Proposed Ordinance Amendments

to be considered at a

November 2019 General Referendum

Amendment

1. Zoning Definitions
2. As-built Plan Requirement for Non-conforming Structure Expansions
3. Cul-de-sac Specifications
4. Shoreland Overlay District
5. Workforce Housing
6. Medical Marijuana
7. Business Licensing Ordinance
Amendment #
Zoning Definitions

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

Article X
The Town hereby ordains to amend the Zoning Ordinance, specifically amending the definition of “building appurtenance” and “driveway.”

Statement of Fact: The purpose of these amendments is to clarify the definition of “building appurtenance” and the definition of “driveway” for code interpretation purposes.

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

Amendment: Amend Article 2, Definitions, by amending the following definitions:

APPURTENANCE, BUILDING: Any visible, functional, or ornamental objects accessory to and part of a building such as, but not limited to, heating, ventilation and air conditioning (HVAC) mechanicals, lightning rods, chimneys, cupolas, etc. solar panels, or ornamental objects such as weathervanes or cupolas.

DRIVEWAY: A route that provides vehicular access to a lot(s) or parking area from either a public or private right-of-way. For the purpose of this definition a driveway shall not consist of an access way around a building designed for emergency use, vehicular drive-through(s) as part of a particular development design, or parking area perimeter access ways used for on-site traffic circulation.
Amendment #
As-built Plan Requirement for Non-conforming Structure Expansions

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

Article X
The Town hereby ordains to amend the Zoning Ordinance by adding a section to Article 17- Non-conforming Situations, which specifies that after an approved non-conforming structure expansion has been constructed that the Code Enforcement Department is provided with an as-built plan to ensure compliance with the permit.

Statement of Fact: The purpose of this amendment is to ensure that an approved expansion of a non-conforming structure is built to the specifications as originally approved by the Code Enforcement Department.

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

**Amendment:** Amend Article 2, Definitions, by adding the following definition:

*As-built plan:* A construction or engineering plan prepared after the completion of construction, by a Maine-Licensed Professional Engineer or Land Surveyor, in such a manner as to accurately identify and depict the location of on-site improvements.

**Amendment:** Amend Article 17- Non-conforming situations, specifically section 17.2- Non-conforming structures by adding “j” to the following:

**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. - AMENDED 04/10/1993, 11/07/2006

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

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ensure conformance. Criteria for approval include each of the following: - **AMENDED 11/04/2008, 11/03/2009**

A. The expansion is not within the 100-year floodplain or on a Coastal Dune;

B. Expansion within the Shoreland Overlay District conforms to the requirements of §8.3.11.4;

C. The expansion satisfies all applicable non-dimensional requirements of the zoning district in which the structure is located;

D. The expansion results in neither expansion of other legal non-conformities nor the creation of any new non-conformities;

E. A one-time vertical expansion of a non-conforming principal structure shall be permitted, provided that:

   1. the expansion does not exceed the structure height limits specified in this Ordinance and,
   2. in no case may the rear and side yard setbacks be less than five feet, and
   3. in no case may the front yard setback be less than 15 feet.
   4. in no case may the vertical expansion result in a structure height greater than that of the average height of adjacent principal structures. Adjacency shall be considered the facing, rear, and side lots within a radius of 125’ from the lot boundary;

F. A one-time horizontal expansion shall be permitted, provided that:

   1. the expansion shall extend no farther into the setback than the existing non-conforming structure, and
   2. the area of the non-conforming structure shall not be more double the area of the original non-conforming structure;
   3. in no case may the lot exceed maximum lot coverage.

G. Expansion does not cause or worsen any safety problems, such as but not limited to reduction of sight distances from driveways or intersections; and

H. The purpose of the expansion cannot reasonably be accomplished by expansion which is conforming because of reasons such as the configuration of the structure, topography of the lot, and other such factors.

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.
J. In order to verify compliance with an approved plan for expansion of a non-conforming structure, an as-built plan shall be provided to the Code Enforcement Department prior to issuance of a final occupancy permit.
Amendment #
Cul-de-sac Specifications

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

Article X
The Town hereby ordains to amend the Zoning Ordinance, specifically amending footnote “e” in section 5.2- Schedule of Dimensional Regulations regarding street frontage exemptions for lots on cul-de-sacs.

Statement of Fact: The purpose of this amendment is to ensure a cul-de-sac is constructed to Town specifications for any lots that seek street frontage exemptions per footnote “e”- Street Frontage Exemptions within the schedule of dimensional regulations.

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

Amendment: Amend Article 5- Dimensional Regulations, by amending the following definitions:

e. Street Frontage Exemptions - New building lots located at the end of a cul-de-sac may be designed to have less street frontage than is required in the underlying zoning district but shall comply with the following:

- Have no less than 50 feet of street frontage along the circumference of the cul-de-sac, provided lot width at the location where the principal building is to be constructed is at least equal to the distance normally required for lot frontage in that zoning district;
- The cul-de-sac is constructed to Town road acceptance standards (See Public Road Acceptance Ordinance for cul-de-sac construction requirements); and
- All minimum lot line setbacks shall be met.
Amendment #
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 and Article 8 Shoreland Overlay District.

Statement of Fact: The purpose of this amendment is to continue to ensure compliance with State minimum shoreland overlay district regulation guidelines by defining “Structure Expansion,” include a section regarding allowance of retaining walls within shoreland setbacks in certain circumstances, and amend the section of the shoreland overlay district pertaining to float sizes associated with piers for marinas and commercial fishing uses.

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

Amendment: Amend Article 2, Definitions, by adding the following definitions to be consistent with state shoreland minimum requirements:

Structure, Expansion (not withstanding other sections of the ordinance, this definition pertains to the Shoreland Overlay District only) - an increase in the footprint of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Amendment: Amend Article 8, Shoreland Overlay District, by amending section 8.3.6 Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges, and uses extending over or beyond the Normal High Water Mark of a Waterbody or within a Wetland, and Shoreline Stabilization with the following:

8.3.6.9 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 May 20, 2017, 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 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 that is defined as a municipal or commercial marina use. Commercial fishing

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uses, as defined in this ordinance, shall be allowed a total float size area not to exceed 400 square feet with any single pier.

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.

**Amendment:** Amend Article 8, Shoreland Overlay District, by amending section 8.3- Structure by adding the following section pertaining to retaining walls:

8.3.11.8 Retaining walls. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

a. The site has been previously altered and an effective vegetated buffer does not exist;

b. The wall(s) is (are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

d. The total height of the wall(s), in the aggregate, are no more than 24 inches;

e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

i. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
ii. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

iii. Only native species may be used to establish the buffer area;

iv. A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

v. A footpath not to exceed the standards in §8.3.3.2 (a), may traverse the buffer.
Amendment #

Workforce Housing

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

Article X
The Town hereby ordains to amend the Zoning Ordinance, specifically amending the Workforce Affordable Housing Overlay District boundary map and Workforce Affordable Housing Overlay District section of the ordinance, the Open Space Conservation Subdivision Ordinance by adding a section that requires the incorporation of workforce affordable housing in subdivisions of 10 units or greater, and removing delays for allowing Accessory Dwelling Units to be constructed in accessory structures.

**Statement of Fact:** The purpose of this amendment is to better achieve minimum guidelines pertaining to Maine municipalities assuring that workforce affordable housing is attainable in a community; that York continues to implement the Town’s Comprehensive Plan sections regarding affordable housing policies (State Goal 4, Town Goal 4.1 and Town Goal 4.2 in the Comprehensive Plan), and that the Town encourages and promotes affordable, decent housing opportunities for all of York’s citizens.

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

**Amendment:** Amend Article 3, Establishment of Zoning Districts, by amending section 3.16 Workforce Affordable Housing Overlay District with the following:

3.16 Workforce Affordable Housing Overlay District
The Workforce Affordable Housing Overlay District shall be limited to the Town’s Growth Area as defined in the Comprehensive Plan on November 2, 2008. This Growth Area contains most, but not all, of the area bounded by the Maine Turnpike to the west, the Atlantic Ocean to the east, the York River to the south, and the Cape Neddick River to the north.

The Workforce Affordable Housing Overlay District shall include the lots as shown on a map entitled, “York Zoning Ordinance: “Workforce Affordable Housing Overlay District” dated May 6, 2019.
Amendment: Amend Article 7, Special Provisions, by amending section 7.6.4 Development Standards for Open Space Conservation Subdivisions as follows:

C. Workforce Affordable Housing. A proposed subdivision development that consists of ten (10) or more dwelling units shall include at least ten percent (10%) of the total number of dwelling units within the development as workforce affordable housing. All calculations for deciding the number of workforce affordable housing units required in a particular development shall be rounded up to the nearest whole number.

Density Bonus. A density bonus incentive of twenty percent (20%) above that indicated by the yield plan shall be allowed if at least twenty five percent (25%), rounded to the nearest whole number, of the proposed dwelling units within a residential open space conservation subdivision development are defined as “workforce affordable housing” as determined by the Planning Board. The following standards shall also apply:

Amendment: Amend Article 7, Special Provisions, by amending section 7.17.2.C.17 Accessory Dwelling Unit Performance Standards as follows:

17. ADUs proposed to be located in an accessory structure can only be constructed in a building that has been in existence for at least two years at the time an ADU application is filed with the Code Enforcement Office. Accessory structures shall include garages, workshops, barns, studios and other similar structures that do not constitute dwelling units

Amendment: Amend Article 10-F, Workforce Affordable Housing Overlay District as follows:

ARTICLE TEN-F

WORKFORCE AFFORDABLE HOUSING OVERLAY DISTRICT

10-F.1 Workforce Affordable Housing Overlay District
The provisions of this Article pertain to the Workforce Affordable Housing Overlay District as described in section 3.16.
10-F.2  Land Uses

10-F.2.1 This Workforce Affordable Housing Overlay District is established to permit residential zoning at higher density than what is presently allowed in the underlying base zoning district. The provisions of the overlay district apply specifically to Workforce Affordable Housing, as defined in this ordinance. Unless otherwise specified, all other uses shall comply with the standards of the underlying zoning district and any applicable overlay districts.

10-F.2.2 Use of this Workforce Affordable Housing Overlay District shall be limited to housing developed or managed by York Housing or another qualified non-profit housing corporation as defined by 30-A M.R.S.A., Section 5002(13). - AMENDED 11/02/2010

10-F.2.3 Maximum Number of Units: The maximum number of units allowed for Workforce Affordable Housing is 12 per year. Any unallocated units in any year may be accumulated (banked) for use in future years, provided not more than 36 units are carried forward at the end of any calendar year. All such units are available to eligible builders as defined in §10-F.2.2 on a first-come, first served basis. Reserved

10-F.2.4 Supplemental Uses. For each 10 units of newly constructed Workforce Affordable Housing in a single project, a portion of the project may be developed for one or more uses which supplement the project. Only supplemental uses which the Planning Board finds will complement the livability of the project for its residents without unduly impacting the surrounding neighborhood shall be allowed. Such use may include, but is not limited to a place of worship, community center, neighborhood convenience store, and coffee shop, provided the use is permitted in the base zoning district in which it is located. The maximum floor area shall be limited to 200 square feet per unit of Workforce Affordable Housing. - AMENDED 11/03/2009

10-F.3  Dimensional Regulations

10-F.3.1 Schedule of Dimensional Regulations for All Newly Constructed Workforce Affordable Housing

Minimum land area (sq. ft.) per site: 3/4 acre or as specified in the underlying zone, regardless of the number of units, whichever is less restrictive.
Minimum street frontage (ft.): As specified in the underlying zone.

Minimum front yard setback (ft.): As specified in the underlying zone.

Minimum side and rear yard setback (ft): Buildings shall be set back a minimum of 35 feet. Where this standard conflicts with §5.2 the less restrictive standard shall apply.

Maximum coverage (percent): 50%, or that specified in the underlying base zoning district, whichever is less restrictive. - AMENDED 11/03/2009

Maximum building height: 35 feet

10-F.3.2 Schedule of Dimensional Regulations for Conversion of Existing Buildings
Any existing building(s), whether conforming or non-conforming, may be converted to Workforce Affordable Housing within the footprint of the existing building or buildings.

10-F.3.3 Floor Area
Each dwelling unit in Workforce Affordable Housing shall have no less than 500 square feet and no more than 1,500 square feet of living space. Where this standard conflicts with §5.3, the less restrictive standard shall apply.

10-F.3.4 Density
A. The minimum land area for each newly constructed Workforce Affordable Housing dwelling unit for purchase, as defined in this Ordinance, shall be:
   1) 8,000 sq. ft. of suitable land, if the land is serviced by both public sewer and public water; or
   2) 20,000 sq. ft. of suitable land if the land is serviced by either public sewer or public water, but not by both; or
   3) 30,000 sq. ft. of suitable land if the land is not serviced by either public sewer or public water. Where this standard conflicts with §5.2 or §5.4, the less restrictive standard shall apply.

B. The minimum land area for each Workforce Affordable Housing dwelling unit for rent shall be 3,000 sq. ft. of suitable land, except that, if a building to be used for such housing is in existence at the time this ordinance is enacted, the minimum land area of 3,000 sq. ft per unit is not applicable and that building may be converted into Workforce Affordable Housing rental units within the footprint of the existing building.

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C. In all cases, the maximum density for Workforce Affordable Housing which is not serviced by public sewer shall not exceed the standards of the State Minimum Lot Size Law (Title 12 M.R.S.A. §4807 et seq.).

“Suitable land” is land that does not include: any areas of wetland; land in the Resource Protection Subdistrict of the Shoreland Overlay District; or slopes in excess of 30%. The increased density standards described in this section do not apply to any portions of a proposed Workforce Affordable Housing site that lie in the Shoreland Overlay District. Such portions shall be governed by the density standards of the Shoreland Overlay District.

10-F.4 Performance Standards

10-F.4.1 Sewer and Water Supply
All Workforce Affordable Housing dwelling units shall be connected to public sewer when there is a public sewer line capable of servicing the development within 750 feet of the proposed development at its nearest point or to a public water supply if an existing public water system line with adequate supply is within 750 feet of the site, or both.

10-F.4.2 Architectural Appearance
For all new construction of Workforce Affordable Housing, the applicant shall demonstrate compliance with the following standards, and the permit-issuing authority shall not unreasonably withhold its approval based on these issues:

A. Buildings Which Will Front on an Existing Street. For all newly constructed buildings which will front on an existing street adjacent to the property, the following standards shall apply:

1. Rhythm of Building Spacing. The pattern of building facades and adjacent open spaces between buildings shall be compatible with those other structures which are visually related.

2. Relationship of Materials, Textures and Colors. The materials, textures and colors of the building’s exterior shall be compatible with those other structures which are visually related.

3. Roof Shape. The proposed roof shape shall be compatible with the roof shapes of those other structures which are visually related.

4. Size and Massing of Buildings. The size of the proposed building, and its massing in relationship to adjacent open spaces, shall be compatible with these patterns of those other structures which are visually related.
visually related.

5. **Building Design.** Buildings shall be developed in a way that encourages diversity in housing type, style and design. Strict uniformity, especially for single family dwelling units, shall be discouraged.

As it pertains to §10-F.4.2.A, structures considered to be visually related to the newly proposed units shall be separately determined for each new building, and shall include only those principal structures visible in winter (minimum foliage) from a point directly in front of the center of the proposed new building at the road centerline and at a height of 5’ above the road surface.

**B. For All Other Buildings.** For all other newly constructed buildings within the project, the following standards shall apply:

1. Relationship of Materials, Textures and Colors. The materials, textures and colors of each building’s exterior shall be compatible with the majority of structures located within 250’ of the perimeter of the property being developed, and internally with each other.

2. Roof Shape. The proposed roof shape shall be compatible with the roof shapes of the majority of structures located within 250’ of the perimeter of the property being developed, and internally with each other.

3. Size and Mass of Buildings. For any newly proposed building within 100’ of the perimeter property boundary, the size of the proposed building, and its mass in relationship to adjacent open spaces, shall be compatible with these patterns found among existing buildings within 250’ of the proposed building. - **AMENDED 11/03/2009**

4. **Building Design.** Buildings shall be developed in a way that encourages diversity in housing type, style and design. Strict uniformity, especially for single family dwelling units, shall be discouraged.

**10-F.4.3 Buffers and Landscaping**

Section 10-F.4.3.1 is applicable to all Workforce Affordable Housing and §10-F.4.3.3, §10-F.4.3.4, and §10-F.4.3.5, are applicable to all large projects as defined by §10-F.4.3.2.

10-F.4.3.1 Any Workforce Affordable Housing, regardless of size, shall submit a landscape plan prepared by a Maine-licensed landscape architect for the **Draft Amendment to be voted in November 2019**

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larger parking areas that serve the development, with adequate provision for screening the parking areas from adjacent properties.

10-F.4.3.2 In addition, any Workforce Affordable Housing with more than 15 dwelling units that abuts a lot in a residential district, or in residential use shall comply with the standards in §10-F.4.3.3 through §10-F.4.3.5.

10-F.4.3.3 The first 30 feet of the side or rear yard, measured from the property line, shall be retained in its natural vegetated state to the maximum extent possible to provide a visual screen between the abutting lot and the Workforce Affordable Housing site. Any site where a building in excess of twenty-five (25) feet in height is adjacent to abutting property, the minimum required buffer width shall be increased to 45 feet.

10-F.4.3.4 When the natural buffering does not exist, cannot be fully retained as a visual screen, or, in the sole judgment of the Permit Authority is not sufficient to achieve an effective visual screen, the first 30 feet of the side or rear yard setback shall be landscaped to create the visual screen (or where a building with a building height in excess of 25' is adjacent to abutting property, the minimum buffer width shall be increased to 45 feet), in accordance with the following procedure and standards:

a. For the purpose of this subsection, a "canopy tree" is a deciduous tree that reaches at least 35 feet in height at maturity and at the time of planting has a minimum 2-inch caliper six inches above the ground and a height of at least 8 feet. An "evergreen tree" reaches 10 to 35 feet in height at maturity and at time of planting has a minimum 1-1/2-inch caliper six inches above the ground and a minimum height of at least 6 feet. A "shrub" reaches 2 to 10 feet in height and at planting shall be at least 18 inches in height.

b. Further, for the purpose of this subsection, one canopy tree shall be equal to 10 "plant units", one evergreen tree shall be equal to 5 "plant units", one under-story tree shall be equal to 5 "plant units", and one shrub shall be equal to 1 "plant unit".

c. In each rear or side yard abutting a lot in a residential district or residential use, the required buffer shall include sufficient trees and shrubs to total a minimum of 120 "plant units" per 100 feet of length of yard area, and at least 60 of these "plant units" shall be achieved with canopy and evergreen trees. Each mature canopy or evergreen tree existing in the required setback prior to the development and retained in good condition shall be awarded double the "plant units" assigned to a newly planted tree. If any such retained tree dies within
five years of the date of the building permit issued for the
development, it shall be replaced with two canopy or evergreen trees
as described in this section. New plantings required by this section
that die shall be replaced within one growing season.

d. Because different sites will have different potential impacts on the
abutting lots, the applicant shall submit at least two alternative plans
for the buffer yards prepared by a landscape architect licensed in the
State of Maine. The first plan shall demonstrate the means by which
the landscaping will create a dense screen that blocks virtually all
visibility between the abutting lot and the applicant's development.
The second plan shall arrange the landscaping in clusters of plantings
or other suitable arrangement to allow filtered views of the
development from the abutting property. The Permit Authority may
ask for additional alternatives as it considers appropriate and
necessary. The decisions as to which plan or which combination of
plans is appropriate for the site shall be the Permit Authority’s.

10-F.4.3.5 In addition to the landscaping of side and rear yards required to serve as buffers
between the development and abutting lots in residential districts or a residential
use, the applicant shall submit a landscape plan, prepared by a landscape architect
licensed in the State of Maine, for other yard areas, parking areas, public areas
and site entrances, in accordance with §7.17 of the Town of York Site Plan and
Subdivision Regulations.

10-F.4.4 Energy Efficiency
Controlling the ongoing utility costs for home occupants is an important
component of maintaining affordability. All newly constructed Workforce
Affordable Housing units shall be required to obtain an Energy Star certification
prior to issuance of an occupancy permit. This certification must be obtained
from a Certified Rater who is a member of RESNET (Residential Energy
Services Network), or as required under the Energy Star Program as specified
in the application requirements (see www.energystar.gov).

For additional information, see the following web pages:
Energy Star: www.energystar.gov

10-F.4.5 Village Green Design.
For a new application for 10 or more units of single-family detached and/or
duplex units, but not counting multi-family units, of Workforce Affordable
Housing, a village green design shall be the preferred option. The village green
design shall be required for these units, provided the Planning Board determines
such design is feasible given the configuration of the property. The Board may
also permit conventional patterns of housing along existing street frontage. A village green design means each of the units shall front on a central, shared common space. Each building shall face this common space, shall have pedestrian access through this space, and shall have shared rights to use this space. The central, shared common space shall be comprised of at least 10% of the required land area for the units, and shall be designated for active use of the residents. It may include a central lawn or green, garden plots, walkways, a playground, and other such active uses. It shall not be used for parking, roads, or driveways, but may have septic leach beds located underneath provided the septic design and proposed use above are compatible with each other. Vehicular access shall be via one or more shared driveways located to the back side of the homes. If one or more garages will be incorporated into the principal structure, the garage doors shall face away from the central, shared common space, and the design of the garage doors shall be such that the architectural treatment makes the doors aesthetically compatible with the building designs. - AMENDED 11/03/2009

10-F.5 Permit Authority
Authority to review and decide on an application for Workforce Affordable Housing shall rest with the Code Enforcement Officer, except the Planning Board shall have such authority if the number of units being created constitutes a subdivision.

10-F.6 Governance
Regardless of the entity that builds Workforce Affordable Housing Units under this ordinance, a qualified non-profit housing corporation shall qualify all applicants for Work Force Affordable Housing as to the income, employment, and residence preferences as prescribed herein, and will adhere to established legal covenants for occupancy and resale, each of which shall be set forth as covenants in all deeds to buyers and to run with the properties in perpetuity, as stated below:

A. Residents of Workforce Affordable Housing will not be required to leave their residences even if their income(s) rise or their employment changes, provided that this residence remains their primary year-round residence;

B. A qualified non-profit housing corporation shall follow the Resale Price Calculation and procedures to allow homeowners to possibly accrue limited equity, while preserving the long-term affordability of units within the established Workforce Affordable Housing income limits;

C. When owners of Workforce Affordable Housing units choose to sell their homes, the qualified non-profit housing corporation that Draft Amendment to be voted in November 2019

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developed the units shall be given the first option to repurchase the homes. In the event the qualified non-profit housing corporation declines its option to purchase a unit, the owner may sell it to a household that meets the income limits and fits one of the location preferences set forth in this ordinance, as determined by the qualified non-profit housing corporation. All sales shall be subject to the Resale Price Calculation.

D. Resale Price Calculation. Any unit of Workforce Affordable Housing that is offered for sale shall be limited in its maximum resale price. The total resale price must not exceed the percentage of the property’s fair market value (as determined by an independent real estate appraiser) that the seller paid for the property at the time of his or her purchase. For example, if the seller paid $200,000.00 for a Workforce Affordable Home whose fair market value was determined to be $250,000.00 (that is, 80% of the fair market value), then the maximum resale price of the property, if appraised at $300,000.00, would be 80% of that value, or $240,000.00. Notwithstanding the above calculation, the resale price must not exceed an amount that is affordable for households of moderate income as defined herein.

AMENDED 11/04/2008, 11/02/2010

10-F.7 Selection Priorities
Preferences will be granted in the following order to income-qualified applicants for Workforce Affordable Housing:

1) At least one member of a qualifying household living and working full-time (as defined by the person’s employer) in York;
2) At least one member of a qualifying household working full-time in York but living elsewhere; and
3) At least one member of a qualifying household living in York but working within a 10-mile radius of the boundaries of York; and
4) Families employed and working with structured services, as defined by the office of General Assistance and the Town of York.

Veterans’ preferences shall be consistent with H.U.D. Handbook 4350.3, Rev. 1, Change 2, and all applicable Fair Housing regulations as defined under U.S.C. 101(2).
York Zoning Ordinance
Draft Workforce Affordable Housing Overlay District

Planning Department
York, ME
May 6, 2019

For Planning Purposes Only
**Amendment #**

**Medical Marijuana**

**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 4 Use Regulations, Article 8 Shoreland Overlay District, and Article 7 Special Provisions by incorporating new use definitions and requirements regarding Medical Marijuana.

**Statement of Fact:** The purpose of this amendment is to integrate new use definitions and standards in the zoning ordinance regarding medical marijuana only. The definitions and standards attempt to correlate to the recently amended Maine Medical Use of Marijuana Act.

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

**Amendment:** Amend Article 2, Definitions, by amending the following definitions regarding Medical Marijuana:

**MARIJUANA:** As defined in State Administrative Rules (10-144 CMR Chapter 122), §1.17, “Marijuana.”

**MARIJUANA CONCENTRATE:** The resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish.

**MARIJUANA EXTRACTION:** The process of extracting marijuana concentrate from marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

**MEDICAL MARIJUANA PRODUCT:** Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient’s debilitating medical condition or symptoms associated with the qualifying patient’s debilitating medical condition. A product composed of harvested marijuana and other ingredients that is intended for medical use. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. Medical Marijuana Product" does not include Marijuana Concentrate.
MEDICAL MARIJUANA CAREGIVER: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense. A person or an assistant of that person that provides care for a qualifying patient in accordance with Title 22, Chapter 558-C: Maine Medical Use of Marijuana Act, section 2423-A, subsection 2.

MEDICAL MARIJUANA LAND USES: Any of 3 5 types of land uses, defined below, that cover the full range of options for lawful cultivating, processing, storing and distributing medical marijuana. - AMENDED 11/04/2014

- MEDICAL MARIJUANA HOME PRODUCTION: Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use.

- MEDICAL MARIJUANA PRODUCTION MANUFACTURING FACILITY: A facility used for cultivating, processing and/or storing medical marijuana by a medical marijuana caregiver(s) at a location which is not the medical marijuana caregiver’s primary year-round residence or their patient’s primary year-round residence; the facility can also be used for the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. A Medical Marijuana Manufacturing Facility shall be either a registered tier 1 or tier 2 manufacturing facility that may contain a person(s) authorized to engage in marijuana extraction as specified under section 2423-F of Title 22, Chapter 558-C: Maine Medical Use of Marijuana Act. This shall be considered a commercial use.

- MEDICAL MARIJUANA REGISTERED CAREGIVER RETAIL STORE: A retail store operating pursuant to MRS Title 22, Chapter 558-C: Maine Medical Use of Marijuana Act section 2423-A, subsection 2, paragraph P.

- MEDICAL MARIJUANA REGISTERED DISPENSARY: A not-for-profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients. Note that a dispensary may be either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. This shall be considered a commercial
use. An entity registered under MRS Title 22, Chapter 558-C: Maine Medical Use of Marijuana Act section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

- **MEDICAL MARIJUANA TESTING FACILITY:** A public or private laboratory that:

  A. Is authorized in accordance with section 2423-A, subsection 10 to analyze contaminants in and the potency and cannabinoid profile of samples; and

  B. Is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the department.

**Amendment:** In Article 4, Use Regulations, amend the Commercial Use Category for the Route 1-3 (RT 1-3) zoning district by amending the permitted use term “Medical Marijuana Production Facility” to “Medical Marijuana Manufacturing Facility” as follows:

**Commercial Use Category (RT 1-3)**

- Service Businesses – Route One Use Permit from Planning Board required.
- Store for Retail Sale of Merchandise – With Less than 20,000 square feet of floor space. Store with less than 5,000 square feet of floor space may also produce goods on site, provided such are sold on site and the production area is smaller in size than the retail area. Route One Use Permit from Planning Board required.
- Shopping Center – Provided no single store for retail sale of merchandise exceeds size limitations of zoning district. Route One Use Permit from Planning Board required.
- Banks, With or Without Drive-Through Windows – Route One Use Permit from Planning Board required.
- Grocery Store – Route One Use Permit from Planning Board required.
- Laundries and Dry Cleaning Facilities (on Public Sewer) – Serviced by Public Sewer. Route One Use Permit from Planning Board 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 – Route One Use Permit from Planning Board required.
- Plumbing, Electrical or Carpentry Shop or Other Similar Service or Repair Establishment – Route One Use Permit from Planning Board required.
- Medical Marijuana Production Manufacturing Facility- without cultivation.
• Medical Marijuana Registered Dispensary - without cultivation and/or manufacturing.
• Motels/Hotels – Route One Use Permit from Planning Board required.
• Small Lodging and Tourist Homes/Inns – Route One Use Permit from Planning Board required.
• Restaurants – Route One Use Permit from Planning Board required.
• Ice Cream Stands – Route One Use Permit from Planning Board required.
• Garden Centers – Route One Use Permit from Planning Board required.
• Animal Boarding (Commercial) – Permitted only as an accessory use to an approved veterinarian use. Route One Use Permit from Planning Board required.
• Animal Grooming – Route One Use Permit from Planning Board required.
• Animal Hospitals/Veterinarians – Route One Use Permit from Planning Board required.
• Animal Retail Sales – Route One Use Permit from Planning Board required.
• Commercial Schools – With less than 5,000 square feet of floor space. Boarding of students is prohibited. Route One Use Permit from Planning Board required.
• Day Care Center – As an accessory use to a permitted use only. Route One Use Permit from Planning Board required.
• Fruit and Vegetable Produce Stores – Route One Use Permit from Planning Board required.
• Parking Lot Owned or Managed by a Non-Public Entity for Commercial Purposes, Provided there is No Parking Garage – Route One Use Permit from Planning Board required.
• Artisanal Food and/or Beverage Facility – Retail Sales of Merchandise as part of this use shall not supersede 2,500 square feet of gross floor area. Route One Use Permit from the Planning Board is required.
• 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 (except that a grocery store or a retail store which sells food shall be permitted to make and serve prepared food or other such products prepared primarily with foods which it sells in the store, that are prepared on-site, for consumption off-site); Truck Stops; Marinas

**Amendment:** In Article 4, Use Regulations, amend the Commercial Use Category for all zoning districts by adding “Medical Marijuana Registered Caregiver Retail Stores” and “Medical Marijuana Testing Facilities” to the existing list of “expressly prohibited” uses; and amend the use term “Medical Marijuana Production Facility” to “Medical Marijuana Manufacturing Facility” as follows:

RES 1-A and RES 1-B
• 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; 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; Florists; Garden Centers; Pet Shops; Commercial Schools; Day Care Facilities; Fruit and Vegetable Produce Stores; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.

RES-2
• 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; 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 Registered Caregiver Retail Stores; Medical Marijuana Production Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.

RES-3
• 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 Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.

RES-4

• 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; Florists; Garden Centers; Pet Shops; Commercial Schools; Day Care Facilities; Fruit and Vegetable Produce Stores; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.

RES-5

• 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; 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; Florists; Garden Centers; Pet Shops; Commercial Schools; Day Care Facilities; Fruit and Vegetable Produce Stores; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.

RES-6

• 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; 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; Florists; Garden Centers; Pet Shops; Commercial Schools; Day Care Facilities; Fruit and Vegetable Produce Stores; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.
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; Florists; Garden Centers; Pet Shops; Commercial Schools; Day Care Facilities; Fruit and Vegetable Produce Stores; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.

RES-7

- 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; 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 Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.

BUS-1

- EXPRESSLY PROHIBITED: Store for retail sale of merchandise with more than 2,500 square feet of gross floor area; Motels/Hotels; 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; Ice Cream Stands; Truck Stops; Marinas; Garden Centers; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.

BUS-2

- EXPRESSLY PROHIBITED: Store for retail sale of merchandise with more than 2,500 square feet of gross floor area; 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; Garden Centers; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.
YBVC
- EXPRESSLY PROHIBITED: 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; 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; Garden Centers; Commercial Schools; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities.

YVC-1 and YVC-2
- EXPRESSLY PROHIBITED Motel/Hotel; Fast Food Restaurant, whether the use is a principal use or an accessory use; Formula Restaurant, whether the use is a principal use or an accessory use; Truck Stop; Marina; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Dry Cleaning Facility.

GEN-1
- EXPRESSLY PROHIBITED: 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; Motels/Hotels; 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; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.

GEN-2
- EXPRESSLY PROHIBITED: 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; Motels/Hotels; 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; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.

GEN-3
- EXPRESSLY PROHIBITED: Large Store or Mall (Group of Stores Under Single Roof) With Total Floor Space Over 2,500 Square Feet for Retail Sale of Merchandise; 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; Motels/Hotels; 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; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities.

RT 1-1

- EXPRESSLY PROHIBITED: Service Businesses; Store for Retail Sale of Merchandise; Shopping Center; Banks; Grocery Store; 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; Small 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 (except that a grocery store or a retail store which sells food shall be permitted to make and serve prepared food or other such products prepared primarily with foods which it sells in the store, that are prepared on-site, for consumption off-site); Ice Cream Stands; Truck Stops; Marinas; Garden Centers; Animal Boarding (Commercial); Animal Grooming; Animal Hospitals/Veterinarians; Animal Retail Sales; Commercial Schools; Fruit and Vegetable Produce Stores; Parking Lot Owned or Managed by a Non-Public Entity for Commercial Purposes, Provided there is No Parking Garage; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.

RT 1-2

- EXPRESSLY PROHIBITED: Store for Retail Sale of Merchandise such as but not limited to Lumber Yards and Building Supply Yards; Motels/Hotels; 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 (except that a grocery store or a retail store which sells food shall be permitted to make and serve prepared food or other such products prepared primarily with foods which it sells in the store, that are prepared on-site, for consumption off-site); Truck Stops; Marinas; Parking Lot Owned or Managed by a Non-Public Entity for Commercial Purposes, Provided there is No Parking Garage; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities.

RT 1-3

- 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 (except that a grocery store or a retail store which sells food shall be permitted to make and serve prepared food or other such products prepared primarily with foods which it sells in the store, that are prepared on-site, for consumption off-site); Truck Stops; Marinas; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Testing Facilities.

RT 1-4

- EXPRESSLY PROHIBITED: Grocery Store; 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; 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 (except that a grocery store or a retail store which sells food shall be permitted to make and serve prepared food or other such products prepared primarily with foods which it sells in the store, that are prepared on-site, for consumption off-site); Truck Stops; Marinas; Garden Centers; Animal Grooming; Animal Hospitals/Veterinarians; Animal Retail Sales; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities.

RT 1-5

- EXPRESSLY PROHIBITED: Laundries and Dry Cleaning Facilities; Store for Retail Sale of Merchandise such as but not limited to Lumber Yards and Building Supply Yards; Motels/Hotels; 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 (except that a grocery store or a retail store which sells food shall be permitted to make and serve prepared food or other such products prepared primarily with foods which it sells in the store, that are prepared on-site, for consumption off-site); Truck Stops; Marinas; Animal Boarding (Commercial); Parking Lot Owned or Managed by a Non-Public Entity for Commercial Purposes, Provided there is No Parking Garage; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities.

RT1-6

- EXPRESSLY PROHIBITED: Service Businesses; Shopping Center; 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; 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 (except that a grocery store or a retail store which sells food shall be permitted to make and serve prepared food or other such products prepared primarily with foods which it sells in the store, that are prepared on-site, for consumption off-site); Ice Cream Stands; Truck Stops; Marinas; Fruit and Vegetable Produce Stores; Parking Lot Owned or Managed by a Non-Public Entity for Commercial Purposes, Provided there is No Parking Garage; *Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.*

**Amendment:** In Article 8, Shoreland Overlay District, amend the Mixed Use Subdistrict by amending the Commercial Use permitted use term “Medical Marijuana Production Facility” to “Medical Marijuana Manufacturing Facility” as follows:

**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 Manufacturing 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.

Amendment: In Article 8, Shoreland Overlay District, amend the Commercial Use Category for all shoreland subdistricts by adding “Medical Marijuana Registered Caregiver Retail Stores” and “Medical Marijuana Testing Facilities,” and amend the term “Medical Marijuana Production Facility” to “Medical Marijuana Manufacturing Facility” within the existing list of expressly prohibited uses as follows:

8.2.1.A Mixed Use Subdistrict
• 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; Medical Marijuana Registered Caregiver Retail Stores; Medical Marijuana Testing Facilities.

8.2.1.B Limited Residential Subdistrict
• 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
8.2.1.C  Resource Protection Subdistrict

- 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; 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 Registered Caregiver Retail Stores; Medical Marijuana Production Manufacturing Facility; Medical Marijuana Registered Dispensary; Medical Marijuana Testing Facilities; Artisanal Food and/or Beverage Facility.

Amendment: Amend Article 7, Special Provisions, by amending section 7.18 Medical Marijuana with the following:

7.18 Medical Marijuana

7.18.1Purpose: The purpose of this Section and related provisions of this Ordinance is to control the cultivation, processing, storage and distribution of medical marijuana by controlling land uses consistent with State law and in a manner that prevents unintended consequences that could adversely impact the Town and its residents.

7.18.2Exemptions: As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient’s residence or any medical marijuana caregiver’s primary year-round residence in every base zone and overlay zone, without any requirement for land use permitting. As part of a Medical Marijuana Home Production accessory use, qualifying patients or medical marijuana caregivers may not be authorized to extract marijuana using inherently hazardous substances.
7.18.3 Approval Process: Any proposal to establish a new or alter an existing Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall require approval of the Planning Board, even if the Planning Board was not required to grant the original local approval. The Planning Board shall follow the application procedures established in Article 18-A. In addition to other public notification requirements, the Town shall notify the York Police Department and the Maine Department of Health and Human Services, Division of Licensing and Regulatory Services prior to the public hearing on any application.

7.18.4 Performance Standards: In addition to other requirements of this and other codes, including but not limited to Article 6, the following shall apply to any application for a new or altered Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility:

A. Limit. There shall be no more than one Medical Marijuana Registered Dispensary in the Town of York.

B. Proximity Limit. Only one Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall be permitted per lot. Additionally, no Medical Marijuana Production Facility shall be located on a lot that is within 250 feet of another lot on which a Medical Marijuana Production Facility is located. This separation requirement will prevent a concentration of these facilities and helps to ensure compliance with the State prohibition against collectives.

C. Safe Zones. No Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall be permitted within any Safe Zones established by the Board of Selectmen. (Initially designated by the Board of Selectmen on April 9, 2007, and as amended.)

D. Security. Before granting an approval, the Planning Board shall ensure the applicant has reviewed their property and building security plans with the York Police Department and the Police Department finds the security measures are consistent with State requirements.

E. Business License. As a condition of use, the operator of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility shall obtain and retain all required business licenses pursuant to the Town’s Business Licensing Ordinance. The land use approval shall be considered abandoned if no license-holder occupies the Facility for a period of 2 years of more.

F. A Medical Marijuana Manufacturing Facility may contain within the facility, as an accessory use, a Medical Marijuana Testing Facility.
Amendment #
Business Licensing Ordinance

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

Article X
The Town hereby ordains amendment of the Business Licensing Ordinance to ensure that sections related to Medical Marijuana match Zoning Ordinance amendments and the recently amended State law, the “Maine Medical Use of Marijuana Act.”

Statement of Fact: The purpose of this amendment is to ensure the Business Licensing Ordinance section that refers to medical marijuana licensing requirements match recently enacted changes to the medical marijuana state law known as the “Maine Medical Use of Marijuana Act.”

Recommendations: Recommended by the Board of Selectmen:

Amendment: Amend section 1.2- Licensed Activities, with the following:

Miscellaneous
- Transient Sellers (see §4.2.10)
- Flea Market (see §4.2.11)
- Junkyard, Automobile Graveyard, and Automobile Recycling Business (see §4.2.12)
- Medical Marijuana Grower License (see §4.2.13)

Amendment: Amend section 4.2- License-Specific Standards and Requirements, with the following:

4.2.13 Medical Marijuana Grower License
This license shall be required for a Medical Marijuana Registered Dispensary or Medical Marijuana Production Manufacturing Facility. The following shall apply:

A. Inspections Required:
   1. Police Inspection – at initial licensing to ensure security meets State requirements.

B. Definitions.

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1. **Medical Marijuana**: Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient’s debilitating medical condition or symptoms associated with the qualifying patient’s debilitating medical condition. *Marijuana: As defined in State Administrative Rules (10-144 CMR Chapter 122), §1, “Marijuana.”*

2. **Medical Marijuana Caregiver**: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense. *A person or an assistant of that person that provides care for a qualifying patient in accordance with Title 22, Chapter 558-C: Maine Medical Use of Marijuana Act, section 2423-A, subsection 2.*

3. **Medical Marijuana Registered Dispensary**: A not-for-profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients. Note that a dispensary may be either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. *An entity registered under MRS Title 22, Chapter 558-C: Maine Medical Use of Marijuana Act section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.*

4. **Medical Marijuana Production Manufacturing Facility**: A facility used for cultivating, processing, and/or storing medical marijuana by a medical marijuana caregiver at a location which is not the medical marijuana caregiver’s primary year-round residence or their patient’s primary year-round residence; the facility can also be used for the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. *A Medical Marijuana Manufacturing Facility shall be either a registered tier 1 or tier 2 manufacturing*
facility that may contain a person(s) authorized to engage in marijuana extraction as specified under section 2423-F of Title 22, Chapter 558-C: Maine Medical Use of Marijuana Act.

5. **Medical Marijuana Product**: A product composed of harvested marijuana and other ingredients that is intended for medical use. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. **Medical Marijuana Product** does not include Marijuana Concentrate.

6. **Medical Marijuana Testing Facility**: A public or private laboratory that:
   - Is authorized in accordance with section 2423-A, subsection 10 to analyze contaminants in and the potency and cannabinoid profile of samples; and
   - Is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the department.

C. **State Authorization**. Prior to issuance, renewal or amendment of a License, the applicant must demonstrate their State of Maine authorization to cultivate, process and store medical marijuana pursuant to the Maine Medical Use of Medical Marijuana Program. Loss of such State authorization shall automatically invalidate the Town-issued License.

D. **Related Laws**. See: Zoning Ordinance; Title 22 M.R.S. Chapter 558-C, Maine Medical Use of Marijuana Act; 10-144 C.M.R. Chapter 122, Rules Governing the Maine Medical Use of Marijuana Program.

E. **Statutory Authority**. Home rule authority.

F. **Enforcement Authority**. York Police Department.