

# **Proposed Zoning Ordinance Amendments**

to be considered at a

**May 2023 Special General Referendum**

## Amendment

1. Erosion and Sedimentation Control
2. Shoreland Overlay District (Map Amendment)

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**Draft Amendment to be voted in May 2023**

Final for Ballot

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# Amendment #1

## *Erosion and Sedimentation Control*

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

### Article X

The Town hereby ordains to amend the **Zoning Ordinance** dated November 08, 2022, specifically amending: Article 2 Definitions, Article 6 Supplemental Use Requirements, Article 7 Special Provisions, Article 8 Shoreland Overlay District, and Article 10 Watershed Overlay District.

Statement of Fact: The purpose of this amendment is to modify the Zoning Ordinance, to incorporate specific performance standards for erosion and sedimentation control at construction sites. The Town is required under the 2022 General Permit for Discharges from Municipal Separate Storm Sewer Systems (MS4) to adopt, administer, and enforce ordinances which regulate erosion and sedimentation controls at construction sites that are at least as stringent as Maine state standards. The Zoning Ordinance is being amended to reference the Erosion and Sedimentation Control Standards in the Site Plan and Subdivision Regulations for consistent application to all developments in Town. Other changes being made include referencing the Non-Stormwater Discharge Ordinance and the Post Construction Stormwater Management Ordinance where applicable for consistency, and changing the references to “Board of Selectmen” to “Selectboard” for only the sections where other technical changes are being made.

**Amendment:** Amend the following sections of Article 2 Definitions as follows:

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

**CONSTRUCTION ACTIVITY** – *Means any activity on a Parcel that results in Disturbed Area.*

**DISTURBED AREA** - *Means all land areas of a Parcel 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.*

***PARCEL** - 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.*

**STORMWATER MANAGEMENT PLAN**: A statement prepared by a Maine-licensed Professional Engineer (PE), describing the measures to be taken for control of erosion, drainage, and sedimentation *during and after construction* from proposed development and which attests that the proposed development will not create *pollution*, erosion, ponding, or flooding, either within the development or on other properties, as well as the calculations that support this conclusion.

**Amendment**: Amend the following sections of Article 6 Supplemental Use Requirements as follows:

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

**6.1.7 Erosion Control – See Article 6 Section 6.5**

~~Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following "best management" practices:~~

~~6.1.7.1 Stripping of vegetation, soil removal, and regrading or other development shall be accomplished in such a way as to minimize erosion.~~

~~6.1.7.2 The duration of exposure of the disturbed area shall be kept to a practical minimum.~~

~~6.1.7.3 Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.~~

~~6.1.7.4 Permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practicable after construction ends.~~

~~6.1.7.5 Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Planning Board.~~

~~6.1.7.6 The top of a cut or bottom of a fill section shall not be closer than ten feet to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (sandpits, etc.) shall not be permitted within 100' of any property line, except as provided for elsewhere in the Zoning Ordinance.~~

~~6.1.7.7 During grading operations, methods of dust control shall be employed, wherever practicable.~~

### **6.3 Performance Standards Applicable to all Non-Residential and Multi-family uses in the Route One-1, Route One-2, Route One-3, Route One-4, Route One-5 and Route One-6 Zoning Districts.**

#### **6.3.8 Erosion Control -*See Article 6 Section 6.5***

~~Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following “best management” practices:~~

~~6.3.8.1 Stripping of vegetation, soil removal, and regrading or other development shall be accomplished in such a way as to minimize erosion.~~

~~6.3.8.2 The duration of exposure of the disturbed area shall be kept to a practical minimum.~~

~~6.3.8.3 Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.~~

~~6.3.8.4 Permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practicable after construction ends.~~

~~6.3.8.5 Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Planning Board.~~

~~6.3.8.6 The top of a cut or bottom of a fill section shall not be closer than ten feet to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (sandpits, etc.) shall not be permitted within 100’ of any property line, except as provided for elsewhere in the Zoning Ordinance.~~

~~6.3.8.7 During grading operations, methods of dust control shall be employed, wherever practicable.~~

~~6.3.8.8 All applicants shall comply with requirements of the Town’s Addendum A policy for soil and erosion control unless the Planning Board waives such requirement.~~

### **6.5 Performance Standard to Control Erosion**

Eroded soil and resulting sedimentation degrades surface water quality by increasing turbidity, and often nutrients attach to sediment during the erosion process thereby contributing to nutrient pollution. Sedimentation also reduces the capacity of stormwater drainage systems and of the natural drainage of watersheds, which thereby worsens flooding. To help protect water quality and to help prevent flooding, every property owner

shall ensure that no man-made activity causes water-borne eroded soil, silt or sediment to reach a waterbody, inland wetland, or man-made drainage facility *as follows:-*

*6.5.1 Sites that create disturbed area consisting of one or more acres of land shall prepare and implement an Erosion and Sedimentation Control Plan illustrating the information listed in Section 6.4.15 of the Site Plan and Subdivision Regulations, meeting the standards of Appendix A of the Site Plan and Subdivision Regulations. The Erosion and Sedimentation Control Plan shall be prepared by a Qualified Erosion and Sedimentation Control Professional as defined in the Site Plan and Subdivision Regulations. The Erosion And Sedimentation Control Plan shall be submitted and reviewed by the Code Enforcement Officer unless subject to the approval of the Planning Board per Article 18.*

## **6.7 Performance Standards for Maintenance of Stormwater Management Facilities**

Following completion of construction, stormwater management facilities on a property require ongoing inspection and maintenance in order to ensure their ongoing effectiveness in controlling both the quantity and quality of stormwater. It shall be the responsibility of the property owner, or drainage easement holder if applicable, to inspect and maintain all stormwater management facilities on their property. ~~Such work shall be performed in accordance with the Maine Stormwater Best Management Practices Manual.~~ *The Town's Post Construction Stormwater Management Ordinance shall apply to all sites that disturb one or more acres of land.*

**Amendment:** Amend the following sections of Article 7 Special Provisions as follows:

## **7.2 Campgrounds**

### **7.2.1 Provisions Applicable to BUS-2 District**

7.2.2.5 A soil erosion and sedimentation control plan meeting the standards of ~~the York County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission shall be submitted~~ *Article 6 Section 6.5 shall be submitted.*

**Amendment:** Amend the following sections of Article 8 Shoreland Overlay District as follows:

**8.3.2 Erosion and Sedimentation Control**

- 8.3.2.1 All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
- a. Mulching and revegetation of disturbed soil.
  - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - c. Permanent stabilization structures such as retaining walls or riprap.
- 8.3.2.2 In order to create the least potential for erosion, development shall also be designed to fit with the topography and soils of the site. Areas of steep slopes (slopes generally greater than 15%) where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- 8.3.2.3 Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- 8.3.2.4 Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
- a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
  - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- 8.3.2.5 Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

*8.3.2.6 Erosion and sedimentation control - For disturbances over one acre see Section 6.5*

8.3.4.2 Stormwater management facilities shall be maintained by the property owner, or drainage easement holder if applicable, as necessary to ensure proper functioning *in accordance with the Post Construction Stormwater Management Ordinance where applicable.*

**Amendment:** Amend the following sections of Article 10 Watershed Protection Overlay District as follows:

### **10.3 Performance Standards**

#### **10.3.4 Erosion and Sedimentation Control**

10.3.4.1 ~~When the vegetative cover is to be changed or removed on over five (5) acres, a soil erosion and sedimentation control plan for the activity must be approved by the Water District.~~ *At a minimum, all earth disturbing activities shall comply with the standards of Section 6.5.*

10.3.4.2 ~~The Planning Board shall adopt Standard Erosion and Sediment Control Measures. All earth disturbing activities shall comply with such standards to prevent soil erosion and sedimentation of watercourses and waterbodies.~~ *When the vegetative cover is to be changed or removed on over five (5) acres, a soil erosion and sedimentation control plan for the activity must be approved by the Water District.*

## Amendment #2

### *Shoreland Overlay District (Map Amendment)*

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

Article X

The Town hereby ordains to amend the **Zoning Ordinance** dated November 8, 2022, specifically amending: Article 3, Establishment of Zoning Districts.

Statement of Fact: The purpose of this amendment is to modify the Zoning Ordinance, Shoreland Overlay Subdistricts within a Route 1 zoning district. This amendment will allow the Shoreland Overlay Subdistrict to correspond with the context of the Route 1 zoning district, which is a mixed-use district, where boundaries were found to be inaccurate.

**Recommendations:**

Recommended by the Planning Board:

Recommended by the Selectboard:

**Amendment:** Amend the following sections of Article 3 Establishment of Zoning Districts as follows:

### **3.8 Shoreland Overlay District**

The boundaries of this district and its sub-districts are delineated on a pair of maps entitled, “York Zoning Ordinance: Shoreland Overlay District, Northern Section),” dated November 4, 2008, and “York Zoning Ordinance: Shoreland Overlay District, Southern Section” dated ~~May 29, 2009~~ *November 10, 2022*. This map is available at the Town Clerk’s Office. This district’s boundaries are based on criteria, as specified in §3.8.1, below. This Overlay District is divided into subdistricts, as specified in §3.8.2, below. Interpretation of the boundaries of this Overlay District shall be governed by §3.8.3, below, as well as other applicable sections of this Ordinance. See Article 8 for standards pertaining to this Overlay District. Also note that certain setback requirements of the Shoreland Overlay District can apply to areas outside this Overlay District (beyond 250 feet from protected resources) and this is intentional.