

**TOWN COUNCIL REGULAR MEETING AGENDA No. 2-23/24
THURSDAY, AUGUST 24, 2023 at 7:00 PM**

SUGGESTED ORDERS Please join my meeting from your computer, tablet or smartphone.
<https://meet.goto.com/YarmouthTownMeetingRoom/towncouncil>

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Access Code: 550-949-933

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1. Roll Call of Members
2. Approval of the Minutes of Meeting 1-23/24 held July 27, 2023
3. To Open the Meeting to a Public Comment period.

Public comment period

Item No. 11:	To hear the reports of the Council Chair, committees, delegates, liaisons, and the Town Manager.
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Item No. 12:	To hold a public hearing and act upon issuance of a full-time malt spirituous and vinous liquor license and Special Amusements Permit to the Garrison.
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Be it Ordered that issuance of a full-time malt spirituous and vinous liquor license and Special Amusements Permit to the Garrison in hereby approved.

Item No. 13:	To hold a public hearing and act upon an amendment to Chapter 602 of the Yarmouth Town Code (Traffic Ordinance) regarding parking on Patty Lane.
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Be it Ordained by the Yarmouth Town Council in town council assembled that 602 of the Yarmouth Town Code (Traffic Ordinance) is hereby amended as per a draft amendment presented at this meeting, the text of which to be set forth in full in the minutes of this meeting.

Item No. 14:	To consider the recommendations of the Planning Board regarding amendments to Yarmouth land use ordinances in response to "LD 2003" or any alternatives thereto.
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Be it Ordained by the Yarmouth Town Council in town council assembled that Chapters 601, 701, 702, and 703 of the Yarmouth Town Code are hereby amended as the recommendations of the Yarmouth Planning Board voted May 24, 2023 and detailed in a "Planning Board Report to the Town Council prepared by Erin Zwirko, Director of Planning & Development dated June 22, 2023, a copy of which to be attached to the Minutes of this meeting, and

Be it ordered that the Town Clerk is hereby authorized to incorporate all amendments herein approved into the Yarmouth Town Code including making of formatting,

numbering and renumbering adjustments, indexing and Table of Contents modifications, and any grammatical, spelling, or punctuation corrections as may be needed.

The following amending motions have been discussed and may be offered. Staff suggests that each amendment A, B, C,D, and E be offered separately in sequence.

A. I move to amend the motion as follows:

Chapter 701 Article II.EE.3.b.ii shall be revised to read:

3. Density and Dimensional Standards

b. The following density standards apply for lots located within the Growth Area:

ii. For a lot that contains one dwelling unit and has at least the minimum lot area or minimum lot area per unit identified in Article III for the zoning district in which the lot is located, the first and second additional allowed dwelling units are allowed without any additional lot area per dwelling unit. ~~must also have at least the minimum lot area per dwelling unit for the zoning district in which the lot is located. The second additional allowed dwelling unit is allowed without any additional lot area per dwelling unit.~~

B. I move to amend the motion as follows:

Chapter 701 Article II.EE.2 shall be revised to read:

2. Applicability

a. If a lot does not contain an existing dwelling unit, up to four dwelling units per lot are allowed if the lot is located in an area in which housing is permitted and is located in the designated growth area of the most recently adopted Town of Yarmouth Comprehensive Plan.

b. If a lot does not contain an existing dwelling unit, up to two dwelling units per lot are allowed if the lot is located in an area in which housing is permitted and is located outside the designated growth area of the most recently adopted Town of Yarmouth Comprehensive Plan. The two dwelling units may be in one structure or two separate structures.

c. If a lot contains one existing dwelling unit, up to two additional dwelling units per lot are allowed, subject to the following:

- i. One within the existing structure or attached to the existing structure; or
- ii. One detached from the existing structure; or
- iii. One of each.

d. If a lot contains two existing dwelling units, one additional dwelling unit per lot is allowed subject to the following:

- i. The lot must be located in the designated growth area of the most recently adopted Town of Yarmouth Comprehensive Plan, and
- ii. No more than two structures containing dwelling units are allowed.

This provision is not applicable to any lot where an accessory dwelling unit exists on the lot as of or is added after January 1, 2024. If a lot contains two existing dwelling units, no further allowances are granted under this section. This includes any lot where an accessory dwelling unit exists on the lot as of or is added after January 1, 2024.

And Chapter 701 Article II.EE.3.b shall be revised to read:

3. Density and Dimensional Standards

b. The following density standards apply for lots located within the Growth Area:

i. Notwithstanding the minimum lot area or minimum lot area per unit requirements identified in Article III, for a lot that does not contain a dwelling unit, up to four dwelling units are allowed regardless of lot area per dwelling unit subject to the limitations of ARTICLE II.EE.3.c below.

ii. For a lot that contains one dwelling unit, the first additional allowed dwelling unit must also have at least the minimum lot area per dwelling unit for the zoning district in which the lot is located. The second additional allowed dwelling unit is allowed without any additional lot area per dwelling unit.

iii. For a lot that contains two dwelling units and has at least the minimum lot area or minimum lot area per unit identified in Article III for the zoning district in which the lot is located, **one additional dwelling unit** is allowed without any additional lot area per dwelling unit.

C. I move to amend the motion as follows:

Chapter 701 Article II. EE.3.a. shall be revised to read:

3. Density and Dimensional Standards

a. The following density standards apply for lots located outside the Growth Area:

i. For a lot that does not contain a dwelling unit, each allowed dwelling unit must have at least the minimum lot area per dwelling unit for the zoning district in which the lot is located.

ii. For a lot that contains one dwelling unit, each additional allowed dwelling unit must also have at least the minimum lot area per dwelling unit for the zoning district in which the lot is located.

iii. If a dwelling unit in existence as of January 1, 2024, is demolished resulting in a lot without a dwelling unit, each allowed dwelling unit must have at least the minimum lot area per dwelling unit for the zoning district in which the lot is located.

And Chapter 701 Article II. EE.3.b. shall be revised to read:

3. Density and Dimensional Standards

b. The following density standards apply for lots located within the Growth Area:

i. Notwithstanding the minimum lot area or minimum lot area per unit requirements identified in Article III, for a lot that does not contain a dwelling unit, up to four dwelling units are allowed regardless of lot area per dwelling unit subject to the limitations of ~~ARTICLE II.EE.3.c~~ ARTICLE II.EE.3.b.iv below.

ii. For a lot that contains one dwelling unit and has at least the minimum lot area or minimum lot area per unit identified in Article III for the zoning district in which the lot is located, the first and second additional allowed dwelling units the first and second additional allowed dwelling units are allowed without any additional lot area per dwelling unit. ~~must also have at least the minimum lot area per dwelling unit for the zoning district in which the lot is located. The second additional allowed dwelling unit is allowed without any additional lot area per dwelling unit.~~ **(ASSUME THIS IS ADOPTED)**

iii. For a lot that contains two dwelling units and has at least the minimum lot area or minimum lot area per unit identified in Article III for the zoning district in which the lot is located, a third dwelling unit is allowed without any additional lot area per dwelling unit. **(ASSUME THIS IS ADOPTED)**

iv. Notwithstanding the minimum lot area or minimum lot area per unit requirements identified in Article III, if a dwelling unit in existence as of January 1, 2024, is demolished resulting in a lot without a dwelling unit and the lot has at least the minimum lot area or minimum lot area per unit for one dwelling unit for the zoning district in which the lot is located, up to four dwelling units are allowed.

And Chapter 701 Article II. EE.3.c. shall be revised to read:

~~c. If a dwelling unit in existence after January 1, 2024, is demolished resulting in a lot without a dwelling unit, each allowed dwelling unit must have at least the minimum lot area per dwelling unit for the zoning district in which the lot is located.~~

D. I move to amend the motion as follows:

Chapter 702 Article I. J.13 is revised to read:

- j. (previously k) Before obtaining a building permit for an ADU the property owner shall file with the registry of deeds a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:
 - a. The accessory unit shall not be sold separately.
 - b. The unit is restricted to the approved size.
 - c. ~~The use permit for the accessory unit shall be in effect only so long as either the main residence, or the accessory unit, is occupied by the owner of record as the principal residence.~~
 - c. The accessory unit shall not be leased for any period of less than 30 consecutive days.
 - d. The above declarations are binding upon any successor in ownership of the property.
 - e. The deed restrictions shall lapse upon removal of the accessory unit.

E. I move to amend the motion as follows:

Chapter 701 Article IV. I (eye). 3 and Article IV. I (eye).4.e is revised to read:

Article IV.I, "RPD" – Resource Protection District, Paragraph 3 Special Exceptions

Essential Services and Single-Family residential Structures, are allowed by special exception approval and shall conform to the special performance standards listed below:

Article IV.I, "RPD" – Resource Protection District, Paragraph 4.e Special Performance Standards

- e. Single Family Home. In addition to the criteria specified in IV.R.12 excepting Structure setback requirements, the Planning Board may approve a permit for a single-family residential Structure in a RPD provided that the applicant demonstrates that all of the following conditions are met:
[subsections 4.e (1-5) remain unchanged]

Item No. 15:	To hold a public hearing and act upon a recommendation of the Planning Board regarding a proposed Zoning Map amendment at Map 31 Lot 36 (Libby)
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Whereas, the property owner of Map 31 Lot 36 (Ed Libby) has requested a rezoning of the parcel from Medium Density Residential (MDR) under Chapter 701 of the Yarmouth Town Code to Village Center Character District (CD-4) under Chapter 703 of the Yarmouth Town Code, and

Whereas, the Yarmouth Planning Board held public hearings and considered testimony of the applicant, abutters, and other interested parties, and made findings and voted to submit the request to the Town Council with a recommendation to approve, and

Whereas, the Yarmouth Town Council has held a public hearing(s) on the matter and has considered testimony of the applicant, abutters, and other interested parties, including a review of the record of the matter as considered by the Planning Board, and

Whereas the Yarmouth Town Council finds that the requested rezoning is consistent with the Comprehensive Plan, does not encroach into the State mandated Shoreland Overlay Zoning District, and concurs with the findings and recommendation of the Planning Board,

Now Therefore, be it Ordained by the Yarmouth Town Council in town council assembled that Chapter 701 and Chapter 703 of the Yarmouth Town Code are hereby by amended at the Official Zoning Map to change the Zoning designation of Tax Map 31 Lot 36 from its current designation as MDR under Chapter 701 of the Yarmouth Town Code to CD-4 under Chapter 703 of the Yarmouth Town Code. Said amendment to become effective 45 days after adoption.

Item No.16:	To hold a public hearing and act upon an amendment to Chapter 312 of the Yarmouth Town Code (Public Property Licensing Ordinance) regarding Block Parties and other events that require the temporary closing of Town Roads or use of Town property.
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Be it Ordained by the Yarmouth Town Council in town council assembled that Chapter 312 of the Yarmouth Town Code (Public Property Licensing Ordinance) is hereby amended as per a draft set of amendments as presented at this meeting, a copy of which to be attached to the minutes of this meeting.

And be it Further Ordained that Chapter 401 of the Yarmouth Town Code (Fees and Permits Ordinance) is hereby amended at Article XIX to read:

ARTICLE XIX

~~A. PUBLIC PROPERTY LICENSING ORDINANCE~~

~~Persons making application for a Public Property License as defined in the Public Property Licensing Ordinance shall be a fee of \$100.00 to be used to defray the costs of processing this application and administering this Ordinance.~~

A. PUBLIC PROPERTY LICENSING ORDINANCE

Persons making application for a Public Property License as defined in the Public Property Licensing Ordinance shall be a fee as established herein to be used to defray the costs of processing this application and administering this Ordinance.

- Block Party Permit: \$25 per event. Each day shall be deemed a separate event.
- Community Street Event: \$50 per event. Each day shall be deemed a separate event.
- Large Community Event: \$500 per event.

The fees established under this Section shall not apply to a demonstration of protest that is protected by the First Amendment to the US Constitution or by the Maine Constitution, nor is a permit required if the demonstration or protest is conducted so as to not interfere with the free and unobstructed passage of vehicular, pedestrian, or bicycle traffic.

Item No. 17:	To consider and act upon amendments to the Council Rules to authorize final votes at Workshop Sessions on appointments to various boards, committees, liaison, and delegate assignments.
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Be it Ordered that the Council Rules as adopted on June 15, 2023 are hereby amended at Article II as per a draft set of amendments presented at this meeting, a copy of which to be included in the Minutes of this meeting.

<u>Item No. 18:</u>	To hold a public hearing and act upon an amendment to Chapter 201 of the Yarmouth Town Code (Administrative Code) regarding the Complete Streets Advisory Committee
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Be it Ordained by the Yarmouth Town Council in town council assembled that Chapter 201 of the Yarmouth Town Code is hereby amended at Article XVII to add subsection 2 (9) to read:

9. The Complete Streets Advisory Committee shall consist of the Yarmouth Planning Director, Director of Public Works, Fire Chief, Police Chief, Town Engineer, Director of Community Services, and a representative from the Bicycle and Pedestrian Committee (to be appointed by the Town Council for a four-year term), or their respective designees. The Committee shall meet at least quarterly and as the need arises to review and evaluate for compliance with the Yarmouth Complete Streets Policy adopted by the Town Council on November 19, 2015. any:

- Major developments,
- Roadway projects,
- Capital improvement projects,
- Regulatory issues, and/or

To make recommendations for policies, constructed improvements, public services and programs, budgets and other measures to advance the policy's goals and design.

<u>Item No. 19:</u>	To appropriate funds from the Property Acquisition Reserve or other sources for survey work at Sunset Point.
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Be it Ordered that a sum not to exceed \$6,000 is hereby appropriated from the Property Acquisition Reserve for survey and other work to confirm or establish public rights in a ramp from Sunset Point Road to Casco Bay across or near Tax Map 24 Lot 47 and 48.

<u>Item No. 20:</u>	To hold an Executive Session, if needed, including consideration of the recommendations of the Appointments Committee.
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