

1. Planning Board Meeting Materials

Documents:

2022-8-11 PLANNING BOARD AGENDA_REV 2.PDF
JULY 28, 2022 PLANNING DRAFT MINUTES.1.PDF
PB_LETTER_MS4 ORD CHANGES_YORK 2022_08.PDF
PB_YORK LID STRATEGIES SUBMITTAL_DRAFT.PDF
PROPOSED DRAFT STATEMENT OF FACT_COMP PLAN_FINAL_2022-8-11.PDF
NOVEMBER 2022 PROPOSED ZONING ORDINANCE
AMENDMENTS_DOCUMENT DRAFT_2022-6-10_FINAL TO BALLOT.PDF



AGENDA
York Planning Board Meeting
Thursday, August 11, 2022
7:00 PM
York Public Library

1. **Call to Order; Determination of Quorum; Appointment of Alternates**
2. **Field Changes**
3. **Public Forum**
4. **Discussion/Review- MS4 Program Update and Upcoming Stormwater Ordinance Changes for York**
5. **Discussion- Climate Action Plan potential next steps**
6. **Discussion- 2023 Potential Ordinance Amendments**
7. **Review- ~~Findings of Fact~~ Preference Votes**
 - **York 2022 Comprehensive Plan**
 - **Zoning Ordinance Amendment- Outdoor Dining for Restaurant Uses in Town**
8. **Minutes**
9. **Other Business**
10. **Adjourn**

1 **Planning Board Meeting/Hearing**
2 **Thursday, July 28, 2022; 7:00 P.M.**
3 **York Public Library**

4 **Call to Order; Roll Call; Determination of Quorum; Appointment of Alternates**

5 Chair Wayne Boardman called the meeting to order at 7:00 P.M. A quorum was determined
6 with five people voting: Wayne Boardman, Vice-chair Kathleen Kluger, Board Secretary Peter
7 Smith, Gerry Runte, and Ian Shaw. Planning Director Dylan Smith was not present. Patience
8 Horton took Minutes working remotely from the online stream. Votes were tallied via roll call.

9 **Field Changes**

10 There were no field changes.

11 **Public Forum**

12 **Martin Meyers** of Three Cranberry Lane referred to the July 14th 66 Raydon Road application
13 for which there were neither television broadcasting nor Minutes. Will there be a site walk? Has
14 the lighting plan been waived? Has the wildlife report been waived? [Kathleen Kluger answered
15 the board had obtained enough information about those things. Further action was not
16 necessitated.]

17 **Torbert Macdonald** of Fernald Ave said that peer reviewer Chris Di Matteo, a landscape
18 architect, should not peer review “everything,” including telecommunications facilities. Chris
19 Di Matteo should only peer review his own field, landscaping. An expert should be brought in
20 for any other category. [Kathleen Kluger replied that Chris Di Matteo, a former town planner, is
21 fully qualified to review applications.]

22 **Janet Drew** of Avon Avenue spoke of the dangers of electric-magnetic frequency and asked
23 that the Planning Board hire expert witnesses when those applications come up.

24
25 **Public Hearings**

26 **Town of York 2022 Comprehensive Plan**

27 **Copies of the draft plan (document draft date June 27, 2022) can be found on the Town’s**
28 **website at: [https://www.yorkmaine.org/Document center/Index/119](https://www.yorkmaine.org/Document%20center/Index/119) or in the Town**
29 **Clerk’s office at the York Town Hall.**

30 Comprehensive Plan Steering Committee Chair Kathleen Kluger conducted this public hearing,
31 which was the follow-up of the June 23 Comp Plan public hearing, five weeks ago.

32 Kathleen Kluger reported on five changes that were made to the draft plan.

- 33 1. A substantive change had been made to Strategy 8.2. A section was added: “Encourage
34 conservation actions and adoption of policies or regulations that accommodate marsh
35 migration.”
- 36 2. There was a note to the plan cover with a revision date.
- 37 3. On Page 64, text was added for 8.2 which resulted in 8.2.a.i.
- 38 4. A typo was repaired in Strategy 8.4.5 on Page 70. The same adjustment was made to the
39 same strategy in the implementation table.

40 5. A note was added to the front of Appendix D. It has dates showing all revisions and their
41 locations in the document.

- 42 • Motion: Kathleen Kluger moved to open the Public Hearing for Comprehensive Plan
43 2022 for the Town of York. Pete Smith seconded the motion. There was no discussion.
44 By roll call vote, the motion passed 5-0.

45 **Torbert Macdonald** of Six Fernald Avenue said the plan has to be certified. An
46 implementation strategy has to be created. A regional coordination program must be enacted.
47 The transfer of development rights should be incorporated. [Kathleen Kluger referenced
48 Southern Maine Planning and Development Commission's director, Lee Jay Feldman' email to
49 Dylan Smith indicating the new plan is especially inclusive of regional coordination and is a
50 gold standard for all other Maine comp plans.]

51 **Patty Huntington** talked about the importance of speaking directly about invasive species in
52 the plan.

53 **Janet Drew** said communication utilities and energy are not addressed in the Comp Plan.

- 54 • Motion: Kathleen Kluger moved to close the public hearing for the Comprehensive Plan.
55 Pete Smith seconded the motion. Without objection, Wayne Boardman closed the Public
56 Hearing.

57 The Board discussed the public hearing. The plan will go to the State for certification once it
58 has been accepted by the voters in November. There is an implementation plan, which calls for
59 the creation of committees that will focus on the transfer of development rights, invasive
60 species, communication utilities, energy, and other topics.

61 Sue Kim, Senior Planner from CivicMoxie, commended the Town Staff and Steering
62 Committee for coordinating the most involvement from the largest number of people of any
63 comp plan she has ever been associated with.

- 64 • Motion: Kathleen Kluger moved to forward the Comprehensive Plan to the Selectboard
65 for their August 22 meeting to place on the warrant for the November ballot. Gerry
66 Runte seconded the motion. There was no discussion. By roll call vote, the motion
67 passed 5-0.

68

69 **Minutes**

- 70 • Motion: Kathleen Kluger moved to approve the Minutes as amended for Thursday, June
71 23, 2022. Ian Shaw seconded the motion. By roll call vote, the motion passed 4-0-1,
72 with Gerry Runte abstaining because of absence.

- 73 • Motion: Kathleen Kluger moved to approve the Thursday, July 7, 2022, Minutes, as
74 amended. The motion was not seconded. By roll call vote, the motion passed 5-0.

75 **Other Business**

- 76 1. There are changes for York in the upcoming MS4 program. Kristy Labaska will be
77 making a presentation to the Planning Board on August 11.

78 2. There will be a second hearing for EV charging stations during the Selectboard meeting
79 on August 8.

80 **Adjourn**

81 9:00

82 Respectfully submitted,

83 Patience G. Horton

84 Next meeting: August 11, 2022



Mr. Dylan Smith
York Planning Director
186 York Street
York, ME 03909

August 5, 2022

Subject: Low Impact Development and other Ordinance Changes Required by General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems – For 8/11/2022 Planning Board meeting.

Dear Mr. Smith:

As you know, the 2022 Permit became effective 7/1/2022 and we have several ordinances that need updating over the next two years.

The following is a summary of the required ordinance changes and their associated deadlines:

1. Low Impact Development (LID) Strategies:
 - 9/1/2022 – the Town must submit to the Maine DEP a list of performance standards they intend to incorporate into the Town ordinances addressing 10 LID Measures, which are listed in the MS4 General Permit. This letter provides a recommended submittal to the Maine DEP based on a Model Ordinance created under a Maine Coastal Program Grant specifically to address this requirement.
 - Fall 2022 – the Maine DEP will issue the York list for a 30-day public comment
 - 11/1/2022 – the Maine DEP will inform the Town if the list is acceptable, or if additional performance standards are needed.
 - 7/1/2024 The performance standards must be incorporated into the Town’s ordinances.
2. 7/1/2023 - Erosion and Sedimentation Control (ESC) standards must be incorporated into the Town’s ordinances. The standards are almost identical to the Maine DEP Chapter 500 standards for erosion and sedimentation control, but incorporation into the Town’s code should provide more clarity with regard to what is needed at a construction site and will assist code enforcement officers during inspections and with enforcement actions.
3. 7/1/2023 – The Town’s Post-Construction Stormwater Management Ordinance was enacted in 2014 to ensure that stormwater infrastructure that is owned by private developments is inspected and maintained. The 2022 MS4 General Permit requires that we update this ordinance to ensure any corrective measures identified by the owner or inspector are implemented within 60 days of identification.
4. 7/1/2023 The Town’s Non-Stormwater Discharge Ordinance was also enacted in 2014 to ensure that pollutants are not discharged into the storm drain system (either by dumping or by direct connection). The 2022 MS4 General Permit requires that we update this ordinance to ensure that the source of an illicit discharge into the storm drain system is eliminated within 60 days of discovery.

To address these ordinance changes, we recommend creating a new Stormwater Chapter that will contain all stormwater standards (the LID, ESC, Post Construction and Non-Stormwater prohibitions). Changes would also need to be made to the following ordinances at a minimum:

1. Site Plan and Subdivision Regulations to remove any standards from that document, and incorporate them into the new Stormwater Chapter.
2. Zoning Ordinance to point to the Stormwater Chapter and remove any discrepancies. There are also a few elements of the LID strategies that may be better contained in the Zoning Ordinance (e.g. parking standards).

As we update these sections, Planning Staff also recommend updating the Site Plan and Subdivision Regulations and Zoning Ordinance to remove inconsistencies they have observed. This change may result in moving the Site Plan regulations into the Zoning Ordinance and leaving the Subdivision Regulations in their own chapter. This is a standard that most municipalities follow.

Because it is most pressing, we have attached a proposed submittal to address LID Strategies to meet our 9/1/2022 Maine DEP deadline. This submittal is based on the Model Ordinance for LID Strategies, which was developed over the past year using Grant Funding. The Model Ordinance was reviewed by Jim Katsiaficas, an attorney with Perkins Thompson who specializes in municipal law. Although this document is presented as a stand-alone ordinance, it will be adopted as part of the new Stormwater Chapter in accordance with the MS4 deadline.

I believe the submittal reflects Performance Standards that are in keeping with the Town's preferences to protect natural resources, but the Planning Board may wish to change or remove some of the Performance Standards for the 9/1/2022 submittal to Maine DEP. I will attend the August 11, 2022 Planning Board meeting to review this with the Board and answer any questions they may have. Some notes for the Board to direct their review:

- a. Items that are underlined in the draft submittal are generally items that reference other elements of the York Ordinances or Regulations
- b. The Technical Appendix contains the details of the performance standards that will be implemented.
- c. In addition to the Technical Appendix, other items that are highlighted yellow are items we will likely discuss at the 8/11/2022 meeting or will decide upon at a later time (will the Board apply this Town-wide or Urbanized Area only, adjust open space standards, etc.).

We will provide the proposed new Stormwater Chapter with the changes to other ordinances at future Planning Board Meetings for their consideration.

If you have any questions about this information or need changes in advance of the Planning Board meeting, please let me know. I can be reached at 207-415-5830 or via email krabasca@integratedenv.com.

Sincerely,

Integrated Environmental Engineering, Inc.



Kristie L. Rabasca, P.E., LEED AP BD + C

Attachment: Proposed LID Performance Standards Submittal for Planning Board Consideration.

York Proposed Ordinance Content for Low Impact Development Strategies

Prepared for submittal to Maine Department of Environmental
Protection as required by the Maine General Permit for Stormwater
Discharges from Municipal Separate Storm Sewer Systems
Date of Revisions: 8/5/2022 – Draft for Planning Board Review

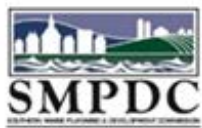
York intends to create a new Stormwater Ordinance and will update other town ordinances to reference the Definitions, Submittals and Performance Standards of this new chapter. The Stormwater Ordinance will likely contain other sections for Erosion and Sedimentation Control, Post Construction Stormwater Management and other stormwater requirements which are not shown for purposes of this submittal to the Maine DEP.

Numbering is provided for clarity and understanding, but numbering may change.

This document is based on the Maine Model Ordinance for Low Impact Development Strategies (see credits this page).

The Town process for ordinance changes requires review and approval by Planning Board, a Public Hearing, review by the Town's Lawyer and approval by Town residents on a Town Warrant as part of either a special or standard election.

Items shown in Blue Italics were listed as optional in the Model Ordinance.



CUMBERLAND COUNTY
SOIL & WATER
CONSERVATION DISTRICT

Credits: The York Proposed LID Strategies are based on the model ordinance prepared by SMPDC, CCSWCD, and Integrated Environmental Engineering, Inc. under award CZM NA21NOS4190082 to the Maine Coastal Program from the National Oceanic and Atmospheric Administration, U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of NOAA or the Department of Commerce.

DRAFT
STORMWATER ORDINANCE

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Note to Maine DEP: The purpose and objectives sections may change in the final ordinance. The applicability section may be updated to include additional requirements per the York ordinances, such as the triggers for Major or Minor Site Plan review (10,000 feet or more, or less than 10,000 square feet of floor space constructed within a five-year period). However the MS4 requirement for applicability related to one or more acres of disturbance will not change.

1. Purpose

The Purpose of this “Stormwater Ordinance” (the Ordinance) is to provide for the health, safety, and general welfare of the citizens of the Town of York through review and approval of development stormwater infrastructure including Low Impact Development Strategies as required by federal and State law.

This Ordinance establishes requirements for erosion and sedimentation control, restricts what can be discharged into the storm drain system, provides methods for implementing Low Impact Development Strategies, and requires owners of private infrastructure to inspect and maintain it to ensure it functions as intended. This ordinance was developed by the Town to comply with minimum control measure requirements of the federal Clean Water Act, of federal regulations and of Maine’s Small Municipal Separate Storm Sewer Systems General Permit.

2. Objectives

The Objective of this Ordinance is to minimize the adverse effects of new development and redevelopment on the environment specifically through protecting sensitive areas, providing on-site stormwater volume control, providing treatment of stormwater, and minimizing impervious areas.

3. Applicability

This ordinance applies to any development in the Town’s **Urbanized Area** that creates:

- a. Disturbed Area of one or more acres of land, or
- b. Disturbed Area that is less than one acre of land if the Construction Activity creating Disturbed Area is less than one acre of land and is part of a larger Common Plan of Development or Sale that as approved or amended would create Disturbed Area of one acre or more.

4. Definitions

Note to Maine DEP: Definitions may change slightly based on detailed cross comparison to existing definitions in Town Ordinances.

Buffers – Means all three kinds of buffers listed below unless a subset of the three is specifically called out:

- **Stormwater Vegetative Buffer** – a buffer constructed in accordance with Appendix F in Chapter 500 for the purposes of providing pollutant removal.

- **Shoreland Zoning Setback Buffer** – A buffer required by Article 8 Shoreland Overlay District in the Town’s Zoning Ordinance to protect a Water of the State.
- **Buffer** – a buffer area as described in the Zoning Ordinance as a visual buffer, landscaped buffer strip used for setbacks and screening, or a bufferyard used in a non-residential area (provisions that apply to all districts).

Chapter 500 – Means Chapter 500 of the Maine Department of Environmental Protection’s Rules (“Stormwater Management Rules”).

Chapter 502 - Means Chapter 502 of the Maine Department of Environmental Protection’s Rules (“Direct Watersheds of Lakes Most at Risk from New Development, and Urban Impaired Streams”).

Climate Resilient Northeast Native Vegetation – Means plants identified as native to the Northeast as identified by the Northeast Regional Invasive Species & Climate Change (RISCC) Network or a Maine Licensed Landscape Architect.

Common Plan of Development or Sale - Means a Major Subdivision or Minor Subdivision as defined in the municipality’s ordinances.

Note: Common Plan of Dev. or Sale is a term required to be used by the MS4 General Permit. §§ 4401.4 "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

Construction Activity – Means any activity on a Site that results in Disturbed Area.

Discharge - Means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants to the Waters of the State, other than groundwater.

Disturbed Area - Means all land areas of a Site that are stripped, graded, grubbed, filled, or excavated at any time during the site preparation or removing vegetation for, or construction of, a Project. Cutting of trees, without grubbing, stump removal, disturbance, or exposure of soil is not considered Disturbed Area. Disturbed Area does not include routine maintenance but does include Redevelopment and new Impervious Areas. “Routine maintenance” is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces provided that an applicant or permittee can prove the original line and grade and hydraulic capacity shall be maintained and original purpose of the gravel surface remains the same is considered routine maintenance. Replacement of a building is not considered routine maintenance of the building and is therefore considered Disturbed Area.

Note: Disturbed Area definition is from the MS4 General Permit plus addition of the last sentence to ensure that Redevelopment Projects removing buildings take into account that area as Disturbed Area.

Drainageway – Means the same as “Drainageway” defined in Chapter 500.

General Permit – Means the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4) approved October 15, 2020, and modified November 23, 2021, and any amendment or renewal thereof.

High Intensity Soil Survey – Means a Class A survey defined by the March 2009 Guidelines for Maine Certified Soil Scientist for Soil Identification and Mapping, prepared by the Maine Association of Professional Soil Scientists.

High Permeability Soils – Means hydrologic soil groups A or B as determined by on-site soil testing by a certified soil scientist using a High Intensity Soil Survey.

Impervious Area - Means the total area of a Parcel covered with a low-permeability material that is highly resistant to infiltration by water, such as asphalt, concrete, or rooftop, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common Impervious Areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater. Pervious pavement, pervious pavers, pervious concrete, and under drained artificial turf fields are all considered impervious.

Note: this definition is the same as Chapter 500 definition of Impervious Area except Chapter 500 has a sentence at the end was removed, saying that the DEP can exclude Pervious pavement from calculation of Impervious Area was modified.

Lot – Means the same as it is defined under the Municipality’s zoning ordinance.

Low Impact Development (LID) - Means a broad approach to site planning that preserves natural resources, processes, and habitat, defines what portions of the Site are suitable for development and then utilizes Stormwater Treatment Measures to manage Runoff from the proposed developed impervious areas. In LID, Stormwater Treatment Measures using natural processes such as vegetated buffers are given preference over constructed treatment Stormwater Treatment Measures. The goals of LID are to minimize the environmental impacts of the development.

Maine Licensed Landscape Architect – Means a person who has an active Landscape Architect license from the Maine Board of Licensure for Architects, Landscape Architects, and Interior Designers.

Maine Native Vegetation – Means vegetation including grass seed mixtures, identified as native to Maine from lists maintained by: US Department of Agriculture Hardiness Zones by the Maine Cooperative Extension, Wild Seed Project, Regional Soil and Water Conservation District, Maine YardScaping Program, or a Maine Licensed Landscape Architect.

Municipal Separate Storm Sewer Systems (MS4) - Means a conveyance or system of conveyances designed or used for collecting or conveying Stormwater (other than a publicly owned treatment works (POTW), as defined at 40 CFR 122.2, or a combined sewer), including, but not limited to, roads with drainage systems, municipal roads, catch basins, curbs, gutters, ditches, human-made channels or storm drains owned or operated by any municipality, sewer or sewage district, Maine Department of Transportation (MDOT), Maine Turnpike Authority (MTA), State agency or Federal agency or other public entity that Discharges to Waters of the State other than groundwater.

Municipality – Means the City/Town of _____ York.

New Development – Means the same as “New Development or Construction” defined in the General Permit.

The General Permit defines “New Development or Construction” as follows: “New Development or Construction” means activity undertaken to develop property, including but not limited to: the construction of buildings, parking lots, roads and other new impervious surfaces; landscaping; and other activities that disturb land areas. New Development or Construction does not include Redevelopment or maintenance. Permitted municipalities may define New Development more stringently.)

Parcel – Means the same as "Tract or parcel of land" as defined at 30 M.R.S. §4401.6 *et seq.* (or alternately, the municipality may reference their own definition of parcel).

§4401.6 Tract or Parcel of land means all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

Permitting Authority - Means the Code Enforcement Officer, Building Inspector, Planning Board, or other official or body authorized by State law or the Municipality’s ordinances to approve Development or Redevelopment of Sites.

Project – Means Construction Activity undertaken for Major Development, Minor Development or Subdivisions, both as defined in the General Permit, located on a Site that will Discharge Stormwater to a Small MS4 located partially or entirely within the Urbanized Area.

Protected Natural Resource - Means coastal sand dunes, coastal wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, community public water system primary protection areas, great ponds, or rivers, streams or brooks as defined in the *Natural Resources Protection Act* at 38 M.R.S. §480-B.

Redevelopment – Means the same as “Redevelopment” defined in the General Permit.

The General Permit defines “Redevelopment” as follows: “Redevelopment” means an activity, not including maintenance, undertaken to redevelop or otherwise improve property in which the newly developed area is located within the same footprint as the existing developed area.

Regulated Small MS4 - Means any Small MS4 authorized by the most recent, in-force General Permit or the general permits for the Discharge of Stormwater from MDOT and MTA Small MS4s or state or federally owned or operated Small MS4s including all those located partially or entirely within the Urbanized Area.

Runoff – Means the part of precipitation from rain or melting ice and snow that flows across a surface as sheet flow, shallow concentrated flow or in Drainageways.

Small MS4 - Means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, state, or federally owned systems, such as colleges, universities, prisons, military bases and facilities, and transportation entities such as MDOT and MTA road systems and facilities. See also 40 CFR 122.26(b)(16).

Significant and Essential Wildlife Habitats – Means the areas identified as Significant or Essential Habitats of endangered or threatened species as identified by the Maine Department of Inland Fisheries and Wildlife either on the Beginning with Habitat viewer or in consultation with the Maine Department of Inland Fisheries and Wildlife.

Site - Means the portion of a Lot, Parcel, or Common Plan of Development which is proposed for Construction Activity, including open space, Stormwater Treatment Measures, and Disturbed Area, subject to this Ordinance.

Stormwater- Means the part of precipitation including Runoff from rain or melting ice and snow that flows across the surface as sheet flow, shallow concentrated flow, or in Drainageways. “Stormwater” has the same meaning as “storm water”.

Stream Crossing - Means the mechanism by which any road, sidewalk, or other structural feature of a Site will cross or pass over or through a Water of the State which has a stream bank full width of 6 feet or less.

Stream Crossing designed in accordance with Maine Stream Smart Principles – Means a Stream Crossing designed by a Maine Professional Engineer who has completed the Maine Audubon Society Stream Smart Workshops (Parts I and II), which includes the standards recommended by that program’s stream span, elevation, slope and skew and substrate to promote passage of fish and other organisms and to limit road-damaging flows from extreme weather.

Stormwater Treatment Measure – Means a Stormwater management system or innovative treatment measure as described in Chapter 500 4.c.(3) Types of treatment measures allowed. These measures include wet ponds, vegetated soil filters, infiltration, buffers, or innovative treatment measures. For purposes of this Ordinance these are cumulatively referred to as Stormwater Treatment Measures, or individually referred to as Stormwater Treatment Wet Pond, Stormwater Treatment Vegetated Soil Filter, Stormwater Treatment Infiltration Measure, Stormwater Treatment Buffer, or Stormwater Treatment Innovative Measure.

Time of Concentration – Means the same as “Time of concentration” defined in Chapter 500.

Urbanized Area - Means the area of the Municipality so defined by the inclusive sum of the 2000 decennial census and the 2010 decennial census by the U.S. Census Bureau.

Waters of the State – See 38 M.R.S. §361-A (7).

5. Procedure

Review and approval of projects subject to this Ordinance will be conducted concurrently with their Site Plan Review or Subdivision review.

6. Submission Requirements

The following submission items are required to be submitted with any Preliminary Plan (for Minor Subdivisions or Minor Site Plan review unless waived by the applicant), or Final Plan (for Major Subdivisions or Major Site Plan Review):

A Project Narrative

The applicant shall provide a Project narrative describing:

- the overall approach to Stormwater management at the Project Site,
- a listing of Stormwater Treatment Measures that will be in use, stating which will be maintained privately and which will be offered to the Municipality for acceptance and operation,
- how they have prioritized protection of the sensitive areas from disturbance as required in Technical Appendix A and
- a rationale for any waivers from performance standards in Technical Appendix A.

B Project Contacts and Qualifications

The applicant shall provide contact information (i.e., name, company if applicable, phone number, physical address, and email address) as described below:

- Maine Licensed Landscape Architect
- Maine Certified Soil Scientist
- Maine Professional Engineer

C Project Plans Contents

The applicants Project Plans shall consist of a graphic representation of the Site at a scale no smaller than 1 inch = 100 feet showing:

- Waters of the State and their associated Shoreland Protection areas
- Protected Natural Resources
- Predevelopment drainage areas, Drainageways and associated Time of Concentration
- High Permeability Soils
- Maine Native and Climate-Resilient Northeastern Native Vegetation in General Buffer areas and Shoreland Zoning Buffer areas
- Significant and Essential Wildlife Habitats
- Limits of disturbance
- Post-development drainage areas, Drainageways and associated Time of Concentration
- Locations of snow storage areas
- Stormwater Treatment Measures to be used

D Submittals related to Infiltration Performance Standard

The applicant shall submit the following to permit review of the Project application under the LID Performance Standards for infiltration:

- Information required by Chapter 500 Section (7)(D)(5)(c) Infiltration Submittals including a plan for use of de-icing materials, pesticides and fertilizers within the drainage area of any infiltration Stormwater Treatment Measures.

- Locations of any Maine Uncontrolled Hazardous Substance Sites, Maine Voluntary Response Action Program sites, federal Resource Conservation and Recovery Act (“RCRA”) Corrective Action sites, or Petroleum Remediation sites on or adjacent to the Site.

7. Performance Standards

The applicant shall incorporate the performance standards contained in Technical Appendix A into their site design, shall implement them during construction and shall maintain and inspect them in accordance with Article X Post Construction Stormwater Management.

8. Enforcement – to be developed as part of final ordinance

9. Severability and Conflicts - to be developed as part of final ordinance

10. Waivers - to be developed as part of final ordinance

11. Authority

The Municipality enacts the Ordinance for Low Impact Development Strategies provisions pursuant to Maine Constitution Art. VIII, Part Second, §1 and 30-A M.R.S. §§3001 et seq. (municipal home rule authority), 38 M.R.S. §413 (the Wastewater Discharge Law), 33 USC §§1251 et seq. (the Clean Water Act), and 40 CFR Part 122 (US Environmental Protection Agency’s regulations governing the National Pollution Discharge Elimination System (NPDES)). The Maine Department of Environmental Protection, through its promulgation of the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems has listed the Municipality as having a Regulated Small MS4; under this General Permit, listing as a Regulated Small MS4 necessitates enactment of elements of this Ordinance as part of the Municipality’s Stormwater management program in order to satisfy the minimum control measures for Post Construction Stormwater Management in New Development and Redevelopment.

Technical Appendices

These Technical Appendices detail the required Erosion and Sedimentation Control Standards and LID Performance Standards.

Technical Appendix A - LID Performance Standards

Note to Maine DEP:

The following table shows the Performance Standards the Town will adopt, which LID Measures are addressed by the Performance Standard as well as notes for future adoption by the Town. This information is provided to facilitate review by Maine DEP and for public comment.

The last two columns of the table will not be included in the Town's Ordinances and Regulations.

Regarding Maintenance of Stormwater Treatment Measures, MS4 communities maintain a Post-Construction Runoff Control Ordinance which automatically covers any Stormwater Treatment Measures required under the LID performance standards. Therefore, no Maintenance requirements are contained here. Non-MS4 communities implementing these LID strategies should also adopt the Post Construction Maintenance Ordinance.

Performance Standard	LID Measure(s) addressed (shown only for informational purposes)	Additional Notes for York Adoption
<p>Prioritize the protection of the following sensitive areas as listed below (highest priority listed first) by not disturbing land in these areas:</p> <ul style="list-style-type: none"> i. Waters of the State and associated shoreland protection areas. ii. Protected Natural Resources iii. Predevelopment Drainageways iv. High Permeability Soils 	<ol style="list-style-type: none"> 1. Minimize Site Clearing 2. Protect Natural Drainage System 4. Minimize Impervious Area 5. Minimize Effect of Impervious Area 6. Minimize Soil Compaction 	<p>The Town intends to adopt this Performance Standard.</p>

<p>v. Maine Native Vegetation and Climate Resilient Northeastern Native Vegetation in General Buffer areas and Shoreland Zoning Setback Buffer areas</p> <p>vi. Significant and Essential Wildlife Habitats</p> <p>Note that the applicant will need to provide a description in their narrative of how they have prioritized these areas for protection from disturbance. These areas may be counted toward the open space requirements.</p> <p>Exception: Removal of Maine Native Vegetation and Climate Resilient Northeastern Native Vegetation that is diseased or in poor condition is allowed.</p>		
<p>Project Plans shall depict limits of disturbance. Limits of disturbance shall be established on-site prior to disturbance using flagging, fencing, signs or other means to provide a clear indication.</p>	<ol style="list-style-type: none"> 1. Minimize Site Clearing 6. Minimize Soil Compaction 	<p>The Town intends to adopt this Performance Standard.</p>
<p><i>Optional: Rural New Developments shall preserve at least 40% of the Site as open space and Suburban New Developments shall preserve 25% of the Site as open space.</i></p> <p><i>Exception: Municipalities may allow exceptions per their municipal ordinances. For example, applicants may be allowed to pay a fee-in-lieu which is dedicated to open space or may provide open space in an alternate locations within the same watershed.</i></p>	<ol style="list-style-type: none"> 1. Minimize Site Clearing 4. Minimize Impervious Area 7. Minimize Lawns and Maximize Landscaping that Encourages Runoff Retention. 	<p>York Zoning Ordinance contains open space requirements for developments as follows: <i>“The planning board may require the reservation of a maximum of ten percent of a property devoted to non-residential use as open space to provide for recreational need...”</i></p> <p>The York Zoning Ordinance also contains an Open Space Conservation Subdivision which requires 50 % of the total project area be open space. This is the preferred type of subdivision in York (applicants must demonstrate that this would not be a reasonable design in order to develop another type of subdivision).</p>

		The Town will not amend their ordinances to adopt this Performance Standard, because the Town's current subdivision element is already more protective.
<p>Stream Crossings for Waters of the State shall be designed in accordance with Maine Stream Smart Principles to preserve natural pre-development Drainageways.</p> <p>Exception: Stream Crossings over portions of streams that are artificially channelized are not subject to this standard.</p>	<ol style="list-style-type: none"> 2. Protect natural Drainage System 3. Minimize Decrease in Time of Concentration 	The Town intends to adopt this Performance Standard.
<p>Rural and Suburban Projects shall preserve the natural pre-development Drainageways on the Site by using the natural flow patterns and pathways for the post-construction drainage system.</p> <p>Exceptions are allowed if the Time of Concentration for a predevelopment Drainageway is the same as or shorter than the post-development Drainageway. Exception: The applicant may submit an "alternative analysis" which demonstrates that this performance standard is impracticable.</p>	<ol style="list-style-type: none"> 2. Protect Natural Drainage System 3. Minimize Decrease in Time of Concentration 	The Town intends to adopt this Performance Standard.
<p>Projects that have a Disturbed Area of one acre of land or more shall include Stormwater Treatment Measures in accordance with Chapter 500 Section 4.C General Standards, 4.C.(2) Treatment requirements, 4.C.(3) Types of treatment measures allowed, and 4.D Phosphorus standard (for lake watersheds only) and additionally:</p>	<ol style="list-style-type: none"> 2. Protect Natural Drainage System 5. Minimize Effect of Impervious Area 7. Minimize Lawns and Maximize Landscaping that Encourages Runoff Retention. 	The Town intends to adopt this Performance Standard.

<ul style="list-style-type: none"> • Individual Stormwater Treatment Measure may not treat more than one acre of Impervious Area • Vegetation used in Buffer Areas and/or Stormwater Treatment Measures shall be Maine Native Vegetation or Climate Resilient Northeastern Native Vegetation <p>Note that although Chapter 500 General Standards and Phosphorus standard have higher thresholds for developed and Impervious Area, these standards apply to sites within the Urbanized Area of the Municipality at a lower threshold.</p> <p>Exception: Notwithstanding other provisions in municipal ordinances or state law, requirements to plant “Maine Native Vegetation” or “Climate Resilient Northeast Native Vegetation” shall not be construed as a restriction on the rights of individuals to engage in agricultural practices that are legally protected by the Maine Agriculture Protection Act and the “Right to Food” provision in the Maine Constitution (Constitution, Art. I, §25).</p>	<p>10. Stormwater Quality Treatment and Retention Requirements</p>	
<p>Infiltration Standard: Provide volume control on-site (through infiltration or storage) in accordance with the following:</p> <ul style="list-style-type: none"> • Volume to be controlled = (total area of Impervious Area after New Development and Redevelopment – total area that existed before New Development and Redevelopment) x Rd • Where Rd is the groundwater recharge depth based on the USDA/NRCDS hydrologic soil group as follows: Rd = 0.40 inches or rain for type A soils, 0.25 inches of rain for type B soils, 0.10 	<ol style="list-style-type: none"> 2. Protect the Natural Drainage System 3. Minimize the Decrease in Time of Concentration 5. Minimize Effect of Impervious Area 	<p>The Town intends to adopt this Performance Standard.</p>

<p>inches of rain for type C soils and 0 for type D soils</p> <ul style="list-style-type: none"> • Stormwater Treatment Measures with liners may not be used to meet the volume requirement via storage. • Restrictions and requirements identified in Sections D(2) through D(4) of Appendix D Infiltration basins, drywells, and subsurface fluid distribution systems; of Chapter 500 apply. <p>Exception: For Sites in Rural and Suburban areas where infiltration will disrupt the preservation of the predevelopment Drainageways, an exception from the infiltration standard will be allowed.</p> <p>Exception: If any Uncontrolled Hazardous Substance Sites, Voluntary Response Action Program sites, RCRA Corrective Action sites, or Petroleum Remediation sites are on or adjacent to the Site, the Site does not need to meet the volume control standard.</p> <p>Exception: Municipalities may allow infiltration on an alternate site within the same watershed in-lieu of on-site infiltration.</p>		
<p>Minimize Impervious Area and the Effect of Impervious Area from road runoff:</p> <ul style="list-style-type: none"> • At least 70% of roadway Runoff shall be directed into a Stormwater Treatment Measure <p><i>Optional:</i></p> <ul style="list-style-type: none"> • <i>Dead-end streets shall be no longer than 1000 feet (Rural and Suburban Areas).</i> 	<ol style="list-style-type: none"> 4. Minimize Impervious Area 5. Minimize Effect of Impervious Area 	<p>The Town intends to adopt this Performance Standard.</p> <p>York will not adopt the optional performance standards.</p>

<ul style="list-style-type: none"> • <i>Dead-end roads shall be constructed to provide a hammerhead (when less than 200 feet), or a tear drop cul-de-sac turn-around with a center that is vegetated, used for open space, and/or a Stormwater Treatment Measure as described below (Rural and Suburban Areas).</i> • <i>Cul-de-sac roads shall be constructed with the center island used for Stormwater Treatment Measures or vegetation unless type A or B soils are present in the center, in which case this area should be used to promote natural infiltration on-site.</i> 		
<p>Minimize Impervious Area from parking areas:</p> <ul style="list-style-type: none"> • Vehicle parking stall dimension standard: maximum of 9-foot x 18-foot stall <p>Exceptions for public safety</p> <p><i>Optional: (not fully developed as part of this ordinance) Establish "In-Lieu of" Parking programs with the following components:</i></p> <ul style="list-style-type: none"> • <i>Fee in-lieu of parking</i> • <i>Car-share in-lieu of parking</i> • <i>Transit in-lieu</i> • <i>Bike/pedestrian infrastructure improvements</i> <p><i>Note that the in-lieu program may optionally be tied to incentives, such as density or height bonuses.</i></p> <p><i>Establish shared parking provisions</i></p> <p><i>Minimum parking requirements shall be based on reasonable parking needs instead of peak use, and</i></p>	<p>4. Minimize Impervious Area</p>	<p>The Town intends to adopt this Performance Standard.</p> <p>York will not adopt the optional performance standards.</p>

<p><i>maximum parking limits should be established for appropriate areas. Establish maximum parking requirements at current minimum standards.</i></p> <p><i>Reductions in parking volume requirements should consider presence of transit routes within ¼ mile, existing on-road parking, and transportation/parking demand management plan for Sites over a certain size.</i></p> <ul style="list-style-type: none"> • <i>Commercial parking space size shall be a maximum 9-foot width and an 18-foot length with an allowance for reduction in length at a 1 to 1 ratio for available overhang (1 foot reduction allowed if 1 foot overhang possible).</i> • <i>Parking lot travel aisles shall be a maximum of 22 feet wide.</i> <p><i>Require garages/under above building where appropriate, optionally tied to a density or height bonus</i></p>		
<p>Runoff from on-site roofs, sidewalks, and peak-use overflow parking Runoff shall be directed into Stormwater Treatment Buffers or Stormwater Treatment Infiltration Measures.</p>	<p>5. Minimize Effect of Impervious Area</p> <p>8. Provide Vegetated Open-Channel Conveyance Systems</p>	<p>The Town intends to adopt this Performance Standard.</p>
<p>Construction equipment movement, laydown areas and parking shall be restricted to the Disturbed Area.</p> <p>Areas to be vegetated shall be tilled and the soils amended with organic matter as needed based on the results of soil tests.</p>	<p>6. Minimize Soil Compaction</p>	<p>The Town intends to adopt this Performance Standard.</p>
<p>Snow storage areas shall be depicted on site plans.</p>	<p>5. Minimize Effect of Impervious Area</p>	<p>The Town intends to adopt this Performance Standard.</p>

<p>The location of snow storage areas in Stormwater Treatment Measures and Shoreland Zoning Setback Buffers shall be prohibited.</p>		
<p><i>Optional Standard: Require the implementation of precipitation storage (e.g., cisterns or rain barrels) for later reuse for landscaping.</i></p>	<p>9. Rainwater Capture and Reuse</p>	<p>York will not implement this optional performance standard.</p>

Proposed Comprehensive Plan Amendment

To be considered at the

November 2022 General Referendum

1. Adopt the “Town of York 2022 Comprehensive Plan”.

Article X

Town of York 2022 Comprehensive Plan

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

Article X

Shall the Town adopt the Town of York 2022 Comprehensive Plan.

Statement of Fact:

The Comprehensive Plan is the Municipality's vision of how the Town should manage future growth and consists of goals, recommended actions, and an Implementation timetable to guide policy, future land use decisions, and Town investments over the course of the next 10 to 15 years. The Comprehensive Plan is a blueprint to amending or creating zoning ordinances, conducting feasibility studies for new facilities, and collaborating with other regional entities to achieve desired goals.

Adoption of the Town of York 2022 Comprehensive Plan would replace the existing 1999 Comprehensive Plan and ensure compliance with the State of Maine's Growth Management Act, M.R.S.A. 30-A.

Recommendations:

Recommended by the Planning Board

Proposed Amendments

to be considered at the

November 2022 General Referendum

Amendment

1. Outdoor Dining for Restaurant Uses in Town

Amendment #
Outdoor Dining for Restaurant Uses in Town

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

Article X

The Town hereby ordains amendment of the **Zoning Ordinance** to allow outdoor dining for restaurant uses permitted in town.

Statement of Fact: The purpose of this amendment is to allow restaurant uses, where permitted in town, to be able to have outdoor seating for dining purposes. The proposed allowance for outdoor dining for restaurant uses will be in place until November 2024 to allow evaluation of this ordinance and modify it if needed.

Recommendations:

Amendment: Amend Article Seven Special Provisions by permitting outdoor seating for permitted restaurant uses in town and include a sunset clause to allow for ordinance evaluation.

7.19 Outdoor Seating for Restaurant Uses

7.19.1 General. Outdoor seating for dining purposes shall be allowed where a restaurant use is permitted per Article Four Use Regulations. This provision shall supersede any zoning ordinance section that states otherwise. Outdoor seating used for dining purposes shall not be included for determining maximum gross floor area calculations for restaurant uses where applicable.

7.19.2 Outdoor Seating in the Public Right of Way. Outdoor seating for a restaurant use may be permitted in a public right-of-way after Selectboard approval. Selectboard approval or denial shall occur after either Planning Board or Code Enforcement approval as prescribed in Article Eighteen Administration of this ordinance. The Planning Board or Code Enforcement shall ensure outdoor seating for dining purposes meets applicable ordinances or regulations, that the seating locations are secure, and that safe passage for pedestrian, bicycle, and vehicular traffic is ensured. The York Police Department, appropriate York Fire Department, and York Department of Public Works shall provide comment prior to an approval granted by the authorized permitting authority.

SUNSET CLAUSE: This ordinance shall remain valid until November 30, 2024. Notwithstanding the provisions of 1 M.R.S. § 302, this ordinance amendment shall apply retroactively to any applications accepted by the Planning Board or Code Enforcement Officer on or after May 27, 2022, which is the date when the first public hearing was posted for this amendment. This Sunset Clause provision is provided to allow evaluation of this and other ordinances pertaining to restaurant uses, the ordinances effectiveness and adjust if needed without causing adverse impacts.

Draft Amendments to be voted in November 2022

DRAFT – June 10, 2022

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