



*Town of York*  
186 York Street  
York, Maine 03909-1314

Town Manager/  
Selectmen  
(207)363-1000

Town Clerk/  
Tax Collector  
(207)363-1003

Finance/  
Treasurer  
(207)363-1004

Code Enforcement  
(207)363-1002

Planning  
(207)363-1007

Assessor  
(207)363-1005

Police Department  
(207)363-1031

Dispatch  
(207)363-4444

York Beach Fire  
Department  
(207)363-1014

York Village Fire  
Department  
(207)363-1015

Public Works  
(207)363-1011

Harbor Master  
(207)363-1000

Senior Center  
(207)363-1036

Parks and  
Recreation  
(207)363-1040

Fax  
(207)363-1009  
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www.yorkmaine.org

## BOARD OF SELECTMEN'S MEETING AGENDA

6:00 PM/7:00 PM MONDAY, OCTOBER 24, 2016  
YORK PUBLIC LIBRARY

**6:00PM:** Committee Interviews

### Call to Order

### Opening Ceremonies

#### A. Minutes

1. August 8, 2016 Meeting Minutes
2. August 22, 2016 Meeting Minutes
3. September 12, 2016 Meeting Minutes

#### B. Chairman's Report

#### C. Manager's Report

#### D. Awards

1. Bid Award: Crack Sealing

#### E. Reports

1. Michael Whitman - Update on the York High School Auditorium Project
2. Dean Lessard – York Village Parking Study Results

F. Citizens' Forum – The Citizens' Forum is open to any member of the audience for comments on any matter. All comments should be respectful in tone and should be directed to the Chair. Comments should be brief and to the point. Questions that require extended answers or that cannot be readily answered will be referred to the Town Manager for follow-up. Anyone who wishes to submit a written request for future agenda items can do so on the form available at this meeting or may obtain the form through the Town Manager's Office.

#### G. Public Hearings

1. Amendment of the Traffic Safety Ordinance

#### H. Endorsements

Business License:

- Stonewall Kitchen (Food Service, Liquor); located at 2 Stonewall Lane

**I. Old Business**

1. Discussion: YBFD Truck Repair and Use of Contingency Account
2. Discussion and Possible Action: CMP Easement at 36 Main Street
3. Discussion: Update on Parking Kiosk and Ticketing Systems

**J. New Business**

1. Discussion and Possible Action: County-Wide Deputy Sheriff Authority
2. Discussion and Possible Action: FY16 Carryforwards
3. Discussion and Possible Action: Amend the Traffic Safety Ordinance to establish "No Parking" zones on Milbury Lane
4. Discussion and Possible Action: Regulation Issues
  - a. Transient Sellers
  - b. Short-Term Rental Properties
  - c. Marijuana Legalization
5. Discussion: 3-Year Planning Policy Outlook
6. Discussion and Possible Action: Non-Union Personnel Policy Amendment regarding Direct Deposit
7. Discussion and Possible Action: Board and Committee Appointments
  - a. Multi-Generational Community Center Needs Assessment Committee
  - b. Village Revitalization Steering Committee
  - c. Design Review Board
  - d. Parks and Recreation Board
  - e. Assessment Review Board
  - f. Tax Task Force

**K. Future Agendas**

1. Joint Meeting with Planning Board, 6:00 to 7:30, November 17<sup>th</sup>, Senior Center

**L. Other Business**

**M. Citizens' Forum**

- O. Executive Session: Executive Session: Pursuant to M.R.S. § 405.6.C (Real Estate)**

**Adjourn**

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**BOARD OF SELECTMEN'S  
MEETING MINUTES  
6:30/7:00PM MONDAY, AUGUST 8, 2016  
YORK LIBRARY**

**6:30PM:** Executive Session: Pursuant to M.R.S. § 405.6.E (Legal)

**Present:** Chairman Robert E. Palmer, Jr., Vice-Chairman Jonathan O. Speers, Michael L. Estes, Dawn Sevigny-Watson, Todd A. Frederick and Town Manager Stephen H. Burns.

Moved by Mr. Frederick, seconded by Ms. Sevigny-Watson to enter into executive session. Without objection, so ordered.

Moved by Mr. Frederick, seconded by Ms. Sevigny-Watson to exit out of executive session. Without objection, so ordered.

**7:00PM:** Regular Meeting

**Present:** Chairman Robert E. Palmer, Jr., Vice-Chairman Jonathan O. Speers, Michael L. Estes, Dawn Sevigny-Watson, Todd A. Frederick and Town Manager Stephen H. Burns.

**Call to Order**

Chairman Palmer called the meeting to order at 7:00PM.

**Opening Ceremonies**

- A. **Minutes**
- B. **Chairman's Report**
- C. **Manager's Report**

Town Manager Stephen H. Burns announced that the Parks and Recreation Department will be holding an event called Trailfest to celebrate the Mount Agamenticus Universal Trail on September 18. He also said that Town Hall lost internet and phones today due to a car accident, and apologized for any inconvenience this afternoon.

**D. Introduction of new Patrol Officer**

Chief of Police, Douglas Bracy introduced new Police Officer Brian McNiece.

**E. Awards**

1. Pavement Management Support Services

Moved by Ms. Sevigny-Watson, seconded by Mr. Estes to approve the award of Pavement Management Services to StreetScan, Inc. and authorize the Town Manager to sign the proposed three-year agreement. Vote 5-0, motion passes.

2. SHIPS Grant – Fishermen’s Walk Construction

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to authorize the Town Manager to sign the Small Harbors Improvement Program (SHIP) modified agreement with Maine DOT in order to secure an additional \$95,000 in state funds for the Department of Public Works’ proposed Fisherman’s Walk Pathway Improvements. Also moved to authorize the Town Manager to sign the State/Municipal license agreement. Vote 5-0, motion passes.

**F. Reports**

1. Conservation Commission
2. Rick Mace, Annual Report of the Tax Assessor
3. Dean Lessard, 2017/2018 Road Paving Update
4. Dean Lessard, update on Route 91 and Main Street projects

**G. Citizens’ Forum** – The Citizens’ Forum is open to any member of the audience for comments on any matter. All comments should be respectful in tone and should be directed to the Chair. Comments should be brief and to the point. Questions that require extended answers or that cannot be readily answered will be referred to the Town Manager for follow-up. Anyone who wishes to submit a written request for future agenda items can do so on the form available at this meeting or may obtain the form through the Town Manager’s Office.

Public Comment:     Jim Donovan  
                                  David Chase  
                                  Spiro Paras  
                                  Elizabeth Bardwell  
                                  David Brinkman

**H. Public Hearings**

1. Excise Tax Exemption Ordinance

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to open the public hearing. Without objection, so ordered.

Public Comment: None

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to close the public hearing. Without objection, so ordered.

2. Ordinance Regulating Use of the Cliff Path and Fisherman's Walk

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to open the public hearing. Without objection, so ordered.

Public Comment: Richard Jackson  
Ted Little  
Meg Nichols  
Virginia Richard

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to close the public hearing. Without objection, so ordered.

I. Endorsements

J. Old Business

1. Discussion and Possible Action: Non-Union Personnel Policy

Moved by Ms. Sevigny-Watson, seconded by Mr. Frederick to approve the proposed changes to the Non-Union Personnel Policy's Section II; Article J – Annual Adjustment to Pay Scales, Section V; Article B – Health Insurance, and Section V; Article E – Retirement Program, as reflected in the attached memorandum. Vote 5-0, motion passes.

2. Discussion and Possible Action: Ordinances for the November 2016 General Referendum

The Board agreed to amend the "Hours of Operation" section of the Cliff Path Ordinance to reflect to their preference of public use from "no more than sunrise to sunset, or such other limited hours that may be adopted by the Board of Selectmen."

Moved by Ms. Sevigny-Watson, seconded by Mr. Frederick to send the proposed Excise Tax Exemption Ordinance and the proposed amendment of the Ordinance Regulating Use of the Cliff Path and Fisherman's Walk to a second public hearing on August 22<sup>nd</sup>, as amended. Vote 5-0, motion passes

K. New Business

1. Discussion and Possible Action: Public Works Mutual Aid Agreement

Moved by Mr. Frederick, seconded by Ms. Sevigny-Watson to authorize the Town Manager to sign the York County Public Works Mutual Aid and Assistance Agreement. Vote 5-0, motion passes.

2. Discussion and Possible Action: Committee Resignations and Appointments

Moved by Ms. Sevigny-Watson, seconded by Mr. Frederick to accept, with regret Jerry Allen's resignation from the Budget Committee. Vote 5-0, motion passes.

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to appoint Timothy Greer as a regular member to the Harbor Board, Gerry Runte as an alternate member to the Energy Steering Committee, David White as an Alternate to the Energy Steering Committee, Steve Hershfield as a regular member to the Tax Task Force, Michael Schamach as a regular member to the Conservation Commission, Bryce Waldrop as a regular member to the Historic District Commission, and Timothy Kortes as a regular member to the Police Station Building Committee with terms expiring June 30, 2019. Vote 5-0, motion passes.

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to reappoint Pricilla Cookson as a regular member to the Conservation Commission, Michael Sinclair as a regular member to the Harbor Board, Jon Powers as a regular member to the Historic District Commission, Roslyn Birger-Hershfield as a regular member to the Municipal Social Services Review Board, and Deborah Meyers as an alternate member to the Senior Citizens Advisory Board, with terms expiring June 30, 2019. Vote 5-0, motion passes.

**L. Future Agendas**

1. Additional Meeting on September 19<sup>th</sup>

In hopes of preventing a meeting running too late in September (only one regular meeting is scheduled for the month), Mr. Burns polled the Board for interest in having a second meeting if it is needed. The Board agreed that if necessary, they would be agreeable to a second meeting in September.

**M. Other Business**

**N. Citizens' Forum**

Public Comment: Meg Nichols

**Adjourn**

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to adjourn the meeting at 10:00PM. Without objection, so ordered.

**Executive Session:** Pursuant to: Title 1 MRS §405.6.A (Personnel) – Town Manager’s Quarterly Performance Check-In

**Present:** Chairman Robert E. Palmer, Jr., Vice-Chairman Jonathan O. Speers, Michael L. Estes, Dawn Sevigny-Watson, Todd A. Frederick and Town Manager Stephen H. Burns.

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to enter into executive session. Without objection, so ordered.

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to exit out of executive session. Without objection, so ordered.

Respectfully Submitted,

Melissa M. Avery  
Assistant to the Town Manager

**BOARD OF SELECTMEN'S  
MEETING MINUTES  
7:00PM MONDAY, AUGUST 22, 2016  
YORK LIBRARY**

**Present:** Chairman Robert E. Palmer, Jr., Vice-Chair Jonathan O. Speers, Dawn Sevigny-Watson, Todd Frederick, Michael L. Estes, Town Manager Stephen H. Burns and members of the press and public.

**Call to Order**

Chairman Palmer called the meeting to order at 7:00PM.

**Opening Ceremonies**

- A. **Minutes**
- B. **Chairman's Report**
- C. **Manager's Report**

Town Manager Stephen H. Burns announced that Nomination Papers available for the vacant Budget Committee position available and are due back before September 23. Also, the Police Station Project is under construction. The annual financial audit is still on track for calendar-year delivery.

D. **Awards**

- 1. Salt Bid

Moved by Mr. Frederick, seconded by Ms. Sevigny-Watson to award the 2016/2017 winter road salt bid to Granite State Minerals for \$51.73 per ton. Vote 5-0, motion passes.

E. **Reports**

- 1. Mike Sullivan, Parks & Recreation Director – Overview of all Parks & Recreation Budgets
- 2. Mike Sullivan, Parks & Recreation Director – Update on Contracted Beach Maintenance

- F. **Citizens' Forum** – The Citizens' Forum is open to any member of the audience for comments on any matter. All comments should be respectful in tone and should be directed to the Chair. Comments should be brief and to the point. Questions that require extended answers or that cannot be readily answered will be referred to the Town Manager for follow-up. Anyone who wishes to submit a written request for future agenda items can do so on the form available at this meeting or may obtain the form through the Town Manager's Office.

Public Comment: Eleanor Ross  
Betty Rose  
Helen Rollins  
Magdalene Came  
Jack Johnson

G. **Public Hearings**

1. Second Hearing on November 2016 Ordinance Amendments
  1. Interpretation of District Boundaries
  2. Wetland Protection Overlay District
  3. Article 8-Shoreland Overlay District
  4. Definition of Wireless Communications Facility
  5. Definition of Building Height
  6. Expansion of the York Village Center Local Historic District
  7. Alarm Systems Ordinance
  8. Street Opening and Culvert Ordinance Amendment
  9. Active Duty Military Personnel Vehicle Excise Tax Exemption Ordinance
  10. Ordinance Regulating the Use of Cliff Path and Fisherman's Walk

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to open the public hearing. Without objection, so ordered.

Public Comment: Helen Rollins  
Lew Stowe  
Betty Rose  
David Chase

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to close the public hearing. Without objection, so ordered.

H. **Endorsements**

Business License:

- Pat Rocheleau DBA: The Ledges Golf Course (Food Service, Liquor); located at 1 Ledges Drive

Moved by Ms. Sevigny-Watson, seconded by Mr. Frederick to approve the following licenses: Pat Rocheleau DBA: The Ledges Golf Course for Food Service and Liquor; located at 1 Ledges Drive, subject to taxes, fees and inspections being current and compliant with the usual noise stipulations. Vote 5-0, motion passes.

**I. Old Business**

1. Discussion and Possible Action: Ordinances for the November 2016 General Referendum

Moved by Mr. Estes, seconded by Ms. Sevigny-Watson to place the posted proposed Interpretation of District Boundaries amendment on the November 8, 2016 Special General Referendum Ballot. Vote 5-0, motion passes.

Moved by Mr. Estes, seconded by Ms. Sevigny-Watson to place the posted proposed Wetlands Protection Overlay District amendment on the November 8, 2016 Special General Referendum Ballot. Vote 5-0, motion passes.

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to forward the Shoreland Overlay District to another Public Hearing to September 12. Vote 5-0, motion passes.

Moved by Mr. Estes, seconded by Ms. Sevigny-Watson to place the posted proposed Definition of Wireless Communications Facility amendment on the November 8, 2016 Special General Referendum Ballot. Vote 5-0, motion passes.

Moved by Mr. Estes, seconded by Ms. Sevigny-Watson to place the posted proposed Definition of Building Height amendment on the November 8, 2016 Special General Referendum Ballot. Vote 5-0, motion passes.

Moved by Mr. Estes, seconded by Ms. Sevigny-Watson to place the posted proposed Expansion of the Village Center Local Historic District amendment on the November 8, 2016 Special General Referendum Ballot. Vote 5-0, motion passes.

Moved by Mr. Estes, seconded by Mr. Frederick to forward the Alarm Systems Ordinance to another Public Hearing on September 12. Vote 5-0, motion passes.

Moved by Mr. Estes, seconded by Mr. Frederick to place the posted proposed Street Opening and Culvert Ordinance amendment on the November 8, 2016 Special General Referendum Ballot. Vote 5-0, motion passes.

Moved by Mr. Estes, seconded by Ms. Sevigny-Watson to place the posted proposed Active Duty Military Personnel Vehicle Excise Tax Exemption Ordinance amendment on the November 8, 2016 Special General Referendum Ballot. Vote 5-0, motion passes.

Moved by Mr. Frederick, seconded by Ms. Sevigny-Watson to place the posted proposed Ordinance Regulating Use of the Cliff Path and Fisherman's Walk amendment on the November 8, 2016 Special General Referendum Ballot. Vote 5-0, motion passes.

2. Discussion and Possible Action: Non-Ordinance Matters for the November 2016 General Referendum

Mr. Burns explained to the Board the three non-ordinance matters that will be included in the November 2016 General Referendum – which include Drainage Easements, quitclaim rights to the utility districts for a town owned property at 2 Ray Avenue, and a petitioned question about water fluoridation for residents with Kennebunk, Kennebunkport and Wells Water District.

3. Discussion and Possible Action: Mt. Agamenticus Fire Tower

Moved by Mr. Estes, seconded by Mr. Speers to appoint Ms. Sevigny-Watson and Mr. Frederick to work with the York Village Fire Chief and the Parks and Recreation Director to explore issues and options relating to the fire tower on Mount Agamenticus. Vote 5-0, motion passes.

**J. New Business**

1. Discussion: York Beach TIF District

Mr. Burns was asked to bring the Board up to date on the current status of the Tax Increment Financing District in York Beach. He reported that the TIF District established in 2008 has \$15,662.45 available and that it is likely that the completion of the Kearsarge House Project will significantly add to the TIF fund in the coming year.

2. Discussion and Possible Action: York Beach Fire Department Engine 5 Repairs

Chief Bridges requested the support of the Board to carry-forward the FY16 Operating Budget of the fire departments to pay for repairs to a firetruck.

The Board asked that Mr. Burns speak with the Town Attorney to see if unspent funds from the operating budget can be used to fix the truck.

**K. Future Agendas**

**L. Other Business**

**M. Citizens' Forum**

Public Comment: Kathleen Kluger

**Adjourn**

Moved by Mr. Estes, seconded by Ms. Sevigny-Watson to adjourn the meeting at 9:55PM. Without objection, so ordered.

Respectfully Submitted,

Melissa M. Avery  
Assistant to the Town Manager

**BOARD OF SELECTMEN'S  
MEETING MINUTES  
7:00PM MONDAY, SEPTEMBER 12, 2016  
YORK LIBRARY**

**Present:** Chairman Robert e. Palmer, Jr., Vice-Chairman Jonathan O. Speers, Todd A. Frederick, Dawn Sevigny-Watson, Michael L. Estes, Town Manager Stephen H. Burns, and members of the press and public.

**Call to Order**

Chairman Robert E. Palmer, Jr. called the meeting to order at 7:00PM.

**Opening Ceremonies**

**A. Minutes**

1. June 27, 2016 Meeting Minutes
2. June 29, 2016 Meeting Minutes
3. July 18, 2016 Meeting Minutes

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the June 27, 2016, June 29, 2016 and July 18, 2016 Meeting Minutes. Vote 5-0, motion passes.

**B. Chairman's Report**

Mr. Palmer received an email from Steve Gard regarding Long Sands Road that he asked be made part of the record for this meeting.

**C. Manager's Report**

Town Manager Stephen H. Burns reminded citizens that there is still time to run for the open seat on the Budget Committee. Chris Claudio from Winxnet informed Mr. Burns that they are 25% of the way through the new build (fiber, duplication of backups, moving to new PD). Also, he announced that as of the end of August no New Hampshire or Maine mosquitoes were found positive for EEE or West Nile.

**D. Knights of Columbus Proclamation**

**E. Awards**

1. Fire Truck Purchase – York Village Fire Department

Moved by Ms. Sevigny-Watson, seconded by Mr. Frederick to approve the Town Manager to enter into a contract with Pierce Manufacturing with an amount not to exceed \$655,000. Vote 5-0, motion passes.

2. Bid Award: Police Cruiser

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to award the bid for the purchase of one 2017 Ford Utility Police Cruiser to Quirk Ford of Augusta, Maine in the amount of \$23,483.00 dollars from the Capital Cruiser Account of the Police Department. Vote 5-0, motion passes.

3. Bid Award: Audio Video Cameras

Moved by Ms. Sevigny-Watson, seconded by Mr. Frederick to approve the purchase of the additional audio video cameras and necessary equipment for the audio video system at the new police station from Norris, Inc. in the amount of \$27,992.00. Vote 5-0, motion passes.

4. Bid Award: Access Control System

Moved by Ms. Sevigny-Watson, seconded by Mr. Frederick to approve the purchase of the Access Control System for the new police station from Norris, Inc. in the amount of \$24,380.00. Vote 5-0, motion passes.

**F. Reports**

1. Bicycle & Pedestrian Committee Update
2. Final Report of the Village Study Committee
3. York River Study Committee

**G. Citizens' Forum** – The Citizens' Forum is open to any member of the audience for comments on any matter. All comments should be respectful in tone and should be directed to the Chair. Comments should be brief and to the point. Questions that require extended answers or that cannot be readily answered will be referred to the Town Manager for follow-up. Anyone who wishes to submit a written request for future agenda items can do so on the form available at this meeting or may obtain the form through the Town Manager's Office.

Public Comment: Brent Maynard

**H. Public Hearings**

1. Shoreland Overlay Zoning

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to open the public hearing. Without objection, so ordered.

Public Comment: Dave Gross  
Bob Peck  
Wendol Weaver  
Brad Moulton  
John Nolan  
Judy Kale  
Paula Sewall  
Lew Stowe  
Ray Pape

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to close the public hearing. Without objection, so ordered.

## 2. Alarm Systems Ordinance

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to open the public hearing. Without objection, so ordered.

Public Comment: None

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to close the public hearing. Without objection, so ordered.

3. Special General and General Referenda Warrant
4. Special Kennebunk, Kennebunkport and Wells Water District Fluoridation Referendum Warrant

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to open the public hearing. Without objection, so ordered.

Public Comment: Janice Hanson  
Pam Jones

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to close the public hearing. Without objection, so ordered.

## I. Endorsements

1. Business Licenses
  - Bradford Leigh DBA: Cat 'N Nine Tails Country Store (Food Service); located at 1294 US Route One
  - Kevin Evans DBA: Thai for You (Food Service, Liquor); located at 647 US Route One Suite 7

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the following Business Licenses: Bradford Leigh DBA: Cat 'N Nine Tails Country Store for Food Service; located at 1294 US Route One, and Kevin Evan DBA: Thai for You for Food Service and Liquor; located at 647 US Route One Suite 7, all subject to taxes, fees and inspections being current and compliant with the usual noise stipulations. Vote 5-0, motion passes.

**J. Old Business**

1. Discussion and Possible Action: Village Study Committee

Moved by Ms. Sevigny-Watson, seconded by Mr. Frederick to dissolve the Village Study Committee effective immediately. Vote 5-0, motion passes.

2. Discussion and Possible Action: Property Disposition Policy

The Board agreed to remove IV: Disposition Options – Section 2: “This could also state that all costs owed to relevant utility districts must be paid as well, which would be beneficial in our efforts to coordinate with the utility districts.” It was also agreed to add Code Enforcement review prior to release of property and a semi-annual Request for Proposal process for a realtor to represent the Town.

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the proposed Property Acquisition and Disposition Policy, and concurrently repeal the Board’s Procedural Policy for Disposition of Foreclosed Properties and Policy for Acceptance of Gifts of Land, as amended. Vote 5-0, motion passes.

3. Discussion and Possible Action: Actions Relating to the November Referenda

a. Send Shoreland Overlay Zoning to the November Referendum

The Board chose to not forward the Shoreland Overlay Zoning amendment to the November Referendum.

b. Send Alarm Systems Ordinance to the November Referendum

Moved by Ms. Sevigny-Watson, seconded by Mr. Frederick to approve the Alarm Systems Ordinance to be placed on the November 8, 2016 General Referendum Ballot. Vote 5-0, motion passes.

c. Approve the Referenda Warrants and Forward to Town Clerk

Moved by Mr. Sevigny-Watson, seconded by Mr. Frederick to approve the Special Kennebunk, Kennebunkport and Wells Water District Fluoridation Referendum Warrant, and the Special General and General Referendum Warrant, with the deletion of Article 4 (Shoreland). Vote 5-0, motion passes

d. Preference Votes Relating to the General Referendum

Article 1: 5-0	Article 2: 5-0	Article 3: 5-0	Article 4: X
Article 5: 5-0	Article 6: 5-0	Article 7: 5-0	Article 8: 5-0
Article 9: 5-0	Article 10: 5-0	Article 11: 5-0	Article 12: 5-0
Article 13: 5-0			

- e. Set Polling Hours
- f. Appoint Election Warden

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the Town Clerk's appointment of David N. Ott as the Warden for the State of Maine Referendum Election on November 8, 2016 pursuant to Title 21A, Section 501.2. Also moved to set the polling hours to be 7:00AM until 8:00PM at the York High School Gymnasium on November 8, 2016. Vote 5-0, motion passes.

**K. New Business**

- 1. Discussion and Possible Action: Provide Policy Guidance to the Town Manager for the preparation of FY18 Operating Budget

The Town Manager discussed his idea for budget forecasting with the Board. He proposed that they shoot for an FY18 mil rate of \$11.15 per thousand, unchanged from FY17 and it was well received by the Board.

- 2. Discussion and Possible Action: Special Event Permits

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the following Special Event Permit application subject to all, if any, conditions given by Department Heads: Parks and Recreation's Trailfest on September 18, 2016. Vote 5-0, motion passes.

**L. Future Agendas**

Dawn wants an update on the auditorium project ... Kudos to sully and parks and rec for the jamboree

**M. Other Business**

Mr. Palmer announced that the booth at Marketfest for public officials was approved and the Board thinks that this will be a great opportunity to promote vacancies on committees.

**N. Citizens' Forum**

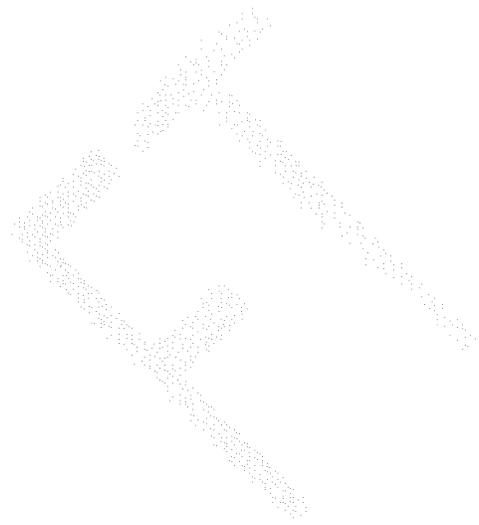
Public Comment: None

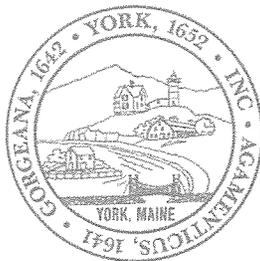
**Adjourn**

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to adjourn the meeting at 10:07PM. Without objection, so moved.

Respectfully Submitted,

Melissa M. Avery  
Assistant to the Town Manager





## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 20, 2016	<input checked="" type="checkbox"/> ACTION  <input type="checkbox"/> DISCUSSION ONLY
DATE ACTION REQUESTED: October 24, 2016	
SUBJECT: 2016 Crack Seal Bid Award	

### DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

York DPW was planning to utilize the Maine DOT Southern Region's (Region 1) crack seal competitive bid process for its FY 2017 crack seal work. Unfortunately the Maine DOT did not advertise a crack seal program in Region 1 this year. DPW has also been monitoring Crack seal bids in our area and around the state. Some of the bid results are listed below. Sealcoating Inc. has been the low bidder on most of the major projects. Sealcoating Inc. has extended to the Town of York the lowest bid price of all the projects. That price was opened on October 4, 2016 in Kennebunk. I've spoken with the Public Works Director in Kennebunk. He has agreed to allow us to piggy back on their competitive bid process.

**RECOMMENDATION:** Award the FY2017 Town Crack Seal bid to Sealcoating, Inc.

**PROPOSED MOTION:** I move to award the FY2017 Crack Seal bid to Sealcoating, Inc. in the amount of \$1.06 per pound.

**FISCAL IMPACT:** Sealcoating, Inc's Lowest price per pound for Crack Seal is \$1.06. The following table shows the Maine DOT Crack Seal bid results throughout the State of Maine.

Location	Kennebunk	MDOT Region 1	MDOT Region 2	MDOT Region 3	MDOT Region 4	MDOT Region 5
Sealcoating, Inc.	\$1.06	No Bid	\$1.37	\$1.47	\$1.38	\$1.86
Braintree, MA						
Coastal Road Repair, Inc.	\$1.98	No Bid	\$2.79	\$1.64	No Bid	\$2.92
Windham, ME						
Nicom Coatings Corporation	\$2.05	No Bid	\$1.95	\$2.12	\$1.90	\$2.64
Barre, VT						
AnnSeal, Inc.	No Bid	No Bid	\$1.86	\$1.58	\$1.66	\$1.91
Binghampton, NY						

DEPARTMENT LINE ITEM ACCOUNT: 100.0303.9606

BALANCE IN LINE ITEM IF APPROVED: \$0

PREPARED BY: Dean Lessard

REVIEWED BY: 

# BID OPENING

**Bid Subject:** Crack Sealing

**Date & Time:** October 4, 2016 at 2:30 p.m.

**Location:** Town Manager's Outer Office

**In Attendance:**

Town Manager, Town Clerk, or Finance Director: Barry Tibbetts, Joel Downs

Department Head or Municipal Employee: Chris Osterrieder, Eric Labelle, Kathy Nolette

**Bids Received:**

**1. Sealcoating, Inc., Braintree, MA**

Description	Unit	Quantity	Unit Cost	Total Cost
Polymer Modified Asphalt Sealant – Config. H	Pound	8,200	\$1.06	\$8,692.00

Description	Unit	Quantity	Unit Cost	Total Cost
Polymer Modified Asphalt Sealant – Config. B	Pound	500	\$4.16	\$2,080.00

**2. Coastal Road Repair, Inc., Windham, ME**

Description	Unit	Quantity	Unit Cost	Total Cost
Polymer Modified Asphalt Sealant – Config. H	Pound	8,200	\$1.98	\$16,236.00

Description	Unit	Quantity	Unit Cost	Total Cost
Polymer Modified Asphalt Sealant – Config. B	Pound	500	\$13.80	\$6,900.00

**3. Nicom Coatings Corporation, Barre, VT**

This bid was received via fax at Dept. Public Services bldg at 2:03pm – Bids were to be sealed and delivered to T.Mgr. office - this fax was not in T.Office when bids were opened at 2:30 pm – added to bid opening sheet on 10/5/16.

Description	Unit	Quantity	Unit Cost	Total Cost
Polymer Modified Asphalt Sealant – Config. H	Pound	8,200	\$2.05	\$16,810.00

Description	Unit	Quantity	Unit Cost	Total Cost
Polymer Modified Asphalt Sealant – Config. B	Pound	500	\$4.50	\$2,250.00

**Recommendation:**

The Public Services Director and Town Engineer have reviewed the bids and recommend awarding the bid to bidder #1 Sealcoating, Inc. of Braintree, MA at the prices listed above.

**Town Manager Award:**

(award may be made by the Town Manager of purchases between \$500 and \$15,000)

Since the bid is under \$15,000, the Town Manager is awarding the bid to \_\_\_\_\_  
in the amount of \$\_\_\_\_\_.



---

825 Granite Street, Braintree, MA 02184 • Phone (781) 428-3400 • Fax (781) 428-3430

September 30, 2016

Mr. Christopher J. Osterrieder, P.E.  
Town of Kennebunk  
Kennebunk Town Hall  
1 Summer Street  
Kennebunk, ME 04043

Dear Mr. Osterrieder,

In response to Section 5, Conditions and Instructions to Bidders in the Crack Sealing RFP, we'd like to let you know that Sealcoating, Inc. can alter our operations schedule to deliver the cracksealing work according to your needs.

In response to Section 4. Warranty, General Conditions, Sealcoating, Inc. warranties our crack sealing work for one full year from the date of delivery.

Please feel free to let us know if you have any other questions.

Sincerely,

SEALCOATING, INC.

  
Elizabeth Wuori  
President



825 Granite Street, Braintree, MA 02184 • Phone (781) 428-3400 • Fax (781) 428-3430

## Certificate of Corporate Vote

At a meeting of the Board of Directors of SEALCOATING, INC. held on January 4, 2016, at which all the Directors were present or waived notice, it was

VOTED: That Elizabeth Wuori, President of this Company, be and she hereby is authorized to execute bids, contracts and bonds in the name and behalf of said Company, and affix its corporate seal thereto; and such execution of any contract or obligation in this company's name on its behalf by such President, under seal of the Company, shall be valid and binding upon this Company.

A true copy

ATTEST:

  
Clerk/Secretary

Place of business: Braintree, MA

Date of this contract: \_\_\_\_\_

I hereby certify that I am the clerk of SEALCOATING, INC., that Elizabeth Wuori is the duly elected President of said Company, and that the above vote has not been amended or rescinded and remains in full force and effect as of this date.

  
April Durant, Clerk

(CORPORATE SEAL)

01-04-16

**PROPOSAL FORM**  
**2016 Crack Seal Program**  
**Due Tuesday, October 4, 2016, at 2:30 p.m.**

To: Town of Kennebunk  
Barry A. Tibbetts, Town Manager  
1 Summer Street  
Kennebunk, ME 04043

The undersigned individual/firm/business guarantees this price for Thirty days (30) from the Quote due date. The undersigned submits this proposal without collusion with any other person, individual, or firm or agency. The undersigned ensures the authority to act on behalf of the corporation, partnership or individual they represent; and has read and agreed to all of the terms, requests, or conditions written herein by the Town of Kennebunk, Maine. By signing this bid form, the firm listed below hereby affirms that its Quote meets the minimum specifications and standards as listed above.

Signature *Elizabeth Wuori* Name (print) Elizabeth Wuori

Title President Company Sealcoating, Inc.

Address 825 Granite Street, Braintree, MA 02184

Telephone No. (781) 428-3400 Fax No. (781) 428-3430

Email Address: avia11@sealcoatinginc.com

STATE OF ~~MAINE~~ Massachusetts  
Norfolk, SS.

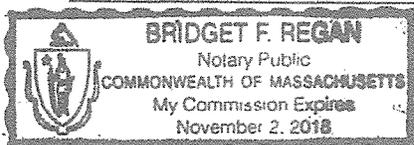
Date: 9/30/16

Personally appeared and acknowledged the foregoing instrument to be his/her free act and deed in his/her capacity and the free act and deed of said company.

Notary Public *Bridget F. Regan*

Print Name Bridget F. Regan

Commission Expires 11-2-18



## PROPOSAL FORM

### BASE BID – Configuration H

DESCRIPTION	UNIT	QNTY	UNIT COST	TOTAL COST
Polymer Modified Asphalt Sealant – Configuration H	Pound	8,200	\$1.06/LB	\$8,692.00

### SUPPLEMENTAL BID – Configuration B

DESCRIPTION	UNIT	QNTY	UNIT COST	TOTAL COST
Polymer Modified Asphalt Sealant – Configuration B	Pound	500	\$4.16/LB	\$2,080.00

BASE BID Written total amount: Eight Thousand Six Hundred Ninety-two Dollars and Zero Cents

Supplemental BID Written total amount: Two Thousand Eighty Dollars and Zero Cents

Company Name: Sealcoating, Inc.

Signed by: Elizabeth Wuori

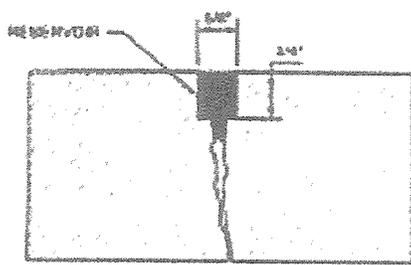
Title: President

Print Name: Elizabeth Wuori

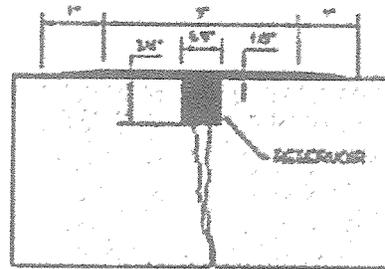
Address: 825 Granite Street  
Braintree, MA 02184

Tel. #: (781) 428-3400

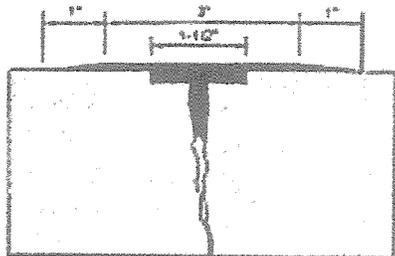
Date: 9/30/2016



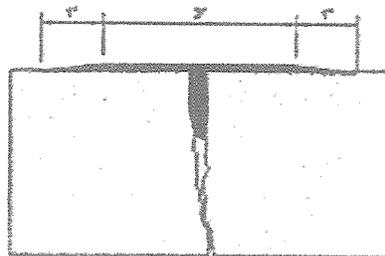
Configuration A  
Standard Reservoir-and-Flush



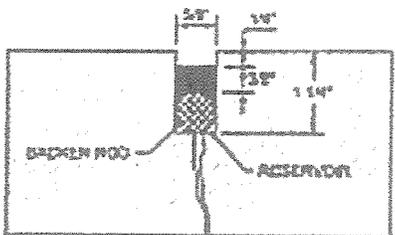
Configuration B  
Standard Recessed Band-Aid



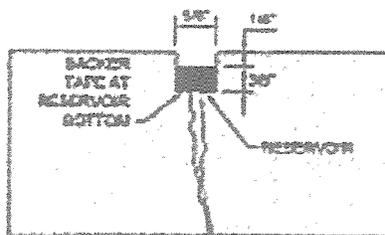
Configuration C  
Shallow Recessed Band-Aid



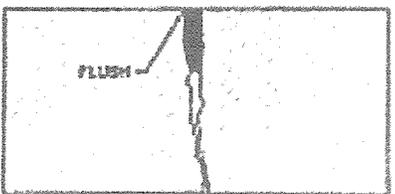
Configuration D  
Simple Band-Aid



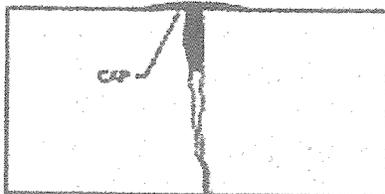
Configuration E  
Deep Reservoir-and-Recess



Configuration F  
Standard Reservoir-and-Recess



Configuration G  
Simple Flush-Fill



Configuration H  
Capped

Material placement configurations for AC crack treatments.  
Figure 1

Town of Kennebunk

Crack Sealing RFP

September 19, 2016

Prepared By: Christopher J. Osterrieder, P.E. – Town Engineer, Kennebunk, Maine

Prepared For: Town of Kennebunk Department of Public Services

Dear Bidder:

The Town of Kennebunk is accepting written and sealed proposals for the Kennebunk Public Services Department's 2016 Crack Sealing Program. The Town reserves the right to accept or reject any or all proposals in whole or in part and to waive any informality. The Town of Kennebunk reserves the right to accept any proposal when it is deemed be in its best interest.

In reviewing and award of any proposal, the Town of Kennebunk may consider any of the following factors:

- Bidder qualifications,
- Price
- Experience,
- Warranties,
- References
- Bonding,
- Delivery date
- Service of Bidder

Proposals will not be accepted unless submitted in accordance with the following instructions to bidders. Please mark sealed envelopes plainly: "Proposal for Kennebunk Public Services - 2016 Crack Sealing Program".

Bid packages will be available beginning on Tuesday September 20, 2016. Documents can be obtained on the Town of Kennebunk website: [www.kennebunkmaine.us](http://www.kennebunkmaine.us). Questions regarding this Request for Proposal should be directed to Christopher J. Osterrieder, P.E. @ [costerrieder@kennebunkmaine.us](mailto:costerrieder@kennebunkmaine.us).

Please submit your proposal to the Town of Kennebunk by 2:30 p.m. Tuesday October 4, 2016. Proposals must be delivered to the Town Manager's office located on the second floor of the Kennebunk Town Hall at 1 Summer Street, Kennebunk, Maine 04043 on or before the date and time appointed. No proposals will be accepted after the time and date listed above. Proposals will be opened at 2:30 p.m. on that date.

Town of Kennebunk

1 Summer Street  
Kennebunk, ME 04043

[www.kennebunkmaine.us](http://www.kennebunkmaine.us)

## CONDITIONS AND INSTRUCTIONS TO BIDDERS

1. Bidders shall use the enclosed bid form for submission of the proposal. Whenever, in bid forms, an article is defined by using a trade name or catalog number, the term "or approved equal", if not inserted, shall be implied.
2. Submit a separate unit price for each item unless otherwise specified in the bid request. Award will be made on a basis of each item, or as a group, whichever is in the best interest of the Town. Prices stated are to be "delivered to destination".
3. Bid proposals must be completed in full, in ink and must be signed by firm official. Bid proposal must be notarized prior to bid being sealed and will be disqualified if not notarized. Bids may be withdrawn prior to the time set for the official opening.
4. Unless stated otherwise, bids will be opened publicly. Bidders or representatives may be present at bid opening.
5. Awards will be made to the lowest responsible bidder, considering the quality of the materials, date of delivery, cost which meets specification and is in the best interest of the Town of Kennebunk.
6. All transportation charges, including expense for freight, transfer express, mail, etc. shall be prepaid and be at the expense of the vendor unless otherwise specified in the bid.
7. The Town of Kennebunk is exempt from payment of Federal Excise Taxes on the articles not for resale, Federal Transportation Tax on all shipments and Maine Sales Tax and Use Taxes. All proposals shall exclude these taxes. Upon application, exemption certificate will be furnished.
8. Time of delivery shall be stated. If time is of the essence, the earliest date may be a factor in the bid award.
9. Please state "Proposal for Kennebunk Public Services - 2016 Crack Sealing Program", on submitted, sealed envelope.
10. The Town of Kennebunk reserves the right to waive any formality and technicality in bids whichever is deemed best for the interest of the Town of Kennebunk.

## GENERAL CONDITIONS

### 1. Equal Employment Opportunity

- a. The Town of Kennebunk is an Equal Opportunity Employer and shall not discriminate against an applicant for employment, and employee or a citizen because of race, color, sex, marital status, physical and/or mental handicap, religion, age, ancestry or natural origin, unless based upon a bona-fide occupation qualification. Vendors and contractor or their agents doing business with the Town shall not violate the above clause or the Civil Rights Acts of 1964. Violations by vendors shall be reviewed on a case-by-case basis and may mean an automatic breach of contract or service to the Town of Kennebunk.

### 2. Hold Harmless

- a. The Bidder agrees to protect and hold harmless the owner from all costs, expenses or damages that may arise out of alleged infringement of patents of materials used.

### 3. Subcontracting

- a. The Bidder shall not subcontract any part of the work or materials or assign any monies due it without first obtaining the written consent of the Town of Kennebunk. Neither party shall assign or transfer its interest in the contract without the written consent of the other party.

### 4. Warranty

- a. The Bidder warrants that all work will be of good quality and free from faults and defects, and in conformance with the specifications. All work not so conforming to these standards may be considered defective. The Bidder agrees to be responsible for the acts and omissions of all of its employees and all subcontractors, their agents and employees, and all other persons performing any of the work under a contract with the Bidder.

# BID OPENING

**Bid Subject:** Crack Sealing

**Date & Time:** October 4, 2016 at 2:30 p.m.

**Location:** Town Manager's Outer Office

**In Attendance:**

Town Manager, Town Clerk, or Finance Director: Barry Tibbetts, Joel Downs

Department Head or Municipal Employee: Chris Osterrieder, Eric Labelle, Kathy Nolette

**Bids Received:**

**1. Sealcoating, Inc., Braintree, MA**

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**Recommendation:**

The Public Services Director and Town Engineer have reviewed the bids and recommend awarding the bid to bidder #1 Sealcoating, Inc. of Braintree, MA at the prices listed above.

**Town Manager Award:**

(award may be made by the Town Manager of purchases between \$500 and \$15,000)

Since the bid is under \$15,000, the Town Manager is awarding the bid to \_\_\_\_\_  
in the amount of \$\_\_\_\_\_.

## Technical Specifications

### SECTION 02206 - ASPHALT CRACK SEALING, ASPHALT CRACK FILLING

#### PART 1 – GENERAL

##### I. SECTION INCLUDES

- A. Reference Standards: The following standards are referenced directly in this section. The latest version of these standards shall be used.

#### ASTM

C 88	Test Method for Soundness of Aggregates by Use of Sodium Sulfate or Magnesium Sulfate
C 117	Test Method for Materials Finer than 75- um (No. 200) Sieve in Mineral Aggregates by Washing
C 131	Test Method for Resistance to Degradation of Small-Size Coarse Aggregate by Abrasion and Impact in the Los Angeles Machine
C 136	Test Method for Sieve Analysis of Fine and Coarse Aggregates
D 36	Standard Test Method for Softening Point of Bitumen (Ring-and-Ball Apparatus)
D 140	Practice for Sampling Bituminous Materials
D 242	Standard Specification for Mineral Filler For Bituminous Paving Mixtures
D 244	Standard Test Methods for Emulsified Asphalts
D 946	Standard Specification for Penetration-Graded Asphalt Cement for Use in Pavement Construction
D 977	Standard Specification for Emulsified Asphalt
D 1073	Standard Specification for Fine Aggregate for Bituminous Paving Mixtures
D 1190	Standard Specification for Concrete Joint Sealer, Hot-Applied Elastic Type
D 2027	Standard Specification for Cutback Asphalt (Medium-Curing Type)
D 2028	Standard Specification for Cutback Asphalt (Rapid-Curing Type)
D 2397	Standard Specification for Cationic Emulsified Asphalt

- D 2419 Standard Test Method for Sand Equivalent Value of Soils and Fine Aggregate
- D 3381 Standard Specification for Viscosity-Graded Asphalt Cement for Use in Pavement Construction
- D 3405 Standard Specification for Joint Sealants, Hot-Applied, for Concrete and Asphalt Pavements
- D 3910 Standard Practices for Design, Testing, and Construction of Slurry Seal
- D 5078 Standard Specification for Crack Filler, Hot-Applied, for Asphalt Concrete and Portland Cement Concrete Pavements
- D 6372 Standard Practice for Design, Testing, and Construction of Micro-Surfacing
- D 6690-15 Standard Specification for Joint and Crack Sealants, Hot Applied, for Concrete and Asphalt Pavements

**ISSA**

Bulletin #139 "Test Method to Classify Emulsified Asphalt/Aggregate Mixture Systems by Modified Cohesion Tester Measurement of Set and Cure Characteristics"

**AASHTO**

- T 53 Softening Point of Bitumen (Ring-and-Ball Apparatus)
- T 59 Testing Emulsified Asphalts
- T 104 Soundness of Aggregate by Use of Sodium Sulfate or Magnesium Sulfate
- T 112 Clay Lumps and Friable Particles in Aggregate
- MP 1 Specification for Performance Graded Asphalt Binder
- M 208 Cationic Emulsified Asphalt

Manual of Uniform Traffic Control Devices, latest Edition (MUTCD)

**B. Traffic Control, Mobilization & Demobilization**

- i. The contractor shall be responsible for maintaining a safe work zone which may necessitate the use of Traffic Control Officers (flaggers) and other traffic control devices (cones, barrels and signage). All traffic control devices should comply with the Manual of Uniform Traffic Control Devices, latest Edition (MUTCD). The work zone shall be

maintained for a duration adequate to protect the product that has been applied.

## PART 2 – PRODUCTS

### I. MATERIALS

- A. Material used in performance of this contract shall be a hot pour elastic type sealer such as KOCH 9005 or equal and shall meet ASTM 3405 as indicated in the following specification:

<u>Test</u>	<u>ASTM 3405</u>
Cone Penetration, 77F	90 max. Flow, 140° F 1.0 cm max.
Resilience	60% min.
Ductility, 77F (ASTM D113)	40 cm max.
Bond, @ 0degrees F, 100% ext.	Pass 5 cycles
Bond, @ -20degrees F, 50% ext.	Pass 3 cycles
Compression Recovery	0.40 min.
Recommended Pour Temperature	370° F (not ASTM)
Safe Heating Temperature	390° to 400° F (not ASTM)

- B. Crack Sealant Application: Material used for crack sealing shall be a modified asphalt product selected to be compatible with the environment of application and found to meet the criteria of one of the following specifications, ASTM D 1190 or ASTM D3405 with a modified resilience value between 30 and 60 percent, or material meeting the requirements of ASTM D 5078. Crack Sealing shall be understood to be the process of placing an asphaltic material into and/or above working cracks to prevent the intrusion of surface water and/or incompressibles into the crack. A working crack shall be understood to correspond to cracks that sustain more than 0.1 inches (2.5 mm) movement during the course of the year.
- C. Crack Filling Application: Material used for crack filling shall be an viscosity graded AC-20 asphalt product meeting the criteria of ASTM D 3381 Table 1, a penetration-graded asphalt product having a penetration number in the range of 85-100 measured in accordance with ASTM D 946, or material meeting the criteria of ASTM D-5078. Crack filling material may contain polyester or polypropylene fibers. Material satisfying the criteria of a crack sealant may also be used as a crack filling material. Crack filling shall be understood to be the process of placing an asphaltic material into non-working cracks to substantially

reduce water infiltration and reinforce adjacent cracks. Crack filling materials shall not be used for sealing pavements in preparation for an overlay.

### PART 3 – EXECUTION

#### I. SECTION INCLUDES:

- A. Crack cleaning and sealing complete, in place, at the locations specified in this section and as directed by the Engineer.
- B. Preparation of road surface for placement of Polymer Modified Asphalt Sealant for Streets
- C. Installation/Placement of Polymer Modified Asphalt Sealant for Streets

#### II. CRACK SEALING/FILLING:

##### A. Equipment:

##### i. Router:

- 1. This machine shall be an impact cutterhead with a minimum of 6 tungsten-carbide cutters. The router blades shall be driven with a minimum 25-hp gasoline engine.

##### ii. Compressor:

- 1. The compressor shall be a two-stage compressor rated as a minimum 40 CFM unit capable of delivering compressed air to the nozzle at a minimum pressure of 100 psi. The compressor shall be equipped with a filter trap to eliminate oil and moisture from the air line.

##### iii. Hot-Air Lance (HCA):

- 1. The hot air lance shall be capable of delivering super-heated air at an exit temperature in excess of 1500° F and at a velocity in excess of 1000 ft/sec against the side walls of the crack. The hose shall be wrapped with reflective tape to keep hoses together and to protect worker in low light situations.

##### iv. Melter/Applicator:

- 1. The melting pot shall consist of double-boiler type jacket and shall be equipped with a full sweep agitator that promotes proper mixing and maintains uniform heat

distribution throughout the melting pot. The melting pot shall have sufficient capacity of the heat transfer oil reservoir that heat transfer oil is able to come in contact with 100 percent of the outside area of the jacket. The melting pot shall be equipped with a drain plug to permit 100% of the heat transfer oil to drain from the boiler. The heat transfer oil shall consist of ISO grade 68.

2. The heat transfer oil shall be heated with a properly sized vapor fuel LP or diesel fuel burner. The heat shall be applied directly to the bottom of the heat transfer tank. The burner shall be lit by an electric spark igniter controlled by a sensor, which detects a lack of burn or ignition and subsequently shuts down the fuel supply. The unit must be capable of starting at ambient temperature and bringing the sealant up to the required applications temperature within the period of approximately one hour while continuously agitating and recirculation the sealant. The unit shall have the capability of independently monitoring both the transfer oil and melting pot temperatures. The unit shall be capable of heating a variety of application materials within a range of temperatures between 200° F (93.3° C) and 425° F (218.3° C). The sealant should not be heated to a temperature in excess of that specified by the manufacturer.
3. The agitator and material pump shall be actuated by hydraulic motors driven by a single, pressure-compensated hydraulic pump. Hydraulic fluid should only be pumped to the agitator or material pump motor on demand.
4. The sealant shall be applied to the pavement through an application system consisting of a pressure feed hose and wand. The hose shall be specially manufactured to handle liquid asphalt products up to 450° F at 350 psi (2400 kPa) working pressure. The hose shall not be less than 15 feet in length. The hand wand shall be constructed of steel of sufficient strength to withstand normal day-to-day operations. Material flow through the wand shall be controlled with a toggle switch. A squeegee shall be used to distribute the asphalt evenly and uniformly in the recommended configuration.
5. All equipment shall be in good working order, as determined by the Engineer, on a day-to-day basis. The Engineer shall not be responsible for payment of labor or rental charges on days when the equipment is not in good working order.

B. Preparation:

- i. Cracks shall be cleaned free of all deleterious materials, including any old sealant; incompressibles and organic material. The crack shall be free of any standing water and any moisture along the sidewalls of the crack as evidenced by a darker color than the adjacent pavement. This shall be accomplished in one of three manners:
  - a. wire-brushing – where the crack channels are cleaned with a mechanical wire brush followed by high-pressure compressed air;
  - b. hot air blasting – where the crack channels are cleaned, heated, dried with hot compressed air (HCA) lance connected to a high pressure air compressor; or
  - c. high-pressure air blasting – where the crack channels are cleaned with high-pressure compressed air. Pavement cracks to be sealed or filled shall be cleaned and dried using one of the methods described previously within 10 minutes of the application of the sealer/filler. Equipment for the two operations should be kept in a compact configuration such that not more than 50 feet separates equipment required by the two operations. Additionally, not more than 10 minutes time shall pass between the cleaning of a crack and the filling of the crack with the appropriate sealing/filling material.

C. Installation:

- i. Crack sealing shall be limited to working, longitudinal, transverse and block cracks that are more than 1/4 inch (6mm) in width. Cracks 1/4 - to 5/8 inches (6mm to 16 mm) in width requiring sealing shall be routed to 5/8-inches (16 mm) in width. Cracks 5/8-to 1 inch (16mm to 25 mm) in width requiring sealing do not require routing, but shall be thoroughly cleaned and sealed. Cracks shall be sealed using either the *Standard Reservoir and Flush* or *Standard Recessed Band-Aid* configurations. Cracks greater than 1-inch (25 mm) in width shall be filled with either an emulsion slurry and sand, widened and backfilled with Hot-Mix Asphalt (HMA), or repaired in a manner approved by the Engineer. Cracks requiring filling do not require any routing but simply thorough cleaning. Cracks shall be filled using either the *Simple Band-Aid*, *Simple Flush Fill*, or *Capped Configurations*.
- ii. Sealer/filler materials should not be applied when the pavement surface is wet or when the pavement temperature is less than 40° F without the use of hot air blasting or the approval of the Engineer.

- iii. Sealant/Crack filler should be applied to fill the crack from the bottom to the top in order to prevent air bubbles from forming and creating a point of weakness in the sealant. Upon application, hot sealant/filler material should not make a hissing or popping noise indicative of moisture in the crack. Noises of this kind should indicate that additional drying of the crack is necessary in order to facilitate proper bonding of the material to the sidewalls of the crack.

Application of the sealant/filler material shall be made in such a way as to completely fill the crack and provide enough excess to facilitate completion of the seal/fill consistent with the configuration selected. The use of a squeegee or applicator disk to shape the application material to conform to one of the material placement configurations shown on Figure 1 is required.

Care shall be taken not to place any sealant/filler material on top of any pavement markings, manholes, or drainage castings. The Contractor shall be responsible to prevent tracking of the sealant/filler material onto the adjacent pavement surfaces to the satisfaction of the Engineer.

- iv. Prior to beginning the work, the Contractor will be required to demonstrate to the satisfaction of the Engineer and the manufacturer's representative his ability to apply the material in accordance with the manufacture's specifications. Operations and procedures which are considered by the Engineer as detrimental to the effectiveness of the material will not be permitted.

## Appendix to Meeting 4

### Parking Data/Counts (On-Street & Off-Street)

#### 1. On-Street Data:

- I. Weekday – December 18, 2014, Excel Table
- II. Weekday – August 27, 2014, Excel Table
- III. Weekend (Sat) – August 30, 2014, Excel Table
- IV. On-Street Parking Spaces 1 – 29, Google Map
- V. On-Street Parking Spaces 30 – 57, Google Map

#### 2. Off-Street – Parking Lot Data:

- I. Weekday – August 27, 2014, Lot 1 Library, Lot 3 Hospital, Excel Table
- II. Weekend (Sat) – August 30, 2014, Lot 1 Library, Lot 3 Hospital, Excel Table
- III. Off-Street Parking Lot Spaces, Google Map



On-Street Parking Weekday: York/Long Sands: Wednesday 8/27/2014

Time	7:00	7:30	8:00	8:30	9:00	9:30	10:00	10:30	11:00	11:30	12:00	12:30	1:00	1:30	2:00	2:30	3:00	3:30	4:00	4:30	5:00	5:30	6:00	% Occupied	Average amount of Time Occupied (hrs)
1							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	35%	1.33
2							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	43%	0.83
3							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	30%	0.88
4							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	52%	1.00
5							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	35%	1.00
6							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	48%	1.38
7							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	70%	8.00
8							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	22%	0.83
9							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	52%	2.00
10							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	35%	1.33
11							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	35%	1.00
12							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	52%	0.86
13							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	86%	11.00
14							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	100%	11.50
15							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	91%	5.25
16							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	52%	1.20
17							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	13%	0.75
18							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	74%	2.83
19							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	70%	2.00
20							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	35%	0.80
21							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	74%	2.83
22							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	70%	4.00
23							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	48%	5.50
24							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	9%	1.00
25							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	17%	1.00
26							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	39%	2.25
27							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	35%	0.80
28							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	26%	1.00
29							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	78%	9.00
30							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	30%	0.88
31							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
32							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
33							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
34							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	48%	2.75
35							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	78%	9.00
36							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	22%	1.25
37							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
38							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	1.00
39							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
40							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	17%	1.00
41							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	9%	1.00
42							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	48%	1.83
43							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
44							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	43%	1.67
45							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	78%	4.50
46							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	74%	2.83
47							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	35%	1.33
48							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	74%	8.50
49							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	39%	1.50
50							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	87%	5.00
51							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	61%	3.50
52							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	57%	1.63
53							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	26%	0.75
54							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	61%	0.88
55							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	33%	0.80
56							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	39%	0.90
57							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	29%	1.00
58							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	70%	8.00
NSKT TO 57							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	57%	6.50
Time	7:00	7:30	8:00	8:30	9:00	9:30	10:00	10:30	11:00	11:30	12:00	12:30	1:00	1:30	2:00	2:30	3:00	3:30	4:00	4:30	5:00	5:30	6:00	Avg % Occupied	Avg time occupied
% Occupied	18%	15%	22%	28%	38%	47%	60%	62%	67%	62%	68%	68%	44%	44%	53%	53%	69%	67%	53%	47%	36%	27%	19%	44%	2.65

On-Street Parking Weekend: York/Long Sands: Saturday 8/30/2014

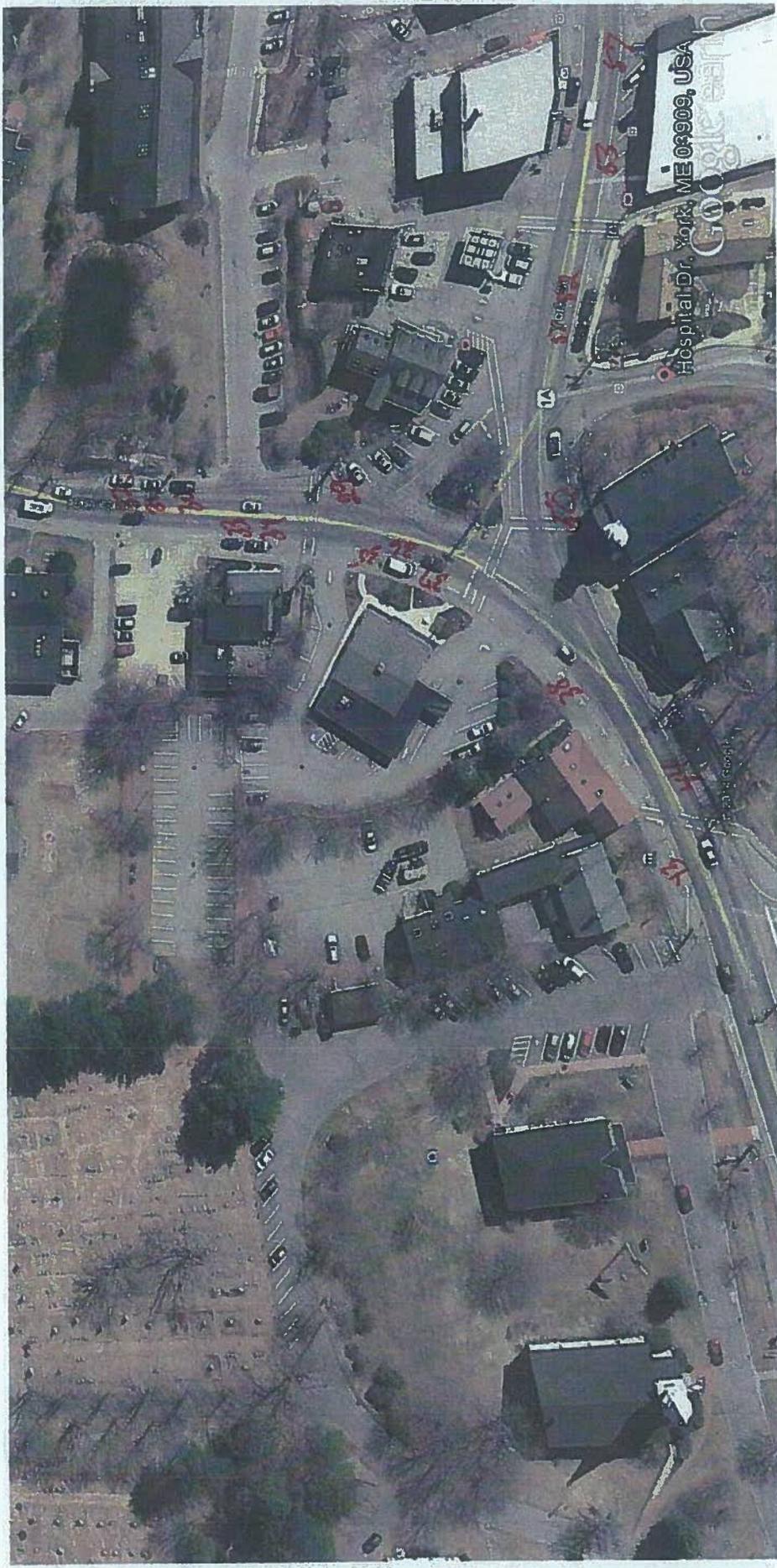
Time	7:00	7:30	8:00	8:30	9:00	9:30	10:00	10:30	11:00	11:30	12:00	12:30	1:00	1:30	2:00	2:30	3:00	3:30	4:00	4:30	5:00	5:30	6:00	% Occupied	Average amount of time occupied (hrs)	
1	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	65%	0.83
2	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	57%	1.30
3	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	35%	0.80
4	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	43%	0.83
5	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	43%	1.00
6	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	35%	0.80
7	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	43%	1.00
8	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	48%	0.79
9	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	52%	0.86
10	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	43%	0.83
11	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	52%	0.67
12	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	48%	0.92
13	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	52%	3.00
14	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	57%	6.50
15	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	96%	11.00
16	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
17	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	39%	0.56
18	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	46%	2.75
19	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	13%	0.50
20	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	43%	1.00
21	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	9%	0.50
22	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	46%	1.38
23	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	4%	0.50
24	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	70%	4.00
25	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
26	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	17%	0.50
27	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
28	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	17%	0.50
29	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	35%	2.00
30	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	4%	0.50
31	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	13%	0.75
32	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
33	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
34	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
35	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
36	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
37	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
38	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
39	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
40	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
41	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
42	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
43	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
44	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0%	0.00
45	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	39%	2.25
46	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	52%	3.00
47	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	9%	1.00
48	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	70%	8.00
49	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	9%	0.50
50	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	28%	1.50
51	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	70%	1.14
52	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	78%	3.00
53	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	30%	0.58
54	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	39%	0.64
55	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	26%	0.60
56	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	43%	0.63
57	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	22%	0.63
ILLEGAL																									57%	1.30
BEFORE 51																									4%	0.50
Time	7:00	7:30	8:00	8:30	9:00	9:30	10:00	10:30	11:00	11:30	12:00	12:30	1:00	1:30	2:00	2:30	3:00	3:30	4:00	4:30	5:00	5:30	6:00	Avg % Occupied	Avg time occupied	
% Occupied	9%	15%	33%	34%	43%	34%	34%	37%	46%	43%	36%	40%	29%	37%	45%	44%	36%	31%	17%	22%	24%	12%	15%	32%	1.31	



feet  
meters

300  
90





Google earth

feet  
meters

100

500



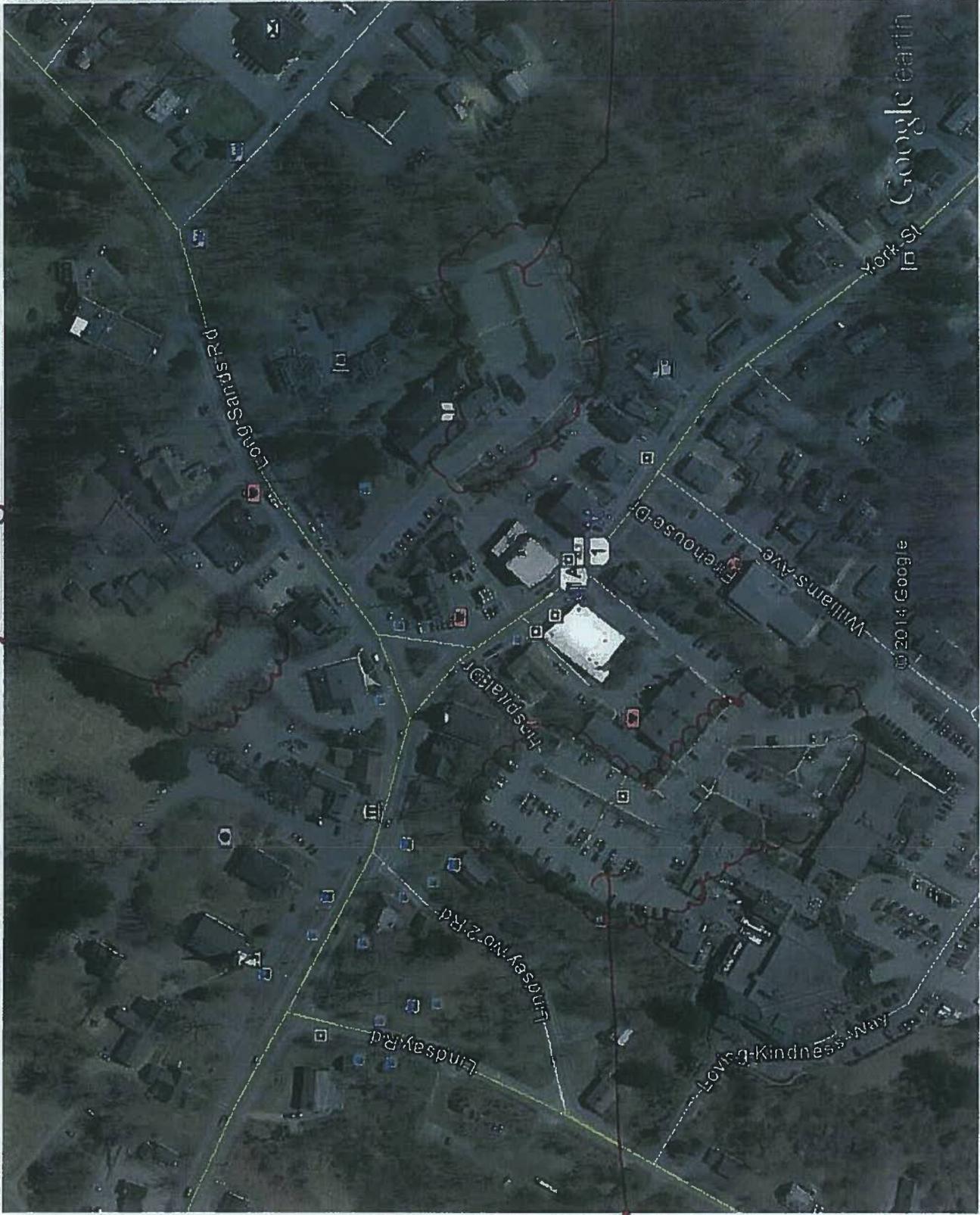
Parking Lot Counts - 8/27/14, York						
Start Time	Lot 1 Library (89)	AVG. Per Hour	% Occupied	Lot 3 Hospital (184)	AVG. Per Hour	% Occupied
07:00 AM	10			35		
07:30 AM	12	11	12%	75	55	30%
08:00 AM	17			91		
08:30 AM	24	20.5	23%	92	91.5	50%
09:00 AM	21			107		
09:30 AM	29	25	28%	113	110	60%
10:00 AM	39			129		
10:30 AM	45	42	47%	131	130	71%
11:00 AM	49			137		
11:30 AM	49	49	55%	137	137	74%
12:00 PM	46			107		
12:30 PM	46	46	52%	107	107	58%
01:00 PM	40			105		
01:30 PM	40	40	45%	105	105	57%
02:00 PM	55			99		
02:30 PM	55	55	62%	99	99	54%
03:00 PM	48			97		
03:30 PM	48	48	54%	97	97	53%
04:00 PM	54			82		
04:30 PM	45	49.5	56%	82	82	45%
05:00 PM	40			71		
05:30 PM	25	32.5	37%	67	69	38%
06:00 PM	16	16	18%	68	68	37%
<b>Overall Average</b>	<b>37</b>	<b>36</b>	<b>41%</b>	<b>97</b>	<b>96</b>	<b>52%</b>

Parking Lot Counts - 8/30/14, York						
Start Time	Lot 1 Library (89)	AVG. Per Hour	% Occupied	Lot 3 Hospital (184)	AVG. Per Hour	% Occupied
07:00 AM	11			27		
07:30 AM	11	11	12%	50	38.5	21%
08:00 AM	22			53		
08:30 AM	28	25	28%	55	54	29%
09:00 AM	38			57		
09:30 AM	48	43	48%	67	62	34%
10:00 AM	37			60		
10:30 AM	50	43.5	49%	54	57	31%
11:00 AM	47			53		
11:30 AM	39	43	48%	53	53	29%
12:00 PM	40			51		
12:30 PM	37	38.5	43%	46	48.5	26%
01:00 PM	38			43		
01:30 PM	36	37	42%	39	41	22%
02:00 PM	23			36		
02:30 PM	10	16.5	19%	37	36.5	20%
03:00 PM	10			38		
03:30 PM	11	10.5	12%	37	37.5	20%
04:00 PM	14			36		
04:30 PM	11	12.5	14%	33	34.5	19%
05:00 PM	10			34		
05:30 PM	9	9.5	11%	38	36	20%
06:00 PM	8	8	9%	37	37	20%
<b>Overall Average</b>	<b>26</b>	<b>25</b>	<b>28%</b>	<b>45</b>	<b>45</b>	<b>24%</b>

Parking Lot 2

Parking Lot 3

Parking Lot 1



feet  
meters

1000  
400



## PURPOSE

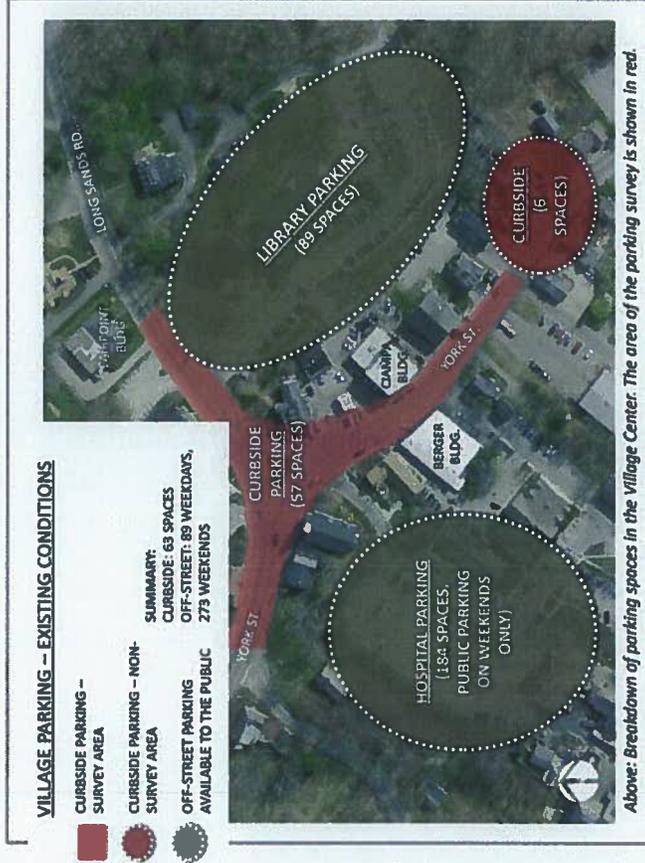
The heart of York Village is a busy commercial center, and parking is an important component of how the area functions. For Village businesses, the ready availability of parking, particularly curbside, is integral to their customer base and ultimate bottom line. To date, York Village's parking issue has been primarily couched as a supply and demand problem. Namely, the assumption has been that a lack of curbside parking within the Village core can only be resolved through an expansion of parking spaces. Over the years, these factors combined with the minimum parking requirements dictated by zoning have led to a place that caters almost exclusively to the automobile. A majority of available space has been dedicated to the automobile. Yet, despite this imbalance, there remains a strong perception that parking is insufficient and a persistent belief that the answer lies in more parking. This chapter provides an overview of the existing conditions and assessment, and recommendations related to curbside and off-street parking, as well as related zoning.

This chapter addresses:

- 3.1 Existing Conditions / Assessment
- 3.2 Considerations
- 3.3 Recommendations

### 3.1 EXISTING CONDITIONS / ASSESSMENT

As part of this project, our team conducted weekday/weekend parking observations and counts during August peak-season and again in December. These parking observations allowed us to assess the occupancy and duration rates for on-street parking and in publicly accessible off-street lots, including the Library lot and portions of the Hospital lot, which opens to public parking on weekends. Our team also researched existing zoning standards, as they pertain to parking and land-use within the village, to



understand potential implications to both land-use and economic development patterns. Finally, we heard from property owners, local businesses, and residents about their concerns and needs for improving parking within the Village. Our findings from the inventory/assessment and outreach process suggest that parking management is needed and that parking supply is sufficient within the Village.

### Curbside Parking

Availability of parking is a key necessity for attracting customers to the downtown, and the most highly valued spaces are the most convenient on-street spots. York Village currently has 57 marked curbside spaces within the central business area. Curbside parking is free with no time restrictions. Parking inventory data showed an average occupancy rate of 44% weekday and 37% weekend during the late August peak-season. The weekday, mid-December

off-peak occupancy rate was 37%. Our data revealed that when parking use was highest during weekday, occupancy was 68% during summer season and 55% off-season. Observed higher occupancies were generally during business hours (9am-5pm) when weekday occupancy rates were an average of 56.5% in the summer and 44.8% in the winter.

To better understand these figures, we also analyzed the duration of parking. On average, vehicles parked 2.6 hours on peak season weekdays, 1.8 hours on off-peak season weekdays, and 1.3 hours on peak season weekends. A closer examination of the duration and occupancy data showed that approximately a quarter of the curbside parking is used for periods of four hours or more. For example, during normal weekday business hours in peak season, approximately 14 curbside spaces on average are being used for long-term parking. For the time examined, nearly 50% of these were being used for 8 hours or more. If long-term parking was shifted to off-street lots, the average occupancy of curbside parking would be significantly reduced. When we adjusted our calculations to remove long-term use of these spaces, the average occupancy

during peak season business hours fell from 56.5% to under 25% with a peak hour maximum of 39.7% compared to the 68% observed rate. This suggests that a minimum of 27 curbside spaces are needed to meet peak hour parking demand and to ensure that there is always an adequate number of available spaces (typically 15%).

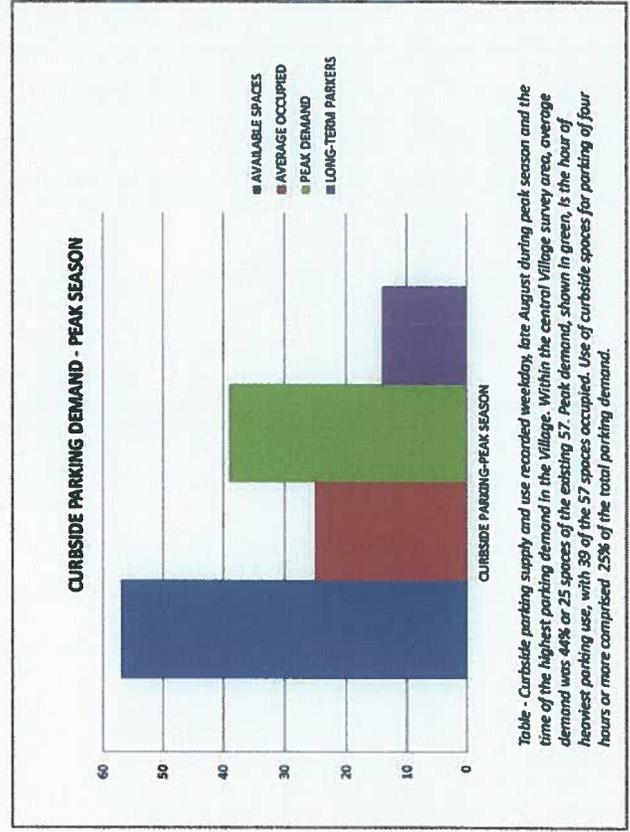
The configuration of existing curbside parking is a combination of parallel and diagonal spaces. Many of the diagonal spaces intrude into pedestrian areas and compromise sight lines for vehicles and pedestrian crossings.

### Zoning – Parking Requirements

Parking requirements integrally shape both economic development and urban form. Our team researched the Town’s current zoning standards to identify any potential issues that may contribute to sprawl, inhibit economic development, or limit opportunities to maximize parking assets within the Village core.

With exception of York Beach Village, the Town takes a “minimum parking standards” approach to zoning, in which the optimal parking supply is estimated using data compiled by the International Transportation Engineers (ITE). For York Village, zoning stipulates that “required off-street parking spaces shall be located on the same lot as the principle use, except when the Planning Board approves the use of an off-site parking facility.” The joint use of a parking facility, or shared parking, is allowed if parking requirements can be met “by reason of variation in the probable time of maximum use by patrons or employees of such establishment and where said parking facility is located three hundred feet of the establishment.” There is a provision for reduction of the parking standard, but this requires the Applicant to prove that a reduction in parking will not adversely impact adjacent properties and uses, compromise the health, welfare or safety of the public, and is consistent with York’s Comprehensive Plan. This approach places the burden of proof on the Applicant and creates a potential hurdle in the review process.

There are a number of reasons why this conventional zoning for parking is unsuitable for York Village. First, ITE data used to set parking requirements is based on limited, peak-demand observations taken in auto-centric settings that typically favor



“Parking requirements can freeze older buildings in their existing uses or even prevent any feasible use at all and therefore reduce the economic opportunities these buildings can offer to their neighborhoods. If a building does not satisfy the parking requirement for a new use, zoning will not allow it even if all other planning requirements are met.

Older buildings without on-site parking are often part of the historic fabric cities want to preserve, but parking requirements obstruct adaptive reuse. Even worse, the requirements often encourage demolition of older buildings - sometimes to make way for a parking lot.”

- Donald Shoup, *The High Cost of Free Parking*

sprawl over density. These small data sets of “maximum observed demand” have become the “minimum required parking supply” dictated within most land-use codes, including those for York Village. This has generally led to an over-supply of parking. A recent study of 27 mixed-use districts across the United States found that “parking was universally over-supplied, and in many cases quite significantly.” On average, researchers found that parking supply

LIBRARY - HOURLY PARKING DEMAND

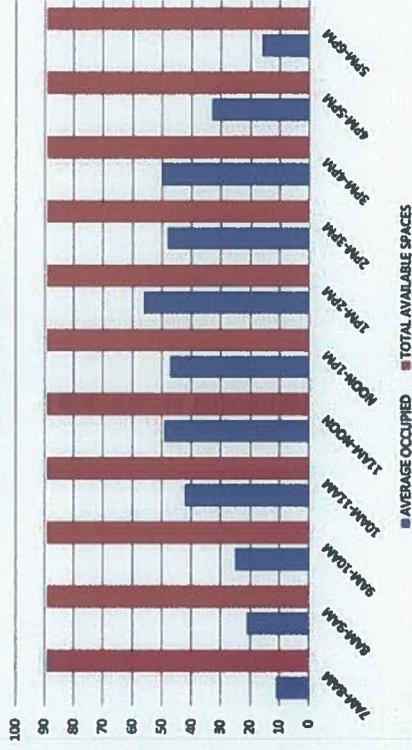


Table - The recorded hourly parking demand at the Public Library recorded weekday, late August during peak season. Hours of higher parking use corresponded to the Library's hours of operation, with peak demand during the 1pm-2pm hour when 54% of the spaces were occupied. Even during peak hour, the parking supply exceeds demand by 46% - leaving 41 spaces empty.

exceeded demand by 65%. These numbers tend to be based upon the premise that parking must be individually accommodated. These conventional parking standards, which already err toward over-supply, become especially excessive for walkable, compact downtowns where parking ideally serves multiple destinations. In most cases, parking spaces provided to meet minimum requirements are not available for public parking and as such, do not contribute to the general parking supply.

In York Village, many businesses and properties within the commercial core are grandfathered from current parking requirements, provided there is no alteration or change of use. That said, it is important to recognize that the need to meet minimum standards for any alteration or change of use can also deter investment and/or redevelopment. Retrofitting existing urban sites for parking or finding nearby off-site facilities is often challenging and expensive, taking investment dollars away from those very things that draw customers: the business itself.

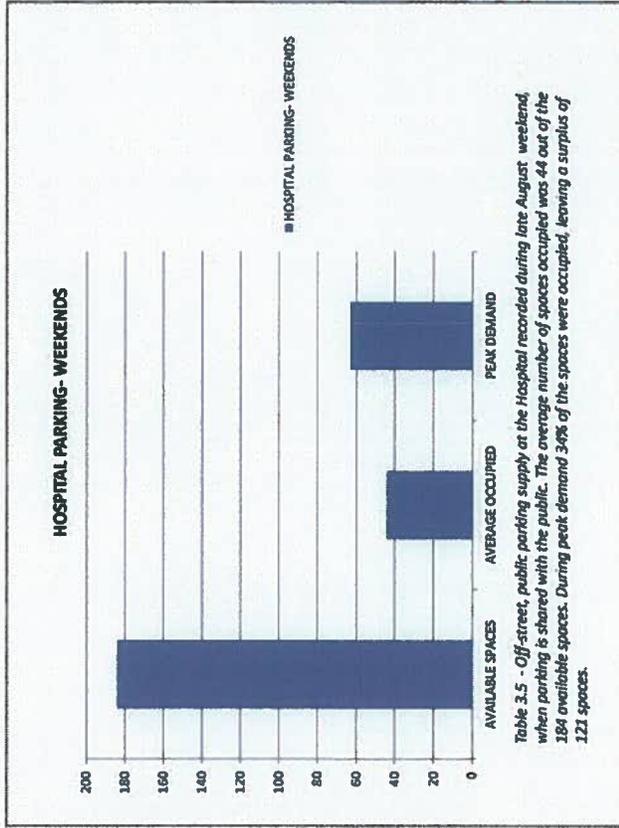
lots cover thirty percent of the land use area, “becoming the single most salient landscape feature of our built environment.” These figures demonstrate how parking lots have altered land patterns and the balance of land uses, particularly in our urban centers. This imbalance is reflected in the York Village commercial center where a majority of space is dedicated to parking and vehicle uses. The Village Center is decidedly auto-centric.

Our parking inventory included a survey of publicly shared parking lot usage. The compiled results show an excess of off-street parking that is much in line with the aforementioned findings. Our team conducted weekday parking studies of the York Public Library lot, which has 89 spaces available for public parking. As expected, the hours of highest parking activity and use occurred between 10am-5:30pm, corresponding roughly to the hours of operation for the library. Use of the lot during this time is 54% of capacity and generally 30% higher than early morning or late evening hours. The findings suggest that the library lot is currently under-utilized even during peak hours, with an available capacity of 37-41 spaces. The more conservative number allows for a 10% buffer to ensure there are adequate open spaces for visitors during hours of peak use.

Our survey did not include private off-street parking, such as the multiple commercial properties along the southern portion of York Street on the east side. These lots, which are located within the commercial core, primarily serve property owners, businesses, and renters of the associated buildings. Spaces are striped, but

“The right to have access to every building in the city by private motorcar in an age when everyone possesses such a vehicle is the right to destroy the city.”

- Lewis Mumford



Excessive off-street parking requirements also undermine those distinctive qualities that make downtowns and village commercial centers unique and successful: a dense urban form that has a diversity of economic, social and cultural activities. These features are the very things that make central business districts like York Village attractive and different from suburban areas. In a typical application of conventional parking standards, approximately one-quarter of the lot is dedicated to building and one-half of the lot is dedicated to parking. Simply reducing the minimum parking standard by 50% would allow twice the space for building on a particular parcel, leading to more compact development, lower building costs and greater opportunities to stimulate economic development.

### Off-Street Parking

The New York Times recently reported that there are approximately two million parking spaces in the United States and, of those, approximately a third are in parking lots. There are eight parking spaces for every car in the United States according to one cited source. A recent study by M.I.T. shows that, in some cities, parking

are currently 57 spaces associated with five properties and two contiguous paved areas that are separated by a grass median.

### 3.2 CONSIDERATIONS FOR PARKING

The Master Plan process included discussions with business owners, property owners, and town residents to understand needs and concerns related to parking in the Village. While there was some initial skepticism about findings from the parking survey, there seemed to be strong consensus in the acknowledgement that improving pedestrian space and enhancing the streetscape will require the reallocation of some parking spaces. People strongly supported the need for convenient, public, off-street parking opportunities in the Village center.

There are several considerations that impact the potential for curbside parking in a reorganized streetscape. First, it must be acknowledged that 36% of the current on-street parking is diagonal. These spaces most severely limit pedestrian movement, increase the potential for accidents, and restrict sight lines in the Village center. There was clear consensus that diagonal parking has to go. This said, diagonal parking is about 2.5 times more efficient than parallel curbside spaces. One parallel space requires 20- 22 feet of curb, whereas a diagonal space requires 8-9 feet. Therefore, shifting on-street parking from diagonal to parallel spaces necessarily reduces available curbside parking by at least half. Extensive curb cuts also limit opportunities for parallel parking, particularly if setbacks are added to improve sight lines at intersections and pedestrian crossings. Reconfiguring the intersection to improve clarity, safety and to reduce vehicle speeds necessitates adjustments to the roadway alignment, which further impacts opportunities for curbside spaces. Finally, the narrow right-of-way limits space and necessitates choosing between streetscape amenities and curbside parking. All of this to say that a reduction in on-street parking is a necessary outcome in order to balance pedestrian and vehicle needs.

Considering the above, making way for recommended streetscape and pedestrian improvements will require a 45-50% reduction in existing on-street parking. With this in mind, the Town must take

calculated steps to maximize other available parking opportunities in the Village. This is distinct from simply adding to the existing parking supply.

### 3.3 RECOMMENDATIONS

Managing the existing parking supply and its associated patterns of use is one of the most important steps in achieving the goals of the Master Plan for York Village. For the Village to function and be attractive for both business investment and customers there must be convenient and available parking as well as a safe and attractive pedestrian environment. The York Village Master Plan recommendations seek to rebalance the existing public right-of-way so that it serves both vehicles and pedestrians.

Numerous studies have shown that existing total parking supply is often underutilized. As in York Village, parking problems are centered upon the most convenient curb spaces even while less convenient off-street parking is readily available nearby. In many communities, including York Village, zoning using minimum parking requirements has contributed to an excess of off-street parking that is often reserved for private use and does not support multi-destination visits. For these reasons, simply increasing the off-street parking supply does not generally solve parking problems. The solution lies in creating a more flexible parking system and shifting demand from the most desirable spaces to the under-utilized ones. Initiated with new directional signage, accommodations for alternate forms of transportation, and general circulation improvements, active parking management can have enormous positive impacts within York Village.

#### *Rethink Off-Street Parking Requirements for Zoning*

Off-street parking requirements in particular, significantly compromise the urban form, reduce density and constrain economic development, thereby limiting growth and vitality in our commercial centers. Worse still, parking lots created in response to these requirements do little to satiate public parking needs since they typically serve single uses. This model is counterproductive to a diverse and dense downtown, where one space best serves multiple destinations and walkability is the focus. Rather, excessive

“If our real problem is too many cars rather than too few parking spaces, minimum parking requirements make everything else worse.”

- City official, City of Carmel, California

parking requirements serve to reduce urban density and to advance sprawl. Renowned New Urbanists Andres Duany and Elizabeth Plater-Zybek have called parking requirements “the single greatest killer of urbanism in the U.S. today.” A Buffalo, New York study found that 50% of the downtown was dedicated to parking. “If our Master Plan is to demolish all of the downtown, then we’re only halfway there. If you look very closely there are still some buildings standing in the way of parking progress,” a city administrator noted. “The downtown doesn’t have a parking problem, it has a planning problem.”

Many other communities are rethinking off-street parking requirements in their commercial cores to stimulate redevelopment of historic properties, attract new businesses and investment, and enhance the built environment. Parking reform presents a range of options, from simply reducing existing minimum standards to eliminating or even prohibiting standards altogether. Following are several examples of parking reform as it relates to zoning.

- **Reduction.** The Town of York Zoning Ordinance currently provides alternate provisions for York Beach Village. The language acknowledges walkability of the district and a high percentage of shared parking. The special provisions reduce minimum required parking standards by 50% for most land uses and allow non-residential changes of use that do not expand existing building footprints. While the code does not allow existing on-site parking to be reduced, it also does not require a lessening of non-conformity. At a minimum, the Town should

consider developing similar alternative parking standards for the York Village center.

- **Deregulation.** In 2012, Cincinnati voted to eliminate minimum parking standards within its central business district. “The goal of the ordinance is to encourage development in the urban core by permitting developers to determine their own parking needs for downtown developments,” explained a one Cincinnati council woman. “I firmly believe that the market will work to meet parking demands better than government minimum parking requirements.” This deregulation of parking essentially moves communities away from mandating parking, allowing parking instead to be economically driven and responsive to actual need. Cities including Philadelphia, Portland, and Seattle have all recently adopted the deregulation of required parking in their commercial centers. It should be noted, however, that these shifts in zoning must be supplemented with programs for shared parking and parking management.
- **Prohibition.** Going a step further, Carmel, California prohibits all off-street parking in its central commercial district in order to reduce curb cuts, improve pedestrian flow, and create opportunities for interior courts and walkways. While Carmel does have parking requirements, developers in the central commercial district pay in-lieu fees, which collectively support shared public parking spaces bordering the downtown. Most importantly, it is the absence of off-street parking that contributes to Carmel’s unique pedestrian environment that makes the town a wonderful place to live and visit. To quote a Carmel town official, “if our real problem is too many cars rather than too few parking spaces, minimum parking requirements make everything else worse.” While Carmel is on the opposite spectrum of York Village’s zoning approach, it serves to show what can be gained from reducing space dedicated to parking.
- **Initiate In-Lieu and Parking Credit Options**  
Allow developers/businesses to pay one-time in-lieu or annual parking credit fees to fund public parking facilities rather than requiring private, single destination parking on each site. In a Parking Credit Program, businesses pay a modest fee in-lieu of

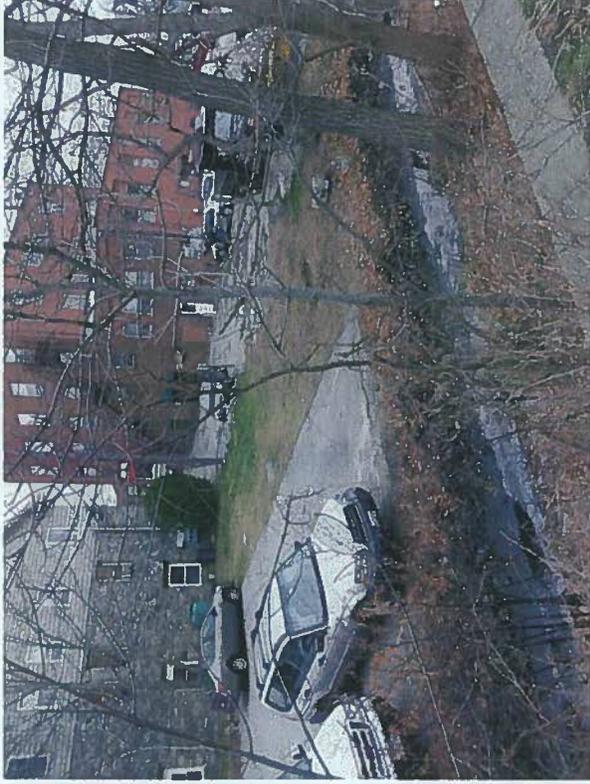
providing the required off-street spaces – for example, a fee used in one small town yielded \$125/year/space. The low fees reduce barriers to new business establishment, encourage adaptive reuse of existing buildings, and create alternatives to high up-front costs of providing those parking spaces on-site or paying the more substantial in-lieu fees. Income from the program would be dedicated to a Village Parking Trust Fund for the maintenance and provision of public parking facilities. Parking credit programs do not relieve costs associated with leasing spaces or paying for off-street parking, so businesses or their employees pay for spaces as needed – just as other drivers.

### ***Unbundle Off-Street Parking***

Parking is often automatically included in rental unit pricing, which hides the true value of off-street parking spaces. As an example, the price for a two bedroom apartment with two parking spaces might be listed at \$1,500 per month. Unbundling the cost of the rental unit (\$1,200) from the cost of the parking spaces (\$150/each x 2) would create more flexibility to the renter who can reduce their cost of living, and the property owner, who can rent the space at a premium. Unbundling parking effectively identifies the economic cost of parking and incentivizes alternate modes of transportation to offset those costs. Most important, unbundled parking is an important step in setting a monetary value for in-town parking spaces. Unbundling parking from rental costs will require that the Town work closely with property owners in the Village to ensure that zoning language provides the necessary flexibility.

### ***Encourage Shared Parking and Convert Single-Use Parking to Public Parking Where Possible***

Shared parking is a key strategy for increasing off-street parking facility efficiency and use. Parking lots that serve multiple users or destinations are much more efficient than reserved or single-



*Above: View across the commercial parking areas at the rear of the York business block off York Street.*

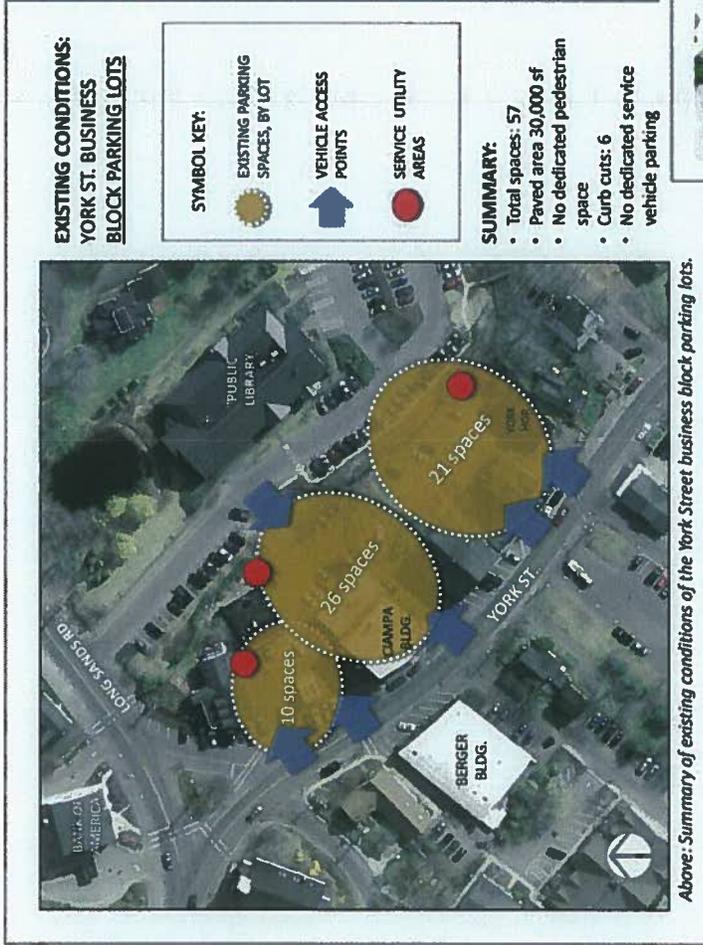
use spaces. As other towns, York Village has an abundance of underutilized private parking facilities. Increasing shared parking can reduce parking demand and can provide great benefits for the Town as well as property and business owners. Shared parking addresses a public need, reduces traffic congestion, provides a potential revenue source for lot owners, and supports goals for downtown development. While the Town may conditionally allow shared parking, minimum parking standards are excessive and the process places the burden of proof on the applicant, which can be cost prohibitive. In reconsidering its zoning, the Town has an opportunity to develop innovative approaches to parking in the Village center.

Shared Parking that serves multiple users or destinations is most successful if the destinations have different peak parking times, or if there is an overlap in patronage, allowing customers to park once and walk to multiple destinations. Parking facilities can be shared in several ways. Individual spaces, which may otherwise be reserved,

**A centrally located public parking space can often substitute for two to three single-destination spaces.**

parking space, on the other hand, can often substitute for two to three single-destination spaces. For example, if three downtown businesses require 10 parking spaces each, adding 15 public spaces may provide the same benefit as adding 30 private, single-use spaces. This strategy allows for shared use of parking that can serve multiple destinations. Converting single-use parking to public parking will require both modifications to zoning as well as the development of long-term public-private partnerships. In-lieu fees or parking credits are great avenues for stimulating economic development and investing in a valuable public good.

Shared parking can work seamlessly with the Parking Credit Program by allowing business and property owners to pay in-lieu or parking credit fees to fund public parking instead of private, single-use destination parking at each site. The zoning codes should be updated to specify provisions for shared parking related to Off-Street Parking and Loading

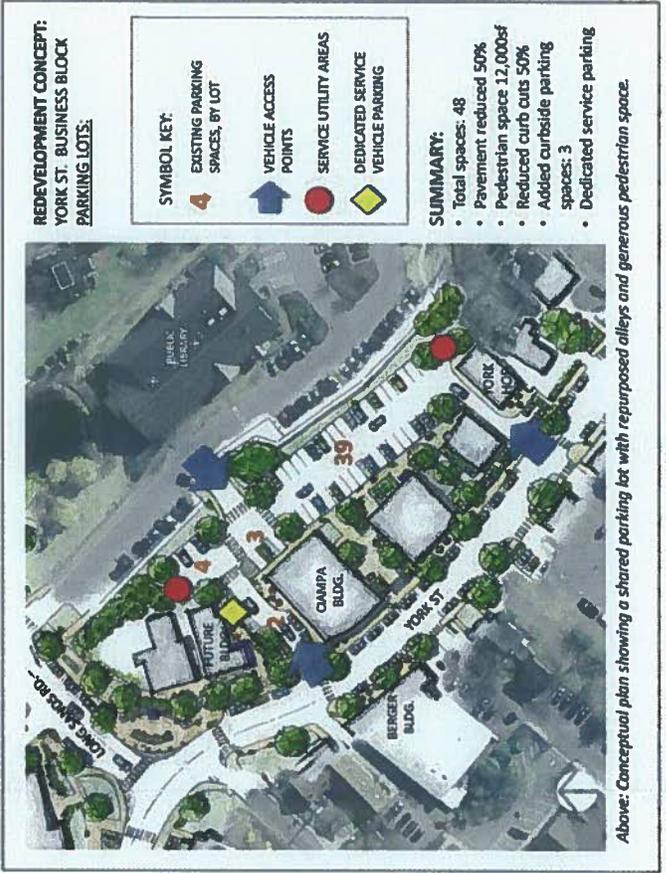


Above: Summary of existing conditions of the York Street business block parking lots.

can be shared.

Todd Litman provides the following example of shared facilities in his book, *Parking Management Strategies, Evaluation and Planning*. 100 employees can usually share 60-80 parking spaces, since at any particular time some are on leave, commuting by an alternative mode, in the field, or working another shift. Hotels, apartments, condominiums and dormitories can share parking spaces among several units, since the number of vehicles per unit varies over time. Sharing can be optional, so for example, motorists could choose between \$60 per month for a shared space or \$100 for a reserved space.

Converting off-street parking from single-use to public parking in high priority areas allows more sharing and encourages "park once" trips that support multiple destinations. Single-use parking typically has a lower demand because activities serve only one destination, such as a specific business. A centrally located public



Standards. At its discretion, the Town can allocate in-lieu and parking credit funds for improvements to existing lots providing public parking, forming private-public partnerships when necessary to further the objectives of a parking management strategy.

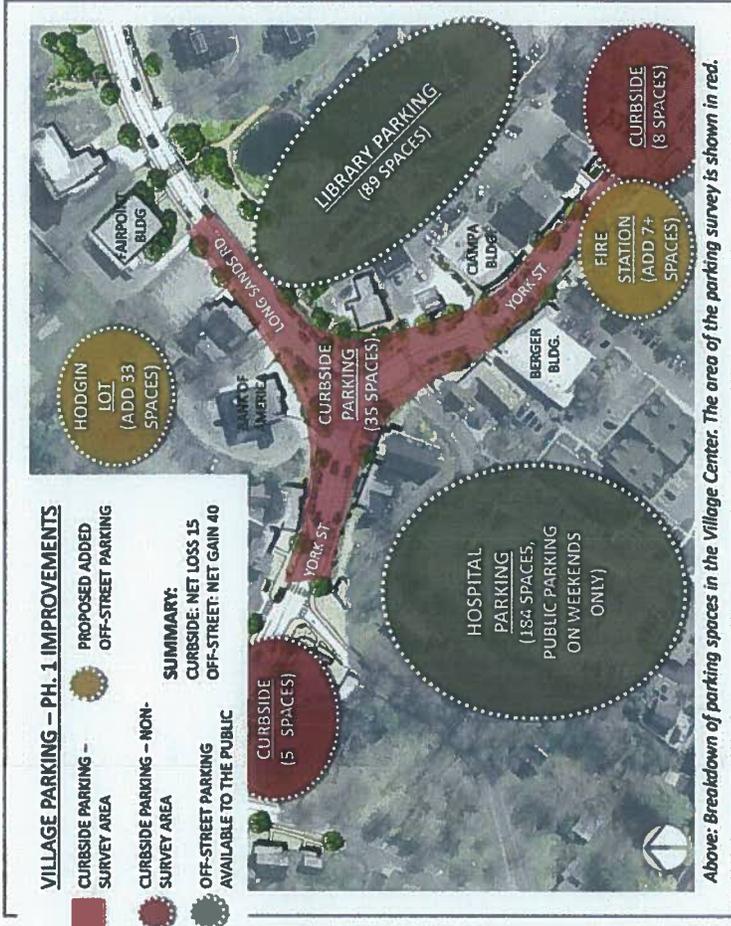
**Form a Public-Private Partnership to Improve the York Street Parking Lots**

As stated previously, the key objective in the parking strategy involves shifting much of the demand for curbside parking to off-street public lots. Parking facilities behind the York Street central business block, with their potential capacity and strategic location, have the greatest potential for use as a consolidated, shared use parking facility. The Town should work closely with the property and business owners to shift business owner, employee and resident parking to another nearby location in order to free up opportunities for public parking close to the Village center.

Because this parking is very convenient, it should be managed by Demand Responsive Pricing similar to on-street spaces. As an incentive to current users, the Town could initially offer free parking in these locations, later charging a nominal fee for permit parking. With other tools such as unbundling parking or creating employee incentives for using alternate transportation, current parking demand could also be decreased. The Town of York should consider forming a public-private partnership with the property owners and fronting investment to consolidate these lots and make the physical improvements necessary to increase efficiency, safety, access and the pedestrian environment. Funds from the Parking Benefit District could be used to subsidize upkeep and future improvements as part of the partnership agreement. Oversight of the lot could be managed by the Advisory Board of the Business Improvement District.

**Define Existing Public Parking within the Library Lot**

There are currently 89 spaces open to the general public at the Public Library. Although the parking lot primarily serves the Library,



its use is well below capacity with only 54% of the spaces filled during peak demand. With an adjustment of 10% as a buffer to ensure open spaces, there are conservatively 37 empty spaces during the library's busiest times. The Town has an arrangement with the Library to designate the 37 spaces along the western edge of the entrance drive as public parking, but these spaces need to be more clearly defined. These centrally-located spaces could potentially offset the anticipated reduction in curbside parking, so it will be important to clearly identify these spaces with signage. The town should also consider adding parking location signs near the Long Sands Road and York Street lot entrances..

Acquire the Hodgin Lot for Public or Shared Parking  
 The Town has recently considered acquiring the 33-space Hodgin parking lot, a land-locked parcel approximately 1/3 acre in size located north of the Bank of America property on York Street.

“Under-regulated on-street parking results in limited parking availability, inefficient utilization of spaces, and excess vehicular circulation.”

– *On-Street Parking Management and Pricing Study, San Francisco County Transportation Authority, 2009.*

While the lot was formerly leased to the bank, it has been blocked off and unused for the past several years. The parcel has been offered for sale at well above assessed value, but it presents a unique opportunity for the Town to acquire public parking near the Village center. The Hodgkin property also provides opportunities for improving pedestrian and vehicle connectivity with parking spaces available near Town Hall.

As the Town implements these recommendations for shared and public parking, this lot becomes especially valuable. As stated before, the redevelopment of commercial parking lots behind the York Street business block is a creative way to increase the supply of off-street public parking in the heart of the Village center. For that scenario to be successful, however, employees and business owners must park elsewhere, and the alternative parking must be convenient and safe. Acquisition of the Hodgkin lot would provide the Town with the necessary leverage to negotiate a shared parking arrangement with business and property owners that would free up valuable parking spaces for the general public within the heart of the Village.

#### **Update Fire Station Lot To Include Public Parking Spaces**

The Fire Station site presents an opportunity to expand public parking opportunities in the Village Center. This can be done

without impacting the stated parking demands of the Fire Department personnel. The Hospital owns a narrow parcel abutting the property along its northern boundary. The Hospital Board has expressed a willingness to consider allowing the Town to utilize a portion of this lot to convert existing parallel parking spaces to perpendicular spaces. This would add a minimum of seven public off-street parking spaces. The Town should work with the Fire Department to assess their staff parking needs and to develop a plan for streamlining parking on site. If the Fire Station is eventually relocated, the Town should redevelop the parcel to include infill development with off-street shared or public parking. New zoning must be implemented to allow this flexibility, however.

#### **Initiate a Demand-Responsive Pricing System for On-Street Parking**

On its face, free curbside parking is often seen as a good thing: supportive of businesses and activities in the Village center. A closer examination of the facts shows that the opposite is true. Free curbside parking in the Village center offers benefits limited to the few “first come, first served” drivers, a quarter of whom have been shown to utilize these valuable spaces in excess of four hours of more. This pattern of use reduces the availability of on-street parking for customers and adds unnecessary traffic as cars cruise around looking for empty spaces. Over the years, on-street parking in York Village has displaced pedestrian and streetscape spaces that contribute to “sense of place,” and one of its most important marketable resources.

While York Village currently has no time-limited parking in the business center, there has been discussion about using time-limits to prevent long-term parking. Shop owners in particular have expressed frustration that on-street parking by employees and residents creates a lack of curbside spaces for customers. However, there are several critical factors to consider before instituting time-limited parking. First, not only is time-limited parking a punitive and typically unpopular revenue source, it is also fairly ineffective as a management tool. A recent study in Seattle found that the average duration of stay for cars parked in one-hour limit spaces was, on average, over two-hours. Surveys have also shown that over 50% of all cars parked in time-limit zones are either in violation of the time limits or are parked illegally.

Many communities have adopted demand-responsive pricing as an effective means for shifting demand from on-street parking to less convenient, but plentiful off-street spaces. Studies have shown that properly priced curb parking ensures a balance of vacant spaces, reduces the time required to find curbside parking, lessens the uncertainty of travel time, and reduces traffic congestion. Short-term parkers tend to be more concerned about the time it takes to find a vacant space than about the price of parking. Pricing based on performance goals, such as maintaining a 15% - or one space per block - vacancy rate, responds appropriately to shifting demand by the hour or season: higher during times of peak demand times and lower at other times. Price-based regulation also includes strategies to discourage long-term curbside parking by charging higher rates for successive time periods. This is also called progressive pricing or length of stay pricing. This strategy allows the relaxation of time-limit restrictions while encouraging a higher turnover of spaces. It also provides greater flexibility and convenience to users.

Newer, multi-space electronic meters are user friendly and more convenient, with interactive screens and cashless transactions. They easily accommodate variable rates and can be managed wirelessly from a single, remote location. With one per block, these meters do not clutter the sidewalks or require marking individual parking spaces. In fact, studies have shown that unmarked curbs can typically accommodate 10-15% more cars in any available space. Many communities manage on-street parking without lining individual spaces, including the City of Portland.

#### ***Establish a Parking Benefit-Business Improvement District***

Business owners and residents are much more likely to support paying for parking if the generated revenue goes back to public amenities that benefit the public good: clean and safe sidewalks, streetscape improvements, improved store facades, or enhanced security. According to one planner, "curb parking revenue is a benefit in search of a beneficiary: the funds need the right recipient to generate political support for market prices." One way to do this is to establish a Parking Benefit District associated with a Business Improvement District (BID). In a BID, the property/business owners identify, and assess themselves to pay for, public services

Studies have shown that properly priced curb parking ensures a balance of vacant spaces, reduces the time required to find a curb parking, lessens the uncertainty of travel time and reduces traffic congestion.

beyond those provided by the City. These assessments are roughly proportionate to the benefits received, and the costs borne by each property/business owner are relatively small. Since individual assessments are typically exceeded by the commercial return, there is great economic incentive for establishing a BID. Spending the revenue to benefit residents and business owners in visible and meaningful ways also creates a powerful new constituency for market pricing of parking, particularly since non-residents bear the majority of the cost.

As an example, San Diego established a Community Parking District (CPD) program in 1997. The program returns 45% of the curbside parking and other related revenues, such as in-lieu and parking credit fees, to the designated parking district. The City currently has six parking districts that are, with City approval, designated as business improvement districts or community/ non-profit organizations. Each has its own Advisory Board of local residents and business representatives who work together to prioritize plans for the use of the parking revenues.

Programs like this can provide a stimulus for private investment. Old Pasadena, now one of Southern California's most popular shopping and entertainment areas, used dedicated meter revenue to finance public improvements that have played a major role in the downtown's revival. In 1978, the City decided that revitalization needed to build on Old Pasadena's unique character, but it was not until Pasadena devised a creative parking policy in 1993 that the City was able to finance its vision. City officials worked with the Business Improvement District to establish boundaries for the Old

Pasadena Parking Meter Zone (PMZ) and set up the Old Pasadena PMZ Advisory Board of business and property owners in the district. The City borrowed \$5 million to fund streetscape and alleyway improvements using parking meter revenue to repay the debt. In subsequent years, as pedestrian traffic has increased, the funds are also used to increase public services such as sidewalk sweeping, trash collection, foot patrols or parking enforcement. In the words of Donald Shoup, this public investment has created “a place where people want to be, rather than merely another place where everyone can park for free.”

### ***Delineate Loading Zones and Develop Loading Zone Policies***

Areas of commercial activity require designated loading zones and/or policies to ensure a proper integration with other uses. York Village is especially challenged by the volume of its summer traffic flow, the width and orientation of side streets, and topography. With streetscape improvements and the long-term reduction of curb cuts, the Town will need to work closely with Village merchants and suppliers to identify specific needs and to assess the best strategies for managing delivery activities, particularly during busy summer and fall months.

In general, studies suggest that a loading zone is best located at the end of a street block in the direction of travel or at the entrance of an alley, where a driver can access multiple destinations from a single location. The minimum recommended length for a loading zone is thirty feet. Ideally, there should be one loading zone per block, oriented to support “front-in, front-out” travel that does not require the driver to back up. Currently, private off-street lots and existing access-ways are heavily used for local deliveries. For this reason, any future closure of alleys or reconfiguration of parking spaces would need to ensure continued access.

### ***Develop a Parking Way-Finding System***

Many of York Village’s parking issues have resulted in part because information about parking locations, regulations, prices, and other helpful user information has been greatly inadequate. Many residents, for example, are unaware that the hospital allows public parking from Friday night through Sunday night. Public parking is available at the library lot, but is currently unmarked. As a result,

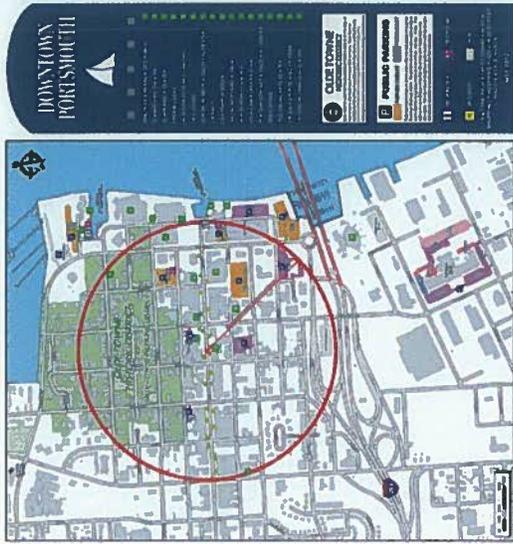


*Above image: Dedicated loading zone zones behind the commercial block would expedite deliveries and mitigate potential conflicts between pedestrians, passenger vehicles and delivery trucks.*

curbside parking is the only obvious public parking available for visitors. This is despite a relative abundance of nearby public off-street parking.

Development of a parking way-finding system to direct cars from main transportation routes to designated parking lots is a key component of the overall parking management strategy. Parking information can be incorporated in street signage, visitor materials, kiosks, and digitally on a “parking and transportation” specific web site.

The Town should engage an environmental graphic design firm to develop a coordinated signage program that includes parking way-finding and possibly branding. A well-developed parking system brand conveys a positive message to visitors and residents about the quality and management of parking facilities, which helps parking to emerge as a positive and marketable asset. As a short-term measure, the Town should install parking directional signs using the blue international symbol and arrows at designated locations on Route One and specified routes. Consideration should be given for motorists leaving the lots as well, with signage indicating directions



Images, left to right: Downtown District wayfinding map for the City of Portsmouth, New Hampshire; Public parking sign in Freeport, Maine; Directional signage along Route One entering Freeport.

back to Route One north and south. To orient visitors, off-street lots should include directional information to important destination points in the Village Center.

**Beautify Parking Lots and Enhance Connections**

An important part of parking management strategy includes enhancing safety and connectivity for pedestrians traveling from off-street parking areas to destinations. A pedestrian-oriented environment with complimentary streetscape elements, landscaping, and signage has a powerful impact on its users. Studies show a strong correlation between perceptions of safety and visual beauty – well maintained and landscaped spaces generally elicit a greater sense of security in both men and women. Improvements to pedestrian circulation routes and the parking lots themselves are therefore important factors in raising the level of use of off-street parking lots as a safe and desirable alternative to curbside parking.

**CONCLUSION**

As mentioned earlier in this chapter, lack of parking can have serious implications to a business district like York Village. Despite the fact that the majority of available space in the Village has been

dedicated to the automobile, there remains a strong perception that parking is still insufficient. What to do? This chapter provided recommendations for enhancing public parking in the Village center through adjustments in zoning, active management techniques, and public-private cooperation. It is important to note that these changes will require time and coordination. Change will happen incrementally and strategies may need to be adjusted over time, but one thing is clear: setting the stage for and adapting to the needs of a growing Village economy will require a significant investment to parking resources and management.



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 21, 2016

ACTION

DATE ACTION REQUESTED: October 24, 2016

DISCUSSION ONLY

SUBJECT: Business License Applications

**DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:** All approvals are contingent on taxes being current and all appropriate departments (inspections) giving approval; See "Department Approvals" on page two of each application. Signed business license applications and certificates will not be released to the applicant until all necessary department approvals have been received.

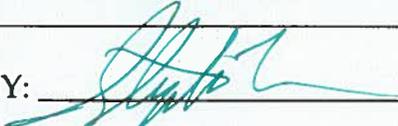
**RECOMMENDATION:** Approve the Business License(s) attached.

**PROPOSED MOTION:** I move to approve the following licenses:

- *Stonewall Kitchen (Food Service, Liquor); located at 2 Stonewall Lane*

*All subject to taxes, fees and inspections being current and compliant with the usual noise stipulations.*

PREPARED BY: Melissa M. Avery

REVIEWED BY: 

THE TOWN OF

# YORK, MAINE

186 York Street, York, Maine 03909

## BUSINESS LICENSE APPLICATION

*NOTE: Business Licenses are not transferable to another person, business or location.*

Business Name: Stonewall Kitchen LLC

Street Address: 2 Stonewall Ln York, ME 03909

Business Owner: Stonewall Kitchen, Ltd Business Manager: John Stiker, CEO

Mailing Address: SAME Mailing Address: SAME

Phone Number: 207-351-2713 Phone Number: 207-351-2713x1190

E-mail Address: \_\_\_\_\_ E-mail Address: jstiker@stonewallkitchen.com

Please indicate who is to be the Primary Contact with the Town:  OWNER or  MANAGER

Is the Business Owner same as the prior year?  YES  NO  NEW BUSINESS

*Please indicate which Licenses or Local Approvals you seek:*

### Lodging:

Bed and Breakfast License (C/F)

Innkeeper License (C/F)

Number of Rooms: \_\_\_\_\_

### Food and Beverage:

Food Service License (C/F)

Number of Seats: 138 / 138 (Existing / Proposed)

Liquor License (F/P)

Bottle Club License (F/P)

### Entertainment:

Special Amusement License (F/P)

Dance Hall License (F/P)

Bowling Alley License (F)

Coin-Operated Amusement License (P)

Bingo, Beano and Games of Chance

### Miscellaneous:

Transient Seller's License

Flea Market License

Junkyard, Auto Graveyard/Recycling License

Other: \_\_\_\_\_

C - Code Enforcement Inspection Required F - Fire Department Inspection Required P - Police Department Inspection Required  
S - Sewer District Inspection Required W - Water District Inspection Required

Code Enforcement: (207) 363-1002

Police Department: (207) 363-1031

Village Fire Department: (207) 363-1015

Beach Fire Department: (207) 363-1014

York Sewer District: (207) 363-4232

York Water District: (207) 363-2265

Other Municipal Water and Sewer Districts may apply depending on your business location



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 20, 2016

ACTION

DATE ACTION REQUESTED: October 24, 2016

DISCUSSION ONLY

SUBJECT: Repair of York Beach Fire Department Engine 5

**DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:** Back on August 22nd the Board discussed the possibility of using carry-forward funds for the repair of significant rust damage to the frame of Engine 5. Carry-forward funds can't be used for this purpose, so the repair would need to be funded by contingency. The Board was clear in direction to the Beach Fire Chief – get the truck repaired. This has now happened and the completed repairs were quicker and less costly than originally estimated. The total cost was \$37,428.

At this time I do not recommend the Board act to transfer contingency money to pay for this repair. I would like to see how the YBFD budget tracks through the year. If this year tracks in a manner similar to last year, the Department will come in under budget and this should reduce or preclude the need to allocate contingency funds. We can re-visit this at the end of the fiscal year.

The alternative is the Board would allocate this above amount from either Selectmen's Contingency or Supplemental Contingency.

RECOMMENDATION: No action at this time.

PROPOSED MOTION: N.A.

FISCAL IMPACT: to be determined

DEPARTMENT LINE ITEM ACCOUNT:

BALANCE IN LINE ITEM IF APPROVED:

Prepared by Stephen H. Burns, Town Manager:

**MEMO**

*Memo from  
the earlier meeting*



**TO:** Board of Selectmen  
**FROM:** Stephen H. Burns, Town Manager *SHB*  
**DATE:** August 17, 2016  
**RE:** York Beach Fire Department – Repair of Engine 5

Chief Bridges has asked if the Board will consider allowing a carry-forward of his remaining unspent FY16 operating budget to help pay for the cost of repair of Engine 5. The frame of this vehicle is significantly corroded where the rear axles are attached. This was an unexpected problem that was uncovered during a regular cleaning of the vehicle.



As of today there is \$37,160 remaining in the Department's operating budget, though this is before any possible auditor entries. Wendy Anderson noted those are not likely in this budget, but couldn't rule them out. Given that the repairs are quoted at \$41,000, the amount

will cover a major portion of the cost of repair. Because the Board does not yet have the actual dollar amount to be carried forward, the most the Board should do is vote to indicate a willingness to carry available funds when the amount is known, and then the Chief can line up the repair work. I believe this is a reasonable request and I have recommended approval. Timing will need to be worked out between the Chief and the Finance Director as the timing of carry-forward votes and the resulting availability of money relates to the schedule of our auditors.

If the Board votes "no" then we'll need to have a discussion about Plan B. This is an important piece of equipment for the Department and it will be problematic to have it removed from their fleet.



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 21, 2016

ACTION

DATE ACTION REQUESTED: October 24, 2016

DISCUSSION ONLY

SUBJECT: CMP Easement at 36 Main St. – ready for action

**DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:** At the meeting of September 19th the Board indicated it would not act to authorize execution of the easement for CMP to provide utilities to the Town's new communications tower at 36 Main Street until a certified survey was provided and the property boundary identified. Verizon's surveyor staked the back corners of the lot on September 29th and has now provided a certified Boundary Plan. The Town owns past the fence at the back of the parking lot. It is now appropriate to move forward with the request to grant a utility easement to CMP to provide electrical service to the new tower.

The certified survey was provided to Ralph Austin at the same time it was e-mailed to me today.

Victor Manougian, attorney for Verizon, will present us with a paper copy of the survey on Monday night at the meeting. I will have the survey recorded at the Registry of Deeds unless the Board objects.

**RECOMMENDATION:** I recommend the Board authorize me to execute the easement to CMP upon delivery of the survey.

**PROPOSED MOTION:** I move to grant a utility easement to Central Maine Power on the property located at 36 Main Street to provide service in the existing utility easement corridor to serve the proposed new Town communications tower, and to direct the Town Manager to execute the necessary documents.

Prepared by Stephen H. Burns, Town Manager: \_\_\_\_\_





## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 21, 2016

ACTION

DATE ACTION REQUESTED: October 24, 2016

DISCUSSION ONLY

SUBJECT: York Beach Proper and Long Beach Avenue Proposed Parking Kiosks

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Discussion of Parking Kiosks, Number of Kiosks to be purchased , Placement of Kiosks, Handheld Ticketing Enforcement Units. Potential Demonstration of Kiosks and handheld units to the BOS.

RECOMMENDATION:

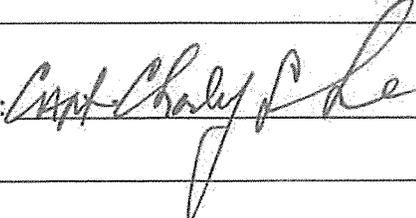
PROPOSED MOTION:

FISCAL IMPACT:

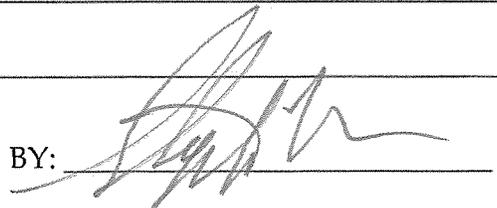
DEPARTMENT LINE ITEM ACCOUNT:

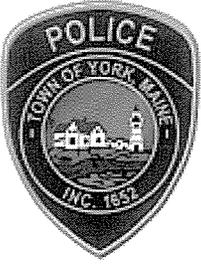
BALANCE IN LINE ITEM IF APPROVED:

PREPARED BY:



REVIEWED BY:





# TOWN OF YORK, MAINE

## Police Department

**Douglas P. Bracy**  
Chief of Police

*Mailing Address:*  
36 Main Street  
York, Maine 03909

*Dispatch*  
**Non Emergency**  
(207) 363-4444

*Administration*  
(207)363-1031

*Facsimile*  
(207) 361-6818

[www.yorkpolice.org](http://www.yorkpolice.org)

***Committed  
to excellence***

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## MEMORANDUM

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**DATE:** October 20, 2016  
**TO:** Steve Burns, Town Manager  
Board of Selectmen  
**FROM:** Capt. Charles J. Szeniewski *CJS*  
**SUBJECT:** Parking Kiosk

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The Town Manger's directive to review and prepare to convert our present metered parking system to a parking kiosk system has provided the following information:

A review of four (4) national parking kiosk vendors has led those involved in the review to the conclusion that the Hectronic Kiosk in conjunction with United Public Safety Hand Held Computer is the best choice for York.

CALE America Corporation, IPS Group, Wescor Parking Controls all presented via live demonstration model here in York.

We reviewed the ease of operation, the ability to repair, "quick fix a kiosk" in the field, the financial and software connectivity requirements to fully implement the kiosks in York. The proposed new Verizon tower being erected in York Beach is a crucial point in this decision.

The Hectronics systems work with Verizon as does the hand held ticketing unit. The connectivity allows for real time payment verification by the enforcement officer. This is not possible with all the vendors. The Hectronics system is a "plug and play" design that allows for effective field maintenance. The kiosks would be equipped with credit card, currency and coin capabilities. The system should be monitored to see how each

payment option is being utilized and should it become apparent that one is not a consumer's choice we can plate over that option.

There will be six (6) kiosks placed in the York Beach business district with all but one being solar in our present review.

Long Beach Avenue is still being defined under the new road configuration and bath house construction project moving forward.

The options with the kiosks are considerable as the system will be pay by space. The consumer enters their marked space number into the kiosk, pays for the length of time they desire, and it is recorded, a receipt is provided for the transaction. All of the kiosks can be accessed from individual cellular phones so the consumer can purchase extra time as they choose from any location, just as they can utilize any kiosk to purchase the initial or extra time. The fee for the cellular use will be charged to the consumer.

The handheld units that will be used for enforcement provide a ticket that is bar coded and allows for the option of paying at the kiosk, or online by the violator.

When paying online, the full fee amount is received by the Town and the service fee is applied to the user.

The safety and integrity of the currency is also enhanced with these kiosks as each unit would have a locked "money box" removed and an empty one placed in it and a printed receipt for deposited currency that would match the designated box. Finance receives and can run a usage data report for each machine to track funds.

The kiosks also send "text alerts" when there is a function issue in order that they may be repaired quickly to reduce lost revenue.

A purchase agreement this fall will allow for the field preparation of each kiosk site in order that in May we will be able to set them in place, do initial training and testing to be ready for our tourist influx.



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 17, 2016

ACTION

DATE ACTION REQUESTED: October 24, 2016

DISCUSSION ONLY

SUBJECT: Municipal Authorization to grant County wide deputy sheriff authority for designated York police Department fulltime certified police officers.

To: Board of Selectmen

RECOMMENDATION: To approve and sign the authorization for York Police Officers to have county wide deputy sheriff authority pursuant to Title 30 – A M.R.S.A. section 2674 who have met the requirements of M.R.S.A. Title 30-A 2804-C and 2804-E.

PROPOSED MOTION: I move to approve the resolution by this Board to hereby authorize the police officers of this Town who have met the requirements of Title 25, Section 2804-C and 2804-E the authority to exercise county wide deputy sheriff authority pursuant to , and authorized by MRSA Title 30- section 2674

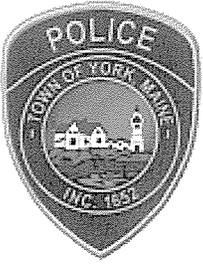
FISCAL IMPACT: n/a

DEPARTMENT LINE ITEM ACCOUNT: n/a

BALANCE IN LINE ITEM IF APPROVED: n/a

PREPARED BY:

REVIEWED BY:



# TOWN OF YORK, MAINE

## Police Department

**Douglas P. Bracy**  
Chief of Police

*Mailing Address:*  
36 Main Street  
York, Maine 03909

*Dispatch*  
**Non Emergency**  
(207) 363-4444

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### Memorandum

**Date:** October 17, 2016  
**To:** York Board of Selectmen  
**Cc:** Town Manager  
**From:** Captain Charles J Szeniawski *CJS*  
**RE:** County wide Deputy Sheriff Authority

---

Chief Douglas P Bracy is requesting that the Board of Selectmen act to adopt a resolution that authorizes designated full time police officers of the York Police Department, be granted deputy sheriff authority so as to conduct investigations and enforce Maine's laws within the county.

Title 30 – MRSA section 2674 gives the authority to the county sheriff to grant this authority to municipal law enforcement officers with an agreement between the requesting municipality and the respective county sheriff.

This request is being made due to the ever changing and transient population law enforcement is dealing with today.

This authority will allow for our officers to conduct interviews and proceed with narcotics cases that cross municipal boundaries and allow us to conduct investigations involving Domestic Violence, Child abuse, and special motor vehicle enforcement programs. Selected officers would have the ability to follow through on various criminal cases that we presently handle but at times become restrictive without these powers.

Many of our neighboring towns have or are in the process of implementing this authority in order to better serve their residents



*Town of York*  
186 York Street  
York, Maine 03909-1314

Town Manager/  
Selectmen  
(207)363-1000

Town Clerk/  
Tax Collector  
(207)363-1003

Finance/  
Treasurer  
(207)363-1004

Code Enforcement  
(207)363-1002

Planning  
(207)363-1007

Assessor  
(207)363-1005

Police Department  
(207)363-1031

Dispatch  
(207)363-4444

York Beach Fire  
Department  
(207)363-1014

York Village Fire  
Department  
(207)363-1015

Public Works  
(207)363-1011

Harbor Master  
(207)363-1000

Senior Center  
(207)363-1036

Parks and  
Recreation  
(207)363-1040

Fax  
(207)363-1009  
(207)363-1019

**AUTHORIZATION BY YORK BOARD OF SELECTMEN,  
PURSUANT TO TITLE 30-A, SECTION 2674 FOR YORK  
POLICE OFFICERS TO HAVE DEPUTY SHERIFF  
AUTHORITY AS NEEDED.**

We, the Board of Selectmen for the Town of York, Maine, do hereby authorize its Police Officers, who have met the requirements of Title 25, Section 2804-C and 2804-E, the authority to exercise Deputy Sheriff authority pursuant to, and authorized by MRSA, Title 30-A, Section 2674 as needed.

**Approved this 24<sup>th</sup> day of October, 2016, by the York Board of  
Selectmen.**

\_\_\_\_\_  
Robert E. Palmer Jr., Chairperson

\_\_\_\_\_  
Jonathan O. Speers, Vice Chair

\_\_\_\_\_  
Michael L. Estes

\_\_\_\_\_  
Dawn Sevigny Watson

\_\_\_\_\_  
Todd A. Frederick

**A true copy**

**ATTEST:** \_\_\_\_\_

Mary-Anne Szeniawski, Town Clerk

**Agreement Between  
Municipal Law Enforcement Agencies in York County  
And The  
York County Sheriff's Office**

**Agreement** made this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by and between the undersigned municipal police chiefs/other designees and the sheriff of York County.

Witnesseth

**Whereas**, Title 30-A M.R.S.A., section 2674 gives the authority to the county sheriff to grant deputy sheriff authority to municipal law enforcement officers so as to conduct investigations and enforce Maine's laws within said county.

**Whereas**, notwithstanding section 501 of 30-A M.R.S.A, and except as otherwise provided by municipal charter or ordinance, the municipal officers of a town/city may authorize the chief of police or other designee to request a county sheriff to appoint a municipal law enforcement officer as a deputy sheriff.

**Whereas**, for authorization of municipal law enforcement officer to be appointed a deputy sheriff, it must be accompanied by an agreement between the requesting municipality and the respective county sheriff.

**Whereas**, both the Sheriff and the Chief of Police, or other designee, have been duly authorized by their respective governing officials to execute this Agreement binding the County and the requesting municipality;

Now, therefore, the parties do hereby agree as follows:

**1. Definitions**

- a. **REQUESTING MUNICIPALITY:** The municipality which is asking for the appointment of a qualified municipal law enforcement officer to be sworn as a York County deputy sheriff.

## **2. Purpose**

The purpose of this agreement is to set forth the authorization process for qualified municipal law enforcement officers to be sworn as deputy sheriffs to enable county wide criminal jurisdiction for investigation and other law enforcement purposes.

## **3. Employer-Employee Relationship Retained**

- 3.1.1 The Requesting Municipality shall be the sole and exclusive employer of the municipal law enforcement officer. Municipal law enforcement officers shall not be deemed to be employees of the York County Sheriff's Office.
- 3.1.2 Nothing herein shall be construed to create a joint employment relationship between the Requesting Municipality and York County.

## **4. Appointment**

- 4.1.1 The Chief of Police, or other designee, of the Requesting Municipality shall provide the Sheriff with written authorization from the municipal officers to request appointment of a municipal law enforcement officer as a deputy sheriff and with express authority to sign this Agreement assuming all legal responsibility for law enforcement actions of the municipal law enforcement officer while acting in the capacity of a York County Deputy Sheriff.
- 4.1.2 The Chief of Police, or other designee, shall submit, in writing, the name of the municipal law enforcement officer and the law enforcement purpose of the request.
- 4.1.3 The Chief of Police, or other designee, shall sign this Agreement assuming sole legal responsibility for the law enforcement conduct as a Deputy Sheriff.

## **5. Training**

- 5.1.1 All municipal officers shall be in good standing with the Requesting Municipality and meet the training requirements of Title 25, section 2804-C and 2804-E.
- 5.1.2 Each municipality shall be solely responsible for the training and equipment of its personnel.

## **6 Indemnification and Insurance**

- 6.1.1 To the fullest extent permitted by law, the requesting municipality, at its own expense, shall defend or cause to be defended, its officers from and against any and all claims, losses, damages, including property damages, personal injury, death and liability of any kind, directly or indirectly, tangible or intangible, arising out of, wholly or in part, a municipal law enforcement officer acting as a York County Deputy Sheriff. The indemnity shall include the obligation to assume the cost of a legal defense and assignment of counsel subject to the consent of York County.
- 6.1.2 The Requesting Municipality shall indemnify and hold harmless York County, from any and all, losses, damages, including property damages, personal injury, death and liability of any kind, directly or indirectly, tangible or intangible, arising out of, wholly or in part, a municipal law enforcement officer acting as a York County Deputy Sheriff. The indemnity shall include the obligation to assume the cost of a legal defense and assignment of counsel subject to the consent of York County.
- 6.1.3 Without limiting the Requesting Municipality's obligation to indemnify York County, the Requesting Municipality shall procure and maintain occurrences from insurance coverage in the amount of \$1 million for municipal law enforcement officers acting as deputy sheriffs for the duration of this Agreement. The insurance shall cover all claims for injuries to persons or damage to property while working in a law enforcement capacity.
- 6.1.4 The Requesting Municipality shall give the York County Sheriff immediate notice in writing of any notice of claim, legal action or suit filed related in any way to the deputy sheriff authority granted to the municipal law enforcement officer.

6.1.5 Nothing herein waives or limits the sovereign or qualified immunity of the parties under Federal or State law, including but not limited to immunity pursuant to the Maine Tort Claims Act.

## **7 Designated Representative**

7.1.1 The municipal officers of each municipality shall designate the Chief of Police or other designee for implementation of this Agreement, except as otherwise provided by municipal charter or ordinance.

7.1.2 In the event of a joint operation, all persons authorized hereunder shall be subject to the direction and control of the command officer of the Requesting Municipality requesting assistance during the duration of the operation.

## **8 Records & Reports**

8.1.1 Records regarding performance of the obligations required by this agreement will be maintained by the respective parties. Each party will maintain the confidentiality of agency records as required by State and Federal law. Parties may seek access to the other party's records on an as needed basis and to the extent allowed by law.

## **9 Communications Between Agencies**

9.1.1 When a police officer uses the deputy sheriff authority to make an arrest, notification to that municipality where the arrest will occur should be made prior to that arrest. If that is not possible, notification should be made immediately thereafter.

9.1.2 The municipality is expressly authorized to release to the public / media the details of law enforcement actions by their officers while using the deputy sheriff authority. Notification to the municipality where the arrest occurred should be made prior to a media release.

## **10 Termination**

10.1.1 This agreement shall be effective upon proper execution and agreement of the parties. This agreement may be modified upon mutual written consent of the parties.

- 10.1.2 The sheriff of York County has the authority to terminate this agreement with any municipality with written notification given to the Chief of Police, or other designee, of that municipality.
- 10.1.3 Municipalities may also terminate this agreement with written notice given to the sheriff. The decision of one municipality to terminate its participation in this agreement shall not affect the validity or operation of the agreement as to the other municipalities. Any existing defense and indemnification obligations shall survive any such termination of this agreement.

**11 Duration**

- 11.1 This agreement is valid for the duration of the sitting sheriff's term in office. The sheriff or his designee will review the list every 4 years. This agreement will be voided upon 90 days after the swearing in of a new sheriff. It will be the responsibility of the new sheriff to renew the agreement with the chiefs of police, or other designees', in York County.

In witness whereof, the undersigned municipalities have caused this agreement to be signed by their authorized representatives, as of the day and year above written and said signatures are attached hereto and incorporated by reference.

**Sheriff of York County**

\_\_\_\_\_  
**William L. King Jr.**

\_\_\_\_\_  
**Date**

**Chief of Police/Designee**

**Agency**

**Date**

\_\_\_\_\_



**Maine Revised Statutes**  
**Title 25: INTERNAL SECURITY**  
**AND PUBLIC SAFETY**  
**Part 8: MAINE CRIMINAL JUSTICE**  
**ACADEMY**  
**Chapter 341: THE MAINE CRIMINAL**  
**JUSTICE ACADEMY**

**§2804-C. Basic law enforcement training; core curriculum requirements**

**1. Required.** As a condition to the continued employment of any person as a full-time law enforcement officer by a municipality, a county, the State or any other nonfederal employer, that person must successfully complete, within the first 12 months of initial full-time employment, the basic training course at the Maine Criminal Justice Academy approved by the board. If a person's failure to comply with this requirement was a result of that person's failure to satisfy any of the admission standards applicable to the basic training course and that person is subsequently employed as a full-time law enforcement officer within 12 months of termination of the initial employment by a municipality, a county, the State or any other nonfederal employer, the person must have satisfied all the admission standards established by the board prior to the time of hire. As a condition of continued employment as a full-time law enforcement officer, the officer must satisfactorily maintain the basic certification by completing the recertification requirements prescribed by the board. The board, under extenuating and emergency circumstances in individual cases, may extend the 12-month period for not more than 180 days. The board also, in individual cases, may waive the basic training requirement when the facts indicate that an equivalent course has been successfully completed.

[ 2013, c. 147, §29 (AMD) .]

**2. Core curriculum requirements.**

[ 1993, c. 744, §6 (RP) .]

**2-A. Probationary employment period.** Upon being hired, a law enforcement officer shall complete an employment probationary period that lasts for at least one year after graduation from the academy or the date the board

waives the basic training requirement.

[ 1993, c. 744, §6 (NEW) .]

**2-B. Training regarding people who are homeless.** The board shall include in the basic law enforcement training program a block of instruction aimed specifically at reducing barriers to reporting crimes against people who are homeless and dealing with the unique challenges posed by cases that involve victims or witnesses who are homeless.

[ 2005, c. 393, §1 (NEW) .]

**2-C. Receipt of firearms; training; procedure; liability.** The Maine Criminal Justice Academy shall provide training for municipal, county and state law enforcement officers regarding the proper handling, storage, safekeeping and return of firearms and firearm accessories received pursuant to a court order under Title 19-A, section 4006, subsection 2-A or Title 19-A, section 4007, subsection 1, paragraph A-1. Such training must include education concerning the prohibitions on the purchase or possession of a firearm when a protection order has been obtained and communication with parties to protection orders concerning such prohibitions.

In developing materials for training in domestic violence issues, the Maine Criminal Justice Academy may consult with a statewide organization involved in advocacy for victims of domestic violence and with an organization having statewide membership representing the interests of firearms owners.

A law enforcement officer who receives custody of a firearm pursuant to Title 19-A, section 4006, subsection 2-A or Title 19-A, section 4007, subsection 1, paragraph A-1 shall exercise reasonable care to avoid loss, damage or reduction in value of the firearm and may not permanently mark the firearm or fire the firearm unless there is reasonable suspicion that the firearm has been used in the commission of a crime. Any liability for damage or reduction in value to such a firearm is governed by Title 14, chapter 741.

[ 2013, c. 147, §30 (AMD) .]

**2-D. Training regarding people who have mental illness and the involuntary commitment process.** The board shall include in the basic law enforcement training program a block of instruction aimed specifically at the clinical, safety and procedural components of the involuntary commitment process, including the provision of a uniform checklist that includes reference to Title 34-B, section 1207, subsection 7 for law enforcement officers to use in order to effectively describe the seriousness of a case to a mental health professional.

[ 2009, c. 451, §6 (NEW) .]

**3. Certification.** The board shall certify each person who meets the core curriculum training requirements.

[ 2013, c. 147, §31 (AMD) .]

**4. Courses.** The board shall:

A. Provide a training course, the successful completion of which meets the basic training requirements; [1993, c. 744, §6 (NEW) .]

B. Provide a structured residential program that balances the goals of professional policing with public services emphasis; and [2005, c. 331, §22 (AMD) .]

C. Incorporate a community policing philosophy in its training program. [2005, c. 331, §22 (AMD) .]

D. [2005, c. 331, §23 (RP) .]

[ 2005, c. 331, §§22, 23 (AMD) .]

**5. Application to currently certified law enforcement officers.** This section does not apply to any law enforcement officer certified as meeting the law enforcement training requirements or to any full-time law enforcement officer employed by a state agency, including the University of Maine System, as of July 1, 1990 or to any person employed as a full-time law enforcement officer by a municipality on September 23, 1971 or by a county on July 1, 1972.

[ 2013, c. 147, §32 (AMD) .]

#### SECTION HISTORY

1989, c. 521, §§5,17 (NEW). 1993, c. 551, §2 (AMD). 1993, c. 744, §6 (AMD). 1997, c. 395, §04 (AMD). 2005, c. 331, §§21-23 (AMD). 2005, c. 393, §1 (AMD). 2005, c. 684, §1 (AMD). 2009, c. 451, §6 (AMD). 2013, c. 147, §§29-32 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.

If you need legal advice, please consult a qualified attorney.

Office of the Revisor of Statutes

(mailto:webmaster\_ros@legislature.maine.gov) • 7 State House Station

• State House Room 108 • Augusta, Maine 04333-0007

Page composed on 10/13/2016

03:02:51.

Maine Revised Statutes  
**Title 25: INTERNAL SECURITY  
AND PUBLIC SAFETY**  
**Part 8: MAINE CRIMINAL JUSTICE  
ACADEMY**  
**Chapter 341: THE MAINE CRIMINAL  
JUSTICE ACADEMY**

**§2804-E. In-service law enforcement training**

**1. Required.** As a condition to the continued employment of a person as a law enforcement officer with the power to make arrests or the authority to carry a firearm in the course of duty by a municipality, county, the State or other nonfederal employer, that person must successfully complete in-service training as prescribed by the board. Failure to successfully complete in-service training by a law enforcement officer as prescribed by the board constitutes grounds to suspend or revoke a certificate issued by the board pursuant to section 2803-A.

[ 2013, c. 147, §34 (AMD) .]

**2. Role of board.** The board shall establish in-service recertification training requirements, consistent with subsection 1, and coordinate delivery of in-service training. The in-service recertification training requirements must include information on new laws and court decisions and on new enforcement practices demonstrated to reduce crime or increase officer safety. The board shall consider and encourage the use of telecommunications technology in the development and delivery of in-service training programs. In establishing the recertification training requirements, the board shall cooperate with the state and local departments and agencies to which the in-service requirements apply to ensure that the standards are appropriate. In-service training may not be applied to satisfy in-service recertification training requirements unless it is approved by the board.

[ 2013, c. 147, §34 (AMD) .]

**3. Additional certificates.**

[ 2013, c. 147, §34 (RP) .]

**4. Credit for continuing education.** The board may grant in-service training

credits to be applied to in-service recertification training requirements for courses completed at accredited colleges and universities.

[ 1993, c. 744, §8 (NEW) .]

**5. Provision of in-service training.** In-service training programs that meet the requirements established under subsection 2 or other in-service training programs may be provided by the Maine Criminal Justice Academy or the agency employing the law enforcement officer.

[ 2013, c. 147, §34 (NEW) .]

#### SECTION HISTORY

1989, c. 521, §§5,17 (NEW). 1993, c. 744, §§7,8 (AMD). 1997, c. 395, §05 (AMD). 2013, c. 147, §34 (AMD).

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Maine Revised Statutes  
**Title 30-A: MUNICIPALITIES AND  
COUNTIES**  
**Part 2: MUNICIPALITIES**  
**Subpart 3: MUNICIPAL AFFAIRS**  
**Chapter 123: MUNICIPAL OFFICIALS**  
**Subchapter 4: LAW ENFORCEMENT  
OFFICERS**

**§2674. Aid to other law enforcement agencies**

Except as otherwise provided by municipal charter or ordinance, the municipal officers may authorize the chief of police or other designee to request other municipalities to provide law enforcement officers to assist the requesting municipality. The county commissioners may authorize the sheriff or other designee to request a municipality to provide law enforcement officers to assist the requesting county. The municipal officers may authorize the chief of police or other designee to provide law enforcement officers to assist other municipalities or counties when so requested by a properly authorized chief of police, sheriff or other designee of the requesting municipality or county. [2013, c. 261, §2 (AMD) .]

The authorizations of the municipal officers or county commissioners must be accompanied by an agreement between the requesting municipality or county and the responding municipality or county that specifies which governmental entity is liable, if any liability is determined to exist, for personal injury or property damage caused by or occurring to the law enforcement officers of the responding municipality or county in the course of assisting the requesting municipality or county. [2013, c. 261, §2 (AMD) .]

If the request for assistance is for a major unplanned incident that jeopardizes the health and welfare of the citizens of the requesting municipality or county and when delay may cause further jeopardy to life or property or in the case of jointly planned collaborative activity, the police chief of any municipality or sheriff of any county or the chief's or sheriff's designee may request assistance from or provide assistance to another municipality or law enforcement agency whether or not an agreement between the 2 parties exists. Each law enforcement

department shall assume its own liability to a 3rd party, except for liability incurred by the command or operational decisions made by the requesting department, which must be assumed by the requesting department. For the purposes of this paragraph, "major unplanned incident" means an extraordinary emergency to which a law enforcement agency is unable to adequately respond that presents a substantial and imminent danger to the public safety and that necessitates the cooperation or assistance of other law enforcement agencies.

[2013, c. 261, §2 (AMD).]

The law enforcement officers of the responding municipality or county or law enforcement agency have the same authority as law enforcement officers within the limits of the requesting municipality or county, except as to the service of civil process, and, when assisting other municipalities, have the same privileges and immunities as when acting within their own jurisdiction. [2013, c. 261, §2 (AMD).]

Notwithstanding section 501 and except as otherwise provided by municipal charter or ordinance, the municipal officers may authorize the chief of police or other designee to request a county sheriff to appoint as a deputy sheriff a municipal law enforcement officer who has satisfied the training requirements of Title 25, sections 2804-C and 2804-E. The authorization of the municipal officers must be accompanied by an agreement between the requesting municipality and the respective county that specifies the purpose and time period for which the authorization is granted and which governmental entity is liable, if any liability is determined to exist, for personal injury or property damage caused by or occurring to law enforcement officers of the municipality in the course of exercising their authority as deputy sheriffs. A municipal law enforcement officer appointed pursuant to this paragraph has the same authority as a deputy sheriff within the respective county, except as to the service of civil process, and has the same privileges and immunities as when acting within the officer's own jurisdiction. [2015, c. 419, §1 (NEW).]

#### SECTION HISTORY

1987, c. 737, §SA2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §SC8,10 (AMD). 1999, c. 654, §1 (AMD). 2001, c. 65, §1 (AMD). 2013, c. 261, §2 (AMD). 2015, c. 419, §1 (AMD).

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**Maine Revised Statutes**  
**Title 30-A: MUNICIPALITIES AND**  
**COUNTIES**  
**Part 1: COUNTIES**  
**Chapter 1: COUNTY OFFICERS**  
**Subchapter 7: COUNTY EMPLOYMENT**  
**Article 1: GENERAL PROVISIONS**

**§501. Employment and dismissal of county employees**

**1. Employment.** All county officers or department heads shall submit to the county commissioners or the County Personnel Board, if one has been established under article 2, the name of any person the county officer or department head proposes to employ or the names of more than one person from which the county commissioners or personnel board are to select a person for employment. The county commissioners or the County Personnel Board may approve the employment of the person or select a person for employment. If approval is withheld or a selection is not made, the county commissioners or the County Personnel Board, within 14 days after the name or names have been submitted, shall notify the county officer or department head of the reasons for their disapproval or failure to make a selection.

[ 1991, c. 548, Pt. D, §3 (AMD) .]

**2. Qualifications.** All county employees shall be appointed without regard to any political affiliation and solely on the basis of professional qualifications relating to the work to be performed or their potential for acquiring those qualifications.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2-A. Probationary period for corrections officials.** Beginning October 1, 2009, a person who is hired as jailer, master, keeper or a subordinate assistant or employee under section 1501 must complete an employment probationary period that lasts for one year.

[ 2009, c. 106, §1 (NEW) .]

**3. Dismissal, suspension, discipline.** Following a reasonable probationary

period consistent with the provisions of subsection 2-A and section 2701, a county officer or department head may dismiss, suspend or otherwise discipline a department employee only for cause, except as provided in paragraph A. Cause for dismissal, suspension or disciplinary action must be a just, reasonable, appropriate and substantial reason for the action taken that relates to or affects the ability, performance of duties, authority or actions of the employee or the public's rights or interests.

A. An employee may be dismissed by a county officer or department head only for cause and only with the prior approval of the county commissioners or personnel board, except that county employees may be laid off or dismissed, with the approval of the county commissioners or personnel board, to meet the requirements of budget reductions or governmental reorganization. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. In every case of suspension or disciplinary action other than dismissal, at the employee's request, the county commissioners or personnel board shall investigate the circumstances and fairness of the action and, if they find the charges unwarranted, shall order the employee's reinstatement to the employee's former position with no loss of pay, rights or benefits resulting from the suspension or disciplinary action. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 2009, c. 106, §2 (AMD) .]

**4. Application to county commissioners' employees.** Subsections 1 and 3 do not apply to county employees directly employed by the county commissioners, unless a County Personnel Board has been established under article 2.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**5. Application to chief deputy.** Subsections 1, 2 and 3 do not apply to the appointment, dismissal, suspension or discipline of a chief deputy by a sheriff.

[ 2011, c. 15, §2 (NEW) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1991, c. 548, §D3 (AMD). 2001, c. 349, §5 (AMD). 2009, c. 106, §§ 1, 2 (AMD). 2011, c. 15, §2 (AMD).

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## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 21, 2016	<input checked="" type="checkbox"/> ACTION
DATE ACTION REQUESTED: October 24, 2016	<input type="checkbox"/> DISCUSSION ONLY
SUBJECT: Carry forwards FY16 to FY17	

**DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:** The attached spreadsheet represents carryforward requests to bring forward available funds from the FY16 to the FY17 Budget year. These funds represent unspent items from the FY16 budget year. On occasion the fiscal year comes to a close before a planned purchase can be made due to project delays or other unanticipated events in the course of business.

**RECOMMENDATION:** I recommend approval of carryforwards in the amount of \$277,209.23

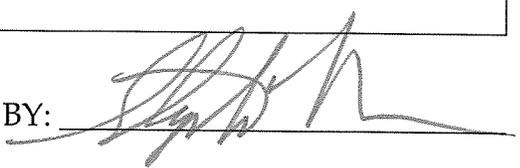
**PROPOSED MOTION:** I move to propose the carryforward of funds in the amount \$277,209.23 from the FY16 budget year to the FY17 budget as recommended by the Town Manager.

**FISCAL IMPACT:** -0- impact in FY17 voters approved funds in FY16

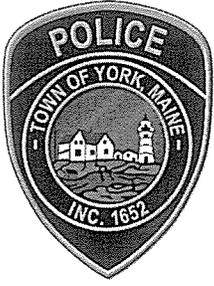
**DEPARTMENT LINE ITEM ACCOUNT:** Various

**BALANCE IN LINE ITEM IF APPROVED:** \$277.209.23

PREPARED BY: Wendy Anderson

REVIEWED BY: 

Line Item	Approved Carry-Forward to FY10	Approved Carry-Forward to FY11	Approved Carry-Forward to FY12	Approved Carry-Forward to FY13	Approved Carry-Forward to FY14	Approved Carry-Forward to FY15	Approved Carry-Forward to FY16	Recommended Carry-Forwards to FY17
Village Plan	\$44,541.75	\$44,541.75	\$44,541.75	\$44,541.75	\$0.00	\$0.00	\$0.00	0.00
Voting Machines	\$45,000.00	\$45,000.00	\$45,000.00	\$45,000.00	\$45,000.00	\$27,293.66	\$21,910.62	21,910.62
Legal (Cliff Path)	\$36,132.50	\$0.00	\$0.00	\$32,674.08	\$32,674.08	\$32,674.08	\$28,719.08	0.00
Legal - MTA tollbooth	\$0.00	\$10,738.40	\$10,738.40	\$10,738.40	\$10,738.40	\$10,738.40	\$658.40	0.00
Legal - Operations	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,261.00	0.00
Printing/Records Management	\$552.83	\$3,683.91	\$8,851.84	\$0.00	\$0.00	\$0.00	\$0.00	0.00
Debt Service	\$58,069.92	\$36,403.15	\$14,736.38	\$14,736.38	\$14,769.61	\$94,587.35	\$126,667.14	104,266.36
Contingency (YVF)	\$0.00	\$0.00	\$0.00	\$25,000.00	\$18,122.61	\$0.00	\$0.00	0.00
Contingency (Cape Neddick River)	\$0.00	\$0.00	\$34,700.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00
Contingency (Cape Neddick River)	\$0.00	\$0.00	\$0.00	\$20,214.00	\$1,400.00	\$0.00	\$0.00	0.00
Contingency (Heating Oil Assistance)	\$0.00	\$0.00	\$15,300.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00
FEMA Funds	\$0.00	\$0.00	\$0,654.56	\$8,094.56	\$8,094.56	\$8,094.56	\$0.00	0.00
FEMA 2007	\$40,000.00	\$76,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00
FEMA 2008	\$15,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00
White Goods - Maintenance/Paving	\$0.00	\$0.00	\$0.00	\$0.00	\$10,500.00	\$0.00	\$0.00	0.00
Public Safety Conceptual Design	\$0.00	\$0.00	\$91,991.97	\$60,684.00	\$60,684.00	\$60,684.00	\$60,684.00	0.00
Town Hall Contracts	\$0.00	\$0.00	\$0.00	\$6,033.68	\$0.00	\$0.00	\$0.00	0.00
Finance	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$16,212.24	\$5,000.00	0.00
Cable TV	\$2,695.82	\$60.84	\$921.78	\$2,823.14	\$2,218.76	\$2,338.76	\$0.00	0.00
Cable TV Equipment	\$0.00	\$0.00	\$0.00	\$0.00	\$4,910.98	\$9,789.52	\$0.00	0.00
Information Technology	\$0.00	\$0.00	\$0.00	\$4,521.39	\$10,380.10	\$34,778.49	\$0.00	0.00
Police Vehicles	\$28,154.15	\$19,139.95	\$42,337.99	\$47,354.92	\$69,452.68	\$22,889.51	\$77,195.14	0.00
Public Safety Plan	\$6,449.98	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00
Public Safety	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$51,000.00	\$53,300.00	101,591.25
YBF Roof Repair	\$0.00	\$0.00	\$0.00	\$0.00	\$35,720.00	\$0.00	\$0.00	0.00
Hot Top	\$66,343.93	\$73,536.95	\$17,170.80	\$36,054.43	\$292,100.70	\$524,392.44	\$463,003.44	0.00
Church Street Sidewalk	\$8,094.66	\$8,094.66	\$7,568.15	\$0.00	\$0.00	\$0.00	\$0.00	0.00
Bog Road	\$0.00	\$0.00	\$1,228.57	\$1,228.57	\$0.00	\$0.00	\$0.00	0.00
Grader Upgrade	\$22,959.98	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00
Bog Road	\$1,228.57	\$1,228.57	\$1,078.68	\$15,082.56	\$44,800.00	\$90,375.11	\$0.00	0.00
Heavy Duty Plow Truck	\$62,100.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00
Bellmarsh Road	\$47,494.90	\$72,494.90	\$14,139.15	\$415.79	\$24,675.79	\$0.00	\$0.00	0.00
Woodbridge Road Sidewalk	\$3,770.43	\$3,770.43	\$3,770.43	\$3,770.43	\$0.00	\$16,810.00	\$0.00	0.00
Signal Maintenance	\$0.00	\$0.00	\$0.00	\$3,284.50	\$1,762.50	\$0.00	\$0.00	0.00
Road Repair and Reconstruction	\$538,001.43	\$522,936.71	\$451,992.75	\$273,921.93	\$273,921.93	\$273,921.93	\$235,341.68	0.00
Ocean Avenue Curb	\$34,000.00	\$34,000.00	\$34,000.00	\$34,000.00	\$0.00	\$0.00	\$0.00	0.00
Fishermen's Walk Renovations	\$40,317.20	\$35,431.53	\$34,853.53	\$33,476.54	\$31,676.54	\$31,676.54	\$30,211.45	30,053.29
Route 1891 Reconstruction	\$36,462.14	\$36,462.14	\$36,462.14	\$0.00	\$0.00	\$0.00	\$0.00	0.00
Seawall Repair	\$29,831.21	\$25,548.71	\$25,548.71	\$19,563.71	\$19,563.71	\$19,387.71	\$19,387.71	19,387.71
Broadway/Airport Drive Drainage	\$68,350.33	\$68,068.05	\$68,068.05	\$29,504.65	\$11,043.11	\$0.00	\$0.00	0.00
Mitchell Road Drainage	\$50,000.00	\$50,000.00	\$50,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00
Cow Beach Phase II Drainage	\$18,200.00	\$18,200.00	\$18,200.00	\$18,200.00	\$18,200.00	\$18,200.00	\$0.00	0.00
Contract Services - Traffic Lights	\$0.00	\$0.00	\$0.00	\$0.00	\$592.21	\$963.49	\$0.00	0.00
Totals	\$1,303,751.73	\$1,185,340.65	\$1,081,855.63	\$790,919.41	\$1,043,002.27	\$1,346,807.79	\$1,126,339.66	277,209.23



# TOWN OF YORK, MAINE

## Police Department

**Douglas P. Bracy**  
Chief of Police

## Memorandum

*Mailing Address:*  
36 Main Street  
York, Maine 03909

**To: Finance Director Wendy Anderson**  
**From: Chief Douglas P. Bracy**  
**Date: September 20<sup>th</sup>, 2016**  
**Re: Carry Forwards for 2015-2016**

---

*Dispatch:*  
**Non-Emergency**  
(207) 363-4444

*Administration:*  
(207) 363-1031

*Facsimile:*  
(207) 361-6818

[www.yorkpolice.org](http://www.yorkpolice.org)

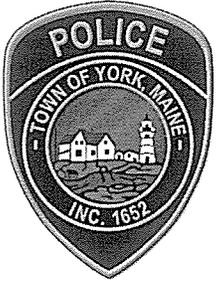
In reviewing the ending numbers of the Public Safety budgets for 2015-2016 I am requesting the following carry forwards from the operating budgets that I administer.

I am looking to use carry forward funds for several projects and expenses that were delayed from the past budgets and will need to be covered in the upcoming budget.

One will cover the cost of personnel expenses incurred in FY16 for two officers who attended the 140 hrs. Emergency Medical Technician training course which is required of them by contract. This course runs over three months with the culmination being the successful completion and certification under National EMT Registry. The course ended in late June and the test is scheduled for October of this year. Per our contract we do not pay for these expenses until the officers successfully pass their certification test. Currently there is approximately \$6,000 in accumulated overtime and costs from FY16 between the two officers who have taken this training.

I am asking to cover costs that came with the upgrade of our Citrix server which allows employees to access our computers remotely. This system was completed in May of 2016 but I just recently received over \$4,000 in bills from April of this year. With FY 16 budget closed and in the audit process at present I would ask that we be allowed to carry forward money to cover those costs from FY 16.

***Committed  
to excellence***



# TOWN OF YORK, MAINE

## Police Department

**Douglas P. Bracy**  
**Chief of Police**

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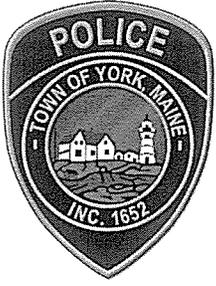
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to excellence***

I also am asking to carry forward \$4,500 to cover tree removal to make our parking lot at the old station safer for everyone. The trees have matured to a point where they overhang the parking areas and have caused damage from limbs falling on vehicles during storms. This also concerns me for the safety of especially the seniors who use most of this parking area. This had been budgeted to be done in the spring of FY 16 but was held up by the delay of the Verizon Tower project. We have completed some of this work already this fall and hope to have the rest including paving the parking lot done no later than spring of this coming year in 2017.

I would request carrying \$17,000 to be used toward the cost of relocating equipment / providing generated power to our new Verizon tower project. This project was slated to begin in spring 2016 but has been delayed until October of this year. This includes all antennas, connectivity to building and for emergency generation to maintain operations in power outages.

I would also encourage the Town Manager and Board to carry forward any addition revenues possible to help support the purchase and installation of our new communication system which we are in the process of designing to put in the new building. The delay of five years to build this system has required us to look at the newest generation of Motorola radio consoles. If we remained with the current plan Motorola would only warranty the system for 6 years and guaranteed replacement parts for up to 12 years for the equipment in the bid we received back then. The next generation of Motorola equipment comes with a 10 year warranty and a 20 year guarantee of parts. It would also give us the ability to allow us to consolidate our equipment with any of the towns in our area that we could potentially service in the future. I am committed to providing the best system I can for the longest duration of time possible as this effects all of our town departments who utilize radios including public safety. The estimated difference in costs of this equipment is in the area of up to \$200,000.



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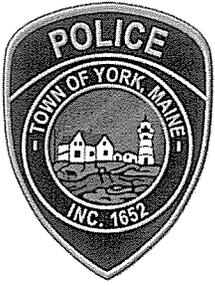
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*[www.yorkpolice.org](http://www.yorkpolice.org)*

Lastly, the fleet reserve account and special detail accounts should also be carried forward as has been the policy to maintain available funds in those accounts to purchase vehicles and equipment as they are needed. This process was set up in 2005 by both the Selectmen and Budget Committee and has worked extremely well in position us to purchase vehicles when the need arises and to save the taxpayers money.

Thank you for your consideration.

*Committed  
to excellence*



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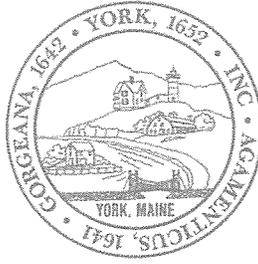
*Facsimile:*  
(207) 361-6818

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### Requested Carry Forwards 2015/2016 – Public Safety Budgets

\$ 6,000.00	– Employee costs incurred in FY 16 for training but not paid until certification obtained until after July 01 <sup>st</sup> , 2016 - put in PD
\$ 4,091.25	- Upgrade of Citrix server for communications not received until last week.- work occurred April 2016 - put in PD
\$ 4,500.00	- Tree cutting parking area and property of current PD -put in PD
\$ 17,000.00	- Transition of antennas to new tower, connectivity of radio system from tower to PD, and emergency generation of radio hut. - put in COMM
\$ <u>70,000.00</u>	- <u>Components of New Radio System - put in COMM</u>
<b>Total</b>	<b>\$101,591.25</b>

*Committed  
to excellence*



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 21, 2016

ACTION

DATE ACTION REQUESTED: October 24, 2016

DISCUSSION ONLY

SUBJECT: Changes to the Traffic Safety Ordinance

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The options available to the Board would be to make the proposed changes or leave it as it is. By making the proposed changes, parking would be prohibited on Milbury Lane. Currently, emergency vehicles are being obstructed due to parking on the roadway. If the Board does not address this issue and parking is continued to be allowed on that road, then the risk of not being able to respond to an emergency situation effectively will persist.

RECOMMENDATION: Review the changes to the Traffic Safety Ordinance and adopt the changes to the No Parking Zones.

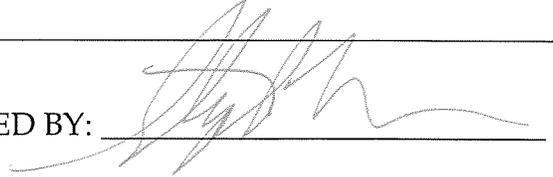
PROPOSED MOTION: I move to adopt the changes to the Traffic Safety Ordinance as proposed.

FISCAL IMPACT: N/A

DEPARTMENT LINE ITEM ACCOUNT: N/A

BALANCE IN LINE ITEM IF APPROVED: N/A

PREPARED BY: Lt. Owen Davis

REVIEWED BY: 

# **Proposed Amendments**

to be considered by the

## **Board of Selectmen**

### Amendments

1. Traffic Safety Ordinance

**Amendment #1**  
*Traffic Safety Ordinance*

Explanation of Amendment: The purpose of this amendment is to prohibit parking on both sides of Milbury Lane.

Amendment: Amend Schedule “A”: No Parking Zones by adding Milbury Lane as follows:

**Schedule A**  
**No Parking Zones**

*Milbury Lane - On either side of Milbury Lane from the Norwood Farms Road intersection.*

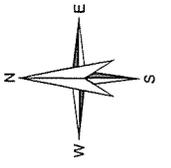
# Google Maps Milbury Ln



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### Milbury Lane Reference Location Map





## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 20, 2016	<input type="checkbox"/> ACTION
DATE ACTION REQUESTED: October 24, 2016	<input checked="" type="checkbox"/> DISCUSSION ONLY
SUBJECT: Transient Sales Law Evaluation	

### DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

The Town Manager requested I provided an examination of Maine's Transient Sales laws for the Board.

Upon examination of the laws there are two types of transient sellers; "Door-to-door home repair transient sellers" and "Transient sellers of consumer merchandise." Both are contained within separate subchapters of the law and both are required to be licensed by the Maine Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation before operating in the State of Maine and renew annually if needed. If it is found that a person is performing these types of sales without a license from the state then that person could found in violation of state law and thus be committing a class E or Class D crime.

When engaging in transient sales of merchandise a person must have a valid state issues license and shall present that license for inspection upon request of any person. However, it appears this is not a requirement for door-to-door home repair transient sellers.

Also based on my review of the law a town can develop regulations relative to "Transient sellers of consumer merchandise," of which the Town already does within the Business Licensing Ordinance, as there is a section in state law that specifically provides that as an option. However, in the state law I could not find a section that allows a town to develop regulations regarding "Door-to-door home repair transient sellers." It appears the town already might have considered this as we define transient seller as "Any person who engages in the business of selling merchandise and/OR SERVICES to consumers by means of personal contact and who does not have, for the purposes of carrying on such business, any permanent place of business within the Town of York.

RECOMMENDATION: The Board may want to evaluate the Town's current transient sellers business licensing guidelines and amend as appropriate. However, I am not familiar with any local issues or complaints based upon our current restrictions of which the Police Department enforces.

PROPOSED MOTION: N/A

FISCAL IMPACT: N/A

DEPARTMENT LINE ITEM ACCOUNT: N/A

BALANCE IN LINE ITEM IF APPROVED: N/A

PREPARED BY: Dylan Smith, Planning Director

REVIEWED BY: 

# Title 32: PROFESSIONS AND OCCUPATIONS

## Chapter 128: REGULATION OF TRANSIENT SALES

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**Maine Revised Statutes**  
**Title 32: PROFESSIONS AND OCCUPATIONS**  
**Chapter 128: REGULATION OF TRANSIENT SALES**

**Subchapter 1: DOOR-TO-DOOR HOME REPAIR TRANSIENT SELLERS**

**§14501. DEFINITIONS**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 324, §3 (AMD).]

**1. Consumer.** "Consumer" means any person who purchases or contracts for the purchase of home repair services.

[ 1993, c. 444, §1 (NEW) .]

**2. Department.** "Department" means the Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation.

[ 1993, c. 444, §1 (NEW); 1995, c. 502, Pt. H, §48 (AMD); 2011, c. 286, Pt. B, §5 (REV) .]

**3. Door-to-door sales.** "Door-to-door sales" means the solicitation or sale of home repair services by a home repair seller or the seller's employees to a consumer as a result of or in connection with the seller's or the employee's direct contact accomplished by means of a personal visit to the consumer, other than at the seller's place of business, without the consumer soliciting the initial contact.

[ 1993, c. 444, §1 (NEW) .]

**4. Employee.** "Employee" means any independent contractor, agent or person working for a salary or a commission who is affiliated with a home repair seller.

[ 1993, c. 444, §1 (NEW) .]

**5. Home repair seller.** "Home repair seller" means any person, partnership, corporation, business, trust or other legal entity that sells or provides home repair services.

[ 1993, c. 444, §1 (NEW) .]

**6. Home repair services.** "Home repair services" means to fix, replace, alter, convert, modernize, improve or make an addition to real property primarily designed or used as a residence. "Home repair services" includes, but is not limited to, the construction, installation, replacement, improvement or cleaning of driveways, swimming pools, porches, kitchens, chimneys, chimney liners, garages, fences, fall-out shelters, central air conditioning, central heating, boilers, furnaces, hot water heaters, electric wiring, sewers, plumbing fixtures, storm doors, storm windows, siding or awnings or other improvements to structures within the residence or upon the land adjacent to the residence, including tree trimming.

[ 1993, c. 444, §1 (NEW) .]

**7. Permanent place of business.** "Permanent place of business" means a building or other permanent structure, including a home residence, that is owned or held under a 12-month lease or rental agreement, from which business is commenced and that is used in whole or in part for the purpose of engaging in sales of home repair services.

[ 1993, c. 444, §1 (NEW) .]

**8. Residence.** "Residence" means a single-family or multifamily dwelling, including but not limited to a single-family home, apartment building, condominium, duplex or town house that is used or intended to be used by its occupants as a dwelling place.

[ 1993, c. 444, §1 (NEW) .]

**9. Transient seller of home repair services.** "Transient seller of home repair services," "transient seller" or "seller" means a home repair seller who engages in the business of door-to-door solicitations or sales of home repair services who does not have, at the time of the solicitation or contract, a permanent place of business in the municipality in which the door-to-door solicitation or sale occurs.

[ 1993, c. 444, §1 (NEW) .]

#### SECTION HISTORY

1993, c. 444, §1 (NEW). 1995, c. 502, §H48 (AMD). 2001, c. 324, §3 (AMD). 2011, c. 286, Pt. B, §5 (REV).

## §14502. EXEMPTIONS

**1. New homes.** This subchapter does not apply to the original construction of a single-family or multifamily residence.

[ 2001, c. 324, §4 (AMD) .]

**2. Sales amount.** This subchapter does not apply to home repair services for which the gross sales price, including any interest or carrying charges, is less than \$25.

[ 2001, c. 324, §4 (AMD) .]

#### SECTION HISTORY

1993, c. 444, §1 (NEW). 2001, c. 324, §4 (AMD).

## §14503. HOME REPAIR SERVICES CONTRACT

It is a violation of this subchapter if a contract for home repair services to be provided by a transient seller of home repair services fails to meet the written contract requirements, if applicable, of: [2001, c. 324, §5 (AMD).]

**1. Consumer solicitations or sales.** The laws governing consumer solicitations or sales, sections 4661 to 4670;

[ 1993, c. 444, §1 (NEW) .]

**2. Transient sales.** The laws governing transient sales, sections 14701 to 14716;

[ 2001, c. 324, §6 (AMD) .]

**3. Home solicitation sales.** The laws governing home solicitation sales, Title 9-A, sections 3-501 to 3-507; and

[ 1993, c. 444, §1 (NEW) .]

**4. Home construction contracts.** The laws governing home construction contracts, Title 10, sections 1486 to 1490.

[ 1993, c. 444, §1 (NEW) .]

SECTION HISTORY

1993, c. 444, §1 (NEW). 2001, c. 324, §§5,6 (AMD).

**§14504. LICENSE REQUIRED**

**1. License required.** A transient seller of home repair services must be licensed by the department and acquire a door-to-door sales license in the manner as set under section 14505 before engaging in the door-to-door sales of home repair services. The licensing requirement under this section is in addition to the licensing requirements applicable to the occupation, trade or profession for which a license is required. A transient seller who solicits sales during the course of a municipal or state repair contract is exempt from this requirement.

[ 2007, c. 402, Pt. KK, §1 (AMD) .]

**2. Penalty.** The following penalties apply to violations of this section.

A. A person who violates this section commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [2003, c. 452, Pt. R, §11 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

B. A person who intentionally violates this section commits a Class D crime. [2003, c. 452, Pt. R, §11 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

[ 2003, c. 452, Pt. R, §11 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

**3. Enforcement.** This section is enforceable by either the Department of the Attorney General or a district attorney.

[ 2003, c. 452, Pt. R, §11 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY

1993, c. 444, §1 (NEW). 2001, c. 324, §7 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 452, §R11 (RPR). 2007, c. 402, Pt. KK, §1 (AMD).

**§14505. EVIDENCE OF LICENSURE**

Upon licensure, the department shall issue to a transient seller of home repair services a door-to-door sales license that indicates that the person whose name appears on the license is a licensed transient seller of home repair services under this subchapter. The license must also include the name of the seller's company. [2007, c. 402, Pt. KK, §2 (AMD) .]

SECTION HISTORY

1993, c. 444, §1 (NEW). 2001, c. 324, §7 (AMD). 2007, c. 402, Pt. KK, §2 (AMD).

## §14506. DISCLOSURE OF LICENSE NUMBER

**1. Disclosure required.** A contract for door-to-door sales of home repair services by a transient seller of home repair services must include the seller's door-to-door sales license number in the following manner: State door-to-door sales license #: (fill in number).

[ 2007, c. 402, Pt. KK, §3 (AMD) .]

**2. Penalty.** The following penalties apply to violations of this section.

A. A person who violates this section commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [2003, c. 452, Pt. R, §12 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who intentionally violates this section commits a Class D crime. [2003, c. 452, Pt. R, §12 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[ 2003, c. 452, Pt. R, §12 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

**3. Enforcement.** This section is enforceable by either the Department of the Attorney General or a district attorney.

[ 2003, c. 452, Pt. R, §12 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

### SECTION HISTORY

1993, c. 444, §1 (NEW). 2003, c. 452, §X2 (AFF). 2003, c. 452, §R12 (RPR). 2007, c. 402, Pt. KK, §3 (AMD).

## §14507. APPLICATION

An application for licensure under this chapter must include: [2007, c. 402, Pt. KK, §4 (AMD) .]

**1. Application information.** The name, local and permanent business and residential address or addresses, date of birth and social security number of the home repair seller;

[ 1993, c. 444, §1 (NEW) .]

**2. Employees of the seller.** The names and addresses of employees of the seller, their dates of birth and social security numbers;

[ 1993, c. 444, §1 (NEW) .]

**3. Statement.** At the time of making the application, a statement of all civil judgments or criminal convictions secured or outstanding against the seller that arises out of home repair services during the 4 years prior to making the application, all criminal and civil suits pending against the seller that arise out of home repair services and all criminal convictions and criminal suits pending for theft against the seller.

The seller shall promptly notify the department of all changes or additions in the information required by this section.

Knowingly, intentionally or recklessly making a false statement in an application is grounds for denial of the application or revocation of the license; and

[ 2007, c. 402, Pt. KK, §4 (AMD) .]

**4. Photograph.** A recent photograph of the home repair seller.

[ 1993, c. 444, §1 (NEW) .]

SECTION HISTORY

1993, c. 444, §1 (NEW). 2007, c. 402, Pt. KK, §4 (AMD).

**§14508. RENEWAL APPLICATION**

An annual renewal application must be filed by the seller on October 31st or at such other times as the department designates. The renewal application must include changes or additions to the information required by section 14507. The renewal application must be accompanied by the renewal fee as set under section 14509. [2007, c. 402, Pt. KK, §5 (AMD).]

SECTION HISTORY

1993, c. 444, §1 (NEW). 2001, c. 324, §8 (AMD). 2007, c. 402, Pt. KK, §5 (AMD).

**§14509. LICENSE FEE**

The Director of the Office of Professional and Occupational Regulation within the department may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$300 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. KK, §6 (AMD); 2011, c. 286, Pt. B, §5 (REV).]

**1. Transient seller registration.**

[ 1999, c. 685, §25 (RP) .]

**2. Renewal.**

[ 1999, c. 685, §25 (RP) .]

SECTION HISTORY

1993, c. 444, §1 (NEW). 1999, c. 685, §25 (AMD). 2001, c. 324, §9 (AMD). 2007, c. 402, Pt. KK, §6 (AMD). 2011, c. 286, Pt. B, §5 (REV).

**§14510. SERVICE OF PROCESS**

*(REPEALED)*

SECTION HISTORY

1993, c. 444, §1 (NEW). 2013, c. 217, Pt. K, §12 (RP).

**§14511. FORMS AND MODEL CONTRACT**

*(REPEALED)*

SECTION HISTORY

1993, c. 444, §1 (NEW). 2001, c. 324, §10 (AMD). 2007, c. 402, Pt. KK, §7 (RP).

**§14512. PENALTIES**

The penalties in this section are in addition to penalties provided for specific violations within this subchapter. [2003, c. 452, Pt. R, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

**1. Criminal penalty.**

[ 2003, c. 452, Pt. R, §13 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

**2. Civil penalty.** The following penalties apply to violations of this subchapter.

A. A transient seller of home repair services or the seller's employee who violates this subchapter commits a civil violation for which a fine of up to \$2,000 may be adjudged. This penalty may be assessed against each seller and each employee. [2003, c. 452, Pt. R, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A transient seller of home repair services or the seller's employee who violates this subchapter after having previously violated this subchapter 2 or more times commits a civil violation for which a fine of not more than \$5,000 may be adjudged. [2003, c. 452, Pt. R, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. A transient seller of home repair services or the seller's employee who violates this subchapter in a way that injures a consumer who is more than 60 years of age commits a civil violation for which a fine of up to \$5,000 may be adjudged. [2003, c. 452, Pt. R, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

This subsection is enforceable by either the Department of the Attorney General or a district attorney.

[ 2003, c. 452, Pt. R, §13 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

**3. Unfair trade practice.** A transient seller of home repair services who fails to obtain a license in violation of this subchapter commits an unfair trade practice in violation of Title 5, section 207.

[ 2007, c. 402, Pt. KK, §8 (AMD) .]

**4. Revocation.** In any action under this section the court may also revoke the seller's license to engage in the door-to-door sale of home repair services.

[ 2007, c. 402, Pt. KK, §9 (AMD) .]

## SECTION HISTORY

1993, c. 444, §1 (NEW). 1995, c. 681, §5 (AMD). 2001, c. 324, §11 (AMD). 2003, c. 452, §R13 (AMD). 2003, c. 452, §X2 (AFF). 2007, c. 402, Pt. KK, §§8, 9 (AMD).

**§14513. DENIAL OR REFUSAL TO RENEW LICENSE; DISCIPLINARY ACTION**

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A. [2007, c. 402, Pt. KK, §10 (NEW).]

## SECTION HISTORY

2007, c. 402, Pt. KK, §10 (NEW).

**Subchapter 2: TRANSIENT SELLERS OF CONSUMER MERCHANDISE**

## §14701. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 324, §12 (NEW) .]

**1. Consumer.** "Consumer" means any person who purchases or contracts for the purchase of merchandise for any purpose except resale in the ordinary course of trade or business.

[ 2001, c. 324, §12 (NEW) .]

**2. Department.** "Department" means the Department of Professional and Financial Regulation.

[ 2001, c. 324, §12 (NEW) .]

**3. Employee.** "Employee" means any independent contractor, agent or person working for a salary or commission.

[ 2001, c. 324, §12 (NEW) .]

**4. Merchandise.** "Merchandise" includes any objects, wares, goods, promises, commodities, intangibles, services or other things of value but does not include food or technical or vocational schools located outside of the State that are registered pursuant to Title 20-A, section 9501. "Merchandise" does not include securities that are registered or exempt from registration pursuant to chapter 135, the Maine Uniform Securities Act and rules adopted pursuant to that Act or insurance products that are regulated under Title 24-A.

[ 2005, c. 347, Pt. E, §1 (AMD) .]

**5. Permanent place of business.** "Permanent place of business" means any building or other permanently affixed structure, including a home residence, that is owned or held under a 12-month lease or rental agreement at the time business is commenced and is used in whole or in part for the purpose of engaging in sales of consumer merchandise.

[ 2001, c. 324, §12 (NEW) .]

**6. Person.** "Person" includes natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations and any other legal entities.

[ 2001, c. 324, §12 (NEW) .]

**7. Sale.** "Sale" includes any sale, transfer, exchange or barter, offer for sale, promise to sell or attempt to sell, or advertisement for sale, of any merchandise for cash or for credit.

[ 2001, c. 324, §12 (NEW) .]

**8. Transient seller of consumer merchandise or transient seller.** "Transient seller of consumer merchandise" or "transient seller" means any person who engages in the business of selling merchandise to consumers by means of personal contact or telephone contact, whether or not the seller is present in the State at the time of the contact or the time of sale, and who does not have, for the purposes of carrying on such business, any permanent place of business within this State. "Transient seller of consumer merchandise" does not include a person who sells at public fairs, expositions or bazaars or a member selling on behalf of public service organizations. "Transient seller of consumer merchandise" does not include a person who sells exclusively by mail contact, except for a person who offers merchandise or money prizes as free of charge, such as contest prizes or gifts for answering a survey, but who requires the recipient to pay something

of value in order to participate in this offer, including, but not limited to, entrance fees, processing fees or handling charges. A "transient seller of consumer merchandise" does not include a supervised lender as defined in Title 9-A, section 1-301, subsection 39.

[ 2001, c. 324, §12 (NEW) .]

#### SECTION HISTORY

2001, c. 324, §12 (NEW). 2005, c. 65, §C19 (AMD). 2005, c. 347, §E1 (AMD).

### §14702. LICENSURE

**1. License required.** A person who engages in the business of a transient seller of consumer merchandise, including a self-employed person or a person who employs one or more transient sellers of consumer merchandise, must apply to the department and acquire a license in the manner set forth in section 14706 before engaging in sales of consumer merchandise in this State.

[ 2007, c. 402, Pt. KK, §11 (AMD) .]

**2. Penalty.** The following penalties apply to violations of this section.

A. A person who violates this section commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [2003, c. 452, Pt. R, §14 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who intentionally violates this section commits a Class D crime. [2003, c. 452, Pt. R, §14 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[ 2003, c. 452, Pt. R, §14 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

#### SECTION HISTORY

2001, c. 324, §12 (NEW). 2003, c. 452, §X2 (AFF). 2003, c. 452, §R14 (RPR). 2007, c. 402, Pt. KK, §11 (AMD).

### §14703. LICENSES

**1. Issuance.** The department shall issue to each transient seller of consumer merchandise and employee of that transient seller a license that, among other things, must indicate that the person whose name appears on the license is a licensed seller or employee of a licensed seller under this subchapter.

[ 2007, c. 402, Pt. KK, §12 (AMD) .]

**2. Possession and presentation.** Every transient seller of consumer merchandise and each of the seller's employees must have a valid license, as required by this subchapter, in the seller's or employee's immediate possession at all times when engaging in sales of consumer merchandise in this State and shall present the license for inspection upon request of any person.

[ 2007, c. 402, Pt. KK, §12 (AMD) .]

**3. Penalty.** The following penalties apply to violations of this section.

A. A person who violates subsection 2 commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [2003, c. 452, Pt. R, §15 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who intentionally violates subsection 2 commits a Class D crime. [2003, c. 452, Pt. R, §15 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[ 2003, c. 452, Pt. R, §15 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

#### SECTION HISTORY

2001, c. 324, §12 (NEW). 2003, c. 452, §R15 (AMD). 2003, c. 452, §X2 (AFF). 2007, c. 402, Pt. KK, §12 (AMD).

### §14704. DISCLOSURE OF LICENSE NUMBER AND PERMANENT PLACE OF BUSINESS

**1. License number and permanent place of business disclosed in advertisements.** Every time a transient seller of consumer merchandise advertises in this State for the sale of merchandise, whether in print or electronic media, the advertisement must disclose the transient seller's license number in the following manner: "State Department of Professional and Financial Regulation Transient Seller's License Number: (Fill in number)" and must disclose the address of the seller's permanent place of business.

[ 2007, c. 402, Pt. KK, §13 (AMD) .]

**2. License number and place of business disclosed in written receipt.** Every time a transient seller of consumer merchandise sells merchandise to a consumer in this State, the transient seller shall provide the purchaser with a written receipt, at the time of sale, disclosing the transient seller's license number in the following manner: "State Department of Professional and Financial Regulation Transient Seller's License Number: (Fill in number)" and disclosing the transient seller's name and permanent place of business.

[ 2007, c. 402, Pt. KK, §13 (AMD) .]

**3. Penalty.** The following penalties apply to violations of this section.

A. A person who violates this section commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [2003, c. 452, Pt. R, §16 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who intentionally violates this section commits a Class D crime. [2003, c. 452, Pt. R, §16 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[ 2003, c. 452, Pt. R, §16 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

#### SECTION HISTORY

2001, c. 324, §12 (NEW). 2003, c. 452, §R16 (AMD). 2003, c. 452, §X2 (AFF). 2007, c. 402, Pt. KK, §13 (AMD).

### §14705. LOCAL REGISTRATION

Nothing in this subchapter affects the right of any town or municipality to make such regulations relative to transient sellers of consumer merchandise as may be permissible under the general law or under any municipal charter. [2001, c. 324, §12 (NEW).]

#### SECTION HISTORY

2001, c. 324, §12 (NEW).

## §14706. APPLICATION

Each application for a transient seller of consumer merchandise license required by section 14702 must include: [2007, c. 402, Pt. KK, §14 (AMD) .]

**1. Name and address.** The name and local and permanent business address of the applicant;

[ 2001, c. 324, §12 (NEW) .]

**2. Employees of applicant.** Names of all employees of the applicant employed in this State;

[ 2001, c. 324, §12 (NEW) .]

**3. Statement.** A statement of all judgments secured or outstanding against the applicant arising out of sales to consumers during the 2 years immediately prior to making the application and of all suits of either a criminal or civil nature pending against the applicant that arise out of sales to consumers, at the time of making the application;

[ 2001, c. 324, §12 (NEW) .]

**4. Statement of yearly gross revenues.** A statement of anticipated yearly gross revenues from sales of consumer merchandise in this State;

[ 2001, c. 324, §12 (NEW) .]

**5. Security deposits.** The name and address of the person to whom security deposits made with the department pursuant to this subchapter are returned; and

[ 2001, c. 324, §12 (NEW) .]

**6. Seller's certificate.** The number of a valid registration certificate issued to the applicant by the State Tax Assessor pursuant to Title 36, chapter 211 or satisfactory evidence that the applicant is not required to be registered under that chapter.

[ 2011, c. 548, §9 (AMD) .]

The applicant shall promptly notify the department of all changes or additions in the information required in this section upon a form prescribed by the department. [2001, c. 324, §12 (NEW) .]

Any false statement in an application, either original or supplementary, for a license subjects the applicant to the same penalty as if the applicant had no license. [2007, c. 402, Pt. KK, §15 (AMD) .]

### SECTION HISTORY

2001, c. 324, §12 (NEW). 2007, c. 402, Pt. KK, §§14, 15 (AMD). 2011, c. 548, §9 (AMD).

## §14707. RENEWAL APPLICATION

A renewal application made under this subchapter must be filed by the applicant on April 30th annually or at such other times as the Commissioner of Professional and Financial Regulation may designate. The renewal application must include all changes or additions in the information required by section 14706. The renewal application must be accompanied by the renewal fee as set under section 14708. [2007, c. 402, Pt. KK, §16 (AMD) .]

### SECTION HISTORY

2001, c. 324, §12 (NEW). 2007, c. 402, Pt. KK, §16 (AMD).

## §14708. LICENSE FEE AND SECURITY DEPOSIT

**1. Fees.** The Director of the Office of Professional and Occupational Regulation within the department may establish by rule fees for purposes authorized under this subchapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$300. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[ 2007, c. 402, Pt. KK, §17 (AMD); 2011, c. 286, Pt. B, §5 (REV) .]

### **2. Dedicated revenues.**

[ 2007, c. 402, Pt. KK, §17 (RP) .]

**3. Security deposit.** Every person that engages in the business of transient sellers of consumer merchandise, including the self-employed or those who employ one or more transient sellers of consumer merchandise, shall also make a security deposit of \$10,000 or of a sum equal to the anticipated yearly gross revenues in this State, whichever is less, with the department for the protection of consumers as described in section 14712. The security deposit may be made by a bond as drawn by the department and as secured by a surety approved by the department. Only one security deposit is required of each person engaged in transient sales of consumer merchandise.

[ 2001, c. 324, §12 (NEW) .]

**4. License issued.** The department shall issue to a transient seller of consumer merchandise and to employees of that transient seller a license upon receipt of a completed application with the fees as set under subsection 1 and the security deposit required by subsection 3.

[ 2007, c. 402, Pt. KK, §17 (AMD) .]

### SECTION HISTORY

2001, c. 324, §12 (NEW). 2007, c. 402, Pt. KK, §17 (AMD). 2011, c. 286, Pt. B, §5 (REV).

## §14709. WAIVER OF SECURITY DEPOSIT

Transient sellers of consumer merchandise may apply to the department for waiver of the security deposit required by section 14708 by presenting to the authorized person within the department the following information in addition to the information required under section 14706: [2001, c. 324, §12 (NEW) .]

**1. Consumer sales.** A sworn statement by the applicant that the applicant has continuously engaged in consumer sales in this State for a period not less than 3 years;

[ 2001, c. 324, §12 (NEW) .]

**2. Theft offenses; fraudulent or deceptive business practice.** A sworn statement by the applicant that neither the applicant nor any employee of the applicant operating in this State has been convicted of any theft offense or fraudulent or deceptive business practice in any United States' jurisdiction;

[ 2001, c. 324, §12 (NEW) .]

**3. Complaints on file against applicant.** A letter from the Attorney General's office in the state where the applicant has its principal place of business stating the nature or absence thereof of complaints on file against the applicant; and

[ 2001, c. 324, §12 (NEW) .]

**4. Letter of recommendation.** A letter of recommendation from an appropriate trade association that promotes sound and ethical trade practices and the processing of consumer complaints that states the applicant is a member in good standing of that association.

[ 2001, c. 324, §12 (NEW) .]

The authorized person within the department shall forward the completed application for waiver of the security deposit to the Office of the Attorney General for review and shall within 15 days of receipt of the completed application and with the advice of the Attorney General grant or deny the application for waiver.

[2001, c. 324, §12 (NEW) .]

#### SECTION HISTORY

2001, c. 324, §12 (NEW) .

### §14710. REVOCATION OF RIGHT TO WAIVE SECURITY DEPOSIT

The authorized person within the department shall rescind the right of a transient seller of consumer merchandise to waive a security deposit upon occurrence of any of the following: [2001, c. 324, §12 (NEW) .]

**1. Conviction for theft or fraudulent business practices.** The transient seller of consumer merchandise or any employee is convicted of a theft offense or fraudulent or deceptive business practice;

[ 2001, c. 324, §12 (NEW) .]

**2. Failure to defend action under Title 5, chapter 10.** The transient seller of consumer merchandise or any employee fails to successfully defend any action brought against it under Title 5, chapter 10; or

[ 2001, c. 324, §12 (NEW) .]

**3. Failure to negotiate consumer complaints.** The transient seller of consumer merchandise or any employee fails to negotiate consumer complaints filed against it with the Attorney General.

[ 2001, c. 324, §12 (NEW) .]

#### SECTION HISTORY

2001, c. 324, §12 (NEW) .

### §14711. EXPIRATION

**1. Licenses.** Licenses issued under section 14703 expire:

A. On the date that the licensee establishes a permanent place of business and surrenders the licensee's license to the department; [2007, c. 402, Pt. KK, §18 (AMD) .]

B. When the licensee fails to file a renewal application as required by section 14707; or [2007, c. 402, Pt. KK, §18 (AMD) .]

C. Upon the surrender of the license for cancellation. [2007, c. 402, Pt. KK, §18 (AMD) .]

[ 2007, c. 402, Pt. KK, §18 (AMD) .]

SECTION HISTORY

2001, c. 324, §12 (NEW). 2007, c. 402, Pt. KK, §18 (AMD) .

**§14712. SECURITY DEPOSIT SUBJECT TO CLAIMS; ORDER OF PREFERENCE; RETURN OF SECURITY DEPOSIT**

Each security deposit made under section 14708 is subject, as long as it remains in the hands of the department, to the attachment and execution in behalf of consumers whose claims arise in connection with the transient sale of consumer merchandise in this State. The department may be impleaded as a trustee in any civil action brought against any licensee and shall pay over, under order of court, such sum of money as the department may be found chargeable. The security deposit is subject to the payment of any fines and penalties incurred by the licensee through any of the provisions of this subchapter, and the clerk of the court in which that fine or penalty is imposed shall notify the department of the name of the licensee against whom that fine or penalty is adjudged and of the amount of that fine or penalty. The department, if it has in its possession a sufficient sum deposited by that licensee, shall pay the sum so specified to the clerk. If the department does not have a sufficient sum so deposited, it shall make payment of as much as it has in its possession. All claims upon the deposit must be satisfied after judgment, fine and penalty, in the order in which the order of court is entered in the respective suits, until all claims are satisfied or the security deposit is exhausted. A security deposit may not be paid over by the department to a licensee as long as there are any outstanding claims or notices of claims that are subject of suit against the licensee, in which case the department shall retain only such sum of the security deposit as is subject of claim. [2007, c. 402, Pt. KK, §19 (AMD) .]

The security deposit required under section 14708 must be returned to the person so designated pursuant to section 14706, subsection 5 in the licensee's application for licensure made under section 14702 12 months following the expiration of the license. [2007, c. 402, Pt. KK, §19 (AMD) .]

SECTION HISTORY

2001, c. 324, §12 (NEW). 2007, c. 402, Pt. KK, §19 (AMD) .

**§14713. VIOLATIONS; UNFAIR TRADE PRACTICE**

**1. Criminal penalty.**

[ 2003, c. 452, Pt. R, §17 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

**2. Unfair trade practice.** A person who fails to comply with this subchapter commits a violation of Title 5, chapter 10.

[ 2001, c. 324, §12 (NEW) .]

SECTION HISTORY

2001, c. 324, §12 (NEW). 2003, c. 452, §R17 (AMD). 2003, c. 452, §X2 (AFF) .

**§14714. SERVICE OF PROCESS**

***(REPEALED)***

SECTION HISTORY

2001, c. 324, §12 (NEW). 2013, c. 217, Pt. K, §13 (RP) .

## §14715. DENIAL OR REFUSAL TO RENEW LICENSE; DISCIPLINARY ACTION

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the department may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for: [2007, c. 402, Pt. KK, §20 (NEW) .]

**1. Misrepresentations.** Misrepresentation of any material fact relating to the terms or conditions of sale;

[ 2007, c. 402, Pt. KK, §20 (RPR) .]

**2. False impressions.** Creation of an impression that is false or that the transient seller of consumer merchandise does not believe to be true; or

[ 2007, c. 402, Pt. KK, §20 (RPR) .]

**3. False promises.** Promising of performance that the transient seller of consumer merchandise does not intend to perform or believes will not be performed.

[ 2007, c. 402, Pt. KK, §20 (RPR) .]

### SECTION HISTORY

2001, c. 324, §12 (NEW) . 2007, c. 402, Pt. KK, §20 (RPR) .

## §14716. TELEMARKETERS

**1. Incorporation of federal standards.** Violation of any provision of the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Part 310, as in effect on January 1, 2000, by a transient seller of consumer merchandise is a violation of this subchapter.

[ 2001, c. 324, §12 (NEW) .]

**2. Additional prohibitions.** A transient seller of consumer merchandise who is a telemarketer, as defined in the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Section 310.2, as in effect on January 1, 2000, and who initiates telephone contact with a consumer may not procure the services of any professional delivery courier or other pick-up service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected.

[ 2001, c. 324, §12 (NEW) .]

**3. Do-not-call list.**

[ 2007, c. 227, §3 (RP) .]

**4. Other applicable law.** A transient seller of consumer merchandise who is a telemarketer, as defined in the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Section 310.2, as in effect on January 1, 2000, is subject to and shall comply with the provisions of chapter 69, subchapter V.

[ 2001, c. 324, §12 (NEW) .]

### SECTION HISTORY

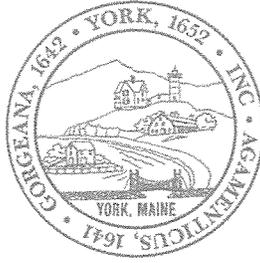
2001, c. 324, §12 (NEW) . 2007, c. 227, §3 (AMD) .

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## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 20, 2016	<input type="checkbox"/> ACTION
DATE ACTION REQUESTED: October 24, 2016	<input checked="" type="checkbox"/> DISCUSSION ONLY
SUBJECT: Short Term Rentals	

### DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

Towns and cities across the US and New England have been struggling to adapt to new market forces brought about by the rise of the “sharing economy.” Companies like Uber and Airbnb are often cited as being at the forefront of this web-based movement revolutionizing commuting, shopping and lodging. However, these models are also being scrutinized for unintended consequences on existing businesses and communities. Due to the quick evolution of these businesses there has not been sufficient time for public entities to develop and evaluate best practices for how to review and regulate these types of industries. In general, and as has been spoken to the Board before, Short Term Rentals (STRS’s) or “home transient uses” associated with Airbnb, HomeAway, VRBO and others include violation of zoning laws, impacts to neighborhood character (trash, noise, traffic), impacts of unregulated competition to hotels, inns and traditional Bed and Breakfasts as well as contributing to the loss of state and local revenue from transient occupancy taxes. Potential future impacts from these uses might add to the loss of residential rentals on local rental housing markets and affordability.

From a regulatory standpoint, many towns without short-term rental provisions in their codes have no way to address concerns of safety that may include but is not limited to parking, proper building access and egress, proper fire suppression etc. However, those communities with existing vacation rental ordinances find most web-based rentals to be illegal units whose owners have not obtained required licenses or paid required taxes (some may not even know a sales tax exist as they do in Maine).

As evidenced in my research an ever-increasing number of communities across the country are examining this issue and are adopting ordinances to address short term residential rentals. Usually these ordinances define these as a distinct use and establish licensing and permitting parameters to ensure fairness, and establish operational or procedural standards to protect safety and mitigate potential nuisances that may occur within various residential neighborhoods.

Currently, the Town of York is facing these issues. As a beach community residential rentals have been around for a very long time. Although these rentals have generally been considered a modest seasonal circumstance, with the advent of web-based services their use is now more prevalent than ever and probably will continue to become a greater option. Residents in various neighborhoods (especially around the beach and Nubble) have brought forth various complaints from noise, trash, traffic and just

the general loss of their reasonable expectation of use and enjoyment of residing in their house within their particular neighborhood.

Code, Fire, Police and Planning met not too long ago to discuss some of the issues that have been arising around town, and the generally believe STR's need to be evaluated in some way to at least ensure these uses are safe for their occupants. This issue is important especially when looking at some of the statistics that exist out there. In fact, according to the STR research firm AirDNA, at the end of July, York had approximately 80 active listed properties just on Airbnb alone and from 2015 to 2016 the listings on Airbnb more than doubled. I would expect these trends to continue as people become more aware of these web-based opportunities and I think it will be important to at least ensure that if they occur that they do so in a way that is safe, fair and does not take away from neighborhood character. For more information on Short term rentals please go to the Planning Board website <http://www.yorkmaine.org/BoardsCommittees/PlanningBoard/PlanningBoardAgendasSchedule.aspx>.

RECOMMENDATION: Direct the Planning Board to come up with a reasonable definition and use standards for this particular type of transient use and accommodation within the zoning ordinance and amend the business licensing ordinance to ensure safety standards are upheld on a yearly basis.

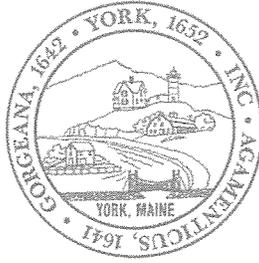
PROPOSED MOTION: N/A

FISCAL IMPACT: N/A

DEPARTMENT LINE ITEM ACCOUNT: N/A

BALANCE IN LINE ITEM IF APPROVED: N/A

PREPARED BY: Dylan Smith, Planning Director    REVIEWED BY: 



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 20, 2016	<input type="checkbox"/> ACTION
DATE ACTION REQUESTED: October 24, 2016	<input checked="" type="checkbox"/> DISCUSSION ONLY
SUBJECT: Marijuana Legalization Act	

### DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

The "Marijuana Legalization Act" if approved by the voters this November, in my opinion, will require some form of action by Maine municipalities. The act, as written, will be regulated and controlled by the Department of Agriculture, Conservation and Forestry and gives that specific state department nine (9) months to go through a rule making process (establishing parameters for cultivation, manufacturing, distribution, sale and testing of retail marijuana products and enforcement of the law).

In my opinion the law contains provisions that will require amendments to the towns zoning and business licensing ordinance. Regarding zoning, specific definitions include but are not limited to retail marijuana, retail marijuana establishment, retail marijuana products, retail marijuana products manufacturing facility, retail marijuana cultivation facility, retail marijuana social clubs, retail marijuana stores etc. These definitions should be incorporated into the definitions and specific permitted use sections of the zoning ordinance. Also, similar to the medical marijuana provisions in the zoning ordinance, the town should consider incorporating specific performance standards for the various uses as defined in the law.

Additionally, the town's business licensing ordinance should be amended to incorporate review and licensing standards of retail marijuana establishments and social clubs as the law contains a section that specifically allows a municipality to license these uses. In summary, the town should continue to review this law, obtain legal advice when needed and be ready to update zoning and the business licensing ordinance. I believe, based on the timeframes specified for rule making, that the town will have at least till next November to prepare various ordinance amendments. I have contacted and am waiting from the Maine Municipal Association to find out if this timeframe is realistic.

RECOMMENDATION: If the Marijuana Legalization Act becomes law this November direct the Planning Board and Planning office to begin the process of incorporating aspects of the law into zoning and the business licensing ordinance. At this point, I think we'll have till November, but in the case it is shorter, potentially this May.

PROPOSED MOTION: N/A

FISCAL IMPACT: N/A

DEPARTMENT LINE ITEM ACCOUNT: N/A

BALANCE IN LINE ITEM IF APPROVED: N/A

PREPARED BY: Dylan Smith, Planning Director

REVIEWED BY: 

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA c. 417 is enacted to read:

CHAPTER 417

MARIJUANA LEGALIZATION ACT

§2441. Short title

This chapter may be known and cited as "the Marijuana Legalization Act."

§2442. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Advertising.** "Advertising" means the act of providing consideration for the publication, dissemination, solicitation or circulation, visual, oral or written, to induce directly or indirectly any person to patronize a particular retail marijuana establishment or retail marijuana social club or to purchase particular retail marijuana or a retail marijuana product. "Advertising" includes marketing, but does not include packaging and labeling. "Advertising" proposes a commercial transaction or otherwise constitutes commercial speech.

2. **Applicant.** "Applicant" means a person that has submitted an application for licensure as a retail marijuana establishment or retail marijuana social club pursuant to this chapter that was accepted by the state licensing authority for review but has not been approved or denied by the state licensing authority.

3. **Batch.** "Batch" means a specific quantity of cannabis harvested during a specified time period from a specified cultivation area.

4. **Batch number.** "Batch number" means any distinct group of numbers, letters or symbols, or any combination thereof, assigned by a retail marijuana cultivation facility or retail marijuana products manufacturing facility to a specific harvest batch or production batch of retail marijuana.

5. **Cannabis.** "Cannabis" means all parts of the plant of the genus Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin including cannabis concentrate. "Cannabis" does not include industrial hemp, fiber produced from the stalks, oil, cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination or any ingredient combined with cannabis to prepare topical or oral administrations, food, drink or any other product. "Cannabis" also means marijuana.

6. **Child-resistant.** "Child-resistant" means special packaging that is:

A. Designed or constructed to be significantly difficult for children under 5 years of age to open and not difficult for normal adults to use properly;

B. Opaque so that the product cannot be seen from outside the packaging; and

C. Closable, for any product intended for more than a single use or containing multiple servings.

**7. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry.

**8. Container.** "Container" means the sealed package in which retail marijuana or a retail marijuana product is placed for sale to a consumer and that has been labeled according to the requirements set forth in section 2446, subsection 1.

**9. Department.** "Department" means the Department of Agriculture, Conservation and Forestry.

**10. Edible retail marijuana product.** "Edible retail marijuana product" means any retail marijuana product that is intended to be consumed orally, including, but not limited to, any type of food, drink or pill.

**11. Final agency order.** "Final agency order" means an order of the state licensing authority issued in accordance with this chapter and the Maine Administrative Procedure Act following review of the initial decision and any exceptions filed thereto or at the conclusion of the declaratory order process.

**12. Flowering marijuana plant.** "Flowering marijuana plant" means the gametophytic or reproductive state of cannabis in which the plant is in a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of marijuana.

**13. Good cause.** "Good cause," for purposes of denial of an initial license application or denial of a renewal or reinstatement of a license application, means:

A. The licensee or applicant has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this chapter, any rules adopted pursuant to it or any supplemental relevant state or local law, rule or regulation; or

B. The licensee or applicant has failed to comply with any special terms, consent decree or conditions that were placed upon the license pursuant to an order of the state licensing authority or the relevant municipality.

**14. Harvest batch.** "Harvest batch" means a batch of processed retail marijuana that is uniform in strain, cultivated using the same herbicides, pesticides and fungicides and harvested at the same time.

**15. Identity statement.** "Identity statement" means the name of the business as it is commonly known and used in any advertising.

**16. Immature plant.** "Immature plant" means a nonflowering retail marijuana plant that is taller than 24 inches and is wider than 18 inches.

**17. Initial decision.** "Initial decision" means a decision of a hearing officer in the department following a licensing, disciplinary or other administrative hearing.

**18. Law enforcement agency.** "Law enforcement agency" means any federal, state or municipal agency or any governmental agency or subunit of such agency or any state or federal court that administers criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

**19. Licensed premises.** "Licensed premises" means the premises specified in an application for a license pursuant to this chapter that are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, sell, consume or test retail marijuana in accordance with the provisions of this chapter and rules adopted pursuant to this chapter.

**20. Licensee.** "Licensee" means a person licensed pursuant to this chapter or, in the case of a holder of an occupational license, a natural person licensed pursuant to this chapter.

**21. Limited access area.** "Limited access area" means a building, room or other contiguous area upon the licensed premises where retail marijuana is grown, cultivated, stored, weighed, packaged, sold or processed for sale under control of the licensee.

**22. Marijuana.** "Marijuana" means cannabis.

**23. Marijuana extraction.** "Marijuana extraction" means the process of extracting marijuana with solvents or gases.

**24. Mother plant.** "Mother plant" means a plant that is used solely by a cultivator for the taking of seedling cuttings.

**25. Natural person.** "Natural person" means a citizen of this State who has a verifiable social security number.

**26. Occupational license.** "Occupational license" means a license granted to a natural person by the state licensing authority.

**27. Owner.** "Owner" means a person whose beneficial interest in a retail marijuana establishment or retail marijuana social club is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a retail marijuana establishment or retail marijuana social club and has a controlling interest in a retail marijuana establishment or retail marijuana social club.

**28. Person.** "Person" means a natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer or employee thereof. "Person" does not include any governmental organization.

**29. Plant canopy.** "Plant canopy" means the area upon the licensed premises dedicated to live plant cultivation, such as maintaining mother plants, propagating plants

from seed to plant tissue, cloning and a maintaining a vegetative or flowering area. "Plant canopy" does not include areas such as space for storage of fertilizers, pesticides or other products, quarantine areas, office space, walkways, work areas and other similar areas.

**30. Production batch.** "Production batch" means a group of retail marijuana products created from a production run of retail marijuana products.

**31. Propagation.** "Propagation" means the reproduction of retail marijuana plants by seeds, cuttings or grafting.

**32. Registered dispensary.** "Registered dispensary" means a dispensary that is a nonprofit corporation organized under Title 13-B and registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act and holds one or more dispensary registrations.

**33. Restricted access area.** "Restricted access area" means a designated and secure area within the licensed premises in a retail marijuana store or retail marijuana social club where retail marijuana and retail marijuana products are sold, possessed for sale and displayed for sale and where no one under 21 years of age is permitted.

**34. Retail marijuana.** "Retail marijuana" means cannabis that is cultivated, manufactured, distributed or sold by a licensed retail marijuana establishment or retail marijuana social club.

**35. Retail marijuana cultivation facility.** "Retail marijuana cultivation facility" means an entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments and retail marijuana social clubs.

**36. Retail marijuana establishment.** "Retail marijuana establishment" means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility or a retail marijuana testing facility.

**37. Retail marijuana product.** "Retail marijuana product" means concentrated retail marijuana and retail marijuana products that are composed of retail marijuana and other ingredients and are intended for use or consumption, including, but not limited to, edible products, ointments and tinctures.

**38. Retail marijuana products manufacturing facility.** "Retail marijuana products manufacturing facility" means an entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs.

**39. Retail marijuana social club.** "Retail marijuana social club" means an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises.

**40. Retail marijuana store.** "Retail marijuana store" means an entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail

marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers.

**41. Retail marijuana testing facility.** "Retail marijuana testing facility" means an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products.

**42. Sample.** "Sample" means any retail marijuana or retail marijuana product provided for testing or research purposes to a retail marijuana testing facility by a retail marijuana establishment or retail marijuana social club.

**43. Seedling.** "Seedling" means a nonflowering retail marijuana plant that is no taller than 24 inches and no wider than 18 inches.

**44. State licensing authority.** "State licensing authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of retail marijuana and retail marijuana products in this State pursuant to this chapter.

**45. THC.** "THC" means tetrahydrocannabinol.

**46. Universal symbol.** "Universal symbol" means the image established by the state licensing authority and made available to licensees through the state licensing authority's website for indicating that retail marijuana or a retail marijuana product is within a container.

**47. Unreasonably impracticable.** "Unreasonably impracticable" means that the measures necessary to comply with the rules require such a high investment of risk, money, time or any other resource or asset that the operation of a retail marijuana establishment or retail marijuana social club is not worth being carried out in practice by a reasonably prudent business person.

**§2443. Exemption from criminal and civil penalties, seizure and forfeiture**

Notwithstanding Title 17-A, chapter 45 or any other provision of law to the contrary and except as provided in this chapter, the actions specified in this chapter are legal under the laws of this State and do not constitute a civil or criminal offense under the laws of this State or the law of any political subdivision within this State or serve as a basis for seizure or forfeiture of assets under state law. This chapter may not be construed to shield any individual, partnership, corporation, firm, association or other legal entity from federal prosecution.

**§2444. State licensing authority**

For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of retail marijuana and retail marijuana products in this State, the state licensing authority is the Department of Agriculture, Conservation and Forestry.

**1. Commissioner is chief administrative officer.** The Commissioner of Agriculture, Conservation and Forestry is the chief administrative officer of the state licensing authority and may employ such officers and employees as may be determined to be necessary. The state licensing authority has the authority to:

- A. Grant or refuse licenses for the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products as provided by this chapter;
- B. Suspend, fine, restrict or revoke licenses under paragraph A upon a violation of this chapter or any rule adopted pursuant to this chapter; and
- C. Impose any penalty authorized by this chapter or any rule adopted pursuant to this chapter.

**2. Adoption of rules.** The state licensing authority shall adopt rules for the proper regulation and control of the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products and for the enforcement of this chapter, not later than 9 months after the effective date of this Act, and shall adopt amended rules and such special rules and make findings as necessary. These rules are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. Rules must address but are not limited to the following issues:

- A. The hearing of contested state license denials at a public hearing, employing full due process, including the subpoena power, the taking of oaths, the calling of witnesses and the maintaining of the confidentiality of customer records. Provision must be made for the conduct of appeal hearings following license actions, including, but not limited to, the denial of a license renewal or of an initial license and license revocation and suspension, and hearings contesting the imposition of a fine;
- B. The development of such forms, licenses, identification cards and applications as necessary for the administration of this chapter or of any of the rules adopted under this chapter;
- C. The preparation and transmission annually, in the form and manner prescribed by this chapter, of a report to the Legislature accounting for the efficient discharge of all responsibilities assigned by law or rules to the state licensing authority;
- D. Procedures consistent with this chapter for the issuance, renewal, suspension and revocation of licenses to operate retail marijuana establishments;
- E. Limits on the concentration of THC and other cannabinoids per serving in any retail marijuana product;
- F. Qualifications for licensure including, but not limited to, the requirement for a fingerprint-based criminal history record check for all owners, officers, managers, employees and other support staff of entities licensed pursuant to this chapter;
- G. Security requirements for any licensed premises under this chapter including, at a minimum, lighting, physical security, alarm requirements and other minimum procedures for internal control as determined necessary by the state licensing authority to properly administer and enforce the provisions of this chapter, including reporting requirements for changes, alterations or modifications to the licensed premises. Security requirements may not be unreasonably impracticable; and

H. Securing and recording permission for a local fire department or the State Fire Marshal to conduct an annual fire inspection of a retail marijuana cultivation facility.

**§2445. Independent testing and certification program**

The state licensing authority shall establish, within a specific time frame, a retail marijuana and retail marijuana products independent testing and certification program. This program must require licensees to test retail marijuana and retail marijuana products to ensure at a minimum that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling.

1. Content of testing. Testing must include, but is not limited to, analysis for residual solvents, poisons and toxins; harmful chemicals; dangerous molds and mildew; harmful microbes, such as Escherichia coli and salmonella; and pesticides.

2. Presence of injurious substance. In the event that test results indicate the presence of quantities of any substance determined to be injurious to health in any product, these products must be immediately quarantined and immediate notification to the persons responsible for enforcing the marijuana laws must be made. These products must be documented and properly destroyed.

3. THC potency. Testing must verify THC potency representations for correct labeling.

The establishment of an independent testing and certification program does not affect the adoption of rules in section 2444 or affect the implementation of cultivation, production and sale of retail marijuana and retail marijuana products.

**§2446. Labeling; health and safety requirements; training; identification cards**

1. Labeling requirements for sales of retail marijuana and retail marijuana products. Labeling requirements for sales of retail marijuana and retail marijuana products include when applicable:

- A. The license number of the retail marijuana cultivation facility license;
- B. The license number of the retail marijuana store license;
- C. An identity statement and a universal symbol;
- D. The batch number;
- E. A net weight statement;
- F. THC potency and the potency of such other cannabinoids or other chemicals, including, but not limited to, cannabidiol, as determined relevant by the state licensing authority;
- G. Warning labels;
- H. Solvents used in marijuana extraction;
- I. Amount of THC per serving and the number of servings per package for retail marijuana products;

- J. A list of ingredients and possible allergens for retail marijuana products;
- K. A recommended use date or expiration date for retail marijuana products; and
- L. A nutritional fact panel for edible retail marijuana products.

**2. Health and safety rules.** The state licensing authority shall adopt health and safety rules, which are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A, and standards for the manufacture of retail marijuana products and the cultivation of retail marijuana, which must include:

- A. Limitations on the display of retail marijuana and retail marijuana products;
- B. Regulation of the storage of, warehouses for and transportation of retail marijuana and retail marijuana products; and
- C. Sanitary requirements for retail marijuana establishments, including but not limited to sanitary requirements for the preparation of retail marijuana products.

**3. Training for local jurisdictions and law enforcement officers.** The state licensing authority shall adopt rules, which are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A, and processes for training local jurisdictions and law enforcement officers in the law, including the requirements for inspections, investigations, searches, seizures, forfeitures and such additional activities as may become necessary from time to time.

**4. Identification cards.** The following provisions govern identification cards.

- A. The state licensing authority shall adopt rules detailing the format of, and inclusion of information on, individual identification cards for owners, officers, managers, contractors, employees and other support staff of entities licensed pursuant to this chapter, including a fingerprint-based criminal history record check as may be required by the state licensing authority prior to issuing an identification card.
- B. The state licensing authority shall specify those forms of photo identification that a retail marijuana store may accept when verifying a sale, including but not limited to government-issued identification cards.
- C. The state licensing authority shall develop procedures for license renewals, reinstatements, initial licenses and the payment of licensing fees, as well as other matters that are necessary for the fair, impartial and comprehensive administration of this chapter.
- D. Rules adopted pursuant to this subsection are routine technical rules, pursuant to Title 5, chapter 375, subchapter 2-A.

**§2447. License application and issuance**

An application for a license under the provisions of this chapter must be made to the state licensing authority on forms prepared and furnished by the state licensing authority and must set forth such information as the state licensing authority may require to enable the state licensing authority to determine whether a license should be granted. The information must include the name and address of the applicant and the names and addresses of the applicant's officers, directors or managers. Each application must be

verified by the oath or affirmation of such person or persons as the state licensing authority may prescribe. The state licensing authority may issue a license to an applicant pursuant to this section upon completion of the applicable criminal history record check associated with the application. The license is conditioned upon municipal approval. An applicant is prohibited from operating a retail marijuana establishment or retail marijuana social club without state licensing authority and municipal approval. If the applicant does not receive municipal approval within one year from the date of state licensing authority approval, the license expires and may not be renewed. If an application is not approved by the municipality, the state licensing authority shall revoke the license.

**1. Qualifications.** The following provisions govern the qualifications for licensure as a retail marijuana establishment or retail marijuana social club. A person is not qualified to conduct licensed activities until the required annual fee has been paid.

A. An applicant who is a natural person must be at least 21 years of age. If an applicant is a corporation, all members of the board must comply with this paragraph.

B. A person who has been convicted of a disqualifying drug offense may not be a licensee. For purposes of this paragraph, "disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for 5 years or more. "Disqualifying drug offense" does not include an offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years prior to application for licensure or an offense that consisted of conduct that is permitted under this chapter.

C. A person who has had a license for a retail marijuana establishment or retail marijuana social club revoked may not be a licensee.

D. A sheriff, deputy sheriff, police officer, prosecuting officer or an officer or employee of the state licensing authority or a municipality is ineligible to become a licensee.

E. The state licensing authority shall investigate all applicants for compliance with this chapter prior to issuing a license.

F. First priority for licensure must be given to registered caregivers who have been continuously registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act or who have experience serving as a principal officer or board member of a nonprofit medical dispensary registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act. If an applicant, either a business entity or an individual, owns, has a financial interest in or controls the management of more than one dispensary in this State, that applicant may receive preference for only one license in each license class. As long as there are other preferred applicants for any or all license classes an applicant who owns, has a financial interest in or controls the management of more than one dispensary in this State is not eligible for multiple licenses in any class. Preference must be given to an applicant who has at least 3 medical marijuana caregiver registrations when determining which applicants receive licenses.

G. The state licensing authority shall accept applications from registered caregivers and principal officers or board members of registered dispensaries who have continuously registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act.

H. The state licensing authority shall adopt rules, which are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A, for a streamlined application process for registered caregivers and principal officers or board members of dispensaries registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act, which must include an initial site inspection confirming compliance with this chapter.

**2. Investigation of qualifications.** In investigating the qualifications of an applicant or a licensee, the state licensing authority and municipality may have access to criminal history record information furnished by a law enforcement agency subject to any restrictions imposed by that agency. In the event the state licensing authority or municipality considers the applicant's criminal history record, the state licensing authority or municipality shall also consider any information provided by the applicant regarding such criminal history record, including, but not limited to, evidence of rehabilitation, character references and educational achievements, especially those items pertaining to the time between the applicant's last criminal conviction and the consideration of the application for a license.

At the time of filing an application for issuance of a retail marijuana establishment or retail marijuana social club license, an applicant shall submit a set of the applicant's fingerprints and personal history information concerning the applicant's qualifications for a license on forms prepared by the state licensing authority. The state licensing authority shall submit the fingerprints and the municipality may forward fingerprints to the State Bureau of Investigation for criminal history background information. The state licensing authority shall also forward the fingerprints to the Federal Bureau of Investigation for the purpose of conducting a federal fingerprint-based criminal history record check. The state licensing authority may acquire a name-based criminal history record check for an applicant or a licensee who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints for state licensing purposes may request that the fingerprints on file be used. The state licensing authority shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a license pursuant to this chapter. The state licensing authority or municipality may verify any of the information an applicant is required to submit.

**3. Applications; issuance.** The following provisions govern applications for and issuance of a retail marijuana establishment or retail marijuana social club license.

A. An applicant shall file an application in the form required by the state licensing authority for the type of license sought, along with the application fee as set by the state licensing authority.

B. An applicant may apply for and be granted more than one type of license except that a person licensed as a retail marijuana testing facility may not hold any other

retail marijuana establishment license. Registered caregivers and registered dispensaries who have held a registration in good standing for 2 years by the date of the application must be given priority in the granting of licenses for a retail marijuana cultivation facility, retail marijuana products manufacturing facility or retail marijuana store license. The state licensing authority shall begin accepting and processing applications by 30 days after the adoption of rules under section 2444, subsection 2. If after 90 days those applications do not meet the maximum square footage allotment set by this chapter, the state licensing authority may begin accepting and processing applications by all other qualified applicants.

C. The state licensing authority shall issue or renew a license to operate a retail marijuana establishment or retail marijuana social club to an applicant who meets the requirements of the state licensing authority, which must include a review of the site plan, operating plan and relevant experience in the marijuana industry in this State, as set forth in rule, within 90 days of the date of receipt of the application unless:

(1) The state licensing authority finds the applicant is not in compliance with this section or rules adopted by the state licensing authority;

(2) The state licensing authority is notified by the relevant municipality that the applicant is not in compliance with an ordinance, rule or regulation in effect at the time of application; or

(3) The number of retail marijuana establishments or retail marijuana social clubs allowed in the municipality has been limited pursuant to local ordinance or is limited by subsection 7 and the state licensing authority has already licensed the maximum number of retail marijuana establishments or retail marijuana social clubs allowed in the municipality for the class of license that is sought.

D. The following provisions govern the situation when more than one application is received by the state licensing authority for establishment of a retail marijuana establishment or retail marijuana social club in the same municipality.

(1) If a greater number of applications are received from qualified applicants to operate a retail marijuana store in a municipality than are allowed under the limits enacted by that municipality pursuant to subsection 4, the state licensing authority shall solicit and consider input from the municipality as to the municipality's preferences for licensure. Within 180 days of the date the first application is received, the state licensing authority shall issue the maximum number of applicable licenses.

(2) In any competitive application process to determine which applicants receive licenses for any class of license, the state licensing authority shall give first preference to an applicant who has at least 2 years of previous experience cultivating marijuana in compliance with Title 22, section 2423 and who has been continuously registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act. Preference must be given to an applicant who has 3 medical marijuana caregiver registrations when determining which applicants receive licenses.

E. The state licensing authority may not grant a license for a retail marijuana establishment to a licensee who has already received a license to operate the same

type of retail marijuana establishment if doing so would prevent another qualified applicant from receiving a license. The state licensing authority may not grant a license for a retail marijuana social club to a licensee who has already received a license to operate a retail marijuana social club if doing so would prevent another qualified applicant from receiving a license.

**4. Limitation on number of retail marijuana stores.** The state licensing authority may not limit the total number of retail marijuana stores in this State. A municipality may regulate the number of retail marijuana stores and the location and operation of retail marijuana establishments and retail marijuana social clubs and may prohibit the operation of retail marijuana establishments and retail marijuana social clubs within its jurisdiction.

**5. Limitations on retail marijuana cultivation.** The state licensing authority may establish limitations upon retail marijuana cultivation through one or more of the following methods:

A. Placing or modifying a limit on the number of licenses that it issues, by class or overall, but in placing or modifying the limits, the state licensing authority shall consider the reasonable availability of new licenses after a limit is placed or modified; and

B. Placing or modifying a limit on the amount of production permitted by a retail marijuana cultivation facility license or class of licenses based upon some reasonable metric or set of metrics, including, but not limited to, previous months' sales, pending sales or other reasonable metric as determined by the state licensing authority.

**6. Limitation on retail marijuana cultivation facility size.** The amount of space approved for marijuana cultivation at retail marijuana cultivation facilities is limited to 800,000 square feet of plant canopy, unless the state licensing authority determines that a greater amount may be needed to ensure an adequate supply to meet demand for various strains of marijuana throughout the State. An applicant must designate on the applicant's operating plan the size category of the licensed premises and the amount of actual square footage in the applicant's licensed premises that will be designated as plant canopy.

The state licensing authority shall license 2 types of retail marijuana cultivation facilities, those with 3,000 square feet or less of plant canopy and those with more than 3,000 square feet of plant canopy. The state licensing authority shall license marijuana cultivation at retail marijuana cultivation facilities by unit blocks of 10 feet by 10 feet, or 100 square feet, of plant canopy, with 40% of all licenses issued going to licensees of 30 unit blocks or less. The maximum amount of unit blocks allowed to a single licensee is 300.

An applicant who applies for a retail marijuana cultivation facility license for a facility with more than 3,000 square feet of plant canopy but is not licensed by the state licensing authority may be considered for a license for a facility with 3,000 square feet or less of plant canopy.

No more than 6 retail marijuana cultivation facilities or more than 300 unit blocks of plant canopy may be located on the same parcel of property.

The state licensing authority may reduce the number of unit blocks a retail marijuana cultivation facility is authorized to cultivate if 50% or fewer of the unit blocks a facility is authorized to cultivate are not used by the end of the first year of operation.

**7. Restrictions on applications for licenses.** The state licensing authority may not approve an application for the issuance of a license pursuant to this chapter:

A. If the application for the license concerns a location that is the same as or within 1,000 feet of a location for which, within the 2 years immediately preceding the date of the application, the state licensing authority denied an application for the same class of license due to the nature of the use or other concern related to the location; or

B. Until it is established that the applicant is in or will be entitled to possession of the licensed premises for which application is made under a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.

#### **§2448. Classes of licenses; license provisions**

**1. State licensing authority may issue license.** For the purpose of regulating the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products, the state licensing authority, in its discretion, upon receipt of an application in the prescribed form, may issue and grant to the applicant a license from one or more of the following classes, subject to the provisions and restrictions provided by this chapter:

A. Retail marijuana store license;

B. Retail marijuana cultivation facility license;

C. Retail marijuana products manufacturing facility license;

D. Retail marijuana testing facility license;

E. Retail marijuana social club license; and

F. Occupational licenses and registrations for owners, managers, operators, employees, contractors and other support staff employed at, working in or having access to restricted access areas of the licensed premises, as determined by the state licensing authority.

**2. Licensee to collect tax.** A retail marijuana store licensee or retail marijuana social club licensee shall collect sales tax on all retail sales made at a retail marijuana store or retail marijuana social club, respectively.

**3. Retail marijuana store license.** The following provisions govern a retail marijuana store.

A. A licensed retail marijuana store may sell only retail marijuana, retail marijuana products, marijuana accessories, nonconsumable products such as apparel and marijuana-related products such as child-resistant containers, but is prohibited from selling or giving away any consumable product, including but not limited to cigarettes, alcohol and edible products that do not contain marijuana, including but

not limited to sodas, candies and baked goods. Automatic dispensing machines that contain retail marijuana and retail marijuana products are prohibited.

B. A retail marijuana store licensee shall track all of its retail marijuana and retail marijuana products from the point at which they are transferred from a retail marijuana cultivation facility or retail marijuana products manufacturing facility to the point of sale.

All retail marijuana and retail marijuana products sold at a licensed retail marijuana store must be packaged and labeled as required by rules of the state licensing authority and pursuant to section 2446, subsection 1. Notwithstanding the provisions of this section, a retail marijuana store licensee may also sell retail marijuana products that are prepackaged and labeled as required by rules of the state licensing authority and pursuant to section 2446, subsection 1.

C. A person must be 21 years of age or older to make a purchase in a retail marijuana store.

(1) Prior to initiating a sale, the employee of the retail marijuana store making the sale shall verify that the purchaser has a valid government-issued identification card, or other acceptable identification, showing that the purchaser is 21 years of age or older. If a person under 21 years of age presents a fraudulent proof of age, any action relying on the fraudulent proof of age may not be grounds for the revocation or suspension of any license issued under this chapter.

(2) The state licensing authority shall adopt rules, which are routine technical rules as described in Title 5, chapter 375, subchapter 2-A, to prohibit certain signs, marketing and advertising, including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching persons under 21 years of age.

These rules may include:

(a) A prohibition on health or physical benefit claims in advertising, merchandising and packaging;

(b) A prohibition on unsolicited advertising on the Internet;

(c) A prohibition on opt-in marketing that does not permit an easy and permanent opt-out feature; and

(d) A prohibition on marketing directed toward location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature.

(3) A magazine whose primary focus is marijuana or marijuana businesses may be sold only in a retail marijuana store or behind the counter in an establishment where persons under 21 years of age are present.

(4) A retail marijuana product may not contain an additive designed to make the product more appealing to children.

(5) Notwithstanding any other provision of state law, sales of retail marijuana and retail marijuana products are not exempt from state sales tax.

(6) Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a retail marijuana establishment or retail marijuana social club. A law enforcement agency may run a Maine criminal history record check of a licensee, or employee of a licensee, during an investigation of unlawful activity related to retail marijuana and retail marijuana products.

D. Retail marijuana and retail marijuana products may be transported between a licensed retail marijuana store and retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana social clubs and retail marijuana testing facilities.

**4. Retail marijuana cultivation facility license.** The state licensing authority shall create a statewide licensure class system for retail marijuana cultivation facilities.

A. The following provisions govern retail marijuana cultivation facilities.

(1) A retail marijuana cultivation facility licensee is permitted to cultivate retail marijuana for sale and distribution only to licensed retail marijuana stores, retail marijuana products manufacturing facilities, other retail marijuana cultivation facilities or retail marijuana social clubs.

(2) A retail marijuana cultivation facility may have a retail marijuana store if it is located on the same licensed premises as the retail marijuana cultivation facility. If the retail marijuana cultivation facility chooses the option to have a retail marijuana store it must meet all requirements set by the state licensing authority and municipality in which it is located. A retail marijuana store located on the licensed premises of a retail marijuana cultivation facility does not count against any municipal limits on the number of retail marijuana stores.

(3) A retail marijuana cultivation facility shall track the marijuana it cultivates from seed or immature plant to wholesale purchase. The state licensing authority may not make rules that are unreasonably impracticable concerning the tracking of marijuana from seed or immature plant to wholesale purchase.

(4) A retail marijuana cultivation facility may provide, except as required by subsection 6, a sample of its products to a retail marijuana testing facility for testing and research purposes. A retail marijuana cultivation facility shall maintain a record of what was provided to the retail marijuana testing facility, the identity of the retail marijuana testing facility and the testing results.

B. Retail marijuana may be transported between a licensed retail marijuana cultivation facility and retail marijuana stores, other retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana social clubs and retail marijuana testing facilities.

**5. Retail marijuana products manufacturing facility license.** The following provisions govern retail marijuana products manufacturing facilities and the preparation of retail marijuana products.

A. The following provisions govern retail marijuana products manufacturing facilities.

(1) A retail marijuana products manufacturing facility licensee is permitted to manufacture retail marijuana products pursuant to the terms and conditions of this chapter.

(2) A retail marijuana products manufacturing facility may cultivate its own retail marijuana if it obtains a retail marijuana cultivation facility license, or it may purchase retail marijuana from a licensed retail marijuana cultivation facility. A retail marijuana products manufacturing facility licensee shall track all of its retail marijuana from the point it is either transferred from its retail marijuana cultivation facility or the point when it is delivered to the retail marijuana products manufacturing facility from a licensed retail marijuana cultivation facility to the point of transfer to a licensed retail marijuana store, retail marijuana social club or retail marijuana testing facility.

B. A retail marijuana products manufacturing facility licensee may not:

(1) Add any marijuana to a food product if the manufacturer of the food product holds a trademark to the food product's name, except that a retail marijuana products manufacturing facility licensee may use a trademarked food product if the licensee uses the product as a component or as part of a recipe and if the licensee does not state or advertise to the consumer that the final retail marijuana product contains a trademarked food product;

(2) Intentionally or knowingly label or package a retail marijuana product in a manner that would cause a reasonable consumer confusion as to whether the retail marijuana product was a trademarked food product;

(3) Label or package a product in a manner that violates any federal trademark law or regulation; or

(4) Include harmful additives in any retail marijuana product, including, but not limited to, those that are toxic, designed to make the product more addictive and designed to make the product more appealing to children or misleading to consumers, but not including common baking and cooking items.

C. The following provisions govern the preparation of retail marijuana products.

(1) Retail marijuana products must be prepared on licensed premises that are used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products and prepared using equipment that is used exclusively for the manufacture and preparation of retail marijuana and retail marijuana products.

(2) All licensed premises in which retail marijuana products are manufactured must meet the sanitary standards for retail marijuana product preparation adopted pursuant to section 2446, subsection 2 and must be licensed as commercial kitchens by the Department of Health and Human Services.

(3) Retail marijuana products must be packaged, sealed and conspicuously labeled in compliance with this chapter and any rules adopted pursuant to this chapter.

(4) A retail marijuana products manufacturing facility licensee may provide a sample of the licensee's products to a licensed retail marijuana testing facility pursuant to subsection 6 for testing and research purposes. A retail marijuana products manufacturing facility licensee shall maintain a record of what was provided to the retail marijuana testing facility, the identity of the testing facility and the results of the testing.

(5) A retail marijuana products manufacturing facility licensee may list ingredients and compatibility with dietary practices on an edible retail marijuana product.

(6) All retail marijuana products that require refrigeration to prevent spoilage must be stored and transported in a refrigerated environment.

D. Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a retail marijuana establishment. A law enforcement agency may run a Maine criminal history record check of a licensee, or employee of a licensee, during an investigation of unlawful activity related to retail marijuana and retail marijuana products.

E. Retail marijuana products may be transported between a licensed retail marijuana products manufacturing facility and retail marijuana stores, other retail marijuana products manufacturing facilities, retail marijuana social clubs and retail marijuana testing facilities.

**6. Retail marijuana testing facility license.** A retail marijuana testing facility license may be issued to a person who performs testing and research on retail marijuana. The facility may develop and test retail marijuana products.

The state licensing authority shall adopt rules pursuant to its authority in section 2445 related to acceptable testing and research practices, including but not limited to testing, standards, quality control analysis, equipment certification and calibration, chemical identification and other practices used in bona fide research methods.

A. A person that has an interest in a retail marijuana testing facility license from the state licensing authority for testing purposes may not have any interest in a registered dispensary, a registered caregiver, a licensed retail marijuana store, a licensed retail marijuana social club, a licensed retail marijuana cultivation facility or a licensed retail marijuana products manufacturing facility. A person that has an interest in a registered dispensary, a registered caregiver, a licensed retail marijuana store, a licensed retail marijuana social club, a licensed retail marijuana cultivation facility or a licensed retail marijuana products manufacturing facility may not have an interest in a facility that has a retail marijuana testing facility license. For purposes of this paragraph, "interest" includes an ownership interest or partial ownership interest or any other type of financial interest, such as being an investor or serving in a management position.

B. Retail marijuana and retail marijuana products may be transported between the licensed retail marijuana testing facility and retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs.

**7. Retail marijuana social club license.** The following provisions govern retail marijuana social clubs.

A. A licensed retail marijuana social club may sell only retail marijuana, retail marijuana products, marijuana accessories, nonconsumable products such as apparel, marijuana-related products and edible products that do not contain marijuana, including but not limited to sodas, candies and baked goods, but may not sell or give away cigarettes or alcohol. All retail marijuana and retail marijuana products purchased at a licensed retail marijuana social club must be consumed or disposed of on and may not be taken off the licensed premises.

B. A retail marijuana social club shall track all of its retail marijuana and retail marijuana products from the point at which they are transferred from a retail marijuana cultivation facility, retail marijuana store or retail marijuana products manufacturing facility to the point of sale.

C. The following provisions govern procedures for preventing sales to persons under 21 years of age.

(1) Prior to allowing a person onto the retail marijuana social club's licensed premises, an employee of the retail marijuana social club shall verify that the person has a valid government-issued identification card, or other acceptable identification, showing that the person is 21 years of age or older. If a person under 21 years of age presents a fraudulent proof of age, any action relying on the fraudulent proof of age may not be grounds for the revocation or suspension of any license issued under this chapter.

(2) The state licensing authority shall adopt rules, which are routine technical rules as described in Title 5, chapter 375, subchapter 2-A, to prohibit certain signs, marketing and advertising, including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching persons under 21 years of age.

These rules may include:

(a) A prohibition on health or physical benefit claims in advertising, merchandising and packaging;

(b) A prohibition on unsolicited advertising on the Internet;

(c) A prohibition on opt-in marketing that does not permit an easy and permanent opt-out feature; and

(d) A prohibition on marketing directed toward location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature.

(3) Notwithstanding any other provision of state law, sales of retail marijuana and retail marijuana products are not exempt from state sales tax.

(4) Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a retail marijuana establishment. A law enforcement agency may run a Maine criminal history

record check of a licensee, or employee of a licensee, during an investigation of unlawful activity related to retail marijuana and retail marijuana products.

D. Retail marijuana and retail marijuana products may be transported between a licensed retail marijuana social club and other retail marijuana social clubs or retail marijuana testing facilities.

**8. Inspection of books and records.** Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which must be open at all times during business hours for the inspection and examination by the state licensing authority or its duly authorized representatives. The state licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the state licensing authority. The auditor must have access to all books and records of the licensee, and the cost of the audit must be paid by the licensee.

The licensed premises, including any places of storage, where retail marijuana or retail marijuana products are stored, cultivated, sold, dispensed or tested are subject to inspection by the State or the municipality in which the licensed premises are located and by the investigators of the State or municipality during all business hours and other times of apparent activity for the purpose of inspection or investigation. Access must be granted during business hours for examination of any inventory or books and records required to be kept by a licensee. When any part of the licensed premises consists of a locked area, upon demand to the licensee this area must be made available for inspection, and, upon request by authorized representatives of the State or municipality, the licensee shall open the area for inspection.

Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period comprising the current tax year and the 2 immediately preceding tax years.

**9. Product pricing.** Nothing in this chapter may be construed as granting to the state licensing authority the power to fix prices for retail marijuana or retail marijuana products.

**10. License fees.** The state licensing authority shall determine the revenue needed to set up the licensing and enforcement operations of the department and set the fees applicable to the categories as outlined in subsection 1 within the ranges specified in the following schedule:

A. Retail marijuana store license, \$250 to \$2,500, with a \$10 to \$250 nonrefundable application fee;

B. Retail marijuana cultivation facility license, \$10 to \$100 per unit block, with a \$10 to \$250 nonrefundable application fee;

C. Retail marijuana products manufacturing facility license, \$100 to \$1,000, with a \$10 to \$250 nonrefundable application fee;

D. Retail marijuana testing facility license, \$500, with a \$10 to \$250 nonrefundable application fee;

E. Retail marijuana social club license, \$250 to \$2,500, with a \$10 to \$250 nonrefundable application fee; and

F. Occupational licenses and registrations for owners, managers, operators, employees, contractors and other support staff employed at, working in or having access to restricted access areas of the licensed premises, as determined by the state licensing authority.

**11. License terms.** All licenses under this chapter are effective for one year from the date of issuance.

**12. License renewal.** The following provisions govern license renewals.

A. Ninety days prior to the expiration date of an existing license, the state licensing authority shall notify the licensee of the expiration date by first class mail at the licensee's address of record with the state licensing authority. A licensee may apply for the renewal of an existing license to the state licensing authority not less than 30 days prior to the date of expiration. Upon receipt of an application for renewal of an existing license and any applicable fees, the state licensing authority shall, within 7 days, submit a copy of the application to the appropriate municipality to determine whether the application complies with all local restrictions on renewal of licenses.

B. The state licensing authority may not accept an application for renewal of a license after the date of expiration, except that the state licensing authority may extend the expiration date of the license and accept a late application for renewal of a license as long as the applicant has filed a timely renewal application with the municipality. The state licensing authority or the municipality, in its discretion, subject to the requirements of section 2447 and based upon reasonable grounds, may waive the 30-day time requirements set forth in this subsection.

C. Notwithstanding the provisions of paragraph A, a licensee whose license has been expired for not more than 90 days may file a late renewal application upon the payment of a nonrefundable late application fee of \$250 to the state licensing authority. A licensee who files a late renewal application and pays the requisite fees may continue to operate until the state licensing authority takes final action to approve or deny the licensee's late renewal application unless the state licensing authority summarily suspends the license pursuant to subsection 16, this chapter and rules adopted pursuant to this chapter.

D. The state licensing authority may administratively extend the expiration date of a license and accept a later application for renewal of a license at the discretion of the state licensing authority.

E. The state licensing authority may, for good cause, elect to not renew a license.

**13. Inactive licenses.** The state licensing authority, in its discretion, may revoke or elect not to renew any license if it determines that the licensed premises have been inactive, without good cause, for at least one year.

**14. Unlawful financial assistance.** The state licensing authority shall require a complete disclosure of all persons having a direct or indirect financial interest, and the extent of such interest, in each license issued under this chapter. This subsection is

intended to prohibit and prevent the control of a retail marijuana store, retail marijuana cultivation facility, retail marijuana products manufacturing facility or retail marijuana social club by a person or party other than the persons licensed pursuant to the provisions of this chapter.

**15. Denial of license.** The state licensing authority may, for good cause, deny approval of a license application. Upon denial of a license application, the state licensing authority shall inform the applicant of the basis for denial and the right to appeal the denial in a hearing.

**16. Disciplinary actions.** In addition to any other sanctions prescribed by this chapter, or rules adopted pursuant to this chapter, the state licensing authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee must be afforded an opportunity to be heard, to fine a licensee or to suspend or revoke a license issued by the state licensing authority for a violation by the licensee, or by any of the agents or employees of the licensee, of the provisions of this chapter or any of the rules adopted pursuant to this chapter or of any of the terms, conditions or provisions of the license issued by the state licensing authority. The state licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary for a hearing that the state licensing authority is authorized to conduct.

The state licensing authority shall provide notice of suspension, revocation, fine or other sanction, as well as the required notice of the hearing required by this subsection, by mailing the same in writing to the licensee at the address contained in the license and, if different, at the last address furnished to the state licensing authority by the licensee. Except in the case of a summary suspension, a suspension may not be for a period longer than 6 months. If a license is suspended or revoked, a part of the fees paid must be retained by the state licensing authority.

Whenever a decision of the state licensing authority suspending a license for 14 days or less becomes final, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. Upon the receipt of the petition, the state licensing authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made that it considers desirable and may, in its sole discretion, grant the petition if the state licensing authority is satisfied that:

A. The public welfare would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes; and

B. The books and records of the licensee are kept in such a manner that the loss of sales that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy.

The fine imposed may not be less than \$500 nor more than \$10,000. Payment of a fine pursuant to the provisions of this subsection must be in the form of cash or in the form of a certified check or cashier's check made payable to the state licensing authority.

Upon payment of the fine pursuant to this subsection, the state licensing authority shall enter its order permanently staying the imposition of the suspension. Fines paid to the state licensing authority pursuant to this subsection must be transmitted to the Treasurer of State.

In connection with a petition pursuant to this subsection, the authority of the state licensing authority is limited to the granting of such stays as are necessary for the state licensing authority to complete its investigation and make its findings and, if the state licensing authority makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

If the state licensing authority does not make the findings required in this subsection and does not order the suspension permanently stayed, the suspension goes into effect on the operative date finally set by the state licensing authority.

No later than January 15th of each year, the state licensing authority shall compile a report of the preceding year's actions in which fines, suspensions or revocations were imposed by the state licensing authority. The state licensing authority shall include this information in its annual report to the Legislature.

**17. Disposition of unauthorized retail marijuana or retail marijuana products and related materials.** The following provisions apply to the disposition of unauthorized retail marijuana or retail marijuana products and related materials.

A. The provisions of this subsection apply in addition to any criminal, civil or administrative penalties and in addition to any other penalties prescribed by this chapter or any rules adopted pursuant to this chapter. Every licensee is deemed, by virtue of applying for, holding or renewing that licensee's license, to have expressly consented to the procedures set forth in this subsection.

B. If the state licensing authority issues a final agency order imposing a disciplinary action against a licensee pursuant to subsection 16, then, in addition to any other remedies, the state licensing authority's final agency order may specify that some or all of the licensee's marijuana or marijuana products is not retail marijuana or a retail marijuana product and is an illegal controlled substance. The order may further specify that the licensee loses any ownership interest in any of the marijuana or marijuana products even if the marijuana or marijuana products previously qualified as retail marijuana or a retail marijuana product. The final agency order may direct the destruction of any such marijuana and marijuana products. The authorized destruction may include the incidental destruction of any containers, equipment, supplies and other property associated with the marijuana or marijuana products.

C. A district attorney, or an assistant attorney general, shall notify the state licensing authority if an investigation of a retail marijuana establishment or retail marijuana social club is commenced. If the state licensing authority has received notification from a district attorney, or an assistant attorney general, that an investigation is being conducted, the state licensing authority may not destroy any marijuana or marijuana products from the retail marijuana establishment or retail marijuana social club until the destruction is approved by the district attorney or assistant attorney general.

D. A state or local agency may not be required to cultivate or care for any retail marijuana or retail marijuana products belonging to or seized from a licensee. A state or local agency is not authorized to sell marijuana, retail or otherwise.

18. Judicial review. Final agency actions by the state licensing authority are subject to judicial review pursuant to Title 5, section 11001, et seq.

#### **§2449. Local licensing**

1. Municipality may regulate retail marijuana establishments and retail marijuana social clubs. A municipality may regulate the location and operation of retail marijuana establishments and retail marijuana social clubs pursuant to Title 30-A, chapter 187, subchapter 3. A municipality may adopt and enforce regulations for retail marijuana establishments and retail marijuana social clubs that are at least as restrictive as the provisions of this chapter and any rule adopted pursuant to this chapter. Nothing in this chapter prohibits the registered voters of a municipality from calling for a vote on any regulations adopted by a municipal legislative body.

2. Municipal approval required. A retail marijuana establishment or retail marijuana social club may not operate until it is licensed by the state licensing authority pursuant to this chapter and approved by the municipality in which it is located. If an application is denied by the municipality, the licensee has 90 days to locate and obtain legal interest in another property in a municipality that approves of the retail marijuana establishment or retail marijuana social club before the license is revoked.

3. Notice and portion of fee must be given to municipality. When the state licensing authority receives an application for original licensing, or renewal of an existing license, for any retail marijuana establishment or retail marijuana social club, the state licensing authority shall, within 7 business days, provide a copy of the application and 50% of the licensing fee to the municipality in which the establishment or club is to be located. The municipality shall determine whether the application complies with the local land use ordinance and any other restrictions on time, place, manner and the number of marijuana businesses within the municipality. The municipality shall inform the state licensing authority whether the application complies with the local land use ordinance and other local restrictions.

4. Municipality may impose licensing requirement. A municipality may impose a separate local licensing requirement as a part of its restrictions on time, place, manner and the number of marijuana businesses. A municipality may decline to impose any local licensing requirements, but a municipality shall notify the state licensing authority that it either approves or denies each application forwarded to it within 14 business days.

5. Public hearing notice. The following provisions govern local public hearings and notice.

A. If a municipality issues local licenses for a retail marijuana establishment or retail marijuana social club, a public hearing on the application may be scheduled. If the municipality schedules such a hearing, it shall post and publish public notice of the hearing not less than 10 days prior to the hearing. The municipality shall give public notice by posting a sign in a conspicuous place on the premises identified in a local

license application and by publication in a newspaper of general circulation in the county in which the premises are located.

B. If a municipality does not issue local licenses, the municipality may give public notice of the state application by posting a sign in a conspicuous place on the premises identified in the application and by publication in a newspaper of general circulation in the county in which the premises are located.

#### **§2450. Transfer of ownership**

A license granted under the provisions of this chapter is not transferable except as provided in this section, but this section does not prevent a change of location as provided in section 2451, subsection 7.

For a transfer of ownership, a licensee shall apply to the state licensing authority on forms prepared and furnished by the state licensing authority. Upon receipt of an application for transfer of ownership, the state licensing authority shall, within 7 days, submit a copy of the application to the appropriate municipality to determine whether the transfer complies with any local restriction on transfer of ownership. In determining whether to permit a transfer of ownership, the state licensing authority shall consider only the requirements of this chapter, any rules adopted by the state licensing authority and any other local restrictions. The municipality may hold a hearing on the application for transfer of ownership. The municipality may not hold a hearing pursuant to this section until the municipality has posted a notice of hearing in the manner described in section 2449, subsection 5 on the licensed premises for a period of 10 days and has provided notice of the hearing to the applicant at least 10 days prior to the hearing. Any transfer of ownership hearing by the state licensing authority must be held in compliance with the requirements specified for a municipality in this section.

#### **§2451. Licensing in general**

The following provisions govern licensing in general.

1. Notice of new owner, officer, manager or employee. A retail marijuana establishment or retail marijuana social club shall notify the state licensing authority in writing of the name, address and date of birth of an owner, officer, manager or employee before the new owner, officer, manager or employee begins managing, owning or associating with the establishment or club. The owner, officer, manager or employee must pass a fingerprint-based criminal history record check as required by the state licensing authority and obtain the required identification card prior to being associated with, managing, owning or working at the establishment or club.

2. Each license separate. Each license issued under this chapter is separate and distinct. A person may not exercise any of the privileges granted under a license other than the license that the person holds and a licensee may not allow any other person to exercise the privileges granted under the licensee's license. A separate license is required for each specific business or business entity and each geographical location.

**3. Licensee to maintain possession of premises.** At all times, a licensee shall possess and maintain possession of the licensed premises identified in the license by ownership, lease, rental or other arrangement for possession of the premises.

**4. License specifics; display.** A license issued pursuant to this chapter must specify the date of issuance, the period of licensure, the name of the licensee and the premises licensed. A licensee shall conspicuously place the license at all times on the licensed premises.

**5. Computation of time.** In computing any time prescribed by this chapter, the day of the act, event or default from which the designated time begins to run is not included. Saturdays, Sundays and legal holidays are counted as any other day except that any documents due to be submitted to state or local government on a date that falls on a Saturday, Sunday or legal holiday are due on the next business day.

**6. Licensee to report transfer of interest.** A licensee shall report each transfer or change of financial interest in the license to the state licensing authority and appropriate municipality and receive approval prior to any transfer or change pursuant to section 2450.

**7. Relocation of licensed premises.** A licensee may move the permanent location of licensed premises to any other place in this State once permission to do so is granted by the state licensing authority and municipality where the retail marijuana establishment or retail marijuana social club proposes to relocate. Upon receipt of an application for change of location, the state licensing authority shall, within 7 days, submit a copy of the application to the municipality to determine whether the transfer complies with all local restrictions on change of location. In permitting a change of location, the municipality where the retail marijuana establishment or retail marijuana social club proposes to relocate shall consider all reasonable restrictions that are or may be placed upon the new location by the governing board of the municipality. Any such change in location must be in accordance with all requirements of this chapter and rules adopted pursuant to this chapter.

#### **§2452. Personal use of marijuana**

**1. Person 21 years of age or older.** A person 21 years of age or older may:

**A. Use, possess or transport marijuana accessories and up to 2 1/2 ounces of prepared marijuana;**

**B. Transfer or furnish, without remuneration, up to 2 1/2 ounces of marijuana and up to 6 immature plants or seedlings to a person who is 21 years of age or older;**

**C. Possess, grow, cultivate, process or transport up to 6 flowering marijuana plants, 12 immature plants and unlimited seedlings, and possess all the marijuana produced by the plants at the adult's residence;**

**D. Purchase up to 2 1/2 ounces of retail marijuana and marijuana accessories from a retail marijuana store; and**

E. Purchase up to 12 seedlings or immature plants from a retail marijuana cultivation facility.

**2. Home cultivation.** The following provisions apply to the home cultivation of marijuana for personal use by a person who is 21 years of age or older.

A. A person may cultivate up to 6 flowering marijuana plants at that person's place of residence, on property owned by that person or on another person's property with written permission of the owner of the property.

B. A person who elects to cultivate marijuana shall ensure the marijuana is not visible from a public way without the use of binoculars, aircraft or other optical aids and shall take reasonable precautions to prevent unauthorized access by a person under 21 years of age.

**3. Legible tag on each marijuana plant.** A person 21 years of age or older must have a legible tag on each marijuana plant. The tag must include at least the person's name and Maine driver's license number or Maine identification number.

**4. Exemptions.** The following exemptions apply.

A. Marijuana cultivation for medical use is not considered cultivation for personal use under this chapter and is governed by Title 22, section 2423-A.

B. This section does not apply to cultivation by a registered dispensary licensed pursuant to Title 22, section 2428.

**5. Use.** A person may consume marijuana in a nonpublic place including a private residence.

A. The prohibitions and limitations on smoking tobacco products in specified areas in Title 22, chapters 262 and 263 apply to smoking marijuana.

B. A person who smokes marijuana in a public place other than as governed by Title 22, chapters 262 and 263 commits a civil violation for which a fine of not more than \$100 may be adjudged.

C. This subsection may not be construed to shield any adult from federal prosecution.

D. This subsection may not be construed to allow any adult to possess or consume marijuana on federal property.

#### **§2453. Unlawful acts and exceptions**

**1. Consumption; transfer.** Except as otherwise provided in this chapter, a person may not:

A. Consume retail marijuana or retail marijuana products in a retail marijuana establishment. A retail marijuana establishment may not allow retail marijuana or retail marijuana products to be consumed upon its licensed premises; or

B. Buy, sell, transfer, give away or acquire retail marijuana or retail marijuana products.

**2. Limited access area; transfer of ownership.** Except as otherwise provided in this chapter, a person licensed pursuant to this chapter may not:

- A. Be within a limited access area unless the person's identification card is displayed as required by this chapter;
- B. Fail to designate areas of ingress and egress for limited access areas and post signs in conspicuous locations as required by this chapter; or
- C. Fail to report a transfer as required by section 2450.

**3. Person licensed to sell retail marijuana or retail marijuana products.** A person licensed to sell retail marijuana or retail marijuana products pursuant to this chapter may not:

- A. Display any signs that are inconsistent with local laws or regulations;
- B. Use advertising material that is misleading, deceptive or false, or that is designed to appeal to a person under 21 years of age;
- C. Have in that person's possession or upon the licensed premises any marijuana the sale of which is not permitted by the license;
- D. Sell retail marijuana or retail marijuana products to a person under 21 years of age without checking the person's identification;
- E. Except for a retail marijuana social club licensee, have on the licensed premises any retail marijuana, retail marijuana products or marijuana paraphernalia that shows evidence of the retail marijuana having been consumed or partially consumed; or
- F. Violate the provisions of section 2450 or abandon the licensed premises or otherwise cease operation without notifying the state licensing authority and appropriate municipality at least 48 hours in advance and without accounting for and forfeiting to the state licensing authority for destruction all marijuana and products containing marijuana.

#### **§2454. Construction**

**1. Relation to the Maine Medical Use of Marijuana Act.** This chapter may not be construed to limit any privileges or rights of a qualifying patient, primary caregiver, registered or otherwise, or registered dispensary under the Maine Medical Use of Marijuana Act.

**2. Employment policies.** This chapter may not be construed to require an employer to permit or accommodate the use, consumption, possession, trade, display, transportation, sale or growing of cannabis in the workplace. This chapter does not affect the ability of employers to enact and enforce workplace policies restricting the use of marijuana by employees or to discipline employees who are under the influence of marijuana in the workplace.

**3. School, employer or landlord may not discriminate.** A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person 21

years of age or older solely for that person's consuming marijuana outside of the school's, employer's or landlord's property.

**4. Person may not be denied parental rights and responsibilities or contact with a minor child.** A person may not be denied parental rights and responsibilities with respect to or contact with a minor child as a result of acting in accordance with this chapter, unless the person's conduct is contrary to the best interest of the minor child as set out in Title 19-A, section 1653, subsection 3.

**Sec. 2. 22 MRSA §2383, sub-§1,** as repealed and replaced by PL 2009, c. 652, Pt. B, §6, is repealed.

**Sec. 3. 36 MRSA §1817** is enacted to read:

**§1817. Taxes on retail marijuana and retail marijuana products**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Retail marijuana" has the same meaning as in Title 7, section 2442, subsection 34.

B. "Retail marijuana product" has the same meaning as in Title 7, section 2442, subsection 37.

C. "Retail marijuana social club" has the same meaning as in Title 7, section 2442, subsection 39.

D. "Retail marijuana store" has the same meaning as in Title 7, section 2442, subsection 40.

E. "State licensing authority" has the same meaning as in Title 7, section 2442, subsection 44.

**2. Sales tax on retail marijuana and retail marijuana products.** The sales tax on retail marijuana and retail marijuana products is 10% and is the only tax charged on the sale of retail marijuana and retail marijuana products at the point of final sale at a retail marijuana store or retail marijuana social club.

**3. Returns; payment of tax; penalty.** A retail marijuana store or retail marijuana social club shall file, on or before the last day of each month, a return on a form prescribed and furnished by the state licensing authority together with payment of the sales tax due under this section. The return must report all sales of retail marijuana and retail marijuana products within the State during the preceding calendar month. A retail marijuana store or retail marijuana social club shall keep a complete and accurate record at its principal place of business to substantiate all receipts and sales of retail marijuana and retail marijuana products.

**4. Failure to make payments.** The state licensing authority shall adopt rules to address the case in which a retail marijuana store or retail marijuana social club fails to make tax payments as required by this section, including fines and other penalties up to permanently revoking the retail marijuana store's or retail marijuana social club's license.

Rules adopted pursuant to this subsection are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

**5. Exemption.** The tax on marijuana imposed pursuant to this section may not be levied on marijuana sold by a registered nonprofit dispensary or registered caregiver to a qualifying patient or primary caregiver pursuant to Title 22, chapter 558-C.

**6. Records.** The following records must be kept by a licensee and those records must be available for inspection by an agent of the state licensing authority:

A. The reports and transmittal of monthly sales tax payments by retail marijuana stores and retail marijuana social clubs; and

B. Authorization for the Bureau of Revenue Services to have access to licensing information to ensure sales, excise and income tax payment.

**7. Application of tax revenues.** All sales tax revenue collected pursuant to this section must be deposited in the General Fund. Sales tax revenue derived from the sale of retail marijuana and retail marijuana products may not be used to directly fund any new state programs except that this revenue may be appropriated to the Maine Criminal Justice Academy for the purpose of training law enforcement personnel on retail marijuana and retail marijuana products laws and rules. Funds appropriated to the Maine Criminal Justice Academy pursuant to this subsection may be used only for the actual costs incurred to provide the necessary education and training of law enforcement personnel.

## SUMMARY

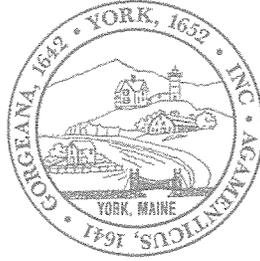
This initiated bill allows the possession and use of marijuana by a person 21 years of age or older. It provides for the licensure of retail marijuana facilities including retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana testing facilities and retail marijuana stores. It also provides for the licensure of retail marijuana social clubs where retail marijuana products may be sold to consumers for consumption on the licensed premises. It provides for regulation and control of the cultivation, manufacture, distribution and sale of marijuana by the Department of Agriculture, Conservation and Forestry. It allows the department to establish limitations on retail marijuana cultivation. It allows a municipality to regulate the number of retail marijuana stores and the location and operation of retail marijuana establishments and to prohibit the operation of retail marijuana establishments in the municipality. It also allows a municipality to require separate local licensing of retail marijuana establishments.

The initiated bill allows a person 21 years of age or older to use, possess or transport marijuana accessories and up to 2 1/2 ounces of prepared marijuana; transfer or furnish, without remuneration, up to 2 1/2 ounces of marijuana and up to 6 immature plants or seedlings to a person who is 21 years of age or older; possess, grow, cultivate, process or transport up to 6 flowering marijuana plants, 12 immature marijuana plants and unlimited seedlings, and possess all the marijuana produced by the marijuana plants at that person's residence; purchase up to 2 1/2 ounces of marijuana and marijuana accessories from a

retail marijuana store; and purchase up to 12 marijuana seedlings or immature marijuana plants from a retail marijuana cultivator. It allows the home cultivation of marijuana for personal use of up to 6 flowering marijuana plants by a person 21 years of age or older.

The initiated bill allows a person to consume marijuana in a nonpublic place including a private residence. It provides that the prohibitions and limitations on smoking tobacco products in specified areas as provided by law apply to smoking marijuana and that a person who smokes marijuana in a public place other than as governed by law commits a civil violation for which a fine of not more than \$100 may be adjudged.

The initiated bill places a sales tax of 10% on retail marijuana and retail marijuana products.



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 20, 2016

ACTION

DATE ACTION REQUESTED: October 24, 2016

DISCUSSION ONLY

SUBJECT: Potential Ordinance and Comp Plan Amendments for May and November of 2017

### DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

The Town Manager requested I provide a working list of ordinance and Comp Plan initiatives (see attachment) that I have put together for consideration leading up to town referendums. This list of initiatives provides me with an idea of what ordinances the Town may want to consider implementing and allows me to prioritize what policies or comp plan chapters need to get done based on tight referendum timeframes. In no way is this list final and is generally always evolving when new priorities or direction is given.

As you can see there are a lot of listed priorities for this coming May and November 2017 and it is likely that some of these will be moved or delayed based not only on tight timeframes but on direction from the Board of Selectmen. Currently, the Planning Board has been evaluating short term rentals, and amending the LEED certification requirement for municipal buildings. The Planning Board has also finished an Energy survey for the comp plan and anticipates results by the end of November. Hopefully at the joint meeting on November 17th priorities can be reviewed and finalized for at least this May, as public hearings start in January for proposed ordinance changes.

RECOMMENDATION: Evaluate the priorities list and give direction to the Planning Board and staff with regards to which policies the Board would like to pursue for this coming year.

PROPOSED MOTION: N/A

FISCAL IMPACT: N/A

DEPARTMENT LINE ITEM ACCOUNT: N/A

BALANCE IN LINE ITEM IF APPROVED: N/A

PREPARED BY: Dylan Smith, Planning Director

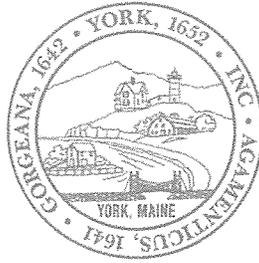
REVIEWED BY:

A handwritten signature in black ink, appearing to be 'Dylan Smith', written over a horizontal line.

# Planning Office - Work Heading to Public Vote

Updated: October 18, 2016-DRAFT Subject to Change

WORK TASK	Status	% Complete	Primary Staff Contact
<b>Comprehensive Plan Amendments</b>			
<b>November 2016</b>			
1 Energy Chapter with Associated Actions (May 2017, conducting survey)	Complete	95%	Dylan S./Energy Committee
<b>November 2017</b>			
1 Stormwater Utility Language in Volume 1	not started yet	0%	Dylan Smith
2 Incorporate Bike/Ped Master Plan into Comp Plan	started	15%	Scott H./Bike Ped Com
3 Funding of Water/Sewer Projects	not started yet	0%	Dylan
4 Growth Boundary (Sea Level Rise)	not started yet	0%	Dylan
<b>November 2018</b>			
1 Parks and Rec open Space Plan	not started yet	0%	Dylan Smith/Consultant
2 Overhaul the Capital Investment Plan	started	5%	Steve B./Dylan
3 Sea Level Rise Vulnerability Economic Assessment (Probably Nov 2019)	not started Yet	2%	Dylan Smith/Consultant
<b>Ordinance Amendments</b>			
<b>May 2017</b>			
1 Special Events Ordinance (Complete by December 30th 2016)	started	75%	Dylan Smith
2 Continued Shoreland Updates?	started	95%	Dylan Smith
3 Repeal or amend the Design Review Board (Article 18.9)	not started yet	0%	?
4 Short Term Rentals (Air B&B, Home away, etc.)	started	5%	Dylan Smith/Code
5 LEED Certification Ordinance (Repeal/amend)	not started yet	0%	Dylan Smith
6 RES 1-B Setback Changes (Citizen request)	not started yet	0%	Dylan
7 Transient Sellers (likely Business Licencing Ord)	not started yet	0%	Dylan
8 Shellfish Ordinance (See DMR Required Language)	not started yet	0%	Dylan
<b>November 2017</b>			
1 Recreational Marijuana (if approved November 8, 2016)	not started yet	0%	Dylan Smith
2 Seasonal Worker Housing- define and performance standards	not started yet	0%	Dylan Smith
3 Lot size (match subdivision standards) i.e. lot size factors	not started yet	0%	Scott H
4 Road standards west of I-95 (private v. public) and Cluster requirements	not started yet	0%	Dylan Smith
5 Impact Fees Regarding School Bonding for BOS	not started yet	0%	Dylan Smith
6 Dark sky's compliant ordinance	not started yet	0%	Dylan Smith
7 Site Plan/Subdivision Separation/Performance Standards	started	35%	Dylan Smith
8 Complete Streets Policy (Possibly May 2018)	Not started yet	0%	Dylan Smith/Dean L.
9 Sea Level Rise and building standards	not started yet	0%	Dylan Smith
10 Sign Standards for the Village	not started yet	0%	Dylan Smith
11 Demolition Delay standards HDC/Alternative Con Standards	not started yet	0%	Scott H/HDC
12 Required Cluster west of I-95 possibly other areas (Cape Neddick Area etc...)	not started yet	0%	Dylan Smith
13 Land Use Fees	Complete	65%	Dylan Smith
14 Food Trucks	not started yet	0%	Dylan Smith/Scott H.
<b>May 2018</b>			
1 Adopt new dFIRMS into the Floodplain Management Ordinance	started	0%	Amber Harrison
2 Stormwater Ordinance (New MS4 permit comes out July 2018 so perhaps May 2018)	started	10%	Dylan Smith
3 GEN-1 and 2 zones-uses and potential village concepts	not started yet	0%	Dylan Smith
4 York Village Design Standards (Consultant)	not started yet	0%	Dylan Smith
5 Septic Ordinance	not started yet	10%	Leslie Hinz
6 Create a Parks & Conservation Lands Overlay	not started yet	0%	Dylan Smith
7 Finish Reformatting Principal Uses and Integrating Zone-Specific Requirements	Not started yet	0%	Dylan Smith
8 Amend Article 18_A.2-e Expiration of Permit approvals (Match Building Code)	not started yet	0%	Scott H
9 Better non-residential performance standards outside of Route 1	not started yet	0%	Dylan Smith
<b>November 2018</b>			
1 Green Enterprise Recreation Overlay District(pg 170/172 of Comp Plan)	Not Started Yet	0%	Dylan Smith
<b>Other concepts on the radar screen</b>			
Rewrite Comp Plan and/or significant chapters?			



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 20, 2016	<input type="checkbox"/> ACTION
DATE ACTION REQUESTED: October 24, 2016	<input type="checkbox"/> DISCUSSION ONLY
SUBJECT: Non-Union Personnel Policy; Section III: A. Wage/Salary Plan, Section VII: Sexual Harassment Policy, and Appendix A: Information and Communications Resources Acceptable Use Policy.	

### DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

1. Revise Section III; A. Wage/Salary Plan, Section VII: Sexual Harassment Policy, and adopt the Information and Communications Resources Acceptable Use Policy as Appendix A of the Non-Union Personnel Policy.
2. Revise or adopt section III; A, Section VII, or Appendix A.
3. Take no action on the proposed policy revisions.

RECOMMENDATION: Revise Section III; A. Wage/Salary Plan to require direct deposit of all non-union employees, Section VII: Sexual Harassment Policy which has been updated to incorporate additional protected classes as required by federal law, and adopt Appendix A: Information and Communications Resources Acceptable Use Policy which is a new policy.

PROPOSED MOTION: I move to approve the proposed changes to the Non-Union Personnel Policy's Section III; Article A – Wage/Salary Plan, Section VII: Sexual Harassment Policy and Appendix A: Information and Communications Resources Acceptable Use Policy as reflected in the attached memorandum.

FISCAL IMPACT: \$0

DEPARTMENT LINE ITEM ACCOUNT: N/A

BALANCE IN LINE ITEM IF APPROVED: N/A

PREPARED BY: Liam Gallagher, HR Director

REVIEWED BY: \_\_\_\_\_



# Town of York

186 York Street  
York, Maine 03909-1314

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To: Board of Selectmen  
Cc: Stephen H. Burns, Town Manager  
From: Liam Gallagher  
Subj: Non-Union Personnel Policy Change  
Date: October 20, 2016

As previously discussed, the Town's non-union personnel policy requires periodic updates in order to either extend benefits previously agreed to with collective bargaining groups or to adopt new and revised policies

We would propose the following change (underlined portion) to **Section III; Article A. Wage/Salary Plan;**

*"The wage and salary schedule together with a detailed history of benefits will be compiled into a compensation plan by the Town Manager and distributed upon request. Addendums "B" and "C" represent the hourly and salary pay schedules. Progression through steps is in accordance with current adopted pay scales. All non-union employees will receive their wages through electronic funds transfer ("Direct Deposit")."*

We would propose the following revised Sexual Harassment Policy (**Section VII**);

**"Policy Statement**

*Every employee of the Town of York has the right to work in an environment free from harassment, discrimination, and other inappropriate and unwelcome behavior. Harassment of any employee on the basis of his or her race, religion, color, national origin, age, gender, sexual orientation, marital status, veteran's status, physical, mental, or sensory disability, genetic history and information, or any other category protected under state or local laws is a serious violation of the Freedom from Harassment policy and will not be tolerated. In an effort to protect all employees from any form of harassment in the workplace and provide employees with a pleasant working environment, the Town considers this a zero tolerance policy. It is the policy of the Town that all employees be treated with respect and dignity.*

*If you feel you or other employees have been subjected to unwelcome harassment of any kind, you are encouraged to immediately identify the offensive behavior to the harasser and request that it stop. If you are uncomfortable in addressing the matter directly with the harasser, or if you do so and the behavior does not stop, then discuss the matter immediately with the Human Resources Director, Department Head, or any supervisor with whom you feel comfortable. Supervisors who receive a harassment complaint must immediately notify their Department Head. Department Heads and supervisors who receive a harassment complaint are to immediately contact the Human Resources Director.*

*All complaints will be investigated promptly, impartially and discreetly. Upon completion of the investigation, the appropriate parties will be notified of the non-confidential results of the investigation. Any supervisor, agent, or other employee who has been found to have harassed an*

*employee will be subject to appropriate corrective action, ranging from a disciplinary warning to termination. No employee will suffer retaliation in any form for reporting instances of harassment or participating in a harassment investigation.*

*We trust that employees of the Town of York will act responsibly to maintain a pleasant working environment, free of discrimination and harassment, allowing each employee to perform to his or her maximum potential. The Town encourages any employee to bring questions he or she may have regarding this policy to the employee's Department Head, Human Resources or the Town Manager's Office.*

### **Definitions**

*The definitions below are from the regulations adopted by the U.S. Equal Employment Opportunity Commission.*

- 1) **Sexual Harassment:** *A type of harassment which occurs when verbal and physical conduct is sexual in nature or is gender-based, that is, directed at a person because of their gender. Unwelcome sexual conduct is sexual harassment when:*
  - a) *Submission to such conduct is expressly or implicitly made a term or condition of employment or,*
  - b) *Submission or rejection of such conduct is made either a term or condition of employment or,*
  - c) *Such conduct has the purpose or effect of interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.*

*Sexual harassment includes: unwelcome verbal behavior such as comments, suggestions, jokes or derogatory remarks based on sex or physical behavior such as pats, squeezes, sexual gestures, and repeatedly brushing against someone's body, or impeding or blocking normal work or movement.*

- 2) **Other Categories Protected from Harassment:** *Under Maine and federal law, other categories (such as race, religion, color, national origin, age, gender, sexual orientation, marital status, veteran's status, physical, mental, or sensory disability, genetic history and information, etc.) are also protected from unwelcome harassment and hostile work environments. Conduct relating to an employee's membership in any such category constitutes harassment when this conduct:*
  - a) *Has the purpose or effect of creating an intimidating, hostile, or offensive working environment or,*
  - b) *Has the purpose or effect of interfering with an employee's work performance or,*
  - c) *Adversely affects an employee's employment opportunities.*

- 3) **Retaliation:** *Retaliation happens when an employee who has raised a complaint about harassment experiences a negative workplace consequence as a result of that complaint. Retaliation can include: poor performance reviews; longer work hours; "cold shoulder" or social isolation from the work group; threats from the accused harasser; transfer to a less desirable work location; or assignment of excessive work. If you feel you are a victim of retaliation, report the situation to your Department Head, Human Resources, or the Manager's Office.*

*An employee's intentions and motives are not the decisive factors in considering alleged harassment behavior. The effect of one employee's behavior upon another employee is the*

*decisive factor. If an employee's behavior is considered to be offensive by another employee or if it has an intimidating effect upon another employee, then racial, sexual, ethnic, or religious harassment may be present. The welcomeness, frequency, and severity of the behavior determine whether or not harassment has occurred.*

### **Inappropriate Behavior**

*It is the responsibility of each employee to engage in and promote workplace behavior that creates and maintains an environment of respect and promotes effective teamwork. It is likewise the responsibility of each employee to report behavior that damages this environment.*

*Horseplay, pranks and any other inappropriate, non-work related behaviors that impact a fellow employee's work performance will not be tolerated. Jokes (verbal, electronic, printed or in any other medium) that demean people (individuals) in any way or have sexual, racial, ethnic, or religious themes are inappropriate in the workplace and are strictly prohibited.*

*This policy prohibits behaviors that may not reach the level of illegal harassment as defined by the EEOC, but that nonetheless are inappropriate in the workplace. Such behavior includes bringing sexually explicit pictures, photographs, cartoons or objects to the workplace; repeated requests for dates, sexual bantering, jokes or teasing; sexual innuendoes, gestures or leers, obscene or abusive language; unwelcome terms of endearment such as "doll", "honey", "sweetheart" or "babe"; sending sexual, racial, ethnic, or religious jokes, cartoons, etc. on e-mail, faxes, etc.; and, using racial, ethnic or religious slurs or demeaning comments. Appropriate disciplinary action will be taken when violations of this policy occur.*

*Inappropriate behavior as defined by this policy shall be reported to the Department Head or the Human Resources Department immediately. The Department Head, in conjunction with Human Resources, will determine how the incident/allegation/complaint will be investigated. After completing an investigation, it will be determined whether or not this policy has been violated. The welcomeness, frequency, and severity of the inappropriate behavior will determine whether or not a violation of the policy has occurred.*

### **Implementation:**

- 1. The Town of York is committed to preventing harassment and discrimination through education and dissemination of information, as well as employee accountability.*
- 2. It is the responsibility of each employee of the Town of York to engage in and promote workplace behaviors that create and maintain an environment of respect and promote effective teamwork. It is likewise the responsibility of each employee to report those behaviors that damage this environment, especially those of a harassing nature.*
- 3. Supervisors have a greater responsibility, not only to model respectful, professional conduct at the workplace, but also to maintain an environment of respect and effective teamwork in their work areas. As part of their supervisory responsibilities, supervisors are required to monitor the workplace for inappropriate behavior and actively prevent or stop inappropriate or unprofessional conduct in the workplace regardless of whether the conduct rises to the level of illegal harassment. If a supervisor becomes aware of any such conduct, he/she must take immediate and appropriate corrective action, including reporting and possible imposition of discipline, to end the conduct. Corrective action is required whether or not a complaint is made or the conduct appears to be welcome.*

4. *Human Resources or the Town Manager's Office may be consulted for advice and direction and must be contacted if a complaint is received, even if the complainant requests that no action be taken. Department Heads or supervisors who fail to fulfill their obligations under this policy may be subject to disciplinary action up to and including termination.*

#### **Complaint Process**

1. *An employee who believes he/she is the victim of harassment may file an internal complaint by contacting any of following individuals:*
  - *Immediate supervisor or any supervisor in the chain of command; or*
  - *Town Clerk at (207) 363-1003 x 272*
  - *Human Resources Director at (207) 363-1000 x 232*
  - *Town Manager (207) 363-1000 x 221*
2. *Every effort will be made to resolve complaints at the earliest possible level. If an investigation is warranted, it will be conducted promptly and with as much confidentiality as possible, respecting the rights of all parties involved. Confidentiality cannot, however, be promised or assured. All employees are required to cooperate fully in any investigation of harassment.*
3. *In addition to initiating an internal complaint, employees represented by a union may exercise any rights they may have under their union contracts. A discrimination complaint may also be submitted to the Maine Human Rights Commission.*
4. *It is not required that any of the above procedures be utilized first or in any sequence, nor is it required that any procedure be exhausted before another is issued.*
5. *For more information, please contact:*
  - *Human Resources Director at (207) 363-1000 x 232*
  - *Town Manager at (207) 363-1000 x 221*
  - *Maine Human Rights Commission (207) 624-6290"*

Lastly, we would propose the adoption of the Information and Communications Resources Acceptable Use Policy as **Appendix A**;

#### **Preamble.**

*The Town of York provides access to computer systems, networks, telecommunications systems, electronic mail (e-mail), and Internet connections to its employees, officials, volunteers, and other parties for its benefit and for the conduct of official business. With the availability of communications and information resources comes an obligation to ensure their use in the public interest and for the valid business needs of the Town, and a responsibility on the part of users to regard these resources as belonging to the public and to treat them accordingly.*

#### **II. Purpose.**

*The purpose of this policy is to define the terms and conditions for the use of computer systems, networks, telecommunications systems, e-mail, and Internet connections provided by the Town of York for the conduct of official business, pursuant to and in implementation of the general terms of the Town of York Personnel Policy. Because of the rapid rate of technological change, the technologies and situations in this policy shall be considered illustrative of the principles guiding the use of these and similar technologies, and shall not be considered an exclusive list of tools, systems, technologies, methods, or behaviors associated with the transmission, reception, storage, processing or use of information.*

### **III. Scope.**

- 1. All computer systems, networks, telecommunications systems, e-mail, and Internet connections, including all hardware and software, licenses, data or other products arising from their use are the property of the Town of York.*
- 2. Only authorized employees, officials, volunteers, and other authorized parties shall use or be provided access to these resources. All employees agree to use the Town's systems only during times the employee is authorized to be working. Any employee who takes Town equipment home with them, as part of their expected duties, shall keep personal use of those devices to a reasonable level. No person shall use them for personal gain, or to support or advocate for activities, purposes, or causes which are not related to the official business of the Town of York.*
- 3. The Town may provide access to resources to FLSA non-exempt hourly employees (i.e. those required to be paid overtime pursuant to the federal Fair Labor Standards Act and/or applicable policy or collective bargaining agreement) for its own purposes, however - employees shall restrict their use of information and communications resources such as, but not limited to, electronic mail, computer system remote access, and the use of handheld devices, to authorized work hours only.*

### **IV. Security.**

- 1. Each authorized user shall be provided with a unique user name consisting of his or her first initial and last name, or some similarly unique and clearly identifiable means of authenticating users to each of the information systems operated by the Town.*
- 2. Each authorized user shall be assigned an initial password which, when used in combination with the user's user name, shall be used to authenticate them to the information systems operated by the Town. Subsequent passwords will be assigned or chosen by the user according to the system policies in effect at the time.*
- 3. All users shall be required to read and sign a statement acknowledging their receipt of a copy of this policy upon account activation and prior to use of any system governed by this policy. Users shall be responsible for familiarizing themselves with this policy and complying with its terms and conditions.*

### **V. Electronic Mail.**

- 1. The Town's electronic mail system (e-mail), both internal and through the Internet, is designed to facilitate town business communication among users and associates. E-mail should not be used to transmit sensitive materials or discuss matters that are more appropriately communicated by written memorandum or personal conversation, such as personnel or legal issues.*
- 2. All e-mail messages, accessed by town equipment, have been found to be public records and may be subject to the right-to-know laws, depending on their content, and should be used in the same manner as other forms of official communication.*
- 3. The Town, through its managers and supervisors, reserves the right to review the contents of users' e-mail communications when necessary for town business purposes. Users may not intentionally intercept, eavesdrop, record, read, alter, or receive other persons' e-mail messages without proper authorization.*

## **VI. Social Media.**

*Social media for the purposes of this policy is defined as online platforms that allow for direct interaction and participation among people. This includes, but is not limited to, social networking websites (i.e. Facebook, Myspace, LinkedIn, YouTube, Digg); blogs or microblogs (i.e. Twitter); personal websites or web pages; listservs or mailing lists; audio, photo or video sharing websites (i.e. YouTube, Google Video, Flickr, and Picasa); virtual worlds (i.e. Second Life); or other user-generated electronic media, whether now in existence or invented in the future. The absence of or lack of explicit reference to a specific site does not limit the application of this policy.*

*The use of social media at work is forbidden unless approved by the employee's department head.*

## **VII. User Code of Conduct.**

*1. The following examples of user conduct, which shall be considered illustrative and not exclusive, of the Town's information systems shall be encouraged and required:*

- a. Respect the privacy of other users; for example, users shall not intentionally seek information on, obtain copies of, or modify files or data, belonging to other users, unless explicit permission to do so has been obtained.*
- b. Respect the legal protection provided to programs and data by copyright and license.*
- c. Protect data from unauthorized use or disclosure as required by state and federal laws and agency regulations.*
- d. Respect the integrity of computing systems: for example, users shall not use or develop programs that harass other users or infiltrate a computer or computing system and/or damage or alter the software components of a computer or computing system.*
- e. Safeguard accounts and passwords. Any user changes of password must follow published guidelines for good passwords. Accounts and passwords are normally assigned to single users and are not to be shared with any other person without authorization. Users are expected to report any observations of attempted security violations*

*2. The following examples of user conduct, which shall be considered illustrative and not exclusive, of the Town's information systems shall be prohibited:*

- a. Private or personal, for-profit activities (e.g., consulting for pay, sale of goods such as Avon and Amway products, etc.);*
- b. Use for private or personal business and/or gain;*
- c. Use for any illegal purpose, including communications that violate any laws or regulations;*
- d. Transmitting threatening, obscene, or harassing messages;*
- e. Intentionally seeking information about, obtaining copies of, or modifying files, other data, or passwords belonging to other users, unless explicitly authorized to do so by those users;*
- f. Interfering with or disrupting network users, services, or equipment. Such disruptions could include, but are not limited to, (i) distribution of unsolicited advertising or messages, (ii) propagation of computer worms or viruses, (iii) loading, downloading, and/or installing unauthorized software from the Internet or any other source, and (iv) using the network to gain unauthorized entry to another machine on the network; and*

*g. Seeking/ exchanging information, software, etc. that is not directly related to one's duties and responsibilities.*

*3. Users who violate the User Code of Conduct may have their system privileges suspended, their accounts revoked, and may be subject to disciplinary action up to and including dismissal, and civil or criminal penalties.”*



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 21, 2016

ACTION

DATE ACTION REQUESTED: October 24, 2016

DISCUSSION ONLY

SUBJECT: Board and Committee Appointments

### DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

The attached list shows applications in hand, who has been interviewed as of this evening, and current vacancies.

Please note that there are two applicants and only one vacancy on the Parks and Recreation Board.

Also, not all applicants for the Village Revitalization Steering Committee or the Multigenerational Community Center Needs Assessment could make the interview times. The Board will need to decide if they want to wait to interview all applicants before making appointments to those two committees.

The typical term length is three years, bringing any appointments made tonight to an expiration date of June 30, 2019 – All proposed motions below use this date.

### RECOMMENDATION:

#### PROPOSED MOTION:

- I move to appoint Barbara Kinsman as a Regular Member to the Assessment Review Board, with a term expiring June 30, 2019.
- I move to appoint Amy Phalon as a Regular Member to the Design Review Board, with a term expiring June 30, 2019.
- I move to appoint Denny Sayward or Michael Modern as a Regular Member to the Parks and Recreation Board, with a term expiring June 30, 2019.
- I moved to appoint Marjory Stewart as a Regular Member to the Tax Task Force, with a term expiring June 30, 2019.
- I move to appoint \_\_\_\_\_ as a Regular Member to the Multigenerational Community Center Needs Assessment Committee.
- I move to appoint \_\_\_\_\_ as a Regular Member to the Village Revitalization Steering Committee.

PREPARED BY: \_\_\_\_\_

REVIEWED BY:  \_\_\_\_\_

### Applications in hand 10/21/2016

Barbara Kinsman	Assessment Review Board	*Interviewed 10/24
Amy Phalon	Design Review Board	
Denny Sayward	Parks and Recreation Board	*Interviewed 10/24
Michael Modern	Parks and Recreation Board	*Interviewed 9/19
Dan Poulin	Village Revitalization Steering Committee	
Christine Hartwell	Village Revitalization Steering Committee	*Interviewed 9/19
Stuart Dawson	Village Revitalization Steering Committee	*Interviewed 9/19
Ron McAllister	Village Revitalization Steering Committee	*Interviewed 9/19
Antonia Desoto	Village Revitalization Steering Committee	*Interviewed 10/24
Brent Drennan	Village Revitalization Steering Committee	
Peter Smith	Village Revitalization Steering Committee	*Interviewed 10/24
Stephen Carr	Village Revitalization Steering Committee	
Edward Claus	Multigenerational Community Center	*Interviewed 10/24
Nancy Stolberg	Multigenerational Community Center	
Tracy Keirns	Multigenerational Community Center	*Interviewed 10/24
Gregory Fyfe	Multigenerational Community Center	*Interviewed 10/24
Diane Ross	Multigenerational Community Center	*Interviewed 10/24
Brian Ross	Multigenerational Community Center	*Interviewed 10/24
Joan Waldrop	Multigenerational Community Center	
Marjory Stewart	Tax Task Force	*Interviewed 10/24

### Vacancies as of 10/21/2016

Assessment Review Board	3 Regular
Cable TV Regulatory Board	1 Regular
Cliff Walk Committee	1 Regular
Conservation Commission	1 Alternate
Harbor Board	1 Alternate
Historic District Commission	3 District Representatives
Multigenerational Community Center	9 Regular
Municipal Social Services Review Board	1 Regular
Police Station Building Committee	1 Regular
Parks and Recreation Board	1 Regular
Senior Citizens Advisory Board	1 Regular
Shellfish Commission	3 Regular
Tax Task Force	1 Regular
Village Revitalization Steering Committee	9 Regular
York Harbor Site Design Review Board	3 Regular
York Housing Authority	1 Regular