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

www.yorkmaine.org

BOARD OF SELECTMEN'S MEETING AGENDA
6:00 PM/7:00 PM MONDAY, JANUARY 9, 2017
YORK PUBLIC LIBRARY

6:00PM Executive Sessions

- Title 1 MRS §405.6.A (Personnel - input prior to Town Manager's annual review)
- Title 1 MRS §405.6.A (Personnel – input prior to Tax Assessor's annual review)
- Title 1 MRS §405.6.C (Real Estate)

Call to Order

Opening Ceremonies

A. **Minutes**

B. **Chairman's Report**

C. **Manager's Report**

D. **Awards**
1. Reject All Bids - SHIPs Project

E. **Reports**

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. General Assistance Ordinance and Appendices
2. New Business License: IOTB, LLC DBA: Viewpoint Hotel (Innkeeper); located at 229 Nubble Road

H. **Endorsements**

Business Licenses:

- IOTB, LLC DBA: Viewpoint Hotel (Innkeeper); located at 229 Nubble Road
- John Shaw DBA: Frankie and Johnny's (Food Service); located at 1594 US Route One
- Miller Brothers, LLC DBA: York54 (Food Service, Liquor); located at 449 US Route One
- Miller Brothers, LLC DBA: St. Joe's Coffee (Food Service); located at 449 US Route One

I. **Old Business**

1. Discussion & Possible Action: Draft FY18 Operating Budget
2. Discussion & Possible Action: Select Real Estate Services – General
3. Discussion: Marijuana Moratorium/Regulation
4. Discussion: Shoreland Zoning Policies
5. Discussion & Possible Action: Revised Charge for Energy Steering Committee
6. Discussion & Possible Action: Minor Charter Amendments
7. Discussion & Possible Action: MTA Toll Plaza Process

J. **New Business**

1. Discussion & Possible Action: Property Redemption, 19 Intervale Road (0013-0020-C)
2. Discussion & Possible Action: Foreclosure Waivers
3. Discussion: Lost ROW Statute Process for Ocean Avenue Extension
4. Discussion & Possible Action: Town Energy Investment Policy
5. Discussion & Possible Action: General Assistance Ordinance and Appendices

K. **Future Agendas**

L. **Other Business**

M. **Citizens' Forum**

Adjourn

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 3, 2017	☒ ACTION
DATE ACTION REQUESTED: January 9, 2017	☐ DISCUSSION ONLY
SUBJECT: Maine DOT Small Harbors Improvement Program (SHIP) Grant bid rejection for the Public Access improvements along the York River.	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:
Discussion and relevant project history:

- On May 22, 2010 the York voters approved Warrant #48 appropriating the sum of $150,000 for the Pathway to Route 103 Causeway from the Fishermen's walk. This project involved constructing a new path and pedestrian connection to the causeway, Wiggly Bridge and Steedman woods under the new Rte 103 Bridge. The proposed new connection would improve pedestrian safety and enhance the experience to the users. After it became apparent that the pathway would not be able to be completed in conjunction with the Maine DOT's Rte 103 Bridge construction project DPW began to look for other ways to deliver the project.

- On December 2, 2013 The Board of Selectmen voted to approve the submittal of a 2013 grant application to Maine DOT's Small Harbors Improvement Program (SHIP) in order to secure funds for the DPW's proposed Fisherman's walk pathway improvements.

- On January 29, 2014 The Town was informed by The Maine Department of Transportation (Maine DOT) that our application for Small Harbor Improvements had been approved.

- On February 10, 2014 The Board of Selectmen approved the Small Harbors Improvement Program (SHIP) agreement with Maine DOT in order to secure $150,000 in state funds for the DPW's proposed Fisherman's walk pathway improvements.

- On February 19, 2014 The Town entered into an agreement with the Maine DOT under the Small Harbor Improvement program to improve public access to the York River.

- On November 17, 2014 The Board of Selectmen authorized the submittal of all environmental permits for the Small Harbors Improvement Program (SHIP) project and to continue to work with Maine DOT to finalize the design to the proposed Fisherman's walk pathway improvements

- On February 20, 2015 The Town received notice from The Maine Department of Environmental Protection (Maine DEP) that our NRPA permit application was approved.

- On March 25, 2015 The Town received notice from The US Army Corps of Engineers that our general permit application (NAE-2014-02466 was approved.

- On April 5, 2016 The Town was informed by The Maine Department of Transportation (Maine DOT) that our Preliminary Design Report (PDR) was accepted. Due to Maine DOT requested additional engineering and design changes the total project estimate was $190,000 over budget.

- On June 10, 2016 The Department of Public Works submitted a letter to Maine DOT requesting additional Small Harbor Improvement Program (SHIP) grant funds for our project.

- On July 14, 2016 The Town was informed by The Maine Department of Transportation (Maine DOT) that our request for additional funds for our Small Harbor Improvements had been approved.

- On August 8, 2016 The Board of Selectmen authorized the Town Manger 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 DPW's proposed Fisherman's walk pathway improvements and also authorize the Town Manager to sign the State/Municipal license agreement.

- On November 7, 2016 The Maine DOT informed the Town that they had completed their review of all of our project submittals and had approved and signed the PS&E package for the WIN 18534.28 York SHIP Project. They were also giving the Town approval to Advertise the project.

- On November 10, 2016 The Town publicly advertised the York River Access project.

- On November 30, 2016 The Town received 4 bid proposals. They are as follows:

    1. N. M. Curtis Earth Works, Inc., South Berwick, ME: Total Bid = $399,585.26 (Apparent Low Bidder)
    2. Wyman & Simpson, Inc., Richmond, ME: Total Bid = $534,530.00
    3. Maritime Construction and Engineering, LLC, Cape Neddick, ME: Total Bid = $763,642.50
    4. Shaw Brothers Construction, Inc., Gorham, ME: Total Bid = 962,720.00

RECOMMENDATION: reject all 4 all bids submitted for the construction of the York River Access project.

PROPOSED MOTION: **I move to reject all bids submitted for the construction of the York River Access project.**

FISCAL IMPACT: $0

DEPARTMENT LINE ITEM ACCOUNT: **100.0320.9619**

BALANCE IN LINE ITEM IF APPROVED: **$143,783.21**

PREPARED BY: Dean Lessard REVIEWED BY: _____

YORK S.H.I.P. BOAT LANDING
ROUTE 103
YORK, MAINE

WIN 18534.28

December 6, 2016

BID TABULATION - Bids Received November 30, 2016

		ENGINEER'S ESTIMATE				NM Curtis Earth Works		Wyman & Simpson, Inc.		Maritime Construction & Engineering, LLC	
ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
203.2	Common Excavation	CY	610	$ 20.00	$ 12,200.00	$ 17.08	$ 10,418.80	$ 20.00	$ 12,200.00	$ 90.00	$ 54,900.00
203.21	Rock Excavation (riprap removal)	CY	530	$ 50.00	$ 26,500.00	$ 15.55	$ 8,241.50	$ 50.00	$ 26,500.00	$ 55.00	$ 29,150.00
304.09	Stone Dust	CY	50	$ 25.00	$ 1,250.00	$ 32.12	$ 1,606.00	$ 50.00	$ 2,500.00	$ 195.00	$ 9,750.00
502.49	Structural Concrete Curbs and Sidewalks	CY	2	$ 700.00	$ 1,400.00	$ 3,300.00	$ 6,600.00	$ 1,000.00	$ 2,000.00	$ 2,100.00	$ 4,200.00
511.05	Excavation Support	LS	1	$ 20,000.00	$ 20,000.00	$ 40,744.00	$ 40,744.00	$ 70,000.00	$ 70,000.00	$ 162,500.00	$ 162,500.00
603.172	18" Culvert Pipe - Corrugated Polyethylene Pipe	LF	44	$ 50.00	$ 2,200.00	$ 86.70	$ 3,814.80	$ 80.00	$ 3,520.00	$ 120.00	$ 5,280.00
610.161	Riprap Installation	CY	64	$ 25.00	$ 1,600.00	$ 65.69	$ 4,204.16	$ 40.00	$ 2,560.00	$ 185.00	$ 11,840.00
652.50	Work Zone Traffic Control (All Inclusive)	LS	1	$ 1,500.00	$ 1,500.00	$ 11,000.00	$ 11,000.00	$ 25,000.00	$ 25,000.00	$ 28,500.00	$ 28,500.00
656.75	Temp. Soil Erosion and Water Pollution Control	LS	1	$ 3,500.00	$ 3,500.00	$ 3,025.00	$ 3,025.00	$ 5,000.00	$ 5,000.00	$ 3,950.00	$ 3,950.00
672.10	Precast Concrete Block Gravity Wall	SF	4030	$ 60.00	$ 241,800.00	$ 69.95	$ 281,898.50	$ 75.00	$ 302,250.00	$ 85.75	$ 345,572.50
659.1	Mobilization	LS	1	$ 20,000.00	$ 20,000.00	$ 3,200.00	$ 3,200.00	$ 53,000.00	$ 53,000.00	$ 70,000.00	$ 70,000.00
1000	Gangway and Float System	LS	1	$ 33,050.00	$ 33,050.00	$ 24,832.50	$ 24,832.50	$ 30,000.00	$ 30,000.00	$ 38,000.00	$ 38,000.00
				Total Estimate:	**$ 365,000.00**	****Total Bid:**	**$ 399,585.26**	**Total Bid:**	**$ 534,530.00**	**Total Bid:**	**$ 763,642.50**

**** Low Bidder:**

*Unit price inconsistency: Shaw Brothers

Shaw Bros entered unit and total price of $430,000 for Item 672.10, which has a quantity of 4030 SF. Price in words goverr developed based upon total price divided by the bid quantity.

Notice of Public Hearing
Board of Selectmen
Monday, January 9, 2017
7:00 PM
York Public Library

The York Board of Selectmen will conduct a Public Hearing on Monday, January 9, 2017 regarding a proposed ordinance amendment to the General Assistance Ordinance and Appendices.

Printed copies of the text of this amendment are available at the General Assistance Office (207) 363-5504 and the Town Manager's Office (207) 363-1000.

PUBLIC HEARING NOTICE

Town of York – Board of Selectmen
January 9, 2017
7:00PM
York Public Library

The Town of York Board of Selectmen will hold a Public Hearing on January 9, 2017 regarding a new Business License Application submitted for the following:

- IOTB, LLC. DBA: Viewpoint Hotel (Innkeeper); located at 229 Nubble Road

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 6, 2017	☒ ACTION
DATE ACTION REQUESTED: January 9, 2017	☐ 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:

- *IOTB, LLC DBA: Viewpoint Hotel (Innkeeper); located at 229 Nubble Road*
- *John Shaw DBA: Frankie and Johnny's (Food Service); located at 1594 US Route One*
- *Miller Brothers, LLC DBA: York54 (Food Service, Liquor); located at 449 US Route One*
- *Miller Brothers, LLC DBA: St. Joe's Coffee (Food Service); located at 449 US Route One*

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

PREPARED BY: Melissa M. Avery REVIEWED BY: _____

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 8, 2017	☐ ACTION
DATE ACTION REQUESTED: January 9, 2017	☒ DISCUSSION ONLY
SUBJECT: FY18 Operating Budget	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: I apologize this item is getting to you late. I was feeling quite ill on Friday and didn't get it finished in time to be included in the packet.

When we discussed the budget back on December 12th the primary charge from the Board was to bring back proposals to bring the budget in within the original proposed limit, which would maintain our tax rate at $11.15/thousand. Attached is a list of 6 changes that would do just this. Here is my explanation:

1. Eliminate the newly proposed detective position. I believe the detective staff could be increased by re-assigning the lieutenant's position from communications to detectives/investigations.
2. Eliminate mosquito control. I am not convinced this is an effective use of $40,000, and the primary burden remains on individuals to monitor times of activity, clothing chosen, and use of repellents.
3. Add Ellis Short Sands Park into the budget. I pulled both expenses and revenues. We need to increase the revenues from 31,500 to 56,500 to more accurately reflect our costs, and this is nowhere near our actual, but it would be a good start. Direct out-of-pocket costs for the Park are about $42,000, so this is a net addition to the budget.
4. Defer repairs to the Senior Center roof. It needs to be done but deferring is an option.
5. Reduce the increase in Highway Maintenance costs by about 1/5th. This is the second largest budget line and it is proposed to increase significantly. There are considerable increases here still owning to adjustments for added costs associated with taking on Route One and possibly acquiring the MDOT maintenance facility, yet we will need to get by with less than requested.
6. Reduce the increase in Police by 6%. This is the largest budget line in the budget and it needs to be pulled back a modest amount.

With these changes, or their equivalent, we should be able to meet the goal to hold the tax rate stable. This is for the Board's consideration. No action is required at this meeting.

RECOMMENDATION: n.a.

PROPOSED MOTION: n.a.

Prepared by Stephen H. Burns, Town Manager: _____

FY18 Tax Rate Calculation - DRAFT based on initial budget assumptions

SHB, 1/8/2017

	FY17 Budgeted	FY18 Projected	Dollar Increase
Municipal Budgeted Expenses	18,278,875	18,880,000	
Municipal Budgeted Revenues	4,855,200	4,949,000	
Use of Fund Balance	300,000	0	
Use of Other Accounts	0	300,000	
Net Municipal Funded by Property Taxes	**13,123,675**	**13,631,000**	**507,325**
Net School Funded by Property Taxes	29,080,018	30,159,155	1,079,137
Net Municipal & School Funded by Prop. Taxes	42,203,693	43,790,155	1,586,462
County Tax	2,398,831	2,438,550	39,719
Overlay	**869,614**	**100,000**	**-769,614**
TOTAL Funded by Property Taxes	45,472,138	46,328,705	856,567
Taxable Property Valuation	4,078,218,785	4,153,218,785	75,000,000
Tax Rate Calculated	11.15	**11.15**	0.00

Spending Limit to hold the tax rate:	**18,880,000**	
		Over/under
Spending in 12/7/16 expense draft	**19,066,777**	**186,777**

Proposed Reductions

eliminate new detective position	**-83,421**	**103,356**
eliminate mosquito control	**-40,000**	**63,356**
add Ellis Short Sands Park with more rev.	**-14,000**	**49,356**
forego Senior Center roof repair	**-13,800**	**35,556**
reduce increase in Highway Maint. by 20%	**-30,000**	**5,556**
reduce increase in Police by 6%	**-5,556**	**0**

DRAFT

Non-Property Tax Revenues

STEVE'S DRAFT - January 8, 2017

Non-Property Tax Revenues	FY17	FY18	Change	
Appeals Fees	2,500	0	-2,500	too small to budget
Bad Check Charges	300	0	-300	too small to budget
CATV Franchise	198,000	200,000	2,000	minor increase, typical
Ellis Park Reimbursement	25,000	0	-25,000	now shown as an off-set to Ellis Park Expenses
Excise Tax - Boats	29,000	29,000	0	uncertain at this time???
Excise Tax - Vehicles	3,100,000	3,200,000	100,000	typical increase, assuming the economy doesn't tank
General Assistance Reimbursement	35,000	35,000	0	uncertain at this time???
Investment Interest	23,000	23,000	0	uncertain at this time???
Local Roads Subsidy	224,000	225,000	1,000	minor increase, typical
Parking Meter Collections	315,000	315,000	0	hopefully!
Miscellaneous	75,000	75,000	0	uncertain at this time???
Parking Stickers	110,000	110,000	0	hopefully!
Photocopies	1,400	0	-1,400	too small to budget
Plumbing Permits	45,000	45,000	0	probably under-budgeted but hard to predict
R/E Interest	125,000	125,000	0	unknown, but should be a declining revenue in a good economy
State Revenue Sharing	282,000	290,000	8,000	the Legislature tried to stabilize this through FY19, so changes should be very modest
Parking Tickets/Fines	130,000	130,000	0	hopefully!
Town Fees - Clerk's Office	100,000	100,000	0	seems pretty stable over time
Transfer Station Permits	35,000	35,000	0	seems pretty stable over time
Communications Tower Fees	0	12,000	12,000	new revenue from the comm. tower behind the Senior Center (Verizon)
Totals	**4,855,200**	**4,949,000**	**93,800**	

Other Offsets to Property Taxes	FY17	FY18	Change	
Use of Fund Balance to Offset Taxes	300,000	0	-300,000	BOS Fund Balance Policy will preclude use of fund balance to offset taxes
Beach Reserve Funds	0	187,000	187,000	time to use this to help pay for policing, parking maintenance, highway maintenance
Funds from sale of land to Stonewall Kit.	0	41,000	41,000	this is the balance of this account - time to get it off the books to help off-set property taxes
FEMA Equipment Funds	0	72,000	72,000	use this to help offset DPW equipment maintenance expenses
Totals	**300,000**	**300,000**	**0**	

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 6, 2017	☐ ACTION
DATE ACTION REQUESTED: January 9, 2017	☒ DISCUSSION ONLY
SUBJECT: Real Estate Services	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The Town Manager's Office recently solicited local real estate offices for interest in entering in a listing agreement with the town for public sale of town-owned residential properties. Only two replies were received, consequently we will do more outreach and advertising to the real estate offices again, and hope to get a better turnout.

RECOMMENDATION:

PROPOSED MOTION:

FISCAL IMPACT:

DEPARTMENT LINE ITEM ACCOUNT:

BALANCE IN LINE ITEM IF APPROVED:

PREPARED BY: _____ REVIEWED BY: _____

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

www.yorkmaine.org

December 14, 2016

To Our Local Realtors:

The York Board of Selectmen are looking for an agency that would be interested in entering in a listing agreement for the public sale of multiple town-owned residential properties over the course of 2017 and 2018.

The newly enacted Property Acquisition and Disposition Policy states that the Selectmen shall select a realtor every two years to assist them with public sales; as a result, the agreement they are seeking at this time is for the 2017 and 2018 calendar years. Also note that this current request is for residential properties only, a commercial property request will be awarded separately. I have attached the Board of Selectmen's Property Acquisition and Disposition Policy to help answer any process questions you may have, but please feel free to reach out if there is anything that the policy does not answer for you.

Should you be interested in representing the Town in the public sale of residential town-owned properties, respond by January 3, 2017 with the minimum percentage of sale price that your agency would accept in return for an exclusive listing of the residential properties that the Board of Selectmen decide to sell. Please send your response to: Town of York ATTN: Missy Avery, 186 York Street or email it to: mmavery@yorkmaine.org.

We look forward to hearing back from you.

Sincerely,

Stephen H. Burns
Town Manager

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 3, 2017	☒ ACTION
DATE ACTION REQUESTED: January 9, 2017	☐ DISCUSSION ONLY
SUBJECT: Marijuana Legalization Act Moratorium	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

The "Marijuana Legalization Act" was approved by the voters in Maine this past November (has been confirmed through a recount) and will require amendments to the Town's zoning and business licensing ordinances. The act, as written, will be regulated and controlled by the Department of Agriculture, Conservation and Forestry and gives that state department nine (9) months to conduct a rule making process (establishing parameters for cultivation, manufacturing, distribution, sale and testing of retail marijuana products and enforcement of the law). In Town, the vote was very close, with the "no" vote holding a slight edge over the "yes" vote by 341 votes out of a total of 8,885 votes casted on this provision.

At the November 14th Board of Selectmen meeting the Board requested that I work with Town Counsel to draft an ordinance establishing a moratorium on retail marijuana establishments and retail marijuana social clubs in order to give the town more time to assess and review potential impacts of the law. Attached is a draft moratorium ordinance, a summary of the statute and legal notice provided by the Town Counsel.

The Board can set a retroactive date in the moratorium, however the 180 day clock would start ticking on that retroactive date and based on the language provided in the moratorium, as well as guidance from Town Counsel; I do not think that necessarily needs to be done.

RECOMMENDATION: Based on Town Counsels documentation and guidance, hold a public hearing on the draft moratorium.

PROPOSED MOTION: Move to post notice and hold a public hearing on the proposed ordinance establishing a moratorium on retail marijuana establishments and retail marijuana social clubs.

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: _____

Dylan Smith

From: Mary E. Costigan <mcostigan@bernsteinshur.com>
Sent: Friday, December 23, 2016 10:58 AM
To: Dylan Smith
Cc: Stephen H. Burns; Amber Harrison
Subject: RE: Recreational Marijuana Moratorium
Attachments: Retail Marijuana - Model Moratorium Ordinance York.DOCX; Retail Marijuana Notice York.DOCX; Marijuana Statute Summary.DOCX

Hi Dylan –

I have attached a few documents for your consideration regarding retail marijuana. The first is a summary of the law. The second is a proposed Moratorium Ordinance. The third is a notice that can be provided to staff and the public regarding retail marijuana. As you will see in the draft moratorium, it does not have a retroactive applicability date. However, it does specifically provide that any applications received prior to the moratorium are not considered pending applications and are therefore not grandfathered. That, coupled with the provisions in the law regarding licensing, as well as the notice to staff and the public, should protect the town against any claims that a person may make about their ability to use their property for the purposes of retail marijuana. Another belts and suspenders measure that you mentioned is a statement in all permits issued that the permit does not permit use of the property as a retail marijuana establishment or retail marijuana social club. That would also help. Although the Town does prohibit head shops, that definition only covers drug paraphernalia and not retail marijuana, so the town could not rely on that definition alone.

I can add a retroactive applicability date if desired by the Board of Selectmen. However, it should be noted that the 180 day clock starts ticking on the retroactive date, so some time would be lost. The effective date of the law will sometime in early February, so if a Moratorium isn't enacted until May, half of that time would be lost.

Please let me know if you have any questions. I am in the office most of the day, but out until next Friday.

Happy Holidays!

- Mary

Mary E. Costigan
Shareholder
207 228-7147 direct
207 774-1200 main
My Bio | LinkedIn | Twitter

BERNSTEIN SHUR
Portland, ME | Augusta, ME | Manchester, NH

Confidentiality notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We request that you notify us by reply to this message, and then delete all copies of this message including any contained in your reply. Thank you.

From: Dylan Smith [mailto:dsmith@yorkmaine.org]
Sent: Thursday, November 17, 2016 3:14 PM
To: Mary E. Costigan
Cc: Stephen H. Burns
Subject: Recreational Marijuana Moratorium

Greetings Mary-

I have been tasked to work with you on development of a retroactive moratorium on retail marijuana establishments and retail marijuana social clubs. I'm sure your law firm has received calls related to this. The attached draft is a modified version of a moratorium crafted in another town. The section in the moratorium that I think is insufficient is in regards to retroactivity, as the Board of Selectmen want to include a clause that ensures the moratorium is in place at the time the law goes into effect (roughly 30 days from passage but could be 45 depending). Basically, I think that may need to be added/cleaned up along with other sections you deem appropriate. The date I was thinking the moratorium should be in place is December 8, 2016 (you'll see that in the document) unless you think otherwise. Please let me know if you have any questions and I look forward to your call.

Best,
Dylan

Dylan L. Smith
Planning Director
Town of York
186 York Street
York, Maine 03909
(207) 363-1007

Brief Summary of the "Marijuana Legalization Act"

Legalizes the following activity:

1. Cultivation, manufacturing, distribution, testing and sale of marijuana – pursuant to a State-issued license (in some cases also a town or city-issued license)

2. Personal use, possession and transportation of marijuana accessories and up to 2.5 ounces of prepared marijuana by persons 21 years of age or older.

- A person may consume marijuana in a nonpublic place including a private residence.
- The prohibitions on smoking tobacco (Title 22, Chapters 262 and 263) apply to smoking marijuana – i.e., smoking marijuana is prohibited in all enclosed areas of public places, outdoor eating areas as provided in section 1550 and all rest rooms made available to the public.

3. Transferring or furnishing up to 2.5 ounces or marijuana and up to 6 immature plants or seedlings to a person 21 years of age or older.

4. Possession, growth, cultivation, processing and transportation of up to 6 flowering marijuana plants, 12 immature plants and unlimited seedlings, and possession of all of the marijuana produced by the plants at the adult's residence.

- Home cultivation for personal use – the 6 marijuana plants can be grown at the person's residence, on property owned by that person, or on another person's property with written permission from the owner.
- Marijuana cultivation shall not be visible from a public way.

5. Purchasing up to 2.5 ounces of retail marijuana and marijuana accessories from a retail marijuana store.

6. Purchasing up to 12 seedlings or immature plants from a retail marijuana cultivation facility.

State Licensing of Marijuana Establishments

1. A state license is required for the following activities:

- Retail Marijuana Store: "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"
- Retail Marijuana Cultivation Facility: "an entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments and retail marijuana social clubs."
- Retail Marijuana Products Manufacturing Facility: "an entity licensed to purchase retail marijuana, manufacture, prepare and package retail marijuana products, and sell retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs." 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."

- Retail Marijuana Testing Facility: "an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products."
- NOTE: the four places above are considered "Retail Marijuana Establishments."
- Retail Marijuana Social Club: "an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises."
- Occupational licenses for owners, managers, operators, employees and contractors at licensed premises

2. The state licensing authority is the Department of Agriculture, Conservation and Forestry ("DACF").

3. The DACF is required to adopt rules for the regulation of the "cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products and for the enforcement of the statute."

- The DACF has 9 months *after effective date of the statute* to adopt rule. The rules will be major substantive rules, which means that the rules will be subject to legislative review prior to final adoption.
- The DACF is required to begin accepting and processing applications for retail marijuana establishments and social clubs within 30 days of the adoption of rules.
- No applications for state licenses will be processed until after the adoption of rules, so no less than nine months after the effective date of the statute.

4. State licenses for retail marijuana establishments and social clubs will be conditioned upon municipal approval. The statute specifically prohibits and applicant from operating a retail marijuana establishment or social club without state and municipal approval. The municipal review will pertain to whether the municipality has any limitations on the number of establishments in town and whether the application is in compliance with local ordinances, rules or regulations. The reviewing Town will receive 50% of the application fee.

5. The statute sets forth specific qualifications from license applicants. For example, applicants must be 21 years of age and cannot have a prior conviction for a disqualifying drug offense.

Municipal Authority

1. Municipalities may regulate the number of retail marijuana stores and the location and operation of retail marijuana establishments and social clubs.

2. Municipalities may prohibit the operation of retail marijuana establishments and retail marijuana social clubs.

3. Municipalities may impose separate licensing requirements for retail marijuana establishments and social clubs.

TOWN OF YORK
ORDINANCE ESTABLISHING A MORATORIUM ON RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL MARIJUANA SOCIAL CLUBS

WHEREAS, a referendum on legislation titled the Marijuana Legalization Act, codified at 7 M.R.S.A. Chapter 417, was approved by the voters of the State of Maine on November 8, 2016; and

WHEREAS, as enacted by the voters, the Marijuana Legalization Act will authorize the licensure and operation of retail marijuana establishments and retail marijuana social clubs as a regulated program of the State of Maine; and

WHEREAS, the Marijuana Legalization Act allows municipalities to regulate the location, operation and licensing of retail marijuana establishments and retail marijuana social clubs, as well as prohibit the operation of retail marijuana establishments and retail marijuana social clubs, and to adopt and enforce regulations for such uses; and

WHEREAS, operations related to retail marijuana establishments and retail marijuana social clubs raise a number of concerns related to public safety and welfare, including, but not limited to, potential adverse effects on neighborhoods, security of the facilities, and odors that may create a public nuisance or hazard; and

WHEREAS, there has been an increasing number of requests regarding the establishment of facilities for the cultivation of marijuana; and

WHEREAS, the Town's existing ordinances do not provide an adequate mechanism to regulate and control the location and operation of retail marijuana establishments and retail marijuana social clubs and are inadequate to prevent serious public harm that could be caused by the unregulated development of retail marijuana establishments and retail marijuana social clubs; and

WHEREAS, the Town needs a reasonable amount of time to determine the implications of retail marijuana establishments and retail marijuana social clubs and to develop reasonable regulations governing their location and operation; and

WHEREAS, during the period of this Moratorium, the Town will work on developing appropriate land use regulations concerning retail marijuana establishments and retail marijuana social clubs;

NOW THEREFORE, pursuant to the authority granted to it by 30-A M.R.S. § 4356, be it hereby ordained by the legislative body of the Town of York as follows:

1. DEFINITIONS.

As used in this Ordinance, the following terms have the following meanings as defined in the Marijuana Legalization Act:

"Marijuana": means cannabis.

"Retail Marijuana Establishments": a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility or a retail marijuana testing facility.

"Retail Marijuana Cultivation Facility": an entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments and retail marijuana social clubs.

"Retail Marijuana Products Manufacturing Facility": 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.

"Retail Marijuana Social Club": an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises.

"Retail Marijuana Store": 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.

"Retail Marijuana Testing Facility": an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products.

2. APPLICABILITY AND PURPOSE.

This moratorium shall apply to retail marijuana establishments and retail marijuana social clubs, as defined above, that are proposed to be located within the Town of York on or after the effective date of this Ordinance. Notwithstanding anything to the contrary in 1 M.R.S.A. § 302 or any other law, this Ordinance applies to any application relating to the establishment or operation of a proposed retail marijuana establishment and / or retail marijuana social club, whether or not such application had become a "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to the enactment of this Ordinance. Properties that are currently permitted as retail operations shall not be permitted to operate as a retail marijuana establishment or retail marijuana social club without the necessary licensing and approvals required by the Marijuana Legalization Act and shall only be permitted by the Town in accordance with future land use regulations concerning retail marijuana establishments and retail marijuana social clubs.

3. PROHIBITION.

During the time this Ordinance is in effect, no official, officer, board, body, agency, agent or employee of the Town of York shall accept, process or act upon any application for any approval, including but not limited to a building permit, certificate of occupancy, site plan review, conditional use, or any other approval, received after the effective date of this Ordinance relating to the establishment or operation of a business or operation of a retail marijuana establishment and/or retail marijuana social club. No person shall establish or operate a business or operation of a retail marijuana establishment and/or retail marijuana social club within the Town of York without complying with whatever ordinance amendments the Town may enact as a result of this Ordinance.

4. ENFORCEMENT, VIOLATION AND PENALTIES.

This Ordinance shall be enforced by the Codes Enforcement Officer of the Town of York. Any person who violates Section 3 of this ordinance shall be subject to civil penalties and other remedies as provided in 30-A M.R.S.A. § 4452.

5. EFFECTIVE DATE.

This Ordinance takes effect immediately upon adoption and shall expire on the 180th day thereafter, unless earlier extended by the Board of Selectmen.

6. SEVERABILITY.

Should any section or provision of this Ordinance be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.

NOTICE REGARDING RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL MARIJUANA SOCIAL CLUBS

On November 8, 2016, a referendum on legislation, titled the Marijuana Legalization Act, was approved by the voters. This law allows for retail sales of marijuana, retail marijuana cultivation, manufacturing and testing facilities, as well as retail marijuana social clubs.

The new law will take effect in early February, 30 days after the Governor proclaims the results. The State then has up to nine months to adopt rules for required state licensing for the retail marijuana establishments and social clubs. Until the State establishes regulations for licensing such establishments, no person can operate a retail marijuana establishment or retail marijuana social club in Maine.

The new law gives municipalities the authority to prohibit retail marijuana establishments and/or retail marijuana social clubs and also authorizes municipalities to regulate their location, operation and licensing.

During the time period when the State is establishing licensing regulations, the Town of York will consider whether to regulate or prohibit such establishments and may enact ordinance amendments pertaining to such regulations.

At this time, and until further notice, the Town will not accept any applications for a business license, building permit, certificate of occupancy, site plan review, conditional use, or any other approval for the operation of any facility, building, or property related to the cultivation, manufacturing, testing, sale or consumption of retail marijuana.

Properties that are currently permitted as retail, manufacturing, or similar operations shall not be permitted to operate as a retail marijuana establishment or retail marijuana social club without the necessary licensing and approvals required by the Marijuana Legalization Act and shall only be permitted by the Town in accordance with future land use regulations concerning retail marijuana establishments and retail marijuana social clubs.

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 4, 2017	☐ ACTION
DATE ACTION REQUESTED: January 9, 2017	☒ DISCUSSION ONLY
SUBJECT: Shoreland Zoning Policies	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

At the direction of the Board of Selectmen I have put together additional information relative to the proposed shoreland amendments for the May 2017 Special General Referendum (attached). I hope the attachments help the Board understand some of the changes to the shoreland ordinance that are being proposed.

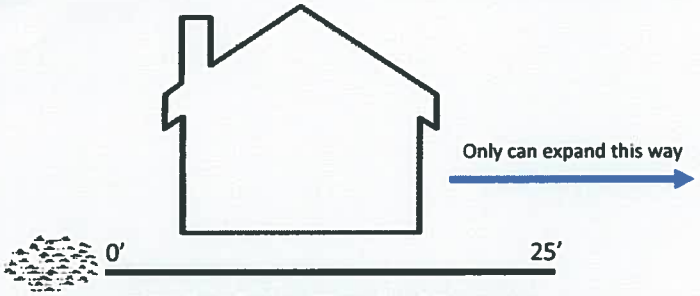
Also, at the request of the Board, I have provided a highlighted section of the current ordinance in place compared to the current state minimum guidelines in place. The goal was to highlight areas within the zoning ordinance that are more stringent than current state shoreland minimum guidelines.

RECOMMENDATION: Consider allowing proposed amendments to the shoreland ordinance be brought forth to a public hearing in February. These amendments are proposed to be similar to those that were heard over the summer with a very minor change that mimics state requirements for existing nonconforming structures located less than 25' to a shoreland resource.
PROPOSED MOTION: N/A

FISCAL IMPACT: N/A
DEPARTMENT LINE ITEM ACCOUNT: N/A
BALANCE IN LINE ITEM IF APPROVED: N/A

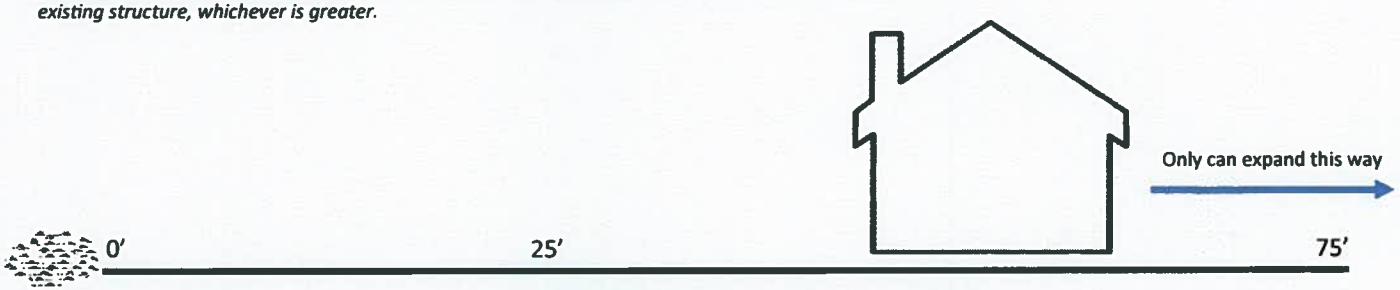
PREPARED BY: Dylan Smith, Planning Director REVIEWED BY: _____

Proposed Nonconforming Structural Setback Expansion Requirements



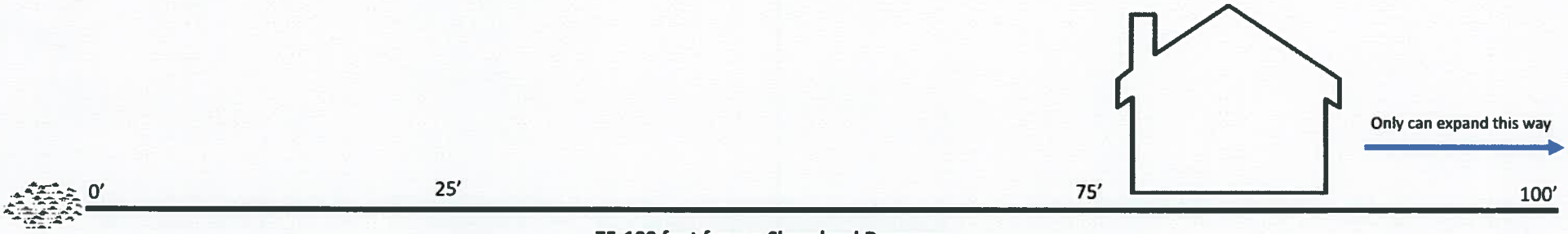
0-25 feet from a Shoreland Resource

Structure can't be expanded closer to the shoreland resource. A legally existing nonconforming principal structure that is located entirely less than 25' from the shoreland resource may expand up to 800 square feet or 30% larger than the structures footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be greater than 15' or the height of the existing structure, whichever is greater.



25-75 feet from a Shoreland Resource

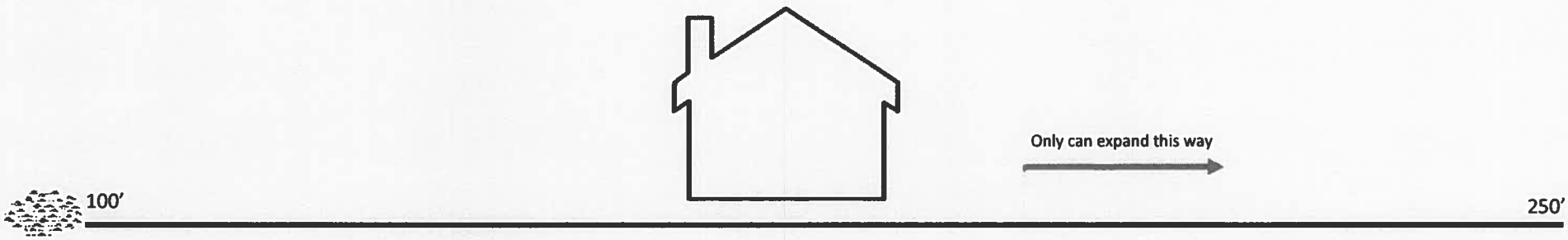
Structure can't be expanded closer to the shoreland resource. Structure can expand up to 1,000 square feet or 30% larger than the structures footprint that existed on January 1, 1989, whichever is greater. Maximum height of the expanded structure can't be greater than 20' or the height of the existing structure, whichever is greater.



75-100 feet from a Shoreland Resource

Structure can't be expanded closer to the shoreland resource. Structure can expand up to 1,500 square feet or 30% larger than the structures footprint that existed on January 1, 1989, whichever is greater. Maximum height of the expanded structure can't be greater than 25' or the height of the existing structure, whichever is greater.

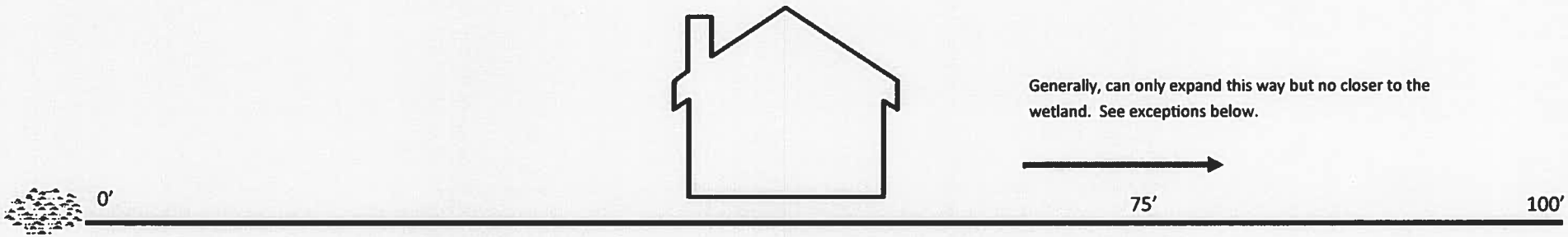
Proposed Nonconforming Structural Setback Expansion Requirements



100-250 feet from a Shoreland Resource in Designated <u>Resource Protection Districts</u>

<u>In addition to the setback limitations mentioned on page 1.</u> Designated Resource Protection Districts require that structures can't be expanded closer to the specially designated shoreland resource. A Structure can expand up to 1,500 square feet or 30% larger than the structures footprint, whichever is greater. Maximum height of the expanded structure can't be greater than 25' or the height of the existing structure, whichever is greater.

Current Nonconforming Structural Setback Expansion Requirements

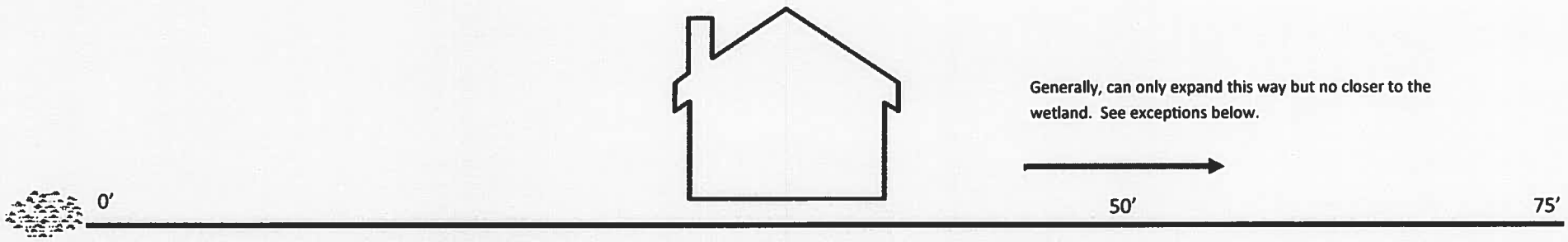


0-100 feet from a Shoreland Resource in the Limited Residential, and Mixed Use Subdistricts (except Harris Island)

Total expansion of the nonconforming portion can not exceed 30% of the floor area or building volume of the nonconforming portion of the structure that existed as of January 1, 1989. No part of the addition that does not comply with the minimum setback requirement shall be closer to any waterbody, stream, or wetland than any part of the existing structure.

If structure is in the limited residential , or mixed use subdistricts and is less than 75' from the wetland edge, expansion can only be done on that portion of the building that is furthest away from the wetland edge.

Current Nonconforming Structural Setback Expansion Requirements

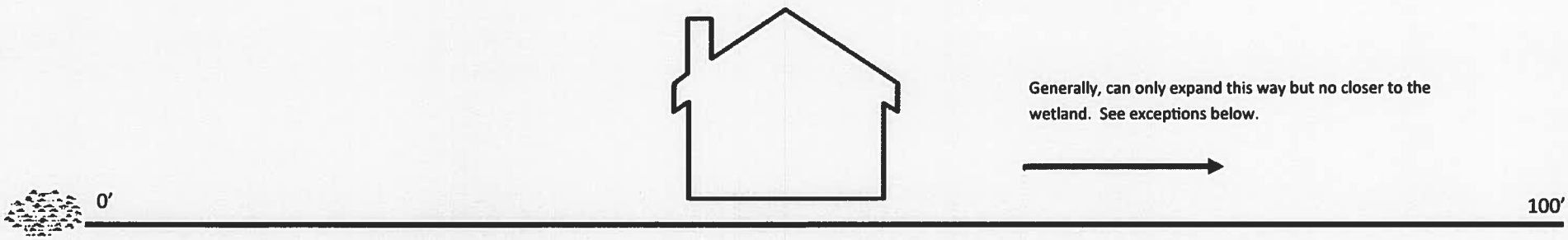


0-75 feet from a Shoreland Resource in the Stream Protection Subdistrict

Total expansion of the nonconforming portion can not exceed 30% of the floor area or building volume of the nonconforming portion of the structure that existed as of January 1, 1989. No part of the addition that does not comply with the minimum setback requirement shall be closer to any waterbody, stream, or wetland than any part of the existing structure.

If structure is in the stream protection subdistrict and less than 50' from the wetland edge, then expansion can only be done on that portion of the building that is furthest away from the wetland edge.

Current Nonconforming Structural Setback Expansion Requirements



0-100 feet from a Shoreland Resource in the Resource Protection Subdistrict

Total expansion of the nonconforming portion can not exceed 30% of the floor area or building volume of the nonconforming portion of the structure that existed as of January 1, 1989. No part of the addition that does not comply with the minimum setback requirement shall be closer to any waterbody, stream, or wetland than any part of the existing structure.

If structure is in the resource protection subdistrict and less than 100' from the wetland edge, then expansion can only be done on that portion of the building that is furthest away from the wetland edge.

ARTICLE THREE

ESTABLISHMENT OF ZONING DISTRICTS

3.8 Shoreland Overlay District

The boundaries of this district and its sub-districts are delineated on a pair of maps entitled, "York Zoning Ordinance: Shoreland Overlay District, Northern Section)," dated November 4, 2008, and "York Zoning Ordinance: Shoreland Overlay District, Southern Section" dated May 29, 2009. This map is available at the Town Clerk's Office. This district's boundaries are based on criteria, as specified in §3.8.1, below. This Overlay District is divided into subdistricts, as specified in §3.8.2, below. Interpretation of the boundaries of this Overlay District shall be governed by §3.8.3, below, as well as other applicable sections of this Ordinance. See Article 8 for standards pertaining to this Overlay District. Also note that certain setback requirements of the Shoreland Overlay District can apply to areas outside this Overlay District (beyond 250 feet from protected resources) and this is intentional. **AMENDED 11/8/2005, 11/04/08**

1. **Criteria.** The Shoreland Overlay District Map was based on designation of resources in accordance with the following criteria:
   a. Tidal waters, coastal wetlands, and inland wetlands contiguous to these resources regardless of their size, and those areas within 250 feet, horizontal distance, of the normal high water mark of such resources.
      1. Exception. Where the Shoreland Overlay District overlaps the York Village Hospital Overlay District, the boundary of the Shoreland Overlay District and structure setbacks shall be measured from the upland edge of the coastal wetlands, not from the upland edge of the contiguous inland wetlands. The inland wetlands in this area are forested, as defined in the State's Chapter 1000 Shoreland Zoning Guidelines, and have an area significantly less than 10 acres. For both of these reasons, this exception to the local rule fully complies with State requirements. The exception is provided to more fully accommodate the public policy objectives of the York Village Hospital Overlay District. **AMENDED 11/06/07**
   b. Those areas within 250 feet, horizontal distance, of the normal high water mark of Bell Marsh Reservoir, Boulter Pond, Chases Pond, Folly Pond, Lake Carolyn, Middle Pond, Scituate Pond, Welchs Pond, Phillips Pond, and York Pond, including wetlands contiguous to these water bodies, and those areas within 250 feet, horizontal distance, of the normal high water mark or upland edge of such resources.
   c. All inland wetlands with a contiguous area of 4 acres or more, and all areas within 250 feet of the upland edge of such wetlands.
   d. Those lands lying within 75 feet, horizontal distance, of the normal high water mark of a stream designated on the Shoreland Overlay District Map.
   e. The provisions of the Shoreland Zoning Overlay District also apply to any structure built on, over, or abutting a dock, wharf or pier, or other structure extending beyond or located below the normal high water mark of a waterbody or within a wetland.

   AMENDED 11/04/08

Commented [DS1]: In general, the state requires "freshwater" wetlands to be considered in the shoreland overlay if they are 10 acres or more or are less than 10 acres but are adjacent to a surface water body

2. **Subdistricts.** The district is comprised of sub-districts as follows:
   a. Resource Protection Sub-district. This subdistrict shall include all areas that meet the criteria that follow. This designation shall supersede the classification of Limited Residential or Mixed-Use sub-district designations.
      1. Coastal Wetlands. The wetland area itself.
      2. Inland Wetlands. The wetland area itself for inland wetlands with a contiguous area of 4 or more acres, or that are contiguous to coastal wetlands.
      3. Map-Designated Areas. All areas so designated on the Shoreland Overlay District Map.
      4. Steep Slopes. Within the Limited Residential or Mixed-Use subdistrict, areas of 2 or more contiguous acres with sustained slopes of 20% or greater, as shown on the Shoreland Overlay District Map. The area of steep slopes may extend beyond the boundaries of the Shoreland Overlay District, but only that portion of the steep area that lies within the Shoreland Overlay District shall be designated as resource protection.
      5. 100-Year Floodplain. Any Shoreland area included within the Velocity Zone on FEMA's Flood Insurance Rate Maps shall be classified as Resource Protection. Along the tidal reaches of the Cape Neddick River, York River and Brave Boat Harbor, any Shoreland area included in the 100-year floodplain on FEMA's Flood Insurance Rate Maps shall be classified as Resource Protection. Because the majority of these areas are narrow slivers of land which would not display legibly on the Shoreland Overlay District Map, these designations shall be determined on a case-by-case basis. **AMENDED 11/04/08**

6. Bird Habitat Areas. The Resource Protection Subdistrict shall include upland areas adjacent to wetlands which are rated "moderate" or "high" value waterfowl and wading bird habitat by the Maine Department of Inland Fisheries and Wildlife, as shown on the Shoreland Overlay District Map. **AMENDED 11/04/08**

7. Unstable Bluffs. The Resource Protection Subdistrict shall include the face of any unstable or highly unstable coastal bluff along tidal waters, as shown on the Shoreland Overlay District map. These areas are designated because they are subject to severe erosion or mass movement. The source of the data is mapping by the Maine Geological Survey. **AMENDED 11/04/08**

Commented [DS2]: Not included in state requirements anymore.

b. Limited Residential Sub-district. All areas so designated on the Shoreland Overlay District Map.

c. Mixed-Use Sub-district. All areas so designated on the Shoreland Overlay District Map.

d. Stream Protection Sub-district. All areas so designated on the Shoreland Overlay District Map, and as indicated in §3.8.3.C.

AMENDED 11/04/08

3. Interpretation of Map.

A. The resource locations and boundaries shown on the map are subject to field verification. This is particularly important because the map is a generalized depiction of the resource conditions on the ground. In instances where the map and text conflict, the map shall prevail unless expressly provided in the remainder of this section (§3.8.3).

B. Any tidal water, coastal wetland, and inland wetland contiguous to these resources, and the entire area within 250' of this resource, shall be included in this Overlay District whether properly shown on the Shoreland Overlay District Map or not.

C. The inclusion of streams in this Overlay District shall be based on the standard that the stream and adjacent uplands shall be included in the Overlay District downstream from its initial point of inclusion, and that there are to be no gaps except as specified below. Any stream flowing out of a Shoreland-designated wetland or great pond shall be considered in the Stream Protection Sub-district even if it is not properly designated on the Shoreland Overlay District Map.

The exceptions to continuous inclusion of a stream in the Overlay are:

1. where a stream enters into a man-made roadside drainage system, it shall be excluded from the Overlay, but shall resume its inclusion below the outfall from the drainage system; or
2. where a stream is contained in a culvert or similar structure for a length of 100 feet or more, it shall be excluded from the Overlay, but shall resume its inclusion below the outfall of the culvert.

In both exceptions cited above, the Stream Protection Subdistrict shall break perpendicular to the stream channel at the point where it enters and exits the drainage system or culvert.

AMENDED 05/09/92, 11/2/2004, 11/04/08

ARTICLE EIGHT

SHORELAND OVERLAY DISTRICT

NOTE: Major shoreland revisions were approved on November 4, 2008. All revisions denoted in this Article were made subsequent to this date. For earlier legislative history, see the May 17, 2008 version of the Zoning Ordinance.

8.1 Dimensional Standards for lots.

8.1.1 Minimum Lot Size and Shore Frontage. The following minimum standards apply:

A. For a lot with residential use which is in the Shoreland Overlay District adjacent to Tidal Areas, a minimum land area of 30,000 square feet and 150' of shore frontage shall be required.

B. For a lot with residential use which is in the Shoreland Overlay District adjacent to Non-Tidal Areas, a minimum land area of 40,000 square feet and 200' of shore frontage shall be required.

C. For a lot with non-residential use which is in the Shoreland Overlay District adjacent to Tidal Areas, a minimum land area of 40,000 square feet and 200' of shore frontage shall be required.

D. For a lot with non-residential use which is in the Shoreland Overlay District adjacent to Non-Tidal Areas, a minimum land area of 60,000 square feet and 300' of shore frontage shall be required.

E. For a lot located within the BUS-3, RES-5, RES-6 or RES-7 base zoning district, with public sewer service, a minimum land area of 12,000 square feet shall apply regardless of the requirements listed in subsections "A" through "D" above. In the event the York Beach Village Center zone is established in November 2008, the 12,000 square foot standard shall apply in this zone as well.

8.1.2 Minimum Lot Width. The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high water mark of the Atlantic Ocean, tidal waters of the York River and its tributaries, tidal waters of the Cape Neddick River and its tributaries, and any open body of water that is greater than four acres in size, such as a pond or lake, shall be equal to the shore frontage requirement for a lot with the proposed use.

8.1.3 Maximum Lot Coverage. The total area of all structures and other impervious, non-vegetated surfaces within the Shoreland Overlay District shall not exceed the least restrictive of the following:

a. 70% of the land area of the lot, or portion thereof, located within the Mixed Use Subdistrict;
b. 20% of the land area of the lot, or portion thereof, located within any other subdistrict of the Shoreland Overlay District; or
c. 30% of the land area of the lot, or portion thereof, for an existing lot of record with a total area less than 12,000 square feet.

8.1.4 Additional Standards.

A. Multiple Uses on a Lot. If more than one residential dwelling unit or principal non-residential use or structure (or combination thereof), is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

For purposes of the Shoreland Overlay District, "residential dwelling unit" shall be defined as: a room or group of rooms designed and equipped exclusively for use as permanent, seasonal or temporary living quarters for only one family at a time, and containing cooking, sleeping and sanitary facilities. The term shall include modular homes, manufactured housing units and rental units that contain cooking, sleeping, and sanitary facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

B. Minimum Land Area. Land below the normal high water mark of a water body or below the upland edge of a wetland, and land beneath a road serving more than 2 lots shall not be included toward calculating minimum lot size.

8.1.5 Cluster Subdivisions. Cluster subdivisions shall be controlled as follows:

1. By subdistrict, cluster subdivision is:
   a. allowed with Shoreland Approval from the Planning Board in the Mixed Use and Limited Residential subdistricts.
   b. prohibited in the Resource Protection and Stream Protection subdistricts.
2. Cluster subdivision shall be approved only upon demonstration that overall dimensional requirements for the Overlay District, including shore frontage and lot area per dwelling unit, are met. When determining whether dimensional requirements are met, only land area within the Shoreland Overlay District shall be considered. – **AMENDED 5/19/2012**

8.2 Land Uses Permitted in the Shoreland Overlay District

8.2.1 Land uses permitted in the Shoreland Overlay District are limited to those indicated in Sections 8.2.1.A – D below. However, additional limitations shall apply as follows. Within the Shoreland Overlay District adjacent to a Great Pond or a stream which flows into a Great Pond, the following new commercial and industrial uses shall be prohibited:

AMENDED: 11/8/2011

1. Auto washing facilities;
2. Auto or other vehicle service and/or repair operations, including body shops;
3. Chemical and bacteriological laboratories;
4. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms;
5. Commercial painting, wood preserving and furniture stripping;
6. Dry cleaning establishments;
7. Electronic circuit assembly;
8. Laundromats;
9. Metal plating, finishing or polishing;
10. Petroleum or petroleum product storage and/or sale, except for storage on same property as the use occurs;
11. Photographic processing; and
12. Printing.

8.2.1.A Mixed Use Subdistrict

Commented [DS3]: State regulations define these districts differently (General Development 1 and 2). This does not necessarily make this more stringent or less stringent, but it seems as though the district was developed to meet the standards of the towns current permitted use tables.

Residential Use Category (Mixed Use Shoreland) – Shoreland permits/approvals are required. Jurisdiction to issue Shoreland permits/approvals is established by use as specified in §4.1.A, except where indicated below. – **ENTIRE CATEGORY AMENDED 5/19/2012**

- Single-Family Dwelling
- Two-Family Dwelling
- Multi-Family Dwelling
- Boarding House
- Bed & Breakfast – Shoreland Permit from the CEO is required.
- Elderly Housing

Commercial Use Category (Mixed Use Shoreland)

- Service Businesses Serving Local Needs such as, but not limited to, barber shops, shoe repair, self-service laundry or dry-cleaning pick-up agency, tailoring, printing shop, caterer or other similar uses – Shoreland Permit from the CEO is required.
- Small (under 2,500 square feet) Store for Retail Sale of Merchandise provided all display, storage and sale of materials are conducted within a building and provided there is no manufacturing or assembly on premises – Shoreland Permit from the CEO is required.
- Large Store, or Mall (group of stores under single roof) with total floor space over 2,500 square feet for Retail Sale of Merchandise provided all display, storage, and sales of materials are conducted within a building and provided there is no manufacturing or assembly on the premises – Shoreland Permit from the CEO is required.
- Banks (with or without drive-through window) – Shoreland Permit from the CEO is required.
- Antique Shops – Shoreland Permit from the CEO is required.
- Laundries and Dry Cleaning Facilities (on public sewer) – Shoreland Permit from the CEO is required.
- Store for Retail Sale of Merchandise such as but not limited to Lumber Yards and Building Supply Yards wherein merchandise is stored in the open, provided that all merchandise so stored is screened from ground level view from any abutting residential property – Shoreland Permit from the CEO is required.
- Plumbing, Electrical or Carpentry Shop or Other Similar Service or Repair Establishment – Shoreland Permit from the CEO is required.
- Medical Marijuana Production Facility
- Medical Marijuana Registered Dispensary
- Motels/Hotels – A transient rental accommodation with cooking facilities in a hotel/motel shall not be rented or leased to the same person or persons for more than 90 days in any 120 consecutive day period. This length of stay shall be considered as a rental or lease of any accommodation with cooking facilities in the same hotel/motel and not only the rental of the same accommodation to the same person or persons. Also, Shoreland Permit from the CEO is required.
- Lodging and Tourist Homes/Inns – Shoreland Permit from the CEO is required.
- Restaurants – Shoreland Permit from the CEO is required.
- Ice Cream Stands – Shoreland Permit from the CEO is required.
- Marinas – Shoreland Permit from the CEO is required.
- Florists – Shoreland Permit from the CEO is required.
- Garden Centers – Shoreland Permit from the CEO is required.
- Pet Shops – Shoreland Permit from the CEO is required.
- Commercial Schools – Shoreland Permit from the CEO is required.
- Day Care Facilities – Shoreland Permit from the CEO is required.
- Fruit and Vegetable Produce Stores – Shoreland Permit from the CEO is required.
- Artisanal Food and/or Beverage Facility (Not to exceed 5,000 square feet). Retail Sales of Merchandise as part of this use shall not supersede 2,500 square feet of gross floor area.
- EXPRESSLY PROHIBITED: Fast Food Restaurants, whether the use is a principal use or an accessory use; Formula Restaurants, whether the use is a principal use or an accessory use; Truck Stops.

AMENDED 11/4/2014

Office Use Category (Mixed Use Shoreland)

- Business, Financial, Professional or Government Offices, Except Town of York or York School District Offices – Shoreland Permit from the CEO is required.
- Town of York or York School District Offices – Shoreland Permit from the CEO is required.

- Offices and Clinics for Medical, Psychiatric, or Other Health Services for the Examination or Treatment of Persons as Outpatients, including only Laboratories that are Part of Such Office or Clinic – Shoreland Permit from the CEO is required.
- Laboratory or Research Facility – Shoreland Permit from the CEO is required.
- Radio or Television Studio – Shoreland Permit from the CEO is required.

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

- Cemeteries – All burial sites, fences, monuments, and related improvements associated with a cemetery shall conform with the required Shoreland setbacks for structures. Also, a Shoreland Permit from the CEO is required.
- **Civic Use** - Only parks, playgrounds or recreation areas involving minimal structural development are allowed. This shall include small non-residential facilities for educational, scientific or nature interpretation purposes - Shoreland Permit from the Planning Board is required.
- Cultural Facility – Shoreland Permit from the Planning Board is required.
- Essential Services:
  - Roadside Distribution and Sub-Transmission Lines (electric, telephone, cable) – Permit not required, but must file a written "notice of intent to construct" with Code Enforcement Officer.
  - Non-Roadside (Cross-Country) Distribution or Sub-Transmission Lines with 10 or less poles in the Shoreland Overlay District – Shoreland Permit from the CEO is required.
  - Non-Roadside (Cross-Country) Distribution or Sub-Transmission Lines with more than 10 poles in the Shoreland Overlay District – Shoreland Permit from the Planning Board required.
  - Other Essential Services – Shoreland Permit from the CEO is required.
- Hospitals – Shoreland Permit from the Planning Board required.
- **Medical Facility** - Shoreland Permit from the CEO is required.
- **Membership Organization** - Shoreland Permit from the CEO is required.
- Municipal Use - Excluding Department of Public Works facilities which involve the regular storage of heavy equipment and construction materials - –Shoreland Permit from the Planning Board is required.
- Nursing Homes – Shoreland Permit from the ~~CEO~~ Planning Board is required.
- Religious Use - Shoreland Permit from the Plannning Board is required.
- School - Shoreland Permit from the Planning Board is required.
- Utility District - Shoreland Permit from the CEO is required.

AMENDED 11/6/2012

Industrial Use Category (Mixed Use Shoreland)

- Printing, Binding, Publishing and Related Arts and Trades – Shoreland Permit from the CEO is required.
- Bottling of Beverages – Shoreland Permit from the CEO is required.
- Machine Shop, Assembly, Packaging, or Manufacturing – Shoreland Permit from the CEO is required.
- Wholesale Business and Storage in a Roofed Structure – Shoreland Permit from the CEO is required.
- Wood Manufacturing and Fabrication – Shoreland Permit from the CEO is required.
- Bulk Storage Collection Bin – Shoreland Permit from the CEO is required.
- EXPRESSLY PROHIBITED: Waste Transfer Facility; Waste Processing or Disposal Facility; Bulk Fuel Storage; Truck Terminals.

Vehicular Use Category (Mixed Use Shoreland)

- Vehicle Service Stations, Auto Repair Garages – Shoreland Permit from the CEO is required.
- Auto Body Repair Shops – Shoreland Permit from the CEO is required.
- Sale, Rental and Accessory Storage of Automobiles, Light Trucks, Motorcycles, and Mopeds Conducted Wholly or Partially in Open Lots – Shoreland Permit from the CEO is required.
- Sale of Pickup Coaches, Campers, Tent Trailers and Similar Equipment, Including Snowmobiles – Shoreland Permit from the CEO is required.
- Place for Repair, Sale, Rent or Storage of Pleasure Boats – Shoreland Permit from the CEO is required.
- Car Washing Establishment – Shoreland Permit from the CEO is required.
- EXPRESSLY PROHIBITED: Salvage Yards, Junk Yards, Wrecking Yards.

Rural & Agricultural Use Category (Mixed Use Shoreland)

- Mineral Exploration – Shoreland Permit from the CEO is required.
- Mineral Extraction – Shoreland Permit from the Planning Board required.

- Soil and Water Conservation Practices – Conducted in accordance with the standards of the USDA Natural Resources Conservation Service including but not limited to creation and maintenance of farm ponds for agricultural purposes. Shoreland Permit from the CEO is required.
- Aquaculture – Shoreland Permit from the CEO is required.
- General Purpose Farm, Agriculture and Nurseries – Shoreland Permit from the CEO is required.
- Timber Harvesting – Shoreland Permit from the CEO is required.
- Forest Management Activities Except for Timber Harvesting
- Sale of Produce Raised on Same Premises
- Wildlife Management Practices
- Animal Breeding (Small Domestic Animals)
- Harvesting of Wild Crops
- Commercial Stables – Shoreland Permit from the CEO is required.
- Veterinary Establishment, Kennel, or Similar Establishment – Shoreland Permit from the CEO is required.
- EXPRESSLY PROHIBITED: n.a.

Recreation & Amusement Use Category (Mixed Use Shoreland)

- Indoor Sports Facility (No Gambling) – Shoreland Permit from the CEO is required.
- Fraternal Organization/Club/Lodge
- EXPRESSLY PROHIBITED: Campgrounds and Travel Trailer Parks; Amusement Arcades (as Primary or Accessory Use); Indoor Amusement/Entertainment/Assembly Place (Enclosed); Outdoor Sport and Amusement Facilities Conducted for Profit; Country Club; Open Air or Drive-In Theater or Other Open Air Places of Entertainment; Bath House, for Non-Commercial Purposes.

Miscellaneous Use Category (Mixed Use Shoreland)

- Piers, Docks, Wharves, Breakwaters, Causeways, Bridges and Other Structures and Uses Extending Over or Below the Normal High Water Line or Within a Wetland:
  - Temporary – Shoreland Permit from the CEO is required.
  - Permanent in Non-Tidal Waters – Shoreland Permit from the Planning Board required, and subject to conditions of §8.3.6.6.
  - Permanent in Tidal Waters – Shoreland Permit from the CEO is required.
- Mortuary, Undertaking or Funeral Establishment – Shoreland Permit from the CEO is required.
- Place for Exhibition, Lettering or Sale of Gravestones – Shoreland Permit from the CEO is required.
- Filling or Other Earthmoving Activities – Shoreland Permit from the CEO is required.
- Road and Driveway Construction – Shoreland Permit from the CEO is required.
- Land Management Road – Shoreland Permit from the CEO is required.
- Public Sewage Treatment Facility – Shoreland Permit from the Planning Board required.
- Structures Accessory to Permitted Use – If the principal structure or principal use is a dwelling unit, an accessory structure shall not have cooking facilities and shall not have more than one of the following: living facilities, sanitary facilities or sleeping facilities. Also, a Shoreland Permit from the CEO is required.
- Accessory Uses Customarily Incident to Allowed Uses – Shoreland Permit from the CEO is required.
- EXPRESSLY PROHIBITED: Flea Markets; Casino; Head Shop; Obscene Exhibitions; Dumps; Billboards; All Other Uses.

AMENDED 11/6/2012

8.2.1.B Limited Residential Subdistrict

Residential Use Category (Limited Res. Shoreland) – Shoreland permits/approvals are required. Jurisdiction to issue Shoreland permits/approvals is established by use as specified in §4.1.A, except where indicated below. – **ENTIRE CATEGORY AMENDED 5/19/2012**

- Single-Family Dwelling
- Two-Family Dwelling
- Multi-Family Dwelling
- Bed & Breakfast – Shoreland Permit from the CEO is required.
- Elderly Housing

Commercial Use Category (Limited Res. Shoreland)

- Antique Shops – Shoreland Permit from the CEO is required.
- Motels/Hotels – A transient rental accommodation with cooking facilities in a hotel/motel shall not be rented or leased to the same person or persons for more than 90 days in any 120 consecutive day period. This length of stay shall be considered as a rental or lease of any accommodation with cooking facilities in the same hotel/motel and not only the rental of the same accommodation to the same person or persons. Also, expansion is defined as meaning: 1) construction of additions to existing facilities, buildings and structures, and 2) construction of new free standing facilities, buildings and structures. Under definition 1 and 2 above, construction is limited to an expansion, within lot lines existing as of November 7, 1995 of existing facilities, buildings and structures and other facilities, buildings and structures reasonably or customarily associated with said existing facilities, buildings and structures. All expansions, regardless of the amount of expansion, shall satisfy to the maximum extent practical, as determined by the Planning Board, the requirements of the Town of York Planning Board Subdivision and Site Plan Regulations.
- Restaurants – Expansion is defined as meaning: 1) construction of additions to existing facilities, buildings and structures, and 2) construction of new free standing facilities, buildings and structures. Under definition 1 and 2 above, construction is limited to an expansion, within lot lines existing as of November 5, 1996, of existing facilities, buildings and structures and other facilities, buildings and structures reasonably or customarily associated with said existing facilities, buildings and structures. All expansions, regardless of the amount of expansion, shall satisfy to the maximum extent practical, as determined by the Planning Board, the requirements of the Town of York Planning Board Subdivision and Site Plan Regulations. Also, a Shoreland Permit from the Planning Board required.
- Ice Cream Stands – Expansion is defined as meaning: 1) construction of additions to existing facilities, buildings and structures, and 2) construction of new free standing facilities, buildings and structures. Under definition 1 and 2 above, construction is limited to an expansion, within lot lines existing as of November 5, 1996, of existing facilities, buildings and structures and other facilities, buildings and structures reasonably or customarily associated with said existing facilities, buildings and structures. All expansions, regardless of the amount of expansion, shall satisfy to the maximum extent practical, as determined by the Planning Board, the requirements of the Town of York Planning Board Subdivision and Site Plan Regulations. Also, a Shoreland Permit from the Planning Board required.
- EXPRESSLY PROHIBITED: Service Businesses Serving Local Needs; Small (under 2,500 square feet) Store for Retail Sale of Merchandise; Large Store or Mall (Group of Stores Under Single Roof) With Total Floor Space Over 2,500 Square Feet for Retail Sale of Merchandise; Banks; Laundries and Dry Cleaning Facilities; Store for Retail Sale of Merchandise such as but not limited to Lumber Yards and Building Supply Yards; Plumbing, Electrical or Carpentry Shop or Other Similar Service or Repair Establishment; Lodging and Tourist Homes/Inns; Fast Food Restaurants, whether the use is a principal use or an accessory use; Formula Restaurants, whether the use is a principal use or an accessory use; Truck Stops; Marinas; Florists; Garden Centers; Pet Shops; Commercial Schools; Day Care Facilities; Fruit and Vegetable Produce Stores; Medical Marijuana Production Facility; Medical Marijuana Registered Dispensary; Artisanal Food and/or Beverage Facility.

AMENDED 11/4/2014 and 5/16/2015

Office Use Category (Limited Res. Shoreland)

- Town of York or York School District Offices – Shoreland Permit from the CEO is required.
- EXPRESSLY PROHIBITED: Business, Financial, Professional or Government Offices, Except Town of York or York School District Offices; Offices and Clinics for Medical, Psychiatric, or Other Health Services for the Examination or Treatment of Persons as Outpatients, including only Laboratories that are Part of Such Office or Clinic; Laboratory or Research Facility; Radio or Television Studio.

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

- Cemeteries – All burial sites, fences, monuments, and related improvements associated with a cemetery shall conform with the required Shoreland setbacks for structures. Also, a Shoreland Permit from the CEO is required.

- **Civic Use** - Only parks, playgrounds or recreation areas involving minimal structural development are allowed. This shall include small non-residential facilities for educational, scientific or nature interpretation purposes - Shoreland Permit from the Planning Board is required.
- Cultural Facility – Shoreland Permit from the ~~CEO~~ Planning Board is required.
- Essential Services:
  - Roadside Distribution and Sub-Transmission Lines (electric, telephone, cable) – Permit not required, but must file a written "notice of intent to construct" with Code Enforcement Officer.
  - Non-Roadside (Cross-Country) Distribution or Sub-Transmission Lines with 10 or less poles in the Shoreland Overlay District – Shoreland Permit from the CEO is required.
  - Non-Roadside (Cross-Country) Distribution or Sub-Transmission Lines with more than 10 poles in the Shoreland Overlay District – Shoreland Permit from the Planning Board required.
  - Other Essential Services – Shoreland Permit from the CEO is required.
- **Membership Organization** - Shoreland Permit from the Planning Board is required.
- Municipal Use - Excluding Department of Public Works facilities which involve the regular storage of heavy equipment and construction materials –Shoreland Permit from the Planning Board is required.
- Religious Use - Shoreland Permit from the Planning Board is required.
- School - Shoreland Permit from the Planning Board is required.
- Utility District - Shoreland Permit from the CEO is required.

AMENDED 11/6/2012

Industrial Use Category (Limited Res. Shoreland)

- Bulk Storage Collection Bin – Shoreland Permit from the CEO is required.
- EXPRESSLY PROHIBITED: Printing, Binding, Publishing and Related Arts and Trades; Bottling of Beverages; Machine Shop, Assembly, Packaging, or Manufacturing; Wholesale Business and Storage in a Roofed Structure; Wood Manufacturing and Fabrication; Waste Transfer Facility; Waste Processing or Disposal Facility; Bulk Fuel Storage; Truck Terminals.

Vehicular Use Category (Limited Res. Shoreland)

- EXPRESSLY PROHIBITED: Vehicle Service Stations, Auto Repair Garages; Auto Body Repair Shops; Sale, Rental and Accessory Storage of Automobiles, Light Trucks, Motorcycles, and Mopeds Conducted Wholly or Partially in Open Lots; Sale of Pickup Coaches, Campers, Tent Trailers and Similar Equipment, Including Snowmobiles; Place for Repair, Sale, Rent or Storage of Pleasure Boats; Salvage Yards, Junk Yards, Wrecking Yards; Car Washing Establishment.

Rural & Agricultural Use Category (Limited Res. Shoreland)

- Mineral Exploration – Shoreland Permit from the CEO is required.
- Mineral Extraction – Shoreland Permit from the Planning Board required.
- Soil and Water Conservation Practices – Conducted in accordance with the standards of the USDA Natural Resources Conservation Service including but not limited to creation and maintenance of farm ponds for agricultural purposes. Shoreland Permit from the CEO is required.
- Aquaculture – Shoreland Permit from the CEO is required.
- General Purpose Farm, Agriculture and Nurseries – Shoreland Permit from the CEO is required.
- Timber Harvesting – Shoreland Permit from the CEO is required.
- Forest Management Activities Except for Timber Harvesting
- Sale of Produce Raised on Same Premises
- Wildlife Management Practices
- Harvesting of Wild Crops
- Commercial Stables – Shoreland Permit from the CEO is required.
- EXPRESSLY PROHIBITED: Animal Breeding (Small Domestic Animals); Veterinary Establishment, Kennel, or Similar Establishment.

Recreation & Amusement Use Category (Limited Res. Shoreland)

- Bath House, for Non-Commercial Purposes – Shoreland Permit from the CEO is required.
- EXPRESSLY PROHIBITED: Campgrounds and Travel Trailer Parks; Amusement Arcades (as Primary or Accessory Use); Indoor Amusement/Entertainment/Assembly Place (Enclosed); Indoor Sports Facility (No Gambling); Outdoor Sport and Amusement Facilities Conducted for Profit; Country Club; Open Air or Drive-In Theater or Other Open Air Places of Entertainment; Fraternal Organization/Club/Lodge.

Miscellaneous Use Category (Limited Res. Shoreland)

- Piers, Docks, Wharves, Breakwaters, Causeways, Bridges and Other Structures and Uses Extending Over or Below the Normal High Water Line or Within a Wetland:
  - Temporary – Shoreland Permit from the CEO is required.
  - Permanent in Non-Tidal Waters – Shoreland Permit from the Planning Board required, and subject to conditions of §8.3.6.6.
  - Permanent in Tidal Waters – Shoreland Permit from the CEO is required.
- Filling or Other Earthmoving Activities – Shoreland Permit from the CEO is required.
- Road and Driveway Construction – Shoreland Permit from the CEO is required.
- Land Management Road – Shoreland Permit from the CEO is required.
- Public Sewage Treatment Facility – Shoreland Permit from the Planning Board required.
- Structures Accessory to Permitted Use – If the principal structure or principal use is a dwelling unit, an accessory structure shall not have cooking facilities and shall not have more than one of the following: living facilities, sanitary facilities or sleeping facilities. Also, a Shoreland Permit from the CEO is required.
- Accessory Uses Customarily Incident to Allowed Uses – Shoreland Permit from the CEO is required.
- EXPRESSLY PROHIBITED: Flea Markets; Casino; Mortuary, Undertaking or Funeral Establishment; Place for Exhibition, Lettering or Sale of Gravestones; Head Shop; Obscene Exhibitions; Dumps; Billboards; All Other Uses.

AMENDED 11/6/2012

8.2.1.C Resource Protection Subdistrict

Residential Use Category (Res. Protection Shoreland) – Shoreland permits/approvals are required. Jurisdiction to issue Shoreland permits/approvals is established by use as specified in §4.1.A, except where indicated below. – **ENTIRE CATEGORY AMENDED 5/19/2012**

- Single-Family Dwelling – Requires a Special Use Permit per §18.2.7.

Commercial Use Category (Res. Protection Shoreland)

- EXPRESSLY PROHIBITED: Service Businesses Serving Local Needs; Small (under 2,500 square feet) Store for Retail Sale of Merchandise; Large Store or Mall (Group of Stores Under Single Roof) With Total Floor Space Over 2,500 Square Feet for Retail Sale of Merchandise; Banks; Antique Shops; Laundries and Dry Cleaning Facilities; Store for Retail Sale of Merchandise such as but not limited to Lumber Yards and Building Supply Yards; Plumbing, Electrical or Carpentry Shop or Other Similar Service or Repair Establishment; Motels/Hotels; Lodging and Tourist Homes/Inns; Restaurants; Fast Food Restaurants, whether the use is a principal use or an accessory use; Formula Restaurants, whether the use is a principal use or an accessory use; Ice Cream Stands; Truck Stops; Marinas; Florists; Garden Centers; Pet Shops; Commercial Schools; Day Care Facilities; Fruit and Vegetable Produce Stores; Medical Marijuana Production Facility; Medical Marijuana Registered Dispensary; Artisanal Food and/or Beverage Facility.

AMENDED 11/4/2014 and 5/16/2015

Office Use Category (Res. Protection Shoreland)

- EXPRESSLY PROHIBITED: Business, Financial, Professional or Government Offices, Except Town of York or York School District Offices; Town of York or York School District Offices; Offices and Clinics for Medical, Psychiatric, or Other Health Services for the Examination or Treatment of Persons as Outpatients, including only Laboratories that are Part of Such Office or Clinic; Laboratory or Research Facility; Radio or Television Studio.

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

- Civic Use - Only parks, playgrounds or recreation areas involving minimal structural development are allowed. This shall include small non-residential facilities for educational, scientific or nature interpretation purposes - Shoreland Permit from the Planning Board is required.
- Cultural Facility – Shoreland Permit from the Planning Board is required.
- Essential Services:
  - Roadside Distribution and Sub-Transmission Lines (electric, telephone, cable) – Shoreland Permit from the CEO is required.
  - Non-Roadside (Cross-Country) Distribution or Sub-Transmission Lines with 10 or less poles in the Shoreland Overlay District – Shoreland Permit from the Planning Board required.
  - Non-Roadside (Cross-Country) Distribution or Sub-Transmission Lines with more than 10 poles in the Shoreland Overlay District – Shoreland Permit from the Planning Board required.
  - Other Essential Services – Shoreland Permit from the CEO is required.
- Municipal Use - Excluding Department of Public Works facilities which involve the regular storage of heavy equipment and construction materials —Shoreland Permit from the Planning Board is required.
- Utility District - Treatment plants not permitted - Shoreland Permit from the CEO is required.

AMENDED 11/6/2012

Industrial Use Category (Res. Protection Shoreland)

- EXPRESSLY PROHIBITED: Printing, Binding, Publishing and Related Arts and Trades; Bottling of Beverages; Machine Shop, Assembly, Packaging, or Manufacturing; Wholesale Business and Storage in a Roofed Structure; Wood Manufacturing and Fabrication; Waste Transfer Facility; Waste Processing or Disposal Facility; Bulk Fuel Storage; Truck Terminals; Bulk Storage Collection Bin.

Vehicular Use Category (Res. Protection Shoreland)

- EXPRESSLY PROHIBITED: Vehicle Service Stations, Auto Repair Garages; Auto Body Repair Shops; Sale, Rental and Accessory Storage of Automobiles, Light Trucks, Motorcycles, and Mopeds Conducted Wholly or Partially in Open Lots; Sale of Pickup Coaches, Campers, Tent Trailers and Similar Equipment, Including Snowmobiles; Place for Repair, Sale, Rent or Storage of Pleasure Boats; Salvage Yards, Junk Yards, Wrecking Yards; Car Washing Establishment.

Rural & Agricultural Use Category (Res. Protection Shoreland)

- Soil and Water Conservation Practices – Conducted in accordance with the standards of the USDA Natural Resources Conservation Service including but not limited to creation and maintenance of farm ponds for agricultural purposes. Shoreland Permit from the CEO is required.
- Aquaculture – Shoreland Permit from the CEO is required.

- General Purpose Farm, Agriculture and Nurseries – Shoreland Permit from the CEO is required.
- Timber Harvesting – Shoreland Permit from the CEO is required.
- Forest Management Activities Except for Timber Harvesting
- Wildlife Management Practices
- Harvesting of Wild Crops
- EXPRESSLY PROHIBITED: Mineral Exploration; Mineral Extraction; Sale of Produce Raised on Same Premises; Animal Breeding (Small Domestic Animals); Commercial Stables; Veterinary Establishment, Kennel, or Similar Establishment.

Recreation & Amusement Use Category (Res. Protection Shoreland)

- EXPRESSLY PROHIBITED: Campgrounds and Travel Trailer Parks; Amusement Arcades (as Primary or Accessory Use); Indoor Amusement/Entertainment/Assembly Place (Enclosed); Indoor Sports Facility (No Gambling); Outdoor Sport and Amusement Facilities Conducted for Profit; Country Club; Open Air or Drive-In Theater or Other Open Air Places of Entertainment; Fraternal Organization/Club/Lodge; Bath House, for Non-Commercial Purposes.

Miscellaneous Use Category (Res. Protection Shoreland)

- Filling or Other Earthmoving Activities – Shoreland Permit from the CEO is required.
- Road and Driveway Construction – Permitted only as per provisions of §8.3.8.5.
- Land Management Road – Permitted only as per provisions of §8.3.8.5.
- Structures Accessory to Permitted Use – If the principal structure or principal use is a dwelling unit, an accessory structure shall not have cooking facilities and shall not have more than one of the following: living facilities, sanitary facilities or sleeping facilities. Also, requires a Special Use Permit per §18.2.7, except that only the conditions of §18.2.7.c through §18.2.7.f shall apply.
- Accessory Uses Customarily Incident to Allowed Uses – Shoreland Permit from the Planning Board required.
- EXPRESSLY PROHIBITED: Piers, Docks, Wharves, Breakwaters, Causeways, Bridges and Other Structures and Uses Extending Over or Below the Normal High Water Line or Within a Wetland; Flea Markets; Casino; Mortuary, Undertaking or Funeral Establishment; Place for Exhibition, Lettering or Sale of Gravestones; Head Shop; Obscene Exhibitions; Dumps; Billboards; All Other Uses.

AMENDED 11/6/2012

8.2.1.D Stream Protection Subdistrict

Residential Use Category (Stream Protection Shoreland) – Shoreland permits/approvals are required. Jurisdiction to issue Shoreland permits/approvals is established by use as specified in §4.1.A, except where indicated below. – **ENTIRE CATEGORY AMENDED 5/19/2012**

- No uses in this Category are permitted in this Subdistrict.

Commercial Use Category (Stream Protection Shoreland)

- EXPRESSLY PROHIBITED: Service Businesses Serving Local Needs; Small (under 2,500 square feet) Store for Retail Sale of Merchandise; Large Store or Mall (Group of Stores Under Single Roof) With Total Floor Space Over 2,500 Square Feet for Retail Sale of Merchandise; Banks; Antique Shops; Laundries and Dry Cleaning Facilities; Store for Retail Sale of Merchandise such as but not limited to Lumber Yards and Building Supply Yards; Plumbing, Electrical or Carpentry Shop or Other Similar Service or Repair Establishment; Motels/Hotels; Lodging and Tourist Homes/Inns; Restaurants; Fast Food Restaurants, whether the use is a principal use or an accessory use; Formula Restaurants, whether the use is a principal use or an accessory use; Ice Cream Stands; Truck Stops; Marinas; Florists; Garden Centers; Pet Shops; Commercial Schools; Day Care Facilities; Fruit and Vegetable Produce Stores; Medical Marijuana Production Facility; Medical Marijuana Registered Dispensary; Artisanal Food and/or Beverage Facility.

AMENDED 11/4/2014 and 5/16/2015

Office Use Category (Stream Protection Shoreland)

- EXPRESSLY PROHIBITED: Business, Financial, Professional or Government Offices, Except Town of York or York School District Offices; Town of York or York School District Offices; Offices and Clinics for Medical, Psychiatric, or Other Health Services for the Examination or Treatment of Persons as Outpatients, including only Laboratories that are Part of Such Office or Clinic; Laboratory or Research Facility; Radio or Television Studio.

Civic & Public Use Category and Miscellaneous Use Category (Stream Protection Shoreland) – Shoreland permits/approvals are required. Jurisdiction to issue Shoreland permits/approvals is established by use as specified in §4.1.A, except where indicated below.

- **Civic Use** - Only parks, playgrounds or recreation areas involving minimal structural development are allowed. This shall include small non-residential facilities for educational, scientific or nature interpretation purposes - Shoreland Permit from the CEO is required.
- Cultural Facility – Shoreland Permit from the CEO is required.
- Essential Services:
  - Roadside Distribution and Sub-Transmission Lines (electric, telephone, cable) – Shoreland Permit from the CEO is required.
  - Non-Roadside (Cross-Country) Distribution or Sub-Transmission Lines with 10 or less poles in the Shoreland Overlay District – Shoreland Permit from the Planning Board required.
  - Non-Roadside (Cross-Country) Distribution or Sub-Transmission Lines with more than 10 poles in the Shoreland Overlay District – Shoreland Permit from the Planning Board required.
  - Other Essential Services – Shoreland Permit from the CEO is required.
- Municipal Use - Excluding Department of Public Works facilities which involve the regular storage of heavy equipment and construction materials; only parks, playgrounds or recreation areas involving minimal structural development are allowed –Shoreland Permit from the CEO is required.

AMENDED 11/6/2012

Industrial Use Category (Stream Protection Shoreland)

- EXPRESSLY PROHIBITED: Printing, Binding, Publishing and Related Arts and Trades; Bottling of Beverages; Machine Shop, Assembly, Packaging, or Manufacturing; Wholesale Business and Storage in a Roofed Structure; Wood Manufacturing and Fabrication; Waste Transfer Facility; Waste Processing or Disposal Facility; Bulk Fuel Storage; Truck Terminals; Bulk Storage Collection Bin.

Vehicular Use Category (Stream Protection Shoreland)

- EXPRESSLY PROHIBITED: Vehicle Service Stations, Auto Repair Garages; Auto Body Repair Shops; Sale, Rental and Accessory Storage of Automobiles, Light Trucks, Motorcycles, and Mopeds Conducted Wholly or Partially in Open Lots; Sale of Pickup Coaches, Campers, Tent Trailers and Similar Equipment, Including Snowmobiles; Place for Repair, Sale, Rent or Storage of Pleasure Boats; Salvage Yards, Junk Yards, Wrecking Yards; Car Washing Establishment.

Rural & Agricultural Use Category (Stream Protection Shoreland)

- Soil and Water Conservation Practices – Conducted in accordance with the standards of the USDA Natural Resources Conservation Service including but not limited to creation and maintenance of farm ponds for agricultural purposes. Shoreland Permit from the CEO is required.
- Aquaculture – Shoreland Permit from the CEO is required.
- General Purpose Farm, Agriculture and Nurseries – Shoreland Permit from the CEO is required.
- Timber Harvesting – Shoreland Permit from the CEO is required.
- Forest Management Activities Except for Timber Harvesting
- Wildlife Management Practices
- Harvesting of Wild Crops
- EXPRESSLY PROHIBITED: Mineral Exploration; Mineral Extraction; Sale of Produce Raised on Same Premises; Animal Breeding (Small Domestic Animals); Commercial Stables; Veterinary Establishment, Kennel, or Similar Establishment.

Recreation & Amusement Use Category (Stream Protection Shoreland)

- EXPRESSLY PROHIBITED: Campgrounds and Travel Trailer Parks; Amusement Arcades (as Primary or Accessory Use); Indoor Amusement/Entertainment/Assembly Place (Enclosed); Indoor Sports Facility (No Gambling); Outdoor Sport and Amusement Facilities Conducted for Profit; Country Club; Open Air or Drive-In Theater or Other Open Air Places of Entertainment; Fraternal Organization/Club/Lodge; Bath House, for Non-Commercial Purposes.

Miscellaneous Use Category (Stream Protection Shoreland)

- Piers, Docks, Wharves, Breakwaters, Causeways, Bridges and Other Structures and Uses Extending Over or Below the Normal High Water Line or Within a Wetland:
  - Temporary – Shoreland Permit from the CEO is required.
  - Permanent in Non-Tidal Waters – Shoreland Permit from the Planning Board required, and subject to conditions of §8.3.6.6.
  - Permanent in Tidal Waters – Shoreland Permit from the CEO is required.
- Filling or Other Earthmoving Activities – Shoreland Permit from the CEO is required.
- Road and Driveway Construction – Shoreland Permit from the CEO is required.
- Land Management Road – Shoreland Permit from the CEO is required.
- EXPRESSLY PROHIBITED: Flea Markets; Casino; Mortuary, Undertaking or Funeral Establishment; Place for Exhibition, Lettering or Sale of Gravestones; Head Shop; Obscene Exhibitions; Dumps; Billboards; Structures Accessory to Permitted Use; Accessory Uses Customarily Incident to Allowed Uses; All Other Uses.

AMENDED: §8.2.1.A-D ADDED 11/8/2011, 11/6/2012

8.2.2 When there is a conflict between a use permitted in the Shoreland Overlay District and an underlying district, the more restrictive of the two shall prevail.

8.2.3 All land uses permitted in the Shoreland Overlay District are subject to the Land Use Standards in Section 8.3 below.

8.2.4 Home Occupations. Home occupations shall be controlled as follows:

1. By subdistrict, home occupations are:
   a. allowed with a Shoreland Permit from the CEO in the Mixed Use or Limited Residential subdistrict.
   b. allowed with Shoreland Approval from the Planning Board in the Resource Protection Subdistrict.
   c. prohibited in the Stream Protection Subdistrict.
2. Limits on the size of the home occupation shall follow the standards of §7.4. – **AMENDED 5/19/2012**

Commented [DS4]: State allows Planning Board approval of home occupations in this zone.

8.3 Land Use Standards

8.3.1 Agriculture

8.3.1.1 All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. §4201-4209).

8.3.1.2 There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high water mark of any great pond, nor within 75 feet, horizontal distance, of the normal high water mark of other waterbodies and coastal wetlands, nor within 25 feet, horizontal distance, of streams and inland wetlands of 4 or more acres. Operations in existence on May 9, 1992 and not in conformance with this provision may continue.

8.3.1.3 Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area within the Shoreland Overlay District shall require a Conservation Plan to be filed with the Planning Board. Non-compliance with the provisions of the Plan shall be considered to be a violation of this Ordinance.

8.3.1.4 Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of a great pond, or within 75 feet, horizontal distance, of other waterbodies, or wetlands of 4 or more acres. Within five years of the effective date of this amendment (5-9-92), all manure storage within the Shoreland Overlay District must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five-year period.

8.3.1.5 After May 9, 1992, newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, of the normal high water mark of great ponds, nor within 75 feet, horizontal distance, of other waterbodies and coastal wetlands, nor within 25 feet, horizontal distance, of streams and inland wetlands of 4 or more acres. Existing livestock grazing associated with ongoing farm activities and which are not in conformance with the above setback provisions may continue provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

8.3.2 Erosion and Sedimentation Control

8.3.2.1 All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

a. Mulching and revegetation of disturbed soil.
b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
c. Permanent stabilization structures such as retaining walls or riprap.

8.3.2.2 In order to create the least potential for erosion, development shall also be designed to fit with the topography and soils of the site. Areas of steep slopes (slopes generally greater than 15%) where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

8.3.2.3 Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

8.3.2.4 Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

8.3.2.5 Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

8.3.3 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

8.3.3.1 In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water mark, except to remove safety hazards. Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

8.3.3.2 Except in areas as described in §8.3.3.1, above, and except to allow for the development of permitted uses, a buffer strip of vegetation shall be preserved within a strip of land extending: 100 feet, horizontal distance, inland from the normal high-water mark of a great pond; 100 feet, horizontal distance, from the normal high water mark of the tidal waters or upland edge of coastal wetlands along the York River and its tributaries; or 75 feet, horizontal distance, from any other waterbody or the upland edge of a wetland. The following standards shall apply:

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

(b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of §8.3.3.2(b) a "well-distributed stand of trees" adjacent to a great pond or a stream flowing to a great pond, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree (in inches) at 4.5' Above Ground Level	Points
2 - < 4 in.	1
4 - <8 in.	2
8 - < 12 in.	4
12 in. or greater	8

Adjacent to other water bodies and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

(i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
(ii) Each successive plot must be adjacent to, but not overlap a previous plot;
(iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
(v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of §8.3.3.2(b) "other natural vegetation" is defined as retaining existing vegetation under 3 feet in height and other ground cover and retaining at least 5 saplings less than 2 inches in diameter at 4½ feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than 2 inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees 4 inches or more in diameter, measured at 4½ feet above ground level may be removed in any 10 year period.

(c) In order to protect water quality and wildlife habitat, existing vegetation under 3 feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in §8.3.3.2 and §8.3.3.2(a) above.

(d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

§8.3.3.2 does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

8.3.3.3 Except in areas as described in §8.3.3.1, above, farther back from the shoreland resource than the buffer required per §8.3.3.2, there shall be allowed on any lot, in any 10 year period, selective cutting of not more than 40% of the volume of trees 4 inches or more in diameter, measured 4½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40% calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or 10,000 square feet, whichever is greater, including land previously cleared. This provision shall not apply wherever lot coverage in excess of 25% is permitted.

8.3.3.4 Cleared openings legally in existence as of 5-9-92 may be maintained but shall not be enlarged except as permitted by this ordinance.

8.3.3.5 Fields and other cleared openings which have reverted primarily to shrubs, trees or other woody vegetation shall be regulated under the provisions of this §8.3.3.

8.3.3.6 Clearing operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters, pursuant to Section 8.3.2. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding erosion, maintaining or enhancing the value and functioning of the wetland and preserving natural beauty.

8.3.3.7 The cutting or removal of vegetation within the wetland area that occurs in conjunction with a permitted filling and earthmoving activity, reference 8.3.4.2, shall require the applicant to provide adequate mitigation for such vegetation cutting or removal. The Code Enforcement Officer or the Planning Board shall be responsible for determining the adequacy of all mitigation proposed by the applicant.

8.3.3.8 The Code Enforcement Officer may permit removal of invasive species, but is not obligated to approve such requests. Removal of invasive species must not result in violation of any Shoreland standards. No roots of any tree or shrub may be removed within a required buffer, unless this is associated with establishment of a permitted use. For such clearing within a required buffer, the CEO shall consider the impact on all buffer functions and shall approve a request only if it is reasonable to expect the changes will maintain or improve all buffer functions within a two year timeframe. A Shoreland Permit shall be required.

8.3.4 Storm Water Runoff

8.3.4.1 All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters. (See also Title 17 M.R.S.A. §2808 regarding adverse impact to neighbors from storm water runoff.)

8.3.4.2 Stormwater management facilities shall be maintained by the property owner, or drainage easement holder if applicable, as necessary to ensure proper functioning. **AMENDED 11/04/2014**

8.3.5 Mineral Exploration and Extraction

8.3.5.1 Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than 100 square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, to restore disturbed areas and to protect the public health and safety.

8.3.5.2 Mineral extraction may be permitted under the following conditions:

a. A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of §8.3.5.2.c below.

b. No part of any extraction operation, including drainage and runoff control features, shall be permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond, and within 75 feet, horizontal distance, of the normal high-water line of any other waterbody or the upland edge of a wetland. Extraction operations shall not be permitted within 50 feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

c. Within 12 months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive 12 month period, ground levels and grades shall be established in accordance with the following:

1. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

2. The final graded slope shall be not more than one foot vertical per 2½ feet horizontal.

3. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

d. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

8.3.6 Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges, and uses extending over or below the Normal High Water Mark of a Waterbody or within a Wetland.

8.3.6.1 Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

8.3.6.2 The location of all structures and facilities subject to this paragraph shall not interfere with developed areas, recreation areas, or natural beach or dune areas.

8.3.6.3 The structure or facility shall be so located as to minimize adverse effects on fisheries.

8.3.6.4 The facilities shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

8.3.6.5 No new structure other than those exempted below shall be built on, over or abutting a pier, wharf, dock or other structure extending below the normal high water mark of a waterbody. Exempted from this restriction are:

a. Structures which require direct access to the water as an operational necessity.
b. Small structures integral to water-borne activities, such as but not limited to, bait houses, hoists, or the storage of boating equipment and gear for individual use. Such structures shall not, in total, exceed 10% of the pier surface.

Commented [DS5]: I could not locate this in state requirements, but could find a height limitation of 20 feet

8.3.6.6 New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

8.3.6.7 No existing structures built on, over or abutting a pier, dock, wharf, or other structure extending beyond the normal high water mark of a waterbody or within a wetland shall be converted to residential dwelling units in any district. No provision of this Ordinance, including but not limited to the change of non-conforming use provisions, shall be utilized to circumvent this standard.

8.3.6.8 New structures built on, over, or abutting a pier, wharf, dock or other structure extending beyond the normal high water mark of a waterbody shall not exceed twelve feet in height above the pier, wharf, dock or other structure.

8.3.6.9 Along the York River, a pier may be built only on a tract of land with river frontage existing as of March 5, 1977, provided that there is no pier presently on the land and that the following requirements are met:

a. The total area of all floats associated with any single pier shall not exceed 200 square feet, excepting that floats exceeding 200 square feet in place at a pier before March 6, 1977 shall be allowed to continue, be maintained and repaired. This limitation shall not apply to any pier or wharf with an owner whose use is categorized as "Public, Semi-Public, Institutional" per the use tables of Article 4.
b. Piers shall not be constructed where uplands adjacent to the water body are in the Resource Protection Subdistrict.
c. Approval pursuant to the Harbor Ordinance shall be required prior to approval of the Code Enforcement Officer. **-AMENDED 11/04/2014**

8.3.6.10 In addition to any other local, state, or federal permitting and licensing requirements, prior written approval by the York Harbor Board is a necessary precondition to the Code Enforcement Officer's issuance of either:

a. a permit to build a new dock, float, moored float, pier, landing, or any other new structure within the jurisdictional limits of the Town of York Harbor Ordinance; or

b. a permit to make additions, alterations, or changes to an existing dock, float, moored float, pier, landing, or any other existing structure within the jurisdictional limits of the Town of York Harbor Ordinance. No permit is required for routine repairs and/or maintenance to existing structures.

In addition to any other paperwork associated with the issuance of such permits, the CEO shall sign the plan previously signed by the Harbor Board, and by the Chair of the Board of Selectmen as required. If the Board of Selectmen is also required to approve the application, all 3 sign-offs on the plan shall be required before any work commences.

EXPLANATORY NOTE: This language was inserted to ensure that the requirements of the Zoning Ordinance and Harbor Ordinance match up. It reflects the Town's intention that an applicant who wants to either build or alter a pier, dock, wharf, or float must first secure the Harbor Board's approval before the CEO can issue a permit. **AMENDED 11/04/2014**

Commented [DS6]: This was developed by the Harbor Board and differs from State Minimal Standards. It was developed to ensure it matches the Harbor Ordinance.

8.3.7 Archeological Site

The Maine Historic Preservation Commission (MHPC) has identified prehistoric and historic archeological sites in York. The masked location of known archeological sites is shown on two maps: Prehistoric Archeology (York Comprehensive Plan, Inventory & Analysis, Historic and Archeological Resources Chapter; November 6, 2007) and Historic Archeology (York Comprehensive Plan, Inventory & Analysis, Historic and Archeological Resources Chapter; November 6, 2007). The MHPC masks the location of known resources by placing a point at the site, then randomly locating a square, ½ kilometer on each side, over the point. The actual resource location is somewhere within the square. The maps also show areas of archeological sensitivity, which are areas where the MHPC has determined that additional archeological sites are most likely to exist.

A. The following standard shall apply for any earth-disturbing activity wholly or partially within the Shoreland Overlay District which is conducted with mechanized construction equipment (bulldozers, excavators, backhoes, etc.) and which is wholly or partially within a masked area. Within such areas, the applicant shall send a copy of the application to the MHPC, certified mail/return receipt requested (receipt to be retained by the applicant and provided to the CEO if requested). This shall include a photocopy of the applicable USGS quad sheet with a point showing the site location. MHPC shall have 20 days from its receipt of the application to notify the Code Enforcement Officer (CEO) if the proposed activity would impact a known archeological site. If the MHPC fails to respond in a timely manner, or if the MHPC response indicates no known archeological resources will be impacted, the Shoreland Permit may be issued. In the event MHPC responds and informs the CEO that known archeological resources would be adversely impacted, a Shoreland Permit may be issued only if the applicant and MHPC come to agreement about means of conserving and/or documenting such resources prior to site disturbance.

B. Every Shoreland Permit which involves earth-disturbing activity with mechanized construction equipment (bulldozers, excavators, backhoes, etc.) shall be issued with an anticipated discovery clause, as follows: "If, during excavations, any archeological findings are uncovered, all work shall stop and the State Archeologist be consulted, and may commence again only after conservation of the resources is addressed to the satisfaction of the State Archeologist." In areas of archeological sensitivity, the CEO shall remind applicants to be watchful as they excavate.

Commented [DS7]: This is not a state standard requirement found within DEP rules.

8.3.8 Road and Driveway Construction

8.3.8.1 Road and driveway banks shall be no steeper than a slope of 2 horizontal to 1 vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in §8.3.2.

8.3.8.2 Roads and driveways shall be setback from the normal high water mark of any waterbody, or wetland by the same distance required for structures under section 8.3.11, unless no reasonable alternative exists as determined by the Code Enforcement Officer or Planning Board. If no reasonable alternative exists, the Code Enforcement Officer or Planning

Board may reduce the road and/or driveway setback requirement by the minimum amount necessary to allow necessary access, but shall not reduce the setback to less than 50' in width. In such cases the applicant shall employ appropriate techniques to prevent sedimentation of the waterbody or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the waterbody or wetland.

On slopes of greater than 20%, the road and/or driveway setback shall be increased by 10 feet for each 5% increase in slope above 20%.

§8.3.8.2 does not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of §8.3.8.2 except for that portion of the road or driveway necessary for direct access to the structure.

8.3.8.3 Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a waterbody or wetland.

8.3.8.4 Road and driveway grades shall be no greater than 10% except for segments of less than 200 feet.

8.3.8.5 New roads, land management roads, and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road, land management road, or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road, land management road, or driveway is allowed in a Resource Protection District it shall be set back as far as practicable from the normal high-water line of a waterbody or upland edge of a wetland, except for wetland or waterbody crossings and approaches.

8.3.8.6 Road crossings of wetlands and waterbodies shall be kept to the minimum number necessary.

8.3.8.7 In order to prevent road and driveway surface drainage from directly entering waterbodies or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip which has a width of at least 50 feet plus two times the average slope (measured as a percent) of the buffer strip, between the outflow point of the ditch or culvert and the normal high-water line of a waterbody or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

8.3.8.8 Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

(a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

(b) Drainage dips may be used in place of ditch relief culverts only where the grade is 10% or less.

(c) On sections having slopes greater than 10%, ditch relief culverts shall be placed at approximately a 30 degree angle downslope from a line perpendicular to the centerline of the road or driveway.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

8.3.8.9 Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained by the owner on a regular basis to assure effective functioning.

8.3.8.10 The Town may maintain an existing public road and associated drainage system without a Shoreland Permit. At least 2 working days prior to commencement of work, the Public Works Department shall file a written "notice of intent to construct" with the Code Enforcement Officer (to allow inspections to be scheduled). Compliance with all applicable performance standards of the Shoreland Overlay District shall be required.

8.3.9 Subsurface Sewage Disposal Standards

8.3.9.1 Resource Protection Subdistrict Requirements. Existing sewage disposal systems may be replaced as needed. New sewage disposal systems are permitted only pursuant to a Special Use Permit granted by the Planning Board per §18.2.7.

8.3.9.2 All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Waste Water Disposal Rules, and the Town of York Supplemental Subsurface Wastewater Disposal Rules, and the following:

a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than 75 feet, horizontal distance, from the normal high water mark of a water body or the upland edge of a wetland, and

b) a holding tank is not allowed for a first-time residential use in the Shoreland Overlay District.

8.3.9.3 Town approval for any new system variance shall be subject to the condition that the property owner grants permission to the Local Plumbing Inspector to conduct periodic on-site inspections (not more than once a year) as long as the system is in use to ensure continuing proper function.

8.3.10 Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. When reviewing proposed uses requiring subsurface waste disposal, and non-residential development of greater than 5,000 sq. ft., the Planning Board may require a soils report, prepared by a State certified professional based on an on-site investigation. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, and Maine State Certified Geologists. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum groundwater elevation, presence of ledge, drainage conditions and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed methodology to counteract soil limitations where they exist.

8.3.11 Structures

Setbacks from the normal high water mark of any waterbody or wetland shall be as follows. The waterbody or wetland setback shall not apply to structures which require direct access to the water as an operational necessity, such as piers, docks, and retaining walls, nor to other functionally water-dependent uses.

8.3.11.1 Resource Protection Subdistrict

Within the Resource Protection Subdistrict, all allowed principal or accessory structures and expansions of such structures shall set back 100 feet from the normal high water mark of any waterbody, or from the upland edge of any coastal wetland or of an inland wetland of 4 or more acres in size.

a. Within the Resource Protection Subdistrict, existing single family residences may expand, regardless of their setback from the normal high water mark, provided all expansions comply with requirements of 8.3.11.4.

b. See §8.3.11.7 for additional setback requirements in proximity to coastal bluffs.

8.3.11.2 Limited Residential Subdistrict

Within the Limited Residential Subdistrict, all principal and accessory structures and expansions of such structures shall set back 100 feet from the normal high water mark of any waterbody, or from the upland edge of any coastal wetland or of an inland wetland of 10 or more acres in size. For Inland Wetlands with a contiguous area of 4 or more acres but less than 10 acres, the setback shall be 75 feet.

a. Within the Limited Residential Subdistrict, all principal and accessory structures that do not comply with the above setback requirement may expand, provided all expansions comply with requirements of 8.3.11.4.

b. See §8.3.11.7 for additional setback requirements in proximity to coastal bluffs.

8.3.11.3 Mixed-Use Subdistrict

Within the Mixed Use Subdistrict, all principal and accessory structures and substantial expansions of such structures shall set back 100 feet (but 35 feet on Harris Island only) from the normal high water mark of any waterbody, or from the upland edge of any coastal wetland or of an inland wetland of 10 or more acres in size. For Inland Wetlands with a contiguous area of 4 or more acres, but less than 10 acres, the setback shall be 75 feet.

a. Within the Mixed Use Subdistrict, all principal and accessory structures that do not comply with the above setback requirement may expand, provided all expansions comply with requirements of §8.3.11.4.

b. See §8.3.11.7 for additional setback requirements in proximity to coastal bluffs.

8.3.11.4 Expansions of Structures that Do Not Comply with Setback Requirements

In the Shoreland Overlay District, only that portion of the structure which is in compliance with the required setback from the normal high water mark may expand without the 30% limitation, provided all expansions conform to the current setback requirement.

In the Shoreland Overlay District, the portion of a principal structure that does not satisfy the required shoreland setback may be expanded only in accordance with the following provisions:

a. Expansion of the nonconforming portion of the structure is limited as follows: total expansion of the nonconforming portion can not exceed 30% of the floor area or building volume of the non-conforming portion of the structure as it existed as of January 1, 1989. Basements which have a ceiling height of greater than 6 feet and a solid non-earthen floor shall be considered in calculating the permitted amount of floor area and volume expansion. No accessory structure shall be included in the calculation of existing floor area or building volume calculations. In the event that the principal structure is destroyed or removed by any means, the Code Enforcement Officer shall determine the base floor area and volume of that structure using the measurements shown on a prior building permit, property tax card, or the most reasonable record available.

Commented [DS8]: State standards require a 100' setback from a Great Pond classified as GPA; 75' to other water resources. This only applies to structures, roads, parking spaces or other regulated objects specifically allowed in that district. Uses are very prohibitive within this district per DEP's use table, which is evident as prescribed in the town's use table shown in section 8.2.1.C.

Commented [DS9]: State minimum setback standard is 75'

Commented [DS10]: The Mixed Use Subdistrict appears to be a town specific overlay. If DEP found this district or portions thereof qualified as being classified as a "General Development 1 District" per their standards then a required setback could be as low as 25' from a normal high water line.

b. No part of the addition that does not comply with a minimum setback requirement shall be closer to any waterbody, stream, or wetland than any part of the existing structure.

c. Any non-conforming use of such structure shall not be expanded or intensified and,

d. For structures within the Resource Protection Subdistrict which are less than 100 feet, within the Limited Residential Subdistrict which are less than 75 feet, within the Stream Protection Subdistrict which are less than 50 feet, or within the Mixed Use Subdistrict which are less than 75 feet (but 35 feet on Harris Island only) from the Normal High Water Mark or upland edge of the shoreland resource, the new addition must be on the side of the structure located the furthest away from the high water mark or upland edge and the direction of the expansion must be away from the water. The requirement of §8.3.11.4.d does not apply to vertical expansion above existing interior enclosed living space for the principal building (not to include screen porches, porches, decks, patios and similar structures, but does include attached garages) which shall be permitted so long as the expansion does not exceed the height of the building as it existed on January 1, 1989.

e. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection "f" below. This section shall expressly supersede any conflicting provisions of §17.2. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with subsections "b" and "d" above, and the foundation does not cause the structure to be elevated by more than 3 additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

f. Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming. In no case shall relocation be required for a building which has been determined by a qualified historic resources expert to be eligible for National Register listing.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

1. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

   Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

2. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

g. Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a waterbody or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more

Commented [DS11]: State standards allow for existing residential uses, after obtaining a permit from the Planning Board, be expanded within existing residential structures

than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within 18 months of the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the waterbody or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Overlay District. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to §8.3.11.4 above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or reconstructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with §8.3.11.4.f above.

Any non-conforming structure which is located less than the required setback from a waterbody or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria of §8.3.11.4.f above, the physical condition and type of foundation present, if any.

8.3.11.5 Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer or Planning Board to provide shoreline access in areas of steep slope or unstable soils provided:

a. that the structure is limited to a maximum of four (4) feet in width;
b. that the structure does not extend below or over the normal high-water mark of a waterbody or upland edge of a wetland, and
c. that the applicant demonstrates that no reasonable access alternative exists on the property.

Stairways or similar structures that are under the ownership or control of the Town of York that are needed to provide public access to a shoreline shall be exempt from requirements of a-c above. The Town must obtain a permit from the Code Enforcement Officer or Planning Board for all stairways and similar structures and must demonstrate the public need for the improvement and why there is no reasonable access alternative.

8.3.11.6 Structure and Building Height. Maximum structure height shall be 35 feet. Maximum building height shall be 35 feet.

8.3.11.7 Setback of Principal Structures from Coastal Bluffs. Where there is a coastal bluff identified on the Shoreland Overlay District map, the setback for a principal structure shall be the more restrictive of: the standard setback for the Shoreland subdistrict; or the required setback from the top of the coastal bluff. Regarding the required setback for principal structures from the top of a coastal bluff, the following shall apply:

a. Along Dover Bluff on the Nubble, the required setback from the top of the coastal bluff shall be 20 feet.

b. Along the bluff which runs parallel to Harmon Park Road, the required setback from the top of the coastal bluff shall be 25 feet.

c. Along all other coastal bluffs, the required setback from the top of the bluff shall be 75'.

If the applicant and the permitting official(s) are in disagreement as to the specific location of the bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

8.3.12 Timber Harvesting

Commented [DS12]: This section has completely changed, and at a minimum must meet Bureau of Forestry standards found in latest version of Chapter 21. That is why we are trying to repeal this section to ensure permitting only goes through the Bureau of Forestry to guarantee their minimal standards are being met.

NOTE: This section pertains to timber harvesting only. For provisions regarding the clearing for approved development, see section 8.3.3.

8.3.12.1 No substantial accumulation of slash shall be left within fifty (50) feet of the normal high water mark of any waterbody. At distances greater than fifty (50) feet from the normal high water mark of such waters and extending to the limits of the Shoreland Overlay District, all slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground. Any debris that falls below the normal high water mark of a waterbody shall be removed.

8.3.12.2 Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbances results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.

8.3.12.3 Harvesting operations shall be conducted in such a manner that a well-distributed stand of trees and other natural vegetation is retained.

8.3.12.4 In any stand, harvesting shall remove not more than forty (40) percent of the trees 4 inches or more in diameter, measured at 4 1/2 feet above ground level, in any ten (10) year period. For the purpose of these standards, a stand means a contiguous group of trees, sufficiently uniform in species, arrangement of age classes, and conditions, to be identifiable as a homogeneous and distinguishable unit.

8.3.12.5 Within one-hundred (100) feet, horizontal distance of the normal high-water mark of a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high water mark of other waterbodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

8.3.12.6 In areas other than those described in section 8.3.12.5 above, harvesting operations shall not create single clear-cut openings greater than 7,500 sq. ft. in the forest canopy. Where such openings exceed five-thousand (5,000) sq. ft. they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal.

8.3.12.7 No roads requiring earthmoving, cut or fill shall be constructed within the Shoreland Overlay District solely for the purpose of Timber Harvesting.

8.3.12.8 Within any Resource Protection Subdistrict abutting a great pond, there shall be no timber harvesting within the strip of land extending 75 feet inland from the normal high-water mark except to remove safety hazards.

8.3.12.9 Timber harvesting equipment shall not use stream channels as travel routes except when:

a. Surface waters are sufficiently frozen to support the weight of the equipment; and
b. The activity will not result in any ground disturbance.

8.3.12.10 All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

8.3.12.11 Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the waterbody, tributary stream or wetland. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

8.3.12.12 Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75)

feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water mark of a waterbody or wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the waterbody or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water mark of a waterbody or wetland.

8.3.13 Water Quality Protection

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, soil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

8.3.14 Essential Services

8.3.14.1 Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

8.3.14.2 The installation of essential services other than roadside distribution lines is not permitted in the Resource Protection or Stream Protection Subdistricts, except to provide services to a permitted use within said district, or except when the application demonstrates that no reasonable alternatives exists. Where permitted, such structures and facilities shall be located so as to minimize such adverse impacts on surrounding uses and resources, including visual impact.

8.3.14.3 Damaged or destroyed essential services lines and related infrastructure may be repaired, reconstructed or replaced in kind without a permit.

8.3.15 Parking Areas

8.3.15.1 Parking areas shall meet the setback requirements for structures for the subdistrict in which such areas are located, except that for Commercial Fishing parking areas shall be set back at least 25 feet, horizontal distance, from the shoreline. The setback requirement for parking areas (other than on-street parking) serving public boat launching facilities shall be no less than 50 feet, horizontal distance, from the shoreline if the Planning Board finds that no other reasonable alternative exists.

8.3.15.2 Parking areas shall be designed to prevent stormwater runoff from flowing directly into a waterbody or wetland and where feasible, to retain all runoff on-site.

8.3.16 Commercial Fishing

A. Use. The Commercial fishing use shall be expressly permitted in the following areas, regardless of the shoreland subdistrict or underlying base zone:
   1. York River: waterfront lots downstream from Sewalls Bridge, but not along Barrells Mill Pond, and on any other property used for commercial fishing during the year 2004.
   2. Cape Neddick River: waterfront lots downstream from Clark Road Bridge, and on any other property used for commercial fishing during the year 2004.

B. Lot Coverage. Any property used exclusively for commercial fishing use as defined herein, and included within the areas identified in §8.3.16.A, shall be permitted a maximum lot coverage of 70%.

C. Boat and Equipment Storage. A person engaged in commercial fishing shall be permitted to store their own boats and/or associated equipment on the lot on which they reside, or on any other lot which they own. Such storage may be within a building or outside. If outside, such storage shall be set back 10' from any lot line, or permitted up to the lot line if screened by a solid fence or dense hedge.

D. Most Restrictive Provision. This section is intended to be permissive, to permit commercial fishing consistent with State and Town policy, and therefore §8.3.16 expressly supersedes more restrictive controls imposed elsewhere in this Ordinance as permitted in §21.2.

8.3.17 Shop for Building Small Boats

A. Use. The Shop for Building Small Boats use shall be expressly permitted on waterfront lots on the York River downstream from Sewalls Bridge, but not along Barrells Mill Pond, regardless of the shoreland subdistrict or underlying base zone.

B. Application. Establishment of a Shop for Building Small Boats shall require Site Plan Review approval by the Planning Board. This shall apply whether or not the use meets the threshold criteria of §18.15.

C. Most Restrictive Provision. This section is intended to be permissive, permitting Shops for Building Small Boats as detailed in §8.3.17.A, and therefore §8.3.17 expressly supersedes more restrictive controls imposed elsewhere in this Ordinance as permitted in §21.2.

8.3.18 Campgrounds

In addition to standards of §7.2, campgrounds shall conform to the following minimum requirements within the Shoreland Overlay District:

A. Campgrounds shall contain a minimum of 5,000 square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a waterbody shall not be included in calculatin g land area per site.

B. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of 100 feet, horizontal distance, from the normal high-water line of a great pond, and 75 feet, horizontal distance, from the normal high-water mark of other waterbodies or the upland edge of a wetland.

Amendment #1

ARTICLE 8-SHORELAND OVERLAY DISTRICT

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

Article X
The Town hereby ordains to amend the **Zoning Ordinance**, specifically amending: Article 2, Definitions; Article 8, Shoreland Overlay District; Article 17, Non-Conforming Situations; and Article 18, Administration.

Statement of Fact: The purpose of this amendment is to modify Article 8, Shoreland Overlay District, to correspond with newly enacted (January 26, 2015) State Chapter 1000, Guidelines for Municipal Shoreland Zoning Ordinances. The Town is required under the **Mandatory Shoreland Zoning Act, 38 M.R.S.A. sections 435-448,** to adopt, administer, and enforce ordinances which regulate land use activities within 250 feet of great ponds, rivers, freshwater and coastal wetlands, including all tidal waters; and within 75 feet of streams as defined. Specifically, the intent of the amendments are to follow current state standards relative to current shoreland district definitions, expansions, timber harvesting, removing of vegetation other than timber harvesting, hazard trees, contractor certification and ensure proper plan filing requirements with the registry.
As required by State Law and specific to the proposed changes, within Chapter 1000, municipalities have three options to choose for timber harvesting in shoreland areas. The Town of York currently utilizes Option 3 that allows a municipality to retain its current timber harvesting standards. This option is inconsistent with the State's timber harvesting standards, which means the Town administers timber harvesting standards without State assistance. Repealing and replacing §8.3.12 with "Option 1" would mean the Bureau of Forestry (Maine Forest Service) will administer and enforce statewide standards. The state has the personnel to administer timber harvesting whereas the Town of York does not employ a licensed forester to regulate harvesting activities.

Amendment: Amend Article 2, Definitions, as follows:

CERTIFIED EXCAVATION CONTRACTOR: *An individual or firm, certified by the Maine Department of Environmental Protection, engaged in a business that causes the disturbance in the shoreland area of soil, including grading, filling and removal, or in a business in which the disturbance of soil results from an activity that the individual or firm is retained to perform.*

FOOTPRINT: *The entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.*

HAZARD TREE: *A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.*

~~**LAND MANAGEMENT ROAD:** A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed by the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trail.~~

~~**SKID TRAIL:** A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.~~

STORM DAMAGED TREE: *a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.*

STREAM: A channel between defined banks. A channel is created by the action of surface water and has 2 or more of the following characteristics:

A. It is depicted as a solid or broken blue line on the most recent, ~~edition of the U.S. Geological Survey 7.5-minute series of topographic map~~ *highest resolution version of the national hydrography dataset available from the United States Geological Survey.*
B. It contains or is known to contain flowing water continuously for a period of at least 6 months of the year in most years.
C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.

E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

"Stream" does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining stormwater, or a grassy swale.

TEMPORARY DOCKS: *A structure that remains in or over the water for six (6) months or less in any period of twelve (12) consecutive months, and shall not have a permanent fixed location on or in the ground.*

TIDAL WATERS: All waters affected by tidal action during the ~~maximum spring~~ *highest annual* tide.

TIMBER HARVESTING: The cutting and removal of ~~trees from their growing site, and the attendant operation of cutting and skidding machinery, but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.~~ *timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to 8.3.3, Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.*

Tree: *A woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.*

TRIBUTARY STREAM: A channel between defined banks created by the action of surface water, ~~whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a waterbody or wetland as defined.~~ *which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.* This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

WETLAND, COASTAL: All tidal and subtidal lands; all lands with vegetation present that is tolerant to salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the ~~maximum spring~~ *highest annual* tide level for the year in which an activity is proposed as identified in the tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. NOTE: All areas below the ~~maximum spring~~ *highest annual* tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

Amendment: Amend Article 8.1.3, regarding maximum lot coverage with the following:

8.1.3 Maximum Lot Coverage. The total area of all structures and other ~~impervious~~, non-vegetated surfaces, *which includes but is not limited to, driveways, parking areas and other areas from which vegetation has been removed* within the Shoreland Overlay District, shall not exceed the least restrictive of the following:

a. 70% of the land area of the lot, or portion thereof, located within the Mixed Use Subdistrict;
b. 20% of the land area of the lot, or portion thereof, located within any other subdistrict of the Shoreland Overlay District; or
c. 30% of the land area of the lot, or portion thereof, for an existing lot of record with a total area less than 12,000 square feet.
d. *Naturally occurring ledge and rock outcroppings are not counted as non-vegetative surfaces when calculating lot coverage for existing lots of record as of March 24, 1990 and in continuous existence since that date.*

Amendment: Amend the following land uses permitted in section 8.2.1.B:

Article 8.2.1.B Limited Residential Subdistrict
Commercial Use Category (Limited Res. Shoreland)

- Restaurants - Expansion is defined as meaning: 1) construction of additions to existing facilities, buildings and structures, and 2) construction of new free standing facilities buildings and structures. Under definition 1 and 2 above, construction is limited to an expansion, within lot lines existing as of November 5, 1996, of existing facilities, buildings and structures and other facilities, buildings and structures reasonably or customarily associated with said existing facilities, buildings and structures. All expansions, regardless of the amount of expansion, shall satisfy to the maximum extent ~~practical~~ *practicable*, as determined by the Planning Board, the requirements of the Town of York Planning Board Subdivision and Site Plan Regulations. Also, a Shoreland Permit from the Planning Board is required.

- Ice Cream Stands - Expansion is defined as meaning: 1) construction of additions to existing facilities, buildings and structures, and 2) construction of new free standing facilities buildings and structures. Under definition 1 and 2 above, construction is limited to an expansion, within lot lines existing as of November 5, 1996, of existing facilities, buildings and structures and other facilities, buildings and structures reasonably or customarily associated with said existing facilities, buildings and structures. All expansions, regardless of the amount of expansion, shall satisfy to the maximum extent ~~practical~~ *practicable*, as determined by the Planning Board, the requirements of the Town of York Planning Board Subdivision and Site Plan Regulations. Also, a Shoreland Permit from the Planning Board is required.

Amendment: Amend the following land uses permitted in sections 8.2.1 A-D:

Timber Harvesting- Shoreland Permit ~~from the~~ *Notification to the* CEO *after review and approval from the Maine Bureau of Forestry*

Land Management Road- Shoreland Permit ~~from the~~ *Notification to the* CEO *after review and approval from the Maine Bureau of Forestry*

Amendment: Amend section 8.3.3.2 by including Cape Neddick River, Brave Boat Harbor and their tributaries to the same vegetation buffer requirements as required for the York River; and amend 8.3.3.2(a) regarding a single footpath and access to the shoreline:

8.3.3 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

8.3.3.2 Except in areas as described in §8.3.3.1, above, and except to allow for the development of permitted uses, a buffer strip of vegetation shall be preserved within a strip of land extending: 100 feet, horizontal distance, inland from the normal high-water mark of a great pond; 100 feet, horizontal distance, from the normal high water mark of the tidal waters or upland edge of coastal wetlands along ~~the~~ York River, *Cape Neddick River, Brave Boat Harbor* and ~~its~~ *their* tributaries; or 75 feet, horizontal distance, from any other waterbody or the upland edge of a wetland. The following standards shall apply:

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a *single* footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is

allowed *for accessing the shoreline* provided that a cleared line of sight to the water through the buffer strip is not created.

Amendment: Amend section 8.3.6 regarding uses that extend over water with the following:

8.3.6 Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges, and uses extending over or ~~below~~ *beyond* the Normal High Water Mark of a Waterbody or within a Wetland, *and Shoreline Stabilization.*

8.3.6.9 ~~Along the York River~~ A pier may be built only on a tract of land with river frontage *on the York River* existing as of March 5, 1977; *and only on a tract of land with river frontage on the Cape Neddick River or shore frontage on Brave Boat Harbor existing as of November 8, 2016*, provided that there is no pier presently on the land and that the following requirements are met:

a. The total area of all floats associated with any single pier shall not exceed 200 square feet, except~~ing~~ that floats exceeding 200 square feet in place at a pier before March 6, 1977 shall be allowed to continue, be maintained and repaired. This limitation shall not apply to any pier or wharf with an owner whose use is categorized as "Public, Semi-Public, Institutional" per the use tables of Article 4.

b. Piers shall not be constructed where uplands adjacent to the water body are in the Resource Protection Subdistrict.

c. Approval pursuant to the Harbor Ordinance shall be required prior to approval of the Code Enforcement Officer.

8.3.6.11 *No more than one pier, dock, wharf or similar structure extending or located beyond the normal high-water line of a water body or within a wetland is allowed on a single lot.*

Amendment: Amend section 8.3.11 Structures by repealing and adding language regarding expansions of structures that do not comply with setback requirements as follows:

8.3.11.4 Expansions of Structures that Do Not Comply with Setback Requirements

~~In the Shoreland Overlay District, only that portion of the structure which is in compliance with the required setback from the normal high water mark may expand without the 30% limitation, provided all expansions conform to the current setback requirement.~~

In the Shoreland Overlay District, the portion of a principal structure that does not satisfy the required shoreland setback may be expanded only in accordance with the following provisions:

Expansions. All new principal and accessory structures, excluding functionally water dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in this ordinance. A non-conforming structure may be added to or expanded after obtaining a permit from the authorized permitting authority, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with the subparagraphs below.

~~a. Expansion of the nonconforming portion of the structure is limited as follows: total expansion of the nonconforming portion can not exceed 30% of the floor area or building volume of the non-conforming portion of the structure as it existed as of January 1, 1989. Basements which have a ceiling height of greater than 6 feet and a solid non-earthen floor shall be considered in calculating the permitted amount of floor area and volume expansion. No accessory structure shall be included in the calculation of existing floor area or building volume calculations. In the event that the principal structure is destroyed or removed by any means, the Code Enforcement Officer shall determine the base floor area and volume of that structure using the measurements shown on a prior building permit, property tax card, or the most reasonable record available.~~

a. Expansion of any portion of a principal structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high water mark of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

~~b.~~ *b. Notwithstanding paragraph (a) above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland, that structure may be expanded*

as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited.

1. *The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.*

~~e.~~ *c.* *All other legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section §8.3.11.4 or §8.3.11.4.a above.*

1. *For structures located less than 75 feet from the high water mark of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.*

2. *For structures located less than the required 100 foot setback specified in section 8.3.11 or less than 100 feet from a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high water mark of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in §8.3.11.4.b.1 above.*

3. *In addition to the limitations in subparagraphs 1 and 2, for structures that are legally non-conforming due to their location within the Resource Protection Overlay when located at less than 250 feet from the normal high water mark of a water body*

or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection Overlay was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high water mark of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in §8.3.11.4.b.1 above.

~~d.~~ *d.* *An approved plan for expansion of a non-conforming structure must be recorded by the applicant with the York County registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.*

~~e.~~ *e.* No part of the addition that does not comply with a minimum setback requirement shall be closer to any waterbody, tributary, stream, or wetland than any part of the existing structure.

~~f.~~ *f.* Any non-conforming use of such structure shall not be expanded or intensified and;

~~g.~~ *g.* For structures within the Resource Protection Subdistrict which are less than 100 feet, within the Limited Residential Subdistrict which are less than 75 feet, within the Stream Protection Subdistrict which are less than 50 feet, or within the Mixed Use Subdistrict which are less than 75 feet (but 35 feet on Harris Island only) from the Normal High Water Mark or upland edge of the shoreland resource, the new addition must be on the side of the structure located the furthest away from the high water mark or upland edge and the direction of the expansion must be away from the water. The requirements of §8.3.11.4.~~d~~ *f* does not apply to vertical expansion above existing interior enclosed living space for the principal building (not to include screen porches, decks, patios and similar structures, but does include attached garages) which shall be permitted so long as the expansion does not exceed the height of the building as it existed on January 1, 1989.

h. *Foundations.* Whenever a new, enlarged or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest ~~practical~~ *practicable* extent as determined by the Planning Board *or its designee*, basing its decision on the criteria specified in subsection "h" below. This section shall expressly supersede any conflicting provisions of §17.2. ~~If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with subsections "b" "*d*" and "d" "*f*" above, and the foundation does not cause the structure to be elevated by more than 3 additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.~~

i. Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest ~~practical~~ *practicable* extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming. In no case shall relocation be required for a building which has been determined by a qualified historic resources expert to be eligible for National Register listing.

In determining whether the building relocation meets the setback to the greatest ~~practical~~ *practicable* extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

1. Trees removed in order to relocate a structure must be replanted with at least one native tree, ~~three (3)~~ *four and one half (4.5) feet* in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

   Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

2. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

j. Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within 18 months of the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with waterbody or wetland setback requirements to the greatest ~~practical~~ *practicable* extent as determined by the Planning Board or its designee in accordance with the purposes of this Overlay District. In no case shall a structure be constructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to §8.3.11.4 above, as determined by the non-conforming ~~floor area and volume~~ *footprint* of the reconstructed or replaced structure at its new location. If the total *footprint* ~~amount of floor area and volume~~ of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or reconstructed at less than the setback

requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with §8.3.11.4.~~f~~ *h* above.

Any non-conforming structure which is located less than the required setback from a waterbody or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest ~~practical~~ *practicable* extent the Planning Board or its designee shall consider, in addition to the criteria of §8.3.11.4.~~f~~ *h* above, the physical condition and type of foundation present, if any.

Amendment: Amend section 8.3.12 Timber Harvesting by repealing and replacing the section with the following reference language and by adding a new section regarding hazard trees, storm damaged trees and dead tree removal as follows:

8.3.12 Timber Harvesting- ***All timber harvesting and forestry activities shall be administered by the Maine Bureau of Forestry***

NOTE: This section pertains to timber harvesting only. For provisions regarding the clearing for approved development, see section 8.3.3.

~~8.3.12.1 No substantial accumulation of slash shall be left within fifty (50) feet of the normal high water mark of any waterbody. At distances greater than fifty (50 feet from the normal high water mark of such waters and extending to the limits of the Shoreland Overlay District, all slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground. Any debris that falls below the normal high water mark of a waterbody shall be removed.~~

~~8.3.12.2 Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbances results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.~~

~~8.3.12.3 Harvesting operations shall be conducted in such a manner that a well-disturbed stand of trees and other natural vegetation is retained.~~

~~8.3.12.4 In any stand, harvesting shall remove not more than forty (40) percent of the trees 4 inches or more in diameter, measured at 4 ½ feet above ground~~

~~level, in any ten (10) year period. For the purpose of these standards, a stand means a contiguous group of trees, sufficiently uniform in species, arrangement of age classes, and conditions, to be identifiable as a homogeneous and distinguishable unit.~~

~~8.3.12.5 Within one-hundred (100) feet, horizontal distance of the normal high water mark of a great pond, and within seventy-five (75) fee, horizontal distance, of the normal high water mark of other waterbodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-disturbed stand of trees and other vegetation, including existing ground cover, shall be maintained.~~

~~8.3.12.6 In areas other than those described in section 8.3.12.5 above, harvesting operations shall not create single clear-cut openings greater than 7,500 sq. ft. in the forest canopy. Where such openings exceed five thousand (5,000) sq. ft. they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal.~~

~~8.3.12.7 No roads requiring earthmoving, cut or fill shall be constructed within the Shoreland Overlay District solely for the purpose of Timber Harvesting.~~

~~83.12.8 Within any Resource Protection Subdistrict abutting a great pond, there shall be no timber harvesting within the strip of land extending 75 feet inland from the normal high-water mark except to remove safety hazards.~~

~~8.312.9 Timber harvesting equipment shall not use stream channels as travel routes except when:~~

~~a. Surface waters are sufficiently frozen to support the weight of the equipment; and~~

~~b. The activity will not result in any ground disturbance.~~

~~8.3.12.10 All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.~~

~~8.3.12.11 Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the waterbody, tributary stream or wetland. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.~~

~~8.3.12.12 Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water mark of a waterbody or wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the waterbody or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water mark of a waterbody or wetland.~~

8.3.12.1 Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

1. Hazard trees in the shoreland may be removed provided a shoreland permit is obtained from the Code Enforcement Officer, and complies with the following:

a. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four and one half (4.5) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

b. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half(4.5) feet above the ground level.

c. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

d. The Code Enforcement Officer shall require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

e. The Code Enforcement Officer shall require more than a one-for-one replacement for hazard trees removed that exceed eight (8)

inches in diameter measured at four and one half(4.5) feet above the ground level.

2. *Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:*

   a. *Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:*

      (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
      (ii) Stumps from the storm-damaged trees may not be removed;
      (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1 /3) of the tree; and
      (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

   b. *Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting, as long as the removal does not result in the creation of new lawn, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.*

Amendment: Add Section 8.3.19 Revegetation Requirements by incorporating the states minimum standards as follows:

8.3.19 Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 8.3.3, to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

1. *The property owner must submit a revegetation plan, prepared with and signed by a qualified professional that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.*

2. *Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.*

3. *If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.*

4. *Revegetation activities must meet the following requirements for trees and saplings:*

   a. *All trees and saplings removed must be replaced with native noninvasive species;*
   b. *Replacement vegetation must at a minimum consist of saplings;*
   c. *If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;*
   d. *No one species shall make up 50% or more of the number of trees and saplings planted;*
   e. *If revegetation is required for a shoreline stabilization project and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and*
   f. *A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) year period.*

5. *Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:*

a. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;

b. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of storm water;

c. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;

d. No one species shall make up 50% or more of the number of planted woody vegetation plants; and

e. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

b. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

Amendment: Amend Article 17, specifically section 17.2 Non-Conforming Structures by adding section "I" to the list of requirements for the enlargement of non-conforming structures as follows:

17.2 Non-Conforming Structures

17.2.1 Repair, Enlargement

17.2.1.1 Maintenance, Repair and Improvement Without Enlargement. A non-conforming structure may be maintained, repaired and improved, provided there is no enlargement of the structure with respect to its footprint and/or its volume.

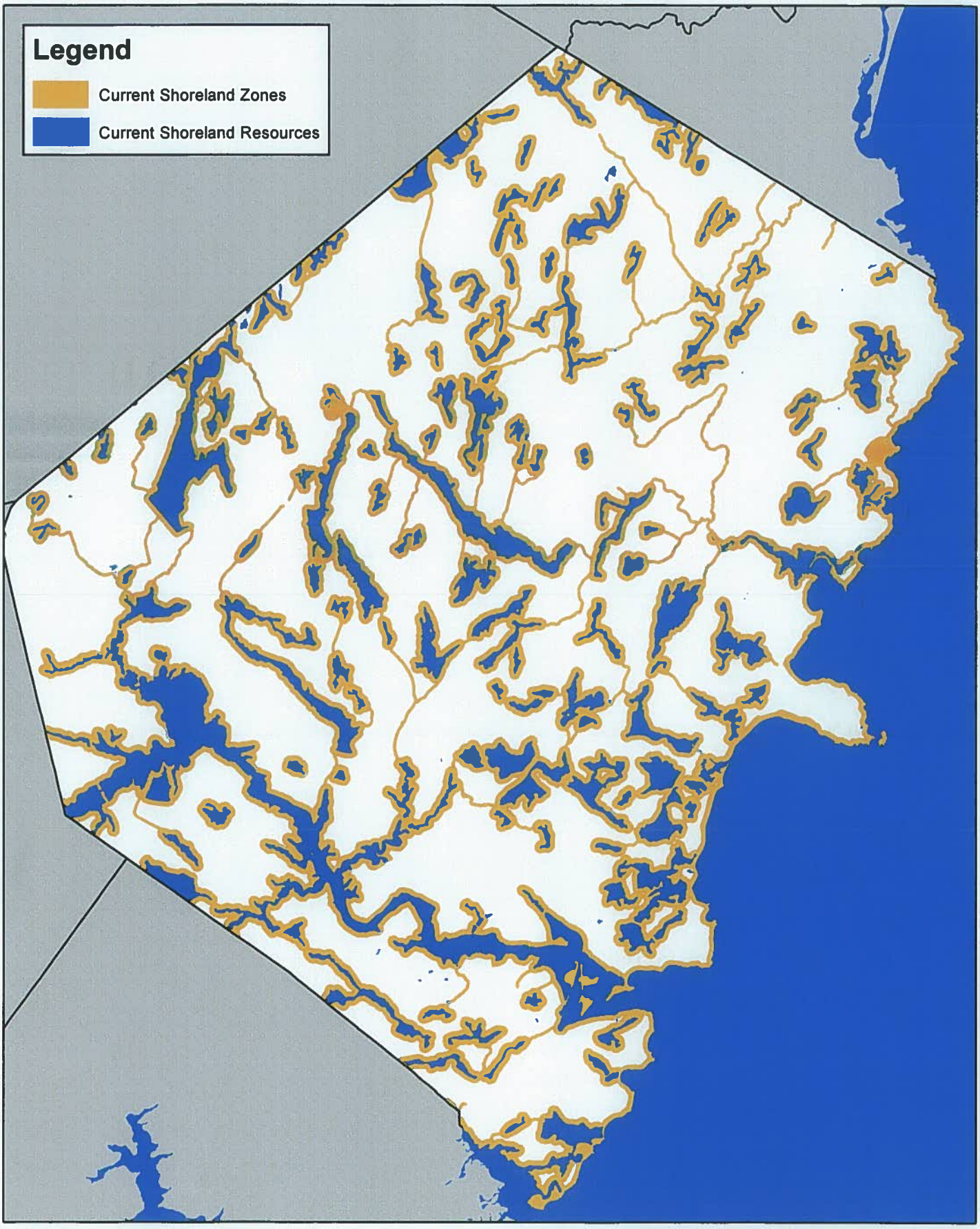
17.2.1.2 Enlargement. The standards applicable to Enlargement of Non-Conforming structures, as amended by the voters on November 4, 2008, shall

retroactively apply to any application accepted by the Planning Board or Code Enforcement Officer on or after June 26, 2008, the date on which the first public hearing was posted for the amendments. The former Enlargement of Non-Conforming Structures provisions shall apply to applications accepted prior to this date. A non-conforming structure may be enlarged only in conformance with the provisions of this Section. A Code Enforcement Officer shall review the application to determine conformance with these standards, and may impose conditions on an approval to ensure conformance. Criteria for approval include each of the following:

I. An approved plan for expansion of a non-conforming structure shall be recorded by the applicant with the York County Registry of Deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

Recommended by the Planning Board:
Recommended by the Board of Selectmen:

Current Shoreland Zone Areas

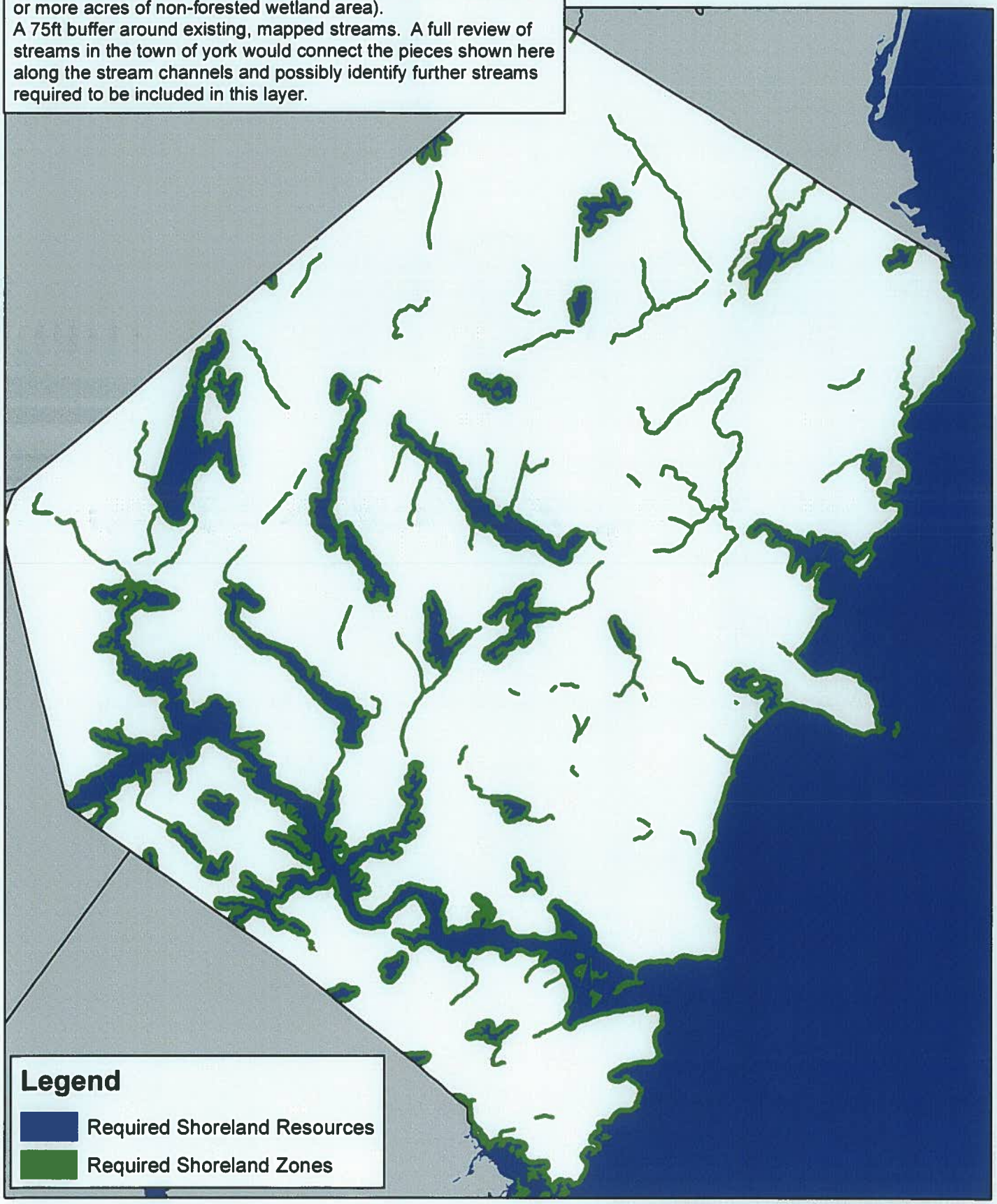


Map created 1/6/17

For planning purposes only

Approximate State Minimum Required Shoreland Zones

This map shows the following:
A 250ft buffer around highest annual tide, great ponds, and the upland edge of freshland wetlands as defined by state statute (10 or more acres of non-forested wetland area).
A 75ft buffer around existing, mapped streams. A full review of streams in the town of york would connect the pieces shown here along the stream channels and possibly identify further streams required to be included in this layer.



Map created 1/6/17

For planning purposes only

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 6, 2017	☒ ACTION
DATE ACTION REQUESTED: January 9, 2017	☐ DISCUSSION ONLY
SUBJECT: Revised Charter for the Energy Steering Committee	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Attached are the current charter and a proposed new charter for the Energy Steering Committee.

The current charter is deficient in that it is basically just an initial work assignment. It contains no information about the committee itself. The proposed new charter provides the necessary information. Other than the mission itself, it is almost identical to the charter for other new committees such as the Fiscal Sustainability Committee. Although we currently have 8 people serving (5 regular and 3 alternate members), I have proposed a committee of 7. Over time attrition will lead us to the proper number of members.

The mission of the Committee is the key element here. I think it is critical to establish first that the Committee serves in an advisory role to the Board of Selectmen. Other specific tasks are then established assigned, as written, and can be periodically reviewed and revised. The most important take-away here, however, is that the Committee needs work with and through the Board of Selectmen.

I also have concerns, as Town Manager, that so many good and important ideas are out there, but all too often people fail to remember there is a limited amount of staff time. For instance, the energy policy survey shows support for benchmarking and monitoring energy use, and that idea has been kicked around for a while now. Great idea, but not if it burdens staff that are already over-burdened. The Board of Selectmen, in its decision-making process for various actions, will need to consider such matters. It's not a matter of being green at all costs.

RECOMMENDATION: I recommend the Board adopt the revised charter for the Energy Steering Committee.

PROPOSED MOTION: I move to adopt the revised charter for the Energy Steering Committee.

Prepared by Stephen H. Burns, Town Manager: _____

Energy Steering Committee – Committee Charter

DRAFT – Jan. 6, 2017

Standing Committee. The Energy Steering Committee is a standing committee created by and answerable to the Board of Selectmen.

Membership. The Committee shall be comprised of seven voting members. A quorum, for purposes of meeting and voting, shall require a minimum of four members present and voting, and decisions shall be by majority vote. Appointments shall be for three year terms, with terms of appointment staggered such that not more than three appointments expire in any given year.

Meetings. All meetings of the Committee shall be public meetings, which shall be conducted in conformance with the Maine Freedom of Access Law (Title 1, M.R.S.A. Ch 13) and Robert's Rules of Order. A notice of the meeting, which may be simply the meeting agenda, shall be posted publicly in advance of each meeting.

Minutes. Minutes shall be taken at each meeting in accordance with Robert's Rules of Order. Approved minutes shall be provided to the Town Clerk for archiving.

Mission. The mission of the Committee is to advise the Board of Selectmen on matters of energy policy. Efforts shall be focused on: assisting with the LED streetlight project; providing volunteer resources to benchmark and monitor municipal and school energy use; educating officials and the public on matters relating to energy efficiency and utilization of all forms of renewable energy; and engaging in other energy-related research and analysis as requested by the Board of Selectmen.

Meetings with the Board of Selectmen. The Committee will meet with the Board of Selectmen periodically to present information and discuss policy matters as these relate to the mission of the committee and the needs of the Board of Selectmen.

Modification of Committee Charter. Any time after its formation, the Committee may propose to the Board of Selectmen any modification of its Charter believed necessary to enhance the ability to achieve its mission. The Board of Selectmen may accept, modify, or reject proposed changes to the Committee Charter.

Board of Selectmen Actions
Original Charter: May 11, 2009
Charter Revised: _____

Initial Charge for York Energy Efficiency Steering Committee
As Determined by York Board of Selectmen
May 11, 2009

1. Complete the carbon footprint inventory coordination necessary to implement the Mayor's Climate Challenge.

2. Ensure that energy efficiency audits are completed at town facilities.

3. Analyze and recommend energy conservation options.

4. Analyze and recommend alternative energy options.

5. Make recommendations for use of $100,000 ballot item for energy efficiency/conservation and alternative energy options.

6. Other tasks as periodically assigned by the Selectmen.

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 6, 2017	☒ ACTION
DATE ACTION REQUESTED: January 9, 2017	☐ DISCUSSION ONLY
SUBJECT: Identify Minor Charter Amendments for May 2017	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The most pressing change needed in the Charter, in my opinion, is that of changing the Treasurer from elected to appointed. Mary Costigan concluded that change would require a full charter commission process. The other change that would likely require a charter commission process is granting a greater role to the Board of Selectmen in the budget process.

Given the multitude of demands on time right now, I find only one of the minor amendments worth pursuing, this being the process for approval of the weekly warrant. If the Board is agreeable I'll ask Dylan Smith to draft up a change and to include this in the materials to be heard at public hearings in February and March.

I am not prepared to recommend a charter commission, simply because of the volume of work required. I think this should wait another few years before it is proposed again.

RECOMMENDATION: At this time, pursue only an amendment to address the Board's weekly approval of the warrant.

PROPOSED MOTION: I move to direct the Town Manager to prepare a minor charter amendment to address the process of approval of the weekly warrant.

Prepared by Stephen H. Burns, Town Manager: _____

MEMO

TO: **Mary Costigan, Town Attorney**

FROM: **Stephen H. Burns, Town Manager**

DATE: **December 1, 2016**

RE: **Charter Amendment Questions**

At their most recent meeting the Board of Selectmen discussed ideas for possible Charter amendments. The Board requested a written opinion from you as to whether each of the following would be a minor or major amendment. The Board also asked for your opinion about whether a charter commission could be narrowly focused or formulated, or if, once established can go in any direction it chooses. Obviously, the second question relates to the first as major charter amendments would require establishment of a charter commission.

I have tentatively scheduled the Board's follow-up discussion on this matter for January 9th so I will need your written opinion no later than January 2nd.

Here are the topics:

1. Required (lengthy) ballot language for bond-funded capital projects – it would be good to shorten the ballot questions. *See Article II §15, Bond Issues, Ballots.* I have asked Shana Mueller, our Bond Counsel, to evaluate all the requirements and to offer a suggestion for amendment. After speaking with her I'm not optimistic that we'll be able to shorten our bond language much, but we can see.
2. Appointed versus elected Town Treasurer – as the complexity of responsibilities and the concurrent liabilities associated with execution of duties continue to grow over time it may well make sense to assign the Town Treasurer responsibilities to an appointed expert. *See Article III §8, Enumerations of Power.* Margaret MacIntosh currently serves as our elected Town Treasurer, most recently elected in May 2016. I proposed we prepare a ballot question that would convert this position to one being appointed by the Town Manager, to take effect in May 2019 at the end of the current incumbent's term.
3. List of Town Committees – the list in the Charter doesn't match reality and should be amended. *See Article III §8, Enumerations of Power.* I propose we prepare a ballot question that would eliminate two non-existent committees: the Affordable Housing Task Force, and the Recycling Committee.
4. Approval of the Weekly Warrant – per Title 30-A MRS §5603 we should provide for a clear process for the Board of Selectmen to approve the weekly warrant. *This is not in the Charter today, so would be new language.* This issue came up because we were asked if we could have e-mailed approval of the warrant. The answer as things

stand today is *no* to e-mail approval. I believe this could also be addressed by an ordinance per statute, so this doesn't necessarily need to be a charter amendment.

5. Shared authority to prepare ballot questions when this affects policy as well as budgets – possible roles for the School Committee and Board of Selectmen as the warrant questions are drafted. *See Article II §4 through §12.* This relates to policy changes that extend beyond budgetary matters. The matter originally arose when the Budget Committee changed a ballot question about raising and appropriating contingency funds by then prohibiting carry-forward of that money. The reaction at that time by the Board of Selectmen was that the Budget Committee had ventured into the policy realm.

6. Formal role for the Board of Selectmen in the preparation of the municipal budget – this is provided for the School Committee in the School Budget, but not for the Board of Selectmen. *See Article II §6, Submission of Municipal Budget and Message.* At this time there is no Charter-specified role for the Board of Selectmen to deal with the budget in general. They are responsible for determining whether or not to use fund balance to help reduce reliance on property taxes, and they set the COLA for non-union employees. Good practice suggests the Board of Selectmen should have a role, but it is not required.

7. Number of people required to petition an ordinance amendment – is the initial threshold too low? *See Article II §22, Petition for Enactment of Ordinances.* Simply a matter of figuring out the process if the Board would like to propose a change to this threshold.

8. The Capital Program preparation and adoption process could be clarified and enhanced considerably. *See Article II §9.* The current language is rather vague and weak. The Town Manager prepares the capital program for the Town, including the school, delivers it to the Board of Selectmen, and then the Budget Committee conducts a public hearing. There is no clear establishment of authority for either the Board of Selectmen nor the Budget Committee to make changes before sending the articles on to the voters.

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 6, 2017	☒ ACTION
DATE ACTION REQUESTED: January 9, 2017	☐ DISCUSSION ONLY
SUBJECT: Think Again's request for legal funds	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The Board is being asked by Think Again to fund the battle at the DEP public hearing.

There is no money directly budgeted for this purpose. Our standard legal budget has no money to spare – we are at 76% spent at 42% of the fiscal years to date (primarily because of our new finance compliance issues and the Horn case). The Board's only option here is the Selectmen's Contingency Account, which originally had $50,000. The maximum available for the remainder of the fiscal year is $45,000. The Board authorized $5,000 for the consultant for the LED streetlight project. The fire truck repairs, amounting to approximately $37,000, can be charged if needed to the Supplemental Contingency Account. I verified this with Mary Costigan – that legal costs in this matter cannot be charged to Supplemental Contingency, but that the fire truck repairs can be.

Going back to 2015, the Board passed a motion on October 19, 2015, indicating the Board would not put more public money into this matter unless expressly approved by the voters. (Old Request for Action and Minutes attached). At that time, with the funds available from Think Again, we anticipated that we could make the case with the US Army Corps of Engineers, and that we would have time to approach the voters in May 2017 if we needed to make a decision about extending this process into hearings and appeals. The timing of the DEP appeal is problematic, as is the fact that they are jumping into the AET issue. I anticipated that AET was just going to be a Corps issue and that DEP would be looking at the habitat, floodplain, environmental and human impact-related issues.

We have made a solid case with the Army Corps of Engineers. This is what we had funds to do, and this is what Scott Anderson did such a nice job of right from the start. If we choose not to participate in the DEP public hearing then we lose one of two options, but there is still a strong case for the Corps to decide that AET is a viable option. I think we should stay the course here by remaining focused on our input to the Corps, and to request postponement of the DEP public hearing. Let the Corps be the arbiter of this matter. The Corps and DEP do not need to reach the same conclusion, and either could decide in our favor.

The cost I think the Board can safety provide about $25,000 to this cause. This could be increased to $35,000, but that's really the limit. That leaves us with only $10,000 in contingency for the second half

of the fiscal year. This is perhaps half of the anticipated cost of preparing for, participating in and following up on a public hearing. For whatever money the Town provides, Think Again should be required to match that, dollar for dollar. Lacking this, we don't have adequate funds and then nothing more should be spent.

I also advise the Board to direct Scott Anderson to request the public hearing be deferred until after July 1st because the timing of this hearing precludes the Town from asking the voters in May to raise sufficient funds to participate effectively. In short, the Maine Turnpike Authority would have an unfair advantage because they have very deep pockets and can readily outspend the Town and Think Again.

RECOMMENDATION: I recommend putting an additional $20,000 of Town funds into this effort, unless more is expressly approved by the voters. I believe the Board should allocate this money so we can do whatever we need to bolster our case with the Corps. This is nowhere near enough for the DEP public hearing.

In the event the Board wants to do more, I recommend the following three actions:
1. The Board votes to utilize a certain amount of money from Selectmen's Contingency, and specify the purpose.
2. The Board votes to direct Scott Anderson for request the DEP public hearing be postponed until after July 1, 2017.
3. The Board directs me to include a budget line for this purpose in the proposed FY18 municipal operating budget request.

PROPOSED MOTION: This depends on the Board's decision as to how to proceed. I leave it to the Board to propose whatever action it chooses – the recommendation language above can be put in the form of a motion.

FISCAL IMPACT: Selectmen's Contingency

DEPARTMENT LINE ITEM ACCOUNT:

BALANCE IN LINE ITEM IF APPROVED: there is $45,000 maximum available

Prepared by Stephen H. Burns, Town Manager: _____

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 16, 2015	☒ ACTION
DATE ACTION REQUESTED: October 19, 2015	☐ DISCUSSION ONLY
SUBJECT: MTA Toll Plaza Project	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: It appears that the MTA Board will decide in November which toll plaza site to pursue through the environmental permitting process. All indications are that it will be the site at Mile 8.8, not at the location of the existing toll plaza. A past Board of Selectmen took the position that it is acceptable to forgo all electronic tolling (AET) as long as the toll plaza remains at the current location, but the Board opposed alternative locations. It is likely this proposal will not be AET and will be at a different location.

Think Again is looking for the Town to take a lead role in opposing a move to the site at Mile 8.8. It seems the appropriate manner to exercise the Town's position is to engage in the environmental permitting process. There is $4,919 remaining from an original $15,000 dedicated to pay for studies of the MTA's work. Daryl Flemming has been the Town's consultant and it would be appropriate at this time to re-engage with Mr. Flemming to have him complete his work once the MTA releases its documents and their Board makes its decision.

Think Again has approximately $13,000 in funds which they are willing to make available to hire an attorney to represent the Town's position in the permit review process. To the extent more money is required for legal representation, a request could be made to the voters at the May Budget Referendum or the Board could ask Think Again to raise additional funds.

The questions before the Board, however, is whether or not they would like the Town to take a lead role in this process, are we willing to accept money from Think Again to hire legal representation, and would we ask the voters if any more Town money is requested.

RECOMMENDATION: I recommend the Board take the lead role in representing the local position, accept the funds from Think Again to hire legal counsel for the permitting process, and to not put more public money into this process unless approved by the voters.

PROPOSED MOTION: I move to have the Town take the lead role in representing the local position, accept the funds from Think Again to hire legal counsel for the permitting process, and to not put more public money into this process unless approved by the voters.

FISCAL IMPACT: not to exceed the remaining $4,919
DEPARTMENT LINE ITEM ACCOUNT: legal, carried from prior years
BALANCE IN LINE ITEM IF APPROVED: $0

Prepared by Stephen H. Burns, Town Manager: _____

4. Discussion and Possible Action: Communications Tower at 36 Main Street

Moved by Mr. Macdonald, seconded by Mr. Frederick to direct the Town Manager to execute a lease, subject to final review by the Town Attorney and receipt of a design which eliminates not more than six parking spaces, for a portion of the property at 36 Main Street for the construction of a 140′ tall lattice communications tower to serve the Town's communications needs and to provide space for possible commercial co-location of wireless communications antennas. Vote 5-0, motion passes.

5. Discussion and Possible Action: MTA Toll Plaza Project

Moved by Mr. Macdonald, seconded by Mr. Speers to have the Town take the lead role in representing the local position, accept the funds from Think Again to hire legal counsel for the permitting process, and to not put more public money into this process unless approved by the voters. Vote 5-0, motion passes.

J. <u>New Business</u>

1. Discussion and Possible Action: Special General Referendum Request

Moved by Mr. Macdonald, seconded by Ms. Sevigny-Watson to table this issue until the November 2, 2015 meeting. Vote 5-0, motion passes.

2. Special Event Permits
   a. Festival of Lights Parade
   b. 14th Annual Graystone Builders Beach Bonfire Benefit
   c. Great Strides York

Moved by Mr. Macdonald, seconded by Ms. Sevigny-Watson to approve the following Special Event Permits subject to all, if any, conditions from Department Heads: Festival of Lights Parade, 14th Annual Graystone Builders Beach Bonfire Benefit and Great Strides York. Vote 5-0, motion passes.

3. Pole Location Permits

   a. US Route One

Moved by Mr. Macdonald, seconded by Mr. Speers to approve the Pole Location Permit for 1 pole on US Route One, in a southerly direction, 112 feet from Pole #290. Vote 5-0, motion passes.

   b. Pine Hill Road

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 6, 2017	☒ ACTION
DATE ACTION REQUESTED: January 9, 2017	☐ DISCUSSION ONLY
SUBJECT: Property Redemption – Tax Map 0013-0020-C; 19 Intervale Road	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

1. Approve the Property Redemption Request for the total taxes, interest and costs due
2. Deny the Property Redemption Request and keep the property under Town ownership

RECOMMENDATION: Approve the Property Redemption Request from Paul V. Giannetti for 19 Intervale Road.

PROPOSED MOTION: I moved to approve the property redemption of Tax Map 0013-0020-C, located at 19 Intervale Road, as requested, subject to the condition that all taxes, interest and administrative costs are paid in full by no later than March 3, 2017 with cash or certified bank check.

FISCAL IMPACT:
DEPARTMENT LINE ITEM ACCOUNT:
BALANCE IN LINE ITEM IF APPROVED:

PREPARED BY: _____ REVIEWED BY: _____

Melissa M. Avery, Assistant to the Town Manager

TO: Board of Selectmen
FROM: Melissa M. Avery, Assistant to the Town Manager
DATE: January 6, 2017
RE: Tax Foreclosure Redemption: Map 0013 Lot 0020-C; 19 Intervale Road

Paul V. Giannetti, former property owner of property identified as Tax Map 0013, Lot 0020-C, located at 19 Intervale Road in York, Maine, requests to redeem this property for which the Town has foreclosed after the maturing of tax lien for Fiscal Year 2012.

We are recommending to the Selectmen, that Paul V. Giannetti be allowed to redeem this property providing the following condition(s) are met:

Condition #1 – Paul V. Giannetti shall pay in full, to the Town of York, all past years and current years taxes, interest, administrative and lien costs, which total **$33,897.86** by no later than **March 3, 2017**.

FY2012 TAXES AND INTEREST	$14,522.15
FY2013 TAXES AND INTEREST	$14,587.21
FY2014 TAXES AND INTEREST	$14,493.25
FY2015 TAXES	$12,035.36
FY2016 TAXES	$12,372.80
FY2017 TAXES	$12,830.31
ADMINISTRATIVE/LIEN COSTS	$ 200.00
	$81,041.08

Parcel Information

Map-Lot	Size of Lot	Assessed Value	Party Requesting Redemption
0013-0020-C	.49 Acres	$1,467,000	Paul V. Giannetti

Summary | Detail | Notes | Payment Plan

Access

- Tax Map # 0013 0020 C
- Linked to Tax Map # 0013 0020 C
- Parcels Linked to Tax Map # 0013 0020 C
- GIANNETTI PAUL V/SUSAN
- Linked to GIANNETTI PAUL V/SUSAN

Filters

Year

Sub System

- [x] Active A/R
- [ ] Hide zero balance

Late Charges

As of Date 3/3/2017

- [x] Display
- [ ] Keep Setting

Daily Interest Amount $6.43

Year id	Sub System	Bill Number	Billed	Interest	Fee	Paid	Balance Due	Late Charges	Total Due	Up To 1st Due	Bar Code
2014	Tax Title	RE3642	$12,337.10		$9.74		$12,346.84	$2,146.41	$14,493.25	$14,493.25	513513
2013	Tax Title	RE3669	$11,741.68		$9.48		$11,751.16	$2,836.05	$14,587.21	$14,587.21	510189
2012	Tax Title	RE3697	$11,090.90		$9.11		$11,100.01	$3,422.14	$14,522.15	$14,522.15	287690
2011	Tax Title	RE3701	$10,956.67	$803.72	$8.75	$11,769.14	$0.00	$0.00	$0.00		170820
2010	Tax Title	TT121253	$9,851.56	$570.84		$10,422.40	$0.00	$0.00	$0.00		46006
			$55,977.91	$1,374.56	$37.08	$22,191.54	$35,198.01	$8,404.60	$43,602.61		

Refresh | Search | Previous

FY 15, 16, 17 needs to be gathered from Rick
Note that interest is not calculated for those years.
I believe the BOS may assess a fee of up to
10 percent of the assessed value of the property

Summary | Detail | Notes | Payment Plan

Access

- Tax Map # 0013 0020 C
- Linked to Tax Map # 0013 0020 C
- Parcels Linked to Tax Map # 0013 0020 C
- YORK TOWN OF
- Linked to YORK TOWN OF

Filters

Year

Sub System

Active A/R

Hide zero balance

Late Charges

As of Date 12/26/2016

Display

Keep Setting

Daily Interest Amount $6.43

Year id	Sub System	Bill Number	Billed	Interest	Fee	Paid	Balance Due	Late Charges	Total Due	Up To 1st Due	Bar Code
2014	Tax Title	RE3642	$12,337.10		$9.74		$12,346.84	$1,995.67	$14,342.51	$14,342.51	513513
2013	Tax Title	RE3669	$11,741.68		$9.48		$11,751.16	$2,692.10	$14,443.26	$14,443.26	510189
2012	Tax Title	RE3697	$11,090.90		$9.11		$11,100.01	$3,286.31	$14,386.32	$14,386.32	287690
2011	Tax Title	RE3701	$10,956.67	$803.72	$8.75	$11,769.14	$0.00	$0.00	$0.00		170820
2010	Tax Title	TT121253	$9,851.56	$570.84		$10,422.40	$0.00	$0.00	$0.00		46006
			$55,977.91	$1,374.56	$37.08	$22,191.54	$35,198.01	$7,974.08	$43,172.09		

Refresh | Search | Previous

Plus FY 15,16,17 - get from Rich

FY17 = 12,830.31

FY16 = 12,372.80

FY15 = 12,035.36

$37,238.47

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 5, 2017	☒ ACTION
DATE ACTION REQUESTED: January 9, 2017	☐ DISCUSSION ONLY
SUBJECT: Waivers of Automatic Foreclosures	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

Automatic foreclosure can be waived by a vote of the municipalities legislative body, giving the Treasurer authority to record a waiver of foreclosure in the Registry (36 M.R.S.A. § 944).

All properties owing FY15 taxes were issued notices of automatic foreclosure on December 16, 2016. At that point in time a total of $202,757.82 was uncollected. Since that date we have received payments of $103,293.19 leaving a balance outstanding of $99,464.63 as of January 5, 2017.

The attached foreclosure report provides a detail of remaining FY15 delinquent taxes as of January 5th. Properties owners on this list that pay by end of business January 13, 2017 will be discharged.

The Code Enforcement Officer was provided a list of 83 properties of which to conduct inspection upon and provide an opinion as to whether those properties have issues relating to hazardous wastes, environmental impacts, are dangerous or raise other concerns from the perspective of code department that would render them unwise to continue with foreclosure. One property was found to be potentially hazardous (19 Caincrest) foreclosure is not recommended. Two other properties have indications that they may require remedial action prior to sale, but foreclosure is recommended (3 Amherst Avenue & 39 Ocean Avenue).

In addition to potential hazardous issues I have reviewed the property list for other burdensome circumstances and am recommending that all properties on the list that are not Trailers and condominiums continue with foreclosure and possible sale or redemption arrangements as the Board sees fit. Trailers and condominiums should be given different consideration.

I recommend that foreclosure be waived on the non-seasonal trailers contained in the attached list. It is financially detrimental to the Town to foreclosure on these properties. They could owe significant back rent to the Trailer Parks. Upon foreclosure the town would be responsible for the back rent and rent moving forward. It is my opinion that costs to sell or properly dispose of these units would outweigh any benefit to the Town. According to the tax collector these owners are making efforts to periodically pay on these properties. The taxes are not being ignored. Total due for FY15 on these is $2,022.41.

Separately is the issue of seasonal trailers for which I will defer to the Board. This year there is one property that falls into this category in the amount of $86.94. Historically, this type of property has been problematic however, more recently Park Owners have worked with the Town to resolve these issues with their tenants.

There are three Condominium properties for the board to consider. It is unknown if these units owe condo fees. The value of these units appears to be enough that the Town might consider continuing the foreclosure process. I will defer to the Board. One of properties (39 Ocean Ave) has a bail lien. At the time of packet preparation we were researching please ask Town Manager for results of that research before rendering you decision on that property. There are no other burdensome circumstances that I am aware of that would cause me to recommend a waiver. One of the properties does have a small sewer lien as of January 5, 2017.

RECOMMENDATION: The board recommend waivers on any properties contained in the attached listing they feel would be burdensome to acquire.

PROPOSED MOTION: I move to waive foreclosure on the following properties...

FISCAL IMPACT: $99,464.63

DEPARTMENT LINE ITEM ACCOUNT: n/a

BALANCE IN LINE ITEM IF APPROVED: n/a

PREPARED BY: Wendy Anderson, Finance Direct/Deputy Treasurer

REVIEWED BY: _____

FY15 Proposed Foreclosures

Owner	Property	Map/Lot	Property Value	Amount Owed	Sewer Lien	Director of Code Enforcement Recommendation
Abdallah, Dee	31 Ocean Avenue 207	0024/0007A/0027	440,100	5505.1	402.99	Sell - Year-round condo unit
AFM Trust	2 Sea Trumpet Drive	0046/0024C	1,376,800	17,429.47	770.66	Sell as is
AFM Trust	9 Spur Road	0091/0025	9,500	192.73		Sell as is
Alterman, Rose F Life Estate	3 Amherst Avenue	0033/0135	326,200	3,752.03	773.08	Potential remedial action prior to sale
Bell, Brandon	13 Caincrest Road	0087/0066/0013	11,700	265.45		Sell - Trailer
Bossi, Ruthanne/Anthony	4 Willow Ave	0024/0103 A	756,200	9,380.48		Sell as is
Bracy, Gerald	246 Mountain Rd.	0096/0046	18,000	298.67		Land locked: potential to sell to abutters
Cooley, Kim/Franklin Scott Trustees	20 Cider Hill Road	0053/0010	182,600	2,354.44		Sell as is
Coras Iompair Duinnin Inc	91 York St.	0049/0017	295,300	3,570.54		Sell as is
Cox, Maureen	71 Beech Ridge Road	0086/0045	383,200	4,578.76		Sell as is
Denis, Marc/Cheryl	39 Ocean Avenue	0024/0004/002B	312,000	3,758.17		Sell - Year-round condo unit - inspect for water damage and windows before selling
Dentremont, David	5 Tremont St.	0039/0002A	206,800	2,542.03		Sell as is
Dentremont, David Trustee	4 Tremont St.	0039/0002C	174,300	2,116.36		Sell as is
Eaton, James/Jeanne Trustees	12 Windmill Acres	0070/0006A	325,600	829.56		Sell as is
Fitch, Nancy	17 Fort Hill Ave Ext	0025/0068	318,500	2,478.87		Sell as is
Fitzgerald, Matthew	48 Caincrest Road	0087/0066/0048	18,600	328.20		Sell - Trailer
Gelfuso, Louis/Melissa	50 Dewey Road	0030A/0078	95,400	1,250.89		Sell - Empty lot
Hanson, Norman	179 Scituate Road	0093/0037	199,900	2,488.54		Sell as is
Hicks, Elvira	123 Rogers Road	0030A/0039	192,100	1,253.56		Sell as is
Hutch, Barry	19 Reserve Street	0033/0128A	267,400	3,345.09		Wetlands lot - potentially good for abutters
Lafreniere, Stephen	129 Mountain Road	0096/0161	17,100	236.83		Land locked: potential to sell to abutters
Letourneau, Robert	70 Caincrest Road	0087/0066/0070	25,000	402.01		Sell - Trailer
Lontine, Bernard	22 McIntire Road	0086/0032C	96,000	1,258.27		Sell as is
McCabe, Arthur/Marla	31 Caincrest	0087/0066/0031	61,000	826.5		Sell - Trailer
Mele, Joseph/Linda	123 Burnette's Trailer Park	0026/0001/0123	10,600	86.94		Sell - Trailer - Seasonal
Meyer, Jessica	9 County Road	0096/0039C	194,400	2,468.85		Sell as is
Olson, Kenneth	62 Pine Hill South	0002/0035/0110	78,100	936.48		Sell Condo building
Perry, Susan	55 Hooper Shores Road	0084/0050	158,600	1,496.59		Sell as is
Reppucci, Gina	6 Spruce Street	0032/0014Z	97,900	464.61		Vacant lot, potentially buildable-sell as is
Reppucci, Richard	2 Spruce Street	0032/0014U	245,600	1,504.44		Sell as is
Silsby, George Estate of	19 Caincrest Road	0027/0078	10,000	200.25		Potentially hazardous structure Trailer
Trider, Matthew/Kathryn	10 Pattens Lane	0084/0010	100,000	1,307.48		Vacant lot, possible sale to abutters
Weare, Peter	1450 US Route 1	0097/0021	188,400	2,395.04		Vacant lot, potential for subdividing lot
Weare, Peter	1494 US Route 1	0097/0025/0001	432,500	2,238.80		Vacant lot, potential for subdividing lot
Weare, Peter	155 Logging Road	0097/0025G	406,600	2,125.61		Vacant lot, potential for subdividing lot
Willis, Dana J Trustee	121 Western Point Road	0064/0015	1,879,500	23,207.39		Sell as is
Witham, Frank	4 Mill Pond Lane	0055/0012A	47,800	658.42		Vacant lot, sell as is
Unknown Property	6 Western Point Road	0070/0003	35,000	474.87		Town could keep for kayak launch/green space
38 properties		**Totals**	**$ 9,994,300.00**	**$ 99,464.63**	**$ 1,946.73**	
See Director of Code Enforcement reports for further comments on properties						

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 3, 2017	☐ ACTION
DATE ACTION REQUESTED: January 9, 2017	☒ DISCUSSION ONLY
SUBJECT: Broadway & Airport Drive Drainage project discussion.	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:
Major storm water problems continue to exist in York Beach today. The problems include extensive flooding of developed areas lying behind the roadways built on the old dune system. Storm water runoff, especially along beach areas in York have been an ongoing problem for many years. These storm events have been well documented by records and photographs showing chronic flooding problems in the Short Sands Beach area. Many of the catch basins and underground drainage pipes are not sized to carry the projected flows without significant surcharge. The pipes and structures are simply under sized. The inadequate drainage system creates de facto detention areas in the low lying developed areas. The de facto detention areas can become damaging floods during storm events above certain intensity. York's Storm Water Management plan recommends improvements to this drainage system and identifies it as Drain Outfall "G" problem area #5.

When completed the project will replace the existing old underground and undersized road drainage system. The new proposed system is designed to handle storm water runoff for the next 50+ years. The proposed drainage pipes and Structures will outlet into a new box culvert that will minimize, reduce and possibility eliminate flooding and the associated road and private property damage.

Discussion and relevant project history:

- On May 19, 2007 the voters of York approved $75,000 for preliminary engineering to replace the existing functionally deficient underground road drainage pipes and catch basins on Ocean Ave Extension, Airport Drive Extension, Broadway, and Willow Street.

- On May 17, 2008 the voters of York approved Article #65 for $575,000 for environmental permits and construction of the proposed Drainage improvements.

- On November 18, 2011 John Mahoney from Ransom Engineers and I met with Chris Coppi and Lisa Vickers of the Maine Department of Environmental Protection (MDEP) to discuss the Town of York's plans to improve the existing stormdrain system in the Willow Avenue and Broadway area of York Beach. John Mahoney presented a Dune Geology map from Maine Geological Survey, pictures of the site and the attached conceptual plan of the stormdrain system. Hard copies of these items were left behind for Department review.

In general, MDEP supported the Town's plan to remove the existing stormdrain outfall from Short Sands Beach and appreciated the need to address historic flooding in the upstream areas of the existing drainage system. Concerns were, however, expressed about locating an inlet control structure within a wetland. John Mahoney agreed to revise the plans to move the stormdrain inlet outside the wetland area. The request for this change is noted in red on the attached plan.

At the conclusion of the meeting, Lisa indicated that, provided the inlet structure and piping were removed from the wetland, the permitting requirements for the drainage upgrades could most likely be met through the Permit by Rule process.

- On February 13, 2012 The Board of Selectmen approved the DPW to finalize the design, secure drainage easements & environmental permits and solicit construction bids to replace and upgrade the existing drainage system on Ocean Ave Extension, Airport Drive Extension, Broadway and Willow streets.

After having issues securing the needed drainage easement from a private property owner for the new outfall. DPW began to look for other possible locations for the proposed new outfall. It was during this exercise that the Town's consulting engineers and surveyors informed the Town that they could not find any written documentation that Ocean Avenue Extension was ever accepted as a public way.

Ransom Engineers then hired professional land surveying company Dow & Coulombe from Saco who have extensive historical records in York County and specialized in researching old documents. After considerable work they were not able to find any additional documentation to support the public acceptance of Ocean Avenue extension.

At this point I believe the town has two options: The first is to hire a legal firm to continue to search for the missing documents that may or may not exist. The second option is to use the Lost Boundary Statute (23 MRSA S 2103).

This Statute can be used by municipalities when a road's boundaries cannot be determined. Maine law permits the Municipal Officers to treat it as a three-rod road (49.5 feet wide). This width is measured from the center of the traveled way, i.e., one and one-half rods on each side of the centerline. However, the municipality must award damages to abutters whose property is taken as a result of the municipality exercising its rights under this law. For example, if an existing road is twenty feet wide (ten feet either side of center line), and the municipal officers wish to make it a three-rod road, compensation must be paid for the additional thirty feet of unimproved land (fifteen feet either side of the existing road) so taken. The determination and award of damages must be in accordance with 23 M.R.S.A. S 3029. The municipality does not take fee simple title to the property under the Lost Boundary Statute – it takes an easement interest.

RECOMMENDATION: N/A

PROPOSED MOTION: N/A

FISCAL IMPACT: $0
DEPARTMENT LINE ITEM ACCOUNT: **201.0000.3000**
BALANCE IN LINE ITEM IF APPROVED: **$918,380.16**

PREPARED BY: Dean Lessard REVIEWED BY: _____

Maine Revised Statutes

Title 23: TRANSPORTATION

Part 3: LOCAL HIGHWAY LAW

Chapter 304: ACQUISITION OF PROPERTY FOR HIGHWAY PURPOSES

§3029. Damages; appeal

Damages shall be determined using the methods in sections 154 through 154E, as far as practicable, except that references to the "commission" or the "board" shall mean the "municipal officers" and references to the "state" shall mean the "municipality." [1977, c. 479, §5 (AMD).]

Any person aggrieved by the determination of the damages awarded to owners of property or interests therein under this chapter may, within 60 days after the day of taking, appeal to the Superior Court in the county where the property lies. The court shall determine damages by a verdict of its jury or, if all parties agree, by the court without a jury or by a referee or referees and shall render judgment for just compensation, with interest where such is due, and for costs in favor of the party entitled thereto. [1975, c. 711, §8 (NEW).]

Any person aggrieved by the action or nonaction of municipal officers or the municipal legislative body in proceedings under this chapter, other than a determination of damages, may appeal to the Superior Court in the county where the property lies, pursuant to Rule 80B of the Rules of Civil Procedure. [1975, c. 711, §8 (NEW).]

SECTION HISTORY
1975, c. 711, §8 (NEW). 1977, c. 479, §5 (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 03:02:09.

Maine Revised Statutes

Title 23: TRANSPORTATION

Part 2: COUNTY HIGHWAY LAW

Chapter 205: FIXING OF BOUNDARIES OR LOCATIONS

§2103. Lost or unrecorded boundaries

When a highway survey has not been properly recorded or preserved or the termination and boundaries cannot be ascertained, the board of selectmen or municipal officers of any municipality may use and control for highway purposes 1 1/2 rods on each side of the center of the traveled portion of such way. [2015, c. 494, Pt. A, §27 (AMD).]

When any real estate is damaged by the use and control for highway purposes of such land outside the existing improved portion and within the limits of 1 1/2 rods on each side of the center of the traveled portion, they shall award damages to the owner as provided in section 3029. [2015, c. 494, Pt. A, §27 (AMD).]

SECTION HISTORY
1971, c. 288, (NEW). 2015, c. 494, Pt. A, §27 (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 03:02:09.

Site:

BROADWAY DRAINAGE IMPROVEMENTS

YORK, MAINE

Prepared for:

TOWN OF YORK
186 YORK STREET
YORK, MAINE

SCALE

SCALE: 1" = 25'

25 0 25

RANSOM
Consulting, Inc.
400 Commercial Street, Suite 404,
Portland, Maine 04101
Tel (207) 772-2891
Fax (207) 772-3248
www.ransomenv.com

CONCEPT PLAN: Ocean Ave Extension Right-of-Way Plan

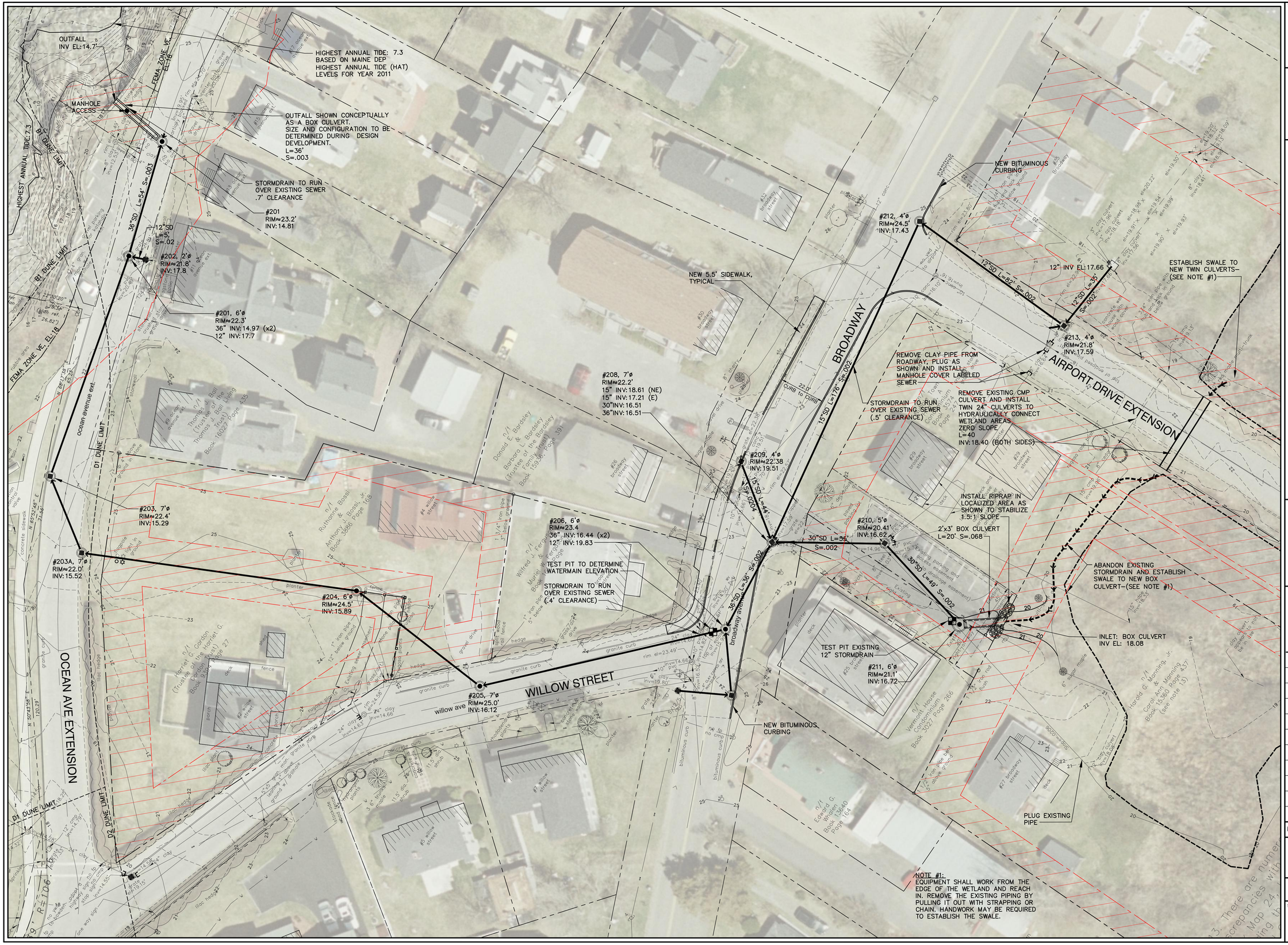
No.	Revision/Issue	Date
1	TOWN REVIEW	2/20/13

Design by: JIM	Checked by: SJB
Drawn by: JIM	Approved by: SJB
Project: 111.06072	Date: SEPT 2011

Sheet No:

SHEET 2

Sheet 2 of 2



Site:

BROADWAY DRAINAGE IMPROVEMENTS

YORK, MAINE

Prepared for:

TOWN OF YORK
186 YORK STREET
YORK, MAINE

SCALE

SCALE: 1" = 20'

20 0 10 20

RANSOM
Consulting, Inc.
400 Commercial Street, Suite 404,
Portland, Maine 04101
Tel (207) 772-2891
Fax (207) 772-3248
www.ransomenv.com

CONCEPT PLAN: STORMDRAIN TRUNKLINE

No.	Revision/Issue	Date
I	TOWN/UTILITY REVIEW	11/26/12
H	TOWN/UTILITY REVIEW	11/12/12
G	TOWN/UTILITY REVIEW	8/15/11
F	TOWN REVIEW	8/09/11
E	TOWN REVIEW	8/03/11
D	TOWN REVIEW	12/5/11
C	TOWN/MDEP REVIEW	11/16/11
B	TOWN REVIEW	9/16/11
A	TOWN REVIEW	9/12/11

Design by: JIM	Checked by: SJB
Drawn by: JIM	Approved by: SJB
Project: 111.06072	Date: SEPT 2011

Sheet No:

SHEET 1

Sheet 1 of 2

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 5, 2017	☒ ACTION
DATE ACTION REQUESTED: January 9, 2017	☐ DISCUSSION ONLY
SUBJECT: Energy Investment Analysis Policy	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: In past and ongoing discussions about public investments in energy-saving actions, there has been disagreement about how the financial aspects of such investments should be evaluated. The solar installation at the York Beach Fire Station is the one I remember most clearly, and this was purely hypothetical because the infrastructure was grant-funded. However, my assessment of the payback of that installation was significantly different than that of the Energy Steering Committee. I believe it is important for the Board to establish a clear standard for evaluating the financial desirability of such investments, and to do this independent of any particular investment. While I am not convinced the financial return is a suitable basis for deciding whether or not to proceed on such matters, it invariably comes up and therefore needs to be standardized so the policy debates focus on substance of the matter at hand rather than the means to evaluate finances.

Any time an investment is proposed with the intention of reducing energy usage, the Board should be presented with information about the financial implications of the investment on capital and operating budgets, and the net overall impact. We have had a variety of these projects – insulating buildings, installing LED lighting, changing heat sources, and so forth. Accompanying all such requests there should be a financial analysis that compares the status quo approach to the proposed change. While financial suitability alone should not be the basis for the decision, the anticipated costs and benefits should be clearly presented. To do this, there should be a standard approach to analysis so that every investment is evaluated in the same manner. Factors to consider are the break-even timeframe, the amount future values should be discounted ($1 a decade from now isn't worth the same as $1 today), assumed changes to energy costs, changes in demands on staff, residual disposal costs for end-of-life infrastructure, and so forth. I think it would be appropriate for the Board to charge the Energy Steering Committee and the Fiscal Sustainability Committee to jointly create the appropriate financial analysis method. When these committees report back to the Board of Selectmen with their recommendation, then the Board should engage in a policy-level discussion about suitable assumptions, standards to be met if appropriate (such as minimum pay-back periods), and so forth. Establishment of the suitable financial analysis method is the first step in this process.

On a related note, the energy policy survey completed by the Planning Staff has been completed and the results are attached. That information will help inform the new Comp Plan section on energy, and I believe that is a more suitable policy basis for making energy decisions.

RECOMMENDATION: I recommend the Board direct the Energy Steering Committee and the Fiscal Sustainability Committee to work together to draft a proposed standard method for the evaluation of the energy-saving investments.

PROPOSED MOTION: I move to direct the Energy Steering Committee and the Fiscal Sustainability Committee to work together to propose to the Board of Selectmen a draft standard method for the financial analysis of energy-saving investments, and to report back on this matter within 6 months.

Prepared by Stephen H. Burns, Town Manager: _____

Results of York Energy Committee Survey

December 15, 2016

In November and December of 2016, the York Planning Board conducted a random survey of roughly 1,200 people who are registered to vote in York. They were asked a series of 15 questions regarding energy and energy related programs that the Town may want to consider implementing now or in the future. The results of the survey are to be used in the development of an Energy Chapter to be included in the Town's Comprehensive Plan. This document presents the results.

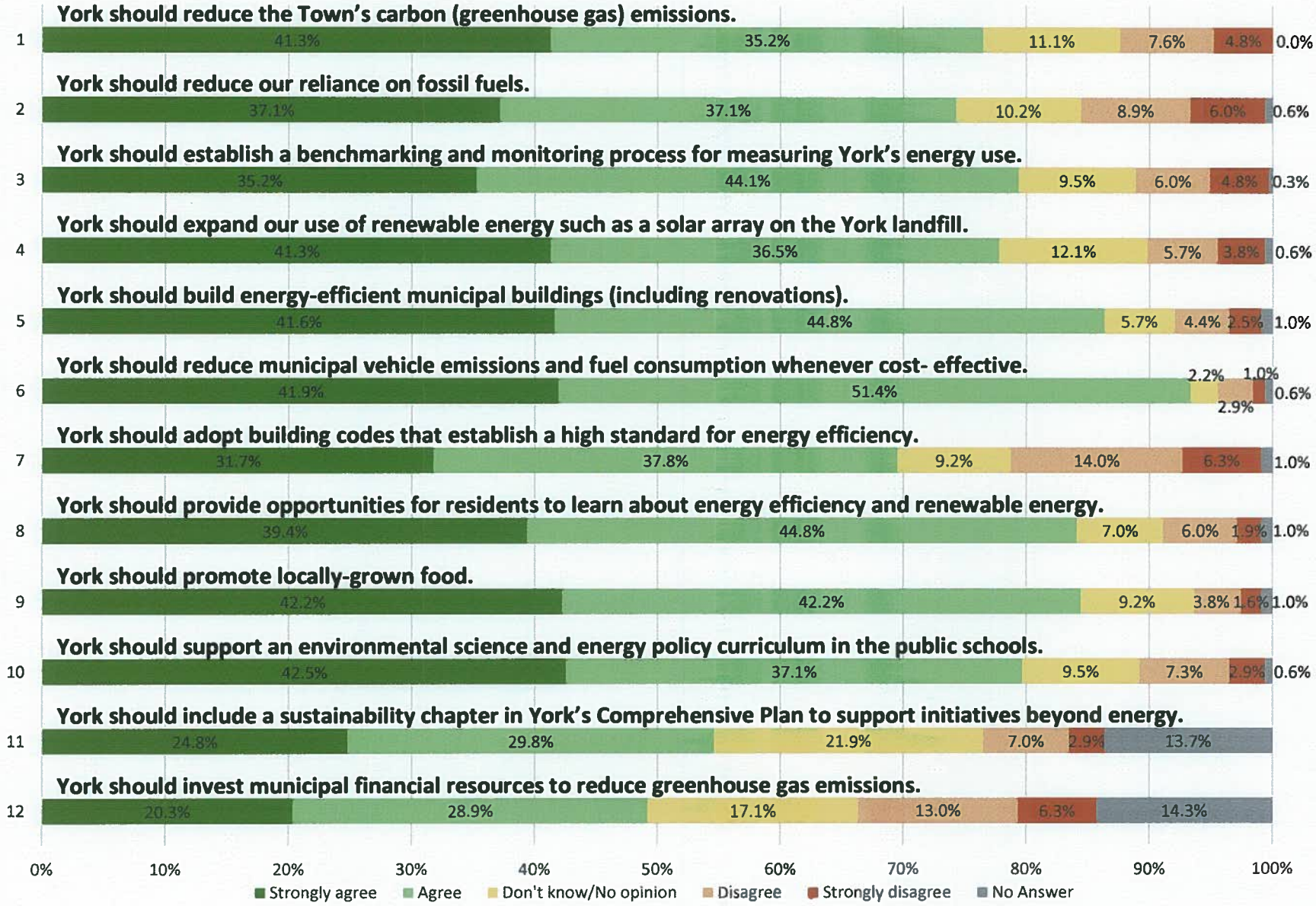
As stated above, the survey was randomly sent to roughly 1,200 registered voters. Unfortunately, 204 surveys were "returned to sender" due to a number of potential reasons (addresses were printed incorrectly on the envelope, people might have recently moved, etc.) However, of the 1,200 surveys that were sent it's conceivable (based on the number of surveys that were "returned to sender") that 996 people received a survey. Regardless, 315 people responded and returned a survey to the Planning Office, which means roughly 32% of the people who received a survey, responded to it.

Below are the tallied responses to questions that required a survey responder to circle a choice (strongly agree, agree, don't know/no opinion, disagree, strongly disagree) that best matched a survey responders opinion on a statement. Generally, people who responded to the survey tended to "strongly agree" or "agree" with all 12 statements.

Also, incorporated below is a summary of the three written response open ended questions. The planning Office attempted to highlight and track ideas or concepts that were incorporated or recurring within a particular response and whether they were positive, negative, or merely just mentioned.

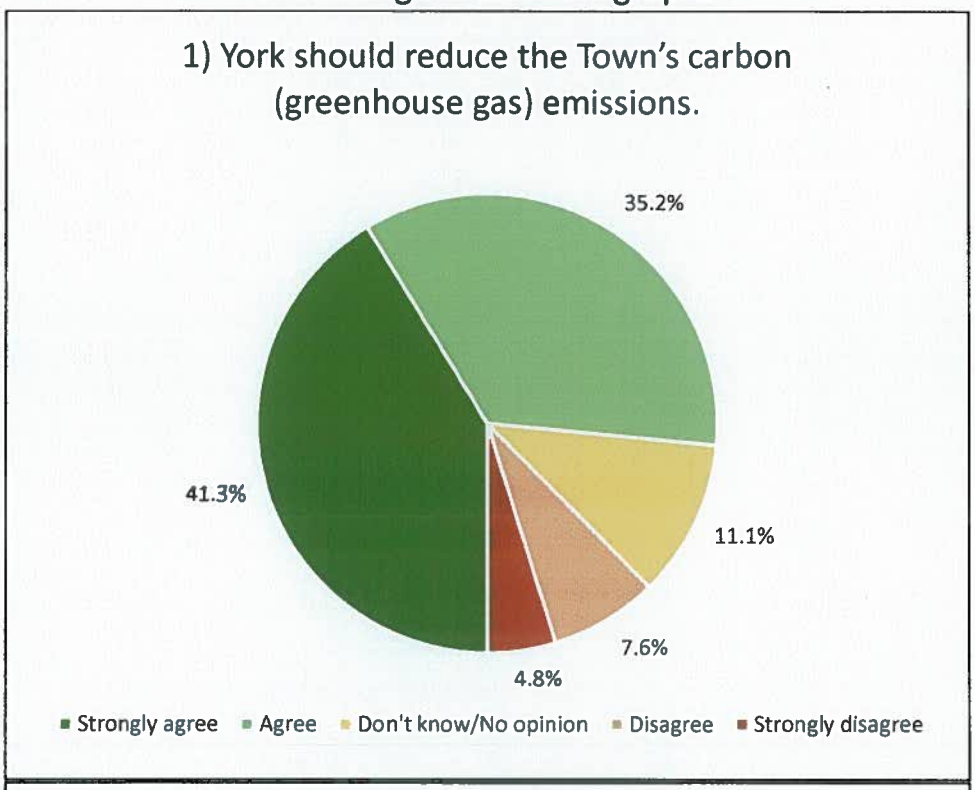
All responded surveys are available for review in the Planning Office.

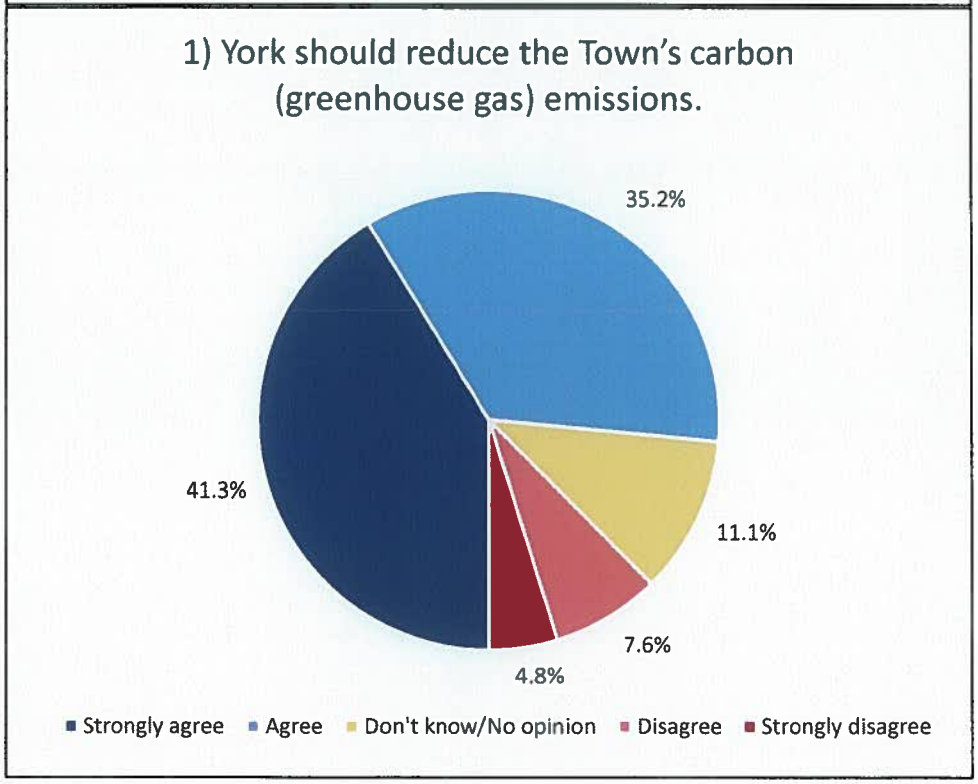
Results of Town of York Energy Survey

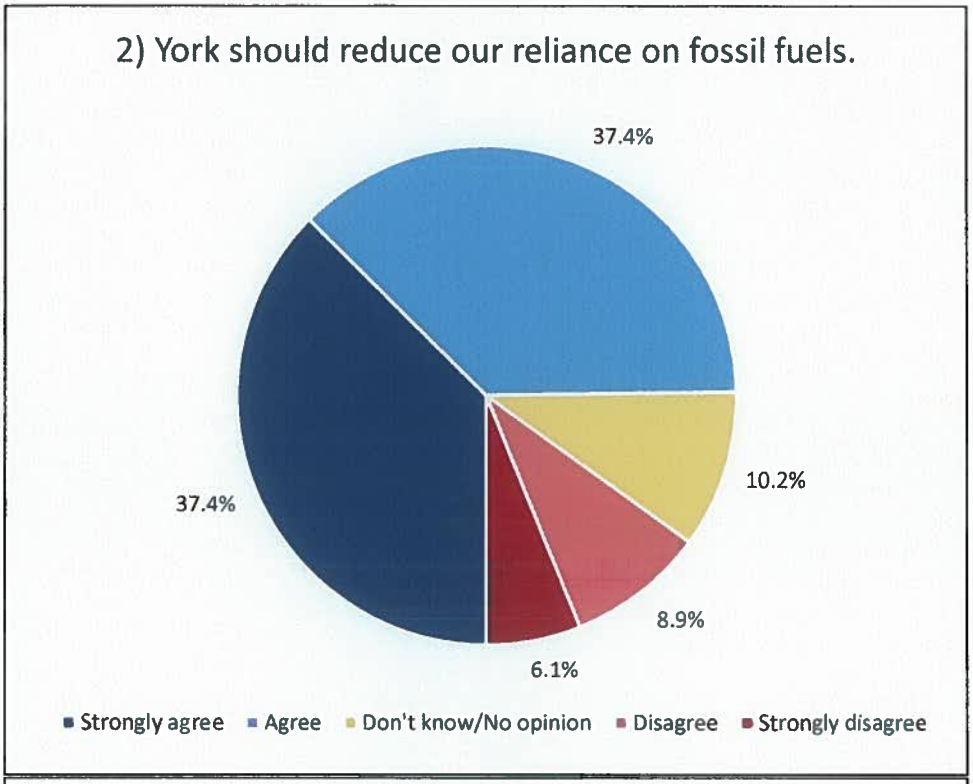


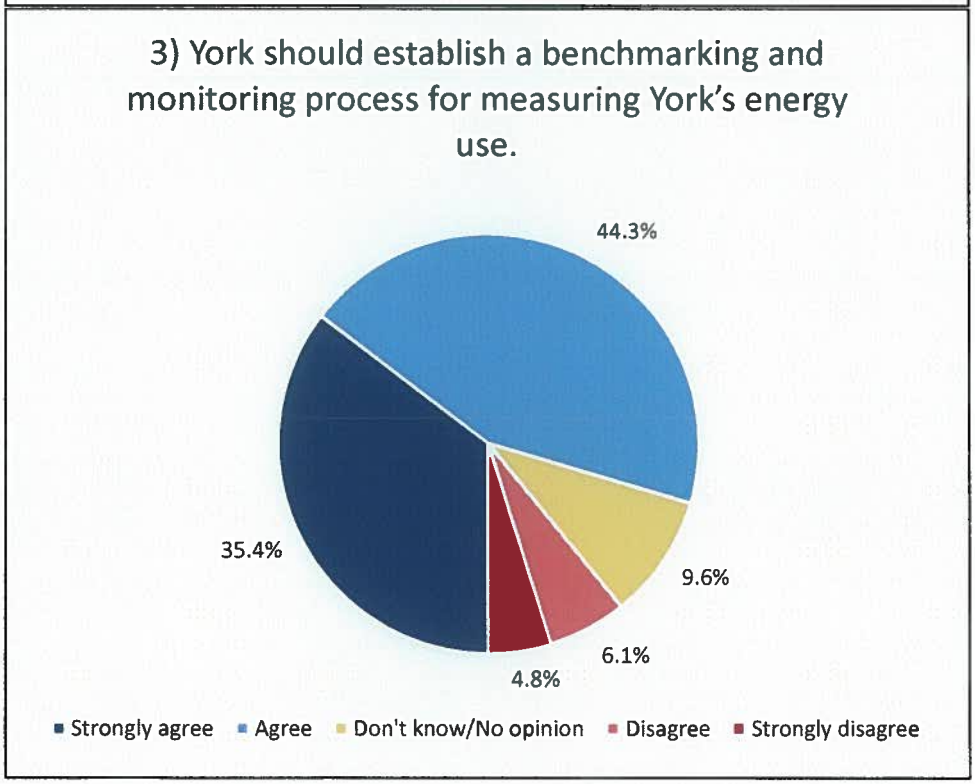
Results of Town of York Energy Survey

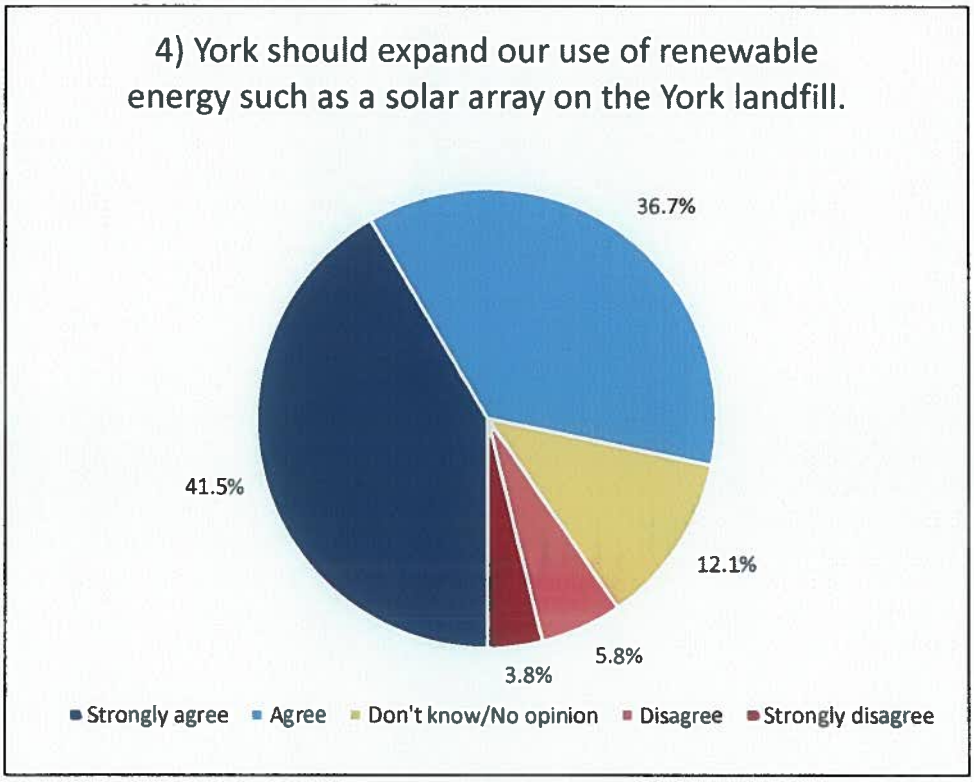
Percentage of answers graphs

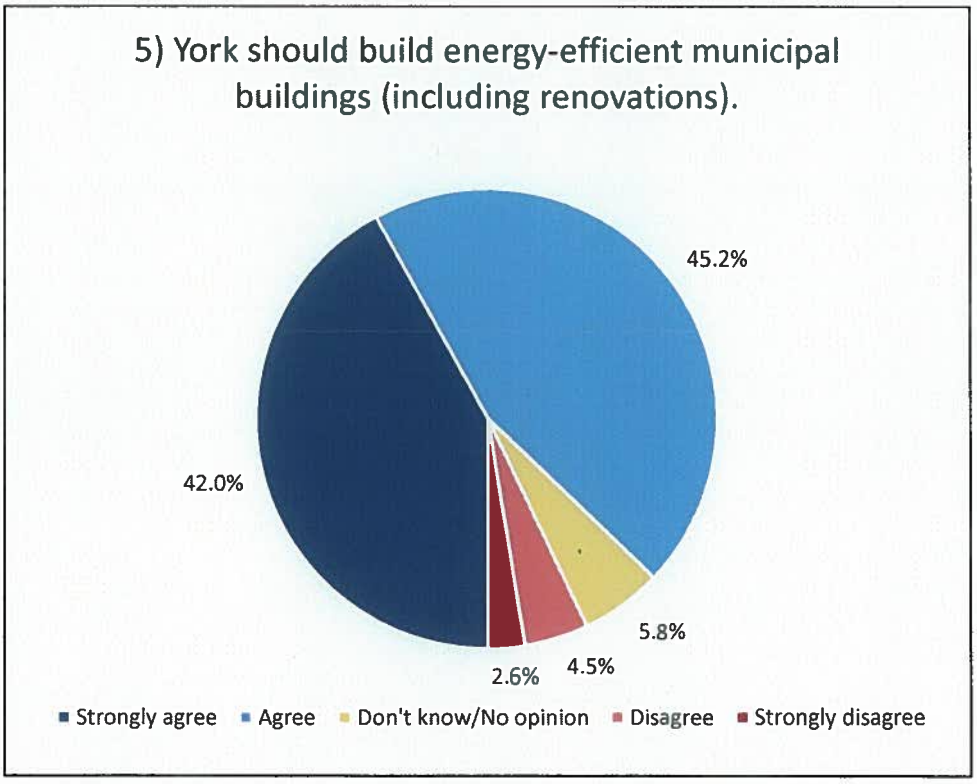


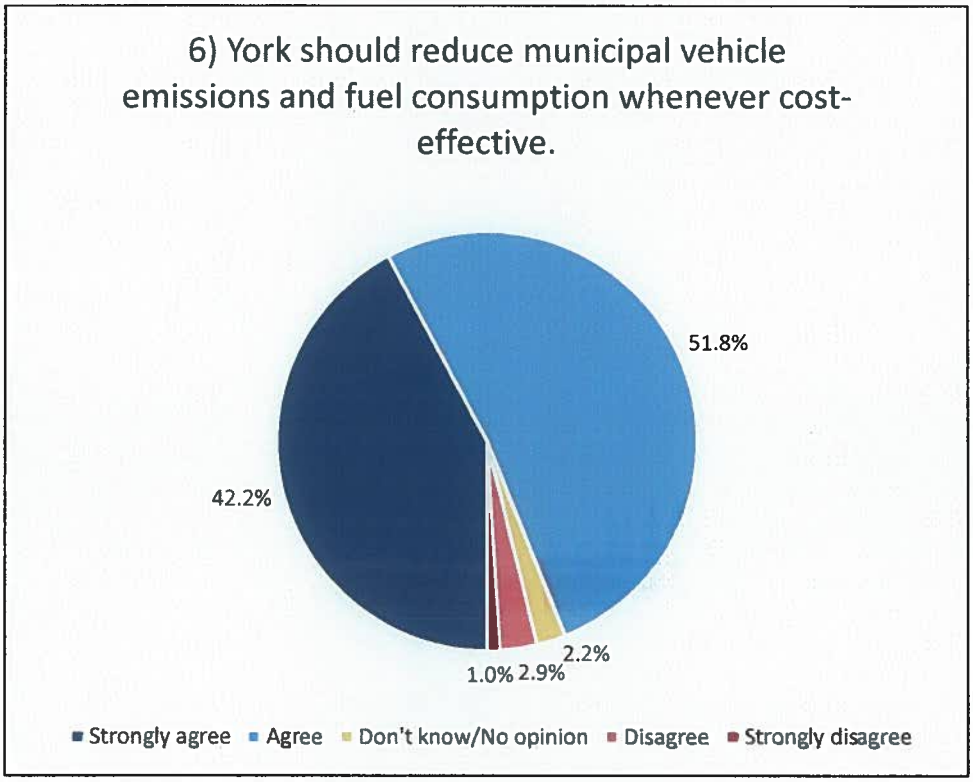


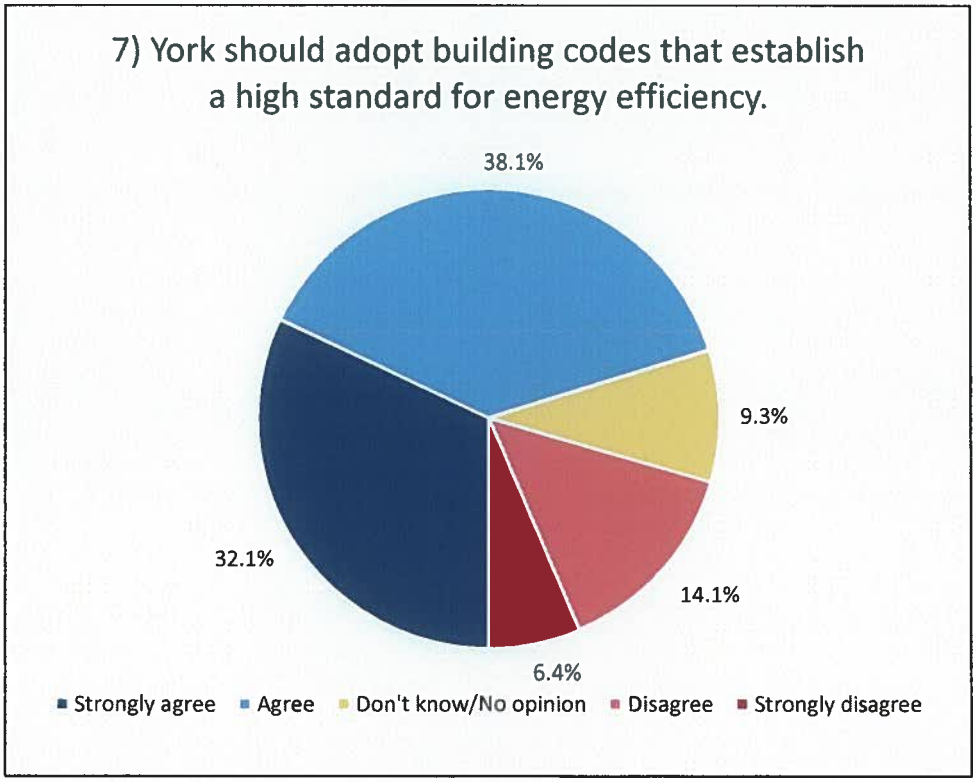

2) York should reduce our reliance on fossil fuels.
37.4%
37.4%
10.2%
8.9%
6.1%
Strongly agree
Agree
Don't know/No opinion
Disagree
Strongly disagree

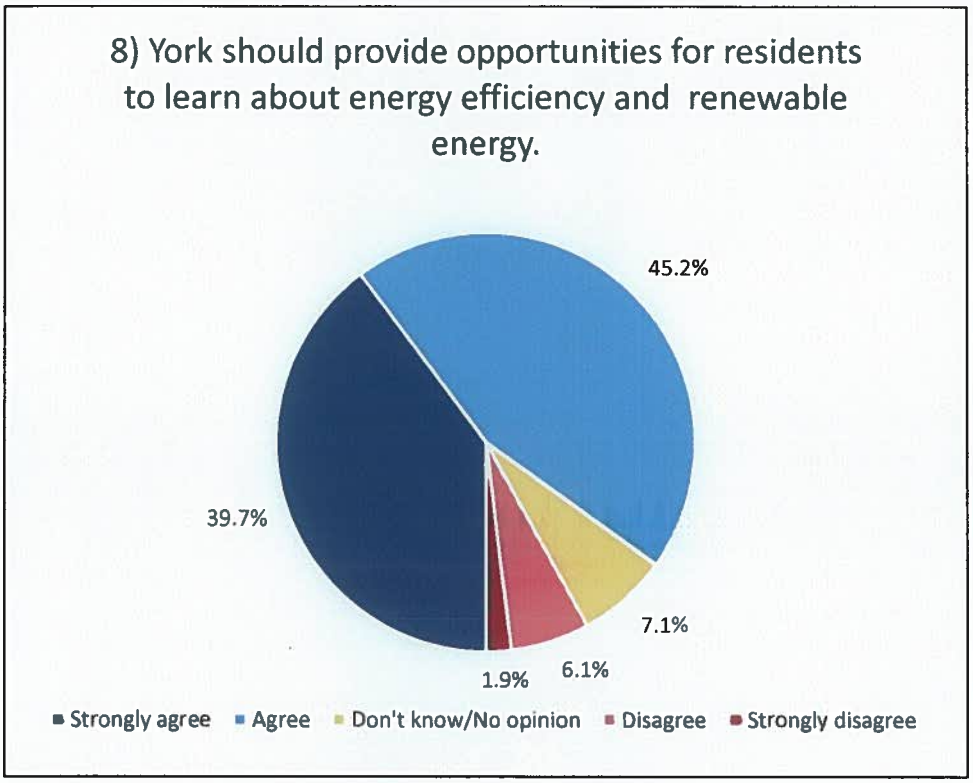

3) York should establish a benchmarking and monitoring process for measuring York's energy use.
44.3%
35.4%
9.6%
6.1%
4.8%
Strongly agree
Agree
Don't know/No opinion
Disagree
Strongly disagree

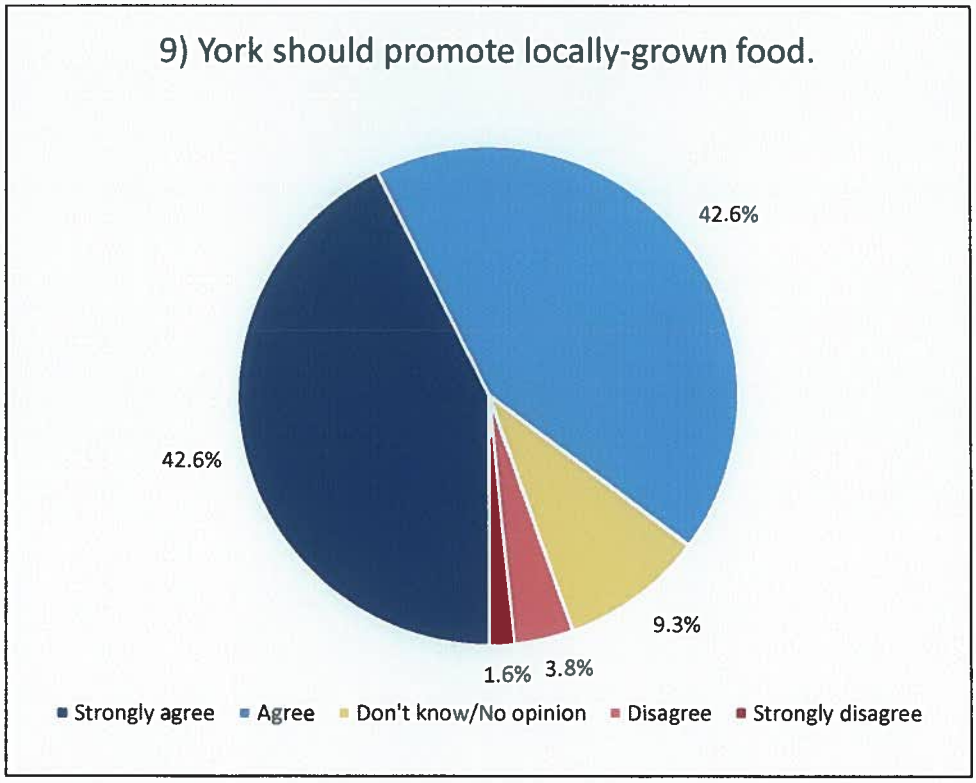

4) York should expand our use of renewable energy such as a solar array on the York landfill.
36.7%
41.5%
12.1%
5.8%
3.8%
Strongly agree
Agree
Don't know/No opinion
Disagree
Strongly disagree

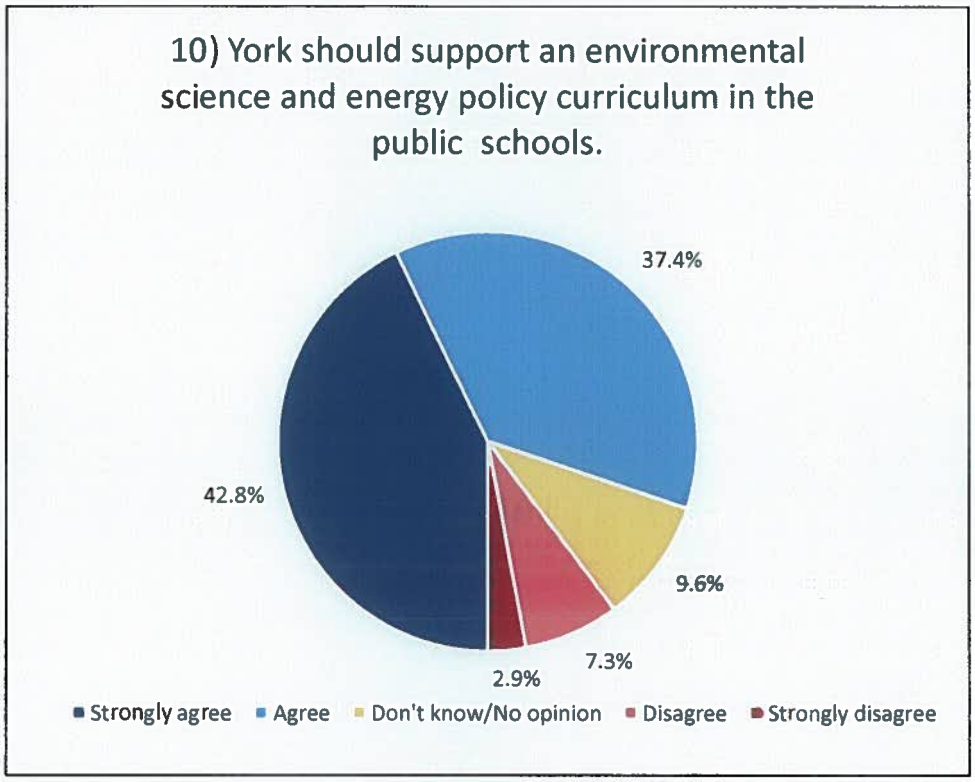

5) York should build energy-efficient municipal buildings (including renovations).
45.2%
42.0%
5.8%
4.5%
2.6%
Strongly agree
Agree
Don't know/No opinion
Disagree
Strongly disagree

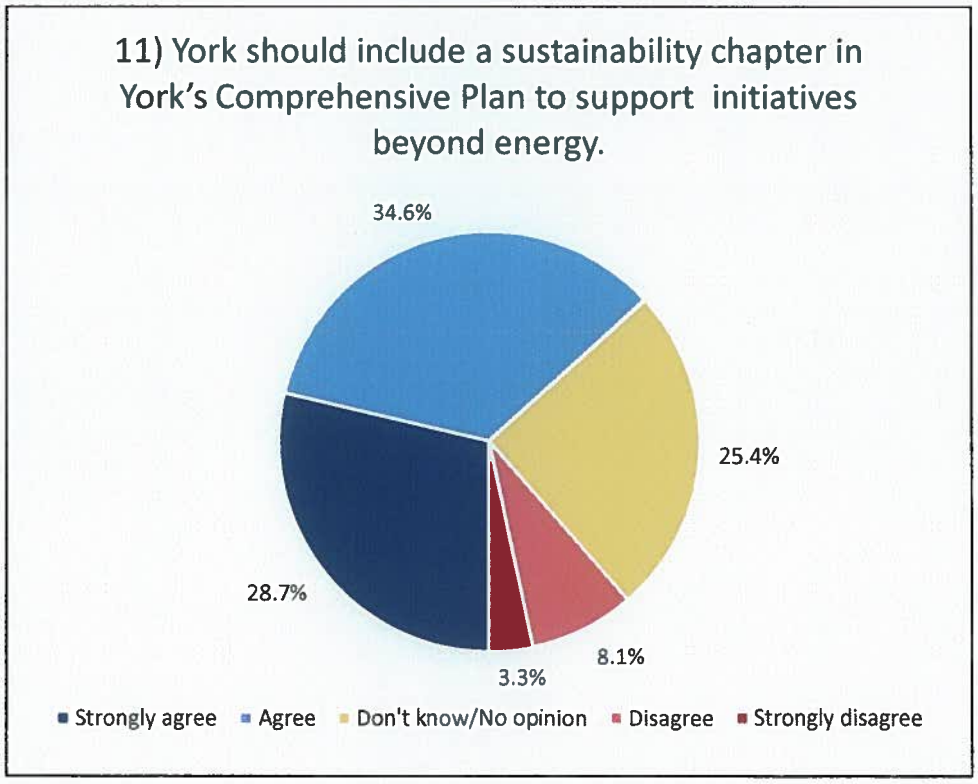

6) York should reduce municipal vehicle emissions and fuel consumption whenever cost-effective.
51.8%
42.2%
2.2%
1.0%
2.9%
Strongly agree
Agree
Don't know/No opinion
Disagree
Strongly disagree

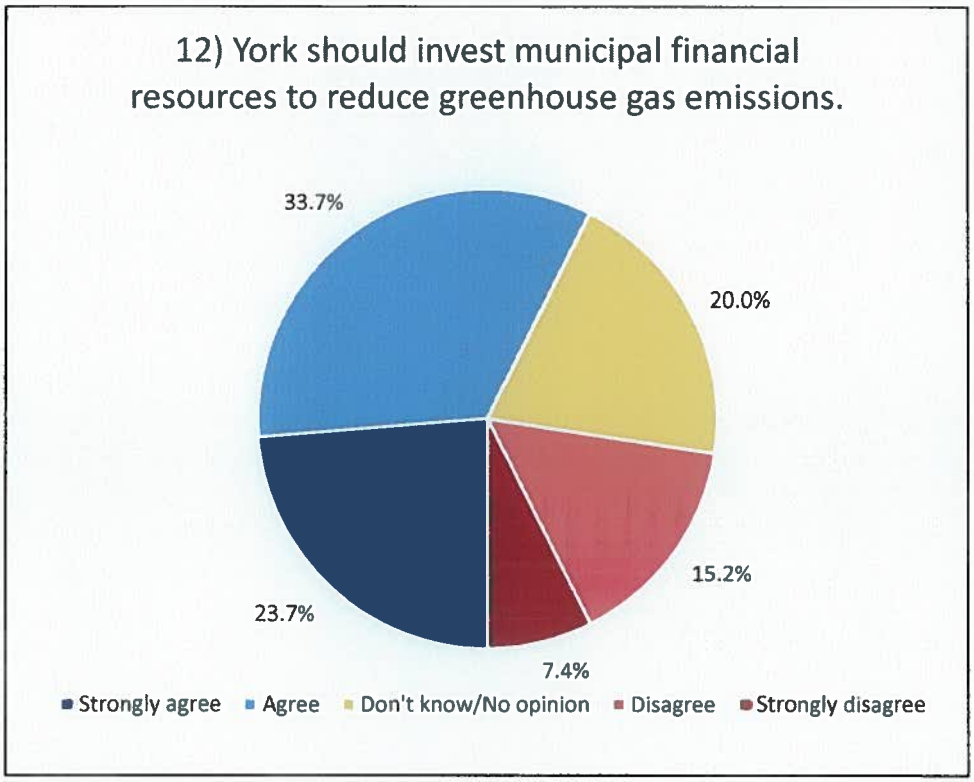

7) York should adopt building codes that establish a high standard for energy efficiency.
38.1%
9.3%
32.1%
14.1%
6.4%
Strongly agree
Agree
Don't know/No opinion
Disagree
Strongly disagree


8) York should provide opportunities for residents to learn about energy efficiency and renewable energy.
45.2%
39.7%
7.1%
6.1%
1.9%
Strongly agree
Agree
Don't know/No opinion
Disagree
Strongly disagree


9) York should promote locally-grown food.
42.6%
42.6%
9.3%
3.8%
1.6%
Strongly agree
Agree
Don't know/No opinion
Disagree
Strongly disagree


10) York should support an environmental science and energy policy curriculum in the public schools.
37.4%
42.8%
9.6%
7.3%
2.9%
Strongly agree
Agree
Don't know/No opinion
Disagree
Strongly disagree


11) York should include a sustainability chapter in York's Comprehensive Plan to support initiatives beyond energy.
34.6%
25.4%
28.7%
8.1%
3.3%
Strongly agree
Agree
Don't know/No opinion
Disagree
Strongly disagree


12) York should invest municipal financial resources to reduce greenhouse gas emissions.
33.7%
20.0%
15.2%
7.4%
23.7%
Strongly agree
Agree
Don't know/No opinion
Disagree
Strongly disagree

York Energy Committee Survey
Written Answer Summary
December 12, 2016

The Survey asked the following 3 open ended questions:

- What types of energy conservation and energy generation projects or programs would you like to see in York?
- What is the most important energy-efficiency action the town can take?
- Other comments?

The answers provided to these prompts did not exactly follow the questions asked and topics and intentions of the responses flowed between all three. As such all written answers (including commentary written in the margins of the multiple choice section) were reviewed as a whole. Mentions of particular recurring topics were tracked along with if the survey respondent mentioned the idea in a negative or positive light. Of the 315 surveys received, 177 left some form of written response.

Types of energy

Energy Type	Total Mentions	Positive	Negative
Solar	91	89	2
Wind	44	42	2
Geothermal	8	7	1
Hydro (including tidal)	12	12	0
Nuclear	3	3	0
Wood burning	4	3	1
Trash to energy	1	1	0
Blanket "Renewable"	8	8	0

Energy Actions:

Energy Actions	Total Mentions	Positive	Negative
Improve/Upgrade Municipal Buildings	41	39	2
Specifically: Lighting Upgrades	20	20	0
Specifically: Weatherizing/Insulating	9	9	0
Specifically: Heating System Upgrades	11	9	2
Replace Municipal Buildings	2	0	0
Solar Panels on Municipal Buildings	22	22	0
LED street lights	15	15	0
Improve Vehicle Efficiency	30	30	0
Specifically: Hybrid or Electric cars	12	12	0
Reduce or Ban Idling of Vehicles	7	7	0

Other areas of interest:

35 people mentioned that they were concerned with the cost of any of these improvements. This includes people that felt the town should not spend any money on energy initiatives, people that were in favor of energy initiatives but were concerned about their impact on taxes, and people that wanted to make sure that all actions taken had reasonable returns on investment.

8 people wrote that they felt the town should take no action on any energy related front.

14 people felt that the town should offer some form of incentive to property owners who make energy upgrades to their property.

The following ideas and values came up multiple times in responses and were not captured in the above categories:

Issue	Mentions
Improve Bike and Pedestrian Conditions	8
Water Conservation and Protection	3
Encourage Composting	3
Reduce Emissions	4
Provide Educational Opportunities on Energy Issues	15
Create a Community Garden	2

REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: January 6, 2017	☒ ACTION
DATE ACTION REQUESTED: January 9, 2017	☐ DISCUSSION ONLY
SUBJECT: General Assistance Ordinance – Adoption of 2016-2017 Appendices	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Each year the Board of Selectmen is required to adopt the local General Assistance Ordinance and yearly appendices. The law requires that the municipal officers adopt the ordinance and appendices after public notice and hearing.

RECOMMENDATION:

PROPOSED MOTION: I moved to approve the 2016-2017 General Assistance Ordinance and Appendices.

FISCAL IMPACT:

DEPARTMENT LINE ITEM ACCOUNT:

BALANCE IN LINE ITEM IF APPROVED:

PREPARED BY: Kate Ford, General Assistance Director REVIEWED BY: _____

Family Independence
An Office of the
Department of Health and Human Services
Paul R. LePage, Governor Mary C. Mayhew, Commissioner

Office for Family Independence
19 Union Street
11 State House Station
Augusta, Maine 04333-0011
Tel: (207) 624-4168
Toll Free: 1-800-442-6003
Fax (207) 287-3455

TO: Municipal Officials/Welfare Directors/General Assistance Administrators

FROM: Ian Miller, General Assistance Program Manager

RE: 2016 – 2017 General Assistance Ordinance Maximums

DATE:

Enclosed please find the following items:

- MMA's new (October 1, 2016–September 30, 2017) "**General Assistance Ordinance Appendix"** (A - D).

- **"GA Maximums Summary Sheet"** which consolidates GA maximums into one document. Municipalities do have to insert individual locality maximums from Appendix A and C in the summary sheet where indicated in order to complete the information. The "summary" does not have to be adopted, as it is not an Appendix but a tool for municipal officials administering GA.

- **"GA Maximums Adoption Form"** which was developed so that municipalities may easily send DHHS proof of GA maximums adoption. Once the selectpersons or council adopts the new maximums, the enclosed form should be signed and submitted to DHHS. *(see "Filing of GA Ordinance and/or Appendices" below for further information).*

Appendix A - D

The enclosed Appendices A - D have been revised for your municipality's General Assistance Ordinance. These new Appendices, **once adopted**, should replace the existing Appendices A – D. Even if you have already adopted MMA's model General Assistance Ordinance, **the municipal officers must approve/adopt the new Appendices yearly.**

The Adoption Process

The **municipal officers (i.e., selectpersons/council) adopt the local General Assistance Ordinance and yearly Appendices**, even in town meeting communities. The law requires that the municipal officers adopt the ordinance and/or Appendices ***after notice and hearing***. Seven days posted notice is recommended, unless local law (or practice) provides otherwise.

At the hearing, the municipal officers should:

1) Allow all interested members of the public an opportunity to comment on the proposed ordinance;
2) End public discussion, close the hearing; and
3) Move and vote to adopt the ordinance either in its posted form or as amended in light of public discussion.

Filing of GA Ordinance and/or Appendices

Please remember that General Assistance law requires each municipality to send DHHS a copy of its ordinance once adopted. *(For a copy of the GA model ordinance, please call MMA's Publication Department, or visit their web site www.memun.org*). In addition, any changes or amendments, such as new Appendices, must also be submitted to DHHS. DHHS will accept the enclosed "adoption sheet" as proof that a municipality has adopted the current GA maximums.

GA Overall Maximums

Metropolitan Areas

COUNTY	Persons in Household 1	2	3	4	5*
Bangor HMFA: Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	703	777	981	1,227	1,437
Penobscot County HMFA: Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	596	673	836	1,082	1,254
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	575	678	855	1,086	1,241
Portland HMFA: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	838	975	1,220	1,638	1,717
York/Kittery/S.Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York	967	1,011	1,316	1,693	2,070
Cumberland County HMFA: Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	750	796	1,058	1,542	1,759

COUNTY	1	2	3	4	5*
Sagadahoc HMFA: Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	769	851	986	1,302	1,581
York County HMFA: Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro, Wells	734	860	1,065	1,439	1,460

***Note: Add $75 for each additional person.**

Non-Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Aroostook County	609	624	750	948	1,037
Franklin County	636	662	783	973	1,383
Hancock County	653	737	936	1,231	1,277
Kennebec County	612	663	846	1,075	1,141
Knox County	743	745	916	1,172	1,299
Lincoln County	672	743	935	1,163	1,379
Oxford County	572	621	761	1,040	1,325
Piscataquis County	583	663	817	1,035	1,106
Somerset County	665	694	824	1,119	1,122
Waldo County	655	741	876	1,191	1,266
Washington County	584	633	752	957	1,159

*** Please Note: Add $75 for each additional person.**

Food Maximums

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. As of October 1, 2015, those amounts are:

Number in Household	Weekly Maximum	Monthly Maximum
1	45.12	194
2	83.02	357
3	118.84	511
4	150.93	649
5	179.30	771
6	215.12	925
7	237.67	1,022
8	271.86	1,169

Note: For each additional person add $146 per month.

GA Housing Maximums
(Heated & Unheated Rents)

NOTE: NOT ALL MUNICIPALITIES SHOULD ADOPT THESE SUGGESTED HOUSING MAXIMUMS! Municipalities should ONLY **consider** adopting the following numbers, if these figures are consistent with local rent values. If not, a market survey should be conducted and the figures should be altered accordingly. The results of any such survey must be presented to DHHS prior to adoption. **Or**, no housing maximums should be adopted and eligibility should be analyzed in terms of the Overall Maximum—Appendix A. *(See Instruction Memo for further guidance.)*

Non-Metropolitan FMR Areas

Aroostook County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	111	476	129	556
1	111	476	131	565
2	130	558	159	682
3	167	718	202	870
4	177	762	220	947

Franklin County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	117	503	136	583
1	117	503	140	603
2	137	591	166	715
3	173	743	208	895
4	258	1,108	301	1,293

Hancock County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	114	489	137	590
1	126	543	155	667
2	163	699	198	853
3	220	948	264	1,136
4	220	948	271	1,166

Kennebec County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	104	448	128	549
1	109	469	138	593
2	142	609	177	763
3	184	792	228	980
4	186	801	240	1,030

Non-Metropolitan FMR Areas

Knox County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	135	579	158	680
1	135	579	158	680
2	158	679	194	833
3	207	889	250	1,077
4	223	959	276	1,188

Lincoln County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	119	513	142	609
1	128	549	157	673
2	162	698	198	852
3	205	880	248	1,068
4	242	1,039	295	1,268

Oxford County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	95	408	118	509
1	101	427	128	551
2	122	524	158	678
3	176	757	220	945
4	229	985	282	1,214

Piscataquis County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	104	447	123	530
1	116	500	140	604
2	144	621	174	749
3	186	798	222	956
4	192	824	236	1,016

Somerset County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	120	517	141	606
1	121	519	147	631
2	143	615	175	753
3	202	869	241	1,038
4	202	869	241	1,038

Non-Metropolitan FMR Areas

Waldo County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	116	497	138	592
1	127	547	156	671
2	149	639	184	793
3	211	908	255	1,096
4	215	926	269	1,155

Washington County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	98	420	121	521
1	102	439	131	563
2	120	515	156	669
3	157	674	200	862
4	191	819	244	1,048

Metropolitan FMR Areas

Bangor HMFA	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	125	539	149	640
1	135	583	164	707
2	173	744	209	898
3	219	944	263	1,132
4	255	1,097	308	1,326

Penobscot Cty. HMFA	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	101	432	124	533
1	111	479	140	603
2	139	599	175	753
3	186	799	230	987
4	213	914	266	1,143

Lewiston/Auburn MSA	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	96	411	119	512
1	112	484	141	608
2	144	618	180	772
3	187	803	230	991
4	210	901	263	1,130

Metropolitan FMR Areas

Portland HMFA	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	157	674	180	775
1	182	781	210	905
2	229	983	264	1,137
3	315	1,355	359	1,543
4	320	1,377	373	1,606

York/Kittery/S. Berwick HMFA	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	187	803	210	904
1	190	817	219	941
2	251	1,079	287	1,233
3	328	1,410	372	1,598
4	402	1,730	456	1,959

Cumberland Cty. HMFA	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	136	586	160	687
1	140	602	169	726
2	191	821	227	975
3	293	1,259	337	1,447
4	330	1,419	383	1,648

Sagadahoc Cty. HMFA	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	141	605	164	706
1	153	657	182	781
2	174	749	210	903
3	237	1,019	281	1,207
4	289	1,241	342	1,470

York Cty. HMFA	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	133	570	156	671
1	155	666	184	790
2	193	828	228	982
3	269	1,156	313	1,344
4	269	1,156	314	1,349

GA MAXIMUMS SUMMARY SHEET

Note: The overall maximums found in *Appendices A, B, C, D, E, and F* are effective from **October 1, 2016 to September 30, 2017.**

APPENDIX A - OVERALL MAXIMUMS

County	Persons in Household					
	1	2	3	4	5	6

NOTE: For each additional person add $75 per month.

(The applicable figures from Appendix A, *once adopted*, should be inserted here.)

APPENDIX B - FOOD MAXIMUMS

Number in Household	Weekly Maximum	Monthly Maximum
1	45.12	194.00
2	83.02	357.00
3	118.84	511.00
4	150.93	649.00
5	179.30	771.00
6	215.12	925.00
7	237.67	1022.00
8	271.86	1169.00

NOTE: For each additional person add $146 per month.

APPENDIX C - HOUSING MAXIMUMS

	Unheated		Heated	
Number of Bedrooms	Weekly	Monthly	Weekly	Monthly
0				
1				
2				
3				
4				

(The applicable figures from Appendix C, *once adopted*, should be inserted here.)

FOR MUNICIPAL USE ONLY

APPENDIX D - UTILITIES

ELECTRIC

NOTE: For an electrically heated dwelling also see "Heating Fuel" maximums below. But remember, an applicant is ***not automatically*** entitled to the "maximums" established—applicants must demonstrate need.

1) Electricity Maximums for Households *Without* *Electric Hot Water*: The maximum amounts allowed for utilities, for lights, cooking and other electric uses ***excluding*** electric hot water and heat:

Number in Household	Weekly	Monthly
1	$14.00	$60.00
2	$15.70	$67.50
3	$17.45	$75.00
4	$19.70	$86.00
5	$23.10	$99.00
6	$25.00	$107.00

NOTE: For each additional person add $7.50 per month.

2) Electricity Maximums for Households *With* *Electrically Heated Hot Water*: The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses ***excluding*** heat:

Number in Household	Weekly	Monthly
1	$20.08	$86.00
2	$23.75	$102.00
3	$27.70	$119.00
4	$32.25	$139.00
5	$37.30	$160.00
6	$41.00	$176.00

NOTE: For each additional person add $10.00 per month.

NOTE: For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum for heating fuel as provided below.

APPENDIX E - HEATING FUEL

Month	Gallons	Month	Gallons
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

NOTE: When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

APPENDIX F - PERSONAL CARE & HOUSEHOLD SUPPLIES

Number in Household	Weekly Amount	Monthly Amount
1-2	$10.50	$45.00
3-4	$11.60	$50.00
5-6	$12.80	$55.00
7-8	$14.00	$60.00
NOTE: For each additional person add $1.25 per week or $5.00 per month.		

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

Number of Children	Weekly Amount	Monthly Amount
1	$12.80	$55.00
2	$17.40	$75.00
3	$23.30	$100.00
4	$27.90	$120.00

GA MAXIMUMS SUMMARY SHEET

Note: The overall maximums found in *Appendices A, B, C, D, E, and F* are effective from **October 1, 2016 to September 30, 2017.**

APPENDIX A - OVERALL MAXIMUMS

County	Persons in Household					
	1	2	3	4	5	6

NOTE: For each additional person add $75 per month.

(The applicable figures from Appendix A, *once adopted*, should be inserted here.)

APPENDIX B - FOOD MAXIMUMS

Number in Household	Weekly Maximum	Monthly Maximum
1	45.12	194.00
2	83.02	357.00
3	118.84	511.00
4	150.93	649.00
5	179.30	771.00
6	215.12	925.00
7	237.67	1022.00
8	271.86	1169.00

NOTE: For each additional person add $146 per month.

APPENDIX C - HOUSING MAXIMUMS

	Unheated		Heated	
Number of Bedrooms	**Weekly**	**Monthly**	**Weekly**	**Monthly**
0				
1				
2				
3				
4				

(The applicable figures from Appendix C, *once adopted*, should be inserted here.)

FOR MUNICIPAL USE ONLY

APPENDIX D - UTILITIES

ELECTRIC

NOTE: For an electrically heated dwelling also see "Heating Fuel" maximums below. But remember, an applicant is ***not automatically*** entitled to the "maximums" established—applicants must demonstrate need.

1) Electricity Maximums for Households *Without* *Electric Hot Water*: The maximum amounts allowed for utilities, for lights, cooking and other electric uses ***excluding*** electric hot water and heat:

Number in Household	Weekly	Monthly
1	$14.00	$60.00
2	$15.70	$67.50
3	$17.45	$75.00
4	$19.70	$86.00
5	$23.10	$99.00
6	$25.00	$107.00

NOTE: For each additional person add $7.50 per month.

2) Electricity Maximums for Households *With* *Electrically Heated Hot Water*: The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses ***excluding*** heat:

Number in Household	Weekly	Monthly
1	$20.08	$86.00
2	$23.75	$102.00
3	$27.70	$119.00
4	$32.25	$139.00
5	$37.30	$160.00
6	$41.00	$176.00

NOTE: For each additional person add $10.00 per month.

NOTE: For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum for heating fuel as provided below.

APPENDIX E - HEATING FUEL

Month	Gallons	Month	Gallons
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

NOTE: When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

APPENDIX F - PERSONAL CARE & HOUSEHOLD SUPPLIES

Number in Household	Weekly Amount	Monthly Amount
1-2	$10.50	$45.00
3-4	$11.60	$50.00
5-6	$12.80	$55.00
7-8	$14.00	$60.00
NOTE: For each additional person add $1.25 per week or $5.00 per month.		

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

Number of Children	Weekly Amount	Monthly Amount
1	$12.80	$55.00
2	$17.40	$75.00
3	$23.30	$100.00
4	$27.90	$120.00