

1-15-1998

# Codification—Town of Yarmouth, Recodified January 15, 1998

Yarmouth (Me.). Municipal Officers

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CHAPTER 101

**CODIFICATION**

Town of Yarmouth, Maine  
Recodified: 1/15/98

**CHAPTER 101**

# CODIFICATION

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Codification  
**AN ORDINANCE FOR REVISING, CODIFYING, AND COMPILING THE GENERAL  
ORDINANCES OF THE TOWN OF YARMOUTH.**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF YARMOUTH,  
MAINE, IN TOWN COUNCIL ASSEMBLED, AS FOLLOWS:

**CODIFICATION**

**ARTICLE I**

**A. TITLE AND SCOPE OF ORDINANCE**

This compilation, consisting of Chapter 101 to 702 inclusive, is hereby adopted and shall be known as the Municipal Code of the Town of Yarmouth, Maine, and shall be treated and considered as a new and comprehensive ordinance which shall completely supersede all other ordinances passed by the Town of Yarmouth, Maine, prior to the date of the enactment of this Ordinance, which other ordinances are hereby repealed, except such as by reference thereto are expressly saved from repeal or continued in force and effect for any purpose.

**B. ADDITIONS OR AMENDMENTS**

Any additions or amendments to this code, when passed in such form as to indicate the intention of the Town Council to make the same apart thereof, shall be deemed to be incorporated in this code so that a reference to the "Municipal Code of the Town of Yarmouth, Maine" shall be understood as including them.

**C. OFFICIAL COPIES KEPT BY TOWN CLERK**

The Town Clerk shall keep two copies of this code in a book or binder in loose-leaf form, or in such other form as he/she may consider expedient, so that all amendments thereto and all ordinances hereafter passed may be inserted in their appropriate place and all deletions may be extracted there from for the purpose of maintaining said two copies in such condition that they will show all effective ordinances at any time in such manner that ready reference may be had thereto. The Town Clerk shall deliver one copy thereof to each member of the Town Council, one copy to the Town Manager, and one copy to each department head to the Town and to such other persons in each department as its head may designate. The Town Clerk shall sell copies of said code at such price as the Town Council shall fix; provided, however, that the Town Council may direct such other free distribution of said code as it sees fit.

**D. PENALTIES: GENERAL**

When no punishment is provided by an ordinance, a person convicted of an offense under such ordinance shall be fined not more than two hundred dollars (\$200.00) for each offense. Whenever in this code a minimum but no maximum fine or penalty is imposed, the court may in its discretion fine the offender any sum of money

exceeding the minimum fine or penalty so fixed, but not exceeding the sum of two hundred dollars (\$200.00)

**E. REPEAL**

When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause, or provision.

**F. CONSTRUCTION**

All general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the Town Council may be fully carried out.

**G. INVALIDATION OF PART**

If any part, sentence or clause of this code shall be adjudged void and of no effect, such decision shall not affect the validity of the remaining portions of this code.

**H. EFFECTIVE DATE – \_\_\_\_\_**

The Municipal Code of the Town of Yarmouth shall take effect and be in force thirty days from and after its passage.

CHAPTER 201

**ADMINISTRATIVE CODE**

Town of Yarmouth, Maine

Recodified: 1/15/98

Amended: 8/15/02

Amended: 10/18/07

Amended: 5/17/12

Amended: 6/18/15

Amended: 3/15/18

# ADMINISTRATIVE CODE

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# ADMINISTRATIVE CODE

## ARTICLE I - GENERAL

This ordinance shall be known and may be cited as the Administrative Code of the Town of Yarmouth, Maine.

### A. CORPORATE SEAL

The official seal of the Town of Yarmouth shall contain the words "Yarmouth, Maine, 'Our Latchstring Always out'" and shall be in the same appearance as the reproduction shown on this page.



**B. CHARTER**

The words "Town Charter" mean Chapter 128 of the Private and Special Laws of Maine 1965 entitled "An Act Providing for a Council-Manager Charter for the Town of Yarmouth", and as may be further amended.

**C. ADMINISTRATIVE MANUAL**

The Town Manager is hereby authorized to issue such administrative regulations, consistent with the Town Charter and Town ordinances, as he/she deems necessary to provide for the adequate functioning of all departments. All regulations so issued shall comprise the Administrative Manual which shall be distributed to all members of the Town Council, all department heads, and to such others as the Town Manager may determine to be necessary or desirable, and shall be available in the office of the Town Clerk for public inspection.

**D. BONDS**

Every Town Officer and employee who collects, has custody of or disburses any public moneys, must prior thereto, at the expense of the Town, furnish to the Town and maintain in full force and effect a corporate surety bond in such amount as the Town Council may determine. Until and unless bonded as required herein, no officer or employee of the Town shall handle any public moneys at any time, except employees of bonded officers doing so under their specific direction and responsibility.

**E. WARRANTS AND LEGAL DOCUMENTS**

All warrants for disbursements of money and all necessary legal documents shall be signed by either the Chair of the Town Council or the Chair of the Council Finance Committee, except as otherwise ordered by the Town Council.

**F. COMPENSATION**

The Town Council by order shall fix the salaries of officials elected or appointed by the Town Council, including the salary of the Town Manager for his/her services as such and for all other services rendered by him/her. Salaries of the appointees of the Town Manager shall be fixed by the Town Manager subject to budget approval by the Town Council.

**G. FUNDS**

Every Town Official shall keep an accurate account of all moneys which may be virtue of his/her office come into his/her hands from whatever source, stating from whom received, and on what account the same was paid; he/she shall pay such moneys to the Town Treasurer at such periods as the Town Treasurer may require.

**H. HEADINGS**

No provision of any ordinance shall be held invalid by reason of deficiency in any CHAPTER, ARTICLE or subject heading, it being hereby expressly provided that such headings are not a part of any ordinance.

**I. INVESTIGATIONS**

The Council may institute through itself or the Town Manager, or any person or committee authorized by them, an inquiry into the conduct of any office, department, agency or officer of the Town and to make investigations as to Municipal affairs and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provision of this Section shall constitute a misdemeanor and shall be punished by a fine of not less than \$10.00 nor more than \$100.00 or by imprisonment for not more than 30 days or by both such fine and imprisonment, as authorized by ARTICLE X, Section 6 of the Town Charter.

**J. NOTICE**

Notice regarding dangerous structures, abating nuisances, removing signs or signposts, making sewer connections, or any other act, the expense of which, if performed by the Town, may be collected from the property owner in an action at law, shall be served:

1. by delivering the notice to the owner personally or by leaving the same at his/her residence, office, or place of business with some person of suitable age and discretion, or
2. by mailing the notice by registered mail to such owner at his/her last known address, or
3. if the owner is unknown, by posting the notice in some conspicuous place on the premises five (5) days prior to the date set therein for compliance.
4. no person shall interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by any Town Officer unless permission is given to remove said notice.

**K. OATH OF OFFICE**

Every Town Officer shall be duly sworn to the faithful performance of the duties of his/her office as provided by ARTICLE 10, Section 7 of the Town Charter.

**L. PENALTIES**

Every person who shall be guilty of a violation of any provision of any ordinance to which a particular penalty is not annexed, shall forfeit and pay a sum of not more than two hundred dollars (\$200.00) to be recovered to the use of the Town on complaint or by other appropriate action before an appropriate court.

#### **M. EFFECT OF PENALTY**

The imposition of a penalty for violation of any ordinance shall not excuse the violation, or permit it to continue; such violation shall be remedied within a reasonable time, and each day that violation is permitted to exist shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions. The imposition of penalties for violation or any ordinance shall not preclude the Town Attorney from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, removal, maintenance or use, or to restrain, correct or abate a violation or to prevent the occupancy of a building, structure or premises, or to prevent an illegal act, conduct, business or use in or about any premises.

#### **N. PROPERTY**

Each official who has public property responsibility shall forthwith make up a list of all such property and deposit said list over his/her signature with the Town Clerk. Each such official shall, at the time of making his/her annual report, include therein a complete list of property for which he/she is responsible. When any official terminates his/her duties he/she shall check his/her property list with the successor in office or with the Town Manager if the latter so elects, and obtain a release from property liability prior to receiving his/her final salary payment due. Each official shall promptly reimburse the Town for the fair and reasonable value of any property for which he/she is responsible and for which he/she is unable to account, if such loss is due to his/her carelessness or negligence. The amount of such reimbursement shall be determined by the Town Council.

1. The Town Council hereby establishes the general policy that no Town property, supplies, or equipment of any kind shall be loaned or rented to any person; the Town Manager is authorized to make exceptions hereto when in his/her opinion the circumstances especially so warrant, in which case he/she shall specify the terms thereof.

#### **O. PUBLICITY OF RECORDS**

All records and accounts of every office, department and agency of the Town shall be open to inspection by any citizen at all reasonable times and under reasonable regulations established by the Town Manager, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish, and except such records as are required by State law to be kept confidential.

**P. RECORD PRESERVATION**

Each department head shall be held responsible for the preservation of all public records under his/her jurisdiction and shall provide a system of filing and indexing the same. No public records, reports, correspondence, or other data relative to the business of any department, shall be destroyed or removed permanently from the files without the knowledge and approval of the Town Manager. Each department head shall retain a copy of all communications issued by him/her of his/her department.

**Q. REPEAL EFFECT**

The repeal of any prior ordinance of the Town by any subsequent ordinance shall not operate to revive the provisions of any ordinance which may have been repealed by such prior ordinance, unless such revival shall be expressly provided for. Ordinances repealed remain in force for the trial and punishment of all past violations of them, and for the recovery of penalties and forfeitures already incurred, and for the preservation of all rights and remedies existing by them and so far as they apply to any office, trust, proceeding, right, contact or event already affected by them.

**R. REPORTS**

All department heads shall make an annual report to the Town Manager, and such other reports as may be required by the Town Council or the Town Manager.

**S. RESPONSIBILITY**

The prohibition of any act by any ordinance of the Town, or in any amendment thereof, shall include the causing, securing, aiding or abetting of another person to do said act.

**T. RULES OF CONSTRUCTION**

The following rules shall be observed in the construction of ordinances, unless such construction is inconsistent with the plan meaning of the ordinance:

1. Words and phrases shall be construed according to the common meaning of the language. Technical words and phrases and such as have a peculiar meaning convey such technical or peculiar meaning. The words “and” and “or” are convertible as the sense of any ordinance may require.
2. Words of the singular may include the plural; and words of the plural may include the singular. Words of the masculine gender may include the feminine.
3. Words giving authority to three or more persons authorize a majority to act when the ordinance does not otherwise determine.
4. The words “street” or “streets” shall be understood as including highways, ways, avenues, courts, lanes, alleys, parks, squares, places, sidewalks, crosswalks and bridges.

5. The word “inhabitant” means a person having an established residence in the Town.
6. The word “oath” includes an affirmation when an affirmation is allowed. Affirmation is allowed when a person required to be sworn is conscientiously scrupulous of taking an oath.
7. The word “person” as used in any ordinance, and in any amendment thereof hereafter enacted, shall include: any individual, firm, copartnership, corporation, company, association, club, joint venture, estate, trust, or any combination acting as a unit and the individuals constituting such group or unit, unless the intention to give a more limited meaning is disclosed by the context.
8. By the words “preceding” or “following”, used with reference to a section, is meant the section next preceding or following that in which it is used when not otherwise expressed.
9. The term “Municipal Officers” means the members of the Town Council.
10. The word “Town” shall be construed as if the words “of Yarmouth” followed it.
11. The term “Town Officer” means any elected or appointed official of the Town government.

#### **U. STATE LAW**

All the laws of the State of Maine are hereby incorporated by reference. No person shall violate any law of the State of Maine and no enumeration of particular State laws in ordinances of the Town shall be exclusive.

#### **V. SUITS**

Every Town Officer having knowledge of any fact concerning any claim or suit for or against the Town shall report such fact forthwith to the Town Attorney. It shall be the duty of every employee of the Town to report at once to the Police Chief facts which may come to his/her notice concerning any accident for which the Town may be liable; and the heads of the several departments, agencies and offices of the Town shall instruct all their employees to report such facts and information as aforesaid. No member of the Town Council shall act as attorney, agent or representative of any person or corporation in making, prosecuting or presenting before the Town Council or any Town department, office or agency, any claim or demand against the Town.

**W. TERM OF OFFICE**

All officials and employees of the Town shall serve at the pleasure of the appointive power in each instance, and may be removed at any time by the appointive power whose decision shall be final and there shall be no appeal thereof to any other office, body or court whatsoever, except as provided under ARTICLE 10, Section 9 of the Town Charter. A member of a board or commission appointed by the Town Council for a definite term may be removed by the Town Council only for malfeasance, misfeasance, or nonfeasance.

**X. VACANCIES ON APPOINTIVE BOARDS**

Any vacancy during the unexpired term of any member appointed to any board or commission by the Town Council shall be filled by the Town Council for the remainder of the term.

**ARTICLE II – TOWN COUNCIL**

**A. MEMBERSHIP**

The Town Council of the Town of Yarmouth shall consist of seven members as provided for in ARTICLE 2, Section 1 of the Town Charter.

**B. DUTIES**

The Town Council shall have all the duties and responsibilities as provided for in ARTICLE 2 of the Town Charter.

**ARTICLE III – ELECTIONS**

**A. GENERAL**

The provisions of the laws of the State of Maine relating to the qualifications of electors, registration, the manner of voting, the duties of election officers and all other particulars in respect to preparation for, conducting, and management of elections, so far as they may be applicable, shall govern all Municipal elections except as otherwise provided in ARTICLES 7, 8, and 9 of the Town Charter.

**B. PLACE AND TIME OF OPENING OF ELECTION**

It shall be the duty of the Town Council to fix the place and time of the opening of the polls in the election of officers, or in any special election to decide matters submitted to a vote of the citizens, and cause same to be inserted in any warrant and notification to the inhabitants of such election.



**C. ISSUANCE OF ELECTION WARRANTS**

Warrants for calling elections shall be issued by the Town Council and contain a statement of the object of the election and the time and place at which the election shall be held, and be served by the Police Chief, constable, or any resident of the Town by posting an attested copy of said warrant in five (5) public and conspicuous places seven (7) days at least before the time of said election, and said warrants shall be returned to the Town Clerk before the time of the election therein named.

**D. FORM OF WARRANTS FOR TOWN ELECTIONS**

The form of warrants for calling elections of the citizens shall be as follows:

<b>STATE OF MAINE</b>	
Cumberland, ss.	Yarmouth, Maine
To a police officer, constable, or any resident of said Town of Yarmouth.	
Greetings:	
In the name of the State of Maine, you are hereby required forthwith to notify and warn the inhabitants of said Town of Yarmouth, qualified to vote according to law, to meet at the _____ in said Town on _____ the day of next at _____ o'clock _____ in the forenoon, to act upon the following:	
Given under our hands and the seal of the said Town of Yarmouth this ____ day of ____ A.D. 20__	
_____ _____ _____ _____ _____ _____ _____	
Majority of Municipal Officers of Yarmouth	

**E. FORM OF RETURN OF WARRANT**

The form of the return of the warrant mentioned in this chapter shall be in substance as follows:

<b>STATE OF MAINE</b>	
Cumberland, ss.	Yarmouth, Maine _____ A.D. 20__
<p>Pursuant to the within warrant to me directed, I have notified and warned the inhabitants of said Town of Yarmouth to meet at the time and place and for the purposes of therein mentioned by posting up attested copies of this warrant at the _____ the same being public and conspicuous places in said Town as in said warrant directed on the _____ day of _____ A.D. 20__ being seven days before said election.</p>	
<p>_____ Police Officer, Constable, or Resident of said Town of Yarmouth</p>	

**F. PRECINCTS**

The Town of Yarmouth shall be a single voting district.

**G. BOARD OF VOTER REGISTRATION**

The Board of Voter Registration shall be appointed as provided by the State law.

**H. BALLOT AND ELECTIONS CLERKS**

Biennially in the month of May, the political parties shall present to the Town Clerk a list of those willing to work at the polls. Following appointment by the Town Council, the Town Clerk shall fill the positions of ballot and election clerks from that list. Before each election, the Town Clerk shall appoint at least two (2) clerks to serve at the voting district. Such clerks shall equally represent each of the political parties which case the largest number of votes in the state election next preceding their appointment.

**I. COMPENSATION**

Each warden, election and ballot clerk shall be paid such amount per day for each election held in the Town of Yarmouth at which they shall attend, as the Town Council may determine in the budget.

**J. WARDENS**

The wardens shall, forthwith after each election, complete and deposit the records of the precinct and all papers connected therewith with the Town Clerk.

# ARTICLE IV – TOWN MANAGER

## A. TOWN MANAGER

- a. The Town Manager shall be the chief administrative officer of the Town, with appointment by the Town Council, to serve during the pleasure of the Council. He/she may head one or more departments and shall be responsible to the Council for the proper administration of all affairs of the Town. To that end, he/she shall abide with the provisions set forth in ARTICLE 3 of the Town Charter.
- b. The Town Manager shall be an ex-officio member of all boards and commissions of the Town. He/she shall have the right to attend all meetings and to participate in the proceedings, but he/she shall have no vote.

## B. DIVISION OF ADMINISTRATIVE SERVICE

The administrative service of the Town shall be divided under the Town Manager into the following departments with the following heads thereof:

<u>Department</u>	<u>Head</u>
Legal Department.....	Town Attorney
Finance Department.....	Finance Director
Treasury/Tax Collection .....	Treasurer – Tax Collector
Records Department .....	Town Clerk
Police Department.....	Police Chief
Fire/Rescue Department .....	Fire Chief
Civil Defense .....	Civil Defense Chief
Health Department.....	Health Officer
Public Welfare Department .....	Welfare Administrator
Public Works Department.....	Director Public Works
Community Services Department.....	Director Community Services
Planning and Development .....	Director Planning and Development
Engineering .....	Town Engineer
Wastewater .....	Town Engineer

## C. DEFINITION OF “DEPARTMENT”

Whenever used in any ordinance, the word “department” shall be construed to mean department, agency, or office of the Town, unless the context plainly requires otherwise.

## D. DEPARTMENT HEADS

The heads of departments shall:

- 1. perform all duties required by their office, by Charter, by ordinance, or by other laws, and they shall perform such duties, not in conflict therewith, as may be assigned by the Town Manager.

2. be immediately responsible to the Town Manager for effective administration of their departments.
3. keep informed as to the latest practices in their particular field and shall inaugurate, with the approval of the Town Manager, such new practices as appear to be of benefit to the services and to the public.
4. establish and maintain a system of records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the reports required by the Town Manager.
5. submit reports of the activities of their department when requested by the Town Manager.
6. have power to delegate to members of the departments or divisions coming under their direction such duties and responsibilities as deemed advisable, together with proportionate authority for their fulfillment, but in no case may they delegate their responsibilities or any of their accountability.
7. have authority to appoint and remove, subject to the personnel regulations and the authority of the Town Manager, all subordinates under them.
8. be responsible for the proper custody and maintenance of all Town property, records and equipment used in their departments.

**E. COOPERATION WITH OTHER DEPARTMENTS**

Each department shall furnish to any other department or office such service, labor, equipment, or materials as may be requisitioned by the head of such other office and as its own facilities permit. The Town Manager may direct any department or office to perform work for any other administrative unit.

**ARTICLE V – LEGAL DEPARTMENT**

**A. ESTABLISHMENT**

There shall be a legal department the head of which shall be the Town Attorney who shall be appointed by the Town Council.

**B. DUTIES**

The Town Attorney shall:

1. Advise the Town Council or its committees or any Town Officer, when thereto requested, upon all legal questions arising in the conduct of Town business.
2. Prepare or revise ordinances when so requested by the Town Council.

3. Give his/her opinion upon any legal matter or question submitted to him/her by the Town Council or by the Town Manager.
4. When necessary, attend Town Council meetings for the purpose of giving the Town Council legal advice requested by its members.
5. Prepare for execution all contracts and instruments to which the Town is a party and shall approve, as to form, all bonds required to be submitted to the Town.
6. Prepare, when authorized by the Town Council, all charges and complaints against and shall appear in the appropriate court in the prosecution of every person charged with the violation of a Town Ordinance or of any regulations adopted under authority of the Town Charter, or with the commission of a misdemeanor as declared by the Charter or by virtue of its authority. In any prosecution for violation of any regulation adopted by any Board or Commission created under authority of the Charter, the Town Attorney shall act under the directions of such Board or Commission, subject to such paramount control as is given to the Town Council by the Charter.
7. Immediately report the outcome of any litigation in which the Town has an interest to the Town Council and the Town Manager.
8. Keep complete record of all suits in which the Town has or had an interest, giving the names of the parties, the court where brought, the nature of the action, the disposition of the case, or its condition if pending, and the briefs of counsel.
9. Deliver all records, documents and property of every description in his/her possession, belonging to his/her office or to the Town, to his/her successor in office, who shall give him/her duplicate receipts therefore, one of which he/she shall file with the Town Manager.

## **ARTICLE VI – DEPARTMENT OF FINANCE**

### **A. ESTABLISHMENT**

There shall be a Department of Finance, the head of which shall be the Town Treasurer, who shall be appointed by the Town Council. There shall be a Tax Collector appointed by the Town Council. There shall be an Assessor and a Finance Director appointed by the Town Manager subject to confirmation by the Town Council.

### **B. BOND REQUIREMENTS**

Corporate surety bonds in the following amounts shall be furnished to the Town by the following officers:

1. Town Manager, Tax Collector and Treasurer \$50,000.00

2. Town Clerk, Deputy Tax Collector, Bookkeeper and Finance Director: \$50,000.00
3. All other Town employees \$10,000.00

**C. TREASURY DIVISION**

There shall be a treasury division of the Department of Finance, the head of which shall be the Town Treasurer. Subject to Article III (D) (6), the Town Treasurer may delegate any or all functions to the Finance Director.

1. The Treasurer shall:
  - a. Be responsible for the proper pre-audit and recording of all financial transactions.
  - b. Collect all moneys and fees due to the Town.
  - c. Have custody of all capital reserve accounts and make withdrawals from such accounts with Council authorization.
  - d. Pay warrants and payrolls upon payrolls of the Town Manager and authorization of the Council Chair or the Chair of the Council Finance Committee.
  - e. Deposit to the credit of the Town all receipts of funds from Federal, State and miscellaneous sources.
  - f. Make periodic reports to the Council on the deposit status of all accounts of the Town.
  - g. Discharge all responsibilities conferred or imposed upon him/her by State law or Town Ordinance.
  - h. Audit and file in his/her office all policies of insurance placed on Town property.

#### **D. TAX DIVISION**

There shall be a tax division of the Department of Finance, the head of which shall be the Tax Collector. The Tax Collector shall collect all taxes in the manner authorized and required by law. Subject to Article III (D) (6) the Tax Collector may delegate any or all functions to the Finance Director.

#### **E. ASSESSMENT DIVISION**

There shall be an assessment division of the Department of Finance, the head of which shall be the Assessor. He/she shall be responsible for the performance of all work in connection with the assessing of property and the preparation of all assessment and tax rolls and tax notices as required by ARTICLE 6, Section 1 of the Town Charter.

#### **F. DIVISION OF PURCHASES**

There shall be a division of purchases of the Department of Finance, the head of which shall be the Town Purchasing Agent, who shall be the Town Manager. Subject to Article III (D) (6) the Tax Collector may delegate any or all functions to the Finance Director.

##### 1. Town Purchasing Agent Shall:

- a. Do all of the purchasing required by the various departments of the Town government, subject to the provisions of ARTICLE 3 Section 1 -6 of the Town Charter.
- b. Have charge of the storage of supplies and materials purchased by the Town and not delivered directly to the various departments and shall keep proper inventory records thereof.
- c. Keep informed and maintain records as to the sources of supply for all classes of purchases, price trends and all other related matters.
- d. Adopt such rules and regulations governing requisitions and transactions of business between himself/herself, as such purchasing agent, and the heads of the departments, officers, and employees of the Town as the Town Council may approve.
- e. Give opportunity for competition on purchases and sales except when the nature of the purchase or sale is such that competition is impossible or impractical.
- f. Receive sealed bids, if authorized by the Town Council, for purchases and contracts in excess of five thousand dollars (\$5,000.00), present them to the Town Council for approval and advise the Town Council on the advantages or disadvantages on contract and bid proposals.

#### **G. BOARD OF ASSESSMENT REVIEW**

1. There shall be a Board of Assessment Review as provided in ARTICLE 6, Section 2 of the Town Charter.
2. Its duties shall be those as specified in ARTICLE 6, Section 3 of the Town Charter.

## **ARTICLE VII – RECORDS DEPARTMENT**

### **A. ESTABLISHMENT**

There shall be a records department, the head of which shall be the Town Clerk. The Town Clerk shall be appointed by the Town Manager subject to confirmation by the Town Council. The Town Clerk shall appoint a Deputy Town Clerk to act as his/her agent, and as many Assistant Clerks as approved by the Town Council.

### **B. DUTIES**

The Town Clerk shall:

1. Serve as clerk of the Council, and perform such other duties for the council as it may require. He/she shall authenticate by his/her signature and be responsible for the filing, indexing and safekeeping of all proceedings of the Council, which shall be open to public inspection.
2. Make all arrangements for elections. Keep and maintain all election records and have custody of all property used in connection with elections.
3. Issue to every person appointed to any office by the Town Council or by the Town Manager, a certificate of such appointment.
4. Publish all legal notices unless otherwise provided.
5. File and preserve all contracts, surety bonds, oaths of office and other documents not required to be filed elsewhere.
6. Issue all licenses and permits and collect the fees required therefore as provided by State law and or Town Ordinance.
7. Notify the Chief of Police within one week after expiration date of each license or permit, when a new license or permit is to take effect on such expiration date has not been applied for, except when the Town Clerk knows that no new license or permit is required.
8. Obtain and maintain all statistics relating to births, marriages and deaths as required by law.
9. Be the custodian of the official Town Seal



10. Perform all duties and exercise all powers incumbent upon or vested in Town Clerks generally, which are not inconsistent with the Town Charter.
11. Maintain in his/her office a public information service, to furnish information concerning the town government relative to the public service. All requests for information shall be complied with promptly and courteously, provided the required information is available in the office of the Town Clerk; otherwise the Town Clerk shall either, as the applicant for information may prefer, refer the individual applicant to the proper department or request the proper agency of the town for such information as is required, and such agency shall supply the same as quickly as reasonably possible consistent with the extent or type of the information required. Nothing herein shall be construed to require the Town Clerk to supply, or to request any other department to supply, the type of information which either State law or the public interest required to be kept confidential. Nor shall any information be prepared or supplied when the cost of so doing would result in increased expense to the town; such information, however, shall be supplied at the expense of the applicant, provided that the estimated cost is paid for in advance by the applicant, subject to final adjustment on the basis of actual cost, or at an agreed upon charge paid by the applicant in advance to the Town Clerk or to the department undertaking such extra expense.
12. Account for all public moneys received by him/her in such manner as the Treasurer may prescribe.
13. Notify promptly all department heads of Council actions of concern to them.

## **ARTICLE VIII – POLICE DEPARTMENT**

### **A. ESTABLISHMENT**

1. There shall be a Police Department, the head of which shall be the Police Chief who shall be appointed by the Town Manager. There shall also be a Harbor Master, Canine Control Officer and a Clam Warden, all of whom shall be appointed by the Town Manager, but who shall be directly responsible to the Chief of Police.
2. Rank. Following the Police Chief in rank shall be a Lieutenant, two Sergeants and the officers.

## **B. POLICE CHIEF**

1. Appointment and Powers. The Police Chief shall be appointed by the Town Manager subject to confirmation by the Town Council. He/she shall be the chief executive officer of the Police Department subject always to the orders and regulations of the Town Manager and Council. In the exercise of his/her duties, the police Chief shall have the power to establish and enforce rules and regulations for the members and employees of the department, which rules shall, however, be consistent with the ordinances for the Town and the laws of the State.
2. Duties. The Police Chief shall be responsible for and have control over the Police Department and all police equipment belonging to the Town, and shall have the following duties:
  - a. to see to the proper service of all summonses, subpoenas, citations, executions, attachments, and rules of the Town Council.
  - b. to see that ordinances, rules and regulations of the Town and all statutes applicable therein are faithfully enforced;
  - c. to preserve the public peace, prevent infractions of the law, and arrest violators thereof;
  - d. to protect the rights of person and property;
  - e. to oversee the conduct of the officers and the employees of the police force, and to be held strictly responsible for such conduct and for the general good order of the department;
  - f. to keep adequate records of all personnel and equipment of the department including a log of all question, activities, and investigations;
  - g. to submit a monthly report to the Town Manager outlining the number and type of arrests for State offenses and the number and type of cases involving violations of Municipal ordinances;
  - h. to submit monthly to the Maine Department of Public Safety the "Uniform Crime Report" prescribed by State law;
  - i. to work with the Fire Chief to establish rules and regulations concerning activities which involve the two departments; and
  - j. to discharge such other duties as may be required of him/her by the Town Manager.

3. Resignation, removal, death, or disability. In the event of resignation, removal, death, or disability of the Police Chief, the officer deemed best qualified by the Town Manager shall perform the duties of the chief until removal of such disability or until a successor has been duly appointed.

### **C. POLICE OFFICERS**

Qualifications - Any person employed by the Town as a police officer shall have the following qualifications:

1. be at least 18 years of age;
2. be a citizen of the United States;
3. have a high school diploma or its recognized equivalent;
4. not have been convicted, by any State or by Federal government, of any crime, the punishment for which could have been imprisonment in a Federal or State prison or institution; nor shall he/she have been convicted of sufficient misdemeanors to establish a pattern of disregard for the law;
5. be finger printed and a search made of local, State, and national fingerprint files to disclose any criminal record;
6. possess good moral character;
7. be found after examination by a licensed physician or surgeon, to be free from any physical, emotional, or mental conditions which might adversely affect his/her exercising the power or duties of a police officer; and
8. complete satisfactorily at least a basic course of instruction within 12 months of the date of his/her appointment as a police officer.
9. Duties – It shall be the duty of the officers of the Police Department to acquire a full knowledge of and to enforce all ordinances of the Town and all statutes applicable therein, to become familiar with the rules and regulations established by the Police Chief concerning discipline, good order, property conduct, care and management of the police department and to respect and obey all orders of the Police Chief not in conflict with the laws or ordinances of the Town.

### **D. OTHER LAW ENFORCEMENT OFFICERS**

The Police Department shall also include Reserve Patrol Officers, Harbor Master, Canine Control Officer, and Clam Warden, all of whom shall be appointed by the Town Manager but who shall be directly responsible to the Chief of Police in the performance of assigned duties.

1. Duties of Reserve patrol officers. The same as for Regular Patrol officers.
2. Duties of Police Matron. It shall be the duty of a Matron to assist regular officers in law enforcement functions involving female persons.
3. Duties of Harbor Master. It shall be the duty of the Harbor Master to operate under the Harbor Rules and Regulations (CHAPTER 308).
4. Duties of the Clam Warden. It shall be the duty of the Clam Warden to enforce the Municipal Shellfish Ordinance of the Towns of Yarmouth and North Yarmouth (CHAPTER 305).
5. Duties of Canine Control Officer. It shall be the duty of the Canine Control Officer to enforce State and local laws regarding dogs (CHAPTER 309)

#### **E. DIVISION OF COMMUNICATIONS**

1. This division shall be responsible for all Municipal radio communications as the Town Manager and Council shall prescribe. It shall be under the direct daily supervision of the Police Chief who shall promulgate rules for this division in cooperation with the Fire Chief.
2. Dispatchers shall be appointed by the Town Manager following consultation with the Police and Fire Chiefs.

### **ARTICLE IX – FIRE/RESCUE DEPARTMENT**

#### **A. ESTABLISHMENT**

There shall be a Fire/Rescue Department, the head of which shall be the Fire Chief, who shall be appointed by the Town Manager.

1. Rank  
Following the Fire Chief in rank shall be the Deputy Chiefs, Officers and volunteers as Fire Chief shall determine.
2. Duties  
The Fire Chief shall be responsible for and have control over the Fire Department and all fire stations and equipment belonging to the Town, and shall have the following duties:
  - a. to see to the proper and speedy extinguishment of all accidental or intentionally caused fires;
  - b. to keep, or cause to be kept, adequate records of all fires, inspections, equipment, fire prevention efforts, and other activities of the department;

- c. to submit a monthly written report to the Town Manager and Council on the activities of the department;
- d. to establish rules and regulations concerning the discipline, good order, proper conduct, care, and management of the fire division, subject to approval by the Town Manager;
- e. to investigate the causes of all extended or destructive fires occurring within the Town;
- f. to work with the Police Chief to establish rules and regulations concerning activities which involve the two departments; and
- g. to discharge such other duties as may be required of him/her by the Town Manager.

**C. VOLUNTEER FIREFIGHTERS**

It shall be the duty of all volunteer firefighters to become familiar with, and proficient in, the handling of all of the apparatus of the Department, to be prepared at a moment's notice to respond to all alarms of fire, to observe all rules and regulations of the Fire/Rescue Department as established by the Fire Chief.

**D. EMERGENCY RESCUE DIVISION**

Within the Fire/Rescue Department there shall be a Division of Emergency Rescue which shall consist of the Fire Chief and such subordinate officers and volunteer rescue personnel as may be determined necessary by the Chief.

1. Rank

Following the Fire Chief in rank shall be such deputies, officers, employees and volunteers as the Fire Chief shall determine.

2. Powers and Duties

The Fire Chief shall be responsible for and have control over the Emergency Rescue Division and all apparatus belonging to the Town, and shall have the following duties:

- a. to see to the maintenance of technical proficiency of rescue personnel;
- b. to establish rules and regulations concerning the discipline, good order, proper conduct, care and management of the Emergency Rescue Division, subject to approval of the Town Manager.
- c. to work with the Police Chief to establish rules and regulations concerning activities which involve the two departments; and

- d. to submit an annual written report to the Town Manager on the activities of the department.

## **ARTICLE X - CIVIL DEFENSE DEPARTMENT**

### **A. ESTABLISHMENT**

The Department of Civil Defense shall consist of a Director and such other volunteer personnel as may be determined necessary by the Director.

### **B. DIRECTOR**

1. Appointment

The Civil Defense Director shall be appointed by the Town Manager.

2. Powers and Duties

The Civil Defense Director shall be responsible for the effective direction of emergency operations deemed necessary to protect life and property in disasters resulting from natural causes or from enemy action, and shall have the following duties:

- a. prepare and maintain and Emergency Operations Plan for the Town, subject to the approval of the Town Manager;
- b. submit an annual written report to the Town Manager on the activities of the Division.

3. Resignation, Removal, Death, or Disability

In the event of resignation, removal, death, or disability of the Director, the Town Manager shall perform the duties of the Director until removal of such disability or until a successor has been appointed.

## **ARTICLE XI – PLANNING AND DEVELOPMENT**

### **A. ESTABLISHMENT**

There shall be a Department of Planning and Development, the head of which shall be the Director of Planning and Development who shall be appointed by the Town Manager. He/she shall be assisted by the Code Enforcement Officer, Building Inspector, Plumbing Inspector, Electrical Inspector, the Sealer of Weights and Measures, and the Tree Warden, all of whom shall be appointed by the Town Manager. In addition, these inspectors will coordinate their work with the Fire Chief to assure that all safety regulations are being complied with.

**B. DUTIES OF THE DIRECTOR OF PLANNING AND DEVELOPMENT**

The Director shall be responsible for all matters pertaining to Land Use Planning, Code Enforcement, Site and Building Inspections and staffing of the Planning Board and Zoning Board of Appeals.

**C. DUTIES OF CODE ENFORCEMENT OFFICER**

The Code Enforcement Officer under the direction and supervision of the Director of Planning and Development shall be responsible for the enforcement of all codes and ordinances relating to the development of property, the construction of all buildings and the maintenance of all buildings and property. He/she shall insure that building standards and housing conditions are established and maintained, insure the structural safety and adequacy of new residential, industrial and commercial property, and detect and prevent the deterioration of existing facilities through periodic inspections.

**D. DUTIES OF THE PLUMBING INSPECTOR**

The Plumbing Inspector shall be responsible for issuing all plumbing permits and the inspection of work so permitted according to State Plumbing Rules and Sewerage Ordinance.

**E. DUTIES OF THE ELECTRICAL INSPECTOR**

The Electrical inspector shall be responsible for issuing all electrical permits and the inspection of work so permitted in according to statutes and codes adopted by the Town.

**F. SEALER OF WEIGHTS AND MEASURE**

The Town Manager shall appoint for an indefinite term to serve at his/her pleasure an officer of the Town titled Sealer of Weights and Measures, who is hereby placed under the direction of the Director or Planning and Development. He/she shall have such powers and perform such duties as may be authorized by State law or Town ordinance.

**G. DIVISION OF TREE CARE**

There shall be a Division of Tree Care, the head of which shall be the Tree Warden who shall be appointed by the Town Manager.

**H. DUTIES OF THE TREE WARDEN**

The Tree Warden shall:

1. be responsible for the care and control of all public shade trees upon and along all highways, streets and parks and shall enforce all laws relative to the preservation of the same.
2. be responsible for initiating an adequate tree planting program for the Town.
3. be responsible for a Town forest should one be developed.

## **ARTICLE XII – HEALTH DEPARTMENT**

### **A. ESTABLISHMENT**

There shall be a Department of Public Health, the head of which shall be the Health Officer who preferably shall be a physician appointed by the Town Manager, as provided under ARTICLE 3, Section 3 of the Town Charter

### **B. DUTIES**

The Health Officer shall have charge and control of all functions involved in protecting and preserving the public health; he/she shall have all power provided by State law or Town ordinance relative thereto. Among other powers, he shall exercise functions:

1. Communicable Disease Control, which shall include the power of quarantine and detention, and the adoption of such other measures will prevent the spreading, or aid in the prevention, of communicable diseases.
2. Nursing, which shall consist of the inspection of the operation of all private or public infant, pre-school, and school hygiene programs and their direct operation if and when so authorized by ordinance.
3. Enforce the Sewerage Ordinance as it relates to private systems.
4. License Inspector: Inspect promptly all premises which satisfactory sanitary conditions are a pre-requisite to issuance of a license and either deliver to the Town Clerk a certificate to the effect that health laws are complied with and that proper sanitary conditions exist or advise the Town Clerk of his/her refusal to so certify.
5. Complaints: The Health Officer shall receive and examine into all complaints made by any of the inhabitants of the Town concerning nuisances dangerous to life and health within the limits of the Town; enter upon or within any place or premises where nuisances or conditions dangerous to life or health are known or believed by him/her to exist, and personally, or by appointed agents, inspect and examine the same; and all owners and occupants shall permit such sanitary examinations. He/she shall have the power and it shall be his/her duty to order the suppression and removal of nuisances and conditions detrimental to life and health known by him/her to exist within the limits of the Town.

### **C. BOARD OF HEALTH**

1. A Board of Health consisting of five members shall be appointed by the Town Council. Appointments shall be for staggered three year terms.
2. The Board of Health shall constitute an advisory body to the Health Officer.



## **ARTICLE XIII – DEPARTMENT OF PUBLIC WELFARE**

### **A. ESTABLISHMENT**

There shall be a Department of Public Welfare, the head shall be the Welfare Administrator who shall be appointed by the Town Manager.

### **B. DUTIES**

The Public Welfare Administrator shall:

1. Be responsible for the planning, budgeting, reporting and control of the Town welfare program.
2. Exercise all powers and perform all duties conferred or imposed by State law upon welfare administrators.

## **ARTICLE XIV – DEPARTMENT OF PUBLIC WORKS**

### **A. ESTABLISHMENT**

There shall be a Department of Public Works, the head of which shall be the Public Works Administrator who shall be appointed by the Town Manager subject to confirmation by the Town Council. The number of employees shall be determined by, and each such employee shall be appointed by the Town Manager, except as he/she may delegate such power to the Public Works Administrator.

### **B. DUTIES**

The Public Works Administrator shall:

1. Be responsible for all matters pertaining to construction, management, maintenance, and operation the physical properties of the Town under the administrative direction of the Town Manager, except as otherwise provided by the Town Charter or by any ordinance.
2. Be responsible for all planning in connection with such changes or improvements to the physical properties as are essential or desirable for the future growth of the Town.
3. Be responsible for the care and maintenance of all property used by the public Works Department.

4. See that no encroachments are made upon any street, public landing, place, square, land or ground of the Town, by fences, buildings or otherwise, and whenever any encroachments shall hereafter be made upon the same, and the party making such encroachment shall neglect or refuse after notification to remove the same, to report the facts at once to the Police Chief and cooperate to the end that the person so offending shall be prosecuted and the nuisance abated.
5. Prepare or cause to be prepared all contracts and specifications that may be required for public works subject to final approval by the Town Manager.
6. Keep and maintain the Municipal landfill, solid waste transfer, and recycling and enforce any and all regulations concerning the same.

**C. HIGHWAY DIVISION**

There shall be a Highway Division of Public Works. The Public Works Director shall be responsible for the operation and maintenance of the Highway Division including proper care, construction, maintenance, and improvements to all town highways, ditches, drains, intersections, sidewalks, and related facilities.

**D. SOLID WASTE DIVISION**

There shall be a Solid Waste division of Public Works. The Public Works Director shall be responsible for the operation and maintenance of the Solid Waste Division including proper care, construction, maintenance, monitoring and improvements to landfill, transfer, and solid waste facilities and equipment, and the promotion of programs and policies to promote waste reduction, re-use, and recycling.

**E. MECHANICAL DIVISION**

There shall be a Mechanical Division of Public Works. The Public Works director shall be responsible for the operation and maintenance of the Mechanical Division including the care, record-keeping, maintenance and repair of all vehicles, equipment and fuel supplies for all divisions and departments of the town and to cooperate and assist the School Department as necessary. The Mechanical Division shall also provide welding, fabrication and similar services to all departments and divisions as requested.

**F. BUILDING CUSTODIAL DIVISION**

Building Custodial (Janitorial) services shall be provided by the Public Works Department for all public facilities open for public meetings and services except school buildings.

## **G. SUPERINTENDENT OF CEMETERIES**

There shall be a superintendent of Cemeteries who shall be appointed by the Town Manager. The superintendent of Cemeteries shall be responsible for the care and maintenance of the cemeteries in the town. He/she shall also keep and maintain a plan of the cemetery lots in the town.

## **H. (reserved)**

# **ARTICLE XV - DEPARTMENT OF ENGINEERING**

## **A. ESTABLISHMENT**

There shall be established a Department of Engineering, the head of which shall be the Town Engineer who shall be appointed by the Town Manager subject to the confirmation of the Town Council.

## **B. DUTIES OF THE TOWN ENGINEER**

1. Be responsible to provide engineering support, advice, and services to all divisions and departments of the Town and to the Town officers.
2. To review and comment on all proposed subdivisions, site plan reviews, and proposed private and public developments and public infrastructure changes and additions as required by applicable land use ordinances and regulations and town ordinances.
3. To inspect and approve all such developments and activities and to assure such improvement or changes conform to applicable standards for design and construction.
4. To head the Sewerage Division as hereinafter established.
5. To be responsible for capital facilities planning and major public infrastructure improvements (design, planning, permitting, construction, and capital improvements) including but not limited to municipal buildings, bridges, dams, piers, wharves, floats, parking areas associated with public buildings, outdoor recreational and sport facilities, flood controls, transportation facilities and terminals, and similar public resources. This shall not include routine maintenance, repair, scheduling or care.

## **C. WASTEWATER DIVISION**

There shall be a Wastewater Division of the Department of Engineering, the head of which shall be the Town Engineer. The Town Engineer shall appoint a Wastewater Superintendent.

The Wastewater Division Superintendent shall:

- a. be responsible for the operation and maintenance of the Sewerage Treatment Plant.
- b. is responsible for the operation and maintenance of the various pumping stations in the Town.
- c. Supervise house connections to the public sewerage system and issue permits for the same.
- d. Enforce the Sewerage Ordinance of the Town of Yarmouth in-so-far as it applies to the Public Sewerage System of Yarmouth.
- e. Maintain all plan and data files pertinent to the Public Sewerage System.
- f. Discharge all responsibilities conferred or imposed upon him/her by State law or Town ordinance and applicable licenses and permits

## **ARTICLE XVI - COMMUNITY SERVICES DEPARTMENT**

### **A. ESTABLISHMENT**

There shall be a Department of Community Services, the head of which shall be the Community Services Director who shall be appointed jointly by the Town Manager and School Superintendent subject to confirmation by the Town Council and School Board.

### **B. DUTIES OF COMMUNITY SERVICES DIRECTOR**

1. be responsible for all recreation programs.
2. be responsible for maintenance of parks, grounds adjacent to Municipal buildings, and Royal River Parkway. Also responsible for winter maintenance of ice rinks including snow removal and flooding.
  - a. be responsible for the stewardship, coordination, care of town open space and conservation lands and pedestrian trails, excluding sidewalks and pedestrian ways directly associated with roads and highways and maintained by the Public Works Department.
3. be responsible for all Adult Education programs.

## **ARTICLE XVII – BOARDS, COMMISSIONS AND COMMITTEES**

### **1. ESTABLISHMENT**

There are hereby established the following boards, committees and/or commissions: Harbor and Waterfront, Board of Health, Shellfish Conservation, Program Advisory Committee, Parks and Lands, and Recycling,

## **2. MEMBERSHIP**

Each Board and Commission shall be appointed by the Town Council and its membership shall be as follows:

1. The Program Advisory Committee shall consist of seven members with the term of office of each member to be three years. The term of office shall be staggered with two member terms expiring each year and three member terms expiring each third year. Two of the seven members shall be appointed by the Yarmouth School Committee. The Community Services Director shall be advisor to the committee.
2. The Harbor and Waterfront Advisory Committee shall consist of five members with the term of office of each member to be three years. The term of office shall be staggered terms with the term of office of one member expiring in one year and the term of office of two members expiring in each of the other two years. The Harbor Master shall be advisor of the Committee.
3. The Board of Health shall consist of five members beside the Health Officer as specified in the Health Code.
4. The Parks and Lands committee shall consist of seven members with the term of office of each member to be three years. The term of office shall be staggered with two member terms expiring each year and three member terms expiring each third year. The members shall be appointed by the Town Council.
5. The Shellfish Conservation Commission shall consist of representatives from the Towns of Yarmouth and North Yarmouth. There shall be six (6) members, the term of office of each to be three years as defined in the Shellfish Conservation Ordinance. (Chapter 305)
6. The Recycling Committee shall consist of seven members appointed by the Town Council. The term of office shall be staggered with two member terms expiring each year and three member terms expiring each third year.

## **3. DUTIES**

Each Board and Commission created herein shall act as an advisory group regarding the betterment of service within its field and as to any specific problems referred to it. Each Board and Commission shall discharge all duties given to it either by order of the Town Council or by ordinance.

## **4. REQUIRED BOARDS**

The following Boards are continued as required by Ordinance or State statutes.

1. Board of Assessment Review:  
There shall be a Board of Assessment Review whose membership and duties shall be as outlined in ARTICLE XVI.C of this ordinance.

2. Planning Board:  
There shall be a Planning Board whose membership and duties shall be those outlined in the Planning Board Ordinance. (Chapter 202)
3. General Board of Appeals:  
There shall be a General Board of Appeals whose membership and duties shall be those as outlined in the General Board of Appeals Ordinance. (Chapter 203).

## **ARTICLE XVIII – LICENSING BOARD (Repealed)**

## **ARTICLE XIX – CABLE TELEVISION**

### **A. ESTABLISHMENT**

There shall be a Yarmouth Cable Television System, the head of which shall be the Yarmouth Cable Television Committee.

### **B. MEMBERS APPOINTED BY THE TOWN COUNCIL**

1. The Yarmouth Cable Television Committee shall consist of three members to be appointed by the Town Council. The initial appointment will be for 1, 2 and 3 year terms and 3 year terms thereafter.
2. A chair shall be selected by the Committee from within its membership.

### **C. PUBLIC INVOLVEMENT**

The Yarmouth Cable Television Committee is authorized and responsible for the establishment, modification, supervision and disestablishment of such subordinate committees, groups, and teams as that committee may deem necessary; to appoint and remove volunteers to and from such committees, groups and teams, and to perform the foregoing functions in accordance with rules approved by the Town Council.

### **D. MISSION**

The Yarmouth Cable Television Committee is responsible for providing the citizens of Yarmouth as extensive and imaginative television coverage of civic and public events as the interest of the public and the availability of equipment and citizen volunteers permits. Such coverage may include, but need not be limited to:

Official meetings workshops and public hearings of, or sponsored by, the Yarmouth Town Council, the Yarmouth School Committee, and/or committees, boards and/or officials subordinate to the foregoing elective bodies.

Activities of, or sponsored by, the principal of a Yarmouth School or the Yarmouth Community Services Department.

## **E. CUSTODY OF PROPERTY AND SUPPLIES**

### **1. Ownership**

All equipment received from the Public Cable Company or other sources shall be the property of the Town of Yarmouth. All materials and supplies procured or received by the Yarmouth Cable Television Committee shall, upon receipt, become the property of the Town of Yarmouth.

### **2. Custody**

The Town Manager shall be responsible for the primary custody of all property, materials and supplies, and shall provide adequate facilities for the storage, maintenance repair and testing of television equipment and systems, which facilities shall be accessible to the Yarmouth Cable Television Committee.

## **F. PUBLIC SERVICE ANNOUNCEMENTS**

Official announcements shall be approved by the Town Manager, the Superintendent of Schools, or the Chair of the committee or board, as appropriate in each case.

## **G. CHANNEL RESTRICTIONS**

There shall be no advertising material designed to promote the sale of commercial products or services including advertising by and on behalf of candidates for public office.

No indecent or obscene material shall be cablecast.

No material shall be cablecast which violates any Federal or State law.

## **H. EDITORIAL**

### **Responsibility**

The Yarmouth Cable Television Committee shall have final authority, subject to appeal to the Town Council, in regard to content, scheduling and subject matter video taped and/or transmitted. The Chair of the Cable Television Committee shall act for the Committee subject to formal appeal to that Committee, when decisions have to be made prior to the next scheduled regular or special meeting.

CHAPTER 202

**PLANNING BOARD ORDINANCE**

Town of Yarmouth, Maine

Recodified: 1/15/98

Amended: 1/17/08

Amended: 6/18/15



# PLANNING BOARD ORDINANCE

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# **I. PLANNING BOARD**

## **A. ESTABLISHMENT**

The Planning Board of the Town of Yarmouth is hereby created and constituted under the provisions of the Charter of the Town of Yarmouth, ARTICLE VIII-A of the Maine Constitution and by Title 30, Chapter 201-A, Section 1917 M.R.S.A., 1964 as they may be amended.

## **B. APPOINTMENT, TENURE, VACANCY**

The Planning Board shall consist of seven (7) regular members appointed by the Town Council. They shall be residents and registered voters of the Town of Yarmouth and shall serve without compensation.

1. Neither a Municipal officer nor a member of the General Board of Appeals may be member of the Planning Board.
2. The term of office of each member shall be three years. The terms of office shall be staggered with the term of three members expiring in one year and the terms of office of two members expiring in each of the other two years.
3. The Board shall annually elect a chair and vice chair, and may create and fill such other offices as it may determine. Officers shall serve one-year terms and shall be eligible for re-election.
4. When there is a permanent vacancy, the Town Council shall, within sixty days of its occurrence, appoint a person to serve for the unexpired term.
5. A vacancy shall occur upon the resignation or death of any member, or when a member ceases to be a resident of the Town, or when a member fails to attend four (4) consecutive regular meetings, or fails to attend at least 75% of all regular and workshop meetings during the preceding twelve (12) month period. When a vacancy occurs, the Chair of the Board shall immediately so advise the Council in writing. The Board may recommend to the Council that the attendance provision be waived for cause, in which case no vacancy will then exist until the Council disapproves the recommendation.
6. The Town Council may also remove members of the Planning Board by unanimous vote, for cause, after notice and Hearing.

## **C. MEETINGS**

1. The chair shall call meetings of the Board as required and shall call at least one regular meeting of the Board each month. The chair shall also call meetings of the Board when requested to do so by a majority of the members or by the Municipal Officers. Special meetings may be held upon the call of the chair, or in

his/her absence, the vice chair, and at such other times as the Board may determine, provided that at least 24 hours notice is given to each member.

2. A quorum of the Board necessary to conduct an official Board meeting shall consist of at least four members. Four members must vote positively to constitute a valid action of the Board. The chair or the vice chair shall preside at all meetings of the Board. The chair or the vice chair shall be the official spokesperson of the Board.
3. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

#### **D. RULES AND REGULATIONS**

The Board shall adopt rules and regulations for the transaction of its business.

#### **E. DUTIES**

The Planning Board shall:

1. Prepare and adopt, subject to the approval of the Town Council, a Comprehensive Plan for the Town of Yarmouth in accordance with the provisions of 30 M.R.S.A., Section 4961, or acts amendatory or supplementary thereof.
2. Capital Program. The Planning Board, in consultation with the Town Manager and designated member(s) of the Town Council, shall prepare and submit to the Town Council, annually, a five-year capital program at least 120 days prior to the beginning of each budget year. The capital program shall contain such information as the Town Council may, from time to time, designate by order.
3. Give the public ample opportunity to be heard concerning the development of the Comprehensive Plan.
4. Advise the Town Council on proposed changes to the Zoning Ordinance.
5. Review and issue its order with respect to all proposed subdivisions and site plans.
6. The Board shall have forty-five (45) days in which to render a decision.
7. Items to be placed on the agenda must be submitted twenty-eight (28) days prior to the regular meeting.
8. If the Planning Board denies a preliminary or formal plan or application, the Planning Board may refuse to receive and consider a re-submittal or second appeal of the same or substantially the same application or plan or application for a period of six (6) months from the date of the denial. Provided, however, that if

in the opinion of the Chair of the Planning Board, substantial new evidence will be brought forward or that an error or mistake in law or misunderstanding of facts has occurred, or that the applicant has made material changes to the application or plan addressing issues that were salient in the basis for denial in the immediately previous application, the Planning Board shall not refuse to receive and consider such re-submitted or second appeal application or plan.

9. Approve the naming of all streets in proposed subdivisions.
10. Investigate and report on any problems referred to it in writing by the Town Council or by the Town Manager.
11. Make studies on any area of Town development as it may deem necessary.
12. Make recommendations to the Town Council concerning any projected Capital Improvement Programs.
13. Perform such duties and services necessary to its proper function within the limits of the appropriation made for the purpose.
14. Submit a status report of the Planning Board quarterly, at a regular meeting of the Town Council.
15. Make and enter into such contracts subject to the approval of the Town Council as it may deem advisable to carry out the objectives and purposes of the Board, and shall have such other powers and perform such other duties as may be necessary for the administration of its affairs on behalf of the Town, and may obtain goods and services necessary for its proper function within the limits of its budget as approved by the Town Council or as otherwise supplemented by the Town Council.

#### **F. INTERRELATION OF TOWN COUNCIL AND PLANNING BOARD**

The Board shall be an advisory body of the Town Council and the existing zoning, site plan, and subdivision ordinances shall not be revised or amended until the Board has made a careful investigation of all proposed revisions or amendments in conjunction with the Town's comprehensive plan. When the Council directs the Planning Board in writing to study and report back on proposed revisions or amendments to ordinances, the Board shall make its official report to the Town Council within sixty (60) days unless a longer period of time has been granted by the Council.

#### **G. ASSISTANCE OF MUNICIPAL STAFF**

The Director of Planning and Development with the assistance of the Building Inspector and Town Engineer for the Town of Yarmouth shall provide such technical, administrative and clerical assistance as required by the Planning Board.

## **H. APPEAL**

An appeal from a decision of the Planning Board shall be taken directly to Superior Court, pursuant to the provisions of the Maine Rules of Civil Procedure.

CHAPTER 203

**GENERAL BOARD OF APPEALS ORDINANCE**

Town of Yarmouth, Maine

Codified: 6/18/15

Amended: 10/20/16

**GENERAL BOARD OF APPEALS ORDINANCE**  
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## **GENERAL BOARD OF APPEALS**

### **A. ESTABLISHMENT AND ORGANIZATION**

Reestablishment: Pursuant to 30-A, M.R.S.A. § 2691, 3001, and 4353, and Article II.3 of the Yarmouth Town Charter, the present Zoning Board of Appeals for the town of Yarmouth as now constituted, is hereby reestablished and shall constitute the General Board of Appeals (the "Board of Appeals") under this ordinance, and each member thereof shall serve the remainder of his or her present term.

1. There shall be a General Board of Appeals consisting of five (5) members, all shall be residents of the town and appointed by the Town Council. The Board of Appeals shall elect annually a chair and a secretary from its membership. The members shall serve for terms of 3 years. Terms shall be staggered. Members shall continue in office until their successors are appointed.
2. No municipal official, town employee or a spouse of a municipal official may be a member or an alternate member of the board.
3. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by the majority vote of the members present and voting, excluding the member who is being challenged.
4. A member of the Board of Appeals may be dismissed for cause, after notice and hearing by the Town Council before the expiration of such member's term.
5. Vacancies shall be filled within sixty (60) days by appointment of the Town Council for the unexpired term.
6. The Board of Appeals shall meet monthly, except that the Board of Appeals is not required to meet if no appeal is pending. The Board of Appeals may also hold special meetings at the call of the Chairman.

### **B. PROCEDURE**

1. The Board of Appeals shall adopt rules necessary to the conduct of its affairs provided that any rule may be waived by the Chairman upon good cause shown and in keeping with this Ordinance and the Ordinances to which this Board of Appeals is the appellate body. The Chairman, or in his absence the acting Chairman, may call meetings of the Board of Appeals and administer oaths as required. The Chairman or acting Chairman shall also call meetings of the Board of Appeals when requested to do so by a majority of the members or by the Town Council. A quorum of the Board of Appeals necessary to conduct an official Board of Appeals meeting shall consist of at least 3 members. The Chairman shall preside at all meetings of the Board of Appeals and be the official



spokesman for the Board of Appeals. All meetings of the Board of Appeals are open to the public.

2. The Secretary shall maintain a permanent record of all board meetings and all correspondence of the Board of Appeals. The Secretary shall be responsible for maintaining those records which are required as part of the various proceedings which may be brought before the Board of Appeals. All records to be maintained or prepared by the Secretary shall be on file in the municipal office and shall be open to public inspection during regular office hours.

### **C. APPEALS TO THE GENERAL BOARD OF APPEALS**

1. The Board of Appeals may exercise jurisdiction only upon receipt of a written appeal from a person aggrieved, filed within 30 days of the decision complained of, stating the relief sought and the grounds thereof. The appeal shall be filed with the Town Clerk on forms to be approved by the Board of Appeals.
2. The Board of Appeals shall hear an appeal within 30 days from the date of receiving a written notice of request from an aggrieved party. Public notice thereof shall be posted in conspicuous places in the Town 7 days prior to the date of the meetings, as well as due written notice to the parties in interest. Any party may appear at the hearing in person or by authorized representative, agent or attorney. Before taking action on any appeal, the Board of Appeals shall hold a public hearing.

The Board of Appeals may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of the irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present its case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearings shall abide by the order of the Chair.

3. The Board of Appeals shall not accept or consider any oral or documentary evidence as testimony, which is submitted subsequent to the close of a hearing unless provisions for such submission are made prior to said closing.
4. If the Board of Appeals shall deny an appeal, a second appeal of a similar nature shall not be brought before the Board of Appeals within one year from the date of the denial by the Board of Appeals of the first appeal, unless in the opinion of a majority of the Board of Appeals, substantial new evidence shall be brought forward, or unless the Board of Appeals finds, in its sole and exclusive judgment,

that an error or mistake of law or misunderstanding of facts shall have been made.

#### **D. APPEALS TO SUPERIOR COURT**

Any person aggrieved by a decision of the Board of Appeals may appeal to Superior Court as provided in 30-A M.R.S.A. section 2691.

#### **F. JURISDICTION, POWERS AND DUTIES**

The Board of Appeals is authorized to hear variances and decide appeals from decisions, actions, or failure to act by the following officials and in the following matters:

1. By permitting authority in the administration or issuance of permits and approvals, or establishment of conditions thereon (if any), subject to paragraph 3 below:
  - a. Chapter 301 – Building Code
  - b. Chapter 304 – Sewerage Ordinance
  - c. Chapter 311 – Electrical Code
  - d. Chapter 315 – Flood Plain Management Ordinance
  - e. Chapter 317 – Sprinkler Ordinance, except decisions or waivers pursuant to Chapter 317 Article III (c)(2)
  - f. Chapter 320 – Stormwater Discharge Ordinance
  - g. Chapter 330 – Post-Construction Stormwater Management Ordinance
  - h. Chapter 401 – Fees and Permits Ordinance, except actions on fee waivers or reductions taken by the town council pursuant to Chapter 401 Article XXV(D)
  - i. Chapter 401 – Special Amusements Permits
  - j. Chapter 403 – Alarm Systems Ordinance
  - k. Chapter 407 – Emergency Services Fees
  - l. Chapter 604 – Right of Way Ordinance
  - m. Chapter 701 – Zoning Ordinance
2. All appeals and variance requests shall be in accordance with the applicable provisions of the subject code or ordinance, including any provisions thereof specifying the jurisdiction of the Board of Appeals.
3. The Board of Appeals' authority does not include appeals from any enforcement decisions made by the Code Enforcement Officer, Building Inspector, or other enforcement official. The term enforcement decisions refer to violation determinations and enforcement actions taken by the enforcement official. The Board of Appeals shall have no authority to act in any other matter except as expressly provided by ordinance or statute.

The Board of Appeals will have the power to hear decide all administrative appeals on a de novo basis, where it is alleged that there is an error in any order, requirement, decision or determination made by, or failure to act by,

the Permitting Authority in a review of a permit application under the ordinances listed in Subsection I(F)(1). When acting in a de novo capacity, the Board of Appeals shall hear and decide that matter afresh, undertaking its own independent analysis of the evidence and the law, and reaching its own decision.

For all matters before the Board of Appeals, the person filing the appeal or request shall have the burden of proof.

The Secretary of the Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for granting of a variance and an authorization for the Code Enforcement Officer or other applicable Permitting Authority to issue a development permit, which includes any conditions to be attached to the permit.

#### **Site Inspections**

The Board of Appeals may make site inspections as deemed necessary, together with the Permitting Authority and the petitioner, at a reasonable time as mutually agreed upon, in order to document the facts for the above finding.

Any and all site inspections and findings shall be recorded and made part of the permanent record.

### **G. DECISIONS**

1. Except as otherwise provided in the ordinance under which an appeal is brought, the concurring vote of at least three members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Permitting Authority, or to decide in favor of the applicant in any matter on which it is required to pass under this Ordinance.
2. The transcript of testimony (if any), and exhibits, together with all papers and requests filed in the proceedings shall constitute the record.
  - a. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the basis therefor, upon all material issues of the fact, law, or discretion presented and the appropriate order, relief, or denial thereof.
  - b. All decisions of the Board of Appeals shall be made within 30 days from the date an appeals hearing is held.
  - c. Notice of any decision shall be mailed or hand delivered to the petitioner, his/her authorized representative or agent, the applicable municipal official, and the Code Enforcement Officer within 7 days of the Board of Appeals's decision.

The Board of Appeals may reconsider any decision reached under this section pursuant to the provisions in 30-A M.R.S.A. section 2691.

**H. SUPERSEDING OF PRIOR ORDINANCE; RATIFICATION OR PRIOR BOARD ACTIONS**

Any ordinance enacted or legislative act prior thereto and establishing or purporting to establish a board of appeals by that or another name, or governing or purporting to govern its membership, authority or procedure, except for ordinances expressly excluded under Subsection (F)(3) above, is hereby superseded, it being the intent of this ordinance to supersede and replace any such board with a General Board of Appeals lawfully established and authorized, among other things, to hear zoning appeals and requests for variances pursuant to 30-A M.R.S.A. § 4353. Any act prior hereto of that board commonly known as the board of appeals and abolished hereby is hereby ratified and confirmed. Except as otherwise specified in this Ordinance, any reference in any other ordinance to a board of appeals or an appeals board shall hereafter mean the General Board of Appeals established by this Ordinance, shall confer jurisdiction on the General Board of Appeals and shall incorporate the appeal procedures of this Ordinance.

**I. BOARD OF ASSESSMENT REVIEW**

This Ordinance does not apply to the Board of Assessment Review. Nothing in this Ordinance shall be construed to any way repeal, supersede, amend, or alter the establishment, authority, appointment, or authority of the Board of Assessment Review established pursuant to Article II.3 of the Yarmouth Town Charter.

**J. SEVERABILITY**

The invalidity of any section or provision of this Ordinance shall not be held to invalidate any other section or provision, which shall remain in full force and effect.

CHAPTER 301

**BUILDING CODE**

Town of Yarmouth, Maine

**Repealed and Replaced: 8/19/04**

*Amended: 5/24/2005*

CHAPTER 301

## **ORDINANCE FOR ADOPTION OF THE INTERNATIONAL BUILDING CODE**

An ordinance of the Town of Yarmouth adopting the 2003 edition of the *International Building Code*, regulating and governing the conditions of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures in the Town of Yarmouth ; providing for the issuance of permits and collection of fees therefore; repealing CHAPTER 301 adopted 9-21-00 of the Town of Yarmouth and all other ordinances and parts of the ordinances in conflict therewith.

The Yarmouth Town Council of the Town of Yarmouth does ordain as follows:

Section 1A. That a certain document, three (3) copies of which are on file in the office of the TOWN CLERK of the Town of Yarmouth, being marked and designated as the *International Building Code*, 2003 edition, (see *International Building Code* Section 101.2.1, 2003 edition), as published by the International Code Council, be and is hereby adopted as the Building Code of the Town of Yarmouth, in the State of Maine for regulation and governing the conditions of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the Town of Yarmouth are hereby adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2A. The following sections are hereby revised:

Section 101.1 Insert: Town of Yarmouth

Section 1612.3 Insert: Town of Yarmouth

Section 1612.3 Insert: November 15<sup>th</sup>, 1984

Section 3410.2 Insert:

Maintenance and repairs: The owner shall be responsible for the maintenance and repair of structures. All equipment, systems devices and safe guards required by this code or by a previous statute or code or premises when erected or altered, shall be maintained in good working order. The requirements of this chapter shall not provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures.

Section 3A. That CHAPTER 301 entitled BUILDING CODE and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4A. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Yarmouth Town Council, hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsection, sentences, clauses and phrases be declared unconstitutional.

Section 5A. That nothing in this ordinance or in the Building Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6A. The Town Clerk of Yarmouth is hereby ordered and directed to cause this ordinance to be published, if required.

Section 7A. That this ordinance and the rules, regulations, orders and matters established and adopted hereby shall take effect and be in full force and effect after the date of its final passage and adoption.

Section 8A. Notwithstanding any provisions to the contrary, this code shall not be construed to apply to the following activities and no building permit shall be required.

## **ORDINANCE FOR ADOPTION OF THE INTERNATIONAL RESIDENTIAL CODE**

An ordinance of the Town of Yarmouth adopting the 2003 edition of the *International Residential Code*, regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings (townhouses) not more that three stories in height with separate means of egress in the Town of Yarmouth; providing for the issuance of permits and collection of fees therefore; repealing CHAPTER 301 adopted 9-21-00 of the Town of Yarmouth and all other ordinances and parts of the ordinances in conflict therewith.

The Town Council of the Town of Yarmouth does ordain as follows:

Section 1B. That a certain document, three (3) copies of which are on file in the office of the TOWN CLERK of the Town of Yarmouth, being marked and designated as the *International Residential Code*, 2003 edition, including (see *International Residential Code* Section R102.51, 2003 edition), as published by the International Code Council, be and is hereby adopted as the Residential Code of the Town of Yarmouth, in the State of Maine for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings (townhouses) not more that three stories in height with separate means of egress as

herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Residential Code on file in the office of the Town of Yarmouth are hereby adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2B of this ordinance.

Section 2B. The following sections are hereby revised:

Section R101.1 Insert: Town of Yarmouth

Table R301.2(1) (page 24): insert the following:

(a) Under "Ground Snow Load (pounds per square foot)" insert "60"

(b) Under "Wind Pressure (mph)" insert "100."

(c) Under "Seismic Condition by Zone" insert "C."

(d) Under "Weathering" insert "severe."

(e) Under "Frost Line Depth" insert "48 inches."

(f) Under "Termite" insert "none to slight".

(g) Under "Decay" insert "none to slight."

(h) Under "Winter Design Temperature for Heating Facilities" insert "to -5° F."

(i) Under "Ice Shield Underlayment Required" insert "Yes."

(j) Under "Flood Hazards" Insert "June 11, 1998 " date of adoption of the Floodplain Management Ordinance of the Town of Yarmouth

(k) Under "Air Freezing Index" insert "1500."

(l) Under "Mean Annual Temperature" insert "45° Fahrenheit."

]

Other State Laws in conflict with this Code are:

1. Fire safety codes and standards. See Title 25 sections 2452 and 2465
2. Electrical standards. See Title 32, section 1153A
3. Plumbing Code. See Title 32, section 3403-B
4. Oil and solid fuel burning equipment standards. See Title 32, section 2313
5. Propane and natural gas equipment standards. See Title 32, section 14805
6. Boiler and pressure vessel standards, See Title 32, section 15104-A
7. Elevator standards. See Title 32, section 15228
8. Energy efficiency standards. See Title 32 section 1415-D

Section 3B. That CHAPTER 301 entitled BUILDING CODE and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4B. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsection, sentences, clauses and phrases be declared unconstitutional.



Section 5B. That nothing in this ordinance or in the Residential Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6B. The Town Clerk of Yarmouth is hereby ordered and directed to cause this ordinance to be published, if required.

Section 7B. That this ordinance and the rules, regulations, orders and matters established and adopted hereby shall take effect and be in full force and effect after the date of its final passage and adoption.

Section 8B. Notwithstanding any provisions to the contrary, this code shall not be construed to apply to the following activities and no building permit shall be required.

CHAPTER 302

**TRAILER AND TRAILER CAMPS ORDINANCE**

Town of Yarmouth, Maine  
Recodified: 01/15/98

**CHAPTER 302**

# TRAILER AND TRAILER CAMPS ORDINANCE

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# TRAILER AND TRAILER CAMPS ORDINANCE

## ARTICLE I

### A. TITLE

This ordinance shall be known and may be cited at the “Trailer Ordinance of the Town of Yarmouth, Maine.”

### B. DEFINITIONS

When used in the Ordinance, words in the singular number include the plural and words in the plural numbers include the singular; the word “building” includes the word “structure”, and the word “shall” is mandatory and not directory. Words used in the present tense include the future.

For the purpose of this Ordinance certain words and terms are herewith defined as follows:

“**House-Car Trailer**”, is any structure intended for or so constructed that it will be primarily suitable for living or sleeping quarters, or for office purposes, mounted upon wheels, or any other device upon which it may readily be transported, either by its own power or some externally applied tractive effort; provided, however, that this definition shall not apply to any vehicle lawfully operated upon fixed rails.

“**Towing Unit**”, is any vehicle furnishing tractive effort for a house-car trailer.

“**Area Unit**”, is an area of ground space set aside in a trailer camp for the accommodation of one house-car trailer and towing unit.

“**Person**”, refers to any individual, firm partnership, association or corporation.

“**Trailer Camp**”, is any plot of ground in the Town of Yarmouth where two or more house-car trailers are invited or allowed to be located regardless of whether or not any charge is made for the use of such plot of ground.

“**Street**”, is any recognized thorough fare in the Town of Yarmouth.

### C. HABITATION AND MAINTENANCE OF HOUSE-CAR TRAILERS

1. It shall be unlawful for any person to maintain a house-car trailer in the Town of Yarmouth, outside a trailer camp which is duly licensed hereunder, except as hereinafter specifically permitted.
2. It shall be permissible hereunder for a bonafide guest of a house-holder to allow one house-car trailer unit to camp or park in his or her yard adjacent to such person’s house for a period of time not to exceed fifteen (15) days unless granted more time by the Town Council, provided that the person occupying such

dwelling house shall have granted permission to the house-car trailer occupants to use the said house-holder's toilet facilities.

3. Removal of the wheels or other transporting device except the temporary detachment of a towing unit, from any house-car trailer shall be construed as converting the same into a permanent structure subject to all the requirements of the Health and Sanitary Regulations and also cause house-car trailers to become taxable property, provided, however, that only one house-car trailer with wheels removed shall be permitted on any lot or parcel of land. It shall be permissible, however, for the owner to jack up and support a house-car trailer on temporary blocks or jacks, in order to take the weight off the tires, provided the wheels are not removed therefrom.
4. A house-car trailer may be parked or stored in the Town of Yarmouth regardless of the other provisions hereof, provided that it shall no be used for living or sleeping purposes during such time it is so stored or parked and provided moreover, that it shall not be a nuisance and does not constitute a fire hazard.
5. No house-car trailer shall be maintained in the Town of Yarmouth as a permanent office, but such office use as is compatible with the temporary demonstration and sale of such articles or services as may be readily transported in a house-car trailer, by a distributor or salesman may be permitted from a house-car trailer, stored on any parking lot district outside a trailer camp for a period of time not exceeding fifteen (15) days provided such house-car trailer is not used for living or sleeping purposes during such time.

#### **D. NO OPEN FIRES**

No open fires for burning grass, rubbish, papers, garbage or other nonputrescible refuse shall be permitted in any trailer camp.

### **ARTICLE II**

#### **A. TRAILER CAMP LICENSE**

1. It shall be unlawful for any person to establish, maintain or operate within the corporate limits of the Town of Yarmouth any house-car trailer camp, unless such person shall first obtain a license therefore as hereinafter provided.
2. House-car trailer camp licenses shall be issued by the Town Clerk only after approval of such license by vote of the Town Council in regular or special meeting.
3. Any person desiring to establish and operate a house-car trailer camp shall file with the Town Clerk a written application for a license to do so, together with plans to show fully the location and dimensions of the camp site and the location therein of the arrangement of all the house-car trailer area units; location and

dimensions of all existing and/or proposed buildings, toilet, bath and other washing facilities, slop sinks, water faucets or hydrants, sewer connections, or sewerage disposal layout, and driveways or other improvements, proposed or existing.

4. Such license application shall be accompanied by the required license fee and shall state the name and address of the owner or lessee, the location of the camp, the maximum number of house-car trailer units the camp will accommodate, and the name of the person who will be in charge and directly responsible for the operation and maintenance of said trailer camp.
5. After such investigations have been made as the Town Council may deem advisable, the Council shall approve or disapprove the license application; if said application is approved by the Council, the Town Clerk shall thereupon issue said license. Licenses shall not be transferable from person to person or place to place.
6. After the completion of all the necessary construction including water supply, plumbing fixtures and sewerage, the site of the trailer camp shall be inspected by the Health Officer or his/her agents and by the Building Inspector, who together after finding that all requirements of this and all other Town ordinances have been complied with shall so certify to the Town Clerk. Upon receipt of such certification, the Town Clerk shall issue a Certificate of Operation, and no trailer camp shall begin operating until such certificate of operation has been issued to such owner or lessee.
7. Each application of such license shall be accompanied by a license fee of fifty dollars (\$50.00) for a trailer camp capable of accommodating ten (10) house-car trailer area units or less, and an additional fee of \$5.00 for each additional house-car trailer unit in excess of ten (10). Each such license shall expire 30 days after annual Town Meeting next following date of issuance. Before any trailer camp license shall be renewed the premises shall be subjected to the same inspection as provided herein for the original application. Furthermore, any trailer camp or camps or parts thereof in existence on the date of this Ordinance must comply with all Sections of this Ordinance on request for renewal of license.
8. Such license shall be conspicuously posted on the premises of the trailer camp at all times.

#### **B. GROUND LAYOUT AND UNIT AREA REQUIREMENTS LIGHTING AND DRAINAGE WITH EXCEPTIONS**

1. Each house-car trailer unit space, which space shall include the towing unit, shall be at least 20 feet wide by 35 feet long and all such spaces shall be clearly defined on the ground by appropriate markers.

2. The unit area spaces in each trailer camp shall be arranged in rows so that each house-car trailer unit shall face and abut on a driveway or clear unobstructed space not less than 24 feet in width which clear space shall have an unobstructed access to a public street or private way.
3. No house-car trailer shall be permitted to park closer than 4 feet to the side lines which define its area unit, or shall it be so parked that it is closer than 10 feet to any other house-car trailer or to any building in the trailer camp.
4. No trailer camp shall be located within a distance of 500 feet to any school or church building.
5. No trailer camp shall be located within a distance of 300 feet from a public road or highway.
6. No trailer camp shall be located within a distance of 300 feet from normal high water level of the river, brook, stream or similar water source.
7. No trailer camp shall be located within a distance of 300 feet from a dwelling unless it be the owner's own dwelling.
8. Every house-car trailer camp hereafter established shall be located on a well drained area and be properly graded so as to prevent the accumulation of storm or casual water.
9. The grounds of every house-car trailer camp shall be adequately lighted at night by electric lights, properly spaced to enable patrons of the camp to easily find their way around and to facilitate inspection by the police; camp lighting shall be provided by the owner or lessee at no expense to the Town of Yarmouth and shall be satisfactory to the Chief of Police and Chief of the Fire Department.
10. Any trailer camp in operation on the effective date of this Ordinance cannot be enlarged beyond its present boundaries nor may additional house trailers in a trailer camp be added beyond those presently on location unless such enlargements or additional trailers comply fully with the provisions of this Ordinance. Any trailer camp in operation on the date of this Ordinance is exempt from the provisions of ARTICLE II, Section II.B, subsections II.B.5, II.B.6, and II.B.7 of this Ordinance for the first license period only provided it is operated in an orderly manner and kept as such.

## **ARTICLE III**

### **A. SANITARY REQUIREMENTS**

1. An adequate supply of pure water from an approved source for drinking purposes, that shall meet the requirements of the United States Public Health Service, shall be furnished to meet the requirements of each trailer camp.
2. Water shall be supplied from faucets or approved angle jet drinking fountains only. No common drinking cups will be permitted.
3. Each trailer camp shall provide toilets, wash basins, slop sinks, and garbage containers under the following conditions:
  - a. Water flush toilets shall be provided, and must be maintained in a clean and sanitary condition. Separate toilets for men and women shall be provided; one toilet seat for each 15 males and one toilet seat for each 15 females or fraction thereof, of the maximum number of persons occupying such land at any time.
  - b. All toilet facilities shall be housed, and the entrances screened fly tight, and be provided with sufficient light to provide ample illumination at night.
  - c. The floors of each toilet or urinal compartment shall be of concrete or other impervious materials. No trailer unit shall be further than 300 feet from a toilet.
  - d. The use of chemical water closet or any toilet in a house car trailer is forbidden unless said toilet is connected to a septic tank of suitable capacity, properly drained, accepted and approved by the Health Officer or his/her agent, while such house-car trailer is located within a trailer camp or anywhere within the limits of the Town of Yarmouth.
  - e. One lavatory or wash sink shall be provided for each three flush toilets and/or urinals.
  - f. No sink located within a house-car trailer shall be used unless it discharges into a sewer, or dry well of its own under the trailer, in an approved manner; or into an approved type container which shall be fly-tight and secured from spilling. Such containers must be emptied into a slop sink regularly so as to prevent spillage upon the ground, and in any case once in every 24 hour period. Slop sinks when used hereunder shall be provided with running water for every 10 area units or fraction thereof.
  - g. All septic tanks and filter beds must be 300 feet from normal high water level of a river.



- h. All waste and sewerage from toilets, showers, wash basins, slop sinks and other plumbing fixtures in all trailer camps shall be carried to suitable septic tanks, drainage beds and/or any other such means of treating the sewerage as shall be recommended by the Health Officer and approved by the State of Maine Public Health laws.
- i. Tightly covered garbage receptacles of non-absorbent material shall be provided by the trailer camp owner or lessee to take care of garbage in a sanitary manner.
- j. The trailer camp owner or lessee shall provide suitable receptacles for papers, rubbish, tin cans, ashes and all nonputrescible refuse which he/she shall dispose to at his/her own expense, and he/she shall at all times maintain the trailer camp in a clean and sanitary condition to the satisfaction of the Health Officer of the Town.

## **ARTICLE IV**

### **A. SAFETY REQUIREMENTS**

1. It shall be the duty of the owner, his/her agent or caretaker to keep a register and to record therein all house-car trailers and occupants which occupy space at his/her trailer camp. Said register shall specify dates and time of arrival, the name of the owner of the house-car trailer and towing unit and the state in which the house-car trailer and towing unit are registered and the number of the vehicular license.
2. It shall be the duty of the Health Officer to enforce all Health and Sanitation Regulations, the duty of the Building Inspector to enforce all Building Code Regulations and Ordinances, and the duty of the Police Department to maintain law and order in all trailer camps.
3. If at any time a trailer camp is found to be violating any of the provisions of this Ordinance or other pertinent ordinances of the Town of Yarmouth or the laws of the State of Maine, any duly constituted officer or agent of any department of the Town of Yarmouth charged with the duty to inspect such trailer camps or maintain order therein, shall notify the licensee of such trailer camp of such condition. If the violation is not corrected to the satisfaction of the department complaining, within a reasonable time after notification, not exceeding 30 days, the license for such trailer camp may be revoked by the Town Council on the recommendation of the department making the complaint.
4. Any person who shall violate any provision of this ordinance shall be punished upon conviction, by a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00) and all fines shall insure to the Town of Yarmouth.

Each day that such violation continues to exist shall constitute a separate offense.

CHAPTER 303

**FIRE ORDINANCE**

Town of Yarmouth, Maine

Recodified: 1/15/98

Amended: 7/17/98

Amended: 11/17/11

**CHAPTER 303**

**FIRE ORDINANCE**  
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# **FIRE ORDINANCE**

## **ARTICLE I**

### **A. TITLE**

This ordinance shall be known and may be cited at the "FIRE ORDINANCE of the Town of Yarmouth, Maine."

### **B. PROHIBITION OF FIRES**

1. It shall be unlawful for any person or persons to burn, kindle, ignite or set fire to any material on his/her own land or elsewhere, without first obtaining a permit from the Fire Chief.
2. It shall be unlawful for any person or persons to burn, kindle, set fire to or ignite any combustible material of any sort within the limits or any public way, within the Town of Yarmouth without written permission of the Fire Chief.
3. The Fire Chief shall, by publication in a newspaper or other publication having general circulation within the Town, prohibit or ban all outdoor burning of trash, leaves, grass, tree limbs, brush or other combustible materials for such a period of time as he/she deems necessary, when in his/her opinion a condition of serious fire hazard exists due to drought or other reasons. During the period of such prohibition or ban it shall be unlawful for any person or persons to set fire to, burn, kindle or ignite tree limbs, brush, lumber, leaves, straw, grass or other combustible materials anywhere out-of-doors, except that during such period of prohibition or ban the Chief may grant specific written permission for burning at such time and in such manner as he/she deems necessary to assure safe control of fire.
4. Pursuant to Chapter 306, Article III(3) of the Yarmouth Town Code, except for waste facilities licensed by the Maine Department of Environmental Protection, it shall be unlawful for any person to start, kindle, fuel, cause or allow the open burning or incineration of any solid waste within the Town other than trees, tree limbs, leaves and other wood waste. No solid waste shall be burned or incinerated within the Town without appropriate Town permits.

### **C. PROHIBITION OF SALE OR USE OF CONSUMER FIREWORKS**

1. No person shall use, sell, possess with the intent to sell or offer for sale consumer fireworks within the Town of Yarmouth or from any watercraft within the waters of the Town of Yarmouth except as hereinafter provided.
  - i. Definition: For the purposes of this ordinance, "consumer fireworks" shall have the same meaning as provided in Title 8 MRSA Section 221-A. The term consumer fireworks does not

include toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

2. Exceptions:

- i. This section shall not apply to a person issued a fireworks display permit issued by the State of Maine pursuant to Title 8 MRSA Section 227-A.

## **ARTICLE II**

### **A. EQUIPMENT**

1. No person shall use any Fire Department apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by said Department.
2. No person shall enter any place where Fire Department apparatus is housed, or handle any apparatus or equipment belonging to said Department unless accompanied by, or having special permission of, and authorized officer of said Fire Department.
3. The Municipal Officers of the Town of Yarmouth, at the request of the Fire Chief, are hereby authorized to enter into agreements or contracts with nearby communities or governing bodies of other organizations to provide the members of such communities or organizations with fire protection or to establish a mutual aid system.
4. No apparatus shall be used by the Fire Department or by any person or persons for any purpose except public fire prevention and control, or for instruction of department personnel, or permitted to leave the Town of Yarmouth except in response to a call for aid at a fire in a neighboring community, without the consent of the Chief of the Fire Department of Yarmouth. The officer in charge of the Department shall have the power to assign equipment for the response to calls for outside aid in accordance with ARTICLE II, Section II.A.4 and in any other cases only when the absence of such equipment will not jeopardize fire protection in the Town Of Yarmouth.

## **ARTICLE III**

## **A. GENERAL**

1. No person shall drive any vehicle over fire hose except on specific order from the Fire Chief or authorized officer of the Fire Department in charge where such hose is used.
2. It shall be unlawful for any person or persons to park any vehicle in any manner which will obstruct the entrance to any fire station in said Town, or obstruct the entrance to any such fire station in any other manner, or to park any vehicle within ten (10) feet of any fire hydrant or cistern.
3. No unauthorized person in any vehicle shall follow within five hundred (500) feet of any apparatus belonging to the Fire Department that is proceeding to answer an alarm, nor park any vehicle within three hundred (300) feet of a fire.
4. All motor equipment of the Fire Department and all personal cars or vehicles of Fire Department members shall have right-of-way over all other traffic when responding to a fire alarm.
5. No person shall maliciously turn in or cause to be turned in a false fire alarm.

## **B. PENALTIES**

Any person or persons found guilty of a violation of this Ordinance under ARTICLES I, II, or III shall be punished by a fine of not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) for each such violation to be recovered by complaint to the use of the inhabitants of the Town of Yarmouth.

CHAPTER 304

**SEWERAGE ORDINANCE**

Town of Yarmouth, Maine

Recodified: 1/15/98

Amended: 4/15/10

Amended: 2/20/14

Amended: 6/18/15

**CHAPTER 304**



# SEWERAGE ORDINANCE

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# **SEWERAGE ORDINANCE**

## **ARTICLE I**

### **A. TITLE**

This Ordinance shall be known, and may be cited as "The Sewerage Ordinance of Yarmouth, Maine."

## **ARTICLE II**

### **A. PURPOSE**

The purpose of this Ordinance is to promote the health and general welfare of the people of the Town of Yarmouth by regulating and restricting the construction and use of sewerage systems and the accumulation, transportation, treatment and disposal of sewage, including commercial and industrial wastewater, in such manner that the creation and operation of any sewerage system, whether public or private shall not result in pollution, health hazard or nuisance conditions.

## **ARTICLE III**

### **A. SCOPE**

Hereafter, any person owning any building or structure within the Town of Yarmouth, Maine, which is the source of sewage and/or of industrial and commercial wastes, or who proposes to erect such building or structure, shall conform to the requirements of this Ordinance, of the State Plumbing Code and of regulations of the State Department of Environmental Protection.

## **ARTICLE IV**

### **A. PUBLIC SEWERAGE REQUIREMENTS-SERVICE CONNECTIONS**

1. Public Sewer Connection Permit in the form indicated in Appendix I shall be applied for and shall be issued by the Town Engineer before any person shall uncover, make any connection to, enter, work near, use, alter, or disturb any part of the Public Sewerage System.
2. Construction of a sewer service from a public sewer or service stub if provided, to an existing building shall not begin until a Plumbing Permit, if required, and a Public Sewer Connection Permit has been issued. Construction of a new building which will be connected to the public sewer shall not begin until both a Public Sewer Connection Permit and a Building Permit has been issued.
3. Any person proposing to install plumbing for the collection and transportation of sewage in or from a building or structure standing on premises abutting a street in which there is a public sanitary sewer, or is located within 200 feet of public sanitary sewer, and access rights of way can be obtained, shall install a sewer to

transport the sewage to the public sewer, provided that the Town Engineer is satisfied that the expected load can be carried by the adjacent public sewer, and is compatible with the public pollution control facility. If not, a private sewerage system shall be required. See ARTICLE VIII.

4. A separate and independent building sewer shall be provided for each building except where written permission has been obtained from Town Engineer to do otherwise. The Town Engineer will not consider such exception until a detailed plan showing the proposed multi-building sewer is submitted. Multiple building connections will be considered only when such buildings are under single ownership.
5. Discharge from roof drains, exterior runoff, or sump pump discharges shall not be permitted to enter a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. The Town Engineer reserves the right to require owners of existing buildings to divert such water from the sewer.
6. Foundation drains or tile fields installed in new building or additions to existing structures shall not be connected to the public sanitary sewer. Foundation drains of existing buildings may remain connected to the public sewer providing no roof drains, yard drains, or other surface water inlets are connected thereto.
7. An existing building sewer may be used in connection with new construction providing it meets the requirements of this Ordinance and the State Plumbing Rules. The burden of proof that an existing line meets the requirements of this Ordinance shall rest with the property owner, and shall be satisfactory to the Town Engineer.
8. A building sewer which has been abandoned shall be capped to the satisfaction of the Town Engineer.
9. Every person owning a building or structure that is connected to the public sewer, shall maintain his/her building sewer from house to the public sewer in such a condition that it will not cause pollution, nuisance conditions, or allow excessive ground water to enter the public sewer. The Town Engineer may check the condition of the line, and ground water filtration in excess of 200 gallons per day shall be deemed excessive.
10. Every person owning a building or structure that is connected to the public sewer, or otherwise discharges wastewater to the public sewer system shall pay all rates, charges and fees as established pursuant to Article X of this Chapter and Article XXVI of Chapter 401.

## **ARTICLE V**

### **A. CONSTRUCTION REQUIREMENTS FOR PUBLIC SEWER CONNECTIONS**

Any new or replaced building sewer shall meet the following material requirements:

1. Cast iron soil pipe shall be service weight where the cover over the pipe does not exceed 8 feet, and shall be extra heavy if cover over the pipe exceeds 8 feet. Pipe shall meet the requirements of ASTM Designation A74-69. Joints may be caulked with oakum and pure lead not less than 1 inch deep, or may be of the rubber gasket type meeting the requirements of ASTM Designation C564-68. Hubless cast iron may be used with stainless steel clamp assemblies meeting the requirements of the Cast Iron Soil Pipe Institute Standard 301-69. Pipe fittings shall be coated with asphaltum or coal tar.
2. Polyvinyl chloride pipe shall meet the requirements of ASTM Designation D-3034,SDR35. Joints shall be solvent welded or shall use rubber compression ring gaskets meeting ASTM D-1860.
3. The size and slope of the building sewer shall be determined by the connected fixture units as in the Maine State Internal Plumbing Chapter 238, but in no event shall the diameter be less than 4" nor the pitch less than 1/8 inch per foot.
4. If a building drain is laid parallel to a bearing wall of a building it shall be no less than 5 feet from it and should be laid on either undisturbed soil or on well compacted fill.
5. A building sewer shall be laid at a uniform grade and in straight alignment. Any unavoidable changes in direction shall be made with appropriate fittings compatible with the type pipe being used. Such changes in grade and alignment shall be subject to the approval of the Town Engineer upon submission of a dimensioned plan showing the location of such fittings.
6. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Town Engineer. Pipe laying and backfilling shall be performed to the satisfaction of the Town Engineer and no backfill shall be placed until the pipe has been inspected. All excavations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Width of trench shall be a maximum of 3 feet at the crown of pipe level. All pipe shall be bedded in granular material extending at least 4 inches below the pipe and 4 inches above the crown of pipe. Such bedding shall contain no stones larger than 3/4 inch.
7. The persons causing the construction shall give the Town Engineer a forty-eight hour written notice of the time that construction will start in a public way or public easement. Sidewalks, parkways and public property disturbed in the course of the work shall be restored to its original condition to the satisfaction of the Town Engineer who will make a final inspection of the completed work. Construction within the public way shall be completed within 5 days. All backfill within a paved area in a public right of way shall be placed in eight (8) inch layers and thoroughly compacted by mechanical means to the satisfaction of the Town Engineer.

8. Any excavation which may disturb the root system of any shade trees in the public way shall be approved by the Tree Warden prior to commencement of work. If the Tree Warden determines that the work be supervised by a licensed arborist, the costs of such supervision shall be borne by the person making the excavation.
9. Sewer construction and work incidental thereto in any public way or public easement shall be performed under the supervision of, and to the satisfaction of the Town Engineer. The cost of supervision shall be borne by the person accomplishing the construction.
10. Excavation shall not be made over or immediately adjacent to any public sewer unless the Town Engineer has given his/her approval an work is done under his/her supervision. The person accomplishing the excavation shall be fully responsible for locating and protecting all utilities under or above any public way, including but not limited to water mains, storm drains, power lines, telephone lines, gas lines, telegraph lines or fire call cables. Any damage to such utilities shall be repaired to the satisfaction of the utility involved at no expense to the Town.
11. If a Y- or T-branch in the public sewer is available at a suitable location, the connection of the building sewer shall be made to such branch. Where no branch is available, a neat hole shall be cut into the public sewer and the building sewer connected thereto with a saddle compatible with the public sewer in accordance with accepted practice. All such joints shall be inspected by the Town Engineer prior to backfilling. No protrusion of the service line into the main sewer will be permitted.
12. A person installing a sewer connection shall defend, indemnify and hold harmless the Town and its officers, officials and employees in their public and individual capacities for any loss or damage that may directly or indirectly be caused the Town or any private or public utility by the installation or repair of any building sewer which is owned by him/her.
13. Except as specifically provided in ARTICLE VII, Section VII.D of this Ordinance, no person shall discharge or cause to be discharged any of the following substances into any public sewer:
  - a. Liquid or vapor having a temperature higher than 180 degrees F.
  - b. Water or waste which contains more than 50 mg/l of fat, oil or grease.
  - c. Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
  - d. Garbage that has not been properly shredded.

- e. Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood or any other solid or viscous substances capable of causing obstruction to the flow in a sewer, or other interference with the normal operation of the sanitary sewer or the pollution control plant of the Town.
- f. Waters, or wastes having a Ph lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to the sanitary sewer or the pollution control plant of the Town, or to the personnel of the Sewer Division.
- g. Noxious or malodorous gas or substance capable of creating a nuisance either singly or by interaction with other wastes, or any other substance which in the opinion of the Town Engineer will damage the sewerage system of the Town.
- h. Wastewaters with a biochemical oxygen demand or suspended solids in excess of 350 mg/l.
- i. Wastewaters containing any toxic substances which would interfere with the Town's biologic treatment system or to be hazardous to humans or animals, or in any way adversely affect the receiving waters within the Town.
- j. Wastewaters with a chloride content in excess of 300 mg/l.
- k. Septic tank pumpage except as specifically authorized by the Town Engineer as provided in this Ordinance.

## **ARTICLE VI**

### **A. SUBDIVISION OR MULIT-UNIT DEVELOPMENT SEWERAGE**

1. Whenever a subdivision or a multi-unit development is established within 500 feet of an accessible public sewer or is located so that a sewer system constructed in the subdivision may be reasonably connected to a public sewer as determined by the Planning Board, and the existing sewer system has adequate capacity to receive the flow, the developer shall construct a sewer system to serve the subdivision. The sewer system in the development and the connection to the public sewer shall be designed by a professional engineer legally registered to practice in the State of Maine. Preliminary design plans including tentative size, lines, grades, and manhole locations shall be filed with the Town prior to acceptance of the Final Development Plan by the Planning Board. Final detailed design plans must be submitted and approved by the Town prior to issuance of building permits. The following minimum standards shall be met.

- a. Sewer pipe shall be of one of the following materials:
  - (1) Polyvinyl chloride pipe meeting the requirements of ASTM Designation D3034-73-SDR35. Joints shall be rubber compression ring gaskets meeting ASTM D-1869.
  - (2) Sewer pipe shall have a minimum diameter of eight inches. Actual pipe sizes and grades shall be determined by the projected maximum flow, except that a minimum slope of 0.5% shall be required.
- b. Design shall be based on a Manning coefficient of 0.013. Should the Town require a pipe size larger than that required to serve the projected full population of the development, due to potential future development of areas in the vicinity of the planned system, the added cost of such pipe shall be borne by the Town.
- c. The sewer shall be straight in both horizontal and vertical alignment, unless specific approval of a curvilinear sewer is obtained in writing from the Town Engineer. Any curvilinear sewer shall be laid on a true circle with a minimum radius 150 feet.
- d. Manholes shall be installed on all sewers at all breaks in grade, changes in alignment and at the point of tangency and point of curvature of any curvilinear sewers. On straight runs or along a curvilinear sewers, manholes shall be provided at a maximum spacing of 400 foot intervals. Manholes shall be of precast concrete construction conforming to the requirements of ASTM Designation C-478. Barrel section shall be four (4) foot diameter. Cones shall be truncated to a 2 foot diameter top opening. Cone depth shall be a minimum of 4 feet. Manhole section joints shall be watertight utilizing rubber gasket of preformed mastic type joints approved by the Town Engineer. Forged aluminum steps shall be cast into the sections. Manhole bases shall be cast in place concrete or precast concrete. If precast concrete is used, a gasket connection assembly acceptable to the Town Engineer shall be used to assure watertightness. Brick or concrete masonry channels shall be provided in all manholes. Masonry shall extend to the crown of the pipe. Brick for channel construction shall meet the requirements of AASHTO Designation M 91-42, Grade SA, size No. 1, wire cut. Drop manholes shall be provided whenever an elevation change of 15 inches or more is required. Detailed plans of such manholes will be required. Manhole frames and covers shall be of cast iron or ductile iron and shall be designed to carry an H-20 highway load. The cover shall have the word "Sewer" cast thereon.
- e. Building sewer stubs shall be installed from T or Y fittings installed at appropriate locations. Such stubs shall extend to the limit of the public right of way.

- f. All sewers and service stubs shall be laid on a granular bed extending a minimum of 4 inches below the barrel of the pipe. Bedding material shall be free draining and contain no stones larger than 3/4 inch. Bedding material shall also extend at least 4 inches above the pipe crown. Above this level the trench shall be backfilled with excavated material, except that if the Town Engineer deems the material unsuitable for backfill, a granular material shall be used. Trench width at the crown of the pipe shall be limited to three (3) feet. Backfill shall be placed in 8-inch layers and compacted by mechanical means to the satisfaction of the Town Engineer.
- g. The sewer, including such service stubs as are installed, shall be tested upon completion. Testing leakage in gravity sewers shall be after installation of house service fittings and leads, and after completion of backfill of the gravity sewer trench. Infiltration testing shall only be permitted and performed in areas approved by the Town Engineer. The Town Engineer shall be present during all testing.
- h. Testing methods and procedures shall be approved by the Town Engineer.
- i. In any subdivision which cannot be connected to the public sewer as defined above, private disposal systems as set forth in ARTICLE VIII shall be installed.

## **ARTICLE VII**

### **A. DISPOSAL REQUIREMENTS FOR INDUSTRIAL WASTES**

For the purpose of this Ordinance a waste water shall be classified as an industrial waste if it has any of the following characteristics:

1. A unit BOD5 in excess of 350 MG/L.
2. A unit suspended solids in excess of 350 MG/L.
3. A total flow of more than 25,000 gallons per day entering the public system at one or more points from a single commercial or industrial enterprise.
4. A total of BOD5 load, or suspended solids load of more than 50 pounds per day entering the public system at one or more points from a single commercial or industrial enterprise.
5. Any waste water with a Ph below 5.5 or above 9.0.
6. Any waste water containing any toxic substances which would interfere with the Town's biologic treatment system, or be hazardous to humans or animals, or in any way affect the receiving waters of the Town.



7. Any waste water which is excluded from entry to the public sewer by ARTICLE V, Section A.14.
- B.** Any establishment or firm which will generate an industrial waste as defined above shall, prior to commencing construction of such facility, file with the Town Engineer a complete characterization of the expected waste water flow, including but not limited to the following:
1. Average volume of waste water in gallons per day.
  2. Maximum daily waste water flow in gallons per day.
  3. Time schedule of discharge, including estimated hours of production, average hourly flow during production, and estimated peak flow.
  4. Unit BOD5 and suspended solids in MG/L of waste flow and estimated average and maximum pounds per day.
  5. BOD5 grab sample of waste flow.
  6. pH range of wastes.
  7. Designation of any heavy metals or other substances not typically found in domestic wastewater, including estimated quantity to be discharged.
- C.** If the Town Engineer deems the proposed wastewater compatible with the Town's sewerage system, the wastewaters shall be connected to the public system.
- D.** The Town Engineer may require that the industrial waste be pretreated to a degree sufficient to make it compatible with the Town's sewerage system. Such pretreatment facilities shall be designed by a registered professional engineer licensed to practice in the State of Maine. Plans for pretreatment facilities shall be submitted to the Town Engineer for review and approval. Upon such pretreatment, the wastewater shall be connected to the public sewer.
- E.** If the Town Engineer deems that the industrial wastewater cannot be pretreated so as to be compatible with the Town's sewerage system, the wastewater shall not be connected to the public sewer system.
- F.** Subsurface disposal of an industrial waste shall not be permitted.
- G.** The connection of an industrial waste service line to the public sewer shall be designed by a registered professional engineer and shall be sized to accept the flow generated. The requirements of ARTICLE V of this Ordinance shall be met unless written exception is granted by the Town Engineer.

- H. Each industrial waste connection to the public sewer system shall be equipped with an access manhole or chamber which is easily accessible for the purpose of allowing sampling and gauging of the waste flow. The Town Engineer may require an automatic flow recording device at his/her option. The Town Engineer shall have rights of access to this chamber at all times. The cost of installation and maintenance of the access chamber and any measuring equipment shall be borne by the industry.
- I. Prior to acceptance of any industrial wastewater into the public system, the Town will require a service contract with the industry. Such service contract will specifically indicate the conditions under which the industrial waste may enter system including limits on quantity and characteristics.
- J. If the Town deems that acceptance of the industrial wastewater will create an operational cost of the system in excess of that normally expected, it may establish a service fee reflecting such cost based on quantity of flow, BOD load or other parameters. If such a fee is established, its method of measurement and computation shall be spelled out in the service contract. The form of service contract shall be acceptable to the Town Attorney.

## **ARTICLE VIII**

### **A. PRIVATE SEWERAGE SYSTEMS**

1. Sewerage from any building or structure not discharged into a public sewer shall be discharged into an approved private system.
2. Private sewerage systems shall be under the jurisdiction of the Plumbing Inspector.
3. Construction of any building to be served by a private sewerage system shall not be commenced until the following permits are obtained:
  - a. Private Sewerage System Permit from the Plumbing Inspector.
  - b. Plumbing Permit from the Plumbing Inspector.
  - c. Building Permit from the Building Inspector.
4. If the effluent from a private sewerage system is to be discharged to a surface water, a Private Sewerage System Permit will not be issued until the owner of such a proposed system has secured a valid discharge license from the Maine Department of Environmental Protection and a copy has been filed in the Town Hall. The Plumbing Inspector shall have access to the outfall of such system at all times to sample, test or gage the effluent and reserves the right to forward such test data to the Department of Environmental Protection. Should the results

of such test indicate the effluent does not meet the conditions of the license, the owner shall take immediate corrective action.

5. If the effluent from a private sewerage system is to be discharged underground by subsurface disposal means, the following criteria shall be met:
  - a. The subsurface disposal facility shall meet the requirements of State of Maine Subsurface Wastewater Disposal Rules Chapter 241 with the following exceptions:
    - (1) The local Plumbing Inspector shall consider devices or systems which require a state variance or experimental systems or engineered systems only after written approval from the State is presented. However, such approval by the State in no way obliges the local Plumbing Inspector to approve such device, and nothing in this Section shall be taken to limit the Plumbing Inspector's or Town Official's participation in the permitting and variance procedures of the Maine State Department of Human Services, Division of Health Engineering.
    - (2) Use of cesspools or dry wells for treatment of wastewater shall not be permitted and industrial waste disposed by subsurface means shall not be permitted.
    - (3) Where conflicts exist between the State Code and this Ordinance relative to the location and construction of building sewers, the provisions of this Ordinance shall govern, when more restrictive than the Maine Subsurface Wastewater Disposal Rules.
    - (4) Aerobic tanks shall not be permitted.
  - b. Any subsurface disposal system of over 2,000 gallons per day shall be designed by a registered professional engineer.
  - c. A plan shall be prepared for each subsurface disposal system accurately locating the septic tank, subsurface disposal system, building location and other appurtenances in relation to lot lines and building location. The location of facilities on the lot shall be subject to the approval of the Plumbing Inspector and shall not be changed after construction has begun. The location of soil tests shall be filed in the Town Office and with the Plumbing Inspector prior to issuance of a permit.
  - d. Twenty-four hour notices shall be given to the Plumbing Inspector for inspection of subsurface disposal fields prior to backfilling. The Plumbing Inspector shall have the right to require the owner to modify a disposal system to bring it into compliance with the approved design. If upon inspection he/she, the Plumbing inspector, finds the soil or site conditions

differ from those indicated on the application, or if the system is not in compliance with this Ordinance, he/she shall notify the permittee to require modifications and or additions to the system as are appropriate.

6. Any collection or interception sewers in any private sewerage system shall meet the requirements of ARTICLE VI of this Ordinance. House connections to such sewers shall meet the requirements of ARTICLE V of this Ordinance.
7. No lagoon treatment and spray disposal systems shall be permitted.
8. If a private sewerage system consists of a complete workable system of collection sewers, interception sewers, treatment works, and outfall, and is installed in compliance with this Ordinance, the owner may petition the Council for the Town to accept said system into public ownership. Prior to acceptance by the Town, the following conditions must be met:
  - a. The system has operated satisfactorily for a minimum period of six (6) months prior to acceptance.
  - b. The Town undertakes a series of three 24-hour composite samples taken of the influent and effluent and said samples are tested to indicate total flow and five day BOD and suspended solids removal efficiency. Cost of testing shall be borne by the owner.
  - c. Complete design data, record drawings, and operation manuals are submitted to the Town for approval. Such documents shall become the property of the Town upon acceptance.
  - d. The Town must be issued a license for discharge by the Department of Environmental Protection. Any legal, engineering or other costs incurred by the Town in securing such license shall be borne by the owner.
  - e. At least 50 percent of the proposed buildings or structures for which the private sewerage system was designed shall be occupied and connected to the system.
  - f. System design shall be such that undue operation and/or maintenance costs will not be incurred, especially during the winter months. This determination shall be made solely by the Town upon the advice of a registered professional engineer selected by the Town.
  - g. In no case will the Town consider acceptance of any system whose design average daily flow is less than 5,000 gallons.
  - h. A guarantee bond in an amount of at least 50 percent of the system construction cost shall be obtained and posted in the Town Office. Should the Town be required to repair, expand, improve or otherwise expend funds

beyond normal maintenance to assure system operation and compliance with water quality standards, the sums so expended shall be taken from the posted bond. The term of the bond shall be two years.

- i. Systems to be considered for acceptance into public ownership shall not be located within the LDR or RR zones.
9. In the event that it is not possible to meet the requirements for subsurface disposal, and a license for surface water discharge from the Department of Environmental Protection is not granted, and no other alternative is available, the Plumbing Inspector shall not issue a private sewerage system permit, except for existing structures and under the following conditions:
- a. Gas fired, electric or composting toilet units shall be provided to receive toilet wastes, and a watertight receiving tank shall be provided with a minimum capacity of 2,000 gallons, plus an additional 400 gallons for each bedroom in excess of three. The provisions of the Maine Subsurface Wastewater Disposal Rules shall apply to holding tank installation.
  - b. The owner of such seasonal dwelling shall be responsible for removing the contents of the receiving tank periodically to assure that no overflow occurs. The wastewater pumped from such tanks may be placed into the public sewer system at such places and at such times as may be determined suitable by the Town Engineer. Such disposal shall meet the requirements of Section VIII.A.9 of this ARTICLE.
  - c. The Plumbing Inspector shall have the right of entry to inspect a holding tank during the daylight hours to assure no overflow occurs. If such inspection indicates an overflow occurring, the Plumbing Inspector shall arrange to have the tank emptied immediately with the costs of such removal to be borne by the owner of the premises. Should the Plumbing Inspector find such overflows occurring more than twice in any summer season, he shall so notify the Health Officer who shall order the premises vacated for the remainder of the calendar year.
10. Every person shall maintain his/her sewerage system so that it will not result in a nuisance or health hazard, and the responsibility for the correction of any malfunction of a private sewerage system shall be that of the person or persons owning the same, or, in the case of a private communal sewerage system, owners of all lots, parcels of land, or individual units in a multi-unit development served by the same. Whenever it becomes necessary to pump out the contents of a private system, the owner or owners shall engage a commercial septic tank cleaner to accomplish such work. The disposal of this material shall be the responsibility of the cleaner and shall not be deposited in the Disposal site. The septic tank cleaning contractor shall notify the Town Engineer of his/her intent to discharge at the designated, approved Town disposal site at least 24 hours prior to such discharge. The Town Engineer will designate the location and time that

such discharge will be permitted. Prior to any septage discharge to the public sewer system the contractor shall present an application for such discharge signed by the owner or owners of the property from which the septage was pumped to the Town Engineer.

11. No private communal sewerage system shall be constructed unless the applicant proposing to construct a communal sewerage system submits for Town approval a Declaration of Restrictions and Covenants (or other similarly titled document) (the "Declaration"), which Declaration shall be recorded in the Cumberland County Registry of Deeds prior to the sewerage system being put into service, and shall incorporate and require the following:
  - a. The formation of a homeowner's association (the "Association") to enforce the terms of the Declaration;
  - b. That the terms, conditions, obligations and restrictions set forth in the Declaration shall be binding upon owners of all lots or parcels of land served by the communal sewerage system, and that all deeds conveying the lots utilizing the communal sewerage system shall expressly indicate that the property is subject to the Declaration;
  - c. That all owners of lots or parcels of land served by the communal sewerage system are members of the Association (the "Members");
  - d. That the Association shall be responsible for customary periodic maintenance, repair and, if necessary, replacement of the communal sewerage system, all as may be required to meet applicable governmental standards, including those established by the Maine Department of Health and Human Services and the Town of Yarmouth as the same may be amended from time to time (the "Maintenance Standards") and that the Members are subject to all enforcement rights of the State and the Town as set forth in the Maintenance Standards;
  - e. That the Association shall establish and maintain an adequate fund for the regular maintenance, repair, and, if necessary, replacement of the communal sewerage system (the "Maintenance Budget") and shall assess each Member to fund the Maintenance Budget, which assessment shall be made by the Association on an annual, monthly, or other periodic basis as the Association shall from time to time determine;
  - f. That all sums assessed by the Association to fund the Maintenance Budget shall constitute the personal liability of the Member so assessed and also, from the time such sums become due until fully paid, shall constitute a lien against the lot or parcel of land of such Member in favor of the Association, provided, however, that the Declaration may provide that such lien may be subordinate to any first mortgage recorded before such assessment became due;

- g. That the Association shall take prompt action to remedy a Member's failure to pay any assessment or other charge, including without limitation, special assessments of the other Members, foreclosing the lien, taking a deed in lieu of foreclosure, or bringing an action to recover unpaid assessments; and
- h. That upon written request of the Town, the Association shall promptly provide the Town with evidence of compliance with the Maintenance Standards.

Nothing set forth above shall be construed to prohibit the Declaration from addressing additional matters pertaining to the subject property, including without limitation, requiring and authorizing the Association to have responsibilities beyond stewardship of a private communal sewerage system. If there is an existing declaration in place because of existing common facilities serving the property owners to be served by the communal sewerage system, the requirements of this section may be satisfied by an amendment to the existing declaration.

- 12. A person shall defend, indemnify and hold harmless the Town and its officers, officials and employees in their public and individual capacities for any loss or damage to the Town that may directly or indirectly be occasioned by the installation or repair of any private sewerage system owned by him/her.
- 13. The issuance of any permit or approval in connection with the construction of a private sewerage system shall not be construed to mean that the proposed sewerage system will, necessarily, function properly. The person causing the installation of the sewerage system shall make his/her own personal investigation to the suitability of his/her proposed system, and shall assume all responsibility for its proper operation.
- 14. The Plumbing Inspector shall have the right during any daylight hour, to enter upon the premises where a private sewerage system is located for the purpose of investigating the functioning of the same. If the Plumbing Inspector deems that an immediate health hazard of such a nature as to pose a threat to the health of the Town, or its inhabitants, and the owner or owners of the same, or, in the case of a private communal sewerage system, owners of all lots or parcels of land served by the same, cannot be located, or are unable or unwilling to correct such hazard, he/she may adequately remedy such hazard in accordance with the provision set forth in Title 30-A, MRSA Chapter 161, Section 3428 as amended from time to time.
- 15. The Plumbing Inspector shall retain a record of each system inspected, including the name and address of the subsurface waste disposal system owner, a description of the location and the type of system (if available) and whether or not the system or any of its components is operating improperly. For any system found to be operating improperly, the report shall also include a copy of the site

investigation report. The inspection shall consist of visual reconnaissance followed by a more detailed investigation as the Plumbing Inspector deems necessary.

16. For any subsurface disposal system which is serving an existing dwelling or structure and which must be upgraded, altered, or replaced, a site evaluation in accordance with the Maine State Plumbing Rules and this Ordinance shall be conducted to determine the appropriate type, size or location of the system. The Plumbing Inspector shall maintain a list of site evaluators permitted to conduct site evaluations in Yarmouth. Site evaluators shall be included in this list upon the presentation, to the Plumbing Inspector, of a state license to conduct site evaluations, and evidence that the site evaluator has read this Ordinance. Site evaluators shall be removed from this list for violation of the Maine State Subsurface Wastewater Disposal Rules and/or this Ordinance. The results of any site evaluation performed by a site evaluator in accordance with Chapter 4 of the Maine State Plumbing Code shall be signed and numbered by the site evaluator and a copy of all evaluations performed shall be provided to the Plumbing Inspector. In the event that a properly conducted site evaluation fails to locate an area for the installation of a subsurface disposal system no plumbing permit shall be issued, and no subsurface disposal system installed on that property, until the owner submits another satisfactory site evaluation which does locate an acceptable area, or until the owner presents the Plumbing Inspector with a valid wastewater discharge license.
17. All sites proposed for subsurface disposal system shall be tested for soil suitability in accordance with the Maine State Subsurface Wastewater Disposal Rules and this Ordinance. The Plumbing Inspector shall be notified of the location, date and time of all site evaluations to be performed. At his/her discretion, he/she may require site evaluations to be performed in his/her presence. At least one test pit within the proposed absorption field and four test borings or test pits spaces at the proposed absorption field corners shall be made to assure that the minimum depth to bedrock, impervious strata, or ground water exists throughout the proposed absorption field. The location of all test pits and borings shall be determined by the site evaluator with a transit or engineer's level, and these reference points shall be shown on the HHE-200 form.
18. Subsurface wastewater disposal systems shall be designed in accordance with the most recent revision of the "Maine Subsurface Wastewater Rules", 144A CMR 241, except where the Ordinance imposes a more restrictive requirement.
19. The local Plumbing Inspector shall maintain records of site investigation.

## **ARTICLE IX**

### **A. NON-CONFORMING USES**

Any sewerage system existing at the time of enactment of this Ordinance shall be exempt from the requirements of this Ordinance except as follows:



1. When any sewerage system is replaced or enlarged the new work shall conform to the requirements of this Ordinance.
2. Whenever a private sewerage system shall become malfunctioning as determined by the Plumbing Inspector, the owner of such system shall correct the malfunction to meet the requirements of this Ordinance. If such corrective action is not taken, the Plumbing Inspector may direct the Town to take corrective action.
3. Whenever a building sewer that is connected to a public sewer malfunctions, the owner of such building sewer shall correct the malfunction to the satisfaction of the Town Engineer.
4. Whenever running water from any source is installed in a building or structure, where, prior to the enactment of this Ordinance, a vault or pit privy was in use, the plumbing shall be connected to the public sewer or to a private sewerage system as required and the vault or pit privy shall be removed and/or filled.
5. Whenever running water either from the public water system or from a private water supply is in use in a building at the time of enactment of this Ordinance, and a vault privy is also in conjunction with said building, the person owning said building shall, within six months of said enactment, either connect said building to the public sewer or install a private sewerage system as provided for in this Ordinance, and shall remove such vault privy and/or pump it out and fill it with sand to the satisfaction of the Plumbing Inspector.
6. In situations where it is impossible to install a private sewerage system and a vault privy must be used, such privies on or before January 1, 1978 shall be brought into conformance with the recommendations of the Division of Health Engineering, Department of Human Services, State of Maine.
7. Whenever additional fixture units or bedrooms are added to an existing building and should the Plumbing Inspector determine such addition will exceed the capacity of the existing disposal system, the Plumbing Inspector shall require additional disposal facilities. Facilities thus added shall meet the requirements of this Ordinance or the applicable State laws and rules, whichever is the more stringent.

## **ARTICLE X**

### **A. ADMINISTRATION**

- a. The office of Town Engineer is hereby created. The Town Engineer shall be the Public Works Administrator as defined in ARTICLE XV of the Administrative Code.

1. The Town Engineer shall be appointed by the Town Manager in accordance with the Town Charter.
  2. Jurisdiction: The Town Engineer/Public Works Administrator shall have the following powers and duties:
    - (a.) to supervise the Sewer Division Superintendent.
    - (b.) to provide engineering services and technical advice to the Sewer Division & the Plumbing Inspector.
    - (c.) to oversee the construction of the public sewers, storm sewers, and treatment plant enlargement and modifications as may be authorized by the Town Council.
    - (d.) to record on plans the location and elevation of all new service connections to the public sewer.
    - (e.) to insure implementation or compliance with all Federal, State and Town laws and regulations relative to all sewerage work in the Town and to enforce this Ordinance insofar as it applies to Public Sewer Systems of Yarmouth.
    - (f.) to maintain and safely keep records, instruments, plans, profiles, records of surveys and all other property and papers relating to engineering work of every description belonging to the Town.
    - (g.) to issue permits for connections to the public sewerage system.
    - (h.) to periodically report to the Town Manager and the Council on the activities of the Sewer Division and to recommend to the Town Manager and the Council changes in sewerage facilities, Sewer Division Personnel, or Town ordinances or administrative codes necessary to assure the proper operation of the Public Sewerage System and the provision of necessary to assure the proper operation of the Public Sewerage System and the provision of necessary sewage collection and treatment services to the citizens of the Town of Yarmouth.
- b. The office of Sewerage Division Superintendent is hereby created in accordance with ARTICLE XIV of the Administrative Code.
- (1) The Superintendent shall be appointed by the Town Manager in accordance with the provisions of the Town Charter.
  - (2) Jurisdiction: The Superintendent shall have the following powers and duties:

- (a.) to supervise the construction, cleaning, inspection, and repair of public sanitary sewers, and maintenance, operation and repair of public pump stations and treatment facilities.
  - (b.) to determine the needs and requisition tools, materials, and equipment for repair and maintenance work.
  - (c.) to organize, direct, and evaluate the performance of subordinates initiating improvement programs as deemed appropriate.
  - (d.) to supervise and participate in the inspection of private sewer connections to Town sewer lines and secure compliance with this Ordinance.
  - (e.) to prepare periodic reports pertaining to plant operation for the Town Engineer, Town Manager and regulatory agencies.
  - (f.) to assist the Town Engineer in the preparation of the division budget and the administration of the same.
  - (g.) to assist the Public Works Administrator in the preparation of records of location and connection to the public sewer system.
  - (h.) to confer with citizens and specialized groups regarding sewer maintenance and inspection.
  - (i.) to issue permits for connections to the public sewerage system in the absence of the Town Engineer.
  - (j.) to make such recommendations to the Town Engineer as he/she deems necessary for the proper maintenance and extension of facilities.
- (3) The Sewerage Division of the Department of Public Works is hereby established. The function of the Sewerage Division shall be to administer the public sewerage system of the Town and to be responsible for any and all work in connection with the public sewerage system.
- c. The Town Plumbing Inspector shall have the following powers and duties:
- (1) to enforce this Ordinance insofar as it applies to private sewerage systems.
  - (2) to issue permits for the installation of private sewerage systems

- (3) to approve all plans, tests and document submitted in application for permits, and shall maintain properly indexed files for such data.
  - (4) to be responsible for the inspection of any private sewerage system at any time in accordance with the requirements of this Ordinance and of State Statues.
  - (5) Other duties as provided by State law.
- d. The Town Plumbing Inspector may designate an authorized agent who is a Licensed Plumbing Inspector to be sworn in as an alternate plumbing inspector to perform the above duties. The Plumbing Inspector may also designate the Town Engineer or other Town employees to perform such portions of the above duties as do not require a Licensed Plumbing Inspector for their performance. The Treasurer shall provide for the collection of all sewer service fees, charges and assessments as established pursuant to Article X of this Chapter and in accordance with 30-A MRSA Section 3406.

## **B. PERMITS**

1. Applications: The applicant for any permit from the Town Engineer or from the Plumbing Inspector, shall include in his application whatever descriptive data, plans, etc. as may be required by this Ordinance and as necessary to enable the officer to make a fair determination of the feasibility of the proposed construction. See Appendix I.
2. PUBLIC SEWERS - Permits issued by the Town Engineer.
  - a. Public Sewer Connection Permit.
  - b. Permit to discharge private wastes to public system.
3. Private Individual Disposal System - Permits issued by the Plumbing Inspector or his/her agent.
  - a. Plumbing permits shall issued by the Plumbing Inspector or the Alternate Plumbing Inspector. Permits shall be valid for six months from the date of issue if construction has no commenced. An extension period may not be granted.
  - b. Permits for actions also covered by a state permit of shorter duration than that provided below shall expire simultaneously with the applicable state permit of shorter duration. All other permits shall be valid for a period of 12 months from the date of issue. If construction has not been commenced during that time, the permit shall be subject to review by the issuing officer, with out charge, at the end of twelve months, and if site conditions or statutes have not changed, a six month extension may be

granted. If construction has not commenced in a total of 28 months, the permit shall lapse.

### **C. PENALTIES**

1. Any person found violating any provision of this Ordinance shall be served by the Town Engineer or by the Plumbing Inspector with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease such violation.
2. Any person who shall continue such violation beyond the time limit shall be deemed to have committed a civil violation and, after adjudication thereof, shall be fined an amount not less than \$100 nor more than \$2,500 plus attorney's fees and costs for each such violation. Each day in which any such violation shall continue shall be deemed a separate offense.
3. The proper authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings including injunctive relief to prevent any unlawful use, construction or maintenance of cesspools, septic tanks, sewerage disposal systems, pipes or drains, to restrain, correct or abate such violation or to permit the occupancy of any building, structure or land on which said violations are found.

### **D. FEES**

1. All fees or cost reimbursements which are required for any actions taken by either the Town Engineer or the Plumbing Inspector in connection with any requirements in this Ordinance shall be paid to the Town Treasurer to the credit of the Town.
2. All fees which are required by the State Department of Environmental Protection in connection with any requirements in this Ordinance shall be paid to the State Treasurer.
3. Fees for plumbing permits issued under the Maine Subsurface Wastewater Disposal Rules shall be set by the Department of Human Service.
4. The Town Council shall from time to time establish fees for issuance of the permits required by this Ordinance. The current schedule of fees shall be on file in the Town Office.

### **E. USER FEES**

Pursuant to Title 30-A MRSAs Section 3406, there is hereby established a user fee imposed upon all improved real estate connected to and discharging water or wastewater to the public sewer system. Said fee rate structure shall be in accordance with the following provisions and the rates charged shall be as

established by the Town Council from time to time and made as a part of Chapter 401 of the Yarmouth Town Code (Fees and Permits Ordinance).

1. Rate Structure: There shall be four rate classes or tiers for properties connected to the town sewer system:
  - **Low Users-** Defined as sewer users with an annual metered water flow of less than **2801** cubic feet per year.
  - **Standard Users-** Defined as sewer users with an annual metered water flow equal to or greater than **2801** cubic feet per year but less than **12,001** cubic feet per year.
  - **High Users-** Defined as sewer users with an annual metered water flow equal to or greater than **12,001** cubic feet per year and less than **21,901** cubic feet per year.
  - **Industrial Users-** Defined as sewer users with an annual metered water flow equal to or greater than **21,901** cubic feet per year.

A special rate structure may be established from time to time by the Town Council to establish a rate for any industrial or commercial sewer user which shall discharge to the town sewer system a significant amount of special waste of as defined in Article VII. J, hereinabove.

2. Annual metered flow shall mean the total amount of water as measured through the billing meter installed and maintained by the Yarmouth Water District or an equivalent metering system in place approved by the Town Engineer. When no metering or metering data is available, the Town Engineer shall provide an estimate of metered water flow based upon best available information.

Metering data shall be collected for the 3 month period ending in November, December or January (depending on the most recent meter reading date falling within those months) annually (the 4<sup>th</sup> Quarter) and multiplied by four to establish the annual metered water use. In the case where seasonal use or occupancy of the property suggests that the 4th Quarter data collection is not representative of annual use or otherwise creates an unreasonable or unreliable basis for computation, a twelve month reading or alternative representative measuring period may be substituted by the Town Engineer.

For good cause shown, the Town Engineer may make reasonable estimates and adjustments to the annual metered water use calculation. Good cause may include, but not be limited to, unusual incidents or events such as a faulty meter or missed reading, a water line break, act of vandalism, filling of a swimming pool or intense outdoor watering for irrigation purposes where a significant portion of the metered water flow is does not drain to the Town sewer or is an anomalous circumstance suggesting that the metered water flow in the measuring period is not representative of typical water flow and impact to the sewer system. Good cause shall not include hardship.

3. Properties owned and occupied by the Town of Yarmouth and the Yarmouth School Department primarily for public or governmental functions shall be exempt from the User Fee assessment.
4. Multi-tenanted residential, including condominiums and apartments and commercial buildings, whether or not separately metered for individual units or tenants, shall be assessed to the property as a single billing account per metered structure and in the proper rate class based on total flow to the building or structure. Except for bona-fide unoccupied accessory structures on the lot using the same meter, each building on a lot served by the Town sewer shall constitute a separate billing unit.
5. The Treasurer shall cause each property subject to the sewer user fee to be billed for the assessment which shall be payable in two equal installments semi-annually on dates to be determined by the Town Council. Collection processes and authorities, including late fees and interest penalties and lien procedures to secure delinquent assessments shall be in the same manner as granted by Title 38 MRSA Section 1208 to treasurers of sewer districts with reference to rates established and due under Title 38 MRSA Section 1202.
6. The Town may use the service, procedures and personnel of the Yarmouth Water District or a third party agent for the purpose of billing and collection of charges under this Article. All such charges billed by the Yarmouth Water District or third party agent are payable to the District or Agent as an agent of the Town.
7. Interest penalties at a rate established pursuant to Section 14, below, shall be added to all unpaid bills beginning 10 days after the due date of the bill.
8. There shall be a lien on the property served to secure payment of the charges, assessments, fees and interest penalties established herein, which shall take precedence over all other claims on such real estate, excepting only claims for property taxes.
9. All delinquent unpaid sewer charges will be turned over to the Treasurer of the Town. The Treasurer of the Town shall have the same authority and power to collect such service charges as are granted by Title 38, Section 1208, and as may be amended, to Treasurers of sanitary sewer districts. In addition to the lien established hereby, the Town may maintain a civil action against the party so charged for the amount of said sewer charge in any court competent to try the same, and in such action may recover the amount of such charge with legal interest on the same from the date of said charge and costs.
10. Each building, dwelling, unit, institution, commercial or industrial establishment discharging wastewater to the public sewer shall be subject to a sewer user charge. The user charges shall be established annually in or at such other time period as the Town Council shall establish after public notice and hearing. The Schedule of Rates, which is adopted, revised and published separately, shall be

considered an integral part of this ordinance and incorporated herein as Chapter 401 Fees and Permits Ordinance.

11. All charges and rates assessed against any person shall be due from the owner of the property or premises, and the owner shall be subject to the collection of such charges, including any lien placed upon such premises as hereinafter provided.
12. A late payment and interest penalty may be applied to any rates or charges which remain unpaid, 10 days following the due date. The interest rate shall be established annually by the Town Council pursuant to Title 30-A MRSA Section 3406, and shall apply to any unpaid balance and shall become part of the rates and charges due
13. The Treasurer of the Town of Yarmouth may record a lien against the property at the Cumberland County Registry of Deeds to secure payment of rates and charges, delinquent penalties and collection fees. Such liens shall be filed in accordance with Title 30-A MRSA Section 3406(3).

## **ARTICLE XI ADJUSTMENTS AND APPEALS**

### **A. JURISDICTION OF THE GENERAL BOARD OF APPEALS**

Any person and any Municipal Department aggrieved by the decision of the Town Engineer or the Plumbing Inspector, which decision arises from provisions of this Ordinance, may appeal such decision to the General Board of Appeals within 30 days of the date of the decisions of the Town Engineer or Plumbing Inspector. All appeals under this Ordinance are pursuant to the provisions in this Ordinance and the procedures outlined in Chapter 203, General Board of Appeals Ordinance. Unless prevented by illness or absence from the State, the Town Engineer shall attend all hearings pertaining to the public sewerage system and the Plumbing Inspector shall attend all hearings pertaining to the private sewerage systems. The officer concerned shall present to the Board all plans, photographs or other factual material which is appropriate to an understanding of the appeal.

The General Board of Appeals shall have the following powers and duties to be exercised only upon written appeal by a party aggrieved by a decision of the Town Engineer or the Plumbing Inspector in so far as such decision arises from requirements of this Ordinance:

1. To determine whether the decisions of the said officials are in conformity with the provisions of this Ordinance, and to interpret the meaning of this Ordinance in cases of uncertainty.



2. To grant variances from the terms of this Ordinance where necessary to avoid undue hardship, provided there is not substantial departure from the intent of this Ordinance and provided that no variance is granted which violates the requirements of the Maine Subsurface Wastewater Disposal Rules. Nothing in this Section shall require the Board to grant a variance under the provisions of this Ordinance when the Department of Human Services has granted a variance under State rules.
3. To permit an exception to this Ordinance only when the terms of the exception have been specifically set forth by the Town.
4. To act in any case coming under the provisions of ARTICLE IV of this Ordinance.
5. To act in any case coming under the provisions of ARTICLE VII of this Ordinance.
6. To pass upon the issuing of certain permits, subject to such restrictions as the Board may impose in accordance with the provisions of this Ordinance.
7. To consider appeals of any property owner or user regarding the assessment and collection of sewer service charges pursuant to Article X of this Chapter, and to grant relief, in whole or in part, from such charges or assessments if the board determines such assessments or charge was made in error or not consistent with the provisions of this Chapter or Chapter 401.

## **ARTICLE XII**

### **A. SUPPLEMENTAL REGULATIONS AND LEGAL REQUIREMENTS**

1. Nothing in this Ordinance shall be construed to negate present requirements of other ordinances or private restrictions in the Town, where such requirements and/or restrictions are more restrictive than those of the present Ordinance. However, where ever the requirements of this Ordinance are in conflict with and more restrictive than other such ordinances of the Town, such other ordinance shall be amended to remove the conflict and such requirements of this Ordinance shall predominate.
2. Separability. The invalidity of any Section or provision of this Ordinance shall not be held to invalidate any other Section or provisions of this Ordinance, provided such other Sections are still effective in the absence of such invalid Section or provision.
3. Date of Effectiveness. This Ordinance shall become effective in accordance with the provisions of the Town Charter.

## **ARTICLE XIII**

## **A. DEFINITIONS**

Wherever in this Ordinance the following words and phrases appear they shall be understood to have the meanings set forth in this ARTICLE.

**ACCEPTED PRACTICE:** A procedure used to install plumbing, etc. that is customarily considered proper under the Maine Plumbing Rules including the Subsurface Wastewater Disposal Rules.

**A.S.T.M.:** American Society of Testing Materials.

**BUILDING DRAINS:** That part of the lowest horizontal piping of a drainage system which receives the discharges from soil pipes and other drainage pipes inside the wall of a building and conveys it to a point 8 feet outside the walls of the building.

**BUILDING SEWER:** That part of the piping of a sewerage system that connects the Building Drain to the public sewer or to a private sewerage system.

**CF:** Cubic Feet

**COMBINED SEWER:** A sewer receiving both sewage and surface runoff.

**CONSTRUCTION:** Construction of any structure shall be considered to include any excavation or site preparation other than clearing of vegetation.

**COUNCIL:** The Council of the Town of Yarmouth.

**EFFLUENT:** All substances issuing from a sewerage system or from a broken sewer pipe.

**GARBAGE (see "PROPERLY SHREDDED GARBAGE"):** Solid wastes from the preparation, cooking and dispensing of food, and from handling, storage and sale of produce.

**HCF:** Hundred Cubic Feet

**INDUSTRIAL WASTES:** Any waste materials resulting from the operation of an industrial plant or similar works, or wastes which exceed the strength characteristics contained in the Ordinance.

**Mg/L:** Milligrams per liter or parts per million.

**MAY:** Is to be understood as "PERMISSIVE."

**NATURAL OUTLET:** Any passage into a water course, pond, ditch, lake, or other body or surface or ground water, or into tidal waters.

**NUISANCE:** Any condition created by a malfunction of any sewerage system which may endanger the health of any person, or which will allow inadequately treated effluent to stand on the surface, either continuously, or intermittently so as to cause odors or unsightly conditions.

**ORDINANCE:** This Sewerage Ordinance of Yarmouth.

**PERSON:** An individual, firm, company, association, society, group or corporation.

**"Ph":** The degree of acidity or alkalinity of any substance. A Ph of 7 indicates neutrality.

**PLUMBING INSPECTOR:** The Plumbing Inspector of the Town of Yarmouth or an Alternate Licensed Plumbing Inspector, duly sworn, or for duties not restricted to the Plumbing Inspector under Maine Subsurface Wastewater Disposal Rules, another employee of the Town of Yarmouth designated by the Plumbing Inspector in accordance with the Town's Administrative Code.

**PLUMBING PERMIT:** As defined in the Maine Subsurface Wastewater Disposal Rules.

**PRIVATE:** That which is owned or controlled by a person, business, or corporation rather than by the Town.

**PRIVATE COMMUNAL SEWERAGE SYSTEM:** A privately owned sewerage system that serves more than one but fewer than six residential units and no more than fifteen bedrooms.

**PROPERLY SHREDDED GARBAGE:** Wastes from garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions prevailing normally in public sewers, with no particle greater than one half inch in any dimension, such as is attained by an acceptable and well working disposal attachment to a kitchen sink.

**PUBLIC SEWER:** A system of pipes which lead to the Town water pollution control plant, for carrying sewage, and which is under the control of the Sewage Division of the Department of Public Works of Yarmouth.

**SANITARY SEWAGE:** That part of the sewage carried in sanitary sewer which is generated primarily by human habitation.

**SANITARY SEWER:** Sewer which carries all sewage excepting storm, surface and/or ground waters.

**SEASONAL DWELLING:** A dwelling unit not intended for year round occupancy, such as summer cottage, with the period of occupancy not to exceed 6 months in any calendar year.

**SEWAGE:** A combination of the water-carried wastes containing animal and/or vegetable matter and properly shredded garbage in suspension or in solution originating from the sanitary conveniences, kitchen facilities or wash facilities in any building or structure intended for habitation.

**SEWER:** A pipe or conduit for collecting and transporting sewage, or industrial wastes.

**SEWERAGE SYSTEM:** All facilities, including water pollution control plants, pipes, pumps, etc, for carrying, treating and disposing of sewage industrial wastes.

**SEWAGE TREATMENT PLANT OR POLLUTION CONTROL PLANT:** Any facilities that reduce or alter the pollution load generated in the sewer system.

**SHALL:** Is to be understood as "Mandatory"

**STORM DRAIN AND STORM SEWER:** Pipes carrying storm and other surface and drainage waters, but excluding sewage or industrial wastes.

**SUBSURFACE WASTEWATER SYSTEM RULES:** The Subsurface Wastewater Disposal of the State of Maine published by the Maine State Department of Human Services, as amended.

**SUPERINTENDENT:** The Sewerage Division Superintendent or his authorized representative.

**TOWN:** The Town of Yarmouth Maine.

**TOWN ENGINEER:** The Town Engineer of the Town of Yarmouth, Public Works Administrator or his/her authorized representative.

**WATER COURSE:** A channel in which a flow of natural water such as rain or other run-off, occurs, either continuously or intermittently.

**APPENDIX I**

**APPENDIX I  
TOWN OF YARMOUTH**

200 Main Street  
Yarmouth, ME 04096

Steven S. Johnson, P.E., LEED AP  
[sjohnson@yarmouth.me.us](mailto:sjohnson@yarmouth.me.us)

Tel: 846-2401  
Fax: 846-2438

***SEWER CONNECTION PERMIT***

**Type of Connection**

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

- ( ) Residential \$2,250.00
- ( ) Commercial \$10.00 per gallon of flow

**Property Address**

\_\_\_\_\_ **Tax Map** \_\_\_\_ **Lot** \_\_\_\_\_

\_\_\_\_\_ Homeowner \_\_\_\_\_

\_\_\_\_\_ Mailing Address \_\_\_\_\_

\_\_\_\_\_ Telephone \_\_\_\_\_

**Contractor Requirements**

The contractor whom the homeowner eventually hires must:

1. Present the Town with a Certificate of Insurance in order to work in any Town Right of Way (\$300,000 minimum coverage).
2. Present the Town with the Dig-Safe Number for the project.
3. Obtain a Road Opening Permit from the Town Engineer.
4. Meet with the Town Engineer or Wastewater Superintendent to review material and installation requirements.
5. Provide service information and location on attached form after construction.

<b>APPROVED:</b> _____	<b>DISAPPROVED:</b> _____
<b>DATE:</b> _____	<b>DATE:</b> _____

# APPENDIX I

## YARMOUTH PUBLIC WORKS DEPARTMENT WASTEWATER DIVISION

### Sewer Connection Permits/Installation Requirements

All pipe to be schedule 40 PVC, SDR – 35, PVC or Ductile Iron no smaller than 4” in diameter.

1. Pipe shall be bedded in  $\frac{3}{4}$ ” crushed stone to the property line and  $\frac{3}{4}$ ” crushed stone or sand from the property line to the house. Stone shall be to the top of pipe. A layer of filter fabric shall be installed between the stone and sand. Min. 12” of sand on top of fabric, then existing material.
2. The pipe shall be laid at a slope of no less than 1/8” per foot pitch. All gravity sewer runs extending more than 90 feet in length, must have clean-outs installed every 90 feet.
  - 1) All sewer lines with less than 3  $\frac{1}{2}$ ’ of cover shall be insulated by 2” of Blue board Insulation. Two 1” sheets are not allowed.
  - 2) **No pipe shall be back filled prior to inspection by the Yarmouth Wastewater Department or the Town Engineer. Any pipe back filled prior to inspection shall be in Non-Compliance with the Town Ordinances and shall be uncovered for inspection. No occupancy permit shall be issued without a sewer inspection.**
  - 3) Inspections will cover the entire sewer line, from the connection to the main or manhole, back to the house.
  - 4) The **Wastewater Division shall be given 24 hours notice** on all inspections.  
Office hours 6:30 AM to 3:00 PM Monday – Friday  
Telephone 846-2415

Should you have any questions, please contact Tom Connolly, Water Pollution Control Supervisor at 846-2415 or Steve Johnson, Town Engineer at 846-2401.

I have read and understand the above policy and will comply with each item.

\_\_\_\_\_  
Signature of Contractor Representative

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

**APPENDIX I**

**Sewer**    *or*     **Drain**    **Service Location**

Date \_\_\_\_\_  
Size, Type of Service Pipe \_\_\_\_\_  
Road Station at Main \_\_\_\_\_  
Depth, End of Service Pipe \_\_\_\_\_  
Length of Service \_\_\_\_\_  
Project Contractor \_\_\_\_\_

Map \_\_\_\_\_ Lot \_\_\_\_\_  
Address \_\_\_\_\_  
Owner/Occ. \_\_\_\_\_  
Measured by \_\_\_\_\_  
Approved by \_\_\_\_\_



Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CHAPTER 305

**SHELLFISH CONSERVATION ORDINANCE**

Town of Yarmouth, Maine

Recodified: 1/16/98

Revised 12/17/98

Revised 4/01/99

Revised 5/20/99

Revised 8/19/99

Revised 9/21/00

Revised 4/18/02

Revised 11/21/02

Revised 6/16/05

Revised 4/20/06

Revised 10/19/06

Revised 7/19/07

Amended: 2/14/08

Amended: 8/25/08

Amended: 5/17/12

Amended: 10/17/13

Amended: 3/17/16

Amended: 10/20/16

Amended: 3/15/18



# SHELLFISH CONSERVATION ORDINANCE

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# SHELLFISH CONSERVATION ORDINANCE

## ARTICLE I

### A. TITLE

This ordinance is enacted in accordance with 12 M.R.S.A. Section 6671 and shall be known and may be cited as the Municipal Shellfish Ordinance of the Towns of Yarmouth and North Yarmouth, Maine.

### B. PURPOSE

The purpose of this Ordinance is to establish a shellfish conservation program for the Towns of Yarmouth/North Yarmouth which will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:

- Licensing;
- Limiting the number of shellfish harvesters;
- Restricting the time and area where digging is permitted;
- Limiting the minimum size of clams taken;
- Limiting the amount of clams taken daily by a harvester.

### C. DEFINITIONS

**Resident:** The term “resident” refers to a person who has been domiciled in this Municipality for at least three months next prior to the time his/her claim of such residence is made.

**Senior Resident:** The term “Senior Resident” refers to a person 65 years of age or older and is qualified as a resident under this Ordinance.

**Non-resident:** The word “non-resident” means anyone not qualified as a resident under this Ordinance.

**Senior non-resident:** The term “Senior non-resident” refers to a person 65 years of age or older and is not qualified as a resident under this Ordinance.

**Shellfish Clams:** When used in the context of this Ordinance, the words “shellfish” and “clams” mean softshell clams, *Mya Arenaria*, and shall include both shell stock and shucked shellfish. “Shellfish” and/or “Clams” shall also mean Northern Quahogs, *Mercenaria mercenaria* and Razor Clams, commonly known as Atlantic Jackknife (*Ensis directus*), Eastern (aka American) Oysters (*Crassostrea virginica*) and European Oysters (*Ostrea edulis*).

**Municipality:** Refers to Towns of Yarmouth/North Yarmouth, Maine

**Lot:** The word “lot” as used in this Ordinance means the total number of softshell clams in any bulk pile. Where softshell clams are in a box, barrel or other container, the contents of each box, barrel, or other container constitute a separate lot.

**Possess:** For the purpose of this Section, “possess” means dig, take, harvest, or hold in one’s custody or control, either personally or by another who is under one’s control.

**License Renewal:** The purchase of a license of the same category and class as that currently held by an applicant. License renewal is limited to license holders who meet the criteria outlined in this ordinance.

## **ARTICLE II**

### **A. LICENSES**

A Municipal Shellfish Digging License is required, except for Depuration Harvesting authorized by the Commissioner of the Maine Department of Marine Resources pursuant to Title 12, M.R.S.A., Section 685. It is unlawful for any person to dig or take shellfish from the shores and flats of this Municipality without having a current license issued by this Municipality as provided by this Ordinance. Resident and non-Resident children under the age of sixteen (16) shall not be required to obtain a recreational license but shall otherwise be subject to the provisions of this Ordinance.

A Commercial Digger must also have a valid State of Maine Commercial Shellfish license issued by the Department of Marine Resources.

### **B. DESIGNATION, SCOPE, AND QUALIFICATIONS**

**Resident Commercial Shellfish License:** The license is available to residents for the Towns of Yarmouth/North Yarmouth and entitles the holder to dig and take any amount of shellfish from the shores and flats of this Municipality and consistent with the provisions of this Ordinance.

**Non-resident Commercial Shellfish License:** The license is available to non-residents of this Municipality and entitles the holder to dig and take any amount of shellfish from the shores and flats of this Municipality and consistent with the provisions of this ordinance.

**Resident Recreational Shellfish License:** The license is available to residents and real estate taxpayers of this Municipality and entitles the holder to dig and take no more than one (1) peck of shellfish in any one (1) day for personal use. A person holding a resident recreational shellfish license may not engage in the wholesale or retail sale of any shellfish harvested under that license.

**Senior Resident Shellfish License:** The license is available to residents Senior Residents and entitles the holder to dig and take no more than (1) peck of shellfish in any one (1) day for personal use. A person holding a Senior resident recreational shellfish license may not engage in the wholesale or retail sale of any shellfish harvested under that license.

**Non-Resident Recreational Shellfish License:** The license is available to any person not a resident of this Municipality and entitles the holder to dig and take not more than one (1) peck of shellfish in any one (1) day for personal use. A person holding a non-resident recreational shellfish license may not engage in the wholesale or retail sale of any shellfish harvested under that license.

**Senior Non-Resident Shellfish License:** The license is available to Senior non-residents and entitles the holder to dig and take not more than one (1) peck of shellfish in any one (1) day for personal use. A person holding a Senior non-resident recreational shellfish license may not engage in the wholesale or retail sale of any shellfish harvested under that license.

**Three-day Recreational Shellfish License:** This license is available for purchase for residents and non-residents. Each license shall authorize the holder to dig and take no more than one (1) peck of shellfish in any one (1) day for the use of himself/herself and his/her family. Such licenses shall expire after three days from the date of issue or the last calendar date on the month issued, whichever date is earlier. Such licenses shall be sold only the effective month as established by the Shellfish Conservation Commission and only up to the total number of licenses authorized for that month as established by the Shellfish Conservation Commission.

**License must be signed:** The licensee must sign the license to make it valid and harvesting authorities granted pursuant to any license shall not be transferable to any other person.

**Aiding and abetting:** Shall mean through collusion assisting someone in violating this ordinance or Title 12, Section 6671. This may include but not be limited to, possessing harvested soft shell clams that were illegally obtained; offering to lend or lending tools or containers to assist in the harvest of illegally obtained soft shell clams; or to offer to or to misrepresent facts to assist someone in violating this ordinance or Title 12, Section 6671.

### **C. CONTENTS OF THE APPLICATION**

Licensing administration and enforcement under this Ordinance shall be carried out by the Town of Yarmouth, Maine on behalf of the combined municipalities of the Towns of Yarmouth and North Yarmouth. Any person may apply to the Town Clerk of Yarmouth for the Licenses required by this ordinance on forms provided by the municipality.

### **D. FEES**

The fees for the licenses shall be as provided in Chapter 401 and must accompany in full the application for the respective license. Fees received for shellfish licensing shall be used by the Town for shellfish management, conservation, and enforcement.

**E. LICENSE EXPIRATION DATE**

Each license issued under authority of this Ordinance expires at midnight on the 30<sup>th</sup> day of April next following the date of issue, except Three-day Recreational licenses which shall expire in accordance with Article II.E of this Ordinance.

**F. CHANGE OF ADDRESS**

Commercial license holders shall, within 10 days, notify the Shellfish Warden in writing of a change of address.

**G. STATE LICENSE SUSPENSION**

Any individual whose State of Maine Commercial Shellfish License is suspended at the time of license issuance shall not be eligible for a municipal Commercial License.

**ARTICLE III**

**A. LIMITATION OF DIGGERS**

Because the shellfish resources are limited and because a commercial or recreational digger can be expected to harvest a certain volume of clams per year, the number of diggers must be controlled. This number will vary from year to year depending upon estimates of the resource capabilities and management requirements consistent with good resource utilization. The following procedures will be followed to exercise the control:

1. Prior to March 1, the Yarmouth Town Council, with the approval of the Commissioner of Marine Resources and advice of the Shellfish Conservation Commission will establish the number of commercial and non-commercial licenses to be permitted.
2. The Yarmouth Town Council will notify the Town Clerk of Yarmouth in writing prior to April 1, of the number of licenses to be issued. No reservation will be accepted. Notice of the number of licenses to be issued and the procedure for application shall be published in a newspaper or combination of newspapers with general circulation which the municipal officers considered effective in reaching persons affected, not less than ten days prior to the period, or periods, of issuance and shall be posted in the municipal offices until the period(s) concludes.
  - (a) The Town Clerk shall issue commercial and recreational (renewal and new) licenses to residents and non-residents according to the number and type established by the Yarmouth Town Council.

- (b) Commercial License Renewal: A commercial license may be renewed only on any municipal business day between April 1 and April 15, annually. To be eligible to renew a license, a person must not have lost eligibility to hold a license pursuant to the license revocation provisions of Article VI.B hereunder.

In the event that the number of qualifying applicants seeking renewal exceeds the number of available commercial licenses, the Town Clerk shall conduct a limited lottery, as specified in the following paragraphs in the sub-section(b), for the purpose of issuance of such commercial licenses as may be available. The Lottery shall be limited to those qualified to renew a license and will determine which qualifying applicant(s) seeking renewal will no longer be eligible for license renewal. The lottery will be carried out by the Town Clerk as soon as reasonably possible after April 15 (or sooner if all qualifying applicants for renewal have applied for renewal before such date).

The Lottery of qualifying commercial license holders seeking renewal will be carried out as follows:

- (i.) The Town Clerk shall first hold a lottery of qualifying, resident and non-resident commercial license holders seeking renewal to determine which license holder(s) seeking renewal shall not be allowed to renew the license for that license year. The lottery shall be repeated until either of the following is reached: (a) the number of remaining qualifying applicants (resident and non-resident) seeking renewal equals the total number of authorized licenses for that license year, or (b) the number of remaining non-resident qualifying applicants seeking renewal equals the required minimum number, or required minimum percentage, of non-resident license holders, as per Title 12 MRSA Section 6671(E). When the amount specified in either part (a) or (b) of the foregoing sentence is reached, the lottery of qualifying, commercial license holders seeking renewal shall cease.
- (ii.) If further reductions in the number of qualifying commercial license holders seeking renewal is necessary, the Town Clerk shall then hold additional lotteries of current, resident commercial license holders seeking renewal until such time as the total number of qualifying commercial license holders seeking renewal equals the total number of authorized commercial licenses or a change in the minimum number or percentage of non-resident license holders applies as per Title 12 MRSA Section 6671 (E), whichever comes first.

- (c) Any Commercial license holder aggrieved by any decision or determination of this Shellfish Conservation Commission under Article III.A.(2)(b) of this ordinance may appeal to the Yarmouth Town Council who shall hear such appeal and make its own determination and may sustain, modify, or set aside the determination or decision of the Shellfish Conservation Commission.
3. Beginning on the first business day in May, the Town Clerk of Yarmouth shall issue new Commercial Licenses on a lottery basis. The Town Clerk, with the advice of the Shellfish Conservation Commission, shall establish rules and procedures for the conduct of the lottery, and shall post notice of the availability of commercial licenses, if any, and the procedures for lottery participation. If, for any reason, the Yarmouth Town Council with the approval of the Maine Department of Marine Resources determines that additional commercial harvesting licenses may be issued subsequent to the original lottery, a supplemental lottery may be conducted. Supplemental lottery procedures shall allow all original lottery participants not selected to be automatically re-entered into the lottery pool. In the event that additional licenses become available subsequent to the original lottery, and all original lottery participants have been issued a license under the original or supplemental lottery(ies), the Town Clerk shall post notice for a new lottery generally in accordance with the rules and procedures for the original lottery.
  4. Notwithstanding ARTICLE III.A.1, in the event that any commercial licenses issued become void due to the death, change of residency, voluntary return by the licensee, or revocation pursuant to Article VI.B, the Town Clerk shall conduct a supplemental lottery for the re-issuance of such license(s) only upon the positive determination by the Yarmouth Town Council with the advice of the Shellfish Conservation Commission that re-issuance of such licenses shall be consistent with the goal of sustainable resource management. Absent such a positive determination, the total number of authorized available licenses shall be reduced through attrition. In the event a supplemental lottery is to be held pursuant to this Section III.A.4, any former commercial license holders that were eliminated from license renewal pursuant to a lottery held under Article III.A.2(b) within the immediate 24 month period will be given the opportunity to obtain a commercial license, and if there is more than one former commercial license holder who wants to obtain a commercial license, a lottery will be held amongst such former commercial license holders.
  5. Any person who is issued a Commercial Shellfish License by the Maine Department of Marine Resources will not be eligible for issuance of a Yarmouth Recreational Shellfish License.
  6. Any person who is issued a Yarmouth Recreational License and subsequently obtains a Commercial Shellfish license from either the Maine Department of

Marine Resources or the Town of Yarmouth will have his/her Yarmouth recreational license revoked automatically.

**B. ALTERNATIVE LICENSING PROCEDURES**

In the event that the Yarmouth Town Council shall establish that no limit on non-commercial licenses shall be imposed, the Yarmouth Town Council following procedure shall govern the issuance of licenses notwithstanding the provisions of Article III. A.2.

1. Beginning on the 20<sup>th</sup> day of April, the Town Clerk of Yarmouth shall issue all resident recreational licenses to residents upon application, said licenses to be effective May 1.
2. Beginning on the 20<sup>th</sup> day of April, the Town Clerk shall issue, by lottery, non-resident recreational licenses to be effective May 1 as follows:
  - a. The Town Clerk shall establish a waiting list by lottery for all non-resident applicants and shall issue licenses for not less than ten (10) non-resident applicants or an amount equal to ten percent (10%) of all resident recreational licenses sold, whichever is the greater.
  - b. Any non-resident may enter his/her name after April 1 for the waiting list lottery to be held on April 20 (or, if April 20 is not a regular business day, the next business day thereafter.) Any person may apply to be added to the waiting list at any time thereafter. The Town Clerk shall post all names on the waiting list.
  - c. Any person notified by the Town Clerk that he/she has been selected from the waiting list and is qualified to apply for a non-resident, non-commercial license, shall make an application to the Town Clerk and pay the applicable license fee within fourteen (14) business days of the mailing of said notice of eligibility.

In the event that the person fails to make application, qualify, or pay the license fee within the prescribed time period, he/she shall be returned to the end of the waiting list.

- d. Open License Sales: When the Yarmouth Town Council determines limiting commercial shellfish licenses is not an appropriate shellfish management option for the following year the Yarmouth Town Clerk shall provide that:
  - 1.) Notice of the dates, places, times and the procedures for the license sales shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the initial



sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to the Commissioner of Marine Resources.

- 2.) For each commercial license category, the Town Clerk shall issue one license to nonresidents when six licenses are issued to residents and one more to nonresidents when four more are issued to residents; thereafter, one nonresident license will be issued for every ten additional resident licenses issued.
- 3.) Commercial and Senior citizen licenses issued shall not be counted in the calculation of licenses sold under this section.

## **ARTICLE IV**

### **A. OPENING AND CLOSING OF FLATS**

The Yarmouth Town Council with the advice of the Shellfish Conservation Commission, and the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest and designate areas and periods for commercial or recreational harvesting thereon. Upon concurrence of the Department of Marine Resources area biologist that the status of the shellfish resources and other factors bearing on sound management indicate that an area should be opened or closed for either recreational or commercial harvesting, the Yarmouth Town Council may call a public hearing on ten days' notice published in a newspaper having general circulation in the Town, stating the time, place, and subject matter of the hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Yarmouth Town Council made after the hearing shall be based on findings of fact.

### **B. MINIMUM LEGAL SIZE OF SOFTSHELL CLAMS**

Pursuant to 12 M.R.S.A., Section 6671 and 6681 as amended from time to time, it is unlawful for any person to possess softshell clams within the Town of Yarmouth, Cumberland County, which are less than two (2) inches in the longest diameter except as provided by Section C of this ARTICLE IV.

The possession of more than one peck of clams by anyone not possessing both a valid State Commercial Clam license and Town of Yarmouth Commercial license shall constitute a violation of this Ordinance. Upon conviction of such violation in any court of competent jurisdiction, the Town Clerk shall suspend the license of such violator pursuant to ARTICLE VI.B. of this Ordinance. Such suspension shall be in addition to any penalties or fines imposed by the court.

### **C. METHOD OF DETERMINING TOLERANCE**

Any licensed person may possess softshell clams that are less than two (2) inches if, beginning on the effective date of this Ordinance, they comprise less than 10% of any lot. The tolerance shall be determined by numerical count of not less than one

(1) peck, no more than four (4) pecks taken at random from various parts of the lot or by a count of the entire lot if it contains less than one (1) peck.

**D. NO NIGHT HARVESTING**

It is illegal for any person to harvest shellfish from the shores or flats of the Town of Yarmouth at night. For the purpose of this Section, the term night shall mean that period of time from one-half after sunset until on-half hour before sunrise of the immediately following day.

**E. NO HARVESTING FROM CLOSED AREAS**

It is illegal for any person to harvest shellfish from any areas of the shores or flats of the Town of Yarmouth if such area has been declared closed by the Municipal Officers for conservation purposes, or by the Department of Marine Resources for pollution/sanitation purposes.

**F. AIDING AND ABETTING**

A harvester holding a commercial license who aids and abets the harvest of shellfish in violation of this Ordinance shall be subject to the same penalties as the person he has assisted.

**ARTICLE V**

**A. SHELLFISH CONSERVATION COMMISSION**

The Shellfish Conservation program for the Town of Yarmouth/North Yarmouth will be administered with the advice of the Shellfish Conservation Commission consisting of six (6) members. These members will be appointed, one half by the Town Council of Yarmouth and one half by the Selectmen of North Yarmouth.

The Yarmouth Town Council and the North Yarmouth Board of Selectmen shall each appoint three members, who shall serve staggered three-year terms. The Yarmouth Town Council shall establish the initial staggering of terms such that an equal number of terms shall expire each year from each community.

The Shellfish Warden shall serve as an ex-officio member of the Commission and shall have no vote.

The Commission shall elect annually from its members a chairman, vice chairman, secretary and such other officers as the Commission shall determine necessary and expedient. There shall be no requirement or condition that election of Commission officers shall be based on residency, term, tenure, or licensing status. Elections shall be held between March 1 and April 30 annually.

**Votes/Quorum:** All final votes of the commission shall require the affirmative vote of a majority of those members present and voting provided a quorum is present. A quorum shall be deemed present if a minimum of four (4) members are present. A

quorum shall be required for the transaction of all business except that a smaller number can adjourn to another time.

**Duty of Officers:** The Chairman shall cause an agenda to be circulated to each member and to the Town Clerk of each municipality at least 7 days prior to each regularly scheduled meeting, and as soon as practical, for each special meeting or continued meeting. The agenda shall indicate the date, time and place of the meeting and the nature of the business to be considered. The agenda may be amended by simple majority vote.

**Chairman:** The Chairman shall preside at all meetings of the Commission and shall notify the Town Clerk of each town of all actions, votes, and recommendations which shall require approval of the Yarmouth Town Council.

**Vice Chairman:** The Vice Chairman shall serve in the absence or disability of the Chairman.

**Secretary:** The Secretary shall maintain a record of all meetings and shall preserve and maintain records of reports, files, studies, and surveys and similar materials of the Commission, and shall make such materials available for public inspection and copying. This duty may be discharged by maintaining copies of all such materials and records with the Yarmouth Town Clerk.

## **B. THE SHELLFISH CONSERVATION COMMISSION'S RESPONSIBILITIES E**

The Shellfish Conservation Commission's responsibilities include:

Recommending annually to the Yarmouth Town Council in conjunction with the Department of Marine Resources the number of shellfish digging licenses to be issued.

Surveying the clam flats to maintain current information on shellfish resources.

Submitting to the Board of Selectmen and/or Town Council budget proposals for the expenditures of funds for the purpose of shellfish conservation and the recommended contributions from each community.

Keeping this Ordinance under review and making recommendations for its amendments.

Securing and maintaining records of all shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the Department of Marine Resources.

Recommending conservation closures and opening to the Yarmouth Town Council in conjunction with the area biologists of the Department of Marine Resources.

Submitting an annual report to the municipality and the Department of Marine Resources covering the above topics and all other committee activities.

Conducting appeal hearings pursuant to Section of this Ordinance and making findings and issuing orders thereunder.

Conservation Time Voluntary Work Program – The Shellfish Conservation Commission, in cooperation with the Shellfish Warden and the Department of Marine Resources may offer periodic conservation management work program opportunities which may include, but not limited to such activities as participation in resource surveys, brushing, seeding, pollution detection and abatement efforts, predator species control or similar programs or efforts, all subject to the prior approval and designation by the Commission. Current Resident and Non-Resident Commercial license holders who actively participate in such Conservation Time Voluntary Work Programs established and administered by the Commission, may submit his or her work hours to the Shellfish Warden and may receive a credit of \$25.00/hour against the subsequent year license renewal, if renewed, up to a maximum of \$300.00 per calendar year: If an individual obtains the appropriate conservation time, but is unable to obtain a commercial license due to the provisions of Article III.A.2.b, above, his/her conservation time credit will rollover to the next year(s) or until he/she is offered a commercial license. The Commission shall provide a minimum of ten (10) business days of actual or constructive notice before each Conservation Time Voluntary Work Program event; and all current Commercial license holder shall have equal opportunity to participate in the Conservation Time Voluntary Work Program with or without eligibility for license renewal fee credits. The Shellfish Warden shall maintain a record of hours worked and report same annually to the Town Clerk on or before February 1 so that credits may be applied to the license renewal fee, when applicable.

No person shall receive payment or credit for the Conservation Time Voluntary Work Program as described, above, and no payment or debt shall be owed to any person for participation in the Conservation Time Voluntary Work Program except as a license fee credit up to \$300.00 as provided above.

Except as provided in Article III(A)(2)(c), any person aggrieved by the decision of the Shellfish Conservation Commission may appeal to the Superior Court within 30 days from the receipt of the written decision of the Commission; such appeal shall be considered pursuant to Rule 80B of the Maine Rules of Civil Procedure.

## **ARTICLE VI**

### **A. PENALTIES**

A person who violates this Ordinance shall be punished as provided by 12 M.R.S.A. Section 6671.

## **B. SUSPENSION**

### **Violation of Shellfish Ordinance:**

#### **First Conviction:**

The Town Clerk shall immediately suspend for thirty (30) days any license issued pursuant to this ordinance upon notice by the licensee, Shellfish Warden, court, or Police Chief that the licensee has been convicted in any court of competent jurisdiction of any violation of this ordinance. Such suspension shall begin on the date of conviction and run thirty (30) consecutive days.

#### **Second Conviction:**

The Town Clerk shall immediately suspend for one hundred eighty (180) days any license issued pursuant to this ordinance upon notice by the licensee, Shellfish Warden, court, or Police Chief that the licensee has been convicted, within the same license year, for a second violation of this ordinance in any court of competent jurisdiction.

#### **Third and Additional Convictions:**

Two to Five Years Following Second Conviction:

The Town Clerk shall immediately suspend for one (1) year any license issued pursuant to this ordinance upon notice by licensee, Shellfish Warden, court, or Police Chief that the licensee has been convicted of a third or additional violation of this ordinance in any court of competent jurisdiction, within five (5) years but more than two (2) years after the date of the second conviction.

For the purpose of this section, an additional violation or violations may arise out of the same set of facts as the original violation or violations. For the purposes of this section, a license year shall be the twelve (12) month period ending April 30<sup>th</sup>, annually.

## **C. EFFECTIVE DATE**

This Ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the municipality provided a certified copy of this Ordinance is filed with the Commissioner within twenty (20) days of its adoption.

## **D. SEPARABILITY**

If any Section, subsection, sentence or part of this Ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this Ordinance.

## **E. REPEAL**

Any ordinance regulating the harvesting or conservation of shellfish in the Town and any provisions of any other Town ordinance which is inconsistent with this Ordinance is hereby repealed.

**F. HEARINGS AND APPEALS**

Any licensee whose Shellfish license has been suspended shall be entitled to a fair hearing before the Shellfish Conservation Commission, if such person shall have filed a written request for such hearing within 30 days of the effective date of the suspension or receipt of actual notice from the Town Clerk of such suspension, whichever comes first. Upon receipt of a request for a hearing, the Chairman of the Shellfish Conservation Commission shall schedule a hearing before the Commission within 30 business days, but not sooner than 7 business days, and shall give the appellant written notice of the time, place and date of such hearing. Time limits may be waived by mutual consent of the Chairman and the appellant.

CHAPTER 306

**SOLID WASTE ORDINANCE**

Town of Yarmouth, Maine  
Repealed & Replaced: 4/21/94  
Recodified: 1/15/98  
Amended: 1/19/06  
Amended: 8/16/12

# SOLID WASTE ORDINANCE

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# SOLID WASTE ORDINANCE

## ARTICLE I

### A. TITLE

This ordinance shall be known and may be cited as the Solid Waste Ordinance of the Town of Yarmouth.

### B. PURPOSES

The purposes of this Ordinance are to protect the health, safety and general well-being of the citizens of Yarmouth, enhance the quality and character of life in the Town, enhance and maintain the quality of the environment, conserve natural resources and prevent land, water and air pollution by providing for a comprehensive, rational and effective means of regulating the collection, processing, transportation, and disposal of solid waste in the Town of Yarmouth in accordance with 38 M.R.S.A. §§ 1304-B, 1305, and 1310-U, as amended.

### C. DEFINITIONS

The definitions set forth in 38 M.R.S.A. § 1303-C apply to this ordinance and are incorporated herein by reference, unless redefined in this Section. Any word or term not otherwise defined shall have its ordinary meaning. As used in this Ordinance, the following terms shall have the following meanings.

#### Acceptable Waste at ecomaine

Solid Waste which ecomaine will accept for disposal at its incinerator or other disposal facilities, as defined in agreements between ecomaine and the Town of Yarmouth.

#### Acceptable Waste at Yarmouth Recycling Center

Solid waste which the Town of Yarmouth will accept at the Recycling Center, including but not limited to: resource recovery materials, construction and demolition debris, and lumber, logs and trees, tree limbs, branches, twigs, and yard wastes, as the Town Manager may designate.

#### Commercial Waste

Any waste which is not residential waste, including, without limitation, waste generated by industrial facilities, manufacturing facilities, retail or wholesale business, office facilities, service stations, auto body shops, junkyards, hotels, motels, bed and breakfast inns, nursing homes, churches, marinas, and boat yards.

#### Contractor/Temporary Hauler

Any person, such as a building contractor, construction company, developer, or landscaper, who generates, collects or transports waste resulting from a specific job or project of limited duration, but is not a waste hauler.

Designated Disposal Facility

The ECOMAINE waste-to-energy incinerator located in Portland, Maine, or such other facility as the Town Manager may designate.

Infectious Waste

Those wastes so defined by the Solid Waste Management Regulations promulgated by the Department of Environmental Protection pursuant to 39 M.R.S.A. § 1304.

Person

Any person, firm, association, partnership, corporation, organization, institution, or any other legal entity.

Regional Waste Systems, Inc. (ECOMAINE)

Regional Waste Systems, Inc., a non-capital stock, non-profit corporation created pursuant to Title 30, Chapter 203 and Title 13, Chapter 81 of Maine Revised Statutes, or any successor thereto or assignee thereof.

Residential Waste

Ordinary domestic household waste generated by occupants of single family and/or multifamily residences, apartments (up to 10 units), and condominiums. Residential Waste also includes solid waste generated by the government, including the public school system, of the Town of Yarmouth. Residential waste excludes unacceptable wastes as defined in agreements between ECOMAINE and the Town of Yarmouth.

Waste Hauler

Any person engaged in the business of collecting, transporting or transferring solid waste generated by or collected from any other person.

**ARTICLE II**

**A. HIERARCHY**

The Town solid waste management policy is to plan for and implement an integrated solid waste management program to encourage responsible and innovative solid waste solutions based on a management hierarchy. Pursuant to 38 M.R.S.A. § 2101, the solid waste management priorities are:

1. Reduction of waste generated at the source, including the weight, volume, and toxicity of the waste;
2. Reuse of waste;
3. Recycling of waste (reprocessing of waste and creation of a new, usable material other than fuel);
4. Composting of biodegradable waste;

5. Waste processing that reduces the volume of waste needing disposal and yields energy recovery for productive use, including incineration and waste-to-energy technology; and
6. Land disposal of waste.

## **B. IMPLEMENTATION**

1. Management of solid waste shall be guided by the hierarchy identified in Section II of this Ordinance.
2. It shall be the duty of the Town Manager to enforce the provisions of this Ordinance.
3. The Recycling Committee shall monitor the effectiveness of implementation of this Ordinance, and shall report its observations and recommendations to the Town Council at least once a year.
4. If any Section, subsection, sentence or part of the Ordinance is for any reason held to be invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of this Ordinance.

## **ARTICLE III**

### **A. SEPARATION OF WASTES**

Pursuant to 39 M.R.S.A. § 1304 – B (2)(A), the Town of Yarmouth may require solid waste to be separated into such categories as may be established by Town regulation and disposed of only in such manner and at such sites and locations as designated by the Town Manager.

### **B. WASTE DISPOSAL LIMITED**

Pursuant to 39 M.R.S.A. § 1304-B (2) (B), no person shall dispose of waste or refuse of any kind upon any land within the corporate limits of the Town of Yarmouth unless such land has been designated by the Town Council as a solid waste management or disposal facility, and unless such disposal has been licensed or authorized pursuant to applicable law as require by law. However, this section shall not limit any person from composting of yard waste within the property on which such yard waste is generated, or as otherwise provided in Section III.H of this Ordinance.

### **C. DESIGNATION OF RECYCLING CENTER**

The Town designates the Yarmouth Recycling Center on East Main Street as its solid waste management facility. The Town Manager shall establish written rules governing the availability and operation of the Recycling Center, including days and hours of operation, reasonable fees, inspection of materials, and other matters

pertaining to the day-to-day operation of the facility. The operation of the facility shall conform to all pertinent regulations or directives of all local, county, state or federal agencies which may have jurisdiction.

#### **D. DESIGNATION OF DISPOSAL FACILITY**

The Town designates the ECOMAINE waste-to-energy incineration facility in Portland, Maine, and any other ECOMAINE facility designated in writing by the Town Manager, as its solid waste disposal facility. Unless expressly authorized in writing by the Town Manager, the disposal of any solid waste generated within the Town of Yarmouth by any person at any place other than at this designated disposal facility or approved transfer station is prohibited, except as may be exempted in Section III.G. of this Ordinance. However, the owner of any lot, or any other person with the permission of the lot owner, may dispose of inert substances such as earth, rocks, concrete or similar material for fill purposes only, subject to state and local land use regulations.

#### **E. FACILITY USERS**

The availability and use of the Recycling Center and Solid Waste Disposal Facility shall be limited to residents or property owners in the Town of Yarmouth, and to those residents of any other municipality which may, by mutual agreement, be authorized by the Town Manager to use the facility, and to other persons authorized in writing by the Town Manager. As a means of user control, the Town may distribute vehicle permits to authorized users which shall be affixed to user vehicle(s). Failure to exhibit such permit shall result in denial of use of the facility. A fee for such vehicle permit shall be required annually in accordance with Chapter 401.

#### **F. PROPERTY RIGHTS**

Any solid waste deposited within the Recycling Center or Solid Waste Disposal Facility and not removed from the state shall become the property of the Town of Yarmouth or ECOMAINE, pursuant to the terms of the Waste Handling Agreement and Demolition Materials Handling Agreement. No one shall salvage, remove, or carry off any such deposited solid waste without prior approval of the Town Manager.

#### **G. CERTAIN MATERIALS EXEMPT**

1. The Town Manager shall establish written rules governing the exclusion of certain materials from those refuse materials which must be deposited at a solid waste management or disposal facility pursuant to Section III.B of this Ordinance. These materials include:
  - a. Pursuant to 38 M.R.S.A. §1304-B(2)(C), certain materials may be designated by the Town Manager as recyclable, which materials may be placed at satellite facilities or as otherwise directed by the Town Manager.

- b. Certain other materials may be designated by the Town Manager, such as junk automobile bodies and similar bulky waste which may require special processing prior to disposal, tree and tree trunks and limbs, burning materials or materials containing hot or live coals, hazardous wastes, and other materials which the Town deems necessary to exclude.

#### **H. YARD WASTE AS COMPOST MATERIAL**

Pursuant to 38 M.R.S.A. §1304-B (2) (D), yard wastes as designated compost material. If not part of a farm operation as defined in 17 M.R.S.A. §2805(1)(B), or if not composted on the lot(s) on which generated, yard wastes shall be taken to the Recycling Center for Composting, or otherwise handled in a manner approved by the Town Manager. Backyard Composting is encouraged. Composting activities shall conform to all pertinent regulations or directives of all local, county, state or federal agencies which may have jurisdiction.

#### **I. WASTE BURNING RESTRICTED**

Except for waste facilities licensed by the Maine Department of Environmental Protection, it shall be unlawful for any person to start, kindle, fuel, cause or allow the open burning or incineration of any solid waste within the Town other than trees, tree limbs, leaves and other wood waste. No solid waste shall be burned or incinerated within the Town without appropriate Town permits.

### **ARTICLE IV**

#### **A. LICENSED DISPOSAL RESTRICTED**

All acceptable waste generated or collected in the Town of Yarmouth shall be delivered to the designated Recycling Center or Solid Waste Disposal Facility. No person other than a waste hauler licensed pursuant to Section V.A of this Ordinance may dispose of solid waste generated or collected in the Town of Yarmouth at the Solid Waste Disposal Facility. All construction and demolition debris, tree stumps, yard wastes, lots, trees, tree limbs, branches, brush and twigs, and landscape waste shall be delivered to the Recycling Center or such alternative site as the Town Manager may designate.

#### **B. WASTE TO BE SEGREGATED**

Residential waste must be kept separate from commercial waste at all times during collection, transportation, and delivery to the designated disposal facility. Residential waste generated or collected outside the Town of Yarmouth must at all times be separated from waste generated or collected in the Town of Yarmouth, and accounted for as directed by the Town Manager.

#### **C. LOADS TO BE SECURED**

No person may operate on any public way within the Town of Yarmouth a vehicle containing solid waste unless the vehicle's load is covered or otherwise secured or confined to prevent any portion of the load from falling or spilling out of the vehicle.

#### **D. WASTE TO BE COVERED**

Any waste left by the curbside for collection by a waste hauler licensed pursuant to Section V.A of this Ordinance must be securely package.

#### **E. NOISE NUISANCE**

No Commercial Waste Hauler shall collect waste from any property or establishment between the hours of 10:00 PM and 5:00 AM on any day of the week except as follows:

1. No Commercial Waste Hauler shall collect waste between the hours of 10:00 PM and 4:30 AM on any day of the week from any property or establishment located on and along Route One in the areas designated as “Commercial I, II and III” and in any “Industrial Zone” established pursuant to the official zoning map of the Town of Yarmouth.
2. The Town Manager may authorize exceptions for good reason including but limited to: clean-up after festivals, parades or community celebrations, disaster response, and clean-up, or circumstances where public health or safety would be best promoted by a limited exception.

### **ARTICLE V**

#### **A. WASTE HAULERS LICENSING**

##### 1. License Required

No person shall engage in business as a waste hauler in the Town of Yarmouth without possessing a valid license from the Town pursuant to this Ordinance.

##### 2. Licensing Authority

The Town Council of the Town of Yarmouth shall be licensing authority under this Ordinance. The Council may delegate to the Town Manager its authority to issue renewal licenses and to suspend licenses temporarily pending Town Council action under Section VI.B.3 of this Ordinance.

##### 3. Term of License

Each license issued pursuant to this Ordinance shall expire on December 31 of each year, unless earlier revoked by the Town Council pursuant to Section VI.B.3 of this Ordinance. Initial licenses issued pursuant to this Ordinance after September 1 of any year shall expire on December 31 of the following year.

##### 4. Transitional provision

Licenses issued pursuant to the Yarmouth Solid Waste Disposal Ordinance valid on the effective date of this Chapter shall expire on December 31 of the year following the effective date of this Chapter. This transitional provision shall expire on December 31 of the year following the effective date of this Chapter.

##### 5. License Fees

The fees for licenses issued pursuant to this Ordinance shall be \$100 per year for waste haulers who collect, transport or deliver solid waste to the designated disposal facility.

6. Accountability

All persons licensed pursuant to this Ordinance shall account for waste collected in the Town of Yarmouth and disposed on its behalf as directed by the Town Manager.

7. ECOMAINE Rules

Failure to observe or comply with applicable state, local or Federal rules, ordinances and statutes may be cause for refusal or revocation of a license issued pursuant to this section.

## **ARTICLE VI**

### **A. INSPECTIONS**

The Town Manager or his/her designee shall have the right to inspect the contents of any solid waste container at any time.

### **B. VIOLATIONS**

1. Any person violating any provision of this Ordinance shall be considered to have committed a civil violation, punishable by a fine of not more than \$250 for the first violation, not more than \$500 plus costs for the second offense, and not more than \$1000 plus costs for the third offense and each separate violation of the same nature thereafter, which fines shall be recovered on complaint to the use of the Town. Each day a violation continues shall constitute a separate violation. Any license granted hereunder may be revoked upon violation of this Ordinance.
2. Any person violating any provision of this Ordinance shall be considered to have committed a violation of land use criteria and shall be subject to penalties as set forth in 30-M.R.S.A. §4452.
3. The Town Council may, after notice and hearing, revoke any license issued pursuant to Section V.A of this Ordinance upon finding that the licensed person has violated any provision of this Ordinance, Unless the licensed person demonstrates to the Council's satisfaction that measures have been taken or procedures implemented which will prevent the violation or violations from recurring and pays to the Town of Yarmouth penalties under Section VI.B.1 above for the violations which have occurred.
4. The Town Manager or his/her designee shall enforce the provisions of this Ordinance. The Town Manager shall notify the Town Council of violations of this Ordinance. Upon authorization of the Council, the Town Manager may institute

necessary legal or equitable proceedings in the name of the Town of Yarmouth to enforce the provisions of the Ordinance.

5. The Town Manager may deny entry and use of the Recycling Center, for a period not to exceed two years, by any person found in violation of this Ordinance.



CHAPTER 307

**HEALTH ORDINANCE**

Town of Yarmouth, Maine

Recodified: 1/15/98

Amended: 5/17/12

**HEALTH CODE**  
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# HEALTH CODE

## ARTICLE I

### A. TITLE

This Ordinance shall be known and may be cited as the Health Code of the Town of Yarmouth.

### B. PURPOSE

The purpose of this Ordinance is to promulgate specific regulations to protect and preserve the public health as it relates to local needs or donations, not inconsistent with the Revised Statutes of the State of Maine.

### C. DEFINITIONS

1. Town. The word "Town" shall mean the Town of Yarmouth.
2. Person. The word "person" shall mean every natural person, firm, co-partnership, association or corporation.

## ARTICLE II

### A. BOARD OF HEALTH

The Town Council shall appoint a Board of Health consisting of five members besides the local Health Officer, one of whom shall be a physician if available in the community, and the remainder to consist of both men and women. Appointments shall be for three year terms with the term of one member expiring each year. The Health Officer shall be Secretary Ex-officio of the Board of Health and shall keep a record of all proceedings.

The Board of Health shall constitute an advisory body to the Health Officer.

The Board of Health is empowered to make such orders and regulations as are essential to protect the public health when, in its opinion, an emergency or threatened epidemic exists. Such rules and regulations shall lapse when the Board certifies termination of the emergency.

### B. HEALTH OFFICER

1. The Health Officer, who preferably shall be a physician, will be appointed by the Town Manager as provided under ARTICLE III, Section 3 of the Town Charter for a term of three years and until his successor is appointed. In the event of incapacity or absence of the Health Officer, the Town Manager shall appoint a person to act as Health Officer during such incapacity or absence.

## 2. Duties

The Health Officer shall have charge and control of all functions involved in protecting and preserving the public health; he/she shall have all power provided by state law or Town ordinance relative thereto. Among other powers, he/she shall exercise the functions of:

- a. **Communicable Disease Control**, which shall include the power of quarantine and detention, and the adoption of such other measures as will prevent the spreading, or aid in the prevention, of communicable diseases.
- b. **License Inspector**, Inspect all premises for which satisfactory sanitary conditions are a pre-requisite to issuance of a license by the Town Clerk and either deliver to the Town Clerk a certificate to the effect that health laws are complied with and that proper sanitary conditions exist or advise the Town Clerk of his/her refusal to so certify.

3. Conditions resulting in non-certification to the Town Clerk shall be corrected to the satisfaction of the Health Officer and should he/she fail to find the conditions corrected to his/her satisfaction, he/she may make reinspections at such future times as he/she may deem reasonable, and, in the event the licensee is unable to satisfactorily comply, the Health Officer shall refer the violation to the Board of Health for a hearing, who may thereafter recommend action to be taken by the Licensing Board of the Town of Yarmouth.

## 4. **Complaints**

The Health Officer shall receive and examine into all complaints made by any of the inhabitants of the Town concerning nuisances dangerous to life and/or health within the limits of the Town; enter upon or within any place or premises where nuisances or conditions dangerous to life or known or believed by him/her to exist, and personally, or by appointed agents, inspect and examine the same; and all owners and occupants shall permit such sanitary examinations. He/she shall have the power and it shall be his/her duty to order the suppression and removal of nuisances and conditions detrimental to life and/or health known by him/her to exist within the limits of the Town.

## 5. **Miscellaneous**

- a. Filling station restrooms shall be required to be maintained in a sanitary condition and shall be subject to inspection at the discretion of the Health Officer.
- b. All Laundromats and the equipment therein shall be maintained in clean, sanitary conditions a subject to inspection by the Health Officer who may require the correction of unsanitary conditions at his/her discretion.

- c. Whenever any person knows, or has reason to believe, that within his/her family or household someone is ill with small pox, diphtheria, scarlet fever, cholera, typhus fever, or any other disease which is made notifiable by the rules and regulations of the State Department of Health and Welfare, he/she shall, within 24 hours, give notice thereof to the Health Officer of the Town.
- d. Itinerant food service activities shall be erected and operated in a manner approved by the Health Officer.

**6. Garbage and Solid Waste Disposal**

- a. No garbage or rubbish may be dumped in streams, rivers, or other public waters.
- b. Garbage shall be placed in a securely closed container until such time as it is delivered to the Town's sanitary landfill.
- c. No person shall establish a private dump for the disposal of solid waste except for those materials to be used as garden mulch.

## **ARTICLE III**

### **A. PENALTY**

Any person who violates any provision of this Ordinance or any regulation or order made hereunder shall, upon conviction thereof by a court of competent jurisdiction, be punished by a fine of not less than \$50.00 nor more than \$200.00.

CHAPTER 308

**HARBOR, WATERFRONT AND BOAT ORDINANCE**

Town of Yarmouth, Maine

Recodified: 1/15/98

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# HARBOR, WATERFRONT AND BOAT ORDINANCE

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# HARBOR, WATERFRONT AND BOAT ORDINANCE

## ARTICLE I

### A. TITLE

This ordinance shall be known and may be cited as the “Harbor, Waterfront and Boat Ordinance of Yarmouth.”

### B. PURPOSE

The purpose of this Ordinance is to define rights and responsibilities of those people who make use of the tidal waters of the Town of Yarmouth and adjacent Town land and rights-of-way owned or leased for vessel mooring and launching.

### C. AUTHORITY

Town authority to enact Ordinances governing boats and moorings is found generally in Title 38 Chapter 1 of the Main Revised Statutes, in which the State of Maine has delegated this responsibility to Municipal Officers.

### D. DEFINITIONS OF TERMS USED

**Commercial:** Any boat registered as commercial by the State of Maine

**Commercial Fisherman:** Any person who derives more than 50% of his or her annual earned income from commercial fish or marine organism harvesting.

**Dinghy:** A dinghy shall be a punt, skiff, tender or like of 10 feet of length overall or less, used solely as transportation to or from a boat on a mooring and clearly marked with the mooring number and vessel owners name. (e.g. Smith #23)

**Dinghy, commercial:** Shall be a punt, skiff, tender, or the like of 14 feet of length overall or less, used solely as transportation to or from a boat on a mooring and clearly marked with the mooring number and vessel owners name. (e.g. Smith #23), or is registered to a person holding a current Town of Yarmouth Commercial Shellfish Harvesting License.

**Dinghy Haul Off:** A mooring or tether system for a dinghy or boat which allows the dinghy or boat to be hauled to and from a mooring block or anchor to the shore by a system of lines secured at the shore.

**Federal Navigation Project-FNP:** That portion of the mooring area and channel of the Royal River designated by the United States Congress as Federal Navigational Project area and subject to rules of equal and open access as determined by the US Army Corps of Engineers.

**Houseboats:** A raft, hull, barge or vessel, designed primarily to be used as living quarters, and providing living, sleeping, cooking and sanitary facilities, whether temporarily or permanently.

**Mooring:**

- a Conventional swinging mooring system with anchor, chain, buoy and pennant or;
- b A position on a non-swinging float or “camel” or pony dock; properly fixed and located with not less than 2 anchor ties or two (2) mooring permit holders and approved by the harbormaster; provided that such float or camel has an area not greater than 8 feet by forty feet and is properly fixed and located with not less than 2 anchor ties, all to be approved by the Harbor Master.
- c Haul out/out haul: a dinghy mooring system attached to shore by line that allows for dinghy access from shore.

**Municipality:** Municipality means the Town of Yarmouth.

**Person:** Person includes an individual, a corporation, a firm, partnership, an association or any other entity.

**Property Taxpayer:** Property taxpayer is an ad valorem property tax paying owner of real estate in this Municipality.

**Resident:** An individual an individual whose primary residence is located in the Town of Yarmouth or are property taxpayers in the Town of Yarmouth.

**Vessel:** Shall include boats of all sized powered by sail, machinery or hand; scows, dredges, lobster or shellfish car; and watercraft of any kind.

**Vessel Owner:** The person, or entity, who is named on the boat registration.

**Marina:** An entity that rents marina slips.

**Marina Slip:** A position of 12 feet in length or greater on a commercial marina docking area intended as lease or rental space for a vessel, except dinghy tie-up areas, and areas used for loading/unloading, repairs, fueling or other similar temporary uses and operations.

**Non-Resident:** A person who is not a property taxpayer in the Town of Yarmouth or a person whose primary residence is not located in the Town of Yarmouth.

## **ARTICLE II**

### **A. APPOINTMENT OF HARBOR MASTER**

The Harbor Master shall be appointed by the Town Manager in accordance with the Yarmouth Council-Manager Charter and the Administrative Code.

**B. TERM OF OFFICE**

The Harbor Master duly appointed and qualified, as hereinbefore provided, shall continue in office until his/her successor is duly appointed and qualified, unless he/she sooner resigns, or is removed from office by the Town Manager.

**C. APPOINTMENT OF DEPUTY**

The Town Manager may appoint a deputy to act during the Harbor Master's absence or disability or to assist the Harbor Master in the performance of his/her duties.

**D. AUTHORITY OF HARBOR MASTER**

1. The Harbor Master or his/her deputy (if any), when duly appointed and qualified under the provisions of this Ordinance, shall have power and authority to do and perform all of the duties of a Harbor Master, as provided in the Statutes of the State of Maine and acts additional thereto and mandatory thereof, and shall enforce and carry out such rules and regulations as may from time to time be made by the Town Council for the regulation and management of, the tidal waters of the Town of Yarmouth and the use of public wharves, docks, piers and floats in the Town of Yarmouth, and the Town owned adjacent lands.
2. The Harbor Master has jurisdiction over the entry of all vessels into those areas designated in said ARTICLE I.B of this Ordinance. No vessel shall be brought into the Municipality of Yarmouth for the purpose of wrecking or scrapping without the permission of the Harbor Master.
3. The Harbor Master may enforce within his/her jurisdiction safety rules based on the guidelines established by the U.S. Coast Guard, U.S. Coast Guard Auxiliary, United States Power Squadron and other recognized authorities, the laws of the State of Maine, and the Ordinances of the Town of Yarmouth, Maine.
4. The Harbor Master shall have jurisdiction over all moorings in the Town of Yarmouth and its waters.
5. The Harbor Master shall maintain a current mooring list and mooring waiting list for all of Yarmouth waters and any other areas within the Town of Yarmouth for which there has been established a mooring plan. A mooring plan, for the purposes of this Ordinance, shall be a system established or approved by the Harbor Master designating the locations of moorings and/or anchorage of vessels including mooring plans traditionally established and controlled by certain homeowners' associations, including but not limited to, the Sunset Point Homeowners Association, the Cousins Island Homeowners Association, the

Seabourne Association and the Homewood Association. (Collectively, the “associations”).

6. In all tidal waters of the Town of Yarmouth, the mooring and anchoring of boats, the manner thereof, the locus thereof, shall be under the supervision, direction and control of the Harbor Master.

## **ARTICLE III**

### **A. SPEED AND WAKE**

No person or persons shall drive or operate any boat or vessel in Yarmouth waters in such a manner as to cause a wash, a wake or waves that disturb or damage any wharf, float or anchored or moored dock, boat or vessel or at a speed that endangers any person or property. The Harbor Master, as his/her discretion, may establish speed limits for the operation of boats in any mooring area or any channel of Yarmouth.

### **B. WATERSKIING**

No person shall operate a boat towing a surfboard, water skis, inflated inner tube or similar device within a mooring area.

### **C. ABANDONMENT**

No person shall permit the abandonment of any boat, raft or float or permit same to become derelict upon the shores or in the waters of the Town of Yarmouth. In the event that the owner neglects, fails or refuses to remove such abandoned or derelict boat, float, mooring, or raft, the Harbor Master may cause it to be removed and shall charge the owner for the costs of removal and disposal plus a \$100 fee.

## **ARTICLE IV**

### **A. REGULATIONS**

1. The mooring and anchoring of all boats in mooring areas of Yarmouth shall be governed, regulated and controlled by said Town and no person or persons shall moor or anchor or cause to be moored or anchored therein boats of any description except in conformity with the rules and regulations established therefore by the Municipal Officers.
  - a Mooring Assignment Applications: Each application shall contain the following:
    - i. The applicant's name, complete address, home telephone number, and work telephone number;
    - ii. The boat name, State and Federal registration number, name and address of the boat owner(s) and a copy of the current boat registration or documentation certificate;
    - iii. Mooring use and area applying for;
    - iv. The type of boat, i.e., sail, power, inboard or outboard;

- v. Length of boat and hull configuration, i.e. deep keel, shallow draft;
  - vi. Name, address and telephone number of person who will set, service and inspect the mooring;
  - vii. The signature of the applicant and date of applications;
  - viii. Proof of a mooring inspection within the 24 month period immediately prior to the date of the application.
  - ix. Approximate position or GPS bearing
  - x. Any person applying for a mooring permit as a Commercial Fisherman shall sign a statement indicating that the applicant has or will derive the majority of his/her earned income from commercial fisheries or marine harvesting during the applicable mooring year.
- b Incomplete Applications: Each application that fails to provide the above listed information will be deemed incomplete. All applications must include the appropriate fee. Those without the appropriate fee shall be deemed incomplete. Incomplete applications shall be returned to the applicant without further action by the Harbormaster. A fraudulent application is grounds for immediate termination of mooring assignment.
2. All moorings shall be of sufficient size and weight, with chain or rope in sound condition to properly secure the vessel for which it is to be used based on scope of 2:1 at high tide; exceptions may only be permitted for good cause and with the approval of the Harbormaster.
  3. Scope, including pennant, shall not exceed a total length of twice the distance from the mooring ball to the bottom at extreme high tide.
  4. Pennants shall not exceed a length of 2.5 times the distance from the surface of the water to the bow chock and if they exceed 10' in length must be weighted to keep the pickup buoy within 5' of the mooring buoy.
  5. All mooring buoys shall be white in color with a horizontal blue stripe and be of sufficient size and buoyancy to remain afloat when not attached to the vessel. Log moorings will be allowed only between October 1 and June 1 and marked with a bright color, excluding orange. Winter spars, logs or stump moorings shall be connected to their moorings with non-floating rope (no wire cable shall be permitted).
  6. Minimum tackle standards.

- a. The Town of Yarmouth shall make recommended specifications for minimal tackle standards to registered mooring holders in the Town of Yarmouth.
- b. The Specifications may be derived from accepted standards adopted by trade publications or reputable marine texts, mooring service companies, or other federal, state or municipal regulations.
- c. The Town of Yarmouth reserves the right to change, modify, or update the suggested standards at any time and assumes no liability whatsoever for the actual performance of adequacy of any mooring system employed by a mooring holder whether or not such system conforms to such recommended minimum standards.
- d. The recommended standard mooring specifications are appended to this Chapter and incorporated herein as Appendix A, Table 1.

## 7. Inspections

- a. Prior to initial placement and at least once every two years, each mooring shall be either self-inspected by the mooring owner or inspected through a mooring service company chosen by the mooring owner, and in either case, must be in a safe condition before being placed in any Yarmouth anchorage.
- b. The mooring owner is responsible for the adequacy and performance of all mooring gear, tackle and maintenance thereof. All permanent moorings shall comply with the following minimum specifications:
  - i. Each permanent mooring shall consist of a mushroom, granite block, pyramid or helix, heavy steel bottom chain attached to a lighter top chain, mooring buoy and a nylon pennant. Any deviation must be approved by the Harbor Master.
  - ii. All mooring blocks shall be constructed of solid granite with steel staples or eyebolt extending completely through the block. Cement blocks or other miscellaneous weighted objects as mooring anchors are unacceptable as mooring anchors.
  - iii. A mooring may have one top end swivel. All swivels and shackles must be larger than the chain diameter. All shackles and swivel pins shall be properly sized. All eyes in the nylon rope shall be fitted with appropriate size thimbles. Pennants connecting the mooring buoy to the moored boats shall be fastened to the lower eye of the mooring buoy.

8. An annual fee may be levied by the Town for each mooring or commercial marina slip located in the tidal waters of the Town of Yarmouth in accordance with the fee schedule established in Chapter 401 of the Yarmouth Town Code

(Fees and Permit Ordinance). Mooring fees for all established moorings shall be paid on or before April 15 of each year. Mooring renewal applications that are late will be assessed an additional \$50.00 late fee. Fees for new moorings shall be paid at the time new applications are accepted. Failure to pay the fee within 30 days from the date due shall result in the loss of the mooring permit.

9. The Harbor Master will make all mooring assignments in all Yarmouth, waters for which a mooring plan has been established, except areas within the Federal Navigational Projects on a “first come, first serve” basis in accordance with following priorities: (The annual request for mooring renewal shall specify the person’s category.).
  - a. Property owners with real estate abutting the waters immediately adjacent to the proposed mooring location pursuant to Title 38 Chapter 1.
  - b. Resident commercial fisherman.
  - c. Resident Non-commercial.
  - d. Non-resident commercial fisherman
  - e. Non-resident seasonal property owner.
  - f. Other non-resident non-taxpayer.

The Harbor Master shall consult with the “Associations” and will, insofar as permissible and not otherwise inconsistent with this Ordinance, delegate to the “Associations” the authority to establish and enforce mooring plans in those areas traditionally regulated by the particular “Association”, and shall provide support enforcement services to the “Associations” in the administration of the mooring plans.

Mooring areas controlled by “Associations” as provided in Article II (D) (5) of Chapter 308 shall be subject to the following requirements:

- i. The Association maintains a controlled mooring field.
- ii. The Association provides oversight of member mooring use, including inspections.
- iii. The Association is registered with the Harbormaster and provides member/mooring holder rosters and mooring location plans to the Harbormaster.

10. The Harbor Master will make all mooring assignments in the Federal Navigational Project and in all areas for which a mooring plan has not been established on a “first come, first serve” basis.



a. (Reserved for new committee rules)

11. Each mooring will be assigned an identification number which must be marked in a legible fashion on the mooring buoy with at least 3" numbers. Additionally, the Harbor Master may implement organization/tracking methods for said boat, mooring, and vehicle identification. Each mooring must be white with a visible blue horizontal stripe.
12. Neglected, abandoned or unauthorized moorings (including, but not limited to, unpaid fees or wrong location) shall be moved or removed by or under the direction of the Harbor Master. Any expense incurred will be borne by the person responsible for its placement (if known).
13. All mooring assignments shall be used exclusively for the personal use of the applicant and solely for the boat listed on the application. No leasing, subleasing, or assignment of moorings or mooring numbers shall be allowed. Marinas are exempted from this Section except moorings located in the Federal Navigation Project. Each commercial marina or boatyard may be permitted to rent from the Town of Yarmouth up to one (1) service or guest mooring, or mooring point for a single dock. In the event that such service or guest mooring is to be located in the Federal Navigational Project, such mooring may be rerented for an aggregate seasonal amount not to exceed the rental and permit fee amount established in Chapter 401, or if rented on a daily basis in an amount not to exceed the permit fee divided by 150. In no case shall the marina operator derive revenue or business value from such service or rental mooring in excess of the municipal rental fee and permit established in Chapter 401. Other exceptions may be granted by the Harbor Master for good reason, but not to exceed one season.
14. An assigned mooring not set or set and then unused by the applicant for a period of one season or more, as determined by the Harbor Master, shall be deemed abandoned. Subsequent application for a mooring assignment by that person must be in accordance with Section II.D.5 of this Ordinance.
15. Notwithstanding any other provision of this chapter to the contrary, houseboats are prohibited from mooring or anchoring in Yarmouth waters for a period longer than 10 consecutive days or 20 total days per calendar year except at marinas which provide the following:
  - a. A permanent float, dock or slip from which the houseboat may be directly boarded from land;
  - b. Connection to a public water supply by means of an individual anti backflow valve;

- c. A sewer connection to a public sewage system; (or other suitable means of sewage disposed);
  - d. An all weather supply of electricity;
  - e. Parking as required by the codes and ordinances of the Town of Yarmouth; and compliance with the applicable Land Use Codes.
16. No boat owner or person shall fasten or tie a boat to a mooring without the expressed permission of the assigned mooring holder except in instances of a true emergency, which shall be defined as a threatened loss of personal property and or personal injury. Whoever is charged with violating this provision shall be subject to a fine and penalties described in Article VI.
17. In an effort to meet current and future availability expectations and to provide consistent mooring location placement, a size limitation has been placed on boats and vessels moored in the Royal River Anchorage, FNP. This regulation does not preclude any boat or vessel registered in the Royal River Anchorage prior to December 31, 2005 from exceeding the following size restrictions. All boats or vessels moored in the Royal River Anchorage after December 31, 2005 shall conform to the following size restrictions:
- a. Beam not greater than 14 feet at any point
  - b. Draft not greater than four (4) feet when moored
  - c. Length overall-LOA not greater than 36 feet
- Any vessel greater than 36 feet LOA shall be approved by the Harbormaster and shall be moored, using either fore and aft anchors or a float.
18. No person shall set or maintain a Dinghy Haul Off system tied to lands associated with any town pier, wharf, landing or water access point or any seaward extension thereof without the permission of the Harbormaster.
19. No person shall store or leave a boat or dinghy overnight on the beach at the Madeleine Point public facility; except that commercial fisherman with mooring permits at Madeleine Point shall be allowed to leave one dinghy or tender not to exceed 14 feet in length with the approval of the Harbormaster.
20. Upon approval of the Harbormaster, a mooring may be transferred to a member of the assignee's immediate family at the request or death of the assignee, and only if the mooring assignment will continue to be used for commercial fishing purposes. For purposes of this section, "members of the assignee's immediate family" means an assignee's parent, child or sibling, by birth or by adoption, including a relation of the half blood, or assignee's spouse.

## **B. VIOLATIONS OF MOORING POLICY**

Violations of any provisions of these rules shall result in forfeiture of all permit and lease privileges. Additionally, whoever violates any provision of these regulations shall be subject to a fine and penalty described in Article VI.

## **ARTICLE V**

### **A. PUBLIC FACILITIES**

1. No freight may be delivered to any Yarmouth wharf, float or pier located in or adjacent to a residentially zoned area of the Town, except as authorized by ARTICLE V.A.5 of this Ordinance.
2. All boats and vessels may have reasonable and convenient access to the public wharves, docks, piers and floats and all persons may have reasonable and convenient use thereof; subject to the limitations herein.
3. No person shall place or maintain on public facilities, any barrel, box, gear, traps, pots, dunnage or any other equipment for a longer period than is reasonably necessary for the prompt loading or unloading of items. In no instance shall such items be left unattended for any longer than one hour without the permission of the Harbormaster. Except, however, that for the purposes of commercial fisheries, traps and gear may be placed on a town pier, wharf or float or associated lands for up to four hours, provided reasonable room and space is maintained open for access and use of such float, wharf or pier by other users.
4. Use of recreational docks for commercial use must be authorized by the Harbor Master.
5. Commercial Vehicles shall be allowed to make deliveries to the Cousins Island Dock on non-holiday weekdays between the hours of 7:00 AM and 12:00 noon, provided that only non-dual wheeled vehicles shall make such deliveries. Non-dual wheeled vehicles shall not be used for the purpose of transporting multiple loads or providing for a scheduled delivery service for commercial entities. Deliveries of prescription medication and deliveries of meals through the Meals on Wheels Program shall be exempt from this provision. Delivery of fuel for powering the Chebeague Transportation Company passenger vessel shall also be exempt from this provision.
6. For the purpose of this Section, dunnage is defined as any freight, including luggage, groceries, boxes, and other items transported by passengers boarding a vessel from any Yarmouth wharf, dock, pier or float (or from any float attached to a Yarmouth wharf, dock or pier).
7. Except for authorized areas, no person or persons shall place or deposit on any of the public wharves, docks, piers, or floats in mooring areas, or on public land

adjacent thereto, any fish or lobster bait except for immediate delivery to boats ready to receive the same. After use all docks must be left in a neat and orderly fashion.

8. The Harbor Master shall require all persons violating any provisions of the article to immediately cease and desist there from. If such person fails or refuses the same, or is then absent, the Harbor Master is authorized to remove, or cause the same to be forthwith removed, at the cost and expense of such person or persons. In addition to the above, three violations of any provision of Article V in a twelve month period may result in the loss of mooring privileges or the use of the town waterfront facilities for that individual for a period of one year.

## **B. DOCKAGE TIME**

No person shall tie up vessels or boats of any description to public facilities more than thirty (30) minutes except with special permission granted by the Harbor Master.

## **C. DINGHIES**

1. No dinghies shall tie up to any public facility such as a wharf or float without permission of the Harbor Master unless such dinghy shall be owned or used by the mooring holder or by the owner of a boat tied up to a guest mooring.
2. All dinghies using the public facilities shall have the owner's of vessel's name and the mooring registration number clearly lettered thereon in letters at least two inches (2") high, and a contact phone number, Permits for dinghy tie-up, where applicable must be displayed on the inside of the dinghy transom.
3. No Dinghies may be tied up to any town pier, wharf or float with any outboard motor of any size or capacity, except that dinghies or tenders for commercial fishing may carry an outboard of up to 20HP capacity. Harbormaster is authorized to allow an exemption for up to a 25HP based commercial fishing needs. This shall not be construed to prevent vessels, including dinghies to tie up pursuant to Article V.B., above. This regulation shall not apply to any float or pier reserved and dedicated by the Town for commercial purposes only.
4. No dinghies shall be tied up and left for longer than 30 minutes at the town maintained float or pier at Madeleine Point except with a permit issued by the Harbor Master and payment of the required permit fee (if any) as established in Chapter 401 of the Yarmouth Town Code.
  - i. With the advice of the Harbor and Waterfront Advisory Committee, the Harbormaster shall annually establish a maximum number of commercial dinghy tie up permits for the Madeliene Point public facility taking into consideration the available space and capacity for dinghy tie-ups at the float and pier and further considering the

demand, the availability and extent of town-owned shared-dinghy services, and the availability, number and ease of access to any town-provided dinghy rack systems. The Harbor Master shall conduct an annual lottery system amongst mooring holders wishing to be considered for each mooring area and shall upon receipt of the required fee, if any issue dinghy tie up permits to those drawn. A preliminary lottery shall be drawn first for commercial fishermen with mooring permits in each area. Up to 5 of the total private dinghy permits allocation in each area shall be awarded in the commercial fishermen lottery, prior to holding the open lottery. Commercial fishermen with mooring permits not drawn in the preliminary lottery draw shall be re-entered in the general lottery for each area. No person or mooring assignment shall be eligible to hold more than one dinghy tie-up permit at the Madeleine Point facility.

#### **D. ICE FISHING SHANTIES**

1. No fishing shanties or other structures shall be put on the Royal River without registering with the Harbor Master and, after receiving a permit, painting the owner's designated number, name, and address in letters not less than two inches (2") in size on the structure. This must be done within seven (7) days of receiving the permit. Violators of this provision shall have their structures removed by the Town at the owner's expense.
2. All structures must be removed from the river and from the Town property by March 15<sup>th</sup> or at the discretion of the Harbor Master, or they will be removed by the Town. Violators of this paragraph will be subject to a fine in accordance with ARTICLE VI of this Ordinance.

#### **E. DUMPING PROHIBITED**

No person or persons shall deposit, dump or cast away or cause to be deposited, dumped or cast away into the tidal waters within the boundaries of the town of Yarmouth or upon the public lands adjacent thereto, any bait, fish offal, garbage, sewer, rubbish or other pollutants.

No oil or other hazardous wastes shall be deposited in town dumpsters, waters, or left on town piers, floats or landings under any circumstances. Such material must be disposed of properly at the Town's designated disposal site as specified in the appropriate disposal regulations.

#### **F. COMMERCIAL USE OF TOWN LANDING**

No commercial boat hauler shall launch or haul out any boat using the ramp at the Yarmouth Town Landing off Old Shipyard Road, except with a permit issued by the Harbor Master.

## **G. USE OF TOWN LAUNCH RAMP**

1. Any person wishing to launch or haul a boat at the Yarmouth Town Landing, off Old Shipyard Road, shall obtain a permit from the Town of Yarmouth, which permit may be obtained from the Harbor Master or his/her designated agent, upon payment of the fee established by the Fees and Permits Ordinance which is Chapter 401 of the Yarmouth Municipal Code.
2. Any vehicle found in violation of Article V.G.1 of this Ordinance, if after being mailed notice of the unpaid permits using the registered owners address, and the registered owner has three or more unpaid launch use permits for any vehicle registered in his or her name, may be impounded with the use of an immobilization device.
3. The registered owner of any vehicle in violation shall be responsible for full payment of any outstanding launch use permits. In addition a \$50.00 immobilization disengagement fee (if utilized) must be paid.
4. The Town Council shall, from time-to-time, establish a schedule of fines.

## **H. FLOAT REGULATIONS**

1. All floats within the territorial waters of Yarmouth shall be subject to all applicable Federal, State and local laws, regulations and rules.
2. Float size in the Royal River Anchorage (FNP) shall not exceed a total of 320 square feet (based on 8x40 foot dimensions) and shall not exceed a width of 8 feet.
3. Each moored float may be authorized only after received expressed permission of the Harbor Master, Harbor and Waterfront Advisory Committee, and the Army Corps of Engineers. Such authorization by the Harbor Master and Harbor and Waterfront Advisory Committee shall be granted provided the standards of these regulations are met.
4. All flotation of docks, boat moorings buoys and other water-use structures and facilities shall be of materials commercially manufactured for marine use. Flotation materials shall be fabricated so as not to become water-logged, crack, peel, fragment, or be subject to loss of beads. Flotation materials shall be resistant to puncture, penetration, damage by animals, and fire. Every flotation device must be firmly and securely affixed to the structure it supports with materials capable of withstanding prolonged exposure to wave wash and weather conditions.
5. All floats located within the Royal River Anchorage (FNP) and Cousins River shall be required to have a minimum of two (2) anchors. The anchors shall meet

the minimum anchor and ground tackle specifications as would be required to secure two (2) boats or vessels registered for said mooring. All other floats may be single point and shall meet the minimum specifications as would be required to secure the boats or vessels registered for said mooring.

6. All shackles and fasteners shall be hot galvanized steel or structurally sound and proportional in size to the chain used.
7. All gear, traps, fish and dunnage on private floats shall be stored or secured so as not to be discharged or fall into the water so as to pollute or create a navigation hazard. All fuel, foul waste, decaying matter and/or hazardous material shall be removed promptly from the floats after use and disposed of properly.
8. All floats shall be identified with assigned registration numbers to the landward and seaward sides of the float in contrasting colors and be a minimum of three (3) inches in height.
9. All floats shall be buoyant so as not to become submerged at any time and must remain above water and visible at all times.
10. All private floats in the Royal River Anchorage (FNP), with the exception of marina moorings and Town owned floats shall be owned jointly by two (2) mooring applicants and require two (2) mooring applications. Mooring applicants who qualify for a float must either be a mooring holder or must have been chosen from the Town's chronological mooring waiting list.
11. Private mooring ownership in the FNP shall be split evenly between two (2) mooring holders.
12. The location of all new floats placed in the Royal River Anchorage shall be determined solely by the Harbormaster with prior approval of the Army Corp of Engineers. All permits issued by the Army Corps of Engineers for the Royal River (FNP) shall be submitted and retained by the Town of Yarmouth.

## **ARTICLE VI**

### **A. PENALTIES**

1. Whoever violates any provision of this Ordinance, neglects or refuses to obey the provisions of this Ordinance shall be deemed guilty of a civil violation and, upon conviction, shall be punished by a civil penalty of not more than Two Hundred Dollars (\$200). Each day that such violation exists shall constitute a separate offense. This Ordinance shall be enforced by the Harbor Master and/or any other law enforcement official with jurisdiction in Yarmouth. If the Harbor Master

incurs costs in the conduct of his/her duty as a direct result of the failure of a vessel owner or operator to comply with the laws and regulations, the Harbor Master may recover these cost and reasonable reimbursement of his/her time by filing a civil complaint against such owner or operator in the appropriate District Court.

2. As provided by 38 M.R.S.A. 13, a person is guilty of failure to obey an order of the Harbormaster if the person intentionally, knowingly or recklessly fails to obey any lawful order of the Harbormaster authorized pursuant to 38 M.R.S.A. Failure to obey an order of the Harbor master is a Class E crime.
3. The Harbormaster may suspend or terminate for a period of one(1) year both the right to use the town wharfs and the mooring assignment of any mooring owner for non-compliance with this article, or failure to comply with the order of the Harbormaster given according to the provisions of this Article. After one (1) year, the applicant may reapply for a mooring assignment.



## Appendix A

Table 1: Recommended Mooring Standards

### Recommended Specification for Moorings

Boat	Mushroom Anchor	Granite Anchor	Heavy Chain	Light Chain	Rope
Length	Min. Wt. Diameter	Min. Wt.	Diameter	Diameter	
<b>All Vessels:</b>					
<10'	50 lb	-	1/2	3/8	3/4
10'-15'	100 lb	-	1/2	3/8	3/4
15'-19'	200 lb	-	1/2	3/8	7/8
20'-24'	250 lb	-	1/2	3/8	7/8 -1
<b>Motor Boats:</b>					
25'	250 lb	-	7/8	1/2	7/8 -1
35'	400 lb	2000 lb	1	1/2	7/8 -1
45'	400 lb	3000 lb	1	1/2	1
55'	500 lb	3000 lb	1	5/8	1
<b>Sailboats:</b>					
25'	250 lb	-	3/4	1/2	7/8 -1
35'	400 lb	2000 lb	1	1/2	7/8 -1
45'	400 lb	3000 lb	1	1/2	1
55'	550 lb	3000 lb	1	5/8	1

Rope to be replaced at time thimble is replaced

Chain to be replaced if its original diameter has been reduced by 50%

Dimensions are in inches

CHAPTER 309

**DOG CONTROL ORDINANCE**

Town of Yarmouth, Maine

Recodified: 1/15/98

Amended 1/20/98

Amended 3/20/03

Amended 7/25/06

Amended 10/18/07

Amended 1/17/08

Amended 12/20/12

Amended: 5/16/13

Amended: 6-12-14

# DOG CONTROL ORDINANCE

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# DOG CONTROL ORDINANCE

## ARTICLE I

### A. TITLE

This ordinance shall be known and may be cited as the “Dog Control Ordinance of the Town of Yarmouth, Maine.”

### B. PURPOSE

The purpose of this Ordinance is to provide regulations in addition to those contained in Title 7, M.R.S.A. with respect to controlling dogs throughout the Town of Yarmouth in the interest of the health, safety and general welfare of its residents.

### C. DEFINITIONS

“**At Large**” means off the premises of the owner and not under the control of any person by means of personal presence and attention as will reasonably control the conduct of such dog, which shall mean that the dog is under “Voice Control” at any time the dog is not on a leash or confined on the premises of the owner.

“**Owner**” means any person or persons, firms, association or corporation owning, keeping or harboring a dog.

“**Nuisance**” shall mean a dog which by loud, frequent, and habitual barking, howling or yelping, disturbs the peace.

“**Trail Head**” shall mean an area at any formal entry point to town owned, licensed, or maintained park or open space conservation parcel such as a parking area, town road crossing, private roadway crossings or areas adjoining an active recreational field.

“**Voice Control**” as used in this ordinance, the term “voice control” means that the dog returns immediately to and remains by the side of the owner or keeper in response to the owner or keepers verbal command, whistle or hand signal. If a dog approaches or remains within 10 feet of any other person other than the owner or keeper, that dog is not under voice control and shall be deemed to be “at large”, unless such person (or in the case of a minor child, an adult present with the child) has communicated to the owner or keeper by spoken word or gesture that such person consents to the presence of the dog.

“**Dangerous Dog**” means a dog that bites an individual who is not trespassing on the dog owner’s or keeper’s premises at the time of the bite or a dog that causes a reasonable and prudent person who is not on the dog owner’s or keeper’s premises and is acting in a reasonable and non-aggressive manner to fear bodily harm by attacking or threatening to attack that individual or individual’s domestic animal.

“Dangerous dog” does not include a dog certified by the State and used for law enforcement use.

For the purpose of this definition, “dog owner’s or keeper’s premises” means the residence or residences, including building and land and motor vehicle, belonging to the owner or keeper of the dog.

#### **D. REGULATIONS**

1. An owner shall not permit a nuisance.
2. Dangerous dogs shall be confined in a secure enclosure or on a chain or leash controlled by the owner or custodian at all times.

### **ARTICLE II**

#### **A. LICENSES**

1. Fees shall be paid to the Town Clerk for each license issued on spayed and unspayed females and neutered and unneutered males as prescribed by state law.
2. Each owner or keeper of a dog at the age of 6 months or over shall, on or before January 1<sup>st</sup>, annually, or at such time as such dog becomes 6 months old, cause such dog to be licensed in the Town Clerk’s office in the Town where such dog is kept. No Town Clerk shall issue a license for any dog until the applicant has filed with such Clerk proof that such dog has been immunized against rabies.
3. Any person becoming the owner or keeper of a dog after the first day of January, not duly licensed as required, shall, within 10 days after he/she becomes the owner or keeper of said dog, cause said dog to be described and licensed as provided.

### **ARTICLE III**

#### **A. IMPOUNDMENT**

1. Unlicensed dogs, whether or not at large, and dogs found running at large, whether or not licensed, shall with or without complaint be taken up and impounded by a police officer or dog control officer in a shelter designated by the Town as the Town Animal Shelter and there confined in a humane manner for a period of not more than ten (10) days.
2. Any owner may regain possession of an impounded dog upon payment of the impoundment and boarding fees set forth herein. Any dog impounded under the

provisions of this Ordinance and not reclaimed by the owner within said ten (10) days, shall be considered to be abandoned by the owner and the property of the Town Animal Shelter and may, after consultation with the Humane Society and/or the Animal Refuge League be humanely destroyed or given to the Humane Society and/or the Animal Refuge League, or any person deemed to be responsible and a suitable owner.

3. Where the ownership of any such dog is known, or can be reasonably ascertained by a police officer or dog control officer, such officer shall, if possible, notify the owner within three (3) days of such impoundment, but failure to give such notice shall in no way impose any liability upon the Town for the destruction or transfer to another of any dog so impounded and not reclaimed within said period of ten (10) days.

## **B. FEES AND BOARDING CHARGES**

1. Prior to the release of an impounded dog, the owner shall pay the following to the Town Clerk, Animal Control Officer, or Designated Animal Shelter.
  - a. An impoundment fee of \$40.00 for each dog, except upon the second impoundment of the same dog, the fee shall be \$60.000 , and upon the third and all subsequent impoundments of the same dog the fee shall be \$75.00
  - b. An animal shelter daily boarding fee for each day or portion of a day that the dog is maintained in the shelter, and all reasonable expenses that may be required including, but not limited to, veterinary care received while at the shelter.
  - c. It shall be the duty of a police officer or animal control officer to keep or cause to be kept any and all detailed records of the impoundment and disposition of all dogs coming into his/her custody.

## **ARTICLE IV**

### **A. DOGS NOT TO RUN AT LARGE**

1. It shall be unlawful for any dog, licensed or unlicensed, to run at large, except when used for hunting.
2. It shall be required for any dog owners, custodians or keepers to carry one leash for each dog under his or her control at all times whenever on any Town properties, trails or conservation lands.

## **B. SANITATION**

It shall be unlawful for any person who owns, possesses or controls a dog to fail to promptly remove and dispose of any feces left by his/her dog on any sidewalk, street, beach, or public owned property or private property (other than the property of the owner of the dog or of a person who has consented to the presence of the dog on his/her property).

1. This provision shall not apply to an assistance dog accompanying a handicapped person who, by reason of his/her disability, is unable to remove and properly dispose of the feces.

## **C. SPECIAL RULES FOR DOGS IN ROYAL RIVER PARK (Limitation to “Voice Control” as an acceptable means to prevent a dog from being deemed “At Large”)**

1. All dogs must be kept on a leash or tether held or controlled by the owner or keeper of the dog at all times while at Royal River Park except at follows:
  - a. Dogs may be allowed off leash between sunrise and 9:00AM, and from 6:00 PM until park closing from April 1 until October 31, inclusive and between sunrise and 9:00 AM and from 3:00PM until park closing from November 1 until March 31, inclusive. Provided, however, that the dog shall remain under the control of a person by means of personal presence and attention as will reasonably control the conduct of such dog. All dogs must be on leash whenever on the paved Royal River Park Pathway running along the Royal River between Elm Street and Bridge Street. In addition, dogs must be kept on a leash or tether in all locations within Royal River Park, excluding the off-leash area hereinafter described, whenever a scheduled public event, track meet, concert or other gathering is declared. Such event, meet, concert or gathering shall be declared only by and through Yarmouth Community Services and shall be publicly noticed by signs or banners prominently displayed where Royal River Park users are likely to take notice including locations near the parking lot at East Elm St., near the walker’s path in the vicinity of Rowe School, and at the park entrance area beyond the northerly end of Mill Street.
  - b. Dogs may be allowed off-leash in a designated area of the Royal River Park at any time the Park is open for public use, daily, provided that the dog shall remain under the control of a person by means of personal presence and attention as will reasonably control the conduct of such dog. Such designated area shall be an area generally described as an area known as “Picnic Point” so-called, an area generally described as all lands lying northerly easterly of a river sluiceway in the northeasterly end of Royal River Park and bordered on the North and East by the Royal River and the dam at East Elm St and on the

West by East Elm Street. It shall be the responsibility of the owner or keeper of a dog using the off-leash area to control the dog's behavior and location within the designated area.

**D. SPECIAL RULES FOR DOGS AT SANDY POINT BEACH**

1. No dogs are permitted at Sandy Point Beach between April 1 and October 31, inclusive.

**E. SPECIAL RULES FOR DOGS ON A PORTION OF THE WEST SIDE TRAIL (Limitation to "Voice Control" as an acceptable means to prevent a dog from being deemed "At Large")**

1. No dogs shall be allowed off-leash at any time on the pedestrian and bicycle trail (known as the West Side Trail located in the CMP transmission line corridor licensed to the Town of Yarmouth for trail development and maintenance) along that portion of the trail and transmission corridor lands running between Drinkwater Point Road southerly and easterly to the Cousins Island Bridge.
2. All dogs must be on leash at all times in all areas of the West Side Trail, within 300 feet (100 yards) of parking lots and trailheads and street crossings.

**F. SPECIAL RULES FOR DOGS AT PRATT'S BROOK PARK (Limitation to "Voice Control" as an acceptable means to prevent a dog from being deemed "At Large")**

1. All dogs must be on leash at all times in all areas of Pratt's Brook Park within 300 feet (100 yards) of parking lots and trailheads and street crossings.

**ARTICLE V**

**A. INTERFERENCE FORBIDDEN**

No person shall interfere with, hinder or molest any police officer or dog control officer in the performance of any duty of such officer, or seek release of any dog in the custody of a police officer or dog control officer, except as herein provided.

**ARTICLE VI**

**A. PENALTIES**

For violation of Articles I.D, or IV, or V.

1. Any person convicted of violation any provisions of this ordinance shall be subject to a fine of not less than \$50.00 nor more than \$100.00 plus costs for the



first violation. For subsequent violations, the fines shall be not less than \$100.00 nor more than \$500.00, to be recovered by complaint for the use of the Town of Yarmouth. In addition the Court may make such further order regarding the destruction, restraint, or disposition of the offending dog as the Court deems appropriate.

2. A person, not previously convicted of a violation under this ordinance, may elect to pay the minimum penalty of \$50 specified above in lieu of appearing in court to answer the citation. Such payment must be received by the office of the Town Clerk within seven (7) business days from the date the citation was issued. Upon receipt of such payment by the Town Clerk, the Animal Control or Police Officer shall cause the citation to be dismissed. If a person elects to pay the minimum penalty in lieu of appearing in court to answer the citation, and if the person is cited for a subsequent violation, the civil penalty for the subsequent violation shall not be less than \$100.00 nor more than \$500.00.
3. The court may order that any person convicted of permitting a dog to be at large in the Royal River Park in violation of this Ordinance or permitting a dangerous dog in Royal River Park shall be restrained from any future use or entry to said Park with any dog for a period not to exceed two (2) years.

#### **B. PENALTIES FOR KEEPING A DANGEROUS DOG**

1. Any person convicted of keeping a dangerous dog shall be punished by a penalty of not less than \$500 nor more than \$1,000 for the first offense.
2. Any person convicted of keeping a dangerous dog on a second offense shall be punished by a fine of not less than \$750 nor more than \$1,000.
3. Any person convicted of keeping a dangerous dog on a third or subsequent offense shall be punished by a fine of \$1,000.
4. In addition, the court may make such further order regarding the destruction, restraint or other disposition of the offending dog as the court deems appropriate.

#### **C. PENALTIES FOR ALLOWING A DOG OFF LEASH ON THE WEST SIDE TRAIL**

1. A person convicted of allowing a dog to run off-leash on the West Side Trail in violation of Article IV. E.1 shall be fined \$200.
2. The court may order that any person convicted of permitting a dog off leash on the West Side Trail in violation of Article IV. E.1 or permitting a dangerous dog on the West Side Trail to be restrained from any future use or entry to the West Side Trail with a dog for a period not to exceed two (2) years.

CHAPTER 310

**PEDDLERS ORDINANCE**

Town of Yarmouth, Maine

Recodified: 1/15/98

Amended: 5/20/2010

Amended: 5/17/12

# PEDDLERS ORDINANCE

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# PEDDLERS ORDINANCE

## ARTICLE I

### A. TITLE

This ordinance shall be known and may be cited as the “Peddlers Ordinance of the Town of Yarmouth, Maine.”

### B. PURPOSE

The purpose of this Ordinance is to define, regulate and license peddlers.

### C. DEFINITIONS

The word “**person**” as used herein shall include the singular and the plural and shall also mean and include any person, firm or corporation, association, club, partnership or society, excepting bonafide, not-for-profit charitable, service, religious, or municipal organizations, youth sports or similar school booster groups or agencies located within the Town of Yarmouth. “Person” shall not include any Farmer’s Market or seller of foods, goods, or commodities as part of or associated with a Farmer’s Market authorized by the Town Council. “Person” shall not include any person, firm, or corporation, association, club, partnership or society, operating as part of or associated with an event licensed by the Yarmouth Town Council under Chapter 312 of the Yarmouth Town Code (Public Property Licensing Ordinance).

The word “**peddler**” as used herein shall include any person, having no established or fixed place of business in the Town, selling or offering for sale, tangible commodities from place to place, or street vendor selling from an approved location on a public street or sidewalk or public place. The word “peddler” shall include the words “hawker” and “huckster”.

The word “**Town**” shall mean the Town of Yarmouth, Maine.

The word “**Street Vendor**” shall mean a seller of any foods or non-alcoholic beverages for immediate consumption from a cart, stand, display, or vehicle stationed at a specified and approved location on a public street, sidewalk or public place. Such location to be established and approved as provided hereinafter.

## ARTICLE II

### A. PERMIT AND LICENSE REQUIRED

It shall be unlawful for any person to engage in the business of peddler as defined in ARTICLE I of this Ordinance within the corporate limits of the Town of Yarmouth without first obtaining a permit and license thereafter as provided herein.

## **B. APPLICATION**

1. Applicants for license under this Ordinance must file with the Town Clerk a sworn application in writing on a form to be furnished by the Town Clerk, which shall give the following information.
  - a. name and description of the applicant;
  - b. Address (legal and local);
  - c. A brief description of the nature of the business and the goods to be sold;
  - d. If employed, the name and address of the employer, together with appropriate written evidence of the applicant's employment status;
  - e. The length of time for which the permit is desired;
  - f. If a vehicle is to be used, a description of the same, together with the license number or other means of identification;
  - g. A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be 2" by 2" showing the head and shoulders of the applicant in a clear and distinguishing manner;
  - h. The names of at least two reliable property owners of the Town who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;
  - i. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed thereafter;
  - j. A statement of whether the applicant intends to act as a peddler or Street Vendor, and, if Street Vendor, the location(s) to establish or occupy.
2. At the time of filing an initial application, a fee of \$30.00 shall be paid to the Town Clerk to cover the cost of investigation and administration of this ordinance, in addition to the license fee established in Chapter 401 of the Yarmouth Town Code.

## **C. INVESTIGATION AND ISSUANCE**

1. Upon receipt of such application, the original shall be referred to the Chief of Police who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.
2. If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his/her disapproval and his/her reasons for the same, and return

the said application to the Town Clerk, who shall notify the applicant that his/her application is disapproved and that no permit and license will be issued.

3. If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his/her approval, and return said application to the Town Clerk, who shall upon payment of the prescribed license fee, deliver to the applicant his/her license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the kind of goods to be sold thereunder, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such peddling. The Clerk shall keep a permanent record of all licenses issued.

#### **D. TRANSFER**

No license issued under the provisions of this Ordinance shall be used at any time by any person other than the one to whom it was issued.

#### **E. EXHIBITION OF LICENSE**

Peddlers and Street Vendors are required to exhibit their licenses at the request of any citizen.

#### **F. REVOCATION OF LICENSE**

1. Permits and licenses issued under the provisions of this Ordinance may be revoked by the Town Council after notice and hearing, for any of the following causes:
  - a. Fraud, misrepresentation, or false statement contained in the application for license;
  - b. Fraud, misrepresentation or false statement made in the course of carrying on his/her business as peddler;
  - c. Any violation of this Ordinance;
  - d. Conviction of any crime or misdemeanor involving moral turpitude;
  - e. Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
2. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his/her last known address at least five (5) days prior to the date set for hearing.

#### **G. EXPIRATION OF LICENSE**

All licenses issued under the provisions of this Ordinance shall expire 180 days after the date of issuance.

## **H. PROHIBITED ACTIVITIES**

1. No license holder shall engage in the business of Peddler or Street Vendor in such places and at such times as to interfere with the lawful use of public grounds or the conduct of events licensed pursuant to chapter 312 of the Yarmouth Town Code, including but not limited to the following:
  - a. From 10:00 a.m. on the third Friday in July until 6:00 p.m. of the immediately following Sunday in an area generally described as any place located westerly of the Royal River, and northerly of Interstate 95, and southerly of Hillside Street and a line extending from Hillside Street to the Royal River.
  - b. In Royal River Park, pursuant to Chapter 501 of the Yarmouth Town Code (Article IV.C.),
  - c. On any public school grounds

## **I. STREET VENDORS**

1. Street Vendors may establish a fixed location on a public street, sidewalk or public grounds for a period not to exceed 180 days for the sale of food or non-alcoholic beverages intended for immediate consumption only, and only as authorized below:
  - a. Location - An applicant for a Peddler's License as a Street Vendor shall specify the location(s) where s/he proposes to locate, which shall be subject to the approval of the Director of Planning and Development who may approve or deny the location(s) after consultation with the Chief of Police, Fire Chief, and Director of Public Works. The Director of Planning and Development shall deny approval of the specific location if s/he finds:
    - i. The location shall call nuisance (including attractive nuisances), blight, safety, public health hazards, or
    - ii. The location shall significantly impede or interfere with the free and reasonable movement of vehicles, bicyclists, or pedestrians upon town ways, crosswalks, pathways or sidewalks, or shall impair safe sight distances for turning vehicles from such town ways or in and out of private ways and parking areas.
    - iii. In the event that the Director of Planning and Development shall deny a location, the applicant may amend the application to propose a different location.
    - iv. Street Vendor locations shall be approved only within an areas:
      1. Within 150 feet of either side of US Route One, or
      2. Within 150 feet of either sideline of Main Street between the intersection with Sligo Road and Lafayette Street.
  - b. Maintenance and Regulation of the Site

- i. The licensee shall maintain the area in a neat, clean and sanitary manner. S/he shall provide adequate receptacles of both trash and recycling of any waste or packaging materials and shall remove all trash and recycling daily whenever the Street Vendor shall operate at that location.
- ii. Size restriction- No Street Vendor set-up, including any cart, tables, serving counter, food storage or preparation areas or ancillary features shall occupy a space greater than 150 square feet.
- iii. Generators prohibited- No Street Vendor shall locate or operate a generator or internal combustion engine as part of or accessory to the permitted activities.
- iv. Animals prohibited- No animals shall be kept at the location except any bona-fide guide dog required by the licensee.
- v. Signs, not including menu and pricing lists, shall be limited to no more than two signs with a total area of 8 square feet. Two-side signs shall be counted on each side toward the 8 square foot maximum.
- vi. There shall be no flashing, strobe, moving, or string lighting or signs or message boards.
- vii. No Street Vendor may play or emit any live or recorded music or sound at or above 45 decibels.
- viii. No Street Vendor shall shout, bark, call out, or hail motorists or passers-by in a loud voice or by approaching or otherwise hawking.
- ix. A Street Vendor shall comply with all reasonable requests of the Fire Chief for protection of the safety of all persons and prevention of fires; and shall comply with all reasonable requests of the Health Inspector for prevention of disease or unsanitary conditions.

c. Indemnification and Insurance Requirement:

- i. Any Street Vendor who shall apply to use any town street, sidewalk or public grounds for street vending operations shall agree to indemnify, defend and hold the Town of Yarmouth, its officers, employees and agents harmless from any or all liability to itself or any third party arising out of the use or occupancy of the licensed location and the permitted activities; and the Street Vendor shall be required to provide the Town Manager with a Certificate of Insurance with a company authorized to do business in the State of Maine providing liability insurance coverage of at least \$400,000 with the Town of Yarmouth as a named insured.

**J. LIMITATION ON NUMBER OF LICENSES TO BE ISSUED OR RENEWED**

- 1. The Town Council shall determine from time to time the total number of Peddler's and Street Vendor licenses which may be issued or renewed, and may establish a



priority system for allocation or reallocation of licenses and for the approval of license renewals.

### **ARTICLE III**

#### **A. APPEAL**

Any person aggrieved by the action of the Chief of Police, Director of Planning and Development, or the Town Clerk in the denial of an application for permit or license as provided in ARTICLE II of this Ordinance shall have the right of appeal to the Town Council. Such appeal shall be taken by filing with the Council, within Fourteen (14) days after notice of action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in ARTICLE II of this Ordinance for such notice of hearing on revocation. The decision and order of the Council on such appeal shall be final and conclusive.

#### **B. PENALTY**

Any person violation any of the provisions of this Ordinance shall, upon conviction thereof be punished by a fine not to exceed one hundred dollars (\$100.00).

CHAPTER 311  
**ELECTRICAL CODE**

Town of Yarmouth, Maine  
Adopted 09/21/2000  
Amended: 1/17/08  
Amended: 8/21/14



CHAPTER 311  
**ELECTRICAL CODE**

I. ARTICLE I.

A. TITLE

This Ordinance shall be known and be cited as the Electrical Code of the Town of Yarmouth, Maine.

B. REFERENCE TO NATIONAL ELECTRICAL CODE

The 2014 Edition of the National Electrical Code is hereby adopted as the Electrical Code.

II. ARTICLE II

That Ordinance ELECTRICAL CODE of the Town of Yarmouth, Maine entitled “Chapter 301, ELECTRICAL CODE, The National Electrical Code 1999” and all other ordinances or parts of ordinances in conflict herewith are hereby repealed

CHAPTER 312

**PUBLIC PROPERTY LICENSING ORDINANCE**

Town of Yarmouth, Maine  
Recodified: 1/15/98

**PUBLIC PROPERTY LICENSING ORDINANCE**

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# **PUBLIC PROPERTY LICENSING ORDINANCE**

## **ARTICLE I**

### **A. TITLE**

This ordinance shall be known as the Public Property Licensing Ordinance of the Town of Yarmouth, Maine.

### **B. PURPOSE**

The purpose of this Ordinance are to control the use of public property in the Town of Yarmouth, and to assure the comfort, convenience, safety, health, and welfare of the citizens of the Town of Yarmouth, Maine and surrounding communities.

### **C. AUTHORITY**

This Ordinance is enacted pursuant to 30 M.R.S.A. §1901-1920 and §2151.

### **D. DEFINITIONS**

**PUBLIC PROPERTY:** The word “**public property**” shall include but not be limited to parks, parking lots, sidewalks, streets, Municipal facilities and school facilities owned by the Town of Yarmouth or controlled by officials of the Town of Yarmouth.

**PERSON:** The word “**person**” shall mean an individual, corporation, partnership, association, or group of any kind.

## **ARTICLE II**

### **A. LICENSE REQUIRED**

No person shall sponsor, promote or conduct an event which will utilize in whole or in part public property and which is intended to attract 1,000 or more persons without first having obtained a license from the Municipal Officers of the Town of Yarmouth.

### **B. LICENSE APPLICATION**

1. A person seeking a license shall file an application with the Municipal Officers.
2. The application shall be filed with the Municipal Officers not less than 60 days nor more than 120 days before the date on which it is proposed to commence the event.

### **C. APPLICATION INFORMATION**

1. The application shall set forth the following information:
  - a. The name, address, and telephone number of the person applying for the license;

- b. The commencing date of the license and the termination date of the license;
  - c. The location or locations of the public property sought to be licensed and the intended use for the public property.
2. The Municipal Officers may request any additional information which is deemed reasonably necessary for a fair determination of whether or not to issue the license;
3. There shall be paid at time of the filing the application for a license, a fee of \$100.00, to be used to defray the costs of processing this application and administering this Ordinance.

## **ARTICLE III**

### **A. STANDARDS**

1. The Municipal Officers shall not issue the license with or without conditions unless they find the person requesting the license will:
  - a. Adequately arrange for matters related to public safety and public health including but not limited to police protection, traffic control, sanitation facilities, etc.;
  - b. Utilize the public property in a manner consistent with the license, not unreasonably interfere with the activities of others, and return the public property in the same or better condition than when received.

### **B. TRADITIONAL EVENTS**

When considering an application, the Municipal officers shall consider the scheduling in prior years of event traditional to the Town of Yarmouth.

### **C. REFUSAL**

The Municipal officers shall act upon the completed application for a license within 30 days after the filing of the application. If the Municipal Officers disapprove the application or approve it with the conditions, they shall mail to the applicant within five days of their action a notice stating the reasons for their action.

## **ARTICLE IV**

### **A. LAWS, REGULATIONS, ORDINANCE**

The person shall obtain any other licenses or permits required by the State of Maine or department of agency thereof, and the Town of Yarmouth; and shall comply with all laws, rules, regulations, and ordinances of the State of Maine or any department or agency thereof and the Town of Yarmouth.



**B. CONDUCT OF EVENT**

The person shall control the event in a manner which will not unreasonably interfere with activities of others. Such control is subject to the supervision and direction of the appropriate officials of the Town of Yarmouth.

**C. EXCLUSIVE USE**

The person may, within the terms of the license, restrict the use of the licensed premises to persons approved by and associated with the licensed person.

**D. PUBLIC CONDUCT**

No person shall unreasonably hamper, obstruct, impede, or interfere with any legally authorized licensee or with any person, approved by or associated with the licensee.

**ARTICLE V**

**A. ADMINISTRATION**

This ordinance shall be administered by the Municipal Officers. They may seek the advice of other Municipal Officials of the Town of Yarmouth and of State Officials.

**B. BOND**

The Municipal Officers may require a corporate surety bond from a company authorized to do business in the State of Maine or other security satisfactory to the Municipal Officers insuring that after the event is over the public property will be left in a clean and neat fashion, and damages to public and/or private property arising out of or in connection with the event will be paid promptly. The Municipal Officers may allow substitution of an insurance policy satisfactory to them.

**C. PENALTIES**

Any person violating the provisions of this Ordinance shall have committed a civil violation and shall forfeit up to Four Hundred and Ninety Five Dollars (\$495.00) for each violation. Each day a violation continues shall be treated as a separate violation.

**D. SEVERABILITY**

The invalidity of any portion of this Ordinance shall not invalidate any other part thereof.

CHAPTER 313

**SEPTIC TANK SEPTAGE PROCESSING ORDINANCE**

Town of Yarmouth, Maine

Recodified: 1/15/98

Amended: 2/20/14

# SEPTIC TANK SEPTAGE PROCESSING ORDINANCE

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# **SEPTIC TANK SEPTAGE PROCESSING ORDINANCE**

## **ARTICLE I**

### **A. TITLE**

This ordinance shall be known as the Septic Tank Septage Processing Ordinance of the Town of Yarmouth, Maine.

### **B. PURPOSE**

The purpose of this Ordinance is to provide for septage receiving and treatment of septic tanks from those properties within the Town of Yarmouth not served by or able to be served by a public sewer.

### **C. AUTHORITY**

This Ordinance is enacted pursuant to 30 M.R.S.A., Sections 1917 and 2151 and 38 M.R.S.A., Section 1305.

## **ARTICLE II**

### **A. SEPTAGE RECEIVING AND PROCESSING PROGRAM**

#### **1. Qualifying Property and Disposal**

The Town of Yarmouth shall receive at the Wastewater Treatment Facility and dispose of any septage waste from the pumping of septic tanks located on property within the Town which is not served by a public sewer, except from locations where the property is able to be served by the public sewer as required in ARTICLE IV.A.3., of the Yarmouth Sewerage Ordinance.

#### **2. Procedure**

The disposal provided pursuant to this Ordinance shall be made available to the owners or persons in possession of properties qualify under ARTICLE II.A.1 upon request of such owner or person in possession made to the Town Engineer on a form approved by him. Upon such request, the Town Engineer shall determine whether or not the property qualifies for receipt and processing of septage pursuant to this Ordinance and his/her determination shall be final and conclusive. In addition, the Town Engineer may at his/her sole discretion, decline any request for receipt and processing of septage under this Ordinance when, in his/her opinion, such septage would pose an unusual and unreasonable risk of damage to person or property.

#### **3. Charges**

There shall be no charge for disposal at the Yarmouth sewer treatment plant of any septic waste pumped pursuant to this ordinance.

CHAPTER 314

**FIREARMS ORDINANCE**

Town of Yarmouth, Maine  
Recodified-Adopted 1/15/98

# FIREARMS ORDINANCE

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# **FIREARMS ORDINANCE**

## **ARTICLE I**

### **A. TITLE**

This Ordinance shall be known as the Firearms Ordinance of the Town of Yarmouth, Maine.

### **B. PURPOSE**

The purpose of this Ordinance is to provide for the public health and safety by regulating the discharge of firearms within the town.

## **ARTICLE II**

### **A. PREFACE**

The discharge of firearms in the Town of Yarmouth shall be restricted as follows:

1. The discharge of firearms shall be limited to shotguns only, except that .22 caliber pistols may be discharged for night hunting of raccoons as authorized by M.R.S.A. Title 12, 11901.
2. The discharge of firearms shall be prohibited within three hundred (300) feet of any residential dwelling, or commercial, industrial or institutional building.
3. No discharge of firearms shall be permitted at the following municipal properties: municipal landfill, Royal River Park, Town Landing or docking facility, from Sandy Point Beach on Cousins Island or Camp Soci on Cousins Island, or the Tinker property on Cousins Island.
4. No discharge of firearms shall be permitted on any school property or within 500 feet of any school property.
5. Possession of firearms on any school property, except in supervised educational programs or by law enforcement officials, is prohibited.
6. Except as provided under Article III of this Chapter, no discharge of firearms shall be permitted on Cousins Island or Littlejohn Island.

## **ARTICLE III**

### **A. EXCEPTIONS**

1. This ordinance shall not be construed to prohibit the discharge of firearms when justified for the protection of human life or property.

2. This ordinance shall not be construed to prohibit the discharge of firearms by duly authorized officers in the proper exercise of their governmental duties.
3. Nothing in this ordinance shall be construed as relieving any person or group from their responsibility for the safe and courteous use of firearms.
4. Notwithstanding the provisions of Section 2.A.6 of this Chapter, nothing in this ordinance shall be construed to prohibit the discharge of steel shot or bird shot from shotguns on Cousins Island or Littlejohn Island during waterfowl hunting seasons as established by State and Federal regulation.
5. Notwithstanding the provision of Section 2.A.2 and 2.A.6 of this Chapter, nothing in this ordinance shall be construed to prohibit the discharge of shotguns by any person to destroy rodents, disease animals or other pests that threaten property, livestock, gardens, crops or human health and comfort on land owned or controlled by that person, or with the permission of the land owner.

## **ARTICLE IV**

### **A. REGULATIONS NOT REPEALED**

Nothing herein shall be deemed to repeal, modify, abridge, amend, or supersede any more stringent ordinance, rule, regulation or law, nor shall this ordinance in any way limit, restrict, or affect the rights of property owners to establish more stringent regulations regarding the use, possession, or discharge of firearms on their property.

## **ARTICLE V**

### **A. EXEMPT FACILITIES**

The provisions of this Chapter shall not apply to shooting ranges, galleries, and firearms training facilities, provide such facilities are duly licensed or permitted in accordance with the applicable provisions of the Yarmouth Town Code.

## **ARTICLE VI**

### **A. PENALTIES**

Any person violating any provision of this ordinance shall commit a civil violation, punishable by a fine of not more than \$500 for the first offense and \$500 for each separate offense thereafter. Each violation of this ordinance is a separate offense.



CHAPTER 315

**FLOOD PLAIN MANAGEMENT ORDINANCE**

Town of Yarmouth, Maine  
Recodified 1/15/98  
Amended 6/11/98  
Repealed and Replaced: 5/15/08  
Amended: 6/18/15

**CHAPTER 315**

# FLOOD PLAIN MANAGEMENT ORDINANCE

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# **FLOOD PLAIN MANAGEMENT ORDINANCE**

## **ARTICLE I**

### **PURPOSE AND ESTABLISHMENT**

Certain areas of the Town of Yarmouth, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Yarmouth, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Yarmouth, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

This body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Yarmouth having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Yarmouth, Maine.

The areas of special flood hazard, A, A1-30, and V1-30, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Yarmouth, Maine, Cumberland County," dated May 15, 1984 with accompanying "Flood Insurance Rate Map" dated November 15, 1984 and "Flood Boundary and Floodway Map" dated November 15, 1984, which are hereby adopted by reference and declared to be a part of this Ordinance.

## **ARTICLE II**

### **PERMIT REQUIRED**

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Director of Planning & Development or his/her duly authorized CEO. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Yarmouth, Maine.

### **ARTICLE III APPLICATION FOR PERMIT**

The application for a Flood Hazard Development Permit shall be submitted to the Department of Planning and Development and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.3. apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:

- 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
  - a. in Zones A1-30 and V1-30 from data contained in the "Flood Insurance Study - Town of Yarmouth, Maine," as described in Article I; or,
  - b. in Zone A:
    - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and IX.D.;
    - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,

- (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
  - (4) in coastal zones use the *U.S. Army Corps of Engineers' Tidal Flood Profiles New England Coastline,, September 1988* to select the 100-year Frequency Tidal Flood appropriate for the development site's location on the profile.
2. highest and lowest grades at the site adjacent to the walls of the proposed building;
3. lowest floor, including basement; and whether or not such structures contain a basement; and,
4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
  1. a Floodproofing Certificate (FEMA Form 81-65, 01/03, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
  2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone V1-30, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
  3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
  4. a certified statement that bridges will meet the standards of Article VI.M.;
  5. a certified statement that containment walls will meet the standards of Article VI.N.;

- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

**ARTICLE IV  
APPLICATION FEE AND EXPERT'S FEE**

A non-refundable application fee of \$50.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Director of Planning and Development and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

**ARTICLE V  
REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT  
APPLICATIONS**

The Director of Planning and Development or his/her duly authorized CEO shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications, the base flood and floodway data contained in the "Flood Insurance Study - Town of Yarmouth, Maine," as described in Article I. in special flood hazard areas where base flood elevation and floodway data are not provided, the Director of Planning and Development shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance. When the Town of Yarmouth establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the town shall submit that data to the Maine Floodplain Management Program in the State Planning Office;
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;

- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. Issue one of the following Flood Hazard Development Permits, based on the type of development:
  - 1. Issue a two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Department of Planning and Development with a second Elevation Certificate completed by a Professional Land Surveyor, based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs VI.F, VI.G, VI.H, or VI.P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  - 2. Issue a Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., VI.G.1.b., and VI.G1c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
  - 3. Issue a Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, additions, or whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Department of Planning and Development as required in Article VII.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

## **ARTICLE VI DEVELOPMENT STANDARDS**

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. New construction or substantial improvement of any structure and all other development shall:
  - 1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - 2. use construction materials that are resistant to flood damage;
  - 3. use construction methods and practices that will minimize flood damage; and
  - 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** – On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.



- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within:
1. Zones A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
  2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
  3. Zones V1-30 shall meet the requirements of Article VI.P.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
1. Zones A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
    - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
    - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
  2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or
    - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.
  3. Zones V1-30 shall meet the requirements of Article VI.P.

H. **Manufactured Homes** - New or substantially improved manufactured homes located within:

1. Zones A1-30 shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
  - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
  - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
  - (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and
- b. meet the anchoring requirements of Article VI.H.1.c.

3. Zones V1-30 shall meet the requirements of Article VI.P.

I. **Recreational Vehicles** - Recreational Vehicles located within:

1. Zones A, and A1-30, shall either:

- a. be on the site for fewer than 180 consecutive days,

- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
    - c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.
  - 2. Zones V1-30 shall meet the requirements of either Article VI.I.1.a. or b., or Article VI.P.
- J. **Accessory Structures** - Accessory Structures, as defined in Article XIV, located within Zones A1-30, and A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:
  - 1. be 500 square feet or less and have a value less than \$3000;
  - 2. have unfinished interiors and not be used for human habitation;
  - 3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
  - 4. be located outside the floodway;
  - 5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
  - 6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. **Floodways** -

- 1. In Zones A1-30 riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Boundary and Floodway Map," unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2. In Zones A1-30, and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial

improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
3. In Zones A1-30, and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- L. Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones A1-30, and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
1. Enclosed areas are not "basements" as defined in Article XIV;
  2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
    - a. be engineered and certified by a registered professional engineer or architect; or,
    - b. meet or exceed the following minimum criteria:
      - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
      - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
      - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as

human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. **Bridges** - New construction or substantial improvement of any bridge in Zones A1-30, A, and V1-30 shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
2. a registered professional engineer shall certify that:
  - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
  - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. **Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones A1-30, A, and V1-30 shall:
  - a. have the containment wall elevated to at least one foot above the base flood elevation;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A1-30, A, and V1-30, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

**P. Coastal Floodplains -**

1. All new construction located within Zones A1-30, A, and V1-30 shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
2. New construction or substantial improvement of any structure located within Zones V1-30 shall:
  - a. be elevated on posts or columns such that:
    - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
    - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
    - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
  - b. have the space below the lowest floor:
    - (1) free of obstructions; or,
    - (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
    - (3) constructed with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
  - c. require a registered professional engineer or architect to:

- (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual, (FEMA-55/June, 2000); and,
  - (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.
3. The use of fill for structural support in Zones V1-30 is prohibited.
4. Human alteration of sand dunes within Zones V1-30 is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:
  - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
  - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
  - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
  - d. The structure shall have unfinished interiors and shall not be used for human habitation.
  - e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
  - f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

## **ARTICLE VII CONDITIONAL USE REVIEW**

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Director of Planning & Development or his/her duly authorized CEO that a Conditional Use Permit is required, shall file an application for the permit with the Department of Planning and Development.

### **A. Review Procedure for a Conditional Use Flood Hazard Development Permit**

1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

### **B. Expansion of Conditional Uses**

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

## **ARTICLE VIII CERTIFICATE OF COMPLIANCE**

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of



Compliance is issued by the Code Enforcement Officer (CEO) subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the CEO:
  - 1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs VI.F, VI.G, VI.H, or VI.P and,
  - 2. for structures in Zones V1-30, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- B. The applicant shall submit written notification to the CEO that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
  - 1. review the required certificate(s) and the applicant's written notification; and,
  - 2. upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance.

## **ARTICLE IX**

### **REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided in order to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of

this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## **ARTICLE X APPEALS AND VARIANCES**

The General Board of Appeals of the Town of Yarmouth may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of the provisions of this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this Ordinance is not appealable to the General Board of Appeals but may be appealed directly to Superior Court. All appeals shall be pursuant to the provisions in this Ordinance and the procedures outlined in Chapter 203, General Board of Appeals Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
  1. a showing of good and sufficient cause; and,
  2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
  3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
  4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
    - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

- b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
  - c. that the granting of a variance will not alter the essential character of the locality; and,
  - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as is deemed necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
- 1. other criteria of Article X and Article VI.K. are met; and,
  - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
- 1. the development meets the criteria of Article X, paragraphs A. through D. above; and,
  - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article X, A. through X.E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
- 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  - 2. such construction below the base flood level increases risks to life and property; and,
  - 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

## **ARTICLE XI ENFORCEMENT AND PENALTIES**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, Director of Planning and Development of his/her duly authorized CEO upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of;
  - 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  - 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
  - 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  - 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
  - 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## **ARTICLE XII VALIDITY AND SEVERABILITY**

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

## **ARTICLE XIII CONFLICT WITH OTHER ORDINANCES**

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

## **ARTICLE XIV DEFINITIONS**

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law, and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

**Accessory Structure** - a small detached structure that is incidental and subordinate to the principal structure.

**Adjacent Grade** - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Area of Special Flood Hazard** - land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

**Base Flood** – a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

**Basement** - area of a building that includes a floor that is subgrade (below ground level) on all sides.

**Breakaway Wall** - a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**Building** - see **Structure**.

**Certificate of Compliance** - a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

**Code Enforcement Officer** – a person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

**Conditional Use** - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

**Containment Wall** – wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

**Development** – a manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling,

grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

**Elevated Building** - a non-basement building that is:

- a. built, in the case of a building in Zones A1-30, or A, so that the top of the elevated floor, or in the case of a building in Zones V1-30, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A1-30, or A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Zones V1-30, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

**Elevation Certificate** - an official form (FEMA Form 81-31, 02/06, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. Is required for purchasing flood insurance.

**Flood or Flooding**

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters.
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

**Flood Elevation Study** - an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Flood Insurance Rate Map (FIRM)** - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study** - see **Flood Elevation Study**.

**Floodplain or Floodprone Area** - land area susceptible to being inundated by water from any source (see flooding).

**Floodplain Management** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain Management Regulations** - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**Floodway** - see **Regulatory Floodway**.

**Floodway Encroachment Lines** - the lines marking the limits of floodways on federal, state, and local floodplain maps.

**Freeboard** - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**Functionally Dependent Use** - a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Historic Structure** - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

**Locally Established Datum** - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

**Lowest Floor** - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this Ordinance.

**Manufactured Home** - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Manufactured Home Park or Subdivision** - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean Sea Level** – when related to the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Minor Development** - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions,



whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

**National Geodetic Vertical Datum (NGVD)** - the national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

**New Construction** - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**100-year flood** - see **Base Flood**.

**Recreational Vehicle** - a vehicle that is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway** –

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Boundary and Floodway Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

**Riverine** - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Special Flood Hazard Area** - see **Area of Special Flood Hazard**.

**Start of Construction** - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

**Structure** - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

**Substantial Damage** - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

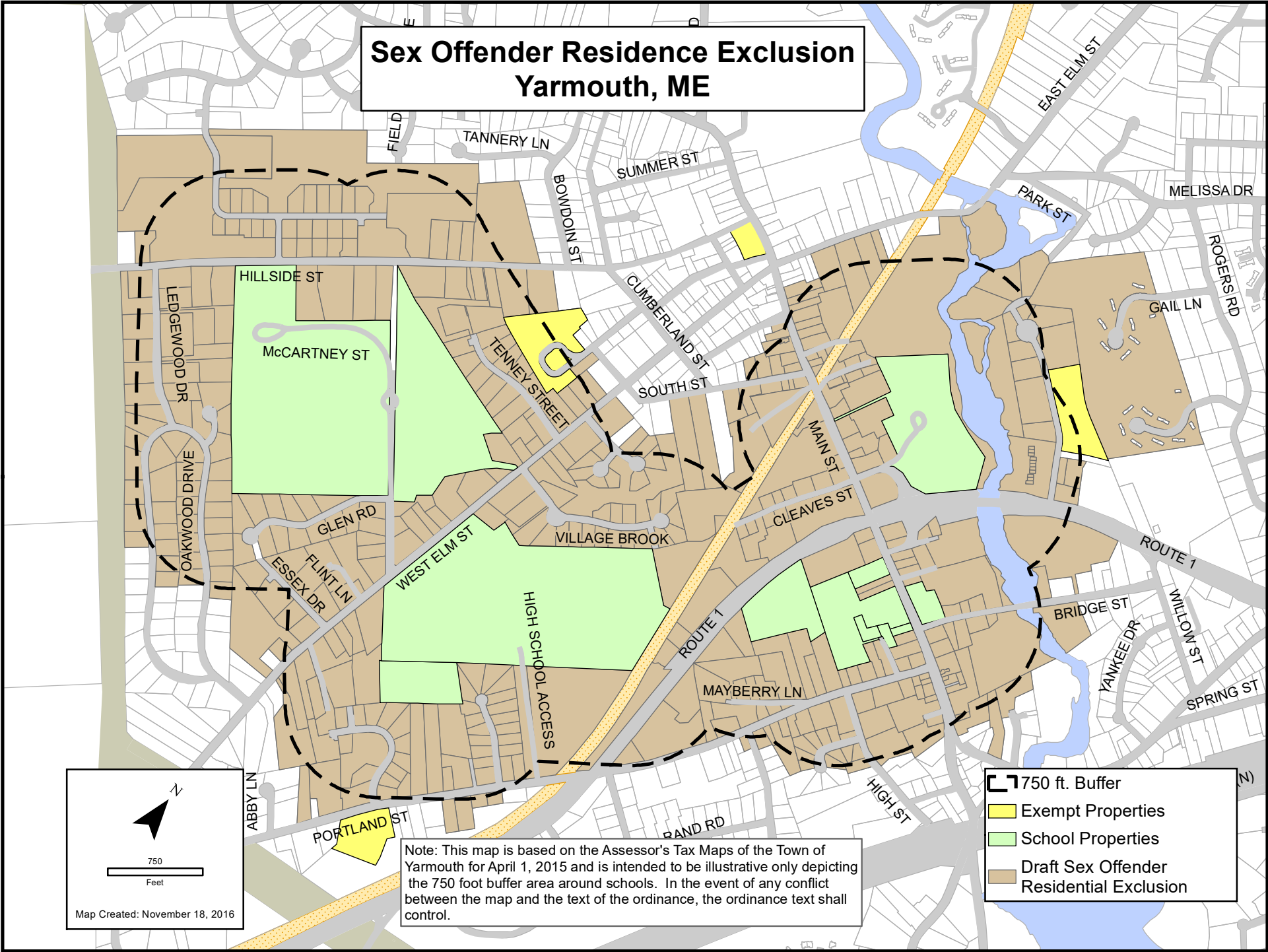
**Variance** - means a grant of relief by a community from the terms of a floodplain management regulation.





**Violation** - means the failure of a structure or development to comply with a community's floodplain management regulations.

## **ARTICLE XV ABROGATION**

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

# Sex Offender Residence Exclusion Yarmouth, ME



-  750 ft. Buffer
-  Exempt Properties
-  School Properties
-  Draft Sex Offender Residential Exclusion

Note: This map is based on the Assessor's Tax Maps of the Town of Yarmouth for April 1, 2015 and is intended to be illustrative only depicting the 750 foot buffer area around schools. In the event of any conflict between the map and the text of the ordinance, the ordinance text shall control.

Map Created: November 18, 2016

CHAPTER 316

**Town of Yarmouth Sex Offender Residency Restriction Ordinance**

Town of Yarmouth, Maine  
Enacted 11/18/16

# SEX OFFENDERS RESIDENCY RESTRICTION

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# **SEX OFFENDERS RESIDENCY RESTRICTION ORDINANCE**

## **ARTICLE I**

### **TITLE**

This Chapter shall be known as the "Town of Yarmouth Sex Offender Residency Restriction Ordinance.

## **ARTICLE II**

### **FINDINGS AND PURPOSE**

The Town promotes and strives to create a safe environment for its citizens to live and raise families and considers the promotion of the safety and welfare of children to be of paramount importance. The Town recognizes that sex offenders who prey upon children may have a high rate of recidivism. Notwithstanding the fact that certain persons convicted of sex offenses or sexually violent offenses are required to register pursuant to the Maine Sex Offender Registration and Notification Act of 1999, 34-A M.R.S.A. § 11201 et seq., as may be amended from time to time, the Town finds that further protective measures are necessary and warranted to safeguard places where children congregate. The purpose of this chapter is to provide such further protective measures while balancing the interests and residential needs of sex offenders.

## **ARTICLE III**

### **AUTHORITY**

This chapter is adopted in accordance with the provisions of 30-A M.R.S.A. § 3001 and 30-A M.R.S.A. § 3014, as may be amended from time to time.

## **ARTICLE IV**

### **DEFINITIONS**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**DESIGNATED SEX OFFENDERS-** Persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense, regardless of whether the offense was committed in the State of Maine or another jurisdiction.

**RESIDENCE-** The temporary or permanent occupation or use of a place, including, but not limited to, a domicile, for the purpose of living, residing or dwelling. The residence shall be deemed to include all the land or property within the limits of the property parcel on which the residence is situated.

**RESTRICTED PROPERTY-** The real property consisting of the entire property parcel on which a public or private elementary, middle or secondary school is located.

**SETBACK-** A seven-hundred-fifty-foot buffer surrounding restricted property.

## **ARTICLE V**

### **RESTRICTED PROPERTY MAP; RESTRICTIONS**

(a) The Planning Department, with the assistance of the Police Department, shall prepare and file with the Town Clerk and Police Department an official map showing restricted property, as defined by this chapter. The map is hereby incorporated herein and made a part of this chapter.<sup>[1]</sup> The Planning Department, with the assistance of the Police Department, shall by July 1 of each year recommend updates to the map to the Town Council to reflect any changes in the locations of any restricted property and setbacks. The Town Council may amend the restricted property official map by Town Council order, and any amended official map shall be filed with the Town Clerk and the Police Department. In the event of any conflict between the map and the text of this ordinance, the ordinance text shall control.

<sup>[1]</sup> Editor's Note: Said map is on file in the Town Clerk's office.

(b) No designated sex offender shall reside within the setback of any restricted property. Licensed nursing homes or other licensed medical facilities are excluded from this ordinance so necessary medical care can be provided. This ordinance shall also not apply to the property identified on Town of Yarmouth Tax Maps as Map 41, Lot 117 as of May 23, 2016, so long as such property is used as senior housing.

## **ARTICLE VI**

### **EXCEPTIONS**

A designated sex offender maintaining a residence within the setback of a restricted property is not in violation of this chapter if the residence was established and consistently maintained as a



residence prior to the date of adoption of this chapter. A designated sex offender is not in violation of this chapter if the restricted property is created, moved or enlarged and such creation, movement or enlargement results in a designated sex offender residing within the setback of a restricted property, as long as the residence was in place and consistently maintained prior thereto.

## **ARTICLE VII**

### **VIOLATIONS AND PENALTIES**

- (a) A designated sex offender who, 30 days after actual receipt of written notice sent by regular mail or hand delivered from the Town acting by and through its Police Department, is in violation of this chapter shall be subject to an action brought by the Town to enforce the requirements of this chapter. The Town may file a legal action against the violator seeking any and all remedies to which it is entitled pursuant to state and local laws, including, without limitation, declaratory and injunctive relief.
- (b) The Town also may seek a penalty in the minimum amount of \$500 per day. Each day of violation shall constitute a separate violation. In the event the Town is the prevailing party in any action under this chapter, it shall be entitled to an award of its reasonable attorney's fees, court costs and the costs of any expert witness fees incurred by the Town. All civil penalties shall inure to the benefit of the Town of Yarmouth.

## **ARTICLE VII**

### **SEVERABILITY**

If any section, phrase, sentence or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

CHAPTER 317

**SPRINKLER ORDINANCE**

Town of Yarmouth, Maine

Recodified: 1/15/98

Amended: 4/19/01

Amended: 6/18/15

**CHAPTER 317**

# SPRINKLER ORDINANCE

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# **SPRINKLER ORDINANCE**

## **ARTICLE I**

### **A. TITLE**

This ordinance shall be known as the Sprinkler Ordinance of the Town of Yarmouth, Maine.

### **B. DEFINITIONS**

1. Unless otherwise expressly stated, definitions of terms used in this code shall be consistent with meanings listed in the most current edition of the Town of Yarmouth Building Code.
2. Floor areas listed in ARTICLE II, Section II.B, shall be gross floor areas between outside building walls or gross floor areas between outside building walls and approved masonry parapeted fire walls.

## **ARTICLE II**

### **A. EXEMPTIONS AND SUBSTITUTIONS**

1. Nothing herein shall be construed to require the installation of automatic sprinkler devices neither in single family residences nor in garages or other appurtenant structures to single family residences.
2. Automatic sprinkler equipment meeting the requirements of NFPA Pamphlet 13D or 13R or variations may be installed with permission from the Chief of the Yarmouth Fire Department.

### **B. WHERE INSTALLATION REQUIRED**

Automatic sprinkler equipment meeting the requirements of NFPA Pamphlet 13 shall be installed in all instances in the following structures:

1. All new buildings meeting any of the following criteria:
  - a. 4,000 square feet in floor area
  - b. Three or more stories in height
  - c. Thirty five (35) or more feet in height
  - d. Multiple family dwellings consisting of four (4) or more units or multiple occupant dwelling and/or lodging units. (exception ARTICLE II, Section II.A.2)

- e. Restaurants containing seating for forty (40) persons or more regardless of height or area.
2. All additions to existing buildings along with the existing buildings must be sprinkled when the cumulative area of the entire building, including the addition(s), equals or exceeds 4,000 square feet in area.
  - a. The cumulative area or volume of any addition or additions approved and constructed after April 19, 2001 shall be less than 25% of the building area or volume existing on or before April 19, 2001.

### **C. INSTALLATION AND MAINTENANCE CODES**

1. There is hereby adopted by the Town of Yarmouth for the purpose of prescribing regulations governing the installation of approved automatic sprinkler systems, that a certain Code, known as Pamphlet No. 13 "Standards For The Installation of Sprinkler Systems", Pamphlet No. 13D "Standards For The Installation of Sprinkler System in One and Two-Family Dwellings and Mobile Homes", and Pamphlet No. 13R "Standards for the Installation of Sprinkler Systems in Residential Occupancies up to Four Stories in Height" recommended by the National Fire Protection Association being particularly the 1987 edition thereof, and is hereby incorporated herein by reference and made a part of this Code and shall be applicable and controlling within the boundaries of the Town of Yarmouth.
2. The owner, tenant, or lessee of every building structure shall be responsible for the care and maintenance of all fire protection systems, including equipment and devices, to insure the safety and welfare of the occupants. Therefore, it is hereby adopted by the Town of Yarmouth for the purpose of prescribing regulations governing the maintenance of automatic sprinkler systems that certain Code known as Pamphlet No. 13A "Care and Maintenance of Sprinkler Systems" recommended by the National Fire Protection Association being particularly the 1987 edition thereof, and is hereby incorporated herein by reference and made a part of this Code and shall be applicable and controlling within the boundaries of the Town of Yarmouth.
3. The foregoing Codes are adopted on a permanent and continuing basis so that each subsequent amendment of the "Standards For The Installation of Sprinkler Systems"; "Standards For The Installation of Sprinkler Systems in One and Two-Family Dwellings and Mobile Homes", "Standards for the Installation of Sprinkler Systems in Residential Occupancies up to Four Stories in Height" and "Care and Maintenance of Sprinkler Systems", shall be adopted without further action by the Yarmouth Town Council. Three copies of the applicable Codes shall be and remain on file and available for the general inspection of the public in the Office of the Building Inspector, Town of Yarmouth, Maine.

### **D. DRAINAGE AND DISCHARGE**

Provisions shall be made for the discharge of the overflow of water on every story of sprinklered buildings. A minimum of one – four (4) inch floor drain or other approved means shall be provided and located at least eight (8) feet from columns and walls for every 5,000 square feet or fraction thereof. The installation of floor drains must comply with the Plumbing Code of the Town of Yarmouth.

**E. SPRINKLER SYSTEM SUPERVISION**

All automatic sprinkler systems shall have a direct flow alarm connection to the Town of Yarmouth Dispatch Center alarm panel, or alternate method as approved by the Fire Chief of the Town of Yarmouth or his/her duly authorized representative.

**F. PROHIBITED CONNECTIONS**

No auxiliary connection shall be made to sprinkler systems for sill cocks, house service, or other house outlet purpose.

**G. CONNECTION TO YARMOUTH WATER DISTRICT DISTRIBUTION SYSTEM**

1. Each system shall be supplied with a detector check valve of the proper diameter, Fire Department connection approved by the Yarmouth Fire Department and other equipment prescribed in NFPA Pamphlet No. 13, NFPA Pamphlet No. 13D, and NFPA Pamphlet No. 13R.
2. All connections shall be made in compliance with requirements of the Yarmouth Water District.

**ARTICLE III**

**A. AUTHORITY TO ENFORCE**

It shall be the duty and responsibility of the Chief of the Yarmouth Fire Department or his/her duly authorized representative to enforce the provisions of this Ordinance.

**B. CONFLICTING ORDINANCES**

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**C. APPEALS AND WAIVERS**

1. Any person aggrieved by an error of a Town Official in the application, or interpretation of this Ordinance may appeal to the General Board of Appeals pursuant to the provisions in this Ordinance and the procedures outlined in Chapter 203, General Board of Appeals Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this Ordinance is not appealable to the General Board of Appeals but may be appealed directly to Superior Court.
2. Installation of otherwise required sprinkler systems may be waived for buildings not intended to be accessible to the general public when the Town Council, after consultation with the Fire Chief, finds that the location of the building, the type of

construction, the proposed use, or some combination thereof, make installation of a sprinkler system unnecessary to protect the safety of people served by, and property contained within the building, the building itself and any nearby buildings.

- a. Any waiver granted pursuant to this Section, shall expire if the use of the building is changed.

CHAPTER 320

**STORMWATER DISCHARGE ORDINANCE**

Town of Yarmouth, Maine

Adopted: 4/17/08

Amended: 6/18/15

**CHAPTER 320**



# STORMWATER DISCHARGE ORDINANCE

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# STORMWATER DISCHARGE ORDINANCE

## ARTICLE I

### A. PURPOSE

The purpose of this Storm Water Discharge Ordinance (the “Ordinance”) is to provide for the health, safety, and general welfare of the citizens of the Town of Yarmouth through the regulation of Non-Storm Water Discharges to the Town’s Storm Drainage System as required by federal and State law.

This Ordinance establishes methods for controlling the introduction of Pollutants into the Town’s Storm Drainage System in order to comply with requirements of the federal Clean Water Act and State law.

### B. OBJECTIVES

The objectives of this Ordinance are:

1. To prohibit un-permitted or un-allowed Storm Water Discharges to the Storm Drainage System; and
2. To set forth the legal authority and procedures to carry out all inspection, monitoring and enforcement activities necessary to ensure compliance with this Ordinance.

### C. APPLICABILITY

This Ordinance shall apply to all Persons discharging Storm Water and/or Non-Storm Water Discharges from any Premises into the Storm Drainage System.

### D. RESPONSIBILITY FOR ADMINISTRATION

The Town Manager or his/her designee is the Enforcement Authority who shall administer, implement, and enforce the provisions of this Ordinance.

### E. DEFINITIONS

For the purposes of this Ordinance, the terms listed below are defined as follows:

**Clean Water Act.** “Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), and any subsequent amendments thereto.

**Discharge** “Discharge” means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to “waters of the State.”

“direct discharge” or “point source” means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

**Enforcement Authority** “Enforcement Authority” means the person(s) or department authorized under ARTICLE I, Section D. of this Ordinance to administer and enforce this Ordinance.

**Exempt Person or Discharge** “Exempt Person or Discharge” means any Person who is subject to a Multi-Sector General Permit for Industrial Activities, a General Permit for Construction Activity, a General Permit for the Discharge of Stormwater from the Maine Department of Transportation and the Maine Turnpike Authority Municipal Separate Storm Sewer Systems, or a General Permit for the Discharge of Stormwater from State or Federally Owned Authority Municipal Separate Storm Sewer System Facilities; and any Non-Storm Water Discharge permitted under a NPDES permit, waiver, or waste discharge license or order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency (“EPA”) or the Maine Department of Environmental Protection (“DEP”).

**Industrial Activity** “Industrial Activity” means activity or activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

**Municipal Separate Storm Sewer System or MS4.** “Municipal Separate Storm Sewer System” or “MS4,” means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, town, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

**National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.** “National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit” means a permit issued by the EPA or by the DEP that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**Non-Storm Water Discharge** “Non-Storm Water Discharge” means any Discharge to an MS4 that is not composed entirely of Storm Water.

**Person** “Person” means any individual, firm, corporation, municipality, town, quasi-municipal corporation, State agency or Federal agency or other legal entity which creates, initiates, originates or maintains a Discharge of Storm Water or a Non-Storm Water Discharge.

**Pollutant** “Pollutant” means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

**Premises** “Premises” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Town from which Discharges into the Storm Drainage System are or may be created, initiated, originated or maintained.

**Regulated Small MS4** “Regulated Small MS4” means any Small MS4 regulated by the State of Maine “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” (“General Permit”), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

**Small Municipal Separate Storm Sewer System or Small MS4** “Small Municipal Separate Storm Sewer System”, or “Small MS4,” means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

**Storm Drainage System** “Storm Drainage System” means the Town’s Municipal Separate Storm Sewer System including the Town’s Regulated Small MS4 and areas outside the Town’s Urbanized Area that drain into the Regulated Small MS4.

**Storm Water** “Storm Water” means any Storm Water runoff, snowmelt runoff, and surface runoff and drainage; “Stormwater” has the same meaning as “Storm Water.”

**Town** “Town” means the Town of Yarmouth.

**Urbanized Area (“UA”)** “Urbanized Area” or “UA” means the areas of the State of Maine so defined by the latest decennial census by the U.S. Bureau of the Census.

## **ARTICLE II**

### **A. GENERAL PROHIBITION**

Except as allowed or exempted herein, no Person shall create, initiate, originate or maintain a Non-Storm Water Discharge to the Storm Drainage System. Such Non-Storm Water Discharges are prohibited notwithstanding the fact that the Town may have approved the connections, drains or conveyances by which a Person Discharges un-allowed Non-Storm Water Discharges to the Storm Drainage System.

### **B. ALLOWED NON-STORM WATER DISCHARGES**

The creation, initiation, origination and maintenance of the following Non-Storm Water Discharges to the Storm Drainage System is allowed:

1. Landscape irrigation;
2. diverted stream flows;
3. rising ground waters;
4. uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
5. uncontaminated pumped ground water;
6. uncontaminated flows from foundation drains;
7. air conditioning and compressor condensate;
8. irrigation water;
9. flows from uncontaminated springs;
10. uncontaminated water from crawl space pumps;
11. uncontaminated flows from footing drains;
12. lawn watering runoff;
13. flows from riparian habitats and wetlands;
14. residual street wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed and detergents are not used);
15. hydrant flushing and fire fighting and fire fighting training activity runoff;
16. water line flushing and discharges from potable water sources;
17. individual residential car washing;
18. de-chlorinated swimming pool discharges; and
  
19. Discharges specified in writing by the Enforcement Authority as being necessary to protect public health and safety; and
  
20. Dye testing, with verbal notification to the Enforcement Authority prior to the time of the test.

**C. EXEMPT PERSON OR DISCHARGE**

This Ordinance shall not apply to an Exempt Person or Discharge, except that the Enforcement Authority may request from Exempt Persons and Persons with Exempt Discharges copies of permits, notices of intent, licenses and orders from the EPA or DEP that authorize the Discharge(s).

**D. SUSPENSION OF ACCESS TO THE TOWN'S SMALL MS4**

The Enforcement Authority may, without prior notice, physically suspend Discharge access to the Storm Drainage System to a Person when such suspension is necessary to stop an actual or threatened Non-Storm Water Discharge to the Storm Drainage System which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the Storm Drainage System, or which may cause the Town to violate the terms of its environmental permits. Such suspension may include, but is not limited to, blocking pipes, constructing dams or taking other measures, on public ways or public property, to physically block the Discharge to prevent or minimize a Non-Storm Water Discharges to the Storm Drainage System.

If the Person fails to comply with a suspension order issued in an emergency, the Enforcement Authority may take such steps as deemed necessary to prevent or minimize damage to the Storm Drainage System, or to minimize danger to persons, provided, however, that in taking such steps the Enforcement Authority may enter upon the Premises that are the source of the actual or threatened Non-Storm Water Discharge to the Storm Drainage System only with the consent of the Premises' owner, occupant or agent.

#### **E. MONITORING OF DISCHARGES**

In order to determine compliance with this Ordinance, the Enforcement Authority may enter upon and inspect Premises subject to this Ordinance at reasonable hours with the consent of the Premises' owner, occupant or agent: to inspect the Premises and connections thereon to the Storm Drainage System; and to conduct monitoring, sampling and testing of the Discharge to the Storm Drainage System.

### **ARTICLE III**

#### **A. ENFORCEMENT**

It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance. Whenever the Enforcement Authority believes that a Person has violated this Ordinance, the Enforcement Authority may enforce this Ordinance in accordance with 30-A M.R.S.A. § 4452.

#### **B. NOTICE OF VIOLATION**

Whenever the Enforcement Authority believes that a Person has violated this Ordinance, the Enforcement Authority may order compliance with this Ordinance by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

1. The elimination of Non-Storm Water Discharges to the Storm Drainage System, including, but not limited to, disconnection of the Premises from the MS4;
2. The cessation of discharges, practices, or operations in violation of this Ordinance;
3. At the Person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of Non-Storm Water Discharges to the Storm Drainage System and the restoration of any affected property; and/or
4. The payment of fines, of the Town's remediation costs and of the Town's reasonable administrative costs and attorneys' fees and costs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.

**C. PENALTIES/FINES/INUNCTIVE RELIEF**

Any Person who violates this Ordinance shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Town’s attorney’s fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day that such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys’ fees and costs, incurred by the Town for violation of federal and State environmental laws and regulations caused by or related to that Person’s violation of this Ordinance; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Chapter.

**D. CONSENT AGREEMENT**

The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance for the purposes of eliminating violations of this Ordinance and of recovering fines, costs and fees without court action.

**E. APPEAL OF NOTICE OF VIOLATION**

Any Person receiving a Notice of Violation or suspension notice may appeal the determination of the Enforcement Authority to Superior Court. Enforcement decisions are not appealable to the General Board of Appeals.

**F. ENFORCEMENT MEASURES**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal to the Board of Appeals, within 45 days of a decision of the Board of Appeals affirming or modifying the Enforcement Authority’s decision, then the Enforcement Authority may recommend to the municipal officers that the Town’s attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

Notwithstanding these requirements, in the event of an emergency situation that presents an immediate threat to public health, safety or welfare or that may result in damage to the Town’s Storm Drainage System, the Town may seek injunctive relief at any time after learning of such emergency situation.

**ARTICLE IV**

**A. ULTIMATE RESPONSIBILITY OF DISCHARGER**

The standards set forth herein are minimum standards; therefore this Ordinance does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge of Pollutants into waters of the U.S. caused by said Person. This Ordinance shall not create liability on the part of the Town, or any officer agent or employee thereof for any damages that

result from any Person's reliance on this Ordinance or any administrative decision lawfully made hereunder.

**B. SEVERABILITY**

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

**C. BASIS**

The Town of Yarmouth enacts this Storm Water Discharge Ordinance (the "Ordinance") pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 38 M.R.S.A. § 413 (the "Wastewater Discharge Law"), 33 U.S.C. § 1251 *et seq.* (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems" has listed the Town of Yarmouth as having a Regulated Small Municipal Separate Storm Sewer System ("Small MS4"); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Town's Storm Water Management Program.



CHAPTER 330

**POST-CONSTRUCTION STORMWATER MANAGEMENT ORDINANCE**

Town of Yarmouth, Maine

Adopted: 5/21/2009

**CHAPTER 330**

# POST-CONSTRUCTION STORMWATER DISCHARGE ORDINANCE

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# **POST-CONSTRUCTION STORMWATER DISCHARGE ORDINANCE**

## **ARTICLE I**

### **General**

#### **A. PURPOSE**

The purpose of this “Post-Construction Stormwater Management Ordinance” (the “Ordinance”) is to provide for the health, safety, and general welfare of the citizens of the Town of Yarmouth through review and approval of post-construction stormwater management plans and monitoring and enforcement of compliance with such plans as required by federal and State law.

This Ordinance establishes methods for post-construction stormwater management in order to comply with minimum control measures requirements of the federal Clean Water Act, of federal regulations and of Maine’s Small Municipal Separate Storm Sewer Systems General Permit.

#### **B. OBJECTIVES**

The objectives of this Ordinance are:

1. To reduce the impact of post-construction discharge of stormwater on receiving waters; and
2. To reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through use of Best Management Practices as promulgated by the Maine Department of Environmental Protection pursuant to its Chapters 500 and 502 Rules, and ensure that these management controls are properly maintained and pose no threat to public safety.

#### **C. APPLICABILITY**

1. This Ordinance applies to all New Development and Redevelopment within the Town that Discharges Stormwater to the Town’s Municipal Separate Storm Sewer System (MS-4) and to associated Stormwater Management Facilities.
2. Exception: This Ordinance does not apply to New Development or Redevelopment on a lot, tract or parcel where that lot, tract or parcel is part of a subdivision that is approved under this Ordinance. Said lot, tract or parcel shall not require separate review under this Ordinance, but shall comply with the Post-Construction Stormwater Management Plan requirements for that approved subdivision.

#### **D. DEFINITIONS**

For the purposes of this Ordinance, the terms listed below are defined as follows:

**Applicant** means a Person with requisite right, title or interest or an agent for such Person who has filed an application for New Development or Redevelopment that requires a Post-Construction Stormwater Management Plan under this Ordinance.

**Best Management Practices (“BMP”)** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Clean Water Act** means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the “Clean Water Act”), and any subsequent amendments thereto.

**Construction Activity** means Construction Activity including one acre or more of Disturbed Area. Construction Activity also included activity with less than one acre of total land Disturbed Area if that area is part of a subdivision that will ultimately disturb an area equal to or greater than one acre.

**Discharge** means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to “waters of the State.” “Direct discharge” or “point source” means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

**Disturbed Area** means clearing, grading and excavation. Mere cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered “Disturbed Area.” “Disturbed area” does not include routine maintenance but does include Redevelopment. “Routine maintenance” is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of land or improvements thereon.

**Enforcement Authority** means the Town Manager or his/her designee who is the person(s) or department authorized by the Town to administer and enforce this Ordinance.

**Town** means the Town of Yarmouth.

**Municipal Permitting Authority** means the municipal official or body that has jurisdiction over the land use approval or permit required for a New Development or Redevelopment.

**Municipal Separate Storm Sewer System, or MS4** means conveyances for stormwater, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any

municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

**National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit** means a permit issued by the U.S. Environmental Protection Agency (“EPA”) or by the Maine Department of Environmental Protection (“DEP”) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**New Development** means any Construction Activity on unimproved Premises and for purposes of this ordinance includes “Redevelopment” defined below.

**Person** means any individual, firm, corporation, municipality, town, Quasi-municipal Corporation, State agency or Federal agency or other legal entity.

**Pollutant** means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

**Post-Construction Stormwater Management Plan** means BMPs and associated inspection and maintenance procedures for the Stormwater Management Facilities employed by a New Development or Redevelopment to meet the standards of this Ordinance and approved by the Municipal Permitting Authority.

**Premises** means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Town from which Discharges into the Storm Drainage System are or may be created, initiated, originated or maintained.

**Qualified Post-Construction Stormwater Inspector** means a person who conducts post-construction inspections of Stormwater Management Facilities and meets the following qualifications:

1. The Inspector shall not have any ownership or financial interest in the property being inspected nor be an employee or partner of any entity having an ownership or financial interest in the property, and
2. The Inspector shall also meet the following or similar criteria as approved by the Town Engineer, who shall maintain a list of approved Qualified Post-Construction Stormwater Inspectors:
  - a. Have a working knowledge of Chapter 500, Stormwater Management Rules and Maine’s Stormwater BMP Manual,

- b. Have a college degree in environmental science, civil engineering, or comparable expertise,
- c. Have a demonstrated practical knowledge of stormwater hydrology and stormwater management techniques, including the maintenance requirements for Stormwater Management Facilities, and
- d. Have the ability to determine if stormwater facilities are performing as intended.

**Redevelopment** means Construction Activity on Premises already improved with buildings, structures or activities or uses, but does not include such activities as exterior remodeling of structures.

**Regulated Small MS4** means any Small MS4 regulated by the State of Maine “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” (“General Permit”), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

**Small Municipal Separate Storm Sewer System, or Small MS4** means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

**Storm Drainage System** means the Town’s Municipal Separate Storm Sewer System including the Town’s Regulated Small MS4 and areas outside the Town’s Urbanized Area that drain into the Regulated Small MS4.

**Stormwater** means any Stormwater runoff, snowmelt runoff, and surface runoff and drainage; “Stormwater” has the same meaning as “Storm Water.”

**Stormwater Management Facilities** means any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures that are part of the Post-Construction Stormwater Management Plan for a New Development or Redevelopment.

**Urbanized Area (“UA”)** means the areas of the State of Maine so defined by the latest decennial census by the U.S. Bureau of the Census.

## **ARTICLE II MANAGEMENT PLAN**

### **A. GENERAL REQUIREMENT**

1. Except as provided in Section I.C.2 above, no Applicant for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for New Development to which this Ordinance is applicable shall receive such permit or approval for that New Development unless the Municipal Permitting Authority for that New Development also determines that the Applicant's Post-Construction Stormwater Management Plan for that New Development meets the requirements of this Ordinance.
2. At the time of application, the Applicant shall notify the Municipal Permitting Authority if its Post-Construction Stormwater Management Plan includes any BMP(s) that will discharge to the Town's MS4 and shall include in this notification a listing of which BMP(s) will so discharge.

### **B. PERFORMANCE STANDARDS**

1. The Applicant shall make adequate provision for the management of the quantity and quality of all stormwater generated by a New Development through a Post-Construction Stormwater Management Plan. This Post-Construction Stormwater Management Plan shall be designed to meet the standards contained in the Maine Department of Environmental Protection's Chapters 500 and 502 Rules and shall comply with the practices described in the manual *Stormwater Management for Maine*, published by the Maine Department of Environmental Protection, January 2006, which hereby are incorporated by reference pursuant to 30-A M.R.S.A. § 3003.
2. The Applicant shall meet the quantity and quality standards above either on-site or off-site. Where off-site facilities are used, the applicant must submit to the Town documentation, approved as to legal sufficiency by the Town's attorney, that the Applicant has a sufficient property interest in the property where the off-site facilities are located -- by easement, covenant or other appropriate legal instrument -- to ensure that the facilities will be able to provide post-construction stormwater management for the New Development and that the property will not be altered in a way that interferes with the off-site facilities.
3. Where the Applicant proposes to retain ownership of the Stormwater Management Facilities shown in its Post-Construction Stormwater Management Plan, the Applicant shall submit to the Town documentation, approved as to legal sufficiency by the Town's attorney that the Applicant, its successors, heirs and assigns shall have the legal obligation and the resources available to operate, repair, maintain and replace the stormwater management facilities. Applications for New Development or Redevelopment requiring Stormwater Management Facilities that will not be dedicated to the

Town shall enter into a Maintenance Agreement with the Town. A sample of this Maintenance Agreement is attached as Appendix 1 to this Ordinance.

4. Whenever elements of the Stormwater Management Facilities are not within the right-of-way of a public street and the facilities will not be offered to the Town for acceptance as public facilities, the Municipal Permitting Authority may require that perpetual easements not less than thirty (30) feet in width, conforming substantially with the lines of existing natural drainage, and in a form acceptable to the Town's attorney, shall be provided to the Town allowing access for maintenance, repair, replacement and improvement of the Stormwater Management Facilities. When an offer of dedication is required by the Municipal Permitting Authority, the Applicant shall be responsible for the maintenance of these Stormwater Management Facilities under this Ordinance until such time (if ever) as they are accepted by the Town.
5. In addition to any other applicable requirements of this Ordinance and the Town's Municipal Code, any New Development which also requires a stormwater management permit from the Maine Department of Environmental Protection (DEP) under 38 M.R.S.A. 420-D shall comply with the rules adopted by DEP under 38 M.R.S.A. 420-D(1), as the same may be amended from time to time, and the applicant shall document such compliance to the Municipal Permitting Authority. Where the standards or other provisions of such stormwater rules conflict with municipal ordinances, the stricter (more protective) standard shall apply.

## **ARTICLE III**

### **Post-Construction Stormwater Management Plan Compliance**

#### **A. GENERAL REQUIREMENTS**

Any Person owning, operating, leasing or having control over Stormwater Management Facilities required by a Post-Construction Stormwater Management Plan approved under this Ordinance shall demonstrate compliance with that Plan as follows.

1. That Person or a Qualified Post-Construction Stormwater Inspector hired by that Person, shall, at least annually, inspect the Stormwater Management Facilities, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved Post-Construction Stormwater Management Plan.
2. If the Stormwater Management Facilities require maintenance to function as intended by the approved Post-Construction Stormwater Management Plan, that Person shall take corrective action(s) to address the deficiency or deficiencies.



3. That Person shall employ a Qualified Post-Construction Stormwater Inspector to provide, on or by March 1 of each year , a completed and signed certification to the Enforcement Authority in a form identical to that attached as Appendix 1 to this Ordinance or in a similar form approved by the Town Engineer, certifying that the Stormwater Management Facilities have been inspected, and that they are adequately maintained and functioning as intended by the approved Post-Construction Stormwater Management Plan, or that they require maintenance or repair, describing any required maintenance and any deficiencies found during inspection of the Stormwater Management Facilities. And, if the Stormwater Management Facilities require maintenance or repair of deficiencies in order to function as intended by the approved Post-Construction Stormwater Management Plan, the Person shall provide a record of the required maintenance or deficiency and corrective action(s) taken.

## **B. RIGHT OF ENTRY**

In order to determine compliance with this Ordinance and with the Post-Construction Stormwater Management Plan, the Enforcement Authority may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the Stormwater Management Facilities.

## **C. ANNUAL REPORT**

Beginning July 1, 2009 and each year thereafter, the Town shall include the following in its Annual Report to the Maine Department of Environmental Protection:

1. The cumulative number of sites that have Stormwater Management Facilities discharging into their MS4;
2. A summary of the number of sites that have Stormwater Management Facilities discharging into their MS4 that were reported to the Town;
3. The number of sites with documented functioning Stormwater Management Facilities; and
4. The number of sites that required routine maintenance or remedial action to ensure that Stormwater Management Facilities are functioning as intended.

## **ARTICLE IV**

### **A. ENFORCEMENT**

It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance or of the Post-Construction Stormwater Management Plan. Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may enforce this Ordinance in accordance with 30-A M.R.S.A. § 4452.

## **B. NOTICE OF VIOLATION**

Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may order compliance with this Ordinance or with the Post-Construction Stormwater Management Plan by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

1. The abatement of violations, and the cessation of practices, or operations in violation of this Ordinance or of the Post-Construction Stormwater Management Plan;
2. At the Person's expense, compliance with BMPs required as a condition of approval of the New Development, the repair of Stormwater Management Facilities and/or the restoration of any affected property; and/or
3. The payment of fines, of the Town's remediation costs and of the Town's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation, compliance with BMPs, repair of Stormwater Management Facilities and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement, compliance, repair and/or restoration must be completed.

## **C. PENALTIES/FINES/INJUNCTIVE RELIEF**

Any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Town's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day that such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the Town for violation of federal and State environmental laws and regulations caused by or related to that Person's violation of this Ordinance or of the Post-Construction Stormwater Management Plan; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Chapter.

## **D. CONSENT AGREEMENT**

The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance or of the Post-Construction Stormwater Management Plan for the purposes of eliminating violations of this Ordinance or of the Post-Construction Stormwater Management Plan and of recovering fines, costs and fees without court action.

## **E. APPEAL OF NOTICE OF VIOLATION**

Any Person receiving a Notice of Violation or suspension notice may appeal the determination of the Enforcement Authority to the Board of Appeals in accordance with

the provisions of CHAPTER 701, ARTICLE VII of the Town's Zoning Ordinance. The notice of appeal must be received within 30 days from the date of receipt of the Notice of Violation.

The Board of Appeals shall hold a *de novo* hearing on the appeal within 30 days from the date of receipt of the notice of appeal. The Board of Appeals may affirm, reverse or modify the decision of the Enforcement Authority. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

## **F. ENFORCEMENT MEASURES**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal to the Board of Appeals, within 45 days of a decision of the Board of Appeals affirming or modifying the Enforcement Authority's decision, then the Enforcement Authority may recommend to the municipal officers that the Town's attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

## **ARTICLE V**

### **A. SEVERABILITY**

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

### **B. BASIS**

The Town of Yarmouth enacts this Post-Construction Stormwater Management Control Ordinance (the "Ordinance") pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 38 M.R.S.A. § 413 (the "Wastewater Discharge Law"), 33 U.S.C. § 1251 *et seq.* (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems," has listed the Town of Yarmouth as having a Regulated Small Municipal Separate Storm Sewer System ("Small MS4"); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Town's Stormwater Management Program in order to satisfy the minimum control measures required by Part IV D 5 ("Post-construction stormwater management in new development and redevelopment").

**APPENDIX 1**

**Maintenance Agreement for  
Stormwater Management Facilities**

This Maintenance Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by and between \_\_\_\_\_ and the Town of Yarmouth, Maine.

The project name is \_\_\_\_\_.

The location is: \_\_\_\_\_, Yarmouth, Maine.

The project's Tax Map and Lot Numbers are Tax Map Lot \_\_\_\_\_

The project is shown on a plan entitled " \_\_\_\_\_ " dated \_\_\_\_\_ and most recently revised on \_\_\_\_\_, approved by the \_\_\_\_\_ [Municipal Permitting Board] on \_\_\_\_\_ and recorded in the \_\_\_\_\_ County Registry of Deeds in Plan Book \_\_\_\_\_ Page \_\_\_\_\_ (the "Project").

WHEREAS, the approval of the Project includes Stormwater Management Facilities which requires periodic maintenance; and

WHEREAS, in consideration of the approval of the Project the Town of Yarmouth requires that periodic maintenance be performed on the Stormwater Management Facilities;

NOW, THEREFORE, in consideration of the mutual benefits accruing from the approval of the Project by the Town and the agreement of \_\_\_\_\_ to maintain the Stormwater Management Facilities, the parties hereby agree as follows:

1. \_\_\_\_\_, for itself, and its successors and assigns, agrees to the following:

(a) To inspect, clean, maintain, and repair the Stormwater Management Facilities, which includes, to the extent they exist, parking areas, catch basins, detention basins or ponds, drainage swales, pipes and related structures, at least annually, to prevent the build up and storage of sediment and debris in the system;

(b) To repair any deficiencies in the Stormwater Management Facilities noted during the annual inspection;

(c) To provide a summary report on the inspection, maintenance, and repair activities performed annually on the Stormwater Management Facilities to the Town Enforcement Authority;

(d) To allow access by Town personnel or the Town's designee for inspecting the Stormwater Management Facilities for conformance with these requirements.

(e) To create a homeowners' association for the purpose of maintaining the Stormwater Management Facilities.

2. Upon creation of the homeowners' association, the homeowners' association shall become responsible for compliance with the terms of this Agreement.

3. This Agreement shall constitute a covenant running with the land, and \_\_\_\_\_ shall reference this Agreement in all deeds to lots and/or units within the Project.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

TOWN OF YARMOUTH

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF MAINE  
\_\_\_\_\_, ss.

\_\_\_\_\_, 20\_\_

Personally appeared the above-named \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged the foregoing Agreement to be said person's free act and deed in said capacity.

Before me,

\_\_\_\_\_  
Notary Public / Attorney at Law

Print Name:

\_\_\_\_\_

STATE OF MAINE  
\_\_\_\_\_, ss.

\_\_\_\_\_, 20\_\_

Personally appeared the above-named \_\_\_\_\_, the  
\_\_\_\_\_ of the Town of Yarmouth, and acknowledged the foregoing  
Agreement to be said his/her free act and deed in said capacity.

Before me,

\_\_\_\_\_  
Notary Public / Attorney at Law

Print Name:

\_\_\_\_\_

**APPENDIX 2**

**Annual Stormwater Management Facilities Certification  
(to be sent to Town's Enforcement Authority)**

I, \_\_\_\_\_ (print or type name), certify the following:

1. I am making this Annual Stormwater Management Facilities Certification for the following property: \_\_\_\_\_  
(print or type name of subdivision, condominium or other development) located at \_\_\_\_\_  
(print or type address), (the "Property");

2. The owner, operator, tenant, lessee or homeowners' association of the Property is: \_\_\_\_\_  
(name(s) of owner, operator, tenant, lessee, homeowners' association or other party having control over the Property);

3. I am the owner, operator, tenant, lessee or president of the homeowners' association, or am a Qualified Post-Construction Stormwater Inspector hired by the same (circle one);

4. I have knowledge of erosion and stormwater control and have reviewed the approved Post-Construction Stormwater Management Plan for the Property;

5. On \_\_\_\_\_, 20\_\_, I inspected or had inspected by \_\_\_\_\_  
\_\_\_\_\_, a Qualified Post-Construction Stormwater Inspector, the Stormwater Management Facilities, including but not limited to parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures required by the approved Post-Construction Stormwater Management Plan for the Property;

6. At the time of my inspection of the Stormwater Management Facilities on the Property, I or the Qualified Post-Construction Stormwater Inspector identified the following need(s) for routine maintenance or deficiencies in the Stormwater Management Facilities:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. On \_\_\_\_\_, 20\_\_, I took or had taken the following routine maintenance or the following corrective action(s) to address the deficiencies in the Stormwater Management Facilities stated in 6. above:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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8. As of the date of this certification, the Stormwater Management Facilities are functioning as intended by the approved Post-Construction Stormwater Management Plan for the Property.

Date: \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

STATE OF MAINE

\_\_\_\_\_, ss.

\_\_\_\_\_, 20\_\_

Personally appeared the above-named \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged the foregoing Annual Certification to be said person's free act and deed in said capacity.

Before me,

\_\_\_\_\_  
Notary Public/Attorney at Law

Print Name: \_\_\_\_\_

**Mail this certification to the Town's Enforcement Authority at the following address [to be completed by the municipality]:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_