Proposed Article 5: Clarification of Board/Staff Escrow Fees

Purpose for Land Use Ordinance Article 6.C Appeals Procedure, Article 10.C Site Plan Review-Administration, and Subdivision Regulations Article 5 Preliminary Plan and Article 7 Minor Subdivision Revisions:

Description: The proposed amendments clarify the fees that applicants are required to pay, specifically the fees for professional services that are to be placed in escrow. They codify the practice of the Town of requiring replenishment of the escrow account if the Town spends more than 50% of the account during review. The amendments also clarify that peer review is a review conducted by a third party other than the Town's contract planner and such peer review is at the discretion of the Town.

The full text of the warrant articles including the text of the proposed ordinance amendments is available at the Town Office and the Town's website (www.raymondmaine.org).

ARTICLE ___: Shall Articles 6.C (Appeals Procedure) and 10.C (Site Plan Review - Administration) of the Town of Raymond Land Use Ordinance, as adopted May 21, 1994 and amended through June 4, 2013; and Articles 5 (Preliminary Plan) and 7 (Minor Subdivision) of the Town of Raymond Subdivision Regulations, as adopted May 21, 1994 and amended through June 4, 2013, be further amended by adding the underscored language and deleting the language in strikeover type, as shown below?

The Planning Board Recommends Article ___
The Selectmen ____ Article ___

[Note: The use of the word "Article" within the ordinance does not indicate a separate warrant article.]

Raymond Land Use Ordinance

ARTICLE 6 – BOARD OF APPEALS

C. Appeals Procedure

4. Any person and any municipal official or board of officials aggrieved by a decision of the Code Enforcement Officer or who wishes to request a variance from the Land Use Ordinance or who wishes a conditional use permit may file an application with the Board of Appeals. An appeal of a decision made by the Code Enforcement Officer must be filed within thirty (30) days of the date of the decision.

   Application materials submitted to the Board must include a completed application form, including a location and site plan if appropriate, and ~~a~~ the following fees:

   (1) Application fees as established by the Board of Selectmen and listed in the Town Fee Schedule.

   (2) Escrow fees as established by the Board of Selectmen and listed in the Town Fee Schedule. The fees shall be submitted and deposited in an escrow account established by the Town, which monies may be used by the Town to pay for professional legal and technical reviews and advice related to the appeal, variance, or conditional use permit application as deemed necessary by the Town. Said fees for professional reviews and advice shall include, but shall not be limited to engineering or other professional consulting fees, attorney fees, recording fees and appraisal fees.

   The total escrow fees required shall be an amount estimated by the consultants and the Town as sufficient to pay for the professional review of the application. If the Town expends more than fifty percent (50%) of the escrow account prior to completing its review, the applicant shall replenish

the escrow account to an amount estimated by the consultants as sufficient to complete the review. Those monies deposited by the applicant and not spent by the Town in the course of its review shall be returned to the applicant within sixty (60) days after the Appeals Board renders its final decision on the application.

~~a fee specified in the Town of Raymond Fee Schedule, which must be submitted to the Code Enforcement Officer at the time the appeal request is submitted. If the Appeals Board or the Code Enforcement Officer requests professional review and advice, the applicant shall establish an escrow account in the amount established in the Town Fee Schedule, before the advice is requested. The applicant shall pay any amount outstanding within forty-five (45) days of the billing date by the Town.~~

All application materials must be submitted for the Board's review at least thirty (30) days prior to the Board meeting at which the applicant wishes to be heard. All meetings of the Board of Appeals are public hearings. At the public hearing, the applicant or the applicant's representative must appear before the board to present the proposal and to answer questions. Other interested parties, such as adjacent property owners, will also be permitted to speak for or against the appeal.

Written notice of the decision of the Board shall be sent to the appellant within sixteen (16) days of the date of the decision. Any aggrieved party may appeal from the decision of the Board to the Superior Court within thirty (30) days of the decision date.

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ARTICLE 10 - SITE PLAN REVIEW

C. Administration

1. The following procedure and requirements shall apply to all applications for site plan review:

. . . . .

c. Applications.

All applications for Site Plan Review shall be made in writing to the Code Enforcement Officer on the forms provided for this purpose. The application shall be made by the owner of the property or by his agent, as designated in writing by the owner. The application for Site Plan Review shall be accompanied

by ~~a fee as established and revised from time to time, by the Board of Selectmen and listed in the Town Fee Schedule~~ the following fees:~~.~~

(1) Application fees as established by the Board of Selectmen and listed in the Town Fee Schedule.

(2) Escrow fees as established by the Board of Selectmen and listed in the Town Fee Schedule. The fees shall be submitted and deposited in an escrow account established by the Town, which monies may be used by the Town to pay for professional legal and technical reviews and advice related to the developer's application, as well as post-approval inspections, consultations and reviews of modifications, as deemed necessary by the Town for Minor and Major Site Plan applications. Said fees for professional reviews and advice shall include, but shall not be limited to engineering or other professional consulting fees, attorney fees, recording fees and appraisal fees.

The total escrow fees required shall be an amount estimated by the consultants and the Town as sufficient to pay for the professional review of the application. If the Town expends more than fifty percent (50%) of the escrow account prior to completing its review, the developer shall replenish the escrow account to an amount estimated by the consultants as sufficient to complete the review. Those monies deposited by the developer and not spent by the Town in the course of its review shall be returned to the developer within sixty (60) days after a certificate of occupancy is issued for the project. The Town may, in its sole discretion, release the remaining escrow fees prior to the issuance of the certificate of occupancy if it determines that all professional reviews have been completed.

Fifteen (15) copies of the completed application for Site Plan Review, together with the documentation required in these regulations shall be submitted at least twenty-six (26) days prior to the first Planning Board meeting of the month during which the applicant wishes to be heard. However, any application, which is not complete, shall be returned to the applicant with an indication of the additional information required.

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e. Peer review process

The T~~t~~own may require a third party peer review ~~process~~ for site plan applications as setforth~~out~~ in sections C.2, C.3 and C.~~,~~4 below. A peer review is the review of an application by a third party expert consultant(s), other than the Town's Contract

Planner ~~process may require that an expert consultant or consultants to review one or more submissions of an application~~ and a report by the consultant(s) as to compliance or noncompliance with this Ordinance, including adherence to Design Guidelines, and ~~advise of~~ advice by the consultant(s) of regarding procedures or submissions which ~~will~~ could result in compliance. The consultants shall be fully qualified to provide the required information.

The consultant(s) shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost which the Town shall place in ~~an~~ the project escrow account referenced in Section 1(c)(2) above. ~~The Town shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed.~~ The consultants shall be fully qualified to provide the required information.

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2. The following procedure and requirements shall apply to **Staff Site Plan Review**:

   a. Review process.

   Staff Site Plan Review shall be conducted at a meeting attended by the Town's Contract Planner and the Code~~s~~ Enforcement Officer (the "staff reviewers"), or their designee. The staff reviewers may seek input from other Town departments including the Fire Department and the Public Works D~~d~~epartment as needed. For applications classified as Staff Site Plan Review developments, the staff reviewers shall have the same powers and duties as the Planning Board. Completed and timely submitted applications classified as Staff Site Plan Review developments shall be reviewed and acted on ~~at~~ by the next regularly scheduled Plan Review meeting following the submission deadline.

   The staff reviewers shall approve, approve with conditions, or deny the application based on criteria in Article 10 of the Land Use Ordinance. In the event that the Town's Contract Planner and the Codes Enforcement Officer are unable to jointly make a determination on the application, the Code Enforcement Officer shall, after receiving and considering the recommendations of the Town's Contract Planner, have the authority to approve, approve with conditions, or deny the application based on criteria in Article 10 of the Land Use Ordinance. Any appeals from the decisions of the Staff Site Plan Review shall be taken directly to the Planning Board within 30 days of decision.

   . . . . .

e. Peer review.

Peer review process is not required for applications classified as Staff Site Plan Review developments, but the staff reviewers may require a third party peer review of any aspect of the site plan review if the staff review process is unable to adequately resolve relevant site plan review issues and the staff determines that a peer review may resolve those issues.

3. The following procedure and requirements shall apply to **Minor Site Plan Review**:
. . . . .

e. Peer review

Peer review process is not required for applications classified as Minor Site Plan Review developments but the Planning Board may require a third party peer review if in the Planning Board's judgment the project is sufficiently complex that it requires the expertise of a peer reviewer to evaluate the proposed site plan~~ning (~~ , including but not limited to storm water management, ~~and~~ traffic management~~)~~, architecture, lighting or landscaping ~~proposed in the application~~. The Planning Board may also require a third party peer review ~~process~~ if in the Planning Board's judgment there is credible conflicting technical information regarding approval criteria which peer review may assist the Planning Board to resolve.

4. The following procedure and requirements shall apply to **Major Site Plan Review**:
. . . . .

e. Peer review.

Peer review process is not required for applications classified as Major Site Plan Review developments, but ~~unless~~ the Planning Board may require a third party peer review if in the Planning Board's judgment the project is ~~specifically waives the requirement at the pre-application meeting or any subsequent meeting. Any such waiver by the Planning Board shall not preclude the Planning Board from subsequently requiring a peer review if an issue arises that~~ sufficiently complex that it requires the expertise of a peer reviewer to evaluate the proposed site plan, including but not limited to storm water management, traffic management, architecture, lighting or landscaping. The Planning Board may also require a third party peer review if in the Planning Board's judgment there is credible conflicting technical information regarding approval criteria which peer review may assist the Planning Board to resolve.

Peer review process for applications classified as Major Site Plan Review shall evaluate the proposed site planning (including but not limited to storm water

management and traffic management), architecture, lighting and landscaping proposed in the application unless any aspect of the required peer review is waived. Town staff shall begin the peer review process with the receipt of the application.

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5. ~~The Planning Board shall require the owner or the owner's authorized agent to deposit the following fees listed in the Town's Fee Schedule in escrow with the Town an amount of money sufficient to cover the costs for any professional review of the site plan documents which the Board may feel is reasonably necessary to protect the general welfare of the Town. Amounts for this escrow payment are established by the Board of Selectmen and listed in the Town Fee Schedule. This escrow payment shall be made before the Board engages any outside party to undertake this review and to make recommendations to the Board. Any part of this escrow payment in excess of the final costs for the review shall be returned to the owner or the owner's agent.~~

<u>Raymond Subdivision Ordinance</u>

ARTICLE 5 - PRELIMINARY PLAN

1. Procedure

A. Within six (6 months) after Sketch Plan acceptance by the Board, the subdivider shall submit an application for the consideration of a Preliminary Plan for the Subdivision. Failure to do so shall require re-submission of the Sketch Plan to the Board for review. The application and all required preliminary plan documentation shall be submitted to the Town at least twenty-six (26) days prior to the first Planning Board meeting of the month during which the subdivider wishes to be heard. The Preliminary Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Board.

B. The application for conditional approval of the Preliminary Plan shall be accompanied by the following ~~a~~ fee<u>s</u> ~~as established in a Town Fee Schedule revised from time to time by the Board of Selectmen and payable by check to the Town of Raymond, Maine with a note indicating the specific purpose of the fee.~~<u>:</u>

(1) <u>Application fees as established by the Board of Selectmen and listed in the Town Fee Schedule.</u>

(2) Escrow fees as established by the Board of Selectmen and listed in the Town Fee Schedule. The fees shall be submitted and deposited in an escrow account established by the Town, which monies may be used by the Town to pay for professional legal and technical reviews and advice related to the subdivider's application as deemed necessary by the Town. Said fees for professional reviews and advice shall include, but shall not be limited to engineering or other professional consulting fees, attorney fees, recording fees and appraisal fees.

The total escrow fees required shall be an amount estimated by the consultants and the Town as sufficient to pay for the professional review of the application. If the Town expends more than fifty percent (50%) of the escrow account prior to completing its review, the subdivider shall replenish the escrow account to an amount estimated by the consultants as sufficient to complete the review. Those monies deposited by the subdivider and not spent by the Town in the course of its review shall be returned to the subdivider within six (6) months of approval of the Preliminary Plan in the event the subdivider does not go forward with a Final Subdivision Plan, or sixty (60) days after the Board renders its final decision on the Final Subdivision Plan.

~~C. In addition, the Board shall require the owner or the owner's authorized agent to deposit in escrow an amount of money sufficient to cover the costs of any professional review of the subdivision application, which the board may feel, is reasonably necessary to protect the general welfare of the Town. Amounts for this escrow payment are established in the Town Fee Schedule. This escrow payment shall be made before the Board engages any outside party to undertake this review and to make recommendations to the Board. Any part of this escrow payment in excess of the final costs for review shall be returned to the owner or the owner's agent.~~

C~~D~~. The subdivider, or the subdivider's duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.

D~~E~~. Within forty-five (45) days of its first meeting for consideration of the Preliminary Plan Application (or such longer time as may be agreed upon between the Planning Board and the applicant), the Board shall take action to give preliminary approval, with or without conditions or modifications, or disapproval of such Preliminary Plan. The reason for any conditions or modification required or the ground for

disapproval shall be stated upon the records of the Board and a copy provided to the subdivider.

E~~F~~. No Preliminary Plan shall be acted on by the Board until the Board has scheduled and conducted a public hearing thereon. Notice of the time, place and date of such hearing shall be sent not less than seven (7) days before the hearing to the subdivider and to owners of property within 250 feet of the properties involved. Property owners shall be those listed in the most recent tax records of the Town of Raymond. Notice shall also be published in a newspaper of general circulation in the Town of Raymond at least two times, and the first date of the publication shall be at least seven (7) days prior to the public hearing. Failure to receive notice shall not invalidate the public hearing held.

F~~G~~.Preliminary approval of a Preliminary Plan shall not constitute approval of the Final Plan, but rather it shall be deemed as an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of this Ordinance and the conditions of the preliminary approval, if any. Prior to approval of the Final Subdivision Plan, the Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at a public hearing.

ARTICLE 7 - MINOR SUBDIVISION

If the proposed subdivision is classified as a minor subdivision, the application shall follow the procedures for minor subdivisions set out in this Article.

1. Procedure

A. Within six (6 months) after Sketch Plan acceptance by the Board, the subdivider shall submit an application for the consideration of a Minor Subdivision Plan. Failure to do so shall require re-submission of the Sketch Plan to the Board for review. The application and all required documentation shall be submitted to the Town at least twenty-six (26) days prior to the first Planning Board meeting of the month during which the subdivider wishes to be heard. The Minor Subdivision Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Board.

B. The application for approval of the Minor Subdivision Plan shall be accompanied by the following ~~a~~ fees ~~as established in a Town Fee Schedule revised from time to time by the Board of Selectmen and payable by check to the Town of Raymond, Maine with a note indicating the specific purpose of the fee.~~:

(1) Application fees as established by the Board of Selectmen and listed in the Town Fee Schedule.

(2) Escrow fees as established by the Board of Selectmen and listed in the Town Fee Schedule. The fees shall be submitted and deposited in an escrow account established by the Town, which monies may be used by the Town to pay for professional legal and technical reviews and advice related to the subdivider's application as deemed necessary by the Town. Said fees for professional reviews and advice shall include, but shall not be limited to engineering or other professional consulting fees, attorney fees, recording fees and appraisal fees.

The total escrow fees required shall be an amount estimated by the consultants and the Town as sufficient to pay for the professional review of the application. If the Town expends more than fifty percent (50%) of the escrow account prior to completing its review, the subdivider shall replenish the escrow account to an amount estimated by the consultants as sufficient to complete the review. Those monies deposited by the subdivider and not spent by the Town in the course of its review shall be returned to the subdivider within sixty (60) days after the Board renders its final decision on the application.

~~C. In addition, the Board shall require the owner or the owner's authorized agent to deposit in escrow an amount of money sufficient to cover the costs of any professional review of the subdivision application which the board may feel is reasonably necessary to protect the general welfare of the Town. Amounts for this escrow payment are established in the Town Fee Schedule. This escrow payment shall be made before the Board engages any outside party to undertake this review and to make recommendations to the Board. Any part of this escrow payment in excess of the final costs for review shall be returned to the owner or the owner's agent.~~

C~~D~~. The subdivider, or the subdivider's duly authorized representative, shall attend the meeting of the Board to discuss the Minor Subdivision Plan.

D~~E~~. Within forty-five (45) days of its first meeting for consideration of the Minor Subdivision Plan Application (or such longer time as may be agreed upon between the Planning Board and the applicant), the Board shall take action to give Minor Subdivision approval, with or without conditions or modifications, or disapproval of such Minor Subdivision Plan. The reason for any conditions or modifications

required or the ground for disapproval shall be stated upon the records of the Board and a copy provided to the subdivider.

E~~F~~. No Minor Subdivision Plan shall be acted on by the Board until the Board has scheduled and conducted a public hearing thereon. Notice of the time, place and date of such hearing shall be sent not less than seven (7) days before the hearing to the subdivider and to owners of property within 250 feet of the properties involved. Property owners shall be those listed in the most recent tax records of the Town of Raymond. Notice shall also be published in a newspaper of general circulation in the Town of Raymond at least two times, and the first date of the publication shall be at least seven (7) days prior to the public hearing. Failure to receive notice shall not invalidate the public hearing held.