

**TOWN OF YARMOUTH  
MINUTES OF THE TOWN COUNCIL MEETING**

Meeting: 16 -20/21  
Date: June 10, 2021  
Time: 7:00 PM  
Place: Video Conference

**\*Coronavirus Note: Meeting was held by audio or video conference**

**1<sup>st</sup> Order of Business:** Roll Call of Members

Roll Call of Members P = Present A = Absent T= Tardy

P Meghan Casey 1 South Street  
P April Humphrey, 277 East Main St  
P Heather Abbott, c/o 200 Main St  
P Michelle Cromarty 27 Summer Street  
P Timothy Shannon, 47 West Elm St  
A Randall Bates 30 Tannery Lane  
T Robert Waeldner, 141 Oakwood Drive

**2<sup>nd</sup> Order of Business:** Approval of the Minutes of Meeting 15-20/21 held May 20, 2021. Approved by roll call 5-0. Correction- remove parenthetical re: smart controls not read originally/included. **Special Meeting Record** held June 2, 2021. Approved by roll call 5-0

**3<sup>rd</sup> Order of Business:** To open the meeting to a Public comment period. None

**Item No.106:** To hear the reports of the Council Chair, committees, delegates, liaisons, and the Town Manager.

Councilor Casey reported the Affordable Housing Committee is working on an outline for next 6 month plan and ends with report to council. Report on housing in Yarmouth and County for 2010 – 2019 will be shared with Council once received.

**Item No. 107:** To hold a public hearing and act upon issuance of a full-time malt spirituous and vinous liquor licenses to Chopstick and the Garrison (Dandelion Catering)

**Be it ordered** that issuance of a full-time malt spirituous and vinous liquor licenses to Chopstick and the Garrison is hereby approved.

**Approved by roll call 5-0**

**Item No. 108:** To act upon of a Trailer Park License for Red Wagon pursuant to Chapter 302 of the Yarmouth Town Code.

**Be it ordered** that an annual Trailer Park license for Red Wagon Trailer Park is hereby approved pursuant to Chapter 302 of the Yarmouth Town Code.

**Approved by roll call 5-0**

**Item No. 109:** To set the due dates and interest penalties for property tax and sewer bills for FY22

**Be it ordered** that real and personal property taxes assessed for the 2021/2022 fiscal year shall become due and payable on the following schedule:

First half (50%)	November 10, 2021
Second half (50%)	May 4, 2022

**And be it further ordered** that pursuant to 36 MRSA Section 505 (4) interest charges shall be levied against delinquent tax payments at a rate of 6% annually;

**And be it further ordered** that pursuant to Title 36 MRSA Section 506-A, the rate of interest on tax overpayments shall be 2% annually.

**And be it Ordered** that Sewer User Fee Assessments shall be payable on September 30, 2021 and April 29, 2022. Pursuant to Title 30-A MRSA Section 3406, interest charges shall be levied against delinquent sewer assessments at a rate of 6% annually.

**Approved by roll call 5-0**

**Item No. 110:** To appropriate funds from the various reserve funds as authorized at the Annual Town Meeting.

**Be it ordered** that the following sums are hereby appropriated from the indicated Capital Reserve Accounts:

Fire-Rescue Equipment	\$ 41,450
Public Works Equipment	\$ 460,000
Road Improvements	\$ 800,000
Municipal Buildings	\$ 28,000
/Bridges	\$ 38,000
Parks and Playgrounds	\$ 327,000
Wastewater	\$ 590,103
Library Building	\$ 24,750
Police Equipment	\$ 84,520
Harbor and Waterfront	\$ 27,500
Technology Reserve	\$ 227,640
Landfill Reserve	\$ 35,000

**Approved by roll call 6-0**

**Item No. 111:** To hold a public hearing and act upon amendments to Chapter 701 of the Yarmouth Town Code (Zoning) regarding keeping of domesticated chickens.

**Be it Ordained** by the Yarmouth Town Council in town council assembled that Chapter 701 of the Yarmouth Town Code (Zoning) is hereby amended at Article II by adding Section DD to

read as per a draft designated “Wheaton DRAFT -4/21/21”, as presented at this meeting a **copy of which to set forth in full in the Minutes of this meeting.**

TS, instead of reading entire ordinance into the record read in by Titles of the Ordinance: 1. Purpose, 2. Definitions, 3. Permit Required, 4. Keeping of chickens: number, type, and use of chickens, 5. Enclosures, 6. Lighting, 7. Waste Storage & Removal, 8. Predators, rodents, insects, and parasites, 9. Odor and Noise, 10. Feed and Water, 11. Proximity to Bodies of Water, 12. Violations and Revocation of Permit, 13. Removal of chickens, 14. Separability, 2<sup>nd</sup> RW

TS – proposed amendments 1-5 individually:

1. To strike the definition of chicken pen and all references to a chicken pen and any other references. 2<sup>nd</sup> HA

**Motion passes by roll call 5-1 (Waeldner)**

2. To remove the building permit requirement in 3.F. 2<sup>nd</sup> HA

**Motion passes by roll call 6-0**

3. The enclosure 5.A, strike the first sentence “the chicken shall be established area”, 2<sup>nd</sup> HA

**Motion fails by roll call 3-3 (Casey, Waeldner, Humphrey, opposed)**

4. Sect. 5.C.2. – strike the sentence - The use of scrap, waste board, sheet metal or similar materials is prohibited, 2<sup>nd</sup> MC

**Motion passes by roll call 5-1 (Waeldner opposed).**

5. Sect 4.C – strike the last sentence – Slaughtering of chickens prohibited, 2<sup>nd</sup> HA

**Motion passes by roll call 6-0**

HA –#7 proposed amendment – sub 4.c to add the sale of eggs produced by 6 or fewer hens at a single residential property shall not be deemed to be a commercial activity, 2<sup>nd</sup> MCasey

**Motion passes by roll call 6-0**

MCromarty – #6 proposed amendment to Ch. 701.

1. Add the definition in 701 of “Hobby Chickens” and add to list it as a Permitted Use wherever “Farm Animals for Personal Use” is currently permitted. 2<sup>nd</sup> HA

MCasey, makes a motion to divide #6 amendment from the others, 2<sup>nd</sup> HA

**Motion to divide: Passes by roll call 6-0**

TS – #8 amendment: in the enclosure section 5.c.3 – change setback to 10’ from all property lines, 2<sup>nd</sup> HA

**Motion passes by roll call 5-1 (Waeldner)**

**Main motion as amended: motion fails by roll call 3-3 (Cromarty, Waeldner, Humphrey opposed)**

Motion #6 – Mcromarty – moved to table to a later date and refer to Ops meeting June 24, 2<sup>nd</sup> MCasey,

HA, MC, Mcromarty, TS, RW, AH, **motion passes by roll call 6-0**

**Below is the proposed ordinance amendment with proposed amendments imbedded.**

**Article II, DD. KEEPING OF DOMESTICATED CHICKENS**

**1. Purpose**

This ordinance is intended to create standards and requirements for the keeping of domesticated chickens on a noncommercial basis in all districts accessory to the permitted Detached Single-Family and Two-Family Dwellings. It is intended to enable residents to keep a small number of female chickens while creating standards that ensure that domesticated chickens shall not create a nuisance and shall not disturb or adversely impact the use and enjoyment of adjacent properties. Adverse neighborhood impacts may include, but are not limited to, noise, odor, unsanitary living conditions, unsanitary waste storage and removal, the attraction of predators, rodents, insects, parasites, and loose animals leaving the owner’s property.

This ordinance does not supersede Farm Animals for Personal Use in districts where permitted or previously permitted through Special Exception by the General Board of Appeals. Nothing in this ordinance shall be deemed to amend, alter, modify, invalidate, or abrogate any private covenant or deed restriction otherwise applicable to property in the Town of Yarmouth.

**2. Definitions**

~~*Chicken Pen*—an enclosure connected to or surrounding a Henhouse for the purpose of allowing chickens to leave the Henhouse while remaining in an enclosed, safe~~

~~environment~~ Shannon amendment #1, PASSED 5-1 (Waeldner opposed)

*Henhouse* – a structure for the sheltering of chickens.

### 3. Permit Required

(a) An annual permit is required for the keeping of domesticated chickens in accordance with this ordinance. The permit is personal to the permit holder and property and may not be assigned.

(b) The permit holder must provide written proof of approval and acceptance of liability from the lot owner, if the permit holder is not the lot owner.

(c) The annual fee for a permit to keep chickens is twenty-five dollars (\$25.00).

(d) An applicant for a permit to keep chickens must demonstrate compliance with the criteria and standards in this ordinance in order to obtain a permit.

(e) In the event the keeping of chickens is discontinued for longer than six

(6) months, the permit shall become void.

~~(f) A building permit is required for the construction of a Henhouse and Chicken Pen, or the conversion of an existing structure or portion of a structure.~~

Shannon Amendment #2, passed 6-0

### 4. Keeping of chickens: Number, type, and use of chickens

(a) The maximum number of chickens allowed is six (6) per lot one acre or less, and twelve (12) per lot larger than one acre, regardless of how many dwelling units are on the lot.

(b) Only female chickens are allowed. No roosters shall be permitted. There is no restriction on breed of chicken.

~~(c) Chickens shall be kept for personal, non-commercial use only; no person shall engage in breeding, fertilizer production, or the production of eggs for commercial purposes. The slaughtering of chickens is prohibited.~~ Shannon Amendment #5, Passed 6-0

~~(c) The sale of eggs produced by six or fewer hens at a single residential location shall not be deemed to be a commercial activity.~~ Abbott Amendment #7, Passed 6-0

## 5. Enclosures

- (a) ~~Chickens shall be confined to an established area of the property at all times.~~ Shannon Amendment #3, Failed 3-3 (Cromarty, Waeldner, Humphrey, opposed)-Enclosures must be clean, dry and odor-free, kept in a neat and sanitary condition, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact. All Chicken Pens and Henhouses shall be of sufficient size to provide safe, sanitary and otherwise proper containment of the chickens inside them. ~~The free ranging of chickens outside of the Chicken Pen is not allowed.~~ Shannon part Amendment #3, Failed 3-3 (Cromarty, Waeldner, Humphrey, opposed)
- (b) ~~Fencing shall be erected to confine chickens to a Chicken Pen. Fencing shall be of a sufficient height to restrict the chickens from leaving the fenced in area without human assistance. Fencing shall be buried at least 12 inches in the ground.~~ Shannon part of amendment #1, PASSED 5-1 (Waeldner opposed) -Fencing shall take into account existing conditions for, and the character of, the neighborhood.
- (c) During non-daylight hours, chickens shall be secured within a Henhouse.
- (i) Henhouses are not allowed to be attached to or located in any part of a dwelling unit.
- (ii) The Henhouse shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator and bird-proof wire of less than one (1) inch openings. The Henhouse must be well maintained. ~~The use of scrap, waste board, sheet metal or similar materials is prohibited.~~ Shannon Amendment #4, Passed 5-1 (Waeldner opposed). Henhouse materials and construction shall take into account the existing conditions for, and character of, the neighborhood.
- (iii) The Henhouse shall be at least ten (10) feet from any residential structure and at least ~~twenty (20)~~ ten (10) Shannon Amendment #8, Passed 5-1 (Waeldner opposed) feet from all property lines.
- (iv) Henhouses (permanent or portable) ~~and Chicken Pens~~ shall only be located in rear or side yards behind the principal structure on the lot and shall meet applicable zoning setbacks, including setbacks for detached accessory structures. Under no

circumstances shall Chicken ~~Pens~~-Henhouses be closer than 10' from any property line.

- (d) The Chicken ~~Pen and~~-Henhouse must provide adequate sun and shade and must be impermeable to rodents, wild birds, and predators, including cats and dogs.

## **6. Lighting**

- (a) Only motion-activated lighting may be used to light the exterior of the Henhouse
- (b) Exterior lighting on the Henhouse shall be a 90-degree cut-off luminaire.

## **7. Waste Storage and Removal**

Provisions must be made for the storage and removal of chicken manure. The Henhouse, Chicken Pen and surrounding area shall be kept free from trash, uneaten or decaying food, and accumulated droppings. Manure shall be managed by composting, spreading, removal or other means to prevent groundwater contamination or run-off beyond property boundaries. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure, except for a properly maintained compost pile. No more than three (3) cubic feet of manure shall be stored at one time.

## **8. Predators, rodents, insects, and parasites**

The property owner and/or chicken owner shall take all necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites that may result in unhealthy conditions to human habitation.

## **9. Odor and Noise.**

Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries. Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb people of reasonable sensitivity.

## **10. Feed and water.**

Chickens must be provided with access to feed and clean water; such feed and water shall be unavailable to rodents, wild birds and predators.

**11. Proximity to Bodies of Water**

In cases where the domesticated chickens are kept on a property within 100 feet of a body of water or drainage way, provisions must be made to control the runoff of pollution to the body of water. To accomplish this goal, all manure must be kept within a roofed enclosure.

**12. Violations and Revocation of Permit.**

(g) If the Town deems a risk to public health or safety or any other violation of or failure to comply with any of the provisions of this or any other applicable law or ordinance, a fine of \$\_\_\_ shall be assessed and a permit may be revoked. The burden of proving compliance with all aspects of this ordinance is on the applicant/permit holder.

**13. Removal of chickens.**

If a chicken dies, it must be disposed of promptly in a sanitary manner. The cost of removing dead or sick chickens, or any chicken that poses a health hazard, by the animal control officer, or designee, shall be borne by the property owner and/or chicken owner.

**14. Separability.**

In the event that any section, subsection or portion of this article shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this article.

**MOTION TO DIVIDE THE QUESTION TO VOTE ON THE CROMARTY**



**AMENDMENT (#6) SEPARATELY AFTER THE VOTES ON THE SHANNON  
AND ABBOTT AMENDMENTS PASSED 6-0**

**Cromarty Amendment #6**

Amend Chapter 701 (Zoning) to add the definition of "Hobby Chickens" and list it as a Permitted Use wherever "Farm Animals for Personal Use" is currently permitted:

**Animal Husbandry:** Permits dairying, raising of livestock, breeding or keeping of animals, fowl or birds as a business or gainful occupation.

**Farm Animals for Personal Use:** The keeping bovines, horses, birds, goats, sheep and other related animals for personal pleasure and/or consumption. This use shall not include "**Hobby Chickens**" as hereinafter defined.

**Hobby Chickens:** The raising or keeping of up to six (6) domestic female chickens (*Gallus gallus domesticus*) on a single parcel of land accessory to residential use on the same parcel.

Amend the list of Permitted Uses and Special Exceptions for the various zones in Article IV to add Hobby Chickens as follows:

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RR: Permitted Uses:

Already listed: "Farm Animals for Personal Use"

- Add: Hobby Chickens

RR: Special Exceptions:

Already listed: "Animal Husbandry"

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LDR: Permitted Uses:

Already listed: "Farm Animals for Personal Use"

- Add: Hobby Chickens

LDR: Special Exceptions:

Already listed: "Animal Husbandry"

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MDR: Permitted Uses:

Already listed: "Farm Animals for Personal Use on lots of 2 or more acres"

- Add: Hobby Chickens

MDR: Special Exceptions:

Already listed: "Farm Animals for Personal Use on lots of 2 or more acres"

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RPD: Permitted Uses:

Already Listed: "Farm Animals for Personal Use (Planning Board Permit Required)"

- Add: Hobby Chickens
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Commercial: Permitted Uses:

Already listed: "Farm Animals for Personal Use"

- Add: Hobby Chickens
- 

Commercial II: Permitted Uses:

Already listed: "Farm Animals for Personal Use"

- Add: Hobby Chickens

**Original Main Motion by Tim Shannon as amended (Amendments**

**#1,2,4,5,7,8)**

**3-3 (Cromarty, Waeldner, Humphrey opposed)**

**Motion to Table Action on the Cromarty Amendment (#6) to a future meeting and to refer the matter to the Operations Committee on June 24. PASSED 6-0**

**Item No. 112:** To authorize a Memorandum of Understanding with the Sandy Point Road Association.

**Be it Ordered** that a Memorandum of Understanding by and between the Yarmouth Town Council and the Sandy Point Homeowners Association dated June 9, 2021 as presented at this meeting is hereby approved, a copy of which to be attached to the Minutes of this meeting.

**Approved by roll call 6-0**

**Item No. 113:** To hold a public hearing and act upon a proposed amendment to Chapter 308 of the Yarmouth Town Code (Harbor, Waterfront and Boat Ordinance).

**Be it ordained** by the Yarmouth Town Council in town council assembled that Chapter 308 of the Yarmouth Town Code is hereby amended at Article V.A. to insert a new subsection 5 to read:

**"5 Councilor Shannon's offered 5/13/21: Town of Yarmouth piers, docks and floats may always be used for the purposes of tie-up of vessels and for loading and unloading from a boat. In the interest of safety for all, other recreational users shall clear way for of any vessels seeking to dock or disembark from a float or pier and shall provide safe and adequate space for such vessels to tie up and load or unload.**

**Other recreational uses including but not limited to swimming, sunbathing, fishing, photography, and viewing are also permitted at town-owned recreational piers and docks unless temporarily halted by direction of the Harbor Master or other law enforcement or public health or safety personnel due to particular health, safety, or environmental circumstances (including but not limited to a special event, the movement of a particular vessel, or other specific instance of overcrowding).**

**Approved by roll call 6-0**

**Item No. 114:** To hold a public hearing and act upon an amendment to Chapter 401 of the Yarmouth Town Code (Fees and Permits) regarding Rental Unit Annual Registration Fees.

Be it ordained by the Yarmouth Town Council in town council assembled that Chapter 401 of the Yarmouth Town Code is hereby amended by adding an Article XXVII to read:

Article XXVII Rental Dwelling Unit Annual Registration fee pursuant to Chapter 318.

Annual Registration or Renewal Fee: \$20.00

**Approved by roll call 6-0**

**THE SWEARING IN OF NEWLY (RE) ELECTED TOWN COUNCILORS**

**David Craig and Heather Abbott sworn in for 3 year terms 2024**

**Item No. 115:** To Elect a Chair for the FY 22 Municipal Term

I nominate April Humphrey to serve as Chair of the Town Council for the FY 22 Term

**Approved by roll call 6-0**

**Item No. 116:** To Elect a Chair (and Vice-Chair) for the FY 22 Municipal Term

I nominate Tim Shannon to serve as Vice Chair of the Town Council for the FY 22 Term

**Approved by roll call 6-0**

**Item No. 117:** To make various Committee, delegate and liaison assignments.

Be it Ordered that the following committee, delegate, and liaison appointments are hereby made for the FY 22 term:

**Appointments Committee: David Craig, Heather Abbott, Rob Waeldner**  
**Trust Fund Committee: Rob Waeldner, Michelle Cromarty, Tim Shannon**  
**Operations Committee: All members of the Town Council**

**Liaison Assignments:**

**Recycling Committee: Tim Shannon**  
**Shellfish Committee: Randall Bates**  
**Harbor and Waterfront Committee: Randall Bates**  
**Parks and Lands Committee: Tim Shannon**  
**Program Advisory Committee: Michelle Cromarty**  
**Economic Development Advisory Board: Rob Waeldner & David Craig**  
**Committee for Energy Efficiency and Sustainability (CEES): Heather Abbott**

**Investment Advisory Panel: Randall Bates**  
**Rental Dwelling Advisory Committee: David Craig**  
**MML Board of Trustees: April Humphrey**  
**Latchstring Park Task Force: Rob Waeldner**  
**Bike and Pedestrian Committee: Michelle Cromarty**  
**Yarmouth Community Center: Randall Bates**  
**Affordable Housing: Michelle Cromarty**  
**School Building Committee: Rob Waeldner**  
**Pesticides: Heather Abbott,**

**Delegates:**

**Joint Standing Committee with Chebeague: Heather Abbott, David Craig**  
**Maine Municipal Association: Heather Abbott**  
**GPCOG: Michelle Cromarty, Nat Tupper**  
**PACTS: Rob Waeldner, Alternative: Randy Bates**  
**Community Block Development Grant Municipal  
Oversight Committee: April Humphrey**  
**Royal River Recreational Authority LLC: David Craig, Rob Waeldner**

**Approved by roll call 6-0**

**Item No. 118:** To adopt Council Rules for the FY 22 Municipal term

I move the Council Rules as Adopted August 6, 2020 are readopted for FY 22

**Approved by roll call 6-0**

**Item No. 119:** To hold an Executive Session, if needed, including consideration of the recommendations of the Appointments Committee.

Entered into Executive Session pursuant to MRSA Title 1 Section 405.6.A by roll call vote 6-0.

After ending the Executive Session, the Council voted to appoint Meghan Casey to the Affordable Housing Committee. Voted 6-0 by Roll Call Vote.

**Approved by roll call 6-0**

Meeting Adjourned at 9:31PM

Respectfully Submitted,

Jennifer Doten, Town Clerk

Approved 7/15/2021