lodging, including transient unit rentals, existing prior to the conversion may be continued. At the end of the transition period the only uses permitted shall be those permitted in single or two family dwellings and Accessory Uses such as storage as authorized by the conversion plan. The conversion plan may be vacated by the owner in accordance with this Section within the three year period provided that the applicant has not transferred ownership of an individual unit. If the entire property subject to the conversion plan is transferred during the transition period, the owner or his/her heirs or assigns may vacate the conversion plan provided all other requirements of this Section are met.

   Any such conversion plan recorded, or any portion thereof, may be vacated within three years from the date of Planning Board approval with the consent of the Planning Board at any time before the sale of any unit therein, by written instrument, signed by the Town and the owners of the converted hotel, motel or inn, declaring the same to be vacated. The Planning Board shall grant the vacation request upon finding that no individual unit has been transferred prior to submission of the vacation request.

   Any instrument so executed vacating the conversion plan shall be duly filed and recorded in the County Registry of Deeds by the owners of the subject property.

c. Performance Guarantee: The Planning Board shall require a performance guarantee consisting of a bond, escrow account or letter of credit, in an amount and form satisfactory to the Town Manager, to insure that the physical transformations of the conversion are carried out in accordance with the approved plan.

d. Conversion Plan Components: The conversion plan application is subject to the submission deadlines and noticing requirements applicable to site plan applications, in addition to the requirements of ARTICLE II Section 2.4 (Final Plan for Major Subdivision) of the Subdivision Ordinance and the Site Plan Review Ordinance (Site Plan Submission Procedure), as well as the submission requirements of other applicable ordinances. The applicant shall submit a conversion plan including the following information:

e. Building and Site Plans: The conversion plan shall show existing conditions and proposed revisions to Buildings, including changes to

Building exteriors, kitchens, partitions, and floor plans, and the site, including the number of single and two family detached dwellings proposed, vehicle and pedestrian access ways, water and sewer services, parking and storage areas, landscaping features, significant private and public view corridors, site amenities such as tennis courts, swimming pools and gardens, docks and moorings, exterior lighting, utility easements and significant passive and active open spaces.

f. Project Description: The conversion plan application shall include a written project description stating all current uses and activities on the site as well as all proposed uses and activities on the site. The description shall also set forth the conversion time period and the estimated cost of Building changes and site improvements necessitated by the conversion.

g. Review Standards: The Planning Board shall review all proposals for conformance with the following standards:

(1) The proposed conversion shall meet all requirements of Article I, (Guidelines) and Article II, (Final Plan) of the Subdivision Ordinance, and Chapter 702, and other applicable standards in the Zoning Ordinance including but not limited to buffers, signage, Shoreland areas, Wetlands and docks.

(2) Municipal Facilities and Services: The proposed conversion shall not cause an undue adverse effect on Municipal infrastructure, facilities or services, or in any way create or allow to continue an unsafe or unhealthy situation. In reviewing the plan's conformance with this standard, the Planning Board may solicit comment from the Town Manager, Town Engineer, Fire Chief, Police Chief, and Planning Director to insure that the proposed conversion can be adequately served by Municipal facilities and services such as Roadways, sewers, fire apparatus and police or fire personnel.

(3) Site Layout: The layout and design of Buildings, Roadways, parking areas, open space, recreation amenities, landscaping, drainage facilities and control mechanisms, site utilities, lighting, amenities and storage and other site improvements are located and designed in such a way as to preserve the character of the areas as a cohesive neighborhood and to preserve the natural topography, vegetation, streams, water features, and other existing features of the site; ensure the orientation of Buildings to provide adequate natural light within dwellings; and preserve and enhance outdoor open spaces and recreation areas.

(4) Exterior Storage: The conversion plan shall indicate all outdoor storage areas excluding firewood storage. The areas are to be

screened with dense and continuous landscaping, fencing or walls and not interfere with pedestrian or vehicle access ways.

(5) Building Expansions: The Conversion Plan shall identify specific Building areas, volume and heights in which existing Buildings may be expanded; construction of a Building expansion identified in the Conversion Plan shall not be considered a revision to the Conversion Plan.

6. Revisions to Approved Conversion Plan
Except as otherwise provided herein, any revision to site layout, Buildings, amenities or site features of an approved conversion plan must be reviewed by the Planning Board for conformance with this Section.

R. "SOD" – SHORELAND OVERLAY DISTRICT

1. Purpose
The purposes of this ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect Buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect Freshwater and Coastal Wetlands; to control Building sites and placement of Structures and land uses to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in Shoreland areas.

2. Authority and Enforcement
This ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.). The Department of Planning and Development shall be responsible for enforcing the provisions of this district.

3. Applicability
This district applies to:
   a. all land areas within 250 feet, horizontal distance, of the normal high water line of any River or Upland Edge of a Salt Water Body;
   b. within 250 feet, horizontal distances of the Upland Edge of a Coastal or Fresh Water Wetland;
   c. within 75 feet, horizontal distance, of the Normal High-Water Line of Streams;
   d. all lands within the Resource Protection District (RPD), and any structure built on, over, or abutting a Dock, Wharf or Pier, or other Structure extending or located below the Upland Edge of a Water Body or within a Wetland.

For lands within RPD, WOC I, WOC II, WOC III, and GD, if and to the extent that any of provisions of SOD conflict with the provisions of the RPD, WOC I, WOC II, WOC III, and GD, the provisions of the RPD, WOC I, WOC II, WOC III, and GD districts shall control in the respective districts.

4. Land Use Requirements
   Except as hereinafter specified, no Building, Structure or land shall hereafter be used or occupied, and no Building or Structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations for the district in which it is located and all the applicable regulations of the SOD, unless a variance is granted.

5. Non-conformance
   The provisions of Article III (Non-conformance) of the Zoning Ordinance shall apply to properties wholly or partially located within the RPD or SOD, except to the extent they are modified by this Section.

   a. Nonconforming Structures; General

      (1) Expansions
      All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream or wetland setback requirement contained in Article IV R. 7 (c) (1) . A non-conforming Structure may be added to or expanded after obtaining a permit from the Permitting Authority, if the standards of this subsection are met, and if such Addition or expansion does not increase the non-conformity of the Structure.

         (a.) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream or upland edge of a wetland is prohibited, even if the expansion will not increase non-conformity with the water body, tributary stream, or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.

         (b.) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable

municipal land use standards are met and the expansion is not prohibited by Article IV.R, 5 (a).

(i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

(c.) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Article IV .R. 5 (a) or Article IV. R. 5.(a) (1), above.

(i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

(ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Article IV.R. 5(a)(1)(b)(i) and Article IV. R. 5 (a) (1)(c)(i), above.

(iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their

location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Article IV.R. 5(a)(1)(b)(i) and Article IV. R. 5 (a) (1)(c)(i), above.

(d.) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

(2) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Permitting Authority basing its decision on the criteria specified in Section IV.R.5.a(3)

(3) Relocation

(a.) A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Permitting Authority, and that the relocation does not decrease the structure's setback from the Water Body, Tributary Stream, or Upland Edge of a Wetland.

(b.) In determining whether the Structure relocation meets the setback requirements to the greatest practical extent the Permitting Authority shall consider the size of the lot; the slope of the land; the potential for soil erosion; the location of other structures on the property and on adjacent properties; the

location of the septic system and other on-site soils suitable for septic systems, (provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules if a subsurface disposal system is being or is to be used;) the physical condition and type of foundation present, if any; and the type and amount of vegetation to be removed to accomplish the relocation. When necessary to remove Vegetation in order to relocate a Structure, the Permitting Authority shall require replanting of native Vegetation to compensate for the destroyed Vegetation in accordance with Article IV.R.7.n. In addition, the area from which the relocated Structure was removed must be replanted with Vegetation. Replanting shall be required as follows:

1. Trees removed in order to relocate a Structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or Wetland than the trees that were removed.

   Other woody and herbaceous Vegetation, and ground cover, that are removed or destroyed in order to relocate a Structure must be re-established. An area at least the same size as the area where Vegetation and/or ground cover was disturbed, damaged, or removed must be re-established within the setback area. The Vegetation and/or ground cover replanted must consist of similar native vegetation and/or ground cover as that which was disturbed, destroyed or removed.

   In all cases, when a Structure is relocated on a parcel the original location of the Structure shall be replanted with Vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

(4) Reconstruction or Replacement

(a.) Any non-conforming structure which is located less than the required setback from the Normal High-Water line of a Water Body, Tributary Stream or Upland Edge of a Wetland and which is wholly or partially removed, damaged or destroyed regardless of the cause, by more than 50% of the market

value of the Structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit from the Planning Board is obtained within eighteen (18) months of the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with Article IV.R.5.a.(3) of this Ordinance. In no case shall a Structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement Structure is less than the required setback it shall not be any larger than the original Structure, except as allowed pursuant to Section IV.R.6.a(1) above, as determined by the non-conforming Footprint of the reconstructed or replaced Structure at its new location. If the total amount of Footprint of the original Structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed Structure shall be replaced or reconstructed at less than the setback requirement for a new Structure. When it is necessary to remove Vegetation in order to replace or reconstruct a Structure, Vegetation shall be replanted in accordance with section IV.R.5.a(3) of this Ordinance.

(b.) Any non-conforming structure, which is located less than the required setback from a Water Body, Tributary Stream, or Wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the Structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the CEO within 12 months of such damage, destruction, or removal.

(c.) In determining whether the Building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, the criteria in section IV.R.5.a(3).

(d.) Non-conforming structures damaged, destroyed or removed and not replaced within the time limitations set forth above in this subsection IV.R.5.a(4), of said damage, destruction or removal shall not be replaced unless the replacement is conforming to all setbacks in place at the time of proposed replacement.

(5) Change of Use of a Non-Conforming Structure

(a.) The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the Water Body, Tributary Stream, or Wetland, or on the subject or adjacent properties, public facilities and services in the area, or natural resources than the existing use.

(b.) In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, commercial fishing and maritime activities, and other Functionally Water Dependent Uses.

b. Non-conforming Uses

(1) Expansions
Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Permitting Authority as applicable, be expanded within existing residential structures or within permitted expansions of such structures.

(2) Resumption Prohibited
A lot, Building, or Structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension of that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the Structure has been used or maintained for residential purposes during the preceding five (5) year period.

(3) Change of Use
An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including Functionally Water Dependent Uses in the WOC I and WOC III Districts, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to the criteria listed in IV.R.6.a. 4(Change of Use of a Non-conforming Structure.)

c. Non-Conforming Lots
Lots within the SOD are governed by Article II of this Ordinance.

6. Land Use Standards

a. Permitted Uses
All uses permitted in the underlying zoning district are permitted in the SOD subject to the densities, land use standards, and performance standards of the underlying district, as well as the regulations of the SOD.

b. Special Exceptions
Any special exceptions permitted in the underlying district is a special exceptions in the SOD, subject to the densities, land use standards, and performance standards of that district, as well as the regulation of the SOD.

7. Shoreland Overlay District Standards
To the extent that the following standards conflict with those of the underlying district, the more stringent standards shall be required in all districts except the WOC I, WOC II, WOC III, and GD Districts.

a. Stream Protection District
The Stream Protection District includes all land areas, as shown on the Official Zoning Map, within seventy-five (75) feet, horizontal distance, of the Normal High-Water line of a Stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the Normal High-Water line of a River or within two hundred and fifty (250) feet, horizontal distance, of the Upland Edge of a Freshwater or Coastal Wetland. Where such Stream and its associated Shoreland area are located within two hundred and fifty (250) feet, horizontal distance, of any of the above Water Bodies or Wetlands that land area shall be regulated under the terms of the Shoreland Districts associated with that Water Body or Wetland. The standards of the underlying district shall apply except to the extent they are explicitly modified by the performance standards of this District. All land use activities in the Stream Protection District shall be governed by the land use standards applicable to the RPD.

b. Dimensional Standards

(1) Minimum Lot Sizes shall be determined by the Dimensional Standards set forth in the underlying district.

(2) Land below the Normal High-Water line of a Water Body or Upland Edge of a Wetland and land beneath Roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

(3) Lots located on opposite sides of a public or private Road shall be considered each a separate tract or parcel of land unless such Road was established by the owner of land on both sides thereof after September 22, 1971.

(4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the Shoreline shall be equal to or greater than the Shore Frontage requirement for a lot within the underlying District.

(5) Except in the WOC I, WOC II, WOC III, and GD, if more than one (1) residential Dwelling Unit or more than one (1) principal governmental, institutional, commercial or industrial Structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional Dwelling Unit, Principal Structure, or use.

(6) In addition to the standards of the underlying district, minimum Shore Frontage and area for new lots shall be as follows:

Residential per dwelling unit	**Min. Shore Frontage (ft)**	**Min. Land Area sq.ft.**
Adjacent to Tidal Areas	150	30,000
Adjacent to Non Tidal Areas	200	40,000
Governmental, Institutional, Commercial or Industrial per principal structure	**Min. Shore Frontage (ft)**	**Min. Land Area sq.ft.**
Adjacent to Tidal Areas Exclusive of those areas zoned WOC I	200	40,000
Adjacent to Tidal Areas Zoned WOC I	NONE	NONE
Adjacent to Non Tidal Areas	300	60,000
Public and Private Recreational Facilities	200	40,000

c. Principal and Accessory Structures

(1) All new principal and Accessory Structures shall be set back at least seventy-five (75), feet horizontal distance, from the Normal High-Water line of Water Bodies, Tributary Streams, or the Upland Edge of a Wetland, except that in the Industrial and Commercial Districts the setback from the Normal High-Water line shall be at least one hundred (100) feet, horizontal distance, and in the Water Oriented Commercial I (WOC I), Water Oriented Commercial III (WOC III), and General Development (GD) Districts the setback shall conform to the requirements of those districts. In the RPD the setback requirement shall be two hundred fifty (250) feet, horizontal distance, except for Structures, Roads, trails, parking spaces or

other regulated objects specifically allowed in that District in which case the setback requirements specified above shall apply.

In addition

(a.) The Water Body, Tributary Stream, or Wetland setback provision shall not apply to Structures which require direct access to the Water Body or Wetland as an operational necessity, such as piers, docks, and retaining walls, or to other Functionally Water-Dependent Uses.

(b.) All principal structures along the non-tidal portions of the Cousins River, the Royal River, and Pratt's Brook shall be set back on hundred (100) feet, horizontal distance, from the Normal High-Water line, or Upland Edge of a Wetland and shall be screened from the Water Body by existing Vegetation, if any. This provision does not apply to structures related to hydro power facilities or to structures located within the WOC I, WOC III, or GD District.

(c.) For Principal Structures, water and Wetland setback measurements shall be taken from the top of a Coastal Bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map appended to this ordinance. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to offer a determination. If agreement is still not reached, the applicant may appeal the matter to the General Board of Appeals. This subsection shall become effective July 1, 2009.

(d.) Swimming pools and tennis courts shall be located consistent with the standards for Principal and Accessory Structures as provided in Article IV.R.7.c.1

(2) The Planning Board shall have the authority to increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but are not to be limited to, areas of steep slope, shallow or

erodable soils; or where an adequate vegetative buffer does not exist.

(3) The lowest floor elevation or openings of all Structures, including Basement shall be elevated at least one foot above the elevation of the one hundred (100) year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils.

(4) With the exception of General Development Districts located adjacent to coastal wetlands and rivers that do not flow to great ponds, and Commercial Fisheries/Maritime Activities Districts, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

In a General Development District located adjacent to coastal wetlands, or rivers that do not flow to great ponds, or in a Commercial Fisheries/Maritime Activities District, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

(5) Notwithstanding the requirements stated above, steps, stairways or similar Structures may be allowed with a permit from the Planning Department, to provide Shoreline access in areas of steep slopes or unstable soils or to provide access to a permitted pier or dock provided that the structure is limited to a maximum of four (4) feet in width; that the Structure does not extend below or over the Normal High-Water Line of a Water Body or Upland Edge of a Wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on, or is otherwise available to, the property, and that no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a Forested Canopy is not present) is created, and that no cleared line of sight to the water is created if reasonably practical.

d. Parking Areas

(1) Parking areas shall meet the Shoreline and Tributary Stream setback requirements for Structures for the District in which such areas are located, except that in the WOC I and GD Districts parking areas shall be set back at least twenty five (25) feet, horizontal distance, from the Shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the WOC I District shall be no less than fifty (50) feet, horizontal distance, from the Shoreline or Tributary Stream if the Permitting Authority finds that no other reasonable alternative exists further from the Shoreline or Tributary Stream.

(2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a Water Body, Tributary Stream or Wetland and where feasible, to retain all runoff on-site.

e. Roads and Driveways

The following standards shall apply to the construction of Roads and/or Driveways and drainage systems, culverts and other related features.

(1) The surface of roads and driveways shall be set back at least seventy-five (75) feet, horizontal distance, from the Normal High-Water line of Water Bodies, Tributary Streams, or the Upland Edge of a Wetland, but if no reasonable alternative exists,(as determined by the Planning Board), the Planning Board may reduce the Road and/or Driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the Water Body, Tributary Stream or Wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the Water Body, Tributary Stream, or Wetland.

(2) On slopes of greater than twenty (20) percent the Road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase, or part thereof, in slope above twenty (20) percent.

(3) The above paragraph shall not apply to approaches to water crossings or to Roads or Driveways which provide access to permitted functionally Water Dependant Structures and facilities, which are located nearer to the Shoreline or Tributary Stream due

to an operational necessity, excluding temporary docks for recreational uses. Roads and Driveways providing access to permitted Structures within the setback area shall comply fully with the requirements of this section except for that portion of the Road or Driveway necessary for direct access to the Structure.

(4) Existing public Roads may be expanded within the legal Road right-of-way regardless of their setback from a Water Body, Tributary Stream or Wetland.

(5) New permanent Roads and Driveways are prohibited in the RPD except that the Planning Board may grant a permit to construct a Road or Driveway to provide access to permitted uses or approved special exceptions within the District. A Road or Driveway may also be approved by the Planning Board in a RPD, upon a finding that no reasonable alternative route or location is available outside the RPD. When a Road or Driveway is permitted in a RPD, the Road and/or Driveway shall be set back as far as practical from the Normal High-Water Line of a Water Body, Tributary Stream, or Upland Edge of a Wetland.

(6) Road and Driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Article IV.R.1.

(7) Road and Driveway grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet, horizontal distance, which shall be no greater than 15%.

(8) In order to prevent Road and Driveway surface drainage from directly entering Water Bodies, Tributary Streams or Wetlands, Roads and Driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip that is a minimum of (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the Normal High-Water Line of a Water Body, Tributary Stream, or Upland Edge of a Wetland.

Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

(9) Ditch relief (cross drainage) culverts, drainage swales and water turnouts shall be installed in a manner effective in directing

drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the Road, Driveway or ditch. To accomplish this, the following standards shall apply:

(a.) Ditch relief culverts, drainage swales and associated water turnouts shall be spaced along the Road or Driveway at intervals no greater than indicated in the following table:

Road Grade (percentage)	Spacing (feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

(10) Drainage swales may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

(11) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the Road or Driveway.

(12) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

(13) Ditches, culverts, bridges, swales, water turnouts and other Stormwater runoff control installations associated with Roads and Driveways shall be maintained on a regular basis to assure effective functioning.

f. Storm Water Runoff

(1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.

(2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

(3) The Permitting Authority, may require the retention of existing groundcover, shrubs or other plants, located on slopes adjacent to the coast or rivers, to avoid erosion.

g. Essential Services

(1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

(2) The installation of essential services is not allowed in a Resource Protection District or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such Structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

(3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

h. Mineral Exploration and Extraction
Mineral Exploration and Extraction activities shall not be allowed in the SOD.

i. Agriculture

(1) All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the former Maine Department of Agriculture on November 1, 2001, and the nutrient management law (7 M.R.S.A sections 4201-4209) or subsequent revisions thereof.

(2) Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance, of Water Bodies, Tributary Streams, or Wetlands. All manure storage areas within the SOD must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

(3) Agricultural activities involving any tillage of soil within the RPD or tillage of greater than twenty thousand (20,000) square feet in surface area, lying either wholly or partially in the SOD or the spreading, disposal or storage of manure within the Shoreland area shall require approval of the Cumberland County Soil and Water Conservation District and a Soil and Water Conservation Plan to be

filed with the Planning Department. Non-conformance with the provisions of said plan shall constitute a violation of this ordinance.

(4) There shall be no new tilling of undisturbed soil within seventy-five (75) feet, horizontal distance, from water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands.

(5) After the effective date of this district, newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance of Water Bodies and Coastal Wetlands; nor within twenty-five (25) feet, horizontal distance, of Tributary streams and Freshwater Wetlands. Livestock grazing must be conducted in accordance with a Soil and Water Conservation Plan approved by the Cumberland County Soil and Water Conservation Service.

j. Timber Harvesting (NOTE: Pursuant to 38 MRSA Section 438-A(5), the Town regulations for timber harvesting were repealed).

k. Clearing or Removal of Vegetation for Activities other than Timber Harvesting

1. In the SOD, within a strip of land extending seventy-five (75) feet, horizontal distance, from the Normal High-Water Line of any Water Body, Tributary Stream, or the Upland Edge of a Wetland, a buffer strip of Vegetation shall be preserved as follows:

(a.) There shall be no cleared opening greater than 250 square feet in the Forest Canopy (or other existing woody Vegetation if a Forested Canopy is not present) as measured from the outer limits of the tree crown. However, a single footpath not to exceed six (6) feet in width for accessing the shoreline as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

(b.) Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural Vegetation is maintained. For the purposes of this Section a "well-distributed stand of trees " shall be defined as maintaining a minimum rating score of 16 or more in each 25 foot by 50 foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4 ½ feet (four and one half) Above Ground Level (inches) **Points**

2 - < 4 inches..... 1
4 -< 12 inches..... 2
8< - > 12 inches..... 4
12 inches or greater 8

The following shall govern in applying this point system:

i. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
ii. Each successive plot must be adjacent to, but no overlap a previous plot;
iii. Any plot not containing the required points must have no Vegetation removed except as otherwise allowed by this Ordinance;
iv. Any plot containing the required points may have Vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance
v. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this section “other natural Vegetation” is defined as retaining existing Vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4.5) feet above ground level for each 25-foot by 50-foot rectangle area. If five (5) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 (five) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4.5’ (four and one half feet) above the ground level may be removed from the Shoreland Zone in any ten (10) year period.

[Note: As an example, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three tress between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

(4x1)+(2x2)+(3x4)+(2x8) = 36 points

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Tress totaling 20 points (36-16=20) may be removed from the plot provided that no cleared openings are created.]

(c.) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

(d.) In order to maintain a buffer strip of Vegetation, when the removal of storm-damaged, dead or Hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Article IV.r.7(l), below, unless existing new tree growth is present.

(e.) The provisions contained in this section k do not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

(f.) In order to maintain the vegetation in the shoreland buffer, clearing or removal of vegetation for allowed activities, including associated construction and equipment operation, within or outside the shoreland buffer, must comply with the requirements of Article IV.R.7.(k)(1)

(g.) In order to protect water quality and wildlife habitat, existing Vegetation within the 75 foot buffer under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a permitted footpath or other Permitted Use.

2. At distances greater than seventy-five (75) feet, horizontal distance, from the Normal High-Water Line of any Water Body, Tributary Stream, or the Upland Edge of a Wetland, except to allow for the development of permitted uses,

(a.) in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 ½ (four and one half) feet above ground level shall be permitted on any lot. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to Basal Area.

(b.) In no event shall cleared openings for any purpose, including but not limited to, principal and Accessory Structures, Driveways, lawns, and sewage disposal areas, exceed in the aggregate, twenty five (25)% of the lot area within the SOD or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the Shoreland zone, including the buffer area, but shall not

apply to any Commercial or Industrial districts or the WOC I and GD Districts or commercially developed lot(s) in the WOC III District.

Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this district.

(c.) Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this Section.

(d.) Revegetation may be required. The provisions regarding clearing of vegetation may be retroactively imposed on areas previously cleared under the timber harvesting section if a Shoreland permit application is submitted for a development within two years of the date of harvest.

I. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

1. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a.) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

(b.) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter,

measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

(c.) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

(d.) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

(e.) The Code Enforcement Officer may require more than a one–for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

2. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a.) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

I. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;

II. Stumps from the storm-damaged trees may not be removed;

III. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and

IV. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one

seedling per every eighty (80) square feet of lost canopy.

(b.) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

m. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section IV.R.7.k, provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

10. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section IV.R.7.k apply;

11. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section IV.R.7.c are not applicable;

12. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

13. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section IV.R.7.i are complied with;

14. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning

district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along

(a) A coastal wetland; or

(b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.

15. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

(a.) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

(b.) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and

(c.) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program: http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm

16. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

n. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section IV.R.7.k, to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:

3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

4. Revegetation activities must meet the following requirements for trees and saplings:

   (a.) All trees and saplings removed must be replaced with native noninvasive species;

   (b.) Replacement vegetation must at a minimum consist of saplings;

   (c.) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;

   (d.) No one species shall make up 50% or more of the number of trees and saplings planted;

   (e.) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

   (f.) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.

5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:

(a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;

(b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

(c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;

(d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and

(e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

(a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

(b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

(c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

o. Erosion and Sedimentation Control

(1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

(a.) Mulching and re-vegetation of disturbed soil.

(b.) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

(c.) Permanent stabilization structures such as retaining walls or rip-rap.

(d.) The retention of trees, shrubs and ground cover on steep slopes or erodable soils.

(2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

(3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

(4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of rip-rap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

(a.) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

(b.) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

(c.) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

(5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water volumes associated with a twenty five (25) year storm event

or greater, and shall be stabilized with vegetation or lined with rip-rap.

p. Soils
All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations to counteract soil limitations where they exist.

q. Water Quality
No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the Water Body, Tributary Stream or Wetland.

r. Archaeological Sites
Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the Permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application. A permit is not required for an archaeological excavation as long as the Excavation is conducted by an archaeologist listed on the State Historic Preservation Officer’s level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

s. Septic waste disposal
All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

(1.) Clearing or removal of woody Vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the Normal High Water Line of a Water Body or the Upland Edge of a Wetland and

(2.) A holding tank is not allowed for a first-time residential uses in the Shoreland Zone.

8. Administration

a. Shoreland Permits Required

No person shall, without first obtaining a permit if required, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or Structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to the Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

b. Permitting Authority

The following Authorities are responsible for the review and approval of Shoreland Permits for the listed activities:

(1) Planning Department

(a.) One and two family residential Structures, and their Accessory Structures, located outside of the RPD and more than 75 feet from the Normal High Water Line of Rivers, streams or Tributary Streams, or the Upland Edge of a Wetland.

(b.) Expansions of non-conforming uses outside of the RPD or more than 75 feet from the Normal High-Water Line of Water Body, Tributary Stream or Upland Edge of a Wetland.

(c.) Filling and earthmoving activities up to one thousand (1,000) cubic yards of material.

(d.) The construction of stairways and similar structures used to provide Shoreline access in areas of steep slopes or unstable soils or to provide access to a permitted Pier or Dock consistent with Article IV.R.7.c(5) pursuant to the standards of this ordinance.

(e.) Individual Signs

(f.) Clearing of less than 1,000 square feet of existing vegetation or the cutting of less than 250 square feet of canopy of trees, outside of the 75 foot setback from Water Bodies, Tributary Streams or Wetlands, for permitted activities other than Timber Harvesting.

(g.) The normal upkeep and maintenance of non-conforming uses and Structures including repairs and renovations which do not involve expansion of the non-conforming use or Structure, and other such changes in a non-conforming use or Structure as federal, state or local Building and safety codes may require.

(h.) The removal and replacement of a non-conforming Residential Structure if the replacement meets setbacks from water.

(i.) Removal of noxious, non-native invasive, hazardous, or contagious diseased trees or vegetation within seventy-five (75) feet, horizontal distance, of the Normal high Water Line of a Water Body, Stream, Tributary Stream or Upland Edge of Wetland or within the RPD as certified by a Licensed Forester or an ISA Certified Arborist or professional forester if required at the discretion of the Planning Department.

(j.) Piers, ramps and floats that do not exceed the site limits specified in Article II.R.4 for piers, ramps, and floats.

9. Planning Board

a. Expansion, relocation, reconstruction or replacement or of non-conforming Structures within the RPD or less than 75 feet from the Normal High-Water Line of a Water Body, Tributary Stream or Upland Edge of a Wetland.

b. The change of use of a non-conforming structure and;

c. All construction activity within the SOD and RPD not under the approval authority of the Planning Department.

10. Permit Application

a. Every applicant for a Shoreland Permit shall submit a written application, including a scaled site plan, or survey plan at the discretion of the Permitting Authority, on a form provided by the municipality, to the Planning Department.

b. All applications shall be signed by an owner(s) or other individual who can show evidence of right, title or interest in the property, or by an agent or representative, tenant, contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

c. All applications shall be dated, and the Planning Department shall note upon each application the date and time of its receipt.

d. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

NOTE: Pursuant to 38 MRSA Section 439-B excavation contractors working in the Shoreland Overlay District should take notice that whenever an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for the management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day the earth moving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

---

11. Procedure for Administering Permits and Review Criteria

a. Permits shall be approved if the application is found to be in conformance with the purposes and provisions of the SOD, and the underlying district. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the applicable standards, purposes and provisions of this Ordinance.

b. After the submission of a complete application to the Planning Department, the Planning Director shall determine the appropriate Permitting Authority, based on Section 9 and 10 of this ordinance. If the Planning Board is the

Permitting Authority, it shall hold a public hearing in accordance with Chapter 702 Article I.E. Notification, prior to the Planning Board rendering a decision the Permitting Authority shall consider the following criteria:

(1) Will maintain safe and healthful conditions;

(2) Will not result in water pollution, erosion, or sedimentation to surface waters;

(3) Will adequately provide for the disposal of all sewage and wastewater;

(4) Will not have an unreasonable adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

(5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters and other identified scenic resources;

(6) Will protect archaeological and historic resources as designated in the comprehensive plan;

(7) Will not adversely affect existing commercial, fishing, or maritime activities in the Commercial, WOC I, WOC III, GD, or Industrial Districts,

(8) Will avoid problems associated with floodplain development and use, and

(9) Has been designed in conformance with the land use standards of the SOD.

c. Mitigation
The Permitting Authorith may require mitigation of adverse impacts of proposed development in the SOD and may impose any reasonable conditions to assure such mitigation as is necessary to comply with these standards. For the purposes of this Section, "mitigation" means any action taken or not taken to avoid, minimize, rectify, reduce, eliminate or compensate for any actual or potential adverse impact on the Shoreland area, including minimizing an impact by limiting the dimensions of the Structure and type of materials used.

d. Expiration of Permit
Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the date of issuance of the

permit, the applicant shall have one additional year to complete the project at which time the permit shall expire.

e. Installation of Public Utility Service
No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

f. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a Structure if the Structure would be located in a n unapproved subdivision or would violate any other local Ordinance or regulation or statute administered by the municipality.

S. "MHP" – MOBILE HOME PARK OVERLAY DISTRICT – Repealed 4/17/2025

T. "GD" – GENERAL DEVELOPMENT DISTRICT

The General Development District (GD) is intended to preserve, maintain, and allow moderate growth and expansion as well as modernization and improvement of Shoreland Areas that have existing discernible patterns of significant commercial, industrial, or recreational uses, which may also include areas of mixed use and residential development as long as the designation is not based solely on residential use. The intent of the district is to preserve and maintain for the citizens of Yarmouth use of and access to these areas, including their economic and recreational values, diversity of activities that add interest and economic vitality of the community, scenic values, and views from the land.

Permitted Uses

a. Single Family Detached Dwelling
b. Two Family Dwelling
c. Multiplex
d. Open Space Residential Development
e. Accessory Uses and Buildings
f. Mixed Use Structure
g. Inns, motels and hotels
h. Bed and Breakfast
i. School Dormitory
j. Business or Professional Office
k. Bank
l. Retail
m. Craft Shop

n. Personal Services
o. Restaurant
p. Restaurant – Carry Out
q. Municipal Uses and Buildings
r. Museum
s. Live Theater
t. Public Utilities
u. Religious Assembly
v. Medical Building
w. School
x. Light Manufacturing
y. Aquaculture
z. Research Facility
aa. Essential Services
bb. Antenna/Antenna Array
cc. Docks, piers, wharves, moored floats, breakwaters, causeways, marinas, bridges over twenty (20) feet in length, and uses projecting into water bodies over or below the normal high-water line or within a wetland
dd. Filling or other earthmoving activity
ee. Stairways, steps or similar structures may be allowed in accordance with Chapter 701 Article IV.R.7.c.6. (Planning Department permit required)
ff. Accessory Dwelling Units
gg. Affordable Housing Development
hh. Manufactured Housing Community
ii. Manufactured Housing
jj. Accessory Solar Energy Systems

Special Exception
none

1. **General Development District Minimum Dimensional Requirements**
(May be modified in accordance with the Ordinance)

	Single and Two Family	Other Uses
Area	10,000 square feet	20,000 square feet
Lot Width	75 feet	100 feet
Shoreland Setback	25 feet	25 feet [a]
Front Yard	15 feet	10 feet
Side Yard	10 feet	10 feet
Rear Yard	15 feet	15 feet
Lot Coverage [b]	70%	70%

a – except for water dependent uses, structures, and equipment and for pedestrian walkways and launching ramps. See section d below. b –total footprint area of all structures, parking lots, and other non-vegetated surfaces.

2. **General Development District Special Performance Standards** in addition to all other applicable standards in this Ordinance:

   a. Density Calculations – For the purpose of lot density calculations, any land above Shoreline shall be considered in the lot size.

   b. Building Height – New Buildings shall be no taller than forty-two (42) feet unless approved by the Permitting Authority upon finding that reasonable consideration has been given to design and position the structure to minimize adverse visual impact or obstruction to abutting properties. An addition to an existing structure shall be no taller than the height of the existing building or forty-two (42) feet, whichever is taller.

   c. Shoreline Setbacks and Landscape Buffers – Except for Water Dependent Uses, Structures, and equipment necessary for Water Dependent Uses, there shall be no Buildings, decks, pavement, or automobile parking areas within twenty-five (25) feet of the Shoreline, except for launching ramps and for non-motorized trails, for which up to fifty (50) percent of the trail length can be as close as ten (10) feet from the Shoreline. Any significant areas of exposed mineral soil between a trail and a the Shoreline must be planted with native vegetation and trail banks and side slopes greater than fifty (50) percent and retaining walls greater than four (4) feet must be designed by a professional engineer or landscape architect. Water access sites shall be permitted at two-hundred (200) foot intervals along the trail. If any Structures or paving are within fifty (50) feet of Shoreline, appropriate steps will be required to prevent erosion of the banks. A non-conforming structure may be added to or expanded after obtaining a permit from the Permitting Authority, if shoreline setbacks are met to the greatest practical extent. In determining whether the Building expansion meets the setback to the greatest practical extent the Planning Board or its designee shall consider the criteria in section IV.R.6.a(3).

      Dense landscape buffers shall be provided in required Shoreline setback areas. Where dense landscape buffers currently exist, they will not be disturbed. The buffer shall consist of dense native plantings to provide visual screening to abutting residentially used lots and is subject to the maintenance rights and responsibilities of the SOD District. Other than for the purpose of maintaining a healthy buffer, there shall be no cutting or removal of vegetation within the new and existing buffers, provided, however, that this shall not preclude the control of noxious and non-native invasive vegetation by cutting or removal by mechanical or

chemical means with the approval of the Permitting Authority and consistent with all applicable laws and ordinances. To protect water quality, no pesticides, herbicides, fertilizers and other chemicals shall be allowed in setback and buffer areas without Planning Board approval and shall be required to follow the most current edition of the Maine DEP Best Management Practices Manual for Erosion and Sediment Control.

d. Development of Allowed Uses and Structures – When development of allowed uses and Structures is proposed, it shall connect to the town sewer and public water systems, when available. To the extent that commercial marine trades or working waterfront uses are proposed, the “Best Management Practices Manual for Maine’s Boatyards and Marinas” (December 2005 or most current edition) published by the Maine Department of Environmental Protection shall be a guidance document for the applicant and Permitting Authority for any permitting conditions and compliance requirements including but not limited to yard run-off collection and a pollution prevention/ spill response plan, including boat storage, wash down and bottom painting areas.

e. Site Layout – The layout and design of Buildings, Roadways, parking areas, open space, recreation amenities, landscaping, drainage facilities and control mechanisms, site utilities, lighting, amenities and storage and other site improvements shall be located and designed in such a way as to preserve the character of the area and to preserve the natural topography, vegetation, streams, water features, scenic views, and other existing features of the site; ensure the orientation of Buildings to provide adequate natural light within dwellings; and preserve and enhance outdoor open spaces and recreation areas.

f. Exterior Storage – All outdoor storage areas shall be screened with dense and continuous landscaping, fencing, walls, or combination thereof and shall not interfere with pedestrian or vehicle access ways.

U. CHANGES AND AMENDMENTS

1. This Ordinance may be amended and its regulations, boundaries, and district classifications changed by the Town Council at a regular or special meeting provided that the following criteria are met:

   a. Amendments may be initiated by the Planning Board, Town Council, Land Owner; his/her authorized agent, or persons with a written option to purchase the property or its equivalent.

   b. All requests for amendments to the text of the Zoning Ordinance, or for changes in zone boundary lines, or other proposals to change the zoning map, initiated by other than the Planning Board or the Town Council shall be

accompanied by a fee in the amount of Two Hundred Fifty Dollars ($250.00). No such request or proposal shall be referred to the Planning Board for public hearing unless and until said fee is paid.

c. Notices

(1) For all zoning map changes and zoning text amendments, the Planning Director will develop a notice, including a description of the nature of the proposal, a map of all property to be rezoned (for map changes), and the time and place of the Planning Board meeting.

(2) The Planning Department will mail the notice by first class postage to owners of all property proposed for a zoning map change and to owners of all properties abutting those proposed for the zoning map change. The notice will be mailed at least fourteen (14) days before the meeting (workshop of public hearing) at which the proposal first appears on the Planning Board agenda. The fee for the mailing will be as established by the Town council in the Fees and Permits Ordinance.

(3) Mailings of notices for zoning text amendments will be at the discretion of the Planning Director, after consultation with the Chairman of the Planning Board. Any such mailings will be conducted as noted above.

(4) For zoning text amendments and zoning map changes, the notice shall be posted in the Town Office at least 14 days prior to the Planning Board public hearing on the request. In addition, the notice must be published at least 2 times in a newspaper of general circulation in the Town of Yarmouth. The date of the first publication must be at least 14 days before the public hearing, and the date of the second publication must be at least 7 days before the public hearing. All posting, publishing, and mailing of notices shall conform to applicable State requirements.

d. No proposed zoning map changes or zoning text amendments shall be referred to the Town Council for consideration until the Planning Board has held a public hearing on the proposal.

2. All proposals for change of zone shall include:

a. A map showing existing and proposed zone lines.

b. Address or exact location of the request.

c. Name and address of property owner and/or applicant.

d. Statement regarding existing and proposed land use.

e. Existing and proposed zone classification.

f. Statement indicating the developer has the financial ability to complete the proposed development.

3. All requests for change of zone that propose new construction shall be accompanied by a site plan drawn in accordance with Chapter 702.

4. The Planning Board shall review all proposed site plans and make its recommendations to the Town Council regarding the land use implications of the proposal. When said plan and change of zone is finally approved by the Town Council no changes or Alterations in the approved use shall be made without resubmitting the proposed changes for approval of the Planning Board.

5. If a petitioner fails to begin construction in a substantial manner and in accordance with an approved within one year from the effective date of the rezoning, the Planning Board may initiate rezoning to the original zone classification.

6. No request for change of zone shall be considered within one year from the date of Town Council denial of the same request.

V. CONDITIONAL OR CONTRACT ZONING

Authorization for conditional or contract zoning recognizes that circumstances existing when adherence to uniform design or performance criteria can preclude creative, safe and sensible land uses and development which would otherwise advance the goals of the Comprehensive Plan and the public health, safety and general welfare. Conditional or Contract Zoning is a discretionary legislative process reviewed on a case-by-case basis. As such, contract or conditional Zoning decisions are particular to the circumstance of each lot or structure applicable to review, does not establish nor rely upon precedence, and is available only when the Town Council determines it advances the public good.

1. Conditional or Contract Zoning, as defined by this Ordinance, is authorized for zoning map changes when, in order to further the public health, safety and/or general welfare, the Town Council finds it necessary to impose certain conditions or restrictions upon the applicant's use of the land, which conditions or restriction are not imposed upon other similarly zoned properties.

   a. Alternatively, the Town Council may find it necessary or desirable to waive or modify one or more standard conditions applicable to a particularly lot, Building, or use of a parcel within a district, and impose special conditions or restrictions not imposed upon other properties within the zone.

In such circumstances the provisions and authorities of contract or conditional zoning Article IV.V may apply even when the contract or conditional rezoning modifies applicable standards within a zone (as applies to the subject property only) and does not change the zoning district or designation itself. Such alternative application shall not be authorized:

(1) To create or authorize a use not permitted within the zoning district.

(2) Except when all other conditions, procedures, and requirements of this Section are met.

(3) Except when the general purposes and goals of the district, as defined by the Comprehensive Plan, are advanced by such conditional or contract zoning.

(4) To be applied in the Village I or Village II District unless the applicant submits, in addition to the requirements of Article IV.V.8., Building plans and profiles of sufficient detail to allow a determination as to appropriateness of exterior architectural design features, construction materials, landscaping and aesthetic visual impacts.

2. Rezoning under this subsection must be consistent with the Comprehensive Plan for the Town of Yarmouth and must establish rezoned areas which are consistent with the existing and permitted uses within the original zone. The term "consistent" as used in this subsection shall mean "not contradictory or incompatible with".

3. All requests for Conditional or Contract Zoning must be accompanied by a site plan containing the information required by Article IV.V.7 of this Section. Requests for Conditional or Contract Zoning shall be filed initially with the Planning Board, along with an application fee of $250.00 as per Article X.IV. of the Fees and Permits Ordinance.

4. Notice

   a. For all conditional and contract zoning proposals, the Planning Director will develop a notice, including a description of the nature of the proposal, the proposed conditions and restrictions, a map of all property to be subject to the conditional rezoning or contract zone agreement, and the time and place of the Planning Board meeting.

   b. The Planning Department will mail the notice by first class postage to owners of all property which will be subject to the conditional rezoning or contract zone agreement and to owners of all properties within five hundred (500) feet of the property or area subject to the conditional rezoning or

contract zone agreement. The notice will be mailed at least fourteen (14) days before the meeting (workshop or public hearing) at which the proposal first appears on the Planning Board agenda. The fee for the mailing will be as established by the Town Council in the Fees and Permits Ordinance.

c. The notice shall be posted in the Town Office at least 14 days prior to the Planning Board public hearing on the request. In addition, the notice must be published at least 2 times in a newspaper of general circulation in the Town of Yarmouth. The date of the first publication must be at least 14 days before the public hearing, and the date of the second publication must be at least 7 days before the public hearing. All posting, publishing, and mailing of notices shall conform with applicable State requirements.

5. The Planning Board shall conduct a public hearing on the proposed contract or conditional zoning proposal and then shall make a written recommendation to the Town Council regarding the proposed rezoning and any recommended conditions or restrictions.

6. The Town Council shall hold a public hearing on the proposed rezoning, at which time the Town Council shall consider the rezoning request, the Planning Board recommendation, and any proposed conditions and restrictions. Notice shall be given to the owners of abutting property and published in accordance with the procedures for amendment of a zoning ordinance or zoning map.

7. When site plan or subdivision review is required for the use proposed, preliminary site plan review or preliminary subdivision review must be completed before the Town Council takes final action to approve or deny the rezoning request.

8. The preliminary subdivision plan or site plan shall include, at a minimum, the following items:

   a. Existing and proposed lots, permitted Building areas of each lot, Roadways and easements;

   b. Conceptual treatment of the scale and size of potential Buildings and the conceptual exterior or design thereof;

   c. Conceptual treatment of stormwater, sanitary and solid waste management, utility services, vehicular/pedestrian access and circulation, parking, lighting, landscaping, screening, outdoor storage, and other on-site or off-site improvements;

   d. Total land area;

   e. Existing and proposed zoning districts; and

f. Any existing natural land features such as topography, soils classifications, mature Vegetation, waterways, Wetlands, and wildlife habitats;

g. A context map showing the entire area which will be affected by the proposal. A context map should include all streets, sidewalks, intersections, drainage paths, property lines, buildings, zoning districts, and natural features of the area.

h. A narrative describing the proposal, its common scheme of development and listing potential land uses and estimated impacts to Municipal facilities. Such estimates are to include, but are not limited to, the anticipated gallons per day of waste water to be generated by the proposal and the number of vehicles entering and leaving the site during the day, and at peak traffic hours.

9. The Planning Board may conduct the preliminary site plan or subdivision review concurrently with its review of the request for rezoning, and the public hearing required by Article IV.V of this Section may be substituted for a public hearing otherwise required for site plan or subdivision review. The Planning Board shall review the proposed site plan or subdivision under the Zoning Ordinance provisions which would apply if the request for rezoning is granted, and may conditionally approve the preliminary site plan or the preliminary subdivision plan subject to the requested rezoning, such approval not to become effective until the rezoning becomes effective.

10. If the applicant does not file a completed application for final subdivision or site plan approval from the Planning Board within twelve months after the rezoning becoming effective, the property shall revert automatically to its former designation. The Planning Board may grant extensions of the period between the effective rezoning and the filing of the complete final application in increments of twelve months not to exceed a total of three years.

11. If the Town Council approves a request for Conditional or Contract Zoning, the Council must simultaneously approve an agreement or declaration setting forth the conditions and restrictions to apply to the property, including time limits for compliance with all conditions and restrictions where appropriate. In the case of a Contract rezoning, the rezoning shall not be effective until the agreement is executed, delivered to the Council and recorded by the applicant in the Cumberland County Registry of Deeds. In the case of a Conditional rezoning, the rezoning shall not be effective until the declaration is approved by the Town Council and recorded in the Cumberland County Registry of Deeds. The conditions and restrictions set forth in the agreement or declaration shall run with the land and bind all future owners of the land, or any other person who claims an interest in the property, and may be removed only by subsequent action of the Town Council expressly removing, relieving, or discharging one or more the

specific conditions or restrictions after a public hearing and recommendations by the Planning Board. If the conditions and restrictions are not fulfilled or complied with within the specified time limits, if any, any, the Town Council may extend the time limits or may initiate a rezoning to the original zoning district classification. The Town Council may require a bond, escrow agreement, irrevocable letter of credit or other surety in such form an is approved by the Town Manager as being reasonably necessary to assure compliance with the conditions or restrictions required by the rezoning. Such bonds shall be posted before the agreement or declaration is recorded in the Registry of Deeds.

12. All development and use of the rezoned property must comply with the performance standards of this Ordinance and with the use standards, space standards and other standards for the zoning district in which the rezoned property is placed. Conditions imposed by the Town Council may be more restrictive, but not less restrictive, than the applicable requirements of this Ordinance. Conditions and restrictions imposed by the Town Council shall relate to the physical development or operation of the property and may include, but shall not be limited to, the following:

    a. Limitations on the number and types of uses permitted.

    b. Restrictions on the scale and density of the development, including but not limited to height, lot coverage or setbacks.

    c. Specifications for the design and layout of Buildings and other on or off-site improvements, including but no limited to parking lots, traffic control devices, sewer improvements, landscaping, lighting, or drainage control devices.

    d. Schedules for commencement and completion of construction.

    e. Performance guarantees securing completion and maintenance of improvements, and guarantees against defects.

    f. Preservation of open space and buffers, and protection of natural areas and historic sites.

    g. Contributions towards the provisions of Municipal services required by the development.

    h. Provisions for enforcement and remedies for breach of any conditions or restriction.

    i. Provisions for reservations or land dedications for public purposes.

13. All conditions and restrictions imposed as part of a rezoning pursuant to this Section are hereby incorporated by reference in this Zoning Ordinance as part of the applicable zone and shall be set out in full in an appendix to this Ordinance.

W. ~~SETBACK REDUCTION 2/15/07~~

X. VILLAGE III DISTRICT

The purpose of the Village III is to promote residential living area with limited compatible, low intensity businesses, and mixed-use commercial and residential structures. The Village III District area serves as important roadway linkage connecting the Village and Route One commercial corridor as well as an important bicycle and pedestrian connector to both sides of the Royal River and Route One. The Village III District area includes important and historic development linkages to the Royal River and the zoning designation is intended to allow appropriate development, connections and access to the river which are more intensive than other segments of the river designated for primarily for river resource protection. The Village III District also provides a transition zone between the commercial Route One corridor and village area.

1. Permitted Uses

   a. Single and two-family residences
   b. Municipal Uses and Buildings
   c. Medical Office and Treatment Buildings
   d. Private Clubs
   e. Accessory Buildings and Uses
   f. Schools
   g. Professional offices of not more than 1500 sf per business or 4500 sf per structure
   h. Day Care Center Facilities
   i. Inns or Lodging Houses not to exceed 8 rental bedrooms per structure
   j. Restaurants and cafes associated with Inns or Lodging houses with seating not to exceed 16 persons at any one time.
   k. Retail merchandise and service shops with combined customer service and display areas not to exceed 1200 square feet per business nor more than a cumulative total of 3000 square feet per structure or lot.
   l. Essential services
   m. Antenna array on alternative tower structures (See ARTICLE II.Z. & Chapter 702, Site Plan Review Ordinance), except no microwave dish antennas are permitted
   n. Multi-family structures, nursing homes, assisted living facilities, and Mixed Use Structures with the following standards:

      i. Maximum lot coverage (gross) shall not exceed sixty (60) %
      ii. Maximum lot coverage (net of land not suitable for development) shall not exceed ninety (90) %.

iii. In any Mixed Use Structure, no more than thirty five (35) % of the gross building floor area, not including Accessory Structures, shall be used for commercial or non-residential purposes.

o. Accessory Dwelling Units
p. Affordable Housing Development
q. Manufactured Housing Community
r. Manufactured Housing
s. Accessory Solar Energy Systems

2. Performance Standards

a. Principal structures shall have a maximum building footprint of 4000.
b. Parking for multifamily and mixed use residential structures shall be provided at a minimum of 1.35 parking spaces per dwelling unit but not more than 2 parking spaces per dwelling unit.

i. The Planning Board may waive, modify, temporarily postpone these parking standards, or authorize off-site parking in lieu of these standards provided the Planning Board finds that such waiver, modification, postponement of off-site alternative shall not create unreasonable burdens to adjoining properties or create unsafe conditions for the pedestrians or motorists.

c. Sign provisions are provided for in Article II.D
d. Except as provided, above, and notwithstanding the parking requirements of Article II.H, one on-site parking space is required for each dwelling unit added to a commercial Building under the provisions of this section.
e. Development in the Village III Zone shall be subject to the Architectural and Landscape Standards of Chapter 703 (Character Based Development Code), Articles 5.M and 5.N.

3. Bulk and Space Requirements:

Minimum lot size – ten thousand (10,000) square feet.
Minimum lot width – fifty (50) feet
Minimum front, rear, and side setbacks – fifteen (15) feet
Maximum coverage – fifty (50) %
One dwelling unit per ten thousand (10,000) square feet

Y. "WOC III" WATER ORIENTED COMMERCIAL III

[See Conditional Rezoning Declarations Appendix C for language. Town Council Meeting No. 8 -08/09 February 19, 2009, Item No. 62]

ARTICLE V

A. INDUSTRIAL PERFORMANCE STANDARDS - GENERAL

1. Industrial waste waters may be discharged to Municipal sewers only and in such quantities and/or such quality as to be compatible with commonly accepted Municipal sewage treatment operations, and subject to the approval of the Municipality.

2. Such wastes may require pretreatment at the industrial site in order to render them amenable to Municipal treatment processes.

3. Pretreatment includes, but is not limited to screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution.

4. The disposal of industrial waste waters by means other than the Municipal sewerage system must comply with the laws of the State of Maine concerning water pollution and the Municipality. Wash water or other process water carrying stone dust, stone particles, silt or other mineral matter will not be accepted into the Municipal system. Representatives of the Municipality and for the Maine Department of Environmental Protection may enter onto premises for the purpose of gauging, sampling and testing any waste water systems which may enter into water courses.

5. All air pollution control shall comply with minimum Federal, State and local requirements and detailed plans submitted to the Planning Director for approval.

6. Noise. Noise is required to be muffled so as not to be objectionable due to the intermittence, beat frequency, or shrillness. Noise may equal but not exceed, during any consecutive 8-hour period an average of 75 decibels at 600 cps measured at any boundary line. During the peak activity of 60 minutes in a 24-hour period a noise may not exceed 100 decibels at 600 cps when measured at the source.

7. Upset conditions, breakdowns, or scheduled maintenance of any water and air pollution control equipment and conditions during construction shall not be deemed to be in violation of established limits as specified above. Such person responsible for such emission will with all practical speed, initiate and complete appropriate reasonable action to correct the conditions causing such emissions to exceed said limits.

8. In case of doubt, the Planning Director may employ such independent, recognized consultant necessary, at the expense of the applicant, to assure compliance with performance standards of this Article and abatement of nuisances.

ARTICLE VI

A. ADMINISTRATION AND ENFORCEMENT

1. Enforcement Officer:
   A Code Enforcement Officer (CEO) shall be appointed or re-appointed by July 1, annually. It shall be the duty of the Planning Director or his/her duly authorized Code Enforcement Officer of the Town of Yarmouth to enforce the provisions of this Ordinance. If the Planning Director or his/her duly authorized Code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, Buildings, or Structures, removal of illegal Buildings or Structures or of Additions, Alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

2. Legal Action and Violation:
   When any violation of any provision of this Ordinance shall be found to exist, the Planning Director or his/her duly authorized Code Enforcement Officer shall notify the Town Manager who shall then initiate any and all actions to be brought in the name of the Town. In addition, the Town Manager may enter into administrative consent agreements in the name of the Town for the purposes of eliminating violations and recovering penalties without court action.

3. Fines:
   Any person, firm or corporation being the owner of or having control or use of any Building or premises who violates any of the provisions hereof, shall be guilty of a misdemeanor and on conviction thereof, shall be fined not less than $50.00 nor more than $200.00. Each day such a violation is permitted to exist after notification thereof shall constitute a separate offense. All fines collected hereunder shall inure to the Town of Yarmouth.

4. Building Permit:
   No Building or other structure shall be erected, moved, added to, or structurally altered without a permit, therefore, issued by the Planning Director or his/her duly authorized Code Enforcement Officer. No Building permit shall be issued except in conformity with the provisions of this Ordinance, except after written order from the Board of Appeals. The Building permit shall be valid for one (1) year from the date of issue. If construction has not been completed within the twelve (12) -month period, the permit may be renewed without charge for a second twelve-month (12) period. Thereafter, if construction has not been completed, a new permit shall be applied for and the fee paid. All Building permits heretofore issued shall be subject to the provisions of this paragraph. A person who is

issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

5. Application for Building Permit:
   All applications for Building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of Buildings already existing, if any, and the location and dimensions of the proposed Building or Alteration. The application shall include such other information as lawfully may be required by the Planning Director or his/her duly authorized Code Enforcement Officer to determine conformance with and provide for the enforcement of this Ordinance.

6. Certificate of Occupancy:
   It shall be unlawful to use or occupy or permit the use or occupancy of any Building or premises, or both or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or Structure until a Certificate of Occupancy shall have been issued therefore by the Planning and/or his/her duly authorized Code Enforcement Officer and endorsed to the effect that the proposed use of the Building or land conforms with the requirements of this Ordinance.

   a. No Building permit shall be issued until an application has been made for a Certificate of Occupancy, and the Certificate of Occupancy shall be issued in conformity with the provisions of this Ordinance upon completion of the work. A temporary Certificate of Occupancy may be issued by the Planning Director and/or his/her duly authorized Code Enforcement Officer for a period of six months during its completion, provided that such temporary Certificate may require such conditions and safeguards as will protect the health, welfare, and safety of the occupants and the public.

   b. The Planning Director and/or his/her duly authorized Code Enforcement Officer shall maintain a public record of all Certificates of Occupancy.

   c. Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance.

ARTICLE VII

A. GENERAL BOARD OF APPEALS

1. Appointment and Composition:
   The General Board of Appeals is established pursuant to the provisions in Chapter 203, General Board of Appeals Ordinance.

2. Votes Required for Passage
   Every motion to grant an administrative appeal, a variance appeal, a special exception, and a mislocated building appeal, shall require for passage the affirmative vote of at least four members of the Board of Appeals. The failure of such a motion to obtain four votes shall constitute a denial of the application. Every other motion shall require the affirmative vote of a majority of those present and voting on the question.

B. POWERS AND DUTIES

1. Appeals
   Appeals shall lie from the decision of the Planning Director or his/her duly authorized agent to the General Board of Appeals and from the General Board of Appeals to the Superior Court according to the provisions of Maine Revised Statutes.

2. The General Board of Appeals shall have the following powers and duties under this Ordinance:

   a. Administrative Appeals
      To hear and decide where it is alleged there is an error in any order, requirement, decision, or determination made by any officer in the interpretation of this Ordinance. The action of the officer may be modified or reversed by the General Board of Appeals. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this Ordinance is not appealable to the General Board of Appeals but may be appealed directly to Superior Court.

   b. Special Exceptions
      To hear and decide only those special exceptions which are authorized by this Ordinance and which are specifically listed in the various zoning districts as special exceptions. To decide such questions as are involved in determining whether such special exceptions should be granted; and by majority vote to grant such special exceptions with such conditions and safeguards as are appropriate under this Ordinance, or to deny such special exceptions when not in harmony with the purposes and intent of this Ordinance.

(1) Special Exception Permits

(a.) Special Exceptions. Uses designated as Special Exceptions within this Ordinance are intended as potential land uses in the districts in which they are so designated, subject to the issuance of a Special Exception permit by the General Board of Appeals in compliance with this Section, except as otherwise provided in subparagraph (c). Any use which was commenced prior to the effective date of adoption or amendment of this Ordinance and would require a Special Exception permit under the terms of this Ordinance or subsequent amendment is a nonconforming use, and any expansion of such use shall require a Special Exception permit in compliance with this Section, except as otherwise provided in VII.B.2.b.(1)(c)

(b.) Application for Special Exception Permit. When the owner of property or the owner's authorized agent is informed by the Planning Department or otherwise determines that a Special Exception permit is required, an application for the permit shall be filed with the General Board of Appeals on forms provided for that purpose. The application shall provide all information required for a Building permit application under this Ordinance plus information upon which the General Board of Appeals may make findings of fact as to each of the standards set forth in Article VII.B.2.b.(1)(d) of this Section. The application shall be accompanied by an application fee in such amount as the Town Council may from time to time determine, and shall be heard pursuant to the procedures set forth in Article IV.W of this Article.

(c.) Review. The General Board of Appeals shall hear and approve, approve with modifications or conditions, or disapprove all applications for Special Exception permits that do not require Planning Board review. Any proposed special exception use that requires site plan review and approval by the Planning Board will not require General Board of Appeals review. Any proposed special exception use that requires site plan review and approval by the Director of Planning and Development will also require General Board of Appeals review and approval. The Boards may approve a Special Exception permit only for a use which is specifically designated by this Ordinance as a Special Exception in the district where the use will be located.

(d.) Standards for Special Exceptions. Before it issues a Special Exception permit, the Board of Appeals shall find, as a matter of fact, that the proposed use meets the following criteria:

i.) The proposed use will not create unsanitary or unhealthful conditions by reason of sewage disposal, emissions to the air or water, or other aspects of its design or operation.

ii.) The proposed use will not create unsafe vehicular or pedestrian traffic conditions when added to existing and foreseeable traffic in its vicinity.

iii.) 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 fire or police protection than existing uses in the neighborhood.

iv.) The proposed use will not result in unreasonable sedimentation or erosion, or have an adverse effect on water supplies.

v.) The proposed use will be compatible with existing uses in the neighborhood, with respect to physical size, visual impact, intensity of use, proximity to other Structures and density of development.

vi.) If located in a Resource Protection District or Shoreland Zone, the proposed use (1) will not result in damage in spawning grounds, fish, aquatic life, bird and other wildlife habitat; (2) will conserve Shoreland Vegetation; (3) will conserve visual points or access to water as viewed actual points of access to waters; (5) will conserve natural beauty; (6) will avoid problems associated with flood plain development and use; and (7) will comply with the performance standards of Article II of this Ordinance.

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

viii.) The applicant has the technical and financial ability to meet the standards of this Section and to comply with

any conditions imposed by the General Board of Appeals pursuant to Article VII.B.2.b.(1)(e) of this Section.

(e.) Conditions of Special Exceptions. Upon consideration of the standards listed in Article VII.B.2.b.(1)(b) of this Section, the General Board of Appeals may attach such conditions, in addition to those required by other provisions of this Ordinance, as it finds necessary to insure compliance with those standards and all other applicable requirements of this Ordinance. Violation of any of those conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: type of Vegetation, increased setbacks and yards, specified sewage disposal and water supply facilities, landscaping and planting screens, hours of operation, operational controls, professional inspection and maintenance, sureties, location of Piers, Docks, parking and signs, and types of construction.

c. Variance Appeals
To hear and decide, upon appeal, in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. The General Board of Appeals may grant a variance and may prescribe reasonable conditions and safeguards as are appropriate under this Ordinance.

(1) A variance is authorized only for height, area, lot coverage and size of Structure or size of yards and open spaces, and for relief from the demolition restriction of Article IX.B, (Buildings Subject to Demolition Prohibition). Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or in an adjoining zoning district.

(2) The Board may grant variances when it finds that literal or strict application of the Code to the applicant and his/her property would cause undue hardship, in all of the following ways, as provided under 30-A M.R.S.A., Section 4353, Subsection 4:

(a.) The lot in question cannot yield a reasonable return unless a variance is granted.

(b.) The need for a variance is due to the unique circumstances of the lot and not to the general conditions in the neighborhood.

(c.) The granting of the variance will not alter the essential character of the locality; and

(d.) The hardship is not the result of action taken by the applicant or a prior owner.

(3) Notwithstanding the variance standards, above, the code enforcement officer is authorized to issue a permit to an owner of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability. The code enforcement officer may impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with a disability lives in the dwelling. For the purposes of this section, the term "structures necessary for access to or egress from the dwelling" includes ramps and associated railings, walls or roof systems necessary for the safety or effectiveness of the ramps. For the purposes of this section, "disability" has the same meaning as a physical or mental disability under Title 5, section 4553-A.

(4) In lieu of the variance appeal standards as set forth in Article VII.B.2.c, above, the Board may grant setback variances for a dwelling located outside the Shoreland Overlay District when the Board determines, upon appeal, that strict application of the zoning ordinance to the applicant and the applicants property would cause undue hardship. The term undue hardship as used in this subsection shall mean the following:

(a.) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and

(b.) the granting of the variance will not alter the essential character of the locality; and

(c.) the hardship is not the result of action taken by the applicant or a prior owner; and

(d.) the granting of the variance will not substantially reduce or impair the use of abutting property; and

(e.) the granting of the variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

(5) A variance granted under this subsection is strictly limited to permit a dwelling that is the primary year-round residence of the applicant.

(6) A variance granted under this subsection may not exceed 20% of a setback requirement and may not be granted if it would cause the area of the dwelling to exceed maximum permissible lot coverage.

(7) For all variances requested within the Shoreland Overlay District, SPD, or the RPD, a copy of each Variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the General Board of Appeals. Any comments received from the Commissioner prior to the action by the General Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(8) For all Variances approved within the Shoreland Overlay District, SPD, or the RPD the Department of Environmental Protection shall be notified by the Planning Director within seven (7) days of the Decision.

d. Mislocated Building Appeal
Except within the SOD, RPD and SPD the General Board of Appeals shall hear and decide, upon appeal in specific cases where existing Buildings are found to be in violation of the setback requirements and where such location of Buildings will not be contrary to the public interest whether an appeal should be granted. In order to grant a mislocated Building appeal the Board must find there was no willful or premeditated act (or gross negligence) to build within the Structural setback.

3. Whenever the Board grants a variance under this Section , a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form and shall be recorded by the applicant in the Cumberland County Registry of Deeds within 90 days of final approval of the variance or the variance shall be invalid. No rights may accrue to the variance recipient or his/her heirs, successors or assigns unless and until the recording is made within 90 days.

C. APPLICATION PROCEDURE

1. In all cases a person aggrieved by a decision of any officer of the Town in the application or interpretation of this Ordinance shall be appealed pursuant to the provisions in this Ordinance and the procedures outlined in Chapter 203, General Board of Appeals Ordinance.

2. In appeals involving special exceptions, General Board of Appeals shall notify by mail the owners of all property within 300 feet of the property involved of the nature of the appeal and of the time and place of the public hearing thereon.

3. In the case of administrative or variance appeals, or interpretation, the General Board of Appeals shall notify by mail only the owners of property abutting the property for which an appeal is taken of the nature of the appeal and of the time and place of the public hearing thereon.

4. For the purposes of this Section, the owners of property shall be considered to be the parties listed by the assessor of taxes for the Town of Yarmouth as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the General Board of Appeals.

5. Following the filing of an appeal, the General Board of Appeals for the Town of Yarmouth shall notify forthwith the Planning Director or his/her duly authorized Code Enforcement Officer and the Planning Board, and the appeal shall be in order for hearing at the next meeting of the General Board of Appeals following by at least ten (10) days the mailing of notices.

6. The Planning Director or his/her duly authorized Code Enforcement Officer shall attend all hearings and may present to the General Board of Appeals all plans, photographs, or other material he/she deems appropriate for an understanding of the appeal.

7. A right of appeal under the provisions of this Ordinance secured by vote of the General Board of Appeals shall expire if the work or change involved is not commenced within six months of the date of which the appeal is granted, and if the work or change is not substantially completed within one year of the date on which such appeal is granted. The General Board of Appeals may, for good cause shown, extend the time for commencement and/or completion of the work or change if the scope of the work or change reasonably requires such longer time periods.

8. The General Board of Appeals and the Planning Department are not liable for reliance on incorrect or inaccurate information submitted or presented on behalf of the applicant. The applicant is responsible for providing reasonable documentation or verification of facts asserted. The General Board of Appeals

may require information such as, but not limited to, standard boundary surveys, copies of registered deeds and materials as may be required under Article VI.A.4 of the Zoning Ordinance. The Planning Department may require up to eight copies of applications or required information for distribution to the Board and staff.

ARTICLE VIII

A. SEVERABILITY

Should any section or provision of this Ordinance be declared by the Courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

B. CONFLICTS

To the extent there are any conflicts between the various provisions of this Ordinance or between the provisions of this Ordinance and any other Town ordinance, the more restrictive provisions shall apply.

C. CAPTIONS

Any captions of sections or provisions of this Ordinance are for the convenience and ease of reference only, and shall not modify or limit or affect the meaning of any of the provisions of the Ordinance.

D. NOTES

Portions of this Zoning Ordinance have been adopted pursuant to the Chapter 1000 Guidelines for Municipal Shoreland Zoning Ordinances, adopted by the Board of Environmental Protection pursuant to the Mandatory Shoreland Zoning Act, 38 M.R.S.A. Sections 435-449, most recently amended May 1, 2006. (Chapter 1000"). Chapter 1000 contains various "NOTES", which are intended to help to explain the meaning, scope, and/or application of various provisions of Chapter 1000. Many of these "NOTES"; have been reprinted within this Zoning Ordinance, identifiable by the caption "NOTE"; neither this explanatory statement nor any of the "NOTES" contained in this Zoning Ordinance are official parts of the Ordinance. This statement and the "NOTES" are provided for explanatory purposes only.

ARTICLE IX
Historic Building Alterations and Demolitions

A. Area, Buildings, Sites, and Objects Subject to Demolition Delay.

No application for the act of Demolition of a Building which is 75 years or older, AND is situated (in whole or in part) within the overlay zone area depicted upon the map (*Demolition Delay Overlay Zone*) attached hereto as Exhibit A, OR is situated in whole or in part within any Designated Historic District, or if any Designated Historic Site, Historic Object, or Local Historic Landmark is situated outside of a Historic District, shall be approved by the Code Enforcement Officer ("**CEO**") until the Planning Board:

1. Makes a determination as to its significance, concluding whether or not such Building is a Building of Value, and

2. If determined that it is a Building of Value, has the opportunity to pursue alternatives to Demolition (mutually acceptable to the Planning Board and the applicant) that will preserve, rehabilitate, relocate or restore it. This ordinance shall apply to all Buildings in the Demolition Delay Overlay Zone, not being limited to Buildings previously landmarked, designated or included in any historic register or District.

B. Buildings Subject to Demolition Prohibition.

In addition, no application shall be approved for the act of Demolition of a Building within the Demolition Delay Overlay Zone that:

1. is listed on the National Register of Historic Places, including, without limitation, those Buildings named on Exhibit B, attached hereto, whether or not it is located within the Demolition Delay Overlay Zone; OR

2. is determined by the Maine Historic Preservation Commission to be eligible for listing on the National Register of Historic Places;

3. has been designated as a Local historic Landmark under the Yarmouth Historic Preservation Ordinance, Chapter 701, Article X; or

4. has been designated as a Contributing building or structure within a designated historic District under the Historic Preservation Ordinance, Chapter 701, Article X.

UNLESS in the case of this Section B:

i. a Variance is granted by the General Board of Appeals under Chapter 701, Article VII.B.2.c; OR

ii. the subject Building qualifies for Immediate Demolition as provided for in Section J, below; OR

iii. In the case of Substantial Modification, the Planning Board or Planning Authority as applicable, may allow for the Substantial Modification if it determines that the proposed design retains and respects the significant character defining features of the building. In such case, the Substantial Modification shall be predicated on approvals and permit issuance for the Substantial Modification plans.

C. Definitions.

For the purposes of this ordinance, the following terms shall have the meanings set forth below:

1. The term "**Demolition**" is defined as the demolition, razing or tearing down of a Building, or a Substantial Modification to the exterior thereof. As the term is used in this ordinance, an "application for Demolition" may consist of an application for a building permit for a proposed renovation, alteration, or addition to a Building which entails a Substantial Modification to the Building, rather than or in addition to an ordinary application for demolition permit.

2. "**Substantial Modification**" is defined as an alteration to a Building involving:

   a. removal or alteration of fifty (50 %) percent or more of the roof area and/or any exterior walls, or
   b. any portion of an exterior wall or roof area enfronting or facing and readily visible from a street or public open space. In such case, if a Minor Change only is involved, it may be reviewed and approved by the Planning Authority.

3. The "**Demolition Delay**" comprises an initial ninety (90) day period (subject to an additional 30 day stay of issuance of a Demolition Permit as specified in paragraph I.1.b below), potentially followed (in the event of a determination by the Planning Board that the Building is a Building of Value) by an additional period of up to 180 days, but in no event to continue beyond a cumulative total period of 270 days from the date of application for Demolition permit, unless otherwise agreed to in writing by the applicant.

4. The terms "**Building**" and "**Structure**" shall have the meanings given to them in **Ch. 701, Art.I.D. Definitions**, but additionally, for the purposes of this **Article IX**, the term "Building" shall include either or both of Building and/or Structure or portions thereof.

5. The term "**Building of Value**" is defined as a Building or portions thereof worthy of preservation, due to any of a variety of relevant considerations, including, without limitation, architectural, cultural, historical, or archaeological significance, contribution to an overall setting or streetscape, or otherwise of a character defining a particular area, neighborhood or streetscape, such that

preservation would be deemed important to the maintenance of the character of such area, neighborhood or streetscape.

6. The term "**Minor Change**" is defined as a small scale and easily reversible change to a building, site feature or exterior utility which will neither result in significant change to any existing feature nor obscure such feature. In no event shall any change be deemed minor when, in the opinion of the Planning Authority, such change would alter the historic character of the building or site.

7. Other terms not specifically defined herein shall have the meaning assigned to them in the Historic Preservation Ordinance, Chapter 701, Article X.

D. Objectives.

The objectives of Demolition Delay are to provide specified and limited time(s) and opportunity within which:

1. to examine and give thoughtful analysis to an assessment of the significance of a Building, and the contribution it makes to the character of the Town and its immediate area, neighborhood and streetscape, and the desirability of its retention, either in place or through relocation, determining whether it is a Building of Value; and

2. if determined to be a Building of Value, to pursue a range of appropriate possibilities and measures for its preservation, rehabilitation, relocation, and/or conservation and adaptive re-use, and to guide alterations associated with Substantial Modifications to ensure that historic character defining features are preserved and protected, and that any new work is compatible with them.

E. Plan for Redevelopment.

Any application or proposal for Demolition of a Building (other than immediate Demolition for reason of removing a clear and present danger to public health and safety pursuant to Section J below) shall be accompanied by a conceptual or sketch plan and brief narrative description of the Applicant's proposed re-use or re-development of the Building site. In the case of Substantial Modification, the applicant shall submit a Final Site Plan as per Chapter 702, showing the proposed development on the site.

F. Procedure.

Upon receiving an application or request to demolish a Building or undertake a Substantial Modification, the CEO shall date the application and promptly forward a copy of the application (and any supporting material) to the Director of Planning and Development, the Historic Preservation Committee, and the Town Council, and in the case of a Minor Change, to the Planning Board. This date of receipt shall be the starting date of the initial 90-day Demolition Delay period, and the

possible future commencement of an additional delay period. The Planning Board may request that the Historic Preservation Committee review the application and report to the Planning Board with a recommendation on the determination of Building of Value status and/or recommendation for approval, disapproval, or approval with conditions.

G. Public Hearing

The Planning Board will conduct a Public Hearing within 90 days of the date of receipt of the applicant's application for Demolition, unless an extension is agreed to by both the Planning Board and the applicant. The purpose of the Public Hearing shall be to help inform the Planning Board's decision as to whether the Building is a Building of Value. The hearing shall be conducted with the Planning Board's public hearing procedures according to the Planning Board Rules and Regulations, and written notice of the public hearing shall be given by first class mail to the applicant, to all registered owners of any properties within 500 feet of the applicant's lot, and to the Yarmouth Historical Society. Such notice shall include the definition of a Building of Value. The Planning Board shall notify the Town Council and shall post the meeting notice in Town Hall and on the Town's website, and shall publish notice of the date, time and place of the hearing in a newspaper of general circulation in the Town at least 7 days prior to the Hearing. Applicants shall be responsible for the cost of notice mailings and publication in the same manner as for subdivision notices.

H. Evaluation of Building.

During the initial 90-day period of Demolition Delay leading up to the Public Hearing, the Planning Board, its designees, the Historic Preservation Committee, and other persons interested in proposing possible alternatives to Demolition (and their authorized agents and contractors) shall be granted access to the Building at reasonable times and under reasonable conditions by the applicant, for the purpose of assessment and evaluation, all at their own risk and expense.

I. Determination of Significance.

After the Public Hearing, or at a subsequent meeting of the Planning Board (but in no case more than 90 days from the date of receipt of the application for Demolition) the Planning Board shall determine whether or not in the Planning Board's judgment the Building, portion(s) is a Building of Value.

In addition to applying the definition of Building of Value to the facts of the case, the Planning Board shall consider the location, design, setting, materials, workmanship and association have been so altered or have so deteriorated that the overall integrity of the Building has been irretrievably lost.

1. The following actions may be taken following a determination by the Planning Board:

    a. If the Planning Board determines that the Building **IS** a Building of Value,

the CEO shall be prohibited from issuing the permit to demolish for an additional delay period of 180 days. The Planning Board shall also notify the Town Council and publish notice on the Town's website of its determination of significance. The additional delay period shall be for the purposes of:

I. seeking alternatives to Demolition; and/or

II. in the case of Substantial Modification, efforts to modify the design to retain or respect the significant character defining features of the Building; and/or

III. application to the Maine Historic Preservation Commission for a determination of eligibility of the subject Building for inclusion in the National Register of Historic Places; and

IV. Authorize and enable the Planning Board (acting through its designees) to obtain photographic, metric and other professional documentation of the Building of Value, in conjunction with interested historical preservation organizations or parties, and their agents or contractors (at no expense to the applicant), who shall be given reasonable access to the Building for that purpose.

b. The period for pursuing alternatives to Demolition shall be not more than 180 days beyond the Planning Board's determination that it is a Building of Value, or a total of 270 days from the date of receipt of request for Demolition, whichever is less, unless an extension is agreed to by both the Planning Board and the applicant.

c. In the case of Substantial Modification, the Board, or in the case of Minor Change, the Planning Authority, may waive the delay period if it determines that the proposed design retains and respects the significant character defining features of the building. In such case, the waiver shall be predicated on approvals and permit issuance for the Substantial Modification plans.

d. If the Planning Board determines that the Building is **NOT** a Building of Value, the CEO shall then be authorized to issue the permit to demolish or proceed with Substantial Modification after a 30 day stay (to coincide with the appeal period) from the date of such determination. The Planning Board shall also notify the Town Council and publish notice on the Town's website of its determination that the Building is **NOT** a Building of Value.

2. Failure to make a determination that the Building is a Building of Value within the initial 90 day Demolition Delay period (or any agreed upon extension) shall constitute Planning Board approval of the application for Demolition.

J. Immediate Demolition.

The Planning Board may shorten or terminate the Demolition Delay and approve the Demolition if the Applicant provides convincing evidence (consisting minimally of the report of an independent professional structural engineer, addressed to the Office of Planning and Development) that the Building is unsafe and poses an imminent threat to the public health and safety. In an emergency situation, e.g., in the case of a clear and present danger to public health and safety due to structural instability or fire hazard conditions, any one or more of the Director of Planning and Development, the Code Enforcement Officer, and/or the Fire Chief, may recommend in writing to the Town Manager, and the Town Manager shall have the authority, to shorten or immediately terminate the Demolition Delay.

K. Enforcement.

In the event a Building is demolished before the Demolition Delay review process is complete, or if the applicant is otherwise in violation of the terms of this ordinance, the applicant shall be subject to the provisions of **Ch. 701, Article VI.A. (Administration and Enforcement)**. In addition, the Town Manager may impose a restriction on issuance of any building permits for the subject property and/or revoke any permits currently outstanding, for a period of up to two years. In the case of a threatened or impending Demolition or commencement of demolition contrary to this ordinance, the Town shall be entitled to the grant of immediate injunctive relief, to prevent such Demolition.

L. Effective Date.

This ordinance as originally enacted shall be effective retroactively to the date of its public hearing before the Yarmouth Planning Board on January 17, 2018, and shall apply to any Demolition permit applications applied for after that date but not issued prior to the date of enactment, April 12, 2018, by the Town Council. Further, in the event that the Town Council should conclude that a moratorium on Demolitions is warranted, any such moratorium declared by the Town Council shall be fully binding on any applications for Demolition which are then in process under this ordinance.

M. Appeals.

Appeal of any decision of the Planning Board under this Article (other than a Variance Appeal) shall be to Superior Court as provided in 30-A MRSA Sections 4482 and 4482-A, notwithstanding the provisions of Chapter 203(F).

Chapter 701, Article IX, Exhibit A, Demolition Delay Overlay Zone

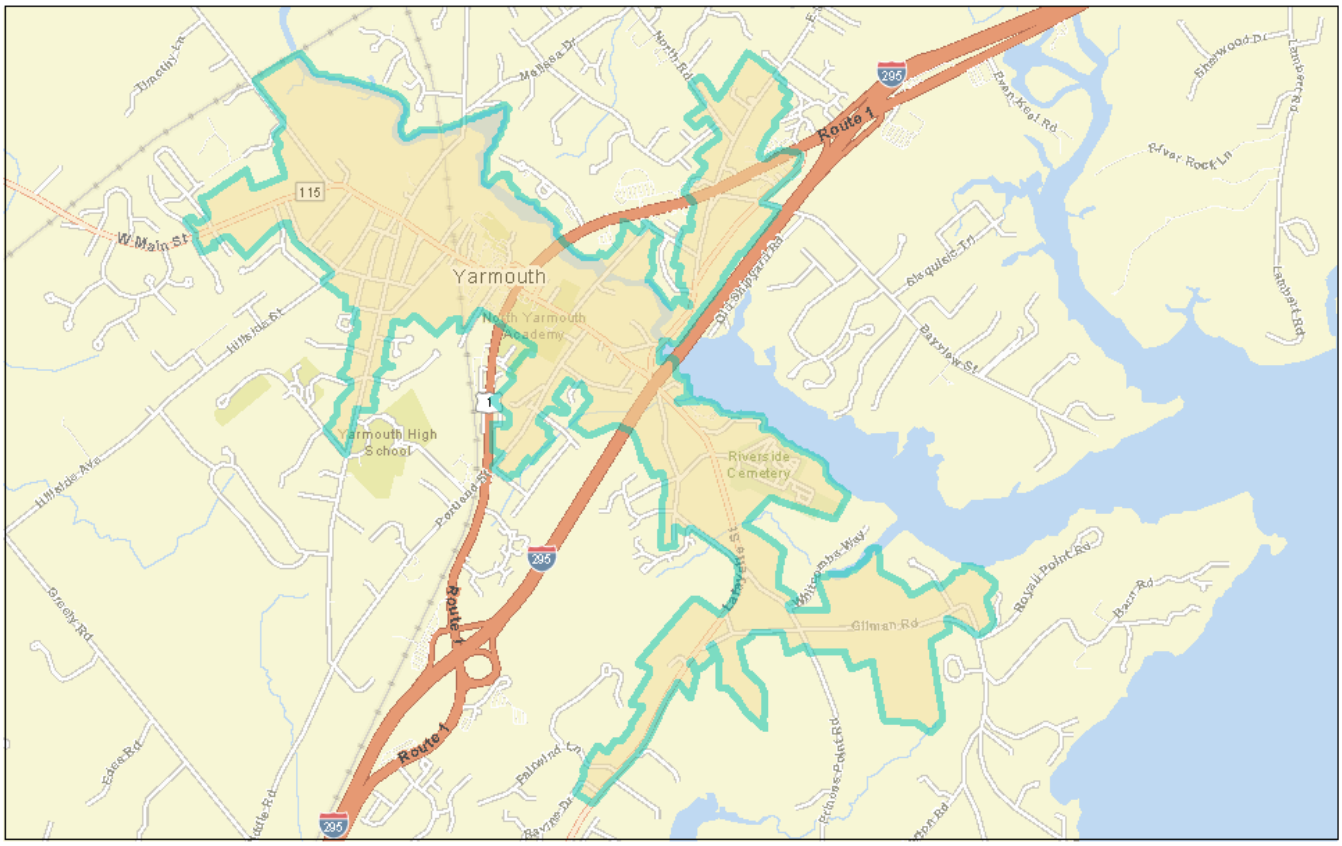


Exhibit B - Properties Listed or Eligible for Listing on National Register of Historic Places

NAME	ADDRESS	eligible or listed	MHPC #	NR listed date
aid to navigation	s. end Cousins Island	E	496-0032	
Royal River Bridge	over river .25 mi NE of Sligo Rd	E	496-0028	
Grand Trunk RR Bridge	N of E. Elm St over river	E	496-0025	
Holyoke-Loring Barn	100 Bridge St	E	496-0031a	
holyoke-Loring House	100 Bridge St	E	496-0031	
barn	80 Bridge ST	E	496-0030a	
Royal River Manufacturing CO Office	80 Bridge St	E	496-0030	
Royal River Manufacturing Co Mill	81 Bridge St	E	496-0003	
Royal River Manufacturing Co. Dam	Bridge St	E	496-0029	
Yarmouth Post Office	233 Main Street/Route 115	E	496-0036	
Merrill Memorial Library	215 Main Street/Route 115	E	496-0009	
Main St Bridge	Main Street/Route 115	E	496-0037	
Casco Lodge	189Main Street/Route 115	E	496-0038	
	185 Main Street/Route 115	E	496-0039	
	185 Main Street/Route 115	E	496-0040	
	169 Main Street/Route 115	E	496-0041	
	169 Main Street/Route 115	E	496-0042	
	167 Main Street/Route 115	E	496-0043	
	167 Main Street/Route 115	E	496-0044	
	163 Main Street/Route 115	E	496-0045	
David Shepley House	153 Main Street/Route 115	E	496-0046	
Allen H. Weld House	149 Main Street/Route 115	E	496-0047	
barn	149 Main Street/Route 115	E	496-0048	
artilery piece	198 Main Street/Route 115	E	496-0057	
American Legion	198 Main Street/Route 115	E	496-0056	
Yarmouth Post Office	188 Main Street/Route 115	E	496-0058	
Payne Elwell House	162 Main Street/Route 115	E	496-0059	
Silvanus Blanchard House	158 Main Street/Route 115	E	496-0060	
barn	158 Main Street/Route 115	E	496-0061	
Cutler Gymnasium	148 Main Street/Route 115	E	496-0062	
Curtis Building	148 Main Street/Route 115	E	496-0063	
Stafford Auditorium	148 Main Street/Route 115	E	496-0064	
NYA - Dole house	128 Main Street/Route 115	E	496-0065	
John Sargent House	124 Main Street/Route 115	E	496-0066	
	22 York Street	E	496-0068	
	17 York Street	E	496-0069	
barn	17 York Street	E	496-0070	
	310 Gilman Rd	E		
	210 Gilman Rd	E		
	299 Gilman Rd	E		
	60 Gilman Rd	E		
	509 Lafayette St	E		
	272 Princes Pt. Rd.	E		
MERRILL, CAPTAIN REUBEN, HOUSE	97 WEST MAIN STREET	L		7/12/1974
	129 Main St. Academy Hall, and 141		496-0050	
NORTH YARMOUTH ACADEMY	Main St. RussellHall	L	496-0049	3/4/1975
MITCHELL HOUSE	40 MAIN STREET	L		1/20/1978
NORTH YARMOUTH AND FREEPORT BAPTIST MEETINGHOUSE	HILLSIDE STREET	L		11/20/1978
CAMP HAMMOND	74 MAIN STREET	L		2/1/1979
BLANCHARD, CAPTAIN S C, HOUSE	46 MAIN STREET	L		5/7/1979
GRAND TRUNK RAILROAD STATION	ME 115	L		7/10/1979
CENTRAL PARISH CHURCH	146 MAIN STREET	L		6/23/1988
FIRST PARISH CONGREGATIONAL CHURCH	135 MAIN STREET	L		6/20/1995
COUSINS ISLAND CHAPEL	COUSINS ROAD	L		6/20/1997
PRINCE, CUSHING AND HANNAH, HOUSE	189 GREELY ROAD	L		7/1/1999

ARTICLE X, HISTORIC PRESERVATION ADVISORY ORDINANCE

1. GENERAL PROVISIONS

1.1 Purpose: The purpose of Yarmouth's Historic Preservation Review Process is to promote awareness of the educational, cultural, and economic value of the Town of Yarmouth's historic assets by:

1.1.1 Identifying areas, sites, structures and objects that have historic, cultural, architectural and archeological significance.

1.1.2 Recommending actions to protect and enhance the traditional, historic, and iconic village development pattern that provides the distinct architectural and historic character and unique identity of the Town.

1.1.3 Working with owners to recommend actions to accommodate the owners' goals for their property to the extent reasonably possible, while at the same time protecting significant architectural features and historic resources.

1.1.4 Suggesting strategies to apply design standards in a reasonable, flexible and practicable manner to prevent the unnecessary loss of the community's historical features, to encourage compatible preservation, restoration and rehabilitation of existing historic structures, and to recommend accepting new buildings and structures within designated districts that are designed and built in a manner which is compatible with the character of the district and avoids inauthentic recreations of historic styles.

1.1.5 Encouraging public knowledge, understanding, and appreciation of the Town's history.

1.1.6 Providing a resource of information and expertise to help those interested in maintenance, rehabilitation or new construction in a district or restoring a local historic property.

1.1.7 Fostering civic pride in the beauty, architecture, and character of the Town, and in the accomplishments of its past.

1.1.8 Discouraging the demolition or removal of designated historic properties, sites, objects, historic landmarks and contributing historic structures within designated districts where reasonable options exist.

1.1.9 Promoting conservation of valuable material and energy resources by ongoing use and maintenance of the existing built environment with due regard for climate action goals and best practices.

1.2 Standards of Review: The following are standards to be utilized for purposes of Historic Preservation Review, as further described in Appendix A4.

1.2.1 *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings* (36 CFR Part 68 in the July 12, 1995 Federal Register) or most recent edition.

1.2.2 *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (36 CFR Part 67), 1990 or most recent edition.

1.2.3 The most recent edition of *Yarmouth Historic Preservation Design Manual*.

1.2.4 All architectural and archaeological surveys conducted by architectural historians and archaeologists recognized by the State Historic Preservation Commission and on file with the Yarmouth History Center, Maine Historic Preservation Commission and/or in the Town Office.

2. YARMOUTH HISTORIC PRESERVATION COMMITTEE

2.1 General, Members: The Yarmouth Historic Preservation Committee will be charged with assisting in the implementation of the Historic Preservation Review Process. The members shall be appointed by the Town Council, shall be residents of the Town of Yarmouth and shall demonstrate an interest in the historical and architectural development of the Town and shall be appointed with due regard to the proper representation of such fields as history, architectural history, architecture, landscape architecture, planning, engineering, archeology, law and building construction to the extent that such professionals are available in the community. Consideration shall also be given to appointment of at least one member who is a resident of a designated Historic District.

2.2 Membership: The Yarmouth Historic Preservation Committee (hereinafter, the Committee) shall consist of seven (7) Members.

2.3 Terms and Rules of Procedure: Terms shall be staggered, for three (3) years, and otherwise in accordance with Town of Yarmouth Ordinances, Chapter 201, Administrative Code. Rules of procedure shall be in keeping with other Yarmouth committee procedures**.**

2.4 Training: All Committee Members are encouraged to maintain and develop their knowledge of historic preservation and are expected to attend at least one training seminar in architectural history and preservation standards offered by recognized preservation organizations.

2.5 Duties and Powers: The Committee shall have the following duties and/or powers:

2.5.1 Assist, advise and educate residents, property owners, and officials of the various departments of the Town of Yarmouth concerning all aspects of preservation, renovation, rehabilitation and re-use of Historic and/or Archaeological Sites, Structures, Objects, or Historic Landmarks, including by publishing appropriate maps, newsletters, brochures and pamphlets, and by sponsoring programs.

2.5.2 Provide continuing education to the community on historic preservation issues.

2.5.3 Process applications for Historic Preservation Review including holding meetings and public hearings to review such applications and voting on recommendations therefor, and to provide to the Planning Board such recommendations as pertain to projects that are also under review by the Planning Board, including but not limited to Site Plans, Subdivisions, Building & Lot Plans, Development Plans, and Building Demolition or Substantial Modification under Article IX of this Chapter.

2.5.4 Serve as an advisor to the Town regarding historical and cultural resources.

2.5.5 Recommend to the Planning Board and the Town Council the establishment of, or amendment of boundaries for, Historic and Archaeological Sites, Structures, Objects, Local Historic Landmarks, Historic Districts and Historic Landscape Districts, in accordance with the procedures detailed herein below.

2.5.6 Review all proposed National Register of Historic Places nominations of properties within the Town of Yarmouth and forward the same to the Maine Historic Preservation Commission with its recommendation.

2.5.7 Initiate or assist with nominations of local Districts, Sites, Objects, and Structures to be listed on the National Register of Historic Places.

2.5.8 Conduct surveys as deemed necessary or advisable to identify historically, culturally, architecturally and archaeologically significant areas, Sites, Structures and Objects in accordance with the guidelines of the Maine Historic Preservation Commission and the Secretary of the Interior’s Standards for Historic Preservation and keep a register of all areas, Sites, Structures and Objects that have been designated as Local Historic Landmarks, Sites, Objects, or Districts, including all information required as part of each Designation.

2.5.9 Request reports, advice and/or recommendations from the Town departments and other organizations and sources that may have information or advice with respect to an application.

2.5.10 Participate in any review of federal actions or undertakings pursuant to Section 106 of the National Historic Preservation Act.

2.5.11 To attend informational and educational programs sponsored or approved by the Maine Historic Preservation Commission or other recognized preservation organization.

2.5.12 To provide comments and/or recommendations to the Planning Board and/or Town Council on matters pertaining to historic preservation in Yarmouth; to assist the Town Council in the development of the historic preservation component of the comprehensive plan; to collect data on preservation practice and evaluate the need for further preservation measures.

2.5.13 To annually report to Town Council and Planning Board on its activities and changes in matters pertaining to historic preservation, including but not limited to a compilation of reviewed projects and recommendations, and an assessment of the subsequent adherence or lack of adherence to the Committee's recommendations.

2.5.14 To maintain an ongoing and up-to-date database of project reviews and recommendations.

2.5.15 Solicit grants, fees, appropriations and gifts of money and service dedicated to its functions, to hire clerical and technical assistance, publish educational materials, conduct surveys of properties or otherwise carry out its duties, in coordination with and as specifically authorized by the Town Council.

2.6 Experts and Consultants: On the recommendation of the Committee, the Planning Authority may appoint expert persons to serve in an advisory or on a consultant basis to assist the Committee in the performance of their functions, whether generally or as to a specific application or initiative. Such other persons need not be residents of the Town and may, by authorized prearrangement with the Planning Authority receive compensation.

3. DESIGNATION OF HISTORIC DISTRICTS, HISTORIC LANDSCAPE DISTRICTS, HISTORIC SITES, HISTORIC OBJECTS, AND LOCAL HISTORIC LANDMARKS

3.1 General: Historic Districts, Historic Landscape Districts, Local Historic Landmarks, Historic Sites, and Historic Objects shall be designated either in conjunction with initial adoption of the Historic Preservation Review Ordinance or by subsequent amendment. See Appendix A2, A3, and A4 for Designation Process.

3.2 Expansion or Amendment of Existing Districts: Existing Districts may be nominated for expansion or amendment. Materials required in support of a nomination for expansion or amendment of a Historic District can be found in Appendix A3.

3.3 Historic Preservation Committee Reviews, Studies and Recommendations:

3.3.1 Any proposed Designation of (or amendment to) a Historic District, Local Historic Landmark, Historic Site, Historic Object, or Historic Landscape District shall be reviewed by the Committee, which shall make a recommendation to the Planning Board and Town Council on every proposal for Designation received.

3.3.2 Before making its recommendation concerning a proposed Designation (or amendment to an existing Designation) the Committee shall conduct research on the proposal as deemed necessary or advisable, and if appropriate, seek professional assistance.

4. ACTIVITIES SUBJECT TO HISTORIC PRESERVATION REVIEW

A property owner shall consult with the Committee for a Historic Preservation Review for any of the following activities within any Historic District or activities at or affecting any Historic Site, Object, or Local Historic Landmark.

4.1 Historic Preservation Review: Activities shall require a Historic Preservation Review if they require a building permit, demolition permit, and/or Planning Board review and/or are listed below. Such review shall occur prior to issuance of a building permit, and shall take place concurrently with any required review by the Planning Board with written Committee recommendation thereon being delivered to the Planning Authority.

4.2 Reconstruction, Restoration, Renovation, Addition and Alteration: Any change in the exterior appearance, Visible from the Street or Public Open Space, to a designated Contributing Structure, Historic Site, Historic Object, or Historic Landscape District, by reconstruction, Restoration, renovation, Addition, Alteration, New Construction, or otherwise. As to Non-Contributing Structures in a Historic District, or Local Historic Landmarks, see Sections 4.3 or 4.4 below.

4.2.1 Installation of solar panels or other external energy-efficiency features, which will be reviewed to avoid any direct impact on Architectural Features and to mitigate the visual impact to the extent practical;

4.2.2 Exterior painting alone is not an activity which requires Historic Preservation Review unless it would involve painting of a masonry surface that was not previously painted.

4.3 Noncontributing Structure: Major Change, as defined, in the exterior appearance of a Noncontributing Structure in a Historic District due to reconstruction, Restoration, renovation, addition and/or Alteration, Visible from the Street or Public Open Space.

4.4 Local Historic Landmark: Any change in the exterior appearance of a Local Historic Landmark, regardless of whether or not it is Visible from the Street or Public Open Space, by reconstruction, Restoration, renovation, addition, Alteration, or otherwise, including but not limited to activities listed above**.**

4.5 New Construction: New Construction of a principal or accessory Structure Visible from the Street or Public Open Space where such Structure will be located in a Historic District.

4.6 Demolition: Notwithstanding anything to the contrary herein, Demolition, including but not limited to Substantial Modification, of a Local Historic Landmark, whether or not in a Historic District, or any Contributing Structure in a Historic District, shall be processed pursuant to Chapter 701, Article IX, Historic Building Alterations and Demolitions, and/or any relevant portions of this Article.

4.7 Relocation: Notwithstanding anything to the contrary herein, Relocation of a Local Historic Landmark, or any Contributing Structure in a Historic District on the same site or another site, shall be processed pursuant to Chapter 701, Article IX, Historic Building Alterations and Demolitions, and/or any relevant portions of this Article.

4.8 Site Improvement Projects: Site improvement projects on Local Historic Landmarks, Historic Sites, or Contributing Properties, including but not limited to fencing, walls greater than two feet in height, grading, sidewalks, raised walkways, handicapped access ramps, paving, patios, curbing, signs, installation of solar collectors, and satellite dishes if such improvement projects are Visible from the Street or Public Open Space and located within a Historic District or affecting any Historic Site, Historic Landscape District, or Local Historic Landmark.

5. ACTIVITIES NOT SUBJECT TO HISTORIC PRESERVATION REVIEW

The following activities do not require Historic Preservation Review:

5.1 Ordinary Maintenance: Where the work consists solely of Ordinary Maintenance or Restoration of any exterior Architectural Feature of any Structure when that maintenance and/or restoration does not involve a change in the design, material, or outer appearance of a Structure or removal of Architectural Features or details. Ordinary Maintenance includes, without limitation, repainting (whether with or without a change in color); re-roofing; in cases where deterioration is so advanced as to preclude restoration or repair, by replacement of materials with new materials that match the historical in material, type, design, dimension, texture, detailing and exterior appearance (In-Kind Repair); and landscaping other than within an Historic Landscape District or Historic Site.

5.2 Certain Impermanent or Reversible Alterations: Impermanent or reversible alterations such as storm windows, storm doors, window air conditioners, or paint color.

5.3 Certain Landscaping: Lawn and garden objects and landscaping, including plantings, sculptures, and walls of two feet or less in height other than within an Historic Landscape District.

5.4 Noncontributing Structures: Minor Change, as defined, in the exterior appearance of a Noncontributing Structure in a Historic District due to reconstruction, Restoration, renovation, addition and/or Alteration regardless of whether Visible from the Street or Public Open Space and which do not change the size or footprint of the Structure.

5.5 Certain Changes Not Visible from the Street or Public Open Space: The construction of an Addition to or Alteration of any Structure if the change in exterior appearance will not be Visible From the Street or Public Open Space, except in the case of Local Historic Landmarks, for which exterior construction or Alteration is reviewable regardless of whether it is or is not Visible from the Street or Public Open Space.

5.6 Prior-Issued Building Permit: The construction, reconstruction, Alteration or Demolition of any Structure where such activity is in accordance with a valid building permit issued prior to establishment of new Districts, Sites, or Local Historic Landmarks designated by adoption of or amendment to this Ordinance.

5.7 Approved Public Works Project: Any public works project located within the existing paved portion of the right-of-way of any town road, street or way if the Planning Authority determines that it does not impact any Historic Objects or Architectural Features and is compatible with the Streetscape.

5.8 Unsafe or Dangerous Condition: The construction, reconstruction, Alteration, Restoration or Demolition of any feature which is required because of a finding of an unsafe or dangerous condition under Chapter 701, Article IX, Historic Building Alterations and Demolitions.

5.9 Certain Changes to Cemeteries: Alterations to designated cemeteries shall not include review of alterations to headstones made for the purposes of recognition of additional decedents or the installation of grave markers and/or tombs.

5.10 National Flags and Political Signs: National flags and temporary political campaign signs.

6. APPLICATION PROCEDURES

6.1 General: An application for a Historic Preservation Review should be submitted to the Planning Authority for any activity mentioned in Section 4. The application may request a concept review or final review. Concept applications, in such detail as is then available, may be submitted prior to the preparation of final plans, for consultative review and advice by the Committee. Applications shall be received at least three weeks prior to the Committee meeting.

6.2 Application Contents: The following information is required for an application:

6.2.1 The property owner's name, email, phone and mailing address.

6.2.2 The Applicant's name, email, phone and mailing address, and right, title, and interest in the property.

6.2.3 The agent's name, email, phone and mailing address. If the application is being filed on behalf of the property owner by an authorized agent, evidence of the authority of the agent shall be supplied.

6.2.4 The 911 address and Tax Map and Lot number of the property.

6.2.5 The present use and zoning classification of the property.

6.2.6 A description of the activity requiring Historic Preservation Review.

6.2.7 A drawing or drawings showing design and location of any proposed Alteration or New Construction. As it is used here, drawings shall mean plans and exterior elevations drawn to scale, with sufficient detail to show the architectural design, materials and visual textures of the exterior of the building(s) and including samples of materials. Drawing(s) are not required to be professionally prepared, but shall be clear, complete, and specific.

6.2.8 A contextual map which shows the property to be reviewed and its relationship (including setbacks) to any neighboring properties, and any adjacent Streets or Open Space.

6.2.9 Photographs of the building(s) and Objects involved and of all adjacent buildings, including neighboring properties.

6.2.10 A site plan indicating improvements affecting appearance, such as fences and walls, walks, terraces, accessory buildings, lights, signs and other elements.

7. ADMINISTRATIVE PROCEDURES

7.1 Procedure of the Committee: The Committee shall consider the application at a meeting. The Committee may conduct a workshop on a concept application to discuss and provide feedback on issues of concern without taking a vote or action. For final applications, following a public hearing, the Committee shall make a recommendation within 21 days of the hearing on a final application, unless an extension is agreed to by the applicant.

7.2 Notice to Abutters: For final applications, the Planning Authority shall mail the notice by first class postage to all owners of property as of the latest Assessor's address

record on file that are within 250 feet from the property under consideration. The notice shall be mailed at least 7 days before the Committee meeting. Failure of any Person to receive notice shall not necessitate another meeting nor invalidate any action by the Committee.

7.3 Agendas and Minutes: The Committee shall post on the Town web page agendas of each meeting listing the projects and addresses and applicants for each agenda item. Minutes or reports of actions taken shall be posted on the Town web page as soon as reasonably practical following each meeting of the Committee and shall otherwise operate in a manner consistent with Town rules and protocols for all Town appointed committees.

7.4 Administrative Review Process for Installation or Alteration of Any Exterior Sign; Minor Change; and Temporary Alterations, Construction or Improvements

7.4.1 For the following activities, the Historic Preservation Review process may be carried out by the Town Planning Authority:

7.4.4.1 for installation or alteration of any exterior sign;

7.4.4.2 for a Minor Change;

7.4.4.3 pertaining to a Noncontributing Property (except when it involves Substantial Modification or Demolition);

7.4.4.4 for temporary alterations, construction or improvements (meaning otherwise reviewable changes intended to be in place for one period of 30 days or less, except in the case of temporary mobility impaired access which may be intended to be in place for up to three months); and/or

7.4.4.5 additional review categories delegated to the Planning Authority by the Committee, if any, may be reviewed by the Planning Authority. In such case the Planning Authority shall have the authority to make any recommendation.

8. STANDARDS OF EVALUATION

8.1 Secretary of the Interior Standards

8.1.1 The standards and requirements contained in Appendix A4, based on the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, the Secretary of the Interior's Standards for the Treatment of Historic Properties, 1995 or most recent edition, and the standards for New Construction, should be used in reviewing applications for Historic

Preservation Review. The Committee's areas of focus shall include, but not be limited to, matters affecting the maintenance and integrity of historic Structures, the protection of archaeological resources, and the preservation of the historic character of associated Viewscapes.

8.1.2 The intent and application of the standards set forth in Appendix A4 may be further elaborated in a Yarmouth Historic Preservation Design Manual, which should also guide the Committee in its review, and will serve as a resource to property owners.

8.1.3 The standards of evaluation are intended primarily for the evaluation of Contributing buildings and Local Historic Landmarks. Changes to a Noncontributing property are considered only insofar as they constitute a Substantial Modification, or a Demolition, and/or may affect the Historic Integrity of the associated Viewscape or the District as a whole.

9. IDENTIFICATION OF INITIAL LOCAL HISTORIC LANDMARKS, HISTORIC DISTRICTS, HISTORIC LANDSCAPE DISTRICTS, HISTORIC SITES, AND HISTORIC OBJECTS

The initial Local Historic Landmarks, Historic Districts, Historic Sites, Historic Objects, and Landscape Districts shall be as depicted on the map entitled Yarmouth Historic Districts & Resources, which shall be kept on file with the Town Clerk and the Planning Authority, and which shall be accessible on the Town web site. A complete schedule of all Local Historic Landmarks, Historic Sites, Historic Objects, and Historic Districts shall be maintained by the Planning Authority and shall be available for public inspection and copying during ordinary business hours. All Designation Reports shall be kept on file and available to the public in the same manner as the historic resource official map. The Designations may be amended, from time to time, pursuant to the processes contained in this Ordinance.

The following lands, Objects, buildings, Structures or areas of the Town are hereby designated as Local Historic Landmarks, Historic Districts, Historic Landscape Districts, Historic Sites, and Historic Objects:

9.1 Local Historic Landmarks:

9.1.1 North Yarmouth and Freeport Baptist Meeting House (1796, 1825, 1837), 3 Hillside Street

9.1.2 Ammi R. Mitchell House (c. 1800), 333 Main Street

9.1.3 North Yarmouth Academy: Russell Hall (1841) and Academy Hall (1847), 129 Main Street

9.1.4 Captain S. C. Blanchard House (1855), 317 Main Street

9.1.5 Captain Reuben Merrill House (1858), 233 West Main Street

9.1.6 Camp Hammond (1889-90), 275 Main Street

9.1.7 Grand Trunk Railroad Station (1906), 288 Main Street

9.1.8 Central Parish Church (1859-1860), 97 Main Street

9.1.9 First Parish Congregational Church (1867-68), 116 Main Street

9.1.11 Cushing and Hannah Prince House (1785), 189 Greely Road

9.2 Historic Districts

9.2.1 Upper Village Historic District

9.2.2 Lower Village Historic District

9.2.3 Royal River Manufacturing Historic District

9.2.4 Pleasant Street Historic District

9.2.5 Gilman Road Historic District

9.3 Historic Landscape Districts: (Reserved)

9.4 Historic Sites:

9.4.1 Old Ledge Cemetery Historic Site, Gilman Road

9.4.2 Pioneer Burying Ground Historic Site, Gilman Road

9.4.3 Riverside Cemetery Historic Site, Smith Street

9.4.4 Holy Cross Cemetery Historic Site, Smith Street

9.4.5 Old Baptist Meetinghouse Cemetery Historic Site, Hillside Street

9.4.6 Larrabee’s Landing Historic Site, Burbank Lane

9.5 Historic Objects:

9.5.1 Horse trough located in the rear yard of the Merrill Memorial Library, 215 Main Street, visible from School Street.

9.5.2 Horse trough located in the landscape island of Center Street where it intersects Main Street.

9.5.3 Signpost located at the northwest corner of the intersection of West Main Street and East Elm Street.

9.5.4 King's Highway Mile Marker 137, roadside at 671 Lafayette Street

9.5.5 King's Highway Mile Marker 138, roadside on Pleasant Street at 1 Lone Pine Lane

10. Appendices

The following Appendices are hereby incorporated by reference:

A1 – DEFINITIONS

A2 - CRITERIA FOR DESIGNATION OF HISTORIC DISTRICTS, HISTORIC SITES, LOCAL HISTORIC LANDMARKS, HISTORIC OBJECTS, AND HISTORIC LANDSCAPE DISTRICTS

A3 - DESIGNATION OF HISTORIC DISTRICTS, HISTORIC LANDSCAPE DISTRICTS, HISTORIC SITES, HISTORIC OBJECTS, AND LOCAL HISTORIC LANDMARKS

A4 – STANDARDS OF EVALUATION – SECRETARY OF THE INTERIOR STANDARDS

APPENDIX A1 - DEFINITIONS

A1. DEFINITIONS: Any terms not specifically defined herein shall have the meanings of Chapter 701, Zoning, or Chapter 703, Character Based Development Code, if defined therein. Terms not defined herein or in Chapter 701, Zoning, or Chapter 703, Character Based Development Code, shall have the customary dictionary meaning. For convenience, defined terms generally appear as capitalized words.

A1.1 Alteration: Any act or process requiring a building permit, and any other act or process not requiring a building permit but specifically listed in this Ordinance as a reviewable action, including without limitation the repair, reconstruction, Demolition or Relocation of any Structure or Object, or any part of a Structure or Object.

A1.2 Applicant: A Person, which includes a firm, association, organization, partnership, trust, company, corporation or other legal entity as well as an individual, who submits an application for Historic Preservation Review.

A1.3 Archeological Site: A geographic location of the remains of prehistoric life or of historic human beings. These include but are not limited to, Structures, artifacts, terrain features, graphics (paintings or drawings, etc.) and the evidence of plants or animals.

A1.4 Architectural Feature: Any feature that helps give a Structure its distinctive architectural character. Such character defining features include but are not limited to columns, pilasters, cornice boards, brackets, balustrades, quoins, fanlights, corner boards, window sash, pediments, window and door frames, and any lights and transoms.

A1.5 Compatible: Able to exist or occur together without conflict; the harmonious relationship between buildings of scale, height, proportion and mass and their relationship to the associated Viewscape.

A1.6 Contributing: A classification applied to a Site, Structure or Object within a Historic District signifying that it contributes generally to the qualities that give the Historic District cultural, historic, architectural or archeological significance as embodied in the criteria for designating an Historic District. See also the definition of Noncontributing.

A1.7 Demolition: Any act or process that partially or totally destroys or removes a Structure or Object, including the demolition, razing or tearing down of a building, or a Substantial Modification as defined in Chapter 701 Article IX. Historic Building Alterations and Demolitions, which shall also constitute Demolition for purposes of this ordinance.

A1.8 Designation: The process under this Ordinance by which Historic Districts, Historic Sites, Local Historic Landmarks, Historic Objects, and Historic Landscape Districts are identified and designated as such, and by which Structures within Districts are classified as being Landmark, Contributing or Noncontributing.

A1.9 Designation Report: A report prepared by the Planning Authority in conjunction with a nomination for Designation of an individual property, Site, Object or District which identifies the location and/or boundaries and the ways in which the resource meets the criteria for Designation contained in this Ordinance. In the case of a District, the Designation Report shall contain the Period(s) of Significance for the District and shall denote for each property within the District its classification as Contributing, Noncontributing, or Local Historic Landmark.

A1.10 Deterioration from Neglect: Deterioration of any structural or exterior Architectural Feature of a property from inadequate Maintenance to the extent that it creates an irremediably detrimental effect on the life and character of that historic Structure and/or creates public health and safety violations. Failure to maintain the exterior envelope of a building, its foundation floor supports, walls, roofs, chimneys, windows and doors from structural impairment or intrusion of moisture are examples of Deterioration from Neglect.

A1.11 District: A Historic District or Historic Landscape District.

A1.12 Historic District: An area designated as a “Historic District” constituting a historic geographically definable area possessing a significant concentration or linkage of Sites, Structures or Objects united by past events or era or architecturally by plan or physical development and designated in accordance with the requirements of this Ordinance as appropriate for historic preservation. Such Historic Districts may also comprise individual elements separated geographically, but linked by historical association.

A1.13 Historic Integrity: The authenticity of the historic identity of an individual property and/or a District as a whole as evidenced by the survival of physical characteristics (location, design, setting, materials, workmanship, association and feeling) that existed during the relevant prehistoric or historic Period(s) of Significance.

A1.14 Historic Landmark: See Local Historic Landmark.

A1.15 Historic Landscape District: An area designated as a "Historic Landscape District" due to its association with the settlement, development and history of the Town.

A1.16 Reserved

A1.17 Historic Site: A parcel of land of special significance in the history or prehistory of the Town and its inhabitants, or upon which a historic event has occurred, or which constitutes a Historic Site by virtue of usage and which has been designated as such in accordance with this Ordinance. The term “Historic Site” shall also include any improved parcel or part of it on which is situated a Historic Landmark, and any abutting parcel or part of it used as and constituting part of the premises on which the Historic Landmark is situated as may be designated in accordance with this Ordinance.

A1.18 In-Kind Repair: Treatment of historic material that cannot be restored or repaired because of the extent of deterioration or damage, by replacement with new material that matches the existing in type, design, dimension, texture, detailing and exterior appearance, and to the fullest extent feasible, the same material.

A1.19 Local Historic Landmark: Any property, Site, Structure or Object that is worthy of preservation because it possesses Historic Integrity and is of particular historic, architectural or archaeological significance to Yarmouth, the State of Maine and/or the United States relating to its cultural, social, economic, political or architectural heritage, or which is associated with historic persons, important events or themes in local, state or national history, including property which is listed in, or eligible for listing in, the National Register of Historic Places (a National Register-Listed Property or a National Register-Eligible Property), and which has been designated as such in accordance with this Ordinance. A Local Historic Landmark, also sometimes referred to in this Ordinance and on associated maps as a “Landmark”, may be located within, or outside of, a Historic District.

A1.20 Maintenance: The keeping of a resource in good repair, e.g., painting, protection from weather and decay and restoration of deteriorating elements, to preserve its integrity.

A1.21 Maintenance, Ordinary: Acts of Maintenance or In-kind Repair which do not include a change in the design, material or outer appearance of a Structure, including without limitation repainting (whether with or without a change in color); in cases where deterioration is so advanced as to preclude restoration or repair, by replacement of materials with new materials that match the existing in material, type, design, dimension, texture, detailing and exterior appearance; and landscaping other than within a Historic Landscape District.

A1.22 Major Change: A Major Change is an addition or Alteration to a Structure or Site, or a large-scale change that affects the character of the Structure or the related Viewscape. See also Substantial Modification.

A1.23 Minor Change: A Minor Change is a small-scale and easily reversible change to a building, site feature or exterior utility which will neither result in significant change to any historic feature nor obscure such feature. In no event shall any change be deemed minor when, in the opinion of the Planning Authority, such change would irretrievably alter the historic character of the building or site.

A1.24 National Register of Historic Places: A register assigned by The National Historic Preservation Act of 1966 as amended that recognizes buildings, Sites, Districts, Structures, and Objects significant in American history, archaeology, architecture, engineering, or culture, and identifies them as worthy of preservation.

A1.25 National Register-Eligible Property: A historic property that is eligible (as

determined by Maine Historic Preservation Commission) for inclusion on the National Register of Historic Places because it meets the National Register criteria, which are specified in the Department of the Interior regulations at 36 CFR 60.4.

A1.26 National Register-Listed Property: A historic property that has been formally listed on the National Register of Historic Places and accepted by the Secretary of the Interior, who is represented for purposes of the decision by the Keeper of the National Register.

A1.27 New Construction: The adding to a Structure by an Addition; the erection or replacement of any new Structure on a lot or property; or the comprehensive redesign/renovation of an existing Structure or major portion thereof.

A1.28 Noncontributing: A classification applied to a Site, Structure, Object, or portion thereof, within a Historic District signifying that 1) it does not contribute generally to the qualities that give the Historic District cultural, historic, architectural or archaeological significance as embodied in the criteria for designating a Historic District; 2) was built within 50 years of the date of District Designation unless otherwise designated in the historic resources inventory; 3) was constructed outside of the Period(s) of Significance of the District in which it is located unless otherwise designated in the historic resources inventory, or 4) one where the location, design, setting, materials, workmanship, association or feeling have been so altered or have so deteriorated that the overall integrity of the building, Structure, Object or Site has been irretrievably lost. A portion of an otherwise Contributing Structure, Site, Object, or Local Historic Landmark may be determined by the Committee to be Noncontributing if it meets one or more of the above conditions.

A1.29 Object: Anything constructed, fabricated or created, the use of which does not require permanent or semi-permanent location on or in the ground. An Object may be primarily artistic or utilitarian in nature, is usually relatively small in scale and simply constructed. Although it may be, by nature and design, moveable, an Object is usually associated with a specific setting or environment.

A1.30 Open Space: Any park and any other area outside of a Structure which is open to the public.

A1.31 Period of Significance: The date or span of time during which a property or Historic District was associated with important events, activities, or person, or attained the characteristics that qualify it for Designation as a resource to be protected under this Ordinance. A District may have more than one Period of Significance. This term is sometimes referred to as the “Era” applicable to a historic resource.

A1.32 Person: A firm, association, organization, partnership, trust, company, corporation, or other legal entity, as well as an individual, and may include the plural as well as the singular usage.

A1.33 Planning Authority: Yarmouth's Department of Planning & Development, or any authorized designee thereof.

A1.34 Relocation: Any removal or relocation of a Structure or Object, in whole or in part, whether on its original or present site, or to another site.

A1.35 Restoration: Any act which returns a Structure or a feature of a Structure to a prior state of historic significance.

A1.36 Secretary of the Interior's Standards: National standards which incorporated by reference in this Article, developed by the Secretary of the Interior concerning preserving, rehabilitating, restoring and reconstructing historic buildings and evaluation of rehabilitation projects on certified historic Structures or Objects for federal tax credits.

A1.37 Siding: The covering of exterior vertical or nearly vertical wall surfaces, excluding Architectural Features.

A1.38: **Site:** The location of a significant Object, Structure, activity, or event.

A1.39 Street: The entire width between boundary lines of every way publicly owned and maintained or which way is open to the use of the public for purposes of vehicular or pedestrian traffic.

A1.40 Structure: Anything constructed or erected, having a permanent or semi-permanent location on another Structure on or in the ground, including without limitation buildings, garages, fences, decks, patios, drives, walkways, gazebos, walls, advertising signs, billboards, antennas, satellite sending or receiving dishes, solar arrays and similar energy producing, conserving, or storage devices, and swimming pools.

A1.41 Substantial Modification: Any Alteration to a building involving removal or alteration of fifty (50%) percent or more of the roof area and/or any exterior walls, or any portion of an exterior wall or roof area enfronting or facing and readily visible from a Street or Public Open Space.

A1.42 Viewscape: The public setting in which a Structure, Site, or Historic Landmark is located. It is the immediate visible neighborhood of or from the Street, public land or Open Space associated with such a Structure, including such things as fences, sidewalks and lights. A Viewscape is not synonymous with scenic views, for example water views possessed by individual property owners. It encompasses the public view of or from a Street, neighborhood or public land. Every kind of Structure is considered in the context of its associated Viewscape. A District may include many Viewscapes.

A1.43 Visible from the Street or Public Open Space: Any proposed Alteration or New Construction to a Site or Structure, or portion thereof, that would be readily visible at pedestrian heights when viewed from any public Street or way or any Public Open Space when viewed at a height between 4 and 6 feet. Building Alterations or New

Construction that are obscured by vegetation or a fence but would otherwise be readily visible but for the vegetation or fence shall be considered to be visible for purposes of this definition.

A1.44 Yarmouth Historic Preservation Design Manual: Guidance for evaluating proposed changes in historic properties subject to this Article, for use by the Committee, property owners, or others, as the same may now or hereafter be amended. It may include photographs, illustrations, sketches and technical recommendations for appropriate treatments consistent with the Secretary of the Interior's Standards for Historic Preservation.

APPENDIX A2

A2. CRITERIA FOR DESIGNATION OF HISTORIC DISTRICTS, HISTORIC SITES, LOCAL HISTORIC LANDMARKS, HISTORIC OBJECTS, AND HISTORIC LANDSCAPE DISTRICTS

A2.1 General: In making a determination on a proposed nomination pursuant to this Ordinance of an area, property, Site, Structure or Object as to whether to designate it as a Historic Site, Local Historic Landmark, Object or District, the Committee shall consider the following criteria:

A2.1.1 Its value as a significant example of the cultural, historic, architectural, archeological or related aspect of the heritage of the Town of Yarmouth, the State of Maine, New England region, or the United States.

A2.1.2 Its location as a site of a significant historic or prehistoric event or activity which may have taken place within or which involved the use of any existing Structure or Object on the property.

A2.1.3 Its identification with a person or persons who significantly contributed to the cultural, historic, architectural, archeological or related aspect of the development of the Town of Yarmouth, State of Maine, New England region, or the United States.

A2.1.4 Its exemplification of a significant architectural type, style or design distinguished by innovation, rarity, uniqueness or overall quality of design, detail, materials, and/or craftmanship.

A2.1.5 Its identification as the work of an architect, designer, engineer or builder whose individual work is significant in the history or development of the Town of Yarmouth, the State of Maine, the New England region, or the United States.

A2.1.6 Its representation of a significant cultural, historic, architectural, archeological or related theme expressed through distinctive areas, sites, Structures or Objects that may or may not be contiguous.

A2.1.7 Its identification as a Structure or Site listed on or eligible for listing on the National Register of Historic Places, and Structure or Site listed as or eligible for listing as a National Historic Landmark.

A2.1.8 An area may only be designated as a Historic Landscape District if the entire area of the District is owned by a unit of federal, state or local government, or any combination of such ownership, or private or institutional properties at the request with consent of the owner(s).

A2.1.9 A Local Historic Landmark which is outside of the boundaries of a Historic

District may only be designated as such with the consent of the Person who is the owner at the time of Designation.

A2.2 Significance: In the case of a nominated Historic District, the Committee shall also determine whether a substantial number of the properties, Sites, Structures or Objects have a high degree of cultural, historic, architectural or archeological significance and integrity, many of which may qualify as Local Historic Landmarks , and which may also have within its boundaries other properties, Sites, Structures or Objects which, while not of such cultural, historic, architectural or archeological significance to qualify as Local Historic Landmarks , nevertheless contribute to the overall visual characteristics and feeling of the significant properties, Sites, Viewscapes, Structures or Objects located within it.

A2.3 Historic Integrity and Condition: Any area, Structure or Object that meets the criteria in section A2.1 must also have sufficient Historic Integrity (as evidenced by survival of physical characteristics of location, design, setting, materials, workmanship, association and feeling) and be of sufficient condition to make it worthy of preservation or Restoration.

A2.4 Significance of Historic Landscape District: In the case of a nominated Historic Landscape District, the Committee may also consider its significance as a geologic, natural or human-made landscape feature associated with the settlement, development, heritage or culture of the Town of Yarmouth, State of Maine, New England region, or the United States.

A2.5 Planning Board and Town Council Criteria: In considering Nominations for Designation, the Planning Board and Town Council shall apply the criteria as set forth above but may also consider the effect of such Designation on other aspects of the comprehensive plan of the Town of Yarmouth.

APPENDIX A3

A3. DESIGNATION OF HISTORIC DISTRICTS, HISTORIC LANDSCAPE DISTRICTS, HISTORIC SITES, HISTORIC OBJECTS, AND LOCAL HISTORIC LANDMARKS

A3.1 General: Historic Districts, Historic Landscape Districts, Local Historic Landmarks, Historic Sites, and Historic Objects may be designated either in conjunction with initial adoption of the Historic Preservation Advisory Ordinance or by subsequent amendment.

A3.1.1 Recommendations for initial Designation of a Local Historic Landmark outside a designated Historic District shall be considered only with the consent of the property owner.

A3.1.2 An application for Designation of Sites, Objects, Districts and Local Historic Landmarks for historic preservation shall be in writing and shall include the information required by Appendix A3.3, A3.4, A3.5, A3.6 or A3.7 as appropriate. Upon receipt of a complete application, the owners of properties affected by the nomination shall be notified by the Planning Authority and the chair of the Committee shall call a meeting of the Committee for the purpose of beginning to formulate the Committee's recommendation concerning the proposed Designation pursuant to the procedures outlined herein.

A3.1.3 Any proposed Designation recommended by the Committee shall be in the form of a proposed amendment to the Historic Preservation Ordinance. The proposed amendment shall include a description of the proposed Historic District, Site, Object or Local Historic Landmark in the form of a Designation Report as detailed in A3.8.2 below, with the results of the Committee's vote on the recommendation.

A3.2 Interim Protections:

A3.2.1 From the time of nomination until the Committee acts upon such nomination, a Site, Structure, Object, Landmark, or District nominated shall be subject to all of the provisions of this Ordinance governing Demolition to the same extent as if designated. If the Committee recommends Designation, the Site, Structure, Object, Landmark or District nominated shall be subject to all of the protections of the Historic Preservation Ordinance until a final decision on Designation by the Town Council becomes effective. If the Town Council rejects Designation or fails to designate a property, that property shall no longer be subject to the provisions of these Interim Protections, but, notwithstanding anything to the contrary herein, will continue to be subject to the Historic Building Alterations and Demolitions Ordinance, Ch 701, Article IX, to the extent applicable.

A3.2.2 Notwithstanding anything to the contrary herein, during any period of Interim Protections, all proposed acts of Demolition, as that term is defined in the Historic Building Alterations and Demolitions Ordinance, Ch 701, Article IX, shall be stayed and shall be governed by the Historic Building Alterations and Demolitions

Ordinance.

A3.3 Local Historic Landmarks: An action to designate a Local Historic Landmark which would not be within the boundaries of a Historic District may only be proposed by or with the consent of the property owner.

The following materials shall be submitted in support of a nomination for a Local Historic Landmark, regardless of whether it will be within or outside of the boundaries of a Historic District:

A3.3.1 A concise statement of the physical elements that make this a historic property and a description of the building type, architectural style, and period represented.

A3.3.2 A concise statement of how the property meets the review criteria of Appendix A2 above.

A3.3.3 A map showing the location of the Structure, specifically in relation to any Historic District.

A3.3.4 Photographs of the subject property in its current condition and historic photos or other documentation if and as available.

A3.3.5 A copy of the Designation Report, if any, indicating that it has been deemed worthy of preservation for its historical significance and whether it is formally listed in the National Register of Historic Places.

A3.3.6 A copy of documentation, if any, indicating that it has been deemed worthy of preservation for its historical significance and has been found to be eligible for listing on the National Register of Historic Places by the Maine Historic Preservation Commission.

A3.4 Historic Districts: Materials to be submitted in support of a nomination of a Historic District include the following:

A3.4.1 A concise statement of the remaining physical elements that make this area a Historic District and a description of building types and architectural styles and periods represented, including a statement of the proposed Period(s) of Significance for the District.

A3.4.2 A concise statement of how the District meets the review criteria of Appendix A2 above.

A3.4.3 A justification of the boundaries of the District. In general, the boundaries shall include the full extent of each lot contained within the district, as depicted on the Town tax map.

A3.4.4 A description of the types of Structure that do not contribute to the significance of the District and an estimate of the percentage of Noncontributing Structures.

A3.4.5 A map and list (spreadsheet) and photographs of each Structure or Object, meeting the Maine Historic Preservation Commission photographic specifications, showing all District Structures with the identification of Local Historic Landmarks, Contributing Structures, Noncontributing Structures, Historic Sites, and Historic Objects.

A3.4.6 A Reconnaissance-Level Architectural Survey meeting the requirements of the Maine Historic Preservation Commission's *Guidelines for Identification: Architecture and Cultural Landscapes* constitutes acceptable submission material for a local Historic District nomination.

A3.5 Historic Landscape Districts: The following materials shall be submitted in support of a nomination of a Historic Landscape District:

A3.5.1 A concise statement of the geologic, natural or human-made landscape features that make this area a Historic Landscape District and a description of features associated with the development, heritage or culture of the Town and its pre-colonial antecedents, or other relevant area;

A3.5.2 A concise statement of how the District meets the review criteria of Appendix A2 above.

A3.5.3 A justification of the boundaries of the District.

A3.5.4 Identification of the specific governmental entity that owns an interest in each of the parcels in the District and of any private or institutional owner with written consent to designation.

A3.5.5 A map and list (spreadsheet) showing any Structures and permanent improvements within the District, and an assessment of their historic significance.

A3.6 Historic Sites or Historic Objects: The following materials shall be submitted in support of a nomination of a Historic Site or Object:

A3.6.1 A concise description of the physical elements, qualities, architectural style, period and historical significance represented by the Structure, Object or Site, including a consideration of scale, materials, workmanship, location, and spatial qualities, as relevant.

A3.6.2 A concise statement of how the Structure, Object or Site meets the review criteria of Appendix A2 above.

A3.6.3 A series of photographs of the Structure, Object and/or a Site map, illustrating significant details identified in A3.6.1 above.

A3.6.4 A copy of the Designation Report, if any, indicating that it has been deemed worthy of preservation for its historical significance and whether it is formally listed in the National Register of Historic Places.

A3.6.5 A copy of documentation, if any, indicating that it has been deemed worthy of preservation for its historical significance and has been found to be eligible for listing on the National Register of Historic Places by the Maine Historic Preservation Commission.

A3.7 Expansion or Amendment of Existing Districts: Materials required in support of a nomination for expansion or amendment of a Historic District include the following:

A3.7.1 A concise statement of the physical elements that justify an expansion or amendment of an existing District, an explanation detailing how the expansion will be consistent with the character of the District, and description of building types and architectural styles and periods represented by the proposed expansion.

A3.7.2 A concise statement of how the expansion or amendment of an existing District meets the review criteria of Appendix A2 above.

A3.7.3 A justification of any adjustment of boundaries of or other amendment (including Period(s) of Significance) to the District.

A3.7.4 A description of the types of Structures that do not contribute to the significance of the District and an estimate of the percentage of Noncontributing Structures in the Historic District, as expanded or amended.

A3.7.5 A map and list (spreadsheet and/or GIS database) and photographs of each Structure or Object, meeting the Maine Historic Preservation Commission photographic specifications, showing all District Structures in the proposed District, as expanded or amended, with an identification of Local Historic Landmarks, Contributing Structures. Noncontributing Structures, Historic Sites, and Historic Objects.

A3.8 Historic Preservation Committee Public Hearing and Recommendation Procedures:

A3.8.1 Before a recommendation for Designation or Amendment is made to the Planning Board, the Committee shall hold at least one workshop and a public hearing on the proposal, after due notice is published in a newspaper of general circulation in the Town at least seven (7) days prior to the workshop and prior to the hearing. Written notice of the proposal shall also be given at least seven (7) days prior to the hearing to the Applicants, owners of all property abutting or any portion

of which is within 200 feet, or to be included within the proposed Designation, and all other Persons or organizations found by the Committee to have a special interest in the proposal. A copy of the proposal shall be sent, at the same time, to the chairperson of the Planning Board. Failure of any such Person to receive notice of the public hearing shall not necessitate another hearing or invalidate any action of the Committee. The Committee shall endeavor to complete its review and recommendation within 90 days of receipt of a complete application.

A3.8.2 Designation Report: Within thirty (30) days following the close of the final public hearing and vote of the Committee, the Committee shall make recommendation to the Planning Board as to whether the proposed designation meets the criteria for Designation. Such recommendation shall have been approved by at least four (4) members of the Committee and shall be accompanied by a Designation Report to the Planning Board containing the following information:

A3.8.2.1 Explanation of the significance or lack of significance of the nominated property, Object, or District as it relates to the criteria for Designation.

A3.8.2.2 Explanation of the integrity or lack of integrity of a nominated property, Object or Historic District.

A3.8.2.3 A map showing the location of the nominated property or Object and the boundaries of the nominated District.

A3.8.2.4 An identification of the Period of Significance of the resource.

A3.8.2.5. A list, (spreadsheet and/or GIS database) including the address, of every Site, Structure and Object in each nominated Historic District indicating their degree of cultural, historic, architectural or archeological significance by classification as Local Historic Landmark, Contributing, or Noncontributing significance.

5.9.2.6 The date of the final public hearing and the results of any vote on the Committee’s recommendation.

APPENDIX A4

A4. STANDARDS OF EVALUATION

A4.1 Secretary of the Interior Standards for Rehabilitation

A4.2 Reconstruction, Renovation, Additions and New Construction, and Alteration: A Structure designated as a Local Historic Landmark, a Historic Site, or a Contributing Structure located in a designated Historic District, or related Structures or improvements, such as walls, fences, steps, or paving located in a designated Historic District, shall be subject to Historic Preservation Review to recommend improvements that will preserve or enhance the historical and architectural character of the Structure, preserve those portions or features which convey its historical, cultural, or architectural value, and be visually Compatible with the Viewscape. The following general Standards will be applied to arrive at the Committee recommendation regarding the proposed action, taking into consideration the economic and technical feasibility of each project.

A4.2.1 A property should be used as it was historically used or, if to be given a new use, one that requires minimal change to its distinctive materials, features, spaces and spatial relationships.

A4.2.2 The historic character of a property should be retained and preserved. The removal of distinctive materials or Alteration of features, spaces and spatial relationships that characterize a property should be avoided.

A4.2.3 Each property should be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, should not be undertaken. More than one time or use may be recognized if supported by historic evidence.

A4.2.4 Changes to a property that have acquired historic significance in their own right should be retained and preserved.

A4.2.5 Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property should be preserved.

A4.2.6 Deteriorated historic features should be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the old in design, color, texture and, where possible, materials. Replacement of missing features should be substantiated by documentary and physical evidence.

A4.2.7 Chemical or physical treatments, if appropriate, should be undertaken using the gentlest means possible. Treatments that cause damage to historic

materials will not be used. Unpainted masonry should never be painted. Repainting previously painted masonry surfaces is acceptable, and often preferable to attempts at removal.

A4.2.8 Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures should be undertaken.

A4.2.9 New additions, exterior Alterations or New Construction should not destroy historic materials, features and spatial relationships that characterize the property. The new work should be differentiated from the old and should be Compatible with the historic materials, features, size, scale, proportions, and massing to protect the integrity of the property and its environment and Viewscapes.

A4.2.10 New additions and adjacent or related New Construction should be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

A4.3 Standards for Construction of New Buildings and Building Additions: In considering an application for a Historic Preservation Review involving New Construction (including additions), the Committee shall apply the following general standards as may be applicable to the context of the proposed construction. All New Construction and all new additions within Historic Districts, Historic Sites and involving Local Historic Landmarks should comply with the following standards:

A4.3.1 Scale and Form

A4.3.1.1 Height
The height of proposed buildings and other Structures should be visually Compatible with surrounding Structures when viewed from any public street or Open Space.

A4.3.1.2 Width
The width of a building should be visually Compatible with surrounding Structures when viewed from any Street or Open Space and in compliance with any design guidelines.

A4.3.1.3 Proportion of Principal Facades
The relationship of the width to the height of the principal elevations should be visually Compatible with Structures, public ways and Open Spaces to which it is visually related.

A4.3.1.4 Roof Shapes
The roof shape of a Structure should be visually Compatible with the Structures to which it is visually related.

A4.3.1.5 Scale of Structure
The size and mass of Structures in relation to Open Spaces, windows, door openings, porches and balconies should be visually Compatible with the Structures, public ways and places to which they are visually related.

A4.3.2 Composition of Principal Facades

A4.3.2.1 Proportion of Openings within the Façade
The relationship of the width to height of windows and doors should be visually Compatible with Structures, public ways and places to which the building is visually related.

A4.3.2.2 Rhythm of solids to voids in facades
The relationship of solids to voids in the facade of a Structure should be visually Compatible with Structures, public ways and places to which it is visually related.

A4.3.2.3 Rhythm of entrance porch and other projections
The relationship of entrances and other projections to sidewalks should be visually Compatible with the Structures, public ways and places to which they are visually related.

A4.3.2.4 Relationship of materials
The relationship of the color and texture of materials (other than paint color) of the facade should be visually Compatible with the predominant materials used in the Structures to which they are visually related.

A4.3.2.5 Signs
Any new sign, and any change in the appearance of an existing sign located on a Local Historic Landmark, within an Historic District, or within an Historic Landscape District, which is readily visible from any Street or Open Space should not be incongruous to the historic character of the Local Historic Landmark or District.

A4.3.3 Relationship to street:

A4.3.3.1 Walls of continuity
Facades and site Structures, such as masonry walls, fences and landscape masses, should, when it is a characteristic of the area, form cohesive walls of enclosure along a Street to ensure visual Compatibility with the Structures, public ways and places to which such elements are visually related.

A4.3.3.2 Rhythm of spacing and Structures on Streets.
The relationship of a Structure or Object to the Open Space between it and adjoining Structures or Objects should be visually Compatible with the Structures, Objects, public ways and places to which it is visually related.

A4.3.3.3 Directional expression of principal elevation.
A Structure should be visually Compatible with the Structures, public ways and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.

A4.3.3.4 Streetscape, pedestrian improvements.
Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to, or on a Historic Landmark, within an Historic District or within an Historic Landscape District which is readily visible from any Street or Open Space should not be incongruous to the historic character of the Historic Landmark or District

A4.3.4 Other standards:

A4.3.4.1 Compatible uses.
Every reasonable effort shall be made to provide a Compatible use for a property which requires minimal alteration to the character-defining features of the Structure, Object or Site and its environment or to use a property for its originally intended purpose.

A4.3.4.2 Distinguishing original character.
The distinguishing original qualities or character of a Structure, Object or Site and its environment shall not be destroyed. Every reasonable effort should be made to avoid the alteration of any historic material or distinctive Architectural Features.

A4.3.4.3 Archeological resources.
Every reasonable effort shall be made to protect and preserve significant archeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken as well as adequate documentation of the resource as found in situ.

A4.3.4.4 Contemporary design.
Contemporary design for compatible additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural or archeological materials that characterize the property. The new work shall be differentiated from the old and shall be Compatible with the size, scale, material and character of the property, neighborhood and environment.

A4.3.4.5 Additions.
Wherever possible, new additions to Structures and Objects shall be undertaken in such a manner that, if such additions were to be removed in the future, the essential form and integrity of the Structure or Object would be unimpaired.

A4.4. Standards for Review of Alterations to/ Redesign of Noncontributing Structures:

A4.4.1 In considering an application for a Historic Preservation Review involving Alteration(s) to a Noncontributing Structure, the standards for review of Alterations set forth in Section A4.2 (Reconstruction, Renovation and Alteration) shall apply as applicable. The intent of the review shall be to strive to ensure no further erosion of any significant existing architectural character of the subject Structure and, where practicable, to guide projects toward a more Compatible relationship with the surrounding context and Viewscape.

A4.4.2 In considering an application for a Historic Preservation Review involving Substantial Modification of a Noncontributing Structure or New Construction on the site of a Demolished Noncontributing Structure, the standards for review of New Construction set forth in section A4.3 (Construction of New Buildings and Building Additions) shall apply.

A4.5 Demolition or Removal:

A4.5.1 A Local Historic Landmark or portion thereof, or any Structure or portion thereof in a Historic District, or any building or portion thereof in any Historic Landscape District, shall not be demolished or removed except under the provisions of Chapter 701, Article IX, Historic Building Alterations and Demolitions.

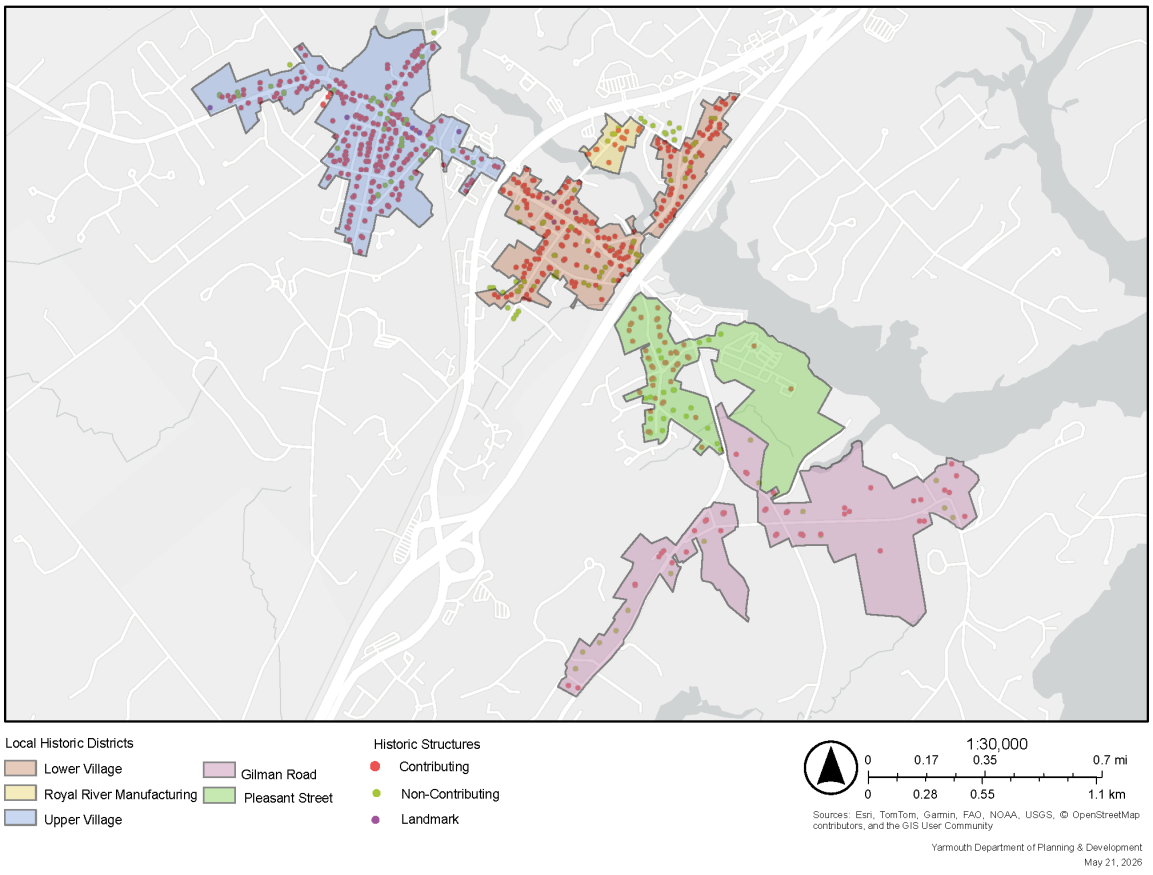
A4.5.2 All proposed acts of Demolition, including but not limited to Substantial Modification, shall be governed by the Historic Building Alterations and Demolitions Ordinance.

A4.5.3 All Contributing Properties in a Historic District and all Local Historic Landmarks, wherever located within the Town, shall be conclusively presumed to be Buildings of Value within the meaning of the Historic Building Alterations and Demolitions Ordinance.

A4.5.4 All Buildings located within the boundaries of any Historic District or Historic Landscape District, and all Local Historic Landmarks shall be subject to the Historic Building Alterations and Demolitions Ordinance, whether or not separately mapped in the Demolition Delay Overlay Zone of Ch. 701, Article IX.

A4.5.5 The fact that a Building situated within a Historic District has been classified as being Noncontributing within that District does not mean that it may not be a Building of Value within the meaning of the Historic Building Alterations and Demolitions Ordinance.

Yarmouth Historic Districts & Resources

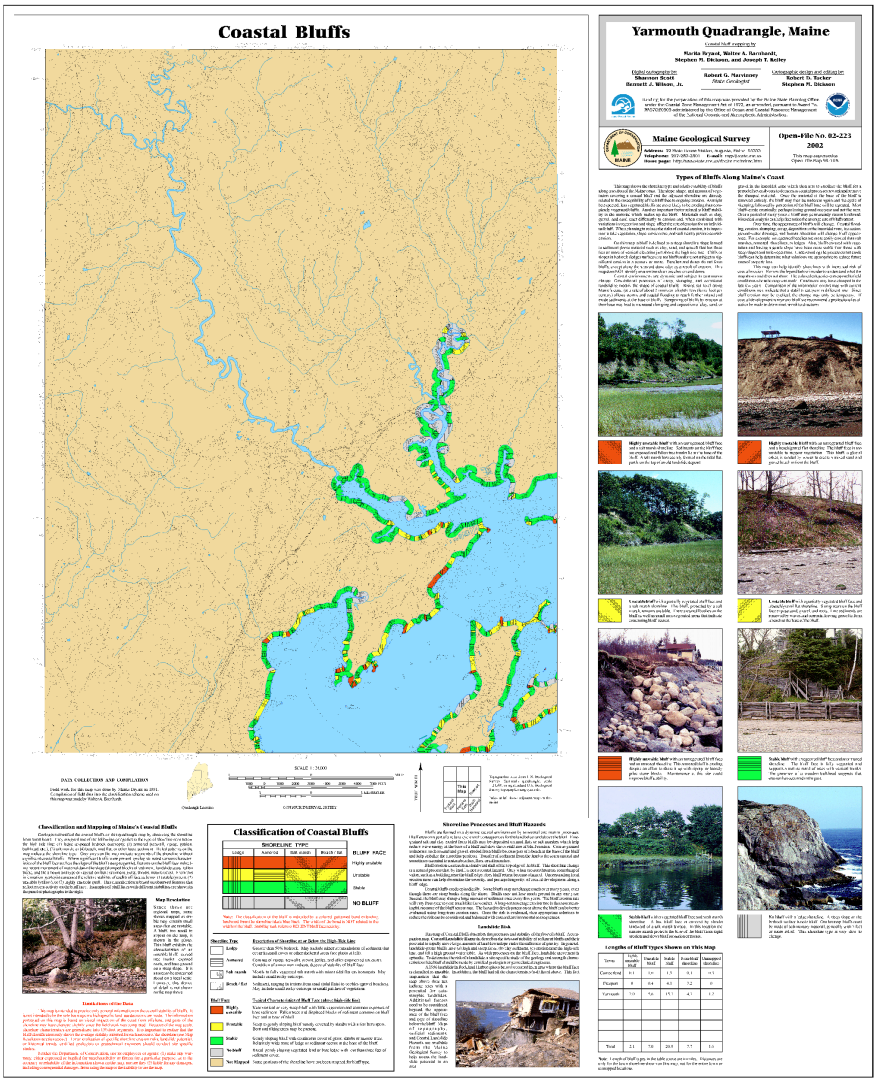


APPENDIX A

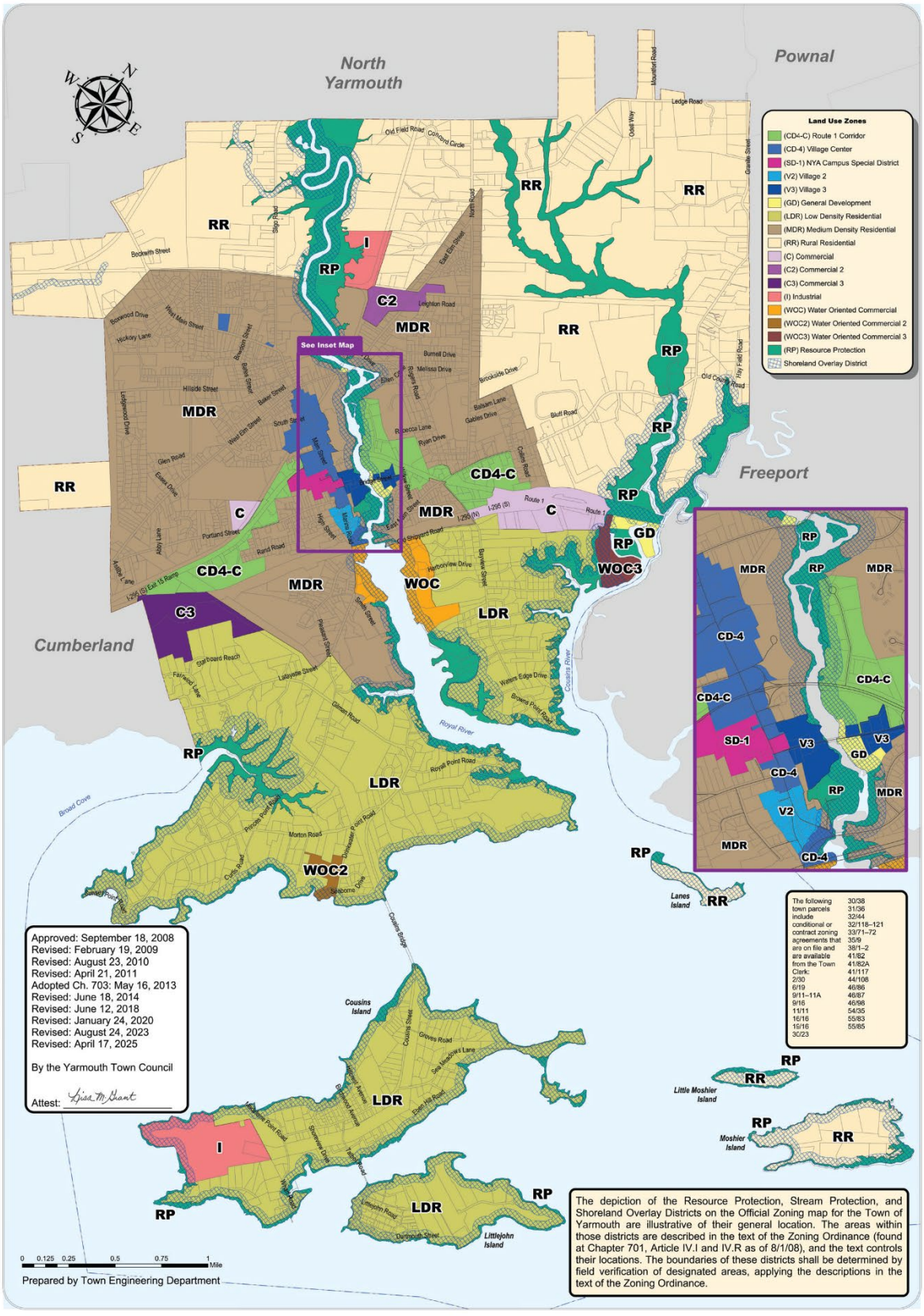
DISCLAIMER:

The copy of the Official Zoning Map below is added to the Zoning Ordinance for presentation purposes only. To verify any Zoning District Boundaries in regards to this map, a printed copy of the Official Zoning Map is available at the Town Hall.

The Yarmouth Coastal Bluff map is appended to the Zoning Ordinance and for a full representation of this map a printed copy is available at the Town Hall or by visiting the following web site:
http://www.maine.gov/doc/nrimc/mgs/pubs/online/bluffs/bluff-yarmouth.pdf



Town of Yarmouth Official Zoning Map
Yarmouth Town Code Ch. 701 & 703



APPENDIX B

Below are the Conditional and Contract Zoning Agreements that are one file and available from the Town Clerk.

Name	Physical Location	Map/Lot	Date	Type
W. Main St Schools	West Main St	46/98	2/16/95	Conditional
Black Ash Site	Forest Falls Dr	11/11	3/16/95	Conditional
Realty Resources	John Howland	16/16	5/18/95	Contract
Martin Meier	Portland/W. Elm	30/38	9/11/95	Affordable Hsg
Scott & Leigh Canfield	Main St/Intermed	38/1&2	1/5/96	Contract
Harold Moulton	Sweetsir Farm	19/16	8/8/96	Contract
NYA	Main St/Fine Arts	32/118	10/24/97	Contract
P. Smith & L.Leboeuf	Willow St	33/71&72	6/11/98	Cont. & Cond
NYA	Main St/Science	32/118-121	4/3/03	Contract
Habitat for Humanity	Drinkwater/Gilman	2/30	4/27/07	Contract
Even Keel Road	Even Keel Road	*	2/19/09	Conditional
• M9/16, 11/11A, M35/9				
Merrill Chapin	233 West Main St	46/87	8/23/10	Contract
Scott & Leigh Canfield	Main St/Intermed	38/1&2	5/27/11	Contract
Robert Catell	Bayview St	6/19	4/1/11	Contract
Pogy Shores	Off Wharf Road	54/35	5/1/11	Contract
Charles Wallace	469 West Elm	30/23	pending-unsigned	Contract
William Schaffer/Cooper	20 Cumberland	41/82	2/22/12	Contract
J&A Lawrence/Schaffer-Cooper		41/82A	3/5/14	Amendment
Dan & Deb Sheehan	373 Cousins St	55/83	9/11/15	Contract
Paula Groves	21 Almonte Ave	55/85	12/23/15	Contract
Charles F. Wallace	469 West Elm St	30/23	04/13/16	Contract
Bartlett Circle 2	Bartlett Circle	41/117	10/29/15	Contract
NYA	Main St – Sci.Bld	32/118-121	5/24/18	Contract
Amanda Mitchell	20 Center Street	41/7	11/20/17; terminated 10/17/024	Contract
Ed Libby	100 Bates Street	44/108	11/14/19	Contract
Thompson & Taylor	70 Portland Street	32/44	02/10/21	Contract
Ed Libby	Portland Street	31/36	8/24/23	Conditional
251 West Main LLC	251 West Main St	46/86	3/21/24	Contract

APPENDIX C

CONDITIONAL REZONING DECLARATIONS
Tax Map 9 Lots 16, 11, and 11-A and Map 35 Lot 9
(See Attached Map)

WHEREAS, The Yarmouth Town Council finds that the properties off Even Keel Road designated on the Assessor's Tax Maps of the Town of Yarmouth dated April 1, 2008 as Map 9 Lot 16, Map 9 Lot 11, and Map 9 Lot 11-A and Map 35 Lot 9 are currently designated as Resource Protection District on the Official Zoning Map of the Town of Yarmouth and as provided by Article IV Section I and

WHEREAS, pursuant to Title 30-A MRSA, Section 4352(8) and Chapter 701, Article IV, Section V of the Yarmouth Town Code, and not withstanding subsection V(1) (3) thereunder, the Town Council finds that the area would be more appropriately zoned and designated as a Water Oriented Commercial District with special conditions to improve and protect environmental and habitat concerns, and to allow currently non-conforming marine trades commercial activities and residential uses to become conforming and eligible for limited expansion and enlargement consistent with the provisions of the Yarmouth Town Code and these Conditional Rezoning Declarations, and subject to the approval of the Maine Department of Environmental Protection pursuant to Maine DEP Rules Chapter 1000 (Guidelines for Municipal Shoreland Zoning Ordinances) Article 13.D (General Development District I), and

WHEREAS, the Town Council seeks to secure the cooperation of all the lot owners with the Town of Yarmouth and/or amongst themselves for the maintenance of Even Keel Road to meet the reasonable travel requirements and fire protection goals, to encourage the extension of or connection to public sewer and water services, and to provide for routine road maintenance that guards against erosion and uncontrolled run-off from the roadway,

NOW, THEREFORE, be it ordained by the Yarmouth Town Council in town council assembled that the properties located at Tax Map 9 Lots 16, 11, and 11-A and Map 35 Lot 9 ("the Lots") are hereby conditionally rezoned from Resource Protection District (RPD) to Water Oriented Commercial III (WOC III) as hereinafter described and declared.

1. **ZONE CHANGE AUTHORIZED**

   The use, occupancy, and development of the "Lots" will, in addition to other applicable provisions of law, ordinance or regulation, be subject to the following restrictions and conditions on the physical conditions of the development, expansion, or modernization or operation of new or existing commercial buildings or uses:

   (a) Any Commercial use, occupancy or development of any of the lots, excluding home occupations, shall be limited to and controlled by all conditions, notations, restrictions and understandings that may be voted or imposed by the Yarmouth Planning Board on any development, expansion, or modernization or operation of new or existing commercial buildings or uses requiring review and approval by the Planning Board under the Zoning and/or Site Plan ordinances of the Town of Yarmouth and any amendments thereto that the Planning Board may, upon application, vote to authorize or establish.

(b) The “Lots” shall be limited in use to the uses now or in the future that are permitted uses within WOC III as hereinafter described or any future amendments thereto, except that any structures or uses legally continued or established under the WOC III standards shall be recognized as legally existing non-conforming uses or structures if such future ordinance amendments were to create non-conformity.

(c) Any lots that make up the WOCIII District may grant a conservation easement on a portion of their property to the TOWN or another 3rd Party land trust or land conservation organization for the purpose of further protection of the tidal marsh resource and stewardship of low impact public access without prejudice of other rights applicable to the WOCIII District. This shall not be a condition of this declaration or the effect of this zoning district declaration and shall not necessarily preclude the construction or maintenance of trails, boardwalks, or other means of pedestrian and hunter low impact access to the shores and waters along the Cousins River or its tributaries.

(d) Any use, change or development of Map 9 Lot 16 and Map 35 Lot 9 shall be subject to additional special regulations or performance standards as hereinafter provided. Such regulations shall be in addition to and not instead of the general standards and conditions applicable throughout the WOC III zone.

2. EFFECTIVE DATE OF ZONE CHANGE

The subject parcels shall be automatically rezoned WOC III upon adoption by the Yarmouth Town Council and approval of the Maine DEP.

3. WATER ORIENTED COMMERCIAL DISTRICT III (WOC III)

The Water Oriented Commercial III District is hereby established within Article IV of Chapter 701 of the Yarmouth Town Code (Zoning Ordinance) and becomes a part of said Chapter 701. The WOC III zone is authorized, subject to the approval of the Maine DEP pursuant to Chapter 1000 (Guidelines for Municipal Shoreland Zoning Ordinances) Article 13.D (General Development District I)

WOC III Purposes

The WOC III is designated to provide an area to serve commercial boat building and related training, research and development for Maine’s boat building and design trades, and access to the navigable portion of the Cousins River. The intent is to preserve, maintain and allow moderate growth and expansion as well as modernization and improvement to existing and historical boat building and boat servicing activities on the Cousins River, or the conversion of such spaces to less intensive residential uses where preservation or growth of the marine activities is impractical. The District is located in an area of important habitat and with salt marshes and erodible soils and slopes, so the standards for the district seek to protect the environment, surface water quality, and habitat while permitting appropriate marine trades. The district also includes very low density residential uses and scenic vistas that the standards seek to protect.

WOC III Area Defined:

Four parcels off Even Keel Road in Yarmouth described on the Assessor's Tax Maps of the Town of Yarmouth, Maine Dated April 1, 2008 as Map 9 Lot 16, Map 9 Lot 11 and Map 9 Lot 11A, and Map 35 Lot 9.

Permitted Uses and Structures:

- Boating building, design, testing, and repair, boat and marine equipment sales, millwork and woodworking, and related marine trades education, training and apprenticeship programs.
- Chandlery and marine related retail sales up to 1000 square feet of indoor retail area.
- Recreational and small craft boating, docking and water access
- Land side boat storage
- Fabrication, repair and storage of recreational and commercial fishing vessels and equipment.
- Wholesale landing and sales of shellfish, seafood and sea products all accessory to boating trades.
- Boat fueling accessory to the permitted boating trades activities on site.
- Sail lofts and sail making
- Piers, docks, wharves, bulkheads, retaining walls, boat ramps, travel lifts and marine railways (subject to the provisions of Art. II.R)
- Small marine related professional offices as secondary uses in permitted structures
- Single family detached dwellings.
- Accessory dwelling units
- Essential Services
- Accessory buildings

Special Exception Uses and Structures:

- Marine industries trades museum or educational facility, provided such uses are accessory to other permitted commercial marine trades operations and uses
- On-site residential accommodations that are proximate to and functionally associated with any commercial marine trades activity on the lot.
- Chandlery and marine related retail sales greater than 1000 square feet
- Municipal buildings and uses

Dimensional Standards (minimums per dwelling unit or principal structure):

Lot Size-	1 Acre
Minimum shore frontage	150 ft
Lot Width-	Not Applicable
Front Setback-	40 feet
Side Setback-	40 feet
Rear Setback-	40 feet

Special Performance Standards:

Except as provided in the Special Performance Standards for Map 9 Lot 16 and for Map 35 Lot 9, below, the following performance standards shall apply:

Only lots in existence and used for commercial marine trades as of April 1, 2008 may be used or developed for commercial marine trades. Non-vegetated surfaces shall cover no more than 20% of the lot, excluding land below the normal high water line of the Cousins River or its tributaries.

No building shall have a footprint greater than 4000 square feet except that buildings used exclusively for sail lofts or boat building or boat repair and ancillary services may have a footprint up to 12,000 square feet.

No building shall be taller than 35 feet.

Except for Water Dependent Uses and Structures, no building or structure shall be located within 25 feet of normal high water of the Cousins River or related salt marshes and wetlands.

All residential structures and structures accessory to residential uses shall have a setback a minimum of 75 feet from the normal high water of the Cousins River or related salt marshes and wetlands.

No vehicles or equipment shall be parked or stored within 75 feet of the normal high water line of the Cousins River except as necessary for water dependent uses.

Map 9 Lot 16 shall provide a buffer with adjacent residential properties as defined below and delineated on a plan entitled “Even Keel Buffer sketch” dated 2.18.08 and attached hereto as Exhibit A. This buffer may be modified by mutual agreement of the abutting properties.

- Buffer 1- A minimum 10 foot wide buffer measured from the shared property line between Map 9 Lot 16 and Map 9 Lot 11 or from the interior edge of all parts of any existing right-of-way that are located in whole or in part within 10 ft of the above-referenced shared property line. The 10 ft wide buffer shall consist of dense natural plantings to provide visual screening to abutting residentially used lots and is subject to the maintenance rights and responsibilities of the Shoreland Overlay District provisions of Chapter 701 of the Yarmouth Town Code.

- Buffer 2- A 25-ft ‘no-cut”, naturally existing strip running along the shared property line between Map 9 Lot 16 and Map 9 Lot 11A. Other than for the purpose of maintaining the currently cleared portion of the existing right-of-way there shall be no cutting or removal of vegetation within Buffer 2.

Special Performance Standards for Map 9 Lot 16:

Any commercial use expansion, development or redevelopment at Map 9 Lot 16 that is subject to review by the Yarmouth Planning Board under Chapter 702 of the Yarmouth Town Code (Site Plan Review Ordinance) shall be required to include the following minimum improvements in addition to the standards of review and approval generally applicable in the WOC III District and Chapter 702, all to be interpreted and applied by the Yarmouth Planning Board pursuant to Chapter 702.

- Proper sewer disposal with septic service or connection to the town sewer system.
- Potable water supply with on site well or connection to the public water system.
- Fire protection with on-site storage and dry hydrant or connection to the public water system with adequate fire provisions; or sprinkler installations of all structures greater than 12000 square feet.
- Road access and maintenance plan as may be satisfactory to Fire Chief
- Removal of old boats, materials, supplies, and trash from buffering and screening areas.
- Waste management plan for all refuse, discarded materials, and trash including required screening of any dumpster or staging areas.
- To the extent that any of the subject lots are used for commercial marine trades or working waterfront, the "Best Management Practices Manual for Maine's Boatyards and Marinas" (December 2005 or most current edition) published by the Maine Department of Environmental Protection shall be a guidance document for the applicant and Yarmouth Planning Board for any permitting conditions and compliance requirements including but not limited to yard run-off collection and a pollution prevention/ spill response plan, including boat storage, wash down and bottom painting areas.
- Notwithstanding the general performance standards for WOC III, the following special standards shall apply to Map 9 Lot 16:
    - Building height greater than 35 feet but not more that 42 feet may be approved by the Planning Board upon finding that reasonable consideration has been given to design and position the structure to minimize adverse visual impact or obstruction to abutting properties.
    - No vehicles or equipment shall be parked or stored within 25 feet of the normal high water line of the Cousins River except as necessary for water dependant uses.
    - Non-vegetated surfaces shall cover no more than 70% of the lot, excluding land below the normal high water line of the Cousins River or its tributaries.
    - Minimum shore frontage and minimum lot area standards shall not apply.

Except residential accommodations that are proximate to and functionally associated with permitted commercial marine trades activities, single family detached dwellings on Map 9 Lot 16 shall be not be permitted except upon review and approval of the Yarmouth Planning Board under the Special Exception criteria on a lot legally divided and conveyed from Map 9 Lot 16. This provision shall not apply in the event that the Map 9 Lot 16 shall be used for no purposes other than residential, conservation, and/or municipal uses.

<u>Additional Special Performance Standards for Map 35 Lot 9</u>

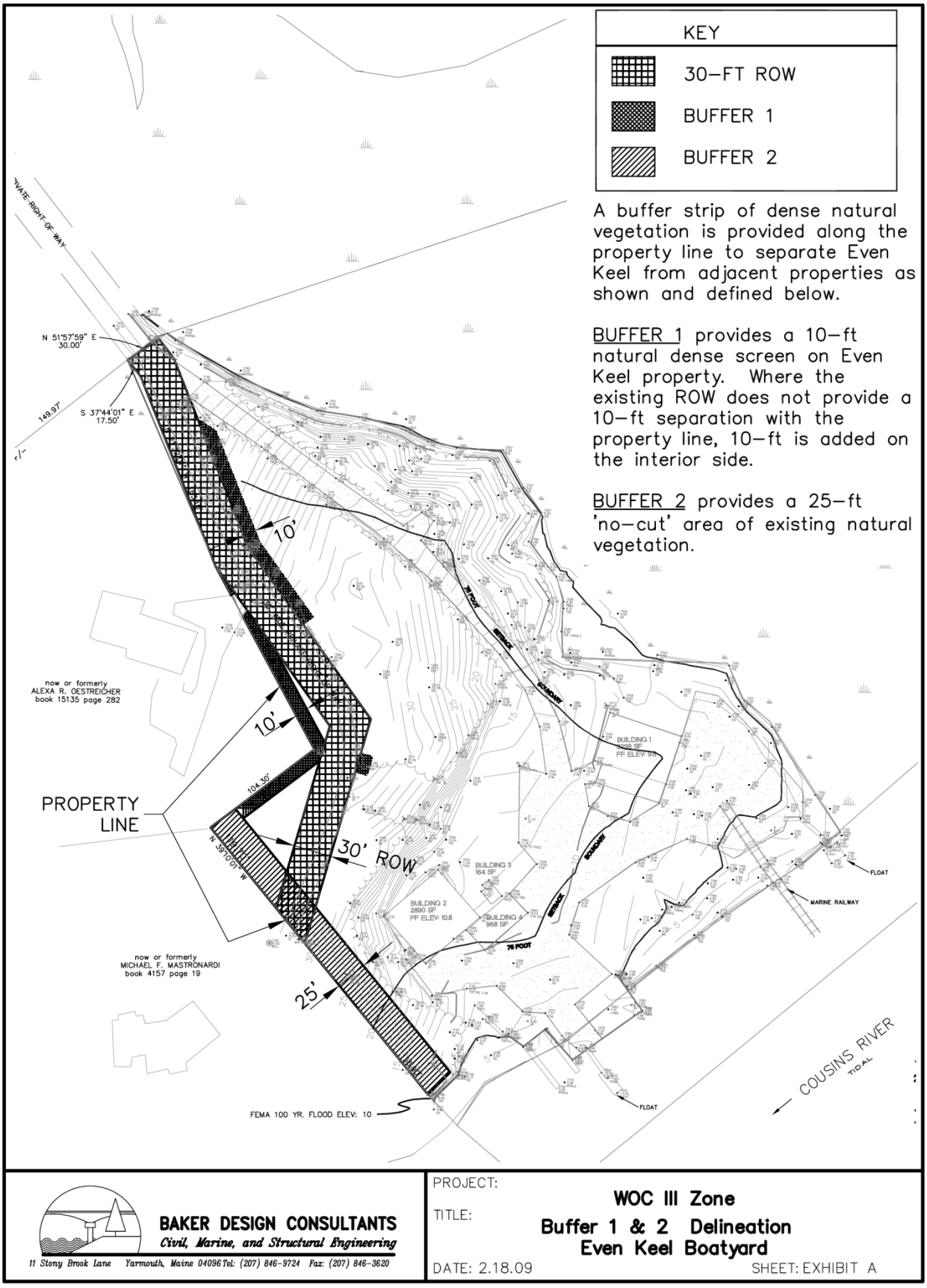
- Except as provided below, there shall be no cutting, clearing, or development in any area beyond an established and approved "building window" as depicted in Exhibit B attached hereto and made a part of this Conditional Zoning Declaration. Said "building window" and exhibit meaning to establish an area set of setback for buildings and clearing of 100 feet horizontal distance from the normal high water line of the Cousins River and tributaries.
- Clearing of trees and opening of a tree canopy shall be limited to that area shown on Exhibit B as the proposed "building window". Prior to occupancy of any new construction, the limits of the "building window" shall be permanently marked or

monumented. The Town of Yarmouth, through its Code Enforcement Officer, shall be authorized to make periodic announced inspections of the lot to determine that the limits and restrictions both within and outside of the "building window" are honored. All such inspections shall require a minimum of seven (7) days advance notice in writing.

- In order to protect against erosion and run-off of pesticides, herbicides, fertilizers and other chemicals, the application and use of such materials shall be limited to only areas within the building window and shall follow the most current edition of the Maine DEP Best Management Practices Manual for Erosion and Sediment Control.
- No cutting, clearing or removal of trees and vegetation shall be allowed outside the "building window" area except for the provision of trails and boardwalks or to allow for solar access for alternative energy purposes as may be approved by the Yarmouth Planning Board, and for removal of dangerous trees. Such cutting, clearing or removal of trees and vegetation shall also conform to the requirements of Article IV.R.8.k of this Ordinance. Provided, however, that this shall not preclude the control of noxious and invasive vegetation by cutting or removal by mechanical or chemical means with the approval of the Yarmouth Planning Board and consistent with all applicable laws and ordinances. Nothing herein shall preclude the construction or maintenance of trails, boardwalks, or other means of pedestrian, hunter and other low impact access to the shores and waters along the Cousins River nor the landing and temporary storage of canoes, kayaks, or other small watercraft powered by engines of 3 horse power, or less, during the boating season. Nor shall this prevent or restrict the granting of public access and or conservation easements on or over any portion of the lot.
- Notwithstanding the above restriction limiting new construction use or occupancy only to those areas within the identified "building window", nothing herein shall preclude the maintenance or use of the existing Even Keel and Heron Point Roads, including the construction, repair, or improvement of utility services, nor the creation of not more than two access driveways to service and provide reasonable access to any approved development on Map 35 Lot 9. Provided however, any construction or improvements to the roadways or drive(s) outside the "building window" shall be subject to review and approval by the Yarmouth Planning Board and shall be considered and approved, denied, or approved with conditions under standards and authorities equal to those applicable to the standards of review for roads and driveways located in the Resource Protection District pursuant to the Yarmouth Zoning Ordinance.

4. FUTURE EXERCISE OF LEGISLATIVE ACTION

Nothing in these Declarations shall be construed so as to preclude the future exercise of the Town of Yarmouth's legislative authority relative to the zoning of the subject premises. In the event that the zoning of the "Lots" or any portion thereof, is changed by the Town Council, all legally existing structures and uses shall be allowed to continue as a nonconformity or nonconforming use, whichever the case may be, in accordance with the provisions of the Zoning Ordinances that may be in effect at the time of said zone change.



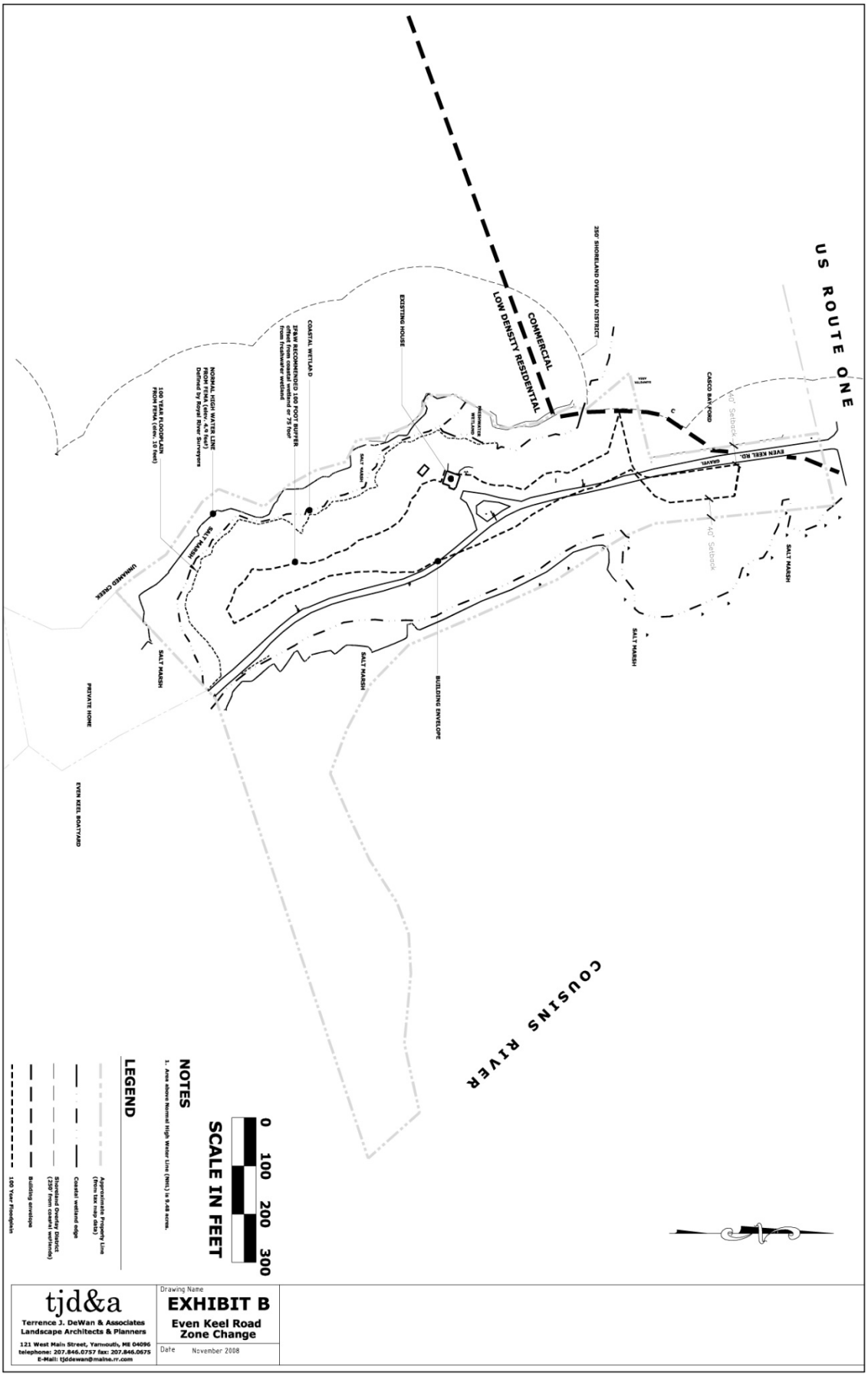
BAKER DESIGN CONSULTANTS
Civil, Marine, and Structural Engineering
11 Stony Brook Lane Yarmouth, Maine 04096 Tel: (207) 846-9724 Fax: (207) 846-3620

PROJECT: **WOC III Zone**

TITLE: **Buffer 1 & 2 Delineation**
Even Keel Boatyard

DATE: 2.18.09

SHEET: EXHIBIT A


US ROUTE ONE
COMMERCIAL
LOW DENSITY RESIDENTIAL
250' SHORELAND OVERLAY DISTRICT
EXISTING HOUSE
COASTAL WETLAND
NORMAL HIGH WATER LINE FROM FEMA (elev: 4.9 feet) Flatted by Royal River Surveyors
100 YEAR FLOODPLAIN FROM FEMA (elev: 10 feet)
SALT MARSH
UNNAMED CREEK
PRIVATE HOME
EVEN KEEL BOATYARD
CASCO BAY FORD
EVEN KEEL RD.
40' Setback
BUILDING ENVELOPE
COUSINS RIVER
LEGEND
Approximate Property Line (From tax map data)
Coastal wetland edge
Shoreland Overlay District (250' from coastal wetlands)
Building envelope
100 Year Floodplain
NOTES
1. Area above Normal High Water Line (NHL) is 0.48 acres.
SCALE IN FEET
0 100 200 300
tjd&a
Terrence J. DeWan & Associates
Landscape Architects & Planners
121 West Main Street, Yarmouth, ME 04096
telephone: 207.846.0757 fax: 207.846.0675
E-Mail: tjddewan@maine.rr.com
Drawing Name
EXHIBIT B
Even Keel Road
Zone Change
Date November 2008