

Draft Ordinance Amendments
For Consideration
at the
November 2009 General Referendum

Date of Draft Document:	August 4, 2009
Posted for a Public Hearing:	Board of Selectmen August 24, 2009 7:00 PM York Public Library

Article	Ordinance	Subject
1.	Zoning	Conversion of Buildings to Affordable Apartments
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4.	Zoning	Affordability Requirements for Elderly Housing
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Article: 1

Conversion of Buildings to Affordable Apartments

Ballot Language: The following language would appear on the ballot:

Article 1

The Town hereby ordains amendments to the **Zoning Ordinance** to allow existing buildings to be converted into affordable apartments, specifically amending: Article 2, Definitions; Article 7, Special Provisions, and Article 15, Parking.

Statement of Fact

The purpose of this amendment is to provide an incentive to convert existing principal buildings into affordable year-round rental apartments. Half of the apartment units created must be affordable, and the remaining market-rate units are allowed to help subsidize the affordable units. Conversions range from 2 to 4 units per building depending on availability of public water and sewer, but conversions are permitted Town-wide. Not more than 6 affordable apartments and 6 market-rate apartments can be created per year. Any property owner can create and manage affordable apartments. When it moves in, the household must qualify as being low income, and these occupants may remain only as long as they continue to meet the eligibility requirements. This amendment is consistent with Comprehensive Plan policy #4.2.12, which calls for 10% of all new housing to be affordable. It is also consistent with proposed amendments to the Comprehensive Plan which would establish a policy to encourage affordable rental units. Further, it is consistent with state mandates to address affordable housing. It is anticipated this amendment will not have an impact on administrative costs to the Town, but could result in undefined long-term costs associated with residential growth.

Amendment: Amend Article Two, Definitions, to insert new definitions, as follows:

Affordable Apartment: *A dwelling unit of affordable housing, rented for year-round occupancy by a household with low income.*

Associated Market-Rate Apartment: *a housing unit which is not restricted in terms of the income of its inhabitants or the maximum rent which can be charged, and which is created when a building is converted to one or more Affordable Apartments.*

Low Income: Household income which is not more than 80% of the median family income for the York-Kittery-South Berwick HUD Metropolitan Finance Area. This area includes the towns of York, Kittery, Eliot, South Berwick and Berwick. Income shall include household financial assets converted to income equivalents, using the federal model, which determines eligibility for affordable housing.

Insert a new section into Article 7, Special Provisions, to permit the conversion of buildings into affordable apartments, as follows:

7.13 Conversion of Buildings to Affordable Apartments

- A. Purpose.** *These standards are enacted to help the Town to comply with statutory requirements to encourage the creation of new affordable housing units, but in a manner consistent with public sentiment expressed in the affordable housing surveys. Units are for rent only, and changes are limited in scale to prevent excessive neighborhood impacts.*
- B. Eligible Buildings.** *Any principal building which exists as of January 1, 2009, may be converted into affordable apartments.*
- C. Percent of Units to be Affordable.** *When a building is converted, a minimum of 50% of the resulting residential units shall be affordable apartments.*
- D. Maximum Units Per Building.** *For creation of new affordable apartment units, an eligible building may be converted in accordance with the following:*
 - 1. into not more than two affordable apartments and two associated market-rate apartment units if served by year-round public water and public sewer; or*
 - 2. into not more than one affordable apartment and one associated market-rate apartment unit in other situations.*

Where the units are not serviced by public sewer, density shall not exceed the standards of the State Minimum Lot Size Law (Title 12 MRSA §4807 et seq.), and the septic system must be approved for the number of units and bedrooms.

- E. Conflicting Dimensional Standards.** *Where the dimensional provisions of this section (§7.13) are less restrictive than the dimensional provisions of Article 5, these provisions shall prevail as follows:*

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1. *Lot Coverage.* The maximum lot coverage limits of §5.2 may be exceeded to the extent necessary to provide the minimum number of required parking spaces as specified in §15.1.1.8. The standards of §5.2 shall not be exceeded for other purposes, such as building expansion.
2. *Density.* The density provisions of this section specifically supersede the requirements of Article 5 for all base zoning districts, but do not supersede density limits in any applicable overlay districts, except as follows: in the Shoreland Overlay District, an existing building which is served by public water and public sewer and which will not be expanded during the conversion shall not be subject to the density standards of §8.1.4.A.
3. *Floor Area.* Each affordable apartment unit shall have no less than 500 square feet and no more than 1,500 square feet of living space, regardless of any conflicting standards of §5.3.

F. Maximum Number of Units Per Year. Not more than 6 affordable apartment units shall be created per calendar year.

G. Governance. The following shall apply.

1. Income Limit. Only a household which qualifies as low income, as defined in Article Two, shall be permitted to occupy an affordable apartment unit. In the event household income increases above this threshold during the term of a lease, the tenant shall not be required to vacate the unit until the end of the term of the lease, at which point they shall vacate the unit to make it available for a qualifying household.
2. Rent Limit. At the time of initiating or renewing a lease for a tenant, the maximum rent for an affordable apartment unit shall not exceed the standard for affordable housing, as defined in Article Two, for the tenant.
3. Landlord. Any property owner shall be eligible to own and manage affordable apartments.
4. Qualification of Income and Maximum Rent. Prior to entering into a new lease or renewing a lease of an affordable apartment, the landlord shall obtain from York Housing a written statement which verifies the household qualifies as low income, and which specifies a maximum rent the tenant can be charged to keep the housing affordable in accordance

with this Ordinance. The landlord shall not lease to any household without this statement, and shall not charge a rent which exceeds the stated limit for this household. York Housing may charge an administrative fee to cover the cost of providing this service.

5. *Condominium Conversion Prohibited. On a property with affordable apartments, all residential units shall be owned by a single party, and condominium ownership shall be prohibited.*
6. *Duration of Lease. The lease for an affordable apartment unit shall be for one year.*
7. *Right to Review Compliance. The Code Enforcement Officer shall expressly have the right to periodically review compliance with these governance provisions with the property owner and York Housing, and shall annually report to the Town Manager about the number of affordable apartments and any compliance issues.*

H. ***Permit Authority.** Authority to review and decide on an application for conversion to affordable apartments shall rest with the Code Enforcement Officer, except the Planning Board shall have such authority if the number of units being created constitutes a subdivision.*

I. ***Abandonment of Use.** In the future, if the affordable apartment use is abandoned and the building is converted to other residential use, the new number of residential units shall comply with all Ordinance requirements in effect at that time, and any additional lot coverage gained per §7.13.E.1 shall be restored to previous surface.*

Insert a new section into Zoning §15.1.1, Amount of Parking, as follows:

- 15.1.1.8. *For affordable apartments created pursuant to §7.13, only one parking space per affordable apartment unit shall be required. Where this standard is less restrictive than other parking standards, it shall prevail as provided by §21.2.*

Article: 2

Allow Apartments Over Businesses

Ballot Language: The following language would appear on the ballot:

Article 2

The Town hereby ordains amendments to the **Zoning Ordinance** to remove lot size-based density limits for apartments over businesses in York Village and in 2 of the Route One zoning districts, specifically amending: Article 5, Dimensional Regulations.

Statement of Fact

The purpose of this amendment is to provide an opportunity to create apartment housing above businesses in York Village and along portions of the Route One corridor by altering the density standards in the Route One-2 and Route One-3 zones and a portion of the GEN-3 zone. This amendment will make it more feasible to create mixed-use development with apartments above businesses, and will provide an incentive for multi-story development as an alternative to one-story, single-use commercial buildings. The primary density control for apartments in these areas will be lot coverage limits. This amendment is generally consistent with state mandates and Comprehensive Plan goals to address affordable housing. With respect to the Route One-2 zone, the policy is expressly consistent with Comprehensive Plan Policy #4.2.6. It is anticipated this amendment will not have an impact on administrative costs to the Town, but could result in undefined long-term costs associated with residential growth.

Amendment: Insert a new section into Article 5, section 5.4 Density, to alter the density standard for apartments over businesses in a portion of the GEN-3 Zone and in the Route One-2 and Route One-3 zones, as follows:

5.4.12 York Village Apartments

In the GEN-3 Zone easterly of Long Sands Road (on the north side of York Street) and easterly of Lindsay Road (on the south side of York Street), the number of dwelling units permitted above a commercial or office use shall not be limited by lot size or the density limits specified in §5.4.1.

5.4.13 Apartments Above Businesses in the Route One-2 Zone

In the Route One-2 Zone, for a property served by year-round public water and public sewer, the number of one- and two-bedroom dwelling units permitted above a commercial use or office use shall not be limited by lot size or the density limits specified in §5.4.7. The living area associated with all such units, except for areas used for vertical circulation (stairwells, elevators, etc.), shall be located on the second floor or higher.

5.4.14 Apartments Above Businesses in the Route One-3 Zone

In the Route One-3 Zone, for a property served by year-round public water and public sewer, the number of dwelling units permitted above a commercial or office use shall not be limited by lot size or the density limits specified in §5.4.7. The living area associated with all such units, except for areas used for vertical circulation (stairwells, elevators, etc.), shall be located on the second floor or higher.

Article: 3

Amendments to the Workforce Affordable Housing Provisions

Ballot Language: The following language would appear on the ballot:

Article 3

The Town hereby ordains amendments to the **Zoning Ordinance** to amend the use, dimensional and design standards of the Workforce Affordable Housing provisions, specifically amending: Article 10-F, Workforce Affordable Housing Overlay District.

Statement of Fact

The purpose of this amendment is to improve the controls imposed on Workforce Affordable Housing to achieve better project design and to reduce the potential for adverse impacts to the surrounding neighborhood. To allow for better design, projects with 10 or more units are permitted to add limited, compatible non-residential uses, and may be required to have a more walkable design focused on pedestrians rather than cars. For new construction, architectural design standards are strengthened. Finally, maximum lot coverage standards are changed to a more appropriate standard for new construction. This amendment is generally consistent with Comprehensive Plan as currently written. It is also consistent with proposed amendments to the Comprehensive Plan which specifically recommends improvements to these standards. Further, it remains consistent with state mandates to address the affordable housing. This amendment is not expected to have a fiscal impact on Town Administration.

Amendment: Amend Section 10-F.2, Land Uses, to permit a mix of uses in larger projects by inserting a new provision, as follows:

10-F.2.4 Supplemental Uses. *For each 10 units of newly constructed Workforce Affordable Housing in a single project, a portion of the project may be developed for one or more uses which supplement the project. Only supplemental uses which the Planning Board finds will complement the livability of the project for its residents without unduly impacting the surrounding neighborhood shall be allowed. Such use may include, but is not limited to a place of worship, community center, neighborhood convenience store, and coffee shop, provided the use is permitted in the base zoning district*

in which it is located. The maximum floor area shall be limited to 200 square feet per unit of Workforce Affordable Housing.

Amend the maximum lot coverage requirements for newly constructed projects by amending this standard in **§10-F.3.1**, as follows:

Maximum coverage (percent): *50%, or that specified in the underlying base zoning district, whichever is less restrictive*
~~25% for owner-occupied homes or as specified in the underlying zone, whichever is less restrictive.~~

Amend the standards for architectural appearance for newly constructed buildings by amending §10-F.4.2, as follows:

10-F.4.2 Architectural Appearance

For all ~~All~~ new construction of Workforce Affordable Housing, the applicant shall demonstrate compliance with the following standards, and the permit-issuing authority shall not unreasonably withhold its approval based on these issues: ~~shall have pitched roofs, which may include a gable roof, hip roof, mansard roof, or gambrel roof. If a gable roof or hip roof is used, the roof pitch shall be at least four feet in twelve feet. All new construction shall use exterior materials compatible with other structures in the surrounding area.~~

- A. Buildings Which Will Front on an Existing Street.** *For all newly constructed buildings which will front on an existing street adjacent to the property, the following standards shall apply:*
- 1. Rhythm of Building Spacing. The pattern of building fascades and adjacent open spaces between buildings shall be compatible with those other structures which are visually related.*
 - 2. Relationship of Materials, Textures and Colors. The materials, textures and colors of the building's exterior shall be compatible with those other structures which are visually related.*
 - 3. Roof Shape. The proposed roof shape shall be compatible with the roof shapes of those other structures which are visually related.*

4. *Size and Massing of Buildings.* The size of the proposed building, and its massing in relationship to adjacent open spaces, shall be compatible with these patterns of those other structures which are visually related.

As it pertains to §10-F.4.2.A, structures considered to be visually related to the newly proposed units shall be separately determined for each new building, and shall include only those principal structures visible in winter (minimum foliage) from a point directly in front of the center of the proposed new building at the road centerline and at a height of 5' above the road surface.

B. For All Other Buildings. For all other newly constructed buildings within the project, the following standards shall apply:

1. *Relationship of Materials, Textures and Colors.* The materials, textures and colors of each building's exterior shall be compatible with the majority of structures located within 250' of the perimeter of the property being developed, and internally with each other.
2. *Roof Shape.* The proposed roof shape shall be compatible with the roof shapes of the majority of structures located within 250' of the perimeter of the property being developed, and internally with each other.
3. *Size and Mass of Buildings.* For any newly proposed building within 100' of the perimeter property boundary, the size of the proposed building, and its mass in relationship to adjacent open spaces, shall be compatible with these patterns found among existing buildings within 250' of the proposed building.

Insert a new design standard for newly constructed units in §10-F.4, Performance Standards, as follows:

10-F.4.6 Village Green Design. For a new application for 10 or more units of single-family detached and/or duplex units, but not counting multi-family units, of Workforce Affordable Housing, a village green design shall be the preferred option. The village green design shall be required for these units, provided the Planning Board determines such design is feasible given the configuration of the property. The Board may also permit conventional patterns of housing along existing street frontage. A village green design means each of the units shall front on a central, shared common space. Each building shall face this common space, shall have pedestrian access through this space, and shall have shared rights to use this space. The central, shared common space shall be comprised of at least 10% of the required land area

for the units, and shall be designated for active use of the residents. It may include a central lawn or green, garden plots, walkways, a playground, and other such active uses. It shall not be used for parking, roads, or driveways, but may have septic leach beds located underneath provided the septic design and proposed use above are compatible with each other. Vehicular access shall be via one or more shared driveways located to the back side of the homes. If one or more garages will be incorporated into the principal structure, the garage doors shall face away from the central, shared common space, and the design of the garage doors shall be such that the architectural treatment makes the doors aesthetically compatible with the building designs.

Article: 4

Affordability Requirements for the York Village Affordable Elderly Housing Overlay District

Ballot Language: The following language would appear on the ballot:

Article 4

The Town hereby ordains amendments to the **Zoning Ordinance** to insert an affordability requirement into the York Village Affordable Elderly Housing Overlay District, specifically amending: Article 10-C, York Village Affordable Elderly Housing Overlay District.

Statement of Fact

The purpose of this amendment is to insert a requirement that occupants in affordable elderly housing units are of low or moderate income and the rents are affordable to them. These requirements were inadvertently left out of these standards when originally adopted in May 2003. It is important to add the standards because significantly higher density is allowed, and the intent was to provide an incentive for affordable housing. The proposed standard is consistent with the housing already developed by York Housing within this District, so no conflict is created. This amendment is consistent with Comprehensive Plan policy #4.2.1, which calls for zoning provisions to accommodate elderly housing. It is anticipated this amendment will have no fiscal impact to the Town.

Amendment: Amend §10-C.2, Standards relating to the York Village Affordable Elderly Housing Overlay District, by inserting a new section, as follows:

- D. Eligibility for occupancy of units shall be based on income. Only households which meet the criteria of low or moderate income are eligible for occupancy, and the rent charged shall be such that the unit constitutes affordable housing, as defined in Article Two, for the household.*

Amend Article Two, Definitions, to insert a new definition, as follows:

Low Income: Household income which is not more than 80% of the median family income for the York-Kittery-South Berwick HUD Metropolitan Finance Area. This area includes the towns of York, Kittery, Eliot, South Berwick and Berwick. Income shall include household financial assets converted to income equivalents, using the federal model, which determines eligibility for affordable housing.

Article: 5

Seasonal Units

Ballot Language: The following language would appear on the ballot:

Article 5

The Town hereby ordains amendments to the **Zoning Ordinance** to alter the manner in which seasonal dwellings are regulated, specifically amending: Article 2, Definitions; and Article 7, Special Provisions.

Statement of Fact

The purpose of this amendment is to improve the definition of seasonal dwellings, and to clarify the regulation of such units in order to provide clear guidance for disconnection of water service in seasonal units. A new standard is inserted into the Ordinance which requires the unit to be vacated for a minimum of 90 consecutive days annually. Over the years there evolved an informal administrative standard regarding disconnection of such homes from their water service, with water to be disconnected during the months of January, February and March. The new standard institutionalizes this concept, but provides greater flexibility to the property owner by allowing them to choose any 90-day period to vacate the unit. This amendment is generally consistent with Comprehensive Plan. It is anticipated this amendment will have no fiscal impact to the Town.

Amendment: Amend the definition of Seasonal Dwelling in Article 2, Definitions, as follows:

SEASONAL DWELLING: *A dwelling which cannot be occupied year-round because one or more factors relating the building or property preclude such occupancy, such as but not limited to a lack of heat, insulation, or water supply. ~~Any structure including, but not limited to, private cottages and guest or tourist cottages or any portion thereof which is capable of being used as a residence for one or more persons but which, because of a lack of heating, water supply, sewage treatment, electricity, cooking facilities, or any other factor relating to the structure or to the land on which it is situated, cannot be continuously used as a residence on every day of the calendar year.~~*

Amend Article 7, Special Provisions, by inserting a new section as follows:

7.13 Occupancy of Seasonal Dwellings

A seasonal dwelling shall be vacated for a minimum of 90 consecutive days annually. Because the 90-day period will often occur during the winter, “annually” does not need to correspond to a calendar year.

Article: 6

Application Procedures Amendment

Ballot Language: The following language would appear on the ballot:

Article 6

The Town hereby ordains amendments to the **Zoning Ordinance** to improve and standardize the application review procedures, specifically amending: Article 1, General Provisions; Article 2, Definitions; Article 5, Dimensional Regulations; Article 7, Special Provisions; Article 10, Watershed Protection Overlay District; Article 12, Historic and Archeological Resources; Article 14, Conversion of Seasonal Dwellings; Article 17, Non-Conforming Situations; and Article 18, Administration; and inserting a new Article 18-A, Application Review Procedures.

Statement of Fact

The purpose of this amendment is to improve and standardize the application review procedures of the Zoning Ordinance. As currently written, there are many different administrative provisions to be followed when applying for permits and approvals under this one Ordinance, causing the application process to be difficult for the public and for the staff and boards charged with administration. This proposal consolidates procedures, resulting in only 2 application review procedures: one application review procedure for all staff-issued permits, and a second application review procedure for all work of the Planning Board, Historic District Commission and Board of Design Review. Emphasis is placed on transparency of processes. This amendment is consistent with Comprehensive Plan policy #2.5.5, which calls for making the application processes, “as user friendly as possible for the public.” It is anticipated this amendment will simplify administration of the Zoning Ordinance, thus saving money and improving administrative efficiency and accuracy.

Amendment: Amend definitions in Article 2, Definitions, as follows:

ABUTTER: *For purposes of notification, an abutter is the owner of any property, excluding street rights-of-way, within 200 feet of the applicant’s property. Determination of the names and addresses shall be based on the Town’s property tax records as available to the public not more than 7 days prior to the mailing. For purposes of testimony, an abutter shall also include*

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any person or entity able to show they might possibly be affected by an application. (NOTE: a water district may be considered an abutter for certain types of applications – see §10.5.1.)

BOARD: A general term used to reference any board, commission or committee which has administrative responsibilities pursuant to this Ordinance.

CODE ENFORCEMENT OFFICER: Any of the individuals appointed by the Board of Selectmen to fulfill duties of code enforcement within the Town. The Code Enforcement Officer is the only decision-making authority with respect to this Ordinance other than a board. The person or people in this position shall possess certification by the State as a CEO/Shoreland Zoning Officer and/or CEO/Land Use Officer, as applicable to the issue at hand, within one year of appointment. ~~Any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.~~

CONDITION PRECEDENT: A condition imposed on a conditional approval that must be satisfied by the applicant prior to receipt of final approval. See also: “Condition Subsequent.”

CONDITION SUBSEQUENT: A condition imposed at the time of issuance of an approval or permit, with which the applicant shall comply after the approval is granted. See also: “Condition Precedent.”

FINDINGS OF FACT: A written description of a decision, including any conditions, and including the basis for that decision. Findings of fact include information about the circumstances pertaining to the application (such as owner, address, map/lot, zone, etc.), the jurisdiction under which the application review is conducted and permit or approval is decided, intermediate decisions made during the review process (such as votes to accept an application or grant waivers), and the compliance (or lack thereof) of the application with respect to all relevant standards.

PUBLIC HEARING: A designated portion of a public meeting at which the conducting board receives input from the public. See also: “Public Meeting.”

PUBLIC MEETING: Any meeting of a board. See also: “Public Hearing.”

Insert a new Article 18-A, Application Review Procedures, as follows:

ARTICLE 18-A

APPLICATION REVIEW PROCEDURES

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18-A.1 Definitions

As used in this Article, the following definitions shall apply:

APPROVAL: *A decision by a board that authorizes an applicant to undertake specified activities. See also: “Conditional Approval,” “Permit” and “Denial.”*

CONDITIONAL APPROVAL: *A decision by a board that becomes an approval when the board determines the applicant has satisfied all conditions precedent.*

DENIAL: *A decision by a Code Enforcement Officer or board which rejects issuance of an approval or permit.*

DENIAL WITHOUT PREJUDICE: *A denial which results solely from procedural defects by the applicant, such as but not limited to failure to meet deadlines or provide needed information. (Also includes, “denied without prejudice,” “deny without prejudice,” and so forth.)*

PERMIT: *An administrative decision by a Code Enforcement Officer that authorizes an applicant to undertake specified activities. See also: “Approval” and “Denial.”*

18-A.2 General Provisions

For permits and approvals issued pursuant to this Ordinance, the following provisions shall apply.

A. Goal of Transparency

It shall be the goal of this Ordinance that the process of deciding on an application shall be fully transparent to all parties, and that the public record shall be complete in order to demonstrate and document the understanding of circumstances and reasons for actions. In interpreting and applying this section, err to the side of greater transparency. (NOTE: Compliance with the State’s Public Right to Know Law is required. See Title 1 MRSA §401 et seq.)

B. Permits and Approvals Run with the Land

Permits and approvals run with the land, regardless of changes in ownership, unless otherwise specified.

C. Owner Authorization Required

No application shall be considered by the Code Enforcement Officer or a board unless the application is authorized in writing by the property owner.

D. *Technical Assistance*

The board and code enforcement officer shall be authorized to secure independent professional assistance to ensure proper and thorough review of applications and construction inspection of approved projects. The applicant shall pay the full cost of this professional service. Such costs shall be in addition to the application fee (see §1.5). All money received shall be deposited in a Town account. Any funds not spent on such services shall be returned to the applicant. Failure to reimburse the Town for the full cost of such assistance shall constitute a violation of this Ordinance shall be grounds for suspending application review, issuance of a Stop Work Order, or other necessary action as provided for in this Ordinance.

E. *Expiration of Permits and Approvals*

Except as provided elsewhere in this Ordinance, a permit or approval 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 issuance of the permit or approval, the application shall be valid for one additional year, at which time it shall expire if all work or change of use is not complete. The following shall also apply:

- 1. Date of Issuance is defined as follows:*
 - a. With respect to a permit, the date of issuance shall be the date upon which the Code Enforcement Officer issues the written permit to the applicant.*
 - b. With respect to an approval, the date of issuance shall be the date upon which the board approves the findings of fact associated with the approval.*
 - c. With respect to a conditional approval, the date of issuance shall be the date upon which the board votes to find the conditions precedent have been satisfied by the applicant (see §18-A.5.E.4.b.3).*
- 2. When a zoning approval is issued in conjunction with another permit, such as a subdivision approval, the expiration deadline shall be the least restrictive of the applicable codes.*

3. *A substantial start in construction shall mean that a minimum of 25% by value of the proposed improvements (site amenities, buildings, etc.) have been completed.*

F. Professional Certification of Plans

Every drawing plan, specification, and report prepared by a Maine-licensed professional which is submitted to a code enforcement officer or a board with respect to an application shall be certified as indicated by the professional's stamp and signature. In this context, Maine-licensed professionals shall include professional land surveyors, professional engineers, architects, and landscape architects.

G. Burden of Proof

With respect to application review processes, it is the applicant's burden to demonstrate compliance with requirements.

18-A.3 Application Fees

See §1.5.

18-A.4 Application Process for a Permit Issued by the Code Enforcement Officer

The Code Enforcement Officer shall decide on all permit applications using the following process.

A. Submittal of Application

The applicant for a permit shall complete a Town permit application form, shall include all necessary supplemental materials and information required to demonstrate compliance with the Ordinance, and shall deliver the application package to the Code Enforcement Officer at times specified by the Town. Unless otherwise requested by the Code Enforcement Officer for good reason, one copy of the application package shall be provided by the applicant. The application fee shall be paid at the time of application, and is non-refundable.

B. Advanced Abutter Notification

For building construction less than 125' from the normal high water mark or upland edge of a Shoreland resource, the Code Enforcement Officer shall send notice by first class mail to abutters at least 7 days prior to issuing a Shoreland Permit. The purpose of

this action is to put abutters on notice of a pending action, and to allow abutters to comment on or provide relevant information about the application prior to a decision being made.

C. Decision

The Code Enforcement Officer shall make a decision, without undue delay, as follows:

1. *Permit. The Code Enforcement Officer shall issue a permit when the decision is within her/his jurisdiction and the applicant demonstrates full compliance with all applicable requirements of this Ordinance and all other applicable Town codes. Conditions subsequent may be imposed on the permit to ensure compliance with this Ordinance or to ensure commitments made by the applicant during the review process are honored.*
2. *Denial. The Code Enforcement Officer shall deny an application that has not demonstrated full compliance with the substantive requirements of this Ordinance and all other applicable Town codes. An application that has been denied shall not be resubmitted unless the defects have been corrected or the prohibiting language has been changed.*

D. Findings of Fact

The Code Enforcement Officer shall make findings of fact regarding the permit or denial at the time the decision is made. To the extent all relevant information is documented on the application form, stand-alone findings of fact may not be necessary.

E. Voluntary Notification of Abutters

Abutters could potentially appeal the issuance of a permit, so it is in the applicant's interest to mail notification to abutters when a permit has been issued. There are cases in Maine where abutters have successfully appealed long after the 30 day appeal deadline specified in the code has expired simply because an abutter had no way of knowing a permit had been issued. To minimize the risk of such late appeals, applicants are encouraged to formally notify abutters soon after obtaining a permit, and to keep a record of such action.

F. Posting Permit at the Property

Within 7 days of obtaining a permit, and before starting any work, a copy of the permit shall be posted in a location on the property which is most visible to the public and neighbors. If the permit is a Building Permit, the Building Code requires this to remain

posted until the final inspection and sign-off by the Code Enforcement Officer. For all other types of permits, the copy shall remain posted until the appeal period has expired.

G. Appeal

See §18.8.3.

18-A.5 Application Process for Board Approval

The provisions of this section (§18-A.5) shall apply to each board in its administration of its responsibilities under this Ordinance, except for: the Board of Appeals which follows the provisions of §18.8; the Board of Selectmen; and the Legislative Body of the Town.

A. Conceptual Discussion

Before a complete application is submitted, an applicant may choose to request a conceptual discussion with the board having jurisdiction. The applicant shall be required to complete an application form, and shall identify specific questions or issues on which it seeks direction. The board shall conduct a public hearing, with required public notice, as a part of this meeting. The conceptual discussion shall be non-binding on all parties, and shall not be considered a part of the substantive review of an application. If an application fee is required for a conceptual meeting, it shall be paid at the time of the request, and is non-refundable.

B. Submittal of Application

The applicant shall complete an application form provided by the board, and shall submit to the board all information necessary for the board to make an informed decision. Application submittals shall be delivered to Town Hall during normal business hours. Each board shall adopt a policy which specifies the number of copies of application materials required. The application fee shall be paid at the time of application, and is non-refundable.

C. Scheduling

The application shall be placed on the next regular meeting agenda on which time is available for the application review. All applications shall be scheduled on a first-come, first-served basis.

D. Public Notice

It shall be the responsibility of the board to provide public notice in accordance with the following requirements:

1. *Public Meeting for Application Review.* *Prior to discussion of an application at any public meeting, the following public notice shall be required:*
 - a. *Agenda.* *The board shall make a written agenda available to the public at least 7 days in advance of the meeting. This agenda shall indicate the date, time and place at which the meeting will occur. It shall also identify the name of the applicant, the name of the property owner (if different than the applicant), the street address and the tax map/lot number of the property, along with a brief statement about the nature of the business to be conducted.*
 - b. *Agenda Posted in Town Hall.* *The agenda for the meeting shall be posted in Town Hall a minimum of 7 days in advance of the meeting.*
 - c. *Agenda Published in Newspaper.* *The agenda for the meeting shall be published in a newspaper with general circulation in the Town. The date of publication shall be a minimum of 7 days in advance of the meeting.*
 - d. *Supplemental Postings.* *In the name of transparency and full disclosure, it is recommended, though not required, that the agenda be posted at other locations such as post offices, on the Town's web page, and on the Town's public access cable television station. Failure to post in such ways shall not invalidate any action of the board.*
2. *Public Hearing for Application Review, or Site Visit.* *Prior to opening a public hearing or conducting a site visit, the following public notice shall be required:*
 - a. *Agenda Requirements.* *All requirements for the agenda, its posting and publication as specified for a public meeting (see §18-A.5.D.1) shall also be required for a public hearing or site visit, except that the agenda shall specifically indicate that a public hearing or site visit is to be conducted.*
 - b. *Notice Mailed to Abutters.* *Notice of the pending public hearing or site visit shall be mailed to the applicant, the applicant's representative, and abutters by first class mail at least 7 days in advance of the public hearing or site visit.*
 - c. *Continuation of a Public Hearing.* *During consideration of an application, a board may decide to extend its public hearing to a later meeting, or to reschedule a site visit. If the board specifies the date, time and place as part of a vote to continue the public hearing or reschedule the site visit, then additional notice mailed to abutters shall not be required. In all other*

circumstances, mailed notice to abutters shall be required per §18-A.5.D.2.b. Publication of the agenda in a newspaper shall be required only if the timeframe permits.

3. *Calculation of Deadlines.* *When calculating requirements for advanced notice, start with the date of the meeting and count the required number of days backwards. Example: with requirements for 7 day advance notice, a meeting on a Monday would require the agenda to be prepare, posted and published no later than the prior Monday, and any necessary mailed notices to be postmarked by the prior Monday as well.*
4. *Failure to Provide Complete or Accurate Public Notice.* *In the event that any of the above requirements regarding the agenda or mailed notices are not met for any reason, no discussion of the application shall occur at the meeting. (NOTE: this section shall not be interpreted to mandate the Supplemental Postings per §18-A.5.D.1.d, which are expressly optional.)*
5. *Conflicting Provisions*

In the event there is a conflicting requirement in state statute or another ordinance, the standard which imposes the higher standard for public notification shall apply.

E. *Decision-Making*

Upon receiving an application, the board shall follow this sequence in reaching a decision. Each board may develop its own procedures for processing applications, and this may include additional steps such as presentations by staff and applicants, and preliminary and final review phases, but in no case shall those procedures contradict these requirements. Any such procedures shall be made available to the public to ensure everyone knows the ground rules.

1. *Application Acceptance.* *A board has jurisdiction to consider an application only if it finds the application submittal to be complete and, by majority vote at a public meeting, accepts the application for review. Where this Ordinance provides a list of required submittal materials for an application, the board shall vote to accept an application as complete when it finds the application includes all specified materials. Where the Ordinance provides no such list, the board shall vote to accept the application as complete if it finds the information submitted is sufficient, in the opinion of the board, to render an informed decision about compliance of the application with the requirements of this Ordinance.*

- a. *Except at a scheduled conceptual discussion, no discussion of the merits of an application shall occur prior to application acceptance.*
 - b. *The public hearing shall not begin prior to application acceptance.*
 - c. *Upon acceptance of an application, the board may proceed with a public hearing at the same meeting, or may schedule the public hearing to occur within 30 days of its vote to accept.*
 - d. *If the board finds an application is not complete, it shall identify all required information which is missing and shall inform the applicant, in writing, of such deficiencies.*
 - e. *After the board votes to accept an application, additional information shall be requested only if the board later determines some key piece of information is not included in the application and is necessary to render an informed decision.*
 - f. *After the board votes to accept an application, it may decide to conduct a site visit. The site visit shall be considered a public meeting, and shall be subject to the public notice requirements of §18-A.5.D.2.*
 - g. *The vote to accept an application for review locks in the version of this Ordinance for the duration of the application review, unless the voters enact an amendment with a retroactive effective date.*
2. *Public Hearing. The board shall conduct a public hearing. The public hearing is the only time during the process where the public has a right to offer input during the application review process. The purpose of the public hearing is to ensure the public has the opportunity to be aware of, and comment on, all aspects of the application, and the board has the opportunity to hear all points of view before rendering a decision. The public hearing may occur during one or more meetings depending upon circumstances. The public hearing should be preceded by a description of the application, and should be re-opened when new material is submitted by the applicant so there is an opportunity to comment on the new material.*

The public has several means of participating in the public hearing. The most obvious means of participating is to attend the public hearing and speak when provided this opportunity. Please direct all comments and questions to the chair of the board. It is the responsibility of the chair to re-direct the question to the applicant, staff, or others when applicable. Someone wishing to provide input

regarding the application, but unwilling or unable to attend the public hearing in person, has the option of providing written testimony. A letter or e-mail, addressed to the chair of the board, may be submitted in advance of the public hearing. Any such correspondence received shall be read into the record at the meeting so that all parties are aware of it. If time permits, copies may be distributed to all board members and the applicant.

Because board members are prohibited from speaking individually with applicants or abutters regarding a specific application, it is important that communication outside the public hearing be in writing and submitted either through Town Hall (staff) or the chair.

3. Deliberation. The board shall not begin its deliberation on the merits of the application until the public hearing has been opened. In this way, the board is made aware of the range of issues before it begins its decision-making process. The board may temporarily suspend the public hearing to deliberate on certain aspects of the application, so it is not required that the public hearing be completed before deliberation begins and some initial decisions are made.
4. Decision. The board shall vote to grant approval, conditional approval or denial of the application within 60 days of voting to accept the application as complete, unless the applicant and board agree to extend this timeframe. The public hearing shall be closed before this decision is reached.
 - a. Approval. The board shall grant approval of an application when the applicant demonstrates full compliance with all applicable requirements of this Ordinance and all other applicable Town codes within the jurisdiction of the board. Conditions subsequent may be imposed on the approval to ensure compliance with this Ordinance or to ensure commitments made by the applicant during the review process are honored. If applicable, the board shall sign plans to indicate this approval after the chair signs the adopted findings of fact.
 - b. Conditional Approval. The board may grant conditional approval of an application when the applicant demonstrates the application will be in full compliance with all applicable requirements of this Ordinance and all other applicable Town codes within the jurisdiction of the board when certain conditions precedent are met. Findings of fact shall be required for a conditional approval.
 1. Each condition precedent shall be established by the board such that compliance can be determined without discretion – a yes/no decision.

For instance, an acceptable condition precedent would be a requirement for the applicant to obtain a state permit – it is either obtained or it isn't. An unacceptable condition precedent would be a vague requirement to revise the landscape plan to improve buffering for the neighbors – this could be done in a wide variety of ways, and it is not clear on its face what specifically is required of the applicant to satisfy the condition. Each condition precedent shall be listed in the findings of fact.

- 2. The conditional approval shall be valid for a period of 60 days from the date on which the vote was taken. If the applicant fails to satisfy all conditions precedent within this timeframe, the board may vote to deny without prejudice. Both of these standards shall be expressly stated in the findings of fact.*
 - 3. When an applicant satisfies the terms of a conditional approval, the board shall vote to either: sign the plans to indicate the full approval; or shall issue a written notice indicating its determination that all conditions precedent have been satisfied. The date of this action shall not extend the date on which an appeal may be filed pertaining to the original conditional approval, but an appeal may be filed on issues regarding the applicant's satisfaction of conditions precedent.*
- c. Denial. The board shall deny an application that has not demonstrated compliance with the requirements of this Ordinance and all other applicable Town codes within the jurisdiction of the board. An application so denied shall not be resubmitted unless the defects have been corrected or the prohibiting language has been changed.*
 - d. Denial Without Prejudice. The board may vote to deny without prejudice an application which fails to meet procedural requirements. An application denied without prejudice may be resubmitted and reheard with or without substantive design changes.*

F. Findings of Fact

The board shall vote to adopt findings of fact regarding its final decision. The board may prepare these findings itself, or may require the applicant to provide a draft for the board's consideration. If a draft is to be submitted by the applicant, the draft must be provided within 30 days of the decision vote. In all cases, the board shall adopt the findings of fact within 60 days of its vote. Approval of the findings of fact shall be indicated by the signature of the Chair. The findings of fact shall be filed at Town Hall and mailed or hand-delivered to the applicant within 7 days of approval by the board. In

no case shall a plan be signed by the board before it has approved the findings of fact. (NOTE: see §18-A.5.E.4.b.2 for specific language which must be included in the findings of fact.) If the applicant is required to submit draft findings of fact and fails to do so within the required timeframe, the board may vote to deny without prejudice.

G. *Plans for Board Signature*

If plans are to be signed by the board to indicate its approval, these plans shall be submitted by the applicant within 30 days of the relevant vote (§15-A.5.E.4.a for an approval, or §15-A.5.E.4.b.3 for a conditional approval), and shall be signed by the board within 30 days of receipt. Plans shall always be signed after the chair signs the adopted findings of fact. The board may vote to deny without prejudice if the applicant fails to meet this submittal deadline.

H. *Reconsideration*

All decisions of boards made pursuant to §18-A.5.E.4 shall be final, and may be altered only by appeal.

I. *Appeal*

See §18.8.3.

J. *Number of Active Applications*

There shall be no more than one active application per property before a particular board at any given time. An application shall be considered active beginning at the time of initial submittal of application materials per §18-A.5.B, and ending when the board reaches its final decision on the application and either: 1) if no appeal is filed, when the appeal deadline expires, or 2) if an appeal is filed, when all activity relating to the appeal is completed and the matter is resolved.

This provision is not intended to prohibit one applicant from having applications on a single property before multiple boards. For example, approval of the Historic District Commission and Planning Board may each be required, and these processes can run concurrently.

Delete existing §1.6, Reimbursement for Outsourced Assistance, because it is being replaced by §18-A.2.D, as follows:

1.6 — Reimbursement for Outsourced Assistance.

~~The Town shall be authorized to secure independent professional assistance to ensure proper and thorough review of applications, and construction inspection of approved projects. The applicant shall pay the full cost of this professional service. Such costs shall be in addition to the application fee (see §1.5). All money received shall be deposited in a Town account. Any funds not spent on such services shall be returned to the applicant. Failure to reimburse the Town for the full cost of such assistance shall constitute a violation of this Ordinance and shall be grounds for suspending application review, issuance of a stop work order, or other necessary action as provided for in this Ordinance.~~

Amend existing §5.1.5.1.b, exceptions to the maximum building and structure height limits, to remove the application procedure for Planning Board approval, and establish these as special exceptions to be considered by the Board of Appeals, as follows:

- b. Where located outside the Shoreland Overlay District, the limitations on "Maximum Building and Structure Height" stated in Section 5.2 (Schedule of Dimensional Regulations) may be ~~waived as provided below by the Planning Board.~~ *altered if granted a Special Exception by the Board of Appeals in accordance with §18.8.2.2.B and in accordance with the limits provided below.* ~~A public hearing shall be held prior to making the decision, and a butter notice (all property owners within 200') shall be mailed by first class mail at least 7 days in advance of the hearing.~~
 - 1. Public Water Supply Facilities. Public water supply facilities for the storage and/or distribution of water, where the need for the height of the facility is demonstrated in a master plan for the water system, adopted by the body that runs the water system.
 - 2. Barns and Silos for Agricultural and/or Animal Husbandry Purposes. The height of these buildings may be increased to a maximum of 50', provided the applicant demonstrates why the 35' height limit causes some sort of practical difficulty. Additionally, the barn or silo cannot be converted to another use, nor used for the co-location of wireless communications facilities for a minimum of 10 years.
 - 3. Church Steeples. The measure of the height of a building used as a church shall exclude the steeple. Church steeples may be permitted to be not more than 80' in

height, provided that the design results in a church that is in scale with the surrounding neighborhood and traditional church architecture of this area

Amend existing §7.4.6, Permit Required (for a home occupation), because it is being replaced by §18-A.4, as follows:

7.4.6 Permit Required. A Use Permit shall be obtained from the Code Enforcement Officer prior to establishment of a home occupation. ~~The applicant shall complete the Town's standard Building/Use Permit Application Form, and shall supply supplemental information as necessary to demonstrate compliance with this Ordinance. The application fee is specified in §1.5.~~

Amend §10.5.1, application review procedures of the Watershed Protection Overlay District, as follows:

10.5.1 *An application for a use permitted in §10.2.2 shall be decided by the Code Enforcement Officer. An application for a Conditional Use Permit per §10.2.3 shall be decided by the Planning Board. In either case, the applicant shall submit a complete second copy of the application to the water district in whose watershed the property is located. The water district shall be considered an abutter for purposes of both notice and testimony, may submit comments and/or recommendations, and shall have the right to appeal the decision. ~~An applicant proposing a permitted use or a conditional use in the Watershed Protection District shall submit the information required in Section 10.6 (Submissions), to the Code Enforcement Officer and to the Water District. Once the application is determined to be complete by the Code Enforcement Officer or the Planning Office, it shall be reviewed as specified in paragraphs 10.5.1.1 and 10.5.1.2 of this Section. The Water District may submit comments and/or recommendations on proposed uses for consideration by the permitting authority.~~*

~~10.5.1.1~~ ~~The Code Enforcement Officer shall review permitted uses and shall determine within 30 days whether they meet all applicable performance standards and have the necessary approvals.~~

~~10.5.1.2~~ ~~The Planning Board shall review conditional uses. In the event the Planning Board determines to hold a public hearing on an application, it shall hold such hearing within 30 days of receipt of a completed application. Taking into consideration the Water District's comments and recommendations, the Planning Board shall, within 30 days of the hearing or 60 days of approving a completed~~

~~application, approve or approve with conditions an application if it makes a positive finding based on the information presented that:~~

- ~~(a) The proposed use meets the specific requirements set forth in this Ordinance and complies with all applicable local laws;~~
- ~~(b) The proposed use meets all applicable performance standards and the specific requirements therein, including any necessary approvals, as noted in Section 10.3.~~

Amend existing provisions of the Historic and Archeological Resources Article based on the new application review standards of Article 18-A, as follows:

...

12.5 Establishment of Historic Districts, Historic Sites, or Historic Landmarks

The process for establishment or alteration of historic districts, sites or landmarks is different than the process for review of applications, so the provisions of Article 18-A, Application Review Procedures, shall not apply to the procedures detailed in §12.5.

...

12.11 Application Procedure

See Article 18-A, Application Review Procedures.

- ~~12.11.1 Written application for the Certificate of Appropriateness or Demolition, shall be submitted with the required exhibits and the required fee as per Section 12.12 to the Code Enforcement Officer.~~
- ~~12.11.2 The Code Enforcement Officer shall date the application, all exhibits, and fees, and promptly submit the application to the Chairman of the Historic District Commission.~~
- ~~12.11.3 The Chairman shall forward the fees to the Town Treasurer.~~
- ~~12.11.4 A completed application, received seven (7) days prior to the regularly scheduled meeting, shall be placed on the next agenda. The applicant shall be notified of the meeting date.~~

...

12.13 Meetings, Hearings, and Application Review

- 12.13.1 The Historic District Commission shall hold regular monthly meetings, and may hold special meetings at the call of the Chair, provided that public notice shall be given as *required in §18-A.5. provided for elections.* In the event of emergency meetings, local representatives of the media shall be notified. Notification shall include the time and location of the meeting.
- 12.13.2 *Reserved. All meetings of the Historic District Commission shall be open to the public, except executive sessions held under Title I, M.R.S.A., Section 405. The Historic District Commission shall not hold executive sessions except for consultation between the Historic District Commission and its legal counsel concerning litigation or other legal matters where premature general public knowledge would clearly place the Town or Historic District Commission at a substantial disadvantage.*
- 12.13.3 *Reserved. Notice to owner. Prior to issuance of a Certificate of Appropriateness or Certificate for Demolition, the Historic District Commission shall notify the applicant of consideration of his application.*
- 12.13.4 *Reserved. If the application is judged complete by the Historic District Commission, the Commission shall:*
- 12.13.4.1 ~~Vote on the Application; or~~
- 12.13.4.2 ~~Postpone action on the application for no more than thirty five (35) days; or~~
- 12.13.4.3 ~~Schedule a public hearing within thirty five (35) days, unless the applicant agrees in writing to a later date.~~
- 12.13.5 A quorum shall consist of three (3) voting members.
- 12.13.6 Certificates must be approved by majority vote. Therefore a tie vote means the application is denied.
- 12.13.7 The Historic District Commission, in its discretion, and with the owner's consent, ~~shall~~ *may* view the premises and obtain additional facts concerning the application before arriving at a decision.
- 12.13.8 *In addition to the requirements of Article 18-A, approval of an application shall be indicated by issuance of a Certificate of Appropriateness or a Certificate of Demolition, to be signed by the Commission Chair. **Hearing.** At the request of the applicant, or where the Historic District Commission deems it necessary, a public hearing shall be scheduled and the following procedures shall be followed:*
- 12.13.8.1 ~~Notice of the hearing shall be mailed to the Code Enforcement Officer, the Planning Board, the applicant, owners of abutting property, and any consultants and professional advisors of the Historic District Commission.~~
- 12.13.8.2 ~~The time and place of the hearing shall be published in a newspaper of general circulation at least ten (10) days prior to the hearing.~~

~~12.13.8.3 The hearing shall be continued only for good cause shown.~~

~~12.13.8.4 The Historic District Commission shall act on the application within twenty (20) days of the hearing date, unless the applicant shall agree in writing to an extension.~~

~~12.13.8.5 Failure to render a decision within the specified time shall be deemed to constitute approval by the Historic District Commission.~~

~~**12.13.9 Approval.** If the application is deemed appropriate by the Historic District Commission, it shall issue a certificate signed by the members which may include any changes, conditions, and/or stipulations necessary to fulfill the intent of this Article. The approval shall include sufficient written or graphic material to be strictly enforceable. The decision shall be dated and forwarded to the Code Enforcement Officer for issuing of any necessary permits.~~

~~**12.13.10 Disapproval.** If the Historic District Commission determines that a Certificate of Appropriateness or Demolition shall not be issued, it shall place upon its record the reason for denial. The Historic District Commission shall notify the applicant of such determination, furnishing him with an attested copy of the reason for denial, as appearing in the records of the Historic District Commission. A copy shall be sent to the Code Enforcement Officer.~~

...

12.17 **Demolition Delay**

No applications for the act of demolition as allowed by a building permit for a structure 75 years or older shall be approved by the Code Enforcement Officer (CEO) until the Historic District Commission (HDC) makes a determination as to its historic or architectural significance, and has the opportunity to pursue alternatives to demolition that will preserve, rehabilitate, or restore it. Alternatives must be mutually agreeable to the Commission and to the applicant. The Demolition Delay shall apply to all structures in the Town, not limited to those previously landmarked or included in a Historic District. *Demolition delay applications are unique, and in the event the procedures of this section conflict with the procedures outlined in Article 18-A, the provisions of this section shall prevail.*

12.17.1 Upon receiving a request to demolish a structure 75 years old or older, the CEO shall date the application and promptly *forward a copy of* ~~submit~~ the application to the Chairman of the HDC. ~~The CEO shall transmit a copy of this Article to the applicant, or property owner if different from the applicant, at the time of application.~~

Delete existing §14.2, Administration and Enforcement, and §14.3, Appeals, from the Seasonal Conversion of Dwellings Article because these standards are now addressed in Article 18-A, as follows:

14.2 Administration and Enforcement

See §18-A.4.

~~14.2.1 **Application:** The application for a conversion permit shall be submitted in writing to the Code Enforcement Officer and shall include all information ordinarily required in an application for a building permit. In addition, the application shall be accompanied by documentation of compliance of the property with each of the standards of §14.1.~~

~~14.2.2 **Expiration of Permits:** Every permit issued pursuant to this Article shall expire after one year unless conversion has actually commenced, and shall expire after two years if the conversion is not then substantially completed.~~

~~14.2.3 **Non-Transferability:** Conversion permits shall be site specific, and shall be valid for alterations only on the lot specified on the application. Said permits shall be transferable to new owners of the lot should the property change hands. However, at the expiration date of a particular conversion permit for a particular lot, the conversion permit shall become invalid regardless of who may then own the property. Thereafter, in order to convert the dwelling unit for which the expired conversion permit has been intended, a completely new conversion permit shall be required.~~

~~14.3 Appeals~~

~~— The procedure for appeals from decisions made under this Article can be found in Section 18.8.~~

Amend portions of existing §17.1.4, Change of (nonconforming) Use, which specify application review procedures and will be replaced by §18-A.5, as follows:

17.1.4 Change of Use

17.1.4.1 An existing non-conforming use may be changed to another non-conforming use provided that the new use is equally or more appropriate to the zoning district than is the existing non-conforming use, and the impact on adjacent properties is less adverse than the impact of the former use, as determined upon review by the Planning Board, using the criteria in Section 17.1.4.3. *The Code Enforcement Officer shall issue a permit to allow this change of use only when an approval is granted by the Planning Board.*

17.1.4.2 ~~Reserved. It is the responsibility of the Code Enforcement Officer to determine that a change of use is being proposed or has occurred. If the Code Enforcement Officer~~

~~determines that a change of use is being proposed or has occurred, it is then the responsibility of the Planning Board to determine the appropriateness of such change.~~

- 17.1.4.3 The determination of appropriateness requires the issuance or denial of a change of non-conforming use permit based upon written findings on the changes in traffic (volume and type), pedestrian circulation and amenities, parking, lighting, noise, stormwater run-off, impact on municipal facilities and services, character of the area, fumes, odors and potential for litter, wastes or by-products, likely to result from such change of use. The performance standards contained in the zoning ordinance applicable to the zone and the new use must be met.
- 17.1.4.4 An applicant requesting a change of use must submit an application that identifies the location and condition of the existing property, including a site plan, and a narrative description of how the applicant believes the project satisfies the standards of 17.1.4.3. ~~A representative of the Code and Planning Department shall determine if an application contains all information necessary to schedule an application for review by the Planning Board. The Code and Planning Department shall schedule an application it deems complete for review by the Planning Board within sixty (60) days.~~
- ~~17.1.4.5 The Planning Board, at a regular meeting, shall decide if an application is complete and contains all information necessary to make a determination. The Planning Board shall decide to approve or deny a request for a change of use within thirty days (30) of its decision that an application is complete.~~
- ~~17.1.4.6 The Planning Board shall conduct a public hearing on the application. Notification of the hearing shall be provided by the Code and Planning Department as follows:~~
- ~~a. in writing, by first class mail, at least seven (7) days prior to the hearing, to all owners of property that directly abut or are located within two hundred feet of any property line of the property for which a change of use is requested; and~~
 - ~~b. by posting notice of such hearing in York Town Hall a minimum of seven (7) days in advance of the hearing.~~
- ~~The notification shall include: the name of the applicant, location of the property, a brief description of the project and a plot plan identifying the proposed construction. The Code and Planning Department shall retain a list, attested to by a Code and Planning Department representative, of all persons to whom notice of the hearing was sent.~~
- ~~17.1.4.7 The Planning Board shall conduct a public hearing, review the application, and issue Findings of Fact which outline the reasons it approves or denies the change of use application. The Planning Board may establish reasonable conditions to ensure~~

~~conformity with provisions of this Ordinance. The Code Enforcement Officer may issue a permit to allow the change of use following a Planning Board decision to approve the change.~~

~~17.1.4.8 The Planning Board and Code Enforcement Officer may use professional services (Town Engineer or similar professional services) to assist in their review of a change of use application. The applicant shall be required to pay all costs involved with these professional services and shall pay such costs prior to consideration of the application. Monies to pay the cost of such professional services shall be deposited with the Town. All funds not expended on this review shall be refunded to the applicant.~~

~~17.1.4.9 The Code Enforcement Officer may use professional services (Town Engineer or similar professional services) to inspect improvements constructed for an approved project. The applicant shall pay all costs incurred for this professional inspection and shall pay such costs prior to issuance of the Building Permit. All monies received to pay the cost of these professional services shall be deposited with the Town. All such funds not expended on inspection services shall be refunded to the applicant.~~

~~17.1.4.10 A Planning Board decision regarding a change of use application may be appealed to the York Board of Appeals in accordance with provisions of Article 18.8.~~

~~17.1.4.11 A Change of Use Permit issued after November 5, 1997 shall lapse and become void if there is no substantial start of construction or use of the property within two years of the date of Permit approval, or if all improvements identified in the approved Permit are not completed within three years of the date of Permit approval. A Change of Use Permit issued prior to November 5, 1997, shall lapse on November 6, 2000 if all improvements identified in the Permit are not completed by November 5, 2000.~~

Amend existing §17.2.1.2, Enlargement (of non-conforming structures) to remove a butter notice requirements now addressed in §18-A.4.E, as follows:

17.2.1.2 Enlargement. The standards applicable to Enlargement of Non-Conforming structures, as amended by the voters on November 4, 2008, shall retroactively apply to any application accepted by the Planning Board or Code Enforcement Officer on or after June 26, 2008, the date on which the first public hearing was posted for the amendments. The former Enlargement of Non-Conforming Structures provisions shall apply to applications accepted prior to this date. A non-conforming structure may be enlarged only in conformance with the

provisions of this Section. A Code Enforcement Officer shall review the application to determine conformance with these standards, and may impose conditions on an approval to ensure conformance. ~~At least 20 days prior to issuing a permit, a Code Enforcement Officer shall notify the owners of properties within 200 feet of the subject lot. The purpose of this notice is to put abutters on notice of a pending action, and to allow abutters to provide written comments or other relevant information to the CEO prior to making the final decision.~~ Criteria for approval include each of the following ...

Delete existing §18.1.4, Application Procedure (for Route One Use Permits) and §18.1.5, Factors Applicable to Route one Use Permit Applications, to remove procedural standards now being addressed in §18-A.5, as follows:

18.1.4 Application Procedure

18.1.4.1 Permit Issued by the Code Enforcement Officer

See §18-A.4.

~~An application for A Route One Use Permit issued by the Code Enforcement Officer shall be submitted on a Town of York Building Permit application. A Code Enforcement Officer may request the submittal of other pertinent information directly related to zoning standards that he finds is necessary to determine all applicable Town requirements are satisfied. A Code Enforcement Officer shall approve, approve with conditions, or deny the application, and shall provide written findings sufficient to document the basis for the decision.~~

18.1.4.2 Permit Issued by the Planning Board

Applications submitted to the Planning Board shall be reviewed under the Site Plan and Subdivision Regulations. If the design and/or performance standards of the Zoning Ordinance are in conflict with those of the Site Plan & Subdivision Regulations, the standards of the Zoning Ordinance shall apply.

~~**18.1.4.3 Expiration of Permit**~~

~~A Route One Use Permit secured under the provisions of this Article shall expire if the work or change involved is not commenced within one year of the date of which the proposed use is authorized, or if the work or change is not substantially completed within two years.~~

~~**18.1.5 Factors Applicable to Route One Use Permit Applications**~~

~~**18.1.5.1** In considering a Use Permit the Code Enforcement Officer or the Planning Board shall evaluate immediate and long range effects of the proposed use, and the following factors:~~

November 2009 Ordinance Amendments

Date of Draft Document: August 4, 2009

- ~~a. The compatibility of the proposed use with adjacent land uses, other property in the district, and the general purposes identified in this Ordinance for the Route One area and applicable Route One zoning district;~~
- ~~b. The need of a particular location for the proposed use and how the proposed use addresses the unique characteristics of the property on which it is proposed to be located;~~
- ~~c. The impact of the proposed use on local population and community facilities and services;~~
- ~~d. The impact of the proposed use on transportation facilities;~~
- ~~e. The maintenance and promotion of safe and healthful conditions;~~
- ~~f. Existing topographic and drainage features and vegetative cover on the site;~~
- ~~g. The prevention and control of water pollution and sedimentation;~~
- ~~h. The location of the site with respect to flood plains and floodways of rivers or streams;~~
- ~~i. The effects on significant fish, fowl, bird and wildlife populations and their habitats;~~
- ~~j. The effect on coastal and inland wetlands;~~
- ~~k. The availability and capacity of utility services, particularly the extension of public water and sewer where such services do not presently exist; and~~
- ~~l. The promotion of locally owned business enterprises and impact on existing commerce.~~

~~**18.1.5.2** Before any Route One Use Permit may be issued, the Code Enforcement Officer or the Planning Board shall make written findings regarding how the project addresses impacts identified in 18.1.5.1, certifying compliance with the relevant Performance Standards and all other requirements in this Ordinance, and certifying satisfactory provision and arrangement has been made concerning the following, where applicable:~~

- ~~a. To provide and maintain good quality ingress and egress to property and proposed structures thereon, with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control, connection to adjacent properties, and access in case of fire or catastrophe;~~
- ~~b. To provide and maintain good quality, well functioning and attractively landscaped off street parking and loading areas where required, with particular attention to the items in Section a. above and the economic, noise, glare, or odor effects of the use on adjoining properties and properties in the district;~~

- ~~e. To provide and maintain well screened and an adequate size and type of facilities for refuse and services, with particular reference to items in Sections a. and b. above;~~
- ~~d. To provide and maintain adequate utilities, with reference to locations, availability, capacity and compatibility;~~
- ~~e. To provide and maintain good quality landscaping, screening and buffering with reference to type, dimensions, and character, and consideration of this site and adjacent sites, and protection of abutting residences from adverse impacts;~~
- ~~f. To provide well located signage that uses appropriate materials, lettering, colors, and exterior lighting and is of an appropriate size to be compatible with the site and adjacent sites and that allows customers to identify the use;~~
- ~~g. To provide and maintain quality bufferyards and other open space when required;~~
- ~~h. To provide and maintain good quality facilities to manage stormwater generated on the site and which contribute to an effective stormwater management system that reduces erosion, sedimentation and flooding of the area;~~
- ~~i. To provide and maintain a good quality and attractive appearance of all buildings and facilities on the site with respect to their relationship to the site on which such are located and adjacent sites;~~
- ~~j. To provide adequate systems to effectively handle all explosive and hazardous materials;~~
- ~~k. To protect and preserve natural resource features located on the site and provide mitigation or compensation for unavoidable significant adverse impacts to such resources;~~
- ~~l. To provide required off site improvements that provide adequate services or mitigate adverse impacts to traffic, stormwater management, public safety and utility services;~~
- ~~m. To minimize adverse impacts to natural resource features, the area and abutting property owners during construction of the project; and~~
- ~~n. To ensure existing uses and structures that are non conforming as to use, dimensional regulations, or performance standards, come into compliance with such standards to the greatest extent practical when there is a change of use, expansion of a non conforming use or expansion of a non conforming structure.~~

Amend existing §18.2.4, Procedure for (Shoreland) Permits Issued by Code Enforcement Officer, to remove procedural standards and abutter notice requirements now addressed in §18-A.4, as follows:

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18.2.4 Procedure for Permits Issued by Code Enforcement Officer

Permits subject solely to Code Enforcement Office review are identified in the Schedule of Use Regulations, Section 4.1.3. The Code Enforcement Officer shall determine if the application is complete and contains all information necessary to enable the Officer to make a determination. ~~The Code Enforcement Officer shall decide to approve or deny a permit within thirty (30) days of an Officer's determination that an application is complete.~~ The Code Enforcement Officer shall review the application to determine conformance with provisions of the Shoreland Overlay District and Article 18.2.6, and may impose conditions on *a permit* ~~an approval~~ to ensure conformance. ~~For building construction less than 125' from the normal high water mark or upland edge of a shoreland resource, at least 20 days prior to issuing a permit, the Code Enforcement Officer shall notify the owners of properties within 200 feet of the subject lot. The purpose of this notice is to put abutters on notice of a pending action, and to allow abutters to provide written comments or other relevant information to the CEO prior to making the final decision.~~

Amend portions of existing §18.2.5, Procedures for (Shoreland) Permits Subject to Planning Board Review, to remove procedural standards and notice requirements now addressed in §18-A.5, as follows:

...

18.2.5.2 An application for a Shoreland Permit must be made to the Community Development Department. *If the application appears to be complete it shall be forwarded to the Planning Board for its consideration.* ~~The Department shall determine if an application contains all information necessary to schedule an application for review by the Planning Board. The Planning Board, at a regular meeting, shall decide if an application is complete and contains all information necessary to make a determination. The Planning Board shall decide to approve or deny a permit within thirty (30) days of its decision that an application is complete.~~

...

18.2.5.4 *Reserved.* ~~The Planning Board shall conduct a public hearing on the application. Notification of the hearing shall be provided as follows:~~

- a. ~~in writing, by first class mail, at least 7 days prior to the hearing, to all owners of property that directly abut or are located within two hundred~~

~~feet of any property line of the property for which a Shoreland Permit is requested; and~~

b. ~~by posting notice of such hearing in York Town Hall a minimum of 7 days in advance of the hearing.~~

~~The notification shall include: the name of the applicant, location of the property, a brief description of the project, and a plot plan identifying the proposed construction. The Code and Planning Department shall retain a list, attested to by a Code and Planning Department representative, of all persons who were sent notification of the hearing.~~

18.2.5.5 ~~Following the public hearing, the Board shall review the application and reach a decision. It shall issue Findings of Fact, which outline the reasons it approves or denies the Shoreland Permit application. The Board shall use the standards identified in Article 8 and §18.2.6 to make its decision, and shall follow the procedural requirements of Article 18-A. The Board may establish reasonable conditions to ensure conformity with the purposes of the Shoreland Overlay District. The conditions of approval may include requirements for mitigation to lessen impacts to resource values projected to occur from the proposed use or activity.~~

...

Amend a reference in §18.8.3.1, regarding administrative appeals and variances, to correct a reference, as follows:

18.8.3.1 An administrative appeal or variance shall be filed within 30 days of action taken by the official or Board charged with the administration of this Ordinance. Thirty (30) days is defined to mean the date the official written notification of decision is issued by the Code Enforcement Officer or the ~~Planning Board~~ board. ...

Delete portions of existing §18.9.5, Procedure (for applications to the Board of Design Review) which specify application review procedures and will be replaced by §18-A.5, as follows:

18.9.5 Procedure

~~18.9.5.1 Submission of Documents.~~ A prospective applicant for a building or other permit who is subject to site design review shall submit *the following to the Board of Design*

~~Review: to the Code Enforcement Officer the following, including the fee required by Section 1.5, at the time of submission:~~

- a. A site plan, drawn to scale, showing the proposed layout of all structures and other improvements including, where appropriate, driveways, pedestrian walks, landscaped areas, fences, walls, off-street parking and loading areas. The site plan shall indicate the location of entrances and exits and the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and each loading berth and areas of turning and maneuvering vehicles. The site plan shall indicate how utility services and drainage are to be provided.
- b. A landscape plan, drawn to scale, showing the location of existing trees proposed to be removed or to be retained on the site, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain trees and plant materials.
- c. Architectural drawings or sketches, drawn to scale, including floor plans, in sufficient detail to permit computation of yard requirements and showing all elevations of the proposed structures and other improvements as they will appear on completion of construction.
- d. Specifications as to type, color and texture of exterior surfaces of proposed structures.
- e. A sign plan, drawn to scale, showing the location, size, design, material, color and methods of illumination of all exterior signs.

~~18.9.5.2 Action by Code Enforcement Officer. The Code Enforcement Officer, or his designee, shall review all drawings, plans and specifications submitted for design review. If he finds that they meet all other requirements of the ordinances of the Town of York, he shall forward them to the Board.~~

~~18.9.5.3 Notice. Within seven days after forwarding of documents to the Board, the Board shall advertise the time, date and place of its hearing on the proposal in a newspaper of general circulation, giving at least seven days prior notice of such hearing.~~

~~18.9.5.4 Action by Board. Within thirty days from the date of submission to the Code Enforcement Officer, the Board shall approve, with conditions, or reject the plans of the applicant. Failure of the Board to so act within the 30 day period shall constitute approval, unless the applicant consents to an extension of time.~~

~~18.9.5.5 Appeals. Appeals shall be governed by the following provisions:~~

~~— A decision of the Design Review Board may be appealed to the Board of Appeals by the applicant, or any substantially aggrieved property owner. The appeal shall be filed in writing with the Board of Appeals within seven days after the Board has rendered its decision. Appeals shall be heard and administered in the manner provided under the Zoning Ordinance.~~

~~18.9.5.6 Effective Date of Decisions. A decision of the Design Review Board shall become effective seven days after the date of the decision, unless the decision is appealed. If the decision of the Board is appealed to the Board of Appeals, the decision of the Board of Appeals shall become effective immediately.~~

~~18.9.5.7 Time Limit on Approval. Site design review approvals shall be void after two years unless a building permit had been issued and substantial construction pursuant thereto has taken place.~~

Delete existing §18.14, Applications to the Planning Board, because it is being replaced by §18-A.5, as follows:

~~**18.14 Reserved. Applications to the Planning Board.** Each applicant shall complete a standard application form provided by the Town prior to appearing before the Planning Board. For purposes of administration and enforcement of this regulation, the owner of the property shall be considered the applicant. Further, there shall be no more than one active Planning Board application on a property at any time. An application shall be considered active beginning at the initial submittal of an application, and shall end when the Planning Board reaches its final decision on the application and either: 1) if no appeal is filed, when the appeal deadline expires, or 2) if an appeal is filed, when all activity relating to the appeal is completed and the matter is resolved.~~

Article: 7

Outside Display Standards for Route-1

Ballot Language: The following language would appear on the ballot:

Article 7

The Town hereby ordains amendments to the **Zoning Ordinance** to amend outside display standards, specifically amending Article Six, Supplemental Use requirements.

Statement of Fact

Passage of this amendment would expand the ability of small businesses to have outside display of their products, in an effort to promote conditions conducive to small-scale, eclectic, local business start-up, success and growth. This is specifically consistent with Comprehensive Plan Town Goal 3.1, to promote a sound economic base and economic development that is consistent with York's small town coastal character, and is not expected to have a fiscal impact on Town Administration.

Amendment: Amend Article 6.3 and insert new language as follows:

6.3.27 **Outside Display and Outside Storage for Nonresidential Users**

6.3.27.1 All nonresidential uses, other than a hardware store, lumberyard, garden center, or antique store, in existence on August 14, 1997, that displayed goods for sale outside or stored goods outside, may continue to use the existing location and existing amount of square footage devoted to outside display or outside storage until August 14, 2000. Effective August 15, 2000, the outside display area for such uses shall be limited to a maximum area of 300 square feet ~~that is located within a roof overhead area of the main structure.~~ *For all nonresidential uses occupying buildings with less than 5,000 square feet of retail space, outside display shall be allowed. The total area devoted to outside display for nonresidential uses occupying buildings with less than 5,000 square feet of retail space shall not exceed a maximum of 1,000 square feet. Outside display expressly refers to merchandise for retail sale, not to storage or sale of raw materials such as but not limited to loam, mulch, gravel, or fertilizer, packaged or in bulk piles. The display area shall meet the minimum setbacks of the zoning district, shall not occur in the*

bufferyards required in Section 6.3.9, and its location shall not adversely impact vehicular or pedestrian safety or circulation. Outside storage shall follow the following standards: Effective August 15, 2000, all outside storage of goods shall be screened by one or more of the following: a wooden stockade fence a minimum of 6 feet in height, landscaping that provides a good quality visual buffer, or be located behind a building and screened from the view of motorists traveling on Route One. The storage area shall meet the minimum setbacks of the zoning district, shall not occur in the bufferyards required in Section 6.3.9, and shall not adversely impact vehicular or pedestrian safety or circulation in a public way. No outside storage of goods shall occur in the bufferyards required in Section 6.3.9.

- 6.3.27.2 A non-residential use *that occupies greater than 5,000 square feet of retail space*, not including a hardware store, lumberyard, garden center or antique store, that did not use outside display by August 14, 1997, or that begins operations on or after August 15, 1997, shall be prohibited from displaying goods outside for sale. Such a non-residential use may use outside storage, provided all storage complies with standards identified in 6.3.27.1.
- 6.3.27.3 A hardware store, lumberyard, garden center or antique store *that occupies greater than 5,000 square feet of retail space*, that displayed goods for sale outside or stored goods outside prior to August 14, 1997, may continue to use the existing area(s), both location and square footage, devoted to outside display of goods for sale and outside storage of goods. Any expansion of the outside display or outside storage area(s) must comply with standards identified in Section 6.3.27.1.
- 6.3.27.4 A hardware store, lumberyard, garden center or antique store *that occupies greater than 5,000 square feet of retail space* in existence on August 14, 1997 that did not use outside display by August 15, 1997, or ~~a hardware store, lumberyard, garden center or antique store~~, that begins operating on or after August 15, 1997, shall be limited to a maximum area of 300 square feet ~~that is located within a roof overhead area of the main structure.~~ *The display area shall meet the minimum setbacks of the zoning district, shall not occur in the bufferyards required in Section 6.3.9, and shall not adversely impact vehicular or pedestrian safety or circulation in a public way. Outside storage areas shall* ~~An outside display area or outside storage area shall that~~ complies with standards identified in 6.3.27.1.
- 6.3.27.5 A garden center, nursery or commercial business that offers living plant material for sale may display or store any amount of this material outside. Living plant material for sale may be located in the bufferyards required in Section 6.3.9, provided there is the required amount of permanent landscaping identified in Section 6.3.10.

6.3.27.6

A retail use is permitted to display goods for sale at special events, such as a sidewalk sale, tent sale, or similar event, provided such events do not occur for more than a maximum of fifteen days during any calendar year. *Sale of holiday season trees, wreaths and boughs is permitted from November 20th through December 25th.* All such outside display areas shall adhere to setback requirements of this Ordinance to the greatest extent practical as determined by the Code Enforcement Officer.

Article: 8

Amend Architectural Standards for Route-1

Ballot Language: The following language would appear on the ballot:

Article 8

The Town hereby ordains amendments to the **Zoning Ordinance** to amend Building and Design Standards on Route 1, specifically amending Article Six, Supplemental Use requirements.

Statement of Fact

Passage of this amendment would alter the current architectural design requirements for new construction on US Route 1. The change states that applicants must demonstrate that proposed buildings or building alterations meet the criteria of Route 1 Building and Site Design Requirements. This is generally consistent with Comprehensive Plan and is not expected to have a fiscal impact on Town Administration.

Amendment: Amend Article 6.3 and insert new language as follows:

6.3.13 Buildings and Site Design Requirements

All non-residential structures which front on Route One and are not separated from Route One by a 50' or greater natural vegetated buffer shall satisfy the following design requirements to better ensure the buildings are attractive and harmonize with the surrounding townscape and natural environment. *The applicant shall demonstrate how a proposed non-residential structure meets the building and site design requirements of this ordinance.* The Planning Board may grant waivers to these requirements if the applicant provides a building and site of equal or greater quality as determined by the Planning Board. An elevation plan of the building shall be provided at a scale of 1/4" = 1 foot. This plan shall identify all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s), showing design features and indicating the type and color of materials to be used.

Article: 9

Density Requirements for Seasonal Conversions

Ballot Language: The following language would appear on the ballot:

Article 9

The Town hereby ordains amendments to the **Zoning Ordinance**, specifically amending Article Fourteen, Conversion of Seasonal Definitions.

Statement of Fact

The purpose of this amendment is to add density requirements to the seasonal dwelling conversion restrictions. The current restrictions acknowledge that many seasonal dwellings have historically been constructed on smaller lots than would be allowed in most of Town currently, and allows for their legal conversion to year round dwellings. However, the current restrictions do not specifically address the case of multiple small seasonal dwellings existing on a single small lot. The added density provisions still allow for the conversion of seasonal dwellings on small lots, while restricting unlimited densities. This amendment is specifically consistent with the Comprehensive Plan, the topic of which is mentioned as an issue in Land Use Area #2 in the context of concern for neighborhood character and additional burden Town service delivery. It is not expected to have a fiscal impact on Town Administration.

Amendment: Amend §14.1.B.2 and insert new language as follows:

ARTICLE FOURTEEN

CONVERSION OF SEASONAL DWELLINGS

14.1 Restrictions

No seasonal dwelling may be converted to a year-round dwelling unless the owner or the person so converting the seasonal dwelling shall have first obtained from the Code Enforcement Officer a seasonal dwelling conversion permit. Before issuing such a permit, the Code Enforcement Officer shall issue a written determination that the application meets the standards pertaining to the dwelling unit and the lot, as follows:

....

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- B. The lot either:
1. Conforms to the current dimensional requirements of the Zoning Ordinance, *including density provisions*; or
 2. Is a lawful non-conforming lot of record which is either:
 - a. connected to year-round public water and public sewer and is at least 5,445 square feet (1/8 acre) in size *per dwelling* in the RES-5, RES-6 or RES-7 base zoning district, or at least 10,890 square feet (1/4 acre) *per dwelling* in all other base zoning districts; or
 - b. at least 20,000 square feet *per dwelling* in size otherwise.

Article: 10

Administration of Supplemental Use Requirements

Ballot Language: The following language would appear on the ballot:

Article 10

The Town hereby ordains amendments to the **Zoning Ordinance**, specifically amending Article Six, Supplemental Use Requirements.

Statement of Fact

The purpose of this amendment is to clarify the administrative provisions for Non-residential Performance Standards applicable the RES-1, RES-2, RES-3, YBVC, GEN-1, GEN-2, and GEN-3 Districts. Language stating the Planning Board was to determine the when the Performance Standards of §6.1 had been met to the greatest extent practical was added in November 2008 in conjunction with other amendments. This section of the Zoning Ordinance does not have adequate administrative provisions. This amendment is specifically consistent with the Comprehensive Plan, Section 2, State Goal 1's call for the timely and fair application of the Town's Zoning and Site Plan and Subdivision Regulations. It is not expected to have a fiscal impact on Town Administration.

Amendment: Amend §6.1 as follows:

ARTICLE SIX SUPPLEMENTAL USE REQUIREMENTS

6.1 Non-Residential Performance Standards -- Applicable to RES-1, RES-2, RES-3, YBVC, GEN-1, GEN-2, and GEN-3 Districts

Any non-residential development and use shall meet or exceed the Performance Standards listed below to the greatest extent practical. ~~The York Planning Board shall be responsible for determining the greatest extent practical.~~

-Article: 11

Building Permit Fee Increase

Ballot Language: The following language would appear on the ballot:

Article 11

The Town hereby ordains amendments to the **Town of York Building Codes** to increase the permit fees for building permit from \$6 to \$8 per thousand of construction value, and to increase the minimum fee from \$25 to \$50, specifically amending: Section 111.2, Permit Fees.

Statement of Fact

The purpose of this amendment is to increase building permit fees. These fees have not increased since 2003. In the current fiscal year, the Community Development Department based its budget on an increase in permit fees as a means of reducing reliance on property tax revenues. The budget approved by the voters in May 2009 reduced reliance on property taxes by \$53,000, or 14%. At the same time, an additional staff position is to be funded with building permit fees – a secretarial position transferred from the Assessing Department to the Community Development Department. Building permit fees are utilized directly by the Department to offset costs associated with code enforcement and geographic information systems (GIS - our computer mapping system). This policy is expressly consistent with the Comprehensive Plan policy #2.2.4 regarding the GIS and policy #2.2.5 regarding reliance on user fees to pay for services. This amendment is projected to have a significant fiscal impact on the Town. Based on current permit fee revenues received by the Town, it is projected that this increase will generate about \$80,000 per year in additional revenue to pay for code enforcement and GIS services. Because the change would begin 1/3 of the way through the current fiscal year, this increase corresponds with the reduced reliance on property tax revenues in FY10. Without this revenue increase, either services would need to be cut or the cost would need to be paid from property tax revenues.

Amendment: Amend the language of Section 111.2, Permit Fees, to read as follows:

(AMD) 111.2 - Permit Fees – Permit fees are to be assessed at the rate of ~~\$8.00 six dollars~~ per thousand of estimated cost. ~~Half of the~~ *The* permit fee shall be put in an account for the ~~Planning Community Development~~ Department to maintain and upgrade the Town’s Geographical Information System (GIS) and ~~the remaining half of the permit fee shall be put in an account for the Code Enforcement Department~~ to pay expenses related to special plan review, additional engineering, inspections and other needs relating to *code enforcement*. ~~the duties of the Department.~~ If supplemental expenses exceed permit-generated funds available to the ~~Code Enforcement~~ Department for a specific application, the applicant or owner shall be responsible for all additional costs. The Town of York Tax Assessor shall establish a schedule for minimum square footage rates based on the fair market value of the work proposed. A ~~\$50.00 twenty five dollar (\$25.00)~~ application fee shall be charged for all applications, this ~~\$50.00 \$25.00~~ shall be deducted from the cost of the permit if a permit is granted. All fees shall be paid in full before an occupancy permit is granted. The administrative authority may assess a re-inspection fee of fifty dollars (\$50.00) for failure to be ready for an inspection or repetitive inspection.