

SOHIER PARK

Property and Facilities Inventory

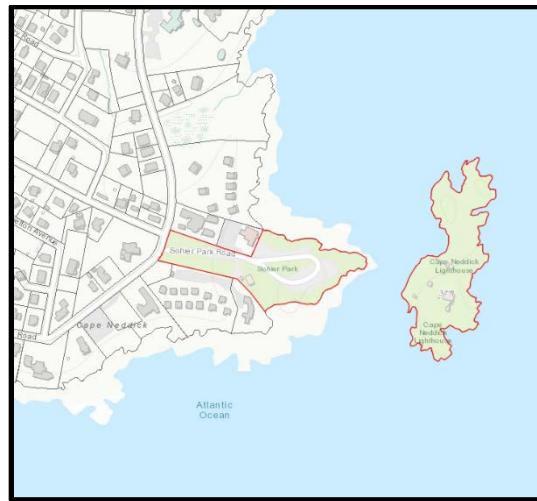
This document is one of a series of staff reports to document important information about properties owned and utilized by the Town of York. It is an attempt to compile and make available relevant information about properties to ensure the institutional knowledge is not lost over time.



May 25, 2022

SOHIER PARK

Location: The mainland portion of the Park is located at 11 Sohier Park Road. The island portion of the Park is located at 13 Sohier Park Road. Can a roadless island really have a street address? Apparently yes, it can.



Property Name: The name of the Park was established by the York Beach Village Corporation before Town acquisition. The mainland portion of the park was given to the York Beach Village Corporation by William D. Sohier of Beverly, Massachusetts and the Park now bears his family name.

Town Acquisition: The property, as currently configured, was acquired in three separate transactions.

1. The Town of York acquired the original two parcels on the mainland upon termination of the York Beach Village Corporation. In Section 2 of the legislation that repealed the Village Corporation (L.D. 1809), it is established that ownership of all property of the Village Corporation was transferred to the Town as of October 15, 1977.

There was a vote of the Village Corporation on November 27, 1928, to lay out a road (probably portions of Broadway and Nubble Road) from Concordville to Nubble Point as shown on a plan by Mr. Sohier, and a second vote to accept the lot of land over which this road passes and the lot known as "The Nubble Point," which were

noted as, "gifts of land." These parcels of land were sold by William D. Sohier of Beverly, Massachusetts, to the Village Corporation on May 15, 1929 and June 20, 1929, for one dollar each.

2. The Town of York acquired the third parcel, the island with the lighthouse and associated improvements, on May 15, 1998, from the United States of America. Voters authorized the Town to receive this property via Article 9 at the November 4, 1997 General Referendum. The vote was 3,138 votes in favor versus 288 votes against.

While the Town acquired the island and lighthouse in 1998, the Sohier Park Ordinance was amended only in May 2019 to expand the Sohier Park to include the island itself.

Deed References:

- Book 781, Page 424-425 (May 1929 deed)
- Book 781, Page 485-486 (June 1929 deed)
- Book 8831, Page 283-288 (1998 deed)

Deed Restrictions: Regarding the property on the mainland, both 1929 deeds note this land was conveyed, "upon the express condition that it is to be kept as a public park and used for the ordinary and usual park purposes and for no other uses, and is not to be leased, sold, assigned or used for any other purpose whatsoever." A vote of the Village Corporation on July 1, 1929, is informative as to the meaning and intentions of the deed restrictions. The Village Corporation entered into a contract with Frank H. Coupe to maintain the park, and this contract allowed him to construct a house and store on the park property, and the Village Corporation was to receive \$100/year from Mr. Coupe for the privilege of having that store. From the very first summer of this property as a public park, the concept of having a retail establishment to provide for enterprise funding was found to be consistent with the deed restrictions.

The deed for the island maintains federal authority for the lighthouse and fog horn as aids to navigation, and everything associated with these remains within the federal realm. The Town is obligated to maintain the property in a manner consistent with historic preservation requirements, and must maintain the facilities which allow safe boat access for the Coast Guard. Public access was also a requirement of the federal transfer, and visual access from the mainland was found to be adequate to fulfill this requirement.

Survey and Monumentation: A Park master plan was prepared by Richardson Associates of Saco Maine in or about 2004. There is a plan note from that timeframe indicating a boundary plan of Sohier Park dated June 2004 by CLD Consulting Engineers was to be recorded. Also, there is a reference in the Town-Fox Consent Agreement to a survey for the Town by Anderson/Livingston in 1998. Copies of these surveys should be obtained.

Regulation and Management: Sohier Park Ordinance addresses activities in this Park. A copy of this Ordinance is included at the end of this Report. In addition, there are standards in Section 4.2.2 of the Zoning Ordinance that require, prior to any new or change of use, approval of the Sohier Park Committee, the Planning Board, the Board of Selectmen and the Town voters.

The Municipal Parks Ordinance, newly adopted in November 2021, specifically calls out the voter-approved Sohier Park Ordinance in Section 7.1, and thus treats it separately from other newly designated parks.

There are also provisions and requirements relating specifically to Sohier Park in State law, specifically in Section 7 at the bottom of Page 3 of the Special Law which terminated the York Beach Village Corporation, which impose additional requirements on this Park.

Relationship to Bond Funds: There are no bond-funded projects associated with this property. Most activities in the Park are funded with enterprise funds generated by retail sales at the gift shop.

Land Use Permits & Approvals: There is an approved Master Plan for the mainland portion of the Park. This was approved by the Sohier Park Committee, Planning Board, Board of Selectmen and Voters in the 2000 to 2005 timeframe. The Master Plan and associated votes and actions should be documented. A site plan associated with this effort is included in the Fox Consent Agreement.

Other Information:

- National Historic Register. Cape Neddick Light Station is listed on the National Register of Historic Places. Reference number 85000844.

- Consent Agreement. There is a Consent Agreement between the Town and abutter Phyllis Fox regarding encroachments onto Park property, dated April 22, 2002. A copy is included at the end of this Report. There are papers indicating the Board of Selectmen may have agreed to amend this Consent Agreement, and there is an unsigned, one-page amendment in the files in the Town Manager's office. A copy of the unsigned draft is included herein.
- Funding of Gift Shop Expansion. At the May 2013 Budget Referendum, voters authorized the Town to borrowed \$150,000 from the Fund Balance to expand the gift shop. This was to be paid back over the following five years, with interest. It was fully paid back in two years because the expansion of the gift shop significantly increased net proceeds from sales. This approach allowed a significant investment to be made in the Park without needing either to save up enough money in advance or to seek bond funds.
- Scuba Diving. Following the death of a scuba diver in the waters adjacent to the Park in 2020, guidance has been posted in the Park to advise divers about local conditions. The Sohier Park Ordinance allows and controls scuba diving in the Park.

Bond-Related Restrictions	No
Land & Water Conservation Fund Restrictions	Not applicable
National Historic District	No
Local Historic District, Landmark or Site	Partial (island only)
In the Urbanized Area	Yes

Property Deed

Acquisition by York Beach Village Corporation - May 1929

Know all Men by these Presents,

That I, William D. Sohier, of Beverly in the County of Essex and Commonwealth of Massachusetts, (widower),

in consideration of One Dollar to me paid, and of the laying out and maintenance of a public way on and over my land by the grantee hereinafter named,

paid by The York Beach Village Corporation, in the Township of York in the State of Maine,

the receipt whereof I do hereby acknowledge, do hereby remise, release, bargain, sell and convey and forever quit-claim unto the said The York Beach Village Corporation, and its successors

Heirs and Assigns forever,

A certain piece or parcel of land in the town of York and State of Maine, on the "Nubble Point", so called; said parcel containing one acre more or less and being bounded, measured and described as follows: Beginning at a drill hole (to have an iron or copper pin set later) that is N. $24^{\circ} 40'$ W. two hundred twenty (220) feet from another drill hole near high water mark, both said drill holes being mentioned in a deed of land made by the grantor to said corporation dated May 15th, 1929, and duly recorded; thence running N. $59^{\circ} 15'$ W. three hundred twenty-three (323) feet to a stone post by the road leading from Dover Bluff to Concordville; thence N. $36^{\circ} 50'$ E. by said road across the entrance to the road to the lighthouse one hundred twenty-nine (129) feet to a stone post by said road to Concordville; thence S. 55° E. (local attraction here) three hundred thirty and one-half (330 $\frac{1}{2}$) feet to a stone post, by the land deeded to said corporation by the Grantor May 15th, 1929, hereinbefore mentioned; thence S. $40^{\circ} 45'$ W. one hundred twenty and two tenths (120.2) feet by said land to the bound begun at.

The Grantor reserves such rights of way across said land, not exceeding twenty (20) feet in width each, as may be necessary for convenient access to his remaining lots of land situated on the east and west side of the lot herein conveyed.

The above land is conveyed to the corporation upon the express condition that it is to be kept as a public park and roadway and used for the ordinary and usual park purposes and for no other uses, and to not to be leased sold rented or used for any other

On have and is hold the same, together with all the privileges and appurtenances thereunto belonging to the said York Beach Village Corporation, and its successors

Heirs-and-Assigns forever.

In Witness Whereof, I, the said William D. Sohier, being a widower,

-and--

wife of the said

Joining-in-this-deed-as-Grantor, and relinquishing-and-conveying rights-by-descent-and-all-other-rights-in-the-above described-premises have hereunto set my hand and seal this 15th day of May in the year of our Lord one thousand nine hundred and twenty-nine.

Signed, Sealed and Delivered
in presence of

M. C. Lynch _____ Wm. D. Sohier (seal)

Albert J. Lovett _____

Commonwealth of Massachusetts,)
State of Mass. { })
Suffolk, { }) May 15, 1929.
{ })

Personally appeared the above named William D. Sohier,

and acknowledged the above instrument to be his free act and deed.

Before me,
Mary C. Lynch (I.S.)
Justice of the Peace
Notary Public

Property Deed

Acquisition by York Beach Village Corporation - June 1929

ANNU ALL MHEN MY THESE PREPENIS.

That I, William D. Sohier, of Beverly in the County of Essex and Commonwealth of Massachusetts, (widower),

in consideration of One Dollar to me paid, and of the laying out and maintenance of a public way on and over my land by the grantee hereinafter named,

paid by The York Beach Village Corporation, in the Township of York in the State of Maine

the receipt whereof I do hereby acknowledge, do hereby remise, release, bargain, sell and convey and forever quit-claim unto the said The York Beach Village Corporation and its successors

Heirs-and-Assigns forever.

A certain piece or parcel of land in the town of York and State of Maine, on the "Nubble Point", so called; said parcel containing three acres, more or less, and being bounded, measured and described as follows: Beginning at an iron bolt sunk in a ledge near high water mark on the southwesterly side of said premises, adjoining the Atlantic Ocean and Long Sands Bay, and running N. 24° 40' W. two hundred twenty (220) feet by other land of the grantor, to another bolt in a ledge; thence turning and running N. 40° 45' E. by said grantor's other land two hundred twenty-five and 8/10 (225.8) feet, crossing the road to the lighthouse, to the northeast shore of said premises to another bolt sunk in a ledge near high water mark; thence continuing in an easterly direction to low water mark; thence by said Ocean southeasterly, southerly, southwesterly and westerly, and northwesterly, both by the Atlantic Ocean and the gut separating the main land from the Nubble; to the point where said first mentioned direction line extended southerly intersects low water mark; thence by said line to the point of beginning.

Said land is conveyed subject to any rights of way or of landing thereon that may exist for the benefit of the lighthouse on the Nubble Rock or otherwise; and said land is conveyed to said corporation upon the express condition that it is to be kept as a public park and used for the ordinary and usual park purposes and for no other uses, and is not to be leased, sold, assigned or used for any other purpose whatsoever.

To have and to hold the same, together with all the privileges and appurtenances thereto belonging to the said The York Beach Village Corporation, and its successors

Heirs-and-Assigns forever.

In Witness Whereof, I, the said William D. Sohier, being a widower

and

Wife of the said

joining in this deed as grantor, and relinquishing and conveying rights by descent and all other rights in the above-described premises have hereunto set my hand and seal this 20th day of June, in the year of our Lord one thousand nine hundred and twenty-nine.

Signed, Sealed and Delivered
in presence of

Wm. D. Sohier (seal)

COMMONWEALTH OF MASSACHUSETTS
State of Maine
COUNTY OF SUFFOLK, MA

June 20th 1929.

Personally appeared the above named William D. Sohier,

and acknowledged the above instrument to be his free act and deed.

Before me,

Albert J. Lovett (L.S.)
Justice of the Peace
Notary Public

Property Deed

Acquisition by Town from the United States of America - 1998

M. C. faint

QUITCLAIM DEED WITHOUT COVENANT

KNOW ALL PERSONS BY THESE PRESENTS: That the United States of America, Grantor, acting by and through the Secretary of Transportation, pursuant to the powers and authority set forth in the provisions of section 1002 of Public Law 104-324, enacted on October 19, 1996, and by written delegation of authority to the Commandant, United States Coast Guard, dated November 15, 1996, and by further delegation by the Commandant, U.S. Coast Guard to his duly authorized designee, without payment of consideration, does hereby grant, convey, remise, release and quitclaim without covenant unto The Inhabitants of the Town of York, a municipal corporation, Grantee, having a mailing address at Town of York, 186 York Street, York, ME 03909, all of the Grantor's right, title and interest in and to:

a certain lot or parcel of land situate, lying and being in the Town of York, County of York, State of Maine, together with the improvements thereon and rights appurtenant thereto, commonly known as the ~~Cape Neddick Nubble~~, said land is bounded by lands formerly of Obadiah Stover on the Northwest, and by the Atlantic Ocean on the Southeast, Southwest, and Northeast, and at high tide contains about one acre and at low tide about six acres, together with the privilege to pass and repass through said Stover lands in coming to or going from the said Cape Neddick Nubble, by keeping gates and bars.

Meaning and intending to convey the same land conveyed to the Grantor by warranty deed from Andrew G. Weeks, *et al.*, dated February 5, 1879, and recorded with the York County Registry of Deeds in Book 366, Page 556 on February 7, 1879; being the same land conveyed to the Grantor by quitclaim deed without covenant from Samuel Melville Vaughn, *et al.*, dated December 10, 1878, recorded with the York County Registry of Deeds in Book 372, Page 214 on April 15, 1879; and being the same land conveyed to the Grantor by quitclaim deed without covenant from Betsey C. Vaughn, dated December 16, 1878, recorded with the York County Registry of Deeds in Book 372, Page 213 on April 15, 1879.

This conveyance is subject to the following covenants and conditions:

1. The term "Property" shall mean the above described land together with the improvements thereon.
2. The term "Grantee" shall be deemed to include the Grantee's successors and assigns.
3. The terms "aid to navigation" and "aids to navigation" shall include, but not be limited to, lights, antennas, sound signals, electronic navigation equipment, communications equipment,

and any other associated lighthouse or navigational equipment.

4. The term "arc of visibility" is defined as the portion of the horizon over which a lighted aid to navigation is visible from seaward.

5. Any lantern, lens, or similar historical artifact associated with the Property, either located on the Property or elsewhere, shall remain the personal property of the Grantor.

6. The Grantor hereby expressly reserves:

(a) an easement for its employees and agents, with necessary equipment, to enter upon and have access to the Property, including the right to enter the Property at any time, without notice, for any authorized and official purpose of the Grantor;

(b) an easement upon the Property to operate, maintain, relocate, install, improve, replace, or remove any aid to navigation, or for any other similar or related purpose, including the right to make any changes on any portion of the Property as may be necessary for the operation of any aid to navigation or for any other navigational or related purpose;

(c) an easement over and upon the Property for the purpose of operating an aid to navigation, during periods of fog, which will produce sound not to exceed 130 decibels (C weighting), such sound potentially constituting a human health hazard;

(d) a negative easement over and upon the Property for the purpose of preserving the arc of visibility for any lighted aid to navigation located upon the Property, including the right to remove all vegetation, shrubs, bushes, plants, trees, man-made structures of any kind, and any other objects that may impair, obscure, or obstruct the arc of visibility; and

(e) an easement upon the Property to install, construct, operate, maintain, relocate, replace, or remove utility lines and other infrastructure, including, but not limited to, electric and telephone lines, for the purpose of operating the aids to navigation or for any similar or related purpose.

7. The aids to navigation and the equipment identified in subparagraph 6(e) shall remain the personal property of the Grantor, and shall continue to be operated and maintained by the Grantor. The Grantee shall not have any obligation to maintain any aid to navigation on the Property.

8. The Grantor may post signs on the Property to warn of the sounds produced by the aid to navigation identified in subparagraph 6(c).

9. The Grantee shall not interfere or allow interference in any manner with any aid to navigation or any other personal property of the Grantor without the Grantor's express written permission, including, but not limited to, the obstruction of the arc of visibility.

10. If the Grantee charges an admission, access, or any other fee to the Property, or any portion thereof, no person otherwise entitled to enter upon the Property shall be required to pay such fee. Possession of a valid U.S. Department of Transportation, U.S. Coast Guard, or Armed Forces of

the United States identification card will be sufficient proof of the holder's entitlement to enter the Property without charge.

11. The Grantee covenants that from time to time, at its own cost and expense, it will repair and maintain the Property in a proper, substantial, and workmanlike manner, including, but not limited to, the repair and maintenance of any docks, piers, and mooring facilities.

12. The Grantee covenants, at all times, as follows:

(a) Grantee shall rehabilitate, preserve and maintain the Property in accordance with plans approved in writing by the State Historic Preservation Officer of the State of Maine ("SHPO") in order to preserve and enhance those qualities that make the Property eligible for inclusion in the National Register of Historic Places. Said rehabilitation, preservation and maintenance shall be in accord with the *Secretary of the Interior's Standards for Rehabilitation* (36 C.F.R. Part 67);

(b) no construction, alteration, remodeling, changes of color or surfacing, or any other thing shall be undertaken or permitted to be undertaken on the Property which would affect the structural integrity, the appearance, the cultural use, or archeological value of the Property without the express prior written permission of the SHPO, signed by a fully authorized representative thereof;

(c) the SHPO shall be permitted to inspect the Property at any time, without notice, in order to ascertain if the above conditions are being observed;

(d) in the event of a violation of the covenants set forth in this paragraph 12, and in addition to any remedy now or hereafter provided by law, the SHPO may, following reasonable notice to the Grantee, institute suit to enjoin said violation or to require the restoration of the Property. The successful party shall be entitled to recover all costs or expenses incurred in connection with such a suit, including all court costs and attorney's fees;

(e) the Grantee agrees that the SHPO may, at its discretion, without prior notice to the Grantee, convey and assign all or part of its rights and responsibilities set forth in this paragraph 12 to a third party;

(f) the SHPO may, for good cause, and with the concurrence of the Advisory Council on Historic Preservation modify or cancel any or all of the foregoing restrictions upon written application of the Grantee;

(g) the failure of the SHPO to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time; and

(h) the covenants set forth in this paragraph 12 shall constitute a binding servitude upon the Property and shall be deemed to run with the land.

13. Pursuant to section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9620(h): (a) the disposal, release, and storage of any hazardous substances into or upon the Property, to the extent known at the time of execution of this Quitclaim Deed Without Covenant, is reflected in the "CERCLA 120 (h) Statement," provided as Schedule A which is attached hereto and made a part hereof; (b) any remedial action arising from the Grantor's ownership found to be necessary after the date of transfer to the Grantee shall be conducted by the Grantor; and (c) the Grantor shall retain a right of access to the Property in order to effectuate any necessary remedial action or corrective action until such time as the remedial action or corrective action is complete.

14. Pursuant to subsection 1002(b)(4) of Public Law 104-324, all right, title, and interest in and to the Property shall immediately revert to the Grantor if the Property, or any portion thereof, ceases to be (a) used for educational, historic, recreational, cultural, and wildlife conservation programs for the general public; (b) maintained in a manner that ensures its present or future use as a site for aids to navigation; or (c) maintained in a manner consistent with the provisions of paragraph 12 above.

15. The covenants and conditions set forth in this Quitclaim Deed Without Covenant shall be inserted by the Grantee verbatim or by express reference in any deed or other legal instrument by which Grantee divests itself of either the fee simple title or any other lesser estate in the Property.

16. By the act of accepting and recording this Quitclaim Deed Without Covenant, Grantee hereby covenants that it will be bound by the foregoing covenants, conditions and restrictions and to perform to obligations herein set forth.

This Quitclaim Deed Without Covenant is executed and delivered to the Grantee without any other covenants whatsoever, either express or implied.

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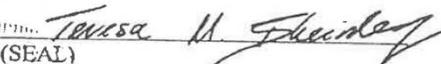
In WITNESS WHEREOF, the Grantor, acting by and through the Secretary of Transportation, has caused these presents to be executed this 15th day of May, 1998.

UNITED STATES OF AMERICA
ACTING BY AND THROUGH THE
SECRETARY OF TRANSPORTATION


REAR ADMIRAL JOHN T. TOZZI
ASSISTANT COMMANDANT FOR SYSTEMS
U. S. COAST GUARD
WASHINGTON
DISTRICT OF COLUMBIA

WITNESS:


(SEAL)
CAPTAIN JAMES A. RAUCH
CHIEF, OFFICE OF CIVIL ENGINEERING
U. S. COAST GUARD

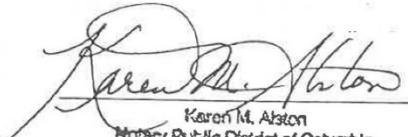

(SEAL)
TERESA M. SHEINBERG
REAL PROPERTY SPECIALIST
OFFICE OF CIVIL ENGINEERING
U. S. COAST GUARD

I hereby certify that on this 15th day of May, 1998,
Rear Admiral John T. Tozzi personally appeared before me, known to me to be the person who executed the hereunto QUITCLAIM DEED WITHOUT COVENANT, and who acknowledged the execution thereof to be his official act.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 15th day of May, 1998.

My commission expires:

14 April 2002


Karen M. Alston
Notary Public District of Columbia
My Commission Expires: April 14, 2002

This Deed was prepared by:

Andrew S. Pessin, Esq.
General Attorney
Office of General Law (G-LGL)
U.S. Coast Guard
2100 Second St., S.W.
Washington, D.C. 20593

State Law That Terminated the York Beach Village Corporation

This Act was presented to the Governor by the Senate on JUN 17 1977
and has become law without his signature.
(Constitution, Article IV, Part Third)

Received in the office of the Secretary of State JUN 30 1977.

STATE OF MAINE

JUN 30 1977

CHAPTER

62

P & S LAW

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

H. P. 1601 — L. D. 1809

AN ACT Repealing the York Beach Village Corporation.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the following legislation is necessary to carry into effect the intent of the citizens of York Beach Village Corporation to consolidate the corporation with the Town of York; and

Whereas, in the interests of good government and the welfare of the people within the York Beach Village Corporation the following legislation is necessary; and

Whereas, it is vital that the duties and responsibilities of the Town of York with respect to the future of York Beach Village Corporation be carefully spelled out; and

Whereas, it is vital that the voters of the entire Town of York, including the voters of York Beach Village Corporation, be permitted to vote upon the merits of the proposed legislation as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now therefore,

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

Sec. 1. P&SL 1901, c. 455, repealed. Subject to the provisions of section 14 of this Act, chapter 455 of the private and special laws of 1901, as amended, entitled "An Act to Incorporate the York Beach Village Corporation," is repealed.

Sec. 2. Rights, etc., of the York Beach Village Corporation vested in the Town of York. Upon the acceptance of this Act as provided in section 14 hereof, all real and personal property, or any interests therein, then owned by the York Beach Village Corporation, together with all accounts receivable, choses in action and all other rights and benefits that may be either then due and payable to, or would accrue to, or for the benefit of the York Beach Village Corporation, but for this Act, shall be and become the property of the Town of York without the payment of any consideration; the town being hereby vested with all rights and powers of holding, disposing of or enforcing of such rights so acquired. All litigation pending in any court involving the York Beach Village Corporation shall not abate and shall be prosecuted or defended, as the case may be, by the Town of York and the Town of York shall, in all instances, be held to be the successor in interest to the York Beach Village Corporation. The Town of York shall prosecute the litigation in accordance with the intention of the Overseers of York

617-1

Beach Village Corporation, which intention shall be expressed in a document to be signed by the overseers and directed to the selectmen to be filed with them after the effective date of this Act, it being the Legislature's intention that the litigation shall proceed according to the original intention of the Overseers of York Beach Village Corporation.

Sec. 3. Contracts, etc., to be assumed by the Town of York. Upon the acceptance of this Act, as provided in section 14, all responsibilities, duties, contracts, obligations and liabilities of the York Beach Village Corporation incurred or undertaken prior to the acceptance of this Act, shall be assumed and performed by the Town of York. The term "liabilities" shall include, but not be limited to, the maintenance and snowplowing of all publicly accepted roads and ways in the York Beach and the provision and construction of drains according to a vote of the York Beach Village Corporation and to the plans and specifications drawn in response to the vote. The York Beach Village Corporation will submit to the Town of York a map outlining such roads and ways. "Obligations" shall include obligations voted at the 1977 meeting of the York Beach Village Corporation.

Sec. 4. Police department. The Town of York shall maintain the staffing level of the York Beach Police Department at York Beach based on the minimal level of staffing existing at York Beach in the summer of 1977, it being the intention of the Legislature that at a minimum the current level and types of police protection and the maintenance of sufficient numbers of police personnel to provide adequate protection to citizens at York Beach be maintained so as to provide adequate police protection for the geographical area, particularly during the summer months of each year. In connection with the provision of police services to York Beach, the Town of York shall maintain and provide sufficient equipment and a physical facility at York Beach to be used as a base for police operations. The reserve officers of York Beach Police Department shall be placed on the list of reserve officers of the Town of York for consideration for appointment by the selectmen of the Town of York at their last meeting to be held in March of 1978.

The present Chief of the Police Department of York Beach shall be integrated into the Police Department of the Town of York at the level of Sergeant. His salary shall continue at its present level until the normal end of the York Beach Village Corporation fiscal year, at which time his salary will be commensurate with a sergeant position in the Town of York Police Department.

The present Sergeant of the Police Department of York Beach shall be integrated into the Town of York Police Department at the level of a patrolman.

Police personnel at York Beach now paid by CETA funds or part-time funds need not be integrated into the Town of York Police Department, except for reserve officers as above.

Sec. 5. Fire department. The Town of York shall maintain and provide financial support for the York Beach Fire Department at least as on its present basis and shall continue the practice of the York Beach Village Corporation in making incremental payments of such financial support of at least \$1,000 per payment until funds are exhausted. The Town of York shall assume any and all existing obligations of York Beach Village Corporation with respect to the York Beach Fire Department. The Town of York shall appoint, as Chiefs, persons elected by the York Beach Fire Department. Existing trucks and equipment of the York Beach Fire Department will remain in the York Beach Fire Department station. The York Beach Fire Department will continue to have its existing sphere of key availability for fire zones C and D according to the map entitled "Territorial Responsibility of Fire Departments" in accordance with an agreement between the municipal officers and the fire department chiefs of York, York Beach and Ogunquit. The fire inspector for fire zones C and D shall continue to be appointed from the membership of the York Beach Fire Department and with the approval of that department. The

present building utilized by the York Beach Fire Department will be continued in its present use and may also be used for public purposes for a public meeting hall area, except for that portion of the building known as the "firemen's room." It is understood that the Fire Department itself may determine the applicability and use of the permanent-man concept.

The Legislature recognizes that there exists certain deed restrictions with respect to real estate owned by the York Beach Village Corporation and used by the York Beach Fire Department. A certain portion of land has been given by the York Beach Village Corporation to the York Beach Fire Department. The Legislature intends that the town abide by any and all restrictions, covenants and conditions with respect to gifts, conveyances and other transfers to the end that the Legislature's intention be carried out that the Fire Department is to remain and continue as on the present basis.

Sec. 6. Existing ordinances to remain in force. Upon the acceptance of this Act as provided in section 14 hereof, all ordinances then in force in the York Beach Village Corporation, including the zoning bylaws, the building code and those relating to traffic and parking control, to the bathing beaches and to public health and safety, shall become valid and enforceable ordinances within the Town of York. All such ordinances of the York Beach Village Corporation as set forth in the pamphlet entitled "York Beach Village Corporation, York Beach, Maine, Charter and Ordinances as of 1972," as further amended from time to time by York Beach Village Corporation, are hereby ratified, confirmed and declared valid and a copy of the ordinances shall be filed with the Town of York by the York Beach Village Corporation as of the effective date of this Act, except that such filing shall not be construed as a prerequisite to validation. As between such ordinances and the ordinances of the Town of York existing as of the effective date of this Act, the stricter of the ordinances shall control. All building permits, variances, special permits and other licenses issued or granted by the York Beach Village Corporation prior to the acceptance of this legislation by the voters of the Town of York shall remain in full force and effect in accordance with their terms when issued or granted.

Sec. 7. Existing facilities to be maintained. Upon and after the acceptance of this Act as provided in section 14 hereof, the Town of York shall maintain all street lights and signs, fire hydrants, parking meters, traffic signals and signs, public beaches, public walks, sewer and drainage systems and public parks as they exist at the time of such acceptance or as they may be from time to time improved. The Town of York shall maintain the parking meters at York Beach at least at their present level and placement.

With respect to Short Sands Park, so-called, located in York Beach, the town shall continue the cooperative arrangement which Short Sands Park enjoys with York Beach in sharing duties and responsibilities similar to the 1977 agreement which the park has with the York Beach Village Corporation. The Town of York shall continue the practice of York Beach in enforcing police power ordinances over the park.

With respect to Sohier Park, the town shall assume the duties and responsibilities of York Beach concerning the park and the town shall abide by all restrictions, covenants and impositions of trust contained in conveyances with respect to the park. The town shall specifically assume the duties and responsibilities under a certain lease now existing with respect to the use of facilities at the park. The town shall continue a representative from the York Beach geographical area on the park Committee. The town shall further carry forward and discharge the responsibilities of York Beach with respect to the so-called "Five-Year Plan" with respect to improvements on the park. The Overseers of York Beach Village Corporation shall provide the Selectmen of the Town of York with documentation of the "Five-Year Plan" after the effective date of this Act.

The town shall maintain all restrooms, lifeguards and beach cleaning at the level existing during the summer of 1977 so as to continue the favorable economic impact of such activities in the York Beach geographical area.

Sec. 8. Employees; personnel. The existing full-time Highway Department employees of York Beach shall become employees of the Town of York.

Sec. 9. Administrative services. The Town of York shall provide adequate personnel and facilities to carry out all administrative duties of the Town of York, including functions relating to police protection and administration at a location within the York Beach geographical area, it being the intention of the Legislature that because of the press of administrative problems at York Beach, particularly in the summer, the town place an administrator, at least on a part-time basis, after the effective date of this Act, to handle matters relating to police protection and other administrative matters.

Sec. 10. Planning Board and Board of Appeals appointments. The Town of York shall maintain at least one member on its Planning Board and one member on its Appeals Board from the York Beach geographical area.

Sec. 11. Park next to fire station. The Town of York shall continue to maintain the land next to the fire station presently used for recreational purposes and as a park area in the same fashion. The Board of Overseers of York Beach Village Corporation shall furnish the Selectmen of the Town of York with a statement concerning the mode and type of use of the park area and the Selectmen shall follow the mode of use insofar as possible, giving preference to those organizations indicated to be entitled to such preference by the Overseers of York Beach Village Corporation.

Sec. 12. Deeds, documents town to abide by. The Town of York shall abide by all restrictions, covenants, trusts and any and all encumbrances or limitations upon the use of land with respect to real estate which it acquires pursuant to the terms of this Act.

Sec. 13. Authority and documents. The Overseers of York Beach Village Corporation are authorized and empowered to execute any and all such documents, including but not limited to, instruments of conveyance and assignments, as may be necessary to carry this Act into effect and their authority to so act shall extend until such date as their terms would have expired but for the passage and acceptance of this Act. The town shall use the Overseers of the York Beach Village Corporation as they are constituted on the effective date of this Act as an advisory board to its Board of Selectmen in order that any transition with respect to the consolidation operates as smoothly as possible and the town shall involve those overseers actively in the transition in any problems occurring as a result thereof and shall fully consider their advice and recommendations with respect to solutions.

Sec. 14. Referendum; effective date; certificate to Secretary of State. This Act shall be submitted to the legal voters of the Town of York at a special meeting thereof held on or before September 1, 1977, provided that the warrant calling such meeting contains an appropriate article for that purpose. The meeting shall be called and conducted according to the law governing annual and special meetings of the town, except voting on the article relating to this action shall be accomplished by written ballot to be prepared for the meeting by the town clerk. The town clerk shall prepare proper ballots upon which this action shall be reduced to the following question:

"Shall 'An Act Repealing the York Beach Village Corporation,' as passed by the First Regular Session of the 108th Legislature, be accepted?"

Qualified voters of the town shall record by a cross or check mark placed in the box next to the words "Yes" or "No" their opinion of the same.

In view of the emergency cited in the preamble, this Act shall take effect for all purposes hereof on October 15, 1977, if accepted by the inhabitants of the Town of York by a majority of the legal voters present and voting at the meeting.

The results of the vote taken at the meeting as specified shall be declared in open meeting by the municipal officers of the town and a certificate of the result of the voting shall be filed by the clerk of the town with the Secretary of State.

IN HOUSE OF REPRESENTATIVES,.....1977

Read twice and passed to be enacted.

.....*Speaker*

IN SENATE,.....1977

Read twice and passed to be enacted.

.....*President*

Approved.....1977

.....*Governor*

617-5

Sohier Park Ordinance

Sohier Park Ordinance



Town of York, Maine

Most Recently Amended: May 18, 2019

Prior Dates of Amendment:

May 16, 2015

May 22, 2010

November 5, 1996

Date of Original Enactment: March 18, 1975

ENACTMENT BY THE LEGISLATIVE BODY

Date of the Town vote to enact/amend this Ordinance:

May 18, 2019

Certified by the Town Clerk:

May Anne Agemont on *5/21/19*

(signature)

(date)

SOHIER PARK ORDINANCE

Section 1. Park Boundaries

The Park shall include the property acquired from William D. Sohier in 1929 (the mainland), and the property acquired from the federal government in 1998 (the island and the lighthouse).

Section 2. Trespassing

Trespassing on the island and at the lighthouse shall be prohibited except by permission of the Town.

Section 3. Scuba and Skin Diving

- A. No person within the limits of the park property, shall engage in, participate in, conduct or carry on any so-called scuba or skin diving or snorkeling activities on Sundays and State of Maine and National Holidays from the first Sunday in April to the last Sunday in October inclusive.
- B. The number of divers may be established by the Board of Selectmen.
- C. No persons, within the limits of the park property shall fill or recharge, by any means whatsoever, any so-called air tanks, scuba or skin diving apparatus for containing or storing of air, oxygen, or other gases, under pressure for breathing apparatuses or propulsion apparatuses at any time.

Section 4. Dogs

No dogs are allowed in the park except confined to motor vehicles or on a leash.

Section 5. Parking

- A. No parking from 1:00 A.M. to 5:00 A.M., current time.
- B. Parking shall only be in designated areas.

Section 6. Alcoholic Beverages

No person shall at any time, within the limits of Sohier Park, be in possession of any open container of any alcoholic beverage. Any bottle or can or alcoholic beverage with the seal broken shall be considered an open container for the purpose of this ordinance.

Section 7. Rubbish

No rubbish shall be deposited in the park except in containers provided.

Section 8. Liability

- A. The Town of York and/or Sohier Park Committee assume no liability for any personal accident within the boundaries of the park.
- B. Sohier Park is established and controlled by the York Board of Selectmen and any committee the Board may appoint.

Section 9. Penalty

Any person who violates this ordinance shall be subject to a civil penalty of \$50.00 for the first offense, \$75.00 for the second offense, and \$100.00 for the third and subsequent offenses.

Section 10. Waiver/Payment of Fines

Any person charged with a violation of this section, shall be allowed to waive such violation and tender to the Town of York the fine amount if paid within 20 days of issuance of the summons. If the waiver fine is paid, no appearance before a District Court Judge or other judicial officer shall be required. If the offender pays the waiver fine, the matter will be closed in the York Police Records system and listed as a subsequent offense for future violations.

If the offender chooses not to pay the waiver fine, he/she shall appear in court on the specified date to answer for the ordinance violation. If the offender is found to have committed the offense in court, fines, applicable court fees, attorney's fees, and prosecution costs may apply.

Section 11. Severability

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof.

Town/Fox Consent Agreement

CONSENT AGREEMENT

The Town of York, by and through its Board of Selectmen (hereinafter the "Town") and Phyllis W. Fox, (hereinafter "Fox") hereby agree to the following in regard to certain real estate located at the "Nubble" known as Sohier Park owned by the Town and certain real estate known as Fox's Restaurant, owned by Fox:

WHEREAS, Fox's Restaurant has been located on its current site as a restaurant or food service since 1936; and

WHEREAS, both the Town and Fox have a genuine interest in maintaining the quality of Sohier Park and the experience enjoyed by visitors to that location; and

WHEREAS, the Town had a survey prepared in 1998 by Anderson/ Livingston, surveyors, that shows certain alleged encroachments by Fox's planters and a portion of Fox's service area pad and fence onto Town land; and

WHEREAS, Fox acknowledges that said encroachments exist; and

WHEREAS, the Town alleges and Fox denies that the construction of a pad for waste dumpsters ^{*park} by Fox violated certain provisions of the Town's Shoreland/Wetlands regulations but the Town has agreed not to prosecute said alleged violations; and

WHEREAS, the Town wishes to have Fox remove the dumpster pad and to cease using Sohier Park land for her dumpsters in the near future; and

WHEREAS, the Town and Fox agree that it is in the best interest of each that certain compromises be made by both parties in order to reach an agreement.

NOW THEREFORE, the Town and Fox hereby agree to the following:

pwf
*and other alleged violations as contained in
the Notice dated April 19, 2002, attached hereto
as Exhibit B

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1. The parties shall cooperate in moving the public phone now located next to Fox's Restaurant to the Sohier Park Welcome Center location;
2. Fox will remove any portion of her planters now on Town land and will do so prior to May 22, 2002; and
3. The Town agrees that Fox can maintain its service area pad and fence on Town land as long as Fox's property is owned by Fox, at her current ownership level, which is 100% or until any portion of the service pad or fence that is on Town property is destroyed through an act of God; and
4. The Town agrees that Fox may maintain the use of Town land for her dumpsters until November 30, 2002, so long as they are located outside of 100' from the normal high water mark, or such other location deemed appropriate by the Code Enforcement Officer. The dumpster pad shall be removed by Fox from Sohier Park land by May 22, 2002. The dumpsters shall be liquid holding and no draining shall be allowed. All grease container leaks and exhaust grease drippings need to be cleaned at least weekly and should be contained. Fox agrees to abide by the recommendation of the CEO on the location of the dumpsters and type of screening, if any.
5. The Town acknowledges that the intent of its master plan for Sohier Park is to maintain the area adjacent to Fox's service entrance in a manner substantially similar to that shown on the sketch attached (Exhibit A); and
6. Fox shall do all washing out of trash receptacles and mats or the like on her own property and not on Town land; and
7. To the extent not stated in this agreement, both parties waive all other rights and claims to the rights each may have now to use of their respective land.
8. The parties agree that the provisions of this agreement shall be enforceable in the Maine District Court under Rule 80K and related rules.

*fwf
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Dated this 22 day of April 2002, at York, Maine.

The Town of York Board of Selectmen,

Michael Palumbo
Michael Palumbo, Chairman

Carole H. Allen
Carole H. Allen, Vice Chairman

Allen Lifvergren
Allen Lifvergren

Barry K. Maddix
Barry K. Maddix

Michelle Moody
Michelle Moody

Owner:

Phyllis W. Fox
Phyllis W. Fox

EXHIBIT "A"

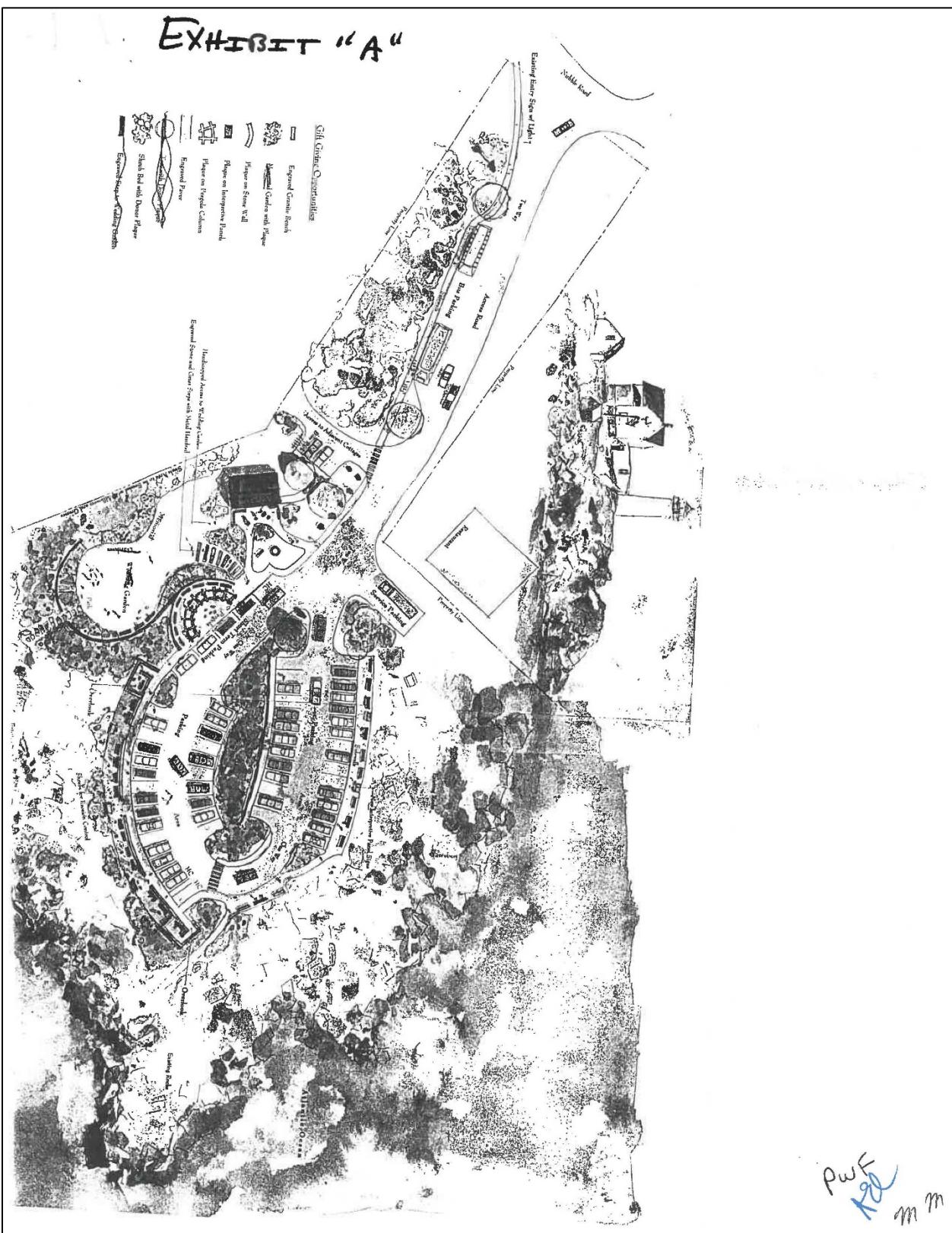


EXHIBIT "A"

Sohier Park / Nubble Light York, Maine

Landscape Master Plan





EXHIBIT "B"

Town of York

186 York Street
York, Maine 03909-1314

Town Manager/
Selectmen
(207)363-1000

Town Clerk/
Tax Collector
(207)363-1003

Finance/
Treasurer
(207)363-1004

Code Enforcement
(207)363-1002

Planning
(207)363-1007

Assessor
(207)363-1005

Police Department
(207)363-1031

Dispatch
(207)363-2557

York Beach Fire
Department
(207)363-1014

York Village Fire
Department
(207)363-1015

Public Works/
Harbor Master
(207)363-1010

Senior Center/
General Assistance
(207)363-1036

Parks and
Recreation
(207)363-1040

Grant House
(207)351-1204

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

www.yorkmaine.org

NOTICE OF VIOLATION

April 19, 2002

Phyllis Fox/Stephen Dunne, Trs.
PO Box 998
York Beach, ME 03910-00998

RE: FOX'S RESTAURANT, MAP 29/LOT 19

Dear Ms. Fox/Mr. Dunne:

After an extensive review that included both the building file history of Fox's Restaurant, all available surveys, and on site inspections to review several possible issues as requested, I have found that the following items are in violation of the York Zoning Ordinance and must be addressed accordingly. The items and related facts are as follows:

A. DUMPSTER PAD (CONCRETE)

1. The dumpster concrete pad was installed in 1998.
2. The dumpster pad required a Shoreland Permit as noted in Article 4 and Article 8 and a Building Permit as noted in R-105. None were applied for or issued to date.
3. The pad is set back approximately 75' from the Normal High Water Mark. The Ordinance (Article 8.1) requires a 100' setback from the NHWM for all structures since 11/05/96. The location is in violation of that 100' setback.
4. All dumpsters must be liquid holding. No draining allowed especially in a Shoreland area and it must also be screened which it is not. It is also visible that it leaked onto the rocks adjacent to the ocean which violates sanitary and Shoreland rules.
5. The dumpster pad is entirely on Sohier Park land.
6. Sohier Park Committee granted dumpster permission in October 1997 and rescinded permission in September 2001.

DETERMINATION - The use of this location for the dumpster and grease containers must be ceased, the concrete pad removed and the location restored to original condition by no later than May 22, 2002.

B. CEMENT PAD CURRENTLY SUPPORTING FIRE ESCAPE FROM 2ND FLOOR, GREASE HOLDING CONTAINER, COMPRESSORS AND 3 WALK-IN FREEZERS/REFRIGERATORS AND EXHAUST COMPONENTS.

1. The cement pad appears to exist since at least 1971. Old building plans show the slab area in varied configurations.
2. It is visible in the 1988 aerial photos for the tax maps.
3. Based on the Anderson 1998 survey this cement pad and items above it encroaches onto Sohier Park property approximately 3-3 1/2'.

Fox/Dunne - Page 1

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4. The fire escape from 2nd floor was required by Fire Inspector – York Beach and inspected in 1976 then replaced in 1993 with permits. It is slightly different in size from 1976. In its current location it encroaches on Sohier Park property.
5. All grease container leaks and exhaust grease drippings need to be cleaned at least weekly and should be contained.

DETERMINATION – **The portions of the noted items which encroach on Sohier Park property are in violation of Article 5. Setbacks required for RES-5 Zone (119 x12%) or 14.28'. While the setback violation existed when York Beach merged with the Town of York all portions of these items which encroach onto Sohier Park property must be removed by no later than 07/22/02.**

C. FENCING FOR CEMENT PAD (NEW ENCLOSURE)

1. Fencing as it is now was installed since 1996.
2. Fencing in the Shoreland Zone required a Shoreland Permit since 1996. No permits applied for or issued.
3. Fencing existed for screening the cement pad area at least since 1987 and may have existed in some form since 1971 but could not be verified.
4. The fencing enclosure encroaches approximately 3 1/2' over the lot line, 1998 Anderson survey.

DETERMINATION – **All portions of the fencing which encroach onto Sohier Park property must be removed by no later than 07/22/02.**

D. PAY PHONE

1. The pay phone is on Sohier Park property based on the 1998 Anderson survey.

DETERMINATION – **The pay phone must be removed from Sohier Park property by no later than 07/22/02.**

E. PLANTERS

1. Two planters have been constructed on Sohier Park property since 1996.
2. These planters and the soil located or placed there required a Building Permit and a Shoreland Permit. None were applied for or issued to date.

DETERMINATION – **The planters and the soil contained in them must be removed by no later than 07/22/02 and the area restored to natural condition.**

F. USE OF SOHIER PARK LAND FOR SERVICE ACCESS TO THE ENCLOSURE AREA ADJACENT TO THE KITCHEN

1. The use of Sohier Park land for access has existed since at least 1971.
2. No deeded right to use this access exists.
3. The access is entirely on Sohier Park property.

DETERMINATION – **The use of Sohier Park property to access the enclosure area must cease by no later than 07/22/02.**

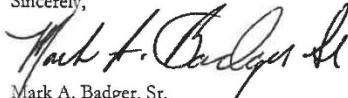
While your prompt cooperation in these violations is requested and expected, please be aware that these violations may be subject to the fines or penalties as noted in Article 19 of the York Zoning Ordinance. These penalties or fines may be up to \$100. per day for each day the

violations existed. Please address each item accordingly. Failure to do so will result in all action available to the Code Office being used to assure compliance.

This Notice of Violation is a legal determination. You have a right to appeal this determination to the Town of York Board of Appeals and if you chose to do so, this must be done within thirty (30) days from the date noted above. Applications for the Board of Appeals are available in the Town Hall from Virginia Matthews, Secretary for the Board of Appeals, who is located in the Department of Public Works Office.

This determination will become a final determination in thirty days if it is not appealed and is thereafter not appealable to either the Town of York Board of Appeals or the State of Maine Court System.

Sincerely,



Mark A. Badger, Sr.
Code Enforcement Officer

MAB:j

Cc:

Sohier Park Committee
Mark Green, Town Manager
Steve Burns, Town Planner
Board of Selectmen
Attorney James Bartlett
Attorney Durwood Parkinson

Enclosures:

Structure Definition, Article 2, Use Table
Shoreland Article 4
Shoreland Article 8
Article 19
Enforcement and Violations
Zoning Setbacks, Article 5

Fox/Dunne – Page 3



PERMIT

Sec. R-105. Before construction, alteration, relocation, or replacement of any building or part thereof shall be commenced, except as specifically exempted below, the owner or lessee, or the architect, contractor or builder employed by such owner or lessee shall obtain from the Building Inspector a permit covering such proposed work. A certificate of approval by an approved agency shall be furnished with every prefabricated assembly, except where all elements of the assembly are readily accessible to inspection at the site. A final inspection shall be provided in accordance with this Code.

A. Exemptions.

1. Normal Maintenance: Normal maintenance [including but not limited to re-roofing and residing] may be made without filing an application or obtaining a permit.
2. Minimum Amount: No permit shall be required for the construction, alteration, relocation, or replacement of any building or part thereof, so long as it conforms with the provisions of this Ordinance, within the Town of York, to the extent of \$1,000 or less in total cost, including labor.

B. Applications.

The application for the permit shall be in writing and shall be made in such form as the Building Inspector shall prescribe, and shall contain a scale drawing of the proposed new, altered or relocated building, or the replacement contemplated, including a plot plan [unless waived by the Building Inspector]. The application shall be filed with the office of the Board of Selectmen.

C. Permit Approval.

The Building Inspector, after proper examination of the application shall either issue the requested permit or transmit a notice of refusal within 10 calendar days. Notice of refusal shall be in writing and shall state the reasons therefor. However, when the Building Inspector has reason to believe that the proposed construction would not be in compliance with other local regulations or state laws, he shall not issue any building permit until all questions have been resolved to his satisfaction. When a violation of subdivision standards is believed to exist, the Planning Board shall be given an opportunity to examine the proposal.

D. Life of Permit.

All building permits issued after May 21, 1988 shall lapse at the end of one year from the date of issue unless the foundation is completed for new construction or substantial work (25%) is completed for remodeling, as described in the Permit. All Building Permits issued after May 21, 1988 shall expire in three years regardless of the stage of completion, unless a Temporary Certificate of Occupancy is issued. All Building Permits issued prior to May 21, 1988 shall lapse on November 1, 1999 unless all work described in the original Permit is completed and a Final Occupancy Permit is issued on or before October 31, 1999.

Note: Sec. R-107 would allow the owner/builder to finish the project if it is safe to live in and work continues. (5/21/88)

E. Display of Permit.

Every building permit shall be displayed in a conspicuous place on the premises and shall not be removed until all work covered by the permit has been approved.

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 2. DEFINITIONS

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. **AMENDED 11/05/96**

STREAM: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, to the point where the body of water becomes a river. - **AMENDED 05/09/92**

STREET: A public or private way open to the travel of the general public which has sufficient width for use by motor vehicles, whether or not duly recorded with the registry of deeds, or a way shown on a subdivision plan duly approved by the Planning Board under the State Subdivision Law. This term is used interchangeably with the term "ROAD".

STRUCTURE: Anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences.

SUBDIVISION: The division of a tract or parcel of land into three or more lots, whether accomplished by sale, lease, development, building or otherwise, in any five year period as further defined by the Maine Subdivision Law (Title 30-A M.R.S.A. Section 4401)

TELECOMMUNICATION STRUCTURE: COMMON CARRIER: A common carrier telecommunication structure is a tower of any height and all accessory equipment which supports communication (broadcast or receiving) equipment used by a common carrier that offers a subscriber service, either analog or digital. It also includes a tower of any height and all accessory equipment which supports communication (broadcast or receiving) equipment used by television or radio broadcasters. **AMENDED 11/05/96**

TELECOMMUNICATION STRUCTURE, ALL EXCEPT COMMON CARRIER: Telecommunication structures and equipment that are not used for subscriber based services or television or radio broadcasts, including, but not necessarily limited to the following: a tower of any height that is owned and operated by government, public or quasi-public users; a tower of any height owned and operated by a land mobile, marine or business service; amateur radio antennas as permitted by Section 7.7 of this Ordinance; and private home use of satellite dishes, television antennas and similar equipment. **AMENDED 11/05/96**

TENT: Any structure with fabric or non-rigid walls or roof or both which provides or is intended to provide or is used for human habitation.

TIDAL WATERS: All waters which are subject to tidal action or normal storm flowage or where the water level changes as a result of tidal action (this shall not include waters which are only subject to tidal or storm flowage in periods of maximum storm activity).

TIMBER HARVESTING: The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery, but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

TOURIST HOME: See "LODGING HOME/TOURIST HOME/INN".

TOWN OF YORK: All the land within the boundaries of the Town of York including land in the former York Harbor Village Corporation area and land in the former York Beach Village Corporation area.

TRACT: A lot or contiguous group of lots in single or joint ownership or under single or joint control, and registered on the current Tax Maps of the Town of York.

TRAILER: A vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreation and vacation.

TRAILER PARK: Any area of land where any recreational vehicle, is parked or stationed.

TRIBUTARY STREAM: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 2. DEFINITIONS

bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a waterbody or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland overlay district of the receiving waterbody or wetland. - AMENDED 05/09/92

TRUCK STOP: Any building, premises or land which is used to provide services to tractor-trailer trucks and similar commercial vehicles, such services including but not limited to parking, restaurant facilities, convenience store, showers, motor fuel, and vehicle repair and maintenance. - AMENDED 11/08/94

TRUCK TERMINAL: An area or a building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller and larger loads for transfer to other vehicles or modes of transportation. - AMENDED 11/08/94

VACANT LOT: Any lot lacking a principal structure.

VARIANCE: A variation of the terms of this Ordinance granted by the Board of Appeals in accordance with Title 30-A M.R.S.A., Section 4353 and as amended, and Section 18.8 of the Ordinance, where such variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. As used in this Ordinance, a variance is authorized only for height, area, size of structures, or setbacks. Establishment or expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in adjoining districts.

VIOLATION: The failure of a structure or development to comply with requirements of this Zoning Ordinance. AMENDED 11/05/96

WAREHOUSES/STORAGE UNITS: Structures in which space is leased for storage of goods, merchandise, or other non-residential items. - AMENDED

WASTE TRANSFER FACILITY: A facility which is used to provide for the collection, reuse, recycling, recovery and/or composting of solid waste materials and construction and demolition debris. No solid waste materials or construction and demolition debris shall be permanently disposed of at this facility. This type of facility does not include a container/bottle redemption center licensed by the State of Maine. The Town shall consider a redemption center a service business. - AMENDED 04/10/93 and 11/05/96

WATER DISTRICT: The York Water District or the Kittery Water District.

WATERBODY: Any great pond, river, stream or tidal area. - AMENDED 05/09/92

WETLAND, COASTAL: All tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant to salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in the tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. - AMENDED 05/09/92

WETLAND, FRESHWATER: See Wetland, Inland.

WETLAND, INLAND: Freshwater swamps, marshes, bogs and similar areas which are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater/Inland Wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Inland wetlands shall be classified as follows

Large: 10 or more contiguous acres
Medium: 4 acres or greater but less than 10 contiguous acres
Small: 1 acre or greater but less than 4 contiguous acres.

4.1 Schedule of Use Regulations

4.1.2 Other Districts *

NOTE: Use Regulations for Business and General Development Districts appear in Section 4.1.2. Use Regulations for Shoreland Overlay District appear in Section 4.1.3. Use Regulations for Route One Districts appear in Section 4.1.4.

FOOTNOTES

58 Structures that are greater than thirty-five feet in height shall be located only east of Route One, shall maintain a minimum setback of two hundred feet from Route One, and shall allow public use of an access road from Route One to the York Beach area.

59 An industrial use shall only be located in an area that can provide one hundred feet of natural screening or an amount of planted vegetation along Route One frontage. An individual industrial use shall not have more than 30,000 sq. ft. of floor space unless the Board of Appeals grants a Special Exception pursuant to Article 18. AMENDED 11/05/96

*NOTE:

Shoreland/Wetland Permits (All Districts): Certain activities within designated shoreland or wetland areas require a special permit from the Planning Board, Shoreland/Wetland Permit Review Committee or the Code Enforcement Officer. See Article 8 and Article 11.

Watershed Protection District (RES-2, GEN-1, GEN-2): Certain activities within the Watershed Protection District require a permit from either the Planning Board or the Code Enforcement Officer. See Article 10.

Planning Board Subdivision/Site Plan Review (All Districts): Subdivision/site plan approval is required from the Planning Board for:

- ◀ all non-residential development, except that which must receive an Article 18 Route One Use Permit, which is greater than 5,000 sq. ft. of floor space (AMENDED 04/10/93 and 11/05/96); or
- ◀ the construction of three (3) or more units for lease, rent, sale; or
- ◀ the development of three (3) or more residential house lots.

See Planning Board Site Plan and Subdivision Regulations and Functional Subdivision Site Plan Review Ordinance.

Route One Use Permit (Route One-1, Route One-2, Route One-3, Route One-4, Route One-5 and Route One-6 Districts): Certain activities within the Route One Districts require a Route One Use Permit from the Planning Board or Code Enforcement Officer. See Article 18, Section 18.1. AMENDED 11/05/96

Site Design Review (RES-4, BUS-1, BUS-2): The Board of Design Review reviews all non-residential development within the confines of Zoning Districts RES-4, BUS-1 and BUS-2. See Article 18, Section 18.9.

TOWN OF YORK ZONING ORDINANCE
 Adopted 03/18/92

ARTICLE 4. USE REGULATIONS

4.1 Schedule of Use Regulations

4.1.3 Shoreland Overlay District

NOTE: Use Regulations for Residential Districts appear in Section 4.1.1. Use Regulations for Business and General Development Districts appear in Section 4.1.2. Use Regulations for Route One Districts appear in Section 4.1.4.

SHORELAND OVERLAY SUBDISTRICT	MIXED USE	LIMITED RESIDENTIAL	RESOURCE PROTECTION	STREAM PROTECTION	AMEND DATE
RESIDENTIAL					
Single-family Dwelling	YES ⁴⁴	YES ⁴⁴	YES ³⁷	NO	05/09/92
Two-family Dwelling	YES ⁴⁴	YES ⁴⁴	NO	NO	05/09/92
Home Occupations	YES ⁴⁴	YES ⁴⁴	NO ⁴⁶	NO	05/09/92
Multi-family Dwelling	NO	YES ⁴⁴	NO	NO	05/09/92
Mobile Homes	NO	NO	NO	NO	05/09/92
Manufactured housing (per standards of Manufactured Housing Regulations, Article 13) ²²	YES ⁴⁴	YES ⁴⁴	NO	NO	05/09/92
Mobile Home Parks	NO	NO	NO	NO	05/09/92
Temporary Mobile Homes	YES ^{31,44}	YES ^{31,44}	NO	NO	05/09/92
Boarding or Rooming Houses	YES ⁴⁴	NO	NO	NO	05/09/92
Cluster Development	YES	YES	NO	NO	05/09/92
Bed & Breakfast	YES	YES	NO	NO	11/02/93
Elderly Housing	YES	YES	NO	NO	11/02/93
COMMERCIAL					
Service businesses serving local needs, such as but not limited to barber shops, shoe repair, self-service laundry or dry cleaning pick-up agency, tailoring, printing shop, caterer or other similar uses	YES ⁴⁴	NO	NO	NO	05/09/92
Small store (under 2,500 sq. ft.) for re- tail sale of merchandise provided all display, storage, and sales of materials are conducted within a building and provided there is no manufacturing or assembly on the premises	YES ⁴⁴	NO	NO	NO	05/09/92

KEY: YES - Permitted in this district with appropriate review, permit(s), and conditions.
 NO - Not permitted in this district.
 Footnotes can be found following the chart.

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 4, USE REGULATIONS

4.1 Schedule of Use Regulations

4.1.3 Shoreland Overlay District

NOTE: Use Regulations for Residential Districts appear in Section 4.1.1. Use Regulations for Business and General Development Districts appear in Section 4.1.2. Use Regulations for Route One Districts appear in Section 4.1.4.

SHORELAND OVERLAY SUBDISTRICT	MIXED USE	LIMITED RESIDENTIAL	RESOURCE PROTECTION	STREAM PROTECTION	AMEND DATE
COMMERCIAL (cont)					
Large store, or mall (group of stores under single roof) with total floor space over 2,500 sq. ft. for retail sale of merchandise provided all display, storage, and sales of materials are conducted within a building and provided there is no manufacturing or assembly on the premises	YES ⁴⁴	NO	NO	NO	05/09/92
Banks (with or without drive-through windows)	YES ⁴⁴	NO	NO	NO	05/09/92
<u>Antique shops</u>	YES ⁴⁴	YES ⁴⁴	NO	NO	05/09/92
Laundries and dry cleaning facility (on public sewer)	YES ⁴⁴	NO	NO	NO	05/09/92
Store for retail sale of merchandise such as but not limited to lumber yards and building supply yards wherein merchandise is stored in the open, provided that all merchandise so stored is screened from ground level view from any abutting residential property	YES ⁴⁴	NO	NO	NO	05/09/92
Plumbing, electrical or carpentry shop or other similar service or repair establishment	YES ⁴⁴	NO	NO	NO	05/09/92
Motels/Hotels	YES ^{44,54}	YES ^{54,56}	NO	NO	11/07/95
Lodging and tourist homes/inns	YES ⁴⁴	NO	NO	NO	11/07/95
Restaurants (seating 75 or more persons)	YES ⁴⁴	YES ⁵⁷	NO	NO	11/05/96
Restaurants (seating under 75 persons)	YES ⁴⁴	YES ⁵⁷	NO	NO	11/05/96
Fast Food Restaurants	NO	NO	NO	NO	11/04/97
Ice Cream Stands	YES ⁴⁴	YES ^{44,57}	NO	NO	11/04/97

KEY: YES - Permitted in this district with appropriate review, permit(s), and conditions.

NO - Not permitted in this district.

Footnotes can be found following this chart.

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 4. USE REGULATIONS

4.1 Schedule of Use Regulations

4.1.3 Shoreland Overlay District

NOTE: Use Regulations for Residential Districts appear in Section 4.1.1. Use Regulations for Business and General Development Districts appear in Section 4.1.2. Use Regulations for Route One Districts appear in Section 4.1.4.

SHORELAND OVERLAY SUBDISTRICT	MIXED USE	LIMITED RESIDENTIAL	RESOURCE PROTECTION	STREAM PROTECTION	AMEND DATE
<u>COMMERCIAL (cont)</u>					
Truck Stops	NO	NO	NO	NO	05/09/92
Marinas	YES ⁴⁴	NO	NO	NO	05/09/92
Florists	YES ⁴⁴	NO	NO	NO	05/09/92
Garden Centers	YES ⁴⁴	NO	NO	NO	05/09/92
Pet Shops	YES ⁴⁴	NO	NO	NO	05/09/92
Commercial Schools	YES ⁴⁴	NO	NO	NO	05/09/92
Day Care Facilities	YES ⁴⁴	NO	NO	NO	05/09/92
Fruit and Vegetable Produce Stores	YES ⁴⁴	NO	NO	NO	05/09/92
<u>OFFICE</u>					
Business, financial, professional or governmental offices, except Town of York or York School District offices	YES ⁴⁴	NO	NO	NO	12/29/93
Town of York or York School District offices	YES ⁴⁴	YES ⁴⁴	NO	NO	12/29/93
Offices and clinics for medical, psychiatric, or other health services for the examination or treatment of persons as out-patients, including only laboratories that are part of such office or clinics	YES ⁴⁴	NO	NO	NO	05/09/92
Laboratory or research facility	YES ⁴⁴	NO	NO	NO	05/09/92
Radio or television studio	YES ⁴⁴	NO	NO	NO	05/09/92
<u>PUBLIC, SEMI-PUBLIC, INSTITUTIONAL</u>					
Churches, Synagogues and Temples	YES ⁴⁴	NO	NO	NO	12/29/93
Libraries or Museums	YES ⁴⁴	YES ^{44,50}	NO	NO	12/29/93
Public or Private Schools	YES ⁴⁴	YES ^{44,50}	NO	NO	05/09/92

KEY: YES - Permitted in this district with appropriate review, permit(s), and conditions.

NO - Not permitted in this district.

Footnotes can be found following the chart.

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 4, USE REGULATIONS

4.1 Schedule of Use Regulations

4.1.3 Shoreland Overlay District

NOTE: Use Regulations for Residential Districts appear in Section 4.1.1. Use Regulations for Business and General Development Districts appear in Section 4.1.2. Use Regulations for Route One Districts appear in Section 4.1.4.

SHORELAND OVERLAY SUBDISTRICT	MIXED USE	LIMITED RESIDENTIAL	RESOURCE PROTECTION	STREAM PROTECTION	AMEND DATE
<u>PUBLIC, SEMI-PUBLIC, INSTITUTIONAL (cont)</u>					
Hospitals	YES ⁴⁴	NO	NO	NO	05/09/92
Nursing Homes	YES ⁴⁴	NO	NO	NO	05/09/92
Public buildings or facilities excluding those for Town of York or York School District	YES ⁴⁴	YES ^{44,50}	NO	NO	12/29/93
Public buildings or facilities for Town of York or York School District	YES ^{44,50,51}	YES ^{44,50,51}	NO	NO	12/29/93
Cemeteries	NO	NO	NO	NO	12/29/93
Parks, playgrounds or recreation areas	YES ^{44,45,52}	YES ^{44,45,52}	YES ^{44,45}	YES ^{44,45}	12/29/93
Small non-residential facilities for educational, scientific or nature interpretation purposes	YES ⁴³	YES ⁴⁴	YES ⁴⁴	NO	12/29/93
<u>INDUSTRIAL</u>					
Printing, binding, publishing and related arts and trades	YES ⁴⁴	NO	NO	NO	05/09/92
Bottling of beverages	YES ⁴⁴	NO	NO	NO	05/09/92
Machine shop, assembly, packaging, or manufacturing	YES ⁴⁴	NO	NO	NO	05/09/92
Wholesale business and storage in a roofed structure	YES ⁴⁴	NO	NO	NO	05/09/92
Wood manufacturing and fabrication	YES ⁴⁴	NO	NO	NO	04/10/93
Waste processing or disposal facilities	NO	NO	NO	NO	04/10/93
Bulk fuel storage	NO	NO	NO	NO	04/10/93
Truck Terminals	NO	NO	NO	NO	04/10/93

KEY: YES - Permitted in this district with appropriate review, permit(s), and conditions.

NO - Not permitted in this district.

Footnotes can be found following the chart.

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 4. USE REGULATIONS

4.1 Schedule of Use Regulations

4.1.3 Shoreland Overlay District

NOTE: Use Regulations for Residential Districts appear in Section 4.1.1. Use Regulations for Business and General Development Districts appear in Section 4.1.2. Use Regulations for Route One Districts appear in Section 4.1.4.

SHORELAND OVERLAY SUBDISTRICT	MIXED USE	LIMITED RESIDENTIAL	RESOURCE PROTECTION	STREAM PROTECTION	AMEND DATE
<u>INDUSTRIAL</u> (cont)					
Bulk Storage Collection Bin	YES	YES	YES	YES	04/10/93
Waste Transfer Station	NO	NO	NO	NO	04/10/93
<u>VEHICULAR</u>					
Vehicle service stations/auto repair garages	YES ⁴⁴	NO	NO	NO	11/04/97
Auto body repair shops	YES ⁴⁴	NO	NO	NO	05/09/92
Sale, rental and accessory storage of automobiles, light trucks, motorcycles, and mopeds conducted wholly or partly on open lots	YES ⁴⁴	NO	NO	NO	05/09/92 & 11/04/97
Sale of pickup coaches/campers, tent trailers and similar equipment, including snowmobiles	YES ⁴⁴	NO	NO	NO	05/09/92
Place for repair, sale, rental or storage of pleasure boats	YES ⁴⁴	NO	NO	NO	05/09/92 & 11/04/97
Salvage yards, junkyards, wrecking yards	NO	NO	NO	NO	05/09/92
Car Washing Establishment	YES ⁴⁴	NO	NO	NO	05/09/92
<u>RURAL & AGRICULTURAL</u>					
Mineral Exploration	YES ⁴³	YES ⁴³	NO	NO	05/09/92
Sand/gravel pits, quarries, etc.	YES ⁴⁴	YES ⁴⁴	NO	NO	05/09/92
Soil and water conservation practices conducted in accordance with the standards of the U.S.S.C.S. including but not limited to creation and maintenance of farm ponds for agricultural purposes	YES	YES	YES	YES	05/09/92

KEY: YES - Permitted in this district with appropriate review, permit(s), and conditions.
 NO - Not permitted in this district.
 Footnotes can be found following the chart.

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 4. USE REGULATIONS

4.1 Schedule of Use Regulations

4.1.3 Shoreland Overlay District

NOTE: Use Regulations for Residential Districts appear in Section 4.1.1. Use Regulations for Business and General Development Districts appear in Section 4.1.2. Use Regulations for Route One Districts appear in Section 4.1.4.

SHORELAND OVERLAY SUBDISTRICT	MIXED USE	LIMITED RESIDENTIAL	RESOURCE PROTECTION	STREAM PROTECTION	AMEND DATE
<u>RURAL & AGRICULTURAL</u>					
(cont)					
Aquaculture	YES ⁴⁴	YES ⁴⁴	YES ⁴⁴	YES ⁴⁴	05/09/92
General purpose farm, agriculture and nurseries	YES ⁴³	YES ⁴³	YES ⁴⁴	YES ⁴³	05/09/92
Timber Harvesting	YES ⁴³	YES ⁴³	YES ⁴³	YES ⁴³	05/09/92
Forest management activities except for timber harvesting	YES	YES	YES	YES	05/09/92
Sale of produce raised on same premises	YES	YES	NO	NO	05/09/92
Wildlife management practices	YES	YES	YES	YES	05/09/92
Animal breeding (small domestic animals)	YES	NO	NO	NO	05/09/92
Harvesting of wild crops	YES	YES	YES	YES	05/09/92
Commercial stables	NO	NO	NO	NO	05/09/92
Veterinary establishment, kennel, or similar establishment, provided that in commercial zones animals are kept wholly indoors	YES ⁴⁴	NO	NO	NO	05/09/92
<u>RECREATION & AMUSEMENT</u>					
Campgrounds and travel trailer parks arcades (as primary or	NO	NO	NO	NO	05/09/92
Amusement arcades (as primary or accessory use)	NO	NO	NO	NO	05/09/92
Indoor amusement/entertainment/assembly place (enclosed)	NO	NO	NO	NO	05/09/92
Indoor sports facilities (no gambling)	YES ⁴⁴	NO	NO	NO	05/09/92

KEY: YES - Permitted in this district with appropriate review, permit(s), and conditions.

NO - Not permitted in this district.

Footnotes can be found following the chart.



TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 4. USE REGULATIONS

4.1 Schedule of Use Regulations

4.1.3 Shoreland Overlay District

NOTE: Use Regulations for Residential Districts appear in Section 4.1.1. Use Regulations for Business and General Development Districts appear in Section 4.1.2. Use Regulations for Route One Districts appear in Section 4.1.4.

SHORELAND OVERLAY SUBDISTRICT	MIXED USE	LIMITED RESIDENTIAL	RESOURCE PROTECTION	STREAM PROTECTION	AMEN. DATE
<u>RECREATION & AMUSEMENT</u> (cont)					
Outdoor sport and amusement facilities conducted for profit	NO	NO	NO	NO	05/09/92
Country Club	NO	NO	NO	NO	05/09/92
Open air or drive-in theater or other open air places of entertainment	NO	NO	NO	NO	05/09/92
Bath house, for non-commercial purposes	NO	YES ⁴³	NO	NO	05/09/92
<u>MISCELLANEOUS</u>					
Piers, docks, wharves, breakwaters, causeways, bridges and other structures and uses extending over or below the normal high water line or within a wetland:					
Temporary	YES ⁴³	YES ⁴³	NO	YES ⁴³	05/09/92
Permanent	YES ⁴⁴	YES ⁴⁴	NO	YES ⁴⁴	05/09/92
Flea Markets	NO	NO	NO	NO	05/09/92
Mortuary, Undertaking or Funeral establishments	YES ⁴⁴	NO	NO	NO	05/09/92
Place for exhibition, lettering, or sale of gravestones	YES ⁴⁴	NO	NO	NO	05/09/92
"Head shops", obscene exhibitions	NO	NO	NO	NO	05/09/92
Filling or other earth-moving activity of less than 10 cubic yards	YES ⁴³	YES ⁴³	YES ⁴³	YES ⁴³	05/09/92
Filling or other earth-moving activity of more than 10 cubic yards	YES ⁴³	YES ⁴³	YES ⁴⁴	YES ⁴⁴	05/09/92

KEY: YES - Permitted in this district with appropriate review, permit(s), and conditions.

NO - Not permitted in this district.

Footnotes can be found following the chart.

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 4. USE REGULATIONS

4.1 Schedule of Use Regulations

4.1.3 Shoreland Overlay District

NOTE: Use Regulations for Residential Districts appear in Section 4.1.1. Use Regulations for Business and General Development Districts appear in Section 4.1.2. Use Regulations for Route One Districts appear in Section 4.1.4.

SHORELAND OVERLAY SUBDISTRICT	MIXED USE	LIMITED RESIDENTIAL	RESOURCE PROTECTION	STREAM PROTECTION	AMEND DATE
<u>MISCELLANEOUS (cont)</u>					
Dumps	NO	NO	NO	NO	05/09/92
Road and driveway construction	YES ⁴⁴	YES ⁴⁴	NO ⁴⁷	YES ⁴⁴	05/09/92
Essential services accessory to permitted uses	YES ⁴⁴	YES ⁴⁴	YES ⁴⁴	YES ⁴⁴	05/09/92
Public sewage treatment facility	YES ⁴⁴	YES ⁴⁴	NO	NO	05/09/92
Billboards	NO	NO	NO	NO	05/09/92
Telecommunication Structures, Common Carriers	YES ⁴⁴	YES ⁴⁴	NO	NO	11/5/96
Telecommunication Structure, All Except Common Carriers	YES ⁴⁴	YES ⁴⁴	NO	NO	11/5/96
Structures accessory to permitted use	YES ^{20,43}	YES ^{20,43}	NO	NO	11/03/98
Accessory uses customarily incident to allowed uses	YES ⁴⁴	YES ⁴⁴	NO	NO	
Uses similar to prohibited uses	NO	NO	NO	NO	
Uses similar to permitted uses	YES ⁴⁴	YES ⁴⁴	YES ⁴⁴	YES ⁴⁴	
All other uses	NO	NO	NO	NO	

KEY: YES - Permitted in this district with appropriate review, permit(s), and conditions.

NO - Not permitted in this district.

footnotes can be found following the chart.

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 4. USE REGULATIONS

4.1 Schedule of Use Regulations

4.1.3 Shoreland Overlay District*

NOTE: Use Regulations for Business and General Development Districts appear in Section 4.1.2. Use Regulations for Shoreland Overlay District appear in Section 4.1.3. Use Regulations for Route One Districts appear in Section 4.1.4.

FOOTNOTES

- 1 Subject to Special Exception from York Board of Appeals, reference Article 18. **AMENDED 11/05/96**
- 2 Maximum three rooms for rent. Only permitted as an accessory use incidental to single-family or two-family dwellings.
- 3 Reference Density Standard 5.5.4. - **AMENDED 12/29/93**
- 4 Including storage of automobiles. Permitted only if located 1,000 feet or more from an existing similar use.
- 5 Limited within this district to "stand" for "local" produce (i.e., not necessarily raised on premises).
- 6 Stand size limited to 200 sq. ft.
- 7 Bulk fuel storage facilities shall be limited to storage of fuel and natural gas for retail sales use only. All storage for wholesale sales shall be prohibited. **AMENDED 11/04/96**
- 8 Two rooms only. Only permitted as an accessory use incident to single-family or two-family dwellings.
- 9 Under municipal ownership and control.
- 10 Boarding of students is prohibited. **AMENDED 11/05/96**
- 11 Maximum five rooms for rent.
- 12 Permitted only as an accessory use to an approved veterinarian use. **AMENDED 11/05/96**
- 13 With less than 5,000 sq. ft. of floor space. **AMENDED 11/05/96**
- 14 With less than 2,500 sq. ft. of floor space. **AMENDED 11/05/96**
- 15 Serviced by public sewer.
- 16 Sale of recreational vehicles, such as campers, tent trailers and similar accessory equipment, but not including snowmobiles, all-terrain vehicles or similar motorized vehicles, is permitted only as an accessory use to an approved campground. **AMENDED 11/05/96**
- 17 Permitted only on Harris Island.
- 18 Permitted only on Harris Island and only in conjunction with a hotel or motel.
- 19 Only facilities which existed as of March 30, 1985 and which have a Master Plan approved by the DEP may expand. Expansions may only be within the owner's lot of record and contiguous lots owned by that owner as of March 30, 1985. These motel and restaurant facilities and their permitted expansions are to be considered a conforming use in this district.
- 20 If the principle structure or principle use is a dwelling unit, an accessory structure shall not have cooking facilities and shall not have more than one of the following: living facilities, sanitary facilities, or sleeping facilities. **AMENDED 11/03/98**
- 21 Provided that food and beverages are sold only for consumption within the premises. Take-out stands shall not be permitted.

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 5. DIMENSIONAL REQUIREMENTS

5.2 Schedule of Dimensional Regulations

5.2.1 Residential Districts

NOTE: Dimensional Regulations for Other Districts (Business, General Development) appear on page 5.4. Shoreland Overlay Districts appear on page 5.5 and Route One Districts appear on page 5.6.

ZONING DISTRICT	RESIDENTIAL DISTRICTS				
	RES-1B	RES-1A, RES-2 RES-3	RES-4	RES-5, RES-6 RES-7	AMENDED
<u>Minimum Land Area (Square Feet)</u> without year-round public water or sewer with year-round public water with year-round public water and sewer	43,560 43,560 30,000	87,120 87,120 43,560	43,560 43,560 30,000	20,000 m 20,000 m 12,000 m	
<u>Minimum Street Frontage (Feet)</u> without year-round public water or sewer with year-round public water with year-round public water and sewer	125 e 125 e 100 e	200 e 200 e 150 e	135 135 135	100 100 100	
<u>Minimum Shore Frontage (Feet)</u>	100	100	135	100	
<u>Minimum Lot Depth (Feet)</u>	None	None	100	None	
<u>Minimum Front Yard Setback (Feet)</u> without year-round public water or sewer with year-round public water with year-round public water and sewer	30 k 30 k 30 k	50 k 50 k 40 k	30 30 30	20 b 20 b 20 b	11/05/96 11/05/96 11/05/96
<u>Minimum Rear Yard Setback (Feet)</u> without year-round public water or sewer with year-round public water with year-round public water and sewer	20 k 20 k 20 k	30 k 30 k 20 k	20 20 20	12 12 12	
<u>Minimum Side Yard Setback (Feet)</u> without year-round public water or sewer with year-round public water with year-round public water and sewer	20 20 20	30 30 20	20 20 20	12 12 12	
<u>Maximum Coverage (Impervious Surface Ratio)</u>	25% l	25% l	25%	30 %	11/05/96
<u>Maximum Building Height (Feet)</u>	35 n	35 n	35 n	35 n	12/29/93

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 5. DIMENSIONAL REQUIREMENTS

5.2 Schedule of Dimensional Regulations

5.2.2 Other Districts (Business and General Development)

NOTE: Dimensional Regulations for Residential Districts appear on Page 5-3, Shoreland Overlay District appear on Page 5-5 and Route One Districts appear on Page 5-6.

NEW ZONING DISTRICT	BUSINESS			GENERAL		AMENDED
	BUS-1	BUS-2	BUS-3	GEN-1	GEN-2	
<u>Minimum Land Area</u> (Sq. Feet)						
w/o year-round public water or sewer	43,560	20,000 m	130,680	43,560		
with year-round public water	43,560	20,000 m	87,120	43,560		
with year-round public water and sewer	30,000	12,000 m	87,120	30,000		
<u>Minimum Street Frontage</u> (Feet)						
w/o year-round public water or sewer	135	100	200 e	125 e		
with year-round public water	135	100	150 e	125 e		
with year-round public water and sewer	135	100	150 e	100 e		
<u>Minimum Shore Frontage</u> (Feet)	135	100	100	100		
<u>Minimum Lot Depth</u> (Feet)	100	None	None	None		
<u>Minimum Front Yard Setback</u> (Feet)						
w/o year-round public water or sewer	30	20 b	50 k	30 k	11/05/96	
with year-round public water	30	20 b	40 k	30 k	11/05/96	
with year-round public water and sewer	30	20 b	40 k	30 k	11/05/96	
<u>Minimum Rear Yard Setback</u> (Feet)						
w/o year-round public water or sewer	20	12	30 k	20 k		
with year-round public water	20	12	20 k	20 k		
with year-round public water and sewer	20	12	20 k	20 k		
<u>Minimum Side Yard Setback</u> (Feet)						
w/o year-round public water or sewer	20	12 c	30 k	20 k		
with year-round public water	20	12 c	20 k	20 k		
with year-round public water and sewer	20	12 c	20 k	20 k		
<u>Maximum Coverage</u> (Impervious Surface Ratio)	25%	50%	25% l	25% l	11/05/96	
<u>Maximum Building Height</u> (Feet)	35 n	35 n	35 n	35 n	12/29/93	

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 5. DIMENSIONAL REQUIREMENTS

5.2 Schedule of Dimensional Regulations

Note: These footnotes apply to the Dimensional Regulation Tables identified in Sections 5.2.1, 5.2.2, 5.2.3 and 5.2.4

FOOTNOTES

- a In the Shoreland Overlay District, the minimum front yard setback shall be 30 feet.
- b New construction or an addition to an existing structure shall not be required to set back from the street more than the average of the setbacks of the structures on lots adjacent to either side with the exception of corner lots, where the setback of 20 feet will be maintained. If a vacant lot exists on one side, it shall be considered as a structure set back 20 feet.
- c Side yard setback may be reduced to five feet by approval of the Board of Appeals if, in their opinion, it will provide sufficient space to properly maintain the exterior of the building.
- d The total area of all structures and other impervious non-vegetated surfaces within the Shoreland Overlay District shall not exceed twenty (20) percent of the lot, or portion thereof, located within the Shoreland District, including land area previously developed, except in the Mixed Use Subdistrict where lot coverage shall not exceed seventy (70) percent, and except for existing lots of record which are less than 12,000 square feet in size where lot coverage shall not exceed thirty (30) percent. Lot coverage shall be calculated as impervious surface ratio. - **AMENDED 05/09/92 and AMENDED 11/05/96**
- e Street Frontage Exemptions - New building lots located at the end of a cul-de-sac may be designed to have 50 feet of street frontage along the circumference of the cul-de-sac, provided lot width at the location where the principal building is to be constructed is at least equal to the distance normally required for lot frontage in that zoning district. All minimum lot line setbacks shall be met. - **AMENDED 11/02/94**
- f Lots of record existing as of March 13, 1982 which are less in area or frontage than the minimum size required shall satisfy the required front, side and/or rear yard setbacks to the maximum extent possible, but in no case may any structures be less than one-half the amount of minimum setback required. **AMENDED 11/06/96**
- g Provided all parking spaces for a non-residential use are located to the side or rear of the structure, and no parking spaces are located closer to the front lot line than the front setback of the structure occupied by a non-residential use. A non-residential use existing as of November 5, 1996 that does not meet this setback requirement shall not locate any new parking closer to the front lot line than the existing structure occupied by the non-residential use. **AMENDED 11/05/96**
- h A maximum of twenty percent, but no more than ten parking spaces, are permitted directly in front (across front of the structure from side wall to side wall) of the structure occupied by a non-residential use if this structure is setback a minimum of eighty feet from the front lot line. All other bulk/common parking spaces, the remaining eighty percent of spaces or more than ten spaces, shall be located to the sides and rear of this structure and shall not be located closer than seventy feet to the front lot line. A non-residential use existing as of November 5, 1996 that does not meet this setback requirement shall not locate any new parking closer to the front lot line than the existing structure occupied by a non-residential use. **AMENDED 11/05/96**
- i A property occupied by a non-residential use that directly abuts a property occupied by a residential use at the time the non-residential use was initially established, shall maintain a minimum rear setback of fifty feet. Reference standard 6.3.9.2 (Footnote 7). The Planning Board, however, may allow the standard minimum rear setback established for the zoning district for an existing non-residential use if the Board determines it is impractical for the non-residential use to satisfy the fifty foot setback requirement and the lesser setback will not have a significant adverse impact on abutting uses. **AMENDED 11/05/96**
- j Impervious surface ratio for a non-residential use shall be calculated by dividing the total area of all impervious surfaces on a site by the net buildable site area. Impervious surface ratio for a residential use shall be calculated by dividing the total area of all impervious surfaces on a site by the total amount of acreage. **AMENDED 11/05/96**
- k The Code Enforcement Officer shall be authorized to waive minimum yard requirements, and to issue a building permit without a variance, under the following circumstances only:
Along existing residential streets which were developed prior to April 18, 1986, a new dwelling may be permitted to be built with a front setback from the street line equal to the average front setbacks of the existing houses on the immediately adjacent lots. However, in no case shall new construction be allowed closer than 15 feet from the front line without a variance.
- l Coverage requirement pertains to non-residential development only.
- m See density provisions in Section 5.5.2.
- n Deleted 11/06/01

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 5, DIMENSIONAL REQUIREMENTS

- o The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high water mark of the Atlantic Ocean, the York River and its tributaries, the Cape Neddick River and its tributaries, and an open body of water that is greater than four acres in size, such as a pond or lake, shall be equal to or greater than the shore frontage requirement for a lot with the proposed use. - AMENDED 05/09/92 and 11/05/96
- p The minimum lot frontage for all parcels created after November 5, 1996 that are located from York Street to Raydon Road shall be 400 feet.
- q A structure which qualifies as an outdoor sport and amusement facility conducted for profit which requires a structure height of greater than thirty-five feet as an operational necessity for the amusement shall be exempt from the thirty-five foot building height limitation in accordance with Section 5.1.5.4.
- r The minimum front setback shall apply only to new primary and accessory structures or expansions of such structures. The setback does not apply to the location of parking spaces, unless the residence is used as a bed and breakfast or boarding and rooming house. All parking for these two residential uses shall be set back a minimum of thirty feet from the front lot line, unless it is a residence being used as a bed and breakfast or boarding house as of November 5, 1996 and the existing parking area is located closer than thirty feet to the front lot line. All parking for these such uses shall be located no closer to the front lot line than any existing parking spaces. AMENDED 11/05/96

5.3 Minimum Floor Area

5.3.1 Provisions Applicable to RES-5, RES-6, RES-7, BUS-3 Districts

5.3.1.1 The minimum square feet of ground floor living space of residential dwellings, not including porches, patios and similar areas whether or not enclosed shall be 600 sq. ft. AMENDED 11/07/95

5.3.2 Provisions Applicable to RES-4, BUS-1, BUS-2 Districts

No new dwelling shall be built and no existing building shall be remodeled to create additional dwelling units with less than seven hundred (700) square feet of ground floor living space per dwelling unit. Single dwelling unit dwellings being remodeled as single dwelling units are exempt. Dwelling units being remodeled in existing multiple unit buildings, so as not to increase the number of dwelling units, are exempt. No garage shall be built with a total ground floor area of less than two hundred and forty (240) square feet.

5.3.3 Provisions Applicable to RES-1, RES-2, RES-3, GEN-1, GEN-2, GEN-3 Districts

Each dwelling unit in a multi-family dwelling shall have at least 600 square feet of internal habitable floor space including bathrooms. Six hundred thirty-six (636) gross square feet shall be deemed to be sufficient to support exterior walls to encompass six hundred (600) square feet of internal floor space. Such dwelling units may be laid out vertically on more than one floor within a building, but at least four hundred (400) square feet of internal habitable floor space shall be provided on one of the stories.

5.3.4 Minimum Floor Area Requirements for Transient Rental Accommodations in Hotels/Motels - Applicable to All Districts

5.3.4.1 A rental accommodation constructed after November 8, 1995 in a hotel/motel shall have a minimum internal gross floor area of 250 sq. ft.

5.3.4.2 A hotel/motel accommodation construction prior to November 8, 1995 which has a permitted compact kitchen or kitchen as previously defined by the Zoning Ordinance which exceeds the maximum size permitted by this Ordinance, may continue to use such compact kitchen or kitchen in the hotel/motel operation subject to all requirements established by the Town. Such hotel/motel units shall not be converted to a residential use unless such unit satisfies the density requirements for the zone in which the hotel/motel is located. - AMENDED 11/07/95

5.4 Density

5.4.1 Provisions applicable to RES-1, RES-2, RES-3, GEN-1, GEN-2, GEN-3 Districts

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 8. SHORELAND OVERLAY DISTRICT

ARTICLE EIGHT

SHORELAND OVERLAY DISTRICT

8.1 District Boundaries

Because of the complexity of the district's boundaries and its relationship to changing shoreline conditions, flood plains, wildlife habitat area, etc., the areas which comprise the Shoreland Overlay District as defined in Section 3.8 are hereby divided into four subdistricts as described below and as shown on the Official Shoreland Overlay District Map.

The Official Shoreland Overlay District Map, certified by the signature of the Town Clerk is hereby made a part of this ordinance. This Map is available for inspection at the Town Code and Planning Office. **AMENDED 11/05/96, 11/06/01**

Unless otherwise set forth on the Official Shoreland Overlay District Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland areas as defined herein. Where uncertainty exists as to exact location of District Boundary lines, the Shoreland/Wetland Permit Review Committee or Planning Board shall make the determination. However, the Shoreland/Wetland Permit Review Committee or Planning Board may delegate that determination to such other agency as it may decide is qualified to make the determination. **AMENDED 11/05/96**

The boundaries of wetlands and other waterbodies, and all measurements taken from those boundaries are subject to field verification to determine their exact location. In addition, the inclusion of any area on the Official Shoreland Overlay District Map that does not fit within the definition of areas subject to provisions of the Shoreland Overlay District may be challenged by an applicant to the Planning Board. **AMENDED 11/05/96, 11/06/01**

8.1.1 Resource Protection Subdistrict:

8.1.1.1 The wetland area itself (enclosed by the Normal High Water Mark) of all Coastal Wetlands, and all Inland Wetlands (1 acre or greater in size), as depicted on the Official Shoreland Overlay District Map. **AMENDED 11/05/96**

8.1.1.2 All areas shown on the Official Shoreland Overlay District Map as the Resource Protection Subdistrict. - **AMENDED 11/05/96**

8.1.2 Limited Residential Subdistrict:

All areas shown on the Official Shoreland Overlay District Map as the Limited Residential Subdistrict. **AMENDED 11/05/96**

8.1.3 Mixed-Use Subdistrict:

All areas shown on the Official Shoreland Overlay District Map as the Mixed Used Subdistrict. **AMENDED 11/05/96**

8.1.4 Stream Protection Subdistrict:

All areas shown on the Official Shoreland Overlay District Map as the Stream Protection Subdistrict. **AMENDED 11/05/96**

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 8. SHORELAND OVERLAY DISTRICT

8.2 Land Uses Permitted in the Shoreland Overlay District

8.2.1 Land uses permitted in the Shoreland Overlay District are limited to those indicated in Section 4.1.3 (Schedule of Use Regulations).

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

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

NOTE: New Land Use Standards were adopted by the Town on 05/09/92. These were adopted as an amendment to the consolidated Zoning Ordinance adopted on 03/18/92. All sections of the standards shown as being amended were amended subsequent to 05/09/92.

8.3 Land Use Standards

8.3.1 Agriculture

8.3.1.1 All spreading or disposal of manure shall be accomplished in conformance with the "Maine Guidelines for Manure and Manure Sludge Disposal on Land" published by the University of Maine Soil and Water Conservation Commission in July 1972, or subsequent revisions thereof.

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

8.3.1.3 Agricultural activities involving the following practices shall be carried out in conformance with the provisions of a conservation plan which meets the standards of the State Soil and Water Conservation Commission, and is approved by the appropriate Soil and Water Conservation District. This Soil and Water Conservation Plan shall be submitted to the Shoreland/Wetland Permit Review Committee and Planning Board, and a copy of the Plan maintained on file with the Code Enforcement Officer. Non-conformance with the provisions of such conservation plan will be considered to be a violation of this Ordinance. **AMENDED 11/05/96**

- a. Tillage of soil in a Resource Protection Subdistrict.
- b. Tillage of soil in excess of 20,000 sq. ft. lying either wholly or partially within the Shoreland Overlay District.
- c. Spreading, disposing, or storage of manure within the Shoreland Overlay District.

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

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

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 8. SHORELAND OVERLAY DISTRICT

8.3.2 Erosion and Sedimentation Control

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

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

8.3.2.2 In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes (slopes generally greater than 15%) where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible. - AMENDED 11/05/96

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

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

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

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

8.3.3 Clearing of Vegetation for Approved Development

NOTE: This section pertains only to the clearing of vegetation for approved development. For timber harvesting, see Section 8.3.12.

8.3.3.1 Within any Resource Protection Subdistrict abutting a great pond or the York River and its tributaries, except to remove safety hazards, to allow access to a permitted dock, pier or wharf, or to allow public access, there shall be no cutting of vegetation within the strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high water mark. Elsewhere in the Resource Protection Subdistrict, the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that Subdistrict. AMENDED 11/05/96

8.3.3.2 Within any Limited Residential Subdistrict except to allow for the development of permitted uses, within a strip extending 75 feet horizontal distance, from the normal high water line of any water body, tributary stream, or upland edge of any regulated wetland, whichever is more restrictive, there shall be no cleared openings and a well distributed stand of vegetation shall be retained. A well distributed stand of vegetation is defined as retaining a minimum of 90% of existing vegetation or the applicant providing vegetation to benefit the functioning and value of the affected wetland to mitigate the impact of cutting more than 10% of existing vegetation. Cutting in excess

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 8, SHORELAND OVERLAY DISTRICT

of 10% of existing vegetation shall be permitted only when there is no reasonable alternative and adequate mitigation is provided.

8.3.3.3 Within any Stream Protection Subdistrict, except to allow for the development of permitted uses, within a strip extending 75 feet, horizontal distance, from the normal high water line of any water body, tributary stream, or upland edge of any regulated stream and its associated wetland, whichever is more restrictive, there shall be no cleared openings and a well distributed stand of vegetation shall be retained. A well distributed stand of vegetation is defined as retaining a minimum of 80% of existing vegetation or the applicant providing vegetation to benefit the functioning and value of the specific wetland to mitigate the impact of cutting more than 80% of existing vegetation. Cutting in excess of 20% of existing vegetation shall be permitted only when there is no reasonable alternative, and adequate mitigation is provided.

8.3.3.4 Within any Mixed Use Subdistrict, except to allow for the development of permitted uses, within a strip extending 35 feet, horizontal distance, from the normal high water line of any water body, tributary stream, or upland edge of any regulated wetland, whichever is more restrictive, there shall be no cleared openings and a well distributed stand of vegetation shall be retained. A well distributed stand of vegetation is defined as retaining a minimum of 80% of existing vegetation or the applicant providing vegetation to benefit the functioning and value of the specific wetland to mitigate the impact of cutting more than 80% of existing vegetation. Cutting in excess of 20% of existing vegetation shall be permitted only when there is no reasonable alternative. AMENDED 11/05/96 and AMENDED 05/20/00

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

8.3.3.6 Fields which have reverted primarily to shrubs, trees or other woody vegetation shall be regulated under the provisions of this section.

8.3.3.7 Clearing operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters, pursuant to Section 8.3.2. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding erosion, maintaining or enhancing the value and functioning of the wetland and preserving natural beauty. AMENDED 11/05/96

8.3.3.8 The cutting or removal of vegetation within the wetland area that occurs in conjunction with a permitted filling and earthmoving activity, reference 8.3.4.2, shall require the applicant to provide adequate mitigation for such vegetation cutting or removal. The Shoreland/Wetland Permit Review Committee or the Planning Board shall be responsible for determining the adequacy of all mitigation proposed by the applicant. AMENDED 11/05/96

8.3.4 Filling and Earthmoving Activities

8.3.4.1 Filling, grading, lagooning, dredging, earth-moving activities, and other land use activities shall be conducted in such manner to prevent to the maximum extent possible, erosion and sedimentation of surface waters. To this end, all construction shall be accomplished in conformance with the erosion prevention provisions of "Environmental Quality Handbook Erosion and Sediment Controls," published by the Maine Soil and Water Conservation Commission, and the provisions of Section 8.3.2 above.

8.3.4.2 Within the Wetland area of Coastal Wetlands and Small, Medium or Large Inland Wetlands (1 acre or greater in size), filling and earthmoving activities shall only be permitted if it is necessary for the following uses which cannot reasonably be located elsewhere. All such filling and earthmoving activities for these uses must be approved by the Shoreland/Wetland Permit Review Committee or Planning Board, and mitigation shall be provided to address any and all adverse impacts to the value and functioning of the wetland which is projected to result from the placement of fill in the wetland:

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 8. SHORELAND OVERLAY DISTRICT

- a. Construction of access roads to a permitted or legally existing non-conforming use.
- b. Construction of public utilities, including stormwater control facilities.
- c. Construction of uses permitted in the respective Subdistrict.

AMENDED 11/05/96

8.3.5 Mineral Exploration and Extraction

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

8.3.5.2 Mineral extraction (including sand and gravel extraction) may be permitted under the following conditions:

- a. A reclamation plan shall be approved by the Shoreland/Wetland Permit Review Committee or Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of this paragraph. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

1. All debris, stumps, and similar materials shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
NOTE: The State of Maine Solid Waste Laws, Title 38, Maine Revised Statutes Annotated, Section 1310 and Chapter 404 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.
2. The final graded slope shall be two to one (2:1) slope or flatter.
3. Top soil or loam shall be retained to cover all disturbed land areas which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

- b. In keeping with the purposes of the Shoreland Overlay District, the Shoreland/Wetland Permit Review Committee or Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources. AMENDED 11/05/96

8.3.6 Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges, and uses extending over or beyond the Normal High Water Mark of a waterbody.

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

8.3.6.2 The structure or facility shall be so located as to minimize adverse effects on aquatic and other wildlife.

8.3.6.3 The facilities shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, uses and character of the area.

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

- a. Structures which require direct access to the water as an operational necessity.

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 8, SHORELAND OVERLAY DISTRICT

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

8.3.6.5 No existing structures built on, over or abutting a pier, dock, wharf, or other structure extending beyond the normal high water mark of a waterbody shall be converted to residential dwelling units in any district, with the exception of marine-dependent uses which may have one owner/manager occupied dwelling not to exceed 600 sq. ft. in area.

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

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

- a. New piers and floats shall not extend to within 100 feet of the opposite marsh bank. All measurements shall be made perpendicular to the normal high water mark of the natural shoreline. No measurements shall be made from any man-made structure.
- b. To avoid interference with navigation, no pier or float combination shall extend into the channel more than 10% of the width of the channel at low tide. **AMENDED 11/05/96**
- c. Wharves, piers, and docks will be permitted on the York River, west of Sewall's Bridge, only in areas where the low water channel is 50 feet or less from the high water mark. Wharves, piers, and docks will be permitted on the York River, east of Sewall's Bridge, only in areas where the low water channel is 84 feet or less from the high water mark. No wharves, piers or docks will be permitted in the Barrells Mill Pond. All measurements shall be made perpendicular to the normal high water mark of the natural shoreline. No measurements may be made from any man-made structure. **AMENDED 11/07/00 and 11/05/96**
- d. The total area of all floats associated with any single pier shall not exceed 200 square feet, excepting that floats exceeding 200 square feet in place at a pier before March 6, 1977 shall be allowed to continue, be maintained and repaired. This limitation shall not apply to any Town-owned pier or wharf. **AMENDED 11/05/96**
- e. All piers should be maintained, but if a pier falls into and remains in disrepair for any period of two years, it shall be considered defunct. Defunct piers, where a minimum of 25% of the pier when it was last used is visible and standing, and provided the last active use of the pier occurred within 10 years of when it became defunct, may be repaired provided all reasonable measures are taken to bring the pier into conformance with current standards to the greatest extent possible and upon issuance of a permit by the Shoreland/Wetland Permit Review Committee or Planning Board. **AMENDED 11/05/96 and 11/07/00**
- f. Piers shall not be constructed where uplands adjacent to the water body are in the Resource Protection Subdistrict. **AMENDED 11/07/00**

8.3.7 Residential Lot Standards

8.3.7.1 Minimum lot size requirements can be found in section 5.2.3. If there is a conflict between a lot size requirement in the Shoreland Overlay District and an underlying district, the more restrictive of the two shall prevail. Notwithstanding the requirements of this paragraph, lots located within the Shoreland Overlay District that are in Zoning Districts BUS-3, RES-5, RES-6, or RES-7 with Town sewer may have a minimum area of 12,000 square feet. **AMENDED 11/05/96**

8.3.7.2 If more than one residential dwelling unit or more than one principal non-residential structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 8, SHORELAND OVERLAY DISTRICT

8.3.8 Road and Driveway Construction

8.3.8.1 Roads shall be located, constructed, and maintained in such a manner that minimal erosion hazard results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters. Appropriate techniques to prevent sedimentation of the waterbody may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the waterbody, tributary, stream or wetland. **AMENDED 11/05/96**

8.3.8.2 Roads and driveways shall be setback from the normal high water mark of any waterbody, tributary stream, or wetland by the same distance required for structures under section 8.3.11, unless no reasonable alternative exists as determined by the Shoreland/Wetland Permit Review Committee or Planning Board. If no reasonable alternative exists, the Shoreland/Wetland Permit Review Committee or Planning Board may reduce the road and/or driveway setback requirement by the minimum amount necessary to both allow necessary access and protect wetland values, but shall never reduce the setback to less than 50' in width. The applicant shall provide adequate mitigation, as determined by the Shoreland/Wetland Permit Review Committee or Planning Board, for any and all projected adverse impacts to the value or functioning of any wetlands that result from locating the road or driveway less than the required setback. **AMENDED 05/20/00**

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

This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

8.3.8.3 Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a waterbody or wetland. Adequate mitigation, as determined by the Shoreland/Wetland Permit Review Committee or Planning Board, may be required to lessen any projected adverse impacts to the value or functioning of any wetlands which may result from an expansion. **AMENDED 11/05/96**

8.3.8.4 When there is no reasonable alternative, existing private roads that are less than the minimum setback required by 8.3.8.2 may be expanded within the legal road right-of-way. Adequate mitigation, as determined by the Shoreland/Wetland Permit Review Committee or Planning Board, shall be required for any projected adverse impacts to the value or functioning of any wetlands which may result from an expansion. **AMENDED 11/05/96**

8.3.8.5 New roads and driveways are prohibited in a Resource Protection Subdistrict except to provide access to permitted uses within the district, or as approved by the Shoreland/Wetland Permit Review Committee or Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high water mark of a waterbody, tributary stream, or upland edge of a wetland, but shall never reduce the setback to less than 50' in width. Adequate mitigation, as determined by the Shoreland/Wetland Permit Review Committee or Planning Board, shall be required for any projected adverse impacts to the value or functioning of any wetlands that result from locating the road or driveway less than the required setback. **AMENDED 05/20/00**

8.3.8.6 Road crossings of water courses shall be kept to the minimum number necessary.

8.3.9 Subsurface Sewage Disposal Standards

8.3.9.1 Subsurface sewage disposal systems are prohibited in the Resource Protection Subdistrict.

8.3.9.2 All subsurface sewage disposal systems must be installed in accordance with the Maine Subsurface Wastewater Disposal Rules, Chapter 241, and the Town of York Supplemental Subsurface Wastewater Disposal Rules, except where the provisions of this section are stricter.

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 8. SHORELAND OVERLAY DISTRICT

8.3.9.3 Terms used in reference to the Maine Subsurface Wastewater Disposal Rules, Chapter 241, and the Town of York Supplemental Subsurface Wastewater Disposal Rules, shall have the same meaning as defined in those regulations.

8.3.9.4 Minimum Separation Distances

- a. All Individual Systems, and Controlled Systems (pursuant to the Supplemental Subsurface Wastewater Disposal rules), shall be set back from the Normal High Water Mark of both perennial and intermittent waterbodies not less than the minimum distances (measured horizontally) which are specified below in Table A.
- b. On the rapidly permeable, deep sandy soils identified on Table 6-1 of the Maine Subsurface Wastewater Disposal Rules, Chapter 241, the minimal horizontal setback from the normal high water mark shall be 200 feet for Individual Systems and 400 feet for Controlled Systems.

TABLE A
Minimum Setback Distances

<u>Depth to Limiting Factor</u>	<u>Individual Systems</u>	<u>Controlled Systems</u>
over 35"	100'	300'
over 30" to 35"	125'	300'
over 25" to 30"	150'	325'
over 20" to 25"	175'	350'
15" to 20"	200'	400'
less than 15"	not allowed	not allowed

8.3.9.5 There shall be a minimum separation distance of 24 inches(61 cm) between the bottom of the disposal area and the limiting factor.

8.3.9.6 Reserved

8.3.9.7 Waivers and Variances – No waiver or variance of any provision of Article 8.3.9 shall be granted unless specifically permitted in this section, as follows:

- a. For replacement systems serving an existing building(s) constructed and occupied prior to March 15, 1978, the Local Plumbing Inspector may issue waivers on the subsurface wastewater disposal applications where the soil's most limiting factor is between 15 inches and 24 inches from the organic horizon, if both of the following conditions are met:
 1. The Licensed Soil Evaluator can document to the satisfaction of the Local Plumbing Inspector that, because of lot size, location, soil texture, topography, etc., the proposed system will adequately treat and dispose of the wastewater with no threat to the public health and safety, and
 2. Compliance with this section would cause unusual hardship or would not result in construction of the best practicable system. Plans and a completed subsurface wastewater disposal application must be submitted to the Local Plumbing Inspector for review.
- b. For replacement systems serving an existing building constructed and occupied prior to November 20, 1984 where the soil's limiting factor is less than 15 inches of the organic horizon, the variance procedure described in the Maine Subsurface Wastewater Disposal Rules, Chapter 241, shall be followed. **AMENDED 11/05/96**

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 8. SHORELAND OVERLAY DISTRICT

c. Lots of record existing prior to November 20, 1984 may be exempted from the provisions of this section if lot size or geologic features make it impossible to construct an Individual System in compliance with the provisions herein. The Local Plumbing Inspector shall ensure that provisions of this section are met to the greatest extent possible. However, new system variances for new construction shall be prohibited where the soil depth to limiting factor is less than 15 inches. **AMENDED 11/06/01**

8.3.10 Soils

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

8.3.11 Structures

Setbacks from the normal high water mark of any waterbody or wetland shall be as follows. The waterbody or wetland setback shall not apply to structures which require direct access to the water as an operational necessity, such as piers, docks, and retaining walls.

8.3.11.1 Resource Protection Subdistrict

Within the Resource Protection Subdistrict, all allowed principal or accessory structures and expansions of such structures shall set back one hundred (100) feet from the normal high water mark of any waterbody, tributary stream, coastal wetland or Large or Medium inland wetland (4 acres or greater).

Within the Resource Protection Subdistrict, existing single family residences may expand, regardless of their setback from the normal high water mark, provided all expansions comply with requirements of 8.3.11.4.
AMENDED 11/05/96

8.3.11.2 Limited Residential Subdistrict

Within the Limited Residential Subdistrict, all principal and accessory structures and expansions of such structures shall set back one hundred (100) feet from the normal high water mark of any waterbody, tributary stream, coastal wetland, or any Large inland wetland (10 acres or greater). For Medium Inland Wetlands (greater than 4 acres but less than 10 acres), the setback shall be 75 feet.

Within the Limited Residential Subdistrict, all principal and accessory structures that do not comply with the above setback requirement may expand, provided all expansions comply with requirements of 8.3.11.4.
AMENDED 11/05/96

8.3.11.3 Mixed-Use Subdistrict

Within the Mixed Use Subdistrict, all principal and accessory structures and substantial expansions of such structures shall set back thirty-five (35) feet from the normal high water mark of any waterbody, tributary stream, coastal wetland or any Large or Medium inland wetland (4 acres or greater) as defined.

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 8, SHORELAND OVERLAY DISTRICT

Within the Mixed Use Subdistrict, all principal and accessory structures that do not comply with the above setback requirement may expand, provided all expansions comply with requirements of 8.3.11.4. **AMENDED 11/05/96**

8.3.11.4 *Expansions of Structures that Do Not Comply with Setback Requirements*

In the Resource Protection, Limited Residential and Mixed Use Subdistricts, if any portion of a structure is less than the required setback from the normal high water mark of a waterbody or wetland, that portion of the structure which is in compliance with the required setback from the normal high water mark may expand without the 30% limitation, provided all expansions conform to the current setback requirement. **AMENDED 11/05/96**

In the Resource Protection, Limited Residential and Mixed Use Subdistricts, the portion of the structure that does not satisfy the required structure setback from the normal high water mark of a waterbody or wetland may be expanded only in accordance with the provisions below:

- a. Expansions may not exceed 30% of the current structure (as of 1-1-89), in floor area or volume, during the lifetime of the structure. The cumulative effect of any series of small expansions shall not result in an expansion of greater than 30% of the current structure, in floor area or volume during the lifetime of the structure. Basements which have a ceiling height of greater than 6 feet and a solid non-earth floor shall be considered in calculating the permitted amount of floor area and volume expansion. **AMENDED 11/05/96**
- b. No part of the addition that does not comply with a minimum setback requirement shall be closer to any waterbody, stream, or wetland than any part of the existing structure. **AMENDED 11/05/96**
- c. Any non-conforming use of such structure shall not be expanded or intensified and;
- d. For structures within the Resource Protection Subdistrict which are less than 100 feet, within the Limited Residential Subdistrict which are less than 75 feet or within the Mixed Use Subdistrict which are less than 35 feet from the Normal High Water Mark, the new addition must be on the side of the structure located the furthest away from the high water mark and the direction of the expansion must be away from the water. This requirement does not apply to vertical expansion above existing interior enclosed living space for the primary structure (not to include screen porches, porches, decks, patios and similar structures, but does include attached garages) which shall be permitted so long as the expansion does not exceed the height of the existing structure. **AMENDED 11/05/96**

8.3.11.5 *Stairways or similar structures may be allowed with a permit from the Shoreland/Wetland Permit Review Committee or Planning Board to provide shoreline access in areas of steep slope or unstable soils provided:*

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

Stairways or similar structures that are under the ownership or control of the Town of York that are needed to provide public access to a shoreline shall be exempt from requirements of a-c above. The Town must obtain a permit from the Shoreland/Wetland Permit Review Committee or Planning Board for all stairways and similar structures and must demonstrate the public need for the improvement and why there is no reasonable access alternative. **AMENDED 11/05/96**

8.3.12 *Timber Harvesting*

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

8.3.12.1 *No substantial accumulation of slash shall be left within fifty (50) feet of the normal high water mark of any waterbody. At distances greater than fifty (50) feet from the normal high water mark of such waters and extending*

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 8. SHORELAND OVERLAY DISTRICT

to the limits of the Shoreland Overlay District, all slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground. Any debris that falls below the normal high water mark of a waterbody shall be removed.

- 8.3.12.2 Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbances results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.
- 8.3.12.3 Harvesting operations shall be conducted in such a manner that a well-distributed stand of trees and other natural vegetation is retained.
- 8.3.12.4 In any stand, harvesting shall remove not more than forty (40) percent of the trees 4 inches or more in diameter, measured at 4 1/2 feet above ground level, in any ten (10) year period. For the purpose of these standards, a stand means a contiguous group of trees, sufficiently uniform in species, arrangement of age classes, and conditions, to be identifiable as a homogeneous and distinguishable unit.
- 8.3.12.5 Within one-hundred (100) feet, horizontal distance of the normal high-water mark of a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high water mark of other waterbodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
- 8.3.12.6 In areas other than those described in section 8.3.12.5 above, harvesting operations shall not create single clear-cut openings greater than 7,500 sq. ft. in the forest canopy. Where such openings exceed five-thousand (5,000) sq. ft. they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal.
- 8.3.12.7 No roads requiring earthmoving, cut or fill shall be constructed within the Shoreland Overlay District solely for the purpose of Timber Harvesting.
- 8.3.12.8 Within any Resource Protection Subdistrict abutting a great pond, there shall be no timber harvesting within the strip of land extending 75 feet inland from the normal high-water mark except to remove safety hazards.
- 8.3.12.9 Timber harvesting equipment shall not use stream channels as travel routes except when:
 - a. Surface waters are sufficiently frozen to support the weight of the equipment; and
 - b. The activity will not result in any ground disturbance.
- 8.3.12.10 All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- 8.3.12.11 Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the waterbody, tributary stream or wetland. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- 8.3.12.12 Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarred strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water mark of a waterbody or wetland. For each ten (10) percent increase in slope, the unscarred strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the waterbody or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water mark of a waterbody or wetland.
- 8.3.13 Water Quality Protection

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

8.3.14 Essential Services

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

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

8.3.15 Parking Areas

Parking lots shall be set back from the normal high water mark of any waterbody, tributary, stream, or wetland by the same distance required for structures under Section 8.3.11, unless no reasonable alternative exists as determined by the Shoreland/Wetland Permit Review Committee or Planning Board. If no reasonable alternative exists, the Shoreland/Wetland Permit Review Committee or Planning Board may reduce the parking lot setback requirement by the minimum amount necessary to both allow necessary parking and protect wetland values, but shall never reduce the setback to less than 50' in width. The applicant shall provide adequate mitigation, as determined by the Shoreland/Wetland Permit Review Committee or Planning Board, for any and all projected adverse impacts to the value or functioning of any wetlands that result from locating the parking lot less than the required setback. When reviewing parking lot designs, the Shoreland/Wetland Permit Review Committee or Planning Board can impose such performance standards as are appropriate to carry out the purposes of the Shoreland Overlay District and to mitigate impact on the adjacent waterbody or wetland. Parking areas shall be designed to prevent storm-water runoff from flowing directly into a waterbody and to use natural purification techniques possible. **AMENDED 05/20/00**

TOWN OF YORK ZONING ORDINANCE
Adopted 03/18/92

ARTICLE 19, ENFORCEMENT AND VIOLATIONS

ARTICLE NINETEEN

ENFORCEMENT AND VIOLATIONS

- 19.1 Any violation of this Ordinance shall be deemed to be a nuisance.
- 19.2 It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance.
- 19.3 If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, or that any condition of a permit is being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.
- 19.4 When the above action does not result in the correction of the violation or nuisance condition, the Board of Selectmen, upon notice from the Code Enforcement Officer, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town.
- 19.5 Any person, firm or corporation, included but not limited to a landowner, his agent or a contractor, who continues to violate any provision of this Ordinance after receiving notice of such violation shall be subject to a minimum fine of \$100.00 for each violation. Each day such a violation is continued is a separate offense.
- 19.6 In addition to the above, for any violation of the provisions of the Floodplain Management section of this Ordinance, the Code Enforcement Officer shall submit a declaration of that violation to the Administrator of the Federal Insurance Administration. The valid declaration shall consist of:
 - 19.6.1 the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 - 19.6.2 a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 - 19.6.3 a clear statement that the public body making the declaration has authority to do so and a citation of that authority;
 - 19.6.4 evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 - 19.6.5 a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

Town/Fox Consent Agreement – Unsigned Amendment

(1)

AMENDMENT TO CONSENT AGREEMENT

This agreement amends the Consent Agreement between the Town of York, by and through its Board of Selectmen (hereinafter the "Town") and Phyliis W. Fox (hereinafter "Fox") dated April 22, 2002 and concerning certain real estate located at the "Nubble" known as Sohier Park owned by the Town and certain real estate known as Fox's Restaurant, owned by Fox.

WHEREAS, it is commercially unfeasible and impractical for Fox's Restaurant to remove its commercial waste from the restaurant without use of a dumpster; and,

WHEREAS, the parties are desirous of enforcing the terms of the Consent Agreement and to work together toward the betterment of Sohier Park.

NOW THEREFORE, the Town and Fox hereby agree to modify the Consent Agreement as follows:

1. Fox agrees to give one dumpster to the Town and to locate the dumpster on Town land as directed by the Code Enforcement Office.
2. The Town agrees to allow Fox to use the dumpster. The Town may withdraw this consent at anytime.
3. Fox will be responsible for maintenance of the dumpster and for all costs associated with removal of trash. Fox agrees to keep the dumpster clean and orderly and to maintain the area around it free from any trash or debris. Fox will not use the dumpster for removal of recyclable material, i.e. bottles, cans, newspaper, and cardboard. These materials will be picked up and removed off-site for appropriate disposal.
4. Fox agrees remove the dumpster, at its own expense, no later than November 30th of each year, and to store the dumpster, at its own expense, away from Sohier Park. Fox may bring the dumpster back to Sohier Park after April 15th of each year.
5. Fox agrees to abide by all other provisions of the Consent Agreement, including the removal of the planters by May 1, 2003.

Dated this _____ day of March, 2003, at York, Maine.

The Town of York Board of Selectmen

Carole H. Allen, Chairman

Barry K. Maddix, Vice Chairman