1. Planning Board Meeting Materials

Documents:

2020-1-9 PB AGENDA_REV-1.PDF
DECEMBER 19, 2019 PLANNING BOARD MINUTES DRAFT.PDF
OUTDOOR LIGHTING ORDINANCE_2020-01-02_WB AMENDMENTS.PDF
STR AMENDMENT_DRAFT_2017-1-27.PDF
POTENTIAL QUESTIONS TO CONSIDER.PDF
AGENDA
York Planning Board Workshop
Thursday, January 9, 2020
7:00 PM
York Police Department

1. Call to Order; Determination of Quorum; Appointment of Alternates
2. Public Forum
3. Discussion/Review- Comprehensive Plan Consultant Interview Process
4. Discussion/Review- Outdoor Lighting Ordinance
5. Discussion- Short Term Residential Rentals
6. Review of Minutes
7. Other Business
8. Adjourn
York Planning Board
Thursday, December 19, 2019, 7:00 P.M.
York Police Department

Call to Order; Determination of Quorum; Appointment of Alternates

Chairman Al Cotton called the meeting to order at 7:00. The meeting took place at the Police Station because the community room at the library was being used by another committee. A quorum was determined with 5 people voting: Al Cotton, Vice Chair Kathleen Kluger, Board Secretary Peter Smith, Wayne Boardman, and Gerry Runte. Alternate Ken Churchill was present but did not vote. Planning Director Dylan Smith represented staff. Land Use Technician Heather Ross was not present. Patience Horton was not present and constructed these minutes from a voice recorder. The meeting lasted 2.5 hours.

Public Forum

No one came forward to speak.

Public Hearings—May 2020 Ordinance Amendments

Expansion of the York Village Center Historic District

In 2017, the York Historic Commission conducted an architectural survey of the properties along York Street in order to expand the historic district from York Village Center to Route 1. That is in keeping with Comp Plan Goal 9.1.1, Future Land Use Recommendations, said Dylan Smith.

For the survey, each building was looked at and evaluated by the criteria of the National Register of Historic Places. The buildings represent the development of York from the late 17th century to the present. Expansion of the district helps protect the appearance of many of the town’s iconic buildings. Two members of the HDC were present tonight to answer questions and make comments during the public hearing, said Dylan.

The Chair opened the public hearing.

- Tom Greer from Walsh Engineering represented the Davis family. He asked the Planning Board to make recommendations to the Board of Selectmen to change the map of the expanded historic district. That would mean using the National Historic District line along York Street to designate the boundary of the expanded district.
The area he referred to as the “back half” of the Davis property was approved to build roughly 105 houses and is out of sight from York Street. If in the expanded district, each house would require a certificate of authenticity and appropriateness from the HDC. That is a lot of work that the HDC should not have to do, Tom Greer said.

- **Francis Koerschner** lives in one of the historic properties and is glad to be included in the expanded district. She said two houses across from Petro Oil are on the market. She is afraid they will be torn down and replaced by condominiums, perhaps Airbnbs.

- **Julie Matthews** showed where her house is on the map. The house, built in 1850, was modernized when she bought it, and it doesn’t look like a historic building anymore. Its frontage includes a commercial veterinary hospital. She asked how her property falls into the expanded district.

  HDC Chair Scott Stevens explained that there are two categories of buildings in the historic district: “contributing,” which show the character of the district, and “non-contributing”, like Julie’s house. Strict standards are not applied to non-contributing buildings. They have a different set of standards.

Julie Matthews then said she has three acres behind her house that she would like to develop. Scott Stevens said that new buildings do not have to be historic replicas, but should reflect the character of the neighborhood.

- For her retirement home, **Judy Rubin** wants to build an accessory dwelling structure in the back portion of her property, which is in the newly expanded district. It will not be seen from the road. Will she be under restrictions? she asked. Yes, said Scott Stevens, it has to be visually compatible to the surrounding buildings. That will also the case for a non-contributing three-car garage she owns on which she wants to put a second floor, Scott told her.

- **Marie Dineen** of 17 York Street is concerned about a property in the new district that she believes is marshland. What is in place to protect open spaces of natural land? she asked. Scott answered that “we only protect human structures.” Dylan answered that people can’t just go in and fill land like that. He suggested she have someone at Town Hall look at the GIS map to find out if it is shoreland or possibly protected wetland.

The Chair closed the public hearing.

- Motion: Kathleen Kluger moved to forward to the Board of Selectmen the Expansion of the York Village Center Historic District as amended with a change in the map making the National Historic District line along York Street the
boundary of the expanded historic district. Peter Smith seconded. The motion passed 5-0.

Cul-de-sac Specifications
Dylan Smith explained that this as a clarification requested by the BoS. In the amendment passed in November, it is not clear whether private cul-de-sacs must be paved or not. They do not have to be paved, said Dylan. This clarification of the amendment makes it certain that there are no construction standards in the ordinance that require private cul-de-sacs be paved.

• Motion: Peter Smith moved to forward Cul-de-Sac Specifications to the Board of Selectmen as amended. Gerry Runte seconded. The motion passed 5-0.

Shoreland Overlay District
This amendment is an adjustment to the medical marijuana ordinance which currently implies that medical marijuana is allowed in the stream protection subdistrict of the shoreland overlay.

• Motion: Kathleen Kluger moved to correct the language in the Shoreland Overlay District amendment to say that medical marijuana is prohibited within the stream protection subdistrict of the shoreland overlay and to forward the amendment to the Selectboard. Wayne Boardman seconded. The motion passed 5-0.

Open Space Conservation Subdivision Ordinance
Without any further explanation, Dylan Smith said that Article 5 has “exactly the same verbiage that came out with 5 units,” except the “5” has been changed to “10.” There was no discussion about this ordinance amendment among the board members.

• Motion: Wayne Boardman moved to forward the amended Open Space Conservation Subdivision ordinance to the Board of Selectmen. Kathleen Kluger seconded. The motion passed 5-0.

Discussion/Review—Comprehensive Plan Proposals
The number of candidates applying for the position as the Comprehensive Plan rewrite consultant had already been lowered from 9 to 7 during the December 12, 2019 meeting. During this meeting, three more were eliminated.

The planning board members had a lively conversation about attributes they are looking for in the candidates: an understanding of the town; the ability to reach out to the community; energy, balance, and leadership; the ability to make presentations and get
public engagement; the ability to focus on climate action; to present good references; to have team structure; for their focus to be on planning (not engineering); and to have already had success developing Maine-certified comp plans for other towns.

Dylan said: I think the theme or overarching question is “What are they going to do and what do they think is important?” We’ll be working with them for two-and-a-half to three years, and we have to have trust and confidence in them, he said.

Individuals from York will be invited to sit in on the interview/presentations and be “part of the conversation,” said Dylan. The board members brainstormed about the categories of individuals who might sit in on the Comp Plan Subcommittee. That might include someone from the School Department, the Budget Committee, the Board of Selectmen, the HDC, a student from the High School, someone from the Chamber, someone from the York Village Committee, and maybe others.

Dylan said that each of the finalists will have to give a PowerPoint presentation that is captivating and instills our trust. Gerry Runte said that continuing to use a modified grading methodology is a good way to rate the applicants’ qualities. Dylan said that at the next Planning Board meeting at the end of January, we’ll go through the scores. He asked the board members to each come up with five questions to ask during the interview/presentations. There will also be questions asked off the cuff, he said.

Dylan told the board members to begin reviewing the four finalist candidates’ references. He will notify those candidates to tell them that the Planning Board is expecting a presentation/interview during the week of February 24-28, 2020.

Dylan said that at the end of the process, the Planning Board will make a recommendation to the Board of Selectmen about which of the applicant best suits the task.

**Review of Planning Board By-Laws**

- While Gorrill Palmer works on major subdivisions and site plans, Heather Ross’s time (two days per week) assisting Dylan with smaller applications and plan reviews runs out quickly. To lessen the problem, Dylan wants to see the Chair or Vice Chair start setting the Planning Board meeting agendas for review meetings with staff, as stipulated in § 4.1 of the bylaws, Regular Meetings. Some applications should be held back when there are too many materials missing, he said.

- Currently, the cutoff date for applicants to amend their submissions and submit additional plan materials is 17 days prior to their application review meeting. The Planning Board members agreed that that amount of time should be changed in the bylaws to 21 days.
Kathleen Kluger noted that the order of business in the agenda template should reflect the fact that review of minutes has been changed from the beginning of the meeting to the end, and that that should be reflected in the bylaws.

Workgroups for Future Ordinances

- Outdoor lighting
  The work is 80% done, said Wayne Boardman. The draft will be complete by February 8, 2020.

- Green Enterprise
  A workgroup should be formed to work on the Green Enterprise amendment, but the work might not be finished by November, 2020. Kathleen Kluger volunteered to be part of the workgroup.

- Short Term Rentals
  Kathleen said that she will be putting the short-term rentals workgroup together. There will be a focus on a licensing requirement. The differentiation between owner-occupied and non-owner-occupied will be a factor. Dylan said that South Portland has developed a process and their registration portal is online, and that it is worth reviewing.

Review of Minutes

- Motion: Kathleen Kluger moved to approve the minutes from Thursday, December 12, 2019, as amended. Wayne Boardman seconded. The motion passed 4-0-1, with Al Cotton absent.

Other Business

Dylan has “put up” the planning board meeting schedule for 2020.

Adjourn

The meeting adjourned at 9:30 p.m.

Respectfully submitted,

Patience G. Horton
Planning Board Recording Secretary
ARTICLE TEN-H
OUTDOOR LIGHTING ORDINANCE

10-H.1 Purpose

The purpose of this ordinance is to:

a) Encourage outdoor lighting practices that will minimize light pollution, glare, light trespass and sky glow in order to preserve the night sky, increase safety and prevent lighting nuisances on properties and the public right of way;

b) Conserve energy and resources while maintaining nighttime safety, utility, security, and productivity; and

c) Curtail the degradation of the nighttime visual environment in order to preserve the visual and natural character of the Town of York.

10-H.2 Definitions (Likely Place in Definitions section of ordinance)

- CORRELATED COLOR TEMPERATURE (CCT): The perceived color of the light emitted by a lamp, expressed in kelvin (K) units. The lower the kelvin rating, the "warmer" or more yellow the light; the higher the rating, the "cooler" or more blue the light.

- ESSENTIAL LIGHTING: Light used for a specified period of time that is necessary for a specific purpose while said purpose is actively being served. This includes lighting that is necessary to promote location identification, public circulation, public safety, and fully-shielded security lighting.

- FIXTURE: The complete lighting assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens; also referred to as a "luminaire."

- FOOTCANDLE: The unit of measure expressing the quantity of light received on a surface. One footcandle is the illuminance produced by a candle on a surface one-foot square from a distance of one foot.

- FLOOD- OR SPOTLIGHT: Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

- FULL CUT-OFF: a fixture that delivers 100% of the total lumens within the 0° to 90° zone with a maximum of 10% of total lumens delivered within the 80° to 90° zone. Full-cutoff fixtures are considered fully shielded. See Figure 1.

- FULLY SHIELDED: Constructed in such a manner that all light emitted by the luminaire, either directly or from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal. Unlike a full-cutoff fixture, a fully shielded fixture is not engineered to limit lumen distribution in the 80° to 90° zone. See Figure 1.
- **GLARE**: A visual effect produced when a light source within the field of view is brighter than the level to which the eyes are adapted. Glare may cause annoyance, discomfort, loss of visual acuity, or momentary blindness.

- **HEIGHT OF LUMINAIRE**: The vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

- **IDA**: International Dark-Sky Association.

- **IES**: Illuminating Engineering Society, the trade association of the lighting industry.

- **ILLUMINANCE**: The amount of light falling on a surface, measured in footcandles (lumens per square foot).

- **LED (Light-Emitting Diode)**: A semiconductor device that emits visible light when electrical current passes through it.

- **LIGHT POLLUTION**: Any adverse effect of artificial light including, but not limited to, glare, light trespass, skyglow, visual clutter, excessive or unnecessary lighting, or any artificial light that unnecessarily diminishes the ability to view the night sky or is disruptive to the natural environment.

- **LIGHT TRESPASS**: Light from an artificial light source that falls beyond the property that it is intended to illuminate.

- **LUMEN**: The unit of measurement used to quantify the amount of light produced by a lamp or emitted from a fixture (as distinct from "watt," which is a measurement of the electrical power). For the purposes of this ordinance, measurements in lumens shall refer to "initial lamp lumens" as rated by the manufacturer when the lamp is new, as listed on the packaging.

- **LUMINAIRE**: See fixture.

- **NONESSENTIAL LIGHTING**: Lighting which is unnecessary for pedestrian passage or other tasks and therefore not generally useful (i.e., decorative and landscape lighting). This
includes lighting intended for a specific task or purpose when said task or purpose is not being actively performed (e.g., parking lot illumination and wall-mounted perimeter lights after business hours).

- **NUISANCE LIGHTING**: Outdoor lighting that results in excessive illumination levels on adjoining properties such that:
  a) Illuminance at or beyond a property line abutting a residential parcel, nature preserve, natural resource protection area, or waterway exceeds 0.2 footcandles as measurable from any orientation of the measuring device.
  b) Illuminance at or beyond a property line abutting a nonresidential property or public right-of-way exceeds 0.5 footcandles as measurable from any orientation of the measuring device; or
  c) Glare light as seen from a neighboring property or roadway is of sufficient intensity to cause discomfort, annoyance, or impaired visibility.

- **OUTDOOR LIGHTING/LIGHT FIXTURE**: An outdoor electrically powered illuminating lamp or similar device used for lighting structures, parking lots, pathways, service canopies, recreational areas, signs or other similar outdoor lighting uses.

- **SHIELD**: An Opaque device that is attached to a light fixture to prevent light from being emitted in certain directions.

- **SKYGLOW**: The brightening of the night sky or the overhead glow from artificial light that is directed upward or from light reflected upward from the ground or off other surfaces. Skyglow is caused by the reflection of light off moisture and dust particles in the atmosphere, reducing the ability to view the natural night sky.

- **RECREATIONAL LIGHTING**: Lighting used to illuminate sports fields, ball courts, playgrounds or similar outdoor recreational facilities.

- **UNSHIELDED FIXTURE**: A fixture that allows light to be emitted above the horizontal either directly from the lamp or indirectly from the fixture or reflector. Any fixture not full cutoff.

### 10-H.3 Applicability

a) Any new outdoor lighting installed on nonresidential and multifamily housing. All outdoor lighting newly installed after the effective date of this article shall comply with its provisions.

1) Preexisting lighting. All properties with legally existing and operative outdoor lighting on [the effective date of this article] shall be exempt from compliance, subject to the provisions below.

   i. Any outdoor lighting that is replaced, changed, repaired, or relocated in whole or in part, after the effective date of this article shall comply with its provisions.

   ii. The Town may require outdoor lighting luminaires to be brought into compliance through the building permit process if substantial
modifications are made to the exterior of the building or if the footprint of the structure is enlarged by 25% or more.

iii. Properties that change ownership or that formally request a change in use shall bring outdoor lighting into compliance with this article.

iv. When minor corrective action, such as re-aiming, can be performed, any nonconforming luminaire shall be brought into compliance within 90 days of [the effective date of this article].

2) This article does not deal with indoor lighting. However, light trespass from interior lighting that negatively impacts adjacent properties is also prohibited.

b) New or revised lighting serving single-and two-family residential housing must be located and designed so that it does not result in excessive illumination levels on adjoining properties such as to amount to a public or private nuisance and must be compatible with the zone requirements in the neighborhood in which it is located.

c) In case of conflict between this Article and other local or state requirements, the most restrictive shall apply

10-H.4 Exempt and prohibited outdoor lighting

a) Exempt outdoor lighting. The following are exempt from the provisions of this article:

1) All temporary emergency lighting determined to be necessary by the Police Chief, Fire Chief, Public Works Director, or other firefighting or emergency service providers.

2) Low wattage or low voltage temporary decorative lighting used for holidays, festivals, and special events, provided they do not pose a safety or nuisance problem due to light trespass or glare.

3) Flag uplighting, provided any such flag is not used for advertising purposes and that the light is a narrow beam aimed and shielded to illuminate only the flag.

4) Underwater lighting used for swimming pools, provided such lighting meets all relevant electrical codes.

5) State or Federal regulated lighting such as airports, towers requiring lighting, highway signage and traffic signals, etc.

6) Lighting installed to illuminate public monuments, provided that the light levels do not exceed two footcandles on any light surface monument and do not exceed four footcandles on any dark surface.
b) Prohibited outdoor lighting. The following outdoor lighting shall not be permitted within the Town as of the effective date of this article, except as exempt above:

1) Searchlights, except those used for governmental or emergency purposes.

2) Strobe lights and laser lights, including laser light shows and aerial laser lights.

3) Fixtures that revolve or create blinking, flickering, scrolling, rotating, pulsating or tracing light, including on signs, exclusive of exempt holiday lighting.

4) Flashing lights, unless temporarily triggered by a security system and extinguished at the time of security response.

5) Any type of lighting used to outline all or part of a building (for example, a window, roof, or gable), except for fully recessed soffit lighting that otherwise complies with this article.

6) Any light fixture that may be construed as or confused with a traffic signal, traffic control device or maritime navigational markers.

7) "Day burners" or outdoor lighting which is illuminated during daylight hours.

8) Nuisance lighting in the form of light trespass or glare that results in excessive illumination levels on adjoining properties.

10-H.5 Standards for nonresidential and multi-family housing

a) Illumination Levels. Luminaires and lighting installations shall not exceed the minimum recommended illuminances, uniformities, and glare control in accordance with the latest edition of the IES Lighting Handbook or current Recommended Practices of the Illuminating Engineering Society of North America (IES). Future amendments to said Lighting Handbook and Recommended Practices shall become a part of this Article without further action by the Town.

b) Luminaire Types. Unless otherwise exempted in this Article, luminaires shall not exceed 3000K Correlated Color Temperature (CCT). LED fixtures and lamps of 2700 CCT are preferred.

c) Any luminaire emitting more than 1000 lumens (the approximate output of a 75-watt incandescent bulb) shall be fully shielded so as to produce no light above a horizontal plane through the lowest direct light-emitting part of the luminaire. See Figure 2 for examples of properly shielded fixtures.

d) Flood lighting is discouraged and if used, must be shielded to prevent disability glare for drivers or pedestrians, light trespass beyond the property line, or light above a 90 degree, horizontal plane.
Figure 2

e) Mounting height:

1) Building or structure. Outdoor lighting fixtures shall not be installed at a height greater than 12 feet from grade to the lowest light-emitting part of the
fixture, except for fully recessed soffit lighting that otherwise complies with this article.

2) Free-standing pole. The Planning Board may consider heights of outdoor lighting fixtures up to but not greater than 15 feet from the natural grade to the lowest light-emitting part, unless it is demonstrated to the Planning Board's satisfaction that a greater mounting height would better accomplish the purposes of this article.

f) Setback. Freestanding lighting poles placed within 10 feet of side and/or rear property lines shall not exceed 10 feet in height and shall have full-cutoff fixtures.

g) Time Limits for Outdoor Lighting:

1) Nonessential outdoor lighting and all outdoor lighting located more than 50 feet from any building or outdoor product display or storage area shall be turned off by 11:00 PM or no later than 30 minutes after the business closes, whichever is later, and remain off for the remainder of the night or until the business reopens. Decorative holiday lights are exempt in accordance with Subsection 10-H.3.a.2.

2) Essential lighting in operation after the close of business should be no brighter than necessary for safety and security purposes and should be controlled by motion sensors wherever practicable.

h) Canopies for businesses including, but not limited to, bank drive-throughs and gas stations. Luminaires mounted on a canopy shall be recessed in the ceiling of the canopy so that the lens cover is recessed or mounted flush with the ceiling and fully shielded. Luminaires shall not be mounted on the sides or top of the canopy.

i) Commercial outdoor display lots, including, but not limited to car dealerships

1) Shielding. All light fixtures used in outdoor display lots shall be fully shielded and be aimed so that the direct illumination shall be confined to the property boundaries of the source.

2) Lighting Time Limitations. Outdoor display lot lighting shall conform to the hours of operation as specified in section 10-H.4.g. Display lot lighting shall be reduced after closing to the minimum necessary for safety and security. Rather than leaving security lights on, the use of motion sensors is encouraged.

j) Outdoor Recreation Facilities

1) Illumination levels for the field/track/arena shall be designed to be no higher than that recommended by the Illuminating Engineering Society of North America publication IESNA RP-06-15 (Sports and Recreational Lighting) or the most recent edition.
2) Shielding. Fixtures used for field/track/arena areas shall be fully shielded.

3) Time Limits. No recreation facility shall be illuminated after 10:00 PM, except to conclude a scheduled recreational or sporting event in progress prior to the time limitation.

4) Certification. Lighting systems for outdoor recreational facilities shall be designed and certified by an engineer as conforming to all applicable restrictions of this Article before construction commences. Further, after installation is complete, the system shall be again certified by a registered engineer to verify that the installation is consistent with the certified design.

k) Residential subdivisions [Road and common area lighting]:

1) …

l) Hillsides, ridgelines, and special cases: In certain situations (such as, but not limited to, properties on or near ridgelines or hillsides), additional shielding may be required to mitigate glare or light trespass. The need for additional shielding will be considered as part of the review process performed by the Planning Board prior to approval of any site plan or subdivision.

m) Submission requirements, photometric plans:

1) A Lighting Plan shall be included as part of a site plan or subdivision application, indicating the location of each proposed outdoor lighting fixture with projected hours of use. For a residential subdivision, the lighting plan is only required to cover the illumination of subdivision roads and other common areas. The Lighting Plan shall be stamped and certified by a licensed professional, such as an architect or engineer. The Lighting Plan must include a KEY to the proposed lighting that provides the following information:

i. Type and number of luminaire equipment (fixtures), including the "cut off characteristics" and indicating manufacturer and model number(s).

ii. Lamp source type (i.e. LED), lumen output, and wattage.

iii. Mounting height with distance noted to the nearest property line for each luminaire.

iv. Types of timing devices used to control the hours set for illumination, as well as the proposed hours when each fixture will be operated.
v. Lighting manufacturer-supplied specifications ("cut sheets") that include images of the fixtures, indicating the certified "cut off characteristics" of the fixture.

vi. For all plans of more than three fixtures: A Calculation Summary indicating footcandle levels on the lighting plan, noting the maximum, average, and minimum, as well as the uniformity ratio of maximum to minimum and average to minimum levels.

2) The photometric plan shall show the extent of the areas designed and intended for lighting, and within those specific areas, plot the light levels in footcandles on the ground given the designated mounting heights for the proposed fixtures. Maximum illuminance levels should be expressed in footcandle measurements on a grid of the site showing footcandle readings in every five or ten-foot square. The grid shall include light contributions from all sources (i.e. pole mounted, wall mounted, sign, and street lights.) The photometric plot shall extend to all lot lines or as necessary to reach 0 (zero) footcandles. On the approved plan, it should be noted that any substitutions, additions, or changes will be considered field changes and shall receive prior approval by the Planning Board.

n) Illuminated signs must not produce glare and are otherwise governed by Article 16.

10-H.6 Standards for single-family and two-family housing

a) New or revised lighting serving single-and two-family residential housing must be located and designed so that it does not result in excessive illumination levels on adjoining properties such as to amount to a public or private nuisance. Illumination at the property line of more than 0.2 footcandles is considered to be excessive if the lighting level is in dispute. In the case of a major home occupation, the application shall include a lighting plan meeting the requirements of [plan application process].

b) Existing or new outdoor lighting that meets the definition of nuisance lighting shall be corrected within 60 days of notice.

c) Good neighbor recommendations. All new or revised outdoor lighting should, to the greatest extent practicable, meet the following standards:

1) Luminaires should make use of energy-efficient LED technology and should exhibit a Correlated Color Temperature (CCT) of 3000K or lower.

2) Any luminaire emitting more than 800 lumens (the approximate output of a 60-watt incandescent bulb) should be fully shielded so as to produce no light above a horizontal plane through the lowest direct light-emitting part of the luminaire. See figure 2 for examples of properly shielded fixtures.
3) Floodlights and spotlights that are shielded or aimed downward so as to emit no light above a 90 degree, horizontal plane are strongly preferred.

4) Wherever appropriate, outdoor lighting installations should include timers, dimmers, and/or motion-sensors to reduce overall energy consumption and eliminate unneeded lighting, particularly between 11 p.m. and dawn.

10-H.7 Procedures, penalties for offenses

[Final subsection?]

### The planning Board may modify or waive the requirements of this section if it determines that in so doing, it will not jeopardize the intent of these regulations.
Proposed Ordinance Amendments

to be considered at a

May 2017 Special General Referendum

Amendment

Short Term Residential Rentals
Amendment #
Short Term Residential Rentals

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

Article X  
The Town hereby ordains amendment of the *Zoning Ordinance* to add sections that define and permit the use of a Short Term Residential Rental (STRR).

Statement of Fact: The purpose of this ordinance is to establish a permitting process and appropriate use standards for the rental of residential dwelling units for short term occupancy (less than 30 days in a calendar year) and to minimize potential negative effects that a Short Term Residential Rental may have on abutters and surrounding residential neighborhoods. These ordinance amendments shall not take effect until January 1, 2018.

Amendment: Amend Article 2-Definitions with the following:

**DWELLING UNIT:** A dwelling unit is one or more rooms within a building for the use of one person or multiple people living as a family (as defined in Article 2), and contains living, sleeping, sanitary and kitchen facilities for the exclusive use of the unit occupants. A dwelling unit excludes: a building or space used for an artist studio within a Cultural Facility; or a building or space used for transient rental accommodations including a motel, hotel, inn, or similar facility *unless otherwise specified in the zoning ordinance.* (See also §8.1.4.A regarding the a variation of this definition within the Shoreland Overlay District.)

**Transient Occupancy:** A stay by the same person or group of people in overnight accommodations of a particular hotel, motel, inn, bed & breakfast, *short term residential rental* or other such place for 30 days or less per calendar year. Room or suite assignments are not relevant in determining whether or not occupancy is transient.

**Short Term Residential Rental:** A dwelling unit, other than a hotel/motel, B&B, Inn, Boarding House, Tourist Home, Accessory Dwelling Unit etc., that is rented by the owner or the owner's agent for transient occupancy.
Amendment: In Article 4, Use Regulations, amend section 4.1- Base Zone Requirements letter “A” Residential Use Category, with Permit/Approval Jurisdiction by adding the following:

A. Residential Use Category, With Permit/Approval Jurisdiction. The following is a list of all the principal uses within the Residential Use Category. In the zone-by-zone listing of permitted principal uses in the Residential Use Category, any use listed for that zone shall be an allowed use, and uses from this list which are not listed shall be expressly prohibited. Where a permit or approval is required for establishment or modification of the use, the proper authority is identified below, after the use. Where uses are referenced in overlay districts, permit or approval authority for the use shall be the same as in the base zones unless otherwise specified.

- Dwelling, Single-Family – CEO
- Dwelling, Two-Family – CEO
- Dwelling, Multi-Family – Planning Board
- Short Term Residential Rental – CEO
- Bed & Breakfast – Board of Appeals, by Special Exception per §18.8.2.2
- Boarding House – Board of Appeals, by Special Exception per §18.8.2.2
- Elderly Housing – Planning Board
- Elderly Congregate Housing – Planning Board

Amendment: In Article 4, Use Regulations, amend section 4.1.1- Residential Districts by permitting Short Term Residential Rentals within every Residential District by adding the following:

Residential Use Category (RES 1-A & RES 1-B)
- Short Term Residential Rental

Residential Use Category (RES-2)
- Short Term Residential Rental

Residential Use Category (RES-3)
- Short Term Residential Rental

Residential Use Category (RES-4)
- Short Term Residential Rental

Residential Use Category (RES-5)
- Short Term Residential Rental

Residential Use Category (RES-6)
- Short Term Residential Rental

Residential Use Category (RES-7)
- Short Term Residential Rental
Amendment: In Article 4, Use Regulations, amend section 4.1.2- Business, Village and General Districts by permitting Short Term Residential Rentals within the residential use category of each district by adding the following:

**Residential Use Category (BUS-1)**
- Short Term Residential Rental

**Residential Use Category (BUS-2)**
- Short Term Residential Rental

**Residential Use Category (YBVC)**
- Short Term Residential Rental

**Residential Use Category (YVC-1 & YVC-2)**
- Short Term Residential Rental

**Residential Use Category (GEN-1)**
- Short Term Residential Rental

**Residential Use Category (GEN-2)**
- Short Term Residential Rental

**Residential Use Category (GEN-3)**
- Short Term Residential Rental

Amendment: In Article 4, Use Regulations, amend section 4.1.4- Route One Districts by permitting Short Term Residential Rentals within the residential use category of each Route One district by adding the following:

**Residential Use Category (RT 1-1)**
- Short Term Residential Rental

**Residential Use Category (RT 1-2)**
- Short Term Residential Rental

**Residential Use Category (RT 1-3)**
- Short Term Residential Rental

**Residential Use Category (RT 1-4)**
- Short Term Residential Rental

**Residential Use Category (RT 1-5)**
- Short Term Residential Rental

**Residential Use Category (RT 1-6)**
- Short Term Residential Rental
**Amendment:** In Article 7, Special Provisions, add section 7.19- Short Term Residential Rental and applicable standards with the following:

**7.19 Short Term Residential Rental (STRR)**

7.19.1 **Purpose.** The purpose of this ordinance is to establish standards for the rental of residential dwelling units for short term (transient) occupancy, in order to minimize negative secondary effects that a short term residential rental may have on abutters and surrounding residential neighborhoods. The goals of this section are to retain the character of the neighborhood in which a short term residential rental use occurs and to ensure the health, safety, and wellbeing of York’s residents and visitors. It is the responsibility of property owners of a short term residential rental to comply with these standards and support the goal of retaining the character of the neighborhoods in which the use occurs.

7.19.2 **Categories of Short Term Residential Rentals.**

A. **Residence Owner Occupied.** The property owner resides in the dwelling unit and is on premises during the rental period.

B. **Residence Not Owner Occupied.** The property owner does not reside in the dwelling unit or is not on the premises during the rental period.

*Exception.* A property owner who rents their primary residence for 30 calendar days or less during a calendar year and does not reside on the premises during that rental period, shall adhere to the same standards as a Residence Owner Occupied STRR and may obtain a permit in lieu of business license.

7.19.3 **Permit or Licensing Requirements.**

A. **Residence Owner Occupied.** The property owner of a STRR, or local designee, shall obtain a STRR Permit on an annual basis from the Code Enforcement Officer (CEO).

B. **Residence Not Owner Occupied.** The property owner of a STRR, or local designee, shall obtain a Business License on an annual basis pursuant to the Town’s Business Licensing Ordinance. This license shall be required for each dwelling to be utilized as a STRR.
7.19.4 General Standards. The following standards shall apply to all categories of Short Term Residential Rentals.

A. **Parking.** **Off-street parking** shall be provided for all guest and property owner vehicles.

B. **Occupancy.** No more than four (4) individuals per bedroom shall be permitted for overnight stays in a STRR unless otherwise determined by fire inspection to be safe and meet fire code. For the purpose of this section bedroom shall be defined per the Town’s Supplemental Plumbing Ordinance.

C. **Trash and Recycling.** The property owner of a STRR is responsible for keeping trash and recycling out of public view. Trash and recycling shall be stored within appropriate receptacles and shall comply with Town of York recycling and solid waste ordinances.

D. **Human Waste.** The property owner of a STRR that is served by a private septic system shall ensure the septic system is functional and is maintained per the Town of York’s Supplemental Plumbing Ordinance.

E. **Appearance and Visibility.** The property owner of a STRR shall not change the residential character of the outside of the dwelling unit by use of signage, lighting or any other type of advertising mechanism except as permitted in Article 16-Sign Standards, section 16.6.3.

F. **Fire Safety.** An access and egress map shall be visibly posted inside the dwelling unit.

G. **Interior Display of a STRR Permit.** Property owners of the dwelling to be used as a STRR shall affix the STRR permit or business license inside the main entry of the STRR to which it applies. The interior display shall contain the maximum number of overnight occupants permitted to stay in the unit, the maximum number of vehicles for overnight occupants (see parking requirement above), and a 24-hour, seven-day phone number of the property owner and/or local person responsible for the STRR.

H. **Record Keeping.** The property owner of a STRR, or local designee, shall maintain accurate, up-to-date records for all rental transactions, including the number of guests and the duration of their stays. Such records shall be available for review by the Code Enforcement Officer (CEO) upon request.
I. Complaints. Complaints regarding a STRR that are received by the York Police Department shall be brought to the attention of the CEO as soon as practicable. Also, any person may file a complaint directly with the CEO by providing documentation of the violation and shall submit a complaint form to the CEO in a timely manner. The CEO shall establish and maintain a log of complaints that have been received and substantiated for each STRR.

J. Violations. If the property owner of a STRR has failed to comply with the standards in this ordinance, or the CEO has verified at least three (3) complaints within a year following the permit or license approval, then the property owner of a STRR shall be subject to permit or license revocation, appropriate fines and penalties as referenced in this zoning ordinance, and shall be subject to STRR permit or license refusal for at least one (1) full year thereafter. If permit or license refusal due to noncompliance is enacted, it shall be from the date of the last violation not from the permit or license approval date.

7.19.5 Standards applicable to a Short Term Residential Rental that is not owner occupied includes the General Standards above, plus the following.

A. Fire and Carbon Monoxide Safety. A hard-wired or similar acceptable smoke alarm system with battery backup shall be required in each bedroom within a STRR.

B. Record Keeping. Rental agreements, either as a signed hard-copy or in a verifiable electronic form/receipt, shall be required and shall be made available to the CEO upon request.

Amendment: In Article 8, Shoreland Overlay District, amend section 8.2.1.A and 8.2.1.B by permitting Short Term Residential Rentals within the residential use category of the Mixed Use and Limited Residential Sub districts:

Residential Use Category (Mixed Use Shoreland) – Shoreland permits/approvals are required. Jurisdiction to issue Shoreland permits/approvals is established by use as specified in §4.1.A, except where indicated below.

- Short Term Residential Rental

Residential Use Category (Limited Res. Shoreland) – Shoreland permits/approvals are required. Jurisdiction to issue Shoreland permits/approvals is established by use as specified in §4.1.A, except where indicated below.

- Short Term Residential Rental
*All proposed Short Term Residential Rental Zoning Ordinance amendments shall take effect on January 1, 2018, in order to allow owners of a Short Term Residential Rental, or Rentals, time to prepare for the regulations outlined herein.

*SUNSET CLAUSE: This ordinance and any sections of the zoning ordinance that were amended as part of the May 2017 Special General Referendum that includes specific Short Term Residential Rental language (such as but not limited to Article 4 - Use regulations, Article 2 - Definitions etc.) shall remain valid until May 31, 2020. After this date all applicable sections of the zoning ordinance specific to the incorporation of Short Term Residential Rental language shall be repealed. It is expected that all applicable sections of the zoning ordinance that incorporated Short Term Residential Rental language will be continued, with or without modification. This Sunset Clause is provided to allow evaluation of this ordinance and sections of the zoning ordinance that included short term residential rental language, the ordinance’s effectiveness, and to make adjustments if needed without causing adverse impacts.

Recommended by the Planning Board:
Recommended by the Board of Selectmen:
**Amendment #**

*Business Licensing Ordinance*

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

_Article X_
The Town hereby ordains amendment of the **Business Licensing Ordinance** regarding the inspection and permitting of Short Term Residential Rentals (STRR’s) that are classified as “Residence Not Owner Occupied” pursuant to proposed amended section 7.19 of the zoning ordinance.

**Statement of Fact:** The purpose of this ordinance amendment is to establish a permitting process and appropriate inspection requirements for the rental of Short Term Residential Rentals that are classified as “Residence Not Owner Occupied” per proposed zoning ordinance amendment 7.19. This ordinance shall not take effect until January 1, 2018.

**Amendment:** Amend Section 1: Purpose and Scope, 1.2 Licensed Activities “Lodging” by adding the Following:

**Lodging**
- Bed and Breakfast (see §4.2.1)
- Innkeepers (see §4.2.2)
- *Short Term Residential Rental “Residence Not Owner Occupied”* (See §4.2.14)

**Amendment:** Amend Section 2: General Provisions 2.6, Application Fee by adding a new License and Renewal section regarding short term residential rentals that are considered residence not owner occupied:

2.6 **Application Fee**
The application fee shall be paid at the time of application submittal, and shall be non-refundable. The following shall apply.

2.6.1 **New Licenses and Renewals (unless specified in section 2.6.2 below)**
The fee shall be the sum of the following:
- A. $60; plus
- B. $30 for each license after the first; plus
- C. $50 if a public hearing is required by the Ordinance.
2.6.2 New Licenses and Renewals for Short Term Residential Rentals classified as “Residence Not Owner Occupied” per section 7.19 of the Zoning Ordinance

The fee shall be the sum of the following for each rental:

A. $200; plus
B. $100 for each license after the first license approval; plus
C. $50 if a public hearing is required by the Ordinance.

*Use of Fee revenues: Revenues from Business Licensing fees associated with Short Term Residential Rentals that are classified as “Residence Not Owner Occupied” shall be placed in an account to help administer enforcement of this ordinance.

2.6.3 License Amendments

The fee for a license amendment shall be $25.

Amendment: Amend Section 4: Standards, by adding 4.2.14 Short Term Residential Rentals classified as “Residence Not Owner Occupied” with the Following:

4.2.14 Short Term Residential Rental “Residence Not Owner Occupied”

This license shall be required for the operation of a Short Term Residential Rental classified as “Residence Not Owner Occupied” per the York Zoning Ordinance. The following shall apply:

A. Inspections Required:
   T. Code Inspection - annual.

B. Related Laws. See Zoning Ordinance, Section 7.19.

C. Statutory Authority. Home Rule Authority.

D. Enforcement Authority. CEO.

*All proposed Short Term Residential Rental Business Licensing Ordinance amendments shall take effect on January 1, 2018, in order to allow owners of Short Term Residential Rentals, time to prepare for the ordinance amendments outlined herein.

*SUNSET CLAUSE: This section of the Business Licensing Ordinance and any sections of this ordinance that were amended as part of the May 2017 Special General Referendum that includes specific Short Term Residential Rental language (such as but not limited to Section 2 – General Provisions, Section 4 - Standards etc.) shall remain valid until May 31, 2020. After this date all applicable sections of the Business Licensing Ordinance specific to the incorporation of Short Term Residential Rental requirements shall be repealed. It is expected that all applicable sections of the Business Licensing Ordinance that incorporated Short Term Residential Rental language will be continued, with or without modification. This Sunset Clause is provided to allow evaluation of this ordinance and sections of the Business Licensing Ordinance that included short term residential
rental language, the ordinance’s effectiveness, and to make adjustments if needed without causing adverse impacts

Recommended by the Board of Selectmen:
Hi Dylan-

These would be my suggestions for the 5 questions. I did not know whether or not it was appropriate to send these to the rest of the board as well.

1) A quasi municipal committee, separate from the Planning Board, and using an outside consultant could be launching an initiative, subject to a town vote on funding authorization in May, to develop a Climate Action Plan (CAP). If authorized this separate effort would begin shortly after work begins on the Comprehensive Plan. The CAP will focus on both mitigation and adaptation measures and is intended to utilize some of the same techniques as we expect to be used to develop the Comprehensive Plan, including substantial public outreach. How would your team recommend managing the overlap and coordination issues associated with this possibility?

2) Please explain in some detail how your firm will address the ethic of sustainability and climate changes issues within the Comprehensive Plan.

3) (For those bidders that represent multiple firms) Have you and your team worked together in the past and could you describe how you internally manage the work?

4) Please describe in some detail how the team on this engagement will be organized and how its leadership functions. Is the engagement leader expected to be on site the majority of the time or will they periodically check on and report progress to the Comprehensive Plan Subcommittee?

5) The proposals were submitted at the end of October. Are there any key items in your proposal you might describe/characterize differently now?

Gerry
1. What about York's RFP speaks to your strengths as a consultant?

2. What is the least pleasant aspect of comprehensive planning, and how do you work around it? The most?

3. Which aspect of York’s comprehensive plan needs the most revision, and what will be your primary focus?

4. What are the benefits to York of 'certification' by the State of Maine of the new Comprehensive Plan?

5. What is the difference between a Master Plan and Comprehensive Plan?
1. You have been invited here because this Planning Board liked your responses to the focus items we listed in our RFP. Are there any areas of focus that we did not list which you have found to be important in the RFPs or Comprehensive Plans from other towns?

2. Are there certain forms of social media or other new technologies that you believe would improve the completion of our Comprehensive Plan?

3. We have requested an effective outreach program to assure that the people of York are part of developing the Plan and that they are fully bought into it. In your experience, which aspects of outreach would you consider to be the most effective?

4. Are there common weaknesses that you have found in other Maine Comprehensive Plans and how do we avoid them?

Thanks, Dylan.
Hi Dylan,

I know that it’s “late in the game,” but here are some additional questions addressing things that I didn’t see among the other questions already submitted.

~ Given that many of our citizens are distracted by other priorities and others are typically apathetic about municipal issues,
   how will you motivate members of the general public to participate in information gathering activities?
~ Notwithstanding Maine’s Comprehensive Plan Review Criteria, what methods/techniques will you use to make
   York’s Comprehensive Plan document easier to use in terms of locating and understanding specific information?
~ How would you approach documenting a lengthy, complex set of detail facts within the Comp Plan?
~ What measurement criteria will you use to know that the project is complete?

Cheers,

Pete

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**From:** Dylan Smith [mailto:dsmith@yorkmaine.org]
**Sent:** Wednesday, January 08, 2020 1:23 PM
**To:** Kathleen Kluger; Kathleen Kluger; Wayne Boardman; Wayne Boardman; Gerry Runte; Peter Smith; Peter Smith; Kenneth Churchill
**Subject:** Fwd: questions for the CP applicants

FYI...

Sent from my iPad

Begin forwarded message:

**From:** "alcotton@aol.com" <alcotton@aol.com>
**Date:** January 8, 2020 at 8:51:15 AM EST
**To:** Dylan Smith <dsmith@yorkmaine.org>
**Subject:** questions for the CP applicants

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.